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2000-02-28 12:39:55
Cook County Recorder 43.00

THIS INSTRUMENT PREPARED
BY, AND PLEASE RETURN TO:
ROBERT J. KRULL, ESQ.
100 WEST MONROE STREET
SUITE 1500
CHICAGO, ILLINOIS 60603



00144357

Subordination Agreement

THIS SUBORDINATION AGREEMENT, (the "Agreement") is made as of this 24 day of February, 2000, between LaSalle Bank National Association, a national banking association (the "Senior Lender") and Inland Mortgage Corporation, an Illinois corporation (the "Subordinated Lender").

RECITALS:

A. Senior Lender is the owner and holder of a certain Promissory Note (the "Senior Note") dated February 24, 2000, in the original principal amount of Twenty Million (\$20,000,000) Dollars made by Wydoe Development, L.L.C., an Illinois limited liability company (the "Borrower") payable to the order of Senior Lender.

B. Senior Lender is also the owner and holder of the following documents described on Exhibit A securing the Senior Note:

The Senior Note, Senior Mortgage and all of the foregoing documents and instruments, together with all other documents and instruments evidencing and securing the Senior Note. These are hereinafter collectively referred to as "Senior Loan Documents."

C. Subordinated Lender is the owner and holder of a certain Installment Note (the "Subordinated Note") dated as of February 24, 2000, in the original principal amount of Eight Million (\$8,000,000) Dollars made by Borrower, LaSalle Bank National Association as Trustee under Trust Agreement dated January 2, 2000 and known as Trust No. 122760 and LaSalle Bank National Association as Trustee under Trust Agreement dated January 2, 2000 and known as Trust No. 1222919, payable to the order of Subordinated Lender.

D. Subordinated Lender is also the owner and holder of the documents described on Exhibit B.

All documents evidencing and securing the Subordinated Note and are hereinafter collectively referred to as the "Subordinated Loan Documents."

BOX 333-CTI

11-2-00
11-2-00

12
D

E. The Senior Loan Documents and the Subordinated Loan Documents encumber the real estate (and certain personal property located thereon) described on Exhibit C (collectively the "Property").

F. All obligations of Borrower to Senior Lender now existing or hereafter arising, due or to become due, under the Senior Note and the Senior Loan Documents are herein called the "Senior Liabilities."

G. All obligations of Borrower to Subordinated Lender now existing or hereafter arising, due or to become due, under the Subordinated Note and the Subordinated Loan Documents are herein called the "Subordinated Liabilities."

H. Senior Lender has agreed to make the loan evidenced by the Senior Note on the condition that Subordinated Lender enter into this Agreement.

NOW, THEREFORE, in consideration of the foregoing and as an inducement to Senior Lender to make the loan evidenced by the Senior Note, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto represent, warrant and agree as follows:

1. *Warranties of the Subordinated Lender.* Subordinated Lender represents and warrants that true, correct and complete copies of all documents evidencing and securing the Subordinated Liabilities have heretofore been delivered to Senior Lender and are described in Recital Paragraph D above.

2. *Subordination of Liens.* Subordinated Lender hereby agrees that the Subordinated Liabilities are and shall be subordinate to the Senior Liabilities and that the liens and security interests created by the Subordinated Loan Documents are and shall be subordinate to the lien and security interests created by the Senior Loan Documents, and to any and all advances heretofore made or hereafter to be made under the Senior Loan Documents pursuant to the terms thereof.

3. *Subordination of Payment.* Until such time as the later of (i) the date on which the Senior Liabilities have been paid in full, or (ii) Senior Lender has no further commitment to disburse funds pursuant to the Senior Loan Documents, the payment of the Subordinated Liabilities shall be postponed and subordinated to the payment of all of the Senior Liabilities (or required escrows), and Subordinated Lender shall accept no payments or other distributions whatsoever (including without limitation distributions of casualty insurance or condemnation proceeds) on account of the Subordinated Liabilities, nor shall any property or assets of the Borrower be applied to the purchase or acquisition or retirement of any Subordinated Liabilities. The foregoing notwithstanding, so long as (a) no notice of default has been given under any document evidencing or securing the Senior Liabilities (except any such notice of default which has subsequently been waived in writing by the party giving such notice), and (b) in the sole judgment of the Senior Lender, the financial condition of the Borrower shall be established from time to time to be sufficient for Borrower to pay without limitation all amounts due under the Senior Liabilities and Subordinated Liabilities, Senior Lender

hereby consents for Borrower to make regularly scheduled payments of interest to Subordinated Lender (but not prepayments) as provided in the Subordinated Loan Documents, unless Subordinated Lender is otherwise notified.

