

VILLAGE OF DOWNERS GROVE
Report for the Village Council Meeting
5/9/2017

| SUBJECT: | SUBMITTED BY: |
|---|-----------------------------------|
| Resolution authorizing the Village's acknowledgment and consent to the collateral assignment of the Packey Webb Redevelopment Agreement | Enza Petrarca Village Attorney |

SYNOPSIS

A resolution has been prepared to authorize the execution of an acknowledgment and consent to the collateral assignment of the redevelopment agreement between Packey Webb and the Village of Downers Grove.

STRATEGIC PLAN ALIGNMENT

The goals for 2015-2017 include *Steward of Financial, Environmental and Neighborhood Sustainability*.

FISCAL IMPACT

N/A

RECOMMENDATION

Staff recommends approval on the May 9, 2017 consent agenda.

BACKGROUND

On August 9, 2016, the Village entered into a redevelopment and sales tax rebate agreement with 1815 Ogden, LLC ("Packey Webb") concerning the redevelopment of the site at 1815 Ogden Avenue with a new automobile dealership. Pursuant to that agreement, the Village agreed to reimburse Packey Webb for TIF eligible expenses in an amount not to exceed \$5 million. Packey Webb is now in the process of obtaining a loan for the redevelopment project, and as part of the loan agreement it is seeking to assign the redevelopment agreement as collateral. The bank is requesting that the Village consent to the collateral assignment of the redevelopment agreement. The assignment of the redevelopment agreement as collateral will not alter any terms or conditions of the redevelopment agreement and will not grant the bank any greater rights than those already granted to the developer.

ATTACHMENTS

Resolution
 Acknowledgment and Consent
 Collateral Assignment of Redevelopment Agreement

RESOLUTION NO. ____**A RESOLUTION AUTHORIZING EXECUTION OF AN
ACKNOWLEDGMENT AND CONSENT TO THE COLLATERAL ASSIGNMENT
AMONG THE VILLAGE OF DOWNERS GROVE,
FIRST AMERICAN TITLE INSURANCE COMPANY
AND 1815 OGDEN, LLC**

WHEREAS, the Village of Downers Grove ("Village") and 1815 Ogden, LLC ("Borrower") entered into a Redevelopment and Sales Tax Rebate Agreement on August 9, 2016; and,

WHEREAS, the Village has agreed to provide certain financing incentives in relation to the Packey Webb Ford Dealership redevelopment located at 1815 Ogden Avenue; and

WHEREAS, the Village acknowledges and consents to terms and conditions of a Collateral Assignment of the Redevelopment and Sales Tax Rebate Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois, as follows:

1. That the form and substance of a certain Collateral Assignment Acknowledgment and Consent (the "Agreement"), among the Village of Downers Grove (the "Village"), First American Title Insurance Company (the "Escrow Holder"), and 1815 Ogden, LLC (the "Borrower") as set forth in the form of the Agreement submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

2. That the Village Manager and Village Clerk are hereby respectively authorized and directed for and on behalf of the Village to execute, attest, seal and deliver the Agreement, substantially in the form approved in the foregoing paragraph of this Resolution, together with such changes as the Manager shall deem necessary.

3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Agreement.

4. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

Mayor

Passed:

Attest: _____
Village Clerk

ACKNOWLEDGMENT AND CONSENT TO COLLATERAL ASSIGNMENT

THIS ACKNOWLEDGMENT AND CONSENT (this "Consent") is dated as of _____, 2017, made by and among the VILLAGE OF DOWNERS GROVE, ILLINOIS, an Illinois municipal home rule corporation (the "Village"), FIRST AMERICAN TITLE INSURANCE COMPANY (the "Escrow Holder"), and 1815 OGDEN, LLC, an Illinois limited liability company (the "Borrower").

W I T N E S S E T H

WHEREAS, the Village and the Borrower have entered into that certain Redevelopment and Sales Tax Rebate Agreement, dated as of August 9, 2016 (the "Redevelopment Agreement"), pursuant to which the Village has agreed to provide certain financing incentives in connection with the development and rehabilitation of the Project (as defined in the Loan Agreement, as hereinafter defined), including, without limitation, (i) the allocation to the Borrower of Tax Increment Financing Funds, in the amount of Five Million and No/100 Dollars (\$5,000,000.00), for the reimbursement of Redevelopment Project Costs (as defined in the Redevelopment Agreement) incurred by the Borrower in connection with its development of the Project, and (ii) a Sales Tax Rebate equal to fifty percent (50%) of the sales tax generated by the Project dealership over a ten (10) year period ("Incentive Agreement").

