

# UNOFFICIAL COPY

NOV 25 PM 3:42

88543008

Prepared by:  
Gary R. Eisenman, Esq.  
Cravath, Swaine & Moore  
One Chase Manhattan Plaza  
New York, N.Y. 10005

[Final--7/9/88]  
[Master Form]  
[Doc. ?]

88543008

Return to:  
Kathleen Hanson Zavatsky, Esq.  
Federated Department Stores, Inc.  
7 West Seventh Street  
Cincinnati, Ohio 45202

File Number: 250030  
Division: MainStreet

1900

## ASSIGNMENT AND ASSUMPTION OF OPERATING AGREEMENT

AGREEMENT, made as of JULY 29, 1988, between  
FEDERATED DEPARTMENT STORES, INC., a Delaware corporation, having an office at  
7 West Seventh Street, Cincinnati, Ohio 45202 ("Assignor"), and MAINSTREET  
RETAIL STORES, INC., a Delaware corporation, having an office at 2345 North  
Waukegan Road, Bannockburn, Illinois 60015 ("Assignee").

### W I T N E S S E T H :

WHEREAS, Assignor is the owner and/or lessee of certain real property  
more particularly described in attached Exhibit A (the "Premises"); and

WHEREAS, the Premises are subject to and/or Assignor is a party to those  
certain documents listed in attached Exhibit X, and the same may have been  
modified, amended or supplemented, directly or indirectly, by any document  
which in any manner affects the Premises or the shopping center of which the  
Premises are a part, recorded or unrecorded (collectively, the "Operating  
Agreement"); and

WHEREAS, Assignor desires to assign, transfer and convey all of  
Assignor's right, title and interest in, to and under the Operating Agreement  
upon the terms hereinafter set forth; and

71-33-46501

Property of Cook County Clerk's Office

88543008

# UNOFFICIAL COPY

2

WHEREAS, Assignee desires to accept the assignment of the Operating Agreement and to assume Assignor's obligations and liabilities thereunder.

NOW, THEREFORE, in consideration of One Dollar (\$1.00) in hand paid by Assignee to Assignor, and for other good and valuable consideration, the mutual receipt and legal sufficiency of which are hereby acknowledged, the parties hereto do hereby agree as follows:

1. Effective as of the date set forth above, the Assignor hereby assigns, transfers, and conveys to Assignee all of Assignor's right, title and interest in, to and under the Operating Agreement, to have to hold the same unto Assignee, its successors and assigns, subject to the terms, covenants and conditions contained in the Operating Agreement.

2. Assignee hereby accepts the assignment of the Operating Agreement from Assignor and hereby assumes and agrees to observe and perform all the obligations, terms, covenants and conditions thereof to be observed or performed by Assignor thereunder from and after the date set forth above and hereby assumes all liabilities of Assignor to the extent arising out of or relating to the Operating Agreement or to acts or events occurring or conditions existing with respect to the Operating Agreement whether before or after the date set forth above.

3. Assignee acknowledges and agrees that Assignor's rights under the Operating Agreement have been assigned to Assignee on an "as is, where is" basis, and that no oral or written representations or warranties concerning the Operating Agreement have been made in connection with such assignment.

4. This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and assigns.

5. All exhibits attached hereto are incorporated herein by reference.

58552008

# UNOFFICIAL COPY

3

IN WITNESS WHEREOF, the parties hereto have executed this Agreement  
as of the date first above written.

