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Cook County Recorder 81.50

98-10739

Property of Cook County Clerk's Office

**SUBORDINATION OF MORTGAGE AND
INTERCREDITOR AGREEMENT**

THIS SUBORDINATION OF MORTGAGE AND INTERCREDITOR AGREEMENT ("Intercreditor Agreement") is dated as of the 5th day of November, 1998, by and among STREETERVILLE DEVELOPMENT ASSOCIATES II, LLC ("Borrower"), LASALLE NATIONAL BANK ("First Mortgagee"), and MORGAN GUARANTY TRUST COMPANY OF NEW YORK, AS TRUSTEE UNDER DECLARATION OF TRUST, DATED DECEMBER 15, 1997, FOR ITS COMMINGLED PENSION TRUST FUND (J.P. MORGAN SPECIAL SITUATION PROPERTY FUND) ("Second Mortgagee").

RECITALS:

A. Borrower is the owner of certain real property legally described on Exhibit "A" attached hereto located in Cook County, Illinois and all improvements thereon (the "Property").

Lawyers Title Insurance Corporation

**This Instrument Prepared By
and After Recording Return to:**

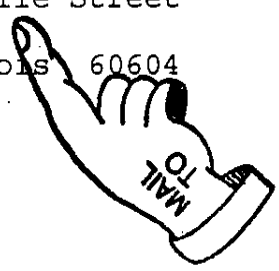
Michael S. Kurtzon
Miller, Shakman, Hamilton,
Kurtzon & Schlifke
208 South LaSalle Street
Suite 1100
Chicago, Illinois 60604

Permanent Index Numbers:

See Exhibit "A"

Address of Property:

211 East Ohio Street
Chicago, Illinois



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B. First Mortgagee has agreed to make a loan in the principal amount of \$53,000,000 (the "First Loan") to Borrower pursuant to a Loan Agreement dated as of even date herewith between Borrower and First Mortgagee (the "First Loan Agreement"), which First Loan is evidenced by a Promissory Note from Borrower to First Mortgagee dated as of even date herewith (the "First Note") in the original principal amount of \$53,000,000 and is secured by, among other things, a Mortgage, Security Agreement and Financing Statement executed by Borrower and encumbering the Property (the "First Mortgage") and by certain other documents and instruments (collectively, with the First Note and the First Mortgage, the "First Loan Documents").

C. Second Mortgagee has agreed to make a participating loan in the principal amount of \$29,754,250.00 (the "Second Loan") to Borrower pursuant to a Loan Agreement dated as of November 6, 1993 between Borrower and Second Mortgagee (the "Second Loan Agreement"), which Second Loan is evidenced by a Promissory Note from Borrower to Second Mortgagee of even date herewith (the "Second Note") in the original principal amount of \$29,754,250.00 and is secured by, among other things, a Construction Mortgage and Security Agreement and Assignment of Leases and Rents executed by Borrower and encumbering the Property (the "Second Mortgage") and by certain other documents and instruments (collectively, with the Second Note and the Second Mortgage, the "Second Loan Documents").

D. It is a condition precedent to First Mortgagee making the First Loan that, subject to the terms of this Agreement (i) the First Loan remain at all times prior and superior to the Second Loan, and (iii) the First Loan Documents remain at all times a lien or charge upon the Property prior and superior to the lien or charge of the Second Loan Documents in accordance with the terms of this Agreement.

NOW, THEREFORE, in order to induce First Mortgagee to enter into the First Loan, and in consideration of the mutual agreements and acknowledgements contained herein, the parties hereto agree as follows:

1. The recitals to this Agreement are incorporated herein and made a part hereof by this reference thereto.

2. Second Mortgagee hereby acknowledges and agrees that until the entire First Loan shall have been repaid in full, (a) all of the liens, security interests, terms, covenants and conditions of the Second Loan are and shall at all times be wholly subordinate to all of the liens, security interests, terms, covenants and conditions of the First Loan and any and all obligatory advances and "Protective Advances" (as hereinafter defined) advanced or incurred in accordance therewith, and (b) all amounts due to Second Mortgagee under the Second Loan

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(including interest and/or principal payments or prepayments, assignments of leases and rents, rights with respect to insurance proceeds and condemnation awards, advances and expenses with interest), are and shall at all times continue to be expressly subject and subordinate in right of payment to the indebtedness of the Borrower evidenced by the First Loan Documents and any and all obligatory advances and Protective Advances advanced or incurred in accordance therewith. The term "Protective Advances" means any advances necessary to protect the security of a mortgagee or holder of a loan in the Property and other collateral therein described such as, by way of example and not limitation, advances to pay real estate taxes, insurance premiums or required repair or required maintenance costs.

3. Second Mortgagee covenants and agrees to execute and deliver to Lawyers Title Insurance Corporation, or such other title company as the parties may agree to use for closing condominium unit sales (the "Title Company"), an escrow agreement in the form attached hereto as Exhibit "B" (the "Escrow Agreement") within ten days after delivery of such agreement to Second Mortgagee for execution. Second Mortgagee covenants and agrees to execute and deliver to the Title Company, on or prior to 45 days after the date the Escrow Agreement is fully executed, each of the partial releases to be delivered to the Title Company by Second Mortgagee pursuant to the terms of the Escrow Agreement. The failure of Second Mortgagee to execute and deliver to the Title Company, within the time periods established herein, the Escrow Agreement or the partial releases required pursuant to the terms of the Escrow Agreement, shall constitute an Event of Default under each of the First Note, the First Mortgage and the other First Loan Documents.

4. Second Mortgagee shall not acquire by subrogation, contract or otherwise any lien upon any other estate, right or interest in the Property (including without limitation any which may arise in respect to real estate taxes, assessments of other governmental charges) which is or may be prior in right to the First Mortgage or the other First Loan Documents.

