

36  
HOME EQUITY  
REAL ESTATE  
MORTGAGE

2004 074530

FILED FOR RECORD

2004-08-10

MODIFIED

The above space is for recorder's use only.

This Mortgage made this 10TH day of AUGUST, 20 04 by and between **PATRICK E. TOBIN & DANELLE H. TOBIN, AS TRUSTEES UNDER THE PROVISIONS OF TRUST NO. LTPETDHT-101, DATED 09-22-03** HIGHLAND, IN (hereinafter "Mortgagor") and Bank Calumet, National Association, 5231 Hohman Avenue, Hammond, Indiana 46325 (hereinafter "Mortgagee").

**WITNESSETH:**

That the Mortgagor and Mortgagee have entered into a certain Home Equity Line of Credit Agreement (hereinafter "Agreement"), dated, AUGUST 10, 2004, and a Home Equity Line of Credit Promissory Note (hereinafter "Note") whereby the Mortgagee, subject to default by Mortgagor, has obligated itself to loan monies to the Mortgagor from time to time, as requested by the Mortgagor, which may not exceed the aggregate principal sum of: \_\_\_\_\_

**THIRTY THOUSAND AND 00/00 \*\*\*\*\*** (\$ 30,000.00 \*\*\*) at any one time for a period of ten (10) years. To the extent that the Mortgagor has borrowed or will borrow monies from the Mortgagee pursuant to said Agreement, the Mortgagor has agreed to pay the Mortgagee minimum monthly installments in a sum equal to two (2%) percent of the new balance, or \$100.00, or the FINANCE CHARGE accrued for the month, whichever is greater.

That the interest rate charged for any monies loaned to Mortgagor by Mortgagee pursuant to said Agreement and said note is based upon an Index Rate equal to the average weekly Bank Prime Loan Rate as published in Federal Reserve Statistical Release H15 plus a Margin of .75 %. The interest rate charged is a variable one and will increase or decrease in the event that the Index Rate increases or decreases from the previous Index. The interest rate as computed is changed once a month on the first day of each Billing Cycle, which is monthly, and will remain in effect until the first day of the next Billing cycle. The FINANCE CHARGE is determined by applying the daily periodic rate to the Average Daily Balance for the Billing Cycle. The interest rate shall not be in excess of that permitted by law.

That any changes in the interest rate are mandatory pursuant to said Agreement and any increase therein can reduce the amount of any payment by the Mortgagee that is applied to principal and increase the amount applied to interest. The monthly payments required by said Agreement and said Note may not therefore fully amortize the Mortgagor's loan balance within the ten (10) year term of the Agreement, and at the end of said ten (10) year term the entire principal balance and unpaid interest shall be immediately due and owing by the Mortgagor.

THAT THE RECORDING OF THIS MORTGAGE BY THE MORTGAGEE, IN ADDITION TO GIVING CONSTRUCTIVE AND PUBLIC NOTICE TO ALL THIRD PARTIES OF THE LIEN RIGHTS OF THE MORTGAGEE IN THE MORTGAGED PROPERTY, IS ALSO DONE TO INFORM ALL SUBSEQUENT LIENHOLDERS, WHETHER THEY BE CONSENSUAL, JUDICIAL, OR STATUTORY, THAT THE MORTGAGEE'S OBLIGATION TO ADVANCE FUNDS TO THE MORTGAGOR IS MANDATORY PURSUANT TO SAID AGREEMENT, SUBJECT TO DEFAULT BY THE MORTGAGOR, AND THAT ANY AND ALL FUTURE ADVANCES MADE BY THE MORTGAGEE TO THE MORTGAGOR PRIOR OR SUBSEQUENT TO ANY OTHER LIEN BEING PLACED AGAINST THE MORTGAGED PROPERTY SHALL BE DONE BY ANY SUCH LIENHOLDER WITH PRIOR NOTICE TO IT OF THE MORTGAGEE'S OBLIGATION TO ADVANCE MONIES TO THE MORTGAGOR PURSUANT TO SAID AGREEMENT.

