

94K071180

94 SEP 14 PM 3:00

ORIGINAL

05/11/94

Lynda M. Quinn

CITY OF AURORA, ILLINOIS
RESOLUTION NO. *R94-263*
DATE OF PASSAGE *June 21, 1994*

RESOLUTION AUTHORIZING THE DEVELOPMENT AGREEMENT WITH
MIDWEST MANAGEMENT, INC. (COMFORT SUITES HOTEL)

WHEREAS, the City of Aurora has a population of more than 25,000 persons and is, therefore, a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1970; and

WHEREAS, subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals and welfare; and

WHEREAS, the City is committed to the rehabilitation and redevelopment of the recently acquired Roundhouse Property, in order to increase employment opportunities and to stimulate economic growth and stabilize the tax base of the City and in particular, the Central Business District; and

WHEREAS, Midwest Management, Inc. (hereinafter referred to as "Midwest") has expressed an interest to develop an approximately two (2) acre parcel of property located at the northeast corner of Spring Street and Broadway Avenue in Aurora, Illinois, into an eighty-three (83) unit Comfort Suites Hotel; and

WHEREAS, Midwest and the City desire to enter into a development agreement for the implementation of said Project.

NOW THEREFORE, BE IT FURTHER RESOLVED by the City Council of the City of Aurora, Kane and DuPage Counties, Illinois, that the Mayor and City Clerk be and are hereby authorized to execute the attached Development Agreement.

SUBMITTED BY - CITY OF AURORA
AFTER RECORDING PLEASE RETURN TO
PLANNING DEPARTMENT
44 E. DOWNER - AURORA, IL 60507

39.00

39.00

28

*NS 22/32/2
SW 33
SE
+
EAVR + DC-NDVA
94K071180*

0951 0733

PASSED AND APPROVED on June 21, 1994

[Signature]
[Signature]

Aldermen

[Signature]
[Signature]
[Signature]
[Signature]

Aldermen

Ayes 8

Nays 0

Not voting 0

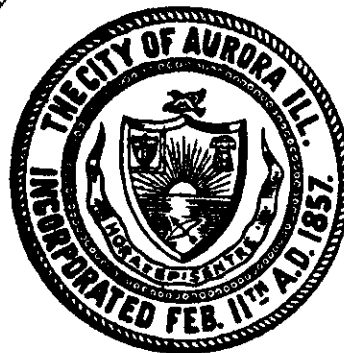
[Signature]

Mayor David L. Pierce

ATTEST:

[Signature]
City Clerk

This instrument prepared by:
John F. Philipchuck
Dommermuth, Brestal, Cobine & West, Ltd.
111 W. Downer Place
Suite 300
Aurora, IL 60506
08pam07.158



Unofficial

94K071180

0951 0734

DEVELOPMENT AGREEMENT

This Agreement entered into this 21st day of June, 1994, by and between Midwest Management, Inc., an Illinois corporation, hereinafter referred to as "Midwest", whose offices are located at 4005 Gabrielle Lane, Aurora, Illinois 60504, and the City of Aurora, an Illinois municipal corporation, Kane and DuPage Counties, Illinois, ("City").

WITNESSETH:

WHEREAS, the City is a home-rule unit of local government pursuant to Section 6(a) of Article VII of the Constitution of the State of Illinois and is authorized to exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the City is committed to the rehabilitation and redevelopment of the recently acquired Roundhouse Property, in order to increase employment opportunities and to stimulate economic growth and stabilize the tax base of the City and in particular, the Central Business District; and

WHEREAS, Midwest has expressed an interest to develop an eighty-three (83) unit Comfort Suites Hotel ("Project") on an approximately two (2) acre portion of the Roundhouse Property, which parcel is located at the northeast corner of Spring Street and Broadway Avenue in Aurora, Illinois; and

WHEREAS, Midwest has submitted to the City a development proposal for the Project with a projected project cost of Three Million One Hundred Sixty Five Thousand Dollars (3.165M); and

WHEREAS, the City agrees to provide Midwest with development assistance for the Project by conveying to Midwest the fee simple title to the said approximately two (2) acre site; and

WHEREAS, Midwest and the City desire to enter into a development agreement for the implementation of said Project.

NOW, THEREFORE, in consideration of the foregoing and the terms and provisions hereinafter set forth, the parties hereto agree as follows:

- (1) Intentions. The parties confirm that this Agreement expresses the parties' intentions with respect to the Project; and each party agrees to negotiate and cooperate in good faith and to use its best effort to develop the Project as hereinafter set forth.

94K071180

0951 0735

2

That the foregoing preambles are incorporated herein and made a part of this Agreement as if fully set forth.

(2) General Provisions.

(i) This Agreement shall be governed by the laws of the State of Illinois.

(ii) Time is of the essence.

(iii) Midwest shall, in accordance with the Aurora Sign Ordinance, be allowed to construct a Comfort Suites identification sign within the sign easement areas set forth on the Final Plan referred to herein, at Midwest's sole cost. In the event a future monument sign is constructed for the entire Roundhouse Property at such specified location, said Comfort Suites identification sign shall be incorporated into said new monument sign, at no cost to Midwest, other than as provided in Exhibits B and C hereto.

(iv) City shall deliver or cause to be delivered to Midwest, not less than five (5) days prior to the execution of this Agreement, the plat of survey and a title commitment for an owner's title insurance policy issued by the Chicago Title Insurance Company in the amount of \$350,000.00, covering title to the real estate on or after the date hereof, showing title in the City subject only to (a) the general exceptions contained in the policy, (b) any title exceptions set forth herein, and (c) title exceptions pertaining to liens or encumbrances of a definite or ascertainable amount which may be removed upon the delivery of the deed (all of which are herein referred to as the permitted exceptions). The title commitment shall be conclusive evidence of good title as therein shown as to all matters insured by the policy, subject only to the exceptions as therein stated. City also shall thereupon furnish Midwest an affidavit of title in customary form covering the date of deed transfer and showing title in City, subject only to the permitted exceptions in foregoing items (b) and (c) and unpermitted exceptions or defects in the title disclosed by the survey, if any, as to which the title insurer commits to extend insurance in the manner specified in subparagraph (v) below.

(v) If the title commitment or plat of survey discloses either unpermitted exceptions or survey matters that render the title unmarketable (herein referred to as "survey defects"), City shall have thirty (30) days from the date of delivery thereof to have the exceptions removed from the commitment or to correct such survey defects, and, in such event, the time of deed deposit shall be thirty-five (35) days after delivery of revised commitment or the time expressly specified, whichever is later.

If City fails to have the exceptions removed or to correct any survey defects, or in the alternative, to obtain the commitment for title insurance specified above as to such exceptions or survey defects within the specific time, Midwest may terminate this agreement.

- (vi) This Agreement may be amended or modified only by mutual consent of the parties hereto.
- (vii) This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties hereto.

(3) Provisions of the Project.

