



Doc#: 0702235292 Fee: \$48.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 01/22/2007 01:43 PM Pg: 1 of 13

THIS DOCUMENT PREPARED BY  
AND AFTER RECORDING RETURN  
TO:

Bell, Boyd & Lloyd LLP  
70 West Madison  
Suite 3100  
Chicago, Illinois 60602  
Attn: Sandra L. Waldier, Esq.

*This space reserved for Recorder's use only*

**MODIFICATION OF LOAN DOCUMENTS**

**THIS MODIFICATION OF LOAN DOCUMENTS** (this "Agreement") is made as of the 5th day of January, 2007, by and among **PREFERRED CALUMET LLC**, an Illinois limited liability company ("Borrower"), **THOMAS MORABITO** ("Morabito"), **EVAN OLIFF** ("Oloff") and **DECATUR VENTURES ONE LLC**, an Indiana limited liability company ("Decatur", and together with Morabito and Oloff, individually and collectively, "Guarantor") and **LASALLE BANK NATIONAL ASSOCIATION**, a national banking association, its successors and assigns ("Lender").

**RECITALS:**

A. Lender has heretofore made a loan ("Loan") to Borrower in the principal amount of FIVE HUNDRED FIFTY-FIVE THOUSAND DOLLARS (\$555,000) evidenced by a Note dated June 20, 2006, in the principal amount of the Loan made payable by Borrower to the order of Lender ("Note").

B. The Note is secured by, among other things, each dated as of June 20, 2006 unless otherwise indicated, (i) that certain Mortgage, Security Agreement Assignment of Leases and Rents and Fixture Filing from Borrower to Lender recorded with the Cook County, Illinois Recorder's Office (the "Recorder's Office") on June 23, 2006, as Document No. 0617444012 ("Mortgage"), which Mortgage encumbers the real property and all improvements thereon legally described on Exhibit A hereto (the "Original Land"), (ii) that certain Assignment of Rents and Leases from Borrower to Lender and recorded in the Recorder's Office with the Mortgage (the "Assignment of Leases"); (iii) that certain Environmental Indemnity Agreement from Borrower, Morabito and Oloff to Lender (the "Indemnity Agreement"); (iv) a Guaranty of Payment from Morabito and Oloff to Lender ("Guaranty"); (v) a Certificate of Representations, Warranties and Covenants from Borrower, Morabito and Oloff to Lender (the "Certificate"); and (vi) certain other loan documents (the Loan Agreement, the Note, the Mortgage, the Assignment of Leases, the Indemnity Agreement, the Guaranty, the Certificate, the other documents evidencing, securing and guarantying the Loan, in their original form and as amended, are sometimes collectively referred to herein as the "Loan Documents", all terms not otherwise defined herein shall have the meanings set forth in the Loan Documents).

**Box 400-CTCC**

8352795  
02  
02 CW  
9 of 9

13  
8

# UNOFFICIAL COPY

C. Borrower has acquired, or is about to acquire fee title to additional land (the "Additional Land") which is part of the Other Property (as defined in the Mortgage). The Original Land and the Additional Land are described together on Exhibit B attached hereto and made a part hereof ("New Land").

D. In order to advance additional funds for the purchase of the New Land, Guarantor has agreed to provide Lender with additional security for the Loan. The Loan, as hereby increased, shall be secured by a Collateral Assignment of Distributions (Security Agreement) in Columbia City LLC, an Illinois limited liability company. Decatur has agreed to provide Lender with a Guaranty of Payment, which shall be secured by a first lien mortgage on certain real estate and improvements owned by Decatur and located in Decatur, Indiana.

E. Borrower, Lender and Guarantor desire to increase the loan amount, spread the lien of the Mortgage to encumber the Additional Land and to make certain other amendments to the Mortgage, the Note, the Assignment of Rents and Leases and certain of the other Loan Documents, on the terms and conditions set forth in this Amendment.

