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THIS DOCUMENT WAS PREPARED BY,  
AND AFTER RECORDING, RETURN TO:

Wendy M. Reutebuch  
MUCH SHELIST  
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Chicago, Illinois 60606.1615

PERMANENT TAX INDEX NUMBER:

14-29-215-030-0000

PROPERTY ADDRESS:

2954-58 N. Sheffield Avenue/  
1001-1011 W. Wellington Avenue  
Chicago, Illinois 60657



Doc#: 0815805074 Fee: \$80.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 06/06/2008 11:33 AM Pg: 1 of 23

*This space reserved for Recorder's use only.*

## SUBORDINATION AND INTERCREDITOR AGREEMENT

This **SUBORDINATION AND INTERCREDITOR AGREEMENT** (this "**Agreement**") is dated as of the 29th day of May, 2008, by and between **NORTH SHORE COMMUNITY BANK & TRUST COMPANY**, an Illinois banking corporation (the "**Senior Lender**"), and **STRENGTH PROPERTY PARTNERS, L.P.**, a Delaware limited partnership (the "**Junior Lender**").

### RECITALS:

A. **SHEFFIELD WELLINGTON LLC**, an Illinois limited liability company (the "**Borrower**"), holds title to certain real property legally described on **Exhibit "A"** attached hereto located in Cook County, Illinois, and all improvements thereon (such real property, together with all other collateral for the Senior Loan [as such term is defined in Recital B] of any kind, other than the Cash Collateral Account [as such term is defined in Recital B], is referred to herein collectively as the "**Property**").

B. In accordance with that certain Construction Loan Agreement dated as of even date herewith by and between the Senior Lender and the Borrower (the "**Construction Loan Agreement**"), the Senior Lender has agreed to make a loan in the principal amount of **TWO MILLION SIX HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS (\$2,650,000.00)** (the "**Construction Loan**") to the Borrower, which Construction Loan is (a) evidenced by a Promissory Note from the Borrower to the Senior Lender dated as of the date hereof (the "**Construction Note**") in the original principal amount of the Construction Loan, (b) secured by a Construction Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing executed by the Borrower and encumbering the Property (the "**Construction Mortgage**")

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and (c) also secured or guaranteed by the other documents (the "Construction Loan Documents") described on Exhibit "B" attached hereto.

The Senior Lender has also agreed to make a loan in the principal amount of **THREE HUNDRED TWO THOUSAND AND 00/100 DOLLARS** (\$302,000.00) (the "Interest Reserve Loan") to the Borrower, which Interest Reserve Loan is (a) evidenced by a Promissory Note from the Borrower to the Senior Lender dated as of the date hereof (the "Interest Reserve Note") in the original principal amount of the Interest Reserve Loan, (b) secured by a cash collateral deposit account in the amount of \$302,000.00 (the "Cash Collateral Account") evidenced by a Pledge Agreement from the Borrower to the Senior Lender dated as of the date hereof (the "Pledge Agreement") and (c) also secured or guaranteed by the other documents (the "Interest Reserve Loan Documents") described on Exhibit "B" attached hereto.

The Construction Loan and the Interest Reserve Loan are referred to herein collectively as the "Senior Loan". The Construction Loan Documents and the Interest Reserve Documents described on Exhibit "B" attached hereto, together with any extensions, modifications, substitutions and consolidations thereof (to the extent permitted hereunder), are hereinafter collectively referred to as the "Senior Loan Documents".

C. **SETH M. HARRIS** ("Harris") and **SMH CONTRACTORS, LLC** ("SMH"), an Illinois limited liability company (each a "Guarantor", and collectively, the "Guarantors") have guaranteed or otherwise assumed personal liability for the payment and/or performance of all of the Borrower's obligations under the Senior Loan Documents (collectively, the "Guarantors' Senior Obligations").

D. In accordance with that certain Loan Agreement dated as of even date herewith by and between the Junior Lender and the Junior Borrower (as defined herein) (the "Junior Loan Agreement"), the Junior Lender has agreed to make a loan in the principal amount of **ONE MILLION AND 00/100 DOLLARS** (\$1,000,000.00) (the "Junior Loan") to Harris and the Borrower (Harris and the Borrower are referred to herein collectively as, the "Junior Borrower"), which Junior Loan is (a) evidenced by a Note from the Junior Borrower to the Junior Lender dated as of the date hereof (the "Junior Note") in the original principal amount of the Junior Loan, (b) secured by a Junior Mortgage executed by Borrower and encumbering the Property (the "Junior Mortgage"), (c) further secured by an Assignment of Leases and Rents dated as of the date hereof (the "Junior Assignment") executed by Borrower, (d) secured by a Guaranty dated as of the date hereof (the "Junior Guaranty") from SMH, (e) further secured by a Security Agreement dated as of the date hereof (the "Junior Security Agreement") from Borrower, and (f) a UCC-1 Financing Statement naming Junior Lender as the secured party (the "Junior UCC-1 Financing Statement"). The Junior Loan Agreement, the Junior Note, the Junior Mortgage, the Junior Assignment, the Junior Guaranty, the Junior Security Agreement and the Junior UCC-1 Financing Statement, together with any extensions, modifications, substitutions and consolidations thereof (to the extent permitted hereunder), are hereinafter collectively referred to as the "Junior Loan Documents".

E. It is a condition precedent to the Senior Lender making the Senior Loan that: (i) the payment and performance of all obligations with respect to the Senior Loan remain at all times prior and superior to the payment and performance of all obligations with respect to the

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Junior Loan, with respect to the Borrower and the Guarantors' obligations thereunder, (ii) the Senior Loan Documents remain at all times a lien or charge upon the Property prior and superior to the lien or charge of the Junior Mortgage and the other Junior Loan Documents in accordance with the terms of this Agreement, (iii) unless and until all of the obligations of the Borrower set forth in the Senior Loan Documents (other than obligations that expressly survive the payment and performance of the Senior Loan in full, such as the Borrower's various indemnity obligations, so long as such obligations are not required to be paid or performed as of the date the Senior Loan is paid and performed in full) have been indefeasibly paid and performed in full, the Junior Lender shall have no right to receive any payment with respect to the Junior Loan or to exercise any rights or remedies with respect to the Junior Loan, and (iv) the Junior Lender enters into the agreements with the Senior Lender set forth herein.

