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## Illinois Anti-Predatory Lending Database Program

### Certificate of Exemption



Doc#: 1036416026 Fee: \$76.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 12/30/2010 11:31 AM Pg: 1 of 21

Report Mortgage Fraud  
800-532-8785

The property identified as:

PIN: 17-10-400-035-1279

**Address:**

**Street:** 420 East Waterside Drive

**Street line 2:** Suite 3401 and P-224

**City:** Chicago

**State:** IL

**ZIP Code:** 60601

**Lender:** Harris, N.A.

**Borrower:** Dennis R. Egidi

**Loan / Mortgage Amount:** \$550,000.00

This property is located within the program area and is exempt from the requirements of 765 ILCS 77/70 et seq. because it is commercial property.

**Certificate number:** 605AB42B-02BA-467D-B9A6-0CAD5CE77E1B

**Execution date:** 09/01/2010

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COOK COUNTY,  
ILLINOIS

THIS SPACE RESERVED FOR RECORDER'S USE ONLY.

## JUNIOR MORTGAGE

by

Dennis R. Egidi

to and for the benefit of

Harris N.A.  
a national banking association

**THIS DOCUMENT PREPARED BY AND  
AFTER RECORDING RETURN TO:**

Francis L. Keldermans, Esq.  
Holland & Knight LLP  
131 S. Dearborn Street  
30<sup>th</sup> Floor  
Chicago, Illinois 60603



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## JUNIOR MORTGAGE

**THIS JUNIOR MORTGAGE** ("MORTGAGE") IS MADE AS OF THE 1ST DAY OF SEPTEMBER, 2010, BY **DENNIS R. EGIDI**, ("MORTGAGOR"), TO AND FOR THE BENEFIT OF **HARRIS N.A.**, A NATIONAL BANKING ASSOCIATION, ITS SUCCESSORS AND ASSIGNS ("MORTGAGEE");

### RECITALS:

(A) Mortgagee has agreed to loan to Mortgagor the principal amount of \$550,000.00 ("Loan"). The Loan shall be evidenced by a certain Promissory Note of even date herewith (as amended, restated or replaced from time to time, "Note") made by Mortgagor and DRE Inc, an Illinois corporation payable to Mortgagee in the principal amount of the Loan.

(B) A condition precedent to Mortgagee's extension of the Loan to Mortgagor is the execution and delivery by Mortgagor of this Mortgage.

**NOW, THEREFORE**, FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY ACKNOWLEDGED, MORTGAGOR AGREES AS FOLLOWS:

MORTGAGOR HEREBY MORTGAGES, GRANTS, ASSIGNS, REMISES, RELEASES, WARRANTS AND CONVEYS TO MORTGAGEE, ITS SUCCESSORS AND ASSIGNS, AND GRANTS A SECURITY INTEREST IN, THE FOLLOWING DESCRIBED PROPERTY, RIGHTS AND INTERESTS (REFERRED TO COLLECTIVELY HEREIN AS "PREMISES"), ALL OF WHICH PROPERTY, RIGHTS AND INTERESTS ARE HEREBY PLEDGED PRIMARILY AND ON A PARITY WITH THE REAL ESTATE (AS DEFINED BELOW) AND NOT SECONDARILY:

**THE REAL ESTATE** LOCATED IN THE STATE OF ILLINOIS AND LEGALLY DESCRIBED ON EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF ("REAL ESTATE");

**TOGETHER WITH** ALL IMPROVEMENTS OF EVERY NATURE WHATSOEVER NOW OR HEREAFTER SITUATED ON THE REAL ESTATE, AND ALL FIXTURES AND PERSONAL PROPERTY OF EVERY NATURE WHATSOEVER NOW OR HEREAFTER OWNED BY MORTGAGOR AND ON, OR USED IN CONNECTION WITH THE REAL ESTATE OR THE IMPROVEMENTS THEREON, OR IN CONNECTION WITH ANY CONSTRUCTION THEREON, INCLUDING ALL EXTENSIONS, ADDITIONS, IMPROVEMENTS, BETTERMENTS, RENEWALS, SUBSTITUTIONS AND REPLACEMENTS TO ANY OF THE FOREGOING AND ALL OF THE RIGHT, TITLE AND INTEREST OF MORTGAGOR IN AND TO ANY SUCH PERSONAL PROPERTY OR FIXTURES TOGETHER WITH THE BENEFIT OF ANY DEPOSITS OR PAYMENTS NOW OR HEREAFTER MADE ON SUCH PERSONAL PROPERTY OR FIXTURES BY MORTGAGOR OR ON ITS BEHALF ("IMPROVEMENTS");

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**TOGETHER WITH** ALL PROCEEDS OF THE FOREGOING, INCLUDING, WITHOUT LIMITATION, ALL JUDGMENTS, AWARDS OF DAMAGES AND SETTLEMENTS HEREAFTER MADE RESULTING FROM CONDEMNATION PROCEEDS OR THE TAKING OF THE PREMISES OR ANY PORTION THEREOF UNDER THE POWER OF EMINENT DOMAIN, ANY PROCEEDS OF ANY POLICIES OF INSURANCE, MAINTAINED WITH RESPECT TO THE PREMISES OR PROCEEDS OF ANY SALE, OPTION OR CONTRACT TO SELL THE PREMISES OR ANY PORTION THEREOF.

