

RECORDATION NO 17079
NOV 3 1990-3 00 PM
INTERSTATE COMMERCE COMMISSION



Valley Bank

P.O. BOX 5000, JANESVILLE, WISCONSIN 53547-5000 PHONE (608) 754-7771

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October 31, 1990

Secretary
Interstate Commerce Commission
Washington, D.C. 20423

Dear Secretary:

I have enclosed an original and one copy of the documents described below, to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

- PRIMARY (1) Lease, dated December 1, 1989 between Railway Equipment Associates, lessor, and Wisconsin & Calumet Railroad Company, lessee, covering F7 railroad locomotive, Road number 106.
- PRIMARY (2) Lease, dated December 1, 1989 between Railway Equipment Associates, lessor, and Wisconsin & Calumet Railroad Company, lessee, covering F7 railroad locomotive, Road number 901.
- SECONDARY (3) Assignment of Rents and Leases, dated October 23, 1990 between Valley Bank, Janesville, assignee, and Railway Equipment Associates, assignor, covering the two above referenced leases. We request that this assignment be cross-referenced.
- PRIMARY (4) Chattel Security Agreement, dated October 23, 1990 between Glenn Monhart d/b/a Railway Equipment Associates, mortgagor, and Valley Bank, Janesville, mortgagee covering specific railroad cars and locomotives described herein.
- PRIMARY (5) Chattel Security Agreement, dated October 23, 1990 between Janesville & Southeastern Railway Co., mortgagor and Valley Bank, Janesville, mortgagee covering specific railroad cars and locomotives described herein.

The names and addresses of the parties referred to above are as follows:

Glenn Monhart d/b/a Railway Equipment Associates
5627 South Washington
Hinsdale, Illinois 60521

Wisconsin & Calumet Railroad Company
203 South Pearl Street
Janesville, WI 53545

Janesville & Southeastern Railway Co.
203 South Pearl Street
Janesville, WI 53545

Secretary/Interstate Commerce Commission
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Valley Bank, Janesville
100 N. Main St.
Janesville, WI 53545

A fee of \$50.00 is enclosed for the filing of the four primary documents and one secondary document submitted concurrently. Please return the original and any extra copies not needed by the Commission for recordation to Valley Bank, Janesville, to the attention of Michael Donohue.

Very truly yours,

Michael J. Donohue
Assistant Vice President
Commercial Banking Department

MJD/mac
Enclosures

Assignre

ASSIGNMENT OF RENTS AND LEASES

RECORDED NO. 17079
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INTERSTATE COMMERCE COMMISSION

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This assignment of leases and rents, made and effective as of the 23rd day of October 1990 by, Railway Equipment Associates

a (~~corporation~~) (~~partnership~~) (sole proprietorship) organized and existing under the laws of the State of

Illinois with an address at 5627 South Washington Hinsdale, Illinois 60521 (hereinafter referred to as

assignor) to the VALLEY BANK, JANESVILLE, a Wisconsin banking corporation with an address of 100 North Main Street, Janesville, Wisconsin (hereinafter referred to as assignee).

The assignee is providing certain financing to the assignor or to assignor and another, or to another guaranteed or endorsed by assignor. This Assignment is given by assignor to assignee as additional security for the payment and performance of said indebtedness, liabilities and obligations of assignor to assignee arising out of credit previously granted, credit contemporaneously granted and credit granted in the future by assignee to assignor, to assignor and another or to another guaranteed or endorsed by assignor ("obligations").

For good and valuable consideration, the receipt of which is hereby acknowledged, and in order to secure the payment of any and all obligations from assignor to assignee, the undersigned assignor does hereby agree as follows:

1. Assignor does hereby sell, assign, transfer and set over unto assignee, its legal representatives, successors and assigns all of the rents, issues and profits now due or which hereafter shall become due under or by virtue of any lease, whether written or verbal, or letting of, or any agreement for the use of any of the personal property owned in any way by assignor, which have been heretofore made or may be hereafter made, or agreed to, or which may be made or agreed to by the assignee herein under the power granted herein, it being the intention to hereby establish an absolute transfer and assignment of all such leases and agreements unto the grantee herein, for security purposes, subject however to the terms and conditions set forth herein.

