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Doc#: 2009021180 Fee: \$98.00
Edward M. Moody
Cook County Recorder of Deeds
Date: 03/30/2020 12:58 PM Pg: 1 of 14

**This Document Prepared by,
and after Recording Return to:**

Kevin S. Werner
RFLF 4, LLC
222 W. Adams #1980
Chicago, IL 60606

OMNIBUS LOAN MODIFICATION AGREEMENT

This **OMNIBUS LOAN MODIFICATION AGREEMENT** (this "**Agreement**") is made as of January __, 2020 (the "**Effective Date**"), by and among **RFLF 1, LLC**, a Delaware limited liability company, its successors and assigns ("**Lender**") and the following parties, each being referred to herein as an "**Obligor**" (and collectively as the "**Obligors**");

2738 W CHICAGO INC., an Illinois corporation ("**Chicago Owner**"), **ROMAN POPOVYCH II**, an individual ("**Roman II**"), and **ROMAN POPOVYCH**, an individual ("**Roman I**"; together with Chicago Owner and Roman II, "**Borrower**"); and

BOGDAN POPOVYTCH, an individual ("**Bogdan**"; together with Roman I and Roman II, the "**Guarantor**").

Recitals

A. Lender's predecessor-in-interest RFLF 4, LLC ("**RFLF 4**") has made a loan (the "**Loan**") to Borrower for the purchase and/or rehabilitation of a residential property located in Cook County, Illinois. The principal balance of the Loan at origination was One Million Two Hundred Sixty-Eight Thousand and No/100 Dollars (\$1,268,000.00) pursuant to the terms and conditions of a certain Acquisition and Construction Note made payable by Borrower to the order of RFLF 4 (as the same may be amended, supplemented, assigned or otherwise modified from time to time, the "**Note**"), which currently has a maturity date of July 31, 2019 (the "**Maturity Date**"). The principal of the Loan was reduced to One Million One Hundred Forty and No/100 Dollars (\$1,140,000.00) by a payment made in the amount of One Hundred Twenty-Eight Thousand and No/100 Dollars (\$128,000.00) pursuant to that certain Omnibus Loan Modification and Amendment to Mortgages dated April 3, 2019. The current The Note is secured by, among other things, that certain Mortgage, Assignment of Leases and Rents, Security Agreement and Financing Statement recorded 4/9/18 as Doc# 1809908121 (as the same may be amended, supplemented, assigned or otherwise modified from time to time, the "**Mortgage**") and encumbering the real property and all improvements thereon located at and common address of 2738 West Chicago Avenue, Chicago, Illinois 60622 and legally described in attached **Exhibit A** (the "**Property**"). The Mortgage was assigned by RFLF 4 to Lender pursuant to that certain Assignment of Mortgage recorded 12/4/18 as Doc# 1833833112. The Note, together with the Mortgage, the Construction Loan Agreement dated April 5, 2018 by Borrower for the benefit RFLF 4 pertaining to the Loan (the "**Loan Agreement**"), and all other documents evidencing or securing the Loan, in their original form, including, without limitation the Guaranty

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executed by Guarantor pertaining to the Loan ("**Guaranty**"), as each of the same may be amended, supplemented, assigned or otherwise modified from time to time, are hereinafter collectively referred to as the "**Loan Documents**".

B. Each of the Obligors are affiliated entities and/or persons which, directly or indirectly, benefit from the Loan, and the Obligors have now requested that the Loan Documents be modified to, among other things, extend the Maturity Date and increase the Loan Amount, which request the Lender is willing to grant, upon and subject to the terms, requirements and conditions set forth herein.

Therefore, upon good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Agreements

1. **Recitals; Loan Documents.** The foregoing Recitals are hereby restated, and the Loan Documents are hereby incorporated herein by reference.

2. **Defined Terms.** Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Loan Agreement. For purposes hereof:

(a) The term "**Artesian Owner**" shall mean Chicago Title Land Trust Company, as Trustee of Trust Dated 9/11/09 and known as Trust Number 8002353682.