F. It is a condition precedent to Junior Lender making the Junior Loan that, subject to the terms of this Agreement, the Senior Lender (a) consents to the making of the Junior Loan, (b) consents to the encumbrance of the Property pursuant to the Junior Mortgage, (c) consents to the execution, delivery and performance of the Junior Loan Documents (so long as same do not violate any of the terms or provisions of this Agreement or the Senior Loan Documents) and (d) enters into the agreements with Junior Lender set forth herein.

**NOW, THEREFORE**, in order to induce Senior Lender to make the Senior Loan and Junior Lender to make the Junior Loan and in consideration of the mutual agreements and acknowledgements contained herein, the parties hereto agree as follows:

## AGREEMENTS:

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

2. **Senior Lender's Consent.** The Senior Lender consents to the making of the Junior Loan and the encumbrance of the Property pursuant to the Junior Mortgage, subject to the restrictions set forth herein. The Senior Lender further consents to the terms and provisions of the Junior Loan Documents and the execution, delivery, performance and observance thereof, but only to the extent that such terms and provisions can be performed and observed in a manner consistent with the terms and provisions of the Senior Loan Documents and this Agreement. If and to the extent that the performance or observance of any of the terms or provisions of the Junior Loan Documents would be contrary to or inconsistent with any of the terms or provisions of the Senior Loan Documents or this Agreement, then such terms and provisions of the Junior Loan Documents shall not be observed or performed unless and until all of the obligations of the Borrower set forth in the Senior Loan Documents (other than obligations that expressly survive the payment and performance of the Senior Loan in full, such as Borrower's various indemnity obligations, so long as such obligations are not required to be paid or performed as of the date the Senior Loan is paid and performed in full) have been indefeasibly paid and performed in full. Neither the review of nor consent to any of the Junior Loan Documents by the Senior Lender shall be deemed approval or authorization of performance or observance of any term or provision of the Junior Loan Documents that is contrary to or inconsistent with the Senior Loan Documents, except to the extent expressly permitted under this Agreement. Notwithstanding the foregoing, the mere existence of any term or provision in the Junior Loan Documents that is

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inconsistent with the Senior Loan Documents shall not constitute a default under the Senior Loan Documents so long as neither the Borrower nor any Guarantor observes or performs such terms or provisions prior to the indefeasible payment and performance of the Senior Loan Documents.

3. **Junior Lender's Consent.** The Junior Lender consents to the making of the Senior Loan, the terms and provisions of the Senior Loan Documents and the liens and encumbrances on and security interests in the Property created thereby, and agrees that the execution, delivery and performance thereof shall not constitute a default under the terms and provisions of the Junior Loan Documents.

4. **Subordination of Junior Loan.** The Junior Lender hereby acknowledges and agrees that until all of the obligations of the Borrower set forth in the Senior Loan Documents (other than obligations that expressly survive the payment and performance of the Senior Loan in full, such as Borrower's various indemnity obligations, so long as such obligations are not required to be paid or performed as of the date the Senior Loan is paid and performed in full) have been indefeasibly paid and performed in full:

(a) the liens, security interests and encumbrances created by the Junior Mortgage and the other Junior Loan Documents shall be subject and subordinate to the liens, security interests and encumbrances created by the Senior Loan Documents in each and every respect, and shall be limited in the manner set forth in the other provisions of this Agreement;

(b) except for the liens, security interests and encumbrances created by the Junior Mortgage and the other currently existing Junior Loan Documents, the Junior Lender shall not be entitled to obtain or maintain any other mortgage or other liens, security interests or encumbrances on, in or against the Property, or any part thereof, whether voluntarily or involuntarily, by subrogation, express agreement, court order or otherwise (including, without limitation, any which may arise with respect to real estate taxes, assessments or other governmental charges); provided, however, that the foregoing shall not be deemed to prohibit any amendment to the Junior Loan Documents that is not a Prohibited Junior Amendment pursuant to **Section 10(b)** below;

(c) during the one (1) year period following the date upon which Junior Lender delivers written notice to the Junior Borrower of an "Event of Default" as defined in the Junior Loan Documents, the Junior Lender shall not exercise any rights or remedies available to Junior Lender upon the occurrence of a breach or default under the Junior Loan Documents, whether available at law, in equity, under bankruptcy or insolvency laws (except for the filing of proofs of claim or the exercising of other rights of the Junior Lender expressly permitted under **Section 11** below), pursuant to the express provisions of the Junior Loan Documents or otherwise, including, without limitation, the right to foreclose the Junior Mortgage or any other lien or security interest in favor of the Junior Lender, the right to the appointment of a receiver or the appointment of the Junior Lender as mortgagee-in-possession, or the institution of any involuntary bankruptcy proceedings; provided, however, that the foregoing shall not prohibit the Junior Lender from exercising any rights expressly permitted hereunder, subject to the limitations set forth herein; and

