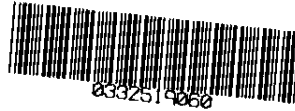


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Doc#: 0332519060
Eugene "Gene" Moore Fee: \$44.50
Cook County Recorder of Deeds
Date: 11/21/2003 10:11 AM Pg: 1 of 11

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Property of Cook County Office

LOAN MODIFICATION AGREEMENT

SH# 29260

7th This Loan Modification Agreement ("Agreement") is made and entered into as of this day of November, 2003, by and among North/Halsted, LLC, an Illinois limited liability company ("Mortgagor") and J. Michael Drew ("Drew") and Daniel A. Lukas ("Lukas") (Drew and Lukas are collectively the "Guarantors") and National City Bank of Michigan/Illinois ("Mortgagee").

WITNESSETH:

WHEREAS, pursuant to the terms of the Acquisition and Construction Loan Agreement dated October 8, 2002 ("Loan Agreement") by and between Mortgagor and Mortgagee, Mortgagee agreed to make loan advances to Mortgagor in the aggregate amount of up to Eighteen Million Two Hundred Fifty Thousand Dollars (\$18,250,000.00) ("Loan") to be applied to purchasing the Property, constructing the Project and paying other Project Costs; and

WHEREAS, the Loan is evidenced by a note dated October 8, 2002 in the original principal amount of Eighteen Million Two Hundred Fifty Thousand Dollars (\$18,250,000.00) ("Note"); and

WHEREAS, the Note is secured, in part, by a Construction Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated October 8, 2002 ("Mortgage") encumbering the Premises (as defined in the Mortgage); and

WHEREAS, the Note is further secured by the Loan Documents including, without limitation, a Guarantee of Payment and Completion dated October 8, 2002, executed by Guarantors to and for the benefit of Mortgagee; and

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WHEREAS, pursuant to a First Amendment to Acquisition and Construction Loan Agreement dated May 23, 2003 by and among Mortgagor, Guarantors and Mortgagee, Mortgagee agreed to issue standby letters of credit for the Project; and

WHEREAS, Mortgagor now desires to borrow from Mortgagee an additional sum of money to increase the principal balance of the Loan to the total sum of Eighteen Million Six Hundred Ninety-Five Thousand Dollars (\$18,695,000.00); and

WHEREAS, Mortgagor, Guarantors and Mortgagee now desire to further amend the Note, Mortgage and Loan Documents in the manner hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed, the parties hereto agree as follows:

1. **Recitals.** The foregoing recitals are hereby made a part of this Agreement.
2. **Defined Terms.** Except as specifically defined herein, all capitalized terms used herein shall have the meanings ascribed therefore in the Loan Agreement.
3. **Additional Proceeds/Greenwich Letter of Credit.** Provided no Event of Default is existing, Mortgagee agrees to loan to Mortgagor an additional sum equal to Four Hundred Forty-Five Thousand Dollars (\$445,000.00) ("Additional Loan Proceeds"), thus increasing the principal amount of the Loan as of the date hereof from Eighteen Million Two Hundred Fifty Thousand Dollars (\$18,250,000.00) to Eighteen Million Six Hundred Ninety-Five Thousand Dollars (\$18,695,000.00). Accordingly, the principal amount of the Note is hereby increased to Eighteen Million Six Hundred Ninety-Five Thousand Dollars (\$18,695,000.00). Mortgagor and Guarantors acknowledge and agree that the Loan Documents, including, without limitation, the Guaranty, are hereby modified to secure the Note as amended herein. The Additional Loan Proceeds shall be disbursed to Mortgagor in the form of a Standby Letter of Credit to be issued by Mortgagee for the account of Mortgagor and for the benefit of Greenwich Capital Financial Products, Inc. ("Greenwich Letter of Credit"). The Greenwich Letter of Credit shall contain such terms and conditions as are satisfactory to Mortgagee in Mortgagee's sole discretion. In connection with the issuance of the Greenwich Letter of Credit, funds equal to the stated amount thereof will be allocated from the undisbursed proceeds of the Loan and will not be available to be disbursed to Mortgagor as an advance of proceeds of the Loan under the Loan Agreement. If requested by Mortgagor, an amount equal to the Greenwich Letter of Credit will be disbursed by Mortgagee as an advance of the Loan and will be held by Mortgagee as cash collateral for any draws made on the Greenwich Letter of Credit. The disbursement by Mortgagee of any amounts in respect of the Greenwich Letter of Credit or the disbursement by Mortgagee of cash collateral securing the Greenwich Letter of Credit shall constitute a disbursement of the proceeds of the Loan and shall be secured by the Mortgage and the other Loan Documents.

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4. Greenwich Letter of Credit Procedures.

