

UNOFFICIAL COPY

87.402137

DELANE

Property of Cook County Clerk's Office

7022-87

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

PLAT WITH THIS DOCUMENT

87402137

#61.00

FIRST AMENDMENT TO CHICAGO RIDGE
AMENDED AND RESTATED OPERATING AGREEMENT

THIS FIRST AMENDMENT to the Chicago Ridge Amended and Restated Operating Agreement (the "Amendment") is made and entered into this 1st day of May, 1987, by and among LA SALLE NATIONAL BANK, not individually, but as Trustee under Trust Agreement dated March 1, 1979 and known as Trust No. 100388 (hereinafter called "LaSalle"), SEARS, ROEBUCK AND CO. (hereinafter called "Sears"), a New York corporation, FEDERATED DEPARTMENT STORES, INC. (hereinafter called "Federated"), a Delaware corporation, JMB/CHICAGO RIDGE MALL ASSOCIATES (hereinafter called "JMB"), an Illinois general partnership, and CPS REALTY PARTNERSHIP (hereinafter called "Carson"), an Illinois general partnership (each of the above are hereinafter called a "Party" and all of the above are hereinafter collectively called the "Parties"). Sears, Federated, and Carson are each hereinafter called a "Major Store" or collectively the "Major Stores".

RECITALS

A. LaSalle as Developer, Sears and Federated have previously entered into an agreement entitled "Chicago Ridge Amended and Restated Operating Agreement" dated December 19, 1983 and recorded in the Office of the Recorder of Deeds of Cook County, Illinois on January 15, 1984 as Document No. 25944026 (hereinafter called the "Operating Agreement") relative to the construction, operation, use and maintenance of an integrated regional shopping center ("Shopping Center") known as Chicago Ridge Mall; capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Operating Agreement.

B. Sears and Federated continue to own the Sears Parcel and Federated Parcel respectively and Sears and Federated

7109996-02
OK
Richard
Kuzel
Mark
Blas

87402137

UNOFFICIAL COPY

Property of Cook County Clerk's Office

operate Department Stores in the Shopping Center as provided in the Operating Agreement.

C. Except for the LaSalle Parcels (hereinafter defined), LaSalle has conveyed all of its right, title and interest in the Developer Parcel in the Shopping Center to Lehndorff Chicago Ridge Venture ("Lehndorff"), a Texas Joint Venture; LaSalle continues to own certain parcels of real estate which are legally described in Exhibit A-2 Part VI (Carson Parcel) and A-2 Part VII (Madigan Parcel) attached hereto; the parcel described in Exhibit A-2, Part VI (Carson Parcel) is hereinafter called the "Carson Parcel" and the parcel described in Exhibit A-2, Part VII (Madigan Parcel) is hereinafter called the "Madigan Parcel". The parcels described in Exhibits A-2, Part VI (Carson Parcel) and A-2, Part VII (Madigan Parcel) are also hereinafter individually and collectively called the "LaSalle Parcel(s)".

D. On or about March 19, 1987 Lehndorff conveyed all of its right, title and interest in the Developer Parcel in the Shopping Center to JMB and JMB continues to own all of the Developer Parcel except the LaSalle Parcels.

E. Prior to or concurrently with the execution of this Amendment, LaSalle as lessor, and Carson as lessee, shall have entered into a lease (hereinafter called the "Carson Lease") for the use and occupancy by Carson of a two-story Department Store building which shall be constructed by LaSalle on the Carson Parcel (hereinafter called the "Carson Building"); subject to the terms of the Carson Lease, Carson Pirie Scott & Company, a general partner of Carson shall operate a Department Store in the Carson Building. The Carson Lease shall also constitute a Supplemental Agreement for the purpose of the Operating Agreement. LaSalle's interest as lessor under the Carson Lease may be assigned by LaSalle to JMB provided JMB assumes LaSalle's

UNOFFICIAL COPY

right and obligations under the Carson Lease, which arise after such assignment.

F. LaSalle, as lessor, and Madigan Brothers Inc. (hereinafter called "Madigan"), an Illinois corporation, as lessee, have previously entered into a lease (hereinafter called the "Madigan Lease") for the use and occupancy by Madigan of a Department Store building which shall be constructed by Madigan on the Madigan Parcel (hereinafter called the "Madigan Building"); subject to the terms of the Madigan Lease, Madigan shall operate a Department Store in the Madigan Building. LaSalle's interest as lessor under the Madigan Lease may be assigned by LaSalle to JMB.

G. The contemplated construction of the Carson Building and the Madigan Building shall cause the location of the Carson Building and Madigan Building to extend beyond the permitted building areas described in the Operating Agreement. Pursuant to the Carson Lease, Carson has the right to expand the Carson Building into the Future Expansion portion of the Carson Parcel as noted on Exhibit B-2.

H. The construction of the Madigan Building shall require relocation of the Ring Road in a portion of the Shopping Center. In addition, if the Carson Addition (hereinafter defined) is constructed a portion of the Ring Road shall also be required to be relocated.

I. JMB and Carson desire to become Parties to the Operating Agreement, as amended by this Amendment.

J. The construction of the Carson Building and Madigan Building and the addition of JMB and Carson as Parties to the Operating Agreement necessitate the amendment of certain provisions of the Operating Agreement.

UNOFFICIAL COPY 137

K. The Parties desire to amend the Operating Agreement to accomplish the intentions and desires of the Parties in accordance with conditions hereinafter set forth.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, it is hereby agreed by the Parties that the Operating Agreement is hereby amended as follows:

1. The Exhibits attached to the Operating Agreement as Exhibit A-1, Part I (Developer Parcel), Exhibit A-1, Part VI (Third Major Store Parcel) and Exhibit B-1 are hereby deleted in their entirety and Exhibit A-2, Part I (Developer Parcel), Exhibit A-2, Part VI (Carson Parcel) and Exhibit B-2 (Site Plan) attached hereto are substituted in lieu thereof. In addition Exhibit A-2, Part VII (Madigan Parcel) is hereby added to Exhibit A and Exhibit B-3 is hereby added to Exhibit B.

