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2001/01/21 001 Page 1 of 15
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Cook County Recorder 95.50

PURCHASE OPTION AND
RIGHT OF FIRST REFUSAL AGREEMENT



99808373

CX187869/A
This Agreement is made as of the 04 day of August, 1999, and between Progressive Square Limited Partnership Phase I, an Illinois limited partnership (the "Partnership"), The National Progressive Institute for Community Development, an Illinois not-profit corporation ("Grantee"), and Progressive Square, Inc., an Illinois corporation (the "General Partner"), and is consented to hereinbelow by National Equity Fund 1999 Limited Partnership an Illinois limited partnership (the "Consenting Limited Partner").

Whereas, the General Partner and one or more other parties, concurrently with the execution and delivery of this Agreement, are entering into certain Articles of Limited Partnership dated as of the date hereof (the "Articles") forming the Partnership or continuing it by amending and restating a prior partnership agreement; and

Whereas, the General Partner is wholly owned and controlled by Grantee; and

Whereas, Grantee has been instrumental in the development of the Project, as described in the Articles, and will act as guarantor of the obligations of the General Partner in the formation or continuation of the Partnership for the further development of the Project; and

Whereas, the Project is or will be subject to one or more governmental agency regulatory agreements (collectively, the "Regulatory Agreement") restricting its use to low-income housing (the "Use Restrictions"); and

Whereas, Grantee and the General Partner desire to provide for the continuation of the Project as low-income housing upon termination of the Partnership by Grantee purchasing the Project at the applicable price determined under this Agreement and operating the Project in accordance with the Use Restrictions; and

Whereas, as a condition precedent to the formation or continuation of the Partnership pursuant to the Articles, Grantee and the General Partner have negotiated and required that the Partnership shall execute and deliver this Agreement in order to provide for such low-income housing, and the Consenting Limited Partner has consented to this Agreement in order to induce the General Partner to execute and deliver the Articles and to induce Grantee to guarantee the General Partner's obligations thereunder;

Now, Therefore, in consideration of the execution and delivery of the Articles and the payment by the Grantee to the Partnership of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. **Grant of Option.** The Partnership hereby grants to Grantee an option (the "Option") to purchase the real estate, fixtures, and personal property comprising the Project or associated with the physical operation thereof, located at the Project and owned by the Partnership at the time of purchase (the "Property"), after the close of the fifteen (15) year compliance period for the low-income housing tax credit for the Project (the "Compliance Period") as determined under Section 42(i)(1) of the Internal Revenue Code of 1986, as amended (the "Code"), on the terms and conditions set forth in this Agreement and subject to the conditions precedent to exercise of the Option specified herein. The Project real estate is legally described in Exhibit A attached hereto and made a part hereof. The Regulatory Agreement containing the Use Restrictions to which the Project real estate will remain subject under Paragraph 9 hereof is described in Exhibit B attached hereto and made a part hereof.

2. **Grant of Refusal Right.** In the event that the Partnership receives a bona fide offer to purchase the Property, which offer the Partnership intends to accept, Grantee shall have a right of first refusal to purchase the Property (the "Refusal Right") after the close of the Compliance Period, on the terms and conditions set forth in this Agreement and subject to the conditions precedent to exercise of the Refusal Right specified herein. In addition to all other applicable conditions set forth in this Agreement, (a) the foregoing grant of the Refusal Right shall be effective only if Grantee is currently and remains at all times hereafter, until (i) the Refusal Right has been exercised and the resulting purchase and sale has been closed or (ii) the Refusal Right has been assigned to a Permitted Assignee described in Paragraph 10 hereof, whichever first occurs, a qualified nonprofit organization, as defined in Section 42(n)(5)(C) of the Code, and (b) any assignment of the Refusal Right permitted under this Agreement and the Refusal Right so assigned shall be effective only if the assignee is at the time of the assignment and remains at all times thereafter, until the Refusal Right has been exercised and the resulting purchase and sale has been closed, a Permitted Assignee described in Paragraph 10 hereof meeting the requirements of Section 42(i)(7)(A) of the Code as determined in its judgment by tax counsel to the Consenting Limited Partner. Prior to accepting any such bona fide offer to purchase the Property, the Partnership shall notify Grantee, the General Partner, and the Consenting Limited Partner of such offer and deliver to each of them a copy thereof. The Partnership shall not accept any such offer unless and until the Refusal Right has expired without exercise by Grantee under Paragraph 6 hereof.

