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Doc#: 0600439007 Fee: \$44.50
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 01/04/2006 02:16 PM Pg: 1 of 11

This instrument prepared by
and please return to:
Jennifer L. Worstell, Esq.
100 West Monroe Street #1500
Chicago, Illinois 60603

P.I.N.: 17-09-104-004-0000, 17-09-104-005-0000,
17-09-104-006-0000
COMMONLY KNOWN AS: 711 West Grand Avenue, Illinois

FOURTH LOAN MODIFICATION AGREEMENT

This instrument is a Fourth Loan Modification Agreement ("Fourth Modification") among American Chartered Bank, an Illinois banking corporation ("Lender"), Grand Ave. Developers, L.L.C., an Illinois limited liability company ("Borrower") and Reid F. Johnson ("Guarantor").

RECITALS:

A. Borrower owns fee simple title to certain real estate commonly known as 711 West Grand Avenue, Chicago, Illinois ("Real Estate") which is legally described on Exhibit A attached hereto. Borrower is constructing a building with fifteen (15) residential condominium units ("Units") on the Real Estate, and intends to submit the Real Estate to the Illinois Condominium Act and sell the Units as condominiums (collectively the AProject@).

B. On February 26, 2002, Borrower, Guarantor and Lender entered into a Construction Loan Agreement ("Loan Agreement"), pursuant to which Borrower executed and delivered to Lender a Promissory Note in the amount of \$3,350,000 ("Note"), which evidenced a revolving line of credit

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loan in the amount of \$3,350,000 ("Loan"). To secure the Note, Borrower and Guarantor executed and delivered to Lender the following documents and items (collectively "Security Documents"):

1. a Real Estate Mortgage, Assignment of Rents, Security Agreement and UCC-2 Financing Statement ("Mortgage"), which was recorded with the Cook County Recorder of Deeds on February 28, 2002 as Document No. 0020234058;

2. a Guaranty executed by Guarantor ("Original Guaranty"); and
other documents and items requested by Lender.

C. On September 1, 2003, Borrower, Guarantor and Lender entered into a Modification of Loan Documents ("Modification"), pursuant to which Lender agreed to increase the aggregate of amount of funds available to be disbursed on the Loan to the amount of \$3,995,000. The Modification was recorded with the Cook County Recorder of Deeds on October 3, 2003 as Document No. 0327641029.

D. As of September 1, 2004, Borrower, Guarantor and Lender entered into a Modification of Loan Documents ("Second Modification"), pursuant to which Lender agreed to extend the maturity date of the Note from March 1, 2004 to December 1, 2004. The Second Modification was recorded with the Cook County Recorder of Deeds on April 27, 2005 as Document No. 0511703019.

E. As of December 1, 2004, Borrower, Guarantor and Lender entered into a Modification of Loan Documents ("Third Modification"), pursuant to which Lender agreed to: (a) increase the amount of the Note by \$150,000 from \$3,350,000 to \$3,500,000, (b) extend the maturity date of the Note from December 1, 2004 to May 1, 2006, and (c) increase the aggregate amount of funds available to be disbursed under the revolving Loan to the amount of \$4,532,050. The Third

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Modification was recorded with the Cook County Recorder of Deeds on April 27, 2005 as Document No. 0511703020.

F. On or about July 1, 2005, Lender and Bank of Commerce, an Illinois banking corporation ("Bank of Commerce") entered into a Participation and Servicing Agreement pursuant to which Bank of Commerce agreed to purchase the amount of \$1,500,000 of the Loan from Lender. It is a requirement of the Participation and Servicing Agreement that Bank of Commerce consent to this Fourth Modification.

G. The current outstanding balance of the Note is \$3,401,009. Borrower has now requested Lender to increase the aggregate amount of availability under the Loan to \$4,800,000 ("Revised Loan"), and to extend the date for full payment of the Loan from May 1, 2006 until November 1, 2006. Lender is agreeable to these requests subject to the covenants, conditions and restrictions contained herein.

NOW, THEREFORE, in consideration of good and valuable consideration, the parties agree as follows:

1. Pursuant to the Third Modification, the Loan matures on May 1, 2006 ("Maturity Date"). The Maturity Date is hereby extended until November 1, 2006 ("Extended Maturity Date") and the amount of the Loan is hereby increased to \$4,800,000. Concurrently herewith, Borrower must execute and deliver to Lender a Promissory Note Evidencing a Non-Revolver Line of Credit in the amount of \$4,800,000, a copy of which is attached hereto as Exhibit B. The revolving availability under the Loan is hereby terminated. The increase in the total amount of the Revised Loan will be used to pay for hard cost increases and Lender's fee and expenses for this Fourth Modification as set forth herein.

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2. The Note is hereby replaced in its entirety by the Revised Note. The Security Documents are hereby modified and amended to secure the Revised Note and all references to the Note in the Security Documents are modified and amended to refer to the Revised Note in place thereof. All amounts presently outstanding on the Note shall be deemed outstanding on the Revised Note. All interest charged on and all payments made on the Note previously are unchanged.

