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Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 12/28/2007 02:40 PM Pg: 1 of 6

This document was prepared
by and after recording,
return to:

Benjamin J. Randall
Randall & Kenig LLP
455 North Cityfront Plaza Drive
Suite 2510
Chicago, Illinois 60611
File No. 1027501200

MEMORANDUM OF AGREEMENT

386
NOTICE IS HEREBY GIVEN that Erie Canal LLC, an Illinois limited liability company, ("Seller") and 9 West Erie, LLC, an Illinois limited liability company ("Purchaser") have entered into that certain Real Estate Purchase And Sale Agreement (the "Agreement") dated as of the 6th day of December, 2007, pursuant to which Purchaser has purchased certain property (hereinafter referred to as the "Property") from Seller situated in Chicago, Illinois, legally described on Exhibit "A" attached hereto and made a part hereof.

Paragraph 16 of the Agreement provides:

16. Option to Purchase Retail Area.

a. Purchaser hereby grants Seller the Option to Purchase ("Purchase Option") the Retail Area shown in Exhibit F, together with the certain common rights to be established pursuant to the REOA, as hereinafter defined, at a Purchase Price of Three Million Three Hundred and Fifteen Thousand Dollars (\$3,315,000) ("Retail Purchase Price") on a date that is not later than ninety (90) days after the Retail Area and the Garage shall be deemed completed, as provided in Paragraph 15 hereof. Purchaser shall provide written notice to Seller of the date that the Retail Area and the Garage shall be deemed completed together with the evidence thereof as required by Paragraph 15 hereof and Seller shall exercise the Purchase Option written notice to Purchaser within ten (10) days after receipt thereof, which notice shall designate the date of consummation of such sale and purchase, which shall not be later than ninety (90) days after the Retail Work and the Garage shall be deemed completed, as provided in Paragraph 15 hereof ("Retail Closing Date"). In the event Seller fails to timely exercise the Purchase Option, Purchaser shall upon five (5) notice from Seller to Purchaser, pay to Seller the sum of Two Million Five Hundred Thousand Dollars (\$2,500,000) (the "Payment Obligation").

b. In the event Seller timely exercises the Purchase Option, title to the Retail Parcel shall be conveyed on the Retail Closing Date by Seller to Purchaser by Special Warranty Deed subject only to: (a) covenants, conditions and easements existing as of the date of Closing and such other) covenants, conditions and easements as are acceptable to Seller; (b) real estate taxes not yet delinquent; (c) the terms and provisions of a Reciprocal Easement and Operating Agreement (the "REOA") relating to the easement, maintenance and

543050
STEWART TITLE OF ILLINOIS
Commercial Division
2 N. LaSalle St., Suite 1400
Chicago, IL 60602
312-849-4400

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operating agreements of the Residential Parcel and the Retail Parcel as designated by Seller and is reasonably acceptable to Purchaser; and (d) the Benihana Lease which shall be assigned to Seller (collectively the "Retail Exceptions"). Upon the conveyance of the aforesaid Retail Parcel will not be a part of the condominium development. The Letter of Credit or the Assigned Mortgage Documents shall be returned to Purchaser at the closing of sale of the Retail Parcel.

c. In connection with any of the Retail Parcel to Seller, Purchaser shall provide Seller with an ALTA Form B (2006) Owner's Title Insurance Policy with extended coverage issued by the Title Company, in the amount of the Retail Purchase Price, subject only to the Retail Exceptions and Purchaser shall execute and deliver to the Title Company such affidavits, lien-waivers and other documents reasonably required by the Title Company to insure fee simple title to the Retail Parcel in Seller, subject only to the Retail Exceptions. Real estate taxes, all assessments, general or special and other items that are customarily prorated in transactions of this nature shall be ratably prorated as of the day prior to the Closing Date. The charges and expenses of or relating to the aforesaid Owner's Title Policy herein provided for including commitment fees and extended coverage but specifically excluding any endorsements thereto, state and county transfer taxes and recording fees relating to release deeds, shall be paid by Purchaser Seller. The cost of recording fees, the cost of any endorsements to the Owner's Title Policy, and the City of Chicago Transfer Tax shall be borne by Seller. The expense of one-half of any deed and money and New York Style escrow charges shall be paid by each of Seller and Purchaser.

