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RECORDED

7277/0095 25 001 Page 1 of 20
1999-08-25 11:15:48
Cook County Recorder 59.50

PREPARED BY:

Donald J. Gibson, Jr.
Clausen Miller P.C.
10 South LaSalle Street
Chicago, IL 60603-1098

99 JUL 22 PM 2:18

BERNICE TRETHERWAY
REGISTER OF DEEDS
BERNICE COUNTY, MICHIGAN



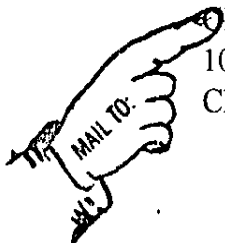
99809103

07/22/99 111#7883 A44
MORTGAGE \$45.00

AFTER RECORDING, MAIL TO:

Donald J. Gibson, Jr.
Clausen Miller P.C.
10 South LaSalle Street
Chicago, IL 60603-1098

07/22/99 111#7883 A44
STATE REMON FEE \$2.00



FIFTH MODIFICATION AGREEMENT

THIS FIFTH MODIFICATION AGREEMENT (hereinafter referred to as the "Modification Agreement") made as of this 9th day of July, 1999, by and between OWEN A. MORAN (the "Borrower"), BRIAN K. MORAN, as Trustee under The Owen A. Moran Trust Agreement dated September 18, 1984, JEAN B. MORAN and LASALLE NATIONAL TRUST N.A., not individually, but as Trustee under Trust Agreement dated March 28, 1969 and known as Trust No. 10-15781-08 (hereinafter collectively referred to as the "Mortgagors"), and LASALLE BANK, N.A. successor to COLUMBIA NATIONAL BANK OF CHICAGO ("Lender"). * LaSalle Bank National Association, formerly known as LaSalle National Bank, successor trustee to

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WITNESSETH: REI TITLE SERVICES # 734433

WHEREAS, from time to time, Borrower has executed and delivered to Lender various Notes and, as collateral therefore, delivered to Lender various Mortgages and other Collateral Documents all as described herein.

WHEREAS, the Borrower and Lender previously agreed to consolidate various Loans from Lender to Borrower, and, as evidence thereof, Borrower executed a certain Consolidated Term Note (the "Consolidated Note") dated April 10, 1996 in the original principal amount of \$2,991,957.11 payable to Lender. Subsequent thereto, Borrower requested and Lender agreed to increase the Loan evidenced by the Consolidated Note from \$2,991,957.11 to \$4,819,225.90, and as evidenced thereof, Borrower executed a new Consolidated Note in said principal amount dated as of January 10, 1997 (the "New Consolidated Note");

JOYCE A. WATTS
REGISTER OF DEEDS
ALLEGAN COUNTY, MICH

471539.1

SOPHIA GEORGIS LASALLE BK, N.A 1301 E. OGDEN AVE,
NAPERVILLE IL 60563

WHEREAS, the Consolidated Note and the New Consolidated Note are secured by, among other things, the following documents (as amended or modified from time to time, the "Loan Documents"):

