

# UNOFFICIAL COPY

This Document Prepared by  
and after Recording Return to:

Schwartz, Cooper, Greenberger  
& Krauss, Chartered  
180 North LaSalle Street  
Suite 2700  
Chicago, Illinois 60601  
Attn: Heather.K. Aeschleman,



Doc#: 0409827071  
Eugene "Gene" Moore Fee: \$74.00  
Cook County Recorder of Deeds  
Date: 04/07/2004 12:36 PM Pg: 1 of 26

69839  
MLC DEC  
1ST AMERICAN TITLE Order # 6076

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## **LOAN DOCUMENT MODIFICATION, CROSS-COLLATERALIZATION AND CROSS-DEFAULT AGREEMENT**

26

**THIS LOAN DOCUMENT MODIFICATION, CROSS-COLLATERALIZATION AND CROSS-DEFAULT AGREEMENT** (this "Agreement") is made and entered into as of this 1st day of April, 2004, by and between **ELM II, L.L.C.**, an Illinois limited liability company ("Elm"), **DELAWARE II, L.L.C.**, an Illinois limited liability company ("Delaware"), **WRIGHTWOOD II, L.L.C.**, an Illinois limited liability company ("Wrightwood II"), and **WRIGHTWOOD III, L.L.C.**, an Illinois limited liability company ("Wrightwood III") (collectively, the "Borrower") and **LASALLE BANK NATIONAL ASSOCIATION**, a national banking association ("Lender"). Wrightwood II and Wrightwood III are referred to herein collectively as "Wrightwood".

### **RECITALS:**

A. Pursuant to the terms of a certain Holdback Agreement dated as of September 30, 2002 between Elm and Lender (the "Elm Holdback Agreement"), Lender made a certain loan (the "Elm Loan") to Elm in the original principal amount of \$11,150,000.00. The Elm Loan is evidenced by a certain Promissory Note dated September 30, 2002 executed by Elm and payable to the order of Lender in the original principal amount of \$11,150,000.00 (the "Elm Note"). The Elm Note is guaranteed by Donal P. Barry, Sr., Donal P. Barry, Jr., Sean T. Barry, Margaret H. Barry, and James W. Purcell (collectively, the "Guarantor") pursuant to the terms of a certain Guaranty of Payment dated as of September 30, 2002 made by Guarantor in favor of Lender (the "Guaranty") and is secured by, among other things, (i) a certain Construction Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated as of September 30, 2002 made by Elm for the benefit of Lender and recorded in the Office of the Recorder of Deeds of

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Cook County, Illinois, on October 10, 2002, as Document No. 0021136289 (the "Elm Mortgage") encumbering certain premises legally described on Exhibit A attached hereto (the "Elm Premises") and (ii) certain other Loan Documents (as defined in the Elm Holdback Agreement), all of which, together with the Elm Mortgage, are herein collectively referred to as the "Elm Loan Documents."

B. Pursuant to the terms of a certain Holdback Agreement dated as of January 23, 2003 between Delaware and Lender (the "Delaware Holdback Agreement"), Lender made a certain loan (the "Delaware Loan") to Delaware in the original principal amount of \$12,800,000.00. The Delaware Loan is evidenced by a certain Promissory Note dated January 23, 2003 executed by Delaware and payable to the order of Lender in the original principal amount of \$12,800,000.00 (the "Delaware Note"). The Delaware Note also is guaranteed by the Guarantor pursuant to the Guaranty and is secured by, among other things, (i) a certain Construction Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated as of January 23, 2003 made by Delaware for the benefit of Lender and recorded in the Office of the Recorder of Deeds of Cook County, Illinois, on January 24, 2003 as Document No. 0030117684 (the "Delaware Mortgage") encumbering certain premises legally described on Exhibit B attached hereto (the "Delaware Premises") and (ii) certain other Loan Documents (as defined in the Delaware Holdback Agreement), together with the Delaware Mortgage, all of which are herein collectively referred to as the "Delaware Loan Documents."

C. Lender made a certain loan (the "Wrightwood Loan") to Wrightwood in the original principal amount of \$25,600,000.00. The Wrightwood Loan is evidenced by a certain Promissory Note dated February 22, 2002 executed by Wrightwood and payable to the order of Lender in the original principal amount of \$25,600,000.00 (the "Wrightwood Note"). The Wrightwood Note also is guaranteed by the Guarantor pursuant to the Guaranty and is secured by, among other things, (i) a certain Mortgage, Security Agreement and Fixture Filing dated as of February 22, 2002 made by Wrightwood for the benefit of Lender and recorded in the Office of the Recorder of Deeds of Cook County, Illinois, on March 1, 2002 as Document No. 0020244455 (the "Wrightwood Mortgage") encumbering certain premises legally described on Exhibit C attached hereto (the "Wrightwood Premises") and (ii) certain other Loan Documents (as defined in the Wrightwood Note), together with the Wrightwood Mortgage, all of which are herein collectively referred to as the "Wrightwood Loan Documents."

D. Concurrently herewith, pursuant to the terms of a certain Loan Agreement dated of even date herewith among Elm, Delaware, Wrightwood and Lender (the "Combined Parties Loan Agreement"), Lender is making a certain loan (the "Combined Parties Loan") to Elm, Delaware, and Wrightwood (collectively, the "Combined Parties") in the original principal amount of \$7,407,500.00. The Combined Parties Loan is evidenced by a certain Revolving Credit Promissory Note of even date herewith executed by the Combined Parties and payable to the order of Lender in the original principal amount of \$7,407,500.00 (the "Combined Parties Note"). The Combined Parties Note is also guaranteed by the Guarantor pursuant to a certain Guaranty of Payment of even date herewith from Guarantor to Lender and is secured by, among other things: (i) a certain Junior Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated of even date herewith for the benefit of Lender encumbering the Elm Premises, the Delaware Premises, and the Wrightwood Premises, all as legally described on

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Exhibit D attached hereto, and (ii) certain other Loan Documents (as defined in the Combined Parties Loan Agreement, all of which are herein collectively referred to as the "Combined Parties Loan Documents.")