d. At least thirty (30) days prior to the consummation of the purchase of the Retail Parcel by Seller, Purchaser shall provide Seller with a survey and legal description of the Retail Parcel and Residential Parcel based upon actual dimensions, in ALTA form reasonably satisfactory to Seller. As a part of the consummation of sale of the Retail Parcel to Seller, Seller and Purchaser agree to execute the appropriate documents to cause a division of the existing real estate tax parcel numbers between the Retail Parcel and the Residential Parcel.

e. At the Retail Closing Date, Purchaser shall provide Seller with warranties of at least one (1) year duration from the Retail Closing Date against defects in workmanship and materials on all work performed and equipment installed in the Retail Parcel, in form and substance reasonably satisfactory to Seller.

f. At the Retail Closing Date the following shall be prorated and adjusted between Seller and Purchaser; (i) real estate taxes and assessments based on the most recent ascertainable tax bills, provided that the parties agree to re-prorate same based upon the issuance of the actual tax bill, which agreement shall survive the Retail Closing Date; and (ii) such other items that are customarily prorated in transactions of this nature shall be ratably prorated.

f. At the Closing, Purchaser and Seller shall execute and record a Memorandum of the provisions of this Paragraph 15 against the Property ("Memorandum") in the form attached hereto as Exhibit H and by this reference incorporated herein.

g. The provisions of this Paragraph 16 shall survive the Closing.

This Memorandum is entered into for recording purposes only and is subject to all of the terms and conditions of the Agreement. This Memorandum may be executed in two (2) or more counterparts, each of which shall be deemed to be original, but all of which together shall constitute one and the same instrument.

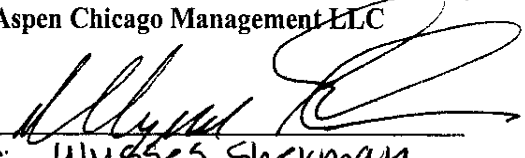
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SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties have executed this Memorandum this 26TH day of December, 2007.

SELLER:

ERIE CANAL, LLC, an Illinois limited liability company
BY: Aspen Chicago Management LLC

By: 
Name: Ulysses Sherman
Its: Agent

PURCHASER:

9 WEST ERIE LLC, an Illinois limited liability company

By: _____
Name: _____
Its: _____

Property of Cook County Clerk's Office

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IN WITNESS WHEREOF, the parties have executed this Memorandum this 21st day of December, 2007.

Seller:
Erie Canal LLC, an Illinois limited liability company, ("Seller

Purchaser:
9 West Erie, LLC, an Illinois limited liability company
By: **WEW Erie, LLC**, an Illinois limited liability company, its Manager

By: _____
Its: _____
Name: _____

By: _____
Its: Manager
Name: William E. Warner

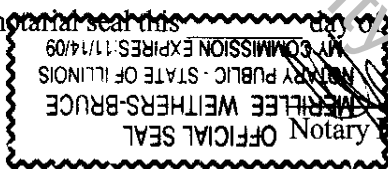
ACKNOWLEDGMENTS

STATE OF ILLINOIS)

COUNTY OF COOK)

I, Merrilee Weathers Bruce, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that William E. Warner, as Managing Member of Erie Canal LLC who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Managing Member, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said company for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this _____ day of December, 2007.



STATE OF ILLINOIS)

COUNTY OF COOK)

I, _____, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that _____, as Manager of WEW Erie, LLC, Manager of 9 West Erie, LLC, an Illinois limited liability company who is 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 they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said company for the uses and purposes therein set forth.

GIVEN under my hand and official seal this _____ day of December, 2007.

