



Doc#: 0935618069 Fee: \$52.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 12/22/2009 04:09 PM Pg: 1 of 9

THIS DOCUMENT PREPARED BY:

Crowley & Lamb, P.C.
350 North LaSalle Street, Suite 900
Chicago, Illinois 60610

AFTER RECORDING RETURN TO:

National City Bank
Commercial Real Estate
One North Franklin Street, Suite 2150
Chicago, Illinois 60606
Attn: Laura Dav

This space reserved for Recorder's use only

MODIFICATION OF LOAN DOCUMENTS

~~December~~ ^{November} ~~8~~, 2009 and made effective as of the 30th day of September, 2009, by and among **Karry L. Young Development, LLC**, an Illinois limited liability company ("Borrower"), having an address of 19W551 Country Lane, Lombard, IL 60148, **Karry L. Young** ("Guarantor") and **PNC Bank, National Association, successor to NATIONAL CITY BANK**, a national banking association, successor by merger to National City Bank of the Midwest, its successors and assigns, having an address as set forth above ("Lender").

RECITALS:

A. Lender made a loan to Borrower (the "Loan") as evidenced by that certain Promissory Note ("Note") in the original principal amount of \$6,000,000.00 dated August 22, 2006, executed by Borrower in favor of Lender (the "Note") and a certain Construction Loan Agreement dated August 22, 2006 executed by the Borrower in favor of Lender (the "Loan Agreement").

B. The Note is secured, in part, by a (i) certain Mortgage, Security Agreement and Assignment of Rents and Lease and Fixture Filing ("Mortgage") dated August 22, 2006 from the Borrower in favor of Bank recorded August 23, 2006 with the Recorder of Cook County, IL ("Recorder") as Document No. 0623532011 granting to Lender a first priority lien on the real property legally described on Exhibit A hereto (the "Property"), (ii) the Collateral Assignment of Developer's Rights Under Redevelopment Agreement ("the Collateral Assignment") dated August 22, 2006 executed by Borrower in favor of Lender which was recorded with the recorder on December 5, 2006 as Document No. 0633934124 and (iii) the Performance and Completion Guaranty (the "Guaranty") dated August 22, 2006 of Guarantor, as well as other documents from the Borrower and/or the Guarantor in favor of Lender (the Note, the Loan Agreement, the

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Mortgage, the Collateral Assignment, the Guaranty and all other documents securing or evidencing the Loan, in their original form and as modified or replaced, including that certain Fifth Amendment to Construction Loan Agreement, Promissory Note and Other Loan Documents, and Reaffirmation of Guaranty dated November 21, 2008 and that certain Twelfth Amendment to Mortgage, Security Agreement and Assignment of Rents and Lease and Fixture Filing and Eleventh Amendment to Collateral Assignment of Developer's Rights Under Redevelopment Agreement dated June 9, 2008 between Borrower and Lender which was recorded with the recorder on June 17, 2008 as Document No. 0816929051, are hereinafter referred to as the "Loan Documents"). Capitalized terms not defined herein shall have the meaning given to such terms in the Loan Documents.

C. As of the date hereof, the outstanding principal balance of the Note is \$448,234.52. Certain other amounts, including accrued interest and attorneys' fees and costs, are also owed under the Note and the other Loan Documents.

D. The Borrower and Guarantor have requested that Lender extend the maturity date of the Note to June 30, 2010 and Lender is willing to extend the maturity date of the Note, on the terms and conditions more fully set forth hereinafter.

AGREEMENTS:

NOW, THEREFORE, in consideration of (i) the facts set forth hereinabove (which are hereby incorporated into and made a part of this Agreement), (ii) the agreements by Lender and Borrower to modify the Loan Documents, as provided herein, (iii) Borrower's agreement to pay all of Lender's reasonable attorneys fees and costs in connection with this Agreement, (iv) the covenants and agreements contained herein, and (v) for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Extension of the Maturity Date / Other Amendments to Loan Documents.**
The Loan Documents are hereby amended as follows:

(a) Lender and Borrower agree that the Maturity Date for the Loan shall hereby be amended from September 30, 2009 to June 30, 2010. All references in any and all Loan Documents to "Maturity Date" or words of similar import shall now mean June 30, 2010. Borrower agrees that the Loan, together with all obligations under the Loan Documents, shall be due and payable on June 30, 2010, or such earlier date that the Loan and all other obligations shall be due and payable by acceleration or otherwise, subject to no extensions.

