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TENTH AMENDMENT TO NOTE AND REAL ESTATE MORTGAGE AND ASSIGNMENT OF RENTS AND LEASES, FIRST AMENDMENT TO CONSTRUCTION LINE OF CREDIT PROMISSORY NOTE, AND SECOND AMENDMENT TO CONSTRUCTION LOAN AGREEMENT

Executed to be Effective
January 1, 1997

97123801

Chicago, Illinois

THIS TENTH AMENDMENT TO NOTE AND REAL ESTATE MORTGAGE AND ASSIGNMENT OF RENTS AND LEASES AND FIRST AMENDMENT TO CONSTRUCTION LINE OF CREDIT PROMISSORY NOTE, dated and executed February 19, 1997, but effective as of January 1, 1997 (hereinafter referred to as "**Tenth Amendment**") is between DEARBORN PRAIRIE HOMES CORPORATION, an Illinois corporation, having its principal office at 1337 West Fullerton Avenue, Chicago, Illinois 60614 (hereinafter referred to as "**Borrower**"), DANIEL E. MCLEAN, also doing business at 1337 West Fullerton Avenue, Chicago, Illinois 60614 (hereinafter referred to as "**Guarantor**"), and NATIONAL CITY BANK OF INDIANA, as successor to Merchants National Bank and Trust Company of Indianapolis, a national banking association, having its principal banking office at 101 West Washington Street, Indianapolis, Indiana 46255 (hereinafter referred to as "**Lender**").

Recitals

1.1 Description of Loan Agreement Lender entered into a certain Construction Loan Agreement dated February 28, 1989 (hereinafter referred to as "**Loan Agreement**") with VMS/MCL Dearborn Park II Venture, an Illinois joint venture (hereinafter referred to as "**Venture**"). In the Loan Agreement, Lender, *inter alia*, established a revolving line of credit for the Venture in the principal amount of Fifteen Million and 00/100 Dollars (\$15,000,000.00) with a maturity of February 28, 1991 (hereinafter referred to as the "**Loan**"). The purpose of the Loan was to fund the cost of a certain residential development project known as The Prairie Homes of Dearborn Park II (referred to in the Loan Agreement and hereinafter also referred to as the "**Project**"). Borrower was a Venture partner at such time, and now is the surviving Venture partner having assumed all of Venture's liabilities, obligations, and responsibilities in connection with the Loan and the Loan Documents (as defined in Section 1.16 hereof) as more fully discussed below.

THIS INSTRUMENT PREPARED BY,
AND AFTER RECORDING, PLEASE RETURN TO:

Allan Goldberg
Arnstein & Lehr
120 South Riverside Plaza
Chicago, Illinois 60606
RECORDER'S BOX 378

BOX 333-CTI

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1.2 **Description of Note.** The Loan was evidenced by a certain Promissory Note dated February 28, 1989 executed by Venture to Lender in the original principal amount of \$15,000,000.00 (hereinafter referred to as the "Note"). In the Note, Venture promised to pay to the order of Lender the principal amount therein stated and interest thereon as therein provided.

1.3 **Description of Mortgage.** To secure the Note, Venture executed a certain Real Estate Mortgage and Assignment of Rents and Leases dated February 28, 1989, and recorded March 1, 1989 as Document No. 89090221 in the Office of the Recorder of Deeds of Cook County, Illinois relative to the real estate described in Exhibit "A" (hereinafter referred to as the "Mortgage").

1.4 **Description of Limited Continuing Guaranty.** To further secure the Note, Guarantor executed and delivered to Lender a certain Limited Continuing Guaranty dated February 28, 1989, unconditionally guaranteeing the payment and performance of the Venture's obligations to Lender under the Note and Loan Agreement upon the terms and conditions provided in such guaranty (the "Guaranty").

1.5 **First Amendment to Note and Real Estate Mortgage.** The Note and the Mortgage were each amended by a certain Amendment to Note and Real Estate Mortgage and Assignment of Rents and Leases dated and executed April 17, 1991, to be effective as of February 28, 1991, by and between Venture and Lender, and recorded April 18, 1991 as Document No. 91177794 in the Office of the Recorder of Deeds of Cook County, Illinois, (hereinafter referred to as the "First Amendment"). The First Amendment modified the Note, by amending *inter alia*, (i) the principal loan balance to \$11,000,000.00, and (ii) the interest rate on the principal Loan balance to a rate per annum 150 basis points above Lender's Base Rate.

1.6 **Second Amendment to Note and Real Estate Mortgage.** The Note, the Mortgage, and the First Amendment were each amended further by a certain Second Amendment to Note and Real Estate Mortgage and Assignment of Rents and Leases, Amendment to Loan Documents, and Acknowledgment and Confirmation, dated and executed April 29, 1991, to be effective as of April 19, 1991, by and among Venture, Borrower, Daniel E. McLean, VMS Financial Guarantee Limited Partnership and Lender, and recorded May 1, 1991 as Document No. 91201898 in the Office of the Recorder of Deeds of Cook County, Illinois (hereinafter referred to as the "Second Amendment"). The Second Amendment provided, *inter alia*, for the payment to Lender of Additional Interest (as therein defined) upon the terms and conditions fully set forth in Paragraph 4 of the Second Amendment.

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1.7 **Withdrawal of One of Venture Partners and Assumption of Obligations By Borrower As Survivor.** Also as a result of the Second Amendment, on April 29, 1991, VMS Dearborn Park II, Inc., an Illinois corporation, one of the two joint venture partners of, VMS/MCL Dearborn Park II Venture, an Illinois joint venture, withdrew from the Venture and, pursuant to a certain Agreement and Assignment and Assumption of Partnership Interest also dated April 29, 1991, the Venture transferred and assigned to the remaining joint venture partner, Dearborn Prairie Homes Corporation, an Illinois corporation, all of its right, title, and interest in and to the Venture property. Therefore, Dearborn Prairie Homes Corporation, Borrower herein, as the remaining surviving Venture partner, accepted and assumed all of the interests of VMS Dearborn Park II, Inc., and assumed all of the liabilities, obligations, and responsibilities of said corporation with respect to the Venture.

