

DFP/10-28-85
0966R
Southlake

B 826828

RIGHT OF FIRST REFUSAL

THIS RIGHT OF FIRST REFUSAL, made this 30th day of October, 1985, by individually or collectively as the context may require, SIX ANCHORS LIMITED PARTNERSHIP, a Maryland Limited Partnership, having an address at Suite 650, 502 Washington Avenue, Towson, Maryland and LAKE COUNTY TRUST COMPANY, as Trustee under a trust agreement dated June 15, 1985 and known as Trust No. 3501 (hereinafter referred to individually or collectively as the context may require as "Grantor"), for the benefit of CPS REALTY PARTNERSHIP, an Illinois general partnership, having an address of One South Street, Chicago, Illinois 60603, and CARSON PIRIE SCOTT & COMPANY, an Illinois corporation (hereinafter referred to individually or collectively as the context may require, as "Grantee").

W I T N E S S E T H:

WHEREAS, Grantor is the owner of the fee simple title to the parcels of land more fully described in Exhibit A hereto (hereinafter called the "Property") and does now desire to grant and convey to Grantee a right of first refusal with respect to the Property, upon and subject to the terms and conditions set forth herein,

NOW, THEREFORE, for and in consideration of the sum of Five Dollars (\$5.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Grantor does hereby grant and convey unto Grantee this Right of First Refusal with respect to the Property or any parcel or parcels constituting a part of the Property, upon and subject to the following terms and conditions;

1. If at any time during the term hereof, as provided in Paragraph 7 hereof, Grantor decides to sell the Property, Grantor shall send to Grantee notice to such effect.

2. Grantor shall not sell the Property during the term hereof unless (a) Grantor shall have given the notice required by Paragraph 1, (b) not less than 30 nor more than 365 days following receipt of such notice by Grantee, Grantor shall have given Grantee a copy of a bona-fide offer, which may be in the form of a letter of intent (hereinafter referred to as an "Offer") which Grantor desires to accept from an unaffiliated third party

This instrument prepared by

Heather Gilchrist

Sidley & Austin
One First National Plaza
Chicago, Illinois 60603

at 2200

CHICAGO TITLE INSURANCE COMPANY

RECORDED
INDEXED
OCT 28 1985
CHICAGO TITLE INSURANCE COMPANY

DFP/10-28-85
0966R
Southlake

(hereinafter referred to as a "Proposed Buyer") to purchase the Property or any parcel or parcels constituting a part of the Property (hereinafter referred to as the "Sale Property") together with notice that Grantor intends to accept the Offer, and (c) Grantee shall not have exercised its right to purchase the Sale Property as provided in Paragraph 3 hereof.

3. Grantee shall have the right, exercisable by notice to Grantor given within ten (10) days after receipt of the Offer, to exercise its right to purchase the Sale Property on the terms and conditions contained in the Offer. If Grantee gives such notice of acceptance to Grantor within the time period specified above, then such notice shall create a binding obligation on the part of Grantor to sell the Sale Property to Grantee in accordance with the terms of the Offer and a binding obligation on the part of Grantee to purchase the Sale Property in accordance with the terms of the Offer.

4. If Grantee does not elect within the period set forth in paragraph 3 hereof to purchase the Sale Property on the terms set forth in the Offer, then Grantor shall be free to sell the Sale Property to the Proposed Buyer on the terms set forth in the Offer. If the Sale Property is sold to the Proposed Buyer in accordance with the terms set forth in the Offer, then the right of first refusal contained herein shall become, as to the Sale Property, null and void and of no further force or effect, it being understood and agreed that such right of first refusal shall not be binding upon such Proposed Buyer or anyone claiming by, through, or under it. If Grantee does not elect to purchase the Sale Property on the terms set forth in the Offer within the time period set forth in paragraph 3 hereof, then Grantor shall be entitled to record, in those official records wherein this instrument is recorded, a certificate stating that (a) the notice required under paragraph (1) hereof was given, (b) a copy of the Offer described in paragraph 2 was sent to Grantee, (c) the Grantee did not elect to exercise its Right of First Refusal as provided in paragraph 3 hereof, and (d) the Proposed Buyer may acquire the Sale Property pursuant to the Offer free and clear of all rights of Grantee hereunder. Upon recordation of such certificate and regardless of the veracity of the statements made therein, the Proposed Buyer shall be entitled to acquire the Sale Property free and clear of Grantee's Right of First Refusal hereunder, but Grantee may maintain against Grantor any action for damages to which it may be entitled on account

Parcel 3:

Part of the Southwest Quarter of Section 23, Township 35 North, Range 8 West of the Second Principal Meridian, in Ross Township, Lake County, Indiana, bounded and described as follows: Commencing at the Southwest corner of said Section 23; thence North 87 degrees 54 minutes 24 seconds East, 40.00 feet to the Easterly right-of-way line of Mississippi Street; thence along the Easterly right-of-way line of Mississippi Street, North 2 degrees 42 minutes 00 seconds West, 604.44 feet to the point of beginning of this description; thence continuing North 2 degrees 42 minutes 00 seconds West, 30.00 feet along the Easterly right-of-way line of Mississippi Street; thence North 65 degrees 30 minutes 00 seconds East, 140.91 feet; thence South 24 degrees 30 minutes 00 seconds East, 75.00 feet; thence North 65 degrees 30 minutes 00 seconds East, 68.54 feet; thence along the arc of a 200.00 foot radius curve, concave to the Northeast whose chord bears South 64 degrees 15 minutes 24 seconds East, 101.78 feet; thence along the arc of a 350.00 foot radius curve, concave to the Southwest, whose chord bears South 59 degrees 52 minutes 44 seconds East, 229.29 feet to the Southerly right-of-way line of the Michigan-Wisconsin Pipeline Company Easement; thence along said Southerly easement line, North 68 degrees 21 minutes 41 seconds East, 575.52 feet; thence North 17 degrees 52 minutes 00 seconds West, 75.16 feet to the Northerly line of the Michigan-Wisconsin Pipeline Company Easement; thence North 68 degrees 21 minutes 41 seconds East, along said Northerly easement line, 40.09 feet; thence South 17 degrees 52 minutes 00 seconds East, 105.23 feet; thence South 68 degrees 21 minutes 41 seconds West, 666.84 feet; thence along the arc of a 290.00 foot radius curve, concave to the Southwest, whose chord bears North 58 degrees 48 minutes 16 seconds West, 200.23 feet; thence along the arc of a 260.00 foot radius curve, concave to the Northeast, whose chord bears North 69 degrees 55 minutes 59 seconds West, 81.94 feet; thence along the arc of a 126.46 foot radius curve, concave to the Southwest, whose chord bears North 73 degrees 38 minutes 24 seconds West, 55.91 feet; thence North 86 degrees 24 minutes 29 seconds West, 170.24 feet to the point of beginning of this description.

Address: U.S. Highway 30, Merrillville, Indiana

EXHIBIT B

~~This Agreement.~~

Note dated the date hereof in the principal sum of \$68,000,000 given by Chicago Title and Trust Company, as trustee, Lake County Trust Company, as trustee and Beneficiary to Lender.

Mortgage (Lincoln Mall) dated the date hereof in the principal sum of \$68,000,000 given by Chicago Title and Trust Company, as trustee, and Beneficiary to Lender covering the fee estate in certain premises located in Matteson, Illinois.

Mortgage (North Riverside) dated the date hereof in the principal sum of \$68,000,000 given by Chicago Title and Trust Company, as trustee, and Beneficiary to Lender covering the fee estate in certain premises located in North Riverside, Illinois.

Mortgage (Orland Park) dated the date hereof in the principal sum of \$68,000,000 given by Chicago Title and Trust Company, as trustee, and Beneficiary to Lender covering the fee estate in certain premises located in Orland Park, Illinois.

Mortgage (Southlake Mall) dated the date hereof in the principal sum of \$68,000,000 given by Lake County Trust Company, as trustee and Beneficiary to Lender covering the fee estate in certain premises located in Merrillville, Indiana.

Mortgage (Stratford Square) dated the date hereof in the principal sum of \$68,000,000 given by Chicago Title and Trust Company, as

trustee and Beneficiary to Lender covering the fee estate in certain premises located in Bloomingdale, Illinois.

Mortgage (Yorktown) dated the date hereof in the principal sum of \$68,000,000 given by Chicago Title and Trust Company, as trustee and Beneficiary to Lender covering the fee estate in certain premises located in Lombard, Illinois.

All other documents and instruments of any nature whatsoever executed and delivered in connection with the Loan or otherwise relating thereto.

DFP/10-28-85
0966R
Southlake

of any false statement contained in such recorded instrument.

5. If Grantee elects to purchase the Sale Property on the terms set forth in the Offer, then Grantee's notice shall also specify the title insurance company or bank in the state and county in which the Sale Property is located at which the closing shall take place. At the closing, Grantor shall convey or cause to be conveyed to Grantee the fee simple title to the Property or assign the beneficial interest in the land trust holding such title to Grantee in accordance with the terms of the Offer. At the closing, Grantee shall pay to Grantor the purchase price in accordance with the terms set forth in the Offer and the parties shall execute such other documents as are required under the offer.

