

THIS INSTRUMENT SHOULD BE  
RETURNED  
TO:

Brian Meltzer  
MELTZER, PURTILL & STELLE  
LLC  
1515 East Woodfield Road  
Second Floor  
Schaumburg, Illinois 60173-5431  
(847) 330-2400



Doc#: 0334431095  
Eugene "Gene" Moore Fee: \$44.00  
Cook County Recorder of Deeds  
Date: 12/10/2003 11:50 AM Pg: 1 of 11

ABOVE SPACE FOR RECORDER'S USE ONLY

12/29/03

**COMMERCIAL PROPERTY AGREEMENT  
BETWEEN CAPITOL HILL LOFTS, INC., AND  
CAPITOL HILL LOFTS CONDOMINIUM ASSOCIATION**

THIS AGREEMENT is between Capitol Hill Lofts, Inc., an Illinois corporation (the "Commercial Property Owner") and Capitol Hill Lofts Condominium Association (the "Association").

**RECITALS:**

The Association administers the Capitol Hill Lofts Condominium pursuant to that Declaration of Condominium Ownership for Capitol Hill Lofts Condominium and provisions relating to commercial property, which was recorded in Cook County, Illinois on July 3, 2000, as Document No. 00494269, as amended and supplemented from time to time (the "Declaration"). The Declaration affects the real estate which is legally described in Exhibit Z attached hereto. The Commercial Property Owner owns the Commercial Property, as that term is defined in the Declaration.

The effective date of this Agreement shall be June 1, 2003.

The Association and the Commercial Property Owner desire to clarify their relationship in certain respects. Accordingly, the Association and the Commercial Property Owner hereby agree as follows:

1. **Cost Sharing.** Pursuant to Section 11.04(a) of the Declaration, the Commercial Property Owner is required to pay the Commercial Property Cost Sharing Percentage (10%) of certain costs incurred by the Association. In particular, the Commercial Property Owner is required to pay ten percent (10%) of the cost of maintaining the Condominium Association Maintained Improvements and ten percent (10%) of the cost of Condominium Association Furnished Services, but in no event less than One Thousand Dollars (\$1,000.00) per year. Section 1.11 of the Declaration

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defines Condominium Associated Furnished Services and Section 1.12 of the Declaration defines Condominium Association Maintained Improvements. The Association and the Commercial Property Owner hereby agree that in satisfaction of its obligations under Section 11.04(a) of the Declaration, the Commercial Owner shall pay the following amounts to the Association:

Shared Areas:

(a) For purposes hereof, the "Shared Areas" shall be the areas depicted on Exhibit A hereto and designated as the "Shared Areas". The Shared Areas are part of the Common Elements and, as such, are maintained by the Association. The Commercial Property Owner shall pay the Association each calendar year the sum of \$250 multiplied by the ratio of the level of the CPI (defined below) as of January 1 of the year in question to 183.9, which is the level of the Cost of Living Index as of July, 2003. The parties agree that if the cost of gas and/or electricity increases materially more than the increase in the Cost of Living Index during a given calendar year, the parties shall negotiate in good faith concerning an adjustment in the amount payable pursuant to this paragraph.

For purposes hereof, the "CPI" shall mean the Consumer Price Index, U.S. City Average, all items, 1982-84=100.

(b) Other Costs:

(i) The Commercial Property Owner pay the Association an amount equal to Two and one-half percent (2.50%) of the water and sewer bills for the building after deducting the portion of the water bill which is sub-metered to the Commercial Property and shall pay the Association One Hundred Percent (100%) of the portion of the water bills which is sub-metered to the Commercial Property.

(ii) The Commercial Property Owner will pay the Association an amount equal to ten percent (10%) of all costs incurred and paid by the Association with respect to the fire prevention/ detection/notification system,

(iii) The Commercial Property Owner will pay the Association an amount equal to ten percent (10%) of annual maintenance contract cost which is specifically allocated to the handicapped elevator and ten percent (10%) of the cost of operating and maintaining the handicap elevator emergency phone. If there is no maintenance contract for the handicapped elevator, the Commercial Property Owner will pay the Association an amount equal to ten percent (10%) of the actual costs incurred by the Association to maintain and repair the handicapped elevator.