(a) **Application for Greenwich Letter of Credit.** Mortgagor shall give written notice to Mortgagee of the proposed issuance of the Greenwich Letter of Credit on a Business Day which is at least three (3) business days (or such less number of days as Mortgagee shall agree in its sole discretion) prior to the proposed date of issuance of the Greenwich Letter of Credit. Such notice shall be accompanied by a letter of credit application in the form being used by Mortgagee at the time of such request together with such other documents as Mortgagee shall reasonably require incidental to the issuance of the Greenwich Letter of Credit (collectively "Greenwich L/C Application"). The Greenwich L/C Application shall be duly executed by Mortgagor and in all respects satisfactory to Mortgagee, it being understood that the Greenwich L/C Application shall specify, among other things, the date in which the Greenwich Letter of Credit is to be issued and the expiration date of the Greenwich Letter of Credit (which shall not be later than the Maturity Date).

(b) **Actors of Mortgagee.** In determining whether to pay under the Greenwich Letter of Credit, Mortgagee shall not have any obligation to Mortgagor other than to confirm that any documents required to be delivered under the Greenwich Letter of Credit have been delivered and appear to comply on their face with the requirements of the Greenwich Letter of Credit. Any action taken or omitted to be taken by Mortgagee under or in connection with the Greenwich Letter of Credit, if taken or omitted in the absence of gross negligence or willful misconduct, shall not impose upon Mortgagee any liability to Mortgagor and shall not reduce or impair Mortgagor's reimbursement obligations set forth in this Agreement.

(c) **Change in Law.** If any change is made in any law or regulation or in the interpretation thereof by any court or administrative or governmental authority charged with the administration thereof that shall either (i) impose, modify or deem applicable any reserve, special deposit or similar requirement against the Greenwich Letter of Credit; or (ii) impose on Mortgagee any other condition regarding the Greenwich Letter of Credit (which increase in cost shall be the result of Mortgagee's reasonable and nondiscriminatory allocation of the aggregate of such cost increases resulting from such conditions), then Mortgagor agrees to pay immediately to Mortgagee, from time to time as specified in written notice from Mortgagee to Mortgagor, additional amounts that shall be sufficient to compensate Mortgagee for such increased cost, together with interest on such amount at the rate per annum equal to the Prime Variable Rate plus two percent (2%). A certificate setting forth such increased cost incurred by Mortgagee as a result of any event mentioned in clause (i) or (ii) above, submitted by Mortgagee to Mortgagor, shall be conclusive, absent manifest error, as to the amount thereof.

5. **Repayment of Greenwich Letter of Credit Draws.** Mortgagee hereby unconditionally and irrevocably agrees to reimburse Mortgagee for each payment or disbursement made by Mortgagee under the Greenwich Letter of Credit honoring any demand for payment made by the beneficiary thereunder, in each case on the date that such payment or disbursement is made. Any amount not reimbursed on the date of such payment or disbursement shall bear interest from

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the date of such payment or disbursement to the date that Mortgagee is reimbursed by Mortgagor therefore, payable on demand, at a rate equal to the Prime Variable Rate plus two percent (2%); provided, however, if such payment or disbursement, together with applicable interest, is not reimbursed on or before the third (3rd) Business Day after receipt of notice from Mortgagee of such payment or disbursement, such amount shall thereafter accrue interest at a rate per annum equal to the Default Rate. To the extent the Greenwich Letter of Credit is secured by cash collateral as provided herein, Mortgagee shall have the absolute right, without further notice, to apply such cash collateral to Mortgagor's obligations under the preceding two sentences. Mortgagee shall notify Mortgagor whenever any demand for payment is made under the Greenwich Letter of Credit; provided that the failure of Mortgagee to so notify Mortgagor shall not affect the rights of Mortgagee in any manner whatsoever.

6. **Mortgage.** Paragraph 3.6(j) of the Mortgage is hereby amended by deleting the words "THIRTY SIX MILLION FIVE HUNDRED THOUSAND DOLLARS (\$36,500,000.00)" and inserting the words "THIRTY-SEVEN MILLION THREE HUNDRED NINETY THOUSAND DOLLARS (\$37,390,000.00)" in their place.

7. **Fees.** In consideration of the issuance of the Greenwich Letter of credit, concurrently with and as a condition precedent to the issuance thereof, the Mortgagor shall pay to Mortgagee a non-refundable issuance fee of Five Thousand Dollars (\$5,000.00) and such other fees and expenses as Mortgagee customarily requires in connection with the issuance, processing and/or administration of letters of credit in similar situations.

