

THIS INSTRUMENT PREPARED
BY AND RETURN TO:
DAVID J. O'KEEFE
Schulz, Firsol & Burnoy, Ltd.
222 North LaSalle Street
Suite 1910
Chicago, Illinois 60601

DEPT-01 RECORDING 635.00
T00012 TRAN 9826 03/27/96 09:18:00
8300 CG # -96-232093
COOK COUNTY RECORDER

SUBORDINATION AGREEMENT.

THIS SUBORDINATION AGREEMENT ("Agreement") is made as of March 18, 1996, between LASALLE BANK FSB, a federal savings bank ("Senior Lender") and NEAR LOOP PROPERTIES LIMITED PARTNERSHIP, an Illinois limited partnership (the "Subordinated Lender").

RECITALS

A. Senior Lender has agreed to extend to 844 West Adams L.L.C., an Illinois limited liability company, and American National Bank and Trust Company of Chicago, as Trustee under Trust Number 120709-00 dated August 21, 1995 (collectively the "Borrower") a mortgage loan in the principal amount of Five Million Seven Hundred Thousand and No/100 Dollars (\$5,700,000.00), evidenced by a Note (the "Senior Note") in that amount dated of even date herewith, which is payable to Senior Lender and secured in part by, *inter alia*, a certain Junior Mortgage, Collateral Assignment of Leases and Rents, and Security Agreement (the "Senior Mortgage") made by 1020 South Wabash, L.L.C., an Illinois limited liability company and Chicago Title and Trust Company, as Trustee under Trust Agreement dated December 12, 1986 and known as Trust Number 1088816 (collectively "Mortgagor") dated March 18, 1996 and recorded with the Recorder of Deeds of Cook County, Illinois (the "Recorder") on March 19, 1996 as Document No. 96210594 encumbering certain property (the "Property") located in Chicago, Illinois, and legally described on Exhibit A attached hereto;

The Senior Note, Senior Mortgage and all of the foregoing documents and instruments, together with all other documents and instruments evidencing and securing the Senior Note, are hereinafter collectively referred to as the "Senior Loan Documents."

B. Subordinated Lender has heretofore made to Mortgagor a mortgage loan evidenced by a certain Junior Mortgage Note (the "Subordinated Note") dated January 20, 1994, in the original principal amount of One Million Three Hundred Fifty Thousand Dollars (\$1,350,000.00) executed by Mortgagor and made payable to the order of Subordinated Lender and secured by a certain Junior Mortgage, Assignment of Rents, and Security Agreement (the "Subordinated Mortgage") dated January 20, 1994, recorded with the Recorder on January 27, 1994, as Document No. 94091028 made in favor of Subordinated Lender. All documents

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evidencing and securing the Subordinated Note are hereinafter collectively referred to as the "Subordinated Loan Documents".

C. All obligations of Mortgagor to Senior Lender now existing or hereafter arising, due or to become due under the Senior Note and the Senior Loan Documents are herein called the "Senior Liabilities."

D. All obligations of Mortgagor to Subordinated Lender now existing or hereafter arising, due or to become due under the Subordinated Note and the Subordinated Loan Documents are herein called the "Subordinated Liabilities."

E. Senior Lender has agreed to accept the Senior Mortgage as partial security for the loan on the condition that Subordinated Lender enter into this Agreement.

NOW, THEREFORE, in consideration of the foregoing and as an inducement to Senior Lender to make the Loan and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto represent, warrant and agree as follows:

1. Warranties of Subordinated Lender. Subordinated Lender represents and warrants that true, correct and complete copies of all documents evidencing and securing the Subordinated Liabilities have heretofore been delivered to Senior Lender and are described in Recital B above.

2. Subordination of Liens. Subordinated Lender hereby agrees that the Subordinated Liabilities are and shall be subordinate to the Senior Liabilities and that the liens and security interests created by the Subordinated Loan Documents are and shall be subordinate to the liens and security interests created by the Senior Loan Documents and to any and all amendments, modifications, extensions, replacements or renewals of the Senior Loan Documents, and to any and all advances heretofore made or hereafter to be made under the Senior Loan documents pursuant to the terms thereof.

