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This Agreement was prepared by and after recording return to:  
Steven J. Holler, Esq.  
City of Chicago Law Department  
Room 600  
121 North LaSalle Street  
Chicago, IL 60602

ONE NORTH DEARBORN REDEVELOPMENT AGREEMENT

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This One North Dearborn Redevelopment Agreement (this "Agreement") is made as of this 10th day of February, 2000, by and between the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Planning and Development ("DPD"), 1 North Dearborn Trust, a Delaware business trust (the "Trust"), 1 North Dearborn, Inc., a Delaware corporation, as trustee of the Trust (the "Trustee") and 1 North Dearborn, L.L.C., a Delaware limited liability company, the sole beneficiary of the Trust (the "Beneficiary") (jointly and severally, the "Developer Parties"). Sears, Roebuck and Co., a New York corporation ("Sears"), has also executed the Limited Joinder attached to this Agreement for purposes of acknowledging its receipt of certain City Funds (as hereinafter defined) to be paid pursuant to this Agreement and its agreement to the obligations described herein and in such Limited Joinder.

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## RECITALS

A. Constitutional Authority: As a home rule unit of government under Section 6(a), Article VII of the 1970 Constitution of the State of Illinois (the "State"), the City has the power to regulate for the protection of the public health, safety, morals and welfare of its inhabitants, and pursuant thereto, has the power to encourage private development in order to enhance the local tax base, create employment opportunities and to enter into contractual agreements with private parties in order to achieve these goals.

B. Statutory Authority: The City is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq. (as amended from time to time (the "Act"), to finance projects that eradicate blighted conditions through the use of tax increment allocation financing for redevelopment projects.

C. City Council Authority: To induce redevelopment pursuant to the Act, the City Council of the City (the "City Council") adopted the following ordinances on February 7, 1997: (1) "An Ordinance of the City of Chicago, Illinois Approving a Tax Increment Redevelopment Plan for the Expanded North Loop Redevelopment Project Area"; (2) "An Ordinance of the City of Chicago, Illinois Designating the Expanded North Loop Redevelopment Project Area as a Tax Increment Financing District"; and (3) "An Ordinance of the City of Chicago, Illinois Adopting Tax Increment Allocation Financing for the Expanded North Loop Redevelopment Project Area" (the "TIF Adoption Ordinance"), (collectively referred to herein as the "TIF Ordinances"). The redevelopment project area (the "Redevelopment Area") is legally described in Exhibit A hereto.

D. The Project. The Trust has previously purchased certain property located within the Redevelopment Area at One North Dearborn, Chicago, Illinois 60602 and legally described on Exhibit B hereto (the "Property"). The Developer Parties and Sears have also previously commenced certain demolition work within the approximately 900,000 square foot, 17-story building (the "Building") situated on the Property. Within the time frames set forth in Section 3.02 hereof, the Developer Parties will complete a rehabilitation and renovation of the mechanical (including

elevators), plumbing, electrical and HVAC systems for the Building. Portions of the roof and window treatments on the Building will also be reconstructed. The interior stairs, finishes and common areas (including the separate office entrance on Dearborn Street and all restrooms) and building facade will be repaired. Certain rehabilitation work affecting historically significant architectural features will be done in accordance with the Historical Preservation Requirements attached hereto as Exhibit C (the "Historical Preservation Requirements"). The Developer Parties will also modify the loading dock, repair and upgrade fire system controls, and make such other renovations as will be necessary to bring the Building (excluding the Sears Premises described in Exhibit D attached hereto) into compliance with all applicable governmental laws, regulations and building codes. The Developer Parties, with the City's approval, have also closed the pedway running between State Street and Dearborn Street. On the date the City issues its Certificate with respect to the Building Project in accordance with Section 7.01, the City will also convey to the Trust fee simple title to the parcel of real property legally described on Exhibit E hereto (the "City Parcel"), which will become part of the Property. The rehabilitation work and the related improvements (including but not limited to those Building TIF-Funded Improvements set forth on Exhibit F are collectively referred to herein as the "Building Project."

The Trustee has also previously entered into that certain Lease Agreement dated as of April 30, 1999 (as the same may be amended as permitted under Section 3(z) of the Limited Joinder, the "Sears Lease") by and between the Trust, as landlord, and Sears, as tenant, pursuant to which the Trust has leased the premises described in Exhibit D attached hereto (the "Sears Premises") to Sears for a period of twenty (20) years, subject to the terms and conditions contained therein. Under the terms of the Sears Lease, Sears has agreed to complete, at its expense, certain tenant improvement work necessary to build-out the lower level and first four floors of the Building as a full-line Sears department store. This work includes construction of new entrances on State Street and Madison Street, overhaul of all existing elevators serving the Sears Premises, installation of escalators, rehabilitation of electrical and HVAC systems servicing the Sears Premises, substantial renovation of the exterior facade of the Building on the first and second floors and installation of store fixtures and furnishings. Certain rehabilitation work affecting historically

significant architectural features will be done in accordance with the Historical Preservation Requirements. Sears will also coordinate the improvement of Calhoun Place and the perimeter sidewalks on W. Madison Street and N. Dearborn Street to bring the same up to a level consistent<sup>z</sup> with current downtown standards, repair certain sidewalk vaults and provide certain street lighting, landscaping and related streetscape improvements consistent with the overall current design of State Street (the "Public Improvement Work") all in accordance with plans and specifications to be mutually agreed upon by the City and Sears. The Sears rehabilitation work and the related improvements (including but not limited to those Sears TIF-Funded Improvements as set forth on Exhibit F) are collectively referred to herein as the "Sears Project." The completion of the Building Project and the Sears Project (collectively, the "Project") would not reasonably be anticipated without the financing contemplated in this Agreement.

E. Redevelopment Plan: The Project will be carried out in accordance with this Agreement and the City of Chicago Central Loop Tax Increment Financing Redevelopment Project Area and Plan (the "Redevelopment Plan") attached hereto as Exhibit G as amended from time to time.

F. City Financing: The City agrees to use, in the amounts set forth in Section 4.02 hereof, a portion of the proceeds of its City of Chicago Tax Increment Allocation Bonds (Central Loop Redevelopment Project), Taxable Series 1997B Bonds (the "TIF Bonds") issued pursuant to an ordinance adopted by City Council on July 30, 1997 (the "TIF Bond Ordinance") and/or Incremental Taxes (as defined below), to pay for or reimburse (a) the Trust for the costs of Building TIF-Funded Improvements for the Building Project, and (b) Sears for the costs of Sears TIF-Funded Improvements for the Sears Project, all pursuant to the terms and conditions of this Agreement.

Now, therefore, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

## SECTION 1. RECITALS

The foregoing recitals are hereby incorporated into this agreement by reference.

## SECTION 2. DEFINITIONS

For purposes of this Agreement, in addition to the terms defined in the foregoing recitals, the following terms shall have the meanings set forth below:

"Affiliate" shall mean any person or entity directly or indirectly controlling, controlled by or under common control with any Developer Party or Douglas Elliman/Beitler.

"Approved Purchaser" shall mean: (i) any real estate investment trust with assets in excess of \$100 million; (ii) any pension fund or investment fund subject to the requirements of ERISA, or any manager thereof; (iii) any health, welfare or retirement fund of any governmental institution or other entity which would be subject to ERISA but for an exemption in ERISA, or any manager thereof; (iv) any corporation, partnership or other entity that is subject to periodic public financial reporting requirements under any state or federal laws governing securities, banking, or insurance or similar requirements requiring periodic public financial reporting to any governmental agency; (v) any public investment fund, private investment fund or similar entity, regulated by (or specifically exempt from regulation under) federal or state securities laws, whose invested equity funds, equity funds held pending investment or funds subject to capital calls exceed \$50 million, or any manager, general partner or managing member thereof; (vi) any entity in which the Beneficiary or J. Paul Beitler holds a majority equity or profit participation; (vii) any purchaser who acquires the Building with financing subordinate to the Lender Financing existing as of the date hereof provided such subordinate financing is provided by an entity described in the preceding clauses (i) through (vii). Notwithstanding the foregoing, no person or entity shall be an Approved Purchaser if it (or its principal officers or directors) is in violation of any City laws.

"Building Certificate" shall mean the Certificate described in Section 7.01 hereof for the Building Project.

"Building Construction Contract" shall mean that certain contract, substantially in the form attached hereto as Exhibit H-1, to be entered into between the Trust and the Building General Contractor relating to the construction of the Building Project.

"Building Equity" shall mean funds of the Developer Parties (other than funds derived from Lender Financing) irrevocably available for the Building Project, in the amount set forth in Section 4.01 hereof, which amount may be increased pursuant to Section 4.05.

"Building General Contractor" shall mean Clune Construction Company, LP, a Delaware limited partnership.

"Building Plans and Specifications" shall mean the final construction documents containing a site plan and working drawings and specifications for the Building Project, which shall incorporate, among other things, the Historic Preservation Requirements.

"Building Project Budget" shall mean the budget attached hereto as Exhibit J-1, showing the total cost of the Building Project by line item, furnished by the Developer Parties to DPD, in accordance with Section 3.04 hereof.

"Building Retainage" shall mean One Million Five Hundred Thousand Dollars (\$1,500,000) or such lesser amount, if any (and in no event less than \$1,000,000), as DPD, in its sole discretion, may consent to in the event the City agrees to fund a portion of such Building Retainage to the Developer Parties to pay for unforeseen costs associated with the Historic Preservation Requirements work applicable to exterior of the Building on and above the third floor.

"Building TIF-Funded Improvements" shall mean those improvements and costs of the Building Project which (i) qualify as Redevelopment Project Costs, (ii) are eligible costs under the Redevelopment Plan, (iii) are set forth in the Building Project Budget, and (iv) the City has agreed to pay for out of the City Funds, subject to the terms of this Agreement.

"Change Order" shall mean any amendment or modification to the

Building Plans and Specifications, the Sears Plans and Specifications, the Building Project Budget or the Sears Project Budget as described in Section 3.03, Section 3.04 and Section 3.05, respectively.

"City Fee" shall mean the fee described in Section 4.04(b) hereof.

"City Funds" shall mean the funds described in Section 4.02(b) hereof.

"Closing Date" shall mean the date of execution and delivery of this Agreement and the Limited Joinder by all parties hereto and thereto.

"Corporation Counsel" shall mean the City's Office of Corporation Counsel.

"Developer Equity" shall mean (i) as of the date of this Agreement, \$14,903,404.51, or such other amount as represents the amount of preferred mezzanine financing contributed to and invested in the Building Project as of the date of this Agreement by Credit Suisse First Boston Mortgage Capital, L.L.C., and (ii) as of any subsequent determination date, the amount in clause (i), plus the amount of additional capital contributions by any Developer Party (or any Affiliate) or additional preferred mezzanine financing, to the extent disclosed to DPD, and minus the amount of any distributions to any Developer Party (or any Affiliate) from net operating cash flow, refinancing or sales proceeds, or otherwise.

"Employer(s)" shall have the meaning set forth in Section 10 hereof.

"Environmental Laws" shall mean any and all federal, state or local statutes, laws, regulations, ordinances, codes, rules, orders, licenses, judgments, decrees or requirements relating to public health and safety and the environment now or hereafter in force, as amended and hereafter amended, including but not limited to (i) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.); (ii) any so-called "Superfund" or "Superlien" law; (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 1802 et seq.); (iv) the Resource Conservation and Recovery Act (42 U.S.C. Section 6902 et

seq.); (v) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vi) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vii) the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.); (viii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (ix) the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.); and (x) the Municipal Code of Chicago.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time.

"Event of Default" shall have the meaning set forth in Section 15 hereof.

"Excess Funds" shall mean, with respect to any refinancing or sale prior to the Holding Period Date, any refinancing or sale proceeds remaining after (i) the payment of customary transaction costs associated with a sale or refinancing (including the payment of reasonable fees, charges, commissions or other payments to the Developer Parties or any Affiliate thereof), (ii) the repayment of the Lender Financing (excluding any amounts payable as yield maintenance penalties or prepayment premiums), and (iii) the distribution to one or more the Developer Parties (or any Affiliate(s)) of an amount which, when added to all previous distributions of any kind, will equal the amount required to generate a 22.5% internal rate of return to the Beneficiary on contributed and unreturned Developer Equity.

"Financial Statements" shall mean complete financial statements of the Developer Parties, prepared by an independent certified public accountant, or such other financial statements as may be acceptable to DPD.

"General Contractor" shall mean the Building General Contractor or Sears General Contractor, as applicable.

"Hazardous Materials" shall mean any toxic substance, hazardous substance, hazardous material, hazardous chemical or hazardous, toxic or dangerous waste defined or qualifying as such in (or for the purposes of) any Environmental Law, or any pollutant or contaminant, and shall include, but not be limited to, petroleum (including crude oil), any radioactive material or by-product



material, polychlorinated biphenyls and asbestos in any form or condition.

"Holding Period Date" shall mean the date that is five (5) years after the date of this Agreement.

"Incremental Taxes" shall mean such ad valorem taxes which, pursuant to the TIF Adoption Ordinance and Section 5/11-74.4-8(b) of the Act, are allocated to and when collected are paid to the Treasurer of the City of Chicago for deposit by the Treasurer into a special tax allocation fund for the Redevelopment Area (i.e., the TIF Fund) established to pay Redevelopment Project Costs and obligations incurred in the payment thereof.

"Lender Financing" shall mean funds borrowed by the Developer Parties from Credit Suisse First Boston Mortgage Capital, L.L.C. to pay for costs of the Building Project, in the amount set forth in Section 4.01 hereof.

"Material Amendment" shall mean an amendment of the Sears Lease that directly or indirectly does any of the following: (i) materially reduces, increases, abates or rebates base rent, percentage rent, other amounts deemed rent, operating expense payments, tax payments or other monetary amounts payable under the Sears Lease, or otherwise confers or takes away any material economic benefit; (ii) changes the definition of "Approved Successor" or "Corporate Successor" or the assignment, subletting or licensing rights; (iii) changes any permitted use; (iv) changes the size of the Sears Premises; (v) shortens the term of the Sears Lease or grants additional early termination rights; or (vi) modifies the non-competition covenant (except to permit additional stores in the proscribed 3 mile radius).

"MBE(s)" shall mean a business identified in the Directory of Certified Minority Business Enterprises published by the City's Purchasing Department, or otherwise certified by the City's Purchasing Department as a minority-owned business enterprise.

"Municipal Code" shall mean the Municipal Code of the City of Chicago.

"Non-Governmental Charges" shall mean all non-governmental charges, liens, claims, or encumbrances relating to the Developer Parties, Sears, the Property or the Project.

"Permitted Liens" shall mean those liens and encumbrances against the Property and/or the Project set forth on Exhibit I hereto.

"Prior Expenditure(s)" shall have the meaning set forth in Section 4.04(a) hereof.

"Redevelopment Project Costs" shall mean redevelopment project costs as defined in Section 5/11-74.4-3(q) of the Act that are included in the budget set forth in the Redevelopment Plan or otherwise referenced in the Redevelopment Plan.

"Reimbursement Amount" shall mean an amount payable by the Developer Parties at the time any Excess Funds exist equal to the lesser of (i) the Excess Funds, and (ii) the product of (A) the City Funds paid to the Developer Parties as of such date times (B) a fraction, the numerator of which is the number of whole or partial years remaining prior to the Holding Period Date and the denominator of which is five (5), times (C) 0.50. In no event shall any Reimbursement Amount payment, or all Reimbursement Amount payments in aggregate, exceed \$1,500,000.

"Reimbursement Event" shall mean, as severally applicable to the Developer Parties and Sears, (i) a material misrepresentation, fraudulent act or omission or misappropriation of funds by any Developer Party or Sears, as applicable; (ii) any intentional or material waste to the Property or any portion thereof by any Developer Party or Sears, as applicable; (iii) use of City Funds for payment or reimbursement of amounts other than the Building TIF-Funded Improvements or Sears TIF-Funded Improvements identified on Exhibit F, as applicable; (iv) a transfer or refinancing of the Property by the Developer Parties in violation of the terms of this Agreement (including any transfer of an ownership interest in any upper tier entity having an ownership interest in any Developer Party that has the practical effect of a transfer of the Property, or any refinancing at such level); (v) any material breach of Developer Parties' or Sears' representations, warranties or covenants, as applicable, regarding environmental matters contained in this Agreement, as applicable; (vi) the occurrence of any

material uninsured casualty event to the Building (excluding the Sears Premises) or the Sears Premises, as applicable, unless the portion of the Building or Sears Premises damaged by such event is restored within a reasonable period of time; (vii) the material misappropriation or misapplication of insurance proceeds or condemnation awards relating to the Property by Sears or the Developer Parties, as applicable; (viii) any material misrepresentation in any Economic Disclosure Statement and Affidavit submitted by the Developer Parties or Sears, as applicable, or a breach of Section 8.23 of this Agreement or Section 3(aa) of the Limited Joinder, as applicable; or (ix) any receipt of City Funds after the occurrence of an Event of Default under this Agreement or the Limited Joinder, as applicable, or the occurrence of an event which, if the Developer Parties or Sears had given prompt notice of such event (such as, for example, notice of a failure to comply with MBE/WBE requirements) would have entitled the City to withhold the disbursement of such City Funds under this Agreement. In no event shall a Reimbursement Event arising from the Developer Parties' acts or omissions constitute a Reimbursement Event that would require Sears to repay City Funds received by Sears, nor shall a Reimbursement Event arising from Sears' acts or omissions constitute a Reimbursement Event that would require the Developer Parties to repay City Funds received by the Developer Parties.

"Sears Certificate" shall mean the Certificate described in Section 7.01 hereof for the Sears Project.

"Sears Construction Contract" shall mean that certain contract, substantially in the form attached hereto as Exhibit H-2, to be entered into between Sears and the Sears General Contractor relating to the construction of the Sears Project.

"Sears Equity" shall mean funds of Sears available for the Sears Project, in the amount set forth in Section 4.01(b) hereof, which amount may be increased pursuant to Section 4.05.

"Sears General Contractor" shall mean Pepper Construction Company, a Delaware corporation.

"Sears Plans and Specifications" shall mean the final construction documents containing a site plan and working drawings

and specifications for the Sears Project, which shall incorporate, among other things, the Historic Preservation Requirements.

"Sears Project Budget" shall mean the budget attached hereto as Exhibit J-2, showing the total cost of the Sears Project by line item, furnished by Sears to DPD, in accordance with Section 3.04 hereof.

"Sears Retainage" shall mean an amount equal to fifteen percent (15%) of each payment or reimbursement request for City Funds to pay or reimburse Sears for TIF-Funded Improvements submitted by Sears with respect to the Sears Project.

"Sears TIF-Funded Improvements" shall mean those improvements of the Sears Project which (i) qualify as Redevelopment Project Costs, (ii) are eligible costs under the Redevelopment Plan, (iii) are set forth in the Sears Project Budget; and (iv) the City has agreed to pay for out of the City Funds, subject to the terms of this Agreement.

"Six Chicago Stores" shall mean the Sears department stores located in the City at the following addresses: 1601 N. Harlem Avenue; Ford City Mall; 61st Street and S. Western Avenue; 4730 W. Irving Park Avenue; 1334 East 79th Street and 1900 W. Lawrence Avenue.

"Survey" shall mean a plat of survey in the most recently revised form of ALTA/ACSM land title survey of the Property dated within 45 days prior to the Closing Date, acceptable in form and content to the City, prepared by a surveyor registered in the State of Illinois, certified to the City, and indicating whether the Property is in a flood hazard area as identified by the United States Federal Emergency Management Agency.

"Term of the Agreement" shall mean the period of time commencing on the Closing Date and ending on the later of: (a) the date on which all TIF Bonds secured in whole or in part by any Incremental Taxes shall be fully paid or redeemed; or (b) the date in 2007 on which the Redevelopment Area is no longer in effect, or such later date (but in no event later than December 31, 2008) as may be elected by the City in accordance with the Act.

"TIF Fund" shall mean the special tax allocation fund created by the City in connection with the Redevelopment Area into which the Incremental Taxes will be deposited.

"TIF-Funded Improvements" shall mean Building TIF-Funded Improvements and/or Sears TIF-Funded Improvements.

"Title Company" shall mean Chicago Title Insurance Company, or such other reputable title company as may be acceptable to the City.

"Title Policy" shall mean a title insurance policy in the most recently revised ALTA or equivalent form, showing the Developer as the insured, noting the recording of this Agreement as an encumbrance against the Property, and a subordination agreement in favor of the City with respect to previously recorded liens against the Property related to Lender Financing, if any, issued by the Title Company.

"WARN Act" shall mean the Worker Adjustment and Retraining Notification Act (29 U.S.C. Section 2101 et seq.).

"WBE(s)" shall mean a business identified in the Directory of Certified Women Business Enterprises published by the City's Purchasing Department, or otherwise certified by the City's Purchasing Department as a women-owned business enterprise.

### SECTION 3. THE PROJECT

3.01 Conveyance of Property. On the date on which the Chicago Commission on Landmarks, operating under DPD, issues its written confirmation that the Developer Parties have completed the work to be performed by the Developer Parties set forth in Exhibit C relating to the exterior of the Building, the City will also convey to the Trust by quitclaim deed fee simple title to the City Parcel for One Dollar (\$1.00). The City's conveyance of the City Parcel shall be subject to:

- (a) the standard exceptions in an ALTA insurance policy;
- (b) all general real estate taxes;

- (c) all easements, encroachments, covenants and restrictions of record and not shown of record; and
- (d) such other title defects as may exist.

The conveyance shall occur through an escrow established with the Title Company and pursuant to escrow instructions mutually acceptable to the Developer Parties and the City, or by such means as is mutually acceptable to the Developer Parties and the City.

The City agrees that the Trust's obligation to pay rent under that certain lease between the Trust, as successor in interest to the rights of the original tenant thereunder, and the City dated November 30, 1990 relating to the City Parcel shall abate, effective as of August 31, 1999 and no rent or other amounts payable under such lease shall be payable with respect to the time period after such date, until the date of the conveyance of the City Parcel, at which time such lease will terminate. If an Event of Default occurs, is not cured, and the City never issues its Certificate, then the rent otherwise payable under such lease shall resume upon the City's written notice to the Developer Parties, but the City shall not be entitled to recover the rent that would otherwise have been payable during the abatement period. Payment of such rent and other amounts owed under such lease shall be the responsibility of the Developer Parties and the successors in interest to the Trust's leasehold interest in the City Parcel.

On the Closing Date, the City and Sears shall execute a subordination, non-disturbance and attornment agreement in a form mutually acceptable to the City and Sears permitting Sears' use of the portion of the Sears Premises constituting the City Parcel, including after the occurrence of an Event of Default by the Developer Parties.

### 3.02 The Project.

(a) The Building Project. With respect to the Building Project, the Developer Parties shall, pursuant to the Building Plans and Specifications, and subject to the provisions of Section 18.16 hereof, complete the rehabilitation work described in the Building Plans and Specifications no later than June 30, 2001.

(b) The Sears Project. With respect to the Sears Project, Sears shall:

(i) pursuant to the Sears Plans and Specifications, and subject to the provisions of Section 18.16 hereof, (A) cause the completion of the Public Improvement Work by June 30, 2001, and (B) complete the rehabilitation work described in the Sears Plans and Specifications no later than June 30, 2001; and

(ii) open the Sears store for operation no later than June 30, 2001.

The City agrees to cooperate with the Developer Parties and Sears in their efforts to obtain timely possession of the first floor of the Building including, if necessary, seeking the appropriate approvals necessary to acquire the remaining first floor tenants' leased premises by eminent domain proceedings. The City agrees to use reasonable, lawful efforts to remove or relocate the existing newspaper stand located at the northwest corner of State Street and Madison Street.

3.03 Plans and Specifications. The Developer Parties have delivered the Building Plans and Specifications to DPD, and Sears has delivered the Sears Plans and Specifications to DPD, and DPD has approved same. After such initial approval, subsequent proposed changes to either set of plans and specifications shall be submitted to DPD as a Change Order pursuant to Section 3.05 hereof and for such approval, if any, required under Section 3.05. All such plans and specifications shall at all times conform to the Redevelopment Plan as amended from time to time and all applicable federal, state and local laws, ordinances and regulations and the Historical Preservation Requirements, where applicable. The Developer Parties and Sears shall submit all necessary documents to such City departments and other governmental authorities as may be necessary to acquire building permits and other required approvals for the Building Project and the Sears Project, respectively.

#### 3.04 Project Budgets.

(a) Building Project Budget. The Developer Parties have furnished to DPD, and DPD has approved, a Building Project Budget showing total costs for the Building Project in an amount not less

than One Hundred Million Five Hundred Ninety-Seven Thousand and No/100 Dollars (\$100,597,000).

The Developer Parties hereby certify to the City that the City Funds, together with the Lender Financing and Building Equity described in Section 4.01 hereof, shall be sufficient to complete the Building Project.

(b) Sears Project Budget. Sears has furnished to DPD, and DPD has approved, a Sears Project Budget showing total costs for the Sears Project in an amount not less than Twenty Six Million Eight Hundred Thousand and No/100 Dollars (\$26,800,000). Sears hereby certifies to the City that the City Funds, together with the Sears Equity described in Section 4.01 hereof, shall be sufficient to complete the Sears Project.

(c) Changes in Project Budgets. The Developer Parties and Sears, as applicable, shall promptly deliver to DPD certified copies of any Change Orders with respect to the Building Project Budget and the Sears Project Budget, respectively, and (to the extent approval is required) approval pursuant to Section 3.05.

