

SECOND AMENDMENT TO EASEMENT AGREEMENT

This Second Amendment to the hereinafter described Easement Agreement is made this 30th day of March, 1989, by and between American National Bank and Trust Company of Chicago, not personally but solely as Trustee under Trust No. 66931 (hereinafter referred to as the "Commercial Trust" or the "Commercial Trustee"), and AMFUND, an Illinois not for profit corporation (hereinafter referred to as the "Residential Trust" or the "Residential Trustee"), (the Residential Trustee and the Commercial Trustee are hereinafter individually sometimes referred to as the "Trustee").

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\$34.00

WITNESSETH:

WHEREAS, the Residential Trust is successor in interest to American National Bank and Trust Company of Chicago, as Trustee under Trust Agreement dated March 18, 1986 and known as Trust No. 66930 ("Original Residential Trustee") and is now the holder of the legal title to a certain parcel of land in the Village of Wilmette, County of Cook, State of Illinois, which is more particularly described in the Easement Agreement, as hereinafter defined (hereinafter referred to as the "Residential Parcel");

WHEREAS, the Commercial Trust is the holder of legal title to a certain parcel of land in the Village of Wilmette, County of Cook, State of Illinois, which lies west of and adjoins the Residential Parcel and is more particularly described in the Easement Agreement (hereinafter referred to as the "Commercial Parcel"); and

WHEREAS, the Original Residential Trustee and the Commercial Trustee have entered into an Easement Agreement dated January 14, 1987, and recorded on January 16, 1987, as Document No. 87-032875 (the "Easement Agreement") as amended by that certain First Amendment to Easement Agreement recorded on December 31, 1987 as Document No. 87684498 (the "First Amendment"; the Easement Agreement and the First Amendment are sometimes hereinafter referred to together as the "Easement Agreement") whereby the Residential Trust granted certain easements, in, upon, over and across certain portions of the Residential Parcel for the benefit of the Commercial Parcel and the Commercial Trust granted certain easements, in, upon, over and across certain portions of the Commercial Parcel for the benefit of the Residential Parcel.

WHEREAS, the Residential Trustee and the Commercial Trustee desire to amend the Easement Agreement in order to clarify and expand the easements granted in the Easement Agreement and to make various other changes as herein provided.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the parties hereto, hereby agree to amend the Easement Agreement, effective as of the date hereof, as follows:

1. Defined Terms. All capitalized terms used herein shall have the same meaning as in the Easement Agreement unless otherwise defined herein.
2. Assumption of Obligations. Pursuant to Section 19 of the Easement Agreement, the Residential Trust, as transferee of the ownership of the Residential

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Mailed to Janet Bailly
Rudnik & Wolfe
203 N La Salle #1800
Chicago, Ill 60601

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Parcel, hereby assumes and is bound by the burdens and obligations hereunder running with the land to the owner of the Residential Parcel.

3. Parking Spaces on the Commercial Parcel. Section 2 of the Easement Agreement is hereby amended by deleting the phrase "shall be a part of the easterly 18.5 feet of the Commercial Parcel, as shown on Exhibit C attached hereto and," in its entirety and by adding the following sentence to said Section 2: "The Commercial Parcel Parking Area shall be identified by reference to Exhibit C-1 attached to this Easement Agreement." Exhibit C-1 attached to the Second Amendment is hereby made a part of the Easement Agreement.

4. Expansion of Residential Parcel Roadway. The Commercial Trust hereby grants, gives and conveys to the Residential Trust and its successors and assigns, as an easement appurtenant to the Residential Parcel, a non-exclusive, irrevocable and perpetual easement for ingress and egress in, over, upon, under and across that portion of the Commercial Parcel which is identified as "Expansion of Residential Parcel Roadway" on Exhibit C-1 attached hereto, and is hereinafter referred to as the "Roadway Expansion", to provide access for motor vehicle and pedestrian traffic to and from the Residential Parcel from and to the public roadway commonly known as Old Glenview Road and Skokie Boulevard.

5. Utilities and Drainage Facilities on the Commercial Parcel and the Roadway Expansion. The Commercial Trust hereby grants, gives and conveys to the Residential Trust and its successors and assigns, as an easement appurtenant to the Residential Parcel, a non-exclusive, irrevocable and perpetual easement to construct, install, maintain, use, repair and replace in, over, upon, under and across the Commercial Parcel in those areas which are identified as "Extension of Sanitary Sewer" and "Extension of Storm Sewer" on Exhibit C-1 attached hereto, drainage facilities for the collection and flow of storm and sanitary sewage, subject to the limitations set forth in Section 5 of the Easement Agreement.