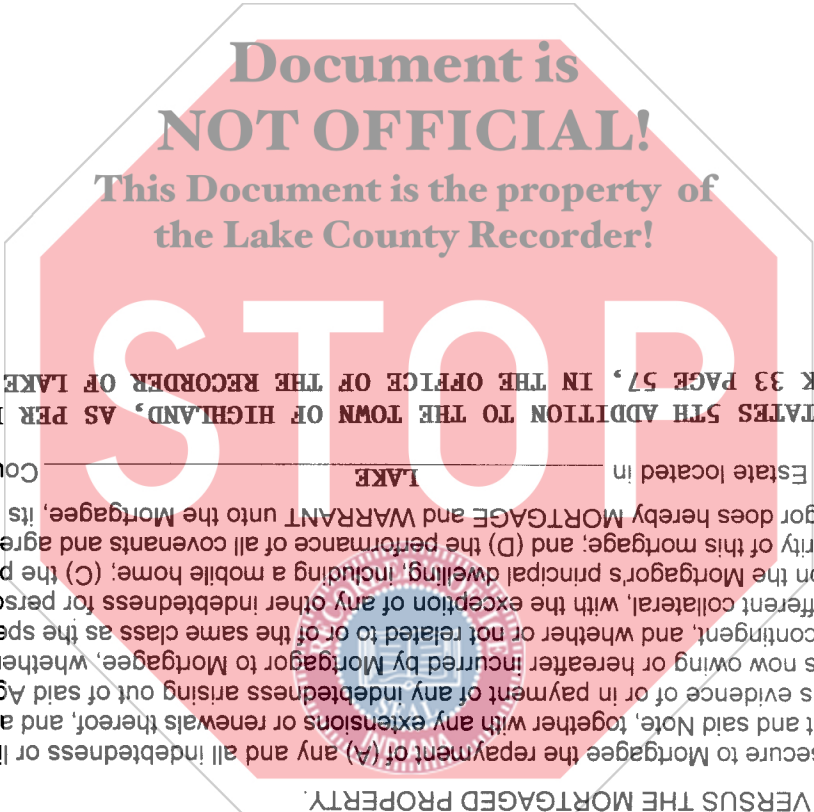
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...but under protest or deposits said sum with the Mortgagee as security for payment thereof.  
...may, at good faith contest at its own expense the validity of any tax, assessment or charge provided Mortgageor pays the same  
...and Mortgageor shall, upon request by Mortgagee, promptly furnish Mortgagee receipts evidencing such payments. Mortgageor  
...Mortgagee, all notices, bills and statements received by Mortgageor or amounts so due,  
...assessed against the Property or arising in respect to the use, occupancy or possession thereof. Mortgageor shall promptly  
...general and special taxes and assessments, water and sewer charges and taxes, and all other public charges imposed or  
...TAXES AND CHARGES. Mortgageor shall pay from time to time, when due, and before any penalties attaches, all

...of the Property.  
...restrictions of record listed in a schedule of exceptions to coverage in any title insurance policy insuring Mortgagee's interest  
...generally the title to the Property against all claims and demands, subject to any liens, easements, covenants, conditions and defend  
...and has the right to mortgage, grant, convey and assign the Property, and the Mortgageor will warrant and defend  
...WARRANTY OF RIGHT TO MORTGAGE. Mortgageor covenants that Mortgageor is lawfully seized of the estate hereby

Mortgageor hereby covenants and agrees with Mortgagee as follows:

...the Real Estate.  
...physically annexed to the real estate or not, and all of the foregoing together with said Real Estate are herein referred to as  
...and additions thereto, shall be deemed to be and remain a part of the real estate covered by this instrument whether actually  
...trees, shrubs and plants, plumbing and electrical fixtures and communication systems, all of which, including replacement  
...curtain rods, mirrors, cabinets, attached floor coverings, awnings, storm windows, doors, storm doors, screens, antennas,  
...supplying or distributing heating, cooling, ventilating, power, electricity, gas, air, water and light, and all blinds, shades, curtains,  
...used or intended to be used in connection with the Real Estate, including, but not limited to, those for the purpose of  
...apparatus, motors, engines, machinery and building materials of every kind or nature whatsoever now or hereafter located in,  
...of and gas rights and profits, water, water rights and water stock appurtenant to the property" and all fixtures, equipment,  
...rights, rights-of-way, driveways, alleys, pavement, curbs and street front privileges, rents, issues, profits, royalties, mineral,  
...TOGETHER with all buildings, improvements, and tenements now or hereafter erected on the property, and all easements,  
...and tenements now or hereafter erected on the property, and tenements, and tenements now or hereafter erected on the property, and all easements,



LOT 226 SOUTHTOWN ESTATES 5TH ADDITION TO THE TOWN OF HIGHLAND, AS PER PLAT THEREOF,  
RECORDED IN PLAT BOOK 33 PAGE 57, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA.

