

# UNOFFICIAL COPY



Doc#: 0827326246 Fee: \$74.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 09/29/2008 03:08 PM Pg: 1 of 20

84540JS D-1  
J Fagan

## FIRST NOTE AND MORTGAGE MODIFICATION AGREEMENT

Dated as of September 26, 2008

VAN WELLS REALTY COMPANY, L.L.C.  
(Mortgagor)

TO

JOHN HANCOCK LIFE INSURANCE COMPANY  
(Mortgagee)

LOCATION OF PROPERTY:  
308-326 South Wells Street  
Chicago, Illinois

After Recording Return To:

Quarles & Brady LLP  
500 West Madison Street  
Suite 3700  
Chicago, Illinois 60661  
Attention: Peter A. Sarasek, Esq.

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Loan No. 519517:12

**FIRST NOTE AND MORTGAGE  
MODIFICATION AGREEMENT**

This Agreement made as of this 26th day of September, 2008, by and between VAN WELLS REALTY COMPANY, L.L.C., an Illinois limited liability company ("Borrower"), and JOHN HANCOCK LIFE INSURANCE COMPANY, a Massachusetts corporation ("Lender").

**RECITALS:**

A. Van Wells Realty Company, L.L.C., an Illinois limited liability company, is the maker of (i) a Mortgage Note dated as of October 9, 2006 in the original principal amount of Eight Million and No/100 Dollars (\$8,000,000.00) made payable to the order of Lender ("Mortgage Note No. 1"), (ii) a Mortgage, Assignment of Leases and Rents and Security Agreement dated as of October 9, 2006 and recorded on October 16, 2006 as Document No. 0628918019 in the Office of the Recorder of Cook County, Illinois ("the Mortgage") securing payment of the indebtedness evidenced by Mortgage Note No. 1 and conveying the real and personal property described therein, (iii) an Assignment of Leases and Rents dated as of October 9, 2006 ("the Rent Assignment") and recorded on October 16, 2006 as Document No. 0628918020 in the Office of the Recorder of Deeds of Cook County, Illinois, and certain other Loan Documents (as hereinafter defined). Mortgage Note No. 1 evidences indebtedness of

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Borrower to Lender in the original principal amount of \$8,000,000.00, which indebtedness is hereinafter sometimes referred to as "the Loan." The Mortgage, the Rent Assignment and all other documents related to the Loan or securing Mortgage Note No. 1 are hereinafter called "the Loan Documents."

B. Mortgage Note No. 1 and the Mortgage and the Rent Assignment and all of the other Loan Documents are presently owned and held by Lender.

C. Borrower has requested Lender to advance to Borrower the additional sum of \$12,500,000.00, and Lender has agreed to advance such monies to Borrower, to be evidenced by a certain Mortgage Note No. 2 dated the date hereof in the original principal amount of \$12,500,000.00 ("Mortgage Note No. 2"), which Mortgage Note No. 2 shall be secured on an equal basis with Mortgage Note No. 1 and secured by the lien of the Mortgage and the other Loan Documents.

D. The sole member of Borrower is also the sole member of the borrower under one other note (the "Other Note") and one other related Mortgage (the "Other Mortgage") described in Paragraph 4 below. Borrower and Lender and the mortgagor under the Other Mortgage have agreed that the loan evidenced by Mortgage Note No. 1 and Mortgage Note No. 2 and the Mortgage shall be cross-defaulted and cross-collateralized with the loan evidenced by the Other Note and the Other Mortgage, and the loan evidenced by the Other Note and the Other Mortgage shall be cross-defaulted and cross-collateralized with the loan evidenced by Mortgage Note No. 1 and Mortgage Note No. 2 and the Mortgage.