2. JMB as owner of the Developer Parcel (except the LaSalle Parcels) and as a successor to Lehndorff, which itself was successor to LaSalle, under the Operating Agreement, as amended by this Amendment, is entitled to the rights and privileges of Developer under the Operating Agreement and expressly assumes all of the obligations and duties of Developer under the Operating Agreement arising or occurring after March 19, 1987, (except for such rights, privileges, duties and obligations with respect to the LaSalle Parcels until such time, if ever, as JMB, or its successors or assigns, shall succeed to the ownership of either or both of the LaSalle Parcels, at which time without any further amendment of the Operating Agreement the legal description of the Developer Parcel shall be amended to include such of the LaSalle Parcels as JMB or its successors or assigns shall have acquired). LaSalle shall promptly notify the Parties hereto of the conveyance by LaSalle of the LaSalle Parcel(s). JMB agrees to perform and be bound by all of the

UNOFFICIAL COPY 7

terms, covenants and conditions of the Operating Agreement arising or occurring after March 19, 1987 which are applicable to Developer in connection with the Developer Parcel (except with respect to the LaSalle Parcel(s) until such time, if ever, as JMB or its successors or assigns shall succeed to the ownership of the LaSalle Parcel(s)), and for the purpose of this Agreement JMB shall from and after March 19, 1987 be the "Developer" referred to in the Operating Agreement. Until such time, if ever, as JMB or its successors or assigns shall succeed to the ownership of the LaSalle Parcel(s), LaSalle shall have the rights and privileges of Developer and agrees to perform in accordance with and be bound by all of the applicable terms of the Operating Agreement applicable to Developer with respect to such LaSalle Parcel(s).

3. As long as Carson shall remain the tenant under the Carson Lease and thereafter if Carson acquires the Carson Parcel and Carson Building as a result of Carson exercising Carson's option to purchase the Carson Parcel and Carson Building as set forth in the Carson Lease, Carson shall be entitled to the rights and privileges of a Party and a Major Store under the Operating Agreement and, except as otherwise set forth herein, Carson expressly assumes all of the obligations and duties of a Party and a Major Store under the Operating Agreement, for so long as Carson is a tenant under the Carson Lease or the owner of the Carson Parcel. Carson agrees to perform and be bound by all of the terms, covenants and conditions of the Operating Agreement applicable to a Party and a Major Store for so long as Carson is a tenant under the Carson Lease or the owner of the Carson Parcel. Notwithstanding the foregoing, it is understood by the Parties, pursuant to the Carson Lease, LaSalle shall initially construct the Carson Building and that LaSalle is responsible during the term of the Carson Lease to comply with the provisions of the Operating Agreement relating to initial construction of

the Carson Building and other site work on the Carson Parcel and reconstruction of the Carson Building after casualty or condemnation as set forth in Article VII and Section 13.4 as well as elsewhere in the Operating Agreement until such time, if ever, as Carson purchases the Carson Parcel and Carson Building pursuant to the exercise of Carson's option to purchase as set forth in the Carson Lease in which event Carson shall be responsible for reconstruction after casualty or condemnation.

4. In the event Carson shall exercise Carson's option to purchase the Carson Parcel and the Carson Building contained in the Carson Lease, then Carson and Developer shall enter into a Supplemental Agreement, which shall provide for the payment by Carson of its Allocable Share of Common Area Maintenance Cost and Mall Operation and Maintenance Expense in the same applicable amounts as set forth in the Carson Lease.

5. The following Sections are hereby added to the applicable Articles of the Operating Agreement:

Section 2.6. Completion of Phase Two Work. The Parties acknowledge and agree that LaSalle has fully performed and completed all on-site, off-site and Common Area improvements relative to Phase Two of the Shopping Center, as contemplated by this Agreement.

Section 2.7. Definitions of Plans for Phase Three Work for this Article II. The term "Phase Three Plans" for purposes of this Agreement means the preliminary design development drawings and thereafter the working drawings and specifications for the items set forth in this Section 2.7 hereof and for such other items in the Phase Three Plans not set forth in this Section 2.7, but commonly incidental and usually performed in conjunction with such items. The Phase Three Plans shall be prepared at the sole cost and expense of LaSalle. The term

"Phase Three Work" shall include all items depicted in the Phase Three Plans relative to the following items:

- (i) relocation and reconstruction of part of the Ring Road around Madigan's Building;
- (ii) surface pavement of the southwest Parking Area;
- (iii) enlargement of the southwest storm water retention area and construction of decked parking thereon;
- (iv) filling of southeast storm water retention area and construction of on grade parking thereon;
- (v) construction of new Parking Area south of south Ring Road;
- (vi) relocation of certain underground utilities due to construction of the Madigan Building;
- (vii) relocation of part of the south Ring Road and certain underground utilities due to construction of the Carson Addition;
- (viii) such other items not hereinbefore specified as are necessarily and commonly incidental to any of the foregoing.

Section 2.8. Completion of Phase Three Work. Except as hereinafter provided, LaSalle shall cause the Phase Three Work to be completed at its sole cost and expense (except as provided in the Carson Lease) in accordance with the Phase Three Plans on or before the opening of the Carson's Building. Items 2.7 (iii) and (vii) of the Phase Three Work shall be completed by LaSalle in accordance with the Phase Three Plans on or before completion of the Carson Addition.