3.05 Change Orders. Any Change Orders that (a) permanently, materially decrease the Building Project Budget, or the Sears Project Budget, as applicable (after giving effect to and the netting out of all Change Orders that permanently increase the applicable budget), (b) permanently materially reduce the scope of work to be performed, (c) directly relate to the Historical Preservation Requirements, or (d) relate to a change in the proposed use of the Sears Premises must be submitted by the Developer Parties or Sears, as applicable, to DPD for DPD's prior written approval. DPD shall use reasonable efforts to approve or disapprove such proposed Change Order within ten (10) business days' of its receipt of such proposed Change Order. Neither the Developer Parties nor Sears shall authorize or permit the performance of any work relating to a Change Order described in the preceding clauses (b), (c) or (d) or the furnishing of materials in connection therewith prior to the receipt of DPD's written approval. An approved Change Order shall not be deemed to imply any obligation on the part of the City to increase the amount of City Funds payable pursuant to this Agreement or provide any other additional financial assistance. An approved Change Order that permanently reduces the Building Project Budget or the Sears



Project Budget, as applicable (after giving effect to and the netting out of all Change Orders that permanently increase the applicable budget), shall result in a reduction in City Funds payable to the Developer Parties, or Sears, as applicable, in accordance with Section 4.02. DPD shall be notified in writing of all other Change Orders as part of the progress reports submitted by the Developer Parties and Sears pursuant to Section 3.08.

3.06. DPD Approval. Any approval granted by DPD of the Building Plans and Specifications, the Sears Plans and Specifications and any Change Orders is for the purposes of this Agreement only and does not affect or constitute any approval required by any other City department or pursuant to any City ordinance, code, regulation or any other governmental approval, nor does any approval by DPD pursuant to this Agreement constitute approval of the quality, structural soundness or safety of any portion of the Building, the Property or any portion of the Project.

3.07 Other Approvals. Any DPD approval under this Agreement shall have no effect upon, nor shall it operate as a waiver of, the Developer Parties' and Sears' obligations to comply with the provisions of Section 5.03 (Other Governmental Approvals) hereof. Neither the Developer Parties nor Sears shall commence construction of their respective portions of the Project until it has obtained all necessary permits and approvals and proof of the applicable party's or parties' bonding with respect to any work in the public way.

3.08 Progress Reports. The Developer Parties and Sears shall each provide DPD with written monthly progress reports setting forth in reasonable detail the status of their respective portions of the Project.

3.08A Inspecting Architect and Preservation Consultants. With respect to the Building Project, the inspecting architect for Credit Suisse First Boston Mortgage Capital, L.C.C., and with respect to the Sears Project, Daniel P. Coffey & Associates, shall serve as the inspecting architect for the City. Such inspecting architects shall perform periodic inspections with respect to the Building Project and the Sears Project, as applicable, and shall provide certifications with respect thereto to DPD, prior to requests for reimbursement for costs related to the Project, and

shall provide certifications on AIA Form 702 or such other form of certificate as may be acceptable to the City. The Developer Parties and Sears, as applicable, shall pay any amounts payable to such inspecting architects for their services under this Section 3.08A. In connection with the performance of the work associated with the Historical Preservation Requirements, and prior to the commencement of such work, the Chicago Commission on Landmarks operating under DPD shall have given its written consent to the historic preservation engineer/consultant and masonry subcontractor who shall be retained by the Developer Parties and Sears to supervise and perform such work.

3.09 Barricades. Prior to commencing any construction requiring barricades, the Developer Parties and Sears shall install a construction barricade of a type and appearance satisfactory to the City and constructed in compliance with all applicable federal, state or City laws, ordinances and regulations. DPD retains the right to approve the maintenance, appearance, color scheme, painting, nature, type, content and design of all barricades.

3.10 Signs and Public Relations. The Developer Parties shall erect a sign of size and style approved by the City in a conspicuous location on the Property during construction of the Project, indicating that financing has been provided in part by the City. The City reserves the right to include the name, photograph, artistic rendering of the Project and other pertinent information regarding the Developer Parties, Sears the Property and the Project in the City's promotional literature and communications. After its initial approval of the signage disclosed in the Building Plans and Specifications and the Sears Plans and Specifications, DPD retains the right to approve any material changes in the maintenance, appearance, color scheme, painting, nature, type, content and design of all signage on the Building.

3.11 Utility Connections. The Developer Parties and Sears may connect all on-site water, sanitary, storm and sewer lines constructed on the Property to City utility lines existing on or near the perimeter of the Property, provided they first comply with all City requirements governing such connections, including the payment of customary fees and costs related thereto.

3.12 Permit Fees. In connection with the Project, the Developer Parties and Sears shall be obligated to pay only those

building, permit, engineering, tap on and inspection fees that are assessed on a uniform basis throughout the City of Chicago and are of general applicability to other property within the City of Chicago.

#### SECTION 4. FINANCING

##### 4.01 Total Project Cost and Sources of Funds.

(a) Building Project. The cost of the Building Project is estimated to be \$100,597,000, to be applied in the manner set forth in the Building Project Budget. Such costs shall be funded from the following sources:

Building Equity (subject to <u>Section 4.05</u> )	\$ 24,383,167
Lender Financing	\$ 73,198,000
Maximum City Funds	\$ 3,015,833
ESTIMATED TOTAL	\$ 100,597,000

(b) Sears Project. The cost of the Sears Project is estimated to be \$26,800,000, to be applied in the manner set forth in the Sears Project Budget. Such costs shall be funded from the following sources:

Sears Equity (subject to <u>Section 4.05</u> )	\$ 16,300,000
Maximum City Funds (subject to <u>Section 4.05</u> )	\$ 10,500,000
ESTIMATED TOTAL	\$ 26,800,000

##### 4.02 City Funds.

(a) Uses of City Funds. City Funds may be used to reimburse the Developer Parties and Sears for costs of their respective TIF-Funded Improvements only that constitute Redevelopment Project Costs relating to the Building Project and the Sears Project, as applicable. Exhibit F sets forth, by line item, the Building TIF-Funded Improvements and the Sears TIF-Funded Improvements, and the maximum amount of costs that may be paid by or reimbursed from City Funds for each line item therein, contingent upon receipt by the City of documentation satisfactory in form and substance to DPD

evidencing such cost and its eligibility as a Redevelopment Project Cost.

(b) Sources of City Funds. Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.02, Section 4.03, Section 5 and Section 8.05 hereof, as applicable, the City hereby agrees to utilize City funds from the sources and in the amounts described directly below, as the same may be adjusted in accordance with clause (a) in the next-to-last sentence in Section 4.05 (the "City Funds") to reimburse the Developer Parties and Sears for the costs of their respective TIF-Funded Improvements:

BUILDING PROJECT

<u>Source of City Funds</u>	<u>Maximum Amount</u>
Proceeds of TIF Bonds and/or available Incremental Taxes	\$3,015,833

SEARS PROJECT

<u>Source of City Funds</u>	<u>Maximum Amount</u>
Proceeds of TIF Bonds and/or available Incremental Taxes	\$10,500,000

provided, however, that notwithstanding the above, (i) the maximum amount of City Funds that shall be utilized for (A) Building TIF-Funded Improvements shall be an amount not to exceed the lesser of Three Million Fifteen Thousand Eight Hundred Thirty Three and No/100 Dollars (\$3,015,833) or Two and 98/100 percent (2.98%) of the actual total Building Project costs, and (B) Sears TIF-Funded Improvements shall be an amount not to exceed the lesser of Ten Million Five Hundred Thousand Dollars (\$10,500,000) (subject to clause (a) of Section 4.05) or Thirty Nine and 18/100 percent (39.18%) of the actual total Sears Project costs.

The Developer Parties and Sears further acknowledge and agree that the City's obligation to make reimbursement for any Building TIF-Funded Improvements and any Sears TIF-Funded Improvements, as

applicable, is contingent upon the fulfillment of the following conditions precedent, which shall be severally applicable to the Developer Parties and Sears:

(i) The City has been paid any City Fee due and payable and has otherwise been reimbursed for the amount previously disbursed by the City for any TIF-Funded Improvements paid directly by the City; and

(ii) The Developer Parties and Sears, separately, have submitted a Requisition Form in accordance with Section 4.03 and separately satisfied all conditions precedent in Section 5.17; and

(iii) No act or omission which, with the giving of notice or passage of time, or both, would give rise to an Event of Default under this Agreement or the Limited Joinder, as applicable, which has occurred and is continuing.

In the event that such conditions are not fulfilled, the amount of Lender Financing and/or Equity to be contributed by the Developer Parties or Sears, as applicable, pursuant to Section 4.01 hereof shall increase by the amount of City Funds not funded due to the failure of such conditions precedent to funding.

4.03 Requisition Form. In order to request the payment of any City Funds, the Developer Parties and Sears, as applicable, shall separately deliver to the City, a completed Requisition Form in substantially the form of Exhibit K attached hereto, or as otherwise acceptable to DPD (the "Requisition Form"), together with the documentation described therein. All City Funds paid pursuant to a Requisition Form shall be used to directly pay for, or reimburse the Developer Parties or Sears, as applicable, for its previous payment of their respective TIF-Funded Improvements. Requisition Forms submitted by the Developer Parties and Sears shall be in the minimum amounts of \$250,000 for the Developer Parties and \$1,500,000 for Sears (unless such Requisition Form relates to the Public Work Improvements, in which case the Requisition Form shall be in the minimum amount of \$500,000), except for any final Requisition Form, which shall be in the remaining amount due. The City shall approve or disapprove a Requisition Form within thirty (30) days of receipt of the Requisition Form.

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The City shall make prompt payment after its approval of any Requisition Form. Any disapproved Requisition Form may be resubmitted for approval after any unsatisfied conditions precedent have been satisfied.

4.04 Treatment of Prior Expenditures.

(a) Prior Expenditures. Only those expenditures made by or covering work done and payable by the Developer Parties and Sears prior to the Closing Date, evidenced by documentation satisfactory to DPD and approved by DPD as satisfying costs covered in the Building Project Budget or Sears Project Budget, as applicable, shall be considered previously contributed equity, Lender Financing or TIF-Funded Improvements hereunder (the "Prior Expenditures"). Exhibit L hereto sets forth the prior expenditures and payables by the Developer Parties and Sears approved by DPD as Prior Expenditures to the date hereof. Prior Expenditures made for items other than TIF-Funded Improvements shall not be reimbursed from City Funds. Expenditures made after the Closing Date arising from contracts entered into prior to the Closing Date may be reimbursed in accordance with Section 4.03.

(b) City Fee. The City shall have the right to use proceeds of TIF Bonds and/or Incremental Taxes to pay itself any costs and expenses incurred from time to time ("City Fee") that may be due and payable under the Act. The City's first priority claim on any such proceeds of TIF Bonds for such purpose shall not be deducted from or considered a part of the City Funds committed hereunder, nor shall the Developer Parties nor Sears be required to pay such fee.

(c) Allocation Among Line Items. Disbursements for expenditures related to TIF-Funded Improvements may be allocated to and charged against the appropriate line item only, with transfers of costs and expenses from one line item to another, without the prior written consent of DPD, being prohibited; provided, however, that such transfers among line items, in an amount not to exceed \$25,000 or \$100,000 in the aggregate, may be made without the prior written consent of DPD.

4.05 Cost Overruns. If the aggregate cost of the TIF-Funded Improvements exceeds City Funds available pursuant to Section 4.02 hereof, the Developer Parties or Sears, as applicable, shall be

solely responsible for such excess costs, relating to their respective portions of the Project, and shall hold the City harmless from any and all costs and expenses of completing the TIF-Funded Improvements in excess of City Funds available to such party. Notwithstanding the first sentence, if, due to conditions that are unrelated to the sidewalk vaults, the cost of the Public Improvement Work exceeds \$1,500,000, the City shall provide to Sears additional TIF Bond Proceeds, Available Incremental Taxes or other City funds, up to a maximum of \$500,000, to cover costs attributable to such costs, with Sears having the responsibility for any Public Improvement Work costs in excess of \$2,000,000. Notwithstanding the first sentence, if due to unforeseen conditions, the costs associated with the Historic Preservation Requirements work applicable to the exterior of the Building on and above the third floor exceeds \$1,500,000, the City will release up to \$500,000 of the Building Retainage to cover such unforeseen costs. In the event the City provides additional funds in accordance with the preceding clause (a), such funds shall constitute additional "City Funds" for all purposes under this Agreement.

#### SECTION 5. CONDITIONS PRECEDENT

The conditions precedent in Sections 5.01 through Section 5.16 below shall be complied with to the City's satisfaction within the time periods set forth below or, if no time period is specified, not less than five (5) business days prior to the Closing Date. The Commissioner's execution and delivery of this Agreement shall be deemed to be a satisfaction of DPD's approval of all such conditions precedent.

5.01 Project Budgets. The Developer Parties and Sears shall have submitted to DPD, and DPD shall have approved, the Building Project Budget and the Sears Project Budget, respectively, in accordance with the provisions of Section 3.04 hereof.

5.02 Plans and Specifications. The Developer Parties and Sears shall have submitted to DPD, and DPD shall have approved, the Building Plans and Specifications and the Sears Plans and Specifications, respectively, in accordance with the provisions of Section 3.03 hereof.

5.03 Other Governmental Approvals. The Developer Parties and Sears shall have secured all other necessary approvals and permits required by any state, federal, or local statute, ordinance or regulation and shall submit evidence thereof to DPD.

5.04 Financing. The Developer Parties and Sears shall have furnished proof reasonably acceptable to the City of Building Equity and Sears Equity, as applicable and (in the case of the Developer Parties) Lender Financing in the amounts set forth in Section 4.01 hereof to complete their respective portion of the Project and satisfy their respective obligations under this Agreement. The Developer Parties shall have furnished proof that the proceeds of the Lender Financing are available to be drawn upon by the Developer Parties as needed and are sufficient (along with the Building Equity and City Funds) to complete the Building Project. Any liens against the Property in existence at the Closing Date shall be subordinated to the covenants that run with the land specified in Section 7.02 pursuant to a Subordination Agreement in a form acceptable to the City executed and recorded on or prior to the Closing Date.

5.05 Title. The Developer Parties shall furnish the City with a copy of its Title Policy for the Property, dated down as of a date within thirty (30) days of the Closing Date (with a subsequent date-down to occur on the Closing Date), certified by the Title Company, showing the Developer as the named insured. The Title Policy shall contain only those title exceptions listed as Permitted Liens on Exhibit I hereto and shall evidence the recording of this Agreement pursuant to the provisions of Section 8.18 hereof. The Title Policy shall also contain such endorsements as may be reasonably required by Corporation Counsel. The Developer Parties shall provide to DPD, prior to the Closing Date, documentation related to the purchase of the Property and correct and complete copies of all easements and encumbrances of record with respect to the Property.

5.06 Evidence of Clean Title. The Developer Parties, at their own expense, shall have provided the City with current searches under each Developer Party's name as follows:

Secretary of State	UCC search
Secretary of State	Federal tax search
Cook County Recorder	UCC search



Cook County Recorder	Fixtures search
Cook County Recorder	Federal tax search
Cook County Recorder	State tax search
Cook County Recorder	Memoranda of judgments search
U.S. District Court	Pending suits, judgments, bankruptcy proceedings
Clerk of Circuit Court, Cook County	Pending suits, judgments, bankruptcy proceedings

showing no liens against the Developer Parties, the Property or any fixtures now affixed thereto, except for the Permitted Liens, nor any other unacceptable matters.

5.07 Surveys. The Developer Parties shall have furnished the City with three (3) copies of the Survey.

5.08 Insurance. At least five (5) business days prior to the Closing Date, the Developer Parties and Sears, at their own expense, shall have insured their respective portions of the Property in accordance with Section 12 hereof and provided to DPD the certificates of insurance required pursuant to Section 12.

5.09 Opinions of Counsel. On the Closing Date, the Developer Parties and Sears shall each furnish the City with an opinion of counsel, substantially in the form attached hereto as Exhibit M, with such changes as may be required by or acceptable to Corporation Counsel.

5.10 Evidence of Prior Expenditures. The Developer shall have provided evidence satisfactory to DPD, in its sole discretion, of any Prior Expenditures in accordance with the provisions of Section 4.04(a) hereof.

5.11 Financial Statements. The Developer Parties shall have provided Financial Statements to DPD for its 1998 fiscal year, and unaudited interim financial statements for 1999.

5.12 Documentation. The Developer Parties and Sears shall have provided evidence satisfactory to DPD, in its sole discretion, with respect to their ability to satisfy MBE/WBE and City resident employment standards, as applicable.

5.13 Environmental. The Developer Parties and Sears shall have provided DPD with copies of any phase I and phase II environmental audits and any other environmental assessments or remediation reports completed with respect to the Property. The Developer Parties and Sears shall provide the City with a letter from the environmental engineer(s) who completed such audit(s), authorizing the City to rely on such audits.

5.14 Corporate Documents. The Developer Parties and Sears shall have provided DPD with copies of their Certificate of Incorporation, Articles of Organization and initial trust formation filing, as applicable, containing the original certification of the Secretary of State of the state of incorporation or organization; certificates of good standing or existence from the Secretary of State of its state of organization and all other states in which the Developer is qualified to do business; copies of bylaws, operating agreements and trust agreements; a secretary's, trustee's or managing member's certificate in such form and substance as the Corporation Counsel may require; shareholder, beneficiary or member consents evidencing consent to the execution of this Agreement and the Limited Joinder, as applicable; and such other corporate, trust and limited liability documentation as the City may request.

5.15 Litigation. The Developer Parties and Sears shall provide to Corporation Counsel and DPD a description of all pending or threatened material litigation or administrative proceedings involving the Developer Parties or Sears, as applicable, involving property located in the City, or to which the City is a party, or involving the payment of franchise, income, sales or other taxes to the State of Illinois or City. In each case, the description shall specify the amount of each claim, an estimate of probable liability, the amount of any reserves taken in connection therewith and whether (and to what extent) such potential liability is covered by insurance.

5.16 Memorandum of Lease. The memorandum of lease required under the Sears Lease to cause the commencement of the Sears Lease shall have been fully executed and delivered to the City for recording immediately after this Agreement.

5.17 Preconditions of Disbursement. Prior to each disbursement of City Funds for Building Project costs or Sears Project costs, the Developer Parties and Sears shall have separately provided

evidence satisfactory to DPD, in its sole discretion, of its expenditures and costs incurred. Delivery by the Developer Parties or Sears to DPD of a Requisition Form shall, in addition to the certifications contained therein, constitute a certification to the City by the delivering party, as of the date of such Requisition Form, that:

(a) the total amount of the reimbursement and/or payment request represents the actual amount previously paid or payable to the Building General Contractor or Sears General Contractor, as applicable, and/or their respective subcontractors who have performed work on the Project, and/or to the identified Developer Party or Sears for Project costs directly incurred and previously paid for by such parties;

(b) all amounts shown as previous payments on the current Requisition Form have been paid to the parties entitled to such payment;

(c) the party requesting reimbursement has approved all work and materials for the current reimbursement request, and such work and materials conform in all material respects to the applicable plans and specifications;

(d) the representations and warranties contained in this Redevelopment Agreement and/or the Limited Joinder made by the party requesting reimbursement are true and correct and such party is in material compliance with all covenants contained therein;

(e) the party requesting reimbursement has received no notice and has no knowledge of any liens or claim of lien either filed or threatened against the Property except for the Permitted Liens and Non-Governmental Charges being contested in accordance with Section 8.15; and

(f) no Event of Default under this Agreement and/or default under the Limited Joinder, as applicable, or condition or event which, with the giving of notice or passage of time or both, would constitute such an Event of Default or default with respect to the party seeking reimbursement exists or has occurred.

In addition to the above conditions precedent in this Section 5.17, the party seeking reimbursement shall have satisfied all

other preconditions of disbursement of City Funds, including but not limited to requirements set forth in the TIF Bond Ordinance, the TIF Bonds, this Agreement and any escrow agreement, if any.

If the Developer Parties have satisfied all conditions precedent to the disbursement of City Funds to the Developer Parties under Section 4.02 and this Section 5.17, the City shall make such disbursement regardless of Sears' performance or non-performance of its conditions precedent to disbursement or other obligations under this Agreement and the Limited Joinder as of such date. If Sears has satisfied all conditions precedent to the disbursement of City Funds to Sears under Section 4.02 and this Section 5.17, the City shall make such disbursement regardless of the Developer Parties' performance or non-performance of their conditions precedent to disbursement or other obligations under this Agreement as of such date.

#### SECTION 6. AGREEMENTS WITH CONTRACTORS

6.01 Bid Requirement for General Contractor and Subcontractors. (a) The City hereby approves the Developer Parties' retention of the Building General Contractor and Sears' retention of the Sears General Contractor. Except as set forth in Section 6.01(b) below, prior to entering into an agreement with any subcontractor for construction of any portion of the Project, the Developer Parties and Sears shall solicit, or shall cause the general contractor to solicit, bids from qualified subcontractors eligible to do business with the City of Chicago, and shall submit a schedule of all bids received to DPD for its inspection and, upon DPD's request, the actual bids. For the TIF-Funded Improvements, the Developer Parties and Sears shall cause the general contractor to select the subcontractor submitting the lowest responsive and responsible bidder who can complete the Project in a timely manner, as reasonably determined by the Developer Parties and Sears, as applicable. If the subcontractor who submits such bid for the TIF-Funded Improvements is not selected, the difference between such bid and the bid selected may not be paid out of City Funds. Photocopies of all subcontracts entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DPD upon DPD's request. The Developer Parties agree that the Building General Contractor, and Sears agrees that the Sears General Contractor, shall not (and shall cause such general contractor to agree that the subcontractors shall not) begin work

on the Project until the applicable plans and specifications have been approved by DPD and all requisite permits and approvals have been obtained, unless otherwise agreed to in writing by the Department of Buildings.

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(b) The fee for the Building General Contractor and Sears General Contractor shall be limited to an amount not to exceed 10% of the total amount of the Building Construction Contract and the Sears Construction Contract, respectively.

6.02 Construction Contracts. Prior to the execution thereof, the Developer Parties and Sears have delivered to DPD, and DPD has approved, a certified copy of the Building Construction Contract and Sears Construction Contract. The Developer Parties and Sears shall deliver to DPD and Corporation Counsel copies of any modifications, amendments or supplements thereto within five (5) business days after execution of such changes.

6.03 Performance and Payment Bonds. Prior to commencement of construction, the Developer Parties and Sears shall require that, with respect to any work in the public way or other work for which a bond or letter of credit is required under the Municipal Code, the Building General Contractor, the Sears General Contractor and any applicable subcontractors be bonded for their respective payment and performance (if any) by sureties having an AA rating or better using American Institute of Architect's Form No. A311 or its equivalent. The City shall be named as obligee or co-obligee on such bond.

6.04 Employment Opportunity. The Developer Parties shall contractually obligate and cause the Building General Contractor and each subcontractor, and Sears shall contractually obligate and cause the Sears General Contractor and each subcontractor, to agree to the provisions of Section 10 hereof.

6.05 Other Provisions. In addition to the requirements of this Section 6, the Building Construction Contract and the Sears Construction Contract and each contract with any subcontractor shall contain provisions required pursuant to Section 3.05 (Change Orders), Section 8.09 (Prevailing Wage), Section 10.01(e) (Employment Opportunity), Section 10.02 (City Resident Employment Requirement), Section 12 (Insurance) and Section 14.01 (Books and Records) hereof. Photocopies of all contracts or subcontracts

entered or to be entered into in connection with the TIF-Funded Improvements shall be provided to DPD within five (5) business days of the execution thereof.

## SECTION 7. COMPLETION OF CONSTRUCTION OR REHABILITATION

7.01 Certificate of Completion of Construction or Rehabilitation. After (a) completion of the rehabilitation work comprising the Building Project or the Sears Project, as applicable, in accordance with the terms of this Agreement, (b) submission of the final Requisition Form for such portion of the Project, and (c) the separate written request of the Developer Parties or Sears, as applicable, DPD shall issue to the requesting party a Certificate in recordable form certifying that the requesting party has fulfilled its obligation to complete the rehabilitation work relating to the applicable portion of the Project in accordance with the terms of this Agreement. DPD shall respond to a written request for a Certificate within thirty (30) days by issuing either a Certificate or a written statement detailing the ways in which the applicable portion of the Project has not been satisfactorily completed and the measures which must be taken in order to obtain the Certificate. The Developer Parties or Sears, as applicable, may resubmit a written request for a Certificate upon completion of such measures.

7.02 Effect of Issuance of Certificate. The Certificate relates only to the rehabilitation of the applicable portion of the Project and will state that the terms of the Agreement specifically related to the performance of such rehabilitation work have been satisfied.

(a) Developer Parties' Continuing Obligations. After the issuance of a Building Certificate, however, all executory terms and conditions of this Agreement relating to the Developer Parties and all representations, warranties and covenants of the Developer Parties contained herein and unrelated to such rehabilitation work will continue to remain in full force and effect through the Term of the Agreement, or such other period as may be expressly provided for. The issuance of the Certificate shall not be construed as a waiver by the City of any of its rights and remedies pursuant to such executory terms. Those covenants specifically described at Sections 8.02, 8.03, 8.06, 8.20 and 8.21 and Exhibit C, together with those Sears' covenants specified in Section 7.02(b) below,

shall be covenants that run with the land and shall be binding upon any transferee of the Property to the same extent (if any, in the case of the Sears' covenants) such covenants are or may be binding on the Developer Parties through the Term of the Agreement, or such shorter period as may be expressly provided for in such Sections or Exhibit, notwithstanding the issuance of a Certificate. The other executory terms of this Agreement that remain after the issuance of a Certificate to be performed by the Developer Parties shall be binding only upon the Developer Parties, or any successor in interest to such parties' rights and obligations under this Agreement.

(b) Sears' Continuing Obligations. After the issuance of a Sears Certificate, however, all executory terms and conditions of this Agreement relating to Sears and all representations, warranties and covenants of Sears contained herein and in the Limited Joinder and unrelated to such rehabilitation work will continue to remain in full force and effect through the 10<sup>th</sup> Anniversary Date (as defined in Section 2 of the Limited Joinder), or such shorter period as may be expressly provided for herein or in the Limited Joinder. The issuance of the Certificate shall not be construed as a waiver by the City of any of its rights and remedies pursuant to such executory terms. Those covenants specifically described at Sections 3(i), 3(j), 4(a), 4(c) and 4(e) of the Limited Joinder shall be covenants that run with the land and shall be binding upon any transferee of the Property to the same extent such covenants may be binding on the Developer Parties (if any) and are binding upon occupant of any portion of the Sears Premises for the applicable period expressly provided for in such Sections, notwithstanding the issuance of a Certificate. Subject to the foregoing, the other executory terms of this Agreement and Limited Joinder that remain after the issuance of a Certificate to be performed by Sears shall be binding only upon Sears, or any successor in interest to Sears' rights and obligations under this Agreement and the Limited Joinder, through the 10<sup>th</sup> Anniversary Date, or such shorter period as may be expressly provided for herein or in the Limited Joinder.

