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Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



Doc#: 1231334055 Fee: \$66.00
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 11/08/2012 01:42 PM Pg: 1 of 15

Report Mortgage Fraud
800-532-8785

The property identified as: PIN: 29-19-131-003-0000

Address:

Street: 163rd & Dixie Highway

Street line 2:

City: Markham

State: IL

ZIP Code: 60426

Lender: HOLLY SHER

Borrower: 163rd & DIXIE HIGHWAY, LLC

Loan / Mortgage Amount: \$1,400,000.00

The residential property is located within the program area and is exempt from the requirements of 765 ILCS 77/70 et seq. because it is vacant land.

Certificate number: B56E94B1-90CB-40C4-AE9D-77A791F13DED

Execution date: 07/31/2009

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~~2,150,000 2-18-2010~~
2,268,000 2-18-2010 P 72

MORTGAGE

THIS MORTGAGE is made as of July 31, 2009, by 163rd & DIXIE HIGHWAY, LLC, ("Borrower") an Illinois limited liability company, in favor of HOLLY SHER, an individual ("Lender").

WITNESSETH:

Borrower, 163RD & Dixie Highway, LLC, has executed a Note (the "Note") bearing even date herewith in the principal sum of ONE MILLION FOUR HUNDRED THOUSAND DOLLARS (\$1,400,000.00), made payable to Lender, pursuant to which Borrower promises to pay said principal sum and interest at the rate and in the manner provided in the Note at the office of Lender in Lincolnwood, Illinois, or at such other place as Lender or the holder of said Note may from time to time designate in writing.

In consideration of, and as an inducement to, Lender extending the Note to Borrower, and in order to secure the payment of any and all sums due under the Note and any and all extensions, renewals and modifications thereof, and to secure the performance and discharge of all of Borrower's obligations under the Note and the performance of the covenants and agreements herein contained, Borrower does hereby grant, transfer, assign mortgage and convey unto Lender, her successors and assigns forever, the following described property, rights and interests (collectively the "Premises"):

The real estate situated in the County of Cook and State of Illinois, commonly described as 163rd and Dixie Highway, Markham, Illinois, and legally described in Exhibit A attached hereto and made a part hereof.

TOGETHER, with all buildings and improvements of every nature whatsoever now or hereafter constructed upon the Premises or any part thereof (the "Improvements"), and all heretofore or hereafter vacated alleys and streets abutting the Premises, and together with all fixtures now or hereafter installed for use in the operation of the building or buildings now or hereafter constructed on the Premises, including, but not limited to, all lighting, heating, cooling, ventilating, air conditioning, plumbing, sprinkling, communicating and electrical systems, and the machinery, appliances, fixtures, and equipment pertaining thereto, all awnings, water heaters, incinerators and carpeting; and

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TOGETHER, with all rents, issues, profits and leases thereof for so long and during all such times as Borrower, its successors and assigns may be entitled thereto, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments, easements and appurtenances whatsoever, in any way now or hereafter relating or pertaining to the Premises.

TO HAVE AND TO HOLD the Premises, unto Lender, its successors and assigns, forever, for the purpose and uses set forth herein.

BORROWER DOES HEREBY COVENANT AND AGREE AS FOLLOWS:

1. Payment of Principal and Interest. Borrower shall pay the principal and interest due under the Note in accordance with the terms and provisions thereof.

2. Preservation and Maintenance of Property. A. Borrower will abstain from and will not permit the commission of waste on the Premises and will keep the buildings, improvements, fixtures and equipment now or hereafter thereon in good repair and will make replacements thereto as and when the same become necessary. Borrower will promptly notify Lender in writing of the occurrence of any material loss or damage to the Premises. Borrower will not materially alter or make material additions to the buildings, improvements, or fixtures now or hereafter upon the Premises, or remove the same therefrom, or permit any tenants or other person to do so, without the prior written consent of Lender. Borrower will not permit any portion of the Premises to be used for any unlawful purposes. Borrower covenants and agrees that in the ownership, operation and management of the Premises, Borrower will observe and comply with all applicable federal, state and local statutes, ordinances, regulations, orders and restrictions, including, without limitation, all zoning, building code and environmental protection statutes, ordinances, regulations, orders and restrictions. Lender shall have the right at any time, and from time to time, during normal business hours, to enter the Premises for the purpose of inspecting the same.