1.8 **Third Amendment to Note and Real Estate Mortgage.** The Note, the Mortgage, the First Amendment, and the Second Amendment were each amended further by a certain Third Amendment to Note and Real Estate Mortgage and Assignment of Rents and Leases, dated and executed June 11, 1991, to be effective as of April 30, 1991, by and among Borrower, Guarantor, and Lender, and recorded June 13, 1991 as Document No. 91286116 in the Office of the Recorder of Deeds of Cook County, Illinois (hereinafter referred to as the "Third Amendment"). The Third Amendment provided, *inter alia*, (i) an extension of the final date for payment of the entire unpaid principal balance and all accrued and unpaid interest to February 28, 1993, (ii) an amendment to the Additional Interest provisions, (iii) a provision for periodic financial reporting requirements, (iv) procedures for the advancement by Lender of a portion of the Loan and the Cash Collateral Account (as defined in the Loan Agreement), (v) the establishment of an Earnest Money Account as defined and more fully described in Paragraph 2.5 of the Third Amendment, and (vi) a modification to the pre-sale requirements and the creation of certain limitations upon the number of unsold residential units Borrower is allowed to have in any stage of construction completion from time to time, all as more fully set forth in Paragraph 2.6 of the Third Amendment.

1.9 **Fourth Amendment to Note and Real Estate Mortgage.** The Note, the Mortgage, the First Amendment, the Second Amendment, and the Third Amendment were each amended further by a certain Fourth Amendment to Note and Real Estate Mortgage and Assignment of Rents and Leases, dated and executed August 29, 1991, by and among Borrower, Guarantor, and Lender, and recorded September 3, 1991 as Document No. 91452931 in the Office of the Recorder of Deeds of Cook County, Illinois (hereinafter referred to as the "Fourth Amendment"). The Fourth Amendment provided, *inter alia*, for Borrower to give to Lender a second mortgage ("**Second Mortgage**") on certain real property owned by Guarantor, commonly known as W1773 Bloomfield Road, Lake Geneva, Walworth County, Wisconsin 53147, as security for certain earnest money and

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customer upgrade deposits previously pledged to Lender by Borrower pursuant to the Third Amendment.

1.10 **Second Mortgage**. At the time of making and delivering the Fourth Amendment, the Borrower offered and Lender accepted, as additional consideration for, and an inducement to, the Lender's deferring the exercise of certain of Borrower's obligations under the Loan, the Second Mortgage as hereinabove described, which was recorded August 30, 1991 as Document No. 217533, Volume 533 of Records on Page 1 through 21, in the Office of Registrar of Deeds of Walworth County, Wisconsin. The Second Mortgage and the Fourth Amendment were made, executed, and delivered concurrently on August 29, 1991. The Second Mortgage was originally for Nine Hundred and Forty Six Thousand Thirty-Two and 00/100 Dollars (\$946,032.00) which balance has decreased from time to time as certain deposits and deferred proceeds were repaid pursuant to the terms of Section 2.2 of the Fourth Amendment. However, it was understood and agreed by the Borrower that at no time would the minimal amounts secured by the Second Mortgage be less than Five Hundred Thousand and 00/100 Dollars (\$500,000.00), as more fully provided in Section 2.3 of the Fourth Amendment.

1.11 **Fifth Amendment to Note and Real Estate Mortgage**. The Note, the Mortgage, the First Amendment, the Second Amendment, the Third Amendment and the Fourth Amendment were each amended further by a certain Fifth Amendment to Note and Real Estate Mortgage and Assignment of Rents and Leases, dated and executed March 29, 1993, by and among Borrower, Guarantor, and Lender, and consented to by MCL Realty, Inc., and recorded April 5, 1993 as Document No. 93247511 in the Office of the Recorder of Deeds of Cook County, Illinois (hereinafter referred to as the "**Fifth Amendment**"). The Fifth Amendment provided, *inter alia*, (i) a reduction in the maximum outstanding principal loan balance to \$8,500,000.00, (ii) an extension of the final date for payment of the entire unpaid principal balance and all accrued and unpaid interest to February 28, 1994, (iii) a deferment of a portion of the Loan repayment due from certain closings on residential sales in the Project, all as more fully set forth in Section 2.3 of the Fifth Amendment, (iv) an amendment of the Second Mortgage and the amounts secured thereby, (v) the grant of a security interest in favor of Lender in the Earnest Money Accounts, and (vi) provisions for delivery of certain budgets and appraisals.

1.12 **Amended Second Mortgage**. At the time of making and delivering the Fifth Amendment, Borrower offered and Lender accepted, an Amended and Restated Second Mortgage and Security Agreement which was recorded April 2, 1993 as Document No. Volume 254397 of Records on Page 290 in the Office of Registrar of Deeds of Walworth County, Wisconsin ("**Amended Second Mortgage**"). The Amended Second Mortgage provided, *inter alia*, that the amount secured by the Amended Second Mortgage would be no less than \$950,000.00. The Amended Second Mortgage was made, executed, and

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delivered as additional consideration for Lender's agreement to renew the Loan in accordance with the provisions set forth in Section 2.4 of the Fifth Amendment. The Amended Second Mortgage was given as additional collateral to secure the Fifth Amendment, and shall at all times be pledged to secure the Guaranty and the Loan.

