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DECLARATION
OF
COVENANTS, RESTRICTIONS AND EASEMENTS

for

The MarketPlace of Rolling Meadows

Drafted by and when
recorded return to:

Jeffrey Jahns
Seyfarth, Shaw, Fairweather
& Geraldson
55 East Monroe Street
Suite 4200
Chicago, Illinois 60603
Recorder's Box No. 118

20004261.3

BOX 333-611

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DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS

DECLARATION of Covenants, Restrictions and Easements (this "Declaration") made as of the ___ day of June, 1999, by Republic Bank of Chicago, not personally, but as trustee under trust agreement dated July 22, 1997, and known as Trust No. 1391 ("Developer").

RECITALS:

A. Developer is the owner of a certain parcel of real property containing approximately 30.884 acres located in the City of Rolling Meadows, Cook County, Illinois, which real property is more particularly described on Exhibit A attached hereto and incorporated herein by reference (hereinafter referred to as the "Shopping Center"); and

B. Developer desires to impose on the Shopping Center and its owners, tenants, occupants and users hereafter from time to time certain obligations, covenants, restrictions and easements for the benefit of Developer, Owners and said future owners, tenants, occupants and to provide for the maintenance and operation of the Common Areas (as hereinafter defined).

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein set forth and to fulfill the foregoing objective, the Shopping Center is hereby subjected to this Declaration and the rights hereunder are reserved as follows:

ARTICLE I

DEFINITIONS

For purposes of this Declaration, the following terms shall, unless otherwise indicated, have the following meanings, and the use of the singular shall include the plural and vice versa:

1.01 Anchor Tenants: Wal-Mart, Sam's Club and such other entity occupying more than 100,000 square feet of Floor Area within a building hereafter located on the Shopping Center for so long as they are occupants of the Shopping Center, and thereafter any assignees or sublessees of their entire respective leaseholds.

1.02 Building Areas: Those areas within the Building Limit Lines depicted on Exhibit B hereto.

1.03 Common Areas: All areas of the Shopping Center (other than buildings and related building canopies, support columns, pilasters, overhangs and footings and appurtenant truck loading or delivery docks or areas, occupant trash collection areas, tunnels, ramps and wells), encompassing, without limitation, all public and common facilities erected on the Shopping Center (or on property adjacent to the Shopping Center but which, at least in part, services or benefits the Shopping Center) intended for common use, including but not limited to entrances, exits, driveways, access roads, parking areas, sidewalks, not specifically demised to a

tenant or other occupant of the Shopping Center, service drives, directional signs, lighting facilities, non-dedicated utility lines, drainage and detention basin facilities, perimeter screening walls, landscaped and greenbelt areas (including planters and sprinkler systems, if any, located between sidewalks and buildings or next to exterior building walls), not specifically demised to a tenant or other occupant of the Shopping Center, multi-tenant pylon signs, structures advertising the common name (if any) given to the Shopping Center and other facilities and areas intended for common use, as the same may exist from time to time in the Shopping Center, and also including the portions of any adjoining public rights of way (including sidewalks and parkways) that are not maintained, or the cost of which is not borne, by public authority.

1.04 Developer: Republic Bank of Chicago, not personally, but as trustee under trust dated July 23, 1997, and known as Trust No. 1391, its successors and assigns.

1.05 Floor Area: Floor area measured from the exterior surface of exterior walls and from the center of common walls or interior demising partitions, but excluding mezzanines.

1.06 Fun World Parcel: The area described and depicted as such, respectively, on Exhibit C-1 and Exhibit B, attached hereto and made a part hereof; also, the same as Parcel 7.

1.07 Mortgage: Any mortgage or deed of trust or any leasehold mortgage.

1.08 Mortgagee: The mortgagee under any Mortgage and the beneficiary under any deed of trust.

1.09 Outlots: Outlot A and Outlot B collectively, as each is described and depicted as such, respectively, on Exhibit C-2 and Exhibit B, attached hereto and made a part hereof.

1.10 Owner: Any Person who or which is the record owner of fee simple title to a Parcel or any portion thereof which is part of the Shopping Center, including tenants in common collectively.

1.11 Parcels or Parcel: The Shopping Center, each of the Outlots, each lot created by the Plat of Resubdivision of MarketPlace of Rolling Meadows, being a subdivision in the southwest quarter of Section 9 and the southeast quarter of Section 1 both in Township 41 North, Range 11 East of the Third Principal Meridian in Cook County, Illinois and recorded contemporaneously herewith and all parcels resulting from any further subdivision thereof, or any of such Parcels. "Parcel" with a numeral after it (e.g., Parcel 5) shall mean the Parcel designated with such numeral on Exhibit B hereto.

1.12 Person: An individual, partnership, firm, limited liability company, association, corporation, business trust, land trust or other form of entity.

1.13 Pro Rata Share: Subject to the provisions of Section 4.03 below, with respect to any Parcel, a fractional share determined by the fraction, the numerator of which shall be the Floor Area of all buildings constructed on such Parcel and the denominator of which shall be the total Floor Area of all buildings in the Shopping Center. Notwithstanding the foregoing, (1) in the event a building hereafter constructed on a Parcel shall be destroyed or razed and not rebuilt, the numerator of the fraction used to calculate a Parcel's Pro Rata Share shall be, and the denominator of such fraction shall include, the Floor Area of such building immediately prior to it having been destroyed or razed; (2) until such time as there is a completed building on a Parcel, it shall be deemed that such Parcel is improved with a building having the square feet of Floor Area specified therefor on Exhibit D attached hereto and made a part hereof.

1.14 State: The State of Illinois.

ARTICLE II

LAND USE

2.01 Permitted and Prohibited Uses. Except as otherwise provided in this Declaration, the Shopping Center and any portion thereof shall be used, if at all, only for the construction, operation and maintenance thereon of retail stores selling retail merchandise normally carried in other shopping centers, restaurants, entertainment and/or amusement centers, indoor automobile fast service ("while you wait") facilities, financial institutions, retail service establishments common to first-class family-type retail shopping centers (including medical, dental and insurance offices), and related facilities common to first-class family-type retail shopping centers, and for Common Areas relating to and necessary to the operation of the foregoing. The Shopping Center and any portion thereof shall not be used for:

- (a) warehousing, industrial or manufacturing purposes (except for the storage and/or manufacture of such goods as are required as a necessary incident to the conduct of a particular retail business);
- (b) night club, "disco" or dance hall;
- (c) residential purposes;
- (d) offices, except if incidental and subordinate to and supporting a use permitted in this Section 2.01;
- (e) health club, racquet club, gymnasium or massage parlor;
- (f) school, meeting hall, auditorium or like place of assembly;

- (g) establishment selling cars, trucks, trailers, boats or mobile homes from inventory on the Shopping Center;
- (h) flea market; off-track betting facility (except for the incidental sale of lottery tickets); sale of pornographic material; library or reading room; funeral parlor; a trailer court; junk yard; animal raising; veterinary hospital with exterior facilities;
- (i) commercial laundry or dry cleaning plant; laundromat; and
- (j) theater, billiard parlor (except incidental to a restaurant) or bowling alley.

2.02. Exclusions. (a) Except with the written approval of Developer in each instance, no part of the Shopping Center, other than Parcel 2, may be used for a hamburger theme or Mexican theme restaurant offering full table service, alcoholic beverages, a per person check average of Seven Dollars (\$7.00) to Fourteen Dollars (\$14.00) (based upon calendar year 1998 prices), as such amounts may be adjusted from time to time during the term hereof for changes in the Consumer Price Index for the region in which the Premises are located or such other similar index as may be published for that region if the Consumer Price Index ceases to be published, including, without limitation, Applebee's, Bennigan's, Cheddar's, Houlihan's, Logan's Roadhouse, O'Charley's, Red Robin, Ruby Tuesday's or TGI Friday's.

(b) In addition, no part of the Shopping Center, other than the Fun World Parcel, may have as its primary use a youth-oriented indoor entertainment business that does not have the exhibition of motion pictures or food service as a principal use, provided, however, that this exclusion shall cease to apply six (6) months after an entertainment business is discontinued on the Fun World Parcel.

(c) Except with the written approval of Developer in each instance, no part of the Shopping Center, other than Parcel 10, may be used for the operation of an automobile service facility that provides automobile oil changes or lubrications as a fundamental part of its business. (For the purpose of the foregoing sentence, an automobile service facility shall be deemed to be providing oil changes and lubrications as a fundamental part of its business if more than ten percent (10%) of its annual gross revenues are derived from providing oil change and lubrication services.) This grammatical paragraph shall in no event apply with respect to any tenants and/or Owners (and their successors and assigns) that (i) now or hereafter occupy more than twenty thousand (20,000) square feet of Floor Area, or (ii) have executed leases or any other documents that provide them with an ownership or possessory interest in any land or floor area within the Shopping Center prior to or as of the date of this Declaration, or (iii) have executed leases or any other documents that provide them with an ownership or possessory interest in any land or floor area within the land adjoining the Shopping Center prior to or as of the date on which the Developer acquires title to such land; provided, however, that with respect to those tenants and Owners that are excluded from the effect of this grammatical paragraph by virtue of clause (ii) or clause (iii) above, then, if any such tenant or Owner desires to change the use of its land or floor

area within the Shopping Center to one which would otherwise be subject to the restrictions set forth in this grammatical paragraph, Developer may exercise whatever control it may legally possess.

(d) Except with the written approval of Developer in each instance, no part of the Shopping Center, other than Parcel 6, may be leased, subleased, operated or otherwise used for the operation of a buffet-style restaurant, or a cafeteria or cafeteria-style restaurant; provided, that the foregoing will not apply to or restrict any of the following: (i) the Fun World Parcel; (ii) any department store having an undivided Floor Area greater than 25,000 square feet where such restaurant use is incidental to a primary retail use; (iii) Parcels 2 and 10.

(e) Sales of alcohol on Parcel 4 that are intended for on premises consumption shall be permitted only as long as such sales are incidental to some other use conducted on Parcel 4. This provision shall terminate once OCB Realty Co. ceases to operate a restaurant on Parcel 6.