(iv) The Commercial Property Owner will pay the Association an amount equal to ten percent (10%) of the cost of the maintenance, repair and replacement of the Condominium Association Maintained Improvements as defined in Paragraph 1.12 of the Declaration

(v) intentionally omitted

(vi) The Commercial Property Owner will pay the Association an amount equal to ten percent (10%) of the cost of insurance on the building structure; provided that the parties shall request the insurer to invoice the Commercial Property Owner for the share of the premium attributable to the Commercial Property and if such an invoice is rendered, the Commercial Property Owner shall pay the invoice as its share of the cost of insurance.

(vii) The Commercial Property Owner shall deposit with the Association each year an amount equal to ten percent (10%) of the total annual reserves set aside by the Association for such year for the repair and replacements of the hot water heater, tuck pointing and the repair and replacement of the roof, based on the following schedule, which funds shall be segregated separate accounts and shall only be used for the intended purposes:

(a)

CATEGORY	ECONOMIC LIFE	REPLACEMENT COST (\$)	ANNUAL DEPOSIT TO RESERVES (\$)	RETAIL OWNER CONTRIBUTION PER YEAR (\$)
Domestic Water Heat Exchanger	15	\$ 16,800	\$1,120	\$112
Concrete Sidewalks	30	\$15,000	\$1,333	\$25
Brick Exterior Tuck Point & Sealants, Phased	10	200,000	2,000	200
Modified Roof System	12	250,000	7,200	720
<b>TOTAL</b>				<b>\$1,057</b>

*From the Engineering/Reserve Study (April 30 2002) prepared by Coder Taylor Associates*

(viii) Intentionally omitted.

(ix) The Commercial Property Owner will pay to the Association an amount equal to two and one-half percent (2.50%), of the cost of gas to run the boilers if a separate meter measures the amount of gas actually used. If the amount of gas used is not separately metered, the Commercial Property Owner will pay as its share of such costs two and one half percent (2.50%) of the cost as determined by an independent engineer engaged by the Association at the Association's expense.

(x) For Association provided snow removal, the Commercial Property Owner will pay to the Association an amount equal to eighty percent (80%) of the cost to provide snow removal services on the sidewalks around the building, but shall not pay any portion of the cost of snow removal from the garage. For Commercial Property Owner provided snow removal, the Association will pay to the Commercial Property Owner an amount equal to twenty percent (20%) of the cost to provide snow removal services on the sidewalks around the building.

(xi) The Commercial Property Owner may utilize the garbage dumpsters on the east service corridor (east of the loading dock) if the Commercial Property Owner contributes \$800 toward the installation of a gate and twenty five percent (25%) contribution of any future gates. If the Commercial Property tenants utilize the dumpsters servicing the Association, the Commercial Property Owner will pay \$200 per month for garbage services subject to quarterly re-prorations based on usage. The Commercial Property Owner also has the right to use its own trash removal service, in which case it will not be obligated to pay the \$200 per month to the Association. Currently White Hen is using its own scavenger company and storing its dumpsters on the Loading Dock.

(xii) The parties may cooperate to enter into a joint contract for periodic extermination of the building which specifically breaks out the cost of exterminating the Commercial Property, the Common Elements and the Units. The Commercial Property Owner shall pay 100% of the cost allocated to the Commercial Property and ten percent (10%) of the cost allocated to the Common Elements.

(xiii) Intentionally omitted.

(xiv) The Commercial Property Owner will be responsible for eight percent (8%) of the cost of maintenance and repair of the structural portions of the building.

(xv) Intentionally omitted.

(c) The Condominium Association Maintained Improvements shall include contribution from the Commercial Property Owner as follows:

(i) Ten percent (10%) of the cost of maintaining, plumbing, pipes and other utility lines in the Common Elements which serve both the Condominium Property and the Commercial Property to the extent such cost is not reimbursed by insurance or the result of negligence by a Unit Owner or a resident of a Unit;

(ii) Ten percent (10%) of the cost of roof repairs; provided, that to the extent available reserves held by the Association for such purpose shall be used and applied before any request for payment is made to the Commercial Property Owner.

(d) Additionally, the Commercial Property Owner agrees to perform the following:

(i) Maintain the signage, awnings and other items added to the exterior of the building on the first floor, and further agrees to bear full responsibility for damage caused by such signage, awnings, etc., and to fully restore the facade to acceptable standards if/when such signage, awnings and other items are removed, replaced or modified.