- (i) City hereby agrees to transfer to Midwest or its Land Trust upon request of Midwest and as provided in subparagraph (iii), approximately two (2) acres of property at the northeast corner of Spring Street and Broadway Avenue upon the Roundhouse Property and more fully described on Exhibit A attached hereto (the "Property"), subject to the easements attached hereto as Exhibits B and C, at no cost for the construction of said eighty-three (83) unit hotel pursuant to the Final Plan and Final Plat approved by the City May 9, 1994, all under the terms and conditions herein stated:
 - a) The City agrees to indemnify Midwest, its successors and assigns, and any lenders of Midwest with regard to present environmental conditions on the Property, by entering into the Indemnification Agreement attached hereto as Exhibit D.
 - b) The City shall provide at its sole cost, utility lines for water and storm sewer, to the required connection point at the Property line with sufficient size and capacity for the construction of said eighty-three (83) unit hotel, and final site engineering therefor. The City shall permit connection to the sanitary sewer at the existing manhole structure within the Spring Street right-of-way, which line has sufficient capacity to serve said hotel. Within sixty (60) days of the issuance of the building permit for the hotel, City shall have all said City supplied utilities available as hereinabove stated.
 - c) Due to environmental and soil compaction costs, which would have been incurred for extensive excavation, transport and disposal of special environmental waste related to a fully excavated site preparation, the City shall instead provide an amount of \$220,000.00 to be used towards a buildable, structural subgrade or equivalent for the Project.

94X071180

0951 0737

5

- d) In addition thereto, City bears the cost of removal and disposal of any special environmental waste from the Property (as identified in previous environmental reports attached to the title of the Property) as part of the grading of the Property for the Project, to a specified grade for a finished site, (being an integral part of the overall grading plan for the Roundhouse Property) which grading of the property and final site engineering therefor shall be at City expense, and City bears the net special cost of such waste removal for other utility excavations.
- e) Midwest shall secure both conventional and Small Business Administration financing for the construction of said Project in accordance with a binding construction contract therefor within the approximate cost range estimated herein, and shall provide an equity investment equal to \$314,000.00.

f) The City shall reimburse Midwest for an amount equal to the net expense for additional structural pavement strength required for the easterly and northerly shared access lanes being upgraded for use as an access road from Spring Street to Broadway Avenue, due to heavier traffic volumes and resulting load requirements anticipated for the future development of the remainder of the Roundhouse Property.

g) The City, at its sole cost, shall otherwise develop the Broadway Avenue entrance improvements to a point of connection with the Project, being five (5) feet behind the curb line of said entrance, all as depicted on the Final Plan.

h) Any modification to the Spring Street entrance, and the costs for the northerly and easterly shared access lanes other than as provided in (f), shall be borne by Midwest.

i) The City shall bear the third party construction management fee applicable to the described site development responsibilities of the City hereunder.

j) Midwest shall receive a full set of Final Engineering Plans for the site at the time of execution of this Agreement.

k) The City may either directly contract for said expenses as are provided for and deemed necessary hereunder or may reimburse Midwest therefor if such is provided through Midwest's construction contract.

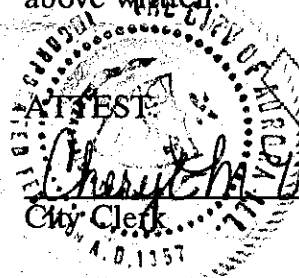
94K071180

0951 0738

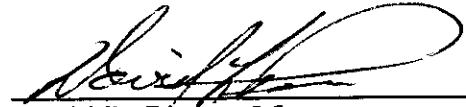
- (ii) Midwest agrees to indemnify, hold harmless, and defend the City against any claim, loss, damage or injury arising out of any action by Midwest, its contractors or agents, associated with the Project. Midwest will further reimburse City for any damage to City property caused by Midwest, its contractors or agents.
- (iii) The deed shall be deposited into an escrow account with Chicago Title Insurance Company, Geneva, Illinois, within five (5) business days after the execution of this agreement under condition that if Midwest shall not have both construction financing and a commitment for permanent financing for the Project together with a binding construction contract therefor within the approximate cost range estimated herein, by September 1, 1994, the Property shall not be transferred to Midwest, and shall thereupon be released from said escrow account, to the City and the deed shall thereupon be released from said escrow account to the City and this Agreement shall thereupon terminate. If all aforesaid conditions are met, the escrow instructions shall provide that the deed shall be transferred to Midwest. Title and escrow expenses shall be shared equally by the parties.

(4) Termination of Agreement. This Agreement shall terminate upon completion of the terms hereunder, upon mutual consent of the parties, upon Midwest's sale or other disposition of material interest in the Property and the resulting completion of all provisions as set forth in this Agreement which sale or disposition within eighteen (18) months after the issuance of the Certificate of Occupancy shall be consented to by the City, or as otherwise specifically provided.

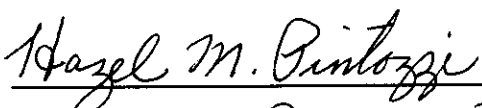
IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year above written.

ATTEST:

 Cheryl A. Bonhoff [SEAL]
 City Clerk
 A. D. 1157

CITY OF AURORA
 a Municipal Corporation

By: 
 David L. Pierce, Mayor

MIDWEST MANAGEMENT, INC.

By: 
 Hazel M. Pinterzi
 President

ATTEST:

 Robert Blum [SEAL]

08rb07E.183 " OFFICIAL SEAL " J. TODD BLINCOE
 NOTARY PUBLIC, STATE OF ILLINOIS
 MY COMMISSION EXPIRES 4/8/96

94K071180

0951 0739



ORIGINAL

DONAHUE and THORNHILL, INC.

PROFESSIONAL LAND SURVEYORS

SUBDIVISION — INDUSTRIAL — FARMS

TOPOGRAPHICAL — RESIDENTIAL — MORTGAGE

LEGAL DESCRIPTIONS — MAPPING — RIGHT-OF-WAY

7 RICHARDS STREET
GENEVA, ILLINOIS 60134
708-232-7418
FAX # 708-232-7626

June 10, 1994

TRACT TO BE KNOWN AS LOT 2, ROUNDHOUSE SUBDIVISION

That part of the Original Town of Aurora, according to the plat thereof recorded August 8, 1839 in Record Book 1 at page 160, part of LaSalle Street, and part of Section 22, Township 38 North, Range 8 East of the Third Principal Meridian described as follows: Beginning at the point of intersection of the southeasterly line of North Broadway with the northeasterly line of Spring Street; thence southeasterly along said northeasterly line 230.96 feet; thence northeasterly along a line forming an angle of 99°18'05" with the last described course (measured clockwise therefrom) 264.72 feet; thence northwesterly at right angles to the last described course 7.0 feet; thence northeasterly at right angles to the last described course 70.0 feet; thence northwesterly at right angles to the last described course 187.0 feet; thence southwesterly at right angles to the last described course 25.0 feet; thence southwesterly along a line forming an angle of 115°46'23" with the last described course (measured counter-clockwise therefrom) 104.58 feet to a southeasterly line of said North Broadway; thence southwesterly along said southeasterly line forming an angle of 92°15'06" with the last described course (measured clockwise therefrom) 53.0 feet to an angle in said southeasterly line; thence southwesterly along a southeasterly line of said North Broadway forming an angle of 165°15'52" with the last described course (measured counter-clockwise therefrom) 255.99 feet to the point of beginning, in the City of Aurora, Kane County, Illinois and containing 2.001 acres.