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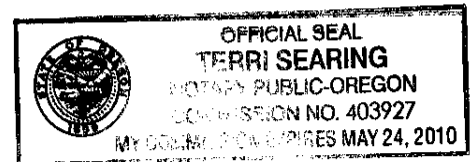
ACKNOWLEDGMENTS

STATE OF OR)
) ss
COUNTY OF Mult)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, **DO HEREBY CERTIFY** that Ulysses Sherman personally known to me to be the Agent of Aspen Chicago Management LLC which is the Manager of Erie Canal LLC, an Illinois limited liability company, and 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 severally acknowledged that as such Director of Transactions, he signed and delivered the said instrument as his free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal, this 26 day of December, 2007.

Terrri Searing
Notary Public



STATE OF ILLINOIS)
)
COUNTY OF COOK)

I, _____, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that _____, as Manager of West Erie, LLC, an Illinois limited liability company who is 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 they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said company for the uses and purposes therein set forth.

GIVEN under my hand and official seal this _____ day of December, 2007.

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EXHIBIT "A"

LEGAL DESCRIPTION

PARCEL 1: A PART OF LOTS 1 AND 2 OF ASSESSORS DIVISION OF LOT 16 IN BLOCK 24 IN WOLCOTT'S ADDITION TO CHICAGO AND THE NORTH 1/2 OF BLOCK 37 IN KINZIE'S ADDITION TO CHICAGO DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE NORTH LINE OF SAID LOT 1, 20 FEET 2 INCHES WEST OF THE NORTH EAST CORNER OF SAID LOT 1; RUNNING THENCE SOUTH ON A LINE PARALLEL WITH THE EAST LINE OF SAID LOTS 1 AND 2, 51 FEET TO THE SOUTH LINE OF SAID LOT 2; THENCE WEST ON THE SOUTH LINE OF SAID LOT 2, 19 FEET AND 4 INCHES; THENCE NORTH ON LINE PARALLEL WITH THE EAST LINE OF SAID LOTS 1 AND 2, 51 FEET TO THE NORTH LINE OF SAID LOT 1; THENCE EAST 19 FEET 4 INCHES TO THE PLACE OF BEGINNING IN SECTION 9, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2: A TRACT OF LAND DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE NORTH LINE OF LOT 1 OF ASSESSORS DIVISION OF LOT 16 IN BLOCK 24 OF WOLCOTT'S ADDITION TO CHICAGO AND THE NORTH 1/2 OF BLOCK 37 OF KINZIE'S ADDITION TO CHICAGO, 39 FEET 6 INCHES WEST OF THE NORTH EAST CORNER OF SAID LOT 1; THENCE RUNNING SOUTH ON A LINE PARALLEL WITH THE EAST LINE OF SAID LOT 1 AND LOT 2 IN SAID ASSESSOR'S DIVISION, 51 FEET TO THE SOUTH LINE OF THE SAID LOT 2; THENCE WEST ALONG THE SOUTH LINE OF SAID LOT 2, 19 FEET 4 INCHES; THENCE NORTH ON A LINE PARALLEL WITH THE EAST LINE OF SAID LOTS 1 AND 2, 51 FEET TO THE NORTH LINE OF SAID LOT 1; THENCE EAST 19 FEET 4 INCHES TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PARCEL 3: THE WEST 20.66 FEET OF LOTS 1 AND 2 IN ASSESSOR'S DIVISION OF LOT 16 IN BLOCK 24 IN WOLCOTT'S ADDITION TO CHICAGO WITH THE NORTH 1/2 OF BLOCK 37 IN KINZIE'S ADDITION TO CHICAGO, IN SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 4: LOT 14 IN BLOCK 24 IN WOLCOTT'S ADDITION TO CHICAGO IN THE EAST 1/2 OF THE NORTH EAST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 5: LOT 15 IN BLOCK 24 IN WOLCOTT'S ADDITION TO CHICAGO IN THE EAST 1/2 OF THE NORTH EAST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 5-9 West Erie Street, Chicago, Illinois 60610

PINs:	17-09-227-007-0000	17-09-227-018-0000
	17-09-227-008-0000	17-09-227-019-0000
	17-09-227-017-0000	