

ASSIGNMENT OF LEASES, RENTS,  
SECURITY DEPOSITS, AND INTERESTS IN GUARANTIES

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THIS ASSIGNMENT OF LEASES, RENTS, SECURITY DEPOSITS, AND INTERESTS IN GUARANTIES (this "Assignment"), is made as of the 8th day of June, 1990, by and between (i) COLE TAYLOR BANK, not personally, but solely as Trustee under that certain Trust Agreement dated July 5, 1979 and known as Trust No. 79-302 (said Bank, in its capacity as Trustee under the aforementioned Trust and not personally, being herein referred to as "Land Trust" and said Trust Agreement as the "Trust Agreement") (ii) ROAD MATERIALS CORP., a Delaware corporation (herein sometimes referred to as "Beneficiary"), PRESTRESS ENGINEERING CORPORATION, a Delaware corporation, E.M. MELAHN CONSTRUCTION COMPANY, a Delaware corporation, GIERTZ-MELAHN ASPHALT CO., INC., a Delaware corporation, SUBURBAN READY MIX CORP., a Delaware corporation, and STANDARD READY MIX CORPORATION, a Delaware corporation (herein collectively referred to as the "Other Corporate Entities"), Land Trust, Beneficiary and the Other Corporate Entities being herein collectively referred to as "Assignor" and (iii) COLE TAYLOR BANK, an Illinois banking corporation (said banking corporation being herein referred to as "Assignee").

W I T N E S S E T H:

WHEREAS, Land Trust is the owner of certain property situated in Cook County, Illinois and more particularly described on Exhibit A attached to and made a part of this Assignment (the "Premises"), subject to the Trust Agreement;

AND WHEREAS, Beneficiary is the sole beneficiary and owner of 100% of the entire beneficial interest, with full power of direction, in and under the Trust Agreement;

AND WHEREAS, Beneficiary and the Other Corporate Entities are obligated and indebted to Assignee for loans, advances, extensions of credit or other financial accommodations to, on behalf of or for the benefit of Beneficiary and the Other Corporate Entities (the "Revolving Credit") pursuant to that certain Loan and Security Agreement dated May 29, 1982, as amended from time to time (the "Loan Agreement"), and as evidenced by that certain Promissory Note of even date herewith executed by the Beneficiary and the Other Corporate Entities (the "Promissory Note") in the principal amount of Four Million and No/100 Dollars (\$4,000,000.00), payable to the order of Assignee;

AND WHEREAS, Assignor and Cole Taylor Bank, f/k/a Cole Taylor Bank/Main, not personally but solely as Trustee under Trust Agreement dated October 17, 1977 and known as Trust No. 77-366 (the "77 Land Trust") are obligated and indebted to Assignee for loans, advances, extensions of credit or other financial accommodations to, on behalf of or for the benefit of Assignor and the 77 Land Trust (the "Term Credit"; the Revolving

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Credit and the Term Credit are herein collectively referred to as the "Credit"), as evidenced by that certain Installment Note of even date herewith (the "Installment Note") in the principal amount of Six Million Two Hundred Thousand and No/100 Dollars (\$6,200,000.00) executed by Assignor and the 77 Land Trust, payable to the order of Assignee (the Installment Note and the Promissory Note are herein collectively referred to as the "Notes");

AND WHEREAS, the Credit is secured by (i) a Mortgage, Security Agreement and Financing Statement of even date herewith (the "Mortgage") made and executed by Beneficiary and Land Trust in favor of Assignee, conveying, assigning and mortgaging the Premises and other property appurtenant or incidental thereto and (ii) certain other security documents and instruments (the "Other Security Documents") set forth on Exhibit B attached to and made a part of this Assignment;

AND, WHEREAS, Assignee requires, and Assignor is willing to grant, as additional and further security for the "indebtedness and obligations" (as such term defined in Paragraph 2 hereof), including without limitation, the Credit and all accrued interest and additional interest thereon, an assignment of all of Assignor's right, title and interest in, to and under (i) all "leases," (ii) all "rents," (iii) all "security deposits," and (iv) all "guaranties" (as each of the foregoing terms is herein defined), upon the terms and conditions hereinafter set forth:

NOW, THEREFORE, to secure the payment, performance and observance of the indebtedness and obligations hereby secured and also in consideration of the sum of One Dollar (\$1.00) in hand paid to Assignor and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor hereby covenants and agrees with Assignee as follows:

1. Assignor hereby assigns, transfers, pledges, hypothecates, sets over and delivers unto Assignee all the right, title and interest of Assignor, in, to and under all of the following (the same being herein sometimes collectively referred to as the "Collateral"):

(i) All leases, agreements for use and/or occupancy, licenses, concessionaire agreements and other similar documents and instruments, and all amendments, extensions and renewals thereof respectively, if any, with tenants, occupants and users (collectively, "tenants" and singularly, "tenant") in respect of all or any part or parts of the Premises heretofore, now or hereafter made or agreed to by Assignor or any predecessors of Assignor, or by Assignee under the powers herein granted, all being herein collectively referred to as "leases";

(ii) All the rents, earnings, income, issues, revenues, contract rights and profits of any and every kind and description howsoever derived, which may now be due or hereafter become due, under or by virtue of any and all the leases, or tenancies now or hereafter existing in respect of the Premises, or any part or parts thereof, or otherwise, all being herein collectively referred to as "rents";

(iii) All security deposits, reserves or deposits for taxes and insurance, and other monies or equivalents thereof made or given to secure the payment, performance and observance of covenants, agreements, conditions and obligations on the part of tenants to be paid, performed and observed under or pursuant to the leases, or tenancies now or hereafter existing in respect of the Premises, or any part or parts thereof, or otherwise, all being herein collectively referred to as "security deposits"; and

(iv) All guaranties made by any person(s) guaranteeing the payment of rents and/or the performance and observance of the covenants, agreements, conditions and obligations on the part of tenants to be paid, performed and observed under or pursuant to any of the leases, or any tenancies now or hereafter existing in respect of the Premises, or any part or parts thereof, or otherwise, and all amendments, reaffirmations, extensions and renewals thereof, respectively, if any, all being herein collectively referred to as "guaranties";

it being the intention to hereby establish, to the fullest extent permitted by law, subject to Paragraph 15 hereof, an absolute transfer and assignment unto Assignee of all of Assignor's right, title and interest in and under all of the leases, all rents, all security deposits and all the guaranties.

