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STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

2002 036490

2002 APR 17 PM 1:48

MORRIS W. CARTER
RECORDER

NH Vegas
Chicago, Illinois

**LEASEHOLD MORTGAGE
AND COLLATERAL ASSIGNMENT OF RENTS AND LEASES**

FOR PURPOSES OF THE SECURITY AGREEMENT CONTAINED IN
THIS INSTRUMENT THE "SECURED PARTY" AND THE "DEBTOR"
AND THEIR RESPECTIVE ADDRESSES ARE AS FOLLOWS:

SECURED PARTY: BANK CALUMET N.A.
10322 INDIANAPOLIS BOULEVARD
HIGHLAND, INDIANA 46322

DEBTOR: D-VEE, INC.
11001 INDIANAPOLIS BLVD.
HAMMOND, INDIANA.

THIS INSTRUMENT WHEN RECORDED SHALL CONSTITUTE A "FIXTURE FILING"
FOR PURPOSES OF THE UNIFORM COMMERCIAL CODE. THE ADDRESS OF THE
SECURED PARTY SHOWN ABOVE IS THE ADDRESS AT WHICH INFORMATION
CONCERNING THE SECURED PARTY'S SECURITY INTEREST MAY BE OBTAINED.

D-VEE, INC., a corporation organized under Indiana law ("**Mortgagor**"), MORTGAGES
to BANK CALUMET NATIONAL ASSOCIATION, individually and as agent for Peoples Bank SB
and First United Bank under a Participation Agreement dated effective April 12, 2002, with its
principal office in Hammond, Indiana (the "**Mortgagee**"), and the Mortgagor GRANTS A
SECURITY INTEREST to the Mortgagee in the following property, to-wit:

All of Mortgagor's leasehold interest in and to that real estate and improvements
thereon situated in Lake County, State of Indiana commonly known as 10771
Indianapolis Blvd., Hammond, IN (Mr. Lucky's Cigarettes) leased to Mortgagor
under a lease with Conrail (the "Real Estate"); and

any and all items of furniture, machinery, equipment or other tangible personal

BD
2300
CT

property which are now or hereafter become attached to any portion of the Real Estate or any improvement thereon so as to constitute a fixture, whether now owned or hereinafter acquired (the "Personal Property");

TOGETHER WITH all present and future improvements, rights, privileges, interests, easements, hereditaments, and appurtenances thereunto belonging or in any manner pertaining thereto, and the proceeds therefrom (all of such Real Estate, Personal Property and other rights being hereafter referred to as the "Mortgaged Premises").

This Mortgage is given to secure all obligations of NH Vegas, LLC to Mortgagee. The term "Obligations" as used in this Mortgage means all obligations of N H Vegas, LLC in favor of the Mortgagee of every type and description, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, including but not limited to all Obligations of N H Vegas, LLC in favor of the Mortgagee arising under the following Commercial Promissory Notes and obligations:

- A. Commercial Promissory Note (One Year Loan) executed by N H Vegas, LLC in favor of Mortgagee dated April 12, 2002, which note is in the original principal amount of Fourteen Million and No/100 (\$14,000,000.00) Dollars. This note matures no later than April 12, 2003;
- B. Commercial Promissory Note (Permanent Loan) executed by N H Vegas, LLC in favor of Mortgagee dated April 12, 2003, which note is in the original principal amount of Seventeen Million and No/100 (\$17,000,000.00) Dollars. This note matures no later than April 12, 2008. To the extent of Fourteen Million and No/100 Dollars (\$14,000,000.00) this Note is given in substitution for and not in discharge of the indebtedness evidenced by the Commercial Promissory Note (One Year Loan) referenced in paragraph A immediately above;
- C. Any and all future loans, obligations and advancements made by Mortgagee to N H Vegas, LLC (including the Permanent Loan referenced in paragraph B immediately above) except that the maximum amount of unpaid indebtedness under this paragraph C secured hereby which may be outstanding at any time shall not exceed Seventeen Million and No/100 (\$17,000,000.00) Dollars, exclusive of interest thereon and exclusive of unpaid balances of advances made with respect to the Real Estate for the payment of taxes, assessments, insurance premiums, costs incurred for the protection of the Real Estate and all other costs which Mortgagee is authorized by this Mortgage to pay on N H Vegas, LLC's behalf.
- D. Any renewal, extension, modification, refinancing or replacement of the indebtedness referred to in paragraphs A through C, above;
- E. All interest, attorney fees, and costs of collection with respect to the

obligations referred to in paragraphs A through D above, together with any extensions or renewals thereof; and

- F. The performance by Mortgagor of all Mortgagor's covenants, agreements, promises, payments and conditions contained in this Mortgage agreement.