3. **Purchase Price Under Option.** The purchase price for the Property pursuant to the Option shall be the greater of the following amounts, subject to the proviso set forth hereinbelow:

a. **Debt and Taxes.** An amount sufficient (i) to pay all debts (including partner loans) and liabilities of the Partnership upon its termination and liquidation as projected to occur immediately following the sale pursuant to the Option, and (ii) to distribute to the Partners under Subparagraph 9.2(c)(vi) of the

Articles, after payments under Subparagraphs 9.2(c)(i)-(v) of the Articles, cash proceeds equal to the taxes projected to be imposed on the Partners of the Partnership as a result of the sale pursuant to the Option, all as more fully stated in Subparagraph 9.2(c)(vi) of the Articles, which is hereby incorporated herein by reference; or

b. **Fair Market Value.** The fair market value of the Property, appraised as low-income housing to the extent continuation of such use is required under the Use Restrictions, any such appraisal to be made by a licensed appraiser, selected by the Partnership's regular certified public accountants, who is a member of the Master Appraiser Institute and who has experience in the geographic area in which the Project is located;

provided, however, that if prior to exercise of the Option the Internal Revenue Service (the "Service") has issued a revenue ruling or provided a private letter ruling to the Partnership, the applicability of which ruling shall be determined in its judgment by tax counsel to the Consenting Limited Partner, or tax counsel to the Consenting Limited Partner has issued an opinion letter concluding that property of the nature and use of the Property may be sold under circumstances described in this Agreement at the greater of the price determined under Section 42(i)(7) of the Code or the price determined under Subparagraph 3a hereinabove without limiting tax credits or deductions that would otherwise be available to the Consenting Limited Partner, then the Option price shall be such price.

4. **Purchase Price Under Refusal Right.** The purchase price for the Property pursuant to the Refusal Right shall be equal to the sum of (a) an amount sufficient to pay all debts (including partner loans) and liabilities of the Partnership upon its termination and liquidation as projected to occur immediately following the sale pursuant to the Refusal Right, and (b) an amount sufficient to distribute to the Partners under Subparagraph 9.2(c)(vi) of the Articles, after payments under Subparagraphs 9.2(c)(i)-(v) of the Articles, cash proceeds equal to the taxes projected to be imposed on the Partners of the Partnership as a result of the sale pursuant to the Refusal Right, all as more fully stated in Subparagraph 9.2(c)(vi) of the Articles, which is hereby incorporated herein by reference.

5. **Conditions Precedent.** Notwithstanding anything in this Agreement to the contrary, the Option and the Refusal Right granted hereunder shall be contingent on the following:

a. **Controlling Entity.** Grantee and the General Partner shall have complied with the Controlling Entity provisions of Paragraph 13.2 of the Articles;

b. **General Partner.** The General Partner shall have remained in good standing as General Partner of the Partnership without the occurrence of any event described in Paragraphs 15.1 through 15.3 of the Articles; and

c. Regulatory Agreement. Either (i) the Regulatory Agreement shall have been entered into and remained in full force and effect, and those Use Restrictions to be contained therein, as heretofore approved in writing by the Consenting Limited Partner, shall have remained unmodified as to material terms affecting the affordability of the Project or income eligibility standards therein, without its prior written consent, or (ii) if the Regulatory Agreement is no longer in effect due to reasons other than a default thereunder by the Partnership, such Use Restrictions, as so approved and unmodified, shall have remained in effect by other means and shall continue in effect by means of covenants recorded against the property.