**TO HAVE AND TO HOLD** THE PREMISES, UNTO MORTGAGEE, ITS SUCCESSORS AND ASSIGNS, FOREVER, FOR THE PURPOSES AND UPON THE USES HEREIN SET FORTH TOGETHER WITH ALL RIGHT TO POSSESSION OF THE PREMISES AFTER THE OCCURRENCE OF ANY EVENT OF DEFAULT; MORTGAGEE HEREBY RELEASING AND WAIVING ALL RIGHTS UNDER AND BY VIRTUE OF THE HOMESTEAD EXEMPTION LAWS OF THE STATE OF ILLINOIS.

**FOR THE PURPOSE OF SECURING:** (I) THE PAYMENT OF THE LOAN AND ALL INTEREST, LATE CHARGES AND OTHER INDEBTEDNESS EVIDENCED BY OR OWING UNDER THE NOTE, TOGETHER WITH ANY EXTENSIONS, MODIFICATIONS, RENEWALS OR REFINANCINGS OF ANY OF THE FOREGOING; (II) THE PERFORMANCE AND OBSERVANCE OF THE COVENANTS, CONDITIONS, AGREEMENTS, REPRESENTATIONS WARRANTIES AND OTHER LIABILITIES AND OBLIGATIONS OF MORTGAGOR OR ANY OTHER OBLIGOR TO OR BENEFITING MORTGAGEE WHICH ARE EVIDENCED OR SECURED BY OR OTHERWISE PROVIDED IN THE NOTE OR THIS MORTGAGE; AND (III) THE REIMBURSEMENT TO MORTGAGEE OF ANY AND ALL SUMS INCURRED, EXPENDED OR ADVANCED BY MORTGAGEE PURSUANT TO ANY TERM OR PROVISION OF OR CONSTITUTING ADDITIONAL INDEBTEDNESS UNDER OR SECURED BY THIS MORTGAGE, ANY OF THE OTHER LOAN DOCUMENTS, WITH INTEREST THEREON AS PROVIDED HEREIN OR THEREIN (COLLECTIVELY, "INDEBTEDNESS").

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

1. Mortgagor represents, warrants and covenants that (a) Mortgagor is the holder of (i) the fee simple title to the Premises, free and clear of all liens and encumbrances, except those liens and encumbrances in favor of Mortgagee and as otherwise described on Exhibit B attached hereto ("Permitted Exceptions"); and (b) Mortgagor has legal power and authority to mortgage and convey the Premises.

2. Mortgagor agrees to pay i) when due the Indebtedness in accordance with the terms of the Note and duly perform and observe all of the terms, covenants and conditions to be observed and performed by Mortgagor under the Note and this Mortgage and ii) pay when due any indebtedness which may be secured by a permitted lien or charge on the Premises on a parity with, superior to or inferior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such lien to the Mortgagee.

3. If the payment of the Indebtedness or any part thereof is extended or varied, if any part of any security for the payment of the Indebtedness is released, if the rate of interest charged

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under the Note is changed or if the time for payment thereof is extended or varied, all persons now or at any time hereafter liable therefore, or interested in the Premises or having an interest in Mortgagor, shall be held to assent to such extension, variation, release or change and their liability and the lien and all of the provisions hereof shall continue in full force, any right of recourse against all such persons being expressly reserved by Mortgagee, notwithstanding such extension, variation, release or change.

4. Each of the following shall constitute an "Event of Default" for purposes of this Mortgage:

a. Mortgagor fails to pay (i) any installment of principal or interest payable pursuant to the Note within ten (10) days of the date when due, or (ii) any other amount payable to Mortgagee under the Note, this Mortgage or any of the other Loan Documents within ten (10) days after the date when any such payment is due in accordance with the terms hereof or thereof;

b. the existence of any inaccuracy or untruth in any material respect in any representation or warranty contained in this Mortgage or of any statement or certification as to facts delivered to Mortgagee by Mortgagor;

c. Mortgagor files a voluntary petition in bankruptcy or is adjudicated a bankrupt or insolvent or files any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal, state, or other statute or law, or seeks or consents to or acquiesces in the appointment of any trustee, receiver or similar officer of Mortgagor or of all or any substantial part of the property of Mortgagor or any guarantor of the Note or any of the Premises or all or a substantial part of the assets of Mortgagor or any guarantor of the Note are attached, seized, subjected to a writ or distress warrant or are levied upon unless the same is released or located within thirty (30) days;

d. the commencement of any involuntary petition in bankruptcy against Mortgagor or any guarantor of the Note or the institution against Mortgagor or any guarantor of the Note of any reorganization, arrangement, composition, readjustment, dissolution, liquidation or similar proceedings under any present or future federal, state or other statute or law, or the appointment of a receiver, trustee or similar officer for all or any substantial part of the property of Mortgagor or any guarantor of the Note which shall remain undismissed or undischarged for a period of sixty (60) days;

e. the occurrence of an "Event of Default" under the Note.

5. If an Event of Default occurs, Mortgagee may, at its option, declare the whole of the Indebtedness to be immediately due and payable without further notice to Mortgagor, with interest thereon accruing from the date of such Event of Default until paid at the Default Rate.

When all or any part of the Indebtedness shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof for such Indebtedness or part thereof and/or exercise any right, power or remedy provided in this Mortgage in accordance

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with the Illinois Mortgage Foreclosure Act (Chapter 735, Sections 5/15-1101 et seq., Illinois Compiled Statutes) (as may be amended from time to time, the "Act").

