Councilor/Administrator's Report

TO: OSF Leadership

AT: Sept. 1992 Formal Meeting of Governing Board and/or OSF Corporation Meeting

AGENDA

I. INSTITUTIONS

1. College of St. Francis
   
   Topic: COLLATERAL Usage for CSF Loan for New OSF Performing Arts Center
   
   A. Documents from John L. O'Brien, OSF attorney
      1. Landlord/Tenant Estoppel Certificate;
      2. Collateral Assignment of Tenant's Interest in Lease and Leasehold Estate (with Landlord's consent)
   
   (yellow) B. Draft #1 of Resolution
   Re: Documents #1 and #2 noted above.
   
   (yellow) C. TRANSITION/INSERVICE
   "Agreement Between the Congregation of the Third Order of St. Francis of Mary Immaculate and the College of St. Francis" (15 points/27 April 1989).

2. Joliet Catholic Academy
   
   A. Background
   
   (gray) 1. Document #1 (SFA) (JCHS) Assets OSF / O. Carm. as of 3 January 1990
   
   (gray) 2. Document #2 "Resolutions" signed by JCA Board of Directors in March 1990
   
   (gray) 3. Document #3 Paragraph #23 of OSF/JCA building lease, beginning 7/1/90 and ending 6/30/10.
B. NEW BUSINESS ("Informal") with

1. OSF President, Councilor-Administrator, Treasurer, Attorney and JCA President, Principal, Attorney, Chair of JCA/Bd. of Ed/Building & Grounds on 17 Sept. 1992

2. Update on said meeting

3. **Renderings** and Aerial Views of JCA's plan for future freshmen "football field" on OSF-leased to JCA property

4. **ACTION:** OSF/GB – GO/NO GO to investigate further

C. JCA BOARD OF ED. Sept. 1992

3. **Our Lady of Angels Retirement Home**

   A. Sept. 1992 OSF Board of Directors Meeting
      . New officers of board
      . New OSF membership

   B. OLA-FEST XIII (20 Sept. 1992)

II. STRATEGIC PLANNING UPDATE

1. Re: Rose Schneider

2. Re: Date conflict with Rose

3. Re: response to Rose/Fax

III. CURRENT PROJECT

   Director's Roundtable/A Concept
      . The WHY of the Concept
      . Timeline
      . Issues/Goal & Objective
      prepare for Initial Workshop with Central Administration

IV. UPDATE/DURABLE POWER ACTION

V. OTHER
LAW OFFICES
HERSCBACH, TRACY, JOHNSON, BERTANI & WILSON

WALTER O. HERSCBACH
DONALD J. TRACY
WAYNE R. JOHNSON
LOUISE R. BERTANI
THOMAS R. WILSON
RICHARD H. TAYLOR
SCHEMMEL W. WEINHRODT
JOHN L. O'BRIEN

GEORGE F. MAMONEY III
MICHAEL W. HAMMEN
RAYMOND E. MEADER
A. MICHAEL WOLTAN
KENNETH A. CARLSON
DAVID J. SILVERMAN
ROGER D. RICKSON
JOHN S. GALLO

THIS IS A FACSIMILE DATA TRANSMISSION

DATE: SEPTEMBER 16, 1992
TIME: 4:00

TO: SR. BERNADETTE

FIRM: ST. FRANCIS CONVENT

FAX NUMBER DIALED: (815) 723-9435  {Phone: (815) 723-3686}

TOTAL NUMBER OF PAGES BEING SENT INCLUDING THIS PAGE: TEN

If you do not receive all of the material, please immediately call FLORENCE at (815) 723-8500.

Client No. N/C Matter No.

FROM: JOHN L. O'BRIEN

Document: 1. LANDLORD/TENANT ESTOPPEL CERTIFICATE; 2. COLLATERAL ASSIGNMENT OF TENANT'S INTEREST IN LEASE AND LEASEHOLD ESTATE (WITH LANDLORD'S CONSENT).

Comments:

☑ Original Will Not Follow
☐ Original Will Follow Via:
  □ Regular Mail
  □ Overnight Delivery
  □ Hand Delivery
  □ Other

CONFIRMATION OF RECEIPT: _______________________________ (Name)

DATE CALLED: ____________________ TIME: ________________

☐
September 16, 1992

Sr. Bernadette Sifferlin  
St. Francis Convent  
520 Plainfield Road  
Joliet, IL 60435

Dear Sr. Bernadette:

Enclosed are the documents that the College wishes the congregation to execute in connection with its finances with First Midwest Bank. If you have any questions, I will be in the office in the morning and in the afternoon. You can reach me at home now at 723-6242. The college is most anxious to get this completed.