## AGREEMENTS:

**NOW, THEREFORE,** in consideration of (i) the facts set forth hereinabove (which are hereby incorporated into and made a part of this Agreement), (ii) the agreements by Lender to modify the Loan Documents, as provided herein, (iii) the covenants and agreements contained herein, and (iv) for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Increase in Loan.** The principal amount of the Loan is hereby increased to THREE MILLION SEVEN HUNDRED EIGHTY ONE THOUSAND ONE HUNDRED THIRTY DOLLARS (\$3,781,130). All references in the Loan Documents to the Loan or the Loan Amount shall be deemed references to the Loan in the maximum principal amount of \$3,781,130. The undisbursed proceeds of the Loan, as hereby increased, shall be advanced to Borrower for the payment of part of the purchase price of the Additional Land.

2. **Amendment of Legal Description; Spreading of Lien of Mortgage.** The Additional Land is hereby added to and shall be a part of the Land. The lien of the Mortgage (which constitutes a Financing Statement as to personal property and fixtures on the Land) is hereby spread so as to encumber title to the Additional Land, and as a Financing Statement all items of personal property and fixtures described therein and located on the Additional Land.

3. **Amendment to Note.** The Note is amended as follows:

a. The principal amount of the Note is increased to THREE MILLION SEVEN HUNDRED EIGHTY ONE THOUSAND ONE HUNDRED THIRTY DOLLARS (\$3,781,130).

b. The principal amount appearing in the heading of the Note, being the sum of "\$555,000", is deleted, and the sum of "\$3,781,130" is inserted in its place.

c. In Paragraph 1, the phrase "FIVE HUNDRED FIFTY-FIVE THOUSAND DOLLARS (\$555,000)" is deleted, and the phrase "***THREE MILLION SEVEN HUNDRED***

# UNOFFICIAL COPY

**EIGHTY ONE THOUSAND ONE HUNDRED THIRTY DOLLARS (\$3,781,130)** is inserted in its place.

d. Paragraph 2.4 is deleted and the following is inserted in its place:

**"2.4 Extension Option. Upon satisfaction of the conditions precedent set forth below (the "Extension Requirements"), Borrower may at its option ("Extension Option") extend the Maturity Date to the date ("Extended Maturity Date") upon which the due diligence period set forth in the Anchor Contract (as defined in the Certificate) expires:**

**(i) Borrower has delivered the Anchor Contract in accordance with Paragraph 22 of the Certificate.**

**(ii) Borrower shall, by written notice to Lender ("Extension Notice") given no later than April 30, 2007 request the extension. The Extension Notice shall specify the Extended Maturity Date based on the Anchor Contract.**

**(iii) As of the date of Lender's receipt of the Borrower's Extension Notice and as of the Initial Maturity Date, no Event of Default or event which, with the giving of notice or the passage of time, or both, would constitute an Event of Default, shall have occurred and be continuing.**

**(iv) As of the Initial Maturity Date, Borrower shall have repaid the other indebtedness referenced in Paragraph 15 of the Certificate.**

**Provided all of the foregoing conditions have been satisfied, the Maturity Date shall be extended to the Extended Maturity Date, and all references in this Note and the other Loan Documents to the Maturity Date shall be deemed references to the Extended Maturity Date. The extension of the Maturity Date shall not impair Lender's ability to accelerate the maturity of the Loan in accordance with this Note or any one or more of the other Loan Documents."**

e. In Paragraph 3.7, the sum of "Fifty Thousand and No/100 Dollars (\$50,000.00)" is deleted and the sum of "**Three Hundred Sixty Six Thousand Eighty Five and No/100 Dollars (\$366,085.00)**" is inserted in its place.