6. Utilities and Drainage Facilities on the Residential Parcel. The easement granted by the Residential Trust to the Commercial Trust in Section 3 of the Easement Agreement is hereby amended in the following manner: (a) add the following after the words "and sanitary sewage," in the eighth line of said Section 3: "utility facilities for the collection and flow of storm water (including catch basins), and for the transmission and distribution of natural gas and for the transmission of telecommunications; and (b) add the following at the end of said Section 3: "The Residential Trust covenants and agrees to grant to Northern Illinois Gas upon request by the Commercial Trust a non-exclusive, irrevocable and perpetual easement to lay, construct, install, maintain, repair, replace in, over, upon, under and across the Residential Parcel Roadway facilities for the distribution of natural gas to serve improvements on the Commercial Parcel."

7. Landscaping on the Commercial Parcel. Section 6 of the Easement Agreement is hereby amended to exclude the obligation of the Commercial Trust to install, repair and maintain the landscaping adjoining the Roadway located on the Parcel to which it holds title. The Commercial Trust hereby grants and conveys to the Residential Trust and its successors and assigns, as an easement appurtenant to the Residential Parcel, a non-exclusive, irrevocable and perpetual easement for the installation, maintenance and replacement of landscaping (including, without

limitation, the installation, maintenance and replacement of an underground sprinkler system) (hereinafter referred to as Landscaping Work") in those areas adjoining the Residential Parcel Roadway as indicated on Exhibit C-1 attached to this Second Amendment and identified thereon as the "Landscaped Area". In the event any such landscaping shall consist of climbing ivy, vines or other climbing plants, the easement granted above shall include the installation, maintenance and replacement of landscaping on the exterior portion of the wall of the building presently located on the Commercial Parcel and adjoining the Residential Parcel Roadway (the "Commercial Building") upon which wall any such vines or ivy may attach. The Residential Trust shall perform the installation, maintenance and replacement of the Landscaping Work at its own expense and in a good and workmanlike manner so as not to interfere unreasonably with the use, operation or maintenance of the Commercial Parcel or any improvements thereon; provided however that the Commercial Trustee shall reimburse the amount of \$1200.00 (the "Landscaping Reimbursement") to the Residential Trustee within sixty (60) days after receipt of paid invoices for the initial installation of the Landscaping Work (which Landscaping Reimbursement represents the cost of landscaping such areas with sod). Except as otherwise provided herein, the Residential Trust has no obligation to repair or maintain the Commercial Building. In the event the Commercial Trust maintains or repairs the Commercial Building and as a result damages the Landscaping Work, the Commercial Trust shall restore the Landscaping Work affected thereby to the condition existing prior thereto at its own cost and expense.

8. Division of Construction and Maintenance Obligations. Section 6 of the Easement Agreement is hereby modified as follows:

(a) The words "utility connections" in the third paragraph thereof are hereby deleted and the following phrase is substituted therefor: ", at its sole cost and expense, all utility lines, connections, facilities and constituent components thereof (collectively referred to herein as the "utilities")".

(b) The following is hereby inserted at the end of the sentence which constitutes the third paragraph thereof: ", regardless of whether such utilities are located upon, within or under the Parcel to which said party holds title or upon, within, or under the Roadways".

(c) The following is hereby added at the end thereof as a fifth paragraph: "Each party which performs any maintenance, repair or replacement on the Parcel to which the other party holds title shall restore, at said party's sole cost and expense, unless such party is exercising its self-help remedies as provided in Section 11 or as otherwise specifically provided herein, the area affected by such maintenance repair or replacement to the condition existing prior thereto or prior to any damage or disrepair necessitating such maintenance, repair, and replacement, and any failure to do so shall give the party which holds title the rights of a non-defaulting party pursuant to Section 11."

9. Conduct and Coordination of Maintenance, Repair and Replacement. Section 10 of the Easement Agreement is hereby modified by adding the following sentence to the end thereof: "Except in the case of emergencies, the Commercial Trust shall obtain the approval of the Residential Trust, which approval shall not be

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unreasonably withheld, before performing any maintenance or repair of utility or drainage facilities upon, within or under the Roadways."

10. Performance of Other Party's Obligations. The fourth and final paragraph of Section 11 of the Easement Agreement is hereby deleted in its entirety.

11. Maintenance of Trash Area. The Commercial Trust shall, at its own cost and expense, maintain in a clean and sightly manner the area designated for the storage and disposal of trash and other rubbish located at the northeast corner of the Commercial Trust and west of the Residential Parcel Roadway.