2. This Assignment, and the rights and interests herein granted and assigned to Assignee, are made and given to secure all of the following (the same being herein sometimes collectively referred to as the "indebtedness and obligations"):

(a) the prompt payment of any and all monies, including without limitation, the payment when due or declared due, of the Credit, or so much thereof disbursed pursuant to the Loan Agreement and the Notes, and all accrued interest thereon (including all additional interest set forth therein) now and/or hereafter owed or to become owing by Assignor or any such other person now or hereafter obligated or liable in any way for the indebtedness and obligations (any such other person being herein referred to as "Other Obligor") under and/or pursuant

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to the terms and provisions of the Loan Agreement and the Notes;

(b) the prompt payment, as and when due, of all other indebtedness, charges, sums, obligations, claims, demands, liabilities and/or monies (of any kind or nature) now and/or hereafter owing, arising, due or payable from Assignor or any Other Obligor to Assignee, howsoever evidenced, created, incurred, acquired or owing, whether primary, secondary, direct, contingent, fixed or otherwise, and arising under, pursuant to and/or in connection with the Notes, this Assignment, the Loan Agreement and the "Other Loan Documents" (as such term is herein defined);

(c) the prompt, full and faithful performance and observance of each and every term, covenant, agreement, condition, representation, warranty and provision contained in the Notes, this Assignment, the Loan Agreement and/or the Other Loan Documents; and

(d) the repayment, when required, of all costs, expenses, debts, claims, obligations, demands, monies, liabilities and/or indebtedness (of any kind or nature) now and/or hereafter owing, arising, due or payable from Assignor to Assignee under and/or pursuant to the terms and provisions of this Assignment, including without limitation, (i) advances or expenditures to pay or discharge insurance premiums, costs of repair to and maintenance of the Premises, taxes and any other liens, claims, security interests or encumbrances affecting the Premises, whether the obligation of the Assignor or any Other Obligor as provided in the Loan Agreement, the Notes, this Assignment or the Other Loan Documents and (ii) court costs and attorneys' fees and expenses paid, suffered or incurred by or for the account of Assignee to protect, preserve, enforce or realize upon (1) this Assignment and the rights and interests hereby created, (2) the indebtedness and obligations hereby secured, (3) the Collateral and (4) the Premises, all with interest thereon at the default rate.

For the purpose of this Assignment, the Mortgage, the Other Security Documents and all other documents and instruments heretofore, now or hereafter given as security for, or made in connection with the negotiation, origination or extension of, the Credit and all other indebtedness and obligations are herein sometimes collectively referred to as the "Other Loan Documents."

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3. Assignor does hereby authorize and appoint Assignee its true and lawful attorney, with full power of substitution and with full power for Assignee, in its own name and stead or in the name and stead of Assignor, which authorization and appointment are irrevocable and coupled with an interest:

A. To take possession of, and to hold, operate, manage and control, the Premises and to conduct the business thereof either personally or by its agents; to make and complete itself or by purchase, at the expense of the Premises and Assignor, (i) all repairs, renewals, replacements, alterations, additions, betterments and improvements to the Premises and (ii) all construction, replacement or rebuilding then in progress on the Premises; and to purchase, cancel, modify, amend or otherwise control and deal with any and all policies of insurance of any and all kinds now or hereafter covering or affecting the Premises, all as may be deemed appropriate by Assignee in its discretion;

B. To rent, lease or let all or any portion of the Premises to any party or parties at such rents and upon such terms as Assignee shall, in its discretion, determine, including leases for terms expiring beyond the maturity of the indebtedness and obligations and/or the period of redemption, if any, allowed in the event of foreclosure upon the Mortgage; to cancel, alter or modify the terms and provisions of any and all of the leases as Assignee may, in its discretion, determine; to demand, collect and receive all of the rents arising from or accruing at any time hereafter, and that are now due or may hereafter become due under each and every of the leases, or tenancies now or hereafter existing in respect of the Premises; and to collect any and all security deposits;

C. To endorse the name of Assignor on, or to execute in the name of Assignee, and to deposit in bank accounts for collection, any and all checks, notes and other instruments received in payment of any and all rents and security deposits; and to execute or give any and all receipts or other similar instruments in respect thereof in the name of Assignor or in the name of Assignee;

D. To use such measures, legal or equitable, as may be deemed appropriate by Assignee, in its discretion, to enforce (i) any and all covenants, agreements, conditions, and obligations of tenants under any of the leases, or any of the tenancies now or hereafter existing in respect of the Premises, or

any part thereof, (ii) the obligations of any person(s) under any of the guaranties, (iii) the payment of rents and security deposits or (iv) the collection or realization of any security given in connection therewith, or to secure or maintain possession of the Premises, or any portion thereof, including without limitation, actions for the recovery of rent, actions in forcible detainer and actions in distress for rent; to make adjustment of claims and to institute, prosecute, settle or compromise, either in the name of Assignor or in the name of Assignee, proceedings at law or in equity in order to protect the Premises, to recover rents, security deposits or other proceeds respecting the Premises, or to abate any nuisance on the Premises, and in connection therewith, execute and render any and all documents, papers and instruments; and

F. To otherwise act in Assignor's name, place and stead, and exercise all rights, powers and remedies available to Assignor under each and every of the leases and of the guaranties.