3. This Fourth Modification shall be effective upon Lender's receipt of this Fourth Modification executed by the parties hereto and the following documents and items:

- (a) the Revised Note;
- (b) a Guaranty of Revised Note, Fourth Modification and Other Undertakings executed by Guarantor ("Revised Guaranty");
- (c) a date down endorsement to Lender's loan title insurance policy which extends the effective date thereof until the recording date of this Fourth Modification, insures the Mortgage as modified by this Fourth Modification, increases the amount of title insurance coverage to \$4,800,000, confirms that Borrower is the fee simple owner of the Real Estate and includes no additional exceptions;
- (d) updated certificate of insurance as set forth in the Mortgage;
- (e) a Certificate of Good Standing of Borrower;
- (f) a Borrowing Resolution executed by Borrower authorizing this transaction;
- (g) payment of Lender's fee in the amount of \$3,250 plus expenses as set forth in Section 6 hereof; and

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(h) a Participation Certificate executed by Bank of Commerce to be appended to the Participation and Service Agreement increasing its participation in the Loan from \$1,500,000 to \$1,800,000.

3. This Fourth Modification shall constitute a modification and amendment of the Note, the Modification, the Second Modification, the Third Modification, the Loan Agreement, the Mortgage and the Security Documents and wherever in said instruments or in any other instrument evidencing or securing the indebtedness evidenced by the Note and/or Revised Note ("Loan Documents") reference is made to the Loan Documents aforesaid, such reference shall be deemed a reference to such Loan Documents as hereby modified and amended. All other provisions of the Loan Documents remain unchanged. Nothing herein contained shall in any manner affect the lien or priority of the Security Documents, or the covenants, conditions and agreements therein contained or contained in the Note, Revised Note, Loan Agreement, Modification or Second Modification.

4. In the event of conflict between any of the provisions of the Loan Documents and this instrument, the provisions of this instrument shall override and control.

5. Borrower and Guarantor hereby renew, remake and affirm the representations and warranties contained in the Loan Documents.

6. Borrower hereby agrees to pay Lender's fee in the amount of \$3,250 as and for the extension of loan repayment date until the Extended Maturity Date plus all of Lender's expenses arising out of and in connection with this Fourth Modification including, but not limited to, title insurance premiums, recording fees and attorneys' fees performed in the preparation of necessary documentation.

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7. Guarantor hereby acknowledges and agrees that the Original Guaranty is replaced in its entirety by the Revised Guaranty. Guarantor hereby expressly acknowledges and confirms that by executing this Fourth Modification, Lender has not waived, altered or modified Lender's rights under any of the Loan Documents to amend, extend, renew or modify or otherwise deal with the obligations of the parties hereto or any of the security given to Lender in connection therewith without the consent of Guarantor and without such action releasing, modifying, or affecting the obligations of Guarantor or affecting the security heretofore granted to Lender.

8. **BORROWER AND GUARANTOR KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE IRREVOCABLY THE RIGHT THEY MAY HAVE TO TRIAL BY JURY WITH RESPECT TO ANY LEGAL PROCEEDING BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THE NOTE, THE REVISED NOTE, THE MORTGAGE, THE LOAN AGREEMENT, THE SECURITY DOCUMENTS, THE MODIFICATION, THE SECOND MODIFICATION, THE THIRD MODIFICATION, THE LOAN DOCUMENTS, OR ANY AGREEMENT EXECUTED OR CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH OR ANY COURSE OF CONDUCT OR COURSE OF DEALING IN WHICH LENDER, BORROWER AND GUARANTOR ARE ADVERSE PARTIES. THIS PROVISION IS A MATERIAL INDUCEMENT FOR LENDER IN GRANTING ANY FINANCIAL ACCOMMODATION TO BORROWER OR GUARANTOR, OR EITHER OF THEM.**

9. Borrower and Guarantor hereby irrevocably submit to the jurisdiction of any state or federal court sitting in Chicago, Illinois, over any action or proceeding based hereon and Borrower and Guarantor hereby irrevocably agree that all claims in respect of such action or proceeding shall be heard and determined in such state or federal court. Borrower and Guarantor hereby irrevocably waive, to the fullest extent they may effectively do so, the defense of an inconvenient forum to the

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maintenance of such action or proceeding. Borrower and Guarantor irrevocably consent to the service of any and all process in any such action or proceeding by the mailing of copies of such process to Borrower and Guarantor at their addresses as specified in the records of Lender. Borrower and Guarantor agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in any jurisdiction by suit on the judgment or any other manner provided by law.