If any or all of such conditions precedent have not been met, the Option and the Refusal Right shall not be exercisable. Upon any of the events terminating the Option or the Refusal Right under Paragraph 13.2 of the Articles, terminating the General Partner as General Partner of the Partnership under Paragraphs 15.1 through 15.3 hereof, or affecting the Regulatory Agreement as described in this Paragraph 5, the Option and the Refusal Right shall be void and of no further force and effect.

6. Exercise of Option or Refusal Right. The Option and the Refusal Right may each be exercised by Grantee by (a) giving written notice of its intent to exercise the Option or the Refusal Right to the Partnership and each of its partners in the manner provided in the Articles and in compliance with the requirements of this Paragraph 6, and (b) complying with the contract and closing requirements of Paragraph 8 hereof. Any such notice of intent to exercise the Option shall be given during the last twelve (12) months of the Compliance Period. Any such notice of intent to exercise the Refusal Right shall be given within one hundred eighty (180) days after Grantee has received the Partnership's notice of a bona fide offer pursuant to Paragraph 2 hereof, but in no event later than one hundred eighty (180) days immediately following the end of the Compliance Period, notwithstanding any subsequent receipt by the Partnership of any such offer. In either case, the notice of intent shall specify a closing date within one hundred eighty (180) days immediately following the end of the Compliance Period. If the foregoing requirements (including those of Paragraph 8 hereof) are not met as and when provided herein, the Option or the Refusal Right, or both, as applicable, shall expire and be of no further force or effect. Upon notice by Grantee of its intent to exercise the Option or the Refusal Right, all rights under the other shall be subordinate to the rights then being so exercised unless and until such exercise is withdrawn or discontinued, and upon the closing of any sale of the Property pursuant to such notice shall expire and be of no further force or effect, provided that in the event that the Option and the Refusal Right are hereafter held by different parties by reason of any permitted assignment or otherwise, Grantee in its assignment(s) or such parties by written agreement may specify any other order of priority consistent with the other terms and conditions of this Agreement.

7. **Determination of Price.** Upon notice by Grantee of its intent to exercise the Option or the Refusal Right, the Partnership and Grantee shall exercise best efforts in good faith to agree on the purchase price for the Property. Any such agreement shall be subject to the prior written consent of the Consenting Limited Partner, which shall not be withheld as to any purchase price determined properly in accordance with this Agreement.

8. **Contract and Closing.** Upon determination of the purchase price, the Partnership and Grantee shall enter into a written contract for the purchase and sale of the Property in accordance with this Agreement and containing such other terms and conditions as are standard and customary for similar commercial transactions in the geographic area which the Project is located, providing for a closing not later than the date specified in Grantee's notice of intent to exercise the Option or the Refusal Right, as applicable, or thirty (30) days after the purchase price has been determined, whichever is later. In the absence of any such contract, this Agreement shall be specifically enforceable upon the exercise of the Option or the Refusal Right, as applicable. The purchase and sale hereunder shall be closed through a deed-and-money escrow with the title insurer for the Project or another mutually acceptable title company.

9. **Assignment.** Grantee may assign all or any of its rights under this Agreement to (a) a qualified nonprofit organization, as defined in Section 42(h)(5)(C) of the Code, (b) a government agency, or (c) a tenant organization (in cooperative form or otherwise) or resident management corporation of the Project (each a "Permitted Assignee") that demonstrates its ability and willingness to maintain the Project as low-income housing in accordance with the Use Restrictions, in any case subject to the prior written consent of the Consenting Limited Partner, which shall not be unreasonably withheld if the proposed grantee demonstrates that it is reputable and creditworthy and is a capable, experienced owner and operator of residential rental property, and subject in any event to the conditions precedent to the Refusal Right grant and the Option price set forth in Paragraphs 2 and 3 hereof. Prior to any assignment or proposed assignment of its rights hereunder, Grantee shall give written notice thereof to the Partnership, the General Partner, and the Consenting Limited Partner. Upon any permitted assignment hereunder, references in this Agreement to Grantee shall mean the Permitted Assignee where the context so requires, subject to all applicable conditions to the effectiveness of the rights granted under this Agreement and so assigned. No assignment of Grantee's rights hereunder shall be effective unless and until the Permitted Assignee enters into a written agreement accepting the assignment and assuming all of Grantee's obligations under this Agreement and copies of such written agreement are delivered to the Partnership, the General Partner, and the Consenting Limited Partner. This Agreement shall be binding upon the Limited Partner's successors and assigns. Except as specifically permitted herein, Grantee's rights hereunder shall not be assignable.

