

AMENDMENT AND MODIFICATION AGREEMENT  
RE  
CONSTRUCTION MORTGAGE AND SECURITY AGREEMENT

571c No. 86-5098c

THIS AGREEMENT is made and entered into as of October 8, 1986, by and between AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally, but solely as Trustee under the provisions of a Trust Agreement dated February 1, 1985 and known as Trust No. 63436 (the "Trust") (herein, the trustee, in such capacity, together with its successors and assigns, called the "Mortgagor" or the "Borrower"), having its principal office at 33 North La Salle Street, Chicago, Illinois 60690; TREMONT THEATRE ROW PARTNERSHIP, an Illinois limited partnership, having its principal address c/o Stein & Company, 208 South La Salle Street, Chicago, Illinois 60604 (herein, together with its successors and assigns, called the "Beneficiary"); and CANADIAN IMPERIAL BANK OF COMMERCE, a Canadian chartered bank, having an office at 30 North La Salle Street, Chicago, Illinois 60602 (herein, together with its successors and assigns, called the "Mortgagee").

R E C I T A L S :

A. The Mortgagor executed and delivered to the Mortgagee its Construction Mortgage and Security Agreement, dated as of June 25, 1986 and recorded with the Recorder of Deeds of Cook County, Illinois, on July 18, 1986 as Document No. 86303405. Such Mortgage was joined in by the Beneficiary for the purposes therein set forth.

B. Such Mortgage was modified pursuant to Extension Agreement, dated as of August 29, 1986 and recorded with the Recorder of Deeds of Cook County, Illinois, as Document No. 86416674. Such Mortgage, as so modified, is hereinafter called the "Mortgage". Any term capitalized, but not specifically defined in this Agreement, which is capitalized and defined in the Mortgage, shall have the same meaning as specified in the Mortgage.

C. The Borrower has executed and delivered to the Mortgagee its Amended and Restated Promissory Note, bearing even date herewith, in the principal amount of \$18,000,000, which Note is in part a consolidation and restatement of a

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R E C I T A S

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AMENDMENT AND MODIFICATION AGREEMENT  
RE  
CONSTRUCTION MORTGAGE AND SECURITY AGREEMENT

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Promissory Note, dated as of June 25, 1986, made by the Borrower to the Mortgagee, in the principal amount of \$9,500,000, and is in part the promise by the Borrower to pay to the Mortgagee an additional \$8,500,000.

D. The Borrower, the Beneficiary and the Mortgagee are entering into this Agreement for the purpose of modifying and amending the Mortgage so as to cause the Mortgage to secure the aforesaid Amended and Restated Promissory Note and for the purposes hereinafter set forth.

NOW, THEREFORE, for good and valuable considerations, the receipt and sufficiency whereof are hereby irrevocably acknowledged, the parties hereto agree as follows:

1. Recital A of the Mortgage is hereby amended to read as follows:

A. Loan Amount. The Mortgagor is the owner of the real estate (the "Land") described on Exhibit A attached hereto. The Beneficiary is the owner of the entire beneficial interest in, to and under the Trust. To provide funds for the acquisition of the Land and certain costs and expenses attributable thereto and to demolition of the existing building on the Land and to the proposed construction on the Land of a 12-story public parking facility (the "Parking Facility") to provide parking for not less than 950 cars and to include ground floor commercial space fronting on Dearborn and Lake Streets, the Mortgagee has agreed to lend to or for the benefit of the Borrower an amount not to exceed in the aggregate EIGHTEEN MILLION DOLLARS (\$18,000,000) to be disbursed in multiple disbursements and to be secured by this Mortgage (herein such \$18,000,000 is called the "Loan Amount"). The Mortgagor, the Mortgagee and the Beneficiary have entered into a Project Loan Agreement, dated as of October 8, 1986 (the "Loan Agreement"), which Loan Agreement is incorporated in and made a part of this Mortgage to the same extent as though fully set forth herein. This Mortgage also secures any letter of credit issued by the Mortgagee as contemplated by the Loan Agreement.

