



Doc#: 0727041002 Fee: \$36.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 09/27/2007 09:26 AM Pg: 1 of 7

This Document was prepared
by and should be returned to:
First Eagle Bank
1040 E. Lake St.
Hanover Park, IL. 60133

FOURTH AMENDMENT TO LOAN DOCUMENTS

This Fourth Amendment to Loan Documents ("Amendment") is dated as of the 31st day of August, 2007 and made by and between Poplar Creek Properties L.L.C., an Illinois limited liability company ("Borrower"); Robert L. Kozonis and Joann Kozonis (collectively referred to herein as "Guarantor"); and First Eagle Bank f/ka First Eagle National Bank ("Lender").

A. On December 18, 2001 Lender made a loan to RWP 5250, L.L.C. ("RWP"), an Illinois limited liability company, in the amount of \$1,700,000. The loan is evidenced by the Mortgage Note of RWP dated December 18, 2001 in the principal amount of \$1,800,000.00 as amended by the Amended and Restated Mortgage Note dated as of August 1, 2003 that increased the amount of the loan to \$2,200,000.00.

B. The loan is secured by a Junior Mortgage and Security Agreement and Junior Assignment of Rents and of Lessor's Interest in Leases dated December 18, 2001 (collectively referred to herein as "Mortgage") made by LaSalle Bank National Association as successor trustee under Trust Agreement dated June 10, 1993 and known as Trust No. 11806 ("Trustee") in favor of Lender and recorded as Document Nos. 0020029946 and 0020029947 with the Recorder of Deeds of Cook County, Illinois on the property ("Property") commonly known as Lots 2, 3 AND 4 in Poplar Creek Office Plaza, Hoffman Estates, IL 60194, Illinois which is legally described on Exhibit "A" attached hereto and made a part hereof.

C. The Note is further secured by the Guaranty ("Guaranty") dated December 18, 2001 made by Guarantor in favor of Lender and any and all other documents executed pursuant to or in connection with the Loan by Borrower or Guarantor, as amended, modified, assumed or replaced from time to time (hereinafter collectively referred to as the "Loan Documents").

Officer Review

Initial Review JM Date 9/4/07

Final Review JM Date 9/18/07

Loan Nos. 62407 & 62419

2036267
MERCURY TITLE COMPANY, LLC.
g Kelly 10/1

M.G.R. TITLE

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D. The amount of loan was increased to \$2,200,000.00 and its maturity date extended to August 31, 2005 pursuant to the Modification Agreement and Amended and Restated Mortgage Note ("Amended Note") both dated August 1, 2003.

E. Borrower assumed the obligations of Trustee under the Mortgage pursuant to the Assumption and Modification Agreement dated August 9, 2004.

F. The Assumption and Modification Agreement dated August 31, 2005 provided, among others, for (i) the assumption by Borrower of the obligation of RWP under the Amended Note, (ii) the restructuring of the loan into (a) one revolving line of credit note for \$1,100,000.00 evidenced by an Amended and Restated Mortgage Note dated August 31, 2005 payable to the order of Lender on August 31, 2007 ("Line of Credit Note"), and (b) one term note for \$1,100,000.00 evidenced by the Amended and Restated Note dated August 31, 2005 payable to the order of Lender on August 31, 2007 ("Term Note") (the Line of Credit Note and Term Note are hereby collectively referred to as "Notes").

G. Borrower requests the extension of the maturity dates of the Notes to August 31, 2008. Lender has agreed to extend the maturity dates as aforesaid, subject to the following covenants, agreements, representations and warranties.

NOW THEREFORE, for and in consideration of the covenants, agreements, representations and warranties set forth herein, the parties hereto agree as follows:

1. **Recitals.** The recitals set forth above shall be incorporated herein, as if set forth in their entirety.

2. **Maturity Date.** The maturity dates of the Notes are hereby extended to August 31, 2008.

3. **Term Note.** Effective upon closing hereof, the interest rate of the Term Note is hereby increased from 6.75% per annum to 7.125% per annum.

4. **Line of Credit Note.** Effective upon closing hereof (i) the interest rate of the Line of Credit Note is hereby changed from a variable rate based on Wall Street Journal Prime plus 0.75% with a floor rate of 7.0% per annum to a fixed rate of 7.125% per annum, and (ii) the revolving line of credit feature of the Line of Credit Note is hereby terminated. No further advances may be made on the Line of Credit Note.

5. **Financial Statements.** Borrower and Guarantor shall submit to Lender annually beginning April 30, 2008 and on that day every year thereafter the Business Financial Statements and Business Federal Income Tax Return of Borrower and the Personal Financial Statements and Personal Federal Income Tax Return of Guarantor.

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6. **Prepayment Fee.** Borrower may prepay each of the loans, in whole but not in part, upon thirty (30) days prior written notice and upon payment to Lender of a prepayment premium equal to one (1%) of the prepaid principal. If prior to the Maturity Date, an Event of Default (as hereinafter defined) exists and Lender elects to declare all principal and interest hereunder immediately due and payable, the tender of payment of the amount of such entire indebtedness hereunder, made at any time prior to sale under foreclosure of the Mortgage or the realization of any other collateral which secures this Note, shall be deemed to constitute an evasion of the foregoing prepayment provisions, and such payment shall therefore, to the extent permitted by law, include liquidated damages in the amount of the prepayment premium set forth in this paragraph, it being acknowledged that Lender's actual damages in the event of such evasion are now and will then be impossible to ascertain. No prepayment shall extend or postpone the due date of any subsequent monthly installment of principal or interest arising hereunder. Borrower hereby expressly agrees to pay the above-described prepayment premium upon the voluntary or involuntary prepayment of this Note, and acknowledges that Lender's agreement to modify the loans evidenced by the amendment on the terms contained herein constitute adequate consideration for the prepayment premium. Lender will waive the prepayment fee in the event of an arm's length sale of the Property to an unrelated third party.

