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PREPARED BY AND AFTER
RECORDING, MAIL TO:
Michael Best and Friedrich
401 N. Michigan Avenue
Suite 1900
Chicago, Illinois 60611
Attn: Bridget M. O'Keefe, Esq.



Doc#: 0525232119 Fee: \$72.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 09/09/2005 04:31 PM Pg: 1 of 25

RECORDER'S STAMP

DEVELOPMENT RIGHTS ALLOCATION AGREEMENT

THIS DEVELOPMENT RIGHTS ALLOCATION AGREEMENT ("Agreement") is made as of this 8th day of September, 2005, by and between THE ART INSTITUTE OF CHICAGO, an Illinois not-for-profit corporation (the "Seller") and MONROE/WABASH DEVELOPMENT, LLC, a Delaware limited liability company (the "Purchaser").

RECITALS

A. The Seller currently holds title to the real property (the "Entire Property") which is comprised of the real properties commonly known as: (i) 21-35 South Wabash, Chicago, Illinois, which is legally described in Exhibit A attached hereto (collectively the "MWD Site"); and (ii) 37-39 South Wabash Avenue, Chicago, Illinois, which is legally described in Exhibit B attached hereto (the "AIC Site").

B. Pursuant to that certain Purchase and Sale Agreement dated as of November 23, 2004 executed by the Seller and the Purchaser, as amended by that certain First Amendment to Purchase and Sale Agreement dated as of January 31, 2005 executed by the Seller and the

Near North National Title
222 N. LaSalle
Chicago, IL 60601



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Purchaser, and by that certain Second Amendment to Purchase and Sale Agreement dated as of February 7, 2005 executed by the Seller and the Purchaser, and as supplemented pursuant to that certain Supplement to Purchase and Sale Agreement dated as of February 8, 2005 executed by the Seller and the Purchaser, and as amended by that certain Third Amendment to Purchase and Sale Agreement dated as of May 19, 2005, and by that certain Fourth Amendment to Purchase and Sale Agreement dated as of July 26, 2005 executed by the Seller and the Purchaser, and by that certain Fifth Amendment to Purchase and Sale Agreement dated as of August 4, 2005 executed by the Seller and the Purchaser, by that Sixth Amendment to Purchase and Sale Agreement executed by the Seller and Purchaser, by that certain Seventh Amendment to Purchase and Sale Agreement dated as of August 24, 2005 executed by Purchaser and Seller, and by that certain Eighth Amendment to Purchase and Sale Agreement dated as of August 26, 2005 executed by Purchaser and Seller (said Purchase and Sale Agreement, as amended and supplemented, and as the same may be further amended and supplemented from time to time, is hereinafter referred to as the "Contract"), the Seller has contracted to convey the MWD Site to the Purchaser and, contemporaneously with execution of this Agreement, the transaction contemplated by such Contract is being consummated.

C. The Purchaser plans on developing a high-rise mixed-use commercial building containing residential, retail, parking, college and university, and other related uses upon the MWD Site. Pursuant to the Contract, Seller shall be taking title to the shell and core of forty-one thousand (41,000) square feet of space for use by Seller which shall be located on the first, second and third floors within this building to be located on the MWD Site ("AIC/MWD Site"). Pursuant to the Contract, Seller and Purchaser have entered into that certain Easement Agreement dated of even date herewith which has been recorded against the AIC Site and the

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MWD Site (“Easement Agreement”) which provides, among other things, for the creation of a lobby easement area (“Lobby Easement Area”) in the AIC Site to provide access to the development on the MWD Site and provides certain rights for the benefit of Seller, including Purchaser’s agreement to provide and grant easements in the MWD Site for the benefit of the AIC/MWD Site when conveyed to Seller pursuant to the Contract.

D. The City Council of the City of Chicago (“Chicago City Council”) on June 29, 2005 enacted an ordinance approving the rezoning of the Entire Property to a Residential-Business Planned Development identified as PD No. 969 (the “PD”).

E. The PD governs the development of the Entire Property and establishes, among other things, requirements and limitations of such development, many of which measure compliance based on calculations utilizing the Entire Property and not portions thereof (the “Development Rights”).

F. In order to facilitate the conveyance and separate development of portions of the Entire Property, and in order to assure that development of a portion of the Entire Property does not cause a violation of the PD that affects the ability to develop another portion of the Entire Property, the parties to this Agreement desire to allocate the rights and obligations under the PD among the various portions of the Entire Property and obligate each such party and its successors in interest to develop and otherwise deal with the portion of the Entire Property owned by such party in such manner as will facilitate compliance of all portions of the Entire Property with the PD.