...the following described Real Estate located in \_\_\_\_\_ LAKE \_\_\_\_\_ County, Indiana, to wit:  
...herein contained, the Mortgageor does hereby MORTGAGE and WARRANT unto the Mortgagee, its successors and assigns,  
...advanced to protect the security of this mortgage; and (D) the performance of all covenants and agreements of the Mortgageor  
...purposes if this mortgage is on the Mortgageor's principal dwelling, including a mobile home; (C) the payment of all other sums  
...or secured by additional or different collateral, with the exception of any other indebtedness for personal, family or household  
...or secondary, or absolute or contingent, and whether or not related to or of the same class as the specific debt secured herein  
...other obligations and liabilities now owing or hereafter incurred by Mortgageor to Mortgagee, whether joint or several, primary  
...by Mortgageor to Mortgagee as evidence of or in payment of any indebtedness arising out of said Agreement; (B) any and all  
...evidenced by said Agreement and said Note, together with any extensions or renewals thereof, and any other instrument given  
...NOW THEREFORE, to secure to Mortgagee the repayment of (A) any and all indebtedness or liabilities to Mortgagee as

...SUBSEQUENTLY PLACED VERSUS THE MORTGAGED PROPERTY.  
...WHETHER SAID LOANS AND ADVANCES ARE MADE PRIOR TO OR AFTER ANY SUCH LIEN WHICH MAY BE  
...MORTGAGE, PLUS ACCRUED INTEREST, COSTS OF COLLECTION, AND A REASONABLE ATTORNEY'S FEE,  
...TO THE MORTGAGED PROPERTY TO THE FULL AMOUNT OF ALL LOANS AND ADVANCES MADE BY THE MORTGAGEE  
...THE MORTGAGEE'S INTENTION TO ASSERT A PRIOR LIEN AS TO ANY AND ALL SUBSEQUENT LIENHOLDERS OR  
...TO GIVE NOTICE TO ALL THIRD PARTIES DEALING WITH THE MORTGAGOR OR THE MORTGAGED PROPERTY OF  
...THAT IT IS THE PURPOSE OF THE MORTGAGEE BY THIS CLAUSE, AND THE RECORDING OF THIS MORTGAGE,

**7. INSPECTION.** Mortgagee may make or cause to be made reasonable entries upon and inspections of the Property at all reasonable times and access thereto shall be permitted for that purpose by the Mortgagor.

**8. CONDEMNATION.** Mortgagor shall promptly notify Mortgagee of any action or proceeding relating to any condemnation or other taking, whether direct or indirect, of the Property, or any part thereof, and Mortgagor shall appear in and prosecute any such action or proceeding unless otherwise directed by Mortgagee in writing. Mortgagor authorizes Mortgagee, at Mortgagee's option, as attorney-in-fact for Mortgagor, to commence, appear in and prosecute, in Mortgagee's or Mortgagor's name, any action or proceeding related to any condemnation or other taking. The proceeds of any award, payment or claim for damages, direct or consequential, in connection with any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, or for conveyances in lieu of condemnation, are hereby assigned to and shall be paid to Mortgagee.

**9. TRANSFERS.** Mortgagor shall not sell or transfer all or any part of said Property, grant an option to purchase the same, lease the Property, sell the same by contract, transfer occupancy or possession of the Property, nor sell or assign any beneficial interest or power of direction in any land trust which holds title to the Property without the prior written consent of the Mortgagee.

**10. SUCCESSORS AND ASSIGNS BOUND; JOINT AND SEVERAL LIABILITY; AGENTS; CAPTIONS.** The covenants and agreements herein contained shall bind the respective successors and assigns of Mortgagor, subject to the provisions of Paragraph 10 hereof, and the rights and privileges of the Mortgagee shall inure to the benefit of its payee, holders, successors and assigns. All covenants and agreements of Mortgagor shall be joint and several. In exercising any rights hereunder or taking any actions provided for herein, Mortgagee may act through its employees, agents or independent contractors as authorized by Mortgagee. The captions and headings of the paragraphs of this Instrument are for convenience only and are not to be used to interpret or define the provisions hereof.

