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96165089

RECORDATION REQUESTED BY:

CIB Bank  
101 N. Wolf Road  
P.O. Box 666  
Hillside, IL 60162

WHEN RECORDED MAIL TO:

CIB Bank  
101 N. Wolf Road  
P.O. Box 666  
Hillside, IL 60162

SEPT-01 RECORDING 249.00  
T00012 TRAN 9430 03/05/96 11106100  
#337 + CG #-96-165089  
COOK COUNTY RECORDER

FOR RECORDER'S USE ONLY

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Property

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This Mortgage prepared by: CIB Bank - Gina M. LaRocco  
101 N. Wolf Road  
Hillside, Illinois 60162

MORTGAGE

THIS MORTGAGE IS DATED JANUARY 25, 1994, between NBD Bank, as Trustee, whose address is 900 East Kensington Road, Arlington Heights, IL 60004 (referred to below as "Grantor"); and CIB Bank, whose address is 101 N. Wolf Road, P.O. Box 666, Hillside, IL 60162 (referred to below as "Lender").

GRANT OF MORTGAGE. For valuable consideration, Grantor not personally but as Trustee under the provisions of a deed or deeds in trust duly recorded and delivered to Grantor pursuant to a Trust Agreement dated July 11, 1988 and known as NBD Bank Trust #2637EG, mortgages and conveys to Lender all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances, all water, water rights, watercourses and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, located in Cook County, State of Illinois (the "Real Property"):

See Exhibit "1" attached and made part of this document hereof.

The Real Property or its address is commonly known as Southwest corner of Landwehr & Higgins Roads, Elk Grove Village, IL 60007.

Grantor presently assigns to Lender all of Grantor's right, title, and interest in and to all leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

DEFINITIONS. The following words shall have the following meanings when used in this Mortgage. Terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

Borrower. The word "Borrower" means each and every person or entity signing the Note, including without limitation Robert S. Clementi, as Trustee for Giovanni Gullo Family Trust II, dated August 10, 1993.

Grantor. The word "Grantor" means NBD Bank, Trustee under that certain Trust Agreement dated July 11, 1988 and known as NBD Bank Trust #2637EG. The Grantor is the mortgagor under this Mortgage.

Guarantor. The word "Guarantor" means and includes without limitation each and all of the guarantors, sureties, and accommodation parties in connection with the indebtedness.

BOX 333-CTI

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GRANTOR'S REPRESENTATIONS AND WARRANTIES. Grantor represents and warrants that (a) this Mortgage is executed in full compliance with all applicable laws and regulations, and (b) the Borrower is not in default under any agreement or other instrument relating to the Property.

GRANTOR'S WAIVER. Grantor waives all rights or defenses which may be asserted against Grantor, including a claim for deficiency in the event of foreclosure, in connection with this Mortgage, whether now or hereafter, and agrees to execute any documents or instruments necessary to carry out the terms of this Mortgage.

SECURED HEREBY. THIS MORTGAGE IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS: AND ASSIGNMENTS LEVIED ON THE REAL PROPERTY, TO THE EXTENT OF THE MAXIMUM AMOUNT SUBJECT TO THIS MORTGAGE, INCLUDING ALL TAXES, CHARGES, AND LIENS, EXCEPTING SOLELY TAXES AND PERSONAL PROPERTY, IS GIVEN TO SECURE (1) PAYMENT OF THE INTEREST AND (2) PERFORMANCE OF ALL OBLIGATIONS OF GRANTOR UNDER THIS MORTGAGE AND THE RELATED DOCUMENTS. THIS MORTGAGE IS INTENDED TO AND SHALL BE VALID AND HAVE PRIORITY OVER ALL OTHER MORTGAGES, LIENS, AND ENCUMBRANCES, INCLUDING STAY OR JUDICIAL LIENS, EXCEPTING SOLELY TAXES AND PERSONAL PROPERTY.

RELATED DOCUMENTS. The words "Related Documents" mean and include all promissory notes, checks, drafts, and other instruments, agreements, and documents, whether now or hereafter existing, executed in connection with this Mortgage, including all assignments, mortgages, deeds of trust, and all other instruments, agreements, and documents, whether now or hereafter existing, executed in connection with this Mortgage.

REAL PROPERTY. The words "Real Property" mean the property, interests and rights described above in the "Grant of Mortgage" section.

PERSONAL PROPERTY. The words "Personal Property" mean and include all tangible and intangible personal property, including all rights and interests in real property, and all other property, interests and rights, whether now or hereafter existing, which are owned or controlled by Grantor, and which are necessary to carry out the terms of this Mortgage.

APPLICABLE LAW. NOTICE TO GRANTOR: THE NOTE CONTAINS A VARIABLE INTEREST RATE. NO CIRCUMSTANCES SHALL THE INTEREST RATE ON THIS MORTGAGE BE MORE THAN THE MAXIMUM RATE ALLOWED BY APPLICABLE LAW.