(b) Notwithstanding anything to the contrary contained in the Loan Documents, the Interest Rate, effective as of October 1, 2009, shall be the sum of: (a) One Month LIBOR Rate plus (b) 4.50%.

(c) In addition to monthly payments of accrued interest, beginning in October 1, 2009 and on the first day of each month thereafter, Borrower shall make monthly payments of principal under the Loan equal to Two Thousand and 00/100 Dollars (\$2,000.00). Each principal payment shall be applied to the Loan as determined by Lender. On the Maturity Date set forth above, the

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outstanding principal balance of the Loan, together with all accrued and unpaid interest on the Loan shall be due and payable to Lender.

(d) The term "Event of Default" shall include Borrower or Guarantor failing to comply with or perform any term, obligation, covenant or condition contained in any Loan Document or in any other agreement between Borrower and Lender or Guarantor and Lender.

2. **Reaffirmation of Guaranty.** Except as modified above, Guarantor ratifies and affirms the Guaranty and agrees that the Guaranty is in full force and effect following the execution and delivery of this Agreement and the Note and that the Guarantor remains liable to Lender for all amounts due in connection with the Note. The representations and warranties of Guarantor in the Guaranty are, as of the date hereof, true and correct and Guarantor does not know of any default thereunder. The Guaranty continues to be the valid and binding obligation of Guarantor, enforceable in accordance with its terms and Guarantor has no claims or defenses to the enforcement of the rights and remedies of Lender thereunder, except as provided in the Guaranty.

3. **Continuing Validity.** Except as expressly modified above, the terms of the original Mortgage and the other Loan Documents shall remain unchanged and in full force and effect and are legally valid, binding and enforceable in accordance with their respective terms. Consent by Lender to this Agreement does not waive Lender's rights to require strict performance of the Mortgage (as amended above) nor obligate Lender to make any future modifications. Nothing in this Agreement shall constitute a satisfaction of the promissory notes or other credit agreement secured by the Mortgage. It is the intention of Lender to retain as liable all parties to the Mortgage and all parties, makers and endorsers to the Note, including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, shall not be released by virtue of this Agreement. If any person who signed the original Mortgage does not sign this Agreement, then all persons signing below acknowledge that this Agreement is given conditionally, based on the representation to Lender that the non-signing person consents to the changes and provisions of this Agreement or otherwise will not be released by it. This waiver applies not only to any initial extension or modification, but also to all such subsequent actions.

4. **Borrower and Guarantor's Releases.** Borrower and Guarantor, in consideration of the execution of this Agreement, and the performance of all terms contained herein to be performed by Lender, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, do hereby remise, release and forever discharge, and by these presents, do for their successors, assigns, heirs, administrators, executors, personal representatives, agents, grantees, and successors in interest, remise, release and forever discharge Lender and its respective successors, assigns, heirs, administrators, officers, personal representatives, attorneys, agents and successors in interest, from all actions, suits, causes of action, damages, expenses, liabilities, claims, accounts and demands, whatsoever, whether or not well-founded in fact or in law which they have, have had, or at any time may have, could have, or might have but for the execution of this Agreement, asserted against Lender, for or by reason of or in respect of any matter, cause or thing whatsoever, whether known or unknown, developed or undeveloped, past, present or future or whether permanent, continuing or otherwise, arising out of or connected with the Loan, the Note, the Loan Documents or this Agreement.

