



Doc#: 0902142024 Fee: \$54.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 01/21/2009 09:39 AM Pg: 1 of 10

THIS INSTRUMENT PREPARED BY:  
AND AFTER RECORDING MAIL TO:  
Ravenswood Bank  
2300 West Lawrence Avenue  
Chicago, Illinois 60625  
Attn: Michael Obremski

① 83-30-473 JCTI  
**SECOND MODIFICATION AGREEMENT**

**THIS SECOND MODIFICATION AGREEMENT** (hereinafter referred to as this "Modification Agreement") made as of this 15th day of December, 2008 with an effective date of November 5, 2008, by and among 900 REBA, LLC, an Illinois limited liability company ("Borrower"), John Majic ("Guarantor") (Borrower and Guarantor are hereinafter collectively referred to as the "Obligors") and RAVENSWOOD BANK ("Lender").

**WITNESSETH:**

**WHEREAS**, Borrower has executed and delivered to Lender that certain mortgage note dated February 24, 2006 in the original principal sum of Three Million Three Hundred Thirty Two Thousand and 00/100 Dollars (\$3,332,000.00) (the "Original Note"), as amended by that certain first amendment to mortgage note and construction loan agreement dated September 1, 2007 (the "First Amendment") as further modified by that certain Amended and Restated Mortgage Note dated as of November 1, 2007 (the "Amended and Restated Mortgage Note") (the Original Note, the First Amendment and the Amended and Restated Mortgage Note may be hereinafter referred to as the "Note"), which Note is secured by the following documents (the following documents and any and all other instruments executed by any Obligor, as modified, restated or replaced from time to time, are hereinafter collectively referred to as the "Loan Documents"):

- (i) mortgage and security agreement dated February 24, 2006, recorded in the Office of the Recorder of Deeds of Cook County, Illinois (the "Recorder's Office"), as Document No. 0608933096 by Borrower in favor of Lender (the "Mortgage") on property commonly known as 900-906 Reba Place, Evanston, Illinois and legally described on Exhibit "A" attached hereto and made a part hereof (the "Premises");
- (ii) assignment of rents and of lessor's interest in leases dated February 24, 2006 encumbering the Premises made by Borrower in favor of Lender, recorded in the Recorder's Office as Document No. 0608933097 (the "Assignment of Rents");

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- (iii) guaranty dated February 24, 2006 made by Guarantors in favor of Lender (the "Guaranty");
- (v) construction loan agreement dated February 24, 2006 between Borrower and Lender (the "Loan Agreement");
- (vi) environmental indemnity agreement dated February 24, 2006 made by Borrower in favor of Lender (the "Environmental Agreement");
- (vii) security agreement and assignment of contractual agreements affecting real estate dated February 24, 2006 made by Borrower in favor of Lender (the "Security Agreement"); and
- (viii) assignment of sales agreements dated February 24, 2006 made by Borrower in favor of Lender (the "Sales Agreement").

**WHEREAS**, Borrower, Guarantor, Kriza Ostojic and Lender have entered into that certain Modification Agreement dated as of November 1, 2007 and recorded in the Recorder's Office on December 5, 2007 as Document No. 0733935077 (the "First Modification Agreement").

**WHEREAS**, all defined terms used herein and not otherwise defined shall have the meaning ascribed to such term in the Loan Documents.

**WHEREAS**, Obligors are desirous of, *inter alia* (i) extending the maturity date of the Note from November 5, 2008 to February 5, 2009, (ii) modifying the minimum interest rate on the Note from eight percent (8%) to five and one-quarter percent (5.25%), (iii) removing Kriza Ostojic as a guarantor of the payment of principal, interest and all other amounts related to the Loan Documents and the full and faithful performance by Borrower of all of the covenants to be performed and observed in connection with the Loan, (iv) further securing the Note with a junior mortgage and security agreement of even date herewith executed by Albany Bank and Trust Co., N.A., a national banking association, its successor and successors, as trustee under trust agreement dated March 30, 2006 and known as trust number 11-6112, not personally but solely as trustee, in favor of Lender on property commonly known as 4600 West Touhy Avenue, Lincolnwood, Illinois, (v) further securing the Note with a junior mortgage and security agreement of even date herewith executed by 7255 N. Bell, LLC, an Illinois limited liability company, in favor of Lender on property commonly known as 7255-57 North Bell Avenue, Chicago, Illinois, and (vi) making certain other changes thereto, and Lender is willing to consent to such changes subject to the terms and provisions hereinafter provided.

