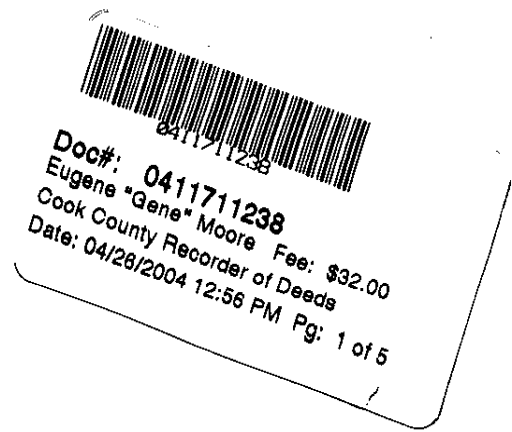


UNOFFICIAL COPY

MODIFICATION TO MORTGAGE

THIS MODIFICATION TO MORTGAGE, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FINANCING STATEMENT (the "Modification to Mortgage") is made as of April 7, 2004, by FIELD HARBOR PARKING GARAGE, LLC, with its principal place of business at 77 N. Central Avenue, Rockville Centre, New York 11570 (the "Mortgagor"), to ASSOCIATED BANK, an Illinois banking corporation with its offices at 200 East Randolph Drive, Chicago, Illinois 60601 (the "Lender"). Capitalized terms used herein but not otherwise defined shall have their respective meanings ascribed to them in the Mortgage referred to below.



WITNESSETH:

WHEREAS, pursuant to a Loan Agreement, dated as of March 19, 2003 (the "Loan Agreement"), the Lender advanced to the Mortgagor a term loan in the principal amount of \$4,150,000 (the "Loan") to refinance outstanding indebtedness secured by a mortgage on a 399 space parking garage located on the Land, evidenced by a Mortgage Note made by the Mortgagor to the Lender in the principal amount of \$4,150,000 (the "Mortgage Note"); and

WHEREAS, the Mortgagor's obligations under the Mortgage Note are secured by a first priority Mortgage, Assignment of Rents and Leases, Security Agreement and Financing Statement, dated as of March 19, 2003 and recorded on March 27, 2003, by the Cook County Recorder as document number 11182372, granted by the Mortgagor to the Lender, (the "Mortgage"), on the real property described in the Exhibit A attached hereto and by this reference incorporated herein; and

WHEREAS, the principal amount under the Mortgage Note was paid down to \$2,068,835, the Mortgagor and the Lender have amended the Loan Agreement pursuant to the First Amendment to Loan Agreement, dated April 7, 2004 (the "First Amendment") and the Mortgagor has made and the Lender has accepted a \$2,568,835 Amended and Restated Mortgage Note (as further supplemented, modified, amended and restated from time to time, the "Restated Note") to evidence the outstanding principal amount of the Loan (including an additional advance of \$500,000), to extend the maturity date and make certain other modifications to such documents as set forth therein; and

WHEREAS, it is a condition precedent to increasing the principal amount of the Loan that the obligations owing under the Restated Note continue to be secured by the first priority Mortgage and that Mortgagor execute this modification to Mortgage pursuant to which the Mortgage will be modified to reflect the terms and conditions of the Restated Note.

NOW, THEREFORE, in consideration of the mutual promises herein contained, the Mortgagor and the Lender hereby agree as follows:

1. Amendments.

1.1 Incorporation and Recitals. The recitals are hereby incorporated into this Amendment by reference as if fully set forth in this Section 1.

1.2 References to Note. From and after the date hereof, (i) the Mortgage shall be deemed to secure the Restated Note, as amended, restated and replaced on April 7, 2004, and (ii) any and all references in the Loan

1182

O'Connor Title
Services, Inc.

4117-0056

UNOFFICIAL COPY

Documents to the Note shall be deemed to refer to the Restated Note, as amended, restated, and replaced on April 7, 2004, in the principal amount of \$2,568,835.

1.3 References to Loan. Any and all references in Mortgage to the Loan shall, from and after the date hereof, be deemed to refer to the Loan in the principal amount of \$2,568,835.

1.4 References to Security Documents. Any references in the Mortgage and other Security Documents to the Mortgage shall be deemed to refer to such documents as modified hereby.

2. Miscellaneous.

2.1 Reaffirmation of Representations, Warranties and Covenants. Mortgagor hereby reaffirms as true and correct in all material respects, as of the date hereof, any representations and warranties contained in the Mortgage, except to the extent that such representations and warranties expressly relate to an earlier date. Mortgagor hereby reaffirms and agrees to perform all of the terms, covenants, conditions and obligations applicable to such parties as set forth in the Mortgage as herein modified.