2.03 No Interference with Common Areas. No use of the Shopping Center shall be made which shall interfere with the use of the Common Areas within the Shopping Center for the purposes for which they were intended as provided in this Declaration or impede the free flow of vehicular or pedestrian traffic thereon, except for an outdoor selling area and trash enclosures as shown on Exhibit B hereto, for the exclusive use of the Owner of such Parcel and its tenants and their agents, contractors and customers.

2.04 Conformity to Site Plan. The Owners agree to the extent they develop their respective Parcels, such development shall be in accordance with the site plan attached hereto as Exhibit B. Any changes to Common Areas and Building Areas as shown on said Exhibit B may be made only with the prior written consent of the Developer, which consent shall not be unreasonably withheld, conditioned or delayed, but which consent shall not be given where to do so would permit a condition that violates any instrument binding on any Owner; provided, however, that minor modifications of an immaterial nature to the Common Areas may be made by an Owner on such Owner's Parcel without such consent if such changes do not alter the visibility of signs within the Common Areas and do not materially alter traffic flow, visibility, or parking arrangements (except as otherwise provided in Section 3.02) upon or access with respect to the Shopping Center.

2.05 Hazardous Substances. (a) The term "Hazardous Substances" shall mean: (a) polychlorinated biphenyls ("PCBs" or "PCB items" (as defined in 40 C.F.R. Sec. 761.3)) or any equipment which contains PCBs; (b) any asbestos or asbestos-containing materials; (c) stored, leaked or spilled petroleum products; or (d) any other chemical, material or substance (i) which is regulated as a "toxic substance" (as defined by the Toxic Substance Control Act, 15 U.S.C. Sec. 2601 et seq., as amended), (ii) which is a "hazardous waste" (as defined by the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6901 et seq., as amended), (iii) which is a "hazardous substance" (as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. Sec. 9601 et seq., as

amended), or (iv) exposure to which is prohibited, limited or regulated by any federal, state, county, regional, local or other governmental statute, regulation, ordinance or authority, which, even if not so regulated, may or could pose a hazard to the health and safety of the occupants of or invitees to the Shopping Center or the property adjacent to the Shopping Center.

(b) No Owner shall install, use, generate or dispose of or allow any of its tenants or any third party to install, use, generate or dispose of on or about the Shopping Center any Hazardous Substances, except for immaterial quantities of Hazardous Substances customarily used in the construction, maintenance or operation of like properties which have been and should be used in accordance with applicable laws, statutes, regulations and ordinances then in effect.

ARTICLE III

RECIPROCAL EASEMENTS: COMMON AREAS

3.01 Grant and Declaration of Reciprocal Easements. Developer hereby reserves to itself and grants to the other Owners from time to time for the benefit of Developer, the other Owners and the other Owners' respective Mortgagees, lessees, sub-lessees, employees, agents, customers, licensees and invitees, and for the benefit of each of the Parcels within the Shopping Center, permanent, mutual, reciprocal and non-exclusive easements and rights to use the Common Areas for the purposes for which they are provided and intended, including, but not limited to, (a) ingress, egress, access, loading and unloading, parking and vehicular and pedestrian traffic, including commercial vehicular traffic such as delivery trucks, upon or across, as applicable, the parking areas, entrances, exists, drive ways, walks or service drives located within the Common Areas; (b) installation, operation, maintenance and use of sanitary sewers, storm drains, detention basins, whether underground or at grade, water, electric and gas lines, telephone lines, vaults, conduits and transformers and other utility lines and related facilities (which shall be located underground whenever feasible); and (c) the use of landscaping, direction signs and other areas intended for common use. Notwithstanding the foregoing reservation and grant to the contrary, an Anchor Tenant on Parcel 1 shall have the exclusive right, so long as its lease for such Parcel is in effect, and except as may be approved by Developer in writing, to use that portion of such Parcel designated "Outdoor Sales Area" on Exhibit B hereto and such other portion of Parcel 1 as Developer may permit from time to time.

3.02 Parking Areas. There shall be constructed and at all times be maintained on the Shopping Center parking spaces for at least four (4) automobiles for each 1,000 square feet of gross square footage of Floor Area of all buildings constructed on the Shopping Center. There shall be no change in parking layout or pattern of traffic flow within the Shopping Center from that depicted on Exhibit B without the prior written consent of the Developer, which consent shall not be unreasonably withheld, conditioned or delayed; minor modifications of an immaterial nature may be made to the parking layout by an Owner on such Owner's Parcel without such consent if such changes do not materially alter traffic flow. No Owner or occupant

of any Parcel may designate parking spaces on any Parcel as reserved parking, other than for handicapped.

3.03 Unimproved Building Areas as Common Area. Any portion of the Building Areas from time to time not occupied by a building or buildings, loading dock or docks, customer pick-up or trash compactor area or otherwise exclusively appropriated to the use of the Owner of a particular Parcel (or to the use of a tenant(s) of such Owner), shall, until such time as construction is commenced thereon, be deemed "Common Areas." Nothing contained in this Section 3.03 shall be deemed to prohibit any Owner from building on any Building Area, even though such Building Area may have previously been included within the Common Areas.

3.04 Temporary Use of Common Areas during Construction and for Maintenance and Repair. In connection with work performed at the Shopping Center, incidental encroachments upon the Common Areas as a result of the use of construction equipment such as contractor sheds, ladders, scaffolding, storefront barricades, and similar facilities resulting in temporary obstruction of portions of the Common Areas shall be permitted hereunder so long as they are kept within reasonable requirements of construction or maintenance repair work expeditiously pursued.

3.05 Barriers and Traffic Control. Except as provided in Section 3.04 above, no walls, fences, or barriers of any sort or kind shall be constructed or maintained in the Common Areas of the Shopping Center, or any portion thereof, which shall prevent or impair the use or exercise of any of the easements granted herein, or the free access and movement, including without limitation, pedestrian and vehicular traffic, between the various Parcels; provided, however, reasonable traffic controls as may be necessary to guide and control the orderly flow of traffic may be installed so long as access driveways to the parking areas in the Shopping Center are not closed or blocked and the traffic circulation pattern of the Common Areas, as depicted on Exhibit B hereto, is not changed or affected in any way, unless the prior written approval of the Developer is first obtained.

3.06 Easement for Minor Encroachments. Developer hereby reserves to itself and grants to other Owners from time to time the non-exclusive right (a) to install, maintain and repair footings and underground supports which extend not more than three (3) feet beyond the boundaries of the respective Building Areas and (b) to maintain such other minor encroachments as do not interfere with ingress, egress, circulation or parking.

3.07 No Easements beyond Shopping Center. No Owner shall grant an easement or easements of the type set forth in this Article III for the benefit of any property not within the Shopping Center without the prior written consent of the Developer.

3.08 Rules and Regulations. The Developer may from time to time promulgate, maintain, delete and amend such rules and regulations as shall be useful in preserving the objectives of the Shopping Center and promoting the common good of the Owners. Each Owner

agrees to abide by such rules and regulations and to enforce same against its tenants and occupants, and the Developer may enforce such rules and regulations, the expense of which shall be a CAM Expense (as hereinafter defined).

ARTICLE IV

OPERATION AND MAINTENANCE OF COMMON AREAS

4.01 Responsibility for Maintenance. Upon completion of construction of the improvements on the Common Areas or any portion thereof, the Developer shall, during the term of this Declaration, operate, maintain, repair and, as necessary, replace, or cause to be operated, maintained, repaired and replaced all Common Areas and shall keep the same, or cause the same to be continuously kept presentable, in good condition and repair (consistent with standards of maintenance for the operation of a first class shopping center in the Chicago metropolitan area), in a neat, orderly, sanitary, safe and sound condition, clean and free of rubbish, debris, and other hazards to Persons using the same, and in compliance with all applicable governmental laws, codes, ordinances, rules and regulations. Such maintenance, operation, repair and replacement shall include, but not be limited to, the following:

- (a) The care and replacement of all shrubbery, plantings, and other landscaping;
- (b) Maintenance, repair and replacement of concrete and asphalt paving and other surface materials used on drives, parking areas and walkways using, to the extent reasonably possible, the same type of material originally installed, to the end that drives, parking areas and walkways are at all times kept in a level, smooth and substantially uniform condition;
- (c) Marking, striping and directional signing of all parking areas;
- (d) Maintenance, repair and replacement of common electrical and other common utility equipment, fixtures, and facilities, including lighting in the Common Areas, and electric light replacements;
- (e) Payment of all electrical, water and other utility charges or fees for services furnished to Common Areas and provision of adequate security service if determined to be necessary or desirable;
- (f) Snow removal, when and if necessary, and sweeping and removal of rubbish and debris;
- (g) Maintenance, repair and replacement of all detention areas;

- (h) Common Area casualty insurance with respect to the improvements constituting the Common Areas and Common Area liability insurance as provided in Section 4.05; and
- (i) Maintenance and repair of the Shopping Center pylon and monument signs, if any, including lighting Shopping Center identification signs erected thereon (which shall not include individual occupant or tenant identification signs, if any, erected thereon, which shall be maintained by such occupants or tenants at their sole cost and expense).

4.02 Reimbursement of Common Area Expenses. (a) The Owner of each Parcel in the Shopping Center shall reimburse the Developer for its Pro Rata Share of the costs for the maintenance, operation, repair and replacement of, and the insurance for, the Common Areas (the "CAM Expenses"). CAM Expenses shall include the following: (1) all amounts paid for cleaning and sweeping (which shall be performed as often as necessary), restriping (which shall be done not less than once every two years), resurfacing, repairing of the parking areas, sidewalks and driveways, including snow and ice removal, which shall be performed as often as necessary; (2) maintenance, repair and replacement of planted or landscaped areas; (3) maintenance, repair and replacement of detention areas; (4) maintenance, repair and replacement of bulbs and light standards with respect to the Common Area parking lot lighting and electrical cost of such lighting to the extent same is not metered directly into an Owner's meter; (5) wages and salaries of persons directly and actually performing services described herein; (6) administrative expenses not to exceed fifteen percent (15%) of an Owner's Pro Rata Share of CAM expenses (excluding this item 6) in the event Developer elects to undertake direct management of the Shopping Center or the cost of an outside management company; (7) the amortized portion of capital expenditures, provided, that such amortization is made over the estimated useful life of the item for which such expenditure is made, including all financing costs associated therewith; (8) maintenance, repair and replacement of non-dedicated utility lines; (9) permit fees relating to maintenance of the Common Areas; (10) liability and property insurance coverage for the Common Areas; (11) professional fees; and (12) costs in enforcing or seeking to enforce the terms of this Declaration.

