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Scott County Iowa
Rita A. Vargas Recorder
File **200600003341**

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DECLARATION OF SUBMISSION OF PROPERTY
TO HORIZONTAL PROPERTY REGIME FOR
MISSISSIPPI LOFTS

Declarant: RCPA Development Co., L.L.C.
Legal Description: See Page 1 of Declaration

MISSISSIPPI LOFTS
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Exhibit "A" -- Unit Description

Exhibit "B" -- Articles of Incorporation of Mississippi Lofts Condominium Owners Association, Inc.

Exhibit "C" -- Bylaws of Mississippi Lofts Condominium Owners Association, Inc.

Exhibit "D" -- Percentage Interest in Common Elements

Exhibit "E" -- Emergency Easement Description and Grid Iron Easement Description

Exhibit "F" -- Development Agreement

Exhibit "G" -- Easement to Public Access Areas of the RiverCenter

DECLARATION OF SUBMISSION OF PROPERTY
TO HORIZONTAL PROPERTY REGIME
FOR
MISSISSIPPI LOFTS

This Declaration is made on the ____ day of _____, 2006, by RCPA Development Co., L.L.C., an Iowa limited liability company, (the "Developer").

1. RECITALS

1.01. Description of Real Estate and Building. The Developer is the legal titleholder of the following described real estate (the "Real Estate") located in Davenport, Scott County, Iowa:

Lots 1, 2 and 3 in Block 57, in LeClaire's Second Addition to the
Town (now City) of Davenport, Scott County, Iowa.

The Real Estate consists of land and improvements.

1.02. The Developer desires to submit the Real Estate, including the Building, structures, improvements, and fixtures thereon or hereafter to be erected, and all rights and privileges belonging or in any way pertaining thereto to a condominium regime (the "Regime") pursuant to the Horizontal Property Act of the State of Iowa and which will be known as Mississippi Lofts.

1.03. The Developer desires to establish for its benefit and for the mutual benefit of all future owners or occupants of the Regime, or any part thereof, and intends that all future owners, occupants, mortgagees, and any other persons acquiring any interest in the Regime shall hold such interest subject to certain rights, easements, and privileges in, over, and upon the Regime and certain mutually beneficial restrictions, obligations, and liens with respect to the use, conduct, and maintenance of the Property. All such rights, easements, privileges, restrictions, obligations, and liens are in furtherance of a plan to promote and protect the cooperative aspects of occupancy in the Regime and are established for the purpose of enhancing and perfecting the value, desirability, and attractiveness of the Regime.

2. DEFINITIONS

2.01. Definitions. The terms used in this Declaration shall have the following meanings, unless the context clearly requires another meaning:

- a. "Act" means the Horizontal Property Act of the State of Iowa, as amended from time to time.
- b. "Articles" or "Articles of Incorporation" means the Articles of Incorporation of the Association attached as Exhibit "B", as amended from time to time.
- c. "Association" means Mississippi Lofts Owners Association, Inc., an Iowa nonprofit corporation.
- d. "Board" means the Board of Directors of the Association.
- e. "Building" means the structural improvements located on the land forming part of the Real Estate and containing Condominium Areas and as more particularly described on Exhibit "A".
- f. "Bylaws" means the Bylaws of the Association, attached as Exhibit "C", as amended from time to time.
- g. "Common Area" means the areas designated as "Common Area" in Exhibit "A".
- h. "Common Expenses" means and includes:
 - (1) All sums lawfully assessed against the General Common Elements by the Managing Agent or Board.
 - (2) All expenses of administration, management, maintenance, operation, repair, replacement, and betterment of the General Common Elements and those parts of the Condominium Areas that the Association is responsible to maintain, repair and replace.
 - (3) Expenses agreed upon as Common Expenses by the Condominium Area Owners.
 - (4) Expenses declared to be Common Expenses by this Declaration or by the Bylaws.

(5) Any valid charge against the Regime as a whole.

i. "Condominium Area" means the space between (a) the lower unfinished surface of the ceiling, (b) the upper surface of the base floor material, excluding any floor coverings, (c) where walls are shown on Exhibit "A" and subsequent amendments thereto as the boundary of a Condominium Area, and the interior unfinished surface of such walls (including the interior surfaces of all windows and doors and the walls in the closed position) and (d) where the boundary as shown on Exhibit "A", as amended from time to time, is a line or lines and not walls, and the vertical plane where the base of the plane is on the boundary line.

j. "Corporation" means and is interchangeable with the Association.

k. "Council of Co-Owners" means all the Condominium Area Owners, which Council of Co-Owners has been incorporated as the Association.

l. "Declaration" means this instrument including all Exhibits by which the Real Estate is submitted to the provisions of the Act and such Declaration as amended from time to time.

m. "Developer" means RCPA Development Co., L.L.C., its successors and assigns, provided such successors or assigns are designated in writing by the Developer as successors or assigns of the rights of the Developer set forth in this Declaration and such designation is recorded in the Scott County Recorder's Office.

n. "Development Agreement" means that Agreement attached hereto as Exhibit "F" as may be amended.

o. "Managing Agent" means the person to whom the Board delegates, at its option, certain powers and duties to manage and operate the affairs of the Association.

p. "Mortgage" means a security interest, mortgage, or lien granted by a Condominium Area Owner in, to, or against a Condominium Area to secure payment of an indebtedness and duly recorded in the Scott County Recorder's office.

q. "Mortgagee" means a Person who holds a Mortgage as security for payment of an indebtedness.

r. "Occupant" means a Person or Persons in possession of a Condominium Area, regardless of whether the person is a Condominium Area Owner.

s. "Percentage Interest" means the undivided interest to the General Common Elements associated with and appurtenant to each Condominium Area, as set forth on Exhibit "D". Expense and assessment obligations paid, incurred, or levied will be determined based on the Percentage Interest in effect at the time such payments become due and payable.

t. "Person" means a natural individual, corporation, partnership, trustee, or other legal entity capable of holding title to real property.

u. "Property" includes the land and Building described in paragraph 1.01, all other improvements located on the land, any building or improvement constructed on the land in the future, and all easements, rights and appurtenances belonging thereto.

v. "Regime" means the Property which includes all Condominium Areas and General Common Elements.

w. "Unit" shall have the same meaning as the term "Condominium Area" as defined in paragraph 2.01 (i) herein.

x. "Upscale Food and/or Beverage Establishment" shall include trendy, sophisticated coffee shops such as Starbucks, restaurants providing cuisine in a quiet, refined dining atmosphere, and/or a bar or nightclub provided that the same is quiet and refined and appropriate measures are taken to ensure that noise and/or patrons will not interfere with other Units.

y. "Condominium Area Owner" means the Person or Persons who individually or collectively own or are purchasing by recorded contract the aggregate fee simple title to a Condominium Area or a part of a Condominium Area and the undivided interest in the Common Elements appurtenant thereto but shall not include those having an interest in a Condominium Area merely as security for the performance of an obligation. Unless specifically provided otherwise herein, the Developer shall be deemed a Condominium Area Owner so long as it is the legal title holder of a Condominium Area. The term "Condominium Area Owner" shall have the same meaning as the term "owner" as used in the Act.

2.02. Other Definitions. The following terms are defined in the following paragraphs:

- a. "General Common Elements," paragraph 4.01.

3. IDENTIFICATION OF PROPERTY

3.01. Submission to Act. The Developer by recording this Declaration submits the Property to the Act.

3.02. Location of Property. The Property submitted to the Regime is located on 3rd Street between Brady Street and Perry Street in Davenport, Scott County, Iowa.

3.03. Building. The Building is an eleven story structure with a basement containing three (3) Condominium Areas designated the Adler Theatre Unit, the Mississippi Hotel Unit and the Commercial Space Unit. The Building is constructed principally of steel, concrete, mortar and brick. Exhibit "A" shows each Condominium Unit location and approximate area and proximity of each Unit to Common Areas.

3.04. Condominium Area and Partitioning. The location, dimensions and configuration of each Condominium Area and approximate areas of each Condominium Area are shown on Exhibit "A".

4. COMMON ELEMENTS, OWNERSHIP AND APPURTENANCES

4.01. Definition of General Common Elements. General Common Elements are the land described in paragraph 1.01 and all improvements, including the Building and facilities situated on the land, except the Condominium Areas. The General Common Elements include but are not limited to:

- a. Landscaping and plantings, sidewalks, outside lighting system and fixtures, exterior sign and the exterior transformers.
- b. All structural elements of the Building, including the foundation, slab, exterior walls, doors and windows, roof or roofs, fire escapes, interior load-bearing walls, and walls, doors and windows separating Condominium Areas from Common Areas (as defined at 4.01f) and all structural elements of the Building not reserved to a Condominium Area.
- c. All ventilation and exhaust systems, lighting systems and fixtures, chimneys and the heating and air-conditioning systems and equipment that service the Common Areas.

d. All sewer, water, electrical, gas, telephone and other utility or service lines, wiring, ducts, conduits, piping, facilities or systems serving more than one Condominium Area, notwithstanding the same are located in part within a Condominium Area.

e. Easements to the Condominium Areas for all such lines, wiring, ducts and the like referred to in paragraph 4.01.d. for the furnishing of utility and other services or systems to the Condominium Areas and to the Property and shall include easements of support in every portion of a Condominium Area which contributes to the support of the improvements.

f. The areas designated as "Common Area" on Exhibit "A".

g. Condominium Areas which may at any time be acquired and held by the Association on behalf of all Condominium Area Owners.

h. Other parts of the Regime determined by the Association to be necessary to the existence, maintenance or safety of the Regime.

4.02. Exclusive Ownership of Condominium Areas. A Condominium Area Owner shall be entitled to exclusive ownership and possession of his or her Condominium Area. A Condominium Area Owner shall not be deemed to own the undecorated or unfinished interior surfaces of the perimeter walls, floors, ceilings, and doors bounding his or her Condominium Area nor shall a Condominium Area Owner be deemed to own any General Common Elements within his or her Condominium Area notwithstanding the fact that such elements are within the perimeter of such Condominium Area. A Condominium Area Owner, however, shall have the exclusive right to paint, repaint, tile, wax, paper, or otherwise refinish and decorate the interior surfaces of the perimeter walls, floors, ceilings, and doors bounding his or her Condominium Area and also shall have such exclusive rights with respect to General Common Elements which are within his or her Condominium Area, including specifically the right to hang customary pictures, mirrors and like wall decorations thereon.

4.03. Appurtenances. There shall pass with the ownership of each Condominium Area, whether or not separately described, all appurtenances to the Condominium Area (whether such appurtenance is described in this Declaration or in the Bylaws).

4.04. Percentage of Ownership and Liabilities. A Condominium Area Owner shall own as an appurtenance thereto a percentage of the General Common Elements. Each Condominium Area Owner's Percentage Interest shall be as set forth on Exhibit "D" to this Declaration. Each Condominium Area Owner shall be liable for a proportional

share of the Common Expenses corresponding to the Condominium Area Owner's Percentage Interest.

4.05. Use of General Common Elements. Unless otherwise provided, each Condominium Area Owner shall have the right to use General Common Elements of the Regime, subject to leases made by or assigned to the Board, in common with all other Condominium Area Owners, as may be required for the purposes of access, ingress to, egress from, use, occupancy, and enjoyment of the respective Condominium Area owned by such Owner. The right to use the General Common Elements shall extend not only to each Condominium Area Owner, but also to his or her agents, tenants, family members, invitees, and licensees. The Association shall have the authority to rent, lease, and grant concessions or easements with respect to parts of the General Common Elements, subject to the provisions of this Declaration and the Bylaws. All income derived by the Association from leases, concessions, or other sources shall be held and used for the benefit of the Association, pursuant to such rules, resolutions, or regulations as the Board may adopt or prescribe. The Board shall have the express authority to designate specific parking places for the exclusive use of individual Condominium Area Owners.

4.06. Assignment or Transfer of Appurtenances. No part of the appurtenant interest of any Condominium Area may be sold, transferred or otherwise disposed of except in connection with the sale, transfer or other distribution of the Condominium Area.

4.07. Modification of the Size of Condominium Areas. A Condominium Area Owner may with the written consent of the Board transfer and convey a part or all of his or her Condominium Area to the Association which shall then become part of the General Common Elements. The Association may transfer and convey an area comprising a part of the general common areas to a Condominium Area Owner, provided (a) all other Condominium Area Owners have access to a hall or stairwell that will permit a Person ingress and egress to a Building exit and (b) the transfer and conveyance will not violate any applicable Building Codes and Fire Codes in effect in Davenport, Iowa. Upon any modification of the total number of square feet comprising any Condominium Area pursuant to this paragraph 4.07, the Board shall file an amendment to the Declaration showing the modifications of the attached Exhibits and amending the other Exhibits that are affected based on the change of square footage. Such modification shall not change the Percentage Interests or modify Exhibit "D" unless such change in Percentage Interests or modification of Exhibit "D" is approved by 67% of the Unit Owners.

4.08. Encroachment Easements. If any portion of the General Common Elements encroaches upon any Condominium Area, or if any Condominium Area encroaches upon any other Condominium Area or upon any portion of the General Common Elements, or if any of such encroachments shall occur later as a result of shifting or settling of the

Building or from alteration, repair or improvement to the General Common Elements or as a result of repair or restoration of the General Common Elements or a Condominium Area after damage by fire or other casualty, or as a result of condemnation or of eminent domain proceedings, then in each of such events a valid easement shall exist for such encroachment and for the maintenance thereof so long as the Building, General Common Elements and Condominium Areas exist. Such encroachments shall not be considered to encumber the General Common Elements and Condominium Areas encroached upon. The easement shall exist only as long as there is an encroachment.

4.09. Cross Easements. Appurtenant to each Condominium Area shall be easements from each Condominium Area Owner to each other Condominium Area Owner and to the Association and from the Association to the respective Condominium Area Owners as follows:

- a. For ingress and egress through the Common Areas and for maintenance, repair, and replacement or reconstruction as authorized;
- b. Through the Condominium Areas and General Common Elements and Common Areas for maintenance, repair and replacement or reconstruction of General Common Elements, but access to Condominium Areas shall be only during reasonable hours except in case of emergency; and
- c. Through the Condominium Areas and General Common Elements for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility or other services to the other Condominium Areas and the General Common Elements.
- d. The Adler Theatre Unit shall have and is hereby granted an easement to allow for emergency ingress and egress across the Mississippi Hotel Unit as shown by arrows on Exhibit "E". Owners of the Mississippi Hotel Unit shall maintain the easement area shown on Exhibit "E" and no obstructions shall be permitted. The owner of the Adler Theatre Unit shall have the right to remove obstructions and to maintain the easement in the event the Mississippi Hotel Unit fails to discharge its duties after notice from the Adler Theatre Unit is received in writing and 15 days have passed. The owner of the Mississippi Hotel Unit shall be liable to the Adler Theatre Unit for any and all reasonable costs incurred. Costs incurred shall be submitted by the Adler Theatre Unit to the Homeowners Association and shall be treated similar to Common Expenses (i.e. the Adler Theatre Unit shall be reimbursed by the Homeowners Association and the Homeowners Association shall treat the amount due as unpaid Common Expenses of the Mississippi Hotel Unit for which a lien can be filed and further remedies sought.)

e. The Adler Theatre Unit shall have and is hereby granted an easement to keep and maintain its marquis, signage and decorations on the exterior of the building which includes the right to change and update said marquis, signage and decorations in its discretion without the need for consent or approval of the other Units so long as the exterior area affected is not increased in size.

f. The Adler Theatre Unit shall have and is hereby granted an easement through the Mississippi Hotel Unit for access to the grid iron on the 7th floor. Specifically such easement shall be as set forth on Exhibit E. It is understood that the Mississippi Hotel Unit has the right to monitor and control use of the easement by the Adler Theatre Unit and that Adler Theatre Unit must notify and obtain the consent of the Mississippi Hotel Unit prior to use of the easement right granted hereunder. The Mississippi Hotel Unit may not unreasonably withhold consent to any request by the Adler Theatre Unit to use its easement and shall cooperate to provide the Adler Theatre Unit with access as needed.

g. The Mississippi Hotel Unit shall have and is hereby granted an easement for access into the public access areas of the RiverCenter on the 2nd floor of the Building, which access shall be established either through Option 1 or Option 2 as more fully described on attached Exhibit "G". If requested by the Mississippi Hotel Unit, Option 2 shall be used if reasonably practical, or if Option 1 would be unreasonable. Option 2 shall only be allowed if the Mississippi Hotel Unit prepares and provides design plans which would, at all times, reasonably protect and maintain the security of the Building, and the Adler Theatre Unit specifically. It is understood that Option 2 will allow access of skywalk traffic through the Adler Theatre Unit to the Mississippi Hotel Unit and that Mississippi Hotel Unit will be required, at its own cost and expense, to provide walls, security and/or security devices in its designs to reasonably ensure that no public traffic could access beyond the limited area reasonably necessary to allow for the access shown on Option 2. Option 2 shall require the consent of the Adler Theatre Unit to the designs/plans of the Mississippi Hotel Unit for its creation, and the Adler Theatre Unit shall not unreasonably withhold its consent. If the Mississippi Hotel Unit elects not to use Option 2, or if Option 2 proves unreasonable, then Option 1 shall be used if reasonably practicable. The other Units consent to the Mississippi Hotel Unit, under Option 1, making such connection or opening through the wall of its Unit and the Building to access the public access areas of the River Center, provided such access does not damage the structural integrity of the Building or otherwise interfere with utilities or other Building necessities which cannot be restored immediately.

h. The Units hereby agree to cooperate and grant to each other such easements as may be necessary and reasonably required in the future due to City of Davenport building or fire code requirements related to ingress and egress. It is understood and agreed that to the extent an easement becomes necessary due to changes in City of Davenport code requirements, that the parties shall operate through the Association to make such accommodations and grant such easements as may be reasonably necessary to allow all Units to continue to operate.

i. The Units hereby grant to each other such easement rights as may be necessary in order to complete the work required under the Development Agreement attached hereto as Exhibit "F". Such easement rights shall be limited to only those easement rights as are necessary to allow access to and from work areas which cannot otherwise be established through the Common Areas and/or owner's own Unit and shall further be limited in time and scope so as to be reasonable.

4.10 Right of First Refusal. The Commercial Unit shall be subject to a Right of First Refusal held by the City of Davenport, an Iowa governmental subdivision. The specific terms of the Right of First Refusal are as set forth in the Development Agreement attached hereto as Exhibit "F".

5. DEVELOPER RESERVED RIGHTS AND POWERS

5.01. Amendment. Developer reserves the right to amend this Declaration from time to time as permitted under the Act and Article 12 hereof. Any such Amendment, and all exhibits thereto, shall be duly recorded in the office of the Recorder of Scott County, Iowa. Developer's rights with regard to the Regime shall terminate on the later of the sale of all Units or April 1, 2006.

6. MANAGEMENT OF THE REGIME

6.01. The Association. The Association shall be the governing body for all Condominium Area Owners for the maintenance, repair, replacement, administration, and operation of the Regime, as provided in the Act, this Declaration, the Articles, and the Bylaws.

6.02. Management of Regime. The Board shall have the authority to engage the services of a Managing Agent to maintain, repair, replace, administer, and operate the Regime, or any part thereof, to the extent deemed necessary by the Board. Each Condominium Area Owner hereby agrees to be and is hereby bound by the terms and conditions of all management agreements entered into by the Association. The term of a management agreement shall not exceed one year, and the agreement may be terminated

by the Association for cause upon 30 days' written notice, but in no event shall such management agreement be cancelled prior to the negotiation by the Association or its Board of Directors of a new management agreement, which new management agreement will become operative immediately upon the cancellation of the preceding management agreement.

6.03. Board's Determination Binding. In the event of any deadlock in voting by the Unit Owners, dispute or disagreement between any Condominium Area Owners relating to the Regime or any questions of interpretation or application of the provisions of the Declaration or Bylaws, the deadlock in voting by the Unit Owners, dispute or disagreement shall be submitted to the Board. The determination of the deadlock in voting by the Unit Owners, dispute or disagreement by the Board shall be binding on each and all Condominium Area Owners, subject to the right of Condominium Area Owners to seek other remedies provided by law after such determination by the Board.

6.04. Agreements and Compliance. All Condominium Area Owners, tenants, families, guests and other persons using or occupying the Regime shall be bound by and strictly comply with the provisions of this Declaration and the Bylaws as amended, and all agreements, rules, regulations, and determinations lawfully made by the Association and its Board, officers or agents shall be binding on all such Condominium Area Owners and other Persons. A failure to comply with the Declaration and the Bylaws as amended or any agreement or determination lawfully made shall be grounds for an action to recover sums due for damages on the part of the Association or any Condominium Area Owner, as applicable, and for mandatory or other injunctive relief without waiving other remedies.

6.05. Included Powers; Foreclosures of Lien; Waiver of Partition. Each Condominium Area Owner agrees that the Association has and shall exercise all powers, rights and authority granted unto it by the Act and by Chapter 504 Code of Iowa, and as more particularly set forth in the condominium documents, including but not limited to the making of assessments chargeable to Condominium Area Owners and the creation of a lien on Condominium Areas, and the right, acting on behalf of the Condominium Area Owners, to foreclose the lien and acquire a Condominium Area at foreclosure sale and to hold, lease, mortgage or convey the same; all Condominium Area Owners shall be deemed to have waived all rights of partition, if any, in connection with such acquisition.

6.06. Association as Attorney-in-Fact for Condominium Area Owners. The Association is hereby irrevocably appointed attorney-in-fact for the Condominium Area Owners of each and every Condominium Area to manage, control and deal with the interest of the Condominium Area Owners in the General Common Elements so as to permit the Association to fulfill all of its duties and obligations and to exercise all of its rights, to deal with Persons upon the Regime's destruction or obsolescence, and to deal

with and handle insurance and insurance proceeds and condemnation and condemnation awards. The acceptance by any Person of any interest in any Condominium Area shall constitute an appointment of the Association as an attorney-in-fact as provided above.

6.07. No Avoidance by Waiver of Use: Right of Entry. Each Condominium Area Owner shall be liable for all assessments made by the Association against his or her Condominium Area for Common Expenses and liabilities of the Association and the Regime. The liability of a Condominium Area Owner for all assessments made by the Association may not be avoided by a waiver of the use or enjoyment of any General Common Element or by abandonment of a Condominium Area for which an assessment is made. The Association shall have the right exercisable at reasonable times to enter a Condominium Area as may be necessary or advisable to carry out its responsibilities .

6.08. Discharge of Liability. A Condominium Area Owner shall promptly discharge any lien other than Mortgage liens which may be filed against his or her Condominium Area.

6.09. Subordination of Assessment Liens. If any Condominium Area subject to a lien created by any provision in this Declaration shall be subject to the lien of a first mortgage of record:

a. The foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair the lien of such Mortgage; and

b. The foreclosure of the lien of such Mortgage or the acceptance of a deed in lieu of the foreclosure by the Mortgagee, shall not operate to affect or impair the lien except that assessment liens, if any, as shall have come due up to the time of foreclosure or the acceptance of the deed in lieu of foreclosure shall be subordinate to the lien of the Mortgage, with the foreclosure-purchaser and purchasers therefrom taking title free of assessments, if any, that have come due up to the time of the foreclosure or deed given in lieu of foreclosure, but subject to assessment liens that shall have come due subsequent to the foreclosure or deed given in lieu of foreclosure. All assessment liens as shall have come due up to foreclosure or the acceptance of a deed in lieu of foreclosure and have not been paid shall be deemed to be an expense of the Association, but this shall not derogate the Association's right to collect the delinquent sums from the defaulting Condominium Area Owner personally.

6.10. Limitation Upon Liability. Notwithstanding the duty of the Association to maintain and repair parts of the Regime, the Association shall not be liable to Condominium Area Owners for injury or damage, other than the cost of maintenance and

repair, caused by any latent condition of the Property to be maintained and repaired by the Association, or caused by other Owners or Persons.

6.11. Arbitration. In the event that the Board is unable to reach a majority decision on any issue whatsoever, of any kind or nature which the Board shall have the authority to decide, the issue shall be submitted by the Board to binding arbitration. All Unit Owners and Board Members hereby agree to submit to the arbitration provided for in this paragraph and will faithfully observe the rules of arbitration set forth herein, abide by and perform any award rendered by the arbitrator(s), and further agree that a judgment of any court having jurisdiction may be entered on the award. Arbitration shall be administered by the American Arbitration Association under its Arbitration Rules for the Real Estate Industry, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof, if deemed necessary by the arbitrator to enforce such decision. The Board shall select the arbitrator or if the Board cannot reach a majority to select one arbitrator, one arbitrator shall be appointed by the American Arbitration Association under its Arbitration Rules for the Real Estate Industry. The decision of the arbitrator shall determine the issue, allocate costs if needed among Unit Owners and shall also provide for which Unit Owner(s) shall be responsible for the costs of arbitration and in what proportions. The Unit Owners and Board Members acknowledge and agree that any and all arbitration procedures shall be held in Davenport, Iowa and each hereby waives any objection to that locale. The Board shall immediately upon receipt of the decision of the arbitrator, issue a Board decision adopting the determination of the arbitrator and shall immediately after issuance of the Board decision, fully enforce that Board decision as provided under this Declaration, the By-Laws and Articles of the Association. Any costs of arbitration determined by the arbitrator as payable by a Condominium Area, or other costs, fees or expenses assessed by the arbitration decision against a Condominium Area or Areas, shall be paid by the Condominium Area Owner within ten (10) days from the date of the decision of the arbitrator or the same shall be treated as an unpaid assessment hereunder.

7. MAINTENANCE, ALTERATION AND IMPROVEMENT

7.01. Terms. Although the use of one shall not be deemed to exclude the applicability of another unless specifically so stated or required by the context, certain terms not susceptible to precise delineation are employed in this Article as follows:

- a. Maintenance is used generally to include repair, renovation, restoration, reconstruction, rebuilding or replacement as may be necessary to maintain the Regime in the same condition as when constructed;
- b. Alteration relates to changes from such state other than maintenance;

c. Improvement as distinguished from alteration relates generally to the addition of new and different structures, elements or facilities other than those referred to in this Declaration.

The provisions of this Article are applicable where the work done or required is not caused by a specific casualty or event but shall also apply in the event of maintenance, alteration or improvement necessitated by a specific casualty or event unless different provisions are specifically made in this Declaration dealing with such contingencies.

7.02. Maintenance by Association. The Association shall:

a. Maintain all General Common Elements and shall make assessments therefor as a Common Expense except where maintenance has been specifically made the responsibility of each Condominium Area or certain Condominium Areas, in which case the assessment will be made to the owner of that certain area or owners of those Condominium Areas.

b. Repair incidental damage caused to a Condominium Area through maintenance by the Association and shall assess the cost thereof as a Common Expense.

c. If a Condominium Area Owner defaults in his or her responsibilities of maintenance, or such Condominium Area Owner, clients, customers, employees, invitees or lessee causes damage to the General Common Elements, the Association may assume the same as a Common Expense and levy a special assessment against the Condominium Area Owner collectible as other assessments. To the extent that such maintenance responsibilities are assumed by the Association in a situation involving more than one Condominium Area, the allocation by the Association of such costs between and against the respective Condominium Area Owners by special assessment shall be binding upon the respective Condominium Area Owners.

d. In its discretion, assume responsibility for any maintenance project which requires landscaping reconstruction, repair, rebuilding, renovation, restoration or similar work to more than one Condominium Area and the cost thereof may be in the discretion of the Association either assessed against each Condominium Area on which such costs were incurred or assessed against all Condominium Areas as a Common Expense according to the circumstances.

7.03. Maintenance by Condominium Area Owner. Each Condominium Area Owner shall at his or her expense:

a. Maintain the interior of his or her Condominium Area, including maintenance of non-load-bearing partitions, any floors, which define the Condominium Area, and of any finished or additional surfaces of materials installed by the Developer or the Condominium Area Owner, such as carpets, wallpapering, painting or staining, or other covering of any kind, and the equipment and other personal property of any kind within the Condominium Area.

b. The interior surfaces of all doors within the Condominium Area.

c. Maintain any plumbing fixtures, lighting fixtures, wiring, conduits and service elements in or connected with such Condominium Area and for its exclusive use.

d. Maintain any fixtures and their connections required to provide water, light, power, telephone, sewage and sanitary service exclusively to the Condominium Area.

e. Maintain any improvement or other alteration made to the Condominium Area.

f. Not change the appearance of any portion of the exterior of his or her Condominium Area, through paint or other decoration, without the consent of the Association.

7.04. Prompt Notice. A Condominium Area Owner shall promptly report to the Association any defects or other maintenance needs which are the responsibility of the Association or which the Association has the authority to perform.

7.05. Rights of Others. Mechanical equipment and the installation of such equipment shall be such that its operation will not cause annoyance to the occupants of other Condominium Areas. All maintenance, alteration and improvements shall be done without unreasonably disturbing the rights of other Condominium Area Owners.

7.06. Alterations or Improvements by the Association. No alterations or improvements during a fiscal year costing in excess of \$3,000.00 shall be made to the Regime without the approval of 67 percent of the voting interests of Condominium Area Owners; provided, upon the question being put to a vote by referendum ballot or membership meeting as provided in the Bylaws, any such alteration or improvement may be done if 67 percent of the total number of votes outstanding and entitled to be cast are voted in favor thereof. Bids shall be taken and the cost accurately estimated before such vote is conducted. Any alterations or improvements during a fiscal year costing \$3,000.00 or less may be made by the Board without the approval of Condominium Area Owners,

and the cost thereof shall constitute part of the Common Expenses. An alteration or improvement pursuant to this paragraph shall not alter the Percentage Interest appurtenant to each Condominium Area and such interest shall remain as before irrespective of whether the Owner voted in favor of or against the alteration or improvement. The cost of such work shall not be assessed against a Mortgagee that acquires its title to a Condominium Area as a result of a deed from the Mortgagor in lieu of foreclosure or through foreclosure proceedings, unless such Mortgagee shall approve the alteration or improvement. The share of any cost not so assessed shall be assessed to the other Condominium Area Owners in the shares that their Percentage Interests bear to each other's Percentage Interests and there shall be no change in the interests and rights of a Condominium Area Owner (i.e., a Mortgagee that acquires title as described herein) in the General Common Elements, nor in its share of Common Expenses, whether or not such Condominium Area Owner is hereby required to contribute to the cost of such alteration or improvement. The \$3,000.00 limit may be increased by the Association as needed to adjust for inflationary factors, provided 67 percent of the total number of votes outstanding and entitled to be cast are voted in favor thereof. This entire paragraph shall be subject to the terms and provisions of the Development Agreement attached as Exhibit "F". Any and all improvements, alterations and/or work called for in the Development Agreement shall be deemed as previously approved by the Condominium Area Owners.

7.07. Alterations or Improvements by Owner. No Owner shall make or permit to be made any structural alteration to a Condominium Area, the Building or any of the General Common Elements, without first obtaining written consent of the Board which shall determine the proper insurance for such improvement or alteration and which shall arrange with such Condominium Area Owner for the payment of the cost of any additional insurance thereby required. In the case of alterations within a Condominium Area the consent required by the preceding sentence shall be immediately granted upon agreement of the Owner to pay the cost of such additional insurance, and a determination that such alteration will not impair the structural soundness of the Building or safety of the Regime or impair use of other units or the Common Areas. Alterations and improvements to the exterior of the Building or General Common Elements shall not be made, if, in the opinion of the Board, such alteration would harm the integrity and appearance of the Regime as a whole. Such Condominium Area Owner shall do no act or work which will impair the structural soundness or integrity of the Building or safety of the Regime or impair any easement. The improvement or alteration of a Condominium Area shall not cause any increase in the owner's Percentage Interest. Any acquiescence or approval by the Association as to the safety of any proposed action hereunder by a Condominium Area Owner shall not render the Association responsible to any party in the event the Association's judgment proves erroneous. The Board may permit Condominium Area Owners to install doors or entryways in common walls provided the Condominium Area Owners comply with this paragraph.

7.08. Emergency Repairs. To the extent conditions arise which require immediate repair or action in order to prevent damage, further damage and/or destruction of part or all of the Units, Unit or Common Areas (i.e. burst water pipe, etc.), the Unit Owners agree that each shall be allowed the discretion to take action to remedy and repair those conditions where time will not permit the Unit Owners to obtain written consents from other Unit Owners or submit the issue to the Association. To the extent a majority of the Unit Owners consent in writing to a repair the same shall be deemed to have been approved by the Association. The consent shall clearly state the repair to be made, the estimated cost of the repair and shall further direct the Association on which Unit or Units should bear the cost of the repair and in what proportion. If consents cannot be obtained, the cost of the repair shall be submitted to the Association which shall then vote on the reasonableness of the repair and determine whether or not the same shall be paid and how and to which Unit or Units the cost will be assessed. A majority vote of the Association shall be determinative.

8. CONDITIONS AND RESTRICTION ON OWNERSHIP, USE AND ENJOYMENT

8.01. Use of Property. The use and occupancy of the Property shall be in accordance with and subject to the following provisions:

a. Use of Condominium Area. Each Condominium Area shall be used or occupied only for a theatre, hotel/housing or commercial retail or Upscale Food and/or Beverage Establishments permitted under the Davenport zoning district applicable to the Real Estate. If a bar or nightclub is proposed as an Upscale Food and/or Beverage Establishment, the same shall not be an allowed use unless the Unit proposing such use, at its own expense, provides for sound-proofing and for a separate entrance for bar/nightclub patrons to prevent any disturbances of or interferences with uses of the other Units. The following uses shall be prohibited:

- (i) Adult video, adult entertainment or adult establishment of any kind.
- (ii) Fast food establishments of any kind, including as example but not limited to, McDonald's, Wendy's, Long John Silvers or Taco Bell.
- (iii) Noxious or offensive activity or trade or anything which may be or become an unreasonable annoyance or nuisance to other Unit Owners or materially affect the value or use of other Units.

Each Condominium Area shall be used and/or improved only in such a manner as will not negatively impact the other Condominium Areas. Specifically, it is noted

that the Commercial Unit is directly above the basement level of the Adler Theatre Unit and certain activities within the Commercial Unit with respect to plumbing and drainage may cause noise and/or other issues for the basement level of the Adler Theatre Unit. To the extent that any use of a Condominium Area should cause a material negative impact on another Unit, the negatively impacted Unit may request the intervention of the Association to cause abatement or cessation of such activity by the other Unit. The Association may take such action as needed to remedy the situation and may assess the costs against the owner of the offending Unit in the same manner as for the assessment of charges for common elements and may enforce the same in a like manner.

b. Lease of Condominium Area. No lease shall relieve the Condominium Area Owner as against the Association and other Condominium Area Owners from any responsibility or liability imposed by the Declaration. The lessee under every such lease shall be bound by and subject to all of a Condominium Area Owner's obligations under the Declaration and the lease shall expressly so provide. If a Condominium Area Owner is not occupying his or her Condominium Area, no occupant shall be allowed to occupy or use the Condominium Area, except pursuant to a written lease complying with this subparagraph.

c. Nuisance Prohibited. No noxious or offensive activity shall be carried on in any Condominium Area, nor shall anything be done or be permitted to remain in any Condominium Area which may be or become a nuisance or annoyance to occupants.

d. Obstructions. There shall be no obstruction of any Common Elements. Nothing shall be stored upon any Common Elements without the approval of the Board.

e. Signs. No signs shall be placed in windows of any Condominium Area. The Board shall have the right to set specifications for designating the names of Occupants on the interior doors (if permitted), the exterior sign and building directory. This provision is subject to the Adler Theatre Unit's right to keep and maintain its current exterior marquis and signage and to the right of the Commercial Space Unit to place reasonable business signage in its window as approved by the Board.

f. Use of Entrances. The entrances shall be used only for ingress and egress.

g. Trash and Garbage. No burning of any trash and no unreasonable or unsightly accumulation or storage of litter, new or used materials, or trash of any other kind shall be permitted within any Condominium Area or be permitted to remain in public view.

h. Exterior Installations. No Condominium Area Owner or other Person shall install any electrical or telephone wire, television antenna, or other antenna, air conditioning unit or other machine or device on the exterior of the building without written permission from the Board.

i. General Common Elements. Nothing shall be altered in, constructed in, or removed from the General Common Elements, except upon written consent of the Board which may be given through regulations of the Association, and further provided that any holder of a first Mortgage which acquires possession of a Condominium Area by foreclosure or by deed in lieu of foreclosure shall have the right to post signs for the sale or rental of such Condominium Area until such Condominium Area is sold or a lease is executed.

j. Peaceful Possession. No activity shall be allowed which unduly interferes with the peaceful possession and use of the Property by the occupants.

k. Insurance Rates. Nothing shall be done or kept in any Condominium Area or in the Common Areas which will increase the rate of insurance on the Common Areas, without the prior written consent of the Board. No Condominium Area Owner shall permit anything to be done or kept in his or her Condominium Area or in the Common Areas which will result in the cancellation of insurance on any Condominium Area or any part of the Common Areas, or which would be in violation of any law.

l. Entry of Condominium Areas. Agents of or contractors hired by the Board may enter any Condominium Area when necessary in connection with any maintenance, landscaping, or construction for which the Association is responsible, provided such entry shall be made with as little inconvenience to the occupants as practicable.

m. Notice of Liens. A Condominium Area Owner shall give notice to the Association of every lien against his or her Condominium Area other than permitted Mortgages, taxes, and Association assessments, and of any suit or other proceeding which may affect the title to his or her Condominium Area, within ten days after the lien attaches or the Condominium Area Owner recedes notice of such suit.

n. Condominium Area Owner Liability. A Condominium Area Owner shall be liable to the Association for the expense of any maintenance, repair, or replacement rendered necessary by his or her act, neglect, or carelessness, or by that of his or her family, guests, employees, agents, or lessees, which liability shall include any increase in insurance rates resulting therefrom.

o. Alteration and Repair. Work inside a Condominium Area is to be coordinated with the Association before proceeding including work set forth in the Development Agreement attached as Exhibit "F". Any work contemplated by any Unit outside of the Development Agreement must be approved by the Association. No work of any kind is to be done by Condominium Area Owners upon the exterior Building walls or upon interior boundary walls or doors without first obtaining the written approval of the Board unless otherwise set forth herein.

p. Decorations. No common exterior door shall be decorated or furnished by any Person in any manner without first obtaining written approval of the Board.

q. Condominium Area Cleanliness. Each Condominium Area Owner occupant shall keep his or her Condominium Area in a good state of presentation and cleanliness, and shall not sweep or throw or permit to be swept or thrown from, or from the doors, windows, of the Condominium Area, any dirt or other substance.

r. Vehicle Parking. No vehicle belonging to a Condominium Area Owner occupant or to a member of his or her family or guest, tenant or employee shall be parked in such a manner as to impede or prevent ready access to any entrance to or exit from a Building.

s. Service Requests. Requests regarding the services of the Building shall be made in writing to the Board or to the Managing Agent.

t. Rules and Regulations. The Association shall have the authority to amend and adopt reasonable rules and regulations governing the use of the Property and such rules shall be observed and obeyed by the Condominium Area Owners, their guests, employees and licensees.

u. Uses by Tenants and Purchasers. Each Condominium Area Owner shall upon request notify the secretary of the Association of all tenants of such Condominium Area. Any delegated rights of use and enjoyment are subject to suspension to the same extent as the right of Condominium Area Owners.

8.02. No Waiver. Failure of the Association or any Condominium Area Owner to enforce any covenant, condition, restriction, or other provision of the Act, this Declaration, the Articles or Bylaws, or the rules and regulations adopted pursuant thereto, shall not constitute a waiver of the right to enforce the same later.

9. RECONSTRUCTION OR REPAIR OF CASUALTY DAMAGE

9.01. Responsibility. The responsibility for reconstruction and repair after casualty shall be the same as for maintenance and repair of the Regime as provided in Article 7.

9.02. Caliber of Work. Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original improvement unless a change is permitted by the unanimous consent of all Condominium Area Owners voting thereon at a meeting of the Association called for such purpose.

9.03. Payment of Costs. If a Condominium Area Owner does not within 15 days of the date of the damage or destruction to such Condominium Area advise the Association in writing of the Condominium Area Owner's determination to repair, reconstruct or rebuild the Association may, in the following manner determine to so repair, reconstruct or rebuild, as the case may be, and in such event:

a. The resulting insurance proceeds shall be utilized by the Association and the Condominium Area Owner to defray the expenses thereof; and

b. To the extent that such insurance proceeds applicable to the reconstruction and repair are inadequate to defray the expense for which the Condominium Area Owner is liable, the Association shall assess against the Condominium Area Owner, in proportion to that Condominium Area Owner's Percentage Interest sufficient amounts to provide funds for payment of such costs, the provisions of paragraph 7.06 being inapplicable in this situation.

In the event the Association proceeds with repair, reconstruction or rebuilding as contemplated, the determination of the Board as to what constitutes adequate repair, reconstruction or rebuilding shall be binding on the Condominium Area Owner and the Condominium Area Owner shall have no claim of any kind against the Association or any of its officers, Directors or representatives arising out of such repair, reconstruction or rebuilding or any claimed failure in that regard.

9.04. Initial Determination by Association. Substantial damage to or destruction of all or any part of the Regime that is to be or may be repaired, reconstructed or rebuilt by the Association shall be repaired, reconstructed or rebuilt, as the case may be, unless at

least 75 percent of the total number of votes outstanding and entitled to be cast are voted against such repair, restoration, rebuilding or reconstruction. If at least 75 percent of such votes are cast against any such actions, the outcome of the vote taken shall automatically constitute a determination that the entire Regime be owned in common by the Condominium Area Owners and subject to partition and sale with each Condominium Area Owner being entitled to possession of his or her Condominium Area until such sale.

