

THIS DOCUMENT PREPARED BY
AND AFTER RECORDING RETURN
TO:



0011020939

Bell, Boyd & Lloyd LLC
70 West Madison Street
Suite 3100
Chicago, Illinois 60602
Attn: Terrence E. Budny, Esq.

This space reserved for Recorder's use only

MODIFICATION OF LOAN DOCUMENTS

THIS MODIFICATION OF LOAN DOCUMENTS (this "Agreement") is made as of the 11th day of June, 2001, by and among **LASALLE BANK NATIONAL ASSOCIATION**, a national banking association, its successors and assigns ("Lender"), **343 SOUTH DEARBORN II, L.L.C.**, an Illinois limited liability company ("Borrower"), **RONALD BENACH, WAYNE MORETTI, HAROLD LICHTERMAN and GERALDINE LICHTERMAN** (individually and collectively, "Guarantor").

Recitals

A. Lender has made a loan to Borrower in the maximum amount of **TWENTY-NINE MILLION FIVE HUNDRED FIFTY THOUSAND DOLLARS (\$29,550,000)** (the "Loan") pursuant to the provisions of a Loan Agreement dated as of June 10, 1999, between Lender and Borrower (the "Loan Agreement"). Initially capitalized terms used but not expressly defined in this Agreement have the respective meanings given them in the Loan Agreement.

B. The Loan is evidenced by a Mortgage Note dated as of June 10, 1999, in the principal amount of \$29,550,000 from Borrower to Lender (the "Note"), and is secured by, among other things, the following documents, both of which are dated as of June 10, 1999:

- i. Construction Mortgage and Security Agreement recorded June 14, 1999, with the Cook County Recorder of Deeds as document no. 99566728; and
- ii. Assignment of Rents and Leases recorded June 14, 1999, with the Cook County Recorder of Deeds as document no. 99566729.

The Mortgage and Assignments of Rents and Leases encumber the real estate legally described in EXHIBIT A attached hereto and made a part hereof.

C. The Loan is further secured by a Payment Guaranty dated as of June 10, 1999, from Guarantor to Lender (the "Guaranty"). Borrower and Guarantor have also executed and delivered to Lender an Environmental Indemnity Agreement dated as of June 10, 1999.

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D. Borrower, Lender and Guarantor desire to amend the Loan Agreement, Mortgage, the Assignment of Rents and Leases and certain of the other Loan Documents to extend the Initial Maturity Date to December 11, 2001, and to make such other revisions to the Loan Documents as set forth in this Agreement.

Agreements

NOW, THEREFORE, in consideration of (i) the facts set forth hereinabove (which are hereby incorporated into and made a part of this Agreement), (ii) the agreements by Lender to modify the Loan Agreement and other Loan Documents, as provided herein, (iii) the covenants and agreements contained herein, and (iv) other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Extension of Initial Maturity Date. The Initial Maturity Date is hereby extended to December 11, 2001. All references in the Loan Documents to the Initial Maturity Date or the Maturity Date of the Loan shall be deemed references to December 11, 2001.

2. Amendment to Loan Agreement. The Loan Agreement is amended as follows:

a. The definition of "Initial Maturity Date" in Section 1.1 is deleted, and the following is inserted in its place:

"Initial Maturity Date. December 11, 2001."

b. Section 2.1(j) is amended:

(i) by deleting the last two sentences of the first grammatical paragraph, and inserting the following in their respective places:

"The Construction Letter of Credit shall not be renewable for a period expiring after December 4, 2001. The Payment Letter of Credit shall be renewable for periods expiring no later than June 4, 2003, upon satisfaction of such conditions as Lender may reasonably require, including without limitation approval by appropriate Lender credit authorities."

(ii) by adding the following as the final grammatical paragraph:

"Notwithstanding anything in this Agreement or the other Loan Documents to the contrary, upon the occurrence of a Release Event, it shall be a condition to Lender's obligation to provide a full release of all of Lender's security for the Loan that Borrower shall have returned the Construction Letter of Credit to Lender. Notwithstanding the foregoing, if upon the occurrence of a Release Event the Payment Letter of Credit constitutes an Unexpired Letter of Credit, then after such Release Event the Payment Letter of Credit shall continue to be secured by the Payment Guaranty, and Borrower shall not be required to establish a cash collateral account as additional security for the Payment Letter of Credit."