NOTE. The word "Note" means the promissory note or credit agreement dated January 25, 1988, in the original principal amount of \$100,000.00 from Borrower to Lender, together with all renewals of, extensions of, modifications of, amendments of, substitutions of, and additions to the promissory note or agreement. The interest rate on the Note is a variable interest rate based upon an index. The index currently is 8.00% per annum. The interest rate to be applied to the unpaid principal balance of this Mortgage shall be at a rate of 1.00 percentage points over the index, rounding in an initial rate of 9.00% per annum. NOTICE: Under no circumstances shall the interest rate on this Mortgage be more than the maximum rate allowed by applicable law. NOTICE TO GRANTOR: THE NOTE CONTAINS A VARIABLE INTEREST RATE.

MORTGAGE. The word "Mortgage" means the Mortgage between Grantor and Lender, and includes without limitation all assignments and security interests relating to the Personal Property and Real Property.

LENDER. The word "Lender" means Citicorp Bank, its successors and assigns. The Lender is the mortgagee under this Mortgage.

DEFINITIONS. The word "Lender" means all principal and interest payable under the Note and any amounts expended or advanced by Lender to discharge obligations of Grantor or expenses incurred by Lender to enforce obligations of Grantor under this Mortgage, together with interest on such amounts as provided in this Mortgage. Specifically, without limitation, this Mortgage secures a revolving line of credit and shall secure not only the amount which Lender has presently advanced to Borrower under the Note, but also any future advances which Lender may advance to Borrower under the Note within twenty (20) years from the date of this Mortgage to the same extent as if such future advances were made as of the date of the execution of this Mortgage. Under this revolving line of credit, Lender may make advances to Borrower in any amount up to the limit of the revolving line of credit at the time of the Note and related documents. At no time shall the Lender's commitment of funds be limited by the Mortgage, and including sums advanced to protect the security of the Mortgage, exceed the note amount of \$1,000,000.00.

IMPROVEMENTS. The word "Improvements" means and includes without limitation all existing and future improvements, buildings, structures, mobile homes, and other structures on the Real Property, and all fixtures, fittings, and other contents on the Real Property.

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MORTGAGE

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(Continued)

any law, regulation, court decree or order applicable to Grantor; (d) Grantor has established adequate means of obtaining from Borrower on a continuing basis information about Borrower's financial condition; and (e) Lender has made no representation to Grantor about Borrower (including without limitation the creditworthiness of Borrower).

**PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Mortgage, Borrower shall pay to Lender all indebtedness secured by this Mortgage as it becomes due, and Borrower and Grantor shall strictly perform all their respective obligations under this Mortgage.

**POSSESSION AND MAINTENANCE OF THE PROPERTY.** Grantor and Borrower agree that Grantor's possession and use of the Property shall be governed by the following provisions:

**Possession and Use.** Until in default or until Lender exercises its right to collect Rents as provided for in the Assignment of Rents form executed by Grantor in connection with the Property, Grantor may remain in possession and control of and operate and manage the Property and collect the Rents from the Property.

**Duty to Maintain.** Grantor shall maintain the Property in tenantable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

**Hazardous Substances.** The terms "hazardous waste," "hazardous substance," "disposal," "release," and "threatened release," as used in this Mortgage, shall have the same meanings as set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6201, et seq., or other applicable state or Federal laws, rules, or regulations adopted pursuant to any of the foregoing. The terms "hazardous waste" and "hazardous substance" shall also include, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos. Grantor represents and warrants to Lender that: (a) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any hazardous waste or substance by any person on, under, about or from the Property; (b) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (i) any use, generation, manufacture, storage, treatment, disposal, release, or threatened release of any hazardous waste or substance on, under, about or from the Property by any prior owners or occupants of the Property or (ii) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (c) Except as previously disclosed to and acknowledged by Lender in writing, (i) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of, or release any hazardous waste or substance on, under, about or from the Property and (ii) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations, and ordinances, including without limitation those laws, regulations, and ordinances described above. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for hazardous waste and hazardous substances. Grantor hereby (a) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws, and (b) agrees to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expense which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

**Nuisance, Waste.** Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), soil, gravel or rock products without the prior written consent of Lender.

**Removal of Improvements.** Grantor shall not demolish or remove any Improvements from the Real Property without the prior written consent of Lender. As a condition to the removal of any Improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such Improvements with Improvements of at least equal value.

**Lender's Right to Enter.** Lender and its agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Property for purposes of Grantor's compliance with the terms and conditions of this Mortgage.

**Compliance with Governmental Requirements.** Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, the Americans With Disabilities Act. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

**Duty to Protect.** Grantor agrees neither to abandon nor leave unattended the Property. Grantor shall do all

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Application of Proceeds. Grantor shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds \$1,000.00. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is insured, Lender may, at its election, apply the proceeds to the reduction of the indebtedness, payment of any lien affecting the Property, or the repair or replacement of the Property. Grantor shall be responsible for the cost of repair or replacement of the Property, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or replacement if Grantor is not in default hereunder. Any proceeds which have not been applied to the Property shall be held in escrow by Lender until the cost of repair or replacement is paid.