Section 4.18. Temporary License to Perform Phase Three Work. Developer hereby grants to LaSalle, and to the Project Architect and to the contractor(s) performing Phase Three Work pursuant to Section 2.7 of this Agreement, a temporary license to enter upon the Developer Parcel for the purpose of engaging in

UNOFFICIAL COPY 7

necessary activities connected with the performance of the Phase Three Work, said license to terminate when the Phase Three Work is completed. The license granted to LaSalle pursuant to this Section 4.18 shall also apply to construction of the Phase Three Work as described in Sections 2.7(iii) and (vii) hereof at the time LaSalle constructs such Phase Three Work.

Section 4.19. Temporary License to Perform Construction of Carson Building and Madigan Building. During the period of the construction of the Carson Building, Carson Addition and Madigan Building, Developer hereby grants to LaSalle, Madigan and Carson, their architects, contractors, sub-contractors, materialmen and others engaged in performing such work and to the Project Architect, a temporary license to use portions of the Developer Parcel as and to the extent necessary for the purpose of performing the construction in question; provided that each such license as to any particular Parcel benefited thereby shall end when the construction of the building or structure, the construction of which shall give rise to such license, shall be completed but shall not extend beyond the time when it is needed under good construction practice. During the period of construction described in the preceding sentence, and during the period of any other "construction" (as such work is defined in Section 7.1 hereof) on the Shopping Center Site, each Party grants to the other the temporary license, to be used for so long as reasonably necessary in the performance of such construction as to the following matters:

(a) to use those roads (including entrances and exits to and from the Shopping Center Site) designated on Exhibit B-3 as "Phase Three Construction Access" to provide access for all personnel, equipment, supplies and like matters to and from the site of the particular construction, to the extent so reasonably necessary; and

(b) to use, notwithstanding anything to the contrary in this Agreement contained, such parts of the Parking Area on the Parcel where the work is being done as may reasonably be needed for access to the work site and/or storage and shack sites and location of such other materials as are needed in doing such construction. Any Party enjoying such license(s) shall be deemed to be bound by the provisions of Section 7.1 of the Operating Agreement with respect to that portion of the Parcel of the other so used. Upon completion of any work as to which a temporary license was enjoyed, the licensee shall promptly, at its own cost and expense, repair and/or restore any damage done and leave such area affected free and clear of all loose dirt, debris and construction materials and Common Area Maintenance Costs shall not be increased as a result thereof.

The licenses referred to in this Section 4.19 and in the preceding Section 4.18 shall be and are deemed to be coupled with an interest.

Section 4.20. Easement to Use the Mall - Carson and Madigan Building. The easements granted in Section 4.5 of this Agreement shall terminate as to the Carson Parcel as dominant tenement when the Carsons Building is no longer being operated as a retail facility and shall terminate as to the Madigan Parcel as dominant tenement when the Madigan Building is no longer being operated as a retail facility.

Section 4.21. Easement for Operation of Common Area on Carson Parcel.

(a) LaSalle and Carson grant to Developer easements in the Carson Parcel for the management, operation, maintenance, reconstruction and repair of the Common Area pursuant to Section 10.1 hereof.

(b) The easements provided in this Section 4.21 shall terminate as to the operation of the Common Area on the Carson

Parcel on the date when Developer is no longer obligated pursuant to the provisions of this Agreement to maintain the Common Area on the Carson Parcel and in any event upon the Termination Date.

Section 5.7. Phase Two Expansion. Sears and Federated acknowledge and agree that LaSalle has fully performed and constructed the Phase Two Expansion as described in Section 5.2 of this Agreement in accordance with the Expansion Preliminary Plans previously submitted to Sears and Federated and as required by Article V of this Agreement.

Section 6.14. Original Construction of Federated Building. Developer acknowledges and agrees that Federated has fully performed and constructed the Federated Building in accordance with the Preliminary Plans and Specifications previously submitted to LaSalle and as required by Article VI of this Agreement.

Section 6.15. Location of Federated Building. Developer acknowledges and agrees that the Federated Building has been constructed within its permitted building area to the fixed building lines as shown on Exhibit P-2 hereof, and has at least one major entrance to the Mall having an opening width of at least twelve (12) feet.

Section 6.16. Construction of Federated Building. Developer acknowledges and agrees that Federated has completed the construction of its Building and Perimeter Sidewalks in accordance with its Preliminary Plans and Specifications.

Section 6.17. Minimum Area of Federated Building. Federated and Developer acknowledge and agree that the Federated Building, as originally constructed, contains not less than 60,000 square feet of Floor Area.

Section 6.18. Completion of Federated Construction. The Parties acknowledge and agree that Federated completed construction of its Building and opened a Department Store for

UNOFFICIAL COPY 3 7

business to the public in the Federated Building on October 31, 1984.

Section 6.19. Carson Building and Madigan Building.

LaSalle agrees that the exterior design of the Carson Building and the Madigan Building respectively shall be architecturally harmonious (but need not be identical as to color, texture or material) with the general exterior architectural criteria for the Phase Two Developer Building and the Mall. Any difference of opinion as to whether or not an exterior design is "harmonious" for the purposes of this Section 6.19 shall be resolved, after reasonable attempt at agreement among the Parties, by arbitration in accordance with the provisions of Article XXI hereof.

LaSalle agrees that the Carson Building and Madigan Building shall be constructed within their permitted building areas to the fixed building lines as shown on Exhibits B-2 and B-3 hereof, with at least one major entrance from each building to the Mall having an opening width of at least twelve (12) feet. LaSalle covenants and agrees that upon completion of construction of the Carson Building, it shall contain not less than 100,000 square feet of Floor Area and upon completion of construction of the Madigan Building, it shall contain not less than 75,000 square feet of Floor Area. The covenants and agreements of LaSalle set forth in this Section 6.19 hereof shall be subject to:

(a) a temporary or permanent reduction of Floor Area by reason of any cause or event stated in Article XIII of this Agreement;

(b) a temporary reduction of Floor Area during the process of alteration or remodeling or repairing;

(c) a reduction in Floor Area by reason of Condemnation as provided in Article XIX of this Agreement.

