

# UNOFFICIAL COPY



Doc#: 0919418017 Fee: \$60.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 07/13/2009 10:39 AM Pg: 1 of 13

DOCUMENT PREPARED BY  
AND UPON RECORDING IS TO  
BE RETURNED TO:  
THOMAS P. DUFFY  
WILDMAN, HARROLD, ALLEN  
& DIXON  
225 WEST WACKER DRIVE  
CHICAGO, ILLINOIS 60606

## APRIL 2009 LOAN MODIFICATION AGREEMENT

1 fo 1

This April 2009 Loan Modification Agreement ("Modification Agreement") is made as of April 15, 2009 ("Effective Date"), and is by and between HURON HUDSON LLC, an Illinois limited liability company ("Borrower") and COLE TAYLOR BANK, an Illinois banking corporation ("Lender").

### RECITALS:

A. Pursuant to that certain Construction Loan Agreement (as amended, the "Loan Agreement") dated as of April 3, 2006, by and between Borrower and Lender, Lender made a loan (the "Loan") to Borrower in the amount of Thirty Million and No/100 Dollars (\$30,000,000.00).

B. In connection with the Loan, Borrower executed and delivered to Lender a Revolving Note (the "Original Note") dated as of April 3, 2006, in the original principal amount of Thirty Million and No/100 Dollars (\$30,000,000.00), the proceeds of which were made available to Borrower, subject to the limitations set forth in the Loan Agreement, on a revolving credit basis for construction of the Project on the Mortgaged Premises in accordance with the Plans.

C. The Loan is secured by the loan documents (the "Loan Documents") listed on attached Exhibit A, which are a lien upon and encumber the property described on attached Exhibit B (the "Mortgaged Premises"), including without limitation, that certain Revolving Construction Mortgage and Security Agreement (the "First Mortgage") dated as of April 3, 2006, executed by Borrower in favor of Lender, which was recorded with the Recorder of Deeds for Cook County, Illinois on May 4, 2006, as Document No. 0612431015, encumbering the Mortgaged Premises and that certain Collateral Assignment of Rents and Leases dated as of April 3, 2006, executed by Borrower in favor of Lender, which was recorded with the Recorder of Deeds for Cook County, Illinois on May 4, 2006, as Document No. 0612431016 encumbering the Mortgaged Premises. All capitalized terms used in this Modification Agreement shall have the same meaning as such terms are used in the Loan Documents, except and to the extent as otherwise defined herein.

Doc No. 1971608

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

470644

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D. Pursuant to various amendments to the Loan Documents which are listed on attached Exhibit A, the Loan was converted from a revolving loan to a non-revolving loan and is currently evidenced by a Second Amended and Restated Note (the "2008 Note") dated as of April 15, 2008, in the original principal amount of Seven Million Eight Hundred Forty-Seven Thousand Two Hundred Twenty and 93/100 Dollars (\$7,847,220.93), which has a Maturity Date of April 15, 2009, which 2008 Note superseded and replaced that certain Amended and Restated Note (the "2007 Note") dated as of June 1, 2007, in the original principal amount of Thirty-Eight Million and No/100 Dollars (\$38,000,000.00), which 2007 Note superseded and replaced the Original Note.

E. As of the Effective Date, the outstanding principal balance of the 2008 Note was \$652,831.16 and the Loan has been fully disbursed.

F. Borrower has requested Lender to further extend the stated Maturity Date of the Loan to August 15, 2009 as hereinafter provided.

G. Borrower and Lender deem it to be in their best interests to modify the Loan Documents as hereinafter provided.

NOW, THEREFORE, in consideration of the above recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree acknowledge and agree as follows:

1. The Recitals are hereby incorporated into and shall become part of this Modification Agreement.

2. Notwithstanding anything to the contrary contained in any of the Loan Documents, the stated Maturity Date of the Loan is hereby extended from April 15, 2009 to August 15, 2009. All references in the Loan Documents to the stated Maturity Date of the Loan of "April 15, 2009" are hereby deleted in their entirety and the stated Maturity Date of the Loan of "August 15, 2009" shall be inserted in the Loan Documents in lieu thereof.