(b) Anything to the contrary notwithstanding contained herein, CAM Expenses shall not include the following:

(i) Any expenses in connection with the original construction and installation of the Common Areas or in connection with the construction and installation of any additions to the land area of the Shopping Center;

(ii) Rubbish removal or any other service for some but not all of the Shopping Center occupants, which costs shall be billed solely to the Owner or occupant for whom such removal or service is performed pursuant to the request of the Owner or occupant of the affected Parcel;

(iii) Any cost for which Developer has been reimbursed from insurance or condemnation proceeds or under any contractor warranty;

(iv) Rent, if leased, or amortization, if purchased, for machinery and equipment used by the Developer in performance of its obligations hereunder, except to the extent such machinery and equipment is used exclusively at the Shopping Center, or, if not exclusively used at the Shopping Center, only to the extent actually used at the Shopping Center;

(v) Any real estate taxes;

(v) Utility charges for the Common Areas where such utility is separately metered and billed to any building in the Shopping Center; and

(vii) Any impact fees levied in connection with the initial construction on the Shopping Center.

Notwithstanding the foregoing provisions, CAM Expenses shall include all emergency expenditures which shall mean all reasonable expenditures made by the Developer in connection with the Common Areas in order to rectify or mitigate any condition that imposes a real and immediate risk of injury to person or serious and irreparable damage to property.

(c) The Developer may cause any or all of the above-mentioned services to be provided by an independent contractor or contractors.

(d) Each Owner shall be responsible to reimburse the Developer for the Pro Rata Share of CAM Expenses as follows: The Owner of each Parcel shall be invoiced not more often than monthly for its Pro Rata Share of CAM Expenses incurred or reasonably estimated to be incurred by Developer during the applicable billing period. Such invoices shall be due and payable within twenty (20) days after billing. To the extent that Developer's annual cumulative receipts under this provision shall exceed annual cumulative CAM Expenses, such excess shall be held in trust for application to future CAM Expenses or refund to the Owners. Developer shall account to the Owners, not less often than annually concerning CAM Expenses and payments in request thereof. In the event an Owner shall not timely pay its Pro Rata Share, (i) such defaulting Owner shall pay to Developer, in addition to such Pro Rata Share, an amount equal to the sum of (A) one percent (1%) of such unpaid amount for each month or portion thereof such Pro Rata Share is not timely paid, (B) an administrative fee of the greater of \$500 or five percent (5%) of such unpaid amount not timely paid, and (C) attorneys' fees and court costs in collecting said sums, and (ii) Developer may include in CAM Expenses for the non-defaulting Owners on a proportionate basis in accordance with their respective Pro Rata Shares, such amount as is necessary to compensate for the defaulting Owner's failure to pay its Pro Rata Share, and if it does so, it shall credit to such non-defaulting Owners paying such additional

CAM Expenses the excess of its receipts from the defaulting Owner pursuant to clause (i) above over its actual, including administrative and interest, costs incurred due to such delinquency.

(e) Any Owner may, upon thirty (30) days notice, have the Developer's records of CAM Expenses for the previous twelve (12) month period audited by its accountant. Should such audit disclose any overpayment by any Owner, the Developer shall remit said overpayment upon demand.

4.03 Right to Self-Maintain. Owners of any Outlot or any Parcel occupied by one or more of the Anchor Tenants, shall be entitled to elect to undertake all of the obligations of Developer pursuant to this Article IV on or pertaining to the Parcel of such Owner by notice to Developer to such effect, provided, however, that such election shall not extend to any shopping center pylon or monument sign, without Developer's written approval. Upon such election anything in this Article IV or Section 1.13 notwithstanding:

- (a) such Owner shall be so obligated for the benefit of the other Owners and Developer, and shall perform such obligations relating to the appearance of the Shopping Center, including hours of lighting, so as not to be disharmonious with the rest of the Shopping Center,
- (b) the Developer shall be relieved of any liability therefor,
- (c) such Owner, provided it fully performs such obligations, shall not be liable for CAM Expenses, except as set forth below,
- (d) other Owners shall not be obligated to reimburse or otherwise pay for or contribute to such Owner's work,
- (e) the Floor Area located within such electing Owner's Parcel shall be excluded from the Floor Area of the Shopping Center for purposes of computing the other Owners' Pro Rata Share of CAM Expenses.

The foregoing shall be equitably adjusted to account for the situation where some but not all of the Developer's obligations are performed by such Owner.

4.04 Common Area Liability Insurance. The Developer shall maintain or cause to be maintained conventional insurance against statutory and common law liabilities for damage to property or injuries, including loss of life, sustained by any person or persons within or arising out of the use of Common Areas, whether caused by any Owner's or tenant's or their respective agents', guests', invitees' or customers' negligence or otherwise. Such policy shall provide comprehensive general liability coverage on an occurrence basis with personal injury, broad form property damage, personal liability, contractual liability and employer liability coverages. Such policy shall be endorsed to remove the XCU Exclusion relating to explosion collapse and

underground property damage, have coverage limits in at least the amount of \$5,000,000.00 for each occurrence.

The policy shall provide that it shall not be cancelled or amended without at least thirty (30) days prior written notice to the Owners and any Owner's Mortgagees or tenants of which the Developer has been given notice and for which an address has been furnished as additional insured(s). Such policy shall name the Owners and any Owner's mortgagees and tenants of which the Developer has been given notice and for which an address has been furnished as additional insured(s). Certificates of such insurance shall be delivered to the Owners not less than fifteen (15) days prior to the expiration date of the expiring policy.

4.05 Common Area Hazard Insurance. The Developer shall maintain or cause to be maintained property insurance against loss by fire and other hazards covered by the so-called "all risk" casualty policy covering the Common Areas on a full replacement cost basis and in an amount sufficient to avoid application of any co-insurance clause.

4.06 General Insurance Provisions. All policies of insurance required by this Declaration shall be carried with reputable and financially responsible companies licensed to do business in the State and may be carried by blanket or umbrella policies otherwise meeting the requirements of this Declaration that allocate, to the property and liabilities required to be insured by this Declaration, amounts not less than insurance amounts required under this Declaration. Anchor Tenants having a net worth in excess of One Hundred Million Dollars (\$100,000,000.00) may self-insure. In the event any coverage provided for in this Declaration is not available or is available but on terms so unacceptable that prudent landlords or tenants generally do not carry such insurance, then in lieu of such insurance the pertinent party may carry the most comparable insurance that is available and generally carried by prudent parties.

4.07. Limitation on Developer Responsibility. It is a condition of Developer's acceptance of its obligations hereunder that Developer has and shall have no obligation whatsoever to expend its own funds in the performance of any of its obligations hereunder, including without limitation, Common Area maintenance and insurance procurement, and that such obligations exist only to the extent of funds received from Owners for such purposes.

4.08 Indemnification. Each Owner agrees to indemnify and hold harmless Developer from any cost or expense (including reasonable attorneys' fees, court costs and litigation expenses), judgment, claim or award incurred by or charged against Developer (in its capacity as such) arising out of any personal injury, death or damage to property on or about the Shopping Center in excess of the amount thereof covered and paid for by any insurance included in CAM Expenses.

4.09 Real Estate Taxes. Each Owner shall be responsible for and pay timely any and all real estate taxes and special assessments now or hereafter levied or assessed against such Owner's Parcel, including all common area improvements thereon.

ARTICLE V

UTILITIES

5.01 Location of Utility Lines. There is hereby reserved to Developer and granted to each Owner easements for utility purposes as depicted on Exhibit B hereto. Except as specified in **Exhibit B** hereto, the location of all utility lines and related facilities in the Common Areas shall be subject to the prior written approval of the Owner over or under whose Parcel or leased premises the same is to be located, which consent shall not be unreasonably withheld or delayed. If requested by any utility company or an Owner upon completion of construction of such utility facilities, the Owners of Parcels affected thereby shall join in the execution of an easement agreement, in recordable form, appropriately identifying the type and location of such respective utility facility.

5.02 Relocation. The Owner of any Parcel shall have the right from time to time to relocate on its Parcel any such utility lines, easements and related facilities then located on its Parcel, provided that such relocation shall be performed only after thirty (30) days notice of such Owner's intention to so relocate shall be given to the Owners of the Parcels benefitting from such utility line, and such relocation: (a) shall not interfere with or diminish the utility services to the benefitted Parcels; (b) shall not reduce or unreasonably impair the usefulness or function of such utility; and (c) shall be performed without cost or expense to the Owners of the benefitted Parcels.

ARTICLE V

BUILDING DESIGN AND CONSTRUCTION

6.01 Building Design and Construction. The initial construction of each building or other improvement (including signs) from time to time constructed in the Shopping Center shall be in accordance with exterior elevation plans approved by the City of Rolling Meadows. Any modifications to such initial construction shall be subject to the prior written approval of the Developer, which approval shall not be unreasonably withheld, conditioned or delayed. No such modifications to the elevation and exterior appearances, including changes of materials and colors, for buildings in the Shopping Center shall take place prior to such Developer's approval; provided, however, the Developer shall not withhold its consent to requested modifications to the elevation and exterior appearance of a building within the Shopping Center if such requested modification is consistent with the elevation and exterior appearances of the then national prototype building of the particular Owner or tenant seeking the modification to its building and is consistent with a first-class shopping center. All construction, alteration, and repair work shall be accomplished in an expeditious manner, in compliance with all laws, rules, regulations, orders, permits, approvals and licenses of governmental authorities having jurisdiction and, after the initial construction of the Shopping Center and except in the case of an emergency, to the

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extent exterior work or equipment is involved shall not take place during the time period between November 15 and January 15. The Owner undertaking such work shall take all necessary measures to minimize any disruption or inconvenience caused by such work. Such work shall be accomplished in such a manner as to minimize any damage or adverse effect which might be caused by such work to any other Person or to the Parcel on which the work is being done or any other Parcel in the Shopping Center. The Owner undertaking such work shall repair at its own cost and expense any and all damage caused by such work and shall restore the affected portion of any affected Parcel to a condition which is equal to or better than the condition which existed prior to the beginning of such work. In addition, the Owner undertaking such work shall promptly pay all costs and expenses associated therewith and shall indemnify and hold all Owners harmless from all damages, losses, or claims, including reasonable attorneys fees, attributable to the performance of such work. After initial construction on a Parcel and except in cases of emergency or the prior consent of all Owners, all such work shall be undertaken only after giving all Owners thirty (30) days' prior written notice of the work to be undertaken, the scope and nature of the work, the duration of the work, and the area in which the work is to be performed.