5. First Mortgagee may, without affecting the subordination of the Second Loan, in its sole and absolute discretion and without the approval of Second Mortgagee, and without regard to any effect upon the Second Loan or the interest, if any, of Second Mortgagee in the Property or the value of Second Mortgagee's interests, if any, in the Property: (1) release or compromise any obligation in the First Note or First Loan Documents, (2) release its liens in, or surrender, release or permit any substitution or exchange of all or any part of any properties securing repayment of the First Note or (3) retain or obtain a lien in any property to further secure payment of the First Note.

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6. Second Mortgagee shall give First Mortgagee notice of any default by Borrower under any of the Second Loan Documents at the time such notice is given to the Borrower and copies of all further notices to Borrower relating to such default and copies of any foreclosure proceedings involving Borrower. First Mortgagee shall give Second Mortgagee notice of any Default or Event of Default by Borrower under any of the First Loan Documents at the time such notice is given to the Borrower and copies of all further notices to Borrower relating to such Default or Event of Default and copies of any foreclosure proceedings involving Borrower. First Mortgagee shall provide to Second Mortgagee (x) a copy of any written "deed-in-lieu of foreclosure" agreement between Borrower and First Mortgagee at least forty five (45) days prior to the date of closing thereunder and (y) fifteen (15) days' prior written notice before making any Protective Advance.

7. The commencement of foreclosure proceedings, appointment of a receiver, or any other remedial action under the Second Loan, without the prior, written consent of the holder or holders of the First Loan, shall constitute an Event of Default under the First Loan and the First Loan Documents at the time such enforcement or remedial action is initiated. Notwithstanding the foregoing, First Mortgagee hereby agrees that it shall consent to the delivery of a deed in lieu of foreclosure to the Second Mortgagee upon an Event of Default under the Second Loan Documents, provided that: (i) no Default or Event of Default shall have occurred and be continuing under any of the First Loan Documents, and (ii) Second Mortgagee shall execute an agreement, in form and content acceptable to First Mortgagee, (A) assuming all obligations of the Borrower under each of the First Loan Documents, and (B) providing for the prior written consent of First Mortgagee to all future development or sales of the Property, including but not limited to all sales, marketing and condominium conversion activities.

8. The payment of any amounts due under the Second Loan Documents is subordinated to the prior payment of amounts then due under the First Note, First Mortgage and other First Loan Documents. Following the occurrence of a Default or an Event of Default under any of the First Loan Documents and the giving of written notice of same to Second Mortgagee, then, so long as First Mortgagee shall not be receiving all payments of principal and interest, and any other payments required to be made, under the First Loan Documents in the full amount owed as and when due, no payment shall be made to Second Mortgagee by or on behalf of Borrower for or on account of the amount due under the Second Loan Documents. So long as no Default or Event of Default under the First Note or First Loan Documents shall have occurred, Second Mortgagee shall be entitled to receive interest and principal payments and other charges pursuant to the terms of the Second Loan Documents. The First Loan shall not be deemed paid or satisfied in full until First Mortgagee has received full payment of all amounts due First Mortgagee. In the event payment

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of amounts due under the Second Loan Documents that are subordinated and prohibited as set forth above, is made, whether in cash, rent, profits, property or securities, Second Mortgagee shall promptly pay to First Mortgagee an amount equal to such payment.

9. So long as the First Mortgage shall remain a first lien upon the Property or any part thereof, Second Mortgagee shall execute, acknowledge and deliver, promptly following First Mortgagee's demand, from time to time, any and all further subordinations, agreements or other instruments consistent with the terms of this Agreement in recordable form and otherwise in form and content satisfactory to Second Mortgagee and First Mortgagee in the exercise of their reasonable judgment as First Mortgagee may reasonably require for carrying out the purpose and intent of the covenants contained herein.

10. Second Mortgagee hereby represents and warrants to and covenants and agrees with First Mortgagee as follows:

(a) Second Mortgagee has delivered to First Mortgagee true and complete fully executed copies of the Second Loan Documents, and such documents have not been amended, modified or supplemented in any way.

(b) Second Mortgagee hereby consents to the provisions of the First Loan Agreement, First Note, First Mortgage and the other First Loan Documents delivered to Second Mortgagee.

(c) Without First Mortgagee's prior, written consent, which may be denied in the First Mortgagee's sole and absolute discretion, the Second Loan Documents will not be amended to (i) except for Protective Advances, increase the principal amount of the indebtedness evidenced or secured thereby, (ii) modify the terms of payment, interest rates or maturity date thereof, (iii) modify any other business terms thereof or (iv) grant the holders thereof any other security in the Property or in any other property that secures the First Loan. No other modifications will be made to the Second Loan Documents, without the First Mortgagee's prior, written consent, which consent shall not be unreasonably withheld or delayed.

(d) No additional advances (other than Expansion Advance Funds, as defined in the Second Loan Documents) will be made under the Second Loan Documents other than Protective Advances as permitted by such documents.

(e) Notwithstanding any other provisions in the Second Loan Documents to the contrary, Second Mortgagee agrees to assign and release unto the holder or holders of the First Loan all of its right, title and interest or claim in and to (i) all insurance policies and insurance proceeds in respect to the Property for application pursuant to the provisions

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of the First Mortgage and (ii) all condemnation awards made for any taking of any part of the Property for application pursuant to the provisions of the First Mortgage.

(f) If Second Mortgagee obtains any assets of the Borrower and is not entitled to apply such assets to the Second Loan in accordance with the provisions of this Agreement, Second Mortgagee will hold such assets in trust for, and immediately pay, deliver and assign to the holders of the First Loan such assets for application to the First Loan.

(g) Other than payments of principal and interest and other charges expressly permitted by the Second Mortgage Documents, Second Mortgagee, as the holder of the Second Loan, shall not at any time demand or retain any voluntary or optional payment, prepayment, redemption or repurchase of any portion of the Second Loan from the Borrower, which optional or voluntary payments, repayments, redemptions or repurchases are expressly prohibited hereby. First Mortgagee acknowledges that the Second Loan is a "cash flow mortgage" and, as such, principal and interest (including, without limitation, supplemental interest) are paid to Second Mortgagee, from time to time, out of available cash flow of the Premises.

