

# UNOFFICIAL COPY



Doc#: 0600918012 Fee: \$40.50  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 01/09/2006 10:53 AM Pg: 1 of 9

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

## THIRD MODIFICATION OF MORTGAGE AND OTHER SECURITY DOCUMENTS

THIS THIRD MODIFICATION OF MORTGAGE AND OTHER SECURITY DOCUMENTS ("Modification") is made and entered into as of the 18<sup>th</sup> day of November, 2005, by NORTH STAR TRUST COMPANY, AS TRUSTEE UNDER TRUST AGREEMENT DATED JUNE 12, 2003, AND KNOWN AS TRUST NO. 03-6200 ("Trustee"), with a mailing address at 529 West Golf Road, Arlington Heights, Illinois 60004, and GETTYSBURG DEVELOPMENT CORPORATION, an Illinois corporation ("Beneficiary") with a mailing address at 529 West Golf Road, Arlington Heights, Illinois 60004 (Trustee and Beneficiary are hereinafter collectively referred to as "Mortgagor"), to the order of MB FINANCIAL BANK, N.A. ("Lender"), having its principal office at 6111 North River Road, Rosemont, Illinois 60018 Attention: Vincent G. Laughlin.

### RECITALS:

WHEREAS, Lender has heretofore made a construction mortgage loan (the "Loan") to Mortgagor in the original principal amount of **Twenty Two Million Eight Hundred Fifty Five Thousand and 00/100 Dollars (\$22,855,000.00)**; and

WHEREAS, the Loan is evidenced in part by a Construction Loan Agreement dated as of November 19, 2003 (the "Loan Agreement") made by Mortgagor and Lender; an Acquisition and Construction Mortgage Note dated as of November 19, 2003 (the "Acquisition Note") made by Mortgagor whereby Mortgagor promised to pay to the order of Lender the principal sum of **Thirteen Million Three Hundred Thirty Four Thousand and 00/100 Dollars (\$13,344,000.00)**, all as more specifically set forth in said Acquisition Note; and by a Construction Mortgage Note dated as of November 19, 2003 (the "Construction Note") made by Mortgagor whereby Mortgagor promised to pay to the order of Lender the principal sum of **Nine Million Five Hundred Twenty One Thousand and 00/100 Dollars (\$9,521,000.00)**, all as more specifically set forth in said Construction Note (the Acquisition Note and 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 19<sup>th</sup> day of November, 2003, by Mortgagor in favor of Lender, recorded in the Office of the Recorder of Deeds of Cook

# UNOFFICIAL COPY

County, Illinois, on December 10, 2003, as Document No. 0334444121 as modified by that certain Modification of Mortgage and Other Security Documents dated as of the 18<sup>th</sup> day of November, 2004, by Mortgagor in favor of Lender, recorded in the Office of the Recorder of Deeds of Cook County, Illinois, on December 21, 2004, as Document No. 0435603102 as further modified by that certain Second Modification of Mortgage and Other Security Documents dated as of the 18<sup>th</sup> day of May, 2005, by Mortgagor in favor of Lender, recorded in the Office of the Recorder of Deeds of Cook County, Illinois, on July 19, 2005, as Document No. 0520018101 (collectively, the "Mortgage") and a Guaranty of Payment dated as of the 19<sup>th</sup> day of November, 2003 as modified by that certain Consent and Reaffirmation of Guarantor and Modification of Guaranty of Payment dated as of the 18<sup>th</sup> of November, 2004 as further modified by that certain Second Consent and Reaffirmation of Guarantor and Modification of Guaranty of Payment dated as of the 18<sup>th</sup> of May, 2005 (collectively, the "Guaranty") by **Larry M. McKone**, individually ("Guarantor"), in favor of Lender; and any and all other instruments and documents executed by or on behalf of Mortgagor and delivered to Lender in connection with the Loan, which are hereinafter collectively referred to as the "Other Security Documents"; and

