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REAL ESTATE MORTGAGE

This instrument was prepared by,
and
after recording return to:

Associated Bank
Loan #6211577-9001
P.O. Box 19097 MS #7077
Green Bay, WI 54307-9097



Doc#: 0507726165
Eugene "Gene" Moore Fee: \$40.00
Cook County Recorder of Deeds
Date: 03/18/2005 02:28 PM Pg: 1 of 9

Above Space for Recorder's Use Only

WITNESSETH

BOX 182

North Star Trust Company, as Successor Trustee to Republic Bank of Chicago, under Trust Agreement dated October 27, 1986, Trust No. 1206, ("Mortgagor"), having its principal place of business at 500 W. Madison St., Suite 500, Chicago, Illinois, 60661, not personally but solely as trustee, in consideration of monies loaned or to be loaned by Associated Bank Chicago, 200 E. Randolph Drive, Chicago, Illinois, 60601, ("Lender") to Callaghan Paving, Inc., 7000 Frontage Road, Illinois, 60521 ("Borrower"), pursuant to a Term Note dated June 1, 2003, a Revolving Promissory Note dated June 1, 2003 (hereinafter collectively referred to as "the Notes"), and a Credit Agreement dated June 1, 2003 ("the Credit Agreement"), as security for repayment to the Lender by Borrower of the principal, interest and other sums provided for in the Notes and Credit Agreement in accordance with the terms and conditions thereof, does hereby grant, remise, release, alien, convey, mortgage and warrant to, its successors and assigns, the following described real estate (the "Mortgaged Property") in Cook County, Illinois,

See attached Schedule A

O'Connor Title
Services, Inc.

5077-0094

releasing and waiving all rights under and by virtue of the homestead exemption laws of the State of Illinois;

TOGETHER WITH all right, title and interest, if any, including any after-acquired right, title and interest, and including any right of use or occupancy, which Mortgagor may now have or hereafter acquire in and to (a) all easements, rights of way, any lands occupied by streets, ways, alleys, passages, sewer rights, water courses, water rights and

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powers, and public places adjoining the Mortgaged Property, and any other interests in property constituting appurtenances to the Premises, or which hereafter shall in any way belong, relate or be appurtenant thereto and, (b) all hereditaments, gas, oil, minerals, and easements, of every nature whatsoever, located in or on the Mortgaged Property and all other rights and privileges thereunto belonging or appertaining and all extensions, additions, improvements, betterments, renewals, substitutions and replacements to, or of any of the rights and interests described in subparagraphs (a) and (b) above (hereinafter collectively referred to as the "Property Rights.")

1. Warranty of Title. Mortgagor has good and marketable fee simple title to the Mortgaged Property, free and clear of all liens, encumbrances, charges, and all other conditions.

2. Maintenance of Mortgaged Property. Mortgagor will not commit or permit the commission of waste in or about the Mortgaged Property. Mortgagor will not remove, demolish, or structurally alter any building erected at any time on the Mortgaged Property, without the prior written consent of the Lender. Mortgagor will not permit the Mortgaged Property to become vacant, deserted, or unguarded, and will maintain the Mortgaged Property in good condition and repair, reasonable wear and tear excepted. Mortgagor will make, when necessary, all repairs of every nature.

3. Insurance.

- (a) Mortgagor will keep the Mortgaged Property continuously insured, with extended coverage, against loss or damage by fire. Mortgagor will also keep the property insured against such other hazards as the Lender may reasonably require.
- (b) Without limiting the requirement above, the Borrower will, if requested by the Lender, maintain insurance as follows:
- (1) Comprehensive public liability insurance (including coverage for elevators and escalators, if any, on the Mortgaged Property and, if any construction of new improvements occurs after execution of this Mortgage completed operations coverage for one year after construction of the improvements has been completed) on an "occurrence basis" against claims for personal injury. This coverage will include, without limitation, bodily injury, death, or property damage occurring on, in or about the Mortgaged Property and the adjoining streets, sidewalks, and passageways;

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- (2) During the course of any construction or repair of improvements on the Mortgaged Property, builder's completed value risk insurance against "all risks of physical loss," including collapse and transit coverage, during construction of such improvements;
- (3) such other insurance as may from time to time be reasonably required by the Lender against the same or other hazards.

4. Taxes and Other Charges. Mortgagor will pay all taxes, assessments, water and sewer rents, and other charges or claims assessed, levied, or filed against Mortgagor, the Mortgaged Property, or the interest of the Lender in the Mortgaged Property, or that, by law, may have priority over the indebtedness secured by this Mortgage. These expenses will be paid when due and payable and before interest or penalties accrue.

