

SECOND MORTGAGE (ILLINOIS)
For Use With Note Form No. 144

UNOFFICIAL COPY

CAUTION: Consult a lawyer before using or acting under this form. Neither the publisher nor the seller of this form makes any warranty with respect thereto, including any warranty of merchantability or fitness for a particular purpose.

89255355

THIS INDENTURE, made May 24 19 89, between
BOULEVARD BANK NATIONAL ASSOCIATION, not personally, but solely
as Trustee u/t/a dated May 24, 1989, a/k/a Trust No. 8970,

410 North Michigan Avenue Chicago Illinois
(NO. AND STREET) (CITY) (STATE)

herein referred to as "Mortgagors," and HAL R. PETTIGREW,

777 Mercantile Parkway Arlington Texas
(NO. AND STREET) (CITY) (STATE)

herein referred to as "Mortgagee," witnesseth:

THAT WHEREAS the Mortgagors are justly indebted to the Mortgagee upon the installment note of even date herewith, in the principal sum of Two Million Seven Hundred Seventy Five Thousand DOLLARS (\$ 2,775,000.00), payable to the order of and delivered to the Mortgagee, in and by which note the Mortgagors promise to pay the said principal sum and interest in the rate and in installments as provided in said note, with a final payment of the balance due on the 20th day of May 19 94, and all of said principal and interest are made payable at such place as the holders of the note may, from time to time, in writing appoint, and in absence of such appointment, then at the office of the Mortgagee at c/o Crown Oaks, Inc., 777 Mercantile Parkway, Arlington, Texas 76011

NOW, THEREFORE, the Mortgagors to secure the payment of the said principal sum of money and said interest in accordance with the terms, provisions and limitations of this mortgage, and the performance of the covenants and agreements herein contained, by the Mortgagors to be performed, and also in consideration of the sum of One Dollar in hand paid, the receipt whereof is hereby acknowledged, do by these presents CONVEY AND WARRANT unto the Mortgagee, and the Mortgagee's successors and assigns, the following described Real Estate and all of their estate, right, title and interest therein, situate, lying and being in the City of Chicago, COUNTY OF COOK AND STATE OF ILLINOIS, and more particularly described in Exhibit A attached hereto and incorporated herein by this reference.

89255355

which, with the property hereinafter described, is referred to herein as the "premises,"

Permanent Real Estate Index Number(s): See Exhibit B attached hereto.

Address(es) of Real Estate: 1700 West 119th Street, Chicago, Illinois

TOGETHER with all improvements, tenements, easements, fixtures, and appurtenances thereto belonging, and all rents, issues and profits thereof for so long and during all such times as Mortgagors may be entitled thereto (which are pledged primarily and on a parity with said real estate and not secondarily) and all apparatus, equipment or articles now or hereafter therein or thereon used to supply heat, gas, air conditioning, water, light, power, refrigeration (whether single units or centrally controlled), and ventilation, including (without restricting the foregoing), screens, window shades, storm doors and windows, floor coverings, inador beds, awnings, stoves and water heaters. All of the foregoing are declared to be a part of said real estate whether physically attached thereto or not, and it is agreed that all similar apparatus, equipment or articles hereinafter placed in the premises by Mortgagors or their successors or assigns shall be considered as constituting part of the real estate.

TO HAVE AND TO HOLD the premises unto the Mortgagee, and the Mortgagee's successors and assigns, forever, for the purposes, and upon the uses herein set forth, free from all rights and benefits under and by virtue of the Homestead Exemption Laws of the State of Illinois, which said rights and benefits the Mortgagors do hereby expressly release and waive.

The name of a record owner is: Mortgagor

This mortgage consists of two pages. The covenants, conditions and provisions appearing on page 2 (the reverse side of this mortgage) are incorporated herein by reference and are a part hereof and shall be binding on Mortgagors, their heirs, successors and assigns.

Witness the hand . . . and seal . . . of Mortgagors the day and year first above written.

ATTEST _____ (Seal)

Boulevard Bank National Association, not personally, but as trustee as aforesaid (Seal)

PLEASE PRINT OR TYPE NAME(S) BELOW SIGNATURE(S)

Hal R. Pettigrew (Seal)
~~Notary Public~~ NOT. TRUST OFFICER

By: [Signature] (Seal)
Vice President ASSY VICE PRESIDENT

State of Illinois, County of COOK, ss.,

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Vice President and Assistant Secretary, respectively, of Boulevard Bank National Association

personally known to me to be the same person 5 whose name are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that L.H. CY. signed, sealed and delivered the said instrument as their free and voluntary act, on behalf of said banking association.