In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to the title as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the Premises. All expenditures and expenses of the nature mentioned in this paragraph and such other expenses and fees as may be incurred in the enforcement of Mortgagor's obligations hereunder, the protection of said Premises and the maintenance of the lien of this Mortgage, including the reasonable fees of any attorney employed by Mortgagee in any litigation or proceeding affecting this Mortgage, the Note, or the Premises, including probate and bankruptcy proceedings, or in preparations for the commencement or defense of any proceeding or threatened suit or proceeding shall be immediately due and payable by Mortgagor, with interest thereon until paid at the Default Rate and shall be secured by this Mortgage.

6. The proceeds of any foreclosure sale of the Premises shall be distributed and applied in accordance with the Act and, unless otherwise specified therein, in such order as Mortgagee may determine in its sole and absolute discretion.

7. If any provision in this Mortgage shall be inconsistent with any provision of the Act, provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act.

a. If any provision of this Mortgage shall grant to Mortgagee (including Mortgagee acting as a mortgagee-in-possession) any powers, rights or remedies prior to, upon or following the occurrence of an Event of Default which are more limited than the powers, rights or remedies that would otherwise be vested in Mortgagee or in such receiver under the Act in the absence of said provision, Mortgagee and such receiver shall be vested with the powers, rights and remedies granted in the Act to the full extent permitted by law.

b. Without limiting the generality of the foregoing, all expenses incurred by Mortgagee which are of the type referred to in Section 5/15-1510 or 5/15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated in Paragraph 12, 15, or 17 of this Mortgage, shall be added to the Indebtedness and/or by the judgment of foreclosure.

8. Each right, power and remedy herein conferred upon Mortgagee is cumulative and in addition to every other right, power or remedy, express or implied, given now or hereafter existing under any of the Loan Documents or at law or in equity, and each and every right, power

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and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by Mortgagee, and the exercise or the beginning of the exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy, and no delay or omission of Mortgagee in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any Event of Default or acquiescence therein.

9. **Mortgagee's Right of Inspection.** Mortgagee and its representatives shall have the right to inspect the Premises and the books and records with respect thereto at all reasonable times upon not less than twenty-four (24) hours prior notice to Mortgagor, and access thereto, subject to the rights of tenants in possession, shall be permitted for that purpose.

10. **Release Upon Payment and Discharge of Mortgagor's Obligations.** Mortgagee shall release this Mortgage and the lien hereof by proper instrument upon payment and discharge of all Indebtedness, including payment of all reasonable expenses incurred by Mortgagee in connection with the execution of such release.

11. **Assignment of Leases and Rents.** In order to further secure payment of the Indebtedness and the observance, performance and discharge of the obligations described herein, Mortgagor hereby absolutely and irrevocably assigns and transfers to Mortgagee, all of Mortgagor's right, title and interest in and to the leases and the rents with respect to the Premises, subject only to the Permitted Exceptions. Mortgagor hereby appoints Mortgagee its true and lawful attorney-in-fact, with the right, at Mortgagee's option at any time, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, either in Mortgagor's or Mortgagee's name, for all rents. Notwithstanding the foregoing assignment of leases and rents, so long as no Event of Default has occurred which remains uncured, Mortgagor shall have a license (such license to be deemed revoked upon the occurrence of an Event of Default) provided that the existence or exercise of such right of Mortgagor shall not operate to subordinate this assignment to any subsequent assignment, in whole or in part, by Mortgagor, and any subsequent assignment by Mortgagor shall be subject to the rights of the Mortgagee hereunder. This assignment shall not be deemed or construed to constitute Mortgagee as a mortgagee in possession nor obligate Mortgagee to take any action or to incur expenses or perform or discharge any obligation, duty or liability. Exercise of any rights under this Section 11 and the application of the rents to the Indebtedness shall not cure or waive any Event of Default.

12. **Notices.** Any notices, communications and waivers under this Mortgage shall be in writing and shall be (i) delivered in person, (ii) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or (iii) by overnight express carrier, addressed in each case as follows:

To Mortgagee:

Harris N.A.  
111 West Monroe Street



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Suite 4 West  
Chicago, Illinois 60603  
Attn: Mikeal Chambers

With a copy to: Francis L. Keldermans, Esq.  
Holland & Knight LLP  
131 S. Dearborn Street  
30<sup>th</sup> Floor  
Chicago, Illinois 60603

to Mortgagor: Dennis R. Egidi  
4210 W. Irving Park Road  
Chicago, Illinois 60641

or to any other address as to any of the parties hereto, as such party shall designate in a written notice to the other party hereto. All notices sent pursuant to the terms of this Paragraph shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by overnight, express carrier, then on the next federal banking day immediately following the day sent, or (iii) if sent by registered or certified mail, then on the earlier of the third federal banking day following the day sent or when actually received.

13. **Waiver of Rights.** The Mortgagor hereby covenants and agrees that it will not at any time insist upon or plead, or in any manner claim or take any advantage of, any stay, exemption or extension law or any so-called "Moratorium Law" now or at any time hereafter in force providing for the valuation or appraisal of the Premises, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provisions herein contained, or to decree, judgment or order of any court of competent jurisdiction; or, after such sale or sales, claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshalling thereof, upon foreclosure sale or other enforcement hereof; and without limiting the foregoing:

a. The Mortgagor hereby expressly waives any and all rights of reinstatement and redemption, if any, under any order or decree of foreclosure of this Mortgage, on its own behalf and on behalf of each and every person, it being the intent hereof that any and all such rights of reinstatement and redemption of the Mortgagor and of all other persons are and shall be deemed to be hereby waived to the full extent permitted by the provisions of Illinois Compiled Statutes 735 ILCS 5/15 - 1601 or other applicable law or replacement statutes;

b. The Mortgagor will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any right, power remedy herein or otherwise granted or delegated to the Mortgagee but will suffer and permit the execution of every such right, power and remedy as though no such law or laws had been made or enacted; and

c. If the Mortgagor is a trustee, Mortgagor represents that the provisions of this paragraph (including the waiver of reinstatement and redemption rights) were made at the



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express direction of Mortgagor's beneficiaries and the persons having the power of direction over Mortgagor, and are made on behalf of the trust estate of Mortgagor and all beneficiaries of Mortgagor, as well as all other persons mentioned above.