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(d) all amounts due to the Junior Lender under the Junior Loan and rights with respect thereto (including, without limitation, interest and/or principal payments or prepayments, fees, rents, sales proceeds, insurance proceeds, condemnation awards, payments into escrow or cash collateral accounts or lockboxes for security purposes or to balance the Junior Loan or as additional security of any kind, or to repay expenses or Protective Advances [as hereinafter defined], and rights under or payments of any personal guarantees or indemnity agreements), are and shall at all times continue to be expressly subject and subordinate in right of payment to the indebtedness of, and all amounts due from, the Borrower and/or Guarantors evidenced by or set forth in the Senior Loan Documents and any and all obligatory advances and Protective Advances (as defined herein) advanced or incurred in accordance therewith, including the obligations of the Guarantors for the payment of the Guarantors' Senior Obligations. Notwithstanding any language in this Section to the contrary, the Senior Lender shall permit the Borrower to make monthly payments of Current Interest (as defined in the Junior Note) to the Junior Lender in the amount of \$18,333.33, or any portion thereof, from proceeds of the Interest Reserve Loan until such time as the Senior Lender has disbursed all of the proceeds of the Interest Reserve Loan; and prior to the occurrence of an Event of Default (as defined in the Senior Loan Documents) or the occurrence of an event which, with the passage of time or the giving of notice, or both, would constitute an Event of Default under the Senior Loan Documents, the Senior Lender shall permit the Borrower to (i) make monthly payments of Current Interest (as defined in the Junior Note) to the Junior Lender in the amount of \$18,333.33, or any portion thereof, from funds Borrower deposited in the Additional Equity Account (as defined in the Construction Loan Agreement), and (ii) prepay outstanding principal under the Junior Loan in accordance with the terms of Section 2.6 of the Junior Loan Agreement.

Without intending to limit the generality of the foregoing, in the event that, prior to the time that all of the obligations of the Borrower set forth in the Senior Loan Documents (other than obligations that expressly survive the payment and performance of the Senior Loan in full, such as Borrower's various indemnity obligations, so long as such obligations are not required to be paid or performed as of the date the Senior Loan is paid and performed in full) have been indefeasibly paid and performed in full: (i) the Junior Lender receives any payment of any kind whatsoever from the Borrower or any Guarantor, or otherwise to satisfy any obligations under the Junior Loan Documents, the provisions of **Section 8** below shall apply; or (ii) the Junior Lender acquires any lien on, security interest in or other encumbrance against any of the Property (other than the liens, security interests and other encumbrances set forth in the Junior Loan Documents as of the date hereof), the Cash Collateral Account, or any assets of any Guarantor, the Junior Lender shall immediately take all action reasonably required by the Senior Lender to release and remove same. The term "**Protective Advances**" means any advances necessary in the Senior Lender's or the Junior Lender's reasonable judgment to protect the security for the Senior Loan or the Junior Loan, as the case may be, such as, by way of example and not limitation, advances to pay real estate taxes, insurance premiums or necessary repair, maintenance or construction costs or amounts advanced by the Junior Lender in connection with its exercise of its rights hereunder to cure defaults under the Senior Loan Documents.

**5. Senior Lender's Rights.** The Senior Lender may, in its sole and absolute discretion, without the approval of the Junior Lender, without regard to any effect upon the

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Junior Loan or the collateral for the Junior Loan and without affecting the senior priority of the Senior Loan Documents or other rights and benefits afforded to the Senior Lender herein: (a) release or compromise any obligation in the Senior Note or Senior Loan Documents, (b) 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 Senior Note or (c) retain or obtain a lien in any property to further secure payment of the Senior Note.

6. **Notice and Cure of Event of Default.** The Junior Lender shall give the Senior Lender notice of any default by the Borrower under any of the Junior Loan Documents at the time such notice is given to the Borrower and shall promptly provide to the Senior Lender copies of all other notices and correspondence given or received by the Junior Lender relating to such default. The Senior Lender shall give the Junior Lender notice of any "Event of Default" (as defined in the Senior Mortgage) by the Borrower under any of the Senior Loan Documents at the time such notice is given to the Borrower and shall provide to the Junior Lender copies of all other notices and correspondence given or received by the Senior Lender relating to such Event of Default and copies of any foreclosure proceedings involving the Borrower or all or any portion of the Property. If an Event of Default shall occur under the Senior Loan Documents, the Junior Lender shall have the right (but not the obligation) to cure such Default, which right to cure shall extend for the permitted cure periods set forth below, it being agreed that until the expiration of such permitted cure periods, the Senior Lender shall not commence a foreclosure of the Senior Mortgage nor shall the Senior Lender impose or enforce against the Junior Lender any default rate, late payment charges or other fees as a result of such Event of Default provided such Event of Default is cured by the Junior Lender:

(a) In the case of any Event of Default under the Senior Loan Documents which can be cured solely by the payment of money, including, without limitation, scheduled payments of principal and interest under the Senior Note (such Events of Default, "**Monetary Defaults**"), the Junior Lender's right to cure shall extend for twenty-nine (29) days after receipt by the Junior Lender of notice from the Senior Lender that such Monetary Default has occurred;

(b) In the case of any Event of Default under the Senior Loan Documents which is not a Monetary Default (such Events of Default, "**Other Defaults**"), the Junior Lender's right to cure shall extend for thirty (30) days after receipt by the Junior Lender of notice from the Senior Lender that such Other Default has occurred; and

It is expressly agreed that the curing by the Junior Lender of any Event of Default under the Senior Loan Documents or the taking of any action by the Junior Lender in connection therewith shall not be deemed an assumption by the Junior Lender of any of the Borrower's obligations under the Senior Loan Documents.

7. **Limitation on Remedies of the Junior Lender.** Except as expressly permitted herein, the Junior Lender shall not commence any remedial action against the Borrower or any of the Guarantors (or against any assets of the Borrower or any of the Guarantors) pursuant to the Junior Loan Documents following a breach or default by the Borrower thereunder. The foreclosure of the Junior Mortgage or the appointment of a receiver or the Junior Lender as mortgagee-in-possession or, except as expressly permitted herein, any other remedial action

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against the Borrower or any of the Guarantors (or against any assets of Borrower or any of the Guarantors) under the Junior Loan Documents or otherwise, without the prior, written consent of Senior Lender shall constitute an Event of Default under the Senior Loan and the Senior Loan Documents and under this Agreement at the time such enforcement or remedial action is initiated.