6.02 Building Height. No building or other improvement located in the Shopping Center shall exceed a height of one story, plus mezzanine.

6.03 Location of Buildings. Subject to the restrictions set forth in this Declaration, including, without limitation, the provisions of Sections 2.03 and 3.02, all buildings and structures on any Parcel shall be constructed only in the Building Areas. No buildings or structures shall be constructed in the Shopping Center within the Common Areas, except pylon signs, monument signs, directional signs, bumper guards or curbs, landscape planters, lighting standards, and any other landscaping or other improvements as may be required under applicable controls and regulations of the City in which the Shopping Center is located or as shown on Exhibit B hereto. In addition, subject to governmental requirements and the provisions of Section 6.01, any Owner may construct, install, repair, remove, replace and maintain canopies and marquees (with signs which may be affixed thereto, subject to Article VII hereof) which may encroach a reasonable distance (not to exceed fifteen (15) feet) over or upon, as the case may be, the sidewalks and walkways contiguous to the Building Area and within such Owner's Parcel.

6.04 Maintenance of Buildings. The Owner of each Parcel in the Shopping Center shall maintain, or cause to be maintained, in a safe, clean and tenantable condition and in good order and repair, consistent in manner and appearance with a first-class shopping center, all buildings (including, but not limited to, all loading docks, truck facilities, truck storage and compactor areas) located on its respective Parcel. If a building or other structure on any Parcel shall be damaged or destroyed, the Owner thereof shall promptly repair, restore or rebuild in accordance with this Declaration, or promptly demolish such building or structure and landscape the surface thereof, which shall not be the same as the surrounding Common Areas, with grass or other plantings.

6.05 Maintenance of Vacant Building Areas. Until such time as buildings or improvements are constructed on any Building Area in the Shopping Center, each Owner shall take or cause to be taken such measures as may be necessary to control weeds, blowing dirt and sand, and similar matters, with respect to the undeveloped Building Area located on its Parcel. On or before the expiration of one (1) year following the commencement of construction on any of the Parcels, each Owner having unimproved Building Area on its Parcel shall at its expense either (a) fence off such area so as to prohibit access thereto and visibility thereof, or (b) grade and pave or sod such area so that such area shall be visually harmonious with the remainder of the Shopping Center. If an Owner shall fail to take or cause to be taken such measures upon thirty (30) days prior written notice, the other Owners, or any of them, may take such measures and shall be entitled to reimbursement from the Owner of said undeveloped Building Area for their expenses in connection therewith.

6.06 Mechanic's Liens. If because of any act or omission (or alleged act or omission) of an Owner, its employees, agents, contractors or subcontractors, any mechanic's or other lien, charge or order for the payment of money or other encumbrance shall be filed against the Parcel of another Owner, the first Owner shall, at its own cost and expense, cause the same to be discharged of record or insured over to the reasonable satisfaction of the Owner of the Parcel encumbered by the particular lien or encumbrance within thirty (30) days after notice to said Owner of the filing thereof. In any event, said Owner shall indemnify, defend and save harmless the other Owner from and against all costs, liabilities, expenses, damages, suits, penalties, claims and demands (including actual attorneys' fees and costs incurred) resulting therefrom. If the first Owner fails to comply with the foregoing provisions, the other Owner shall have the option of discharging or bonding any such lien, charge, order or encumbrance, and the first Owner agrees to reimburse the other Owner for all costs, expenses (including actual attorneys' fees) and other sums of money expended in connection therewith, including interest on the amounts expended from the date of the expenditure until the day of payment at an annual rate of interest equal to the prime rate as published from time to time by The Wall Street Journal plus two percent (2% or 200 basis points). An Owner must immediately upon demand remove of record, or immediately upon demand cause to be removed of record, any lien encumbering a Parcel not owned by it if such removal is required in connection with a financing or disposition of the Parcel encumbered by such lien. In all events, an Owner must remove of record, or cause to be removed of record, any such lien encumbering a Parcel not owned by it within two (2) years of the date such lien was filed of record.

6.07 Building Insurance. Owners shall maintain or cause to be maintained property insurance against loss by fire and other hazards covered by the so-called "all risk" casualty policy covering each building on its Parcel on a full replacement cost basis in an amount sufficient to avoid application of a co-insurance clause.

ARTICLE VII

SIGNS

7.01 Permitted Signs. The following signs only shall be permitted in the Shopping Center: (a) directional signs for guidance upon the parking and driveway areas, (b) exterior building identification signs of any occupant of the Building Areas of the Shopping Center, so long as (i) such signs are similar to the standard identification signs from time to time being used by any such occupant in its other stores or restaurants, or are substantially identical in quality, format and design to other signs currently in the Shopping Center, or (ii) the Developer approves in writing such sign, provided that such approval shall not be unreasonably withheld or conditioned, (c) a temporary sign on the Shopping Center identifying the lender(s) providing construction and/or permanent financing for any improvement to be located on the Shopping Center, (d) a sign or signs identifying an automated teller machine(s) or similar financial equipment operated on any of the Building Areas, so long as similar to other such signs in first-class shopping centers in the State, (e) exterior building signage heretofore approved by the City for a Parcel, and (f) signs at the approximate locations depicted on Exhibit B hereto. Each building identification sign located in the Shopping Center and which identifies a single Shopping Center occupant shall be maintained in good condition and repair by the occupant identified on such building identification sign.

7.02 Shopping Center Monument or Pylon Sign. (a) The maintenance and operation cost for the Shopping Center monument or pylon signs and electrical service to such signs, if any, shall be the responsibility of Developer who shall, upon demand, be entitled to reimbursement for the reasonable costs thereof from the Owners, as part of CAM Expenses, on the basis of the relative sign area applicable to each Owner (or the occupants of its Parcel). Notwithstanding the provisions of Section 7.01 above to the contrary, but, in all events, subject to all applicable governmental or quasi-governmental laws, statutes, ordinances, codes, rules and regulations, and to the unanimous written consent of the Owners and Anchor Tenants, each Anchor Tenant and the Owner of the Fun World Parcel shall be permitted identification signage on the Shopping Center Monument or Pylon signs for the occupants of its Parcel, the initial construction of which signs shall be substantially in accordance with those depicted in Exhibit E attached hereto; provided, however, that the Anchor Tenants' identification signage shall be in the two highest positions and the identification signage for the occupant of the Fun World Parcel shall be in the bottom position. All other Shopping Center Monument or Pylon sign usage shall be subject to the written consent of Developer. The foregoing notwithstanding, the installation, maintenance, cleaning, repair, replacement and removal of sign panels on any Shopping Center pylon sign shall be the obligation of the Owner to whom such panel pertains (including its tenants and other occupants).

(b) Developer hereby reserves to itself and grants, gives and conveys to the other Owners a perpetual exclusive easement over, across, and under those portions of the Shopping Center shown on Exhibit B hereto as occupied by pylon signs and a perpetual non-exclusive

easement over, across and under those portions of the Shopping Center reasonably necessary for access thereto for utilities and service vehicles and personnel for the limited purposes of the first and last sentences of subparagraph (a) preceding.

7.03 Shopping Center Name. The name of the Shopping Center shall be "The MarketPlace of Rolling Meadows," which name shall be the only name by which the Shopping Center shall be identified by any Owner or any tenant of any Owner, except as may be changed from time to time by Developer.

7.04 Compliance. Notwithstanding any provision of this Article VII to the contrary, all signage at the Shopping Center must comply with all applicable governmental laws, codes, ordinances, rules and regulations.

ARTICLE VIII

DECLARATION SUBORDINATE TO EXISTING LEASES

This Declaration is and shall at all times hereafter shall be subordinate to the following leases, as now or hereafter amended or novated from time to time: Lease Agreement between Developer and Wal-Mart Real Estate Business Trust, Lease Agreement between Developer and Sam's Real Estate Business Trust, Lease Agreement between Developer and Brinker Restaurant Corporation, Standard Ground Lease between Developer and OCB Realty Co. and Lease between Developer and John Henry Corporation (collectively, the "Existing Leases"), and in the event of any conflict between any of the Existing Leases and this Declaration, the terms of such Existing Lease shall control but only as and to the following limited extent: Landlord under any of the Existing Leases shall not have any superior rights vis-à-vis any tenant under any of the Existing Leases by reason of the existence of this Declaration and Landlord under any of the Existing Leases shall not be in violation of this Declaration due to the performance or non-performance of any act to the extent, respectively, such performance or non-performance would be in violation of such Existing Leases. Nothing in this Article VIII shall limit any Person's liability for CAM Expenses.

ARTICLE IX

MORTGAGE SUBORDINATE TO DECLARATION

Any Mortgage affecting any portion of the Shopping Center shall at all times be subject and subordinate to the terms of this Declaration, and any Person foreclosing any such Mortgage or acquiring title by reason of a deed in lieu of foreclosure shall acquire title to the premises affected thereby subject to all of the terms of this Declaration.

ARTICLE X

DEVELOPER RESIGNATION

The Person serving from time to time as Developer shall have the right to resign as Developer at any time. No such resignation shall affect the Developer's rights and responsibilities pertaining to, or events occurring in, the period prior to such resignation. Upon such resignation, the Owners shall elect a new Developer, who, upon acceptance, shall be the Developer hereunder thenceforth. No such elected Developer shall have any responsibility pertaining to, or events occurring in, the period prior to such appointment and acceptance, except for cash, contracts and other matters accepted and assumed from the prior Developer. In the election of a new Developer, the outgoing Developer or any Owner may call for a meeting of the Owners for such purpose, by notice not less than 10 days in advance to all Owners, such meeting to occur either in Chicago or the City of Rolling Meadows. Owners may vote in person, by signed proxy or by absentee ballot. Each Owner shall have one vote for each acre of land area within the Parcel it owns, with partial votes being rounded to the nearest tenth of an acre. The person receiving the most votes, whether or not a majority of all votes cast, shall become Developer subject to that Person's acceptance.