3. Amendment to Note. The Note is amended by deleting the date "June 4, 2001" in Section 2(m), and inserting the date "***December 11, 2001***" in its place.

4. Amendment to Mortgage. Recital C of the Mortgage is amended by deleting the dates "June 11, 2001" and "June 11, 2006", and inserting the dates "***December 11, 2001***" and "***December 11, 2006***" in their respective places.

5. Amendment to Payment Guaranty. The Payment Guaranty is amended by deleting paragraphs 1(b)(i) and 1(b)(ii), and inserting the following in their respective places:

“(i) With respect to the Development Funds, THREE MILLION SIX HUNDRED TWENTY THOUSAND DOLLARS (\$3,620,000), provided that if all or any portion of the Tax Credit Equity is not contributed as and when required under the Contribution Schedule, the \$3,620,000 payment limitation shall be increased by the amount of the unpaid Tax Credit Equity until such time as the unpaid amount is contributed as Developer’s Equity, provided, however, that such contribution is made prior to the occurrence of an Event of Default.”

“(ii) With respect to that portion of the Credit Amount generated from payment under the Construction Letter of Credit, TWO MILLION FORTY TWO THOUSAND SIX HUNDRED ONE DOLLARS (\$2,042,601).”

6. Representations and Warranties of Borrower. Borrower hereby represents, covenants and warrants to Lender as follows:

a. The representations and warranties in the Loan Agreement, the Mortgage and the other Loan Documents are true and correct as of the date hereof.

b. There is currently no Event of Default (as defined in the Loan Agreement) under the Loan Agreement, the Note, the Mortgage or the other Loan Documents and Borrower does not know of any event or circumstance which with the giving of notice or passing of time, or both, would constitute an Event of Default under the Loan Agreement, the Note, the Mortgage or the other Loan Documents.

c. The Loan Agreement, the Note, the Mortgage and the other Loan Documents are in full force and effect and, following the execution and delivery of this Agreement, they continue to be the legal, valid and binding obligations of Borrower enforceable in accordance with their respective terms, subject to limitations imposed by general principles of equity.

d. There has been no material adverse change in the financial condition of Borrower, Guarantor or any other party whose financial statement has been delivered to Lender in connection with the Loan from the date of the most recent financial statement received by Lender.

e. As of the date hereof, Borrower has no claims, counterclaims, defenses, or set-offs with respect to the Loan, the Loan Agreement, the Note, the Mortgage or the other Loan Documents as modified herein.

f. Borrower is validly existing under the laws of the State of its formation or organization and has the requisite power and authority to execute and deliver this Agreement and to perform the Loan Agreement, the Note, the Mortgage and the other Loan Documents as modified herein. The execution and delivery of this Agreement and the performance of the Loan Agreement, the Note, the Mortgage and the other Loan Documents as modified herein have been duly authorized by all requisite action by or on behalf of Borrower. This Agreement has been duly executed and delivered on behalf of Borrower.

7. Title Policy. As a condition precedent to the agreements contained herein, Borrower shall, at its sole cost and expense, cause Chicago Title Insurance Company to issue an endorsement to Lender’s title insurance policy No. 7813337 (the “Title Policy”), dated as of the date this Agreement is recorded, reflecting the recording of this Agreement and insuring the first priority of the lien of the

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Mortgage, as amended by this Agreement, subject only to the exceptions set forth in the Title Policy as of its date of issuance and any other encumbrances expressly agreed to by Lender.

8. Reaffirmation of Guaranty and Environmental Indemnity Agreement. Guarantor ratifies and affirms the Guaranty and the Environmental Indemnity Agreement, and agrees that the Guaranty and the Environmental Indemnity Agreement are in full force and effect following the execution and delivery of this Agreement. The representations and warranties of Guarantor in the Guaranty and Environmental Indemnity Agreement are, as of the date hereof, true and correct and Guarantor does not know of any default thereunder. The Guaranty and Environmental Indemnity Agreement continue to be the valid and binding obligations of Guarantor, enforceable in accordance with their respective terms, and Guarantor has no claims or defenses to the enforcement of the rights and remedies of Lender thereunder, except as provided in the Guaranty and the Environmental Indemnity Agreement.