B. As used herein, the term "Environmental Laws" shall mean all federal, state or local statutes, laws, ordinances, regulations or the like governing, regulating or in any way dealing with the storage, generation, release, clean-up, use or abatement of the substances or wastes, and underground storage tanks, described or referred to therein, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9601 *et seq.* ("CERCLA"), as amended, the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6901 *et seq.* ("RCRA"), as amended, underground storage tank regulations as set forth in subtitle C of RCRA, the Superfund Amendments and Reauthorization Act of 1986, Public Law Number 99-499, 100 Stat. 1613 ("SARA"), as amended, Chapters 101, 160, 283, 291 and 292 of the Wisconsin Statutes and the regulations promulgated thereunder, as amended, the Clean Air Act, 42 U.S.C. Sec. 7401 *et seq.* ("CAA"), as amended, the Clean Water Act of 1972, 33 U.S.C. Sec. 1251 *et seq.* ("CWA"), as amended, the Toxic Substances Control Act of 1976, 15 U.S.C. Sec. 2601 *et seq.* ("TSCA"), as amended, the legislation appearing at 40 CFR Sec. 760 *et seq.* dealing with polychlorinated biphenyls, and any and all other laws, ordinances or regulations governing environmental matters whatsoever. Additionally, as used herein, the term "Hazardous Material" shall mean any hazardous, toxic, or dangerous waste,

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substance, or material defined as such in (or for purposes of) any Environmental Law. The Borrower hereby covenants, represents, and warrants to the Lender that:

- (i) All activities on the Premises (whether conducted by the Borrower, by any person claiming by, through, or under the Borrower, or by any other party) shall at all times be in full and complete compliance with all Environmental Laws; and
- (ii) The Borrower shall not generate, store, or dispose of Hazardous Material on the Premises even if such generation, storage, or disposal might otherwise be permitted under applicable Environmental Laws; and
- (iii) The Borrower shall neither place nor suffer to be placed upon the Premises any tanks below or substantially below the surface of the ground on the Premises other than a private sanitary septic tank as may be reasonably required in connection with the disposal of sewage arising through the normal use of the improvements on the Premises; and
- (iv) The Borrower shall notify the Lender, in writing, immediately after the Borrower has actual or constructive notice of the release or migration of any Hazardous Material onto, upon, or under the Premises and to take prompt and diligent remedial action with respect thereto; and
- (v) The Borrower hereby agrees to forever indemnify, defend, and hold the Lender and the Lender's successors, assigns, officers, directors, agents, and employees harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses, and claims of any kind whatsoever paid, incurred, suffered by, or asserted against the Lender as a direct or indirect result of any of the following, regardless of whether or not caused by, or within the control of, the Borrower:
 - (a) The presence of any Hazardous Material on or under, or the escape, seepage, leakage, spillage, discharge, emission, discharging, or release of any Hazardous Material from the Premises or any part thereof or any other real property adjacent thereto;
 - (b) Any liens against the Premises permitted or imposed by Environmental Laws, or any actual or asserted liability or obligations of the Borrower under any Environmental Laws;
 - (c) Any actual or asserted liability or obligations of the Borrower under any Environmental Laws;
 - (d) The breach by Borrower of any of his covenants and obligations as set forth herein.

3. **Hazard Insurance.** Borrower shall keep the Premises insured against loss or damage by fire and the perils covered by extended coverage insurance. Borrower shall also provide liability insurance with such limits for personal injury and death and property damage as Lender may, from time to time, reasonably require. All policies of insurance to be furnished hereunder shall be in form and content, with such amounts and with insurer or insurers reasonably satisfactory to Lender, with a Standard Mortgage Clause and Lenders Loss Payable Clause attached to all policies in favor of Lender. The policies of all such insurance and all

