



Doc#: 0325918144
Eugene "Gene" Moore Fee: \$54.50
Cook County Recorder of Deeds
Date: 09/16/2003 04:23 PM Pg: 1 of 18

Prepared by and
and after recording return to:

Derek L. Cottier
Schwartz, Cooper, Greenberger
& Krauss, Chartered
180 North LaSalle Street
Suite 2700
Chicago, Illinois 60601

Loan No: 4104-324757

THIRD LOAN MODIFICATION AGREEMENT

This Third Loan Modification Agreement (the "Third Modification") is made and entered into this 15th day of May, 2003 (the "Effective Date"), by and between **MP TOWER, LLC**, an Illinois limited liability company (the "Mortgagor"), and **OHIO SAVINGS BANK**, a federally chartered savings bank (the "Mortgagee"), having its principal place of business at 200 Ohio Savings Plaza, 1801 East Ninth Street, Cleveland, Ohio 44114.

RECITALS

A. Mortgagee has made a loan to Mortgagor in a principal amount not to exceed \$50,050,000.00 (the "Loan") pursuant to the terms of a Construction Loan Agreement dated as of December 7, 2001 by and between Mortgagor and Mortgagee (the "Loan Agreement"). The Loan is evidenced by the following promissory notes:

- (i) a certain Revolving Promissory Note dated as of December 7, 2001 (as amended, restated or replaced from time to time, "Revolving Note") made by Mortgagor and payable to Mortgagee in the stated principal amount of Fifty Million Dollars (\$50,000,000.00); and
- (ii) a certain Letter of Credit Demand Note dated as of December 7, 2001 ("Original Letter of Credit Note") made by Mortgagor payable to Mortgagee in the stated principal amount of Fifty Thousand Dollars (\$50,000.00).

B. The Revolving Note and the Original Letter of Credit Note are secured by, among other documents:

- (i) a certain Construction Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated as of December 7, 2001 and filed of record in the office of the Cook County, Illinois Recorder of Deeds on December 13, 2001 as Document No. 0011184155 (the "Mortgage") encumbering the "Premises" (as defined therein), including but not limited to the real estate legally described on Exhibit A attached hereto;

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(ii) a certain Assignment of Rents and Leases dated as of December 7, 2001 and filed of record in the office of the Cook County, Illinois Recorder of Deeds on December 13, 2001 as Document No. 0011184156 (the "Assignment") encumbering the Premises;

(iii) by certain other documents and instruments (all collectively referred to herein as the "Security Documents").

C. Mortgagor, Guarantors (as defined in the Loan Agreement) and Mortgagee entered into a First Loan Modification Agreement dated as of March 31, 2002 (the "First Modification") whereby the Mortgagee agreed to, among other things, (i) change the Construction Commencement Date (as defined in the Loan Agreement) for the Chicago Homes and the Park II Homes (each as defined in the Loan Agreement) from April 1, 2002 and June 1, 2002, respectively, to November 1, 2002, (ii) change the date by which Mortgagor shall obtain all approvals necessary for the construction of the foundations of the three (3) Chicago Homes from March 31, 2002 to October 31, 2002, and (iii) change the date by which Mortgagor shall provide Mortgagee with a copy of the fully executed Townhome Contract (as defined in the Loan Agreement) from March 31, 2002 to October 31, 2002.

D. Mortgagor and Mortgagee entered into a Second Loan Modification Agreement dated as of February 11, 2003 and recorded in the records of the Recorder of Cook County, Illinois on March 17, 2003 as Document No. 0030365244 March 31, 2002 (the "Second Modification") whereby Mortgagor (i) added certain additional real property to the Real Estate (as defined in the Mortgage) encumbered by the Mortgage and each of the other Security Documents, and (ii) mortgaged, and granted Mortgagee a security interest in, certain easement interests held by Mortgagor; and Mortgagee agreed to release a portion of the real property currently included in the Real Estate from the lien of the Mortgage and the other Security Documents. The Security Documents, the Loan Agreement, the Notes and all other documents or instruments evidencing or securing the Loan, each as modified by the First Modification and the Second Modification, are hereinafter collectively referred to as the "Loan Documents."