14. **Contests.** Notwithstanding anything to the contrary herein contained, Mortgagor shall have the right to contest by appropriate legal proceedings diligently prosecuted any Taxes imposed or assessed upon the Premises or which may be or become a lien thereon and any mechanics', materialmen's or other liens or claims for lien upon the Premises (all herein called "**Contested Liens**"), and no Contested Liens shall constitute an Event of Default hereunder, if, but only if:

a. Mortgagor shall forthwith give notice of any Contested Lien to Mortgagee at the time the same shall be asserted;

b. Mortgagor shall either pay under protest or deposit with Mortgagee the full amount (herein called "**Lien Amount**") of such Contested Lien, together with such amount as Mortgagee may reasonably estimate as interest or penalties which might arise during the period of contest; provided that in lieu of such payment Mortgagor may furnish to Mortgagee a bond or title indemnity in such amount and form, and issued by a bond or title insuring company, as may be satisfactory to Mortgagee;

c. Mortgagor shall diligently prosecute the contest of any Contested Lien by appropriate legal proceedings having the effect of staying the foreclosure or forfeiture of the Premises, and shall permit Mortgagee to be represented in any such contest and shall pay all expenses incurred, in so doing, including fees and expenses of Mortgagee's counsel (all of which shall constitute so much additional Indebtedness bearing interest at the Default Rate until paid, and payable upon demand);

d. Mortgagor shall pay such Contested Lien and all Lien Amounts together with interest and penalties thereon (i) if and to the extent that any such Contested Lien shall be determined adverse to Mortgagor, or (ii) forthwith upon demand by Mortgagee if, in the opinion of Mortgagee, and notwithstanding any such contest, the Premises shall be in jeopardy or in danger of being forfeited or foreclosed; provided that if Mortgagor shall fail so to do, Mortgagee may, but shall not be required to, pay all such Contested Liens and Lien Amounts and interest and penalties thereon and such other sums as may be necessary in the judgment of the Mortgagee to obtain the release and discharge of such liens; and any amount expended by Mortgagee in so doing shall be so much additional Indebtedness bearing interest at the Default Rate until paid, and payable upon demand; and provided further that Mortgagee may in such case use and apply monies deposited as provided in subsection (b) above and may demand payment upon any bond or title indemnity furnished as aforesaid.

15. **Expenses Relating to Note and Mortgage.**

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a. Mortgagor will pay all expenses, charges, costs and fees relating to the Loan or necessitated by the terms of the Note, this Mortgage or any of the other Loan Documents, including without limitation, Mortgagee's reasonable attorneys' fees in connection with the negotiation, documentation, administration, servicing and enforcement of the Note, this Mortgage and the other Loan Documents, all filing, registration and recording fees, all other expenses incident to the execution and acknowledgment of this Mortgage and all federal, state, county and municipal taxes, and other taxes (provided Mortgagor shall not be required to pay any income or franchise taxes of Mortgagee), duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Note and this Mortgage. Mortgagor recognizes that, during the term of this Mortgage, Mortgagee:

i. May be involved in court or administrative proceedings, including, without restricting the foregoing, foreclosure, probate, bankruptcy, creditors' arrangements, insolvency, housing authority and pollution control proceedings of any kind, in which Mortgagee shall be a party by reason of the Loan Documents or in which the Loan Documents or the Premises are involved directly or indirectly;

ii. May make preparations following the occurrence of an Event of Default hereunder for the commencement of any suit for the foreclosure hereof, which may or may not be actually commenced;

iii. May make preparations following the occurrence of an Event of Default hereunder for, and do work in connection with, Mortgagee's taking possession of and managing the Premises, which event may or may not actually occur;

iv. May make preparations for and commence other private or public actions to remedy an Event of Default hereunder, which other actions may or may not be actually commenced;

v. May enter into negotiations with Mortgagor or any of its agents, employees or attorneys in connection with the existence or curing of any Event of Default hereunder, the sale of the Premises, the assumption of liability for any of the Indebtedness or the transfer of the Premises in lieu of foreclosure; or

vi. May enter into negotiations with Mortgagor or any of its agents, employees or attorneys pertaining to Mortgagee's approval of actions taken or proposed to be taken by Mortgagor which approval is required by the terms of this Mortgage.

b. All expenses, charges, costs and fees described in this Paragraph 15 shall be so much additional Indebtedness, shall bear interest from the date so incurred until paid at the Default Rate and shall be paid, together with said interest, by Mortgagor forthwith upon demand.