E. In order to induce Lender to make the Combined Parties Loan, Borrower has agreed to amend the Elm Mortgage and the other Elm Loan Documents, the Delaware Mortgage and the other Delaware Loan Documents, the Wrightwood Mortgage and the other Wrightwood Loan Documents, and to execute the Combined Parties Mortgage and the other Combined Parties Loan Documents, and to cause (i) the Elm Loan to be collateralized by the Delaware Loan Documents the Wrightwood Loan Documents and the Combined Parties Loan Documents, (ii) the Delaware Loan to be collateralized by the Elm Loan Documents, the Wrightwood Loan Documents and the Combined Parties Loan Documents, (iii) the Wrightwood Loan to be collateralized by the Elm Loan Documents, the Delaware Loan Documents, and the Combined Parties Loan Documents, (iv) the Combined Parties Loan Documents to be collateralized by the Elm Loan Documents, the Delaware Loan Documents, and the Wrightwood Loan Documents, and (v) the Elm Loan, Delaware Loan, the Wrightwood Loan and the Combined Parties Loan to be cross-defaulted, on the terms and conditions more particularly provided in this Agreement.

**NOW, THEREFORE**, in order to induce Lender to make the Combined Parties Loan, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. **Incorporation of Recitals.** The Recitals set forth above are hereby incorporated by this reference herein and made a part hereof.

2. **Amendment of the Elm Mortgage and Elm Loan Documents.** Lender and Borrower hereby agree that the legal description of the premises encumbered pursuant to the Elm Mortgage be and the same hereby is amended by adding thereto the legal description of the Delaware Premises set forth on Exhibit B attached hereto and the Wrightwood Premises set forth on Exhibit C attached hereto; and Borrower hereby mortgages, grants, assigns, remises, releases, warrants, bargains, assigns, transfers and conveys to Lender and its successors and assigns, as additional security for the Combined Parties Loan: (i) the Delaware Premises as described in said Exhibit B attached hereto and as described and defined as the "Premises" in the Delaware Mortgage (subject and subordinate only to the existing first and prior lien of Lender under the Delaware Mortgage and such other exceptions as are permitted under the terms of the Delaware Loan Documents) and (ii) the Wrightwood Premises, as described in said Exhibit C attached hereto and as described and defined as the "Premises" in the Wrightwood Mortgage (subject and subordinate only to the existing first and prior lien of Lender under the Wrightwood Mortgage and such other exceptions as are permitted under the terms of the Wrightwood Loan Documents) on the terms, provisions and conditions contained in the Elm Mortgage. Lender and Borrower further agree all of the Elm Loan Documents securing the Elm Loan shall additionally secure the Delaware Loan, the Wrightwood Loan, and the Combined Parties Loan.

3. **Amendment of Delaware Mortgage and Delaware Loan Documents.** Lender and Borrower hereby agree that the legal description of the premises encumbered pursuant to the Delaware Mortgage be and the same hereby is amended by adding thereto the legal description of

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the Elm Premises set forth on Exhibit A attached hereto and the Wrightwood Premises as set forth on Exhibit C attached hereto; and Borrower hereby mortgages, grants, assigns, remises, releases, warrants, bargains, assigns, transfers and conveys to Lender and its successors and assigns, as additional security for the Combined Parties Loan: (i) the Elm Premises as described on said Exhibit A attached hereto and as described and defined as the "Premises" in the Elm Mortgage (subject and subordinate only to the first and prior lien of Lender under the Elm Mortgage and such other exceptions as are permitted under the terms of the Elm Loan Documents) and (ii) the Wrightwood Premises as described on said Exhibit C attached hereto and as described and defined as the "Premises" in the Wrightwood Mortgage (subject and subordinate only to the first and prior lien of Lender under the Wrightwood Mortgage and such other exceptions as are permitted under the terms of the Wrightwood Loan Documents), on the terms, provisions and conditions contained in the Delaware Mortgage. Lender and Borrower further agree all of the Delaware Loan Documents securing the Delaware Loan shall additionally secure the Elm Loan, the Wrightwood Loan, and the Combined Parties Loan.

#### 4. Amendment of Wrightwood Mortgage and Wrightwood Loan Documents.

Lender and Borrower hereby agree that the legal description of the premises encumbered pursuant to the Wrightwood Mortgage be and the same hereby is amended by adding thereto the legal description of the Elm Premises set forth on Exhibit A attached hereto and the Delaware Premises as set forth on Exhibit B attached hereto; and Borrower hereby mortgages, grants, assigns, remises, releases, warrants, bargains, assigns, transfers and conveys to Lender and its successors and assigns, as additional security for the Combined Parties Loan: (i) the Elm Premises as described on said Exhibit A attached hereto and as described and defined as the "Premises" in the Elm Mortgage (subject and subordinate only to the first and prior lien of Lender under the Elm Mortgage and such other exceptions as are permitted under the terms of the Elm Loan Documents) and (ii) the Delaware Premises as described on said Exhibit B attached hereto and as described and defined as the "Premises" in the Delaware Mortgage (subject and subordinate only to the first and prior lien of Lender under the Delaware Mortgage and such other exceptions as are permitted under the terms of the Delaware Loan Documents), on the terms, provisions and conditions contained in the Wrightwood Mortgage. Lender and Borrower further agree that all of the Wrightwood Loan Documents securing the Wrightwood Loan shall additionally secure the Elm Loan, the Delaware Loan, and the Combined Parties Loan.

5. Additional Collateral for Elm Loan. Elm hereby grants to Lender as additional security for the Wrightwood Loan, the Delaware Loan, and the Combined Parties Loan, all of the security interests granted to Lender in and under the Elm Loan Documents, subject and subordinate only to the first and prior lien of Lender under the Elm Loan Documents.

6. Additional Collateral for the Delaware Loan. Delaware hereby grants to Lender as additional security for the Elm Loan, the Wrightwood Loan, and the Combined Parties Loan, all of the security interests granted to Lender under the Delaware Loan Documents, subject and subordinate only to the first and prior lien of Lender under the Delaware Loan Documents.