E. Mortgagor has requested that Mortgagee agree to increase the facility evidenced by the Letter of Credit Note to \$75,000.00 and make certain additional modifications to the Loan Documents, and Mortgagee has agreed to do so pursuant to the terms of (i) this Third Modification, and (ii) that certain Amended and Restated Letter of Credit Note dated of even date herewith (as amended, restated or replaced from time to time, "Amended Letter of Credit Note," and together with the Revolving Note, the "Notes") made by Mortgagor payable to Mortgagee in the stated principal amount of Seventy-Five Thousand Dollars (\$75,000.00) and delivered by Mortgagor to Mortgagee concurrently with the execution and delivery of this Third Modification.

NOW, THEREFORE, in consideration of the mutual agreements herein contained, and for other valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

1. Recitals. The recitals set forth above are true and correct and are incorporated herein by reference.

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2. Defined Terms. All capitalized terms not defined in this Third Modification shall have the same meanings as set forth in the Loan Agreement. Whenever the context requires, the singular shall mean the plural, and the masculine shall mean and include the feminine, neuter or plural, as the case may be. The terms “herein,” “hereof,” and/or “hereunder” or similar terms used in this Third Modification refer to this entire Third Modification and not to the particular provision in which the term is used. Unless otherwise stated, all references herein to Sections, Subsections, paragraphs, subparagraphs or other provisions are references to sections, subsections, paragraphs, subparagraphs or other provisions of this Third Modification.

3. Modification of the Definition of the terms “Loan Documents,” “Letter of Credit Note,” and “Letter of Credit Facility.” Effective as of the Effective Date, the Loan Documents are hereby amended and modified such that all references in the Loan Documents to the following defined terms shall be deemed to have the meaning ascribed to them below:

(a) Loan Documents. The term “Loan Documents” shall have the meaning ascribed to it in the Loan Agreement and shall be deemed to include the First Modification, the Second Modification, this Third Modification and the Amended Letter of Credit Note, and any and all references in the Loan Documents to any Loan Document by whatever nomenclature shall be deemed to refer to the referenced Loan Document as amended by the First Modification, the Second Modification, this Third Modification and the Amended Letter of Credit Note; and

(b) Letter of Credit Note. The term “Letter of Credit Note” shall mean the Amended Letter of Credit Note in the stated principal amount of \$75,000.00 (the “Amended and Restated Letter of Credit Note”) to be executed and delivered by Mortgagor to Mortgagee in conjunction with Mortgagor’s execution and delivery of this Third Modification to Mortgagee, evidencing the Letter of Credit Facility.

4. Modifications of the Loan Agreement.

(a) Section 3.1 (b) of the Loan Agreement is amended and restated as follows:

“\$75,000.00 for Letters of Credit for the benefit of the City of Chicago (the “Letter of Credit Facility”).”

(b) Section 3.6(a) of the Loan Agreement is amended and restated as follows:

“Mortgagee has heretofore issued the Existing Letter of Credit and that certain letter of credit dated July 19, 2002 issued by Mortgagee upon the application of Mortgagor to the City of Chicago, as beneficiary, in the stated amount of \$45,950.00 (the “Second Letter of Credit”). The Mortgagee agrees to issue one or more additional standby letters of credit (together with the Existing Letter of Credit and the Second Letter of Credit, the “Letters of Credit”) in the aggregate stated amount, including the Existing Letter of Credit and the Second Letter of Credit, of not more than Seventy-Five Thousand and no/100 Dollars (\$75,000.00) pursuant to an application and master letter of credit agreement of Mortgagee duly executed and delivered by Mortgagor to Mortgagee (the “Application”), which Letters of Credit shall be issued for the benefit of the City to assure the

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performance by Mortgagor of certain public improvements with respect to the Project or non-public on-site or off-site improvements with respect to the Project approved by Mortgagee and the City. The Letters of Credit shall be irrevocable and shall have expiration dates no later than the earlier of (i) twelve (12) months from the date of issuance, and (ii) the Maturity Date. The Letters of Credit shall be secured by the Mortgage and the other Loan Documents.”

