

UNOFFICIAL COPY

***This Document Prepared By And
When Recorded Return To:***

Richard C. Jones, Jr., Esq.
Tina M. Jacobs, Esq.
Tonya M. Parravano, Esq.
JONES & JACOBS
77 West Washington Street
Suite 2100
Chicago, Illinois 60602
(312) 419-0700



Doc#: 0515727077
Eugene "Gene" Moore Fee: \$34.50
Cook County Recorder of Deeds
Date: 06/06/2005 12:28 PM Pg: 1 of 6

For Recorder's Use Only

ASSIGNMENT OF RENTS AND LEASES

THIS ASSIGNMENT is made as of May 23, 2005, by PRAIRIE BANK AND TRUST COMPANY, not personally, but as Trustee under Trust Agreement dated April 26, 2005 and known as Trust No. 05-061 ("**Assignor**") to and for the benefit of PRAIRIE BANK AND TRUST COMPANY an Illinois banking corporation (herein referred to as "**Assignee**").

WITNESSETH

THAT WHEREAS, Assignor and the beneficiary of Assignor (jointly, "**Borrower**") are justly indebted to Assignee for money borrowed in the aggregate principal sum of FIVE MILLION NINE HUNDRED SIXTY THOUSAND AND NO/100 DOLLARS (\$5,960,000.00), as evidenced by (a) a Construction Note (Revolving) dated May 23, 2005, payable by Assignor and the beneficiary of Assignor to Assignee in the principal amount of TWO MILLION SEVEN HUNDRED TEN THOUSAND AND NO/100 DOLLARS (\$2,710,000.00) (the "**Revolving Note**"), and (b) an A&D Note (Non-Revolving) dated May 23, 2005, payable by Assignor and the beneficiary of Assignor to Assignee in the principal amount of THREE MILLION TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$3,250,000.00) (the "**Non-Revolving Note**") (the Revolving Note and the Non-Revolving Note are hereinafter jointly referred to as the "**Notes**"), executed pursuant to the Construction Loan Agreement of even date herewith among Assignor, the beneficiary of Assignor and Assignee (herein called the "**Loan Agreement**") and is secured by a certain Construction Mortgage given by Assignor to Assignee under even date herewith (which Mortgage is herein called the "**Mortgage**") (the terms of which Notes and which Mortgage are hereby incorporated herein by reference) upon certain property (herein called "**Property**") in the County of Cook and State of Illinois, to wit:

LEGAL DESCRIPTION - SEE EXHIBIT A ATTACHED HERETO

NOW, THEREFORE, to secure the payment of (a) all sums becoming due under said Notes according to the tenor and effect of said Notes, (b) all other amounts becoming due from Assignor and the beneficiary of Assignor to Assignee under the Mortgage (said sums and other amounts being herein collectively called the "**Indebtedness**") and (c) the faithful performance by Assignor and the beneficiary of Assignor of all the covenants, conditions, stipulations and agreements in this Assignment of Rents and Leases, in the Loan Agreement, in the Notes or Mortgage, or in any other agreement or document between Assignor and the beneficiary of Assignor and Assignee, and also in consideration of the sum of One Dollar (\$1.00) in hand paid, the receipt whereof is hereby

UNOFFICIAL COPY

acknowledged, the Assignor does by these presents, GRANT, TRANSFER, HYPOTHECATE and ASSIGN to Assignee all the rents, issues and profits now due and which may hereafter become due, whether during or after the term of the Mortgage, under or by virtue of any lease, whether written or verbal, or any letting of or any agreement for the use or occupancy of any part of said Property, heretofore or hereafter made or agreed to, it being the intention of the undersigned to hereby establish an absolute transfer and assignment to Assignee of all such leases and agreements made or agreed to by either the undersigned or by the Assignee under the powers herein granted, and of all the avails thereof.

