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2002-10-25 08:28:19
Cook County Recorder 42.00

THIS DOCUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:

MELTZER, PURTILL & STELLE LLC
1515 East Woodfield Road Second Floor
Schaumburg, Illinois 60173
Attn: Randall S. Kulat, Esq.



This space reserved for Recorder's use only

Permanent Real Estate Tax Index No.:
See Exhibit A

Address: 925-31 Forest Avenue, Evanston, Cook
County, Illinois

10
[Signature]

**ASSIGNMENT AND ASSUMPTION, ALLONGE AND
FIRST MODIFICATION OF LOAN DOCUMENTS**

THIS ASSIGNMENT AND ASSUMPTION, ALLONGE AND FIRST
MODIFICATION OF LOAN DOCUMENTS (this "Agreement") is made as of the 1st day of
September, 2002, by and among WILLIAM B. SILVERSTEIN and THOMAS B.
SILVERSTEIN ("Original Borrower"), FOREST BUILDING, LLC, an Illinois limited
liability company ("New Borrower"), and OAK BROOK BANK, an Illinois banking
corporation, its successors and assigns ("Lender").

RECITALS:

A. Lender has heretofore made a loan ("Loan") to Original Borrower in the principal
amount of Two Million One Hundred Fifty Thousand and no/100ths Dollars (\$2,150,000.00)
pursuant to the terms and conditions of a Mortgage Loan Agreement dated as of July 25, 2001
between Original Borrower and Lender (the "Loan Agreement", all terms not otherwise defined
herein shall have the meanings set forth in the Loan Agreement), and as evidenced by a Mortgage
Note dated July 25, 2001 in the principal amount of the Loan made payable by Original Borrower
to the order of Lender (as amended and restated from time to time, the "Mortgage Note").

B. The Mortgage Note is secured by, among other things, (i) that certain Mortgage
and Security Agreement dated July 25, 2001 from Original Borrower to Lender recorded with the
Recorder of Deeds in Cook County, Illinois (the "Recorder's Office") on July 27, 2001, as
Document No. 10678202 ("Mortgage"), which Mortgage encumbers the real property and all

BOX 333-CT

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improvements thereon legally described on **Exhibit A** hereto ("Property"), (ii) that certain Assignment of Rents and Leases dated July 25, 2001 from Original Borrower to Lender and recorded in the Recorder's Office on July 27, 2001, as Document No. 10678203 (the "Assignment of Leases"); (iii) that certain Environmental Indemnity Agreement dated July 25, 2001 from Original Borrower to Lender (the "Indemnity Agreement"); (iv) that certain Collateral Mortgage and Security Agreement dated July 25, 2001 ("Collateral Mortgage") by 1220 N. LaSalle Limited Partnership and 724-32 W. Roscoe Limited Partnership, each an Illinois limited partnership, to Lender recorded in the Recorder's Office on July 27, 2001, as Document No. 10678204 with respect to certain property located at 1220 North LaSalle Street, Chicago, Illinois, and (v) certain other loan documents (the Mortgage Note, the Mortgage, the Assignment of Leases, the Indemnity Agreement, the Collateral Mortgage, the other documents evidencing, securing and guarantying the Loan, in their original form and as amended, are sometimes collectively referred to herein as the "Loan Documents").

C. Original Borrower now desires to convey its entire ownership interest in the Property to New Borrower. Accordingly, simultaneously with the recording of this Agreement, fee title interest in the Property shall be vested solely with New Borrower.

D. Original Borrower, New Borrower and Lender now desire to amend the Loan Documents to reflect (i) Original Borrower's transfer of its entire interest in the Property, including all obligations and indebtedness subject thereto as contained in the Loan Documents to New Borrower; (ii) New Borrower's assumption of each and every obligation and liability of Original Borrower under the Mortgage Note and the other Loan Documents (the "Assignment and Assumption"); and (iii) the allonge to be attached to the Mortgage Note in order to evidence New Borrower's obligations under the Mortgage Note.

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 Documents, as provided herein, (iii) the covenants and agreements contained herein, and (iv) for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Assignment.** Original Borrower hereby assigns, transfers, and conveys to New Borrower all of its rights, interests, powers, claims, remedies, and benefits in and to the Loan Documents.

