

UNOFFICIAL COPY



Doc#: 0613710052 Fee: \$42.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 05/17/2006 10:35 AM Pg: 1 of 10

THIS INSTRUMENT PREPARED BY:
Bruce A. Salk
Cohen, Salk & Huvard, P.C.
630 Dundee Road, Suite 120
Northbrook, Illinois 60062

AND AFTER RECORDING MAIL TO:
Oxford Bank & Trust
1111 West 22nd Street
Oak Brook, Illinois 60523
Attn: Frank Lakofka

ORIGINAL

SECOND MODIFICATION AGREEMENT

THIS SECOND MODIFICATION AGREEMENT (hereinafter referred to as the "Modification Agreement") made as of this 1st day of April, 2006, by and among GVP MAGNOLIA L.L.C., an Illinois limited liability company ("Borrower"), MARVIN G. GRAHN, PETER M. GRAHN, ERICK V. GRAHN, GVP HOLDINGS VII, L.L.C., an Illinois limited liability company, GVP RUNDLE, L.P., an Illinois limited partnership (all of the foregoing, except Borrower, are collectively, the "Guarantors") (Borrower and Guarantors are hereinafter collectively referred to as the "Obligors") and OXFORD BANK & TRUST ("Lender").

WITNESSETH:

WHEREAS, Borrower has executed and delivered to Lender that certain mortgage note dated March 16, 2004 in the original principal sum of Seven Hundred Sixty-Five Thousand and 00/100 (\$765,000.00) Dollars (as previously modified by that certain modification agreement dated March 1, 2005 and recorded in the Office of the Recorder of Deeds of Cook County, Illinois (the "Recorder's Office") as Document No. 0512233012 (the "First Modification Agreement"), the "Note"), which Note is secured by the following documents (the following documents and any and all other instruments executed by any Obligor, as previously modified by the First Modification Agreement, and as modified from time to time, are hereinafter collectively referred to as the "Loan Documents"):

- (i) mortgage and security agreement of even date therewith, recorded in the Recorder's Office as Document No. 0407933088 (the "Mortgage") on property commonly known as 2017 Magnolia, Chicago, Illinois and legally described on Exhibit "A" attached hereto and made a part hereof (the "Premises");
- (ii) assignment of rents and of lessor's interest in leases dated of even date with the Note made by Borrower in favor of Lender, recorded in the Recorder's Office as Document No. 0407933089 (the "Assignment of Rents");
- (iii) guaranty dated of even date with the Note made by Guarantors in favor of Lender;
- (iv) environmental indemnity agreement dated of even date with the Note made by Borrower and Guarantors in favor of Lender;

BOX 333-CT

1002

8198176

Danaher

10

UNOFFICIAL COPY

WHEREAS, Obligors are desirous of extending the Maturity Date of the Note to January 1, 2007 and making certain other changes thereto, and Lender is willing to consent to such changes subject to the terms and provisions hereinafter provided.

NOW THEREFORE, in consideration of the mutual promises of the parties hereto, and upon the express conditions that the lien of the Mortgage held by Lender is a valid, first and subsisting lien on the Premises and that the execution of this Modification Agreement will not impair the lien of said Mortgage and that there is no existing second mortgage or other liens subsequent to the lien of the Mortgage held by Lender that will not be paid in full and released concurrently herewith (for breach of which conditions, or either of them, this Modification Agreement, at the sole election of Lender, shall not take effect and shall be void), **IT IS AGREED AS FOLLOWS:**

1. The parties represent and agree that the foregoing recitals are true and correct. All defined terms used herein and not otherwise defined shall have the meaning ascribed to such term as set forth in the Loan Documents.

2. The Note is hereby modified as follows:

a. The first paragraph is hereby modified by deleting the date "April 1, 2006" as it appears therein and replacing it with the date "January 1, 2007".

b. The Note is hereby modified by amending and restating in its entirety the second paragraph on page 1 to read as follows:

"Accrued interest shall be payable monthly commencing on May 1, 2006, and continuing on the 1st day of each month thereafter to and including December 1, 2006, with a final payment of all principal and interest due, if not sooner paid, on January 1, 2007 (the "Maturity Date"). After the Maturity Date, whether by acceleration or otherwise, interest shall accrue on the balance of principal remaining from time to time outstanding at the rate of four percent (4%) above the Prime Rate (the "Default Rate")."