Very truly yours,

HERSCHBACH, TRACY, JOHNSON, BERTANI & WILSON

By: John L. O'Brien/feb

JLO:feb

Enclosure
COLLATERAL ASSIGNMENT OF TENANT'S INTEREST IN LEASE AND
LEASEHOLD ESTATE (WITH LANDLORD'S CONSENT)

PREAMBLE

Whereas the undersigned ______________________

(hereinafter "Lessee") has entered into a certain Indenture of Lease (hereinafter the "Lease") dated with ______________________

(hereinafter "Landlord"), with respect to the following premises (hereinafter "Premises"), to wit:

; and

WHEREAS Lessee wishes to make certain loan or loans from the undersigned FIRST MIDWEST BANK/ILLINOIS, National Association (hereinafter "Bank") and Bank has committed to make such loan or loans provided the same are secured in part by Lessee's interest in the Lease and the leasehold interest thereby created, subject to the specific provisions contained herein; and

WHEREAS Landlord consents to the Collateral Assignment herein made and to Bank's taking of a mortgage on the Leasehold Estate created by the Lease, and does make certain agreements with Bank in consideration of the Lease.

AGREEMENT

NOW, THEREFORE, in consideration of said loan or loans and the other covenants and agreements hereinafter contained, the parties agree as follows:

1. VALIDITY OF LEASE. Lessee and Landlord hereby certify, represent, and warrant to Bank that the Lease attached hereto and made a part hereof as Exhibit "A" is a true, complete, and exact copy of the original of said Lease, that the same remains in full force and effect on the date hereof, that neither party thereto has breached or defaulted in the performance of any of the provisions thereof, and that no notice of any breach or default has been sent or received by Lessee or Lessor.

2. ASSIGNMENT. Lessee hereby sells, assigns, transfers, and conveys to Bank all right, title and benefits which it may have as Lessee in or under the Lease and the leasehold estate thereby created, solely for collateral purposes and as security for the above described loan and any and all other
indebtednesses which said Lessee may now or hereafter have to Bank, whether direct, indirect, as principal obligor, guarantor, or otherwise. It is specifically agreed that this assignment conveys, transfers and assigns to Bank only Lessee’s rights and benefits under the Lease and that Bank does not, and will not by its acceptance hereof, agree to or accept any duties or obligations thereunder unless and until Bank gives to Lessor written notice that it is executing upon this assignment and unless and until Bank takes actual possession of the Premises as a result of Lessee’s breach of the loan documents relating to any indebtedness of Lessee to Bank. Lessee further agrees to vacate the Premises and surrender full and exclusive possession thereof, and attorn to Bank as the sole owner of the leasehold estate created by the Lease, upon notice from Bank demanding such possession, control and attornment. However, Bank’s taking of possession and control shall not reduce, limit or modify Lessee’s duties to pay and perform all Lessee’s obligations under the loan documents and the Lease and to indemnify and hold Bank harmless therefrom.

3. ACCEPTANCE. Subject to the conditions and limitations in paragraph 2 and elsewhere in this Agreement, Bank hereby accepts the above assignment of Lessee’s rights, title, and benefits under the Lease and the leasehold estate thereby created, without accepting any of the duties, liabilities, or responsibilities of Lessee thereunder except to the extent specifically provided in Paragraph 2 hereof; and nothing herein contained is intended to or shall be construed as imposing any duties, liabilities, or responsibilities upon Bank under the Lease, all of which duties and responsibilities of Lessee shall be performed by the undersigned assignor, who agrees to pay, indemnify, and hold Bank harmless therefrom.

4. LESSEE’S NOTICES TO BANK. Lessee covenants and agrees that it shall immediately notify Bank upon receipt from Landlord of any notice of breach or default of the Lease and to immediately furnish Bank with copies of all notices of every kind and nature received from Landlord regarding the Lease.

