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PREPARED BY AND AFTER
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Doc#: 0407042235
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Cook County Recorder of Deeds
Date: 03/10/2004 12:03 PM Pg: 1 of 11

LaSalle Bank Corporation
135 S. LaSalle Street, Suite 925
Chicago, Illinois 60603
Attn: Valeria S. Bailey, Esq.

PERMANENT INDEX NUMBERS:

14-20-328-042-0000
14-20-328-043-0000

PROPERTY ADDRESS:

3201- 3225 North Ashland Avenue
Chicago, Illinois 60657

ACCESS AND UTILITY EASEMENT AGREEMENT

This AGREEMENT is made as of Feb. 24, 2004, by and between LA SALLE BANK NATIONAL ASSOCIATION, a national banking association ("LaSalle Bank") and 3225 NORTH ASHLAND LLC, an Illinois limited liability company ("3225 North Ashland").

A. LaSalle Bank is the owner of certain premises commonly known as 3201 North Ashland Avenue, Chicago, Illinois, legally described on Exhibit A attached hereto (the "LaSalle Bank Property");

B. 3225 North Ashland is in the process of acquiring, or has acquired, from LaSalle Bank certain property immediately adjoining and to the north and west of the LaSalle Bank Property as described on Exhibit B attached hereto (the "3225 North Ashland Property").

C. LaSalle Bank has agreed to provide 3225 North Ashland access over and across certain of the LaSalle Bank Property for purposes of (i) ingress, egress and access from the 3225 North Ashland Property to Melrose Street, (ii) access to the utilities serving the 3225 North Ashland Property, subject to the terms and conditions herein provided, (iii) maintenance and repair of the building located on the 3225 North Ashland Property, and (iv) access and use of the refuse area on the LaSalle Bank Property.

D. 3225 North Ashland has agreed to provide LaSalle Bank access across the 3225 North Ashland Property for purposes of (i) access to the utilities serving the LaSalle Bank Property, and (ii) maintenance and repair of the LaSalle Bank Property.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby agree as follows:

1. Definitions. For purposes hereof:

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(a) The term "Owner" or "Owners" shall mean LaSalle Bank or 3225 North Ashland and any and all successors or assigns of such entities as the owner or owners of the fee simple title to all or any portion of the real property covered by this Agreement.

(b) The term "Parcel" or "Parcels" shall mean each separately identified parcel of real property now constituting a part of the real property subjected to this Agreement, that is the LaSalle Bank Property and the 3225 North Ashland Property, and any future subdivisions thereof.

(c) The term "Permittees" shall mean the tenant(s) or occupant(s) of a Parcel and the respective employees, agents, contracts, customs, invitees and licensees of (i) the Owner of such Parcel, and/or (ii) such tenant(s) or occupant(s).

(d) The term "Tenant" or "Tenants" shall mean the tenant(s), occupant(s) or licensee(s) of an Owner of a Parcel with the right to occupy or use such Parcel.

2. Grants of Easements. Subject to any express conditions, limitations or reservations contained herein, Owners shall be benefited and burdened by the following non-exclusive and perpetual easements which are hereby imposed on all present and future Owners and Permittees of the Parcels, as specifically described herein:

(a) Easement Grants by LaSalle Bank. (i) Melrose Street Access Easement. An easement for reasonable ingress, egress and access over portions of the LaSalle Bank Property to and from the building located on the 3225 North Ashland Property and to the public roadway known as Melrose Street, including the sidewalks of the LaSalle Bank Property. This easement shall be used solely for pedestrian access by 3225 North Ashland and its Permittees to and from the 3225 North Ashland Property, to and from Melrose Street, and for no other purpose.

(ii) Utility Easement. An easement under and over a fifteen (15) foot strip of land, as cross-hatched on Exhibit C attached hereto, located adjacent to the east of 3225 North Ashland Property to operate, repair, maintain, modify, reconstruct, replace, supplement, relocate and remove, from time to time, above and below ground wires, cables, pipes, conduits or other facilities used in connection with the distribution of electricity, gas, water and sewer. This easement shall be used solely for the maintenance of and repair of the utilities serving the 3225 North Ashland Property and for no other purpose.

