

UNOFFICIAL COPY



Doc#: 0412540060
Eugene "Gene" Moore Fee: \$38.00
Cook County Recorder of Deeds
Date: 05/04/2004 08:44 AM Pg: 1 of 8

#275

THIS DOCUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:

Stahl Cowen Crowley LLC
55 West Monroe Street
Suite 500
Chicago, Illinois 60603
Attn: Paul G. Hull, Jr.



This space reserved for Recorder's use only

Real Estate Index R1115681

MODIFICATION OF LOAN DOCUMENTS

72

THIS MODIFICATION OF LOAN DOCUMENTS (this "Agreement") is made as of the 31st day of December, 2003 ("Effective Date"), by and among **LEONARD PUIG** ("Leonard") and **MASONWERKS, INC.**, an Illinois corporation ("Masonwerks") (Leonard and Masonwerks collectively, "Borrower") and **LABE BANK**, its successors and assigns ("Lender").

RECITALS:

A. Lender has heretofore made a loan ("Puig Loan") to Borrower in the principal amount of Two Hundred Fifty Thousand and No/100 Dollars (\$250,000) as evidenced by that certain Promissory Note dated February 8, 2001, in the principal amount of the Puig Loan made payable by Borrower to the order of Lender ("Puig Note"). The Puig Note is secured by, among other things, (i) that certain Mortgage dated February 8, 2001 from Leonard and Angela M. Puig ("Angela") to Lender and recorded with the Recorder of Deeds in Cook County, Illinois (the "Recorder's Office") on March 22, 2001, as Document No. 0010226660 ("Puig Mortgage"), which Puig Mortgage encumbers the real property and all improvements thereon legally described on Exhibit A to the Puig Mortgage; and (ii) certain other loan documents evidencing and securing the Puig Loan. The terms of the Puig Loan were amended by that certain Change in Terms Agreement by and between Borrower and Lender dated February 13, 2002 ("Puig Loan Amendment") (the Puig Note, Puig Mortgage, Puig Loan Amendment, and all other documents evidencing, securing and guarantying the Puig Loan, in their original form and as amended, are sometimes collectively referred to herein as the "Puig Loan Documents").

B. Lender has heretofore also made a loan ("Senior Loan") to Leonard and Logan Square, LLC, an Illinois limited liability company ("Company") (Leonard and Company collectively, "Company Borrowers") in the principal amount of Two Million One Hundred Sixty Thousand and No/100 Dollars (\$2,160,000) as evidenced by that certain Promissory Note dated August 15, 2000, in the principal amount of the Senior Loan made payable by Company Borrowers to the order of Lender ("Senior Note"). The Senior Note is secured by, among other things, (i) that certain Mortgage dated August 15, 2000 from Company Borrowers to Lender and recorded with the Recorder's Office on August 16, 2000, as Document No. 00629557 ("Senior Mortgage"), which Senior Mortgage encumbers the real property and all improvements thereon legally described on Exhibit A-1 ("Company Property"); and (ii) certain other loan documents evidencing or securing the Senior Loan. The terms of the Senior Loan were amended by that certain Change in Terms Agreement by and between Borrower and Lender dated August 15, 2002

UNOFFICIAL COPY

("Senior Loan Amendment") (the Senior Note, the Senior Mortgage, Senior Loan Amendment, and all other documents evidencing, securing and guarantying the Senior Loan, in their original form and as amended, are sometimes collectively referred to herein as the "Senior Loan Documents").

C. Lender has heretofore also made a loan ("Junior Loan") to Company Borrowers in the principal amount of Five Hundred Thousand and No/100 Dollars (\$500,000) as evidenced by that certain Promissory Note dated October 25, 2000, in the principal amount of the Junior Loan made payable by Company Borrowers to the order of Lender ("Junior Note"). The Junior Note is secured by, among other things, (i) that certain Mortgage dated October 25, 2000 from Company Borrowers to Lender and recorded with the Recorder's Office on November 11, 2000, as Document No. 00876482 ("Junior Mortgage"), which Junior Mortgage also encumbers the Company Property; and (ii) certain other loan documents evidencing or securing the Junior Loan. The terms of the Junior Loan were amended by: (a) that certain Change in Terms Agreement by and between Borrower and Lender dated October 25, 2001 ("Junior Loan First Amendment"); (b) that certain Change in Terms Agreement by and between Borrower and Lender dated February 25, 2002 ("Junior Loan Second Amendment"); and, (iii) that certain Change in Terms Agreement by and between Borrower and Lender dated May 25, 2002 ("Junior Loan Third Amendment") (the Junior Note, the Junior Mortgage, the Junior Loan First Amendment, the Junior Loan Second Amendment, the Junior Loan Third Amendment, and all other documents evidencing, securing and guarantying the Junior Loan, in their original form and as amended, are sometimes collectively referred to herein as the "Junior Loan Documents") (the Senior Loan Documents and the Junior Loan Documents collectively herein "Loan Documents").