(c) Section 3.7(b) of the Loan Agreement is amended and restated as follows:

“In no event shall the outstanding principal balance of the Revolving Construction Facility, including any undisbursed Reserves, be greater than \$50,000,000.00; provided, however, that in the event the sum of all issued and outstanding Letters of Credit shall exceed the amount of \$50,000.00, the outstanding principal balance of the Revolving Construction Facility, including any undisbursed Reserves, shall not exceed an amount equal to (i) \$50,000,000.00, minus (ii) (A) the sum of all issued and outstanding Letters of Credit, minus (B) \$50,000.00; and”

5. Title Policy Date Down Endorsements. Upon the execution of this Third Modification by all parties thereto, Mortgagor shall cause (i) the recording of this Third Modification in the records of the Recorder of Cook County, Illinois, and (ii) the delivery to Mortgagee of (A) a Letter of Credit Endorsement to Mortgagee’s title policy referencing the Letter of Credit issued by Mortgagee on July 19, 2002 to the City of Chicago as the beneficiary, in the amount of \$45,950.00, and (B) a date-down endorsement to bring forward the date of the policy to the date of the recording of this Third Modification and to amend the amount shown on the pending disbursement endorsement to include the face amount of such Letter of Credit.

6. Warranties and Representations. Mortgagor makes the following representations and warranties to Mortgagee:

(a) The recitals set forth above are true and correct;

(b) The Loan Documents as modified by this Third Modification and the Amended Letter of Credit Note are legal, valid, binding, enforceable and collectible obligations of the respective parties thereto, and Mortgagor does not have any existing claim, defense or right of offset, personal or otherwise, with respect to the Revolving Note, the Amended Letter of Credit Note or any other Loan Document;

(c) the Mortgage has been duly recorded in the proper records for the county and state in which the corresponding property is located, and represents the first and best lien on the property described therein, subject only to such encumbrances expressly permitted by Mortgagee;

(d) All warranties and representations contained in the Loan Documents remain true, correct and complete, all covenants, terms and conditions of the Loan Documents remain satisfied or have been performed, and no default or event of default or event which with notice or lapse of time or both would constitute an event of default exists under or with respect to any Loan Document;

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(e) Mortgagor, FMPT, L.L.C. an Illinois limited liability company and EDC MP Tower, L.L.C., an Illinois limited liability company are each duly organized and validly existing under the laws of Illinois and duly qualified to do business and in good standing in the State of Illinois; all actions required to be taken by each in connection with the execution, delivery and performance of this Third Modification and the Amended Letter of Credit Note has been taken, and the execution and delivery and performance of this Third Modification and the Amended Letter of Credit Note by each does not conflict with any certificate or operating agreement of any such entity, or any other organizational document of any such entity or with any agreement to which any such entity is subject; and

(f) All information, documents, reports, statements, financial statements, and data submitted by or on behalf of Mortgagor in connection with the Loan, or in support thereof, are true, accurate, and complete in all material respects, to the best of Mortgagor's knowledge, information and belief, as of the date made and contain no knowingly false incomplete or misleading statements.

7. Fees, Expenses and Taxes. At the time of execution and delivery of this Third Modification, the Mortgagor shall pay to Mortgagee all reasonable costs, fees and expenses incurred by Mortgagee in connection with this Third Modification and the Amended Letter of Credit Note, including without limitation all reasonable legal and appraisal fees and expenses, title insurance and recording fees, if applicable.

8. Ratification and Release. Mortgagor hereby expressly waives, releases and absolutely and forever discharges Mortgagee and its affiliates and their respective shareholders, directors, officers, employees, agents, attorneys and insurers, and the respective heirs, personal representatives, successors and assigns of any of the foregoing, from any and all liabilities, claims, demands, damages, actions and causes of action that Mortgagor may now have or has ever had prior to the date hereof, including, without limiting the generality of the foregoing, any and all liability, claims, demands, damages, actions and causes of action arising out of, or in any way connected with, the Loan, its administration, any prior modifications or extensions thereof, or any negotiations or discussions relating thereto.

9. Entire Agreement. This Third Modification and the Amended Letter of Credit Note together with the other Loan Documents and other agreements referenced herein and other agreements executed in connection herewith, set forth all of the covenants, promises, agreements, conditions and understandings of the parties hereto with respect to the matters described herein. No alteration, modification, amendment, change or addition to this Third Modification shall be effective unless the same is in writing and signed by all of the parties hereto.

10. Not a Novation. It is the intent of the Mortgagor, Mortgagee and Guarantors that this Third Modification and/or the Amended Letter of Credit Note shall not constitute a novation or in any way adversely affect the lien or operation of the Mortgage and/or any other Loan Document.