(c) Retainage. The City's issuance of the Building Certificate to the Developer Parties shall entitle the Developer Parties to the Building Retainage. The City's issuance of the Sears Certificate to Sears shall entitle Sears to the Sears Retainage. Prior to the issuance of either such Certificate, the

Developer Parties or Sears, as applicable, shall provide evidence satisfactory to DPD, in its sole discretion, of its compliance with the requirements of Section 10.

7.03 Failure to Complete. If (x) the Developer Parties fail to complete the Building Project, (y) Sears fails to complete the Sears Project, or (z) either the Developer Parties or Sears permits an unpermitted lien to exist and such lien is foreclosed or otherwise enforced in such a manner as to terminate the encumbrance of this Agreement or lessen the priority thereof, then the City shall have, but shall not be limited to, any of the following cumulative rights and remedies, severally exercisable against the defaulting party only:

(a) if the defaulting party is (i) one or more of the Developer Parties, the right to terminate the Developer Parties' right to any further City Funds or other benefits under this Agreement and to cease all disbursement of City Funds not yet disbursed pursuant hereto, or (ii) Sears, the right to terminate Sears' right to any further City Funds or other benefits under this Agreement and the Limited Joinder and to cease all disbursement of City Funds not yet disbursed pursuant hereto or pursuant to the Limited Joinder;

(b) if the defaulting party is Sears, the right (but not the obligation) to complete any unfinished Public Improvement Work and to pay for such costs of completion (including interest costs) out of City Funds or other City monies. In the event that the aggregate cost of completing the Public Improvement Work exceeds \$2,000,000, Sears shall reimburse the City for all reasonable costs and expenses incurred by the City in completing such Public Improvement Work in excess of the \$2,000,000 in City Funds allocated for the performance of such Public Improvement Work; and

(c) if the defaulting party is (i) one or more of the Developer Parties, the right to seek reimbursement of the City Funds from the Developer Parties (subject to the parenthetical provision in Section 15.02(a)), or (ii) Sears, the right to seek reimbursement of the City Funds from Sears, excluding the amount of any City Funds paid to Sears for the Public Improvement Work; provided that in either instance the City is entitled to rely on an opinion of counsel that such reimbursement will not jeopardize the tax-exempt status, if applicable, of the TIF Bonds.



7.04 Notice of Expiration of Term of Agreement. Upon the expiration of the Term of the Agreement, DPD shall provide the Developer Parties and Sears, at any such party's written request, with a written notice in recordable form stating that the Term of the Agreement has expired. Such written notice shall not operate to extinguish (but shall expressly preserve) any executory obligations, and any covenants that run with the land, through the 10<sup>th</sup> Anniversary Date.

#### **SECTION 8. COVENANTS/REPRESENTATIONS/WARRANTIES OF THE DEVELOPER PARTIES**

8.01 General. The Developer Parties represent, warrant and covenant that as of the date of this Agreement and (except as to those fully performed representations, warranties and covenants that terminate upon the City's issuance of a Building Certificate) and during the Term of the Agreement, or such shorter period as may be expressly provided for below:

(a) (i) the Trust is a Delaware business trust, (ii) the Trustee is a Delaware corporation, and (iii) the Beneficiary is a Delaware limited liability company, each duly organized, validly existing, qualified to do business in Illinois, and licensed to do business in any other state where, due to the nature of its activities or properties, such qualification or license is required;

(b) each Developer Party has the right, power and authority to enter into, execute, deliver and perform this Agreement;

(c) as applicable, the execution, delivery and performance by the Developer Parties of this Agreement has been duly authorized by all necessary trust, corporate and limited liability company action, and does not violate the trust agreement of the Trust, the Articles of Incorporation or the by-laws of the Trustee, or the certificate of formation or operating agreement of the Beneficiary, as the same may be amended and supplemented, nor any applicable provision of law, nor does it constitute a breach of, default under or require any consent under any agreement, instrument or document to which any Developer Party is now a party or by which any Developer Party is now or may become bound;

(d) unless otherwise permitted pursuant to the terms of this Agreement, the Trust shall acquire and shall maintain good, indefeasible and merchantable fee simple title to the Property free and clear of all liens (except for the Permitted Liens, Lender Financing as explicitly disclosed in the Project Budget and non-governmental charges that the Developer Parties are contesting in good faith pursuant to Section 8.15 hereof);

(e) the Developer Parties are and shall remain solvent and able to pay their respective debts as they mature;

(f) there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened or affecting any Developer Party which would impair its ability to perform under this Agreement;

(g) the Developer Parties have obtained (or will, prior to the commencement of construction obtain) and shall maintain all government permits, certificates and consents (including, without limitation, appropriate environmental approvals) necessary to conduct its business and to construct, complete and operate the Building Project;

(h) no Developer Party is in default with respect to any indenture, loan agreement, mortgage, deed, note or any other agreement or instrument related to the borrowing of money to which the Developer Party is a party or by which it or the Property is bound;

(i) the Financial Statements are, and when hereafter required to be submitted will be, complete, correct in all material respects and accurately present the assets, liabilities, results of operations and financial condition of the applicable Developer Party, and there has been no material adverse change in the assets, liabilities, results of operations or financial condition of the applicable Developer Party since the date of such Developer Party's most recent Financial Statements;

(j) prior to the Holding Period Date, and except as permitted by Section 8.20, the Developer Parties shall not do any of the following without the prior written consent of DPD: (1) be a party to any merger, liquidation or consolidation; (2) sell, transfer,

convey, lease or otherwise dispose of all or substantially all of its assets or any portion of the Property (including but not limited to any fixtures or equipment now or hereafter attached thereto), or refinance the Property; or (3) enter into any transaction that would cause a material and detrimental change to the Developer Parties' financial condition;

(k) the Developer Parties have not incurred, and, prior to the issuance of a Certificate, shall not, without the prior written consent of the Commissioner of DPD, allow the existence of any liens against the Property other than the Permitted Liens; or incur any indebtedness, secured or to be secured by the Property or any fixtures now or hereafter attached thereto, except Lender Financing disclosed in the Building Project Budget;

(l) has not made or caused to be made, directly or indirectly, any payment, gratuity or offer of employment in connection with the Agreement or any contract paid from the City treasury or pursuant to City ordinance, for services to any City agency ("City Contract") as an inducement for the City to enter into the Agreement or any City Contract with any Developer Party in violation of Chapter 2-156-120 of the Municipal Code of the City;

(m) if any Developer Party acquires actual knowledge of a default by Sears under the Sears Lease that would entitle the landlord under the Sears Lease to deliver a notice of default thereunder, or the occurrence or existence of an event or condition which, with the giving of notice, or the lapse of time, or both, would constitute a default by Sears under the Sears Lease entitling such landlord to deliver such a written notice, the Developer Parties will give prompt written notice of such circumstance to the City;

(n) if any Developer Party believes the landlord under the Sears lease has defenses, counterclaims, liens or claims of offset or credit under the Sears Lease or any other current claims against Sears under the Sears Lease that would entitle such landlord to exercise its remedies thereunder, the Developer Parties will give prompt written notice of such circumstance to the City; and

(o) the Developer Parties (i) shall not agree to a Material Amendment of the Sears Lease, or an assignment or subletting of any portion of the Sears Premises, without DPD's prior written consent

(it being understood that this prohibition shall not apply to the licensing of space in accordance with Sections 3.6(F)(18) and 14.4 of the Sears Lease nor to sublettings referenced in Section 3(z) of the Limited Joinder), which consent shall be in DPD's sole discretion, except assignments to a Corporate Successor (as defined in Section 14.2(A) of the Sears Lease and subject to such Corporate Successor's written assumption of Sears' obligations under the Redevelopment Agreement and this Limited Joinder, and (ii) shall comply or cause the landlord under the Sears Lease to comply with the landlord's obligations under the Sears Lease at all times.

8.02 Covenant to Redevelop. Upon DPD's approval of the Building Plans and Specifications and the Building Project Budget, and the Developer Parties' receipt of all required building permits and governmental approvals, the Developer Parties shall redevelop the Property in accordance with this Agreement and all Exhibits attached hereto, the TIF Ordinances, the TIF Bond Ordinance, the Building Plans and Specifications, the Historical Preservation Requirements, the Building Project Budget and all amendments thereto, and all federal, state and local laws, ordinances, rules, regulations, executive orders and codes applicable to the Building Project, the Property, and the Developer Parties. The covenants set forth in this Section 8.02 shall run with the land and be binding upon any transferee of any portion of the Property but shall terminate (except with respect to the Historical Preservation Requirements), upon the City's issuance of a Certificate for the Building Project or the City's collection of the reimbursement payment required under Section 7.03(c)(i), whichever occurs first.

8.03 Redevelopment Plan. The Developer Parties represents that the Building Project is and shall be in compliance with all of the terms of the Redevelopment Plan during the Term of the Agreement.

8.04 Use of City Funds. City Funds disbursed to the Developer Parties shall be used by the Developer Parties solely to pay for (or to reimburse the Developer Parties for its payment for) the Building TIF-Funded Improvements as provided in this Agreement.

8.05 Other Bonds. The Developer Parties shall, at the request of the City, agree to any reasonable amendments to this Agreement that are necessary or desirable in order for the City to issue (in its sole discretion) any additional bonds in connection with the

Project or the Area; provided, however, that any such amendments shall not have a material adverse effect on the Developer Parties or the Building Project. The Developer Parties shall, at their expense, cooperate and provide reasonable assistance in connection with the marketing of any such additional bonds, including but not limited to providing written descriptions of the Project, making representations and warranties and providing information and assisting the City in preparing an offering statement with respect thereto.

8.06 Job Creation and Retention; Covenant to Remain in the City. The Developer Parties shall use commercially reasonable efforts to create not less than six hundred (600) new full-time equivalent permanent jobs at the Building Project by June 30, 2003 and thereafter maintain or cause to be maintained such number of jobs through the Term of the Agreement. These jobs shall be in addition to the existing jobs located at the Property and shall, together with the jobs to be created by the Sears Project, result in a total of Eight Hundred (800) new full-time equivalent, permanent jobs at the Property through the Term of the Agreement.

8.07 Employment Opportunity. The Developer Parties covenant and agree to abide by, and contractually obligate and use reasonable efforts to cause the Building General Contractor and each of its subcontractors to abide by the terms set forth in Section 10 hereof.

8.08 Employment Profile. The Developer Parties shall submit, and contractually obligate and cause the Building General Contractor and its subcontractors to submit, to DPD, from time to time, statements of their respective employment profiles upon DPD's request.

8.09 Prevailing Wage. The Developer Parties covenant and agree to pay, and to contractually obligate and cause the Building General Contractor and each of its subcontractors to pay, the prevailing wage rate as ascertained by the Illinois Department of Labor (the "Department"), to all Building Project employees. All such contracts shall list the specified rates to be paid to all laborers, workers and mechanics for each craft or type of worker or mechanic employed pursuant to such contracts. If the Department revises such prevailing wage rates, the revised rates shall apply to all such contracts. Upon the City's request, the Developer

Parties shall provide the City with copies of all such contracts to evidence compliance with this Section 8.09.

8.10 Arms-Length Transactions. Unless DPD shall have given its prior written consent with respect thereto, and except as explicitly disclosed in the Building Project Budget, no Developer Party nor any Affiliate may receive, directly or indirectly, any payment for work done, services provided or materials supplied in connection with the Building Project. The Developer Parties shall provide information with respect to any entity receiving, directly or indirectly, any such payment upon DPD's request, prior to any disbursement of City Funds or otherwise.

8.11 Conflict of Interest. Pursuant to Section 5/11-74.44(n) of the Act, the Developer Parties represent, warrant and covenant that, to the best of their knowledge, no member, official, or employee of the City, or of any commission or committee exercising authority over the Project, the Redevelopment Area or the Redevelopment Plan, or any consultant hired by the City or the Developer Parties with respect thereto, owns or controls, has owned or controlled or will own or control any interest, and no such person shall represent any person, as agent or otherwise, who owns or controls, has owned or controlled, or will own or control any interest, direct or indirect, in the Developer Parties' business, the Property or any other property in the Redevelopment Area.

8.12 Disclosure of Interest. The Developer Parties' counsel has no direct or indirect financial ownership interest in the Developer, the Property or any other aspect of the Project.

8.13 Financial Statements. The Developer Parties shall obtain and provide to DPD Financial Statements for the fiscal year ended December 31, 1999 and each year thereafter through the Term of the Agreement. In addition, the Developer Parties shall submit unaudited financial statements as soon as reasonably practical following the close of each fiscal year and for such other periods as DPD may request.

8.14 Insurance. The Developer Parties, at their own expense, shall comply with all applicable provisions of Section 12 hereof.

8.15 Non-Governmental Charges.

(a) Payment of Non- Governmental Charges. Except for the Permitted Liens, the Developer Parties agree to pay or cause to be paid when due any Non-Governmental Charge assessed or imposed upon the Project, the Property or any fixtures that are or may become attached thereto, which creates, may create, or appears to create a lien upon all or any portion of the Property or Project; provided however, that if such Non-Governmental Charge may be paid in installments, the Developer Parties may pay the same together with any accrued interest thereon in installments as they become due and before any fine, penalty, interest, or cost may be added thereto for nonpayment. The Developer Parties shall furnish to DPD, within thirty (30) days of DPD's request, official receipts from the appropriate entity, or other proof satisfactory to DPD, evidencing payment of the Non-Governmental Charge in question.

(b) Right to Contest. The Developer Parties shall have the right, before any delinquency occurs:

(i) to contest or object in good faith to the amount or validity of any Non-Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted, in such manner as shall stay the collection of the contested Non-Governmental Charge, prevent the imposition of a lien or remove such lien, or prevent the sale or forfeiture of the Property (so long as no such contest or objection shall be deemed or construed to relieve, modify or extend the Developer Parties' covenants to pay any such Non-Governmental Charge at the time and in the manner provided in this Section 8.15); or

(ii) to furnish a good and sufficient bond or other security satisfactory to DPD in such form and amounts as DPD shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Property or any portion thereof or any fixtures that are or may be attached thereto, or the preservation of the encumbrance of this Agreement, during the pendency of such contest, adequate to pay fully any such contested Non Governmental Charge and all interest and penalties upon the adverse determination of such contest.

8.16 Developer Parties' Liabilities. The Developer Parties shall not enter into any transaction that would materially and adversely affect their ability to perform their obligations

hereunder or to repay any material liabilities or perform any material obligations of the Developer Parties to any other person or entity. The Developer Parties shall promptly notify DPD of any and all events or actions which may materially affect their ability to carry on their business operations or perform their obligations under this Agreement or any other documents and agreements.

8.17 Compliance with Laws. To the best of the Developer Parties' knowledge, after diligent inquiry, the Property and the Building Project are and shall be in compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Building Project and the Property (other than such non-compliant conditions that shall be brought into compliance in connection with the Building Project rehabilitation work). Upon the City's request, the Developer Parties shall provide evidence satisfactory to the City of such compliance.

8.18 Recording and Filing. The Developer Parties shall cause this Agreement, certain exhibits (as specified by Corporation Counsel), all amendments and supplements hereto to be recorded and filed on the date hereof in the conveyance and real property records of the Cook County along with the subordination agreement described in Section 5.04. The Developer Parties shall pay all fees and charges incurred in connection with any such recording. Upon recording, the Developer Parties shall immediately transmit to the City an executed original of this Agreement showing the date and recording number of record.

8.19 Real Estate Provisions.

(a) Governmental Charges.

(i) Payment of Governmental Charges. The Developer Parties agree to pay or cause to be paid when due any Governmental Charges (as defined below) which are or may be assessed or imposed upon the Developer Parties, the Property or the Building Project, or become due and payable, and which create, may create or purport to create a lien upon the Developer Parties or all or any portion of the Property or the Building Project. "Governmental Charge" shall mean all federal, State, county, the City, or other governmental (or any instrumentality, division, agency, body, or department



thereof) taxes, levies, assessments, charges, liens, claims or encumbrances relating to the Developer Parties, the Property or the Building Project including but not limited to real estate taxes.

(ii) Right to Contest. The Developer Parties shall have the right before any delinquency occurs to contest or object in good faith to the amount or validity of any Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted in such manner as shall stay the collection of the contested Governmental Charge and prevent the imposition of a lien or the sale or forfeiture of the Property. No such contest or objection shall be deemed or construed in any way as relieving, modifying or extending the Developer Parties' covenants to pay any such Governmental Charge at the time and in the manner required by law and provided in this Agreement unless the Developer Parties have given prior written notice to DPD of their intent to contest or object to a Governmental Charge and, unless, at DPD's sole option,

(A) the Developer Parties shall demonstrate to DPD's satisfaction that legal proceedings instituted by the Developer Parties contesting or objecting to a Governmental Charge shall conclusively operate to prevent or remove a lien against, or the sale or forfeiture of, all or any part of the Property to satisfy such Governmental Charge prior to final determination of such proceedings; and/or

(B) the Developer Parties shall furnish a good and sufficient bond or other security satisfactory to DPD in such form and amounts as DPD shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Property or prevent the imposition of such lien during the pendency of such contest, adequate to pay fully any such contested Governmental Charge and all interest and penalties upon the adverse determination of such contest.

(b) Developer Parties' Failure To Pay Or Discharge Lien. If the Developer Parties fail to pay any Governmental Charge or to

obtain discharge of the same, the Developer Parties shall advise DPD thereof in writing, at which time DPD may, but shall not be obligated to, and without waiving or releasing any obligation or liability of the Developer Parties under this Agreement, in DPD's sole discretion, make such payment, or any part thereof, or obtain such discharge and take any other action with respect thereto which DPD deems advisable. All sums so paid by DPD, if any, and any expenses, if any, including reasonable attorneys' fees, court costs, expenses and other charges relating thereto, shall be promptly reimbursed to DPD by the Developer. Notwithstanding anything herein to the contrary, this paragraph shall not be construed to obligate the City to pay any such Governmental Charge. Additionally, if the Developer Parties fail to pay any Governmental Charge, the City, in its sole discretion, may require the Developer Parties to submit to the City audited Financial Statements at the Developer Parties' own expense.

(c) Insurance. In addition to the insurance required pursuant to Section 12 hereof, the Developer Parties shall procure and maintain the following insurance:

(i) During construction of the Project, All Risk Property Insurance in the amount of the full replacement value of the Property.

(ii) Post-construction, throughout the Term of the Agreement, All Risk Property Insurance, including improvements and betterments in the amount of full replacement value of the Property. Coverage extensions shall include business interruption/loss of rents, flood and boiler and machinery, if applicable.

8.20 Sale and Refinancing Provisions. Notwithstanding anything in Section 8.01(j) or elsewhere in this Agreement, the Developer Parties shall be entitled to sell or otherwise transfer the Property and to refinance the Property prior to the Holding Period Date provided the following conditions are satisfied.

(a) Sales or other Transfers. The Developer Parties may sell or otherwise transfer the Property prior to the Holding Period Date provided: (i) the Developer Parties deliver to the City written notice of such sale in the form of Exhibit N (including the Excess Funds computation, schedules and documents required by Exhibit N)

at least ten (10) business days prior to the transfer date; (ii) the transferee is an Approved Purchaser that, if such transfer will occur prior to the City's issuance of a Certificate, the City, in its sole discretion, deems financially capable of completing the Building Project within the time periods set forth in Section 3.02; and (iii) the Developer Parties, prior to or simultaneously with any such permitted transfer, pay the Reimbursement Amount payment (if any) payable to the City.

(b) Refinancings. The Developer Parties may refinance the Property prior to the Holding Period Date provided: (i) the Developer Parties deliver to the City written notice of such refinancing in the form of Exhibit N (including the Excess Funds computation, schedules and documents required by Exhibit N) at least ten (10) business days prior to the closing of such refinancing; and (ii) the Developer Parties, prior to or simultaneously with any such permitted refinancing, pay the Reimbursement Amount payment (if any) payable to the City.

8.21 Historic Tax Credit Proceeds. In the event a syndication or other sale of historic tax credits relating to the Building Project improvements occurs prior to the Holding Period Date, the recipient of the proceeds of such sale or syndication shall, upon the realization of such receipt, promptly pay one-third (1/3) of the net proceeds of such sale or syndication (after first deducting customary and reasonable transaction costs) to the City. The City shall then make such share of the net proceeds available for further Building improvements in accordance with Section 9.02. In the event such net proceeds are received in one or more installments, the City shall be paid one-third (1/3) of each such installment.

8.22 Public Benefit. On or prior to the Closing Date, the Developer Parties shall donate to the City \$25,000 to cover the cost of the City's purchase of a "green machine."

8.23 No Business Relationship With City Officials. The Developer Parties acknowledge that they have read and understand Section 2-156-030(b) of the Municipal Code. Pursuant to Section 2-156-030(b) of the Municipal Code, it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other city official or employee with respect to any matter involving any

person with whom the elected official has a "Business Relationship" (as defined in Section 2-156-080 of the Municipal Code) or to participate in any discussion of any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a Business Relationship. Violation of Section 2-156-030(b) by any elected official, or with any person acting at the direction of such official, with respect to this Agreement, or in connection with the transactions contemplated hereby, shall be grounds for termination of this Agreement and the transactions contemplated hereby. The Developer Parties represent and warrant that no violation of Section 2-156-030(b) has occurred with respect to this Agreement, or the transactions contemplated thereby.

8.24 Sears Lease Representations and Warranties. The Developer Parties represent and warrant, as of the date hereof, and during the Term of the Agreement, or such shorter period as may be expressly provided for below, as follows:

(a) the Sears Lease is valid, binding, unmodified and in full force and effect, subject to the Developer Parties' right to terminate such Sears Lease pursuant to the terms thereof;

(b) as of the date hereof only, except for the Sears Documents (as defined in Section 2(b) of the Limited Joinder, there are no agreements (written or oral) between the Developer Parties and Sears which are binding on the parties in connection with the Sears Premises;

(c) the commencement date for the Sears Lease is the date of the Limited Joinder;

(d) as of the date hereof only, the landlord is not in default, and to the Developer Parties' actual knowledge, Sears is not in default under any provision of the Sears Lease, and no event has occurred and no condition exists which, with the giving of notice, or the lapse of time, or both, would constitute a default by the landlord or Sears under the Sears Lease;

(e) as of the date hereof only, the Developer Parties have no current defenses, counterclaims, liens or claims of offset or credit under the Sears Lease nor any other current claims against Sears under the Sears Lease; and

(f) the landlord under the Sears Lease has performed all of its obligations under the Sears Lease that are required as of the date of this Agreement.

8.25 Survival of Covenants. All warranties, representations, covenants and agreements of the Developer Parties contained in this Section 8 and elsewhere in this Agreement shall survive the execution, delivery and acceptance hereof by the parties hereto and (except as terminated pursuant to Section 7.02 upon the issuance of a Certificate) shall be in effect through the Term of the Agreement, or such shorter period as may be expressly provided for herein.

#### SECTION 9. COVENANTS/REPRESENTATIONS/WARRANTIES OF CITY

9.01 General Covenants. The City represents that it has the authority as a home rule unit of local government to execute and deliver this Agreement and to perform its obligations hereunder.

9.02 Reinvestment of Tax Credit Syndication Proceeds. The City will make available to the Developer Parties, or any successor in title to the Property, any net proceeds received by the City pursuant to Section 8.21 for the purpose of performing additional exterior improvement work on the Building, subject to the Developer Parties also making available a like amount (so that 2/3 of the total net proceeds are used to perform additional exterior improvement work on the Building). The scope of such work shall be mutually agreed to in writing by the City and the Developer Parties, or such successor in title, within ninety (90) days of the receipt by the Developer Parties (or any successor in title) of such net proceeds, and all agreed-to work shall be performed within two (2) years of receipt of such net proceeds.

9.03 Survival of Covenants. All warranties, representations, and covenants of the City contained in this Section 9 or elsewhere in this Agreement shall be true, accurate, and complete at the time of the City's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and be in effect throughout the Term of the Agreement.

#### SECTION 10. DEVELOPER'S EMPLOYMENT OBLIGATIONS

As used in this Section 10, references to the "Developer" and the "Project" shall mean both the Developer Parties, with respect to the Building Project, and Sears, with respect to the Sears Project, and references to "general contractor" shall mean the applicable general contractor.

10.01 Employment Opportunity. The Developer, on behalf of itself and its successors and assigns, hereby agrees, and shall contractually obligate its or their various contractors, subcontractors or any Affiliate of the Developer operating on the Property (collectively, with the Developer, the "Employers" and individually an "Employer") to agree, that for the Term of this Agreement with respect to Developer and during the period of any other party's provision of services in connection with the construction of the Project or occupation of the Property:

(a) No Employer shall discriminate against any employee or applicant for employment based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income as defined in the City of Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 -et seq., Municipal Code, except as otherwise provided by said ordinance and as amended from time to time (the "Human Rights Ordinance"). Each Employer shall take affirmative action to ensure that applicants are hired and employed without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income and are treated in a non-discriminatory manner with regard to all job-related matters, including without limitation: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Each Employer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause. In addition, the Employers, in all solicitations or advertisements for employees, shall state that all qualified applicants shall receive consideration for employment without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income.

(b) To the greatest extent feasible, each Employer is required to present opportunities for training and employment of low- and moderate-income residents of the City and preferably of the Redevelopment Area; and to provide that contracts for work in connection with the construction of the Project be awarded to business concerns that are located in, or owned in substantial part by persons residing in, the City and preferably in the Redevelopment Area.