Signed, sealed and  
delivered in the  
presence of, as to  
Assignor:

Janet M. Brown  
Witness: Janet M. Brown

Elizabeth J. Haass  
Witness: Elizabeth J. Haass

Assignor:

FEDERATED DEPARTMENT STORES, INC.,  
a Delaware corporation

By: Samuel E. Dyer  
Name: Samuel E. Dyer  
Title: Vice President

Attest: Richard C. Fiddes  
Name: Richard C. Fiddes  
Title: Assistant Secretary

[Corporate Seal]

Signed, sealed and  
delivered in the  
presence of, as to  
Assignee:

Janet M. Brown  
Witness: Janet M. Brown

Elizabeth J. Haass  
Witness: Elizabeth J. Haass

Assignee:

MAINSTREET RETAIL STORES, INC.,  
a Delaware corporation

By: Dennis Broderick  
Name: Dennis Broderick  
Title: Vice President

Attest: Mark Kennedy  
Name: Mark Kennedy  
Title: Assistant Secretary

[Corporate Seal]

88542008

# UNOFFICIAL COPY

4

## ASSIGNOR

STATE OF OHIO        )  
                          ) ss.:  
COUNTY OF HAMILTON)

### Subscribers:

Name: Samuel E. Dyer

Corporate office: Vice President

Home residence: 4223 Peppermill Lane, Cincinnati, Ohio 45246

Name: Richard C. Fadden

Corporate office: Assistant Secretary

Home residence: 710 Farmsworth Court, Cincinnati, Ohio 45230

Corporation: Federated Department Stores, Inc.

State of incorporation: Delaware

Date of instrument: JULY 29, 1966

Before me, the below Notary Public in and for the above County and State, duly commissioned and sworn, personally appeared the Subscribers, to me personally well known and well known to me to hold the respective corporate offices indicated above in the Corporation named above which is the corporation named in and executing the within instrument bearing the date set forth above, which instrument was displayed to me in the County and State aforesaid, by the Subscribers who are known to me to be the identical persons who subscribed the name of the maker thereof to the foregoing instrument as its above indicated corporate officers, respectively, who, by me being duly sworn, did severally depose, say and acknowledge, on their several oaths, in the County and State aforesaid, that they respectively reside at the above-stated addresses, that they are respectively the above-stated corporate officers of said Corporation and that said Corporation executed the said instrument; that they know the seal of said Corporation; that the seal affixed to said instrument is the corporate seal of said Corporation; that they, being informed of the contents of the said instrument, signed and sealed said instrument as such officers and that they executed the same in the name and on behalf of said Corporation by order, authority and resolution of its Board of Directors and that they signed their names as such officers thereto by like order; that their signatures are in their own proper handwriting; that they executed said instrument as their free and voluntary act and deed and as the free and voluntary act and deed of said Corporation for the consideration,

585-20008



# UNOFFICIAL COPY

6

## ASSIGNEE

STATE OF OHIO        )  
                          ) ss.:  
COUNTY OF HAMILTON)

### Subscribers:

Name: Dennis Broderick

Corporate office: Vice President

Home residence: 8617 Twilight Tear Lane, Cincinnati, Ohio 45249

Name: Mark Kennedy

Corporate office: Assistant Secretary

Home residence: 7475 Demar Road, Cincinnati, Ohio 45243

Corporation: MAINSTREET RETAIL STORES, INC.

State of Incorporation: Delaware

Date of instrument: JULY 29, 1988

Before me, the below Notary Public in and for the above County and State, duly commissioned and sworn, personally appeared the Subscribers, to me personally well known and well known to me to hold the respective corporate offices indicated above in the Corporation named above which is the corporation named in and executing the within instrument bearing the date set forth above, which instrument was displayed to me in the County and State aforesaid, by the Subscribers who are known to me to be the identical persons who subscribed the name of the maker thereof to the foregoing instrument as its above indicated corporate officers, respectively, who, by me being duly sworn, did severally depose, say and acknowledge, on their several oaths, in the County and State aforesaid, that they respectively reside at the above-stated addresses, that they are respectively the above-stated corporate officers of said Corporation and that said Corporation executed the said instrument; that they know the seal of said Corporation; that the seal affixed to said instrument is the corporate seal of said Corporation; that they, being informed of the contents of the said instrument, signed and sealed said instrument as such officers and that they executed the same in the name and on behalf of said Corporation by order, authority and resolution of its Board of Directors and that they signed their names as such officers thereto by like order; that their signatures are in their own proper handwriting; that they executed said instrument as their free and voluntary act and deed and as the free and voluntary act and deed of said Corporation for the consideration,

555133005

# UNOFFICIAL COPY

uses and purposes therein set forth and expressed and that they delivered the same as such.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid on JULY 29, 1988.