D. Borrower, Angela and Company (collectively, the "Puig Defendants") entered into a Forbearance Agreement with the Lender dated May 13, 2003 ("Forbearance Agreement"), whereby the parties agreed, among other things, that the Lender was to dismiss the pending foreclosure proceedings against the Puig Defendants provided the Puig Defendants cause certain documents to be executed by and between the parties for purposes of cross-collateralizing the Company Property and the Puig Property and further cross-defaulting the Loan Documents and the Puig Loan Documents. For purposes of the Forbearance Agreement, the Borrower and Lender entered into that certain Modification of Loan Documents dated May 30, 2003 and recorded with the Recorder's Office on June 18, 2003, as Document 0316931005 ("Second Modification"), whereby the Puig Loan Documents were amended in order to: (i) cross-collateralize the Company Property with the Puig Property and cross-default the Loan Documents with the Puig Loan Documents; and (ii) extend the Maturity Date under the Puig Loan Documents until December 31, 2003. Furthermore, Company Borrowers and Lender entered into that certain Modification of Loan Documents dated May 30, 2003 and recorded in the Recorder's Office on June 18, 2003, as Document Number 0316931004 ("Loan Document Amendment", hereinafter referred to sometimes as one of the Loan Documents), which amended the Loan Documents to, among other things, (a) incorporate the terms of the Forbearance Agreement, and (b) cross-collateralize the Puig Property and the Company Property and to cross-default the Puig Loan Documents with the Loan Documents (the Second Modification, Forbearance Agreement and the Loan Document Amendment collectively, "Forbearance Modification Agreements").

E. On June 24, 2003, Lender, Borrower and other named parties entered into an Agreed Order dismissing without prejudice the pending foreclosure proceeding related to the Company Property, but with leave to reinstate to enforce the Forbearance Agreement. The Agreed Order also granted leave to Lender to file an amended complaint against Logan View L.L.C. ("Logan View"), and further evidenced an agreement between Lender, Company Borrowers and Logan View pursuant to which Lender may seek the relief described in the Forbearance Agreement against Borrower, Company Borrowers and Logan View upon default thereunder. The Agreed Order is hereby also referred to herein as part of the Forbearance Modification Agreements. At Borrower's request, Lender delayed entry of an agreed Order dismissing the foreclosure action against the Puig Property pending execution of this Agreement.

UNOFFICIAL COPY

F. On July 11, 2003, the Borrower and Lender entered into that certain Amended and Restated Modification of Loan Documents ("July 2003 Modification") for purposes of releasing the Puig Property as collateral under the Puig Loan Documents and the Company Loan Documents, to extend the Maturity Date under the Puig Loan Documents, and to otherwise modify the Puig Loan Documents, all as set forth hereinbelow.

G. The Borrower and Lender desire to further amend the Puig Loan Documents in order to memorialize the extension of the Maturity Date to March 31, 2004, pursuant to the terms of Paragraph 3.a. of the July 2003 Modification.

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 Puig 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. **Adoption of Recitals.** The parties acknowledge that the Recitals are true and correct and are incorporated into this Agreement as though fully set forth herein.

2. **Acknowledgments.**

(a) Borrower hereby acknowledges and confirms to Lender that the outstanding principal balance of the Puig Loan as of the date hereof is **\$250,000.00**.

(b) Subject to the terms of the Forbearance Agreement, Borrower acknowledges and confirms to Lender that: (i) all sums due Lender under the Puig Note, as stated above, are due and payable without any defense or right of setoff or reduction by Borrower existing as of the date hereof; (ii) that the security interests granted under the Loan Documents and other related security documents are valid, binding and enforceable in accordance with their terms; and (iii) that Lender has fully performed all of its obligations which were required to be performed prior to the date hereof with respect to the Puig Loan and under the Puig Loan Documents.

3. **Maturity Date.** As of the Effective Date this Agreement, Borrower and Lender hereby agree that, pursuant to the terms of Paragraph 3.a. of the July 2003 Modification, the Puig Loan Documents are hereinafter amended and modified to state that the date of "Maturity" and the Maturity Date (as applicable) shall be "on or before March 31, 2004".

4. **Representations and Warranties of Borrower.** Borrower hereby represents, covenants and warrants to Lender, except as otherwise disclosed to or acknowledged by Lender or acknowledged by Lender in the Forbearance Agreement, as follows:

(a) The representations and warranties in the Puig 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 Puig Note, the Puig Mortgage or the other Puig Loan Documents and Borrower does not know of any event or

UNOFFICIAL COPY

circumstance which with the giving of notice or passing of time, or both, would constitute an Event of Default under the any of the Puig Note, the Puig Mortgage or the other Puig Loan Documents.

