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Illinois Anti-Predatory  
Lending Database  
Program

Certificate of Exemption



Doc#: 0928231042 Fee: \$106.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 10/09/2009 12:31 PM Pg: 1 of 14

Report Mortgage Fraud  
800-532-8785

The property identified as: PIN: 14-08-419-001-0000

Address:

Street: 4811-27 N. Sheridan Road

Street line 2:

City: Chicago

State: IL

ZIP Code: 60640

Lender: WELLS FARGO BANK

Borrower: SHERIDAN-GUNNISON JOINT VENTURE, LLC

Loan / Mortgage Amount: \$3,342,900.00

This property is located within Cook County and is exempt from the requirements of 765 ILCS 7/70 et seq. because it is commercial property.

Certificate number: 333BDD94-A3B1-4781-9F6E-DBAF512B5D4E

Execution date: 10/01/2009

AG

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This document was prepared by  
and after recording returned to:  
R. Andrew Lien, Esq.  
Krooth & Altman LLP  
1850 M Street  
Suite 400  
Washington, DC 20036  
(202) 293-8200

## SUPPLEMENTAL MORTGAGE

**MORTGAGOR:** Sheridan – Gunnison Joint Venture, LLC,  
an Illinois limited liability company

**MORTGAGEE:** Wells Fargo Bank, National Association,  
a national banking association

**PROJECT NAME:** Sheridan Gunnison Apartments

**FHA PROJECT NO.:** 071-14012

**OWNER'S ADDRESS:** 333 N. Michigan Avenue, Suite 1700, Chicago, Illinois 60601

**PROJECT ADDRESS:** 4811- 4827 N. Sheridan Road, Chicago, Illinois 60640

**PERMANENT INDEX NUMBERS:** 14-08-419-001-0000, 14-08-419-002-0000 and  
14-08-419-003-0000

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FHA Form No. 4116-b  
(CORPORATE)  
(Revised March 1971)

## SUPPLEMENTAL MORTGAGE

as of the  
THIS INDENTURE, made ~~this~~ 1st day of October, 2009  
between SHERIDAN - GUNNISON JOINT VENTURE, LLC, a limited liability company,

organized and existing under the laws of Illinois  
and WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association  
~~a corporation organized and existing under the laws of~~

~~a corporation~~  
, Mortgagor,  
, Mortgagee.

WITNESSETH: That whereas the Mortgagor is justly indebted to the Mortgagee in the principal sum of THREE MILLION THREE HUNDRED FORTY-TWO THOUSAND NINE HUNDRED AND NO/100THS Dollars (\$3,342,900.00), evidenced by its note of even date herewith, bearing interest from date on outstanding balances at Six and twenty-seven one hundredths per centum ( 6.27 %) per annum, said principal and interest being payable in monthly installments as provided in said note with a final maturity of May 1, 2051, which note is identified as being secured hereby by a certificate thereon. Said note and all of its terms are incorporated herein by reference and this conveyance shall secure any and all extensions thereof, however evidenced.

Now, THEREFORE, the said Mortgagor, for the better securing of the payment of the said principal sum of money and interest and the performance of the covenants and agreements herein contained, does by these presents CONVEY, MORTGAGE, and WARRANT unto the Mortgagee, its successors or assigns, the following-described real estate situate, lying, and being in the City of Chicago, in the County of Cook, and the State of Illinois, to wit:

See Exhibit "A" attached hereto and made a part hereof.

Approved of Cook County Clerk's Office

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TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging, and the rents, issues, and profits thereof; and all apparatus and fixtures of every kind in, or that may be placed in, any building now or hereafter standing on said land, and also all the estate, right, title, and interest of the said Mortgagor in and to said premises; including but not limited to all gas and electric fixtures; all radiators, heaters, furnaces, heating equipment, steam and hot-water boilers, stoves, and ranges; all elevators and motors; all bathtubs, sinks, water closets, basins, pipes, faucets, and other plumbing fixtures; all mantels and cabinets; all refrigerating plants and refrigerators, whether mechanical or otherwise; all cooking apparatus; all furniture, shades, awnings, screens, blinds, and other furnishings; all of which apparatus, fixtures, and equipment, whether affixed to the realty or not, shall be considered real estate for the purposes hereof; and including all furnishings now or hereafter attached to or used in and about the building or buildings now erected or hereafter to be erected on the lands herein described which are necessary to the complete and comfortable use and occupancy of such building or buildings for the purposes for which they were or are to be erected, and all renewals or replacements thereof or articles in substitution thereof; together with all building materials and equipment now or hereafter delivered to said premises and intended to be installed therein;

TO HAVE AND TO HOLD the above-described premises, with the appurtenances and fixtures, unto the said Mortgagee, its successors and assigns, forever, for the purposes and uses herein set forth.