94K071180

0951 0740

8

LEGAL DESCRIPTION

TRACT TO BE KNOWN AS LOT 2, ROUNDHOUSE SUBDIVISION

That part of the Original Town of Aurora, according to the plat thereof recorded August 8, 1839 in Record Book 4 at page 160, part of LaSalle Street, and part of Section 22, Township 38 North, Range 8 East of the Third Principal Meridian described as follows: Beginning at the point of intersection of the southeasterly line of North Broadway with the northeasterly line of Spring Street; thence southeasterly along said northeasterly line 230.96 feet; thence northeasterly along a line forming an angle of $99^{\circ}18'05''$ with the last described course (measured clockwise therefrom) 264.72 feet; thence northwesterly at right angles to the last described course 7.0 feet; thence northeasterly at right angles to the last described course 70.0 feet; thence northwesterly at right angles to the last described course 187.0 feet; thence southwesterly at right angles to the last described course 25.0 feet; thence southwesterly along a line forming an angle of $115^{\circ}48'23''$ with the last described course (measured counter-clockwise therefrom) 104.58 feet to a southeasterly line of said North Broadway; thence southwesterly along said southeasterly line forming an angle of $92^{\circ}15'06''$ with the last described course (measured clockwise therefrom) 53.0 feet to an angle in said southeasterly line; thence southwesterly along a southeasterly line of said North Broadway forming an angle of $165^{\circ}15'52''$ with the last described course (measured counter-clockwise therefrom) 255.99 feet to the point of beginning, in the City of Aurora, Kane County, Illinois and containing 2.001 acres.

EXHIBIT A

94K071180

09510741

9

081120276

THAT PART OF

James O. Van DeVelde Catholic Bishops Addition to Aurora, according to the plat thereof recorded April 12, 1854 in Record Book 33 at page 203, part of the Original Town of Aurora, according to the plat thereof recorded August 8, 1839 in Record Book 1 at page 160, part of LaSalle Street, part of Flagg Street, and part of Section 22, Township 38 North, Range 8 East of the Third Principal Meridian described as follows: Beginning at the point of intersection of the southeasterly line of North Broadway with the northeasterly line of Spring Street; thence southeasterly along said northeasterly line 301.84 feet; thence northeasterly along a line forming an angle of 96°52'55" with the last described course (measured clockwise therefrom) 253.49 feet; thence northwesterly along a line forming an angle of 92°25'10" with the last described course (measured clockwise therefrom) 66.25 feet; thence northeasterly at right angles to the last described course 90.0 feet; thence northwesterly at right angles to the last described course 20.0 feet; thence northeasterly along a line forming an angle of 91°20'59" with the last described course (measured counter-clockwise therefrom) 236.83 feet; thence northeasterly along a line forming an angle of 168°44'43" with the last described course (measured clockwise therefrom) 192.50 feet; thence northeasterly along a line forming an angle of 172°54'46" with the last described course (measured clockwise therefrom) 281.92 feet; thence northwesterly along a line forming an angle of 89°05'16" with the last described course (measured clockwise therefrom) 59.60 feet to a southerly corner of the existing Aurora Transportation Center building; thence northwesterly along a southwesterly line of said building forming an angle of 179°35'02" with the last described course (measured clockwise therefrom) 78.14 feet to an angle in said southwesterly line; thence southwesterly along a southwesterly line of said building forming an angle of 89°39'33" with the last described course (measured clockwise therefrom) 41.91 feet to a northerly line of the former Chicago, Burlington and Quincy Railroad Company Roundhouse; thence westerly along a northerly line of said Roundhouse forming an angle of 84°24'16" with the last described course (measured counter-clockwise therefrom) 21.67 feet to an angle in said northerly line; thence westerly along a northerly line of said Roundhouse forming an angle of 170°16'17" with the last described course (measured clockwise therefrom) 20.61 feet to an angle in said northerly line; thence westerly along a northerly line of said Roundhouse forming an angle of 170°57'55" with the last described course (measured clockwise therefrom) 20.61 feet to an angle in said northerly line; thence westerly along a northerly line of said Roundhouse forming an angle of 170°59'08" with the last described course (measured clockwise therefrom) 22.61 feet to a southwesterly line of said Aurora Transportation Center building; thence northwesterly along a southwesterly line of said Transportation Center building forming an angle of 143°40'09" with the last described course (measured counter-clockwise therefrom) 19.87 feet to the most westerly corner of said building; thence westerly along a line forming an angle of 148°31'47" with the last described course (measured clockwise therefrom) 23.91 feet; thence southwesterly along a line forming an angle of 146°39'25" with the last described course (measured clockwise therefrom) 24.40 feet; thence southwesterly along a curve to the left having a radius of 164.25 feet tangent to the last described course 116.81 feet; thence southwesterly tangent to the last described curve at the last described point 57.64 feet; thence southwesterly along a line forming an angle of 88°04'13" with the last described course (measured clockwise therefrom) 4.0 feet; thence southwesterly along a line forming an angle of 88°04'13" with the last described course (measured counter-clockwise therefrom) 36.06 feet; thence southeasterly along a line forming an angle of 89°12'44" with the last described course (measured clockwise therefrom) 13.14 feet; thence southwesterly along a line forming an angle of 89°57'18" with the last described course (measured counter-clockwise therefrom) 32.24 feet; thence northwesterly along a line forming an angle of 93°54'43" with the last described course (measured counter-clockwise therefrom) 13.60 feet; thence southwesterly along a line forming an angle of 94°39'17" with the last described course (measured clockwise therefrom) 230.41 feet; thence southwesterly along a curve to the right having a radius of 64.0 feet tangent to the last described course 61.74 feet; thence southwesterly tangent to the last described curve at the last described point 105.76 feet to the southeasterly line of said North Broadway; thence southwesterly along the southeasterly line of said North Broadway forming an angle of 125°27'52" with the last described course (measured clockwise therefrom) 81.85 feet to an angle in said southeasterly line; thence southwesterly along the southeasterly line of said North Broadway forming an angle of 165°15'52" with the last described course (measured counter-clockwise therefrom) 255.99 feet to the point of beginning, in the City of Aurora, Kane County, Illinois and containing 6.526 acres

POOR COPY
Recorder Not Responsible
For Reproductions

EXHIBIT "A"

0951 0742

10

DECLARATION OF EASEMENTS

AND

COVENANTS FOR MAINTENANCE OF PUBLIC AND PRIVATE FACILITIES

This Declaration of Easements and Covenants is made this 21st day of June, 1994 by the City of Aurora, (hereinafter referred to as "Declarant"), the Owner of Record of the property described in the attached Exhibit "A" and known as the Roundhouse Subdivision, situated in the City of Aurora and comprising of three (3) lots (hereinafter referred to as the "Property").

W I T N E S S E T H:

WHEREAS, Declarant is the record owner of Lots 1, 2 and 3 comprising all of the lots in the Roundhouse Subdivision; and

WHEREAS, construction of a Hotel and all related improvements is about to begin on Lot 2 of the Property; and

WHEREAS, the development plans for the Hotel contemplate the construction and installation of signs, light poles, electric lines, a public water main, and a private storm sewer with all related appurtenances thereto including but not limited to hydrants, valves, manholes and inlets (hereinafter collectively called the "Facilities"), at various locations throughout the Property, within designated Utility Easements all as shown on Exhibit "A" attached hereto and which have been designed to benefit and serve various portions of the Property; and

WHEREAS, Declarant intends to sell Lots 1 and 2, together with the right to use and benefit from the Facilities but subject to the obligation to pay a proportionate share of the costs to operate and maintain such Facilities; and

WHEREAS, Declarant desires to provide easements for the operation and maintenance of the Facilities and to provide for the sharing of the costs incurred to operate and maintain the Facilities by the owners of the Property.