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## PROPERTY DAMAGE INSURANCE. The following provisions relating to insurance of the property are a part of this mortgage.

Grantor shall maintain and cause to be maintained in full force and effect a fire and theft insurance policy covering the Property and the improvements thereon, for the term of the loan and for the entire term of the mortgage. The policy shall be issued by a member of the Federal Emergency Management Agency as a special hazard plan. Grantor agrees to obtain and maintain Federal Flood Insurance to the extent such insurance is required by Lender and to be deemed available, for the term of the loan and for the entire term of the mortgage. Grantor shall cause to be maintained in full force and effect a fire and theft insurance policy covering the Property and the improvements thereon, for the term of the loan and for the entire term of the mortgage. The policy shall be issued by a member of the Federal Emergency Management Agency as a special hazard plan. Grantor agrees to obtain and maintain Federal Flood Insurance to the extent such insurance is required by Lender and to be deemed available, for the term of the loan and for the entire term of the mortgage.

Grantor shall not be liable for any loss or damage to the Property or the improvements thereon, including but not limited to, fire, theft, lightning, explosion, windstorm, hail, flood, or any other cause, unless such loss or damage is caused by the negligence of Grantor or any other person. Should the Real Property be damaged in any way by any act, omission or default of Grantor or any other person, Grantor shall be liable for the cost of repair or replacement of the Property and the improvements thereon, for the term of the loan and for the entire term of the mortgage.

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## MORTGAGE (Continued)

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been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to prepay accrued interest, and the remainder, if any, shall be applied to the principal balance of the indebtedness. If Lender holds any proceeds after payment in full of the indebtedness, such proceeds shall be paid to Grantor.

**Unexpired Insurance at Sale.** Any unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the Property covered by this Mortgage at any trustee's sale or other sale held under the provisions of this Mortgage, or at any foreclosure sale of such Property.

**Grantor's Report on Insurance.** Upon request of Lender, however not more than once a year, Grantor shall furnish to Lender a report on each existing policy of insurance showing: (a) the name of the insurer; (b) the risks insured; (c) the amount of the policy; (d) the property insured, the then current replacement value of such property, and the manner of determining that value; and (e) the expiration date of the policy. Grantor shall, upon request of Lender, have an independent appraiser satisfactory to Lender determine the cash value replacement cost of the Property.

**EXPENDITURES BY LENDER.** If Grantor fails to comply with any provision of this Mortgage, or if any action or proceeding is commenced that would materially affect Lender's interests in the Property, Lender on Grantor's behalf may, but shall not be required to, take any action that Lender deems appropriate. Any amount that Lender expends in so doing will bear interest at the rate provided for in the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Note, or (c) be treated as a balloon payment which will be due and payable at the Note's maturity. This Mortgage also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed, as curing the default, so as to bar Lender from any remedy that it otherwise would have had.

**WARRANTY; DEFENSE OF TITLE.** The following provisions relating to ownership of the Property are a part of this Mortgage.

**Title.** Grantor warrants that: (a) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Mortgage, and (b) Grantor has the full right, power, and authority to execute and deliver this Mortgage to Lender.

**Defense of Title.** Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Lender under this Mortgage, Grantor shall defend the action at Grantor's expense. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Grantor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

**Compliance With Laws.** Grantor warrants that the Property and Grantor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

**CONDEMNATION.** The following provisions relating to condemnation of the Property are a part of this Mortgage.

**Application of Net Proceeds.** If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees incurred by Lender in connection with the condemnation.

**Proceedings.** If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will deliver or cause to be delivered to Lender such instruments as may be requested by it from time to time to permit such participation.

**IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES.** The following provisions relating to governmental taxes, fees and charges are a part of this Mortgage:

**Current Taxes, Fees and Charges.** Upon request by Lender, Grantor shall execute such documents in addition to this Mortgage and take whatever other action is requested by Lender to perfect and continue Lender's lien on the Real Property. Grantor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

**Taxes.** The following shall constitute taxes to which this section applies: (a) a specific tax upon this type of Mortgage or upon all or any part of the indebtedness secured by this Mortgage; (b) a specific tax on Borrower which Borrower is authorized or required to deduct from payments on the indebtedness secured by this type of Mortgage; (c) a tax on this type of Mortgage chargeable against the Lender or the holder of the Note; and (d) a specific tax on all or any portion of the indebtedness or on payments of principal and interest made by Borrower.



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## MORTGAGE (Continued)

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**Defective Collateralization.** This Mortgage or any of the Related Documents ceases to be in full force and effect (including failure of any collateral documents to create a valid and perfected security interest or lien) at any time and for any reason.

**Insolvency.** The dissolution or termination of the Trust, the insolvency of Grantor or Borrower, the appointment of a receiver for any part of Grantor or Borrower's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor or Borrower.