AND SAID MORTGAGOR covenants and agrees:

1. That it will pay the note at the times and in the manner provided therein;
  2. That it will not permit or suffer the use of any of the property for any purpose other than the use for which the same was intended at the time this Mortgage was executed;
  3. That the Regulatory Agreement, if any, executed by the Mortgagor and the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner, which is being recorded simultaneously herewith, is incorporated in and made a part of this Mortgage. Upon default under the Regulatory Agreement and upon the request of the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner, the Mortgagee, at its option, may declare the whole of the indebtedness secured hereby to be due and payable;
  4. That all rents, profits, and income from the property covered by this Mortgage are hereby assigned to the Mortgagee for the purpose of discharging the debt hereby secured. Permission is hereby given to Mortgagor so long as no default exists hereunder, to collect such rents, profits and income for use in accordance with the provisions of the Regulatory Agreement;
  5. That upon default hereunder Mortgagee shall be entitled to the appointment of a receiver by any court having jurisdiction, without notice, to take possession and protect the property described herein and operate same and collect the rents, profits and income therefrom;
  6. That at the option of the Mortgagor the principal balance secured hereby may be reamortized on terms acceptable to the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner if a partial prepayment results from an award in condemnation in accordance with provisions of paragraph 8 herein, or from an insurance payment made in accordance with provisions of paragraph 7 herein, where there is a resulting loss of project income;
  7. That the Mortgagor will keep the improvements now existing or hereafter erected on the mortgaged property insured against loss by fire and such other hazards, casualties, and contingencies, as may be stipulated by the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner upon the insurance of the mortgage and other hazards as may be required from time to time by the Mortgagee, and all such insurance shall be evidenced by standard Fire and Extended Coverage Insurance Policy or policies, in amounts not less than necessary to comply with the applicable Coinsurance Clause percentage, but in no event shall the amounts of coverage be less than eighty per centum (80%) of the Insurable Values or not less than the unpaid balance of the insured mortgage, whichever is the lesser, and in default thereof the Mortgagee shall have the right to effect insurance. Such policies shall be endorsed with standard Mortgagee clause with loss payable to the Mortgagee and the Secretary of Housing and Urban Development as interest may appear, and shall be deposited with the Mortgagee;
- That if the premises covered hereby, or any part thereof, shall be damaged by fire or other hazard against which insurance is held as hereinabove provided, the amounts paid by any insurance company in pursuance of the contract of insurance to the extent of the indebtedness then remaining unpaid, shall be paid to the Mortgagee, and, at its option, may be applied to the debt or released for the repairing or rebuilding of the premises;
8. That all awards of damages in connection with any condemnation for public use of or injury to any of said property are hereby assigned and shall be paid to Mortgagee, who may apply the same to payment of the installments last due under said note, and Mortgagee is hereby authorized, in the name of Mortgagor, to execute and deliver valid acquittances thereof and to appeal from any such award;
  9. That it is lawfully seized and possessed of said real estate in fee simple, and has good right to convey same;
  10. To keep said premises in good repair, and not to do, or permit to be done, upon said premises, anything that may impair the value thereof, or of the security intended to be effected by virtue of this instrument; to pay to the Mortgagee, as hereinafter provided, until said note is fully paid, a sum sufficient to pay all taxes and special assessments that heretofore or hereafter may be lawfully levied, assessed or imposed by any taxing body upon the said land, or upon the Mortgagor or Mortgagee on account of the ownership thereof to the extent that provision has not been made by the Mortgagor for the payment of such taxes and special assessments as hereinafter provided in subparagraph 17(b);
  11. In case of the refusal or neglect of the Mortgagor to make such payments, or to satisfy any prior lien or encumbrance, or to keep said premises in good repair, the Mortgagee may pay such taxes, assessments, and insurance premiums, when due, and may make such repairs to the property herein mortgaged as in its discretion it may deem necessary for the proper preservation thereof, and any moneys so paid or expended together with any sums expended by the Mortgagee to keep the mortgage insurance in force, shall become so much additional indebtedness, secured by this mortgage, to be paid out of the proceeds of the sale of the mortgaged premises, if not otherwise paid by the Mortgagor and shall bear interest at the rate specified in the note from the date of the advance until paid, and shall be due and payable on demand;
  12. It is expressly provided, however (all other provisions of this mortgage to the contrary notwithstanding), that the Mortgagee shall not be required nor shall it have the right to pay, discharge, or remove any tax, assessment, or tax lien upon or against the premises described herein or any part thereof or the improvements situated thereon, so long as the Mortgagor shall, in good faith, contest the same or the validity thereof by appropriate legal proceedings brought in a court of competent jurisdiction, which shall operate to prevent the collection of the tax, assessment, or lien so contested and the sale or forfeiture of the said premises or any part thereof to satisfy the same, but in the event of a tax contest, the Mortgagor shall deposit with the Mortgagee an amount estimated by the Mortgagee sufficient to satisfy all taxes, penalties, interest, and costs which may reasonably accrue during such contest;
  13. That it will not voluntarily create or permit to be created against the property subject to this mortgage any lien or liens inferior or superior to the lien of this mortgage and further that it will keep and maintain the same free from the claim of all persons supplying labor or materials which will enter into the construction of any and all buildings now being erected or to be erected on said premises;