6. The right of first refusal contained herein shall not apply to or prohibit Grantor from selling or transferring all of the Property or any part thereof to the following: (a) to a condemning authority under a bona fide adverse threat of condemnation (upon any such sale, the rights of Grantee hereunder shall terminate as to the Property or so much thereof as is subject to such condemnation), and (b) to an affiliate of Grantor (upon any such sale or transfer, the rights of Grantee hereunder will continue with respect to the Property and so much thereof as is sold or transferred). In addition, the payment of insurance proceeds with respect to any casualty to the Property (or any part thereof) shall not constitute a "sale" which is subject to this Right of First Refusal.

7. If the Grantor delivers an Offer to Grantee in accordance with the provisions of paragraph 2 hereof which is not accepted by Grantee and the Grantor does not convey the Sale Property to the Proposed Buyer within 365 days after the receipt by Grantee of the Offer, then Grantor shall be obligated to again offer the Sale Property to the Grantee prior to any sale to a third party not excluded from the provisions hereof.

8. Grantee shall not be permitted to exercise its right of first refusal granted hereby if an Event of Default has occurred which resulted in the termination by Grantor of any of the six (6) leases (hereinafter referred to as the "Leases") of even date herewith by and between Grantor, as landlord, and CPS Realty Partnership, as tenant.

DFP/10-28-85
0966R
Southlake

9. Grantee's right to exercise its right of first refusal provided hereunder shall commence as to the Property upon the expiration of the Lease covering the Property, and shall expire as to the Property each such parcel, upon the earlier to occur of (a) five (5) years after the expiration of the Lease covering such parcel, or (b) the expiration of twenty (20) years after the death of the last to die of the now living descendants of the following:

- (i) Her Majesty Queen Elizabeth II, Queen of the United Kingdom of Great Britain and Northern Ireland;
- (ii) His Royal Highness Prince Charles Philip Arthur George Windsor, Prince of Wales;
- (iii) His Royal Highness Prince Andrew Albert Christian Edward Windsor;
- (iv) His Royal Highness Prince Edward Antony Richard Louis Windsor; and
- (v) Joseph Patrick Kennedy, late Ambassador to the Court of St. James.

10. This Right of First Refusal is subordinate and subject to the exercise of any remedies by the mortgagee under the mortgage described on Exhibit B hereto (the "Original Mortgage") creating a lien on the Property and any mortgages or deeds of trust securing any loans refinancing the loans secured by the Original Mortgage or such refinancing loans.

11. This grant represents the complete agreement between the parties hereto as to the subject matter hereof, and supercedes all prior negotiations and understandings. This grant may not be amended nor may any of its provisions be waived by the Grantor except by an instrument in writing executed by Grantor.

12. Any and all notices given hereunder shall be sent by certified mail, postage prepaid, to the parties at their addresses hereinabove set forth marked, in the case of Grantee "Attention: Law Department." Either party may change any address set forth in this paragraph 12 by giving notice of such changes to the other party in accordance with the provisions of this paragraph 12. Notices shall be deemed given when received. In the case of Grantee a

DFP/10-28-85
0966R
Southlake

copy of any such notice, similarly mailed, shall be sent to: Sidley & Austin, One First National Plaza, Chicago, Illinois 60603, Attention: Donald J. Galen.

13. Each party hereto agrees to give such further assurance hereof as the other party hereto may from time to time request.

14. Time is of the essence hereof.

15. This grant may be recorded among the appropriate Land Records of the state where the Property is located, provided that the Grantee shall bear all costs associated therewith.

IN WITNESS WHEREOF, the Grantor has executed and delivered, and Grantee has agreed to and accepted, this Right of First Refusal on the date first above written.

ATTEST:

SEE SIGNATURE PAGE ATTACHED

, Secretary

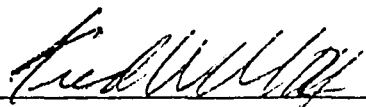
LAKE COUNTY TRUST COMPANY, as
Trustee as aforesaid
SEE SIGNATURE PAGE ATTACHED

By _____ (SEAL)
, President

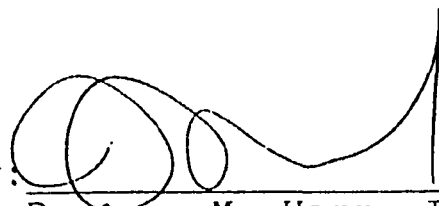
SIX ANCHORS LIMITED PARTNER-
SHIP, a Maryland limited
partnership