3. Subordination of Payment. Until such time as the earlier of (i) the date on which the Senior Liabilities have been paid in full or (ii) September 1, 1997, the payment of the Subordinated Liabilities shall be postponed and subordinated to the payment of all of the Senior Liabilities, and Subordinated Lender shall accept no payments or other distributions whatsoever (including without limitation distributions of casualty insurance or condemnation proceeds) on account of the Subordinated Liabilities, and no property or assets of Mortgagor shall be applied to the purchase or acquisition or retirement of any Subordinated Liabilities.

4. Constructive Trust. In the event that Subordinated Lender receives any payment or other distribution of any kind or character from Mortgagor or from any other source whatsoever in respect to any of the Subordinated Liabilities, other than as expressly permitted by the terms of this Agreement, such payment or other distribution shall be received and shall be held by Subordinated Lender in trust for Senior Lender and promptly turned over by Subordinated Lender to Senior Lender. Subordinated Lender shall cause to be clearly inserted

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in all promissory notes or other instruments which at any time evidence or secure any of the Subordinated Liabilities statements to the effect that the payment thereof is subordinated in accordance with the terms of this Agreement. Subordinated Lender shall execute such further documents or instruments and take such further action as Senior Lender may reasonably require from time to time to carry out the intent of this Agreement.

5. Waiver of Subordinated Lender. Subordinated Lender hereby waives (a) notice of the existence, creation or nonpayment of all or any of the Senior Liabilities; and (b) all diligence in collection, protection of or realization upon the Senior Liabilities or any security therefor.

6. Covenants of Subordinated Lender. Subordinated Lender shall not without the prior written consent of Senior Lender: (a) modify, amend or consent to any modification or amendment of any document evidencing or securing the Subordinated Liabilities; (b) commence, or join with any other creditor in commencing, any bankruptcy, reorganization or insolvency proceedings with respect to Mortgagor; (c) seek to appoint a receiver for (i) the Property, (ii) any part thereof or (iii) Mortgagor, or seek to obtain possession of the Property, or seek any accounting from Senior Lender in respect to the proceeds of the Property; or (d) take any action affecting any lease of the Property in which Senior Lender claims a security interest (including without limitation any action to subordinate any such lease to the Subordinated Loan Documents, or any of them).

7. Bankruptcy of Mortgagor. In the event of any dissolution, winding up, liquidation, readjustment, reorganization or other similar proceedings relating to Mortgagor, Mortgagor's creditors, or to Mortgagor's property (whether voluntary or involuntary, partial or complete, and whether in bankruptcy, insolvency or receivership, or upon an assignment to benefit creditors, or any other marshalling of the assets and liabilities of Mortgagor, or any sale of all or substantially all of the assets of Mortgagor, or otherwise), the Senior Liabilities shall first be paid in full before Subordinated Lender shall be entitled to receive and to retain any payment or distribution with respect to the Subordinated Liabilities.

8. Notices of Default. Subordinated Lender hereby agrees to give Senior Lender, contemporaneously with the giving thereof to the Mortgagor, copies of any notices given to Mortgagor regarding any default under the Subordinated Loan Documents or which notice would, following the passage of time and failure to cure, result in the occurrence of a "default" or "event of default" under the Subordinated Loan Documents. Subordinated Lender hereby agrees that the indebtedness evidenced, secured and guaranteed by the Subordinated Loan Documents shall not be accelerated, nor shall any remedies be pursued thereunder unless (a) in the case of default in the payment of a sum of money due under the Subordinated Loan documents and after expiration of all applicable grace periods, Senior Lender shall have been given written notice of such failure and Senior Lender shall have failed to pay or cause to be paid such sum of money within thirty (30) days following such written notice; or (b) in the case of any other default under the Subordinated Loan Documents, Senior Lender shall fail to

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cure of cause to be cured such default within the period which is thirty (30) days beyond the longest of the applicable cure period provided to Mortgagor to cure such default.