2. The leases and agreements now existing which are the subject of this agreement are set forth on Schedule "A" attached hereto. In addition to the leases and agreements described on said Schedule "A", it is intended that this agreement shall also apply to any other leases and agreements on which assignor is lessor and it is further understood and agreed that this assignment of rents shall likewise apply to any and all other leases and agreements for the leasing of

property on which assignor herein shall become lessor in the future. This agreement shall likewise apply to all rents, earnings, income, issues and profits arising from the property which is the subject of such leases or agreements and all other sums due, or to become due under and pursuant to any such leases or agreements. Furthermore, this assignment shall cover any and all guarantees of or under any of the leases and shall apply to any and all proceeds payable under any policy of insurance covering loss of rents under any lease for any cause.

3. Assignor warrants and represents that assignor is the owner of all of the rights of lessor of the leases described on Schedule "A" and that all of said leases are in full force and effect, without amendment or modification, oral or written, except as described on said Schedule "A"; that no default exists under any such lease and no condition exists thereunder which would constitute such a default. Assignor will provide assignee with true and complete copies of such leases upon request by assignee. Assignor further covenants that assignor has good right and authority to make this assignment and that said leases have not previously been assigned, pledged or otherwise disposed of or encumbered.

4. Assignor covenants and agrees that assignor will perform and discharge all of the obligations, terms, conditions, covenants and warranties to be performed under said leases and will enforce the performance of all obligations, terms, covenants, conditions and agreements in each lease to be performed by any lessee.

5. Assignor further covenants and agrees that assignor will not, without obtaining the prior written consent of assignee, modify, change, amend or alter any such lease or leases, or grant any concession in connection therewith, and assignor will not change, amend, alter or modify any guarantee of any such lease or cancel or terminate any such guarantee or grant any concession in connection herewith.

6. Assignor agrees to indemnify and hold harmless assignee, from any loss, liability, damage, costs or expenses which assignee may incur under or by reason of this assignment and, from and against any and all claims and demands which may be asserted against assignee by reason of any alleged obligation or undertaking on the part of assignee to perform or discharge any of the terms, covenants or agreements contained herein or in the leases. Nothing herein shall be construed to bind assignee to perform any of the terms and/or provisions contained in the leases or agreements to which this assignment applies or otherwise to impose any obligation upon assignee.

7. Unless otherwise agreed in writing by assignee or until an event of default, assignor shall be entitled to collect the rents, profits and other income and payments under the leases or agreements, but in no event more than one month in advance.

8. Each of the following shall constitute an event of default:

- a. Failure to pay assignee the principal or interest of any obligation in the manner and at the times provided by any of the loan documents.
- b. Failure of the assignor to pay all taxes, assessments and other similar charges which may be levied against the property covered by the leases before the same become delinquent.
- c. Failure of assignor to pay any insurance premiums which may be required to provide adequate insurance on the property covered by said leases.
- d. Failure of the assignor to maintain the property in good condition and repair; to observe and perform all covenants, conditions and agreements contained in any of the leases referred to herein.
- e. Transfer or conveyance of the property covered by said leases or any rights of assignor under said leases to any third party without the consent of the assignee.
- f. An event of default under any of the obligations or documents securing or evidencing any of the obligations.

9. Upon or at any time after the occurrence of an event of default, assignee, without in any way waiving any default, may, at its option, by written notice to assignor at its address stated herein, declare, that by reason of the occurrence of an event of default, assignor thereby activates this assignment and declares that constructive possession of the property and all rights therein, are thereupon vested in assignee and that all of the legal and equitable interest of assignor in the rents, issues and profits of the property is thereupon vested in assignee. Said declaration of activation shall become effective immediately upon its deposit in the U.S. Mail. This assignment shall be enforceable and Assignee shall be entitled to take any action provided for herein without seeking or obtaining the appointment of an receiver.