f. In Paragraph 4, the following phrase is inserted after the words "from Borrower and Guarantor to Lender": "**(vi) a Pledge Account Agreement ("Pledge Agreement") dated January 5, 2007 from Borrower to Lender, (vii) a Collateral Assignment of Distributions (Security Agreement) ("Collateral Assignment") dated January 5, 2007 from Guarantors to Lender, (viii) a Secured Guaranty of Payment from Decatur Ventures One LLC, an Indiana limited liability company and an affiliate of Borrower ("Decatur"), (ix) a Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing ("Decatur Mortgage") dated January 5, 2007 made by Decatur to Lender creating a first mortgage lien on certain real property ("Decatur Premises") legally described in Exhibit A attached to the Decatur Mortgage, (x) an Assignment of Rents and Leases ("Decatur Assignment") dated January 5, 2007 from Decatur to Lender, (xi) a Certificate of Representations, Warranties and Covenants**

# UNOFFICIAL COPY

("Decatur Certificate") of dated January 5, 2007 from Decatur to Lender, and (xiii) an Environmental Indemnity Agreement ("Indemnity Agreement") dated January 5, 2007 from Decatur to Lender".

4. **Amendment to Mortgage.** The Mortgage is amended as follows:

a. In Recital (A), the phrase "Five Hundred Fifty-Five Thousand Dollars (\$555,000)" is deleted, and the phrase "***Three Million Seven Hundred Eighty One Thousand One Hundred Thirty Dollars (\$3,781,130)***" is inserted in its place.

b. In Recital (A), the phrase "subject to extension December 20, 2007, as provided in the Note" is deleted and the phrase "subject to extension as provided in the Note" is inserted in its place.

c. In Exhibit A, the legal description of the Additional Land is added to the legal description of the Original Land, so that all references therein to Land, Real Estate or Property shall be deemed references to the New Land.

5. **Amendment to Assignment of Leases.** The Assignment of Leases is amended as follows:

a. In Recital (A), the phrase "Five Hundred Fifty-Five Thousand Dollars (\$555,000)" is deleted, and the phrase "***Three Million Seven Hundred Eighty One Thousand One Hundred Thirty Dollars (\$3,781,130)***" is inserted in its place.

b. In Exhibit A, the legal description of the Additional Land is added to the legal description of the Original Land, so that all references therein to Land, Real Estate or Property shall be deemed references to the New Land.

6. **Amendment to Certificate.** The Certificate is amended as follows:

a. In Recital (A), the phrase "Five Hundred Fifty-Five Thousand Dollars (\$555,000)" is deleted, and the phrase "***Three Million Seven Hundred Eighty One Thousand One Hundred Thirty Dollars (\$3,781,130)***" is inserted in its place.

b. The second sentence of Paragraph 15 is deleted.

c. The following is inserted as a new Paragraph 21:

"21. **Pledged Funds.** Borrower shall deposit in the account pledged to Lender under the provisions of the Pledge Agreement (the "Pledged Account") the sum of \$\_\_\_\_\_ as a reserve for the payment of real estate taxes and costs incurred in connection with the Premises (the "Pledged Funds"). Provided no Event of Default has occurred and is continuing, Pledgor shall be entitled to withdraw Pledged Funds from the Account solely for reimbursement of real estate taxes paid in connection with the Real Estate, and for no other purpose. Provided no Event of Default has occurred and is continuing, Pledgor may also direct Lender to use the Pledged Funds to pay such real estate taxes directly to

# UNOFFICIAL COPY

*the taxing authority. In no event shall Borrower be entitled to withdraw Pledged Funds to reimburse itself for any portion of the Equity Requirement set forth in Paragraph 16 above."*

d. The following is inserted as a new Paragraph 22:

**"22. Anchor Space. Prior to April 30, 2007, Borrower must deliver to Lender a sale contract in form and substance acceptable to Lender (the "Anchor Contract"), executed by Borrower and a third party purchaser acceptable to Lender in its sole discretion for the purchase of that portion of the Project (as defined in the Mortgage) designated as "anchor space"."**

e. The following is inserted as a new Paragraph 23:

**"23. No Other Property Acquisition. Other than that portion of the Other Property owned by \_\_\_\_\_ Hernandez, neither Borrower nor any of its affiliates shall acquire any of the Other Property until such time as any due diligence period under the Anchor Contract has expired and Borrower is entitled to retain the purchaser's earnest money deposit pursuant to the Anchor Contract."**

7. **Amendment to Other Loan Documents.** In Exhibit A of each of the other Loan Documents, the legal description of the Additional Land is added to the legal description of the Original Land, so that all references therein to Land, Real Estate or Property shall be deemed references to the New Land.

8. **Representations and Warranties of Borrower.** Borrower hereby represents, covenants and warrants to Lender as follows:

(a) The representations and warranties in the Certificate, the Mortgage and the other Loan Documents are true and correct as of the date hereof.

(b) There is currently no Event of Default (as defined in the Mortgage) under the Note, the Mortgage or the other Loan Documents and Borrower does not know of any event or circumstance which with the giving of notice or passing of time, or both, would constitute an Event of Default under the Note, the Mortgage or the other Loan Documents.

(c) The Loan Documents are in full force and effect and, following the execution and delivery of this Agreement, they continue to be the legal, valid and binding obligations of Borrower enforceable in accordance with their respective terms, subject to limitations imposed by general principles of equity.

(d) There has been no material adverse change in the financial condition of Borrower, Guarantor or any other party whose financial statement has been delivered to Lender in connection with the Loan from the date of the most recent financial statement received by Lender.

(e) As of the date hereof, Borrower has no claims, counterclaims, defenses, or set-offs with respect to the Loan or the Loan Documents as modified herein.

# UNOFFICIAL COPY

(f) Borrower is validly existing under the laws of the State of its formation or organization and has the requisite power and authority to execute and deliver this Agreement and to perform the Loan Documents as modified herein. The execution and delivery of this Agreement and the performance of the Loan Documents as modified herein have been duly authorized by all requisite action by or on behalf of Borrower. This Agreement has been duly executed and delivered on behalf of Borrower.

9. **Title Policy.** As a condition precedent to the agreements contained herein, Borrower shall, at its sole cost and expense, cause Chicago Title Insurance Company to issue a date down endorsement to Lender's title insurance policy 1410 SA3826012 (the "Title Policy"), as of the date this Agreement is recorded, reflecting the recording of this Agreement and insuring the first priority of the lien of the Mortgage on the New Land, subject only to the exceptions set forth in the Title Policy as of its date of issuance and any other encumbrances expressly agreed to by Lender.

10. **Reaffirmation of Guaranty.** Guarantor ratifies and affirms the Guaranty and agrees that the Guaranty is in full force and effect following the execution and delivery of this Agreement. The representations and warranties of Guarantor in the Guaranty are, as of the date hereof, true and correct and Guarantor does not know of any default thereunder. The Guaranty continues to be the valid and binding obligation of Guarantor, enforceable in accordance with its terms and Guarantor has no claims or defenses to the enforcement of the rights and remedies of Lender thereunder, except as provided in the Guaranty.

11. **Expenses.** As a condition precedent to the agreements contained herein, Borrower shall pay all out-of-pocket costs and expenses incurred by Lender in connection with this Agreement, including, without limitation, title charges, recording fees, appraisal fees and attorneys' fees and expenses, and an additional Loan Fee in the amount of Sixteen Thousand One Hundred Thirty Dollars (\$16,130).

12. **Miscellaneous.**

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

(b) This Agreement shall not be construed more strictly against Lender than against Borrower or Guarantor merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that Borrower, Guarantor and Lender have contributed substantially and materially to the preparation of this Agreement, and Borrower, Guarantor and Lender each acknowledges and waives any claim contesting the existence and the adequacy of the consideration given by the other in entering into this Agreement. Each of the parties to this Agreement represents that it has been advised by its respective counsel of the legal and practical effect of this Agreement, and recognizes that it is executing and delivering this Agreement, intending thereby to be legally bound by the terms and provisions thereof, of its own free will, without promises or threats or the exertion of duress upon it. The signatories hereto state that they have read and understand this Agreement, that they intend to be legally bound by it and that they expressly warrant and represent that they are duly authorized and empowered to execute it.

