

UNOFFICIAL COPY



**THIS DOCUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:**

Courtney E. Mayster
Schain, Burney, Ross & Citron, Ltd.
222 North LaSalle Street
Suite 1910
Chicago, Illinois 60601

Doc#: 0530553000 Fee: \$36.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 11/01/2005 07:11 AM Pg: 1 of 7

4361386 1 of 1 03 Const.

**MODIFICATION OF MORTGAGE
AND OTHER SECURITY DOCUMENTS**

THIS MODIFICATION OF MORTGAGE AND OTHER SECURITY DOCUMENTS ("Modification") is made and entered into as of the 19th day of October, 2005 by **BROOKFIELD DEVELOPMENT GROUP LLC**, an Illinois limited liability company, with a mailing address of 2980 River Road, Des Plaines, Illinois 60018 ("Mortgagor"), to and for the benefit of **MB FINANCIAL BANK, N.A.** ("Mortgagee"), with a mailing address of 6111 North River Road, Rosemont, Illinois 60018 Attention: Vincent G. Laughlin.

RECITALS:

WHEREAS, Mortgagee has heretofore made a mortgage loan (the "Loan") to Mortgagor in the original principal amount of **Four Million Nine Hundred Thirty Five Thousand Six Hundred Fifty and 00/100 Dollars (\$4,935,650.00)**; and

WHEREAS, the Loan is evidenced by an Acquisition and Development Mortgage Note dated as of September 10, 2004 (the "A&D Note") made by Mortgagor whereby Mortgagor promised to pay to the order of Mortgagee the principal sum of **One Million Eight Hundred Fifteen Thousand Six Hundred Fifty and 00/100 Dollars (\$1,815,650.00)** and a Revolving Construction Mortgage Note dated as of September 10, 2004 (the "Construction Note") made by Mortgagor whereby Mortgagor promised to pay to the order of Mortgagee the principal sum of **Three Million One Hundred Twenty Thousand and 00/100 Dollars (\$3,120,000.00)**, all as more specifically set forth in said Notes (the A&D Note and the Construction Note are hereinafter referred to as the "Notes"); and

WHEREAS, the Notes are secured by, among other things, a Construction Mortgage, Assignment of Leases and Rents, and Security Agreement dated as of the 10th day of September, 2004 by Mortgagor in favor of Mortgagee, recorded in the Office of the Recorder of Deeds of Cook County, Illinois, on April 7, 2005 as Document No. 0509703140 (the "Mortgage") and a Guaranty of Payment dated as of the 10th day of September, 2004 (the "Guaranty") by **Alex Troyanovsky** individually and **Gary Levitas** individually (collectively "Guarantors") in favor of Mortgagee; and any and all other instruments and documents executed by or on behalf of Mortgagor and delivered

UNOFFICIAL COPY

to Mortgagee in connection with the Loan, which are hereinafter collectively referred to as the "Other Security Documents"; and

WHEREAS, Mortgagor desires that the Loan amount be increased among other things; and

WHEREAS, the parties desire to modify and amend the terms of the Loan as provided herein and as a condition to such modification, Mortgagee is requiring: (i) this Modification; (ii) an Amendment to Revolving Construction Mortgage Note dated of even date herewith executed by Mortgagor; (iii) an Amendment to Acquisition and Development Mortgage Note dated of even date herewith executed by Mortgagor [(ii) and (iii) hereinafter collectively referred to as the "Note Amendment"]; and (iv) a Consent and Reaffirmation of Guarantors and Modification of Guaranty of Payment executed by Guarantors ("Guaranty Modification") whereby the Guaranty is modified to refer to the Note as modified by the Note Amendment.

NOW, THEREFORE, for and in consideration of Ten and 00/100 Dollars (\$10.00) in hand paid, the mutual covenants and conditions herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby agree as follows:

1. **Incorporation of Recitals** The aforesaid recitals are hereby incorporated into this Modification by reference as if fully set forth in this Paragraph 1. Wherever the terms and conditions of this Modification conflict with the terms and conditions of the Mortgage, the terms and conditions of this Modification shall control. In all other respects the parties do hereby ratify and declare to be in full force and effect the terms and conditions of the Mortgage and the Other Security Documents.