5. LANDLORD’S CONSENT. Landlord hereby specifically consents and agrees to the collateral assignment (herein given to Bank) of Lessee’s rights and benefits under the Lease and leasehold estate and to Lessee’s giving and Bank’s taking of a mortgage on the Leasehold Estate created by the Lease. Landlord further understands and agrees that Bank does not and shall not by this assignment or by such mortgage accept or undertake any duties, obligations or liabilities under the Lease, unless and until Bank notifies Landlord in writing that it has executed upon the assignment and unless and until Bank takes actual possession and control of the Premises and the leasehold estate thereby created as a result of actual or alleged default of Lessee under the loan documents relating to any indebtedness of Lessee to Bank. Landlord further specifically agrees with Bank that no amendments, modifications, or changes shall be made in the Lease or the lease term thereby created without the specific written consent of Bank; that all notices of default or other matters required or discretionarily given by Lessor to Lessee shall be furnished and given not only to Lessee but also to Bank, as collateral Assignee; and that Bank shall have the same right to cure any actual or alleged default that Lessor is given under the Lease or by law and to intervene in any proceedings brought by or against Lessee arising out of Lease.

Landlord agrees (1) after final legal process to permit Bank to assume full and exclusive possession of the Premises in lieu of Lessee and to acknowledge Bank as the sole tenant of the Premises in lieu of
Lessee, provided only that Bank give to Landlord written notice of taking such possession, (2) that Bank shall not be obligated to pay any rent or other sums or to perform any other obligations of Lessee under the Lease except for rent and other sums actually accruing or matters arising out of transactions occurring during the period in which Bank is in actual possession of the Premises, (3) that Bank may assign its interest in the Lease and the leasehold estate to any third party, subject only to Landlord’s consent, which shall not be unreasonably withheld, and (4) that upon giving of any such assignment and after Bank furnishes Landlord with a copy or notice thereof, all duties and obligations under the Lease accruing or arising out of transactions occurring after the date of such assignment shall be the sole responsibility and obligation of Lessee and the Bank’s assignee and not the obligation or liability of Bank and Landlord shall thereafter look solely to Lessee or Bank’s assignee to pay or perform the Lessee’s obligations under the Lease. However, nothing herein contained is intended to or shall be construed to release, reduce, or discharge the obligations of Lessee to pay and perform all of Lessee’s obligations under the Lease.

6. **EXECUTION: ENFORCEABILITY.** Neither this Assignment nor Bank’s acceptance hereof shall be effective unless Bank shall have received, on or before ________________, not less than two copies hereof, fully signed and executed by both Lessee and Landlord.

7. **NOTICES.** All notices required or permitted to be given hereunder shall be given in writing, by certified mail, return receipt requested, to each of the parties hereto, by depositing such notices in the United States Mail, postage properly prepaid, addressed to the parties as shown below, or to such other address or addresses as the receiving party may from time to time designate and deliver to the other in writing. Pending such designation, notices shall be addressed as follows:

**When to Lessee:**

Name

Street

City     State     Zip

**When to Landlord:**

Name

Street

City     State     Zip

**When to Bank:**

FIRST MIDWEST BANK/ILLINOIS
50 West Jefferson Street
Joliet, IL 60431

Attn: Commercial Loan Dept. Manager
8. **MISCELLANEOUS.** Any party may record this Agreement which is executed in multiple counterparts. The recitations forming the Preamble to this Agreement are an integral part hereof.

**LANDLORD:**

By: ______________________________

Its: ______________________________

Date: ____________________________

**LESSEE (Assignor):**

By: ______________________________

Its: ______________________________

Date: ____________________________

**ATTEST:**

By: ______________________________

Its: ______________________________

Date: ____________________________

**ACCEPTED: FIRST MIDWEST BANK/ILLINOIS**

By: ______________________________

Its: ______________________________

Date: ____________________________
ACKNOWLEDGEMENT

(LESSEE)

STATE OF ILLINOIS )
) SS
COUNTY OF WILL )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that __________________________ personally known to me to be the same person(s) whose name(s) are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed, and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal, this _______ day of __________________________, 19____.

________________________
Notary Public

ACKNOWLEDGEMENT

(LANDLORD)

STATE OF ILLINOIS )
) SS
COUNTY OF WILL )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that __________________________ personally known to me to be the same person(s) whose name(s) are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed, and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal, this _______ day of __________________________, 19____.

