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Doc#: 0636403068 Fee: \$50.50
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 12/30/2005 03:13 PM Pg: 1 of 14

Please Cross Reference the Loan Documents
described on Schedule I, attached hereto

3 of 6

Prepared by and return to:

Catherine P. Powell, Esquire
Tatum Levine & Powell, LLP
1199 Oxford Road, N.E.
Atlanta, Georgia 30306

**CONSOLIDATED, AMENDED AND RESTATED
ASSIGNMENT OF LESSOR'S INTEREST IN LEASE**

DATED DECEMBER 27th, 2005

BY AND BETWEEN:

SHAMROCK COMPANY, SHAMROCK TBC, INC., AND
MCGUE FAMILY, L.L.C.,

collectively, as Assignor
and

BANK OF AMERICA, N.A., as Assignee

This document is one of two (2) original counterparts; one original will be filed in each of the counties listed below relating to the following described locations:

1	Addison #2014	691 W. Lake St., Addison, IL 60101	DuPage
2	Berwyn #2433	6956 W. Ogden Avenue, Berwyn, IL 60130	Cook

14

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CONSOLIDATED, AMENDED AND RESTATED ASSIGNMENT OF LESSOR'S INTEREST IN LEASE

THIS CONSOLIDATED, AMENDED AND RESTATED ASSIGNMENT OF LESSOR'S INTEREST IN LEASE (this "Assignment") is made this 21st day of December 2005, collectively by SHAMROCK COMPANY, an Illinois corporation, SHAMROCK TCB, INC., an Illinois corporation, and MCGUE FAMILY, L.L.C., an Illinois limited liability company (hereinafter collectively referred to as "Assignor") and BANK OF AMERICA, N.A., a national banking association organized and existing under the laws of the United States of America, whose mailing address is Post Office Box 4899, Atlanta, Georgia 30302-4899 (hereinafter called "Assignee").

WITNESSETH:

WHEREAS, on November 8, 2004, Assignor executed and delivered to Assignee (i) that certain term Promissory Note in the original principal amount of Six Million Three Hundred Thousand and No/100 Dollars (\$6,300,000.00) (the "Original Term Note"), and (ii) that certain development Promissory Note in the original principal amount of Two Million Five Hundred Thousand and No/100 Dollars (\$2,500,000.00) (the "Original Development Note") (the Original Term Note and the Original Development Note are hereinafter collectively called the "Original Notes"), each of which having a maturity date of November 1, 2009, and (iii) that certain Loan and Security Agreement by and between Assignor, the "Guarantors" defined therein, and Assignee (the "Original Loan Agreement"); and

WHEREAS, the Original Notes are secured by, among other loan documents, the following documents: (i) that certain Real Estate Mortgage and Security Agreement dated November 8, 2004 and recorded as Document No: 0432434109, Cook County, Illinois Records (the "Original Assignment"), (ii) that certain Assignment of Lessor's Interest in Lease dated November 8, 2004, and recorded as Document No: 0432434110, aforesaid records (the "Original Lease Assignment"), and (iii) that certain Assignment of Purchase Price dated November 8, 2004, and recorded as Document No.: 0432434111, aforesaid records (the "Original Assignment"), all of which are, as of even date herewith, pursuant to this Assignment and certain other Loan Documents (hereinafter defined) being consolidated, amended and restated (the Original Assignment, the Original Lease Assignment, and the Original Assignment, together with any and all other loan documents evidencing and/or securing the Original Notes, all as consolidated, amended and restated as of even date herewith are hereinafter collectively called the "Security Documents"); and

WHEREAS, on or about even date herewith, Assignor, Assignee and Guarantor are consolidating, amending and restating (i) the Original Notes into, with and by a single Consolidated, Amended and Restated Reducing Revolving Promissory Note in the original principal amount of \$30,700,000.00 (the "Note"), and (ii) the Original Loan Agreement into, with and by that certain Consolidated, Amended and Restated Loan and Security Agreement (as

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consolidated, amended and restated the "Loan Agreement") (capitalized terms used herein shall have the meanings ascribed to them in the Loan Agreement, unless otherwise defined herein) and therefore desire to consolidate, amend and restate the Security Documents, including, without limitation, the Original Lease Assignment into and with this Consolidated, Amended and Restated Assignment of Lessor's Interest in Lease (the Original Lease Assignment, as consolidated, amended and restated into, by and with this Consolidated, Amended and Restated Assignment of Lessor's Interest in Lease is hereafter called this "Assignment");