\*The insurance company providing such coverage shall be selected by the Mortgagor subject to approval by the Mortgagee, which approval shall not be unreasonably withheld.

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14. That the improvements about to be made upon the premises above described and all plans and specifications comply with all municipal ordinances and regulations made or promulgated by lawful authority, and that the same will upon completion comply with all such municipal ordinances and regulations and with the rules of the applicable fire rating or inspection organization, bureau, association, or office. In the event the Mortgagor shall at any time fail to comply with such rules, regulations, and ordinances which are now or may hereafter become applicable to the premises above described, after due notice and demand by the Mortgagee, thereupon the principal sum and all arrears of interest and other charges provided for herein, shall at the option of the Mortgagee become due and payable;

15. The Mortgagor covenants and agrees that so long as this mortgage and the said note secured hereby are insured or held under the provisions of the National Housing Act, it will not execute or file for record any instrument which imposes a restriction upon the sale or occupancy of the mortgaged property on the basis of race, color or creed;

16. That the funds to be advanced herein are to be used in the construction of certain improvements on the lands herein described, in accordance with a building loan agreement between the Mortgagor and Mortgagee dated of even date herewith which building loan agreement (except such part or parts thereof as may be inconsistent herewith) is incorporated herein by reference to the same extent and effect as if fully set forth and made a part of this mortgage; and if the construction of the improvements to be made pursuant to said building loan agreement shall not be carried on with reasonable diligence, or shall be discontinued at any time for any reason other than strikes or lock-outs, the Mortgagee, after due notice to the Mortgagor or any subsequent owner, is hereby invested with full and complete authority to enter upon the said premises, employ watchmen to protect such improvements from depredation or injury and to preserve and protect the personal property therein, and to continue any and all outstanding contracts for the erection and completion of said building or buildings, to make and enter into any contracts and obligations wherever necessary, either in its own name or in the name of the Mortgagor, and to pay and discharge all debts, obligations, and liabilities incurred thereby. All such sums so advanced by the Mortgagee (exclusive of advances of the principal of the indebtedness secured hereby) shall be added to the principal of the indebtedness secured hereby and shall be secured by this mortgage and shall be due and payable on demand with interest at the rate specified in the note, but no such advances shall be insured unless same are specifically approved by the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner prior to the making thereof. The principal sum and other charges provided for herein shall, at the option of the Mortgagee or holder of this mortgage and the note securing the same, become due and payable on the failure of the Mortgagor to keep and perform any of the covenants, conditions, and agreements of said building loan agreement. This covenant shall be terminated upon the completion of the improvements to the satisfaction of the Mortgagee and the making of the final advance as provided in said building loan agreement;

