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Doc#: 0427427121
Eugene "Gene" Moore Fee: \$46.00
Cook County Recorder of Deeds
Date: 09/30/2004 12:50 PM Pg: 1 of 12

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MODIFICATION OF LOAN DOCUMENTS

THIS MODIFICATION OF LOAN DOCUMENTS (this "Agreement") is made as of the 30 day of August, 2004 by and among **PARK PLACE CHICAGO, LLC**, an Illinois limited liability company ("Borrower"), **TERRENCE SOMMERFELD**, an individual ("Guarantor") and **LASALLE BANK NATIONAL ASSOCIATION**, a national banking association, its successors and assigns ("Lender").

RECITALS:

A. Lender has heretofore made a loan ("Loan") to Borrower in the principal amount of Six Million Nine Hundred Forty Thousand and 00/100 Dollars (\$6,940,000.00) pursuant to the terms and conditions of a Holdback Agreement dated as of September 23, 2003 between 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 Promissory Note dated September 23, 2003 in the principal amount of the Loan made payable by Borrower to the order of Lender ("Note").

This document prepared by and after recording return to:

Heather K. Aeschleman, Esq.
Schwartz, Cooper, Greenberger &
Krauss, Chartered
180 North LaSalle Street
Suite 2700
Chicago, Illinois 60601

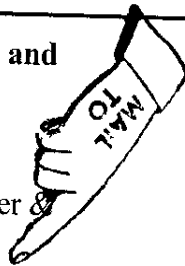
**Near North National Title Corp
222 North LaSalle Street
Chicago, Illinois 60601**

Permanent Index Numbers:

17-09-123-010-0000

Address of Property:

600 North Kingsbury Street, Chicago
Chicago, Illinois 60610



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LK
32645

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B. The Loan is secured by: a Construction Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated September 23, 2003 from Borrower to Lender recorded with the Recorder of Deeds in Cook County, Illinois (the "Recorder's Office") on October 6, 2003 as Document No. 0327927018 ("Mortgage"), which Mortgage encumbers the real property and all improvements thereon legally described on Exhibit A hereto ("Property"), (ii) that certain Assignment of Rents and Leases dated September 23, 2003, from Borrower to Lender and recorded in the Recorder's Office on October 6, 2003 as Document No. 0327927019 (the "Assignment of Leases"); (iii) that certain Environmental Indemnity Agreement dated September 23, 2003 from Borrower and Guarantor to Lender (the "Indemnity Agreement"); and (iv) certain other loan documents (the Note, the Mortgage, the Assignment of Leases, the Indemnity Agreement, 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. The Loan is further secured by a Guaranty of Payment and Completion dated September 23, 2003 from Guarantor to Lender (the "Guaranty").

D. The current outstanding principal balance of the Loan is \$0.

E. Borrower desires to amend the Loan Documents in order to increase the principal amount of the Loan and extend the Maturity Date (as defined in the Note) of the 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. **Maturity Date.** The Maturity Date of the Note is extended to July 1, 2005. Any reference in the Note, the Loan Agreement or any other Loan Document to the Maturity Date shall mean July 1, 2005.

2. **Increase in Loan Amount.** The principal amount of the Loan is hereby increased to \$3,495,000.00 (the "Increased Funds"). The Note, Mortgage, Loan Agreement and each of the other Loan Documents shall hereafter reflect and secure the principal amount of \$3,495,000.00. The Increased Funds shall be disbursed by Lender pursuant to the budget attached hereto as Exhibit B.

3. **Release of Guarantor.** Lender hereby releases Guarantor from any and all duties, responsibilities and liabilities under the Guaranty. The Guaranty is hereby declared to be null, void and of no further force and effect.

4. **Representations and Warranties of Borrower.** Borrower hereby represents, covenants and warrants to Lender as follows:

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(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 Note, the Mortgage or the other Loan Documents and 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 Note, the Mortgage or the other Loan Documents.

(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 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, Guarantor 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, Borrower has no claims, counterclaims, defenses, or set-offs with respect to the Loan or the Loan Documents as modified herein.

(f) Borrower is validly existing under the laws of the State of its formation or organization 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 Borrower. This Agreement has been duly executed and delivered on behalf of Borrower.

