

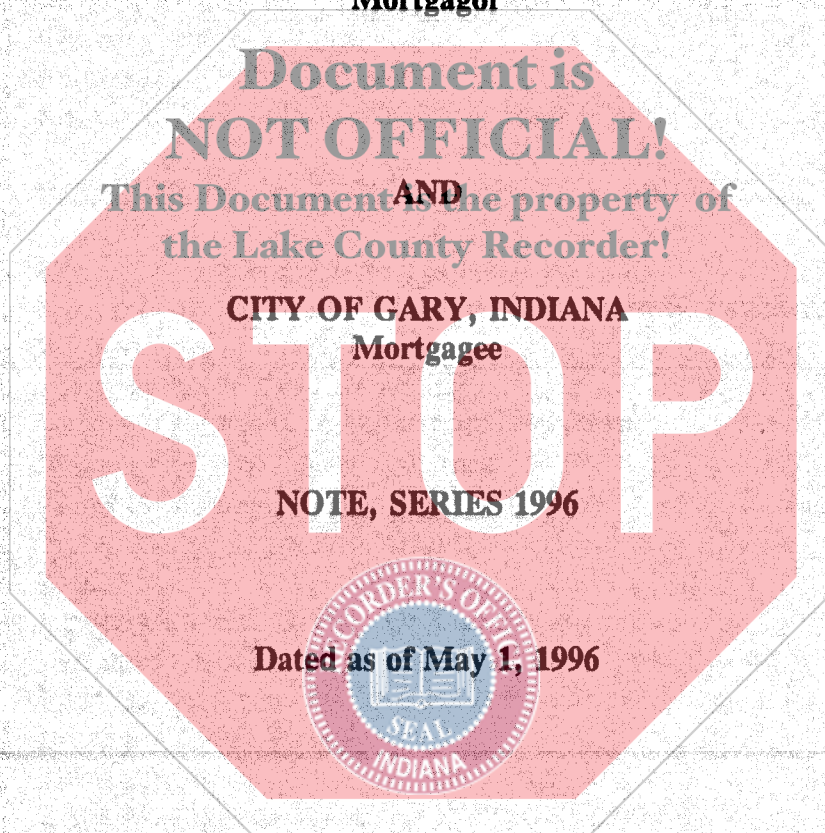
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**LOAN AGREEMENT,  
MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT**

**BETWEEN**

**MADISON AVENUE TOWNHOMES, L.P.  
Mortgagor**

**TICOR TITLE INSURANCE**  
Crown Point, Indiana



96036315

MARSHALL J. CLEGG  
RECORDER

96 MAY 30 AM 10:55

STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD

**The rights of the Issuer hereunder have been assigned to Bank One, Indianapolis, NA, as Trustee under a Trust Indenture dated as of the date hereof, from the Issuer.**

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## TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I. DEFINITIONS AND EXHIBITS . . . . .	4
Section 1.1. Terms Defined . . . . .	4
Section 1.2. Rules of Interpretation . . . . .	9
Section 1.3. Exhibits . . . . .	9
ARTICLE II. REPRESENTATIONS; LOAN OF SERIES 1996 BOND PROCEEDS . . . . .	10
Section 2.1. Representations by Issuer . . . . .	10
Section 2.2. Representations by Borrower . . . . .	10
Section 2.3. Loan of Series 1996 Bonds Proceeds by Issuer . . . . .	12
ARTICLE III. PARTICULAR COVENANTS OF THE BORROWER . . . . .	13
Section 3.1. Consent to Assignments to Trustee . . . . .	13
Section 3.2. Payment of Principal, Premium and Interest; Payments Pledged . . . . .	13
Section 3.3. Maintenance of Lien; Recording . . . . .	14
Section 3.4. Further Assurances; After-acquired Property . . . . .	14
Section 3.5. Merger; Maintenance of Existence . . . . .	15
Section 3.6. Financial Statements, Etc . . . . .	15
Section 3.7. Taxes, Charges and Assessments . . . . .	15
Section 3.8. Liens . . . . .	16
Section 3.9. Compliance with Orders, Ordinances, Etc . . . . .	16
Section 3.10. Permitted Contests; Waiver by Majority of Bondholders . . . . .	16
Section 3.11. Repairs, Maintenance and Alterations . . . . .	17
Section 3.12. Borrower Duties Under Indenture . . . . .	17
Section 3.13. Insurance . . . . .	17
Section 3.14. Trustee's Right to Perform Borrower's Covenants; Advances . . . . .	19
Section 3.15. Indemnity . . . . .	19
Section 3.16. Issuance of Substitute Note . . . . .	20
Section 3.17. Payment of Expenses of Issuance of Series 1996 Bonds . . . . .	20
Section 3.18. Mortgagee Title Insurance Policy . . . . .	20
Section 3.19. Funding of Indenture Funds; Investments . . . . .	20
Section 3.20. Other Amounts Payable by the Borrower . . . . .	21
Section 3.21. Credits on Note . . . . .	21
Section 3.22. Completion of Project . . . . .	22
Section 3.23. Sale, Substitution, or Lease of Mortgaged Property . . . . .	23
Section 3.24. Substitution and Removal of Equipment . . . . .	24

Section 3.25.	Right of Access to the Mortgaged Property . . . . .	25
Section 3.26.	Granting of Easements . . . . .	25
Section 3.27.	Security Agreement . . . . .	25
Section 3.28.	Monthly Deposits . . . . .	27
Section 3.29.	Future Undertakings . . . . .	28
Section 3.30.	Additional Covenants Pertaining to Project, Majority of Bondholders and Lead Purchaser . . . . .	29
Section 3.31.	Covenant to Prepare to Refinance or Convert Project . . . . .	31
<b>ARTICLE IV.</b>	<b>DAMAGE, CONDEMNATION, AND LOSS OF TITLE . . . . .</b>	<b>32</b>
Section 4.1.	Damage . . . . .	32
Section 4.2.	Other Provisions with Respect to Net Proceeds . . . . .	32
Section 4.3.	Requisitions for Net Proceeds . . . . .	33
Section 4.4.	Insufficiency of Net Proceeds . . . . .	34
<b>ARTICLE V.</b>	<b>PREPAYMENT OF SERIES 1996 NOTE . . . . .</b>	<b>35</b>
Section 5.1.	Prepayment Generally . . . . .	35
Section 5.2.	Mandatory Prepayment . . . . .	35
Section 5.3.	Notice of Prepayment . . . . .	35
Section 5.4.	Application of Prepayments . . . . .	35
<b>ARTICLE VI.</b>	<b>COVENANTS CONCERNING EQUITY INVESTOR . . . . .</b>	<b>36</b>
Section 6.1.	Nonrecourse Obligation . . . . .	36
Section 6.2.	General Partner Change . . . . .	36
Section 6.3.	Monetary Default . . . . .	36
Section 6.4.	Non-Monetary Default . . . . .	36
Section 6.5.	Casualty, Condemnations, Etc. . . . .	37
Section 6.6.	Force Majeure . . . . .	37
Section 6.7.	Purchase Rights . . . . .	37
Section 6.8.	Loan Assumption . . . . .	37
Section 6.9.	Trustee Approvals, Etc . . . . .	38
Section 6.10.	Sale of Loan . . . . .	38
<b>ARTICLE VII.</b>	<b>EVENTS OF DEFAULT AND REMEDIES THEREFOR . . . . .</b>	<b>39</b>
Section 7.1.	Events of Default . . . . .	39
Section 7.2.	Foreclosure and Sale of Mortgaged Property . . . . .	41
Section 7.3.	Sale a Bar . . . . .	42
Section 7.4.	Receipt Sufficient Discharge for Purchaser . . . . .	42
Section 7.5.	Sale to Accelerate Note . . . . .	42
Section 7.6.	Application of Proceeds of Sale . . . . .	42

Section 7.7.	Payment of Defaulted Amounts on Demand of Trustee . . . . .	43
Section 7.8.	Trustee May Enforce Demand . . . . .	43
Section 7.9.	Trustee Entitled to Appointment of Receiver . . . . .	44
Section 7.10.	Remedies Cumulative . . . . .	44
Section 7.11.	Delay or Omission Not a Waiver . . . . .	44
Section 7.12.	Waiver of Extension Appraisalment or Stay Laws . . . . .	44
Section 7.13.	Remedies Subject to Provisions of Law . . . . .	45
Section 7.14.	Remedies Under Uniform Commercial Code . . . . .	45
<b>ARTICLE VIII. IMMUNITY . . . . .</b>		<b>46</b>
Section 8.1.	Immunity . . . . .	46
<b>ARTICLE IX. SUPPLEMENTS AND AMENDMENTS TO THIS LOAN AGREEMENT . . . . .</b>		<b>47</b>
Section 9.1.	Supplements and Amendments to this Loan Agreement . . . . .	47
<b>ARTICLE X. DEFEASANCE . . . . .</b>		<b>48</b>
Section 10.1.	Defeasance . . . . .	48
<b>ARTICLE XI. MISCELLANEOUS PROVISIONS . . . . .</b>		<b>49</b>
Section 11.1.	Loan Agreement for Benefit of Parties Hereto . . . . .	49
Section 11.2.	Severability . . . . .	49
Section 11.3.	Limitation on Interest . . . . .	49
Section 11.4.	Addresses for Notice and Demands . . . . .	49
Section 11.5.	Successors and Assigns . . . . .	50
Section 11.6.	Counterparts . . . . .	50
Section 11.7.	Governing Law . . . . .	50



## LOAN AGREEMENT, MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT

This is a LOAN AGREEMENT, MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT, dated as of May 1, 1996 (referred to sometimes as "this Loan Agreement" or "this Mortgage"), between MADISON AVENUE TOWNHOMES, L.P., a limited partnership duly organized and validly existing under the laws of the State of Indiana (the "Borrower"), and CITY OF GARY, INDIANA, (the "Issuer"), a political subdivision and a municipal corporation duly organized and validly existing under the laws of the State of Indiana.

### PRELIMINARY STATEMENT

The Indiana Code, Title 36, Article 7, Chapters 11.9 and 12 (collectively, the "Act"), has been enacted by the General Assembly of Indiana.

The Act provides that an issuer may pursuant to the Act issue bonds for the purpose of financing or refinancing all costs of purchase or construction of facilities, including real and personal property, for diversification of economic development and promotion of job opportunities in or near such issuer.

The Issuer intends to issue its Taxable Economic Development Revenue Bonds, Series 1996 (Madison Avenue Townhomes, L.P. Project) in the principal amount of \$2,000,000 (the "Series 1996 Bonds") pursuant to the Trust Indenture, dated as of May 1, 1996 (the "Indenture"), from the Issuer to Bank One, Indianapolis, NA, as Trustee (the "Trustee"), and intends to lend the proceeds of the Series 1996 Bonds pursuant to the provisions of this Loan Agreement to the Borrower to finance a portion of the costs of certain economic development facilities (the "Project"), and pay a portion of the costs of issuance for the Series 1996 Bonds.

This Loan Agreement provides for the repayment by the Borrower of the loan of the proceeds of the Series 1996 Bonds and further provides (i) for the Borrower's repayment obligation to be evidenced by the Borrower's Note, Series 1996, (the "Series 1996 Note") in substantially the form attached as "Exhibit B," and (ii) for such loan and the Series 1996 Note to be secured by the mortgage and security interest herein provided.

Pursuant to the Indenture, the Issuer will pledge and assign the Series 1996 Note and assign certain of its rights under this Loan Agreement as security for the Series 1996 Bonds. The Series 1996 Bonds will be payable solely out of (i) the deposits required of the Borrower under the Indenture and the payments to be made by the Borrower on the Series 1996 Note, (ii) Bond proceeds and proceeds of condemnation and insurance, (iii) certain incremental property taxes pledged for the payment of the Series 1996 Bonds, and (iv) certain other funds that may be held by the Trustee as collateral for the Series 1996 Bonds.

## GRANTING CLAUSES

In consideration of the premises, the loan of the proceeds of the Series 1996 Bonds to be made by the Issuer, the acceptance of the Series 1996 Note by the Issuer, and of other good and valuable consideration, the receipt whereof is hereby acknowledged, and in order to secure the payment of the principal of, premium, if any, and interest payable on the Series 1996 Note, and any note issued in substitution therefor (herein collectively referred to as the "Note"), the Borrower has executed and delivered this Loan Agreement and by these presents does assign, grant, mortgage and warrant and grant a security interest in, to the Issuer and its successors and assigns forever, all the Borrower's right, title and interest in, to and under any and all of the following described property (herein called the "Mortgaged Property"):

### DIVISION I

The land described in Exhibit A, together with the entire interest (whether now owned or hereafter acquired) in and to said land and the entire interest of the Borrower in and to all buildings, structures, improvements and appurtenances now standing, or at any time hereafter constructed or placed, upon such land, including all right, title and interest of the Borrower, if any, in and to all building material, building equipment and fixtures permanently affixed to the real estate of every kind and nature whatsoever on said land or in any building, structure or improvement now or hereafter standing on said land, including without limiting the generality of the foregoing engines, pumps, dynamos, generators, furnaces, heating equipment, fans, air conditioning equipment, ventilating equipment, refrigerating equipment, cleaning equipment, power equipment, incinerators, plumbing, machinery, appliances, apparatus, devices, hot water heaters, water softeners, electrical fixtures, gas fixtures, light fixtures, windows, doors, storm doors, overhead doors, storm windows, screen doors, screen windows, loading docks and wells, platforms, awnings, television and radio masts and antennae, mail boxes, door openers and controls, sprinklers, alarm systems, flooring, suspended ceilings, grills, and landscaping, built-in equipment, shelves, lofts, outdoor lighting, fences, gates, weather vanes, septic tanks and systems, elevators, if any, and the reversion or reversions, remainder or remainders, in and to said land, and together with the entire interest of the Borrower in and to all and singular the tenements, hereditaments, easements, rights-of-way, rights, privileges and appurtenances to said land, belonging or in any wise appertaining thereto, including without limitation the entire right, title and interest of the Borrower in, to and under any streets, ways, alleys, gores or strips of land adjoining said land, and all claims or demands whatsoever of the Borrower either in law or in equity, in possession or expectancy of, in and to said land, it being the intention of the parties hereto that, so far as may be permitted by law, all property of the character hereinabove described, which is now owned or is hereafter acquired by the Borrower and is permanently affixed or attached to said land, shall be and remain or become and constitute a portion of the land and the security covered by and subject to the lien of this Mortgage, and, subject to the terms and conditions of this Mortgage, together with all rents, income, revenues, issues and profits thereof;

**DIVISION II**

All machinery, equipment, fixtures and tangible personal property of the Borrower located on the land described in Exhibit A hereto, and any substitutions and replacements therefor, whether now owned or hereafter acquired (herein called the "Equipment"); and the proceeds from the sale, transfer or other disposition thereof;

**DIVISION III**

Any and all other property of every kind and nature from time to time hereafter, by delivery or by writing of any kind, conveyed, pledged, assigned or transferred as and for additional security hereunder by the Borrower or by anyone in its behalf to the Issuer or the Trustee, including without limitation, funds of the Borrower held by the Trustee as security for the Bonds;

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DIVISION IV

All moneys and securities from time to time held by the Issuer or the Trustee under the terms of this Mortgage or the Indenture.

**SUBJECT, HOWEVER, to Permitted Encumbrances, as defined in Article I;**

**TO HAVE AND TO HOLD** all and singular, the Mortgaged Property, whether now owned or hereafter acquired, unto the Issuer, its successors and assigns forever; provided, however, that this Mortgage is executed upon the express condition that if the Borrower shall pay or cause to be paid all indebtedness secured hereby and shall keep, perform and observe all and singular the covenants and promises expressed in the Note and this Mortgage to be kept, performed and observed by the Borrower, then this Mortgage and the rights hereby granted shall cease, determine and be void; otherwise to remain in full force and effect.

**The Borrower and the Issuer hereby further covenant and agree as follows:**

## ARTICLE I.

### DEFINITIONS AND EXHIBITS

Section 1.1. Terms Defined. As used in this Mortgage, the following terms shall have the following meanings unless the context clearly otherwise requires:

"Act" means Indiana Code 36-7-11.9 and 12, and any successor provisions of the Indiana Code or successor codes.

"Bondholder," "owner of a Bond," "holder," or any similar term means the owner of a Bond.

