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Doc#: 1209618025 Fee: \$80.00  
Eugene "Gene" Moore RHSP Fee:\$10.00  
Cook County Recorder of Deeds  
Date: 04/05/2012 12:56 PM Pg: 1 of 7

**ASSIGNMENT OF SETTLEMENT AGREEMENT  
AND COVENANT NOT TO SUE**

For value received, JPMORGAN CHASE BANK, N.A. ("Assignor") hereby irrevocably transfers and assigns to CADLEROCK JOINT VENTURE, L.P. ("Assignee") all legal and beneficial right, title and interest in and to that certain **SETTLEMENT AGREEMENT AND COVENANT NOT TO SUE** dated **JUNE 22, 2004**, executed by **GERARD M. KENNY**.

Except as expressly provided in that certain Loan Purchase Agreement between Assignor and Assignee dated as of August 28, 2007, this assignment is made **WITHOUT RECOURSE OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED**.

Signed this 12th day of September 2007.

JPMORGAN CHASE BANK, N.A.,  
SUCCESSOR IN INTEREST TO BANK ONE,  
NA

By

  
Richard R. Howard, Vice President

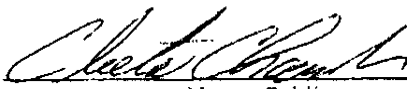
STATE OF OKLAHOMA )

COUNTY OF OKLAHOMA )

On this 12<sup>th</sup> day of September 2007, before me, a Notary Public in and for said County and State, personally appeared Richard R. Howard, to me personally known, who, being by me duly sworn (or affirmed), did say that he is the Vice President of JPMorgan Chase Bank, N.A. and that said instrument was signed and sealed on behalf of JPMorgan Chase Bank, N.A. by authority of its board of directors, and said person acknowledged this instrument to be the free act and deed of JPMorgan Chase Bank, N.A. for the purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year last above written.



  
Notary Public

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This instrument prepared by and after recording should be returned to:

FagelHaber LLC  
55 East Monroe Street  
40<sup>th</sup> Floor  
Chicago, Illinois 60603  
Attention: Victor A. Des Laurier, Esq.

PINS: 17-09-317-006-0000  
17-09-317-007-0000

Common Address: 222 North Canal Street  
Chicago, Illinois 60606



1208616018

Doc#: 1208616018 Fee: \$48.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 03/26/2012 11:57 AM Pg: 1 of 6

This Assignment of Net Proceeds ("Assignment") dated June 22, 2004, is made and executed among Fulton Associates, L.L.C., an Illinois limited liability company ("Fulton"), Gerard M. Kenny, whose address is 775 Sunset Ridge Road, Northfield, Illinois 60093 ("Grantor") and Bank One, N.A. as successor by merger to American National Bank and Trust Company of Chicago, a national banking association whose address is 120 South LaSalle, Chicago, Illinois 60603, Attn: Robert Wilson, Mail Code IL1-1415 ("Lender").

## ASSIGNMENT

For valuable consideration, Fulton and Grantor hereby grant, convey, transfer and assign to Lender a continuing security interest in, and convey to Lender all of Grantor's right, title, and interest in and to the "Net Proceeds" (hereinafter defined) due Grantor from any current or future sale by Fulton of the following described property located in Cook County, State of Illinois ("the Property"):

PARCEL 1: THE EAST 75.88 FEET OF LOT 4 IN BLOCK 23 IN THE ORIGINAL TOWN OF CHICAGO IN SECTION 8, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2: LOT 4 (EXCEPT THE EAST 75.88 AND EXCEPT THAT PART THEREOF TAKEN AND CONDEMNED FOR MILWAUKEE AVENUE) IN BLOCK 23 IN THE ORIGINAL TOWN OF CHICAGO IN SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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This Assignment is given to secure payment of the indebtedness of the Grantor to the Lender ("the Indebtedness") pursuant to that certain Settlement Agreement and Covenant Not to Sue dated the 22<sup>nd</sup> day of June, 2004 (the "Settlement Agreement").