Given under my hand and official seal, this 26th day of May 19 89
Commission expires My Commission Expires April 28, 1990

This instrument was prepared by James A. Winkler, Foley & Lardner, Three First National Plaza, Chicago, Illinois 60602 (NAME AND ADDRESS)

Mail this instrument to Hal R. Pettigrew, c/o Crown Oaks, Inc., 777 Mercantile Parkway (NAME AND ADDRESS)

Arlington Texas 76011
(CITY) (STATE) (ZIP CODE)

OR RECORDER'S OFFICE BOX NO 354

89255355

UNOFFICIAL COPY

THE COVENANTS, CONDITIONS AND PROVISIONS REFERRED TO ON PAGE 1 (THE REVERSE SIDE OF THIS MORTGAGE):

1. Mortgagors shall (1) promptly repair, restore or rebuild any buildings or improvements now or hereafter on the premises which may become damaged or be destroyed; (2) keep said premises in good condition and repair, without waste, and free from mechanic's or other liens or claims for lien not expressly subordinated to the lien thereof; (3) pay when due any indebtedness which may be secured by a lien or charge on the premises superior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such prior lien to the Mortgagee; (4) complete within a reasonable time any building or buildings now or at any time in process of erection upon said premises; (5) comply with all requirements of law or municipal ordinances with respect to the premises and the use thereof; (6) make no material alterations in said premises except as required by law or municipal ordinance.

2. Mortgagors shall pay before any penalty attaches all general taxes, and shall pay special taxes, special assessments, water charges, sewer service charges, and other charges against the premises when due, and shall, upon written request, furnish to the Mortgagee duplicate receipts therefor. To prevent default hereunder Mortgagors shall pay in full under protest, in the manner provided by statute, any tax or assessment which Mortgagors may desire to contest.

3. In the event of the enactment after this date of any law of Illinois deducting from the value of land for the purpose of taxation any lien thereon, or imposing upon the Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Mortgagors, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or the mortgagee's interest in the property, or the manner of collection of taxes, so as to affect this mortgage or the debt secured hereby or the holder thereof, then and in any such event, the Mortgagors, upon demand by the Mortgagee, shall pay such taxes or assessments, or reimburse the Mortgagee therefor; provided, however, that if in the opinion of counsel for the Mortgagee (a) it might be unlawful to require Mortgagors to make such payment or (b) the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then and in such event, the Mortgagee may elect, by notice in writing given to the Mortgagors, to declare all of the indebtedness secured hereby to be and become due and payable sixty (60) days from the giving of such notice.

4. If, by the laws of the United States of America or of any state having jurisdiction in the premises, any tax is due or becomes due in respect of the issuance of the note hereby secured, the Mortgagors covenant and agree to pay such tax in the manner required by any such law. The Mortgagors further covenant to hold harmless and agree to indemnify the Mortgagee, and the Mortgagee's successors or assigns, against any liability incurred by reason of the imposition of any tax on the issuance of the note secured hereby.

5. At such time as the Mortgagors are not in default either under the terms of the note secured hereby or under the terms of this mortgage, the Mortgagors shall have such privilege of making prepayments on the principal of said note (in addition to the required payments) as may be provided in said note.

6. Mortgagors shall keep all buildings and improvements now or hereafter situated on said premises insured against loss or damage by fire, lightning and windstorm under policies providing for payment by the insurance companies of moneys sufficient either to pay the cost of replacing or repairing the same or to pay in full the indebtedness secured hereby, all in companies satisfactory to the Mortgagee, under insurance policies payable in case of loss or damage, to Mortgagee, such rights to be evidenced by the standard mortgage clause to be attached to each policy, and shall deliver all policies, including additional and renewal policies, to the Mortgagee, and in case of insurance about to expire, shall deliver renewal policies not less than ten days prior to the respective dates of expiration.

7. In case of default therein, Mortgagee may, but need not, make any payment or perform any act hereinbefore required of Mortgagors in any form and manner deemed expedient, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, or promise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting said premises or contest any tax or assessment. All moneys paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including attorneys' fees, and any other moneys advanced by Mortgagee to protect the mortgaged premises and the lien hereof, shall be so much additional indebtedness secured hereby and shall become immediately due and payable without notice and with interest thereon at the highest rate now permitted by Illinois law. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to the Mortgagee on account of any default hereunder on the part of the Mortgagors.

8. The Mortgagee making any payment hereby authorized relating to taxes or assessments, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof.