"Bond Fund" means the Bond Fund established by Section 402 of the Indenture.

"Borrower" means Madison Avenue Townhomes, L.P., a limited partnership duly organized and validly existing under the laws of the State of Indiana and in good standing in the State of Indiana, or any successors thereto permitted under Section 3.5 hereof.

"Completion Date" means the date of delivery to the Trustee of the certificate required by Section 403(b) of the Indenture, evidencing the completion of the Project.

"Construction Fund" means the Construction Fund established in Section 403 of the Indenture.

"Commission" means the Gary Economic Development Commission, an economic development commission created by the Issuer, pursuant to the Act.

"Counsel" means an attorney duly admitted to practice law before the highest court of any state and, without limitation, may include legal counsel for either the Issuer or the Borrower.

"Equipment" shall have the meaning ascribed thereto in Division II of the Granting Clauses hereof.

"Fiscal Year" means any period of twelve consecutive months adopted by the Borrower as its fiscal year for financial reporting purposes and initially shall mean the period beginning on January 1 of each calendar year and ending on December 31 of the same calendar year.

"Indenture" means the Trust Indenture, dated as of May 1, 1996, from the Issuer to the Trustee and all amendments and supplements thereto.



"Issuer" means the City of Gary, Indiana, or any successor thereto or assign thereof.

"Lead Purchaser" means Bank One, Merrillville, NA, and its successors and assigns.

"Loan" means the loan by the Issuer to the Borrower of the proceeds of the sale of the Series 1996 Bonds.

"Majority of Bondholders" means the owners of at least 60% in aggregate principal amount of Bonds outstanding.

"Mortgaged Property" means the property described in the Granting Clauses hereof plus any additional property which shall have been subjected to the lien hereof pursuant to the provisions of Article VI hereof.

"Net Proceeds," when used with respect to any insurance or condemnation award, means the gross proceeds from the insurance or condemnation award remaining after payment of all expenses (including attorneys' fees and any extraordinary expenses of the Trustee or the Issuer) incurred in the collection of such gross proceeds.

"Outstanding," with reference to Bonds, means all Bonds theretofore issued and not yet paid and discharged under the terms of the Indenture, and with reference to the Note, means the Note issued and not yet paid and discharged under the terms of this Loan Agreement.

"Permitted Encumbrances" means, as of any particular time, (i) any exception to title shown in Exhibit A, (ii) liens for ad valorem taxes and special assessments or installments thereof not then delinquent, (iii) this Mortgage and the Indenture, (iv) a subordinated mortgage from Madison Avenue Townhomes, L.P. to the City of Gary, Indiana, dated November 21, 1995, securing a \$550,000 promissory note dated November 21, 1995 in favor of the City of Gary (representing funds available under the HOME Program of the Department of Housing and Urban Development) and a subordinated mortgage from Madison Avenue Townhomes, L.P. to the City of Gary, Indiana, dated November 15, 1995, securing a \$300,000 promissory note dated November 15, 1995 in favor of the City of Gary (representing funds available under the Community Development Block Grant Program), (v) utility, access and other easements and rights-of-way, mineral rights, restrictions and exceptions that will not, in the opinion of the Trustee, materially interfere with or impair the operations being conducted on the real estate included in the Mortgaged Property, (vi) such easements, rights-of-way, zoning and building laws, ordinances or regulations and similar restrictions as do not, in the opinion of the Trustee, materially impair the value of the Mortgaged Property affected thereby or its usefulness for the purpose for which it was acquired or is held by the Borrower, (vii) liens arising in connection with workmen's compensation, unemployment insurance, social security, taxes, assessments, statutory obligations, or other similar liens and charges arising in the ordinary course of the Borrower's operations or required by law as a condition precedent to the transaction of the business of the Borrower or the exercise of any privileges or licenses of the Borrower; provided, however, that no amount secured by any lien or charge described in this item (vii) shall be

overdue or, if overdue, is being contested in good faith by the Borrower, and the Borrower has established appropriate reserves in connection therewith, and if the amount involved exceeds \$10,000 the Borrower has reserved sufficient amounts with the Trustee to satisfy all such liens, (viii) mechanics' liens of record arising from the construction of the Project, provided such liens are being contested by the Borrower in good faith and provided further than the Borrower shall have reserved sufficient amounts with the Trustee to satisfy all such liens, (ix) purchase money security interests in additional Equipment for the Project, and (x) approved tenant leases.

"Project" means the economic development facilities described in Exhibit A hereto and made a part hereof.

"Project Costs" with respect to the Project shall be deemed to include those items included in Section 29 of the Act including, but not limited to:

- (a) obligations of the Issuer or of the Borrower incurred for labor and materials (including obligations payable to the Borrower) in connection with the acquisition, construction, installation and equipping of the Project;
- (b) the cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of construction of the Project;
- (c) all costs and expenses of site preparation, engineering services, including the costs of the Issuer or the Borrower for test borings, surveys, estimates, plans and specifications and preliminary investigation therefor, and for supervising construction, as well as for the performance of all other duties required by or consequent upon the proper construction of the Project;
- (d) all costs and expenses which the Issuer or the Borrower shall be required to pay, under the terms of any contract or contracts (including the architectural and engineering, development, and legal services with respect thereto), for the acquisition, installation or equipping of the Project; and
- (e) any sums required to reimburse the Issuer or the Borrower for advances made by either of them subsequent to the date of inducement by the Common Council of the Issuer for any of the above items or for any other costs incurred and for work done by either of them which are properly chargeable to the Project.

"Project Site" means the real estate, as described in the legal description in Exhibit A hereto, on which the Project is located.

"Qualified Investments" means dollar denominated investments in any of the following:

- (1) government securities;

(2) direct obligations of any agency of instrumentality of the United States of America and obligations on which the timely payment of principal and interest is fully guaranteed by any such agency or instrumentality;

(3) certificates of deposit, time deposits or other direct, unsecured debt obligations of any bank (including without limitation the Trustee), trust company of savings and loan association if all of the direct unsecured debt obligations of such institution at the time of purchase of such certificates of deposit, time deposits or obligations, which are rated by a Rating Agency are rated by at least two Rating Agencies in one of the three highest rating categories assigned by such agencies (without regard to any refinement or gradation of rating category by numerical modifier or otherwise).

(4) certificates of deposit or time deposits of any bank (including the Trustee), trust company or savings and loan association which certificates of deposit or time deposits are fully insured by a federally sponsored deposit insurance program;

(5) investment agreements which meet the rating criteria set forth in (3) above or investment agreements with non-bank financial institutions (1) all of the unsecured, direct long-term debt of which non-bank financial institutions which is rated by a Rating Agency is rated by at least two Rating Agencies in one of the three highest rating categories (without regard to any refinement or gradation of rating category by numerical modifier or otherwise) assigned by such agencies for obligations of that nature; or (2) if such non-bank financial institutions have no such outstanding long-term debt which is rated, all of the short-term debt of which is rated by a Rating Agency is rated by at least two Rating Agencies in the highest rating category (without regard to any refinement or gradation of rating category by numerical modifier or otherwise) assigned to short-term indebtedness by such agencies.

(6) shares of a fund registered under the Investment Company Act of 1940, as amended, whose shares are registered under the Securities Act of 1933, as amended, having assets of at least \$100,000,000, whose only assets are obligations described in clauses (1), (2), (3), (7), (9) or (11) of this definition of Qualified Investments;

(7) commercial paper which, at the time of purchase, is rated by at least two Rating Agencies in the one of the three highest categories (without regard to any refinements or gradation of rating category by numerical modifier or otherwise) assigned by such agencies for obligations of that nature;

(8) obligations of, or obligations fully guaranteed by, any state of the United States of America or any political subdivision thereof which obligations, at the time of purchase, are rated by at least two Rating Agencies in one of the three highest rating categories (without regard to any refinement or gradation of rating category by numerical modifier or otherwise) assigned by such agencies to obligations of that nature;

(9) senior debt obligations of any corporation organized under the laws of any state of the United States of America which securities, at the time of purchase, are rated by at least two Rating Agencies in one of the three highest rating categories (without regard to any refinements or gradation of rating category by numerical modifier or otherwise) assigned by such agencies for obligations of that nature;

(10) obligations which are rated "AAA" by Standard & Poor's or "Aaa" by Moody's and which are not subject to redemption prior to maturity (except as provided in the security agreement described below) and are issued or incurred by any state, commonwealth or territory of the United States of America or any political subdivision, public instrumentality or public authority of any state, commonwealth or territory of the United States of America, which obligations are fully secured by and payable solely from an escrow fund consisting of direct obligations of, or obligations the timely payment of principal and interest on which are fully guaranteed by, the United States of America, which security is held by a corporate fiduciary pursuant to an escrow agreement (which may not be amended to provide for redemption on a date earlier than that originally contemplated by the parties on the date such escrow agreement was first executed) and the sufficiency of which for payment of such obligations has been verified by an accountant in a report delivered to the Trustee;

(11) bankers acceptances of any bank, including the Trustee, if all of the direct, unsecured debt obligations of such institution at the time of purchase of such acceptances which are rated by a Rating Agency are rated by at least two Rating Agencies in one of the three highest rating categories (without regard to any refinement or gradation of rating category by numerical modifier or otherwise) by such agencies; and

(12) Money market funds, the assets of which are obligations of or guaranteed by the United States of America, which shall include money market funds offered by the Trustee, and which funds are rated "Am" or "Am-G" or higher by Standard & Poor's Corporation at the time of purchase.

"Series 1996 Bonds" or "Bonds" means the Issuer's Taxable Economic Development Revenue Bonds, Series 1996 (Madison Avenue Townhomes, L.P. Project) to be issued by the Issuer under the Indenture in the aggregate principal amount of \$2,000,000 and any Bonds issued in substitution or replacement therefor.

"Series 1996 Note" or "Note" means the Series 1996 Note of the Borrower in the principal amount of \$2,000,000 in substantially the form attached hereto as Exhibit B which will be issued and delivered by the Borrower to the Issuer to evidence the loan of the proceeds of the Series 1996 Bonds and any Note issued in exchange therefor pursuant to Section 3.16 hereof.

"Trustee" means the trustee and/or co-trustee at the time serving as such under the Indenture, and shall initially mean Bank One, Indianapolis, NA.

Section 1.2. Rules of Interpretation. For all purposes of this Loan Agreement, except as otherwise expressly provided, or unless the context otherwise requires:

(a) "This Loan Agreement" or "this Mortgage" means this instrument as originally executed and as it may from time to time be supplemented or amended pursuant to the applicable provisions hereof.

(b) All references in this instrument to designated "Articles," "Sections" and other subdivisions are to the designated Articles, Sections and other subdivisions of this instrument as originally executed. The words "herein," "hereof" and "hereunder" and other words of similar import refer to this Loan Agreement as a whole and not to any particular Article, Section or other subdivision.

(c) The terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular and the singular as well as the plural.

(d) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles as consistently applied.

(e) Any terms not defined herein but defined in the Indenture shall have the same meaning herein.

(f) The terms defined elsewhere in this Loan Agreement shall have the meanings therein prescribed for them.

Section 1.3. Exhibits. The following Exhibits are attached to and by reference made a part of this Loan Agreement.

Exhibit A. Description of the Project and Project Site.

Exhibit B. Form of Series 1996 Note.

(End of Article I)

## ARTICLE II.

### REPRESENTATIONS; LOAN OF SERIES 1996 BOND PROCEEDS

Section 2.1. Representations by Issuer. The Issuer represents and warrants that:

(a) The Issuer is a political subdivision and municipal corporation duly organized and validly existing under the laws of the State of Indiana. Under the provisions of the Act, the Issuer is authorized to enter into the transactions contemplated by this Loan Agreement and to carry out its obligations hereunder. The Issuer has been duly authorized to execute and deliver this Loan Agreement. The Issuer agrees that it will do or cause to be done all things necessary to preserve and keep in full force and effect its existence.

(b) The Issuer agrees to provide funds from the issuance of the Series 1996 Bonds to finance and refinance the Project, subject to the consideration of the Series 1996 Note and the Borrower granting a mortgage and security interest on the Project to the Issuer, all for the benefit of the holders of the Bonds, to the end that industry and the economy may be diversified and job opportunities promoted, and to secure the Bonds by pledging its interest in this Loan Agreement and the Series 1996 Note to the Trustee.

(c) The Issuer represents that the Series 1996 Note will be assigned to the Trustee pursuant to the Indenture, and that no further assignment is contemplated by the Issuer, since the Issuer recognizes that the Series 1996 Note has not been registered under the Securities Act of 1933.

Section 2.2. Representations by Borrower. The Borrower represents and warrants that:

(a) The Borrower is a limited partnership duly organized and validly existing under the laws of the State of Indiana, is not in violation of any provision of its Partnership Agreement, has not received notice and has no reasonable grounds to believe that it is in violation of any laws in any manner material to its ability to perform its obligations under this Loan Agreement and the Series 1996 Note, has power to enter into and to perform its obligations under this Loan Agreement and the Series 1996 Note and has duly authorized the execution and delivery of this Loan Agreement and the Series 1996 Note by appropriate action.

(b) All of the proceeds from the Series 1996 Bonds (including any income earned on the investment of such proceeds, but after reduction for costs of issuance) will be used for construction and equipping of the Project or for payment of costs of issuance or debt service on the Series 1996 Bonds.

(c) The Borrower intends to operate or cause the Project to be operated as an economic development facility until the expiration or earlier termination of this Agreement as provided herein.

(d) The Project is of the type authorized and permitted by the Act, and it is located entirely within the corporate limits of the Issuer.

(e) Neither the execution and delivery of this Loan Agreement, the consummation of the transactions contemplated hereby and thereby including execution and delivery of the Series 1996 Note nor the fulfillment of or compliance with the terms and conditions of this Loan Agreement, will contravene any law or any governmental rule, regulation or order presently binding on the Borrower or conflicts with or results in a breach of the terms, conditions or provisions of any corporate restriction or any agreement or instrument to which Borrower is now a party or by which it is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any liens, charges, or encumbrances whatsoever upon any of the property or assets of Borrower under the terms of any instrument or agreement.

(f) The Borrower represents and warrants that it is now lawfully seized and possessed and as of the date of closing will be the lawful owner of the Project Site, free and clear of all liens, security interests, charges or encumbrances whatever except Permitted Encumbrances, and that the Borrower has full power and lawful authority to mortgage and grant a security interest in the Project Site and improvements thereon and in the Equipment to the Issuer; and that the Borrower has a good and marketable title to the Project Site except Permitted Encumbrances and will preserve, warrant and defend the same unto the Issuer against the claims of all persons and parties. This Mortgage constitutes a direct and valid first lien on such Mortgaged Property, subject only to Permitted Encumbrances.

(g) The execution, delivery and performance by the Borrower of this Loan Agreement and the Series 1996 Note do not require the consent or approval of, the giving of notice to, the registration with, or the taking of any other action in respect of, any federal, state or other governmental authority or agency, not previously obtained or performed.

(h) Assuming the due authorization, execution and delivery thereof by the other parties thereto, this Loan Agreement and the Series 1996 Note have been duly executed and delivered by the Borrower and constitute the legal, valid and binding agreements of the Borrower, enforceable against the Borrower in accordance with their respective terms, except as may be limited by bankruptcy, insolvency or other similar laws affecting the enforcement of creditors' rights in general. The enforceability of the Borrower's obligations under said documents is subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity).