## Net Proceeds

"Net Proceeds" shall mean the gross proceeds received by Fulton upon any current or future sale, conveyance or other transfer of all or a portion of the Property (a "Sale") less (a) all loan payments necessary to satisfy the "Prior Mortgages" (hereinafter defined), less (b) outstanding vendor payables incurred in the ordinary course of Fulton's business, less (c) investor contributions received by Fulton from its members other than the Grantor, and less (d) other normal and customary fees, expenses, deductions and prorations relating to the closing of the Sale. Fulton hereby covenants and agrees to pay the Net Proceeds payable to Grantor directly to Lender contemporaneously with the occurrence of the Sale.

## Grantor's Representations and Warranties

Grantor and Fulton each represent, warrant and covenant unto Lender as follows:

A. Ownership. Fulton is the sole owner of the entire interest in the Property, subject only to prior liens in favor of (1) George Washington Savings Bank, in an amount not to exceed \$2,900,000, and (2) Mr. Mike Keenan and Mrs. Charlene Podolsky, in an amount not to exceed \$500,000 (collectively, the "Prior Mortgages"). Fulton and Grantor hereby covenant unto Lender that, subsequent to the recording of this Assignment, they shall not permit any other mortgage liens, encumbrances, or other liens or security interests to encumber all or any portion of the Property or the Net Proceeds.

B. Existing Liens. Grantor is entitled to receive its portion of the Net Proceeds free and clear of all rights, loans, liens, encumbrances, and claims other than the payment of the Net Proceeds to Lender in accordance with this Assignment.

C. Right to Assign. Fulton and Grantor each has the full right, power and authority to enter into this Assignment and to assign and convey the Grantor's portion of the Net Proceeds to Lender.

D. No Prior Assignment. Neither Grantor nor Fulton has previously assigned or conveyed these rights to any other person by any instrument now in force.

E. No Further Transfer. Grantor will not sell, assign, encumber, or otherwise dispose of any of Grantor's rights in the Net Proceeds except as provided in this Assignment.

F. Full Performance. If Grantor pays all of the indebtedness when due and otherwise performs all the obligations imposed upon Grantor under the Settlement Agreement, Lender shall, at Grantor's expense, execute and deliver to Grantor a suitable satisfaction of this Assignment and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Grantor's portion of the Net Proceeds upon a Sale.

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G. Reinstatement of Security Interest. If payment is made by Grantor, whether voluntarily or otherwise, on the Indebtedness and thereafter Lender is forced to remit the amount of that payment (A) to Grantor's trustee in bankruptcy or to any similar person under any federal or state bankruptcy law or law for the relief of debtors, (B) by reason of any judgment, decree or order of any court or administrative body having jurisdiction over Lender, or (C) by reason of any settlement or compromise of any claim made by Lender with any claimant (including without limitation Grantor), the Indebtedness shall be considered unpaid for the purpose of enforcement of this Assignment and this Assignment shall continue to be effective or shall be reinstated, as the case may be, notwithstanding any cancellation of this Assignment or of any note or other instrument or agreement evidencing the Indebtedness and the Property will continue to secure the amount repaid or recovered to the same extent as if that amount never had been originally received by Lender, and Grantor shall be bound by any judgment, decree, order, settlement or compromise relating to the Indebtedness or to this Assignment.

H. Lender's Expenditures. If Grantor fails to comply with any provision of this Assignment, including but not limited to Grantor's failure to discharge or pay when due any amounts Grantor is required to discharge or pay pursuant to the Settlement Agreement, Lender or Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenses will become a part of the Indebtedness and, at Lender's option, will be payable on demand. This Assignment also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon default.

**Default.** Each of the following, at Lender's option, shall constitute an Event of Default under this Assignment:

1. Failure of the Grantor to pay the amounts due in accordance with the Settlement Agreement.
2. The insolvency of the Grantor, the appointment of a receiver for any part of the Grantor's property, any assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against the Grantor.

**Rights and Remedies on Default.** Upon the occurrence of any Event of Default and at any time thereafter, Lender may, upon prior notice to Grantor, exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

- A. Lender shall have the right at its option, without notice to Grantor, to declare the entire Indebtedness immediately due and payable.
- B. The Lender may exercise any remedies set forth in the Settlement Agreement.
- C. The Lender shall have all other rights and remedies provided for in law or equity.