Without limitation of any of the legal rights of Assignee as the absolute assignee of the rents, issues, and profits of said Property, and by way of enumeration only, Assignor hereby irrevocably covenants and agrees that in the event of any default (after notice and expiration of cure period) by Assignor or the beneficiary of Assignor under the said Notes or under the Mortgage, whether before or after the institution of any legal proceedings to foreclose the lien of the Mortgage, or before or after any sale therein, forthwith upon demand of Assignee, Assignor will surrender to Assignee and Assignee, pursuant to legal process, shall be entitled to take actual possession of the said Property or of any part thereof, personally or by its agents or attorneys, and in Assignee's discretion, Assignee may, without force and with process of law and without any action on the part of the holder or holders of the Notes or the Mortgage, enter upon, take and maintain possession of all or any part of said Property together with all documents, books, records, papers, and accounts of Borrower relating thereto, and may exclude Assignor and Assignor's agents or servants wholly therefrom and may in Assignee's own name as Assignee under this Assignment hold, operate, manage, and control the said Property and conduct the business thereof, either personally or by Assignee's agents, at the reasonable expense of the Assignor, from time to time make or cause to be made all necessary or proper repairs, renewals, replacements, useful alterations, additions, betterments, and improvements to the said Property as Assignee may seem judicious and may insure and reinsure the same, and may lease said Property in such parcels and for such time and on such terms as Assignee may seem fit, including leases for terms expiring beyond the maturity of the indebtedness secured by the Mortgage, and may cancel any lease or sublease for any cause or on any ground which would entitle Assignor to cancel the same, and may manage and operate the said Property and carry on the business thereof as Assignee shall deem best and do everything in or about the said Property that Assignor might do. In every such case Assignor hereby irrevocably authorizes and appoints Assignee, in the name, place and stead of Assignor, to collect and receive all earnings, revenues, rents, issues, profits and income of the said Property and any part thereof, and after deducting the expenses of conducting the business thereof and of all maintenance, repairs, renewals, replacements, alterations, additions, betterments, and improvements, and all payments which may be made for taxes, assessments, insurance and prior or proper charges on the said Property or any part thereof, including the just and reasonable compensation of the services of Assignee for services rendered in connection with the operation, management and control of the said Property and the conduct of the business thereof, and such further sums as may be sufficient to indemnify Assignee against any liability, loss or damage on account of any matter, or thing done in good faith in pursuance of the rights and powers of Assignee hereunder, to apply any and all monies arising as aforesaid:

- (1) To the payment of the interest from time to time accrued and unpaid on the said Notes;
- (2) To the payment of the principal of the said Notes from time to time remaining outstanding and unpaid; and

UNOFFICIAL COPY

(3) To the payment of any and all other charges secured by or created under the said Loan Agreement or Mortgage.

Assignor hereby ratifies and confirms everything that Assignee may do under or by virtue of the foregoing.

Notwithstanding any other provisions hereof, so long as there shall exist no default by the Assignor in the payment of the Indebtedness or in the performance of any obligation, covenant or agreement herein or in said Mortgage or other instrument contained, Assignor shall have the right to collect when, but not before, due all rents, issues and profits from said Property and to retain, use and enjoy the same.

Without limiting the generality of the foregoing, this Assignment covers specifically any lease or leases demising all or portions of the said Property on the terms shown in said leases.

Assignor hereby covenants and agrees with the Assignee that without the written consent of the Assignee first obtained, which consent shall not be unreasonably withheld, delayed or conditioned, Assignor will not:

(1) Cancel or terminate any lease for any reason whatsoever irrespective of how such right of cancellation or termination is obtained, or permit the cancellation or termination thereof, or accept a surrender of any lease;

(2) Reduce the rent provided for in any lease, or modify any lease in any way, either orally or in writing, or grant any concession in connection with any lease, either orally or in writing;

(3) Consent to any assignment of the interest of the tenant in any lease, or to any sub-letting thereof; or

(4) Accept any rent payable under any lease more than sixty (60) days in advance of the time when the same is payable under the terms thereof.

Any default on the part of Assignor hereunder shall constitute a default of Assignor under the Notes and Mortgage.

This Assignment shall be construed as a covenant running with the land, shall be assignable by Assignee and shall be binding upon and insure to the benefit of each of the parties hereto and their respective executors, administrators, legal representatives, successors and assigns.

The failure of Assignee or any of the Assignee's agents or attorneys, successors or assigns to make use of any of the terms, provisions, and conditions of this Assignment for any period of time, at any time or times, shall not be construed or deemed to be a waiver of any Assignee's rights under the terms hereof, but Assignee or Assignee's agents or attorneys, successors, or assigns shall have full right, power and authority to enforce this Assignment or any of the terms, provisions or conditions hereof, and exercise the powers hereunder, at any time or times that Assignee shall deem fit.