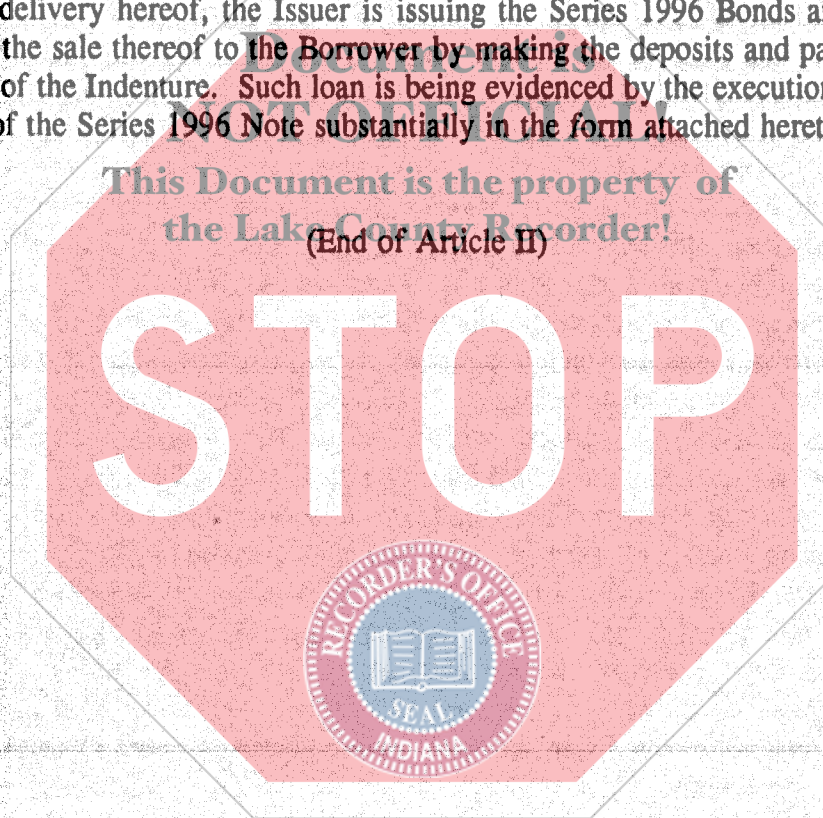
(i) There are no actions, suits or proceedings pending, or to the knowledge of the Borrower, threatened, before any court, administrative agency or arbitrator which, individually or in the aggregate, might result in any material adverse change in the financial condition of the

Borrower or might impair the ability of the Borrower to perform its obligations under this Loan Agreement or the Series 1996 Note.

(j) No event has occurred and is continuing which with the lapse of time or the giving of notice would constitute an Event of Default under this Loan Agreement or the Series 1996 Note.

(k) The indication of interest by the Issuer on the date of adoption of the Issuer's inducement resolution to issue its Series 1996 Bonds and lend the proceeds to the Borrower for the purposes set forth herein has encouraged the Borrower to acquire and construct the Project, and will promote diversification of economic development and create new or preserve existing job opportunities in the area.

Section 2.3. Loan of Series 1996 Bonds Proceeds by Issuer. Concurrently with the execution and delivery hereof, the Issuer is issuing the Series 1996 Bonds and is lending the proceeds from the sale thereof to the Borrower by making the deposits and payments specified in Section 301 of the Indenture. Such loan is being evidenced by the execution and delivery by the Borrower of the Series 1996 Note substantially in the form attached hereto as Exhibit B.





## ARTICLE III.

### PARTICULAR COVENANTS OF THE BORROWER

Section 3.1. Consent to Assignments to Trustee. The Borrower acknowledges and consents to the pledges and assignments of the Series 1996 Note and the assignment of the Issuer's rights hereunder to the Trustee pursuant to the Indenture and agrees that the Trustee may enforce the rights, remedies and privileges granted to the Issuer hereunder other than the rights to receive payments under Sections 3.15, 3.17, and 3.20 hereof and to execute and deliver supplements and amendments to this Loan Agreement pursuant to Section 9.1 hereof.

Section 3.2. Payment of Principal, Premium and Interest; Payments Pledged. The Borrower will duly and punctually pay the principal of, premium, if any, and interest on the Note at the rates and the places and in the manner mentioned in the Note and in this Loan Agreement according to the true intent and meaning thereof and hereof.

The Borrower covenants and agrees with and for the express benefit of the Issuer, the Trustee and the owners of the Bonds that all payments pursuant hereto and to the Note shall be made by the Borrower on or before the date the same become due, and the Borrower shall perform all of its other obligations, covenants and agreements hereunder, without notice or demand (except as provided herein), and without abatement, deduction, reduction, diminution, waiver, abrogation, set-off, counterclaim, recoupment, defense or other modification or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising, and regardless of any act of God, contingency, event or cause whatsoever, and irrespective (without limitation) of whether the Borrower's Mortgaged Property or to any part thereof is defective or nonexistent, or whether the Borrower's revenues are sufficient to make such payments, and notwithstanding any damage to, or loss, theft or destruction of, the Mortgaged Property or any part thereof, expiration of this Mortgage, any failure of consideration or frustration of purpose, the taking by eminent domain or otherwise of title to or of the right of temporary use of, all or any part of the Mortgaged Property, legal curtailment of the Borrower's use thereof, or whether with or without the approval of the Issuer, any change in the tax or other laws of the United States of America, the State of Indiana, or any political subdivision of either thereof, any change in the Issuer's legal organization or status, or any default of the Issuer hereunder, and regardless of the invalidity of any portion of this Mortgage; and the Borrower hereby waives the provisions of any statute or other law now or hereafter in effect impairing or conflicting with any of its obligations, covenants or agreements under this Mortgage or which releases or purports to release the Borrower therefrom. Nothing in this Mortgage shall be construed as a waiver by the Borrower of any rights or claims the Borrower may have against the Issuer under this Mortgage or otherwise, but any recovery upon such rights and claims shall be had from the Issuer separately, it being the intent of this Mortgage that the Borrower shall be unconditionally and absolutely obligated without right of set-off or abatement,

to perform fully all of its obligations, agreements and covenants under this Mortgage for the benefit of the holders of the Bonds.

It is understood and agreed that all payments made by the Borrower pursuant to Section 3.2 hereof and the Note are pledged to the Trustee pursuant to the granting clauses of the Indenture. The Borrower assents to such pledge, and hereby agrees that, as to the Trustee, its obligation to make such payments shall be absolute and shall not be subject to any defense or any right of set-off, counterclaim or recoupment arising out of any breach by the Issuer or the Trustee of any obligation to the Borrower, whether hereunder or otherwise, or out of any indebtedness or liability at any time owing to the Borrower by the Issuer. The Issuer hereby directs the Borrower and the Borrower hereby agrees to pay to the Trustee at its principal office all said amounts payable by the Borrower pursuant to Section 3.2 hereof and the Note.

It is understood and agreed that the Borrower shall be obligated to continue to pay the amounts specified herein and in the Note whether or not the Project is damaged, destroyed or taken in condemnation and that there shall be no abatement of any such payments and other charges by reason thereof.

**Section 3.3. Maintenance of Lien; Recording.** The Borrower will, at its expense, take all necessary action to maintain and preserve the lien and security interest of this Mortgage so long as the Note is outstanding. The Borrower will, forthwith after the execution and delivery of this Mortgage and thereafter from time to time, cause this Mortgage and any financing statements in respect thereof to be filed, registered and recorded in such manner and in such places as may be required by law in order to publish notice of and fully to protect the lien and security interest hereof upon, and the title of the Borrower to, the Mortgaged Property; and from time to time will perform or cause to be performed any other act as provided by law and will execute or cause to be executed any and all continuation statements and further instruments that may be requested by the Issuer or Trustee for such publication and protection. The Borrower will pay or cause to be paid all filing, registration and recording fees incident to such filing, registration and recording, and all expenses incident to the preparation, execution and acknowledgment of such instruments of further assurance, and all federal or state fees and other similar fees, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Mortgage and such instruments of further assurance.

**Section 3.4. Further Assurances; After-acquired Property.**

(a) The Borrower will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, all such further acts, deeds, conveyances, mortgages, assignments, transfers and assurances as the Issuer or Trustee reasonably may require for the better assuring, conveying, mortgaging, assigning and confirming unto the Issuer and the Trustee all and singular the Mortgaged Property as now or hereafter constituted.

(b) All right, title and interest of the Borrower in and to all improvements, betterments, renewals, substitutions and replacements of, the Mortgaged Property or any part

thereof, hereafter constructed or acquired by the Borrower immediately upon such construction or acquisition, without any further mortgaging, conveyance or assignment, shall become and be part of the Mortgaged Property and shall be subject to the lien and security interest of this Mortgage and Parity Instruments as fully and completely and with the same effect as though now owned by the Borrower, but at any and all times the Borrower will execute and deliver to the Issuer any and all such further assurances, mortgages, conveyances or assignments therefor and other instruments with respect thereto as the Issuer may reasonably require for the purpose of expressly and specifically subjecting the same to the lien and security interest of this Mortgage.

Section 3.5. Merger; Maintenance of Existence. The Borrower agrees that it will at all times maintain its existence as a limited partnership. The Borrower also agrees that it will maintain its existence, will not dissolve or otherwise dispose of all or substantially all of its assets, and will not consolidate with or merge into another entity, or permit one or more other entities to consolidate or merge with it without the consent of the Majority of Bondholders.

Section 3.6. Financial Statements, Etc.

(a) The Borrower agrees to maintain a standard and modern system of accounting in accordance with generally accepted accounting principles consistently applied.

(b) The Borrower shall furnish to the Trustee (who shall hold on file for the benefit of the Bondholders) and the Lead Purchaser (who shall make such information available to all Bondholders):

(i) within 90 days after the close of each Fiscal Year, beginning with the first fiscal year ending after the date hereof, a copy of the annual financial statements of the Borrower, audited by an independent certified public accountant selected by the Borrower and reasonably acceptable to the Trustee and the Majority of Bondholders and accompanied by an opinion of such accountants unqualified as to scope;

(ii) Upon completion of the Project, monthly reports, including a detailed rent roll and income and expense statement in a form reasonably satisfactory to the Majority of Bondholders.

Section 3.7. Taxes, Charges and Assessments. The Borrower covenants and agrees, subject to the provisions of Section 3.10 hereof, to pay when the same shall become due or payable:

(a) all taxes and charges on account of the ownership, use, occupancy or operation of the Mortgaged Property, including but not limited to all sales, use, occupancy, real and personal property taxes, all permit and inspection fees, occupation and license fees and all water, gas, electric light, power or other utility charges assessed or charged on or against such Mortgaged Property or on account of the Borrower's use or occupancy thereof or the activities conducted thereon or therein; and

(b) all taxes, assessments and impositions, general and special, ordinary and extraordinary, of every name and kind, which shall be taxed, levied, imposed or assessed upon all or any part of such Mortgaged Property, or the interest of the Borrower therein.

If under applicable law any such tax, charge, fee, rate, imposition or assessment may at the option of the taxpayer be paid in installments, the Borrower may exercise such option.

Nothing contained herein shall be deemed to constitute an admission by the Borrower that the Borrower is liable for any tax, charge, fee, rate, imposition or assessment.

(c) Upon the written request of the Majority of Bondholders, the Borrower shall deposit monthly payments into a separate escrow account held by the Trustee to pay insurance with respect to the Project and property taxes, other than the Pledged Taxes (as defined in the Indenture). Such escrow shall be administered pursuant to a standard form escrow agreement reasonably acceptable to the Majority of Bondholders, the Borrower and the Trustee.

Section 3.8. Liens. Subject to the provisions of Section 3.10 hereof, the Borrower will not create or permit to be created or remain and will, at its cost and expense, promptly discharge all liens, security interests, encumbrances and charges on the Mortgaged Property or any part thereof other than Permitted Encumbrances.

Section 3.9. Compliance with Orders, Ordinances, Etc. Subject to the provisions of Section 3.10 hereof, the Borrower will, at its sole cost and expense, comply with all present and future laws, ordinances, orders, decrees, rules, regulations and requirements of every duly constituted governmental authority, commission and court and the officers thereof of which it has notice, and the failure to comply with which would materially and adversely affect the Mortgaged Property or the use, occupancy or condition thereof.

Section 3.10. Permitted Contests; Waiver by Majority of Bondholders. The Borrower shall not be required to pay any tax, charge or assessment required to be paid under Section 3.7 hereof, nor to remove any lien, security interest, encumbrance or charge required to be removed under Section 3.8 hereof, nor to comply with any law, ordinance, order, decree, rule, regulation or requirement referred to in Section 3.9 hereof, (a) if the Majority of Bondholders shall have consented thereto in writing; or (b) so long as the Borrower shall in good faith and at its cost and expense contest the amount or validity thereof, or take other appropriate action with respect thereto, in an appropriate manner or by appropriate proceedings, which shall operate during the pendency thereof to prevent the collection of or other realization upon the tax, charge, assessment, lien, security interest or encumbrance so contested, and the sale, forfeiture or loss of the Mortgaged Property or any part thereof to satisfy the same; provided, that no such contest or action shall subject the Issuer or the Trustee to any liability unless the Borrower properly indemnifies the Issuer or the Trustee, as the case may be. While any such matters are pending, the Borrower shall have the right to pay, remove or cause to be discharged or marked exempt the tax, charge, assessment, lien, security interest or encumbrance being contested. Each such contest shall be promptly prosecuted to final conclusion or settlement, and the Borrower will

pay, and save the Issuer and the Trustee harmless against, all losses, judgments, decrees and costs (including attorneys' fees and expenses in connection therewith) and will, promptly after the final determination or settlement of such contest or action, pay and discharge the amounts which shall be levied, assessed or imposed or determined to be payable thereon, together with all penalties, fines, interests, costs and expenses thereon or in connection therewith. During the pendency of each such contest, the Borrower shall maintain in escrow with the Trustee appropriate reserves equalling the disputed amount for any contested liability.

Section 3.11. Repairs, Maintenance and Alterations. The Borrower will at its own cost and expense maintain a replacement reserve account as required by its Partnership Agreement and keep the Mortgaged Property in good repair and order, reasonable wear and tear excepted, and in as reasonably safe condition as its operation will permit and will make all necessary repairs thereto, interior and exterior, structural and non-structural, ordinary as well as extraordinary and foreseen as well as unforeseen, and all necessary replacements or renewals.

The Borrower shall have the right from time to time with notice to the Bondholders at its own cost and expense to make additions, alterations and changes, whether structural or non-structural (hereinafter collectively referred to as "alterations") in or to the Mortgaged Property, subject, however, in all cases to the following conditions:

(a) No building or buildings constructed as part of the Project or constituting a part of the Mortgaged Property shall be demolished or removed, nor shall any alteration to such property be made until the Borrower first obtains the written opinion of an architect or consulting engineer licensed in the State, that such changes would not substantially impair the structural strength, utility or market value thereof; and

(b) All alterations to such property shall be located wholly within the boundary lines of the real property which constitutes part of the Mortgaged Property.

With respect to any repairs, acquisition, restoration, replacement or alterations performed upon the Mortgaged Property by the Borrower during the term and in accordance with or as required by any provisions of the Loan Agreement, the Borrower agrees to comply at all times with the provisions of the Loan Agreement.

Section 3.12. Borrower Duties Under Indenture. The Borrower agrees to perform all matters provided by the Indenture to be performed by the Borrower, including specifically in Article IV thereof, and to comply with all provisions of the Indenture applicable to the Borrower.

Section 3.13. Insurance. The Borrower shall maintain the following insurance at its sole cost and expense:

(a) Insurance against loss and/or damage to the Mortgaged Property under a policy or policies covering such risks as are ordinarily insured against by similar companies, but in any

event including fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, damage from aircraft, smoke and uniform standard extended coverage and vandalism and malicious mischief endorsements, limited only as may be provided in the standard form of such endorsements at the time in use in the State of Indiana. Such insurance shall be in such amount as shall be approved by the Majority of Bondholders. No policy of insurance shall be so written that the proceeds thereof will produce less than the minimum coverage required by the preceding sentence, by reason of co-insurance provisions or otherwise, without the prior consent thereto in writing by the Majority of Bondholders.

(b) Comprehensive general public liability insurance, including professional liability insurance, for injuries to persons and/or property, in limits not less than, and with deductibles not greater than, that approved by the Majority of Bondholders.

(c) Workmen's compensation insurance respecting all employees of the Borrower in such amount as is customarily carried by like organizations engaged in like activities of comparable size and liability exposure.

(d) Rent interruption or use and occupancy insurance on the Project and any other buildings the revenues and receipts of which are pledged to the payment of the Note in an amount sufficient to enable the Borrower to deposit in the Bond Fund out of the proceeds of such insurance an amount equal to the sum that would normally have been available for deposit in the Bond Fund during the time, up to not less than 12 months, that the Borrower experiences a substantial loss in revenues and receipts as a result of loss of use caused by the perils described in subsection (a), and sufficient to pay the salaries of necessary officers and employees during that same time.