G. Terms not otherwise defined herein and used in the PD or the Chicago Zoning Ordinance shall have the meaning set forth therein.

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AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Owner:

(a) "Owner" shall mean the following:

1. Seller or Owner of the AIC Site;
2. Seller or Owner of the AIC/MWD Site; or
3. Purchaser or Owner of the MWD Site. Upon Purchaser's submission of the residential portions of the MWD Site to the Illinois Condominium Property Act, the "Owner" of the MWD Site shall thereafter refer solely to the condominium association of such owners ("Condo Association.")

(b) The "property" of the Owner of the AIC Site shall mean such building and the land thereunder. The "property" of the Owner of the AIC/MWD Site shall mean the 41,000 square foot parcel referred to in Recital C above. The "property" of the Owner of the MWD Site shall mean the building and land thereunder less the 41,000 square foot parcel contained in the AIC/MWD Site.

(c) The definition of "Owner" shall specifically not include owners of individual condominium units, parking space units or retail units to be located on the MWD Site. The owners of the individual condominium units shall be represented by the Condo Association.

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(d) For the purposes of this Agreement, the definition of "Parking Owner" shall mean the owner of the parking spaces in the development on the MWD Site in the event that the parking spaces are not part of the Condo Association. If the parking spaces are not owned by a single entity, then such owners shall appoint a representative to whom the required notices shall be sent and from whom any consents required by this Agreement shall be obtained. Any document executed by this representative shall be deemed executed by the owners of all the Parking Spaces. Upon appointment, the representative shall notify the Owners of its identity and address. Failure to appoint a representative or to provide notification that a new representative has been appointed shall nullify the requirement to obtain the consents required by this Agreement from the Parking Owner

(e) For the purposes of this Agreement, the definition of "Retail Owner" shall mean the owner of the retail space in the development on the MWD Site in the event that the retail space is not part of the Condo Association. If the retail space is not owned by a single entity, then the retail space owners shall appoint a representative to whom the required notices shall be sent and from whom any consents required by this Agreement shall be obtained. Any document executed by this representative shall be deemed executed by the owners of all the retail space located on the MWD Site. Upon appointment, the representative shall notify the Owners of its identity and address. Failure to appoint a representative or to provide notification that a new representative has been appointed shall nullify the requirement to obtain the consents required by this Agreement from the Retail Owner

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2. Controlling Party. Seller, or any Affiliate or successor-in-interest that Seller may designate in writing, shall be the party with "Single Designated Control" under the PD with respect to the AIC Site and/or AIC/MWD Site and Purchaser, or any Affiliate Purchaser may designate in writing, shall be the party with "Single Designated Control" under the PD with respect to the MWD Site (Seller with respect to the AIC Site and the AIC/MWD Site and Purchaser with respect to the MWD Site shall be referred to herein as the context requires as the "Controlling Party") and shall have all the rights and powers of such a party under the PD, the Chicago Zoning Ordinance and this Agreement. For purposes of this Agreement, "Affiliate" shall mean any person or entity which directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with, respectively, the Seller or Purchaser. A copy of any such designation, if applicable, shall be delivered by Seller to Purchaser or by Purchaser to Seller, as the case may be, and a notice thereof shall be recorded against the Entire Property. In addition, notwithstanding the foregoing, upon Purchaser's submission of portions of the MWD Site to the Illinois Condominium Property Act and the turn-over by Purchaser of management and control of the Condo Association to the unit purchasers pursuant to the Condominium Declaration recorded against the MWD Site, the Controlling Party for the MWD Site shall thereafter refer solely to the Condo Association. In furtherance of the terms of Statement No. 3 of the PD, (a) any Administrative Change (as hereinafter defined) applicable to the AIC Site need only be made or authorized by the Controlling Party of the AIC Site; (b) any Administrative Change applicable to the AIC/MWD Site shall only be made or authorized by the Controlling Party of the AIC/MWD Site subject to Section 5(a)(2) thereof; and (c) any Administrative Change applicable only to the MWD Site need only be made or authorized by the

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Controlling Party of the MWD Site, subject to the provisions of Section 5(a)(2) and Section 5(b) herein.