7. Additional Collateral for the Wrightwood Loan. Wrightwood hereby grants to Lender as additional security for the Elm Loan, the Delaware Loan, and the Combined Parties

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Loan, all of the security interests granted to Lender under the Wrightwood Loan Documents, subject and subordinate only to the first and prior lien of Lender under the Wrightwood Loan Documents.

**8. Additional Collateral for the Combined Parties Loan.** Combined Parties hereby grant to Lender as additional security for the Elm Loan, the Delaware Loan, and the Wrightwood Loan, all of the security interests granted to Lender under the Combined Parties Loan Documents, subject and subordinate only to the first and prior lien of Lender under the Combined Parties Loan Documents.

**9. Cross-Defaults: Integration of Loan Documents.**

(a) Any Event of Default under any of the Elm Note, the Elm Mortgage or any of the other Elm Loan Documents shall, at Lender's election, be deemed an Event of Default under the Delaware Note, the Delaware Mortgage, the other Delaware Loan Documents, the Wrightwood Note, the Wrightwood Mortgage and the other Wrightwood Loan Documents, and the Combined Parties Note, the Combined Parties Mortgage, and the other Combined Parties Loan Documents.

(b) Any Event of Default under any of the Delaware Note, the Delaware Mortgage or any of the other Delaware Loan Documents shall, at Lender's election, be deemed an Event of Default under the Elm Note, the Elm Mortgage, the other Elm Loan Documents, the Wrightwood Note, the Wrightwood Mortgage and the other Wrightwood Loan Documents, and the Combined Parties Note, the Combined Parties Mortgage, and the other Combined Parties Loan Documents.

(c) Any Event of Default under any of the Wrightwood Note, the Wrightwood Mortgage or any of the other Wrightwood Loan Documents shall, at Lender's election, be deemed an Event of Default under the Elm Note, the Elm Mortgage, the other Elm Loan Documents, the Delaware Note, the Delaware Mortgage and the other Delaware Loan Documents, and the Combined Parties Note, the Combined Parties Mortgage, and the other Combined Parties Loan Documents.

(d) Any Event of Default under any of the Combined Parties Note, the Combined Parties Mortgage or any of the other Combined Parties Loan Documents shall, at Lender's election, be deemed an Event of Default under the Elm Note, the Elm Mortgage, the other Elm Loan Documents, the Delaware Note, the Delaware Mortgage and the other Delaware Loan Documents, and the Wrightwood Note, the Wrightwood Mortgage, and the other Wrightwood Loan Documents.

(e) It is the intention of the parties that the cross-collateralization arrangements provided for in this Agreement shall be subject and subordinate to the existing security interests of Lender in the Elm Premises, the Delaware Premises and the Wrightwood Premises, and that nothing herein shall be deemed to merge (i) the Elm Loan or the Elm Loan Documents with (a) the Wrightwood Loan or the Wrightwood Loan Documents or (b) the Delaware Loan or the Delaware Loan Documents, or (c) the Combined Parties Loan or the Combined Parties Loan Documents, (ii) the Wrightwood Loan or Wrightwood Loan Documents with (a) the Delaware Loan or Delaware Loan Documents, (b) the Elm Loan or the Elm Loan Documents, or (c) the

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Combined Parties Loan or the Combined Parties Loan Documents, (iii) the Delaware Loan or the Delaware Loan Documents with (a) the Elm Loan or the Elm Loan Documents, (b) the Wrightwood Loan or the Wrightwood Loan Documents, or (c) the Combined Parties Loan or the Combined Parties Loan Documents, and (iv) the Combined Parties Loan or the Combined Parties Loan Documents with (a) the Elm Loan or the Elm Loan Documents, (b) the Delaware Loan or the Delaware Loan Documents, or (c) the Wrightwood Loan or the Wrightwood Loan Documents. Notwithstanding the foregoing, the parties intend that, in the event that any of the Elm Loan, Delaware Loan, the Wrightwood Loan or the Combined Parties Loan shall be retired prior to the retirement of any of the other loans, the lien of the applicable mortgage and all other security interests securing the remaining loans shall continue in full force and effect and shall advance in priority.

**10. Election of Remedies.** Upon the occurrence of any Event of Default under any of the Elm Loan Documents, the Delaware Loan Documents, the Wrightwood Loan Documents, or the Combined Parties Loan Documents, in addition to the rights and remedies available to Lender under the Elm Loan Documents, the Delaware Loan Documents, the Wrightwood Loan Documents, and the Combined Parties Loan Documents, Lender shall have the right to enforce the payment of the indebtedness evidenced by the Elm Note, the Delaware Note, the Wrightwood Note and the Combined Parties Note, and to exercise any and all of the rights and remedies provided under any of the Elm Loan Documents, the Delaware Loan Documents, the Wrightwood Loan Documents or the Combined Parties Loan Documents, or otherwise available under applicable law, in one or more proceedings, whether contemporaneous, consecutive or both, as determined by Lender in its sole and absolute discretion. Under such circumstances, Lender may enforce its rights and remedies against one or more of the Elm Premises, the Delaware Premises or the Wrightwood Premises and/or any of the other collateral secured by the Elm Loan Documents, the Delaware Loan Documents, the Wrightwood Loan Documents, or the Combined Parties Loan Documents (all of such other collateral being hereinafter referred to as the "Other Collateral") and such enforcement shall not constitute an election of remedies, and shall not prejudice or in any way limit or preclude the enforcement of the Elm Loan Documents, the Delaware Loan Documents, the Wrightwood Loan Documents, or the Combined Parties Loan Documents or any of them, through one or more additional proceedings. No judgment obtained by Lender in any one or more enforcement proceeding shall merge the indebtedness evidenced by the Elm Note, the Delaware Note, the Wrightwood Note and the Combined Parties Note into such judgment, and all of such indebtedness which shall be unpaid shall be a continuing obligation of Borrower. Borrower hereby waives and relinquishes any and all rights that Borrower may have, whether at law or in equity, to require that Lender proceed to enforce or exercise any rights or remedies that Lender may have under any of the Elm Loan Documents, the Delaware Loan Documents, the Wrightwood Loan Documents, or the Combined Parties Loan Documents in any particular manner or order, or in any particular county. Lender may bring any action or proceeding, including without limitation, foreclosure proceeding(s), in any court having jurisdiction thereof, and such proceedings may relate to any or all of the Elm Premises, the Delaware Premises, the Wrightwood Premises or any of the Other Collateral without regard to the fact that one or more prior or contemporaneous proceedings have been commenced elsewhere by or on behalf of Lender with respect to the same or any other part of the Elm Premises, the Delaware Premises, the Wrightwood Premises or any of the Other Collateral. Any release of any

