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Cook County Recorder of Deeds  
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Recorder's Box

## **FIRST LOAN MODIFICATION AGREEMENT**

**THIS FIRST LOAN MODIFICATION AGREEMENT** (the "Modification") is dated as of the 25<sup>th</sup> day of May, 2006, effective as of the 30th day of April, 2006, by and among **THE PRIVATEBANK AND TRUST COMPANY**, an Illinois banking corporation ("Lender"), **OLD TOWN RESIDENTIAL L.L.C.** ("Old Town LLC"), an Illinois limited liability company, **DIVISION AND CROSBY, L.L.C.** ("Division LLC"), an Illinois limited liability company, **DIVISION MIDRISE, L.L.C.** ("Midrise LLC"), an Illinois limited liability company, and **DANIEL E. MCLEAN** ("McLean") (collectively referred to as the "Borrower"). Old Town LLC, Midrise LLC and Division LLC are collectively the "LLC Borrowers").

### **RECITALS:**

**WHEREAS**, Lender originally made a \$2,500,000.00 loan (the "Loan") to Borrower pursuant to a certain Loan Agreement dated October 24, 2005 (the "Loan Agreement");

**WHEREAS**, to evidence the Loan, Borrower executed and delivered to Lender a certain Mortgage Note dated October 24, 2006 in the original principal amount of \$2,500,000.00 (the "Note");

**WHEREAS**, the Note is secured by a certain (i) Mortgage and Security Agreement, from LLC Borrowers in favor of Lender dated October 24, 2005, recorded with the Cook County, Illinois Recorder, on October 25, 2005 as Document No. 0529842206 (the "Chicago Mortgage"), which Chicago Mortgage encumbers certain real property located in Cook County, Illinois legally described on Exhibit "A" attached hereto (the "Chicago Property"), and (ii) Assignment of Rents and of Lessor's Interest in Leases from LLC Borrowers in favor of Lender dated October 24, 2005, recorded with the Cook County, Illinois Recorder on October 25, 2005 as Document No. 0529842207 ("Chicago Assignment of Rents"), which Chicago Assignment of Rents also encumbers the Chicago Property;

**WHEREAS**, the Note is also secured by a certain (i) Mortgage and Security Agreement, from McLean in favor of Lender dated October 24, 2005, recorded with the Walworth County, Wisconsin Recorder, on October 28, 2005 as Document No. 658008 (the "Wisconsin Mortgage"), which Wisconsin Mortgage encumbers certain real property located in Walworth County, Wisconsin legally described on Exhibit "B" attached hereto (the "Wisconsin Property"), and (ii) Assignment of Rents and of Lessor's Interest in Leases from McLean in favor of Lender dated October 24, 2005, recorded with the Walworth County, Wisconsin Recorder on October 28, 2005 as Document No. 658009 ("Wisconsin Assignment of

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Rents"), which Assignment of Rents also encumbers the Wisconsin Property. (The Wisconsin Mortgage and Chicago Mortgage are collectively referred to as the "Mortgages" and the Wisconsin Assignment of Rents and Chicago Assignment of Rents are collectively referred to as the "Assignments of Rents");

**WHEREAS**, McLean is the sole member of LLC Borrowers and has a financial interest therein;

**WHEREAS**, the parties desire to modify the Loan Agreement, Note, Chicago Mortgage, Wisconsin Mortgage, Chicago Assignment of Rents, Wisconsin Assignment of Rents and all of the other documents given to Lender in connection with the Loan (collectively, the "Loan Documents") to, inter alia; extend the maturity date of the Loan.