4. *Constructive Trust.* In the event that Subordinated Lender receives any payment or other distribution of any kind or character from Borrower or from any other source whatsoever in respect to any of the Subordinated Liabilities, other than as expressly permitted by the terms of this Agreement, such payment or other distribution shall be received and shall be held by Subordinated Lender in trust for Senior Lender and promptly turned over by Subordinated Lender to Senior Lender. Subordinated Lender shall cause to be clearly inserted in all promissory notes or other instruments which at any time evidence or secure any of the Subordinated Liabilities, statements to the effect that the payment thereof is subordinated in accordance with the terms of this Agreement. Subordinated Lender shall execute such further documents or instruments and take such further action as Senior Lender may reasonably require from time to time to carry out the intent of this Agreement.

5. *Waiver by Subordinated Lender.* Subordinated Lender hereby waives: (a) notice of the existence, creation or nonpayment of all or any of the Senior Liabilities; and (b) all diligence in collection, protection of or realization upon the Senior Liabilities or any security therefor.

6. *Covenants of Subordinated Lender.* Subordinated Lender shall not, without the prior written consent of Senior Lender: (a) modify, amend or consent to any modification or amendment of any document evidencing or securing the Subordinated Liabilities; (b) commence, or join with any other creditor in commencing, any bankruptcy, reorganization or insolvency proceedings with respect to the Borrower; (c) seek to appoint a receiver for (i) the Property, (ii) any part thereof or (iii) Borrower, or seek to obtain possession of the Property, or seek any accounting from Senior Lender in respect to the proceeds of the Property; or (d) take any action affecting any lease of the Property in which the Senior Lender claims a security interest (including without limitation any action to subordinate any such lease to the Subordinated Loan Documents, or any of them).

7. *Bankruptcy of Borrower.* In the event of any dissolution, winding-up, liquidation, readjustment, reorganization or other similar proceedings relating to Borrower, Borrower's creditors, or Borrower's property (whether voluntary or involuntary, partial or complete, and whether in bankruptcy, insolvency or receivership, or upon an assignment to benefit creditors, or any other marshalling of the assets and liabilities of Borrower, or any sale of all or substantially all of the assets of Borrower, or otherwise), the Senior Liabilities shall first be paid in full before Subordinated Lender shall be entitled to receive and to retain any payment or distribution with respect to the Subordinated Liabilities.

8. *Notices of Default.* Subordinated Lender hereby agrees to give Senior Lender, contemporaneously with the giving thereof to the Borrower, copies of any notices given to Borrower regarding any default under the Subordinated Loan Documents or which notice would, following the passage of time and failure to cure, result in the occurrence of a "default" or "event of default" under the Subordinated Loan Documents. Subordinated Lender hereby agrees that the indebtedness

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evidenced, secured and guaranteed by the Subordinated Loan Documents shall not be accelerated, nor shall any remedies be pursued thereunder unless: (a) in the case of default in the payment of a sum of money due under the Subordinated Loan Documents and after expiration of all applicable grace periods, Senior Lender shall have been given written notice of such failure and Senior Lender shall have failed to pay or cause to be paid such sum of money within five (5) days following such written notice; or (b) in the case of any other default under the Subordinated Loan Documents, Senior Lender shall fail to cure or cause to be cured such default within the period which is five (5) days beyond the longest of the applicable cure period provided to Borrower to cure such default. Senior Lender hereby agrees to give Subordinated Lender, contemporaneously with the giving thereof to the Borrower, copies of any notices given to Borrower regarding any default under the Senior Loan Documents or which notice would, following the passage of time and failure to cure, result in the occurrence of a "default" or an "event of default" under the Senior Loan Documents. Senior Lender hereby agrees that the indebtedness evidenced, secured and guaranteed by the Senior Loan Documents shall not be accelerated, nor shall any remedies be pursued thereunder unless: (a) in the case of default in the payment of a sum of money due under the Senior Loan Documents and after application of all applicable grace periods, Subordinated Lender shall have been given written notice of such failure and Subordinated Lender shall have failed to pay or cause to be paid such sum of money within five (5) days following such written notice; or (b) in the case of any other default under the Senior Loan Documents, Subordinated Lender shall fail to cure or cause to be cured such default within the period which is five (5) days beyond the longest of the applicable cure period provided to Borrower to cure such default.