E. Borrower and Lender have agreed to amend the Mortgage on the terms and conditions hereinafter set forth.

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NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower and Lender hereby covenant and agree as follows:

1. Effective as of the date hereof, the term "Note" when used in the Mortgage and in the Loan Documents shall refer to and include not only Mortgage Note No. 1 in the original principal amount of \$8,000,000.00 dated as of October 9, 2006 executed by Borrower in favor of Lender in connection with the Loan (which shall hereafter be retitled and referred to as "Mortgage Note No. 1"), but shall also refer to and include that certain Mortgage Note No. 2 dated the date hereof in the original principal amount of \$12,500,000.00 executed by Borrower in favor of Lender; the term "the Loan" shall hereafter refer to the original indebtedness of \$8,000,000.00 evidenced by Mortgage Note No. 1 and the additional indebtedness of \$12,500,000.00 evidenced by Mortgage Note No. 2; and the principal sum of the Loan described in the first paragraph of the Witnesseth section on page 1 of the Mortgage shall hereafter be the aggregate original sum of Twenty Million Five Hundred Thousand and No/100 Dollars (\$20,500,000.00) in lieu of the sum of Eight Million and No/100 Dollars (\$8,000,000.00) originally set forth therein.

2. Effective as of the date hereof, the fifth full paragraph of Section 2 of Mortgage Note No. 1 shall be and hereby is amended by deleting it in its entirety and by substituting in lieu thereof the following:

"The loan will be open to prepayment without premium on any scheduled payment date during the last ninety (90) days of the term of the loan."

3. Effective as of the date hereof, the eighth full paragraph of Section 2 of Mortgage Note No. 1 shall be and hereby is amended by deleting it in its entirety and by substituting in lieu thereof the following:

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"No partial prepayment shall be allowed (other than due to Payee's election to apply insurance loss proceeds or condemnation proceeds). Notwithstanding anything herein to the contrary, it is understood that no prepayment (unless caused by the application of insurance loss proceeds or condemnation proceeds) shall be permitted under this Note prior to November 1, 2013, and then only if all indebtedness outstanding under (a) that certain Mortgage Note No. 2 dated as of September 26, 2008 in the principal amount of \$12,500,000.00 executed by Maker in favor of Lender, and (b) that certain Mortgage Note dated as of September 26, 2008 in the principal amount of \$27,500,000.00 executed by Tower Garage, LLC in favor of Payee, is paid in full by Maker."

4. Effective as of the date hereof, Section 6 of Mortgage Note No. 1 shall be and hereby is amended by deleting it in its entirety and by substituting in lieu thereof the following:

"6. Security for Loan. This Note is secured by the Mortgage and certain other Loan Documents. The term "Mortgage" as used in this Note shall mean the Mortgage, Assignment of Leases and Rents and Security Agreement dated the date hereof, as amended from time to time, in the original aggregate principal sum of \$20,500,000.00 given by Maker for the use and benefit of Payee covering certain premises located at 308-326 South Wells Street, Chicago, Illinois, as more particularly described therein. This Note is further secured by that certain Mortgage, Assignment of Leases and Rents and Security Agreement dated as of September 26, 2008 in the original principal sum of \$27,500,000 given by Tower Garage, LLC, a Delaware limited liability company, covering certain premises located at Franklin and Van Buren Streets, in Chicago, Illinois, as more particularly described therein."

5. Effective as of the date hereof, Section 19 of Mortgage Note No. 1 shall be and hereby is amended by deleting it in its entirety and by substituting in lieu thereof the following:

"19. Limitation on Liability. Notwithstanding anything to the contrary contained herein, but subject to the obligations of Paragraph 45 of the Mortgage, any claim based on or in respect of any liability of Maker under this Note or under the Mortgage or any other Loan Document shall be enforced only against the Mortgaged Property (as such term is defined in the Mortgage) and any other collateral now or hereafter given to secure this Note and not against any other assets, properties or funds of Maker; provided, however, that Maker shall be personally liable for amounts under the Loan Documents to the extent of, but limited to the amount of, any loss, costs or damage arising out of the matters described below (collectively, "Non-Recourse Carveout Obligations"), which liability shall not be limited solely to the Mortgaged Property and other collateral