Section 6.20. Expansion of Carson Building.

Notwithstanding anything contained in this Agreement to the

UNOFFICIAL COPY

Property of Cook County Clerk's Office

11/15/2011

contrary, the Parties acknowledge and agree that Carson shall have the right to construct on the Carson Parcel a two-story addition to the Carson Building containing up to 50,000 square feet of Floor Area (the "Carson Addition"). The Carson Addition shall be constructed pursuant to the applicable provisions of the Carson Lease and in accordance with the terms of this Agreement.

Section 7.3. Correction of Parcel Descriptions -

Carson and Madigan Building. It is recognized that by reason of construction errors, the Carson Building and the Madigans Building may not be precisely constructed within the respective Parcels of the Parties as shown on Exhibit B-2 hereof. As soon as reasonably possible after the completion of the construction of said Buildings, the Parties shall cause an "as-built" survey to be made of the Shopping Center Site showing all Parcel boundaries. The cost of this survey shall be the sole cost and expense of LaSalle. In the event such survey shall disclose that the Building of a Party has not been precisely constructed within that Party's Parcel, then promptly upon the request of any Party hereto, all the Parties hereto will join in the execution of an agreement, in recordable form, amending Exhibit B-2 hereof so as to revise the location of the subject Buildings and to make appropriate changes in the boundary lines of the appropriate Parcel(s) and to eliminate any encroachment(s) disclosed by said survey and to revise the description of such Parcels to coincide with the as-built perimeter of the Buildings constructed by the Party(ies). Nothing herein contained shall be deemed to relieve or excuse any Party from exercising all due diligence in constructing its improvements within its respective Parcel as shown on Exhibit B-2 hereof. Upon request, each Party agrees to either grant a perpetual easement over that portion of its Parcel that is required to correct such encroachment or to convey satisfactory title to the benefited Party upon the basis that the

UNOFFICIAL COPY

Property of Cook County Clerk's Office

78330707

benefited Party shall deed to the burdened Party an equivalent amount of acreage.

Section 10.6. Payment of Allocable Share of Common Area Maintenance Cost. Notwithstanding anything to the contrary contained in this Agreement, Carson and Madigan shall each pay their respective share of Common Area Maintenance Cost and Mall Operation and Maintenance Expense in accordance with the terms of the Carson Lease and Madigan Lease. If Carson acquires the Carson Parcel and Carson Building as a result of Carson exercising Carson's option to purchase the Carson Parcel and Carson Building as set forth in the Carson Lease, Carson shall pay its respective share of Common Area Maintenance Cost and Mall Operation and Maintenance Expense in accordance with the Carson Supplemental Agreement.

Section 15.5. Indemnification. Developer, Sears, Federated, Carson and LaSalle covenant to, and do hereby indemnify and hold harmless each other, respectively, from and against all claims and all costs, expenses and liabilities (including reasonable attorneys' fees) incurred in connection with all claims, including any action or proceedings brought thereon, arising from or as a result of the death of or any accident, injury, loss or damage whatsoever caused to any natural Person, or the property of any Person, as shall occur in or about the Common Area which each such Party is operating and maintaining. The foregoing indemnity shall not apply to claims or liabilities arising from the wilful act or negligence of the indemnified Party, its beneficiaries or their or its agent, servants or employees.

Developer, Sears, Federated, Carson and LaSalle covenant to, and do hereby indemnify and hold harmless each other from and against all claims and all costs, expenses and liabilities (including reasonable attorneys' fees) incurred in connection with all claims, including any action or proceedings

brought thereon, arising from or as a result of the death of, or any accident, injury, loss or damage whatsoever caused to any natural Person, or to the property of any Person, as shall occur on the Parcel of each Party, as the case may be appropriate, except as to the Common Area on such Parcel. The foregoing indemnity shall not apply to claims or liabilities arising from the wilful act or sole negligence of the indemnified Party, its beneficiaries or their or its agents, servants or employees. Except as hereinafter provided, Carson's obligation under this Section 15.5 shall commence when Carson takes possession of any portion of the Carson Building. With respect to claims arising out of Carson constructing improvements, fixturing and stocking its store in the Carson Building prior to the time Carson takes possession of any portion of the Carson Building, Carson's obligations under this Section, but only as to the activities it is conducting, shall commence when Carson initiates such activities. Until such time as Carson's obligations commence under this Section 15.5, LaSalle shall be obligated under this Section 15.5 with respect to the Carson Parcel and Carson Building.

5. Section 3.1 of the Operating Agreement is hereby deleted in its entirety and the following is substituted in lieu thereof:

"Section 3.1. Termination Date. The term of this Agreement commenced May 1, 1980, and shall terminate on January 31, 2055 (hereinafter called the "Termination Date")."

6. Section 13.6 of the Operating Agreement is hereby deleted in its entirety and the following is substituted in lieu thereof:

"Section 13.6. Certain Alterations, Additions or Improvements. Any exterior alteration, addition or improvement to any building constructed on the Developer Parcel or a Major

UNOFFICIAL COPY

Property of Cook County Clerk's Office

154410

UNOFFICIAL COPY 37

Store Parcel, or on any of said Parcels subsequent to completion of construction referred to in Sections 5.2, 6.6 and 6.12 hereof, shall be deemed to be original construction to the extent that the Party wishing to accomplish the same must comply with the applicable provisions of Sections 5.2 or Section 6.2 or Section 6.7 hereof, as the case may be, as well as the other applicable Sections of this agreement. In no event shall any such alteration, addition or improvement unreasonably restrict pedestrian and vehicular access to the Shopping Center or result in a reduction of parking spaces below the parking ratio set forth in Section 17.1 hereof."