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16. **Financial Statements.** Mortgagor represents and warrants that the financial statements for Mortgagor and the Premises previously submitted to Mortgagee are true, complete and correct in all material respects, disclose all actual and contingent liabilities of Mortgagor or relating to the Premises and do not contain any untrue statement of a material fact or omit to state a fact material to such financial statements. No material adverse change has occurred in the financial condition of Mortgagor or the Premises from the dates of said financial statements until the date hereof. Mortgagor shall furnish to Mortgagee such financial information regarding Mortgagor, its constituent partners or members, as the case may be, the Premises and any guarantor of the Note as Mortgagee may from time to time reasonably request, which shall include, without any further request therefore, (i) quarterly financial statements for the Premises including a balance sheet, statement of income, no later than forty-five (45) days after the end of each calendar quarter of each year, all in form, scope and detail satisfactory to Mortgagee and certified by the chief financial officer or other appropriate officer, partner or member of Mortgagor, and (ii) annual financial statements for Mortgagor and the Premises and annual financial statements for any guarantor of the Note certified by such guarantor to be true, correct and complete, in each case, no later than one hundred twenty (120) days after the end of each year, and (iii) annual filed state and federal tax returns for Mortgagor and any guarantor within thirty (30) days of filing.

17. **Statement of Indebtedness.** Mortgagor, within seven days after being so requested by Mortgagee, shall furnish a duly acknowledged written statement setting forth the amount of the debt secured by this Mortgage, the date to which interest has been paid and stating either that no offsets or defenses exist against such debt or, if such offsets or defenses are alleged to exist, the nature thereof.

18. **Further Instruments.** Upon request of Mortgagee, Mortgagor shall execute, acknowledge and deliver all such additional instruments and further assurances of title and shall do or cause to be done all such further acts and things as may reasonably be necessary fully to effectuate the intent of this Mortgage and of the other Loan Documents.

19. **Additional Indebtedness Secured.** All persons and entities with any interest in the Premises or about to acquire any such interest should be aware that this Mortgage secures more than the stated principal amount of the Note and interest thereon; this Mortgage secures any and all other amounts which may become due under the Note or any other document or instrument evidencing, securing or otherwise affecting the Indebtedness, including, without limitation, any and all amounts expended by Mortgagee to operate, manage or maintain the Premises or to otherwise protect the Premises or the lien of this Mortgage.

20. **Indemnity.** Mortgagor hereby covenants and agrees that no liability shall be asserted or enforced against Mortgagee in the exercise of the rights and powers granted to Mortgagee in this Mortgage, and Mortgagor hereby expressly waives and releases any such liability. Mortgagor shall indemnify and save Mortgagee harmless from and against any and all liabilities, obligations, losses, damages, claims, costs and expenses (including reasonable attorneys' fees and court costs) (collectively, "Claims") of whatever kind or nature which may be imposed on, incurred by or asserted against Mortgagee at any time by any third party which relate to or arise from: (a) any suit or proceeding (including probate and bankruptcy proceedings), or the threat thereof, in or to which Mortgagee may or does become a party, either as plaintiff or as a

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defendant, by reason of this Mortgage or for the purpose of protecting the lien of this Mortgage; (b) the offer for sale or sale of all or any portion of the Premises; and (c) the ownership, leasing, use, operation or maintenance of the Premises, if such Claims relate to or arise from actions taken prior to the surrender of possession of the Premises to Mortgagee in accordance with the terms of this Mortgage; provided, however, that Mortgagor shall not be obligated to indemnify or hold Mortgagee harmless from and against any Claims directly arising from the gross negligence or willful misconduct of Mortgagee. All costs provided for herein and paid for by Mortgagee shall be so much additional Indebtedness and shall become immediately due and payable upon demand by Mortgagee and with interest thereon from the date incurred by Mortgagee until paid at the Default Rate.

**21. Subordination of Property Manager's Lien.** Any property management agreement for the Premises entered into hereafter with a property manager shall contain a provision whereby the property manager agrees that any and all mechanics' lien rights that the property manager or anyone claiming by, through or under the property manager may have in the Premises shall be subject and subordinate to the lien of this Mortgage and shall provide that Mortgagee may terminate such agreement at any time after the occurrence of an Event of Default hereunder. Such property management agreement or a short form thereof, at Mortgagee's request, shall be recorded with the Recorder of Deeds of the county where the Premises are located. In addition, if the property management agreement in existence as of the date hereof does not contain a subordination provision, Mortgagor shall cause the property manager under such agreement to enter into a subordination of the management agreement with Mortgagee, in recordable form, whereby such property manager subordinates present and future lien rights and those of any party claiming by, through or under such property manager to the lien of this Mortgage.

**22. Compliance with Environmental Laws.** Mortgagor represents and warrants to Mortgagee that: (1) During the period of Mortgagor's ownership of the Premises, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance (defined below) by any person on, under, about or from the Premises, other than the ordinary course use and storage of Hazardous Substances in strict compliance with all Environmental Laws (as defined below) or; (2) Mortgagor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Mortgagee in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Premises by any prior owners or occupants of the Premises, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) Except as previously disclosed to and acknowledged by Mortgagee in writing, (a) neither Mortgagor nor any tenant, contractor, agent or other authorized user of the Premises shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Premises; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Mortgagor authorizes Mortgagee and its agents to enter upon the Premises to make such inspections and tests, at Mortgagor's expense, as Mortgagee may deem appropriate to determine compliance of the Premises with this section of this Mortgage. Any inspections or tests made by Mortgagee shall be for Mortgagee's purposes only and shall not be construed to create any responsibility or liability on the part of Mortgagee



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to Mortgagor or to any other person. The representations and warranties contained herein are based on Mortgagor's due diligence in investigating the Premises for Hazardous Substances. Mortgagor hereby (1) releases and waives any future claims against Mortgagee for indemnity or contribution in the event Mortgagor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify and hold harmless Mortgagee against any and all claims, losses, liabilities, damages, penalties, and expenses which Mortgagee may directly or indirectly sustain or suffer resulting from a breach of this section of this Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Mortgagor's ownership or interest in the Premises, whether or not the same was or should have been known to Mortgagor. The provisions of this section of this Mortgage, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Mortgagee's acquisition of any interest in the Premises, whether by foreclosure or otherwise.