**Foreclosure, Forfeiture, etc.** Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against any of the Property. However, this subsection shall not apply in the event of a good faith dispute by Grantor as to the validity or reasonableness of the claim which is the basis of the foreclosure or forfeiture proceeding, provided that Grantor gives Lender written notice of such claim and furnishes reserves or a surety bond for the claim satisfactory to Lender.

**Breach of Other Agreement.** Any breach by Grantor or Borrower under the terms of any other agreement between Grantor or Borrower and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantor or Borrower to Lender, whether existing now or later.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any Guarantor of any of the indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the indebtedness.

**Adverse Change.** A material adverse change occurs in Borrower's financial condition, or Lender believes the prospect of payment or performance of the indebtedness is impaired.

**Insecurity.** Lender reasonably deems itself insecure.

**RIGHTS AND REMEDIES ON DEFAULT.** Upon the occurrence of any Event of Default and at any time thereafter, Lender at its option, may exercise any one or more of the following rights and remedies. In addition to any other rights or remedies provided by law:

**Accelerate Indebtedness.** Lender shall have the right at its option without notice to Borrower to declare the entire indebtedness immediately due and payable, including any prepayment penalty which Borrower would be required to pay.

**UCC Remedies.** With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

**Collect Rents.** Lender shall have the right, without notice to Grantor or Borrower, to take possession of the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the indebtedness. In furtherance of this right, Lender may require any tenant or other user of the Property to make payments of rent or use fees directly to Lender. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to receive the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

**Mortgagee in Possession.** Lender shall have the right to be placed as mortgagee in possession or to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the indebtedness. The mortgagee in possession or receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the appraised value of the Property exceeds the indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

**Judicial Foreclosure.** Lender may obtain a judicial decree foreclosing Grantor's interest in all or any part of the Property.

**Deficiency Judgment.** If permitted by applicable law, Lender may obtain a judgment for any deficiency remaining in the indebtedness due to Lender after application of all amounts received from the exercise of the rights provided in this section.

**Other Remedies.** Lender shall have all other rights and remedies provided in this Mortgage or the Note or available at law or in equity.

**Sale of the Property.** To the extent permitted by applicable law, Grantor or Borrower hereby waive any and all right to have the property marshaled. In exercising its rights and remedies, Lender shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of the Property.

**Notice of Sale.** Lender shall give Grantor reasonable notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition.

**Waiver; Election of Remedies.** A waiver by any party of a breach of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's rights otherwise to demand strict compliance with that provision or any other provision. Election by Lender to pursue any remedy shall not exclude pursuit of any other

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RIDER ATTACHED TO AND MADE PART OF MORTGAGE

DATED January 25, 1996 UNDER TRUST NO. 2637-EG

This MORTGAGE is executed by NBD Bank, Successor Trustee to NBD Trust Company, of Illinois, not personally but as Trustee under Trust No. 2637-EG in the exercise of the power and authority conferred upon and vested in it as such Trustee (and said NBD Bank, hereby warrants that it possesses full power and authority to execute this instrument) and it is expressly understood and agreed that nothing contained herein or in the Note or in any other instrument given to evidence the indebtedness secured hereby shall be construed as creating any liability on the part of the Mortgagor, or on said NBD Bank, personally, to pay the said note or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant, either express or implied, herein contained, all such liability if any, being expressly waived by the Mortgagor, the legal owner(s) or holder(s) of said Note, and by every person now or hereafter claiming any right or security hereunder, and that so far as the Mortgagor and said NBD Bank, personally are concerned, the legal holder or holders of said Note and the owner or owners of any indebtedness accruing hereunder shall look solely to the premises hereby mortgaged by the enforcement of the lien hereby created in the manner herein and said Note provides or by action to enforce the personal liability of the guarantors, if any. All the covenants and conditions to be performed hereunder by NBD Bank, are undertaken by it solely as Trustee as aforesaid and not individually, and no personal or individual liability shall be asserted or enforceable against NBD Bank, by reason of any of the covenants, statements, representations, indemnifications or warranties expressed or implied herein contained in this instrument.

It is also expressly understood and agreed by every person, firm or corporation claiming any interest under this document that NBD Bank, shall have no liability, contingent or otherwise, arising out of, or in any way related to, (i) the presence, disposal, release or threatened release of any hazardous materials on, over, under, from or affecting the property, soil, water, vegetation, building, personal property, persons or animals thereof; (ii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such hazardous materials; (iii) any lawsuit brought or threatened, settled or reached or government order relating to such hazardous materials, and/or (iv) any violation of laws, orders, regulations, requirements or demands of government authorities, or any policies or requirements of the trustee which are based upon or in any way related to such hazardous materials including, without limitation, attorneys' and consultants' fees, investigation and laboratory fees, court costs, and litigation expenses.

In the event of any conflict between the provisions of this exculpatory rider and the provisions of the document to which it is attached, the provisions of this rider shall govern.

