



60 2005 00037245

Allegheny County  
Valerie McDonald Roberts  
Recorder of Deeds  
Pittsburgh, PA 15219

Instrument Number: 2005-37245

Recorded On: November 01, 2005 As-Deed Assignment of Rent/Lease

Parties: FOREST CITY SAN VICENTE CORP

To METROPOLITAN LF INS CO

# of Pages: 13

Comment:

**\*\*DO NOT REMOVE-THIS PAGE IS PART OF THE RECORDED DOCUMENT\*\***

Deed Assignment of Rent/Leas	61.00
Pages > 4	8
Names > 4	0
Total:	61.00

*I hereby certify that the within and foregoing was recorded in the Recorder's Office in Allegheny County, PA*

**\*\*DO NOT REMOVE-THIS PAGE IS PART OF THE RECORDED DOCUMENT\*\***

File Information:

Document Number: 2005-37245  
Receipt Number: 559925  
Recorded Date/Time: November 01, 2005 12:04P  
Book-Vol/Pg: BK-DE VL-12644 PG-390  
User / Station: E McGuire - Cash Station 22

Record and Return To:

FIDELITY NATIONAL TITLE  
WILL CALL  
PITTSBURGH PA 15219



Valerie McDonald-Roberts Recorder of Deeds

12

PREPARED BY AND WHEN  
RECORDED RETURN TO:

Jennifer K. Peterson, Esq.  
Saul Ewing LLP  
Centre Square West, 38<sup>th</sup> Floor  
1500 Market Street  
Philadelphia, PA 19102  
TAX PARCEL NOS. 1-R-72, 1-R-  
74 and 1-R-80

**ASSIGNMENT OF LEASES**

**DEFINED TERMS**

<b>Execution Date:</b> <i>October 26, 2005</i>
<b>Loan:</b> A first mortgage loan in an amount of \$50,000,000 from Assignee to Assignor
<b>Assignor &amp; Address:</b> Forest City San Vicente Corp., an Ohio corporation 50 Public Square Terminal Tower, Suite 1140 Cleveland, OH 44113-2267  FC Pittsburgh Hotel, Inc., a Pennsylvania corporation 50 Public Square Terminal Tower, Suite 1140 Cleveland, OH 44113-2267
<b>Assignee &amp; Address:</b>

Metropolitan Life Insurance Company and MetLife Bank, N.A.  
10 Park Avenue  
Morristown, New Jersey 07962  
Attention: Senior Vice President  
Real Estate Investments

and

Metropolitan Life Insurance Company  
2021 Spring Road, Suite 100  
Oak Brook, IL 60523  
Attention: Director Mortgage Production

**Note:** Collectively, that certain promissory note dated as of the Execution Date made by Assignor to the order of the Metropolitan Life Insurance Company and that certain promissory note dated as of the Execution Date made by Borrower to the order of MetLife Bank, N.A., in the aggregate principal amount of \$50,000,000.

**Mortgage:** A Mortgage, Security Agreement and Fixture Filing dated as of the Execution Date, executed by Assignor to Assignee securing repayment of the Note. The Mortgage will be recorded in the records of the County in which the Property is located.

**THIS ASSIGNMENT OF LEASES** ("Agreement") is entered into by Assignor as of the Execution Date in favor of Assignee and affects the Property as hereinafter described. Certain terms used in this Agreement are defined in the Defined Terms on page 1 and page 2.

### RECITALS

A. Assignee has loaned or will loan to Assignor the Loan which is evidenced by the Note and includes all extensions, renewals, modifications and amendments. The payment of the Note is secured by the Mortgage which encumbers Assignor's interest in the real property described in Exhibit A attached to this Agreement (the "Land") and Assignor's interest in the improvements and personal property and equipment situated on the Land (the "Improvements") (collectively, the "Property"); and

B. Assignor desires to absolutely, presently and unconditionally assign to Assignee all of its right, title and interest in and to (i) all leases which now exist that are described in Exhibit B attached to this Agreement, (ii) all leases entered into after the date of this Agreement, (iii) all lease extensions, modifications, amendments, expansions and renewals of the leases described in (i) and (ii), and (iv) all guarantees of lessees' obligations and extensions, modifications, amendments and renewals of any guarantees of any of the leases. The documents described in this Recital B are collectively referred to as the "Leases").