9. *Insurance Proceeds and Condemnation Awards.* Subordinated Lender agrees that in the event of a casualty to the buildings or improvements constructed on the Property or a condemnation or taking under a power of eminent domain of the Property, the buildings or improvements thereon, or a threat of such a condemnation or taking, all adjustments of insurance claims, condemnation claims and settlements in anticipation of such a condemnation or taking shall be prosecuted, at Senior Lender's election, by Senior Lender and all payments and settlements of insurance claims or condemnation awards or payments (collectively "Award") in anticipation of condemnation or a taking shall be paid to Senior Lender. Subordinated Lender hereby irrevocably assigns to Senior Lender a power of attorney, coupled with an interest, to execute any and all documents on Subordinated Lender's behalf necessary in connection with the prosecution or settlement of the Award. In the event the amount of the Award is in excess of all amounts due under the Senior Liabilities, Senior Lender agrees that such excess Award shall be paid to or held for the benefit of the Subordinated Lender.

10. *Consent to Easements and Plats of Subdivision.* In the event Borrower requests that Senior Lender and all other mortgagees or trustees under trust deeds if record execute any easements or plats of subdivision or similar documents in connection with the construction, development, operation or maintenance of the Property, and Senior Lender executes the same, Subordinated Lender agrees to execute such documents and instruments as its interests appear.

11. *Power of Direction in Land Trust Borrower.* Subordinated Lender represents to Senior Lender that its interest in the power of direction under the land trusts which are the record

titleholders of a portion of the Property (the "Trusts") is subject and subordinate to that of Senior Lender.

12. *Acquisition of Fee Title by Senior Lender.* Subordinated Lender hereby agrees that an acquisition of fee title to the Property by Senior Lender, its nominee, or any other person or entity through a foreclosure of the Senior Mortgage (where such foreclosure does not extinguish the security interests created by the Subordinated Loan Documents) or through a deed in lieu of foreclosure is not a "sale or position" and will not constitute an event of default under the Subordinated Loan Documents.

13. *Subrogation.* Until such time as the Senior Liabilities have been paid in full, Subordinated Lender waives and releases any and all rights of subrogation which it has against the Property and which subrogation would result in Subordinated Lender obtaining a priority equal or superior to the priority of the Senior Loan Documents for any funds which Subordinated Lender may advance either to cure defaults under security instruments or pay liens encumbering the Property or otherwise protect the lien of the Subordinated Loan Documents or any of them.

14. *Permitted Actions by Senior Lender.* Senior Lender may, from time to time, in its sole discretion and without notice to Subordinated Lender, subject to the terms and conditions of an Estoppel Agreement between Senior Lender and Subordinated Lender of even date, take any or all of the following actions: (a) retain or obtain a security interest in any property to secure any of the Senior Liabilities; (b) retain or obtain the primary or secondary obligation of any obligor or obligors with respect to any of the Senior Liabilities; (c) extend or renew for one or more periods of time (whether or not longer than the original period), alter or modify any of the Senior Liabilities, or release or compromise any obligation of any nature of any obligor with respect to any of the Senior Liabilities; and (d) release its security interest in, or surrender, release or permit any substitution or exchange for all or any part of the property securing any of the Senior Liabilities, or extend or renew for one or more periods of time (whether or not longer than the original period) or release, compromise, alter or modify any obligation of any nature of any obligor with respect to any such property.

15. *Successors and Assigns.* This Agreement shall be binding upon Subordinated Lender and its respective successors and assigns whether immediate or remote.