Each policy of insurance shall (i) be issued by one or more recognized, financially sound and responsible insurance companies qualified or authorized under the laws of the State of Indiana to assume the risks covered by such policy, (ii) name the Trustee, the Borrower, and the Issuer as assureds, as their respective interests may appear, and (iii) provide that such policy shall not be cancelled without at least 30 days prior written notice to each assured named therein. With respect to the insurance required by subsection (a) above, the policy or policies shall provide that whenever the Net Proceeds resulting from a claim exceed \$10,000, such Net Proceeds shall be payable to the Trustee, and if such Net Proceeds are equal to or less than \$10,000, such Net Proceeds shall be payable directly to the Borrower. As to the insurance required by subsections (b) and (c) above, the Net Proceeds shall be payable to or for the benefit of the Borrower.

Upon the delivery of this Loan Agreement and thereafter not less than 10 days prior to the expiration dates of any policies, certificates, binders, or other evidence of insurance satisfactory to the Trustee given by the respective insurers of such policies shall be delivered by the Borrower to the Trustee. If requested in writing by the Trustee, the Borrower shall furnish the Trustee with the schedule of premium payment dates and receipted bills or other evidence satisfactory to the Trustee of the payment when due of all premiums for all policies of insurance

at any time required to be maintained hereunder. Upon reasonable prior written notice the Borrower will permit the Trustee to visit the offices of the Borrower and inspect the Borrower's insurance records including all policies of insurance maintained pursuant to this Section and to make copies of all or any part thereof.

The Borrower shall furnish to the Trustee within thirty (30) days after the end of each Fiscal Year a report regarding each existing policy of insurance showing the name of the insurer, the name of the insureds, the risk insured against, the amount of the policy, and such other information as the Trustee may require. Such report shall also show, with respect to casualty insurance, the properly insured, the then current replacement cost and the manner of determining such cost. The Borrower shall furnish to the Trustee within five (5) business days after any such policies are renewed, original copies of all insurance policies purchased by Borrower or under which Borrower is named insured.

Any of the foregoing insurance maintained by the Borrower pursuant hereto may be evidenced by one or more blanket insurance policies covering the Mortgaged Property and other property or assets of the Borrower, provided that any such policy shall specify that portion of the total coverage of such policy that is allocated to the Mortgaged Property and shall in all other respects comply with the requirements of this Section.

All insurance coverage required under this Section 3.13 is subject to review and approval by an Insurance Consultant, such approval to be certified by such Insurance Consultant in a report to the Trustee submitted not less frequently than once every two years (from the anniversary of the date of delivery of the Series 1996 Bonds).

Section 3.14. Trustee's Right to Perform Borrower's Covenants; Advances. In the event the Borrower shall fail to (i) perform any covenant contained in Section 3.7 hereof, (ii) remove any lien, security interest, encumbrance or charge pursuant to Section 3.8 hereof, (iii) maintain the Mortgaged Property in repair pursuant to Section 3.11 hereof, (iv) procure the insurance required by Section 3.13 hereof, or (v) fail to make any other payment or perform any other act required to be performed hereunder, then and in each such case (unless the same is being contested or other appropriate action is being taken with respect thereto pursuant to Section 3.10 hereof) the Trustee, upon not less than 5 days prior written notice to the Borrower, may (but shall not be obligated to) remedy such default for the account of the Borrower and make advances for that purpose. No such performance or advance shall operate to release the Borrower from any such default, and any sums so advanced by the Trustee shall be repayable by the Borrower on demand and shall bear interest at the per annum rate of interest established and quoted by the Trustee as its prime rate from the date of the advance until repaid.

Section 3.15. Indemnity. The Borrower will pay, and protect, indemnify and save the Issuer, the Commission, the Bondholders and the Trustee harmless from and against, all liabilities, losses, damages, costs, expenses (including attorneys' fees and expenses of the Issuer and the Trustee), causes of actions, suits, claims, demands and judgments of any nature arising

from or relating to the Mortgaged Property or the information provided by the Borrower or the adequacy of the information provided in connection with the issuance of the Bonds.

Section 3.16. Issuance of Substitute Note. Upon the surrender of the Note, the Borrower will execute and deliver to the holder thereof a new Note dated the date of the Note being surrendered but with appropriate notations thereon to reflect payments of principal and interest already paid thereon; provided, however, that there shall never be outstanding at any one time more than one Note.

Section 3.17. Payment of Expenses of Issuance of Series 1996 Bonds. The Borrower agrees to be liable for and pay for any recording expenses, trustee's acceptance fees, commitment fees, escrow and title insurance costs, reasonable legal fees, printing expenses and other fees and expenses incurred or to be incurred by or on behalf of the Issuer, the Lead Purchaser and the Trustee in connection with or as an incident to the issuance and sale of the Series 1996 Bonds. Further, Borrower agrees to pay the Lead Purchaser a closing fee of \$40,000. Pursuant to Sections 301 and 403 of the Indenture, the Issuer has authorized the use of certain proceeds of the Series 1996 Bonds to defray the Borrower's obligations under this Section.

Section 3.18. Mortgagee Title Insurance Policy. Concurrently with the issuance and sale of the Series 1996 Bonds the Borrower will deliver to the Trustee an ALTA policy of mortgagee title insurance (or a commitment therefor) in a form acceptable to the Trustee in the amount of \$2,000,000 issued by a title insurance company satisfactory to the Trustee and the Majority of Bondholders insuring that the Trustee has a first mortgage lien on the real estate portion of the Mortgaged Property described in Exhibit A hereto, subject only to Permitted Encumbrances, if any, provided, however, that such policy (or commitment thereof) shall not contain any mechanics lien or materialmen's exception. Any Net Proceeds received from such policy or policies (or commitment) shall be deposited in a special redemption account of the Bond Fund and used to redeem Bonds as provided in Section 501(b) of the Indenture.

Section 3.19. Funding of Indenture Funds: Investments. The Issuer shall deposit with the Trustee all proceeds from the sale of the Series 1996 Bonds in the manner specified in Article III of the Indenture, and the Trustee shall deposit such proceeds in the manner specified in such Article.

The Borrower and the Issuer agree that all moneys in any Fund established by the Indenture may, at the written direction of the Borrower, be invested in Qualified Investments.

The Trustee is hereby authorized to trade with itself in the purchase and sale of securities for such investments. The Trustee shall not be liable or responsible for any loss resulting from any such investment. All such investments shall be held by or under the control of the Trustee and any income resulting therefrom shall be applied in the manner specified in the Indenture.



**Section 3.20. Other Amounts Payable by the Borrower.** The Borrower covenants and agrees to pay the following:

(a) All reasonable fees, charges and expenses, including agent and counsel fees, of the Trustee and the paying agents incurred under the Indenture, as and when the same become due.

(b) All costs incident to the payment of the principal of, premium, if any, and interest on the Series 1996 Bonds as the same become due and payable, including all costs and expenses in connection with the call, redemption and payment of Series 1996 Bonds.

(c) All reasonable fees, charges and expenses of the Issuer, in such amounts as are sufficient to reimburse the Issuer for all expenses reasonably incurred by the Issuer under this Loan Agreement and in connection with the performance of its obligations under this Loan Agreement or the Indenture.

(d) All expenses incurred in connection with the enforcement of any rights under this Loan Agreement or the Indenture by the Issuer, the Trustee or the Bondholders.

(e) All other payments of whatever nature which the Borrower has agreed to pay or assume under the provisions of the Loan Agreement, including the payment at closing of all reasonable fees and expenses as set forth in the closing memorandum contained in the transcript of proceedings of which this Loan Agreement is a part, for which invoices have been presented.

Notwithstanding anything in this Section 3.20 to the contrary, the Borrower may, without creating an event of default as herein defined, contest in good faith the necessity for any such services, fees, charges or expenses of the Issuer or the Trustee.

**Section 3.21. Credits on Note.** Notwithstanding any provision contained in this Loan Agreement or in the Indenture to the contrary, in addition to any credits on the Note resulting from the payment or prepayment thereof from other sources:

(a) any moneys deposited by the Trustee in the Bond Fund for payment on the Bonds shall be credited against the obligation of the Borrower to pay the principal, premium, if any, and interest on the Note as the same become due;

(b) the principal amount of Bonds acquired by the Borrower and delivered to the Trustee, or acquired by the Trustee and cancelled, shall be credited against the obligation of the Borrower to pay the principal of the Note evidencing the loan made by the Issuer with the proceeds of the sale of Bonds maturing on the maturity date of the Bonds so acquired and delivered or cancelled;

(c) so long as there is no event of default hereunder, interest earned on moneys deposited into the Bond Fund pursuant to Section 609 of the Indenture shall be credited against

the obligations of the Borrower to pay the corresponding principal and premium, if any, or interest on the Note as the same becomes due; and

Section 3.22. Completion of Project.

(a) Subject to the provisions of Section 3.27 hereof, the Borrower agrees that:

(1) It will make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions with any other persons, firms or corporations and in general do all things which may be requisite or proper, all for acquiring, constructing, installing, completing and rehabilitating the Project, to the extent permitted by law, by June 1, 1997, in substantial accordance with the approved plans and specifications thereof.

(2) It will cause the Project to be acquired, constructed and installed, and all acquisition, construction and installation shall be undertaken with good workmanship.

(3) It will, upon completion of the acquisition, construction and rehabilitation of the Project, furnish to the Trustee final lien waivers from all contractors or suppliers who have furnished material or labor for the Project (which requirement is waived if no lien construction contracts are in force).

In the event the moneys in the Construction Fund should not be sufficient to pay in full the costs to be paid therefrom, the Borrower agrees, for the benefit of the Issuer and in order to fulfill the purposes of the Act, to complete the construction and equipping of the Project and to pay that portion of the costs therefor as may be in excess of the moneys available therefor in the Construction Fund. The Issuer does not make any warranty, either express or implied, that the moneys, which will be paid into the Construction Fund and which under the provisions of this Loan Agreement will be available for payment of the costs of the construction and equipping of the Project, will be sufficient to pay all the costs which will be incurred in that connection. The Borrower agrees that if after exhaustion of the moneys in the Construction Fund the Borrower should pay pursuant hereto any portion of the said costs of the construction and equipping, it shall not be entitled to any reimbursement therefor from the Issuer, the Trustee, or the holders of any of the Bonds, nor shall it be entitled to any diminution in or abatement or postponement of the amounts payable hereunder or under the Series 1996 Note.

(b) The Issuer has, in Section 403(a) of the Indenture, authorized and directed the Trustee to make payments from the Construction Fund to pay the Project Costs, or to reimburse the Borrower for any Project Costs paid by it in the manner and subject to the provision of Section 403(a) thereof.

(c) The Completion Date shall be evidenced to the Trustee and the Issuer by a certificate signed by an authorized representative of the Borrower in compliance with the provision of Section 403(b) of the Indenture and any excess proceeds in the Construction Fund

at such time shall be deposited in the Bond Fund and used to prepay the Note as provided in Section 5.2(a) hereof.

(d) If the Borrower, prior to the completion of the Project abandons the Project, or ceases work thereon for more than fifteen (15) days after written notice from the Trustee to the Borrower stating such abandonment or cessation has begun and requesting that work on the Project be resumed, or fails to complete the Project in accordance with the plans and specifications for the Project, or makes changes in said plans and specifications which are not permitted by this Loan Agreement, the Trustee may declare an event of default under this Loan Agreement and may enter into and take possession of the Project and complete the Project as attorney-in-fact for the Borrower with full power to do any and every act which the Borrower might do in its own behalf.

**Section 3.23. Sale, Substitution, or Lease of Mortgaged Property.**

(a) Except for Permitted Encumbrances and as herein specifically provided in this Section or in Section 3.24 or otherwise in this Loan Agreement, the Borrower will not sell, lease (except for approved tenant leases), mortgage, transfer, otherwise dispose of, or grant a security interest in, all or any part of the Mortgaged Property without the consent of the Majority of Bondholders.

(b) The Borrower may at any time request the Issuer to enter into an amendment to this Mortgage for the purpose of effecting the release from this Mortgage, including Section (a) hereof, of any part of the real estate portion of the Project Site which is not necessary to the operating integrity and unity of the Project and the release of which will not adversely affect the ability of the Borrower to operate and maintain the Project as provided in this Mortgage. The Issuer will execute the amendment but the amendment shall not become effective until the following items have been submitted to the Trustee:

(1) a certificate of the Borrower (1) stating that the Borrower is not in default under this Mortgage, (2) giving an adequate legal description of that portion of the Project Site to be released, (3) stating the purpose for which the release is desired, (4) requesting the release and (5) approving any necessary amendment to this Mortgage;

(2) an opinion of independent counsel stating that to the best of its knowledge, the Borrower is not now and will not be, as a result of such release, in default under this Mortgage;

(3) a copy of the instrument conveying the portion of the Project Site to be released;

(4) a copy of the said amendment as executed and evidence of the authority of the officers of the signators to execute and deliver the amendment;

(5) a certificate of an independent architect acceptable to the Trustee, dated not more than sixty (60) days prior to the date of the release and stating that, in his opinion, (1) the part of such Project Site proposed to be released is not required for the operation of the Project for the purposes hereinabove stated, and is not necessary to the operating integrity and unity of the Project and (2) the release will not destroy the means of ingress thereto and egress therefrom; provided that such architect may consider any property to be included in the Project Site in consideration of such release; and

(6) either (1) a deposit of an amount of money equal to the value of such portion of the Project Site as determined by an appraisal furnished to the Trustee and the Majority of Bondholders and prepared by an appraiser satisfactory to the Trustee and the Majority of Bondholders, which amount shall be placed by the Trustee in the Bond Fund and used to prepay the Note pursuant to Section 5.2 hereof; or (2) with the written consent of the Trustee and the Majority of Bondholders, the Borrower may, in said amendment, subject to the lien of this Mortgage real property equal in value to the Project Site to be released, the value of such real property to be determined by an appraisal furnished to the Trustee and the Majority of Bondholders and prepared by an appraiser satisfactory to the Trustee and the Majority of Bondholders.

If all of the conditions of this Section are met, the Trustee shall release any such part of the Project Site from the Indenture. No release effected under the provisions of this Section shall entitle the Borrower to any abatement or diminution of the payments to be made hereunder.

**Section 3.24. Substitution and Removal of Equipment.** Except as provided in this Section and Section 3.23 hereof, equipment comprising part of the Mortgaged Property shall remain in or near the buildings comprising the Mortgaged Property and on the site thereof. The Borrower may from time to time substitute equipment in the Mortgaged Property if the equipment so substituted shall be of equivalent or greater value and utility to that replaced. Any such substituted equipment with an aggregate fair market value in excess of \$10,000 shall be identified in writing by the Borrower to the Trustee and shall become a part of the Mortgaged Property and be included under the terms of the Mortgage, and the equipment for which substitution has been made shall become the property of the Borrower free and clear of any claims of the Issuer, the Trustee or the Bondholders therein or thereto.

The Trustee at the request of the Borrower shall release from the lien of the Indenture any equipment comprising part of the Mortgaged Property without substitution therefor so long as in the opinion of the Borrower, such property is no longer useful to the Borrower in its operations conducted on or in the Project (whether by reason of changed techniques, obsolescence, depreciation or otherwise), and the Borrower shall pay into the Bond Fund (i) the proceeds from the sale of the equipment or (ii) the fair market value of the equipment or (iii) an amount equal to the original cost of the equipment to the Issuer less depreciation calculated on a straight-line basis on the lesser of the "average life" of the Bonds or the useful life of the equipment, whichever amount is highest, and shall deposit such amount in the Bond Fund and use it to prepay the Note pursuant to Section 5.2 hereof.

Upon such payment, the purchased equipment shall be free and clear of any claims of the Issuer, the Trustee or the Bondholders. This provision shall not entitle the Borrower to any abatement or diminution of the payments payable hereunder.

The Issuer and Borrower agree to execute and deliver such documents (if any) as the Issuer or Borrower or Trustee may reasonably request in connection with any action taken by the Issuer or Borrower under this Section.

**Section 3.25. Right of Access to the Mortgaged Property.** The Borrower agrees that the Issuer and the Trustee and the Bondholders and their or either of their duly authorized agents shall have the right at all reasonable times during business hours, subject to the Borrower's safety and security requirements, to enter upon and examine and inspect the Project without interference or prejudice to the Borrower's operation.

The Borrower further agrees that the Issuer and its duly authorized agents shall have such rights of access to the Project as may be reasonably necessary to cause to be completed the construction and installation provided for in Section 3.22 hereof, and thereafter for the proper maintenance of the Project, in the event of failure by Borrower to perform its obligations under Section 3.22.

