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00208773

SECOND MORTGAGE (EXHIBIT C TO HOMEBUYER PROGRAM AGREEMENT)

This document was prepared by
and after recording should be
returned to:

Village of Arlington Heights
33 S. Arlington Heights Road
Arlington Heights, IL 60005
Attn: Planning Department

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2240/0019 27 001 Page 1 of 10
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Cook County Recorder 39.00

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BOX 260

(The above space for Recorder's use only)

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TMR*

SECOND MORTGAGE

10232245

THIS SECOND MORTGAGE (this "Mortgage") is given on **February 29, 2000**, **John D. Weck** (the "Borrower") to the Village of Arlington Heights, an Illinois municipal corporation (the "Sponsor"). Borrower conditionally owes the Sponsor a maximum amount of **\$14,999**. The debt evidenced by Borrower's promissory note dated the same date as this Mortgage (the "Note"), which provides for a five (5) year term; provided, however, that so long as no Recapture Event (as described in the Homebuyer Program Agreement) has occurred, no principal payments shall be due or payable.

This Mortgage secures to the Sponsor: (a) all repayment of the debt evidenced by the Note, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums advanced by the sponsor pursuant to **Paragraph 7** of this Mortgage to protect the security of this Mortgage, the Homebuyer Program Agreement between Borrower and the Sponsor dated as of the date hereof (the "**Homebuyer Program Agreement**"), the Recapture Agreement between Borrower and the Sponsor dated as of the date hereof (the "**Recapture Agreement**") and the Note.

For these purposes, Borrower hereby mortgages, grants and conveys to the Sponsor, its successors and assigns, the real property described on **Exhibit A** hereto located in the County of Cook, State of Illinois, and commonly known as **445 S. Cleveland, Unit 106, Arlington Heights, IL 60005** (the "Property"), together with (a) all the improvements now or hereafter erected on the Property and all easements, rights and appurtenances thereto; (b) all leases and licenses with respect to the Property; (c) all rents, royalties and profits thereof; and (d) all fixtures and equipment now or hereafter in

AT&T INC

or on the Property. The Property and all of the foregoing property are referred to collectively in this Mortgage as the “**Project**.”

Borrower covenants that Borrower is the lawful owner of the Project conveyed by this Mortgage and has the full right and power to mortgage, grant and convey the Project and that the Project is unencumbered, except for a first mortgage to **Harris Bank Arlington-Meadows** (the “**First Mortgage**”) and any other encumbrances of record accepted by the Sponsor in writing (collectively, the “**Permitted Encumbrances**”). Borrower warrants and will defend generally the title to the Project against all claims and demands, subject to any Permitted Encumbrances.

Borrower covenants to the Sponsor as follows:

1. Payment under the Note. Borrower agreed to promptly pay when due any amounts required to be paid by the Note.
2. Application of Payments. Unless applicable law provides otherwise, all payments received by the Sponsor under Paragraph 1 will be applied to principal due under the Note.
3. Charges and Liens. Borrower will pay all taxes, assessments, charges and fines attributable to the Project which may attain priority over this Mortgage. Borrower will pay these obligations on time directly to the person to whom payment is owed. Borrower will promptly furnish to the Sponsor all notices of amounts required to be paid under this paragraph. After making such payments, Borrower will promptly furnish to the Sponsor receipts evidencing the payments.

Borrower will promptly discharge any lien, other than the First Mortgage, which has priority over this Mortgage unless the Borrower: (a) agrees in writing to pay the obligation secured by the lien in a manner acceptable to the Sponsor; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which, in the Sponsor’s opinion, operate to prevent the enforcement of the lien or forfeiture of any part of the Project; or (c) secures from the holder of the lien an agreement satisfactory to the Sponsor subordinating the lien to this Mortgage. If the Sponsor determines that any part of the Project is subject to a lien, other than the First Mortgage, which may attain priority over this Mortgage, the Sponsor may give Borrower a notice identifying the lien. Borrower will satisfy the lien or take one or more of the actions set forth above within 10 days of the Sponsor’s giving of such notice.

4. Hazard and Flood Insurance. Borrower will keep the improvements now existing or hereafter erected on the Project insured against loss by fire, hazards included within the term “extended coverage,” and may other hazards for which the Sponsor requires insurance, including flood insurance to the extent required. All policies of insurance hereunder will be from such companies and in such form and amounts as may be satisfactory to the Sponsor, will name the Sponsor as a loss payee and will include a

provision requiring 30 days advance written notice to the Sponsor prior to the termination or modification of such policy.