(c) Each Employer shall comply with all federal, state and local equal employment and affirmative action statutes, rules and regulations, including but not limited to the City's Human Rights Ordinance and the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. (1993), and any subsequent amendments and regulations promulgated thereto.

(d) Each Employer, in order to demonstrate compliance with the terms of this Section, shall cooperate with and promptly and accurately respond to inquiries by the City, which has the responsibility to observe and report compliance with equal employment opportunity regulations of federal, state and municipal agencies.

(e) Each Employer shall include the foregoing provisions of subparagraphs (a) through (d) in every contract entered into in connection with the Project, and shall require inclusion of these provisions in every subcontract entered into by any subcontractors, and every agreement with any Affiliate operating on the Property, so that each such provision shall be binding upon each contractor, subcontractor or Affiliate, as the case may be.

(f) Failure to comply with the employment obligations described in this Section 10.01 shall be a basis for the City to pursue remedies under the provisions of Section 15.02 hereof.

10.02 City Resident Construction Worker Employment Requirement. The Developer agrees for itself and its successors and assigns, and shall contractually obligate its General contractor and shall cause the General contractor to contractually obligate its subcontractors, as applicable, to agree, that during the construction of the Project they shall comply with the minimum percentage of total worker hours performed by actual residents of the City as specified in Section 2-92-330 of the Municipal Code of

Chicago (at least 50 percent of the total worker hours worked by persons on the site of the Project shall be performed by actual residents of the City); provided, however, that in addition to complying with this percentage, the Developer, its General contractor and each subcontractor shall be required to make good faith efforts to utilize qualified residents of the City in both unskilled and skilled labor positions.

The Developer may request a reduction or waiver of this minimum percentage level of Chicagoans as provided for in Section 2-92-330 of the Municipal Code of Chicago in accordance with standards and procedures developed by the Purchasing Agent of the City.

"Actual residents of the City" shall mean persons domiciled within the City. The domicile is an individual's one and only true, fixed and permanent home and principal establishment.

The Developer, the General contractor and each subcontractor shall provide for the maintenance of adequate employee residency records to show that actual Chicago residents are employed on the Project. Each Employer shall maintain copies of personnel documents supportive of every Chicago employee's actual record of residence.

Weekly certified payroll reports (U.S. Department of Labor Form WH-347 or equivalent) shall be submitted to the Commissioner of DPD in triplicate, which shall identify clearly the actual residence of every employee on each submitted certified payroll. The first time that an employee's name appears on a payroll, the date that the Employer hired the employee should be written in after the employee's name.

The Developer, the General contractor and each subcontractor shall provide full access to their employment records to the Purchasing Agent, the Commissioner of DPD, the Superintendent of the Chicago Police Department, the Inspector General or any duly authorized representative of any of them. The Developer, the General contractor and each subcontractor shall maintain all relevant personnel data and records for a period of at least three (3) years after final acceptance of the work constituting the Project.



At the direction of DPD, affidavits and other supporting documentation will be required of the Developer, the General contractor and each subcontractor to verify or clarify an employee's actual address when doubt or lack of clarity has arisen. Good faith efforts on the part of the Developer, the General contractor and each subcontractor to provide utilization of actual Chicago residents (but not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the Purchasing Agent) shall not suffice to replace the actual, verified achievement of the requirements of this Section concerning the worker hours performed by actual Chicago residents.

When work at the Project is completed, in the event that the City has determined that the Developer has failed to ensure the fulfillment of the requirement of this Section concerning the worker hours performed by actual Chicago residents or failed to report in the manner as indicated above, the City will thereby be damaged in the failure to provide the benefit of demonstrable employment to Chicagoans to the degree stipulated in this Section. Therefore, in such a case of non-compliance, it is agreed that 1/20 of 1 percent (0.0005) of the aggregate hard construction costs set forth in the applicable Project budget (the product of .0005 x such aggregate hard construction costs) (as the same shall be evidenced by approved contract value for the actual contracts) shall be surrendered by the Developer to the City in payment for each percentage of shortfall toward the stipulated residency requirement. Failure to report the residency of employees entirely and correctly shall result in the surrender of the entire liquidated damages as if no Chicago residents were employed in either of the categories. The willful falsification of statements and the certification of payroll data may subject the Developer, the General contractor and/or the subcontractors to prosecution. Any retainage to cover contract performance that may become due to the Developer pursuant to Section 2-92-250 of the Municipal Code of Chicago may be withheld by the City pending the Purchasing Agent's determination as to whether the Developer must surrender damages as provided in this paragraph.

Nothing herein provided shall be construed to be a limitation upon the "Notice of Requirements for Affirmative Action to Ensure Equal Employment Opportunity, Executive Order 11246" and "Standard Federal Equal Employment Opportunity, Executive Order 11246," or

subcontracting or causing the general contractor to subcontract a portion of the Project to one or more MBEs or WBEs, or by the purchase of materials used in the Project from one or more MBEs or WBEs, or by any combination of the foregoing. Those entities which constitute both a MBE and a WBE shall not be credited more than once with regard to the Developer's MBE/WBE commitment as described in this Section 10.03. The Developer or the general contractor may meet all or part of this commitment through credits received pursuant to Section 2-92-530 of the Municipal Code of Chicago for the voluntary use of MBEs or WBEs in its activities and operations other than the Project.

d. The Developer shall deliver monthly reports to DPD during the Project describing its efforts to achieve compliance with this MBE/WBE commitment (which may be included as part of the monthly progress report required by Section 3.08). Such reports shall include inter alia the name and business address of each MBE and WBE solicited by the Developer or the General contractor to work on the Project, and the responses received from such solicitation, the name and business address of each MBE or WBE actually involved in the Project, a description of the work performed or products or services supplied, the date and amount of such work, product or service, and such other information as may assist DPD in determining the Developer's compliance with this MBE/WBE commitment. DPD shall have access to the Developer's books and records, including, without limitation, payroll records, books of account and tax returns, and records and books of account in accordance with Section 14 of this Agreement, on five (5) business days' notice, to allow the City to review the Developer's compliance with its commitment to MBE/WBE participation and the status of any MBE or WBE performing any portion of the Project.

e. Upon the disqualification of any MBE or WBE General contractor or subcontractor, if such status was misrepresented by the disqualified party, the Developer shall be obligated to discharge or cause to be discharged the disqualified General contractor or subcontractor and, if possible, identify and engage a qualified MBE or WBE as a replacement. For purposes of this Subsection (e), the disqualification procedures are further described in Section 2-92-540, Municipal Code of Chicago.

f. Any reduction or waiver of the Developer's MBE/WBE commitment as described in this Section 10.03 shall be undertaken in accordance with Section 2-92-450, Municipal Code of Chicago.

g. Prior to the commencement of the Project, the Developer, the General contractor and all major subcontractors shall be required to meet with the monitoring staff of DPD with-regard to the Developer's compliance with its obligations under this Section 10.03. During this meeting, the Developer shall demonstrate to DPD its plan to achieve its obligations under this Section 10.03, the sufficiency of which shall be approved by DPD. During the Project, the Developer shall submit the documentation required by this Section 10.03 to the monitoring staff of DPD. Failure to submit such documentation on a timely basis, or a determination by DPD, upon analysis of the documentation, that the Developer is not complying with its obligations hereunder shall, upon the delivery of written notice to the Developer, be deemed an Event of Default hereunder. Upon the occurrence of any such Event of Default, in addition to any other remedies provided in this Agreement, the City may: (1) issue a written demand to the Developer to halt the Project, (2) withhold any further payment of any City Funds to the Developer or the General contractor, or (3) seek any other remedies against the Developer available under this Agreement or the Limited Joinder, as applicable.

#### SECTION 11. ENVIRONMENTAL MATTERS

The Developer Parties, with respect to the Building Project, and Sears, with respect to the Sears Project, each hereby represent and warrant to the City that it has conducted environmental studies sufficient to conclude that its portion of the Project may be rehabilitated, completed and operated in accordance with all Environmental Laws and this Agreement and all Exhibits attached hereto, the Plans and Specifications and all amendments thereto, the TIF Bond Ordinance and the Redevelopment Plan.

Without limiting any other provisions hereof, the Developer agrees to indemnify, defend and hold the City harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses or claims of any kind whatsoever including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any Environmental Laws incurred, suffered by or asserted against the City as a direct or indirect result of any of the following, regardless of whether or

Commercial General Liability Insurance or equivalent with limits of not less than \$1,000,000 per occurrence for bodily injury, personal injury, and property damage liability. coverages shall include the following: All premises and operations, products/completed operations, independent contractors, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

(b) During Construction

(i) Workers Compensation and Employers Liability Insurance

Workers Compensation and Employers -Liability Insurance, as prescribed by applicable law covering all employees who are to provide a service under this Agreement and Employers Liability coverage with limits of not less than \$500,000 each accident or illness.

(ii) Commercial General Liability Insurance (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$2 000,000 per occurrence for bodily injury, personal injury, and property damage liability; provided, however, that such limit shall only be \$1,000,000 in the case of any subcontractors whose subcontract amount is less than \$100,000). Coverages shall include the following: All premises and operations, products/completed operations (for a minimum of two (2) years following issuance of the applicable Certificate), explosion, collapse, underground, independent contractors, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary,

non-contributory basis for any liability arising directly or indirectly from the work.

(iii) Automobile Liability Insurance (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the applicable general contractor shall provide Automobile Liability Insurance with limits of not less than \$2,000 000 per occurrence for bodily injury and property damage. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis.

(iv) Railroad Protective Liability Insurance

When any work is to be done adjacent to or on railroad or transit property, the applicable general contractor shall provide, or cause to be provided with respect to the operations that the Applicable general contractor performs, Railroad Protective Liability Insurance in the name of railroad or transit entity. The policy shall have limits of not less than \$2,000,000 per occurrence and \$6,000,000 in the aggregate for losses arising out of injuries to or death of all persons; and for damage to or destruction of property, including the loss of use thereof.

(v) Builders Risk Insurance

When the Applicable general contractor undertakes any construction, including improvements, betterments, and/or repairs, the Applicable general contractor shall provide, or cause to be provided All Risk Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the permanent facility. Coverages shall include but are not limited to the following: collapse, boiler and machinery if applicable. The City of Chicago shall be named as an additional insured and loss payee.

(vi) Professional Liability

When any architects, engineers, construction managers or other professional consultants perform work in connection with this Agreement, Professional Liability Insurance covering acts, errors, or omissions shall be maintained with limits of not less than \$1,000,000. Coverage shall include contractual liability. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years. If the Sears General Contractor, in its capacity as construction manager, provides declination letters stating that such coverage cannot be obtained, Sears General Contractor need not carry such coverage provided that it confirms that its acts, errors or omissions that give rise to personal injury or property damage are covered under its comprehensive general liability insurance.

(vii) Valuable Papers Insurance

When any plans, designs, drawings, specifications and documents are produced or used under this Agreement, Valuable Papers Insurance shall be maintained in an amount to insure against any loss whatsoever, and shall have limits sufficient to pay for the re-creations and reconstruction of such records.

(viii) Contractor's Pollution Liability

When any remediation work is performed which may cause a pollution exposure, contractor's Pollution Liability shall be provided with limits of not less than \$1,000,000 insuring bodily injury, property damage and environmental remediation, cleanup costs and disposal. When policies are renewed, the Policy retroactive date must coincide with or precede, start of work on the Agreement. A claims made

## SECTION 15. DEFAULT AND REMEDIES

15.01 Events of Default. This Section 15 sets forth Developer Party defaults and the available City remedies for such defaults. Defaults by Sears and available City remedies for such defaults are specified in Sections 6, 7 and 8 of the Limited Joinder. The defaults and remedies in this Section 15 are in addition to those specified in Section 7.03 as applicable to the Developer Parties. A default or Event of Default by Sears under the Limited Joinder shall not constitute a default or Event of Default by the Developer Parties.

The occurrence of any one or more of the following events by any Developer Party, subject to the provisions of Section 15.03, shall constitute an "Event of Default" by the Developer Parties hereunder:

(a) the failure of any Developer Party to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations under this Agreement or any material agreement related to the Project, including the Sears Lease;

(b) the failure of any Developer Party to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of the Developer Parties under any other agreement with any person or entity if such failure may have a material adverse effect on the Developer Parties' business, property, assets, operations or condition, financial or otherwise;

(c) the making or furnishing by the Developer Parties' to the City of any representation, warranty, certificate, schedule, report or other communication within or in connection with this Agreement or any related agreement which is untrue or misleading in any material respect;

(d) except as otherwise permitted hereunder, the creation (whether voluntary or involuntary) of, or any attempt to create, any lien or other encumbrance upon the Property, including any fixtures now or hereafter attached thereto, other than the Permitted Liens, or the making or any attempt to make any levy, seizure or attachment thereof;

(e) the commencement of any proceedings in bankruptcy by or against the Developer Parties or for the liquidation or reorganization of the Developer Parties, or alleging that any one of the Developer Parties is insolvent or unable to pay its debts as they mature, or for the readjustment or arrangement of the Developer Parties' debts, whether under the United States Bankruptcy Code or under any other state or federal law, now or hereafter existing for the relief of debtors, or the commencement of any analogous statutory or non-statutory proceedings involving the Developer; provided, however, that if such commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such proceedings are not dismissed within sixty (60) days after the commencement of such proceedings;

(f) the appointment of a receiver or trustee for any of the Developer Parties, for any substantial part of any Developer Party's assets or the institution of any proceedings for the dissolution, or the full or partial liquidation, or the merger or consolidation, of such Developer Party; provided, however, that if such appointment or commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such appointment is not revoked or such proceedings are not dismissed within sixty (60) days after the commencement thereof;

(g) the entry of any judgment or order against any Developer Party in an amount in excess of \$100,000 which remains unsatisfied or undischarged and in effect for sixty (60) days after such entry without a stay of enforcement or execution;

(h) the occurrence of an event of default under the Lender Financing, which default is not cured within any applicable cure period;

(i) the dissolution of any Developer Party; or

(j) the institution in any court of a criminal proceeding (other than a misdemeanor) against the Developer Parties or any natural person who directly or indirectly owns a thirty percent (30%) beneficial interest in any Developer Party, which is not dismissed within thirty (30) days, or the indictment of any Developer Party, J. Paul Beitler or any natural person who owns such a material interest in the Developer, for any crime (other than a misdemeanor).



15.02 Remedies. Upon the occurrence of an Event of Default, the City shall have the following remedies depending on the nature of such Event of Default:

(a) For an Event of Default caused by the Developer Parties described in Section 7.03(x) or (z), the City shall have the remedies in Sections 7.03(a)(i) and 7.03(c)(i) of the Redevelopment Agreement (provided that the City shall only be entitled to recover City Funds paid to fund the interior rehabilitation work for the Building Project), and the right to withhold and not pay the Building Retainage and the right to not convey the City Parcel (but only if not previously conveyed) and the right to reinstitute the payment of rent under the existing lease relating to the City Parcel;

(b) for a breach of any other representation, warranty, covenant or obligation of the Developer Parties resulting in an Event of Default, the City may terminate the Developer Parties' rights under this Redevelopment Agreement and all related agreements and suspend any further disbursement of City Funds to the Developer Parties and withhold and not pay the Building Retainage. The City may also, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy provided for under this Agreement or at law or in equity, including but not limited to injunctive relief or the specific performance of the agreements contained herein, subject to the following limitations: (i) the City shall only be entitled to recover monetary damages in an amount equal to the City Funds paid to fund the interior renovation work for the Building Project, plus attorneys' fees and expenses, and then only if a Reimbursement Event has occurred and the City concludes that any such reimbursement would not jeopardize the any TIF Bonds or other bonds; (ii) any judgment lien obtained by the City with respect to the enforcement of its remedies shall not attach to more than \$1,500,000 of assets of the Developer Parties; (iii) the City shall not be entitled to seek specific performance of the job creation covenant in Section 8.06; (iv) the City's remedies do not include a right of possession with respect to the Property (excluding the City's right of possession inherent in the City's fee simple ownership of the City Parcel); (v) the City's remedies do not include the right to foreclose the encumbrance created by this Redevelopment Agreement under any applicable Illinois law (it being understood, however, that this clause (v)

does not limit the right of the City to obtain a judgment lien and, as a result of such lien, attach and cause the sale of the Developer Parties' assets, subject to the limitation in clause (ii) above), and (vi) if the City seeks the specific performance of any agreement of the Developer Parties contained herein, or obtains any mandatory injunction requiring the performance of any of such agreements, the maximum costs to the Developer Parties to specifically perform such agreements shall not exceed, in the aggregate, the amount of City Funds paid to fund the interior renovation work for the Building Project, or \$1,500,000, whichever is less, and such costs shall reduce dollar for dollar the amount the City is otherwise entitled to recover pursuant to this Section 15.02(b).

15.03 Curative Period. In the event any Developer Party fails to perform a monetary covenant which it is required to perform under this Agreement, notwithstanding any other provision of this Agreement relating to breaches or defaults to the contrary, an Event of Default shall not be deemed to have occurred unless such Developer Party fails to perform such monetary covenant within ten (10) days of its receipt of a written notice from the City specifying that it has failed to perform such monetary covenant. In the event any Developer Party fails to perform a non-monetary covenant which it is required to perform under this Agreement, notwithstanding any other provision of this Agreement relating to breaches or defaults to the contrary, an Event of Default shall not be deemed to have occurred unless such Developer Party fails to cure such default within thirty (30) days of its receipt of a written notice from the City specifying the nature of the default; provided, however, with respect to those non-monetary defaults which are not capable of being cured within such thirty (30) day period, such Developer Party shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such thirty (30) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured.

15.04 Obligations Apply Notwithstanding Default Under Sears Lease. A default by Sears, as tenant under the Sears Lease, shall not (a) relieve the Developer Parties from their obligations under this Agreement, or (b) constitute any defense, excuse of performance, release, discharge or similar form of equitable or

other relief that would prevent or limit the City's enforcement of its remedies under this Agreement.

#### SECTION 16. MORTGAGING OF THE PROJECT

Any and all mortgages or deeds of trust in place as of the date hereof with respect to the Property or any portion thereof are listed on Exhibit I hereto. The existing mortgage(s) and new mortgage(s) permitted under Section 8.20 are referred to herein collectively as the "Mortgage(s)," and the holder of any such Mortgage is referred to herein as a "Mortgagee." In the event that any Mortgagee succeeds to the Developer's interest in the Property or any portion thereof pursuant to the exercise of remedies under a Mortgage, whether by foreclosure or deed in lieu of foreclosure, such Mortgagee, if an Affiliate of any Developer Party, shall have the same obligations as the Developer Parties hereunder. If such Mortgagee is not an Affiliate of any Developer Party, and accepts an assignment of the Developer's interest hereunder in accordance with Section 18.14 hereof, the City hereby agrees to attorn to and recognize such party as the successor in interest to the Developer Parties for all purposes under this Agreement so long as such party accepts all of the obligations and liabilities of "the Developer" hereunder. If such Mortgagee does not accept an assignment of the Developer Parties' interest under Section 18.14, such party shall be bound only covenants specified in Section 7.02 that run with the land.

#### SECTION 17. NOTICE

Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal service; (b) telecopy or facsimile; (c) overnight courier; or (d) registered or certified mail, return receipt requested.

If to the City:                   City of Chicago  
   Department of Planning and Development  
   121 North LaSalle Street, Room 1000  
   Chicago, IL 60602  
   Attention: Commissioner

With Copies To: City of Chicago  
 Department of Law  
 Finance and Economic Development Division  
 121 North LaSalle Street, Room 600  
 Chicago, IL 60602

If to the Developer Parties: 1 North Dearborn, L.L.C.  
 c/o Douglas Elliman Beitler  
 181 West Madison Avenue, Suite 3900  
 Chicago, Illinois 60602  
 Attn: J. Paul Beitler

If to Sears: Sears, Roebuck and Co.  
 Dept. 824RE  
 3333 Beverly Road  
 Hoffman Estates, Illinois 60179  
 Attn: Vice President, Real Estate

and to: Sears, Roebuck and Co.  
 Dept. 766  
 3333 Beverly Road  
 Hoffman Estates, Illinois 60179  
 Attn; Assistant General Counsel, Real Estate

Such addresses may be changed by notice to the other parties' given in the same manner provided above. Any notice, demand, or request sent pursuant to either clause (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch. Any notice, demand or request sent pursuant to clause (c) shall be deemed received on the day immediately following deposit with the overnight courier and any notices, demands or requests sent pursuant to subsection (d) shall be deemed received two (2) business days following deposit in the mail.

#### SECTION 18. MISCELLANEOUS

18.01 Amendment. This Agreement and the Exhibits attached hereto may not be amended without the prior written consent of the City and the party or parties' to be bound by such amendment, provided, however, that the City shall have the unilateral right to amend Exhibits A and G.

18.02 Entire Agreement. This Agreement (including each Exhibit attached hereto, which is hereby incorporated herein by reference) constitutes the entire Agreement between the parties hereto and it supersedes all prior agreements, negotiations and discussions between the parties relative to the subject matter hereof.

18.03 Limitation of Liability. No member, official or employee of the City shall be personally liable to the Developer Parties, Sears or any successor in interest to such parties in the event of any default or breach by the City or for any amount which may become due to the Developer from the City or any successor in interest or on any obligation under the terms of this Agreement.

18.04 Further Assurances. The Developer Parties and Sears agree to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications as may become necessary or appropriate to carry out the terms, provisions and intent of this Agreement.

18.05 Waiver. Waiver by the City, the Developer Parties or Sears with respect to any breach or default under this Agreement shall not be considered or treated as a waiver of the rights of the respective party with respect to any other breach or default or with respect to any particular breach or default, except to the extent specifically waived by the City, the Developer Parties or Sears in writing.

18.06 Remedies Cumulative. The remedies of a party hereunder are cumulative and the exercise of any one or more of the remedies provided for herein shall not be construed as a waiver of any other remedies of such party unless specifically so provided herein.

18.07 Disclaimer. Nothing contained in this Agreement nor any act of the City shall be deemed or construed by any of the parties, or by any third person, to create or imply any relationship of third-party beneficiary, principal or agent, limited or general partnership or joint venture, or to create or imply any association or relationship involving the City.

18.08 Headings. The paragraph and section headings contained herein are for convenience only and are not intended to limit, vary, define or expand the content thereof.

18.09 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement.

18.10 Severability. If any provision in this Agreement, or any paragraph, sentence, clause, phrase, word or the application thereof, in any circumstance, is held invalid, this Agreement shall be construed as if such invalid part were never included herein and the remainder of this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

18.11 Conflict. In the event of a conflict between any provisions of this Agreement and the provisions of the TIF Ordinances and the TIF Bond Ordinance, such ordinance(s) shall prevail and control.

18.12 Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Illinois, without regard to its conflicts of law principles.

18.13 Form of Documents. All documents required by this Agreement to be submitted, delivered or furnished to the City shall be in form and content satisfactory to the City.

18.14 Assignment. Except in connection with a sale or transfer by the Developer Parties pursuant to Section 8.20, prior to the issuance by the City to the Developer of a Certificate, the Developer Parties may not sell, assign or otherwise transfer their interest in this Agreement in whole or in part without the written consent of the City, which shall be in the City's sole discretion. Notwithstanding the issuance of such Certificate, any successor in interest to the Developer Parties under this Agreement shall certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement (and the representations, warranties and covenants related thereto) through the Term of the Agreement, or such other period as may be expressly provided for herein. Upon such successor's certification, the Developer Parties shall be released from the performance of such executory terms (and the representations, warranties and covenants related thereto). The Developer Parties consent to the City's sale, transfer, assignment or other disposal of this Agreement at any time in whole or in part. Sears may not sell, assign or otherwise transfer its interest in this Agreement in whole or in

part without the written consent of the City, which shall be in the City's sole discretion.

18.15 Binding Effect. This Agreement shall be binding upon the Developer Parties, Sears, the City and their respective successors and permitted assigns (as provided herein). Sears is an intended third party beneficiary of this Agreement with respect to the rights and benefits conferred to Sears hereunder, and by its execution of the Limited Joinder, has undertaken to comply with its obligations hereunder and under the Limited Joinder.

18.16 Force Majeure. Neither the City, the Developer Parties nor Sears nor any successor in interest to any of them shall be considered in breach of or in default of its obligations under this Agreement in the event of (a) any delay caused by damage or destruction by fire or other casualty, strike, shortage of material, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or for an abnormal duration, tornadoes or cyclones, and other events or conditions beyond the reasonable control of the party affected which in fact interferes with the ability of such party to discharge its obligations hereunder, (b) a failure by the City to disburse City Funds after its approval of a Requisition Form or grant approvals or consents required hereunder in a prompt manner, or (c) a Force Majeure event, as defined in Section 16.12 of the Lease, and subject to compliance with the provisions of such Section 16.12. Any delay described in clauses (a), (b) or (c) shall result in a day-for-day extension of any obligations, deadlines or dates set forth in this Redevelopment Agreement or the Limited Joinder that are directly affected by such delay.

18.17 Exhibits. All of the exhibits attached hereto are incorporated herein by reference.

18.18 Business Economic Support Act. Pursuant to the Business Economic Support Act (30 ILCS 760/1 et seq.), if the Developer Parties or Sears is required to provide notice under the WARN Act, the Developer Parties or Sears, as applicable, shall, in addition to the notice required under the WARN Act, provide at the same time a copy of the WARN Act notice to the Governor of the State, the Speaker and Minority Leader of the House of Representatives of the State, the President and minority Leader of the Senate of State,

and the Mayor of each municipality where the Developer Parties or Sears has locations in the State. Failure by the Developer Parties or Sears to provide such notice as described above may result in the termination of all or a part of the payment or reimbursement obligations of the City set forth herein.

18.19 Approval. Wherever this Agreement provides for the approval or consent of the City, DPD or the Commissioner, or any matter is to be to the City's, DPD's or the Commissioner's satisfaction, unless specifically stated to the contrary, such approval, consent or satisfaction shall be made, given or determined by the City, DPD or the Commissioner in writing and in the reasonable discretion thereof. The Commissioner or other person designated by the Mayor of the City shall act for the City or DPD in making all approvals, consents and determinations of satisfaction, granting the Certificate or otherwise administering this Agreement for the City.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]



IN WITNESS WHEREOF, the parties hereto have caused this Redevelopment Agreement to be executed on or as of the day and year first above written.