(iii) Building Maintenance Easement. An easement over a fifteen (15) foot strip of land of the LaSalle Bank Property, as depicted by a cross-hatched area on Exhibit C attached hereto, so as to provide for maintenance and repair of exterior and structure of the 3225 North Ashland Building. This easement shall be used solely for the maintenance of and repair of the 3225 North Ashland Property and for no other purpose.

(iv) Refuse Easement. An easement over portions of LaSalle Bank Property to the east of 3225 North Ashland Property by way of Melrose Street for access and use of the refuse area, which refuse area is depicted by the cross-hatched area depicted as dumpster on Exhibit C attached hereto. This easement shall be used solely for access and use by 3225 North Ashland of the refuse receptacle located on LaSalle Bank Property and for no other purpose.

(b) Easement Grants by 3225 North Ashland. (i) Utility Easement. An easement under and over a fifteen (15) foot strip of land of the 3225 North Ashland Property, as depicted by a cross-hatched

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area on Exhibit C attached hereto, to operate, repair, maintain, modify, reconstruct, replace, supplement, relocate and remove from time to time, above and below ground wires, cables, pipes, conduits or other facilities used in connection with the distribution of electricity, gas, water and sewer serving the LaSalle Bank Property. This easement shall be used solely for the maintenance of and repair of the utilities serving the LaSalle Bank Property and for no other purpose.

(ii) Building Maintenance Easement. An easement over the 3225 North Ashland Property for maintenance and repair of the LaSalle Bank Building. This easement shall be used solely for the maintenance of and repair of the LaSalle Bank Property and for no other purpose.

The easements described in Sections 2 (a) and (b) above may be collectively referred to herein as the "Easement Premises".

3. Reasonable Use of Easement Premises. (a) The use of the Easement Premises shall not (i) adversely affect or detract from the reputation, appearance, character or dignity of the Parcels, or (ii) disturb or interfere with the conduct and operations of the business of any Owner or its Permittees conducted on its Parcel or the occupancy or use of any other portion of the Parcels by any of the Permittees.

(b) Each Owner shall have the right, from time to time upon notice thereof to the other Owner to prescribe reasonable rules and regulations which in its judgment may be desirable for the use of the Easement Premises located on its property and which do not contradict any right expressly granted to the other Owner herein. A violation of any such rules and regulations shall constitute a default by the other Owner under this Agreement.

(c) LaSalle Bank, at its sole discretion, reserves the right to relocate the Easement Premises burdening the LaSalle Bank Property (except for the building maintenance easement created by subsection 2(a)(iii) above) to other locations on the LaSalle Bank Property, so long as the purpose of the affected easement shall be reasonably fulfilled, in LaSalle Bank's sole reasonable discretion.

(d) In the event that the actual location of utility lines are located outside of the easement premises described in subsections 2(a)(ii) and 2(b)(i) above, the parties agree that the easement shall extend to the actual location of such utilities.

(e) Once commenced, any construction undertaken in reliance upon an easement granted herein shall be diligently prosecuted to completion, so as to minimize any interference with the business of any other Owner and its Permittees. Except in cases of emergency, the right of any Owner to enter upon a Parcel of another Owner for the exercise of any right pursuant to the easements set forth or to prosecute work on such Owner's own Parcel if the same interferes with utility or drainage easements or easements of ingress, egress or access to or in favor of another Owner's Parcel, shall be undertaken only in such a manner so as to minimize any interference with the business of the other Owner and its Permittees. In such case, no affirmative monetary obligation shall be imposed upon the other Owner (and/or, during the continuance of the LaSalle Lease, LaSalle), and the Owner undertaking such work shall with due diligence repair at its sole cost and expense any and all damage caused by such work and restore the affected portion of the Parcel upon which such work is performed to a condition which is equal to or better than the condition which existed prior to the commencement of such work. In addition, the Owner undertaking such work shall pay all costs and expenses associated therewith and shall indemnify and hold harmless the other Owner(s) and its Permittees from all damages, losses, liens or claims attributable to the performance of such work.

