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Cook County Recorder 39.00

This Document Prepared By
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Christopher F. Walrath
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Chicago, Illinois 60603



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10-9-01

ILLINOIS DEVELOPMENT FINANCE AUTHORITY

AND

AMERICA UNITED BANK AND TRUST COMPANY USA

ASSIGNMENT AND AGREEMENT

DATED AS OF AUGUST 1, 2001

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ASSIGNMENT AND AGREEMENT

THIS ASSIGNMENT AND AGREEMENT (the "Assignment") dated as of August 1, 2001, by and between the ILLINOIS DEVELOPMENT FINANCE AUTHORITY, a political subdivision, body corporate and politic of the State of Illinois (the "Issuer"), and AMERICAUNITED BANK AND TRUST COMPANY USA, an Illinois banking corporation (the "Owner");

WITNESSETH:

Section 1. The Issuer hereby assigns and pledges to the Owner, and its successors and assigns, as security for the due and punctual payment of the principal installments of, premium, if any, and interest on the Revenue Bond, Series 2001 (Alfred Campanelli YMCA Project) in the principal amount of \$1,500,000 (the "Bond") issued by the Issuer pursuant to an Bond Resolution duly adopted by the Issuer on August 16, 2001 (the "Bond Resolution"), all of its right, title and interest in and to, including without limitation its rights to payment of any and all amounts which may become due under, (a) the Loan Agreement (the "Agreement") dated as of August 1, 2001, by and between the Issuer and Alfred Campanelli YMCA, a not-for-profit corporation duly organized and validly existing under the laws of the State of Illinois (the "Company") except the Issuer's Unassigned Rights (as defined in the Agreement), which Agreement relates to the financing of all or a portion of the cost of the acquisition, construction, refurbishment, installation and equipping of certain of the Company's new and existing facilities (the "Project") for use as a physical education and recreation facility, all to be located within the Village of Schaumburg, Illinois, (b) the Promissory Note of the Company in the principal amount of \$1,500,000 delivered pursuant to the Agreement (the "Note"), (c) the Construction Mortgage, Assignment or Rents and Leases, Security Agreement and Fixture Financing Statement dated as of August 1, 2001 by and between the Company and the Issuer (the "Mortgage"), including without limitation the lien on and security interest in the personal property described in the Mortgage and in the real estate described therein and in *Exhibit A* hereto and made a part hereof, and (d) all other rights and remedies to enforce such payment of any amount due the Issuer by the Company under the Agreement, the Note and the Mortgage. The parties hereto acknowledge that all payments made by the Company under the Agreement (except as aforesaid), the Note and the Mortgage shall be made to the Owner or any other registered owner of the Bond, on behalf of the Issuer for the payment of the principal installments of, premium, if any, and interest on the Bond, pursuant to the endorsement of the Note to the Owner by the Issuer, and the assignment and pledge hereby of the right, title and interest of the Issuer in and to the Agreement, the Note and the Mortgage, except as otherwise provided in this Assignment.

Section 2. The Owner acknowledges receipt of an executed counterpart of the Agreement and the Mortgage, and a certified copy of the Bond Resolution, and agrees to hold and disburse all funds which it may receive pursuant to the Agreement, the Mortgage or the Bond Resolution in accordance with the applicable provisions thereof. The Owner agrees to perform such duties and obligations as are specifically designated as those of the Owner as set forth herein and in the Bond Resolution, the Agreement, the Mortgage and the Tax Exemption

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Certificate and Agreement dated as of the date of delivery of the Bond, by and among the Issuer, the Company and the Bank (the "Tax Agreement"). In the performance of such duties and obligations, the Owner may rely and shall be protected in acting or refraining from acting on any instrument believed by the Owner to be genuine and to have been filed or presented by the proper party or parties.

Section 3. The parties hereto acknowledge that this Assignment is given for the purpose of securing the Bond of the Issuer referred to in Section 1 of this Assignment.

Section 4. The Owner is hereby authorized and directed (a) to promptly apply amounts available from the payment of the principal installments of (whether at maturity or upon acceleration or prepayment), premium, if any, and interest on the Note and under the Agreement and from moneys derived from and payments made pursuant to the Mortgage to the payment of the principal installments of (whether at maturity or upon acceleration or prior redemption), premium, if any, and interest on the Bond in the manner contemplated by the Bond Resolution; (b) to note on Schedule A attached to the Bond the amounts of principal installments of the Bond paid (whether at maturity or upon acceleration or prior redemption) and interest on the Bond paid, in the manner provided in the Bond Resolution; (c) to notify the Issuer at least annually of the payments of the principal installments of the Bond (whether at maturity or upon acceleration or call for prior redemption) made during such annual period, such notification to include a statement as to the balance of the principal installments of the Bond then remaining outstanding; (d) to act as Bond Registrar with respect to the Bond and to maintain the registration books of the Issuer; and (e) to perform such other duties and obligations as are specifically set forth herein and in the Bond Resolution, the Mortgage, the Agreement and the Tax Agreement. Upon request by the Company or the Issuer, the Bond shall be available for inspection during regular banking hours by the Company or the Issuer at the principal office of the registered owner of the Bond, for the purpose of checking such notations on said Schedule A.