12. Gate on the Commercial Parcel. The Commercial Trust hereby grants and conveys to the Residential Trust and its successors and assigns, as an easement appurtenant to the Residential Parcel, a non-exclusive, irrevocable and perpetual easement for the installation, maintenance and replacement of a "gate" (which "gate" shall include, without limitation, a structure supporting a roof, and cement piers and footings, all as more particularly described in the plans and specifications dated December 11, 1987 and prepared by John Muesal & Associates, Inc. and is hereinafter referred to as the "Gate" as such plans and specifications may be modified from time to time thereafter; provided, however, that in the event such modification in the Plans and Specifications shall materially alter the location or appearance of the Gate, such modifications shall be subject to the approval of the Commercial Trust, which approval shall not be unreasonably withheld or delayed) to be erected across the Residential Parcel Roadway and attached to the Commercial Building as indicated on Exhibit C-1 attached to this Second Amendment. The Residential Trust shall perform such installation and maintenance at its own expense and in accordance with such plans and specifications and all applicable federal, state, local, zoning and other ordinances, laws, rules, guidelines and regulations.

13. Liens. The Residential Trust shall not suffer or permit any lien of mechanics or materialmen to be placed upon or against the Commercial Parcel, or any improvements thereon, or against the Residential Trust's interest in the Commercial Parcel and in case of any such lien attaching, to immediately pay and remove same. If any such liens created, caused or permitted by the Residential Trust so attach and the Residential Trust fails to pay and remove same within ten (10) days, the Commercial Trust, at its election, may pay and satisfy the same and in such event the sums so paid by the Commercial Trust with interest from the date of payment at the Default Rate of Interest set forth in Section 11 of the Easement Agreement shall be due and payable by the Residential Trust upon written notice.

14. Conduct and Coordination of Maintenance. The performance of any installation, maintenance or replacement of the Landscaping Work or the Gate shall be made so as to interfere as little as practicable with the rights granted to the Commercial Trust pursuant to the Easement Agreement and this Second Amendment and with the operations on the Commercial Parcel of any of the owners thereof or their employees, agents, tenants, invitees or licensees.

In the event the Residential Trust fails to undertake or complete any of the Initial Landscaping Work or the initial construction of the Gate or to maintain or replace the Landscaping Work or the Gate as required pursuant to this Second Amendment, the Commercial Trust may notify the Residential Trust in writing of such failure and in the event the Residential Trust fails to remedy such default within ten

(10) days after receipt of such notice, or if such default cannot be cured within ten (10) days and the Residential Trust has commenced the cure of such default within such ten (10) days and diligently pursues such cure to completion, then within such reasonable time necessary to complete such cure but in no event more than forty-five (45) days following receipt of said notice, the Commercial Trust may, at its option perform the obligation which the Residential Trust has failed to properly perform hereunder and the Residential Trust shall pay any and all costs and charges associated therewith.

The Residential Trust shall restore any surrounding area affected by any installation, maintenance or replacement of the Landscaping Work or the Gate to the condition existing prior thereto or prior to any damage or disrepair necessitating such installation, maintenance or replacement.

15. Indemnity. The Residential Trust and its successors and assigns hereby indemnify and shall defend and hold the Commercial Trust, its beneficiaries and their agents from and against any and all loss, cost, claim, liability, fees (including reasonable attorney's fees) or expenses incurred in connection with any act or omission of the Residential Trust, or its representatives, agents, employees, contractors, architects and engineers relating to the conduct of any installation, maintenance or replacement of the Landscaping Work or the Gate.

16. Notice to Residential Trust. Section 23 of the Easement Agreement is hereby amended by deleting the address in subsection (a) and substituting the following:

To Residential Trust: Amfund
1615 Hinman
Evanston, IL 60201
Attention: Edward F. Otto

with a copy to: McDermott, Will & Emery
111 W. Monroe Street
Suite 2000
Chicago, IL 60603
Attention: Stephen G. Tomlinson, Esq.

17. Amendment. Except as specifically amended in this Second Amendment, the Easement Agreement shall continue in full force and effect, and the same is hereby ratified and confirmed.

18. Additional Documents. The Commercial Trust or its successors and assigns and the Residential Trust or its successors and assigns agree to promptly execute and deliver supplements or amendments to the Easement Agreement to reflect the precise location of any easements granted therein or in this Amendment.