3. The first "Whereas" paragraph of the Mortgage is hereby modified by deleting the date "1st day of April, 2006" and replacing it with the date "1st day of January, 2007".

4. The Loan Documents are hereby amended to secure the obligations and liabilities evidenced by the Note, as hereby modified.

5. Except for the modifications stated herein, the Note and Loan Documents are not otherwise changed, modified or amended. Except as expressly provided herein, the Note and other Loan Documents and each other instrument or agreement delivered by any Obligor to or for the benefit of Lender in connection with the loan evidenced by the Note shall remain in full force and effect in accordance with their respective terms and the execution and delivery of this Modification Agreement shall not operate to waive any rights or remedies that Lender may have with respect to the Note and other Loan Documents, to forgive or waive any violation, default or breach under the Note or any other Loan Document, or to obligate Lender in any manner to make any further extensions of credit other than as expressly set forth herein.

6. Contemporaneously with the execution of this Modification Agreement by Lender, Obligors shall pay to Lender a non-refundable modification fee in the amount of \$~~1,045.00~~ ^{# 1,912.50 MD}, plus all of Lender's attorneys' fees incurred in connection with the negotiation and documentation of the agreements contained in this Modification Agreement, all recording fees and charges, title insurance charges and premiums, appraisal

UNOFFICIAL COPY

fees, and all other expenses, charges, costs and fees necessitated by or otherwise relating to this Modification Agreement (the "Additional Fees"). If any of the Additional Fees are not paid at the time this Modification Agreement is executed by Lender, such Additional Fees shall be paid by Obligor within five days after written demand therefor by Lender, and if not timely paid, they shall bear interest from the date so incurred until paid at an annual rate equal to the Default Rate (as defined in the Note).

7. The Premises described in the Mortgage shall remain in all events subject to the lien, charge or encumbrance of the Mortgage, or conveyance of title (if any) effected thereby, and nothing herein contained, and nothing done pursuant hereto, shall affect or be construed to effect the lien, charge or encumbrance of, or warranty of title in, or conveyance effected by the Mortgage, or the priority thereof over liens, charges, encumbrances or conveyances, or, except as expressly provided herein, to release or affect the liability of any party or parties whomsoever may now or hereafter be liable under or on account of the Note and/or Mortgage, nor shall anything herein contained or done in pursuance thereof affect or be construed to affect any other security or instrument, if any, held by Lender as security for or evidence of the aforesaid indebtedness.

8. This Modification Agreement shall extend to and be binding upon each of the Obligors and their heirs, legatees, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

9. Each Obligor hereby ratifies and confirms his or its respective obligations and liabilities under the Note, the Guaranty and other Loan Documents, as hereby amended, and the liens and security interest created thereby, and acknowledges that he or it have no defenses, claims or set-offs against the enforcement by Lender of their respective obligations and liabilities under the Note, the Guaranty and other Loan Documents, as so amended.

10. This Modification Agreement shall, in all respects, be governed by and construed in accordance with the laws of the State of Illinois (exclusive of choice of law principals), including all matters of construction, validity and performance.

11. This Modification Agreement constitutes the entire agreement between the parties with respect to the aforesaid modification and shall not be amended or modified in any way except by a document in writing executed by all of the parties thereto.

12. This Modification Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall be one agreement.

13. Lender's consent to this Modification Agreement shall be subject to Lender (or Lender's nominee) having received the following in a form and substance acceptable to Lender on or before May 31, 2006 (the "Modification Termination Date"):

(a) An endorsement to Chicago Title Insurance Company Loan Policy No. 1401 008198176 D2 (the "Title Policy") which (i) amends the description of the Mortgage insured under the Title Policy to include this Modification Agreement, (ii) amends the description of the Assignment of Rents to include this Modification Agreement, (iii) extends the effective date of the Title Policy to the date of the recording of this Modification Agreement, (iv) includes no additional exceptions to title other than those that have been approved in writing by Lender and (v) states that all real estate taxes and assessments applicable to the Premises which are due and payable as of the date of such endorsement have been paid in full; and

(b) Such other documents as Lender may reasonably require.