**Section 3.26. Granting of Easements.** With the prior written consent of the Trustee, the Borrower may at any time or times grant easements, licenses, rights-of-way (including the dedication of public highways) and other rights or privileges in the nature of easements with respect to any property subject to the lien of the Indenture, free from the lien of the Indenture, or the Borrower may release existing easements, licenses, rights-of-way and other rights or privileges with or without consideration. The Issuer agrees that it shall execute and deliver and will cause and direct the Trustee to execute and deliver any instrument necessary or appropriate to confirm and grant or release any such easement, license, right-of-way or other right or privilege permitted under the provisions hereof.

**Section 3.27. Security Agreement.**

(a) With respect to those items referenced in the Granting Clauses hereof (herein sometimes referred to as the "Collateral"), this Loan Agreement is hereby made and declared to be a security agreement encumbering each and every item of such property comprising a part of the Collateral, in compliance with the provisions of the Uniform Commercial Code as enacted in the State of Indiana. The Borrower hereby authorizes the Trustee as the assignee of the Issuer, to execute and file, without necessity for the execution thereof by the Borrower, any financing statements, continuation statements, or other instruments or documents that the Trustee may deem necessary or desirable to perfect and maintain the lien of this security agreement upon the Collateral and all parts thereof. The Borrower and the Issuer agree that the filing of any such financing statement(s) in the records normally having to do with personal property shall not in any way affect the agreement of the parties hereto that everything used in connection with the production of income from the Mortgaged Property or adapted for use therein or which is

described or reflected in this Loan Agreement is, and at all times and for all purposes and in all proceedings, both legal and equitable, shall be regarded as part of the real estate conveyed hereby regardless of whether any such item is physically attached to the improvements or that serial numbers are used for the better identification of certain items capable of being thus identified in an exhibit hereto, or as any such item is referred to or reflected in any such financing statement(s) so filed at any time.

(b) The mention in any such financing statement(s) of the rights in and to (i) the proceeds of any insurance policy, (ii) any award in eminent domain proceedings for a taking or for loss of value, or (iii) the Borrower's interest as landlord in any present or future lease or sublease or rights to income growing out of the use and/or occupancy of the Mortgaged Property, whether pursuant to a tenant lease of space or otherwise, shall not in any way alter any of the rights of the Issuer as determined by this Loan Agreement or affect the priority of the Issuer's security interest granted hereby or by any other recorded document, it being understood and agreed that such mention in such financing statement(s) is solely for the protection of the Issuer in the event any court shall at any time hold with respect to the foregoing clauses (i) to (iii) of this Section 3.27(b) that notice of the Issuer's priority of interest, to be effective against a particular class of persons, must be filed in the Uniform Commercial Code records.

(c) The security interest granted herein shall attach as soon as the Borrower obtains any interest in any of the Collateral and before the Collateral becomes fixtures or before the Collateral is installed or affixed to any other collateral for the benefit of Issuer, to secure the indebtedness evidenced by the Borrower's Note and secured by this Loan Agreement, and all other sums and charges which may become due hereunder or thereunder. The security interest granted to the Issuer shall cover cash and non-cash proceeds of the Collateral, but nothing contained herein shall be construed as authorizing, either expressly or by implication, the sale or other disposition of the Collateral by the Borrower except on the terms and conditions set forth in this Loan Agreement.

(d) In the event of a default hereunder, the Issuer (or the Trustee as the assignee of the Issuer), pursuant to the Uniform Commercial Code shall have the option of proceeding as to both real and personal property in accordance with its rights and remedies in respect of the real property, in which event the default provisions of the Uniform Commercial Code shall not apply. The parties agree that, if an election is made to proceed with respect to the Collateral separately from the real property, the requirement of the Uniform Commercial Code as to reasonable notice of any proposed sale or disposition of the Collateral shall be met if such notice is mailed to the Borrower at the address for notice set forth herein at least five (5) days prior to the time of such sale or disposition.

(e) All replacements, renewals and additions to the Collateral shall become and be immediately subject to the security interest of this Loan Agreement and shall be covered thereby. Borrower warrants and represents that all Collateral now is, and that all replacements thereof,

substitutions therefor or additions thereto will be, free and clear of liens, encumbrances or security interests of others, except for Permitted Encumbrances.

(f) The Borrower warrants that (i) its name, identity, and principal place of business are as referred to in Article X hereof; (ii) it has been using or operating under said name and identity without change for a continuous period of more than four (4) months prior to the date hereof; and (iii) the location of all tangible Collateral is upon the real estate described in Exhibit A hereto. The Borrower covenants and agree that it will furnish the Issuer and the Trustee with notice of any change in the matters addressed by clauses (i) or (iii) of this Section 3.27(f) within thirty (30) days of the effective date of any such change, and the Borrower will promptly execute any financing statement(s) or other instrument(s) deemed necessary by the Issuer or the Trustee to prevent any filed financing statement from becoming misleading or losing its perfected status.

(g) Some of the items comprising the Collateral are goods that are or are to become, fixtures related to the real estate described on Exhibit A hereto and it is intended that, as to those goods, this Loan Agreement shall be effective as a financing statement filed as a fixture filing from the date of its filing for record in the real estate records of the county in which the real estate is located. The information in this Section 3.27(g) is provided in order that this Loan Agreement shall comply with the requirements of the Uniform Commercial Code as enacted in the State of Indiana, for mortgage instruments to be filed as financing statements. The Borrower is the "Debtor" and its name is as set forth in the definition thereof contained herein. The "Secured Party" is the Issuer with the Trustee being its assignee, and their respective names are as set forth in the definitions thereof contained herein. The mailing address of the Borrower, location of the chief executive offices of the Borrower and mailing address of the Trustee and Issuer from which information concerning the security interest granted herein may be obtained is set forth in Article X hereof. A statement indicating the types or describing the items comprising the Collateral is set forth hereinabove.

**Section 3.28. Monthly Deposits.** The Borrower shall deposit with the Trustee in the Bond Fund on the 1st day of each month, commencing on July 1, 1996, the sum of:

- (1) 1/6th of the interest due on the Series 1996 Bonds on the next succeeding January 1 or July 1, and
- (2) 1/6th of the principal due on the Series 1996 Bonds, whether at maturity or by sinking fund redemption, on the next succeeding January 1 or July 1.

In addition, on June 1, 1996, or the date of delivery of the Bonds, if such delivery date is after June 1, 1996, the Borrower shall deposit in the Bond Fund all amounts due on the Bonds on July 1, 1996.

The Borrower shall be entitled to a credit on each sixth (6th) interest deposit and each sixth (6th) principal deposit to the extent of interest earned on the prior five (5) interest deposits and on the prior six (6) principal deposits, respectively.

The Trustee shall promptly notify the Bondholders when the Borrower has made each such monthly payment.

Section 3.29. Future Undertakings. Prior to twelve (12) months after the closing, Borrower shall cause Trustee to receive the following documents and other items:

(a) Utilities: Letters from local utility companies or Borrower's architect satisfactory to Trustee or other evidence satisfactory to Trustee stating that water, sanitary and storm sewer, electric, telephone, and gas services are connected to the Project and that such utility services are adequate for the operation of the Project for its intended uses.

(b) Certificate of Completion: Borrower's architect's certificate of final completion in form reasonably acceptable to Trustee and a complete set of as-built plans and specifications, including a complete set of shop drawings with all appropriate amendments and updates and all available tenant space plans, with certification that the Project was substantially completed in accordance with the approved plans and specifications and in compliance with all applicable governmental laws and regulations. Trustee shall also be entitled to obtain a report, at Borrower's expense, from an engineer or architect appointed by Trustee indicating that the Project has been completed substantially in accordance with all approval plans and specifications.

(c) Payment of Project Costs; Project Placed in Service: Final lien waivers from the general contractor for the Project to the effect that it has been paid in full and a certificate stating that there has been no violation of its contract and that all subcontractors, laborers and providers of materials have been paid. Trustee shall also be furnished with evidence acceptable to Trustee that all other obligations of Borrower in connection with the completion of the Project have been paid, that the Construction Fund has been fully disbursed, and that the Project has been placed in service within the meaning of Section 42 of the Internal Revenue Code.

(d) Rent Roll: A current rent roll listing each and every lease, identifying the leased premises, names of all tenants, monthly rental, and all other charges payable under the lease, date to which paid, term of lease, date of occupancy, date of expiration, any and every specific provision, concession, or inducement granted to tenants, and such other information as is requested by Trustee. The rent roll shall be signed, dated, and certified as true and accurate by Borrower.

(e) Certificate of Borrower: A certificate executed by the general partners of Borrower certifying that no default has occurred and is continuing under the Loan Agreement or the Indenture.



**Section 3.30. Additional Covenants Pertaining to Project. Majority of Bondholders and Lead Purchaser.**

(a) **Lease Approvals.** Within twelve (12) months after closing, Borrower shall prepare for the approval of the Majority of Bondholders a leasing plan (which shall include, without limitation, rental rates, length of lease terms, rental concessions, and terms of leases), and Borrower's standard form of lease. No material changes may be made to Borrower's approved standard form of lease without the Majority of Bondholders' prior written approval. All renewals of leases and all new leases shall provide for rental rates equal to or greater than those currently in effect unless otherwise agreed to in writing by the Trustee and shall be arms length transactions. Borrower shall update the leasing plan each year and to obtain the Majority of Bondholders' approval of such update. Notwithstanding anything herein to the contrary, Borrower shall have the right to lease the Project in accordance with the requirements of Section 42 of the Internal Revenue Code.

(b) **Operations.** The Majority of Bondholders shall have the right to approve in advance: (a) the annual income, expense, and capital improvement budget for the Project; (b) any agreements affecting the Property not terminable upon one year's notice; (c) with the consent of a majority in interest of the holders of the Bonds, the management company, the management agreement, or any change in either, and (d) any transfer of stock or series of transfers the cumulative result of which is a change of the person or persons in control of Borrower's general partner, of any ownership interest in Borrower, or in any entity in the hierarchy of owning entities in Borrower. Borrower will be required to furnish Lead Purchaser, who shall make such items available to all Bondholders, commencing after the issuance of the certificate of substantial completion and continuing during the term of the Bonds, with (a) monthly statements certified by the general partner or other representative of Borrower of gross receipts, operating expenses, and net operating income, together with a rent roll and traffic report setting forth the total number of units rented and the number of units rented under Section 42 until the Project is 90% leased, at which time such reports shall be required on a quarterly basis and (b) annual internally prepared reports concerning the operations of the Borrower and the Project (in both narrative and financial statement format), including, without limitation, balance sheets, statements of income and expense and cash flow, vacancy, loss, rent concessions, delinquent and past due accounts (showing the amount thereof that has been past due for more than 30, 60, and 90 days) and credit losses. Additionally, Borrower shall provide Lead Purchaser, who shall make such items available to all Bondholders, with (a) a copy of its annual federal tax return within 10 days of filing; (b) a copy of the annual audited consolidated financial statements of the Borrower within 120 days after the end of its fiscal year; (c) copies of the Guarantor's financial statements on or before January 31 of each year that the Guaranty is in effect; and (d) a copy of the annual report submitted by Borrower to the Indiana Housing Finance Authority for verification of Section 42 compliance.

(c) **Inspections and Audits.** Each Bondholder shall have the right, at any time and from time to time during the term of the Bonds, to inspect the Property and to audit the books and records of the Borrower. Such inspections and audits may be performed by such officers,

employees, or agents of the Bondholder as it may designate, and Borrower, its officers, partners, employees, and agents shall at all times use their best efforts to assist, and shall have an affirmative duty to reveal to such Bondholder any information which could be material to, such Bondholder, its officers, employees, and agents in the conduct of any and all such inspections and audits.

(d) Change in Manager or Developer. Neither the management agreement nor development agreement pertaining to the Project, or any other material service or maintenance agreement, shall be terminated or otherwise cease to be effective while the Bonds are Outstanding without the consent of the Majority of Bondholders. Any new manager of the Project shall require the consent of the Majority of Bondholders.

(e) Section 42 Requirements. The Borrower shall observe all requirements imposed on the Project to maintain the tax credits available with respect thereto under Section 42 of the Internal Revenue Code of 1986, as amended (the "Code").

(f) Payment of Deferred Initial Fee. The Borrower shall not pay the Deferred Initial Fee (as defined in the Borrower's Partnership Agreement) unless: (i) the Project has attained occupancy of at least 90% for a period of 90 consecutive days; (ii) the Project is in compliance with the requirements of Section 42 of the Code; and (iii) the Available Cash (as defined in the Borrower's Partnership Agreement) exceeds 1.2 times the amounts necessary to make monthly deposits into the Bond Fund as described in the Indenture and pay operating expenses of the Project. Payment of the Deferred Initial Fee shall be paid only from Available Cash in excess of those amounts necessary to make required monthly deposits to the Bond Fund and pay operating expenses of the Project.

(g) Maintenance of Coverage. Once attained, the Borrower shall at all times maintain the 1.2 coverage ratio described in (f)(iii) above.

(h) Service Agreements. Except for the Property Management Agreement with L-B Residential Management, which shall have an initial term of five (5) years, all agreements for providing services to the Project, including, without limitation, any management agreement, shall be cancelable upon 30 days' written notice and shall not have a term in excess of one year, unless otherwise approved in writing by the Majority of Bondholders. All such agreements, and any renewals thereof, shall be subject to the approval of the Majority of Bondholders. All such agreements and any renewals thereof shall provide that they shall be subordinate to the lien of this Mortgage.

Section 3.31. Covenant to Prepare to Refinance or Convert Project. Beginning with the fifteenth anniversary of the issuance of the Bonds, the Borrower shall use its best efforts to prepare the Project for refinancing or conversion of the Project to a project not for low-income persons. The Borrower shall undertake all reasonable requests of the Majority of Bondholders to effect the foregoing and shall provide periodic evidence to the Bondholders of its undertakings in this regard.

(End of Article III)



## ARTICLE IV.

### DAMAGE, CONDEMNATION, AND LOSS OF TITLE

Section 4.1. Damage. The Borrower agrees to notify the Trustee immediately (a) in the case of damage estimated to exceed \$10,000 in amount to the Mortgaged Property resulting from fire or other casualty, or (b) upon obtaining knowledge of the institution of any proceedings for the condemnation or taking of the Mortgaged Property or any portion thereof for public or quasi-public use. In the event any such damage or condemnation is estimated to not exceed \$10,000, the Borrower will forthwith repair, reconstruct, restore or replace such Mortgaged Property to substantially the same condition as it existed prior to the event causing such damage or condemnation or to a condition of at least equal utility and value and will apply the Net Proceeds of any insurance or condemnation award relating to such damage or condemnation received by the Borrower to the payment or reimbursement of the costs of such repair, reconstruction, restoration or replacement.

In the event any such damage or condemnation shall be estimated to exceed \$10,000 in amount, the Borrower shall within 90 days after the receipt of the Net Proceeds of any insurance or condemnation award relating to such damage or condemnation elect one of the following two options by written notice of such election to the Trustee:

(a) Option A - Repair, Restoration or Replacement. The Borrower may, with the written consent of the Majority of Bondholders, repair, reconstruct, replace or restore such Mortgaged Property to substantially the same condition as it existed prior to the event causing such damage, destruction or condemnation or to a condition of at least equal utility and value, and will apply the Net Proceeds of any insurance or condemnation award relating to such damage, destruction or condemnation received by the Borrower to the payment or reimbursement of the costs of such repair, reconstruction and restoration or replacement.

(b) Option B - Prepayment of Note. The Borrower may elect to have the Net Proceeds payable as a result of such damage or condemnation applied to the prepayment of the Note; provided, however, that the Borrower may elect to prepay less than all the Note only with the prior written consent of the Majority of Bondholders. Whenever the Borrower elects to prepay the Note under this option, the Borrower shall, in its notice of election to the Trustee, direct the Trustee to apply such Net Proceeds, when and as received, to the prepayment of the Note in the manner specified in Section 5.2 hereof.

Section 4.2. Other Provisions with Respect to Net Proceeds. The Net Proceeds of any insurance or condemnation award received by the Trustee or the Borrower shall be deposited in a special trust account held by the Trustee and shall be invested or reinvested in Qualified Investments subject to the Borrower's right to receive the same pursuant to Section 4.3 hereof. Any such Net Proceeds not so received by the Borrower shall be deposited in the special

redemption account in the Bond Fund and shall be applied in accordance with Section 5.2 hereof.