19. The Commercial Trustee's Exculpation. It is expressly agreed by the parties hereto, notwithstanding anything herein to the contrary, that each and all of the representations, covenants, undertakings and agreements herein made on the part of the Commercial Trustee while in form purporting to be representations, covenants, undertakings and agreement of the Commercial Trustee are nevertheless each and every one of them made and intended, not as personal representations, covenants,

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undertakings and agreements by the Commercial Trustee or for the purpose or with the intention of binding the Commercial Trustee personally, but are made and intended for the purpose only of subjecting the title holding interest in the trust estate under said Trust No. 66931 to the terms of this instrument and for no other purposes whatsoever and in case of default hereunder by the Commercial Trustee (or default through, under or by any of its beneficiaries, or agents or representative of said beneficiary), the Residential Trustee shall look solely to the title holding interest and the trust estate under said Trust No. 66931, and this instrument is executed and delivered by the Commercial Trustee, not in its own right, but solely in the exercise of the powers conferred upon it as such Trustee; that the Commercial Trustee shall have no personal liability to pay any indebtedness occurring hereunder or to perform any covenant, either express or implied, herein contained and no liability or duty shall rest upon the Commercial Trustee to sequester the Trust Estate or the rents, issues and profits arising therefrom, or the proceeds arising from any sale or other disposition thereof; no personal liability or personal responsibility of any sort is assumed by, or at any time be asserted or enforceable against American National Bank and Trust Company of Chicago, a national banking association, individually or personally, but only as Trustee under the provisions of a certain Trust Agreement dated March 18, 1986, and known as its Trust No. 66931, or against any of the beneficiaries under the Trust Agreement described above on account of this instrument or on account of any representation, covenant, undertaking or agreement of the Commercial Trustee in this instrument contained, either express or implied, all such personal liability, if any, being waived and released by the Residential Trustee and by all persons claiming by, through or under the Residential Trustee.

20. The Residential Trustee's Exculpation. Notwithstanding anything to the contrary herein, the Commercial Trust hereby acknowledges that the Residential Trust is an Illinois not-for-profit corporation and agrees not to proceed nor seek to recover from or assert or enforce any liability of Amfund which may arise under or in connection with the Easement Agreement, as hereby amended, against any assets of Amfund other than the Residential Parcel as described on Exhibit A attached hereto, and all improvements thereon from time to time, and any proceeds or distributions attributable thereto, except that the foregoing limitation of liability shall not apply to any liability arising out of the performance of the obligations of the Residential Trust under the Easement Agreement, as hereby amended, to initially construct and pave the Roadway located on the Residential Parcel and to pay one-half of the cost of the initial construction of the utility and drainage facilities which are to serve both Parcels.

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IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to Easement Agreement as of the day and year first written above.

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally but solely as Trustee under Trust Agreement dated March 18, 1986 and known as Trust No. 66931

AMFUND, an Illinois not for profit corporation

By: *P. H. Johann*
Its: 2ND VP

By: *Edward F. Otto*
Its: _____
EDWARD F. OTTO, PRESIDENT

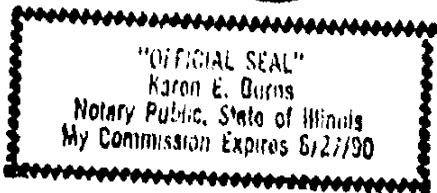
THIS INSTRUMENT PREPARED BY AND AFTER RECORDING MAIL TO NORA A. NAUGHTON RUDNICK & WOLFE 203 NORTH LASALLE STREET CHICAGO, ILLINOIS 60601

STATE OF ILLINOIS }
COUNTY OF Cook } SS.

MAR 3 11 1989

The foregoing instrument was acknowledged before me this _____ day of _____ by Peter H. Johann and _____ and _____, Second Vice President and _____, respectively, of American National Bank and Trust Company of Chicago, a national banking association, as trustee as aforesaid, on behalf of said banking association.

Karen E. Burns
Notary Public



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JOINDER OF COMMERCIAL TRUST BENEFICIARY

Wilmette Commons, an Illinois limited partnership and the beneficiary of the Commercial Trust, joins in this Second Amendment to Easement Agreement, but solely in order to be jointly and severally bound by and liable for performance of the obligation of the Commercial trust under this Second Amendment to Easement Agreement to initially construct and pave the Roadway located on the Commercial Parcel and to pay one-half of the cost of the initial construction of the utility and drainage facilities which are to serve both Parcels, and not with respect to any other obligations of the Commercial Trust under this Second Amendment to Easement Agreement. The undersigned's obligations are as a primary obligor and not a guarantor.