2. **Modification of Mortgage and Other Security Documents.**

The Mortgage is hereby modified by:

- a. deleting therefrom the amount "**Four Million Nine Hundred Thirty Five Thousand Six Hundred Fifty and 00/100 (\$4,935,650.00)**" where it appears on the first page thereof and substituting therefor the amount "**Six Million Six Hundred Twenty Seven Thousand and 00/100 Dollars (\$6,627,000.00)**"
- b. deleting therefrom the amount "**Three Million One Hundred Twenty Thousand and 00/100 Dollars (\$3,120,000.00)**" where it appears on the first page thereof and substituting therefor "**Four Million Three Hundred Twelve Thousand and 00/100 Dollars (\$4,312,000.00)**"
- c. deleting therefrom the amount "**One Million Eight Hundred Fifteen Thousand Six Hundred Fifty and 00/100 Dollars (\$1,815,650.00)**" where it appears in the first page thereof and substituting therefor "**Two Million Three Hundred Fifteen Thousand and 00/100 Dollars (\$2,315,000.00)**"

UNOFFICIAL COPY

The Loan Agreement is hereby modified by:

- a. deleting Section 4.3 in its entirety and substituting therefor the following:

“Mortgagee and Mortgagor acknowledge that Mortgagor shall construct eighteen (18) attached single family homes (individually a “Town Home” collectively “Town Homes”) and four (4) detached single family homes (“individually a “Home” and collectively “Homes”) in the Premises. Provided Mortgagor is not then in Default, nor has there occurred a fact or circumstance which, with the giving of notice or passage of time would constitute a Default, each Town Home or Home will be released from the lien of the Mortgage upon the sale of such Town Home or Home to a third party and upon payment to Mortgagee of one hundred percent (100%) of the Net Sales Proceeds (as hereinafter defined) of the sale of such Town Home or Home (“Release Price”), which Release Price shall be applied in the following order and amounts: (i) against the outstanding balance of the Acquisition and Development Mortgage Note of a release price of **One Hundred Twenty Thousand and 00/100 Dollars (\$120,000.00)** per Town Home or a release price of **Two Hundred Twenty Thousand and 00/100 Dollars (\$220,000.00)** per Home; and (ii) against the outstanding balance of the Revolving Construction Mortgage Note of a release price per Town Home or Home equal to any remaining balance of the Release Price. For purposes of this Loan, the term “Net Sales Proceeds” shall be defined as the gross sales price less (i) real estate tax credits granted to the buyer, (ii) real estate transfer taxes paid by Mortgagor as seller to the State of Illinois and County of Cook; (iii) broker’s commissions incurred in conjunction with the sale; and (iv) such costs as are normal and customary for the sale of attached single family homes in Brookfield, Illinois (including reasonable attorneys’ fees). Mortgagor shall also pay to Mortgagee a fee of **Fifty and 00/100 Dollars (\$50.00)** for each instrument of release.”

- b. Deleting Section 5.1 (u) in its entirety and substituting therefor the following:

“Prior to obtaining any Conforming Contracts, Mortgagor will be allowed to do site work, pour foundations for the entire Development, and frame and build the building designated as B-1 on the Plans, containing a total of six (6) Town Homes, two of which will be models. Thereafter, no disbursements shall be made for the construction of any additional buildings until such time as Mortgagor has obtained Conforming Contracts for not less than fifty percent (50%) of the Town Homes in any one building at the time any such disbursement is requested; provided, however, that in no event shall disbursements be made from the Revolving Construction Mortgage Note for the construction of more than ten (10) Town Homes for which there are no Conforming Contracts pending (individually a “Spec Home” and collectively “Spec Homes”), notwithstanding that any such Town Home might otherwise qualify for disbursements pursuant to the above. “Conforming Contracts” shall mean real estate sales contracts with *bona fide* third party purchasers for Town Homes; requiring an earnest money deposit of not less than **five percent (5%) of the sales price**; providing for no contingencies (other

UNOFFICIAL COPY

than mortgage contingencies that have been satisfied or waived); not providing for any form of purchase money seller financing; and has been approved by Mortgagee.”

