



Doc#: 1435715030 Fee: \$60.00
RHSP Fee:\$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 12/23/2014 01:22 PM Pg: 1 of 12

THIS DOCUMENT PREPARED BY
AND AFTER RECORDING
RETURN TO:

Much *Shelist*, PC
191 North Wacker Drive
Suite 1800
Chicago, IL 60606.1615
Attn: Michael Wolfe

PERMANENT TAX INDEX NUMBERS:

- 14-32-309-010-0000
- 14-32-309-011-0000
- 14-32-309-012-0000
- 14-32-309-013-0000
- 14-32-309-014-0000
- 14-32-309-015-0000
- 14-32-309-024-0000

PROPERTY ADDRESS:

1455 Willow Street
Chicago, Illinois

This space reserved for Recorder's use only

FIRST MODIFICATION OF LOAN DOCUMENTS

THIS FIRST MODIFICATION OF LOAN DOCUMENTS (this "Agreement") is made as of the 5th day of December, 2014 (the "Effective Date"), by and among **1455 Willow Adventures LLC**, an Illinois limited liability company ("Borrower"), **Alexander Pearsall** and **Andrew Fox** (each a "Guarantor" and collectively, "Guarantors"), and **Wintrust Bank** (formally known as North Shore Community Bank & Trust Company, its successors and assigns ("Lender").

RECITALS:

A. Lender previously made a loan (the "Loan") to Borrower pursuant to and in accordance with the terms and conditions of that certain Construction Loan Agreement dated December 4, 2013 (the "Loan Agreement") in the original principal amount of **Two Million Two Hundred Forty Four Thousand and 00/100 Dollars** (\$2,244,000.00) as evidenced by that certain Promissory Note dated December 4, 2013 in the principal amount of \$2,244,000.00 ("Note") made payable by Borrower to the order of Lender.

B. The Note is secured by, among other things, (i) that certain Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing dated December 4, 2013,

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recorded with the Recorder of Deeds in Cook County, Illinois (the "Recorder's Office") on December 24, 2013 as Document No. 1335833026 (as amended, restated or supplemented from time to time, the "Mortgage") to and for the benefit of the Lender, which Mortgage encumbers the real property and all improvements thereon legally described on Exhibit A hereto (the "Property"), (ii) that certain Assignment of Rents and Leases dated December 4, 2013, from Borrower to Lender and recorded in the Recorder's Office on December 24, 2013 as Document No. 1335833027 (the "Assignment of Leases"); (iii) that certain Environmental Indemnity Agreement dated December 4, 2013, from Borrower to Lender (the "Environmental Certificate"); (iv) that certain Guaranty of Payment and Completion dated December 4, 2013 from the Guarantors to Lender (the "Guaranty Agreement"); and (v) certain other loan documents (the Note, the Mortgage, the Assignment of Leases, the Environmental Certificate, the Guaranty Agreement, the Loan Agreement and the other documents evidencing, securing and guarantying the Loan, as modified hereby, in their original form and as amended, are sometimes collectively referred to in this Agreement as the "Loan Documents").

C. The outstanding principal balance of the Note as of the date hereof is One Million Six Hundred Twelve Thousand Eight Hundred Ninety Five and 47/100 Dollars (\$1,612,895.47).

D. Borrower desires to amend the Note and the Loan Documents in order to increase the principal amount of the loan and certain other modifications as more fully set forth herein.

E. Capitalized terms used in this Agreement which are not otherwise defined herein shall have the meanings ascribed to them in the Loan Documents.

AGREEMENT

NOW, THEREFORE, in consideration of (i) the facts set forth above (which are incorporated into and made a part of this Agreement), (ii) the agreements by Lender to modify the Loan Documents, as provided in this Agreement, (iii) the covenants and agreements contained in this Agreement, and (iv) for other good and valuable consideration, the receipt, adequacy and sufficiency of which are acknowledged, the parties agree as follows:

1. Amendment of Loan Documents.

(a) All references in the Note and the Loan Documents to North Shore Community Bank & Trust Company as the Bank or the Lender shall hereinafter mean and refer to Wintrust Bank.

(b) All references in the Loan Documents to the Loan Amount shall hereinafter mean Two Million Four Hundred Twenty Thousand and 00/100 Dollars (\$2,420,000.00).

2. Amendment of the Note. The Note shall be modified, effective as of the date hereof as follows:

(a) The original principal balance of the Note is hereby increased by One Hundred Seventy Six Thousand and 00/100 Dollars (\$176,000.00) so that the original principal balance of

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the Note as of the date hereof available for disbursement shall be changed to and mean Two Million Four Hundred Twenty Thousand and 00/100 Dollars (\$2,420,000.00).

(b) Principal payments made by the Borrower in accordance with the terms and conditions of the Note prior to its modification hereby in the amount of Thirty Thousand Five Hundred Forty and 85/100 Dollars (\$30,540.85) shall be considered amounts subject to being re-borrowed by the Borrower. The right to borrow, repay and re-borrow shall be a one time right only for the principal repayments made prior to the date hereof.

