



Doc#: 0929329028 Fee: \$56.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 10/20/2009 12:18 PM Pg: 1 of 11

This instrument prepared by
and please return to:

Polsinelli Shughart PC
180 N. Stetson Avenue, Suite 4525
Chicago, Illinois 60601-6733
Attention: Kimberly K. Enders, Esq.

112021182-1

P.I.N.: 13-36-402-048-0000
COMMONLY KNOWN AS: 1934 N. Rockwell, Chicago, Illinois 60647

SECOND LOAN MODIFICATION AGREEMENT

This instrument is a Second Loan Modification Agreement ("**Second Modification**") among First Chicago Bank & Trust, an Illinois banking corporation ("**Lender**"), Rockwell Flats LLC, an Illinois limited liability company ("**Borrower**"), and Brent Meder and Dennis Boboc (collectively, "**Guarantors**").

RECITALS

A. Borrower holds fee simple title to the real estate commonly known as 1934 North Rockwell, Chicago, Illinois, which is legally described on **Exhibit A** attached hereto ("**Real Estate**"). Guarantors are the managers of Borrower.

B. On April 23, 2008, Borrower, Guarantors, Richard Sharp and Lender entered into a Construction Loan Agreement pursuant to which Lender granted a loan to Borrower in the amount of \$930,750.00 ("**Loan**"), which is evidenced by a Promissory Note in the principal

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amount of \$930,750.00 ("**Note**"). Concurrently therewith, Borrower and Guarantors executed and delivered to Lender the following documents (collectively "**Security Documents**"):

1. a Real Estate Mortgage, Assignment of Rents, Security Agreement and UCC Fixture Filing, which was recorded with the Cook County Recorder of Deeds on April 25, 2008 as Document No. 0811634011 ("**Mortgage**");
2. a Guaranty of Loan Agreement, Note, Mortgage and Other Undertakings executed by Guarantors and Richard Sharp ("**Guaranty**");
3. a UCC Financing Statement authorized by Borrower and filed with the Secretary of State of Illinois;
4. an Environmental, ADA and ERISA Indemnification Agreement executed by Borrower and Guarantors;
5. an Assignment of Project Documents executed by Borrower;
6. an Assignment of Real Estate Sale Contracts executed by Borrower;
7. a Certification of No Management Agreement executed by Borrower; and
8. a Loan Settlement Statement executed by Borrower.

C. On May 1, 2009, Borrower, Lender, Guarantors and Richard Sharp entered into a Loan Modification Agreement ("**Modification**"), pursuant to which Lender extended the maturity date of the Loan from May 1, 2009 until August 5, 2009. The Modification was recorded with the Cook County, Illinois Recorder of Deeds on July 9, 2009 as Document No. 0919029026.

D. Borrower has now requested Lender to extend the maturity date of the Loan from August 5, 2009 until November 5, 2009 and to consent to the transfer of all of the interest of City of Big Shoulders Real Estate Group LLC, 2013 Crystal, LLC in Borrower to Dover Gardens,

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LLC and Meder Property Holdings, LLC and the resignation of Richard Sharp as a manager of the Company and to release Richard Sharp from his Guaranty obligations. Lender is agreeable to these requests subject to the covenants, conditions and restrictions contained herein.

NOW, THEREFORE, in consideration of good and valuable consideration, the parties agree as follows:

1. The Maturity Date set forth in subparagraph (b) of the Note is hereby modified and amended from August 5, 2009 until November 5, 2009. Interest payments must be made on the fifth (5th) day of each month until the Loan is paid in full.

2. The Security Documents are hereby modified and amended to secure the Note as hereby modified and all references to the Note in the Security Documents are modified and amended to refer to the Note as hereby modified. All interest charged on and all payments made on the Note previously are unchanged.

3. This Second Modification shall be effective and Richard Sharp shall be released from his Guaranty upon Lender's receipt of this Second Modification executed by the parties hereto and the following documents and items:

(a) an Organizational Resolution of Borrower and each of Borrower's members;

(b) a LLC File Detail Report of Borrower and each of Borrower's members from Secretary of State of Illinois Website;

(c) copies of all amendments to Borrower's and each of Borrower's members' Articles of Organization and Operating Agreement or Certification of No Change to Organizational Documents of Borrower and each of Borrower's members;

(d) a date down endorsement to Lender's loan title insurance policy;

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- (e) payment of Lender's costs set forth in Section 8 hereof;
- (f) evidence of paid condominium assessments; and
- (g) evidence of insurance coverage.