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of the Elm Loan Documents, the Delaware Loan Documents, the Wrightwood Loan Documents, or the Combined Parties Loan Documents with respect to the Elm Premises, the Delaware Premises, the Wrightwood Premises or any of the Other Collateral shall in no event prevent or impair Lender from enforcing all of Lender's rights and remedies with respect to any of the Elm Premises, the Delaware Premises, the Wrightwood Premises or any of the Other Collateral not then released.

**11. Waiver of Marshaling.** Lender shall have the right to determine the order in which any or all of the Elm Premises, the Delaware Premises, the Wrightwood Premises or any of the Other Collateral shall be subjected to the remedies provided in the Elm Loan Documents, the Delaware Loan Documents, the Wrightwood Loan Documents, and the Combined Parties Loan Documents or otherwise available at law or in equity. Lender shall have the right to determine the order in which any of the indebtedness evidenced by the Elm Note, the Delaware Note, the Wrightwood Note and the Combined Parties Note is satisfied and the proceeds realized upon the exercise of such remedies. Borrower and any other party who now or at any time hereafter in the future may have a security or other interest in any of the Elm Premises, the Delaware Premises, the Wrightwood Premises or the Other Collateral waives any and all right to require the marshaling of assets or to require that any of the Elm Premises, the Delaware Premises, the Wrightwood Premises or the Other Collateral be sold in parcels, or as an entirety, or in any combination, in connection with the exercise of the rights and remedies permitted by applicable law and by the Elm Loan Documents, the Delaware Loan Documents, the Wrightwood Loan Documents, and the Combined Parties Loan Documents.

**12. Confirmatory Documents.**

(a) Each Borrower hereby covenants and agrees that it shall execute such confirmatory documents as Lender may reasonably request in order to implement the purpose and intent of this Agreement.

(b) Elm, at its sole cost and expense, shall provide Lender with an endorsement to the title insurance policy issued to Lender with respect to the Elm Loan, satisfactory in form and substance to Lender, showing that the Delaware Premises and the Wrightwood Premises have been subjected to the Elm Mortgage and showing no exceptions to title other than the "Permitted Exceptions" as defined in the Elm Loan Documents, the Delaware Loan Documents, the Wrightwood Loan Documents, and the Combined Parties Loan Documents.

(c) Delaware, at its sole cost and expense, shall provide Lender with an endorsement to the title insurance policy issued to Lender with respect to the Delaware Loan, satisfactory in form and substance to Lender, showing that the Elm Premises and Wrightwood Premises have been subjected to the Delaware Mortgage and showing no exceptions to title other than the "Permitted Exceptions" as defined in the Delaware Loan Documents, the Elm Loan Documents the Wrightwood Loan Documents, and the Combined Parties Loan Documents.

(d) Wrightwood, at its sole cost and expense, shall provide Lender with an endorsement to the title insurance policy issued to Lender with respect to the Wrightwood Loan, satisfactory in form and substance to Lender, showing that the Elm Premises and Delaware

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Premises have been subjected to the Wrightwood Mortgage and showing no exceptions to title other than the "Permitted Exceptions" as defined in the Wrightwood Loan Documents, the Elm Loan Documents, the Delaware Loan Documents, and the Combined Parties Loan Documents.

13. **Notices.** Any notices required or permitted hereunder or pursuant to the respective Loan Documents may be given in accordance with notice provisions of the respective Loan Documents.

14. **Continuing Effectiveness.** Except as expressly provided herein, the Elm Note, the Elm Mortgage, all of the other Elm Loan Documents, the Delaware Note, the Delaware Mortgage, all of the other Delaware Loan Documents, the Wrightwood Note, the Wrightwood Mortgage and all of the other Wrightwood Loan Documents, and the Combined Parties Note, the Combined Parties Mortgage, and all of the other Combined Parties Loan Documents shall remain in full force and effect in accordance with their respective terms.


15. **Governing Law.** This Agreement shall be construed in accordance with the laws and decisions of the State of Illinois.



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

**LASALLE BANK NATIONAL ASSOCIATION**, a national banking association

By:   
Title: AVI

**DELAWARE II, L.L.C.**, an Illinois limited liability company

By: **DELAWARE II MANAGEMENT SPE, INC.**, an Illinois corporation, its managing member

By: \_\_\_\_\_  
Donal P. Barry, Sr., President

**ELM II, L.L.C.**, an Illinois limited liability company

By: **ELM II MANAGEMENT SPE, INC.**, an Illinois corporation, its managing member

By: \_\_\_\_\_  
Donal P. Barry, Sr., President

**WRIGHTWOOD II, L.L.C.**, an Illinois limited liability company

By: **Wrightwood II Management SPE, Inc.**, an Illinois corporation, its managing member

By: \_\_\_\_\_  
Donal P. Barry, Sr., President

**WRIGHTWOOD III, L.L.C.**, an Illinois limited liability company

By: **Wrightwood III Management SPE, Inc.**, an Illinois corporation, its managing member

By: \_\_\_\_\_  
Donal P. Barry, Sr., President

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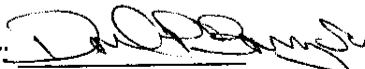
IN WITNESS WHEREOF, the parties have executed this Agreement the day and date first above written.