8. **Constructive Trust.** As provided in **Section 4** above, the payment of any amounts due under the Junior Loan Documents is subordinated to the prior payment of all amounts due under the Senior Note, Senior Mortgage and other Senior Loan Documents. So long as the Senior Loan shall not have been paid in full, and until all of the obligations of the Borrower set forth in the Senior Loan Documents (other than obligations that expressly survive the payment and performance of the Senior Loan in full, such as Borrower's various indemnity obligations, so long as such obligations are not required to be paid or performed as of the date the Senior Loan is paid and performed in full) have been indefeasibly paid and performed in full, no payment whatsoever shall be made to the Junior Lender by or on behalf of the Borrower or any Guarantor for or on account of any amount due under the Junior Loan Documents. For purposes of this Agreement, the Senior Loan shall not be deemed paid or satisfied in full and the Borrower's obligations shall not be deemed to be indefeasibly paid and performed until, among other things, Senior Lender has received full payment of all amounts due the Senior Lender under the Senior Loan Documents. In the event payment of amounts due under or with respect to the Junior Loan Documents that are subordinated and prohibited as set forth above is made, including, without limitation, the types of payments described in clause (d) of **Section 4** above, the Junior Lender shall hold the same in trust for the Senior Lender and promptly pay and deliver same to the Senior Lender for the benefit of the Senior Lender. Furthermore, in the event that after the Senior Loan is repaid in full: (a) the Borrower or any Guarantor becomes obligated to pay to the Senior Lender any amounts due under the Senior Loan Documents for any reason, including, without limitation, because of an indemnity or other obligation that survives repayment of the Senior Loan or because the Senior Lender is required to surrender any amount previously paid under the Senior Loan Documents because of a preference, or other bankruptcy or insolvency defense, or otherwise; and (b) the Junior Lender has received any amount due under or with respect to the Junior Loan, the Junior Lender shall pay to the Senior Lender the amount owing under the Senior Loan Documents up to the amount so received by the Junior Lender.

9. **Further Assurances.** So long as the Senior Loan Documents shall remain a first lien upon the Property or any part thereof or the Cash Collateral Account, or the Senior Loan or any part thereof shall remain unpaid, the Junior Lender shall at no cost to the Junior Lender (provided that the Junior Lender shall be responsible for its own counsels' fees) execute, acknowledge and deliver, promptly following the Senior Lender's demand, from time to time, any and all further subordinations, agreements or other instruments consistent with the terms of this Agreement in form and content satisfactory to the Senior Lender as the Senior Lender may reasonably require for carrying out the purpose and intent of the covenants and agreements contained herein.

10. **Representations, Warranties and Covenants of the Junior Lender.** The Junior Lender hereby represents and warrants to and covenants and agrees with the Senior Lender as follows:

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(a) The Junior Lender has delivered to the Senior Lender true and complete fully executed copies of the Junior Loan Documents, and such documents have not been amended, modified or supplemented in any way and such documents constitute (i) the entire agreement of the Junior Lender and the Borrower and (ii) all of the documents evidencing, securing, guaranteeing or governing the Junior Loan.

(b) Without the Senior Lender's prior, written consent, which may be denied in the Senior Lender's sole and absolute discretion, the Junior Lender shall not enter into any Prohibited Junior Amendment (as defined below). The Junior Lender may enter into any modification or amendment of the Junior Loan Documents that is not a Prohibited Junior Amendment; provided, however, that the modified and amended Junior Loan Documents shall otherwise remain subject to the terms, conditions and limitations set forth herein. For purposes hereof, "**Prohibited Junior Amendment**" means any amendment or modification of the Junior Loan Documents which (i) expands the rights of the holder of the Junior Loan Documents to advance additional indebtedness beyond that permitted under the Junior Loan Documents in effect on the date hereof (which permitted additional advances include, without limitation, Protective Advances), (ii) shortens the term of the Junior Loan, (iii) increases the total payments (including both principal and interest) required under the Junior Loan Documents or recharacterizes principal payments as interest, fees or other amounts, (iv) increases the rate at which interest accrues on the Junior Loan, (v) shortens the cure periods available to the Borrower, (vi) imposes additional fees, prepayment premiums or penalties beyond those amounts or rights provided in the existing Junior Loan Documents, (vii) limits the contractual ability of the Borrower to make any payment of principal, interest or other amounts due under the Senior Loan Documents, (viii) creates any new defaults or events of default, (ix) grants the holders thereof any additional lien or encumbrance on or security interest in the Property or in any other property that secures the Senior Loan or (x) grants the holders thereof a lien or encumbrance on or security interest in any property owned by any Guarantor. This subsection (b) does not prohibit increases in the rate at which interests accrues on the Junior Loan to the extent such increases are contemplated by the Junior Loan Documents as of the date of this Agreement. Copies of any amendments to the Junior Loan Documents will be delivered to the Senior Lender upon execution thereof, regardless of whether consent thereto is required.

(c) No additional advances will be made under the Junior Loan Documents other than Protective Advances as permitted by such documents.

(d) Notwithstanding any other provisions in the Junior Loan Documents to the contrary, until all of the obligations of the Borrower set forth in the Senior Loan Documents (other than obligations that expressly survive the payment and performance of the Senior Loan in full, such as Borrower's various indemnity obligations, so long as such obligations are not required to be paid or performed as of the date the Senior Loan is paid and performed in full) have been indefeasibly paid and performed in full, the Junior Lender agrees to assign and release unto the Senior Lender or any other holder or holders of the Senior 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 of the Senior Mortgage and (ii) all condemnation awards made for any taking



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of any part of the Property for application pursuant to the provisions of the Senior Mortgage. In the event there are any excess insurance proceeds or condemnation awards after Borrower's obligations under the Senior Loan Documents have been indefeasibly paid and performed in full, Junior Lender shall be entitled to receive the excess insurance proceeds or condemnation awards to the extent permitted pursuant to the Junior Loan Documents.

(e) If the Junior Lender obtains any assets of the Borrower or any Guarantor and is not entitled to apply such assets to the Junior Loan in accordance with the provisions of this Agreement, the Junior Lender will hold such assets in trust for, and immediately pay, deliver and assign to the Senior Lender such assets for application to the Senior Loan.