WHEREAS, pursuant to the Redevelopment Agreement, the Village has deposited the sum of Four Million Five Hundred Thousand and No/100 Dollars (\$4,500,000.00) (the "Initial Village TIF Funds") in escrow with the Escrow Holder, for the benefit of the Borrower, to be held by the Escrow Holder until certain conditions have been satisfied in accordance with the Redevelopment Agreement and pursuant to the terms and conditions of that certain Post-Closing Escrow Agreement, dated as of September 15, 2016, by and among the Borrower, the Village and the Escrow Holder (the "Escrow Agreement").

WHEREAS, pursuant to the Redevelopment Agreement, upon receipt of the second (2nd) installment of real property taxes in October, 2017, the Village shall deposit an additional Five Hundred Thousand and No/100 Dollars (\$500,000.00) (the "Additional Village TIF Funds") with the Escrow Holder (which, together with the Initial Village TIF Funds shall be referred to as the "Village TIF Funds"), to be held by Escrow Holder, for the benefit of Borrower, until the Disbursement Conditions (as defined in the Escrow Agreement) have been satisfied.

WHEREAS, Wheaton Bank & Trust Company, an Illinois state chartered bank (the "Lender") has agreed to make a certain loan (the "Loan") to the Borrower in an amount not to exceed Seventeen Million and No/100 Dollars (\$17,000,000.00) in accordance with the terms, provisions and conditions of that certain Construction Loan Agreement dated as of even date herewith, executed by and between the Borrower and the Lender (the "Loan Agreement"), for the purpose of development of the Project on the property commonly known as 1815 Ogden Avenue, Downers Grove, Illinois. All

capitalized terms used herein and not otherwise defined shall have the meaning assigned thereto in the Loan Agreement.

WHEREAS, the Lender has required, as an express condition to making the Loan, that (i) the Borrower execute and deliver to Lender that certain Collateral Assignment of Redevelopment Agreement, dated as of April __, 2017, pursuant to which the Borrower agrees to collaterally assign and pledge its rights and interest in and to the Redevelopment Agreement, the Village TIF Funds, the Incentive Payments and other Collateral (as described therein) to the Lender (the "Assignment"); and (ii) that the Village and Escrow Holder enter into this consent evidencing each party's respective acknowledgement and consent to the execution and delivery of the Assignment by the Borrower to the Lender.

NOW, THEREFORE, for good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, the Village and Escrow Holder each hereby agree as follows:

1. Acknowledgement and Consent.

(a) The Village hereby acknowledges receipt of, and consents and agrees to the terms and conditions of the Assignment. The Village further represents and warrants to Lender that (i) the Redevelopment Agreement is a valid agreement enforceable in accordance with its terms, (ii) that neither the Village nor the Borrower is in default thereunder, (iii) that all covenants, conditions and agreements have been performed as required therein, except those not to be performed until after the date hereof, and (iv) that the Secured Party shall be deemed a "Holder," as defined under Article 23 of the Redevelopment Agreement.

(b) The Escrow Holder acknowledges receipt of the Assignment and, upon receipt of notice from the Lender of the occurrence of an Event of Default by the Borrower under the Loan Agreement or any other documents evidencing the Loan, Escrow Holder agrees to comply with all instructions it receives from Lender regarding the Village TIF Funds, in accordance with the terms and conditions of the Escrow Agreement, without further consent of the Borrower.

2. Disbursement from Escrow. By its execution and delivery of this Consent, the Borrower and Village hereby authorize and direct the Escrow Holder to pay all Village TIF Funds that Borrower is entitled to receive under the Redevelopment Agreement and/or Escrow Agreement to, and as directed by, the Lender, in accordance with the terms and conditions of the Redevelopment Agreement and/or Escrow Agreement. The Escrow Holder acknowledges the direction and assignment of the Village TIF Funds from the Borrower to the Lender and agrees to pay all such Village TIF Funds to the Lender upon satisfaction of the conditions to disbursement as set forth in the Escrow Agreement, including, without limitation, the presentment of the Requisition and Supporting Documents (as defined in the Escrow Agreement) by the Borrower or Lender, as applicable.

