



0805433172

SECOND LOAN MODIFICATION AGREEMENT

Doc#: 0805933172 Fee: \$40.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 02/28/2008 01:38 PM Pg: 1 of 9

THIS SECOND LOAN MODIFICATION AGREEMENT (this "Agreement") is made as of the 13th day of February, 2008 by WABASH STREET, LLC, an Illinois limited liability company ("Mortgagor"), C. BRADFORD SMITH and DENNIS DECAPRI (jointly and severally, "Guarantor") and AMERICAN CHARTERED BANK ("Mortgagee");

RECITALS:

A. Mortgagee previously made a loan (the "Loan") to Mortgagor in the maximum principal amount of \$6,922,500.00 as evidenced by a Promissory Note in such amount dated April 23, 2007 (the "Note") made by Mortgagor in favor of Mortgagee. The Note is secured by (i) that certain Construction Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing dated April 23, 2007 and recorded on May 25, 2007 as document No. 0714542136 (the "Mortgage") made by Mortgagor in favor of Mortgagee and encumbering certain real property (the "Mortgaged Property") described therein, (ii) that certain Assignment of Leases dated April 23, 2007 and recorded on May 25, 2007 as document No. 0714542137 (the "Assignment") made by Mortgagor to Mortgagee, (iii) that certain Environmental Indemnity Agreement dated April 23, 2007 (the "Indemnity") made by Mortgagor and Guarantor, in favor of Mortgagee, and (iv) that certain Guaranty of Payment and Completion dated April, 2007 (the "Guaranty") made by Guarantor in favor of Mortgagee.

B. Mortgagor, Guarantor and Mortgagee entered into that certain Loan Modification Agreement dated December 17, 2007 and recorded on January 2, 2008 as Document No. 0800201212 (the "First Modification") by which the "Loan Documents" were modified to secure certain obligations of Mortgagor under that certain Application and Agreement for Irrevocable Letter of Credit dated December 17, 2007 (the "LC Agreement") (pursuant to which Lender issued irrevocable letter of credit No. 2067 (the "LC") in the face amount of \$48,500.00 in favor of the City of Chicago as "Beneficiary").

C. The current outstanding balance of the Loan is \$6,865,351.63, with \$57,148.37 undisbursed and remaining to be funded.

D. Mortgagor has requested Lender extend the maturity date of the Loan to April 21, 2008.

E. A condition precedent to Mortgagee's extending the maturity date of the Loan is the execution and delivery by Mortgagor of this Agreement.

Capitalized terms not defined herein shall have the meaning ascribed to them in the Note.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortgagor, Guarantor and Mortgagee agree as follows:

0371981 D2 D6 10F1

9/2

UNOFFICIAL COPY

1. **Modification of Loan Documents.**

- a. Any and all references to the "Loan Documents" shall mean the Loan Documents as modified by this Agreement.
- b. The Maturity Date (as defined in the Note) is extended to April 21, 2008. Any and all references in the Loan Documents to the Maturity Date shall mean April 21, 2008.
- c. In consideration of the extension of the Maturity Date, Mortgagor shall pay a loan fee to Lender in the aggregate amount of \$9,000.00, \$6,000.00 of which is due and payable simultaneous with the execution of the Agreement. The balance of this loan fee in the amount of \$3,000.00 is due and payable on or before March 22, 2008.
- d. In further consideration of the extension of the Maturity Date, Mortgage shall deposit with Lender the amount of \$90,000.00 ("Interest Reserves") to be held by Lender and to provide for the payment of interest on the Loan once the Loan has been fully funded. Provided that (i) no Event of Default has occurred under any of the Loan Documents, and (ii) no event or circumstance has occurred which, with the passage of time, the giving of notice, or both, could constitute an Event of Default, Lender may disburse the Interest Reserves for the payment of interest on the Loan. No interest shall accrue upon the Interest Reserves. In case of an Event of Default, Lender may use and apply the Interest Reserves or any other monies deposited by Borrower with Lender, regardless of the purpose for which deposited, to cure such Event of Default or to apply as a prepayment of the Loan.

2. **Representations and Warranties.**

- a. Mortgagor and Guarantor hereby restate all representations and warranties made by both of them and contained in any of the Loan Documents as if fully set forth herein.
- b. Mortgagor has full power and authority to execute this Agreement and to perform all of its duties and obligations under this Agreement and under the Loan Documents, as amended hereby; such execution and performance have been duly authorized by all necessary corporate, shareholder or partnership approval.
- c. Mortgagor shall perform, or cause to be performed, all work in compliance with any and all applicable laws, rules, regulations, ordinances and statutes, free and clear of any liens, and in a good and workmanlike manner. Mortgagor has obtained all required permits, licenses and authorizations required in connection with any work on or at the Mortgaged Property.
- d. Mortgagor shall not suffer or permit any breach or default to occur in any of Mortgagor's obligations under any of the Construction Contracts.

3. **Restatement of Guaranty.** Guarantor hereby restates all of its covenants and obligations under the Guaranty, which shall remain in full force and effect pursuant to its terms and the terms contained herein.

UNOFFICIAL COPY

4. **Miscellaneous.**

- a. In the event that any provision of this Agreement is deemed to be invalid by reason of the operation of law, or by reason of the interpretation placed thereon by any administrative agency or any court, Mortgagor and Mortgagee shall negotiate an equitable adjustment in the provisions of the same in order to effect, to the maximum extent permitted by law, the purpose of this Agreement and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected thereby and shall remain in full force and effect.
- b. This Agreement is to be construed in accordance with and governed by the laws of the State of Illinois.

[Signatures on following page.]