As additional security for the Obligations, the Mortgagor assigns to the Mortgagee the rents, issues and profits of the Mortgaged Premises, including any rents, whether denominated minimum rental, additional rental, monthly operating expense payments, annual operating expense adjustments, or otherwise, and all other amounts or payments to be received (collectively "Lease Payments") which are due or shall become due to the Mortgagor under the terms of any present or future lease (a "Lease"), oral or written, of all or any portion of the Mortgaged Premises including, without limitation, all rights of Mortgagor under those certain Real Estate and Equipment Leases between Mortgagor and Luke Oil Co., Inc. and One Stop Food Markets, Inc., each dated April ____, 2002 (all such rents, issues, profits and Lease Payments are hereafter collectively referred to as the "Rents"), and all other rights of the Mortgagor with respect to any such Leases or Rents. This assignment of Rents and leasehold rights is an absolute assignment, contingent only upon the occurrence of a Default (as hereafter defined) or as otherwise provided herein, and includes the right of the Mortgagee to collect all Rents and exercise such rights subject to the conditional license to collect Rents and exercise such rights granted by the Mortgagee to the Mortgagor hereinbelow.

1. **UNIFORM COMMERCIAL CODE FILINGS.** The Mortgagor grants to the Mortgagee as secured party a security interest in the Personal Property in accordance with the provisions of the Uniform Commercial Code as enacted in Indiana. The Mortgagor authorizes the Mortgagee at the expense of the Mortgagor to file any other financing statements deemed necessary by the Mortgagee to perfect its security interest in the Personal Property and to file such financing statements in those public offices deemed necessary by the Mortgagee. In addition, the Mortgagor shall execute and deliver any financing statement or other document that the Mortgagee may request to perfect or to further evidence the security interest created by this Mortgage.
2. **DEFAULT.** The occurrence of any event defined as a Default in the notes secured hereby or in the Loan Agreement shall constitute a default hereunder, subject to any applicable cure period.
3. **REMEDIES ON DEFAULT.** Upon the occurrence and continuance of a Default beyond any applicable cure period, all indebtedness secured hereby shall, at the option of the Mortgagee, become immediately due and payable and without relief from valuation and appraisement laws, and this Mortgage may be foreclosed accordingly. Should proceedings to foreclose this Mortgage be instituted, the Mortgagee may apply for the appointment of a receiver (and the Mortgagor hereby consents to the appointment of a receiver if there has been any Default), and such receiver is hereby authorized to take possession of the