(ii) The Commercial Property Owner agrees to install a concrete or wood or steel ramp in the rear of the building, which will be accessed by the gate on the Des Plaines side of the building, between the building and the parking deck. Such ramp will conform to all applicable local, state and federal (ADA) standards. The Commercial Property Owner will be responsible for any maintenance and repair of the aforesaid ramp and agrees to defend and indemnify the Association for any and all claims, costs, expenses (to include, if required, all expenses in modifying the aforesaid ramp or providing all alternate access for handicapped individual seeking access to the Commercial Property). It is understood and agreed that the Commercial Property Owner is responsible for providing handicapped access to the Commercial Property spaces, independent of the "inner lobby" area (the area past the second set of doors).

(iii) That with respect to handicapped access via the ramp constructed, maintained and repaired as set forth above, the Commercial Property Owner will be responsible for ensuring access to the ramp, including, but not limited to, moving cars owned by the Commercial Property Owner or its tenants, which may obstruct access to the ramp.

2. Access. The parties acknowledge that the Commercial Property Owner, its tenants, guests and invitees have those easements set forth in Article Two, Section 2.04 of the Declaration. The Commercial Property is located on the first level of the building. However, this level is located several steps above grade. Accordingly, in order for a handicapped person to gain access to the building the handicapped person may need assistance. When the building was rehabilitated the developer installed a lift in the outer lobby to permit handicapped persons to gain access to the inner lobby and the balance of the building. The Commercial Property Owner and the Condominium Association desire to provide a procedure whereby a handicapped person may gain access to portions of the Commercial Property while at the same time minimizing the risk that an unauthorized person will gain access to the residential portion of the building. To this end, the parties agree as follows:

(a) Access to the portions of the Commercial Property which are depicted on Exhibit B hereto and designated as the "Flower Shop" and the "Mini Mart Area" shall be as provided in this subparagraph. A handicapped person who desires to obtain access to the Flower Shop or the Mini Mart Area shall be permitted to notify the Flower Shop or the Mini Mart Area from the outside of the building using the automated communication facility from time to time furnished by the Condominium Association at the main entrance to the residential portion of the building.

Upon being so notified, an employee of the Flower Shop or Mini Mart Area shall go to the front door of the building and allow the handicapped person access and shall then escort the handicapped person to the lift and use the lift to permit the handicapped person to gain access to the Flower Shop or the Mini Mart Area. To the extent possible, the communication system for the building will be configured to not permit the tenant of the Flower Shop or the tenant of the Mini Mart Area to allow a person to gain access into the outer lobby by any means other than manual assistance by an employee of the tenant.

(b) Access to portions of the Commercial Property other than the Flower Shop or the Mini Mart Area ("Remaining Commercial Area") shall be by way of the rear entrance to the building over the ramp to be constructed by the Commercial Property Owner pursuant to Paragraph 1(d)(ii) above. However, if it is determined that the means of access by way of the rear entrance and the ramp is not permitted under applicable federal, state or local laws, ordinances or regulations, the parties agree to work together to reach a mutually acceptable procedure for permitting handicapped persons to gain access to the Remaining Commercial Property through a means which complies with such applicable laws, ordinances or regulations. The parties shall use their best efforts to agree upon a solution at a reasonable cost which does not involve access to the Remaining Commercial Space by way of the inner lobby or mailroom, including, if feasible at a reasonable cost, installing lifts to the entrances to the Remaining Commercial Areas. However, the parties recognize that if the only feasible means to provide appropriate access at a reasonable cost is through the inner lobby and/or mailroom, the parties agree to negotiate in good faith to reach an acceptable procedure to gain access to the Remaining Commercial Area across and through the inner lobby and/or mail room of the building. If the parties are unable to reach agreement on a solution, then the parties shall submit the issue to mediation administered by JAMS, Chicago, Illinois in accordance with its standard procedures for mediation. The parties will attempt to agree on a mediator selected from the JAMS roster. If the parties are unable to agree on a mediator, one will be selected for them by a JAMS case administrator. In the event that the issue is not settled through good faith mediation conducted in accordance with the preceding sentence, then the parties agree to submit the dispute to arbitration with a single arbitrator, administered by JAMS, Chicago, Illinois in accordance with its standard procedures for arbitration. The parties will attempt to agree on an arbitrator selected from the JAMS roster. If the parties are unable to agree on an arbitrator, one will be selected for them by a JAMS case administrator. Unless all parties agree, the mediator is not eligible to arbitrate the dispute. The arbitrator may grant any remedy or relief that the arbitrator deems just and equitable. Judgment on the award rendered by the arbitrator may be entered in any court have jurisdiction thereof. The

costs of mediation and arbitration, if necessary shall be shared equally by the parties.