17. That, together with, and in addition to, the monthly payments of interest or of principal and interest payable under the terms of the note secured hereby, the Mortgagor will pay to the Mortgagee, on the first day of each succeeding month after the date hereof, until the said note is fully paid, the following sums:

(a) An amount sufficient to provide the Mortgagee with funds to pay the next mortgage insurance premium if this instrument and the note secured hereby are insured, or a monthly service charge, if they are held by the Secretary of Housing and Urban Development, as follows:

- (I) If and so long as said note of even date and this instrument are insured or are reinsured under the provisions of the National Housing Act, an amount sufficient to accumulate in the hands of the Mortgagee one (1) month prior to its due date the annual mortgage insurance premium, in order to provide such Mortgagee with funds to pay such premium to the Secretary of Housing and Urban Development pursuant to the National Housing Act, as amended, and applicable Regulations thereunder, or
- (II) Beginning with the first day of the month following an assignment of this instrument and the note secured hereby to the Secretary of Housing and Urban Development, a monthly service charge which shall be an amount equal to one-twelfth of one-half percent ( $\frac{1}{24}$  of  $\frac{1}{2}$ %) of the average outstanding principal balance due on the note computed for each successive year beginning with the first of the month following such assignment, without taking into account delinquencies or prepayments.

(b) A sum equal to the ground rents, if any, next due, plus the premiums that will next become due and payable on policies of fire and other property insurance covering the premises covered hereby, plus water rates, taxes and assessments next due on the premises covered hereby (all as estimated by the Mortgagee) less all sums already paid therefor divided by the number of months to elapse before one (1) month prior to the date when such ground rents, premiums, water rates, taxes and assessments will become delinquent, such sums to be held by Mortgagee to pay said ground rents, premiums, water rates, taxes, and special assessments.

(c) All payments mentioned in the two preceding subsections of this paragraph and all payments to be made under the note secured hereby shall be added together and the aggregate amount thereof shall be paid each month in a single payment to be applied by Mortgagee to the following items in the order set forth:

- (I) premium charges under the Contract of Insurance with the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner or service charge;
- (II) ground rents, taxes, special assessments, water rates, fire and other property insurance premiums;
- (III) interest on the note secured hereby;
- (IV) amortization of the principal of said note.

18. Any excess funds accumulated under (b) of the preceding paragraph remaining after payment of the items therein mentioned shall be credited to subsequent monthly payments of the same nature required thereunder; but if any such item shall exceed the estimate therefor the Mortgagor shall without demand forthwith make good the deficiency. Failure to do so before the due date of such item shall be a default hereunder. In case of termination of the Contract of Mortgage Insurance by prepayment of the mortgage in full, or otherwise (except as hereinafter provided), accumulations under (a) of the preceding paragraph hereof not required to meet payments due under the Contract of Mortgage Insurance, shall be credited to the Mortgagor. If the property is sold under foreclosure or is otherwise acquired by the Mortgagee after default, any remaining balance of the accumulations under (b) of the preceding paragraph shall be credited to the principal of the mortgage as of the date of commencement of foreclosure proceedings or as of the date the property is otherwise acquired; and accumulations under (a) of the preceding paragraph shall be likewise credited unless required to pay sums due the Secretary of Housing and Urban Development, acting by and through the Commissioner under the Contract of Mortgage Insurance;

19. IN THE EVENT of default in making any monthly payment provided for herein or in the note secured hereby for a period of thirty (30) days after the due date thereof, or in case of a breach of any other covenant or agreement herein stipulated, then the whole of said principal sum remaining unpaid together with accrued interest thereon, shall, at the election of the Mortgagee, without notice, become immediately due and payable, in which event the Mortgagee shall have the right immediately to foreclose this mortgage;