9. Insurance Proceeds and Condemnation Awards. Subordinated Lender agrees that in the event of a casualty to the buildings or improvements constructed on the Property or a condemnation or taking under a power of eminent domain of the Property, the buildings or improvements thereon, or a threat of such a condemnation or taking, all adjustments of insurance claims, condemnation claims and settlements in anticipation of such a condemnation or taking shall be prosecuted, at Senior Lender's election, by Senior Lender and all payments and settlements of insurance claims or condemnation awards or payments in anticipation of condemnation or a taking shall be paid to Senior Lender. Subordinated Lender hereby irrevocably assigns to Senior Lender all of its interest in any such claims, settlements, or awards (the "Award") and irrevocably grants to Senior Lender a power of attorney, coupled with an interest, to execute any and all documents on Subordinated Lender's behalf necessary in connection with the prosecution or settlement of the Award. In the event the amount of the Award is in excess of all amounts due under the Senior Liabilities, Senior Lender agrees that such excess Award shall be paid to or held for the benefit of Subordinated Lender.

10. Consent to Easements and Plats of Subdivision. In the event Mortgagor requests that Senior Lender and all other mortgagees or trustees under trust deeds or record execute any easements or plats of subdivision or similar documents in connection with the construction, development, operation or maintenance of the Property, and Senior Lender executes the same, Subordinated Lender agrees to execute such documents and instruments as its interests appear.

11. Power of Direction in Land Trust Mortgagor. Subordinated Lender represents to Senior Lender that it has no interest in the power of direction under the land trust which is the record titleholder of the Property (the "Trust") and that Subordinated Lender shall not request or accept any interest in such power or direction (including any right to approve documents to be executed by the Trust).

12. Acquisition of Fee Title by Senior Lender. Subordinated Lender hereby agrees that an acquisition of fee title to the Property by Senior Lender, its nominee, or any other person or entity through a foreclosure of the Senior Mortgage (where such foreclosure does not extinguish the security interests created by the Subordinated Loan documents) or through a deed in lieu of foreclosure is not a "sale or disposition" and will not constitute an event of default under the Subordinated Loan Documents.

13. Subrogation. Until such time as the Senior Liabilities have been paid in full, Subordinated Lender waives and releases any and all rights of subrogation which it has against the Property and which subrogation would result in Subordinated Lender obtaining a priority equal or superior to the priority of the Senior Loan Documents for any funds which Subordinated Lender may advance either to cure defaults under security instruments or pay

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liens encumbering the Property or otherwise protect the lien of the Subordinated Loan documents or any of them.

14. Permitted Actions by Senior Lender. Senior Lender may, from time to time, in its sole discretion and without notice to Subordinated Lender, taken any or all of the following actions: (a) retain or obtain a security interest in any property to secure any of the Senior Liabilities; (b) retain or obtain the primary or secondary obligation of any other obligor or obligors with respect to any of the Senior Liabilities; (c) extend or renew for one or more periods of time (whether or not longer than the original period), alter or modify any of the Senior Liabilities, or release or compromise any obligation of any nature of any obligor with respect to any of the Senior Liabilities; and (d) release its security interest, or surrender, release or permit any substitution or exchange for all or any part of the property securing any of the Senior Liabilities, or extend or renew for one or more periods of time (whether or not longer than the original period) or release, compromise, alter or modify any obligation of any nature of any obligor with respect to any such property.

15. Assignment. Senior Lender may, from time to time, without notice to Subordinated Lender, assign or transfer any or all of the Senior Liabilities or any interest therein; and notwithstanding any such assignment or transfer or any subsequent assignment or transfer thereof, such Senior Liabilities shall be and remain Senior Liabilities for the purpose of this Agreement, and every immediate and successive assignee or transferee of any of the Senior Liabilities or of any interest therein shall, to the extent of the interest of such assignee or transferee in the Senior Liabilities, be entitled to the benefits of this Agreement to the same extent as Senior Lender shall otherwise consent in writing. Senior Lender shall have the unimpaired right, prior and superior to that of any such assignee or transferee, to enforce this Agreement for the benefit of Senior Lender as to those of the Senior Liabilities which Senior Lender has not assigned or transferred.