In consideration of the Recitals and for good and valuable consideration, Assignor agrees with Assignee and its successors and assigns as follows:

1. Payment of Note. Assignor desires to secure (a) the timely payment of the principal of and interest on the Note and all other indebtedness secured by the Mortgage; and (b) the full compliance with the terms, conditions, covenants and agreements contained in the Note, the Mortgage and the other documents executed by Assignor in connection with the Loan.

2. Present and Absolute Assignment of Leases. Assignor absolutely, presently and unconditionally grants, assigns and transfers to Assignee all of Assignor's right, title and interest in and to the Leases. This grant includes without limitation: (a) all rent payable under the Leases; (b) all tenant security deposits held by Assignor pursuant to the Leases; (c) all additional rent payable under the Leases; (d) all proceeds of insurance payable to Assignor under the Leases and all awards and payments on account of any taking or condemnation; and (e) all claims, damages and other amounts payable to Assignor in the event of a default under or termination of any of the Leases, including without limitation all of Assignor's claims to the payment of damages arising from any rejection by a tenant of any Lease under the Bankruptcy Code as amended from time to time. All of the items referred to in this Section 2 are collectively referred to in this Agreement as the "Income".

3. No Cancellation or Modification of Leases. Assignor covenants and agrees that, without the prior written consent of Assignee, it will not (a) cancel or terminate any Lease or accept a surrender of any Lease (except in the event of a default); (b) reduce the rent or additional rent or accept payment of any installment of rent under any Lease more than one month in advance of its due date; (c) modify or amend any Lease in any material way; or (d) consent to an assignment of the tenant's interest or to a subletting of any Lease unless the tenant remains liable under the Lease following the assignment or subletting.

If any of these acts described in this Section 3 are done without the consent of Assignee, at the

option of Assignee, they shall be of no force or effect and shall constitute a breach of the terms of this Agreement and of the Mortgage.

4. Specific Covenants of Assignor. Assignor covenants and agrees:

a. To perform fully all material obligations, duties, and agreements of landlord under the Leases.

b. At Assignor's sole cost and expense, to appear in and defend any action or proceeding arising under the Leases or which is connected with the obligations, duties or liabilities of landlord, tenant or any guarantor and to pay all costs and expenses of Assignee, including reasonable attorneys' fees, in any action or proceeding in which Assignee may appear;

c. If Assignor fails to make any payment or to do any acts required by this Agreement, then Assignee may in its sole discretion and without notice to Assignor perform Assignor's obligations under the Leases as Assignee may deem necessary, at Assignor's cost and expense. These acts may include without limitation appearing in and defending any proceeding connected with the Leases, including without limitation any proceedings of any tenants under the Bankruptcy Code. No action by Assignee shall release Assignor from its obligation under this Agreement. Assignor irrevocably appoints Assignee its true and lawful attorney to exercise its rights under this Agreement, which appointment is coupled with an interest.

d. To pay immediately upon demand all sums expended by Assignee under this Agreement, together with interest at the Default Rate (as defined in the Note). These expenditures shall be secured by the Mortgage.

e. If a petition under the Bankruptcy Code shall be filed by or against Assignor and Assignor, as landlord, shall determine to reject any lease pursuant to Section 365 (a), then Assignee shall have the right, but not the obligation, to demand that Assignor assume and assign the lease to Assignee and Assignor shall provide adequate assurance of future performance under the lease.

f. Assignee's rights under this Agreement may be exercised either independently of or concurrently with any other right in this Agreement, the Mortgage or in any other document securing the Note. No action taken by Assignee under this Agreement shall cure or waive any default nor affect any notice under the Mortgage.