**LASALLE BANK NATIONAL ASSOCIATION**, a national banking association

By: \_\_\_\_\_  
Title: \_\_\_\_\_

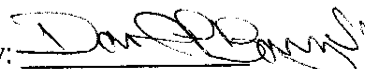
**DELAWARE II, L.L.C.**, an Illinois limited liability company

By: **DELAWARE II MANAGEMENT SPE, INC.**, an Illinois corporation, its managing member

By:   
Donal P. Barry, Sr., President


**ELM II, L.L.C.**, an Illinois limited liability company

By: **ELM II MANAGEMENT SPE, INC.**, an Illinois corporation, its managing member

By:   
Donal P. Barry, Sr., President

**WRIGHTWOOD II, L.L.C.**, an Illinois limited liability company

By: **Wrightwood II Management SPE, Inc.**, an Illinois corporation, its managing member

By:   
Donal P. Barry, Sr., President

**WRIGHTWOOD III, L.L.C.**, an Illinois limited liability company

By: **Wrightwood III Management SPE, Inc.**, an Illinois corporation, its managing member

By:   
Donal P. Barry, Sr., President

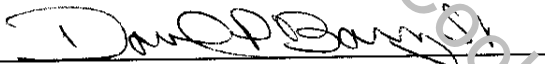
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## ACKNOWLEDGMENT, RATIFICATION AND CONSENT

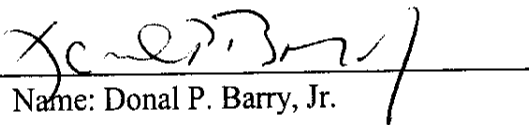
The undersigned, hereby acknowledges, ratifies and confirms his/her respective liabilities and obligations under: (i) the Elm Guaranty, (ii) the Delaware Guaranty, (iii) the Wrightwood Guaranty, (iv) the Combined Parties Guaranty, (v) that certain Environmental Indemnity Agreement dated as of September 30, 2002 made by the undersigned and Elm in favor of Lender, (vi) that certain Environmental Indemnity Agreement dated as of January 23, 2003 made by the undersigned and Delaware in favor of Lender, and (vii) that certain Environmental Indemnity Agreement dated as of February 22, 2002 by the undersigned and Wrightwood in favor of Lender. In addition, Guarantor hereby acknowledges that he has no defenses, claims or set-offs to the enforcement by Lender of his respective obligations and liabilities under any of the Guaranties.

All terms used herein and not otherwise defined shall have the meaning ascribed to them in the Agreement to which this Acknowledgment, Ratification and Consent is attached.

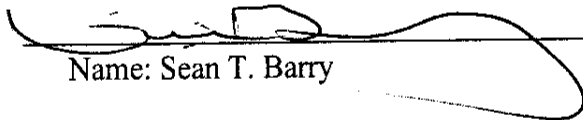
Dated as of April 1, 2004.



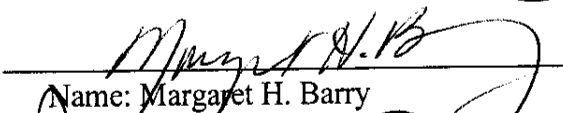
Name: Donal P. Barry, Sr.



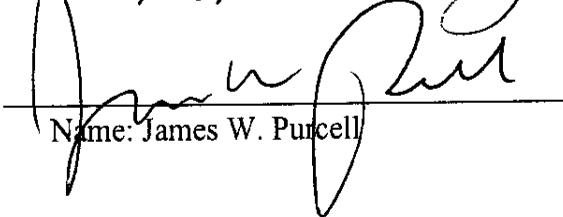
Name: Donal P. Barry, Jr.



Name: Sean T. Barry



Name: Margaret H. Barry



Name: James W. Purcell

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STATE OF ILLINOIS )  
 )  
 ) .ss  
COUNTY OF WELL )

I TOM S. THIAKOS, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that WILLIE HURST, an AVP of LaSalle Bank National Association, a national banking association, is 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 said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 2 day of April, 2004.

TOM S. THIAKOS

NOTARY PUBLIC

My Commission Expires: 12-31-07



STATE OF ILLINOIS )  
 )  
 ) ss.  
COUNTY OF COOK )

I, \_\_\_\_\_ a Notary Public in and for said County, in the State aforesaid, do hereby certify that Donal P. Barry, Sr., the President of Delaware II Management SPE, Inc., an Illinois corporation, which is the Managing Member of DELAWARE II, L.L.C., an Illinois limited liability company, 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/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of both said companies for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this \_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

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STATE OF ILLINOIS     )  
  ) .ss  
COUNTY OF \_\_\_\_\_ )

I \_\_\_\_\_, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that \_\_\_\_\_, a \_\_\_\_\_ of LaSalle Bank National Association, a national banking association, is 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 said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

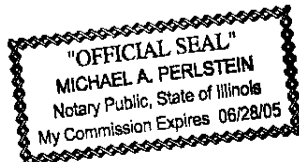
STATE OF ILLINOIS     )  
  ) ss.  
COUNTY OF COOK        )

I, Michael A. Perlstein a Notary Public in and for said County, in the State aforesaid, do hereby certify that Donal P. Barry, Sr., the President of Delaware II Management SPE, Inc., an Illinois corporation, which is the Managing Member of DELAWARE II, L.L.C., an Illinois limited liability company, 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/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of both said companies, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 10 day of July, 2004.

Michael A. Perlstein  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_



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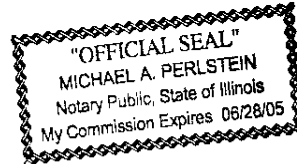
STATE OF ILLINOIS )  
 ) ss.  
COUNTY OF COOK )

I, Michael A. Perlstein a Notary Public in and for said County, in the State aforesaid, do hereby certify that Donal P. Barry, Sr., the President of Elm II Management SPE, Inc., an Illinois corporation, which is the Managing Member of ELM II, L.L.C., an Illinois limited liability company, 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/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of both said companies, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 2nd day of April, 2004.

