

UNOFFICIAL COPY

RECORDATION REQUESTED BY:

**PRAIRIE BANK AND TRUST
COMPANY
BRIDGEVIEW OFFICE
7661 S. HARLEM AVE
BRIDGEVIEW, IL 60455**



Doc#: 0412646006
Eugene "Gene" Moore Fee: \$52.00
Cook County Recorder of Deeds
Date: 05/05/2004 08:39 AM Pg: 1 of 15

WHEN RECORDED MAIL TO:

**PRAIRIE BANK AND TRUST
COMPANY
BRIDGEVIEW OFFICE
7661 S. HARLEM AVE
BRIDGEVIEW, IL 60455**

SEND TAX NOTICES TO:

**PRAIRIE BANK AND TRUST
COMPANY
BRIDGEVIEW OFFICE
7661 S. HARLEM AVE
BRIDGEVIEW, IL 60455**

FOR RECORDER'S USE ONLY

This Mortgage prepared by:

**COMMERCIAL LOANS, #48364001
PRAIRIE BANK AND TRUST COMPANY
7661 S. HARLEM AVE
BRIDGEVIEW, IL 60455**

MORTGAGE

MAXIMUM LIEN. At no time shall the principal amount of Indebtedness secured by the Mortgage, not including sums advanced to protect the security of the Mortgage, exceed the note amount of \$697,000.00.

THIS MORTGAGE dated April 8, 2004, is made and executed between Matthew G. Collins, married to Hazel M. Collins, 2459 West Dakin, Chicago, Illinois 60618 (referred to below as "Grantor") and PRAIRIE BANK AND TRUST COMPANY, whose address is 7661 S. HARLEM AVE, BRIDGEVIEW, IL 60455 (referred to below as "Lender").

GRANT OF MORTGAGE. For valuable consideration, Grantor mortgages, warrants, and conveys to Lender all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights, watercourses and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in COOK County, State of Illinois:

LOT 74 IN HOYNES AND WEHRHEIM SUBDIVISION OF BLOCK 1 IN KINZIE SUBDIVISION OF NORTHEAST 1/4 OF SECTION 24, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

The Real Property or its address is commonly known as 2459 WEST DAKIN, CHICAGO, IL 60618. The Real Property tax identification number is 13-24-201-002-0000

Grantor presently assigns to Lender all of Grantor's right, title, and interest in and to all present and future

UNOFFICIAL COPY

MORTGAGE

(Continued)

Loan No: 48364001

Page 3

or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for Hazardous Substances. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

Nuisance, Waste. Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), coal, clay, scoria, soil, gravel or rock products without Lender's prior written consent.

Removal of Improvements. Grantor shall not demolish or remove any Improvements from the Real Property without Lender's prior written consent. As a condition to the removal of any Improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such Improvements with Improvements of at least equal value.

Lender's Right to Enter. Lender and Lender's agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Real Property for purposes of Grantor's compliance with the terms and conditions of this Mortgage.

Compliance with Governmental Requirements. Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, the Americans With Disabilities Act. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

Duty to Protect. Grantor agrees neither to abandon or leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

CONSTRUCTION LOAN. If some or all of the proceeds of the loan creating the Indebtedness are to be used to construct or complete construction of any Improvements on the Property, the Improvements shall be completed no later than the maturity date of the Note (or such earlier date as Lender may reasonably establish) and Grantor shall pay in full all costs and expenses in connection with the work. Lender will disburse loan proceeds under such terms and conditions as Lender may deem reasonably necessary to insure that the interest created by this Mortgage shall have priority over all possible liens, including those of material suppliers and workmen. Lender may require, among other things, that disbursement requests be supported by receipted bills, expense affidavits, waivers of liens, construction progress reports, and such other documentation as Lender may reasonably request.