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renewals thereof, together with the receipt evidencing payment in full of the premium thereon, shall be deposited with Lender and shall contain provision for thirty (30) days notice to Lender prior to any cancellation thereof. In the event of loss or damage, the proceeds of said insurance shall, after deducting the costs of collection thereof, if any, be available to Borrower for repair and restoration, provided: (a) the proceeds are deposited with Lender; (b) there is no default under the terms of the Note or this Mortgage; (c) the insurance carrier does not deny liability to a named insured; (d) Lender shall be furnished with an estimate of the costs of restoration accompanied by an architect's certification as to such costs and appropriate plans and specifications; and (e) if the estimated costs of reconstruction shall exceed the proceeds available, Borrower shall furnish a bond of completion or such other evidence satisfactory to Lender of Borrower's ability to meet such excess costs. The building and improvements so restored or rebuilt are to be of at least equal value and of substantially the same character as prior to the damage or destruction. In all other cases the proceeds of the loss under any policy shall be paid over to Lender in repayment of the debt secured hereby.

4. Charges: Liens. Borrower shall pay when due all taxes, assessments and charges of every kind and nature that may be levied or assessed against the Premises, and shall promptly deliver to Lender receipts showing payment thereof. Borrower shall pay when due all taxes and assessments that may be levied upon or on account of this Mortgage or the indebtedness secured hereby or upon the interest or estate in the Premises created or represented by this Mortgage whether levied against Borrower or otherwise. In the event payment by Borrower of any tax referred to in the foregoing sentence would either be unlawful if made or would result in the payment of interest in excess of the rate permitted by law then Borrower shall have no obligation to pay the portion of such tax which would result in the payment of such excess.

5. Funds for Taxes and Insurance. If required by Lender, Borrower shall pay to Lender, at the times provided in the Note for payment of installments of principal and interest, and in addition thereto, installments of taxes and assessments to be levied upon the Premises, and installments of the premiums that will become due and payable to renew the insurance hereinabove provided; said installments to be substantially equal and to be in such amount as will assure to Lender that not less than thirty (30) days before the time when such taxes and premiums respectively become due, Borrower will have paid to Lender a sufficient amount to pay such taxes and premiums in full. Said amounts paid to Lender hereunder need not be segregated or kept in a separate fund and no interest shall accrue or be payable thereon. Said amounts shall be held by Lender as additional security for the indebtedness secured hereby. Said amounts shall be applied by Lender to the payment of said taxes, assessments and insurance premiums when the same become due and payable; provided, however, that Lender shall have no liability for any failure to so apply said amounts for any reason whatsoever. Nothing herein contained shall in any manner limit the obligation of Borrower to pay taxes and to maintain insurance as above provided. In the event of any default by Borrower or Borrower under the Mortgage or the Note, Lender may, at its option but without any obligation on its part so to do, apply said amount upon said taxes, assessments and insurance premiums, and/or toward the payment of any amounts payable by Borrower to Lender under the Mortgage and/or toward the payment of the indebtedness secured hereby or any portion thereof, whether or not then due or payable.

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6. Protection of Lender's Security. If default be made in the payment of any of the aforesaid taxes or assessments or in making repairs or replacements or in procuring and maintaining insurance and paying the premiums therefor, or in keeping or performing any other covenant of Borrower herein, Lender may, at its option and without any obligation on its part so to do, pay said taxes and assessments, make such repairs and replacements, effect such insurance, pay such premiums, and perform any other covenant of Borrower herein. All amounts expended by Lender hereunder shall be secured hereby and shall be due and payable by Borrower to Lender immediately on demand with interest thereon at the rate applicable under the Note from the date of such expenditure.

7. Reimbursement for Lender Legal Expense. If Lender is made a party to any suit or proceedings by reason of the interest of Lender in the Premises, Borrower shall reimburse Lender for all costs and expenses, including reasonable attorneys' and paralegals' fees, incurred by Lender in connection therewith, whether or not said suit or proceeding ever goes to trial. All amounts incurred by Lender hereunder shall be secured hereby and shall be due and payable by Borrower to Lender forthwith on demand with interest thereon at the rate applicable under the Note from the date of such expenditure.