NOW, THEREFORE, for and in consideration of the indebtedness, and to secure the payment to Assignee of the principal and interest, and all other sums provided for in the Note, and all future or additional advances as may be made by Assignee to Assignor pursuant to the provisions of the Note and the other Loan Documents, and for performance of the agreements, conditions, covenants, provisions and stipulations contained herein and therein, and in certain other agreements and instruments made and given by Assignor to Assignee in connection therewith, and also for and in consideration of the sum of Ten Dollars (\$10.00) paid by Assignee at or before the execution and delivery of these presents, the receipt hereof and legal sufficiency of which are hereby acknowledged, agrees as follows:

EFFECTIVE AS EVEN DATE HERewith, the Original Lease Assignment has been and hereby is amended, restated and merged into and consolidated with this Assignment so that henceforth this Assignment, together with all other Loan Documents, shall collectively secure Assignor's and Guarantor's respective Obligations, and contain the terms, conditions, obligations, covenants, rights, privileges and options set forth in the Original Lease Assignment, as consolidated, amended, and restated hereby.

FURTHER, AND FOR VALUE RECEIVED AND IN CONSIDERATION OF THE NOTE, among other consideration, the receipt and sufficiency of which is hereby acknowledged, Assignee hereby grants, transfers and assigns to Assignee, its successors and assigns, all of the right, title and interest of Assignor in and to those certain leases, with modification, if any, described in Schedule "A" hereof, covering the premises (herein collectively called "Premises") briefly described as:

See Exhibit "A" attached hereto and made a part hereof

together with any extensions of any thereof and any guarantees of the lessee's (in any case, the "Lessee") obligations under any thereof (said leases, together with all such guarantees, modifications and extensions, being hereinafter collectively referred to as "the Lease"), for the purpose of securing (a) payment of all sums now or at any time hereafter due Assignee under the Note and secured by the Security Documents, together with any renewals or extensions thereof and any future advances made thereunder to the extent permitted under Illinois law, and (b) performance and discharge of each obligation, covenant and agreement of Assignor contained herein or contained in the Security Documents or the Note secured thereby.

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Assignee agrees that:

A. So long as there shall exist no event of default, as hereinafter defined, on the part of Assignor, Assignor shall have the right to collect, but not more than thirty (30) days prior to accrual, all rents, issues and profits from the Premises and to retain, use and enjoy the same.

B. Upon the payment in full of all indebtedness secured hereby, as evidenced by the recording or filing of an instrument of satisfaction or full release of the Security Documents without the recording of another Security Documents in favor of Assignee affecting the Premises, this Assignment shall become and be void and of no effect.

Assignor warrants that:

A. There is no other assignment of any of its rights under the Lease to any other person.

B. Assignor has done no act nor omitted to do any act which might prevent Assignee from, or limit Assignee in, acting under any of the provisions herein.

C. Assignor has not accepted rent under the Lease for more than thirty (30) days in advance of its due date.

D. There is no default by Lessee under the terms of the Lease to the knowledge of Assignor.

E. Assignor is not prohibited under any agreement with any other person or any judgment or decree from the execution and delivery of this Assignment or Lease, the performance of each and every covenant of Assignor hereunder and in Lease, and the meeting of each and every condition herein contained.

F. No action has been brought or threatened which in any wise would interfere with the right of Assignor to execute this Assignment and perform all of Assignor's obligations herein contained.

G. Lease, except as specifically recited in Schedule "A", is in full force and effect and unmodified.

Assignor agrees, so long as it is indebted to Assignee, that:

1. Assignor will (i) fulfill, perform and observe each and every condition and covenant of Assignor contained in the Lease; (ii) give prompt notice to Assignee of any claim of default under Lease (a) given by Lessee to Assignor or (b) given by Assignor to Lessee, together with a complete copy of any such claim; (iii) at the sole cost and expense of Assignor, enforce, short of termination of the Lease, the performance and observance of each and every covenant and condition

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of the Lease to be performed or observed by Lessee; and (iv) appear in and defend any action growing out of, or in any manner connected with, the Lease or the obligations or liabilities of Assignor, as lessor thereunder, or of the Lessee or any guarantor thereunder.

2. The rights assigned hereunder include all of Assignor's right and title (i) to modify the Lease; (ii) to terminate the term or to accept the surrender thereof; (iii) to waive, or release the Lessee from, the performance or observance by the Lessee of any obligation or condition of the Lease; (iv) to permit the prepayment of any rents under the Lease for more than thirty (30) days prior to the accrual thereof; and (v) to give any consent to any assignment by the Lessee of the Lease or to sublease any part or portion of the Premises.