1.13 **Sixth Amendment to Note and Real Estate Mortgage** The Note, the Mortgage, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment and the Fifth Amendment were each amended further by a certain Sixth Amendment to Note and Real Estate Mortgage and Assignment of Rents and Leases, dated and executed September 27, 1993, by and among Borrower, Guarantor and Lender, and consented to by MCL Realty, Inc., MCL/Central Station Limited Partnership and Melk Development/MCL Dearborn Park, L.P., and recorded September 30, 1993 as Document No. 93785119 in the Office of the Recorder of Deeds of Cook County, Illinois (hereinafter referred to as the "**Sixth Amendment**"). The Sixth Amendment provided, *inter alia*, (i) an extension of the final date for payment of the entire unpaid principal balance and all accrued and unpaid interest to July 1, 1995, (ii) the dismissal by Lender of the complaint filed in National City Bank, Indiana v. Banyon Strategic Land Trust, Case Number 91L03577, filed in the Circuit Court of Cook County, (iii) that Borrower make certain Minimum Additional Principal Reduction payments, in addition to Borrower's existing payment obligations, as more fully set forth in Section 2.2 of the Sixth Amendment, (iv) the grant by Guarantor of the Additional Collateral as evidenced by the execution and delivery of two Collateral Assignment and Security Agreements, which serve as security for Borrower's repayment of the Minimum Additional Principal Reduction payments (the "**Collateral Assignment and Security Agreements**"), as more fully set forth in Section 2.3 of the Sixth Amendment, (v) a provision for the delivery by Borrower of quarterly certified financial statements and cash flow projections, (vi) an amendment to the Additional Interest provisions, as more fully set forth in Section 2.5 of the Sixth Amendment, (vii) a deferment of a portion of the Loan repayment due from certain closings on residential sales in the Project, which is defined as Deferred Proceeds, as more fully set forth in Section 2.6 of the Sixth Amendment, (viii) the reaffirmation of a grant of a security interest in favor of Lender in the Escrow Accounts, and (ix) provisions for delivery of certain budgets and appraisals.

1.14 **Seventh Amendment to Note and Real Estate Mortgage** The Note, the Mortgage, the Guaranty, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment, and the Sixth Amendment were each amended further by a certain Seventh Amendment to Note and Real Estate Mortgage and Assignment of Rents and Leases, dated and executed November 30, 1994, by and among Borrower, Guarantor and Lender, and consented to by MCL Realty, Inc., MCL/Central Station Limited Partnership and Melk Development/MCL Dearborn Park, L.P., and recorded December 6, 1994, as Document No. 04-021203 in the Office of the

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Recorder of Deeds of Cook County, Illinois (hereinafter referred to as the "**Seventh Amendment**"). The Seventh Amendment provided, *inter alia*, (i) a reduction in the maximum outstanding principal loan balance to Six Million Five Hundred Thousand and No/100 Dollars (\$6,500,000.00), (ii) a change in the timing of the repayment of the remaining unpaid principal balance of the Minimum Additional Principal Reduction payments from the semi-annual schedule set forth in Section 2.2 of the Sixth Amendment to the periodic repayment to Lender from any contemporaneous distributions to Guarantor, Borrower, MCL Realty, or any of their respective affiliates or related entities, of any and all cash flow or other cash or non-cash proceeds or distributions from MCL/Central or Melk Development/MCL, which is defined in Section 2.2 of the Sixth Amendment, as modified in Section 2.2 of the Seventh Amendment, as a "**Cash Distribution**," (iii) an agreement by Borrower to build only single family detached homes in the Project known as "The Prairie Homes of Dearborn Park," upon such terms as are set forth in Section 2.9 of the Seventh Amendment, and (iv) an agreement by Guarantor to execute and deliver to Lender that certain First Amendment to Continuing Guaranty, under which the Guaranty shall be extended to include one hundred percent (100%) of the indebtedness, as set forth in Section 2.10 of the Seventh Amendment.

1.15 **Eighth Amendment to Note and Real Estate Mortgage** The Note, the Mortgage, the Guaranty, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment, the Sixth Amendment, and the Seventh Amendment were each amended further by a certain Eighth Amendment to Note and Real Estate Mortgage and Assignment of rents and Leases, dated and executed August 10, 1995 but executed to be effective July 1, 1995, by and among Borrower, Guarantor and Lender, and consented to by MCL Realty, Inc., MCL/Central Station Limited Partnership and Melk Development/MCL Dearborn Park, L.P., and recorded August 11, 1995 as Document No. 95-532016 in the Office of the Recorder of Deeds of Cook County, Illinois (hereinafter referred to as the "**Eighth Amendment**"). The Eighth Amendment provided, *inter alia*, (i) an extension of the final date for payment of the entire unpaid principal balance and all accrued and unpaid interest, at the Borrower's request, to January 1, 1996, (ii) a continuation of the Guarantor's pledge of certain net commissions (as defined in Section 2.6 of the Sixth Amendment) as additional consideration for the Eighth Amendment, and (iii) a reaffirmation, also at the Borrower's request, of the Guarantor's agreement to pledge certain "Additional Collateral" described in Section 2.3 of the Eighth Amendment to the extent necessary to meet the Minimum Additional Principal Reduction payments (as defined in Section 2.2 of the Eighth Amendment).

1.16 **Ninth Amendment to Note and Real Estate Mortgage** The Note, the Mortgage, the Guaranty, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment, the Sixth Amendment, the Seventh Amendment, and the Eighth Amendment were each amended further by a certain

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Ninth Amendment to Note and Real Estate Mortgage and Assignment of Rents and Leases, dated and executed March 22, 1996 but executed to be effective January 1, 1996, by and among Borrower, Guarantor and Lender, and consented to by MCL Realty, Inc., MCL/Central Station Limited Partnership and Melk Development/MCL Dearborn Park, L.P., and recorded March 26, 1996 as Document No. 96 229466 in the Office of the Recorder of Deeds of Cook County, Illinois (hereinafter referred to as the "**Ninth Amendment**"). The Ninth Amendment provided, inter alia: (i) an extension of the final date for payment of the entire unpaid principal balance and all accrued and unpaid interest, at the Borrower's request, to January 1, 1997; (ii) a release of Lender's interests in the Collateral Assignment and Security Agreement for Melk Development/MCL Dearborn Park, L.P., together with any Cash Distributions therefrom to which Lender until the date of the Ninth Amendment had been entitled (as originally provided in the Sixth Amendment); (iii) an amendment and restatement of the Amended Second Mortgage to reflect an agreement between the parties thereto to fix the principal amount thereof at \$950,000.00 (the "**Second Amended Second Mortgage**") as additional security for the Ninth Amendment; (iv) an amendment to the Loan Agreement dated March 22, 1996 (the "**First Amendment to Loan Agreement**"), whereby Lender established a revolving line of credit for Borrower in the principal amount of \$2,500,000.00 with a maturity date of January 1, 1997 (the "**Contract Homes Loan**") for the purpose of funding the construction of up to fourteen (14) single family homes on the real property legally described in the First Amendment to Loan Agreement (which real property is a part of the Project); and (v) a reaffirmation of the Guarantor's pledge of certain "Additional Collateral", as redefined and modified in Section 2.3 of the Ninth Amendment.