3. Floor Area. The AIC Site currently is improved with a building (the "Existing Building"). Subject to compliance with all ordinances of the City of Chicago (exclusive of the PD) and Section 5 herein, Seller reserves the sole right to demolish, remodel, rebuild, reconstruct, improve and redecorate, in any manner whatsoever, the Existing Building, including the right to obtain all governmental permits necessary or desirable in connection therewith, provided however, Seller hereby agrees that no permanent improvements will be constructed on the AIC Site containing a floor area (as defined in the Chicago Zoning Ordinance) (as so defined, "Floor Area") greater than 167,200 square feet, or a floor area ratio (as defined by the Chicago Zoning Ordinance) (as so defined, "Floor Area Ratio") of greater than 3.97 (as measured over the net site area of the Entire Property contained in the PD). Such Floor Area and Floor Area Ratio on the AIC Site includes approximately 4,469 square feet of Floor Area (.106 FAR as measured over the net site area under the PD) intended to be controlled by Purchaser for use as the residential lobby for improvements to be located on the MWD Site. In the event that Seller obtains the necessary approvals from the government to demolish, remodel, rebuild, or reconstruct the Existing Building in the future (at all times subject to Section 5 hereof) and if a proposal to demolish, remodel, rebuild or reconstruct the Building would have a material adverse effect on the Lobby Easement Area, Seller shall provide an alternate location to the Lobby Easement Area in any new development on the AIC Site for use in connection with the development of the MWD Site at a ground location mutually acceptable to Purchaser and Seller provided, however, it is understood and agreed that (i) the construction of any replacement of the improvements in the Lobby Easement Area shall be at the sole cost of Seller or its successors

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and assigns, (ii) temporary and secure access, ingress and egress to the development on the MWD Site shall be provided in a manner which avoids undue inconvenience to the users of the Lobby Easement Area as provided under the Easement Agreement, (iii) reconstruction of the improvements to the Lobby Easement Area under (i) shall be of equal quality to the then existing condition of the lobby, (iv) modifications to the Easement Agreement shall be made in a manner mutually acceptable to Purchaser and Seller to provide for the replacement or modification of the Lobby Easement Area and (v) Seller and Purchaser shall enter into such additional agreements as shall be necessary in connection with reconstruction of the Lobby Easement Area in form and substance satisfactory to Purchaser and Seller prior to any demolition or reconstruction of the Lobby Easement Area. Seller and Purchaser agree that the balance of the Floor Area and the Floor Area Ratio available under the PD for the Entire Property shall be available solely for the construction of permanent improvements on the MWD Site (which, based on a maximum Floor Area Ratio of 23.23 equates to a maximum floor area on the MWD Site of 811,712 square feet of floor area [23.23 times 42,140 net site area in the PD equals 978,912 square feet less 167,200 square feet of floor area attributable to the maximum floor area of permanent improvements on the AIC Site]. The foregoing square footages are based upon the current design of the development on the MWD Site and may be modified as plans and specifications are developed from time to time. Purchaser shall submit a written proposal for changes to the square footages contained in the Lobby Easement Area and an explanation of the need for such changes thereto to Seller for its review and approval, which may be given in its reasonable discretion.

4. Loading Dock and Parking.

(a) It is contemplated that the improvements to be constructed on the MWD Site will include one (1) loading dock with four (4) bays, and that Purchaser will grant

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Seller an easement for access to and use of the loading dock. It is anticipated that one of the four bays shall hold a trash compactor. The parties understand and intend that the loading dock is or will be designed and constructed so as to cause the AIC Site, the AIC/MWD Site and the MWD Site to be in full compliance with the provisions of the Chicago Zoning Ordinance (as may be made applicable to the combined Sites by the PD) relating to loading docks, and that the AIC Site and the AIC/MWD Site shall be under no obligation separately to provide a loading dock for their own use.

(b) No off-street parking available and required under the PD shall be available to Seller for the benefit of the AIC Site or the AIC/MWD Site or for any portion of improvements on the MWD Site that Seller may hereafter acquire unless specifically agreed to in writing by both Parties.

5. Changes to PD.

(a) Administrative Changes:

1. As set forth in Section 2, the Controlling Party for, respectively and severally, the AIC Site, the AIC/MWD Site and the MWD Site shall have sole authority to process and approve changes to the PD as described in this Section 5.