7. Section 17.1(c) of the Operating Agreement is hereby deleted in its entirety and the following is substituted in lieu thereof:

(c) There shall be available within the Common Area, exclusive of the Mall, at all times from and after the completion of the construction thereof, not less than 5.0 automobile parking spaces for each 1,000 square feet of Floor Area within the Shopping Center. Subject to LaSalle fulfilling its obligation to construct additional parking made necessary by the construction of the Carson Addition, each Party agrees with the other to take no action which would reduce the parking ratio below that specified herein, unless the Parties mutually agree to a reduction in the parking ratio to less than 5.0 automobile parking spaces for each 1,000 square feet of Floor Area and such reduction is approved by the appropriate governmental authorities.

8. Section 25.1. of the Operating Agreement is hereby deleted in its entirety and the following is substituted in lieu thereof:

UNOFFICIAL COPY

137

"Section 25.1. Place and Manner of Notice. Any notice, demand, request, consent, approval, designation, or other communication which any party hereto is required or desires to give or make or communicate to the other Party shall be in writing and shall be given or made or communicated by United States registered or certified mail, return receipt requested, addressed, in the case of Developer to:

JMB/Chicago Ridge Mall Associates
c/o JMB Realty Corporation
875 North Michigan Avenue
Suite 3900
Chicago, Illinois 60611

Attention: Robert J. Chapman

with a carbon copy to:

Farcher, Nichols & Meeks
Century City North Building
10100 Santa Monica Boulevard
Los Angeles, California 90067

Attention: Debra S. Barbanel

and addressed in the case of Sears to:

Sears, Roebuck and Co.
Sears Tower
Chicago, Illinois 60684

Attention: National Manager Real
Estate Planning Group
Department #24RE

with a carbon copy to:

Sears, Roebuck and Co.
Sears Tower
Chicago, Illinois 60684

Attention: General Counsel Department 766

and addressed in the case of Federated to:

Federated Department Stores, Inc.
7 West Seventh Street
Cincinnati, Ohio 45202

Attention: Real Estate Department

with a carbon copy to:

MainStreet
2345 North Waukegan Road
Suite E-300
Bannockburn, Illinois 60015

Attention: Chairman

UNOFFICIAL COPY 187

and addressed in the case of Carson to:

CPS Realty Partnership
c/o Carson Pirie Scott & Company
36 South Wabash
Chicago, Illinois 60603
Attention: General Counsel

and addressed in the case of LaSalle to:

LaSalle National Bank Trust No. 100388
c/o The Tucker Companies, Inc.
40 Skokie Boulevard - Suite 600
Northbrook, Illinois 60062

subject to the right of any Party to designate a different address by notice similarly given. Any notice, demand, request, consent, approval, designation or other communication so sent shall be deemed to have been given, made or communicated, as the case may be, on the date the same was deposited in the United States mail as registered or certified matter, return receipt requested, with postage thereon fully prepaid."

9. Developer has received the written consent and authorization of the Village of Chicago Ridge to reduce the width of the parking spaces in the Parking Area, from nine (9) feet to eight feet six inches (8'6"). As a result of such Village of Chicago Ridge consent, LaSalle shall, at its sole expense, upon written notice to the other Parties:

- (a) restripe to a width of eight feet (8') six inches (6") all of the parking spaces located on the Developer Parcel, the Sears Parcel, and the Federated Parcel;
- (b) relocate the Ring Road as depicted on Exhibits B-2 and B-3; and
- (c) construct the Carson Building and Madigan Building."

LaSalle shall not restripe the parking spaces on a Friday, Saturday or Sunday or during the months of August, September, November or December or during the forty-five (45) days prior to Easter. LaSalle shall give the Parties at least forty eight (48) hours prior written notice of such restriping.

UNOFFICIAL COPY

137

In addition, while restriping a Party's Parcel, no more than twenty percent (20%) of such Party's Parcel shall be closed for restriping at any one time.

10. Pursuant to and subject to the terms and provisions of the Carson Lease, Carson has agreed for the benefit of Developer to continuously operate a Department Store containing 100,000 square feet of floor area in the Carson Building under the name "Carson, Pirie, Scott & Company", "Carsons" or such other name under which a majority of Carson department stores in the Chicago Metropolitan Area are being operated commencing on the Commencement Date (as defined in the Carson Lease) and ending November 1, 1994. Developer's covenants in Section 8.3. of the Operating Agreement shall inure to the benefit of Carson in addition to Sears and Federated.

11. The provisions of Section 23.1. and the easements set forth in Section 23.2 of the Operating Agreement shall bind and inure to the benefit of Carson and Carson shall have the right to enforce the Future Development Parcels Agreement as specified in Section 23.1 of the Operating Agreement.

12. Notwithstanding the first sentence of Section 24.2 of the Operating Agreement, Carson shall have the right (subject to the limitations contained in and in accordance with the terms of the Carson Lease) to assign its leasehold estate under the Carson Lease, grant licenses to concessionaires or licensees or sublet portions of the Carson Building.

13. Notwithstanding Section 12.1(a) of the Operating Agreement, Developer shall not rearrange the parking spaces on that portion of the Developer Parcel outlined in yellow (the "Carson Parking Area") on Exhibit B-3 hereof without the written consent of Carson. In the event Carson shall exercise Carson's option to purchase the Carson Parcel and Carson Building contained in the Carson Lease, the easements described in Section

4.4. of the Operating Agreement which run in favor of Carson and which are located within the Carson Parking Area shall not terminate and expire on the Termination Date. Rather such easements in favor of Carson shall be perpetual and the Carson Parking Area shall be used for parking in perpetuity. In addition, Carson, shall at all times, have all those rights and obligations with respect to the Carson Parking Area as are set forth in Section 10.5 of the Operating Agreement for a Major Store with respect to the Common Area located on that Major Store's Parcel.