2. Recital B of the Mortgage is hereby amended to read as follows:

B. Note, Principal and Interest. The Mortgagor has executed and delivered to the Mortgagee a Promis-

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sory Note, dated as of June 25, 1986, payable to the order of the Mortgagee at Chicago, Illinois, as extended by Extension Agreement, dated as of August 29, 1986, and as amended by Amended and Restated Promissory Note, dated as of October 8, 1986, evidencing the Loan Amount and in a principal amount equal thereto (such Promissory Note, as so extended, amended and restated and together with any and all amendments or supplements thereto, extensions thereof and notes which may be taken in whole or partial renewal, restatement, substitution or extension thereof or which may evidence any of the indebtedness expressly secured by this Mortgage, being hereinafter called the "Note"). The Note is due and payable in full not later than July 1, 1991, subject to earlier maturity of the Note as therein provided, and subject to acceleration as provided in the Note or in this Mortgage. The Note bears interest as provided in the Note, on the principal amount thereof from time to time outstanding; all principal and interest on the Note are payable in lawful money of the United States of America at the office of the Mortgagee in Chicago, Illinois, or at such place as the holder thereof may from time to time appoint in writing. The Mortgagor is or will become justly indebted to the Mortgagee in the Loan Amount in accordance with the terms of this Mortgage and the Loan Agreement.

3. Recital C of the Mortgage is hereby amended to read as follows:

C. Other Loan Papers. The Mortgagor and the Beneficiary have also executed and delivered, or caused to be executed and delivered, to the Mortgagee certain other Loan Papers (as defined in the Loan Agreement) securing the Note.

4. Recital D of the Mortgage is hereby amended to read as follows:

D. The Liabilities. As used in this Mortgage the term "Liabilities" means and includes all of the following: the principal of, interest on and any and all other amounts which may at any time become due or owing under the Note; all indebtedness of any kind arising under, and all amounts of any kind which at any time become due or owing to the Mortgagee under or with respect to any of the Loan Papers or the Loan Agree-

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ment; or with respect to any letter of credit issued by the Mortgagee pursuant to the Loan Agreement, including, without limitation, letter of credit in the amount of \$18,000,000 issued by the Mortgagor for the benefit of Lincoln (as defined in the Loan Agreement); all of the covenants, obligations and agreements (and the truth of all representations and warranties) of the Mortgagor and the Beneficiary, or either thereof, in, under or pursuant to the Note, this Mortgage, the Loan Agreement and all of the other Loan Papers; any and all advances, costs or expenses paid or incurred by the Mortgagee to protect any or all of the Collateral (as hereinafter defined), perform any obligation of the Mortgagor hereunder or the Loan Agreement or collect any amount owing to the Mortgagee which is secured hereby; any and all other liabilities, obligations and indebtedness, howsoever created, arising or evidenced, direct or indirect, absolute or contingent, recourse or "non-recourse", now or hereafter existing or due or to become due, owing by either or both of the Mortgagor and the Beneficiary to the Mortgagee (provided, however, that the maximum amount included within the Liabilities on account of principal shall not exceed the sum of an amount equal to twice the Loan Amount plus the total amount of all advances made by the Mortgagee to protect the Collateral and the security interest and lien created hereby; plus the amount due on any indemnity given by either or both of the Mortgagor or the Beneficiary contained herein, in the Loan Agreement or in the Loan Papers; plus interest on all of the foregoing; and all costs of enforcement and collection of this Mortgage and the other Loan Papers and the Liabilities).

5. Section 1.4 of the Mortgage is hereby amended to read as follows:

1.4 Sales; Liens. The Mortgagor and the Beneficiary, or either thereof, will not: sell, mortgage, assign, transfer, convey, lease (other than tenant space leases) or otherwise dispose of, or permit to be sold, mortgaged, assigned, transferred, conveyed, leased or otherwise disposed of (collectively sometimes herein called the "transfer"), the Collateral, or the beneficial interest in the Trust, or any part thereof or any interest (whether legal, beneficial or otherwise) or estate in any thereof; remove any of the Collateral from the Premises; or create, suffer or

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permit to be created or to exist any mortgage, lien, claim, security interest, charge, encumbrance or other right or claim of any kind whatsoever upon the Collateral, or any part thereof, except those of current taxes not delinquent and the Permitted Exceptions; and except as permitted in the Loan Agreement.

