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Cook County Recorder of Deeds
Date: 06/22/2006 02:34 PM Pg: 1 of 13

AMENDMENT TO CONSTRUCTION LOAN AGREEMENT, MORTGAGE, AND OTHER LOAN DOCUMENTS

This Amendment to Construction Loan Agreement, Mortgage and Other Loan Documents (this "Amendment") is made as of the 18th day of May, 2006 by and among 1459 W. FARGO, LLC, an Illinois limited liability company ("Borrower"), IBRAHIM SHIHADDEH, an individual ("Guarantor"), and FIFTH THIRD BANK (CHICAGO) ("Lender").

RECITALS

- A. Lender and Borrower are parties to that certain Construction Loan Agreement dated as of November 19, 2004 (as amended or otherwise modified from time to time, the "Loan Agreement"), pursuant to which Lender agreed to provide a loan ("Loan") to Borrower in the original principal amount of Three Million Five Hundred Thousand and 00/100 Dollars (\$3,500,000).
- B. In connection with the Loan Agreement, Borrower executed that certain Promissory Note dated as of November 19, 2004 (as amended or otherwise modified from time to time, the "Note") in favor of Lender in the original principal amount of Three Million Five Hundred Thousand and 00/100 Dollars (\$3,500,000).
- C. In connection with the Loan Agreement, Guarantor executed that certain Environmental Indemnity Agreement dated as of November 19, 2004 (as amended or otherwise modified from time to time, the "Environmental Indemnity Agreement").
- D. In connection with the Loan Agreement, Guarantor executed that certain Guaranty of Payment dated as of November 19, 2004 (as amended or otherwise

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Lawyers Unit # 11344 Case # 0574543/AMM

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modified from time to time, the "Guaranty of Payment").

- E. In connection with the Loan Agreement, Guarantor executed that certain Guaranty of Completion dated as of November 19, 2004 (as amended or otherwise modified from time to time, the "Guaranty of Completion").
- F. The Loan is presently secured by, among other things, (i) a Construction Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated as of November 19, 2004 by Borrower in favor Lender and recorded in the Office of the Cook County Recorder of Deeds on November 23, 2004 as Document No. 0432834143 (as amended or otherwise modified from time to time, the "Mortgage") in respect of certain real property legally described herein, (ii) an Assignment of Leases and Rents dated as of November 19, 2004 by Borrower in favor of Lender and recorded in the Office of the Cook County Recorder of Deeds on November 23, 2004 as Document No. 0432834144 (as amended or otherwise modified from time to time, the "Assignment of Leases"), and (iii) a Security Agreement dated as of November 19, 2004 executed by Borrower in favor of Lender (as amended or otherwise modified from time to time, the "Security Agreement").
- G. The parties desire to modify the Loan and the Loan Documents to (i) extend the Maturity Date from May 18, 2006 until November 18, 2006, (ii) grant Borrower an option to extend the Maturity Date for a duration of six (6) months beyond November, 2006, subject to certain terms and conditions and (iii) amend the Loan and the Loan Documents in certain other respects as set forth below, in each case upon the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of Ten and No/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 Amendment by reference as if fully set forth in this Section 1. Wherever the terms and conditions of this Loan Agreement or any of the other Loan Documents conflict with the terms and conditions of this Amendment, the terms and conditions of this Amendment shall control.

2. **Defined Terms.** Unless otherwise defined herein, capitalized terms used herein shall have the meanings ascribed to such terms in the Loan Agreement.

3. **Amendments to Loan Agreement.** Subject to the satisfaction of the conditions set forth in Section 7 hereof, the Loan Agreement is hereby amended as follows:

(a) The definition of "Maturity Date" set forth in Section 2.1(ee) of the Loan Agreement is hereby amended and restated in its entirety as follows: "Twenty four (24) months from the date of the first Advance under the Loan, unless the principal balance is due earlier by way of acceleration or unless extended pursuant to Section 4.4."

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(b) The following defined term set forth in Section 2 of the Loan Agreement is hereby amended and restated in its as follows:

"Loan Documents: The documents and instruments listed in Section 4.2, the Amendment Documents and all other agreements, documents and instruments now or hereafter evidencing or securing the Loan, in each case, as they may be revised, amended, modified or supplemented from time to time in accordance with the terms and provisions thereof."

(c) The following defined terms are hereby added to Section 2.1 of the Loan Agreement, in each case in appropriate alphabetical order:

"Amendment Date: May 18, 2006."

"Amendment to Construction Loan Agreement: The Amendment to Construction Loan Agreement, Mortgage and other Loan Documents dated as of the Amendment Date and executed by the parties thereto, as amended or otherwise modified from time to time."