16. *No Waiver by Senior Lender.* Senior Lender shall not be prejudiced in its rights under this Agreement by any act or failure to act by Borrower or Subordinated Lender, or any non-compliance of Borrower or Subordinated Lender with any agreement or obligation, regardless of any knowledge thereof which Senior Lender may have or with which Senior Lender may be charged; and no action of Senior Lender permitted hereunder shall in any way affect or impair the rights of Senior Lender and the obligations of Subordinated Lender under this Agreement. No delay on the part of Senior Lender in the exercise of any rights or remedies shall operate as a waiver thereof, and no single or partial exercise by the Senior Lender of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy; nor shall any modification or waiver of any of the provisions of this Agreement be binding upon Senior Lender except as expressly set

forth in a writing duly signed and delivered on behalf of the Senior Lender.

17. *Effect of Due Sale Provisions.* Subordinated Lender hereby waives any due on sale or due on refinancing provisions of the Subordinated Documents as they relate to Senior Liabilities.

18. *Notice.* Any notice, demand or other communication which any party may desire or may be required to give any other party shall be in writing, and shall be deemed given (i) if and when personally delivered, (ii) upon receipt if sent by a nationally recognized overnight courier addressed to a party at its address set forth below, or (iii) on the second (2nd) business day after being deposited in United States registered or certified mail, postage prepaid, addressed to a party at its address set forth below:

If to Senior Lender:

LaSalle Bank National Association
Commercial Real Estate
135 S. LaSalle Street
Chicago, Illinois 60603
Attn: F. Clarke Cronin

With a copy to:

Spitzer, Addis, Susman & Krull
100 W. Monroe Street, Suite 1500
Chicago, Illinois 60603
Attn: Robert J. Krull

If to Subordinated Lender:

The Inland Mortgage Corporation
2901 Butterfield Road
Oakbrook, Illinois 60523
Attn: Ray Peterson

With a copy to:

The Inland Mortgage Corporation
2901 Butterfield Road
Oak Brook, Illinois 60523
Attn: Janet R. Heintz, Associate Counsel

With a copy to:

Jeffrey C. Rappin, Esq.
350 W. Hubbard Street, Suite 500
Chicago, Illinois 60610

Any party hereto may change the address at which notices hereunder are required to be given to such party by notice to the other parties in accordance herewith.

19. *Construction and Interpretation of this Agreement.* This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois. Wherever possible each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law but if any provision shall be prohibited by or invalid under such law, such

provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

20. *Termination.* This Agreement shall terminate upon full and final payment of any and all amounts due under the Senior Liabilities, provided that all rights of Subordinated Lender hereunder shall automatically terminate at such time as the Subordinated Liabilities have been paid in full.

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the day and year first written above.

Inland Mortgage Corporation

By: Raymond E. Petersen

Name: Raymond E. Petersen
Title: President

ATTEST:

By: [Signature]

Name: Leslie Lundin

Title: Vice President

Property of Cook County Clerk's Office

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, Gail Gress, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Raymond E. Petersen, personally known to me to be a President of Inland Mortgage Corporation and Cedric Lendin personally known to me to be a Vice President of Inland Mortgage Corporation, both personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they signed and delivered the said instrument as President and Vice President and caused the Corporate Seal of said Corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said Corporation, as their free and voluntary act and as the free and voluntary act and deed of said Corporation, for the uses and purposes therein setforth.

GIVEN under my hand and Notarial Seal this 24th day of February, 2000.

Gail Gress
Notary Public



My Commission Expires:
7/6/01

CONSENT AND AGREEMENT OF OWNER

Borrower hereby acknowledges the terms of and consents to the foregoing Agreement and agrees for itself and its respective successors and assigns, for the benefit of Senior Lender and its successors and assigns, that: (i) said Agreement does not constitute a waiver or partial waiver by Senior Lender or any of its rights under the Senior Loan Documents, or in any way release Borrower from its obligations to comply with the terms and conditions contained in the Senior Loan Documents (including without limitation the obligation to refrain from any further encumbering of the Property without the prior written consent of Senior Lender); and (ii) Borrower will not take any action contrary to or inconsistent with said Agreement.

WYDOE DEVELOPMENT, L.L.C.

By: Wayne Chertow

Name: WAYNE CHERTOW
Authorized Signatory

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, Nancy Castro, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Wayne Chertow, personally known to me to be a Manager of Wydoe Development, L.L.C. and ~~_____~~, personally known to me to be a ~~_____~~ of Wydoe Development, L.L.C., both personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and ~~separately~~^{he} acknowledged that they signed and delivered the said instrument as a Manager and ~~_____~~ and caused the Seal of said limited liability company to be affixed thereto, pursuant to authority given by the Managers of said limited liability company, as their ~~own~~^{my} free and voluntary act and as the free and voluntary act and deed of said limited liability company, for the uses and purposes therein setforth.