6. Section 1.13 of the Mortgage is hereby amended to read as follows:

1.13 Contract Maintenance; Other Agreements. The Mortgagor and the Beneficiary will, for the benefit of the Mortgagee, fully and promptly perform each material obligation and satisfy each material condition imposed on it under any Contract for Construction, Lease, Intangible, Redevelopment Agreement (as defined in the Loan Agreement) or other agreement so that there will be no default thereunder and so that the persons (other than the Mortgagor or the Beneficiary) obligated thereon shall be and remain at all times obligated to perform thereunder; and the Mortgagor and the Beneficiary will not permit to exist any condition, event or fact which could allow or serve as a basis or justification for any such person to avoid such performance.

7. Section 1.14 of the Mortgage is hereby amended to read as follows:

1.14 Agreements Affecting the Collateral. The Mortgagor and the Beneficiary shall keep, observe, perform and comply with all material covenants, conditions and restrictions affecting the Premises, any material agreements (including, without limitation, the Redevelopment Agreement and the Lincoln Commitment (as defined in the Loan Agreement)) relating to the Collateral, and all material leases, instruments and documents relating thereto or evidencing or securing any indebtedness secured thereby. The Mortgagor and the Beneficiary further agree that without the prior written consent of the Bank, neither thereof will agree to any modification, amendment or termination of the Redevelopment Agreement or the Lincoln Commitment.

8. Section 1.19(e) of the Mortgage is hereby amended to read as follows:

(e) No Violation of Agreements, Etc. To the knowledge of the Borrower and the Beneficiary, neither

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the Borrower nor the Beneficiary nor Steinco TD nor Ruvir any Guarantor is in default under any agreement to which it(he) is a party, the effect of which will materially adversely affect performance by the Borrower and the Beneficiary and Steinco TD and Ruvir and such Guarantor of its(his) obligations pursuant to and as contemplated by the terms and provisions of this Mortgage, the Partnership Agreement or any of the other Loan Papers. Neither the execution and delivery of this Mortgage, the other Loan Papers or the Loan Agreement or other documents to be executed and delivered by the Borrower and the Beneficiary, or either thereof, or any Guarantor pursuant hereto nor the execution and delivery of the Partnership Agreement by all partners thereof nor the consummation of the transactions herein contemplated, nor compliance with the terms and provisions hereof, will, in a manner which will materially adversely affect performance by the Borrower and the Beneficiary, or either thereof, or any Guarantor of their respective obligations under this Mortgage or the other Loan Papers (i) violate any presently existing provisions of law or of any presently existing applicable order, writ, injunction or decree of any court or governmental department, commission, board, bureau, agency or instrumentality, or (ii) result in any breach of any of the terms, covenants, conditions or provisions of, or constitute a default under, any indenture, mortgage, deed of trust, instrument, document, agreement or contract of any kind which creates, represents, evidences or provides for any lien, charge or encumbrance upon any of the assets of the Borrower and the Beneficiary, or either thereof, or any Guarantor or any other indenture, mortgage, deed of trust, instrument, document, agreement or contract of any kind to which the Borrower and the Beneficiary, or either thereof, or any Guarantor are(is) a party or by which the Borrower and the Beneficiary, or either thereof, or any Guarantor may be bound, or in the event of any such violation, conflict, inconsistency, breach or default the required consent or waiver of the other party or parties thereto has been validly granted, is in full force and effect and is valid and sufficient therefor;

9. Section 2 of the Mortgage is hereby amended to read as follows:

2. DISBURSEMENTS. The Loan is to be made in multiple disbursements to be made by the Mortgagee to

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or at the direction of the Mortgagor and pursuant to the Loan Agreement.