5. Leasing of Property. Assignor covenants and agrees, upon demand, to confirm in writing the assignment to Assignee of all subsequent Leases of the Property upon the terms set forth in this Agreement. Notwithstanding the preceding sentence, the terms and provisions of this Agreement shall apply automatically to any Leases entered into after the Execution Date.

6. Representations and Warranties. Assignor makes the following representations and warranties in connection with the Leases: (a) Assignor has not executed any prior assignment of its right, title and interest in the Leases, or of the Income; (b) Assignor has not done any act which might prevent Assignee from exercising its rights under this Agreement; (c) except only for rent and additional rent for the current month, Assignor has not accepted under any of the Leases any payment of advance rent, additional rent or security deposit in an amount that is more than one month's rent and additional rent; (d) there is no material default now existing under any of the Leases and to Assignor's best knowledge, no event has occurred and is continuing which would constitute an event of default but for the requirement

that notice be given in accordance with the terms of the Lease; (e) Assignor has delivered to Assignee true and correct copies of all of the Leases described on Exhibit B which is attached to this Agreement; and (f) all Leases are in full force and effect without any oral or written modification except as set forth in writing in the copies delivered to Assignee.

7. License to Collect Monies Until Default by Assignor. So long as no Event of Default (as defined in the Mortgage) exists and so long as there is no default by Assignor under this Agreement or under any of the Leases (all of the foregoing are collectively referred to as, a "Default"), Assignor shall have a license to receive and use all Income. This license shall be terminable at the sole option of Assignee, without regard to the adequacy of its security under this Agreement or under the Mortgage and without notice to Assignor, if there is a Default.

8. Entry by Assignee and Receiver. Assignee is authorized either in person or by agent, with or without bringing any action or proceeding or having a receiver appointed by a court, (a) to enter upon, take possession of, manage and operate the Property and collect the Income, and (b) to make, enforce, modify, and accept the surrender of the Leases. Assignee is authorized to take these actions either with or without taking possession of the Property. In connection with this entry, Assignor authorizes Assignee to perform all acts necessary for the operation and maintenance of the Property. Assignee may sue for or otherwise collect all Income, including those past due and unpaid, and apply the Income, less costs and expenses of operation and collection, including reasonable attorneys' fees, to the indebtedness secured by the Mortgage in such order as Assignee may determine. Assignee's exercise of its rights under this Section shall not be deemed to cure or waive any Default.

9. Indemnification. Assignor shall indemnify Assignee against and hold it harmless from any and all liability, claims, loss or damage which it may incur under the Leases or under this Agreement.

10. Mortgagee in Possession. To the fullest extent permitted by law, neither the assignment of Income to Assignee nor the exercise by Assignee of any of its rights or remedies under this Agreement, including without limitation, the entering into possession or the appointment of a receiver shall be deemed to make Assignee a "mortgagee-in-possession" or otherwise liable with respect to the Property. Although Assignee has the right to do so, it shall not be obligated to perform any obligation under the Leases by reason of this Agreement. To the fullest extent permitted by law, neither this Agreement nor any action or inaction on the part of Assignee shall constitute an assumption on the part of Assignee of any obligation or liability under any of the Leases.

11. Reconveyance and Termination. Upon the payment in full of the Loan, as evidenced by the recording of a Satisfaction of the Mortgage, this Agreement shall be void and of no effect.

12. Tenants Entitled to Rely on Assignee's Requests. Assignor irrevocably authorizes and directs the tenants and their successors, upon receipt of any written request of Assignee stating that a Default exists, to pay to Assignee the Income due and to become due under the Leases. Assignor agrees that the tenants shall have the right to rely upon any such statement without any obligation to inquire as to whether a Default actually exists and regardless of any claim of Assignor to the contrary. Assignor agrees that it shall have no claim against the tenants for any Income paid by the tenants to Assignee. Upon the curing of all Defaults, Assignee shall give written notice to the tenants to recommence paying the rents to Assignor.

13. Successors and Assigns. This Agreement shall be binding upon the successors and assigns of Assignor and shall inure to the benefit of and be enforceable by Assignee, its successors and assigns. If more than one person, corporation, partnership or other entity shall execute this Agreement, then the

obligations of the parties executing the Agreement shall be joint and several.