UNOFFICIAL COPY

Application of Proceeds. Grantor shall promptly notify Lender of any loss or damage to the Property.

otherwise required by Lender, and to maintain such insurance for the term of the loan, securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the property insurance, if available, within 45 days after notice is given by Lender that the Property is located in a Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Should the Real Property be located in an area designated by the Director of the Federal Emergency of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to containing a stipulation that coverage will not be cancelled or diminished without a minimum of ten (10) reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer Lender may require. Policies shall be written by such insurance companies and in such form as may be such other insurance, including but not limited to hazard, business interruption and boiler insurance as being named as additional insureds in such liability insurance policies. Additionally, Grantor shall maintain comprehensive general liability insurance in such coverage amounts as Lender may request with Lender and with a standard mortgagee clause in favor of Lender. Grantor shall also procure and maintain improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, extended coverage endorsements on a replacement basis for the full insurable value covering all Maintenance of Insurance. Grantor shall procure and maintain policies of fire insurance with standard

PROPERTY DAMAGE INSURANCE. The following provisions relating to insuring the Property are a part of this Mortgage:

Grantor can and will pay the cost of such improvements. Grantor will upon request of Lender furnish to Lender advance assurances satisfactory to Lender that lien, materials, or other lien could be asserted on account of the work, services, or materials commenced, any services are furnished, or any materials are supplied to the Property, if any mechanic's Notice of Construction. Grantor shall notify Lender at least fifteen (15) days before any work is

any time a written statement of the taxes and assessments against the Property. Evidence of Payment. Grantor shall upon demand furnish to Lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at

bond furnished in the contest proceedings. enforcement against the Property. Grantor shall name Lender as an additional obligee under any surety any contest, Grantor shall defend itself and Lender and shall satisfy any adverse judgment before attorneys' fees, or other charges that could accrue as a result of a foreclosure or sale under the lien. In other security satisfactory to Lender in an amount sufficient to discharge the lien plus any costs and of the lien, or requested by Lender, deposit with Lender cash or a sufficient corporate surety bond or If a lien arises or is filed as a result of nonpayment, Grantor shall within fifteen (15) days after the lien good faith dispute over the obligation to pay, so long as Lender's interest in the Property is not jeopardized. Right to Contest. Grantor may withhold payment of any tax, assessment, or claim in connection with a

due as further specified in the Right to Contest paragraph. those liens specifically agreed to in writing by Lender, and except for the lien of taxes and assessments not interest of Lender under this Mortgage, except for the Existing Indebtedness referred to in this Mortgage or to the Property. Grantor shall maintain the Property free of any liens having priority over or equal to the Property, and shall pay when due all claims for work done on or for services rendered or material furnished special taxes, assessments, water charges and sewer service charges levied against or on account of the Payment. Grantor shall pay when due (and in all events prior to delinquency) all taxes, payroll taxes,

TAXES AND LIENS. The following provisions relating to the taxes and liens on the Property are part of this Mortgage:

Page 4

UNOFFICIAL COPY

MORTGAGE

(Continued)

Loan No: 48364001

Page 5

Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at Lender's election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Mortgage. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantor as Grantor's interests may appear.

Compliance with Existing Indebtedness. During the period in which any Existing Indebtedness described below is in effect, compliance with the insurance provisions contained in the instrument evidencing such Existing Indebtedness shall constitute compliance with the insurance provisions under this Mortgage, to the extent compliance with the terms of this Mortgage would constitute a duplication of insurance requirement. If any proceeds from the insurance become payable on loss, the provisions in this Mortgage for division of proceeds shall apply only to that portion of the proceeds not payable to the holder of the Existing Indebtedness.

LENDER'S EXPENDITURES. If any action or proceeding is commenced that would materially affect Lender's interest in the Property or if Grantor fails to comply with any provision of this Mortgage or any Related Documents, including but not limited to Grantor's failure to comply with any obligation to maintain Existing Indebtedness in good standing as required below, or to discharge or pay when due any amounts Grantor is required to discharge or pay under this Mortgage or any Related Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the Indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Mortgage also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default.

WARRANTY; DEFENSE OF TITLE. The following provisions relating to ownership of the Property are a part of this Mortgage:

Title. Grantor warrants that: (a) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in the Existing Indebtedness section below or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Mortgage, and (b) Grantor has the full right, power, and authority to execute and deliver this Mortgage to Lender.