3. Notice. The Village agrees to provide Lender with prompt written notice to the Lender of any default or breach by the Borrower of any of its obligations or duties under the Redevelopment Agreement, and that, prior to the Village exercising any of its rights or remedies under the Redevelopment Agreement, the Lender shall have the opportunity, but not the obligation, to cure such default or breach within the time period set forth in the Redevelopment Agreement.

4. Miscellaneous.

(a) This Consent shall be governed by and construed in accordance with the internal laws (as opposed to conflict of law provisions) and decisions of the State of Illinois.

(b) No amendment or waiver of any provision of this Consent shall in any event be effective unless the same shall be in writing and then such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

(c) This Consent may be executed in any number of counterparts and by the different parties hereto on separate counterparts and each such counterpart shall be deemed to be an original, but all such counterparts shall together constitute but one and the same Consent. Receipt of an executed signature page to this Consent by facsimile or other electronic transmission shall constitute effective delivery thereof.

(d) The captions and headings of various Articles and Sections of this Agreement and exhibits pertaining hereto are for convenience only and are not to be considered as defining or limiting in any way the scope or intent of the provisions hereof.

(e) Notwithstanding anything contained herein to the contrary, nothing herein shall be deemed to amend, modify or waive any of the terms and conditions of the Redevelopment Agreement.

This Acknowledgment and Consent to Collateral Assignment is dated as of the first date set forth above.

BORROWER

1815 OGDEN, LLC, an Illinois limited liability company

By: _____
Name: J. Bradley Webb
Title: Manager

VILLAGE

VILLAGE OF DOWNERS GROVE,
an Illinois municipal home rule corporation

By _____
Name: _____
Its: _____

ESCROW HOLDER

FIRST AMERICAN TITLE INSURANCE
COMPANY

By _____
Name: _____
Its: _____

COLLATERAL ASSIGNMENT OF REDEVELOPMENT AGREEMENT

THIS COLLATERAL ASSIGNMENT OF REDEVELOPMENT AGREEMENT (this "Assignment") is dated as of April ____, 2017, made by 1815 OGDEN, LLC, an Illinois limited liability company (the "Assignor"), in favor of WHEATON BANK & TRUST COMPANY, an Illinois state chartered bank (the "Secured Party").

WITNESSETH

WHEREAS, the Secured Party has agreed to make a certain loan (the "Loan") to the Assignor in an amount not to exceed Seventeen Million and No/100 Dollars (\$17,000,000.00) in accordance with the terms, provisions and conditions of that certain Construction Loan Agreement dated as of even date herewith, executed by and between the Borrower and the Secured Party (the "Loan Agreement"), for the purpose of development of the Project (as defined in the Loan Agreement) on the property commonly known as 1815 Ogden Avenue, Downers Grove, Illinois, and legally described on Exhibit "A" attached hereto.

WHEREAS, the Loan is evidenced by that certain Promissory Note dated even date herewith in the principal amount of the Loan, executed by the Assignor and made payable to the order of the Secured Party (the "Note"). All capitalized terms used herein and not otherwise defined shall have the meaning assigned thereto in the Loan Agreement.

WHEREAS, the Village of Downers Grove, Illinois, an Illinois municipal home rule corporation (the "Village") and Assignor have entered into that certain Redevelopment and Sales Tax Rebate Agreement, dated as of August 9, 2016 (the "Redevelopment Agreement"), pursuant to which the Village has agreed to provide certain financing incentives in connection with the development and rehabilitation of the Project, including, without limitation, (i) the allocation to the Assignor of Tax Increment Financing Funds, in the amount of Five Million and No/100 Dollars (\$5,000,000.00), for the reimbursement of Redevelopment Project Costs (as defined in the Redevelopment Agreement) incurred by the Assignor in connection with its development of the Project, and (ii) a Sales Tax Rebate equal to fifty percent (50%) of the sales tax revenue generated by the Project dealership over a ten (10) year period ("Incentive Payments").