4. Assignor hereby grants to Assignee full power and authority to exercise, without notice to Assignor (notice thereof being hereby expressly waived by Assignor), each and every of the rights, interests, privileges and powers herein granted and assigned at any and all times hereafter, with full right and power to use and apply, to the extent thereof, the rents and so much of the security deposits as may be then retained by the landlord under the leases to the payment of any of the indebtedness or obligations, in such order as Assignee may determine on account of the following, but without in any manner limiting the generality of the rights, powers, privileges and authority conferred on Assignee by this Assignment:

(a) to the payment of the operating expenses of the Premises, including without limitation, (i) cost of management (which shall include reasonable compensation to Assignee and his agent or agents, if management be delegated to an agent or agents), (ii) established claims for damages, if any, (iii) court costs and attorneys' fees and expenses incurred by Assignee in connection with any and all actions and things which, by this Assignment, Assignee may do or cause to be done, and (iv) premiums on fire, liability and property insurance and on insurance against such other hazards, casualties and risks as Assignee may, in its discretion, deem appropriate;

(b) to the payment of taxes and special assessments now due or hereafter becoming due on the Premises;

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(c) to the payment of costs for the completion of construction, replacement or rebuilding then in progress on the Premises, or any part thereof, or for repairs to and decoration, rehabilitation and improvement of the Premises, or any part thereof, including without limitation, the costs from time to time of installing or replacing furniture and appliances, and heating, air-conditioning, ventilating, gas and electric fixtures, components and systems therein, and of placing the Premises in such condition as will, in the judgment of Assignee, make the Premises readily rentable;

(d) to the payment of all indebtedness and obligations; and

(e) to the payment of any deficiency which may result from any foreclosure as provided in the Mortgage.

After payment in full of the foregoing items, the balance, if any, of the rents and security deposits shall be paid to Assignor, or to such other person or entity then entitled thereto pursuant to the laws of the State of Illinois.

5. It is understood and agreed that the rights, powers and privileges herein granted and assigned to Assignee shall be deemed special remedies given to Assignee and shall not be deemed exclusive of any of the rights, powers and remedies provided in the Notes, the Loan Agreement and the Other Loan Documents, but shall be deemed additional remedies and cumulative with all such other rights, powers and remedies and each and all such rights, powers and remedies may be pursued or exercised singly, successively or simultaneously, at such time or times or in such order as Assignee may, in its sole discretion, elect. No failure on the part of Assignee to exercise, and no delay in exercising, any rights, powers, privileges, interests, remedies or authorizations hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such rights, powers, privileges, interests, remedies or authorizations by Assignee preclude any other further or future exercise thereof or the exercise of any other rights, powers, privileges, interests, remedies or authorizations.

6. It is expressly understood that no judgment or decree which may be entered on any of the indebtedness and obligations shall operate to abrogate or lessen the effect of this Assignment, but that this Assignment shall continue in full force and effect until any and all indebtedness and obligations, in whatever form the indebtedness and obligations may be, and any and all costs and expenses incurred and sustained by virtue of the authority herein contained have been fully and finally paid and discharged from the rents of the Premises, or by

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Assignor, any Other Obligor, or any of them, or from any other source, or until such time as this Assignment may be voluntarily released. This Assignment shall remain in full force and effect during the pendency of any foreclosure proceedings, both before and after sale, until the issuance of a deed pursuant to a foreclosure decree, unless the indebtedness and obligations are fully and finally paid and discharged before the expiration of the period of redemption, if any.

7. Land Trust hereby represents to, and Beneficiary and the Other Corporate Entities hereby represent and warrant to, and Assignor hereby covenants with Assignee that:

(i) except as previously disclosed in writing, to Assignee, there are no leases, or tenancies, written or otherwise, now in existence or in force with respect to the Premises, or any part thereof;

(ii) Assignor is the sole and absolute owner of all the Collateral, free and clear of all liens, claims, security interests and encumbrances;

(iii) Assignor will not, at any time during the term of this Assignment, sell, pledge, assign, transfer, set over, or otherwise encumber, or permit or suffer to be sold, pledged, assigned, transferred, set over or otherwise encumbered, the Collateral or perform or omit to perform any act or execute any other document or instrument which might prevent Assignee from fully exercising and enjoying its rights, powers, privileges and benefits under this Assignment;

(iv) Assignor has full right and power and lawful authority to execute and deliver, and to pay, perform and observe all their covenants, conditions and obligations under, this Assignment and assign, transfer and set over to Assignee all the Collateral, together with all the rights, interests, powers, privileges and authority herein granted, assigned and conferred upon Assignee;

(v) This Assignment constitutes a legal, valid and binding obligation of Assignor, enforceable against Assignor in accordance with the terms hereof;

(vi) No rents have been or will be paid by any tenant or other person in possession of any portion of the Premises more than thirty (30) days prior to the due date thereof;

(vii) The payment of the rents to accrue for any portion of the Premises have not been nor will be, nor will be permitted or suffered to be, deferred,



waived, released, discounted, discharged, compromised or otherwise adjusted except as heretofore disclosed in writing to Assignee in connection with leases existing at the time of execution of this Assignment;

(viii) Each of the leases and the guaranties is valid, binding and enforceable in accordance with its terms, and none has been altered, modified, amended, terminated, canceled, surrendered, renewed or extended, and no term or condition thereof has been waived or released in any manner whatsoever, except as previously disclosed, in writing, to Assignee;

(ix) There is no default now existing under any of the leases or the guaranties and no events presently exist under or in connection with any of the leases or the guaranties, which events would, with the giving of notice or the lapse of time or both, constitute a default thereunder;

(x) Assignor will, at Assignor's expense, observe and perform, or cause to be paid, observed and performed, each and every covenant, condition and obligation on the part of the landlord to be paid, observed and performed under the leases and enforce (excluding enforcement by termination of any of the leases, except as consented by Assignee) the observance and performance of each and every covenant, condition and obligation by the tenants to be observed and performed under all leases and by the guarantors under all the guaranties; and

(xi) Assignor shall give prompt notice to Assignee of each notice received by Assignor, or either of them, asserting or claiming that a default on the part of the landlord has occurred under any of the leases together with a complete copy of each such notice.