(c) The Puig 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, or any other party whose financial statement has been delivered to Lender in connection with the Puig 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 Puig Loan or any of the Puig Loan Documents, each as may be modified hereby.

5. **Title Policy.** Intentionally deleted.

6. **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, attorney fees and costs and appraisal fees, in addition to all other reasonable costs and expenses which may be incurred by Lender pursuant to the terms hereof.

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

(d) 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 Puig Loan Documents, the Forbearance Agreement and the Forbearance Modification Agreements, which collectively represent a complete integration of all prior and contemporaneous agreements and understandings of Borrower and Lender; and that all such prior understandings, agreements and representations are hereby modified as set forth in the Forbearance Agreement and the Forbearance Modification Agreements. Except as expressly modified by the Forbearance Modification Agreements or

UNOFFICIAL COPY

by the Forbearance Agreement, the terms of the Puig 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.

(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 Puig Note, the Puig Mortgage, and the other Puig Loan Documents, all as previously amended and as further 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 obligations under this Agreement.


(i) Any reference within the Loan Documents to the Uniform Commercial Code ("Code"), the Code shall be defined as the Code as amended from time to time.

(j) Borrower hereby authorizes Lender to file unsigned financing statements and amendments with respect to the collateral as the Lender deems reasonable and necessary in its sole discretion.

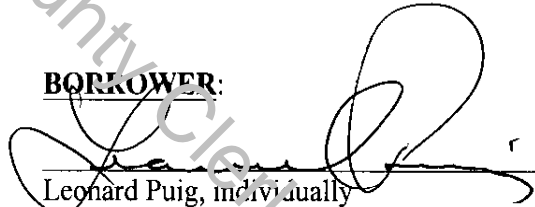
IN WITNESS WHEREOF, the parties hereto have executed this Agreement dated as of the day and year first above written.

LENDER:

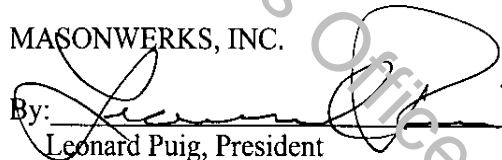
LABE BANK

By: 
Name: GARY A. JOHNS
Title: SRVP

BORROWER:


Leonard Puig, individually

MASONWERKS, INC.

By: 
Leonard Puig, President

UNOFFICIAL COPY

STATE OF ILLINOIS)

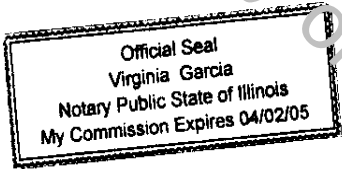
COUNTY OF COOK) ss
)

The undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Gary A. Johns, SRVP of Labe 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 signed and delivered said instrument as his 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 31 day of December, 2003.

Virginia Garcia
Notary Public

My Commission Expires: 04/02/05



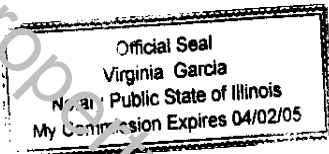
Property of Cook County Clerk's Office

UNOFFICIAL COPY

STATE OF ILLINOIS)
) .ss
COUNTY OF Cook)

The undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Leonard Puig, 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, including the release and waiver of the right of homestead.

GIVEN under my hand and Notarial Seal this 31 day of December, 2003.



Virginia Garcia
Notary Public

My Commission Expires: 04/02/05

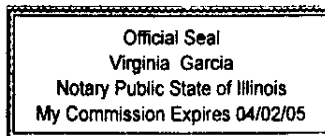
STATE OF ILLINOIS)
) ss
COUNTY OF Cook)

The undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Leonard Puig, the President of Masonwerks, Inc., an Illinois corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument in such capacity, appeared before me this day in person and acknowledged that he signed and delivered said instrument as the free and voluntary act of said corporation and as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 31 day of December, 2003.

Virginia Garcia
Notary Public

My Commission Expires: 04/02/05



UNOFFICIAL COPY

EXHIBIT A-1

COMPANY PROPERTY

LOTS 31 THROUGH 41, BOTH INCLUSIVE IN BLOCK 1 IN BLANCHARD'S SUBDIVISION OF THAT PART OF THE NORTH 22 RODS OF THE NORTHWEST ¼ OF SECTION 36, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING WEST OF MILWAUKEE AVENUE, IN COOK COUNTY, ILLINOIS.

Address: 3111-3135 West Fullerton, Chicago, Illinois 60647

PIN: 13-36-100-009-0000; 13-36-100-015-0000; 13-36-100-025-0000; 13-36-100-027-0000

Property of Cook County Clerk's Office