3. Assignor will not (i) modify the term of the Lease or accept the surrender thereof unless required so to do by the terms of the Lease; (ii) permit the Lessee to anticipate the payment of any rents under the Lease by Lessee or any sublessee for more than thirty (30) days prior to accrual; (iii) waive, or release Lessee or any sublessee from, the observance or performance of any obligation to be performed by either under the terms of the Lease or liability on account of any warranty given by either of them.

4. Upon the occurrence of any one of the following events (herein called an "event of default"):

- (i) the failure by Assignor to perform or observe any covenant of Assignor contained in this Assignment, in any instrument evidencing any debt secured by this Assignment, or in the Security Documents;
- (ii) should any warranty of Assignor herein contained or contained in any evidence of debt given by Assignor to Assignee and secured hereby, or contained in Security Documents, prove untrue or misleading in any material aspect;
- (iii) failure by Assignor to meet any condition set forth in Lease; or
- (iv) should any event occur under any instrument, deed or agreement, given or made by Assignor to or with any third party, which causes the acceleration of any debt to any such third party the acceleration of which would materially affect Assignor's ability to pay when due any amounts owed to Assignee.

then and thereupon Assignee may: (a) declare the total indebtedness due Assignor to Assignee, secured by the assignment, immediately due and payable; (b) proceed to enter upon, take possession of, and operate the Premises under this Assignment without becoming a Assignee possession; (c) proceed to perform any and all obligations of Assignor, contained under Lease, and exercise any and all rights of Assignor therein contained as fully as Assignor itself could, and this without regard

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to the adequacy of security for the indebtedness hereby accrued and with or without the bringing of any legal action or the causing of any receiver to be appointed by any court; (d) make, enforce, modify and accept the surrender of Lease, or any single Lease if more than one be assigned hereunder; (e) obtain and evict tenants; (f) fix or modify rent; and (g) do all other acts which Assignee may deem necessary or proper to protect its security. Assignor does hereby specifically authorize Assignee, in Assignor's name or in Assignee's name, to sue for or otherwise collect and receive all rents, issues and profits, including those past due and unpaid, and apply the same first against all costs and expenses of operation of the Premises, of the performance of Assignor's obligations under Lease and of collection, including reasonable attorney's fees. Any amounts remaining after such application shall be applied next to interest on, and then to the principal of, the indebtedness secured hereby and upon the payment in full thereof, both principal and interest, then this Assignment and all rights of Assignee hereunder shall cease and terminate. Entry upon and taking possession of the property and the collection of the rents and the application thereof, as aforesaid, shall in no wise operate to cure or waive any default under any other instrument given by Assignor to Assignee, or prohibit the taking of any other action by Assignor under any such instrument or at law or in equity to enforce payment of the indebtedness secured by Lease or to realize on any other security.

Assignor further agrees that:

1. Should Assignor fail to perform or observe any covenant or comply with any condition contained in the Lease, then Assignee, but without obligation so to do and without notice to or demand on Assignor or releasing Assignor from its obligation so to do, may perform such covenant or condition and to the extent that Assignee shall incur any costs or pay any monies in connection therewith, including any costs or expenses of litigation, then costs, expense or payment shall be included in the indebtedness secured hereby and shall bear interest from the incurring or payment thereof at the default rate set forth in the note.
2. No action taken by Assignor or Assignee shall cause or permit the estate of any Lessee under any Lease to merge with Assignor's reversionary interest.
3. Assignee shall not be obligated to perform or discharge any obligation of Assignor under Lease, and Assignor agrees to indemnify and hold Assignee harmless against any and all liability, loss or damage which Assignee may incur under the Lease or under or by reason of this Assignment and of and from all claims and demands whatsoever which may be asserted against it by reason of an act of Assignee under this Assignment or under Lease.
4. Notwithstanding any provision of this Assignment to the contrary, Assignor hereby transfers, assigns and sets over to Assignee all of Assignor's right, title and interest in and to (a) the Lease, and (b) all rents, issues, profits, income and proceeds from the Premises. This Assignment is intended by Assignor and Assignee to create and shall be construed to create, an absolute assignment to Assignee. Assignor shall have a revocable license to collect and receive the rents and

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to retain, use and enjoy such rents. Such license may be revoked by Assignee, without notice to Assignor, upon the occurrence of an event of default under this Assignment.

The parties agree that wherever used in this Assignment, unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, the words "Assignor" and "Assignee" shall include individuals, corporations (and if a corporation, its officers, employees, agents or attorneys) and any and all other persons or entities and the respective heirs, executors, legal representatives, administrators, successors and assigns of the parties hereto, and all those holding under either of them; the word "note" shall also include one or more notes or bonds, and the pronouns used herein shall include, when appropriate, either gender and both singular and plural, and the grammatical construction of sentences shall conform thereto.

