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Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 08/14/2006 02:37 PM Pg: 1 of 10

PREPARED BY AND RETURN TO:

Schwartz Cooper Chartered  
180 North LaSalle Street, Suite 2700  
Chicago, Illinois 60601  
Attn: Robert C. Linton, Esq.

**AMENDMENT OF ACCESS AGREEMENT  
AND PARTIAL RELEASE OF AGREEMENTS**

**KNOW ALL MEN BY THESE PRESENTS:**

**WHEREAS**, The Cermak-Morgan LLC, an Illinois limited liability company ("CM"), and MDC Chicago, LLC, a Kansas limited liability company ("MDC") entered into (i) that certain Access Easement Agreement dated December 14, 2004 and recorded December 17, 2004 as document no. 0435239085 (the "Access Agreement"); (ii) that certain Easement Agreement dated April 9, 2005 and recorded April 8, 2005 as document no. 0509818128 (the "Drainage Agreement"); and (iii) that certain Memorandum of Tax Sharing Agreement recorded December 17, 2004 as document no. 0435239084 (the "Tax Agreement"); and collectively with the Access Agreement and the Drainage Agreement, the "Agreements").

**WHEREAS**, 929 West Cermak Trust, a Delaware statutory trust ("929 Trust") has succeeded to the interest of MDC under the Agreements.

**WHEREAS**, the parties to the Agreements and hereto desire to amend the Agreements to (i) release from the Agreements a certain portion of the property owned by CM and subject to the Agreements, and (ii) clarify 929 Trust's obligations under the Access Agreement relative to the cost of construction of improvements extending the access road described therein.

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained, the sufficiency of which is hereby acknowledged, the parties hereto do remise, release, quit-claim, exonerate and discharge from the Agreements, for themselves and their respective successors and assigns, all that piece, parcel or tract of land, being a part of the property owned by CM, legally described on Exhibit "A" attached hereto and made a part hereof. The property described in Exhibit A shall not be entitled to any rights, remedies or benefits of the Agreements, however the property described in Exhibit A shall continue to be included in the determination of MDC's pro rata share under Section 3 of the Access Agreement.

Further, the undersigned parties hereby amend the Access Agreement as follows: (a) 929 Trust and its successors and assigns shall have no obligation under the Access Agreement to contribute to the cost of designing, constructing, developing and improving the southerly extension of the access road beyond the access road improvements existing as of the date hereof; (b) the "Access Parcel" (as defined in the Access Agreement) is hereby expanded to include all of the property legally described on Exhibit "B" attached hereto (as contemplated in Paragraph 1 of the Access Agreement), and Exhibit "B" attached hereto shall replace and be substituted for Exhibit C to the Access Agreement; and (c) 929 Trust shall remain obligated under the Access Agreement to contribute its share of the cost of maintaining, repairing, replacing and otherwise operating the Access Parcel, as hereby expanded.

# UNOFFICIAL COPY

IN WITNESS WHEREOF, the parties have caused these presents to be executed as of this 9 day of June, 2006.


CM:

MDC:

THE CERMAK-MORGAN LLC

929 WEST CERMAK TRUST

By:

  
Harry J. Seagle, Managing Member

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

Name: \_\_\_\_\_

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

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

IN WITNESS WHEREOF, the parties have caused these presents to be executed as of this \_\_\_\_ day of June, 2006.

CM:

MDC:

THE CERMAK-MORGAN LLC

929 WEST CERMAK TRUST

By: \_\_\_\_\_  
Harry J. Seigle, Managing Member

By: \_\_\_\_\_  
Name: Norman Perlmutter  
Title: SIGNATORY TRUSTEE

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

THE STATE OF ILLINOIS )  
 )  
COUNTY OF COOK )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that Harry J. Seigle personally known to me to be the Managing Member of The Cermak-Morgan LLC, and the same person whose name is subscribed to the foregoing instrument, and has executed such instrument as his voluntary deed and as the free and voluntary act of said limited liability company for the purposes therein set forth.

Given under my hand and official seal, this 9<sup>th</sup> day of June, 2006.



