

90550077

MASTER AMENDMENT

Agreement dated as of November 8, 1990 by and between Huntington Manor Limited Partnership, an Illinois Limited partnership ("Borrower"); Cole Taylor Bank Trust No. 95311 ("Trust"); Terrence M. King and Daniel P. Harness (collectively "Guarantors"); and First Illinois Bank & Trust ("Bank").

Recitals

1. On November 24, 1990, Bank issued in favor of Borrower a Commitment Letter ("Commitment Letter") evidencing the terms and conditions under which the Bank will extend from time to time the proceeds of a \$1,500,000 revolving credit ("Credit") in order for Borrower to complete construction and sale of a 33 unit condominium townhome project known as Huntington Manor, Arlington Heights, Illinois ("Project").
2. A copy of the Commitment Letter is attached hereto and made part hereof as Exhibit "A".
3. Pursuant to the Commitment Letter and in conjunction with the Credit, Bank has or will purchase from NBD Sparkle Bank, N.A. ("NBD") the existing loan made available to Borrower and Trust applicable to the Project evidenced by the following documents: (a) Construction Loan Agreement dated January 27, 1989 ("Agreement"); (b) Mortgage Note in the principal amount of \$4,330,000 ("Note"); (c) Construction Mortgage recorded with the Cook County Recorder as Document Number 89-049069 ("Mortgage"); (d) Collateral Assignment of Leases and Rents recorded with the Cook County Recorder as Document No. 89-049070 ("Assignment of Rents"); (e) Guaranty of Payment and Performance ("Guaranty"); (f) Policy of Title Insurance (#LP 291173) issued by First American Title Insurance Company of the Mid-West ("Title Policy"); (g) Collateral Assignment of Beneficial Interest ("CA or BI"); (h) Assignment of Contracts to Purchase Townhome Units ("Assignment of Contracts"); (i) Collateral Assignment of Construction Contract and Permits ("Assignment"); (j) Security Agreement ("Security Agreement"); (k) Opinion of Counsel Letter of Michael E. Lavelle ("Opinion Letter"); (l) Construction Loan Escrow Trust ("Escrow"); (m) Uniform Commercial Code Financing Statements ("UCC's"); and (n) other miscellaneous agreements and documents. Said purchase by Bank is evidenced by an Assignment from NBD to Bank dated November 9, 1990, a copy of which is attached hereto as Exhibit "B".
4. In order to conform the documents and agreements referenced in Recital 3 above to the terms, conditions and provisions of the Commitment Letter, the parties hereto agree to make certain amendments and modifications as herein provided.

DEPT OF RECORDING \$29.50
 T#1111 TRAN 0453 11/09/90 14:23:00
 09476 # A *-90-550077
 COOK COUNTY RECORDER

First American Title Company of the Mid-West

90550077

99⁰⁰
 +
 1/11/91

NOW, THEREFORE, for and in consideration of the above Recitals, which are a material part of this Agreement and for other good and valuable consideration, the parties agree as follows:

1. In the event there shall exist a conflict between the terms and provisions of the Commitment Letter and the terms and provisions of the documents and agreements referenced in Recital 3 above, the Commitment Letter shall control.
2. The Note shall be replaced by a new note in the form attached hereto as Exhibit "C".
3. The Agreement, Mortgage, Assignment of Rents, Guaranty, CA of BI, Assignment of Contracts, Assignment and Security Agreement is hereby amended generally in conformity with the Commitment Letter.
4. The Guaranty is hereby specifically amended to eliminate Allen M. Marrinson as a guarantor and the provisions of Paragraph 16 thereof.
5. Borrower and Trust shall execute a specific Modification of the Mortgage and Assignment of Rents in the form attached hereto as Exhibit "D".
6. First American Title Insurance Company of the Mid-West shall issue an endorsement and modification of the title in form and substance acceptable to Bank to reflect Bank's position and shall recognize the substitution of Bank for NBD with respect to the Escrow.
7. Michael E. Lavelle shall reacknowledge the Opinion Letter in favor of Bank.
8. Borrower and Terrence M. King and Daniel P. Harness do hereby warrant and represent that the terms and provisions of the Agreement are in full force and effect and no uncured event of default has occurred thereunder.