(f) The Junior Lender, as the holder of the Junior Loan, shall not at any time prior to the indefeasible payment and performance in full of all of the Borrower's obligations under the Senior Loan Documents, demand or retain any voluntary or optional payment, prepayment, redemption or repurchase of any portion of the Junior Loan from the Borrower.

(g) If the Senior Lender or any other holder or holders of the Senior Loan, or their agents, exercise any right or take any remedial action pursuant to the terms and provisions of the Senior Mortgage or the Senior Loan Documents, the Junior Lender expressly waives any defenses or claims it may have as a junior mortgagee, creditor or equity holder or otherwise against the Senior Lender or any other holder of all or any part of the Senior Loan, in connection with such act by the Senior Lender or any other holder or holders of the Senior Loan, or their agents, other than defenses or claims predicated on (i) a breach of this Agreement by the Senior Lender or the holder of the Senior Loan; or (ii) bad faith or willful misconduct by the Senior Lender or the holder of the Senior Loan.

(h) The Junior Lender agrees not to oppose any plan of reorganization or rehabilitation proposed or approved by the Senior Lender in any Bankruptcy Proceeding (as hereinafter defined) on the basis that the Junior Lender is entitled to any payments before the Senior Loan has been indefeasibly paid and performed in full; provided, however, that the foregoing shall not prohibit the Junior Lender from filing a proof of claim in any Bankruptcy Proceeding, subject, however, to the provisions of **Section 11** below.

(i) The foregoing provisions are solely for the purpose of defining the relative rights of the holder or holders of the Senior Loan and the holder or holders of the Junior Loan, and nothing herein shall impair, as between the Borrower and Senior Lender, the obligation of the Borrower, which is unconditional and absolute, to pay the Senior Loan in accordance with its terms, nor shall anything herein prevent the Senior Lender from exercising all remedies otherwise permitted by applicable law or under the Senior Note, Senior Mortgage or other Senior Loan Documents, subject to the provisions of this Agreement.

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(j) The Junior Lender has no security interest in the Cash Collateral Account or the Additional Equity Account (as defined in the Construction Loan Agreement) and hereby disclaims any such security interest.

## 11. Bankruptcy Proceedings.

(a) In the event of any proceedings to liquidate, dissolve or wind up the Borrower or any Guarantor, or of any execution, sale, receivership, insolvency, bankruptcy, liquidation, readjustment, reorganization, or other similar proceedings relative to the Borrower or any Guarantor, or its or his property (a "**Bankruptcy Proceeding**"), the Senior Loan shall be preferred in payment over the Junior Loan, and the Senior Loan shall first be paid in full before any payment is made upon the Junior 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 Senior Loan to the same extent as herein provided), which shall be made upon or in respect of the Junior Loan as a result of any such proceeding, shall be paid over first to the holder or holders of the Senior Loan for application in payment thereof unless and until the Senior Loan shall have been indefeasibly paid or satisfied in full.

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

(c) The Senior Lender and the Junior Lender hereby agree as follows:

(i) The Junior Lender shall vote in favor of, and not against, any and all actions taken by the Senior Lender in any Bankruptcy Proceeding to permit the commencement or continuation of any foreclosure; and

(ii) The Junior Lender shall not propose any plan or vote to confirm or take any other action in support of any plan or other course of action proposed by the Borrower or any other party (other than the Senior Lender) which would have the effect of (A) impairing the priority or lien of the Senior Loan, (B) denying, impeding or delaying the Senior Lender's efforts to collect the Senior Loan, or (C) delaying, preventing, limiting, requiring a reduction in the amount of or impairing the Senior Lender's collection of all or any portion of the Senior Loan. The foregoing shall not be deemed to prohibit the Junior Lender from proposing or voting for a plan that has been expressly agreed to in writing by the Senior Lender (in its sole and absolute discretion).

12. Junior Lender's Right to Purchase the Senior Loan. If (i) an Event of Default shall have occurred under the Senior Loan Documents, or any Event of Default occurs under the Senior Loan Documents that, by its nature, cannot be cured by the Junior Lender, and, in either

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case, the Senior Lender will not agree to waive such Event of Default upon written request of Junior Lender, or (ii) a Bankruptcy Proceeding with respect to the Borrower shall have commenced and be continuing, then the Junior Lender shall have the right to purchase the Senior Loan and all rights, interests, documents, instruments, insurance policies, and accounts in connection therewith, without recourse or representations by the Senior Lender, except representations as to the outstanding balance of the Senior Note and that the Senior Lender has not assigned or encumbered its rights in the Senior Loan on the following basis:

(a) For a purchase price (the "**Purchase Price**") equal to the sum of (A) 100% of the outstanding principal indebtedness evidenced and secured by the Senior Loan Documents, (B) all accrued, unpaid interest (including interest at the Default Rate provided for in the Senior Loan Documents) and late charges due on the Senior Loan to and including the date on which the sale is closed, (C) all Protective Advances made by the Senior Lender and any (D) all other amounts due and payable to the Senior Lender under any of the Senior Loan Documents, including without limitation, legal fees of the Senior Lender's counsel, and all other enforcement costs therefor incurred by Senior Lender, and any unpaid release fees or other fees, if any, owed the Senior Lender pursuant to the terms of the Senior Loan Documents.

(b) The Junior Lender's election to purchase the Senior Loan must be exercised by (A) written notice to the Senior Lender of its intention to do so (the "**Purchase Notice**") and (B) payment of the Purchase Price to the Senior Lender by wire transfer within forty-five (45) days of delivery of the Purchase Notice.

(c) Upon receipt of the Purchase Price, Senior Lender shall deliver to Junior Lender the following documents:

(i) Original, signed or certified copies of all of the Senior Loan Documents (except for UCC Financing Statements of which true and correct copies shall be delivered); and

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

(d) If for any reason whatsoever, other than the default of the Senior Lender or other failure of Senior Lender to deliver the documents described in subparagraphs (c)(i) and (ii), the sale is not consummated and the Senior Lender does not receive the Purchase Price in its account by 4:00 p.m. CST, on the date of closing specified above, the Junior Lender's right to purchase the Senior Loan Documents shall be null and void.