"Amendment Documents: The Amendment to Construction Loan Agreement and all other agreements, documents and instruments now or hereafter executed in connection therewith, in each case, as they may be revised, amended, modified or supplemented from time to time in accordance with the terms and provisions thereof."

(d) Section 4.3(g) of the Loan Agreement is hereby amended and restated in its entirety as follows:

"(g) Interest Reserve. The parties acknowledge that upon Loan Opening the Loan included an interest reserve in the initial amount of Two Hundred Forty Nine Thousand Three Hundred Seventy Five and No/100 Dollars (\$249,375.00) (the "Initial Interest Reserve") established for the payment of interest during construction. On or before the Amendment Date, Borrower shall deposit with Lender Sixty Thousand and No/100 Dollars (\$60,000.00) (the "Additional Interest Reserve"; the Additional Interest Reserve and the Initial Interest Reserve are collectively, the "Interest Reserve"), which Additional Interest Reserve shall be retained by Lender as an interest reserve for the payment of interest on the Loan in the manner specified below. Lender and Borrower acknowledge and agree that the Additional Interest Reserve shall be deposited with Lender by allocation of funds held by Lender in the portion of the Soft Costs allocated to "Project Management, Acct./Admin. Costs". During the term of the Loan, amounts in the Interest Reserve will, to the extent necessary, be advanced by Lender from time to time as interest payments become due to pay regularly scheduled interest on the Loan so long as no Default or Event of Default has occurred and so long as the sum of the undisbursed proceeds of the Loan together with any amounts deposited with Lender by the Borrower are sufficient to complete the Project. For purposes of determining whether the Loan is "in balance", the Interest Reserve will be reviewed in order to determine whether sufficient funds remain in such reserve to pay for the estimated interest expense on the loan through the Maturity Date. Under no circumstances will the Interest Reserve be included in the computation of the undisbursed portion of the Loan for purposes of determining whether sufficient funds remain in the Loan to pay for the costs of construction of Improvements."

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(e) Section 4.4 of the Loan Agreement is hereby amended and restated in its entirety as follows:

"The entire principal balance of the Note and all accrued and unpaid interest thereon shall be due, if not sooner paid, on the Maturity Date. Provided that (i) no Event of Default has occurred and is existing, either as of the date of Borrower's exercise of the Option to Extend (defined below) or as of the original Maturity Date, (ii) the Improvements have been completed or Lender reasonably believes that the Improvements will be substantially completed on or prior to the original Maturity Date, (iii) Borrower has maintained its existence and (iv) Lender shall be satisfied, at the time the option is exercised, in its sole discretion that the Interest Reserve has sufficient funds, Borrower shall have an option (the "Option to Extend") to extend the Maturity Date for a period of six (6) months (the "Extension Period"), exercisable by providing Lender with written notice of its exercise of the Option to Extend no later than thirty (30) days prior to the Maturity Date and delivering to Lender a nonrefundable extension fee in the amount of one quarter of one percent (.25%) of the original principal amount of the Loan, provided, however, in no event shall Lender be obligated to make any additional Advances during the Extension Period."

4. **Amendment to Mortgage.** Subject to the satisfaction of the conditions set forth in Section 7 hereof, the Mortgage is hereby amended as follows:

(a) Recital D set forth in the Mortgage is hereby amended and restated in its entirety as follows: "The Loan, if not sooner paid, shall be due and payable on November 18, 2006, unless extended pursuant to the Loan Agreement (the "Maturity Date")."

(b) The defined term "Loan Agreement" is hereby amended such that such defined term shall include any respective amendments or other modifications from time to time thereto.

5. **Omnibus Amendments to Loan Documents.** Subject to the satisfaction of the conditions set forth in Section 7 hereof, each of the Loan Documents is hereby reaffirmed and amended as follows:

(a) To the extent applicable, the defined terms "Loan Agreement", "Note" and "Mortgage", together with any other defined terms, under each of the Loan Documents are hereby amended such that such defined terms shall include any respective amendments or other modifications from time to time thereto.

(b) Each party to the Loan Documents hereby ratifies and reaffirms his, her or its respective obligations under the Loan Documents. Each party further agrees that the Loan Documents shall remain in full force and effect following the execution and delivery of the Amendment Documents, that all references to the "Loan Documents" in any of the Loan Document shall be deemed to refer to the Loan Documents as amended by this Amendment. Except as expressly set forth in the Amendment Documents, the Loan Documents shall remain unmodified and in full force and effect.

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6. **Ratification.** This Amendment, subject to satisfaction of the conditions provided below, shall constitute an amendment to the Loan Agreement and all of the Loan Documents as appropriate to express the agreements contained herein. Except as specifically set forth herein, the Loan Agreement and the Loan Documents shall remain unchanged and in full force and effect in accordance with their original terms.