20. AND IN CASE OF FORECLOSURE of this mortgage by said Mortgagee in any court of law or equity, a reasonable sum shall be allowed for the solicitor's fees of the complainant, not to exceed in any case five per centum (5%) of the amount of the principal indebtedness found to be due, and for stenographers' fees of the complainant in such proceeding, and costs of minutes of foreclosure, master's fees, and all other costs of suit, and also for all outlays for documentary evidence and the cost of a complete abstract of title for the purpose of such foreclosure; and in case of any other suit, or legal proceeding, instituted by the Mortgagee to enforce the pro-



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visions of this mortgage or in case of any suit or legal proceeding wherein the Mortgagee shall be made a party thereto by reason of this mortgage, its costs and expenses, and the reasonable fees and charges of the attorneys or solicitors of the Mortgagee, so made parties, for services in such suit or proceedings, shall be a further lien and charge upon the said premises under this mortgage, and all such expenses shall become so much additional indebtedness secured hereby and be allowed in any decree foreclosing this mortgage;

21. AND THERE SHALL BE INCLUDED in any decree foreclosing this mortgage and be paid out of the proceeds of any sale made in pursuance of any such decree: (1) All the costs of such suit or suits, advertising, sale, and conveyance, including attorneys', solicitors', and stenographers' fees, outlays for documentary evidence and cost of said abstract and examination of title; (2) all the moneys advanced by the Mortgagee, if any, for any purpose authorized in the mortgage, with interest on such advances at the rate specified in the note, from the time such advances are made; (3) all the accrued interest remaining unpaid on the indebtedness hereby secured; (4) all the said principal money remaining unpaid. The over-plus of the proceeds of sale, if any, shall then be paid as the court may direct;

22. A RECONVEYANCE of said premises shall be made by the Mortgagee to the Mortgagor on full payment of the indebtedness aforesaid, the performance of the covenants and agreements herein made by the Mortgagor, and the payment of the reasonable fees of said Mortgagee.

23. It Is EXPRESSLY AGREED that no extension of the time for payment of the debt hereby secured given by the Mortgagee to any successor in interest of the Mortgagor shall operate to release, in any manner, the original liability of the Mortgagor;

24. The Mortgagor hereby waives any and all rights of redemption from sale under any order or decree of foreclosure of this mortgage on its own behalf and on behalf of each and every person except decree or judgment creditors of the Mortgagor acquiring any interest in or title to the premises subsequent to the date of this mortgage;

25. THE COVENANTS HEREIN CONTAINED shall bind, and the benefits and advantages shall inure to, the successors and assigns of the respective parties hereto. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

26. Notwithstanding any other provision contained herein or in the Note, it is agreed that the execution of the Note shall impose no personal liability on the maker hereof for payment of the indebtedness evidenced thereby and in the event of a default, the holder of the Note shall look solely to the property subject to this Mortgage and to the rents, issues and profits thereof in satisfaction of the indebtedness evidenced hereby and will not seek or obtain any deficiency or personal judgment against the maker hereof except such judgment or decree as may be necessary to foreclose and bar its interest in the property and all other property mortgaged, pledged, conveyed or assigned to secure payment of the Note, provided, that nothing in this condition and no action so taken shall operate to impair any obligation of the maker under the Regulatory Agreement herein referred to and made a part hereof.

SEE RIDER I AND RIDER II ATTACHED HERETO AND MADE A PART HEREOF

[SIGNATURES AND ACKNOWLEDGMENTS ON THE FOLLOWING PAGE]

STATE OF ILLINOIS

Loan No. 071-14012

## Mortgage

SHERIDAN - GUNNISON JOINT VENTURE, LLC

TO

WELLS FARGO BANK, NATIONAL ASSOCIATION

Doc. No.

Filed for Record in the Recorder's Office

of \_\_\_\_\_ County, Illinois,

on the \_\_\_\_\_ day of \_\_\_\_\_,

A.D. 19 \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ m.,

and duly recorded in Book \_\_\_\_\_

of \_\_\_\_\_, page \_\_\_\_\_

\_\_\_\_\_  
Clerk.