(h) If the holder or holders of the First Loan or their agents exercise any right or take any remedial action pursuant to the terms and provisions of the First Mortgage or the First Loan Documents, Second Mortgagee expressly waives any defenses or claims it may have as a junior mortgagee or otherwise against the First Mortgagee or holder of the First Loan, in connection with such act by the holder or holders of the First Loan or their agents, other than defenses or claims predicated on a breach of this Agreement by First Mortgagee or the holder of the First Loan or First Mortgagee's or such holder's bad faith or willful misconduct.

(i) Second Mortgagee agrees not to oppose any plan of reorganization or rehabilitation proposed or approved by the holder or holders of the First Loan in any Bankruptcy Proceeding on the basis that Second Mortgagee is entitled to any payments until the First Loan has been paid in full.

(j) The foregoing provisions are solely for the purpose of defining the relative rights of the holder or holders of the First Loan and the holder or holders of the Second Loan, and nothing herein shall impair, as between the Borrower and First Mortgagee, the obligation of the Borrower, which is unconditional and absolute, to pay the First Loan in accordance with its terms, nor shall anything

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herein prevent First Mortgagee from exercising all remedies otherwise permitted by applicable law or under the First Note, First Mortgage or First Loan Documents.

11. In the event of any proceedings to liquidate, dissolve or wind up the Borrower, or of any execution, sale, receivership, insolvency, bankruptcy, liquidation, readjustment, reorganization, or other similar proceedings relative to the Borrower or its property (a "Bankruptcy Proceeding"), the First Loan shall be preferred in payment over the Second Loan, and the First Loan shall first be paid in full before any payment is made upon the Second Loan; and in any such event any payment or distribution of any kind or character, whether in cash, property or securities (other than in securities or other evidences of indebtedness, the payment of which is subordinated to the First Loan to the same extent as herein provided), which shall be made upon or in respect of the Second Loan as a result of any such proceeding, shall be paid over first to the holder or holders of the First Loan for application in payment thereof unless and until the First Loan shall have been paid or satisfied in full.

12. Second Mortgagee, as the holder of the Second Loan, undertakes and agrees for the benefit of each holder of the First Loan to execute, verify, deliver and file any proofs of claim, consents, assignments or other instruments in form and content reasonably satisfactory to Second Mortgagee which any holder of the First Loan may at any time reasonably require in connection with any Bankruptcy Proceeding in order to effectuate the agreements contained herein.

13. Second Mortgagee shall have the right to purchase the First Loan and all rights, interests, documents, instruments, insurance policies, and accounts in connection therewith (without recourse), from First Mortgagee:

(a) At any time prior to the occurrence of an Event of Default under the First Loan Documents, for a purchase price (the "Purchase Price") equal to the sum of (i) 100% of the outstanding principal indebtedness evidenced and secured by the First Loan Documents, (ii) all accrued, unpaid interest due on the First Loan to and including the date on which the sale is closed, (iii) all amounts of any kind owed First Mortgagee pursuant to the terms of the First Loan Documents and (iv) any unpaid balance of the "Partial Release Fee" (as defined in the First Loan Agreement);

(b) Following an Event of Default under the First Loan Documents, for a Purchase Price equal to the sum of the items described in Subsections (a) (i), (ii), (iii) and (iv) above (other than late fees and interest at the Default Interest Rate). If the purchase is not closed on or before the ninety (90) days from the date First Mortgagee notifies

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Second Mortgagee of an Event of Default under the First Mortgage Documents for any reason other than the delay, adjournment or default of First Mortgagee, the purchase price shall be increased by the amount of any late fees and interest at the Default Interest Rate otherwise due and payable on the First Loan to the date of closing.

Second Mortgagee's election to purchase the First Loan must be exercised by written notice to First Mortgagee which notice shall designate a date for the closing of the purchase (which date may not be less than ten (10) nor more than thirty (30) days from the date of the notice).

On the date of the Closing, First Mortgagee shall deliver to Second Mortgagee the following documents:

(i) Original, signed copies of all of the First Loan Documents (except for UCC Financing Statements of which copies shall be delivered); and

(ii) An assignment, without recourse, and without representation or warranty of any kind (other than a representation as to the outstanding principal balance of the First Loan, accrued and unpaid interest and other amounts due, and that First Mortgagee is the owner and holder of the entire First Loan and has not assigned, pledged or hypothecated all or any interest therein), of the First Loan Documents and all rights, interests, documents, instruments, insurance policies (including title insurance policies), accounts, escrows, moneys and deposits held by First Mortgagee pursuant to the terms of the First Loan Documents in form reasonably satisfactory to First Mortgagee and Second Mortgagee in their reasonable discretion;

and Second Mortgagee shall wire transfer into an account designated by First Mortgagee the Purchase Price.

If for any reason whatsoever, other than the default of First Mortgagee or other failure of First Mortgagee to deliver the documents described in Subsections (i) and (ii), the sale is not consummated and First Mortgagee does not receive the Purchase Price in its account by 2:00 p.m., Central Time, on the date of closing, Second Mortgagee's right to purchase the First Loan Documents shall be null and void; provided, that if the designated closing date is less than thirty (30) days from the date of notice from First Mortgagee, Second Mortgagee shall have the right to extend the closing date to any date up to and including the last day of such thirty (30) day period.

Neither any of the rights granted Second Mortgagee in this Section 13, nor Second Mortgagee's election to purchase the First

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Loan Documents, shall nullify, impair, diminish or in any way affect any of the rights or remedies granted to or available to First Mortgagee pursuant to the First Mortgage Documents or available to First Mortgagee at law or in equity, or the exercise of any such rights or remedies by First Mortgagee; provided, however, that if First Mortgagee is notified of the exercise of Second Mortgagee's right to purchase the First Loan prior to the filing of a foreclosure action or seeking the appointment of a receiver, First Mortgagee shall defer filing such action or action to have a receiver appointed, until the thirty first (31st) day after the date of such notice. Notwithstanding the foregoing, First Mortgagee shall not be precluded from exercising its rights in rents or other cash collateral or its rights to take any action deemed reasonably necessary or reasonably desirable by First Mortgagee to protect its interest or security in the Property, irrespective of receipt of notice of the exercise of Second Mortgagee's right to purchase the First Loan.