1.17 Construction Line of Credit Promissory Note. As evidence of the Contract Homes Loan, concurrently with the execution and delivery of the Ninth Amendment, Borrower executed and delivered to Lender a Construction Line of Credit Promissory Note in favor of Lender in the principal amount of \$2,500,000.00 (the "**Contract Homes Note**"). The Guarantor joined in the execution of the Ninth Amendment to, inter alia, ratify and confirm his agreement that the Guaranty also unconditionally guaranteed the payment and performance of Borrower's obligations to Lender under the Contract Homes Loan and First Amendment to Loan Agreement.

1.18 Description of Other Lien Agreements. Venture also executed and delivered to Lender a certain Subordination Agreement (the "**Subordination Agreement**"), and a certain Security Agreement (the "**Security Agreement**"), each dated February 28, 1989 (the Loan Agreement, the Note, the Mortgage, the Guaranty, the Subordination Agreement, Security Agreement, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Second Mortgage, the Fifth Amendment, the Amended Second Mortgage, the Sixth Amendment, the Seventh Amendment, the Eighth Amendment, the First Amendment to Continuing Guaranty, the Collateral Assignment and

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Security Agreements, together with any and all other documents evidencing or securing the obligations of Venture and Borrower, either individually, jointly, or severally, to Lender are hereinafter collectively referred to as the "Loan Documents"). The Ninth Amendment, the Second Amended Second Mortgage, the First Amendment to Loan Agreement, the Contract Homes Note, this Tenth Amendment, executed and delivered by Borrower and Guarantor to Lender shall hereafter be deemed to be included within the definition of the Loan Documents, except for purposes of default. Lender has agreed that an event of default under the other Loan Documents will not create an event of default under the Construction Line of Credit or First Amendment to Construction Loan Agreement.

1.13 Description of Other Parties. Guarantor is the sole shareholder and director, and an officer of Borrower, and is also the sole shareholder and director, and an officer of MCL Construction Corporation, an Illinois corporation (hereinafter "MCL Construction"), and MCL Management Corporation, an Illinois corporation ("MCL Management"). Guarantor has a direct financial interest in and relationship with the Project because (i) MCL Construction is the general contractor of certain of the improvements which have been developed and constructed at the Project, (ii) MCL Construction is the current general contractor of the improvements which have been and will continue to be developed and constructed at the Project, and (iii) MCL Management is the sales and marketing agent for the Project. Guarantor is also a class II limited partner of MCL/Central Station Limited Partnership, an Illinois limited partnership ("MCL/Central").

In the Fourth Amendment, at Borrower's request, Guarantor agreed to pledge certain net commissions (as defined in Section 2.2 therein) earned from the current and future sales of residential units in the Project to the extent necessary to retire the outstanding balance of certain Deposits. MCL Realty joined in the execution of the Fourth Amendment, the Fifth Amendment, the Sixth Amendment, the Seventh Amendment, the Eighth Amendment and the Ninth Amendment; however, MCL Management was in fact the actual sales and marketing agent for the Project and the party actually entitled to receipt of all net commissions earned from sales of residential units in the Project as aforesaid. Notwithstanding the foregoing, MCL Management hereby ratifies and reaffirms the terms, conditions and provisions of all previous amendments to the Loan described in this Tenth Amendment. MCL/Central joined in the execution of the Sixth Amendment, thereby ratifying its agreement with, and consent to, the provisions therein respecting the Additional Collateral. Borrower has requested that Guarantor continue to pledge the net commissions from the Project as additional consideration for this Tenth Amendment, and Guarantor has, accordingly, joined in the execution of this Tenth Amendment.

As additional consideration therefor, and at Borrower's request, Guarantor has agreed to reaffirm its pledge of certain "Additional Collateral" as modified and fully

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described in Section 2.3 of the Ninth Amendment, to the extent necessary to reduce the outstanding balance of the Loan under the Note.

1.20 **Outstanding Default** Borrower acknowledges that a default has occurred in the payment of amounts due to Lender under the Loan Documents, specifically, Borrower has failed to pay to Lender the scheduled installment of Minimum Additional Principal Reduction in the amount of One Million Five Hundred Thousand and No/100 Dollars (\$1,500,000.00), which was due and payable on or before January 1, 1997, and Borrower has requested that Lender defer the exercise of Lender's rights and remedies now available to Lender pursuant to the terms and conditions of the Loan Documents. Borrower acknowledges that it is now obligated to pay in full all of the indebtedness due and owing under the Loan Documents as of January 1, 1997 (the "Indebtedness"), and that it has no right of offset or counterclaim or defense with respect to the Indebtedness. Lender has agreed to comply with the request of Borrower with respect to the exercise of such rights and remedies, including, without limitation, Lender's right to attach, collect, assume or enforce the Additional Collateral pledged by Guarantor to Lender to secure the Loan but only upon certain terms and conditions which are satisfactory to both Lender and Borrower, as set forth herein.

1.21 **Tenth Amendment** Borrower has requested an extension of the final date for payment of the entire unpaid principal balance and all accrued and unpaid interest to January 1, 1998. In consideration of, and at Borrower's request, Lender has agreed to the foregoing changes and modifications upon certain terms and conditions set forth in this Tenth Amendment.

1.22 **First Amendment to Contract Home Note** Borrower has requested an extension of the final date for payment of the Contract Home Note to January 1, 1998. The Guarantor joins in the execution of this Tenth Amendment to, *inter alia*, ratify and reaffirm his agreement that the Guaranty also shall unconditionally guaranty the payment and performance of Borrower's obligations to Lender under the Contract Home Note and the Loan Documents.

1.23 **Ratification of Loan Documents** Borrower and Guarantor acknowledge and agree that each of the Loan Documents secures, extends to, includes, and is effective with respect to all past, present, and future indebtedness and obligations to Lender by either of them notwithstanding Borrower's assumption, as surviving partner, of all liabilities, obligations, and responsibilities with respect to the Venture, as aforesaid, including, but not limited to, the Loan, as amended by the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment, the Sixth Amendment, the Seventh Amendment, the Eighth Amendment, the Second Mortgage, the Second Amended Second Mortgage, the Collateral Assignment and Security Agreement for

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MCL/Central only, the Ninth Amendment, the Second Amended Second Mortgage, the Contract Homes Note, the First Amendment to Loan Agreement, and this Tenth Amendment as well as by any future extensions, renewals, increases, amendments, or modifications thereof.