2. The Controlling Party shall submit to the City of Chicago any application for a minor change (as defined by Section 17-13-0611-A of the Chicago Zoning Ordinance) (an "Administrative Change") to the PD proposed by such Controlling Party and authorized hereunder, provided such Administrative

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Change does not materially adversely effect the other Owner(s), Parking Owner or Retail Owner or the rights of such other Owner(s), Parking Owner or Retail Owner to use, develop or improve the portion of the Entire Property owned by such other Owner(s) as set forth herein, in which event, such Administrative Change shall be submitted only if such other Owner(s), Parking Owner or Retail Owner consents thereto in advance in writing. Without limitation, any Administrative Change will be deemed to have a material adverse effect on any such other Owner(s), Parking Owner or Retail Owner (the "Other Owner") if such Administrative Change (i) limits the permitted uses of the portion of the Entire Property owned by the Other Owner, (ii) requires that the Other Owner include design or other features in the improvements or buildings on such Other Owner's portion of the Entire Property not currently required by the PD; (iii) reduces the permitted Floor Area of the improvements on the Other Owner's portion of the Entire Property, (iv) would require inclusion of more off-street parking spaces or off-street loading docks on the Other Owner's portion of the Entire Property than required by the PD, (v) would allow the height of any improvements on the Entire Property to be greater than shown in the PD, and (vi) would increase by any material amount the operating costs of the Other Owner's portion of the Entire Property. ("Operating Costs" shall specifically not include the cost of real estate taxes.) Without limitation, an Administrative Change will not be deemed to have a material adverse effect on the Other Owner if such Administrative Change affects the exterior architectural design in a manner which complies with the requirements of the PD and any other requirements of the City of Chicago with

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respect to the historic facades of the existing buildings or interior design or layout to be constructed on the portion of the Entire Property not owned by such Other Owner. Notwithstanding the previous sentence, the Purchaser shall be responsible for restoring the first floor façade of the AIC Site as required by Statement 10 in the PD, subject to the provisions of the Contract, and shall be the Controlling Party (i) for purposes of making these limited improvements to the first floor façade of the AIC Site pursuant to the terms of the Contract and the Temporary Construction Agreement dated of an even date herewith between Seller and Purchaser; and (ii) with respect to the façade of the improvements on the MWD Site. Upon completion of the initial construction of such improvements, Seller shall be the sole Controlling Party of the AIC Site. In the event that Seller proposes to make any changes to that portion of the façade subject to the Easement Agreement, such proposed changes shall be submitted to Purchaser for its review and written approval prior to commencement of such work. No approval from Purchaser shall be required for any changes to those portions of the façade of the AIC Site that are not subject to the Easement Agreement.

(b) The Parking Owner or the Retail Owner may submit to the City of Chicago an application for a minor change (as defined by Section 17-13-0611-A of the Chicago Zoning Ordinance) (an "Administrative Change") to the PD provided such Administrative Change does not materially adversely effect the Other Owner or the rights of such Other Owner as defined in Section 5(a) above to use, develop or improve the portion of the Entire Property owned by such Other Owner as set forth herein.

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(c) Unless the Other Owner, Parking Owner and Retail Owner consent in writing thereto, neither the Controlling Party nor any Owner shall apply for or otherwise seek an amendment, modification or change to the PD or repeal or termination of the PD if such amendment, modification or change or such repeal or termination requires the consent, approval or other vote of the Chicago City Council (all the foregoing being referred to collectively as "Legislative Change"). The Other Owner, Parking Owner and Retail Owner may grant or withhold their consent, in their sole discretion, to any proposed Legislative Change to the PD.

(d) An Owner, Parking Owner or Retail Owner shall not take any action, or fail to take any action, which results or would result in all or any portion of the Entire Property being in violation of the PD, this Agreement, the Chicago Zoning Ordinance or any other applicable zoning requirements

(e) In the case of either Administrative Changes or Legislative Changes, copies of all relevant documentation intended to be submitted to the City of Chicago in connection with such change shall be provided ten (10) business days prior to such submission to the Other Owner, Parking Owner and Retail Owner.

6. Recordation.

The parties hereto shall cause this Agreement to be recorded in the office of the Recorder of Deeds of Cook County, Illinois, and the cost of such recording shall be equally divided between the Seller and the Purchaser.

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7. Nature and Term of Agreement.

