

UNOFFICIAL COPY



\*1825713012\*

Doc# 1825713012 Fee \$64.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 09/14/2018 11:01 AM PG: 1 OF 1

**LOAN MODIFICATION AGREEMENT WITH RELEASE OF GUARANTORS**

**RE: LOAN NUMBER 8420-01293**

**THIS LOAN MODIFICATION AGREEMENT WITH RELEASE OF GUARANTORS AGREEMENT ("Agreement")** is dated as of the 14th day of September, 2018 by and among Marquette Bank, not personally, but as trustee pursuant to a trust agreement dated as of February 1, 2012, and known as trust number 19810 (referred to herein as "Mortgagor"), 1422-24 W. Garfield Series of NNB Enterprises, LLC, an Illinois limited liability company, the beneficial owner of the Mortgagor (referred to herein as "**Co-Borrower**"), Brian Cunningham and Kelly Cunningham, former members of the Co-Borrower (collectively referred to herein as "**Former Guarantors**"), Jeffrey Cunningham, a/k/a Jeff Cunningham and Christine Cunningham (collectively referred to herein as "**New Guarantors**"), and Community Investment Corporation, an Illinois not-for-profit corporation (referred to herein as "**Lender**").

**WITNESSETH**

**WHEREAS**, the Mortgagor owns fee simple title to the real property and improvements legally described in Exhibit A hereto (the "**Premises**");

**WHEREAS**, Lender has previously made a loan to Mortgagor and Co-Borrower in the original principal amount of **THREE HUNDRED SIXTY-SEVEN THOUSAND AND NO/100 DOLLARS (\$367,000.00)** (the "**Loan**");

**WHEREAS**, the Loan is evidenced by a Three Year Adjustable Rate Construction Loan Note [Recourse] dated February 20, 2012 (the "**Note**"), and is secured by a Construction Loan Mortgage and Security Agreement with Collateral Assignment of Leases and Rents (the "**Mortgage**") of the date of the Note, and recorded in the office of the Cook County Recorder of Deeds on March 2, 2012, as document number 1206231066;

**WHEREAS**, the Loan is also secured by a certain Security Agreement And Assignment Of Interest In Land Trust [Recourse] dated February 20, 2012, executed and delivered by Co-Borrower to Lender (the "**Security Agreement**"), granting the Lender a security interest in the Mortgagor;

**WHEREAS**, the Loan is also evidenced by a certain Construction Loan Agreement dated February 20, 2012, executed and delivered by Co-Borrower to Lender (the "**Construction Loan Agreement**");

**WHEREAS**, the Loan is further secured by the Guaranty Of Payment And Completion dated February 20, 2012 (the "**Former Guaranty**") executed by the Former Guarantors in favor of the Lender;

**WHEREAS**, the Loan is further secured by the Replacement Reserve And Security Agreement dated

*BM*

# UNOFFICIAL COPY

February 20, 2012 (the "**Replacement Reserve**");

**WHEREAS**, the Mortgagor, Co-Borrower, Former Guarantors, and New Guarantors hereby acknowledge and affirm that the principal amount of \$292,981.25, plus accrued interest, fees and costs, remains unpaid under the Note as of August 27, 2018;

**WHEREAS**, the Note, Mortgage, Security Agreement, Construction Loan Agreement, Former Guaranty, Replacement Reserve, New Guaranty (as defined below), and any other documents executed by the Mortgagor, Co-Borrower, Former Guarantors, and New Guarantors in connection with the Loan are hereby referred to as the "**Loan Documents**";

**WHEREAS**, the term "Liabilities" shall mean all liabilities, indebtedness and obligations of Mortgagor, Co-Borrower, Former Guarantors, and New Guarantors to Lender, howsoever created, arising or evidenced, whether now existing or hereafter arising, whether direct or indirect (including those acquired by assignment), absolute or contingent, due or to become due, primary or secondary, joint or several, whether existing or arising through discount, overdraft, purchase, direct loan, participation, operation of law, or otherwise, including, but not limited to, all liabilities, indebtedness and obligations of Mortgagor, Co-Borrower, Former Guarantors and New Guarantors to Lender pursuant to this Agreement, any letter of credit, any standby letter of credit or any of the Loan Documents and reasonable outside attorneys' and paralegals' fees or charges relating to the enforcement of Lender's rights, remedies, powers and security interests under this Agreement and the Loan Documents, including, but not limited to, the drafting of any documents in the preparation and enforcement of the loans evidenced by the Loan;