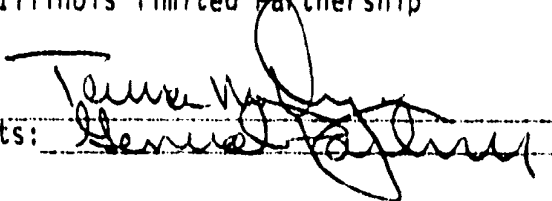
Dated at Arlington Heights, Illinois as of the date specified above.

BORROWER:

Huntington Manor Limited Partnership,
an Illinois limited Partnership

By

Its:


Terrence M. King

90550077

TRUST:

Cole Taylor Bank, not personally but
as Trustee under Trust No. 95311
(SEE EXCULPATORY RIDER ATTACHED)

By [Signature]
Its: Vice President

BANK:

First Illinois Bank & Trust

By [Signature]
Its: Vice President

GUARANTORS:

[Signature]
Terrence M. King

[Signature]
Daniel P. Harness

Property of Cook County Clerk's Office
90550077

EXCULPATORY. CLAUSE

It is expressly understood and agreed by and between the parties hereto, anything herein 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 liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against Cole Taylor Bank or any of the beneficiaries under said Trust Agreement, 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.

COLE TAYLOR BANK

90550077

UNOFFICIAL COPY

Property of Cook County Clerk's Office

PARCEL 1

THAT PART OF SECTION 18, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE CENTER LINE OF RAND ROAD, 494.98 FEET SOUTHEASTERLY OF THE SOUTH LINE OF THE COMMONWEALTH EDISON COMPANY RIGHT OF WAY (SAID THE COMMONWEALTH EDISON COMPANY RIGHT OF WAY CONVEYED BY DEED DATED JUNE 8, 1960 RECORDED JUNE 14, 1960 AS DOCUMENT NUMBER 17881277 AND RE-RECORDED JULY 8, 1960 AS DOCUMENT NUMBER 17902237); THENCE NORTHEASTERLY ON A LINE FORMING AN ANGLE OF 90 DEGREES 00 MINUTES 00 SECONDS FROM NORTHWESTERLY TO THE NORTHEASTERLY WITH SAID CENTER LINE, A DISTANCE OF 202.00 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUING NORTHEASTERLY ALONG THE LAST DESCRIBED COURSE 3.79 FEET; THENCE NORTHEASTERLY ON A LINE FORMING AN ANGLE OF 138 DEGREES 02 MINUTES 03 SECONDS FROM THE SOUTHWESTERLY TO THE NORTHEASTERLY 379.92 FEET; THENCE NORTHWESTERLY ON A CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 445.0 FEET, A DISTANCE OF 142.41 FEET; THENCE NORTHEASTERLY AT RIGHT ANGLES TO THE CENTER LINE OF SAID ROAD, 22.81 FEET TO A POINT ON THE SOUTH LINE OF THE COMMONWEALTH EDISON COMPANY RIGHT OF WAY 834.50 FEET EASTERLY (AS MEASURED ON SAID RIGHT OF WAY LINE) OF THE CENTER OF RAND ROAD; THENCE EAST ON SAID SOUTH RIGHT OF WAY LINE 202.85 FEET TO THE SOUTHWESTERLY LINE OF THE COMMONWEALTH EDISON COMPANY RIGHT OF WAY; THENCE SOUTHEASTERLY ON SAID SOUTHWESTERLY LINE OF THE COMMONWEALTH EDISON COMPANY RIGHT OF WAY LINE, 200.00 FEET TO THE INTERSECTION OF SAID SOUTHWESTERLY RIGHT OF WAY LINE WITH A LINE DRAWN AT RIGHT ANGLES TO SAID CENTER LINE OF RAND ROAD AT A POINT ON SAID CENTER LINE, 472.00 FEET SOUTHEASTERLY OF THE POINT OF COMMENCEMENT; THENCE SOUTHWESTERLY ON SAID LINE DRAWN AT RIGHT ANGLES TO THE CENTER LINE OF RAND ROAD 496.73 FEET; THENCE NORTHWESTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE 186.00 FEET; THENCE SOUTHWESTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE 6.50 FEET; THENCE NORTHWESTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE 20.00 FEET; THENCE SOUTHWESTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE 10.00 FEET; THENCE NORTHWESTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE 189.50 FEET; THENCE NORTHEASTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE 10.00 FEET; THENCE NORTHWESTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE 20.00 FEET; THENCE NORTHEASTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE 6.50 FEET; THENCE NORTHWESTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE 56.50 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS

PARCEL 2:

THAT PART OF SECTION 18, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT A POINT ON THE CENTER LINE OF RAND ROAD, 307.52 FEET SOUTHEASTERLY OF THE SOUTH LINE OF THE COMMONWEALTH EDISON COMPANY RIGHT OF WAY (SAID THE COMMONWEALTH EDISON COMPANY RIGHT OF WAY CONVEYED BY DEED DATED JUNE 8, 1960 RECORDED JUNE 14, 1960 AS DOCUMENT NUMBER 17881277 AND RE-RECORDED JULY 8, 1960 AS DOCUMENT NUMBER 17902237); THENCE NORTHEASTERLY ON A LINE FORMING AN ANGLE OF 131 DEGREES 58 MINUTES 38 SECONDS FROM NORTHWESTERLY TO NORTHEASTERLY WITH SAID CENTER LINE, 459.04 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUING NORTHEASTERLY ALONG THE LAST DESCRIBED COURSE 197.70 FEET; THENCE NORTHWESTERLY ON A CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 445.0 FEET, A DISTANCE OF 142.41 FEET; THENCE SOUTHWESTERLY TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS

PARCEL 3:

EASEMENT FOR THE BENEFIT OF PARCEL 1 FOR INGRESS AND EGRESS OVER AND ACROSS THE LAND AS FOLLOWS:

THE NORTHWESTERLY 15 FEET OF LOT "B" IN FIRST ADDITION TO STONEBRIDGE HILL APARTMENTS BEING A SUBDIVISION IN THE NORTH EAST 1/4 OF SECTION 18, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, AS GRANTED IN AGREEMENT DATED DECEMBER 20, 1974 AND RECORDED DECEMBER 26, 1974 AS DOCUMENT 22948132 MADE BY AND BETWEEN THE EXCHANGE NATIONAL BANK OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT DATED MAY 7, 1969 AND KNOWN AS TRUST NUMBER 22741 AND THE EXCHANGE NATIONAL BANK OF CHICAGO AS TRUSTEE UNDER TRUST AGREEMENT DATED SEPTEMBER 14, 1961 AND KNOWN AS TRUST NUMBER 14014 IN COOK COUNTY, ILLINOIS.

PTN: 03-18-200-010

EXHIBIT A

30550077

UNOFFICIAL COPY

Property of Cook County Clerk's Office



First Illinois Bank & Trust

UNOFFICIAL COPY

9 0 5 5

311 S. Arlington Heights Road
Arlington Heights, IL 60005-1930
(312) 870-2468

October 24, 1990

Huntington Manor Limited Partnership,
an Illinois Limited Partnership
c/o Huntington Manor, an Illinois General Partnership
2275 half Day Road
Bannockburn, Illinois
Attention: Terrance M. King

Re: Proposed \$1,500,000 Construction Term Revolving Credit ("Credit")

Gentlemen:

You have furnished us or advised us of the following:

- A. Huntington Manor Limited Partnership ("Partnership") was created in June, 1987 to acquire an approximate 4.1 acre tract of land located near Rand Road and Hintz Road in Arlington Heights, Illinois ("Property") and thereafter construct and sell 33 condominium townhomes.
- B. You have built 28 townhomes to date and have sold and conveyed title to 15 of those townhomes, which leaves 13 townhomes that remain to either be sold or having been sold to be closed ("Present Townhomes").
- C. You intend to complete improvements to the Property by construction at the appropriate time of 5 additional townhomes ("New Townhomes") so that the Property will be fully improved with 33 townhomes (the Present Townhomes and New Townhomes are hereafter sometimes collectively referred to as "Improvements").
- D. Title to the Property and the Present Townhomes are owned by Cole Taylor Bank Trust No. 95311 under Agreement dated July 24, 1987 ("Trust") of which the Partnership is the beneficial owner.
- E. The Property was acquired and is being improved, in part, with the proceeds or availability of a \$4,300,000 construction loan from NBD Skokie Bank, N.A. ("NBD") which is evidenced by a Construction Loan Agreement dated January 27, 1989 ("Agreement"); Mortgage Note ("NBD Note"); Construction Mortgage ("NBD Mortgage") recorded as document no. 89049069; and other related assignments, security documents and recorded instruments ("NBD Security Documents").

90550077

F. The obligations due and owing NBD under the Agreement and NBD Note matured June 30, 1990; the present obligation due NBD amounts to approximately

~~\$1,350,000.~~

You have requested, and First Illinois Bank & Trust (Arlington Heights Office) ("Lender") does hereby consent to providing term construction financing to you in an amount not to exceed from time to time the Credit, the proceeds of which shall be used by Lender to cause NBD to sell, assign and transfer to Lender the Agreement, NBD Note, NBD Mortgage and NBD Security Documents which shall thereafter be modified and amended in order to reflect the following terms and conditions:

Borrower: The Trust.

Guarantor: Terrence M. King and Daniel P. Harness, who own a majority interest in Huntington Manor, an Illinois general partnership, which is the general partner of the Partnership, shall jointly and severally guaranty payment of all sums due under the Credit and the performance of all terms and provisions of all loan documentation.

Amount of Credit: A revolving credit with a maximum amount outstanding any one time of \$1,600,000, provided, however, that only that portion of the Credit, but not more than ~~\$1,350,000~~ shall be initially disbursed to permit Lender to acquire the NBD loan referred to above (any additional amount required shall be deposited by Borrower with Lender and added by Lender to NBD). The availability of the Credit shall otherwise be used for construction of the New Townhomes in conformity with the budget approved by Lender (exclusive of any extras and upgrades to be paid by the respective purchaser) and establishment of an adequate interest reserve only after two of the five New Townhomes to be built have been sold (in conformity with the definition set forth on Exhibit D of the NBD Commitment Letter dated November 4, 1988, a copy of which is attached hereto).

Term: The Credit shall be evidenced by the Note of the Borrower, which shall be the NBD Note amended in conformity with this Commitment, payable to Lender due on November 1, 1991.

Rate: The Note will bear interest at the per annum rate of 1% plus the prime rate of Lender from time to time in

90550077

UNOFFICIAL COPY

9 0 5 5 0 0 7 7

Page 3

effect (3% plus such rate after default or maturity) payable monthly commencing on the first day of the first month following disbursement of any portion of the Credit.

Service Fee:

Lender shall be entitled to a service fee of \$15,000 payable at the time of the initial disbursement of the Credit provided that the fully earned commitment fee payment received upon acceptance of the Commitment as herein provided shall be credited against such fee.