9.05. Reconsideration of Initial Determination. A vote and determination to repair, rebuild, restore, or reconstruct made pursuant to paragraph 9.04 (but not a presumed determination pursuant to paragraph 9.06) may be recalled and superseded as follows: After the bids for the necessary work have been taken and the amount of insurance proceeds or other funds available for the work are known and if the total amount of the resulting assessment as will be required to finance the work exceeds 10 percent of the pre-casualty value of the entire Regime at the time of the casualty, then the Board shall call a special meeting of the members of the Association to consider under such circumstances whether or not the property in question shall be restored, rebuilt, repaired or reconstructed; the work shall in such event be done unless at least 75 percent of the total number of votes outstanding and entitled to be cast are cast against the proposed action, and if the work is not thus authorized, the original determination shall stand rescinded and superseded and the entire Regime shall be deemed to be owned in common by the Condominium Area Owners with the same effect as in the case of a negative vote pursuant to paragraph 9.04.

9.06. Minor Damage or Destruction. All damage or destruction of a minor character shall be repaired, rebuilt, reconstructed or restored by the Board or a Condominium Area Owner, as applicable, without necessity of formal vote or determination. Minor damage or destruction shall include, but not be limited to, such as can be reasonably repaired, restored, rebuilt or reconstructed within 30 days after the applicable occurrence (exclusive of delays or interruptions resulting from lack of available contractors, labor, materials, or funds). In the event of doubt whether damage or destruction is minor, or in any case, either one-third of the Board, or Condominium Area Owners who are entitled collectively to cast at least 25 percent of the total number of votes outstanding and entitled to be cast, may call for a special meeting or referendum for a vote and determination of whether to repair, and the like, pursuant to paragraph 9.04, and the determination thus made shall control irrespective of whether the damage or destruction might have otherwise been treated as minor, provided in all cases, that if no formal vote and determination has been taken and made within 30 days of the date of the damage or destruction in question, it shall be conclusively presumed and in particular for purposes of Section 16 of the Act that the Association and Condominium Area Owners have in fact determined to rebuild, repair, restore or reconstruct, as the case may be.

9.07. Construction Fund. In the event of reconstruction or repair, the insurance proceeds shall constitute a construction fund for the costs of reconstruction and repair, and shall be paid to and held by the Association or the Insurance Trustee, whichever shall apply, for that purpose. Excess insurance funds, if any, shall be disbursed to the Condominium Area Owner (and his Mortgagee) suffering the damage, notwithstanding any provisions to the contrary contained in Article 10.

9.08. Limitation. The provisions of this Article are intended to govern in the event of damage or destruction resulting from an occurrence or casualty which although to be broadly construed may be distinguishable from maintenance in the sense of remedying ordinary wear and tear, and in any event, the provisions of this Article shall not govern in the event of reconstruction, rebuilding, or restoration necessitated on account of long-term obsolescence or condemnation of any Condominium Area within the Regime.

10. INSURANCE

10.01. Purchase, Named Insured.

a. Purchase. All insurance policies upon the Regime shall be purchased by the Association and shall be written with a company or companies licensed to do business in the State of Iowa and holding a rating of "A-XI" or better, by Best's Insurance Reports and a policy holder's rating of "A" or better.

b. Named Insured. The named insured shall be the Association, individually and as agent for the Condominium Area Owners without naming them, and shall include the Mortgagees of Condominium Areas which are listed in the roster of Mortgagees. Such policies shall provide that payments for losses thereunder by the insurer shall be paid to the Insurance Trustee hereinafter designated, or, if none, to the Association, and all policies and endorsements thereon shall be deposited with the Insurance Trustee.

c. Additional Insurance. Any Condominium Area Owner and Mortgagee may obtain additional insurance (including a "Condominium Owner's Endorsement" for improvements and betterments to the Condominium Area made or acquired at the expense of the Condominium Area Owner) at his or her own expense. Such insurance shall be written either by the same carrier as that purchased by the Association pursuant to this Article or if written by another carrier, shall provide that it shall be without contribution as against the same. Such insurance shall contain the same waiver of subrogation provisions as set forth in paragraph 10.02. The Developer recommends that each Condominium Area Owner in the Regime obtain, in addition to the insurance hereinabove provided to be

obtained by the Association, a "Tenant's Policy," or equivalent, to insure against vandalism or malicious mischief, theft, personal liability and the like. Such policy should include a "Condominium Area Owner's Endorsement" covering losses to improvements and betterments to the Condominium Area made or acquired at the expense of the Condominium Area Owner. Copies of such personal coverage policies shall be filed with the Association.

d. Copies to Mortgagees. One copy of each insurance policy and of all endorsements thereon shall be furnished by the Association to each Mortgagee included in the list of Mortgagees roster. Such copies shall be furnished not less than 10 days prior to the beginning of the term of the policy or not less than 10 days prior to the expiration of each preceding policy which is being renewed or replaced, whichever date shall first occur.

10.02. Coverage.

a. Casualty. All Buildings and improvements upon the land shall be insured in an amount equal to at least 100 percent insurance replacement value, excluding foundation and excavation costs, and all personal property included in the General Common Elements shall be insured for its value, all as determined annually by the Board, but subject to such deductible clauses as are required in order to obtain coverage at reasonable costs. Such coverage shall afford protection against:

- (i) loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and
- (ii) such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the Buildings on the land, including, but not limited to, vandalism and malicious mischief, windstorm and water damage.

The policies shall state whether the following items are included within the coverage in order that Condominium Area Owners may insure themselves if the items are not insured by the Association: air handling equipment for space cooling and heating; service equipment, interior fixtures such as electrical and plumbing fixtures; floor coverings except the floor itself; inside paint and over inside wall finishes.

b. Public Liability. The Board shall obtain public liability insurance coverage as determined by it, including, but not limited to, water damage, off premises employee coverages, hired automobile and non-owned automobile

coverages, and with cross-liability endorsement to cover liabilities of the Condominium Area Owners as a group to a Condominium Area Owner.

c. Worker's Compensation. The Board shall obtain sufficient worker's compensation insurance to meet the requirements of law.

d. Other Insurance. The Board shall acquire such over insurance as it deems from time to time to be desirable.

e. Provisions in Policies. If agreeable to the insurer, the policies procured by the Association shall include provisions that they shall be without contribution or proration and that the doctrine of "no other insurance" shall not apply with respect to insurance procured by Condominium Area Owners or their Mortgagees; that the conduct or default of any one or more Condominium Area Owners will not constitute grounds for avoiding liability under doctrines or warranties, conditions or forfeiture with respect to increase in hazard or vacancy clauses or over conditions or warranties purporting to relieve a carrier of its obligations; for payment of Common Expenses with respect to damaged Condominium Areas during the period of reconstruction patterned after "use and occupancy" riders; for sub-policies specifying the portion of a master policy earmarked for each Condominium Area Owner's interest; that improvements made to Condominium Areas by Condominium Area Owners shall not affect the valuation of the Property for purposes of co-insurance; and for waiver of rights of subrogation with respect to any claims against Condominium Area Owners, the Association and their respective invitees, agents or guests or for the naming of such parties as additional insured (independent contractors shall not be considered agents, employees or invitees of the Association or of the respective Condominium Area Owners within the meaning of said waiver). Reference to all or any of the foregoing provisions is for the purpose of providing flexibility and certainty and is not to be interpreted as constituting an admission that any of the doctrines or rights referred to are applicable or would exist in the absence of a specific provision or waiver referring to the same.

10.03. Premiums. Premiums for insurance policies purchased by the Association shall be paid by the Association as a Common Expense, except that the amount of increase in the premium occasioned by alterations or improvements within a Condominium Area or by use for other than a commercial office, misuse, occupancy or abandonment of a Condominium Area or its appurtenances or of the General Common Elements by a Condominium Area Owner shall be assessed against that Owner. Not less than 10 days prior to the date when a premium is due, evidence of such payment shall be furnished by the Association to each Mortgagee listed with the Association.

10.04. Insurance Trustee: Shares of Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the Condominium Area Owners and their Mortgagees as their interests may appear. The Board may provide that all proceeds covering property losses shall be paid to such bank in Iowa with trust powers as may be designated as Insurance Trustee by the Board, which Trustee is herein referred to as the "Insurance Trustee." The Insurance Trustee shall not be liable for payment of premiums nor for the renewal or the sufficiency of policies nor for the failure to collect insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the same in trust for the purposes stated in this Declaration and for the benefit of the Condominium Area Owners and their Mortgagees in the following shares, but which shares need not be set forth on the records of the Insurance Trustee:

a. Condominium Area Owners. An undivided share for each Condominium Area Owner, such share being the same as the Percentage Interest for his or her Condominium Area pursuant to Exhibit "D" as amended from time to time.

b. Mortgagees. In the event a Mortgagee endorsement has been issued as to a Condominium Area, the share of the Condominium Area Owner shall be held in trust for the Mortgagee and the Condominium Area Owner as their interests may appear; provided, however, that no Mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no Mortgagee shall have any right to apply or have applied to the reduction of a Mortgage debt any insurance proceeds except distributions thereof made to the Condominium Area Owner and Mortgagee pursuant to the provisions of this Declaration.

10.05. Distribution of Proceeds. Proceeds of insurance policies received by the Association or Insurance Trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

a. Expense of the Trust. All expenses of the Insurance Trustee, if any, shall be first paid or provisions made therefor.

b. Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed by the Association, the remaining proceeds shall be paid to defray the cost as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittances to Condominium Area Owners and their Mortgagees being payable jointly to them.

c. Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be

reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners, remittances to Condominium Area Owners and their Mortgagees being payable jointly to them.

d. Certificate. The beneficial owners as used in this paragraph 10.05 are the Condominium Area Owners and their respective Mortgagees as their interest may appear. The amount of insurance proceeds paid to each beneficial owner shall be calculated using the following proportion: each such Condominium Area Owner's Percentage Interest to the percentage interests of all other Condominium Area Owners entitled to the insurance proceeds. In making distribution to Condominium Area Owners and their Mortgagees, the Insurance Trustee may rely upon a certificate of the Association made by its President and Secretary as to the names of the Condominium Area Owners, Mortgagees and their respective shares of the distribution.

10.06. Proceeds Payable to Association. The Board may, rather than utilizing an Insurance Trustee as provided in paragraph 10.04, provide that all proceeds concerning property losses shall be paid to the Association. If such proceeds are payable to the Association, the same shall be held and disbursed in the same manner as provided with respect to an Insurance Trustee.

10.07. Association as Agent. The Association is irrevocably appointed agent for each Condominium Area Owner and for each Mortgagee or other lienholder upon a Condominium Area and for each Condominium Area Owner of any other interest in the Regime to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

10.08. Enforcement by Mortgagees. Certain provisions in this Article are for the benefit of Mortgagees, and all of such provisions are covenants for the benefit of any Mortgagee and may be enforced by such Mortgagee.

10.09. Insurer's Right to Restore; Conflict. All fire and other hazard insurance policies shall provide that, notwithstanding any provisions hereof which give the carrier the right to erect or restore damage in lieu of making a cash settlement, such option shall not be exercisable when in conflict with the provisions of the Declaration.

11. EXPENSES AND ASSESSMENTS

11.01. Share of Common Expense. Each Condominium Area Owner shall be liable for his or her Percentage Interest of the Common Expenses.

11.02. Payments by Association. During any period of time the taxes and special assessments for improvements levied by governmental bodies against the Regime or any part thereof are not assessed to the respective Condominium Areas, those taxes and assessments shall be paid by the Association and assessed against the respective Condominium Areas responsible for such tax or special assessment in accordance with their Percentage Interests.

11.03. Assessment Lien. Unpaid assessments shall constitute a lien against the Condominium Area and appurtenances. The lien for unpaid assessments shall also secure reasonable attorneys' fees incurred by the Association incident to the collection of such assessment or enforcement of such lien.

11.04. Rental Pending Foreclosure. In any foreclosure of a lien for assessments against a Condominium Area, the Condominium Area Owner shall be required to pay a reasonable rental for the Condominium Area and the Association shall be entitled to the appointment of a Receiver to collect the same.

12. AMENDMENTS

12.01. Procedure. Except as otherwise provided in this Declaration, this Declaration may be amended and such amendment shall be made in the following manner:

- a. In the case of an amendment to this Declaration by reason of an amendment to the Bylaws, then in the manner specified in the Bylaws.
- b. In the case of an amendment to this Declaration to allow for the subdivision of Units, such Condominium Area Owner who wishes to subdivide shall be allowed to unilaterally on 15 days advance written notice to all other Unit Owners, without further approval, file an amendment for the subdivision of their own Unit or Units. Such amendment filed by the Condominium Area Owner shall provide in detail a description regarding the subdivision of their Unit into sub-units and the square footage of each sub-unit. Such amendment shall further provide for the subdivision of their Percentage Interest and voting interest as they may determine. The ability to unilaterally amend the Declaration shall only be applicable if the subdivision is not unreasonably detrimental to the other Condominium Area Owners. In the event that any Unit Owner within the 15 day notice period advises the subdividing Owner the subdivision is unreasonably detrimental, the Condominium Area Owner that wishes to subdivide shall comply with Subsection (c) of this Section 12.01.
- c. In the case of all other amendments to this Declaration:

- (1) by the unanimous written agreement of all Condominium Area Owners and their Mortgagees or
 - (2) subject to the restrictions of paragraph 12.03 by the Condominium Area Owners acting through the Association and in accordance with the procedures of the Bylaws at a regular or special membership meeting to which notice of the proposed amendment has been given and upon the favorable vote of 75 percent of the total number of votes outstanding and entitled to be cast. However, no amendment shall be adopted at variance with that proposed in the notice, but the notice may contain more than one proposed amendment. Approval of the Board is not required of an amendment thus adopted.
- d. However, notwithstanding subparagraphs 12.01.a. and 12.01.b., Developer may:
- (1) until the first day of April 2006, make minor amendments to this Declaration without the approval of the Condominium Area Owners if such amendments shall be for the purpose of clarification or correction of errors in the Declaration and shall not affect the substantive rights of any Condominium Area Owners.

12.02. Effectiveness. Upon its recordation at the Scott County Recorder's Office an amendment adopted in the manner specified in this Article shall be effective against any Persons having an interest in a Condominium Area or the Regime regardless of whether the Persons had such interest at the time said amendment was adopted.

12.03. Ownership of Condominium Areas. No amendment shall change the number of appurtenances to a Condominium Area, nor the share of the General Common Elements appurtenant to it, nor change the Percentage Interest, nor increase a Condominium Area Owner's share of the Common Expense, unless the Condominium Area Owner concerned and all his or her Mortgagees shall affirmatively join in the adoption of such amendment.

12.04. Developer's Rights. Until the later of the time all Units are sold or April 1, 2006, neither Article 5 nor any other provision of this Declaration affecting the rights of the Developer shall be subject to amendment without the written consent of Developer and any attempt to so amend this Declaration without such prior written consent shall be null and void.

12.05. Cooperation. Unit Owners shall cooperate with each other to accommodate reasonable requests of other Unit Owners to amend this Declaration to accommodate lending or financing.

13. GENERAL PROVISIONS

13.01. Effective Date of Percentage Interest. The Percentage Interest of Condominium Areas shall take effect when this Declaration is recorded and shall exist as provided herein for all purposes irrespective of any actual occupancy or use.

13.02. Possession of General Common Elements. Each Condominium Area Owner, the Developer, and the Association may use the General Common Elements for the purposes for which they are maintained, but without hindering or encroaching upon the lawful rights of over users.

13.03. Condemnation and Obsolescence. The contingencies of condemnation and long-term obsolescence have not been provided for in this Declaration and may be governed by appropriate amendments to this Declaration or the Bylaws as the case may be.

13.04. Partition. The General Common Elements shall remain undivided and not only no Condominium Area Owner, but no other Person may bring an action for the partition or division of the same or any part thereof with or without sale, except in connection with removal of all of the property from the Regime pursuant to the Act, or a specific determination not to repair, reconstruct or rebuild with the consequences set forth in the Act.

13.05. Inspection: Waiver. Each purchaser of a Condominium Area shall have full opportunity and shall be under a duty to inspect and examine the Condominium Area to be purchased prior to closing of the transaction and agrees that the Condominium Area is purchased as it actually and physically exists. By recording a deed or purchase contract, each purchaser of a Condominium Area agrees that the square footage, size, and dimensions of each Condominium Area and each area constituting any part of the General Common Elements as set out in this Declaration are based upon relative percentages and square footages which have been assigned and agreed upon solely for this purpose and do not necessarily reflect or represent the precise percentage of square footage of any specific portion of the Regime. The Developer does not warrant, guarantee, or represent that any Condominium Area or any area constituting any part of the General Common Elements contains precisely the area, square footage, or dimensions shown by the site plan. Each purchaser of a Condominium Area expressly waives any claims or demand of any kind or nature against the Developer or any Person on account of dimensions actually and physically existing and the size, square footage, and dimensions shown in this

Declaration. In interpreting deeds, Mortgages, deeds of trust, and other instruments for any purpose, the existing physical boundaries of any Condominium Area shall be conclusively presumed to be the boundaries regardless of settling, rising, or lateral movements of the Building and regardless of variances between boundaries shown on the plat in this Declaration and the actual boundaries of the Building.

13.06. Perpetuities. If any of the options, privileges, covenants, or rights created by this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, such provisions shall continue only until 21 years after the death of the survivor of the now living descendants of the Governor of Iowa, Thomas Vilsack.

13.07. Costs and Attorneys' Fees. In any proceeding arising because of an alleged failure of a Condominium Area Owner to comply with the terms of the Declaration, Bylaws or the rules and regulations adopted pursuant thereto, and as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be awarded by the court.

13.08. No Waiver of Rights. The failure of the Association or any Condominium Area Owner to enforce any covenant, restriction or over provision of the Act, this Declaration, the Articles, the Bylaws or the rules and regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

13.09. Severability. The invalidity of any covenant, restriction, agreement, undertaking or other provisions of this Declaration, the Articles, Bylaws or the rules and regulations shall not affect the validity of the remaining portions thereof.

13.10. Construction. The article and paragraph headings of this Declaration are merely for convenience and shall not be considered in any question of construction and interpretation of this Declaration.

13.11. Successors Grantees and Assigns. Reference to Developer, Condominium Area Owner, the Association, or any Person or entity shall include the respective successors, grantees and assigns thereof.

13.12. Plural and Gender. Whenever the context so permits or requires, the singular shall include the plural and the plural the singular, and the use of any gender shall include all genders.

13.13. Incorporation. Attached exhibits are made a part of this Declaration with the same force and effect as over provisions of this Declaration.

13.14. Chapter 499B and 504 Code of Iowa. Wherever herein reference is made to Chapter 499B or any section thereof, or Chapter 504, or any section thereof, of the Code of Iowa, it is intended that such reference shall include the provisions of such code sections as they now exist or are hereinafter amended, and if a question arises thereunder at some time in the future, the specific section of the Code in its form at that time shall be applied.

13.15. Development Agreement. The Development Agreement attached as Exhibit "F" is incorporated herein and owners of the Units shall be responsible for ensuring that all work required thereunder is completed. It is agreed and understood that all work required per the Development Agreement to the Building has been approved and may commence without further action by the Unit Owners subject to coordination with the Association per 8.01(o) hereunder.

DATED at Davenport, Iowa, the 30th day of January, 2006.

RCPA DEVELOPMENT CO., L.L.C.

By *Kent Kolwey*
Kent Kolwey, Manager

On this 30th day of January, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared Kent Kolwey, to me known, who, being by me duly sworn, did say that he is the Manager of RCPA Development Co., L.L.C.; and that the instrument was signed on behalf of RCPA Development Co., L.L.C.; and Kent Kolwey acknowledged the execution of the instrument to be his voluntary act and deed and the voluntary act and deed of RCPA Development Co., L.L.C., by it voluntarily



(Notarial Seal)

Stacy Salzweidel
Notary Public in and for said County and State

EXHIBIT A

UNIT DESCRIPTION

- Common Areas
- Mississippi Hotel Unit
- Adler Theatre Unit
- Commercial Unit

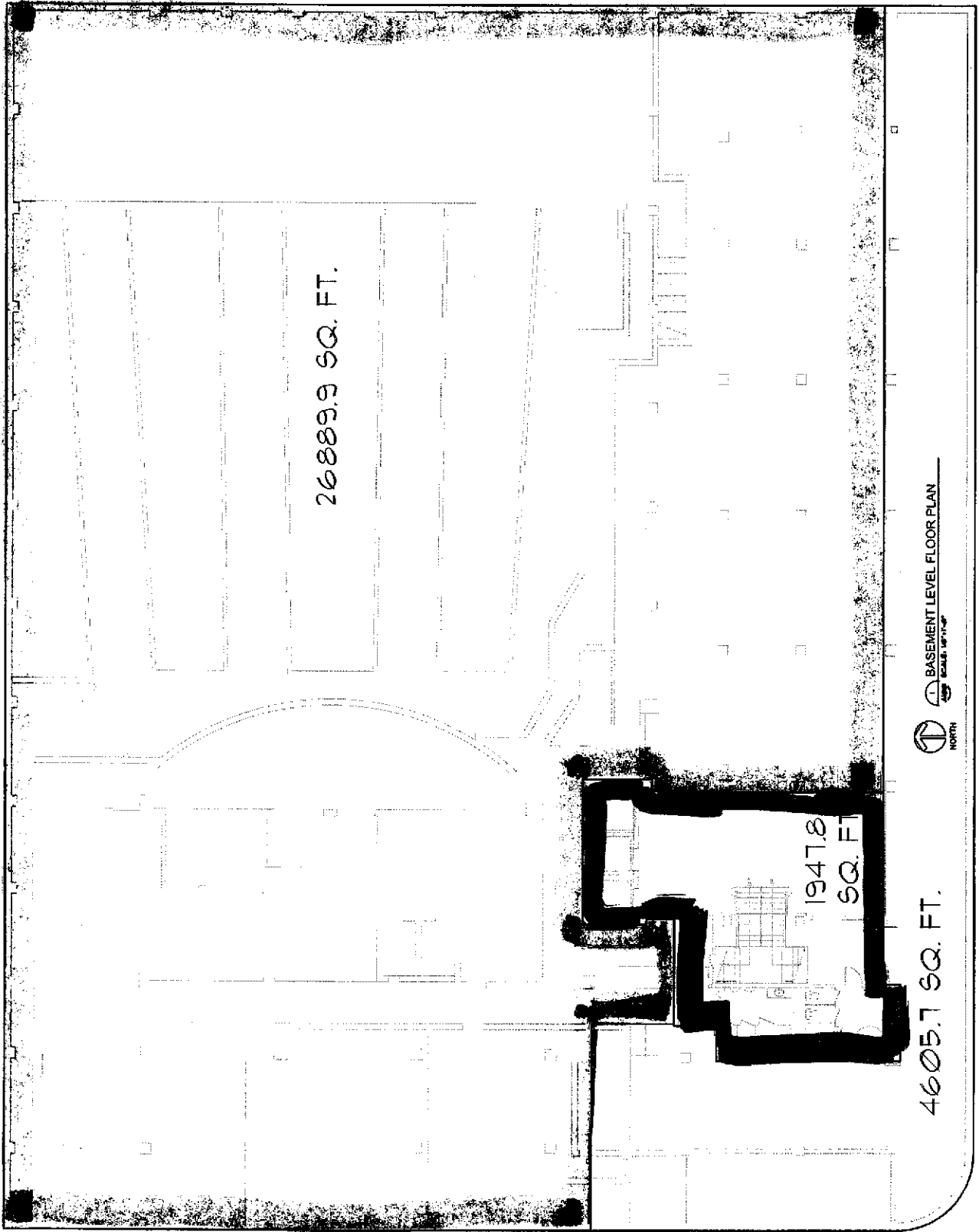
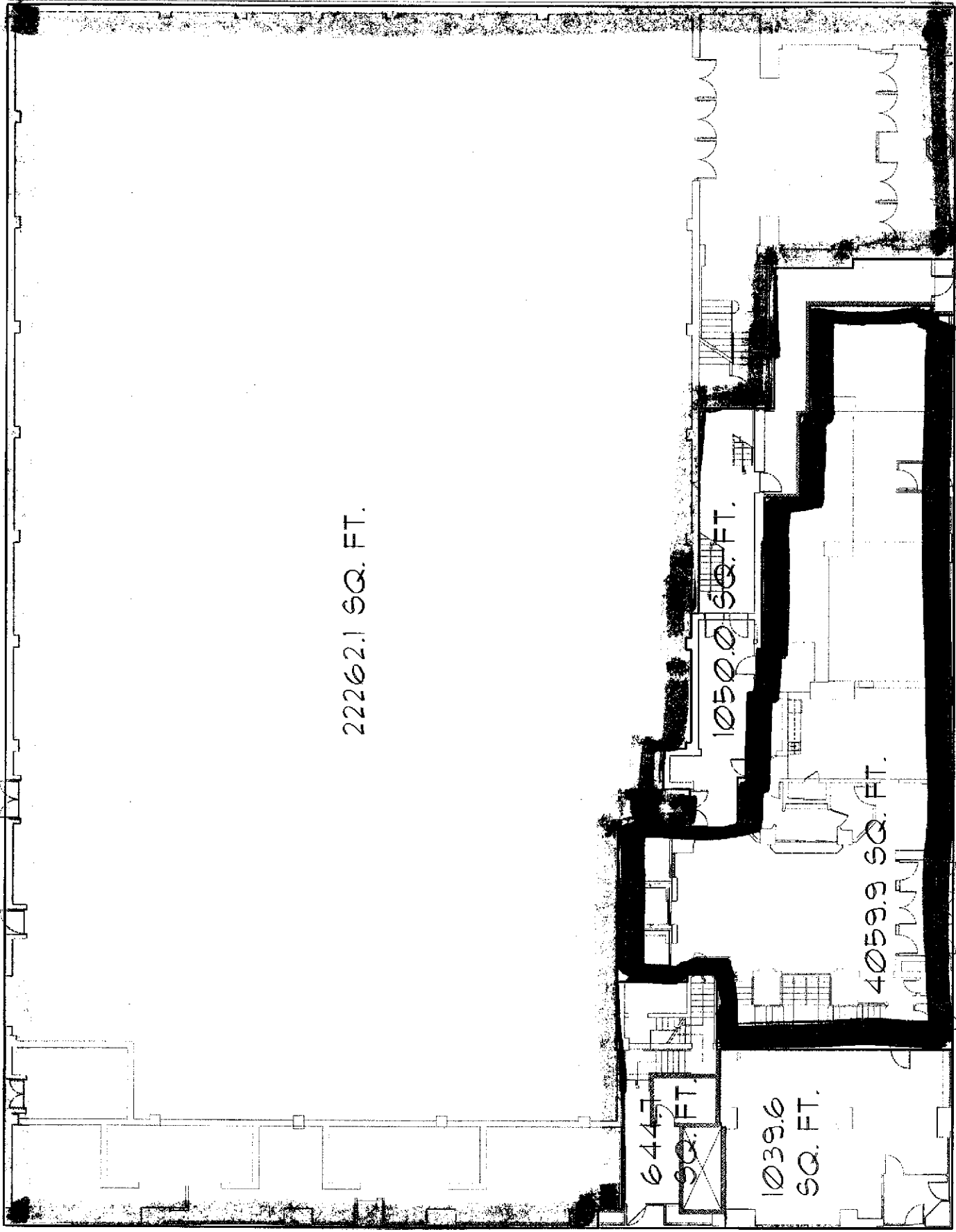


EXHIBIT A



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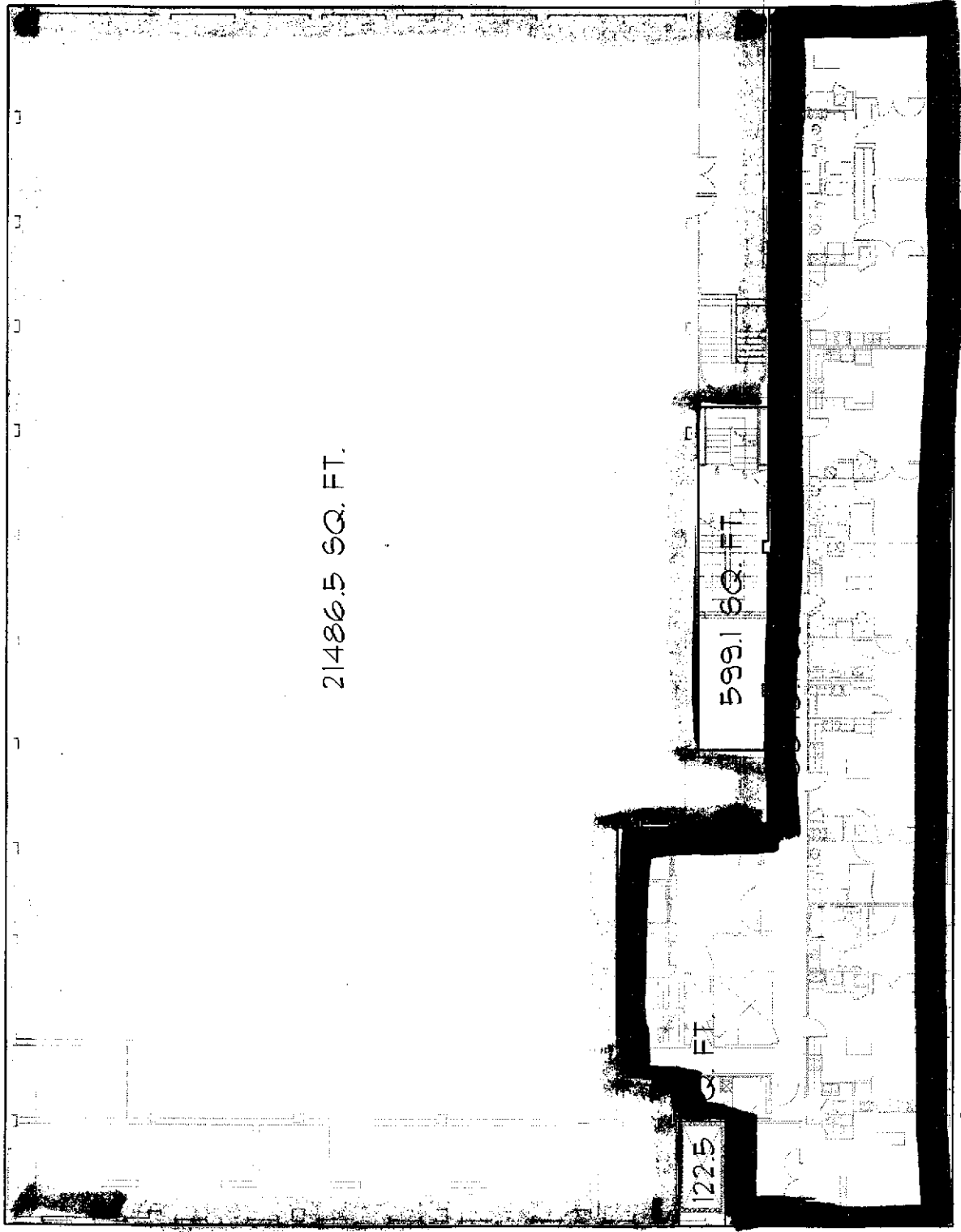
644.5
SQ. FT.

1039.6
SQ. FT.

1050.0
SQ. FT.

4059.9
SQ. FT.

NORTH
FIRST LEVEL FLOOR PLAN
SCALE: 1/8"=1'-0"

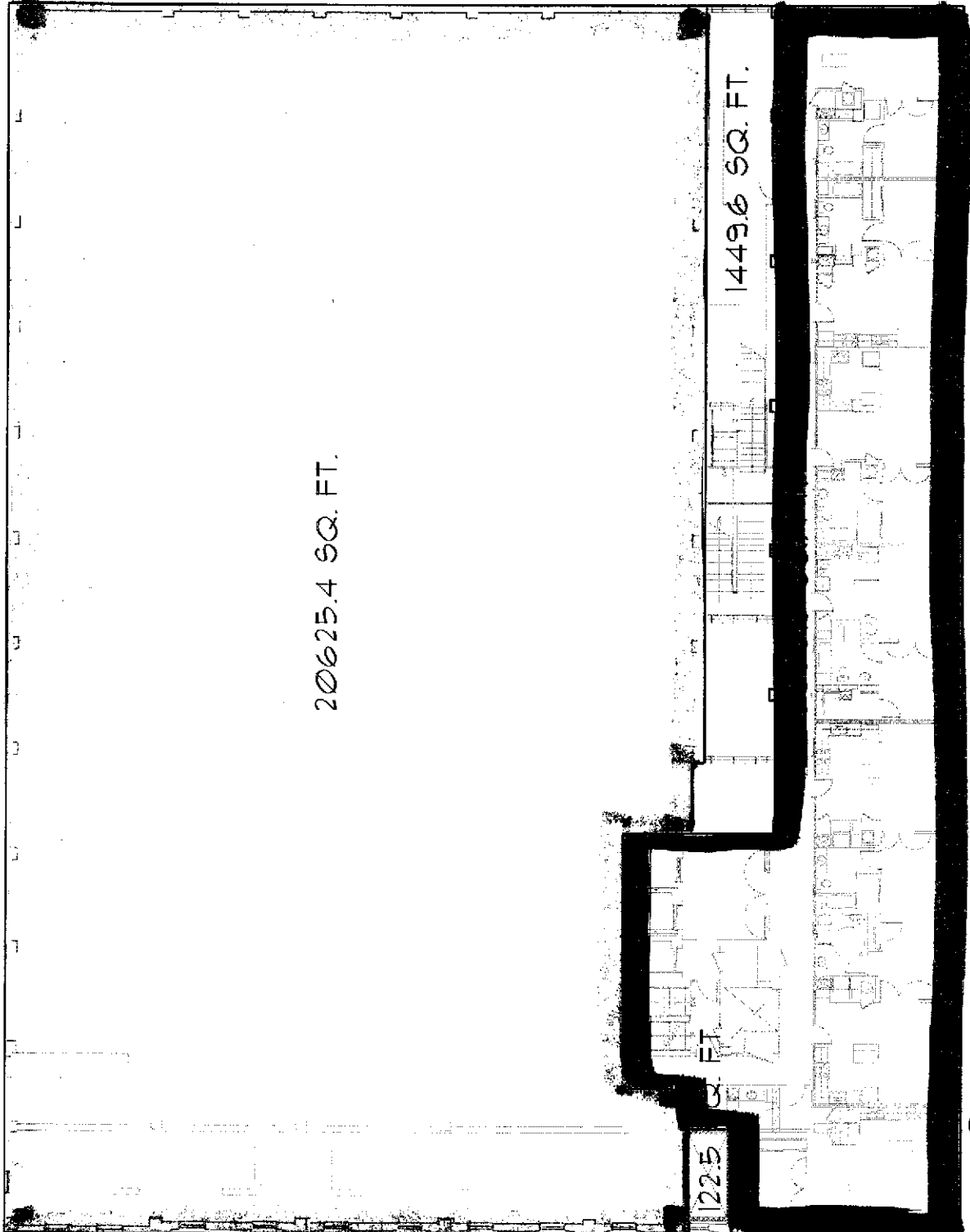


21486.5 SQ. FT.

599.1 SQ. FT.

122.5 SQ. FT.

 NORTH
SECOND LEVEL FLOOR PLAN
SCALE: 1/8" = 1'-0"

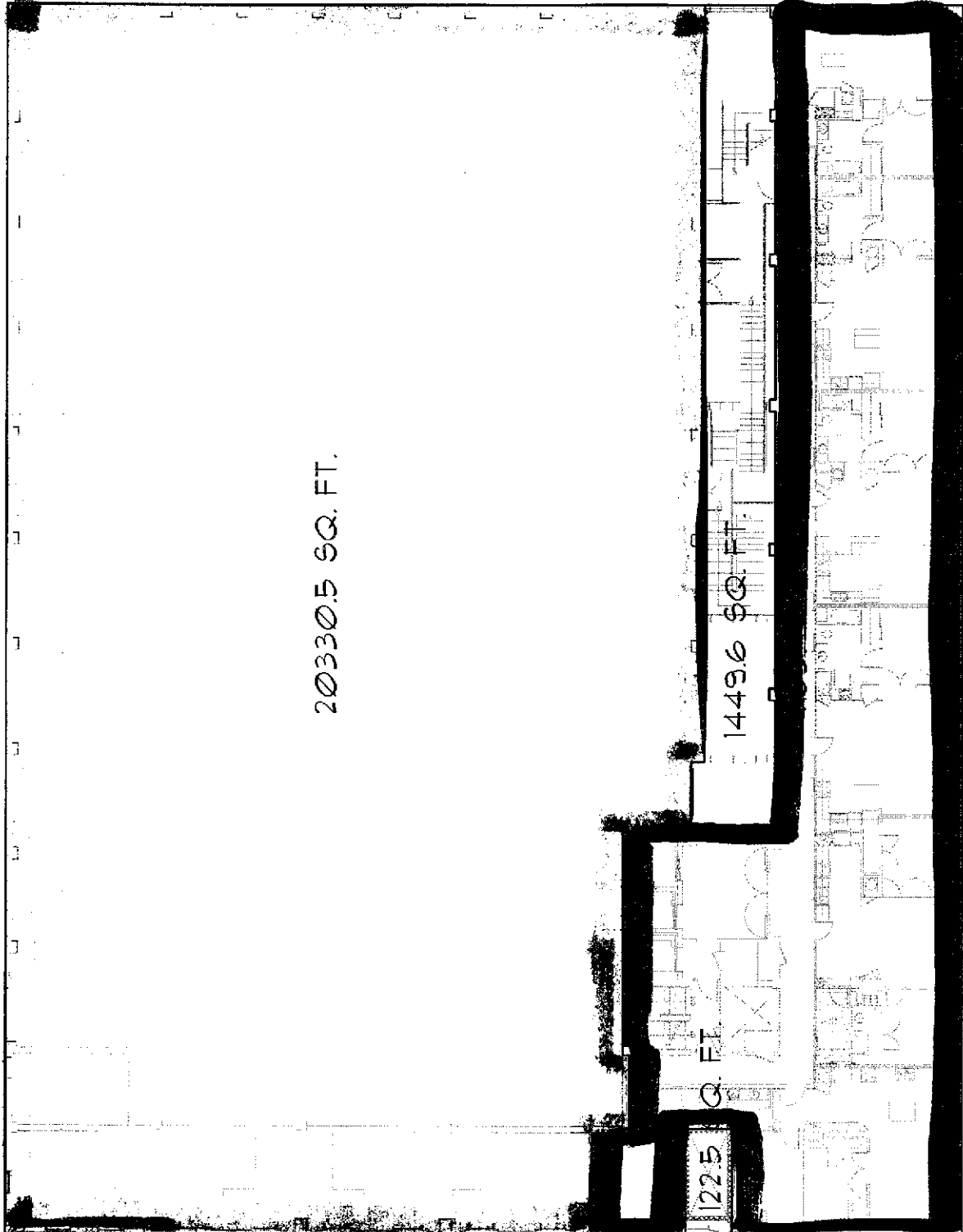


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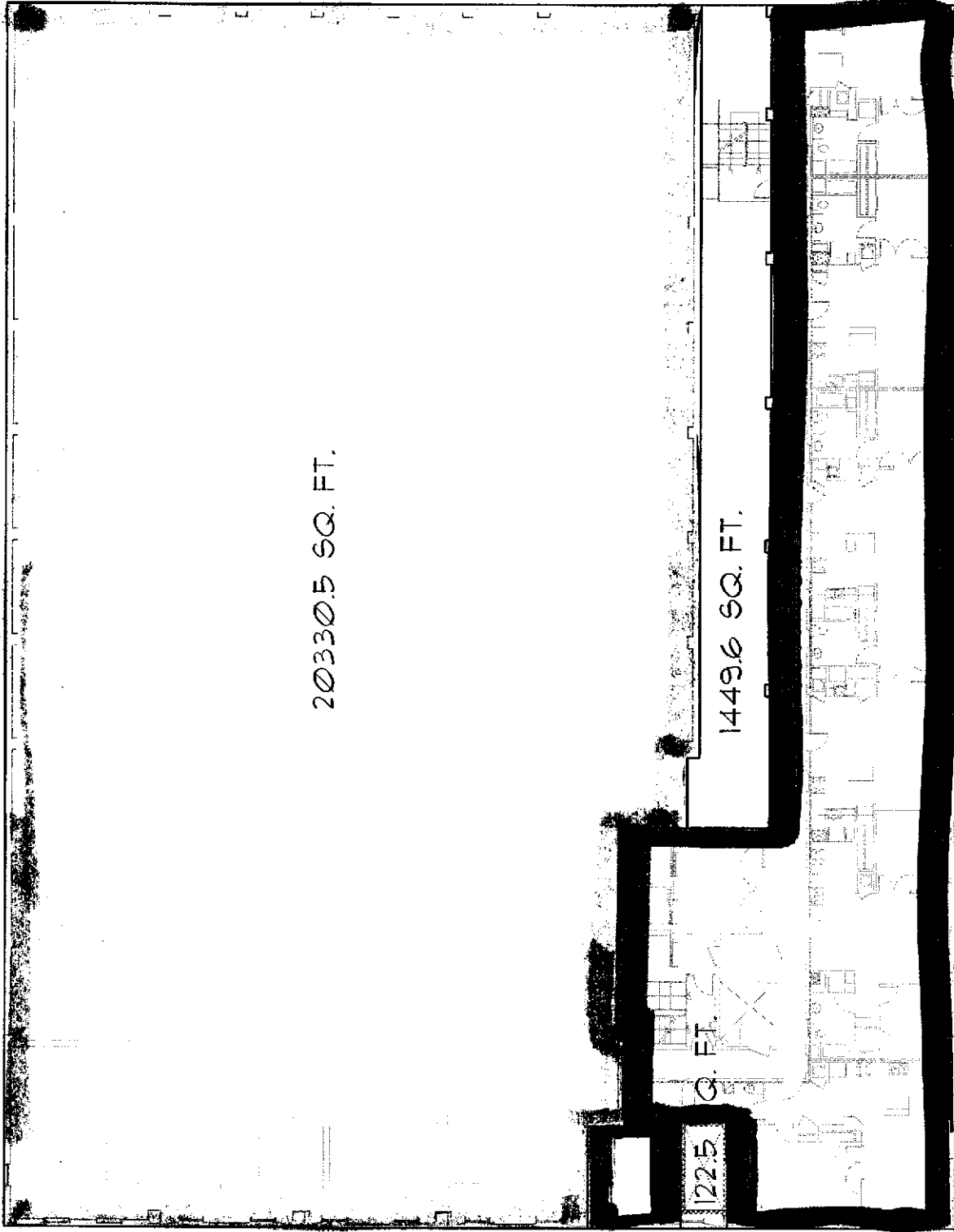
1449.6 SQ. FT.