**"Environmental Laws"** means any and all federal, state and local laws (whether under common law, statute, rule, regulation or otherwise), requirements under permits or other authorizations issued with respect thereto, and other orders, decrees, judgments, directives or other requirements of any governmental authority relating to or imposing liability or standards of conduct (including disclosure or notification) concerning protection of human health or the environment or Hazardous Substances or any activity involving Hazardous Substances, all as previously and in the future to be amended.

**"Hazardous Substance"** means, but is not limited to, any substance, chemical, material or waste (A) the presence of which causes a nuisance or trespass of any kind; (B) which is regulated by any federal, state or local governmental authority because of its toxic, flammable, corrosive, reactive, carcinogenic, mutagenic, infectious, radioactive, or other hazardous property or because of its effect on the environment, natural resources or human health and safety, including, but not limited to, petroleum and petroleum products, asbestos-containing materials, polychlorinated biphenyls, lead and lead-based paint, radon, radioactive materials, flammables and explosives; or (C) which is designated, classified, or regulated as being a hazardous or toxic substance, material, pollutant, waste (or a similar such designation) under any federal, state or local law, regulation or ordinance, including under any Environmental Law such as the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. §9601 et seq.), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. §11001 et seq.), the Hazardous Substances Transportation Act (49 U.S.C. §1801 et seq.), or the Clean Air Act (42 U.S.C. §7401 et seq.).

## 23. Miscellaneous.

a. **Successors and Assigns.** This Mortgage and all provisions hereof shall be binding upon and enforceable against Mortgagor and its assigns and other successors.

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This Mortgage and all provisions hereof shall inure to the benefit of Mortgagee, its successors and assigns and any holder or holders, from time to time, of the Note.

b. **Invalidity of Provisions; Governing Law.** In the event that any provision of this Mortgage is deemed to be invalid by reason of the operation of law, or by reason of the interpretation placed thereon by any administrative agency or any court, Mortgagor and Mortgagee shall negotiate an equitable adjustment in the provisions of the same in order to effect, to the maximum extent permitted by law, the purpose of this Mortgage and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected thereby and shall remain in full force and effect. This Mortgage is to be construed in accordance with and governed by the laws of the State of Illinois.

c. **Municipal Requirements.** Mortgagor shall not by act or omission permit any building or other improvement on premises not subject to the lien of this Mortgage to rely on the Premises or any part thereof or any interest therein to fulfill any municipal or governmental requirement, and Mortgagor hereby assigns to Mortgagee any and all rights to give consent for all or any portion of the Premises or any interest therein to be so used. Similarly, no building or other improvement on the Premises shall rely on any premises not subject to the lien of this Mortgage or any interest therein to fulfill any governmental or municipal requirement. Any act or omission by Mortgagor which would result in a violation of any of the provisions of this subparagraph shall be void.

d. **Rights of Tenants.** Mortgagee shall have the right and option to commence a civil action to foreclose this Mortgage and to obtain a decree of foreclosure and sale subject to the rights of any tenant or tenants of the Premises having an interest in the Premises prior to that of Mortgagee. The failure to join any such tenant or tenants of the Premises as party defendant or defendants in any such civil action or the failure of any decree of foreclosure and sale to foreclose their rights shall not be asserted by Mortgagor as a defense in any civil action instituted to collect the Indebtedness, or any part thereof or any deficiency remaining unpaid after foreclosure and sale of the Premises, any statute or rule of law at any time existing to the contrary notwithstanding.

e. **Option of Mortgagee to Subordinate.** At the option of Mortgagee, this Mortgage shall become subject and subordinate, in whole or in part (but not with respect to priority of entitlement to insurance proceeds or any condemnation or eminent domain award) to any and all leases of all or any part of the Premises upon the execution by Mortgagee of a unilateral declaration to that effect and the recording thereof in the Office of the Recorder of Deeds in and for the county wherein the Premises are situated.

f. **Mortgagee in Possession.** Nothing herein contained shall be construed as constituting Mortgagee a mortgagee in possession in the absence of the actual taking of possession of the Premises by Mortgagee pursuant to this Mortgage.

g. **Relationship of Mortgagee and Mortgagor.** Mortgagee shall in no event be construed for any purpose to be a partner, joint venturer, agent or associate of Mortgagor or of any lessee, operator, concessionaire or licensee of Mortgagor in the conduct of their

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respective businesses, and, without limiting the foregoing, Mortgagee shall not be deemed to be such partner, joint venturer, agent or associate on account of Mortgagee becoming a mortgagee in possession or exercising any rights pursuant to this Mortgage, any of the other Loan Documents, or otherwise. The relationship of Mortgagor and Mortgagee hereunder is solely that of debtor/creditor.

h. **Time of the Essence.** Time is of the essence of the payment by Mortgagor of all amounts due and owing to Mortgagee under the Note and the other Loan Documents and the performance and observance by Mortgagor of all terms, conditions, obligations and agreements contained in this Mortgage and the other Loan Documents.