Disbursement of the Credit for Rehabilitation:

Disbursement of the loan proceeds for construction of the Improvements shall be based on work completed, subject, however, at Lender's option, to a 10% holdback until approval of the completed project is secured by delivery of a certificate of occupancy. Disbursement shall continue to be made through a Construction Loan Escrow Trust established with First American Title Insurance Company of the Midwest No. CN26584 (as modified in conformity with this Commitment). Lender will also require satisfactory Sworn Owner's and Contractor's Statements, copies of all subcontracts and appropriate lien waivers.

Preconditions to Disbursement:

No portion of the Credit shall be disbursed nor shall disbursement continue until you have complied with all items set forth in the Loan Closing Checklist to the reasonable satisfaction of Lender and its Counsel, or until Lender has waived such item(s) temporarily or permanently. A copy of the tentative Loan Closing Checklist, which is subject to revision, is attached hereto as Exhibit "A".

Collateral:

As collateral security for repayment of the Credit, NBD shall execute and deliver (and Borrower shall acknowledge and agree to) an assignment in form acceptable to Lender of all right, title and interest of NBD in and to the Agreement, NBD Note, NBD Mortgage and NBD Security Documents together with the originals thereof and Borrower and Guarantor shall execute and deliver such modifications and amendments thereto as Lender shall require in order to reflect and terms and provisions of this Commitment.

Insurance:

You shall furnish full insurance coverage on the Property as required by Lender written by companies

90550077

satisfactory to Lender, containing without limitation, all risk insurance coverage reflecting the interest of Lender as mortgagee or as additional insured.

Other Documents: Lender shall receive such other documents, in form and substance satisfactory to Lender, as Lender may reasonably request.

Costs and Expenses: You shall pay Lender for all out-of-pocket expenses including without limitation, Lender's title, recording and escrow charges and legal fees and expenses, all of which may be based upon estimates and disbursed from the proceeds of the Credit.

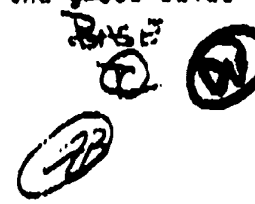
Insurance and Tax Deposits: As shall be required and set forth in the Mortgage.

Miscellaneous: A. You shall furnish Lender with an appraisal prepared by an appraiser acceptable to Lender in favor of Lender and in form and substance acceptable to Lender and in conformity with the FIRREA Appraisal Rules effective September 19, 1990 indicating the value of the Property after completion of the improvements to be no less than \$3,800,000. You shall be responsible for the costs and expenses applicable to such appraisal.

B. Lender shall not be required to disburse any portion of the Credit if it determines that any party described herein is insolvent at the time of any requested disbursement, or if any such party has filed a voluntary petition in bankruptcy or availed itself of any law for the protection or benefit of debtors, or have had any such petition or action initiated against any one of them (which is not dismissed within thirty (30) days of the date of filing) or have made an assignment for the benefit of creditors.

C. All business accounts applicable to the Property and the business to be conducted thereon shall be established with Lender.

D. Lender shall release its mortgage lien on any townhome upon receipt of 90% of the ~~gross~~ sales price.

BASF


30550077

In the event that all of the conditions precedent to the opening of the loan described herein shall not have been performed on or before November 30, 1990, Lender may, at its option at any time thereafter, terminate this commitment and all of its obligations hereunder. In the event of such termination, you shall, nevertheless, pay Lender's service fees, attorneys' fees to the extent earned and all loan related expenses theretofore incurred by Lender.

The terms of this commitment may not be waived or modified unless such waiver or modification is expressly stated and specifically agreed to by the parties hereto in writing. Further, this commitment is personal as to the parties to whom it is addressed and/or the Borrower named herein and may not be assigned to or relied upon by any third party. This commitment supersedes any and all prior commitments, agreements, provisions, offers and statements whether written or oral, made by lender or anyone acting on its behalf and represents the entire agreement between the parties.


