



Doc#: 1006713017 Fee: \$52.25
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 03/08/2010 09:43 AM Pg: 1 of 8

This Document was prepared by and after recording should be returned to:
First Eagle Bank
1040 E. Lake St.
Hanover Park, IL. 60133



FIRST AMENDMENT TO LOAN DOCUMENTS

This First Amendment to Loan Documents ("First Amendment") is dated as of the 28th day of December 2009 and made by and between Bass BB Realty, LLC, an Illinois Limited Liability Corporation ("Borrower"); Andrew S. Levin, Barry S. Levin, and Barry Brandwein (individually and collectively referred to herein as "Guarantor"); and First Eagle Bank f/ka First Eagle National Bank ("Lender").

A. On December 28, 2006 Lender made a loan (the "Loan") to Borrower in the amount of Five Hundred Eighty Thousand and 00/100 (\$580,000.00). The Loan is evidenced by the Promissory Note of Borrower dated December 28, 2006 in the principal amount of \$580,000.00 ("Note")

B. The Note is secured by a Mortgage and Assignment of Rents (collectively referred to herein as "Mortgage") dated December 28, 2006, and recorded as Document Nos. 0700235285 and 0700235286 with the Recorder of Deeds of Cook County, Illinois which was executed by Borrower in favor of Lender and which created a first lien on the property ("Property") known as 2925 W. Diversey Avenue, Chicago, IL which is legally described on Exhibit "A" attached hereto and made a part hereof.

C. The Note is further secured by the Commercial Guaranty ("Guaranty") of Guarantor dated December 28, 2006 and any and all other documents executed pursuant to or in connection with the Loan by Borrower or Guarantor, as amended, modified, assumed or replaced from time to time (hereinafter collectively referred to as the "Loan Documents").

D. Borrower requests the extension of the Maturity Date of the Loan to December 28, 2014. Lender has agreed to extend the Maturity Date as aforesaid, subject to the following covenants, agreements, representations and warranties.

NOW THEREFORE, for and in consideration of the covenants, agreements, representations and warranties set forth herein, the parties hereto agree as follows:

1. **Recitals.** The recitals set forth above shall be incorporated herein, as if set forth in their entirety.

Prepared By: LMH
Officer Review
Initial Review JB Date 2/09/10
Final Review _____ Date _____
Loan # 68454

54
AS
3
my
JMK

UNOFFICIAL COPY

2. **Maturity Date, Interest Rate, and Schedule of Payment.** The Maturity Date of the Loan is hereby extended to December 28, 2014 and effective as of the date hereof, the interest rate on the Loan is hereby increased from 6.50% to 6.80% per annum. Borrower will pay the Loan that has a current principal balance of \$460,478.35, with interest at the fixed rate of 6.80% per annum on the unpaid principal balance from December 28, 2009 until paid in full pursuant to the following schedule:

59 consecutive monthly payments of principal and interest in the amount of \$3,224.84 beginning January 28, 2010 and on the same day of each month after that and 1 final payment at Maturity on December 28, 2014 for all principal and all accrued interest not yet paid estimated at \$422,440.19. This estimated final payment is based on the assumption that all payments will be made exactly as scheduled, the actual payment will be for all principal and accrued interest not yet paid, together with any other unpaid amounts under this Loan.

Payments will be applied first to any unpaid collection costs; then to any late charges; then to any accrued unpaid interest, and then to principal.

The annual interest is computed on a 365/360 basis; that is by applying the ratio of the annual interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. All interest payable hereunder is computed using this method. This calculation method results in a higher interest rate than the numeric interest rate state herein. (Initial here

B.L. AL
 (BB)

3. **Prepayment Premium.** Borrower may prepay the loan upon payment to Lender of a prepayment premium equal to five percent (5%) of the prepaid principal if paid in the first (1st) loan year, four percent (4%) of the prepaid principal if paid in the second loan year, three percent (3%) of the prepaid principal if paid in the third (3rd) loan year, two percent (2%) of the prepaid principal if paid in the fourth (4th) loan year, one percent (1%) of the prepaid principal if paid in the fifth (5th) loan year. For purposes of this Note, a loan year shall mean each 12 month period following the date hereof. If prior to the Maturity Date, an Event of Default (as hereinafter defined) exists and Lender elects to declare all principal and interest hereunder immediately due and payable, the tender of payment of the amount of such entire indebtedness hereunder, made at any time prior to sale under foreclosure of the Mortgage or the realization of any other collateral which secures this Note, shall be deemed to constitute an evasion of the foregoing prepayment provisions, and such payment shall therefore, to the extent permitted by law, include liquidated damages in the amount of the prepayment premium set forth in this paragraph, it being acknowledged that Lender's actual damages in the event of such evasion are now and will then be impossible to ascertain. No prepayment shall extend or postpone the due date of any subsequent monthly installment of principal or interest arising hereunder. Borrower hereby expressly agrees to pay the above-described prepayment premium upon the voluntary or involuntary prepayment of

UNOFFICIAL COPY

this Note, and acknowledges that Lender's agreement to make the Loan evidenced by this Note on the terms contained herein constitute adequate consideration for the prepayment premium.