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(f) 3225 North Ashland shall pay to LaSalle Bank upon demand the expense and costs for removal and/or storage of 3225 North Ashland's refuse.

4. Maintenance and Repairs. (a) General. The Owners shall maintain the improvements on each Parcel in a clean and neat condition. LaSalle Bank shall have no liability hereunder for failure at any time to perform snow removal at all or any part of the Easement Premises or for the manner in which LaSalle Bank causes the snow removal to be performed.

(b) Buildings and Appurtenances Thereto. Each Owner covenants to keep and maintain, or cause its Tenant(s) to keep and maintain, the building(s) located from time to time on its respective Parcel in good order, condition and repair. Once constructed, in the event of any damage to or destruction of a building on any Parcel, the Owner of such Parcel shall, at its or its Tenant(s) sole cost and expense, with due diligence either (a) repair, restore and rebuild such building to its condition prior to such damage or destruction (or with such changes as shall not conflict with this Agreement), or (b) demolish and remove all portions of such damaged or destroyed building then remaining, including the debris resulting therefrom, and otherwise clean and restore the area affected by such casualty to a level, graded condition. Nothing contained in subparagraph 3.2(b) shall be deemed to allow an Owner to avoid a more stringent obligation for repair, restoration and rebuilding contained in a lease or other written agreement between an Owner and such Owner's Permittee

(c) Utilities. Each Owner shall at all times during the term hereof construct, operate and maintain or cause to be constructed, operated and maintained, in good order, condition and repair, at its sole expense, any utility or other installations serving the Parcel of such Owner and from time to time existing on the Parcel of another Owner pursuant to an easement described herein.

5. Restrictions. Each Parcel shall be used for lawful purposes in conformance with all restrictions imposed by all applicable governmental laws, ordinances, codes, and regulations, and no use or operation shall be made, conducted or permitted on or with respect to all or any portion of a Parcel which is illegal. In addition to the foregoing, for a period commencing with the date of the deed between LaSalle Bank and 3225 North Ashland and ending September 27, 2027, it is expressly agreed that neither all nor any portion of the 3225 North Ashland Property shall be used, or occupied, in whole or in part, for any retail or commercial bank, savings and loan, credit union, financial institution which accepts deposits and/or makes loans or for any similar purpose.

6. Indemnification. Each Owner having rights with respect to an easement granted hereunder shall indemnify and hold the Owner whose Parcel is subject to the easement harmless from and against all claims, liabilities and expenses (including reasonable attorneys' fees) relating to accidents, injuries, loss, or damage of or to any person or property arising from the negligent, intentional or willful acts or omissions of such Owner, such Owner's Permittees or Tenants, or others acting on behalf of such Owner.

7. Insurance. Each Owner shall carry insurance during the entire term hereof insuring themselves, and insuring, as additional named insured, the other Owner and its officers, directors, agents, partners, employees and affiliated companies, as their interests may appear, with comprehensive public liability insurance, including the broad or extended liability endorsement, and workmen's compensation in statutory limits, during the entire term hereof with terms and in companies reasonably satisfactory to both parties to afford protection to the limits of not less than \$2,000,000 for combined single limit personal injury and property damage liability per occurrence. Each Owner shall, prior to the

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commencement of the Agreement, furnish to the other Owner certificates evidencing such coverage, which certificates shall state that such insurance coverage may not materially be changed or canceled without at least thirty (30) days' prior written notice. LaSalle Bank may elect to self insure and/or carry insurance required hereunder under master or blanket policies of insurance.

8. Taxes and Assessments. Each Owner shall pay all taxes, assessments, or charges of any type levied or made by any governmental body or agency with respect to its Parcel.

9. Default. (a) If either Owner defaults in the performance of any obligation hereunder after written notice thereof by the other Owner (and such failure is not cured within thirty (30) days after receipt of written notice of such failure), the non-defaulting Owner may at its option and in addition to any other rights or remedies hereunder or otherwise available at law or in equity, seek to enforce the terms of this Agreement in the form of injunctive relief from any court of competent jurisdiction.