10. Lease-Purchase Program Provisions. If Grantee or the General Partner enters into an agreement with one or more Property tenants to purchase a Project unit prior to the end of the Compliance Period, or otherwise promotes, markets, or makes available to Project tenants a lease-purchase option or other similar homeownership program for Property units (the "Lease-Purchase Program"), the following provisions shall apply:

a. The administration, implementation, coordination, and management of, and payment of all costs associated with, the Lease-Purchase Program shall be the sole responsibility of Grantee and the General Partner. Neither the Partnership nor the Consenting Limited Partner shall have any responsibility for such Lease-Purchase Program or the costs associated therewith.

b. Grantee may transfer individual Property units to individual Project tenants at the end of the Compliance Period in conjunction with the Lease-Purchase Program only after all of the following events have occurred: (i) Grantee has exercised either its Option or Refusal Right hereunder; (ii) Grantee has fulfilled all of its obligations hereunder; and (iii) the entire Property has been transferred to Grantee or a Permitted Assignee in accordance with the requirements of this Agreement. Once the entire Property has been transferred to Grantee or a Permitted Assignee, Grantee or the Permitted Assignee will be responsible for the transfer of individual Property units to tenants, including making appropriate arrangements with all Property lenders and obtaining approvals from applicable Federal, State and local governmental agencies.

c. Neither Grantee nor the General Partner shall make any false, misleading, or inaccurate statements or representations regarding the Property, the Partnership, or the Lease-Purchase Program to potential tenants/unit purchasers in conjunction with the Lease-Purchase program.

d. If any claims, demands, disputes, lawsuits or liens arise against the Property, the Partnership or the Consenting Limited Partner in conjunction with the Lease-Purchase Program, it shall be the sole responsibility of the Grantee and/or the General Partner to resolve such matters to the satisfaction of the Partnership and the Consenting Limited Partner. Grantee shall indemnify, hold harmless, and defend the Partnership and the Consenting Limited Partner against any and all costs, expenses and fees including reasonable attorneys fees, incurred in conjunction with any such claims, demands, disputes, lawsuits or liens.

e. If the Grantee or the General Partner defaults in the performance of any of its obligations hereunder, and fails to cure such default within thirty (30) days of notice of such default by the Consenting Limited Partner, the Consenting Limited Partner may, at its option, and in addition to enforcing the provisions of Paragraph 10(d) above, declare this Purchase Option and Right of

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First Refusal to be null and void and of no further force or effect.

11. **Miscellaneous.** This Agreement shall be liberally construed in accordance with the laws of the state in which the Project is located in order to effectuate the purposes of this Agreement. This Agreement may be executed in counterparts or counterpart signature pages, which together shall constitute a single agreement.

(continued on next page)

Property of Cook County Clerk's Office

In Witness Whereof, the parties have executed this document as of the date first set forth hereinabove.