8. Assignor shall not, from and after the date of this Assignment: (i) make or enter into any leases or any tenancies, or otherwise let all or any part of the Premises, (ii) cancel or terminate, modify, amend or otherwise alter the terms and provisions of any of the leases or any of the guaranties, (iii) consent to or otherwise permit the assignment by any tenant of its interest under any of the leases or the subletting by any tenant of all, or any part of, the Premises now or hereafter demised or let under any of the leases or any of the tenancies or (iv) institute any proceedings for the dispossession or eviction of any tenant under any of the leases or any of the tenancies; provided, however, in any event Assignor shall provide Assignee with written notice of all such events. If, without the prior written consent or approval of Assignee, any of the foregoing acts or actions shall be

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committed or permitted by Assignor, then any such acts or actions shall not be binding upon Assignee, and unless subsequently confirmed or ratified expressly in writing by Assignee, shall be deemed null and void, and further, shall, at the option of Assignee, constitute an event of default under this Agreement.

9. If any of the leases provides for the abatement of rent during the repair, rebuilding or restoration of the Premises by reason of fire or other casualty, Assignor shall furnish to Assignee rental insurance, the policies to be in amount and form and written by such insurance companies as shall be acceptable to Assignee.

10. Nothing herein contained shall be construed as constituting Assignee a trustee or mortgagee in possession. In the exercise of the powers herein granted and assigned to Assignee, no liability shall be asserted or enforced against Assignee, Assignor for itself and for and on behalf of all persons claiming or to claim hereafter by, through or under Assignor, hereby expressly waiving, and releasing Assignee from, all such liability.

11. Assignee shall not be in any way: (i) responsible for the control, care and management of the Premises, or any part thereof, or for any waste committed or permitted on the Premises, or any part thereof, by any tenant or other person, (ii) obligated to perform or discharge, nor does Assignee hereby undertake to perform or discharge, any obligation, duty or liability under the leases, or under or by reason of this Assignment, and (iii) liable by reason of any dangerous or defective condition of the Premises, or any part thereof, resulting in loss, damage or injury to the property or person of any tenant or of any other person. Assignor shall and does hereby agree to pay and to indemnify, save, protect and hold forever harmless Assignee and its directors, employees or agents (collectively, "Assignee's Indemnities") of and from any and all loss, cost, damage, expense, claim, demand and liability, including without limitation, court costs and attorneys' fees and expenses, which Assignee's Indemnities, or any of them, may or might incur, suffer or sustain or for which Assignee's Indemnities, or any of them, may become obligated or liable, in any way, by reason of, in connection with or resulting from (a) this Assignment and the rights, powers and interests herein granted and assigned to Assignee, (b) any alleged obligations or undertakings on Assignee's part to perform or discharge any of the terms, covenants or agreements contained in the leases and agreements, any failure or alleged failure by Assignor to pay, perform or observe any covenants, conditions and obligations on the part of the landlord to be paid, performed and observed under the leases or (c) any loss, damage or injury to the property or person of any tenant or of any other person on or about the Premises or any part thereof. If any of Assignee's Indemnities shall be subject to any

liability indemnified hereunder, and such liability is not paid or satisfied by Assignor within three (3) business days after demand therefor by any of Assignee's Indemnities so affected, then the amount thereof shall be, so much additional indebtedness and obligations and shall bear interest from the date of demand until reimbursement is received at the default rate, and Assignee shall have, in addition to any other right, power or remedy available to Assignee, the same rights, powers and remedies in the event of the failure to pay promptly any such amount by Assignor as in the case of a default by Assignor in the payment of the indebtedness and obligations. The indemnity of Assignor under this Paragraph 11 shall survive any termination, release or satisfaction of this Assignment.

12. Assignee shall not, in any way, be responsible for failure to do any or all of the things for which rights, interests, powers or authority is herein granted and assigned to Assignee, and Assignee shall not be liable, in any way, for the collectability, collection or non-collection of any of rents or security deposits, nor shall Assignee be required to make an accounting for the benefit of Assignor, except for monies actually received by Assignee in accordance with the terms hereof, Assignor, for itself and for and on behalf of all persons claiming or to claim hereafter by, through or under Assignor, hereby expressly waiving, and releasing Assignee from, any and all such responsibility, liability and requirement.

13. Assignor further specifically authorizes the tenants under each and all of the leases, and any tenancy now or hereafter existing in respect of the Premises, or any part thereof, to pay all unpaid rents agreed upon under the leases or any tenancies to Assignee upon receipt of written demand from Assignee stating that an event of default exists and directing that payment of rents be made to Assignee or such other person(s) as Assignee may designate. Assignor acknowledges and agrees that (i) each and every tenant shall have the right to rely upon any such demand, and the statements and directions therein contained, of Assignee, and shall pay such rents to Assignee, without any obligation or right on the part of such tenant to inquire as to validity or propriety of any such demand by Assignee and notwithstanding any notice from or claim of Assignor to the contrary, and (ii) Assignor shall have no right, claim or recourse against any such tenant, and all tenants are hereby relieved of all duty, liability and obligation to Assignor, in respect of all rents so paid to Assignee.

14. Assignor further agrees to assign and transfer to Assignee all future leases and guaranties and to execute and deliver, at the request of Assignee, all such further assurances and assignments of the leases, rents, security deposits and guaranties as Assignee shall from time to time require. Upon request by Assignee, Assignor shall deliver to Assignee duplicate originals (or if permitted by Assignee, true and

complete copies thereof so certified by Assignor) of each and all of the leases and guaranties in existence from time to time.

15. Although it is the intention of the parties that this Assignment shall be a present assignment, it is expressly understood and agreed, anything herein contained to the contrary notwithstanding, that until an event of default (as such term is herein defined or used) shall occur or exist, Assignor shall have the right and privilege only to collect and retain the rents, to enforce the collection thereof by appropriate action or proceeding in the name of Assignor, and to otherwise manage the Premises, but only in strict compliance with the terms, covenants and conditions herein contained. The foregoing rights and privileges of Assignor shall, upon the occurrence or existence of any event of default, automatically and immediately cease and terminate, without notice to Assignor (notice as to any such event of default being hereby expressly waived by Assignor).