- (i) a Junior Mortgage dated as of March 1, 1993, as modified from time to time, made by Theodore A. Pasquesi and Brian K. Moran as trustees under agreement dated September 14, 1984 and Jean B. Moran, to Lender (the "Winnetka Mortgage"), recorded in the Office of the Recorder of Deeds of Cook County, Illinois, as Document No. 93186203 on property commonly known as 15 Woodley Drive, Winnetka, Illinois and legally described on **Exhibit "A"** attached hereto;
- (ii) a Mortgage and Security Agreement dated as of March 1, 1993, as modified from time to time, made by LaSalle National Trust N.A., not individually but as Trustee under Trust Agreement dated March 28, 1969, and known as Trust No. 10-15781-08 ("Trustee"), to Lender (the "Northbrook Mortgage"), recorded in the Office of the Recorder of Deeds of Cook County, Illinois as Document No. 93186201 and legally described on **Exhibit "B"** attached hereto;
- (the foregoing mortgages are hereinafter collectively referred to as the "Mortgages");
- (iii) an Assignment of Rents and of Lessor's Interest in Leases each dated as of March 1, 1993, as modified from time to time, made by each of the makers of the Mortgages in favor of Lender (collectively, the "Assignments of Rents"), recorded as Document Numbers 93186204 and 93186202, respectively;
- (iv) a Collateral Assignment of Beneficial Interest and Security Agreement dated as of March 1, 1993, as amended from time to time, made by Theodore A. Pasquesi and Brian K. Moran, as Trustees, to Lender, collaterally assigning the beneficial interest of Trustee (the "Collateral Assignment");
- (v) Loan Agreement dated as of March 1, 1993 entered into between Borrower and Lender, as amended from time to time (the "Loan Agreement");
- (vi) Security Agreement and Hypothecation Agreement dated as of March 1, 1993 made by Borrower in favor of Lender, as amended from time to time (the "Security Agreement"); and

- (vii) Security Agreement and Pledge Agreement dated as of December 9, 1994 made by Borrower in favor of Lender, as amended from time to time (the "Pledge Agreement"); and

WHEREAS, the Borrower has now requested that the Lender renew a certain \$10,000,000.00 Irrevocable Standby Letter of Credit issued for the benefit of Canadian Imperial Bank of Commerce Bahamas Limited originally dated July 9, 1998 (the Letter of Credit as amended is hereinafter referred to as the "Letter of Credit") for one year pursuant to the terms and provisions of the Letter of Credit. The Letter of Credit is secured by the Loan Documents as well as the following collateral documents (hereinafter the "Collateral Documents") (the Loan Documents and the Collateral Documents are hereinafter collectively referred to as the "Collateral"):

- (i) Mortgage dated as of April 25, 1995, as modified from time to time, made by Owen A. Moran and Jean B. Moran to Lender (the "Allegan County Mortgage") and recorded in the Allegan County Records, Michigan in Liber 1523, Page 309 and legally described on **Exhibit "C"** attached hereto (the "Allegan County Property");
- (ii) Mortgage and Security Agreement dated as of April 25, 1995, as modified from time to time, made by Owen A. Moran to Lender (the "Berrien County Mortgage") and recorded in the Berrien County Records, Michigan in Book 1696, page 595 and legally described on **Exhibit "D"** attached hereto (the "Berrien County Property");
- (the above two Mortgages are hereinafter referred to as the "Michigan Mortgages");
- (iii) an Assignment of Rents and of Lessor's Interest in Leases dated as of April 25, 1995, as modified from time to time, made by Owen A. Moran to Lender (the "Berrien County Assignment of Rents") and recorded in the Berrien County Records, Michigan in Book 1696, page 631 on the Berrien County Property;
- (iv) a Collateral Assignment of Beneficial Interest and Security Agreement dated as of March 1, 1993, as amended from time to time, made by Brian K. Moran, as Trustee, in and to the beneficial interest of Trustee (the "Collateral Assignment");
- (v) Pledge and Security Agreement of Owen A. Moran dated July 29, 1998, as amended by the First Amendment to Pledge and Security Agreement of Owen A. Moran dated July 9, 1999;

- (vi) Various Stock Powers;
- (viii) UCC-1 Financing Statement recorded on 8/14/98 under document number 3894985.