Michael A. Perlstein  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_



# UNOFFICIAL COPY

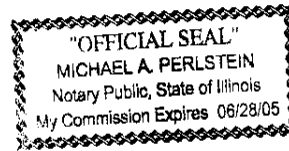
STATE OF ILLINOIS )  
 ) ss.  
COUNTY OF COOK )

I, Michael A. Perlstein Notary Public in and for said County, in the State aforesaid, do hereby certify that Donald P. Barry, Jr., the Pres - of Wrightwood II Management SPE, Inc., an Illinois corporation, which is the managing member of WRIGHTWOOD II, L.L.C., an Illinois limited liability company, 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/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of both said companies, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 2nd day of April, 2004.

Michael A. Perlstein  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_



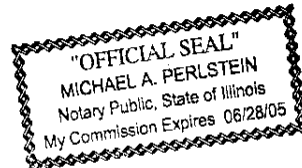
STATE OF ILLINOIS )  
 ) ss.  
COUNTY OF COOK )

I, Michael A. Perlstein Notary Public in and for said County, in the State aforesaid, do hereby certify that Donald P. Barry, Jr., the Pres of Wrightwood III Management SPE, Inc., an Illinois corporation, which is the managing member of WRIGHTWOOD III, L.L.C., an Illinois limited liability company, 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/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of both said companies, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 2nd day of April, 2004.

Michael A. Perlstein  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_



# UNOFFICIAL COPY

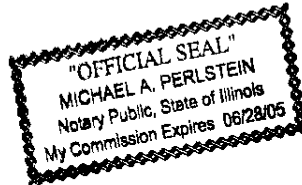
STATE OF ILLINOIS     )  
  ) ss.  
COUNTY OF COOK     )

I, Michael A. Perlstein a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that DONAL P. BARRY, SR., is 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 said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 22 day of April, 2004.

[Signature]  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_



Property of Cook County Clerk's Office

Notary Public, State of Illinois  
Dr. Ser # \_\_\_\_\_



# UNOFFICIAL COPY

STATE OF ILLINOIS     )  
  ) ss.  
COUNTY OF COOK     )

I, Michael A. Perlstein, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that DONAL P. BARRY, JR., is 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 an delivered said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 21 day of April, 2004.

Michael A. Perlstein  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_



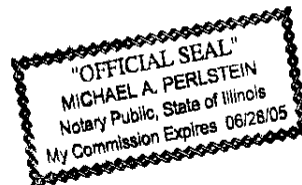
# UNOFFICIAL COPY

STATE OF ILLINOIS )  
 ) ss.  
COUNTY OF COOK )

I, Michael A. Perlstein, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that SEAN T. BARRY, is 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 an delivered said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 20 day of April, 2004.  
Michael A. Perlstein  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

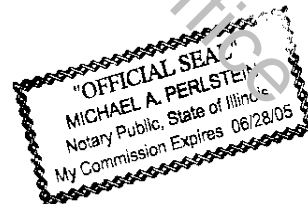


STATE OF ILLINOIS )  
 ) ss.  
COUNTY OF COOK )

I, Michael A. Perlstein, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that MARGARET H. BARRY, is 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 she signed an delivered said instrument as her own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 20 day of April, 2004.  
Michael A. Perlstein  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_



# UNOFFICIAL COPY

STATE OF ILLINOIS     )  
  ) ss.  
COUNTY OF COOK     )

I, Michael A. Perlstein, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that JAMES W. PURCELL, is 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 an delivered said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 22 day of April, 2004.  
Michael A. Perlstein  
NOTARY PUBLIC

My Commission Expires. \_\_\_\_\_



# UNOFFICIAL COPY

## LEGAL DESCRIPTION OF ELM PREMISES

LOTS 1 TO 4 IN HEALY'S SUBDIVISION OF SOUTH ½ OF ORIGINAL BLOCK 1 IN CANAL TRUSTEES SUBDIVISION OF THE SOUTH FRACTIONAL ¼ OF FRACTIONAL SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THE WEST 132.5 FEET THEREOF) AND ALSO ALL INTEREST IN AND TO THE PRIVATE ALLEY WEST OF AND ADJOINING LOT 1 AFORESAID, IN COOK COUNTY, ILLINOIS.

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

## LEGAL DESCRIPTION OF DELAWARE PREMISES

THAT PART OF BLOCK 15 IN CANAL TRUSTEE'S SUBDIVISION OF THE SOUTH FRACTIONAL QUARTER OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID BLOCK RUNNING WEST 169 FEET 6-1/2 INCHES TO LAND NOW OR FORMERLY OF MATHIAS ROOS; RUNNING THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID BLOCK ABOUT 50 FEET TO A POINT FROM WHICH A STRAIGHT LINE RUNNING SOUTH 88 DEGREES 45 MINUTES EAST TO THE EAST LINE OF SAID BLOCK WOULD INTERSECT SAID EAST LINE AT A POINT 52.53 FEET SOUTH OF THE NORTH EAST CORNER OF SAID BLOCK; RUNNING THENCE EASTERLY ON SAID STRAIGHT LINE TO THE EAST LINE OF SAID BLOCK; RUNNING THENCE NORTH ON THE EAST LINE OF SAID BLOCK 52.53 FEET TO THE PLACE OF BEGINNING, (EXCEPT THE WEST 30 FEET THEREOF) IN COOK COUNTY, ILLINOIS.