8. **Additional Loan Expenses.** Mortgagor hereby agrees to pay all expenses, charges, costs and fees relating to this Agreement, including, without limitation, Mortgagee's reasonable attorneys' fees in connection with the negotiation and documentation of this Agreement, and all other expenses, charges, costs and fees referred to or necessitated by the terms of this Agreement (collectively, the "Additional Loan Expenses"). In the event the Additional Loan Expenses are not paid to Mortgagee within five (5) days after the written demand therefore by Mortgagee, the Additional Loan Expenses shall bear interest from the date so incurred until paid at the Default Rate (as defined in the Note).

9. **Representations and Warranties.** Mortgagor and Guarantors each represent and warrant to Mortgagee that: (i) each has full power and authority to execute and deliver this Agreement and to perform their respective obligations hereunder; (ii) upon the execution and delivery of this Agreement, it shall be valid, binding and enforceable upon Mortgagor and Guarantors in accordance with its terms; (iii) the execution and delivery of this Agreement 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 Mortgagor or any one of the Guarantors are a party or by which either is bound; (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 Note or any other of the Loan Documents, as amended by this Agreement; (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 Mortgagor's or Guarantors' knowledge threatened, affecting Mortgagor

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or Guarantors, or which could prevent them from complying with or performing their respective obligations under the Loan Documents, as amended by this Agreement, within the time limits set forth therein for such compliance or performance, and no basis for any such matter exists.

10. **Amendment.** Except as specifically modified by the terms of this Agreement, the terms and conditions of the Note and the other Loan Documents shall be and remain in full force and effect and shall continue to govern the rights and obligations of the parties. Without in any way limiting the foregoing, Mortgagor and Guarantors hereby represent and warrant that they currently know of no defenses to the enforcement of any of the Loan Documents, as modified hereby. Mortgagor and Guarantors hereby restate, remake and reaffirm any and all covenants, representations and warranties contained in any of the Loan Documents, as if all such instruments had been executed as of the date hereof.

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IN WITNESS WHEREOF, Mortgagor, Guarantors and Mortgagee have duly authorized and executed this Loan Modification Agreement as of the date first above written.

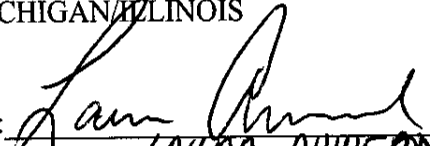
MORTGAGOR:

MORTGAGEE:

NORTH/HALSTED, LLC, an Illinois limited liability company

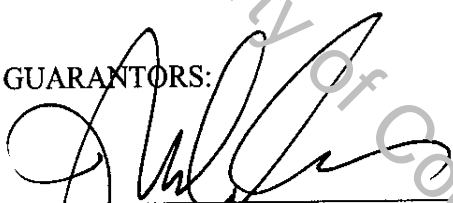
NATIONAL CITY BANK OF MICHIGAN/ILLINOIS

By: 
DANIEL A. LUKAS

By: 
LAURA AUWERDA
Its: Senior Vice President

Its: Manager

GUARANTORS:


J. MICHAEL DREW


DANIEL A. LUKAS

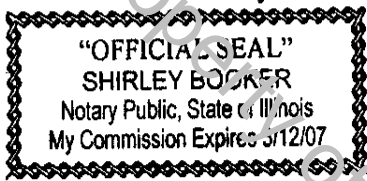
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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, SHIRLEY BOOKER, a Notary Public, in and for and residing in said County, in the State aforesaid, DO HEREBY CERTIFY that J. Michael Drew, 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 the 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 7th day of NOVEMBER, 2003.

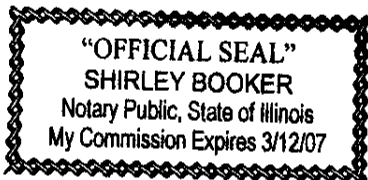


Shirley Booker
NOTARY PUBLIC

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, SHIRLEY BOOKER, a Notary Public, in and for and residing in said County, in the State aforesaid, DO HEREBY CERTIFY that Daniel A. Lukas, 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 the 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 7th day of NOVEMBER, 2003.



Shirley Booker
NOTARY PUBLIC

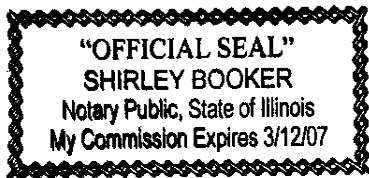
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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, SHIRLEY BOOKER, a Notary Public, in and for and residing in said County, in the State aforesaid, DO HEREBY CERTIFY that DANIEL A. LUKAS, MANAGER of North/Halsted, LLC, 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 such MANAGER, 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 as the free and voluntary act of said company for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 7th day of NOVEMBER, 2003.