Defense of Title. Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Lender under this Mortgage, Grantor shall defend the action at Grantor's expense. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Grantor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

Compliance With Laws. Grantor warrants that the Property and Grantor's use of the Property complies

UNOFFICIAL COPY

Subsequent Taxes. If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (1) pays the tax

and interest made by Borrower.
of the Note; and (4) a specific tax on all or any portion of the indebtedness or on payments of principal by this type of Mortgage; (3) a tax on this type of Mortgage chargeable against the Lender or the holder of Mortgage or upon all or any part of the indebtedness secured by this Mortgage; (2) a specific tax on Borrower which Borrower is authorized or required to deduct from payments on the indebtedness secured Taxes. The following shall constitute taxes to which this section applies: (1) a specific tax upon this type of Mortgage or upon all or any part of the indebtedness secured by this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage. Lender's lien on the Real Property. Grantor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without addition to this Mortgage and take whatever other action is requested by Lender to perfect and continue Current Taxes, Fees and Charges. Upon request by Lender, Grantor shall execute such documents in

relating to governmental taxes, fees and charges are a part of this Mortgage:
IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES. The following provisions

reasonable costs, expenses, and attorneys' fees incurred by Lender in connection with the condemnation, restoration of the Property. The net proceeds of the award shall mean the award after payment of all that all or any portion of the net proceeds of the award be applied to the indebtedness or the repair or proceedings or by any proceeding or purchase in lieu of condemnation, Lender may at its election require **Application of Net Proceeds.** If all or any part of the Property is condemned by eminent domain Lender from time to time to permit such participation.

deliver or cause to be delivered to Lender such instruments and documentation as may be requested by the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will award. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the **Proceedings.** If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing.

The following provisions relating to condemnation proceedings are a part of this Mortgage:
CONDEMNATION.

neither request nor accept any future advances under any such security agreement without the prior modified, amended, extended or renewed without the prior written consent of Lender. Grantor shall trust, or other security agreement which has priority over this Mortgage by which that agreement is **No Modification.** Grantor shall not enter into any agreement with the holder of any mortgage, deed of

evidencing such indebtedness, or any default under any security documents for such indebtedness.
Existing indebtedness and to prevent any default on such indebtedness, any default under the instruments and is in the original principal amount of \$270,160.00. The obligation has the following payment terms: Mutual Home Loans. The existing obligation has a current principal balance of approximately \$268,667.85 lien securing payment of an existing obligation with an account number of 0660690033 to Washington **Existing Lien.** The lien of this Mortgage securing the indebtedness may be secondary and inferior to the

Mortgage:
EXISTING INDEBTEDNESS. The following provisions concerning Existing Indebtedness are a part of this

full.
Grantor in this Mortgage shall survive the execution and delivery of this Mortgage, shall be continuing in nature, and shall remain in full force and effect until such time as Borrower's Indebtedness shall be paid in **Survival of Representations and Warranties.** All representations, warranties, and agreements made by with all existing applicable laws, ordinances, and regulations of governmental authorities.

UNOFFICIAL COPY**MORTGAGE****(Continued)**

Loan No: 48364001

Page 7

before it becomes delinquent, or (2) contests the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

SECURITY AGREEMENT; FINANCING STATEMENTS. The following provisions relating to this Mortgage as a security agreement are a part of this Mortgage:

Security Agreement. This instrument shall constitute a Security Agreement to the extent any of the Property constitutes fixtures, and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

Security Interest. Upon request by Lender, Grantor shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor shall not remove, sever or detach the Personal Property from the Property. Upon default, Grantor shall assemble any Personal Property not affixed to the Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender to the extent permitted by applicable law.

Addresses. The mailing addresses of Grantor (debtor) and Lender (secured party) from which information concerning the security interest granted by this Mortgage may be obtained (each as required by the Uniform Commercial Code) are as stated on the first page of this Mortgage.

FURTHER ASSURANCES; ATTORNEY-IN-FACT. The following provisions relating to further assurances and attorney-in-fact are a part of this Mortgage:

Further Assurances. At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (1) Borrower's and Grantor's obligations under the Note, this Mortgage, and the Related Documents and (2) the liens and security interests created by this Mortgage on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or Lender agrees to the contrary in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

Attorney-in-Fact. If Grantor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph.

FULL PERFORMANCE. If Borrower pays all the Indebtedness when due, and otherwise performs all the obligations imposed upon Grantor under this Mortgage, Lender shall execute and deliver to Grantor a suitable satisfaction of this Mortgage and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Personal Property. Grantor will pay, if permitted by applicable law, any reasonable termination fee as determined by Lender from time to time.