**11. GOVERNING LAW: SEVERABILITY.** This instrument shall be governed and enforced by the laws of the State of Indiana except where the Mortgage by reason of a law of the United States or a regulation or ruling promulgated by an agency supervising the Mortgagee is permitted to have or enforce certain provisions in this Instrument then in that event the Mortgagee may elect to have those provisions of this Instrument enforced in accordance with the laws of the United States. In the event that any provision of this instrument or the Agreement conflicts with applicable laws, such conflict shall not affect other provisions of this instrument or the Agreement or Note which can be given effect without the conflicting provisions, and to this end the provisions of this Instrument and the Agreement or the Note are declared to be severable. In the event that any applicable law limiting the amount of interest or other charges permitted to be collected from Mortgagor is interpreted so that any charge provided for in this Instrument or in the Agreement or Note whether considered separately or together with other charges levied in connection with this Instrument, the Agreement or the Note violates such law, and Mortgagor is entitled to the benefit of such law, such charge is hereby reduced to the extent necessary to eliminate such violation. The amounts, if any, previously paid to Mortgagee in excess of the amounts payable to Mortgagee pursuant to such charges as reduced shall be applied by Mortgagee to reduce the principal of the indebtedness evidenced by the agreement and the Note. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Mortgagor has been violated, all indebtedness which is secured by this Instrument or evidenced by the Agreement and the Note and which constitutes interest, as well as all other charges levied in connection with such indebtedness which constitute interest, shall be deemed to be allocated and spread over the statement term of the Agreement and Note.

**12. DEFAULT:ACCELERATION:REMEDIES.** Upon Mortgagor's default of any covenant, warranty, condition or agreement of Mortgagor in this Instrument, including but not limited to, the covenants to pay when due any sums secured by this Instrument, or the default by Mortgagor of any one or more of the events or conditions defined as an Event of Default in the Agreement secured hereby, or in the Note or any other obligation secured by this mortgage, Mortgagee, at Mortgagee's option, may declare all of the sums secured by this Instrument to be immediately due and payable without further demand and may foreclose this Instrument by judicial proceedings and may invoke any other remedies permitted by applicable law or provided herein. Mortgagee shall be entitled to collect all costs and expenses incurred in pursuing such remedies, including, but not limited to, attorney's fees, appraisal fees, expert witness fees, costs of court reporters, travel expenses, costs of documentary evidence, abstracts and title reports.

The Mortgagor shall also be entitled to collect all costs and expenses, including but not limited to, reasonable attorney's fees, incurred by Mortgagee in connection with (A) any proceeding, without limitation, probate, bankruptcy, receivership or proceedings to which the Mortgagee may be a party, either as plaintiff, claimant or defendant by reason of this Instrument or any indebtedness secured hereby; (B) preparation of the commencement of the suit for foreclosure of this Instrument after accrual of the right to foreclose whether or not actually commenced; or (C) the defense of this mortgage in any proceeding instituted by any other lien holder. All costs, expenses and attorney's fees when incurred or paid by Mortgagee shall become additional indebtedness secured by this Instrument and which shall be immediately due and payable by Mortgagor with interest at the rate stated in said Agreement.

**13. MISCELLANEOUS:** (i) The word "Mortgagor" as used herein shall include all persons executing this mortgage and the word "Mortgagee" shall mean its respective successors and assigns. The singular shall mean the plural and the plural shall mean the singular and the use of any gender shall be applicable to all genders; (ii) Any forbearance by Mortgagee in exercising any right or remedy hereunder or otherwise afforded by applicable law or equity, shall not be a waiver of or preclude

INSURANCE. Mortgagee shall keep all buildings and improvements now existing or here after erected or situated on the Property insured against fire, lightning, windstorm, vandalism, malicious damages, and any such other hazards included with the term "extended coverage", together with such other hazards, liabilities and contingencies in such amounts and for such periods as Mortgagee may from time to time reasonably require. Mortgagee shall keep all buildings and improvements insured against loss by damage by flood if the Property is located in a Flood Hazard Zone. Mortgagee shall obtain premises liability insurance with respect to the Property in an amount acceptable to the Mortgagee.