By: DWT VENTURE, INCORPORATED,
General Partner

ATTEST:



Secretary
Assist.

by:  (SEAL)
Donovan M. Hamm, Jr.,
President

It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, covenants, undertakings and agreements herein made on the part of the Trustee while in form purporting to be the representations, covenants, undertakings and agreements of said Trustee are nevertheless each and every one of them, made and intended not as personal representations, covenants, undertakings and agreements by the Trustee or for the purpose or with the intention of binding said Trustee personally but are made and intended for the purpose of binding only that portion of the trust property specifically described herein, and this instrument is executed and delivered by said Trustee not in its own right, but solely in the exercise of the powers conferred upon it as such Trustee; and that no personal liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against the Trust Company, because of this instrument or as a result of any representation, covenant, undertaking or agreement of the said Trustee in this instrument contained, either express or implied, all such personal liability, if any, being expressly waived and released.

IN WITNESS WHEREOF, LAKE COUNTY TRUST COMPANY, not personally but as Trustee as aforesaid, has caused these presents to be signed by its Vice-President and Trust Officer and attested by its Assistant-Secretary this 30th day of October, 1985 .

LAKE COUNTY TRUST COMPANY, not personally but as Trustee under the provisions of a Trust Agreement dated June 15, 1985 and known as Trust No. 3501 .

By: Donna L. Campbell
Donna L. Campbell, Vice-President
and Trust Officer


ATTEST:

By: Charlotte L. Keilman
Charlotte L. Keilman
Assistant-Secretary

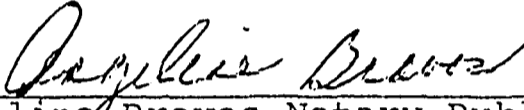
STATE OF INDIANA)
)SS:
COUNTY OF LAKE)

Before me, the undersigned, a Notary Public in and for said County and State personally appeared the within named Donna L. Campbell Vice President and Trust Officer and Charlotte L. Keilman, Assistant Trust Officer of the Lake County Trust Company, who acknowledge the execution of the foregoing instrument as the free and voluntary act of said Corporation and as their free and voluntary act, acting for such Corporation, as Trustee.

Witness my hand and seal this 30th day of October, 1985


My Commission Expires:

May 16, -1989



Angelina Bravos-Notary Public

Resident: Lake County, Indiana

DFP/10-28-85
0966R
Southlake

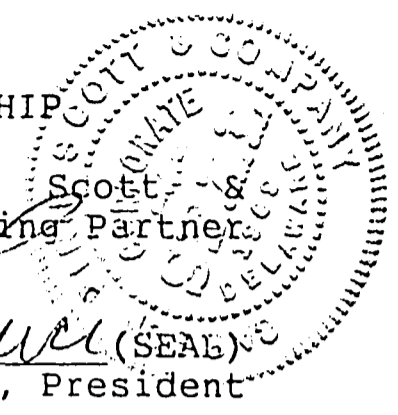
ATTEST:

CPS REALTY PARTNERSHIP

By: Carson Pirie Scott & Company, Managing Partner

[Signature]
Asst, Secretary

by: [Signature] (SEAL)
Vice, President

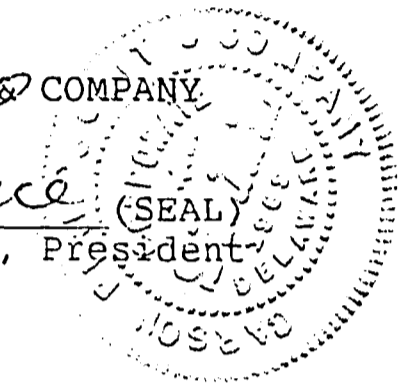


ATTEST:

CARSON PIRIE SCOTT & COMPANY

By: [Signature] (SEAL)
Vice, President

[Signature]
Asst, Secretary



STATE OF ILLINOIS: COUNTY OF _____ : TO WIT:

I HEREBY CERTIFY that on this _____ day of October, 1985, before me, a Notary Public for the state and county aforesaid, personally appeared _____, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who acknowledged that he is the _____ of LAKE COUNTY TRUST COMPANY, that he has been duly authorized to execute, and has executed, the foregoing instrument on behalf of the said entity for the purposes therein set forth, and that the same is its act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.

Notary Public

My commission expires on _____.