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now or hereafter given to secure this Note but shall include all of the assets, properties and funds of Maker: (i) fraud, misrepresentation and waste, (ii) any rents, issues or profits collected more than one (1) month in advance of their due dates, (iii) any misappropriation of rents, issues or profits, security deposits and any other payments from tenants or occupants (including, without limitation, lease termination fees), insurance proceeds, condemnation awards or other sums of a similar nature, (iv) liability under environmental covenants, conditions and indemnities contained in the Mortgage and in any separate environmental indemnity agreements, (v) personalty or fixtures removed or allowed to be removed by or on behalf of Maker and not replaced by items of equal or greater value or functionality than the personalty or fixtures so removed, to the extent such personalty or fixtures are still necessary for the proper operation of the Mortgaged Property, (vi) failure to pay taxes, assessments or ground rents prior to delinquency, or to pay charges for labor, materials or other charges which can create liens on any portion of the Mortgaged Property and any sums expended by Payee in the performance of or compliance with the obligations of Maker under the Loan Documents, including, without limitation, sums expended to pay taxes or assessments or hazard insurance premiums or bills for utilities or other services or products for the benefit of the Mortgaged Property, (vii) the unauthorized sale, conveyance or transfer of title to the Mortgaged Property or encumbrance of the Mortgaged Property, (viii) the failure of Maker to maintain its status as a single asset entity pursuant to its organizational documents and the Loan Documents, (ix) a violation of the provisions of Paragraph 18(h) of the Mortgage, (x) payment of any sums due under any secondary financing (as defined in Paragraph 9 of the Mortgage) at any time after the occurrence and during the continuation of any default under any of the Loan Documents, and (xi) attorney's fees, court costs and other expenses incurred by Payee in connection with its enforcement of its remedies under the Loan Documents, including, but not limited to, in connection with any bankruptcy proceeding or reorganization brought by or against the Maker or any of its principals. Nothing herein shall be deemed (w) to be a waiver of any right which Payee may have under any bankruptcy law of the United States or the state where the Mortgaged Property is located including, but not limited to, Section 506(a), 506(b), 1111(b) or any other provisions of the U.S. Bankruptcy Code, to file a claim for the full amount of the indebtedness secured by the Mortgage or to require that all collateral securing the indebtedness secured hereby shall continue to secure all of the indebtedness owing to Payee in accordance with this Note, the Mortgage and the other Loan Documents; (x) to impair the validity of the indebtedness secured by the Mortgage; (y) to impair the right of Payee as mortgagee or secured party to commence an action to foreclose any lien or security interest; or (z) to modify, diminish or discharge the liability of any guarantor under any guaranty or of any indemnitor under any indemnity agreement."

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6. Effective as of the date hereof, paragraph 9 (b) of the Mortgage shall be and hereby is amended by deleting it in its entirety and by substituting in lieu thereof the following:

"(b) A sale, conveyance, alienation, mortgage, encumbrance, pledge or transfer within the meaning of this Paragraph 9 shall be deemed to include (i) an installment sales agreement wherein Mortgagor agrees to sell the Mortgaged Property or any part thereof for a price to be paid in installments, (ii) an agreement by Mortgagor leasing all or a substantial part of the Mortgaged Property for other than actual occupancy by a space tenant thereunder or a sale, assignment or other transfer of, or the grant of a security interest in, Mortgagor's right, title and interest in and to any Leases or any Rents, (iii) if Mortgagor, any guarantor of Non-Recourse Carveout Obligations (as hereinafter defined), any other guarantor, any indemnitor of environmental liabilities or any general partner or managing member of Mortgagor or any such guarantor or indemnitor (each of the foregoing, a "Mortgagor Entity") is a corporation, the voluntary or involuntary sale, assignment, conveyance or transfer of such corporation's stock (or the stock of any corporation directly or indirectly controlling such corporation by operation of law or otherwise) or the creation or issuance of new stock in one or a series of transactions by which an aggregate of more than ten percent (10%) of such corporation's stock shall be vested in a party or parties who are not now stockholders (other than Family Members of such stockholder) or any change in the control of such corporation, (iv) if any Mortgagor Entity is a limited or general partnership, joint venture or limited liability company, the change, removal, resignation or addition of a general partner, managing partner, joint venturer or managing member or the transfer of the partnership interest of any general partner or managing partner or the transfer of the interest of any joint venturer or managing member, and (v) if Mortgagor, any guarantor of Non-Recourse Carveout Obligations or any other guarantor or any indemnitor of environmental liabilities, is an entity, whether one of the above-mentioned entities or not, any change in the ownership or control of such entity, any merger, consolidation or dissolution or syndication affecting such entity, or the transfer, sale, assignment or pledge of any interest in such entity or in any person, directly or indirectly, controlling such entity or in any general partner or managing member thereof, whether at one time or in a series of related transactions."