1.24 **Modification Agreement** Borrower and Lender again desire to modify certain terms and provisions under the Note and the other Loan Documents.

II

Modification Covenants and Representations

To secure the payment and performance of all present and future indebtedness and obligations of Borrower to Lender, including, but not limited to (i) the indebtedness evidenced by the Note and Contract Homes Note and all renewals, extensions, modifications, and replacements thereof, and (ii) the agreements of Borrower contained herein and in the other Loan Documents, Borrower and Lender, in consideration of the premises and of the mutual covenants, agreements, and conditions herein contained, and for other good and valuable consideration, the sufficiency of which is hereby mutually acknowledged, hereby agree as follows:

2.1 **Incorporation by Reference** The recitals hereto set forth and exhibit attached hereto are incorporated herein and made a part hereof.

2.2 **The Note** The Note, as previously amended and modified, most recently by the Ninth Amendment, shall be and is hereby further modified by extending the final date for the repayment of the maximum outstanding principal balance at any time of Three Million Nineteen Thousand and No/100 Dollars (\$3,019,000.00), however, at no time hereafter shall the aggregate sum disbursed thereunder exceed the amount of Three Hundred Eighty-seven Thousand and No/100 Dollars (387,000.00), the repayment of which has been modified so that the last of such payment, if not sooner paid, shall be due and payable no later than the extended maturity date of January 1, 1998, provided, however, that in the event that, at any time after the date hereof and prior to January 1, 1998, any cash flow or other cash or non-cash proceeds or distributions, including, without limitation, profits, distributable funds, distributions with respect to taxes, proceeds generated by any sale, refinancing, lease or other disposition of any property owned by MCL/Central, or any other distributions of any nature whatsoever, or the proceeds thereof (collectively, the "**Cash Distribution**"), is distributed or distributable from MCL/Central to Guarantor, then, within thirty (30) days of the earlier of either (i) the availability of partnership distributions due to Guarantor from such sale(s) or (ii) the closing of one or

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more unsold residences at The Residences of Central Station (Park Row and Harbor Square) Borrower and Guarantor shall pay to Lender immediately upon the availability for distribution to the Class II limited partners one hundred percent (100%) of the Cash Distribution, which shall be applied by Lender to the unpaid balance of the Loan. Borrower and Guarantor shall make such payments of Cash Distributions to Lender unless and until the entire Loan amount has been fully repaid to Lender under the Note, as modified and amended. If and to the extent the total of the remaining Cash Distributions, when final, is less than \$1,250,000.00 (the "Deficiency") Borrower and Guarantor agrees to, upon demand from Lender pay the Deficiency from sources other than the Project within 30 days. Borrower and Guarantor each acknowledge and agree that all proceeds distributed to Guarantor or available for distribution to Guarantor will be promptly paid to Lender in accordance with this Section 2.2. Attached hereto as **Exhibit "B"**, is a copy of the Schedule of Partnership Distribution Requirements dated December 30, 1996 outlining the estimated remaining distributions for MCL/Central and the respective loan/interest obligations of MCL/Central.

2.3 The Contract Homes Note. The Contract Homes Note shall be and is hereby modified by extending the final date for the repayment of the outstanding principal balance in the original principal amount of Two Million Five Hundred Thousand and No/100 Dollars (\$2,500,000.00), the repayment of which has been modified so that the last of such payment, if not sooner paid, shall be due and payable no later than the extended maturity date of January 1, 1998, except for any Contract Home Note(s) with an individual maturity date(s) later than January 1, 1998.

2.4 Second Amendment to Loan Agreement. Paragraph 6(b) of the First Amendment to Loan Agreement ("**Additional Requirements for Contract Homes**") is hereby amended by adding the following new paragraph at the end of Paragraph 6(b) thereof:

The funding of one Model Home under the Contract Homes Loan shall be available to Borrower, and such funding shall be provided based upon the lesser of (a) one hundred percent (100%) of approved Direct Costs for such Model Home (excluding land), (b) 75% of the appraised value of such Model Home, or (c) Two Hundred Thirty Thousand and No/100 Dollars (\$230,000.00). The term of the Model Home funding can be for up to one (1) year from the date of the individual note for such Model Home. The maturity date on the existing Model Home is hereby extended to January 1, 1998; provided, there shall be no more than one (1) Model Home funded by Lender at any time.

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2.5 **Additional Interest** As provided in the Second Amendment, Borrower is obligated to pay to Lender the Additional Interest, as defined in Paragraph 4 of the Second Amendment. As provided in Section 2.5 of the Seventh Amendment, Lender agreed that, in the event (i) the Loan has been paid in full due in part to the application to the Loan of amounts loaned to Borrower from sources other than Lender including amounts paid to Lender pursuant to the pledge of the Additional Collateral and the Second Mortgage as amended, which shall be deemed to be loaned to Borrower as it is paid to Lender ("**Borrowed Source Repayment**"), and (ii) the Project generates Cash Flow (as defined in Paragraph 4 of the Second Amendment) which is deemed Additional Interest payable to Lender, then Borrower shall first meet any Borrowed Source Repayment obligations only as described above or as Lender has pre-approved, and may deduct such amount, only to the extent thereof, from the Additional Interest due and payable to Lender.

2.6 **Valuation of Additional Collateral; Determination of Cash Distribution.** As provided in the Seventh Amendment and restated in the Eighth Amendment and Ninth Amendment, Borrower shall continue to furnish or cause to be furnished to Lender the following:

- (i) Quarterly certified financial statements and cash flow projections to evidence that the net present value of the undistributed cash flow for MCL/Central at all times prior to the maturity date of the Note equals or is greater than the then existing amounts due under the Loan. A discount rate of 10% shall be applied in the calculations.
- (ii) Quarterly statements of all Cash Distributions for MCL/Central for the previous quarter, which are certified by the respective general partner of each partnership.