WHEREAS, the Loan Documents were previously modified by that certain Modification Agreement dated December 9, 1994 as modified by that certain Second Modification Agreement dated as of April 10, 1996 as modified by that certain Third Modification Agreement dated January 10, 1997, and as modified by that certain Fourth Modification Agreement dated July 29, 1998;

WHEREAS, the Borrower has previously pledged 100% of his ownership interest in any and all issued and outstanding stock of First Chicago NBD Corporation and NBD Bancorp, Inc. totaling 202,000 shares pursuant to a certain Pledge and Security Agreement dated July 29, 1998 (the "Pledge Agreement"), various stock powers to support the Pledge Agreement and a UCC-1 Financing Statement executed in connection therewith, and now desires to pledge 100% of his ownership interest in any and all issued and outstanding stock of Bank One Corporation (obtained by virtue of Bank One's acquisition of First Chicago NBD Corporation) pursuant to the First Amendment to Pledge and Security Agreement of Owen A. Moran (the "First Amendment to Pledge Agreement");

WHEREAS, the Lender has agreed to renew the Letter of Credit on the same terms and conditions contained in the original Letter of Credit and the Application for Irrevocable Standby Letter of Credit dated July 9, 1998 issued in connection therewith and pursuant to the Loan Documents, the Collateral Documents and subject to the terms and conditions contained herein;

NOW THEREFORE, in consideration of the mutual promises of the parties hereto, and upon the express conditions that the lien of each of the Mortgages and the Michigan Mortgages held by Lender is a valid and subsisting lien on the premises that they encumber respectively, and that the execution of this Modification Agreement will not impair the lien of each of the Mortgages and/or the Michigan Mortgages, IT IS AGREED AS FOLLOWS:

1. The parties represent and agree that the foregoing recitals are true and correct.
2. Modification of Winnetka Mortgage:

The first "WHEREAS" clause on page 1 of the Winnetka Mortgage, is amended in its entirety to read as follows:

"WHEREAS, Owen A. Moran has executed and delivered to the Lender the following (herein each individually referred to as a "Note" and collectively referred to as the "Notes"):

- a) A First Amended and Restated Consolidated Term Note dated January 10, 1997 payable to the order of Lender in the principal sum of FOUR MILLION EIGHT HUNDRED NINETEEN THOUSAND TWO HUNDRED TWENTY FIVE and 90/100 DOLLARS (\$4,819,225.90), bearing interest at the fixed rate set forth therein, payable in monthly installments of principal and interest as therein described, with a final payment due on January 10, 2002: the terms and provisions of the First Amended and Restated Consolidated Term Note are incorporated herein and made a part hereof by this reference with the same effect as if set forth herein at length (the "Amended and Restated Consolidated Term Note");
- b) Application for Standby Letter of Credit dated July 9, 1998 issued by LaSalle National Bank at the request of Owen A. Moran for the benefit of Canadian Imperial Bank of Commerce Bahamas Limited (the "Application");
- c) Letter of Credit issued on July 29, 1998 issued by LaSalle Bank, N.A. for the benefit of Canadian Imperial Bank of Commerce Bahamas Limited and all renewals, modifications and amendments thereto (the "Letter of Credit");

the terms and provisions of which Notes are incorporated herein and made a part hereof by this reference with the same effect as if set forth herein at length."

3. Modification of Northbrook Mortgage:

The first "WHEREAS" clause on page 1 of the Northbrook Mortgage, is amended in its entirety to read as follows:

"WHEREAS, Owen A. Moran has executed and delivered to the Lender the following (herein each individually referred to as a "Note" and collectively referred to as the "Notes"):

- a) The First Amended and Restated Consolidated Term Note;
- b) The Application;
- c) The Letter of Credit;

the terms and provisions of which Notes are incorporated herein and made a part hereof by this reference with the same effect as if set forth herein at length.”

4. Modification of Assignment of Rents:

The first “WHEREAS” clause on page 1 of each Assignment of Rents and the Berrien County Assignment of Rents is amended in its entirety to read as follows:

“WHEREAS, Owen A. Moran has executed and delivered to LaSalle Bank N.A., successor to Columbia National Bank of Chicago (hereinafter referred to as “Assignee”), the following Notes (hereinafter collectively referred to as the “Notes”):

- a) The First Amended and Restated Consolidated Term Note dated January 10, 1997;
- b) The Application;
- c) The Letter of Credit;

the terms and provisions of which Notes are incorporated herein and made a part hereof by this reference with the same effect as if set forth herein at length.”