NOW, THEREFORE, Declarant as the owner of the Property herein described, makes the following declaration of covenants and grants the following easements:

A. GRANT OF NON-EXCLUSIVE EASEMENTS

1. Declarant hereby grants to the owners, from time to time of the Property and their successors and assigns (hereinafter collectively called the "Owners" and each individually called an "Owner") non-exclusive easements over the Property as follows:

94K071180

0951 0743

11

- a.) A 10 foot wide strip with its centerline along the storm sewer in Lot 2 providing outlet to the storm sewers in Lot 1.
- b.) A 10 foot wide strip along the public water mains within Lot 2.
- c.) A 10 x 10 ft. area for each sign and light pole shown in Exhibit A.
- d.) A 10 foot wide strip with its centerline along the electric lines feeding the light poles and signs.

(Hereinafter the above described portions of the Property are collectively called the "Easement Area".)

The non-exclusive easements hereby granted over the Easement Area are subject to the City Easements granted and reserved on the Plat of Subdivision and easements for ingress, egress and access heretofore granted by Declarant.

2. The Owners shall have the right to enter onto the Easement Area with such personnel and equipment as may be necessary to maintain, operate, repair, renew, restore and reconstruct the Facilities. (Hereinafter the foregoing activities are collectively called the "Easement Activities") When, as part of the Easement Activities, it is necessary to replace any light pole or signs, the replacement items shall be of a similar model, size and dimensions as the item being replaced.

3. The use and occupation of the Easement Area for any of the Easement Activities shall be subject to the following terms, conditions and obligations:

- a.) The Owners shall have the obligation to repair and restore any improvements on the easement area which are damaged, destroyed, or disturbed in connection with or as a result of any Easement Activities, to the same condition as existed prior to the undertaking of such Easement Activity, upon completion thereof or as soon as practical thereafter if the Easement Activity is undertaken during the winter months and restoration cannot occur until spring or summer (i.e. repaving or replanting of trees and shrubs). The obligation to restore shall include, without limitation, repaving and re-stripping of parking areas, the replanting of trees, shrubs and grass and replacement of sod.
- b.) Except in the case of an emergency, no less than 10 days' advance notice shall be given to the Owner(s) of the

94K071180

0951 0744

12

Easement Area before such Area is entered and used for an Easement Activity.

- c.) The Easement Area shall be kept free and clear of mechanics liens and all work performed as an Easement Activity shall be done in a good and workmanlike manner and shall be done in accordance with all applicable rules, regulations, laws and ordinances.
- d.) The use and occupation of the Easement Area and the undertaking of any of the Easement Activities thereon shall be done in such a manner so as not to disturb or disrupt or to minimize the necessary disruption of: (i) any public utility facilities or other Private Facilities that may be installed within portions of the Easement Area; (ii) the other uses for which the Easement Area has been constructed and improved, i.e. ingress, egress and parking; or (iii) the use thereof by other entities having rights to use the Easement Area by virtue of easements delineated on the Plat of Subdivision or the easements for ingress, egress and access created by Declarant.

4. The Easements hereby granted are intended to run with the Property and are for the benefit of and shall be binding upon the Owners of the Property and their successors and assigns. The easements over Lot 2 shall constitute an easement appurtenant to Lots 1 and 3. The easement over Lot 1 shall constitute an easement appurtenant to Lots 2 and 3.

B. DECLARATION OF COVENANTS

1. With the ownership of each Lot comprising the Property and any portion thereof shall go the ownership of the Facilities, excepting the public water mains, installed and maintained thereon, together with the right to use and derive benefit from the Facilities installed and maintained throughout the Property but subject to the obligation to pay assessments representing each Lot's share of the costs and expenses incurred to perform the Easement Activities.

The Declarant, for the Property, hereby covenants, and each Owner of any Lot, by the acceptance of a deed of conveyance thereto, is deemed to covenant and agree to pay to the Managing Owner (hereinafter defined) assessments (but as to Easement Area 1 only after development occurs thereon) representing its share of the costs and expenses incurred to perform the Easement Activities.

2. In recognition of the fact that all lots will not derive equal benefit from all components of the Facilities, the share of costs and expenses to be assessed against each Lot as a result of Easement Activities shall be computed on the following basis:

94X071180

0951 0745

13

SIGNS PLUS CURB & GUTTER AND PAVEMENT REPLACEMENT, THE PLANTING
OF TREES AND SHRUBS DUE TO PUBLIC WATER MAINS MAINTENANCE
ACTIVITIES

<u>LOT OWNER</u>	<u>PERCENT OF COST</u>
1	50
2	50
3	0

LIGHT POLES, ELECTRIC LINES AND ALL APPURTENANCES

<u>LOT OWNER</u>	<u>PERCENT OF COST</u>
1	50
2	50
3	0

PRIVATE STORM SEWER SYSTEMS AND APPURTENANCES

<u>LOT OWNER</u>	<u>PERCENT OF COST</u>
1	45
2	45
3	10

The payment of the costs and charges incurred to provide electric power to illuminate the lights installed on the light poles, to replace the bulbs in such lights or to replace or repair the light poles and related electric feeder lines which comprise a part of the Facilities shall be borne and paid by each Owner, as follows:

<u>OWNER</u>	<u>PERCENT</u>
1	50
2	50
3	0

For purposes of this Declaration, the costs and expenses to be assessed against each Lot shall include any and all costs and expenses incurred to perform the Easement activities including but not limited to amounts paid to engineers, contractors, consultants, attorneys, materials, equipment permits, and inspection fees, together with an administration fee of up to 10% of the total cost to the Managing Owner (hereinafter defined) as reimbursement for its services.

3. Since it is contemplated that the Facilities, while benefiting all portions of the Property, will be installed as part of the Hotel development on Lot 2, then the owner of Lot 2 is initially designated the "Managing Owner" of the Property. Once

94K071180

0951 0746

14

the development of Lot 1 is completed, then the owner of Lot 1 shall be the Managing Owner and his duties shall commence thirty (30) days after the issuance of the First Occupancy Permit for any of the buildings to be built and occupied in Lot 1. The Managing Owner shall have the responsibility to perform or engage others to perform the Easement Activities when necessary to maintain the Private Facilities for the benefit of all Owners of the Property. The Managing Owner shall have the right to engage a third party to keep the books, records and accounts and to perform the duties and obligations herein imposed upon the Managing Owner.

In the event the Owner of Lot 2 fails to discharge its responsibilities as Managing Owner, within 30 days after a request therefor from one or more Owners of other portions of the Property, any other Owner may perform or cause the necessary Easement Activities to be performed.

In the case of an emergency requiring immediate action to keep the Facilities operational, any Owner may undertake the Easement Activities required as a result of such emergency.

In the event an Owner or Owners other than the Managing Owner perform or cause Easement Activities to be performed due to the failure of the Managing Owner to discharge its responsibilities or due to an emergency, such Owner or Owners shall have the same rights of assessment, lien and other rights hereinafter granted to the Managing Owner with respect to the Easement Activities to be performed or performed.