9. Mortgagors shall pay each item of indebtedness hereinafter mentioned, both principal and interest, when due according to the terms hereof. At the option of the Mortgagee and without notice to Mortgagors, all unpaid indebtedness secured by this mortgage shall, notwithstanding anything in the note or in this mortgage to the contrary, become due and payable (a) immediately in the case of default in making payment of any installment of principal or interest on the note, or (b) when default shall occur and continue for three days in the performance of any other agreement of the Mortgagors herein contained.

10. When the indebtedness hereby secured shall become due whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorneys' fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches, and examinations, title insurance policies, Torrens certificates, and similar data and assurances with respect to title as Mortgagee may deem to be reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the premises. All expenditures and expenses of the nature in this paragraph mentioned shall become so much additional indebtedness secured hereby and immediately due and payable, with interest thereon at the highest rate now permitted by Illinois law, when paid or incurred by Mortgagee in connection with (a) any proceeding, including probate and bankruptcy proceedings, to which the Mortgagee shall be a party, either as plaintiff, claimant or defendant, by reason of this mortgage or any indebtedness hereby secured; or (b) preparations for the commencement of any suit for the foreclosure hereof after accrual of such right to foreclose whether or not actually commenced; or (c) preparations for the defense of any actual or threatened suit or proceeding which might affect the premises or the security hereof.

11. The proceeds of any foreclosure sale of the premises shall be distributed and applied in the following order of priority: First, on account of all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in the preceding paragraph hereof; second, all other items which under the terms hereof constitute secured indebtedness additional to that evidenced by the note, with interest thereon as herein provided; third, all principal and interest remaining unpaid on the note; fourth, any overplus to Mortgagors, their heirs, legal representatives or assigns, as their rights may appear.

12. Upon or at any time after the filing of a complaint to foreclose this mortgage the court in which such complaint is filed may appoint a receiver of said premises. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagors at the time of application for such receiver and without regard to the then value of the premises or whether the same shall be then occupied as a homestead or not, and the Mortgagee may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of said premises during the pendency of such foreclosure suit and, in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, as well as during any further times when Mortgagors, except for the intervention of such 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 the receiver to apply the net income in his hands in payment in whole or in part of: (1) The indebtedness secured hereby, or by any decree foreclosing this mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale; (2) the deficiency in case of a sale and deficiency.

13. No action for the enforcement of the lien or of any provision hereof shall be subject to any defense which would not be good and available to the party interposing same in an action at law upon the note hereby secured.

14. The Mortgagee shall have the right to inspect the premises at all reasonable times and access thereto shall be permitted for that purpose.

15. The Mortgagors shall periodically deposit with the Mortgagee such sums as the Mortgagee may reasonably require for payment of taxes and assessments on the premises. No such deposit shall bear any interest.

16. If the payment of said indebtedness or any part thereof be extended or varied or if any part of the security be released, all persons now or at any time hereafter liable therefor, or interested in said premises, shall be held to assent to such extension, variation or release, and their liability and the lien and all provisions hereof shall continue in full force, the right of recourse against all such persons being expressly reserved by the Mortgagee, notwithstanding such extension, variation or release.

17. Mortgagee shall release this mortgage and lien thereof by proper instrument upon payment and discharge of all indebtedness secured hereby and payment of a reasonable fee to Mortgagee for the execution of such release.

18. This mortgage and all provisions hereof, shall extend to and be binding upon Mortgagors and all persons claiming under or through Mortgagors, and the word "Mortgagors" when used herein shall include all such persons and all persons liable for the payment of the indebtedness or any part thereof, whether or not such persons shall have executed the note or this mortgage. The word "Mortgagee" when used herein shall include the successors and assigns of the Mortgagee named herein and the holder or holders, from time to time, of the note secured hereby.

19. The Rider attached hereto, consisting of paragraphs 20 through 22, is an integral part of this Mortgage.

89255355

UNOFFICIAL COPY

EXHIBIT A

PARCEL 1:

All of Lots 1 to 6 in the Resubdivision of the East half (E 1/2) of the Southeast quarter (SE 1/4) of Section 19, Township 37 North, Range 14 East of the Third Principal Meridian (except right-of-way of Chicago, Rock Island and Pacific Railroad Company) and except that part lying Easterly of the following described line; Beginning in the South line of Lot 6 aforesaid; 352 feet West of the East line of said Quarter Section, as measured in said South line), thence Northeasterly to a point, 58 feet North of and 332 feet West of the Southeast corner of said Southeast Quarter (as measured North in the East line thereof and at right angles thereto); thence North parallel with the East line of said Quarter Section a distance of 421.62 feet; thence Northeasterly to a point 1105.81 feet North of and 299.52 feet West of the Southeast corner of said Quarter Section, (as measured North in the East line thereof and at right angles thereto); thence North parallel with the East line of said Quarter Section a distance of 200 feet); thence Northwestwardly to a point 1932.17 feet North of and 332 feet West of the Southeast corner of said Quarter Section (as measured in the East line thereof and at right angles thereto); thence North parallel with the East line of said Quarter Section to the intersection with a line 15 feet South of and parallel with the North line of said Lot One, thence Northwestwardly to the North line of said Lot 1, 307 feet West of the Northeast corner thereof, (as measured in said North line), in City of Chicago, Cook County, Illinois.

PARCEL 2:

Lots 1 to 40 both inclusive in Block 2 and Lots 1 to 6 both inclusive in Miller's Resubdivision of part of Block 2, all in Butterfield's Subdivision of Lots 1, 2, 3, and 6 in Krueger's Subdivision the Northeast quarter of Section 30, Township 27 North, Range 14, East of the Third Principal Meridian,

ALSO

All of vacated alley lying between 119th and 120th Streets between Paulina and Marshfield, which adjoins the above described Lots all in Cook County, Illinois.

PARCEL 3:

Lots 1 to 5 inclusive, Lot 7 (except the North 8 feet thereof) and all of Lots 8, 9 and 10 in Block 3 in Butterfield's Subdivision of Lots 1, 2, 3 and 6 of Krueger's Subdivision of the Northeast quarter of Section 30, Township 37 North, Range 14, East of the Third Principal Meridian.

PARCEL 4:

Lots 1, 2, 3, 4, and 5 in Resubdivision of Lots 40 to 44 in Block 3 of Butterfield's Subdivision of Lots 1, 2, 3 and 6 of Krueger's Subdivision of Northeast quarter of Section 30, Township 37 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

89255355

UNOFFICIAL COPY

EXHIBIT B

Permanent Tax Numbers:

- 25-30-204-023, Volume 037, (Affects Lot 24 in Butterfield's Subdivision and West half of vacated alley adjoining, in Parcel 2);
- 25-30-204-024, Volume 037, (Affects Lot 23 in Butterfield's Subdivision and West half of vacated alley adjoining, in Parcel 2);
- 25-30-204-001, Volume 037, (Affects Lot 1 in Miller's Resubdivision, in Parcel 2);
- 25-30-204-002, Volume 037, (Affects Lot 2 in Miller's Resubdivision, in Parcel 2);
- 25-30-204-003, Volume 037, (Affects Lot 3 in Miller's Resubdivision, in Parcel 2);
- 25-30-204-004, Volume 037, (Affects Lot 4 in Miller's Resubdivision, in Parcel 2);
- 25-30-204-005, Volume 037, (Affects Lot 5 in Miller's Resubdivision, in Parcel 2);
- 25-30-204-006, Volume 037, (Affects Lot 6 in Miller's Resubdivision and West half of vacated alley adjoining, in Parcel 2);
- 25-30-203-016, Volume 037, (Affects Lot 1 in Block 3 in Butterfield's Subdivision, in Parcel 3);
- 25-30-203-017, Volume 037, (Affects Lot 2 in Block 3 in Butterfield's Subdivision, in Parcel 3);
- 25-30-203-018, Volume 037, (Affects Lot 3 in Block 3 in Butterfield's Subdivision, in Parcel 3);
- 25-30-203-019, Volume 037, (Affects Lot 4 in Block 3 in Butterfield's Subdivision, in Parcel 3);
- 25-30-203-020, Volume 037, (Affects Lot 5 in Block 3 in Butterfield's Subdivision, in Parcel 3);
- 25-30-203-023, Volume 037, (Affects Lot 8 in Block 3 in Butterfield's Subdivision, in Parcel 3);
- 25-30-204-045, Volume 037, (Affects Lot 22 in Block 2 in Butterfield's Subdivision, in Parcel 2);
- 25-30-204-044, Volume 037, (Affects Lot 21 in Block 2 in Butterfield's Subdivision, in Parcel 2);
- 25-30-204-043, Volume 037, (Affects Lot 20 in Block 2 in Butterfield's Subdivision, in Parcel 2);
- 25-30-204-042, Volume 037, (Affects Lot 19 in Block 2 in Butterfield's Subdivision and East half of vacated alley adjoining, in Parcel 2);
- 25-30-204-041, Volume 037, (Affects Lot 18 in Block 2 in Butterfield's Subdivision and East half of vacated alley adjoining, in Parcel 2);
- 25-30-204-020, Volume 037, (Affects Lot 27 in Block 2 in Butterfield's Subdivision and the West half of vacated alley adjoining, in Parcel 2);
- 25-30-204-021, Volume 037, (Affects Lot 21 in Block 2 in Butterfield's Subdivision and West half of vacated alley adjoining, in Parcel 2);