14. First Mortgagee hereby represents and warrants and covenants and agrees with Second Mortgagee as follows:

(a) First Mortgagee has delivered to Second Mortgagee true and complete fully executed copies of the First Loan Documents, and such documents have not been amended, modified or supplemented in any way.

(b) First Mortgagee hereby consents to the provisions of the Second Loan Agreement, Second Note, Second Mortgage and the other Second Loan Documents.

(c) Without Second Mortgagee's prior, written consent, which may be denied in the Second Mortgagee's sole and absolute discretion, the First Loan Documents will not be amended to (i) except for Protective Advances, increase the principal amount of the indebtedness evidenced or secured thereby, (ii) modify the terms of payment, interest rates or maturity date thereof, (iii) modify any other business terms thereof or (iv) grant the holders thereof any other security in the Property or in any other property that secures the Second Loan. No other modifications will be made to the First Loan Documents without the Second Mortgagee's prior written consent, which consent shall not be unreasonably withheld or delayed.

(d) No additional advances will be made under the First Loan Documents other than Protective Advances as permitted by such documents. First Mortgagee shall provide fifteen (15) days prior written notice to Second Mortgagee of all Protective Advances intended to be made by First Mortgagee under the First Loan Documents prior to the making of any such Protective Advance.

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15. No right of the holder or holders of the First Loan to enforce the subordination of the Second Loan Documents, or the Second Loan, as herein provided shall at any time or in any way be affected or impaired by any failure to act on the part of the Borrower, or by any noncompliance by the Borrower with any of the terms, provisions and covenants of the Second Loan or the Second Loan Documents, regardless of any knowledge thereof that the holder or holders of the First Loan may have or be otherwise charged with.

16. Each party hereby represents and warrants to the other that the party making such representation has full power and authority to enter into and perform its obligations hereunder, that this Agreement has been duly authorized, executed and delivered and constitutes the legal, valid and binding obligations of such party enforceable in accordance with its terms.

17. Second Mortgagee will indemnify, defend and hold First Mortgagee harmless from and against any damages, loss, claims, liabilities and expenses (including reasonable attorneys' fees) arising from or out of the direction given by Second Mortgagee to the Title Company (as defined in the First Loan Agreement) pursuant to Section 3(b) of the "Partial Release Escrow" (as defined in the First Loan Agreement) to refrain from recording partial releases of the Second Loan following Second Mortgagee's exercise of its rights to purchase the First Loan.

18. All notices or other communications required or permitted hereunder shall be (a) in writing and shall be deemed to be given when either (i) delivered in person, (ii) three business days after deposit in a regularly maintained receptacle of the United States mail as registered or certified mail, postage prepaid, (iii) when received if sent by private courier service or by facsimile transmission, or (iv) on the day on which the party to whom such notice is addressed refuses delivery by mail or by private courier service and (b) addressed as follows:

To First Mortgagee:

LaSalle National Bank
135 South LaSalle Street
Suite 1225
Chicago, Illinois 60603
Attn: Geoff Koss
Vice President
Facsimile: (312) 904-6467

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With copy to:

Miller, Shakman, Hamilton,
Kurtzon & Schlifke
208 South LaSalle Street
Suite 1100
Chicago, Illinois 60604
Attn: Michael S. Kurtzon
Facsimile: (312) 263-3270

If to Second Mortgagee:

c/o J.P. Morgan Investment
Management Inc.
522 Fifth Avenue
New York, New York 10036
Attention: Daniel J. Volpano
Facsimile: (212) 837-2604

With copy to:

Stroock & Stroock & Lavan LLP
180 Maiden Lane
New York, New York 10038
Attention: Brian Diamond, Esq.
Facsimile: (212) 806-6006

If to Borrower:

c/o Draper and Kramer, Incorporated
37 West Monroe Street
Chicago, Illinois 60603
Attention: Forrest D. Bailey
Facsimile: (312) 346-2177

And to:

Equity Marketing Services, Inc.
211 East Ontario Street
Suite 500
Chicago, Illinois 60611
Attention: Herbert P. Emmerman
Facsimile: (312) 642-9282

With copy to:

Bell, Boyd & Lloyd
Three First National Plaza
Suite 3200
Chicago, Illinois 60602
Attention: Terrence E. Budny
Facsimile: (312) 372-2098

or to each such party at such other addresses as such party may designate in a written notice to the other parties.

19. THIS AGREEMENT AND ANY AND ALL CLAIMS ARISING FROM OR RELATING TO THIS AGREEMENT SHALL BE CONSTRUED AND INTERPRETED

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UNDER THE LAWS OF THE STATE OF ILLINOIS. BORROWER, FIRST MORTGAGEE AND SECOND MORTGAGEE, IN ORDER TO INDUCE FIRST MORTGAGEE TO ENTER INTO THE FIRST LOAN, AND FOR OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH HEREBY IS ACKNOWLEDGED, AGREE THAT ALL ACTIONS OR PROCEEDINGS ARISING DIRECTLY, INDIRECTLY OR OTHERWISE IN CONNECTION WITH, OUT OF, RELATED TO OR FROM THIS AGREEMENT SHALL BE LITIGATED ONLY IN COURTS HAVING A SITUS WITHIN THE COUNTY OF COOK, STATE OF ILLINOIS, OR THE UNITED STATES DISTRICT COURT FOR SAID COUNTY. BORROWER, FIRST MORTGAGEE AND SECOND MORTGAGEE EACH HEREBY WAIVES ANY RIGHT IT MAY HAVE TO TRANSFER OR CHANGE THE VENUE OF ANY LITIGATION BROUGHT AGAINST IT BY FIRST MORTGAGEE ON THIS AGREEMENT IN ACCORDANCE WITH THIS PARAGRAPH. THIS PROVISION IS A MATERIAL INDUCEMENT FOR FIRST MORTGAGEE TO ENTER INTO THE FIRST LOAN.