**NOW THEREFORE**, in consideration of the premises and the mutual promises of the parties, the receipt and sufficiency of which are hereby acknowledged by Borrower, it is hereby agreed as follows:

1. **Note.** Section 7.1(a) of the Note is modified by deleting "April 30, 2006" and inserting "September 1, 2006" in its stead.
2. **Mortgages. Assignments of Rents.** The Mortgages are hereby amended by deleting "April 30, 2006" in the fifth line of the second paragraph of the Preamble to each Mortgage and inserting "September 1, 2006" in its stead. The Assignments of Rents are hereby amended by deleting "April 30, 2005" in the fifth line of the second paragraph of the Preamble to each Assignment of rents and inserting "September 30, 2006" in its stead.
3. **Loan Agreement.** The Loan Agreement is hereby amended by deleting "April 30, 2006" in the definition of Maturity Date in Section 1.1 and inserting September 1, 2006" in its stead.
4. **Sale Properties.** The pledge of McLean's interest in the sales proceeds from the sale of the Sale Properties, are described in Section 4.1.38 of the Loan Agreement, is hereby amended to delete River East Center ("River East") from the list of Sale Properties, which was set forth in Exhibit "A" to the Loan Agreement.
5. **Assignment of Proceeds.** The Assignment of Proceeds Agreement dated October 24, 2005 ("Proceeds Agreement") is hereby amended by deleting River East from Exhibit "A" to the Proceeds Agreement and by deleting McLean's interest in MCL CDC RED LLC from Exhibit "B" attached to the Proceeds Agreement.
6. **Conditions Precedent.** The modifications provided for in this Modification shall be effective only upon the following conditions being complied with by Borrower:
  - a. That no default under the Loan has occurred and there is no uncured event of default beyond any applicable notice and grace period, under the Note, Mortgages, Assignments of Rents or other Loan Documents, as of the date hereof;
  - b. Delivery to Lender of the following, each in form and content satisfactory to Lender:
    - i. an endorsement to Loan Policy No. 8297786 issued by Chicago Title Insurance Company (the "Title Company") previously delivered to Lender insuring the Mortgage to reflect the recording of this Modification;

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7. **No Waiver.** Nothing herein contained shall impair the Loan Documents, as heretofore modified in any way, nor alter, waive, annul, vary, nor affect any provision, condition therein contained except as expressly herein provided, nor affect or impair any right, power or remedy of Lender. It being the intention of the parties hereto that the terms and provision of the Loan Documents, as heretofore modified shall continue in full force and effect except as expressly modified in connection herewith.

8. **Costs.** Contemporaneously with the execution and delivery hereof, Borrower shall pay or cause to be paid to Lender the sum of Eight Thousand Three Hundred Thirty Three and No/100 Dollars (\$8,333.00) as a loan fee and closing costs and expenses, including title insurance premiums, recording fees and legal fees incurred by Lender incident to the transactions contemplated herein.

9. **Representations and Warranties.** Borrower hereby remakes all representations and warranties in the Loan Documents. In addition, Borrower hereby represents and warrants to Lender that (i) Borrower has no defense, offset or counterclaim with respect to the payment of any sum owed to Lender, with respect to any covenant in the Loan Documents; (ii) Lender, on as of the date hereof, has fully performed all obligations to Borrower which may have had or has on and as of the date hereof; (iii) other than as expressly set forth herein, by entering into this Modification, Lender does not waive any condition or obligation in the Loan Documents; and (iv) the Loan Documents are in full force and effect.

10. **Governing Law.** This Modification shall be governed and construed in accordance with the laws of the State of Illinois.

11. **Counterparts.** This Modification may be executed in one or more counterparts, which together shall comprise the entire agreement.

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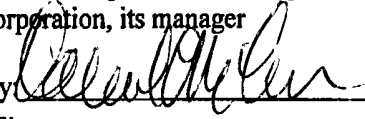
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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**BORROWER:**


**OLD TOWN SQUARE RESIDENTIAL, L.L.C.**, an Illinois limited liability company

By: **MCL Companies of Chicago, Inc.**, an Illinois corporation, its manager

By:   
Its: \_\_\_\_\_

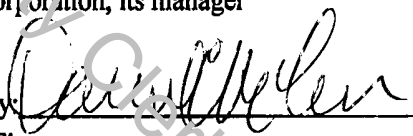
**DIVISION AND CROSBY, L.L.C.**, an Illinois limited liability company