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## MORTGAGOR'S SIGNATURE PAGE TO THE MORTGAGE

**SHERIDAN - GUNNISON JOINT VENTURE, LLC**  
an Illinois limited liability company

By:

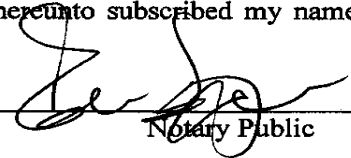
  
Anthony J. Augustine  
Its Manager

### ACKNOWLEDGEMENT

STATE OF ILLINOIS }  
COUNTY OF Cook } ss:

Personally appeared before me as of this 1 day of October, 2009, Anthony J. Augustine, who after being duly sworn, says that he is the Manager of SHERIDAN - GUNNISON JOINT VENTURE, LLC, an Illinois limited liability company, and that he has authority to execute under oath and has so executed this instrument for and on behalf of such limited partnership.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and official seal this 1 day of October, 2009.

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

My Commission Expires: 2/16/11



DEPT. OF COOK COUNTY CLERK'S OFFICE

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## Exhibit A

**STREET ADDRESS:** 4811-27 N. SHERIDAN RD  
**CITY:** CHICAGO **COUNTY:** COOK  
**TAX NUMBER:** 14-08-419-001/002/003

**LEGAL DESCRIPTION:**

LOT 31 AND LOT 32 (EXCEPT THAT PART OF SAID LOTS TAKEN FOR WIDENING SHERIDAN ROAD) IN SNOW AND DICKINSON'S SUBDIVISION OF PART OF BLOCK 4 OF A SUBDIVISION OF THE SOUTHEAST FRACTIONAL QUARTER OF THE EAST HALF OF THE SOUTH QUARTER OF SECTION 8, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

Property of Cook County Clerk's Office



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## RIDER I TO SUPPLEMENTAL MORTGAGE

1. The lien of this Supplemental Mortgage is subordinate and subject to the prior lien of that certain Second Mortgage from LASALLE BANK NATIONAL ASSOCIATION AS SUCCESSOR TRUSTEE TO AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT DATED JANUARY 20, 1967 AND KNOWN AS TRUST #22222 AND SHERIDAN – GUNNISON JOINT VENTURE, an Illinois joint venture, (collectively, the "Original Mortgagor") to REILLY MORTGAGE GROUP, INC., a District of Columbia corporation, (the "Original Mortgagee") in the amount of \$4,510,200.00 dated as of October 31, 2002 and recorded as Document No. 0021203594 with the Cook County Recorder of Deeds (the "Filing Office"), as assumed by Debtor, and as assigned to Wells Fargo Bank, National Association (the "First Mortgage"). The First Mortgage secures that certain Mortgage Note dated as of October 31, 2002 in the original principal amount of \$4,510,200.00 from Mortgagor to Mortgagee (the "First Note"). In the event WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association ("Wells") receives written notice from either (i) the holder of the First Note or (ii) the Secretary of Housing and Urban Development, acting by and through the Federal Housing Commissioner ("HUD"), that the Mortgagor has failed to make any payment or to perform any covenant under the First Mortgage or any other document evidencing, securing or otherwise pertaining to the loan evidenced by the First Note by reason of which the holder thereof has declared a default under said First Mortgage or any other document evidencing, securing or otherwise pertaining to the loan evidenced by the First Note, as evidenced by a formal written declaration of said default to HUD, acting by and through the Federal Housing Commissioner, Wells shall have the right, but not the obligation, in its sole and absolute discretion, to declare a default under this Supplemental Mortgage. The failure of Wells to exercise its rights granted in the preceding sentence shall not affect in any manner whatsoever the rights of Wells to insurance benefits under applicable HUD Regulations, nor constitute a basis for any surcharge thereunder in connection with any claim filed in conjunction with this Supplemental Mortgage or the Supplemental Mortgage Note secured hereby, subject to applicable HUD regulations.
2. The covenant of the Mortgagor to pay principal and interest is included in the Supplemental Mortgage Note secured hereby for the purpose of indebtedness. However, it is a condition of such covenant and those contained herein that in the event of default under the terms hereof, Mortgagee shall take no action against the Mortgagor except such as may be necessary to subject to the satisfaction of the indebtedness the property described herein and any chattels appurtenant to the use thereof; provided, however, that nothing in this condition and no action so taken shall operate to impair any obligation of the Mortgagor under that certain Regulatory Agreement between the Mortgagor and HUD of even date herewith and/or that certain Supplemental Regulatory Agreement between Original Mortgagor, and the Secretary of Housing and Urban Development ("HUD") as of October 31, 2002 and recorded as Document No. 0021203595 in the said Filing Office (the "First Regulatory Agreement"), referred to herein and made a part hereof.
3. In the event the First Mortgage is paid in full or otherwise terminated or released prior to the maturity of this Supplemental Mortgage, the Mortgagor covenants and agrees that it will immediately thereafter make monthly deposits to Mortgagee hereunder in accordance with the terms hereof for real estate taxes and hazard insurance, and until such time Mortgagor's obligations to escrow for real estate taxes and hazard insurance under Section 9 shall be suspended.