GIVEN under my hand and Notarial Seal this 25th day of February, 2000.



Nancy R. Castro
Notary Public

My Commission Expires:

EXHIBIT A

Senior Loan Documents

Loan Agreement

Note in the amount of: \$20,000,000

Real Estate Mortgage, Assignment of
Rents, Security Agreement and
UCC-2 Financing Statement

Collateral Assignment of Beneficial Interest
in Land Trust

Pledge of Tenant Security Deposits

Joint and Several Guaranty of:

- (a) Wayne Chertow;
- (b) Roselyn Chertow; and
- (c) Linda Karp

Joint and Several Guaranty of completion
by Wydoe Development, L.L.C., Wayne Chertow,
Roselyn Chertow and Linda Karp

Environmental Indemnification Agreement
- Borrower and Guarantors

Assignment of Sales Contracts and Pledge
of Earnest Money

Assignment of Plans and Specifications
and Architect Contract

Assignment of Permits, Licenses and
Government Approvals and Security Agreement

Assignment of Major Trade Contracts and

Consent to Assignment of Major Trade
Contracts and Security Agreement

Post Closing Agreement

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EXHIBIT B

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Junior Loan Documents

Inland Mortgage Corporation's Loan Documents

1. Construction Loan Agreement;
2. Installment Note;
3. Illinois Subordinated Mortgage and Security Agreement ;
4. Second Assignment of Leases and Rents;
5. 2 Collateral Assignments of Beneficial Interest;
6. Environmental Indemnity Agreement;
7. Loan Guaranty Agreement;
8. Interest Reserve Holdback Agreement;
9. Collateral Assignment of Tenant Deposits;
10. Collateral Assignment of Agreements Affecting Real Estate;
11. Collateral Assignment of Representations, Covenants, Indemnities, Guaranties and Warranties;
12. Collateral Assignment of Developer's Rights Under Condominium Association Documents;
13. Residential Collateral Assignment of Purchase Agreements and Power of Attorney;
14. Closing Certificate;
15. Collateral Assignment of Excrows;
16. Security Agreement Instruments;
17. Collateral Assignment of Parking Easement;
18. Construction Loan Escrow Agreement;
19. Financing Statements; and
20. Post Closing Agreement

EXHIBIT C

PARCEL 1:

SUB LOTS 1 AND 2 OF LOT 5 AND SUB LOTS 1 AND 2 OF LOT 8 AND LOT 9 (EXCEPT THE WEST 15 FEET THEREOF) ALL IN BLOCK 18 IN FRACTIONAL SECTION 15 ADDITION TO CHICAGO IN FRACTIONAL SECTION 15, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

PARKING EASEMENT FOR THE BENEFIT OF PARCEL 1 DATED FEBRUARY 16, 2000 AND RECORDED - AS DOCUMENT - MADE BY LASALLE BANK NATIONAL ASSOCIATION, AS SUCCESSOR TRUSTEE TO TRUST AGREEMENT DATED NOVEMBER 15, 1985 AND KNOWN AS TRUST NUMBER 110552 IN FAVOR OF WYDOE DEVELOPMENT, L.L.C., AN ILLINOIS LIMITED LIABILITY COMPANY.

PARCEL 3:

SUB LOTS 1 AND 2 OF LOT 1 (EXCEPT THE NORTH 40.00 FEET THEREOF) AND SUB LOTS 1 AND 2 OF LOT 4 ALL IN BLOCK 18 IN CANAL TRUSTEES ADDITION TO CHICAGO IN FRACTIONAL SECTION 15, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

PARCEL 4:

THE NORTH 40.00 FEET OF SUB LOTS 1 AND 2 OF LOT 1 IN BLOCK 18 IN CANAL TRUSTEE'S ADDITION TO CHICAGO IN FRACTIONAL SECTION 15, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 40 E. 9th STREET, CHICAGO, ILLINOIS

P.I.N. NOS.: 17-15-304-037-0000; 17-15-038-0000; AND
17-15-304-041-0000