

MORTGAGE



Doc#: 0407011031
Eugene "Gene" Moore Fee: \$38.00
Cook County Recorder of Deeds
Date: 03/10/2004 09:27 AM Pg: 1 of 8

THIS MORTGAGE is made this 6th day of January, 2004 between the

Davis Development Corporation, (herein "Borrower"),

and the Mortgagee,
John Palcu III

whose address is P.O. Box 393, Blue Island, IL 60406, (herein "Lender").

WHEREAS, Borrowers are indebted to Lender in the principal sum of Nine Thousand and 00/100 (\$9,000.00), DOLLARS, which indebtedness is evidenced by Borrower's Note dated January 6, 2004, (herein "Note").

TO SECURE to Lender (a) the repayment of the indebtedness evidenced by the Note, with interest thereon, the payment of all other sums, with interest thereon, advanced herewith to protect the security of this Mortgage, and the performance of the covenants and agreements of Borrowers herein contained, and (b) the repayment of any future advances, with interest thereon, made to Borrowers by Lender pursuant to paragraph 21 hereof (herein "Future Advances"), Borrowers do hereby mortgage, grant and convey to Lender the property described herein, in the County of Cook, State of Illinois:

LOT 70 IN THE RESUBDIVISION OF LOTS 4 TO 24, BOTH INCLUSIVE, AND TWO VACATED NORTH AND SOUTH ALLEYS ALL IN ORIGINAL BLOCK 2 IN SOUTH WASHINGTON HEIGHTS, A SUBDIVISION IN THE NORTHWEST ¼ OF SECTION 30, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Permanent Index Number: 23-30-106-0000

which is commonly known as 2347 West 119th Place, Blue Island, IL (herein Property Address"); and,

TOGETHER with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water, water rights and water stock, and all fixtures now or hereafter attached to the property, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property covered by this Mortgage; and all of the foregoing, together with said property (or the leasehold estate if this Mortgage is on a leasehold) are herein referred to as the "Property".

BOX 15

MOOR TITLE

8
PS

UNOFFICIAL COPY

Borrowers covenant that Borrowers are lawfully seized of the estate hereby conveyed and have the right to mortgage, grant and convey the Property, and the Property is unencumbered, and that Borrowers will warrant and defend generally the title to the Property against all claims and demands, subject to any declarations, easements or restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring Lender's interest in the Property.

UNIFORM COVENANTS. Borrowers and Lender covenant and agree as follows:

1. **PAYMENT OF PRINCIPAL AND INTEREST.** Borrowers shall promptly pay when due the principal of and interest on the indebtedness evidenced by the Note, prepayment and late charges as provided in the Note, and the principal of and interest on any Future Advances secured by this Mortgage.

2. **TAXES AND INSURANCE.** Borrowers shall be responsible for the prompt payment of all real estate taxes, special assessments and insurance as these bills come due, and Borrowers shall furnish Lender with evidence of the payment thereof within fifteen (15) days after payment due date.

In the event the Borrowers fail to comply with the terms of this paragraph, the Lender may, at its sole option, require the Borrowers to establish an escrow with the Lender and make monthly payments thereto in amounts specified by the Lender.

3. **APPLICATION OF PAYMENTS.** Unless applicable law provides otherwise, all payments received by Lender under the Note and paragraphs 1 and 2 hereof shall be applied by Lender first in payment of amounts payable to Lender by Borrowers under paragraph 2 hereof, then to late charges, then to interest payable on the Note, then to the principal of the Note, next to interest and principal of any Future Advances, and finally to payment of all costs, charges and attorney's fees incurred by Lender in the maintenance or enforcement of its rights hereunder.

4. **CHARGES; LIENS.** Borrowers shall pay all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Mortgage, and leasehold payments or ground rents, if any, in the manner provided under paragraph 2 hereof or, if not paid in such manner, by Borrowers making payment, when due, directly to the payee thereof.

Borrowers shall promptly furnish to Lender all notice of amounts due under this paragraph, and in the event Borrowers shall make payment directly, Borrowers shall promptly furnish to Lender receipts evidencing such payments.