(b) The term "**Artesian Property**" shall mean that certain real property commonly known as 6953 South Artesian, Chicago, IL 60629 and legally described on **Exhibit B** attached hereto.

(c) The term "**Maplewood Owner**" shall mean Bogdon.

(d) The term "**Maplewood Property**" shall mean that certain real property commonly known as 7031 South Maplewood, Chicago, IL 60629 and legally described on **Exhibit C** attached hereto.

(e) The term "**Leamington Owner**" shall mean Bogdon.

(f) The term "**Leamington Property**" shall mean that certain real property commonly known as 627 North Leamington, Chicago, IL 60644 and legally described on **Exhibit C** attached hereto.

(g) The term "**Leavitt Borrower**" shall collectively mean Panoptic Group Investments LLC, an Illinois limited liability company, Roman II and Roman I.

(h) The term "**Leavitt Loan**" shall mean that certain loan from Lender's predecessor-in-interest RFLF 2, LLC to Lyndale Borrower in the original principal amount of \$1,386,000.00.

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(i) The term "**Leavitt Mortgage**" shall mean that certain Mortgage, Security Agreement and Financing Statement dated March 28, 2017 by Leavitt Borrower for the benefit of RFLF 2, LLC.

(j) The term "**Leavitt Loan Documents**" shall mean that certain Acquisition and Construction Note dated March 28, 2017 by Leavitt Borrower for the benefit of RFLF 2, LLC, that certain Construction Loan Agreement dated March 28, 2017 by and between RFLF 2, LLC and Leavitt Borrower, the Leavitt Mortgage, that certain Guaranty dated March 31, 2017 by Guarantor for the benefit of RFLF 2, LLC, and all other documents evidencing or securing the Leavitt Loan, in their original form, as each of the same may be amended, supplemented, assigned or otherwise modified from time to time.

(k) The term "**Principal Repayment Deadline**" shall mean the date that is three hundred sixty-five (365) days after the Effective Date.

(l) The term "**Chicago Principal Payment**" shall mean (i) the payment by Borrower to Lender of the full principal balance due under the Loan and (ii) the reimbursement by Borrower to Lender of all out-of-pocket costs and expenses incurred by Lender in connection with the Loan (including, without limitation, attorney fees incurred by Lender in connection with the Loan and enforcement thereof).

(m) The term "**Leavitt Principal Payment**" shall mean (i) the payment by Leavitt Borrower to Lender of the full principal balance due under the Leavitt Loan and (ii) the reimbursement by Leavitt Borrower to Lender of all out-of-pocket costs and expenses incurred by Lender in connection with the Leavitt Loan (including, without limitation, attorney fees incurred by Lender in connection with the Leavitt Loan and enforcement thereof).

(n) The term "**Principal Payment Date**" shall mean the first date, if any, on which Lender is in receipt of the Chicago Principal Payment and the Leavitt Principal Payment.

(o) The term "**Reduced Interest Amount**" shall mean fifty percent (50%) of the interest accrued under the Loan at the Loan Rate during the period commencing on April 5, 2018 and ending on the Principal Payment Date.

(p) The term "**Fair Market Value**" shall mean the fair market value of real estate as determined by Lender in Lender's reasonable discretion.

(q) The term "**Bona Fide Purchaser**" shall mean any bona fide third party purchaser(s) for Fair Market Value.

(r) The term "**Approved Closing**" shall mean the transfer of fee simple title of the Property to a Bona Fide Purchaser.

(s) The term "**Closing Costs**" means normal and customary closing costs, including but not limited, broker's commission, title charges, recording fees, transfer stamps, seller attorney fees, real estate tax proration, and other costs that have been approved by Lender (such approval not to be unreasonably withheld, conditioned or delayed).