[Signature]  
Notary Public in and for said County  
and State.

My commission expires  
June 22, 1990

My Commission Expires

03-06-400-046

800 W. DUARTE RD  
MILLINGTON HTS, IL 60009

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

File Number: 210010  
Division: Main Street  
Type: Store  
Location: Ridge Plaza, IL

## EXHIBIT A

(Legal Description of Fee Premises)

A tract of land in the Southeast Quarter of Section 6, Township 42 North, Range 11, East of the Third Principal Meridian, Described as follows: Commencing at the intersection of the West line of said Southeast Quarter and the North right-of-way line of Dundee Road, as recorded as Document #21139365; thence North  $89^{\circ}59'39''$  East 901.97 feet, along last said North right-of-way line, thence North  $0^{\circ}24'15''$  East 40.24 feet to a point of curve; thence Northerly on a curve convex to the West, having a radius of 247.40 feet and an arc distance of 91.26 feet to a point of tangent; thence North  $21^{\circ}32'24''$  East 12.57 feet to a place of beginning, thence South  $89^{\circ}59'30''$  West 163.56 feet; thence North  $0^{\circ}24'15''$  East 123 feet; thence North  $89^{\circ}59'30''$  East 30 feet; thence North  $0^{\circ}24'15''$  East 127.43 feet; thence North  $69^{\circ}06'42''$  East 56.44 feet; thence North  $0^{\circ}24'15''$  East 225 feet; thence North  $45^{\circ}$  East 8 feet; thence North  $0^{\circ}24'15''$  West 15.34 feet; thence North  $89^{\circ}59'30''$  East 147.47 feet; thence North  $49^{\circ}22'56''$  East 97.05 feet; thence North  $89^{\circ}59'30''$  East 108.46 feet; thence South  $0^{\circ}24'15''$  West 467.76 feet to a point of curve; thence Southerly on a curve convex to the East, having a radius of 131.40 feet, an arc distance of 66.92 feet to a point of tangent; thence South  $21^{\circ}32'24''$  West 12.55 feet to the place of beginning, all in Cook County, Illinois.

Area = 4.965 acres more or less.

Which tract is also known as:

LOT 5 IN WESTRIDGE UNIT 1, BEING A SUBDIVISION OF PART OF THE SOUTH EAST 1/4 OF SECTION 6, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Exhibit A  
Page 1 of 1



# UNOFFICIAL COPY

File Number: 280030  
Division: MainStreet  
Type: Store  
Location: Ridge Plaza, IL

## EXHIBIT X

(Operating Agreement and Related Documents)

1. Ridge Plaza Operating Agreement dated as of June 24, 1985 between La Salle National Bank as Trustee under Trust Agreement dated December 1, 1984 and known as Trust No. 109245 ("La Salle") and Federated Department Stores, Inc. ("FDS").
2. Federated Supplemental Agreement dated as of June 27, 1985 between La Salle and FDS.
3. Guaranty dated as of July 2, 1985 delivered by The Tucker Companies, Inc. to FDS.
4. Reciprocal Easement Agreement dated as of February 1, 1986 between La Salle and Irving Federal Savings and Loan Association, consented to by FDS and American National Bank and Trust Company of Chicago, recorded with the Cook County Recorder of Deeds as Document No. 86102640.
5. Real Estate Sale and Purchase Agreement dated as of June 27, 1985 between La Salle and FDS.
6. Amended and Restated On-Site Utility Maintenance Agreement dated as of March 27, 1986 between La Salle, FDS and the Village of Arlington Heights, Illinois.
7. Agreement dated as of March 31, 1986 between La Salle and FDS.

280030