By: **MCL Companies of Chicago, Inc.**, an Illinois corporation, its manager

By:   
Its: \_\_\_\_\_

**DIVISION MIDRISE, L.L.C.**, an Illinois limited liability company

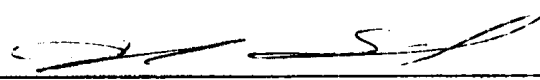
By: **MCL Companies of Chicago, Inc.**, an Illinois corporation, its manager

By:   
Its: \_\_\_\_\_

  
**DANIEL MCLEAN**

**LENDER:**

**THE PRIVATEBANK AND TRUST COMPANY**, an Illinois banking corporation

By:   
Name: DANIEL C SIROAK  
Title: MANAGING DIRECTOR

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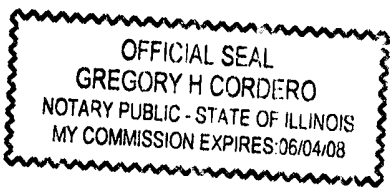
STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for the said County, in the State aforesaid, DO CERTIFY THAT Daniel McLean, \_\_\_\_\_ of MCL COMPANIES OF CHICAGO, INC., being the Manager of DIVISION MIDRISE, L.L.C., personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own 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 notarial seal this 25<sup>th</sup> day of May, 2006.

[Signature]  
\_\_\_\_\_  
Notary Public

My Commission Expires: 6/4/08



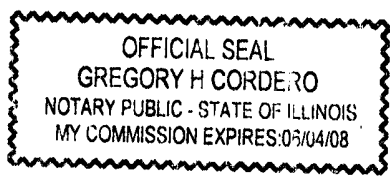
STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for the said County, in the State aforesaid, DO CERTIFY THAT Daniel McLean, \_\_\_\_\_ of MCL COMPANIES OF CHICAGO, INC., being the Manager of OLD TOWN RESIDENTIAL L.L.C., personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own 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 notarial seal this 25<sup>th</sup> day of May, 2006.

[Signature]  
\_\_\_\_\_  
Notary Public

My Commission Expires: 6/4/08



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STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for the said County, in the State aforesaid, DO CERTIFY THAT Daniel McLean, \_\_\_\_\_ of MCL COMPANIES OF CHICAGO, INC., being the Manager of DIVISION AND CROSBY, L.L.C., personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own 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 notarial seal this 25<sup>th</sup> day of May, 2006.

\_\_\_\_\_  
Notary Public

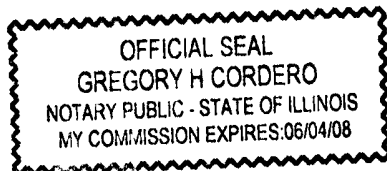
My Commission Expires: 6/4/08

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, Gregory H Cordero, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that DANIEL E. MCLEAN, who 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/she signed and delivered the said instrument as his/her own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 25<sup>th</sup> day of May, 2006.

\_\_\_\_\_  
Notary Public



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STATE OF ILLINOIS       )  
  ) SS.  
COUNTY OF COOK        )

I, the undersigned, a Notary Public in and for the said County, in the State aforesaid, DO CERTIFY THAT Daniel C Siadak, being a Managing Director of THE PRIVATEBANK AND TRUST COMPANY, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his 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 this 25<sup>th</sup> day of May, 2006.