4. **Financial Statements.** Borrower and Guarantor shall submit to Lender annually beginning 6-1-10 and on that day every year thereafter the Business Federal Income Tax Return of Borrower and the Personal Financial Statements and Personal Federal Income Tax Returns of Guarantor.

5. **Modification of Documents.** The Note, Mortgage, Guaranty, and other Loan Documents shall be deemed to be modified to reflect the amendments set forth herein.

6. **Guarantor Not Released.** Guarantor acknowledges and consents to the foregoing amendment.

7. **Restatement of Representations.** Borrower and Guarantor hereby restate and reaffirm each and every representation, warranty, covenant and agreement made by them in the Note, Mortgage, Guaranty and other Loan Documents.

8. **Defined Terms.** All capitalized terms which are not defined herein shall have the definitions ascribed to them in the Note, Mortgage, Guaranty and other Loan Documents.

9. **Documents Unmodified.** Except as modified hereby, the Note, Mortgage, Guaranty and other Loan Documents shall remain unmodified and in full force and effect. Borrower and Guarantor ratify and confirm their obligations and liabilities under the Note, Mortgage, Guaranty and other Loan Documents. They acknowledge no defenses, claims, or setoffs against the enforcement by Lender.

10. **Fee.** In consideration of Lender's agreement to amend the loan, as aforesaid, Borrower has agreed and shall pay Lender upon execution hereof, a fee in the amount of Two Thousand Three Hundred and Two 00/100 Dollar (\$2,302.00) plus all costs incurred by Lender in connection with or arising out of this amendment.

Anything contained in the Mortgage to the contrary notwithstanding, the Mortgage also secures all loans, advances, debts, liabilities, obligations, covenants and duties owing to the Lender by the Borrower and/or any Related Party (as hereinafter defined), whether now existing, or hereafter created or arising, including, without limitation: (i) the Note, (ii) the Indebtedness, and (iii) any and all other loans, advances, overdrafts, indebtedness, liabilities and obligations now or hereafter owed by Borrower or any Related Party to Lender, of every kind and nature, howsoever created, arising or evidenced, and howsoever owned, held or acquired, whether now due or to become due, whether direct or indirect, or absolute or contingent, whether several, joint or joint and several, whether liquidated or unliquidated, whether legal or equitable, whether disputed or undisputed, whether secured or unsecured, or whether arising under the

UNOFFICIAL COPY

Mortgage or any other document or instrument. For purposes of this paragraph, "Related Party" shall mean (i) Grantor, (ii) each beneficiary of Grantor, if Grantor is a land trust, (iii) the maker of the Note, if other than Grantor, and if more than one maker, each co-borrower of the Note other than Grantor, and (iv) each guarantor of the Note.

A sale or transfer referred to in the Mortgage shall also mean and include the granting of any mortgage, deed of trust or other encumbrance of any kind on all or any portion of the Real Property, whether or not it is junior to the lien of this Mortgage.

Any forbearance by Lender in exercising any right or remedy under the Note or any of the other loan documents or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of that or any other right or remedy. The acceptance by Lender of any payment after the due date of such payment, or in an amount which is less than the required payment, shall not be a waiver of Lender's right to require prompt payment when due of all other payments or to exercise any right or remedy with respect to any failure to make prompt payment. Enforcement by Lender of any of its rights or remedies under any of the loan documents with respect to Borrower's obligations under the Note shall not constitute an election by Lender of remedies so as to preclude the exercise of any other right or remedy available to Lender.

At no time shall the principal amount of Indebtedness secured by the Mortgage, not including sums advanced to protect the security of the Mortgage, exceed \$1,210,000.00.

This Amendment shall extend to and be binding upon each Borrower and Guarantor and their heirs, legatees, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

This Amendment shall, in all respects, be governed by and construed in accordance with the laws of the State of Illinois, including all matters of construction, validity and performance.

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

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

TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH BORROWER AND GUARANTOR (EACH AN "OBLIGOR") HEREBY AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS MODIFICATION AGREEMENT SHALL BE TRIED AND DETERMINED ONLY IN THE STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, OR, AT THE SOLE OPTION OF LENDER IN ANY OTHER COURT IN WHICH LENDER SHALL INITIATE LEGAL OR EQUITABLE PROCEEDINGS AND WHICH HAS SUBJECT MATTER JURISDICTION OVER THE MATTER IN CONTROVERSY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR HEREBY EXPRESSLY WAIVES ANY RIGHT IT MAY HAVE TO ASSERT THE DOCTRINE OF