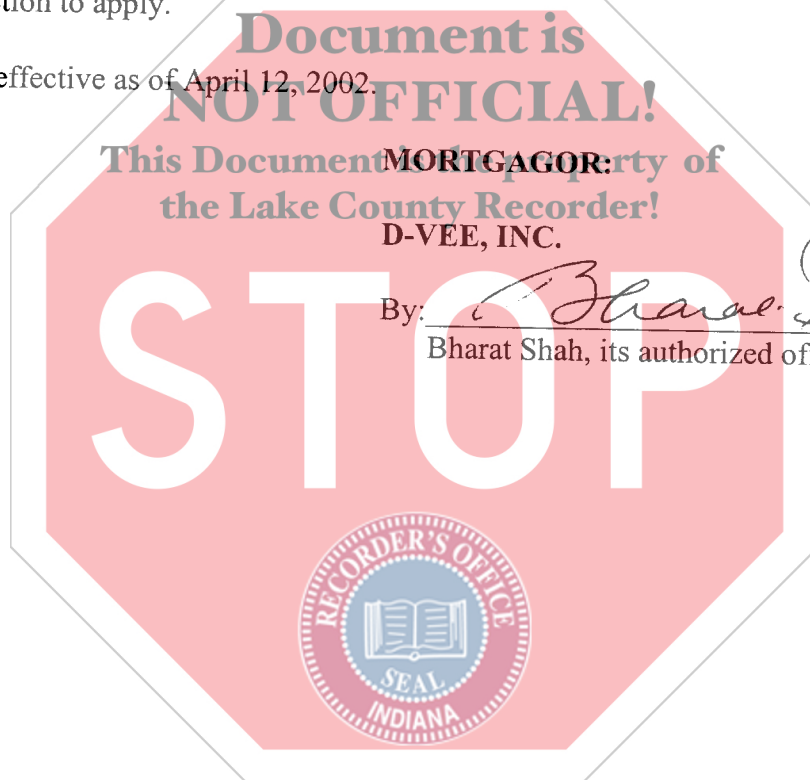
Mortgaged Premises or any portion thereof, collect any rental, accrued or to accrue, whether in money or kind, for the use or occupancy of said Mortgaged Premises by any person, firm or corporation, or may let or lease said Mortgaged Premises or any part thereof, receive the rents, income and profits therefrom, and hold the proceeds subject to the orders of the court, or the judge thereof, for the benefit of the Mortgagee, pending the final decree in said proceedings, and said receiver may be appointed irrespective of the value of the Mortgaged Premises or its adequacy to secure or discharge indebtedness due or to become due or the solvency of the Mortgagor. The Mortgagee shall have the option of proceeding as to both the Real Estate and the Personal Property in accordance with its rights and remedies in respect of the Real Estate, in which event the default provisions of the Indiana Uniform Commercial Code shall not apply. If the Mortgagee elects to proceed with respect to the Personal Property separately from the Real Estate, the requirement of the Indiana Uniform Commercial Code as to reasonable notice of any proposed sale or disposition of the Personal Property shall be met if such notice is delivered or mailed to the Mortgagor at its address stated above at least ten (10) days prior to such sale or disposition. In any action to foreclose this Mortgage, the Mortgagee shall be entitled to recover, in addition to all attorney and related paraprofessional expenses incurred in connection therewith, all other costs and expenses associated with foreclosure including, without limitation, all expenses incurred for title searches, abstracts of title, title insurance, appraisals, surveys and environmental assessments reasonably deemed necessary by the Mortgagee, all of which costs and expenses shall be additional amounts secured by this Mortgage. As used in the preceding sentence, the term "environmental assessments" means inspections and reports of environmental engineers or firms of environmental engineers or other appropriate experts or consultants, and associated samplings and testings of soil or groundwater, the purpose of which is to determine whether there is any contamination associated with the Mortgaged Premises and if so, the extent thereof, and to estimate of the cost of clean-up of any contamination, and to determine whether there are any underground storage tanks or any asbestos in, on, or under the Mortgage Premises and if so, whether there are any violations of environmental laws in connection therewith.

4. **EXTENSIONS; REDUCTIONS; RENEWALS; CONTINUED LIABILITY OF MORTGAGOR.** The Mortgagee, at its option and on such terms as it may desire, may extend the time of payment or performance of any part or all of the Obligations or reduce the payments thereon, or accept a renewal note or notes therefor, without the consent of any junior lien holder, and without the consent of the Mortgagor if the Mortgagor has then parted with title to the Mortgaged Premises. No such extension, reduction or renewal shall affect the priority of this Mortgage or impair the security hereof in any manner whatsoever, or release, discharge or affect in any manner the personal liability of the Mortgagor or any guarantors or sureties of or for any of the Obligations. The Mortgagee, at its option and on such terms as it may desire, may release any part of the Mortgaged Premises from the lien of this Mortgage without impairing the lien of this Mortgage except as to the portion of the Mortgaged Premises expressly released and without releasing the Mortgagor or any guarantors or sureties of or for any of the Obligations. No delay by the Mortgagee in the

exercise of any of its rights under this Mortgage shall preclude the subsequent exercise thereof so long as any Default continues uncured, and no waiver by the Mortgagee of any Default of the Mortgagor shall operate as a waiver of subsequent or other Defaults. The making of any payment by the Mortgagee for any of the purposes herein permitted shall not constitute a waiver of any breach of the Mortgagor's covenant to perform such act. Notice by the Mortgagee of its intention to exercise any right or option under this Mortgage is expressly waived by the Mortgagor, and any one or more of the Mortgagee's rights or remedies under this Mortgage may be enforced successively or concurrently. Time is of the essence of this Mortgage.