In the event that Lender fails to perform the obligations of Lender as set forth in this commitment for any reason whatsoever (other than the right of Lender to terminate and void this commitment by reason of your failure to perform in conformity with the terms contained herein) that the sole recourse against Lender shall be the payment of an amount equal to the fees paid to Lender in accordance with this Commitment, said amount being acknowledged by the undersigned as the total amount of liquidated damages; the undersigned hereby waives the right to sue for specific performance.

To indicate your acceptance hereof, kindly execute the duplicate copy of this letter as provided below and return the same to the undersigned no later than November 2, 1990, together with your check in the amount of \$2,500 as payment of Lender's commitment fee hereunder, which commitment fee shall be deemed fully earned and non-refundable upon your acceptance of this commitment and the payment of which shall be credited against the loan service fee referred to above.

Very truly yours,

FIRST ILLINOIS BANK & TRUST

By


John Burk

30550077

UNOFFICIAL COPY

9 0 5 5 0 0 7 7

Page 6

AGREED TO AND ACCEPTED
this 22 day of OCTOBER 1990.

Huntington Manor Limited Partnership,
an Illinois limited partnership

by: Huntington Manor, an Illinois general partnership
its general partner

By

By

Property of Cook County Clerk's Office

90550077

UNOFFICIAL COPY

FIRST ILLINOIS BANK & TRUST
HUNTINGTON MANOR LIMITED PARTNERSHIP
\$1,500,000 CONSTRUCTION TERM CREDIT

TENTATIVE LOAN CLOSING CHECKLIST

1. Commitment Letter
2. Commitment Fee
3. Service Fee
4. Legal Fee
5. Assignment from NBD
6. Modification of NBD Agreement
7. Modification of NBD Note
8. Modification of NBD Mortgage
9. Modification of NBD Security Documents
10. Acknowledgment and Agreement of Inspecting Architect
11. Guaranty
12. Modification to Existing Construction Loan Escrow
13. Modification to Existing Title Commitment/Policy
14. Solvency Certificate
15. EPA Indemnity Agreement
16. Current Budget
17. Current Contractor Statement
18. Insurance Binders, Certificates, Policies

30550077

ASSIGNMENT

For good and valuable consideration received, NBD Skokie Bank, N.A. ("NBD") does hereby sell, assign and transfer, without recourse, representation or warranty, to First Illinois Bank & Trust ("Bank") all right, title and interest in and to the following agreements and documents (all of which are dated January 27, 1989 unless otherwise indicated):

1. Construction Loan Agreement between Huntington Manor Limited Partnership, an Illinois limited partnership ("Borrower"), Cole Taylor Bank/Skokie, as Trustee under Agreement dated July 24, 1987 and known as Trust No. 95311 ("Trust") and NBD.
2. \$4,330,000 Mortgage Note executed by the Trust in favor of NBD which was due and payable on June 30, 1990 but extended daily by mutual agreement; the present principal balance due under said Note is \$1,418,985.20, together with accrued interest of \$ 31,357.02 and per diem interest after this date of \$ 423.72, and unit release fee of \$2,250.00
3. Construction Mortgage executed by Trust in favor of Lender applicable to the Property commonly known as Huntington Manor townhome complex located near Rand Road and Hintz Road, Arlington Heights, Illinois ("Property") recorded with the Cook County Recorder of Deeds on January 31, 1989 as Document No. 89-049069.
4. Collateral Assignment of Leases and Rents executed by the Trust and Borrower in favor of NBD recorded with the Cook County Recorder of Deeds on January 31, 1989 as Document No. 89-049070.
5. Guaranty of Payment and Performance executed by Terence M. King, Allen M. Marrinson and Daniel P. Harness in favor of NBD.
6. Loan Title Insurance Policy No. LP291173 dated January 31, 1989 issued by First American Title Insurance Company of the Mid-West in favor of NBD.
7. Collateral Assignment of Beneficial Interest executed by Borrower, in favor of NBD and accepted by the Trustee of the Trust applicable to the beneficial interest of the Trust.
8. Assignment of Contracts to Purchase Townhome Units executed by the Borrower and Trust in favor of NBD.
9. Collateral Assignment of Construction Contract and Permits executed by Borrower in favor of the Trust, together with the separate consents and acknowledgements executed by TMK Development, Ltd.
10. Security Agreement executed by Borrower in favor of NBD.

