

# UNOFFICIAL COPY



**THIS INSTRUMENT PREPARED BY  
AND RETURN TO:**

David J. O'Keefe  
**Schain, Burney, Ross & Citron, Ltd.**  
222 North LaSalle Street  
Suite 1910  
Chicago, Illinois 60601

Doc#: 0614339033 Fee: \$38.50  
Eugene "Gene" Moore RHSP Fee:\$10.00  
Cook County Recorder of Deeds  
Date: 05/23/2006 10:59 AM Pg: 1 of 8

## JUNIOR MORTGAGE

**THIS JUNIOR MORTGAGE** ("Mortgage") is made as of the 12 day of May, 2006 by **MARTIN F. MURRAY**, individually, and **ELIZABETH A. MURRAY**, individually (collectively, "Mortgagor"), in favor of **JAMES E. MALACKOWSKI** with a mailing address of 330 West Wellington Avenue, Chicago, Illinois 60657 ("Mortgagee").

**WHEREAS**, Mortgagor is indebted to Mortgagee in the principal sum of **ONE HUNDRED THOUSAND AND 00/100 DOLLARS (\$100,600.00)**, which indebtedness ("Loan") is evidenced by Mortgagor's Mortgage Note dated of even date herewith (along with all modifications, substitutions, extensions and renewals thereof the "Note") providing for repayment of principal and providing for a final payment of all sums due thereunder, if not sooner paid, on **May 12, 2007**.

**WHEREAS**, as a precondition to Mortgagee disbursing the Loan to Mortgagor, Mortgagee has required that Mortgagor pledge and mortgage the Property (as defined below) as and for security for the repayment of the Note.

**NOW, THEREFORE, TO SECURE** to Mortgagee the repayment of the indebtedness evidenced by the Note, the payment of all charges provided herein and all other sums, and the performance of the covenants and agreements contained herein and in the Note (collectively the "Indebtedness") and also in consideration of Ten Dollars (\$10.00), the receipt and sufficiency of which are hereby acknowledged, Mortgagor does hereby convey, grant, mortgage and warrant to Mortgagee the real estate ("Property") located in the County of Cook, State of Illinois and described on Exhibit "A" attached hereto, subject only to covenants, conditions, easements and restrictions set forth on Exhibit "B", if any ("Permitted Encumbrances");

To have and to hold the Property unto the Mortgagee, its successors and assigns forever, for the purposes and uses set forth herein, free from all rights and benefits under any Homestead Exemption laws of the state in which the Property is located, which rights and benefits Mortgagor does hereby expressly release and waive.

Mortgagor and Mortgagee covenant and agree as follows:

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1. Payment of Principal. Mortgagor shall promptly pay or cause to be paid when due all Indebtedness.
2. Application of Payments. All payments received by Mortgagee under this Mortgage and the Note shall be applied by Mortgagee first to any interest payable on the Note, then to Note principal.
3. Prior Encumbrances; Liens. Mortgagor shall perform all of Mortgagor's obligations under any mortgage, deed of trust or other security agreement (collectively "Prior Encumbrances") creating a lien having priority over this Mortgage, including Mortgagor's covenants to make payments when due. Any act or omission of Mortgagor which, with the giving of notice or the passage of time would constitute a default or event of default under any Prior Encumbrance shall be an Event of Default under this Mortgage. Mortgagor shall promptly deliver to Mortgagee all notices given or received of any defaults or events of default under any Prior Encumbrance or any ground lease. Mortgagor shall keep the Property free from mechanics' and all other liens and encumbrances, except Permitted Encumbrances and statutory liens for real estate taxes and assessments not yet due and payable.
4. Taxes and Assessments. Mortgagor shall pay or cause to be paid when due all real estate taxes and assessments attributable to the Property. Mortgagor shall provide evidence satisfactory to Mortgagee of compliance with these requirements promptly after the respective due dates for payment. Mortgagor shall pay, in full, but under protest in the manner provided by Statute, any tax or assessment Mortgagor desires to contest.
5. Insurance. Mortgagor, at its sole cost and expense, shall keep insured the Property with All-Risk Insurance against loss to the Property and Workers' Compensation Insurance during the construction of or making of any improvements to the Property; and General Public Liability Insurance against death, bodily injury and property damage arising in connection with the Property. The All-Risk and General Public Liability Insurance shall name Mortgagee as a mortgagee-loss payee and shall be in amount not less than the fair market value of the Property. The insurance shall be evidenced by certificates of insurance.
6. Use, Preservation and Maintenance of Property. Mortgagor shall keep the Property in good condition and repair and shall not commit waste or permit impairment or deterioration of the Property. Mortgagor shall not allow store, treat or dispose of Hazardous Material, nor permit the same to exist or be stored, treated or disposed of, from or upon the Property. Mortgagor shall comply with all requirements of law or municipal ordinances with respect to the use, operation, and maintenance of the Property, including all environmental, health and safety laws and regulations, and shall make no material alterations in the Property, except as required by law, without the prior written consent of Mortgagee.