Sarah Michael  
Notary Public  
Commission Expires: 09/09/08

THE STATE OF ILLINOIS )  
 )  
COUNTY OF COOK )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that \_\_\_\_\_ personally known to me to be the \_\_\_\_\_ of 929 WEST CERMAK TRUST, appeared before me this day in person and acknowledged that as such \_\_\_\_\_, he signed and delivered the said instrument pursuant to authority given by said Trust, as his free and voluntary act, and as the free and voluntary act and deed of said Trust, for the uses and purposes therein set forth.

Given under my hand and official seal, this \_\_\_\_\_ day of June, 2006.

\_\_\_\_\_  
Notary Public  
Commission Expires: \_\_\_\_\_

# UNOFFICIAL COPY

THE STATE OF ILLINOIS            )  
  )  
COUNTY OF COOK                    )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that Harry J. Seigle personally known to me to be the Managing Member of The Cermak-Morgan LLC, and the same person whose name is subscribed to the foregoing instrument, and has executed such instrument as his voluntary deed and as the free and voluntary act of said limited liability company for the purposes therein set forth.

Given under my hand and official seal, this \_\_\_\_\_ day of June, 2006.

\_\_\_\_\_  
Notary Public  
Commission Expires: \_\_\_\_\_

THE STATE OF ILLINOIS            )  
  )  
COUNTY OF ~~COOK~~ Lake            )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that ~~Noelman Perlmutter~~ personally known to me to be the ~~signature trustee~~ of 929 WEST CERMAK TRUST, appeared before me this day in person and acknowledged that as such ~~signature trustee~~, he signed and delivered the said instrument pursuant to authority given by said Trust, as his free and voluntary act, and as the free and voluntary act and deed of said Trust, for the uses and purposes therein set forth.

Given under my hand and official seal, this 10<sup>th</sup> day of AUGUST, 2006.

*Rachel Zawadzki*  
\_\_\_\_\_  
Notary Public  
Commission Expires: 07/09/07



# UNOFFICIAL COPY

## CONSENT OF CM'S MORTGAGEE

JPMorgan Chase Bank, N.A., a national banking association, holder of mortgages on tracts of land which include the property owned by CM described in the Agreements above, including (i) the mortgage bearing a date of December 12, 2001 and having been recorded on December 26, 2001 as Document No. 0011229551 (as amended by first amendment to mortgage recorded December 20, 2002 as Document No. 0021418935, and by modification to mortgage recorded January 21, 2005 as Document No. 0502103023, re-recorded February 18, 2005 as Document No. 504903103 and as further amended or modified, as the case may be), (ii) junior mortgage bearing a date of December 12, 2001 and recorded December 21, 2001 as Document 0011229552 (as amended by first amendment recorded December 20, 2002 as Document No. 0021418934 and as further amended or modified, as the case may be) and (iii) mortgage dated November 15, 2000 and recorded January 2, 2001 as Document No. 0010002293 (as amended or modified, as the case may be), hereby agrees, consents, and acquiesces to the execution and recording of the above Amendment of Access Agreement and Partial Release of Agreements and to the terms thereof, for the purposes therein stated.

IN WITNESS WHEREOF, said Mortgagee has caused this instrument to be signed by its duly authorized officers on its behalf, all done at Chicago, Illinois on this 9<sup>th</sup> day of June, 2006.

Attest:

JPMorgan Chase Bank, N.A.

By: [Signature]

By: [Signature]

Name: Timothy S. Irwin  
Title: Vice President

STATE OF ILLINOIS            )  
  ) SS.  
COUNTY OF COOK            )

I, LISA VEGA, a Notary Public in and for said County, in the State aforesaid, do hereby certify that TIMOTHY S. IRWIN, the VP of JPMorgan Chase Bank, N.A., a national banking association (the "Bank"), who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such \_\_\_\_\_, 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 the Bank, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 9 day of June, 2006.