10. At any time after the occurrence of an event of default, and following the giving of written notice as provided in the preceding paragraph, assignee, without further notice to assignor, and without limitation to any other rights or remedies of assignee, may, at assignee's option, take possession of the property; apply for the appointment of a receiver for the property; take any other action which may be available to assignee hereunder. The taking of any such action shall in no way waive any default of assignor. Assignee shall like-wise have the complete right, power and authority to declare all sums secured hereby to then become due and immediately payable. Assignee shall have the right to rent or lease the property covered by this agreement and the property covered by said leases upon such terms and conditions as shall be deemed appropriate by assignee and assignee shall have the power, without limitation, to demand, collect and receive from the tenants or lessees on any of said property all of the rents and other revenues from such tenants or lessees which may be due and unpaid and which may thereafter become due. Assignee shall have the right to institute and prosecute any such actions as may be appropriate for the collection of such rents and revenues. A demand upon the tenants or lessees under any of the leases or agreements shall be sufficient authority to them to make future payments under the leases or agreements to assignee without the necessity for further consent by assignor and without any obligation upon the tenants or lessees for the determination of the actual existence of any default by assignor. The rights, powers and remedies confirmed upon assignee hereunder shall be cumulative with and concurrent with and not in lieu of any other rights, powers and remedies granted assignee under the loan documents or at law in equity.

11. Assignee, after payment of all such charges and expenses which may be properly charged against said rents and revenues, including a just and reasonable compensation for the services of assignee, its attorneys, agents, etc., may apply at its option, the net amount of rents, revenues, income, issues and profits arising from said leases and property in whole or in part to any and all amounts then due and owing to assignee to assignor under the terms and conditions of the loan documents (any of the documents securing or evidencing any of the obligations).

12. Assignee shall have the right to inspect and examine the property covered by said leases at reasonable times and upon reasonable notice to assignor.

13. All rights and remedies herein conferred upon assignee shall be cumulative. The waiver of any such right of assignee shall not constitute a waiver of any such right on a subsequent occasion.

14. This agreement shall be binding upon and inure to the benefit of, the parties hereto, their legal representatives, successors, and assigns and shall be construed in accordance with the laws of the State of Wisconsin and shall not be modified in any way except in writing signed by each of the parties hereto. The relationship between the parties is that of a lender and borrower and nothing contained herein shall be construed to establish any other such relationship.

15. This agreement is executed by certain individuals as set forth below, and by their execution hereon, said individuals guarantee the performance of this agreement, in all respects, by assignor.

IN WITNESS WHEREOF the assignor has caused this agreement to be executed and delivered in Janesville, Wisconsin, as of the day and year first above written.

RAILWAY EQUIPMENT ASSOCIATES

VALLEY BANK, JANESVILLE

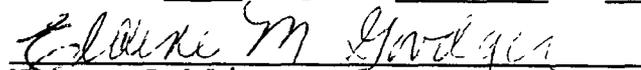
By: 

By: 

Glenn F. Monhart

Michael J. Donohue, A.V.P.

Subscribed and sworn to before me this 23rd day of October 1990.


Notary Public, Rock County, WI
Elaine M. Goodger

My commission expires 7/12/92

SCHEDULE A1

THIS AGREEMENT, made and entered into this 1st day of December 1989, and between RAILWAY EQUIPMENT ASSOCIATES, 5627 South Washington, Hinsdale, Illinois 60521, part of the first part (hereinafter called the "Lessor"), and the Wisconsin & Calumet R.R. Co, Inc., party of the second part (hereinafter called the "lessee").

WITNESSETH:

WHEREAS, the Lessee desires to lease locomotive Unit Road Number 901, EMD F7A for use on its' property and

WHEREAS, the Lessor is willing to lease locomotive Unit Road Number 901, EMD F7A to the Lessee for such service subject to the terms and conditions hereinafter contained.

NOW, THEREFORE, in consideration of the payments and agreements hereinafter mentioned to be made and fulfilled by the lessee, the Lessor hereby agrees to furnish and lease to Lessee Locomotive Unit Road Number 901 for the use on its' property.

1. LEASE. The lessee accepts such lease and agreement and binds itself to faithfully perform the covenants and the conditions hereof.

2. DELIVERY. Said locomotive, before delivery, shall be inspected by the lessor and lessee and statement made jointly signed as to its condition with exceptions, if any, taken thereto. If any supplies shall be furnished with said locomotives, a memorandum thereof shall be made and signed by proper representatives of the parties hereto and attached to this contract, and such supplies or their equivalent in kind, or their value in money, shall be returned or paid to the Lessor by the Lessee when said locomotive is returned to Lessor.

3. ACCEPTANCE. Said locomotive shall be accepted on the tracks at Janesville, Wisconsin and shall be returned by the Lessee to Janesville, Wisconsin upon termination of this agreement. Any reasonable and normal expense incurred by the Lessor in delivering said locomotives to the Lessee shall be paid by the Lessee.