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- D. Fulton and Grantor agree that Lender shall have full power to use such measures, legal or equitable, in its sole discretion or in the discretion of its successors, division, partners, affiliates, parents or assigns, as may be deemed proper or necessary to enforce the payment of Grantor's portion of the Net Proceeds to Lender in connection with a Sale. Fulton and Grantor each hereby grants to Lender full power and authority to exercise each and every of the rights, privileges, and powers herein granted at any and all times hereafter, without notice to Fulton or Grantor.

**Miscellaneous Provisions.** The following miscellaneous provisions are a part of this Assignment:

A. **Amendments.** This Assignment, and the Settlement Agreement, constitute the entire understanding and agreement of the parties as to the matters set forth in this Assignment. No alteration of or amendment to this Assignment shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

B. **Caption Headings.** Caption headings in this Assignment are for convenience purposes only, and are not to be used to interpret or define the provisions of this Assignment.

C. **Governing Law.** This Assignment will be governed by, construed and enforced in accordance with federal law and the laws of the State of Illinois. This Assignment has been accepted by Lender in the State of Illinois.

D. **Choice of Venue.** If there is a lawsuit, Grantor agrees upon Lender's request to submit to the jurisdiction of the courts of Cook County, Illinois.

E. **Notices.** Any notice required to be given under this Assignment shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Assignment. Any party may change its address for notices under this Assignment by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address.

F. **Severability.** If a court of competent jurisdiction finds any provision of this Assignment to be illegal, invalid, or unenforceable as to any circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Assignment. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Assignment.

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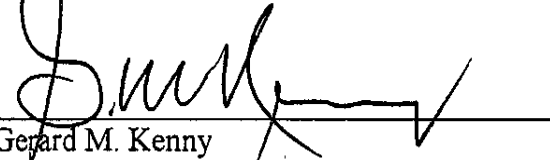
G. Successors and Assigns. Subject to any limitations stated in this Assignment on transfer of Grantor's interest, this Assignment shall be binding upon and inure to the benefit of the parties, their successors and assigns.

H. Time Is of the Essence. Time is of the essence in the performance of this Assignment.

I. Consent to Recording. Fulton and Grantor hereby consent to the recording of this Assignment with the Cook County Recorder of Deeds and further authorize Lender to prepare and file any Uniform Code financing statements that Lender may reasonably determine are necessary to perfect and maintain perfected Lender's interest in Grantor's portion of the Net Proceeds.

THE UNDERSIGNED ACKNOWLEDGE HAVING READ ALL THE PROVISIONS OF THIS ASSIGNMENT, AND AGREE TO BE BOUND BY SAME.

GRANTOR:

  
Gerard M. Kenny

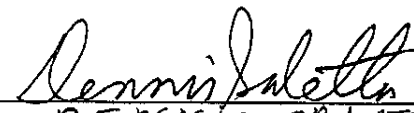
FULTON ASSOCIATES, LLC

By:   
Gerard M. Kenny, Member and Manager  
of Fulton Associates LLC

By:   
Kathleen M. Callahan, Member of  
Fulton Associates LLC

18 effective  
Accepted by Lender as of the date  
first written above.

BANK ONE, NA

By:   
Name: DENNIS SALETTA  
Title: Authorized Officer

Date 3/19 /2012



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## LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF ILLINOIS )  
 ) SS.  
 COUNTY OF DUPAGE )

On this \_\_\_\_\_ day of June, 2004, before me, the undersigned Notary Public, personally appeared Gerard M. Kenny, Member/Manager and Kathleen M. Callahan, Member of Fulton Associates, L.L.C. and known to me to be members or designated agents of the limited liability company that executed the Assignment of Net Proceeds and acknowledged the Assignment to be the free and voluntary act and deed of the limited liability company, by authority of statute, its articles of organization or its operating agreement, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute this Assignment, and in fact executed the Assignment on behalf of the limited liability company.

By: Janet A. Bruner Residing at: 6413 Waterford Ct.  
Wheaton, IL  
 Notary Public in and for the State of ILLINOIS 60521  
 My commission expires \_\_\_\_\_