5. Amendment to Collateral Assignment. Paragraph No. 1 of the Collateral Assignment is amended in its entirety to read as follows:

“1. The payment in full of the indebtedness of Owen A. Moran (“Third Party Obligor”) to the Secured party, evidenced by the following notes (hereinafter collectively referred to as the “Notes”):

- a) The First Amended and Restated Consolidated Term Note;

- b) The Application;
- c) The Letter of Credit;

the terms and provisions of which Notes are incorporated herein and made a part hereof by this reference with the same effect as if set forth herein at length.”

6. Amendment to Loan Agreement. Paragraph No. 1 of the Loan Agreement is amended in its entirety to read as follows:

“1. Description of Notes:

Borrower has executed and delivered to Lender the following:

- a) The First Amended and Restated Consolidated Term Note;
- b) The Application;
- c) The Letter of Credit;

the terms and provisions of which Notes are incorporated herein and made a part hereof by this reference with the same effect as if set forth herein at length.”

Paragraph No. 4 of the Loan Agreement is hereby amended to add the following subparagraph D titled “Reporting Covenants”:

“D. Reporting Covenants. Until the repayment in full of the Notes (as defined in the Fourth Modification Agreement) and/or until the expiration of the Letter of Credit and all renewals and extensions thereof, the Borrower agrees that, unless at any time the Lender shall otherwise expressly consent in writing, he will furnish or cause to be furnished to the Bank the following:

- 1) On or before January 31 of each calendar year, an annual personal financial statement of Borrower for the preceding year prepared in a form as required by the Bank;

- 2) **An updated appraisal dated within six months of the issuance of the Letter of Credit in connection with each property legally described on Exhibits A through D attached hereto;**
- 3) **Annual Income Tax Returns of the Borrower beginning with the Borrower's Income Tax Return from 1998 within 30 days after such Income Tax Return is filed with the Internal Revenue Service."**

7. Amendment to Security Agreement. For the purposes of the First Amended and Restated Consolidated Term Note, the Application and the Letter of Credit only, the Security Agreement is hereby amended and replaced in its entirety with the Pledge Agreement as amended by the First Amendment to Pledge Agreement.

8. As utilized herein, in the Loan Documents or in any of the Collateral Documents, all references to the term "Note" individually or "Notes" collectively as amended herein shall refer to the First Amended and Restated Consolidated Term Note, the Application and the Letter of Credit, all as more fully described hereinabove.

9. Except for the amendments and modifications stated herein, the Loan Documents and the Collateral Documents are not otherwise changed, modified or amended.

10. The premises described in the Note(s), the Loan Documents and the Collateral Documents shall remain in all events subject to the lien, charge and encumbrance of the Loan Documents and the Collateral Documents, and nothing herein contained, and nothing done pursuant hereto, shall affect or be construed to affect the lien, charge or encumbrance of, the Loan Documents and/or the Collateral Documents, or the priority thereof over liens, charges, or encumbrances, or, except as expressly provided herein, to release or affect the liability of any party or parties whomsoever may now or hereafter be liable under or on account of the Note and/or Loan Documents, nor shall anything herein contained or done in pursuance thereof affect or be construed to affect any other security or instrument, if any, held by Lender as security for or evidence of the aforesaid indebtedness.

11. Cross Default. If any breach or default shall occur under any other agreement between the Borrower and Lender or between the Lender and any of the entities in which Borrower owns, directly or indirectly, an interest known as Armon, Inc., F.E. Moran, Inc., F.E. Moran, Inc. Special Hazard Systems, F.E. Moran, Inc. Fire Protection, Thermodyne Mechanical Services, Incorporated, and/or Fire Protection Industries, Inc. under which Borrower may be obligated as Borrower or Guarantor, if such default consists of the failure to pay any indebtedness when due or if such default permits or causes (or upon a lapse of time or notice or both will permit or cause) the acceleration of any indebtedness or the termination of any commitment to lend, then such breach or default shall constitute an event

of default under this agreement, under each of the Loan Documents and/or each of the Collateral Documents.