(c) The current available balance for disbursement in accordance with the Loan Agreement as of the date hereof is \$837,645.45 which includes the amount of \$30,540.85 as described in 2 (b) above and the increase in the principal balance described in Section 2 (a) above.

(d) The first sentence of Section 3 of the Note is hereby deleted in its entirety and the following inserted in its place:

“The sum of One Hundred Twenty Four Thousand Eight Hundred Forty and 00/100 Dollars (\$124,840.00) of the principal of this Note will not be disbursed directly by the Lender to the Borrower, but will be held back by the Lender from the initial disbursement of the Loan (the “**Loan Reserve**”). The undisbursed remaining balance of the Loan Reserve as of December 5, 2014 is Sixty Five Thousand and 00/100 Dollars (\$65,000.00).”

(e) Section 4.1(b) is hereby deleted in its entirety and the following inserted in its place:

“(b) Commencing on January 5, 2014, and continuing on the fifth (5th) day of each month thereafter through and including June 5, 2015, payments of interest only on the outstanding principal balance from time to time will be due and payable and which amounts will be (i) disbursed directly by the Lender from the Loan proceeds up to the amount of the Loan Reserve and which, when advanced, will constitute outstanding principal under this Note, and (ii) thereafter paid directly by the Borrower from sources other than the proceeds of this Loan.”

(f) Section 4.1(c) is hereby deleted in its entirety and the following inserted in its place:

“Commencing on July 5, 2015, and continuing on the fifth (5th) day of each month thereafter through and including the fifth (5th) day of the month in which the Maturity Date occurs, principal payments each in the amount of **Six Thousand Eight Hundred Seventeen and 56/100 DOLLARS (\$6,817.56)**, plus all accrued and unpaid interest on the principal balance of this Note outstanding from time to time all accrued and unpaid interest on the principal balance of this Note outstanding from time to time, will be due and payable.”

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3. **Reaffirmation of Guaranty.**

Each Guarantor ratifies and affirms the Guaranty Agreement and agrees that the Guaranty Agreement is in full force and effect following the execution and delivery of this Agreement. The representations and warranties of each Guarantor in the Guaranty Agreement are, to the best of the Guarantor's knowledge, as of this date, true and correct and Guarantor does not know of any default thereunder. Each Guaranty, as amended, continues to be the valid and binding obligation of Guarantor, enforceable in accordance with their 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.

4. **Representations and Warranties of Borrower.** Borrower represents, covenants and warrants to Lender as follows:

(a) The representations and warranties in the Mortgage, the Loan Agreement and the other Loan Documents are true and correct as of the date of this Agreement.

(b) There is currently no Event of Default (as defined in the Mortgage) under the Note, the Mortgage, the Loan Agreement or the other Loan Documents and Borrower does not 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 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 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 this date, Borrower has no claims, counterclaims, defenses, or set-offs with respect to the Loan or the Loan Documents as modified in this Agreement.

(f) Borrower validly exists under the laws of the State of its formation or organization and has the requisite power and authority to execute and deliver this Agreement and to perform the Loan Documents as modified in this Agreement. The execution and delivery of this Agreement and the performance of the Loan Documents as modified in this Agreement have been duly authorized by all requisite action by or on behalf of Borrower. This Agreement has been duly executed and delivered on behalf of Borrower.

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5. **Representations, Warranties and Covenants of Guarantors.** Each Guarantor hereby represents, warrants and covenants to Mortgagor, to the best of their knowledge, as follows:

(a) The representations and warranties of each of the Guarantors in the Guaranty to which it is a party are true and correct in all material respects as of the date hereof.

(b) There is currently no Event of Default under any Guaranty, and Guarantors do not know of any event or circumstance which with the giving of notice or passing of time, or both, would constitute any such Event of Default.

(c) Each Guaranty is in full force and effect and, following the execution and delivery of this Agreement, each Guaranty shall continue to be the legal, valid and binding obligation of the respective Guarantor which signed the Guaranty, enforceable in accordance with their respective terms.

(d) There has been no material adverse change in the financial condition of any or all of the Guarantors from the date of the most recent financial statement received by Mortgagor.

(e) As of the date hereof, none of the Guarantors has any claim, counterclaim, defense, or set-off with respect to its respective Guaranty.

(f) This Agreement has been duly executed and delivered by each Guarantor.

6. **Title Policy.**

As a condition precedent to the agreements contained in this Agreement, Borrower shall, at its sole cost and expense, cause Chicago Title Insurance Company to issue an endorsement to title insurance policy No. 008936426 (the "Title Policy") as of the date this Agreement is recorded, reflecting the recording of this Agreement, increasing the amount of the insurance coverage under the policy to \$2,420,000.00 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.

7. **Expenses.**

As a condition precedent to the agreements contained in this Agreement, Borrower shall pay all out-of-pocket costs and expenses incurred by Lender in connection with this Agreement, including, but not limited to, title charges, recording fees, legal fees and appraisal fees, if any.