DEVELOPER PARTIES

1 NORTH DEARBORN TRUST, a Delaware business trust

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

1 NORTH DEARBORN, INC., a Delaware corporation


By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

1 NORTH DEARBORN, L.L.C., a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Managing Member

CITY

CITY OF CHICAGO, a municipal corporation, acting by and through its Department of Planning and Development

By:  \_\_\_\_\_  
Christopher R. Hill  
Commissioner

00113493

IN WITNESS WHEREOF, the parties hereto have caused this Redevelopment Agreement to be executed on or as of the day and year first above written.

DEVELOPER PARTIES

1 NORTH DEARBORN TRUST, a Delaware business trust

By: TSB  
Name: TREVOR BOND  
Title: VP

1 NORTH DEARBORN, INC., a Delaware corporation

By: TSB  
Name: TREVOR BOND  
Title: VP

1 NORTH DEARBORN, L.L.C., a Delaware limited liability company

By: TSB  
Name: TREVOR BOND  
Managing Member

CITY

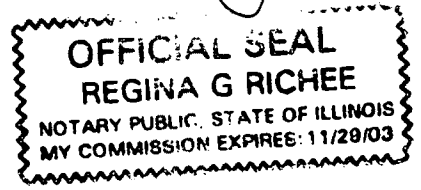
CITY OF CHICAGO, a municipal corporation, acting by and through its Department of Planning and Development

By: \_\_\_\_\_  
Christopher R. Hill  
Commissioner

STATE OF ILLINOIS )  
 ) ss  
COUNTY OF COOK )

I, Regina G. Richee, a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Trevor Bond, personally known to me to be the V.P. of 1 North Dearborn, Inc., a Delaware corporation (the "Corporation"), in its own capacity and in its capacity as Trustee of 1 North Dearborn Trust, a Delaware business trust (the "Trust"), I and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she/he signed, sealed, and delivered said instrument, pursuant to the authority given to them by the Board of Directors of the Corporation, as her/his free and voluntary act and as the free and voluntary act of the Corporation and the Trust, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 10 day of February, 2000.



Regina G. Richee  
Notary Public

11/29/03  
My Commission Expires

(SEAL)





LIMITED JOINDER

This Limited Joinder is made as of this 10th day of February, 2000 by and between the City of Chicago, an Illinois municipal corporation, acting by and through its Department of Planning and Development, its successors and assigns (the "City") and Sears, Roebuck and Co., a New York corporation ("Sears"), and is attached to and forms a part of that certain One North Dearborn Redevelopment Agreement dated as of the date hereof (the "Redevelopment Agreement"), by and between the Developer Parties and the City. Capitalized terms not defined herein shall have the meaning given in the attached Redevelopment Agreement.

RECITALS

A. Sears and the Trust have previously entered into the Sears Lease demising the Sears Premises. Sears entered into the Sears Lease on the express condition that the Developer Parties apply for and obtain City Funds, a portion of which would be made available to Sears to improve the Sears Premises.

B. The Developer Parties and the City are simultaneously herewith executing the Redevelopment Agreement, pursuant to which the City will provide the Developer with City Funds and also make City Funds available to Sears, subject to the terms and conditions contained therein and herein. The City is entering into the Redevelopment Agreement on the express condition that Sears execute this Limited Joinder.

C. Sears has voluntarily agreed to execute this Limited Joinder because and on the condition that it will receive City Funds for certain TIF-Funded Improvements associated with the Sears Project under the Redevelopment Agreement, subject to the satisfaction of the applicable conditions precedent to the disbursement of such City Funds.

AGREEMENTS

NOW, THEREFORE, in consideration of the recitals set forth above, the City Funds to be received by Sears, and for other good

and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Sears hereby agrees as follows:

1. Recitals and Defined Terms. The above recitals are incorporated herein by reference and constitute a material part of this Limited Joinder.

2. Sears Lease Representations and Warranties. Sears represents and warrants, as of the date hereof, and during the time period ending on last day of the tenth (10<sup>th</sup>) Lease Year (as defined in the Sears Lease) (the "10<sup>th</sup> Anniversary Date") or such shorter period as may be expressly provided for below, as follows:

(a) the Sears Lease is valid, binding, unmodified and in full force and effect, subject to Sears' right to terminate such Sears Lease pursuant to the terms thereof;

(b) as of the date hereof only, except for the Sears Lease and the documents below ("Sears Documents", there are no agreements (written or oral) between the Developer Parties and Sears which are binding on the parties in connection with the Sears Premises:

- (i) Subordination, Recognition and Nondisturbance Agreement dated as of January 31, 2000 by and between the City of Chicago, acting by and through its Department of Planning and Development, One North Dearborn, Inc., as Trustee for One North Dearborn Trust, and Sears, Roebuck and Co.;
- (ii) Subordination, Nondisturbance and Attornment Agreement dated February 10, 2000 by and among Credit Suisse First Boston Mortgage Capital, LLC, Sears, Roebuck and Co. and One North Dearborn, Inc., as Trustee for One North Dearborn Trust;
- (iii) Recognition and Nondisturbance Agreement dated as of June 8, 1999 by and between The Board of Education of the City of Chicago, One North Dearborn, Inc., as Trustee for One North Dearborn Trust and Sears, Roebuck and Co.; and
- (iv) Supplemental Agreement Regarding Sears Lease dated as of February 10, 2000.

(c) the commencement date for the Sears Lease is the date of this Limited Joinder;

(d) as of the date hereof only, Sears is not in default, and to Sears' actual knowledge, the landlord is not in default under any provision of the Sears Lease, and no event has occurred and no condition exists which, with the giving of notice, or the lapse of time, or both, would constitute a default by Sears or the landlord under the Sears Lease, except as provided for under the Sears Documents;

(e) as of the date hereof only, Sears has no current defenses, counterclaims, liens or claims of offset or credit under the Sears Lease nor any other current claims against the landlord under the Sears Lease; and

(f) Sears has performed all of its obligations under the Sears Lease that are required as of the date of this Limited Joinder.

3. General Redevelopment Agreement Representations, Warranties and Covenants. Sears represents, warrants and covenants as of the date hereof, and (except as to those fully-performed covenants that terminate upon the City's issuance of a Certificate for the Sears Project) during the time period ending on the 10<sup>th</sup> Anniversary Date or such shorter period as may be expressly provided for below, as follows:

(a) Sears is a New York corporation, duly organized, validly existing, qualified to do business in Illinois, and licensed to do business in any other state where, due to the nature of its activities or properties, such qualification or license is required;

(b) Sears has the right, power and authority to enter into, execute, deliver and perform its obligations under the Agreement and this Limited Joinder, and the person signing this Limited Joinder on behalf of Sears has the power and authority to enter into and execute this Limited Joinder;

(c) the execution, delivery and performance by Sears of its obligations under the Agreement and this Limited Joinder has been duly authorized by all necessary corporate action, and does not violate the Articles of Incorporation or the by-laws of Sears, as



the same may be amended and supplemented, nor any applicable provision of law, nor does it constitute a breach of, default under or require any consent (which has not heretofore been obtained) under any agreement, instrument or document to which Sears is now a party or by which Sears is now or may become bound;

(d) Sears is and shall remain solvent and able to pay its debts as they mature;

(e) there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, or, to Sears' knowledge, threatened against Sears which would impair its ability to perform under the Agreement and this Limited Joinder;

(f) Sears has obtained (or will, prior to the commencement of construction shall obtain) and shall maintain (except with respect to the Public Improvement Work) all government permits, certificates and consents (including, without limitation, appropriate environmental approvals) necessary to conduct its business and to construct, complete and operate the Sears Project;

(g) subject to Sears' contest rights under Sections 3(t) and 3(v) below, Sears has not incurred, and, prior to the issuance of a Certificate, shall not, without the prior written consent of the Commissioner of DPD, allow the existence of any liens against the Property arising out of the act or omission of Sears other than the Permitted Liens; or incur any indebtedness, secured or to be secured by the Property or any fixtures attached thereto, except leasehold mortgages entered into after the date hereof and permitted under Section 10.4 of the Sears Lease;

(h) Sears has not made or caused to be made, directly or indirectly, any payment, gratuity or offer of employment in connection with the Agreement or any contract paid from the City treasury or pursuant to City ordinance, for services to any City agency ("City Contract") as an inducement for the City to enter into the Agreement or any City Contract with Sears in violation of Chapter 2-156-120 of the Municipal Code of the City;

(i) upon DPD's approval of the Sears Plans and Specifications and the Sears Project Budget, and Sears receipt of all required building permits and governmental approvals, Sears shall complete

construction of the Sears Project in accordance with the Agreement and this Limited Joinder and all Exhibits attached hereto, the TIF Ordinances, the TIF Bond Ordinance, the Sears Plans and Specifications, the Historical Preservation Requirements (as applicable to the Sears Premises), the Sears Project Budget (subject to changes permissible under Section 3.05) and all amendments thereto, and all federal, state and local laws, ordinances, rules, regulations, executive orders and codes applicable to the Sears Project, the Sears Premises and Sears; this representation, warranty and covenant shall terminate (except with respect to the Historical Preservation Requirements, which shall continue in accordance with Section 4(e) of this Limited Joinder) upon the City's issuance of a Certificate for the Sears Project or the City's collection of the reimbursement payment required under Section 7.03(c)(ii), whichever occurs first.

(j) the Sears Project is and shall be in compliance with all of the terms of the Redevelopment Plan. The covenants set forth in this Section 3(j) shall run with the land and be binding upon any occupant of any portion of the Sears Premises during the Term of the Agreement;

(k) City Funds disbursed to Sears shall be used by Sears solely to pay for (or to reimburse Sears for its payment for) the Sears TIF-Funded Improvements as provided in the Agreement;

(l) Sears shall, at the request of the City, agree to any reasonable amendments to the Agreement and this Limited Joinder that are necessary or desirable in order for the City to issue (in its sole discretion) any additional bonds in connection with the Project or the Area; provided, however, that any such amendments shall not impose any material obligations or undertakings on Sears, the Sears Project or the Sears Premises. Sears shall cooperate in connection with the marketing of any such additional bonds, including but not limited to providing written descriptions of the Sears Project, and providing information to the City in the City's preparation of an offering statement with respect thereto;

(m) Sears covenants and agrees to abide by, and contractually obligate and use reasonable efforts to cause the Sears General Contractor and each of its subcontractors to abide by the terms set forth in Section 10 of the Agreement with respect to the Sears Project;

(n) Sears shall submit, and contractually obligate and cause the Sears General Contractor and its subcontractors to submit, to DPD, from time to time, statements of their respective employment profiles upon DPD's request, with respect to the Sears Project;

(o) Sears covenants and agrees to pay, and to contractually obligate and cause the Sears General Contractor and each of its subcontractors to pay, the prevailing wage rate as ascertained by the Illinois Department of Labor (the "Department"), to all persons employed with respect to the Sears Project whose wages are Sears Project Budget costs. All such contracts shall list the specified rates to be paid to all laborers, workers and mechanics for each craft or type of worker or mechanic employed pursuant to such contracts. If the Department revises such prevailing wage rates, the revised rates shall apply to all such contracts. Upon the City's request, Sears shall provide the City with copies of all such contracts to evidence compliance with this Section 3(o);

(p) Unless DPD shall have given its prior written consent with respect thereto, and except as explicitly disclosed in the Sears Project Budget, neither Sears nor any Affiliate may receive, directly or indirectly, any payment for work done, services provided or materials supplied in connection with the Sears Project. Sears shall provide information with respect to any entity receiving, directly or indirectly, any such payment upon DPD's request, prior to any disbursement of City Funds or otherwise.

(q) Pursuant to Section 5/11-74.4-4(n) of the Act, Sears represents, warrants and covenants that, to the best of its knowledge, no member, official, or employee of the City, or of any commission or committee exercising authority over the Sears Project, the Redevelopment Area or the Redevelopment Plan, or any consultant hired by the City or Sears with respect thereto, owns or controls, has owned or controlled or will own or control any interest, and no such person shall represent any person, as agent or otherwise, who owns or controls, has owned or controlled, or will own or control any interest, direct or indirect, in the Sears business (except as a holder of publicly-traded shares of Sears stock, or warrants or options relating to such shares), the Property or any other property in the Redevelopment Area;

(r) Sears' counsel has no direct or indirect financial ownership interest in the Property or any other aspect of the Project;

(s) Sears, at its own expense (or, with respect to coverages required to be carried by other parties, such other parties' expense), shall comply (or, with respect to insurance to be carried by other parties, shall cause such other parties to comply) with all insurance provisions of Section 12 of the Agreement (other than the insurance carried by the Developer Parties under Section 8.19(c) of the Agreement), provided that Sears may elect to carry any insurance required hereunder, in whole or in part, under any plan of self-insurance and/or under any "blanket policy" covering other properties of Sears;

(t) Except for the Permitted Liens, Sears agree to pay or cause to be paid when due any Non-Governmental Charge assessed or imposed upon the Sears Project, the Sears Premises or any fixtures that are or may become attached thereto, which creates, may create, or appears to create a lien upon all or any portion of the Property or Project; provided however, that if such Non-Governmental Charge may be paid in installments, Sears may pay the same together with any accrued interest thereon in installments as they become due and before any fine, penalty, interest, or cost may be added thereto for nonpayment. Sears shall furnish to DPD, within thirty (30) days of DPD's request, official receipts from the appropriate entity, or other proof satisfactory to DPD, evidencing payment of the Non-Governmental Charge in question. Sears shall have the right, before any delinquency occurs:

(i) to contest or object in good faith to the amount or validity of any Non-Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted, in such manner as shall stay the collection of the contested Non-Governmental Charge, prevent the imposition of a lien or remove such lien, or prevent the sale or forfeiture of the Property, or any portion thereof (so long as no such contest or objection shall be deemed or construed to relieve, modify or extend Sears' covenants to pay any such Non-Governmental Charge at the time and in the manner provided in this Section 3(t)); or

(ii) to furnish a good and sufficient bond or other security satisfactory to DPD in such form and amounts as DPD

shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Property or any portion thereof or any fixtures that are or may be attached thereto, or the preservation of the encumbrance of the Agreement and this Limited Joinder, during the pendency of such contest, adequate to pay fully any such contested Non Governmental Charge and all interest and penalties upon the adverse determination of such contest;

(u) To the best of Sears' knowledge, after diligent inquiry, the Sears Premises and the Sears Project are and shall be in compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Sears Project and the Property (other than such non-compliant conditions that shall be brought into compliance in connection with the Sears Project rehabilitation work, and excluding obligations required to be performed by the landlord under the Sears Lease). Upon the City's request, Sears shall provide evidence satisfactory to the City of such compliance.

(v) Sears agree to pay or cause to be paid when due any Governmental Charges (as defined below) which may be assessed or imposed directly upon Sears, or become due and payable, and which create or purport to create a lien upon or all or any portion of the Sears Premises or the Project. "Governmental Charge" shall mean any federal, State, county, the City, or other governmental (or any instrumentality, division, agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances directly imposed upon Sears. Sears shall have the right before any delinquency occurs to contest or object in good faith to the amount or validity of any Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted in such manner as shall stay the collection of the contested Governmental Charge and prevent the imposition of a lien or the sale or forfeiture of any portion of the Property. No such contest or objection shall be deemed or construed in any way as relieving, modifying or extending Sears' covenants to pay any such Governmental Charge at the time and in the manner required by law and provided in this Agreement unless Sears has given prior written notice to DPD of its intent to contest or object to a Governmental Charge and, unless, at DPD's sole option,

(i) Sears shall demonstrate to DPD's satisfaction that legal proceedings instituted by Sears contesting or objecting to a Governmental Charge shall conclusively operate to prevent or remove a lien against, or the sale or forfeiture of, all or any part of the Property to satisfy such Governmental Charge prior to final determination of such proceedings; and/or

(ii) Sears shall furnish a good and sufficient bond or other security satisfactory to DPD in such form and amounts as DPD shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of any portion of the Property or prevent the imposition of such lien during the pendency of such contest, adequate to pay fully any such contested Governmental Charge and all interest and penalties upon the adverse determination of such contest.

If Sears fails to pay any Governmental Charge or to obtain discharge of the same, Sears shall advise DPD thereof in writing, at which time DPD may, but shall not be obligated to, and without waiving or releasing any obligation or liability of Sears under the Agreement or this Limited Joinder, in DPD's sole discretion, make such payment, or any part thereof, or obtain such discharge and take any other action with respect thereto which DPD deems advisable. All sums so paid by DPD, if any, and any expenses, if any, including reasonable attorneys' fees, court costs, expenses and other charges relating thereto, shall be promptly reimbursed to DPD by Sears. Notwithstanding anything herein to the contrary, this paragraph shall not be construed to obligate the City to pay any such Governmental Charge.

(w) In addition to the insurance required pursuant to Section 12 of the Agreement, Sears shall procure and maintain the following insurance:

(i) During construction of the Sears Project, All Risk Property Insurance in the amount of the full replacement value of the Premises Improvements (as defined in Section 6.2(B) of the Sears Lease); and

(ii) Post-construction, throughout the Term of the Agreement, All Risk Property Insurance, in the amount of full replacement value of the Premises Improvements and Tenant's Personalty (as defined in Section 6.2(B) of the Sears Lease) and all other property owned or used by Sears and located on the Sears Premises.

(x) if Sears acquires actual knowledge of a default by the landlord under the Sears Lease that would entitle Sears to deliver a notice of default thereunder, or the occurrence or existence of an event or condition which, with the giving of notice, or the lapse of time, or both, would constitute a default by the landlord under the Sears Lease entitling Sears to deliver such a written notice, Sears will give prompt written notice of such circumstance to the City;

(y) if Sears believes it has defenses, counterclaims, liens or claims of offset or credit under the Sears Lease or any other current claims against the landlord under the Sears Lease that would entitle Sears to exercise its remedies or Section 9.4 self-help rights thereunder, Sears will give prompt written notice of such circumstance to the City;

(z) Sears (i) shall not agree to a Material Amendment of the Sears Lease, or assign or sublet any portion of the Sears Premises, without DPD's prior written consent (it being understood that this prohibition shall not apply to the licensing of space in accordance with Sections 3.6(F)(18) and 14.4 of the Sears Lease nor to sublettings that are permitted under the Sears Lease and that occur during the sixth through 10<sup>th</sup> Lease Years and relate to space that is no longer covered by the operating covenant set forth in Section 4(a) during such years), which consent shall be in DPD's sole discretion, except assignments to a Corporate Successor (as defined in Section 14.2(A) of the Sears Lease and subject to such Corporate Successor's written assumption of Sears' obligations under the Redevelopment Agreement and this Limited Joinder, and (ii) shall comply with its obligations under the Sears Lease at all times; and

(aa) Sears acknowledges that it has read and understands Section 2-156-030(b) of the Municipal Code. Pursuant to Section 2-156-030(b) of the Municipal Code, it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other city official or employee with respect to any matter involving any

person with whom the elected official has a "Business Relationship" (as defined in Section 2-156-080 of the Municipal Code) or to participate in any discussion of any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a Business Relationship. Violation of Section 2-156-030(b) by any elected official, or with any person acting at the direction of such official, with respect to this Agreement, or in connection with the transactions contemplated hereby, shall be grounds for termination of this Agreement and the transactions contemplated hereby. Sears represents and warrants that no violation of Section 2-156-030(b) has occurred with respect to the Agreement or the Limited Joinder, or the transactions contemplated thereby.

4. Sears' Covenants. Sears further covenants as follows:

(a) Operating Covenant. Notwithstanding anything in the Sears Lease, and subject to the next sentence, from the earlier of (i) June 30, 2001, and (ii) the date on which Sears first opens its store for business to the public, the entire Sears Premises shall be used for the sale of retail goods and services under the trade name "Sears, Roebuck and Co." or "Sears," or such other name as Sears may hereafter adopt for the majority of its full-service department stores in the Midwest portion of the United States (or such other trade name as pertains to a Corporate Successor, as defined in the Sears Lease), and for purposes ancillary thereto (including, without limitation, up to 10,000 square feet, in the aggregate, for Division 200 and Division 400 sales), and for no other purpose unless DPD has given its prior consent thereto, which consent shall be in DPD's sole discretion. During the 6<sup>th</sup> through 10<sup>th</sup> Lease Years, Sears shall be permitted to operate the department store required under the preceding sentence in less than the entire Sears Premises, so long as it operates such a department store in at least 150,000 square feet of the Sears Premises (which square footage shall not include space devoted to storage). The foregoing operating covenant shall be subject to force majeure events or conditions (for so long as such events or conditions continue) and to interruption of operations attributable to remodeling, refurbishing or otherwise altering the Sears Premises for department store usage. Sears shall at all times conduct its business in a reputable manner and in a manner consistent with the manner in which Sears operates its other urban full-line department stores, taking into consideration the hours of operation of



Marshall Field's and Carson Pirie Scott. Nothing in the preceding sentence shall be construed to permit Sears to cease operations if Marshall Field's or Carson Pirie Scott ceases operations. The covenants set forth in this Section 4(a) shall run with the land and be binding upon any occupant of any portion of the Sears Premises from the date hereof through the end of the 10<sup>th</sup> Anniversary Date.

(b) Neighborhood Stores Improvement. Sears covenants that during the time period from January 1, 1993 to December 31, 2003, it will spend not less than Thirty Million Dollars (\$30,000,000) to improve the Six Chicago Stores. Sears further covenants that it will spend not less than Twelve Million Dollars (\$12,000,000) during the time period from January 1, 2000 through December 31, 2003 (which shall be counted towards such \$30,000,000 obligation), to improve certain of the Six Chicago Stores, which improvements shall represent capital expenditures above and beyond ordinary maintenance for and in connection with such stores, and may include such work as landscaping, enhanced fencing and lighting of parking lots, and opening of enclosed ground floor windows.

(c) Job Creation. Not less than Two Hundred (200) full-time equivalent (computed based on 1,800 hours per year for one full-time equivalent employee), employees of Sears shall be employed at the Sears Premises by the date one year after the Sears' store opening date specified in Section 3.02 of the Agreement and thereafter continuously maintained through the 10<sup>th</sup> Anniversary Date; provided, however, that (i) if the number of jobs falls below such number, Sears shall not be in default if, within twelve (12) months of such shortfall, Sears cures such shortfall and no further job default occurs within the twelve (12) months following Sears' cure, it being agreed that this special cure right shall supersede any cure right under Section 7, and (ii) if due to technology or economic changes, the number of full-time equivalent employees needed to operate the Sears store is permanently reduced, Sears shall not be in default of its obligations under this Section 4(c) so long as at least one hundred twenty-five (125) full-time equivalent employees are employed at the Sears store through the 10<sup>th</sup> Anniversary Date. Sears shall, from time to time, upon the City's written request, but not more frequently than twice a year, provide reasonable evidence of its compliance with such requirement. The covenants set forth in this Section 4(c) shall run with the land and be binding upon any occupant of any portion

of the Sears Premises from the date hereof through the 10<sup>th</sup> Anniversary Date.

(d) Job Training. Sears shall participate in the Job Readiness Program established by the City to help prepare individuals for work in businesses located in the Area. Sears agrees to interview graduates of the Job Readiness Program before interviewing other candidates and use its reasonable efforts to hire graduates of the Job Readiness Program.

(e) Historical Preservation Requirements. Sears shall comply with the Historical Preservation Requirements applicable to the Sears Premises. The covenants set forth in this Section 4(e) shall run with the land and be binding upon any occupant of any portion of the Sears Premises through the 10<sup>th</sup> Anniversary Date.

5. Survival of Representations, Warranties and Covenants. All warranties, representations, covenants and agreements of Sears contained in the Agreement and this Limited Joinder shall survive the execution, delivery and acceptance hereof by the parties hereto for the period expressly provided for in the Redevelopment Agreement or this Limited Joinder. If no period is expressly provided for, the applicable period shall be through the 10<sup>th</sup> Anniversary Date.

6. Acknowledgments and Agreements. Sears acknowledges and agrees as follows:

(a) Each of the representations, warranties and covenants set forth above is a material inducement to the City's execution of the Redevelopment Agreement and payment of TIF Funds to Sears.

(b) Sears has been provided with a final copy of the Redevelopment Agreement and this Limited Joinder prior to the date hereof, has had opportunity for legal counsel to review it, and is familiar with its terms and conditions, and agrees to abide by its obligations thereunder and under this Limited Joinder.

(c) The occurrence of any one or more of the following events by Sears, if not cured within the cure period provided in Section 7 (or the special cure periods provided in Section 4(c)), shall constitute an "Event of Default" by Sears entitling the City to exercise the remedies described in Section 8:

(i) the failure of Sears to perform, keep or observe any covenants, agreements or obligations of Sears under this Limited Joinder, the Redevelopment Agreement or any material agreement related to the Project to which Sears is a party, including the Sears Lease;

(ii) the making or furnishing by Sears to the City of any representation, warranty, certificate, schedule, report or other communication within or in connection with this Limited Joinder, the Redevelopment Agreement or any related agreement which is untrue or misleading in any material respect;

(iii) the commencement of any proceedings in bankruptcy by or against Sears or for the liquidation or reorganization of Sears, or alleging that the Sears is insolvent or unable to pay its debts as they mature, or for the readjustment or arrangement of Sears' debts, whether under the United States Bankruptcy Code or under any other state or federal law, now or hereafter existing for the relief of debtors, or the commencement of any analogous statutory or non-statutory proceedings involving Sears; provided, however, that if such commencement of proceedings is involuntary, such action shall not constitute a default unless such proceedings are not dismissed within sixty (60) days after the commencement of such proceedings;

(iv) the appointment of a receiver or trustee for Sears, for any substantial part of Sears' assets or the institution of any proceedings for the dissolution, or the full or partial liquidation, or the merger or consolidation, of Sears; provided, however, that if such appointment or commencement of proceedings is involuntary, such action shall not constitute a default unless such appointment is not revoked or such proceedings are not dismissed within sixty (60) days after the commencement thereof; or

(v) a default by Sears under the Sears Lease that is not cured within any cure period granted thereunder (if any).