5. **SUCCESSOR AND ASSIGNS.** All obligations of the Mortgagor under this Mortgage shall extend to and be binding upon the successors and assigns of the Mortgagor, and shall inure to the benefit of the Mortgagee and its successors and assigns.
6. **COMMERCIAL MORTGAGE.** This Mortgage secures indebtedness incurred for a business purpose.
7. **CHOICE OF LAW.** This Mortgage shall be governed by and construed and enforced in all cases by the substantive laws of the State of Indiana, notwithstanding the fact that Indiana conflicts of law rules might otherwise require the substantive rules of law of another jurisdiction to apply.

EXECUTED effective as of April 12, 2002.



STATE OF INDIANA)
) SS:
LAKE COUNTY)

Before me, a Notary Public in and for the above County and State, personally appeared Bharat Shah, the authorized officer of D-Vee, Inc., a corporation organized under Indiana law, and acknowledged the execution of the foregoing Leasehold Mortgage and Collateral Assignment of Rents and Leases for and on behalf of D-Vee, Inc. the 12th day of April, 2002.

WITNESS my hand and Notarial seal this 12th day of April, 2002.

My Commission Expires:
1-15-08

Stacey Eisenhutt
Signature of Notary Public

My County of Residence Is:
Lake County, IN

Stacey Eisenhutt
Printed Name of Notary Public

This Instrument was prepared by
Lewis C. Laderer, Jr.
Laderer & Fischer, P.C.
112 West Jefferson Blvd., Suite 310
South Bend, Indiana 46601