NBD BANK, Successor Trustee to NBD Trust Company of Illinois, as Trustee under Trust No. 2637-EG and not individually

Attest:

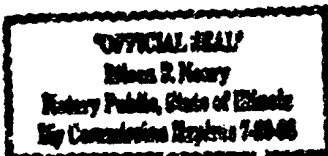
Wayne H. Goble, Jr.  
Assistant Vice President

By: Annette N. Brusca  
Assistant Vice President

STATE OF ILLINOIS )  
COUNTY OF Cook ) ss.

I, Bileen E. Neary, a Notary Public in and for said County in the State aforesaid, do hereby certify that Annette N. Brusca, Assistant Vice President, and Wayne H. Goble, Jr., Assistant Vice President, of NBD Bank, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Assistant Vice President and Assistant Vice President, respectively, 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 corporation, for the uses and purposes herein set forth, and the said Assistant Vice President did also then and there acknowledge that he/she as custodian of the corporate seal of said Corporation did affix the said corporate seal of said corporation to said instrument 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 22nd day of February, A.D., 19 96

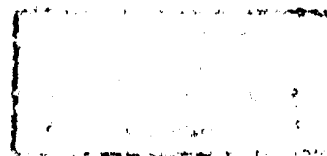


Bileen E. Neary  
Notary Public

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01-25-1998

MORTGAGE  
(Continued)

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to demand strict compliance with that provision or any other provision. No prior waiver by Lender, nor any course of dealing between Lender and Grantor or Borrower, shall constitute a waiver of any of Lender's rights or any of Grantor or Borrower's obligations as to any future transactions. Whenever consent by Lender is required in this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

**GRANTOR'S LIABILITY.** This Mortgage is executed by Grantor, not personally but as Trustee as provided above in the exercise of the power and the authority conferred upon and vested in it as such Trustee (and Grantor thereby warrants that it possesses full power and authority to execute this instrument). It is expressly understood and agreed that with the exception of the foregoing warranty, notwithstanding anything to the contrary contained herein, that each and all of the warranties, indemnities, representations, covenants, undertakings, and agreements made in this Mortgage on the part of Grantor, while in form purporting to be the warranties, indemnities, representations, covenants, undertakings, and agreements of Grantor, are nevertheless each and every one of them made and intended not as personal warranties, indemnities, representations, covenants, undertakings, and agreements by Grantor or for the purpose or with the intention of binding Grantor personally, and nothing in this Mortgage or in the Note shall be construed as creating any liability on the part of Grantor personally to pay the Note or any interest that may accrue thereon, or any other indebtedness under this Mortgage, or to perform any covenant, undertaking, or agreement, either express or implied, contained in this Mortgage, all such liability, if any, being expressly waived by Lender and by every person now or hereafter claiming any right or security under this Mortgage, and that so far as Grantor and its successors personally are concerned, the legal holder or holders of the Note and the owner or owners of any indebtedness shall look solely to the Property for the payment of the Note and indebtedness, by the enforcement of the lien created by this Mortgage in the manner provided in the Note and herein or by action to enforce the personal liability of any Guarantor.

**GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MORTGAGE, AND GRANTOR AGREES TO ITS TERMS.**

**GRANTOR:**

**NBD Bank** EXONERATION PROVISION RESTRICTING  
ANY LIABILITY OF NBD BANK ATTACHED  
HEREIN IS HEREBY DEEMED MADE &

By: [Signature]  
Trust Officer, Authorized Signer

## CORPORATE ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ )

) ss

COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me, the undersigned Notary Public, personally appeared Trust Officer, of NBD Bank, and known to me to be an authorized agent of the corporation that executed the Mortgage and acknowledged the Mortgage to be the free and voluntary act and deed of the corporation, by authority of its Bylaws or by resolution of its board of directors, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this Mortgage and in fact executed the Mortgage on behalf of the corporation.

By \_\_\_\_\_ Residing at \_\_\_\_\_

Notary Public in and for the State of \_\_\_\_\_

My commission expires \_\_\_\_\_

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MINUTES 13 SECONDS WEST A DISTANCE OF 10.00 FEET; THENCE ALONG A LINE PARALLEL TO AND 10.00 FEET DISTANT SOUTHWESTERLY FROM SAID SOUTHWESTERLY RIGHT OF WAY LINE OF HIGGINS ROAD NORTH 40 DEGREES 24 MINUTES 47 SECONDS WEST A DISTANCE OF 130.00 FEET; THENCE ALONG THE SOUTHEASTERLY LINE OF 66.00 FOOT WIDE RIGHT OF WAY OF LELA STREET NORTH 49 DEGREES 35 MINUTES 13 SECONDS EAST A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING) IN STEELE'S HIGGINS AND TOUHY HIGHLANDS, BEING A SUBDIVISION IN THE EAST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 26, TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