16. This Assignment and the Other Loan Documents (collectively, the "security documents" for the purpose of this Paragraph only) constitute equal security for the payment and discharge of the indebtedness and obligations, and none of the liens or security interests evidenced by the security documents shall be deemed to have preference or priority over any other of the liens or security interests evidenced by the security documents.

17. Nothing herein contained, nor the exercise by Assignee of any of the rights, powers, privileges, interests, remedies and authority herein granted and assigned, shall be, or shall be construed to be, an affirmation by Assignee of any of the leases or of any option to renew or extend the same, or an assumption of liability under, or a subordination of the lien of the Mortgage or of the liens, rights and interests created by this Assignment and the Other Security Documents to, any of the leases or any such option.

18. Assignor hereby grants to Assignee a security interest in rents and security deposits pursuant to the Uniform Commercial Code of the State of Illinois (the "Code"), and this Assignment shall operate as a security agreement under the Code, thereby entitling Assignee to all the benefits, rights and remedies therein conferred upon a secured party (as such term is defined in the Code). Assignor will, at the request of Assignee, execute or join with Assignee in executing and, at Assignor's own expense, file and refile under the Code, such financing statements, amendments thereto, continuation statements and other documents in such states and in such offices as Assignee may deem necessary or appropriate and wherever required or permitted by law in order to perfect and preserve Assignee's security interest in the rents and security deposits, and hereby authorizes Assignee to file financing statements, amendments thereto and continuation statements

relative to all or any part of the rents and security deposits without the signature of Assignor where permitted by law.

19. Assignor hereby agrees that the occurrence or existence of any of the following events or conditions shall constitute an event of default (herein referred to singularly as "event of default" and collectively as "events of default"):

(i) Any representation or warranty made by Assignor or any Other Obligor, or their respective agents, in this Assignment, the Notes, the Loan Agreement or any of the Other Loan Documents or in any other agreement, instrument or statement contemplated hereby or thereby, made or delivered pursuant hereto or thereto or in connection herewith or therewith, shall be breached or violated, or proven to be false, misleading or inaccurate, in any material respect;

(ii) Assignor shall, regardless of cause or reason, fail to pay, perform or discharge, when and as due, any indebtedness and obligations;

(iii) An event of default (as such term is therein defined or used) shall occur or exist under, pursuant to or in connection with the Notes, the Loan Agreement or any of the Other Loan Documents.

20. Upon the occurrence or existence of any one or more of the events of default, then at the option of Assignee and without demand or notice to Assignor (demand and notice as to any event of default being hereby expressly waived by Assignor, except for such notices as may be provided in Paragraph 19 hereof), Assignee shall, to the fullest extent permitted by law, be entitled to exercise (i) all the rights, powers and remedies, if any, available under the Code then in effect, (ii) any and all other rights, powers and remedies as permitted in this Assignment, the Notes, the Loan Agreement and the Other Loan Documents and (iii) all such other rights and remedies as may be provided at law or in equity.

21. All the terms, covenants, conditions, representations and provisions and all the warranties, in the case of makers and obligors, contained in the Notes, the Loan Agreement and the Other Loan Documents are, by this reference, adopted and incorporated into this Assignment to the same full extent and with the same binding force and effect as if all such terms, covenants, conditions, representations, provisions and warranties were herein stated in full, it being the express intent that each of this Assignment, the Notes, the Loan Agreement and the Other Loan Documents complement and supplement the others to the extent necessary or required to protect, preserve and confirm the rights, powers, interests and remedies of Assignee in respect of the indebtedness and obligations.

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22. Each of the leases shall remain in full force and effect irrespective of any merger of the interest of any landlord and any tenant under any of the leases.

23. All notices, demands and other communications required or desired to be given hereunder shall be in writing signed by Assignee or Assignor, or their respective authorized agents or attorneys, as the case may be, and shall be deemed to have been properly given if (i) served in person, (ii) if mailed by United State registered or certified mail, full postage prepaid, return receipt requested, (iii) if sent by telecopy or telex or (iv) if sent by special courier (Federal Express or like service), addressed as follows:

If to Assignee:

COLE TAYLOR BANK  
300 East Dundee Road  
Wheeling, Illinois 60090  
Attn: Asset Based Lending

With a copy to  
Assignee's counsel:

JENNER & BLOCK  
One IBM Plaza  
Chicago, Illinois 60611  
Attn: Jeffrey L. Elegant

If to Assignor:

E.M. Melahn Construction  
Company  
502 South Main Street  
Algonquin, Illinois 60102

With a copy to:

Crowley Barrett & Karabe,  
Ltd.  
Suite 2510  
20 South Clark Street  
Chicago, Illinois 60603-  
1802  
Attn: Alan Reuh Orschel

or to such other address in the United States of America as may from time to time be designated by the party to be addressed, by notice to the others in the manner hereinabove provided. Any such notices, demands or other communication mailed as provided in this Paragraph 23 shall be deemed to have been given and received on the earlier of (1) the date of actual receipt of such notice, demand or other communication, (ii) the third (3rd) business day following the day of mailing by U.S. registered or certified mail of such notice, demand or other communication, (iii) date of actual transmission of such demand, notice or other communication, in the form of a telecopy or telex, or (iv) date of actual delivery of such demand, notice or other communication if by special courier (Federal Express or like service). If such demand, notice or other communication is given or received by more than one of the foregoing methods on

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different dates, such demand, notice or other communication shall be deemed given or received on the earlier of such dates. The delivery or receipt by other parties of copies of any demand, notice or other communication hereunder is merely an accommodation and is not necessary or required to make effective the giving or receipt by Assignee or Assignor of any demand, notice or other communication.

24. (a) This Assignment, and all the provisions hereof, shall extend to and be binding upon Assignor, their successors and assigns, and upon any party or parties from time to time permitted to hold title to or have an interest in the Premises, except that the benefits and privileges accruing to Assignor hereunder shall only extend and inure to such of the successors and assigns of Assignor or such party or parties as may be permitted pursuant to the Mortgage. This Assignment and all the rights, powers, privileges and immunities herein assigned and granted to Assignee shall extend and inure to the benefit of the successors and assigns (including all holders, now or hereafter, of the Notes) of Assignee. The terms "Assignor" and "Assignee" and all personal pronouns as herein used shall be taken to include the singular or plural, and the masculine, feminine or neuter gender, as may be applicable.