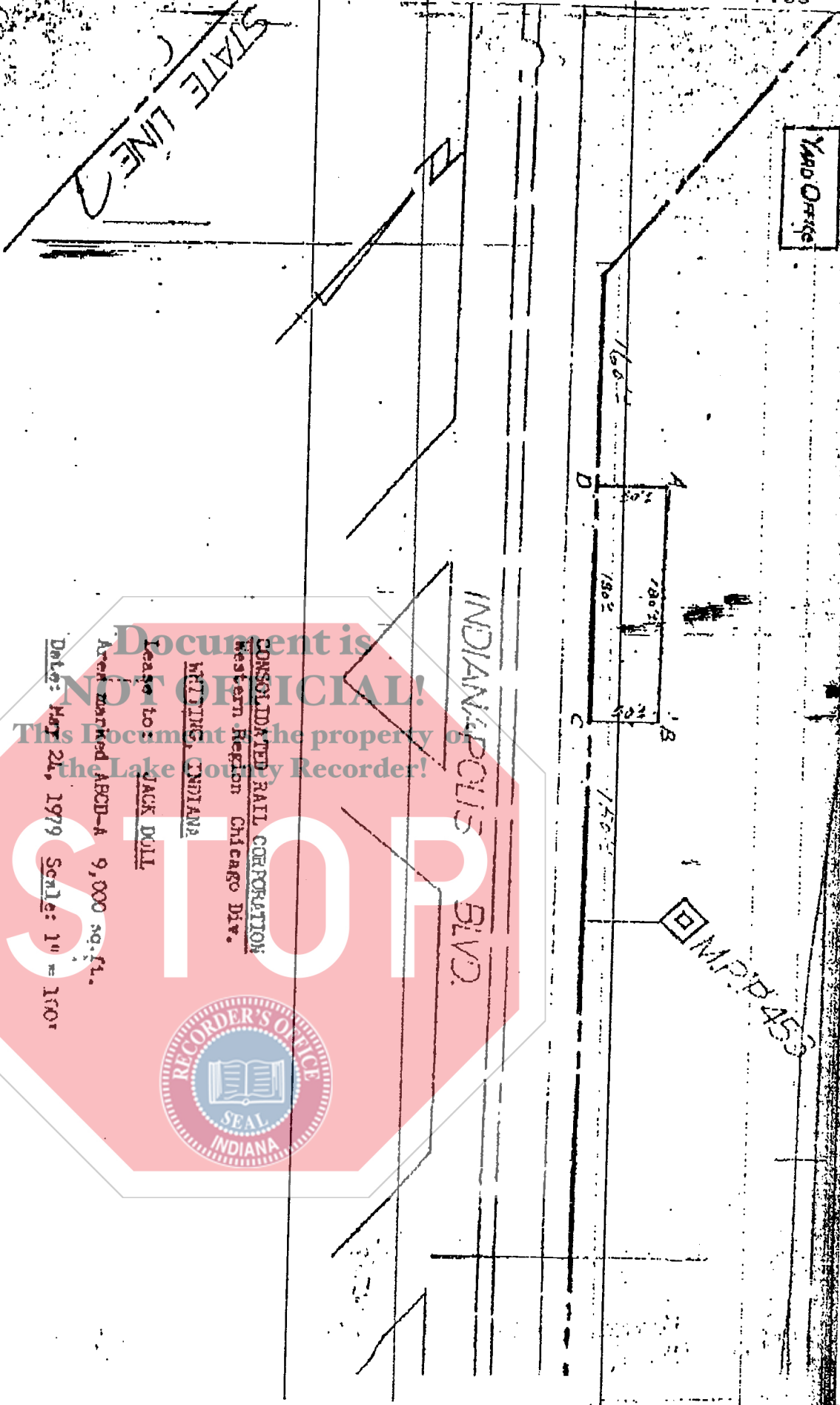


PREMISES

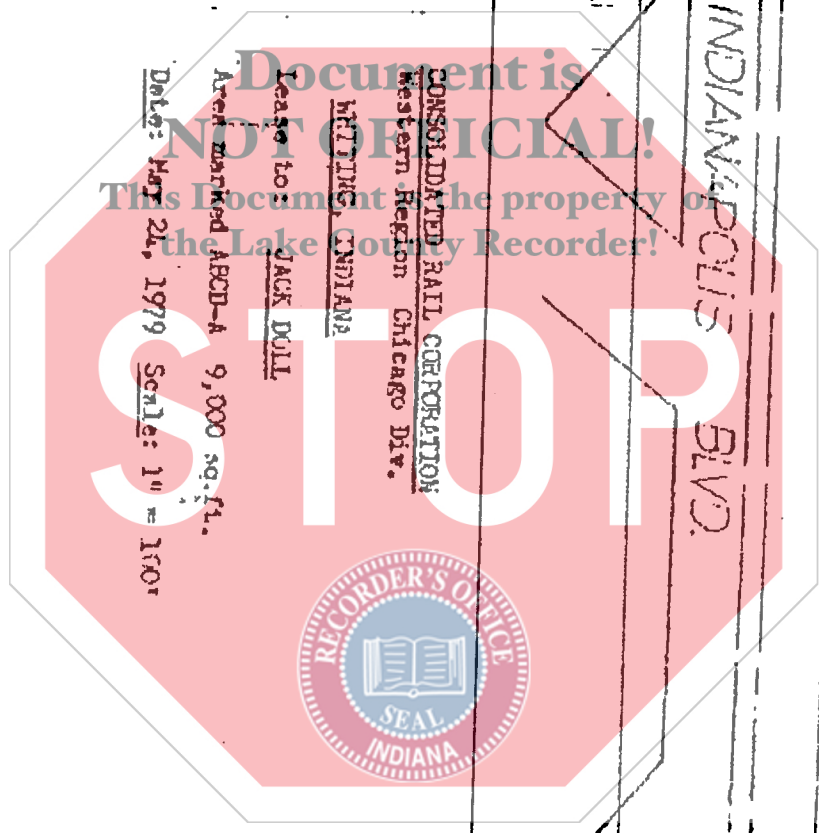
ALL THAT CERTAIN piece or parcel of land SITUATE at Whiting,
County of Lake, State of Indiana, CONTAINING an area of
9,000 sq.ft., more or less, shown marked and lettered ABCD-A
on print from Lessor's plan dated May 24, 1979, which is
attached hereto and made a part hereof.



Map Office



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CONSolidATED RAIL CORPORATION
 Western Region Chicago Div.
 MILLING, INDIANA
 Lease to: JACK DOLL

Area marked ABCD-A 9,000 sq. ft.

Date: May 24, 1979 Scale: 1" = 100'

Val Section 8351 Map 10
 Former Pennsylvania Improvement Corn.
 PIC-CRC-API-3
 No Idas Code
 No H11e Post

Attention: Contact to establish any such section of certificate for this map section on 1/25/80