Partnership:

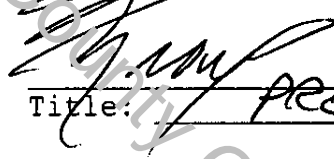
PROGRESSIVE SQUARE LIMITED PARTNERSHIP
PHASE I, an Illinois limited
partnership

By: PROGRESSIVE SQUARE, INC., an
Illinois corporation, general
partner

By: 
Title: PRESIDENT

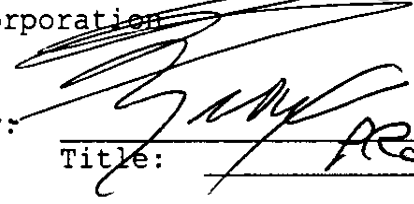
Grantee:

THE NATIONAL PROGRESSIVE INSTITUTE FOR
COMMUNITY DEVELOPMENT, an Illinois not-
for-profit corporation

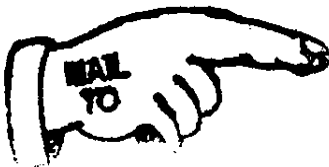
By: 
Title: PRESIDENT

General Partner:

PROGRESSIVE SQUARE, INC., an Illinois,
corporation

By: 
Title: PRESIDENT

THIS DOCUMENT WAS PREPARED BY AND MAILED TO:
DAVID GOLDSTEIN
35 EAST WACKER DR.
SUITE 1750
CHICAGO, IL 60601-2201



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The undersigned hereby consents to the foregoing Agreement as of the date first set forth hereinabove.

Consenting Limited Partner:

NATIONAL EQUITY FUND 1999 LIMITED PARTNERSHIP, an Illinois limited partnership

By: NATIONAL EQUITY FUND, INC., an Illinois not-for-profit corporation

Attest:

Eva L. Doney

Title: _____

By: Janya Treas
Title: Vice President

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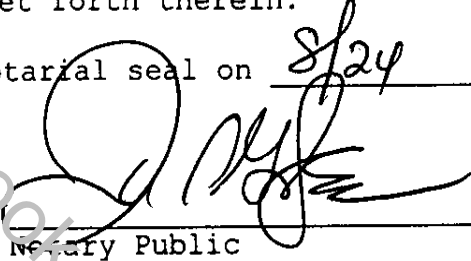
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Partnership Acknowledgment

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, David L. Goldstein, a Notary Public in and for said County in the State aforesaid, do hereby certify that Steve Braxton, President of Progressive Square, Inc., personally known to me to be the same person whose name is subscribed to the foregoing instrument as such respective officer, appeared before me this day in person and acknowledged that he signed and delivered such instrument as his own free and voluntary act, and as the free and voluntary act of the partnership known as Progressive Square Limited Partnership Phase I on behalf of which said corporation has executed the foregoing instrument as a general partner, all for the uses and purposes set forth therein.

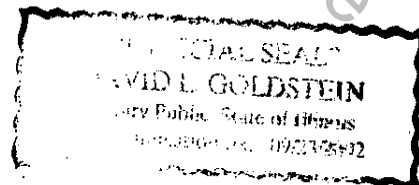
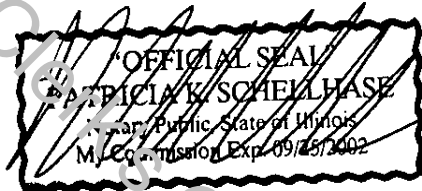
Given under my hand and notarial seal on 8/24, 1999.



Notary Public

My Commission Expires: _____

[SEAL]



Grantee Acknowledgment

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, David L. Goldstein, a Notary Public in and for said County in the State aforesaid, do hereby certify that Steve Braxton, President of The National Progressive Institute for Community Development, of said corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such respective officer, appeared before me this day in person and acknowledged that he signed and delivered such instrument as his own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes set forth therein.

Given under my hand and notarial seal on 8/24, 1999.