20. EACH OF BORROWER, FIRST MORTGAGEE AND SECOND MORTGAGEE EXPRESSLY AND UNCONDITIONALLY WAIVES, IN CONNECTION WITH ANY SUIT, ACTION OR PROCEEDING BROUGHT BY FIRST MORTGAGEE ON THIS AGREEMENT, ANY AND EVERY RIGHT IT MAY HAVE TO (I) A TRIAL BY JURY, (II) INTERPOSE ANY COUNTERCLAIM THEREIN UNLESS EXPRESSLY PERMITTED HEREUNDER OR SUCH CLAIM IS REQUIRED TO BE SO PLED BY APPLICABLE COURT RULES TO PREVENT SUCH RIGHTS FROM BEING BARRED, AND (III) SEEK TO HAVE THE SAME CONSOLIDATED WITH ANY OTHER OR SEPARATE SUIT, ACTION OR PROCEEDING UNLESS REQUIRED TO DO SO BY APPLICABLE COURT RULES TO PREVENT SUCH RIGHTS FROM BEING BARRED.

21. Not more often than two times each calendar month, First Mortgagee shall furnish Second Mortgagee, within three (3) business days of written request, with a statement of the amount on deposit in the "Working Capital Account" (as defined in the First Loan Agreement).

22. First Mortgagee agrees that Second Mortgagee may be named in the insurance policies for the Property as its interest may appear pursuant to the Second Loan Documents.

23. The covenants and agreements of Second Mortgagee contained in this Agreement that benefit First Mortgagee or the holder of the First Loan and any restriction on Second Mortgagee shall cease upon repayment of the First Loan in full.

24. Other than an assignment by Second Lender of the Second Loan to Grand Ohio Funding Company (which is a wholly owned subsidiary of Second Mortgagee and shall be controlled by Second Mortgagee), neither party may sell, assign or transfer its loan to any entity other than an institutional lender.

25. This Agreement may be signed in multiple counterparts with the same effect as if all signatories had executed the same instrument.

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26. All rights, powers and remedies provided herein are intended to be limited to the extent necessary so that they will not render this Agreement invalid, unenforceable or not entitled to be recorded under any applicable law. If any term of this Agreement shall be held to be invalid or unenforceable, the validity and enforceability of the other terms of this Agreement shall in no way be affected thereby.

27. Whenever any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all the covenants, promises and agreements in this Agreement contained by or on behalf of any party shall bind and inure to the benefit of the respective successors and assigns of such party, whether so expressed or not.

28. This Agreement and the provisions hereof may be changed, waived, discharged or terminated only by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date first set forth above.

BORROWER:

STREETERVILLE DEVELOPMENT
ASSOCIATES II, LLC, an Illinois
limited liability company

By: DK Investors, LLC, an Illinois
limited liability company, a
Manager

By: Draper and Kramer,
Incorporated, an Illinois
corporation, its Manager

By: *Paul D. Barty*
Its: *president*

and

By: EMS Associates, L.L.C., an
Illinois limited liability
company, a Manager

By: *Clayton Bamsoff*
its Manager

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FIRST MORTGAGEE:

LASALLE NATIONAL BANK

By:  _____
Its: _____

SECOND MORTGAGEE:

MORGAN GUARANTY TRUST COMPANY
OF NEW YORK, AS TRUSTEE UNDER
DECLARATION OF TRUST, DATED
DECEMBER 15, 1997, FOR ITS
COMMINGLED PENSION TRUST FUND
(J.P. MORGAN SPECIAL SITUATION
PROPERTY FUND)

By: _____
Daniel Volpano
Vice President

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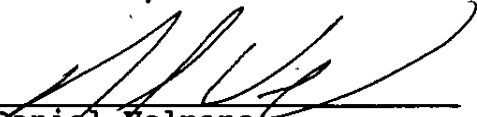
FIRST MORTGAGEE:

LASALLE NATIONAL BANK

By: _____
Its: _____

SECOND MORTGAGEE:

MORGAN GUARANTY TRUST COMPANY
OF NEW YORK, AS TRUSTEE UNDER
DECLARATION OF TRUST, DATED
DECEMBER 15, 1997, FOR ITS
COMMINGLED PENSION TRUST FUND
(J.P. MORGAN SPECIAL SITUATION
PROPERTY FUND)

By:  _____
Daniel Volpano
Vice President

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STATE OF ILLINOIS))
) SS.
COUNTY OF COOK))

I HEREBY CERTIFY that on this 10th day of November, 1998, before me personally appeared Forrest D. Boley, the President, of DRAPER AND KRAMER, INCORPORATED, an Illinois corporation, a Manager of DK Investors, LLC, an Illinois limited liability company, a Manager of Streeterville Development Associates II, LLC, an Illinois limited liability company, to me known to be the same person who signed the foregoing instrument as his/her free act and deed as such officer for the use and purpose therein mentioned, and that the said instrument is the act and deed of said company.

WITNESS my signature and official seal at Chicago, in the County of Cook and State of Illinois, the day and year last aforesaid.

(NOTARY SEAL)

Robin Ruesch
Notary Public, State of Illinois
My Commission Expires 1-18-00

My Commission Expires: 1-18-00

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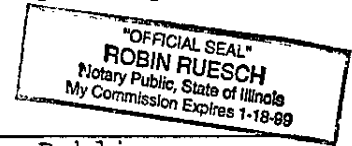
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I HEREBY CERTIFY that on this 1st day of November, 1998, before me personally appeared Cheryl Bancroft, the Manager, of EMS ASSOCIATES, L.L.C., an Illinois limited liability company, a Manager of Streeterville Development Associates II, LLC, an Illinois limited liability company, to me known to be the same person who signed the foregoing instrument as his/her free act and deed as such officer for the use and purpose therein mentioned, and that the said instrument is the act and deed of said company.