12. This Agreement shall extend to and be binding upon the parties hereto, their respective heirs, personal representatives, successors and assigns.

13. The Borrowers and Mortgagors hereby ratify and confirm their respective obligations and liabilities under the Note(s), the Loan Documents and the Collateral Documents, as hereby amended and modified, and the liens and security interests created thereby, and acknowledge that they have no defenses, claims or setoffs against the enforcement by Lender of the respective obligations and liabilities of the Borrower and Mortgagors under the Note(s), the Loan Documents and/or the Collateral Documents, as so amended and modified.

14. This Modification Agreement shall, in all respects, be governed by and construed in accordance with the laws of the State of Illinois, including all matters of construction, validity and performance.

15. This Modification Agreement constitutes the entire agreement between the parties with respect to the aforesaid amendments and modifications and shall not be amended or modified in any way except by a document in writing executed by all of the parties thereto.

16. This Modification Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall be one agreement.

17. This Modification Agreement is executed by ^{*}LaSalle National Trust, N.A., not personally, but solely as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in said Trustee, and it is expressly understood and agreed that nothing in this Modification Agreement shall be construed as creating any personal liability on said Trustee.

^{*} **LaSalle Bank National Association formerly known
as LaSalle National Bank, successor trustee to**

IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed as of the date first above written.

Owen A. Moran
Owen A. Moran

*formerly known as LaSalle National Bank

LASALLE BANK NATIONAL ASSOCIATION, *successor Trustee to LASALLE NATIONAL TRUST, N.A., not personally, but solely as Trustee aforesaid

By: *Rosemary Collins*
Title: Rosemary Collins
Vice President

Attest: *Deborah Berg*
Deborah Berg
Title: Assistant Secretary

Jean B. Moran
Jean B. Moran

Brian K. Moran
Brian K. Moran, as Trustee aforesaid

LASALLE BANK, N.A., as successor to
COLUMBIA NATIONAL BANK OF CHICAGO

By: Robert Halberg
Robert Halberg
Title: Commercial Loan Officer

Property of Cook County Clerk's Office

STATE OF ILLINOIS)
)
COUNTY OF COOK)

SS

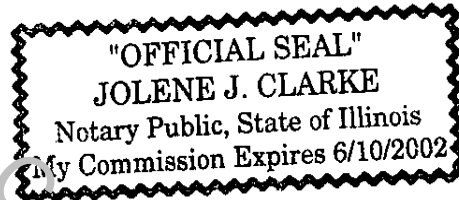
I, the undersigned, a Notary Public in and for said County in the State aforesaid, do hereby certify that OWEN A. MORAN personally appeared before me this day and subscribed his name to the foregoing instrument for the uses and purposes therein stated.

Given under my hand and notarial seal this 8 day of JULY, 1999.

Jolene J. Clarke
Notary Public

My Commission Expires:

6-10-02



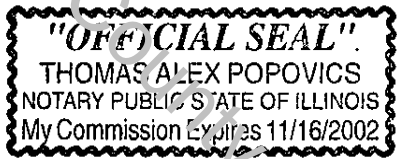
STATE OF ILLINOIS)
)
COUNTY OF COOK) SS

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Rosemary Collins, personally known to me as V.P. of LASALLE BANK NATIONAL ASSOCIATION, * as successor Trustee to LASALLE NATIONAL TRUST, N.A., as Trustee under Trust No. 10-15781-08, and DEBORAH BERG, the ^{Asst} Secretary of said corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such officers, appeared before me this day in person and acknowledged that they executed the foregoing instrument as their own free and voluntary act, and as the free and voluntary act of said corporation, as Trustee, for the uses and purposes therein set forth. † **formerly known as LaSalle National Bank,**

Given under my hand and notarial seal this 9th day of July, 1999.