7. Effective as of the date hereof, paragraph 9 (g) of the Mortgage shall be and hereby is amended by deleting it in its entirety and by substituting in lieu thereof the following:

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"(g) Notwithstanding anything to the contrary set forth in this Mortgage, so long as all of the Internal Transfer Conditions described in Paragraph 9(j) below are satisfied, the following shall be permitted without Mortgagee's consent and will not constitute an Event of Default hereunder:

any transfer, issuance, syndication or redemption of any direct or indirect interest in Mortgagor, 4 Garages, LLC, Buzz Parking Group, LLC ("Ruttenberg Member") or General Parking Corporation ("Prussian Member") or in any entity which owns, directly or indirectly, interests in Mortgagor, 4 Garages, LLC, Ruttenberg Member or Prussian Member, so long as a Ruttenberg Affiliate controls, directly or indirectly, the Ruttenberg Member and a Prussian Affiliate controls, directly or indirectly, the Prussian Member.

For purposes of this Paragraph 9, the following definitions shall apply:

"Affiliate" shall mean in the case of a corporate or limited liability member of a limited liability company Mortgagor ("LLC"), any person or entity (i) which owns beneficially, directly or indirectly, any outstanding shares of stock or membership interests in such member, or (ii) which controls or is under common control with such corporation or member or the Mortgagor."

"Control" (including as used in the terms "controlling," "controlled by" or "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of management, policies or activities of a person or entity, whether through ownership of voting securities or other interests, by contract, or otherwise.

"Family Member" shall mean a member's immediate family members (spouse, brothers and sisters, whether by the whole or half blood, and ancestors or lineal descendants by birth or adoption), and/or any (i) trusts for the benefit of any immediate family member, (ii) partnership in which an immediate family member is a general partner, (iii) limited partnership in which an immediate family member is a general partner, (iv) limited liability company in which an immediate family member is a managing member, or (v) corporation in which an immediate family member is an officer, director, or controlling (as defined below) shareholder.

"Prussian Affiliate" shall mean (i) either of Gordon Prussian or Michael Prussian or both of them; (ii) any trust primarily for the benefit of either or both of the parties referred to in clause (i); or (iii) any corporation, partnership, limited liability company or other entity controlled by any party referred to in clauses (i) or (ii) or any combination thereof.

"Ruttenberg Affiliate" shall mean (i) David Ruttenberg (or, in the event of the death of David Ruttenberg, Joel Simmons); (ii) any trust primarily for the benefit of David Ruttenberg (or, in the event of the death of David Ruttenberg, for the benefit of Joel Simmons); or (iii) any corporation, partnership, limited liability company or other entity controlled by David Ruttenberg (or, in the event of the death of David Ruttenberg, Joel Simmons)."



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8. Effective as of the date hereof, Paragraph 9 (h) of the Mortgage shall be and hereby is amended by deleting it in its entirety and by substituting in lieu thereof the following:

"(h) Mortgagor has not incurred and will not incur any indebtedness other than the Loan or unsecured trade payables which are either not overdue or are being contested so long as they do not become the subject of a lien, and debt (i) incurred in the ordinary course of business to vendors and suppliers of services to the Mortgaged Property, and (ii) not secured by the Mortgaged Property, or any portion thereof, or by interests in the Mortgagor or 4 Garages, LLC or General Parking Corporation, and (iii) not accompanied by any rights to control or to obtain control of the Mortgagor or 4 Garages, LLC or General Parking Corporation. Except as set forth herein, no indebtedness other than the Loan may be secured (subordinate or pari passu) by the Mortgaged Property, or any portion thereof, or by interests in the Mortgagor or 4 Garages, LLC or General Parking Corporation."