4. Lender will provide a signed release of Richard Sharp when the conditions hereof have been fulfilled.

5. This Second Modification shall constitute an amendment of the Security Documents and wherever in said instruments or in any other instrument evidencing or securing the indebtedness evidenced by the Note ("**Loan Documents**") reference is made to the Loan Documents aforesaid, such reference shall be deemed a reference to such Loan Documents as hereby modified and amended. All other provisions of the Loan Documents remain unchanged. Nothing herein contained shall in any manner affect the lien or priority of the Mortgage as revised by this Second Modification, or the covenants, conditions and agreements therein contained or contained in the Note.

6. In the event of conflict between any of the provisions of the Loan Documents and this instrument, the provisions of this instrument shall override and control.

7. Borrower and Guarantors hereby renew, remake and affirm the representations and warranties contained in the Loan Documents.

8. Borrower hereby agrees to pay all of Lender's expenses arising out of and in connection with this Second Modification including, but not limited to, attorneys' fees, title insurance premiums and recording fees.

9. Guarantors hereby expressly acknowledge and confirm that by executing this Second Modification and by releasing Richard Sharp from his Guaranty, Lender has not waived, altered or modified Lender's rights under any of the Loan Documents to amend, extend, renew

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or modify or otherwise deal with the obligations of the parties hereto or any of the security given to Lender in connection therewith without the consent of Guarantors and without such action releasing, modifying, or affecting the obligations of Guarantors or affecting the security heretofore granted to Lender.

10. **BORROWER AND GUARANTORS KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE IRREVOCABLY THE RIGHT THEY MAY HAVE TO TRIAL BY JURY WITH RESPECT TO ANY LEGAL PROCEEDING BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THE NOTE, THIS SECOND MODIFICATION, THE MODIFICATION, THE MORTGAGE, THE LOAN AGREEMENT, THE SECURITY DOCUMENTS, OR ANY OF THE DOCUMENTS EXECUTED OR CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH OR ANY COURSE OF CONDUCT OR COURSE OF DEALING, IN WHICH LENDER, BORROWER AND/OR GUARANTORS ARE ADVERSE PARTIES. THIS PROVISION IS A MATERIAL INDUCEMENT FOR LENDER IN GRANTING ANY FINANCIAL ACCOMMODATION TO BORROWER OR GUARANTORS, OR ANY OF THEM.**

11. **BORROWER AND GUARANTORS HEREBY IRREVOCABLY SUBMIT TO THE JURISDICTION OF ANY STATE COURT SITTING IN COOK COUNTY, ILLINOIS OR ANY FEDERAL COURT SITTING IN CHICAGO, ILLINOIS OVER ANY ACTION OR PROCEEDING BASED HEREON AND BORROWER AND GUARANTORS HEREBY IRREVOCABLY AGREE THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING SHALL BE HEARD AND DETERMINED IN SUCH STATE OR FEDERAL COURT. BORROWER AND**

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GUARANTORS HEREBY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT THEY MAY EFFECTIVELY DO SO, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING. BORROWER AND GUARANTORS IRREVOCABLY CONSENT TO THE SERVICE OF ANY AND ALL PROCESS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES OF SUCH PROCESS TO BORROWER AND GUARANTORS AT THEIR ADDRESSES AS SPECIFIED HEREIN OR OTHERWISE IN THE RECORDS OF LENDER. BORROWER AND GUARANTORS AGREE THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING, AFTER ALL APPEAL RIGHTS ARE EXHAUSTED, SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN ANY OTHER JURISDICTION BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.

BORROWER AND GUARANTORS AGREE NOT TO INSTITUTE ANY LEGAL ACTION OR PROCEEDING AGAINST LENDER OR THE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR PROPERTY THEREOF, IN ANY COURT OTHER THAN THE ONE HEREINABOVE SPECIFIED. NOTHING IN THIS SECTION SHALL AFFECT THE RIGHT OF LENDER TO SERVE LEGAL PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR AFFECT THE RIGHT OF LENDER TO BRING ANY ACTION OR PROCEEDING AGAINST BORROWER AND GUARANTORS OR THEIR PROPERTY IN THE COURTS OF ANY OTHER JURISDICTIONS; PROVIDED, HOWEVER, UNLESS LENDER IS REQUIRED BY LAW TO INSTITUTE PROCEEDINGS IN ANY OTHER JURISDICTION, LENDER SHALL FIRST

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INSTITUTE PROCEEDINGS IN A STATE COURT SITTING IN COOK COUNTY, ILLINOIS OR ANY FEDERAL COURT SITTING IN CHICAGO, ILLINOIS.

