

BOX 334

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89013690

Attention: Dean A. Stiffle, Esq.

New York, New York 10017

280 Park Avenue

Bath & Fowler

RECORD AND RETURN TO:

Location: Cook County  
Illinois

Dated: 12 of December 29, 1988

ASSIGNMENT OF LEASES

CHEMICAL BANK

TO

BRIDGEVIEW JOINT VENTURE

DEPT-01  
\$22.00  
I WILL TRAN 0599 01/10/89 16 22:00  
7824 \* 1-09-012790  
COOK COUNTY RECORDER

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ASSIGNMENT OF LEASES

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THIS ASSIGNMENT OF LEASES made as of the 29th day of

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December, 1988, between BRIDGEVIEW JOINT VENTURE, an Indiana

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general partnership, having an office c/o Melvin Simon & Asso-

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ciates, Inc., Merchants Plaza - 15 East, P.O. Box 7033,

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Indianapolis, Indiana (hereinafter referred to as Borrower),

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and CHEMICAL BANK, a New York banking corporation having an

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office at 277 Park Avenue, New York, New York (hereinafter

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referred to as Lender);

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W I T N E S S E T H:

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WHEREAS Borrower is the present owner and holder of the fee estate

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in certain premises described in EXHIBIT A attached hereto (hereinafter

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referred to as the Premises);

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WHEREAS pursuant to the provisions of the Credit Agreement (as

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defined and described in Exhibit B attached hereto), Lender has made a loan to

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Borrower in the principal sum of \$6,662,613 (hereinafter referred to as the

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Loan), which Loan, together with interest thereon, is evidenced by and payable

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in accordance with the provisions of the note described in EXHIBIT B attached

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hereto (hereinafter referred to as the Note), is secured by the mortgage

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described in EXHIBIT B attached hereto (hereinafter referred to as Mortgage)

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and is being advanced pursuant to the terms of the loan agreement described in

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EXHIBIT B (hereinafter referred to as the Loan Agreement); and

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51           WHEREAS Lender was willing to make the Loan to Borrower only if Bor-  
52 rower assigned to Lender Borrower's interest as landlord in all leases or  
53 ground leases now or hereafter entered into by Borrower with respect to all or  
54 any portion of the Premises or the improvements now or hereafter erected  
55 thereon (hereinafter referred to as the Leases), including, without limita-  
56 tion, any and all Anchor Leases (as defined and described in the Loan Agree-  
57 ment), which assignment is made in the manner hereinafter provided as addi-  
58 tional security for the payment of the indebtedness evidenced by (i) the Note  
59 and (ii) the other notes described in Exhibit B of the Mortgage and secured by  
60 the Mortgage (hereinafter referred to as the Debt) and the observance and per-  
61 formance by Borrower of all of the terms, covenants and provisions of the  
62 Note, the Mortgage, the Loan Agreement, the Credit Agreement and this Assign-  
63 ment on Borrower's part to be observed and performed;

65           NOW, THEREFORE, in consideration of the making of the Loan and other  
66 good and valuable consideration, the receipt of which is hereby acknowledged,  
67 Borrower hereby assigns to Lender, as security for the payment of the Debt and  
68 the observance and performance by Borrower of all of the terms, covenants and  
69 provisions of the Note, the Mortgage, the Loan Agreement, the Credit Agreement  
70 and this Assignment on Borrower's part to be observed or performed, all of  
71 Borrower's right, title and interest in and to the Leases and all of the  
72 rents, additional rents, charges, issues and profits payable under the Leases  
73 from the date hereof to the end of the respective terms of the Leases and any  
74 renewals and extensions thereof (hereinafter collectively referred to as the  
75 Rents), and Borrower hereby represents and warrants to and covenants and  
76 agrees with Lender as follows:

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78           1. Borrower represents and warrants that as of the date hereof  
79 there is no prior assignment of the Leases or of any portion of the Rents to  
80 become due and payable thereunder.

82           2. Borrower shall, at its sole cost and expense, (i) observe and  
83 perform, or cause to be observed and performed, each and every term, covenant  
84 and provisions of the Leases on the part of the landlord thereunder to be  
85 observed and performed, (ii) promptly send copies of all notices of default  
86 which Borrower shall send or receive under the Leases to Lender, (iii) enforce  
87 short of termination thereof, the observance and performance of each and every  
88 term, covenant and provision of the Leases on the part of the tenant  
89 thereunder to be observed and performed and (iv) appear in and defend any  
90 action or proceeding arising under or in any manner connected with the Leases  
91 or with the obligations and undertakings of the landlord or the tenants  
92 thereunder.