all said insurance policies and renewals thereof shall be issued by carriers satisfactory to the Mortgagee, and shall include a standard mortgage clause, loss payee clause or endorsement in favor of the Mortgagee and in form and substance acceptable to the mortgagee. Each said policy shall not be cancellable by the insurance company without at least thirty (30) days prior written notice to the Mortgagee. Any such insurance policy shall be in a sum sufficient to pay in full the cost of repairing and replacing the buildings and improvements on the Property and in no event shall be less than the maximum amount that the Mortgagee is obligated to loan to the Mortgagee pursuant to said Agreement secured hereby. The Mortgagee shall deliver the original of any such policy to the Mortgagee to be held by it. The Mortgagee shall promptly furnish to Mortgagee on request, all renewal notices and receipts for paid premiums. At least thirty (30) days prior to the expiration date of any such policy, Mortgagee shall deliver to Mortgagee any such renewal policy.

in the event of loss, Mortgagee shall give immediate written notice to the insurance carrier and to Mortgagee. Mortgagee authorizes and empowers Mortgagee as attorney-in-fact for Mortgagee to adjust and compromise any claim under any such insurance policies, to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, to endorse and deposit any insurance checks or drafts payable to Mortgagee, and to deduct there from Mortgagee's expenses incurred in the collection of such proceeds; provided however, that nothing contained in this paragraph 3 shall require Mortgagee to incur any expense to take action hereunder, nor prevent the Mortgagee from asserting any independent claim or action versus any such insurance carrier in its own name.

The insurance proceeds after the deduction of the Mortgagee's expenses incurred in collecting the same, shall be applied to the payment of the sums secured by this instrument, whether or not then due with the balance, if any, to Mortgagee. Any such application of the proceeds shall not extend or postpone the due dates of the payments or change the amounts of such installments provided by said Agreement. If the Property is sold pursuant to paragraph 12 hereof or if Mortgagee acquires title to the Property, Mortgagee shall have all of the right, title and interest of Mortgagee in and to any insurance policies and unearned premiums thereon and in and to the proceeds resulting from any damage to the Property prior to such sale or acquisition.

**4 PRESERVATION AND MAINTENANCE OF PROPERTY.** Mortgagee (a) shall not commit waste or permit impairment or deterioration of the Property, make any material alterations therein, nor demolish or remove the same, (b) shall not abandon the Property, (c) shall keep the Property including improvements thereon in good condition and repair, (d) shall not mortgage or otherwise encumber nor allow any judgement liens, tax liens or mechanics liens to be imposed against the Property, (e) shall promptly pay when due any indebtedness which may be secured by any other mortgage, lien or charge on the Property, (f) shall comply with all laws, ordinances, codes and requirements of any governmental body applicable to the Property, (g) shall give notice in writing to Mortgagee of and, unless otherwise directed in writing by Mortgagee, appear in and defend any action or proceeding purporting to affect the Property, the security of this instrument or the rights or powers of Mortgagee.

**5 USE OF PROPERTY.** Unless required by applicable law or unless Mortgagee has otherwise agreed in writing, Mortgagee shall not allow changes in the use for which all or any part of the Property was intended at the time this instrument was executed. Mortgagee shall not initiate or acquiesce to a change in the zoning classification of the Property without Mortgagee's prior written consent.

**6 PROTECTION OF MORTGAGEE'S SECURITY.** If Mortgagee fails to perform any of the covenants and agreements contained in this instrument or in the Note, Agreement, or any Security Agreement, or if any action or proceeding is commenced which affects the Property or title thereto or the interest of Mortgagee therein, then Mortgagee's option may disburse such sums may make such appearances and take such action as Mortgagee deems necessary, in its sole discretion, to protect Mortgagee's interest.

Any amounts disbursed by Mortgagee pursuant to this Paragraph 6 shall become an additional indebtedness of Mortgagee secured by this instrument. Such amounts shall be immediately due and payable and shall bear interest from the date of disbursement at the rate stated in the Agreement. Mortgagee hereby covenants and agrees that Mortgagee shall be subrogated to the rights of the holder of any lien so discharged, in whole or in part, by the Mortgagee. Nothing contained in this paragraph 6 shall require Mortgagee to incur any expense or take any action hereunder. If Mortgagee makes any payment authorized by this paragraph 6, including but not limited to, taxes, assessments, charges, liens security interests or insurance premiums, Mortgagee may do so according to any notice, bill, statement or estimate received from the appropriate party without inquiry into the accuracy or validity of such notice, bill, statement or estimate. The payment of any such sums by the Mortgagee shall not be deemed a waiver of Mortgagee's right to accelerate the maturity of the indebtedness secured by this instrument and declare this instrument in default, and failure to so act shall not be considered as a waiver of any right accruing to Mortgagee on account of any default hereunder on the part of the Mortgagee.