LOTS 74 TO 84 BOTH INCLUSIVE (EXCEPT THE NORTHWESTERLY 7 FEET OF SAID LOT 84 CONVEYED TO THE STATE OF ILLINOIS BY DEED RECORDED MAY 21, 1964 AS DOCUMENT NO. 19133687) IN STEELE'S HIGGINS AND TOUHY HIGHLANDS SUBDIVISION IN THE EAST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 26, TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN;

ALSO THAT PART OF LOT 6 IN THE SUBDIVISION OF THE ESTATE OF HENRY LANDMEIER (HEREINAFTER DESCRIBED) LYING NORTH OF THE NORTH LINE OF TOUHY AVENUE AS DEDICATED IN CENTEX INDUSTRIAL PARK UNIT 6, A SUBDIVISION IN SECTIONS 26 AND 35, TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, (ACCORDING TO PLAT REGISTERED AS DOCUMENT NUMBER 2011608), AND LYING EAST OF THE FOLLOWING DESCRIBED LINE: BEGINNING AT A POINT IN THE NORTH LINE OF SAID TOUHY AVENUE, 651.33 FEET EAST OF THE INTERSECTION OF SAID NORTH LINE OF TOUHY AVENUE WITH THE EAST LINE OF NICHOLAS BOULEVARD AS DEDICATED IN CENTEX INDUSTRIAL PARK UNIT 9, A SUBDIVISION IN SECTION 26, TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, (ACCORDING TO PLAT REGISTERED AS DOCUMENT NUMBER 2057254), SAID LINE RUNNING THENCE NORTH AT RIGHT ANGLES TO THE SAID NORTH LINE OF TOUHY AVENUE, 566.57 FEET, MORE OR LESS, TO THE CENTER LINE OF LANDMEIER ROAD, SAID CENTER LINE BEING THE NORTHERLY LINE OF SAID LOT 6 (EXCEPTING FROM SAID TRACT THAT PART OF LOT 6 INCLUDED IN THE FOLLOWING DESCRIBED PARCEL OF LAND: THAT PORTION OF THE WEST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 26, TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, COMMENCING AT THE INTERSECTION OF THE CENTER LINE OF HIGGINS ROAD WITH THE EAST LINE OF THE WEST 1/2 OF THE SOUTH EAST 1/4 OF SAID SECTION 26; RUNNING THENCE SOUTH ALONG THE EAST LINE OF THE WEST 1/2 OF THE SOUTH EAST 1/4 OF SAID SECTION 26, TO THE SOUTHEAST CORNER THEREOF; THENCE NORTHWESTERLY IN A STRAIGHT LINE TO A POINT IN THE CENTER LINE OF HIGGINS ROAD, 20 FEET NORTHWESTERLY OF THE PLACE OF BEGINNING; THENCE SOUTHEASTERLY 20 FEET TO THE PLACE OF BEGINNING

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## EXHIBIT "1"

LOTS 39 TO 73 INCLUSIVE (EXCEPT THAT PART OF LOTS 39, 40 AND 41 CONVEYED TO THE STATE OF ILLINOIS BY DEED RECORDED MAY 12, 1965 AS DOCUMENT NO. 19461522 DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 39, BEING ALSO THE POINT OF INTERSECTION OF THE SOUTHWESTERLY LINE OF HIGGINS ROAD WITH THE SOUTHEASTERLY LINE OF LANDMEIER ROAD, AS THE SAME ARE NOW LOCATED AND ESTABLISHED; THENCE SOUTHEASTERLY ALONG THE EASTERLY LINE OF SAID LOTS 39, 40 AND 41, BEING ALSO THE SOUTHWESTERLY LINE OF HIGGINS ROAD, A DISTANCE OF 113.18 FEET TO A POINT OF CURVATURE; THENCE NORTHWESTERLY ALONG A CURVED LINE CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 150.0 FEET AND TANGENT TO THE LAST DESCRIBED COURSE, A DISTANCE OF 182.21 FEET TO A POINT IN THE WESTERLY LINE OF SAID LOT 39, DISTANCE 7.02 FEET SOUTHEASTERLY FROM THE NORTHWESTERLY CORNER OF SAID LOT 39, AS MEASURED ALONG THE WESTERLY LINE THEREOF; THENCE NORTHWESTERLY ALONG SAID WESTERLY LINE OF SAID LOT 39, A DISTANCE OF 7.02 FEET TO A NORTHWESTERLY CORNER OF LOT 39; THENCE NORTHEASTERLY ALONG THE NORTHERLY LINE OF SAID LOT 39, A DISTANCE OF 100.96 FEET TO THE POINT OF BEGINNING) AND (EXCEPT THAT PART OF LOTS 39 THROUGH 45 TAKEN IN CASE NO. 91L50348 DESCRIBED AS FOLLOWS: BEGINNING AT THE EAST CORNER OF LOT 45 IN STEELE'S HIGGINS AND TOUHY HIGHLAND SUBDIVISION; THENCE ALONG THE NORTHWESTERLY LINE OF 66 FOOT WIDE RIGHT OF WAY OF LELA STREET SOUTH 49 DEGREES 35 MINUTES 13 SECONDS WEST A DISTANCE OF 10.00 FEET; THENCE ALONG A LINE PARALLEL TO AND 10.00 FEET DISTANT SOUTHWESTERLY FROM THE SOUTHWESTERLY LINE OF 100.00 FOOT WIDE RIGHT OF WAY OF HIGGINS ROAD AS RECORDED PER DOCUMENT NUMBER 19461522 NORTH 40 DEGREES 24 MINUTES 47 SECONDS WEST A DISTANCE OF 227.42 FEET; THENCE ALONG THE SOUTHWESTERLY RIGHT OF WAY LINE OF LANDMEIER ROAD AS RECORDED PER DOCUMENT NUMBER 19133687 A DISTANCE OF 55.08 FEET ALONG AN ARC OF A CIRCLE CONVEX TO THE NORTHEAST HAVING A RADIUS OF 130.00 FEET AND A CENTRAL ANGLE OF 21 DEGREES 02 MINUTES 22 SECONDS AND WHOSE CHORD OF 54.77 FEET BEARS SOUTH 50 DEGREES 55 MINUTES 58 SECONDS EAST; THENCE ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE OF HIGGINS ROAD SOUTH 49 DEGREES 24 MINUTES 47 SECONDS EAST A DISTANCE OF 173.57 FEET TO THE POINT OF BEGINNING) AND (EXCEPT THAT PART OF LOTS 46 THROUGH 49 IN STEELE'S HIGGINS AND TOUHY HIGHLAND SUBDIVISION TAKEN IN CASE NO. 91L50346 DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTH CORNER OF LOT 46 IN SAID STEELE'S HIGGINS AND TOUHY HIGHLAND SUBDIVISION; THENCE ALONG THE SOUTHWESTERLY LINE OF 100.00 FOOT WIDE RIGHT OF WAY OF HIGGINS ROAD AS RECORDED PER DOCUMENT NUMBER 19461522 SOUTH 40 DEGREES 24 MINUTES 47 SECONDS EAST A DISTANCE OF 130.00 FEET; THENCE SOUTH 49 DEGREES 35