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(t) The term "**Closing Statement**" shall mean the final closing statement used in connection with any applicable Approved Closing that has been approved by Lender (such approval not to be unreasonably withheld, conditioned or delayed) and shall state that all funds from such Approved Closing after the payment of the Closing Costs shall be paid to Lender in lieu of the Chicago Owner.

(u) The term "**Leavitt Modification**" shall mean that certain Omnibus Loan Modification dated of even date herewith by and among Lender, Leavitt Borrower and Guarantor.

(v) The term "**Leavitt Deficiency**" shall have the same definition ascribed to the term in the Leavitt Modification.

3. **Maturity Date Extension.** The Maturity Date is hereby extended to January 6, 2021.

4. **Loan Rate.** From and after the Effective Date, the Loan Rate shall equal 8.00% per annum.

5. **Increase of Loan Amount, Interest Reserve Account and Chicago Loan Principal Payment.** Lender hereby agrees to increase the Loan to Borrower by an additional amount equal to Nine Hundred Fifteen Thousand and No/100 Dollars (\$915,000.00) (the "**Increased Loan Amount**") so that the Loan Amount shall hereby be equal to Two Million Fifty-Five Thousand and No/100 Dollars (\$2,055,000.00), provided that: (x) One Hundred Seventy Thousand and No/100 Dollars (\$170,000.00) of the Increased Loan Amount shall be used to establish a non-segregated, non-interest bearing interest reserve account (the "**Interest Reserve**"), (y) Six Hundred Thirty-Five Thousand and No/100 Dollars (\$635,000.00) of the Increased Loan Amount shall be immediately placed in the Construction Escrow, and (z) One Hundred Ten Thousand and No/100 Dollars (\$110,000.00) of the Increased Loan Amount shall be placed in the Construction Escrow to release existing mechanics' liens, provided such funds shall only be released once Borrower provides lien releases for all such mechanics' liens, and provides a date down endorsement to the title policy to the satisfaction of Lender. Provided there is no continuing Default, the Interest Reserve shall be used by Lender to timely pay the monthly interest payments due under the Loan. The funds in the Construction Escrow shall be disbursed in accordance with the terms of the Loan Agreement.

6. **Modification Fee; Expenses.** As a condition of the agreements contained herein, concurrent with the execution of this Agreement, Borrower shall pay Lender's legal fees for drafting this modification of the Loan.

7. **Additional Collateral.** In order to secure each Obligor's obligations under the Loan Documents (as amended by this Agreement), contemporaneously with the execution of this Agreement, Borrower shall cause (i) Artesian Owner to execute and record a mortgage (the "**Artesian Mortgage**") against the Artesian Property (such mortgage to be in a form and substance approved to Lender), (ii) Maplewood Owner to execute and record a mortgage (the "**Maplewood Mortgage**") against the Maplewood Property (such mortgage to be in a form and substance approved to Lender) and (iii) Leamington Owner to execute and record a mortgage (the "**Leamington Mortgage**"; together the Artesian Mortgage and the Maplewood Mortgage, the "**Additional Mortgages**") against the Leamington Property (such mortgage to be in a form and substance

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approved to Lender). Borrower's failure to cause the execution and recordation of the Additional Mortgages in accordance with the terms of this Section 7 shall constitute a Default under the Loan Documents. Upon release of both the Mortgage and Leavitt Mortgage, Lender shall promptly cause the release of any of the Additional Mortgages that have not otherwise been released in accordance with the terms of this Agreement, any of the Loan Documents or the Leavitt Loan Documents.

8. **Cross-Default.** The Loan Documents and the Leavitt Loan Documents are each cross-defaulted, such that (i) any Default under or with respect to the Loan or any of the Loan Documents shall automatically constitute a Default (as defined in the Leavitt Loan Documents) under and with respect to the Leavitt Loan and the Leavitt Loan Documents, and (ii) a Default (as defined in the Leavitt Loan Documents) under or with respect to the Leavitt Loan or any of the Leavitt Loan Documents shall automatically constitute a Default under and with respect to the Loan and the Loan Documents.