All insurance policies and renewals must be acceptable to the Sponsor and must include a standard mortgage clause. The Sponsor may hold the policies and renewals and, if the Sponsor requires, Borrower will promptly give the Sponsor all receipts of paid premiums and renewal notices. Upon the occurrence of a loss covered by insurance, Borrower will give prompt notice to the insurance carrier and the Sponsor. The Sponsor may make proof of loss if not made promptly by Borrower.

Insurance proceeds will be applied to restoration or repair of the Project damaged if the Sponsor determines that the restoration or repair is economically feasible and the Sponsor's security is not lessened by such restoration or repair. In such event, the Sponsor has the right to collect and hold the insurance proceeds and make the proceeds available to Borrower from time to time for payment of the cost and expense of repair and restoration upon receipt of satisfactory evidence that such cost or expense has been incurred. If the Sponsor determines that the restoration or repair is not economically feasible or the Sponsor's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Mortgage, whether or not then due, with any excess paid to Borrower. If Borrower abandons the Project or does not answer within 30 days a notice from the Sponsor that the insurance carrier has offered to settle a claim, then the Sponsor may settle the claim with the insurance carrier and collect the insurance proceeds from the insurance carrier and may use the proceeds to repair or restore the Project to pay sums secured by this Mortgage, whether or not then due.

If under **Paragraph 19** the Project is acquired by the Sponsor, Borrower's right to any insurance policies and all insurance proceeds resulting from damage to the Project prior to the Sponsor's acquisition shall pass to the Sponsor to the extent of the sums secured by this Mortgage immediately prior to such acquisition.

5. Preservation and Maintenance of Project. Borrower shall not destroy, damage or substantially change the Project, allow the Project to deteriorate or commit waste.

6. Transfer Restrictions. Borrower covenants and agrees to comply with all provisions of the Recapture Agreement, the terms and conditions of which are incorporated herein by this reference, including without limitation the provisions of **Paragraph 2** of the Recapture Agreement relating to transfer restrictions at the Project.

7. Protection of the Sponsor's Rights in the Project: Mortgage Insurance. If Borrower fails to perform the covenants and agreements contained in this Mortgage or there is a legal proceedings that may significantly affect the Sponsor's rights in the Project (such as a proceeding in bankruptcy, probate, for condemnation or to enforce laws or regulations), then the Sponsor may do and pay for whatever is necessary to protect the value of the Project and the Sponsor's rights in the Project. The Sponsor's actions may include paying any sums secured by a lien which has priority over this

Mortgage, appearing in court, paying reasonable attorneys' fees and entering into the Project to make repairs. Although the Sponsor may take action under this **Paragraph 7**, the Sponsor does not have to do so. Any amount disbursed by the Sponsor under this **Paragraph 7** shall become additional debt of Borrower secured by this Mortgage.

8. Inspection. The Sponsor or its agents may make reasonable entries upon and inspections of the Project. The Sponsor shall give Borrower notice prior to the time of an inspection specifying reasonable cause for the inspection.

9. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Project or for conveyance in lieu of condemnation are hereby assigned and shall be paid to the Sponsor and shall be applied to the sums secured by this Mortgage as if the Note had been prepaid on the date the condemnation award is approved, whether or not then due, with any excess paid to Borrower. If the Project is abandoned by Borrower or if, after notice by the Sponsor to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to the Sponsor within 30 days after the date the notice is given, the Sponsor is authorized to accept such award or settlement and to collect and apply the proceeds, at its option, either to restoration or repair of the Project or to the sums secured by this Mortgage, whether or not then due.

10. Borrower Not Released, Forbearance Not a Waiver. Extension of the time for payment or modification of payment of the sums secured by this Mortgage granted by the Sponsor to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower's successors in interest. The Sponsor shall not be required to commence proceedings against any successor in interest and may refuse to extend time for payment or otherwise modify payment of the sums secured by this Mortgage by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by the Sponsor in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

11. Successors and Assigns Bound. The covenants and agreements of this Mortgage shall bind and benefit the successors and assigns of the Sponsor and Borrower and shall be covenants running with, binding and burdening the Project, subject to the provisions of **Paragraphs 17 and 21**.

12. Loan Charges. If the loan secured by this Mortgage is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. The Sponsor may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note. Notwithstanding

anything to the contrary set forth in this **Paragraph 12**, no interest or prepayment charge is payable under the Note.

13. Legislation Affecting the Sponsor's Rights. If enactment or expiration of applicable laws has the effect of rendering any provision of the Note or this Mortgage unenforceable according to its terms, the Sponsor, at its option, may require immediate payment in full of all sums secured by this Mortgage and may invoke any remedies permitted by **Paragraph 19**. If the Sponsor exercises this option, the Sponsor shall take the steps specified in **Paragraph 19**.