(b) The defaulting Owner shall pay to the non-defaulting Owner upon demand all reasonable costs, expenses and damages incurred by the non-defaulting Owner in enforcing the defaulting Owner's obligations under this Agreement or, including, without limitation, reasonable attorneys' fees and expenses.

(c) In the event of a default by a Owner hereunder, the non-defaulting Owner may, but need not, make any payment or perform any act herein required of the defaulting Owner (except those described in subsection 4(b) hereof) in any form and manner deemed expedient, and may, but need not, make full or partial payments on encumbrances, if any, and purchase, discharge, compromise or settle any lien. All monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including attorneys' fees, and any other monies advanced by the non-defaulting Owner to protect the Easement Premises shall become immediately due and payable by the defaulting Owner within ten (10) days after notice thereof and with interest thereon at the "Prime Rate" plus four (4) percent. Inaction of either shall never be considered as a waiver of any right accruing to it on account of any default hereunder.

10. Notices. All notices to be given hereunder shall be given in person, by overnight courier, or by registered or certified mail, return receipt requested, addressed to the parties as follows, or at such other place as either of them may hereafter designate for itself by notice in writing to the other:

To LaSalle Bank: c/o ABN AMRO Services Company, Inc.
540 West Madison, Suite 2302
Chicago, Illinois 60661
Attn: Corporate Real Estate

With a copy to: LaSalle Bank Corporation
135 South LaSalle Street, Suite 925
Chicago, Illinois 60603
Attn: Valeria Bailey, Esq.

To 3225 North Ashland: 3225 North Ashland LLC
2421 Simpson Street
Evanston, Illinois 60201
Attn: Steve Qualkinbush

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With a copy to:

Law Offices of John K. Kallman
221 North LaSalle Street, Suite 1200
Chicago, Illinois 60601
Attn: John K. Kallman

Any such notices shall be deemed given when delivered personally, by overnight courier, or upon being mailed as aforesaid.

11. Authorization. Each Owner has full right, power and authority to enter into this Agreement and to perform its obligations thereunder, and the execution, delivery and performance of this Agreement shall not, nor shall the observance or performance of any of the matters and things herein set forth, violate or contravene any provision of law or of the charter or by-laws of either such Owner or of any indenture or other agreement of or affecting either Owner. All necessary and appropriate action has been taken on the part of each Owner to authorize the execution and delivery of this Agreement. This Agreement is the valid and binding agreement of each Owner in accordance with its terms.

12. Term. The easements, covenants, conditions and restrictions contained in this Agreement shall be effective commencing on the date of recordation of this Agreement in the office of the Cook County Recorder and shall remain in full force and effect thereafter in perpetuity, unless this Agreement is modified, amended, canceled or terminated by the written consent of all then record Owners.

13. Miscellaneous.

(a) Attorneys' Fees. In the event an Owner institutes any legal action or proceeding for the enforcement of any right or obligation herein contained, the prevailing Owner after a final adjudication shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.

(b) Amendment. Owners agree that the provisions of this Agreement may be modified or amended, in whole or in part, or terminated, only by the written consent of all record Owners of the Parcels, evidenced by a document that has been fully executed and acknowledged by all such record Owners and recorded in the official records of the County Recorder of Cook County, Illinois.

(c) Covenants to Run with Land. It is intended that each of the easements, covenants, conditions, restrictions, rights and obligations set forth herein shall run with the land, shall bind every person having any fee, leasehold or other interest therein and shall inure to the benefit of the respective parties and their successors, assigns, heirs, and personal representatives.

(d) Grantee's Acceptance. The grantee of any Parcel or any portion thereof, by acceptance of a deed conveying title thereto or the execution of a contract for the purchase thereof, whether from an original Owner or from a subsequent owner of such Parcel, shall accept such deed or contract upon and subject to each and all of the easements, covenants, conditions, restrictions and obligations contained herein. By such acceptance, any such grantee shall for himself and his successors, assigns, heirs, and personal representatives, covenant, consent, and agree to and with the other Owner, to keep, observe, comply with, and perform the obligations and agreements set forth herein with respect to the property so acquired by such grantee.