Date: March 9, 1989

WILMETTE COMMONS,
an Illinois limited partnership

By: Jay S. Heyman
General Partner

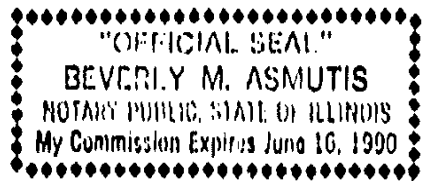
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Beverly M. Asmutis, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT Jay S. Heyman, a general partner of Wilmette Commons, an Illinois limited partnership, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such general partner, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, and as the free and voluntary act of said partnership, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 9th day of March, 1989

Beverly M. Asmutis
Notary Public

My Commission Expires:
June 16, 1990



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CONSENT OF MORTGAGEE

THE AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, a national banking association, organized and existing under the laws of the United States of America, having its principal office at 33 North LaSalle Street, Chicago, Illinois 60690, holder of a Mortgage on Lots 1 and 2 dated May 7, 1986, and recorded May 9, 1986, as Document No. 186570 and rerecorded on July 28, 1986 as Document No. 86319049, hereby consents to the execution and recording of the within Second Amendment to Easement Agreement and agrees that said mortgage is subject and subordinate thereto.

IN WITNESS WHEREOF, the Bank has caused this instrument to be signed by its duly authorized officers on its behalf, all done at Chicago, Illinois on this 30th day of March, 1989.

THE AMERICAN NATIONAL BANK
AND TRUST COMPANY OF CHICAGO,
a national banking association

By: *Bruce Markin*
Its: *Vice President*

ATTEST:

Thomas R. [Signature]

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CONSENT OF MORTGAGEE

WASHINGTON NATIONAL INSURANCE COMPANY, an Illinois corporation, organized and existing under the laws of the United States of America, having its principal office at 1630 Chicago Avenue, Evanston, Illinois 60201, holder of a Mortgage on Lots 1 and 2 dated February 28, 1989 and recorded March 4, 1989 as Document No. 89090244, hereby consents to the execution and recording of the within Second Amendment to Easement Agreement and agrees that said mortgage is subject and subordinate thereto.

IN WITNESS WHEREOF, the Bank has caused this Instrument to be signed by its duly authorized officers on its behalf, all done at Evanston, Illinois on this 20th day of March, 1989.

WASHINGTON NATIONAL INSURANCE COMPANY, an Illinois corporation

By: *J. E. Dresmal*

Its: J. E. Dresmal
Vice President

ATTEST:

Florence Kaplan

Florence Kaplan
Assistant Secretary

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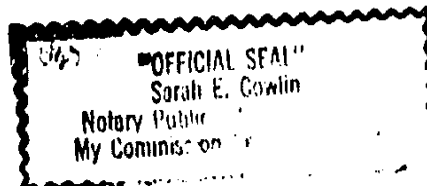
03/14/89

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The foregoing instrument was acknowledged before me this 30th day of March, 1989 by Bruce F. Martin, the Vice Presid. of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, and Thomas R. Watts, the Asst. Secre. of said bank, not personally, but solely as Trustee under Trust Agreement dated March 18, 1986 and known as Trust No. 66931.

Sarah E. Cowlin
Notary Public

Commission Expires:



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EXHIBIT A

Legal Description of the Residential Parcel

Lot 3, in Wilmette Commons/Park Plaza Subdivision, being a subdivision of part of the southwest quarter of Section 32, Township 42 North, Range 13, East of the Third Principal Meridian, in the Village of Wilmette, in Cook County, Illinois, according to the plat thereof recorded July 17, 1987 as Document No. 87395698 in the Office of the Recorder of Cook County, Illinois.

Tax Identification Numbers:

05-32-308-002-0000
05-32-308-009-0000
05-32-308-008-0000

Vacant land of approximately 2 acres lying east of Skokie Boulevard and south of Old Glenview Road, in Wilmette, Illinois.

Property of Cook County Clerk's Office
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EXHIBIT D

Legal Description of the Commercial Parcel

Lots 1 and 2, in Wilmette Commons/Park Plaza Subdivision, being a subdivision of part of the southwest quarter of Section 32, Township 42 North, Range 13, East of the Third Principal Meridian, in the Village of Wilmette, in Cook County, Illinois, according to the plat thereof recorded July 17, 1987 as Document No. 87395898 in the Office of the Recorder of Cook County, Illinois.

Tax Identification Numbers:

05-32-308-017-0000
05-32-308-018-0000
05-32-308-019-0000
05-32-308-002-0000

Southeast corner of Old Glenview Road and Skokie Boulevard in Wilmette, Illinois.

Property of Cook County Clerk's Office
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