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11. No Waiver. No extension, postponement, forbearance, delay or failure on the part of Mortgagee in the exercise of any power, right or remedy under the Notes or any other Loan Document or instrument executed in connection therewith or evidencing or securing the Loan, or at law or in equity, shall operate as a waiver thereof, nor shall a single or partial exercise of any power, right or remedy preclude other or further exercise thereof or the exercise of any other power, right or remedy. Neither the acceptance of any payment nor the making of any concession by Mortgagee at any time during the existence of a default shall be construed as a waiver of any continuing default or of any of Mortgagee's rights or remedies. All powers, rights and remedies of Mortgagee shall be cumulative, and may be exercised simultaneously or from time to time in such order and manner as Mortgagee may elect. No waiver of any condition or covenant of Mortgagor or of the breach of any such covenant or condition shall be deemed to constitute a waiver of any other covenant or condition or of any subsequent breach of such covenant or condition or justify or constitute a consent to or approval by Mortgagee of any violation, failure or default by Mortgagor of the same or any other covenant or condition contained in the Note or any other Loan Document.

12. Further Assurances. The Mortgagor covenants and agrees that until all indebtedness evidenced by the Revolving Note and the Amended Letter of Credit Note has been paid in full, Mortgagor will upon the request of the Mortgagee promptly perform or cause to be performed any and all acts, execute or cause to be executed any and all documents (including without limitation, estoppel certificates, subordination agreements, consents, financing statements and continuation statements) for filing or recording under the provisions of any applicable law or any other legal requirement which may be necessary or convenient to more effectively and completely carry out the intention of this Third Modification.

13. Governing Law. This Third Modification, the Amended Letter of Credit Note and the other Loan Documents and the performance of all covenants, conditions and terms hereof and thereof shall be governed by and interpreted in accordance with the laws of the State of Illinois.

14. Captions. The captions and headings herein shall be solely for convenience of reference and in no way define, limit or describe the scope or intent of any provisions or sections of this Third Modification.

15. Counterparts. This Third Modification may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument; but in making proof of this Third Modification, it shall only be necessary to produce or account for the counterpart executed by the party against which enforcement is sought.

16. Successors and Assigns. This Third Modification and the Amended Letter of Credit Note shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns, but may not be assigned by Mortgagor, and any such attempted assignment shall be void.

17. Severability. If any term, clause or provision of this Third Modification or any Loan Document shall be determined by any court to be illegal, invalid or unenforceable, the

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illegality, invalidity or unenforceability of such term, clause or provision shall not affect the legality, validity or enforceability of the remainder thereof or of any other term, clause or provision hereof or in any such Loan Document, and this Third Modification and each such Loan Document shall be construed and enforced as if such illegal, invalid or unenforceable term, clause or provision had not been contained herein or therein, and all covenants, obligations and agreements contained herein or in any Loan Document shall be enforceable to the full extent permitted by law.

18. Limited Modification. Except to the limited extent expressly provided herein, the Notes, the Loan Agreement, the Mortgage and each of the other Loan Documents, as heretofore amended, shall remain in full force and effect, and all parties originally liable or obligated with respect thereto shall remain so liable or obligated with respect to such Loan Documents, as heretofore modified and as modified hereby. The Premises shall remain in all respects subject to the lien, charge and encumbrance of the Loan Documents, and nothing herein and nothing done pursuant hereto, shall affect or be construed to affect the lien, charge and encumbrance of, or warranty of title in, any of said Loan Documents, nor the priority thereof over other liens, charges, encumbrances or conveyances. This Third Modification shall not release or affect the liability of any party or parties who may now or hereafter be liable under or on account of any of the Loan Documents. If any obligation of any party or parties who may now or hereafter be liable under or on account of any of the Loan Documents is determined to be void or unenforceable on account of this Third Modification and/or the modification of the Loan Documents as contemplated by this Third Modification, the Mortgagor, as an additional and independent obligation, hereby jointly and severally agree to indemnify and hold harmless Mortgagee against and from all loss, cost, damage or expense (including attorney's fees, whether or not litigation has been commenced and in all trial, bankruptcy and appellate proceedings) suffered or incurred by Mortgagee as a result of any such obligation being void or unenforceable. Whenever possible, this Third Modification shall be read to harmonize, rather than conflict, with any term or provision contained in the Loan Documents which is not specifically modified by this Third Modification. This Third Modification constitutes a modification and not a novation. In the event of any inconsistency between the terms and conditions of any Loan Document (including the Note), and this Third Modification, the terms and provisions of this Third Modification shall govern and control.

