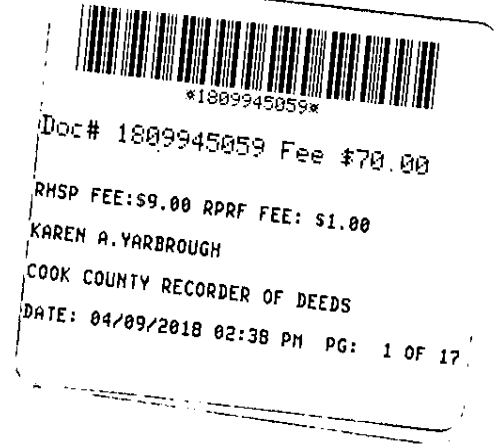


UNOFFICIAL COPY

This instrument was prepared by
and after recording return to:

Murray J. Lewison
Johnson and Colmar
2201 Waukegan Rd. – Suite 260
Bannockburn, IL 60015



Declaration of Covenants, Conditions and Restrictions for LFI Orland Park Center

THIS DECLARATION is made this 20 day of February, 2018, by SWC 156th LLC, an Illinois limited liability company (hereinafter sometimes referred to as “SWC 156th” or “Developer”).

WITNESSETH:

WHEREAS Developer is the owner of the property located at the southwest corner of 156th Street and LaGrange Road, Orland Park, Illinois and legally described in Exhibit A (the “Property”) attached hereto and made a part hereof, which is intended to be developed as lawfully permitted; and

WHEREAS Developer intends to develop the Property as a shopping center wherein all of the Common Areas shall be maintained by the Association and all owners, tenants and their invitees shall have non-exclusive easement rights for ingress and egress on foot and by motor vehicle and for parking of motor vehicles on all parking lot areas created within the Property; and

WHEREAS Developer desires to establish a not-for-profit corporation under the provisions of the General Not For Profit Corporation Act of 1986 of the State of Illinois for the purpose of maintaining and administering the Common Area; and

WHEREAS to effectuate the common development, use and operation of the developments on Lots, Developer further desires to establish certain covenants, agreements, reciprocal access and parking easements as part of a general plan for beneficial use of the developments and for the benefit of each Owner and occupant of any portion of a Lot all as set forth hereinafter.

NOW, THEREFORE, Developer does hereby declare that the Property shall, to the extent provided, be held, sold, leased, occupied, mortgaged and conveyed subject to the covenants, conditions, restrictions, easements, uses, privileges, duties and obligations hereinafter set forth.

UNOFFICIAL COPY

Article 1 Incorporation of Preamble

The recitals set forth in the foregoing preamble are specifically incorporated into and made a part of this Declaration as though fully set forth in this Article 1.

Article 2 Definition of Terms.

The following words and phrases, when used in this Declaration, shall have the following meanings:

2.1 "**Assessment**" shall mean and refer to the assessments described in Article 5 hereof.

2.2 "**Association**" shall mean and refer to LFI Orland Park Center Association, Inc., an Illinois nonprofit corporation, which is to be created by Developer following the recording of this Declaration, the members of which shall be all of the Owners of a Lot created by any subdivision or resubdivision of the Property. The Association shall be created as provided in Article 4 hereof.

2.3 "**Board of Directors**" or "**Board**" shall be the governing body of the Association, having its normal meaning under Illinois corporate law.

2.4 "**Building**" shall mean the building together with any outdoor patio seating and outdoor service areas built on a Lot.

2.5 "**Bylaws**" shall mean and refer to the Bylaws of the Association, as they may be amended from time to time.

2.6 "**Common Areas**" are those portions of the Property outside of the Buildings, including without limitation, access drives, parking areas, landscaped areas and sidewalks that are made available for the joint use and benefit of all Owners and Lessees of the Property and their respective customers, employees and invitees. The "Common Area" does not include any buildings or any areas or facilities available for use by only a limited number of owners or occupants such as, but not limited to, loading docks, drive-thru lanes and dumpsters.

2.7 "**Common Expenses**" are the costs of maintenance, repair, replacement, and insurance of the Common Areas, including, but not limited to any Detention Pond and real estate taxes on the Detention Pond.

2.8 "**Declaration**" shall mean this Declaration of Covenants, Conditions and Restrictions and all amendments thereto at the time of reference.

UNOFFICIAL COPY

2.9 **"Detention Pond"** shall mean the wetland area and storm water detention pond and related underground facilities if required to be constructed for the common use and benefit of storm water management by the Owner and occupants of the Lots.