122.5

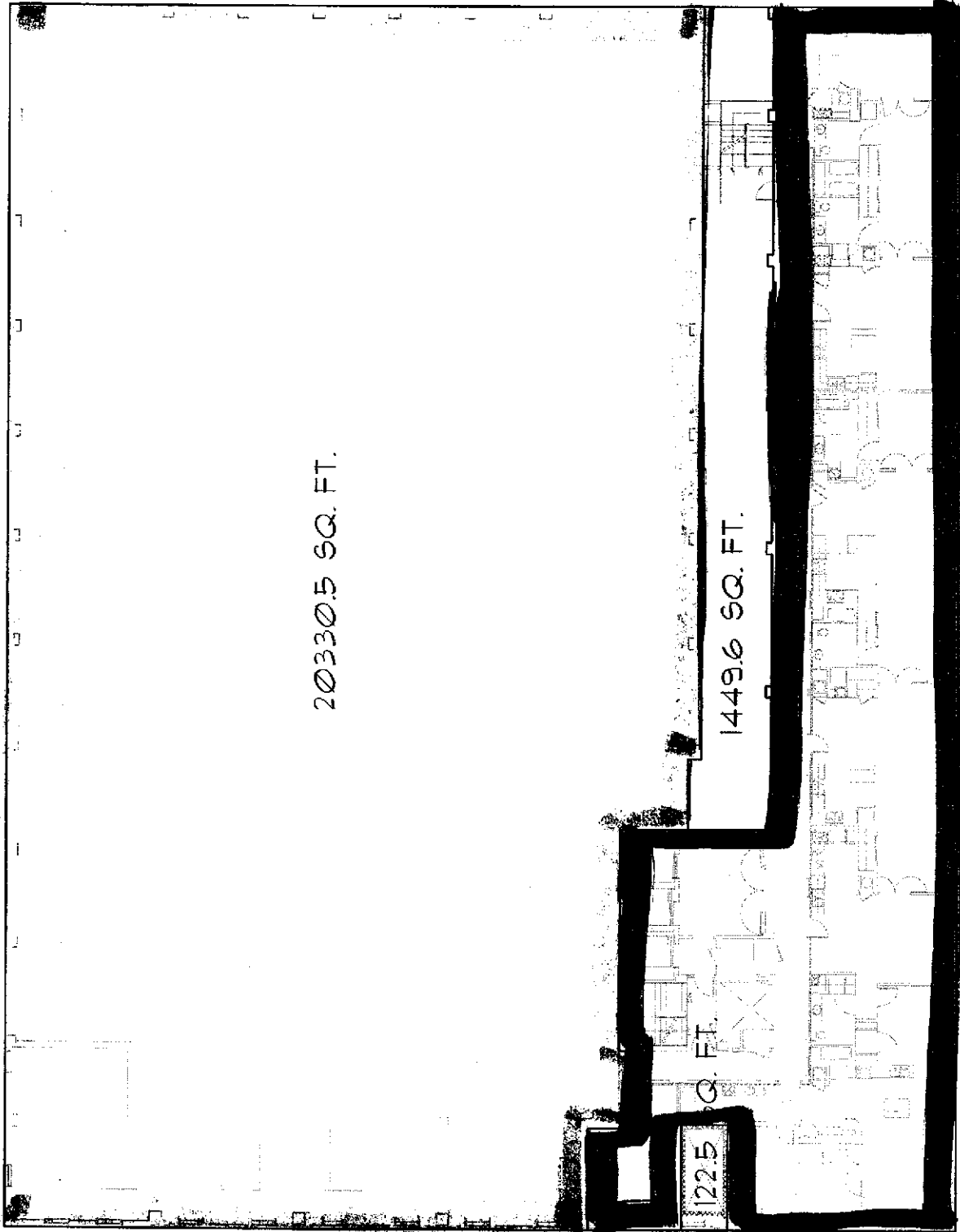
THIRD LEVEL FLOOR PLAN
SCALE 1/8" = 1'-0"

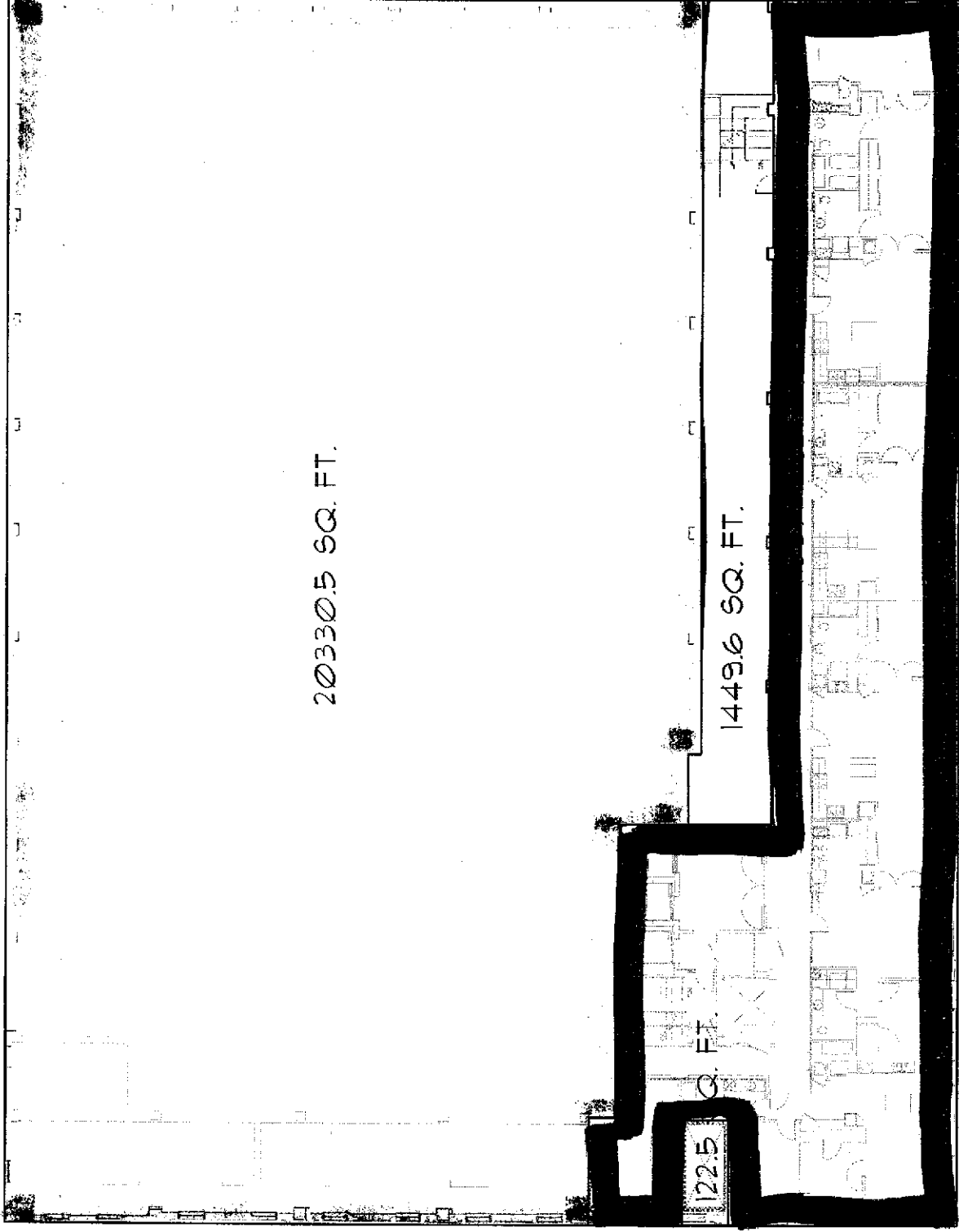


 NORTH
 FOURTH LEVEL FLOOR PLAN
FOCUS ARCHITECTURE

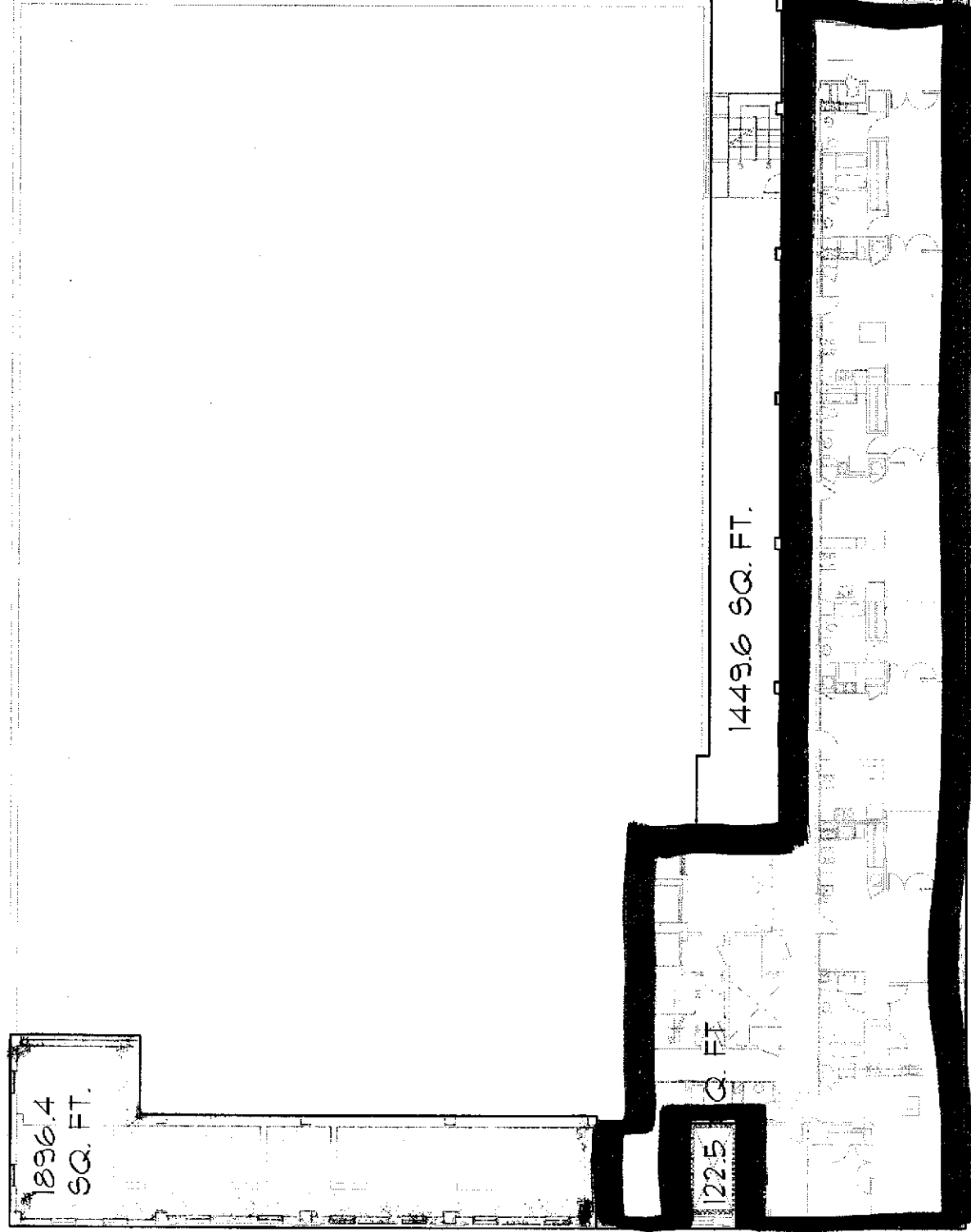


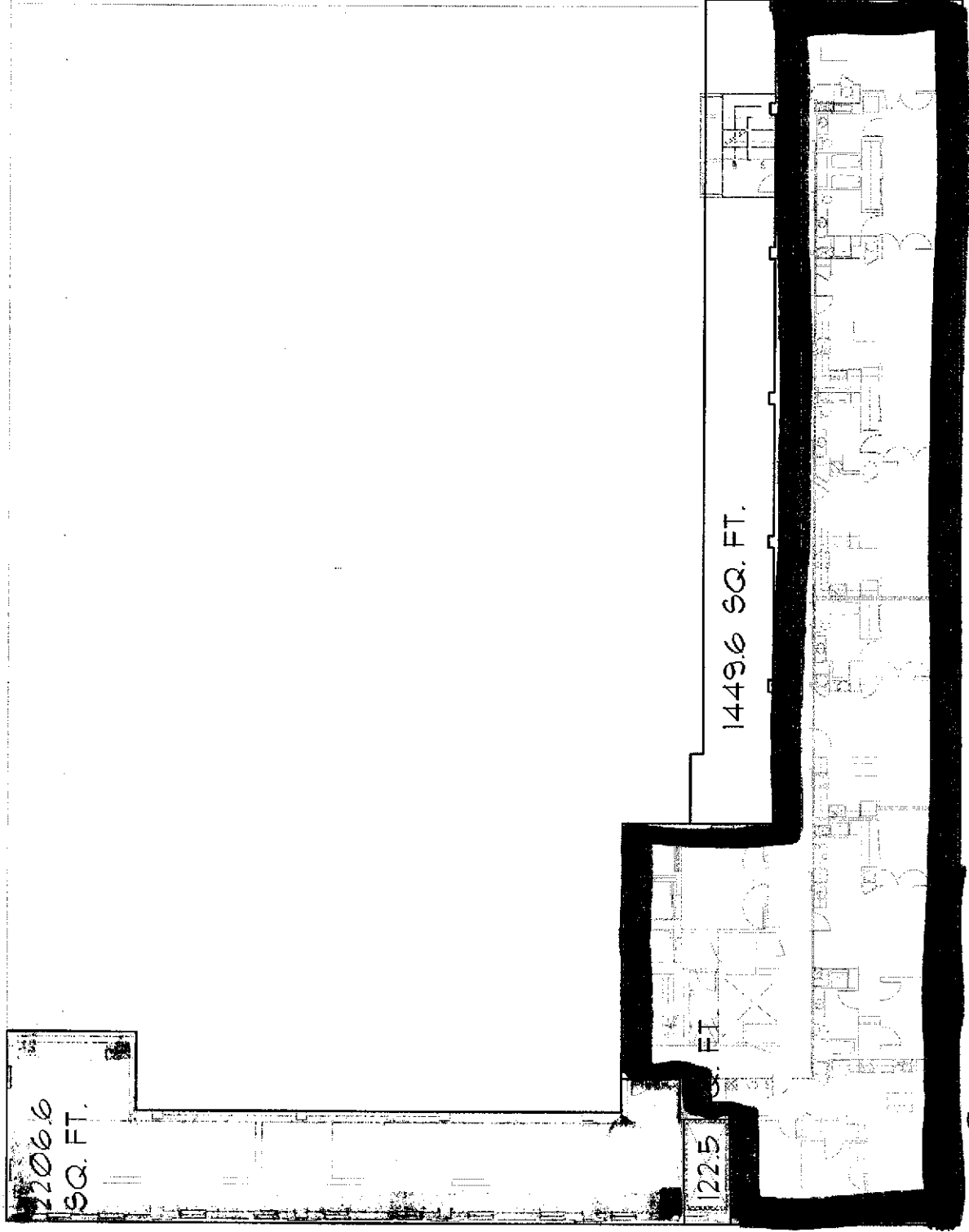
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FIFTH LEVEL FLOOR PLAN
SCALE: 1/8" = 1'-0"

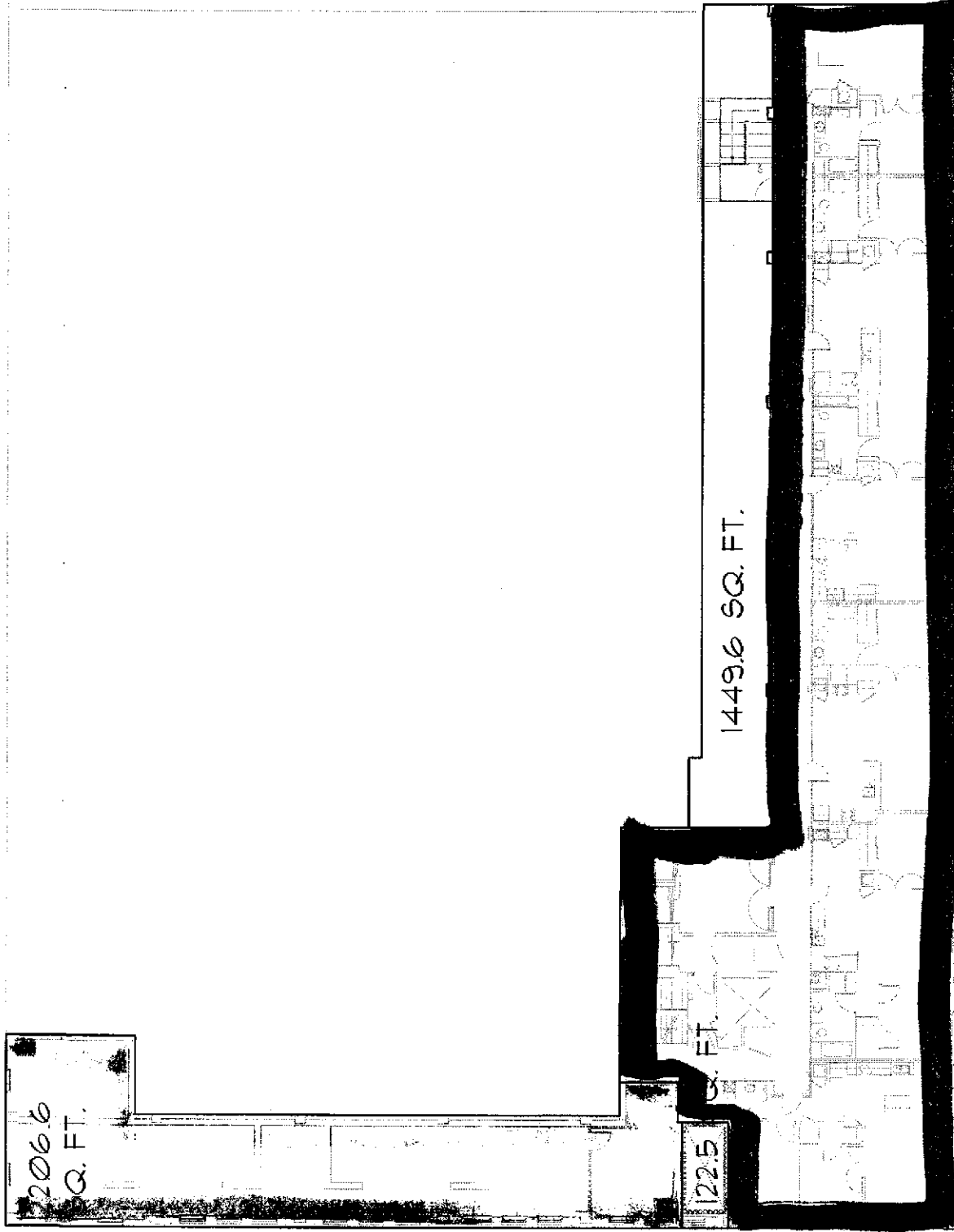





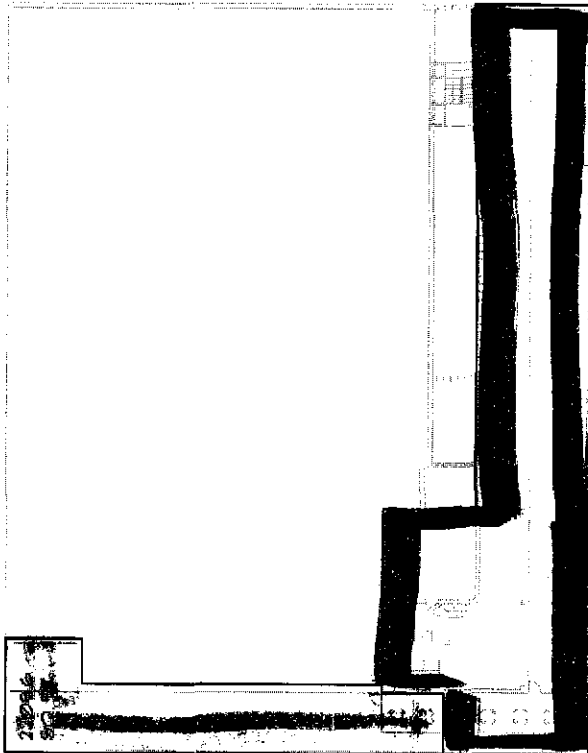
 NORTH
SEVENTH LEVEL FLOOR PLAN
SCALE: 1/8" = 1'-0"



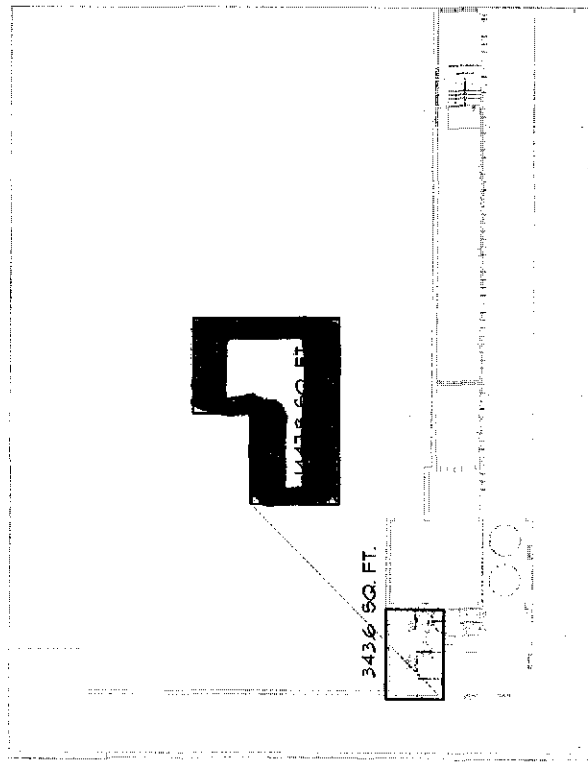




 NORTH
TENTH LEVEL FLOOR PLAN
SCALE: 1/8" = 1'-0"




ELEVENTH LEVEL PENTHOUSE PLAN
 SCALE: 1/8"=1'-0"




TWELFTH LEVEL PENTHOUSE / ROOF PLAN
 SCALE: 1/8"=1'-0"

EXHIBIT B

**ARTICLES OF INCORPORATION OF
MISSISSIPPI LOFTS CONDOMINIUM OWNERS
ASSOCIATION, INC.**

**ARTICLES OF INCORPORATION
OF
MISSISSIPPI LOFTS
OWNERS ASSOCIATION, INC.**

TO THE SECRETARY OF STATE OF THE STATE OF IOWA:

The undersigned, acting as incorporator of the Corporation under the Revised Iowa Nonprofit Corporation Act, Chapter 504 of the Code of Iowa, hereby adopts the following Articles of Incorporation for such Corporation:

ARTICLE I

NAME. The name of the corporation is MISSISSIPPI LOFTS OWNERS ASSOCIATION, INC.

ARTICLE II

The period of existence of the Corporation is perpetual.

ARTICLE III

PURPOSE, POWERS AND RESTRICTIONS. The purpose of the corporation is to provide an entity to acquire, manage, construct, maintain, and care for the corporation's property and to act as the council of co-owners for the horizontal property regime created and submitted pursuant to the provision of Chapter 499B, of the Code of Iowa, known as "Mississippi Lofts", a Condominium, sometimes referred to as the Regime. The corporation shall have all powers and purpose granted to or implied to a council of co-owners under the provisions of Chapter 499B of the Code of Iowa and amendments thereto, as granted in Chapter 504 of the Code of Iowa and amendments thereto, and as are granted or implied by the Declaration of Condominium for "Mississippi Lofts", and all of such powers shall likewise constitute lawful purpose of the corporation.

In managing the affairs of said Regime, the corporation may join with the management of any other corporation(s) managing one or more horizontal property regimes in securing or providing services or facilities common in whole or in part to both or all, and in discharging the expense thereof.

The purpose of the corporation is not for private profit or gain, and no substantial part of the activities of the corporation shall consist of carrying on political propaganda or

otherwise attempt to influence legislation and the corporation shall not participate in or intervene in (including the publishing or distribution of statements) any political campaigns on behalf of or in opposition to any candidate for public office. The corporation is expressly prohibited from making any distributions of income, dividend or compensation to its members, directors or officers, although members, directors or officers may be reimbursed for expenses and for personal services actually rendered and authorized to be incurred while conducting the affairs of the corporation.

ARTICLE IV

INITIAL REGISTERED OFFICE AND AGENT. The name of the corporation's initial registered agent, and the address of the initial registered office are:

Catherine E. Hult
Lane & Waterman LLP
220 N. Main Street, Ste. 600
Davenport, IA 52801-1987

ARTICLE V

INITIAL BOARD OF DIRECTORS. The number of directors constituting the initial Board of Directors of the corporation is one (1). The name and address of the person who is to serve as initial director is:

Gregory P. Schermer
201 N. Harrison Street, Ste. 600
Davenport, IA 52801

ARTICLE VI

INCORPORATOR. The name and address of the incorporator of this corporation is:

Catherine E. Hult
Lane & Waterman LLP
220 N. Main Street, Ste. 600
Davenport, IA 52801-1987

ARTICLE VII

MEMBERS. The Bylaws of the corporation shall state the Members and their interests in the corporation.

ARTICLE VIII

INDEMNIFICATION. A director of this corporation shall not be personally liable to the corporation or its members for monetary damages for breach of fiduciary duty as a director, except for liability to the extent provided by applicable law (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of the law, (iii) for any transaction from which the director derived an improper personal benefit, or (iv) under the Iowa Business Corporation Act. No amendment to or repeal of this Article shall apply to or have any effect on the liability or alleged liability of any director of the corporation for or with respect to any acts or omissions of such director occurring prior to such amendment or repeal.

The Corporation shall indemnify any present or former director, officer, employee, member or volunteer of this Corporation, and each such person who is serving or who has served as a director, officer or committee member, except that the mandatory indemnification required by this sentence shall not apply (i) to a breach of a duty of loyalty to the Corporation, (ii) for acts or omissions not in good faith or which involve intentional misconduct or knowing violation of the law, or (iii) for a transaction from which such person derived an improper personal benefit.

The directors of this corporation have agreed to serve as directors in reliance upon the provisions of this Article.

ARTICLE IX

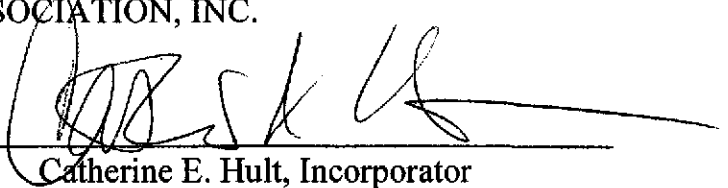
The initial Bylaws of the corporation shall be adopted by its initial Board of Directors and thereafter, the power to alter, amend or repeal the Bylaws or adopt new Bylaws is reserved to the members of the corporation.

ARTICLE X

Upon dissolution, the assets of the corporation shall be distributed among the Unit Owners as defined in the By-Laws of the corporation, after paying or accounting for the debts and liabilities of the corporation.

MISSISSIPPI LOFTS OWNERS
ASSOCIATION, INC.

By



A handwritten signature in black ink, appearing to read 'C. Hult', is written over a horizontal line. The signature is stylized and cursive.

Catherine E. Hult, Incorporator

EXHIBIT C

**BYLAWS OF MISSISSIPPI LOFTS CONDOMINIUM
OWNERS ASSOCIATION, INC.**

**BYLAWS
OF
MISSISSIPPI LOFTS
OWNERS ASSOCIATION, INC.**

**ARTICLE I
NAME, SEAL AND OFFICES**

Section 1. Name: The name of the corporation is MISSISSIPPI LOFTS OWNERS ASSOCIATION, INC. (the "Association").

Section 2. Seal: The Association shall have no seal.

Section 3. Offices: The principal office of the Association shall be located in the City of Davenport, County of Scott, State of Iowa, or at such other place as the Board of Directors may from time to time designate.

**ARTICLE II
PLAN OF UNIT OWNERSHIP**

Section 1. Unit Ownership: The Property described as:

Lots 1, 2 and 3 in Block 57, in LeClaire's Second Addition to
the Town (now City) of Davenport, Scott County, Iowa.

which has been submitted to the provisions of the Horizontal Property Act of the State of Iowa by the Declaration of Mississippi Lofts, LLC, recorded in the office of the Recorder of Scott County, Iowa ("Declarant") simultaneously herewith, and shall hereafter be known as "Condominium".

Section 2. Applicability of Bylaws: The provisions of these Bylaws are applicable to the Property of the Condominium, and to the use and occupancy thereof.

Section 3. Personal Application: All present and future Unit Owners, mortgagees, lessees, and occupants of the Units and their employees, and any other person who may use the facilities of the Condominium in any manner are subject to these Bylaws, the Declaration, the Rules and Regulations established by the Board of Directors as hereinafter set forth and the Articles and Bylaws. The acceptance of a deed or conveyance or the entering into of a lease or the act of occupancy of a Unit shall constitute an agreement that these Bylaws, the Rules and Regulations and the provisions of the Declaration, as they may be amended from time to time are accepted, ratified and will be complied with.

Section 4. Definitions: The definitions of words and terms contained in the Declaration, Article 2, shall apply to those words and terms as used in the Bylaws. The term "Unit" as used in the Bylaws, shall have the same meaning as the term "Condominium Area" defined in the Declaration, Article 2.

ARTICLE III
BOARD OF DIRECTORS

Section 1. Number and Qualifications: The affairs of the Condominium will be operated by the Association, which in turn shall be governed by a Board of Directors consisting of one (1) person, and to be increased to two (2) at the first meeting of the Unit Owners, each of whom shall have one vote. Until the first meeting at which the Unit Owners may vote, the Board of Directors shall consist of one (1) person who shall be designated or removed at the will of the Declarant. From and after the first meeting at which the Unit Owners may vote, the Board of Directors shall be composed of two (2) persons being a representative of the Adler Theatre Unit and a representative of the Mississippi Hotel Unit and Commercial Unit. For electing the representative of the Mississippi Hotel Unit and Commercial Unit, the Mississippi Hotel Unit shall designate the representative.

Section 2. Powers and Duties: The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and shall do all such acts and things as are not by law or by the Bylaws directed to be exercised and done by the Unit Owners. Such powers and duties of the Board of Directors shall include, but shall not be limited to, the following:

- (a) Operation, care, upkeep and maintenance of the General Common Elements.
- (b) Determination of the Common Expenses required for the affairs of the Condominium.
- (c) The collection of the Common Expenses and administrative penalties as provided in the Declaration from the Unit Owners.
- (d) The employment and dismissal of the personnel necessary for the maintenance, repair, replacement and operation of the Common Areas.
- (e) Opening of bank accounts in the name of the Association and designating the signatories required therefor.

(f) Purchasing or leasing or otherwise acquiring in the name of the Association or its designee, on behalf of all Unit Owners, Units offered for sale or lease, or surrendered by their Unit Owners to the Association.

(g) Purchasing of Units at foreclosure or other judicial sales or in the name of the Association, or its designee, on behalf of all Unit Owners.

(h) Selling, leasing, mortgaging, voting the votes appurtenant to (other than for the election of members of the Board of Directors) or otherwise dealing with Units acquired by, and sub-leasing Units leased by the Association or its designee, on behalf of all Unit Owners.

(i) Organizing corporations to act as designees of the Association in acquiring title to or leasing Units on behalf of all Unit Owners.

(j) Granting of licenses over the General Common Elements.

(k) Obtaining insurance on the Condominium, including Units.

(l) Making of repairs, additions and improvements to General Common Elements and other facilities for the benefit of Unit Owners.

(m) Leasing or otherwise acquiring the right to use, either exclusively or in common with others, Units and other facilities for the benefit of Unit Owners.

(n) Adopting and amending reasonable Rules and Regulations governing the conduct of all people on the Property and the operation and use of the Condominium. The Board of Directors shall have the power to levy fines against the Unit Owners for violation thereof, for which they are responsible, provided that no fine may be levied for more than \$100.00 for any one violation; but for each day a violation continues after notice, it shall be considered a separate violation. Collection of fines may be enforced against the Unit Owner or Owners responsible as if the fines were a Common Expense owed by the particular Unit Owner or Owners.

(o) The Board of Directors, on behalf of the Association, may enforce, by any legal means, the provisions of the Horizontal Property Act, the Declaration and the Bylaws.

Section 3. Removal of Directors: At any time after the first meeting of Unit Owners at which they may vote as hereafter provided in Article IV, Section 2, at any regular or special meeting of the Unit Owners, any member of the Board of Directors may be removed by the Unit or Units which elected that Director at any time either with

or without cause and a successor may then and there or thereafter be elected by that Unit or Units to fill the vacancy thus created.

Section 4. Vacancies: Vacancies on the Board of Directors caused by any reason other than the removal of a member thereof by a vote of the Unit Owners, shall be filled by appointment of a new director by the applicable unit promptly after the occurrence of any such vacancy with or without meeting and each person so elected shall be a member of the Board of Directors for the remainder of the term of the director so replaced, and until his or her successor shall be duly elected.

Section 5. Organization Meeting: The first regular meeting of the Board of Directors following a meeting of the Unit Owners at which Directors are elected, shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Unit Owners at such meeting. No notice shall be necessary to the members of the Board of Directors in order legally to constitute such a meeting, providing a quorum shall be present at such first regular meeting.

Section 6. Regular Meetings: Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors, but at least one (1) such meeting shall be held during each fiscal year. Notice of the regular meeting of the Board of Directors shall be given by the secretary/treasurer to each Director personally or by mail or telephone facsimile at least three (3) days prior to the day named for the meeting.

Section 7. Special Meetings: Special meetings of the Board of Directors may be called by the president on three (3) days' notice to each director, given personally or by mail or telephone facsimile, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the president in like manner and on like notice on the written request of at least one (1) member of the Board of Directors.

Section 8. Waiver of Notice: Any member of the Board of Directors may at any time waive notice of any meeting of the Board of Directors in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Board of Directors at any meeting of the Board shall constitute a waiver of notice by him or her of the time and place thereof. If all members of the Board are present at any meeting of the Board, no notice shall be required and any business may be transacted at such a meeting.

Section 9. Quorum of Board of Directors - Tie Votes/Arbitrator: Except as otherwise set forth below, at all meetings of the Board of Directors, a majority of directors shall constitute a quorum for the transaction of business, and the votes of a majority of the members of the Board of Directors present at a meeting at which a

quorum is present shall constitute the decision of the Board of Directors except when a higher percentage is required by these Bylaws, the Declaration or by law. If at any meeting of the Board of Directors there shall be less than a quorum present, the meeting shall be adjourned. In the event of a tie vote by the Board of Directors, either Director may request the appointment of a certified arbitrator. Both directors shall agree on the appointment of the individual arbitrator. If they cannot agree on an individual arbitrator, they shall agree upon an association of arbitrators who shall select the individual arbitrator. The fees and expenses of the arbitrator shall be paid by the Association. The decision of the arbitrator shall be final.

Section 10. Compensation: No member of the Board of Directors shall receive any compensation from the Association for acting as a director.

Section 11. Liability of the Board of Directors: The members of the Board of Directors shall not be liable to the Association or to the Unit Owners for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The Association shall indemnify and hold harmless, to the extent permitted by law, each of the members of the Board of Directors against all liability arising out of their conduct on behalf of the Association, unless such conduct shall have been in bad faith. It is intended that the members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Association (except as Unit Owners). It is also intended that the liability of any Unit Owner arising out of any contract made by the Association or out of the aforesaid indemnity in favor of the Board of Directors shall be limited to such proportion of the total liability thereunder as his or her interest in the Common Areas bears to the interest of all Unit Owners in the Common Areas.

Section 12. Fiscal Year: The fiscal year of the Association shall be January 1 to December 31.

ARTICLE IV UNIT OWNERS AS MEMBERS

Section 1. Eligibility: Any person who acquires title to a Unit in the Regime shall be a member of the Association. There shall be one membership for each Unit owned within the Regime. Such membership shall be automatically transferred upon the conveyance of any such Condominium Unit. Until the first meeting at which Unit Owners may vote, the Association shall act without vote of the Unit Owners and the Declarant's representative shall be deemed to possess all the voting rights in the Association.

Section 2. Voting: At and after the first meeting at which Unit Owners may vote, voting on all matters presented to the Unit Owners shall be on the basis of one vote per

Unit, the value of which shall equal the Percentage Interest allocated to such Unit in the Declaration, as the same may be amended from time to time. At and after the first meeting at which Unit Owners may vote, a majority in value of the total votes cast at a meeting at which a quorum shall be present shall be binding upon all Unit Owners for all purposes except when a higher percentage is required by these Bylaws, the Declaration or by law.

Section 3. Votes in the Event of Multiple Ownership of a Unit: In the event a Unit is owned by more than one person, if such persons cannot agree upon the exercise of their right to vote pursuant to these Bylaws, each person shall have a fractional vote based upon that person's fractional share of ownership of the Unit. A co-owner of a Unit may permit the other co-owner of the Unit to vote the co-owner's interest by furnishing the other co-owner with a proxy. A vote for a whole Unit cast by a co-owner shall be held to be by valid proxy of the other co-owners, unless challenged at the time the vote is cast.

Section 4. First Meeting at Which Unit Owners May Vote: The first meeting at which members may vote shall be within thirty (30) days after the filing of the Declaration of Submission Of Property To Horizontal Property Regime.

Section 5. Annual Meetings: An Annual meeting shall be held during the first quarter of each fiscal year. Subject to Section 4 of this Article, at such meetings there shall be elected by ballot, a Board of Directors in accordance with the provisions of Article III, Section 1 of these Bylaws. There may also be transacted such business at such meeting as may properly come before it.

Section 6. Place of Meetings: Meetings of the Unit Owners shall be held at the principal office of the Association or such other suitable place convenient to the Unit Owners as may be designated by the president.

Section 7. Special Meetings: At and after the first meeting at which Unit Owners may vote, it shall be the duty of the president to call a special meeting of the Unit Owners when so directed by resolution of the Board of Directors or upon the petition signed by not less than twenty-five percent (25%) voting interest in the aggregate of Unit Owners. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 8. Notice of Meetings: It shall be the duty of the secretary/treasurer to mail a notice of each annual or special meeting of the Unit Owners, at least ten (10) days but not more than twenty (20) days prior to such meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Unit Owner as recorded on the records of the Association, at the Unit address or at such other address as such Unit Owner shall have designated by notice in writing to the secretary/treasurer. The mailing

of a notice of meeting in the manner provided in this section shall be considered service of notice.

Section 9. Waiver of Notice: Any Unit Owner may at any time waive notice of any meetings of the Unit Owners in writing, and such waiver shall be deemed equivalent to the giving of such notice.

Section 10. Adjourned Meetings: If any meeting of Unit Owners cannot be held because a quorum has not attended, the Unit Owners present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called.

Section 11. Order of Business: The order of business at all meetings of the Unit Owners shall be as follows, to the extent required:

- (a) Roll call.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading of minutes of preceding meeting.
- (d) Reports of officers.
- (e) Report of Board of Directors.
- (f) Report of Committees.
- (g) Election of members of the Board of Directors.
- (h) Unfinished Business.
- (i) New Business.
- (j) Adjournment.

Section 12. Parliamentary Procedure: At all meetings of the Unit Owners or of the Board of Directors, Roberts' Rules of Order as to such date amended, shall be followed, except in the event of conflict, these Bylaws or Declaration, as the case may be, shall prevail.

Section 13. Quorum: As otherwise provided in these Bylaws, the presence, in person or by proxy, of persons having a majority of the total authorized votes shall constitute a quorum at any meeting.

Section 14. Proxies: Votes may be cast in person or by proxy. Proxies must be filed with the secretary/treasurer at or before the time of each meeting. A Unit Owner may designate any person, who need not be an owner, to act as proxy. The designation of any such proxy shall be made revocable at any time by written notice to the secretary/treasurer by the Unit Owner designating the proxy.

ARTICLE V
OFFICERS

Section 1. Designation: The principal officers of the Association shall be the president and the secretary/treasurer, both of whom shall be elected by the Board of Directors. Any officer or employee of a corporate, partnership or fiduciary Unit Owner or of the Declarant when it is a Unit Owner, shall be eligible for such election, as well as any duly appointed representative of a Unit Owner. The president shall be elected from among the members of the Board of Directors. The Board of Directors may appoint such other officers as in its judgment may be necessary, who need not be Unit Owners.

Section 2. Election of Officers: The officers of the Association shall be elected annually by the Board of Directors at the organizational meeting of each new Board of Directors and shall hold office at the pleasure of the Board.

Section 3. Removal of Officers: Upon the affirmative vote of a majority of members of the Board of Directors, any officer may be removed, either with or without cause and his or her successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board called for such purposes.