**WHEREAS**, on or before the date of this Agreement, the Former Guarantors will transfer and assign all of their membership interests in the Co-Borrower to the New Guarantors (the "**Transfer**");

**WHEREAS**, the Mortgagor, Co-Borrower and New Guarantors acknowledge and confirm that they are obligated to pay all Liabilities, all without setoff, counterclaim or defenses;

**WHEREAS**, the Mortgagor, Co-Borrower, Former Guarantors, and New Guarantors have requested that Lender (i) permit New Guarantors to guaranty the Liabilities of the Loan; (ii) modify the terms of the Loan and to permit the Transfer of the Former Guarantors' membership interests in the Co-Borrower to the New Guarantors; and (iii) permit the return of any funds in the Replacement Reserve in excess of \$31,000.00 to the New Guarantors subject to the terms and conditions set forth in this Agreement, and provided that the Loan Documents, and any and all modifications thereof, and the liens of any of the foregoing, as amended hereby, shall have the same validity, priority and effect against all of the real and personal property to which said liens had immediately prior to the execution and delivery of this Agreement.

**NOW, THEREFORE**, for and in consideration of the foregoing recitals, the mutual promises and covenants set forth herein, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **INCORPORATION OF RECITALS/ DEFINED TERMS.** The Recitals set forth above are herein incorporated by this reference as though fully repeated hereunder and are hereby made a part of this Agreement. Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in this Agreement.

# UNOFFICIAL COPY

## 2. CONSENT TO TRANSFER.

- (i) Lender consents to the Transfer of all of the membership interests in the Co-Borrower by the Former Guarantors to the New Guarantors, and the Mortgagor, Co-Borrower and New Guarantors hereby agree to pay the unpaid balance of the Loan, with interest, advances, fees and costs payable pursuant to the terms of the Loan Documents, and to carry out, and be bound by, each and every obligation in the Loan Documents;
- (ii) New Guarantors hereby agree to execute any and all additional documentation required by Lender to effectuate the payment of the Loan by the Mortgagor, Co-Borrower and the guaranty of the Loan by the New Guarantors pursuant to this Agreement; and
- (iii) Co-Borrower and New Guarantors hereby acknowledge and agree that the Former Guarantors will be released from their obligations under the Loan Documents upon full satisfaction of this Agreement.

## 3. CONDITIONS PRECEDENT TO TRANSFER AND MODIFICATION. The following conditions must be fully satisfied on or before the date of the execution of this Agreement, and prior to modification of Loan Documents:

- (i) Co-Borrower shall pay to Lender the balance of the modification service fee due Lender in the amount of \$1,747.21;
- (ii) Co-Borrower shall pay to Lender an inspection fee in the amount of \$375.00;
- (iii) New Guarantors shall execute and deliver to Lender a Guaranty Of Payment And Completion in form and substance acceptable to Lender (the "New Guaranty"); and
- (v) Upon satisfaction of the conditions precedent in this paragraph 3, the Former Guarantors shall be released from their obligations under the Former Guaranty.

## 4. REPLACEMENT RESERVE.

- (i) New Guarantors authorize Lender to return any funds in the Replacement Reserve in excess of the amount of \$31,000.00 to the Former Guarantors; and
- (ii) If the amount of the Replacement Reserve is at any time less than the amount of \$31,000.00, the Co-Borrower and New Guarantors shall immediately fund the Replacement Reserve as provided for therein.

## 5. AFFIRMATION OF NOTE. Mortgagor and Co-Borrower hereby acknowledge and agree to pay and fully perform the obligations of the Note and other Loan Documents and acknowledge and agree that such indebtedness is owing to Lender and is enforceable against Mortgagor and Co-Borrower in accordance with the terms of the Note, subject to no defenses, counterclaims, deductions or set-offs whatsoever. Nothing contained in this Agreement, or the transactions contemplated hereby, shall be deemed or construed to be a consent to or a waiver of any breach or default in the performance by Mortgagor or Co-

# UNOFFICIAL COPY

Borrower of their obligations to Lender, whether evidenced by the Note, other Loan Documents, or otherwise, nor shall Lender be impaired or limited in its ability to fully and completely enforce any and all of the rights and remedies presently available to it under the Loan Documents for a breach of obligations as required therein as may exist subsequent to the time of the making of this Agreement.