UNOFFICIAL COPY

FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS PARAGRAPH.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR AND LENDER HEREBY EXPRESSLY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY ACTION, CAUSE OF ACTION, CLAIM, DEMAND, OR PROCEEDING ARISING UNDER OR WITH RESPECT TO THIS MODIFICATION AGREEMENT, OR IN ANY WAY CONNECTED WITH, RELATED TO, OR INCIDENTAL TO THE DEALINGS OF OBLIGORS AND LENDER WITH RESPECT TO THIS MODIFICATION AGREEMENT, OR THE TRANSACTION RELATED HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR AND LENDER HEREBY AGREE THAT ANY SUCH ACTION, CAUSE OF ACTION, CLAIM, DEMAND OR PROCEEDING SHALL BE DECIDED BY A COURT TRIAL WITHOUT A JURY AND THAT ANY OBLIGOR OR LENDER MAY FILE A COPY OF THIS EXECUTED MODIFICATION AGREEMENT WITH ANY COURT OR OTHER TRIBUNAL AS WRITTEN EVIDENCE OF THE CONSENT OF EACH OBLIGOR AND LENDER TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

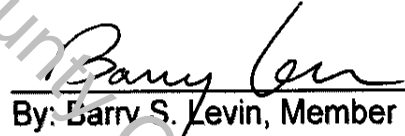
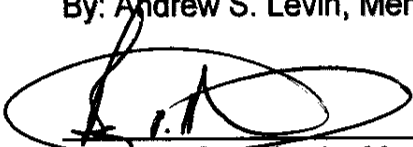
IN WITNESS WHEREOF, this First Amendment was executed by the undersigned as of the date and year first set forth above.

BORROWER:

BASS BB REALTY, LLC

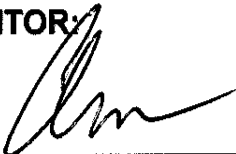


By: Andrew S. Levin, Member


By: Barry S. Levin, Member

By: Barry Brandwein, Member

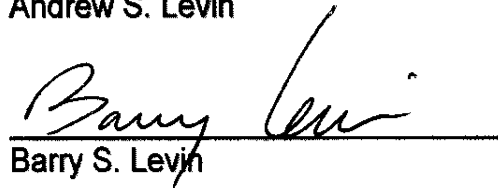
GUARANTOR:



Andrew S. Levin



Barry Brandwein


Barry S. Levin

UNOFFICIAL COPY

LENDER:

First Eagle Bank



By: Zachary Braun, Assistant Vice President

Property of Cook County Clerk's Office



UNOFFICIAL COPY

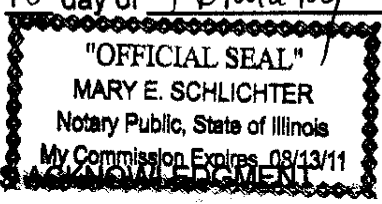
BORROWER'S ACKNOWLEDGMENT

STATE OF ILLINOIS) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Andrew S. Levin, Barry S. Levin and Barry Brandwein, Members of Bass BB Realty, LLC, an Illinois limited liability 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, sealed and delivered said instrument as their free and voluntary act and deed as well as that of the company they represent, for the uses and purposes therein set forth.

Given under my hand and Official Seal this 18th day of February, 2010

Mary E. Schlichter
Notary Public



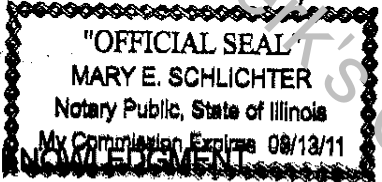
GUARANTOR'S ACKNOWLEDGMENT

STATE OF ILLINOIS) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Andrew S. Levin, Barry S. Levin and Barry Brandwein, 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, sealed and delivered said instrument as their free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and Official Seal this 18th day of February, 2010

Mary E. Schlichter
Notary Public



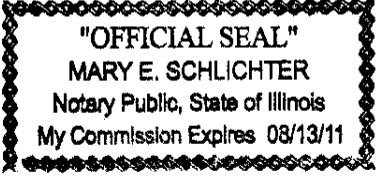
LENDER'S ACKNOWLEDGMENT

STATE OF ILLINOIS) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Zachary Braun, Assistant Vice President of FIRST EAGLE BANK, appeared before me this day in person and acknowledged that he signed, sealed and delivered said instrument as his free and voluntary act and deed as well as that of the bank he represents, for the uses and purposes therein set forth.

Given under my hand and Official Seal this 18th day of February, 2010

Mary E. Schlichter
Notary Public



UNOFFICIAL COPY

EXHIBIT "A"

LOT 11 IN BLOCK 3 IN THE SUBDIVISION OF LOTS 1 TO 5, INCLUSIVE AND LOTS 18 TO 22 INCLUSIVE AND VACATED ALLEY IN BLOCK 3 AND OF LOTS 18 TO 22 INCLUSIVE OF BLOCK 2 ALL IN BURCHELL AND JACOBS' SUBDIVISION OF LOT 1 IN HERALD, BARRON AND OTHERS' SUBDIVISION OF THE NORTHEAST ¼ OF THE SOUTHWEST ¼ OF SECTION 25, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Address: 2925 W. DIVERSEY, CHICAGO, IL

P.I.N.: 13-25-305-033

Property of Cook County Clerk's Office