14. Notices. All notices pursuant to this Agreement shall be given in accordance with the Notice provision of the Mortgage, which is incorporated into this Agreement by this reference.

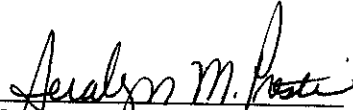
15. Governing Law. This Agreement shall be governed and construed by the laws of the State in which the Property is located.


16. Miscellaneous. This Agreement may be modified, amended, waived, or terminated only by an instrument in writing signed by the party against which enforcement of such modification, amendment, waiver, or termination is sought. No failure or delay in exercising any of these rights shall constitute a waiver of any Default. Assignor, at its expense, will execute all documents and take all action that Assignee from time to time may reasonably request to preserve and protect the rights provided under this Agreement. The headings in this Agreement are for convenience of reference only and shall not expand, limit or otherwise affect the meanings of the provisions. This Agreement may be executed in several counterparts, each of which shall be an original, but all of which shall constitute one document.

17. Liability of Assignor. Liability under this Agreement is limited in the same manner and to the same extent as liability is limited under Section 11 of the Note and Article IX of the Mortgage.


IN WITNESS WHEREOF, this Assignment of Leases is executed as of the Execution Date.

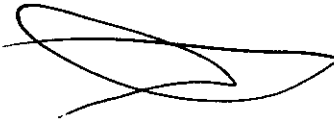
FOREST CITY SAN VICENTE CORP., an Ohio corporation

Attest:   
GERALYN M. PRESTI  
Assistant Secretary

By:   
THOMAS G. SMITH  
Secretary and Treasurer

FC PITTSBURGH HOTEL, INC., a Pennsylvania corporation

Attest:   
THOMAS G. SMITH  
Secretary and Treasurer

By:   
ALBERT B. RATNER  
President



STATE OF OHIO )  
 ) : SS.  
COUNTY OF CUYAHOGA ):

On this, the 26<sup>th</sup> day of October, 2005 before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Albert R. Ratner, who acknowledged himself to be the President of FC PITTSBURGH HOTEL, INC., a Pennsylvania corporation, who I am satisfied is the person who signed the within Assignment and who acknowledged that he executed same as officer of such corporation, being authorized to do so, and that the within Assignment is the voluntary act and deed of such corporation.

WITNESS my hand and seal the day and year aforesaid.

  
\_\_\_\_\_  
Notary Public or Notarial Officer

My Commission expires: \_\_\_\_\_

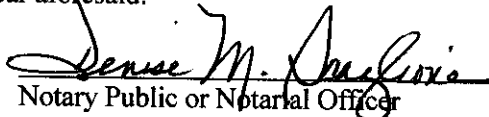


Denise M. Scaglione, Notary Public  
STATE OF OHIO  
My Commission Expires April 21, 2007

STATE OF OHIO )  
 ) : SS.  
COUNTY OF CUYAHOGA ):

On this, the 26<sup>th</sup> day of October, 2005, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Thomas G. Smith, who acknowledged himself to be the Secretary and Treasurer of FOREST CITY SAN VICENTE CORP., an Ohio corporation, who I am satisfied is the person who signed the within Assignment and who acknowledged that he executed same as such officer of such corporation, being authorized to do so, and that the within Assignment is the voluntary act and deed of such corporation.

WITNESS my hand and seal the day and year aforesaid.