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5. **Representations and Warranties of Borrower and Guarantor.** Borrower and Guarantor hereby represent, covenant and warrant to Lender as follows:

- (a) The representations and warranties in the Note, the Loan Agreement, the Mortgage and the other Loan Documents are true and correct as of the date hereof.
- (b) There is currently no default or Event of Default (as defined in the Loan Documents) under the Note, the Mortgage or the other Loan Documents and neither the Borrower nor Guarantor know of any event or circumstance which with the giving of notice or passing of time, or both, would constitute an Event of Default under the Note, the Mortgage or the other Loan Documents.
- (c) The Loan Documents are in full force and effect and, following the execution and delivery of this Agreement, they continue to be the legal, valid and binding obligations of Borrower and Guarantor enforceable in accordance with their respective terms, subject to limitations imposed by general principles of equity.
- (d) There has been no material adverse change in the financial condition of Borrower, Guarantor or any other party whose financial statement has been delivered to Lender in connection with the Loan from the date of the most recent financial statement received by Lender.
- (e) As of the date hereof, neither Borrower nor Guarantor have any claims, counterclaims, defenses, or set-offs with respect to the Loan or the Loan Documents as modified herein.
- (f) The execution and delivery of this Agreement, related documents and the performance of the Loan Documents, as modified herein, have been duly authorized by all requisite action by or on behalf of Borrower and Guarantor. This Agreement and related documents have been duly executed and delivered on behalf of Borrower and Guarantor, as applicable, and are the legal, valid and binding obligations of Borrower and Guarantor, as applicable, enforceable in accordance with their terms.

6. **Title Policy.** At Lender's request, Borrower shall, at its sole cost and expense, cause the applicable title company ("Title Company") to issue an endorsement to Lender's title insurance policy (the "Title Policy"), as of the date this Agreement is recorded, reflecting the recording of this Agreement and insuring the first priority of the lien of the Mortgage, subject only to the exceptions set forth in the Title Policy as of its date of issuance and any other encumbrances expressly agreed to by Lender.

8. **Conditions Precedent.** As conditions precedent to the agreements of Lender contained herein:

- a. Borrower shall pay all out-of-pocket costs and expenses incurred by Lender in connection with this Agreement, including, without limitation, title charges, recording fees, appraisal fees and attorneys' fees and expenses.

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b. Lender shall have received an original or counterpart of this Agreement duly executed by Borrower and Guarantor.

c. Lender shall have received resolutions of Borrower's managers and members approving execution of this Agreement and related matters, in form and content satisfactory to Lender and its attorneys.

d. Lender shall have received such other certificates, financial statements, schedules, resolutions and other documents which Lender shall require, including such documents as Lender deems necessary.

9. Miscellaneous.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

(b) This Agreement shall not be construed more strictly against Lender than against Borrower or Guarantor merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that Borrower, Guarantor and Lender have contributed substantially and materially to the preparation of this Agreement, and Borrower, Guarantor and Lender each acknowledge and waive any claim contesting the existence and the adequacy of the consideration given by the other in entering into this Agreement. Each of the parties to this Agreement represents that it has been advised by its respective counsel of the legal and practical effect of this Agreement, and recognizes that it is executing and delivering this Agreement, intending thereby to be legally bound by the terms and provisions thereof, of its own free will, without promises or threats or the exertion of duress upon it. The signatories hereto state that they have read and understand this Agreement, that they intend to be legally bound by it and that they expressly warrant and represent that they are duly authorized and empowered to execute it.

(c) Notwithstanding the execution of this Agreement by Lender, the same shall not be deemed to constitute Lender a venturer or partner of or in any way associated with Borrower or Guarantor nor shall privity of contract be presumed to have been established with any third party.

(d) Borrower, Guarantor and Lender each acknowledges that there are no other understandings, agreements or representations, either oral or written, express or implied, that are not embodied in the Loan Documents and this Agreement, which collectively represent a complete integration of all prior and contemporaneous agreements and understandings of Borrower, Guarantor and Lender; and that all such prior understandings, agreements and representations are hereby modified as set forth in this Agreement. Except as expressly modified hereby and related documents, the terms of the Loan Documents are and remain unmodified and in full force and effect.