2.10 **"General Assessments"** shall mean and refer to assessments levied against the Lots to fund Common Expenses.

2.11 **"Lessee"** shall mean each owner from time to time of any now or hereafter existing tenant leasehold interest in a part or all of the Property, or any improvements located thereon.

2.12 **"Lot"** shall mean any lot created by any subdivision or resubdivision of the Property subject to this Declaration.

2.13 **"Member"** shall mean and refer to a Person entitled to membership in the Association, as provided herein.

2.14 **"Mortgage"** shall mean a mortgage, a deed of trust, trust deed, a deed to secure debt, or any other form of security instrument affecting title to any Property.

2.15 **"Mortgagee"** shall mean a beneficiary or holder of a mortgage.

2.16 **"Owner"** shall mean any Person who owns the record title to any Lot but excluding in all cases any party having an interest in the Property solely as security for an obligation. If a Property is sold under a recorded contract of sale and the contract specifically so provides, then the purchaser (rather than the owner of the legal interest) shall be deemed the Owner. If a Property is subject to a written lease with a term in excess of one year and the lease specifically so provides, then upon filing a copy of the lease with the Board of Directors, the Lessee (rather than the fee owner) will be deemed the Owner for the purpose of exercising all privileges of membership in the Association.

2.17 **"Person"** shall mean a natural person, corporation, partnership, limited liability company or partnership, association, trust, other entity or any combination thereof.

2.18 **"Property"** shall mean the real property described in Exhibit A.

2.19 **"Supplemental Declaration"** shall mean an amendment or supplement to this Declaration executed by or consented to by Developer which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations to the land described herein.

Article 3

Property Subject to Declaration; Property Rights and Easements.

3.1 The Property.

UNOFFICIAL COPY

Developer is the present record title holder of the Property. The Property and any right, title, and interest therein shall be owned, held, transferred, leased, sold, conveyed, and occupied by Developer and any subsequent Owner, Lessee, or occupant of all or any part thereof, subject to the easements, restrictions, covenants and conditions set forth herein and Planned Unit Development Ordinance recorded in the Office of the Cook County Recorder on October 4, 2017 as Document No. 1727715157.

3.2 Grant of Driveway and Parking Easements.

Developer does by this Declaration, for itself, its successors and assigns, hereby grants to each Owner a non-exclusive driveway and parking easement or servitude upon, over and across driveways, parking lots and parking areas now or hereafter constructed on the Property for the use of the employees, customers and invitees of the Owner and present and future occupants of a Lot, with or without vehicles, except where Buildings are now located or will be constructed in the future, with ingress and egress between each Lot. It is hereby understood, that any language herein to the contrary notwithstanding, once constructed, the driveways and parking areas on any Lot may not be altered without the prior written consent from all the Owners, which consent shall not be unreasonably withheld, delayed or conditioned.

PROVIDED, HOWEVER, that each Owner reserves the right to create a maximum of four (4) reserved parking spaces on such Lot to be available to the Owner's customers, employees and invitees.

The parking easements or servitudes granted herein shall be for customer and employee parking only and no truck parking shall be permitted in the areas designated for patron parking pursuant thereto, nor is this Agreement intended, nor shall it be construed, to create any rights in or for the benefit of the general public.

3.3 Grant of Utility and Stormwater Easements.

All public and private utility companies serving the Property are hereby granted the right to lay, construct, renew, operate, and maintain conduits, cables, pipes, wires, transformers, switching apparatus and other equipment, into and through the parking areas within the Common Areas for the purpose of providing utility services to the Property; however all wires, cabling and piping shall be underground.

Every Owner hereby grants to every other Owner an easement for conveyance of stormwater over, across, upon and under each other's respective Lot and the right to lay, construct, renew, operate and maintain pipes under the Common Areas of each Lot to connect storm water pipes to any biosawale, municipal storm water lines in the public way serving the Property and/or an Detention Pond that may be constructed to serve the Property.

3.4 Property Rights.

Every Owner shall have a right and nonexclusive easement of use, access and enjoyment in and to the Common Area, subject to (i) this Declaration as it may be amended from time to

UNOFFICIAL COPY

time, (ii) any restrictions or limitations contained in any deed conveying such property to the Association, and (iii) the right of the Board to adopt other rules and regulations regulating the use and enjoyment of the Common Area.