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9. Expenses. As a condition precedent to the agreements contained herein, Borrower shall pay all out-of-pocket costs and expenses incurred by Lender in connection with this Agreement, including, without limitation, title charges, recording fees, appraisal fees and attorneys' fees and expenses, and a loan extension fee in the amount of \$15,000.

10. Miscellaneous.

a. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

b. This Agreement shall not be construed more strictly against Lender than against Borrower or Guarantor merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that Borrower, Guarantor and Lender have contributed substantially and materially to the preparation of this Agreement, and Borrower, Guarantor and Lender each acknowledge and waive any claim contesting the existence and the adequacy of the consideration given by the other in entering into this Agreement. Each of the parties to this Agreement represents that it has been advised by its respective counsel of the legal and practical effect of this Agreement, and recognizes that it is executing and delivering this Agreement, intending thereby to be legally bound by the terms and provisions thereof, of its own free will, without promises or threats or the exertion of duress upon it. The signatories hereto state that they have read and understand this Agreement, that they intend to be legally bound by it and that they expressly warrant and represent that they are duly authorized and empowered to execute it.

c. Notwithstanding the execution of this Agreement by Lender, the same shall not be deemed to constitute Lender a venturer or partner of or in any way associated with Borrower or Guarantor nor shall privity of contract be presumed to have been established with any third party.

d. Borrower, Guarantor and Lender each acknowledge that there are no other understandings, agreements or representations, either oral or written, express or implied, that are not embodied in the Loan Documents and this Agreement, which collectively represent a

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complete integration of all prior and contemporaneous agreements and understandings of Borrower, Guarantor and Lender; and that all such prior understandings, agreements and representations are hereby modified as set forth in this Agreement. Except as expressly modified hereby, the terms of the Loan Agreement, the Note, the Mortgage and the other Loan Documents are and remain unmodified and in full force and effect.

e. This Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

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f. Any references to the Loan Agreement, the Note, the Mortgage and the other Loan Documents contained in any of the Loan Agreement, the Note, the Mortgage and the other Loan Documents shall be deemed to refer to the Loan Agreement, the Note, the Mortgage and the other Loan Documents as amended hereby. The paragraph and section headings used herein are for convenience only and shall not limit the substantive provisions hereof. All words herein which are expressed in the neuter gender shall be deemed to include the masculine, feminine and neuter genders. Any word herein which is expressed in the singular or plural shall be deemed, whenever appropriate in the context, to include the plural and the singular.

g. This Agreement may be executed in one or more counterparts, all of which, when taken together, shall constitute one original Agreement.

h. Time is of the essence of each of Borrower's and Guarantor's obligations under this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement dated as of the day and year first above written.

LENDER:

LASALLE BANK NATIONAL
ASSOCIATION, a national banking
association

By: 

Name: CHRISTOPHER TURNNEY

Title: OFFICER

BORROWER:

343 SOUTH DEARBORN II, L.L.C., an
Illinois limited liability company

By: 343 South Dearborn I, L.L.C., an
Illinois liability company, its manager

By: 

Wayne Moretti

Manager


By: 

Harold Lichterman

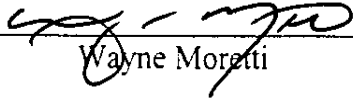
Manager

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GUARANTOR:



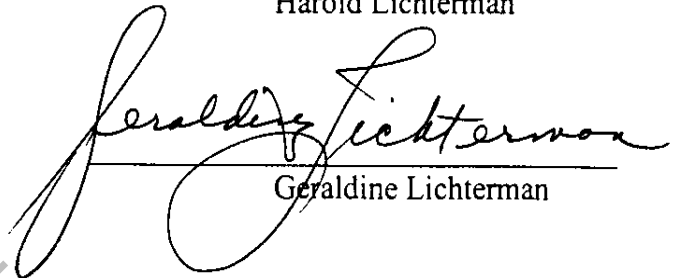
Ronald J. Benach



Wayne Moretti



Harold Lichterman



Geraldine Lichterman

Property of Cook County Clerk's Office

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STATE OF ILLINOIS)
) ss.
COUNTY OF ~~COOK~~ ^{WILL})

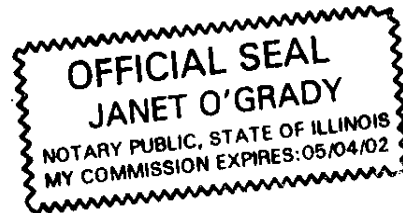
I Janet O'Grady, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Christopher Thungarat, OFFICER of LaSalle Bank National Association, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 26th day of June, 2001.