Address: 25 East Delaware, Chicago, Illinois

PIN: 17-03-216-005

Cook County Clerk's Office

**UNOFFICIAL COPY****LEGAL DESCRIPTION OF WRIGHTWOOD PREMISES****PARCEL ONE:**

THE EAST 17 FEET OF LOT 43 AND ALL OF LOT 44 IN ANDREW'S SPAFFORD AND COLEHOUR'S SUBDIVISION OF BLOCKS 1 AND 2 OF OUTLOT "A" OF WRIGHTWOOD, A SUBDIVISION OF THE SOUTHWEST 1/4 OF SECTION 28, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPT THAT PART OF THE EASTERLY 17 FEET OF LOT 43 IN ANDREW'S SPAFFORD AND COLEHOUR'S SUBDIVISION OF BLOCKS 1 AND 2 OF OUTLOT "A" OF WRIGHTWOOD, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF THE EASTERLY 17 FEET OF SAID LOT 43, THENCE NORTHERLY ALONG THE WESTERLY LINE OF THE EASTERLY 17 FEET OF SAID LOT 43, A DISTANCE OF 23 FEET; THENCE EASTERLY PARALLEL TO THE SOUTHERLY LINE OF SAID LOT 43, A DISTANCE OF 1.68 FEET; THENCE SOUTHERLY TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 43 WHICH IS 15.37 FEET WESTERLY OF THE SOUTHEAST CORNER OF SAID LOT 43; THENCE WESTERLY ALONG THE SOUTHERLY LINE OF SAID LOT 43, A DISTANCE OF 1.63 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

ADDRESS OF PROPERTY: 443 WEST WRIGHTWOOD AVENUE, CHICAGO, ILLINOIS  
PIN: 14-28-318-057-0000

**PARCEL TWO:**

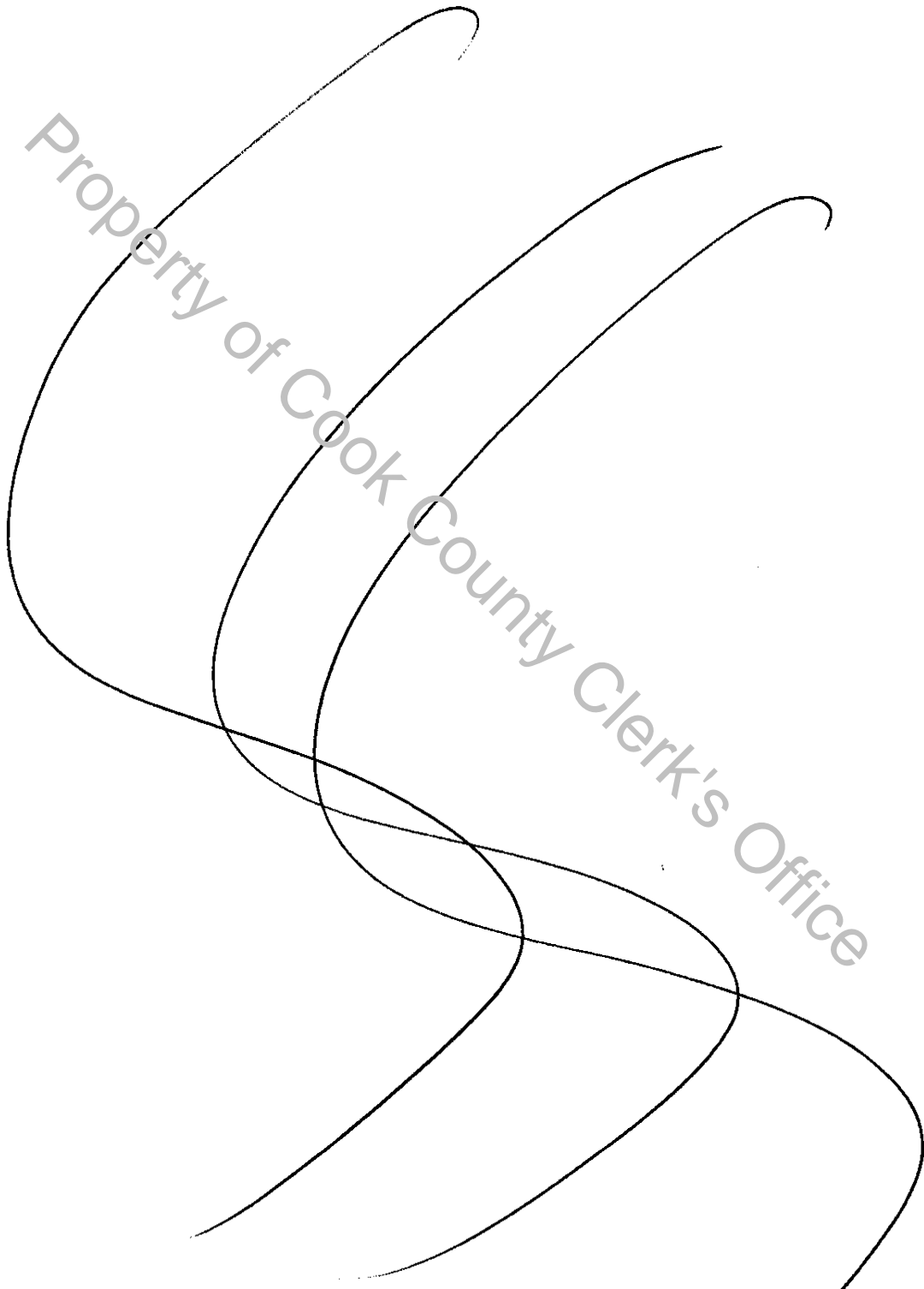
LOT 42 AND LOT 43 (EXCEPT THE EAST 17 FEET OF LOT 43 ONLY THEREOF) IN ANDREW'S SPAFFORD AND COLEHOUR'S SUBDIVISION OF BLOCKS 1 AND 2 OF OUTLOT "A" OF WRIGHTWOOD, A SUBDIVISION OF THE SOUTHWEST 1/4 OF SECTION 28, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, ALSO THAT PART OF THE EASTERLY 17 FEET OF LOT 43 IN ANDREW'S SPAFFORD AND COLEHOUR'S SUBDIVISION OF BLOCKS 1 AND 2 OF OUTLOT "A" OF WRIGHTWOOD, A SUBDIVISION OF THE SOUTHWEST 1/4 OF SECTION 28, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF THE EASTERLY 17 FEET OF SAID LOT 43; THENCE NORTHERLY ALONG THE WESTERLY LINE OF THE EASTERLY 17 FEET OF SAID LOT 43, A DISTANCE OF 23 FEET; THENCE EASTERLY PARALLEL TO THE SOUTHERLY LINE OF SAID LOT 43, A DISTANCE OF 1.68 FEET; THENCE SOUTHERLY TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 43 WHICH IS 15.37 FEET WESTERLY OF THE SOUTHEAST CORNER OF SAID LOT 43; THENCE WESTERLY ALONG THE SOUTHERLY LINE OF SAID LOT 43; A DISTANCE OF 1.63 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