ARTICLE XI

REMEDIES

11.01 Default of Owner. An Owner shall be deemed to be in default upon the expiration of fifteen (15) days from receipt of written notice from the Developer or any other Owner (with a copy to all other Owners) specifying the particulars in which such Owner has failed to perform the obligations of this Declaration unless that Owner, prior to the expiration of said fifteen (15) days, has rectified the particulars specified in said notice. However, such Owner shall not be deemed to be in default if such failure (except the failure to pay any monetary obligation) cannot reasonably be rectified within said fifteen (15) day period and such Owner shall have commenced to cure the default within said fifteen (15) days and thereafter diligently pursues such cure until completed.

11.02 Right to Cure Defaults. In the event that any Owner other than Developer (an Owner other than the Developer is referred to in this Section 11.02 as the "**Responsible Party**") undertakes, pursuant to Section 4.03 hereof, the responsibility of Common Area maintenance and performance of other obligations therein provided and such party fails to maintain the Common Areas and otherwise perform in accordance with Section 4.01 hereof, or any portion thereof for which it is responsible, the Developer (in the case of default by a Responsible Party) or the Owner of any Parcel or Developer in all other instances shall have the right, upon ten (10) days prior written notice to the Developer or the Responsible Party (with a copy to all other Owners), to perform any such maintenance with respect to its Parcel or any easement appurtenant thereto if the Responsible Party fails to cure the default identified in the written notice to it within such

ten-day period. Any costs incurred by the curing Owner or Developer shall be reimbursed by the Responsible Party within thirty (30) days of presentation of the appropriate statement therefor.

11.03 Developer Liability. In no event shall Developer be liable, whether as a result of contract, tort, negligence or otherwise for (i) consequential damages, for loss of profits, loss of revenue or loss of anticipated business, (ii) exemplary or punitive damages, (iii) the actions of any vendor or contractor or agent performing any common area maintenance or other obligation of Developer hereunder, (iv) any liability, loss or claim whatsoever to the extent of insurance proceeds available to the claimant or (v) any failure of Developer to perform any maintenance, repair or replacement of the Common Areas provided for in this Declaration. Each Owner, tenant and other person having or accepting title to any part of the Shopping Center, upon and as a consequence of such acceptance and actual or constructive knowledge of this Declaration hereby releases Developer and waives all such liability, provided, however, that the foregoing shall not apply in respect of any wilful or intentional misconduct or gross negligence of Developer.

11.04 Other Remedies. In addition to the foregoing, if Developer or any Owner defaults in the performance of any other material provision of this Declaration, which default continues after the period of grace, if any, with respect thereto, any other Owner may institute legal action against the defaulting Developer or Owner for specific performance, declaratory relief, damages or other suitable legal or equitable remedy. The remedies and liens provided in this Article XI and the enforcement thereof as herein provided shall, except as expressly provided for herein, be in addition to and not in substitution for or exclusion of any other rights and remedies which the parties may have under this Declaration or at law or in equity.

11.05 Attorneys' Fees. In addition to the recovery of damages and of any sums expended on behalf of the defaulting Owner, together with interest thereon, as hereinabove provided, the prevailing party in any action to enforce any provision of this Declaration shall be entitled to receive from the other party its costs and expenses incurred in connection with such action, including actual attorneys' fees and costs for services rendered to the prevailing party in any such action (including any appeal thereof).

ARTICLE XII

MISCELLANEOUS

12.01 Obligations of Declaration. Except as otherwise herein provided, each and every covenant, undertaking, condition, easement, right, privilege, and restriction (herein referred to as "**Obligations of this Declaration**") made, granted or assumed, as the case may be, by this Declaration, is made for the personal benefit of the Developer and each of the Owners, and also as Owner of a portion of the Shopping Center, and shall be an equitable servitude on the portion of the Shopping Center owned by such party appurtenant to or for the benefit of the other portions of the Shopping Center. Every Obligation of this Declaration shall run with the land,

and shall be binding upon the party making or assuming the several Obligations of this Declaration, and such party's successors, assigns having the assignor's real property interest in the Shopping Center, Mortgagees, tenants, customers and invitees and shall inure to the benefit of all other parties to this Declaration and to their respective successors, assigns having the assignor's real property interest in the Shopping Center, Mortgagees, tenants, customers and invitees. Any transferee of fee title to any part of the Shopping Center shall automatically be deemed, by acceptance of title, to have assumed all the Obligations of this Declaration relating thereto, but only to the extent such Obligations of this Declaration accrue on or after the effective date of such transfer of title, and to have agreed with the Owner or Owners of all other portions of the Shopping Center to execute any and all instruments and do any and all things reasonably required to carry out the intention of this Declaration. Any transferor shall upon the consummation of such transfer, if bona fide and not primarily intended as an avoidance of the Obligations of this Declaration, be relieved of all further liability under this Declaration except such liability as may have arisen during its period of ownership of the portions of the Shopping Center so conveyed and which remains unsatisfied. The foregoing notwithstanding, any transferee shall be liable for monetary Obligations that accrued on or prior to the effective date of such transfer of title to the extent such Obligations are quantified and stated in a Claim of Lien or similar instrument recorded in the land records of Cook County against the Parcel (or part thereof) so transferred.

12.02 No Waiver. No delay or omission of the Developer or any Owner in the exercise of any right accruing upon any default of any other Owner shall impair any such right or be construed to be a waiver thereof, and every such right may be exercised at any time during the continuance of such default. A waiver by the Developer or any Owner of a breach or a default of any of the terms and conditions of this Declaration by any other Owner shall not be construed to be a waiver of any subsequent breach or default of the same or any other provision of this Declaration or a waiver by any other Owner. Except as otherwise specifically provided in this Declaration, no remedy provided in this Declaration shall be exclusive, but each shall be cumulative with all other remedies provided in this Declaration and at law or in equity.

12.03 No Termination for Breach. Notwithstanding any other provision of this Declaration to the contrary, it is expressly agreed that no breach, whether or not material, of the provisions of this Declaration shall entitle any Owner to cancel, rescind or otherwise terminate this Declaration, but such limitation shall not affect, in any manner, any other rights or remedies which any Owner may have hereunder by reason of any breach of the provisions of this Declaration.

12.04 No Dedication to Public. Nothing contained in this Declaration shall be deemed to be a gift or dedication of any portion of the Shopping Center to the general public or for any public use or purpose whatsoever, it being the intention of the parties hereto that this Declaration is for the exclusive benefit of the Developer and all Owners of any portion of the Shopping Center and their successors, assigns having the assignor's real property interest in the Shopping Center, Mortgagees, tenants, customers and invitees, and that nothing in this Declaration, express

or implied, shall confer upon any Person, other than the Developer and such Owners, and their successors, assigns having the assignor's real property interest in the Shopping Center, Mortgagees, tenants, customers and invitees any rights or remedies under of by reason of this Declaration. Any Owner of a Parcel shall have the right from time to time to close all or any portion of the Common Areas on such Parcel to the minimum extent necessary to prevent a dedication thereof to the public or the accrual of any rights in any Person, not expressly granted rights hereunder, but such closing shall not unreasonably interfere with the use and enjoyment by the other Owners and their successors, assigns, Mortgagees, tenants, customers and invitees of the easements hereby created.

12.05 Amendment, Modification or Termination. This Declaration may be amended or modified at any time by a declaration in writing mutually agreed to, executed and acknowledged by all of the Owners and thereafter duly recorded in the Office of the County Recorder of the County in which the Shopping Center is located, provided this Declaration shall not be terminated during the term hereof or amended or modified without the prior written consent of all Owners. This Declaration shall not be terminated, amended, altered or modified in any way without the prior written consent of each first Mortgagee then encumbering the Shopping Center, or any Parcel thereof. The foregoing notwithstanding, any instrument signed by less than all the Owners recorded as aforesaid and purporting to amend this Declaration shall be binding as between the parties so agreeing, but shall not be binding on the Developer or any Owner not so agreeing.

12.06 Term of Declaration. This Declaration shall be effective as of the date of recording hereof in the Office of the County Recorder of the County in which the Shopping Center is located and shall continue in full force and effect until 11:59 p.m. on May 31, 2079; provided, however, that the easements granted pursuant to Section 3.01 or enumerated as perpetual shall survive such termination and be perpetual unless no portion of the Shopping Center is utilized for any retail purpose for a continuous period of two (2) years (excluding any period during which an Owner is prevented from engaging in such use by reason of strikes, lockouts or other labor difficulties, adverse weather, acts of God, the requirements of any governmental act, law, rule or regulation, fire or other casualty, condemnation, war, riot, or insurrection), in which event, this Declaration and the rights, restrictions and easements contained in this Declaration except for (a) easements for ingress and egress to and from any Parcel to and from a dedicated right-of-way and (b) those easements and rights of use granted in Article 3.01(b) of this Declaration, shall terminate and be of no further force or effect. It is agreed and acknowledged that those rights and easements referred to in (a) and (b) of the preceding sentence shall be perpetual in duration notwithstanding the termination of this Declaration or any other provision of this Declaration to the contrary.

12.07 Integration; Severability. In case any one or more of the Obligations of this Declaration shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining obligations shall not in any way be affected or impaired thereby.

12.08 Estoppel Certificate. At any time, and from time to time, within thirty (30) days after notice or request by the holder of any actual or proposed first Mortgage or ground lease affecting or intended to affect any portion of the Shopping Center, or any actual or proposed purchaser of any portion of the Shopping Center, the then Developer and Owners of all Parcels comprising the Shopping Center shall execute and deliver to such Mortgagee, ground lessee or purchaser a statement certifying that this Declaration is unmodified and in full force and effect or if there have been modifications, that it is in full force and effect as modified in the manner specified in the statement, and that to the knowledge of such Owner there exists no default under this Declaration, other than as specified therein, and in the case of Developer providing a statement of paid and outstanding Pro Rata Shares of CAM Expenses.