Any Owner may delegate his or her right of use and enjoyment to its Lessees, employees and invitees, as applicable, subject to reasonable regulation by the Board and in accordance with procedures it may adopt.

Article 4 Developer's Rights.

4.1 **Right to Transfer.** Any or all of the rights and obligations of the Developer set forth in this Declaration or the Bylaws may be transferred or assigned in whole or in part to another Person. Such Person will then assume the position of Developer pertaining to the particular rights, powers, easements, obligations and reservations assigned, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that which the Developer has under this Declaration or the Bylaws. No such transfer or assignment shall be effective unless it is in a written instrument signed by the Developer and duly recorded in the Public Records and with notice given to all Owners.

If the Developer should convey all of its rights, title, and interest in and to the Property to any Person, then and in such event, the Developer shall be relieved of the performance of any further duty or obligation hereunder, and such partnership, individual or individuals, corporation or corporations, shall be obligated to perform all such duties and obligations of the Developer.

4.2 **Authorization Required.** No person shall record any declaration of covenants, conditions and restrictions or similar instrument affecting any portion of the Property that is less restrictive than the terms of this Declaration. Any attempted recording without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed by the Developer and recorded in the Public Records.

4.3 **Incorporation of the Association.**

Developer shall incorporate the Association under the General Not For Profit Corporation Act of 1986 of the State of Illinois.

(a) **Membership.** Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to, and may not be separate from, the ownership of a Lot and shall be the sole qualification for membership in the Association. Every Owner of a Lot, by acceptance of a deed thereto, covenants and agrees to be a Member of the Association whether or not it shall be so expressed in any deed or other conveyance. In the event the Owner of a Lot is a land trust, the rights, privileges and benefits of membership in the Association and the duties and obligations associated therewith shall inure to the benefit of and be binding upon the beneficiaries of said land

UNOFFICIAL COPY

trust. Subsequent to the Turnover Date, each member of the Association shall also be a director on the Board of Directors.

(b) **Voting.** The Association shall have one class of membership. Each member shall be entitled to one vote, except that in the event multiple Persons own a Lot, then such parties shall designate one person to vote on behalf of such collective owners of said Lot. The Board of Directors shall consist of four (4) members as provided in the Bylaws.

(c) From and after the first meeting of the Members after the Turnover Date, the Board shall consist of the number of individuals provided for in Section 5.01 of the By-Laws, each of whom shall be an Owner or a Voting Member. Prior to the first meeting of the members after the Turnover Date, the Developer shall elect the Directors and be responsible for the management of the Association.

The "Turnover Date" shall be the date on which any one of the following shall first occur:

(a) Sixty (60) days after 75% of the Lots have been developed as a going concern; or

(b) The expiration of five (5) years from the date of the Recording of this Declaration; or

(c) The date designated in a written notice from the Declarant to all of the Owners as being the Turnover Date.

Article 5 Assessments.

5.1 **Creation of Assessments.** The Association may levy assessments against the Owners which shall be used to discharge the costs of maintenance, care, repair and replacement of the Common Areas, including any Detention Pond, pylon or monument signs constructed for the use of all Owners, customary insurance, real estate taxes assessed on the Detention Pond if applicable, and for such other purposes as are authorized by this Declaration or deemed necessary and appropriate by the Association for the general maintenance and welfare of the Property, including without limitation, discharging the costs incurred by the Association in exercising its rights and powers and in performing its obligations hereunder and discharging the costs incurred by the Association in enforcing this Declaration and the By-Laws and rules and regulations of the Association. Subject to the provisions of Section 6.2 below, Assessments shall be levied against a Lot based on the prorata share of the square footage of each of Lot to the total square footage of all Lots. If a Detention Pond is required to be created as a Lot, then the square footage of the Detention Pond shall be excluded from the calculation of prorata share.

All Assessments, together with interest (at a rate not to exceed the highest rate allowed by Illinois law) as computed from the date the delinquency first occurs, late charges, costs, and

UNOFFICIAL COPY

reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each Assessment is made until paid. Each such Assessment, together with interest, late charges, costs, and reasonable attorney's fees, shall be due and payable at the time of conveyance of a Lot, except no first mortgagee who obtains title to a Lot pursuant to the remedies provided in the mortgage shall be liable for unpaid Assessments which accrued prior to such acquisition of title.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors and, if the Board so elects, Assessments may be paid in two or more installments. Unless the Board otherwise provides, the General Assessment shall be due and payable in advance on the first day of each fiscal year or as otherwise determined by the Board. If any Owner is delinquent in paying any Assessments or other charges levied on his Property, the Board may require any unpaid installments of the annual Assessment and/or any other Assessments to be paid in full immediately.