14. Notices. Any notices, demand, request or other communication that any party may desire to may be required to give to any other party hereunder shall be given in writing (at the addresses set forth below) by any of the following means: (a) personal service; (b) electronic communication, whether by telegram or telecopier, together with confirmation of transmission; (c) overnight courier; or (d) registered or certified United States mail, postage prepaid, return receipt requested.

The Borrower: John D. Weck
445 S. Cleveland, Unit 106
Arlington Heights, IL 60005

The Sponsor: Village of Arlington Heights
33 S. Arlington Heights Road
Arlington Heights, IL 60005
Attn: William C. Dixon
Fax: (847) 253-2524

Such addresses may be changed by notice to the other party given in the same manner as herein provided. Any notice, demand, request or other communication sent pursuant to either subsection (a) or (b) hereof shall be served and effective upon such personal service or upon confirmation of transmission by such electronic means. Any notice, demand, request or other communication sent pursuant to subsection (c) shall be served and effective one (1) business day after deposit with the overnight courier. Any notice, demand, request or other communication sent pursuant to subsection (d) shall be served and effective three (3) business days after proper deposit with the United States Postal Service.

15. Governing Law; Severability. This Mortgage shall be governed by the laws of the State of Illinois (without giving effect to Illinois choice of law principals). In the event that any provision or clause of the Mortgage, the Agreement or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage, the Agreement or the Note, as the case may be, which can be given effect without the conflicting provision. To this end the provisions of this Mortgage, the Agreement and the Note are declared to be severable.

16. Borrower's Copy. Borrower shall be given one conformed copy of the Note, the Agreement and this Mortgage.

17. Certain Defaults: Transfer of the Project. In the event of (a) a default by Borrower, beyond any applicable cure period, of its obligations under the Homebuyer Program Agreement, the Recapture Agreement, the Note or this Mortgage, or (b) a sale, conveyance or other transfer of the Project, excluding, however, any sale, conveyance or transfer to a spouse upon a dissolution of marriage, or to a surviving spouse upon the death of Borrower, or any other transfer approved by the Sponsor in its sole discretion, then Borrower shall repay to the Sponsor the Loan, or such portion of the Loan as may be due and payable under the terms of the Note and Homebuyer Program Agreement.

Upon the occurrence of either of the foregoing events, the Sponsor shall give Borrower notice of acceleration. This notice shall provide a period of not less than 30 days from the date the notice is given within which Borrower must pay all sums required by this **Paragraph 17**. If Borrower fails to pay these sums prior to the expiration of this period, the Sponsor may invoke any remedies permitted by this Mortgage without further notice or demand on Borrower.

18. Borrower's Right to Reinstate. If Borrower meets certain conditions, Borrower will have the right to have enforcement of this Mortgage discontinued at any time prior to the earlier of (a) five days (or such other period as applicable law may specify for reinstatement) before sale of the Project pursuant to any power of sale contained in this Mortgage; or (b) entry of a judgment enforcing this Mortgage. Those conditions are that the Borrower: (w) pays the Sponsor all sums which then would be due under this Mortgage and the Note had no acceleration occurred; (x) cures any default of any other covenants or agreements; (y) pays all expenses incurred in enforcing this Mortgage, including, but not limited to, reasonable attorneys' fees; and (z) takes such action as the Sponsor may reasonable require to assure that the lien of this Mortgage, the Sponsor's rights in the Project and Borrower's obligations to pay the sums secured by this Mortgage shall continue unchanged. Upon reinstatement by Borrower, this Mortgage and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not be invoked more than once in any five (5) year period, and shall not apply at all in the case of acceleration under **Paragraphs 13 or 17(b)**.

19. Acceleration; Remedies. Prior to any acceleration of the amounts owed to the Sponsor under the Note or this Mortgage (other than an acceleration under Paragraphs 13 and 17(b) unless applicable law provides otherwise) the Sponsor shall give notice to Borrower following Borrower's breach of any covenant or agreement in this Mortgage (the "Default"). The notice shall specify: (a) the Default; (b) the action required to cure the Default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the Default must be cured; and (d) that failure to cure the Default on or before the date specified in the notice may result in acceleration of the sums secured by this Mortgage, foreclosure by judicial proceeding and sale of the Project. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to

assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the Default is not cured on or before the date specified in the notice, the Sponsor at its option may require immediate payment in full of all sums secured by this Mortgage without further demand and may foreclose this Mortgage by judicial proceeding. The Sponsor shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Paragraph 19, including, but not limited to, reasonable attorneys' fees and costs of title evidence, and such sums shall be immediately due and payable and shall be secured by this Mortgage. Upon any sale of the Project made by virtue of judicial proceedings or a decree of foreclosure and sale, the Sponsor may bid for and acquire the Project and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon Borrower's indebtedness secured by this Mortgage, the sale price, after first deducting from the sale price the expenses of the sale and the cost of the foreclosure. The proceeds of any foreclosure sale of the project shall be distributed and applied in the following order of Priority; first, on account of all costs and expenses of the foreclosure proceedings; second, to repayment of the indebtedness of Borrower secured by this Mortgage; and third, and excess to Borrower, its successors and assigns.