ADDRESS: 451 WEST WRIGHTWOOD AVENUE, CHICAGO, ILLINOIS  
PIN: 14-28-318-058-0000

# UNOFFICIAL COPY

## EXHIBIT D

### Legal Description of the Elm, Delaware and Wrightwood Premises



Property of Cook County Clerk's Office

# UNOFFICIAL COPY

## LEGAL DESCRPTION OF ELM PREMISES

LOTS 1 TO 4 IN HEALY'S SUBDIVISION OF SOUTH ½ OF ORIGINAL BLOCK 1 IN CANAL TRUSTEES SUBDIVISION OF THE SOUTH FRACTIONAL ¼ OF FRACTIONAL SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THE WEST 132.5 FEET THEREOF) AND ALSO ALL INTEREST IN AND TO THE PRIVATE ALLEY WEST OF AND ADJOINING LOT 1 AFORESAID, IN COOK COUNTY, ILLINOIS.

Property of Cook County Clerk's Office

7/1/2014  
Clerk # \_\_\_\_\_



# UNOFFICIAL COPY

## LEGAL DESCRIPTION OF DELAWARE PREMISES

THAT PART OF BLOCK 15 IN CANAL TRUSTEE'S SUBDIVISION OF THE SOUTH FRACTIONAL QUARTER OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID BLOCK RUNNING WEST 169 FEET 6-1/2 INCHES TO LAND NOW OR FORMERLY OF MATHIAS ROOS; RUNNING THENCE SOUTH PARALLEL WITH THE EAST LINE OF SAID BLOCK ABOUT 50 FEET TO A POINT FROM WHICH A STRAIGHT LINE RUNNING SOUTH 88 DEGREES 45 MINUTES EAST TO THE EAST LINE OF SAID BLOCK WOULD INTERSECT SAID EAST LINE AT A POINT 52.53 FEET SOUTH OF THE NORTH EAST CORNER OF SAID BLOCK; RUNNING THENCE EASTERLY ON SAID STRAIGHT LINE TO THE EAST LINE OF SAID BLOCK; RUNNING THENCE NORTH ON THE EAST LINE OF SAID BLOCK 52.53 FEET TO THE PLACE OF BEGINNING, (EXCEPT THE WEST 30 FEET THEREOF) IN COOK COUNTY, ILLINOIS.

Address: 25 East Delaware, Chicago, Illinois

PIN: 17-03-216-005

COOK COUNTY CLERK'S OFFICE  
Clerk # \_\_\_\_\_

# UNOFFICIAL COPY

## LEGAL DESCRIPTION OF WRIGHTWOOD PREMISES

### PARCEL ONE:

THE EAST 17 FEET OF LOT 43 AND ALL OF LOT 44 IN ANDREW'S SPAFFORD AND COLEHOUR'S SUBDIVISION OF BLOCKS 1 AND 2 OF OUTLOT "A" OF WRIGHTWOOD, A SUBDIVISION OF THE SOUTHWEST 1/4 OF SECTION 28, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPT THAT PART OF THE EASTERLY 17 FEET OF LOT 43 IN ANDREW'S SPAFFORD AND COLEHOUR'S SUBDIVISION OF BLOCKS 1 AND 2 OF OUTLOT "A" OF WRIGHTWOOD, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF THE EASTERLY 17 FEET OF SAID LOT 43, THENCE NORTHERLY ALONG THE WESTERLY LINE OF THE EASTERLY 17 FEET OF SAID LOT 43, A DISTANCE OF 23 FEET; THENCE EASTERLY PARALLEL TO THE SOUTHERLY LINE OF SAID LOT 43, A DISTANCE OF 1.68 FEET; THENCE SOUTHERLY TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 43 WHICH IS 15.37 FEET WESTERLY OF THE SOUTHEAST CORNER OF SAID LOT 43; THENCE WESTERLY ALONG THE SOUTHERLY LINE OF SAID LOT 43, A DISTANCE OF 1.63 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

ADDRESS OF PROPERTY: 443 WEST WRIGHTWOOD AVENUE, CHICAGO, ILLINOIS  
PIN: 14-28-318-057-0000

### PARCEL TWO:

LOT 42 AND LOT 43 (EXCEPT THE EAST 17 FEET OF LOT 43 ONLY THEREOF) IN ANDREW'S SPAFFORD AND COLEHOUR'S SUBDIVISION OF BLOCKS 1 AND 2 OF OUTLOT "A" OF WRIGHTWOOD, A SUBDIVISION OF THE SOUTHWEST 1/4 OF SECTION 28, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, ALSO THAT PART OF THE EASTERLY 17 FEET OF LOT 43 IN ANDREW'S SPAFFORD AND COLEHOUR'S SUBDIVISION OF BLOCKS 1 AND 2 OF OUTLOT "A" OF WRIGHTWOOD, A SUBDIVISION OF THE SOUTHWEST 1/4 OF SECTION 28, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF THE EASTERLY 17 FEET OF SAID LOT 43; THENCE NORTHERLY ALONG THE WESTERLY LINE OF THE EASTERLY 17 FEET OF SAID LOT 43, A DISTANCE OF 23 FEET; THENCE EASTERLY PARALLEL TO THE SOUTHERLY LINE OF SAID LOT 43, A DISTANCE OF 1.68 FEET; THENCE SOUTHERLY TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 43 WHICH IS 15.37 FEET WESTERLY OF THE SOUTHEAST CORNER OF SAID LOT 43; THENCE WESTERLY ALONG THE SOUTHERLY LINE OF SAID LOT 43; A DISTANCE OF 1.63 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

ADDRESS: 451 WEST WRIGHTWOOD AVENUE, CHICAGO, ILLINOIS  
PIN: 14-28-318-058-0000

7/1/2011  
C 1384/