9. **Cross-Collateralization.** Subject to the terms of Section 7 above and the remaining terms of this Section 9, the Loan and the Leavitt Loan, and any and all collateral under the Loan and the Leavitt Loan, shall be fully cross-collateralized with each other and that (a) all obligations of Borrower under the Loan and the Loan Documents shall also be secured by each and all of the Leavitt Loan Documents and any and all collateral securing the Leavitt Loan and Leavitt Loan Documents and (b) all obligations of Leavitt Borrower under the Leavitt Loan and the Leavitt Loan Documents shall also be secured by each and all of the Loan Documents and any and all collateral securing the Loan and the Loan Documents. Nothing contained herein shall in any way impact, impair, modify or reduce in any way (i) the obligations of Borrower under the Loan or the Loan Documents, or (ii) the obligations of Leavitt Borrower under the Leavitt Loan or the Leavitt Loan Documents. By way of illustration only and without limitation of the foregoing, in the event the Loan has been re-paid in full and amounts remain outstanding under the Leavitt Loan and Loan Documents, Lender shall be under no obligation whatsoever to release any collateral remaining under the Loan Documents until all amounts under the Leavitt Loan and Leavitt Loan Documents have been paid to Lender in full, except as otherwise set forth herein. Notwithstanding the foregoing or anything otherwise set forth in this Section 9 to the contrary, so long as there is no Default occurring, Lender shall release the Mortgage (the "Release") contemporaneously with an Approved Closing; provided, however, Lender shall have been provided a copy of the fully executed Closing Statement prior to delivering the Release.

10. **Waiver of Service of Process.** All actions or proceedings arising directly or indirectly from the Loan Documents (as amended by this Agreement) shall be litigated in courts located in the Circuit County of Cook County, Illinois. Each Obligor irrevocably consent to the jurisdiction thereof and agree not to disturb such choice of forum for any reason whatsoever. Further, each Obligor waives personal service of any and all process, and consent that at the sole election of Lender, or its successors or assigns, any service of process may be made by certified or registered mail, return receipt request, upon Ira T. Kaufman, P.C., 185 N. Franklin Street, 2nd Floor, Chicago, IL 60606-1933 or such other address of Ira T. Kaufman that is registered with the Illinois Attorney Registration & Disciplinary Commission from time to time.

11. **Waiver of Defenses.** TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OBLIGOR WAIVES EVERY PRESENT AND FUTURE DEFENSE, CAUSE OF ACTION, COUNTERCLAIM OR SETOFF WHICH ANY OBLIGOR MAY NOW HAVE OR HEREAFTER MAY HAVE TO ANY ACTION BY LENDER IN ENFORCING THIS AGREEMENT OR ANY

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OF THE LOAN DOCUMENTS. THIS PROVISION IS A MATERIAL INDUCEMENT FOR LENDER GRANTING ANY FINANCIAL ACCOMMODATION TO BORROWER.

12. **Reaffirmation of Guaranty.** Guarantor ratifies and affirms the Guaranty and agrees that the Guaranty is in full force and effect following the execution and delivery of this Agreement. The representations and warranties of each Guarantor in the Guaranty are, as of the date hereof, true and correct and such Guarantor does not know of any default thereunder. The Guaranty continues to be the valid and binding obligation of each Guarantor, enforceable in accordance with its terms and such Guarantor has no claims or defenses to the enforcement of the rights and remedies of any Lender thereunder.

13. **Principal Payment Date; Reduced Interest Amount.** In the event the Principal Payment Date occurs on or before the Principal Repayment Deadline: (i) Lender shall waive all then remaining interest (including any default interest) and other amounts due under the Loan, other than the Reduced Interest Amount (such aforesaid waived interest and amounts (other than the Reduced Interest Amount), collectively, the "**Waived Interest**") and (ii) Borrower shall pay Lender the Reduced Interest Amount in thirty-six (36) equal monthly installment payments, each such installment payment being due on the first day of each of the thirty-six (36) consecutive full calendar months immediately following the Principal Payment Date (such thirty-six (36) month period, the "**RIA Payment Period**"); provided, however, in the event Borrower fails to pay Lender the Reduced Interest Amount in accordance with the terms of this Section 13, Lender's aforesaid waiver of the Waived Interest shall be null and void. For the avoidance of doubt, the RIA Payment Period shall not commence unless and until Lender is in receipt of both the Leavitt Principal Payment and the Chicago Principal Payment.