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## RIDER II TO SUPPLEMENTAL MORTGAGE

In further consideration of the endorsement for insurance by the Secretary of Housing and Urban Development ("HUD") of the Note between **SHERIDAN – GUNNISON JOINT VENTURE, LLC**, an Illinois limited liability company ("the Owner") and **WELLS FARGO BANK, NATIONAL ASSOCIATION**, a national banking association, dated as of October 1, 2009, or in consideration of the consent of the Secretary to (1) the transfer of the mortgaged property, (2) the sale and conveyance of the mortgaged property by the Secretary, (3) the conversion of the mortgagor from a partnership to a limited liability company, or (4) the conversion of the general partner of a limited partnership mortgagor or partner of a general partnership mortgagor to a limited liability company, and in order to comply with the requirements of the National Housing Act, as amended and the regulations adopted by the Secretary pursuant thereto, the Owners agree as described below for themselves, their successors, heirs and assigns, in connection with the mortgaged property and the project operated thereon and so long as the contract of mortgage insurance continues in effect and during such further period of time as the Secretary shall be the owner, holder, or reinsurer of the mortgage, or during any time the Secretary is obligated to insure a mortgage on the mortgaged property. The signatories to this document undertake the following obligations in their individual capacities as guarantors and as members of the Owner, and the consideration described above runs to the signatories in both capacities. The following provisions are added to and made a part of the project Mortgage Note, Mortgage, and Regulatory Agreement, all dated as of October 1, 2009:

1. If any provision of the Owner's Articles of Organization, Operating Agreement, other organizational documents, or any later amendment to those documents, conflicts with the terms of the project loan documents (e.g., the note, mortgage, deed of trust, security agreement, security deed and/or this Regulatory Agreement), the provisions of the project loan documents will control.
2. Notwithstanding any provision of state law to the contrary, any signatory to this rider receiving funds of the project other than by distribution of surplus cash as authorized above, shall immediately deposit such funds in the project bank account and failing to do so in violation of this Agreement shall hold such funds in trust. Notwithstanding any provision of state law to the contrary, any signatory to this rider receiving property of the project in violation of this agreement shall immediately deliver such property to the project and failing to do so shall hold such property in trust.
3. Notwithstanding any provision of state law to the contrary, all signatories to this rider are liable for:
  - a. Funds or property of the project coming into their hands which, by the provisions hereof, they are not entitled to retain; and
  - b. Their own acts and deeds or acts and deeds of others which they have authorized in violation of the provisions hereof; and
  - c. For their acts which violate statutes governing the conduct of owners of multifamily projects with FHA-insured mortgages.
4. Notwithstanding any provision of state law to the contrary, any member-manager, member with governance interests equaling or exceeding 10 percent, or member with financial interests equaling or exceeding 25 percent, who, on the date of the Regulatory Agreement to which this Rider is attached, include undersigned, shall be liable on a joint and several basis, in the amount of any loss, damage or cost (including but not limited to attorneys' fees) resulting from fraud or intentional misrepresentation by the mortgagor, the mortgagor's agents or employees, or a member of mortgagor in connection with obtaining the loan evidenced by the

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note, or in complying with any of the mortgagor's obligations under the loan documents.