No Owner may waive or otherwise exempt itself from liability for the Assessments provided for herein, including, by way of illustration and not limitation, by non-use of the Detention Pond or abandonment of its property. The obligation to pay Assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of Assessment or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

5.2 Computation of General Assessment.

It shall be the duty of the Board, at least 60 days before the beginning of each fiscal year, to prepare a budget covering the estimated Common Expenses of the Association during the coming year. The Board shall cause a copy of the Common Expense budget and notice of the amount of the General Assessment to be levied against each Lot for the following year to be delivered to each Owner at least 30 days prior to the beginning of the fiscal year. Notwithstanding the foregoing, in the event the Board fails for any reason so to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

Subject to the provisions of Section 6.2 below, the General Assessment to be levied for the coming year against each Lot subject to Assessment shall be computed by multiplying the budgeted Common Expenses by a fraction, the numerator of which shall be the square footage of each Lot and the denominator of which shall be the total square footage of all Lots combined (which calculation excludes the square footage of the Detention Pond, if constructed).

UNOFFICIAL COPY

5.3 Special Assessments.

(a) Entire Membership. The Association may levy Special Assessments from time to time against all Members on a pro-rata basis (based on Lot square footage).

(b) Less Than All Members. The Association may levy a Special Assessment against any Member individually and against such Member's Lot to reimburse the Association for reasonable costs incurred in bringing a Member and its Lot into compliance with the provisions of this Declaration, any amendments thereto, the Articles, the Bylaws or the Association rules, which Special Assessment may be levied upon the vote of the Board after notice to the Member and an opportunity for a hearing.

5.4 **Date of Commencement of Assessments.** Except as otherwise provided in Article 6, the obligation to pay Assessments shall commence as to each Lot on the first day of the month following the month in which the Lot is made subject to this Declaration. Upon not less than five days request of any Owner or mortgagee, the Association shall provide an Assessment Letter indicating whether assessments against any particular Lot are current or past due and if past due, the amount so due.

5.5 **Subordination of the Lien to First Mortgages.** The lien of Assessments, including interest, late charges and costs (including reasonable attorney's fees) provided for herein, shall be subordinate to the lien of any first mortgage upon any Lot; provided however that such subordination shall apply only to the assessments and charges which have become due and payable prior to a sale or transfer of such Lot pursuant to or in lieu of foreclosure by the holder of such security interest. Such sale or transfer shall not relieve any Lot from the lien for any assessments or charges thereafter becoming due nor from the lien of any subsequent assessments or charges.

Article 6 Maintenance.

6.1 Association's Maintenance of Common Area Responsibility

The Association shall maintain and keep in good condition and repair consistent with a Class A development the Common Areas and if constructed, the Detention Pond, such maintenance to be funded by Assessments. Such maintenance shall include maintenance, repair and replacements as required of all exterior landscaping, parking areas including striping and restriping as necessary, driveways, and snow removal of all areas outside of the Buildings.

Anything contained herein to the contrary notwithstanding, if a Detention Pond is required to be maintained, each Owner of a Lot shall maintain, repair and replace at its own sole cost the drainage pipes feeding into the Detention Pond from such Lot.

Each Owner agrees at all times to maintain the Building on their Lot in good condition and repair as a first class building would customarily be maintained.

UNOFFICIAL COPY

6.2 Obligations for Assessments where All Buildable Lots Not Improved

Notwithstanding the provisions of Article V above, until construction of a building on a Lot to be developed is completed, the Owners of the developed Lots shall be solely responsible to the Association for all assessments levied. For purposes herein, a Lot shall be deemed developed upon substantial completion of the first building constructed on such Lot. Until such time as Lots 1 through 4 have been developed, the assessments levied by the Association shall be shared prorata between the Owners of the developed Lots in proportion to the square footage of a developed Lot to the square footage of all then developed Lots. Anything contained herein to the contrary notwithstanding, upon the sale of a Lot by the Developer, the new Owner of the sold Lot shall become obligated for assessments effective the first day of the month after closing and shall share in the payment of assessments with the other Owners as provided in this Paragraph 6.2.

