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Doc#: 0426502367
Eugene "Gene" Moore Fee: \$44.00
Cook County Recorder of Deeds
Date: 09/21/2004 01:27 PM Pg: 1 of 11

THIS DOCUMENT PREPARED BY
AND UPON RECORDING IS TO
BE RETURNED TO:
THOMAS P. DUFFY
WILDMAN, HARROLD, ALLEN
& DIXON LLP
225 WEST WACKER DRIVE
CHICAGO, ILLINOIS 60606

MORTGAGE SPREADER AGREEMENT AND MODIFICATION OF CONSTRUCTION MORTGAGE, COLLATERAL ASSIGNMENT OF RENTS AND LEASES AND LOAN DOCUMENTS

CT HW
UM 8363150

This Agreement is made as of September 16, 2004, and is by and between SWC 95TH & MLK, LLC, an Illinois limited liability company ("Mortgagor"), MICHAEL H. ROSE ("Guarantor") and ASSOCIATED BANK, NATIONAL ASSOCIATION, a national banking association ("Mortgagee").

RECITALS:

A. Pursuant to that certain Construction Loan Agreement (the "Loan Agreement") dated as of August 11, 2004, by and between Mortgagor and Mortgagee, Mortgagee extended to Mortgagor a loan (the "Loan") in the amount of Three Million Nine Hundred Seventy-Three Thousand and No/100 Dollars (\$3,973,000.00).

B. Pursuant to the Loan Agreement, Mortgagor executed and delivered to Mortgagee a Note (the "Note") dated as of August 11, 2004, executed by Mortgagor payable to the order of Mortgagee in the original principal amount of Three Million Nine Hundred Seventy-Three Thousand and No/100 Dollars (\$3,973,000.00).

C. In connection with the Loan and Note, Mortgagor granted to Mortgagee: (i) a Construction Mortgage (the "Mortgage") dated as of August 11, 2004, executed by Mortgagor in favor of Mortgagee encumbering the property legally described on Exhibit A-1 attached hereto and made a part hereof ("Mortgaged Premises"), which was recorded with the Recorder of Deeds for Cook County, Illinois on August 20, 2004, as Document No. 0423333366, (ii) a Collateral Assignment of Rents and Leases ("Assignment of Rents") dated as of August 11, 2004, executed by Mortgagor in favor of Mortgagee encumbering the Mortgaged Premises, which was recorded with the Recorder of Deeds for Cook County, Illinois on August 20, 2004, as Document No. 0423333367 and a UCC Financing Statement ("UCC") recorded against Mortgagor with

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the Recorder of Deeds for Cook County, Illinois on August 20, 2004, as Document No. 042333368.

D. The Loan is also secured by (i) a Security Agreement (the "Security Agreement") dated as of August 11, 2004, executed by Mortgagor in favor of Mortgagee; (ii) an Environmental Indemnity Agreement (the "Environmental Indemnity Agreement") dated as of August 11, 2004, executed by Mortgagor in favor of Mortgagee; (iii) a Collateral Assignment of Construction Contract and Permits dated as of August 11, 2004, executed by Mortgagor in favor of Mortgagee; (iv) UCC Financing Statements; and (v) certain other collateral documents delivered in connection with the Note.

E. Pursuant to that certain Guaranty of Payment and Performance ("Guaranty") dated as of August 11, 2004, executed by Guarantor to and for the benefit of Mortgagee, Guarantor guaranteed payment of the sums due under the Note and the completion of construction of the Project in accordance with the Loan Agreement.

The documents set forth in Recitals A – E above, together with any amendments, modifications, extension or renewals thereof, are hereinafter individually and collectively referred to as the "Loan Documents".

F. Concurrently herewith, Mortgagor has acquired the property (the "Additional Property") legally described on Exhibit A-2 attached hereto and made a part hereof.

G. Pursuant to the terms of the Loan Agreement, Mortgagor has agreed to mortgage, assign, convey, transfer and grant a security interest to Mortgagee in the Additional Property by executing and delivering to Mortgagee this Agreement and to grant Mortgagee a valid first lien on the Additional Property and to permit Mortgagee to amend the Mortgage and the Loan Documents by adding the Additional Property to the Mortgaged Premises and spreading the lien of the Mortgage and Assignment of Rents to the Additional Property on the same terms and conditions as set forth in the Mortgage and Assignment of Rents recorded against the Mortgaged Premises.

H. Mortgagor and Mortgagee deem it to be in their best interests to enter into this Agreement.

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

1. The Recitals are hereby incorporated into and shall become part of this Agreement.
2. All capitalized terms used herein shall have the same meaning as when used in the Loan Agreement.