9. Effective as of the date hereof, clause (13) of Paragraph 9(i) of the Mortgage shall be and hereby is amended by deleting it in its entirety and by substituting in lieu thereof the following:

"(13) the debt service coverage ratio for the combined loan payments of the secondary financing and the Loan shall not result in a debt service coverage ratio of less than 1.30, calculated by Mortgagee in its sole discretion, and the loan-to-value ratio for the combined proposed mortgage and this Mortgage shall not exceed 75%, calculated by Mortgagee in its sole discretion."

10. Effective as of the date hereof, the Mortgage shall be and hereby is amended by adding thereto the following Paragraph 9 (j):

"(j) Notwithstanding anything herein to the contrary, as long as all of the Internal Transfer Conditions (as defined below) are satisfied, it shall not be a default hereunder for any member of Mortgagor to transfer its ownership interests in Mortgagor (x) to another member of Mortgagor as of the date of the funding of Mortgage Note No. 2 of the Loan, or (y) to a Family Member (as defined below) of the transferring member, or (z) to a conservator pursuant to a court order upon disability of such transferring member.

The term "Internal Transfer Conditions" shall mean that all of the following are satisfied:

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(i) No Event of Default shall have occurred hereunder or under any of the Loan Documents.

(ii) No such transfer of interest shall result in a change of control of Mortgagor or the day-to-day operations of the Mortgaged Property and a Prussian Affiliate shall continue to control Mortgagor and the day-to-day operations of the Mortgaged Property.

(iii) Without limiting the foregoing, no such transfer, either singly or in the aggregate with other transfers, shall result in any violation of any provisions of the Loan Documents or Mortgagor's organizational documents.

(iv) Mortgagee shall be provided with prior written notice of each such transfer, together with a diagram showing the legal structure of Mortgagor and all constituent entities after the contemplated transfer and a list of the names, types of interest and percentages of ownership of all owners of interests in Mortgagor and its constituent entities after such transfer, together with an administrative fee of \$1,000.00, which shall be deemed fully earned upon receipt.

(v) Mortgagor shall pay all fees and costs in connection with the transaction, including without limitation Mortgagee's reasonable attorney's fees.

As used herein, "Family Member" shall mean an individual's immediate family members (spouse, brothers and sisters, whether by the whole or half blood, and ancestors or lineal descendants by birth or adoption), and/or any (i) trusts for the benefit of any immediate family member, (ii) partnership in which an immediate family member is a general partner, (iii) limited partnership in which an immediate family member is a general partner, (iv) limited liability company in which an immediate family member is a managing member, or (v) corporation in which an immediate family member is an officer, director, or controlling (as defined below) shareholder."

11. Effective as of the date hereof, the Mortgage shall be and hereby is amended by adding thereto the following Paragraph 20(l):

"(l) if a default occurs under any of the Other Note or the Other Mortgage described in Paragraph 75 below and such default shall not have been cured within any cure period provided for therein."

12. Effective as of the date hereof, Paragraph 46 of the Mortgage shall be and hereby is amended by deleting it in its entirety and by substituting in lieu thereof the following:

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"46. Exculpation. Notwithstanding anything to the contrary contained herein, but subject to Paragraph 45 hereof, any claim based on or in respect of any liability of Mortgagor under the Note or under this Mortgage or any other Loan Document shall be enforced only against the Mortgaged Property and any other collateral now or hereafter given to secure the Loan and not against any other assets, properties or funds of Mortgagor; provided, however, that Mortgagor shall be personally liable for amounts under the Loan Documents to the extent of, but limited to the amount of, any loss, costs or damage arising out of the matters described below (collectively, "Non-Recourse Carveout Obligations"), which liability shall not be limited solely to the Mortgaged Property and other collateral now or hereafter given to secure the Loan but shall include all of the assets, properties and funds of Mortgagor: (i) fraud, misrepresentation and waste, (ii) any rents, issues or profits collected more than one (1) month in advance of their due dates, (iii) any misappropriation of rents, issues or profits, security deposits and any other payments from tenants or occupants (including, without limitation, lease termination fees) insurance proceeds, condemnation awards, or other sums of a similar nature, (iv) liability under environmental covenants, conditions and indemnities contained in the Mortgage and in any separate environmental indemnity agreements, (v) personalty or fixtures removed or allowed to be removed by or on behalf of Mortgagor and not replaced by items of equal or greater value or functionality than the personalty or fixtures so removed, to the extent such personalty or fixtures are still necessary for the proper operation of the Mortgaged Property, (vi) failure to pay taxes, assessments or ground rents prior to delinquency, or to pay charges for labor, materials or other charges which can create liens on any portion of the Mortgaged Property and any sums expended by Mortgagee in the performance of or compliance with the obligations of Mortgagor under the Loan Documents, including, without limitation, sums expended to pay taxes or assessments or hazard insurance premiums or bills for utilities or other services or products for the benefit of the Mortgaged Property, (vii) the unauthorized sale, conveyance or transfer of title to the Mortgaged Property or encumbrance of the Mortgaged Property, (viii) the failure of Mortgagor to maintain its status as a special purpose/bankruptcy remote entity pursuant to its organizational documents and the Loan Documents, (ix) a violation of the provisions of Paragraph 18(h) of this Mortgage, and (x) attorney's fees, court costs and other expenses incurred by Mortgagee in connection with its enforcement of its remedies under the Loan Documents, including, but not limited to, in connection with any bankruptcy proceeding or reorganization brought by or against the Mortgagor or any of its principals. Nothing herein shall be deemed (w) to be a waiver of any right which Mortgagee may have under any bankruptcy law of the United States or the state where the Mortgaged Property is located including, but not limited to, Section 506(a), 506(b), 1111(b) or any other provisions of the U.S. Bankruptcy Code, to file a claim for the full amount of the indebtedness secured by this Mortgage or to require that all of the collateral securing the indebtedness secured hereby shall continue to secure all of the indebtedness owing to Mortgagee under the Note, this Mortgage and the other

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Loan Documents; (x) to impair the validity of the indebtedness secured by this Mortgage; (y) to impair the right of Mortgagee as Mortgagee or secured party to commence an action to foreclose any lien or security interest; or (z) to modify, diminish or discharge the liability of any Guarantor under any Guaranty."

13. Effective as of the date hereof, the Mortgage shall be and hereby is amended by adding thereto the following Paragraph 75:

"75. Cross-Default/Cross-Collateralization. Mortgagee has funded one additional Loan to one other mortgagor, the sole member of which is 4 Garages, LLC, which is also the sole member of Mortgagor. The identity of such other Loan (the "Other Loan"), such other Note (the "Other Note"), such other Mortgage (the "Other Mortgage") evidencing the Other Loan and the mortgagor thereunder and the mortgaged property subject thereto, are listed and identified on Exhibit B attached hereto and made a part hereof.

As a condition of Mortgagee to the funding of the Other Loan secured by the Other Note, Mortgagor has agreed that the Mortgaged Property described on Exhibit A attached to this Mortgage shall additionally secure the payment, performance and observance of all of the indebtedness, covenants, agreements, obligations and liabilities of the mortgagors under the Other Mortgage and the Other Note secured thereby and any and all of the other documents given to evidence, secure or guarantee the foregoing. It is the express intent of Mortgagor that such Other Note and the Note originally described herein be cross-defaulted and cross-collateralized and that such Note be ratably secured and entitled to the benefits of, inter alia, this Mortgage, Assignment of Leases and Rents and Security Agreement, and the Other Mortgage and the other Loan Documents (as defined therein)."