12. Borrower and Guarantors warrant to Lender that neither Borrower nor Guarantors nor any affiliate is identified in any list of known or suspected terrorists published by an United States government agency (collectively, as such lists may be amended or supplemented from time to time, referred to as the "**Blocked Persons Lists**") including, without limitation, (a) the annex to Executive Order 13224 issued on September 23, 2001, and (b) the Specially Designated Nationals List published by the Office of Foreign Assets Control.

Borrower and Guarantors covenant to Lender that if they become aware that they or any affiliate are identified on any Blocked Persons List, Borrower and Guarantors shall immediately notify Lender in writing of such information. Borrower and Guarantors further agree that in the event they or any affiliate are at any time identified on any Blocked Persons List, such event shall be an Event of Default, and shall entitle Lender to exercise any and all remedies provided in any Loan Document or otherwise permitted by law. In addition, Lender may immediately contact the Office of Foreign Assets Control and any other government agency Lender deems appropriate in order to comply with its obligations under any law, regulation, order or decree regulating or relating to terrorism and international money laundering. Upon the occurrence of such Event of Default, Lender will forbear enforcement of its rights and remedies during such time as: (1) the person ("**Person**") identified in a Blocked Persons List is contesting in good faith by appropriate legal proceedings such Person's inclusion in a Blocked Persons List, and (2) Lender determines, in its sole and absolute discretion, that such forbearance will not adversely affect title to, the condition or value of, or any lien in favor of Lender and encumbering, any part

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of the Premises (as defined in the Mortgage) or otherwise adversely impact the ability of any Person to perform such Person's obligations under or with respect to any Loan Documents.

Signature page follows

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IN WITNESS WHEREOF, the parties hereto have executed this Second Modification on August 5th, 2009.

LENDER:

First Chicago Bank & Trust, an Illinois banking corporation

By: [Signature]
Its [Signature]

RICHARD SHARP

[Signature]
Richard Sharp

BORROWER:

Rockwell Flats LLC, an Illinois limited liability company

By: [Signature]
Brent Meder, Manager

By: [Signature]
Dennis Boboc, Manager

GUARANTORS:

[Signature]
Brent Meder

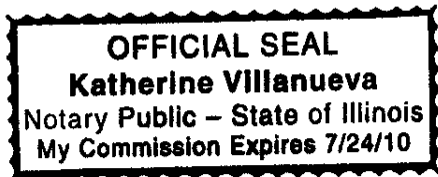
[Signature]
Dennis Boboc

STATE OF ILLINOIS)
) SS
COUNTY OF C O O K)

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that DAN ROBINSON - VICE President of First Chicago Bank & Trust, an Illinois banking corporation, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, 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 corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal SEPT. 18, 2009.

[Signature]
Notary Public



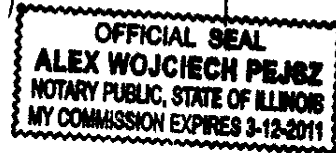
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STATE OF ILLINOIS)
) SS
COUNTY OF C O O K)

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Richard Sharp, individually, 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 August 5th, 2009.

Alex Wojciech Pejsz
Notary Public

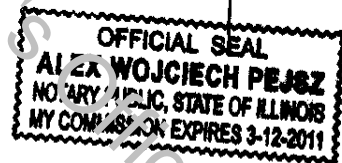


STATE OF ILLINOIS)
) SS
COUNTY OF C O O K)

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Brent Meder, individually and as Manager of Rockwell Flats LLC, an Illinois limited liability company, 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, 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 August 5th, 2009.

Alex Wojciech Pejsz
Notary Public

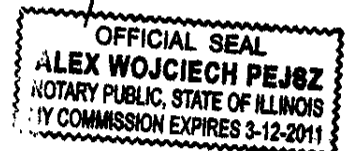


STATE OF ILLINOIS)
) SS
COUNTY OF C O O K)

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that Dennis Boboc, individually and as Manager of Rockwell Flats LLC, an Illinois limited liability company, 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, 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 August 5th, 2009.

Alex Wojciech Pejsz
Notary Public



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EXHIBIT A

LEGAL DESCRIPTION:

LOT 1 IN THE SUBDIVISION OF LOTS 21 TO 24, INCLUSIVE IN BLOCK 1 IN YOUNG AND TALBOTT'S SUBDIVISION OF LOTS 1, 2, 3, 8 AND 9 IN BLOCK 1 IN SUBDIVISION OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 36, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

COMMONLY KNOWN AS: 1934 N. Rockwell, Chicago, Illinois 60647

P.I.N.: 13-36-402-048-0000