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(e) Time of Essence. Time is of the essence of this Agreement.

(f) Entire Agreement. This Agreement contains the complete understanding and agreement of the parties hereto with respect to all matters referred to herein, and all prior representations, negotiations, and understandings are superseded hereby.

(g) Governing Law. The laws of the State of Illinois shall govern the interpretation, validity, performance, and enforcement of this Agreement.

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

LASALLE BANK NATIONAL
ASSOCIATION

3225 NORTH ASHLAND LLC

By: *Kelly Stradinger*
Name: KELLY STRADINGER
Title: VICE PRESIDENT

By: *RSQ*
Name: RS Qualkinbosh
Title: member



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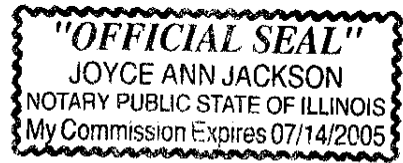
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, Joyce Ann Jackson, a Notary Public in and for the County and State aforesaid do hereby certify that ~~Strodzger~~^{Kelly}, the Vice President of LaSalle Bank National Association, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said national banking association for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 21 day of Feb, 2004.

Joyce Ann Jackson
Notary Public

My Commission Expires: 7/14/2005



STATE OF ILLINOIS)
) SS
COUNTY OF Cook)

I, Regina E. Gholston, a Notary Public in and for the County and State aforesaid do hereby certify that _____, the sole member of 5225 North Ashland LLC, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said limited liability company for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 25th day of Feb, 2004.

Robert S. Qualkwinski

Regina E. Gholston
Notary Public

My Commission Expires: _____



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Exhibit A

Legal Description of LaSalle Bank Property

Lots 56 through 67, both inclusive, Lot 68 (except the West 9.40 feet of North 49.03 feet thereof) and all of Lots 71 through 77, both inclusive, (except that part of said Lots 71 through 77 lying West of a line 50 feet East of and parallel with the West line of Section 20), Lots 78 and 79 (except that part of Lots 78 and 79 lying West of a line drawn through a point in the North line of Lot 78, 50 feet East of the West line of Section 20 and through a point in the South line of Lot 79, 75 feet East of the West line of Section 20), Lot 80 and that part of the North and South 16 foot alley (now vacated), (except the North 49.03 feet thereof) lying East of and adjoining Lots 69 to 79, West of and adjoining Lot 68 (except the North 49.03 feet thereof) and West of and adjoining Lot 80, extended North and South respectively, also all that part of the East and West 16 foot alley (now vacated), lying South of and adjoining Lot 68 and North of and adjoining Lot 80, Lots 81 through 89, both inclusive, and also all of the East and West 16 foot public alley lying North of the North line of Lots 81 through 89, both inclusive, lying East of the West line of Lot 81, extended North and West of the East line of Lot 89, extended North, all in Kemnitz and Wolff's Subdivision of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of Section 20, Township 40 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

3201 North Ashland Avenue, Chicago, Illinois

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Exhibit B

Legal Description of the 3225 North Ashland Property

Lots 69 and 70 (except that part thereof lying West of a line 50 feet East of and parallel with the West line of Section 20 condemned for the widening of North Ashland Avenue) in Kemnitz and Wolff's Subdivision of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of Section 20, Township 40 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