Section 5. The Issuer represents and warrants that the rights of the Issuer under the Agreement, the Note and the Mortgage assigned and pledged hereby are owned by the Issuer, free and clear of any lien, charge, mortgage, pledge, security interest or encumbrance.

Section 6. If an "Event of Default" under the Agreement, the Mortgage or the Bond Resolution shall occur, the Owner, without obligation to resort to any other security, at the expense of the Company, shall have the right at any time and from time to time, in its sole discretion, to enforce the rights and remedies specified in Article VI of the Agreement and in the Mortgage assigned and pledged hereunder, to enforce the rights and remedies under the Bond Resolution, and to take any and all actions which, in the judgment of the Owner, are necessary or appropriate to enforce the rights of the Issuer in respect of its interests in the moneys payable under the Agreement, the Note, the Mortgage or the Bond Resolution. Upon any such enforcement of rights under the Agreement, the Note, the Mortgage or the Bond Resolution, after deducting all costs and expenses of every kind of the Owner and the Issuer, including without limitation reasonable attorneys' fees and paralegals' fees, from the proceeds of any recovery, the Owner shall apply any residue to the payment of any liabilities of the Issuer on the Bond, all as provided in the Bond Resolution. The balance, if any, remaining after payment in full of all of

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the liabilities of the Issuer on the Bond shall be paid to the Company, pursuant to Section 9.5 of the Agreement.

Section 7. The remedies provided herein shall not be deemed exclusive, but shall be cumulative and shall be in addition to all other remedies existing at law or in equity or by statute.

Section 8. During the term of this Assignment, unless compliance shall have been waived in writing and signed by the Owner (or any other owner of the Bond), which written waiver shall not be effective unless it specifically states that it is made pursuant to this Section 8, the Issuer agrees:

(a) it will deliver to the Owner copies of any documents delivered to the Company under the Agreement, the Note, the Mortgage, the Tax Agreement, the Bond and the Bond Resolution; and

(b) it will not consent to or agree to any modifications of the Bond Resolution, the Agreement, the Note, the Mortgage, or the Tax Agreement, or waive any of the terms thereof without the prior written consent of the Owner or any other owner of the Bond at its sole discretion.

Section 9. Notwithstanding the foregoing provisions of this Assignment, the Owner understands and agrees that the obligations of the Issuer to pay the principal installments of, premium, if any, and interest on the Bond are special, limited obligations of the Issuer, payable solely and only out of the installment payments required under the Note and under Section 4.2(a) of the Agreement and out of certain other payments required by the Agreement (except as otherwise provided in the Bond Resolution), and that the Bond and the obligation to pay interest thereon, do not and shall never represent or constitute a debt or an obligation, general or moral, or a pledge of the faith and credit of the Issuer, the State of Illinois (the "State") or any political subdivision thereof, within the purview of any constitutional or statutory limitation or provision or a charge against the general credit or the taxing powers, if any, of the State, the Issuer, or any other political subdivision thereof, and shall never give rise to pecuniary liability of the Issuer, and neither the Issuer, the State nor any other political subdivision thereof shall be liable for the payments of principal of and premium, if any, and interest on the Bond and the Bond shall be secured as aforesaid, and shall be payable solely from the revenue and income derived pursuant to the Agreement and the Note (except as stated aforesaid). No owner of the Bond shall have the right to compel any exercise of the taxing power, if any, of the Issuer, the State or any other political subdivision thereof to pay the Bond or the interest or premium, if any, thereon. The Issuer has no taxing power.

Section 10. No delay on the part of the Owner in exercising any of its options, powers or rights, or any partial or single exercise thereof, shall constitute a waiver thereof.

Section 11. The Issuer agrees that it will from time to time at the reasonable request of the Owner, execute and deliver such instruments of further assurance with respect to the assignment, pledge and security interest provided for in this Assignment as the Owner (or any other owner of the Bond) may specify. The Issuer hereby agrees to execute and file or cause to

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be filed a financing statement under the Illinois Uniform Commercial Code or any other document the filing of which, in the judgment of the Owner (or any other owner of the Bond), is necessary or desirable to establish and protect its security interest in such revenues and receipts and the right, title and interest of the Issuer in and to the Agreement, the Note, the Mortgage and payments assigned and pledged to the Owner pursuant to the Agreement, the Bond Resolution and this Assignment. Upon the payment in full of the principal installments of, premium, if any, and interest on the Bond, the Owner, or any other owner of the Bond, will surrender the Bond, cancel the Bond, deliver the cancelled Bond to the Issuer and deliver a copy of the cancelled Bond to the Company. Upon the termination of this Assignment, the Owner will execute and deliver to the Issuer all releases and other instruments reasonably requested by the Issuer or the Company for the purpose of evidencing the release and discharge of the lien and security interest evidenced by this Assignment.