WHEREAS, pursuant to the Redevelopment Agreement, the Village has deposited the sum of Four Million Five Hundred Thousand and No/100 Dollars (\$4,500,000.00) (the "Initial Village TIF Funds") in escrow with First American Title Insurance Company, as "Escrow Holder", for the benefit of the Assignor, to be held by the Escrow Holder until certain conditions have been satisfied in accordance with the Redevelopment Agreement and pursuant to the terms and conditions of that certain Post-Closing Escrow Agreement, dated as of September 15, 2016, by and among the Assignor, the Village and the Escrow Holder (the "Escrow Agreement").

WHEREAS, pursuant to the Redevelopment Agreement, upon receipt of the second (2nd) installment of calendar 2016 real property taxes in October, 2017, the Village shall deposit an additional Five Hundred Thousand and No/100 Dollars (\$500,000.00) (the "Additional Village TIF Funds") with the Escrow Holder (which, together with the Initial

Village TIF Funds shall be referred to as the "Village TIF Funds"), to be held by Escrow Holder, for the benefit of Assignor, until the Disbursement Conditions (as defined in the Escrow Agreement) have been satisfied.

WHEREAS, Secured Party has required, as an express condition to making the Loan, that Assignor enter into this Assignment and grant a security interest to Secured Party of Assignor's right, title and interest in and to the Redevelopment Agreement and Collateral (as defined below).

NOW, THEREFORE, for good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, the Assignor hereby agrees as follows:

1. Incorporation and Definitions. The foregoing recitals and all exhibits attached hereto are hereby made a part of this Assignment. The capitalized terms not otherwise defined herein shall have the meanings provided in the Redevelopment Agreement, the Loan Agreement and/or Escrow Agreement, as applicable.

2. Creation of Security Interest. Assignor hereby grants to Secured Party a security interest in, and does hereby collaterally assign, pledge, mortgage, convey and set over unto Secured Party, any and all of Assignor's right, title and interest in, to and under the following (collectively, "Collateral"):

(a) any and all of Assignor's right, title and interest in and to the Redevelopment Agreement, together with all documents and agreements attached as exhibits thereto, and all amendments addenda and modifications thereof, whether made now or hereafter, and all proceeds of the Redevelopment Agreement, including, without limitation, Assignor's rights to the Village TIF Funds and Incentive Payments.

(b) all other property hereafter delivered to the Escrow Holder or the Assignor in substitution for, as proceeds of, or in addition to any of the foregoing, all certificates, instruments and documents representing or evidencing such property, and all cash, securities, interest, dividends, rights and other property at any time and from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all thereof.

which Assignor has, may have, or may subsequently directly or indirectly enter into, obtain or acquire in connection with the improvement, ownership, operation, leasing or maintenance of the Project, together with the proceeds of all of the foregoing.

3. Security for Liabilities. This Assignment is made and given as collateral security for the prompt payment when due of any and all indebtedness, obligations and liabilities of Debtor to Secured Party, and evidenced by or secured by or otherwise provided in the Loan Agreement, the Note and/or any of the other Loan Documents, all of which have been made by Debtor with or for the benefit of Secured Party, whether such indebtedness, obligations or liabilities are now existing or hereafter created, direct or indirect, absolute or contingent, joint or several, due or to become due, howsoever created, evidenced or arising and howsoever acquired by Secured Party, and any and all renewals, extensions or refinancings thereof (all of the foregoing are hereinafter collectively referred to as "Liabilities"). Upon full payment,

performance and observance by Debtor of all Liabilities, this Assignment and the lien or charge created hereby or resulting herefrom shall automatically cease to exist.

4. Representations and Warranties. The Assignor represents and warrants as follows:

(a) Assignor shall not sell, transfer, assign, pledge, encumber or mortgage all or any portion of the Collateral or any interest therein without the prior written consent of Secured Party, or permit anything to be done that may materially impair the value of any of the Collateral or the security intended to be afforded by this Assignment. Assignor shall not amend, modify or terminate any of the documents or instruments constituting part of the Collateral without the prior written consent of Secured Party.

(b) Assignor shall sign and execute alone or with Secured Party any financing statement or other document or procure any documents and pay any connected costs, expenses and fees, including court costs and reasonable attorneys' fees, necessary to protect the security interest under this Assignment against the rights, interests or claims of third parties.

