

UNOFFICIAL COPY



Doc#: 0700345073 Fee: \$70.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 01/03/2007 04:00 PM Pg: 1 of 8

Record and Return To:

Prepared by: Katen "Keith" Pabley
c/o Kahan Law Offices
393 Vine Av.
Highland Park, IL 60035

MORTGAGE

Secured Party #

THIS MORTGAGE ("Security Instrument") is given on 1/3/07. The mortgagor is Keithroy Scott. ("Party to the Agreement")

This Security Instrument is given to Capital Solutions.

whose address is 1707 W. Roscoe, Chicago, Illinois ("Secured Party").

Party to the Agreement has entered into a written Agreement for Development of residential Property, otherwise known as 1820 Wesley, Evanston, Illinois, 60201, dated on or before the date hereof under which the Party to the Agreement is obligated and indebted to the Secured Party for the payment of certain fees and the performance of certain obligations all as more fully set out therein. The obligations and indebtedness of the Party to the Agreement is evidenced by the Agreement. This debt is evidenced by Party to the Agreement's Agreement dated the on or before the date of this Security Instrument ("Agreement"), which provides for the payment of the indebtedness upon the sale of the property secured by this Mortgage. This Security Instrument secures to Secured Party: (a) the payment of the indebtedness evidenced by the Agreement; (b) the payment of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security Instrument; and (c) the performance of Party to the Agreement's covenants and agreements under this Security Instrument and the Agreement. For this purpose, Party to the Agreement does hereby mortgage, grant and convey to Secured Party the following described property located in Cook County, Illinois:
(legal description) See Exhibit A Attached

Perm Index No.: 10-13-218-022-000

which has the address of: 1820 Wesley, Evanston, , Illinois

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

Party to the Agreement COVENANTS that Party to the Agreement is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Party to the Agreement warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Party to the Agreement and Secured Party covenant and agree as follows:

✓

UNOFFICIAL COPY

1. Payment of Principal. Party to the Agreement shall promptly pay when due the principal of the indebtedness evidenced by the Agreement when due.

2. Funds for Taxes and Insurance. Subject to applicable law or to a written waiver by Secured Party, Party to the Agreement shall pay to Secured Party on the first day of each month during the term of the Agreement, until the Agreement is paid and performed in full, a sum ("Funds") for: (a) yearly taxes and assessments which may attain priority over this Security Instrument as a lien on the Property; (b) yearly leasehold payments or ground rents on the Property, if any; (c) yearly hazard or property insurance premiums; (d) yearly flood insurance premiums, if any; (e) yearly mortgage insurance premiums, if any; and (f) any sums payable by Party to the Agreement to Secured Party, in accordance with the provisions of paragraph 8, in lieu of the payment of mortgage insurance premiums. These items are called "Escrow Items." Secured Party may estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with applicable law.

Unless an agreement is made or applicable law requires interest to be paid, Secured Party shall not be required to pay Party to the Agreement any interest or earnings on the Funds. Party to the Agreement and Secured Party may agree in writing, however, that interest shall be paid on the Funds. Secured Party shall give to Party to the Agreement, without charge, an annual accounting of the Funds, showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for all sums secured by this Security Instrument.

If the amount of the Funds held by Secured Party at any time is not sufficient to pay the Escrow Items when due, Secured Party may so notify Party to the Agreement in writing, and, in such case Party to the Agreement shall pay to Secured Party the amount necessary to make up the deficiency. Party to the Agreement shall make up the deficiency in no more than twelve monthly payments, at Secured Party's sole discretion.

Upon payment in full of all sums secured by this Security Instrument, Secured Party shall promptly refund to Party to the Agreement any Funds held by Secured Party. If, under paragraph 21, Secured Party shall acquire or sell the Property, Secured Party, prior to the acquisition or sale of the Property, shall apply any Funds held by Secured Party at the time of acquisition or sale as a credit against the sums secured by this Security Instrument.

3. Application of Payments. Unless applicable law provides otherwise, all payments received by Secured Party under paragraphs 1 and 2 shall be applied: first, to any prepayment charges due under the Agreement; second, to amounts payable under paragraph 2; and last, to principal due.