Thomas Alex Popovics
Notary Public

My Commission Expires:
11-16-02



Clerk's Office

STATE OF ILLINOIS)
)
)
COUNTY OF COOK)

SS

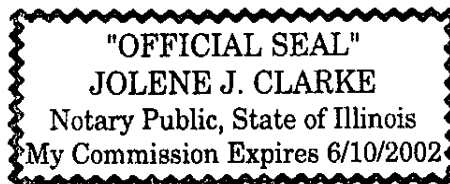
I, the undersigned, a Notary Public in and for said County in the State aforesaid, do hereby certify that JEAN B. MORAN personally appeared before me this day and subscribed his name to the foregoing instrument for the uses and purposes therein stated.

Given under my hand and notarial seal this 8 day of July, 1999.

Jolene J. Clarke
Notary Public

My Commission Expires:

6-10-02



STATE OF ILLINOIS)
)
COUNTY OF COOK) SS

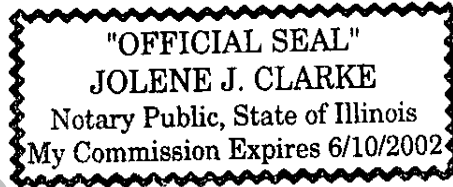
I, the undersigned, a Notary Public in and for said County in the State aforesaid, do hereby certify that BRIAN K. MORAN, as Trustee under Trust Agreement dated September 18, 1984, personally appeared before me this day and subscribed his name to the foregoing instrument, as Trustee, for the uses and purposes therein stated.

Given under my hand and notarial seal this 8 day of July, 1999.

Jolene Clarke
Notary Public

My Commission Expires:

6.10.02



STATE OF ILLINOIS)
)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Robert Hallbert the ^{loan} officer of LASALLE BANK N.A., successor to COLUMBIA NATIONAL BANK OF CHICAGO, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary acts and as the free and voluntary act of said bank, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 8 day of July, 1999.

YAZMIN PEDRAZA
Notary Public

My Commission Expires:
2/20/01



EXHIBIT A

LOT 1 IN NERGARD'S SUBDIVISION OF THE WEST 1/2 SECTION 29, TOWNSHIP 42 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, AND THAT PART OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF SECTION 29, TOWNSHIP 42 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF THE NORTH 865.7 FEET AND NORTH OF THE NORTH LINE OF SAID LOT 1, EXCEPTING HOWEVER FROM ALL OF SAID PREMISES (THAT PART LYING EAST OF A LINE 830 FEET WEST OF AND PARALLEL TO THE EAST LINE OF THE NORTHWEST 1/4 OF SECTION 29; AND ALSO EXCEPTING THAT PART OF LOT 1 IN NERGARD'S SUBDIVISION OF AND THE AFORESAID DESCRIBED 24 FOOT STRIP LYING NORTHWESTERLY OF THE FOLLOWING DESCRIBED CURVED LINE; BEGINNING AT A POINT IN THE SOUTH LINE OF THE NORTH 865.7 FEET, 252.8 FEET EAST OF THE WEST LINE OF SAID EAST 1/2 OF THE NORTHWEST 1/4. RUNNING THENCE SOUTHWESTERLY IN A CURVED LINE OF 174.21 FOOT RADIUS CONVEX SOUTHEASTERLY, 113.92 FEET MEASURED ALONG THE CHORD, TO A POINT OF COMPOUND CURVE; THENCE SOUTHWESTERLY IN A CURVED LINE OF 955 FOOT RADIUS, CONVEX SOUTHEASTERLY, TANGENT TO THE LAST DESCRIBED CURVED LINE AT THE POINT OF COMPOUND CURVE, 243.95 FEET MEASURED ALONG THE CHORD, TO A POINT IN THE WEST LINE OF SAID LOT 1 OF NERGARD'S SUBDIVISION SAID POINT BEING 219.85 FEET SOUTH OF THE NORTHWEST CORNER OF SAID LOT 1 ALL IN COOK COUNTY, ILLINOIS.