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IN WITNESS WHEREOF, Assignor has executed this Assignment under seal and Assignor has delivered this Assignment to Assignee, all the day and year first written above.

ASSIGNOR:

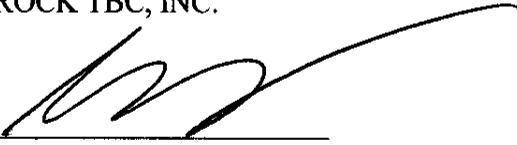
SHAMROCK COMPANY

By: 

Name: Stephen C. McGue
Title: President

[CORPORATE SEAL]

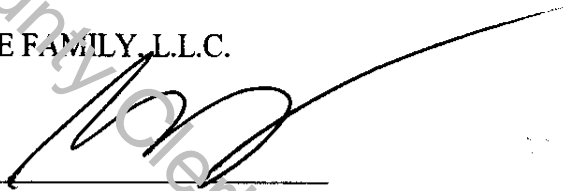
SHAMROCK TBC, INC.

By: 

Name: Stephen C. McGue
Title: President

[CORPORATE SEAL]

MCGUE FAMILY, L.L.C.

By: 

Name: Stephen C. McGue
Title: Manager

[COMPANY SEAL]

This Instrument was prepared by and upon recording mail to:

Catherine P. Powell, Esquire
Tatum Levine & Powell, LLP
1199 Oxford Road, N.E.
Atlanta, Georgia 30306

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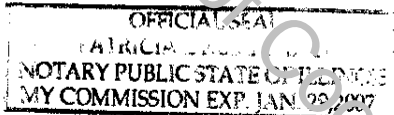
ACKNOWLEDGMENT

STATE OF IL }
COUNTY OF DuPage } SS.

I, Patricia J Rend, a Notary Public, in and for and residing in said County and State, DO HEREBY CERTIFY that Stephen C. McGue, President of Shamrock Company, an Illinois corporation, 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 said instrument as their own free and voluntary act and as the free and voluntary act of said company for the uses and purposes set forth therein.

Given under my hand and notarial seal this 20th day of Dec, 2005.

Patricia J Rend
Notary Public



My Commission Expires: 1-29-07

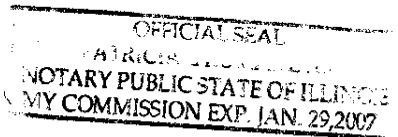
[NOTARY SEAL]

STATE OF IL }
COUNTY OF DuPage } SS.

I, Patricia J Rend, a Notary Public, in and for and residing in said County and State, DO HEREBY CERTIFY that Stephen C. McGue, President of Shamrock TBC, Inc., an Illinois corporation, 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 said instrument as their own free and voluntary act and as the free and voluntary act of said company for the uses and purposes set forth therein.

Given under my hand and notarial seal this 20th day of Dec, 2005.

Patricia J Rend
Notary Public



My Commission Expires: 1-29-07

[NOTARY SEAL]

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STATE OF IL)
COUNTY OF Putnam) SS.

I, Darin J. Runk, a Notary Public, in and for and residing in said County and State, DO HEREBY CERTIFY that Stephen C. McGue, Member of McGue Family, L.L.C., an Illinois limited liability company, 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 said instrument as their own free and voluntary act and as the free and voluntary act of said company for the uses and purposes set forth therein.

Given under my hand and notarial seal this 27th day of Dec, 2006
Darin J. Runk
Notary Public

My Commission Expires: 1-29-07

OFFICIAL SEAL
NOTARY PUBLIC STATE OF ILLINOIS
MY COMMISSION EXP. JAN. 29, 2007

[NOTARY SEAL]

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EXHIBIT "A"

[Legal Descriptions of all Sites listed on Page 1]

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SCHEDULE I

List of Existing Loan Documents of Record

1. Real Estate Mortgage and Security Agreement dated November 8, 2004 and recorded as Document No: 0432434109, Cook County, Illinois Records.
2. Assignment of Lessor's Interest in Lease dated November 8, 2004, and recorded as Document No: 0432434110, aforesaid records.
3. Assignment of Purchase Price dated November 8, 2004, and recorded as Document No.: 0432434111, aforesaid records.