(a) Each and every covenant, term, condition, restriction and obligation set forth herein shall benefit and be binding upon the Entire Property and each portion thereof, regardless of the identity of the Owner, Parking Owner and Retail Owner thereof from time to time, shall bind and run with the land included in the Entire Property and each portion thereof, in law and in equity, and shall be binding on each Owner, Parking Owner and Retail Owner and their successors-in-interest, assigns, tenants, subtenants, licensees, mortgages and concessionaires and their respective heirs, executors, administrators, successors and assigns.

(b) This Agreement shall be and remain in full force and effect from and after the date of recordation hereof and shall terminate on such date, if ever, that the PD expires or terminates by its terms or by act of the Chicago City Council or is repealed by act of such Council unless Purchaser seeks to reinstate, renew or take steps to re-establish PD No. 969, in which case Seller shall cooperate with Purchaser's efforts to reinstate, renew or take steps to re-establish PD No. 969 as provided in Paragraph 35 of the Easement Agreement. In such event, the terms of this Agreement, including, but not limited to, the Floor Area and Floor Area Ratios set forth in Paragraph 3 above, shall remain in full force and effect during the process of reinstating, renewing or taking steps to re-establish PD No. 969 and during the validity period of PD No. 969 as approved by the City of Chicago and neither party shall take any action which would result in the MWD Site or the AIC Site to become non-conforming as to the Floor Area and Floor Area Ratio established by PD No. 969.

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8. Amendment.

This Agreement may be amended or modified, or terminated (other than a termination in accordance with paragraph 7(b)), only by written instrument executed by the Seller (or any Affiliate or successor-in-interest that Seller may designate in writing) and the Owner of the MWD Site. If all or any portion of the Entire Property becomes subject to the provisions of the Illinois Condominium Property Act, then for purposes of the preceding sentence, the Condo Association created with respect to such portion (and not the individual unit owners) shall be deemed the Owner of the MWD Site, and any instrument executed by the Condo Association shall be deemed executed by the owners of all units included in such condominium.

9. Rights of Controlling Party.

The Controlling Party shall have no liability to any Owner or any other party for carrying out its duties in good faith under this Agreement unless the Controlling Party is adjudicated to have breached the provisions of this Agreement or to have failed to act in good faith in carrying out its duties hereunder.

10. Cooperation.

The Owners, Parking Owner and/or Retail Owner ("Cooperating Owner") shall reasonably cooperate with the other Owner at no cost to the Cooperating Owner, in obtaining the government authorizations described in this Agreement. Within thirty (30) days following the Cooperating Owner's receipt of a written request by the other Owner, said Cooperating Owner shall either execute a written consent for the filing of such applications, petitions, or other instruments as are reasonably necessary or appropriate in connection with obtaining any such

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government authorizations or notify the other Owner in writing of its refusal to consent and provide an explanation of its objection to the other Owner's request. If the other Owner fails to receive the fully executed consent or written objection letter from the Parking Owner and/or Retail Owner within the thirty (30) day period, the request shall be deemed approved by the Parking Owner and/or Retail Owner and the other Owner shall be authorized to proceed with filing the necessary applications, petitions or other instruments upon receiving consent from the Owner(s) whose affirmative consent is required (i.e. as applicable, the Owner of the AIC Site, the Owner of the AIC/MWD Site or the Owner of the MWD Site). The Cooperating Owner shall have no obligation to execute any documents or instruments that are in violation of, or not in accordance with, the terms of this Agreement.

11. Unwinding.

In addition to any other remedies available to the Seller and Purchaser, in the event one party (which includes the Owners, Parking Owner and Retail Owner) takes or fails to take any action that results in any changes to another party's rights or obligations under the PD, which action or failure to take action are in violation of this Agreement, then said party shall be responsible for the expense of unwinding said actions, including, without limitation, the expense of the non-violating party's efforts, if any, to seek to obtain a zoning change to correct the violation. The violating party shall reasonably cooperate in all reasonable efforts by the non-violating party to unwind said action.

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12. Default.