[Signature]  
NOTARY PUBLIC

(SEAL)

# UNOFFICIAL COPY

## CONSENT OF 929 TRUST'S MORTGAGEE

LaSalle Bank NA, a national <sup>banking</sup> ~~banking~~ association, holder of a mortgage on the property owned by 929 Trust and described in the Agreements above as the MDC Property, said mortgage bearing a date of January, 2006 and having been recorded on \_\_\_\_\_, 200\_\_ as Document No. \_\_\_\_\_, hereby agrees, consents, and acquiesces to the execution and recording of the above Amendment of Access Agreement and Partial Release of Agreements and to the terms thereof, for the purposes therein stated.

IN WITNESS WHEREOF, said Mortgagee has caused this instrument to be signed by its duly authorized officers on its behalf, all done at Chicago, Illinois on this 24<sup>th</sup> day of ~~June~~ <sup>July</sup>, 2006.

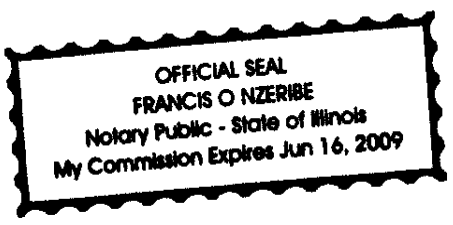
Attest: Witness LaSalle Bank National Association  
 By: Nathan H. Security By: Brian S. Fetterolf  
 Name: \_\_\_\_\_ Title: Brian S. Fetterolf  
 V.P., Director of Structured Products

STATE OF ILLINOIS )  
 ) SS.  
 COUNTY OF COOK )

I, FRANCIS NZERIBE, a Notary Public in and for said County, in the State aforesaid, do hereby certify that BRIAN FETTEROLF, the V.P. of LASALLE BANK, a national banking association (the "Bank"), who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such V.P., 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 the Bank, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 27 day of ~~June~~ <sup>JULY</sup>, 2006

[Signature]  
 NOTARY PUBLIC  
 (SEAL)



# UNOFFICIAL COPY

## EXHIBIT A

### Legal Description of the Property

**Parcel 1: Lots 49 through 53, both inclusive, and those parts of Lots 45 through 48, both inclusive in Greene's South Branch Addition to Chicago, being a subdivision in the North fractional part of Section 29, Township 39 North, Range 14 East of the Third Principal Meridian, and also Lots 1 through 8, both inclusive in Block 3 and that portion of Block 4 in McCord's Subdivision of the West 2.56 acres of the East 16.72 acres of the fractional Northeast Quarter of said Section 29, together with that part of vacated South Lumber Street, and also together with a portion of Joy's Canal (now filled), all taken as one tract, bounded and described as follows:**