3. The Association recognizes and acknowledges that the Commercial Property Owner has the right to retain, maintain, repair and replace refrigeration and related equipment currently located in the basement of the building. The Commercial Property Owner agrees to indemnify and hold the Association harmless from and against any and all claims, damages, lawsuits, including reasonable attorneys' fees and costs ("claims"), relating to or arising out of the use, retention, maintenance, repair or replacement of the refrigeration and related equipment currently located in the basement of the building. This indemnification shall also specifically apply to claims relating to any motorcycles or other vehicles which are parked under such equipment.

This Agreement is binding to the parties, their agents, employees, assignees and subsequent purchasers. This Agreement may be recorded with the Recorder of Deeds.

Dated October 30, 2003

**CONDOMINIUM ASSOCIATION:**

**CAPITOL HILL LOFTS CONDOMINIUM ASSOCIATION**  
an Illinois not-for-profit corporation

By: Joseph J. Lutz  
Its: President

**COMMERCIAL PROPERTY OWNER:**

**CAPITOL HILL LOFTS, INC.**  
an Illinois Corporation

By: [Signature]  
Its: President

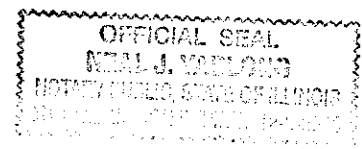
STATE OF ILLINOIS     )  
                                      ) SS.  
COUNTY OF COOK     )

The undersigned, a Notary Public in and for said County and State, do hereby certify that Joseph J. List respectively, of Capitol Hill Lofts Condominium Association, as such \_\_\_\_\_ appeared before me this day in person and acknowledged that he/she signed, sealed and delivered said instrument as his/her free and voluntary act, and as the free and voluntary act of \_\_\_\_\_, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 30 day of OCTOBER, 2003.

Neal J. Meloni  
Notary Public

My Commission Expires: 12-2-06





STATE OF ILLINOIS       )  
                                      ) SS.  
COUNTY OF COOK        )

The undersigned, a Notary Public in and for said County and State, do hereby certify that MAURICE SANDERMAN, the President, of Capital Hill Lofts, Inc. appeared before me this day in person and acknowledged that he signed, sealed and delivered said instrument as his free and voluntary act, and as the free and voluntary act of Capitol Hill Lofts, Inc., for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 30<sup>th</sup> day of October, 2003.