14. Notwithstanding anything to the contrary contained in the Operating Agreement, Carson shall have the right of approval over the design of its court cross-hatched on Exhibit B-3 hereof, including the decor, the layout, the decorative elements and furnishings, and the location of columns, provided however, Carson agrees to cooperate with Developer and the Project Architect in securing a harmonious design concept for said court and the remainder of the Mall.

15. Pursuant to the Carson Lease, LaSalle is obligated for certain defects in the construction of the Carson Building and nothing contained in Section 13.3 of the Operating Agreement shall modify such obligations of LaSalle under the Carson Lease.

16. Notwithstanding anything to the contrary in the Operating Agreement, if Developer has a net worth according to its last published financial statement of at least \$50,000,000.00, Developer shall have the right to satisfy its obligations under Sections 14.1, 14.3 and 15.2 of the Operating Agreement by means of self insurance as provided in Sections 14.2 and 15.3 of the Operating Agreement.

17. Carson and LaSalle shall be named as an additional insured under the insurance described in Section 15.2 of the Operating Agreement and Carson's obligation with respect to

UNOFFICIAL COPY

payment of insurance premiums therefore shall be as set forth in the Carson Lease or in the Carson Supplemental Agreement if Carson acquires the Carson Parcel and the Carson Building as a result of Carson exercising Carson's option to purchase the Carson Parcel and Carson Building as set forth in the Carson Lease. Carson shall maintain the insurance required under Section 15.2(b) of the Operating Agreement.

18. Carson's obligations as a Party and a Major Store under the terms of the Operating Agreement, as amended hereby, shall not commence until Carson takes possession of the Carson Building, except as otherwise provided in the last two sentences of the second paragraph of Section 15.5 hereof. Except as set forth in the last two sentences of the second paragraph of Section 15.5 LaSalle shall be responsible for all such obligations until Carson takes possession of the Carson Building.

19. Except as to the revisions contained in this Amendment, the Operating Agreement shall remain in full force and effect in accordance with its terms.

20. In its capacity as record title holder of the Sears Parcel, American National Bank and Trust Company of Chicago, not personally but solely as Trustee under a Trust Agreement dated September 26, 1978 and known as Trust No. 43967, hereby joins in the execution of this Amendment.

This agreement is executed by American National Bank and Trust Company of Chicago, not personally but as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee, and under the express direction of the beneficiary under a certain Trust Agreement dated September 26, 1978, and known as Trust No. 43967, with American National Bank and Trust Company of Chicago. It is expressly understood and agreed that nothing herein contained shall be construed as creating any liability whatsoever, express

UNOFFICIAL COPY

or implied, against said Trustee personally, and in particular, without limiting the generality of the foregoing, said Trustee shall have no personal liability to pay any indebtedness, if any, accruing under this agreement, or to perform any covenant or agreement, either express or implied, herein contained, and that all personal liability of said American National Bank and Trust Company of Chicago of any sort is hereby expressly waived by Developer and each of the Major Stores, and by every person now or hereafter claiming any right or security hereunder, and that so far as said American National Bank and Trust Company of Chicago is concerned, the owner of any right, claim or liability accruing hereunder shall look solely to Sears, Roebuck and Co. for the satisfaction of any such right, claim or liability.

21. This Agreement is executed by LaSalle National Bank, not personally but solely as Trustee under Trust No. 100388, and it is expressly understood and agreed by the Parties hereto, anything herein contrary notwithstanding, that each of the covenants, undertakings and agreements of LaSalle herein made are made and intended not as personal covenants, undertakings, or agreements of LaSalle or the beneficiaries of LaSalle individually or collectively, or for the purpose of binding them or any of them personally, and no personal liability or responsibility of any kind is assumed by nor shall at any time be asserted or enforced against said LaSalle National Bank or any agent or employee of said Trustee, or against any of the beneficiaries of said Trust on account of this Agreement or on account of any covenant, undertaking or agreement herein contained, either expressed or implied, all such personal liability, if any, being hereby expressly waived and released by the Parties hereto and by all persons claiming by, through or under the Parties hereto and all of said persons shall look solely to the trust property for the performance and enforcement

UNOFFICIAL COPY 137

of LaSalle's covenants, undertakings, agreements and obligations under this Agreement or on account of this Agreement.

22. Neither Developer nor any advisor, trustee, director, officer, partner, employee, beneficiary, shareholder, participant or agent of or in Developer (including, but not limited to, JMB Endowment Advisors and JMB Institutional Realty Corporation), JMB Endowment Advisors, or JMB Institutional Realty Corporation shall have any personal liability above and beyond their interest in the Developer Parcel, directly or indirectly, under or in connection with the Operating Agreement, Supplemental Agreements or any other documents relating thereto or any amendment or amendments thereto and, accordingly, the recourse of Sears, Federated, LaSalle and Carson shall be limited to Developer's interest in the Developer Parcel except for intentional fraud in the inducement by Developer or failure of Developer to maintain insurance at the levels required pursuant to the Operating Agreement, as hereby amended. Developer's personal liability hereunder for failure to maintain such insurance shall commence ten (10) days after written notice from another Party to Developer that such Party has received a thirty (30) day notice of cancellation as provided in Section 14.1 of the Operating Agreement and that Developer has failed to replace such insurance as required under the Operating Agreement, as hereby amended. The limitation of liability provided in this paragraph is in addition to, and not in limitation of, any limitation on liability applicable to Developer provided by law or by any other contract, agreement or instrument between the Parties.

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment to Chicago Ridge Amended and

UNOFFICIAL COPY

Property of Cook County Clerk's Office

70150170

UNOFFICIAL COPY 7

Restated Operating Agreement on the day and year first above written.