Article 7

Use Restrictions, Rules and Signage

7.1 **Use Restrictions.** In order to monitor and regulate the Use Restrictions hereinafter set forth, each Owner shall provide a disclosure to the Association citing the use for which the Building on their Lot is then being used, the name of any tenant and term of any lease and upon termination of any lease, the effective date of a termination. The Buildings shall be used for commercial purposes typically found in a retail shopping center. No Lot shall be used for any of the use restrictions set forth in Exhibit B ("Use Restrictions"), attached hereto and made a part hereof.

7.2 Any Supplemental Declaration may impose stricter standards than those contained in this Article. The Association, acting through its Board of Directors, shall have standing and the power to enforce such standards.

7.3 **Signage.** In the event the Association is permitted by the Village of Orland Park to construct a pylon or monument sign for the Center as a whole (the "Center Sign"), the cost of construction, maintenance and repair shall be included in General Assessments established by the Association and each Owner shall be entitled to provide a name plate to be placed on the Center Sign. Each Owner shall have the right to install the maximum building signage allowable under the Orland Park Village Code and shall have the right to install an exclusive monument sign in accordance with the Orland Park Village Code.

Article 8

Insurance and Casualty Losses

The Association's Board of Directors, or its duly authorized agent, shall obtain a public liability policy and property insurance policy where applicable covering the Common Areas, insuring the Association and its Members for all damage or injury caused by the negligence of the Association, any of its Members, employees or agents, or any other person who has a right to occupy a Lot and directors and officers liability insurance. The public liability policy shall have limits of liability of at least \$1,000,000 (combined single limit) covering all claims for death and

UNOFFICIAL COPY

personal injury (including medical payments) and/or property damage arising out of a single occurrence and any property insurance will be for full replacement cost. The Association shall also obtain directors and officers liability insurance covering the actions of the Board members.

Premiums for all insurance shall be included in the General Assessment. The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the coverage required hereunder. The deductible shall be paid by the party who would be liable for the loss or repair in the absence of insurance and in the event of multiple parties shall be allocated in relation to the amount each party's loss bears to the total.

Article 9 Mortgagee Provisions

The provisions of this Article shall apply to both this Declaration and the Bylaws, notwithstanding any other provisions contained therein. The lien for any assessment or charge provided for in this Declaration shall be subordinated to the lien of the security interest held by any mortgagee; provided, however, that such subordination shall apply only to the assessments and charges which have become due and payable prior to a sale or transfer of a Lot pursuant to or in lieu of foreclosure by the holder of such security interest. Such sale or transfer shall not relieve any Lot from the lien for any assessments or charges thereafter becoming due nor from the lien of any subsequent assessments or charges.

Article 10 General Provisions

10.1 Powers and Duties of the Association. In addition to the powers and duties provided for elsewhere in this Declaration, the Association, for the mutual benefit of the Owners, shall have the following powers and duties:

- (a) Take such action to enforce the terms and provisions of this Declaration by appropriate means, including, but not limited to:
 - (1) the expenditure of funds;
 - (2) the employment of legal counsel, accounting services and management services; and
 - (3) the commencement of legal causes of action and the promulgation and enforcement (by injunction or a suit for damages) of this Declaration.
- (b) Maintain and otherwise manage the Common Areas and all facilities, improvements and landscaping thereon;

UNOFFICIAL COPY

(c) Obtain, for the benefit of the Association, landscape maintenance services and other services for the Common Area which in the opinion of the Association shall be necessary and proper;

(d) Borrow funds to pay costs of operation secured by assignment or pledge of its rights against delinquent Owners;

(e) Enter into contracts for legal, management and accounting services, to maintain one or more bank accounts, and generally have the powers necessary or incidental to the operation and management of the common areas for which the Association is responsible.

(f) Take action to protect or defend the Property from loss or damage by suit or otherwise;

(g) Establish and maintain a working capital and contingency fund for the Common Expenses;

(h) Make available, upon written request, to each Owner and any mortgagee of record within 60 days after the end of each fiscal year, an annual report of the revenues and expenses of the Association of the fiscal year just ended;

(i) Delegate its powers and duties to committees, officers or employees, to employ a manager or other persons and to contract with independent contractors or managing agents who have professional experience to perform all or any part of the duties and responsibilities of the Association; provided, that any contract with a person or entity appointed as manager or managing agent shall be terminable without cause on not more than 30 days written notice by the Association.

10.2 Enforcement.

Each Owner and every occupant of a Lot shall comply strictly with the Bylaws, rules and regulations, all as may be amended or modified from time to time, and with this Declaration, as may be amended from time to time.