(b) All the liabilities and obligations of Assignor hereunder are, and shall be, at all times, joint and several.

(c) This Assignment shall in all respects be construed and enforced in accordance with, and governed by, the laws of the State of Illinois. This Assignment may not be amended or modified, nor may any of the interests and rights hereby assigned to be released, except by a writing signed by or on behalf of the party to be bound thereby.

(d) Assignor agrees to pay, on demand of Assignee, all costs and expenses, including without limitation court costs and attorneys' fees and expenses, paid, sustained or incurred by Assignee in connection with the enforcement of this Assignment, with interest thereon, from the date on which such costs and expenses are so paid, sustained or incurred by Assignee to the date of receipt of payment thereof from Assignor, at the default rate.

(e) Whenever possible, each provision of this Assignment and the application thereof shall be interpreted in such a manner as to be effective, valid and enforceable under applicable law, but if any provisions of this Assignment, or the application thereof to any persons or circumstances, shall be invalid, illegal or unenforceable in any respect under such law, such provision or application shall

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be ineffective to the extent of such invalidity, illegality or unenforceability, without rendering invalid, illegal or unenforceable the remainder of such provision or the remaining provisions of this Assignment, or the application of such invalid, illegal or unenforceable provision to persons or circumstances other than those to which such provision is invalid, illegal or unenforceable.

(f) The recitals to this Assignment are hereby incorporated into and made a part of this Assignment and shall be deemed covenants and representations binding upon the Land Trust and covenants, representations and warranties binding upon Beneficiary and the Other Corporate Entities.

(g) Whenever the consent, permission or approval of Assignee is required under this Assignment, Assignee has the right, in its absolute discretion, to refuse to grant such consent, permission or approval.

(h) The covenants and representations made by the Land Trust and the covenants, representations and warranties made by Beneficiary and the Other Corporate Entities under this Assignment are, and shall be deemed to be, of continuing force and effect until all the indebtedness and obligations have been fully and finally paid, discharged and performed.

25. This Assignment is executed by Cole Taylor Bank, not personally, but as Trustee under the Trust Agreement in the exercise of the power and authority conferred upon and vested in it as such Trustee (and Cole Taylor Bank hereby warrants that it possesses full power and authority to execute this instrument), and it is expressly understood and agreed that nothing contained herein or in the Notes shall be construed as creating any liability on Trustee personally to pay the Notes or any interest, late charge or premium that may accrue thereon, or any of the indebtedness and obligations secured hereby, or to perform any covenant, either express or implied, herein contained.



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IN WITNESS WHEREOF, Assignor has caused this Assignment to be executed and delivered as of the date and year first above written.

ROAD MATERIALS CORP.  
a Delaware Corporation

ATTEST:

Edward A. Smith  
Asst. Secy.

By: Charles A. Wehrh  
Its: President

E.M. MELAHN CONSTRUCTION COMPANY,  
a Delaware corporation

ATTEST:

Edward A. Smith  
Asst. Secy.

By: Charles A. Wehrh  
Its: President

PRESTRESS ENGINEERING CORPORATION,  
a Delaware Corporation

ATTEST:

Edward A. Smith  
Asst. Secy.

By: Charles A. Wehrh  
Its: President

GIERTZ-MELAHN ASPHALT CO., INC.,  
a Delaware Corporation

ATTEST:

Edward A. Smith  
Asst. Secy.

By: Charles A. Wehrh  
Its: President

SUBURBAN READY MIX CORPORATION,  
a Delaware Corporation

ATTEST:

Edward A. Smith  
Asst. Secy.

By: Charles A. Wehrh  
Its: President

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STANDARD READY MIX CORP.,  
a Delaware Corporation

ATTEST:

Edward A. Smith  
Asst. Secy.

By: [Signature]  
Its: President

COLE TAYLOR BANK  
Trustee under the  
aforesaid Trust Agreement  
and not personally

By: [Signature]  
Vice President

Attest: [Signature]  
Assistant Secretary

THIS INSTRUMENT PREPARED BY: UPON RECORDATION RETURN TO:

Jeffrey L. Elegant  
JENNER & BLOCK  
One IBM Plaza  
Chicago, Illinois 60611  
(312) 222-9350

Jeffrey L. Elegant  
JENNER & BLOCK  
One IBM Plaza  
Chicago, Illinois 60611  
(312) 222-9350

Property of Cook County Clerk's Office

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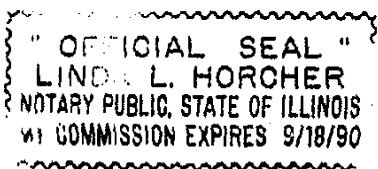
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STATE OF ILLINOIS )  
 )  
COUNTY OF Cook ) SS.

I, Linda L. Horcher, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Carol L. Ennis, Vice President of COLE TAYLOR BANK, an Illinois banking corporation, and Phyllis Lindstrom, Asst. Secretary of said banking corporation, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Vice President and Asst. Secretary, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said banking corporation, as Trustee under the Trust Agreement, for the uses and purposes therein set forth; and the said Asst. Secretary then and there acknowledged that said Asst. Secretary, as custodian of the corporate seal of said banking corporation, caused the corporate seal of said banking corporation to be affixed to said instrument as said Asst. Secretary's own free and voluntary act and as the free and voluntary act of said banking corporation, as Trustee, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 8th day of June, 1990.



Linda L. Horcher  
Notary Public

My Commission Expires:

9/18/90

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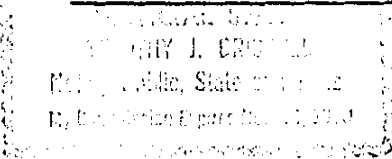
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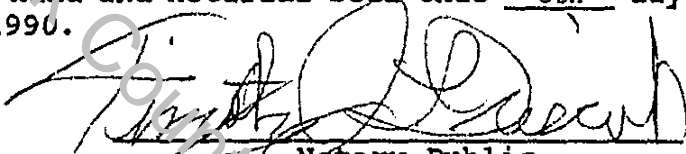
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STATE OF ILLINOIS     )  
                                  )  
COUNTY OF   Cook       )     SS.