Attest:

[Handwritten signature]
Trustee

LA SALLE NATIONAL BANK, not personally but as Trustee under Trust Agreement No. 100388

By _____
Its _____

SEARS ROEBUCK AND CO., a New York corporation

By _____
Its _____

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, as Trustee Under Trust Agreement Dated September 26, 1978 and known as Trust No. 43967

By _____
Its _____

FEDERATED DEPARTMENT STORES, INC., a Delaware corporation

By *[Handwritten signature]*
Its Senior Vice President

JMB/CHICAGO RIDGE MALL ASSOCIATES, an Illinois general partnership

By: JMB Group Trust III, an Illinois trust, its General Partner

By: JMB Institutional Advisors-III, an Illinois general partnership, its Investment Manager

By: JMB Institutional Realty Corporation, an Illinois corporation, its Managing Partner

By: _____

By: Endowment and Foundation Realty, Ltd.--JMB-III, a Delaware corporation, its General Partner

By: JMB Endowment Advisors, an Illinois general partnership, its Investment Advisor

By: JMB Institutional Realty Corporation, an Illinois corporation, its Managing Partner

By: _____

CPS REALTY PARTNERSHIP, an Illinois General Partnership

By _____
Its _____

Property of Cook County Clerk's Office

UNOFFICIAL COPY 137

STATE OF ILLINOIS

COUNTY OF COOK

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Corinne Bek, Assistant Vice President & Clifford-Scott Rudnick, Assistant Secretary of LA SALLE NATIONAL BANK, a national banking association, personally known to me to be the same persons whose names ^{are} subscribed to the foregoing instrument as such Assistant Vice President & Assistant Secretary appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said Association, as Trustee, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 1st day of May, 1987.

Harris J. Demsey
Notary Public

My Commission Expires: October 9th, 1987

STATE OF Illinois

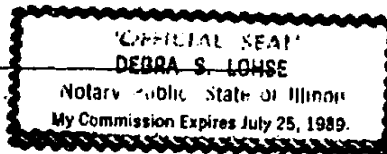
COUNTY OF Quincy

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Ronald B. Ruth of SEARS, ROEBUCK AND CO., a New York corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such National Manager Real Estate Planning Group, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument and caused the corporate seal of said Corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said Corporation, as his/her own free and voluntary act and as the free and voluntary act of said Corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 27th day of May, 1987.

Debra S. Lohse
Notary Public

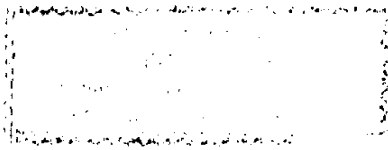
My Commission Expires: _____



87A02137

UNOFFICIAL COPY

Property of Cook County Clerk's Office



01/10/2014

UNOFFICIAL COPY

STATE OF ILLINOIS

COUNTY OF COOK

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Peter H. Johansen, of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, a national banking association, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Second Vice President appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said Association, as Trustee, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this _____ day of _____, 19____.

Loretta M. Sovienki
Notary Public

JUN 1 1987

My Commission Expires: _____



STATE OF _____
COUNTY OF _____

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that _____ of FEDERATED DEPARTMENT STORES, INC., a Delaware corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such _____, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument and caused the corporate seal of said Corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said Corporation, as his/her own free and voluntary act and as the free and voluntary act of said Corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this _____ day of _____, 19____.

Notary Public

My Commission Expires: _____

87402137

UNOFFICIAL COPY

Property of Cook County Clerk's Office

00100000

UNOFFICIAL COPY 37

STATE OF ILLINOIS

COUNTY OF COOK

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that _____ of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, a national banking association, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such _____ appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said Association, as Trustee, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this _____ day of _____, 19____.

Notary Public

My Commission Expires: _____

STATE OF OHIO

COUNTY OF HAMILTON

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that JAMES B. SELDWIK JR. VICE PRES. of FEDERATED DEPARTMENT STORES, INC., a Delaware corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such JR. VICE PRES., appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument and caused the corporate seal of said Corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said Corporation, as his/her own free and voluntary act and as the free and voluntary act of said Corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 5TH day of JUNE, 1987.

Gary L. Janner
Notary Public

My Commission Expires: _____

GARY L. JANNER, Notary Public at Law
NOTARY PUBLIC, STATE OF OHIO
My Commission has no expiration
date, Section 147.03 O.R.C.

87A02137

UNOFFICIAL COPY 7

STATE OF Illinois
COUNTY OF Cook

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that GARY M. SOMERS of JMB Institutional Realty Corporation, as Managing Partner of JMB Institutional Advisors-III, as Investment Manager of JMB Group Trust III, as General Partner of JMB/CHICAGO RIDGE MALL ASSOCIATES, an Illinois General Partnership and Vice President of JMB Institutional Realty Corporation, as Managing Partner of JMB Endowment Advisors, as Investment Advisor of Endowment and Foundation Realty, Ltd.-- JMB-III, as General Partner of JMB/CHICAGO RIDGE MALL ASSOCIATES, an Illinois General Partnership, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Vice President and Vice President, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Partnership, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 9th day of July, 1987.

Deborah M. Jackson
Notary Public

My Commission Expires: My Commission Expires Feb. 20, 1990

STATE OF Illinois
COUNTY OF Cook

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that ROBERT F. TADAK VICE-PRESIDENT OF CARSON PIRIE SCOTT + COMPANY GENERAL PARTNER of CPS REALTY PARTNERSHIP, an Illinois General Partnership, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such VICE PRESIDENT, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said Partnership, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 14th day of July, 1987.