(c) Notwithstanding the execution of this Agreement by Lender, the same shall not be deemed to constitute Lender a venturer or partner of or in any way associated with

# UNOFFICIAL COPY

Borrower or Guarantor nor shall privity of contract be presumed to have been established with any third party.

(d) Borrower, Guarantor and Lender each acknowledges that there are no other understandings, agreements or representations, either oral or written, express or implied, that are not embodied in the Loan Documents and this Agreement, which collectively represent a complete integration of all prior and contemporaneous agreements and understandings of Borrower, Guarantor and Lender; and that all such prior understandings, agreements and representations are hereby modified as set forth in this Agreement. Except as expressly modified hereby, the terms of the Loan Documents are and remain unmodified and in full force and effect.

(e) This Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

(f) Any references to the "Note", the "Mortgage" or the "Loan Documents" contained in any of the Loan Documents shall be deemed to refer to the Note, the Mortgage and the other Loan Documents as amended hereby. The paragraph and section headings used herein are for convenience only and shall not limit the substantive provisions hereof. All words herein which are expressed in the neuter gender shall be deemed to include the masculine, feminine and neuter genders. Any word herein which is expressed in the singular or plural shall be deemed, whenever appropriate in the context, to include the plural and the singular.

(g) This Agreement may be executed in one or more counterparts, all of which, when taken together, shall constitute one original Agreement.


(h) Time is of the essence of each of Borrower's obligations under this Agreement.

# UNOFFICIAL COPY

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

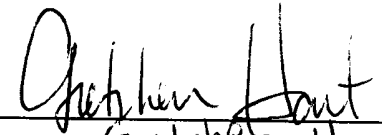
**BORROWER:**

PREFERRED CALUMET LLC, an Illinois limited liability company

By:   
One of its Managers

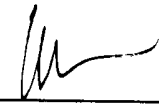
**LENDER:**

LASALLE BANK NATIONAL ASSOCIATION, a national banking association

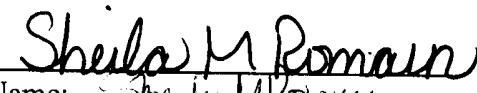
By:   
Name: Gretchen Hart  
Title: VP

**GUARANTORS:**

  
Thomas Morabito, individually

  
Evan Oliff, individually

DECATUR VENTURES ONE LLC, an Indiana limited liability company

By:   
Name: Sheila M Romain  
Title: Managing





# UNOFFICIAL COPY

STATE OF ILLINOIS )  
 ) ss.  
COUNTY OF Cook

I Deborah M. Woodrum, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Thomas Morabito, Evan Oliff of Preferred Calumet LLC, 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 signed and delivered said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 2nd day of July, 2007.

Deborah M. Woodrum  
Notary Public  
"OFFICIAL SEAL"  
Deborah M. Woodrum  
Notary Public, State of Illinois  
My Commission Expires 10/30/07

My Commission Expires: \_\_\_\_\_

STATE OF ILLINOIS )  
 ) ss.  
COUNTY OF Cook

I Deborah M. Woodrum, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Thomas Morabito and Evan Oliff are personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered said instrument as their own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 2nd day of July, 2007.