Section 12. The Owner hereby covenants and agrees that, in the event the Owner shall transfer the Bond, it shall assign to any such transferee of the Bond all of its right, title and interest in and to this Assignment, the Agreement, the Note, the Mortgage and the Tax Agreement. The rights and obligations of the Owner under this Assignment, the Agreement, the Note, the Mortgage and the Tax Agreement shall inure to and be assumed in writing by such transferee of the Bond and the rights and obligations of the Owner hereunder and thereunder shall then cease and terminate.

Section 13. The Owner hereby acknowledges that in purchasing the Bond it is not relying on any representations of the Issuer with respect to the financial quality of the Bond or with respect to the Agreement, the Note, the Mortgage or this Assignment. The Owner further acknowledges that the Owner has caused the Bond Resolution, the Bond, the Agreement, the Note, the Assignment, the Tax Agreement, the Collateral Security Documents (as defined in the Agreement) and all documents and certificates related to the foregoing to be prepared and that the Issuer has no knowledge of, and assumes no liability with respect to, the transactions contemplated by the issuance of the Bond or the tax status of the interest on the Bond, except as represented in Section 2.1 of the Agreement and except for the adoption of the Bond Resolution. The Owner is relying solely on statements and representations of the Company and on its own knowledge and investigation of the facts and circumstances relating to the purchase of the Bond. Anything in this Assignment to the contrary notwithstanding, the Owner hereby waives any claims that it may have against the Issuer arising out of any action such Issuer has taken or should have taken in the authorization, issuance or sale of the Bond or the execution and delivery of the Loan Agreement, the Tax Agreement, the Mortgage and this Assignment or with respect to any statement or representation made by the Issuer in connection with the authorization, issuance and sale of the Bond.

Section 14. All notices, demands or other communications hereunder shall be in writing and shall be given and shall be deemed to have been given when the same are (i) mailed by first-class mail, postage prepaid, or (ii) delivered, or (iii) sent by facsimile transmission (receipt confirmed by telephone) in each case to the parties at the following addresses or at such other address as a party shall give by notice to the other parties: if to the Issuer, at 233 South Wacker Drive, Suite 4000 Chicago, Illinois 60606, Attention: Executive Director (with a copy to the Legal Department); if to the Owner, at 321 West Golf Road, Schaumburg, Illinois 60196,

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Attention: President; and if to the Company, at 300 Wise Road, Schaumburg, Illinois 60193, Attention: President. A duplicate copy of each notice, demand or other communication given hereunder by either the Issuer or the Owner to the other shall also be given to the Company.

Section 15. This Assignment, including the rights, duties and obligations of the Owner hereunder, shall be governed by and construed in accordance with the laws of the State of Illinois.

Section 16. If any provision of this Assignment shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions contained herein or render the same invalid, inoperative or unenforceable to any extent whatsoever.

Section 17. This Assignment may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

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IN WITNESS WHEREOF, the Issuer and the Owner have caused this Assignment to be executed in their respective names and attested by their duly authorized officers and sealed, all as of the date first above written.



ILLINOIS DEVELOPMENT FINANCE AUTHORITY

By [Signature]
Executive Director

(SEAL)

Attest:

[Signature]
Secretary

AMERICA UNITED BANK AND TRUST COMPANY
USA

By [Signature]
Its PRESIDENT

(SEAL)

Attest:

[Signature]
Its Secretary

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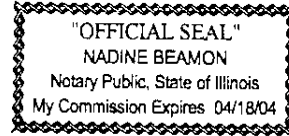
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, NADINE BEAMON, a Notary Public in and for the said County in the State aforesaid, do hereby certify that Patrick Rea and John Haderlein personally known to me to be the same persons whose names are, respectively, as the Executive Director and the Secretary of the ILLINOIS DEVELOPMENT FINANCE AUTHORITY, a political subdivision, body corporate and politic of the State of Illinois, subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they, being thereunto duly authorized, signed, sealed with the seal of said authority and delivered the said instrument as the free and voluntary act of said authority and as their own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 30th day of August, 2001.

Nadine Beamon
Notary Public in and for
Cook County, Illinois

My Commission expires: 04/18/04



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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, LAVERNE GEISHEIMER a Notary Public in and for the said County in the State aforesaid, do hereby certify that RONALD T. CIUCCI and DIANA CORTESI personally known to me to be the same persons whose names are, respectively, as the PRESIDENT and the SECRETARY of AMERICA UNITED BANK AND TRUST COMPANY USA, a CORPORATION, subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they being thereunto duly authorized, signed, sealed with the seal of said bank and delivered the said instrument as the free and voluntary act of said bank and as their own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 5th day of September, 2001.

LaVerne Geisheimer
Notary Public in and for
Cook County, Illinois

My Commission expires: 08/18/2002



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EXHIBIT A

LEGAL DESCRIPTION

Lot 2 in Block 12 in Branigar's Meadow Knolls, being a subdivision of part of the southwest 1/4 of Section 27 and the north 1/2 of Section 34, Township 41 north, range 10 east of the third principal meridian, in Cook County, Illinois.

Property Address is: 300 West Wise Road, Schaumburg, Illinois, 60196

P.I.N.: 07-27-301-003-0000 Parcel 1 of 1 Volume 187

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