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16/0021 21 001 Page 1 of 11

2002-02-05 09:20:19

Cook County Recorder 41.50

This instrument was prepared by
and,
after recording, return to:

Randall S. Kulat
MELTZER, PURTILL &
STELLE LLC
1515 East Woodfield Rd., 2nd
Floor
Schaumburg, IL
60173-5431



0020144556



Permanent Real Estate Tax Index No.:

See **Exhibit A** attached hereto

Address:

340 West Superior Street

Chicago, Illinois

FIRST AMENDMENT TO LOAN DOCUMENTS

Re: 340 West Superior Street, Chicago

This FIRST AMENDMENT TO LOAN DOCUMENTS ("Amendment") is made as of February 1, 2002, by and among **340 W. SUPERIOR ST. PARTNERS INC.**, an Illinois corporation ("Borrower"), **ENRICO F. PLATI, ROBERT T. BERRY, JOEL H. COHEN and DANIEL M. BENZAQUEN** (each individually a "Guarantor" and collectively, "Guarantors"), and **COLE TAYLOR BANK**, an Illinois state bank ("Lender").

RECITALS

Borrower, Guarantors, and Lender entered into a certain Construction Loan Agreement dated November 10, 2000 ("Loan Agreement") pursuant to which Lender agreed to loan to Borrower an amount not to exceed Twenty-Two Million Two Hundred Fifty Thousand and No/100 Dollars (\$22,250,000.00) outstanding at any one time ("Loan").

The Loan is evidenced by a certain revolving credit Mortgage Note ("Mortgage Note") dated November 10, 2000 with a principal amount not to exceed \$22,250,000.00 outstanding at any one time payable to the order of Lender.

The Mortgage Note is secured, among other things, by the following documents, each dated November 10, 2000 (collectively, with the other loan documents, referred to as the "Loan Documents"):

1221 MILLERSON WRIGHTSLAW

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- (a) Mortgage and Security Agreement (the "Mortgage") made by Borrower to Lender and recorded in Cook County on November 15, 2000, as Document No. 00895466 covering the Real Estate, legally described on Exhibit A attached hereto ("Real Estate");
- (b) Assignment of Rents and Leases (the "Assignment of Rents") made by Borrower and delivered to Lender and recorded in Cook County on November 15, 2000, as Document No. 00895467 covering the Real Estate;
- (c) Security Agreement made by Borrower, as Debtor, to Lender, as Secured Party ("Security Agreement");
- (d) Assignment of Plans, Specifications, Developer's Rights, Construction and Service Contracts made by Borrower to and for the benefit of Lender ("Assignment of Plans");
- (e) Assignment of Sales Contracts made by Borrower to and for the benefit of Lender ("Assignment of Sales"); and
- (f) Guaranty made by Guarantors ("Guaranty"), to and for the benefit of Lender.

Pursuant to that certain Environmental Indemnity Agreement dated November 10, 2000 ("Environmental Indemnity"), Borrower and Guarantors agreed, among other things, to indemnify Lender from and against any loss or damage arising as the result of the existence of any Hazardous Materials (as such term is defined in the Environmental Indemnity) on the Real Estate. The Environmental Indemnity shall, where applicable, be included within the definition of "Loan Documents" herein.

Borrower and Guarantors have now requested that Lender amend the Loan to: (i) temporarily increase the available amount of the revolving Loan by \$2,000,000.00 from \$22,250,000.00 outstanding at any one time to the increased amount of not more than \$24,250,000.00 outstanding at any one time ("Increased Loan Amount") for a period beginning as of the date hereof and expiring on May 1, 2002 ("Increase Period") and (ii) temporarily, during the term of such Increase Period, increase the total amount of funds Lender may disburse to Borrower, Guarantors and their respective affiliates at any one time from \$12,000,000.00 to the increased amount of \$14,000,000.00.

Accordingly, in order to induce Lender to amend the Loan and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower, Guarantors and Lender hereby agree as follows:

1. Recitals. The Recitals set forth above are hereby incorporated herein and made a part hereof. Except as otherwise expressly indicated, all capitalized terms used herein or in any of the Recitals shall have the same meanings as ascribed to them in the Loan Agreement.
2. Confirmation. Borrower and each Guarantor hereby confirm and certify to Lender that each representation and warranty contained in the Loan Agreement, as amended hereby, is true, complete and correct in all respects as of the date hereof.
3. Amendment of Loan Agreement.
 - (a) Section 3.1 of the Loan Agreement is hereby amended to provide that the Loan amount is hereby temporarily increased by \$2,000,000.00 from not more than \$22,250,000.00 outstanding at any one time to not more than the Increased Loan Amount outstanding at any one time, during the term of the Increase Period. From and after the end of the Increase Period, the Loan amount shall be not more than \$22,250,000.00 outstanding at any one time.
 - (b) Section 3.1 of the Loan Agreement is further amended to provide that during the term of the Increase Period, the total amount of funds Lender may disburse to Borrower, Guarantors and their respective affiliates at any one time is increased from a maximum of \$12,000,000.00 to a maximum of \$14,000,000.00.
4. Amendment of the Mortgage Note. The Mortgage Note is hereby amended to temporarily increase the principal amount of such Mortgage Note from not more than \$22,250,000.00 outstanding at any one time to not more than \$24,250,000.00 outstanding at any one time during the term of the Increase Period. Upon the expiration of the Increase Period, the principal amount of the Mortgage Note shall be reduced back to not more than \$22,250,000.00 outstanding at any one time, and no amount in excess of \$22,250,000.00 shall be permitted to be outstanding under the Mortgage Note after the termination of the Increase Period.
5. Amendment of Mortgage/Assignment of Rents. The Mortgage and the Assignment of Rents are hereby amended to reflect and secure the Increased Loan Amount during the term of the Increase Period, and Borrower desires that Lender place this document of record with the Cook County Recorder to evidence the amendment of the Loan as herein provided. Any reference in the Mortgage or Assignment of Rents to the Mortgage Note or the Loan Amount shall be deemed to mean and refer to the same as amended hereby.
6. Other Conforming Amendments. The Security Agreement, the Guaranty, the Environmental Indemnity, and the other Loan Documents are hereby amended to reflect and secure the amended obligations and liabilities made herein.
7. Additional Requirements. The obligations of Lender to amend the Loan shall be subject to Borrower, Guarantors and others having delivered, or having caused to be delivered, to Lender, the following items, all of which shall be in form and substance acceptable to Lender:

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- (a) This Amendment, executed by all parties;
- (b) Payment to Lender of the modification fee in the amount of \$25,000.00;
- (c) An endorsement to the Loan Policy issued by the Title Company insuring the Mortgage which (i) extends the effective date of the Loan Policy to the date of recording of this Amendment, (ii) reflects the temporary increase in the amount of the indebtedness secured by the Mortgage from \$22,250,000.00 to \$24,250,000.00, and (iii) raises no exceptions or other matters to title which are objectionable to Lender; and
- (d) Such other documents as Lender may reasonably require.

8. Loan Expenses. In addition to the Loan Expenses described in the Loan Agreement, as amended, Borrower hereby agrees to pay all expenses, charges, costs and fees hereby relating to this Amendment, including Lender's reasonable attorney's fees in connection with the negotiation and documentation of the agreements contained in this Amendment, all recording fees and charges, if any; title insurance charges and premiums, and all other expenses, charges, costs and fees referred to in or necessitated by the terms of this Amendment (collectively, the "Additional Loan Expenses"). In the event the Additional Loan Expenses are not paid to Lender within five (5) days after the written demand therefor by Lender, the Additional Loan Expenses shall bear interest from the date so incurred until paid at the Default Rate or may be paid by Lender at any time following said five (5) day written demand by disbursement of proceeds of the Loan, as amended by this Amendment.

9. Representations and Warranties. Borrower and Guarantors each represent and warrant to Lender that: (i) each has full power and authority to execute and deliver this Amendment and to perform their respective obligations hereunder and thereunder; (ii) upon the execution and delivery of this Amendment, it shall be valid, binding and enforceable upon Borrower and Guarantors, as the case may be, in accordance with its terms; (iii) execution and delivery of the Amendment does not and will not contravene, conflict with, violate or constitute a default under any agreement or any applicable law, rule, regulation, judgment, decree or order, or any agreement, indenture or instrument to which Borrower or Guarantors, as the case may be, is a party or by which either of them are bound or which is binding upon or applicable to the Real Estate, or any portion thereof; (iv) no default or event or condition which would become a default with the giving of notice and/or the passage of time, exists under the Loan Documents, as amended by this Amendment; (v) there is not any condition, event, or circumstance existing, or any litigation, arbitration, governmental or administrative proceedings, actions, examinations, claims or demands pending, or to the best of their knowledge threatened, affecting Borrower, Guarantors, or the Real Estate, or which would prevent Borrower and Guarantors, whichever the case may be, from complying with or performing his or its respective obligations under the Loan Documents, as amended by this Amendment, within the time limits set forth therein for such compliance or performance, and no basis for any such matter exists.

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10. Guarantors Consent and Ratification. Each Guarantor hereby ratifies and confirms his liabilities and obligations under the Guaranty, as amended hereby, and with respect to the Loan Documents, as amended hereby, and acknowledges that he has no defenses, claims, or set-offs to the enforcement by Lender of the liabilities and obligations under the Guaranty and/or the Environmental Indemnity, as the case may be.

11. Miscellaneous.

(a) Except as expressly amended herein, the Loan Agreement, the Mortgage Note, the Mortgage, Assignment of Rents and the other Loan Documents shall remain in full force and effect in accordance with their respective terms.

(b) This Amendment shall be binding on Borrower and Guarantors, and their respective heirs, legatees, administrators, personal representatives, successors and permitted assigns, and shall inure to the benefit of Lender, its successors and assigns.

(c) This Amendment may be executed in any number of counterparts and all such counterparts when taken together shall constitute one and the same Amendment.

This Amendment has been entered into as of the date first above written.