94           3. Except as otherwise permitted pursuant to the provisions of the  
95 Credit Agreement, Borrower shall not, without the prior consent of Lender, (i)  
96 further assign or attempt to assign the Leases or any portion of the Rents to  
97 become due and payable thereunder, (ii) consent to any cancellation, surren-  
98 der, amendment or modification of the Leases, or (iii) accept prepayments of  
99 any portion of the Rents for a period of more than one (1) month in advance.

102           4. This Assignment shall not be deemed or construed to obligate  
103 Lender to take any action or incur any expense or perform or discharge any  
104 obligation, duty or liability under the Leases, and Borrower hereby agrees to  
105 indemnify and hold Lender harmless from and against all liability, loss or  
106 damage, including, but not limited to, reasonable attorneys' fees, which

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107 Lender may or might incur under the Leases or under or by reason of this  
108 Assignment and from and against any and all claims whatsoever which may be  
109 asserted against Lender by reason of any alleged obligation or undertaking on  
110 Lender's part to perform or discharge any of the terms, covenants or provi-  
111 sions contained in the Leases.

113 5 This Assignment has been made as additional security for the  
114 payment of the Debt and the observance and performance by Borrower of the  
115 terms, covenants and provisions of the Note, the Mortgage, the Loan Agreement,  
116 the Credit Agreement and this Assignment on Borrower's part to be observed and  
117 performed. Subject to the provisions of this Assignment hereinafter set  
118 forth, Lender waives the right to enter the Premises for the purpose of col-  
119 lecting the Rents, and grants Borrower the right to collect the Rents. Bor-  
120 rower shall hold the Rents, or an amount sufficient to discharge all current  
121 sums due on the Debt, in trust for use in the payment of the Debt. The right  
122 of Borrower to collect the Rents may be revoked by Lender upon any default and  
123 the expiration of applicable notice and cure periods with respect to the  
124 observance or performance by Borrower of any of the terms, covenants or provi-  
125 sions of the Note, the Mortgage, the Loan Agreement, the Credit Agreement or  
126 this Assignment on its part to be observed or performed or upon the occurrence  
127 of any one of the events described in the Mortgage which would entitle Lender,  
128 at its option, to declare the Debt due (hereinafter referred to as an Event of  
129 Default), by giving notice of such revocation to Borrower. Following such  
130 notice Lender may retain and apply the Rents toward payment of the Debt in  
131 such priority and proportions as Lender, in its sole discretion, shall deem  
132 proper, or to the operation, maintenance and repair of the Premises.

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135           6. Upon the occurrence of an Event of Default, the tenants under  
136 the Leases shall, upon notice from Lender of the occurrence of such an Event  
137 of Default, thereafter pay to Lender or to any appointed receiver the Rents  
138 due or to become due under the Leases without any obligation to determine  
139 whether or not such an Event of Default does in fact exist and Borrower shall  
140 facilitate in all reasonable ways the collection of the Rents by Lender, and  
141 will, upon the request of Lender, execute written notices to the tenants under  
142 the Leases directing said tenants to pay the Rents to Lender, which Rents may  
143 be retained and applied by Lender toward the payment of the Debt in such pri-  
144 ority and proportions as Lender, in its sole discretion, shall deem proper, or  
145 to the operation, maintenance and repair of the Premises.

147           7. Upon the occurrence of an Event of Default, Lender shall have  
148 the right, at its option, to enter upon and take over and assume the manage-  
149 ment, operation and maintenance of the Premises and to perform all necessary  
150 and proper acts and to expend such sums out of the income of the premises as  
151 may be necessary in connection therewith, in the same manner and to the same  
152 extent as Borrower theretofore might do, including the right to effect new  
153 leases, cancel or surrender the Leases, alter, modify or amend the provisions  
154 thereof, or make concessions to the tenants thereunder, and Borrower hereby  
155 releases and waives all claims against Lender arising out of such management,  
156 operation and maintenance, other than claims arising from the gross negligence  
157 or willful misconduct of Lender.

159           8. Nothing contained in this Assignment and no entry by Lender upon  
160 the Premises as hereinabove provided, shall be construed as to constitute  
161 Lender as a mortgagee in possession.