10. Sections 2.1 and 2.2 of the Mortgage are hereby deleted in their entirety.

11. Section 3.1 of the Mortgage is hereby amended to read as follows:

3.1 Defaults; Acceleration. The occurrence of any of the following shall constitute a "Default" hereunder:

(a) The Mortgagor fails to pay, when due, whether by acceleration or otherwise, the principal (or any part(s) thereof) of the Note, or any installment of interest on the Note and such failure continues for ten (10) days after written notice thereof by the Bank to the Mortgagor; or

(b) An Event of Default (as defined in the Loan Agreement) occurs under the Loan Agreement.

12. Section 3.2 of the Mortgage is hereby amended to read as follows:

3.2 Remedies Cumulative. No remedy or right of the Mortgagee hereunder or under the Note or under the Loan Agreement or under any other of the Loan Papers or otherwise, or available under applicable law or equity, shall be exclusive of any other right or remedy, but each such remedy or right shall be in addition to every other remedy or right now or hereafter existing under any such document or under applicable law or equity. No delay in the exercise of, or omission to exercise, any remedy or right accruing on any Default shall impair any such remedy or right or be construed to be a waiver of any such Default or an acquiescence therein, nor shall it affect any subsequent Default of the same or a different nature. Every such remedy or right may be exercised concurrently or independently, and when and as often as may be deemed expedient by the Mortgagee. All obligations of the Mortgagor and the Beneficiary, and all rights, powers and remedies of the Mortgagee, expressed herein shall be in addition to, and not in limitation of, those provided by law or in the Note or this Mortgage or any of the other Loan Papers or any other written agreement or instrument

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relating to any of the Liabilities or any security therefor.

13. Section 4.3 of the Mortgage is hereby amended to read as follows:

4.3 Construction Mortgage; Obligatory Future Advances. This Mortgage constitutes a "Construction Mortgage" within the meaning of Section 9.313(1)(c) of the Illinois Uniform Commercial Code and is granted to secure future advances and loans from the Mortgagee to the Mortgagor, as provided herein, and the other Liabilities. All advances, disbursements or other payments required by this Mortgage are obligatory advances up to the credit limits established therein and shall, to the fullest extent permitted by law, have priority over any and all mechanics' liens and other liens and encumbrances arising after this Mortgage is recorded.

14. Section 4.17 of the Mortgage is hereby amended to read as follows:

4.17 INTENTIONALLY OMITTED.

15. Section 4.19 of the Mortgage is hereby amended to read as follows:

4.19 Conflicts with the Loan Agreement. If there is a conflict between a provision of this Mortgage with a provision of the Loan Agreement, the latter provision shall control. Any term used in this Mortgage which is not defined in this Mortgage shall have the meaning assigned thereto in the Loan Agreement.

16. Except as hereby modified, the Mortgage is in all respects ratified and confirmed and the Mortgagor and the Beneficiary each expressly acknowledge and agree that the Mortgage is free of any defenses whatsoever.

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This instrument is recorded by the Cook County Clerk's Office. All the covenants, conditions and restrictions contained herein shall be enforceable against any of the parties, successors, assigns or heirs of the parties named herein by reason of the recording of this instrument.

IN WITNESS WHEREOF, the parties hereto caused this Agreement to be executed as of the day and year first above written.

MORTGAGOR:

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally, but solely as Trustee under Trust Agreement dated February 1, 1985 and known as Trust No. 63436

ATTEST

*[Signature]*  
Title \_\_\_\_\_  
ASSISTANT SECRETARY

By *[Signature]*  
Title \_\_\_\_\_  
VICE PRESIDENT

BENEFICIARY:

TREMONT THEATRE ROW PARTNERSHIP, an Illinois limited partnership

By: Stein & Company Theatre District Self-Park, Inc., an Illinois corporation (General Partner)

By *[Signature]*  
Title *[Signature]*

MORTGAGEE:

CANADIAN IMPERIAL BANK OF COMMERCE

By *[Signature]*  
Title *Senior Manager, Corporate Banking*

Permanent Index Nos.: 17-09-438-003-8001  
17-09-438-003-8002

Address of the Property: Southeast Corner of Dearborn and Lake Streets Chicago, Illinois