Section 4. President: The president shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Unit Owners and of the Board of Directors. He or she shall have all the general powers and duties which are usually vested in the office of president of a corporation, organized under the laws of the State of Iowa, including but not limited to the power to appoint committees from time to time as he or she may, in his or her discretion, decide is appropriate to assist in the conduct of the affairs of the Association.

Section 5. Secretary/Treasurer: The secretary/treasurer shall keep the minutes of all meetings of the Unit Owners and of the Board of Directors; he or she shall have charge of such books and papers as the Board of Directors and these Bylaws may direct; he or she shall give all notices required by the Bylaws unless otherwise provided. Further, the secretary/treasurer shall have responsibility for Association funds and securities and shall keep the financial records and books of account in books belonging to the Association. He or she shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association, in such depositories as may from time to time be designated by the Board of Directors; and he or she shall, in general, perform all the duties incident to the office of secretary/treasurer of a corporation organized under the laws of the State of Iowa.

Section 6. Signatories to Documents: All agreements, contracts, deeds, leases, checks and other documents of the Association shall be executed by any officer of the Association or by such other person or persons as may be designated by the Board of

Directors. Vouchers for the payment of Association funds shall be approved by the secretary/treasurer before payment.

Section 7. Compensation of Officers: No officer shall receive any compensation from the Association for acting as such.

ARTICLE VI
OPERATION OF THE CONDOMINIUM

Section 1. Determination of Common Expenses: The Board of Directors shall, from time to time, and at least annually, prepare a budget for the Association, determine the amount of the Common Expense payable by the Unit Owners to meet the Common Expenses of the Condominium and allocate and assess such Common Expenses among the Unit Owners according to their percentage of undivided ownership, as set forth on Exhibit E of the Declaration. The Board of Directors shall advise all Unit Owners promptly, in writing, of the amount of Common Expenses payable by each of them, respectively, as determined by the Board of Directors, as aforesaid, and shall furnish copies of each budget on which such Common Expenses are based to all Unit Owners and to their mortgagees upon request. The Common Expenses shall include, among other things:

(a) the cost of repairs and maintenance of the General Common Elements, including but not limited to the costs of the following: utilities, yardcare, snow removal, parking lot maintenance, storm drainage maintenance, surface repair and replacement, regime management, irrigation, common area lighting, common signage, refuse enclosures and pickup;

(b) the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Board of Directors pursuant to the Declaration;

(c) such amounts as the Board of Directors may deem proper for the operation of the Regime, including, without limitation, an amount for its working capital, a general operating reserve, a reserve fund for replacements, and sums necessary to make up any deficit in the Common Expenses for any prior year; and

(d) such other expenses as set forth in Declaration.

Section 2. Payment of Common Expenses: All Unit Owners shall be obligated to pay the Common Expenses assessed by the Board of Directors quarterly or at such other time or times as the Board of Directors shall determine.

Section 3. No Waiver of Liability for Common Expenses: No Unit Owner may exempt himself or herself from liability for his or her contribution toward the Common Expenses by waiver of the use or enjoyment of any of the General Common Elements or by abandonment of his or her Unit.

Section 4. Non-Liability After Conveyance: No Unit Owner shall be liable for the payment of any part of the Common Expenses assessed against his or her Unit subsequent to a sale, transfer or other conveyance made pursuant to the provisions of these Bylaws.

Section 5. Successor's Liability for Common Expenses: Subject to Section 6.09 of the Declaration, a grantee who acquires a Unit shall be liable for, and the Unit conveyed shall be subject to a lien for, any unpaid assessments against the Unit, but not in excess of the amount set forth in a statement provided under Section 6 herein.

Section 6. Statement of Common Expenses: The Association shall promptly provide any Unit Owner or grantee or prospective grantee so requesting in writing, a written statement of all unpaid Common Expenses or other assessments due from such Unit Owner.

Section 7. Collection of Assessments: The Board of Directors shall assess Common Expenses against the Unit Owners from time to time at least annually, and shall take prompt action to collect any Common Expenses due from any Unit Owner which remain unpaid for more than thirty (30) days, being in default, from the due date for payment thereof. Payment of Common Expenses may be in the form of credit for duly authorized services performed by Unit Owners, evidenced by executed vouchers therefor. Authorization for services and execution of vouchers shall be by the Board of Directors.

Section 8. Default in Payment of Common Expenses: In the event of default by any Unit Owner in paying to the Association Common Expenses or any other assessment as determined by the Board of Directors, such Unit Owners shall be obligated to pay interest at the rate of ten percent (10%) per annum on such Common Expenses from the due date thereof, together with all expenses, including attorneys' fees incurred by the Association in any proceeding brought to collect such paid expenses. The Association shall attempt to recover such Common Expenses, together with interest thereon, and the expenses of the proceeding including such attorneys' fees, in any action to recover the same brought against such Unit Owner, or by foreclosure of the lien on such Unit under powers granted by the Horizontal Property Act.

Section 9. Foreclosure of Liens for Unpaid Common Expenses: In any action brought by the Association to foreclose a lien on a Unit because of any unpaid Common Expenses or other assessment, the Unit Owner shall be required to pay reasonable rental for the use of his or her Unit and the plaintiff in such foreclosure action shall be entitled

to the appointment of a receiver to collect the same. The Association acting on behalf of all Unit Owners, shall have power to purchase such Unit at the foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant thereto (other than for the election of members of the Board of Directors) convey or otherwise deal with the same. A suit to recover a money judgment for unpaid Common Expenses shall be maintainable without foreclosing or waiving the liens securing the same.

Section 10. Violations by Unit Owners: The violation of any Rule or Regulation adopted by the Association, or the breach of any Bylaws, or the breach of any provisions of the Declaration, shall give the Board of Directors the right, in addition to any other rights set forth in these Bylaws:

(a) To enter the Unit upon reasonable knowledge of imminent danger or other emergency in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing, or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board of Directors shall not thereby be deemed guilty in any manner of trespass.

(b) To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

(c) Upon failure to abate upon prior written notice, to levy charges against any Unit Owner in the amount equal to damages sustained by virtue of such Unit Owner's violation of the intent and meaning of the provisions of the Bylaws or of the Rules and Regulations promulgated hereunder, or that of guests or tenants under his or her control upon finding thereof by the Board.

(d) If the Association has adopted and published Rules and Regulations governing the use of the Common Areas and facilities, and the personal conduct of any person thereon is conduct not reasonable to expect in a professional office space and violates those Rules and Regulations, the Board may, in its discretion, suspend such use of any such person for violation of such Rules and Regulations for a period not to exceed thirty (30) days.

Section 11. Maintenance, Repair and Replacement of Common Areas: The Association shall maintain, repair and replace all of the General Common Elements and those elements within the Units as required by the Declaration and in the event that such maintenance, repair or replacement was caused by the negligence or misuse of a Unit Owner, such expense shall be charged to such Unit Owner. Each Unit Owner shall maintain, repair and replace, at his or her own expense, all portions of said Owner's Unit, except the portions thereof to be maintained, repaired and replaced by the Association. Each Unit Owner shall be responsible for consequential damages to any other Unit or to

the General Common Elements caused intentionally, negligently or by his or her failure to properly maintain, repair or make replacements to his or her Unit.

Section 12. Additions, Alterations or Improvements by Board of Directors:

Whenever, in the judgment of the Board of Directors, the Common Areas shall require additions, alterations or capital improvements costing more than Three Thousand (\$3,000.00) Dollars in the aggregate in any one year, which are not to be at the expense of an individual Unit Owner for his or her own benefit, and the making of such additions, alterations or improvements shall have been approved by 67 percent of votes outstanding at an annual or special meeting of the Unit Owners, the cost thereof shall be deemed a Common Expense. Any additions, alterations or improvements costing Three Thousand (\$3,000.00) Dollars or less may be made by the Board of Directors without further approval of the Unit Owners, and the costs thereof will constitute part of the Common Expense. The \$3,000 limit may be increased to adjust for inflationary factors, provided 67 percent of the total number of votes outstanding and entitled to be cast are voted in favor thereof.

Section 13. Additions, Alterations or Improvements by Unit Owners: No Unit Owner shall make any structural addition, alteration or improvement (which shall include but is not limited to plumbing, electrical or duct work) in or to any of the Buildings, nor shall a Unit Owner paint or otherwise decorate or change the appearance of any portion of the exterior of the Buildings, without prior written consent of the Board of Directors. The Board of Directors shall answer any written request for such approval within thirty (30) days after the receipt thereof, and failure to do so within such time shall constitute a consent by such Board of Directors to the proposed addition, alterations or improvement. Any application to any department or to any governmental authority for a permit to make any addition, alteration or improvement described in the first sentence of this section shall be executed by the Association only, without, however, incurring any liability on the part of the Association or any of them to any contractor, sub-contractor, or material supplier on account of such additions, alteration or improvement or to any person having any claim for injury to person or damage to property arising therefrom. Further, the Unit Owner making such structural addition, alteration or improvement in or to the Building shall indemnify, defend and hold harmless such other Unit Owner from any claim by any contractor, sub-contractor, or material supplier on account of such additions, alteration or improvement or to any person having any claim for injury to person or damage to property arising therefrom.

Section 14. Water Charges: Water shall be supplied by the public utility company serving the area directly to each Unit through a separate meter, and each Unit Owner shall be required to pay the bill for water consumed or used in his or her Unit. The water serving the remaining General Common Elements shall be separately metered, and the Association shall pay all bills for water consumed in such portions of the General Common Elements as a Common Expense.

Section 15. Electricity: Electricity shall be supplied by the public utility company serving the area directly to each Unit through a separate meter, and each Unit Owner shall be required to pay the bill for electricity consumed or used in the Unit of such Owner. The electricity serving the remaining General Common Elements shall be separately metered, and the Association shall pay all bills for electricity consumed in such portions of the General Common Elements as a Common Expense.

Section 16. Gas: Gas shall be supplied by the public utility company serving the area directly to each Unit through a separate meter, and each Unit Owner shall be required to pay the bill for gas consumed or used in his or her Unit.

Section 17. Right of Access: Each Unit Owner shall grant a right of access to any person authorized by the Association for the purpose of making inspections or for the purpose of correcting any condition originating in his or her Unit and threatening another Unit, General Common Element or Property, or repairs to the mechanical or electrical services or General Common Elements, access to which is reached through his or her Unit, provided that requests for entry are made in advance and that any such entry be at a time reasonably convenient to the Unit Owner. In case of an emergency or other imminent danger of damage occurring, such right of entry shall be immediate, whether the Unit Owner is present at the time or not.

ARTICLE VII USE OF PROPERTY

Section 1. Restrictions on the Use of Units: In order to provide for congenial occupancy of the Property and for the protection of the values of the Unit, the use of the Property shall be restricted to and shall be in accordance with the provisions set forth in the Declaration.

Section 2. Rules and Regulations: Rules and Regulations concerning the use of the Units and the General Common Elements may be made and amended from time to time by the Association. Copies of such Rules and Regulations shall be furnished by the Board of Directors to each Unit Owner prior to the time the same become effective.

Section 3. Abatement and Enjoyment of Violations by Unit Owners: The violation of any Rule or Regulation adopted by the Association, or the breach of any Bylaws, or the breach of any provisions of the Declaration, shall give the Board of Directors the right, in addition to any other rights set forth by these Bylaws, to take those actions set forth in Article VI, Section 10.

ARTICLE VIII
INSURANCE

The Association shall obtain insurance as provided for in the Declaration.

ARTICLE IX
RECORDS

Section 1. Records and Audits: The Association shall keep detailed records of the actions of the Board of Directors, minutes of the meetings of the Board of Directors, minutes of the meetings of the Unit Owners, names of the Unit Owners and financial records and books of account for the Association and Regime, including chronological listing of receipts and expenditures, as well as a separate account for each Unit, which, among other things, shall contain the amount of each assessment of Common Expenses against such Unit, the date when due, the amount paid thereon, and the balance remaining unpaid. Unless the Unit Owner notifies the Association of change in ownership, the Association may rely on the names of Unit Owners appearing on the county tax assessor's list as of the last municipal assessment date.

Section 2. Annual Report: An Annual Report of the receipts and expenditures of the Association shall be rendered by the Board of Directors to all Unit Owners promptly after the end of each fiscal year.

Section 3. Examination of Records: Each Unit Owner shall be permitted to examine the books of account of the Association at reasonable times on business days, but not more than once a month.

ARTICLE X
MISCELLANEOUS

Section 1. Notices: All notices hereunder shall be sent by mail to the Association at its office in Davenport, Iowa and to Unit Owners at their Unit, or to such other address as may have been designated by such Unit Owner from time to time in writing to the Association. All notices from or to the Association shall be deemed to have been given when mailed, except notices of change of address which shall be deemed to have been given when received.

Section 2. Captions: The captions herein are inserted as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Bylaws or the intent of any provision thereof.

Section 3. Gender: The use of the masculine gender in these Bylaws shall be deemed to include the feminine gender, and the use of singular shall be deemed to include the plural, when the context so requires.

ARTICLE XI
INVALIDITY, CONFLICT AND WAIVER

Section 1. Invalidity: The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these Bylaws.

Section 2. Conflict: These Bylaws are set forth to comply with the requirements of the Horizontal Property Act and the Iowa Business Corporation Act. In the event of any conflict between these Bylaws and the provisions of such acts or the Declaration, the provisions of such acts and the Declaration, as the case may be, shall control.

Section 3. Waiver: No restriction, condition, obligation, or covenant contained in these Bylaws shall be deemed to have been abrogated or waived by reason of failure to enforce the same, irrespective of the violations or breaches thereof which may occur.

ARTICLE XII
AMENDMENTS TO BYLAWS

Section 1. Method of Amendment: These Bylaws may be altered, amended or added to at any duly called meeting of the Unit Owners, provided:

(a) that the notice of the meeting shall contain a substantial statement of the proposed amendment;

(b) that the amendment shall be approved by the Unit Owners;

(c) that the amendment not be unreasonable, arbitrary or capricious in its impact upon any Unit Owner; and

(d) that said amendment shall be fully set forth in a duly recorded amendment to the Declaration.

Section 2. Effect of Amendments Upon Encumbrances: No amendment or modification of the Bylaws will affect or impair the validity or priority of any mortgage encumbering a Unit or Units, nor the validity or priority of any other proper lien.

Dated: January 13, 2006

EXHIBIT D

PERCENTAGE INTEREST IN COMMON ELEMENTS

Adler Theatre Unit	50%
Mississippi Hotel Unit	46%
Commercial Unit	4%

EXHIBIT E

**EMERGENCY EASEMENT DESCRIPTION AND
GRID IRON EASEMENT DESCRIPTION**

ADLER
THEATRE
FIRE/EMERGENCY
EXITING

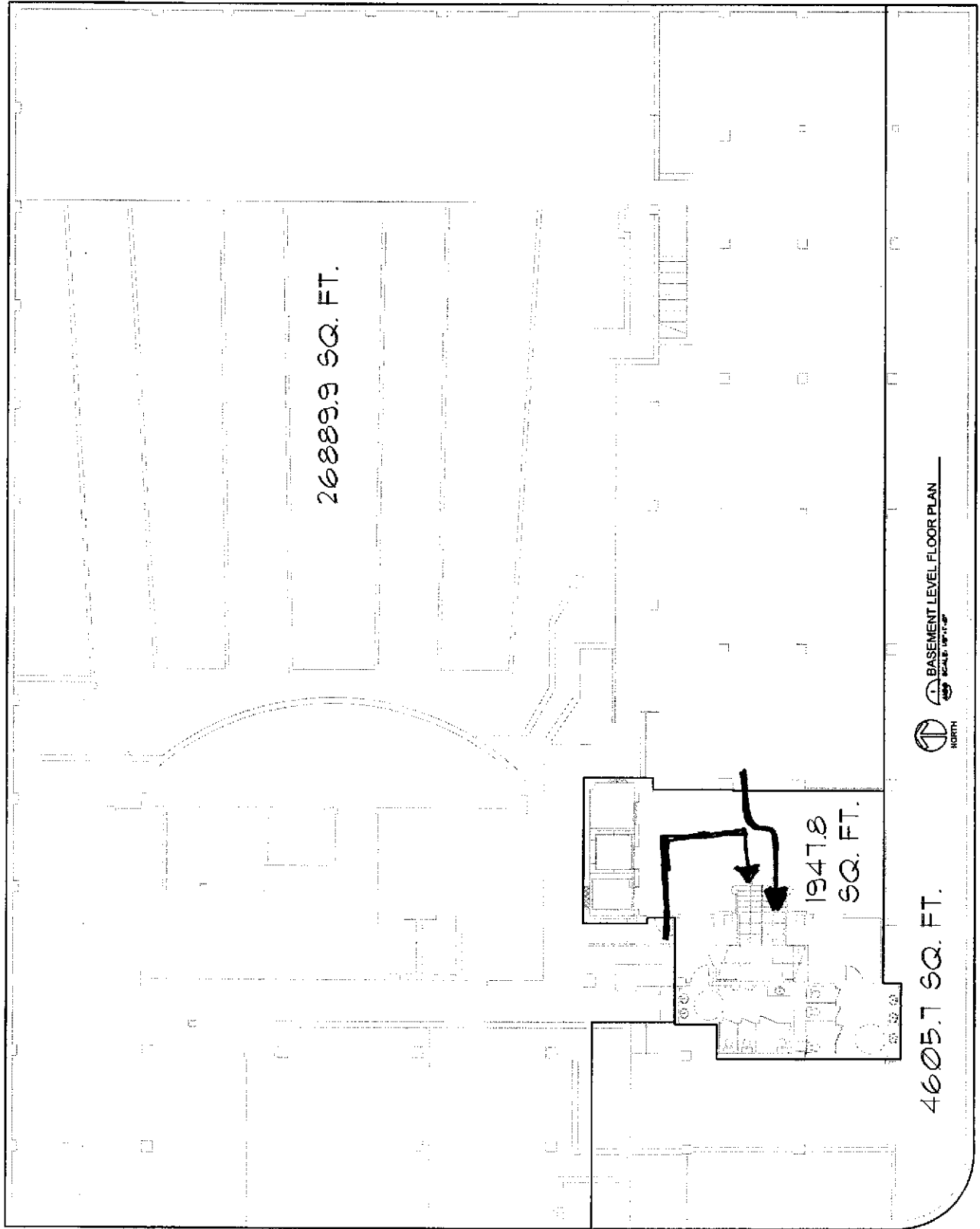
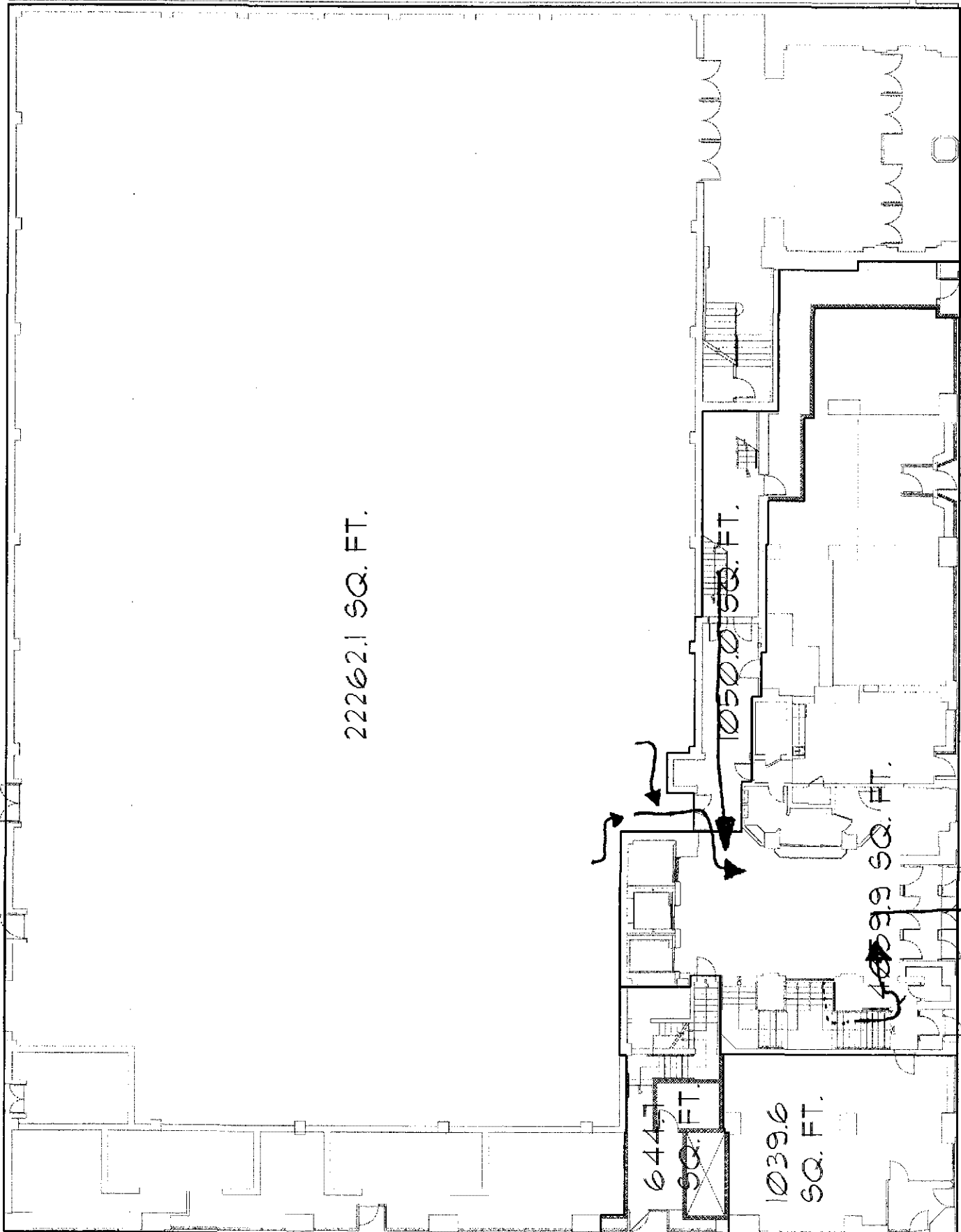
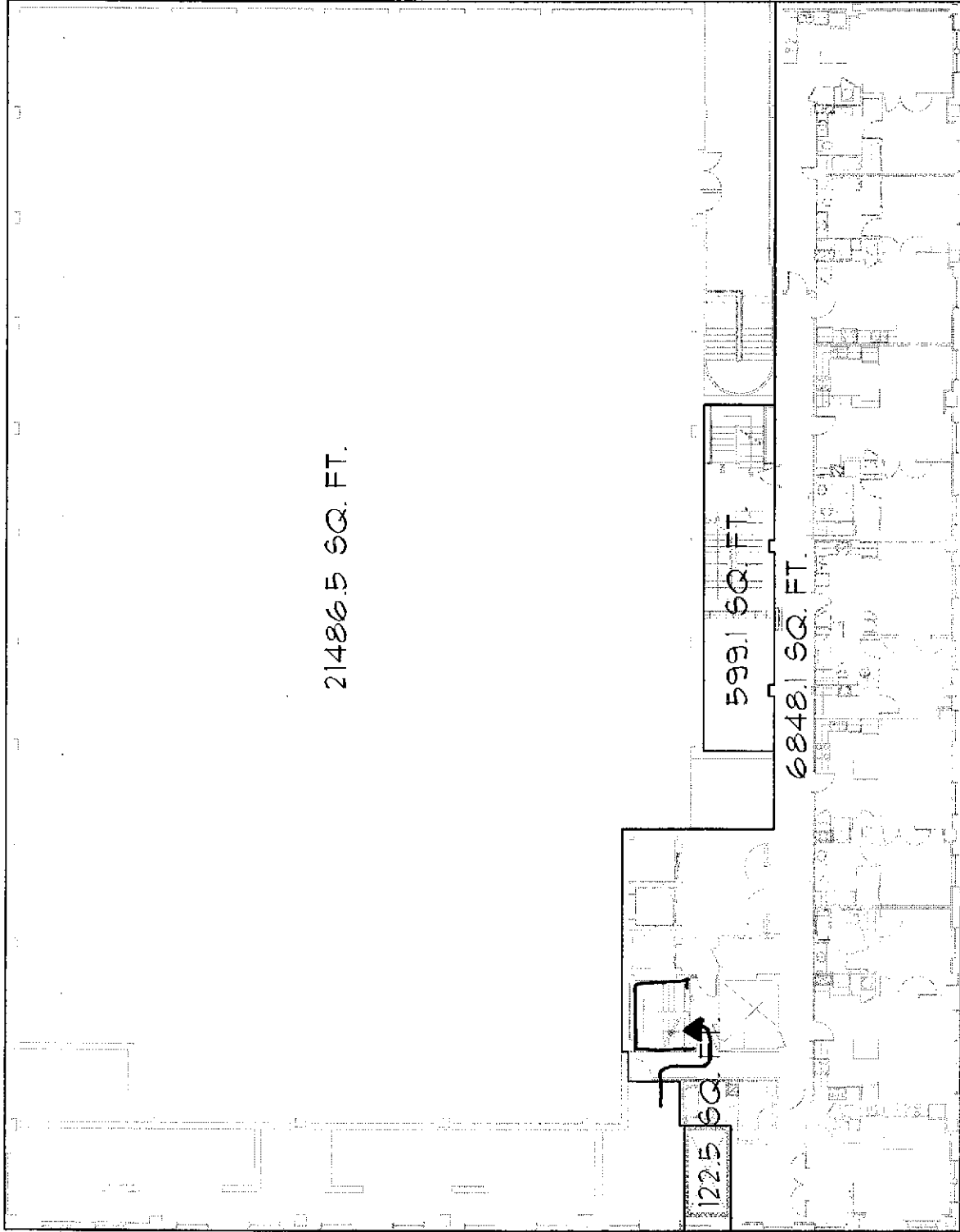


EXHIBIT E

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FIRST LEVEL FLOOR PLAN
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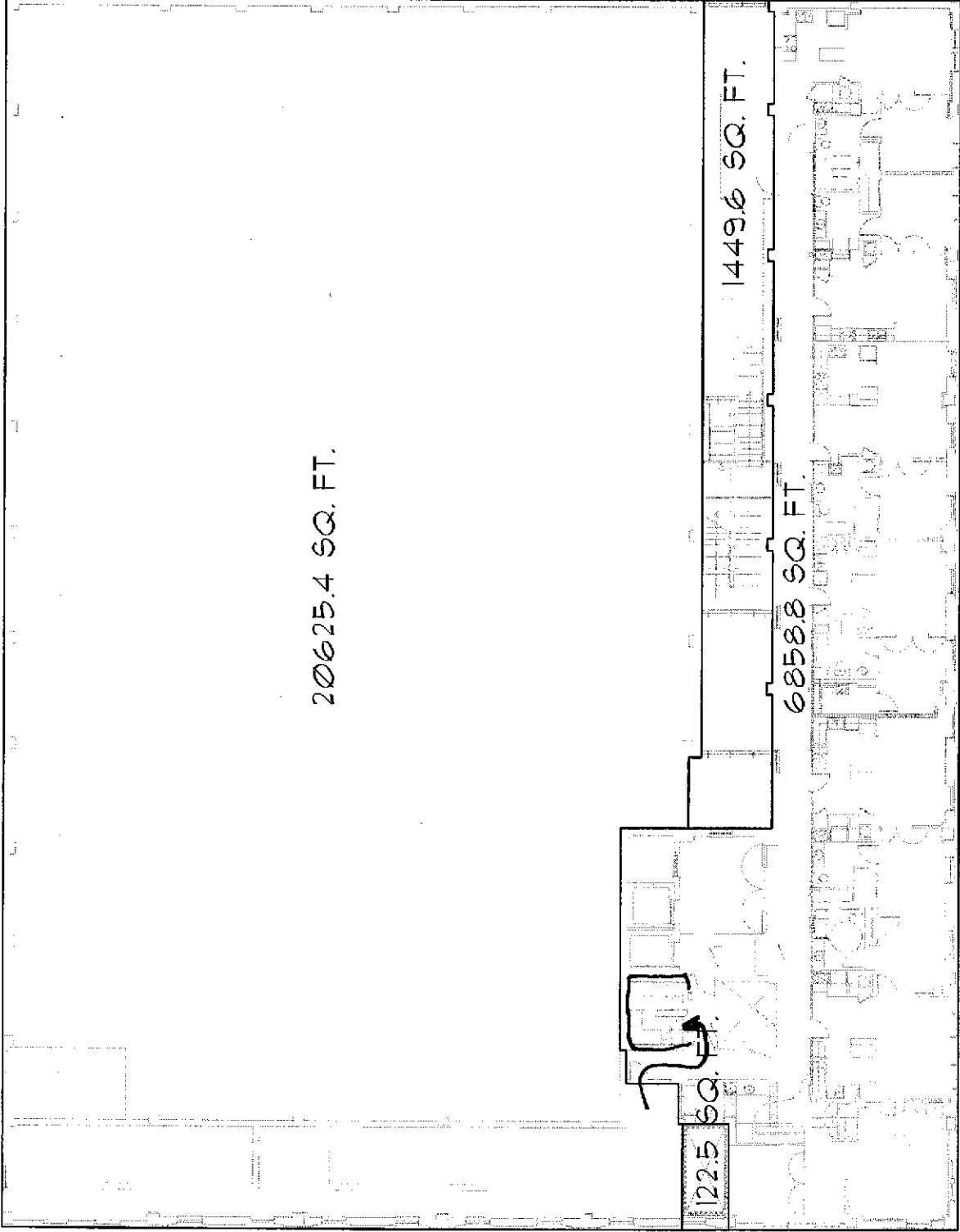
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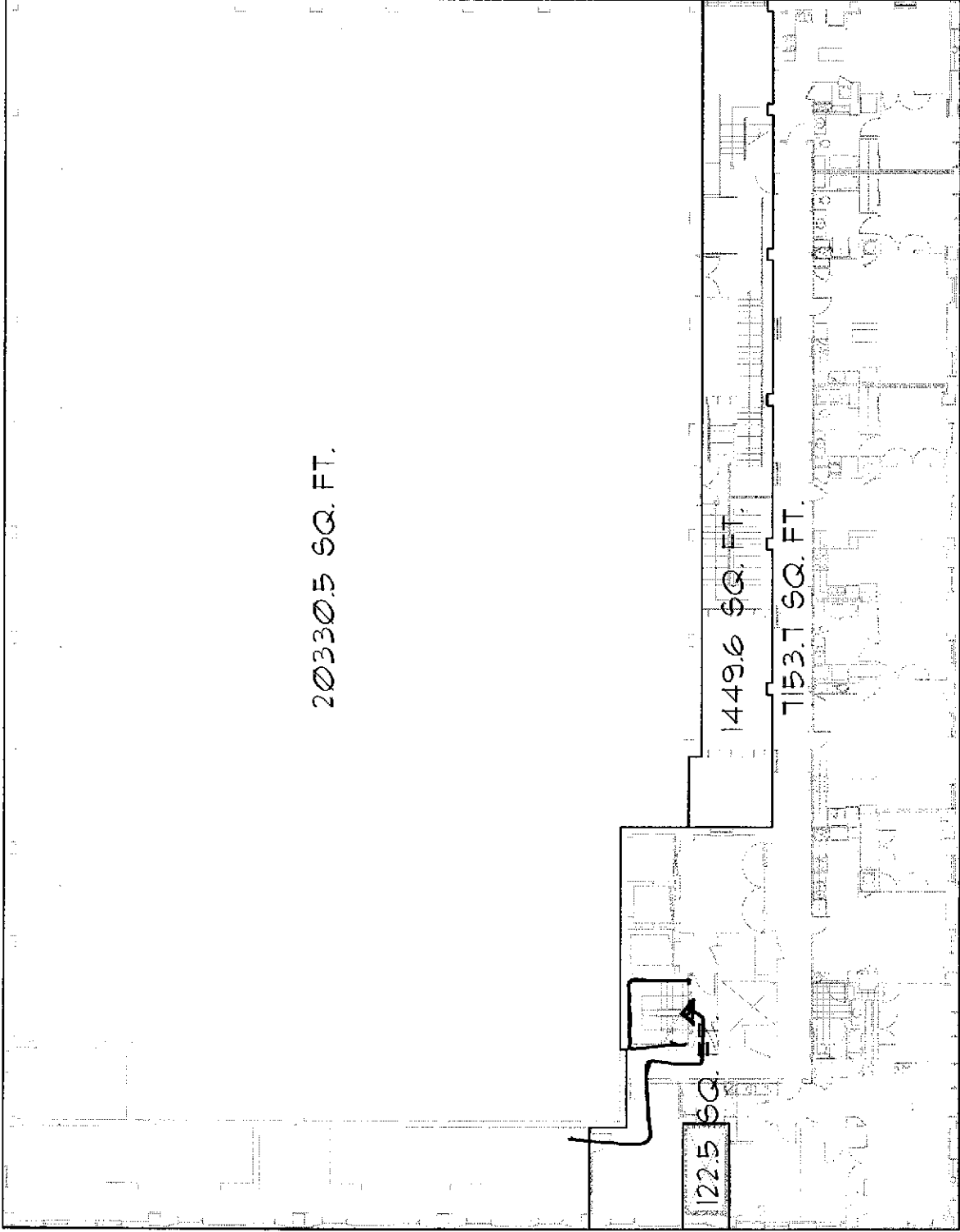
599.1 SQ. FT.

6848.1 SQ. FT.

122.5 SQ.

 NORTH
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SCALE: 1/8" = 1'-0"





20330.5 SQ. FT.

1225 SQ.

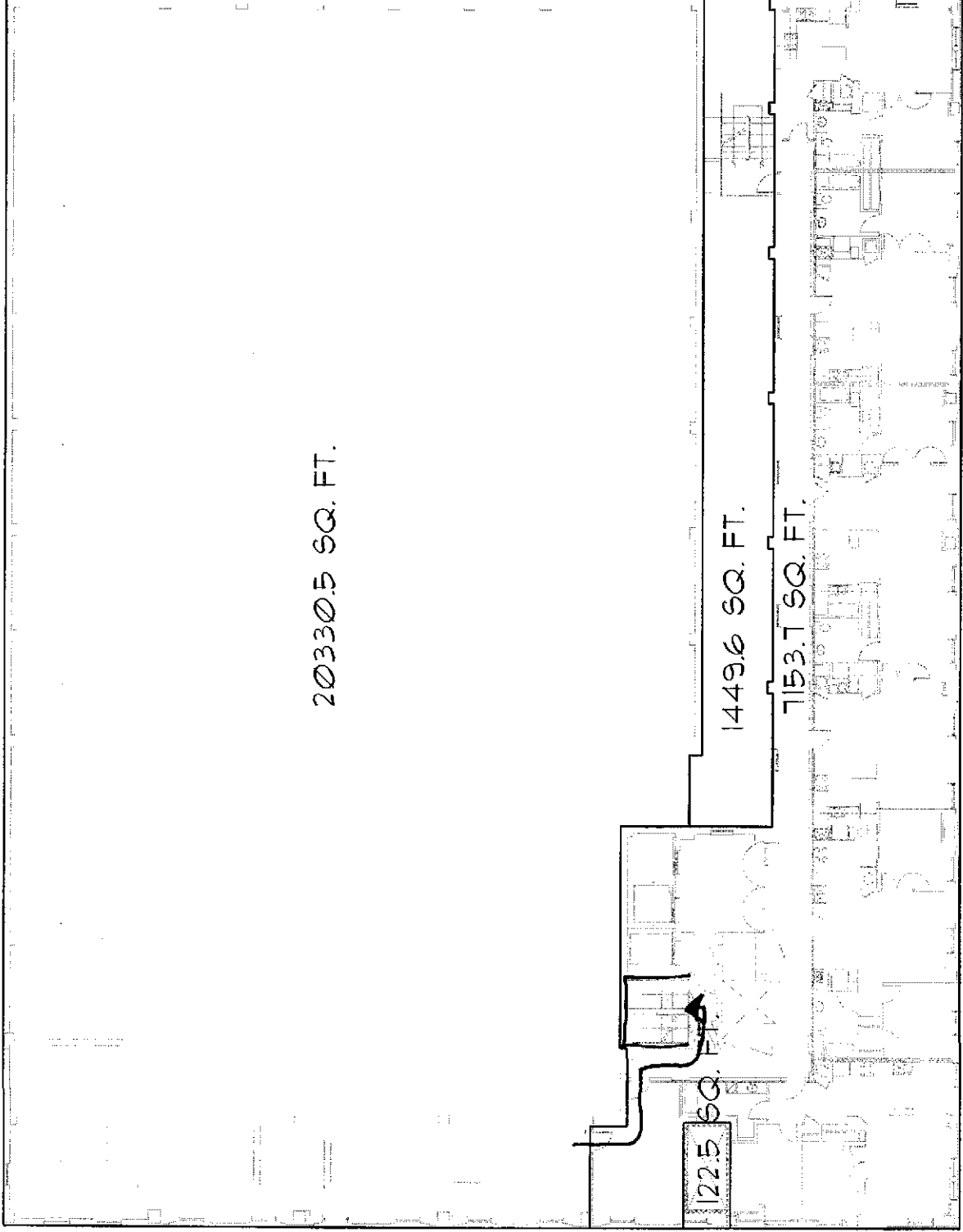
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7153.7 SQ. FT.