I, Timothy J. Driscoll, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Christian R. Newkirk President of E.M. MELAHN CONSTRUCTION COMPANY, a Delaware corporation, and Edward A. Lewis, Assistant Secretary of said Delaware corporation, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such        President and Assistant Secretary, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth; and the said Assistant Secretary then and there acknowledged that said Assistant Secretary, as custodian of the corporate seal of said corporation, caused the corporate seal of said corporation to be affixed to said instrument as said Assistant Secretary's own free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this   8th   day of   June  , 1990.



  
Notary Public  
Timothy J. Driscoll

My Commission Expires:

11/14/90

Clerk's Office

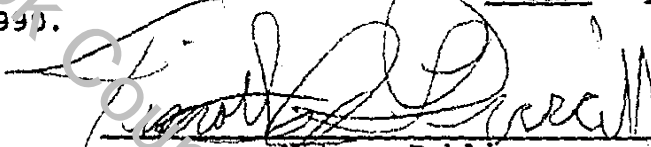
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STATE OF ILLINOIS )  
                                  )    SS.  
COUNTY OF     Cook     )

I,     Timothy J. Driscoll    , a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that     Christian R. Newkirk     President of PRESTRESS ENGINEERING CORPORATION, a Delaware corporation, and     Edward A. Lewis    , Assistant Secretary of said corporation, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such     President and Assistant Secretary    , respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Delaware corporation, for the uses and purposes therein set forth; and the said     Assistant Secretary     then and there acknowledged that said     Assistant Secretary    , as custodian of the corporate seal of said corporation, caused the corporate seal of said corporation to be affixed to said instrument as said     Assistant Secretary's     own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this     8th     day of     June    , 1990.

Notary Public  
TIMOTHY J. DRISCOLL  
Notary Public, State of Illinois  
My Commission Expires November 14, 1990

  
Notary Public  
Timothy J. Driscoll

My Commission Expires:

    11/14/90    

Clerk's Office

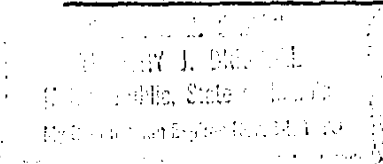
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STATE OF ILLINOIS )  
                          )     SS.  
COUNTY OF   Cook   )

I, Timothy J. Driscoll, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Christian R. Newkirk President of ROAD MATERIALS CORP., a Delaware corporation, and Edward A. Lewis, Assistant Secretary of said Delaware corporation, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such            President and Assistant Secretary, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth; and the said Assistant Secretary then and there acknowledged that said Assistant Secretary, as custodian of the corporate seal of said corporation, caused the corporate seal of said corporation to be affixed to said instrument as said Assistant Secretary's own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 8th day of June, 1990.



Timothy J. Driscoll  
Notary Public  
Timothy J. Driscoll

My Commission Expires:

11/14/90

Clerk's Office

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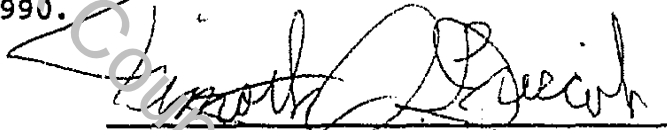
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STATE OF ILLINOIS     )  
                                  )     SS.  
COUNTY OF   Cook       )

I, Timothy J. Driscoll, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Christian R. Newkirk President of GIERTZ-MELAHN ASPHALT CO., INC., a Delaware corporation, and Edward A. Lewis, Assistant Secretary of said Delaware corporation, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such        President and Assistant Secretary, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth; and the said Assistant Secretary then and there acknowledged that said Assistant Secretary, as custodian of the corporate seal of said corporation, caused the corporate seal of said corporation to be affixed to said instrument as said Assistant Secretary's own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this   8th   day of   June  , 1990.

  
\_\_\_\_\_  
Notary Public  
Timothy J. Driscoll

My Commission Expires:

  11/14/90  

Clerk's Office

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STATE OF ILLINOIS )  
 )  
 ) SS.  
COUNTY OF Cook )

I, Timothy J. Driscoll, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Christian R. Newkirk President of SUBURBAN READY MIX CORPORATION, a Delaware corporation, and Edward A. Lewis, Assistant Secretary of said Delaware corporation, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such President and Assistant Secretary, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth; and the said Assistant Secretary then and there acknowledged that said Assistant Secretary, as custodian of the corporate seal of said corporation, caused the corporate seal of said corporation to be affixed to said instrument as said Assistant Secretary's own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 8th day of June, 1990.

Notary Public  
Timothy J. Driscoll  
Notary Public  
State of Illinois  
My Commission Expires

  
Notary Public  
Timothy J. Driscoll

My Commission Expires:  
11/14/90

Clerk's Office

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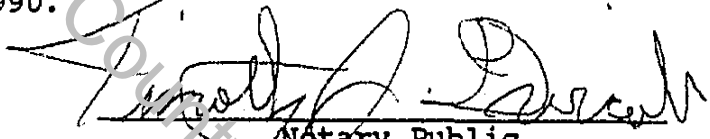
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STATE OF ILLINOIS     )  
                                  )  
COUNTY OF   Cook       )  
                                  )     SS.

I, Timothy J. Driscoll, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Christian R. Newkirk President of STANDARD READY MIX CORP., a Delaware corporation, and Edward A. Lewis, Assistant Secretary of said Delaware corporation, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such            President and            Assistant Secretary, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth; and the said            Assistant Secretary then and there acknowledged that said            Assistant Secretary, as custodian of the corporate seal of said corporation, caused the corporate seal of said corporation to be affixed to said instrument as said            Assistant Secretary's own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this   8th   day of   June  , 1990.