3. Concurrent with the execution and delivery of this Agreement, Richard J. Ferro and Thomas Dipiazza (jointly and severally, "Guarantor") shall execute and deliver to Lender a Reaffirmation of Guaranty which shall be in the form attached hereto as Exhibit C.

4. As a condition precedent to the effectiveness of this Modification Agreement, Borrower shall concurrently herewith deliver to Lender, in form and substance satisfactory to Lender, the items which are referred to on the Document Checklist attached hereto as Exhibit D.

5. As a condition precedent to the effectiveness of this Modification Agreement, Borrower shall cause Chicago Community Bank to consent to this Modification Agreement by executing the Consent attached hereto.

6. Borrower shall pay all of Lender's costs and expenses in connection with this Modification Agreement, including without limitation, all of Lender's attorneys' fees, costs and expenses.

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7. Borrower hereby acknowledges that the Loan Documents are in full force and effect in accordance with their terms as hereby reaffirmed and modified. Borrower hereby acknowledges that Borrower's obligations, covenants and agreements under the Loan Documents are not diminished, discharged or adversely affected by this Modification Agreement or any action or inaction taken by Lender in connection with the Loan. Borrower hereby agrees that all of Borrower's covenants, agreements, representations, warranties, liabilities and obligations as set forth in the Loan Documents as hereby amended are hereby incorporated by reference herein and apply to the Loan, as amended. Borrower represents and warrants that no Event of Default has occurred under any of the Loan Documents, and Borrower hereby reaffirms all of Borrower's representations, covenants, agreements and obligations under each of the Loan Documents, as hereby amended, which shall continue to secure Borrower's obligations under the Loan.

8. All references to the Loan Documents, or any of them, shall be deemed to be a reference to such Loan Documents as hereby amended.

9. This Modification Agreement may be executed in counterparts each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

10. Except and to the extent specifically modified herein, the terms and provisions of the Loan Documents, as hereby amended, shall remain in full force and effect.

11. This Amendment constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, between Lender and Borrower with respect to the subject matter of this Amendment. This Amendment may not be amended, changes, waived or modified except by a writing executed by both Lender and Borrower.

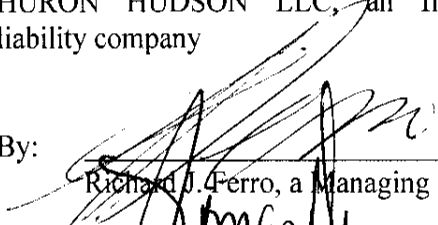
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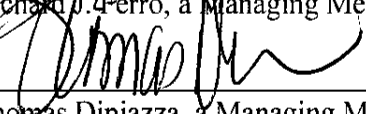
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IN WITNESS WHEREOF, the parties hereto have executed this Modification Agreement as of the day and year first above written.

BORROWER:


HURON HUDSON LLC, an Illinois limited liability company

By:   
Richard J. Ferro, a Managing Member

By:   
Thomas Dipiazza, a Managing Member

LENDER:

COLE TAYLOR BANK, an Illinois banking corporation

By:   
Its: SENIOR VICE PRESIDENT

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STATE OF ILLINOIS

COUNTY OF COOK

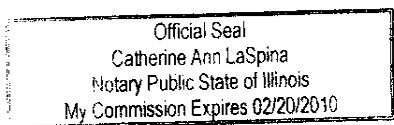
I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that Richard J. Ferro and Thomas Dipiazza, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Managing Members of Huron Hudson LLC, an Illinois limited liability company, 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 limited liability company for the uses and purposes therein set forth.

Given under my hand and official seal this 26 day of May, 2009.

*Catherine Ann LaSpina*

Notary Public

My Commission Expires:



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STATE OF ILLINOIS

COUNTY OF COOK

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that Dennis Rowke personally known to me to be the same person whose name is subscribed to the foregoing instrument as such SVP of COLE TAYLOR BANK, an Illinois banking corporation, appeared before me and acknowledged that \_\_\_ signed and delivered the said instrument as \_\_\_ own free and voluntary act and as the free and voluntary act of said national banking association, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 29 day of May, 2009.