If any party, including the Owners, Parking Owner and Retail Owner, defaults in the performance of any term, covenant or agreement required to be performed by it under this Agreement, and such default is not cured within thirty (30) days after written notice to the defaulting party, the non-defaulting party may enforce the provisions of this Agreement by injunctive relief or by a suit or suits for the specific performance of any covenant or agreement contained herein or exercise such other rights or remedies it may have at law or in equity (other than a termination of this Agreement); provided, however, that if such default cannot reasonably be cured within such thirty (30) day period and the defaulting party has, after the notice, promptly commenced and continues to diligently pursue all action reasonably necessary to cure such default, then the non-defaulting party shall not enforce the provisions of this Agreement as aforesaid while the defaulting party continues to diligently pursue all action reasonably necessary to cure such default, but in no event shall said cure period exceed ninety (90) days after notice to the defaulting party, unless the non-defaulting party agrees thereto in writing. The prevailing party in any action to enforce the terms of this Agreement shall be entitled to recover from the non-prevailing party all costs incurred in any such action. Additionally, without limiting any other relief available to the non-defaulting party, in the event of any default that is not cured as hereinabove described, the non-defaulting party may directly take such action with the City of Chicago as is reasonably required to address the default.

14. Miscellaneous.

(a) If suit or action shall be brought to enforce or interpret any of the terms, covenants or conditions of this Agreement, the prevailing party shall be entitled to

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recover from the other party, as part of the prevailing party's costs, court costs and reasonable attorneys' fees and expenses, the amount of which shall be fixed by the court and shall be made a part of any judgment rendered.

(b) No waiver of any provision or condition of this Agreement by any party shall be valid unless in writing signed by both parties hereto. No such waiver shall be taken as a waiver of any other or similar provision or of any future event, act, or default.

(c) Time is of the essence of this Agreement. In the computation of any period of time provided for in this Agreement or by law, the day of the act or event from which said period of time runs shall be excluded, and the last day of such period shall be included, unless it is a Saturday, Sunday, or legal holiday, in which case the period shall be deemed to run until the end of the next day which is not a Saturday, Sunday, or legal holiday.

(d) In the event that any provision of this Agreement shall be unenforceable in whole or in part, such provision shall be limited to the extent necessary to render the same valid, or shall be excised from this Agreement, as circumstances require, and this Agreement shall be construed as if said provision had been incorporated herein as so limited or as if said provision had not been included herein, as the case may be.

(e) Headings of paragraphs are for convenience of reference only, and shall not be construed as a part of this Agreement.

(f) Any and all notices and consents permitted or required to be given hereunder shall be in writing and shall be either personally delivered to the party or shall

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be sent by a nationally recognized overnight courier, facsimile or U.S. registered or certified mail, in the case of notices directed to Seller, addressed to Seller as follows:

If to Seller: The Art Institute of Chicago
111 South Michigan Avenue
Chicago, Illinois 60603-6110
Attn: Chief Financial Officer

with a copy to: The Art Institute of Chicago
111 South Michigan Avenue
Chicago, Illinois 60603-6110
Attn: Julie Getzels, General Counsel

with a copy to: The School of the Art Institute of Chicago
37 South Wabash Avenue
Chicago, Illinois 60603-6110
Attn: Chief Operating Officer

with a copy to: Bridget M. O'Keefe, Esq.
Michael Best and Friedrich
prior to January 8, 2006 at the following
address:
401 North Michigan Avenue
Suite 1900
Chicago, Illinois 60611

after January 9, 2006 at the following
address:
Two Prudential Plaza
180 North Stetson Avenue
Suite 2000
Chicago, Illinois 60601

with a copy to: John A. Goldstein, Esq.
Harris Kessler & Goldstein LLC
640 North LaSalle Street, Suite 590
Chicago, Illinois 60610

in the case of notices directed to Purchaser, addressed to Purchaser as follows:

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If to Purchaser: c/o Mesa MW LLC
Attn: James Hanson
445 West Erie
Chicago, Illinois 60610

with a copy to: Walsh Investors LLC
Attn: Gregory Ciambrone
929 West Adams Street
Chicago, Illinois 60607

with a copy to: Robert H. Goldman, Esq.
DLA Piper Rudnick Gray Cary US, LLP
203 North LaSalle Street
Suite 1800
Chicago, Illinois 60601

Any such notice shall be deemed given and effective upon receipt thereof. Receipt of notice transmitted by facsimile shall be conclusively presumed upon issuance of the machine-generated receipt therefore.

(g) Nothing contained in this Agreement shall be construed to mean that the parties hereby are partners or joint venturers or to otherwise render any party hereby liable for any of the debts or obligations of the other party.

(h) The foreclosure of any mortgage or other security agreement now or hereafter covering any portion of the Entire Property shall in no way affect or diminish any of the rights, duties and/or obligations created by this Agreement, all of which shall remain in full force and effect.