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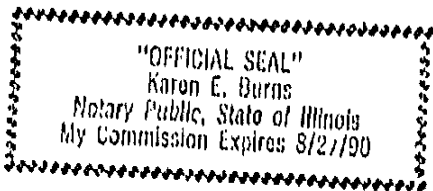
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STATE OF ILLINOIS )  
                          ) SS.  
COUNTY OF C O O K )

I, KAREN E. BURNS, a Notary Public in and for  
said County, J. MICHAEL WHELAN in the State aforesaid, DO HEREBY CERTIFY, that  
Peter H. Johansen of AMERICAN NATIONAL BANK AND  
TRUST COMPANY OF CHICAGO, and Peter H. Johansen  
of said Bank, who are personally known to me to be the same  
persons whose names are subscribed to the foregoing instru-  
ment as such VICE PRESIDENT, and ASSISTANT SECRETARY,  
respectively, appeared before me this day in person and  
acknowledged that they signed and delivered the said instru-  
ment as their own free and voluntary act and as the free and  
voluntary act of said Bank, as Trustees as aforesaid, for the  
uses and purposes therein set forth; and said ASSISTANT SECRETARY  
then and there acknowledged that said ASSISTANT SECRETARY  
as custodian of the corporate seal of said  
Bank, did affix the seal of said Bank to said instrument as  
said no own free and voluntary act and as  
the free and voluntary act of said Bank, as Trustee as  
aforesaid, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal, this OCT 15 1986  
day of \_\_\_\_\_, 1986.



Karen E. Burns  
Notary Public

My Commission Expires:  
\_\_\_\_\_

This Instrument Prepared By:

A. M. Rogers, Jr., Esq.  
Mayer, Brown & Platt  
231 South La Salle Street  
Chicago, Illinois 60604

After Recording Return To:

BOX 407 (AMR)

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

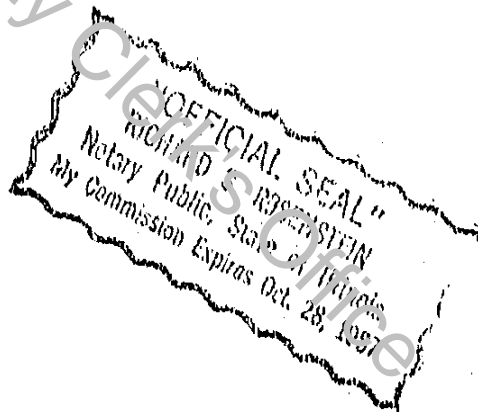
I, Richard S. Rosenstein, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Richard A. Hanson, personally known to me to be the person whose name is subscribed to the foregoing instrument as President of Stein & Company Theatre District Self-Park, Inc., an Illinois corporation, which corporation is the General Partner in TREMONT THEATRE ROW PARTNERSHIP, an Illinois limited partnership, appeared before me this day in person and swore and acknowledged to me under oath that he signed such instrument as President and on behalf of Stein & Company Theatre District Self-Park, Inc., and that he has read and executed and delivered said instrument, pursuant to authority, as his free and voluntary act and as the free and voluntary act of said corporation for the purposes therein set forth.

Given under my hand and Notarial Seal, this 8th day of October, 1986

Richard S. Rosenstein  
Notary Public

My Commission Expires:

October 28, 1987



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

I, JEAN DEPKON, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that RICHARD D. HASSARD, personally known to me to be the Sr. mgr. - COOP BKG. of CANADIAN IMPERIAL BANK OF COMMERCE, and 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 as such Sr. mgr. - Coop Bkg. he signed and delivered the said instrument as Sr. mgr. Coop Bkg. of said Bank, and caused the corporate seal of said Bank to be affixed thereto, pursuant to authority given by the Board of Directors of said Bank as his free and voluntary act, and as the free and voluntary act and deed of said Bank, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal, this 15 day of October, 1986.

Jean Depkon  
Notary Public

My Commission Expires:

4-9-87

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DEPT-01 RECORDING \$21.00  
T#3333 TRAN 3764 10/15/86 15:53:00  
#6588 # 4 \* 86-479194  
COOK COUNTY RECORDER

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