6. **EXPENSES.** Co-Borrower shall be solely responsible for any and all costs, expenses, fees, charges, taxes, of whatever kind and nature, including attorneys' fees and costs, incurred by Lender in connection with this Agreement.

7. **INTENT OF PARTIES.** Mortgagor, Co-Borrower, Former Guarantors, and New Guarantors acknowledge and agree that the liens evidenced by the Loan Documents shall in no way be deemed to or have been subordinated, released, modified, terminated, or otherwise affected by this Agreement, it being understood by the parties hereto that the liens of said documents shall continue in full force and effect, and are to have the same validity, priority and effect that they had immediately prior to the execution of this Agreement and the documents and instruments executed and delivered pursuant to this Agreement, and shall survive and not be merged into the execution and delivery of this Agreement or any of the documents and instruments to be executed pursuant to this Agreement, without interruption; and that Lender has fulfilled any and all of Lender's obligations under the Loan Documents to date. Mortgagor, Co-Borrower, Former Guarantors, and New Guarantors hereby release and hold Lender harmless from and against any and all claims, actions, lawsuits, damages, costs and expenses that Mortgagor, Co-Borrower, Former Guarantors, and New Guarantors may have had or currently have against Lender in connection with or related to the Loan Documents, or the Loan evidenced thereby.

8. **EFFECT OF AGREEMENT.** Except as specifically amended or modified by the terms of this Agreement, all terms and provisions of each of the Loan Documents shall remain in full force and effect. The provisions of this Agreement shall govern and control in the event of any conflict with the provisions of any of the Loan Documents. Mortgagor, Co-Borrower and New Guarantors acknowledge and agree that all of the covenants, representations, warranties and agreements set forth in the Loan Documents are and shall remain in full force and effect. A default by Mortgagor, Co-Borrower and New Guarantors in the performance of their obligations under this Agreement shall constitute an event of default under the Note and the other Loan Documents, and in such event, Lender shall be entitled to exercise any and all of its rights and remedies as set forth in the Note and the other Loan Documents.

9. **RELEASE.** Mortgagor, Co-Borrower, Former Guarantors, and New Guarantors do hereby each release Lender and its officers, directors, employees, agents, attorneys, personal representatives, successors, predecessors and assigns from all manner of actions, cause and causes of action, suits, debts, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims and demands, whatsoever, in law or in equity, and particularly, without limiting the generality of the foregoing, in connection with the Loan Documents and any agreements, documents and instruments relating to the Loan Documents and the administration of the Loan Documents and the Liabilities (collectively, the "Claims"), which Mortgagor, Co-Borrower, Former Guarantors, and New Guarantors now have against the Lender or ever had, or which might be asserted by Mortgagor, Co-Borrower, Former Guarantors, and New Guarantors, their heirs, executors, administrators, representatives, agents, successors, or assigns based on any Claims which exist on or at any time prior to the date of this Agreement. Mortgagor, Co-Borrower, Former Guarantors, and New Guarantors expressly acknowledge and agree that they have been advised by counsel in connection with this Agreement and that they each understand that this Paragraph constitutes a general release of the Lender and that Mortgagor, Co-Borrower, Former Guarantors, and New Guarantors intend to be fully and legally bound by the same. Mortgagor, Co-Borrower, Former Guarantors, and New Guarantors hereby

# UNOFFICIAL COPY

acknowledge that Lender has no connection with or to the terms of the Transfer and hereby waive any and all Claims and defenses Mortgagor, Co-Borrower, Former Guarantors, and New Guarantors have against Lender in any manner whatsoever relating to the Transfer. Mortgagor, Co-Borrower, Former Guarantors, and New Guarantors further expressly acknowledge and agree that this general release and waiver shall have full force and effect notwithstanding the occurrence of a default pursuant to this Agreement or under the Loan Documents.

## 10. NOTICE.

If to Lender: COMMUNITY INVESTMENT CORPORATION  
222 South Riverside Plaza, Suite 380  
Chicago, IL 60606  
Attn: John Crane, Senior Vice President

If to Mortgagor, Jeffrey Cunningham, a/k/a Jeff Cunningham  
Co-Borrower and NNB Enterprises, LLC  
New Guarantors: 6146 N. Avondale Avenue  
Chicago, IL 60631

## 11. MISCELLANEOUS PROVISIONS.

(a) This Amendment may be executed in any number of counterparts and it shall not be necessary that each party to this Agreement execute each counterpart. Each counterpart so executed (or, if all parties do not sign on the same counterpart, each group of counterparts signed by all parties) shall be deemed to be an original, but all such counterparts together shall constitute one and the same instrument.