WITNESS my signature and official seal at Chicago, in the County of Cook and State of Illinois, the day and year last aforesaid.

(NOTARY SEAL)

Robin Ruesch



Notary Public

My Commission Expires: 1-18-99

Property of Cook County Clerk's Office

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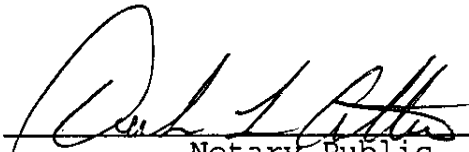
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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

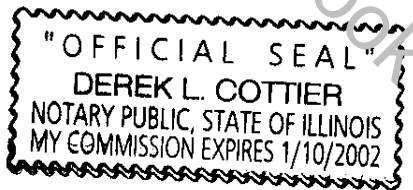
I HEREBY CERTIFY that on this 5th day of November, 1998, before me personally appeared Geoffrey A. Kass, the Vice President, of LASALLE NATIONAL BANK, a national banking association, to me known to be the same person who signed the foregoing instrument as his/her free act and deed as such officer for the use and purpose therein mentioned, and that the said instrument is the act and deed of said association.

WITNESS my signature and official seal at Chicago, in the County of Cook and State of Illinois, the day and year last aforesaid.

(NOTARY SEAL)



Notary Public



My Commission Expires: _____

Property of Cook County Clerk's Office

08011741

UNOFFICIAL COPY

STATE OF NEW YORK)
) SS.
COUNTY OF NEW YORK)

I HEREBY CERTIFY that on this 5th day of November, 1998, before me personally appeared Daniel Volpano, the Vice President, of MORGAN GUARANTY TRUST COMPANY OF NEW YORK, AS TRUSTEE UNDER DECLARATION OF TRUST, DATED DECEMBER 15, 1997, FOR ITS COMMINGLED PENSION TRUST FUND (J.P. MORGAN SPECIAL SITUATION PROPERTY FUND), a New York banking corporation, to me known to be the same person who signed the foregoing instrument as his free act and deed as such officer for the use and purpose therein mentioned, and that the said instrument is the act and deed of said Trustee.

WITNESS my signature and official seal at the City of New York, in the County of New York and State of New York, the day and year last aforesaid.

(NOTARY SEAL)



Notary Public

My Commission Expires: _____

MARIE A. SIGNORILE
Notary Public, State of New York
No. 31-4926179
Qualified in New York County
Commission Expires April 4, 2000

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EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL 1:

The East 166-1/3 feet of the North 100 feet of the West 216-1/3 feet of Block 20 in Kinzie's Addition to Chicago, being a Subdivision of the North Fraction of Section 10, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

PARCEL 2:

The East 216-1/3 feet of the North 100 feet of the West 432-2/3 feet of Block 20 in Kinzie's Addition to Chicago, being a Subdivision of the North Fraction of Section 10, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

PARCEL 3:

The East 216-1/3 feet of the West 432-2/3 feet of the South 109 feet of Block 20 in Kinzie's Addition to Chicago, being a Subdivision of the North Fraction of Section 10, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

PARCEL 4:

The 9 feet next South of and adjoining the East 216-1/3 feet of the West 432-2/3 feet of the North 100 feet of Block 20 in Kinzie's Addition to Chicago, being a Subdivision of the North Fraction of Section 10, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

PARCEL 5:

Easement for the benefit of Parcel 1 and the West 100 feet of Parcel 2 aforesaid as created by Agreement between Anita McCormick Blaine and Cyrus H. McCormick with Underwriter's Laboratories, a corporation of Illinois, dated June 17, 1924 and recorded July 1, 1924 as Document Number 8491432, as amended by Declaration of Partial Termination dated July 1, 1982 and recorded July 2, 1982 as Document Number 26279882 for ingress and egress over the South 18 feet of the North 118 feet of the West 216-1/3 feet of Block 20, (except the North 9 feet of the South 18 feet of the North 118 feet of the East 166-1/3 feet of the West 216-1/3 feet of Block 20) in Kinzie's Addition to Chicago, being a Subdivision of the North Fraction of Section 10, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

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EXHIBIT "A"

LEGAL DESCRIPTION (continued)

PARCEL 6:

Easement for the benefit of Parcels 1, 2 and 3 aforesaid as created by Agreement between Henry R. Levy Company, a corporation of Illinois, and American National Bank and Trust Company of Chicago, as Trustee under Trust Agreement dated January 19, 1950 and known as Trust Number 8239, and Underwriter's Laboratories, Inc., a corporation of Delaware, dated May 6, 1959 and recorded May 19, 1959 as Document Number 17543160 for ingress and egress over the South 9 feet of the West 50 feet of the North 109 feet of Block 20, in Kinzie's Addition to Chicago, being a Subdivision of the North Fraction of Section 10, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

PARCEL 7:

The North 9 feet (except the West 50 feet thereof) of the South 18 feet of the North 118 feet of the West 216-1/3 feet of Block 20 in Kinzie's Addition to Chicago, being a Subdivision of the North Fraction of Section 10, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

PARCEL 8:

Easement for the benefit of Parcels 1, 2, 3, 4, and 7 aforesaid as created by Easement Agreement between the City of Chicago and LaSalle National Bank, as Trustee under Trust Number 101563, dated December 16, 1981 and recorded February 22, 1982 as Document Number 26150981, to construct, maintain and use an 18 inch combination sewer under the North 9 feet of the South 109 feet of the West 216-1/3 feet of Block 20 in Kinzie's Addition to Chicago, being a Subdivision of the North Fraction of Section 10, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

COMMON ADDRESS: 211 East Ohio, Chicago, Illinois

PIN NOS.: 17-10-209-002
17-10-209-003
17-10-209-008
17-10-209-009
17-10-209-010
17-10-209-011

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EXHIBIT "B"

ESCROW AGREEMENT

THIS ESCROW AGREEMENT ("Agreement") is dated as of the 5th day of November, 1998, by and among STREETERVILLE DEVELOPMENT ASSOCIATES II, LLC, an Illinois limited liability company ("Borrower"), LASALLE NATIONAL BANK ("First Mortgagee"), MORGAN GUARANTY TRUST COMPANY OF NEW YORK, AS TRUSTEE UNDER DECLARATION OF TRUST, DATED DECEMBER 15, 1997, FOR ITS COMMINGLED PENSION TRUST FUND (J.P. MORGAN SPECIAL SITUATION PROPERTY FUND) ("Second Mortgagee"), and LAWYERS TITLE INSURANCE CORPORATION ("Escrowee").