All of the foregoing financial statements and other information shall be submitted in reasonable detail, prepared for financial reporting purposes by the chief financial officer of Borrower, and MCL/Central. In the event of a default by Borrower or Guarantor under the Loan Documents, then, at the option of Lender, all of the foregoing financial statements and other information shall be prepared in accordance with generally accepted accounting principles applied on a consistent basis throughout the periods involved.

2.7 **Repayment of Deposits and Deferred Proceeds.** As provided in the Fourth Amendment, Lender agreed to Borrower's request to defer a portion of the Loan repayment due from certain closings on residential sales ("**Deferred Proceeds**") in the Project which have now been repaid in full by Borrower, provided, however, the Deferred Proceeds will continue to be paid to Lender and will now be applied to reduce the balance of the Loan directly as follows:

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(i) The "net commissions" (as defined herein) which MCL Realty earns from the current and future sales of residential units at the Project to the extent necessary to retire the outstanding balance of the Loan. The net commissions are 6% of the gross sales price for each residential unit less, (a) 2% to be retained by MCL Realty, and (b) a commission of 3% paid to an unaffiliated real estate broker with respect to any such residential sale. In no event will the net commissions be less than 4% of the gross sales price for any particular residential sale not involving an unaffiliated third party broker, and

2.8 Earnest Money and Customer Upgrade Deposits Borrower shall continue to place or cause to be placed all Deposits (i.e., earnest money deposits and net commissions earned by MCL as described in Section 2.6(i) hereof) into the Loan to be applied against/to the Loan balance upon deposit. Any prepaid customer upgrade deposits will be promptly deposited with Lender to be applied against/to the Contract Homes Loan relating specifically to such customer. Borrower shall continue to comply with the established Customer Upgrade Reporting Procedure in form and substance satisfactory to Lender's Commercial Auditing Department.

2.9 Approval for Single Family Homes Only As provided in the Seventh Amendment, and restated in the Eighth Amendment and Ninth Amendment, Borrower shall continue to build only single family detached homes in the Project The Prairie Homes of Dearborn Park, subject, however, to compliance by Borrower with existing conditions, as set forth in the Loan Documents, as modified including, but not limited to, a revised development budget, and the written approval by Lender, Dearborn Park Corporation, and the City of Chicago Planning Commission, and Borrower shall not commence or continue construction of any terrace homes and/or townhouses at the Project without the prior written approval of the Lender, Dearborn Park Corporation, and the City of Chicago Planning Commission

2.10 One Hundred Percent (100%) Guaranty by Guarantor As provided in the Seventh Amendment, and restated in the Eighth Amendment and Ninth Amendment, the Guarantor executed and delivered to Lender a First Amendment to Continuing Guaranty which provided that the total amount recoverable from Guarantor under the Guaranty was increased to one hundred percent (100%) of the Indebtedness, plus interest after maturity as provided in the Loan Documents, plus all costs of collection and reasonable attorneys' fees. Guarantor's execution of this Tenth Amendment is given to ratify, continue, and reaffirm his intention to continue his undertaking under the First Amendment to Continuing Guaranty with respect to the Loan and to the Contract Homes Loan and First Amendment To Loan Agreement

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2.11 Hazardous Waste and Substances; Environmental Requirements

2.11(a) Borrower hereby covenants with and warrants and represents to Lender that neither Borrower nor, to the best knowledge of Borrower, any other person has ever caused or permitted any "Hazardous Material" (as hereinafter defined) to be placed, held, located, or disposed of on, under or at the Project or any part thereof or into the atmosphere or any watercourse, body of water or wetlands, or any other real property adjacent to or in the vicinity of the Project, and neither the Project nor any part thereof, nor any other real property legally or beneficially owned (or any interest or estate in which is owned) by Borrower (including, without limitation, any property owned by a land trust the beneficial interest in which is owned, in whole or in part, by Borrower) has ever been used (whether by Borrower or, to the best knowledge of Borrower, by any other person) as a site for treatment, storage, or disposal (whether permanent or temporary) of any Hazardous Material.

2.11(b) Borrower hereby indemnifies Lender and agrees to hold Lender harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses, and claims of any and every kind whatsoever (including, without limitation, court costs and attorneys fees) which at any time or from time to time may be paid, incurred, or suffered by, or asserted against, Lender for, with respect to, or as a direct or indirect result of the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission or release from, the Premises into and upon any land, the atmosphere, or any watercourse, body of water or wetland, of any Hazardous Material as hereinafter defined (including, without limitation, any losses, liabilities, damages, injuries, costs, expenses, or claims asserted or arising under the Hazardous Materials Statutes as hereinafter defined); and the provisions of and undertakings and indemnification set out in this sentence shall survive the satisfaction and release of this Tenth Amendment and the payment and satisfaction of the Indebtedness hereby secured and shall continue to be the personal liability, obligation, and indemnification of Borrower binding upon Borrower forever. The provisions of the preceding sentence shall govern and control over any inconsistent provision of this Tenth Amendment including, without limitation, any non-recourse provision contained herein or any of the foregoing agreements (provided that nothing contained herein shall be construed as creating any personal liability on the part of a land trustee holding title to the Premises). As used herein, "Hazardous Material" means and includes any hazardous substance or any pollutant or contaminant defined as such in (or for purposes of) the Comprehensive Environmental Response, Compensation and Liability Act, any so-called "Superfund" or "Superlien" law, the Toxic Substances Control Act, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, as now or at any time

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hereafter in effect (collectively, the "Hazardous Materials Statutes"), or any other hazardous, toxic, or dangerous waste, substance, or material.

Borrower's failure to pay all losses, costs, damages, claims, and expenses incurred by Mortgagee on account of Borrower's failure to perform the obligations of this subparagraph shall be a default under the Loan Documents.

2.12 The Other Loan Documents. Except as otherwise provided herein, the Mortgage and each of the other Loan Documents are hereby ratified and confirmed and remain in full force and effect.

2.13 Representations and Warranties As To Loan Agreement. Borrower and Guarantor each represent and warrant to Lender that all representations and warranties contained in Paragraph 8 of the Loan Agreement are true and correct as of date hereof, that there has been full compliance with the covenants contained in Paragraph 9 of the Loan Agreement and that as of the date hereof there exists no default or any condition that, with the giving of notice or lapse of time or both, would constitute a default under the Loan Agreement, except as previously disclosed to Lender, including the withdrawal of one of the Venture partners.