Franklin G. Gome
Notary Public

My Commission Expires: May 9, 1988

THIS INSTRUMENT PREPARED BY
AND AFTER RECORDING TO BE
MAILED TO:

THOMAS P. DUFFY
ARVEY, HODES, COSTELLO &
BURMAN
180 NORTH LA SALLE STREET
CHICAGO, ILLINOIS 60601

BOX 333-HV

87A02137

UNOFFICIAL COPY 137

DEVELOPER PARCEL

EXHIBIT A-2, PART I

PARCEL 1:

Lot 1 in Chicago Ridge Mall Resubdivision Lot 0, being a Resubdivision of Lot 0 in Chicago Ridge Mall Subdivision of part of the East half of the North East quarter of Section 7, Township 37 North, Range 13 East of the Third Principal Meridian, according to the Plat of said Resubdivision recorded January 15, 1954 as Document Number 20933207 and Lots 2, 3, and 4 in Chicago Ridge Mall Subdivision, being a Subdivision of part of the East half of the North East quarter of Section 7, Township 37 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois, according to the Plat of said Subdivision recorded July 10, 1951 as Document Number 25939324, excepting that part described as that part of Lot 1 in Chicago Ridge Mall Resubdivision Lot 0, being a resubdivision of Lot 0 in Chicago Ridge Mall Subdivision of part of the East half of the North East quarter of Section 7, Township 37 North, Range 13 East of the Third Principal Meridian, according to the Plat of said resubdivision recorded January 15, 1954 as Document Number 20933207, described as follows: Beginning at the South West corner of said Lot 1 (said point being on the North line of 99th Street as dedicated); thence North 0 degrees 00 minutes 03 seconds West 272.00 feet; thence North 2 degrees 00 minutes 50 seconds East 95.03 feet; thence North 1 degree 17 minutes 31 seconds West 183.95 feet; thence East 2.90 feet to a place of beginning; thence continuing East 353.15 feet along the South line of the Mall Building and Mall Building extended; thence South 323.00 feet; thence West 353.15 feet; thence North 323.00 feet to the place of beginning, all in Cook County, Illinois; also excepting that part described as commencing at the North East corner of Lot 1 of Chicago Ridge Mall Resubdivision of Lots 1, 2 and 4, being a subdivision in the East half of the North East quarter of Section 7, Township 37 North, Range 13 East of the Third Principal Meridian; thence South 50 degrees 50 minutes 57 seconds West along the North line of said Lot 1, 335.27 feet to the face of an existing building; thence South along said building face 50.35 feet; thence East along said building face 0.99 feet; thence South along said building face 0.54 feet; thence East along said building face 0.51 feet; thence South along said building face 39.22 feet; thence West along said building face 0.50 feet; thence South along said building face 0.54 feet; thence West along said building face 0.98 feet; thence South along said building face 139.84 feet to the place of beginning; thence East 257.83 feet; thence South 298.33 feet; thence West 59.88 feet; thence South 19.00 feet; thence West 88.00 feet; thence North 19.00 feet; thence West 80.00 feet to the face of an existing building wall; thence North along said building face 0.67 feet; thence West along said building face 59.95 feet; thence North along said building face 297.00 feet; thence East along said building face 30.00 feet; thence North along said building face 0.67 feet to the place of beginning, all in Cook County, Illinois.

87A02137

24-07-216 - 018, 024, 025, 028

Southwest corner, 95th St + Ridgeland Ave
Chicago Ridge, IL

EXHIBIT A-2, PART VI

PARCEL 1:

That part of Lot 1 in Chicago Ridge Mall Resubdivision Lot 6, being a resubdivision of Lot 6 in Chicago Ridge Mall Subdivision of part of the East half of the North East quarter of Section 7, Township 37 North, Range 13 East of the Third Principal Meridian, according to the Plat of said resubdivision recorded January 18, 1984 as Document Number 26933207, described as follows: Beginning at the South West corner of said Lot 1 (said point being on the North line of 99th Street as dedicated); thence North 0 degrees 00 minutes 03 seconds West 272.60 feet; thence North 2 degrees 00 minutes 50 seconds East 95.63 feet; thence North 1 degree 17 minutes 31 seconds West 183.95 feet; thence East 2.99 feet to a place of beginning; thence continuing East 353.15 feet along the South line of the Mall Building and Mall Building extended; thence South 323.00 feet; thence West 353.15 feet; thence North 323.00 feet to the place of beginning, all in Cook County, Illinois,

24-07-216-028

Southeast corner, 95th St + Ridgeland
Chicago Ridge, IL

Clerk's Office

87402127

PARCEL 1:

That part of Lot 1 in Chicago Ridge Mall Resubdivision Lots 1, 2 and 4, being a subdivision in the East half of the North East quarter of Section 7, Township 37 North, Range 13 East of the Third Principal Meridian, in Cook County, Illinois, described as commencing at the North East corner of said Lot 1; thence South 89 degrees 59 minutes 57 seconds West along the North line of said Lot 1, 338.27 feet to the face of an existing building; thence South along said building face 50.35 feet; thence East along said building face 6.95 feet; thence South along said building face 6.54 feet; thence East along said building face 6.51 feet; thence South along said building face 39.22 feet; thence West along said building face 6.50 feet; thence South along said building face 6.54 feet; thence West along said building face 6.98 feet; thence South along said building face 139.84 feet to the place of beginning; thence East 257.83 feet; thence South 298.33 feet; thence West 59.88 feet; thence South 19.00 feet; thence West 88.00 feet; thence North 19.00 feet; thence West 80.00 feet to the face of an existing building wall; thence North along said building face 0.67 feet; thence West along said building face 59.95 feet; thence North along said building face 297.00 feet; thence East along said building face 30.00 feet; thence North along said building face 0.67 feet to the place of beginning, all in Cook County, Illinois.

24-01-216-028

South west corner
95th & Highland
Chicago Ridge, Ill

61

87A021.07