________________________
Notary Public
LANDLORD/TENANT ESTOPPEL CERTIFICATE

TO: ________________________________

______________________________

RE: Premises:
Landlord:
Tenant:
Lease Agreement Dated:
Commencement Date:
Expiration Date (current term):
Option Term Expiration Date:
Monthly Base Rent Paid Through:
Security Deposit:

Gentlemen:

The undersigned acknowledge, that Tenant's interest in the above identified Lease Agreement has been collaterally assigned to First Midwest Bank/Illinois, N.A., 50 West Jefferson Street, Joliet, Illinois 60431-1399 (the "Bank") in connection with the Bank making a loan or loans secured by such assignment and by a mortgage on the Leasehold Estate on the real estate in which the leased premises (the "Premises") are located. As a condition of making the loan or loans, the Bank requires this estoppel certificate from both the Landlord and the Tenant, each of whom permits the Bank to rely on it as conclusive evidence of the matters stated herein.

The Landlord hereby certifies, and represents to the Bank that as of the date hereof:

1. The Tenant is in full and complete possession of and is occupying the Premises, subject to the terms and conditions of the Lease Agreement.

2. The Tenant is currently conducting business within the Premises.

3. The Lease Agreement is in full force and effect, free and clear of any default on the part of the Landlord; no condition exists which, with the service of notice or the passage of time, or both, would cause the Landlord to be in default; and the Lease Agreement has not been amended, modified or supplemented; except as follows (if amended, attach a copy of the amendment (if none, so state):
4. The Landlord has not given to Tenant any consent (for example, consent to sublease or alter the Premises) that is required under the Lease Agreement or the Premises, except as follows (if none, so state):

5. The Lease Agreement attached hereto as Exhibit "A" is a true, complete, exact copy of the entire agreement between the Landlord and the Tenant as to the Premises, and there are no other oral or written agreements between the Landlord and the Tenant with respect to the Premises, except as follows (if none, so state):

6. The Landlord has not been granted and has not exercised any options or rights of expansion, purchase, or first refusal concerning the Lease Agreement or the Premises, except as follows (if none, so state):

7. All duties and obligations of an inducement nature, required of the Landlord, have been fulfilled and there are no agreements in effect between the Landlord and the Tenant which, in any way, relate to the Premises or change or modify the terms and provisions of the Lease Agreement, except as follows (if none, so state):

8. The Landlord and Tenant have each fully performed all of their respective obligations required to be performed prior to the date hereof under the Lease Agreement and neither is in default under any term of the Lease Agreement.

9. The Landlord has received no notice of a prior sale, transfer, assignment, hypothecation or pledge of the Lease Agreement or any interest therein.

10. The Commencement Date and the Expiration of the Lease Agreement including option periods of any, are the dates set forth above; and no options or rights to renew, extend, amend, modify, or change the term of the Lease Agreement have been waived or modified, except as follows (if none, so state):

11. The monthly rent has been paid through the date stated above and the Landlord does not now have or hold any claim against the Tenant which does or could increase the amount due Landlord over and above the above stated rental amount, except as follows (if none, so state):

12. The parties represent and acknowledge each of the following statements to be true:

a. The parties have not filed and are not the subject of any filing for bankruptcy or reorganization under federal bankruptcy laws.
b. The address for notices to the parties under the Lease Agreement are the addresses of the Premises or as follows:


c. The persons signing this Certificate on behalf of the parties are duly authorized agents of the parties for whom the signature is given.

d. Landlord has and will receive adequate consideration for executing this Certificate, including without limitation the present and the anticipated benefits, direct and indirect, to be received from the above described loan or loans to assist Tenant in its financial affairs and improving or maintaining the Premises and the property in which the Premises are located.

18. The Landlord agrees that the Bank shall not be:

a. liable for any act or omission of Tenant or any person or party who may be or may have been a Tenant under the Lease Agreement.

b. obligated to perform any obligations of Tenant under the Lease Agreement unless and until Bank takes actual possession and control of the Premises or the property in which the Premises are located; provided, however, that upon Bank's conveyance or assignment of the Premises or its interest in the Lease Agreement to a third party, Bank's obligations shall again terminate except for performance of those obligations which were actually required of the Tenant under the Lease Agreement during the period when Bank was in actual possession and control of the Premises.

c. subject to any off-sets or defenses which the Landlord may have against Tenant or any prior Tenant.

Date: __________________________

LANDLORD: _________________________

TENANT: ___________________________