5. All signatories to this rider will be considered agents of the Owner for the purpose of establishing liability under the double damages provision at 12 U.S.C. §1715z-4a and the equity skimming penalty under 12 U.S.C. §1715z-19, unless HUD agrees in writing to the contrary.
6. Each signatory to this rider will be individually liable for payment of the entire amount of any civil money penalty imposed on the mortgagor pursuant to Section 537 of the National Housing Act, 12 U.S.C. §1735f-15.
7. The owner has designated Anthony J. Augustine as its official representative for all matters concerning the project which require HUD consent or approval. The signature of this person will bind the Owner in all such matters. The Owner may from time to time appoint a new representative to perform this function, but within 3 business days of doing so, will provide HUD with written notification of the name, address, and telephone number of its new representative. When a member other than the member identified above has full or partial authority for management of the project, the owner will promptly provide HUD with the name of that member and the nature of that member's management authority."
8. Notwithstanding any provision of state law to the contrary, no signatory to this rider shall have any right of subrogation or indemnification against the Owner or the property of the project by reason of any payment made or liability incurred pursuant to this rider or any statute to which this rider refers.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

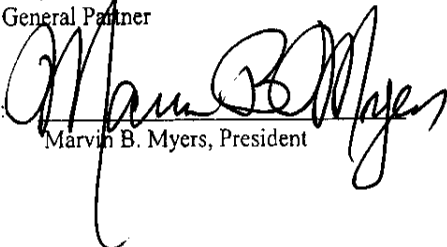
Property of Cook County Clerk's Office

# UNOFFICIAL COPY

Signed and sealed as of the 1st day of October, 2009.

**M-N MYERS PROPERTY COMPANY, LTD.,**  
a Texas limited partnership

By: M-N Myers Management Company, LLC  
Its General Partner

By:   
Marvin B. Myers, President

### ACKNOWLEDGEMENT

STATE OF TEXAS )  
 ) ss:  
COUNTY OF Dallas )

Personally appeared before me this 6 day of October, 2009, Marvin B. Myers, who, after being duly sworn, says that he is the President of M-N Myers Management Company, LLC a \_\_\_\_\_ limited liability company, General Partner of **M-N MYERS PROPERTY COMPANY, LTD.**, a Texas limited partnership, and that he has authority to execute under oath and has so executed the above certification for and on behalf of such limited liability company.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and official seal this 6 day of October, 2009.

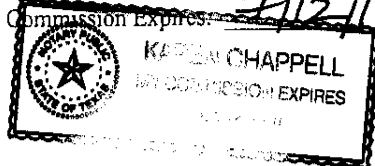


Notary Public

[SEAL]


My Commission Expires

7/12/10



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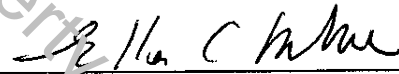
Paul A. Levy

### ACKNOWLEDGEMENT

STATE OF IL )  
 ) ss:  
 COUNTY OF Cook )

This instrument was acknowledged before me on October 1, 2009 by Paul A. Levy.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and official seal this 1st day of October, 2009.



Notary Public

[SEAL]

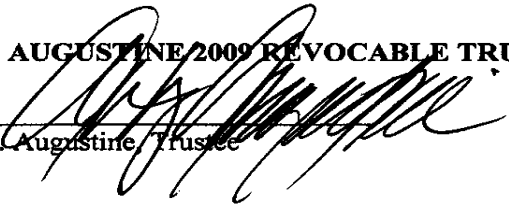
My Commission Expires: 12/20/11

"OFFICIAL SEAL"  
 ELLEN C. RUZICKA  
 Notary Public, State of Illinois  
 My Commission Expires 12/20/2011

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

**ANTHONY J. AUGUSTINE 2009 REVOCABLE TRUST**

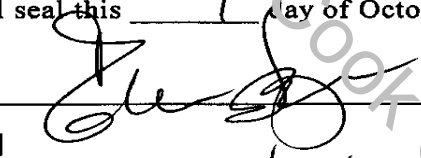
By: Anthony J. Augustine, Trustee 

### ACKNOWLEDGEMENT

STATE OF Illinois )  
COUNTY OF Cook ) ss:

Personally appeared before me this 1 day of October, 2009, Anthony J. Augustine, who, after being duly sworn, says that he is the Trustee of the Anthony J. Augustine 2009 Revocable Trust, and that he has authority to execute under oath and has so executed the above certification for and on behalf of such Trust.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and official seal this 1 day of October, 2009.

[SEAL] 

My Commission Expires: 2/16/11



Property of Cook County Clerk's Office