8. Waiver of Homestead; Waiver of Redemption. To the full extent permitted by law, Borrower waives and releases all rights and benefits under and by virtue of the Homestead Exemption Laws of Illinois and all other exemption laws, moratorium laws or other laws limiting the enforcement hereof. BORROWER WAIVES ANY AND ALL RIGHTS OF REDEMPTION UNDER ANY JUDGMENT OF FORECLOSURE OF THIS MORTGAGE, AND ANY REDEMPTION RIGHTS GRANTED BY THE "ILLINOIS MORTGAGE FORECLOSURE LAW" ("IMFL"), ON BEHALF OF BORROWER, AND EACH AND EVERY PERSON ACQUIRING ANY INTEREST IN OR TITLE TO THE MORTGAGED PREMISES AS OF OR SUBSEQUENT TO THE DATE OF THIS MORTGAGE. Further, Borrower hereby waives the benefit of all appraisal, valuation, stay or extension laws, and any reinstatement rights, including, without limitation, as provided under the IMFL, now or hereafter in force, and all rights of marshalling in the event of any sale hereunder of the Premises or any part thereof or any interest therein.

9. Condemnation and Eminent Domain. Any and all awards hereafter made or to be made to the present and all subsequent owners of the Premises by any governmental or other lawful authority for taking, by condemnation or eminent domain, the whole or any part of the Premises (including any award from the United States Government at any time after the allowance of the claim therefor, the ascertainment of the amount thereof and the issuance of the warrant for payment thereof) are hereby assigned by Borrower to Lender, which award Lender is hereby authorized to collect and receive from the condemnation authorities and to give appropriate receipts and acquittances therefor, and Lender shall use or apply the proceeds of such award or awards in the same manner as is set forth in Paragraph 3 hereof with regard to insurance proceeds received subsequent to a fire or other casualty to the Premises. Borrower covenants and agrees that Borrower will give Lender immediate notice of the actual or threatened commencement of any such proceedings under condemnation or eminent domain, affecting all or any part of the Premises, and will deliver to Lender copies of any and all papers served in connection with any such proceedings. Borrower further covenants and agrees to

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make, execute, and deliver to Lender, at any time or times upon request, free, clear and discharged of any encumbrances of any kind whatsoever, any and all further assignments and/or instruments deemed necessary by Lender for the purpose of validly and sufficiently assigning all awards and other compensation heretofore and hereafter to be made to Borrower for any taking, either permanent or temporary, under any such proceeding. At Lender's option, any such award may be applied to restoring the improvements upon the same terms and conditions provided with respect to insurance proceeds in Paragraph 3 hereof. Under no circumstances shall Lender become personally liable for the fulfillment of the terms, covenants, and conditions contained in any leases of the Premises nor shall it be obligated to take any action to restore the Premises.

10. Acceleration of Indebtedness in Event of Default. Each of the following shall constitute an "Event of Default" for purposes of this Mortgage:

A. Failure of Borrower, or any Promisor under the Note, to observe or timely perform in any material respect any covenant, agreement or obligation to be performed by Borrower or Promisors pursuant to this Mortgage or to the Note or the breach of any representation or warranty contained in this Mortgage or in the Note or in the Security Agreement.

B. The bankruptcy or insolvency of Borrower or any Promisor under the Note; provided, however, that in the event a petition for involuntary bankruptcy is filed against Borrower or any Promisor under the Note such petition shall not be deemed an Event of Default if Borrower or any such Promisor initiates action to cause such petition to be dismissed within thirty (30) days after notice from Lender and diligently performs such acts as are necessary to effectuate such dismissal.

C. The sale, lease, transfer or assignment of any interest in the Premises or the Improvements by Borrower, or the existence of further encumbrances on the Premises, without the express written consent of Lender.

D. Failure of Borrower to promptly discharge, within thirty (30) days after notification of any such filing, any mechanic's lien or other lien or cloud, filed against the Premises, or the failure to post, sufficient indemnity or surety with Lender or the title insurance company insuring the Premises satisfactory to Lender to insure against loss caused by any such lien or cloud.

E. Failure to comply with any code, law, ordinance, or regulation relating to the Premises or the Improvements or the failure to properly correct, upon notice from any governmental agency, any deficiency in construction, which failure, in the opinion of Lender will jeopardize the security of its mortgage lien upon the Premises.

F. The issuance or delivery to Lender of any materially false or misleading information or statements by Borrower, or any agent of Borrower.

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G. Material default by Borrower under any term, condition or covenant under any leases affecting the Premises or the Improvements.