14. Effective as of the date hereof, the Mortgage shall be and hereby is further amended by adding thereto the following Exhibit B:

**"EXHIBIT B****Description of the Other Loan**

John Hancock Loan No.:	525084:11
Principal amount:	\$27,500,000.00
Date of Note:	September 26, 2008
Date of Mortgage:	September 26, 2008

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Maturity Date: October 1, 2018

Property affected: Franklin and Van Buren Streets, Chicago, Illinois, as legally described on Exhibit B-1 attached hereto)

Mortgagor: Tower Garage, LLC

15. Effective as of the date hereof, the Mortgage shall be and hereby is further amended by adding thereto Exhibit B-1 attached hereto and made a part hereof.

16. Effective as of the date hereof, (a) the term "Loan Documents" shall hereafter refer to the Mortgage as amended by this First Note and Mortgage Modification Agreement, the Rent Assignment and all other documents related to the Loan or securing Mortgage Note No. 1 or Mortgage Note No. 2, (b) the lien of the Mortgage shall secure with equal rank and parity and priority both Mortgage Note No. 1 and Mortgage Note No. 2, (c) any default under any of the terms of Mortgage Note No. 2 or the Other Note shall constitute a default under Mortgage Note No. 1 and under the Mortgage, (d) any default under any of the terms of Mortgage Note No. 1 or under the Other Note shall constitute a default under Mortgage Note No. 2 and under the Other Note and the Mortgage and the Other Mortgage, and (e) any such default shall provide Lender with all of the rights and remedies available to Lender under the Loan Documents in law and in equity.

17. Except as expressly amended and modified hereby, all of the terms and provisions of Mortgage Note No. 1 and the Mortgage as amended hereby and all of the other Loan Documents are hereby ratified and confirmed and shall remain in full force and effect.

18. This document may be signed in multiple counterparts by the parties hereto.

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IN WITNESS WHEREOF, the parties have executed this instrument as of the date first above written.

**BORROWER:**

VAN WELLS REALTY COMPANY, L.L.C.,  
an Illinois limited liability company

By: 4 Garages, LLC, a Delaware limited  
liability company, its sole member

By: General Parking Corporation, an  
Illinois corporation, its manager

By:   
Name: Michael Prussian  
Title: President

**LENDER:**

JOHN HANCOCK LIFE INSURANCE COMPANY,  
a Massachusetts corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Property of Cook County Clerk's Office

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IN WITNESS WHEREOF, the parties have executed this instrument as of the date first above written.

**BORROWER:**

VAN WELLS REALTY COMPANY, L.L.C.,  
an Illinois limited liability company

By: 4 Garages, LLC, a Delaware limited liability company, its sole member

By: General Parking Corporation, an Illinois corporation, its manager

By: \_\_\_\_\_

Name: Michael Prussian

Title: President

**LENDER:**

JOHN HANCOCK LIFE INSURANCE COMPANY,  
a Massachusetts corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

*Jeffrey H. Packard*  
Jeffrey H. Packard  
Assistant Vice President

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The undersigned, Michael Prussian, having heretofore executed and delivered to Lender as part of the above-described Loan Documents (1) an Indemnification Agreement, and (2) a certain Guaranty Agreement, hereby acknowledges his approval to the foregoing instrument, and agrees that the Indemnification Agreement and the Guaranty Agreement and all other documents executed by him shall continue to be in full force and effect and apply to the Note and the Mortgage as amended hereby.



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Michael Prussian

Property of Cook County Clerk's Office

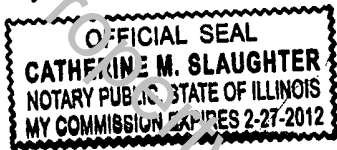


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STATE OF ILLINOIS, County of Cook ss:

On this 26<sup>th</sup> day of September, 2008, before me personally came Michael Prussian, to me known, who, being by me duly sworn, did acknowledge, depose and state that he is the President of General Parking Corporation, the manager of 4 Garages, LLC, the sole member of Van Wells Realty Company, L.L.C., the limited liability company described in and which executed the above instrument; and that he signed his name thereto on his own behalf individually and on behalf of said corporation as manager of the sole member of said limited liability company.