2.14 Representations and Warranties As To Note and Other Loan Documents. Borrower and Guarantor each represent and warrant to Lender that all representations and warranties contained in each of the Note and the Loan Documents are true and correct as of the date hereof, that there has been full compliance with the covenants contained in each of the Note and the Loan Documents and that as of the date hereof there exists no default or any condition that, with the giving of notice or lapse of time or both, would constitute a default under the Note and the Loan Documents, except as previously disclosed to Lender.

2.15 No Forbearance or Waiver of Remedies. Except as specifically set forth herein, nothing contained herein shall be deemed to be an agreement by Lender to forbear in exercising any of its rights or remedies available under the Loan Documents, at law or in equity, and Lender expressly reserves any and all rights and remedies available to it under the Loan Documents, at law or in equity. No failure to exercise or delay by Lender in exercising any right, power, or privilege hereunder, under the Loan Documents, or at law or in equity, shall preclude any other or further exercise thereof, or the exercise of any other right, power, or privilege.

Lender, Borrower and Guarantor hereby knowingly, voluntarily and intentionally waive the right any may have to a trial by jury in respect of any litigation based hereon or arising out of, under or in connection with this Tenth Amendment or the Loan Documents

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or any agreement contemplated to be executed in conjunction therewith, or any course of conduct, course of dealings, statements (whether verbal or written) or actions of any party. This provision is a material inducement for Lender to enter into this Tenth Amendment.

Borrower and Guarantor acknowledge that they are not aware of and do not intend to assert any claims or causes of action against Lender of any kind or nature whatsoever. Borrower and Guarantor acknowledge and agree that Lender acted in good faith in consenting to and agreeing to the terms of this Tenth Amendment. All defenses or claims of any kind or nature, whether existing by virtue of state, federal bankruptcy or federal non-bankruptcy law, by agreement or otherwise, are hereby forever waived and released by Borrower and Guarantor against Lender, its successors and assigns, and its officers, agents, employees and attorneys, including, without limitation, any affirmative defenses, counterclaims, set-offs, deductions, or recoupments.

Borrower and Guarantor also hereby agree to indemnify Lender, its successors and assigns, and its officers, agents, employees and attorneys, for, and hold them harmless from, any and all liability, loss or damage which may or might be incurred under or by reason of this Tenth Amendment, the Loan Documents or otherwise, and also from any and all claims and demands whatsoever which may be asserted against Lender by reason of any undertakings on Lender's part to perform or discharge pursuant to this Tenth Amendment, the Loan Documents, or otherwise.

2.16 **Expenses, Attorneys' Fees.** Lender is hereby authorized to reimburse itself from the undisbursed portion of the Loan, and Borrower acknowledges that Lender has such right, all amounts incurred by or on behalf of Lender for attorneys' fees and all other expenses reasonably incurred by or on behalf of Lender by reason of the matters specified herein and for the preparation of this Tenth Amendment (or any previous amendments to or modifications of the Loan Documents which have not been paid within the last twelve (12 months)) as well for all other documents necessary and required to effectuate the provisions of this Tenth Amendment. In the event any dispute shall arise concerning the subject matter of this Tenth Amendment, then Lender shall be entitled to recover its reasonable attorneys' fees and costs incurred in connection therewith, including without limitation, all costs of trial, appellate, and bankruptcy proceedings. The rights and remedies of Lender contained in this Section 2.16 or elsewhere in this Tenth Amendment shall be in addition to, and not in lieu of, the rights and remedies contained in the Loan Documents and as otherwise provided by law or in equity.

2.17 **Consent to Agreement.** Borrower and Guarantor individually, jointly, and severally acknowledge that they are sophisticated parties and have thoroughly read and reviewed the terms and provisions of this Tenth Amendment and that each is familiar with the same, that the terms and provisions herein contained are clearly understood by each

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and have been fully and unconditionally consented to by Borrower and Guarantor, have each had the full benefit and advice of counsel of their own selection, or the opportunity to obtain the benefit and advice of counsel, in regard to understanding the terms, meaning, and effect of this Tenth Amendment, and that this Tenth Amendment has been entered into by Borrower and Guarantor freely, voluntarily, with full knowledge, and without duress, and that in executing this Tenth Amendment, Borrower and Guarantor are relying on no other representations either written or oral, express or implied, made by Lender, or by any other party and that the consideration received by Borrower and Guarantor hereunder has been actual and adequate.

2.18 **Title Company Approval**. This Tenth Amendment shall be of no force and effect unless and until this Tenth Amendment has been recorded in the Office of the Recorder of Deeds of Cook County, Illinois and Chicago Title Insurance Company has issued an endorsement to its previously issued Alta Loan Policy No. 71-98-536 under which it insures Lender that the Mortgage, as previously amended and as amended hereby, constitutes a valid lien on the Real Estate described in said Mortgage, subject only to the liens and encumbrances set forth on **Exhibit "B"** to the Mortgage and to current real estate taxes not yet due and payable.

2.19 **No Joint Venture**. It is hereby acknowledged by Borrower and Guarantor that the relationship between Lender and Borrower, or Lender and Guarantor, as the case may be, is that of creditor and debtor, or creditor and guarantor, and is not intended to be and shall not in any way be construed to be that of a partnership, a joint venture, or that of principal and agent, and it is hereby further acknowledged that any disbursement of the Loan to any one other than Borrower shall not be deemed to make Lender a partner, joint venturer, or principal or agent of Borrower, but rather shall be deemed to be solely for the purpose of protecting Lender's security for the Loan.

2.20 **Binding Effect**. This Tenth Amendment shall be binding upon and inure to the benefit of Borrower, Guarantor, and Lender, and their respective heirs, beneficiaries, successors, assigns, and personal and legal representatives.

2.21 **Governing Law**. This Tenth Amendment shall be governed by and construed in accordance with the laws of the State of Illinois.