14. **Leavitt Deficiency.** Subject to the terms of Section 13 above, Borrower agrees and acknowledges that the Leavitt Deficiency, if any, shall become part of the Loan (i.e., the Mortgage shall serve as collateral for the Leavitt Deficiency, if any).

15. **Miscellaneous.**

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois, and shall not be construed more strictly against the Lender than against the Obligors merely by virtue of the fact that the same has been prepared by counsel for the Lender, it being recognized that the Obligors and the Lender have contributed substantially and materially to the preparation of this Agreement, and the Obligors and the Lender each acknowledges and waives any claim contesting the existence and the adequacy of the consideration given by the other in entering into this Agreement. Each of the parties to this Agreement represents that it has been advised by its respective counsel of the legal and practical effect of this Agreement, and recognizes that it is executing and delivering this Agreement, intending thereby to be legally bound by the terms and provisions thereof, of its own free will, without promises or threats or the exertion of duress upon it. The signatories hereto state that they have read and understand this Agreement, that they intend to be legally bound by it and that they expressly warrant and represent that they are duly authorized and empowered to execute it.

(b) Notwithstanding the execution of this Agreement by the Lender, the same shall not be deemed to constitute the Lender a venturer or partner of or in any way associated with the Obligors nor shall privity of contract be presumed to have been established with any third party.

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(c) The Obligors and the Lender each acknowledges that there are no other understandings, agreements or representations, either oral or written, express or implied, that are not embodied in the Loan Documents and this Agreement, which collectively represent a complete integration of all prior and contemporaneous agreements and understandings of the Obligors and the Lender; and that all such prior understandings, agreements and representations are hereby modified as set forth in this Agreement. Except as modified hereby, the terms of the Loan Documents are and remain unmodified and in full force and effect.

(d) This Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

(e) The paragraph and section headings used herein are for convenience only and shall not limit the substantive provisions hereof. All words herein which are expressed in the neuter gender shall be deemed to include the masculine, feminine and neuter genders. Any word herein which is expressed in the singular or plural shall be deemed, whenever appropriate in the context, to include the plural and the singular.

(f) Time is of the essence of the Obligors' obligations under this Agreement.

(g) Upon full execution of this Agreement, Lender shall promptly cause the dismissal (without prejudice) of Lender's foreclosure case currently pending against the Property as of the date hereof.

16. **Counterparts** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument. Facsimile signatures shall be deemed originals for purposes of execution.

SIGNATURE PAGE FOLLOWS

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IN WITNESS WHEREOF, Lender and the Obligor have each executed and delivered this Agreement as of the day and year first written above.

LENDER:

RFLF 1, LLC,
a Delaware limited liability company

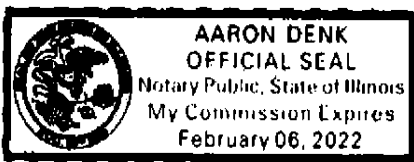
Sign: *Alyssa Tebbitt*
Name: ALYSSA TEBBITT
Title: SERVICING MANAGER

Lender's Acknowledgement

STATE OF ILLINOIS
COUNTY OF COOK

The foregoing Instrument was acknowledged before me on January 8, 2020 by ALYSSA TEBBITT, the SERVICING MANAGER of RFLF 1, LLC, on behalf of such limited liability company.