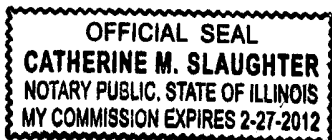
Catherine M. Slaughter  
Notary Public

(Impress Notarial Seal Here)

My commission expires: 2/27, 2012

STATE OF ILLINOIS, County of Cook ss:

On this 26<sup>th</sup> day of September, 2008, before me personally came Michael Prussian, to me known, who, being by me duly sworn, did acknowledge, depose and state that he is the person described in and which executed the above instrument; and that he signed his name thereto on behalf of himself.



Catherine M. Slaughter  
Notary Public

(Impress Notarial Seal Here)

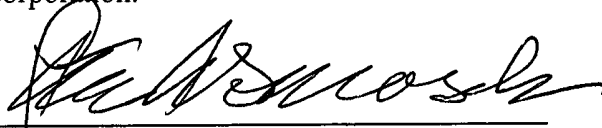
My commission expires: 2/27, 2012

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STATE OF ILLINOIS        )  
                                   )  
 COUNTY OF COOK         )        SS:

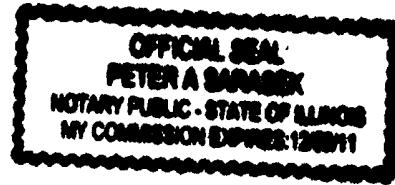
The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of September, 2008 by Jeffrey H. Packard, as Assistant Vice-President of John Hancock Life Insurance Company, a Massachusetts corporation, on behalf of said corporation.



\_\_\_\_\_  
 Notary Public

(Impress Notarial Seal Here)

My commission expires: December 3, 2011



Property of Cook County Clerk's Office

# UNOFFICIAL COPY

Loan No. 519517:12

## EXHIBIT A

### LEGAL DESCRIPTION OF LAND

PARCEL 1:

THE SOUTH HALF OF LOT 4 AND LOTS 5, 6, 7, 8, 9, 10, 11, 12 AND THE NORTH 12 FEET OF LOT 13 IN THOMAS H. HUBBARD'S SUBDIVISION OF THE EAST HALF OF BLOCK 91 IN SCHOOL SECTION ADDITION TO CHICAGO, IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

NON-EXCLUSIVE CROSS ACCESS AGREEMENT AND OPERATING AGREEMENT DATED MAY 17, 2000 AND RECORDED ON MAY 23, 2000 AS DOCUMENT 00371381.

17-16-228-011-0000  
17-16-228-012-0000  
17-16-500-017-0000

# UNOFFICIAL COPY

Loan No. 519517:12

## EXHIBIT B-1

### LEGAL DESCRIPTION OF LAND

#### PARCEL 1:

LOT 2 (EXCEPT THE NORTH 77 FEET, 9 INCHES THEREOF), IN THE SUBDIVISION OF THE WEST 1/2 OF BLOCK 91 IN SCHOOL SECTION ADDITION TO CHICAGO IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 10, 1869 IN BOOK 168 OF PLATS, PAGE 190, IN COOK COUNTY, ILLINOIS.

#### PARCEL 2:

THE NORTH 1/2 OF PRIVATE ALLEY LYING SOUTH OF AND ADJOINING PARCEL 1, AFORESAID, IN COOK COUNTY, ILLINOIS.

#### PARCEL 3:

LOTS 3, 4, 5, 6, 7, 8 AND 9, INCLUSIVE, IN THE SUBDIVISION OF THE WEST 1/2 OF BLOCK 91 IN SCHOOL SECTION ADDITION TO CHICAGO IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 10, 1869 IN BOOK 168 OF PLATS, PAGE 190, IN COOK COUNTY, ILLINOIS.

#### PARCEL 4:

THAT PART OF THE SOUTH 1/2 OF THE PRIVATE ALLEY LYING SOUTH OF AND ADJOINING LOT 2 AND NORTH OF AND ADJOINING PARCEL 3, IN COOK COUNTY, ILLINOIS.

#### PARCEL 5:

NON-EXCLUSIVE CROSS ACCESS AGREEMENT AND OPERATING AGREEMENT DATED MAY 17, 2000 AND RECORDED ON MAY 23, 2000 AS DOCUMENT NUMBER 00371381.