Enforcement of the provisions of this Declaration shall be by any proceeding at law or equity against any persons or persons violating or attempting to violate them, or to recover damages, or to enforce any lien created by this Declaration.

The Association may impose fines or other sanctions for non-compliance with the covenants and conditions herein contained and the Rules and Regulations of the Association, which shall be collected as provided herein for the collection of Assessments. Failure to comply with this Declaration shall be grounds for an action to recover sums due for damages or injunctive relief, or both.

UNOFFICIAL COPY

Failure of the Association or any Owner to enforce any provisions of this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

The Association shall have the right to record in the appropriate Public Records a notice of violation of the Declaration, and to assess the cost of recording and removing such notice against the Owner who is responsible (or whose occupants are responsible) for violating the foregoing. The Association shall bear the costs associated with removing any such notice improperly recorded.

10.3 Term. The covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of the Association and the Owners the Lots, their respective legal representatives, heirs, successors, and assigns. Other than the easements granted in this Declaration, the remaining covenants and restrictions shall be enforceable by the Association or the Owner of any Lot for a term of 30 years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten years, unless an instrument in writing, signed by a majority of the then Owners, has been recorded within the year preceding the beginning of each successive period of ten years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein.

10.4 Amendment. This Declaration may be amended only by the affirmative vote or written consent of a majority of the Members. Any amendment to be effective must be recorded in the Public Records. No amendment may remove, revoke, or modify any right or privilege of Developer without the written consent of Developer or the assignee of such right or privilege. In addition, no amendment may remove, revoke or create further restrictions or obligations upon a Lot (or change the basis for calculating such Lot Owner's share of Assessments) where the Owner of the Lot affected opposes such amendment. Anything contained herein to the contrary notwithstanding, no amendment may materially and adversely affect a Lot (including, but not limited to, removal or modification of the scope or amount of the Assessments, a Lot's share of the Assessments, the driveways and parking areas of the Property, or a Lot's easement rights upon, over, and across such driveways and parking areas) without the prior written consent of the Owner of such affected Lot.

10.5 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

10.6 Headings. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration.

10.7 Books and Records. This Declaration, the Bylaws, the Articles of Incorporation, copies of rules and regulations, membership register, books of account, and minutes of meetings shall be made available for inspection and copying by any Owner or his duly appointed representative at any reasonable time and for a purpose reasonably related to his interest as an Owner. The books and records shall be maintained by the Secretary of the Association.

UNOFFICIAL COPY

10.8 Variance and Waiver. Notwithstanding anything to the contrary contained herein, the Association shall be authorized to grant individual variances or waivers from any of the provisions of this Declaration, except the provisions of Section 3.5 regarding use restrictions and Article 5 hereof regarding Assessments, if it determines that a variance or waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Property; provided that such variance or waiver does not violate any municipal, state or Federal regulation. Such variance or waiver shall not constitute a variance or waiver from any governmental or other entity's rules and regulations.

10.9 Owner's Compliance. Every Owner, tenant or occupant of a Lot shall comply with the provisions of this Declaration, the Bylaws and any rules and regulations of the Association. Failure to comply shall be grounds for an action to recover sums due, for damages and fines, or for injunctive relief, or for any other remedy available at law or in equity maintainable by the Association or, in a proper case, by an aggrieved Owner. In addition, the Association may avail itself of any and all remedies provided in this Declaration or the Bylaws. All agreements and determinations lawfully made by the Association shall be deemed to be binding on all Owners, their successors and assigns.

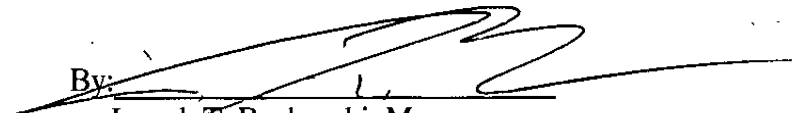
10.10 Proper Notice to Owner. Except as set forth, notice required to be given to any Owner under the provisions of this Declaration shall be deemed to have been properly delivered when deposited in the United States mail, postage prepaid, addressed to the last known address of the person who appears as the Owner on the records of the Association at the time of such mailing along with a copy to any mortgagee of record for which a notice of existence of a mortgage interest and notice address is given to the Association. In the event that there are multiple Owners with respect to a Property, the Association shall be obligated to send notice to only one of the multiple Owners. Notice to one shall be deemed notice to all. Multiple Owners may designate one of their group as the person entitled to notice by so notifying the Association in writing of such person and the address thereof. If no such person is designated, the Association may notify any one of such multiple Owners or Mortgagees. Notices of past due Assessments, or the intention to institute any of the punitive provisions hereof, or any sanctions to be imposed hereunder, or of any violations of this Declaration shall be sent to the affected person or entity by certified mail, return receipt requested and addressed as aforesaid.