- c. deleting therefrom the amount “**One Hundred Fifty Thousand and 00/100 Dollars (\$150,000.00)**” where it appears in Section 7.2 thereof and substituting therefor “**Two Hundred Fifty One Thousand Eight Hundred Fifty Eight and 00/100 Dollars (\$251,858.00)**”
- d. deleting Section 7.5 in its entirety

3. **References to Note.** From and after the date hereof (i) the Mortgage, the Assignment and the Other Security Documents shall be deemed to secure the Note as modified by the Note Amendment; and (ii) any and all references in the Mortgage or the Other Security Documents to the “Note” shall be deemed to refer to the Note as modified by the Note Amendment.

4. **References to Loan Documents and Guaranty.** Any and all references in the Note, the Mortgage and the Other Security Documents to the “Loan Documents” shall from and after the date hereof be deemed to refer to such Loan Documents as modified by this Modification; and any and all references in the Note, the Mortgage and the Other Security Documents to the “Guaranty” shall from and after the date hereof be deemed to refer to the Guaranty as modified by the Guaranty Modification.

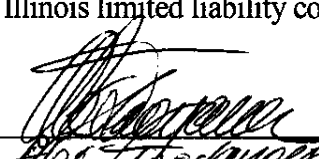
5. **Reaffirmation of Representations and Warranties.** Mortgagor hereby reaffirms as true and correct in all respects, as of the date hereof, any and all representations and warranties contained in the Mortgage and the Other Security Documents.

6. **Reaffirmation of Covenants.** Mortgagor does hereby reaffirm and agree to perform all of the terms, covenants, conditions and obligations applicable to such parties as set forth in the Mortgage and the Other Security Documents as herein modified.

7. **Laws of Illinois.** This Modification shall be covered and construed under the laws of the State of Illinois.

IN WITNESS WHEREOF, the parties have caused this Modification to be executed pursuant to authority duly granted as of the date and year first written above.

**BROOKFIELD DEVELOPMENT GROUP
LLC, an Illinois limited liability company**

By: 
Name: Mrs. Trodones
Title: Member

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, Alex Troyanovsky, a notary public in and for said County, in the State aforesaid, **DO HEREBY CERTIFY** that HE, personally known to me to be the same person whose name is subscribed to the foregoing instrument as Manager of **BROOKFIELD DEVELOPMENT GROUP LLC** an Illinois limited liability company, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his 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 seal, this 13 day of October, 2005.



Notary Public



Property of Cook County Clerk's Office

UNOFFICIAL COPY

CONSENT OF MORTGAGEE

The undersigned Mortgagee hereby consents to and hereby approves the foregoing Modification of Mortgage and Other Security Documents.

Dated as of October 17, 2005

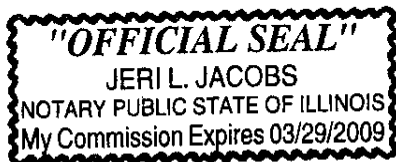
MB FINANCIAL BANK, N.A.

By: Andrea Bender
Name: Andrea Bender
Title: Commercial Banking officer

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, JERI JACOBS, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that ANDREA BENDER COMMERCIAL BANKING OFFICER of MB FINANCIAL BANK, N.A., personally known to me to be the same person whose name is subscribed to the foregoing **CONSENT OF MORTGAGEE**, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered the said instrument, on behalf of said Bank and as his/her free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and seal, this 17 day of October, 2005.



Jeri Jacobs
Notary Public

UNOFFICIAL COPY

EXHIBIT "A"

LEGAL DESCRIPTION

LOTS 1 TO 13 INCLUSIVE AND THE VACATED ALLEY LYING NORTH AND ADJOINING LOTS 2 TO 11 AFORESAID IN OWNERS RESUBDIVISION OF LOTS 4, 5, 6, AND 7, IN BLOCK 7, IN BROOKFIELD HIGHLANDS, A SUBDIVISION OF THE SOUTHEAST ¼ OF THE SOUTHEAST ¼ OF SECTION 27, TOWNSHIP 39 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

P.I.N.s:	15-27-422-009-0000	15-27-422-016-0000
	15-27-422-010-0000	15-27-422-017-0000
	15-27-422-011-0000	15-27-422-018-0000
	15-27-422-012-0000	15-27-422-019-0000
	15-27-422-013-0000	15-27-422-020-0000
	15-27-422-014-0000	15-27-422-021-0000
	15-27-422-015-0000	

STREET ADDRESS: 8906 WEST 31ST STREET, BROOKFIELD, ILLINOIS