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Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 01/10/2008 09:24 AM Pg: 1 of 10

This document prepared by and  
after recording return to:  
Blackwell Sanders LLP  
4801 Main Street, Suite 1000  
Kansas City, Missouri 64112  
Attention: Gaylord Smith

10075

## ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT OF LEASES AND RENTS (this "Assignment") is made as of this 26<sup>th</sup> day of December, 2007, by WILLOW FESTIVAL LLC, a Delaware limited liability company ("Borrower"), as assignor, with an address at c/o Hamilton Partners, Inc., 300 Park Boulevard, Suite 500, Itasca, Illinois 60143-2636, Attn: Todd Berlinghof, to and in favor of ALLIANZ LIFE INSURANCE COMPANY OF NORTH AMERICA, as assignee ("Lender"), whose address is c/o Allianz of America, Inc., 55 Greens Farms Road, Post Office Box 5160, Westport, Connecticut 06881-5160.

1. Definitions.

"Property": The real estate described in Exhibit A attached hereto, together with all improvements thereon.

"Leases": All of the leases, present and future, subleases, tenancies, and all guaranties, amendments, extensions and renewals thereof for all or any part of the Property.

"Rents": All of the rents, income, receipts, revenues, issues, and profits, prepayments of the same including, without limitation, lease termination, cancellation or similar fees now due or which may become due or to which Borrower may now or shall hereafter become entitled or which it may demand or claim and arising directly or indirectly from the Leases or the Property.

"Tenant(s)": Any present or future tenant, subtenant or occupant of the Property.

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“Mortgage”: The Leasehold Mortgage, Assignment of Rents, Security Agreement and Financing Statement of even date herewith granted by Borrower to Lender, which encumbers the Property.

All other capitalized terms used herein, unless otherwise specified, shall have the same meaning ascribed to them in the Mortgage.

2. Assignment. Borrower, for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby assign, convey, and deliver unto Lender:

- (a) All of Borrower's right, title and interest in all of the Leases;
- (b) The immediate and continuing right to collect and receive all of the Rents, subject to Paragraph 3 below; and
- (c) Any and all rights and claims of any kind that Borrower may have now or in the future against any Tenant.

TO HAVE AND TO HOLD the same unto Lender, its successors and assigns forever, until termination of this Assignment as hereinafter provided.

3. Absolute Assignment. The parties intend that this Assignment shall be a present, absolute, and unconditional assignment and shall, immediately upon execution, grant, convey and assign to Lender an immediate interest in both present and future Leases and Rents and the right to collect the Rents and to apply them in payment of the principal, interest and all other sums payable under the Loan Documents. Such assignment and grant shall continue in effect until the Indebtedness is paid in full. Subject to the provisions set forth herein and in the Mortgage and provided there does not then exist an “Event of Default” (as hereafter defined), Lender grants to Borrower a license (i) to collect, but not prior to accrual, all of the Rents, and to retain, use and enjoy the same, and (ii) to enforce the Leases. Any security deposits received by Borrower prior to an Event of Default shall be assigned and paid over to Lender immediately upon the occurrence of the Event of Default. Any Rents which accrue prior to an Event of Default, but are paid after the occurrence and during the continuance of an Event of Default, shall be paid to Lender. Borrower further agrees that Lender may enforce this Assignment without first resorting to or exhausting any security or collateral for the Loan; however, nothing herein contained shall prevent Lender from exercising any other right under any of the Loan Documents.

4. Consideration. This Assignment is made for and in consideration of the Loan made by Lender to Borrower as set forth in the Loan Documents and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged.

5. Indemnity. Borrower hereby agrees to indemnify Lender and to hold Lender harmless from any liability, loss or damage including, without limitation, attorneys' fees, costs and expenses which may or might be incurred by Lender under the Leases or by reason of this Assignment, and from any and all claims and demands which may be asserted against Lender by reason of any term, covenant or agreement contained in any of the Leases, except such matters as

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may arise directly as a result of Lender's gross negligence or willful misconduct, or which arise after Lender has acquired ownership of the Property.

6. Performance of Lease Covenants. Lender may, at its option, after the occurrence of an Event of Default perform any Lease covenant for and on behalf of Borrower, and all monies expended in so doing shall be chargeable to Borrower and added to the outstanding principal balance and shall be immediately due and payable.