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3. Mortgagor has acquired and is the fee simple owner of the Additional Property. Mortgagor hereby mortgages, assigns, conveys, transfers and grants a security interest to Mortgagee in the Additional Property and spreads the lien of the Mortgage and Assignment of Rents to the Additional Property on the same terms and conditions as set forth in the Mortgage and Assignment of Rents. Mortgagor hereby amends the legal description in the Mortgage and Assignment of Rents to include the Additional Property and all references in the Loan Documents to "Mortgaged Premises" shall hereinafter be deemed to include the Additional Property. The liens, encumbrances and security interests which were granted or conveyed to Mortgagee by the Mortgage, Assignment of Rents and UCC hereby attach to the Additional Property as if the Additional Property were originally described in such documents. The liens, encumbrances and security interests of the Mortgage, Assignment of Rents and UCC are hereby spread to add the Additional Property and subject the Additional Property to all of the restrictions, limitations and terms and conditions of the Mortgage, Assignment of Rents and UCC. The terms of the Mortgage, Assignment of Rents and UCC are hereby incorporated by reference into this Amendment.
4. Guarantor hereby consents to the execution by Mortgagor of this Agreement and all of the terms and conditions hereof. Guarantor hereby agrees that the Guaranty is in full force and effect in accordance with its terms, as hereby reaffirmed and hereby restates and reaffirms his obligations under the Guaranty. Guarantor hereby acknowledges that his obligations, covenants and agreements under the Guaranty are not diminished, discharged or adversely affected by this Agreement or any action taken by Mortgagee or any other matter, fact or circumstance.
5. Mortgagor and Guarantor hereby acknowledge that the Environmental Indemnity Agreement is in full force and effect in accordance with its terms as hereby reaffirmed and modified. Mortgagor and Guarantor hereby acknowledge that Mortgagor's and Guarantor's obligations, covenants and agreements under the Environmental Indemnity Agreement are not diminished, discharged or adversely affected by this Agreement or any action or inaction taken by Mortgagee in connection with the Loan, as amended by this Agreement. Mortgagor and Guarantor hereby agree that all of Mortgagor's and Guarantor's covenants, agreements, representations and warranties and liabilities and obligations as set forth in the Environmental Indemnity Agreement with respect to the Loan as amended by this Agreement are hereby incorporated by reference herein and reaffirmed and apply to the Loan, as amended by this Agreement.
6. Mortgagor hereby restates and reaffirms Mortgagor's agreements, representations, covenants and warranties contained in the Mortgage, Assignment of Rents and other Loan Documents and Mortgagor's agreements, representations, covenants and warranties shall pertain to, bind and encumber the Additional Property as fully and with the same effect as if the Mortgage, Assignment of Rents and UCC had been recorded against the Additional Property.
7. As a material inducement for Mortgagee to enter into this Agreement, Mortgagor represents and warrants that no Event of Default has occurred under the

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Mortgage, Assignment of Rents or any of the Loan Documents, as hereby modified, and Mortgagor hereby reaffirms all of its representations, covenants, agreements and obligations under the Mortgage, Assignment of Rents and other Loan Documents, as hereby modified, which modified Mortgage, Assignment of Rents and other Loan Documents secure Mortgagor's obligations under the Loan.

8. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

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

MORTGAGOR:

SWC 95TH & MLK, LLC, an Illinois limited liability company

By: Michael H. Rose
Michael H. Rose, its Manager

GUARANTOR:

Michael H. Rose
MICHAEL H. ROSE, Individually

MORTGAGEE:

ASSOCIATED BANK, NATIONAL ASSOCIATION,
a national banking association

BY: _____
Its

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

MORTGAGOR:

SWC 95TH & MLK, LLC, an Illinois limited liability company

By:

Michael H. Rose, its Manager

GUARANTOR:

MICHAEL H. ROSE, Individually

MORTGAGEE:

ASSOCIATED BANK, NATIONAL ASSOCIATION,
a national banking association

BY

Its

Property of Cook County Clerk's Office

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STATE OF Illinois

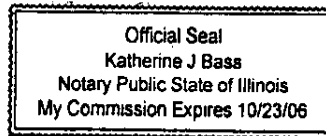
COUNTY OF Will

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that Michael H. Rose, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Manager of SWC 95TH & MLK, LLC, an Illinois limited liability company, appeared before me 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 limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 14 day of September, 2009.

Katherine J Bass
Notary Public

My Commission Expires: 10/23/06



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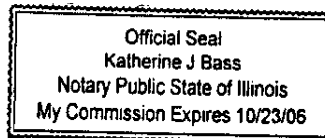
STATE OF Illinois
COUNTY OF Will

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that Michael H. Rose, personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me 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 14 day of September, 2004.

Katherine J Bass
Notary Public

My Commission Expires: 10/23/06



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STATE OF

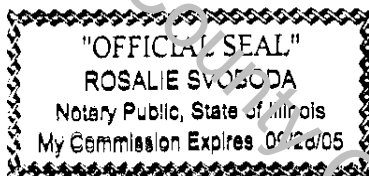
COUNTY OF

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that GERALD ROTUNDO personally known to me to be the same person whose name is subscribed to the foregoing instrument as such VICE PRESIDENT of ASSOCIATED BANK, NATIONAL ASSOCIATION, a national banking association, appeared before me and acknowledged that ___ signed and delivered the said instrument as ___ own free and voluntary act and as the free and voluntary act of said national banking association, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 14th day of September, 2004.

Rosalie Svoboda
Notary Public

My Commission Expires:



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EXHIBIT A-1

LEGAL DESCRIPTION

PARCEL 1:

LOT 5 IN BLOCK 1 IN SECOND ROSELAND HEIGHTS SUBDIVISION OF THE EAST 2/3RDS OF NORTHWEST 1/4 OF SECTION 10, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

PARCEL 2:

LOTS 6 THROUGH 10 IN BLOCK 1 IN SECOND ROSELAND HEIGHTS SUBDIVISION OF THE EAST 2/3RDS OF NORTHWEST 1/4 OF SECTION 10, TOWNSHIP 37 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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25-10-105-002

25-10-105-003

25-10-105-004

25-10-105-005

25-10-105-006

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EXHIBIT A-2

LEGAL DESCRIPTION – ADDITIONAL PROPERTY

LOTS 1 THROUGH 4 IN BLOCK 1 IN SECOND ROSELAND HEIGHTS SUBDIVISION
OF THE EAST 2/3RDS OF NORTHWEST ¼ OF SECTION 10, TOWNSHIP 37
NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK
COUNTY, ILLINOIS

25-10-105-007

25-10-105-008

25-10-105-009

25-10-105-010