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(e) Neither any of the rights granted the Junior Lender in this **Section 12**, nor the Junior Lender's election to purchase the Senior Loan Documents, shall nullify, impair, diminish or in any way affect any of the rights or remedies granted to or available to the Senior Lender pursuant to the Senior Loan Documents or available to the Senior Lender at law or in equity, or the exercise of any such rights or remedies by the Senior Lender; provided, however, that if the Senior Lender is notified of the exercise of the Junior Lender's intent to purchase the Senior Loan prior to the filing of a foreclosure action or seeking the appointment of a receiver, the Senior Lender shall defer filing such action or action to have a receiver appointed, until the forty-sixth (46<sup>th</sup>) day after the date of such notice. Notwithstanding the foregoing, the Senior Lender shall not be precluded from exercising its rights in rents, sale proceeds or other cash collateral or its rights to take any action deemed reasonably necessary or reasonably desirable by the Senior Lender to protect its interest or security in the Property, irrespective of receipt of notice of the exercise of Junior Lender's right to purchase the Senior Loan (provided that any proceeds received by the Senior Lender as a result of its exercising such rights shall be applied to the costs thereof and then to the outstanding balance of the Senior Loan, as more fully provided in the Senior Loan Documents, with any such reduction in the balance of the Senior Loan reducing the Purchase Price accordingly).

**13. Representations, Warranties and Covenants of the Senior Lender.** The Senior Lender hereby represents and warrants and covenants and agrees with Junior Lender as follows:

(a) The Senior Lender has delivered to the Junior Lender true and complete fully executed copies of the Senior Loan Documents, and such documents have not been amended, modified or supplemented in any way and such documents constitute (i) the entire agreement of the Senior Lender and the Borrower and (ii) all of the documents evidencing, securing, guaranteeing or governing the Senior Loan.

(b) Without the Junior Lender's prior, written consent, which may be denied in the Junior Lender's sole and absolute discretion, the Senior Lender shall not enter into any Prohibited Senior Amendment (as defined below). The Senior Lender may enter into any modification or amendment of the Senior Loan Documents that is not a Prohibited Senior Amendment; provided, however, that the modified and amended Senior Loan Documents shall otherwise remain subject to the terms, conditions and limitations set forth herein. For purposes hereof, "**Prohibited Senior Amendment**" means any amendment or modification of the Senior Loan Documents which (i) expands the rights of the holder of the Senior Loan Documents to advance additional indebtedness beyond that permitted under the Senior Loan Documents in effect on the date hereof (which permitted additional advances include, without limitation, Protective Advances), (ii) changes the term of the Senior Loan, (iii) increases the total payments (including both principal and interest) required under the Senior Loan Documents or recharacterizes principal payments as interest, fees or other amounts, (iv) increases the rate at which interest accrues on the Senior Loan, (v) shortens the cure periods available to the Borrower, (vi) imposes additional fees, prepayment premiums or penalties, beyond those amounts or rights provided in the existing Senior Loan Documents, or (vii) provides for the accrual rather than current payment of interest on the Senior Loan to the extent not

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currently contemplated under the Senior Loan Documents (the Junior Lender acknowledging that interest on the Senior Loan is anticipated to be paid from an interest reserve funded from proceeds of the Senior Loan). Copies of any amendments to the Senior Loan Documents will be delivered to the Junior Lender upon execution thereof, regardless of whether consent thereto is required.

(c) No additional advances will be made under the Senior Loan Documents other than advances of the original principal amount of the Senior Loan and Protective Advances as permitted by such documents. Except in the case of an emergency, the Senior Lender shall provide ten (10) days prior written notice to the Junior Lender of all Protective Advances intended to be made by the Senior Lender under the Senior Loan Documents prior to the making of any such Protective Advance.

**14. Borrower Non-Compliance.** No right of the Senior Lender or any other holder or holders of the Senior Loan to enforce the subordination of the Junior Loan Documents, or the Junior 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 any Guarantor, or by any noncompliance by the Borrower or any Guarantor with any of the terms, provisions and covenants of the Junior Loan or the Junior Loan Documents, regardless of any knowledge thereof with which the Senior Lender or any other holder or holders of the Senior Loan may have or otherwise be charged. No right of the Junior Lender to enforce the provisions of this Agreement against the Senior Lender or any other holder or holders of the Senior Loan shall at any time or in any way be affected or impaired by any failure to act on the part of the Borrower or any Guarantor, or by any noncompliance by the Borrower or any Guarantor with any of the terms, provisions and covenants of the Senior Loan or the Senior Loan Documents, regardless of any knowledge thereof with which the Junior Lender or any other holder or holders of the Junior Loan may have or otherwise charged. The foregoing provisions of this **Section 13** are not intended to modify or otherwise affect the relative rights and priorities between the Junior Lender, on the one hand, and the Senior Lender, on the other hand, as set forth in the other provisions of this Agreement.

**15. Power and Authority.** 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.

**16. Notices.** All notices or other communications required or permitted hereunder shall be (a) in writing and shall be deemed to be received 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 (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:

# UNOFFICIAL COPY

To the Senior Lender                    NORTH SHORE COMMUNITY BANK & TRUST  
COMPANY  
7800 North Lincoln Avenue  
Skokie, Illinois 60077  
Attention:     Jeff M. Galus

With a copy to:                            MUCH *SHELIST*  
191 North Wacker Drive  
Suite 1800  
Chicago, Illinois 60606  
Attention:     Scott L. David

To the Junior Lender:                    STRENGTH PROPERTY PARTNERS, L.P.  
350 N. Old Woodward Avenue, Suite 100  
Birmingham, Michigan 48009  
Attention:     Robert D. Dwortz

With a copy to:                            WILLIAMS, WILLIAMS, RATTNER & PLUNKETT, P.C.  
380 North Old Woodward Avenue, Suite 300  
Birmingham, Michigan 48009  
Attention: John D. Gaber

Any party may designate a change of address by written notice to the other parties by giving at least ten (10) days' prior written notice of such change of address.