5. Compliance With Law and Regulations. Mortgagor will comply with all laws, ordinances, regulations, and orders of all federal, state, municipal, and other governmental authorities relating to the Mortgaged Property.

6. Defaults and Right to Remedy. If Mortgagor fails to pay taxes, assessments, water and sewer charges, other lienable claims (not including contested claims), or insurance premiums, or fails to make necessary repairs, permits waste, or otherwise fails to comply with its obligations under this Mortgage, or any other document executed in connection with the Mortgage, then the Lender, at its election and with notice to Mortgagor, has the right to make any payment or expenditure that Mortgagor should have made, or that the Lender deems advisable, to protect the security of this Mortgage or the Mortgaged Property. Any payment by the Lender will not prejudice the Lender's right or remedies under this Mortgage. All sums, as well as costs, advanced by the Lender pursuant to this Mortgage will be due immediately from Mortgagor and will be secured by this Mortgage.

- 7. Events of Default.** Any of the following will constitute an "Event of Default":
- (a) Failure of Borrower to pay any installment of principal or interest, or any other sum, on the date it is due under the Notes or Credit Agreement, subject to any applicable grace period provided in the Notes or Credit Agreement;
 - (b) The entry of a decree by court with respect to the Borrower in an involuntary case under the federal bankruptcy laws, or any other applicable federal or state bankruptcy, insolvency, or similar laws;
 - (c) The appointment of a receiver, liquidator, custodian, trustee, (or similar official) for any substantial part of the Borrower's property;

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- (d) A court-ordered winding-up or liquidation of the Borrower's affairs;
- (e) The commencement by the Borrower of a voluntary case under the federal bankruptcy laws or any other applicable federal or state bankruptcy, insolvency, or similar laws;
- (f) The consent by the Borrower to the appointment of a receiver, liquidator, trustee, custodian, or similar official for any substantial part of the Borrower's property;

8. Remedies. If any Event of Default occurs and, because of such Event of Default, the entire unpaid balance of principal, accrued interest, and all other sums secured by this Mortgage becomes due and payable, then the Mortgaged Property shall be sold for fair market value as determined by an appraiser appointed by the joint written direction of Lender and Mortgagor. The following shall be paid out of the proceeds of such sale:

- (a) all sums due under the Notes and Credit Agreement secured hereby which then remain unpaid;
- (b) all costs and expenses, appraiser's fees, environmental audit, testing and survey fees, advertising costs, notice expenses, expenditures for documentary and expert evidence, stenographer's charges, publication costs, costs of procuring all abstracts of title, title searches and examinations, title guarantees, title insurance policies, and similar data with respect to title which Lender may deem necessary.

The proceeds of any sale shall be distributed and applied to the items described in (a) and (b) of this paragraph, as Lender may determine, and all surplus of the proceeds of such sale shall be paid to Mortgagor.

9. Remedies Limited. It is expressly agreed that Lender may compel the sale of the Mortgaged Property only after Lender has exhausted all available remedies against Borrower as provided in the Notes and Credit Agreement. It is further agreed that Lender may not compel the sale of the Mortgaged Property unless, upon liquidation of the Borrower, the assets of the Borrower are insufficient to pay all sums due under the Notes and Credit Agreement. Lender acknowledges that neither Mortgagor nor D.V.C. Ventures, LLC, have assumed any obligations under the Notes or Credit Agreement other than as stated in this Mortgage, and in the event Borrower is in default of the Notes or Credit Agreement, Lender's recourse against Mortgagor, D.V.C. Ventures, LLC is limited to the remedies specified in this Mortgage.

10. Remedies Deferred. Notwithstanding any language herein to the contrary, Lender agrees to defer its right to compel the sale of the Mortgaged Property, or to take

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any other action at law or equity for the enforcement of this Mortgage, for a period of one year from the date Borrower and Mortgagor are served with written notice that an Event of Default has occurred, and Lender may not compel the sale of the Mortgaged Property or bring any action to enforce this Mortgage until said one year period has elapsed.

11. Assignment. Except as provided otherwise in this instrument, the Lender may not assign this mortgage without the prior written consent of the Mortgagor.

12. Other Financing. Mortgagor will not create or permit to exist any other lien on, or security interest in, any portion of the Mortgaged Property without the prior written consent of the Lender.

13. No Sale or Transfer. Without the prior written consent of the Lender, Mortgagor will not cause or permit any sale, exchange, transfer, lease, or conveyance ("transfer") or any part of the Mortgaged Property, or any interest in it, voluntarily or by operation of law.