2.2 Full Force and Effect; Inconsistency. Except as modified herein, the terms, conditions and covenants of the Mortgage shall remain unchanged and otherwise in full force and effect. In the event of an inconsistency between this Modification and the Mortgage, the terms herein shall first control.

2.3 Valid and Binding Obligation. The Borrower represents and warrants that the Mortgage, as amended and modified, remains a valid, binding and enforceable according to its terms.

2.4 Governing Law. THE MORTGAGOR AGREES THAT THIS MODIFICATION IS TO BE CONSTRUED, GOVERNED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS WITHOUT REGARD TO ITS PRINCIPLES OF CONFLICT OF LAWS. Wherever possible, each provision of this Modification shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Modification shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Modification.

2.5 Reaffirmation Regarding Changes. Neither the Mortgage nor any term thereof may be changed, waived, discharged or terminated orally, or by any action or inaction, but only by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought. To the extent permitted by law, this Modification and any agreement hereafter made by the Mortgagor and the Lender relating to the Mortgage continue as security for payment of the Note and shall be superior to the rights of the holder of any intervening lien or encumbrance.

UNOFFICIAL COPY

IN WITNESS WHEREOF, this Modification to Mortgage is executed as of the day and year first above written by the person or persons identified below on behalf of the Mortgagor (and said person or persons hereby represent that they possess full power and authority to execute this instrument) and consented to by the Lender.

MORTGAGOR:

FIELD HARBOR PARKING GARAGE, LLC
an Illinois limited liability company

By: AE 400 EAST LLC, Manager
By: *Armand Lasky*
Name: Armand Lasky
Title: Manager of AE 400 EAST LLC

ASSOCIATED BANK

By: *Ross A. Carlson*
Name: Ross Carlson
Title: Vice President

Property of Cook County Clerk's Office

UNOFFICIAL COPY

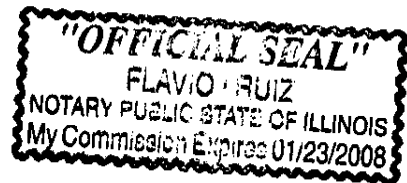
STATE OF ILLINOIS)
)ss.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Armand Lasky whose name as Manager of AE 400 EAST LLC, which is the Manager of FIELD HARBOR PARKING GARAGE, LLC, an Illinois limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, in such capacity as listed above, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and Official seal this 13 day of April, 2004

Notary Public *Flavio Ruiz*

(Seal)



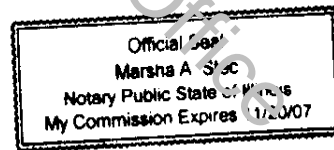
STATE OF ILLINOIS)
)ss.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Ross Carlson, whose name as Vice President of Associated Bank, an Illinois banking corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer, executed the same voluntarily for and as the act of said corporation.

Given under my hand and Official seal this 13 day of April, 2004.

Notary Public *Marsha A. Stee*

(Seal)



UNOFFICIAL COPY

EXHIBIT A

DESCRIPTION OF PROPERTY

This Exhibit A is attached and made a part of the Modification of Mortgage dated April 7, 2004, between FIELD HARBOR PARKING GARAGE, LLC and ASSOCIATED BANK.

UNITS A11, A12, A13, A14, A15, A18, A19, A22, A23, A25, A26, A27, A28, B4, B5, B6, B7, B8, B9, B10, B11, B12, B13, B14, B15, B16, B22, B24, B26, B27, B28, B29, B30, B31, B32, B33, B34, C4, C5, C6, C7, C8, C9, C10, C11, C12, C13, C14, C15, C16, C17, C18, C19, C22, C23, C24, C25, C26, C27, C28, C29, C30, C31, C32, C33, D4, D5, D6, D7, D8, D9, D10, D11, D12, D22, D23, D24, D25, D26, D27, D28, D29, D30, D31, D32, D33, D34, E4, E6, E9, E10, E11, E22, E23, E24, E25, E26, E27, E28, E29, E31, E32, E33, E34, F24, F28, H12 AND H13 TOGETHER WITH ITS UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS IN FIELD HARBOR PARKING CONDOMINIUM AS DELINEATED AND DEFINED IN THE DECLARATION RECORDED AS DOCUMENT NO. 0325431120, IN SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

P.I.N.: 17-10-400-017, Vol. 510

Address: 165 North Field Drive
Chicago, Illinois