Beginning at the Northwestern corner of said Block 4 in McCord's Subdivision, said Northwestern corner being a point on the East line of Greene's South Branch Addition to Chicago and the West line of McCord's Subdivision aforesaid and running; thence North 69 degrees 21 minutes 23 seconds East (the basis of bearing being assumed) along the Northernly line of said Block 4, said Northernly line being here also the Southernly line of South Lumber Street, a distance of 92.54 feet to the Northeast corner of Block 4 in said McCord's Subdivision; thence South 01 degree 35 minutes 56 seconds East along the East line of said Block 4, a distance of 237.74 feet to the Northernly line of the South Branch of the Chicago River, as improved; thence South 68 degrees 37 minutes 14 seconds West along said Northernly line of the South Branch of the Chicago as improved, a distance of 216.00 feet to an angle point in said Northernly line; thence South 74 degrees 32 minutes 48 seconds West along said Northernly line of the South Branch of the Chicago River, as improved, a distance of 142.58 feet to an angle point in said Northernly line; thence South 82 degrees 12 minutes 29 seconds West along said Northernly line of the South Branch of the Chicago River, as improved, a distance of 132.85 feet to a point; thence North 01 degree 38 minutes 56 seconds West, along a straight line, a distance of 767.48 feet to a point; thence North 88 degrees 21 minutes 04 seconds East. A distance of 386.43 feet to the East line of Greene's South Branch Addition to Chicago and the West line of McCord's Subdivision aforesaid; thence South 01 degree 40 minutes 09 seconds East along said East line of Greene's South Branch Addition to Chicago and the West line of McCord's Subdivision, a distance of 39.80 feet to a point on the South line of West 23<sup>rd</sup> Street, said point being also the Northwest corner of Lot 4 in Block 3 aforesaid; thence North 88 degrees 24 minutes 10 seconds East along said South line of West 23<sup>rd</sup> Street, the South line of West 23<sup>rd</sup> Street being also the North line of Lots 1 through 4, both inclusive, in Block 4 in said McCord's Subdivision, a distance of 87.97 feet to the Northeast of said Lot 1; thence South 01 degree 35 minutes 56 seconds East along the East line of said Lot 1, the East line of Lot 1 being also the East line of Block 3 in said McCord's Subdivision, a distance of 122.22 feet to the North line of the 20 foot wide East-West alley in said Block 3; thence South 88 degrees 24 minutes 10 seconds West along said North line of the 20 foot wide East-West alley in Block 3, the North line of the 20 foot wide alley being here the South line of Lots 1 through 4, both inclusive, in said Block 3, a distance of 87.82 feet to the West line of McCord's Subdivision aforesaid; thence South 01 degree 40 minutes 09 seconds East along said West line of McCord's Subdivision, the West line of McCord's Subdivision being also a portion of the East line of Lots 51 and 52 in Greene's South Branch Addition to Chicago aforesaid, a distance of 20.00 feet to the South line of said 20.00 foot wide East-West alley in Block 3; thence North 88 degrees 24 minutes 10 seconds East along said South line of the 20.00 foot wide East-West alley in Block 3 in McCord's Subdivision, the South line of the 20.00 foot wide East-West alley being here the North line of Lots 5 through 8, both inclusive, in Block 3 in said McCord's Subdivision, a distance of 87.79 feet to the Northeast corner of said Lot 8; thence South 01 degree 35 minutes 56 seconds East along the East line of said Lot 8, said East line of Lot 8 being also the East line of Block 3 in McCord's Subdivision aforesaid, a distance of 156.66 feet to the Southeast corner of said Lot 8, the Southeast corner of Lot 8 being on the Northernly line of South Lumber Street; thence South 69 degrees 21 minutes 23 seconds West along said Northernly line of South Lumber Street, the Northernly line of South Lumber Street being also the Southernly line of Lots 5 through 8 both inclusive in Block 3 aforesaid, a distance of 92.63 feet to the East line of Greene's South Branch Addition to Chicago and the West line of McCord's Subdivision aforesaid; thence South 01 degree 40 minutes 09 seconds East along said East line of Greene's South Branch Addition to Chicago and the West line of McCord's Subdivision, a distance of 69.79 feet to the point of beginning, excepting any portion of the land, if any, lying within the South Branch of Chicago River, as conveyed to the Sanitary District of Chicago by Deed recorded April 21, 1903 in Book 7791, Pages 84, 85 and 86, in Cook County, Illinois.



**UNOFFICIAL COPY****Exhibit B****Access Parcel**

THOSE PARTS OF LOTS 59 THROUGH 70, INCLUSIVE, TOGETHER WITH A PORTION OF JOY'S CANAL (NOW FILLED) IN GREENE'S SOUTH BRANCH ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE NORTH FRACTIONAL PART OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT IN THE NORTH LINE OF SAID LOT 59, IN GREENE'S SOUTH BRANCH ADDITION TO CHICAGO, THE NORTH LINE OF LOT 59 BEING HERE THE SOUTH LINE OF WEST CERMAK ROAD, SAID POINT BEING DISTANCE 12.00 FEET WEST OF THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY'S (FORMERLY CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY) SPUR TRACK CENTERLINE AS LOCATED AND CONSTRUCTED IN JULY, 1998, SAID POINT BEING ALSO 200.00 FEET, MORE OR LESS, WEST OF THE INTERSECTION OF THE SOUTHERLY EXTENSION OF THE CENTERLINE OF SOUTH PEORIA STREET WITH SAID SOUTH LINE OF WEST CERMAK ROAD AS MEASURED ALONG SAID SOUTH LINE, SAID POINT OF COMMENCEMENT BEING ALSO 616.23 FEET EAST OF THE NORTHWEST CORNER OF LOT 60 IN GREENE'S SOUTH BRANCH ADDITION TO CHICAGO AFORESAID, AND RUNNING;