[Signature]  
\_\_\_\_\_  
Notary Public

My Commission Expires: 6/4/08





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## EXHIBIT "A"

### Legal Description – Chicago Property

#### ESTATE 2:

PARCEL 1: UNITS 27-C, 28-C, 30-B, 30-C, 31-C, 32-B, 32-C, 33-C, 34-B, 35-B, 36-C, 37-C, 38-C, 39-B, 39-C, 40-B, 41-C, IN THE OLD TOWN VILLAGE WEST CONDOMINIUM AS DELINEATED ON A SURVEY OF THE FOLLOWING DESCRIBED REAL ESTATE:

CERTAIN LOTS IN THE OLD TOWN VILLAGE WEST SUBDIVISION, BEING A SUBDIVISION OF PART OF THE SOUTHWEST ¼ OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN; WHICH SURVEY IS ATTACHED AS EXHIBIT "E" TO THE DECLARATION OF CONDOMINIUM RECORDED AS DOCUMENT 0326510031, AND AS AMENDED; TOGETHER WITH ITS UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS, ALL IN COOK COUNTY, ILLINOIS.

PARCEL 2: EASEMENT FOR INGRESS AND EGRESS FOR THE BENEFIT OF PARCEL 1, AS CREATED BY THE COMMON EASEMENT AGREEMENT, RECORDED AS DOCUMENT 0326132110.

#### ESTATE 4:

PARCEL 1: UNIT P-27, IN THE MIDRISE OF OLD TOWN VILLAGE EAST CONDOMINIUMS AS DELINEATED ON THE SURVEY OF THE FOLLOWING DESCRIBED REAL ESTATE: THAT PART OF LOTS 32 AND 39 IN OLD TOWN VILLAGE EAST, BEING A SUBDIVISION IN THE WEST ½ OF THE NORTHEAST ¼ OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, WHICH SURVEY IS ATTACHED AS EXHIBIT "E" TO THE DECLARATION OF CONDOMINIUM, RECORDED AS DOCUMENT 0435239040, AND AMENDED FROM TIME TO TIME; TOGETHER WITH ITS UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS, IN COOK COUNTY, ILLINOIS.

PARCEL 2: EASEMENTS FOR INGRESS AND EGRESS, USE AND ENJOYMENT FOR THE BENEFIT OF PARCEL 1, AS CREATED BY DECLARATION OF EASEMENTS RESTRICTIONS, AND COVENANTS FOR OLD TOWN VILLAGE EAST HOMEOWNERS ASSOCIATION RECORDED AS DOCUMENT 0322519031, AND BY THE COMMON EASEMENT AGREEMENT RECORDED AS DOCUMENT 0322519030.

P.I.N.: 17-04-309-015-0000, 17-04-309-016-0000, 17-04-309-018-0000, 17-04-309-019-0000,  
17-04-309-020-0000, 17-04-309-021-0000, 17-04-309-022-0000, 17-04-309-023-0000,  
17-04-309-024-0000, 17-04-309-025-0000, 17-04-309-026-0000, 17-04-309-027-0000,  
17-04-309-028-0000, 17-04-309-029-0000, 17-04-220-092-0000



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## EXHIBIT "B"

### Legal Description - Wisconsin Property

Part of the East 1/2 of the Southeast 1/4 of Section 5, Township 1 North, Range 18 East, and part of the Southwest 1/4 of Section 4, Town 1 North, Range 18 East, in Walworth County, Wisconsin and being more particularly described as follows: A parcel in Section 4 beginning at a point in the West line of said Section 4 located 500 feet Southerly from 1/4 corner between said Sections 4 and 5; thence Southeasterly to a point in the East line of the Southwest 1/4 of Section 4 located 1000 feet Northerly from the South 1/4 corner of said Section 4; thence Southerly 1000 feet to said South 1/4 corner; thence Westerly to the Southwest corner of said Section 4; thence Northerly on the West line of said Section to the point of beginning.

Together with a parcel in Section 5 beginning at an iron pipe stake recorded as being located 440.8 feet West and 300 feet South 2 degrees 17' East from the East 1/4 corner of said Section 5; thence South 2 degrees 19' East 144 feet; thence South 80 degrees 48' West 247.6 feet; thence North 21 degrees 50' West 197.6 feet; thence North 10 Degrees 11' East 305 feet to the 1/4 section line; thence West 81.4 feet; thence South 10 degrees 05' West 155 feet; thence South 33 degrees 30' West 74.63 feet; thence South 11 degrees 30' West 32.46 feet; thence Southeasterly to the Southeast corner of the East 1/2 of the Southeast 1/4 of Section 5; thence Northerly on the East line of said Section 5 to a point located 500 feet Southerly from the East 1/4 section corner; thence Northwesterly to the point of beginning.