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7. Successors and Assigns Bound; Joint and Several Liability; Co-signers. The covenants and agreements contained herein shall bind, and the rights hereunder shall inure to, the respective heirs, executors, legal representatives, successors and assigns of Mortgagee and Mortgagor. If this Mortgage is executed by more than one Mortgagor, each Mortgagor shall be jointly and severally liable hereunder.

8. Notice. Except for any notice required under applicable law to be given in another manner, any notices required or given under this Mortgage shall be given by personal delivery, by nationally-recognized overnight courier service, or by certified mail-return receipt requested. Notices shall be given to Mortgagor at the address provided below and to Mortgagee at Mortgagee's address stated above. Notices shall be deemed to have been given and effective on the date of delivery if hand-delivered, the next business day after delivery to the nationally-recognized overnight courier service if by such courier service, or two (2) business days after the date of mailing shown on the certified receipt, if mailed. Any party hereto may change the address to which notices are given by notice as provided herein. Notices to Mortgagor shall be sent to:

Martin F. Murray  
1005 Greenleaf Avenue  
Wilmette, Illinois 60091-2706

9. Governing Law; Severability. The state and local laws applicable to this Mortgage shall be the laws of the jurisdiction in which the Property is located. The foregoing sentence shall not limit the applicability of federal law to this Mortgage. In the event that any provision or clause of this Mortgage, the Note or any of the other Loan Documents conflicts with applicable law, or is adjudicated to be invalid or unenforceable same shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision, and to this end the provisions of this Mortgage or the Note are declared to be severable and the validity or enforceability of the remainder of the document in question shall be construed without reference to the conflicting, invalid or unenforceable clause or provision.

10. Prohibitions on Transfer of the Property. It shall be an immediate default if, without the prior written consent of Mortgagee, Mortgagor shall create, effect or consent to or shall suffer or permit any conveyance or sale of the Property or any part thereof or interest therein (a "Prohibited Transfer"). In the event of such default, Mortgagee may declare the entire unpaid balance, including interest, immediately due and payable.

11. Event of Default. Each of the following shall constitute an event of default ("Event of Default") under this Mortgage:

(a) Mortgagor's failure to pay any amount due herein or secured hereby, or any installment of principal or interest when due and payable, whether at maturity or by acceleration or otherwise under the Note, or any other Loan Document or Mortgagor's failure to pay any amount due under this Mortgage, which failure continues for more than three (3) days after written notice by Mortgagee to Mortgagor of such failure;

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(b) Mortgagor's failure to perform or observe any other covenant, agreement, representation, warranty or other provision contained in the Note, this Mortgage (other than an Event of Default described elsewhere in this Paragraph 11) or any other document or instrument evidencing, guarantying or securing the Indebtedness, and such failure continues for more than thirty (30) days after written notice from Mortgagee; provided, however, that if such Default or Event of Default is not capable of being cured within said thirty (30) days, Mortgagor commences to cure such Default or Event of Default within said thirty (30) days and thereafter Mortgagor diligently prosecutes the cure of such Default or Event of Default, Mortgagor shall have such additional time as is reasonably necessary to cure such Default or Event of Default;

(c) the occurrence of any breach of any representation or warranty contained in this Mortgage;

(d) the occurrence of a Prohibited Transfer;

(e) the abandonment of the Property by Mortgagor; or

(g) a default or event of default under the terms and conditions of the Prior Encumbrances.