H. Failure to timely pay when due any sum due to be paid by Borrower or other Promisors pursuant to the Note, or this Mortgage.

I. An "Event of Default" shall have occurred under the Note or the Security Agreement.

J. The reasonable insecurity of the Lender.

Upon the occurrence of any Event of Default, the entire indebtedness secured hereby shall, at the option of Lender after notice as hereinafter provided, become immediately due and payable, and, thereupon, or at any time during the existence of any such default, Lender may proceed to foreclose this Mortgage by judicial proceedings according to the statutes in such case provided, and any failure to exercise said option shall not constitute a waiver of the right to exercise the same at any other time. Lender shall additionally have the right to file an action at law on the Note and any other remedy provided by law, which remedies shall be concurrent and may be pursued simultaneously.

11. Foreclosure. In addition to any other right or remedy which Lender may now or hereafter have by law, Lender shall have the right and power (a) to foreclose this Mortgage by legal action, as provided by Illinois statute and the rules of practice relating thereto, and this paragraph shall be deemed as authorizing and constituting a power of sale as mentioned in said statutes or rules, and any amendment thereto; and (b) to enter upon and take possession of the Premises with the irrevocable consent of Borrower as given and evidenced by its execution of this instrument, and as Lender in possession, let the Premises, and receive all the rents, issues and profits thereof, which are overdue, due or to become due, and to apply the same, after the payment of all charges and expenses deemed by Lender to be necessary, on account of the indebtedness secured hereby, Borrower for itself and any subsequent owner of the Premises hereby agreeing to pay to Lender in advance a reasonable rent for the Premises occupied by it, and in default of so doing hereby agrees that it may be dispossessed by the usual legal proceeding available against any defaulting tenant of real estate and further agreeing to permit any action to be brought in its name to dispossess any tenant defaulting in the payment of rent to Lender or violating the terms of its occupancy, which right and power are effective and may be enforced either with or without any action to foreclose this Mortgage.

12. Application of Proceeds of Foreclosure. Upon a foreclosure sale of the Premises or any part thereof, the proceeds of such sale shall be applied in the following order:

A. to the payment of all Lender's costs of the suit of foreclosure, including reasonable attorneys and paralegals' fees and the costs of depositions, title searches and abstracts;

B. to the payment of all other expenses of Lender, including all sums expended by Lender and all other amounts payable by Borrower or Promisors to Lender

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hereunder, with interest thereon;

C. to the payment of the principal and interest of the indebtedness secured hereby; and

D. to the payment of the surplus, if any, to Borrower or to whosoever shall be entitled thereto.

13. Appointment of Receiver. Upon or at any time after the filing of any bill, complaint or petition to foreclose this Mortgage, the court may, upon application of Lender, place the mortgagee in possession or appoint a receiver of the Premises. Such appointment may be made either before or after the sale, without notice, and without regard to the solvency or insolvency, at the time of application for appointment, of the person or persons, if any, liable for the payment of the indebtedness secured hereby and without regard to the then value of the Premises or whether the same shall be then occupied as a homestead or not, and without bond being required of the applicant. Such receiver or mortgagee in possession to the extent permitted by law shall have the power to take possession, control, and care of the Premises, and to collect the rent, issues and profits of the Premises during the pendency of such foreclosure, and, in case of a sale and deficiency, during the full statutory period of redemption, if any, whether there be a redemption or not, as well as during any further times when Borrower, its successors and assigns, except for the intervention of such mortgagee in possession or receiver, would be entitled to collect such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Premises, during the whole of said period. The court from time to time may authorize such mortgagee in possession or receiver to apply the net income from the Premises in payment in whole or in part of: (a) the costs of management of the Premises and collection of rents, including but not limited to the fees of the receiver or mortgagee in possession, premiums or receiver's bonds and reasonable attorneys' fees; (b) the indebtedness secured hereby or of any judgment foreclosing this Mortgage or any tax, special assessment, or other lien which may be or become superior to the lien hereof, or of such judgment, provided such application is made prior to foreclosure sale; and (c) the deficiency in case of sale and deficiency. Any such proceeding shall not prevent or retard the collection of said indebtedness by foreclosure or otherwise.