2. **Assumption.** New Borrower hereby accepts and agrees to such assignment and transfer and hereby unconditionally and absolutely assumes and undertakes each and every one of the obligations and liabilities of Original Borrower under the Loan Documents on the same basis as if New Borrower had executed such documents on their face when originally delivered to Lender by Original Borrower.

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3. **Allonge.** For value received, New Borrower hereby irrevocably promises to pay to the order of Lender all obligations and liabilities of the maker under the Mortgage Note on the same basis as if New Borrower had executed the Mortgage Note on its face when originally delivered to Lender by Original Borrower. New Borrower and Original Borrower shall be jointly and severally liable under the Mortgage Note, provided, however, that the aggregate liability of the Original Borrower to Lender with respect to (i) its direct obligations to Lender, and (ii) the obligations of Original Borrower to Lender pursuant to guaranties of the obligations to Lender of entities which are affiliated with Original Borrower, shall be limited to the Lender's legal lending limit for obligors as in effect from time to time. This Agreement shall be attached to and made a part of the Mortgage Note.

4. **Consent.** Lender hereby (i) consents to (a) the Assignment and Assumption of all of the obligations and liabilities under the Loan Documents from Original Borrower to New Borrower, and (b) the transactions described in the Recitals to this Agreement, and (ii) agrees that the Assignment and Assumption and the transactions contemplated hereby shall not, in and of themselves, constitute a breach, a default, an "Unmatured Event of Default" or an "Event of Default" each as defined in and/or under any of the Loan Agreement, the Mortgage Note or any other Loan Document.

5. **Amendment of Mortgage and Assignment of Rents and Leases.** The "Mortgagor" under the Mortgage is hereby amended to be New Borrower. The Assignor under the Assignment of Rents is hereby amended to be New Borrower. New Borrower hereby confirms and ratifies all of the obligations and liabilities thereunder, which liabilities and obligations it has agreed to assume as stated herein.

6. **Other Conforming Amendments.** The Loan Agreement and the other Loan Documents, all as amended by this Agreement, are hereby amended to reflect and secure the Assignment and Assumption on the terms hereof. All requirements, conditions and obligations under any of the Loan Agreement, the Mortgage Note, the Mortgage and other Loan Documents, all as amended hereby, shall apply, govern and control the repayment of the Loan as amended hereby.

7. **Representations and Warranties of Original Borrower and New Borrower.** New Borrower and Original Borrower hereby represent, covenant and warrant 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 Mortgage) under the Mortgage Note, the Mortgage or the other Loan Documents and Original 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 Mortgage Note, the Mortgage or the other Loan Documents.

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(c) The 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 Original Borrower and New 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 Original Borrower 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, Original Borrower and/or New Borrower, as the case may be, have no claims, counterclaims, defenses, or set-offs with respect to the Loan or the Loan Documents as modified herein.

(f) New Borrower is validly existing under the laws of the State of Illinois and has the requisite power and authority to execute and deliver this Agreement and to perform the Loan Documents as modified herein. The execution and delivery of this Agreement and the performance of the Loan Documents as modified herein have been duly authorized by all requisite action by or on behalf of Original Borrower and/or New Borrower, whichever the case may be. This Agreement has been duly executed and delivered on behalf of Original Borrower and New Borrower.

(g) From and after the date hereof until the Loan is paid in full, New Borrower will have good and merchantable fee simple title to the Property.

8. **Title Policy.** As a condition precedent to the agreements contained herein, New Borrower shall, at its sole cost and expense, cause Chicago Title Insurance Company to issue an endorsement to Lender's title insurance policy No. 1401 007958318 (the "Title Policy"), as of the date this Agreement is recorded, reflecting the change in mortgagor to New Borrower and insure title in the name of New Borrower. The endorsement shall indicate, as of the date this Agreement is recorded, the recording of this Agreement and insure the first priority of the lien of the Mortgage, 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.

9. **Reaffirmation of Loan Documents.** Original Borrower ratifies and affirms the Loan Documents, which continue to be the valid and binding obligations of Original Borrower, enforceable in accordance with their respective terms.

10. **Additional Requirements.** Lender's consent hereunder shall be subject to Original Borrower and/or New Borrower 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:

- (a) This Agreement, executed by all parties;
- (b) UCC Financing Statement amendments;

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- (c) An Operating Agreement, Articles of Organization and certificate of existence for New Borrower and the Manager of New Borrower; and
- (d) Such other documents as Lender may reasonably require.