12. Acceleration; Remedies. At any time after an Event of Default, Mortgagee, at Mortgagee's option, may declare all sums secured by this Mortgage to be immediately due and payable without further demand and may foreclose this Mortgage by judicial proceeding. Mortgagee shall be entitled to collect in such proceeding all expenses of foreclosure, including, but not limited to, reasonable attorneys' fees and costs including abstracts and title reports, all of which shall become a part of the secured indebtedness and immediately due and payable, with interest at the Default Interest Rate (as defined in the Note). The proceeds of any foreclosure sale of the Property shall be applied as follows: first, to all costs, expenses and fees incident to the foreclosure proceedings; second, as set forth in Paragraph 2 of this Mortgage; and third, any balance to Mortgagor.

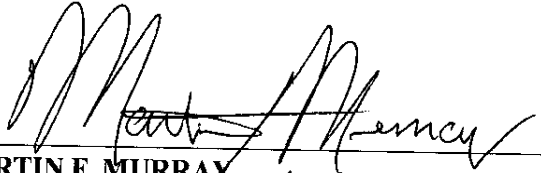
13. Release. Upon payment of all Indebtedness, Mortgagee shall release this Mortgage upon payment by Mortgagor of all costs and fees to release same, if any. Mortgagor shall be responsible for recording the release, including all related costs of recordation.

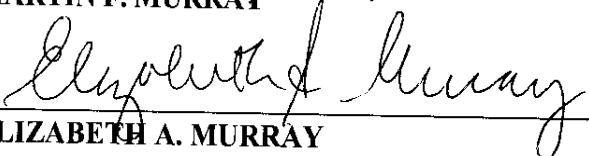
14. Environmental Compliance. Mortgagor hereby covenants and agrees with Mortgagee that the Property and Mortgagor shall comply with all Environmental Laws. All required governmental permits and licenses shall be obtained and maintained, and Mortgagor shall comply therewith. All Hazardous Material on the Property will be disposed of in a lawful manner without giving rise to liability under any Environmental Laws. Other than Disclosed Material, no Hazardous Material shall be introduced to or used, exposed, released, emitted, discharged, generated, manufactured, sold, transported, handled, stored, treated, reused, presented, disposed of or recycled on the Property without thirty (30) days' prior written notice to Mortgagee, except for *de minimis* amounts used in the ordinary course of construction.

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15. Interpretation. This Mortgage shall be construed pursuant to the laws of the State of Illinois. The headings of sections and paragraphs in this Note are for convenience only and shall not be construed in any way to limit or define the content, scope, or intent of the provisions. The use of singular and plural nouns, and masculine, feminine, and neuter pronouns, shall be fully interchangeable, where the context so requires. If any provision of this Mortgage, or any paragraph, sentence, clause, phrase or word, or the application thereof, in any circumstances, is adjudicated to be invalid, the validity of the remainder of this Mortgage shall be construed as if such invalid part were never included. Time is of the essence of the payment and performance of this Mortgage.

**IN WITNESS WHEREOF**, Mortgagor has executed this Mortgage.

  
\_\_\_\_\_  
**MARTIN F. MURRAY**

  
\_\_\_\_\_  
**ELIZABETH A. MURRAY**

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## EXHIBIT "B"

### PERMITTED ENCUMBRANCES

1. General real estate taxes not yet due and payable.
2. Mortgage in favor of Washington Mutual dated March 29, 2004 and recorded with the Cook County Recorder on April 14, 2004 as Document No. 0410505285.
3. Mortgage in favor of Bridgeview Bank Group dated April 28, 2004 and recorded with the Cook County Recorder on May 11, 2004 as Document No. 0413201231.

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