Deborah M. Woodrum  
Notary Public  
"OFFICIAL SEAL"  
Deborah M. Woodrum  
Notary Public, State of Illinois  
My Commission Expires 10/30/07

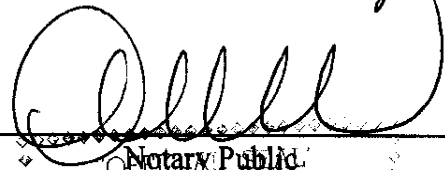
My Commission Expires: \_\_\_\_\_

# UNOFFICIAL COPY

STATE OF ILLINOIS )  
 ) ss.  
COUNTY OF COOK

I Deborah M. Woodrum a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Shelton, Sandy of Decatur Ventures One LLC, 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 signed and delivered said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 2nd day of January, 2007.



Notary Public  
Deborah M. Woodrum  
Notary Public, State of Illinois  
My Commission Expires 10/30/07

My Commission Expires: \_\_\_\_\_

# UNOFFICIAL COPY

## EXHIBIT A

### ORIGINAL LAND

LOTS 1 THROUGH 14, BOTH INCLUSIVE, IN BLOCK 8 IN BUTTERFIELD'S SUBDIVISION OF LOTS 1, 2, 3 AND 6 OF KRUEGER'S SUBDIVISION OF THE NORTHEAST ¼ OF SECTION 30, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Address: 1801 W. 120<sup>th</sup> Street, Calumet Park, Illinois

PIN: 25-30-207-023  
25-30-207-024  
25-30-207-025  
25-30-207-026  
25-30-207-027  
25-30-207-028  
25-30-207-029  
25-30-207-030  
25-30-207-031  
25-30-207-032  
25-30-207-033  
25-30-207-034  
25-30-207-035  
25-30-207-036

# UNOFFICIAL COPY

## EXHIBIT B

### NEW LAND

#### PARCEL 2:

LOTS 31 TO 34 IN BLOCK 9 IN BUTTERFIELD SUBDIVISION OF LOTS 1, 2, 3 AND 6 OF KRUEGER'S SUBDIVISION OF THE NORTHEAST 1/4 OF SECTION 30, TOWNSHIP 37 NORTH, RANGE 14, EAST OF TEE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

#### PARCEL 3:

LOTS 38 THROUGH 44, BOTH INCLUSIVE, IN BLOCK 9 IN BUTTERFIELD'S SUBDIVISION OF LOTS 1, 2, 3, AND 6 IN KRUEGER'S SUBDIVISION OF THE NORTHEAST 1/4 OF SECTION 30, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

#### PARCEL 4:

LOT 7 (EXCEPT THE NORTH 8 FEET THEREOF) AND ALL OF LOTS 8, 9 AND 10 IN BLOCK 3 IN BUTTERFIELD'S SUBDIVISION OF LOTS 1, 2, 3, AND 6 IN KRUEGER'S SUBDIVISION OF THE NORTHEAST 1/4 OF SECTION 30, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

#### PARCEL 5:

LOTS 1 THROUGH 9, BOTH INCLUSIVE, AND LOTS 15 THROUGH 22, BOTH INCLUSIVE, IN BRICKMAKER'S SUBDIVISION OF BLOCK 4 IN BUTTERFIELD'S SUBDIVISION OF LOTS 1, 2, 3, AND 6 OF KRUEGER'S SUBDIVISION OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Addresses: 12035 Page Street; 12001 Page Street; SWC of 119<sup>th</sup> & Paulina; and SEC of 119<sup>th</sup> & Wood, Calumet Park, Illinois

PINs: 205-30-202-001; 205-30-202-002; 205-30-202-003; 205-30-202-004; 205-30-202-005;  
205-30-202-006; 205-30-202-007; 205-30-202-008; 205-30-202-016; 205-30-202-017;  
205-30-202-018; 205-30-202-019; 205-30-202-020; 205-30-202-021; 205-30-202-022;  
205-30-202-023; 205-30-202-024; 205-30-202-025; 205-30-202-026; 205-30-203-023;  
205-30-203-024; 205-30-203-025; 205-30-203-042; 205-30-208-011; 205-30-208-012;  
205-30-208-013; 205-30-208-014; 205-30-208-045