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163           9. Nothing contained in this Assignment is intended or shall be  
164 construed to prevent Lender in the exercise of its discretion from foreclosing  
165 the Mortgage or otherwise enforcing the provisions thereof or of the Note or  
166 any other document or instrument evidencing, securing or guaranteeing payment  
167 of the Debt, in whole or in part, in accordance with their terms.

169           10. No alteration, extension, renewal, change, modification,  
170 release, amendment, compromise or cancellation, in whole or in part, of any  
171 term, covenant or provision of the Note, the Mortgage, the Loan Agreement, the  
172 Credit Agreement or any other document or instrument evidencing, securing or  
173 guaranteeing payment of the Debt, in whole or in part, shall affect this  
174 Assignment in any manner or diminish or release any of the rights of Lender  
175 hereunder.

177           11. Borrower hereby waives any and all legal requirements that  
178 Lender institute any action or proceeding in law or in equity against any  
179 other party, or exhaust its remedies under the Note, the Mortgage, the Loan  
180 Agreement, the Credit Agreement or any other document or instrument  
181 evidencing, securing or guaranteeing payment of the Debt, in whole or in part,  
182 or in respect of any other security held by Lender as a condition precedent to  
183 exercising its rights and remedies under this Assignment. All remedies  
184 afforded to Lender by reason of this Assignment are separate and cumulative  
185 remedies and it is agreed that no one of such remedies whether exercised by  
186 Lender or not, shall be deemed to be in exclusion of any of the other remedies  
187 available to Lender and shall not in any manner limit or prejudice any other  
188 legal or equitable remedies which Lender may have, including, but not limited  
189 to, all rights and remedies of Lender under the Note, the Mortgage, the Loan

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190 Agreement, the Credit Agreement or any other document or instrument  
191 evidencing, securing or guaranteeing payment of the Debt, in whole or in part.

193           12. It is the intention of the parties hereto that any and all  
194 leases now or hereafter affecting the Premises or the Improvements now or  
195 hereafter erected thereon or any portion thereof presently in effect or here-  
196 after entered into by Borrower shall be covered by the provisions of this  
197 Assignment and all such leases and all of Borrower's right, title and interest  
198 in all such leases, and the rents, additional rents, charges, issues, profits  
199 and other sums payable thereunder, are hereby assigned to Lender until the end  
200 of the respective terms thereof and any renewals or extensions thereof, sub-  
201 ject to all of the terms, covenants and provisions of this Assignment. Bor-  
202 rower, upon request of Lender, shall deliver a true and correct copy of each  
203 such lease to Lender promptly after the execution and delivery of the same.  
204 Borrower shall, upon the request of Lender, execute and deliver in recordable  
205 form all instruments which Lender may reasonably request to further evidence  
206 and confirm such assignment of each such lease.

208           13. This Assignment shall be binding upon Borrower, and its succes-  
209 sors and assigns and shall inure to the benefit of Lender, and its successors  
210 and assigns.

212           14. This Assignment may only be modified, altered, amended, or ter-  
213 minated by an agreement in writing executed by the parties hereto.

215           15. Any notice, request, demand, statement or consent made  
216 hereunder or in connection herewith shall be in writing and shall be sent in  
217 the manner specified in the Mortgage.

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219 16. If any term, covenant or condition of this Assignment shall be  
220 held to be invalid, illegal or unenforceable in any respect, this Assignment  
221 shall be construed without such provision.

223 17. This Assignment shall be governed by and construed under the  
224 laws of the state in which the Premises are located.

226 18. The exculpation provisions of paragraph 21 of the Note are  
227 hereby incorporated by reference and made a part hereof.

229 IN WITNESS WHEREOF, Borrower has duly executed this Assignment the  
230 day and year first above written.

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234 BRIDGEVIEW JOINT VENTURE, an Indiana  
235 general partnership

236  
237 By: HSA Realty Corporation, an Indiana  
238 corporation and a general partner  
239 of Borrower

239 ATTEST:

240  
241 *[Signature]*  
242 Bruce Gibbons, Assistant Secretary  
243  
244

241 By: *[Signature]*  
242 Name: J.A. Rosenfeld  
243 Title: President

244  
245 By: Bridgeview Associates, an Indiana  
246 limited partnership and a general partner  
247 of Borrower  
248

248  
249 By: Bridgeview Simon, Inc., an Indiana  
250 corporation and general partner of  
251 Bridgeview Associates