16. Successors and Assigns. This Agreement shall be binding upon Subordinated Lender and its respective successors and assigns, whether immediate or remote.

17. No Waiver by Senior Lender. Senior Lender shall not be prejudiced in its rights under this Agreement by any act or failure to act by Mortgagor or Subordinated Lender, or any non-compliance of Mortgagor or Subordinated Lender with any agreement or obligation, regardless of any knowledge thereof which Senior Lender may have or with which Senior Lender may be charged; and no action of Senior Lender permitted hereunder shall in any way affect or impair the rights of Senior Lender or the obligations of Subordinated Lender under this Agreement. No delay on the part of Senior Lender in the exercise of any rights or remedies shall operate as a waiver thereof, and no single or partial exercise by Senior Lender of any other right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy; nor shall any modification or waiver of any of the provisions of this Agreement be binding upon Senior Lender except as expressly set forth in a writing duly signed and delivered on behalf of Senior Lender.

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18. Effect on Due on Sale Provisions. Subordinated Lender hereby waives any due on sale or due on refinancing provisions of the Subordinated Documents as they relate to the Senior Liabilities.

19. Notice. Any notice, demand or other communication which any party may desire or may be required to give to any other party shall be in writing, and shall be deemed given (i) if and when personally delivered, (ii) upon receipt if sent by a nationally recognized overnight courier addressed to a party at its address set forth below, or (iii) on the second business day after being deposited in United States registered or certified mail, postage prepaid, addressed to a party at its address set forth below:

If to Senior Lender:

LaSalle Bank FSB
8303 West Higgins Road
Chicago, Illinois 60631
Attention: Mr. Dean D. Lawrence

With a copy to:

Schain, Finsel & Burney, Ltd.
222 North LaSalle Street, Suite 1910
Chicago, Illinois 60601

If to Subordinated Lender:

Near Loop Properties Limited Partnership
c/o Scribcor, Inc.
400 N. Michigan Avenue
Suite 500
Chicago, Illinois 60611
Attention: Richard M. Ross, Jr.

With a copy to:

John T. Russell
Fuchs & Russell, Ltd.
Six West Hubbard St., Suite 800
Chicago, Illinois 60610-4695

Any party hereto may change the address at which notices hereunder are required to be given to such party by notice to the other parties in accordance herewith.

20. Construction and Interpretation of this Agreement. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois. Wherever possible each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law but if any provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

21. Termination. This Agreement shall terminate upon full and final payment of any and all amounts due under the Senior Liabilities provided that all rights of Subordinated Lender

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hereunder shall automatically terminate at such time as the Subordinated Liabilities have been paid in full.

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the day and year first written above.

SUBORDINATED LENDER:


**NEAR LOOP PROPERTIES LIMITED
PARTNERSHIP**

By: Bilgor Corporation, General Partner

By: 
Richard M. Ross, Jr., President

SENIOR LENDER:

LASALLE BANK FSB

By: 
Dean D. Lawrence, Vice President

DIO LOANS LASALLE LTD-ADAM SUB
DRAFT #1 03/19/86 DIO

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EXHIBIT "A"

Legal Description

PARCEL 1:

SUB LOT 2 OF LOT 8 IN BLOCK 19 IN FRACTIONAL SECTION 15 ADDITION TO CHICAGO IN SECTION 15, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 2:

SUB LOT 1 OF LOT 9 IN BLOCK 19 IN FRACTIONAL SECTION 15 ADDITION TO CHICAGO IN SECTION 15, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 3:

SUB LOT 2 OF LOT 9 IN BLOCK 19 IN FRACTIONAL SECTION 15 ADDITION TO CHICAGO IN SECTION 15, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PERMANENT INDEX NUMBER: 17-15-306-025
17-15-306-026
17-15-306-027

COMMONLY KNOWN AS: 1040 SOUTH WABASH
CHICAGO, ILLINOIS

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