BORROWER:

340 W. SUPERIOR ST. PARTNERS,
INC., an Illinois corporation

By: 

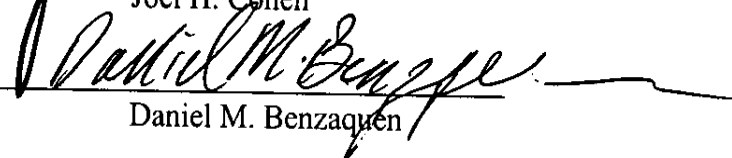
Its: 

GUARANTORS:


Enrico F. Plati


Robert T. Berry


Joel H. Cohen


Daniel M. Benzaquen

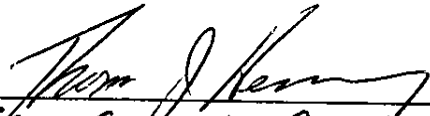
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Daniel M. Benzaquen

LENDER:

COLE TAYLOR BANK

By: 
Its: Group Senior Vice President

Property of Cook County Clerk's Office

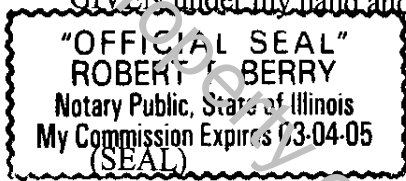
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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, ROBERT T. BERRY, a Notary Public in and for said County, in the State aforesaid, do hereby certify that ENRICO PLATI, the V.P. of 340 W. SUPERIOR ST. PARTNERS, INC., an Illinois corporation ("Borrower"), personally known to me to be the same person whose name is subscribed to the foregoing instrument as such _____, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, as the free and voluntary act of the Borrower, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 4 day of February, 2002.



Robert T. Berry
NOTARY PUBLIC

My Commission expires: 3/4/05

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

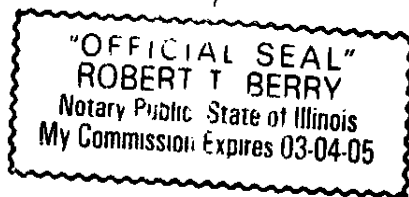
I, ROBERT T. BERRY, the undersigned Notary Public in and for the State of Illinois in the County aforesaid, do hereby certify that ENRICO R. PLATI, who is personally known to me to be the same person whose name is subscribed to the foregoing Amendment, appeared before me in person this day and executed the said Amendment as his own free and voluntary act for the uses and purposes therein set forth.

Robert T. Berry
Notary Public

[Seal]

My commission expires: 3/4/05

Dated: February 4, 2002



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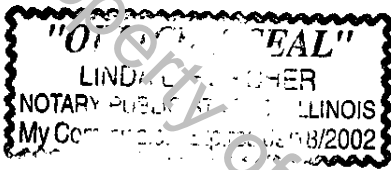
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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Linda L. Horcher, the undersigned Notary Public in and for the State of Illinois in the County aforesaid, do hereby certify that ROBERT T. BERRY, who is personally known to me to be the same person whose name is subscribed to the foregoing Amendment, appeared before me in person this day and executed the said Amendment as his own free and voluntary act for the uses and purposes therein set forth.

Linda L. Horcher

Notary Public



[Seal]



My commission expires: _____, 2002

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Robert T. Berry, the undersigned Notary Public in and for the State of Illinois in the County aforesaid, do hereby certify that JOEL H. COHEN, who is personally known to me to be the same person whose name is subscribed to the foregoing Amendment, appeared before me in person this day and executed the said Amendment as his own free and voluntary act for the uses and purposes therein set forth.

Robert T. Berry

Notary Public

[Seal]

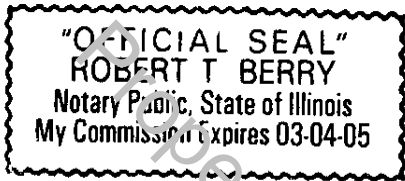
My commission expires: 3/4/05 Dated: February 4, 2002

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STATE OF ILLINOIS)
)
COUNTY OF COOK) SS.

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I, ROBERT T. BERRY, the undersigned Notary Public in and for the State of Illinois in the County aforesaid, do hereby certify that DANIEL BENZAQUEN, who is personally known to me to be the same person whose name is subscribed to the foregoing Amendment, appeared before me in person this day and executed the said Amendment as his own free and voluntary act for the uses and purposes therein set forth.



Robert T. Berry
Notary Public

[Seal]

My commission expires: 3/4/05

Dated: February 4, 2002

STATE OF ILLINOIS)
)
COUNTY OF COOK) SS.

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that _____, the _____ of COLE TAYLOR BANK ("Bank"), who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such _____, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said Bank for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this _____ day of February, 2002.

NOTARY PUBLIC

My commission expires: _____

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EXHIBIT A

Legal Description of the Real Estate

LOTS 11, 12, 13, 14, 15 AND 16 BOTH INCLUSIVE IN BLOCK 18 IN BUTLER, WRIGHT, AND WEBSTER'S ADDITION TO CHICAGO, IN SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMON ADDRESS: 340 West Superior Street, Chicago, Illinois 60610

PIN NOS.: 17-09-200-007
17-09-200-008
17-09-200-009
17-09-200-012

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