19. Waiver of Strict Construction Against Drafting Party. Should any provision contained in this Third Modification or in the Amended Letter of Credit Note be subject to judicial interpretation, the parties agree that the court interpreting or considering such provision should not apply any presumption or rule of construction that the terms of a document be more strictly construed against the party which itself or through its counsel or other agent prepared the same, as all parties hereto have participated in the preparation of the final form of this Third Modification and the Amended Letter of Credit Note through review by their respective counsel and the negotiation of changes in language in any provision deemed unsuitable or inadequate as initially written, and, therefore, the application of such presumption or rule of construction would be inappropriate and contrary to the intent of the parties.

20. Consent to Jurisdiction. **TO INDUCE MORTGAGEE TO ENTER INTO THIS THIRD MODIFICATION, MORTGAGOR IRREVOCABLY AGREES THAT, SUBJECT TO MORTGAGEE'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS**

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OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THIS THIRD MODIFICATION, THE AMENDED LETTER OF CREDIT NOTE OR ANY OTHER LOAN DOCUMENT WILL BE LITIGATED IN COURTS HAVING SITUS IN CHICAGO, ILLINOIS. MORTGAGOR HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT LOCATED WITHIN CHICAGO, ILLINOIS, WAIVES PERSONAL SERVICE OF PROCESS UPON MORTGAGOR, AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO MORTGAGOR AT THE ADDRESS STATED IN THE LOAN AGREEMENT AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.

21. Waiver of Jury Trial. MORTGAGOR AND MORTGAGEE, HAVING BEEN REPRESENTED BY COUNSEL EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS (a) UNDER THIS THIRD MODIFICATION, THE AMENDED LETTER OF CREDIT NOTE, ANY OTHER LOAN DOCUMENT OR ANY RELATED AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS THIRD MODIFICATION OR ANY OF THE FORGOING DOCUMENTS, OR (b) ARISING FROM ANY BANKING RELATIONSHIP EXISTING IN CONNECTION WITH THIS THIRD MODIFICATION OR OTHER LOAN DOCUMENT, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. MORTGAGOR AGREES THAT IT WILL NOT ASSERT ANY CLAIM AGAINST MORTGAGEE OR ANY OTHER PERSON INDEMNIFIED UNDER THE LOAN DOCUMENTS ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.

22. Additional Waivers. MORTGAGOR EXPRESSLY AND UNCONDITIONALLY WAIVES, IN CONNECTION WITH ANY SUIT, ACTION OR PROCEEDING BROUGHT BY MORTGAGEE UNDER THIS THIRD MODIFICATION, THE AMENDED LETTER OF CREDIT NOTE, ANY OTHER LOAN DOCUMENT OR ANY RELATED AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS THIRD MODIFICATION OR ANY OF THE FORGOING DOCUMENTS, ANY AND EVERY RIGHT IT MAY HAVE TO (a) INTERPOSE ANY COUNTERCLAIM THEREIN UNLESS UNDER THE APPLICABLE RULES OF COURT SUCH COUNTERCLAIM MUST BE ASSERTED IN SUCH PROCEEDING, AND (b) HAVE THE SAME CONSOLIDATED WITH ANY OTHER OR SEPARATE SUIT, ACTION OR PROCEEDING UNLESS REQUIRED BY THE APPLICABLE RULES OF COURT.

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IN WITNESS WHEREOF, the parties have caused this Third Modification to be effective as of the Effective Date.

MORTGAGOR:

MP TOWER, LLC, an Illinois limited liability company

By: FMPT, L.L.C., an Illinois limited liability company
Its: Member

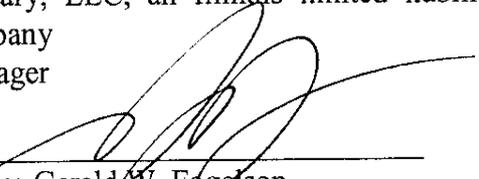
By: Forest City Central Station, Inc., an Ohio corporation

Its: Manager

By: 
Name: David J. LaRue
Title: Vice President

By: Zachary, LLC, an Illinois limited liability company

Its: Manager

By: 
Name: Gerald W. Fogelson
Title: Manager

By: EDC MP Tower, L.L.C., an Illinois limited liability company

Its: Member

By: EDC Management, Inc., an Illinois corporation

Its: Manager

By: _____
Name: Ronald Shipka, Jr.
Title: President

MORTGAGEE:

OHIO SAVINGS BANK,
a federal savings bank

By: _____
Its: _____

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IN WITNESS WHEREOF, the parties have caused this Third Modification to be effective as of the Effective Date.