89255355

UNOFFICIAL COPY

EXHIBIT B

25-30-204-022, Volume 037, (Affects Lot 25 in Block 2 in Butterfield's Subdivision and West half of vacated alley adjoining, in Parcel 2);

25-30-204-046, Volume 037, (Affects Lots 1 to 17, both inclusive, in Block 2 in Butterfield's Subdivision and East half of vacated alley adjoining, in Parcel 2);

25-19-417-015, Volume 464, (Affects Lot 1 and approximately the North 345 feet of Lot 2 in Parcel 1);

25-19-417-016, Volume 464, (Affects Lot 2 (except approximately the North 345 feet thereof) and all of Lots 3, 4, 5 and 6 in Parcel 1);

25-30-203-025, Volume 037, (Affects Lot 10 in Block 3 in Butterfield's Subdivision, in Parcel 3);

25-30-203-024, Volume 037, (Affects Lot 9 in Block 3 in Butterfield's Subdivision, in Parcel 3);

25-30-203-042, Volume 037, (Affects Lot 7 (except the North 8 feet thereof) in Block 3 in Butterfield's Subdivision, in Parcel 3);

25-30-203-001, Volume 037, (Affects Lot 1 in Parcel 4);

25-30-203-002, Volume 037, (Affects Lot 2 in Parcel 4);

25-30-203-003, Volume 037, (Affects Lot 3 in Parcel 4);

25-30-203-004, Volume 037, (Affects Lot 4 in Parcel 4);

25-30-203-005, Volume 037, (Affects Lot 5 in Parcel 4).

69255355

Property of Cook County Clerk's Office

UNOFFICIAL COPY

/LIT01A/JAW37

5/16/89

JAW/der

RIDER TO SECOND MORTGAGE DATED May 24, 1989, MADE BY BOULEVARD BANK NATIONAL ASSOCIATION, AS TRUSTEE UNDER A TRUST AGREEMENT DATED May 24, 1989, AND KNOWN AS TRUST NUMBER 8970, MORTGAGOR, TO HAL R. PETTIGREW, MORTGAGEE

20. This Mortgage is given as security for payment of the indebtedness evidenced by the following promissory notes:

(1) Revolving Credit Note dated April 30, 1986, made by Morgan Park Joint Venture, a Texas joint venture, to Mortgagee, as amended by First Amendment thereto dated May 24, 1989, evidencing indebtedness of Two Million Nine Hundred Forty-five Thousand Nine Hundred Eighty-one and 69/100 Dollars (\$2,945,981.69); and

(2) Promissory Note dated May 24, 1989, made by W. Garrett West to Mortgagee, evidencing indebtedness of ~~Two Million Seven Hundred~~ Seveny Five Thousand Dollars (\$2,775,000.00).

21. Mortgagee acknowledges that the lien of this Mortgage is junior and subordinate to the lien of the Construction Mortgage dated May 24, 1989, from Mortgagor to Boulevard Bank National Association ("First Mortgagee") to secure indebtedness in the principal amount of Six Million Dollars (\$6,000,000.00). Mortgagee agrees and covenants that he shall not initiate proceedings to foreclose this Mortgage without the prior written consent of First Mortgagee.

22. This Mortgage is executed by the undersigned, not personally but as Trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such Trustee, and is payable out of the property specifically described in this Mortgage securing the payment of the Note, by the enforcement of the provisions contained in the Mortgage or in the other Loan Documents. No personal liability shall be asserted or be enforceable against the Mortgagor, because or in respect of the Note or the making, issue or transfer thereof, all such liability, if any, being expressly waived by Mortgagee hereof, but nothing herein contained shall modify or discharge the personal liability expressly assumed by the Beneficiary of Mortgagor or any Guarantor hereof and each original and successive holder of the Note accepts the same upon the express condition that no duty shall rest upon the undersigned to sequester the rents, issues and profits arising from the property described in this Mortgage, or the proceeds arising from the sale or other disposition thereof.

BOULEVARD BANK NATIONAL
ASSOCIATION, as Trustee u/t/a
dated May 24, 1989, and known
as Trust No. 8970

By: 
ASST VICE PRESIDENT

89255355