**WHEREAS**, Mortgagor desires that the Mortgage and Loan Agreement be modified as provided herein; and

**WHEREAS**, the parties desire to modify and amend the terms of the Loan as provided herein and as a condition to such modification, Lender is requiring: (i) this Modification; (ii) a Third Amendment to Acquisition Note dated of even date herewith executed by Mortgagor; (iii) a Third Amendment to Construction Mortgage Note dated of even date herewith executed by Mortgagor [(ii) and (iii) are collectively referred to herein as the "Note Amendment"]; and (iv) a Third Consent and Reaffirmation of Guarantor and Modification of Guaranty of Payment executed by Guarantor ("Guaranty Modification") whereby the Guaranty is modified to secure the Notes 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.**

a. The Mortgage is modified by deleting the second paragraph starting with "WHEREAS" in its entirety and substituting therefor the following:

**"WHEREAS**, Mortgagor is indebted to Lender in the principal sum of **Twenty Nine Million Nine Hundred and 00/100 Dollars (\$29,900,000.00)**, which

# UNOFFICIAL COPY

indebtedness is evidenced by Mortgagor's Acquisition and Construction Mortgage Note of even date herewith, wherein Mortgagor promises to pay to the order of Lender the maximum principal amount of **Fifteen Million Five Hundred Thousand and 00/100 Dollars (\$15,500,000.00)** or such lesser amount as may be disbursed thereunder, Mortgagor's Construction Mortgage Note of even date herewith, wherein Mortgagor promises to pay to the order of Lender the maximum principal amount of **Fourteen Million Four Hundred Thousand and 00/100 Dollars (\$14,400,000.00)** or such lesser amount as may be disbursed thereunder (collectively the "Notes") providing for repayment of principal and interest (with interest being paid at a variable rate) and providing for a final payment of all sums due thereunder as set forth therein."

b. Section 7.2 of the Loan Agreement is modified by deleting the amount "*Six Hundred Fifty Thousand and 00/100 Dollars (\$650,000.00)*" where it appears therein and substituting therefor "*One Million Seventy One Thousand Seventy Three and 00/100 Dollars (\$1,071,073.00) of which Eight Hundred Fifty Seven Thousand Five Hundred Sixty Nine and 00/100 Dollars (\$857,569.00) has been disbursed*" and by deleting the amount "*Two Hundred Eighty Two Thousand and 00/100 Dollars (\$282,000.00)*" where it appears therein and substituting therefor "*Nine Hundred Twenty Thousand and 00/100 Dollars (\$920,000.00) of which One Hundred Sixteen Thousand Two Hundred Thirteen and 97/100 Dollars (\$116,213.97) has been disbursed*".

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

4. **References to Loan Documents and Guaranty.** Any and all references in the Notes, 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 Notes, 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.

# UNOFFICIAL COPY

8. **Land Trustee Exculpation.** This Modification is executed by North Star Trust Company, not personally but solely as Trustee in the exercise of the power and authority conferred upon and vested in it a Trustee. No personal liability shall be asserted or be enforceable against the Trustee because or in respect of this Notes or its making, issue or transfer. All such liability, if any, is expressly waived by each taker and holder hereof. Nothing herein shall modify or discharge the personal liability assumed by the guarantor(s) hereof, if any. Each original and successive holder of this Notes accepts the express condition that no duty shall rest upon the Trustee to sequester the rents, issues and profits arising from the property described in the Mortgage, or the proceeds arising from such property's sale or other disposition. In case of default in the payment of this Notes or of any installment, the sole remedy of the holder, as far as Trustee is concerned, shall be foreclosure of the Mortgage, action against any other security at any time given to secure the payment hereof, and action to enforce the personal liability of other makers on the Notes or the guarantors, if any, or any of the remedies as the holder in its sole discretion may elect.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

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.

TRUSTEE:

NORTH STAR TRUST COMPANY not personally but solely as Trustee as aforesaid

By: *Maritza Castillo*  
 Name: Maritza Castillo  
 Its: TRUST OFFICER

BENEFICIARY:

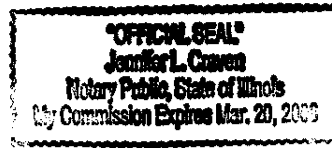
GETTYSBURG DEVELOPMENT CORPORATION, an Illinois corporation

By: *Laura McKee*  
 Name: Laura McKee  
 Title: President

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )



I, Jennifer L. Craven, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that **Larry M. McKone**, President of **Gettysburg Development Corporation**, an Illinois corporation, personally known to me to be the same person whose name is subscribed to the foregoing **MODIFICATION OF MORTGAGE AND OTHER SECURITY DOCUMENTS** as such President, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument, on behalf of said Corporation and Partnership and as his free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and seal, this 18<sup>th</sup> day of November, 2005.