7. Representations and Warranties. Borrower represents and warrants to Lender that:

- (a) The Leases are in full force and effect and have not been modified;
- (b) To the best of Borrower's knowledge, there are no defaults, defenses or setoffs of either landlord or tenant under the Leases nor is there any fact which, with the giving of notice or lapse of time or both, would constitute a default under the Leases;
- (c) Except for the assignment granted hereby, the sole ownership of the entire landlords' interest in the Leases is vested in Borrower and the Leases have not been otherwise assigned or pledged; and
- (d) All Rents due to date have been collected, no Rent has been collected more than one month in advance, and except to the extent set forth in the Leases on the date of this Assignment, no Tenant has been granted any Rent concession or inducement whatsoever, except as provided in the Leases.

8. Covenants and Agreements. Borrower hereby covenants and agrees as follows:

- (a) Borrower shall not hereafter permit any Rent under any Lease of the Property to be collected more than thirty (30) days in advance of the due date thereof.
- (b) Borrower shall act promptly to enforce all available remedies against any delinquent Tenant in a commercially reasonable manner to protect the interest of the landlord under the Leases and to preserve the value of the Property.
- (c) Borrower shall comply with and perform in a complete and timely manner all of its obligations as landlord under all Leases. Borrower shall give notice to Lender of any default by Borrower under any Lease or by any Tenant under any Lease in such time to afford Lender an opportunity to cure any such default prior to the Tenant having any right to terminate the Lease. Borrower shall also provide Lender with notice of the commencement of an action of ejectment or any summary proceedings for dispossession of the Tenant under any of the Leases.
- (d) Borrower shall furnish promptly to Lender certified copies of all Leases now existing or hereafter created. Lender shall have the right to notify any Tenant at any time and from time to time of any provision of the Loan Documents.
- (e) Borrower shall not, without the prior consent of Lender (which shall not be unreasonably delayed) (i) lease or otherwise permit the use of all or any portion of the

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Property greater than 10,000 square feet ("Major Lease") on terms less favorable to Borrower than the Major Leases in effect on the date of this Assignment, or (ii) amend, modify or terminate any Major Lease which would reduce or delay the rent payable thereunder or shorten the term of such Major Lease. At Lender's request, Borrower shall cause the Tenant under any Lease to execute a subordination, attornment and nondisturbance agreement in form and substance satisfactory to Lender.

(f) Borrower shall not without the prior written consent of Lender: (i) perform any act or execute any other instrument which might interfere with the exercise of Lender's rights hereunder; (ii) execute any assignment, pledge or hypothecation of Rents or any of the Leases; (iii) suffer or permit any of the Leases to become subordinate to any lien other than the lien of the Mortgage, except for leasehold mortgages of the Leases as specifically permitted in the Leases.

(g) This Assignment transfers to Lender all of Borrower's right, title, and interest in any security deposits under the Leases, which security deposits shall be paid to Lender and held by Lender in accordance with the terms of the Leases upon the occurrence of an Event of Default. Lender shall have no obligation to any Tenant with respect to its security deposit unless and until Lender comes into possession and control of the deposit.

(h) Borrower shall deliver to Lender, promptly upon request, to the extent permitted under the terms of the Leases, a duly executed estoppel certificate from any Tenant in form and content satisfactory to Lender, or as may be provided in exhibits to the Leases.

9. No Obligation. This Assignment shall not be deemed to impose upon Lender any of the obligations or duties of the landlord or Borrower provided in any Lease. Borrower hereby acknowledges and agrees: (i) Borrower is and will remain liable under the Leases to the same extent as though this Assignment had not been made; and (ii) Lender has not by this Assignment assumed any of the obligations of Borrower under the Leases, except as to such obligations which arise after such time as Lender shall have assumed full ownership or control of the Property. This Assignment shall not make Lender responsible for the control, care, management, or repair of the Property or any personal property or for the carrying out of any of the terms of the Leases until Lender has acquired full ownership of the Property, except to the extent caused by the gross negligence or willful misconduct of Lender. Lender shall not be liable in any way for any injury or damage to person or property sustained by any person or persons, firm, or corporation in or about the Property, except to the extent caused by the gross negligence or willful misconduct of Lender.

10. Tenant Bankruptcy. In the event any Tenant should be the subject of any proceeding under the Federal Bankruptcy Code or any other federal, state, or local statute which provides for the possible termination or rejection of any Lease, Borrower covenants and agrees that no settlement for damages shall be made without the prior written consent of Lender.