**NOW THEREFORE**, in consideration of the mutual promises of the parties hereto, and upon the express conditions that the lien of the Mortgage held by Lender is a valid, first and subsisting lien on the Premises (as defined in the Mortgage) and that the execution of this Modification Agreement will not impair the lien of said Mortgage and that there are no existing junior mortgages or other liens subsequent to the lien of the Mortgage held by Lender that will not be paid in full and released concurrently herewith (for breach of which conditions, or either of them,

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this Modification Agreement shall not take effect and shall be void), **IT IS AGREED AS FOLLOWS:**

1. The parties represent and agree that the foregoing recitals are true and correct.

2. As of December 15, 2008, the total outstanding principal balance of the Note is \$3,521,671.93. Concurrent with the execution of this Modification Agreement, the Borrower shall execute and deliver to Lender a Second Amended and Restated Mortgage Note dated as of November 5, 2008, in the principal amount of Three Million Six Hundred Thirty Two Thousand and 00/100 Dollars (\$3,632,000.00), payable to the order of Lender (the "Second Amended Note") (the Original Note, the First Amendment, the Amended Note and the Second Amended Note may be collectively hereinafter referred to as the "Note"). Each reference in the Loan Documents to the term "Note" shall hereafter be deemed to be a reference to the Second Amended Note. Each reference in the Loan Documents to the term "Loan" shall hereafter mean that certain \$3,632,000.00 construction loan made by Lender to Borrower and evidenced by the Second Amended Note.

3. The Mortgage is hereby modified as follows:

(i) The first "Whereas" paragraph on page 1 is hereby amended and restated in its entirety to read as follows:

**"WHEREAS**, the Mortgagor has, concurrently herewith, executed and delivered to the Mortgagee, the Mortgagor's Second Amended and Restated Mortgage Note dated as of November 5, 2008, payable to the order of Mortgagee, in the principal sum of Three Million Six Hundred Thirty Two Thousand and 00/100 Dollars (\$3,632,000.00) (herein called the "Note") bearing interest at the variable rate specified therein, due in the manner as provided therein and in any event on the 5th day of February, 2009, the terms and provisions of which Note are incorporated herein and made a part hereof by this reference with the same effect as if set forth at length; and"

(ii) Paragraph 43(C) is hereby amended by deleting the completion date "July 1, 2007" as it appears therein and replacing it with "December 5, 2009".

4. The Assignment of Rents is hereby modified by amending and restating in its entirety the first "Whereas" paragraph on page 1 to read as follows:

**"WHEREAS**, Assignor has executed a second amended and restated mortgage note (hereinafter referred to as "Note") dated as of November 5, 2008, payable to the order of RAVENSWOOD BANK (hereinafter referred to as "Assignee") in the principal amount of Three Million Six Hundred Thirty Two Thousand and 00/100 Dollars (\$3,632,000.00); and"

5. The Guaranty is hereby modified by amending and restating:

(a) The preamble in its entirety to read as follows:

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“THIS GUARANTY (the “Guaranty”) is made as of this 24<sup>th</sup> day of February, 2006 (as the same may be amended, modified or restated from time to time), the undersigned, JOHN MAJIC (“Guarantor”) to and for the benefit of RAVENSWOOD BANK (“Lender”).”

(b) The second “Whereas” clause under the Recitals:

“WHEREAS, the Loan is evidenced by a certain second amended and restated mortgage note dated as of November 5, 2008 in the maximum principal amount of \$3,632,000.00 (the “Note”); and”.