14. Lender's Right of Possession in Case of Default. In any case in which, under the provisions of this Mortgage, Lender has a right to institute foreclosure proceedings, whether or not the entire principal sum secured hereby is declared to be immediately due as aforesaid, or whether before or after the institution of legal proceedings to foreclose the lien hereof or before or after sale thereunder, upon demand of Lender, Borrower shall immediately surrender to Lender and Lender shall be entitled to take actual possession of the Premises, or any part thereof, personally or by its agent or attorneys, and Lender in its discretion may enter upon and take and maintain possession of all or any part of the Premises, together with all documents, books, records, papers, and accounts of Borrower to the then owner of the Premises relating thereto, and may exclude Borrower, its agents or servants, wholly therefrom and may, as attorney in fact or agent of Borrower, or in its own name as Lender and under the powers herein granted: (a) hold, operate, manage, and control the Premises and conduct the business, if any, thereon, either personally or by its agents, and with full power to use such measures, legal or equitable, as in its

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discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the Premises including actions for recovery of rent, actions in forcible detainer and actions in distress for rent, hereby granting 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 Borrower; (b) cancel or terminate any lease or sublease of the Premises for any cause or on any ground which would entitle Borrower to cancel the same; (c) elect or disaffirm any lease or sublease of the Premises made subsequent to this Mortgage or subordinated to the lien hereof; (d) extend or modify any then existing leases of the Premises and make new leases therefor, which extensions, modifications and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the indebtedness hereunder and the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Borrower and all persons whose interests in the Premises are subject to the lien hereof and to be binding also upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the mortgage indebtedness, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser; (e) make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments, and improvements to the Premises which Lender, in its discretion, deems appropriate; to insure and reinsure the Premises against all risks incidental to Lender's possession, operation, and management thereof and to receive all avails, rents, issues, and profits.

15. Application of Income Received by Lender. Any avails, rents, issues and profits of the Premises received by Lender after having possession of the Premises, or pursuant to any assignment thereof to Lender under the provisions of this Mortgage, shall be applied in payment of or on account of the following, in such order as Lender (or in case of a receivership, as the court) may determine:

A. to the payment of the operating expenses of the Premises, including reasonable compensation to Lender or the receiver and its agent or agents, if management of the Premises has been delegated to an agent or agents, and shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases, established claims for damages, if any, and premiums on insurance hereinabove authorized;

B. to the payment of taxes, special assessments, and water taxes now due or which may hereafter become due on the Premises, or which may become a lien prior to the lien of this Mortgage;

C. to the payment of all repairs, decorating, renewals, replacements, alterations, additions, betterments, and improvements of the Premises, to place said property in such condition as will, in the reasonable judgment of Lender or receiver, make it readily rentable;

D. to the payment of any indebtedness secured hereby or any

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deficiency which may result from any foreclosure sale; and

E. any remaining funds to Borrower, its successors, or assigns, as their rights may appear.

16. Remedies Cumulative. Each and every of the rights, remedies and benefits provided to Lender herein shall be cumulative and shall not be exclusive of any other of said rights, remedies or benefits, or of any other rights, remedies, or benefits allowed by law. Any waiver by Lender of any default shall not constitute a waiver of any similar or other default.

17. Severability. Nothing contained herein or in the Note or any transaction related thereto, shall be construed or shall so operate either presently or prospectively, (a) to require Borrower to pay interest at a rate greater than is now lawful in such case to contract for, but shall require payment of interest only to the extent of such lawful rate, or (b) to require Lender to make any payment or do any act contrary to law, and if any clause or provision herein contained shall otherwise so operate to invalidate this Mortgage, in whole or in part, then such clauses and provisions only shall be held for naught as though not herein contained and the remainder of this Mortgage shall remain operative and in full force and effect, and Lender shall be given a reasonable time to correct any error.