i. **No Merger.** The parties hereto intend that the Mortgage and the lien hereof shall not merge in fee simple title to the Premises, and if Mortgagee acquires any additional or other interest in or to the Premises or the ownership thereof, then, unless a contrary intent is manifested by Mortgagee as evidenced by an express statement to that effect in an appropriate document duly recorded, this Mortgage and the lien hereof shall not merge in the fee simple title and this Mortgage may be foreclosed as if owned by a stranger to the fee simple title.

j. **Maximum Indebtedness.** Notwithstanding anything contained herein to the contrary, in no event shall the Indebtedness exceed an amount equal to ONE MILLION ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$1,100,000.00; provided, however, in no event shall Mortgagee be obligated to advance funds in excess of the face amount of the Note.

k. **Consent to Jurisdiction** TO INDUCE MORTGAGEE TO ACCEPT THE NOTE, MORTGAGOR IRREVOCABLY AGREES THAT, SUBJECT TO MORTGAGEE'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THE NOTE AND THIS MORTGAGE WILL BE LITIGATED IN COURTS HAVING SITUS IN COOK COUNTY, ILLINOIS. MORTGAGOR HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT LOCATED WITHIN COOK COUNTY, ILLINOIS, WAIVES PERSONAL SERVICE OF PROCESS UPON MORTGAGOR, AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO MORTGAGOR AT THE ADDRESS STATED HEREIN AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.

l. **Waiver of Jury Trial.** MORTGAGOR AND MORTGAGEE (BY ACCEPTANCE HEREOF), HAVING BEEN REPRESENTED BY COUNSEL EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS (a) UNDER THIS MORTGAGE OR ANY RELATED AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS MORTGAGE OR (b) ARISING FROM ANY BANKING RELATIONSHIP EXISTING IN CONNECTION WITH



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THIS MORTGAGE, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. MORTGAGOR AGREES THAT IT WILL NOT ASSERT ANY CLAIM AGAINST MORTGAGEE OR ANY OTHER PERSON INDEMNIFIED UNDER THIS MORTGAGE ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.

m. Complete Agreement. This Mortgage, the Note and the other Loan Documents constitute the complete agreement between the parties with respect to the subject matter hereof and the Loan Documents may not be modified, altered or amended except by an agreement in writing signed by both Mortgagor and Mortgagee.

[Signature Page Follows]

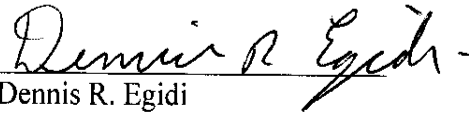


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IN WITNESS WHEREOF, MORTGAGOR HAS EXECUTED AND DELIVERED THIS JUNIOR MORTGAGE THE DAY AND YEAR FIRST ABOVE WRITTEN.

**MORTGAGOR:**

  
Dennis R. Egidi

Property of Cook County Clerk's Office



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STATE OF ILLINOIS           )  
   )  
 COUNTY OF COOK            ) ss



I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Dennis R. Egidi, 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 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 1 day of September, 2010.

Karen Sopata  
 NOTARY PUBLIC

(SEAL)

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## EXHIBIT A

### LEGAL DESCRIPTION OF THE REAL PROPERTY

#### PARCEL 1:

UNIT 3401 AND PARKING SPACE P-224 IN THE REGATTA CONDOMINIUM, AS DELINEATED ON A SURVEY OF THE FOLLOWING DESCRIBED TRACT OF LAND:

LOT 6, TOGETHER WITH THE EAST 20 FEET OF LOT 5 IN LAKESHORE EAST SUBDIVISION, BEING A SUBDIVISION OF PART OF THE LANDS LYING EAST OF AND ADJOINING FORT DEARBORN ADDITION TO CHICAGO, SAID ADDITION BEING IN THE SOUTHWEST FRACTIONAL QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS ACCORDING TO THE PLAT THEREOF RECORDED MARCH 4, 2003 AS DOCUMENT 0030301045.

WHICH SURVEY IS ATTACHED AS EXHIBIT "A" TO THE DECLARATION OF CONDOMINIUM RECORDED AS DOCUMENT NUMBER 0622717054; TOGETHER WITH ITS UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS IN COOK COUNTY ILLINOIS.

#### PARCEL 2:

NON-EXCLUSIVE EASEMENTS FOR INGRESS AND EGRESS APPURTENANT TO AND FOR THE BENEFIT OF PARCEL 1, CREATED BY DECLARATION RECORDED JULY 2, 2002 AS DOCUMENT 0020732020, AS AMENDED FROM TIME TO TIME.

#### PARCEL 3:

NON-EXCLUSIVE EASEMENTS APPURTENANT TO AND FOR THE BENEFIT OF PARCEL 1 AS CREATED BY THE DECLARATION OF EASEMENTS, RESERVATIONS, COVENANTS, AND RESTRICTIONS RECORDED AUGUST 15, 2006 AS DOCUMENT NUMBER 0622717053 FOR SUPPORT, COMMON WALLS, CEILINGS AND FLOORS, EQUIPMENT AND UTILITIES, INGRESS AND EGRESS, MAINTENANCE AND ENCROACHMENTS, OVER THE LAND DESCRIBED THEREIN. (SAID BURDENED LAND COMMONLY REFERRED TO IN THE AFOREMENTIONED DECLARATION AS THE "RETAIL PARCEL.")