12.09 Governing Law. This Declaration shall be construed in accordance with the laws of the State of Illinois.

12.10 Headings. The section headings in this Declaration are for the convenience only, shall in no way define or limit the scope or content of this Declaration and shall not be considered in any construction or interpretation of this Declaration or any part thereof.

12.11 No Partnership. Nothing in this Declaration shall be construed (a) to make the Owners partners or joint ventures, or (b) to render any of said Owners liable for the debts or obligations of the others (except, in the case of this clause (b), to the extent otherwise expressly provided in this Declaration).

12.12 Force Majeure. Developer and each other Owner shall be excused from performing any obligation or undertaking provided in this Declaration (except for any obligation to pay sums of money) in the event, but only so long as, the performance of such obligation is prevented or delayed by strikes, lockouts, inability to produce materials or permits, power failure, acts of God, governmental restrictions, civil commotion, fire, unavoidable casualty or other causes beyond the control of such Owner, provided that lack of funds shall not be deemed to be a cause beyond the control of such Owner.

12.13 Notices. Any notice, demand, request, consent, approval, designation, or other communication made pursuant to this Declaration by one Owner to any other Owner shall be in writing and shall be given or made or communicated by personal delivery; by United States registered or certified mail, return receipt requested; or by prepaid Federal Express or other nationally recognized overnight delivery service addressed, in the case of Developer to:

Inter-Continental Real Estate and Development Corporation
Suite 28
15750 S. Harlem Avenue
Orland Park, Illinois 60462

with a copy to:

Seyfarth, Shaw, Fairweather & Geraldson
Suite 4200
55 E. Monroe Street
Chicago, Illinois 60603
Attention: Jeffrey Jahns

and to any other Owner at an address for real estate tax bills for such Owner's Parcel as shown on the records of the Cook County Collector, subject to the rights of any Owner or Mortgagee to designate a different address by notice similarly given.

Any notice, demand, request, consent, approval, designation or other communication so sent shall be deemed to have been given, made or communicated, as the case may be, on the date the same was personally delivered or delivered by the United States mail as registered or certified matter, with postage thereon fully prepaid, or delivered by Federal Express or other nationally recognized overnight delivery service.

12.14 Interpretation. Where the context permits and including but not limited to defined terms, the masculine and the neuter shall, respectively, include the neuter and the masculine and in both cases the feminine, and the plural shall include the singular. Examples and words of inclusion (e.g., "including") shall not be construed as a limitation on the breadth of meaning of the phrase or word referenced.

12.15 Trustee Clause. It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of Developer hereunder, while in form purporting to be the warranties, indemnities, representations, covenants, undertakings and agreements of Developer are nevertheless each and every one of them, made and intended not as personal warranties, indemnities, representations, covenants, undertakings and agreements by Developer or for the purpose or with the intention of binding Developer personally, and this instrument is executed and delivered by Developer not in its own right, but solely in the exercise of the powers conferred upon it as Developer; and that no personal liabilities or personal responsibility is assumed by nor shall at any time be asserted or enforceable against Developer or the corporation or entity that is acting as Developer on account of this instrument or on account of any warranty, indemnity, representation, covenant, undertaking or agreement of Developer in this instrument contained, either expressed or implied, all such personal liability, if any, being expressly waived and released. Nothing contained in this Section shall relieve Developer from any liability or obligation to the extent of Developer's trust assets.

IN WITNESS WHEREOF, the Developer has hereunto set its authorized signature as of the day and year first above written.

REPUBLIC BANK OF CHICAGO,
not personally, but as trustee under
trust agreement dated July 22, 1997
and known as Trust No. 1391

By: *Mona Perchy ELP & T, O*

This instrument is executed by Republic Bank of Chicago, not personally or individually, but solely as trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such trustee. All of the statements, warranties and representations set forth herein are made solely on information and belief without any independent inquiry or investigation by Republic Bank of Chicago and should be construed accordingly. Notwithstanding any provision to the contrary set forth in this instrument, any recourse against Republic Bank of Chicago shall be limited to the assets comprising the trust estate and no personal liability shall be asserted or be enforceable against Republic Bank of Chicago by reason of the terms, promises, agreements, covenants, warranties, representations, indemnifications, or other matters herein set forth, all such personal liability of Republic Bank of Chicago being expressly waived.

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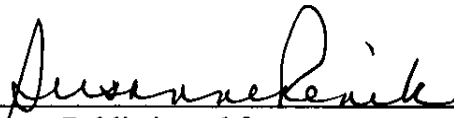
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ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

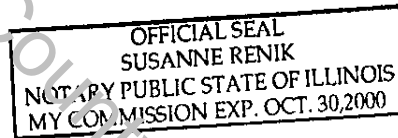
On 6-17, 1999, before me, the undersigned, a Notary Public in and for said County and State, personally appeared ^{THOMAS J.}YACOCHA; personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the foregoing instrument as ESPTB of Republic Bank of Chicago, as trustee under trust agreement dated July 22, 1997 and known as trust no. 1391 and acknowledged to me that by his/her signature on the foregoing instrument such trustee executed it.

WITNESS my hand and official seal.



Notary Public in and for
said County and State

My commission expires: 10-30-00



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EXHIBIT A

Legal Description of the Shopping Center

Lots 1, 2, 4 & 5 in JCP Meadows P.U.D., being a resubdivision of Lot 1 in JCP Meadows Subdivision, in the South West quarter (1/4) of Section 9 and the South East quarter (1/4) of Section 8 both in Township 41 North, Range 11, East of the Third Principal Meridian, in Cook County, Illinois, according to that plat thereof recorded in the Cook County Recorder's Office on December 18, 1985 as Document Number 85329240 and corrected by Certificate of Correction recorded in the Cook County Recorder's Office on August 11, 1988 as Document Number 88364191 in Cook County, Illinois, and also Lot 1 and Outlot A in MTM Resubdivision being a resubdivision of Lot 3 and Outlot A in JCP Meadows P.U.D. in the Southwest quarter (1/4) of Section 9 and Southeast quarter (1/4) of Section 8, both in Township 41 North, Range 11 East of the Third Principal Meridian according to that plat thereof recorded in the Cook County Recorder's Office on September 16, 1993 as Document Number 93742116, all in Cook County, Illinois, also described as follows:
Lots 1, 2, 4 & 5 in JCP Meadows P.U.D., being a resubdivision of Lot 1 in JCP Meadows Subdivision, in the Southwest quarter (1/4) of Section 9 and the Southeast Quarter (1/4) of Section 8, both in Township 41 North, Range 11 East of the Third Principal Meridian, according to that plat thereof recorded in Cook County Recorder's Office on December 18, 1985, as Document Number 85329240, and corrected by a Certificate of Correction recorded in the Cook County Recorder's Office on August 11, 1988, as Document Number 88364191, all in Cook County, Illinois, and also Lot 1 and Outlot "A" in MTM Resubdivision, being a resubdivision of Lot 3 and Outlot "A" in JCP Meadows P.U.D., in the Southwest quarter (1/4) of Section 9 and the Southeast quarter (1/4) of Section 8, both in Township 41 North, Range 11 East of the Third Principal Meridian, according to that plat thereof recorded in the Cook County Recorder's Office on September 16, 1993, as Document Number 93742116, all in Cook County, Illinois, also described as beginning at the Southwest corner of said Outlot "A" in MTM Resubdivision, thence along the boundary of said Outlot "A" North 01 27' 05" East a distance of 929.33 feet, thence continuing along said boundary of Outlot "A" North 41 09' 16" East a distance of 608.81 feet, thence continuing along said boundary of Outlot "A" Southeasterly on a curve to the right having a radius of 2814.79 feet for an arc length of 203.31 feet; thence continuing along said boundary of Outlot "A" South 44 45' 50" East a distance of 896.30 feet; thence continuing along said boundary of Outlot "A" South 44 45' 05" East a distance of 398.80 feet thence continuing along said boundary of Outlot "A" South 57 20' 41.9" West a distance of 248.467 feet; thence continuing along said boundary of Outlot "A" South 30 03' 00" West a distance of 50.00 feet; thence continuing along said boundary of Outlot "A" South 00 00' 00" West a distance of 165.00 feet; thence continuing along said boundary of Outlot "A" South 90 00' 00" West a distance of 829.99 feet; thence continuing along said boundary of Outlot "A" North 88 04' 15" West a distance of 420.41 feet to the point of beginning.

Street Address: 1400 East Golf Road, Rolling Meadows, Illinois

P.I.N.s: 08-08-403-023-0000
08-08-403-025-0000
08-08-403-030-0000
08-08-403-031-0000

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08-09-302-016-0000
08-09-302-017-0000
08-09-302-018-0000
08-09-302-020-0000
08-09-302-021-0000
08-09-302-022-0000