18. Partial Releases. Lender, without notice, and without regard to the consideration, if any, paid therefor, and notwithstanding the existence at that time of any inferior liens, may release any part of the Premises or any person liable for any indebtedness secured hereby, without in any way affecting the liability of any party to the Note and this Mortgage or any other security given for the indebtedness secured hereby and without in any way affecting the priority of the lien of this Mortgage and may agree with any party obligated on said indebtedness herein to extend the time for payment of any part or all of the indebtedness secured hereby. Such agreement shall not, in any way, release or impair the lien created by this Mortgage, or reduce or modify the liability, of any person or entity personally obligated for the indebtedness secured hereby, but Lender shall be permitted hereunder to extend the lien hereof against the title to all parties having any interest in said security which interest is subject to the indebtedness secured by this Mortgage.

19. Borrower's Representations and Warranties.

As an inducement to Lender to enter into the transaction evidenced by this Mortgage and the Note of even date which secures, the Borrower makes the following representations and warranties, which shall survive the satisfaction of the debt evidenced this Mortgage and Note:

- A. Borrower represents and warrants that it is the owner of the Premises and that it has title and authority to execute this Mortgage;
- B. Borrower represents and warrants that the execution of this Mortgage will not create any default under any other agreement or instrument to which the Borrower is a party, including those relating to the Premises;

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- C. Borrower represents and warrants that the Premises is in compliance with all relevant laws, including the Municipal Code of the City of Markham;
- D. Borrower represents and warrants that at the date of this Mortgage there are no leases with respect to the Premises.

20. Warrant and Defense of Title. At the time of the execution and delivery of this instrument Borrower is truly seized of the Premises in fee simple, free of all liens and encumbrances whatsoever, and will forever defend the same against any and all claims whatever, and the lien created hereby is and will be kept a first lien upon the Premises and every part thereof. Borrower shall pay when due all water charges, sewer service charges and all other amounts which might become a lien upon the Premises prior to this Mortgage and shall, upon written request, furnish to Lender duplicate receipts therefor.

21. Effect of Extensions and Amendments. If the payment of the Indebtedness Hereby Secured, or any part thereof, be extended or varied, or if any part of the security or guarantees therefor, or interest in the Premises be released, the Borrower shall be held to assent to such extension, variation or release, and the liability, and the lien, and all provisions hereof, shall continue in full force and effect, the right of recourse against all persons being expressly reserved by the Lender, notwithstanding any such extension, variation or release. Any person, firm or corporation taking a junior mortgage, or other lien upon the Premises or any part thereof or any interest therein, shall take the said lien subject to the rights of Lender to amend, modify, extend or release the Note, this Mortgage or any other document or instrument evidencing, securing or guaranteeing the Indebtedness Hereby Secured, in each and every case without obtaining the consent of the holder of such junior lien and without the lien of this Mortgage losing its priority over the rights of any such junior lien.

22. Future Advances. This Mortgage also secures the payment of and includes all future or further advances as shall be made at all times, with respect to the Premises, regardless of whether loan proceeds have been disbursed, by the Lender herein or its successors or assigns, to and for the benefit of the Borrower, its heirs, personal representative, or assigns, to the same extent as if such future advances were made on the date of the execution of this Mortgage. The total amount of Indebtedness Hereby Secured by this Mortgage may decrease or increase from time to time, but the total unpaid balance so secured at anyone time shall not exceed TWO MILLION DOLLARS (\$2,000,000), together with interest thereon and any and all disbursements made by the Lender for the payment of taxes, or insurance on the Premises covered by the lien of this Mortgage and for reasonable attorney's fees, loan commissions, service charges, liquidated damages, expenses and court costs incurred in the collection of any or all of such sums of money. Such further or future advances shall be wholly optional with the Borrower and the same shall bear interest at the same rate as specified in the Note referred to herein, unless said interest rate shall be modified by subsequent agreement.

23. Transfer of Property. If all or any part of the Premises or, in the event the Premises is held in a land trust, the beneficial interest of the trust holding title thereto is sold, transferred, conveyed, assigned or alienated, which shall include the execution of any form of installment agreements for deed or beneficial interest, by Borrower or the beneficiaries without

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Lender's prior written consent, Lender may, at Lender's option, declare all the sums secured by this Mortgage to be immediately due and payable.