4. Charges; Liens. Party to the Agreement shall pay all taxes, assessments, charges, fines and impositions attributable to the Property which may attain priority over this Security Instrument, and leasehold payments or ground rents, if any. Party to the Agreement shall pay these obligations in the manner provided in paragraph 2, or if not paid in that manner, Party to the Agreement shall pay them on time directly to the person owed payment. Party to the Agreement shall promptly furnish to Secured Party all notices of amounts to be paid under this paragraph. If Party to the Agreement makes these payments directly, Party to the Agreement shall promptly furnish to Secured Party receipts evidencing the payments.

Party to the Agreement shall promptly discharge any lien which has priority over this Security Instrument unless Party to the Agreement: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Secured Party; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Secured Party's opinion operate to prevent the enforcement of the lien; or (c) secures from the holder of the lien an agreement satisfactory to Secured Party subordinating the lien to this Security Instrument. If Secured Party determines that any part of the Property is subject to a lien which may attain priority over this Security Instrument, Secured Party may give Party to the Agreement a notice identifying the lien. Party to the Agreement shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

5. Hazard or Property Insurance. Party to the Agreement shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage" and any other hazards, including floods or flooding, for which Secured Party requires insurance. This insurance shall be maintained in the amounts and for the periods that Secured Party requires. The insurance carrier providing the insurance shall be chosen by Party to the Agreement subject to Secured Party's approval which shall not be unreasonably withheld. If Party to the Agreement fails to maintain coverage described above, Secured Party may, at Secured Party's option, obtain coverage to

UNOFFICIAL COPY

protect Secured Party's rights in the Property in accordance with paragraph 7.

All insurance policies and renewals shall be acceptable to Secured Party and shall include a standard mortgage clause. Secured Party shall have the right to hold the policies and renewals. If Secured Party requires, Party to the Agreement shall promptly give to Secured Party all receipts of paid premiums and renewal notices. In the event of loss, Party to the Agreement shall give prompt notice to the insurance carrier and Secured Party. Secured Party may make proof of loss if not made promptly by Party to the Agreement.

Unless Secured Party and Party to the Agreement otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Secured Party's security is not lessened. If the restoration or repair is not economically feasible or Secured Party's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Party to the Agreement. If Party to the Agreement abandons the Property, or does not answer within 30 days a notice from Secured Party that the insurance carrier has offered to settle a claim, then Secured Party may collect the insurance proceeds. Secured Party may use the proceeds to repair or restore the Property or to pay sums secured by this Security Instrument, whether or not then due. The 30-day period will begin when the notice is given.

Unless Secured Party and Party to the Agreement otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the payments referred to in paragraphs 1 and 2 or change the amount of the payments. If under paragraph 21 the Property is acquired by Secured Party, Party to the Agreement's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Secured Party to the extent of the sums secured by this Security Instrument immediately prior to the acquisition.

6. Occupancy, Preservation, Maintenance and Protection of the Property; Party to the Agreement's Loan Application; Leaseholds. Party to the Agreement shall not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property. Party to the Agreement shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun that in Secured Party's good faith judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Security Instrument or Secured Party's security interest. Party to the Agreement may cure such a default and reinstate, as provided in paragraph 18, by causing the action or proceeding to be dismissed with a ruling that, in Secured Party's good faith determination, precludes forfeiture of the Party to the Agreement's interest in the Property or other material impairment of the lien created by this Security Instrument or Secured Party's security interest. Party to the Agreement shall also be in default if Party to the Agreement, during the loan application process, gave materially false or inaccurate information or statements to Secured Party (or failed to provide Secured Party with any material information) in connection with the loan evidenced by the Note, including, but not limited to, representations concerning Party to the Agreement's occupancy of the Property as a principal residence. If this Security Instrument is on a leasehold, Party to the Agreement shall comply with all the provisions of the lease. If Party to the Agreement acquires fee title to the Property, the leasehold and the fee title shall not merge unless Secured Party agrees to the merger in writing.

7. Protection of Secured Party's Rights in the Property. If Party to the Agreement fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Secured Party's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then Secured Party may do and pay for whatever is necessary to protect the value of the Property and Secured Party's rights in the Property. Secured Party's actions may include paying any sums secured by a lien which has priority over this Security Instrument, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although Secured Party may take action under this paragraph 7, Secured Party does not have to do so.

Any amounts disbursed by Secured Party under this paragraph 7 shall become additional debt of Party to the Agreement secured by this Security Instrument. Unless Party to the Agreement and Secured Party agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Secured Party to Party to the Agreement requesting payment.