[END OF DOCUMENT-SIGNATURE ON NEXT PAGE]

UNOFFICIAL COPY

IN WITNESS WHEREOF, this Declaration is executed on the above date.

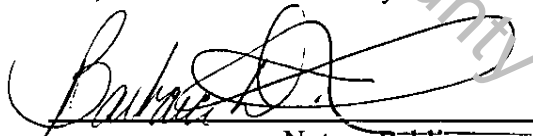
SWC 156TH LLC,
an Illinois limited liability company

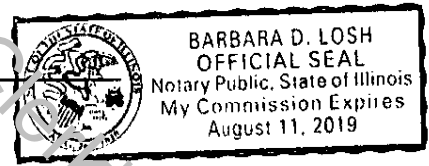
By: 
Joseph T. Bochenski, Manager

STATE OF ILLINOIS)
) SS:
COUNTY OF WILL)

On this, the 12th day of March 2018, before me, the undersigned officer, personally appeared Joseph T. Bochenski, known to me who acknowledged himself to be the Manager of SWC 156th LLC, an Illinois limited liability, and that he, as such Manager being authorized to do so, executed the foregoing instrument for the purposes therein.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.


Notary Public



UNOFFICIAL COPY

CONSENT OF MORTGAGEE

Midland States Bank ("Lender"), the holder of a certain Mortgage recorded in the office of the Recorder of Deeds of Cook County, Illinois on August 23, 2016 as Document No. 1623619011 (the "Mortgage"), hereby consents to the execution and recording of the attached Declaration of Covenants, Conditions and Restrictions for LFI Orland Park Center (the "Declaration") and agrees that said Mortgage is subject to the Declaration.

IN WITNESS WHEREOF, the said Bank has caused this Consent of Mortgagee to be signed by its duly authorized officer on its behalf in Illinois, on this 12 day of March 2018, 2018.

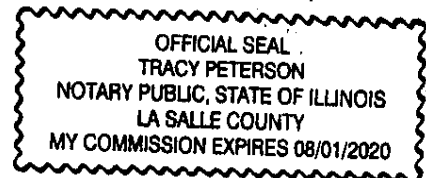
By: 
Its: Market President

STATE OF ILLINOIS)
) ss.
COUNTY OF Kendall

On this, the 12 day of March 2018, before me, Matt Blanton personally appeared who acknowledged himself/herself to be the Market President of Midland States Bank, and that, as such officer being authorized to do so, executed the foregoing instrument for the purposes therein.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Tracy Peterson
Notary Public



UNOFFICIAL COPY

CONSENT OF MEZZANINE MORTGAGEE

OP Mezzanine LLC ("Mezzanine Lender"), the holder of a certain Junior Mortgage recorded in the office of the Recorder of Deeds of Cook County, Illinois on August 23, 2016 as Document No. 1623619014 (the "Mortgage"), hereby consents to the execution and recording of the attached Declaration of Covenants, Conditions and Restrictions for LFI Orland Park Center (the "Declaration") and agrees that said Mortgage is subject to the Declaration.

IN WITNESS WHEREOF, the said Bank has caused this Consent of Mortgagee to be signed by its duly authorized officer on its behalf in Illinois, on this 12th day of March, 2018.

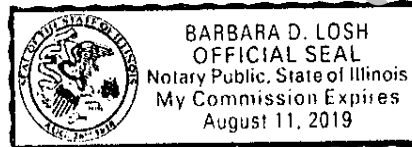
By: _____
Its: Manager

STATE OF ILLINOIS)
) ss.
COUNTY OF WILL)

On this, the 12th day of March 2018, before me, Joseph T. Bochenski personally appeared who acknowledged himself to be the Manager of OP Mezzanine LLC, and that, as such Manager being authorized to do so, executed the foregoing instrument for the purposes therein.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public



UNOFFICIAL COPY

EXHIBIT A

LEGAL DESCRIPTION OF CENTER

Lots 1-4 in the Final Plat of Subdivision Lagrange Retail Development being part of the Southeast Quarter of Section 16, Township 36 North, Range 12 East of the Third Principal Meridian, according to the plat thereof, recorded February 15, 2018 as Document #1804629086, in Cook County, Illinois.