MORTGAGOR:

MP TOWER, LLC, an Illinois limited liability company

By: FMPT, L.L.C., an Illinois limited liability company
Its: Member

By: Forest City Central Station, Inc., an Ohio corporation
Its: Manager

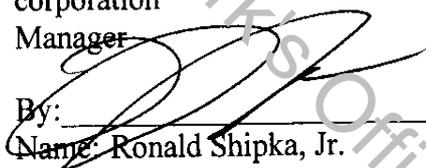
By: _____
Name: _____
Title: _____

By: Zachary, LLC, an Illinois limited liability company
Its: Manager

By: _____
Name: Gerald W. Fogelson
Title: Manager

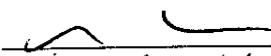
By: EDC MP Tower, L.L.C., an Illinois limited liability company
Its: Member

By: EDC Management, Inc., an Illinois corporation
Its: Manager

By: 
Name: Ronald Shipka, Jr.
Title: President

MORTGAGEE:

OHIO SAVINGS BANK,
a federal savings bank

By: 
Its: Vice President

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, The Undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Gerald Fogelson, the Manager of Zachary, LLC, an Illinois limited liability company ("Zachary"), who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such manager, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of Zachary in its capacity as a manager of FMPT, L.L.C. an Illinois limited liability company ("FMPT"), and of FMPT in its capacity as a member of MP Tower, LLC, an Illinois limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 30th day of May, 2003.

Joan Tolios Berg
NOTARY PUBLIC



(SEAL)

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STATE OF OHIO)
) SS.
COUNTY OF CUAYHOGA)

I, Denise M. Scaglione, a Notary Public in and for said County, in the State aforesaid, do hereby certify that David J. LaRue, the Vice President of Forest City Central Station, Inc., an Ohio corporation ("Forest City"), who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such manager, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of Forest City in its capacity as a manager of FMPT, L.L.C., an Illinois limited liability company ("FMPT"), and of FMPT in its capacity as a member of MF Tower, L.L.C., an Illinois limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 23rd day of May, 2003.



NOTARY PUBLIC

(SEAL)



Denise M. Scaglione, Notary Public
STATE OF OHIO
My Commission Expires April 21, 2007

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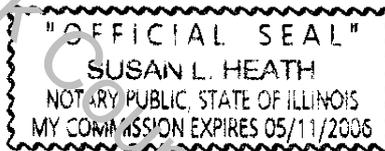
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Susan L. Heath, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Ronald Shipka, Jr., the President of EDC Management, Inc., an Illinois corporation ("EDC Corp"), who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such President, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of EDC Corp in its capacity as the manager of EDC MP Tower, L.L.C., an Illinois limited liability company ("Tower"), and of Tower in its capacity as a member of MP Tower, L.L.C., an Illinois limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 27th day of May, 2003.

Susan L. Heath
NOTARY PUBLIC

(SEAL)

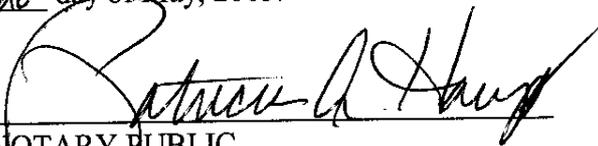


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STATE OF OHIO)
) SS.
COUNTY OF CUYAHOGA)

I, PATRICIA A. HAUPT, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Steven S. Swartz, the Vice President of Ohio Savings Bank, a federally chartered savings bank, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Vice President, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of Ohio Savings Bank, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 26th day of June, 2003.