4. The Managing Owner shall not be liable to other Owners of the Property for any mistake in judgment or acts or omissions not made in bad faith. The Owners of the Property shall indemnify and hold the Managing Owner harmless against all contractual liabilities to others arising out of agreements made by such Managing Owner unless such agreements shall have been made in bad faith or with knowledge that the same was contrary to the provisions of this Declaration, but only to the extent that such contractual liabilities exceed the Managing Owner's proportionate liability therefor as provided in Paragraph 2 hereof.

5. In the event a disagreement arises as to the need to undertake the Easement Activities with respect to the Facilities, the determination by two owners shall be final and binding upon all Owners of the Property.

6. Except in cases of emergency where necessary to keep the Facilities operational, no Owner shall make any alterations to or changes in the Facilities without the prior consent of the City of Aurora.

7. Any expenses or costs incurred with respect to maintenance and/or repair of any portion of the Facilities due to

94K071180

0951 0747

15

the willful or negligent act of any Owner, its lessees, guests or invitees, shall, notwithstanding any provision herein to the contrary, be assessed solely to such Owner and its Lot.

8. Prior to undertaking any Easement Activities other than those due to an emergency, the Managing Owner shall notify each Owner in writing as to the amount of cash estimated to be required for such activity and setting forth the amount thereof being assessed to each Lot. The assessment based on such "estimated cash requirement" shall be due and payable within thirty (30) days.

If said "estimated cash requirement" proves inadequate to defray the expenses and costs, then the Managing Owner has the right to issue a supplemental assessment which shall be due and payable within fifteen (15) days. If, when all costs and expenses have been paid, the Managing Owner has not fully expended the monies paid as the "estimated cash requirement" for the Easement Activity, the Managing Owner shall refund to each Owner its proportionate share of such unexpended monies.

With respect to the costs and expenses for electric power charges to illuminate the lights on the light poles and signs, the Managing Owner shall have the right to issue monthly notices setting forth the amount being assessed to each Lot for such electric power charges. Such assessments shall be due and payable within fifteen (15) days.

The Managing Owner shall keep full and correct books of account concerning expenditures with respect to the Facilities. Such records shall be available for inspection by any Owner, during normal business hours.

No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Facilities.

9. The amount of each assessment shall constitute a lien on each Lot until paid by the Owner thereof. If the assessment is not paid by the due date, the assessment shall bear interest from the due date of such assessment at the maximum rate of interest then permitted by law but not to exceed 20%. The Managing Owner may bring an action at law against the Owner obligated to pay the assessment, or foreclose the lien against the lot. All interest, costs and reasonable attorney's fees and disbursements pertaining to said assessment shall be added to the amount of such assessment.

Upon the recording of notice of lien by the Managing Owner, it shall be a lien upon the portion of the Property to which it pertains prior to any other liens or encumbrances, recorded or not recorded, except only:

- a.) Taxes, special assessments and special taxes theretofore or thereafter levied by any political

subdivision or municipal corporation of this State and other State or Federal taxes which by law are a lien on the interest of such Owner prior to pre-existing recorded encumbrances thereon; and

- b.) Encumbrances on the interest of such Owner recorded prior to the date such notice is recorded, which by law would be a lien thereon prior to subsequently recorded encumbrances.

Except when pursuant to Paragraph 3 above, an Owner or Owners other than the Managing Owner undertake Easement Activities, the lien shall be in favor of the Managing Owner. Where a portion of the Property is sold at a public or private sale pursuant to this Declaration because of the failure to pay assessment, the Managing Owner shall have the power to bid in the amount of the assessment.

C. GENERAL PROVISIONS APPLICABLE TO THIS DECLARATION

1. Declarant hereby declares that this Declaration and the covenants established herein shall be covenants to run with the land. Said covenants and restrictions shall inure to the benefit of and be binding upon each and every Owner and his or her respective heirs, representatives, successors, purchasers, lessees, grantees and mortgagees. By the recording or acceptance of the conveyance of a portion of the Property or any interest therein, the person or entity to whom such portion of the Property is conveyed shall be deemed to accept and agree to be bound by the provisions of this Declaration.

2. The rights, liabilities and obligations set forth herein shall attach to and run with the ownership of a Lot comprising a part of the Property, and may not be severed or alienated from such ownership.

3. Any reference in deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation or transfer, of the Property shall cause the easements and covenants herein contained to be binding upon any such grantee, mortgages or trustee and their successors and assigns as fully and completely as though said easements and covenants were full recited and set forth in their entirety in such documents.

4. Notices provided for in this Declaration shall be in writing and shall be addressed to an Owner other than the Declarant at the address specified in the instrument conveying a portion of the Property to such Owner. However, any owner may also designate a different address at which he is to be notified. Any notices required pursuant to the provisions of this Declaration shall be deemed to have been properly served when mailed, postage prepaid, certified mail or registered mail, return receipt requested, to the last known address of the addressee, or when delivered in person

0951 0749

94K071180

17

with written acknowledgement of the receipt thereof.

5. If any provision of this Declaration shall be held invalid, it shall not affect the validity of the remainder of the Declaration. If any provision of the Declaration is deemed to violate the rule against perpetuities or any other rule, statute or law imposing time limitations, then such provisions shall be deemed to remain in effect until the death of the last survivor of the now-living descendants of the President of the United States, Bill Clinton, plus twenty-one (21) years thereafter.

6. The Managing Owner shall have the right to enforce, by any proceeding at law or in equity all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Managing Owner to enforce any covenant or restriction herein contained in this Declaration shall be deemed to be abrogated or waived by reason of any failure to enforce same irrespective of the number of violations or breached which may have occurred.

7. All right, remedies and privileges granted to the Managing Owner pursuant to any of the terms, provisions, covenants or conditions of this Declaration, shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies or shall it preclude the Managing Owner thus exercising the same from exercising such other and additional rights, remedies or privileges as may be granted to the Managing Owner at law or in equity.

8. The provisions of this Declaration shall be liberally construed to effectuate the intentions of Declarant.

9. In the event title to a Lot is held by a land trust under which all powers of management, operation and control remain vested in the trust beneficiary or beneficiaries, then the trust estate under said trust and the beneficiaries thereunder from time to time shall be liable for payment of any obligation, lien or indebtedness created under this Declaration against the Lot. No claim shall be made against any such title holder trustee personally for any claim or obligation created hereunder and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against any such lien or obligation, but the amount thereof shall continue to be a charge or lien upon the premises notwithstanding any transfers of beneficial interest or in the title of such real estate.

10. The covenants and provisions herein are intended to inure to the benefit of the City of Aurora and it is specifically provided as follows:

- a.) That the City of Aurora is hereby granted a perpetual easement, right and privilege to enter upon the Easement

Area for the purpose of providing fire and police protection and, further, for the enforcement of all municipal ordinances enacted for the health, safety and welfare of the citizens of the City, including such traffic regulations of the City as may relate to fire protection.