PIN: 05-29-101-015-000

COMMON ADDRESS: 15 Woodley Drive, Winnetka, Illinois 60093

EXHIBIT B

PARCEL 1:

LOTS 6 (EXCEPT THE NORTH 112 FEET), 7 AND 8 IN GLENBROOK INDUSTRIAL PARK UNIT 2 BEING A SUBDIVISION OF THE SOUTH 1/2 OF THE NORTH 1/2 OF THE SOUTH WEST 1/4 (EXCEPT THE NORTH 600 FEET THEREOF) AND THE NORTH 1/2 OF THE SOUTH 1/2 OF THE SOUTH WEST 1/4 OF SECTION 15, TOWNSHIP 42 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING WESTERLY OF A LINE 100 FEET WEST OF THE CENTER LINE OF THE MOST WESTERLY TRACT OF THE CHICAGO MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THAT PART OF THE NORTH 60.0 FEET OF GLENBROOK INDUSTRIAL PARK UNIT NO. 3, A SUBDIVISION OF PART OF THE SOUTH 1/2 OF THE SOUTH WEST 1/4 OF SECTION 15 AND NORTH 132 FEET OF THE NORTH WEST 1/4 OF SECTION 22, TOWNSHIP 42 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING 50 FEET WEST OF THE MOST WESTERLY TRACT OF THE CHICAGO MILWAUKEE AND ST. PAUL RAILWAY, RECORDED PER DOCUMENT 21851970 LYING EAST OF THE EAST LINES OF CARLSON DRIVE AND WEST OF THE EAST LINE OF GLENBROOK INDUSTRIAL PARK UNIT NO. 2 RECORDED AS DOCUMENT 20667145 EXTENDED SOUTHERLY TO THE SAID SOUTH LINE OF THE NORTH 60.0 FEET, ALL IN COOK COUNTY, ILLINOIS.

PIN: 04-15-301-012-0000

COMMON ADDRESS: 2265 Carlson Drive, Northbrook, Illinois

EXHIBIT C

99809103

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Beginning at a point found by commencing in the center of North Shore Drive 1284.50 feet South and 1248.25 feet West of the East Quarter Post of Section 35, Town 1 North, Range 17 West, Casco Township, Allegan County, Michigan; thence South $21^{\circ}19'40''$ West along the center of North Shore Drive, 235.00 feet to the place of beginning of this description; thence South $21^{\circ}19'40''$ West along the center of North Shore Drive, 23.40 feet thence North $89^{\circ}49'00''$ West, (previously deeded as West), 351.09 feet; thence North $23^{\circ}00'00''$ East, 1.50 feet; thence North $80^{\circ}51'30''$ West, 46.08 feet; thence North $77^{\circ}55'00''$ West, 32.93 feet; thence North $72^{\circ}12'00''$ West, 105.0 feet; thence North $89^{\circ}49'00''$ West to Lake Michigan; thence Northerly along Lake Michigan to a point North $68^{\circ}55'00''$ West of the place of beginning; thence South $68^{\circ}55'00''$ East to the place of beginning. Together with an easement for ingress and egress and public utilities over a strip of land described as beginning at a point found by commencing in the center of North Shore Drive 1284.50 feet South and 1248.25 feet West of the East Quarter Post of Section 35, Town 1 North, Range 17 West; thence South $21^{\circ}19'40''$ West along the center of North Shore Drive, 215.00 feet to the place of beginning of this description; thence North $68^{\circ}55'$ West, 158.75 feet; thence South $81^{\circ}08'$ West, 40.07 feet; thence South $68^{\circ}55'$ East, 30.05 feet; thence North $81^{\circ}08'00''$ East, 10.00 feet; thence South $68^{\circ}55'00''$ East, 154.67 feet to the center of North Shore Drive; thence North $21^{\circ}19'40''$ East on said center, 15.00 feet to the place of beginning.