NOTARY PUBLIC

(SEAL)

PATRICIA A. HAUPT, Notary Public
State of Ohio
My Commission Expires Nov. 1, 2006



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EXHIBIT A

LEGAL DESCRIPTION OF REAL ESTATE

PARCEL 1:

Lots 41 through 46, inclusive and Outlot 5 in Museum Park Subdivision, a Resubdivision of Lots 1 to 4, inclusive, in Conor's Subdivision being a subdivision of part of Fractional Section 22, Township 39 North, Range 14, East of the Third Principal Meridian in Cook County, Illinois.

PARCEL 2:

Lots 47 through 49, inclusive and Outlot 4 in Museum Park Subdivision, a Resubdivision of Lots 1 to 4, inclusive, in Conor's Subdivision being a subdivision of part of Fractional Section 22, Township 39 North, Range 14, East of the Third Principal Meridian in Cook County, Illinois;

also,

Lot 50 in Museum Park Subdivision, a Resubdivision of Lots 1 to 4, inclusive, in Conor's Subdivision being a subdivision of part of Fractional Section 22, Township 39 North, Range 14, East of the Third Principal Meridian, (except that part thereof described as follows: beginning at the Northeast corner of said Lot 50; thence Southerly 1.72 feet along the Easterly line thereof, being the arc of a circle convex to the East, having a radius of 2832.93 feet, and whose chord bears South 10°45'39" East, a distance of 1.72 feet; thence North 90°00'00" West 64.33 feet to the West line of said Lot 50; thence North 00°00'00" East, along said West line, 1.69 feet to the Northwest corner of said Lot 50; thence North 90°00'00" East, along the North line thereof, 64.01 feet to the point of beginning), in Cook County, Illinois;

also,

That part of Outlot 2 in Museum Park Subdivision, being a resubdivision of Lots 1 to 4, inclusive, in Conor's Subdivision, a subdivision of part of Fractional Section 22, Township 39 North, Range 14, East of the Third Principal Meridian, described as follows: Commencing at a Northeast corner of said Outlot 2, being also a Northwest corner of Lot 50 in Museum Park Subdivision, aforesaid; thence South 00°00'00" East along the common line between Outlot 2 and Lot 50, aforesaid, 50.12 feet to the point of beginning; thence North 90°00'00" East, along said common line, 18.48 feet; thence South 00°00'00" East, along said common line, 65.30 feet; thence South 90°00'00" West, along said common line, 18.48 feet; thence North 00°00'00" East 6.54 feet; thence North 90°00'00" East 12.01 feet; thence North 00°00'00" West 52.55 feet; thence South 90°00'00" West 12.01 feet; thence North 00°00'00" West 6.23 feet to the point of beginning, in Cook County, Illinois.

PARCEL 3:

Easement for the benefit of Parcels 1 and 2, created by Grant thereof dated December 7, 2001 and recorded January 11, 2002 as document number 0020048648 for ingress and egress over, upon and across the land described as follows:

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That part of the former lands of the Illinois Central Railroad Company in the Northwest Fractional Quarter of Section 22, Township 39 North, Range 14, East of the Third Principal Meridian, described as follows: commencing at the Northwest corner of East 14th Street as dedicated per the Plat of Dedication of Public Street recorded February 9, 1995 as document number 95100088, said Northwest corner being the point of beginning for said Plat of Dedication; Thence South 89 Degrees 58 Minutes 41 Seconds East 281.00 Feet to the Northeast corner of said East 14th Street being the point of beginning for the property herein described; Thence continuing South 89 Degrees 58 Minutes 41 Seconds East 257.48 feet; thence South 06 Degrees 22 Minutes 54 Seconds East 39.75 feet to the Easterly extension of the North line of Lot 2 in Prairie Place Townhomes Subdivision, a subdivision in the Northwest Fractional Quarter of Section 22 aforesaid, recorded March 3, 1995 as document number 95150205; thence North 89 Degrees 58 Minutes 41 Seconds West 261.91 feet along said Easterly extension and the North line of said Lot 2 to the Northwest corner of said Lot 2; thence North 00 Degrees 01 Minutes 19 Seconds East 39.50 feet to the point of beginning, in Cook County, Illinois.

PARCEL 4:

Easement for ingress and egress for the benefit of Parcels 1 and 2 as created by Grant thereof dated April 19, 2002 and recorded April 22, 2002 as document number 0020457528.

PIN Numbers:

17-22-110-032

17-22-110-033

17-22-110-034

Address:

*1300-1400 S. Indiana
Chicago, Illinois*