Also part of the East 1/2 of the Southeast 1/4 of Section 5, Township 1 North, Range 18 East, in Walworth County, Wisconsin and being more particularly described as follows: Beginning at a point in the 1/4 Section line located 768.2 feet Westerly from the East 1/4 section corner of said Section 5; thence South 10 degrees 05' West 155 feet; thence South 33 degrees 30' West 74.63 feet; thence South 11 degrees 30' West 32.46 feet; thence Southeasterly to the Southeast corner of the East 1/2 of the Southeast 1/4 of Section 5; thence Westerly to the Southwest corner of said East 1/2; thence Northerly to the Northwest corner of said East 1/2; thence Easterly to the point of beginning.

Also part of the East 1/2 of the Southeast 1/4 of Section 5, Township 1 North, Range 18 East, and part of the Southwest 1/4 of Section 4, Township 1 North, Range 18 East, in Walworth County, Wisconsin and being more particularly described as follows: Beginning at 1/4 Section corner between said Sections 4 and 5; thence West 686.8 feet on the 1/4 section line; thence South 10 degrees 11' West 305 feet; thence South 21 degrees 50' East 197.6 feet; thence North 80 degrees 48' East 247.6 feet; thence North 2 degrees 19' West 144 feet; thence Southeasterly to a point in the East line of Section 5 located 500 feet Southerly from the point of beginning; thence Southeasterly to a point in the East line of the Southwest 1/4 of Section 4 located 1000 feet Northerly from the South 1/4 corner of said Section 4; thence Northerly and Northwesterly along the Southerly right of way of US Highway 12 and Relocated Brever Lane to the Southeast corner of Lot 1 of Certified Survey Map No. 1145; thence Westerly along the South line of said Certified Survey Map No. 1145 to the Southwest corner of said Lot 1; thence Northerly along the West line of said Certified Survey Map No. 1145 to the East-West 1/4 section line of said Section 4; thence Westerly on the 1/4 section line 317.21 feet to the point of beginning. (Said parcel includes Lot 1 of Certified Survey Map No. 3298)

Also a strip of land 24 feet wide lying South of US Highway 12 on the West side of the West 1/2 Southeast 1/4, Section 4, Township 1 North, Range 18 East, Walworth County, Wisconsin.

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Also the West 3/4 of the Northwest 1/4 of Section 9, also a perpetual right of way for farm purposes over the North 1 rod in the width of the East 40 acres of the Northwest 1/4, Section 9, and so much of the Northwest corner of the West 1/2 of the Northeast 1/4 of said Section as is necessary to connect said right of way with the right of way conveyed to said second party herein, Section 9, Township 1 North, Range 18 East, Walworth County, Wisconsin.

Also Lot No. 1 of Certified Survey Map No. 976, being a part of the Northwest 1/4 of the Southeast 1/4 of Section 5, Township 1 North, Range 18 East, Town of Bloomfield, Walworth County, Wisconsin, and recorded in the office of the Register of Deeds for Walworth County, Wisconsin, on November 5, 1979 in Volume 4 of Certified Surveys, at page 239 as Document No. 53157. Situated in Walworth County, Wisconsin.

Lot 1 of Certified Survey Map No. 1145 located in the NW 1/4 of the SW 1/4 of Section 4, T1N, R16E, Walworth County, Wisconsin, recorded May 18, 1981 in Volume 5 of Certified Surveys on page 186 as Document No. 69046.

Tax Key No. MB500004, MB500009A, MB500009, MB400004B, MB400004, MA329800001, MA97600001, & MA114500001

Property of Cook County Clerk's Office