7. **Conditions to Effectiveness.** Borrower agrees that it will, as a condition precedent to the effectiveness of this Amendment, execute and deliver or cause to be executed and delivered the following documents and instruments in form and substance satisfactory to Lender:

- (a) This Amendment executed by the parties hereto;
- (b) A ratification and reaffirmation of the Guaranty of Payment and the Guaranty of Completion, each executed by Guarantor;
- (c) A date down endorsement bringing current the effective date coverage under the Lender's loan policy of title insurance;
- (d) Delivery by Borrower to Lender of the Additional Interest Reserve in the amount of Sixty Thousand and No/100 Dollars (\$60,000.00) by allocation of funds held by Lender in the portion of the Soft Costs allocated to "Project Management, Acct./Admin. Costs";
- (e) An authority certificate and resolutions of Borrower and such other documents as may be required by Lender to evidence all necessary authorization by Borrower to enter into the transactions contemplated by this Amendment;
- (f) Borrower shall have paid to Lender a non-refundable fee in the amount of Eight Thousand Seven Hundred Fifty Dollars (\$8,750), which shall be fully earned by Lender as of its receipt thereof;
- (g) Lender shall have received such other agreements, documents and other items as Lender may require; and
- (h) No Default or event which with the giving of notice or passage of time would constitute a Default or event of default shall have occurred and be continuing on the date hereof, nor shall result from the consummation of the transaction contemplated herein.

8. **Miscellaneous.**

(a) **Warranties and Absence of Defaults.** To induce Lender to enter into this Amendment, Borrower and Guarantor each hereby represents and warrants to Lender that:

- (i) The execution, delivery and performance by it of this Amendment and each of the other agreements, instruments and documents contemplated hereby are within its corporate, company, partnership or personal power, have been duly authorized by all necessary corporate, company or partnership action, have received all necessary governmental approval (if any shall be required), and do not and will not contravene or

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conflict with any provision of law applicable to it, its articles of incorporation, articles of association or comparable formation documents (as applicable), and by-laws, operating agreement, partnership agreement or comparable documents (as applicable), any order, judgment or decree of any court or governmental agency, or any agreement, instrument or document binding upon it or any of its property;

(ii) Each of the Loan Agreement and the other Loan Documents, as amended by this Amendment, are the legal, valid and binding obligation of it enforceable against it in accordance with its terms, except as the enforcement thereof may be subject to (A) the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditor's rights generally, and (B) general principles of equity;

(iii) The representations and warranties made by it contained in the Loan Agreement and the other Loan Documents are true and accurate as of the date hereof with the same force and effect as if such had been made on and as of the date hereof; and

(iv) It has performed all of its obligations under the Loan Agreement and the Loan Documents to be performed by it on or before the date hereof and as of the date hereof, it is in compliance with all applicable terms and provisions of the Loan Agreement and each of the Loan Documents to be observed and performed by it and no Default or other event of default or other event which upon notice or lapse of time or both would constitute a Default or other event of default has occurred.

(b) Expenses. Borrower agrees to pay on demand all costs and expenses of Lender (including the fees and expenses of outside counsel for Lender) in connection with the preparation, negotiation, execution, delivery and administration of this Amendment and all other instruments or documents provided for herein or delivered or to be delivered hereunder or in connection herewith. In addition, Borrower agrees to pay, and save Lender harmless from all liability for, any stamp or other taxes which may be payable in connection with the execution or delivery of this Amendment or the Loan Documents, as amended hereby, and the execution and delivery of any instruments or documents provided for herein or delivered or to be delivered hereunder or in connection herewith. All obligations provided herein shall survive any termination of the Loan Agreement as amended hereby.

(c) Captions. Section captions used in this Amendment are for convenience only, and shall not affect the construction of this Amendment.

(d) Governing Law. This Amendment shall be a contract made under and governed by the internal laws of the State of Illinois. Whenever possible each provision of this Amendment shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Amendment shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Amendment.

(e) Successors and Assigns. This Amendment shall be binding upon and shall inure to the sole benefit of Borrower, Guarantor and Lender and their respective successors and assigns.

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(f) References. Any reference to the Loan Documents contained in any notice, request, certificate, or other document executed concurrently with or after the execution and delivery of this Amendment shall be deemed to include this Amendment unless the context shall otherwise require.

(g) Construction. Borrower and Guarantor acknowledges that it has been represented by its own legal counsel in connection with this Amendment, that it has exercised independent judgment with respect to this Amendment, and that it has not relied on the Lender's counsel for any advice with respect to this Amendment.