Property Address: 5 Piper Lane, South Haven, Michigan

AND

Beginning at a point found by commencing at the Southeast corner of Section 35, Town 1 North, Range 17 West; thence North 89 Degrees $56'15''$ West on the South line of the Section, 1773.00 feet to the center of North Shore Drive; thence North 21 Degrees $09'35''$ East (previously deeded as Northeasterly) on said center, 945.61 feet to the place of beginning of this description; thence continuing North 21 Degrees $09'35''$ East along the center of North Shore Drive, 118.39 feet; thence North 70 Degrees $31'00''$ West, 284.33 feet; thence North 89 Degrees $49'00''$ West (previously Deeded as West), 47.16 feet to a point of an intermediate traverse line along Lake Michigan; thence South 24 Degrees $05'15''$ West on said traverse line 107.12 feet; thence South 71 Degrees $12'25''$ East (previously Deeded as South 71 Degrees East), 334.00 feet to the place of beginning. Together with all land, if any, lying between the North and South lines extended Westerly to Lake Michigan from said intermediate traverse line.

Property Address: 1001 North Shore Drive, South Haven, Michigan

UNOFFICIAL COPY

LIBER 1873 PAGE 889

EXHIBIT D

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DESCRIPTION: -

PARCEL ONE: - Lot 16, The Orchards Mall Subdivision of part of the Southwest Quarter of Section 29 and part of the North Half of Section 32, Township 4 South, Range 18 West, Benton Township, Berrien County, Michigan, according to the Plat thereof, recorded September 29, 1980 in Book 23 of Plats, page 40.

PARCEL TWO - The rights, powers and reciprocal and non-exclusive easements created and granted as appurtenances to the aforesaid Parcel One as created and defined in that certain Operating Agreement dated August 18, 1978 and recorded September 5, 1978 in Book 1084, page 15, Berrien County Records, by and among Berrien Associates, a Michigan partnership, Dev Con Properties, Inc. of Benton Township, a Delaware corporation, and Sears, Roebuck and Co., a New York corporation, in, over, upon and under the Developer Site, the Fringe Areas and the Shopping Center Site, all as defined in said Operating Agreement, or as shown on the site plan attached to said Operating Agreement, including, without limiting the generality of the foregoing, the reciprocal and non-exclusive easements created thereunder for ingress and egress, parking of vehicles, passage and accommodation of pedestrians (including without limitation, perpetual easements for the ring road), the installation, operation, maintenance, repair, replacement, relocation and removal of storm and sanitary sewers, water lines, and gas mains, electrical power lines, telephone lines, other utility lines, fire protection facilities (including without limitation, perpetual easements for the Common Utility Facilities as defined in said Operating Agreement), for the construction, reconstruction, erection and maintenance of common foundations, footings (including without limitation the construction easements as defined in said Operating Agreement), and for the purpose of the development and construction or reconstruction or operation of the improvements referred to therein, and as amended by First Amendment to Operating Agreement with attached consents dated January 25, 1979, recorded September 17, 1979 in Book 1112, page 428, Berrien County Records.

PARCEL THREE: - The easement created and granted as an appurtenance to the aforesaid Parcel 1 and the fee underlying Parcel 2 as created and defined by that certain Grant of Easement, dated August 2, 1976, by and between Pipestone Development Company, Ltd., a Michigan limited partnership, Shopping Centers, Inc., a Michigan corporation, and Westcor, Inc., an Arizona corporation, and recorded on August 5, 1976 in Book 1026, page 608, Berrien County Records, for storm drainage in, over, under, across, along and upon Parcel A as defined in said Grant of Easement and to construct, operate, maintain, repair, renew, relocate and remove the "Drainage Facilities" as defined in said Grant of Easement and such other rights, powers, privileges and easements therein created and granted.

Property Address: Sears, Benton Harbor, Michigan

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