6. The Loan Agreement is hereby modified as follows:

a. The first sentence in Paragraph 2.7 is hereby amended and restated to read as follows:

“2.7 All financial statements submitted to Lender related to Borrower and John Majic (the “Guarantor”) are true, complete and correct, have been prepared in accordance with generally accepted accounting principles, fairly represent the financial condition of the person or entity to which they pertain and the other information therein described, and do not contain any untrue statements of a material fact or omit to state a fact material to the financial statements submitted or this Agreement. Any references in this Agreement to “Guarantors” shall mean the Guarantor as amended hereby.”

b. Paragraph 5.1 is hereby amended and restated in its entirety to read as follows:

“A second amended and restated mortgage note (the “Note”) executed by Borrower dated as of November 5, 2008, payable to the order of Lender, in the principal amount of \$3,632,000.00.”

c. Line three (3) of paragraph 6.1(a) is hereby amended to delete the name “Kriza Ostojic”.

d. Paragraph 8.1 is hereby amended as follows: (i) the interest payment commencement date of “December 5, 2007” is hereby deleted and replaced with “December 5, 2008”; and (ii) the maturity date of “November 5, 2008” is hereby deleted and replaced with “February 5, 2009”.

e. Paragraphs 9.1 and 12(d) are hereby amended by deleting the date “September 5, 2008” and replacing it with “December 5, 2008”.

f. Subparagraph 12(l) is hereby added as follows:

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“12(l) The failure of Borrower to (i) complete the Project, and (ii) sell or rent the Units prior to February 5, 2008”.

7. The Loan Documents are hereby amended to secure the obligations and liabilities evidenced by the Amended Note.

8. Except for the modifications stated herein, the Note and Loan Documents are not otherwise changed, modified or amended. Except as expressly provided herein, the Note and other Loan Documents and each other instrument or agreement delivered by any Obligor to or for the benefit of Lender in connection with the loan evidenced by the Note shall remain in full force and effect in accordance with their respective terms and the execution and delivery of this Modification Agreement shall not operate to waive any rights or remedies that Lender may have with respect to the Note and other Loan Documents, to forgive or waive any violation, default or breach under the Note or any other Loan Document, or to obligate Lender in any manner to make any further extensions of credit other than as expressly set forth herein.

9. Contemporaneously with the execution of this Modification Agreement by Lender, Obligors shall pay to Lender all of Lender's attorneys' and paralegals' fees incurred in connection with the negotiation and documentation of the agreements contained in this Modification Agreement, all recording fees and charges, title insurance charges and premiums, appraisal fees, and all other expenses, charges, costs and fees necessitated by or otherwise relating to this Modification Agreement (the "Additional Fees"). If any of the Additional Fees are not paid at the time this Modification Agreement is executed by Lender such Additional Fees shall be paid by Obligors within five (5) days after written demand therefor by Lender, and if not timely paid, they shall bear interest from the date so incurred until paid at an annual rate equal to the Default Rate (as defined in the Second Amended Note).

10. The Premises described in the Mortgage shall remain in all events subject to the lien, charge or encumbrance of the Mortgage, and nothing herein contained, and nothing done pursuant hereto, shall affect or be construed to affect the lien, charge or encumbrance of the Mortgage, or the priority thereof over any other liens, charges, or encumbrances or conveyances, or, except as expressly provided herein, to release or affect the liability of any party or parties whomsoever may now or hereafter be liable under or on account of the Note, the Mortgage and/or the Assignment of Rents, nor shall anything herein contained or done in pursuance thereof affect or be construed to affect any other security or instrument, if any, held by Lender as security for or evidence of the aforesaid indebtedness.

11. This Modification Agreement shall extend to and be binding upon each of the Obligors and their heirs, legatees, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

12. Each Obligor hereby ratifies and confirms his or its respective obligations and liabilities under the Note, the Guaranty and other Loan Documents, as hereby amended, and the liens and security interest created thereby, and acknowledge that he or it have no defenses, claims or set-offs against the enforcement by Lender of their respective obligations and liabilities under the Note, the Guaranty and other Loan Documents, as so amended.

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13. This Modification Agreement shall, in all respects, be governed by and construed in accordance with the laws of the State of Illinois (exclusive of choice of law principles), including all matters of construction, validity and performance.