24. Notices. All notices, demands and communications required or desired to be given in connection herewith shall be in writing and shall be deemed to have been duly given on the date received if delivered personally or on the third day after mailing if sent by certified or registered mail, return receipt requested, postage pre-paid and addressed as follows:

If to Borrower, then to: Ronald J. Finlay
14660 Saddle Brook Lane
Homer Glen, Illinois 60491

with a copy to:

If to Lender, then to:

Holly Sher
6542 North Navajo Avenue
Lincolnwood, Illinois 60466

with a copy to:

Gregory A. Bedell, Esq.
Two First National Plaza
20 South Clark Street
Suite 2301
Chicago, Illinois 60603

25. Construction. This Mortgage shall be construed in accordance with the laws of the State of Illinois.

26. General Provisions.

A. Time is of the essence of this Mortgage, it being understood that delays by Borrower in the performance hereunder may cause substantial damage to Lender.

B. No waiver by Lender of any breach by Borrower hereunder shall be construed as a waiver of any subsequent breach hereunder.

C. The "Paragraphs" and "Subparagraphs" referred to in this Mortgage are the numbered Paragraphs and Subparagraphs of this Mortgage, unless another instrument is clearly referred to. The captions of the various Paragraphs and Subparagraphs herein are for convenience only, and are not to be construed as part of this Mortgage or as defining or limiting in any way the scope

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or intent of any provision hereof. The words "including" or "include" shall generally mean "including, but not limited to" the circumstances or incident following such words, unless the context clearly requires a different interpretation.

D. Borrower represents and warrants to Lender that there are no brokerage commissions or fees of any nature due with respect to the Loan.

E. If Borrower has deposited or shall hereafter deposit any funds over and above the proceeds of this Loan, Lender's sole responsibility with respect to the disbursement of such funds shall be to follow the same procedures as are normally followed by Lender in the disbursement of its own funds, and Lender shall have no responsibility beyond the exercise of good faith.

F. Upon request of Lender during the term of this Agreement, Borrower will promptly: (1) supply Lender with such information concerning its affairs as Lender may reasonably request from time to time hereafter; (2) notify Lender of any condition or event which constitutes an Event of Default; (3) permit Lender or any of Lender's agents or representatives to have access to the Premises and to examine all of its books and records regarding the Improvements or the Premises at any time or times hereafter during business hours; and (4) permit Lender to copy and make abstracts from any and all of said books and records, which information will be kept confidential by Lender, except to the extent necessary to comply with any federal, state or local laws, rules or regulations.

G. All of the covenants and conditions hereof shall run with the land and shall be binding upon and inure to the benefit of the successors and assigns of Borrower and Lender, respectively, and all persons claiming through or under them.

H. This Mortgage may be executed in multiple counterparts, each of which shall constitute one and the same agreement.

IN WITNESS WHEREOF, this Mortgage, consisting of thirteen pages, was executed by Borrower as of the day and year first set forth above.

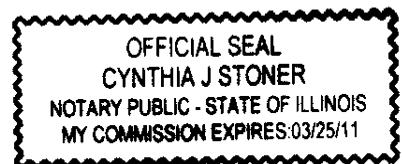
163rd & DIXIE HIGHWAY, LLC, an Illinois limited liability company

By: *Olivia Finley*
Its: *President*

SIGNED AND SWORN BEFORE ME THIS 31ST DAY OF JULY, 2009

Cynthia J. Stoner
CYNTHIA J. STONER
NOTARY PUBLIC

MY COMMISSION EXPIRES 03/25/2011



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EXHIBIT A
TO THAT CERTAIN MORTGAGE DATED AS OF JULY 31, 2009
BY AND BETWEEN 163RD & DIXIE HIGHWAY, LLC AND HOLLY SHER

Common Address:

163RD & Dixie Highway

Legal Description:

LOTS 3, 6, 7 AND THE SOUTH ½ OF LOT 2 IN BLOCK 8 IN ANDERSON'S DIXIE HIGHWAY SUBDIVISION OF THE SOUTH 60.65 ACRES (LYING WEST OF THE OLD VINCENNE'S ROAD AS NOW LOCATED) OF THE WEST ½ OF THE NORTH ½ OF SECTION 19, TOWNSHIP 36 NORTH, RGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED MARCH 25, 1920 AS DOCUMENT NUMBER 6772211.

Permanent Tax Index Numbers:

29-19-131-003-0000
29-19-131-006-0000
29-19-131-007-0000
29-19-131-009-0000

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