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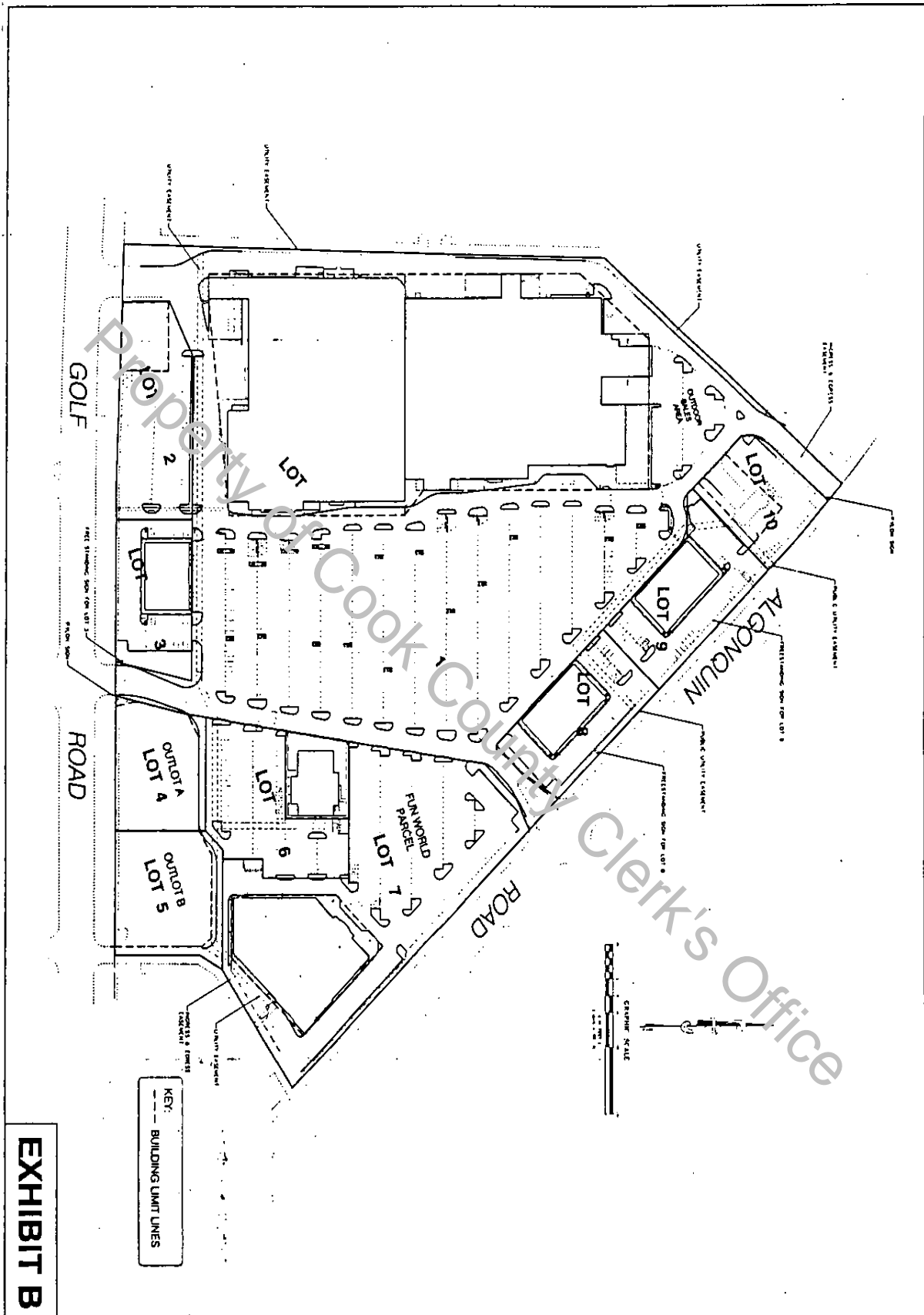


EXHIBIT B

1-1 89-201	DATE: 02/28/01 DRAWN BY: JCU CHECKED BY: JCU PROJECT: MARKETPLACE OF ROLLING MEADOWS	EXHIBIT B MARKETPLACE OF ROLLING MEADOWS ROLLING MEADOWS, ILLINOIS		JAS Associates, Inc. 1346 VALEY ROAD SUITE 110 SCHAMBURG, ILLINOIS 60173 PHONE: (847)310-9400 FAX: (847)310-0087 EMAIL: jas1346@rc.netcom.com
	SCALE: 1"=40' DRAWING NO.: 89201EA SHEET NO.: 1-1 TOTAL SHEETS: 1-1			

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EXHIBIT C-1

Legal Description of Fun World Parcel

LOT 7

THAT PART OF LOTS 1, 2, 4, & 5 IN JCP MEADOWS P.U.D. BEING A RESUBDIVISION OF LOT 1 IN JCP MEADOWS SUBDIVISION, IN THE SOUTHWEST QUARTER (1/4) OF SECTION 9 AND THE SOUTHEAST QUARTER OF (1/4) OF SECTION 8, BOTH IN TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED IN THE COOK COUNTY RECORDER'S OFFICE ON DECEMBER 18, 1985 AS DOCUMENT NUMBER 85329240 AND CORRECTED BY CERTIFICATE OF CORRECTION RECORDED IN THE COOK COUNTY RECORDER'S OFFICE ON AUGUST 11, 1988 AS DOCUMENT NUMBER 88364191 IN COOK COUNTY, ILLINOIS AND ALSO PART OF OUTLOT "A" IN MTM RESUBDIVISION BEING A RESUBDIVISION OF LOT 3 AND OUTLOT "A" IN JCP MEADOWS P.U.D. IN THE SOUTHWEST QUARTER (1/4) OF SECTION 9 AND THE SOUTHEAST QUARTER (1/4) OF SECTION 8, BOTH IN TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THAT PLAT THEREOF RECORDED IN THE COOK COUNTY RECORDER'S OFFICE ON SEPTEMBER 16, 1993 AS DOCUMENT NUMBER 93742116, ALL IN COOK COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID OUTLOT "A" IN MTM RESUBDIVISION; THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST, ALONG THE EASTERLY LINE OF SAID OUTLOT "A", A DISTANCE OF 165.00 FEET; THENCE CONTINUING ALONG SAID EASTERLY LINE, NORTH 30 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 50.00 FEET TO A POINT OF BEGINNING; THENCE NORTH 90 DEGREES, 00 MINUTES, 00 SECONDS WEST, A DISTANCE OF 195.98 FEET; THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS WEST, A DISTANCE OF 76.50 FEET; THENCE NORTH 90 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 34.00 FEET; THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS WEST, A DISTANCE OF 166.11 FEET; THENCE NORTH 90 DEGREES, 00 MINUTES, 00 SECONDS WEST, A DISTANCE OF 240.00 FEET; THENCE NORTH 08 DEGREES, 51 MINUTES, 37 SECONDS EAST, A DISTANCE OF 266.71 FEET; THENCE NORTH 45 DEGREES, 00 MINUTES, 00 SECONDS EAST A DISTANCE OF 85.88 FEET; THENCE NORTH 65 DEGREES, 00 MINUTES, 00 SECONDS EAST A DISTANCE OF 60.97 FEET, TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF ALGONQUIN ROAD; THENCE SOUTH 44 DEGREES, 46 MINUTES, 50 SECONDS EAST, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 246.19 FEET; THENCE SOUTH 07 DEGREES, 01 MINUTES, 05 SECONDS WEST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 0.61 FEET; THENCE SOUTH 44 DEGREES, 45 MINUTES, 05 SECONDS EAST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 398.80 FEET TO THE EASTERLY LINE OF SAID OUTLOT "A"; THENCE SOUTH 57 DEGREES, 20 MINUTES, 42 SECONDS WEST, ALONG SAID EASTERLY LINE OF OUTLOT "A", A DISTANCE OF 248.467 TO THE POINT OF BEGINNING, IN THE CITY OF ROLLING MEADOWS, COOK COUNTY, ILLINOIS.

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EXHIBIT C-2

Legal Description of Outlots A and B

Outlot A

LOT 4

THAT PART OF LOTS 1, 2, 4, & 5 IN JCP MEADOWS P.U.D. BEING A RESUBDIVISION OF LOT 1 IN JCP MEADOWS SUBDIVISION, IN THE SOUTHWEST QUARTER (1/4) OF SECTION 9 AND THE SOUTHEAST QUARTER OF (1/4) OF SECTION 8, BOTH IN TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED IN THE COOK COUNTY RECORDER'S OFFICE ON DECEMBER 18, 1985 AS DOCUMENT NUMBER 85329240 AND CORRECTED BY CERTIFICATE OF CORRECTION RECORDED IN THE COOK COUNTY RECORDER'S OFFICE ON AUGUST 11, 1988 AS DOCUMENT NUMBER 88364191 IN COOK COUNTY, ILLINOIS AND ALSO PART OF OUTLOT "A" IN MTM RESUBDIVISION BEING A RESUBDIVISION OF LOT 3 AND OUTLOT "A" IN JCP MEADOWS P.U.D. IN THE SOUTHWEST QUARTER (1/4) OF SECTION 9 AND THE SOUTHEAST QUARTER (1/4) OF SECTION 8, BOTH IN TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THAT PLAT THEREOF RECORDED IN THE COOK COUNTY RECORDER'S OFFICE ON SEPTEMBER 16, 1993 AS DOCUMENT NUMBER 93742116, ALL IN COOK COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID OUTLOT "A" IN MTM RESUBDIVISION; THENCE SOUTH 90 DEGREES, 00 MINUTES, 00 SECONDS WEST, ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF GOLF ROAD, A DISTANCE OF 219.99 FEET TO A POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 237.28 FEET; THENCE NORTH 13 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 136.94 FEET; THENCE NORTH 08 DEGREES, 51 MINUTES, 37 SECONDS EAST, A DISTANCE OF 42.07 FEET; THENCE NORTH 90 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 200.00 FEET; THENCE SOUTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 175.00 FEET TO THE POINT OF BEGINNING, IN THE CITY OF ROLLING MEADOWS, COOK COUNTY, ILLINOIS.

Outlot B

LOT 5

THAT PART OF LOTS 1, 2, 4, & 5 IN JCP MEADOWS P.U.D. BEING A RESUBDIVISION OF LOT 1 IN JCP MEADOWS SUBDIVISION, IN THE SOUTHWEST QUARTER (1/4) OF SECTION 9 AND THE SOUTHEAST QUARTER OF (1/4) OF SECTION 8, BOTH IN TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED IN THE COOK COUNTY RECORDER'S OFFICE ON DECEMBER 18, 1985 AS DOCUMENT NUMBER 85329240 AND CORRECTED BY CERTIFICATE OF CORRECTION RECORDED IN THE COOK COUNTY RECORDER'S OFFICE ON AUGUST 11, 1988 AS DOCUMENT NUMBER 88364191 IN COOK COUNTY, ILLINOIS AND ALSO PART OF OUTLOT "A" IN MTM RESUBDIVISION BEING A RESUBDIVISION OF LOT 3 AND OUTLOT "A" IN JCP MEADOWS P.U.D. IN THE SOUTHWEST QUARTER (1/4) OF SECTION 9 AND THE

SOUTHEAST QUARTER (1/4) OF SECTION 8 BOTH, IN TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THAT PLAT THEREOF RECORDED IN THE COOK COUNTY RECORDER'S OFFICE ON SEPTEMBER 16, 1993 AS DOCUMENT NUMBER 93742116, ALL IN COOK COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID OUTLOT "A" IN MTM RESUBDIVISION AS A POINT OF BEGINNING; THENCE SOUTH 90 DEGREES, 00 MINUTES, 00 SECONDS WEST, ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF GOLF ROAD, A DISTANCE OF 219.99 FEET; THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 175.00 FEET; THENCE NORTH 45 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 47.10 FEET; THENCE NORTH 90 DEGREES 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 211.69 FEET TO A POINT ON THE EASTERLY LINE OF SAID OUTLOT "A"; THENCE SOUTH 30 DEGREES, 00 MINUTES, 00 SECONDS WEST, ALONG SAID EASTERLY LINE, A DISTANCE OF 50.00 FEET; THENCE SOUTH 00 DEGREES, 00 MINUTES, 00 SECONDS WEST, ALONG SAID EASTERLY LINE, A DISTANCE OF 165.00 FEET TO THE POINT OF BEGINNING, IN THE CITY OF ROLLING MEADOWS, COOK COUNTY, ILLINOIS.