THENCE SOUTH 88 DEGREES 24 MINUTES 07 SECONDS WEST (THE BASIS OF BEARINGS BEING ASSUMED) ALONG SAID SOUTH LINE OF WEST CERMAK ROAD, A DISTANCE OF 258.78 FEET TO A POINT OF CURVE, SAID POINT OF CURVE BEING ALSO THE POINT OF BEGINNING OF THE HEREINAFTER DESCRIBED PARCEL OF LAND;

THENCE SOUTHWESTWARDLY ALONG SAID CURVE, CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 25.00 FEET, AN ARC DISTANCE OF 39.27 FEET TO A POINT OF TANGENCY, SAID POINT OF TANGENCY BEING A POINT ON A LINE PERPENDICULAR TO SAID SOUTH LINE OF WEST CERMAK ROAD;

THENCE SOUTH 01 DEGREE 35 MINUTES 53 SECONDS EAST ALONG SAID PERPENDICULAR LINE, A DISTANCE OF 156.65 FEET TO A POINT ON A LINE 181.65 FEET SOUTH OF AND PARALLEL WITH SAID SOUTH LINE OF WEST CERMAK ROAD;

THENCE SOUTH 88 DEGREES 24 MINUTES 07 SECONDS WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 30.00 FEET;

THENCE SOUTH 11 DEGREES 08 MINUTES 14 SECONDS WEST, A DISTANCE OF 112.15 FEET TO A POINT, SAID POINT BEING 291.04 FEET SOUTH OF SAID SOUTH LINE OF WEST CERMAK ROAD AND IN A LINE 30.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF JOY'S CANAL (NOW FILLED) AFORESAID;

THENCE SOUTH 01 DEGREE 38 MINUTES 56 SECONDS EAST ALONG SAID LINE 30.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF JOY'S CANAL (NOW FILLED), A DISTANCE OF 756.56 FEET TO A POINT ON A LINE PERPENDICULAR TO THE LAST DESCRIBED LINE;

THENCE SOUTH 88 DEGREES 21 MINUTES 04 SECONDS WEST ALONG THE LAST DESCRIBED LINE, A DISTANCE OF 40.00 FEET TO A POINT ON A LINE 10.00 FEET WEST OF AND PARALLEL WITH THE WEST LINE OF SAID JOY'S CANAL (NOW FILLED);

THENCE NORTH 01 DEGREE 38 MINUTES 56 SECONDS WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 760.79 FEET TO A POINT, SAID POINT BEING 286.85 FEET SOUTH OF SAID SOUTH LINE OF WEST CERMAK ROAD, MEASURED PERPENDICULARLY;

THENCE NORTH 08 DEGREES 17 MINUTES 29 SECONDS EAST, A DISTANCE OF 190.55 FEET TO A POINT, SAID POINT BEING THE SOUTHERLY TERMINUS OF A LINE PERPENDICULAR TO AND 99.13 FEET SOUTH FROM SAID SOUTH LINE OF WEST CERMAK ROAD;

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THENCE NORTH 01 DEGREE 35 MINUTES 53 SECONDS WEST ALONG THE LAST DESCRIBED PERPENDICULAR LINE, A DISTANCE OF 94.13 FEET TO A POINT, SAID POINT BEING IN A LINE 5.00 FEET SOUTH FROM AND PERPENDICULAR TO THE SOUTH LINE OF WEST CERMAK ROAD;

THENCE NORTHWESTERLY ALONG THE ARC OF A NON-TANGENT CURVE, CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 25.00 FEET, WITH A CHORD LENGTH OF 15.81 FEET AND A CHORD BEARING OF NORTH 73 DEGREES 09 MINUTES 47 SECONDS WEST, AN ARC DISTANCE OF 16.09 FEET TO A POINT OF NON-TANGENCY;

THENCE NORTH 88 DEGREES 24 MINUTES 07 SECONDS EAST ALONG SAID SOUTH LINE OF WEST CERMAK ROAD, A DISTANCE OF 102.00 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

LESS AND EXCEPT THE WESTERLY MOST 10.00 FEET THEREOF.

Property of Cook County Clerk's Office