UNOFFICIAL COPY

In the event that any provision of this Assignment is deemed to be invalid by reason of the operation of any law or by reason of the interpretation placed thereon by any court, this Assignment shall be construed as not containing such provisions to the extent of the invalidity and the invalidity of such provisions shall not affect the validity of any and all other provisions hereof which are otherwise lawful and valid, and such other provisions shall remain in full force and effect.

In accepting this Assignment the Assignee herein does not assume nor shall it be under any obligation whatsoever to perform any of the covenants, undertakings or promises on the part of the Lessor to be performed under any lease which may be entered into concerning the said Property, unless and until Assignee assumes the role of Lessor thereunder.

If the Assignor shall pay all the Indebtedness when or before due and shall keep, observe and fully perform all the covenants, conditions, stipulations and agreements herein contained, then this Assignment shall be null and void and Assignee will, promptly upon Assignor's demand therefore, release and discharge this Assignment.

This Assignment is executed by Prairie Bank and Trust Company, not personally, but as Trustee as aforesaid in the exercise of power and authority conferred upon and vested in it as such Trustee (and said Prairie Bank and Trust Company hereby warrants that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing herein contained shall be construed as creating any liability on said Assignor or on said Prairie Bank and Trust Company personally to pay the said notes or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant either express or implied herein contained, all such liability, if any, being expressly waived by Trustee and by every person now or hereafter claiming any right or security hereunder.

IN WITNESS WHEREOF, Assignor has caused this instrument to be executed as of the day and year first above written.

PRAIRIE BANK AND TRUST COMPANY, not personally, but as Trustee as aforesaid

EXCULPATORY CLAUSE

It is expressly understood and agreed by and between the parties herein anything herein to the contrary notwithstanding, that each and all of the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trust, aforesaid, for the purpose to be the warranties, indemnities, representations, covenants, undertakings and agreements of said Trustee are nevertheless each and every one of them, made and intended in its personal warranties, indemnities, representations, covenants, undertakings and agreements by the Trustee or for the purpose or with the intention of binding said Trustee personally but are made and intended for the purpose of binding only the parties of the trust previously specifically described herein, and this instrument is executed and confirmed by said Trustee in its own right, but solely in the exercise of the powers and authority conferred upon it and that no personal liability or personal responsibility is assumed by said Trustee in any way to be paid or enforceable against PRAIRIE BANK AND TRUST COMPANY under said Trust Agreement, on account of this instrument or on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the said Trustee in this instrument contained, either expressed or implied, all such personal liability, if any, being expressly waived and released.

By: *Sandra Russell*
Its Trust Officer

ATTEST:
By: *Quinn Stein*
Its Assistant Trust Officer

PRAIRIE BANK AND TRUST COMPANY

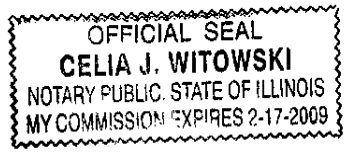
UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that SARINA T. RUSSELL, as Trust Officer, and DREW M. FINN, as Asst. Trust Officer, of PRAIRIE BANK AND TRUST COMPANY, an Illinois banking corporation, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Trust Officer and Asst. Trust Officer, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Trustee as aforesaid, for the uses and purposes therein set forth; and the said Asst. Trust Officer then and there acknowledged that the Asst. Trust Officer as custodian of the corporate seal of said Trustee, did affix the seal of said Trustee to said instrument as the free and voluntary act of said Asst. Trust Officer and as the free and voluntary act of said Trustee as aforesaid, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 23RD day of July, 20 05.

Celia J. Witowski
NOTARY PUBLIC



My Commission Expires:
2-17-2009

UNOFFICIAL COPY

EXHIBIT A

LEGAL DESCRIPTION

LOTS 7, 8 AND 9 IN BLOCK 3 IN UNION PARK ADDITION TO CHICAGO, BEING A SUBDIVISION OF LOTS 5 AND 6 IN CIRCUIT COURT PARTITION OF THE SOUTHWEST ¼ OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Common address: 23-25 North Bishop Street
Chicago, Illinois 60607

Permanent Index No.: 17-08-334-021-0000
17-08-334-023-0000
17-08-334-024-0000
17-08-334-025-0000

Property of Cook County Clerk's Office