Notary Public

My Commission Expires: _____

[SEAL]

"OFFICIAL SEAL"
PATRICIA K. SCHELLHASE
Notary Public, State of Illinois
My Commission Exp. 09/25/2002

"OFFICIAL SEAL"
DAVID L. GOLDSTEIN
Notary Public, State of Illinois
My Commission Exp. 09/23/2002

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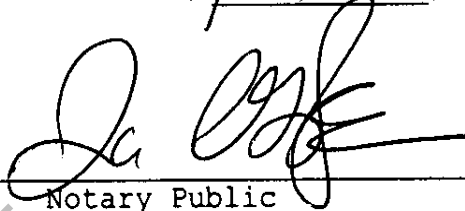
99808373

General Partner Acknowledgment

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, David L. Goldstein, a Notary Public in and for said County in the State aforesaid, do hereby certify that Steve Braxton, _____ President of PROGRESSIVE SQUARE, INC., personally known to me to be the same person whose name is subscribed to the foregoing instrument as such respective officer, appeared before me this day in person and acknowledged that he signed and delivered such instrument as his own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes set forth therein.

Given under my hand and notarial seal on 8/24, 1999.



Notary Public

My Commission Expires: _____

[SEAL]

~~"OFFICIAL SEAL"
PATRICIA L. SCHELLHASE
Notary Public, State of Illinois
My Commission Exp. 09/25/2002~~

"OFFICIAL SEAL"
DAVID L. GOLDSTEIN
Notary Public, State of Illinois
My Commission Exp. 09/23/2002

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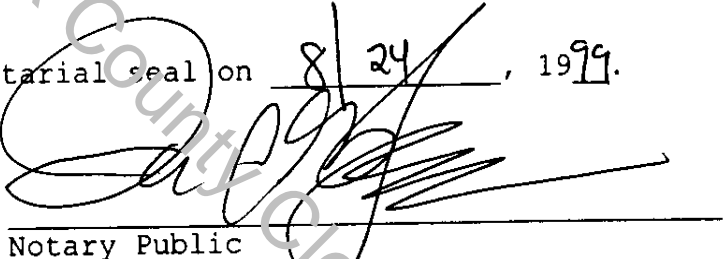
Consenting Limited Partner Acknowledgment

99808373

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, DAVID L. GOLDSTEIN, a Notary Public in and for said County in the State aforesaid, do hereby certify that SONYA HEAR of National Equity Fund, Inc., and EW L. GARRETT, Secretary of said corporation, both personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such respective officers, appeared before me this day in person and acknowledged that they signed and delivered such instrument as their own free and voluntary acts, and as the free and voluntary act of said corporation, and as the free and voluntary act of the partnership known as National Equity Fund 1999 Limited Partnership on behalf of which said corporation has executed the foregoing instrument as general partner, all for the uses and purposes set forth therein; and the latter officer also then and there acknowledged that (s)he, as custodian of the corporate seal of said corporation, affixed the same to the foregoing instrument as his/her free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes set forth therein.

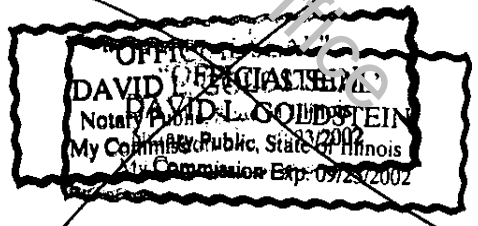
Given under my hand and notarial seal on 8/24, 1999.



Notary Public

My Commission Expires: _____

[SEAL]



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EXHIBIT A

LEGAL DESCRIPTION OF PROJECT REAL ESTATE

99808373

File No. CX187869

LEGAL DESCRIPTION:

PARCEL 1:

LOTS 11 AND 12 IN BLOCK 3 IN ANNA PRICE'S SUBDIVISION OF THE NORTHWEST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$ OF SECTION 10, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THAT PART TAKEN FOR STREET), IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOT 10 IN BLOCK 3 IN ANNA PRICE'S SUBDIVISION OF THE NORTHWEST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$ OF SECTION 10, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THAT PART TAKEN FOR STREET), IN COOK COUNTY, ILLINOIS.

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EXHIBIT B

99808373

DESCRIPTION OF REGULATORY AGREEMENT

Title: REGULATORY AGREEMENT

Parties: CITY OF CHICAGO

PROGRESSIVE SQUARE LIMITED PARTNERSHIP PHASE I

Date:

Recording Information (if known):

Property of Cook County Clerk's Office