20. Possession. Upon acceleration under Paragraph 13, 17(b) or 19 or abandonment of the Project and at any time prior to the expiration of any period of redemption following judicial sale, the Sponsor (in person, by agent or by judicially appointed receiver) shall be entitled to enter upon, take possession of and manage the Project and to collect the rents of the Project, if any, including those past due. Any rents collected by the Sponsor or the receiver shall be applied first to payment of the costs of management of the Project and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorney's fees, and then to the sums secured by this Mortgage.

21. Release. Upon the satisfaction of the Note and expiration of the Affordability Period (as defined in the Recapture Agreement), the Sponsor shall release this Mortgage without charge to Borrower. Borrower shall pay any recordation costs. Notwithstanding any satisfaction of the Note prior to the expiration of the Affordability Period, however, the Recapture Agreement and this Mortgage shall not be released, but shall remain effective for the entire Affordability Period. In addition, notwithstanding anything contained in this Mortgage to the contrary, it is expressly understood and agreed that no partial or full release of this Mortgage, nor any enforcement of other action hereunder, shall waive, release or otherwise affect any of the restriction and agreements set forth in the Recapture Agreement, which shall remain unmodified and in full force and effect for the time period set forth in such Recapture Agreement, unless and until the Sponsor shall have recorded a separate, explicit release of such Recapture Agreement.

22. Waive of Homestead. Borrower waives all right of homestead exemption in this Project.

23. Filing and Recording Fees. Borrower shall pay all title insurance premiums, escrow charges, filing, registration or recording fees, and all expenses incident

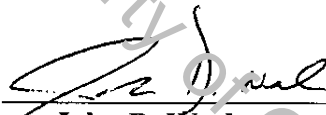
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to the execution and acknowledgement of this Mortgage and all federal, state, county and municipal taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution, delivery and performance of this Mortgage.

24. WAIVER OF JURY TRIAL. BORROWER WAIVES TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER BORROWER OR THE SPONSOR, ITS SUCCESSORS AND ASSIGNS, ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE PROJECT OR THIS MORTGAGE, AND ACKNOWLEDGES AND AGREES THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE SPONSOR TO MAKE THE LOAN EVIDENCED BY THE NOTE AND TO ACCEPT THIS MORTGAGE.

By signing below, Borrower accepts and agrees to be bound by the terms and covenants in this Mortgage.

Borrower:



John D. Weck

Cook County Clerk's Office

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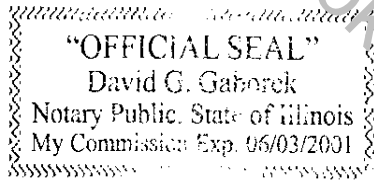
STATE OF ILLINOIS)
)
) SS
COUNTY OF COOK)

I, DAVID G. GABOREK, a Notary Public in and for said county and state, do hereby certify that **John D. Weck**, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that **he** signed and delivered the said instrument as **his** free and voluntary act and as the free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal, this 29th day of July 2000.

My commission expires: 06/03/2001

[Signature], Notary Public



Property of Cook County Clerk's Office

EXHIBIT A

Legal Description

UNIT NO. 146 IN SCARSDALE CONDOMINIUM AS DELINEATED ON A SURVEY OF PARTS OF CERTAIN LOTS IN BLOCKS 1, 2, 8 AND 9, VACATED ALLEYS AND STREETS IN ARLINGTON HEIGHTS PARK MANOR, BEING A SUBDIVISION IN THE EAST HALF OF THE SOUTHEAST QUARTER AND THE EAST HALF OF THE NORTHEAST QUARTER, SECTION 32, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS, WHICH SURVEY IS ATTACHED AS EXHIBIT "B" TO THE DECLARATION OF CONDOMINIUM MADE BY LASALLE NATIONAL BANK, AS TRUSTEE UNDER TRUST NO. 38616, RECORDED IN THE OFFICE OF THE RECORDED OFFICES OF COOK COUNTY, ILLINOIS, AS DOCUMENT NO. 24461711 TOGETHER WITH AN UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS APPURTENANT TO SAID UNIT AS SET FORTH ON SAID DECLARATION.

Common Address: 445 S. Cleveland, Unit 106, ARLINGTON HEIGHTS, IL 60005

Permanent Index No.: 03-32-235-026-1030