5. **Title Policy.** As a condition precedent to the agreements contained herein, Borrower shall, at its sole cost and expense, cause Near North National Title Corporation Title Insurance Company to issue an endorsement to Lender's Title Insurance Policy No. N01032645 (the "Title Policy"), as of the date this Agreement is recorded, (i) increasing the amount of insurance to \$3,495,000.00, (ii) reflecting the recording of this Agreement, and (iii) insuring 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.

6. **Expenses.** As a condition precedent to the agreements contained herein, Borrower shall pay (i) a loan modification fee in the amount of \$5,000.00, and (ii) 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.

7. **Miscellaneous.**

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

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(b) This Agreement shall not be construed more strictly against Lender than against Borrower or Guarantor merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that Borrower, Guarantor and Lender have contributed substantially and materially to the preparation of this Agreement, and Borrower, Guarantor 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 or Guarantor nor shall privity of contract be presumed to have been established with any third party.

(d) Borrower, Guarantor 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 Borrower, Guarantor 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.

(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 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 Borrower's obligations under this Agreement.

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8. **Customer Identification - USA Patriot Act Notice; OFAC and Bank Secrecy Act.** Lender hereby notifies Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56, signed into law October 26, 2001) (the "Act"), and Lender's policies and practices, Lender is required to obtain, verify and record certain information and documentation that identifies Borrower, which information includes the name and address of Borrower and such other information that will allow Lender to identify Borrower in accordance with the Act. In addition, Borrower shall (a) ensure that no person who owns a controlling interest in or otherwise controls Borrower or any subsidiary of Borrower is or shall be listed on the Specially Designated Nationals and Blocked Person List or other similar lists maintained by the Office of Foreign Assets Control ("OFAC"), the Department of the Treasury or included in any Executive Orders, (b) not use or permit the use of the proceeds of the Loan to violate any of the foreign asset control regulations of OFAC or any enabling statute or Executive Order relating thereto, and (c) comply, and cause any of its subsidiaries to comply, with all applicable Bank Secrecy Act ("BSA") laws and regulations, as amended.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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

LENDER:

LASALLE BANK NATIONAL ASSOCIATION

By: [Signature]
Name: JASON MANIKER
Title: CBO

BORROWER:

PARK PLACE CHICAGO, LLC, an Illinois limited liability company

By: [Signature]
Name: SAMUEL L. PERSICO
Title: PRESIDENT STONEGATE DEVELOPMENT OF ILLINOIS, INC., ITS MANAGER

GUARANTOR:

[Signature]
TERRENCE SOMMERFELD, individually

Property of Cook County Clerk's Office

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

LENDER:

LASALLE BANK NATIONAL ASSOCIATION

By: _____
Name: _____
Title: _____

BORROWER:

PARK PLACE CHICAGO, LLC, an Illinois limited liability company

By: _____
Name: _____
Title: _____

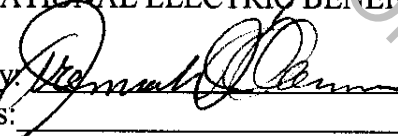
GUARANTOR:

TERRENCE SOMMERFELD, individually

CONSENT OF JUNIOR LENDER

National Electric Benefit Fund ("Junior Lender") has heretofore made a loan to Borrower in the principal amount of Two Million and no/100 Dollars (\$2,000,000.00) which is evidenced by a certain Promissory Note dated September 23, 2003 in the original principal amount of \$2,000,000.00 payable by Borrower to Junior Lender. Lender and Junior Lender entered into that certain Intercreditor Agreement dated as of September 23 2003, whereby Junior Lender subordinated its right to payment of the Junior Loan to the lien of the Loan Documents. In connection therewith, Junior Lender hereby consents to the terms of this Agreement by execution of this Consent of Junior Lender.

NATIONAL ELECTRIC BENEFIT FUND

By: 
Its: _____

STATE OF ILLINOIS)
) .ss
COUNTY OF COOK)

I Preeti Saini, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Sason Mansker, C.B. Officer of **LASALLE BANK NATIONAL ASSOCIATION**, 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 31st day of August, 2004.