Notary Public

My Commission Expires:



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## CONSENT OF CHICAGO COMMUNITY BANK

For the purposes of this Consent of Chicago Community Bank, all capitalized terms used herein shall have the meanings set forth in the attached April 2009 Loan Modification Agreement (the "Modification Agreement") dated as of the date hereof between Huron Hudson LLC, an Illinois limited liability company and Cole Taylor Bank, an Illinois banking corporation.

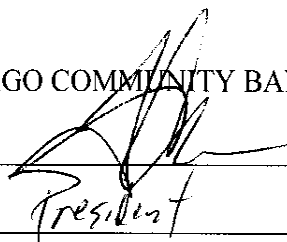
The undersigned hereby acknowledges that the mortgage held by the undersigned which encumbers the Mortgaged Premises is subordinate to the First Mortgage, as modified by each of the Amendments referenced in the Modification Agreement and the Modification Agreement.

Dated: As of April 15, 2009.

CHICAGO COMMUNITY BANK

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

Its: \_\_\_\_\_



President

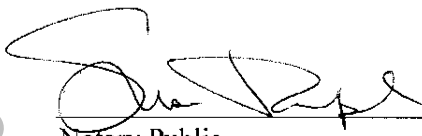
# UNOFFICIAL COPY

STATE OF ILLINOIS

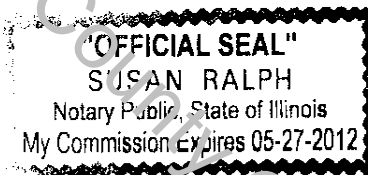
COUNTY OF COOK

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, do hereby certify that Tim Chaney personally known to me to be the same person whose name is subscribed to the foregoing instrument as such President of CHICAGO COMMUNITY BANK, an Illinois banking corporation, appeared before me 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 national banking association for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 26<sup>th</sup> day of May, 2009.

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

My Commission Expires:





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## EXHIBIT A LOAN DOCUMENTS

Construction Loan Agreement (the "Loan Agreement") dated as of April 3, 2006, by and between HURON HUDSON LLC, an Illinois limited liability company ("Borrower") and COLE TAYLOR BANK, an Illinois banking corporation ("Lender");

Revolving Note dated as of April 3, 2006, executed by Borrower payable to the order of Lender in the original principal amount of Thirty Million and No/100 Dollars (\$30,000,000.00);

Revolving Construction Mortgage and Security Agreement ("First Mortgage") dated as of April 3, 2006, executed by Borrower in favor of Lender, which was recorded with the Recorder of Deeds for Cook County, Illinois on May 4, 2006, as Document No. 0612431015, encumbering the real estate legally described on Exhibit B attached hereto and made a part hereof (the "Mortgaged Premises");

Collateral Assignment of Rents and Leases dated as of April 3, 2006, executed by Mortgagor in favor of Mortgagee, which was recorded with the Recorder of Deeds for Cook County, Illinois on May 4, 2006, as Document No. 0612431016 ("Assignment of Rents") encumbering the Mortgaged Premises;

Security Agreement dated as of April 3, 2006, executed by Borrower in favor of Lender;

Environmental Indemnity Agreement dated as of April 3, 2006, executed by Borrower and Richard J. Ferro and Thomas Dipiazza (jointly and severally, "Guarantor") in favor of Lender;

Guaranty of Payment and Performance dated as of April 3, 2006, executed by Guarantor to and for the benefit of Lender (the "Guaranty");

Collateral Assignment of Construction Contract and Permits dated as of April 3, 2006, executed by Borrower in favor of Lender and consented to on behalf of Power Construction Company, LLC;

Security Agreement and Collateral Assignment of Sales Contracts;

UCC Financing Statements;

Security Agreement (Operating Account) dated as of April 3, 2006, executed by Borrower in favor of Lender;

Security Agreement (Earnest Money Account) dated as of April 3, 2006, executed by Borrower in favor of Lender;