Property address: 420 East Waterside Drive, Unit 3401 and P-224, Chicago, IL

Real Estate Tax Numbers: 17-10-400-035-1279 and 17-10-400-035-1546

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## EXHIBIT B

### PERMITTED EXCEPTIONS

- 1) GENERAL REAL ESTATE TAXES FOR THE TAX YEAR 2010 AND SUBSEQUENT YEARS WHICH ARE NOT YET DUE AND PAYABLE.
- 2) MORTGAGE DATED 4-12-2007 AND RECORDED 4-26-2007 AS DOCUMENT NO. 0711626122 MADE BY DENNIS R. EGIDI, A MARRIED MAN TO HARRIS N.A. TO SECURE AN INDEBTEDNESS IN THE AMOUNT OF \$819,683.00.
- 3) (A) TERMS, PROVISIONS, COVENANTS, CONDITIONS AND OPTIONS CONTAINED IN AND RIGHTS AND EASEMENTS ESTABLISHED BY THE DECLARATION OF CONDOMINIUM OWNERSHIP RECORDED 0622717054 AS DOCUMENT NO. AUGUST 15, 2006, AS AMENDED FROM TIME TO TIME; AND (B) LIMITATIONS AND CONDITIONS IMPOSED BY THE CONDOMINIUM PROPERTY ACT. FIRST AMENDMENT RECORDED AS DOCUMENT 0708515089
- 4) COVENANTS AND RESTRICTIONS (BUT OMITTING ANY SUCH COVENANT OR RESTRICTION BASED ON RACE, COLOR, RELIGION, SEX, HANDICAP, FAMILIAL STATUS OR NATIONAL ORIGIN UNLESS AND ONLY TO THE EXTENT THAT SAID COVENANT (A) IS EXEMPT UNDER CHAPTER 42, SECTION 3607 OF THE UNITED STATES CODE OR (B) RELATES TO HANDICAP BUT DOES NOT DISCRIMINATE AGAINST HANDICAPPED PERSONS), RELATING IN PART TO ASSOCIATION, ASSESSMENTS AND LIEN THEREFOR, CONTAINED IN THE DOCUMENT RECORDED JULY 2, 2002 AS DOCUMENT NO. 0020732020 WHICH DOES NOT CONTAIN A REVERSIONARY OR FORFEITURE CLAUSE. LAST AMENDED BY DOCUMENTS 0631333004 RE-RECORDED AS DOCUMENT 0704044062.
- 5) TERMS, PROVISIONS, CONDITIONS AND LIMITATIONS CONTAINED IN THE DECLARATION RECORDED AUGUST 15, 2006 AS DOCUMENT 0622717053.
- 6) (A) TERMS, PROVISIONS, AND CONDITIONS RELATING TO THE EASEMENT DESCRIBED AS PARCEL 2 AND 3 CONTAINED IN THE INSTRUMENT CREATING SAID EASEMENT. (B) RIGHTS OF THE ADJOINING OWNER OR OWNERS TO THE CONCURRENT USE OF SAID EASEMENT.
- 7) NOTHING CONTAINED HEREIN SHOULD BE CONSTRUED AS INSURING THE EXACT LOCATION OR DIMENSIONS OF THE EASEMENT DESCRIBED AS PARCELS 2 AND 3 OF SCHEDULE A.
- 8) COVENANTS AND RESTRICTIONS RELATING TO USE OF THE LAND CONTAINED IN SECTION 14.2 OF DEED DATED MAY 1, 1962 AND RECORDED MAY 7, 1962 AS DOCUMENT NUMBER 18467558 FROM ILLINOIS CENTRAL RAILROAD COMPANY TO AMERICAN NATIONAL BANK AND TRUST COMPANY AS TRUSTEE

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UNDER TRUST AGREEMENT DATED APRIL 9, 1963 AND KNOWN AS TRUST NUMBER 17460.

NOTE: SAID INSTRUMENT CONTAINS NO PROVISION FOR A FORFEITURE OF OR REVERSION OF TITLE IN CASE OF BREACH OF CONDITION

9) EASEMENTS GRANTED IN THE DEED FROM ILLINOIS CENTRAL RAILROAD COMPANY, A CORPORATION OF ILLINOIS TO AMERICAN NATIONAL BANK AND TRUST COMPANY AS TRUSTEE UNDER TRUST AGREEMENT DATED APRIL 9, 1963 AND KOWN AS TRUST NUMBER 17460 DATED MAY 1, 1962 AND RECORDED APRIL 9, 1963 AS DOCUMET 18467558

10) PERPETUAL EASEMENT FOR UNDERGROUND UTILITIES AND UNDERGROUND PUBLIC SERVICE UTILITY FACILITIES IN FAVOR OF THE CITY OF CHICAGO AND THOSE ENTITIES AUTHORIZED BY THE CITY OF CHICAGO AND THE TERMS AND PROVISIONS THEREOF, ALL AS MORE PARTICULARLY DESCRIBED ON AND AS CREATED BY THE PLAT OF LAKESHORE EAST SUBDIVISIONR ECORDED MARCH 4, 2003 AS DOCUMENT NUMBER 0030301045.

(AFFECTS EAST 66.00 FEET OF PARCEL 1 BELOW 20.00 FEET CHICAGO CITY DATUM AND PARCEL 2)

11) EASEMENT FOR SEWER MAIN IN FAVOR OF THE CITY OF CHICAGO CONTAINED IN AN ORDINANCE PASSED BY THE CITY COUNCIL OF THE CITY OF CHICAGO ON MAY 26, 2004.

(AFFECTS THE NORTHEERLY 22 FEET OF LOTS 5 AND 6 BELOW 20.00 FEET, CHICAGO CITY DATUM)

#9740454\_v2