Section 4.3. Requisitions for Net Proceeds. So long as the Borrower is not in default hereunder, any Net Proceeds of condemnation or insurance relating to such damage received by the Trustee, to be used for repair, reconstruction, restoration or replacement of the Mortgaged Property, shall be paid out from time to time by the Trustee to or upon the order of the Borrower in order to pay, or as reimbursement to the Borrower for payment made, for the costs of repair, reconstruction, replacement or restoration of the Mortgaged Property, upon receipt by the Trustee of the following:

(1) The written request of the Borrower:

(1) stating that the costs of an aggregate amount set forth in such written request have been made or incurred and were necessary for the repairing, reconstructing, replacing or restoring of the Mortgaged Property and were made or incurred in accordance with the construction contracts, plans and specifications, or purchase contracts therefor then in effect;

(2) stating that the amount paid or to be paid, as set forth in such written request, is reasonable and represents a part of the amount payable for the costs of repairing, reconstructing, replacing or restoring of the Mortgaged Property all in accordance with the cost budget previously submitted to the Trustee; and that such payment was not paid in advance of the time, if any, fixed for payment and was made in accordance with the terms of any contracts applicable thereto and in accordance with usual and customary practice under existing conditions;

(3) stating that no part of the said costs was included in any written request previously filed with the Trustee under the provisions hereof;

(4) stating a recap of vendors and the amount paid and/or to be paid to each including copies of invoices paid and/or to be paid with copies of checks used for any previously made payment; and

(5) setting forth a "Waiver of Mechanic's Lien Affidavit" certifying that all bills for costs incurred have been or will be paid.

(2) Except in the case of a disbursement for payment of the costs of the acquisition of Equipment, the Borrower shall provide (i) evidence that the title insurance commitment on the Mortgaged Property has been endorsed to include such disbursement and does not contain any mechanics lien or materialmen's exceptions and (ii) approval of such written request referred to above by an independent architect.

Section 4.4. Insufficiency of Net Proceeds. If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, reconstruction or replacement referred to in Sections 4.1 and 4.3 hereof, the Borrower will nonetheless complete the work and will pay any cost in excess of the amount of the Net Proceeds held by the Trustee.

(End of Article IV)



ARTICLE V.

PREPAYMENT OF SERIES 1996 NOTE

Section 5.1. Prepayment Generally. The Series 1996 Note may be prepaid in whole or in part on any date at 100% of the principal amount thereof, plus interest to the date of prepayment. Further, the Borrower shall use its best efforts and exhaust all possibilities (to be conclusively determined by the Majority of Bondholders) to prepay, in whole, the Series 1996 Note, plus accrued interest to the date of prepayment, on the interest payment date for the Bonds that next follows the 17th anniversary of the issuance of the Series 1996 Bonds.

Section 5.2. Mandatory Prepayment. The Series 1996 Note shall be subject to prepayment at 100% of the principal amount plus accrued interest if moneys are deposited in the special redemption account within the Bond Fund for redemption of the Bonds in accordance with the provisions hereof.

Section 5.3. Notice of Prepayment. No notice of prepayment shall be required.

Section 5.4. Application of Prepayments. Any prepayment of the Series 1996 Note made in accordance with this Article shall be applied to installments due on the Series 1996 Note in inverse order of maturity and shall reduce the number of installments but not the amount of each installment.

(End of Article V)

## ARTICLE VI.

### COVENANTS CONCERNING EQUITY INVESTOR

Notwithstanding any provision to the contrary contained elsewhere in the Loan Agreement or the Indenture, the following provisions shall apply to the Note and the Bonds:

Section 6.1. Nonrecourse Obligation. The Note is a nonrecourse obligation of Borrower. Neither Borrower nor any of its general and limited partners nor any other party shall have any personal liability for repayment of the Note or the Bonds. The sole recourse of Trustee and the Bondholders under the Indenture and the Loan Agreement (collectively, the "Loan Documents") for repayment of the Note shall be the exercise of its rights against the Project and related security thereunder.

Section 6.2. General Partner Change. The withdrawal, removal, and/or replacement of a general partner of the Borrower pursuant to the terms of the Partnership Agreement shall not constitute a default under any of the Loan Documents, and any such actions shall not accelerate the maturity of the Note or the Bonds, provided that any required substitute general partner is reasonably acceptable to the Majority of Bondholders and is selected with reasonable promptness.

Section 6.3. Monetary Default. If a monetary event of default occurs under the terms of any of the Loan Documents, prior to exercising any remedies thereunder, the Trustee shall give Borrower and each of the general and limited partners of the Borrower, as identified in the Partnership Agreement, simultaneous written notice of such default. Borrower shall have a period of seven (7) days after such notice is given within which to cure the default prior to exercise of remedies by the Trustee under the Loan Documents, or such longer period of time as may be specified in the Loan Documents.

Section 6.4. Non-Monetary Default. If a non-monetary event of default occurs under the terms of any of the Loan Documents, prior to exercising any remedies thereunder the Trustee shall give Borrower and each of the general and limited partners of the Borrower, as identified in the Partnership Agreement, simultaneous written notice of such default. If the default is reasonably capable of being cured within thirty (30) days, Borrower shall have such period to effect a cure prior to exercise of remedies by the Trustee under the Loan Documents, or such longer period of time as may be specified in the Loan Documents. If the default is such that it is not reasonably capable of being cured within thirty (30) days or such longer period if so specified, and if Borrower (a) initiates corrective action within said period, and (b) diligently, continually, and in good faith works to effect a cure as soon as possible, then Borrower shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by the Trustee. If Borrower fails to take corrective action or to cure the default within a reasonable time, the Trustee shall give Borrower and each of the general and limited partners of the Borrower written notice thereof, whereupon the limited partner may remove and replace the general partner with a substitute general partner who shall effect a cure within a reasonable



time thereafter in accordance with the foregoing provisions. In no event shall the Trustee be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within one hundred eighty (180) days after the first notice of default is given, or such longer period of time as may be specified in the Loan Documents.

Section 6.5. Casualty, Condemnations, Etc. In the event of any fire or other casualty to the Project or eminent domain proceedings resulting in condemnation of the Project or any part thereof, Borrower shall have the right to rebuild the Project, and to use all available insurance or condemnation proceeds therefor, provided that (a) such proceeds are sufficient to keep the loan in balance and rebuild the Project in a manner that provides adequate security to the Trustee for repayment of the loan or if such proceeds are insufficient then Borrower shall have funded any deficiency, (b) the Trustee shall have the right to approve plans and specifications for any major rebuilding and the right to approve disbursements of insurance or condemnation proceeds for rebuilding under a construction escrow or similar arrangement, and (c) no material default then exists under the Loan Documents. If the casualty or condemnation affects only part of the Project and total rebuilding is infeasible, then proceeds may be used for partial rebuilding and partial repayment of the Loan in a manner that provides adequate security to the Trustee for repayment of the remaining balance of the Bonds.

Section 6.6. Force Majeure. There shall be no default for construction or rehabilitation delays beyond the reasonable control of Borrower, provided that such delays do not exceed one hundred eighty (180) days, or such longer period of time as may be specified in the Loan Documents.

Section 6.7. Purchase Rights. The execution and delivery of the purchase option and right of first refusal agreement described in the Limited Partnership Agreement of the Borrower shall not constitute a default under the Loan Documents or accelerate the maturity of the Note or Bonds thereunder. Any requisite consent of Lender to (a) the exercise of said purchase option and right of first refusal agreement by the project sponsor identified therein, and to (b) the assumption without penalty of Loan obligations by the project sponsor and the release of Borrower from such obligations, shall not be unreasonably withheld. Subject to any such consent requirement, the exercise of rights under such agreement shall not constitute a default or accelerate maturity of the Loan.

Section 6.8. Loan Assumption. If the purchase option and right of first refusal agreement described in the Limited Partnership Agreement of the Borrower is not exercised and the Project is sold subject to low-income housing use restrictions as contained in an existing regulatory agreement or other recorded covenant, any requisite consent of the Trustee to said sale, and to the assumption without penalty of loan obligations by the purchaser and the release of Borrower from such obligations, shall not be unreasonably withheld.

Section 6.9. Trustee Approvals, Etc. In any approval, consent, or other determination by the Trustee or any Bondholder required under any of the Loan Documents, such parties shall act reasonably and in good faith.

Section 6.10. Sale of Loan. Each Bondholder agrees that such Bondholder shall not (a) sell, assign, transfer or convey any Bond or interest therein in Federal National Mortgage Association ("Fannie Mae") and/or to Federal Home Loan Mortgage Corporation ("Freddie Mac"), or (b) include such indebtedness (or any interest therein) in a pool of loans to be sold, assigned, transferred, or conveyed to Fannie Mae or Freddie Mac.



ARTICLE VII.

EVENTS OF DEFAULT AND REMEDIES THEREFOR

Section 7.1. Events of Default.

(a) The occurrence and continuance of any of the following events shall constitute an "event of default" hereunder:

(i) failure of the Borrower to pay any installment of interest, principal, or any premiums, on the Note when the same shall become due and payable, whether at maturity or upon any date fixed for prepayment or by acceleration or otherwise; or

(ii) failure of the Borrower to perform any other covenant, condition or provision hereof and to remedy such default within 30 days after notice thereof from the Trustee to the Borrower; or

(iii) the entry of a decree or order for relief by a court having jurisdiction in the premises in respect of the Borrower in an involuntary case under any applicable bankruptcy, insolvency or similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator (or other similar official) of the Borrower or for any substantial part of its property, or ordering the windup or liquidation of its affairs; or the filing and pendency for thirty days without dismissal of a petition initiating an involuntary case under any other bankruptcy, insolvency or similar law; or

(iv) the commencement by the Borrower of any voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, whether consent by it to an entry to an order for relief in an involuntary case and under any such law or to the appointment of or the taking possession by a receiver, liquidator, assignee, trustee, custodian, sequestrator (or other similar official) of the Borrower or of any substantial part of its property, or the making of it by any general assignment for the benefit of creditors, or the failure of the Borrower generally to pay its debts as such debts become due, or the taking of corporate action by the Borrower in furtherance of any of the foregoing; or

(v) any representation, warranty, statement, financial statement or certificate, made or delivered by the Borrower to the Bondholders is not true and correct in any respect as of the date when made or reaffirmed; or

(vi) If the Borrower permits any uninsured judgment or monetary penalty rendered against it in any judicial or administrative proceeding in an amount in excess

of \$10,000 to remain unsatisfied for a period in excess of 45 days unless such judgment or penalty is being contested in good faith by appropriate proceedings and unless a reserve acceptable to the Trustee and the Majority of Bondholders has been established with respect thereto; or

(vii) Default by the Borrower in the payment when due, whether by acceleration or otherwise, of any other indebtedness for borrowed money, or default in the performance or observance of any obligation or condition with respect to any such other indebtedness if the effect of such default is to accelerate the maturity of such other indebtedness or to permit the holder or holders thereof, or any trustee or agent for such holders, to cause such indebtedness to become due and payable prior to its expressed maturity; or

(viii) Subject to the expiration of any applicable grace period, default by the Borrower in the payment when due, or in the performance or observance of any material obligation of, or condition agreed to by the Borrower with respect to any purchase or lease of goods or services, unless such default is being contested in good faith by appropriate proceedings and unless a reserve acceptable to the Trustee and the Majority of Bondholders has been established with respect thereto; or

(ix) Any sale, assignment, transfer, conveyance, mortgage, hypothecation or other encumbrance (other than permitted tenant leases) of all or a portion of the Project, except as provided for herein.

(b) During the occurrence and continuance of any event of default hereunder, the Trustee, as assignee of the Issuer pursuant to the Indenture, on behalf of any unpaid Bondholders shall have the rights and remedies hereinafter set forth, in addition to any other remedies herein or by law provided. It is agreed that the holders of all of the Bonds outstanding at any time may direct the Trustee, and the Trustee shall abide by such direction, with regard to the remedy or remedies to be pursued hereunder or under the Indenture.

(c) Upon the occurrence of an event of default described in this Section 7.1:

(i) Acceleration. The Trustee may, and shall, if directed by Majority of Bondholders, by written notice to the Borrower, declare the principal of the Note (if not then due and payable), and the interest accrued thereon to be due and payable immediately, and upon any such declaration the principal of the Note and the interest accrued on the Note shall become and be immediately due and payable, anything in the Note or in this Loan Agreement contained to the contrary notwithstanding.

(ii) Trustee May Enter and Take Possession, Operate and Apply Income. The Trustee, personally or by its agents or attorneys, may to the extent permitted by law enter into and upon all or any part of the Mortgaged Property and each and every part thereof, and may exclude the Borrower, its agents and servants wholly therefrom; and

having and holding the same, may use, operate, manage and control the Mortgaged Property for any lawful purpose, and upon every such entry, the Trustee, at the expense of the Borrower either by purchase, repairs or construction, may from time to time maintain and restore the Mortgaged Property whereof it shall become possessed as aforesaid, and may insure and reinsure the same as may seem to it to be judicious; and likewise, from time to time at the expense of the Borrower, the Trustee may make all necessary or proper repairs, renewals, and replacements, and alterations, additions, betterments and improvements thereto and thereon as to it may seem judicious; and the Trustee shall be entitled to collect and receive all earnings, revenues, rents, issues, profit and income of the same and every part thereof; and after deducting the expenses of operations, maintenance, repairs, renewals, replacements, alterations, additions, betterments and improvements and all payments which may be made for taxes, assessments, insurance and prior or other proper charges upon the Mortgaged Property or any part thereof, as well as all advances by the Trustee and compensation for the services of the Trustee and for all counsel and agents and clerks and other employees by its property engaged and employed, the Trustee shall apply the moneys arising as aforesaid as provided in Section 7.6 hereof.

(iii) Right to Bring Suit, Etc. The Trustee, with or without entry, personally or by attorney, may in its discretion, proceed to protect and enforce its rights by a suit or suits in equity or at law, whether for damages or for the specific performance of any covenant or agreement contained in the Note, this Loan Agreement or in aid of the execution of any power herein granted, or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy, as the Trustee shall deem most effectual to protect and enforce any of its rights or duties hereunder; provided, however that all costs incurred by the Trustee and the Issuer under this Article shall be paid to the Issuer and the Trustee by the Borrower on demand.

Section 7.2. Foreclosure and Sale of Mortgaged Property. During occurrence and continuance of an event of default the Trustee may, with or without entry, personally or by attorney, sell, to the extent permitted by law, to the highest bidder all or any part of the Mortgaged Property and all right, title, interest, claim and demand therein, and the right of redemption thereof, in one lot as an entirety, or in separate lots, as the Trustee may elect, and in one sale or in any number of separate sales held at one time or any number of times, which such sale shall be made at public auction at such place in the county in which the Mortgaged Property to be sold is situated and at such time and upon such terms as may be fixed by the Trustee and briefly specified in the notice of such sale or sales. Any sale by the Trustee may nevertheless, at its option, be made at such other place or places, and in such other manner, as may now or hereafter be authorized by law. In the event of any sale of the Mortgaged Property, the principal of the Note, if not previously due, immediately thereupon shall become due and payable, anything in the Note or this Mortgage to the contrary notwithstanding. The parties expressly agree that notice sent to the Borrower seven days before any such sale shall be reasonable notice.

**Section 7.3. Sale a Bar.** Any sale or sales pursuant to Section 7.2 hereof shall operate to divest all estate, right, title, interest, claim or demand whatsoever, whether at law or in equity, of the Borrower, in and to the premises, property, privileges and rights so sold, and shall be a perpetual bar both at law and in equity against the Borrower, its successors and assigns, and against any and all persons claiming or who may claim the same, or any part thereof, from, through or under the Borrower, its successors or assigns.

**Section 7.4. Receipt Sufficient Discharge for Purchaser.** The receipt of the Trustee or of the court officer conducting any such sale for the purchase money paid at any such sale shall be a sufficient discharge therefor to any purchaser of the property, or any part thereof, sold as aforesaid; and no such purchaser or his representatives, grantees or assigns, after paying such purchase money and receiving such a receipt, shall be bound to see to the application of such purchase money upon or for the purpose of this Loan Agreement, or shall be answerable in any manner whatsoever for any loss, misapplication or non-application of any such purchase money or any part thereof, nor shall any such purchaser be bound to inquire as to the necessity or expediency of any such sale.