Amendment to Construction Loan Agreement, Construction Mortgage and Security Agreement and Loan Documents dated as of June 1, 2007, between Borrower and

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Lender which was recorded with the Recorder of Deeds for Cook County, Illinois on June 6, 2007, as Document No. 0715739114;

Amended and Restated Note dated as of June 1, 2007, in the original principal amount of Thirty-Eight Million and No/100 Dollars (\$38,000,000.00) executed by Borrower and payable to the order of Lender;

Reaffirmation of Guaranty and Environmental Indemnity Agreement dated as of June 1, 2007, executed by Guarantor to and for the benefit of Lender;

Second Amendment to Construction Loan Agreement, Construction Mortgage and Security Agreement and Loan Documents dated as of April 15, 2008, between Borrower and Lender which was recorded with the Recorder of Deeds for Cook County, Illinois on April 21, 2009, as Document No. 0911131119;

Second Amended and Restated Note dated as of April 15, 2008 in the original principal amount of Seven Million Eight Hundred Forty Seven Thousand Two Hundred Twenty and 93/100 Dollars (\$7,847,220.93) executed by Borrower and payable to the order of Lender;

Reaffirmation of Guaranty and Environmental Indemnity Agreement dated as of April 15, 2008, executed by Guarantor to and for the benefit of Lender.

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## EXHIBIT B LEGAL DESCRIPTION

Parcel 1: Lots 1 to 8, both inclusive, in block 11 in Higgins Law and Company's Addition to Chicago in the East half of the Northwest Quarter of Section 9, Township 39 North, Range 14, East of the Third Principal Meridian, excepting therefrom the land set forth in the Declaration of Condominium Ownership of the Residences at Hudson and Huron dated August 01, 2007 and recorded August 20, 2007 as Document No. 0723215040, in Cook County, Illinois.

Parcel 2: The North half of the vacated alley vacated by Ordinance recorded July 23, 1964 as Document No. 9193902, lying South of and adjoining said Lots 1 to 8, both inclusive and Block 11 in Higgins Law and Company's Addition to Chicago in the East half of the Northwest Quarter of Section 9, Township 39 North, Range 154, East of the Third Principal Meridian, excepting therefrom the land set forth in the Declaration of Condominium Ownership of the Residences at Hudson and Huron dated August 01, 2007 and recorded August 20, 2007 as Document No. 0723215040, in Cook County, Illinois.

Parcel 3: Easement for the benefit of Parcels 1, 2 and 4 for ingress and egress over the Northerly 3 feet of the South half of that portion of the vacated alley which lies North of the contiguous to Lots 21 to 28, both inclusive, in Block 11 in Higgins Law and Company's Addition to Chicago in the East half of the Northwest Quarter of Section 9, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois as contained in Reciprocal Grant of Easement recorded July 17, 1964 as Document No. 19269468.

Parcel 4: Units 507, 910, 1007, 1101, 1107, 1201, 1207, 1301, 1401, 1507, 1510, 1512, 1602, P-1, P-7, P-27, P-28, P-32, P-37, P-52, P-62, P-65, P-73, P-74, P-76, P-84, P-85, P-93, P-112, P-114, P-115, P-121, P-123, P-127, P-128, P-129, P-133, P-138, P-142, P-143, P-144, P-145, P-146, P-147, P-148, P-149, P-150, P-151 together with its undivided percentage interest in the common elements in The Residences at Hudson and Huron Condominium as delineated and defined in the Declaration recorded as Document No. 0723215040, in the East half of the Northwest Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

Less and except portions previously released in writing by Cole Taylor Bank.

Commonly known as: 451 West Huron, Chicago, Illinois

PINS: 17-09-123-006-0000 Volume 500 (Parcels 1, 2 and 4)

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## EXHIBIT C

### REAFFIRMATION OF GUARANTY

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**EXHIBIT D**

**CHECKLIST**

INTENTIONALLY OMITTED FOR RECORDING PURPOSES

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A large, stylized handwritten signature in black ink is written over the diagonal watermark text. The signature consists of several large, sweeping loops and curves.