11. Default. Upon the occurrence of an Event of Default (as defined in the Mortgage), or if Borrower fails to comply with any covenant or agreement contained in this Assignment

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within the period, if any, provided in the Mortgage for the cure of such or similar defaults (an “Event of Default”), then without notice to, or the consent of, Borrower, Lender shall have any and all rights and remedies contained in this Assignment or in any other Loan Document or otherwise available at law or in equity including, without limitation, the right to do any one or more of the following:

- (a) To enter upon, take possession of and manage the Property for the purpose of collecting the Rents;
- (b) Dispossess by the usual summary proceedings any Tenant defaulting in the payment thereof to Borrower;
- (c) Lease the Property or any part thereof, subject to the then existing Leases;
- (d) Repair, restore, and improve the Property;
- (e) Apply the Rent after payment of Property expenses as determined by Lender to Borrower's indebtedness under the Loan Documents; and
- (f) Apply to any court of competent jurisdiction for specific performance of this Assignment, an injunction against the violation hereof and/or the appointment of a receiver.

12. No Waiver. Neither the exercise of any rights under this Assignment by Lender nor the application of any Rents to payment of Borrower's indebtedness under the Loan Documents shall cure or waive any event of default under the Loan Documents. Failure of Lender to avail itself of any of the terms of this Assignment for any period of time or for any reason shall not constitute a waiver of the Assignment.

13. Other Documents. This Assignment is intended to be supplementary to, not in substitution for, or in derogation of, any assignment of rents contained in the Mortgage or in any of the Loan Documents.

14. Notices. Any notice or other communication required or permitted to be given shall be in writing addressed to the respective party as set forth in the Mortgage.

15. Limited Liability. This Assignment and all of Borrower's obligations and liabilities hereunder are subject to the provisions of Paragraph K of the Note entitled “Limited Recourse”, which are incorporated herein by this reference.

16. Jury Trial Waiver. Borrower, and Lender by acceptance of this Assignment, waive the right to a trial by jury in any action or proceeding based upon, or related to, the subject matter of this Assignment and the business relationship that is being established. This waiver is knowingly, intentionally, and voluntarily made by Borrower and Lender, and Borrower acknowledges that neither Lender nor any person acting or behalf of Lender has made any representations of fact to include this waiver of trial by jury or has taken any actions which in any way modify or nullify its effect. Borrower acknowledges that this waiver is a material inducement to enter into a business relationship, that Borrower and Lender have already relied

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on the waiver in entering into this Assignment and that each of them will continue to rely on the waiver in their related future dealings. Borrower further acknowledges that it has been represented (or has had the opportunity to be represented) in the signing of this Assignment and in the making of this waiver by independent legal counsel.

17. Assignment by Lender. Lender may assign its right, title and interest in the Leases and any subsequent Lender shall have all of the rights and powers provided to Lender by this Assignment.


[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK, SIGNATURE PAGE FOLLOWS]

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IN WITNESS WHEREOF, Borrower has executed this Assignment or has caused the same to be executed by its duly authorized representatives as of the date first set forth above.

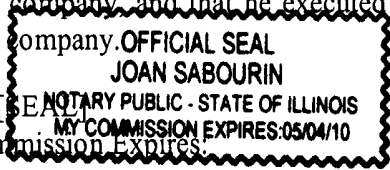
WILLOW FESTIVAL LLC,  
a Delaware limited liability company

By: HP Willow LLC, an Illinois limited liability  
company, its sole member

By:   
TODD BERLINGHOF, Managing Member

STATE OF ILLINOIS )  
 ) ss.  
COUNTY OF DU PAGE )

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of December, 2007, by TODD BERLINGHOF, who stated that he is a Managing Member of HP Willow LLC, an Illinois limited liability company, the sole member of Willow Festival LLC, a Delaware limited liability company, and that he executed the foregoing instrument on behalf of the said limited liability company.