UNOFFICIAL COPY

The Obligors' failure to deliver the aforementioned documents and items to Lender on or before the Modification Termination Date shall, at the option of Lender, result in this Modification Agreement (including all agreements and waivers of Lender contained herein) being null and void.

14. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR HEREBY AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS MODIFICATION AGREEMENT SHALL BE TRIED AND DETERMINED ONLY IN THE STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, OR, AT THE SOLE OPTION OF LENDER IN ANY OTHER COURT IN WHICH LENDER SHALL INITIATE LEGAL OR EQUITABLE PROCEEDINGS AND WHICH HAS SUBJECT MATTER JURISDICTION OVER THE MATTER IN CONTROVERSY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR HEREBY EXPRESSLY WAIVES ANY RIGHT IT MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS PARAGRAPH.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR AND LENDER HEREBY EXPRESSLY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY ACTION, CAUSE OF ACTION, CLAIM, DEMAND, OR PROCEEDING ARISING UNDER OR WITH RESPECT TO THIS MODIFICATION AGREEMENT, OR IN ANY WAY CONNECTED WITH, RELATED TO, OR INCIDENTAL TO THE DEALINGS OF OBLIGORS AND LENDER WITH RESPECT TO THIS MODIFICATION AGREEMENT, OR THE TRANSACTION RELATED HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR AND LENDER HEREBY AGREE THAT ANY SUCH ACTION, CAUSE OF ACTION, CLAIM, DEMAND OR PROCEEDING SHALL BE DECIDED BY A COURT TRIAL WITHOUT A JURY AND THAT ANY OBLIGOR OR LENDER MAY FILE A COPY OF THIS EXECUTED MODIFICATION AGREEMENT WITH ANY COURT OR OTHER TRIBUNAL AS WRITTEN EVIDENCE OF THE CONSENT OF EACH OBLIGOR AND LENDER TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK]

UNOFFICIAL COPY

IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed as of the date first above written.

GVP MAGNOLIA, L.L.C., an Illinois limited liability company

By: GVP Holdings VII, L.L.C., an Illinois limited liability company, its sole manager

By: Marvin G. Grahn
Marvin G. Grahn, its sole Manager

Marvin G. Grahn
MARVIN G. GRAHN, individually

Peter M. Grahn
PETER M. GRAHN, individually

Eric V. Grahn
ERICK V. GRAHN, individually

GVP HOLDINGS VII, L.L.C., an Illinois limited liability company

By: Marvin G. Grahn
Marvin G. Grahn, its sole Manager

GVP RUNDLE, L.P., an Illinois limited partnership

By: GVP Holdings VII, L.L.C., an Illinois limited liability company, its General Partner

By: Marvin G. Grahn
Marvin G. Grahn, its sole Manager

OXFORD BANK & TRUST

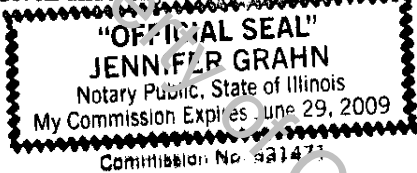
By: Mar N. [Signature]
Its: ASST. Vice President

UNOFFICIAL COPY

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 MARVIN G. GRAHN, personally known to me as the sole manager of GVP HOLDINGS VII, L.L.C., an Illinois limited liability company, the sole manager of GVP MAGNOLIA, L.L.C., an Illinois limited liability company, and 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, sealed and delivered the said instrument as such manager of GVP HOLDINGS VII, L.L.C., on behalf of GVP MAGNOLIA, L.L.C., pursuant to authority, given by the members of GVP HOLDINGS VII, L.L.C., as his own and free and voluntary act and as the free and voluntary act of GVP HOLDINGS VII, L.L.C., on behalf of GVP MAGNOLIA, L.L.C., for the uses and purposes therein set forth.

Given under my hand and notarial seal this 9 day of May, 2006.



Jennifer Grahn
Notary Public

My Commission Expires: 6-29-09

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 MARVIN G. GRAHN personally appeared before me this day and subscribed his name to the foregoing instrument for the uses and purposes therein stated.