REINSTATEMENT OF SECURITY INTEREST. If payment is made by Borrower, whether voluntarily or otherwise, or by guarantor or by any third party, on the Indebtedness and thereafter Lender is forced to remit the amount of that payment (A) to Borrower's trustee in bankruptcy or to any similar person under any federal or state bankruptcy law or law for the relief of debtors, (B) by reason of any judgment, decree or order of any court or administrative body having jurisdiction over Lender or any of Lender's property, or (C) by

UNOFFICIAL COPY

Existing Indebtedness. The payment of any installment of principal or any interest on the Existing Indebtedness is not made within the time required by the promissory note evidencing such indebtedness, or a default occurs under the instrument securing such indebtedness and is not cured during any applicable grace period in such instrument, or any suit or other action is commenced to foreclose any existing lien on the Property.

Creditor or Foreclosure Proceedings. Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Borrower or Grantor or by any governmental agency against any property securing the Indebtedness. This includes a garnishment of any of Borrower's or Grantor's accounts, including deposit accounts, with Lender. However, this Event of Default shall not apply if there is a good faith dispute by Borrower or Grantor as to the validity or reasonableness of the claim which is the basis of the creditor or forfeiture proceeding and deposits with Lender or a surety bond for the creditor or forfeiture proceeding, in an amount determined by Lender, in its sole discretion, as being an adequate reserve or bond for the dispute.

Death or Insolvency. The dissolution or termination of Borrower's or Grantor's existence as a going business, the insolvency of Borrower or Grantor, the appointment of a receiver for any part of Borrower's or Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws, by or against Borrower or Grantor.

Defective Collateralization. This Mortgage or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

False Statements. Any warranty, representation or statement made or furnished to Lender by Borrower or Grantor or on Borrower's or Grantor's behalf under this Mortgage or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished or becomes false or misleading at any time thereafter.

Default in Favor of Third Parties. Should Borrower or any Grantor default under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of Borrower's or any Grantor's property or Borrower's ability to repay the Indebtedness or Borrower's or Grantor's ability to perform their respective obligations under this Mortgage or any related document.

Other Defaults. Borrower or Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Mortgage or in any of the Related Documents or to comply with or to perform any term, obligation, covenant or condition contained in any other agreement between Lender and Borrower or Grantor.

Default on Other Payments. Failure of Grantor within the time required by this Mortgage to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

Payment Default. Borrower fails to make any payment when due under the Indebtedness.

EVENTS OF DEFAULT. Each of the following, at Lender's option, shall constitute an Event of Default under this Mortgage:

decree, order, settlement or compromise relating to the Indebtedness or to this Mortgage, as if that amount never had been originally received by Lender, and Grantor shall be bound by any judgment, as to the amount repaid or recovered to the same extent the Indebtedness and the Property will continue to secure the amount repaid or recovered to the same extent notwithstanding any cancellation of this Mortgage or of any note or other instrument or agreement evidencing Mortgage and this Mortgage shall continue to be effective or shall be reinstated, as the case may be, limitation Borrower, the Indebtedness shall be considered unpaid for the purpose of enforcement of this reason of any settlement or compromise of any claim made by Lender with any claimant (including without

UNOFFICIAL COPY

MORTGAGE

(Continued)

Loan No: 48364001

Page 9

Breach of Other Agreement. Any breach by Borrower or Grantor under the terms of any other agreement between Borrower or Grantor and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Borrower or Grantor to Lender, whether existing now or later.

Events Affecting Guarantor. Any of the preceding events occurs with respect to any Guarantor of any of the Indebtedness or any Guarantor dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness. In the event of a death, Lender, at its option, may, but shall not be required to, permit the Guarantor's estate to assume unconditionally the obligations arising under the guaranty in a manner satisfactory to Lender, and, in doing so, cure any Event of Default.

Adverse Change. A material adverse change occurs in Grantor's financial condition, or Lender believes the prospect of payment or performance of the Indebtedness is impaired.

Insecurity. Lender in good faith believes itself insecure.

Right to Cure. If such a failure is curable and if Borrower or Grantor has not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured (and no Event of Default will have occurred) if Borrower or Grantor, after Lender sends written notice demanding cure of such failure: (a) cures the failure within fifteen (15) days; or (b) if the cure requires more than fifteen (15) days, immediately initiates steps sufficient to cure the failure and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

RIGHTS AND REMEDIES ON DEFAULT. Upon the occurrence of an Event of Default and at any time thereafter, Lender, at Lender's option, may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

Accelerate Indebtedness. Lender shall have the right at its option without notice to Grantor to declare the entire Indebtedness immediately due and payable, including any prepayment penalty which Grantor would be required to pay.