  
Notary Public

My Commission Expires: 05/04/10

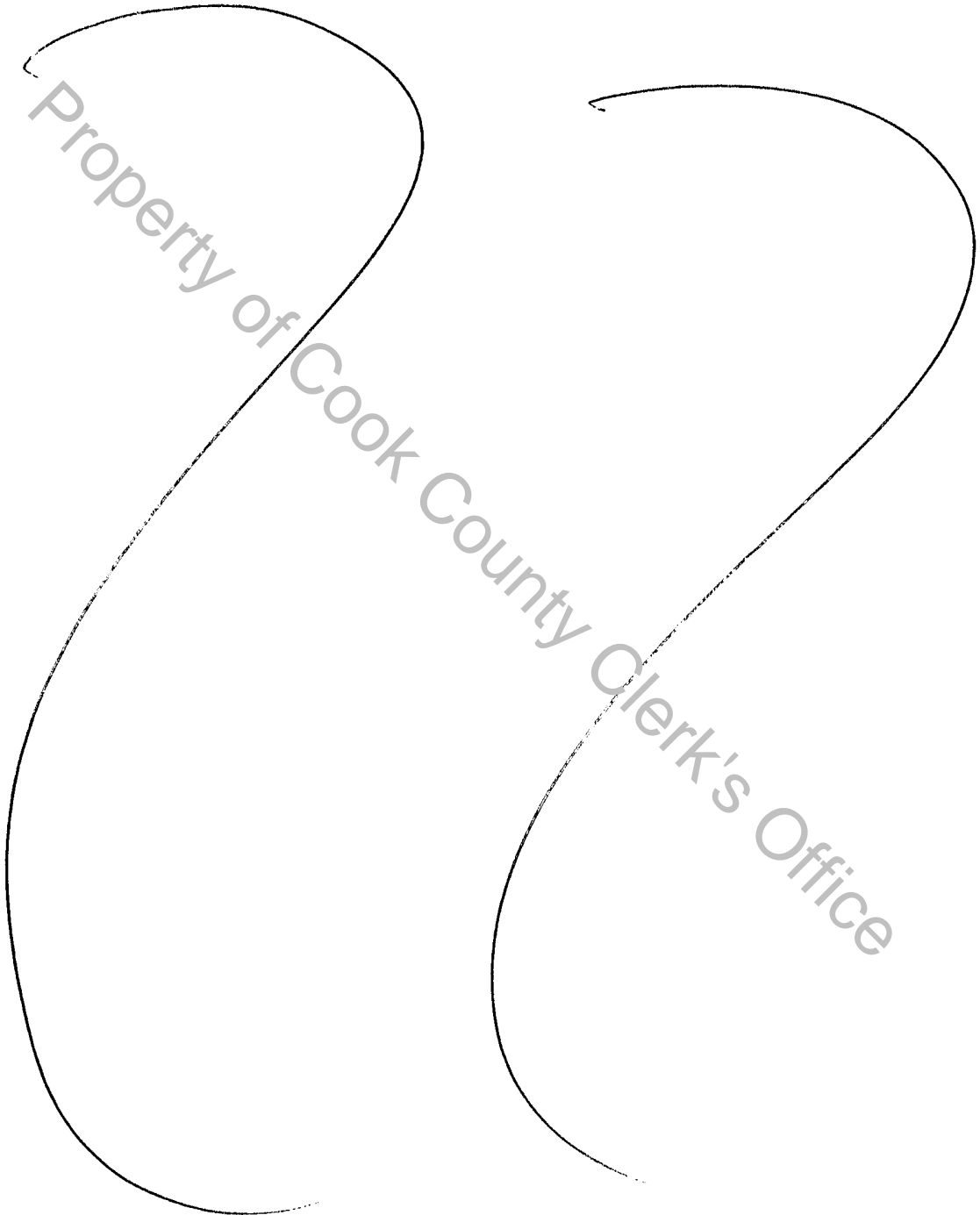
Name: JOAN SABOURIN

Exhibit A – Legal Description

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EXHIBIT A  
Legal Description

*see attached*





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## EXHIBIT A

### Legal Description

THE ESTATE OR INTEREST IN THE LAND DESCRIBED BELOW AND COVERED HEREIN IS: THE LEASEHOLD ESTATE CREATED BY THE INSTRUMENT HEREIN REFERRED TO AS A MEMORANDUM OF AMENDED AND RESTATED GROUND LEASE MADE BY AND BETWEEN CHICAGO TITLE LAND TRUST COMPANY AS SUCCESSOR TRUSTEE TO COLE TAYLOR BANK AS TRUSTEE UNDER TRUST AGREEMENT DATED AUGUST 1, 2002 AND KNOWN AS TRUST NUMBER 99-8164 AND FCL WILLOW & WAUKEGAN LLC, AN ILLINOIS LIMITED LIABILITY COMPANY DATED SEPTEMBER 15, 2005 AND RECORDED SEPTEMBER 30, 2005 AS DOCUMENT 0527312183, ASSIGNMENT AND ASSUMPTION AGREEMENT RECORDED MAY 10, 2005 AS DOCUMENT 0613045065, WHICH LEASE DEMISES THE FOLLOWING DESCRIBED LAND FOR A TERM OF YEARS BEGINNING AUGUST 1, 2002 AND ENDING DECEMBER 31, 2101.

PARCEL 1 (SE-1A-2).