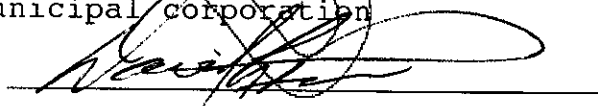
- b.) Upon the failure of the Managing Owner to perform any of its duties or other obligations relating to the Facilities resulting in either the continuation or creation of a nuisance or violation of municipal ordinances as provided for in (a) above, upon written notice to the Managing Owner and the continued failure of the Managing Owner to perform such duties or obligations within ten (10) days of delivery of such notice, the City of Aurora shall have the right to enter upon the Easement Area to correct or eliminate such nuisances or ordinance violations. The cost of such work shall be a lien against the Property (upon perfection of the lien by recording with the Recorder of Deeds, Kane County, Illinois) and shall be assessed against each Owner of the Property and the City of Aurora shall also have the right to file suit against the Owners of the Property in any court of competent jurisdiction to recover the costs of such work.

11. The provisions of this Declaration may be amended by an instrument in writing setting forth the amendments and executed by the Owners of Lots 1 and 2 plus the Declarant, but only for so long as the Declarant owns any portion of the Property. No amendments shall become valid until a true and correct copy of the same, shall then have been placed of record in the Office of Recorder of Deeds for Kane County, Illinois.

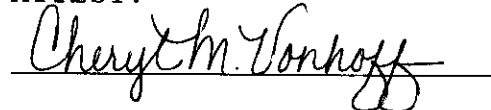
IN WITNESS WHEREOF, the Declarant has affixed its hand and seal as of the date first above written.

CITY OF AURORA,
a municipal corporation

BY:



ATTEST:



94K071180

0951 0751

DECLARATION OF EASEMENTS FOR INGRESS AND EGRESS

and

COVENANTS FOR MAINTENANCE OF EASEMENT PREMISES

THIS DECLARATION is made this _____ day of _____, 1994 by the City of Aurora (hereinafter referred to as "Declarant"), the owner of record of the property described in the attached EXHIBIT "A" and known as the ROUNDHOUSE SUBDIVISION, situated in the City of Aurora and comprising of three (3) lots (hereinafter referred to as the "Property").

W I T N E S S E T H :

WHEREAS, Declarant as the record owner of Lots 1, 2 and 3 of the ROUNDHOUSE SUBDIVISION, intends to sell Lots 1 and 2 for developments which may include any of the uses as permitted by the existing zoning; and

WHEREAS, construction of a Hotel and all related improvements is about to begin on Lot 2 of the Property in accordance with development plans for the Property which contemplate that means of ingress and egress to or from the Property, to or from the adjacent public streets, be located so that they may be shared by and be for the benefit of all portions of Property; and

WHEREAS, Declarant desires to create rights with respect to access, ingress and egress for the owners, from time to time, of the Property and their successors and assigns (collectively the "Owners") over those portions of the Property, as shown on Exhibit "A" attached hereto, to be used for sidewalks, driveways, and roadways comprising Easement Areas 1 and 2 (hereinafter referred to as the Easement Premises) and further to provide a method for the sharing of the cost of maintaining portions of the Easement premises and those portions of the adjacent roads and highway rights of way which fall within the areas designated on Exhibit "A".

NOW, THEREFORE, Declarant, as the owner of the Property herein described, grants the following easements and makes the following declaration of covenants:

A. GRANT OF NON-EXCLUSIVE EASEMENTS.

1. Declarant hereby grants to the Owners, their successors, assigns, agents, employees, invitees and guests (collectively the "Grantees"), a non-exclusive easement for ingress and egress over and upon all sidewalks, driveways and roadways that may be constructed upon the Property in the locations shown as comprising Easement Area 1 and 2 and identified on Exhibit "A" and which shall hereinafter be called the "Easement Premises", comprising Easement Areas 1 and 2, for access to and from all portions of the Property and to and from all buildings and structures constructed thereon to and from the adjacent public streets,

94K071180

0951 0752

together with the right to enter onto the Property with such personnel and equipment for the purpose of cleaning, snow removal, constructing, maintaining, repairing, renewing, restoring and replacing such sidewalks, driveways and roadways on the Easement Premises.

2. At such time or times as development plans are prepared for any one of or all of Lots 1, 2 and 3 and the location is known for an additional utility easement, as required by the Declarant. Declarant reserves the right to record an Amendment to this Declaration with an Amended Exhibit "A" showing the location of the additional easement which together with those shown on Exhibit "A" hereto shall thereafter constitute the "Easement Premises". Nothing herein shall be construed as obligating Declarant to expand the Easement Premises in connection with such development.

3. The use and occupation of the Easement Premises by the Grantees of any one of the lots comprising the Property shall not preclude or hinder or impede the use thereof by the Grantees of the other lots comprising the Property.

4. The easement hereby granted is intended to run with the Property and is for the benefit of and shall be binding upon the owners of the Property and their successors and assigns. The easement over Lot 2 shall constitute an easement appurtenant to Lots 1 and 3. The easement over Lot 1 shall constitute an easement appurtenant to Lots 2 and 3.

B. DECLARATION OF COVENANTS.

1. With the ownership of each lot comprising the Property and any portion thereof shall go the obligation to pay assessments representing each lot's share of the costs and expenses incurred to maintain, repair and renew the Easement Premises, which costs and expense shall cover: pavement, curb and gutters, traffic signs, pavement markings, cleaning, snow removal, plowing and salting (collectively "Easement Maintenance").

Easement Maintenance shall not include any costs and expenses for the initial construction and installation of the items comprising the Easement Premises. Nor shall Easement Maintenance include any costs and expenses to maintain, repair and renew those portions of the Easement Premises used for sidewalks. Such costs and expenses shall be borne solely by the owner of the lot upon which such sidewalks are located.

The Declarant, for the Property, hereby covenants, and each Owner of any lot, by the acceptance of a deed of conveyance thereto, is deemed to covenant and agree to pay to the managing owner (hereinafter defined) assessments (but as to Easement Area 1 only after development occurs thereon) representing its share of the costs and expenses incurred for Easement Maintenance.

2. The share of costs and expenses to be assessed against each lot for cleaning, snow removal, plowing and salting of the Easement Premises shall be as follows:

94K071180

0951 0753

21

EASEMENT AREAS 1 AND 2

Lot 1	50%
Lot 2	50%
Lot 3	0%

The share of costs and expenses to be assessed against each lot for maintaining, repairing and renewing the pavement, curb and gutter, traffic signs and pavement marking within the portions of the Easement Premises delineated on Exhibit "A" shall be as follows:

EASEMENT AREA 1

Lot 1	50%
Lot 2	50%
Lot 3	0%

EASEMENT AREA 2

Lot 1	85%
Lot 2	15%
Lot 3	0%

For the purpose of this declaration, the costs and expenses to be assessed against each lot shall include any and all costs and expenses incurred for Easement Maintenance, including but limited to amounts expended for engineers, contractors, attorneys, materials and equipment, together with an administration fee of up to 10% payable to the Managing Owner (hereinafter defined) as reimbursement for its services.

3. Since it is contemplated that the easement premises, while benefitting all portions of the Property, will be primarily located on Lot 2, the owner of Lot 2 is initially hereby designated the "Managing Owner" of the Property. Once the development of Lot 1 is completed, then the owner of Lot 1 shall be the Managing Owner, and his duties shall commence thirty (30) days after the issuance of the First Occupancy Permit for any of the buildings to be built and occupied in Lot 1. The Managing Owner shall have the responsibility to perform or engage others to maintain the Easement Premises for the benefit of all owners of the Property. The Managing Owner shall have the right to engage a third party to keep the books, records and accounts and to perform the duties and obligations herein imposed upon the Managing Owner.