(b) This Agreement shall be construed and enforced in accordance with the laws of Illinois. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois without regard to conflict of laws principles.

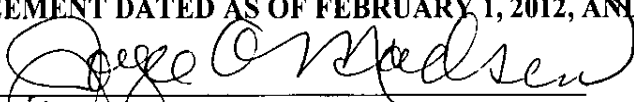
*- SIGNATURE PAGES ATTACHED -*

# UNOFFICIAL COPY

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first above written.

**MORTGAGOR:**

MARQUETTE BANK, NOT PERSONALLY BUT AS TRUSTEE PURSUANT TO A TRUST AGREEMENT DATED AS OF FEBRUARY 1, 2012, AND KNOWN AS TRUST NUMBER 19816

By: 

Title: Joyce A. Madsen  
POST OFFICER

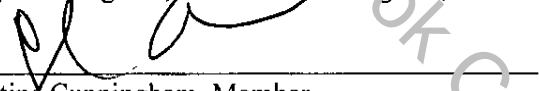
Exculpatory clause attached hereto and made a part hereof

Attest:   
Cherice Hoard Assistant Secretary


**CO-BORROWER:**


1422-24 W. GARFIELD SERIES OF NNB ENTERPRISES LLC, AN ILLINOIS LIMITED LIABILITY COMPANY

By:   
Jeffrey Cunningham, a/k/a Jeff Cunningham, Member

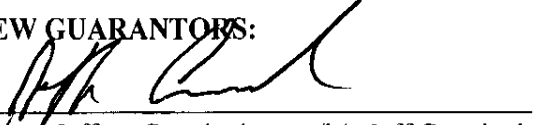
By:   
Christine Cunningham, Member

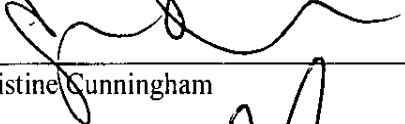
**FORMER GUARANTORS:**

  
Brian Cunningham

  
Kelly Cunningham

**NEW GUARANTORS:**

  
Jeffrey Cunningham, a/k/a Jeff Cunningham

  
Christine Cunningham

**COMMUNITY INVESTMENT CORPORATION**

By:   
JOHN CRANE, SENIOR VICE PRESIDENT

# UNOFFICIAL COPY

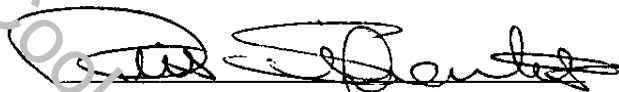
STATE OF ILLINOIS )  
 ) §  
COUNTY OF COOK )

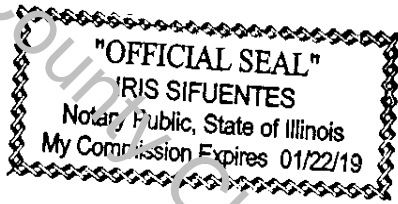
I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that:

Joyce A. Madsen Cherice Hoard (name) TRUST OFFICER Assistant Secretary (title)

of MARQUETTE BANK, NOT PERSONALLY BUT AS TRUSTEE PURSUANT TO A TRUST AGREEMENT DATED AS OF FEBRUARY 1, 2012, AND KNOWN AS TRUST NUMBER 19816 are personally known to me to be the same person whose name is subscribed to the foregoing instrument as such TRUST OFFICER Assistant Secretary (title), appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary acts, and as the free and voluntary act of said MARQUETTE BANK, TRUSTEE AS AFORESAID for the uses and purposes therein set forth.

GIVEN UNDER MY HAND AND OFFICIAL SEAL, THIS 11<sup>th</sup> DAY OF Sept. 2018.