Borrowers shall promptly discharge any lien which has priority over this Mortgage; provided, that Borrowers shall not be required to discharge any such lien so long as Borrowers shall agree in writing to the payment of the obligation secured by such lien in a manner acceptable to Lender, or shall in good faith contest such lien by, or defend enforcement of such lien in, legal proceedings which operate to prevent the enforcement of the lien or forfeiture of the Property of any part thereof.

5. **HAZARD INSURANCE.** Borrowers shall keep the improvements hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage", and such other hazards as Lender may require and in such amounts and for such periods as Lender may require; provided, that Lender shall not require that the amount of such coverage exceed that amount of coverage required to pay the sums secured by this Mortgage.

The insurance carrier providing the insurance shall be chosen by Borrowers subject to approval by Lender;

UNOFFICIAL COPY

provided, that such approval shall not be unreasonably withheld.

All premiums on insurance policies shall be paid in the manner provided under paragraph 2 hereof or, if not paid in such manner, by Borrowers making payment, when due, directly to the insurance carrier.

All insurance policies and renewals thereof shall be in form acceptable to Lender and shall include a standard mortgage clause in favor of and in form acceptable to Lender.

Lender shall have the right to hold the policies and renewals thereof, and Borrowers shall give prompt notice to the insurance carrier and Lender.

Lender may make proof of loss if not made promptly by Borrowers.

Unless Lender and Borrowers otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, provided such restoration or repair is economically feasible and the security of this Mortgage is not thereby impaired.

If such restoration or repair is not economically feasible or if the security of this Mortgage would be impaired, the insurance proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Borrowers.

If the Property is abandoned by Borrowers, or if Borrowers fail to respond to Lender within 30 days from the date notice is mailed by Lender to Borrowers that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds at Lender's option either to restoration or repair of the Property or to the sums secured by this Mortgage.

Unless Lender and Borrowers otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of the monthly installments referred to in paragraphs 1 and 2 hereof or change the amount of such installments.

If under paragraph 18 hereof the Property is acquired by Lender, all right, title and interest of Borrowers in and to any insurance policies and in and to the proceeds thereof resulting from damage to the Property prior to the sale or acquisition shall pass to the Lender to the extent of the sums secured by this Mortgage immediately prior to such sale or acquisition.

6. **PRESERVATION AND MAINTENANCE OF PROPERTY; LEASEHOLDS; CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS.** Borrowers shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Mortgage is on a leasehold.

7. **PROTECTION OF LENDER'S SECURITY.** If Borrowers fail to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Lender at Lender's option, upon notice to Borrowers, may make such appearances, disburse such sums and take such action as is necessary to protect Lender's

interest, including, but not limited to, disbursement of reasonable attorney's fees and entry upon the Property to make repairs.

UNOFFICIAL COPY

If Lender required mortgage insurance as a condition of making the loan secured by this Mortgage, Borrowers shall pay the premiums required to maintain such insurance in effect until such time as the requirement for such insurance terminates in accordance with Borrowers' and Lender's written agreement or applicable law. Borrowers shall pay the amount of all mortgage insurance premiums in the manner provided under paragraph 2 hereof.

Any amounts disbursed by Lender pursuant to this paragraph 7, with interest thereon, shall become additional indebtedness of Borrowers secured by this Mortgage.

Unless Borrowers and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrowers requesting payment thereof, and shall bear interest from the date of disbursement at the rate payable from time to time on outstanding principal under the Note unless payment of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate permissible under applicable law.

Nothing contained in this paragraph 7 shall require Lender to incur any expense or take any action hereunder.

8. **INSPECTION**. Lender may make or cause to be made reasonable entries upon and inspections of the Property, provided that Lender shall give Borrowers notice prior to any such inspection specifying reasonable cause therefor related to Lender's interest in the Property.

9. **CONDEMNATION**. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Borrowers.

In the event of a partial taking of the property, unless Borrowers and Lender otherwise agree in writing, there shall be applied to the sums secured by this Mortgage such proportion of the proceeds as is equal to that proportion which the amount of the sums secured by this Mortgage immediately prior to the date of taking bears to the fair market value of the Property immediately prior to the date of taking, with the balance of the proceeds paid to Borrowers.