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AND EXCEPTING THEREFROM THAT PART OF THE FOLLOWING DESCRIBED TRACT LYING SOUTHEASTERLY OF THE SOUTHEASTERLY LINE OF ORIGINAL LANDMEIER ROAD: BEGINNING AT A POINT ON THE CENTER LINE OF LANDMEIER ROAD, AS THE SAME IS NOW LOCATED AND ESTABLISHED, (MAY 5, 1964), DISTANT 9.22 FEET SOUTHWESTERLY OF THE EAST LINE OF THE WEST 1/2 OF THE SOUTH EAST 1/4 OF SAID SECTION 26, THENCE SOUTHEASTERLY ALONG A LINE, WHICH IF EXTENDED WOULD INTERSECT THE SOUTHEAST CORNER OF SAID WEST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 26, TO A POINT DISTANT 40.0 FEET SOUTHEASTERLY, MEASURED AT RIGHT ANGLES FROM SAID CENTER LINE OF LANDMEIER ROAD; THENCE SOUTHWESTERLY PARALLEL WITH SAID CENTER LINE OF LANDMEIER ROAD, A DISTANCE OF 410.0 FEET TO A POINT; THENCE NORTHERLY PARALLEL WITH EAST LINE OF THE WEST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 26, TO A POINT IN SAID CENTER LINE OF LANDMEIER ROAD; THENCE NORTHEASTERLY ALONG SAID CENTER LINE OF LANDMEIER ROAD, A DISTANCE OF 439.44 FEET TO THE POINT OF BEGINNING) SUBDIVISION OF THE ESTATE OF HENRY LANDMEIER BEING PART OF SECTION 26 AND 35, TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO PLAT ACKNOWLEDGED ON THE 4TH DAY OF DECEMBER, 1916, BY RICHARD LANDMEIER, ALBERT LANDMEIER, OTTO LANDMEIER AND GUSTAV LANDMEIER AND FILED ON THE 2ND DAY OF MARCH, 1917, IN THE OFFICE OF THE REGISTRAR OF TITLES OF COOK COUNTY, ILLINOIS, AS DOCUMENT NUMBER 70396;

AND ALSO EXCEPT THAT PART DESCRIBED AS FOLLOWS:

THE SOUTHERLY 10 FEET OF NORTHERLY 40 FEET OF THAT PART OF LOT 6 (AS MEASURED AT RIGHT ANGLES TO THE NORTHERLY LINE OF SAID LOT) IN THE SUBDIVISION OF THE ESTATE OF HENRY LANDMEIER, BEING PART OF SECTIONS 26 AND 35, TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO PLAT FILED ON THE 2ND DAY OF MARCH, 1917, IN THE OFFICE OF THE REGISTRAR OF TITLES OF COOK COUNTY, ILLINOIS, AS DOCUMENT NUMBER 70396, LYING NORTH OF THE NORTH LINE OF TOUHY AVENUE AS DEDICATED IN CENTEX INDUSTRIAL PARK UNIT 6, A SUBDIVISION IN SECTIONS 26 AND 35, TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, (ACCORDING TO PLAT REGISTERED AS DOCUMENT NUMBER 2011608), AND LYING EAST OF THE FOLLOWING DESCRIBED LINE: BEGINNING AT A POINT IN THE NORTH LINE OF SAID TOUHY AVENUE, 651.33 FEET EAST OF THE INTERSECTION OF SAID NORTH AVENUE WITH THE EAST LINE OF NICHOLAS BOULEVARD AS DEDICATED IN CENTEX INDUSTRIAL PARK UNIT 9, A SUBDIVISION IN SECTION 26, TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, (ACCORDING TO PLAT REGISTERED AS DOCUMENT NUMBER 2057254); SAID LINE RUNNING THENCE NORTH AT RIGHT ANGLES TO THE SAID

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NORTH LINE OF TOUHY AVENUE, 566.57 FEET, MORE OR LESS, TO THE CENTER LINE OF LANDMEIER ROAD, SAID CENTER LINE BEING THE NORTHERLY LINE OF SAID LOT 6 (EXCEPTING FROM SAID TRACT THAT PART OF LOT 6 INCLUDED IN THE FOLLOWING DESCRIBED PARCEL OF LAND; THAT PORTION OF THE WEST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 26, TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, COMMENCING AT THE INTERSECTION OF THE CENTER LINE OF HIGGINS ROAD WITH THE EAST LINE OF THE WEST 1/2 OF THE SOUTH EAST 1/4 OF SAID SECTION 26; RUNNING THENCE SOUTH ALONG EAST LINE OF THE WEST 1/2 OF THE SOUTH EAST 1/4 OF SAID SECTION 26, TO THE SOUTHEAST CORNER THEREOF, THENCE NORTHWESTERLY IN A STRAIGHT LINE TO A POINT IN THE CENTER LINE OF HIGGINS ROAD, 20 FEET NORTHWESTERLY OF THE PLACE OF BEGINNING, THENCE SOUTHWESTERLY 20 FEET TO THE PLACE OF BEGINNING AND EXCEPTING THEREFROM THAT PART OF THE FOLLOWING DESCRIBED TRACT LYING SOUTHEASTERLY OF THE SOUTHEASTERLY LINE OF ORIGINAL LANDMEIER ROAD; BEGINNING AT A POINT ON THE CENTER LINE OF LANDMEIER ROAD, AS THE SAME IS NOW LOCATED AND ESTABLISHED, (MAY 5, 1964), DISTANT 9.22 FEET SOUTHWESTERLY OF THE EAST LINE OF THE WEST 1/2 OF THE SOUTH EAST 1/4 OF SAID SECTION 26; THENCE SOUTHEASTERLY ALONG A LINE, WHICH IF EXTENDED WOULD INTERSECT THE SOUTHEAST CORNER OF SAID WEST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 26, TO A POINT DISTANT 40.0 FEET SOUTHEASTERLY, MEASURED AT RIGHT ANGLES FROM SAID CENTER LINE OF LANDMEIER ROAD; THENCE SOUTHWESTERLY PARALLEL WITH SAID CENTER LINE OF LANDMEIER ROAD, A DISTANCE OF 410.0 FEET TO A POINT; THENCE NORTHERLY PARALLEL WITH EAST LINE OF THE WEST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 26, TO A POINT IN SAID CENTER LINE OF LANDMEIER ROAD; THENCE NORTHEASTERLY ALONG SAID CENTER LINE OF LANDMEIER ROAD, A DISTANCE OF 409.44 FEET TO THE POINT OF BEGINNING), IN COOK COUNTY, ILLINOIS.

Property Address: Southwest corner of Landmeier and Higgins Roads, Elk Grove Village, Illinois 60007

|                          |                    |                    |
|--------------------------|--------------------|--------------------|
| P.I. #85-26-405-013-0000 | 08-26-405-014-0000 | 08-26-405-015-0000 |
| 85-26-405-016-0000       | 85-26-405-017-0000 | 08-26-405-018-0000 |
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| 85-26-405-004-0000       | 85-26-406-005-0000 | 85-26-406-006-0000 |
| 08-26-406-007-0000       | 08-26-406-008-0000 | 85-26-406-009-0000 |
| 08-26-405-010-0000       | 08-26-406-011-0000 | 85-26-406-012-0000 |
| 08-26-406-013-0000       | 08-26-406-014-0000 | 08-26-405-012-0000 |
| 08-26-406-015-0000       | 08-26-406-016-0000 | 08-26-406-017-0000 |
| 08-26-406-018-0000       | 08-26-406-019-0000 | 08-26-406-020-0000 |
| 85-26-406-021-0000       | 08-26-406-022-0000 | 08-26-406-023-0000 |
| 08-26-406-024-0000       | 08-26-406-025-0000 | 08-26-406-026-0000 |



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