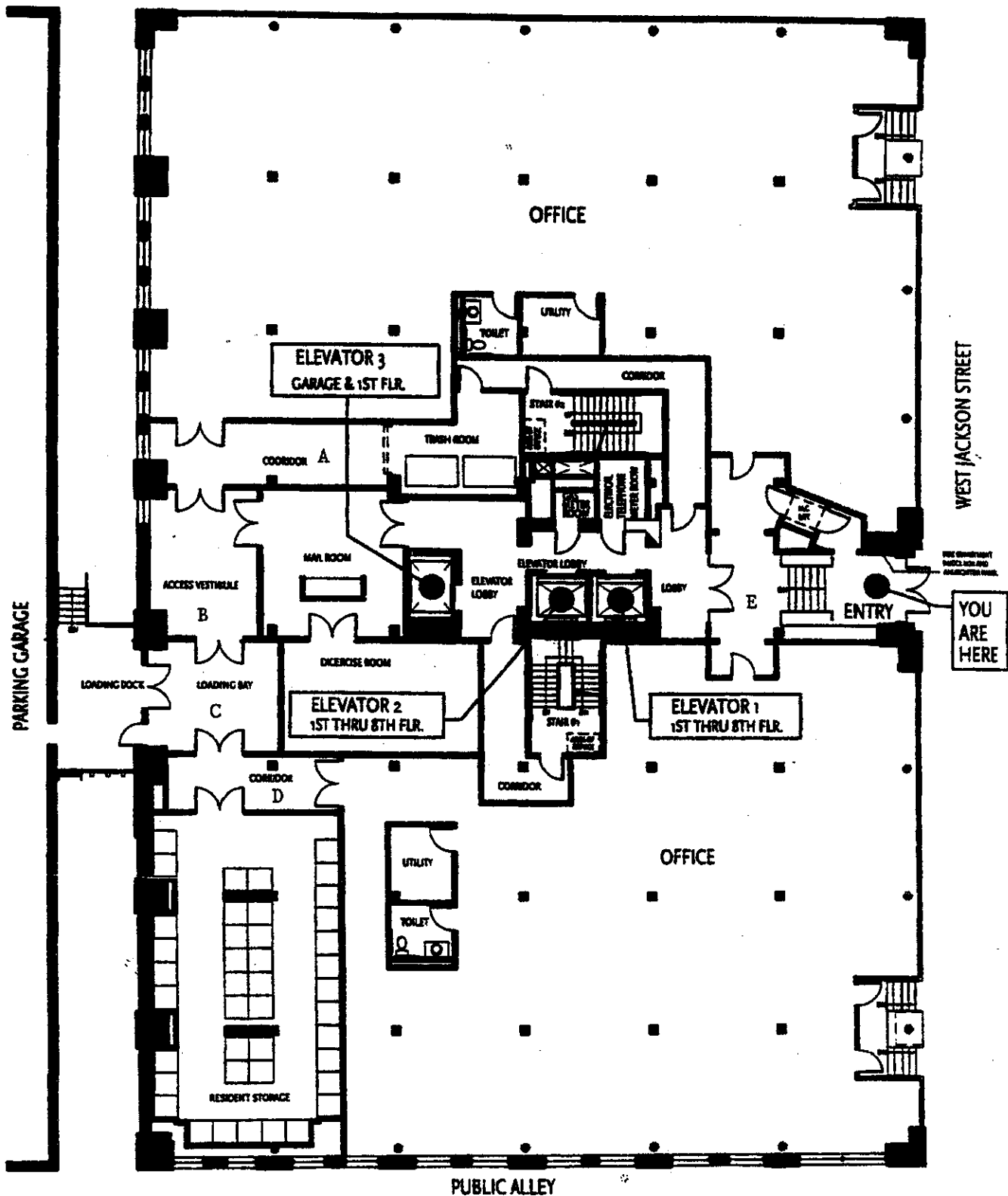
Steven Sanderman

Notary Public

My Commission Expires: \_\_\_\_\_



SOUTH DES PLAINES STREET



## CAPITOL HILL LOFTS

625 WEST JACKSON  
CHICAGO, ILLINOIS

Area A = 128 sq. ft.    Area B = 160 sq. ft.    Area C = 120 sq. ft.    Area D = 168 sq.  
Area E = 696 sq. ft.

Shared Areas:

## EXHIBIT Z

### Legal Description

#### PARCEL 1:

THAT PART OF LOTS 1, 4 AND THE NORTH 1/2 OF LOT 5 (EXCEPT THE SOUTH 4.92 FEET OF SAID NORTH 1/2 OF LOT 5 AND EXCEPT THE EAST 9 FEET OF ALL OF SAID LOTS TAKEN FOR ALLEY) IN BLOCK 28 IN SCHOOL SECTION ADDITION TO CHICAGO IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

#### PARCEL 2:

THAT PART OF LOT 5 IN THE SUBDIVISION OF BLOCK 28 OF SCHOOL SECTION ADDITION TO CHICAGO IN THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN LYING SOUTH OF THE NORTH LINE OF THE SOUTH 4.92 FEET OF THE NORTH 1/2 OF SAID LOT 5, (EXCEPT THE EAST 9.00 FEET OF SAID LOT 8 TAKEN FOR ALLEY;

#### ALSO

THAT PART OF LOT 8 DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF LOT 8; THENCE SOUTH ALONG THE WEST LINE OF SAID LOT, 20.23 FEET; THENCE EAST TO A POINT IN THE EAST LINE OF SAID LOT, 21.5 FEET SOUTH FROM THE NORTHEAST CORNER OF SAID LOT; THENCE NORTH ON THE EAST LINE OF SAID LOT, 21.5 FEET TO THE NORTHEAST CORNER OF SAID LOT; THENCE WEST ALONG THE NORTH LINE OF SAID LOT TO THE POINT OF THE BEGINNING, (EXCEPT THE EAST 9.00 FEET OF SAID LOT 8 TAKEN FOR ALLEY), ALL IN THE SUBDIVISION OF BLOCK 28 IN SCHOOL SECTION ADDITION TO CHICAGO IN THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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17-16-118-019-1001 to 1010