(c) Assignor shall reimburse Secured Party for all reasonable costs, expenses and fees, including court costs and reasonable attorneys' fees, incurred for any action taken by Secured Party to remedy an Event of Default (as such term is hereinafter defined) of Assignor under this Assignment, including without limitation, expenses incurred pursuant to Paragraph 8 below, together with interest on all said amounts at an annual rate equal to the Default Rate from and after the date which is ten days after Secured Party demands reimbursement until the date reimbursed by Assignor.

(d) Assignor will punctually and promptly perform all covenants, agreements and conditions required to be performed by it under this Assignment, the Loan Agreement, the Note, the other Loan Documents, the Redevelopment Agreement, and all of the documents, instruments, agreements and contracts constituting the Collateral.

(e) Assignor represents, warrants and covenants to Secured Party that it is the sole owner of all right, title and interest of the owner under all of the documents, instruments, agreements and contracts constituting the Collateral, and agrees that so long as any of the Liabilities remain unpaid, Assignor shall remain liable for all costs, fees and expenses which may be or become due and payable under the Collateral and for all responsibilities of the ownership of the Project.

(f) Assignor agrees to enforce performance by the other party to each document, instrument, agreement or contract constituting the Collateral of each and every material obligation, covenant, condition and agreement to be performed by such other party.

(g) Assignor has not performed any act which might prevent Assignor from performing its obligations hereunder or which might prevent Secured Party from enforcing its rights pursuant to the terms and provisions hereof.

(h) Until the Liabilities are paid in full, Assignor agrees promptly to deliver to Secured Party true, complete and correct copies of each agreement or contract comprising the Collateral.

(i) No party is in default under the Redevelopment Agreement as of the date hereof and there are not any circumstances which would constitute a default with the giving of notice, the passage of time, or both. The Assignor agrees not to enter into any amendment or modification of the Redevelopment Agreement without the prior written consent of the Lender.

5. Further Assurance. The Assignor agrees that

(a) (i) cause Secured Party to be identified as a "Holder," as defined in Article 23 of the Redevelopment Agreement; and (ii) within thirty (30) days following the execution of this Assignment, it will cause Village and the Escrow Holder to (i) enter into a Acknowledgment and Consent to Collateral Assignment, in the form and substance attached hereto as Exhibit "B" regarding the Village TIF Funds.

(b) it will take all further action that may be necessary or desirable, or that the Secured Party may request in its sole discretion, in order to perfect and protect any security interest granted or purported to be granted hereby or to enable the Secured Party to exercise and enforce its rights and remedies hereunder with respect to any Collateral and to carry out the provisions and purposes hereof.

6. The Secured Party Appointed Attorney-in-Fact. The Assignor hereby appoints the Secured Party as the Assignor's attorney-in-fact, with full authority in the place and stead of the Assignor and in the name of the Assignor or otherwise, from time to time in the Secured Party's discretion to exercise any or all of Assignor's rights in, to and under the Redevelopment Agreement and the Escrow Agreement and take any action and to execute any instrument which the Secured Party may deem necessary or advisable to accomplish the purposes of this Assignment, including, without limitation, the taking of other acts in Assignor's name or in Secured Party's own name that Assignor could do under the Redevelopment Agreement.

7. Limitation of Secured Party's Liability. Notwithstanding anything to the contrary contained in any of the Collateral, the interest of Assignor therein is assigned and transferred to Secured Party by way of collateral security only, the Secured Party by its acceptance hereof shall not be deemed to have assumed or become liable for any of the obligations or liabilities of Assignor under the Collateral, whether provided for by the terms thereof, arising by operation of law or otherwise. Assignor hereby acknowledges that Assignor shall remain liable for the due performance of Assignor's obligations under the documents, instruments, agreements and contracts constituting the Collateral to the same extent as though this Assignment had not been made. It is expressly intended, understood and agreed that this Assignment, the Loan Agreement, the Note, and the other Loan Documents are made and entered into for the sole protection and benefit of Secured Party and Assignor, and their respective successors and assigns (but in the case of assigns of Assignor, only to the extent permitted hereunder), and no other person or persons shall have any right of action hereunder or rights to the proceeds of the Loan at any time; that no third party under any circumstances be entitled to any equitable lien on the undisbursed proceeds of the Loan at any time. The

relationship between Secured Party and Assignor is solely that of a lender and borrower, and nothing contained herein shall in any manner be construed as making the parties hereto partners or joint venturers or creating any other relationship other than lender and borrower.