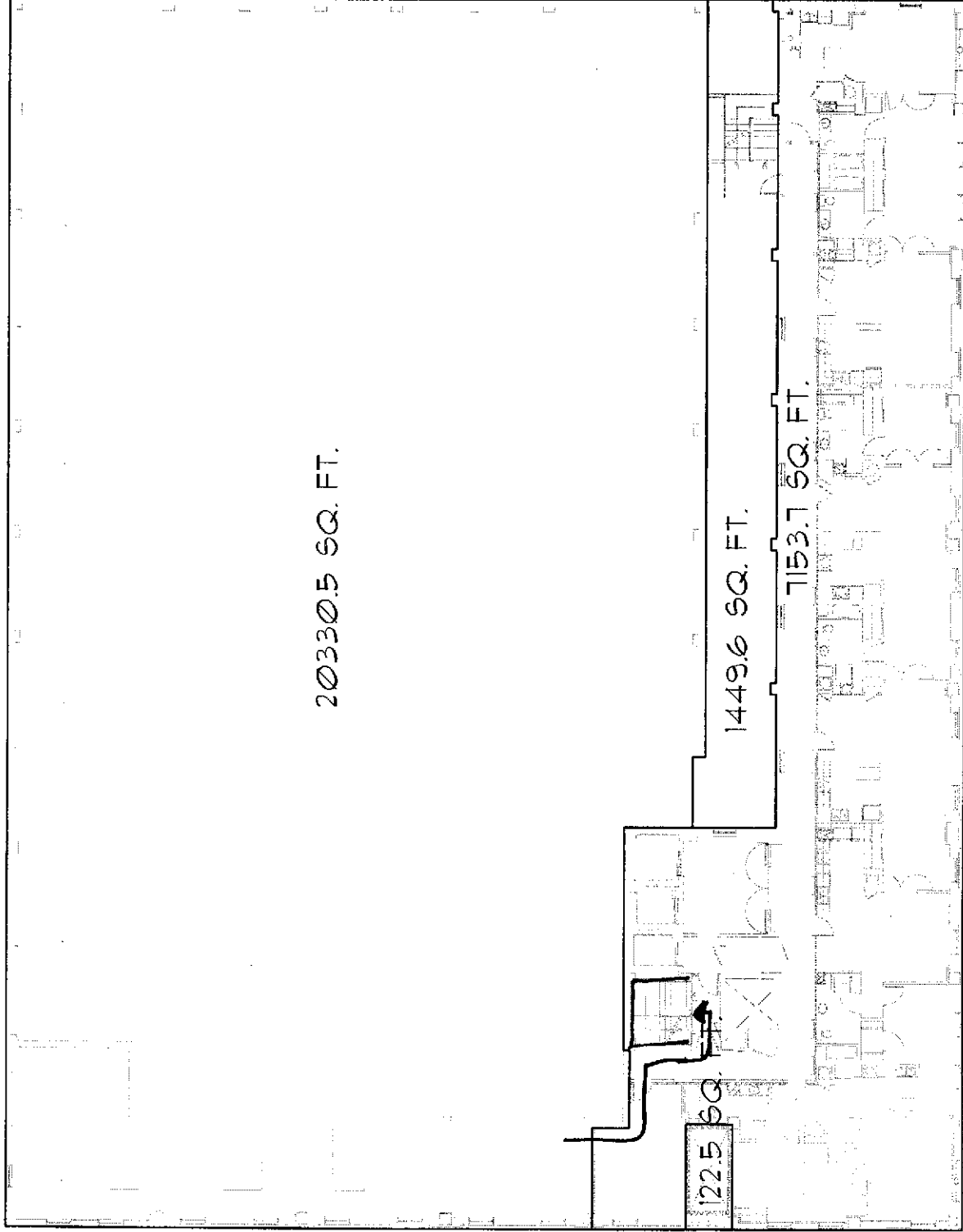


FOURTH LEVEL FLOOR PLAN

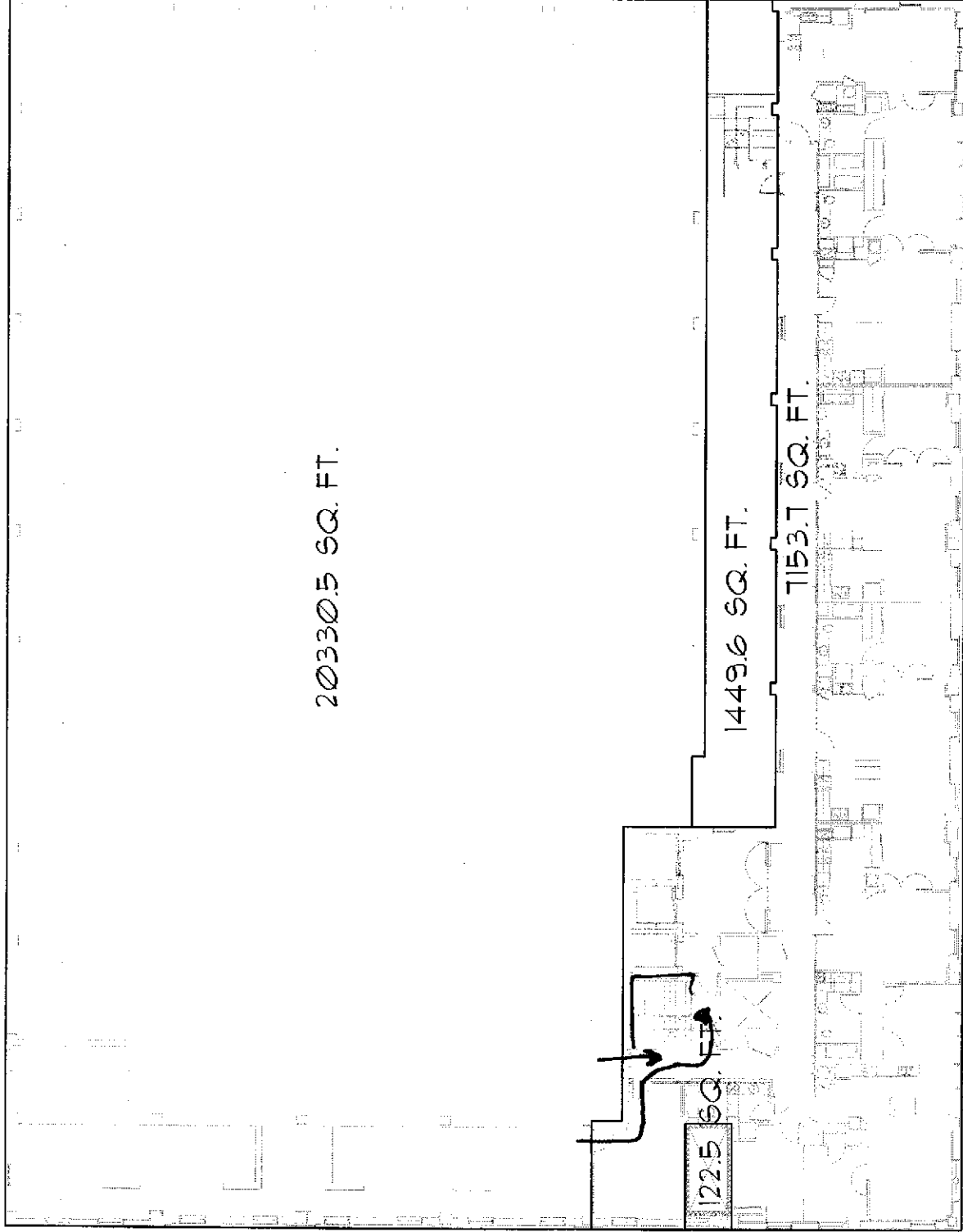
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 NORTH
FIFTH LEVEL FLOOR PLAN
SCALE: 1/8" = 1'-0"



 NORTH
SIXTH LEVEL FLOOR PLAN
SCALE: 1/8" = 1'-0"



20330.5 SQ. FT.

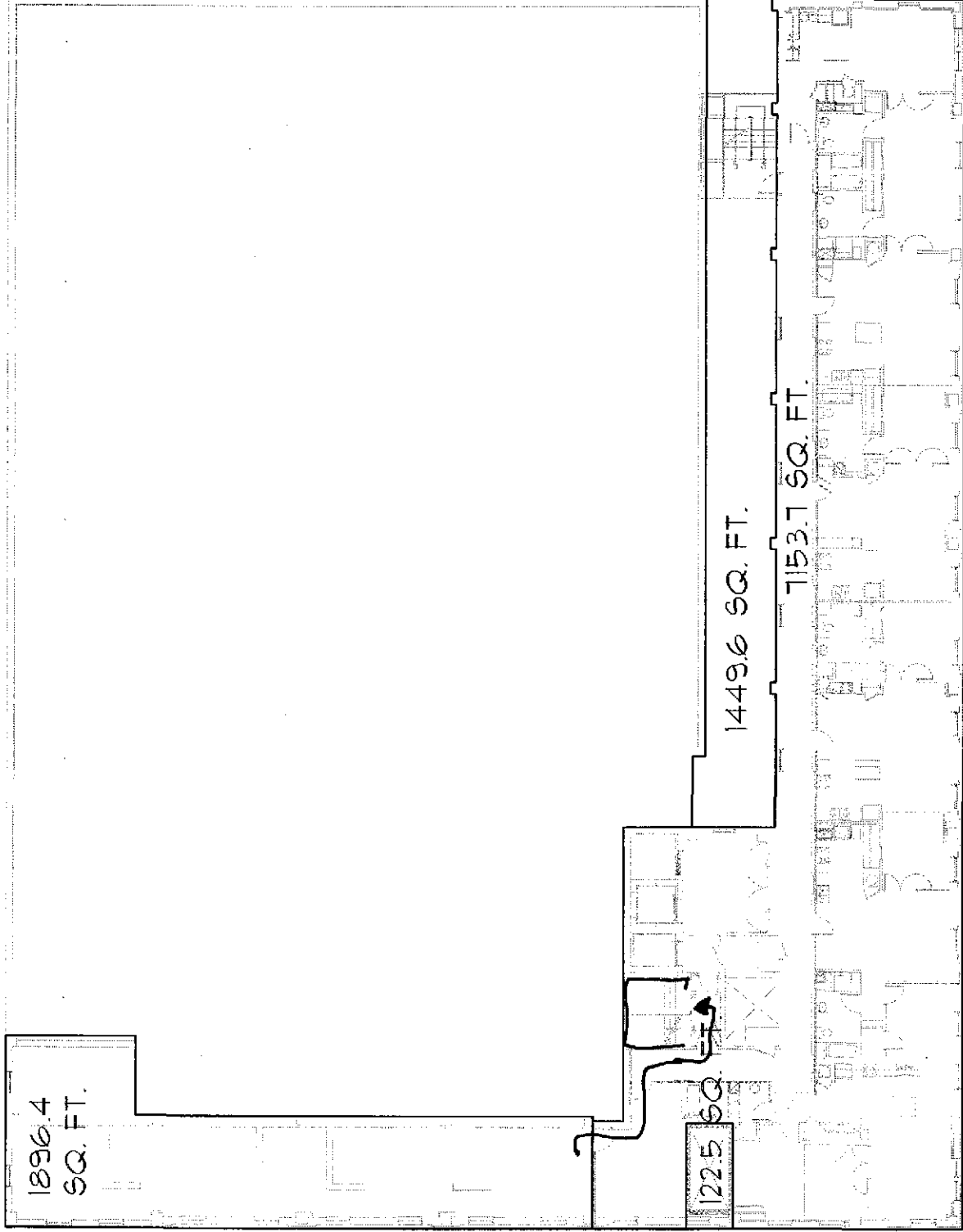
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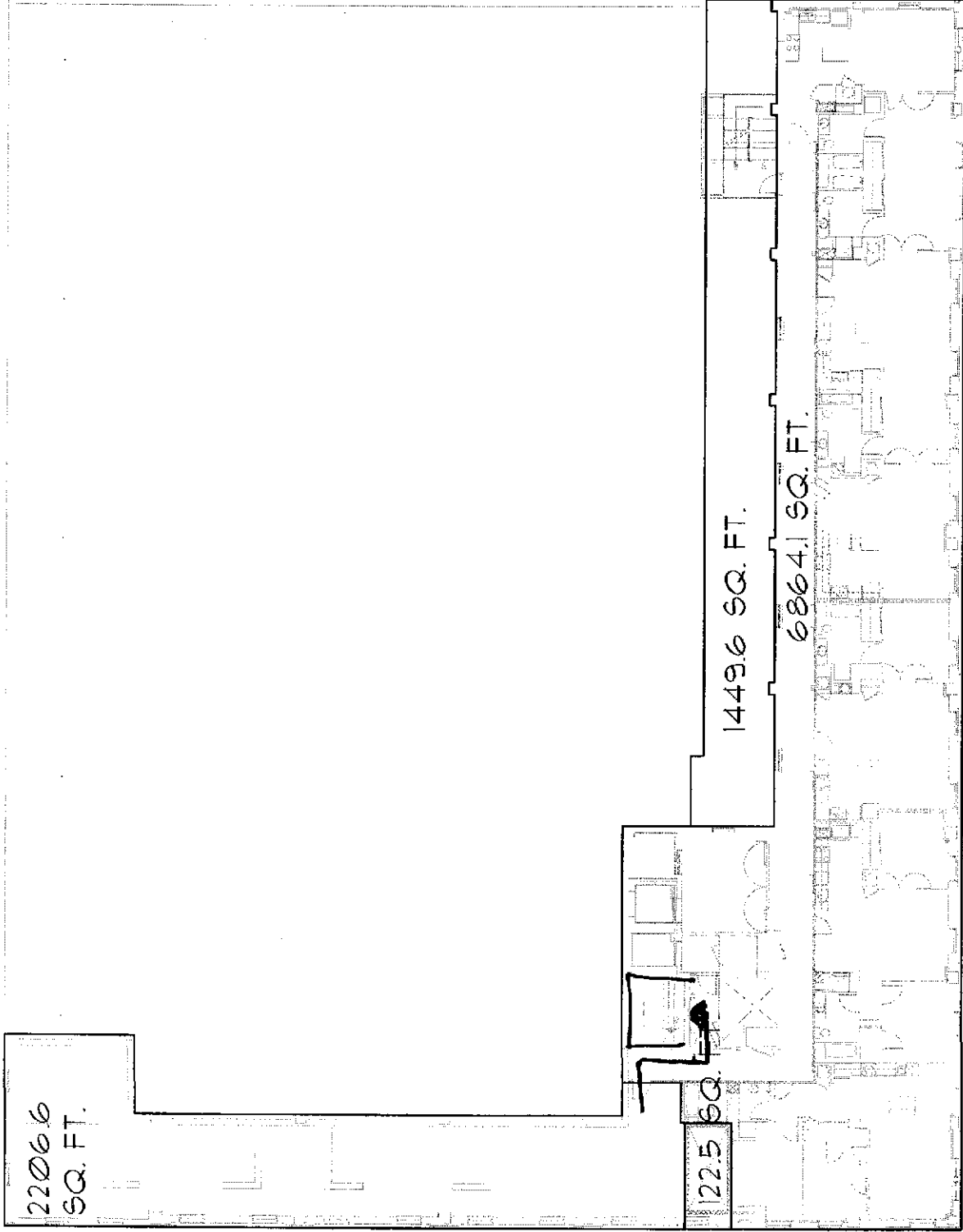
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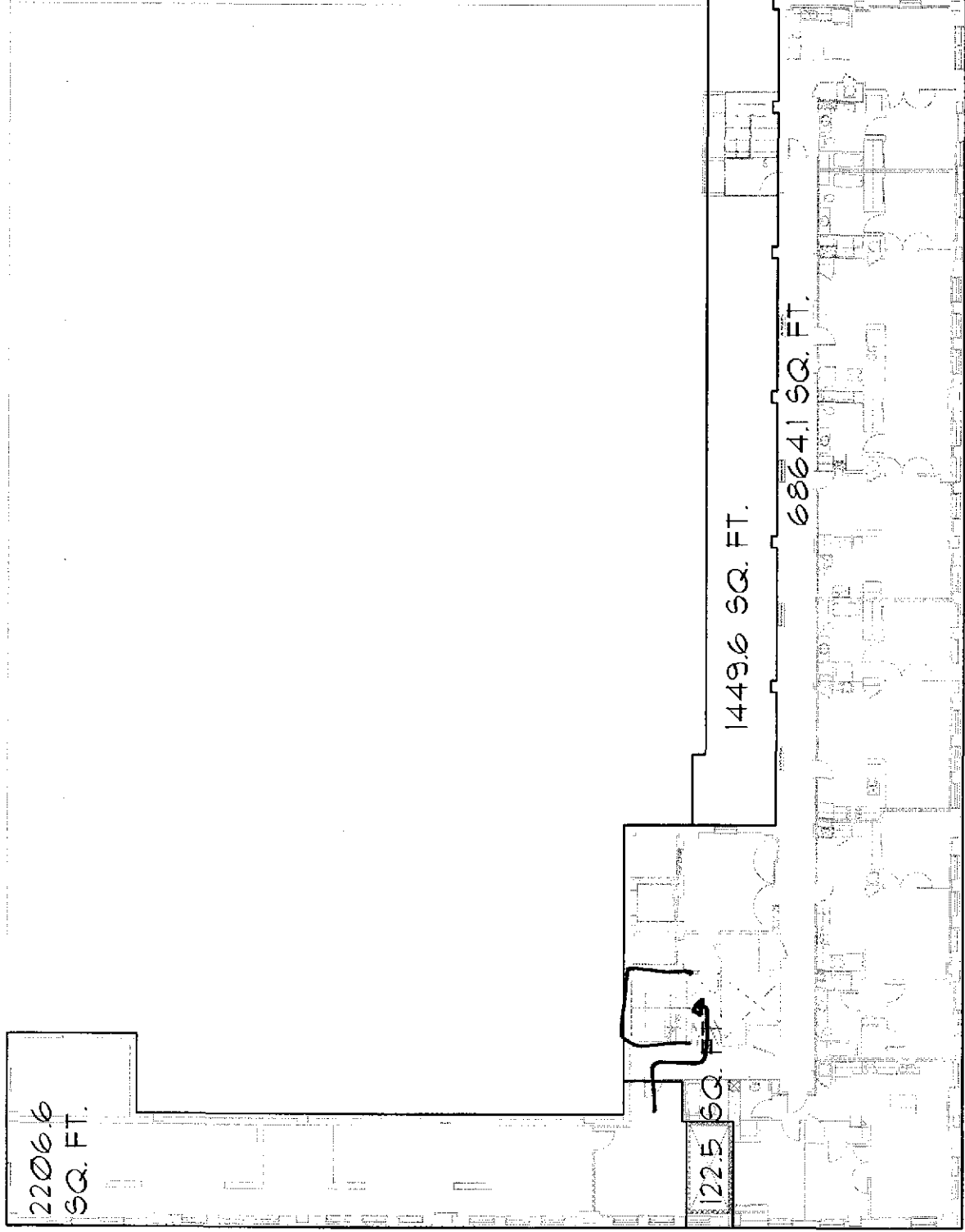
SEVENTH LEVEL FLOOR PLAN
SCALE: 1/8" = 1'-0"



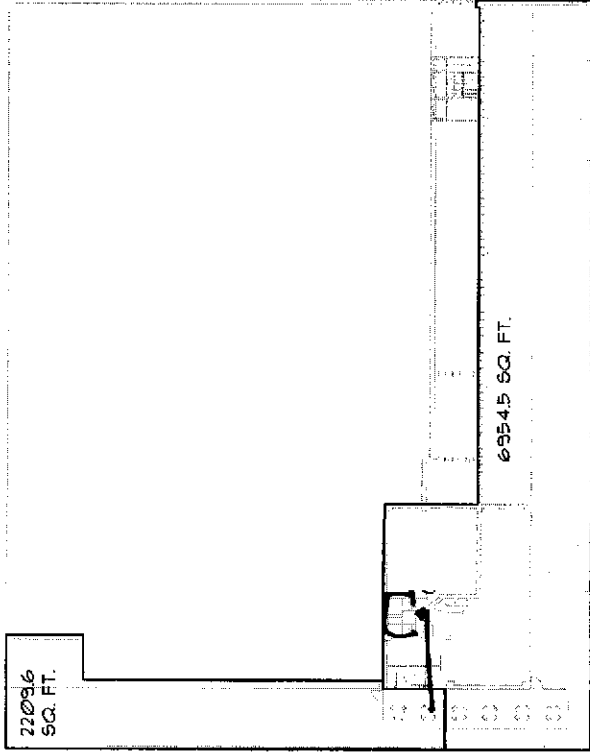
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EIGHTH LEVEL FLOOR PLAN



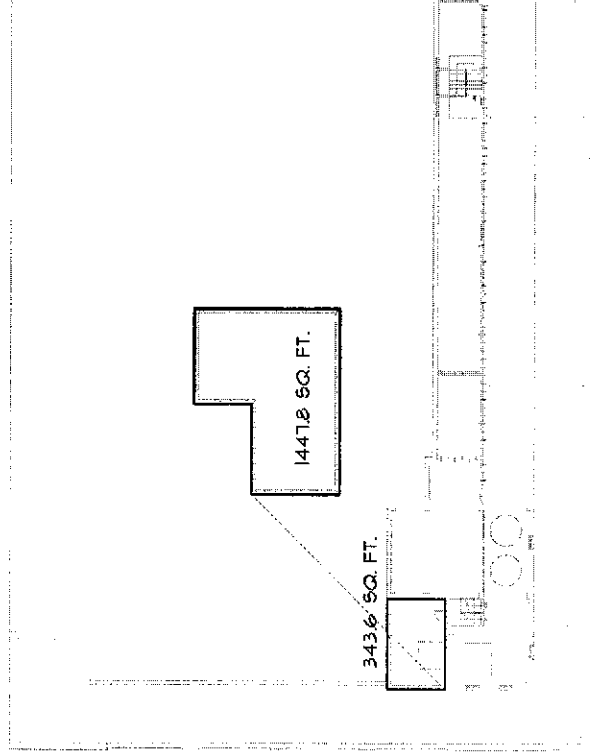
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NINTH LEVEL FLOOR PLAN
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TENTH LEVEL FLOOR PLAN
SCALE: 1/8" = 1'-0"



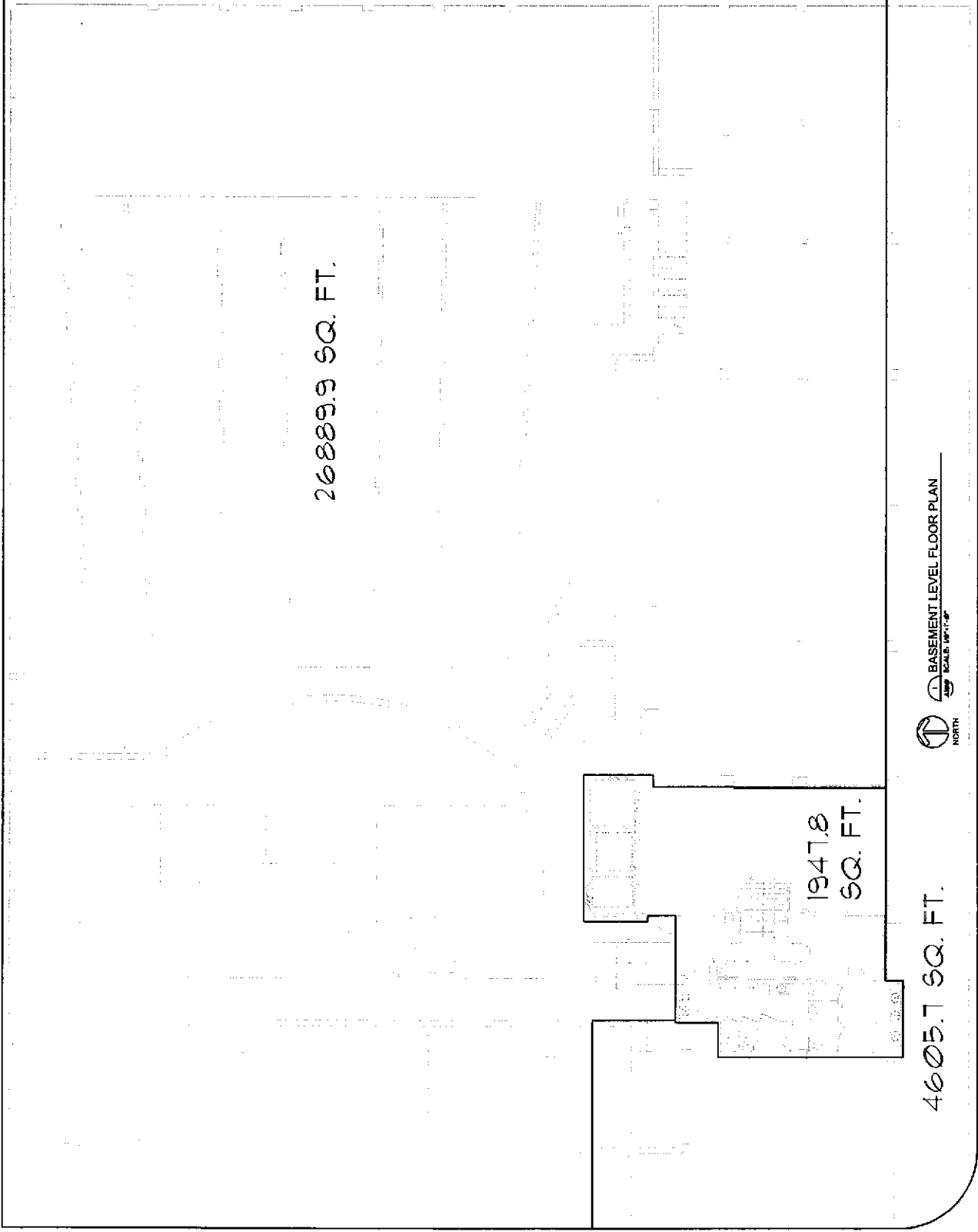
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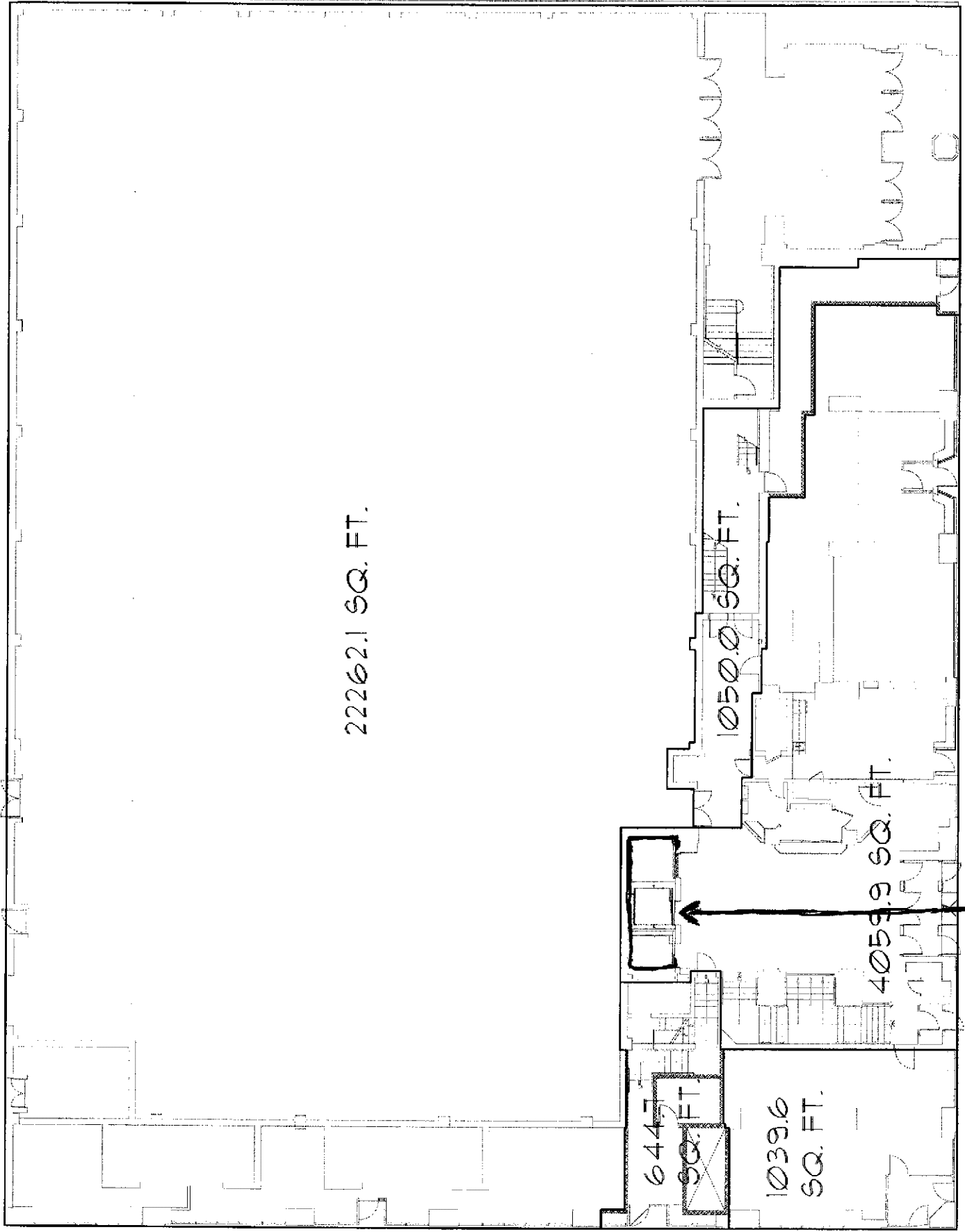
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GRID
IRON
EASEMENT
DESCRIPTION

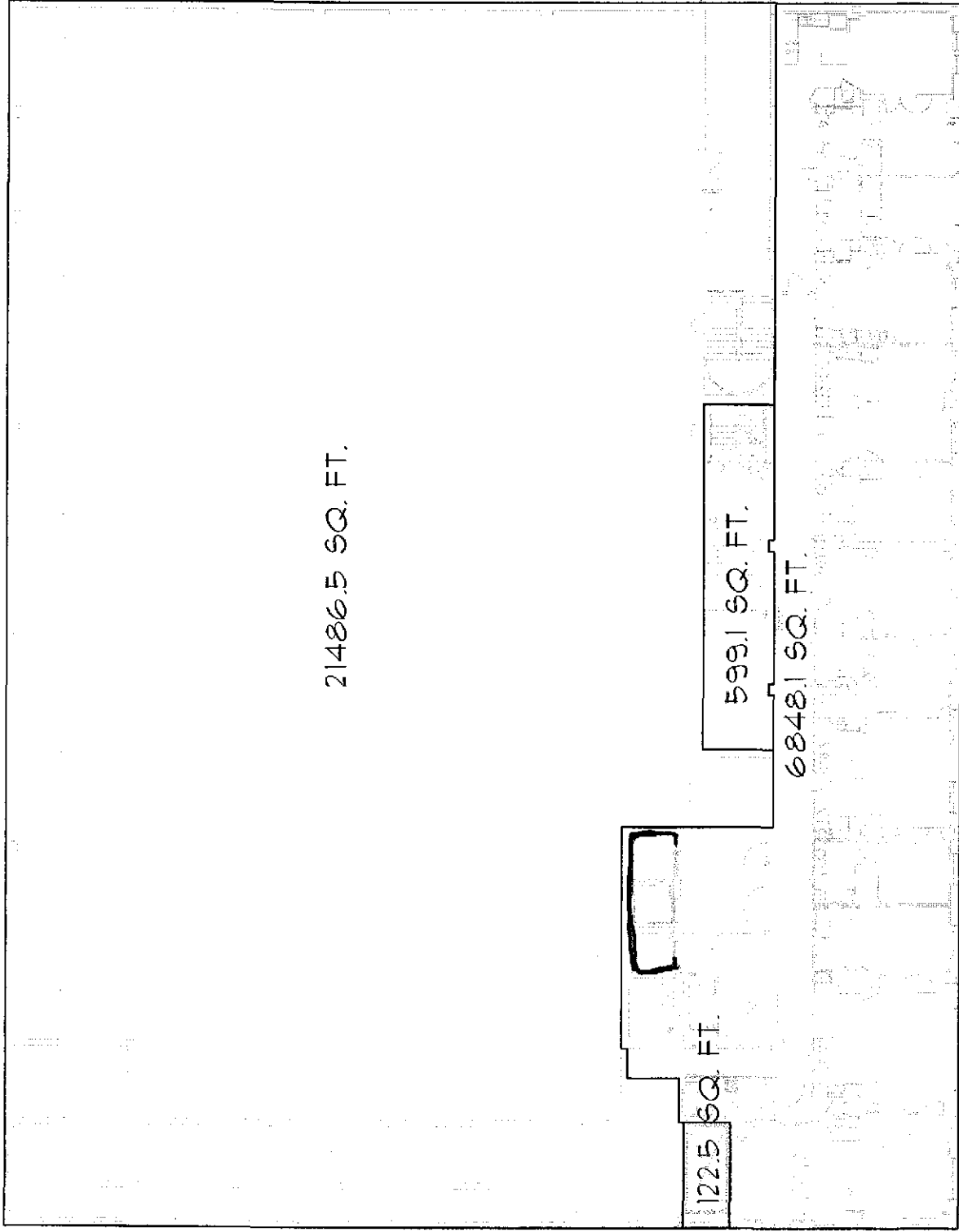
Access via
Mississippi Hotel
Unit lobby on
1st floor, use of
elevators to reach
7th floor, use of
Corridors to
access grid iron.
Use for both
exit from and
access to grid
iron as needed.



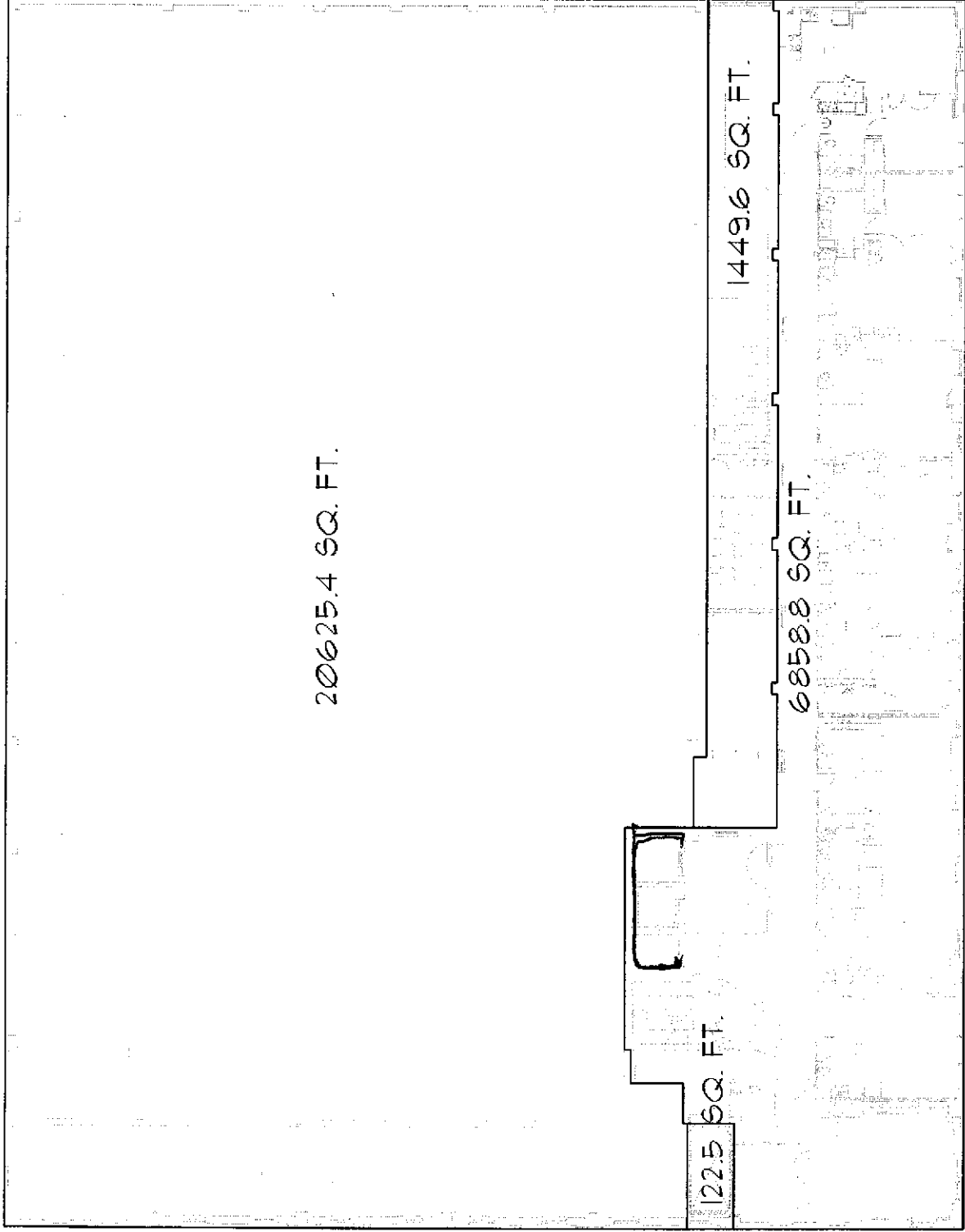
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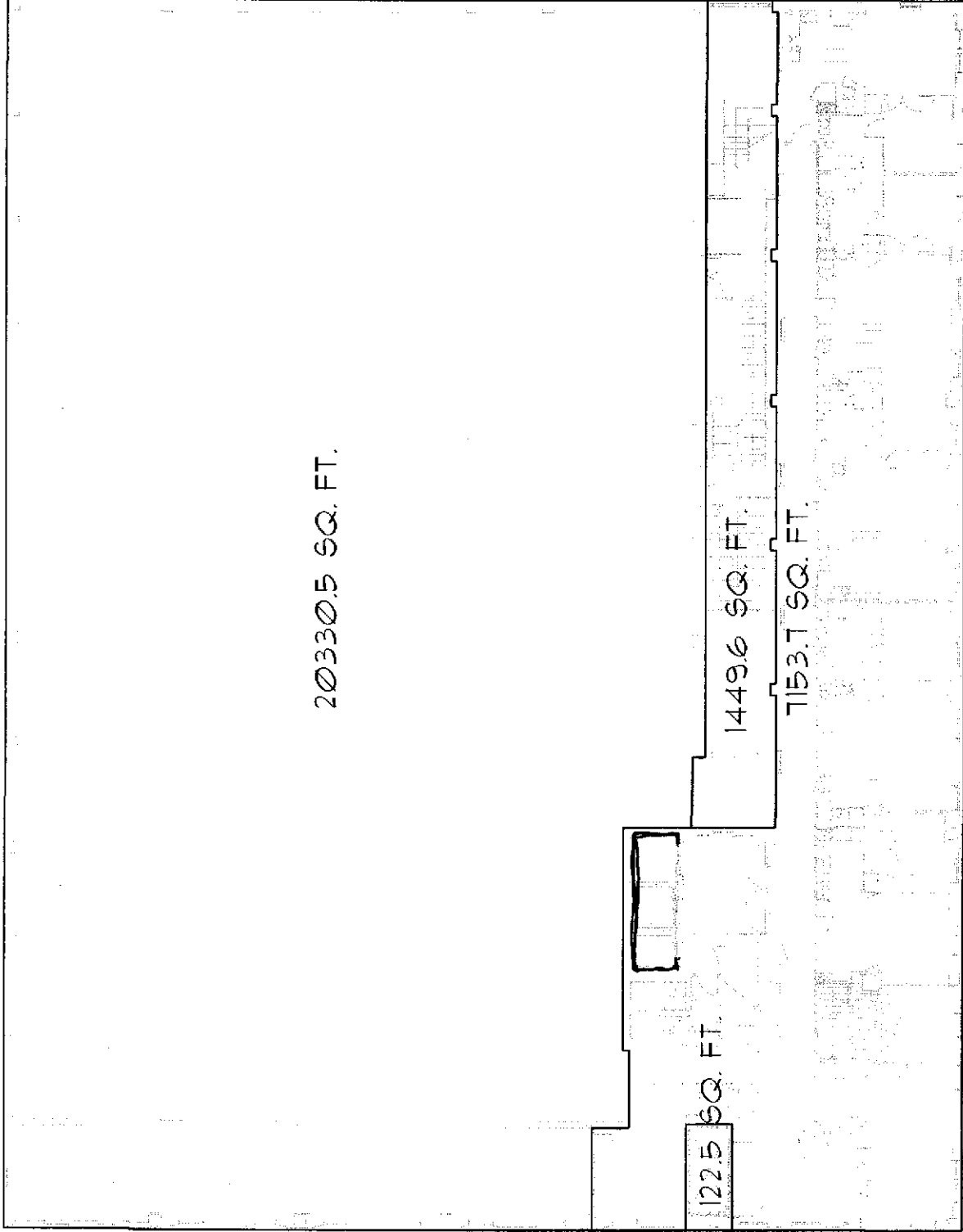
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NORTH



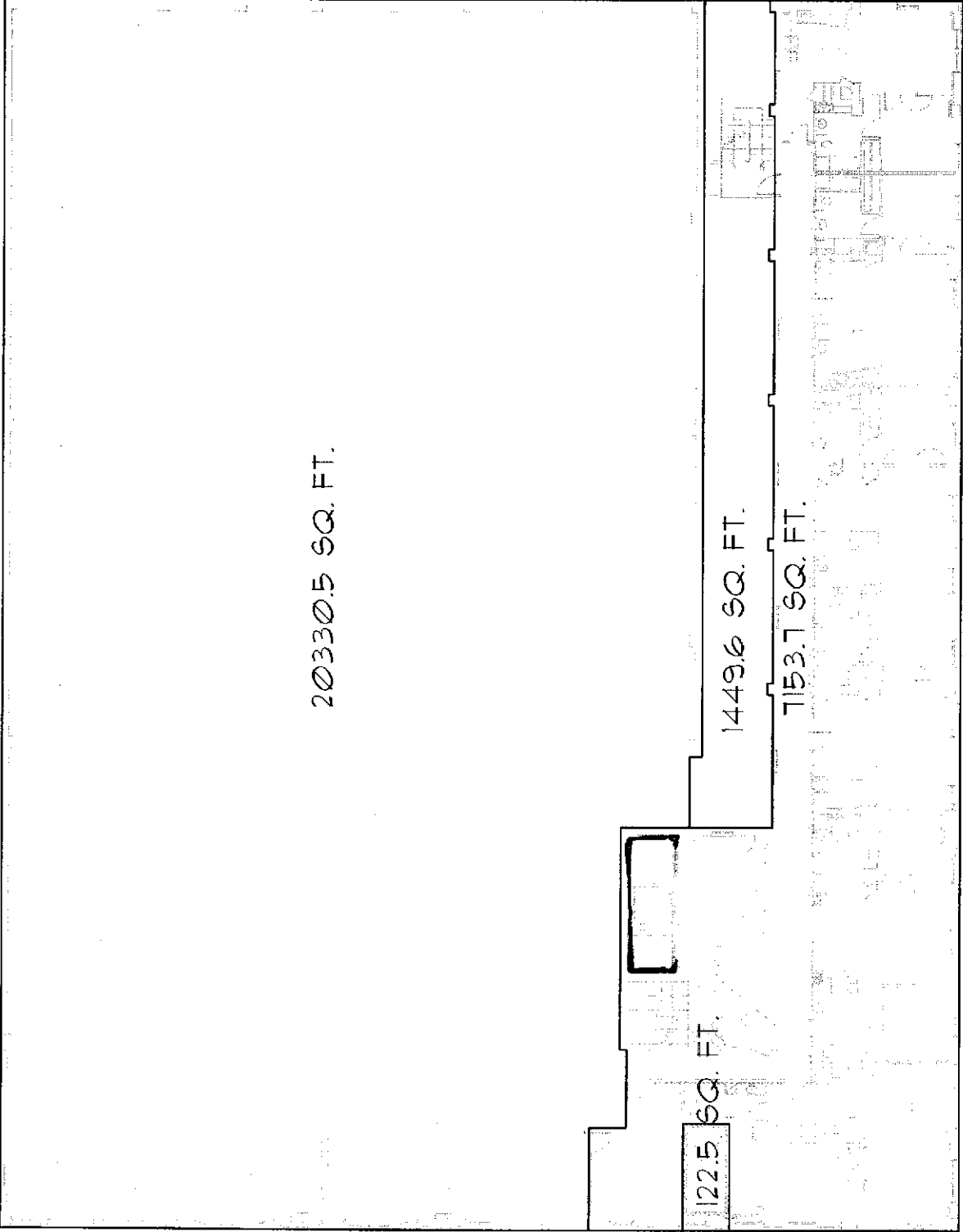
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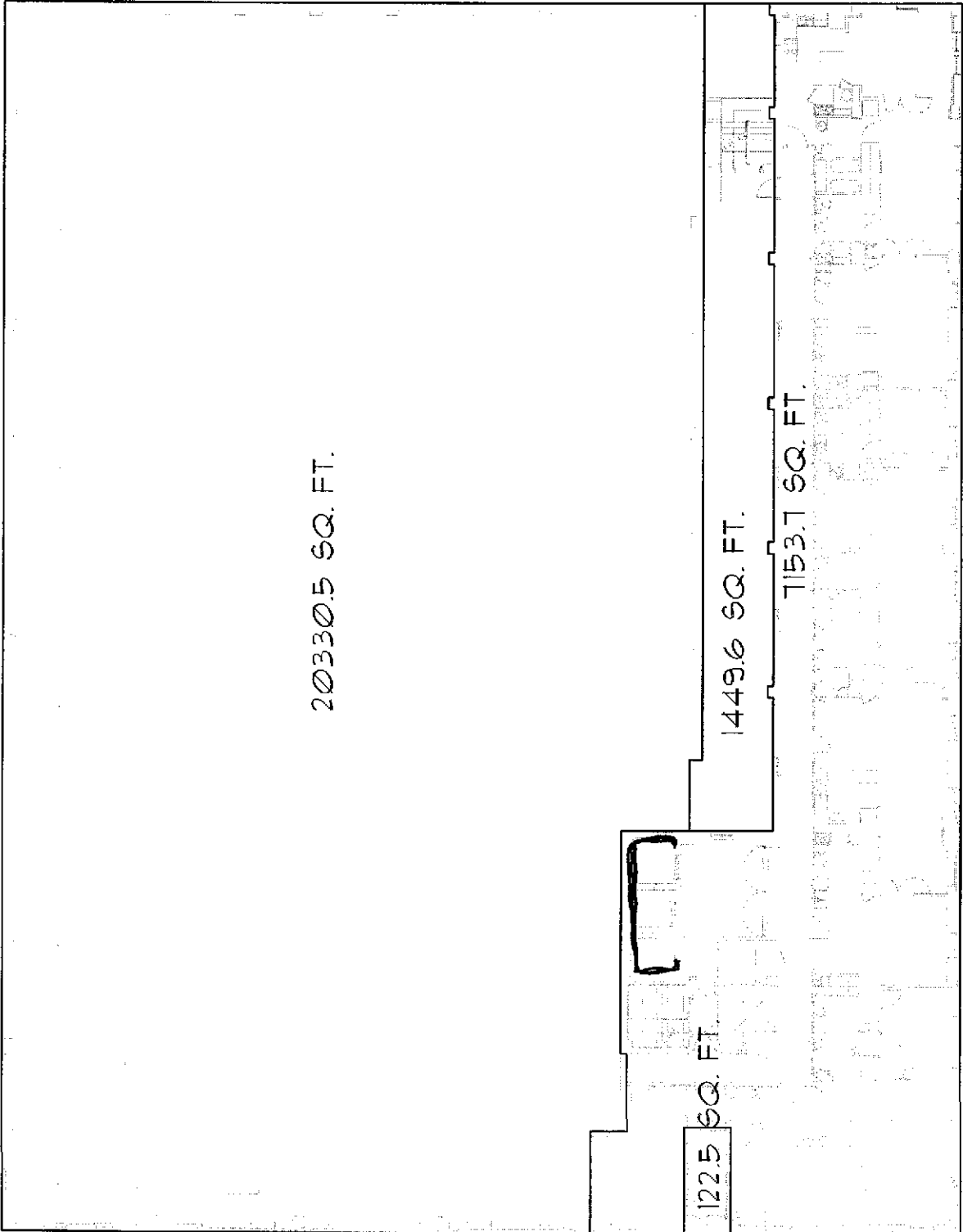
THIRD LEVEL FLOOR PLAN
SCALE: 1/8" = 1'-0"