8. Mortgage Insurance. If Secured Party required mortgage insurance as a condition of making the loan secured by this Security Instrument, Party to the Agreement shall pay the premiums required to

UNOFFICIAL COPY

maintain the mortgage insurance in effect. If, for any reason, the mortgage insurance coverage required by Secured Party lapses or ceases to be in effect, Party to the Agreement shall pay the premiums required to obtain coverage substantially equivalent to the mortgage insurance previously in effect, at a cost substantially equivalent to the cost to Party to the Agreement of the mortgage insurance previously in effect, from an alternate mortgage insurer approved by Secured Party. If substantially equivalent mortgage insurance coverage is not available, Party to the Agreement shall pay to Secured Party each month a sum equal to one-twelfth of the yearly mortgage insurance premium being paid by Party to the Agreement when the insurance coverage lapsed or ceased to be in effect. Secured Party will accept, use and retain these payments as a loss reserve in lieu of mortgage insurance. Loss reserve payments may no longer be required, at the option of Secured Party, if mortgage insurance coverage (in the amount and for the period that Secured Party requires) provided by an insurer approved by Secured Party again becomes available and is obtained. Party to the Agreement shall pay the premiums required to maintain mortgage insurance in effect, or to provide a loss reserve, until the requirement for mortgage insurance ends in accordance with any written agreement between Party to the Agreement and Secured Party or applicable law.

9. Inspection. Secured Party or its agent may make reasonable entries upon and inspections of the Property. Secured Party shall give Party to the Agreement notice at the time of or prior to an inspection specifying reasonable cause for the inspection.

10. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Secured Party.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Party to the Agreement. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the taking, unless Party to the Agreement and Secured Party otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to Party to the Agreement. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is less than the amount of the sums secured immediately before the taking, unless Party to the Agreement and Secured Party otherwise agree in writing or unless applicable law otherwise provides, the proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Party to the Agreement, or if, after notice by Secured Party to Party to the Agreement that the condemnor offers to make an award or settle a claim for damages, Party to the Agreement fails to respond to Secured Party within 30 days after the date the notice is given, Secured Party is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due.

Unless Secured Party and Party to the Agreement otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly payments referred to in paragraphs 1 and 2 or change the amount of such payments.

11. Party to the Agreement Not Released; Forbearance By Secured Party Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Secured Party to any successor in interest of Party to the Agreement shall not operate to release the liability of the original Party to the Agreement or Party to the Agreement's successors in interest. Secured Party shall not be required to commence proceedings against any successor in interest or agree to extend time for payment or otherwise modify the basis of the sums secured by this Security Instrument by reason of any demand made by the original Party to the Agreement or Party to the Agreement's successors in interest. Any forbearance by Secured Party in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

12. Successors and Assigns Bound; Co-signers. The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Secured Party and Party to the Agreement, subject to the provisions of paragraph 17.

13. Charges for Default of the Agreement. Secured Party may charge Party to the Agreement fees for services performed in connection with Party to the Agreement's default, for the purpose of protecting Secured Party's interest in the Property and rights under this Security Instrument, including, but

UNOFFICIAL COPY

not limited to, attorneys fees and property inspection fees. The absence of express authority in this Security Instrument to charge a specific fee to Party to the Agreement shall not be construed as a prohibition on the charging of such fee. Secured Party may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the obligations secured by this Security Instrument are subject to a law which sets maximum charges, and that law is finally interpreted so that the charges collected or to be collected in connection with the Agreement exceed the permitted limits, then: (a) any such charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Party to the Agreement which exceeded permitted limits will be refunded to Party to the Agreement. Secured Party may choose to make this refund by reducing the amount owed under the Agreement or by making a direct payment to Party to the Agreement. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Agreement.

14. Notices. Any notice to Party to the Agreement provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address Party to the Agreement designates by notice to Secured Party. Any notice to Secured Party shall be given by first class mail to Secured Party's address stated herein or any other address Secured Party designates by notice to Party to the Agreement. Any notice provided for in this Security Instrument shall be deemed to have been given to Party to the Agreement or Secured Party when given as provided in this paragraph.

15. Governing Law; Severability. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Agreement conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Agreement which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Agreement are declared to be severable.