  
\_\_\_\_\_  
Notary Public or Notarial Officer

My Commission expires: \_\_\_\_\_



Denise M. Scaglione, Notary Public  
STATE OF OHIO  
My Commission Expires April 21, 2007

EXHIBIT A

LEGAL DESCRIPTION

COMMITMENT NUMBER: PA2102

Parcel One:

ALL that certain parcel of land, being Building Parcel "I" in the Station Square Plan No. 9, situate in the 19<sup>th</sup> Ward, City of Pittsburgh, Allegheny County, Commonwealth of Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point common to Building Parcel "I" as recorded in the Office of the Recorder of Deeds of Allegheny County, Pennsylvania, in Plan Book Volume 186, pages 32 to 35, Parcel 6F in the Station Square Plan of Lots No. 6 as recorded in the Office of the Recorder of Deeds of Allegheny County, Pennsylvania, in Plan Book Volume 145, pages 99 through 101 and Parcel A in the Station Square Plan of Lots No. 5 as recorded in the Office of the Recorder of Deeds of Allegheny County, Pennsylvania, in Plan Book Volume 136, pages 83 through 84; thence from said point of beginning by the line dividing Building Parcel "I" in said Station Square Plan No. 9 and Parcel A in Station Square Plan of Lots No. 5, South 38 degrees 52' 45" West a distance of 215.62 feet to a point on the northeasterly side of a public access road; thence by the northeasterly side of said public access road the following four (4) courses and distances: (1) North 53 degrees 18' 00" West a distance of 21.64 feet; (2) North 51 degrees 40' 08" West a distance of 140.00 feet; (3) South 38 degrees 19' 52" West a distance of 24.45 feet; (4) North 56 degrees 14' 13" West a distance of 193.80 feet to a point on the line dividing Building Parcel "I" and Open Space Parcel No. 5 in said Station Square Parcel No. 9; thence by the line dividing Building Parcel "I" from Open Space Parcel No. 5 and Building Parcel "H" in said Station Square Plan No. 9, North 38 degrees 52' 45" East a distance of 236.00 feet to a point on the line dividing Building Parcel "I" in said Station Square Plan No. 9 and Parcel 6F in said Station Square Plan of Lots No. 6; thence by the line dividing Building Parcel "I" in said Station Square Plan No. 9 and Parcel 6F in said Station Square Plan of Lots No. 6 in a southeasterly direction by a curve bearing to the right having a radius of 3,427.13 feet through an arc distance of 304.61 feet to a point of tangency; thence continuing by same South 52 degrees 43' 57" East a distance of 50.73 feet to a point common to Building Parcel "I" in said Station Square Plan No. 9, Parcel 6F in said Station Square Plan of Lots No. 6 and Parcel A in said Station Square Plan of Lots No. 5 at the point of beginning.

CONTAINING an area of 1.843 acres, more or less.

BEING designated as Block 1-R, Lot 80 in the Deed Registry Office of Allegheny County.

Parcel Two:

ALL that certain parcel of land, being Building Parcel "H" and Open Space Parcel No. 5 in the Station Square Plan No. 9, situate in the 19<sup>th</sup> Ward, City of Pittsburgh, Allegheny County, Commonwealth of Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point common to Building Parcel "H" and Parcel No. 6 in the Station Square Plan No. 9 as recorded in the Office of the Recorder of Deeds of Allegheny County, Pennsylvania, in Plan Book Volume 186, pages 32 to 35, and lands now or formerly of Pittsburgh and Lake Erie Railroad; thence from said point of beginning by the line dividing Building Parcel "H" in said Station Square Plan No. 9 and lands now or formerly of Pittsburgh and Lake Erie Railroad Company, south 59 degrees 55' 59" East a distance of 218.98 feet to a point of curvature on the line dividing Building Parcel "H" in said Station Square Plan No. 9 and Parcel 6F in the Station Square Plan of Lots No. 6 as recorded in the Office of the Recorder of Deeds of Allegheny County, Pennsylvania, in Plan Book Volume 145, pages 99 to 101; thence by the line dividing building Parcel "H" in said Station Square Plan No. 9 and Parcel 6F in said Station Square Plan of Lots No. in a southeasterly direction by a curve bearing to the right having a radius of 3,427.13 feet through an arc distance of 126.06 feet to a point on the line dividing Building Parcel "H" and Building Parcel "I" in said Station Square Plan No. 9; thence by the line dividing Building Parcel "H" and Open Space Parcel No. 5 from Building Parcel "I" in said Station Square Plan No. 9, South 38 degrees 52' 45" West a distance of 236.00 feet to a point on the northeasterly side of a public access road; thence by the northeasterly side of said public access road and by line dividing Open Space Parcel No. 5 and Parcel No. 6 in said Station Square Plan No. 9, North 56 degrees 14' 13" West a distance of 345.00 feet to a point on line dividing Open Space Parcel No. 5 and Parcel No. 6 in said Station Square Plan No. 9; thence by the line dividing Open Space Parcel No. 5 and building Parcel "H" from Parcel No. 6 in said Station Square Plan No. 9, North 39 degrees 29' 47" East a distance of 216.24 feet to a point common to Building Parcel "H" and Parcel No. 6 in said Station Square Plan No. 9 and lands now or formerly of Pittsburgh and Lake Erie Railroad, at the point of beginning.