8. Events of Default; Remedies upon an Event of Default. (a) The occurrence of any one or more of the following events shall constitute an "Event of Default" by Assignor under this Agreement:

(i) there occurs an Event of Default under and as defined in the Loan Agreement;

(ii) the Assignor fails to perform or observe any material term, covenant or agreement contained in this Assignment or the Redevelopment Agreement on its part to be performed or observed; provided, however, that if such failure by its nature can be cured, then Assignor shall have a period ("Cure Period") of five (5) days after Assignor obtains actual knowledge of such failure or receives written notice of such failure to cure the same and an Event of Default shall not be deemed to exist during the Cure Period, provided further that if Assignor commences to cure such failure during the Cure Period and is diligently and in good faith attempting to effect such cure, the Cure Period shall be extended for five (5) additional days, but in no event shall the Cure Period be longer than ten (10) days in the aggregate;

(iii) any representation or warranty made by the Assignor in this Assignment shall be untrue or misleading in any material respect as of the date with respect to which such representation or warranty was made

(iv) a notice of lien, levy or assessment is filed or recorded with respect to all or a substantial part of the Collateral, except for a lien, levy or assessment which relates to current taxes not yet due and payable; and

(v) all or a substantial part of the Collateral is attached, seized, subjected to a writ or distress warrant, or is levied upon, or comes within the possession of any receiver, trustee, custodian or assignee for the benefit of creditors.

(b) At any time upon or following the occurrence of any one or more Events of Default hereunder, Secured Party shall without any further notice or any demand to Assignor: (i) be entitled to declare all indebtedness secured hereby and by the Note and the other Loan Documents to be immediately due and payable; (ii) exercise any and all rights and remedies provided hereunder or under the other Loan Documents, as well as all remedies available at law and in equity, including, without limitation, all of the rights and remedies with respect to the Collateral of a secured party under the Uniform Commercial Code ("Code") in effect in the State of Illinois; (iii) cure any default in such manner and to such extent as Secured Party may deem reasonably necessary to protect the security hereof, including without limitation, the right to appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Secured Party, and also the right to perform and discharge each and every obligation, covenant and agreement of Assignor under any of the documents, instruments,

agreements and contracts constituting the Collateral, and in connection therewith, to pay necessary costs and expenses, employ counsel and incur and pay attorneys' fees and expenses; and/or (iv) either in person or by agent, with or without bringing any action or proceedings, or by a receiver to be appointed by a court at any time hereafter, enforce any of the documents, instruments, agreements or contracts constituting the Collateral for its own benefit.

9. Waiver and Indemnity. Assignor hereby agrees that no liability shall be asserted or enforced by Assignor against Secured Party in its exercise of the powers and rights herein granted, all such liability being hereby expressly waived and released by Debtor. Assignor hereby agrees to indemnify, defend and hold Secured Party harmless from and against any and all liability, expense, cost or damage which Secured Party may incur by reason of act or omission of either Assignor under any of the documents, instruments, or agreements constituting the Collateral. Notwithstanding anything contained herein to the contrary, the waiver and indemnification contained in this Paragraph 9 shall not apply to any instance in which Secured Party has committed gross negligence or willful misconduct.

10. Security Interest Absolute. All rights of the Secured Party and security interests hereunder, and all obligations of the Assignor hereunder, shall be absolute and unconditional irrespective of:

(i) any lack of validity or enforceability of the Loan Agreement or any other agreement or instrument relating thereto;

(ii) any change in the time, manner or place of payment of, or in any other term of, all or any of the Liabilities, or any other amendment or waiver of or any consent to any departure from the Loan Agreement;

(iii) any exchange, surrender, release or non-perfection of any other collateral, or any release or amendment or waiver of or consent to departure from any guaranty, for all or any of the Liabilities; or

(iv) any other circumstance which might otherwise constitute a defense available to, or a discharge of, the Assignor in respect of the Liabilities or of this Assignment.