**17. Governing Law; Venue. THIS AGREEMENT AND ANY AND ALL CLAIMS ARISING FROM OR RELATING TO THIS AGREEMENT SHALL BE CONSTRUED AND INTERPRETED UNDER THE LAWS OF THE STATE OF ILLINOIS. THE BORROWER, THE SENIOR LENDER AND THE JUNIOR LENDER, IN ORDER TO INDUCE THE SENIOR LENDER TO ENTER INTO THE SENIOR 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 THE NORTHERN DISTRICT OF ILLINOIS-EASTERN DIVISION. THE BORROWER, THE SENIOR LENDER AND THE JUNIOR LENDER EACH HEREBY WAIVES ANY RIGHT IT MAY HAVE TO TRANSFER OR CHANGE THE VENUE OF ANY LITIGATION BROUGHT AGAINST IT BY THE SENIOR LENDER ON THIS AGREEMENT IN ACCORDANCE WITH THIS SECTION. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE SENIOR LENDER TO ENTER INTO THE SENIOR LOAN.**

**18. Waiver of Trial by Jury. EACH OF THE BORROWER, THE SENIOR LENDER AND THE JUNIOR LENDER EXPRESSLY AND UNCONDITIONALLY**

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**WAIVES, IN CONNECTION WITH ANY SUIT, ACTION OR PROCEEDING BROUGHT BY THE SENIOR LENDER ON THIS AGREEMENT, ANY AND EVERY RIGHT IT MAY HAVE TO A TRIAL BY JURY.**

**19. Payment in Full.** Notwithstanding any other provisions set forth herein, the covenants and agreements of the Junior Lender contained in this Agreement that benefit the Senior Lender or the holder of the Senior Loan and any restriction on the Junior Lender shall cease upon: (i) indefeasible repayment of the Senior Loan in full and the indefeasible payment and performance in full of all of the Borrower's other obligations under the Senior Loan Documents (other than obligations that expressly survive the payment and performance of the Senior Loan in full, such as Borrower's various indemnity obligations, so long as such obligations are not required to be paid or performed as of the date the Senior Loan is paid and performed in full), or (ii) the full and indefeasible release by the Junior Lender of the Junior Loan Documents at a time when Junior Lender has no further duties, obligations or liabilities hereunder.

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

**21. Severability.** 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.

**22. Successors and Assigns.** 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; provided, however, that the provision of this **Section 22** shall not be deemed to permit any unpermitted assignee to acquire any benefits hereunder (but such unpermitted assignee shall be bound by the assignor's obligations and restrictions hereunder).

**23. Amendment.** 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.

**24. Recordation.** This Agreement or a memorandum thereof shall be recorded concurrently with the execution and delivery hereof. In order to further notify third parties of the existence of this Agreement, the Junior Note and the Junior Mortgage each shall, at all times, expressly state that the obligations of the Junior Borrower thereunder are subordinated to the Senior Loan pursuant to the terms and provisions of this Agreement.

**25. Conflicts.** As between the parties hereto, the rights and obligations of the parties contained in this Agreement shall prevail over any provision in either the Senior Loan Documents or the Junior Loan Documents that is inconsistent with the terms of this Agreement. This Agreement is for the sole benefit of the Senior Lender, the Junior Lender and their

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respective successors and permitted assigns. Nothing herein shall be deemed to modify, limit or in any way affect the rights and obligations of the Borrower or any Guarantor under the Senior Loan Documents or the Borrower or any Guarantor under the Junior Loan Documents, except as otherwise expressly set forth herein. Neither the Borrower nor any Guarantor is or shall be deemed to be a third-party beneficiary hereunder. The Senior Lender shall have the right to sell or transfer the Senior Loan and Senior Loan Documents, or any interest therein, in whole or in part, to any institutional lender.

**26. Estoppel Certificates.** The Senior Lender and the Junior Lender mutually agree to provide to one another from time to time within 15 days after written request, but not more often than once in any 12-month period (except in the event of a default by the Borrower, in which case requests may be more often but not so often as to unreasonably burden or disturb the lender furnishing the certificate), estoppel certificates specifying: (a) the outstanding principal balance (and any other amounts then due and payable) of the Junior Loan or the Senior Loan, from such lender to the Borrower, as applicable; (b) whether, to such lender's knowledge, any defaults exists under the Junior Loan Documents or the Senior Loan Documents, between such lender and the Borrower, as applicable, and specifying the nature of such defaults, if any; and (c) any other information reasonably requested pertaining to the Junior Loan Documents or the Senior Loan Documents between such lender and the Borrower, as applicable.

**27. Complete Agreement.** This Agreement constitutes the complete agreement between the parties with respect to the subject matter hereof.

**[Remainder of Page Intentionally Blank—Signature Pages Follow]**



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

**SENIOR LENDER:**

**NORTH SHORE COMMUNITY BANK & TRUST COMPANY**, an Illinois banking corporation

By: *TEH*  
Name: Thomas E. O'Hare  
Title: Executive Vice President

Property of Cook County Notary Public Office

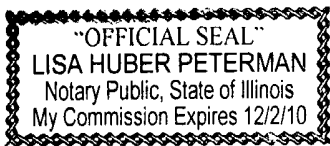
STATE OF ILLINOIS )

COUNTY OF Cook )

SS

The undersigned, a Notary Public in and for the said County, in the State aforesaid, **DO HEREBY CERTIFY** that Thomas E. O'Hare, the Executive Vice President of **NORTH SHORE COMMUNITY BANK & TRUST COMPANY**, an Illinois banking corporation, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Executive Vice President 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 banking corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 29<sup>th</sup> day of May, 2008.