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Shamrock-Addison #2014

EXHIBIT A LEGAL DESCRIPTION

Lot 3 and 4 in Green Mill Gardens Assessment plat, being a subdivision of part of Owner's Lake Street Addition to Addison, a subdivision in the South 1/2 of Section 20, Township 40 North, Range 11, East of the Third Principal Meridian, recorded as document 189437 and a part of Owner's Assessment Plat of Part of the South 1/2 of Section 20, Township 40 North, Range 11, East of the Third Principal Meridian, recorded as Document 264322, according to the plat there of recorded May 16, 1956 as Document 800540, in DuPage County, Illinois. More particularly described as follows: Beginning at an Iron pipe at the Southeast corner of said Lot 3; Thence North 60 degrees 45 minutes 00 Seconds West (record) 99.96 feet along the Southerly line of said Lots 3 and 4 to an Iron Pipe at the Southwesterly corner of Lot 4; Thence North 27 degrees 54 minutes 41 seconds East 256.89 feet along the Westerly line of said Lot 4 to an Iron Pipe on the Southerly Line of Lake Street to an Iron Pipe on the Easterly line of said Lot 3; thence South 27 degrees 55 minutes 13 seconds West 237.41 feet along the Easterly line of said Lot 3 to the Point of Beginning. In DuPage County, Illinois. Excepting from said land the building described in said land, taken in condemnation Case No. 2005-ED00022, Circuit Court of DuPage County, Illinois. Excepting therefrom the following parts of said land, taken in condemnation proceedings Case No. 2005ED00022, Circuit Court of DuPage County, Illinois, described as follows:

That part of Lots 3 and 4 in Green Mills Assessment Plat in the South Half of Section 20, Township 40 North, Range 11, East of the Third Principal Meridian, according to the plat there of recorded May 16, 1956 as document number 800540, in DuPage County, Illinois, described as follows: Beginning at the Northwest corner of said Lot 3; thence on an assumed bearing of South 60 degrees 52 minutes 26 seconds East along the Northerly line of said Lots 3 and 4, a distance of 99.98 feet (100 feet, recorded) to the Northeast corner of Lot 4; thence on 28 degrees 01 minute 20 seconds West along the Easterly line of said Lot 4, a distance of 12.52 feet; thence North 49 degrees 49 minutes 42 seconds West, a distance of 99.98 feet to the Westerly line of said Lot 3; thence North 28 degrees 01 minute 16 seconds East along the Westerly line of said Lot 3, a distance of 12.44 feet to the point of beginning.

DuPage County Clerk's Office

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Shamrock-Berwyn #2433

**EXHIBIT A
LEGAL DESCRIPTION**

LOTS 9 AND 10 IN BLOCK 49 IN SUBDIVISION OF BLOCKS 45 AND 47 TO 52 IN CIRCUIT COURT PARTITION OF SECTION 31/32, TOWNSHIP 39 NORTH, RANGE 13 AND PARTS OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 13 AND SECTIONS 1/12, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT AFORESAID, SAID CORNER REFERENCED BY A CROSS CUT IN THE SIDEWALK 2 FEET SOUTH; THENCE SOUTH $90^{\circ}00'00''$ WEST (ASSUMED) 124.29 FEET ALONG THE SOUTH LINE OF LOT 9 ALSO THE NORTH LINE OF 3761 S. 10TH TO THE SOUTHWEST CORNER OF LOT 9, SAID CORNER REFERENCED BY CROSSES CUT IN THE SIDEWALK 2 FEET SOUTH, 2 FEET WEST AND WEST; THENCE NORTH $0^{\circ}14'43''$ WEST 155.47 FEET ALONG THE WEST LINE OF LOTS 9 AND 10 ALSO BEING THE EAST LINE OF HOME AVENUE TO THE NORTHWEST CORNER OF LOT 10, SAID CORNER REFERENCED BY CROSSES CUT IN THE SIDEWALK 2 FEET NORTH AND 2 FEET NORTH AND WEST OF SAID CORNER; THENCE SOUTH $11^{\circ}56'14''$ EAST ALONG THE NORTHERLY LINE OF LOT 10 ALSO BEING THE SOUTHERLY LINE OF OGDEN AVENUE TO THE NORTHEAST CORNER OF LOT 10, SAID CORNER REFERENCED BY A CROSS CUT IN THE SIDEWALK 2 FEET NORTH OF SAID CORNER; THENCE SOUTH $0^{\circ}13'11''$ EAST ALONG THE EAST LINE OF LOTS 9 AND 10 ALSO BEING THE WEST LINE OF A 16 FOOT PUBLIC ALLEY TO THE POINT OF BEGINNING.

Pin numbers: 16-81-312-001
-002

Cook County Clerk's Office