8. **Miscellaneous.**

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

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(b) This Agreement may 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 acknowledges and waives 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 to be legally bound by the terms and provisions of this Agreement, of its own free will, without promises or threats or the exertion of duress upon it. The signatories 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, nothing contained in this Agreement may be considered to constitute Lender a venturer or partner of or in any way associated with Borrower or Guarantor nor will 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 modified as set forth in this Agreement. Except as expressly modified, the terms of the Loan Documents are and remain unmodified and in full force and effect.

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

(f) Any references to the "Note", the "Loan Agreement", "the "Mortgage," the "Environmental Certificate," the "Guaranty Agreement" or the "Loan Documents" contained in any of the Loan Documents should be considered to refer to the Note, the Mortgage, the Environmental Certificate, the Guaranty and the other Loan Documents as amended. The paragraph and section headings used in this Agreement are for convenience only and shall not limit the substantive provisions hereof. All words in this Agreement that are expressed in the neuter gender should be considered to include the masculine, feminine and neuter genders. Any word in this Agreement that is expressed in the singular or plural should be considered, 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, constitute one original Agreement. Receipt of an executed signature page to this Agreement by facsimile or other electronic transmission shall

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constitute effective delivery thereof. Electronic records of executed Loan Documents maintained by the Lender shall be deemed originals.

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

Remainder of page intentionally left blank – signature page follows

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written

LENDER:

Wintrust Bank

By: 

Nicholas Cannon, Vice President

BORROWER:

1455 Willow Adventures LLC, an Illinois limited liability company

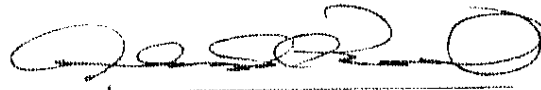
By: 

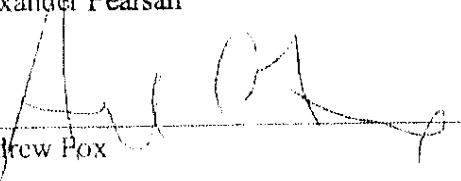
Alexander Pearsall, Member

By: 

Andrew Fox, Member

GUARANTORS:


Alexander Pearsall

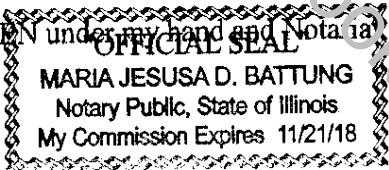

Andrew Fox

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STATE OF ILLINOIS)
).ss
COUNTY OF COOK)

I Maria Jesusa D. Battung, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Nicholas Cannon, Vice President of Wintrust Bank, is 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 said instrument as his own free and voluntary act and as the free and voluntary act of the Lender for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 22nd day of December 2014.



Maria Jesusa D. Battung
Notary Public

My Commission Expires: 11/21/18

STATE OF ILLINOIS)
).ss
COUNTY OF COOK)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Alexander Pearsall and Andrew Fox, the Managing Members of 1455 Willow Adventures LLC, an limited liability company who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Managing Members, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 18 day of December, 2014.

[Signature]
Notary Public
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 11/21/18

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constitute effective delivery thereof. Electronic records of executed Loan Documents maintained by the Lender shall be deemed originals.

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

Remainder of page intentionally left blank – signature page follows

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

LENDER:

Wintrust Bank

By: _____
Nicholas Cannon, Vice President

BORROWER:

1455 Willow Adventures LLC, an Illinois limited liability company

By: _____
Alexander Pearsall, Member

By: _____
Andrew Fox, Member

GUARANTORS:

Alexander Pearsall

Andrew Fox

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STATE OF ILLINOIS)
) .ss
COUNTY OF COOK)

I _____, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Nicholas Cannon, Vice President of Wintrust Bank, is 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 said instrument as his own free and voluntary act and as the free and voluntary act of the Lender for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this ____ day of December 2014.

Notary Public

My Commission Expires: _____

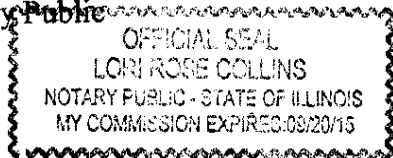
STATE OF ILLINOIS)
) .ss
COUNTY OF COOK)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Alexander Pearsall and Andrew Fox, the Managing Members of 1455 Willow Adventures LLC, an limited liability company who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Managing Members, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 18th day of December, 2014.

Lori Rose Collins

Notary Public



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Notary Public

My Commission Expires: 9/20/15

EXHIBIT A

THE PROPERTY

LEGAL DESCRIPTION OF PREMISES

LOTS 29, 30, 31, 32, 33, 34, 35 AND 36 IN CHICAGO LAND COMPANY'S SUBDIVISION OF BLOCK 17 IN SHEFFIELD'S ADDITION TO CHICAGO IN THE WEST ½ OF SECTION 32, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Property Address of Real Estate:

1455 Willow Street
Chicago, Illinois

Permanent Tax Index Number:

- 14-32-309-010-0000
- 14-32-309-011-0000
- 14-32-309-012-0000
- 14-32-309-013-0000
- 14-32-309-014-0000
- 14-32-309-015-0000
- 14-32-309-024-0000

Property of Cook County Clerk's Office