RECITALS:

A. Borrower is the owner of certain real property legally described on Exhibit "A" attached hereto located in Cook County, Illinois and all improvements thereon (the "Property"). The Property is the subject of Commitment No. 98-10739 dated October 9, 1998 issued by Escrowee.

B. First Mortgagee has agreed to make a loan in the principal amount of \$53,000,000 (the "First Loan") to Borrower pursuant to a Loan Agreement of even date herewith between Lender and Borrower (the "Loan Agreement"), which First Loan is evidenced by a Promissory Note from Borrower to First Mortgagee of even date herewith (the "First Note") in the original principal amount of \$53,000,000 and is secured by, among other things, a Mortgage, Security Agreement and Financing Statement executed by Borrower and encumbering the Property (the "First Mortgage") and by certain other documents and instruments (collectively, with the First Loan Agreement, First Note and the First Mortgage, the "First Loan Documents").

C. Second Mortgagee has agreed to make a loan in the principal amount of \$29,754,250.00 (the "Second Loan") to Borrower pursuant to a Loan Agreement of even date herewith between Second Mortgagee and Borrower (the "Second Loan Agreement"), which Second Loan is evidenced by a Promissory Note from Borrower to Second Mortgagee of even date herewith (the "Second Note") in the original principal amount of \$29,754,250.00 and is secured by, among other things, a Mortgage and Security Agreement with Assignment of Rents executed by Borrower and encumbering the Property (the "Second Mortgage") and by certain other documents and instruments (collectively, with the Second Loan Agreement, the Second Note and the Second Mortgage, the "Second Loan Documents").

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D. Borrower, First Mortgagee and Second Mortgagee each acknowledge and agree that: (i) the Borrower will be converting the Property to a residential condominium (the "Conversion"); (ii) following the submission of the Property to the Illinois Condominium Property Act, 765 ILCS 605/1 et seq. (the "Act"), up to 628 condominium units (individually, a "Unit" and collectively, the "Units") to be created thereby will be sold and conveyed by the Borrower over a period of time; (iii) the Borrower will also be selling up to 500 licenses for the use of valet parking facilities at the Property (individually, a "Valet Parking License" and collectively, the "Valet Parking Licenses," the sale of a Unit or a Valet Parking License is hereinafter referred to as a "Sale," and such sales collectively as "Sales"); (iv) until the First Loan shall have been repaid in full, the proceeds of each Sale shall be paid in the manner herein provided, and (v) the cooperation of each of the parties to this Agreement is necessary in order to effect the orderly and business-like conduct of the Sales.

NOW, THEREFORE, it is agreed as follows:

1. Agency Closings by Escrowee. The parties hereto agree that the closing of each sale shall be conducted under agency-type closings at the offices of the Escrowee located at 10 South LaSalle Street, Suite 2500, Chicago, Illinois 60603.

2. Deposit of Partial Releases. Within 45 days after the date of this Escrow Agreement, Second Mortgagee shall deposit with the Escrowee 628 partial releases, there being one partial release for each Unit (the "Partial Releases"). The Partial Releases shall be executed and in recordable form, except that the legal description for each Unit shall be attached thereto by the Escrowee at the time of the consummation of the Sale of such Unit. The Escrowee shall retain the Partial Releases and shall withdraw and record them only in accordance with this Escrow Agreement.

3. First Mortgage Pay-Down Period. Until such time as the First Loan shall have been repaid in full, upon the delivery to Escrowee of a partial release of the First Loan as to a Unit (each a "First Lender's Partial Release"), the Escrowee shall attach a legal description of such Unit or Parking Space to the First Lender's Partial Release and the Partial Release and shall record the First Lender's Partial Release and the Partial Release for such Unit with the Cook County Recorder of Deeds. Concurrently with such recording (in the case of a Unit), or upon the Sale of any Valet Parking License, Escrowee shall also make the following payments:

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(a) Escrowee shall pay to First Mortgagee:

(i) for all Units other than Units identified by First Mortgagee as Townhouse Units or Loft Units, an amount equal to 57% of the gross base sales price for such Unit (as shown as Exhibit "B" attached hereto) in partial repayment of the First Loan, plus a \$500.00 per Unit release fee.

(ii) for all Units identified by First Mortgagee as Townhouse Units or Loft Units, an amount equal to 20% of the gross base sales price for such Unit (as shown as Exhibit "B" attached hereto) in partial repayment of the First Loan, plus, for Units identified by First Mortgagee as Loft Units, a \$500.00 per Unit release fee.

(iii) for all Valet Parking Licenses, an amount equal to 57% of the gross base sales price for such Valet Parking License (as shown as Exhibit "B" attached hereto) in partial repayment of the First Loan.

In no event shall First Mortgagee release the lien of the First Mortgage from any Unit, or consummate the sale of any Valet Parking License, for a gross sales price less than that shown on Exhibit "B", unless agreed to in writing by Second Mortgagee. If First Mortgagee notifies Escrowee that a Default or Event of Default has occurred and is continuing under the First Loan Documents, at each closing Escrowee shall pay to First Mortgagee 100% of the total gross sales proceeds from the Sale.