Shirley Booker
NOTARY PUBLIC



This instrument was prepared by and after recording return to:

Andrew M. Sachs, Esq.
ROBBINS, SALOMON & PATT, LTD.
25 East Washington Street, Suite 1000
Chicago, Illinois 60602
(312) 782-9000

UNOFFICIAL COPY**EXHIBIT "A"****LEGAL DESCRIPTION**

A TRACT OF LAND SITUATED IN THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN; BOUNDED ON THE WEST BY THE EAST LINE OF NORTH HALSTED STREET; ON THE NORTH BY THE SOUTH LINE OF WEST NORTH AVENUE; ON THE SOUTH WEST BY THE NORTHEASTERLY LINE OF NORTH CLYBOURN AVENUE; ON THE SOUTH EAST BY THE NORTHWESTERLY LINE OF WEST WEED STREET AND ON THE EAST BY THE WEST AND SOUTHWESTERLY LINE OF THE RIGHT OF WAY OF THE CHICAGO TRANSIT AUTHORITY AND THE CONNECTION OF SAID RIGHT OF WAY LINE ACROSS THE EAST WEST ALLEY SOUTH OF AND PARALLEL TO WEST NORTH AVENUE, SAID TRACT INCLUDES ALL ALLEYS WITHIN ITS BOUNDARIES TOGETHER WITH THE FOLLOWING DESCRIBED LOTS: LOTS 1 THROUGH 6 IN THE SUBDIVISION OF LOT 157 AND LOTS 6 THROUGH 13 (EXCEPT THE EAST 16 FEET OF SAID LOT 6) IN THE SUBDIVISION OF LOT 158, LOT 13 AND LOTS 17 THROUGH 23 IN THE SUBDIVISION OF LOT 156; LOTS 1 AND 2 IN THE SUBDIVISION OF SUB-LOTS 14, 15 AND 16 IN THE SUBDIVISION OF LOT 156; LOT 2 (EXCEPT THAT PART CONVEYED TO THE NORTHWEST ELEVATED RAILROAD BY DEED RECORDED MAY 16, 1913 AS DOCUMENT 5186265) IN THE SUBDIVISION OF LOT 24 IN THE SUBDIVISION OF LOT 156, ALL IN THE SUBDIVISION OF LOTS 156, 157, 158 AND SUB-LOT 8 OF LOT 159 IN BUTTERFIELD'S ADDITION TO CHICAGO IN THE NORTH WEST 1/4 SECTION 4, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 2, 1863 IN BOOK 162 OF MAPS AT PAGE 11 AS DOCUMENT 70119. (EXCEPT THEREFROM THE NORTH 14 FEET OF THE EAST AND WEST 18 FOOT VACATED ALLEY WHICH ACCRUES TO LOTS 4 AND 5 AND THE EAST 16 FEET OF LOT 6 IN THE SUBDIVISION OF LOT 158, AND THAT PART OF SAID EAST AND WEST 18 FOOT VACATED ALLEY AND THAT PART OF THE 18 FOOT VACATED ALLEY EXTENDING NORTHEASTERLY AND SOUTHWESTERLY WHICH ACCRUES TO THAT PART OF LOT 2 IN THE SUBDIVISION OF LOT 24 IN THE SUBDIVISION OF LOT 156 CONVEYED TO THE NORTH WEST ELEVATED RAILROAD BY DEED RECORDED MAY 16, 1913 AS DOCUMENT 5186265 IN COOK COUNTY, ILLINOIS.

NOTE: THE AFORESAID SUBDIVISION RECORDED SEPTEMBER 2, 1863 WAS MADE BY MARY P. LEE BY JOHN V. LE MOYNE, HER ATTORNEY IN FACT, JANE A. JOHNSTON AND WILLIAM S. JOHNSTON, HER HUSBAND; WILLIAM B. OGDEN, LEVI ROSENFELD, JACOB ROSENFELD AND JOSEPH V. TOWNE. LOT 156 WAS ORIGINALLY SUBDIVIDED AS PART OF C. J. HULL'S SUBDIVISION OF LOTS 152, 155 AND 156. ALSO PART OF LOTS 153 AND 154 IN BUTTERFIELD'S ADDITION TO CHICAGO AFORESAID, ACCORDING TO THE PLAT THEREOF RECORDED JANUARY 19, 1858 AS DOCUMENT 97211. THE DIFFERENCE BETWEEN THE TWO SUBDIVISIONS OF LOT 156 IS THAT THE LATER SUBDIVISION DEDICATED PORTIONS OF LOTS FOR EXTENSION OF THE ALLEY.

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Common address: 755 West North Avenue, Chicago, Illinois 60614

P.I.N.	17-04-100-001-0000	17-04-100-022-0000
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