Property of Cook County Clerk's Office


UNOFFICIAL COPY

IN WITNESS WHEREOF, Mortgagor, Guarantor and Mortgagee have executed this Second Loan Modification Agreement the day and year first above written.

MORTGAGOR:

WABASH STREET, LLC, an Illinois limited liability company

By: Piedmont Group, Inc., an Illinois corporation, its sole manager

By: 
Name: C. Bradford Smith
Title: President

GUARANTOR:


C. BRADFORD SMITH, Individually


DENNIS DECAPRI, Individually

MORTGAGEE:

AMERICAN CHARTERED BANK

By: _____
Name: _____
Title: _____

Property of Cook County Clerk's Office

UNOFFICIAL COPY

IN WITNESS WHEREOF, Mortgagor, Guarantor and Mortgagee have executed this Second Loan Modification Agreement the day and year first above written.

MORTGAGOR:

WABASH STREET, LLC, an Illinois limited liability company

By: Piedmont Group, Inc., an Illinois corporation, its sole manager

By: _____

Name: C. Bradford Smith

Title: President

GUARANTOR:

C. BRADFORD SMITH, Individually

DENNIS DECAPPI, Individually

MORTGAGEE:

AMERICAN CHARTERED BANK

By: 

Name: JASON M. COSTELLO

Title: VP

Property of Cook County Clerk's Office

UNOFFICIAL COPY

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 C. BRADFORD SMITH, the PRESIDENT of PIEDMONT GROUP, INC., an Illinois corporation, the sole manager of WABASH STREET 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 President, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, and as the free and voluntary act of said companies for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 20 day of February, 2008.



Gina Annerino

NOTARY PUBLIC

(SEAL)

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 _____, the _____ of AMERICAN CHARTERED BANK who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such _____, appeared before me this day in person and acknowledged that s/he signed and delivered the said instrument as her/his own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this ___ day of _____, 2008.

NOTARY PUBLIC

(SEAL)

UNOFFICIAL COPY

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 C. BRADFORD SMITH, the PRESIDENT of PIEDMONT GROUP, INC., an Illinois corporation, the sole manager of WABASH STREET 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 President, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, and as the free and voluntary act of said companies for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this day of , 2008.

NOTARY PUBLIC

(SEAL)

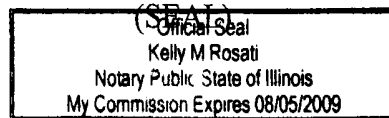
STATE OF ILLINOIS)
)SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that JASON M. COSTELLO VP of AMERICAN CHARTERED BANK who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such , appeared before me this day in person and acknowledged that s/he signed and delivered the said instrument as her/his own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 20 day of FEB, 2008.



NOTARY PUBLIC



UNOFFICIAL COPY

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 C. BRADFORD SMITH who 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 the 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 20 day of February 2008.



Gina Annerino
NOTARY PUBLIC

(SEAL)

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 DENNIS DECAPRI who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such President, appeared before me this day in person and acknowledged that he signed and delivered the 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 20 day of February, 2008.



Gina Annerino
NOTARY PUBLIC

(SEAL)

UNOFFICIAL COPY

EXHIBIT A Legal Description of Premises

PARCEL 1:

THAT PART OF THE NORTHWEST FRACTIONAL 1/4 OF SECTION 22, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, WHICH IS BOUNDED AND DESCRIBED AS FOLLOWS, TO WIT: BEGINNING ON THE EAST SIDE OF WABASH AVENUE AT THE NORTHWEST CORNER OF LOT 1 OF SUBDIVISION MADE BY TURNER AND CARBUETT OF PARTS OF LOTS 5, 6, 7 AND 8 IN BLOCK 11 OF ASSESSOR'S DIVISION OF THE NORTHWEST FRACTIONAL 1/4 OF SECTION 22 AFORESAID; RUNNING THENCE NORTH ALONG THE EAST LINE OF WABASH AVENUE TO A POINT 12 FEET SOUTH FROM THE NORTH LINE OF LOT 9 IN SUBDIVISION OF THE SOUTH 1/2 OF BLOCK 8 OF ASSESSOR'S DIVISION AFORESAID; THENCE EAST PARALLEL WITH THE NORTH LINE OF LOT 9 AFORESAID, MORE OR LESS TO A POINT MIDWAY BETWEEN WABASH AND MICHIGAN AVENUE; THENCE SOUTH ON A LINE PARALLEL WITH EAST LINE OF WABASH AVENUE TO A POINT DUE EAST FROM THE NORTHEAST CORNER OF SAID LOT 1; THENCE WEST TO THE NORTHEAST CORNER OF LOT 1; THENCE WEST ALONG THE NORTH LINE OF SAID LOT 1 TO THE POINT OF BEGINNING, (EXCEPTING FROM SAID PREMISES SO MUCH FROM THE EAST AND THEREOF AS IS TAKEN OR USED FOR ALLEY) IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOTS 1 TO 4, BOTH INCLUSIVE, IN THE SUBDIVISION OF PART OF LOTS 5 TO 8 IN BLOCK 11 IN ASSESSOR'S DIVISION OF THE NORTHWEST FRACTIONAL QUARTER OF SECTION 22, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

<p>This instrument was prepared by and after recording, return to: Bronson & Kahn, LLC 150 North Wacker Drive, Suite 1400 Chicago, Illinois 60606 Attn: Harlan D. Kahn, Esq.</p>	<p>Permanent Real Estate Tax No.: 17-22-104-006-0000 17-22-104-007-0000 17-22-104-008-0000 17-22-104-009-0000 17-22-104-010-0000 Common Address: 1327-39 South Wabash Avenue Chicago, IL 60605</p>
---	--