STATE OF ILLINOIS: COUNTY OF Cook : TO WIT:

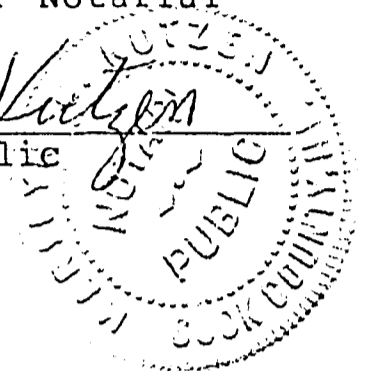
I HEREBY CERTIFY that on this 30th day of October, 1985, before me, a Notary Public for the state and county aforesaid, personally appeared DONAVAN HAMM, JR., known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who acknowledged that he is the President of DWT VENTURE, INCORPORATED, a corporation organized and existing under the law of Maryland, general partner of SIX ANCHORS LIMITED PARTNERSHIP, a Maryland limited partnership, and that he has been duly authorized to execute, and has executed, the foregoing instrument on its behalf for

DFP/10-28-85
0966R
Southlake

the purposes therein set forth, and that the same is its act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.

Marilyn C. Kutzen
Notary Public



My commission expires on March 14, 1987.

STATE OF ILLINOIS: COUNTY OF Cook : TO WIT:

I HEREBY CERTIFY that on this ___ day of October, 1985, before me, a Notary Public for the state and county aforesaid, personally appeared Charles T. Reice, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who acknowledged that he is the Vice President of CARSON PIRIE SCOTT & COMPANY, a corporation organized and existing under the law of Illinois, the general partner of CPS REALTY PARTNERSHIP, an Illinois general partnership, and that he has been duly authorized to execute, and has executed, the foregoing instrument on its behalf for the purposes therein set forth, and that the same is its act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.

Marilyn C. Kutzen
Notary Public



My commission expires on March 14, 1987.

EXHIBIT A

SOUTHLAKE

Parcel 1:

Part of the Southwest Quarter of Section 23, Township 35 North, Range 8 West of the Second Principal Meridian in Ross Township, Lake County, Indiana, bounded and described as follows: Commencing at the Southwest corner of said Section 23; thence North 2 degrees 42 minutes 00 seconds West, 361.86 feet along the West line of Section 23; thence North 68 degrees 21 minutes 41 seconds East, 1130.31 feet to the point of beginning; thence continuing North 68 degrees 21 minutes 41 seconds East, 947.01 feet; thence North 17 degrees 52 minutes 00 seconds West, 479.41 feet; thence South 72 degrees 08 minutes 00 seconds West, 73.73 feet; thence North 17 degrees 52 minutes 00 seconds West, 120.00 feet; thence South 72 degrees 08 minutes 00 seconds West, 270.00 feet; thence South 17 degrees 52 minutes 00 seconds East, 116.00 feet; thence South 72 degrees 08 minutes 00 seconds West, 87.86 feet; thence South 20 degrees 19 minutes 09 seconds West, 100.51 feet; thence South 72 degrees 08 minutes 00 seconds West, 451.23 feet; thence South 17 degrees 52 minutes 00 seconds East, 466.71 feet to the point of beginning.

Parcel 2:

The reciprocal and non-exclusive rights, privileges and easements for ingress, egress, parking of vehicles, passage and accommodation of pedestrians, for construction, erection, maintenance, repair and replacement of footings, foundations, supports and walls, signs, lights, entrances, doors, marquees, canopies, overhangs or other improvements of like nature, and to install, tie into, use, maintain, repair and replace underground utility facilities such as water, gas, electric and telephone lines, and storm and sanitary sewer lines, and for the purpose of the development and construction or reconstruction of improvements created and granted as appurtenances to the aforescribed Parcel 1, all created, defined and limited by that certain Easement, Restriction and Operating Agreement dated June 27, 1972, and recorded on November 8, 1972 as Document No. 174993, made by and among Gary Joint Venture, a general partnership, J. C. Penney Company, Inc., a Delaware Corporation, and Sears, Roebuck and Co., a New York corporation, in, over, upon and under the Shopping Center as that term is defined in said Agreement and shown on the Site Plan attached to said Agreement as Exhibit "A", and known as Merrillville Mall, and as amended by First Amendment to Easement, Restriction and Operating Agreement dated April 16, 1973 and recorded June 26, 1973 as Document No. 208331, and further amended by Second Amendment to Easement, Restriction and Operating Agreement dated December 10, 1974 and recorded February 25, 1975 as Document No. 289791, and further amended by Third Amendment to Easement, Restriction and Operating Agreement recorded August 16, 1977 as Document No. 423321.