A default or Event of Default by the Developer Parties under the Redevelopment Agreement shall not constitute a default or Event of Default by Sears.

7. Default and Cure Period. Sears shall promptly notify the City of any breach or default by Sears under the Redevelopment Agreement or this Limited Joinder. In the event that Sears breaches or defaults under any representation, warranty, covenant or other obligation which Sears is required to perform under the Agreement or this Limited Joinder, notwithstanding any other provision of the Agreement or this Limited Joinder relating to defaults or breaches to the contrary, an Event of Default shall not be deemed to have occurred unless Sears fails to cure such default within thirty (30) days of its receipt of a written notice from the City specifying the nature of the breach or default; provided, however, with respect to those non-monetary breaches or defaults which are not reasonably capable of being cured within such thirty (30) day period, Sears shall not be deemed to have committed an Event of Default if it has commenced to cure the alleged breach or default within such thirty (30) day period and thereafter diligently and continuously prosecutes the cure of such breach or default until the same has been cured.

8. Remedies. In the event of any breach or default that is not cured within the cure period provided under Section 7 (or the special cure period provided under Section 4.(c) of this Limited Joinder), the City shall have the following remedies depending on the nature of such breach or default:

(a) For a breach or default by Sears described in Section 7.03(y) or (z) of the Redevelopment Agreement, the City shall have the remedies in Sections 7.03(a)(ii), 7.03(b) and 7.03(c)(ii) of the Redevelopment Agreement;

(b) For a breach of Section 4(a) of this Limited Joinder, Sears shall pay the City, within five (5) business days of the City's written demand, an amount equal to the product of (i) [the total City Funds paid to Sears, less the amount of City Funds paid to Sears with respect to the Public Improvement Work], times (ii) [100% minus 10% for each full, continuous year of Sears' operation of a department store in compliance with such Section 4(a)];

(c) for a breach of Section 4(b) of this Limited Joinder, Sears shall pay the City, within five (5) business days' of the City's written demand, the excess, if any of (i) \$12,000,000, over (ii) the actual amount spent by Sears in compliance with the second sentence of such Section 4(b);

(d) for a breach of Section 4(c) of this Limited Joinder, Sears agrees to pay the City, within five (5) business days' of the City's written demand, the same amount that would be payable if a breach of Section 4(a) of this Limited Joinder occurred as of such date;

(e) for a breach of any other representation, warranty, covenant or obligation of Sears resulting in an Event of Default, the City may terminate Sears' rights under this Redevelopment Agreement and all related agreements and suspend any further disbursement of City Funds to Sears. The City may also, with respect to any such other breach, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy provided for under this Agreement or at law or in equity, including but not limited to injunctive relief or the specific performance of the agreements contained herein, subject to the following limitations: (i) the City shall only be entitled to recover monetary damages in an amount equal to the City Funds paid to Sears, exclusive of City Funds for the Public Improvement Work performed in accordance with the Agreement and this Limited Joinder, plus attorneys' fees and expenses, and then only if a Reimbursement Event has occurred and the City concludes that any such reimbursement would not jeopardize any TIF Bonds or other bonds; (ii) the City shall not be entitled to seek specific performance of the job creation covenant in Section 4(c) of this Limited Joinder; (iii) the City's remedies do not include a right of possession with respect to the Sears Premises (excluding the City's right of possession inherent in the City's fee simple ownership of the City Parcel); and (iv) the City's remedies do not include the right to foreclose any encumbrance created by the Redevelopment Agreement or this Limited Joinder under any applicable Illinois law (it being understood, however, that this clause (v) does not limit the right of the City to obtain a judgment lien and, as a result of such lien, attach and cause the sale of the Developer Parties' assets.

A default by the landlord under the Sears Lease shall not (a) relieve Sears from its obligations under this Agreement, or (b) constitute any defense, excuse of performance, release, discharge or similar form of equitable or other relief that would prevent or limit the City's enforcement of its remedies under this Limited Joinder. Without limiting the generality of the foregoing, if due to a default by the landlord under the Sears Lease, Sears elects to

terminate the Sears Lease and an Event of Default arises due to Sears' failure to comply with Sections 4(a) and/or 4(c), or any other provision of this Limited Joinder, the City will be entitled to the same remedies that it would have ~~if~~ such Event of Default had occurred in the absence of such a landlord default and Sears Lease termination. This provision controls over "subject to" caveat in the representation and warranty contained in Section 2(a). However, if (v) a casualty or condemnation event occurs after the issuance of the Sears Certificate, (w) under Sections 8.1 and 8.2 of the Sears Lease, neither the landlord nor Sears is obligated, and neither the landlord nor Sears elects, to repair and restore the damaged portion of the Building in connection with such casualty or condemnation event, (x) such casualty or condemnation event entitles the landlord or Sears to terminate the Sears Lease, (y) the landlord or Sears terminates the Sears Lease, and (z) Sears vacates the Sears Premises and does not execute a new lease for space in the Building within one year of the Sears Lease termination, Sears shall be relieved from its obligations under the Agreement and this Limited Joinder.

Notwithstanding anything to the contrary contained herein or in the Redevelopment Agreement, in no event shall the City's exercise of any remedies under this Limited Joinder or the Redevelopment Agreement, either singly or cumulatively, entitle the City to recover from Sears monetary damages or other amounts in an amount in excess of the City Funds paid to Sears, exclusive of City Funds for the Public Improvement Work performed in accordance with the Agreement and this Limited Joinder, plus attorneys' fees and expenses. In such event, and upon the City's recovery of such amount, Sears shall have no further obligation under this Limited Joinder or the Redevelopment Agreement and the covenants under Sections 3(i), 3(j), 4(a), 4(c) and 4(e) shall terminate.

The remedies set forth in this Section 8 constitute a material part of the City's bargained-for consideration, are a material inducement to the City's execution of this Redevelopment Agreement and the Limited Joinder and do not constitute a penalty.

9. Subordination of Leasehold Interest. Notwithstanding anything in the Sears Lease or otherwise to the contrary (except as set forth in the last sentence of the penultimate paragraph of Section 8 above), the covenants in Sections 3(i), 3(j), 4(a), 4(c) and 4(e) of this Limited Joinder as running with the land (and

incorporated herein by reference) (the "City Encumbrances") shall, upon the recording of the Redevelopment Agreement, be an encumbrance upon Sears's rights under the leasehold estate created by the Sears Lease, notwithstanding that the Sears Lease may have been entered into and record notice thereof recorded prior to the recording of the Redevelopment Agreement and this Limited Joinder. Sears hereby subordinates its leasehold estate to such City Encumbrances, which shall be subject to the limitation included in Sections 8(e)(iii) and (iv) of this Limited Joinder.

10. Notices. All notices and communications concerning this Limited Joinder be sent and deemed to have been received as described in Section 17 of the Redevelopment Agreement.

11. Amendment. This Limited Joinder may not be altered, amended, changed or modified in any respect without the written consent of both the City and Sears.

12. Assignment. Sears may not assign its obligations under the Agreement or this Limited Joinder without the prior written consent of the City, which consent shall be the City's sole discretion, except to a Corporate Successor who assumes in writing Sears' obligations under this Redevelopment Agreement.

13. Successors and Assigns. Subject to the limitation in Section 12 above, this Limited Joinder shall inure to the benefit of and be binding upon the City and Sears and their respective successors and assigns.

14. No Third Party Beneficiary. This Limited Joinder is for the sole and exclusive benefit of Sears and the City. No other person or entity is an intended third party beneficiary of this Limited Joinder or shall have the right to enforce any of the provisions of this Limited Joinder. Nothing contained in this Limited Joinder may be construed to create or imply any partnership, joint venture or other association between the City and Sears.

15. Headings. The section headings contained herein are for convenience only and are not intended to limit, expand or modify the provisions of such sections.

16. Counterpart Execution. This Limited Joinder may be

executed in multiple counterparts, the signature pages of which, taken together, shall constitute an original execution copy.

[Signatures Appear On Next Page]



IN WITNESS WHEREOF, Sears and the City have executed this Limited Joinder effective as of the date of the attached Redevelopment Agreement.


SEARS

SEARS, ROEBUCK AND CO.,  
a New York corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

CITY

CITY OF CHICAGO, a municipal corporation, acting by and through its Department of Planning and Development

By:   
Christopher R. Hill  
Commissioner

STATE OF ILLINOIS )  
 ) ss  
COUNTY OF COOK )

I, the undersigned, a notary public in and for Cook County, Illinois, hereby certify that \_\_\_\_\_, personally known to me to be the same person whose name is subscribed to the foregoing Limited Joinder; executed and delivered such instrument as his/her own free and voluntary act, and as the free and voluntary act of Sears, Roebuck and Co., for the uses and purposes set forth therein.

Given under by hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires \_\_\_\_\_

(SEAL)

## EXHIBIT A

## REDEVELOPMENT PROJECT AREA LEGAL DESCRIPTION

*Legal Description Of North Loop Area.*

## Redevelopment Project Area Legal Description.

A tract of land consisting of lots and blocks or parts thereof and streets and alleys of Blocks 16, 17, 35, 36, 37 and 58 in the Original Town of Chicago in the east part of the southeast quarter of Section 9, Township 39 North, Range 14 and part of Blocks 8 and 9 in the Fort Dearborn Addition to Chicago in the southwest fractional quarter of Section 10, Township 39 North, Range 14 East of the Third Principal Meridian, in the City of Chicago, County of Cook, State of Illinois and bounded as follows:

beginning at the intersection of the south line of West Lake Street and the west line of North LaSalle Street; thence north along the west line of North LaSalle Street to the north line extended west of West Haddock Place; thence east along said line to the west line of North Clark Street; thence north along said west line to the northerly line of West Wacker Drive as said northerly line was established by ordinance passed by the City Council of the City of Chicago on December 15, 1919; thence east along said northerly line of West Wacker Drive to the east line of North State Street; thence south along said east line to the north line of Haddock Place; thence east along said line to the east line of Lot 28 extended north of Block 8 in Fort Dearborn Addition to Chicago as aforesaid; thence south along the east line of Lot 28 as aforesaid to the north line of East Lake Street; thence east along said north line to the east line of Lot 10 extended north of Block 9 in Fort Dearborn Addition to Chicago as aforesaid; thence south along the east line of Lot 10 as aforesaid to the north line of East Benton Place; thence east along said north line to the east line of North Wabash Avenue; thence south along said line to the south line of East Randolph Street; thence west along said south line to the east line of North State Street; thence south along said east line to the south line extended east of Lot 1 of Assessor's Re-subdivision of Lots 1 to 5 in Block 58 in Assessor's Division of the Original Town of Chicago as aforesaid; thence west along said extended line to the west line of said Lot 1; thence north along said line to the south line of West Washington Street; thence west along south line to the west line of North Dearborn Street; thence north along said west line to the south line of West Randolph Street; thence west along said south line to the west line of North Clark Street; thence north along said west line to the south line of West Lake Street; thence west along said south line to the place of beginning.

*Legal Description Of Added Area.*

The boundaries of the Added Project Area are legally described as follows:

Subarea 1.

A tract of land comprised of all or parts of Blocks 19, 20, 31, 32, 33, 40 and 41 in the Original Town of Chicago, together with parts of streets and alleys adjoining said blocks, in the south half of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, which tract is more particularly described as follows:

beginning at the intersection of the west line of North LaSalle Street, as widened, with the north line of Block 33; thence west along said north line (being also the south line of West Lake Street) to the west line of said block; thence south along said west line (being also the east line of North Wells Street) to the north line of West Couch Place; thence east along said north line to an intersection with the northward extension of the west line of Lot 7 in Block 33; thence south along said extension, and along said west line, to the south line of said block; thence east along said south line (being also the north line of West Randolph Street) and along the eastward extension of said south line, to an intersection with the northward extension of the west line of Block 39 in the Original Town of Chicago; thence south along said extension, and along said west line (being also the east line of North LaSalle Street) to an intersection with the eastward extension of the south line of West Court Place; thence west along said extension and along said south line to the west line of Block 40 aforesaid; thence west, crossing North Wells Street, to the northeast corner of Lot 8 in Block 41 aforesaid, thence west along the north line of said lot to an intersection with the southward extension of the west line of Lot 1 in said block; thence north along said extension and along said west line, to the north line of Block 41; thence west along said north line (being also the south line of West Randolph Street) to the northwest corner of said block; thence west, crossing North Franklin Street, to the northeast corner of Block 42 in the Original Town of Chicago; thence west along the north line of said Block 1 (being also the south line of West Randolph Street) to an intersection with the southward extension of the west line of the east 20 feet of Lot 7 in Block 31 aforesaid; thence north along said extension and along said west line, to the north line of West Couch Place; thence east along said north line to the east line of Block 31; thence north along said east line (being also the west line of North Franklin Street) and along the

northward extension of said east line to an intersection with the westward extension of the south line of Block 20 aforesaid; thence east along said extension, and along said south line (being also the north line of West Lake Street) to the west line of North Post Place; thence north along said west line and along the northward extension thereof, to an intersection with the westward extension of the north line of West Haddock Place; thence east along said extension and along said north line to the east line of Block 20; thence east, crossing North Wells Street, to the intersection of the west line of Block 19 aforesaid with the north line of West Haddock Place; thence east along said north line to an intersection with the west line of North LaSalle Street as widened; thence south along said west line to the south line of Block 19; thence south, crossing West Lake Street, to the point of beginning, in the City of Chicago, Cook County, Illinois.

#### Subarea 2.

A tract of land comprised of part of Block 58 and parts of adjacent streets and alleys in the Original Town of Chicago in Section 9, together with all or parts of Blocks 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14 and 15 and parts of adjacent streets and alleys in Fort Dearborn Addition to Chicago in Section 10, and all or parts of Blocks 1 through 10, and all or parts of Blocks 1 through 10, inclusive, and parts of adjacent streets and alleys in Fractional Section 15 Addition to Chicago, and all or parts of Blocks 113, 114, 120, 122, 123, 124, 137, 138, 139, 140, 141 and 142 in School Section Addition to Chicago, all in Township 39 North, Range 14 East of the Third Principal Meridian, which tract of land is more particularly described as follows:

beginning at the northwest corner of Block 8 in Fort Dearborn Addition to Chicago in Section 10 aforesaid; thence east along the north line of said block (being also the south line of East Wacker Drive) to the northeast corner of Lot 6 in said block; thence south along the east line of said lot to the north line of East Haddock Place; thence west along said north line to an intersection with the northward extension of the east line of Lot 28 in Block 8; thence south along said extension, and along said east line, to the south line of said block; thence east along said south line (being also the north line of East Lake Street) to an intersection with the northward extension of the east line of Lot 10 in Block 9 of Fort Dearborn Addition to Chicago; thence south along said extension, and along said east line to the north line of East Benton Place; thence east along said north line, and along the eastward extension thereof, to an intersection with the northward extension of the west line of the south part of Block 10 in Fort Dearborn Addition to Chicago; thence south along said extension, and along said west line (being also the east line of North Wabash Avenue) and along the southward extension thereof, to an

intersection with the eastward extension of the north line of Block 13 in said Fort Dearborn Addition; thence west along said extension to the northeast corner of said Block 13; thence south along the east line of said block (being also the west line of North Wabash Avenue) to the southeast corner of said block; thence west along the south line of said block (being also the north line of East Washington Street) to an intersection with the northward extension of the west line of Block 14 in Fort Dearborn Addition; thence south along said extension, and along said west line (being also the east line of North State Street) to an intersection with the eastward extension of the south line of Lot 1 in Assessor's Resubdivision of Sublots 1 to 5 of Assessor's Division of Lots 1, 2, 3, 4 and 5 of Block 58 in the Original Town of Chicago aforesaid; thence west along said extension, crossing North State Street and entering Section 9 aforesaid, and continuing along said south line of said Lot 1, to the southwest corner of said lot; thence north along the west line of said lot to the north line of Block 58; thence west along said north line (being also the south line of West Washington Street) to the northwest corner of Lot 7 in Assessor's Division of Lots 1, 2, 3, 4 and 5 of Block 58; thence south along the west line of said lot to the north line of West Calhoun Place; thence west along said north line, and along the westward extension thereof, to an intersection with the northwest extension of the east line of the south part of Block 57 in the Original Town of Chicago aforesaid; thence south along said extension and along said east line (being also the west line of North Dearborn Street) and along the southward extension of said east line to the southeast corner of said Block 57; thence southward, crossing West Madison Street and entering Section 16, to the northeast corner of Block 119 in School Section Addition aforesaid; thence south along the east line of said block (being also the west line of South Dearborn Street) to an intersection with the westward extension of the north line of Lot 20 in the subdivision of Block 142 in said School Section Addition; thence east along said extension, and along said north line, to the northeast corner of said lot; thence south along the east line of Lots 20 through 27, inclusive, in said subdivision, and along the southward extension thereof, to an intersection with the north line of Block 141 in School Section Subdivision aforesaid, thence east along said north line (being also the south line of West Monroe Street) to the northwest corner of the east half of Lot 3 in said Block 141; thence south along the west line of the east half of said lot to the north line of West Marble (hydraulic) Place; thence west along said north line, and the westward extension thereof, to an intersection with the northward extension of the east line of Lot 20 in County Clerk's Division of Block 120 in School Section Addition; thence south along said extension, and along said east line (being also the west line of South Dearborn Street) and along the southward extension of said east line, to an intersection with the westward extension of the north line of Block 140 in School Section Addition; thence east along said extension and along said north line (being also the south line of West Adams Street) to an intersection

with the west line of the east 25 feet of Lot 5 in the subdivision of Blocks 83, 92 and 140 in School Section Addition; thence south along said west line to an intersection with the westward extension of the south line of the alley in the subdivision of Lots 3 and 4 in said Block 140; thence east along said extension and along said south line to an angle point; thence southeastwardly along a southwesterly line of said alley to an angle point; thence south along a west line of said alley and along the southward extension thereof, to an intersection with the north line of Lot 13 in the aforementioned subdivision of Blocks 83, 92 and 140; thence east along said north line (being also the south line of West Quincy Street) to the northeast corner of said Lot 13; thence south along the east line of said lot to the south line of Block 140; thence west along said south line (being also the north line of West Jackson Boulevard) and along the westward extension thereof, to an intersection with the northward extension of the east line of Lots 1, 4, 8, 11, 14, 17, 20 and 23 in Wright's Subdivision of Block 122 in School Section Addition; thence south along said extension, and along said east line (being also the west line of South Federal Street) to the southeast corner of said Lot 23; thence west along the south line of said Lot 23 and the westward extension thereof, and also along the south line of Lot 22 in Wright's Subdivision (being also the north line of West Van Buren Street) to the southwest corner of said Lot 22; thence west, crossing South Clark Street, to the southeast corner of Lot 22 in the subdivision of Block 115 of School Section Addition aforesaid; thence west along the south line of said Lot 22 and Lot 23 (being also the north line of West Van Buren Street) to the southwest corner of said Lot 23; thence west, crossing South LaSalle Street, to the southeast corner of that part of said street vacated by ordinance passed February 29, 1980, and recorded August 12, 1980, as Document Number 25545766; thence south along the southward extension of the east line of said vacation to an intersection with the north line of Lot 3 in the subdivision of Block 114 of School Section Addition; thence east along said north line (being also the south line of West Van Buren Street) to the northeast corner of said lot; thence south along the east line of Lots 3, 4, 9, 10, 15, 16, 21 and 22 (being also the west line of South LaSalle Street) to the southeast corner of said Lot 22; thence south, crossing West Congress Parkway as said expressway is defined by the general ordinance passed October 31, 1940, to the intersection of the east line of Lot 6 in T. G. Wright's Subdivision of Block 113 in School Section Addition with the south line of said West Congress Parkway; thence east along said south line to an intersection with the east line of Lot 9 (said east line being also the west line of South Plymouth Court) in C. L. and I. Harmon's Subdivision of Block 137 in School Section Addition; thence north, crossing West Congress Parkway, to the intersection of the east line of Lot 24 in T. G. Wright's Subdivision of Block 138 in School Section Addition with the north line of said expressway; thence east along the north line of said West Congress Parkway, and along the north line of East Congress Parkway,

entering into Section 15 aforesaid, to an intersection with the west line of Sublot 2 of Lot 10 in Canal Trustee's Subdivision of Block 10 of Fractional Section 15 Addition to Chicago; thence south along said west line to said north line of East Congress Parkway; thence east along said north line to the east line of South Michigan Avenue as widened; thence north along said widened line, entering Section 10 aforesaid, to an intersection with the north line of Block 6 in Fort Dearborn Addition aforesaid; thence east along said north line (being also the south line of East South Water Street) to an intersection with the southward extension of the east line of Lot 6 in Dyer's Subdivision of Lots 6, 7, 8, 9, 10 and 11 in Block 5 of Fort Dearborn Addition to Chicago; thence north along said extension, and along said east line, to the northeast corner of said lot; thence north, crossing a 20 foot wide alley, to a point on the south line of Lot 11 in Dyer's Subdivision, which is 124.00 feet east of the southwest corner of said lot; thence north along a line 124.00 feet east from, and parallel with, the west line of aforementioned Block 5, to an intersection with the south line of Lot 5 in said block; thence north to a point on the north line of Lot 1 in said block which is 121.18 feet east from the northwest corner of said lot; thence continuing north along a northward extension of the last described line to an intersection with the northerly line of East Wacker Drive (River Street) as widened; thence westwardly, southwestwardly, north and southwestwardly along said northerly line, and along the southerly dock line of the Chicago River to an intersection with the northward extension of the west line of Block 8 of Fort Dearborn Addition aforesaid; thence south along said extension to the point of beginning; excepting from the above described tract Lots 19 through 25, inclusive, in Block 10 in Fort Dearborn Addition to Chicago; in the City of Chicago, Cook County, Illinois.



**EXHIBIT B**  
 Developer Fee Parcels

Parcel 1:

"Property"

Lots 11, 12, 13, 14 and 15 in the subdivision of Lot 5 in block 58 in the original town of Chicago, in Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

Parcel 2:

Lot 2 in the subdivision of Lot 8 and of the East 30 feet of Lot 7 in Block 58 in the original town of Chicago, together with a strip of land lying between the East line of said Lot 8 and the West line of State Street as fixed by Act of General Assembly of the State of Illinois approved March 3, 1845 as appears for the plat thereof recorded January 26, 1872 in Book 1 of plats, page 20 in Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

Parcel 3:

Lot 3 in the subdivision of Lot 8 and of the East 30 feet of Lot 7 in Block 58 in the original town of Chicago, together with a strip of land lying between the East line of said Lot 8 and the West line of State Street as fixed by Act of General Assembly of the State of Illinois approved March 3, 1845 as appears from the plat thereof recorded January 26, 1872 in Book 1 of plats, page 20 in Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

Parcel 4:

That portion of the West 10 feet of the East 30 feet of Lot 7 in Block 58 in the original town of Chicago lying West and adjoining Lots 2 and 3 in the subdivision of Lot 8 and of the East 30 feet of Lot 7 aforesaid in Cook County, Illinois in Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

Parcel 6:

Lot 1 in the subdivision of Lot 8 and of the East 30 feet of Lot 7 in Block 58 in the original town of Chicago, together with a strip of land lying between the East line of said Lot 8 and the West line of State Street (as fixed by an Act of the General Assembly of the State of Illinois approved March 3, 1845) as appears from plan thereof recorded January 26, 1872 in Book 1 of plats, page 20, in Cook County, Illinois.

Parcel 7:

That part of the 10 foot alley lying West of and adjoining Lot 1 in Parcel 6, in Cook County, Illinois.

Commonly known as 1 North Dearborn Street, Chicago, Illinois

Permanent Tax Identification Numbers:

17-09-464-001-0000  
17-09-464-002-0000  
17-09-464-003-0000  
17-09-464-006-0000  
17-09-464-007-0000  
17-09-464-008-0000  
17-09-464-009-8001  
17-09-464-009-8002  
17-09-464-010-8001  
17-09-464-010-8002

## EXHIBIT C

### ONE NORTH DEARBORN STREET BUILDING 00 113493

#### Description of Rehabilitation Work

##### *General:*

The One North Dearborn Building (the "Building") is listed on the National Register of Historic Places as part of the Loop Retail Historic District. Built in stages between 1905 and 1917 and designed by the architectural firm of Holabird and Roche, this seventeen-story building was constructed for the Boston Store, one of the original "Seven Sisters" downtown department stores on State Street. For the purposes of the Redevelopment Agreement, the significant architectural features of the Building shall be all exterior elevations, including the roof line.

All work to the Building shall be completed in accordance with the Redevelopment Agreement and the following approved drawings:

- Bid set of drawings for the exterior storefront (the "Storefront Drawings"), dated October 8, 1999, prepared by Daniel P. Coffey & Associates, Ltd., architects.

All work to the Building not addressed by the above Storefront Drawings, other than work relating to the Sear's Premises, shall be reasonably consistent with the following documents and materials as design guidelines:

- *The Secretary of the Interior's Standards for Rehabilitation of Historic Buildings* (rev. 1990, and as amended) (the "Standards"). The Dearborn, Madison, and State street elevations and any finished returns on the alley (north) elevation shall be considered "primary elevations" for the purposes of the Standards.
- *Vision for Greater State Street: Next Steps* (the "State Street Plan"), adopted by the Chicago Plan Commission in 1998.
- *Chicago Downtown Lighting Master Plan* (the "Lighting Plan"), prepared in 1997.

##### *Prior Approval:*

All exterior work and any interior work which impacts the exterior appearance of the Building, including the Required Exterior Rehabilitation Work described in this Exhibit, shall be subject to the prior review and approval of the City's Department of Planning and Development, Landmarks Division. If requested, the Developer Parties and Sears shall also submit for review and approval, which approval shall not be unreasonably withheld, exterior material samples, paint colors and finishes, shop drawings, specifications, mock-ups, and control samples, as applicable.