In the event the owner of Lot 2 fails to discharge its responsibilities as Managing Owner within thirty (30) days after a request therefor from one or more owners of the other portions of the Property, any other owner may perform or undertake Easement Maintenance.

In the case of an emergency requiring immediate action to keep the Easement Premises open, such as in the case of a snow storm, flood or similar event, any owner may undertake the Easement Maintenance required as a result of such emergency.

In the event an owner or owners other than the Managing Owner perform or undertake Easement Maintenance due to the failure of the Managing Owner to discharge its responsibilities or due to an emergency, such Owner or Owners shall have the same rights of assessment, lien and other rights hereinafter granted to the Managing Owner.

94K071180

0951 0754

2

4. The Managing Owner shall not be liable to the other Owners of the Property for any mistake in judgment or acts or omissions not made in bad faith. The Owners of the Property shall indemnify and hold the Managing Owner harmless against all contractual liabilities to others arising out of agreements made by such Managing Owner unless such agreements shall have been made in bad faith or with knowledge that the same was contrary to the provisions of this Declaration, but only to the extent that such contractual liabilities exceed the Managing Owner's proportionate liability therefor as provided in Paragraph 2 hereof.

5. In the event a disagreement arises as to the need to undertake the Easement Maintenance with respect to the Easement Premises, the determination by two of the owners shall be final and binding upon all owners of the Property.

6. Any expense or costs incurred with respect to maintenance and/or repair of any portion of the Easement Premises due to the willful or negligent act of any owner, or its Grantees, notwithstanding any provision herein to the contrary, shall be assessed solely to such Owner and its Lot. In addition, any maintenance, repair or restoration required by any portion of the Easement Premises due to damage caused primarily by extraordinary use (for example, construction vehicles) shall be paid for solely by the Owner making such extraordinary use of the easement premises and shall constitute an assessment solely against such Owner's Lot. All amounts expended for the maintenance, repair and restoration resulting from an extraordinary use of Easement Premises, shall be due ten (10) days after an invoice therefor is issued by the Managing Owner or the Owners.

7. Prior to undertaking any Easement Maintenance other than that due to an emergency, and other than for snow removal, plowing and salting, the Managing Owner shall notify each owner in writing as to the amount of cash estimated to be required and setting forth the amount being assessed to each Lot. The assessment based on such "estimated cash requirement" shall be due and payable within thirty (30) days.

If said "estimated cash requirement" proves inadequate to defray the expenses and costs, then the Managing Owner has the right to issue a supplemental assessment which shall be due and payable within fifteen (15) days. If, when all costs and expenses have been paid, the Managing Owner has not fully expended the monies paid as the "estimated cash requirement" for Easement Maintenance, the Managing Owner shall refund to each Owner its proportionate share of such unexpended monies.

With respect to the costs and expenses for snow removal, plowing and salting, the Managing Owner shall have the right to issue monthly notices setting forth the amount being assessed to each Lot for snow removal plowing and salting. Such assessments shall be due and payable within fifteen (15) days.

The Managing Owner shall keep full and correct books of account concerning expenditures with respect to the Easement Premises. Such records shall be available for inspection by any Owner, during normal

0951 0755

94X071180

23

business hours.

No Owner may waive or otherwise escape liability for assessments provided for herein by non-use of the Easement Premises.

8. The amount of each assessment shall constitute a lien on each Lot until paid by the Owner thereof. If the assessment is not paid by the due date herein provided, the assessment shall bear interest from the due date of such assessment at the maximum rate of interest then permitted by law. The Managing Owner may bring an action of law against the Owner obligated to pay the assessment, or foreclose the lien against the Owner's Lot. All interest, costs and reasonable attorneys' fees and disbursements pertaining to said assessment shall be added to the amount of such assessment.

Upon the recording of notice of lien by the Managing Owner, an unpaid assessment shall be a lien upon the portion of the Property to which it pertains prior to any other liens or encumbrances, recorded or not recorded, except only;

a.) Taxes, special assessments and special taxes theretofore or thereafter levied by any political subdivision or municipal corporation of this State and other State or Federal taxes which by law are a lien on the interest of such owner prior to pre-existing recorded encumbrances thereof; and

b.) Encumbrances on the interest of such owner recorded prior to the date such notice is recorded, which by law would be a lien thereon prior to subsequently recorded encumbrances.

Except when pursuant to Paragraph 3 above, and Owner or Owners other than the Managing Owner undertake Easement Maintenance, the lien shall be in favor of the Managing Owner. Where a portion of the Property is sold at a public or private sale pursuant to this Declaration because of the failure to pay assessments, the Managing Owner shall have the power to bid in the amount of the assessment.

C. GENERAL PROVISIONS APPLICABLE TO THIS DECLARATION

1. Declarant hereby declares that this Declaration and the covenants established herein shall be covenants to run with the land. Said covenants and restrictions shall inure to the benefit of and be binding upon each and every Owner, and his or her respective heirs, representatives, successors, purchasers, lessees, grantees and mortgagees. By the recording or acceptance of the conveyance of a portion of the Property or any interest therein, the person or entity to whom such portion of the Property is conveyed shall be deemed to accept and agree to be bound by the provisions of this Declaration.

2. The rights, liabilities and obligations set forth herein shall attach to and run with the ownership of a Lot comprising a part of the Property, and may not be severed or alienated from such ownership.

94K071180

0951 0756

3. Any reference in deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation or transfer, of the Property shall cause the easements and covenants herein contained to be binding upon any such grantee, mortgagee or trustee and their successors and assigns as fully and completely as though said easements and covenants were fully recited and set forth in their entirety in such documents.

4. Notices provided for in this Declaration shall be in writing and shall be addressed to an Owner other than the Declarant at the address to such Owner. However, any Owner may also designate a different address at which he is to be notified. Any notices required pursuant to the provisions of this Declaration shall be deemed to have been properly served when mailed, postage prepaid, certified mail or registered mail, return receipt requested, to the last known address of the addressee, or when delivered in person with written acknowledgement of the receipt thereof.

5. If any provision of this Declaration shall be held invalid it shall not affect the validity of the remainder of the Declaration. If any provision of the Declaration is deemed to violate the rule against perpetuities or any other rule, statute or law imposing time limitations, then such provisions shall be deemed to remain in effect until the death of last survivor of the now living descendants of the President of the United States, Bill Clinton, plus twenty-one (21) years thereafter.

6. The Managing Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Managing Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. No covenants, restrictions, conditions, obligations or provisions contained in this Declaration shall be deemed to be abrogated or waived by reason of any failure to enforce same irrespective of the number of violations or breaches which may have occurred.

7. All rights, remedies and privileges granted to the Managing Owner pursuant to any of the terms, provisions, covenants or conditions of this Declaration, shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the Managing Owner thus exercising the same from exercising such other and additional rights, remedies or privileges as may be granted to the Managing Owner at law or in equity.

8. The provisions of this Declaration shall be liberally construed to effectuate the intentions and purposes of Declarant.

9. In the event title to a Lot is held by a land trust, under which all powers of management, operation and control remain vested in the trust beneficiary or beneficiaries then the trust estate under said trust and the beneficiaries thereunder from time to time shall be liable for payment of any obligation, lien or indebtedness created under this

94K071180

0951 0757

25

Declaration against the Lot. No claim shall be made against any such title holder trustee personally for any claim or obligation created hereunder and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against any such lien or obligation, but the amount thereof shall continue to be a charge or lien upon the premises notwithstanding any transfers of beneficial interest or in the title to such real estate.