4. PAYMENTS. Commencing with the date when said locomotive arrives Lessees tracks to be delivered to the Lessee, the Lessee agrees to pay to the Lessor for the use of said locomotive the rate of \$1,150.00 per month, for the first six (6) months (October 1989 to April 1990) and thereafter at the rate of \$3,000.00 per month for a period of thirty months (identified as April 1990 to October 1992) ~~rental payments shall be two (2) months in advance, with the third (3rd) rental payment due at beginning of second (2nd) month of rental with payments made promptly at the beginning~~

RSG [Signature]

of each calendar month or upon receipt of bills thereof.

5. MAINTENANCE. The Lessee agrees to keep and maintain said locomotive in good and proper repaired condition, at its' own cost and expense, and said locomotive shall be returned upon the termination of this agreement to Lessor in as good condition as when received under FRA inspection, ordinary wear and tear excepted.

6. INSPECTION. The Lessor or its' authorized representative shall have the right at all times to inspect said locomotives and shall be given convenient access to the same by the Lessee in order that the Lessor may assure itself that said locomotive is being maintained and kept in a satisfactory manner. If said locomotive shall be destroyed or damaged to such an extent that in the judgement of the Lessor, it cannot be repaired and put in a serviceable condition, the Lessee hereby agrees to pay to the Lessor a fair market value of \$125,000.00.

7. DEFAULTS. If the Lessee shall make default in any of the payments herein agreed to be made by it, or in any of the obligations or agreements to be made or fulfilled by it as herein provided, or if in the judgement of the Lessor may at once take possession of said locomotive and thereupon the agreement shall cease and terminate, but such termination shall not affect the payment of any sums which may be due or become due hereunder from the Lessee to the Lessor.

8. TAXES. The Lessee, shall, in addition to the rental agreement provided above, also pay all state, local, sales, use and occupation taxes applicable to the rental of the locomotive as herein provided and it is understood and agreed that the same may be invoiced by the Lessor the Lessee along with the regular daily rental as herein above provided.

9. INSURANCES. Lessee will protect, indemnify, hold and save harmless the Lessor from and against all claims, demands, damages, suits, losses, costs, attorney fees, liability awards, judgements and expenses of whatever nature or loss or damage to property or injury or death to persons resulting in any manner directly or/indirectly from use or operation of the locomotive covered by this lease.

10. SUBLET. Lessee shall not sublet or loan the locomotive without prior express written consent of Lessor, not to be unreasonably withheld.

11. RECORDS. Lessee shall maintain a record as required

by Lessor and/or FRA of all maintenance performed by it on the locomotive and shall submit such record for examination and reproduction by Lessor.

12. TERM. This agreement shall remain in full force and effect for a period of Thirty-six (36) months, but May be cancelled by Lessee at its sole option with a thirty (30) day written notice to Lessor, upon the occurrence of either of the following events:

- a) a cessation by WICT (Lessee) of its operations
or
- b) a sale of all or substantially all the stock or assets of WICT (Lessee).

13. ALTERATIONS. Without the prior written consent of Lessor, Lessee shall not make any alterations, additions or improvements to the equipment. Any permitted alterations, additions or improvements may, at Lessee's option, be removed by Lessee upon the expiration or earlier termination of this Lease if and only if such removal may be accomplished without damage to the equipment or otherwise reducing its value below that which it would have been in the event no such alterations, additions or improvements had been made.

14. OPERATION. (a) At its own expense, the Lessee shall provide fully trained and competent operators to operate the equipment during the Lease term.

(b) The Lessee warrants that the equipment shall be operated in a good and efficient manner at all times. If at any time the Lessor, in its sole discretion, concludes that the Lessee is failing to operate the equipment in a good and efficient manner, it may so notify the lessee in writing, stating the facts of such failure. Lessor agrees that it will not act unreasonably in exercising the discretion provided for in the preceding sentence. If such failure is not corrected within 5 days after the receipt of such notice, the Lessor shall have the right to declare the Lessee in default, terminate the Lease and pursue any and all remedies specified herein, or by operation of law, with respect to default or termination of the Lease.

15. INSPECTIONS. Lessor agrees to provide help in the form of labor to perform Federal Railroad Administration (FRA) inspections when ever inspection is due and Lessor is available. Materials shall be the account of the Lessee.