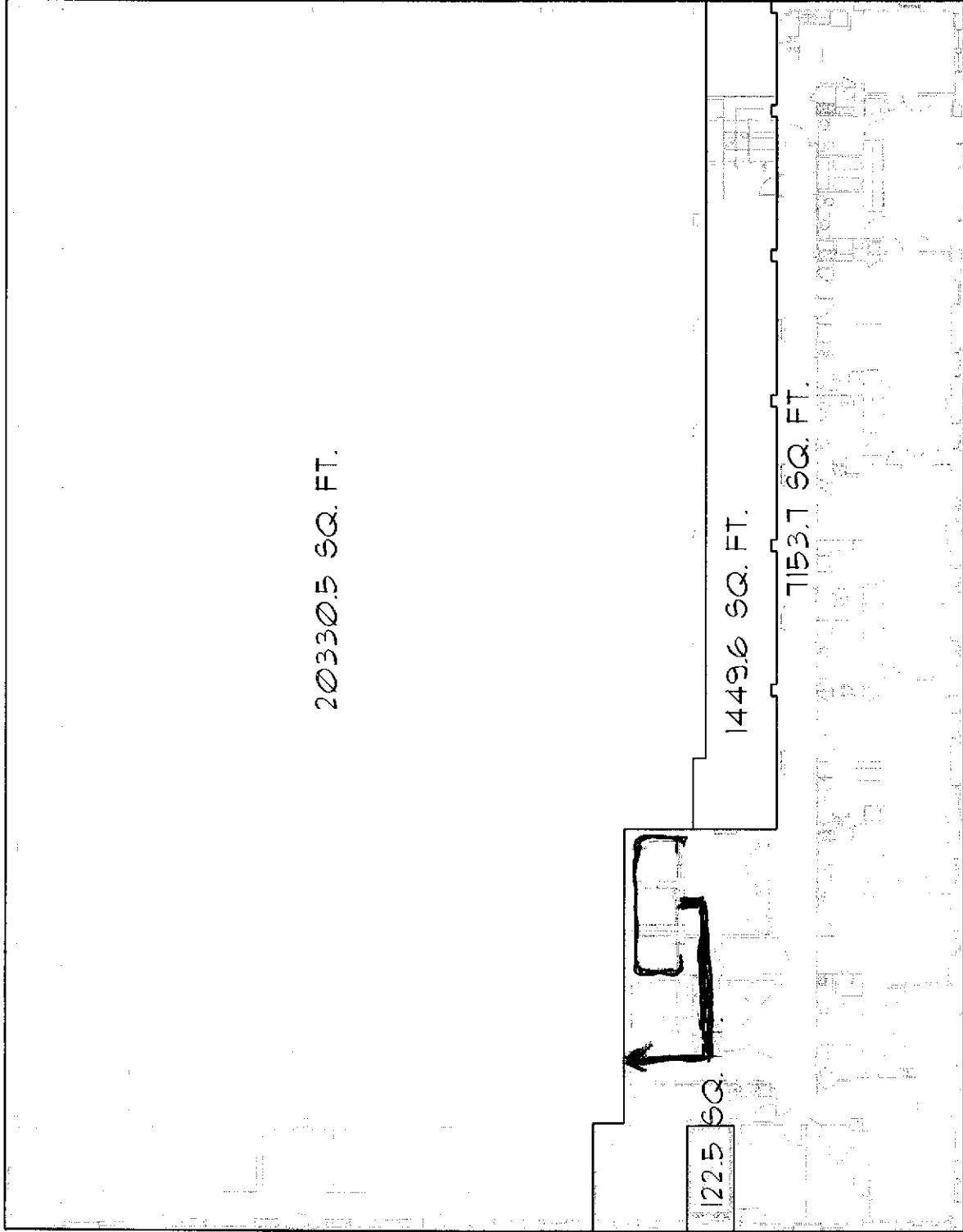


 NORTH
 SCALE 1/8" = 1'-0"
FOURTH LEVEL FLOOR PLAN



 NORTH
FIFTH LEVEL FLOOR PLAN
SCALE: 1/8" = 1'-0"





 NORTH
 SEVENTH LEVEL FLOOR PLAN
SCALE: 1/8" = 1'-0"

EXHIBIT F

DEVELOPMENT AGREEMENT

ADLER THEATRE EXPANSION AND MISSISSIPPI LOFTS DEVELOPMENT AGREEMENT

THIS ADLER THEATRE EXPANSION AND MISSISSIPPI LOFTS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into as of the [REDACTED] day of [REDACTED], 2006 (the "**Effective Date**"), by and among:

The City of Davenport, Iowa
An Iowa Governmental Subdivision
("**City**")

River Center for the Performing Arts, Inc.
an Iowa Non-Profit Corporation
("**RCPA**")

RCPA Development Co., L.L.C.
An Iowa Limited Liability Company
("**Development Company.** ")

Mississippi Housing Partners, L.P.
an Iowa Limited Partnership
("**Mississippi Housing** ")

and

Mississippi Retail Partners, L.P.
an Iowa Limited Partnership
("**Mississippi Retail**")

RECITALS

- A.** The City has originated and executed a plan for development of certain mixed-use improvements and renovations within the downtown area of the City called River Renaissance on the Mississippi ("**River Renaissance**"), in which the entire downtown area is thematically and logistically oriented toward the Mississippi River.
- B.** The improvements and renovations are collected within three corridors in the downtown area - the River Music Corridor, the Arts Corridor, and the New Economy Corridor, each of which contains at least one anchor facility that serves as a fundamental destination within the corridor, with each anchor supported by additional projects that create synergy between the corridors and support various related activities and elements. This Agreement relates to certain improvements denominated the River Center for the Performing Arts Project (the "**Project**"), as more particularly hereinafter described, comprising a part of the plan for development of the Arts Corridor of River Renaissance.
- C.** The Project comprises the following elements ("**Elements**"):
- Theatre:** This element involves redevelopment and renovation of portions of the existing Adler Theatre property, the legal description of which is more particularly described on **Exhibit 1** hereto (the "**Adler Property**"), title to which is currently owned by the City, with the goal of creating a theatrical venue for the Quad Cities that capitalizes on the importance of the City as the central locus of economic activity related to Mississippi River commerce. The redevelopment and renovation will include expansion of the Theatre stage depth from 30 to 41 feet, replacement of the rigging systems and the electrical and mechanical infrastructure required for adequate stage support and overall serviceability of the Theatre. The expansion

and renovation work will require occupancy by the Theatre of portions of the western elevation of the Mississippi Hotel that fronts Brady Street. This element also includes the creation of new dressing rooms and performer support facilities, renovation of the loading docks, related scenery lifts and other equipment essential to efficient loading required for the successful staging of large-scale productions.

Lofts and Commercial: These elements involve rehabilitation of the southern elevation of the Mississippi Hotel that fronts Third Street, and which currently abuts and connects with the Adler Theatre. This part of the Hotel property will be converted into ground floor commercial space the "*Commercial Element*", and affordable housing utilizing the former guest rooms located on floors above the ground floor (the "*Lofts Element*").

D. The City has committed its own financial resources to implementation of the Project, and has secured a commitment of financial assistance from the State of Iowa to fund a portion of the Project plan pursuant to the Vision Iowa Program ("*VIP*") established by Iowa Code §15F.302 et seq., as well as various other public and private sources. The City has entered into a certain Vision Iowa Grant Award Agreement (the "*Grant Agreement*") with the Vision Iowa Board in respect of the funding of various aspects of River Renaissance by the VIP.

E. RCPA is an Iowa Corporation formed for the purpose of facilitating the Theatre Element, including, among other things, acquiring additional funding and the design and management of the renovation work.

F. Development Company is an Iowa Limited Liability Company formed for the purpose of facilitating the Project. The City is the sole member of Development Company. Development Company has acquired title to the property which comprises the Mississippi Hotel (the "*Hotel Property*"), as more particularly described on **Exhibit 2**.

G. On August 4, 2004, the City and RCPA entered into an "*Adler Theatre Development Agreement*" attached hereto as **Exhibit 3**, which imposes certain responsibilities upon the City and RCPA with respect to the Theatre Element.

H. On November 18, 2004, the Development Company entered into a certain *Real Estate Option Contract* attached hereto as **Exhibit 4**, which granted J&T Development, L.L.C., a Kansas limited liability company, ("*J&T*") an option to acquire a part of the Mississippi Hotel for purposes of constructing the Lofts Element. The *Real Estate Option Contract* contemplates (specifically referencing paragraph 8 thereof) that a horizontal property regime will be established that includes both the Theatre Element and Lofts Element. J&T Development, L.L.C has timely exercised the option granted to it under the *Real Estate Option Contract*.

I. Mississippi Housing is an Iowa Limited Partnership, which is under common control with J&T Development, L.L.C., within the meaning of Paragraph 9 of Real Estate Option Contract. J&T Development Company has assigned its rights to receive conveyance of the Lofts Unit (as defined hereinbelow) to Mississippi Housing.

J. Mississippi Retail is an Iowa Limited Liability Company which is under common control with J&T Development, L.L.C. within the meaning of Paragraph 9 of Real Estate Option Contract. J&T Development Company has assigned its rights to receive conveyance of the Commercial Unit (as defined hereinbelow) to Mississippi Retail.

K. The City and Development Company wish to participate in this Agreement for public purposes, which purposes, include, without limitation, the development of the community's and the City's general business base, the general public benefit, including the improvement of the health, safety and welfare of the City and its residents; the elimination of blight and blighted areas, as well as the elimination of undeveloped areas and areas which have remained undeveloped without public participation; for the creation of jobs; for the increase of the City's tax base, including, without limitation, sales taxes, property taxes, and hotel/motel taxes; and to promote tourism and conventions within the City and to attract nonresident overnight visitors to the City.

L. RCPA, Mississippi Housing and Mississippi Retail wish to enter into this agreement in order to facilitate the development and coordinate payment for the elements of the Project for which they are wholly or partially

responsible, as well as to coordinate with the City and Development Company in respect of their responsibilities in connection with those Elements.

M. The action of the City herein is intended to provide an impetus to economic development and to continue promotion of the commercial rebirth of its downtown area; and, the City also wishes to eliminate all factors impairing and arresting sound community growth.

N. On February 1, 2006, the City Council of the City of Davenport approved a motion which, *inter alia*, approved the City's participation in this Agreement.

O. The foregoing recitals are intended to be descriptive and not substantive unless otherwise stated below.

TERMS AND CONDITIONS

In consideration of the foregoing recitals, the mutual covenants and promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree, covenant, and contract as follows:

ARTICLE I PROJECT, SCHEDULING, AND COORDINATION

1.1 **Definitions.** The following terms shall have the meanings ascribed to them as set forth below:

1.1.1 **Project:** The Project consists of the Elements described in the Recitals.

1.1.2 **Development Timetable:** The comprehensive detailed construction schedule to be attached upon completion thereof, as Exhibit 5, to which the parties shall use their best efforts to adhere, subject to Unavoidable Delays.

1.1.3 **Unavoidable Delays:** Acts of God, casualties, war, embargo, riots, strikes, unavailability of materials (but not failure of a party to pay for such materials), litigation commenced by third parties (including litigation seeking to enjoin the ability of a party to act), and all other acts or omissions, causes or events which are with respect to a party beyond that party's control.

1.2 **Exhibits.** The following Exhibits are attached hereto, or will be as they are produced, and by reference made a part of this Agreement:

Exhibit 1:	Legal Description of Adler Property
Exhibit 2:	Legal Description of Hotel Property.
Exhibit 3:	Adler Theatre Development Agreement
Exhibit 4:	Real Estate Option Contract
Exhibit 5:	Development Timetable
Exhibit 6:	Construction Responsibility and Shared Costs
Exhibit 7:	Parking Agreement
Exhibit 8:	Declaration of Horizontal Property Regime

1.3 **Project Coordination.** The parties agree to form a committee (the "*Coordinating Committee*") to facilitate the design development and construction coordination of the various Elements. The Coordinating Committee shall consist of the following six (6) people: Brian Nagle; Mike Sharp; Rick Palmer; Roaman Scholtz; Ron Reinders; Greg Schermer, Jay Trevor and Mike Sikes who shall facilitate and assist in the coordination of the design and construction of common elements, shared facilities and financing of the Project.

1.4 **Development Timetable.** As soon as practicable after the Effective Date, the parties shall meet and confer in good faith for the purpose of establishing the Development Timetable, and in so doing the parties shall endeavor to coordinate optimum construction schedules for each Project Element, taking into consideration relevant factors such as funding, coordination of construction efforts and the like. The parties acknowledge that changes to the

Development Timetable may be necessary or desirable from time to time and the parties agree to cooperate with each other to consider such changes; provided, however, that no party shall deviate from the Development Timetable by more than eighty (80) days without the consent of the other parties. The parties will jointly review the impact such changes may cause.

ARTICLE II OBLIGATIONS OF CITY

2.1 Transfer of Adler Property to Development Company. As soon as reasonably possible following the Effective Date, City shall transfer title to the Adler Property to Development Company.

2.2 Transfer of Membership Interest. As soon as practicable following completion of the transfer of title described in Paragraph 2.1, City shall transfer its membership interest in Development Company to RCPA.

2.3 Performance of City's Obligations under the Adler Theatre Development Agreement. City shall perform all of its other obligations to RCPA under the Adler Theatre Development Agreement attached as **Exhibit 3**, to the extent not previously performed; provided, however, that in the event of an express conflict between the provisions of this Agreement and any executory provisions of the Adler Theatre Development Agreement, the provisions of this Agreement shall control, but the provisions of this Agreement will be construed to give effect to the applicable provisions of the Adler Theatre Development Agreement to the fullest extent possible. For the avoidance of doubt, the provisions of Paragraph 2(a) (vii) of the Adler Theatre Development Agreement referring to the "Mississippi Hotel" and the provisions of Paragraph 2(a) (viii) of that Agreement shall, as to the Lofts and Commercial Elements, be deemed superseded by the provisions of this Agreement. The foregoing recitation is not intended to be exclusive.

2.4 Construction Expenses. City shall, in accordance with the Development Timetable, pay one-half (1/2) of the cost of the items described in Part A of **Exhibit 6**.

2.5 Parking. Off-street parking spaces, as may be requested, but not exceeding fifty-six (56) in number, to serve the owners and occupants of the Lofts Unit and the Commercial Unit, shall be made available by the City in the City's parking ramp located on the south side of Third St. between Pershing and Iowa Streets (the "**Parking Ramp**") pursuant to a separate licensing agreement in the form attached as **Exhibit 7**.

2.6 Grant of Necessary Easement(s). In keeping with the public purpose of the Project, the City will grant to Development Company, RCPA, Mississippi Housing or Mississippi Retail any and all necessary easements for the purpose of construction and operation of and access to the Project, the Theatre Element, the Lofts Element and the Commercial Element, including, but not limited to, pedestrian ingress and egress, utilities and other similar burdens.

2.7 Grant of Easement into the RiverCenter. City agrees to grant Mississippi Housing an easement for ingress and egress to and from the Lofts Element into the public access areas of the RiverCenter ("**Easement**"). The Easement includes the right to construct and maintain an entrance directly from the Lofts Element or the Theatre Element into the public access area of the RiverCenter, provided the entrance shall be so designed, constructed and maintained that it complies with applicable fire code requirements. The Easement shall permit ingress and egress during normal operating hours of the RiverCenter and at such other times, if any, as may be agreed from time-to-time by the City and Mississippi Housing. Mississippi Housing shall be responsible for the cost of installing and maintaining, at no cost to the City, any security devices or other security measures reasonably required to provide security against unauthorized entry via the Easement from the Lofts Element (and Theatre Element, if applicable) to the RiverCenter, and from the RiverCenter to the Lofts Element (and Theatre Element, if applicable), as well as other reasonable security measures for both properties to protect against vandalism, vagrancy and the like related to use of the Easement (collectively, "**Security Measures**"). The City and Mississippi Housing agree that promptly after execution of this Agreement they will negotiate in good faith and reduce to writing the Security Measures to be undertaken with regard to use of the Easement. All breaches of security and any safety issues related to use of the Easement shall be reported promptly to the other party by the party discovering the breach or issue, and the parties shall agree on what measures, if any, to take to correct the situation. In case of serious or repeated breaches of security or safety issues, Mississippi Housing or the City shall be entitled to temporarily suspend use of the

Easement until reasonable Security Measures or safety measures are put in place to correct or prevent recurrence of the problem. Mississippi Housing agrees to indemnify the City against claims and losses arising directly from Mississippi Housing's failure to implement the Security Measures. .

ARTICLE III OBLIGATIONS OF DEVELOPMENT COMPANY

3.1 Declaration of Horizontal Property Regime. Promptly after acquiring title to the Adler Property, Development Company shall prepare and file with the County Recorder of Scott County, Iowa, a Declaration of Horizontal Property Regime pursuant to Chapter 499B of the Iowa Code, in the form and substance of attached Exhibit 7, which includes both the Hotel Property and the Adler Property. The Declaration shall declare common elements ("*Common Elements*") of the regime and three units: constituted as follows: (a) one unit (the "*Adler Unit*") shall be comprised of the Adler Property and those portions of the Hotel Property (apart from the Common Elements) designated in the Declaration attached hereto as Exhibit 7 as part of the Theatre Element; (b) a unit (the "*Lofts Unit*"), which shall be comprised of that portion of the Hotel Property (apart from the Common Elements) to be used for housing and designated as the Lofts Unit in Exhibit 7; and (c) a unit (the "*Commercial Unit*") which shall be comprised of that portion of the Hotel Property (apart from the Common Elements) to be used as commercial space and designated as the Commercial Unit in Exhibit 7.

3.2 Formation of Owners' Association. As soon as reasonably practicable after adoption of the Horizontal Property Regime pursuant to Paragraph 3.1, the Development Company shall cause an association of condominium owners (the "*Owners' Association*") to be formed pursuant to applicable law, and shall cause by-laws thereof to be adopted in substantially the form set forth in the attached Exhibit 7.

3.3 Review and Approval of Declaration. Development Company shall submit a draft of the proposed by-laws of the Owners' Association to Mississippi Housing, RCPA and City for review and approval at least twenty-one (21) days before the adoption thereof. A party's approval shall not be unreasonably delayed or withheld.

3.4 Transfer of Lofts Unit and Commercial Unit. As soon as reasonably practicable after adoption of the Horizontal Property Regime pursuant to Paragraph 3.1, and upon satisfaction of all applicable conditions precedent to the transfer of the "Mississippi Hotel property" to J&T under the Real Estate Option Contract, Development Company shall transfer ownership of the Lofts Unit to Mississippi Housing, and shall transfer ownership of the Commercial Unit to Mississippi Retail, in fulfillment of Development Company's obligations under the Real Estate Option Contract. In the event conveyance of such property prior to approval of the Declaration of Horizontal Property Regime shall be reasonably required in order to permit Mississippi Housing to obtain construction financing for the Lofts Unit or the Commercial Unit, Development Company may conditionally transfer the Lofts Unit to Mississippi Housing or may transfer the Commercial Unit to Mississippi Retail for such purposes.

3.5 Grant of Necessary Easement(s). In keeping with the public purpose of the Project, the Development Company will grant, and require their Successors and assigns to grant, to RCPA, City, Mississippi Housing or Mississippi Retail any and all necessary easements for the purpose of construction and operation of and access to the Project, Theatre Element, Lofts Element and Commercial Element, including, but not limited to, pedestrian ingress and egress, utilities and other similar burdens.

ARTICLE IV OBLIGATIONS OF MISSISSIPPI HOUSING AND MISSISSIPPI RETAIL

4.1 Performance of Obligations under the Real Estate Option Contract. Mississippi Housing and Mississippi Retail shall perform all of the obligations of J&T to the Development Company under the Real Estate Option Contract, attached as Exhibit 4, to the extent not previously performed; provided, however, that in the event of an express conflict between the provisions of this Agreement and any executory provisions of the Real Estate Option Contract, the provisions of this Agreement shall control, but the provisions of this Agreement will be construed to give effect to the applicable provisions of the Real Estate Option Contract to the fullest extent possible. For the avoidance of doubt, the following provisions of the Real Estate Option Contract are deemed superseded by the provisions of this Agreement or are deemed to have been performed as of the Effective Date: Paragraphs 1

though 4 inclusive and Paragraph 7, together with Paragraphs 3 and 10(a) of Exhibit A thereto. The foregoing recitation shall not be deemed exclusive.

4.2 Design, Construction and Payment. In accordance with the Development Timetable, Mississippi Housing and Mississippi Retail shall, respectively, each at their sole cost, design the Lofts Element, the Commercial Element and those Common Elements and facilities required to be constructed by Mississippi Housing and Mississippi Retail in Part C of the attached Exhibit 6. Construction of the items required by the attached Exhibit 6 shall be in accordance with specifications agreed upon by the Coordinating Committee and subject to review and approval of the City.

4.3 Shared Costs. Mississippi Housing and Mississippi Retail shall collectively pay one-half (1/2) of the costs of the items identified in Part B of Exhibit 6.

4.4 Grant of Necessary Easement(s). In keeping with the public purpose of the Project, Mississippi Housing and Mississippi Retail each will grant and require its respective successors and assigns to grant, to RCPA, City or Development Company any and all necessary easements for the purpose of construction and operation of and access to the Project, the Theatre Element, the Lofts Element and the Commercial Element, including, but not limited to, pedestrian ingress and egress, utilities and other similar burdens.

4.5 Grant of Right of First Refusal. Mississippi Retail shall grant to City a Right of First Refusal to acquire all or any subunit of the Commercial Unit on the following terms and conditions:

In the event Mississippi Retail or any agent of Mississippi Retail receives notice of an offer for any purchase or lease of any unit or subunit of ground floor space, other than Common Elements, located within the Commercial Unit, Mississippi Retail shall, upon acceptance of such offer, subject to this right of first refusal, provide the City with written notice of such offer, setting forth all terms and conditions thereof, to be accompanied by a complete copy of all writings setting forth such terms and conditions. If in the reasonable judgment of the City, Mississippi Retail has not provided all necessary information necessary for City to exercise its Right of First Refusal, City shall request such additional information that City requires in writing. For a period of (30) days from the receipt of all required information, City shall have the first right to purchase or lease such unit or subunit upon the price and terms stated in the notice, and shall notify Mississippi Retail of City's election to do so. In the event that the City fails to notify Mississippi Retail within the thirty- (30-) day period, City shall be deemed to have elected not to exercise its Right of First Refusal. If City elects to exercise its right of first refusal and accept the opportunity for itself or for its nominee, City may substitute an equivalent sum of cash for any consideration other than cash specified in the notice.

ARTICLE V OBLIGATIONS OF RCPA

5.1 Performance of RCPA's Obligations under the Adler Theatre Development Agreement. RCPA shall perform all of its other obligations to the City under the Adler Theatre Development Agreement attached as Exhibit 3, to the extent not previously performed; provided, however, that in the event of an express conflict between the provisions of this Agreement and any executory provisions of the Adler Theatre Development Agreement, the provisions of this Agreement shall control, but the provisions of this Agreement will be construed to give effect to the applicable provisions of the Adler Theatre Development Agreement to the fullest extent possible. For the avoidance of doubt, the provisions of Paragraph 2(a) (vii) of the Adler Theatre Development Agreement referring to the "Mississippi Hotel" and the provisions of Paragraph 2(a) (viii) of that Agreement shall be deemed superseded as to the Lofts Element and the Commercial Element by the provisions of this Agreement. The foregoing recitation shall not be deemed exclusive.

5.2 Design and Construction of Common Elements. RCPA shall, in accordance with the Development Timetable, design and construct those Common Elements and shared facilities required by Parts A and B of Exhibit 6.

5.3 Grant of Necessary Easement(s). In keeping with the public purpose of the Project, the RCPA will grant, and require their Successors and assigns to grant, to RCPA, City, Mississippi Housing or Mississippi Retail any and

all necessary easements for the purpose of construction and operation of and access to the Project, the Theatre Element, the Lofts Element and the Commercial Element, including, but not limited to, pedestrian ingress and egress, utilities and other similar burdens.

ARTICLE VI FINANCIAL MATTERS

6.1 Construction Quality. Each party represents and warrants to the other parties hereto that such party shall construct first-class facilities comprising the Project Elements for which such party is responsible hereunder and that such party's expenditures for the design and construction of its Project Elements shall equal or exceed, in the aggregate, any amounts required of such party shown in the attached Exhibit 6 (if any) or the Grant Agreement.

6.2 Authorized Expenditures. To the extent that any party is required to expend or distribute funding for a portion of the Project to be designed and constructed by another party to this Agreement, such funds shall be used solely for the planning, design and construction of such portion, including but not limited to the costs associated with the design of such portion, and costs of constructing such portion, including the cost of obtaining the services of qualified professionals related to any or all of the foregoing. It shall be the responsibility of the owner of any portion of the Project to be constructed pursuant to this Agreement to provide ongoing funding related to the operation, programming and maintenance of such portion; provided, however, that this Agreement shall not preclude subsequent agreements among any of the parties related to the ongoing maintenance and repair of any such portion.

6.3 Accounting and Audit. Each party shall keep full and detailed accounts and exercise such controls as may be necessary to enable the expenditure of amounts described in Paragraphs 6.1 and 6.2 hereof to be recorded in accordance with generally accepted accounting principles, consistently applied. The City and its accountants shall be afforded access to, and shall be permitted to audit and copy, the records, books, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda and other data of any other party relating to such expenditures. Such records shall be preserved for a period of three years after payment of any such amount, or for such longer period as may be required by law.

ARTICLE VII DEFAULT, REMEDIES AND TERMINATION

7.1 Events of Default. Any one or more of the following events constitutes an Event of Default:

7.1.1 Material Breach. A party to this Agreement fails to perform any obligation owing by such party under this Agreement within ten (10) days after receipt of written notice thereof from the party to whom such obligation is owing; or,

7.1.2 Business Failure. A party's interest in this Agreement or the Project or any part thereof is levied on under execution or other legal process, or any petition is filed by or against a party to declare a party a bankrupt or debtor under any insolvency law or to delay, reduce or modify a party's debts or obligations, or any petition is filed or other action taken to reorganize or modify a party's capital structure, or a party is declared insolvent according to law, or any assignment of a party's property is made for the benefit of creditors, or a trustee or receiver is appointed for a party or its property, provided that no levy, execution, legal process or petition filed against a party shall constitute an Event of Default if the party vigorously contests by appropriate proceedings and it is removed or vacated within one hundred twenty (120) days from the date of its creation, service or filing; or,

7.1.3 Injunction. Any action or proceeding is initiated by or against a party to this Agreement seeking to enjoin, modify, amend, or set aside all or any part of that party's obligations to be performed under this Agreement, and such action or proceeding is not promptly terminated.

7.2 Notice of Default. Notice of the occurrence of an Event of Default shall be given to all parties to this Agreement in the manner specified in Paragraph 8.5 hereof.

7.3 Right to Cure. Any party to this Agreement shall have the right to cure an Event of Default arising under Paragraph 7.1 hereof within seven (7) days of its occurrence (or, if the act necessary to cure such Event of Default does not involve the payment of money and cannot reasonably be cured within such seven (7) day period, then the defaulting party shall commence such act within the seven (7) day period and thereafter promptly, effectively and continuously proceed with such act, subject to Unavoidable Delays).

7.4 Remedies for Failure to Cure. Upon the failure of a party to cure an Event of Default, the party to whom such obligation is owing may exercise any and all remedies available at law or in equity first to compel specific performance by the defaulting party of its obligations hereunder, or if appropriate, to recover damages incurred by the party seeking to pursue its remedies hereunder including, without limitation, all costs, filing fees, arbitration fees, witness expense, and reasonable attorneys' fees. Notwithstanding the foregoing, no party may initiate any action or proceeding to terminate this Agreement or its obligations hereunder, except as provided in Paragraphs 7.5 or 7.6 below.

7.5 Termination. This Agreement or the provisions of any part hereof may be terminated only upon the occurrence of one or more of the following events:

7.5.1 Consent. All parties to this Agreement agree in writing to such termination, in whole or in part; or

7.5.2 Excuse. Any party to this Agreement is relieved or enjoined from performing of its obligations, in whole or in part, by a judicial determination by any court of competent jurisdiction, and all appeals therefrom shall have been adjudicated or terminated; or

7.5.3 Default. An Event of Default shall have occurred under Paragraph 7.1 above and the remaining parties to this Agreement shall agree to such termination upon such terms and conditions acceptable to the party or parties not in default.

The termination of this Agreement shall not preclude any party from exercising its remedies under this Agreement to recover damages incurred by such party because of such termination, except as provided in Paragraph 7.6 below.

7.6 Re-Conveyance. If any Party should fail to construct and/or develop the Project as set forth herein or shall fail to pay for those Elements for which it is wholly or partially responsible, any party adversely affected by such failure may demand compliance and obtain specific enforcement of this Agreement. In addition, should RCPA fail to meet its obligations hereunder and be in Default, City may demand conveyance of the portion of the Project then owned by RCPA from RCPA to the City, and the RCPA shall convey such portion to the City immediately upon demand and forfeit any rights to such portion. This conveyance requirement shall be enforceable by specific performance and the RCPA shall have no right to any reimbursement for improvements made.

7.7 Waiver of Default. No failure or delay by a party to insist on specific performance of any term of this Agreement or to exercise any right, power, or remedy upon a breach of this Agreement shall constitute a waiver of such term or such breach.

7.8 Cumulative. Each right, power and remedy of a party provided for under this Agreement shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for under this Agreement or any other agreement between any of the parties hereto. The exercise or beginning of the exercise by a party of any one or more of the rights, powers or remedies provided for under this Agreement shall not preclude the concurrent or later exercise by a party of any or all such other rights, powers or remedies.

ARTICLE VIII GENERAL PROVISIONS

8.1 Entire Agreement. This Agreement and its Exhibits contain the entire agreement among the parties, and supersede all prior agreements or other understandings, oral or written, not expressly described or retained herein, pertaining to the subject matter hereof. This Agreement may be modified only by a written amendment signed by all

of the parties. Unless otherwise provided for, this Agreement shall be in effect for a period of twenty-one (21) years or for a shorter period as determined by the City.

8.2 Cooperation. Each party will commit the reasonable effort of its organization and personnel to meet the priorities, timetables, and objectives mutually established by the parties in this Agreement, and to cooperate with the other parties in every reasonable way with respect to their respective obligations and performance hereunder.

8.3 Consent. Except as otherwise specifically provided, whenever consent or approval of any party to this Agreement is required under this Agreement, such consent or approval shall not be unreasonably withheld, delayed or conditioned. If any party withholds, delays, or conditions any consent or approval, such party shall, upon written request, deliver to all other parties a written statement giving the reasons therefor. If any party withholds, delays or conditions consent or approval, any party may bring an action for a specific performance, declaratory judgment or other equitable relief. All parties shall cooperate in having any such action heard and determined by the court having jurisdiction as expeditiously as possible. If the consent or approval of any party to this Agreement is required under any provision of this Agreement and no time period is stated for giving such consent or approval, the giving or withholding of such consent shall be within fourteen (14) days after requested. A party shall be liable for damages for unreasonably withholding, delaying or conditioning such party's consent or approval. The damages for which a party may be liable under this Paragraph if such party unreasonably withholds, delays or conditions such party's consent or approval shall include, but not be limited to, the out-of-pocket costs and expenses, including reasonable legal fees and court costs reasonably incurred by another party in successfully bringing an action to enforce this Paragraph or otherwise challenging the unreasonable withholding, delaying or conditioning of approval of consent in any escalation in construction costs. Any damages (including reasonable legal fees and court costs) incurred by a party to this Agreement in successfully defending the withholding, delaying or conditioning of consent or approval shall be reimbursed by the unsuccessful challenging party.

8.4 Non-Discrimination. Neither the Project Elements nor any portion thereof shall be sold to, leased or used by any party in a manner to permit discrimination or restriction on the basis of race, creed, ethnic origin or identity, color, gender, religion, marital status, age, handicap, sexual orientation or national origin. The development, construction and operation of the Project Elements shall be in compliance with all applicable laws, ordinances and regulations relating to discrimination on any of the foregoing grounds.

8.5 Notices. Any notice required or permitted hereunder shall be in writing, signed by the party giving the notice, and shall be deemed given when:

8.5.1 Hand delivered to the party to whom the notice is addressed,

8.5.2 Mailed by certified mail, return receipt requested, United States mail, postage prepaid, or

8.5.3 Delivered by overnight courier delivery service (i.e., Federal Express, UPS, etc.), and addressed to the party at the address shown below:

To: Mayor and City Clerk
City of Davenport
226 W. 4th Street
Davenport, IA 52801

With a copy to: City Attorney
City of Davenport
226 W. 4th St.
Davenport, IA 52801

To: Mississippi Housing Partners, L.P.
10642 West 115th St.
Overland Park, KS 66216

To: Mississippi Retail Partners, L.P.
10642 West 115th St.
Overland Park, KS 66216

To: RCPA Development Co., L.L.C.

To: RCPA, Inc.
Attn: Catherine E. Hult
220 N. Main Street, Ste. 600
Davenport, IA 52801-1987

Any party may change the address to which notices shall be sent by notice given in accordance with the terms of this Paragraph.

8.5 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original.

8.6 Headings. Descriptive headings are for convenience only and shall not control or affect the meaning or construction of any provision of this Agreement.

8.7 Applicable Law. This Agreement shall be governed by the laws of the State of Iowa, and the sole and exclusive venue for any disputes arising out of this Agreement shall be any state court located within Scott County, Iowa, or federal court located within the appropriate venue. A waiver of any part of this Agreement shall be limited to that specific event and shall not be a waiver of the entire Agreement.

8.8 Severability. Should any part of this Agreement be determined to be illegal, invalid or otherwise unenforceable, then all such remaining parts not so affected by such illegality, invalidity or unenforceability shall continue in full force and effect, fully binding all parties, except as otherwise provided in Article VII hereof, their respective heirs and assigns, as to such remaining terms.

8.9 Assurance of Further Action. From time to time hereafter and without further consideration, each of the parties to this Agreement shall execute and deliver, or cause to be executed and delivered, such Recordable Memoranda, further instruments, and agreements, and shall take such other actions, as any other party may reasonably request in order to more effectively memorialize, confirm, and effectuate the intentions, undertakings, and obligations contemplated by this Agreement.

8.10 Code Compliance. To the best of each of the parties' knowledge and ability, the Project shall be designed and constructed in full compliance with all applicable state and local laws and ordinances, including but not limited to applicable laws and ordinances with respect to the competitive bidding of those Project Elements constituting public improvement projects. Further, each party warrants that the City of Davenport Building Department and City of Davenport Fire Department shall have approved all building plans submitted and each agrees to follow all requirements of the City Code and permits issued for the Project by the City.

8.11 Insurance. For their respective obligations under this Agreement, each of the parties shall obtain and maintain such insurance coverages as are typically found for projects of this nature including but not limited to builder's risk insurance insuring at minimum replacement value; property insurance for the maximum amount available not to exceed replacement value; personal liability coverage and workers' compensation coverage.

8.12 Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective heirs, successors, legal representatives and assigns.

Exhibit 1
Legal Description of Adler Property

Part of Lots 1, 2, and 3 in Block 57 in LeClaire's Second Addition to the Town (now City) of Davenport, Iowa, more particularly described as follows: Beginning at the Northeast corner of said Lot 3; thence Southerly along the East line of said Lot 3 a distance of 121 feet, more or less, to the point of intersection with the centerline extended Easterly of Column designated 33 on plans entitled "Hotel and Theater Building for Third and Brady Streets Corporation" prepared by A.S. Graves Inc., Architects, Project No. 30-E, dated 9-24-30; thence Westerly along the centerline or centerline extended of Columns designated as 33, 34, 35, 36, 37, 38 and 39 on said plans a distance of 131 feet, more or less, to the center of said Column 39; thence Northerly along the centerline of Columns designated as 39, 43, and 44 on said plans a distance of 23 feet, more or less, to the center of said Column 44; thence Westerly along the centerline of Columns designated as 44, 45 and 46 on said plans a distance of 33 feet, more or less, to the center of said Column 46; thence Northerly along the centerline or centerline extended of Columns designated as 46, 47, 48, 49, 50 and 51 on said plans a distance of 98 feet, more or less, to the point of intersection with the North line of said Lot 1; thence Easterly along the North line of said Lots 1, 2 and 3 a distance of 164 feet, more or less, to the said point of beginning.

Exhibit 2
Legal Description of Hotel Property

Lots 1, 2 and 3 in Block 57 in LeClaire's Second Addition to the Town (now City) of Davenport, Scott County, Iowa, excepting therefrom that part conveyed by Warranty Deed dated December 30, 1981 and recorded as Document No. 253-82 in the Office of the Recorder of Scott County, Iowa

Exhibit 3
Adler Theatre Development Agreement

ADLER THEATRE DEVELOPMENT AGREEMENT

This agreement is made this 4th day of August, 2004, by and between RIVER CENTER FOR THE PERFORMING ARTS, INC., an Iowa non-profit corporation ("RCPA"), and the CITY OF DAVENPORT, IOWA, an Iowa municipal corporation (the "City").

RECITALS:

- A. The City owns and operates the Adler Theatre located in downtown Davenport, Iowa.
- B. The City has previously determined that it is in the interest of the City and its citizens to expand and renovate the Adler Theatre stage through approval of the Vision Iowa Agreement (as defined below).
- C. RCPA has offered to assist the City in the financing, design, development, and construction of the Adler Theatre stage expansion and renovation.

NOW THEREFORE, in consideration of mutual promises and covenants contained herein, it is agreed as follows:

- 1. Purpose. The purpose of this Agreement is to set forth the duties and obligations of each party and to coordinate the acquisition, design, development, construction, and financing of the expansion of the stage and renovation of the Adler Theatre ("the Project"). This Development Agreement shall be binding upon the parties hereto, but shall not be construed to create rights in any third party.
- 2. Obligations and Duties of the Parties. The following sets forth the intentions, undertakings and obligations of and between RCPA and the City:
 - a. Obligations of RCPA. The parties agree that RCPA shall have the following duties, responsibilities and legal authority, which shall include, but are limited to, the following activities:
 - i. All fund-raising and financing, in excess of the obligations of the City, as provided below;
 - ii. The determination of the scope of the Project, consistent with the terms of the grant received by the City from Vision Iowa, and the agreements between the City and the Board of Directors of Vision Iowa (collectively, the "Vision Iowa Agreement");
 - iii. Preparation of proposals for the final design plan, final project budget, and timeline for the Project for review and approval by the City;

- iv. Upon approval of the proposals described above by the City, the execution of appropriate contracts, and supervision of the Project;
- v. The receiving, holding, and disbursement in accordance with the approved budget of all private and public funds received in connection with the Project. Upon the request of the City, RCPA shall, no more frequently than monthly, provide an accounting of such receipts and expenditures to the City;
- vii. Upon completion of the Project, RCPA or its designee shall convey to the City all interest, real or personal, in the Adler Theatre and Mississippi Hotel, including any unused funds collected for the Project, and shall further relinquish all control over the Project to the City;
- viii. The parties acknowledge that during the term of this Agreement, if the City procures a developer for the portions of the Mississippi Hotel not needed for the stage expansion, RCPA will assign that portion of the property back to the City or its designee; and
- ix. RCPA shall use its best efforts to assure that the project is designed and constructed in compliance with all applicable state and local laws and ordinances and the terms of the Vision Iowa Agreement. Further, RCPA shall submit to the City of Davenport Building Department and City of Davenport Fire Department all building plans and agrees to follow all recommendations and requirements of the City Code and the City Building Official and Fire Marshall.
- x. RCPA or its designee shall obtain and maintain, or cause its contractor performing the Project to obtain and maintain, insurance coverages for the Project as generally described in Schedule 2 to this Agreement. The City will continue to provide comprehensive general property, casualty and liability insurance coverage on the Mississippi Hotel and Adler Theatre. Each party shall designate the other as an additional insured on its respective policies.

