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Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 06/21/2007 02:15 PM Pg: 1 of 8

Steven F. Ginsberg, Esq.  
Levenfeld Pearlstein, LLC  
2 North LaSalle Street  
Suite 1300  
Chicago, Illinois 60602

## ASSIGNMENT OF RENTS AND LEASES

ASSIGNMENT, made this 15<sup>th</sup> day of June, 2007.

### RECITALS:

- A. MONTESANO CAPITAL MANAGEMENT HOLDINGS, LLC-8707 SKOKIE, SERIES XXXI, a designated series of Montesano Capital Management Holdings, LLC, an Illinois limited liability company whose address is 330 E. Main Street, 3<sup>rd</sup> Floor, Barrington, Illinois 60010 (the "Owner"), is present owner in fee simple of real property located in the Village of Skokie, Cook County, Illinois, described as follows:

Commonly Known As: 8707 Skokie Boulevard, Skokie, Illinois  
Parcel I.D. #: 10-22-100-013-0000; 10-22-100-014-0000; 10-22-100-015-0000;  
and 10-22-100-040-0000

- B. NATIONAL CITY BANK (the "Bank") has made or agreed to make a certain loan or loans in the principal sum of \$6,162,500.00 (collectively, the "Loan") secured in part by an assignment of leases covering all or a portion of the property described above (the "Property"); and
- C. From time to time Owner may enter into Interest Rate Protection Agreements with Bank, which are defined as: (i) any agreement, device or arrangement designed to protect Owner from fluctuations of interest rates, exchange rates or forward rates, including, but not limited to, dollar-denominated or cross-currency exchange agreements, forward currency exchange agreements, interest rate caps, collars or floors, forward rate currency or interest rate options, puts, warrants, swaps, swap options, U.S. Treasury locks and U.S. Treasury options; (ii) any other interest rate hedging transactions, such as, but not limited to, managing the Owner's interest rate

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risk associated with any pending or potential capital market transactions such as fixed rate bond issues; and (iii) any and all cancellations, buybacks, reversals, terminations or assignments of any of the foregoing (the "Interest Rate Protection Agreements"); and

- D. A part or all of the Property has been demised under leases (the "Leases") between Owner and certain tenants now or hereinafter existing at the Property (the "Lessees"); and
- E. The Bank, as a condition to making or renewing the Loan, requires an assignment of all the rights, interest and privileges, which the Owner has and may have in any lease or leases, now existing or hereafter made, affecting the Property, or any part thereof, with all rents, income and profits due and becoming due therefrom, including, but not limited to, the Lease, and the rents, issues and profits therein provided, as additional security for (i) payment of any and all sums, indebtedness and liabilities of any kind now or hereafter owing by and due from Owner to Bank, (ii) payment and performance of all present and future obligations and indebtedness of any kind and nature due or to become due from Owner to Bank, whether direct, indirect, primary, secondary, fixed or contingent, together with interest and charges and, (iii) if applicable, payment and performance of Owner's obligations under the Interest Rate Protection Agreements (collectively, the "Obligations").

NOW, THEREFORE, in consideration of the foregoing and for good and valuable consideration, the receipt of which is acknowledged by Owner, Owner hereby assigns, transfers, and sets over unto Bank all the rights, interests and privileges, which the Owner has and may have in any lease or leases, now existing or hereafter made, affecting the Property, or any part thereof, with all rents, income and profits due and becoming due therefrom, including, but not limited to, the Lease, and rents, issues and profits therein provided and all monies due and to become due in connection with the exercise by the Lessee of any option, if any, to purchase the Property, all as additional security for the Obligations.