(b) If Second Mortgagee exercises its election to purchase the First Loan from First Mortgagee as provided in the Subordination of Mortgage and Intercreditor Agreement of even date herewith (the "Intercreditor Agreement"), Second Mortgagee shall have the right to direct Escrowee not to record further Partial Releases or consummate the sale of additional Valet Parking Licenses during the thirty (30) day period from the date Second Mortgagee delivers to Escrowee, and the other parties hereto, written notice that Second Mortgagee has elected to purchase the First Loan, and Escrowee agrees, following receipt of such notice, not to record further Partial Releases or consummate the sale of additional Valet Parking Licenses during such period; provided, however, that if, after such notice is delivered, First Mortgagee notifies Escrowee and the other parties hereto that the sale of the First Loan has not been closed for reasons other than First Mortgagee's delays or First Mortgagee's default within the time periods provided in the Intercreditor Agreement, then Escrowee shall continue to record Partial Releases and consummate sales of Valet Parking Licenses in accordance with Section 3 hereof.

(c) Escrowee shall pay First Mortgagee for deposit by First Mortgagee in the "Working Capital Account" (as defined in the

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Loan Agreement) the amount specified by First Mortgagee as necessary to provide \$500,000.00 in the Working Capital Account.

(d) At such time as First Mortgagee delivers to Escrowee a full release of all remaining Units, Escrowee shall pay First Mortgagee an amount equal to \$500.00 multiplied by the number of remaining Units (other than Townhouse Units) listed on the legal description for such release (which shall be the total number of all Units not previously released by First Mortgagee).

(e) Until such time as the Second Loan shall have been repaid in full, and provided First Mortgagee has not served Escrowee with a written notice that a Default or Event of Default exists and is continuing under the First Loan or the First Loan Documents, Escrowee shall pay the balance of such proceeds of a Sale to a lock box account designated by Second Mortgagee. First Mortgagee shall promptly notify Escrowee upon the cure of any Default or Event of Default.

4. First Mortgage Final Release. Upon repayment in full of the First Loan, the First Mortgagee shall deliver to Escrowee a release of all remaining Units subject to the First Mortgage (the "First Mortgage Final Release"). Upon delivery of the First Mortgage Final Release to Escrowee, and payment by Escrowee of the balance of the partial release fee pursuant to Section 3(d), this Escrow Agreement shall terminate and all remaining Partial Releases executed by Second Mortgagee and held by Escrowee shall be promptly returned by Escrowee to Second Mortgagee.

5. Miscellaneous.

(a) Opposite each party's signature on this Escrow Agreement is the address to which notices to each such party shall be sent pursuant to or in connection with this Escrow Agreement. Notices hereunder shall be deemed received by the addresses therein upon the earlier of: (i) hand delivery to the addressee, (ii) one business day after deposit with Federal Express or UPS, provided the sender designates next day delivery to the applicable courier service, or (iii) three business days after mailing same, postage prepaid, by certified mail with return receipt requested. A party may hereafter designate a different address for notices to it, and such new designation shall be effective as to each party hereto who receives notice of such change in accordance with the foregoing.

(b) This Escrow Agreement shall be binding upon, and shall inure to the benefit of, the respective successors and assigns of each party hereto.

(c) The Escrowee's fees and costs in connection with this Escrow Agreement shall be paid by Borrower.

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(d) This Escrow Agreement may be executed by the parties hereto or their respective counsel.

(e) This Escrow Agreement may be executed in counterparts and all such counterparts, when taken together, shall constitute a complete document.

(f) This Escrow Agreement shall be binding upon a party if executed and transmitted by facsimile; provided that each such party agrees to deliver an original executed copy hereof to the Escrowee within five business days after executing this instrument by facsimile.

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IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date first set forth above.

Address:
10 South LaSalle Street
Suite 2500
Chicago, Illinois 60603

LAWYERS TITLE INSURANCE COMPANY

By: _____
Its: _____

Address:
c/o Draper and Kramer,
Incorporated
33 West Monroe Street
Chicago, IL 60603
Attention: Forrest D. Bailey

STREETERVILLE DEVELOPMENT
ASSOCIATES II, LLC, an Illinois
limited liability company

By: DK Investors, LLC, an Illinois
limited liability company, a
Manager

And

Equity Marketing Services, Inc.
211 East Ontario Street
Suite 500
Chicago, Illinois 60611
Attention: Herbert P. Emmerman

By: Draper and Kramer,
Incorporated, an Illinois
corporation, its Manager

By: _____
Its: _____

and

By: EMS Associates, L.L.C., an
Illinois limited liability
company, a Manager

By: _____
its Manager

Address:
c/o Michael S. Kurtzon
Miller, Shakman, Hamilton
Kurtzon & Schlifke
208 S. LaSalle Street
Suite 1100
Chicago, IL 60604

LASALLE NATIONAL BANK

By: _____
Its: _____

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Address:

J.P. Morgan Investment
Management Inc.
522 Fifth Avenue
New York, New York 10036
Attention: Daniel J. Volpano

MORGAN GUARANTY TRUST COMPANY OF
NEW YORK, AS TRUSTEE UNDER
DECLARATION OF TRUST, DATED
DECEMBER 15, 1997, FOR ITS
COMMINGLED PENSION TRUST FUND
(J.P. MORGAN SPECIAL SITUATION
PROPERTY FUND)

By: _____

Daniel Volpano
Vice President

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL 1:

The East 166-1/3 feet of the North 100 feet of the West 216-1/3 feet of Block 20 in Kinzie's Addition to Chicago, being a Subdivision of the North Fraction of Section 10, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

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The East 216-1/3 feet of the North 100 feet of the West 432-2/3 feet of Block 20 in Kinzie's Addition to Chicago, being a Subdivision of the North Fraction of Section 10, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

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LEGAL DESCRIPTION (continued)

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EXHIBIT "B"

GROSS BASE SALES PRICE

Property of Cook County Clerk's Office

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