Aaron Denk
NOTARY PUBLIC




BORROWER'S SIGNATURE PAGE FOLLOWS


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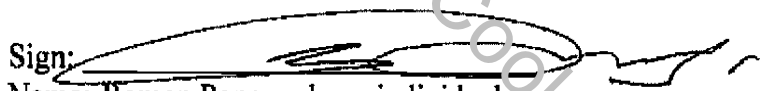
IN WITNESS WHEREOF, each Lender and the Obligor have each executed and delivered this Agreement as of the day and year first written above.

BORROWER:

2738 W CHICAGO INC.,
an Illinois corporation

Sign: 
Name: Roman Popovych
Title: Manager

Sign: 
Name: Roman Popovych II, an individual


Sign: 
Name: Roman Popovych, an individual

Borrower's Acknowledgement

STATE OF ILLINOIS
COUNTY OF COOK

The foregoing Instrument was acknowledged before me on January 2, 2020, by Roman Popovych the Manager, of **2738 W CHICAGO INC.**, an Illinois corporation, on behalf of such corporation, and Roman Popovych II, individually and Roman Popovych I, individually





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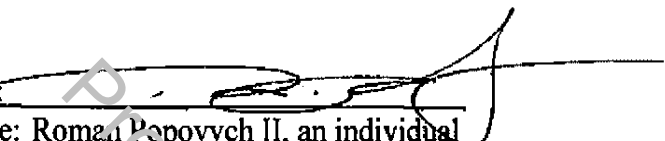
GUARANTOR SIGNATURE PAGE FOLLOWS

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IN WITNESS WHEREOF, each Lender and the Obligors have each executed and delivered this Agreement as of the day and year first written above.

GUARANTOR:

Sign: 
Name: Bogdan Popovych, an individual

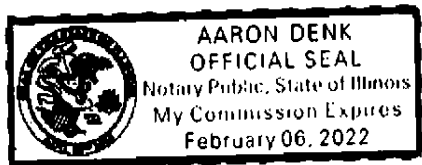
Sign: 
Name: Roman Popovych II, an individual

Sign: 
Name: Roman Popovych, an individual

Guarantor's Acknowledgement

STATE OF ILLINOIS
COUNTY OF COOK

The foregoing Instrument was acknowledged before me on January 8, 2020, by Bogdan Popovych, individually, Roman Popovych II, individually, and Roman Popovych II, individually




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Exhibit A

Property Legal Description

LOT 20 IN BLOCK 3 IN TAYLOR AND CANDA'S SUBDIVISION OF THE WEST ½ OF THE SOUTHWEST ¼ OF THE SOUTHEAST ¼ OF SECTION 1, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Common Address: 2738 West Chicago Avenue
Chicago, IL 60622

PIN: 16-01-424-039-0000

Property of Cook County Clerk's Office

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Exhibit B

Artesian Property Legal Description

LOT 458 IN BRITIGAN' S WESTWOOD, BEING A SUBDIVISION OF THE EAST HALF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THE SOUTH HALF OF THE NORTHEAST QUARTER OF SAID SOUTHEAST QUARTER OF SECTION 24 AFORESAID) IN COOK COUNTY, ILLINOIS.

Common Address: 6953 South Artesian, Chicago, IL 60629

PIN: 19-24-420-018-0000

Property of Cook County Clerk's Office

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Exhibit C

Maplewood Property Legal Description

LOT 305 IN BRITIGAN'S WESTWOOD, BEING A SUBDIVISION OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 24, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SAID SOUTHEAST 1/4 OF SAID SECTION 24 IN COOK COUNTY, ILLINOIS.

Common Address: 7031 South Maplewood, Chicago, IL 60629

PIN: 19-24-426-010-0000

Property of Cook County Clerk's Office

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Exhibit D

Leamington Property Legal Description

LOT 15 IN BLOCK 4 IN THE SUBDIVISION OF THE NORTH 16 ACRES OF THE WEST 1/2 OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

Common Address: 627 North Leamington, Chicago, IL 60644

PIN: 16-05-209-011-0000

Property of Cook County Clerk's Office