Given under my hand and notarial seal this 9 day of May, 2006.



Jennifer Grahn
Notary Public

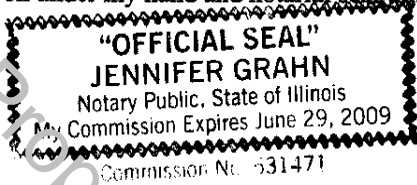
My Commission Expires: 6-29-09

UNOFFICIAL COPY

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 PETER M. GRAHN personally appeared before me this day and subscribed his name to the foregoing instrument for the uses and purposes therein stated.

Given under my hand and notarial seal this 9 day of May, 2006.



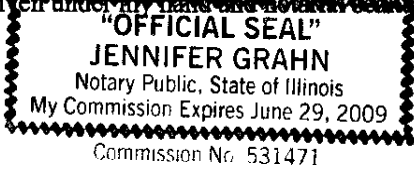
Jennifer Grahn
Notary Public

My Commission Expires: 6-29-09

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 ERICK V. GRAHN personally appeared before me this day and subscribed his name to the foregoing instrument for the uses and purposes therein stated.

Given under my hand and notarial seal this 9 day of May, 2006.



Jennifer Grahn
Notary Public

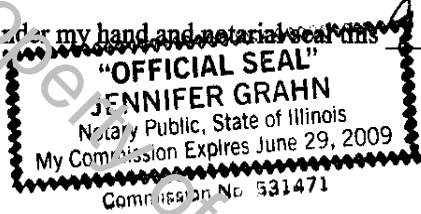
My Commission Expires: 6-29-09

UNOFFICIAL COPY

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 MARVIN G. GRAHN personally known to me as the sole manager of GVP HOLDINGS VII, L.L.C., an Illinois limited liability company, and 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, sealed and delivered the said instrument as such manager of said limited liability company, pursuant to authority given by the members of said limited liability company, as his own and 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 9 day of May, 2006.



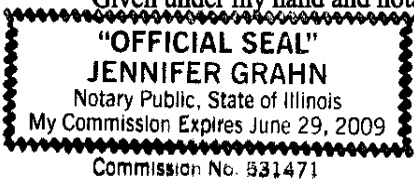
Jennifer Grahn
Notary Public

My Commission Expires: 6-29-09

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 MARVIN G. GRAHN, personally known to me as the sole manager of GVP HOLDINGS VII, L.L.C., an Illinois limited liability company, the General Partner of GVP RUNDLE, L.P., an Illinois limited partnership, and 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, sealed and delivered the said instrument as such manager of GVP HOLDINGS VII, L.L.C., on behalf of GVP RUNDLE, L.P., as his own and free and voluntary act and as the free and voluntary act of GVP HOLDINGS VII, L.L.C., on behalf of GVP RUNDLE, L.P., for the uses and purposes therein set forth.

Given under my hand and notarial seal this 9 day of May, 2006.



Jennifer Grahn
Notary Public

My Commission Expires: 6-29-09

UNOFFICIAL COPY

STATE OF ILLINOIS)
)
 COUNTY OF DUPAGE) SS

I, the undersigned, a Notary Public in and for said County in the State aforesaid, do hereby certify that MARC GRYZLO, of OXFORD BANK & TRUST, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such _____, 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 bank, for the uses and purposes therein set forth.

~~Gave, under my hand and notarial seal this~~ 11th day of MAY, 2006.
 "OFFICIAL SEAL"
 Angela L. Cook
 Notary Public, State of Illinois
 My Commission Expires 6/19/07

Angela L. Cook
 Notary Public

My Commission Expires: 6-19-07

Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT "A"

PIN: 14-32-134-015-0000

ADDRESS: 2017 Magnolia, Chicago, Illinois

LOT 14 IN MARTIN LEWIS' SUBDIVISION OF LOT 25 OF SUB BLOCK 5 OF BLOCK 13; ALSO THE NORTH 6 FEET OF LOT 24 IN THE SUBDIVISION OF BLOCK 13 OF SHEFFIELD'S ADDITION TO CHICAGO IN SECTION 32, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.