the exercise of any such right or remedy; (iii) Each remedy provided for in this Instrument is distinct and cumulative to all other rights and remedies under this Instrument or afforded by applicable law or equity, and may be exercised concurrently, independently or successively in any order whatsoever; (iv) That no change, amendment or modification of this Instrument shall be valid unless in writing and signed by the Mortgagor and Mortgagee or their respective successors and assigns.

IN WITNESS WHEREOF, Mortgagor has executed this Instrument the date and year set forth above.

Patrick E. Tobin  
PATRICK E. TOBIN

Danelle H. Tobin  
DANELLE H. TOBIN

STATE OF INDIANA

COUNTY OF Lake }

SS:

Before me, Dawn Topor, A Notary Public in and for

said county and State, on this 10 day of August, A.D., 2004, personally appeared

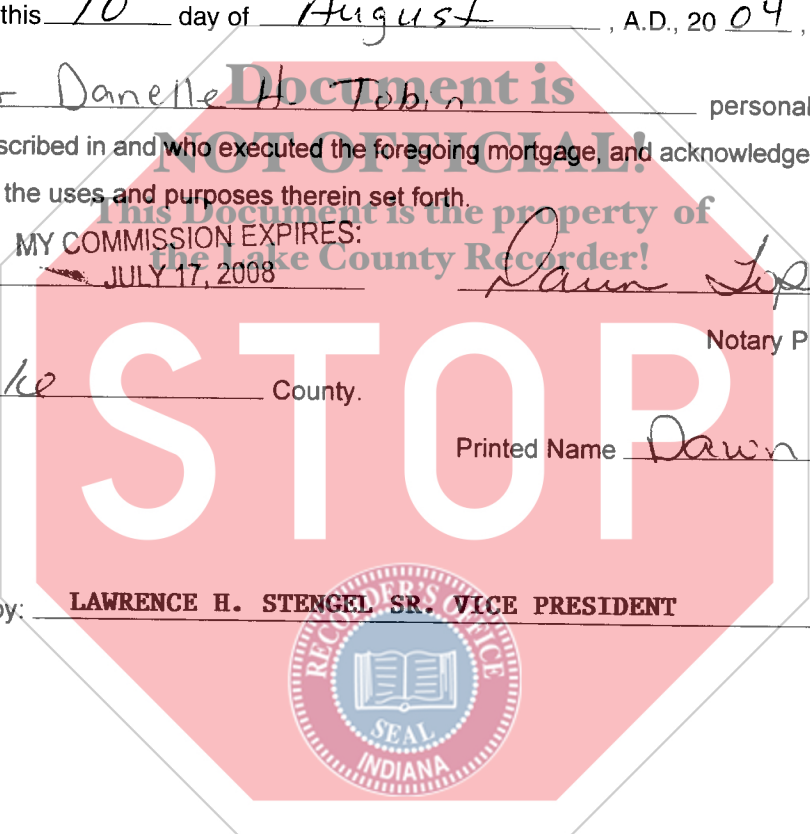
Patrick E + Danelle H. Tobin personally known to me to be the person(s) who (is) (are) described in and who executed the foregoing mortgage, and acknowledge the same to be (his) (their) voluntary act and deed for the uses and purposes therein set forth.

My commission expires: JULY 17, 2008 Dawn Topor Notary Public

Resident of Lake County.

Printed Name Dawn Topor

This Instrument prepared by: LAWRENCE H. STENGEL SR. VICE PRESIDENT





**OFFICE OF THE LAKE COUNTY RECORDER**

LAKE COUNTY GOVERNMENT CENTER  
2293 NORTH MAIN STREET  
CROWN POINT, INDIANA 46307



**MORRIS W. CARTER**  
Recorder

**SHERRY L. SERENCES**  
Chief Deputy

PHONE (219) 755-3730  
FAX (219) 755-3257

**MEMORANDUM**



**This document has been recorded as presented.  
It may not meet with State of Indiana Recordation  
Requirements.**