If the Property is abandoned by Borrowers, or if, after notice by Lender to Borrowers that the condemnor offers to make an award or settle a claim for damages, Borrowers fail to respond to Lender within 30 days after the date such notice is mailed, Lender is authorized to collect and apply the proceeds, at Lender's option, either to restoration or repair of the Property or to the sums secured by this Mortgage.

Unless Lender and Borrowers otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of the monthly installments referred to in paragraphs 1 and 2 hereof or change the amount of such installments.

10. **BORROWERS NOT RELEASED**. Extension of the time for payment or modification of

amortization of the sums secured by this Mortgage granted by Lender to any successor in interest of Borrowers shall not operate to release, in any manner, the liability of the original Borrowers and Borrowers' successors in interest.

UNOFFICIAL COPY

Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Borrowers and Borrowers' successors in interest.

11. **FORBEARANCE BY LENDER NOT A WAIVER.** Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Mortgage.

12. **REMEDIES CUMULATIVE.** All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage or afforded by law or equity, and may be exercised concurrently, independently or successively.

13. **SUCCESSORS AND ASSIGNS BOUND; JOINT AND SEVERAL LIABILITY; CAPTIONS.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrowers, subject to the provisions of paragraph 17 hereof.

All covenants and agreements of Borrowers shall be joint and several.

The captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

14. **NOTICE.** Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrowers provided for in this Mortgage shall be given by mailing such notice by certified mail addressed to Borrowers at the Property Address or at such other address as Borrowers may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by certified mail, return receipt requested, to Lender's address stated herein or to such other address as Lender may designate by notice to Borrowers as provided herein.

Any notice provided for in this Mortgage shall be deemed to have been given to Borrowers or Lender when given in the manner designated herein.

15. **BORROWERS'S COPY.** Borrowers shall be furnished a conformed copy of the Note and of this Mortgage at the time of execution or after recordation hereof.

16. **TRANSFER OF THE PROPERTY; ASSUMPTION.** If all or any part of the Property or an interest therein is sold or transferred by Borrowers without Lender's prior written consent, excluding (a) the creation of a lien or encumbrance subordinate to this Mortgage, (b) the creation of a purchase money security interest for household appliances, (c) a transfer by devise, descent or by operation of law upon the death of a joint tenant or (d) the grant of any leasehold interest of three years or less not containing an option to purchase, Lender may, at Lender's option, declare all the sums secured by this Mortgage to be immediately due and payable.

Lender shall have waived such option to accelerate if, prior to the sale or transfer, Lender and the person to whom the Property is to be sold or transferred reach agreement in writing that the credit of such person is satisfactory to Lender and that the interest payable on the sums secured by this Mortgage shall be at such rate as Lender shall request.

UNOFFICIAL COPY

If Lender has waived the option to accelerate provided in this paragraph 16, and if Borrowers' successor in interest has executed a written assumption agreement accepted in writing by Lender, Lender shall release Borrowers from all obligations under this Mortgage and the Note.

If Lender exercises such option to accelerate, Lender shall mail Borrowers notice of acceleration in accordance with paragraph 14 hereof.

Such notice shall provide a period of not less than 30 days from the date the notice is mailed within which Borrowers may pay the sums declared due.

If Borrowers fails to pay such sums prior to the expiration of such period, Lender may, without further notice or demand on Borrowers, invoke any remedies permitted by paragraph 18 hereof.

17. **Hazardous Substances.** Borrowers shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Borrowers shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential or business uses and to maintenance of the Property.

Borrowers shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrowers has actual knowledge. If Borrowers learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrowers shall promptly take all necessary remedial actions in accordance with Environmental Law.

As used in this Paragraph 17, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this Paragraph 17, "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection.

NON-UNIFORM COVENANTS. Borrowers and Lender further covenant and agree as follows:

18. **ACCELERATION; REMEDIES.** Except as provided in paragraph 16 hereof, upon Borrowers' breach of any covenant or agreement of Borrowers in this Mortgage, including the covenants to pay when due any sums secured by this Mortgage, Lender prior to acceleration shall mail notice to Borrowers as provided in paragraph 14 hereof specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than 30 days from the date the notice is mailed by Borrowers, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Mortgage, foreclosure by judicial proceeding and sale of the Property.