(h) Counterparts. This Amendment may be executed in any number of counterparts, and by the parties hereto on the same or separate counterparts, and each such counterpart, when executed and delivered, shall be deemed to be an original, but all such counterparts shall together constitute but one and the same Amendment. This Amendment may be executed by virtue of transmission of facsimile signature pages, each of which shall for all purposes be deemed as fully effective as the original thereof.

9. Release.

(a) In consideration of the agreements of Lender contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Borrower and Guarantor, on behalf of itself and its respective successors, assigns, and other legal representatives, hereby absolutely, unconditionally and irrevocably releases, remises and forever discharges Lender, and its successors and assigns, and their present and former shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees, agents and other representatives (Lender and all such other persons being hereinafter referred to collectively as the "Releasees" and individually as a "Releasee"), of and from all demands, actions, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defenses, rights of set-off, demands and liabilities whatsoever (individually, a "Claim" and collectively, "Claims") of every name and nature, known or unknown, suspected or unsuspected, both at law and in equity, which Borrower, Guarantor or any of its successors, assigns, or other legal representatives may now or hereafter own, hold, have or claim to have against the Releasees or any of them for, upon, or by reason of any circumstance, action, cause or thing whatsoever which arises at any time on or prior to the day and date of this Amendment, including, without limitation, for or on account of, or in relation to, or in any way in connection with any of the Loan Agreement, or any of the other Loan Documents or transactions thereunder or related thereto.

(b) Borrower and Guarantor understand, acknowledge and agree that the release set forth above may be pleaded as a full and complete defense and may be used as a basis for an injunction against any action, suit or other proceeding which may be instituted, prosecuted or attempted in breach of the provisions of such release.

(c) Borrower and Guarantor agree that no fact, event, circumstance, evidence or transaction which could now be asserted or which may hereafter be discovered shall affect in any manner the final, absolute and unconditional nature of the release set forth above.

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[signature pages follow]

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IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first above written.

Lender

FIFTH THIRD BANK (CHICAGO)

By: J. W. Schmitt

Name: _____

Its: V. P.

Borrower

1459 W. FARGO, LLC, an Illinois limited liability company

By: _____

Name: Ibrahim Shihadeh, its Manager

Guarantor

IBRAHIM SHIHADAH

Ibrahim Shihadeh

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IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first above written.

Lender

FIFTH THIRD BANK (CHICAGO)

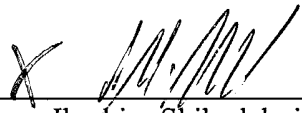
By: _____

Name: _____

Its: _____

Borrower

1459 W. FARGO, LLC, an Illinois limited liability company

By:  _____

Name: Ibrahim Shihadeh, its Manager

Guarantor

IBRAHIM SHIHADAH

 _____

Ibrahim Shihadeh

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STATE OF ILLINOIS)
) SS.
 COUNTY OF COOK)

I, NANCY A ALLEN, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that M W H SCHMITT, as VICE PRESIDENT of Fifth Third Bank (Chicago), personally known to me to be the same person whose name is subscribed to the foregoing instrument as such VICE PRESIDENT, appeared before me this day in person and acknowledged that he signed and delivered said instrument as such officer of said association, as his own free and voluntary act and as the free and voluntary act of said association, for the uses and purposes therein set forth.

Given under my hand and Notarial seal, this 31st day of MAY, 2006.

Nancy A Allen
 Notary Public



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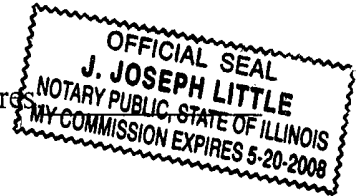
STATE OF ILLINOIS)
)
COUNTY OF (roke)) SS.

I, J. Joseph Little, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Ibrahim Shihadeh, as Manager of 1459 W. Fargo, LLC, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Manager, appeared before me this day in person and acknowledged that he signed and delivered said instrument as such officer of said association, as his own free and voluntary act and as the free and voluntary act of said association, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 21st day of May, 2006.

[Signature]
NOTARY PUBLIC

My Commission Expires



STATE OF ILLINOIS)
)
COUNTY OF Co-ke) SS.

I, J. Joseph Little, a Notary Public, do hereby certify that Ibrahim Shihadeh, 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 a free and voluntary act and for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 20th day of May, 2006.

[Signature]
Notary Public



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Legal Description

LOT 10 IN BLOCK 10 IN BIRCHWOOD BEACH, A SUBDIVISION OF SECTION 29, TOWNSHIP 41 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 27, 1890 IN BOOK 42 OF PLATS, PAGE 39, AS DOCUMENT NUMBER 1326212, IN COOK COUNTY, ILLINOIS.

PIN: 11-29-311-001

ADDRESS: 1459-1467 WEST FARGO & 7429-7431 NORTH GREENVIEW, CHICAGO, ILLINOIS

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