11. **Expenses.** As a condition precedent to the agreements contained herein, New 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.

12. **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 Original Borrower or New Borrower merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that Original Borrower, New Borrower and Lender have contributed substantially and materially to the preparation of this Agreement, and Original Borrower, New Borrower and Lender each acknowledges and waives 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 Original Borrower or New Borrower nor shall privity of contract be presumed to have been established with any third party.

(d) Original Borrower, New Borrower and Lender each acknowledges 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 complete integration of all prior and contemporaneous agreements and understandings of Original Borrower, New Borrower 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 Documents are and remain unmodified and in full force and effect.

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

(f) Any references to the "Note", the "Mortgage" or the "Loan Documents" contained in any of the Loan Documents shall be deemed to refer to the Mortgage 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 Original Borrower's and New Borrower's obligations under this Agreement.

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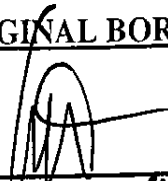
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IN WITNESS WHEREOF, the parties hereto have executed this Agreement dated as of the day and year first above written.

ORIGINAL BORROWER



WILLIAM B. SILVERSTEIN

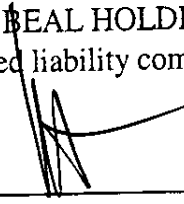


THOMAS B. SILVERSTEIN


NEW BORROWER:

FOREST BUILDING, LLC, an Illinois limited liability company

BY: BEAL HOLDINGS, LLC, an Illinois limited liability company, its Manager

By: 

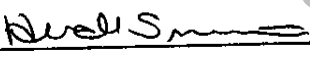
William B. Silverstein, its Manager

By: 

Thomas B. Silverstein, its Manager

LENDER:

OAK BROOK BANK

By: 

Name: Nedi Smithson

Title: VP

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STATE OF ILLINOIS)
) .ss
COUNTY OF COOK)

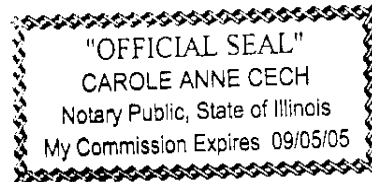
I, Carole Anne Cech a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Heidi Smithson, VP of Oak Brook Bank, is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed and delivered said instrument as his/her own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 1ST day of September, 2002.

Carole Anne Cech

Notary Public

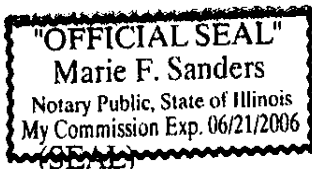
My Commission Expires: 9/15/05



STATE OF ILLINOIS)
) .ss
COUNTY OF COOK)

I, Marie F. Sanders a Notary Public in and for said County, in the State aforesaid, do hereby certify that William B. Silverstein and Thomas B. Silverstein, the Managers of Beal Holdings, LLC, an Illinois limited liability company, which is the Manager of Forest Building, LLC, an Illinois limited liability company, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such managers, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of Forest Building, LLC, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 1ST day of September, 2002.



Marie F. Sanders

NOTARY PUBLIC

My Commission expires: 6.21.06

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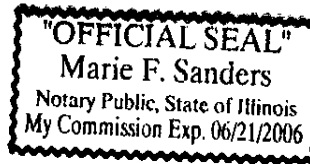
STATE OF ILLINOIS)
) .ss
COUNTY OF COOK)

I MARIE F. SANDERS, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that William B. Silverstein 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 1st day of September, 2002.

Marie F. Sanders
Notary Public

My Commission Expires: 06.21.06



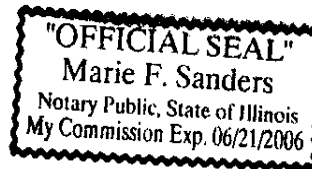
STATE OF ILLINOIS)
) .ss
COUNTY OF COOK)

I MARIE F. SANDERS, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Thomas B. Silverstein 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 1st day of September, 2002.

Marie F. Sanders
Notary Public

My Commission Expires: 06.21.06



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EXHIBIT A

THE PROPERTY

LOTS 4 AND 5 IN BLOCK 2 IN THE RESUBDIVISION OF BLOCKS 4 AND 5 IN GINNIS, LADD AND GEORGE'S ADDITION TO EVANSTON, IN SECTION 19, TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

P.I.N.: 11-19-223-003-0000

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