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

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

16. Lender's consent to this Modification Agreement shall be subject to Lender (or Lender's nominee) having received the following in a form and substance acceptable to Lender on or before December 24, 2008 (the "Modification Termination Date"):

(a) An endorsement to Chicago Title Insurance Company Loan Policy No. 1409 008330473 (the "Title Policy") which (i) amends the description of the Mortgage insured under the Title Policy to include this Modification Agreement, (ii) amends the description of the Assignment of Rents to include this Modification Agreement, (iii) extends the effective date of the Title Policy to the date of the recording of this Modification Agreement, (iv) includes no additional exceptions to title other than those that have been approved in writing by Lender, and (v) states that all real estate taxes and assessments applicable to the Premises which are due and payable as of the date of such endorsement have been paid in full;

(b) Written approval to the changes contemplated in this Agreement in form and substance satisfactory to Lender in its sole and absolute discretion by any and all lenders who may possess a participant interest in the Note; and

(c) Such other documents as Lender may reasonably require.

The Obligors' failure to deliver the aforementioned documents and items to Lender on or before the Modification Termination Date shall, at the option of Lender, result in this Modification Agreement (including all agreements and waivers of Lender contained herein) being null and void.

17. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH 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.

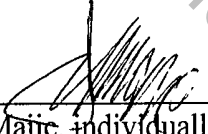
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TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR AND LENDER HEREBY EXPRESSLY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY ACTION, CAUSE OF ACTION, CLAIM, DEMAND, OR PROCEEDING ARISING UNDER OR WITH RESPECT TO THIS MODIFICATION AGREEMENT, OR IN ANY WAY 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.

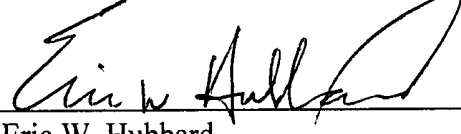
**IN WITNESS WHEREOF**, the undersigned have caused this instrument to be executed as of the date first above written.

900 REBA, LLC, an Illinois limited liability company

By:   
John Majic, Its Sole Manager

  
John Majic, individually

RAVENSWOOD BANK

By:   
Name: Eric W. Hubbard  
Its: President

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STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that John Majic, is personally known to me as the sole manager of 900 REBA, 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, appeared before me in person and acknowledged that he signed, sealed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 24 day of December 2008.

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

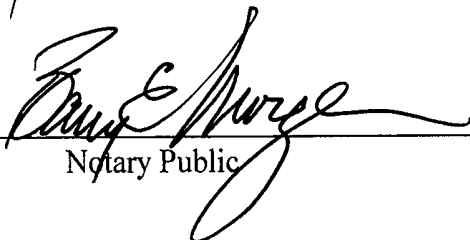
My Commission Expires: \_\_\_\_\_



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 John Majic, 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 24 day of Dec., 2008

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

My commission expires: \_\_\_\_\_



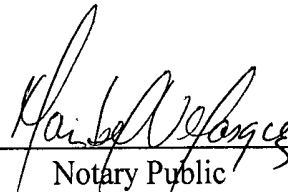


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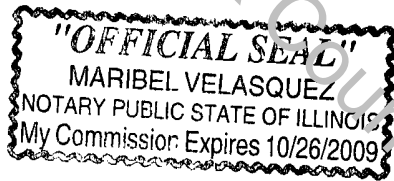
STATE OF ILLINOIS        )  
                                       )        SS  
 COUNTY OF COOK         )

I, the undersigned, a Notary Public in and for said County in the State aforesaid, do hereby certify that ERIC W. HUBBARD of RAVENSWOOD BANK, 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 bank, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 29 day of December, 2008.

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

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



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## EXHIBIT "A"

PIN: 11-19-318-009-0000.

ADDRESS: 900-906 Reba Place, Evanston, Illinois

LOTS 1 AND 2 IN BLOCK 6 IN GREEN AND HUBBARD'S SUBDIVISION OF THE NORTH 12.46 ACRES OF LOT 9 IN ASSESSOR'S DIVISION OF THE SOUTH 1/2 OF THE SOUTHWEST 1/4 OF SECTION 19, TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Property of Cook County Clerk's Office