1. Owner covenants and agrees to and with Bank that Owner will not without the prior written consent of Bank:
- (a) Cancel or forfeit the Leases (by summary proceedings or otherwise);
  - (b) Accept a surrender thereof;
  - (c) Reduce the rent;
  - (d) Modify the Leases in any way, either orally or in writing;
  - (e) Grant any concession, in connection with the Leases, either orally or in writing;

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- (f) Consent to an assignment of the Lessees' interest in the Leases, or to a sub-letting;
  - (g) Collect, or accept payment of, rent under the Leases in advance, except as required to be paid in advance by the terms of the Leases; or
  - (h) Subordinate, or consent to subordination of the interest of the Lessees in the Leases; and any of the above acts, if done without the prior written consent of Bank, shall be null and void.
2. Bank, by acceptance of this assignment, covenants and agrees to and with the Owner, that, until a default shall occur in the performance of Owner's covenants or in making of the payments under the Obligations, or in the terms and conditions of the Obligations, Owner may receive, collect and enjoy the rents, issues, and profits accruing under the Lease; but upon the happening of any default in the performance of the covenants or any default under the Obligations, or any default in the terms and conditions under the Obligations, Bank may, at its option, receive and collect all the said rents, issues, and profits so long as such default or defaults shall exist, and during the pendency of any foreclosure proceedings and during any redemption period; provided, however, that the Bank as a result of the receipt and collection of such rents, issues and profits shall not be deemed an owner or operator of the Property as may be defined in any state or federal environmental law or regulation.
3. Subject to the rights of Owner set forth herein, the assignment contained herein constitutes a present and absolute collateral assignment of all of Lessor's rights, interest and privileges in the lease or leases affecting the Property.
4. Owner, upon the occurrence of any default or defaults under the Obligations, hereby authorizes Bank, at its option, to enter upon the Property, by its officers, agents or employees, for the collection of the rents and for the operation and maintenance of said premises, Owner hereby authorizing the Bank, in general, to perform all acts necessary for the operation and maintenance of the Property in the same manner and to the same extent that Owner might reasonably so act. Bank shall, after payment of all proper charges and expenses, credit the net amount of income which it may receive by virtue of this assignment, to any amounts due Bank from Owner under the Obligations. The manner of application of such net income and the item which shall be credited shall be within the sole discretion of Bank.
5. Owner hereby covenants and warrants to Bank (a) that the Leases, if any, are in full force and effect according to their original terms and that there is no default now existing under the Leases, and (b) that Owner has not (i) executed any prior assignment of any Lease, or the rents thereunder, which is still existing, (ii) performed any acts or executed any other instrument which might prevent Bank from operating under any of the terms or conditions of this Assignment or which would limit Bank in such operation, (iii) executed or granted any modification whatever of any Lease, either

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orally or in writing or consented to subordination of the interest of the Lessee in any Lease.

6. Owner hereby irrevocably authorizes and directs Lessees and any successors to the interest of any Lessee, upon receipt of any written request of Bank stating that a default exists in the payments due under, or in the performance of any of the terms, covenants or conditions of, the Obligations, to pay to Bank the rents due and to become due under the Leases. Owner agrees that Lessees shall have the right to rely upon any such statement and request by Bank that Lessees shall pay such rents to Bank, without any obligation or right to inquire as to whether such default actually exists and notwithstanding any notice from or claim of Owner to the contrary, and that Owner shall have no right or claim against Lessee for any such rents so paid by Lessees to Bank. Upon the curing of all defaults, Bank shall give written notice thereof to Lessees and thereafter, until the possible receipt of any further similar written requests of Bank, Lessees shall pay the rents to Owner.
7. Bank shall have none of the obligations of the Owner under the Leases.
8. The Leases shall remain in full force and effect despite any merger of Owner's and Lessees' interest thereunder.
9. Bank may take security in addition to the security already given Bank for the Obligations, or release such other security, and may release any party primarily or secondarily responsible on the Obligations, may grant or make extensions, renewals, modifications, or indulgences with respect to the Obligations, and replacements or indulgences with respect to the Obligations, and replacements thereof, which replacement of the Obligations, may be on the same or on terms different from the present terms of the Obligations, and may apply any other security thereof held by it to the satisfaction of the Obligations, without prejudice to any of its rights hereunder.
10. Owner shall give Bank prompt notice of any lease of the Property it enters into, if the lease is not described in this Assignment. Such lease shall be deemed included in this Assignment from the date of its execution as though originally described herein.
11. All of the covenants and agreements hereinabove contained on the part of either party shall apply to and bind their heirs, executors, or administrators, successors or assigns. The word "Owner" shall be construed to mean any one or more persons, corporations, firms or parties who are holders of the legal title or equity of redemption and those claiming under or through them to, or in, the Property.
12. This assignment shall be governed by the laws of the State of Illinois. If any clause, provision or section of this assignment be ruled invalid or unenforceable by any court of competent jurisdiction, the invalidity or unenforceability of such clause, provision or section shall not affect any of the remaining provision thereof.