UCC Remedies. With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

Collect Rents. Lender shall have the right, without notice to Borrower or Grantor, to take possession of the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender may require any tenant or other user of the Property to make payments of rent or use fees directly to Lender. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

Mortgagee in Possession. Lender shall have the right to be placed as mortgagee in possession or to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The mortgagee in possession or receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

Judicial Foreclosure. Lender may obtain a judicial decree foreclosing Grantor's interest in all or any part of the Property.

Deficiency Judgment. If permitted by applicable law, Lender may obtain a judgment for any deficiency

UNOFFICIAL COPY

MORTGAGE

(Continued)

Loan No: 48364001

Page 11

charged or bound by the alteration or amendment.

Annual Reports. If the Property is used for purposes other than Grantor's residence, Grantor shall furnish to Lender, upon request, a certified statement of net operating income received from the Property during Grantor's previous fiscal year in such form and detail as Lender shall require. "Net operating income" shall mean all cash receipts from the Property less all cash expenditures made in connection with the operation of the Property.

Caption Headings. Caption headings in this Mortgage are for convenience purposes only and are not to be used to interpret or define the provisions of this Mortgage.

Governing Law. This Mortgage will be governed by, construed and enforced in accordance with federal law and the laws of the State of Illinois. This Mortgage has been accepted by Lender in the State of Illinois.

Choice of Venue. If there is a lawsuit, Grantor agrees upon Lender's request to submit to the jurisdiction of the courts of Cook County, State of Illinois.

Joint and Several Liability. All obligations of Borrower and Grantor under this Mortgage shall be joint and several, and all references to Grantor shall mean each and every Grantor, and all references to Borrower shall mean each and every Borrower. This means that each Borrower and Grantor signing below is responsible for all obligations in this Mortgage.

No Waiver by Lender. Lender shall not be deemed to have waived any rights under this Mortgage unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Mortgage shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Mortgage. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

Severability. If a court of competent jurisdiction finds any provision of this Mortgage to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Mortgage. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Mortgage shall not affect the legality, validity or enforceability of any other provision of this Mortgage.

Merger. There shall be no merger of the interest or estate created by this Mortgage with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

Successors and Assigns. Subject to any limitations stated in this Mortgage on transfer of Grantor's interest, this Mortgage shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Mortgage and the Indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Mortgage or liability under the Indebtedness.

Time is of the Essence. Time is of the essence in the performance of this Mortgage.

Waiver of Homestead Exemption. Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Illinois as to all Indebtedness secured by this Mortgage.

DEFINITIONS. The following capitalized words and terms shall have the following meanings when used in this

UNOFFICIAL COPY

Note. The word "Note" means the promissory note dated April 8, 2004, in the original principal amount of \$697,000.00 from Borrower to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. The interest rate on the Note is a variable interest rate based upon an index. The index currently is 4.500% per

Mortgage. The word "Mortgage" means this Mortgage between Grantor and Lender.

Lender. The word "Lender" means PRAIRIE BANK AND TRUST COMPANY, its successors and assigns.

this Mortgage.

enforce Grantor's obligations under this Mortgage, together with interest on such amounts as provided in expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Lender to modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expenses payable under the Note or Related Documents, together with all renewals of, extensions of, and

indebtedness. The word "indebtedness" means all principal, interest, and other amounts, costs and

construction on the Real Property.

improvements. The word "improvements" means all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other

and asbestos.

Substances" also includes, without limitation, petroleum and petroleum by products or any fraction thereof materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous in their very broadest sense and include without limitation any and all hazardous or toxic substances, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used potential hazard to human health or the environment when improperly used, treated, stored, disposed of, quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or

Hazardous Substances. The words "Hazardous Substances" mean materials that, because of their

a guaranty of all or part of the Note.

Guaranty. The word "Guaranty" means the guaranty from Grantor to Lender, including without limitation

the indebtedness

Grantor. The word "Grantor" means any guarantor, surety, or accommodation party of any or all of

Grantor. The word "Grantor" means Matthew G. Collins.

Liens provision of this Mortgage.

Existing Indebtedness. The words "Existing Indebtedness" mean the indebtedness described in the Existing

Mortgage in the events of default section of this Mortgage.

Event of Default. The words "Event of Default" mean any of the events of default set forth in this

other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or

Act of 1980, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization

limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as

regulations and ordinances relating to the protection of human health or the environment, including without

Environmental Laws. The words "Environmental Laws" mean any and all state, federal and local statutes,

Default. The word "Default" means the Default set forth in this Mortgage in the section titled "Default".

co-makers signing the Note.