LOT SE-1A IN TECHNY PARCEL SE-1 SUBDIVISION, BEING A SUBDIVISION OF PART OF THE SOUTHWEST 1/4 OF SECTION 14, AND PART OF THE NORTHWEST 1/4 OF SECTION 23, AND PART OF THE NORTHEAST 1/4 OF SECTION 23, ALL IN TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, TO THE FINAL PLAT OF SUBDIVISION OF TECHNY PARCEL SE-1 RECORDED ON DECEMBER 22, 2000, AS DOCUMENT NUMBER 01007540, IN COOK COUNTY, ILLINOIS;

EXCEPT THAT PART DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHERLY CORNER OF SAID LOT SE-1A; THENCE SOUTHERLY ALONG THE EASTERLY LINE OF SAID LOT SE-1A THE FOLLOWING THREE (3) COURSES AND DISTANCES: 1) SOUTH 29 DEGREES 44 MINUTES 54 SECONDS EAST 472.59 FEET; 2) SOUTH 81 DEGREES 06 MINUTES 17 SECONDS WEST 275.77 FEET; 3) SOUTH 01 DEGREES 07 MINUTES 13 SECONDS WEST 510.84 FEET; THENCE NORTH 88 DEGREES 44 MINUTES 41 SECONDS WEST ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 14, A DISTANCE OF 748.55 FEET TO THE WEST LINE OF SAID LOT SE-1A; THENCE NORTHERLY AND EASTERLY ALONG SAID WEST LINE OF LOT SE-1A, SAID LINE ALSO BEING THE EASTERLY LINE OF HERETOFORE DEDICATED FOUNDERS DRIVE AND SOUTHERLY LINE OF HERETOFORE DEDICATED KAMP DRIVE, THE FOLLOWING FOUR (4) COURSES AND DISTANCES: 1) NORTH 01 DEGREES 18 MINUTES 05 SECONDS EAST 289.90 FEET TO A POINT OF CURVATURE; 2) NORTHERLY ALONG AN ARC OF A CURVE CONCAVE TO THE WEST, HAVING A RADIUS OF 650.00 FEET, HAVING A CHORD BEARING OF NORTH 04 DEGREES 13 MINUTES 34 SECONDS WEST, 125.42 FEET TO A POINT OF REVERSE CURVATURE; 3) NORTHEASTERLY ALONG AN ARC OF A CURVE CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 100.00 FEET, HAVING A CHORD BEARING OF NORTH 25 DEGREES 14 MINUTES 57 SECONDS

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EAST, 122.18 FEET TO A POINT OF TANGENCY; 4) NORTH 60 DEGREES 15 MINUTES 06 SECONDS EAST 864.22 FEET TO THE PLACE OF BEGINNING;

ALSO EXCEPTING THEREFROM ALL THAT PART CONVEYED TO THE STATE OF ILLINOIS DEPARTMENT OF TRANSPORTATION BY DEED RECORDED OCTOBER 14, 2004 AS DOCUMENT 0428849048, TAKEN FOR ROAD WIDENING, ALL IN COOK COUNTY, ILLINOIS

PARCEL 2 (SE-1A-X):

LOT 12 (EXCEPT THAT PART LYING SOUTH OF THE LINE 50 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF THE NORTH 1/2 OF THE NORTH 1/2 OF SECTION 23) IN COUNTY CLERK'S DIVISION OF SECTION 23, TOWNSHIP 42 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE MAP THEREOF RECORDED ON OCTOBER 11, 1876 IN BOOK 11 OF PLATS, PAGE 70 AS DOCUMENT NUMBER 106454 (EXCEPTING THEREFROM ALL THAT PART THEREOF CONVEYED TO THE STATE OF ILLINOIS FOR THE USE OF THE DEPARTMENT OF PUBLIC WORKS AND BUILDINGS BY DEED RECORDED AS DOCUMENT 21157212 TAKEN FOR ROAD PURPOSES, AND ALSO EXCEPTING THEREFROM ALL THAT PART CONVEYED TO THE STATE OF ILLINOIS BY DEED RECORDED OCTOBER 14, 2004 AS DOCUMENT 0248849048, TAKEN FOR ROAD WIDENING), ALL IN COOK COUNTY, ILLINOIS

PARCEL 3:

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY DECLARATION AND GRANT OF EASEMENTS FOR PRIVATE DRIVES AND DRIVEWAYS DATED JANUARY 21, 2000 AND RECORDED APRIL 13, 2000 AS DOCUMENT 00261797 AND BY AMENDED AND RESTATED DECLARATION AND GRANT OF EASEMENTS FOR PRIVATE DRIVES AND DRIVEWAYS RECORDED SEPTEMBER 19, 2005 AS DOCUMENT 0526639112 FOR THE PURPOSE OF VEHICULAR AND PEDESTRIAN INGRESS AND EGRESS OVER FOUNDERS DRIVE.

*pin numbers:*

*04-23-108-001-0000*

*04-23-200-043-0000*