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(Signature page follows)

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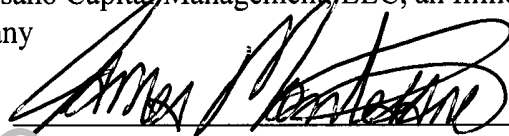
A handwritten signature in black ink, consisting of several stylized, overlapping loops and curves, is written across the diagonal watermark text.

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THE UNDERSIGNED AND BANK ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY MAY BE WAIVED. EACH PARTY, AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF THEIR CHOICE, KNOWINGLY AND VOLUNTARILY, AND FOR THEIR MUTUAL BENEFIT, WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION REGARDING THE PERFORMANCE OR ENFORCEMENT OF, OR IN ANY WAY RELATED TO, THIS ASSIGNMENT OR THE INDEBTEDNESS.

OWNER:

**MONTESANO CAPITAL MANAGEMENT HOLDINGS, LLC-8707 SKOKIE, SERIES XXXI**, a designated series of Montesano Capital Management LLC, an Illinois limited liability company

By:   
Name: James Montesano  
Title: Manager

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STATE OF ILLINOIS)  
  ) SS  
COUNTY OF COOK )

BEFORE ME, a Notary Public in and for said County and State, personally appeared James Montesano, by me known to be the Manager of MONTESANO CAPITAL MANAGEMENT HOLDINGS, LLC-8707 SKOKIE, SERIES XXXI, a designated series of Montesano Capital Management Holdings, LLC, an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Manager of such limited liability company, and who, being duly sworn, stated that he, being authorized so to do, signed and delivered the foregoing Real Estate Mortgage as such Manager of such limited liability company as his own free and voluntary act and as the free and voluntary act of such limited liability company, for the uses and purposes therein set forth.

WITNESS my hand and Notary Seal this 15<sup>th</sup> day of June, 2007.

*Patricia Butler*  
\_\_\_\_\_

Notary Public

My Commission expires: \_\_\_\_\_



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## EXHIBIT A

### LEGAL DESCRIPTION

#### PARCEL 1:

LOTS 17 TO 19, IN EVANSTON GOLF CLUB'S WEST BORDER LOT SUBDIVISION IN THE WEST ½ OF THE NORTHWEST ¼ OF SECTION 22, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 10, 1924 AS DOCUMENT 8503410 IN COOK COUNTY, ILLINOIS

#### PARCEL 2:

THAT PART OF LOT 9 IN THE SUBDIVISION OF THE WEST ½ OF THE NORTHWEST ¼ OF SECTION 22, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 20 IN EVANSTON GOLF CLUB'S WEST BORDER LOT SUBDIVISION; AND RUNNING THENCE EAST, ALONG THE SOUTH LINE OF SAID LOT 20, EXTENDED EAST, A DISTANCE OF 200 FEET, TO THE EXTENSION OF THE EAST LINE OF LOT 24; THENCE SOUTH ALONG THE EAST LINE OF SAID LOT 24, EXTENDED SOUTH, A DISTANCE OF 70 FEET, TO A POINT ON THE SAID LINE, 295 FEET SOUTH OF THE SOUTHEAST CORNER OF SAID LOT 24; THENCE SOUTHWESTERLY 308.25 FEET TO THE SOUTHEAST CORNER OF SAID LOT 17, AS AFORESAID; THENCE NORTH 300 FEET TO THE POINT OF BEGINNING ALL IN COOK COUNTY, ILLINOIS

Common Address: 8707 Skokie Boulevard, Skokie, Illinois 60010

Parcel I.D. #: 10-22-100-013-0000; 10-22-100-014-0000; 10-22-100-015-0000;  
and 10-22-100-040-0000