ALSO

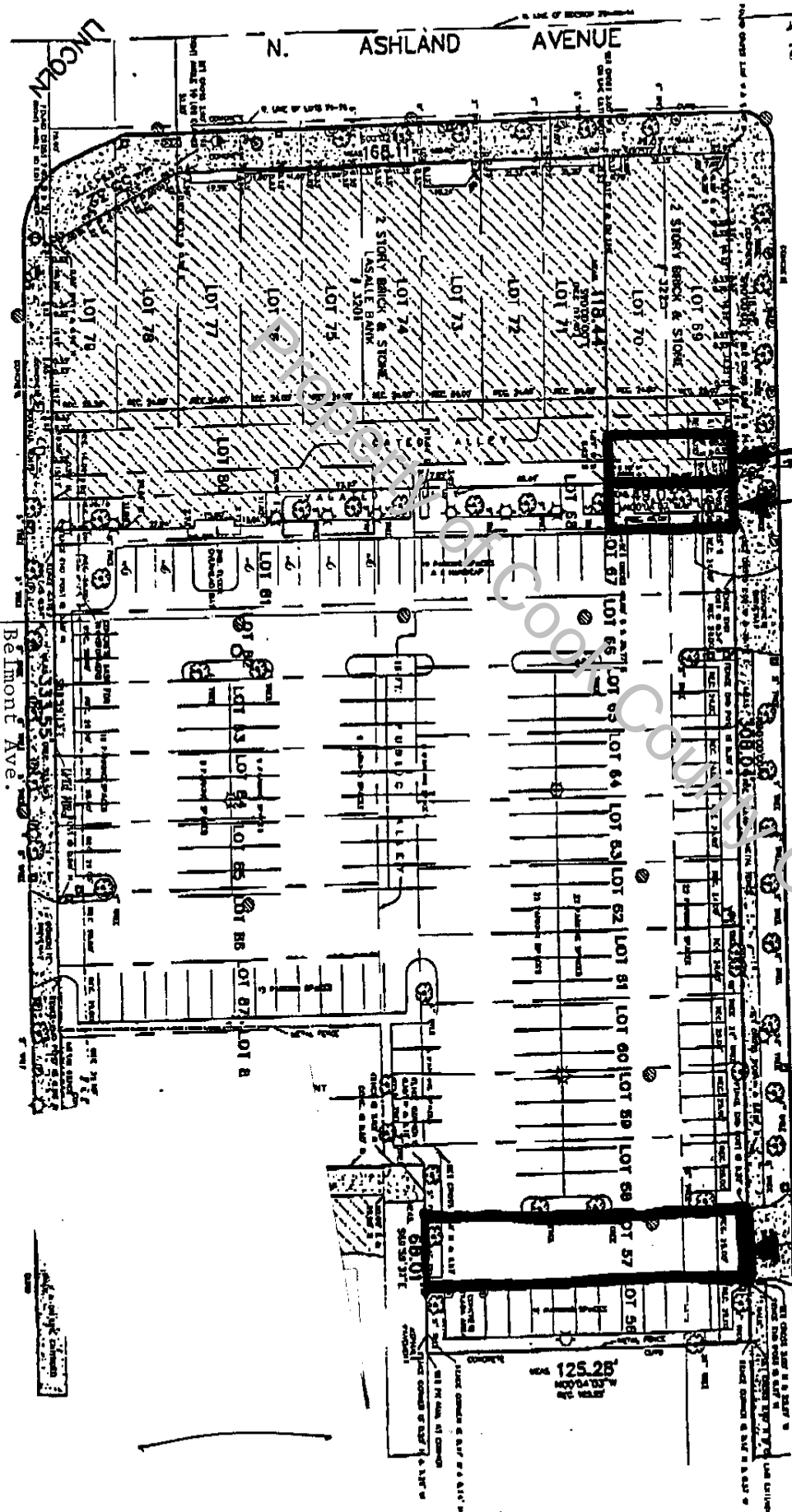
The West 9.40 feet of the North 49.03 feet of Lot 68 in Kemnitz and Wolff's Subdivision of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of Section 20, Township 40 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

ALSO

The North 49.03 feet of the Vacated North and South Alley lying East of and adjoining Lots 69 and 70 and lying West of and adjoining Lots 68 in Kemnitz and Wolff's Subdivision of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of Section 20, Township 40 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

3225 North Ashland Avenue, Chicago, Illinois

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- Utility Easement 2(b) (i)
- 2(a) (ii) Utility Easement
- 2 (a) (iii) Building Maintenance Easement

Refuse Easement (Section 2 (a) (iv))

EXHIBIT "C"