11. Amendments, Waivers and Consents. No amendment or waiver of any provision of this Assignment nor consent to any departure by the Assignor herefrom, shall in any event be effective unless the same shall be in writing and signed by the Secured Party, and then such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

12. Notices. Any notice required or desired to be served, given or delivered hereunder shall be made in the manner set forth in the Loan Agreement.

13. Successors and Assigns. Any successor or assignee of Secured Party's rights and obligations under the Mortgage between Secured Party and Assignor shall succeed to Secured Party's rights and obligations under this Assignment.

14. Continuing Security Interest. This Assignment shall create a continuing security interest in the Collateral and shall (i) remain in full force and effect until payment in full of the Liabilities; (ii) be binding upon the Assignor, its successors and assigns; and (iii) inure to the benefit of the Secured Party and its successors, transferees and assigns.

15. Waivers. The Assignor waives presentment and demand for payment of any of the Liabilities, protest and notice of dishonor or default with respect to any of the Liabilities, and all other notices to which the Assignor might otherwise be entitled, except as otherwise expressly provided herein or in the Loan Agreement.

16. Governing Law; Terms. This Assignment shall be governed by and construed in accordance with the internal laws (as opposed to conflict of law provisions) and decisions of the State of Illinois. Unless otherwise defined herein, terms defined in Articles 8 and 9 of the Illinois Uniform Commercial Code are used herein as therein defined. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but, if any provision of this Assignment shall be interpreted in such manner as to be ineffective or invalid under applicable law, such provisions shall be ineffective or invalid only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Assignment.

17. Definitions. The singular shall include the plural and vice versa and any gender shall include any other gender as the text shall indicate.

18. Section Headings. The section headings herein are for convenience of reference only, and shall not affect in any way the interpretation of any of the provisions hereof.

(Signature Page Follows)

IN WITNESS WHEREOF, the Assignor has caused this Assignment to be duly executed and delivered by its officer, if any, thereunto duly authorized as of the date first above written.

1815 OGDEN, LLC, an Illinois limited liability company

By: _____
Name: J. Bradley Webb
Its: Manager

ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS.
COUNTY OF _____)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that **J. BRADLEY WEBB**, the Manager, of 1815 Ogden, LLC, an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Manager, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this _____ day of _____, 2017.

Notary Public

My Commission Expires:

EXHIBIT "A"LEGAL DESCRIPTION

LOT 1 IN THE FINAL PLAT OF RESUBDIVISION OF PACKEY WEBB FORD SUBDIVISION, BEING A SUBDIVISION IN THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 38 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 3, 2016 AS DOCUMENT NO. R2016-121893, IN DUPAGE COUNTY, ILLINOIS.

LESS AND EXCEPT THE FOLLOWING DESCRIBED PROPERTY:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE NORTH 88°09'45" EAST ALONG THE NORTH LINE OF SAID LOT A DISTANCE OF 1.14 FEET TO A POINT; THENCE SOUTH 01°07'33" WEST 259.53 FEET TO A POINT; THENCE SOUTH 88°10'03" WEST 1.345 FEET TO A POINT IN THE WEST LINE OF SAID LOT 1; THENCE NORTH 01°10'16" EAST ALONG SAID WEST LINE 259.54 FEET TO THE POINT OF BEGINNING.

BUT ADDING AND INCLUDING THE FOLLOWING DESCRIBED PROPERTY:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE NORTH 88°09'45" EAST ALONG THE NORTH LINE OF SAID LOT A DISTANCE OF 1.14 FEET TO THE POINT OF BEGINNING OF LANDS TO BE DESCRIBED; THENCE CONTINUING NORTH 88°09'45" EAST ALONG SAID NORTH LINE 1.14 FEET TO A POINT; THENCE SOUTH 01°04'50" WEST 259.52 FEET TO A POINT; THENCE SOUTH 88°10'03" WEST 1.345 FEET TO A POINT; THENCE NORTH 01°07'33" EAST 259.53 FEET TO THE POINT OF BEGINNING.

09-06-304-013

09-06-304-014

Commonly known as: 1815 Ogden Avenue, Downers Grove, Illinois 60515

EXHIBIT "B"

ACKNOWLEDGMENT AND CONSENT TO COLLATERAL ASSIGNMENT