Preeti Saini
Notary Public

My Commission Expires: 5-20-08



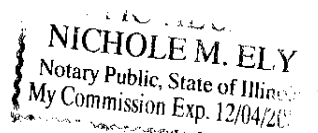
STATE OF ILLINOIS)
) .ss
COUNTY OF Cook)

I Nichole M. Ely, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Samuel L. Pasico, President of **PARK PLACE CHICAGO, LLC**, an Illinois limited liability company, 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 3rd day of August, 2004.

Nichole M. Ely
Notary Public

My Commission Expires: 12-4-04



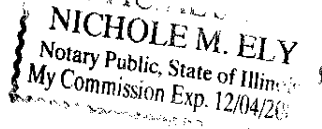
STATE OF ILLINOIS)
) .ss
COUNTY OF Cook)

I Nichole M. Ely, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that **TERRENCE SOMMERFELD** 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 30th day of August, 2004.

Nichole M. Ely
Notary Public

My Commission Expires: 12/4/04



Property of Cook County Clerk's Office

Exhibit A

Parcel 1:

That part of Block 3 in Assessor's Division of the Kingsbury tract, in the East 1/2 of the Northwest 1/4 of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying Easterly of the East dock line of the North branch of the Chicago River; lying Southwesterly of the Southwesterly line of Kingsbury Street, lying South and Southeasterly of the following described line:

Beginning at the intersection of the Southwesterly line of Kingsbury Street and a line 3.0 feet North of and parallel with the center line of Ontario Street (as now laid out) extended West; thence West along a line 3.0 feet North of and parallel with the center line of Ontario Street (as now laid out) extended West 163.0 feet; thence Southwesterly in a straight line to a point in said dock line of said North branch of the Chicago River, which is 70.80 feet Southeasterly (measured along said dock line) from the point of intersection of said dock line with said line so drawn 3.0 feet North of and parallel with the center of Ontario Street extended West and lying North and East of a line described as beginning at the intersection of the West line of Kingsbury Street and a line 8.50 feet South of and parallel with the prolongation West of the South line of the North 1/2 of Block 4 in said Assessor's Division of said Kingsbury tract; thence West along said parallel line, 142.0 feet to a point; thence North at right angles 13.0 feet; thence West at right angles to a point on the East dock line of the North branch of Chicago River, in Cook County, Illinois.

Parcel 2:

That part of Block 3 in Assessor's Division of the Kingsbury tract, in the East 1/2 of the Northwest 1/4 of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, described as follows:

Commencing at a point in a line 3.0 feet North of and parallel with the center line of Ontario Street (as now laid out) which is 163.0 feet West from the intersection of said line with the West line of Kingsbury Street; thence Southwesterly to a point in the dock line of the East bank of the North branch of the Chicago River which is 70.8 feet Southeasterly from intersection of dock line, said river with the said line drawn 3.0 feet North of and parallel with the center line of Ontario Street; thence Northwesterly along said dock line of said East bank of said river, 9.80 feet; thence Northeasterly in a straight line to the point of beginning, said land being more particularly described in a Deed from Hugh McIntirey and Isabelle M. McIntirey, his wife, to Percival W. Clement, dated November 22, 1899, recorded in Volume 6925 Page 164 of land records in the Recorder's Office of Cook County, Illinois.

Which survey is attached as Exhibit "A" to the Declaration of Condominium recorded August 21, 2002 as document number 0020921139, and as amended from time to time, together with its undivided percentage interest in the common elements.

Parcel B:

Easement for Ingress and Egress for the benefit of Parcel A aforesaid, as contained in the Declaration of Covenants, Conditions, Restrictions and Easements recorded August 21, 2002 as document number 0020921138.

UNOFFICIAL COPY**EXHIBIT B****BUDGET****Sources and Uses**

Existing Loan	
Mezz Refi	\$ 1,460,000
Existing Mezz Interest Reserve	\$ 101,000
Remaining Balance to Fund (Senior Loan)	\$ 169,000
Loan Fee (netted out of avail. bal. to fund)	\$ 5,000
Subtotal of Current Loan Commitment	\$ 1,735,000
Additional Loan Amounts	
Hard Costs	\$ 1,546,000
Soft Costs	\$ 170,000
Contingency	\$ 44,000
Subtotal (Add'l Costs)	\$ 1,760,000
Total	\$ 3,495,000