16. COSTS. Lessee shall pay all expenses incurred directly with its use and operation of the locomotive, without recourse to or compensation from Lessor, including,

but not limited to the following:

(a) All costs and expenses incurred in removing, moving, storing and returning the Locomotive to and from the location specified above for the delivery by the Lessor.

(b) Cost of fuel, sand, and lubricating oils.

IN WITNESS WHEREOF, the parties hereto have executed this agreement in duplicate the day and year shown.

WISCONSIN & CALUMET RR CO, INC.

BY: _____

WITNESS:

BY: _____

FOR LESSOR:

BY: _____

WITNESS:

BY: _____

SCHEDULE A2

THIS AGREEMENT, made and entered into this 1st day of December 1989, and between RAILWAY EQUIPMENT ASSOCIATES, 5627 South Washington, Hinsdale, Illinois 60521, part of the first part (hereinafter called the "Lessor"), and the Wisconsin & Calumet R.R. Co, Inc., party of the second part (hereinafter called the "lessee").

WITNESSETH:

WHEREAS, the Lessee desires to lease locomotive Unit Road Number 106, EMD F7A for use on its' property and

WHEREAS, the Lessor is willing to lease locomotive Unit Road Number 106, EMD F7A to the Lessee for such service subject to the terms and conditions hereinafter contained.

NOW, THEREFORE, in consideration of the payments and agreements hereinafter mentioned to be made and fulfilled by the lessee, the Lessor hereby agrees to furnish and lease to Lessee Locomotive Unit Road Number 106 for the use on its' property.

1. LEASE. The lessee accepts such lease and agreement and binds itself to faithfully perform the covenants and the conditions hereof.

2. DELIVERY. Said locomotive, before delivery, shall be inspected by the lessor and lessee and statement made jointly signed as to its condition with exceptions, if any, taken thereto. If any supplies shall be furnished with said locomotives, a memorandum thereof shall be made and signed by proper representatives of the parties hereto and attached to this contract, and such supplies or their equivalent in kind, or their value in money, shall be returned or paid to the Lessor by the Lessee when said locomotive is returned to Lessor.

3. ACCEPTANCE. Said locomotive shall be accepted on the tracks at Janesville, Wisconsin and shall be returned by the Lessee to Janesville, Wisconsin upon termination of this agreement. Any reasonable and normal expense incurred by the Lessor in delivering said locomotives to the Lessee shall be paid by the Lessee.

4. PAYMENTS. Commencing with the date when said locomotive arrives Lessees tracks to be delivered to the Lessee, the Lessee agrees to pay to the Lessor for the use of said locomotive the rate of \$1,150.00 per month, for the first six (6) months (October 1989 to April 1990) and thereafter at the rate of \$3,000.00 per month for a period of thirty months (identified as April 1990 to October 1992) ~~rental payments shall be two (2) months in advance, with the third (3rd) rental payment due at beginning of second (2nd) month of rental with payments made promptly at the beginning~~

RSB JAW

of each calendar month or upon receipt of bills thereof.

5. MAINTENANCE. The Lessee agrees to keep and maintain said locomotive in good and proper repaired condition, at its' own cost and expense, and said locomotive shall be returned upon the termination of this agreement to Lessor in as good condition as when received under FRA inspection, ordinary wear and tear excepted.

6. INSPECTION. The Lessor or its' authorized representative shall have the right at all times to inspect said locomotives and shall be given convenient access to the same by the Lessee in order that the Lessor may assure itself that said locomotive is being maintained and kept in a satisfactory manner. If said locomotive shall be destroyed or damaged to such an extent that in the judgement of the Lessor, it cannot be repaired and put in a serviceable condition, the Lessee hereby agrees to pay to the Lessor a fair market value of \$125,000.00.

7. DEFAULTS. If the Lessee shall make default in any of the payments herein agreed to be made by it, or in any of the obligations or agreements to be made or fulfilled by it as herein provided, or if in the judgement of the Lessor may at once take possession of said locomotive and thereupon the agreement shall cease and terminate, but such termination shall not affect the payment of any sums which may be due or become due hereunder from the Lessee to the Lessor.

8. TAXES. The Lessee, shall, in addition to the rental agreement provided above, also pay all state, local, sales, use and occupation taxes applicable to the rental of the locomotive as herein provided and it is understood and agreed that the same may be invoiced by the Lessor the Lessee along with the regular daily rental as herein above provided.