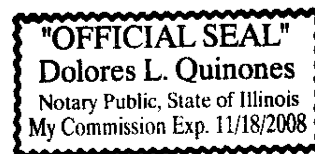
Jennifer L. Craven  
Notary Public

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, the undersigned, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Maritza Castillo of **NORTH STAR TRUST COMPANY, AS TRUSTEE UNDER TRUST AGREEMENT DATED JUNE 12, 2003, AND KNOWN AS TRUST NO. 03-6200**, personally known to me to be the same person whose name is subscribed to the foregoing **MODIFICATION OF MORTGAGE AND OTHER SECURITY DOCUMENTS** as such ~~TRUST OFFICER~~ appeared before me this day in person and acknowledged that she signed, sealed and delivered the said instrument, on behalf of said Trust and as her free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and seal, this 18<sup>th</sup> day of November, 2005.

Dolores L. Quinones  
Notary Public



# UNOFFICIAL COPY

## CONSENT OF LENDER

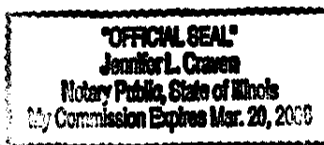
The undersigned Lender hereby consents to and hereby approves the foregoing Third Modification of Mortgage and Other Security Documents.

Dated as of November 18, 2005

MB FINANCIAL BANK, N.A.

By: *Gary Reichardt*  
Name: GARY REICHARDT  
Title: VP

STATE OF ILLINOIS        )  
  ) SS.  
COUNTY OF COOK        )



I, Jennifer L. Craven a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that GARY REICHARDT of MB FINANCIAL BANK, N.A., personally known to me to be the same person whose name is subscribed to the foregoing CONSENT OF LENDER, 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 18<sup>th</sup> day of November, 2005.

*Jennifer L. Craven*  
Notary Public

**UNOFFICIAL COPY****EXHIBIT "A"****LEGAL DESCRIPTION****PARCEL 1:**

THAT PART OF THE NORTHEASTERLY 300.0 FEET AS MEASURED AT RIGHT ANGLES TO THE NORTHEASTERLY LINE THEREOF OF THAT PART OF THE EAST 673.83 FEET AS MEASURED ON THE SOUTH LINE THEREOF OF THE WEST ½ OF THE NORTHEAST ¼ OF SECTION 18, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTHWESTERLY OF THE SOUTHWESTERLY LINE OF RAND ROAD BOUNDED BY A LINE DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE SOUTHWESTERLY LINE OF RAND ROAD WHICH IS 200.0 FEET NORTHWESTERLY OF THE INTERSECTION OF SAID SOUTHWESTERLY LINE OF RAND ROAD WITH THE EAST LINE OF THE WEST ½ OF THE NORTHEAST ¼ OF SAID SECTION 18; THENCE SOUTHWESTERLY 303.29 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF SAID NORTHEASTERLY 300.0 FEET WHICH IS 425.0 FEET NORTHWESTERLY, AS MEASURED ALONG SAID SOUTHWESTERLY LINE OF THE INTERSECTION OF THE SOUTHWESTERLY LINE OF SAID NORTHEASTERLY 300.0 FEET WITH THE EAST LINE OF THE WEST ½ OF THE NORTHEAST ¼ OF SAID SECTION 18; THENCE NORTHWESTERLY ALONG THE SOUTHWESTERLY LINE OF SAID NORTHEASTERLY 300.0 FEET, 280.80 FEET TO A POINT ON SAID LINE WHICH IS 200.0 FEET SOUTHEASTERLY, AS MEASURED ALONG SAID SOUTHWESTERLY LINE OF THE INTERSECTION OF SAID SOUTHWESTERLY LINE WITH THE WEST LINE OF THE EAST 673.83 FEET OF THE WEST ½ OF THE NORTHEAST ¼ OF SAID SECTION 18; THENCE NORTHEASTERLY 307.95 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF RAND ROAD WHICH IS 400.0 FEET SOUTHEASTERLY AS MEASURED ALONG SAID SOUTHWESTERLY LINE OF THE INTERSECTION OF THE SOUTHWESTERLY LINE OF RAND ROAD WITH THE WEST LINE OF THE EAST 673.83 FEET OF THE WEST ½ OF THE NORTHEAST ¼ OF SAID SECTION 18; THENCE SOUTHEASTERLY ALONG THE SOUTHWESTERLY LINE OF RAND ROAD, 305.80 FEET TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS.