The notice shall further inform Borrowers of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrowers to acceleration and foreclosure.

If the breach is not cured on or before the date specified in the notice, Lender at Lender's option may declare all of the sums secured by this Mortgage to be immediately due and payable without further demand and may foreclose

UNOFFICIAL COPY

this Mortgage by judicial proceeding.

Lender shall be entitled to collect in such proceeding all expenses of foreclosure, including, but not limited to, reasonable attorney's fees, and costs of documentary evidence, abstracts and title reports.

19. **BORROWERS' RIGHT TO REINSTATE.** Notwithstanding Lender's acceleration of the sums secured by this Mortgage, Borrowers shall have the right to have any proceedings begun by Lender to enforce this Mortgage discontinued at any time prior to entry of a judgment enforcing this Mortgage if: (a) Borrowers pays Lender all sums which would be then due under this Mortgage, the Note and notes security Future Advances, if any, had no acceleration occurred; (b) Borrowers cures all breaches of any other covenants or agreements of Borrowers contained in this Mortgage; (c) Borrowers pays all reasonable expenses incurred by Lender in enforcing the covenants and agreements of Borrowers contained in this Mortgage and in enforcing Lender's remedies as provided in paragraph 18 hereof, including, but not limited to, reasonable attorney's fees; and (d) Borrowers takes such action as Lender may reasonable require to assure that the lien of this Mortgage, Lender's interest in the property and Borrowers' obligation to pay the sums secured by this Mortgage shall continue unimpaired.

Upon such payment and cure by Borrowers, this Mortgage and the obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

20. **ASSIGNMENT OF RENTS; APPOINTMENT OF RECEIVER; LENDER IN POSSESSION.** As additional security hereunder, Borrowers hereby assigns to Lender the rents of the Property, provided that Borrowers shall, prior to acceleration under paragraph 18 hereof or abandonment of Property, have the right to collect and retain such rents as they become due and payable.

Upon acceleration under paragraph 18 hereof or abandonment of the Property, and at any time prior to the expiration of any period of redemption following judicial sale, Lender, in person, by agent or by judicially appointed receiver, shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due.

All rents collected by Lender or the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to receiver's fees, premiums of receiver's bonds and reasonable attorney's fees, and then to the sums secured by this Mortgage.

Lender and the receiver shall be liable to account only for those rents actually received.

21. **FUTURE ADVANCES.** Upon request of Borrowers, Lender, at Lender's option prior to release of this Mortgage, may make Future Advances to Borrowers in an aggregate amount **not to exceed One Thousand and No/100 (\$1,000.00) Dollars.**

Such Future Advances, with interest thereon, shall be secured by this Mortgage when evidenced by promissory notes stating that said notes are secured hereby.

22. **RELEASE.** Upon payment of all sums secured by this Mortgage, Lender shall release this Mortgage without charge to Borrowers. Borrowers shall pay all costs of recordation, if any.

23. **WAIVER OF HOMESTEAD RIGHTS.** The Borrowers hereby acknowledge and agree to waive all homestead rights for the purpose of granting the Lender a lien against the real estate subject only to prior recorded mortgages.

UNOFFICIAL COPY

24. **WAIVER OF RIGHT OF REDEMPTION.** The Borrower hereby waives its right of redemption in the event a mortgage foreclosure is filed.

IN WITNESS WHEREOF, Borrowers have executed this Mortgage.

BORROWERS: DAVIS DEVELOPMENT CORPORATION

By: *[Signature]*
President

Attest: *[Signature]*

STATE OF ILLINOIS)
) SS.
COUNTY OF)

THE UNDERSIGNED, a Notary Public in and for said county and state, do hereby certify that JOHN W. DAVIS personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed and delivered the said instrument as their free and voluntary act for the uses and purposes therein set forth.

GIVEN UNDER MY HAND AND OFFICIAL seal, this 0th day of January, 2004.

[Signature]
Notary Public

My Commission Expires: _____



THIS INSTRUMENT PREPARED BY:

Richard E. Burke
Attorney at Law
14535 John Humphrey Drive
Orland Park, IL 60462

After Recording, Return to:

Richard E. Burke
Attorney at Law
14535 John Humphrey Drive
Orland Park, IL 60462

BOX 15