Borrower and Guarantor agree not to institute any legal action or proceeding against Lender or the directors, officers, employees, agents or property thereof, in any court other than the one herein above specified. Nothing in this Section shall affect the right of Lender to serve legal process in any other manner permitted by law or affect the right of Lender to bring any action or proceeding against Borrower and Guarantor or their property in the courts of any other jurisdictions

10. Borrower and Guarantor warrant to Lender that neither Borrower nor Guarantor nor any affiliate is identified in any list of known or suspected terrorists published by an United States government agency (collectively, as such lists may be amended or supplemented from time to time, referred to as the "Blocked Persons Lists") including, without limitation, (a) the annex to Executive Order 13224 issued on September 23, 2001, and (b) the Specially Designated Nationals List published by the Office of Foreign Assets Control.

Borrower and Guarantor covenant to Lender that if they become aware that they or any affiliate is identified on any Blocked Persons List, Borrower and Guarantor shall immediately notify Lender in writing of such information. Borrower and Guarantor further agree that in the event they or any affiliate is at any time identified on any Blocked Persons List, such event shall be an Event of Default, and shall entitle Lender to exercise any and all remedies provided in any Loan Document or otherwise permitted by law. In addition, Lender may immediately contact the Office of Foreign

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Assets Control and any other government agency Lender deems appropriate in order to comply with its obligations under any law, regulation, order or decree regulating or relating to terrorism and international money laundering. Upon the occurrence of such Event of Default, Lender will forbear enforcement of its rights and remedies during such time as: (1) the person ("Person") identified in a Blocked Persons List is contesting in good faith by appropriate legal proceedings such Person's inclusion in a Plocked Persons List, and (2) Lender determines, in its sole and absolute discretion, that such forbearance will not adversely affect title to, the condition or value of, or any lien in favor of the Lender and encumbering, any part of the Premises (as defined in the Mortgage) or otherwise adversely impact the ability of any Person to perform such Person's obligations under or with respect to any Loan Documents.

IN WITNESS WHEREOF, the parties hereto have executed this Fourth Modification on

December 22, 2005.

LENDER:

American Chartered Bank, an Illinois banking corporation

By: [Signature]
Its Group S.P.

CONSENT:

Bank of Commerce, an Illinois banking corporation

By: [Signature]
Its Service President

Attest: [Signature]
Its Q.P.

BORROWER:

Grand Ave. Developers, L.L.C., an Illinois limited liability company

By: [Signature]
Its [Signature]

Attest: [Signature]
Its Accounting Manager

GUARANTOR:

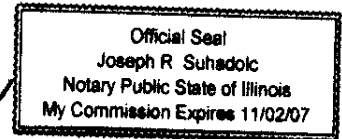
[Signature]
Reid F. Johnson

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STATE OF ILLINOIS)
COUNTY OF C O O K) SS.

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Ronellva A. Ziebert Group Sr. Vice President of American Chartered Bank, 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 s/he signed and delivered the said instrument as his/her 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 12-29, 2005.



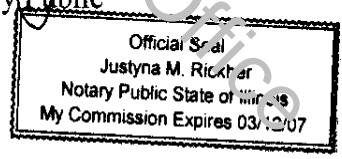
[Signature]
Notary Public

STATE OF ILLINOIS)
COUNTY OF C O O K) SS.

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Reid F. Johnson and _____, _____ of Grand Ave. Developers, L.L.C., an Illinois limited liability company, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their 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 12-22, 2005.

[Signature]
Notary Public

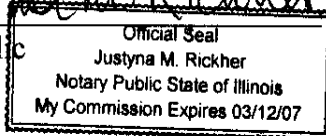


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STATE OF ILLINOIS)
COUNTY OF C O O K) SS.

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Reid F. Johnson, 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 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 12-22, 2005.

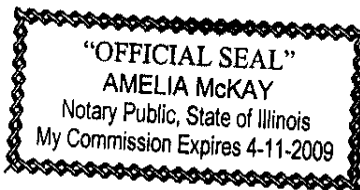
Justyna M. Rickher
Notary Public


STATE OF ILLINOIS)
COUNTY OF C O O K) SS.

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Donald Krueger, Senior VP President of Bank of Commerce, 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 s/he signed and delivered the said instrument as his/her 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 December 22, 2005.

Amelia McKay
Notary Public



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EXHIBIT A

LEGAL DESCRIPTION

LOTS 39, 40, 41, 42 AND 43 IN OGDEN AND OTHERS SUBDIVISION OF LOTS 1, 2 AND 3 AND PART OF LOTS 4, 9, 10 AND 11 IN BLOCK 74 WITH SUB-LOTS 25 AND 26 OF DILLION'S SUBDIVISION OF PART OF SAID BLOCK 74 IN RUSSELL MATHER AND ROBERT'S ADDITION TO CHICAGO IN THE WEST ½ OF THE NORTHWEST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 711 West Grand Avenue, Chicago, Cook County, Illinois
P.I.N. NOS.: 17-09-104-004-0000; 17-09-104-005-0000; and
17-09-104-006-0000

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