(e) This Agreement shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

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(f) Any references to any "Note", the "Mortgage", or the "Loan Documents" contained in any of the Loan Documents shall be deemed to refer to the Note, the Mortgage, and the other Loan Documents as amended hereby and related documents. The paragraph and section headings used herein are for convenience only and shall not limit the substantive provisions hereof. All words herein which are expressed in the neuter gender shall be deemed to include the masculine, feminine and neuter genders. Any word herein which is expressed in the singular or plural shall be deemed, whenever appropriate in the context, to include the plural and the singular.

(g) This Agreement may be executed in one or more counterparts, all of which, when taken together, shall constitute one original Agreement. Any signature or other authentication delivered by facsimile or other electronic transmission shall be deemed to be an original signature hereto.

(h) Time is of the essence of Guarantor's and Borrower's obligations under this Agreement.

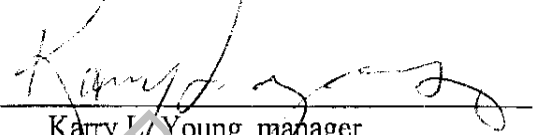
[SIGNATURE PAGE ATTACHED]

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

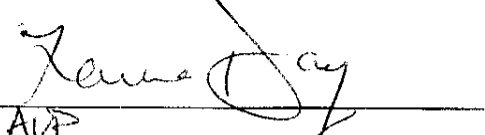
BORROWER:

Karry L. Young Development, LLC, an Illinois limited liability company

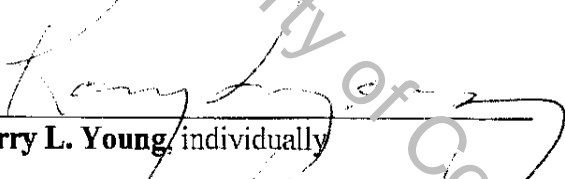
By: 
Karry L. Young, manager

LENDER:

PNC Bank, National Association,
successor to NATIONAL CITY BANK

By: 
Its: AVP

GUARANTOR:


Karry L. Young, individually

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

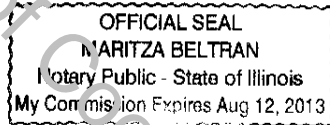
I, Maritza Beltran, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Laura E. Day, Asst. V president of National City Bank, known to me to be the same person whose name is subscribed to the foregoing instrument as such AV President, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary acts, and as the free and voluntary act of National City, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 8th day of December, 2009.

Maritza Beltran
Notary Public

My Commission Expires:

Aug. 12, 2013



STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

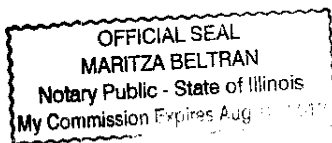
I, Maritza Beltran, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that **Karry L. Young**, individually and as manager of **Karry L. Young Development, LLC** and known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as his own free and voluntary act, and as the free and voluntary act of such company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 8th day of December, 2009.

Maritza Beltran
Notary Public

My Commission Expires:

Aug. 12 2013



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EXHIBIT A

LEGAL DESCRIPTION

PARCEL 11 (211447):

LOT 46 IN BLOCK 2 IN RICHARD S. COX JR.'S SUBDIVISION OF 10 ACRES IN THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 17, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Permanent Real Estate Index Number: 20-17-320-032, vol. 424

Property Address: 6120 South Ada Street, Chicago, Illinois

PARCEL 21 (211555):

LOT 44 IN BLOCK 2 IN JAMES U. BORDEN'S SUBDIVISION OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 17, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Permanent Real Estate Index Number: 20-17-305-013, vol. 424

Property Address: 5921 South Ada Street, Chicago, Illinois

PARCEL 26 (211593):

LOT 36 IN BLOCK 1 IN RICHARD S. COX JR.'S SUBDIVISION OF 10 ACRES IN THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 17, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Permanent Real Estate Index Number: 20-17-321-043, vol. 424

Property Address: 6144 South Throop Street, Chicago, Illinois