14. Captions. The captions preceding the text of the paragraphs or subparagraphs of this Mortgage are inserted only for convenience of reference and will not constitute a part of this Mortgage, nor will they in any way affect its meaning, construction, or effect.

15. Notices. Unless otherwise specified, all notices permitted or required under this Mortgage or the Note will be in writing, and will be sent by registered or certified mail, postage prepaid, or by Federal Express or by personal delivery, addressed, or served to, the addressee at the address set forth in this Mortgage or in the Note, or at such other address as the addressee may designate in writing from time to time.

16. State Law to Apply. This Mortgage shall be construed under and in accordance with the laws of the State of Illinois. Venue shall be in Cook County, Illinois.

17. Amendment. This Mortgage cannot be changed or amended except by agreement in writing signed by the party against whom enforcement of the change is sought.

18. Parties Bound. This Mortgage will be binding on and inure to the benefit of the parties and their respective heirs, personal representative, successors, and assigns.

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IN WITNESS WHEREOF, this instrument is executed as of the day and year first above written.

North Star Trust Company, as Successor Trustee to
Republic Bank of Chicago, under Trust Agreement
dated October 27, 1986, Trust No. 1206, not personally
but solely as trustee

By: *Silvia Medina*
~~Silvia Medina~~ Trust Officer,

Trustee's Exoneration (if Attached Herein And Made A Part Hereof)

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Trust NO. 1206

ATTACHED LAND TRUST MORTGAGE EXONERATION RIDER

This MORTGAGE is executed by The Land Trustee, not personally but as trustee as aforesaid in the exercise of the power and authority conferred upon vested in it as such Trustee (and said Land Trustee, hereby warrants that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein or in said Note contained shall be construed as creating any liability on the said Trustee or on said Land Trustee personally to pay the said Note or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant either expressed or implied herein contained, or on account of any warranty or indemnification made hereunder, all such liability, if any, being expressly waived by Mortgagee and by every person now or hereafter claiming any right or security hereunder, and that so far as the trustee and its successors and said Land Trustee personally are concerned, the legal holder or holders of said Note and the owner or owners of any indebtedness accruing hereunder shall look solely to the premises hereby conveyed for the payment thereof, by the enforcement of the lien hereby created, in the manner herein and in said Note provided or by action to enforce the personal liability of the guarantor, if any.

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State of Illinois)

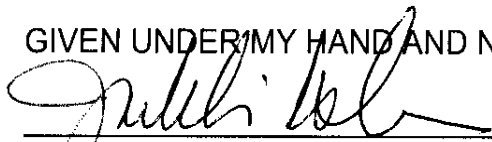
SS

County of Cook)

North Star Trust Company as Successor Trustee to*

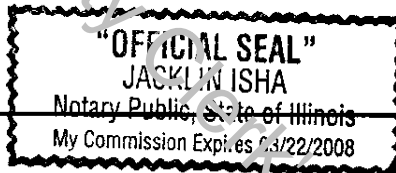
I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that REPUBLIC BANK OF CHICAGO, not personally, but solely as Trustee, under Trust Agreement dated 10/27/86, and Known as Trust No. 1026, personally known to me to be the same person whose name is subscribed on the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, for the used and purpose therein set forth.

GIVEN UNDER MY HAND AND NOTARIAL SEAL 1TH day of March 2005.



Notary Public

My Commission Expires:



Notary Public's Office

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Property: 7000 Frontage Road, Burr Ridge, Illinois 60521 **County:** Cook

Legal Description: Parcel 1: That part of the East half of the South half of the East half of the West $\frac{3}{4}$ of the East half of the Southwest quarter of Section 19, Township 38 North, Range 12, East of the Third Principal Meridian, lying North of the Northerly line of the property condemned in case No. 5989093 in the Superior Court in Cook County, Illinois.

Parcel 2: That part of the East half of the East half of the Southwest quarter of Section 19, Township 38 North, Range 12, East of the Third Principal Meridian, lying North of the Center line of Joliet Road (except the North half of the East half of the East half of the Southwest quarter of said Section) and (except that part conveyed to the Illinois State Tollway Commission) and further excepting a strip of land of uniform width of 90 feet parallel with and adjacent to the existing North right of way line of U. S. Route No. 66 across the East half of the East half of the Southwest quarter of Section 19, Township 38 North, Range 12, East of the Third Principal Meridian, in Cook County, Illinois.

Permanent Index 18-19-301-004 and 18-19-301-005
Number(s):

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