***Required Exterior Rehabilitation Work - Developer Parties:***

The following work shall be completed by the Developer Parties:

- **Upper-Story Exterior (Floors 3 and above).** A scope of work for the upper stories equal to but not to exceed \$1.5 million (the "Allowance"), including related soft costs and contingencies (but not limited to MBE/WBE monitoring, architectural, engineering, and supervision fees, facade consultants, etc.), shall be mutually developed and approved by the City's Department of Planning and Development, Landmarks Division. This work may include, as reasonably possible and within the Allowance, with the more visible lower floors of the Building as a priority: masonry cleaning and repairs; repair or replacement of missing or cracked pieces; patching and staining (or other such similar process) of prior incompatible patches; removal of paint on the lower floors on the southwest corner of the building; modification to a more window-like appearance of the one vertical bay of block-infilled windows on the Dearborn Street elevation; and upper-story window repair or replacement (floors 5 and above), provided that such work is no more than \$500,000 of the Allowance.
- **Ceiling Heights and Interior Demising Walls (Floors 5 and above).** Original ceiling heights shall be maintained behind all windows to the extent possible. On the upper stories any drops in the heights of ceilings such as for mechanical equipment shall be set back from the windows at least 9 inches and shall not be readily visible from the street. All new interior demising walls should occur at piers, or also at window mullions if unavoidable.

***Required Exterior Rehabilitation Work - Sears:***

The following work shall be completed by Sears:

- **Base (Floors 1 and 2).** The base of the Building shall be rehabilitated, consistent with the Storefront Drawings; in general, this work shall reverse prior inappropriate alterations and repairs, reestablish the original masonry pier and spandrel expression, and reintroduce a consistent and compatible storefront system. This work shall include: removal of existing modern storefronts and false-front coverings, sidings and veneers; installation of a new ground-floor storefront system; repair of the second-story Chicago-style windows, and replacement of missing windows on the State Street elevation; and cleaning and repair of masonry piers, spandrels, and the stringcourse above the second floor, with replacement in like kind of missing or damaged masonry as necessary.
- **\*Storefront Windows and Window Displays (Floors 1 and 2).** The new ground-floor storefront windows and existing second-story display windows shall have large undivided sheets of clear glass, with low bulkhead walls and transom windows. In general, storefront windows on the first story and display windows on the second story shall be used as active window display areas, and these windows should not be blocked up, blacked out, or covered over except as otherwise approved. The number and location of display windows on the second-floor shall be as shown on Schedule C-1 attached

hereto. The second-floor windows shall be repaired as specified below for Upper-Story Windows (Floors 3 and 4). Window display areas shall generally be at least 36 inches deep or greater. Enclosed or partially-enclosed window display areas may be created behind these windows, except that some of the windows shall also provide for views into the interior of the Building. Window displays shall be well designed, visually interesting, periodically changed, and used to display primarily merchandise rather than signs or graphics. Temporary paper and vinyl signs within the storefront windows shall be professionally printed and not attached to the exterior walls or storefront glass.

Dependent upon the Developer Parties paying Sears \$180,000 and furnishing to Sears the revolving doors, Sears shall construct the Dearborn Street office entrance to the Building, including but not limited to the canopy, revolving doors and related storefronts.

- **Upper-Story Windows and Window Treatments (Floors 2 thru 4).** The windows shall be repaired by caulking and painting, and consistent with the requirements for painting set forth herein to the extent Developer caulks and paints the upper-level floor windows (floors 5 and above). Except in meeting the requirements for Storefront Windows and Window Displays as specified above, upper-story windows without display areas shall have a consistent and compatible window treatment such as shades, blinds or similar treatment.
- **Ceiling Heights and Interior Demising Walls (Floors 1 thru 4).** Original ceiling heights shall be maintained behind all windows to the greatest extent possible. The visibility of any changes in ceiling heights on the base of the building (floors 1 and 2) should be minimized to the greatest extent possible, and in no instance should any drops in the heights of ceilings be set back from the window less than 36 inches or the depth of the display area, whichever is greater, except as otherwise approved by the Department of Planning and Development, Landmarks Division. On the upper stories (floors 3 and 4) any drops in the heights of ceilings such as for mechanical equipment shall be set back from the windows at least 18 inches and shall not be readily visible from the street. All new interior demising walls should occur at piers, or also at window mullions if unavoidable.

***Required Exterior Rehabilitation Work - All Parties:***

- **Masonry.** Only as applicable to the work required above, and consistent with the Storefront Drawings, all masonry work shall be done in accordance with the following general guidelines: Where masonry is missing or beyond repair, replacement masonry shall reasonably match the original in a manner reasonably consistent with the Standards, except that on the upper stories (floors 3 and above) a substitute material such as GFRC or cast stone may be used if it reasonably matches the appearance of the original material in color, finish and appearance. All tuckpointing shall use mortar which reasonably matches the original in terms of color, consistency, hardness, and joint profile. Finally, and only as applicable to the work required above, masonry cleaning shall use an appropriate and least-aggressive cleaning method, e.g., low-pressure water or mild chemical cleaning, after conducting test patches.

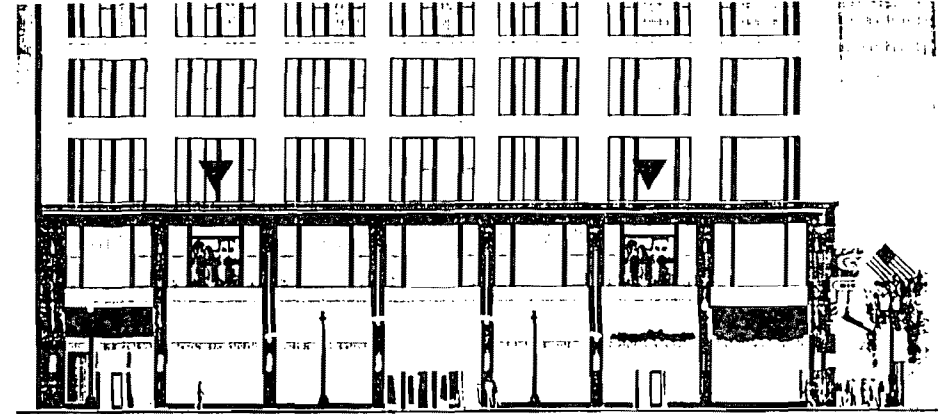
- **Windows.** Only as applicable to work required above, and consistent with the Storefront Drawings, windows shall be repaired or replaced in like kind to match the originals, in a manner reasonably consistent with the Standards. A paint color analysis of the windows (two samples should be taken: one from floor 2 and one on floor 3 or above) shall be provided to determine the historic color, although the windows may be painted the historic paint color, the existing color, or some other dark color coordinated with the other improvements to the building. All windows shall be of clear glass. Future changes to Storefront Windows and Window Displays shall meet the general requirements established above for the rehabilitation.
- **\*Signs, Awnings, Canopies, and Banners.** All signs, awnings, canopies, and banners shall be consistent with the Storefront Drawings. All work not addressed in said drawings shall be reasonably consistent with the Standards and the State Street Plan. Traditional retractable-type awnings shall be required for the ground-floor storefront windows on all primary elevations.
- **\*Building Lighting (Base).** Appropriately-designed exterior accent lighting for the base of the Building shall be provided in accordance with the Storefront Drawings. No exterior lighting shall be required for floors 3 and above.
- **Roof-top.** All new, non-habitable, roof-top appurtenances and mechanical equipment shall be set back as far as possible from the street elevations to minimize potential visibility from the public way. Roof-top decks and any future habitable roof-top additions shall not be visible from any public way.

***Covenant to run with the land:***

For the Term of the Agreement, all future exterior work to the Building including signs and any interior work which substantially impacts the exterior appearance of the building shall be subject to the prior review and approval of the City's Department of Planning and Development, Landmarks Division. All such work shall meet the relevant terms and conditions of this Exhibit. In addition, Sears and the Developer Parties and their successors in interest to the fee simple title to the Property will cause the Building to be operated for the Term of the Agreement consistent with the performance requirements specified in this Exhibit and indicated by an asterisk (\*) above.

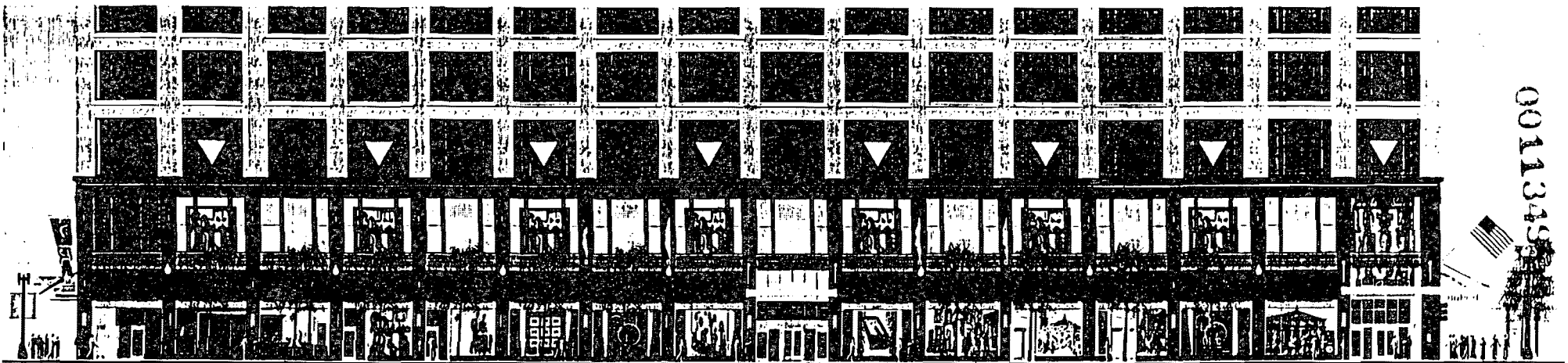


STATE ST.



DEARBORN ST.

▼ - INDICATES 2ND FLOOR DISPLAY WINDOW LOCATION



MADISON ST.

JANUARY 31, 2000

▼ - INDICATES 2ND FLOOR DISPLAY WINDOW LOCATION

SCHEDULE C-1

00113495

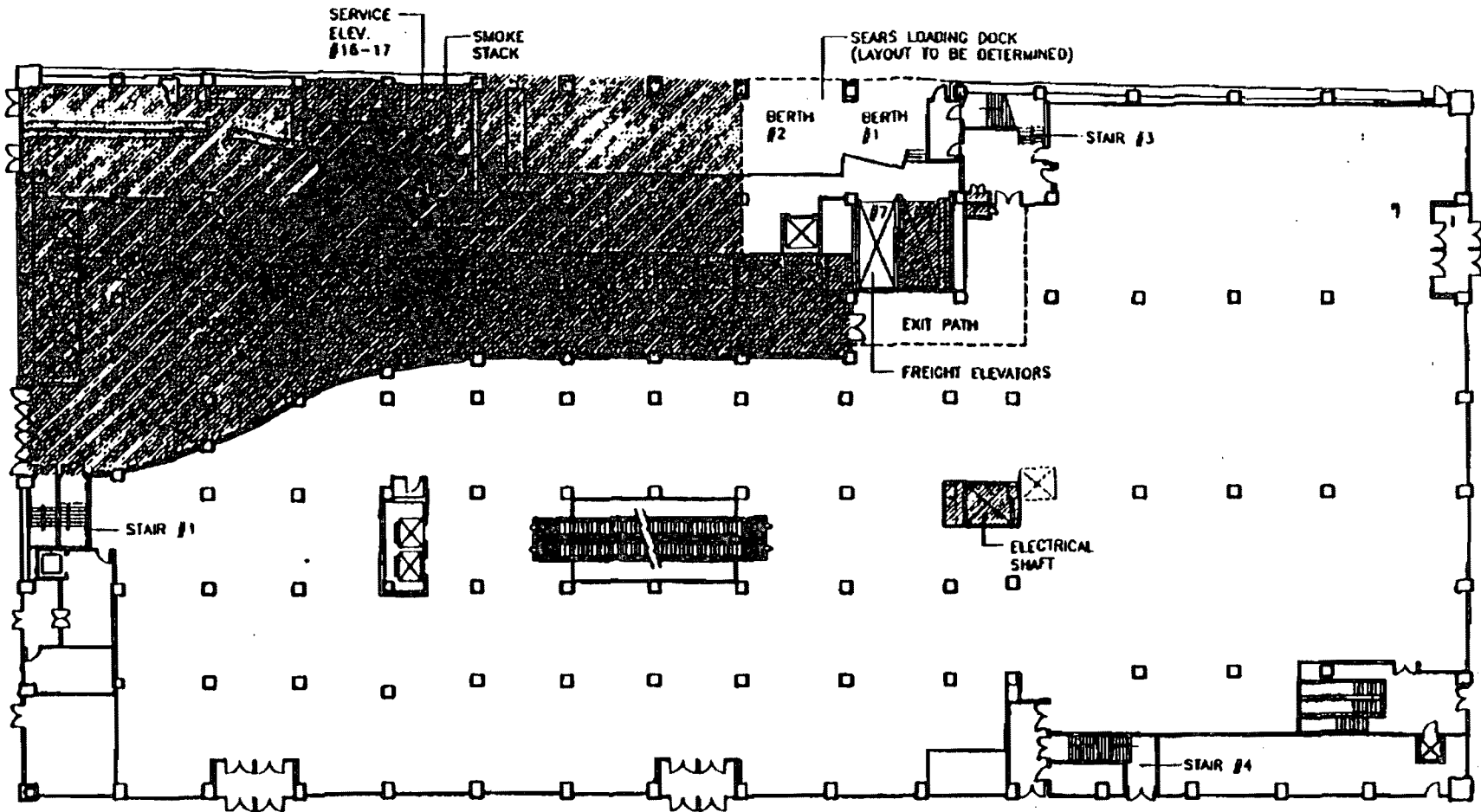
00113495

EXHIBIT D

SEARS' PREMISES DESCRIPTION

Floors 2, 3 and 4 of the One North Dearborn Building and first floor and first lower level as shown on the drawings attached as Schedules B-1 and B-2.



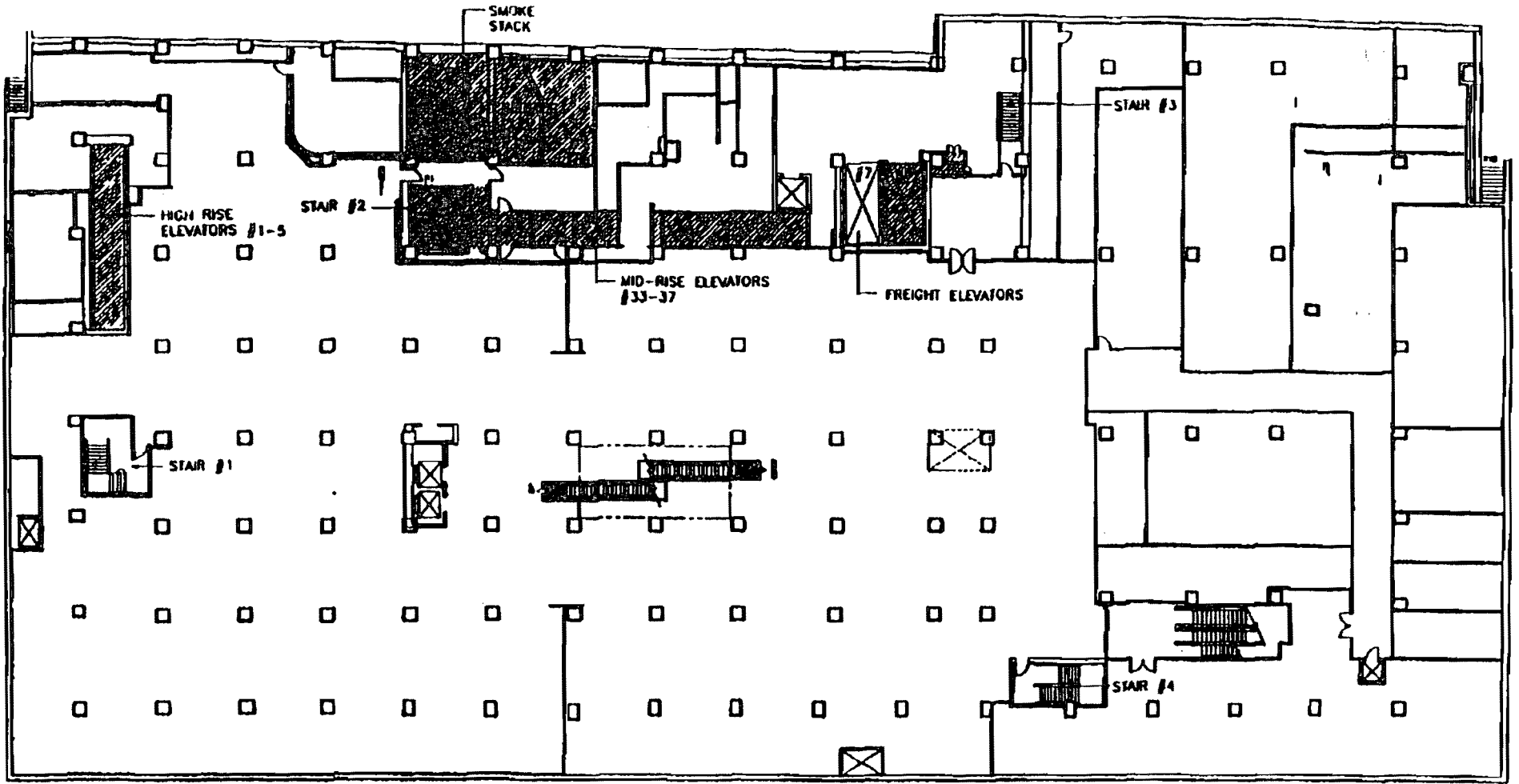


LEGEND  
 BASE BUILDING [diagonal hatching symbol]  
 SEARS SPACE [unshaded rectangle symbol]

1 N. DEARBORN

1ST FLOOR  
 SCHEDULE D-1

00113493



001A3493

LEGEND

- BASE BUILDING
- SEARS SPACE

1 N. DEARBORN

1ST LOWER LEVEL

SCHEDULE D-2

00113493

EXHIBIT G

REDEVELOPMENT PLAN

#

[OMITTED FOR RECORDING PURPOSES]

00113493

EXHIBIT E

CITY PARCEL LEGAL DESCRIPTION

The West 50 feet of Lot 7 in Block 58 in the original town of Chicago in Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County.

00113493

EXHIBIT H-1

BUILDING CONSTRUCTION CONTRACT

[OMITTED FOR RECORDING PURPOSES]

EXHIBIT I

PERMITTED LIENS

1. GENERAL TAXES FOR THE YEAR 1999 AND SUBSEQUENT YEARS
2. FEE AND LEASEHOLD MORTGAGE. SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND FIXTURE FILING DATED SEPTEMBER 26, 1998 AND RECORDED OCTOBER 6, 1998 AS DOCUMENT 98893832, MADE BY 1 NORTH DEARBORN INC., AS TRUSTEE FOR 1 NORTH DEARBORN TRUST, TO CREDIT SUISSE FIRST BOSTON MORTGAGE CAPITAL LLC, TO SECURE A NOTE IN THE ORIGINALLY STATED PRINCIPAL AMOUNT OF \$73,198,000.00, AND THE TERMS AND CONDITIONS THEREOF.
3. ASSIGNMENT OF LEASES AND RENTS MADE BY 1 NORTH DEARBORN INC., AS TRUSTEE FOR 1 NORTH DEARBORN TRUST, TO CREDIT SUISSE FIRST BOSTON MORTGAGE CAPITAL LLC, RECORDED OCTOBER 6, 1998 AS DOCUMENT 98893833.
4. RIGHTS OF THE MUNICIPALITY AND OF THE PUBLIC IN AND TO SO MUCH OF LOTS 6 AND 7 IN BLOCK 58 IN THE ORIGINAL TOWN OF CHICAGO AS FALL IN MADISON STREET.
5. PARTY WALL AGREEMENT DATED JULY 19, 1873 AND RECORDED SEPTEMBER 26, 1873 AS DOCUMENT 128100 BETWEEN WILLIAM H. RAND AND THE BOARD OF EDUCATION OF CHICAGO FOR PARTY WALL ON THE LINE BETWEEN LOT 6 IN AFORESAID BLOCK 58 AND THE WEST 50 FEET OF LOT 7 IN AFORESAID BLOCK 58.
6. PARTY WALL RIGHTS AND EASEMENTS FOR CAISSONS, UPRIGHT POLES AND GIRDERS ON THE WEST AND SOUTH LINES OF SUB PARCEL C AS DISCLOSED BY LEASE RECORDED AS DOCUMENT 3623918.
7. EASEMENT FOR CAISSONS AND COLUMNS ON THE EAST AND WEST LINES OF SUB-PARCEL A AS DISCLOSED BY DOCUMENTS 3377861 AND 3697326.
8. PARTY WALL RIGHTS AND EASEMENTS FOR CAISSONS AND COLUMNS ON THE EAST AND WEST LINES OF SUB-PARCEL B AS DISCLOSED BY DOCUMENTS 15336526 AND 3697326.
9. PARTY WALL AGREEMENT DATED APRIL 18, 1872 AND RECORDED MAY 18, 1872 IN BOOK 62 AT PAGE 359 AS DOCUMENT 31695 BETWEEN GEORGE MANIERRE AND WILLIAM R. MANIERRE AND WILLIAM H. RAND AND OTHERS COMPRISING THE FIRM OF RAND MCNALLY AND COMPANY RELATING TO A PARTY WALL

BETWEEN LOT 15 IN ASSESSOR'S SUBDIVISION OF LOTS 1 TO 5 IN AFORESAID BLOCK 58 AND THAT PART OF LOT 6 IN AFORESAID BLOCK 58 WHICH LIES IMMEDIATELY EAST OF AND ADJOINING SAID LOT 15.

10. POSSIBLE ENCROACHMENT OF THE METAL DUCT WORK AND AIR SHAFTS LOCATED MAINLY ON THE LAND OVER UPON THE ALLEY NORTH AND ADJOINING AS DISCLOSED BY PRIOR TITLE EVIDENCE.

11. RECIPROCAL RIGHTS, CROSS EASEMENTS, PARTY WALL RIGHTS, EASEMENTS FOR INGRESS AND EGRESS, AND JOINT OWNERSHIP OF AND RIGHTS OF CONTRIBUTION RELATING TO FIXTURES, EQUIPMENT AND MACHINERY LOCATED WITHIN THE LAND, OTHER THAN THOSE SHOWN ELSEWHERE IN THIS POLICY, EXISTING BETWEEN IN FAVOR OF THE VARIOUS OWNERS OF THE LAND.

12. EXISTING UNRECORDED LEASES, IF ANY SET FORTH IN SCHEDULE I HERETO AND RIGHTS OF PARTIES IN POSSESSION UNDER SUCH UNRECORDED LEASES, INCLUDING, WITHOUT LIMITATION, THAT CERTAIN LEASE DATED APRIL 30, 1999, BETWEEN 1 NORTH DEARBORN TRUST, AS LANDLORD, AND SEARS ROEBUCK AND CO.

13. ENCROACHMENT OF THE SIGNS LOCATED MAINLY ON HE LAND ONTO THE PROPERTY EAST AND SOUTH AND ADJOINING BY AN UNDISCLOSED AMOUNT, AS SHOWN ON PLAT OF SURVEY NUMBER 9804021 PREPARED BY CHICAGO GUARANTEE SURVEY COMPANY DATED JUNE 24, 1998.

14. VAULTS AND VAULTED SPACE UNDER THE WALKS LOCATED MAINLY ON THE LAND BY UNDETERMINED AMOUNTS, AS DISCLOSED BY THE OWNER OF THE LAND.

15. RIGHTS OF THE CITY OF CHICAGO AND THE CHICAGO BOARD OF EDUCATION IN THE IMPROVEMENTS DESCRIBED IN SCHEDULE C, AS SET FORTH IN THE INSTRUMENTS RECORDED AS DOCUMENTS 90605155 (SUB-PARCEL 5A) AND 15396526 (SUB-PARCEL 5B) WHICH RIGHTS, TOGETHER WITH THOSE OF 1 NORTH DEARBORN TRUST A DELAWARE BUSINESS TRUST COMPRISE FEE SIMPLE TITLE TO SAID IMPROVEMENTS.

16. THE LAND LIES WITHIN THE BOUNDARIES OF SPECIAL SERVICE AREA NO. 12 AS DISCLOSED BY ORDINANCE RECORDED AS DOCUMENT 91075841, AND IS SUBJECT TO ADDITIONAL TAXES UNDER THE TERMS OF SAID ORDINANCE AND SUBSEQUENT RELATED ORDINANCES.

17. LEASE MADE BY INVESTMENT PROPERTIES ASSOCIATES, A LIMITED PARTNERSHIP OF NEW YORK, TO FIRST CHICAGO BUILDING CORPORATION,

DATED AUGUST 7, 1974 AND RECORDED AUGUST 22, 1974 AS DOCUMENT 22823999 DEMISING THE PROPERTY FOR A TERM OF YEARS BEGINNING SEPTEMBER 1, 1974 AND ENDING APRIL 30, 1980 WITH OPTION TO EXTEND SAID LEASE, AND ALL RIGHTS THEREUNDER OF AND ALL ACTS DONE OR SUFFERED THEREUNDER BY SAID LESSEE OR BY ANY PARTY CLAIMING BY, THROUGH OR UNDER SAID LESSEE.