**Section 7.5. Sale to Accelerate Note.** In the event of any sale pursuant to Section 7.2 hereof, the principal of the Note, if not previously due, immediately thereupon shall become due and payable, anything in the Note, or this Loan Agreement to the contrary notwithstanding.

**Section 7.6. Application of Proceeds of Sale.** The purchase money proceeds or avails of any such sale, together with any other sums which then may be held by the Trustee under this Loan Agreement as part of the Mortgaged Property or the proceeds thereof, whether under the provisions of this Article or otherwise, shall be paid to the Trustee, who shall apply such funds as follows:

**FIRST:** To the payment of the costs and expenses of such sale, including reasonable compensation to the Issuer, the Trustee, its or their agents, attorneys and counsel, and the expenses of any judicial proceedings wherein the same may be made, and of all expenses, liabilities and advances made or incurred by the Issuer or the Trustee as permitted by this Loan Agreement, together with interest on all advances made by the Trustee at the per annum rate of interest established and quoted by the Trustee as its prime rate and to the payment of all taxes, assessments or liens prior to the lien of this Loan Agreement, except any taxes, assessments, liens, or other charges, subject to which the property shall have been sold.

**SECOND:** To the payment of the whole amount then due, owing and unpaid upon the Note for principal, interest and premium, if any; and in case such proceeds shall be insufficient to pay in full the whole amount so due, owing or unpaid upon the Note, then ratably according to the aggregate of such principal and the accrued and unpaid interest and premium, if any, without preference or priority as between principal, interest or premium; such application to be made upon presentation of the Note and the

notation thereon of the payment, if partially paid, or the surrender and cancellation thereof, if fully paid.

**THIRD:** To the payment of any other sums required to be paid by the Borrower pursuant to any provisions of this Loan Agreement or of the Note.

**FOURTH:** To the payment of the surplus, if any, to the Borrower or its successors or assigns, upon the written request of the Borrower or to whomsoever may be lawfully entitled to receive the same upon its written request, or as any court of competent jurisdiction may direct.

**Section 7.7. Payment of Defaulted Amounts on Demand of Trustee.** In case the Borrower shall:

- (i) fail to pay any installment of interest on the Note when and as the same shall become due and payable, as therein and herein expressed; or
- (ii) fail to pay the principal of the Note, when and as the same shall become due and payable, whether at maturity or upon designation for prepayment or by declaration, or upon a sale as in Section 7.5 hereof provided, or otherwise;

then upon written demand of the Trustee the Borrower will pay to the Trustee the whole amount which then shall have become due and payable on the Note for interest or principal or both, as the case may be, and in addition thereto such further amount as shall be sufficient to cover the cost and expenses of collection, including a reasonable compensation to the Trustee, its agents, attorneys and counsel, and any expenses or liabilities incurred by the Trustee hereunder. The exercise by the Trustee under this Section 7.7 shall not prevent acceleration of the Note under Section 7.1 hereof.

**Section 7.8. Trustee May Enforce Demand.** In case the Borrower shall have failed to pay such principal and interest and other amounts upon demand, the Trustee, in its own name, may institute such actions or proceedings at law or in equity for the collection of the amounts so due and unpaid, and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment or final decree against the Borrower and collect the moneys adjudged or decreed to be payable out of the property of the Borrower wherever situated, in the manner provided by law.

The Trustee shall, if permitted by law, be entitled to recover judgment as aforesaid either before or after or during the pendency of any proceedings for the enforcement of the lien of this Mortgage; and the right of the Trustee, to recover such judgment shall not be affected by any entry or sale hereunder or by the exercise of any other right, power or remedy for the enforcement of the provisions of this Mortgage or the foreclosure of the lien hereof; and in case of a sale of the Mortgaged Property and of the application of the proceeds of sale, as provided in Section 7.6 hereof, to the payment of the debt hereby secured, the Trustee shall be entitled

to enforce payment and to receive all amounts then remaining due and unpaid upon the Note then outstanding, and shall be entitled to recover judgment for any portion of the debt remaining unpaid, with interest.

No recovery of any judgment by the Trustee, and no levy of an execution under any judgment upon the Mortgaged Property or upon any other property, shall affect the lien of this Mortgage upon the Mortgaged Property or any part thereof, or any lien, rights, powers or remedies of the Trustee hereunder, but such lien, rights, powers or remedies of the Trustee shall continue unimpaired as before.

Any moneys thus collected by the Trustee under this Section shall be applied by the Trustee as provided in Section 7.6 hereof.

Section 7.9. Trustee Entitled to Appointment of Receiver. The Borrower further covenants that upon the happening of any event of default and thereafter during the continuance of such event of default unless the same shall have been waived as hereinbefore provided, the Trustee shall be entitled as a matter of right if it shall so elect, (i) forthwith and without declaring the principal of the Note to be due and payable, or (ii) after declaring the same to be due and payable, or (iii) upon the filing of an action to foreclose this Mortgage or to enforce the specific performance hereof or in aid thereof or upon the commencement of any other judicial proceeding to enforce any right of the Trustee to the appointment of a receiver or receivers of the Mortgaged Property and of all the earnings, revenues, rents, issues, profits and income thereof, with such powers as the court making such appointment shall confer, which may comprise any or all of the powers which the Trustee is authorized to exercise by the provisions of Section 7.1(c)(iii) hereof. The Borrower, if requested so to do by the Trustee will consent to the appointment of any such receiver as aforesaid.

Section 7.10. Remedies Cumulative. Except as provided in Section 7.6 hereof, no remedy herein conferred upon or reserved to the Trustee is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

Section 7.11. Delay or Omission Not a Waiver. No delay or omission of the Trustee to exercise any right or power accruing upon any event of default shall impair any such right or power, or shall be construed to be a waiver of any such event of default or an acquiescence therein; and every power and remedy given by this Loan Agreement to the Trustee may be exercised from time to time and as often as may be deemed expedient by the Trustee.

Section 7.12. Waiver of Extension Appraisal or Stay Laws. To the extent permitted by law, the Borrower will not during the continuance of any event of default hereunder insist upon, or plead, or in any manner whatever claim or take any benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants and terms of performance of this Loan Agreement; nor claim, take or insist upon any

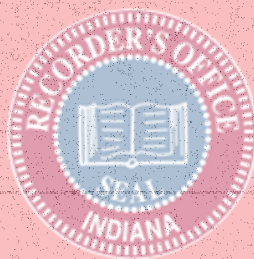


benefit or advantage of any law now or thereafter in force providing for the valuation or appraisal of the Mortgaged Property, or any part thereof, prior to any sale or sales thereof which may be made pursuant to any provisions herein contained, or pursuant to the decree, judgment or order of any court of competent jurisdiction; nor after any such sale or sales, claim or exercise any right under any statute heretofore or hereafter enacted by the United States of America or by any state or territory, or otherwise, to redeem the property so sold or any part thereof; and the Borrower hereby expressly waives all benefits or advantage of any such law or laws and covenants not to hinder, delay or impede the execution of any power herein granted or delegated to the Trustee, but to suffer and permit the execution of every power as though no such law or laws had been made or enacted.

Section 7.13. Remedies Subject to Provisions of Law. All rights, remedies and powers provided by this Article may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that they will not render this Mortgage invalid or unenforceable under the provisions of any applicable law.

Section 7.14. Remedies Under Uniform Commercial Code. In addition to any other remedies provided for hereby or by law the Trustee shall have the rights of a secured party and the Borrower shall have the rights of a debtor under the Uniform Commercial Code of Indiana, codified at Indiana Code 26-1 (or any successor code or statute) with respect to the equipment and any other personal property included in the Mortgaged Property upon the occurrence and continuance of an event of default hereunder, as defined in Section 7.1 hereof.

(End of Article VII)



## ARTICLE VIII.

### IMMUNITY

#### Section 8.1. Immunity.

(a) No covenant or agreement contained in the Bonds, the Loan Agreement or the Indenture shall be deemed to be a covenant or agreement of any member of the Commission or of the legislative body of the Issuer or of any officer or employee of the Issuer, the Commission or its legislative body in his or her individual capacity, and neither the members of the Commission or the legislative body of the Issuer, nor any officer or employee of the Issuer executing the Bonds, shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance of the Bonds.

(b) No recourse shall be had for the payment of the principal or prepayment price of, or interest on, the Series 1996 Note, or for any claim based thereon or on this Agreement, against any officer, or partner, past, present or future, of the Borrower as such, either directly or through the Borrower, under any constitutional provision, statute or rule of law, or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise.

(End of Article VIII)



ARTICLE IX.

SUPPLEMENTS AND AMENDMENTS TO THIS LOAN AGREEMENT

Section 9.1. Supplements and Amendments to this Loan Agreement. Subject to the provisions of Article X of the Indenture, the Borrower and the Issuer may from time to time enter into such supplements and amendments to this Loan Agreement as to them may seem necessary or desirable to effectuate the purposes or intent hereof.

(End of Article IX)



## ARTICLE X.

### DEFEASANCE

Section 10.1. Defeasance. If the Borrower shall pay and discharge or provide, in a manner satisfactory to the Trustee, for the payment and discharge of the whole amount of the principal of, premium, if any, and interest on the Note at the time outstanding, and shall pay or cause to be paid all other sums payable hereunder, or shall make arrangements satisfactory to the Trustee for such payment and discharge, and if provision shall have been made for the satisfaction and discharge of the Indenture as provided therein, then and in that case all property, rights and interest hereby conveyed or assigned or pledged shall revert to the Borrower, and the estate, right, title and interest of the Trustee therein shall thereupon cease, terminate and become void; and this Loan Agreement, and the covenants of the Borrower contained herein (except as provided otherwise in Section 3.33 hereof), shall be discharged and the Trustee in such case on demand of the Borrower and at its cost and expense, shall execute and deliver to the Borrower a proper instrument or proper instruments acknowledging the satisfaction and termination of this Loan Agreement, and shall convey, assign and transfer or cause to be conveyed, assigned or transferred, and shall deliver or cause to be delivered, to the Borrower, all property, including money (other than amounts held to pay principal of and interest and premium, if any, on the Bonds and for the payment of any fees and expenses of the Trustee, including pursuant to any identification), then held by the Trustee together with the Note marked paid or cancelled.

(End of Article X)



## ARTICLE XI.

### MISCELLANEOUS PROVISIONS

Section 11.1. Loan Agreement for Benefit of Parties Hereto. Nothing in this Loan Agreement, express or implied, is intended or shall be construed to confer upon, or to give to, any person other than the parties hereto, their successors and assigns, and the holder of the Notes, any right, remedy or claim under or by reason of this Loan Agreement or any covenant, condition or stipulation hereof; and the covenants, stipulations and agreements in this Loan Agreement contained are and shall be for the sole and exclusive benefit of the parties hereto, their successors and assigns, the Trustee and the holder of the Note.

Section 11.2. Severability. In case any one or more of the provisions contained in this Loan Agreement or in the Note shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby.

Section 11.3. Limitation on Interest. No provisions of this Loan Agreement or of the Note shall require the payment or permit the collection of interest in excess of the maximum permitted by law. If any excess of interest in such respect is herein or in the Notes provided for, or shall be adjudicated to be so provided for herein or in the Note, neither the Borrower nor its successors or assigns shall be obligated to pay such interest in excess of the amount permitted by law, and the right to demand the payment of any such excess shall be and hereby is waived, and this provision shall control any provisions of this Loan Agreement and the Notes inconsistent with this provision.

Section 11.4. Addresses for Notice and Demands. All notices, demands, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, postage prepaid, with proper address as indicated below. The Issuer, the Borrower, and the Trustee may, by written notice given by each to the others, designate any address or addresses to which notices, demands, certificates or other communications to them shall be sent when required as contemplated by this Mortgage. Until otherwise provided by the respective parties, all notices, demands, certificates and communications to each of them shall be addressed as follows:

To the Issuer:

City of Gary  
Attn: Clerk  
City Hall  
401 Broadway  
Gary, Indiana 46402

To the Borrower:

Broadway Area Community Development  
Corporation  
700 West Ridge Road  
Gary, Indiana 46408  
Attn: Darrell Comer

With a Copy To:

(i) Development Concepts, Inc.  
Attn: Mike Higbel  
200 South Meridian Street, #410  
Indianapolis, Indiana 46225

(ii) Community Development Connections, Inc.  
Attn: Timothy E. Schalk  
545 East Vermont Street  
Indianapolis, Indiana 46202-3637

To the Trustee:

Bank One, Indianapolis, NA  
Attn: Corporate Trust Department  
111 Monument Circle, Suite 1611  
Indianapolis, Indiana 46277-0116

Section 11.5. Successors and Assigns. Whenever in this Loan Agreement any of the parties hereto is named or referred to, the successors and assigns of such party shall be deemed to be included and all the covenants, promises and agreements in this Loan Agreement contained by or on behalf of the Borrower, or by or on behalf of the Issuer, shall bind and inure to the benefit of the respective successors and assigns, whether so expressed or not. Provided, however, the Borrower may not assign its rights or obligations under this Loan Agreement without the consent of the Bondholders, which may be withheld in their absolute discretion.

Section 11.6. Counterparts. This Loan Agreement is being executed in any number of counterparts, each of which is an original and all of which are identical. Each counterpart of this Loan Agreement is to be deemed an original hereof and all counterparts collectively are to be deemed but one instrument.

Section 11.7. Governing Law. It is the intention of the parties hereto that this Loan Agreement and the rights and obligations of the parties hereunder and the Note and the rights and obligations of the parties thereunder, shall be governed by and construed and enforced in accordance with, the laws of Indiana.

(End of Article XI)


IN WITNESS WHEREOF, the Borrower and the Issuer have caused this Loan Agreement to be executed in their respective names, and Borrower and the Issuer have caused their corporate seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

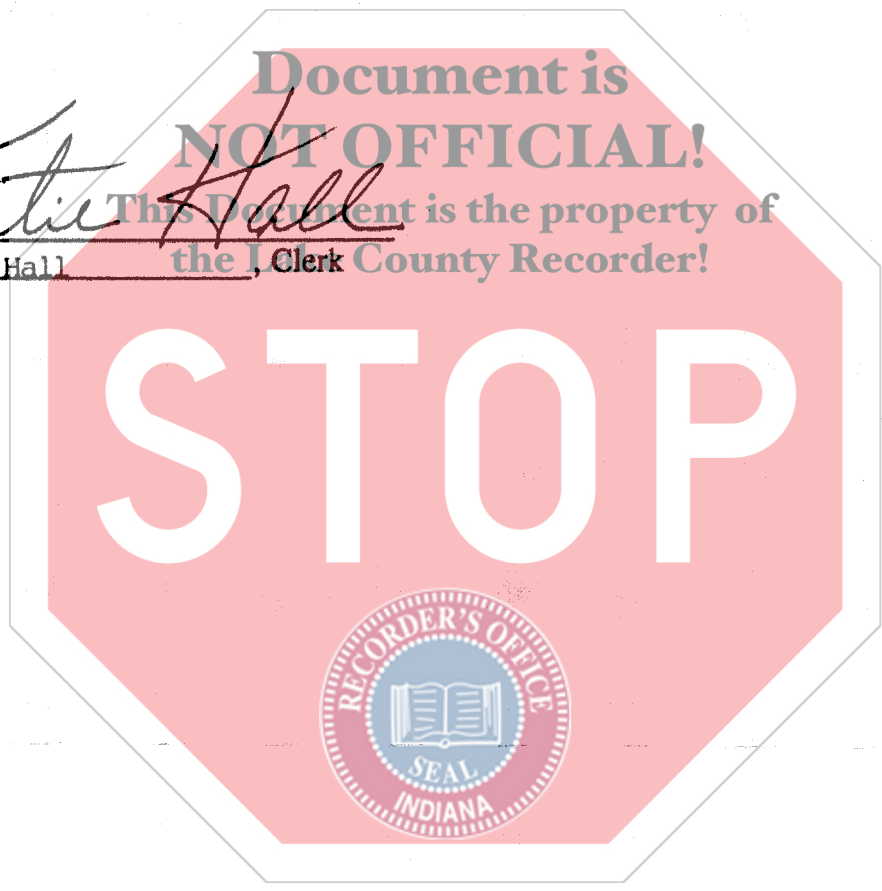
CITY OF GARY, INDIANA

By   
Scott L. Kincaid Mayor

(SEAL)

Attest:

  
Katie Hall  
Katie Hall, Clerk



MADISON AVENUE TOWNHOMES, L.P.