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Janet O'Grady
Notary Public

My Commission Expires: 5-4-02



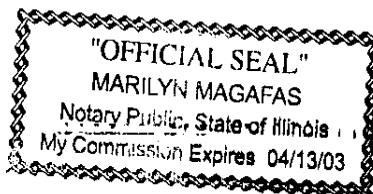
STATE OF ILLINOIS)
) ss.
COUNTY OF Cook)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Wayne Moretti, a Manager of 343 South Dearborn I, L.L.C. an Illinois limited liability company and the manager of 343 South Dearborn II, L.L.C., an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as managers, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, and the free and voluntary act of such manager and company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 14th day of June, 2001.

Marilyn Magafas
Notary Public

My Commission Expires: 4-13-01



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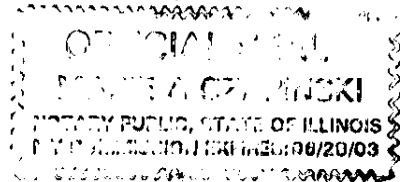
STATE OF ILLINOIS)
) ss.
COUNTY OF Cook)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Harold Lichterman, a Manager of 343 South Dearborn I, L.L.C. an Illinois limited liability company and the manager of 343 South Dearborn II, L.L.C., an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as managers, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, and the free and voluntary act of such manager and company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 17th day of June 2001.

Maria A. Gzyski
Notary Public

My Commission Expires: 6-28-03



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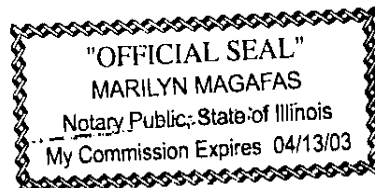
STATE OF ILLINOIS)
) ss.
COUNTY OF Cook)

I Marilyn Magafas, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Ronald J. Benach, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 14th day of June 2001.

Marilyn Magafas
Notary Public

My Commission Expires: 4-13-03



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STATE OF ILLINOIS)
) ss.
COUNTY OF Cook)

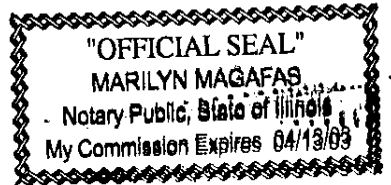
I Marilyn Magafas, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Wayne Moretti, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 14th day of June, 2001.

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Marilyn Magafas
Notary Public

My Commission Expires: 4-13-03

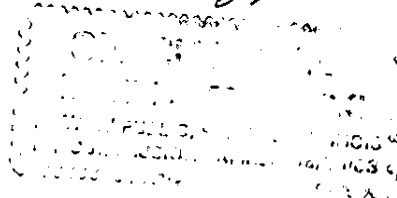


STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

I MARIE A. CZAPINSKI, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Harold Lichterman, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 18th day of June, 2001.

Marie A. Czapski



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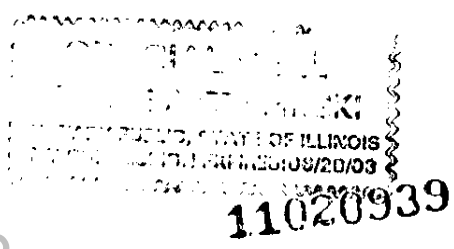
STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

I MARIEA CZAPINSKA, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Geraldine Lichterman, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 18th day of June, 2001.

Marie A. Czapski
Notary Public

My Commission Expires: 06-28-03



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EXHIBIT A

LEGAL DESCRIPTION

Lots 18, 19 and 24 (except that part of said lots taken for Dearborn Street) in George W. Snow's Subdivision of Block 139 in School Section Addition to Chicago in Section 16, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois

PIN: 17-16-234-005
17-16-234-006

Address: 343 South Dearborn Street, Chicago, Illinois

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