252 ATTEST:

253  
254 *[Signature]*  
255 R.L. Forworthy, Secretary  
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254 By: *[Signature]*  
255 Name: J.K. Rosenfeld  
256 Title: Vice President

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1168 STATE OF INDIANA )

1169 : ss.:

1170 COUNTY OF MARION )

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1173 I, Debra K. Burns, a Notary Public in and for said County, in  
1174 the State aforesaid, do hereby certify that J.A. Rosenfeld, personally known to  
1175 me to be the President of MSA REALTY CORPORATION, an Indiana corporation, duly  
1176 licensed to transact business in the State of Indiana and the State of Illinois,  
1177 which corporation is a general partner of BRIDGEVIEW JOINT VENTURE, an Indiana  
1178 general partnership, and Bruce Cobeyn, personally known to me to be the Assistant  
1179 ~~secretary~~ of said corporation, and personally known to me to be the same persons  
1180 whose names are subscribed to the foregoing instrument, appeared before me this  
1181 day in person and severally acknowledged that they signed and delivered the said  
1182 instrument as President and <sup>Assistant</sup> ~~Secretary~~ of said corporation, pursuant to  
1183 authority given by the Board of Directors of said corporation, as their free and  
1184 voluntary act and as the free and voluntary act and deed of said corporation,  
1185 for the uses and purposes therein set forth.

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GIVEN under my hand and Notarial Seal this 30th day of December, 1988.

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Debra K. Burns

Notary Public

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1193 My Commission Expires:

Debra K. Burns, Notary Public  
Co. of Marion, Indiana  
My Commission Expires June 14, 1992

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1195 STATE OF INDIANA )

1196 : ss.:

1197 COUNTY OF MARION )

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1200 I, Debra K. Burns, a Notary Public in and for said County, in the  
1201 State aforesaid, do hereby certify that J.A. Rosenfeld, personally known to me  
1202 to be the Vice President of BRIDGEVIEW SIMON, INC., an Indiana corporation, duly  
1203 licensed to transact business in the State of Indiana and the State of Illinois,  
1204 which corporation is a general partner of BRIDGEVIEW ASSOCIATES, an Indiana lim-  
1205 ited partnership, which limited partnership is a general partner of BRIDGEVIEW  
1206 JOINT VENTURE, an Indiana general partnership, and R. L. Foxworthy personally  
1207 known to me to be the Secretary of said corporation, and personally known to  
1208 me to be the same persons whose names are subscribed to the foregoing instru-  
1209 ment, appeared before me this day in person and severally acknowledged that they  
1210 signed and delivered the said instrument as Vice President and Secretary of  
1211 said corporation, pursuant to authority given by the Board of Directors of said  
1212 corporation, as their free and voluntary act and as the free and voluntary act  
1213 and deed of said corporation, for the uses and purposes therein set forth.

1215

1216 GIVEN under my hand and Notarial Seal this 30th day of December, 1988.

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1223 My Commission Expires:

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Debra K. Burns  
Notary Public  
My Commission Expires: 12/31/1991

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## EXHIBIT A

### Parcel 1:

The North 1090.0 feet of the West Half of the Southwest Quarter of Section 30, Township 38 North, Range 13 East of the Third Principal Meridian, except the West 50 feet thereof and except the Northeast Quarter of the Northwest Quarter of the Southwest Quarter aforesaid; also excepting that part of the North Half of the Northwest Quarter of the Northwest Quarter of the aforesaid Southwest Quarter, lying East of the West 225.0 feet in Cook County, Illinois.

### Parcel 2:

Lots Number 1, 2, 4, 6, 7 and 8 of that certain M.S.A. BRIDGEVIEW COURT FLAT OF SUBDIVISION, recorded as Document Number 88246171, being a subdivision of part of the west 1/2 of the south west 1/4 of Section 30, Township 38 North, Range 13 East of the Third Principal Meridian in Cook County, Illinois.

### Parcel 3:

Easement appurtenant to Parcels 1 and 2 for ingress, egress, access, parking, deposit and retention of storm water over the common areas as described and set forth in Construction, Operation, and Reciprocal Easement Agreement made by and between Bridgeview Associates, The May Department Stores Company and Midfield, Inc. dated July 25, 1988 and recorded July 29, 1988 as Document Number 18340706.

PIN 19-30-300-006  
19-30-300-008  
19-30-300-012  
19-30-300-024

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