7. **Modification of Documents.** The Notes, Mortgage, Guaranty, and other Loan Documents shall be deemed to be modified to reflect the amendments set forth above.

8. **Guarantor Not Released.** Guarantor acknowledges and consents to the foregoing amendments.

9. **Restatement of Representations.** Borrower and Guarantor hereby restate and reaffirm each and every representation, warranty, covenant and agreement made by them in the Notes, Mortgage, Guaranty and other Loan Documents.

10. **Defined Terms.** All capitalized terms which are not defined herein shall have the definitions ascribed to them in the Notes, Mortgage, Guaranty and other Loan Documents.

11. **Documents Unmodified.** Except as modified hereby, the Notes, Mortgage, Guaranty and other Loan Documents shall remain unmodified and in full force and effect. Borrower and Guarantor ratify and confirm their obligations and liabilities under the Notes, Mortgage, Guaranty and other Loan Documents. They acknowledge no defenses, claims, or setoffs against the enforcement by Lender.

12. **Fee.** In consideration of Lender's agreement to amend the loan, as aforesaid, Borrower has agreed and shall pay Lender upon execution hereof, a fee in the amount of One and 00/100 Dollar (\$1.00) plus all costs incurred by Lender in connection with or arising out of this amendment.

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Anything contained in the Mortgage to the contrary notwithstanding, the Mortgage also secures all loans, advances, debts, liabilities, obligations, covenants and duties owing to the Lender by the Borrower and/or any Related Party (as hereinafter defined), whether now existing, or hereafter created or arising, including, without limitation: (i) the Note, (ii) the Indebtedness, and (iii) any and all other loans, advances, overdrafts, indebtedness, liabilities and obligations now or hereafter owed by Borrower or any Related Party to Lender, of every kind and nature, howsoever created, arising or evidenced, and howsoever owned, held or acquired, whether now due or to become due, whether direct or indirect, or absolute or contingent, whether several, joint or joint and several, whether liquidated or unliquidated, whether legal or equitable, whether disputed or undisputed, whether secured or unsecured, or whether arising under the Mortgage or any other document or instrument. For purposes of this paragraph, "Related Party" shall mean (i) Grantor, (ii) each beneficiary of Grantor, if Grantor is a land trust, (iii) the maker of the Note, if other than Grantor, and if more than one maker, each co-borrower of the Note other than Grantor, and (iii) each guarantor of the Note.

This Amendment shall extend to and be binding upon each Borrower and each Guarantor and their heirs, legatees, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

This Amendment shall, in all respects, be governed by and construed in accordance with the laws of the State of Illinois, including all matters of construction, validity and performance.

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

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

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

TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR AND LENDER HEREBY EXPRESSLY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY ACTION,


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


IN WITNESS WHEREOF, this Amendment was executed by the undersigned as of the date and year first set forth above.

BORROWER:

Poplar Creek Properties, L.L.C., an Illinois limited liability company


By: Robert L. Kozonis, Manager

GUARANTOR:


Robert L. Kozonis


Joan Kozonis

LENDER:

First Eagle Bank


By: Joseph Kunzon, Manager

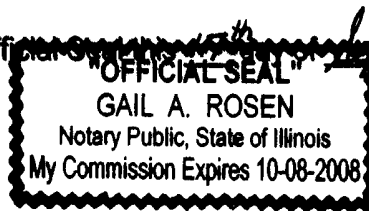
UNOFFICIAL COPY**BORROWER'S ACKNOWLEDGMENT**

STATE OF ILLINOIS) SS.
 COUNTY OF)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Robert L. Kozonis, Manager of Poplar Creek Properties, L.L.C., an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered said instrument as his free and voluntary act and deed as well as that of the company he represents, for the uses and purposes therein set forth.

Given under my hand and Official Seal this 18th day of September, 2007.

Gail A. Rosen
 Notary Public

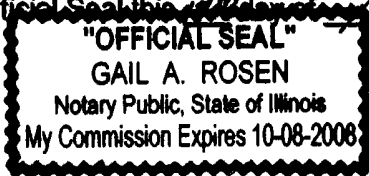
**GUARANTOR'S ACKNOWLEDGMENT**

STATE OF ILLINOIS) SS.
 COUNTY OF)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Robert L. Kozonis and Joann Kozonis, 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, sealed and delivered said instrument as their free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and Official Seal this 18th day of September, 2007.

Gail A. Rosen
 Notary Public

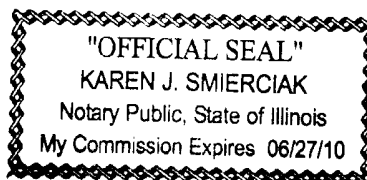
**LENDER'S ACKNOWLEDGMENT**

STATE OF ILLINOIS) SS.
 COUNTY OF Cook)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Joseph Kunzon, Vice President of FIRST EAGLE BANK, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered said instrument as his/her free and voluntary act and deed as well as that of the bank she represents, for the uses and purposes therein set forth.

Given under my hand and Official Seal this 18th day of September, 2007.

Karen J. Smierciak
 Notary Public



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EXHIBIT "A"

LOTS 2, 3 AND 4 IN POPLAR CREEK OFFICE PLAZA, BEING A SUBDIVISION OF PART OF THE EAST HALF OF SECTION 7, TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 17, 1993 AS DOCUMENT 93747914, IN COOK COUNTY, ILLINOIS.

Address: LOTS 2, 3 AND 4 IN POPLAR CREEK OFFICE PLAZA, HOFFMAN ESTATES, IL

P.I.N.: 07-07-400-061; 07-07-400-062; 07-07-400-063

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