Common Address: 15610 S. LaGrange Road, Orland Park, IL 60462

PIN: 27-16-401-004-0000

27-16-401-005-0000

27-16-401-008-0000

27-16-401-011-0000

UNOFFICIAL COPY

EXHIBIT B

USE RESTRICTIONS

A. Lots 1 through 4 shall not be used for the following uses:

1. cafeteria;
2. theater so long as Chuy's Opco, Inc. is the tenant under a lease for Lot 1 or except where the closest exterior wall of such theater is at least 250 feet from the nearest corner of the Building on Lot 1;
3. bowling alley;
4. billiard parlor;
5. funeral parlor;
6. night club or other place of recreation or amusement such as laser tag, paint ball, rock climbing, miniature or putt-putt golf facility, go-cart track, party, dance, cheer, tumbling or gymnastics facility, or any other facility providing a place for patrons to engage in and/or receive instruction in any leisure, hobby or sport event activity;
7. Any business deriving more than 50% of its gross revenues from the sale of alcoholic beverages for on-site consumption, except where operated by a first class operator such as *World of Beer* or *Miller's Ale House* by way of example so long as Chuy's Opco, Inc. is the tenant under a lease for Lot 1;
8. flea market;
9. industrial manufacturing facility;
10. skating rink;
11. fitness, gym or exercise facility so long as Chuy's Opco, Inc. is the tenant under a lease for Lot 1 or except where the closest exterior wall of such exercise facility is at least 250 feet from the nearest corner of the Building on Lot 1 and no fitness center or gym shall be permitted on Lot 4;
12. massage parlor, except therapeutic massage facility is permitted;
13. modeling studio;
14. adult book store or other establishment primarily engaged in the business of selling, exhibiting or distributing pornographic or obscene materials or live models or dancers;

UNOFFICIAL COPY

15. amusement arcade or similar facility providing coin operated amusement devices, rides, pinball machines, mechanical or electronic games, and similar types of equipment;
16. central laundry or dry cleaning plant, except a dry cleaning drop-off facility which does not use dry cleaning fluids or similar chemicals on site in connection with the dry cleaning of clothes is permitted;
17. any business which creates unreasonably or unusually strong or offensive odors, fumes, emissions or sounds, except for normal restaurant odors resulting from the cooking of food;
18. except for Lot 3, a restaurant featuring or specializing in the sale of chicken including, but not limited to Chick-fil-A, KFC, Church's Chicken, Pollo Tropical, Pollo Cmpero, El Pollo Loco, Popeye's Louisiana Kitchen, Zaxby's, Bojangles' Natural Chicken Grill, Raising Canes, Boston Market, California Chicken Cafe', Kenny Rogers Roasters, California Chicken Grill and Chicken Express.
19. except for Lot 2, a sports-themed restaurant or sports bar;
20. except for Lot 2, a restaurant with exhibiting more than eight (8) television screens (or other types of viewing screens) for public viewing (only half of which can exceed 60 inches measured diagonally);
21. except for Lot 2, a restaurant offering more than ten (10) different beer taps; or
22. except for Lot 2, a restaurant that operates with a trade name that includes the words "Ale House:" within the name or under any one of the following brands: *Bar Louie, BJ's Restaurant and Brewhouse, Brickhouse, Buffalo Wild Wings, Carroua Ale House, Champps, Green Turtle, Hooters, Quaker Steak & Lube, Rock Bottom Brewery, Taco Mac, TGI Friday's, Tilted Kilt, Twin Peaks, Wingstop, Wing House, World of Beers, or Yard House.*
23. except for Lot 1, a Tex-Mex or Mexican restaurant so long as Chevy's Opco, Inc. is operating its restaurant on Lot 1.
24. auto dealership on Lots 1, 2 or 3 and any auto dealership located on Lot 4 shall be prohibited from using any portion of the Protected Area designate under any lease of Lots 1, 2 or 3 in connection with its business operation.

B. Lots 1, 2 and 3 shall not be used for the following uses:

1. fitness center or gym
2. building in excess of one story in height

UNOFFICIAL COPY

HEIGHT RESTRICTIONS

No building constructed on Lots 1, 2 or 3 shall taller than twenty-three (23) feet to its highest point and any tower elements shall not exceed twenty-seven (27) feet to the highest point of any tower element.

No building constructed on Lot 4 may be taller than one (1) story in height excluding an office or medical use building.

Property of Cook County Clerk's Office