16. Party to the Agreement's Copy. Party to the Agreement shall be given one copy of the Agreement and of this Security Instrument.

17. Transfer of the Property or a Beneficial Interest in Party to the Agreement. If all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Party to the Agreement is sold or transferred and Party to the Agreement is not a natural person) without Secured Party's prior written consent, Secured Party may, at its option, require immediate payment in full of all sums secured by this Security Instrument and if such sum is not liquidated the sum of Thirty Five (35%) Percent of the consideration given in the sale of such part of the Property or any interest in it as liquidated damages therefore.

If Secured Party exercises this option, Secured Party shall give Party to the Agreement notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Party to the Agreement must pay all sums secured by this Security Instrument. If Party to the Agreement fails to pay these sums prior to the expiration of this period, Secured Party may invoke any remedies permitted by this Security Instrument without further notice or demand on Party to the Agreement.

18. Notice of Grievance. Neither Party to the Agreement nor Secured Party may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that alleges that the other party has, breached any provision of, or any duty owed by reason of, this Security Instrument, until such Party to the Agreement or Secured Party has notified the other party (with such notice given in compliance with the requirements of Section 14) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph.

19. Hazardous Substances. Party to the Agreement shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances on or in the Property. Party to the Agreement shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

Party to the Agreement shall promptly give Secured Party written notice of any investigation,

UNOFFICIAL COPY

claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Party to the Agreement has actual knowledge. If Party to the Agreement learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Party to the Agreement shall promptly take all necessary remedial actions in accordance with Environmental Law.

As used in this paragraph 19, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic this Security Instrument, Secured Party may give Party to the Agreement a notice identifying the lien. Party to the Agreement shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

NON-UNIFORM COVENANTS. Party to the Agreement and Secured Party further covenant and agree as follows:

20. Acceleration; Remedies. Secured Party shall give notice to Party to the Agreement prior to acceleration following Party to the Agreement's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under paragraph 17 unless applicable law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Party to the Agreement, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. If the default is not cured on or before the date specified in the notice, Secured Party, at its option, may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Secured Party shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 21, including, but not limited to, reasonable attorneys' fees and costs of litigation.

21. Release. Upon payment of all sums secured by this Security Instrument, Secured Party shall release this Security Instrument without charge to Party to the Agreement. Party to the Agreement shall pay any recordation costs.

22. Riders to this Security Instrument. If one or more riders are executed by Party to the Agreement and recorded together with this Security Instrument, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument.

23. Subordination. This mortgage is a Junior Mortgage Subordinate in time and in lien to the rights of _____ Nothing in the mortgage is intended to or shall affect the priorities of such secured parties over the interest of Secured Party hereunder to the extent such priorities exist heretofore. Accordingly, to the extent Party to the Agreement hereunder owes a superior Secured Party a performance which but for such obligation would be an obligation of Party to the Agreement hereunder to Secured Party hereunder the Secured Party of performance of such obligation to such superior Secured Party shall be deemed substitute performance hereunder of Party to the Agreement's like obligation to Secured Party hereunder to the extent of such performances (i.e., if Secured Party hereunder requires Party to the Agreement to make tax and insurance deposits into escrow with Secured Party and such deposits are deposited into escrow by Party to the Agreement with a superior Secured Party then such deposits with a superior Secured Party will be deemed to be a satisfaction of Party to the Agreement's obligation to escrow tax and insurance deposits with Secured Party hereunder as a further explanation, in Secured Party requires tax and insurance deposits to be made with Secured Party and Party to the Agreement is required deposits and tax deposits with a superior Secured Party than the tax deposits by Party to the Agreement with a superior Secured Party shall satisfy Party to the Agreement's obligation to Secured Party to make tax deposits and Party to the Agreement shall deposit insurance deposit with Secured Party to satisfy Party to the Agreements obligation to so make such deposits to Secured Party.

UNOFFICIAL COPY

(k) Legal description of mortgaged premises:

LOT 7 IN THE RESUBDIVISION OF LOTS 1 TO 12 IN BLOCK 3 IN
LYON AND GILBERT AND WOODFORD'S ADDITION TO EVANSTON, IN
COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS:

1820 WESLEY AVENUE
EVANSTON, IL 60201

TAX ID# 10-13-218-022-0000

Property of Cook County Clerk's Office