10. In addition to the rights herein reserved by Declarant to record Amendments to this Declaration to add additional portions of Lots 1, 2, and 3 to the Easement Premises, the provisions of this Declaration may be amended by an instrument in writing setting forth the amendments and executed by the Owners of both Lots 1 and 2, plus the Declarant, but only for so long as the Declarant owns any portion of the Property. Notwithstanding the foregoing, no amendment which involves that portion of the Easement Premises delineated on Exhibit "A" shall be valid unless executed by all of the Owners of Lots 1, 2 and 3. No amendments shall become valid until a true and correct copy of same, shall then have been placed of record in the Office of Recorder of Deeds for Kane County, Illinois. As a limitation upon the foregoing, any amendment that purports to change the location of the Easement Premises shall require the approval of the City of Aurora, Illinois, but only if such change constitutes a change in the "Final Plan(s)" applicable to the various Lots of the ROUNDHOUSE SUBDIVISION. No amendment shall impair the free and unobstructed flow of pedestrian and vehicular traffic about and within the Property or deny the occupants and owners of each building constructed on the Property, convenient ingress and egress to and from their buildings, parking area, and the adjacent public streets.

IN WITNESS WHEREOF, the Declarant has affixed its hand and seal as of the date first above written.

City of Aurora, a municipal corporation

By: [Signature]

Attest: [Signature]

94K071180

0951 0758

08112076

THAT PART OF

James O. Van DeVelde Catholic Bishops Addition to Aurora, according to the plat thereof recorded April 12, 1854 in Record Book 33 at page 203, part of the Original Town of Aurora, according to the plat thereof recorded August 8, 1839 in Record Book 1 at page 160, part of LaSalle Street, part of Flagg Street, and part of Section 22, Township 38 North, Range 8 East of the Third Principal Meridian described as follows: Beginning at the point of intersection of the southeasterly line of North Broadway with the northeasterly line of Spring Street; thence southeasterly along said northeasterly line 301.84 feet; thence northeasterly along a line forming an angle of 96°52'55" with the last described course (measured clockwise therefrom) 253.49 feet; thence northwesterly along a line forming an angle of 92°25'10" with the last described course (measured clockwise therefrom) 66.25 feet; thence northeasterly at right angles to the last described course 90.0 feet; thence northwesterly at right angles to the last described course 20.0 feet; thence northeasterly along a line forming an angle of 91°20'59" with the last described course (measured counter-clockwise therefrom) 236.83 feet; thence northeasterly along a line forming an angle of 169°44'45" with the last described course (measured clockwise therefrom) 192.50 feet; thence northeasterly along a line forming an angle of 172°54'46" with the last described course (measured clockwise therefrom) 192.50 feet; thence northeasterly along a line forming an angle of 89°05'16" with the last described course (measured clockwise therefrom) 59.60 feet to a southerly corner of the existing Aurora Transportation Center building; thence northwesterly along a southwesterly line of said building forming an angle of 179°35'02" with the last described course (measured clockwise therefrom) 78.14 feet to an angle in said southwesterly line; thence southwesterly along a southeasterly line of said building forming an angle of 89°39'33" with the last described course (measured clockwise therefrom) 41.91 feet to a northerly line of the former Chicago, Burlington and Quincy Railroad Company Roundhouse; thence westerly along a northerly line of said Roundhouse forming an angle of 84°24'16" with the last described course (measured counter-clockwise therefrom) 21.67 feet to an angle in said northerly line; thence westerly along a northerly line of said Roundhouse forming an angle of 170°16'17" with the last described course (measured clockwise therefrom) 20.61 feet to an angle in said northerly line; thence westerly along a northerly line of said Roundhouse forming an angle of 170°57'55" with the last described course (measured clockwise therefrom) 20.61 feet to an angle in said northerly line; thence westerly along a northerly line of said Roundhouse forming an angle of 170°55'06" with the last described course (measured clockwise therefrom) 22.61 feet to a southwesterly line of said Aurora Transportation Center building; thence northwesterly along a southwesterly line of said Transportation Center building forming an angle of 143°40'09" with the last described course (measured counter-clockwise therefrom) 19.87 feet to the most westerly corner of said building; thence westerly along a line forming an angle of 146°34'47" with the last described course (measured clockwise therefrom) 23.91 feet; thence southwesterly along a line forming an angle of 146°39'25" with the last described course (measured clockwise therefrom) 24.40 feet; thence southwesterly along a curve to the left having a radius of 164.25 feet tangent to the last described course 116.81 feet; thence southwesterly tangent to the last described curve at the last described point 57.64 feet; thence southeasterly along a line forming an angle of 88°04'13" with the last described course (measured clockwise therefrom) 4.0 feet; thence southwesterly along a line forming an angle of 88°04'13" with the last described course (measured counter-clockwise therefrom) 36.06 feet; thence southeasterly along a line forming an angle of 89°12'44" with the last described course (measured clockwise therefrom) 13.14 feet; thence southwesterly along a line forming an angle of 89°57'18" with the last described course (measured counter-clockwise therefrom) 32.24 feet; thence northwesterly along a line forming an angle of 93°54'43" with the last described course (measured counter-clockwise therefrom) 13.60 feet; thence southwesterly along a line forming an angle of 94°39'17" with the last described course (measured clockwise therefrom) 230.41 feet; thence southwesterly along a curve to the right having a radius of 64.0 feet tangent to the last described course 61.14 feet; thence southwesterly tangent to the last described curve at the last described point 105.76 feet to the southeasterly line of said North Broadway; thence southwesterly along the southeasterly line of said North Broadway forming an angle of 125°27'52" with the last described course (measured clockwise therefrom) 81.85 feet to an angle in said southeasterly line; thence southwesterly along the southeasterly line of said North Broadway forming an angle of 165°15'52" with the last described course (measured counter-clockwise therefrom) 255.99 feet to the point of beginning, in the City of Aurora, Kane County, Illinois and containing 6.526 acres

POOR COPY
 Recorder Not Responsible
 For Reproductions

EXHIBIT "A"

0951 0759

5/19/94

EXHIBIT D

INDEMNITY AGREEMENT

In consideration of the mutual promises contained in the Development Agreement between Midwest Management, Inc., an Illinois Corporation ("Midwest") and the City of Aurora dated June 21, 1994, the parties agree as follows:

The City of Aurora shall indemnify, defend and hold harmless Midwest and its successors in title and any lenders of Midwest to that portion of the Roundhouse Property as hereafter described as "Site" from and against any suits, actions, demands, losses, damages, claims, liabilities, fines, penalties, expenses, including costs and reasonable attorneys' fees incurred in any legal or administrative proceedings with respect to environmental claims arising from activities on the Site legally described on Exhibit A, prior to and preceding the escrow transfer of title to the Site to Midwest, including claims arising from incomplete performance of the environmental clean-up of the Site by the Burlington Northern Railroad Company.

Dated this 7th day of July 1994

Midwest Management, Inc.

City of Aurora

By: Hazel Gintozzi

By: [Signature]

Its: President

Attest: Cheruth M. Gintozzi [SEAL]
City Clerk

08pam07.155

Unofficial Copy

0951 0760

94K071180