(i) This Agreement may be executed in any number of identical counterparts, any or all of which may contain the signatures of less than all of the parties, and all of which shall be construed together as but a single instrument.

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(j) Notwithstanding anything to the contrary contained herein, the Seller shall have the right from time to time to sell, convey, transfer, assign, lease, sublease, mortgage or otherwise encumber, or cause to be sold, conveyed, transferred, assigned, leased, subleased, mortgaged or otherwise encumbered, all of any portion of the AIC Site or AIC/MWD Site without in any instance the consent of the Purchaser, Owners, Parking Owner and Retail Owner.

(k) If an Owner, Parking Owner or Retail Owner sells, conveys, transfers, assigns, leases or subleases any interest in the Property, such successor, assignee, tenant, licensee and/or concessionaire shall be required to execute a document in a recordable form whereby such party agrees to the terms of and assumes the obligations of the Owner, Parking Owner or Retail Owner as the case may be under the Agreement.

(l) This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

(m) Upon the written request of a mortgagee with respect to any of the Entire Property or any party hereto, the other party hereto each shall deliver to the requesting party within a reasonable period of time after such request an estoppel certificate stating whether (i) it knows of any default under this Agreement, (ii) to its knowledge, this Agreement has been assigned, modified or amended in any way (and if it has, then stating the nature thereof), and (iii) to its knowledge, this Agreement, as of the date of such estoppel certificate, is in full force and effect. Any such statement or certificate may be conclusively relied upon by the party requesting such statement or certificate.

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IN WITNESS WHEREOF, this Agreement has been executed by Seller and Purchaser as of date inserted on the first page hereof.

SELLER:

THE ART INSTITUTE OF CHICAGO, an Illinois not-for-profit corporation

By: P. Woodworth
Name: Patricia A. Woodworth
Its: EVP/CFO

PURCHASER:

MONROE/WABASH DEVELOPMENT, LLC, a Delaware limited liability company

By: **MESA MW, LLC**, a Delaware limited liability company, Its Managing Member
By: Richard A. Hanson
Name: Richard A. Hanson
Its: Manager

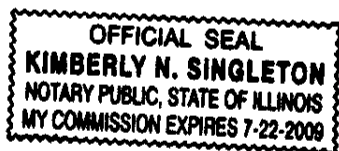
Property of Cook County Clerk's Office

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STATE OF ILLINOIS)
) SS.
 COUNTY OF COOK)

I, Kimberly N. Singleton a Notary Public in and for the County and State aforesaid, do hereby certify that PATRICIA A. WOODWORTH, as EVP/CFO of THE ART INSTITUTE OF CHICAGO, an Illinois not-for-profit corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such EVP/CFO, 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 not-for-profit corporation as EVP/CFO of the not-for-profit corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notaries Seal this 8th day of September, 2005.



Kimberly N. Singleton
 Notary Public

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Kimberly N. Singleton, a Notary Public in and for the County and State aforesaid, do hereby certify that Richard Hanson, as MANAGER of MESA MW, LLC, a Delaware limited liability company, the Managing Member of MONROE/WABASH DEVELOPMENT, LLC, a Delaware limited liability company, 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/she signed and delivered the said instrument as his/her own free and voluntary act, and as the free and voluntary act of said companies for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 8th day of September, 2005.

Kimberly N. Singleton
Notary Public



UNOFFICIAL COPY

EXHIBIT A

Legal Description

PARCEL 1:

THE NORTH 1/2 OF LOT 6 (EXCEPT THOSE PARTS TAKEN FOR REAR ALLEY) IN BLOCK 1 IN FRACTIONAL SECTION 15, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THE SOUTH 1/2 OF LOT 6 (EXCEPT THOSE PARTS TAKEN FOR REAR ALLEY) IN BLOCK 1 IN FRACTIONAL SECTION 15, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

LOT 7 IN FRACTIONAL SECTION 15, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Tax Parcel Numbers: 17-15-101-004-0000

17-15-101-005-0000

17-15-101-006-0000

Property Address: 21-35 South Wabash, Chicago, Illinois

UNOFFICIAL COPY

EXHIBIT B

Legal Description

LOT 10 IN FRACTIONAL SECTION 15, TOWNSHIP 39 NORTH RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Tax Parcel Number: 17-15-101-007-0000

Property Address: 37-39 South Wabash, Chicago, Illinois

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Property of Cook County Clerk's Office