Notwithstanding the foregoing, RCPA's obligations hereunder are expressly limited to assisting the City in the performance of the Project. RCPA shall have no responsibility, or liability to any third party, for any improvements to the Mississippi Hotel outside or beyond the scope of the Project.

b. Obligations of the City. the City shall cooperate with and provide assistance to RCPA with respect to the Project, including but not limited to:

- i. The acquisition of real estate and improvements thereon currently known as the Mississippi Hotel, or, alternatively, the providing of sufficient funds to RCPA for such acquisition, and will from time to time at the request of

RCPA provide sufficient funds for the maintenance, insurance, real property and other taxes, utility and other expenses of or associated with the ownership of such real estate and improvements by RCPA or its designee;

- ii. The transfer of title of the real estate and improvements known as the Mississippi Hotel and the Adler Theatre to RCPA or its designee;
- iii. The payment of Four Million One Hundred Thousand Dollars (\$4,100,000) less expenditures previously paid to date and set forth in Schedule 1 attached hereto in accordance with the distribution procedures set forth in paragraph 3 to RCPA for the purposes of the funding of the Project said payment includes Vision Iowa funding and the pledge of \$1,000,000 from the Adler Theatre Foundation;
- iv. Such other actions as may be necessary to facilitate the completion of the Project and compliance with the Vision Iowa Agreement including, if necessary and at the request of RCPA, application to the Vision Iowa Board for extension of the completion date of the Project to conform to the construction schedule as determined by RCPA and approval of this Agreement; and
- v. Upon completion of the Project, the City shall accept title to the former Mississippi Hotel and Adler Theatre property from RCPA, which shall be conveyed by quit claim deed.

3. Distribution of Funds. The parties acknowledge that compliance with the terms and conditions of this Agreement is a condition of the receipt of Vision Iowa funding for the River Renaissance by the City. Within 90 days of the effective date of this Agreement RCPA shall provide the City with a preliminary distribution schedule for expenditures. At least 30 days prior to the distribution of funds RCPA shall provide the City a current estimated distribution schedule of authorized expenditures. Commencing with the effective date RCPA may submit, not more frequently than monthly, written application to the City to draw against the City's contribution. Each draw request shall be submitted in such form and with such supporting documentation as the City may reasonably prescribe from time to time. The City shall act upon, and if such request shall be for the disbursement of funds authorized in this agreement, pay the amount(s) so requested within 30 days of the receipt of each such request up to the amount in paragraph 2(b)(iii) of this agreement.

RCPA shall keep full and detailed accounts in accordance with generally accepted accounting principles and exercise such controls as may be necessary to enable the expenditure of amounts described herein. The City shall be afforded access to, and shall be permitted to audit and copy the records, books, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda and other data of RCPA relating to such expenditures. Such records shall be preserved for a period of 3 years after the payment of any such amount, or for such longer period as may be prescribed by law.

4. Term. This Agreement shall be binding and remain in effect until completion of the Project. RCPA shall make every effort to provide the City with reasonable construction schedules in order to minimize the effects on scheduling of theater events and adhere to Vision Iowa guidelines. This Agreement may not be terminated except upon the written consent of each of the parties hereto.

5. Limitation of Liability. This Agreement shall not be construed to create a partnership or joint venture between the parties, and shall not create or establish any cause of action or liability by the parties hereto for claims asserted against any other party. Notwithstanding the above, RCPA agrees to defend, indemnify and hold harmless the City from any and all claims which may arise by virtue of RCPA's performance of the terms of this Agreement for the development of the Project.

6. Salaries and Fees. No salaries, fees, commissions or other compensation shall be paid by any party to this Agreement to any officers or employees of another party to this Agreement for services rendered in connection with the Project; provided, however, that RCPA shall be entitled and authorized to engage the services of counsel, architects, contractors and other professionals and to pay reasonable fees to such advisors and professionals for their professional services.

7. Notices. Any notices required under this Agreement shall be in writing, and shall be deemed given and received 48 hours after deposit with the U.S. Postal Service, postage prepaid, and addressed to the parties, or upon delivery by facsimile, courier, or overnight mail as follows:

If to RCPA: Gregory P. Schermer
Lee Enterprises, Incorporated
215 N. Main Street
Davenport, IA 52801

Copy to: C. Dana Waterman III
Lane & Waterman LLP
220 N. Main Street, Suite 600
Davenport, IA 52801

If to Davenport: Charles W. Brooke, Mayor
City of Davenport
226 W. 4th Street
Davenport, IA 52801

Copy to: Mary J. Thee
City Attorney
226 W. 4th Street
Davenport, IA 52801

8. Entire Agreement. This Agreement, together with other written agreements and instruments executed concurrently herewith or pursuant to the provisions hereof, contains the entire agreement between the parties concerning the matters herein set forth and supercedes all prior agreements between them respecting such matters.

9. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

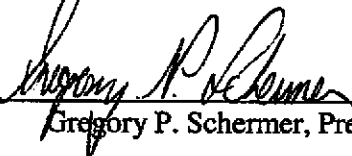
10. Headings. Headings in this Agreement are for purposes of convenience and identification only, and should not be used to interpret or construe this Agreement.

11. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Iowa.

12. Binding Effect. This Agreement shall be binding upon, and inure to the benefit of, each of the parties and their respective heirs, representatives, successors and assigns.

13. Modification. This Agreement may be modified only by written documentation signed by the representatives of each of the parties.


RIVER CENTER FOR THE
PERFORMING ARTS, INC.

By 
Gregory P. Schermer, President

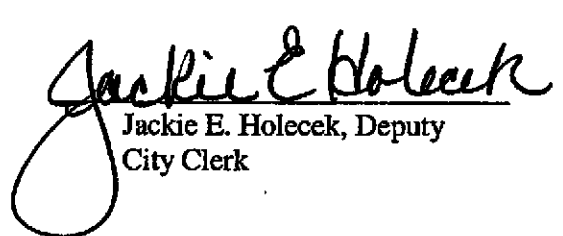
ATTEST:


C. D. Waterman III, Secretary

CITY OF DAVENPORT, IOWA

By 
Charles W. Brooke, Mayor

ATTEST:


Jackie E. Holecek, Deputy
City Clerk

STATE OF IOWA)
) SS:
COUNTY OF SCOTT)

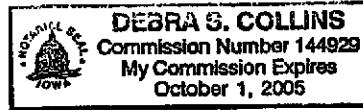
On this 23rd day of August, 2004, before me, the undersigned, a Notary Public in and for said State, personally appeared Gregory P. Schermer and C. D. Waterman III, to me

personally known, who, being by me duly sworn, did say that they are President and Secretary of said corporation; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that the said Gregory P. Schermer and C. D. Waterman III as such officers acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

Debra S. Collins

Notary Public in and for said County and State

(Notarial Seal)
STATE OF IOWA)
) SS:
COUNTY OF SCOTT)

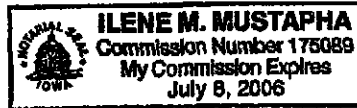


On this 14th day of August, 2004, before me, the undersigned, a Notary Public in and for said State, personally appeared Charles W. Brooke and Jackie E. Holecek, to me known, who, being by me duly sworn, did say that they are the Mayor and Deputy City Clerk of the City of Davenport, Iowa, a municipal corporation; and that the instrument was signed on behalf of the corporation, by authority of its City Council by Resolution passed on the 14th day of August, 2004; and Charles W. Brooke and Jackie E. Holecek acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

Ilene M. Mustapha

Notary Public in and for said County and State

(Notarial Seal)



Schedule 1
Adler Expansion Project
1924*7688

CITY PAID INVOICES

Van Dijk Pace Westlake	62,905.22
Van Dijk Pace Westlake	11,164.03
Van Dijk Pace Westlake	0.40
Van Dijk Pace Westlake	28,430.12
Van Dijk Pace Westlake	48,336.98
Van Dijk Pace Westlake	22,705.82
Van Dijk Pace Westlake	11,431.52
Van Dijk Pace Westlake	125.15
Van Dijk Pace Westlake	<u>3,318.22</u>
TOTAL VAN DIJK	188,417.46
Robertson Builders Inc - Expose Support Beams	1,991.50
TOTAL PRIOR PAID EXPENDITURES	<u>190,408.96</u>

SCHEDULE 2

ARTICLE 1 INSURANCE AND BONDS

1.1 CONTRACTOR'S LIABILITY INSURANCE

1.1.1 The Construction Manager shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Construction Manager from claims set forth below which may arise out of or result from the Construction Manager's operations under the Contract and for which the Construction Manager may be legally liable, whether such operations be by the Construction Manager or by a Contractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- .1 claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;
- .2 claims for damages because of bodily injury, occupational sickness or disease, or death of the Construction Manager's employees;
- .3 claims for damages because of bodily injury, sickness or disease, or death of any person other than the Construction Manager's employees;
- .4 claims for damages insured by usual personal injury liability coverage;
- .5 claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- .7 claims for bodily injury or property damage arising out of completed operations; and
- .8 claims involving contractual liability insurance applicable to the Construction Manager's obligations under Paragraph [].

1.1.2 The Construction Manager shall, for the protection and benefit of the Indemnitees and the Construction Manager and as part of the Construction Manager's efforts to satisfy the obligations set forth in Subparagraph 1.1.1, procure, pay for, and maintain in full force and effect, at all times during the performance of the Work until final acceptance of the Work or for such duration as required, policies of insurance issued by a responsible carrier or carriers acceptable to the Owner, and in form and substance reasonably satisfactory to the Owner. All such insurance shall be written on an occurrence basis. Information concerning reduction of coverage shall be furnished by the Construction Manager promptly.

1.1.3 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. These certificates and the insurance policies required by this Paragraph 1.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the final Application for Payment as required by Subparagraph []. In the event Owner reasonably believes any certificate required to be furnished pursuant

to this paragraph to be ambiguous with respect to the policy coverage(s) certified, Construction Manager agrees to furnish a certified copy of the underlying policy or appropriate part thereof to Owner upon Owner's request. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Construction Manager with reasonable promptness in accordance with the Construction Manager's information and belief.

1.1.4 In no event shall any failure of the Owner to receive certified copies or certificates of policies required under Paragraph 1 or to demand receipt of such certified copies or certificates prior to the Construction Manager's commencing the Work be construed as a waiver by the Owner or the Architect of the Construction Manager's obligations to obtain insurance pursuant to this Article 1. The obligation to procure and maintain any insurance required by this Article 1 is a separate responsibility of the Construction Manager and independent of the duty to furnish a certified copy or certificate of such insurance policies.

1.1.5 If the Construction Manager fails to purchase and maintain, or require to be purchased and maintained, any insurance required under this Paragraph 1.1, the Owner may, but shall not be obligated to, upon five (5) days' written notice to the Construction Manager, purchase such insurance on behalf of the Construction Manager and shall be entitled to be reimbursed by the Construction Manager upon demand.

1.1.6 When any required insurance, due to the attainment of a normal expiration date or renewal date, shall expire, the Construction Manager shall supply the Owner with Certificates of Insurance and amendatory riders or endorsements that clearly evidence the continuation of all coverage in the same manner, limits of protection, and scope of coverage as was provided by the previous policy. In the event any renewal or replacement policy, for whatever reason obtained or required, is written by a carrier other than that with whom the coverage was previously placed, or the subsequent policy differs in any way from the previous policy, the Construction Manager shall also furnish the Owner with a certified copy of the renewal or replacement policy unless the Owner provides the Construction Manager with prior written consent to submit only a Certificate of Insurance for any such policy. All renewal and replacement policies shall be in form and substance satisfactory to the Owner and written by carriers acceptable to the Owner.

1.1.7 The Construction Manager shall notify the Owner of any reduction in collectible limits and the Construction Manager shall promptly procure, at no expense to the Owner, such additional coverage as necessary to restore valid and collectible limits of such insurance to that required under the Contract Documents.

1.1.8 The Construction Manager shall cause each Contractor to (i) procure insurance reasonably satisfactory to the Owner and (ii) name the Indemnitees as additional insureds under the Contractor's comprehensive general liability policy. The additional insured endorsement included on the Contractor's comprehensive general liability policy shall state that coverage is afforded the additional insureds with respect to claims arising out of operations performed by or on behalf of the Construction Manager. If the additional insureds have other insurance that is applicable to the loss, such other insurance shall be on an excess or contingent basis. The amount

of the insurer's liability under this insurance policy shall not be reduced by the existence of such other insurance.

1.2 OWNER'S LIABILITY INSURANCE

1.2.1 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

1.3 PROPERTY INSURANCE

1.3.1 The Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Paragraph [] or until no person or entity other than the Owner has an insurable interest in the property required by this Paragraph 1.3 to be covered, whichever is later. This insurance shall include interests of the Owner, the Construction Manager, Contractors, Subcontractors and Sub subcontractors in the Project.

1.3.1.1 Property insurance shall be on an "all risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Construction Manager's services and expenses required as a result of such insured loss. Property insurance provided by the Owner shall not cover any tools, apparatus, machinery, scaffolding, hoists, forms, staging, shoring, and other similar items commonly referred to as construction equipment that may be on the site and the capital value of which is not included in the Work. The Construction Manager shall make its own arrangements for any insurance that may be required on such construction equipment. Any such policy obtained by the Construction Manager under this Subparagraph 1.3.1 shall include a waiver of subrogation in accordance with the requirements of Subparagraph 1.3.7.

1.3.1.2 If the Owner does not intend to purchase such property insurance required by the Contract and with all of the coverages in the amount described above, the Owner shall so inform the Construction Manager in writing prior to commencement of the Work. The Construction Manager may then effect insurance which will protect the interests of the Construction Manager, Contractors, Subcontractors and Sub subcontractors in the Work, and by appropriate Change Order the cost thereof shall be charged to the Owner. If the Construction Manager is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above,

without so notifying the Construction Manager in writing, then the Owner shall bear all reasonable costs properly attributable thereto.

1.3.1.3 If the property insurance requires deductibles, the Owner shall pay costs not covered because of such deductibles.

1.3.1.4 This property insurance shall cover portions of the Work stored off the site, and also portions of the Work in transit.

1.3.1.5 Partial occupancy or use in accordance with Paragraph [] shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Construction Manager shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

1.3.2 **Boiler and Machinery Insurance.** The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Construction Manager, Contractors, Subcontractors and Sub subcontractors in the Work, and the Owner and Construction Manager shall be named insureds.

1.3.3 **Loss of Use Insurance.** The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Construction Manager for loss of use of the Owner's property, including consequential losses due to fire or other hazards however caused, to the extent (i) of actual recovery of any insurance proceeds under policies obtained pursuant this Subparagraph 1.3.3 and (ii) permitted by the applicable policies of insurance.

1.3.4 If the Construction Manager requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance policy, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Construction Manager by appropriate Change Order.

1.3.5 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Subparagraph 1.3.7 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

1.3.6 Before an exposure to loss may occur, the Owner shall file with the Construction Manager a certificate of insurance evidencing such insurance coverages required by this

Paragraph 1.3. Each policy thus certified shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 30 days' prior written notice has been given to the Construction Manager. In the event Construction Manager reasonably believes any such certificate of insurance provided hereunder to be ambiguous with respect to the policy coverage(s) certified, Owner agrees to furnish a certified copy of the underlying policy or appropriate part thereof to Construction Manager upon Construction Manager's request.

1.3.7 **Waivers of Subrogation.** If permitted by the Owner's and Construction Manager's insurance companies, without penalties, The Owner and Construction Manager waive all rights against (1) each other and any of their Contractors, Subcontractors, Sub subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article [], if any, and any of their Contractors, Subcontractors, Sub subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent of actual recovery of any insurance proceeds under any property insurance obtained pursuant to this Paragraph 1.3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner in good faith. The Owner or Construction Manager, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article [], if any, and the subcontractors, sub subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

1.3.8 A loss insured under Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner in good faith for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Subparagraph 1.3.10. The Construction Manager shall pay Contractors their just shares of insurance proceeds received by the Construction Manager, and by appropriate agreements, written where legally required for validity, shall require Contractors to make payments to their Sub subcontractors in similar manner.

1.3.9 If required in writing by a party in interest, the Owner in good faith shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received in good faith. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or in accordance with an arbitration award in which case the procedure shall be as provided in Paragraph []. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Construction Manager after notification of a Change in the Work in accordance with Article [].

1.3.10 The Owner in good faith shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection is made, the dispute shall be resolved as provided in Paragraphs [] and []. The Owner in good faith shall, in the case of arbitration, make settlement with insurers in accordance with directions of the arbitrators. If distribution of insurance proceeds by arbitration is required, the arbitrators will direct such distribution.

Exhibit 4
Real Estate Option Contract

REAL ESTATE OPTION CONTRACT

This Agreement is made this 18th day of November 2004, by and between The RCPA Development Co. LLC ("Seller") and J & T Development, LLC, a Kansas limited liability company ("Buyer").

WHEREAS, Seller owns that certain building known as the Mississippi Hotel with a street address of 106 East Third Street, Davenport, Iowa, as designated in the Contract (hereinafter defined) (hereinafter described as the "Property").

WHEREAS, Buyer desires to have the opportunity to purchase the Property pursuant to this Agreement for Buyer's contemplated residential development thereof.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Grant of Option. Subject to the terms and conditions of this Agreement, Seller hereby grants to Buyer the exclusive right and option to purchase the Property (the "Option"). If Buyer exercises the Option, all applicable provisions of this Agreement and of the Purchase and Sale Agreement (the "Contract," attached as Exhibit A hereto and incorporated by reference) shall apply to the sale of the Property. In the event any conflicts arise between this Agreement and the Contract subsequent to the execution of the Contract, the terms of the Contract shall prevail.

2. Purchase Price. The purchase price for the property shall be Five Hundred Thousand and No/100 Dollars (\$500,000.00) (the "Purchase Price"), less the Option Price, as herein defined below.

3. Term of Option. The Buyer may exercise the Option granted herein until 60 days following approval of Buyer by the Iowa Finance Authority for Low Income Housing Tax Credits or such other date and time as the Buyer and Seller shall mutually agree, however in no event later than August 15, 2005 (the "Expiration Date").

4. Option Price. Buyer herewith pays, and Seller acknowledges receipt of, Five Thousand and No/100 Dollars (\$5,000.00) ("Option Price") as consideration for the Option granted herein. If Buyer exercises this Option, the Option Price shall be credited toward the Purchase Price.

5. Inspection License. During the time of this Agreement, Seller does hereby grant and extend to Buyer, its agents, employees and representatives, the license and right to enter upon the Property, at any reasonable time or times, but at the Buyer's sole cost, risk and expense, for the purpose of inspecting the same, performing such surveying and engineering functions, studies and tests pertaining to future development of the Property as Buyer, in its sole judgment, deems necessary or desirable. This license and right of entry shall cease without notice upon termination of this Agreement for any reason. No entry by Buyer pursuant to this license shall be construed in any manner as authorizing Buyer to create any encumbrance or lien of any kind upon the Property or to construct any improvement thereon. Buyer shall defend, indemnify and hold Seller and its members harmless from and against all costs, liens, or damages with respect

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CITY OF DAY ECO. & DEV.

563-328-6714

P. 3

to the license and right herein granted and shall promptly repair any damage to the Property occasioned by tests conducted thereon pursuant to the license and right herein granted.

7. Exercise of Option. The Option granted hereunder shall be exercised by the giving of written notice by Buyer to Seller. Upon such exercise the parties agree to execute the Contract and to be bound thereby.

8. Condominium. Seller agrees to work in good faith with the Buyer to file and have approved a condominium plat of the Property pursuant to the Iowa Horizontal Property Act in order to create at least a two unit condominium that legally separates the Mississippi Hotel from the remainder of the building improvements adjacent thereto to be joined with the Adler Theatre's legal description.

9. Assignment. This Agreement may be assigned by Buyer in whole or in part without the prior consent of Seller, to any entity that controls, is controlled by, or is under common control with, Buyer.

10. Personalty. This Agreement does not include any equipment or other personal property which may be located on the Property.

11. Notice. Any notices required to be delivered herein shall be sent pursuant to the terms of paragraph 13 of the Contract.

12. General Covenants.

a) Successors and Assigns. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective heirs, legal representatives, successors and assigns of the parties hereto.

b) Time of Performance. Should any date, or the expiration of any time periods specified in this Agreement, for the performance of any act of deed by a party hereto, for the occurrence of any event, fall on a Saturday, Sunday or legal holiday in the State of Iowa, the date or the time period for performance of such act or deed, and the date or time period for the occurrence of such event, shall be extended to the next succeeding regular business day.

c) Time is of the Essence. Time is of the essence of this Agreement and of the performance by each party hereto of each of its covenants, agreements and obligations contained in this Agreement.

d) Jurisdiction. This Agreement has been prepared in accordance with the laws of the State of Iowa and is to be construed and enforced in accordance with the laws of such state.

e) Amendments. This Agreement shall not be altered or amended except in writing, signed by all of the parties hereto.

f) Independent Covenants. Invalidation of any of the provisions herein contained by law, judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

g) Entire Agreement. This Agreement constitutes the entire understanding and agreement by and between the parties hereto with respect to the Property and supersedes any prior negotiations, agreements, understanding at any time made or had by and between the parties hereto or any of them or any of their agents.

h) Remedies. If any action is taken to enforce the terms of this Agreement, or to recover damages for the breach thereof, the prevailing party shall be entitled to receive its reasonable attorney fees and all costs and expenses incurred in such actions, to the extent permitted by applicable law, exclusive of, and in addition to, any other recoverable damages. Any remedies herein available shall not limit either party's ability to seek any other remedy available at law or in equity.

i) Headings. The headings of this Agreement are inserted only for the purpose of convenient reference and in no way define, limit or describe the scope or intent of any provision or part hereof.

j) Recording of Memorandum. A memorandum of this Agreement may be recorded in the real property records of Scott County, Iowa at Buyer's discretion and Seller shall fully cooperate in preparing, executing and recording any such memorandum.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date first above written.

OPTION GRANTOR ("Seller"):

THE CITY OF DAVENPORT, IOWA

By: Clayton Lloyd
Name: Clayton Lloyd
Title: Director, Community and Ec. Devel.

OPTION GRANTEE ("Buyer"):

J & T DEVELOPMENT, LLC, a Kansas limited liability company

By: Jay Trevor
Name: JAY TREVOR
Title: President

Exhibit A: Purchase and Sale Agreement

Attached

PURCHASE AND SALE AGREEMENT

THIS AGREEMENT ("Agreement") is made as of the ____ day of _____, 2005 ("Execution Date"), by and between The City of Davenport, Iowa ("Seller"); and J & T Development, LLC, a Kansas limited liability company, whose principal business address is 10642 West 115th Street, Overland Park, Kansas 66210 ("Buyer").

For and in consideration of the mutual covenants hereinafter contained, Seller and Buyer agree as follows:

1. PROPERTY.

For the price and upon and subject to the terms and conditions hereinafter set forth, Seller agrees to sell and convey to Buyer and Buyer agrees to purchase from Seller the following described property (collectively, the "Property");

(1) A portion of that certain parcel of land in the City of Davenport, Scott County, Iowa, and legally described in Exhibit A (the "Land"); attached hereto and made a part hereof, containing the Mississippi Hotel Building which parcel is commonly known as 106 East Third Street, Davenport, Iowa, and shown outlined on Exhibit B attached hereto and made a part hereof ("Building");

(2) The Building, undivided one-half interest in the common areas and all other improvements, if any, located on the Land (the "Improvements");

(3) All right, title and interest of Seller in and to (i) all public and private streets, roads, avenues, alleys and passageways, opened or proposed, in front of or abutting the Land, (ii) any award made or to be made and any unpaid award for damage to the Land by reason of any change of grade of any such street, road, avenue, alley or passageway, and (iii) any strips or gores of land adjoining the Land; and

(4) All and singular the estates, rights, privileges, easements, and appurtenances belonging or in any way appertaining to the Land and the Improvements.

2. PURCHASE PRICE.

The Purchase Price for the Property shall be Three Hundred Thousand Dollars (\$300,000.00) (the "Purchase Price") and shall be payable at "Closing" (as hereinafter defined), in cash, certified check made payable to Seller or wire transfer of funds.

3. SURVEY. Within forty-five (45) days after the Execution Date, Buyer shall cause a certified ALTA survey of the Property ("Survey") to be prepared by a surveyor licensed by the State of Iowa. The Survey shall be certified to Buyer and any others designated by Buyer and shall be prepared in accordance with the 1999 ALTA/ACSM Minimum Standard Detail Requirements including such Table A requirements as required by Buyer and such other pertinent facts as requested by Buyer. The Survey shall be accompanied by a current surveyor's

certificate in a form reasonably acceptable to Buyer. Buyer shall be responsible for the cost of the Survey.

4. **TITLE.** Within forty-five (45) days after the Execution Date, Seller, at its expense, shall promptly obtain an abstract of title to the Property continued through the date of acceptance of this Agreement, and deliver it to Buyer's attorney for examination. It shall show marketable title in Seller in conformity with this Agreement, Iowa law, and title standards of the Iowa State Bar Association. The Seller shall make every reasonable effort to promptly perfect title. If Closing is delayed due to Sellers' inability to provide marketable title, this Agreement shall continue in force and effect until either party rescinds the Agreement after giving ten days written notice to the other party. The abstract shall become the property of Buyer when the Purchase Price is paid in full. Seller shall pay the costs of any additional abstracting and title work due to any act or omission of Seller, voluntary or involuntary. Unless stricken, the abstract shall be obtained from an abstracter qualified by the Guaranty Division of the Iowa Housing Finance Authority. Upon Closing, Seller shall deliver to Buyer an Iowa Title Guaranty guaranteeing clear title to the Property.

5. **REPRESENTATIONS AND WARRANTIES.**

(A) Seller represents and warrants to Buyer as follows, which representations and warranties shall be deemed made by Seller as of the Execution Date and, if true, shall be reaffirmed as of the Closing Date, shall survive the Closing, it being agreed that but for such representations and warranties, Buyer would not execute this Agreement:

(1) There are no other parties in possession of any portion of the Property, except such residential tenants whom will be out of possession by the Closing Date.

(2) There are no pending or, to the best of Seller's knowledge, threatened actions, suits or proceedings before or by any judicial body or any governmental authority, against or affecting the Property.

(3) Seller has the present full authority and power to execute this Agreement and to close the sale of the Property.

(4) (a)(i) Neither the Property nor any portion of the Land has ever been used by Seller or, to the best of Seller's knowledge, any other person to generate, manufacture, refine, transport, treat, store, handle, or dispose of (collectively, "Use") any "Hazardous Material" (as hereinafter defined), (ii) no Hazardous Material is now or, to the best of Seller's actual knowledge, has ever been used on, under, or in the Property or any portion of the Land, (iii) there are no actions, claims, suits, or proceedings pending or, to the best of Seller's knowledge, threatened against Seller or the Property or any portion of the Land which relate to any violation or alleged violation of any "Environmental Laws" (as hereinafter defined); (iv) Seller shall notify Buyer immediately and in writing of any proceedings, actions, suits, or claims pending or threatened against Seller relating to any violation or alleged violation of any Environmental Laws with respect to the same.

(b) As used herein,

(i) "Hazardous Material" shall be defined as any substance, waste, or material now or hereafter determined by any Governmental Authority to pose a risk of injury to health, safety and/or property, including but not limited to (A) all materials, wastes and substances now or hereafter designated as hazardous or toxic by the United States Environmental Protection Agency, the United States Department of Labor, the United States Department of Transportation or any other Governmental Authority, (B) all materials, wastes and substances now or hereafter designated or defined as hazardous, extremely hazardous or toxic pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601, et seq.), the Resource Conservation and Recovery Act (42 U.S.C. §6901 et seq.), or any other Environmental Laws, and (C) asbestos, urea formaldehyde, polychlorinated biphenyls, and petroleum products.

(ii) "Environmental Laws" shall be defined as all present or future laws, statutes, treaties, rules, regulations, orders, ordinances, permits, licenses, judgments or decrees enacted by any Governmental Authority to regulate any materials, wastes and/or substances in the environment.

(5) All utilities (including, without limitation, domestic water, water service for fire protection, sanitary sewer and storm sewer and storm water management facilities, electric, natural gas, cable and telephone) are located on or at the boundary line of the Land in a size, capacity and manner to which Buyer may connect for use of the Property (collectively, the "Utility Services").

(6) Seller possesses good and marketable fee simple title to the Property and shall transfer title to the same to Mississippi Housing Partners, L.P., an Iowa limited partnership or such other special purpose entity created by Buyer for the purpose of owning and operating the Property by special warranty deed (the "Deed") dated as of the Closing, subject only to the title exceptions to which Buyer has not objected.

(7) All streets and roads necessary for access to and use of the Property have been completed, dedicated and accepted for maintenance and public use by the appropriate governmental authorities, and no easements are required by the owner of the Property for such use, unless otherwise stated in this Agreement.

(8) To the best of Seller's knowledge, there are no special assessments, fees or charges (including any "impact fees" or charges in the nature thereof) of any kind or nature whatsoever levied or assessed or pending or contemplated against the Property by any governmental authority having jurisdiction over the Property.

6. RISK OF LOSS; CONDEMNATION.

(A) Seller shall bear the risk of loss until Closing. All hazard insurance, if any, maintained by or on behalf of Seller in respect to the Property shall be canceled as of the Closing Date.

(B) If all or any part of the Property shall be condemned by governmental or other lawful authority having the power of condemnation over Seller, Buyer shall have the option, by giving notice of its election to Seller before the Closing Date, either of (i) completing this transaction, in which event (a) there shall be no reduction of the Purchase Price, (b) Seller shall have no duty to repair or restore, (c) Seller shall pay to Buyer all condemnation proceeds theretofore or thereafter received by Seller with respect to such condemnation, (d) Seller shall assign to Buyer all rights of Seller in and to such condemnation proceeds, and (e) Seller shall furnish to Buyer such documents, cooperation and assistance as Buyer requires to enforce the rights of Seller with respect thereto; or (ii) terminating this Agreement, in which event the Earnest Money shall immediately be returned to Buyer and neither party shall have any further obligation to the other hereunder.

7. SUITABILITY; INSPECTION PERIOD; LICENSE TO ENTER.

(A) Buyer shall have one hundred twenty (120) days from the Execution Date (the "Inspection Period") to determine whether the Property is suitable for Buyer's intended development and operation. In the event that Buyer has not yet received from the appropriate governmental agency, its building permit, and such other approvals as are required by such governmental agency for Buyer to commence construction on the building. Buyer may extend the Inspection Period until such permits and approvals are received but such extension shall in no event exceed one (1) year after the Execution Date.

(1) Buyer may have conducted or caused to be conducted soil conditions, geotechnical and engineering tests (the "Soil Assessment"), and/or hazardous materials, engineering tests and/or environmental assessments (the "Environmental Assessments") of the Land and such Soil Assessments and Environmental Assessments shall show the Land to be in a condition acceptable to Buyer, in Buyer's sole decision, and in this connection, Buyer or its designated agents may enter upon the Land for purposes of the Soil Assessments, Environmental Assessments, inspections, soil analysis, core drilling or any other tests that may be deemed necessary or desirable by Buyer or its engineer (including, without limitation, engineering tests to determine the existence, if any, of any geological faults in or undermining of the subsurface of the Land and the location thereof).

(2) Buyer shall have determined, in Buyer's sole determination, whether the improvements contemplated by Buyer for the Property and the intended use thereof are permitted by all governmental or quasi-governmental authority (local, state or federal), including but not limited to zoning, subdivision and special use authorities.

(3) Buyer shall have determined, in Buyer's sole determination, that it will have the right to construct and operate upon the Property, upon proper application to the appropriate governmental authorities and at a cost reasonably acceptable to Buyer, its building and other improvements for Buyer's intended use. Said applications and approvals shall include, but shall not be limited to, (i) the proper zoning and all other authority to construct Buyer's building and all other necessary or desirable improvements, and (ii) all permits, licenses and approvals for the Buyer's intended use.

(4) Buyer shall have determined, in Buyer's sole determination, whether all Utility Services (including, without limitation, surface water disposal and/or drainage) will be available in a location, size and capacity acceptable to Buyer.

(5) Buyer shall have determined, in Buyer's sole determination, whether reasonable access and adequate parking are available for the Property.

(B) If Buyer shall determine, in its sole discretion, that it is not feasible to develop the Property for the use as intended by Buyer, then Buyer may terminate this Agreement by giving notice (the "Termination Notice") of its election to do so to Seller on or before the expiration of the Inspection Period. The Termination Notice shall set forth the reasons for the termination of this Agreement in reasonable specificity. If the Termination Notice is not given on or before the expiration of the Inspection Period (as the same may be extended as herein provided), then Buyer shall be conclusively presumed to have irrevocably waived the right to terminate under this paragraph and to have accepted the Property in its "as is" condition, subject to all terms and conditions of this Agreement.

(C) Seller hereby grants unto Buyer a license (the "License") (i) to enter upon the Property for the purpose of conducting all tests, assessments, inspections, studies and surveys in connection with its satisfaction of Buyer's Criteria and its other rights and obligations under this Agreement (collectively, the "Tests"), and (ii) to use all reasonable and necessary means of ingress and egress to and from the Property for the purpose of conducting the Tests. Buyer shall use reasonable efforts to conduct the Tests in a manner which will not unreasonably interfere with the Adler Theater. Buyer shall restore or repair any damage caused by its entry onto the Property pursuant to the License and conduct of the Tests; PROVIDED, HOWEVER, that the foregoing shall not be construed so as to require Buyer to perform any removal, abatement, disposal, remediation or other such action in connection with any Hazardous Materials disclosed by the Tests; PROVIDED, FURTHER, that Seller specifically acknowledges and understands that the Tests may reveal the presence of materials and/or substances considered hazardous in nature and that Buyer or its employees, agents or contractors may be obligated by law to report the results of the Environmental Assessments to a governmental agency, and, in connection with any such reporting, Seller hereby releases and holds Buyer and its employees, agents and contractors harmless from any claims, causes of action or losses asserted against Seller as a result of any such reporting obligation. Buyer shall indemnify, hold harmless and, at Seller's option, defend Seller against any and all claims, actions, causes of actions, expenses, costs, penalties and liability arising out of its work or those of its employees, agents or contractors on the Land which indemnity shall also include the payment of reasonable attorneys' fees.

(D) Within 15 days after the Execution Date, Seller shall deliver to Buyer copies of all documents pertaining to plans, plats, surveys, reports, tests, studies, title materials, environmental information, appraisals and other materials related to the Property that are in Seller's possession.

8. REAL ESTATE TAXES AND ASSESSMENTS.

All general real estate taxes and installments of special assessments levied or assessed against the Property, if any, (collectively, "Taxes") shall be paid by Seller if the same are due and payable as of the Closing Date and by Buyer if due and payable thereafter. All Taxes for the tax fiscal period in which the Closing Date occurs (the "Proration Period") shall be apportioned between Buyer and Seller on and as of the Closing Date, with Buyer bearing only the expense of that proportion of such Taxes that the number of days in the Proration Period following and including the Closing Date bears to 365. If the amount of Taxes to be borne by the parties as above provided is not ascertainable on the Closing Date, the total thereof paid for the preceding tax fiscal period shall be used for purposes of such proration, and within thirty (30) days after the amount of such Taxes becomes known, the parties shall recompute such proration and adjust the difference. Buyer acknowledges that Seller by virtue of its status as a City may not be obligated for any taxes.

9. CONDITIONS PRECEDENT.

(A) This Agreement and all obligations of Seller hereunder are expressly conditioned on the following conditions precedent being in effect or complied with on and as of the Closing Date, and Buyer covenants that it will use diligent, good faith efforts to cause such conditions to be in effect or complied with:

(1) Buyer's representation and warranty set forth herein shall remain true and correct in all material respects;

(2) Buyer shall have executed and delivered or caused to be executed and delivered to Seller, as herein provided, all documents, instruments and information required to be delivered by Buyer; and

(3) Buyer shall have complied with all of its other obligations under this Agreement.

(B) This Agreement and all obligations of Buyer hereunder are expressly conditioned on the following conditions precedent being in effect or complied with on and as of the Closing Date, and Seller covenants that it will use diligent, good faith efforts to cause such conditions to be in effect or complied with:

(1) The Abstract of Title, as redated to the Closing Date, shall disclose good and marketable fee simple title to the Property vested in Seller free and clear of all encumbrances except the Permitted Exceptions, and Seller shall be in position to have issued an Iowa Title Guaranty guaranteeing clear title to Buyer immediately upon the recording of the Deed;

(2) Seller's representations and warranties set forth herein shall remain true and correct in all material respects;

(3) Seller shall have executed and delivered or caused to be executed and delivered to Buyer, as herein provided, all documents, instruments and information required to be delivered by Seller;

(4) Seller shall have complied with all of its other obligations under this Agreement;

(5) Buyer shall have been awarded all Low Income Housing Tax Credits from the Iowa Finance Authority for which buyer has applied in connection with the Property;

(6) Buyer must have obtained satisfactory financing, in Buyer's sole discretion, to complete the purchase and intended construction on the Building; and

(7) Seller and Buyer must have mutually completed filing and received approval for creating a condominium pursuant to the Iowa Horizontal Property Act and have a Condominium Declaration acceptable to both Seller and Buyer filed of record in Scott County, Iowa.

10. COMMENCEMENT AND COMPLETION OF CONSTRUCTION.

(a) In the event that Buyer does not commence construction on the Building by November 1, 2005, Seller, by written notice to Buyer, may elect to repurchase the Property. If Seller elects to repurchase the Property, Buyer must convey the Property by special warranty deed to Seller within 60 days of such request and Seller will pay to Buyer \$300,000.00 at the time of conveyance.

(b) In the event that Buyer does not substantially complete construction on the Building by December 1, 2006, Seller, by written notice to Buyer, may elect to repurchase the Property. If Seller elects to repurchase the Property, Buyer must convey the Property by special warranty deed to Seller within 60 days of receipt of Seller's written request and Seller will pay to Buyer \$300,000.00 plus any and all hard and soft construction costs incurred by Buyer, including but not limited to all construction materials, labor costs, architectural fees, legal fees, and a 10% developer fee, interest and other costs associated with any construction loan, and any other costs associated with the construction upon the Property.

(c) Any failure by Buyer to meet the above deadlines which is due to an Act of God, labor strikes, shortages in materials, war, insurrection, acts of terrorism, or other occurrence which is out of Buyer's control shall cause the applicable deadline to be extended the same number of days as such occurrence or occurrences.

11. CLOSING.

(A) Provided all of conditions to closing set forth in this Agreement have been satisfied or waived by the parties, and this Agreement has not been terminated by either party in accordance with the provisions herein set forth, the closing hereunder (the "Closing") shall be through an escrow with an abstract company or lawyer reasonably acceptable to both parties

("Escrow Agent") on the date (the "Closing Date") which shall be 30 days after the expiration of the Inspection Period, including any extension of the Inspection Period.

(B) The Closing shall be effected in accordance with the following procedure:

(1) Not less than five (5) days prior to the Closing Date, Buyer shall cause the Escrow Agent to prepare and deliver to Buyer and Seller a preliminary closing statement for each party showing all amounts due from each party, including all closing costs and expenses computed as set forth in this Agreement.

(2) On or before the Closing Date, Seller shall deliver or cause to be delivered to the Escrow Agent the following:

(a) Full releases of all mortgages, deeds of trust and other financing instruments affecting the Property, duly executed by the holders thereof, acknowledged and in proper form for recording.

(b) The Deed, in a form reasonably approved by Buyer and the Escrow Agent.

(c) Such instruments and documents relating to the organization, and authority of Seller as the Escrow Agent shall require.

(d) Such other documents, instruments, certificates and assurances as shall be required by the provisions of this Agreement.

(e) Seller's closing statement, duly executed.

(f) Such closing instructions to the Escrow Agent as Seller shall desire, which shall not be inconsistent with the provisions of this Agreement.

(3) On or before the Closing Date, Buyer shall deliver or cause to be delivered to the Escrow Agent the following:

(a) By federal wire transfer of funds to the Escrow Agent's escrow account, an amount equal to (i) the balance of the Purchase Price due at Closing, adjusted as herein provided, plus (ii) the aggregate amount of closing costs for which Buyer is responsible as provided herein, all as shown on Buyer's closing statement.

(b) Such instruments and documents relating to the organization, existence and authority of Buyer as the Escrow Agent shall require.

(c) Buyer's closing statement, duly executed.

(d) Such closing instructions to the Escrow Agent as Buyer shall desire, which shall not be inconsistent with the provisions of this Agreement.

(4) Upon receipt of all of the documents, funds and closing instructions described above, the Escrow Agent shall (a) record the Deed; (b) disburse funds as shown in the approved closing statement; (c) deliver to Buyer the original Deed, as recorded, and a copy of Buyer's closing statement executed by the Escrow Agent; and (d) deliver to Seller a photocopy of the Deed, as recorded, and a copy of Seller's closing statement executed by the Escrow Agent.

(5) All costs and expenses of Closing the purchase and sale of the Property shall be borne and paid at Closing unless otherwise stated herein, as follows:

By Seller: Seller's Attorneys' Fees
 Recording Fees for Deed
 Transfer Taxes
 Premiums for the Title Abstract, Title Guaranty and endorsements
 One-half of the Escrow Fees
 of the Escrow Agent

By Buyer: Buyer's Attorneys' Fees
 Survey Charges
 One-half of the Escrow Fees
 of the Escrow Agent

12. DEFAULT AND REMEDIES.

(A) In the event Buyer fails to comply with any or all of the obligations, covenants, warranties or agreements to be performed, honored or observed by Buyer under and pursuant to the terms and provisions of this Agreement and such default is not cured within fifteen (15) days after notice thereof from Seller (other than Buyer's failure to tender the Purchase Price at Closing, a default for which no notice is required), then Seller may, as its sole and exclusive remedy, terminate this Agreement and retain the \$5,000 in Option Price money held by Seller as liquidated damages and both parties shall be released from any further liability hereunder except for the indemnification provisions of Section 18 hereof.