  
Notary Public



# UNOFFICIAL COPY

This document is executed by MARQUETTE BANK, not personally but as Trustee under Trust No. 19876 as aforesaid, in the exercise of power and authority conferred upon and vested in said Trustee as such, and it is expressly understood and agreed by and between the parties hereto anything to the contrary notwithstanding, that each and all of the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee while in form purporting to be the warranties, indemnities, representations, covenants, undertakings and agreements of said Trustee are nevertheless each and every one of them, made and intended not as personal warranties, indemnities, representations, covenants, undertakings and agreements by the Trustee or for the purpose or with the intention of binding said Trustee personally but are made and intended for the purpose of binding only that portion of the trust property specifically described herein, and this instrument is executed and delivered by said Trustee not in its own right but solely in the exercise of the powers conferred upon it as such Trustee and that no personal responsibility is assumed by nor shall at any time be asserted or enforceable against MARQUETTE BANK, on account of this instrument or on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the said Trustee in this instrument contained, either expressed or implied, all such personal liability, if any being expressly waived and released.

County Clerk's Office



# UNOFFICIAL COPY

STATE OF ILLINOIS)  
  ) 8  
COUNTY OF COOK )

I, Amanda Nelson, a notary public in and for said County, in the State aforesaid, do hereby certify, that Jeffrey Cunningham, a/k/a Jeff Cunningham, 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, this 9<sup>th</sup> day of September 2018.

[Signature]  
\_\_\_\_\_  
Notary Public



My commission Expires 5/18/2019

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

STATE OF ILLINOIS)  
 )  
 COUNTY OF COOK )

I, Amanda Nelson, a notary public in and for said County, in the State aforesaid, do hereby certify, that Christine Cunningham, 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 she signed and delivered the said instrument as her own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 9<sup>th</sup> day of September 2018.

Amanda Nelson  
 \_\_\_\_\_  
 Notary Public



Property of Cook County Clerk's Office

# UNOFFICIAL COPY

STATE OF ILLINOIS)  
 ) §  
COUNTY OF COOK )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that Jeffrey Cunningham, a/ka/a Jeff Cunningham, personally known to me to a member of 5649-51 S. INDIANA SERIES OF NNB ENTERPRISES, LLC, AN ILLINOIS LIMITED LIABILITY COMPANY, and personally known to me to be the same person whose name is subscribed on the foregoing instrument, appeared before me this day in person and severally acknowledged that he signed and delivered said instrument as the free and voluntary act of said company, for the uses and purposes therein set forth.

GIVEN UNDER MY HAND AND OFFICIAL SEAL, THIS 9<sup>th</sup> DAY OF September, 2018.



[Signature]  
Notary Public

Property  
Cook County Clerk's Office

# UNOFFICIAL COPY

STATE OF ILLINOIS)  
  )  
COUNTY OF COOK ) §

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that Christine Cunningham, personally known to me to a member of 5649-51 S. INDIANA SERIES OF NNB ENTERPRISES, LLC, AN ILLINOIS LIMITED LIABILITY COMPANY, and personally known to me to be the same person whose name is subscribed on the foregoing instrument, appeared before me this day in person and severally acknowledged that she signed and delivered said instrument as her free and voluntary act of said company, for the uses and purposes therein set forth.

GIVEN UNDER MY HAND AND OFFICIAL SEAL, THIS 9<sup>th</sup> DAY OF September, 2018.



[Signature]  
Notary Public

Cook County Clerk's Office

# UNOFFICIAL COPY

STATE OF ILLINOIS)
) §
COUNTY OF COOK )

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that: JOHN CRANE, SENIOR VICE PRESIDENT OF COMMUNITY INVESTMENT CORPORATION, is personally known to me to be the same person whose name is subscribed to the foregoing 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 said COMMUNITY INVESTMENT CORPORATION for the uses and purposes therein set forth.

GIVEN UNDER MY HAND AND OFFICIAL SEAL, THIS 4th DAY OF September, 2018. 2018.

Sonya A. Saddler
Notary Public



Property of Cook County Clerk's Office

# UNOFFICIAL COPY

## EXHIBIT A LEGAL DESCRIPTION

LOTS 26 AND 27 IN BLOCK 2 IN THE SUBDIVISION OF THE EAST ½ OF THE EAST ½ OF THE SOUTHWEST ¼ OF THE SOUTHWEST ¼ OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PROPERTY COMMONLY KNOWN AS: 1422-24 WEST GARFIELD BOULEVARD/5445-51 S. BISHOP, CHICAGO, IL 60609

P.I.N. 20-08-319-035-0000

THIS DOCUMENT PREPARED BY AND AFTER RECORDING RETURN TO:

COMMUNITY INVESTMENT CORPORATION  
ATTN; SILVIA PRADO  
222 SOUTH RIVERSIDE PLAZA, SUITE 380  
CHICAGO, IL 60606

Property of Cook County Clerk's Office