CONTAINING an area of 1.784 acres, more or less.

BEING designated as Block 1-R, Lots 72 and 74 in the Deed Registry Office of Allegheny County.

TOGETHER WITH:

- (1) Permanent easements described as benefiting Station Square Hotel Associates but not limited to the leasehold estate, or limited by any term, as set forth in Reciprocal Easement and Operating Agreement between Pittsburgh History and Landmarks Foundation and Station Square Hotel Associates, dated December 7, 1979 and recorded in Deed Book Volume 6215, page 153, as amended by First Amendment of Reciprocal Easement and Operating Agreement, dated November 4, 1981, and recorded in Deed Book Volume 6416, page 1243.
- (2) The easements benefiting the Landmarks Real Estate Corporation set forth in Reciprocal Easement Agreement between the Landmarks Real Estate Corporation and the Pittsburgh and Lake Erie

- Railroad Company dated May 21, 1987 and recorded in Deed Book Volume 7557, page 517; to the extent they benefit or are reasonably necessary for the operation of the above described premises.
- (3) A permanent easement for access between the aforescribed property and West Carson and Smithfield Streets, over the "Hotel Access Way" and the "Shopping Center Area" as such terms are defined in the Reciprocal Easement and Operating Agreement between Pittsburgh History and Landmarks Foundation and Station Square Hotel Associates dated December 7, 1979 and recorded in Deed Book Volume 6215, page 153.
  - (4) A permanent easement to connect into and use in common with others, Grantor's private sanitary sewer trunkline which services Station Square generally; provided, however, that such use shall be subject to the condition precedent that Grantee shall (i) install and maintain or cause to be installed and maintained in good condition a grease trap at each sanitary sewer facility within the hotel building located on the Premises which service locations where food is processed and (ii) implement or cause to be implemented such grease breakdown program as Grantor shall from time to time reasonably designate. Grantor makes no representation or warranty as to the condition of said trunkline or as to the adequacy of said trunkline for any purpose which Grantee may make of it. Grantor shall maintain or cause to be maintained in reasonably good operating condition the aforesaid trunkline and shall repair and replace the same when necessary, as determined by Grantor's reasonable judgment; Grantee shall reimburse Grantor upon demand for Grantee's pro rata share (as determined by the water consumed within the Premises in comparison to all water consumed by all users of the aforesaid trunkline) of such maintenance repair and replacement.
  - (5) Such other easements which are necessary and reasonable to enable Grantee to operate a hotel and appurtenant uses on the Premises.

The aforesaid easements shall benefit the fee simple and leasehold estates to Parcels One and Two set forth above.

#### Recital

BEING the same property that Forest City Station Square Associates, a Pennsylvania general partnership, granted and conveyed unto FC Pittsburgh Hotel, Inc., by deed dated April 29, 1998 and recorded May 1, 1998 in the Recorder's Office of Allegheny County, Pennsylvania, in Deed Book Volume 10186, page 627.

FORM 26-836-C (5/95)

EXHIBIT B

DESCRIPTION OF LEASES

<u>Tenant</u>	<u>Date of Lease</u>	<u>Dates of all Lease Amendments</u>	<u>Premises</u>
Faber, Coe & Gregg of Pennsylvania, Inc.	6/14/01	Addendum dated 6/14/01	Gift Shop