Borrower. The word "Borrower" means Abbey Development, Inc. and includes all co-signers and

this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code:

and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in

Mortgage. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in

lawful money of the United States of America. Words and terms used in the singular shall include the plural.

Page 12

UNOFFICIAL COPY**MORTGAGE****(Continued)**

Loan No: 48364001

Page 13

annum. Payments on the Note are to be made in accordance with the following payment schedule: in one payment of all outstanding principal plus all accrued unpaid interest on April 8, 2005. In addition, Borrower will pay regular monthly payments of all accrued unpaid interest due as of each payment date, beginning May 8, 2004, with all subsequent interest payments to be due on the same day of each month after that. If the index increases, the payments tied to the index, and therefore the total amount secured hereunder, will increase. Any variable interest rate tied to the index shall be calculated as of, and shall begin on, the commencement date indicated for the applicable payment stream. Notwithstanding the foregoing, the variable interest rate or rates provided for in this Mortgage shall be subject to the following minimum and maximum rates. **NOTICE:** Under no circumstances shall the interest rate on this Mortgage be less than 6.000% per annum or more than the maximum rate allowed by applicable law. The maturity date of this Mortgage is April 8, 2005. **NOTICE TO GRANTOR: THE NOTE CONTAINS A VARIABLE INTEREST RATE.**

Personal Property. The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantor, and now or hereafter attached or affixed to the Real Property; together with all accessions, parts, and additions to, all replacements of, and all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

Property. The word "Property" means collectively the Real Property and the Personal Property.

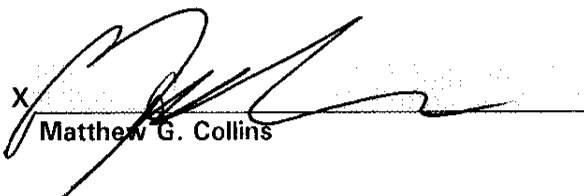
Real Property. The words "Real Property" mean the real property, interests and rights, as further described in this Mortgage.

Related Documents. The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

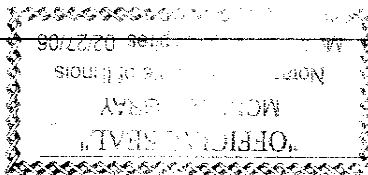
Rents. The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property.

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MORTGAGE, AND GRANTOR AGREES TO ITS TERMS.

GRANTOR:

X 
Matthew G. Collins

UNOFFICIAL COPY



My commission expires

Notary Public in and for the State of IL

By

Matthew G. Collins

Residing at

Residence

Given under my hand and official seal this

24th

day of

April

2007

On this day before me, the undersigned Notary Public, personally appeared **Matthew G. Collins**, to me known to be the individual described in and who executed the Mortgage, and acknowledged that he or she signed the Mortgage as his or her free and voluntary act and deed, for the uses and purposes therein mentioned.

COUNTY OF Wabash

STATE OF Illinois

)
) SS
)

INDIVIDUAL ACKNOWLEDGMENT

X *Matthew G. Collins*
Hazel M. Collins

I am signing this Waiver of Homestead Exemption for the purpose of expressly releasing and waiving all rights and benefits of the homestead exemption laws of the State of Illinois as to all debts secured by this Mortgage. I understand that I have no liability for any of the affirmative covenants in this Mortgage.

WAIVER OF HOMESTEAD EXEMPTION

UNOFFICIAL COPY

MORTGAGE
(Continued)

Loan No: 48364001

Page 15

INDIVIDUAL ACKNOWLEDGMENT

STATE OF Illinois)
) SS
 COUNTY OF Cook)

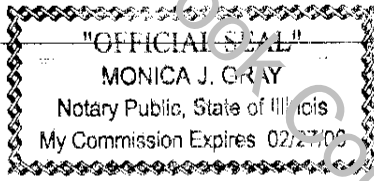
On this day before me, the undersigned Notary Public, personally appeared **Hazel M. Collins**, to me known to be the individual described in and who executed the Waiver of Homestead Exemption, and acknowledged that he or she signed the Waiver of Homestead Exemption as his or her free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this 8th day of April, 2004.

By Monica J. Gray Residing at Roselle

Notary Public in and for the State of _____

My commission expires _____



County Clerk's Office