  
\_\_\_\_\_  
Notary Public  
Timothy J. Driscoll

My Commission Expires:

  11/14/90  

JLE00505.ASG

Clerk's Office

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EXHIBIT A

Legal Description

PARCEL 1:

THAT PART OF THE SOUTH WEST 1/4 OF SECTION 30 LYING NORTHERLY OF THE NORTH RIGHT OF WAY LINE OF ILLINOIS STATE ROUTE 72 AND COMMONLY KNOWN AS NEW HIGGINS ROAD AND WESTERLY OF THE EASTERLY RIGHT OF WAY OF HEALY ROAD (EXCEPT THE WEST 190 FEET THEREOF AND EXCEPT THAT PART CONVEYED TO THE DEPARTMENT OF PUBLIC WORKS AND BUILDINGS OF THE STATE OF ILLINOIS BY DOCUMENT NUMBER 12378247 RECORDED OCTOBER 5, 1939 FOR HIGHWAY

PURPOSES DESCRIBED AS FOLLOWS:

THAT PART OF THE SOUTH WEST 1/4 OF SAID SECTION DESCRIBED AS BEING A STRIP OF LAND 66 FEET IN WIDTH RUNNING FROM THE NORTHERLY RIGHT OF WAY LINE OF THE PROPOSED DUAL HIGHWAY OF STATE BOND ISSUE, ROUTE 53 TO THE CENTER LINE OF HIGGINS ROAD AS NOW TRAVELLED, CENTER LINE OF SAID 66 FOOT STRIP BEING DESCRIBED AS FOLLOWS:

COMMENCING AT SOUTH WEST CORNER OF SECTION 30, THENCE NORTH ALONG THE WEST LINE OF SAID SECTION, A DISTANCE OF 1,412.73 FEET TO A POINT THENCE SOUTHEASTERLY ALONG A LINE WHICH MAKES AN ANGLE OF 59 DEGREES 01 MINUTE FROM THE SOUTH TO THE SOUTH EAST WITH SAID WEST LINE A DISTANCE OF 109.59 FEET TO A POINT, SAID LINE BEING SAID NORTHERLY RIGHT OF WAY LINE OF THE PROPOSED DUAL HIGHWAY; THENCE SOUTHEASTERLY ALONG A CURVE CONVEX TO THE SOUTH WEST HAVING A RADIUS OF 1,0017.06 FEET AND TANGENT TO THE LAST DESCRIBED COURSE, SAID CURVE BEING SAID NORTHERLY RIGHT OF WAY LINE OF PROPOSED DUAL HIGHWAY, A DISTANCE OF 762.2 FEET TO THE POINT OF BEGINNING, THENCE NORTHEASTERLY ALONG A LINE, A DISTANCE OF 245.11 FEET TO A POINT IN THE AFORESAID CENTER LINE OF HIGGINS ROAD AS NOW TRAVELLED, SAID POINT BEING 894.51 FEET FROM AFORESAID WEST LINE OF SAID SECTION 30 AS MEASURED ALONG SAID CENTER LINE OF HIGGINS ROAD IN TOWNSHIP 42 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 2:

THE SOUTH 1/2 OF LOT 1 AND THE SOUTH 5 ACRES OF THE NORTH 1/2 OF SAID LOT 1 (EXCEPT THAT PART OF SAID LOT 1 AND OF SAID SOUTH 5 ACRES LYING SOUTHEASTERLY OF THE NORTHWESTERLY RIGHT OF WAY LINE OF HEALY ROAD) IN THE NORTH WEST 1/4 OF SECTION 30, TOWNSHIP 42 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 3:

THE SOUTH 1/2 OF LOT 2 AND THE SOUTH 5 ACRES OF THE NORTH 1/2 OF SAID LOT 2 (EXCEPT THAT PART OF SAID LOT 2 AND OF SAID SOUTH 5 ACRES LYING SOUTHEASTERLY OF THE NORTHWESTERLY RIGHT OF WAY LINE OF HEALY ROAD) IN THE SOUTH WEST 1/4 OF SECTION 30, TOWNSHIP 42 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPTING THE WEST 190.0 FEET OF THE SOUTH 1/2 OF SAID LOT 2 AND ALSO EXCEPTING THE WEST 190.00 FEET OF THE SOUTH 5 ACRES OF THE NORTH 1/2 OF SAID LOT 2 CONVEYED TO THE COMMONWEALTH EDISON COMPANY BY DOCUMENT NUMBER 18454231 RECORDED APRIL 23, 1962) IN COOK COUNTY, ILLINOIS.

01-30-100-010

300-007

350 E. Dundee

90276927

## EXHIBIT B

### OTHER SECURITY DOCUMENTS

1. Mortgage, Security Agreement and Financing Statement dated June 8, 1990, with respect to certain real property made by Assignor in favor of Assignee to secure the Note.
2. UCC Financing Statements (Form 1) with Assignor, as debtor, and Assignee, as secured party, regarding the property described in the Mortgage.
3. Loan and Security Agreement dated as of May 29, 1987, as amended from time to time, by and between the Corporate Entities and Assignee.
4. UCC Financing Statement (Form 1) with Assignor, as debtor, and Assignee, as secured party, in respect of the leases described in the Assignment of Leases, Rents, Security Deposits and Interests in Guaranties.
5. UCC Financing Statements (Form 1) with Assignor, as debtor, and Assignee, as secured party, in respect of the property described in the Loan and Security Agreement.
6. Collateral Assignment of Beneficial Interest and Security Agreement dated April 28, 1987, made by Beneficiary in favor of Assignee assigning for collateral purposes, all the right, title and interest of Beneficiary in and under the Trust Agreements.
7. UCC Financing Statements (Form 1) with Beneficiary, as Debtor and Assignee, as secured party, in respect of the property described in the Collateral Assignment of Beneficial Interest and Security Agreement.
8. Guaranty Agreement dated as of April 28, 1987, made by William A. Melahn and Joan L. Melahn in favor of Assignee.

Any term herein used but not defined shall have the same meaning as assigned to such term in the instrument to which this Exhibit is attached.

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