**PARCEL 2:**

THAT PART OF THE NORTHEASTERLY 300.0 FEET AS MEASURED AT RIGHT ANGLES TO THE NORTHEASTERLY LINE THEREOF OF THAT PART OF THE EAST 673.83 FEET AS MEASURED ON THE SOUTH LINE THEREOF OF THE WEST ½ OF THE NORTHEAST ¼ OF SECTION 18, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTHWESTERLY OF THE SOUTHWESTERLY LINE OF RAND ROAD BOUNDED BY A LINE DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE EAST LINE OF THE WEST ½ OF THE NORTHEAST ¼ OF SAID SECTION 18 WITH THE SOUTHWESTERLY LINE OF RAND ROAD; THENCE NORTHWESTERLY ALONG THE SOUTHWESTERLY LINE OF RAND ROAD, 200.0 FEET; THENCE SOUTHWESTERLY 303.29 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF SAID NORTHEASTERLY 300.0 FEET WHICH IS 425.0 FEET NORTHWESTERLY OF THE INTERSECTION OF SAID SOUTHWESTERLY LINE WITH THE EAST LINE OF THE WEST ½ OF THE NORTHEAST ¼ OF SAID SECTION 18; THENCE SOUTHEASTERLY ALONG THE SOUTHWESTERLY LINE OF SAID NORTHEASTERLY 300.0 FEET, 425.0 FEET TO THE INTERSECTION WITH THE EAST LINE OF THE WEST ½ OF THE NORTHEAST ¼ OF SAID SECTION 18; THENCE NORTH ALONG SAID EAST LINE, 403.28 FEET TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS.



# UNOFFICIAL COPY

**PARCEL 3:**

THAT PART OF THE NORTHEASTERLY 300.0 FEET AS MEASURED AT RIGHT ANGLES TO THE NORTHEASTERLY LINE THEREOF OF THAT PART OF THE EAST 673.83 FEET AS MEASURED ON THE SOUTH LINE THEREOF OF THE WEST ½ OF THE NORTHEAST ¼ OF SECTION 18, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTHWESTERLY OF THE SOUTHWESTERLY LINE OF RAND ROAD BOUNDED BY A LINE DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE EAST LINE OF THE WEST ½ OF THE NORTHEAST ¼ OF SAID SECTION 18 WITH THE SOUTHWESTERLY LINE OF RAND ROAD; THENCE NORTHWESTERLY ALONG THE SOUTHWESTERLY LINE OF RAND ROAD, 200.0 FEET; THENCE SOUTHWESTERLY 303.29 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF SAID NORTHEASTERLY 300.0 FEET WHICH IS 425.0 FEET NORTHWESTERLY OF THE INTERSECTION OF SAID SOUTHWESTERLY LINE WITH THE EAST LINE OF THE WEST ½ OF NORTHEAST ¼ OF SAID SECTION 18; THENCE SOUTHEASTERLY ALONG THE SOUTHWESTERLY LINE OF SAID NORTHEASTERLY 300.0 FEET, 425.0 FEET TO THE INTERSECTION WITH THE EAST LINE OF THE WEST ½ OF THE NORTHEAST ¼ OF SAID SECTION 18; THENCE NORTH ALONG SAID EAST LINE, 403.28 FEET TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PIN: 03-18-203-005  
03-18-203-006  
03-18-203-007

Cook County Clerk's Office