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EXHIBIT D

Minimum Floor Areas

Parcels as Depicted on Exhibit B hereto	Deemed Floor Area
1	259,000 s.f.
2	0
3	10,000 s.f.
4 (Outlot A)	0
5 (Outlot B)	0
6	0
7 (Fun World Parcel)	39,000 s.f.
8	12,000 s.f.
9	12,000 s.f.
10	0

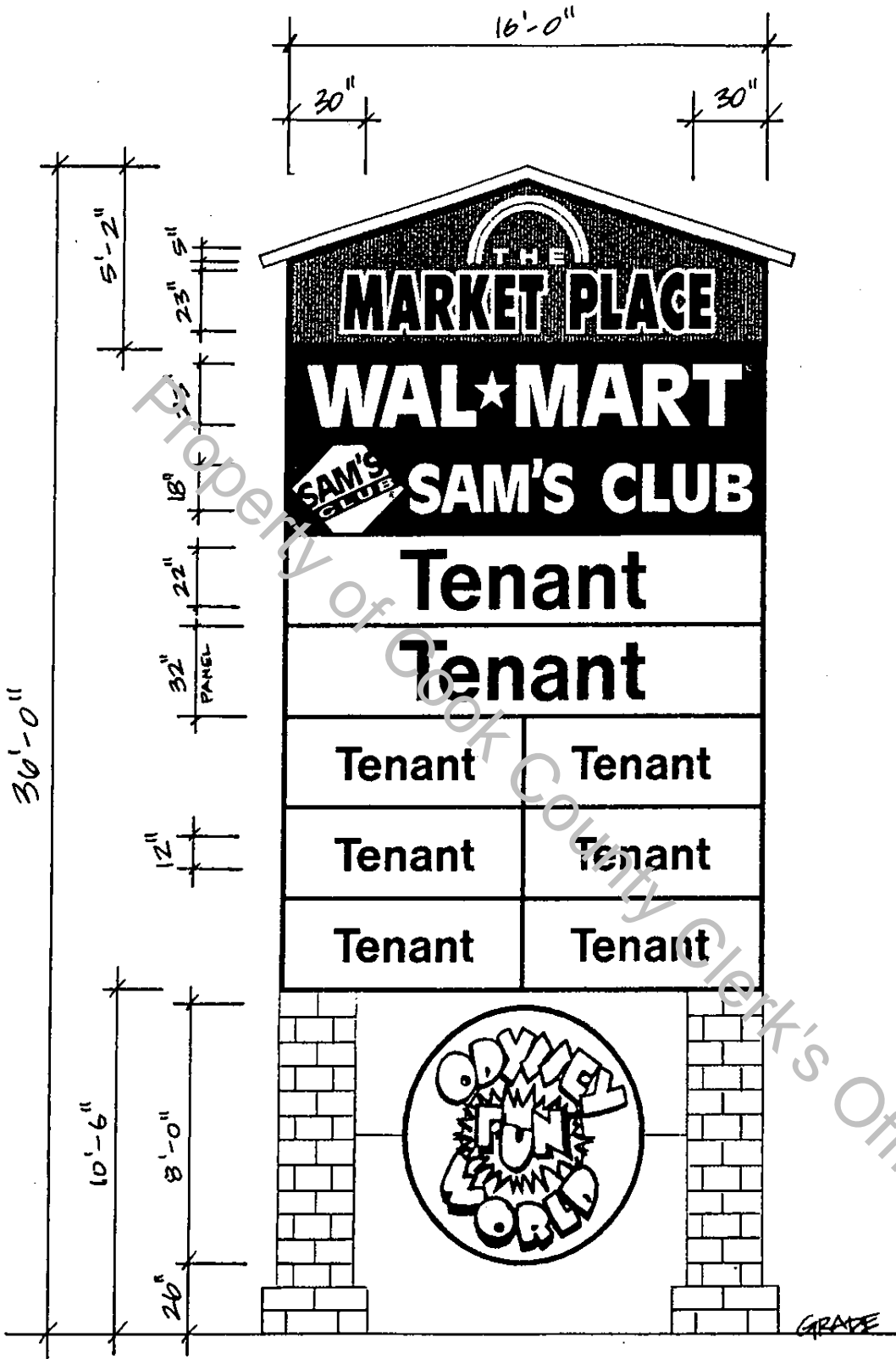
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EXHIBIT E

Pylon Sign

Property of Cook County Clerk's Office



Vincent SIGNS
 DIVISION OF SignCorp.
 P.M. 630-766-8855 307 LINCOLN
 BENSENVILLE, IL 60106
 FAX 630-766-9521

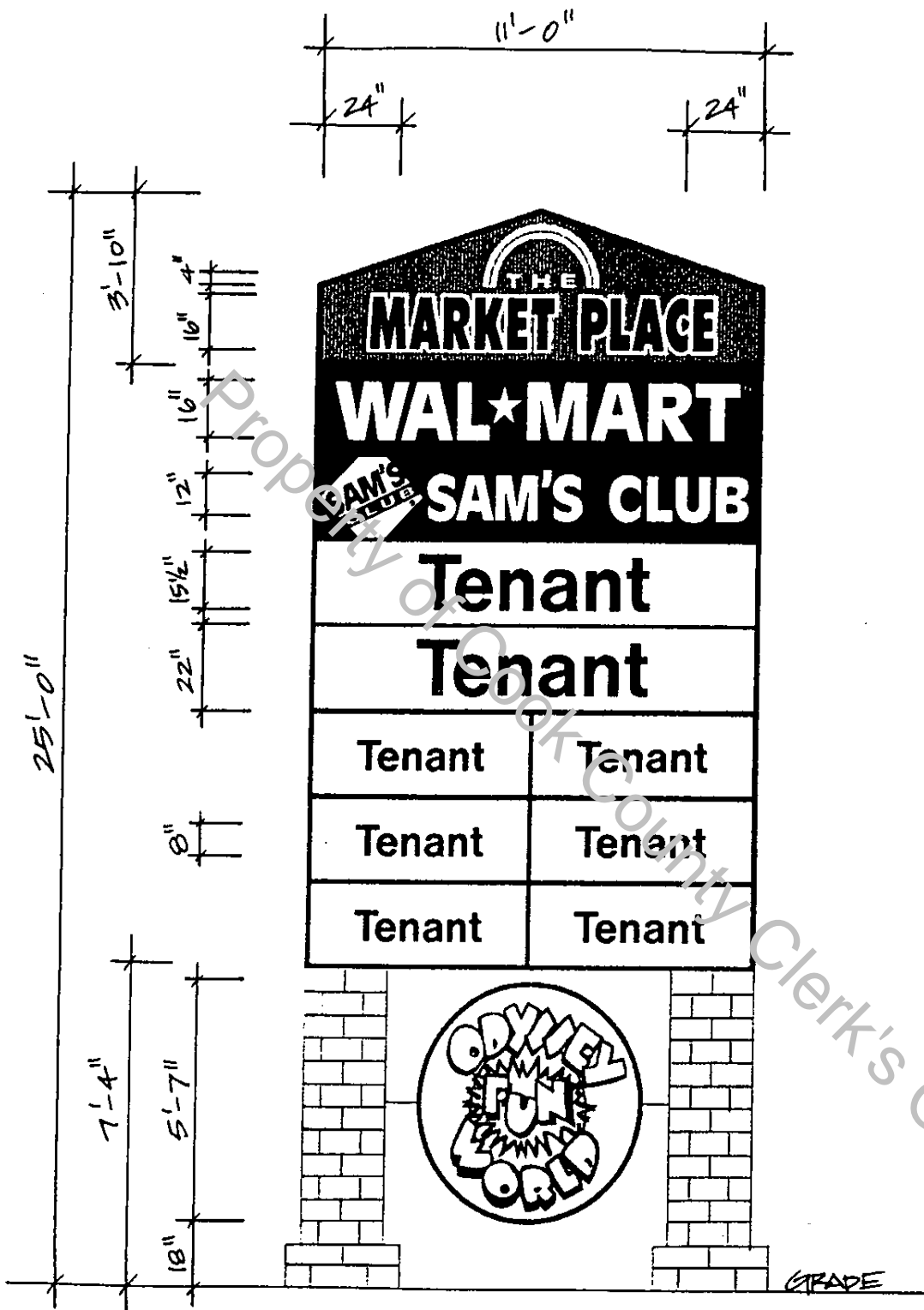


CUSTOMER APPROVAL _____ DATE _____

JOB NAME THE MARKET PLACE
 ADDRESS PAVING MEADOWS
 DATE 3-11-99 DRAWN BY _____
 DRAWING NO. 1141C SCALE 3/16" = 1'-0"

(1) 1/2 INT. ILLUM. PYLON SIGN = GOLF ROAD
 36' x 16' x 30" WIDE

UNOFFICIAL COPY



(1) P/F INT. ILLUM. PYLON SIGN = ALGONQUIN ROAD
 25' X 11' X 30" WIDE

Vincent SIGNS
 DIVISION OF SignCorp.
 P.M. 630-766-8855 307 LINCOLN
 FAX 630-766-9521 BENSENVILLE, IL 60108



CUSTOMER APPROVAL _____ DATE _____

JOB NAME THE MARKET PLACE
 ADDRESS POKING MEADOWS
 DATE 3-11-99 DRAWN BY _____ SCALE 1/4" = 1'-0"
 DRAWING NO. 1141D