*Lisa Huber Peterman*  
Notary Public

My Commission Expires:  
12-2-10

[Signatures Continue on Following Page]

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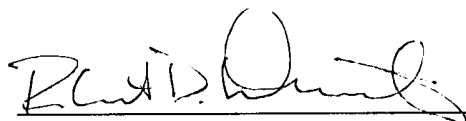
[Signatures Continued from Preceding Page]

**JUNIOR LENDER:**

STRENGTH PROPERTY PARTNERS, L.P.  
a Delaware limited partnership

By: Strength Property GP, LLC, a Michigan  
limited liability company

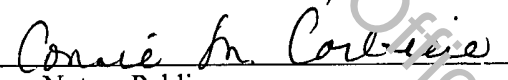
Its: General Partner

By:   
Robert D. Dwortz, Manager

STATE OF MICHIGAN )  
 ) SS.  
COUNTY OF Oakland )

The undersigned, a Notary Public in and for the said County, in the State aforesaid, **DO HEREBY CERTIFY** that Robert D. Dwortz, Manager of Strength Property GP, LLC, a Michigan limited liability company, the General Partner of **STRENGTH PROPERTY PARTNERS, L.P.**, a Delaware limited partnership, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Manager, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said limited partnership, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 29 day of May, 2008.

  
Notary Public

CONNIE M. CORBIERE  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF OAKLAND  
MY COMMISSION EXPIRES Aug 8, 2008  
ACTING IN THE COUNTY OF  
Oakland

My Commission Expires:  
8-9-08

[Signatures Continue on Following Page]

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## ACKNOWLEDGMENT OF THE BORROWER AND GUARANTORS

The undersigned hereby acknowledge receipt of a copy of the foregoing Agreement and the undersigned's agreement to all of the provisions therein contained.

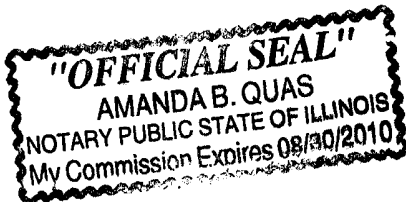
**SHEFFIELD WELLINGTON LLC**, an Illinois limited liability company

By: [Signature]  
Name: SETH M. HARRIS  
Title: MEMBER

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF Cook )

The undersigned, a Notary Public in and for the said County, in the State aforesaid, **DO HEREBY CERTIFY** that SETH M. HARRIS, the member of **SHEFFIELD WELLINGTON LLC**, an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such member, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 24 day of June, 2008.



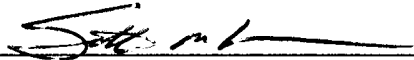
[Signature]  
Notary Public

My Commission Expires:

[Signatures Continue on Following Page]

# UNOFFICIAL COPY

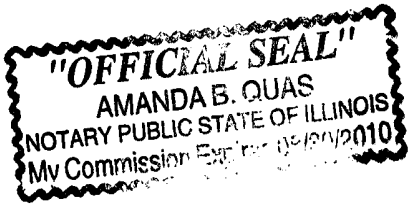
[Signatures Continued from Preceding Page]

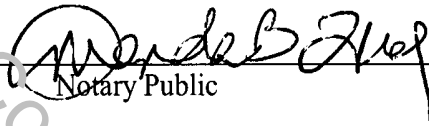
  
Seth M. Harris

STATE OF ILLINOIS     )  
  ) SS.  
COUNTY OF Cook     )

The undersigned, a Notary Public in and for the said County, in the State aforesaid, **DO HEREBY CERTIFY** that Seth M. Harris, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 2<sup>nd</sup> day of June, 2008.



  
Notary Public

My Commission Expires:

[Signatures Continue on Following Page]

# UNOFFICIAL COPY

[Signatures Continued from Preceding Page]

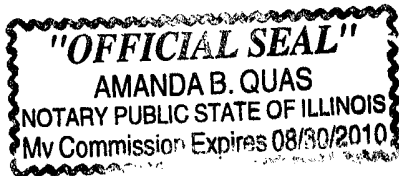
SMH CONTRACTORS, LLC, an Illinois limited liability company

By: *Seth M. Harris*  
Name: Seth M. Harris  
Title: MANAGER

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF Cook )

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Seth M. Harris, the manager of SMH CONTRACTORS, LLC, an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such manager, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 21<sup>st</sup> day of June, 2008.



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

ACKNOWLEDGEMENT  
SUBORDINATION AND INTERCREDITOR AGREEMENT  
SMH CONTRACTORS, LLC

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## EXHIBIT "A"

### LEGAL DESCRIPTION OF THE PROPERTY

LOTS 1 AND 2 IN SICKEL AND KAGEBIN'S SUBDIVISION OF THE NORTH ½ OF BLOCK 1 IN THE SUBDIVISION OF OUTLOT 6 IN CANAL TRUSTEES' SUBDIVISION OF THE EAST ½ OF SECTION 29, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

### PROPERTY ADDRESS:

2954-58 N. SHEFFIELD AVENUE/1001-1011 W. WELLINGTON AVENUE  
CHICAGO, IL 60657

### PIN:

14-29-216-030-0000

Property Of Cook County Clerk's Office

# UNOFFICIAL COPY

## EXHIBIT "B"

### DESCRIPTION OF SENIOR LOAN DOCUMENTS

All documents are dated as of May 29, 2008.

#### **CONSTRUCTION LOAN DOCUMENTS:**

1. Construction Loan Agreement
2. \$2,650,000.00 Promissory Note
3. Construction Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing
4. Assignment of Leases and Rents
5. Assignment of Plans, Specifications, Construction and Service contracts, Licenses and Permits
6. Guaranty of Payment and Completion from Seth M. Harris
7. Guaranty of Payment and Completion from SMH Contractors, LLC
8. Environmental Indemnity Agreement
9. Certificate of Representations, Warranties and Covenants
10. Pledge Agreement for Additional Equity Account
11. UCC-1 Financing Statements

#### **INTEREST RESERVE LOAN DOCUMENTS:**

1. \$302,000.00 Promissory Note
2. Guaranty of Payment from Seth M. Harris
3. Guaranty of Payment from SMH Contractors, LLC
4. Certificate of Representations, Warranties and Covenants
5. Pledge Agreement for \$302,000.00 Cash Collateral Account