[EXECUTIONS ARE ON THE FOLLOWING PAGE]

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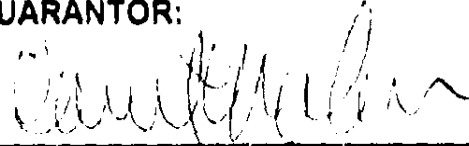
IN WITNESS WHEREOF, the undersigned have caused this Tenth Amendment to be executed and effective as of the day and year first above written.

BORROWER:

DEARBORN PRAIRIE HOMES CORPORATION,
an Illinois corporation

By: 
Daniel E. McLean
President

GUARANTOR:


Daniel E. McLean, Individually
SSN: 343-38-9935

LENDER:

NATIONAL CITY BANK OF INDIANA

By: _____
John J. Thullen
Vice-President

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IN WITNESS WHEREOF, the undersigned have caused this Tenth Amendment to be executed and effective as of the day and year first above written

BORROWER:

DEARBORN PRAIRIE HOMES CORPORATION,
an Illinois corporation

By _____
Daniel E. McLean
President

GUARANTOR:

Daniel E. McLean, Individually
SSN 343-38-9935

LENDER:

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By _____
John J. Thullen
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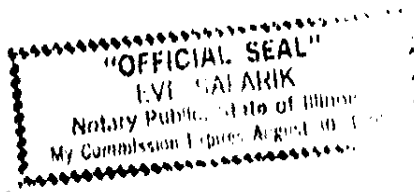
STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

I, Eve Salarik, a Notary Public in and for the County and State aforesaid, do hereby certify that Daniel E. McLean, President of Dearborn Prairie Homes Corporation, an Illinois corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such President, 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 corporation, for the uses and purposes therein set forth; and did then and there affix the corporate seal of said corporation, to said instrument as his 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 14th day of February, 1997.

Eve Salarik
Notary Public

My Commission Expires.



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STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

I, Eve Saffarik, a Notary Public in and for the County and State aforesaid, do hereby certify that Daniel E. McLean, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, for the uses and purposes therein set forth.

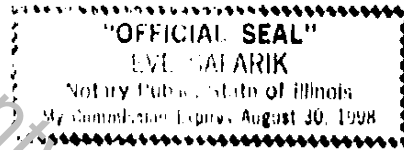
GIVEN under my hand and notarial seal this 19th day of February, 1997.

Eve Saffarik

Notary Public

My Commission Expires:

8/30/98



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STATE OF INDIANA)
) SS
 COUNTY OF MARION)

I, Diana S. Priest, a Notary Public in and for the County and State aforesaid, do hereby certify that John J. Thullen, Vice-President of National City Bank of Indiana, a national banking association, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Vice-President, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said Bank for the uses and purposes therein set forth, and did then and there affix the corporate seal of said Bank, to said instrument as his own free and voluntary act and as the free and voluntary act of said Bank, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 20th day of February 1997.

Diana S. Priest
 Notary Public Diana S. Priest

My Commission Expires: 2/13/98

Diana S. Priest
 Notary Public
 County of Residence: Hendricks
 My Commission Expires
 2/13/98

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CONSENT

MCL MANAGEMENT CORPORATION, an Illinois corporation, hereby (i) consents to the provisions of and agrees to comply with certain repayment requirements set forth in this Tenth Amendment and (ii) ratifies the terms, conditions and provisions of all previous amendments described in this Tenth Amendment.

MCL MANAGEMENT CORPORATION

By: 

Daniel E. McLean, President

CONSENT

MCL/CENTRAL STATION LIMITED PARTNERSHIP, an Illinois limited partnership, hereby consents to the provisions of and agrees to comply with the requirements set forth in this Tenth Amendment.

**MCL/CENTRAL STATION
LIMITED PARTNERSHIP**

By: MCL/Central Station, Inc.,
an Illinois corporation,
General Partner

By: 

Daniel E. McLean, President

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EXHIBIT "A"

Parcel "A":

Block 5 in Dearborn Park Unit No. 2, being a resubdivision of Sundry lots and vacated streets and alleys in part of the North East ¼ of Section 21, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

Parcel "B":

Block 7 together with the South 381.50 feet of Block 4 in Dearborn Park Unit No. 2, being a resubdivision of Sundry lots and vacated streets and alleys in part of the North East ¼ of Section 21, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

Property bounded by Roosevelt Road on the North and 15th Street on the South, State Street on the East.

Permanent Index No.: 17-21-210-012, 009, 013, 011, 013, 024 and 028.

17 21 210-008, 016, 017, 022, 010, 022, 026, 032 and 082.

REPT-01 RECORDING \$71.00

1:00:12 TRAN 4105 02/24/97 10:18:00

154260_4 12 8 97 123804

COOK COUNTY RECORDER

REPT-01 PENALTY \$68.00

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EXHIBIT B

Schedule of Partnership Distributions Requirements

SEE ATTACHED

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Residences at Central Station
Park Row and Harbor Square

20 Dec 96

Schedule of Partnership Distribution Requirements

	Class III Limited Ptrs	Class II Limited Ptrs	Class I Limited Ptrs	General Partner	Total
Loans from Partners (repayment required before distributions)	\$817,500.00	\$262,500.00	\$0.00	\$0.00	\$1,080,000.00
Interest on Loans from Partners (as required by Agreement)	\$292,159.44	\$94,549.44	\$0.00	\$0.00	\$386,708.89
Cash Flow - first \$3.5 Million	962,839.70	933,760.51	962,639.70	28,879.19	2,887,919.11
Cash Flow in excess of \$3.5M	0.00	0.00	0.00	0.00	0.00
Total Projected Distributions	\$1,254,799.15	\$1,028,309.96	\$962,639.70	\$28,879.19	\$3,274,628.00

Current Cash Excess - 20 December 96	\$2,653,163.00
Estimated completion costs to be paid	(25,000.00)
Plus - projected proceeds remaining	1,726,465.00
Net Cash Flow after Completion	4,354,628.00
Less - payment of interest to partners	386,708.89
Less - repayment of partner loans	1,080,000.00
Less - distributions of 1st \$3.5 Million	2,887,919.11
Less - distributions of excess over \$3.5M	0.00
Final Remainder	\$0.00

All foregoing figures are estimates based upon the best information available at this time

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Property Clerk's Office