By: MADISON AVENUE ASSOCIATES,  
LLC, General Partner

By Timothy E. Schalk  
Timothy E. Schalk, Member



This instrument prepared by Charles A. Compton, Ice Miller Donadio & Ryan, One American Square, Box 82001, Indianapolis, Indiana 46282.



STATE OF INDIANA )  
 )  
COUNTY OF LAKE )

On this 24th day of May, 1996, before me, a notary public in and for said county and state, personally appeared Scott L. King, to me personally known and known to me to be the same person who executed the within and foregoing instrument, who, being by me duly sworn, did depose, acknowledge and say: That he is the Mayor of City of Gary (the "Issuer"), the municipal corporation described in and which executed the foregoing instrument; that he knows the seal of said Issuer; that the seal affixed to said instrument is the seal of said Issuer; that the instrument was signed and sealed on behalf of the Issuer; and Katie Hall, Clerk, of the Issuer, acknowledged the execution of this instrument to be the voluntary act and deed of the Issuer by it voluntarily executed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 24th day of May, 1996.

(Written Signature)  
Inga D. Lewis  
(Printed Signature)

My Commission Expires:

8/3/98

(Seal)

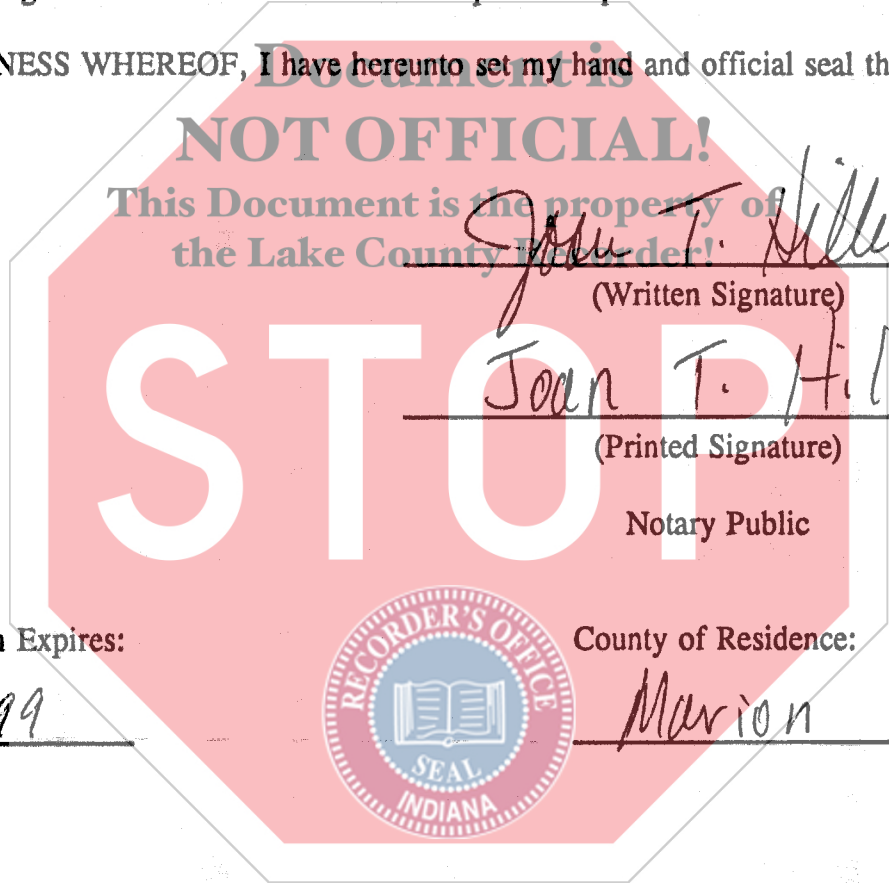
County of Residence:

Lake

STATE OF INDIANA )  
 )  
COUNTY OF MARION )

On this 29th day of May, 1996, before me, a notary public in and for said county and state, personally appeared Timothy E. Schalk, a member of the Madison Avenue Associates, LLC, general partner of the Madison Avenue Townhomes, L.P., to me personally known and known to me to be the same person who executed the within and foregoing instrument, who, being by me duly sworn, did depose, acknowledge and say: That he is a member of the Madison Avenue Associates, LLC, general partner of the Madison Avenue Townhomes, L.P., the limited partnership described in and which executed the foregoing instrument; and that said instrument was signed and sealed on behalf of said partnership.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 29th day of May, 1996.



My Commission Expires:

11-12-1999

(Seal)

County of Residence:

Marion

## LEGAL DESCRIPTION

A parcel of land in The Chicago & Tolleston Land & Investment Company's 3rd Addition to The City of Gary, Indiana, recorded in Plat Book 2 page 27, in the Lake County Recorder's Office described as follows:

Block 4, Lots 1 through 13 and Lots 14 through 26; The alley number 4 West apportioned to and adjoining Block 4 Lots 1 through 13 and Lots 14 through 26;

Block 5, Lots 1 through 13 and Lots 14 through 26; The alley number 3 West apportioned to and adjoining Block 5 Lots 1 through 13 and Lots 14 through 26;

Block 18, Lots 25 and 26; The alley number 3 West apportioned to and adjoining Block 18 Lots 25 and 26;

Block 20, Lots 1 through 26 except the North 10 feet of Lots 1 and 14, The alley number 4 West apportioned to and adjoining Block 20 Lots 1 through 26, except the North 10 feet of the alley;

The vacated Jefferson Street from the North line of 15th Avenue to the North line of Lot 12, Block 20 and the North line of Lot 25, Block 18;

The vacated 14th Avenue from the East line of Madison Street to the center line of the vacated alley number 3 West,

More particularly described as follows:

Beginning at the Southwest corner of Lot 26 in Block 4 being the point of beginning of this survey; thence along the Easterly right of way line of Madison Street, North 01 degree 10 minutes 46 seconds West a distance of 689.68 feet to a point 10 feet South of the Northwest corner of Lot 14 in Block 20 lying on the Southerly right of way line of 13th Avenue; thence along the said Southern right of way line of 13th Avenue, North 89 degrees 58 minutes 39 seconds East a distance of 263.94 feet to a point 10 feet South of the Northeast corner of Lot 1, Block 20 lying on the Western right of way line of Jefferson Street; thence along the said Western right of way line of Jefferson Street, South 01 degree 06 minutes 09 seconds East a distance of 263.20 feet to the Southeast corner of Lot 11 in Block 20; thence South 89 degrees 58 minutes 56 seconds East a distance of 181.26 feet to the center line of alley number 3 West; thence along the center line of alley number 3 West, South 01 degree 06 minutes 45 seconds East a distance of 100.05 feet; thence South 89 degrees 58 minutes 26 seconds East a distance of 131.28 feet to the Northeast corner of Lot 1, Block 5 lying on the West right of way line of Adams Street; thence along the west right of way line of Adams Street, South 01 degree 09 minutes 27 seconds East a distance of 324.78 feet to the North right of way line of 15th Avenue which is the Southeast corner of Lot 13, Block 5; thence along the North right of way line of 15th Avenue, North 89 degrees 57 minutes 44 seconds West a distance of 575.22 feet to the point of beginning.

**EXHIBIT B**

**MADISON AVENUE TOWNHOMES, L.P.**

**NOTE, SERIES 1996**

FOR VALUE RECEIVED, the undersigned, Madison Avenue Townhomes, L.P. (the "Borrower"), a limited partnership organized and existing under the laws of the State of Indiana, hereby promises to pay to the order of the City of Gary, Indiana (the "Issuer"), in immediately available funds, the principal sum of \$2,000,000 with interest thereon at the times and in the amounts that, together with other moneys available therefor in the Bond Fund under the Trust Indenture (the "Indenture"), dated as of May 1, 1996, between the Issuer and Bank One, Indianapolis, NA, as Trustee (the "Trustee") will equal the principal amount of and interest on the Series 1996 Bonds (as herein defined) which will become due on such day, whether at maturity, by redemption or acceleration.

Payments of both principal and interest are to be endorsed to the Trustee, and are to be made directly to the Trustee for the account of the Issuer pursuant to such endorsement. Such endorsement is to be made as security for the payment of the bonds designated "City of Gary, Indiana Taxable Economic Development Revenue Bonds, Series 1996 (Madison Avenue Townhomes, L.P. Project)" (the "Series 1996 Bonds"). All of the terms, conditions and provisions of the Indenture are, by this reference thereto, incorporated herein as a part of this Note.

This Note is issued pursuant to and secured by the Loan Agreement, Mortgage, Security Agreement and Financing Statement (the "Loan Agreements") and is entitled to the benefits, and is subject to the conditions thereof. The obligations of Borrower to make the payments required hereunder shall be absolute and unconditional without any defense or right of set-off, counterclaim or recoupment by reason of any default by the Issuer under the Loan Agreement or under any other agreement between the Borrower and the Issuer or out of any indebtedness or liability at any time owing to the Borrower by the Issuer or for any other reason. Reference is hereby made to the Loan Agreement for a description of the property thereby mortgaged, the nature and extent of the security for this Note and the rights of the holder thereof, the Borrower and the Issuer in respect thereof, and the provisions for amending the Loan Agreement, to all of which the holder hereof, by its acceptance hereof, assents.

The principal of this Note is subject to prepayment prior to maturity in the manner stated in the Loan Agreement.

In certain events and in the manner set forth in the Loan Agreement, the entire principal amount of this Note and the interest accrued thereon may be declared to be due and payable.

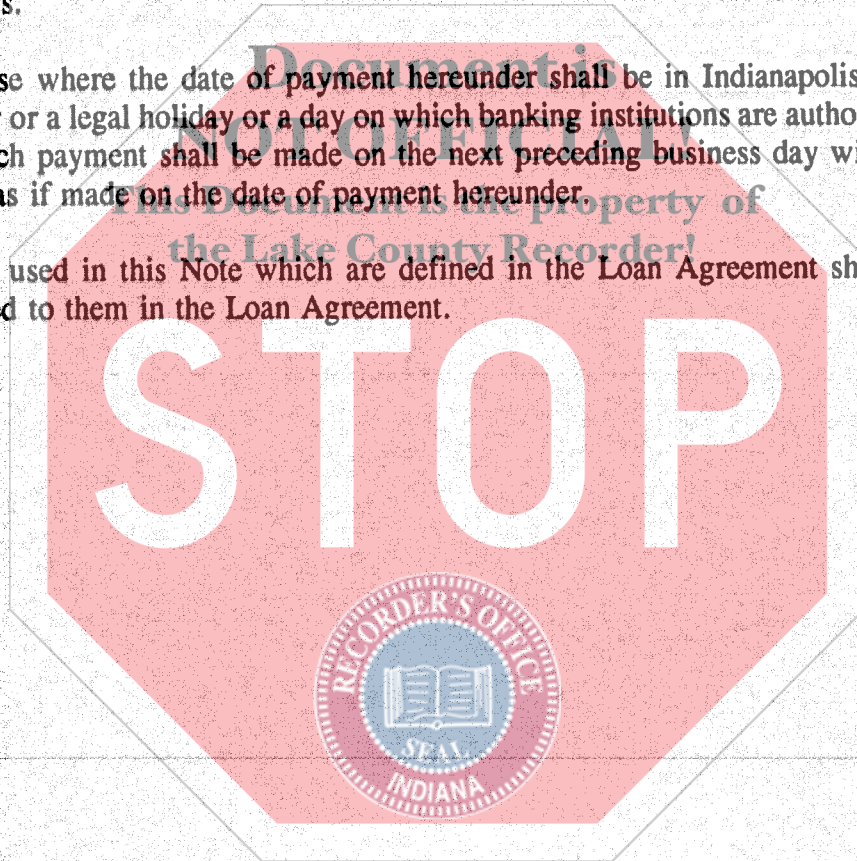
In certain events and in the manner set forth in the Loan Agreement, the Borrower shall be obligated to pay additional amounts.

No recourse shall be had for the payment of the principal or prepayment price of, or interest on this Note, or for any claim based hereon or on the Loan Agreement, against any officer, member or director, past, present or future, of the Borrower as such, either directly or through the Borrower, under any constitutional provision, statute or rule of law, or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise.

The Borrower hereby unconditionally waives diligence, presentment, protest, notice of dishonor and notice of default of the payment of any amount at any time payable to the Issuer under or in connection with this Note. All amounts payable hereunder are payable with reasonable attorneys fees and costs of collection and without relief from valuation and appraisement laws.

In any case where the date of payment hereunder shall be in Indianapolis, Indiana, a Saturday, Sunday or a legal holiday or a day on which banking institutions are authorized by law to close, then such payment shall be made on the next preceding business day with the same force and effect as if made on the date of payment hereunder.

All terms used in this Note which are defined in the Loan Agreement shall have the meanings assigned to them in the Loan Agreement.

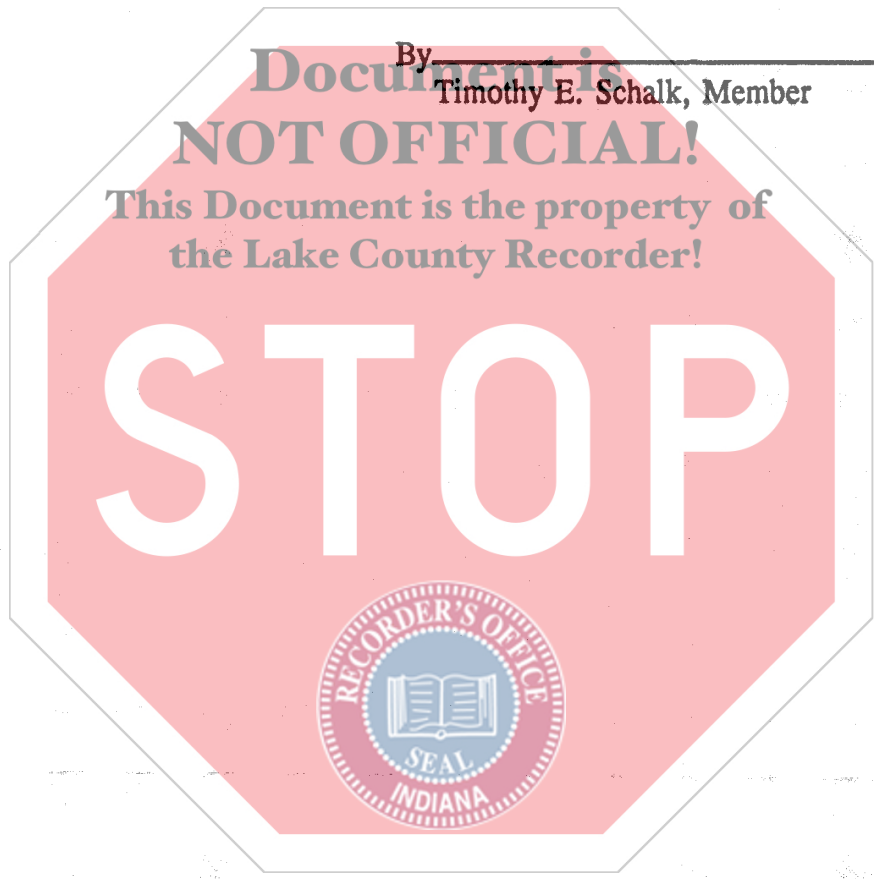


IN WITNESS WHEREOF, the Borrower has caused this Note to be duly executed and attested by its duly authorized officers all as of May 29, 1996.

Issue Date: May 29, 1996

MADISON AVENUE TOWNHOMES, L.P.

By: MADISON AVENUE ASSOCIATES,  
LLC, General Partner



**ENDORSEMENT**

Pay, without recourse, to Bank One, Indianapolis, NA, as Trustee under the Trust Indenture dated as of \_\_\_\_\_, 1996, from the undersigned.

**CITY OF GARY, INDIANA**

By \_\_\_\_\_,  
\_\_\_\_\_, Mayor

(SEAL)

Attest:

\_\_\_\_\_, Clerk