(B) In the event Seller fails to comply with any or all of the obligations, covenants, warranties or agreements to be performed, honored or observed by Seller under and pursuant to the terms and provisions of this Agreement, and such default is not cured within fifteen (15) days after notice thereof from Buyer, then Buyer may, as its sole and exclusive remedy, either (i) terminate this Agreement, in which event the \$5,000 in Option Price money held by Seller shall immediately be refunded to Buyer and both parties shall be released from any further liability hereunder or (ii) seek an action for specific performance and/or damages against Seller to enforce the provisions of this Agreement or recover damages suffered.

(C) The failure of either party to act upon a default of the other in any of the terms, conditions or obligations under this Agreement shall not be deemed a waiver of any subsequent breach or default under the terms, conditions or obligations hereof by such defaulting party.

13. NOTICES.

All notices, consents and other communications herein required or which either party desire to give to the other ("Notices") shall be in writing and personally delivered or sent by registered or certified mail or by overnight delivery service, postage prepaid, return receipt requested and shall be mailed to the parties at the respective addresses as provided below:

If to Seller:

If to Buyer:

J & T Development, LLC
 10642 West 115th Street
 Overland Park, Kansas 66210
 Attn: Jay P. Trevor

All Notices shall be effective upon being deposited in the United States mail or delivered to the overnight courier in the manner prescribed above; however, the time period in which a response to any such Notice must be given shall commence to run from the date of receipt by the addressee thereof as shown on the return or courier receipt of the Notice. Rejection or other refusal to accept or the inability to deliver because of changed address of which no Notice was given shall be deemed to be receipt of the Notice as of the date of such rejection, refusal or inability to deliver.

14. MISCELLANEOUS PROVISIONS.

(A) All of the representations, warranties, covenants and agreements of the parties, as well as any rights and benefits of the parties, pertaining to a period of time following the Closing of the transactions contemplated hereby, shall survive the Closing and the delivery of the Deed and shall not be merged therein.

(B) This Agreement shall be construed under and in accordance with the laws of the State of Iowa and according to its fair meaning and not in favor of or against any party.

(C) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

(D) If any term, provision or condition contained in this agreement shall, in any extent, be held to be invalid, illegal or unenforceable in any respect, the remainder of this Agreement (or the application of such term, provision or condition to persons or circumstances other than those in respect of which it is invalid, illegal or unenforceable) shall not be affected thereby, and each and every other term, provision and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(E) This Agreement constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting

the within subject matter. This Agreement cannot be amended or modified except by written agreement signed by Buyer and Seller.

(F) All parties hereto pledge their reasonable good faith efforts to act in a timely and reasonable manner to consummate the transaction herein contemplated.

(G) Timely performance by Seller and Buyer is of the essence in this Agreement.

(H) Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

(I) The paragraph headings herein are for reference purposes only and are not intended in any way to describe, interpret, define or limit the scope, extent or intent of this Agreement or any part hereof. The failure by either party to enforce against the other any term or provision of this Agreement shall be deemed not to be a waiver of such party's right to enforce against the other party the same or any other such term or provision.

(J) This Agreement may be executed in multiple originals or counterparts, each of which will be an original and, when all of the parties to this Agreement have signed at least one (1) copy, such copies together will constitute a fully executed and binding Agreement.

(K) If either party files any action or brings any proceeding against the other arising out of this Agreement, or is made a party to any action or proceeding brought by a third party arising out of this Agreement, then as between Buyer and Seller, the prevailing party shall be entitled to recover, as an element of its costs of suit and not as damages, reasonable attorneys' fees to be fixed by the court.

(L) If either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, labor troubles, weather, fires, Acts of God, natural disasters, inability to procure material, failure of power, restrictive governmental laws or regulations, riots, insurrection, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under this Agreement, the period for the performance of any such work or act shall be extended for a period equivalent to the period of such delay.

(M) Each party represents and warrants to the other that neither it nor its agents or representatives have engaged or dealt with any broker, agent or finder with respect to the transaction contemplated.

15. BUYER'S INDEMNIFICATION.

In the event that this Agreement is terminated by either Buyer or Seller prior to Closing, and notwithstanding the fact that such termination shall release Buyer from its obligation to Close on the Property, nothing herein shall be deemed to release Buyer from any liability arising out of Buyer's activities (or those of its employees, agents, or contractors) on the Land, including, but not limited to, its actions on the Land while exercising its rights of inspection

hereunder. This provision shall survive Closing of the transaction herein contemplated and the delivery of the Deed.

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first above written.

"SELLER"

By: _____

Name: _____

Title: _____

"BUYER"

By: _____

Name: _____

Title: _____

EXHIBIT A

(Legal Description of the Land)

A portion of Le Claire's 2nd Addition, parts of lots 1,2,3 beginning at SE Corner lot 3 north 29 feet thence westerly 131 feet thence northerly 23 feet thence westerly 33 feet thence northerly 98 feet to point on north lot 1 thence west 28 feet to northwest corner lot 1 thence south 150 feet thence easterly 92 feet to point of beginning block 57, in the City of Davenport, County of Scott, State of Iowa.

KC-1226407-3

EXHIBIT B

(Building)

(Refer to floor plans appearing in Section B-2 of Buyer's Proposal to Seller.)

Exhibit 5
Development Timetable

Exhibit 6
Construction Responsibility and Shared Costs

A. Items to be constructed by RCPA; Costs to be shared with City

ITEM	DESCRIPTION	COST AND DOCUMENTATION
1	Resurfacing alley from Brady St to the east property line of the parking lot.	Estimated \$30,000 Reference 8-A-1
2	Adding vibration isolation to condensing units on the roof above the Adler stage.	\$7,523 Reference 8-A-2
3	New panel feeder serving the River Center switchboard.	\$82,800 Reference 8-A-3
4	Removing abandoned well near Theatre's east stair per environmental regulations.	\$20,000 Reference 8-A-4
5	Removing abandoned well near hotel's lobby per environmental regulations.	\$12,000 Reference 8-A-5
6	Parapet repair and roof replacement at lower portion of penthouse.	Estimated \$7,000 Reference 8-A-6
7	Parapet repair and roof replacement at west wing at hotel.	\$41,000 Reference 8-A-7
8	Replacing inadequate west tower roof drains.	\$31,590 Reference 8-A-8
9	Adding new storm drainage for stage house roof sufficient to address inadequacies of existing roof drains and scuppers.) See Note 1.	\$21,890 Reference 8-A-10
10	Sidewalk repairs at west and south sides of hotel.	Estimated \$200,000 Reference 8-A-11
Note 1:	Sanitary lines are not being shared.	

B. Items to be constructed by RCPA; Costs to be shared with Mississippi Housing and Mississippi Retail

ITEM	DESCRIPTION	COST AND DOCUMENTATION
1	Fire pump, jockey pump, wet standpipe located in common stairwell next to elevators as shown on KJWW Drawings, fire department connection, fire pump test connection, and other "shared" fire sprinkler system parts. Each project responsible for extending fire suppression system from the above named main equipment into their areas of new work.	\$57,467 Reference 8-B-1
2	Electrical service to the shared equipment such as the fire pump, jockey pump, flow switches, monitor valves, etc.	\$47,750 Reference 8-B-2
3	Storm sewer lines from building line out to street tie in point and storm work at areaway, including an area drain, storm piping to an above ground fiberglass sump, associated duplex sump pump, electrical connection, and pumped discharge piping to the building outlet. See Note 2.	\$48,170 References 8-B-3, 8-B-4

ITEM	DESCRIPTION	COST AND DOCUMENTATION
5	Parapet repair and roof replacement at penthouse. See Note 3.	Estimated \$7,000 Reference 8-B-5
6	Maintenance costs for shared systems by owners of all shared fire, prevention, maintenance and other equipment.	n/a
7	New fire alarm panel. See Note 4.	\$2,500 Reference 8-B-9
8	Repair and replacing drainage system and roofing at areaway. Repair and restore wall at West end and South side of areaway. See Note 5.	PLEASE PROVIDE
9	Areaway fire escape. Cost of work to be split 50-50, subject to a cap on Mississippi Housing and Mississippi Retail share in the amount of \$7,500.	
Note 2	Mississippi and Mississippi Retail to replace roof at areaway and refurbishing the hotel's exit stairs. RCPA to replace roof at upper areaway, near column line E.2 per WRL drawings. RCPA shall have the right to review and approve the work of Retail and Housing as it affects the Theatre Element. The Retail and Housing share of these costs is capped at \$16,000. The City shall share all RCPA expenses for roofing the areaway.	
Note 3	Lower penthouse roof and parapet repair to be included by RCPA, upper penthouse roof and parapet repair to be included by Developer, except for modifications required by RCPA. To be split based on required work rather than 50-50.	
Note 4	Necessity and exact cost allocation to be investigated and determined by the Parties.	
Note 5	Scope and cost allocation to be investigated and agreed upon by the Parties.	

C. Items to be Performed, Constructed and Paid for by Mississippi Housing

ITEM	DESCRIPTION
1	Noisy Equipment not to be located in areaway (i.e. - Mech.)
2	All hotel areas receive new or repaired roofs sufficient to render roofs water-tight.
3	All Lofts new and relocated M & E services located above new basement dressing areas to be coordinated or routed around the new dressing area. Head room, noise, service concerns.
4	Restoration work required for historic preservation purposes on the facade defined by the three columns of windows at the South end of the West wing (approximately 40 linear feet, starting at the Southwest corner and heading North)

ITEM	DESCRIPTION
5	2-hr demising walls between west wing and south wing at each floor. See Note 6.
6	Parapet repair and roof replacement at hotel. See Note 7.
7	RCPA is currently maintaining the existing hotel fire alarm system in an operational state on a temporary basis during construction. Responsibility for maintaining this system will be turned over to the Developer, who will assume responsibility for maintaining the operational condition thereof as appropriate for a typical construction site.
8	Developer will permit the RCPA to use existing hotel elevators during construction.
9	Developer shall provide separate domestic water service for the Hotel project and shall not connect to the existing 6-inch fire line.
10	Developer shall obtain new electrical feeds (temporary and permanent) as soon as possible.
11	Developer shall connect existing Hotel elevator feeds to separate Hotel electrical service as soon as possible.
12	Developer shall connect existing IPCS cell phone tower electrical feed to the new electrical service for the elevators as soon as possible.
Note 6	Mississippi Housing will construct this item but RCPA will share ½ of the cost thereof.
Note 7	South wing and south end of west wing roof replacement (near edge of new shear wall and south per WRL drawings) and associated parapet repair will be included by Developer. Remaining west wing roof replacement and parapet repair will be included by RCPA.

8-A-2



1228 3rd Avenue
Rock Island, Illinois 61201
Phone: 309-788-5821 • 1-800-371-4122 • FAX: 309-788-6319

November 1, 2005

Mr. Steve Tobin
Estes Company
131 W. 2nd Street
Davenport, IA 52808

RE: Adler Theatre

Dear Mr. Tobin:

We propose to provide labor and material to perform the work as indicated below for a net sum of \$7,523.00 including applicable state sales tax.

WORK SHALL INCLUDE:

Cost break out for the removal of existing condensing units, installation of vibration isolation and re-installation of these units.

Notes:

This quote is firm for 60 days, after that time, Climate River Valley reserves the right to modify our pricing. Thank you for the opportunity to quote this project. If you have any questions or concerns please call.

Sincerely,

CLIMATE RIVER VALLEY

Chris Wegener

CRW:eud

SOLUTIONS IN AIR

Heating, Ventilating and Air Conditioning Systems • Sheet metal design • Fabrication • Installation



TOTAL P.01

CITY OF DAVENPORT
ADLER THEATRE RENOVATIONS
MECHANICAL AND ELECTRICAL PACKAGE

10/3/05
ISSUED FOR BID

Bidders performing on-site labor:

Anticipated construction start date: 12/1/05

Anticipated construction completion date: 10/1/06

Anticipated number of labor hours: 5,000

We propose the following Alternates. Alternates will be added to the base bid at Owner's option. The Owner may or may not accept any or all of the following:

ALTERNATES

No. 1: Vibration Isolation.

- a. Base Bid: No isolation protection at existing fans.
- b. Alternate: State the amount to add to the base bid if the bidder is required to provide vibration isolation and fabric duct connectors on existing fans. See drawings for details.

ADD \$ 880.00

No. 2: Shared fire protection system.

- a. Base bid: Does not include the cost for the shared fire protection system.
- b. Alternate: State the amount to add to the base bid to provide the shared fire protection system as detailed on the documents, including the electrical power and connections indicated.

ADD \$ 47,750.00

8-B-2

No. 3: Storm Sewer

- a. Base Bid: Does not include the new storm sewer system.
- b. Alternate: State the amount to add to the base bid to provide storm sewer to street and all piping, equipment, and electrical requirements associated with the area drain as indicated on drawings. Include all patching, permits and fees associated with this work.

ADD \$ N/A

No. 4: Electrical Service to RiverCenter

- a. Base Bid: No upgrade to the RiverCenter electrical service.
- b. Alternate: State the amount to add to the base bid if the bidder is required to provide the new electrical service as detailed on the drawings.

ADD \$ 82,800.00

8-A-3

No. 5: Fire Alarm Panel.

- a. Base Bid: No fire alarm panel.
- b. Alternate: State the amount to add to the base bid if the bidder is required to provide the fire alarm panel as detailed on the drawings.

ADD \$ 2,500.00

8-B-9



PO BOX 3608
DAVENPORT, IA 52808
Ph : (563)322-7301

Change Request

8-4-5

To: Greg Schemer
River Center for the Performin
C/O Lee Enterprises
201 North Harrison Street
Suite 600
Davenport, IA 52801

Number: 1 Midwest Demo
Date: 9/23/05
Job: 1-760 Adler-CMA tracking
Phone:

Description: Midwest Demolition Extra

We are pleased to offer the following specifications and pricing to make the following changes:

Midwest Demo proposes to abandon and fill existing well located at gridlines 5.2 and C/D per Iowa DNR Regulations. Work to be completed by October 20, 2005 at a cost not to exceed \$12,000.00

The total amount to provide this work is NOT TO EXCEED..... \$12,000.00

If you have any questions, please contact me at 326-7800.

Submitted by: Steve Tobin

Approved by: _____
Date: _____

8-A-5

Change Order

Project: 1-760 Adler-CMA tracking
136 E 3rd St
Davenport, IA 52801

Change Order: 1
Date: 9/23/2005
Architect's Project:

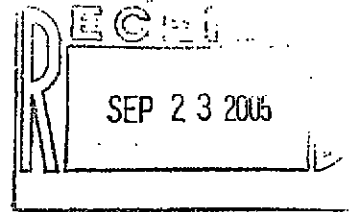
To Contractor:

Midwest Demolition Company
1935 Yolanda Avenue
Lincoln, NE 68521

The Contract is changed as follows:
Per Change Proposal # 1 for Midwest Demolition

1 Midwest Demolition Extra NOT TO EXCEED

\$12,000.00



The original Contract Amount was	\$379,349.00
Net change by previously authorized Change Orders	\$0.00
The Contract Amount prior to this Change Order was	\$379,349.00
The Contract will be increased by this Change Order in the amount of	\$12,000.00
The new Contract Amount including this Change Order will be	\$391,341.00
The Contract Time will be INCREASED.	
The date of Substantial Completion as of the date of this Change Order therefore is 10/20/2005	

NOT VALID UNTIL SIGNED BY THE CONTRACTOR, CONSTRUCTION MANAGER AND OWNER.

~~Midwest Demolition Company~~
CONTRACTOR
1935 YOLANDA AVE.
LINCOLN, NE 68521

ESTES CONSTRUCTION
CONSTRUCTION MANAGER
PO BOX 3608
DAVENPORT, IA 52808

River Center for the Performing Arts
OWNER
C/O Lee Enterprises
Davenport, IA 52801

(Signature)

(Signature) GEORGE P...
By

(Signature)

By

By

By

Date

Date

9/23/05

Date

DATE: 12/8/2005
CHANGE DETAIL ID: 5449

Continental Fire Sprinkler Company

1216 West 76th Street Davenport, Iowa 52808 Phone (563) 388-0600 Fax (563) 388-0612

ATTN: Paul Neuharth
ESTES COMPANY

DAVENPORT IA 52801
FAX: (563) 322-2503

RE: C-7996
ADLER THEATRE
136 E 3RD ST
DAVENPORT IA

REQUEST FOR CHANGE ORDER

Description: PRICING FOR THE 8" BACKFLOW PREVENTOR AND THE FIRE PUMP WHICH INCLUDES ALL THE PIPING ASSOCIATED WITH THE PUMP.

	HOURS	RATE	
Phase 01 Inside Labor	140	\$26.00	\$3,640.00
Phase 03 Material			\$6,388.51
Phase 05 Substistence			\$0.00
Phase 07 Engineer	40	\$49.00	\$1,960.00
Phase 08 Freight			\$0.00
Phase 09 Special Labor	0	\$25.00	\$0.00
Phase 10 Subcontractor			\$0.00
Phase 12 Lifts			\$0.00
Phase 16 P/R Taxes, Fringes, Insurance			\$2,293.20
Phase 17 Sales Tax/Rate:			\$447.27
Phase 18 Other			\$24,606.00
SUB TOTAL			\$39,933.98
10.00%	% Overhead		\$3,993.39
10.00%	% Profit		\$3,993.39
TOTAL CHANGE ORDER AMOUNT			\$47,919.6

8-B-1

CHANGE ORDER REQUESTED BY:


Randy Hoelting, Contract Sales
Continental Fire Sprinkler Company

CHANGE ORDER ACCEPTED BY: _____

DATED: _____

Note: Please sign acknowledgement copy and return to Continental Fire Sprinkler Company

REQUEST FOR CHANGE ORDER

ATTN: Paul Neuharth
ESTES COMPANY

REF: C-7996
ADLER THEATRE
136 E 3RD ST
DAVENPORT IA

DAVENPORT IA 52801
FAX (563) 322-2808

SUBCONTRACT:

WORK COMPLETED:

Material			
1	FLUSH FOC CHROME #5021-C	\$371.25	\$371.25
5	6" GROOVED #219 TEES	\$35.33	\$176.65
50	6" GROOVED #772 LT/WT COUPLINGS	\$10.89	\$544.73
7	6" GROOVED #210 ELBOWS	\$21.24	\$148.65
100	6" SCH 10 PIPE	\$5.79	\$1,042.47
1	6" 850YD DOUBLE CHECK BACKFLOW	\$1,620.01	\$1,620.00
6	6" FLANGED 175# OS&Y VALVE	\$291.05	\$1,748.38
3	6" GROOVED CHECK VALVE	\$245.47	\$739.41
TOTAL MATERIAL			\$6,389.51

DATE: 12/12/2005

CHANGE DETAIL ID: 5450

Continental Fire Sprinkler Company

1216 West 7th Street

Davenport, Iowa 52808

Phone (563) 388-0600

Fax (563) 388-8812

ATTN: Paul Neuharth
ESTES COMPANY

REF: C-7096
ADLER THEATRE
136 E 3RD ST
DAVENPORT IA

DAVENPORT IA 52801
FAX: (563) 322-2503

REQUEST FOR CHANGE ORDER

Description: WET STANDPIPE FEEDING THE SOUTHWEST CORNER.

	HOURS	RATE	
Phase 01 Inside Labor	70	\$25.00	\$1,520.00
Phase 03 Material			\$4,168.63
Phase 05 Substance			\$0.00
Phase 07 Engineer	16	\$49.00	\$784.00
Phase 08 Freight			\$350.00
Phase 09 Special Labor	0	\$25.00	\$0.00
Phase 10 Subcontractor			\$0.00
Phase 12 Lifts			\$0.00
Phase 16 PIR Taxes, Fringes, Insurance			\$1,146.00
Phase 17 Sales/Tax/Rate:			\$291.66
Phase 18 Other			\$0.00
SUBTOTAL			\$9,659.69
18.00% % Overhead			\$1,738.74
10.00% % Profit			\$955.00
TOTAL CHANGE ORDER AMOUNT			\$10,271

8.13.1

CHANGE ORDER REQUESTED BY:

Randy Hoelting
Randy Hoelting, Contract Sales
Continental Fire Sprinkler Company

CHANGE ORDER ACCEPTED BY: _____

DATED: _____

Note: Please sign acknowledgement copy and return to Continental Fire Sprinkler Company

REQUEST FOR CHANGE ORDER

ATTN: Paul Neuharth
ESTES COMPANY

RE: C-7896
ADLER THEATRE
136 E 3RD ST
DAVENPORT IA

DAVENPORT IA 52801
FAX: (563) 322-2803

SUBCONTRACT:

WORK COMPLETED:

Material			
6	2 1/2" HOSE VALVE WI CAP & CHAIN #1065	\$74.70	\$448.17
3	2 1/2" PRESSURE REDUCING VALVE WI CA	\$531.20	\$1,593.59
22	6" GROOVED #772 LTWT COUPLINGS	\$10.89	\$239.88
5	6" GROOVED #210 ELBOWS	\$21.24	\$106.18
10	2 1/2" THREAD-O-LETS	\$8.28	\$82.82
181	6" SCH 10 PIPE	\$5.79	\$1,048.29
3	2 1/2" BUTTERFLY WI TAMPER	\$216.04	\$648.12
TOTAL MATERIAL			\$4,166.63

Bidders performing on-site labor:

Anticipated construction start date: 15-November-2005

Anticipated construction completion date: 06-October-2006

Anticipated number of labor hours: 3,000 hours

We propose the following Alternates. Alternates will be added to the base bid at Owner's option. The Owner may or may not accept any or all of the following:

ALTERNATES

No. 1: Vibration Isolation.

- a. Base Bid: No isolation protection at existing fans.
- b. Alternate: State the amount to add to the base bid if the bidder is required to provide vibration isolation and fabric duct connectors on existing fans. See drawings for details.

ADD \$ No Bid

No. 2: Shared fire protection system.

- a. Base bid: Does not include the cost for the shared fire protection system.
- b. Alternate: State the amount to add to the base bid to provide the shared fire protection system as detailed on the documents, including the electrical power and connections indicated.

ADD \$ No Bid

No. 3: Storm Sewer

- a. Base Bid: Does not include the new storm sewer system.
- b. Alternate: State the amount to add to the base bid to provide storm sewer to street and all piping, equipment, and electrical requirements associated with the area drain as indicated on drawings. Include all patching, permits and fees associated with this work.

ADD \$ 39,000.00

8-13-4

No. 4: Electrical Service to RiverCenter

- a. Base Bid: No upgrade to the RiverCenter electrical service.
- b. Alternate: State the amount to add to the base bid if the bidder is required to provide the new electrical service as detailed on the drawings.

ADD \$ No Bid

No. 5: Fire Alarm Panel.

- a. Base Bid: No fire alarm panel.
- b. Alternate: State the amount to add to the base bid if the bidder is required to provide the fire alarm panel as detailed on the drawings.

ADD \$ No Bid

Paul Neuharth

From: Steve Tobin
Sent: Thursday, January 12, 2006 10:40 AM
To: Paul Neuharth
Subject: FW: Adler Fire Alarm Panel alternate

8-13-9

FYI

From: Jeff Lanum [mailto:jeff@russellcompanies.net]
Sent: Thursday, January 12, 2006 10:20 AM
To: Steve Tobin
Subject: RE: Adler Fire Alarm Panel alternate

This Alternate was for electronic equipment only.

The equipment will allow both the Adler and the Mississippi lofts to be controlled by one common fire alarm panel and voice evacuation system.

My supplier indicates that the developer would benefit greatly by utilizing the Theater equipment and the \$2,500.00 would be a big savings on his account.

Yours Truly,

Jeff Lanum
Russell Companies
1435 Brown Street
Bettendorf, Iowa 52722

563.355.0227 phone
563.355.0815 fax

From: Steve Tobin [mailto:stobin@estesconstruction.com]
Sent: Wednesday, January 11, 2006 12:12 PM
To: Jeffrey Lanum
Subject: FW: Adler Fire Alarm Panel alternate

From: Paul Neuharth
Sent: Wednesday, December 14, 2005 11:28 AM
To: Jeff Lanum
Cc: Steve Tobin; John McGonegle
Subject: Adler Fire Alarm Panel alternate

Jeff, on the bid form we had an alternate regarding the fire alarm system for \$2,500. Can you please describe to me what we would get for the \$2,500? We are trying to confirm if this should be in our scope of work or the developer.

Paul S. Neuharth, CPE
Vice President/Pre-Construction Services



5885 Tremont Avenue • P.O. Box 2708 • Davenport, Iowa 52809
 Phone (563) 391-1344 Fax (563) 391-2733

November 2, 2005

Quote 05-375
Storm Pricing Breakouts

To: Steve Tobin
Estes Construction

Re: Adler Theatre
Storm Piping Accounting Only Break-Outs

At your request, we offer the following accounting only break-out pricing information regarding the storm sewer work on the Adler Theatre project.

	Base Bid Storm Sewer Work	Amount
1	New Connection Over Audience	\$3,000
2	Piping Over Stage	\$29,860
3	Storm Over 10-Story (Remaining Building Work)	\$31,590

8-A-10
8-A-8

	Alternate #3 - Storm Sewer Work	Amount
1	Street Work	\$9,170
2	Building Work	\$29,830

8-B-3

These figures are meant for information purposes only and should not be considered as add or deduct amounts to our proposal. Please let me know if you have any questions.



Greg Hester
President & COO

Exhibit 7
Parking Agreement

PARKING AGREEMENT

This Agreement is entered into between the City of Davenport ("City") and Mississippi Housing Partners, L.P. ("Customer") as of this ____ day of _____, 2006.

WHEREAS, City owns and operates a parking ramp located between Brady Street and Perry Street on Third Street ("RiverCenter Ramp");

WHEREAS, Customer owns the building known as the "Mississippi Hotel Building" that it is redeveloping as loft apartments across the street from the RiverCenter Ramp and would like to secure fifty-six (56) parking spaces in the RiverCenter Ramp for its tenants in the Mississippi Lofts; and

WHEREAS, City can accommodate this request;

NOW, THEREFORE, in consideration of the mutual obligations expressed herein, the parties agree as follows:

1. Spaces in RiverCenter Ramp. City hereby licenses to Customer effective upon completion of renovation of the Mississippi Hotel Building during the term of this Agreement, including any extensions, 30 spaces in the RiverCenter Ramp and reserves an additional 26 spaces for tenants of the Mississippi Lofts. Tenants of the Mississippi Lofts shall be given preference for reserved spaces, up to the total 56 spaces committed to Customer, over all other persons including, but not limited to, licensees and other applicants for parking spaces in the River Center Ramp. It is expected that Customer's tenants each will make payment directly to the City for the parking spaces utilized by the respective tenants; notwithstanding this expectation, if and whenever fewer than 30 spaces are utilized by Customer's tenants. Customer agrees to pay the City on a monthly basis for any of the 30 spaces not utilized by Customer's tenants (i.e. 30 spaces – number of spaces utilized by Customer's tenants = number of spaces paid for by Customer at the current residential rate).

2. Fee. Initially, Customer's residential tenants shall pay the current residential rate of \$30 per month per space. Payment due from Customer, if any, and such residential tenants to the City shall be due on the 1st day of the month. In addition to any remedies at law or in equity, if payment has not been received by the 10th day of the month a 10% late payment fee will be added to the amount due. Customer is not responsible for payment of amounts due from its tenants to the City. Beginning July 1, 2006 the rate charged will be the Council-approved residential rate available to the public for monthly leases in the downtown parking ramps, said residential rate subject to later adjustments by the City Council through the term of this Agreement

3. Term and Extensions. This Agreement shall expire February 1, 2011. Customer may extend this Agreement three (3) times, each time for a new five-year period. This Agreement shall automatically renew unless Customer gives the City notice

of termination at least 120 days prior to expiration. Regardless of the foregoing, this Agreement shall expire if the RiverCenter Ramp becomes structurally unsound or is destroyed, in part or in whole.

4. Not a Promise of Security. This Agreement shall not be construed to create an obligation or guarantee of safety for persons or property.

5. Third-party beneficiary. This Agreement shall not create nor shall it be construed to create any rights for or obligations to any third-party beneficiary.

6. Modification. This Agreement may be modified or supplemented by the parties. Any such amendment shall be in writing and signed by a duly authorized representative of the parties.

7. State of Iowa. The laws of the State of Iowa shall govern and determine all matters arising out of or in connection with this Agreement without regard to the choice of law provisions of Iowa law. This provision shall not be construed as waiving any immunity to suit or liability including without limitation sovereign immunity in State or Federal court, which may be available to City.

8. Assignment. This Agreement may not be assigned, transferred or conveyed without the prior written consent of the other party. Further, the use of the parking permits made available through this Agreement are to be used by the owners and occupants of the residential space within the Customer's building and are not to be made available to other parties except that spaces may be made available to owners and occupants of the commercial space on the ground floor of the Mississippi Hotel Building provided the rates charged to owners and occupants of the commercial space shall be the City's rates from time to time charged to businesses (currently \$60/month).

9. Integration. This Agreement represents the entire Agreement between the parties. The parties shall not rely on any representation that may have been made which is not included in this Agreement.

10. Not a Joint Venture. Nothing in this Agreement shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the parties hereto. Each party shall be deemed to be an independent entity acting toward the mutual benefits expected to be derived herefrom. No party, unless otherwise specifically provided for herein, has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to this Agreement.

11. Waiver. Except as specifically provided for in a waiver signed by duly authorized representatives of a party, failure or delay by either party at any time to require performance by the other party or to claim a breach of any provision of the contract shall not be construed as affecting any subsequent right to require performance or to claim a breach.

12. Notice. Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by overnight express mail carrier, courier or other similar and reliable carrier which shall be addressed to each party as set forth as follows:

If to Customer:
Mississippi Housing Partners, L.P.
10642 West 115th St.
Overland Park, KS 66216

If to the City:
Parking Manager
226 W 4th Street
Davenport, IA 52801

Each such notice shall be deemed to have been provided at the time it is actually received; or, within one day in the case of overnight hand delivery, courier or services such as Federal Express with guaranteed next day delivery; or, within Three (3) days after it is deposited in the U.S. Mail in the case of registered U.S. Mail.

From time to time, the parties may change the name and address of a party designated to receive notice. Such change of the designated person shall be in writing to the other party and as provided herein.

13. Cumulative Rights. The various rights, powers, options, elections and remedies of any party provided in this Agreement, shall be construed as cumulative and not one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed either party by law, and shall in no way affect or impair the right of any party to pursue any other equitable or legal remedy to which any party may be entitled as long as any default remains in any way unremedied, unsatisfied or undischarged.

14. Authorization. Each party to this Agreement represents and warrants to the other parties that: It has the right, power and authority to enter into and perform its obligations under this Agreement. It has taken all requisite action (corporate, statutory or otherwise) to approve execution, delivery and performance of this Agreement, and this Agreement constitutes a legal, valid and binding obligation upon itself in accordance with its terms.

15. Successors in Interest. All the terms, provisions, and conditions of the Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives.

16. Counterparts. The parties agree that this Agreement has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.

17. Delay or Impossibility of Performance. Neither party shall be in default under this Contract if performance is delayed or made impossible by an act of God, flood, fire or similar events or civil insurrection or war. In each such case, the delay or impossibility must be beyond the control and without the fault or negligence of the party. If delay results from a party's conduct, negligence or failure to perform, the party shall not be excused from compliance with their terms and obligations of this Agreement.

18. Termination for Cause and Right to Cure. Upon a material breach other than nonpayment of rent, the party claiming the breach shall send a Notice to Terminate due to default that shall be given at least 30-days in advance and only after a reasonable period to cure (not to exceed 60 days) has been afforded and expired. When determining the length of a reasonable period to cure, consideration should not be given to the subjective financial circumstances of the party in default.

19. Insolvency. If Customer: (i) is rendered or becomes insolvent, (ii) is unable to pay debts as they come due, (iii) is adjudicated a bankrupt, or files, or becomes subject to a petition of any insolvency, creditors or bankruptcy law, or (iv) has a receiver, liquidator or trustee of substantially all its assets appointed by a court of competent jurisdiction. City may at its option terminate this Agreement.

20. Disruption During Maintenance and Repair. Customers acknowledges that use of the spaces may be disrupted periodically for maintenance and repair purposes. City agrees to do its best to notify Customer at least 48 hours in advance of disruption – emergencies excluded.

Customer and City have caused this Agreement to be signed by their authorized representatives as of the date set forth above.

MISSISSIPPI HOUSING PARTNERS, L.P.

By: **MISSISSIPPI HOUSING DEVELOPMENT, L.L.C.**
Its General Partner
By: **J&T Development, L.L.C., sole member**

By: _____
Jay Trevor, Its: Manager

CITY OF DAVENPORT

By _____
Thomas W. Flaherty
Its Parking Manager

STATE OF _____, _____ COUNTY) SS:

This instrument was acknowledged before me on _____, 2006 by Jay Trevor as Manager of J&T Development, L.L.C., the sole member of Mississippi Housing Development, LLC, the general partner of Mississippi Housing Partners, L. P., on behalf of Mississippi Housing Partners, L. P.

Signature of Notarial Officer

STATE OF IOWA)
) ss:
COUNTY OF SCOTT)

On this _____ day of _____, 20____, before me a notary in and for said county and state, personally appeared THOMAS W. FLAHERTY, to me known, who being by me duly sworn (or affirmed) did say that he is the PARKING MANAGER of City of Davenport, (that the seal affixed to said instrument is the seal of said corporation) and that said instrument was signed (and sealed) on behalf of the said organization by the authority of its board of directors and that THOMAS W. FLAHERTY acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it and by him voluntarily executed.

Notary Public

Exhibit 8
Declaration of Horizontal Property Regime

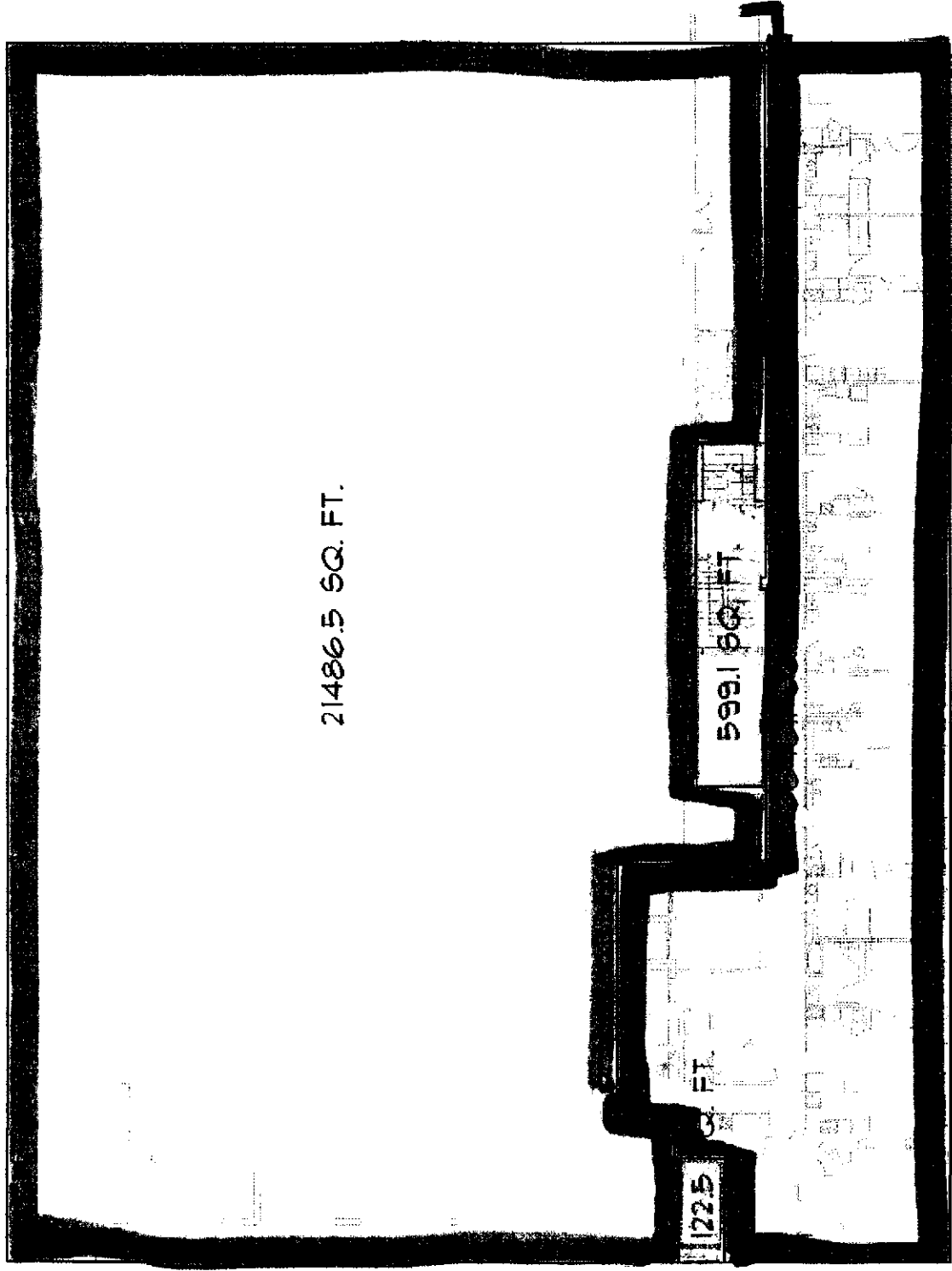
Attachment Omitted

EXHIBIT G

EASEMENT

Exhibit "G"

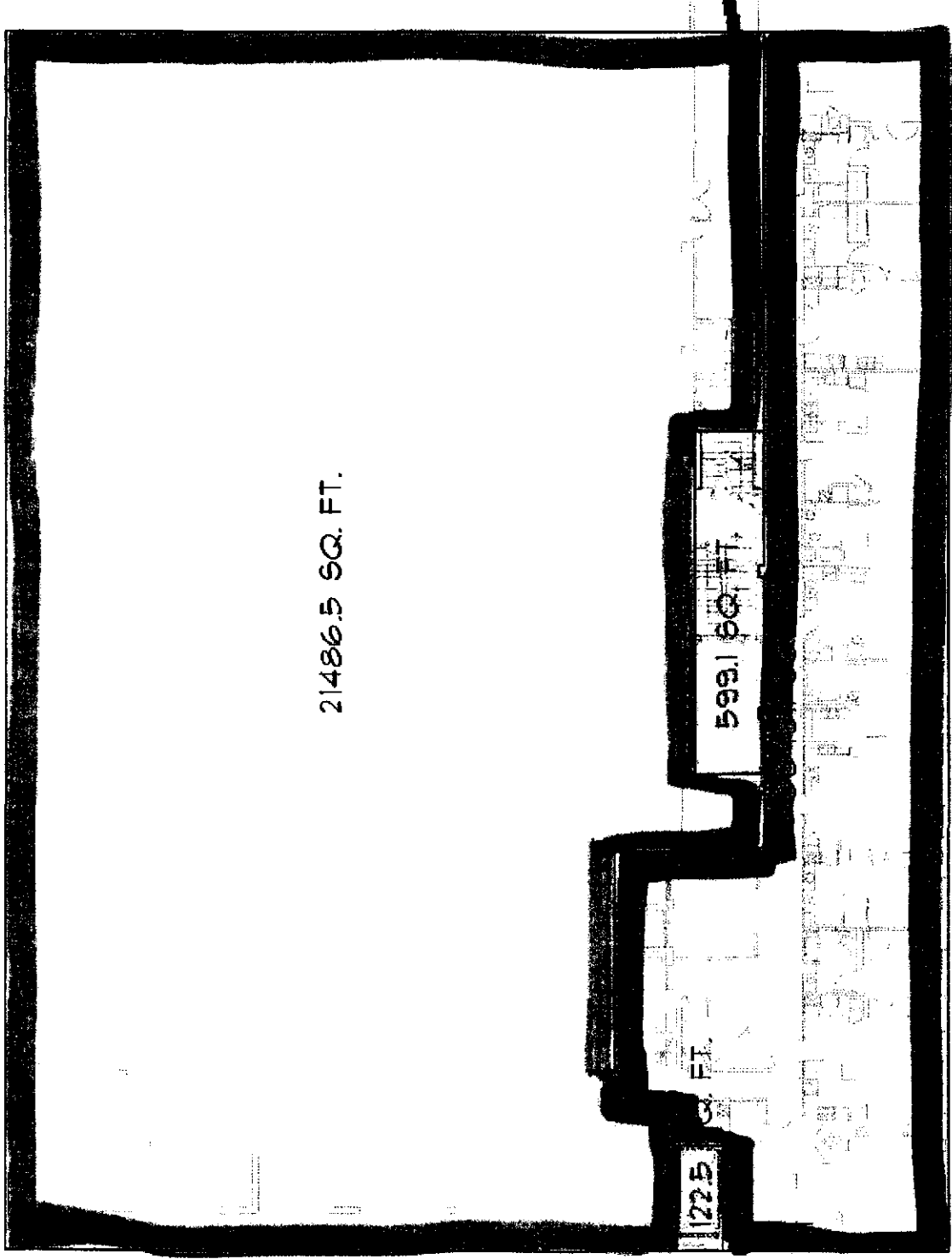
Option 1



sky walk
connection
through
River Center

Exhibit "G"

Option 2



skywalk
connection
through
River
Center

① SECOND LEVEL FLOOR PLAN