9. INSURANCES. Lessee will protect, indemnify, hold and save harmless the Lessor from and against all claims, demands, damages, suits, losses, costs, attorney fees, liability awards, judgements and expenses of whatever nature or loss or damage to property or injury or death to persons resulting in any manner directly or/indirectly from use or operation of the locomotive covered by this lease.

10. SUBLET. Lessee shall not sublet or loan the locomotive without prior express written consent of Lessor, not to be unreasonably withheld.

11. RECORDS. Lessee shall maintain a record as required

by Lessor and/or FRA of all maintenance performed by it on the locomotive and shall submit such record for examination and reproduction by Lessor.

12. TERM. This agreement shall remain in full force and effect for a period of Thirty-six (36) months, but May be cancelled by Lessee at its sole option with a thirty (30) day written notice to Lessor, upon the occurrence of either of the following events:

- a) a cessation by WICT (Lessee) of its operations
or
- b) a sale of all or substantially all the stock or assets of WICT (Lessee).

13. ALTERATIONS. Without the prior written consent of Lessor, Lessee shall not make any alterations, additions or improvements to the equipment. Any permitted alterations, additions or improvements may, at Lessee's option, be removed by Lessee upon the expiration or earlier termination of this Lease if and only if such removal may be accomplished without damage to the equipment or otherwise reducing its value below that which it would have been in the event no such alterations, additions or improvements had been made.

14. OPERATION. (a) At its own expense, the Lessee shall provide fully trained and competent operators to operate the equipment during the Lease term.

(b) The Lessee warrants that the equipment shall be operated in a good and efficient manner at all times. If at any time the Lessor, in its sole discretion, concludes that the Lessee is failing to operate the equipment in a good and efficient manner, it may so notify the lessee in writing, stating the facts of such failure. Lessor agrees that it will not act unreasonably in exercising the discretion provided for in the preceding sentence. If such failure is not corrected within 5 days after the receipt of such notice, the Lessor shall have the right to declare the Lessee in default, terminate the Lease and pursue any and all remedies specified herein, or by operation of law, with respect to default or termination of the Lease.

15. INSPECTIONS. Lessor agrees to provide help in the form of labor to perform Federal Railroad Administration (FRA) inspections when ever inspection is due and Lessor is available. Materials shall be the account of the Lessee.

16. COSTS. Lessee shall pay all expenses incurred directly with its use and operation of the locomotive, without recourse to or compensation from Lessor, including,

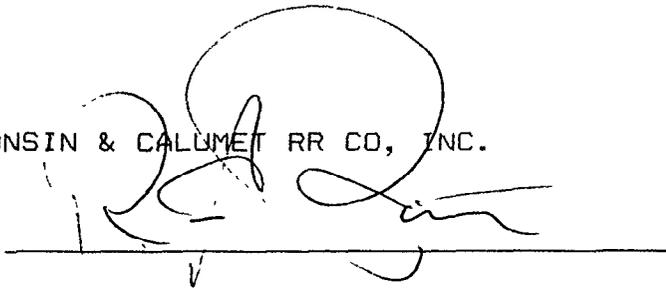
but not limited to the following:

(a) All costs and expenses incurred in removing, moving, storing and returning the Locomotive to and from the location specified above for the delivery by the Lessor.

(b) Cost of fuel, sand, and lubricating oils.

IN WITNESS WHEREOF, the parties hereto have executed this agreement in duplicate the day and year shown.

WISCONSIN & CALUMET RR CO, INC.

BY:  _____

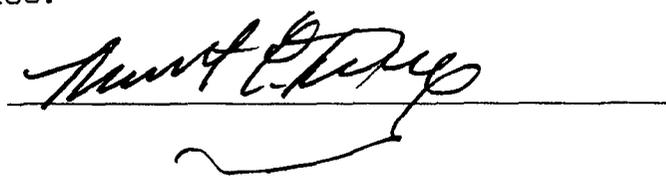
WITNESS:

BY:  _____

FOR LESSOR:

BY:  _____

WITNESS:

BY:  _____

I hereby certify that I have compared this copy with the original document and have found the copy to be complete and identical in all respects to the original.



Terri L. Miland
Notary Public
State of Wisconsin
County of Rock



Date