18. ENCROACHMENT OF THE COPING ABOVE THE 3<sup>RD</sup> FLOOR LOCATED MAINLY ON THE LAND ONTO THE PROPERTY WEST AND ADJOINING BY APPROXIMATELY 1.32 FEET AND ENCROACHMENT OF THE METAL CORNER LOCATED MAINLY ON THE LAND ONTO THE PROPERTY WEST AND ADJOINING BY APPROXIMATELY 0.24 FEET AND NORTH BY APPROXIMATELY 0.24 FEET, AS SHOWN ON PLAT OF SURVEY NUMBER 9804021 PREPARED BY CHICAGO GUARANTEE SURVEY COMPANY DATED JUNE 24, 1998.
19. ENCROACHMENT OF THE BRICK BUILDING LOCATED MAINLY ON THE LAND ONTO THE PROPERTY NORTH AND ADJOINING BY APPROXIMATELY 0.17 FEET, AS SHOWN ON PLAT OF SURVEY NUMBER 9804021 PREPARED BY CHICAGO GUARANTEE SURVEY COMPANY DATED JUNE 24, 1998.
20. ENCROACHMENT OF THE COPING ABOVE THE 3<sup>RD</sup> FLOOR LOCATED MAINLY ON THE LAND ONTO THE PROPERTY WEST AND ADJOINING BY APPROXIMATELY 1.00 FEET AND ONTO THE PROPERTY SOUTH AND ADJOINING BY APPROXIMATELY 1.23 FEET AS SHOWN ON PLAT OF SURVEY NUMBER 9804021 PREPARED BY CHICAGO GUARANTEE SURVEY COMPANY DATED JUNE 24, 1998.
21. ENCROACHMENT OF THE VENTS AND CHUTE LOCATED MAINLY ON THE LAND ONTO THE PROPERTY NORTH AND ADJOINING BY AN UNDISCLOSED AMOUNT, AS SHOWN ON PLAT OF SURVEY NUMBER 9804021 PREPARED BY CHICAGO GUARANTEE SURVEY COMPANY DATED JUNE 24, 1998.
22. ENCROACHMENT OF THE COPING ABOVE THE THIRD FLOOR LOCATED MAINLY ON THE LAND ONTO THE PROPERTY NORTH AND ADJOINING BY APPROXIMATELY 1.26 AND ONTO THE PROPERTY EAST AND ADJOINING BY APPROXIMATELY 1.06 FEET AS SHOWN ON PLAT OF SURVEY NUMBER 9804021 PREPARED BY CHICAGO GUARANTEE SURVEY COMPANY DATED JUNE 24, 1998.
23. ENCROACHMENT OF THE COPING ABOVE THE THIRD FLOOR LOCATED MAINLY ON THE LAND ONTO THE PROPERTY SOUTH AND ADJOINING BY APPROXIMATELY 0.85 FEET AND ONTO THE PROPERTY EAST AND ADJOINING BY APPROXIMATELY 1.11 FEET AND ENCROACHMENT OF THE GRANITE BASE LOCATED MAINLY ON THE LAND ONTO THE PROPERTY SOUTH AND ADJOINING BY 0.11 FEET AND EAST AND ADJOINING BY 0.42 FEET, AS SHOWN ON PLAT OF



SURVEY NUMBER 9804021 PREPARED BY CHICAGO GUARANTEE SURVEY COMPANY DATED JUNE 24, 1998.

24. SECURITY INTEREST OF CREDIT SUISSE FIRST BOSTON MORTGAGE CAPITAL LLC, SECURED PARTY, IN CERTAIN DESCRIBED CHATTELS ON THE LAND, AS DISCLOSED BY FINANCING STATEMENT EXECUTED BY 1 NORTH DEARBORN TRUST A DELAWARE BUSINESS TRUST, DEBTOR, AND FILED OCTOBER 9, 1998 AS DOCUMENT NO. 98U 10588.
25. RIGHTS OF THE CITY OF CHICAGO AND THE CHICAGO BOARD OF EDUCATION TO THE IMPROVEMENTS AT THE END OF THE TERM OF THE LEASE DESCRIBED IN SCHEDULE A.
26. RIGHTS OF THE OWNER OF THE IMPROVEMENTS TO MAINTAIN SAID IMPROVEMENTS AS PRESENTLY LOCATED ON THE LAND.
27. TERMS, POWERS, PROVISIONS AND LIMITATIONS OF THE TRUST UNDER WHICH TITLE TO THE LAND IS HELD.
28. ENCROACHMENT OF THE FLAGPOLES LOCATED MAINLY ON THE LAND ONTO THE PROPERTY SOUTH AND WEST AND ADJOINING BY-AN UNDISCLOSED AMOUNT, AS SHOWN ON PLAT OF SURVEY NUMBER 9804021 PREPARED BY CHICAGO GUARANTEE SURVEY COMPANY DATED JUNE 24, 1998.
29. RECOGNITION AND NON-DISTURBANCE AGREEMENT DATED JUNE 8, 1999, BY AND AMONG 1 NORTH DEARBORN TRUST, SEARS, ROEBUCK AND CO. AND THE CHICAGO BOARD OF EDUCATION.
30. SUBORDINATION, NON-DISTURBANCE AND ATTORNMEN AGREEMENT BY AND AMONG 1 NORTH TRUST, CREDIT SUISSE FIRST BOSTON MORTGAGE CAPITAL, LLC AND SEARS, ROEBUCK AND CO.
31. ONE NORTH DEARBORN REDEVELOPMENT AGREEMENT DATED FEBRUARY 10, 2000 BY AND AMONG 1 NORTH DEARBORN TRUST, 1 NORTH DEARBORN INC., 1 NORTH DEARBORN LLC AND SEARS, ROEBUCK AND CO.
32. MEMORANDUM OF LEASE BY AND BETWEEN 1 NORTH DEARBORN TRUST AND SEARS, ROEBUCK AND CO.
33. SUBORDINATION, RECOGNITION AND NON-DISTURBANCE AGREEMENT DATED AS OF JANUARY 31, 2000 BY AND AMONG 1 NORTH DEARBORN TRUST, SEARS, ROEBUCK AND CO. AND THE CITY OF CHICAGO.

34. TERMS, CONDITIONS AND PROVISIONS OF, AND POSSIBLE LIENS AND OTHER MATTERS RELATING TO, THE CONTRACTS AND AGREEMENTS WITH THE PERSONS AND ENTITIES LISTED ON THE SWORN OWNER'S STATEMENT DELIVERED BY 1 NORTH DEARBORN TRUST TO THE CITY OF CHICAGO AND CHICAGO TITLE INSURANCE COMPANY.

Property : ONE NORTH DEARBORN  
CHICAGO, IL 60602

Report Date From : 2/01/00 To : 2/28/00

TENANT	UNIT REF NO.	SQ. FOOT OCCUPIED	T E R M		UNIT INFO BASE RENT	PRORATED BASE RENT ANNUAL	RENT PER SQ FT/YR	BASE RENT INCREASE (DATE)	BASE RENT INCREASE (AMOUNT)	--OPERATING EXPENSE-- MONTH SQ FT/YR	---REAL ESTATE TAX--- MONTH SQ FT/YR	----CPI EXPENSE---- MONTH SQ FT/YR	-----GROSS RENTS-----				
			FROM	TO									SQ FT/YR	TOTAL			
*** VACANT ***	103-0V	58621			0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00		
HARNISH MADHIWALA	103-1A	300	2/01/97	7/31/97	425.00	5100.00	17.00	1/01/00	425.00	0.00	0.00	0.00	0.00	17.00	425.00		
*** VACANT ***	103-1V	33318			0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			
ALONTI	103-3A	1964	1/01/96	12/31/05	9820.00	117840.00	60.00	1/01/99 1/01/03	9,820.00 10,638.33	347.03	2.12	0.00	0.00	62.12	10,167.03		
FIRST CHICAGO BLDG. CORP.	103-WO	0		4/30/00	0.00	0.00	0.00		0.00	0.00	0.00	0.00	0.00	0.00			
DOUGLAS ELLIMAN-BEITLER	103-DEB	0			3000.00	0.00	0.00	5/01/99 6/01/99	3,000.00 (3,000.00)	0.00	0.00	0.00	0.00	0.00			
DUNKIN DONUTS	103-12WM	997	1/01/91	12/31/00	5833.33	69999.96	70.21	9/01/98	5,833.33	125.03	1.50	0.75	0.01	429.16	5.17	76.89	6,388.27
DRESS BARN, INC.	103-18WM	3850	5/01/92	1/31/02	14437.50	173250.00	45.00	9/01/98	14,437.50	504.61	1.57	0.00	0.00	0.00	0.00	46.57	14,942.11
*** VACANT ***	103-200V	49256			0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			
AMERITECH CELLULAR	103-24WM	516	11/01/94	1/31/05	3010.00	36120.00	70.00	2/01/00	3,010.00	92.55	2.15	0.00	0.00	0.00	0.00	72.15	3,102.55
*** VACANT ***	103-300V	47441			0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			
*** VACANT ***	103-400V	48983			0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			
*** VACANT ***	103-500V	48986			0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			
*** VACANT ***	103-600V	48986			0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			
*** VACANT ***	103-700V	48932			0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			
FIRST CHICAGO BLDG CORP.	103-800A	23809	7/01/99	1/31/03	36606.34	439276.08	18.45	8/01/99 7/01/00 7/01/01 7/01/02	36,606.34 38,094.40 39,582.46 41,070.53	0.00	0.00	0.00	0.00	0.00	0.00	18.45	36,606.34
*** VACANT ***	103-800V	5293			0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			
FIRST CHICAGO BLDG. CORP.	103-830A	13991	7/01/99	1/31/03	22000.85	264010.20	18.87	8/01/99 7/01/00 7/01/01 7/01/02	22,000.85 22,875.29 23,749.72 24,624.16	0.00	0.00	0.00	0.00	0.00	0.00	18.87	22,000.85
LUCCENT TECHNOLOGIES	103-860A	1396	5/01/94		1628.66	19543.92	14.00	5/01/99	1,628.66	0.00	0.00	0.00	0.00	0.00	0.00	14.00	1,628.66

Property : ONE NORTH DEARBORN  
CHICAGO, IL 60602

Report Date From : 2/01/00 To : 2/28/00

TENANT	UNIT REF NO.	SQ. FOOT OCCUPIED	T E R M		UNIT INFO BASE RENT	PRORATED BASE RENT ANNUAL	RENT PER SQ FT/YR	BASE RENT INCREASE (DATE)	BASE RENT INCREASE (AMOUNT)	--OPERATING EXPENSE--		---REAL ESTATE TAX---		----CPI EXPENSE----		-----GROSS RENTS-----	
			FROM	TO						MONTH	SQ FT/YR	MONTH	SQ FT/YR	MONTH	SQ FT/YR	SQ FT/YR	TOTAL
FIRST CHICAGO BLDG CORP.	103-900A	49456	7/01/99	1/31/03	76038.60	912463.20	18.45	8/01/99 76,038.60 7/01/00 79,129.60 7/01/01 82,220.60 7/01/02 85,311.60		0.00	0.00	0.00	0.00	0.00	0.00	18.45	76,038.60
*** VACANT ***	103-1000V	49515			0.00	0.00	0.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
*** VACANT ***	103-1100V	48060			0.00	0.00	0.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
FIRST CHICAGO BLDG CORP.	103-1101A	1455	5/01/93	4/30/00	2425.00	29100.00	20.00	9/01/98 2,425.00		0.00	0.00	0.00	0.00	0.00	0.00	20.00	2,425.00
*** VACANT ***	103-1200V	49515			0.00	0.00	0.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
FIRST CHICAGO BLDG CORP.	103-1300A	50701		4/30/00	67601.33	811215.96	16.00	9/01/98 67,601.33		130.57	0.03	614.17	0.15	3704.53	0.88	17.05	72,050.60
FIRST CHICAGO BLDG CORP.	103-1400A	48225		4/30/00	64300.00	771600.00	16.00	9/01/98 64,300.00		124.14	0.03	580.05	0.14	3523.64	0.88	17.05	68,527.83
FIRST CHICAGO BLDG CORP.	103-1500A	48225		4/30/00	67555.19	810662.28	16.81	9/01/98 67,555.19		0.00	0.00	0.00	0.00	0.00	0.00	16.81	67,555.19
FIRST CHICAGO BLDG CORP.	103-1600A	48225		4/30/00	64300.00	771600.00	16.00	9/01/98 64,300.00		124.14	0.03	580.05	0.14	3523.64	0.88	17.05	68,527.83
FIRST CHICAGO BLDG CORP	103-1700A	49465		4/30/00	65953.00	791436.00	16.00	9/01/98 65,953.00		128.43	0.03	602.80	0.15	3614.24	0.88	17.05	70,298.47
CLUNE CONSTRUCTION	103-CLUNE	0			0.00	0.00	0.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
SEARS ENVIRONMENTAL CONSULTI	103-SEARS	0			0.00	0.00	0.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
*** VACANT ***	103-13FLSU	0			0.00	0.00	0.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
PEPPER CONSTRUCTION CO.	103-PEPPER	0			0.00	0.00	0.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
<b>T O T A L S :</b>		<b>879481</b>			<b>504934.80</b>	<b>6023217.60</b>	<b>17.58</b>			<b>1,576.50</b>	<b>0.02</b>	<b>2,377.82</b>	<b>0.03</b>	<b>14795.21</b>	<b>0.20</b>	<b>7.10</b>	<b>520,684.33</b>
Total Occupied Square Feet :		342575															
Total Vacant Square Feet :		536906															
<b>G R A N D T O T A L S :</b>		<b>879481</b>			<b>504934.80</b>	<b>6023217.60</b>	<b>17.58</b>			<b>1,576.50</b>	<b>0.02</b>	<b>2,377.82</b>	<b>0.03</b>	<b>14795.21</b>	<b>0.20</b>	<b>7.10</b>	<b>520,684.33</b>
Total Occupied Square Feet :		342575															
Total Vacant Square Feet :		536906															

**Exhibit J-1**  
**Building Project Budget**  
**(For Developer Parties Only)**

**SOURCES:**

First Mortgage Lender	73,198,000	
Equity - Mezzanine Preferred	24,383,167	
TIF/Public Sources	<u>3,015,833</u>	<b>100,597,000</b>

**USES:**

Total Acquisition Costs	67,516,688	
Base Building - Hard Costs	17,916,296	
Base Building - Soft Costs	773,316	
Tenant Improvements	6,612,420	
Leasing Commissions	3,105,787	
Interest Carry	<u>4,672,483</u>	<b>100,597,000</b>

## EXHIBIT F

## TIF-FUNDED IMPROVEMENTS

Building TIF-Funded Improvements

Other Rehabilitation/Conversion/ Reconstruction	\$	3,015,833
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Sears TIF-Funded Improvements

Other Rehabilitation/Conversion/ Reconstruction	\$	9,000,000
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Public Improvements/Public Works/ Capital Costs	\$	1,500,000 <sup>1</sup>
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<sup>1</sup> Subject to increase pursuant to Section 4.05.

## EXHIBIT J-2

<b>Project Budget Sears, Roebuck and CO. Chicago, IL - State Street</b>	
	<b>Project Budget</b>
<b>Environmental Remediation</b>	<b>800,000</b>
<b>Rehabilitation Costs *</b>	<b>14,325,000</b>
<b>Fixtures &amp; Electronics</b>	<b>8,300,000</b>
<b>Architects / Engineering</b>	<b>550,000</b>
<b>Legal Fees</b>	<b>250,000</b>
<b>Pre-opening Expenses</b>	<b>825,000</b>
<b>Development Management</b>	<b>400,000</b>
<b>Tenant Relocation Costs</b>	<b>300,000</b>
<b>Vertical Transportation Costs</b>	<b>1,099,000</b>
	<b>26,849,000</b>

**\*Includes Public Improvement work**





B. Prior Payments of City Funds. To date, the City has reimbursed [[the Developer]][[Sears]] with City Funds for the cost of TIF-Funded Improvements in the aggregate amount of: \$ \_\_\_\_\_.

C. Current Request For Payment of City Funds. [[The Developer]][[Sears]] hereby requests reimbursement for the cost of TIF-Funded Improvements in the following amount: \$ \_\_\_\_\_.

D. Supporting Documents. Attached are the following documents:

1. Certification as to the status of job creation in accordance with Section 8.06 of the Agreement; and
2. Certification as to the status of MBE/WBE, City Residency employment percentages and payment of prevailing wage as of a date not earlier than 30 days prior to the date of this Requisition Form.

E. Certifications. [[The Developer]][[Sears]] hereby certifies to the City that, as of the date hereof:

1. The total amount of the reimbursement request represents the actual amount previously paid or payable to general contractors, suppliers and other third parties who have performed work on or provided materials or services for the Project comprising TIF-Funded Improvements, which work and materials have not been previously reimbursed by the City. [[The Developer]][[Sears]] has approved all work and materials and such work and materials conform in all material respects to the [[Building]][[Sears]] Plans and Specifications, including the Historic Preservation Requirements incorporated therein.

2. Except as set forth below, the representations and warranties made by the undersigned in the Redevelopment Agreement are materially true and correct and [[the Developer]][[Sears]] is in compliance with all covenants contained herein (if true and correct, state "NONE").

3. [[The Developer]][[Sears]] has received no notice and has no knowledge of any liens or claim of lien either filed or threatened against the Property except for the Permitted Liens.

4. No act or omission which, with the giving of notice or passage of time or both, would constitute an Event of Default exists or has occurred.

All capitalized terms which are not defined herein have the meanings given such terms in the Agreement.

[SIGNATURE BLOCK]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

Subscribed and sworn before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 1999

NOTARY PUBLIC

My commission expires:

Agreed and accepted:

City of Chicago, acting by  
and through its Department  
of Planning and Development

By: \_\_\_\_\_

Name: \_\_\_\_\_

[[Deputy]] Commissioner

EXHIBIT L

Developer's Prior Expenditures  
(As of 1/31/00; For Work Through 11/30/99)

<u>NATURE OF EXPENDITURE</u>	<u>PAYEE</u>	<u>AMOUNT</u>
Architectural Services	O, W P&P	\$264,279.38
General Contracting Services (including subcontractors) for reconstruction, rehabilitation, repair and remodeling	Clune Construction	\$6,855,740.49
Mechanical and Electrical Engineering Services	ESD	\$269,134.33
Testing Services (Piping)	Packer Engineering	\$4,573.00
Structural Engineering Services	Rubinos & Mesia	\$38,120.43
Surveying Services	James Schaeffer & Schimming	\$576
Engineering Services (Elevators)	Desmond Assoc.	\$18,414
Testing Services (Metal)	Hygienetics Environmental, Inc.	\$1,071.25
<b>SUB-TOTAL:</b>		<b>\$7,451,908.88</b>
Property Acquisition Costs	IPA	\$67,516,688.00
<b>TOTAL:</b>		<b>\$74,968,596.88</b>

## Sears' Prior Expenditures

## EXHIBIT L

Company	Committed	Paid to 02/02/00
Dan Coffey Building Rehab Construction Documents & Construction Administration	\$670,905.42	\$518,099.16
Environmental Abatement	356,170.00	356,170.00
Environmental Consulting Services	59,604.00	59,528.83
Schindler Elevator	669,067.00	0
Fire Pump & Electrical Service Douglas-Elliman Beidler	83,151.00	83,151.00
Relocate Paper shaft (DEB Contractor)	17,572.00	17,572.00
Development Management	400,000.00	256,265.00
Pepper Construction Company	3,335,939.39	333,288.90
Legal Fees	200,000.00*	200,000.00
<b>Total</b>	<b>5,792,408.81</b>	<b>1,824,074.89</b>

\* Contract amount open. Payments are made on an hourly basis, plus reimbursables at cost.

EXHIBIT M

[OMITTED FOR RECORDING PURPOSES]

## FORM OF NOTICE OF PROPOSED [[TRANSFER]][[REFINANCING]]

[DEVELOPER'S LETTERHEAD]

[DATE]

BY MESSENGER

City of Chicago  
Department of Planning and Development  
121 North LaSalle Street, Room 1000  
Chicago, IL 60602  
Attention: Commissioner

City of Chicago  
Department of Law  
Finance and Economic Development Division  
121 North LaSalle Street, Room 600  
Chicago, IL 60602

Re: One North Dearborn Redevelopment Agreement  
[[Refinancing]][[Sale]] of One North Dearborn

Dear Commissioners:

This letter is written pursuant to [[Section 8.20]] of the One North Dearborn Redevelopment Agreement dated \_\_\_\_\_, 1999 (the "Agreement") and constitutes the written notice of 1 North Dearborn, L.L.C. of the proposed [[transfer]][[refinancing]] of the Property. A summary of the principal terms of the [[proposed transfer]][[refinancing]] is attached hereto as Schedule 1. If the City has further questions concerning the proposed [[transfer]][[refinancing]], such questions should be directed to [INSERT NAME, ADDRESS, AND PHONE NUMBER OF PERSON TO BE CONTACTED].

Sincerely yours,

[DEVELOPER SIGNATURE BLOCK]

Summary of Principal Terms

Legal Description:

Street Address:

Description of  
Improvements:

Current Use:

Intended Use:

Buyer:<sup>4</sup>

Price:

Lender:

Proposed  
Closing Date:

Other Material  
Terms of Sale  
or Refinancing:

Calculation of  
Excess Funds  
(if any):

---

<sup>4</sup> Attach organizational chart depicting upper-tier ownership interests in Buyer identifying all persons and entities having a direct or indirect ownership interest in Buyer of 5% or more.

## Schedule 2 to Exhibit N

[FORM OF CERTIFICATION BY PROPOSED TRANSFEREE]

[LETTERHEAD OF PROPOSED TRANSFEREE]

[DATE]

BY MESSENGER

City of Chicago  
Department of Planning and Development  
121 North LaSalle Street, Room 1000  
Chicago, IL 60602  
Attention: Commissioner  
City of Chicago  
Department of Law

Finance and Economic Development Division  
121 North LaSalle Street, Room 600  
Chicago, IL 60602

Re: One North Dearborn (the "Property")  
One North Dearborn Redevelopment Agreement  
Certification by Proposed Transferee

Dear Commissioners:

This letter is written pursuant to Section 8.20 of the One North State Redevelopment Agreement dated \_\_\_\_\_, 1999 (the "Agreement") and constitutes the written certification of the undersigned, which has entered into a contract with [INSERT APPLICABLE DEVELOPER PARTY], to purchase the Property. A copy of the contract is being delivered to you with this letter. Capitalized terms not defined herein shall have the meaning set forth in the Agreement.

Pursuant to Section 8.20, and with the understanding that the City will be relying upon such certifications, the undersigned hereby certifies as follows:

(1) it has received and reviewed a true, correct and complete copy of the Agreement, the Redevelopment Plan, the TIF



Ordinances and the TIF Bond Ordinances (collectively, the "TIF Agreements");

(2) it acknowledges and agrees that it shall be bound by, and hereby covenants to comply with, the terms, conditions, covenants, representations and warranties set forth in the TIF Agreements which, by their terms, are binding upon any owner and operator of the Property;

(3) it shall operate the Building solely for retail and office uses;

(4) neither the undersigned, nor any affiliate thereof, nor any person identified in the organizational chart depicting the undersigned's ownership being delivered to the City simultaneously herewith (the "Transferee Parties"), is (a) in violation of any City laws, regulations and requirements (including, without limitation, any "anti-scofflaw" laws); (b) in default under any other written agreements between any such person or entity and the City, or (c) delinquent in the payment of any amounts due to the City;

(5) the undersigned is qualified to do business in the State of Illinois and has obtained all qualifications, licenses and approvals required by the City of Chicago in order to own and operate the Property; and

(6) the undersigned is solvent, able to pay its debts as they become mature and has the financial capability and business expertise to acquire, own and operate the Property;

(7) the total cash and non-cash consideration to be paid for the Property, and the value of such consideration, is as follows: [INSERT DESCRIPTION]

(8) attached hereto is the Developer-s calculation of the Excess Funds (if any) that will result from the sale;

(9) the undersigned is an Approved Purchaser because of its status as [INSERT DESCRIPTION]:

If the City has further questions concerning the proposed transfer, such questions should be directed to [INSERT NAME, ADDRESS, AND PHONE NUMBER OF PERSON TO BE CONTACTED].

00113493

Sincerely yours,

[PROPOSED TRANSFEREE  
SIGNATURE BLOCK]

00113493

**Exhibit O-1  
Developer Parties Only MBE/WBE Project Budget**

<u>Description</u>	
Asbestos Abatement	\$ 190,300.00
Demolition	\$ 1,311,400.00
Concrete	\$ 746,100.00
Masonry	\$ 78,000.00
Stone	\$ 23,300.00
Structural Steel	\$ 285,400.00
Misc. Steel	\$ -
Rough Carpentry	\$ 21,000.00
Roofing	\$ 29,900.00
Fireproofing	\$ 30,000.00
Hollow metal	\$ 38,400.00
Hardware	\$ 23,800.00
Glass & Glazing	\$ 132,500.00
Lobby	\$ 1,325,000.00
Drywall	\$ 721,300.00
Ceramic	\$ 155,700.00
Acoustic Tile	\$ 12,800.00
Carpet	\$ 49,500.00
Painting	\$ 191,000.00
Access Flooring	\$ 22,700.00
Toilet Access.	\$ 35,100.00
Window treatment	\$ 107,300.00
Elevators	\$ 2,062,500.00
Fire Protection	\$ 576,000.00
Plumbing	\$ 677,800.00
HVAC	\$ 2,418,500.00
Electrical	\$ 3,492,500.00
Final Clean	\$ 29,100.00
Exterior Wall	\$ 1,105,000.00
 Project Soft Costs (A&E)	 \$ 773,316.00
 Sub-Total	 \$ 16,685,018.00
Deduct Elevator Contractor Costs	\$ 2,062,500.00
 Total	 <u>\$ 14,602,518.00</u>

Note: The budget excludes general contractor fees, general conditions, and contingencies.

EXHIBIT O-2

MBE/WBE Budget Sears, Roebuck and Co. Chicago, IL - State Street	
	Project Budget
Environmental Remediation	800,000
Rehabilitation Costs	14,118,000
Installation of Fixtures and Electronics	2,096,000
Architects/Engineering	550,000
	17,564,000 *

\* Figure differs from \$17,771,000 figure in Exhibit O-2 attached to ordinance as a result of DPD-approved exclusions for insurance costs and fire pump and shaft work.