30550077

Page 2

11. Opinion of Counsel dated January 30, 1989 of Michael E. Lavelle, Esquire, attorney for Trust, Borrower and the guarantors referred to above in favor of NBD.
12. Construction Loan Escrow Trust No. CN26584 by and between NBD, Borrower, First American Title Insurance Company of the Mid-West (as escrowee) and TMK Development, Ltd. (as general contractor).
13. Uniform Commercial Code Financing Statements executed by the Borrower and Trust respectively and filed with the Illinois Secretary of State on _____, 1989 as Document Nos. _____ and _____ respectively.
14. Any and all other documents and agreements that NBD has applicable to this matter which Bank shall now or hereafter request or require.

NBD agrees to deliver the originals of all of the aforementioned documents and agreements and to execute and deliver to Bank such other endorsements, assignments and directions as shall be requested or required in order to effectuate such transfer and assignment.

Dated at Skokie, Illinois as of November _____, 1990.

NBD Skokie Bank, N.A.

By _____
Its: _____

ATTEST:

Its: _____

*attached
for reference*

30550077

UNOFFICIAL COPY
SECURED REVOLVING CREDIT / /
TERM NOTE

Duplicate for attachment to Master Amendment.



First Illinois Bank

14 South LaGrange Road
LaGrange, Illinois 60525
(312) 579-4400

FOR OFFICE USE ONLY

NAME _____	
COL. CODE: _____	FDIC CODE: _____
INSIDER CODE: _____	
RENEWAL OF # _____	
NEW FUNDS: _____	
CR. TO ACCT # _____	
CASHIER'S CK # _____	PAYABLE TO _____
_____	_____
_____	_____
_____	_____
OTHER _____	

DISPERSAL DATE: _____	

NOTE NUMBER _____
ACCOUNT NUMBER _____
MATURITY NOVEMBER 1, 1991
\$ 1,500,000.00
NOVEMBER 90

FOR VALUE RECEIVED, the undersigned, jointly and severally, promises to pay to the order of

FIRST ILLINOIS BANK & TRUST (Bank)

ONE MILLION FIVE HUNDRED THOUSAND AND NO/100***** Dollars
(\$ 1,500,000.00) at Maturity. The undersigned also promises to pay interest on the outstanding principal balance of this Note at the per annum rate of ONE percent (1 %) above Prime payable:

- ☒ (monthly) (~~quarterly~~) commencing DECEMBER 1, 1990, and continuing on the same day of each (month) (quarter) thereafter, on the principal balance remaining from time to time unpaid.
- ☐ at Maturity.

Interest after Default or Maturity, whether by reason of acceleration or otherwise, shall accrue and be paid on the unpaid principal balance at the rate equal to adding three percent (3%) to the then interest rate.

If any payments of interest or the unpaid principal balance due under this Note becomes overdue for a period in excess of ten (10) days, the undersigned shall pay to the Bank a late charge of five cents (\$.05) for each dollar so overdue in order to defray part of the increased cost of collection resulting from such late payments.

The principal amount of this Note is available to the undersigned on a revolving basis. The undersigned may borrow and reborrow any amount, subject to the limitations, if any, contained in the Security Agreement referred to below, provided the total outstanding unpaid principal balance will not exceed the principal amount of this Note and provided the undersigned has complied with all the terms of this Note. The books and records of the Bank shall be determinative of the unpaid principal balance of this Note from time to time outstanding.

Interest on this Note shall be computed based upon a 360-day year for the actual number of days elapsed. Interest shall continue to accrue when payments received are not collected funds until such funds are, in fact, collected. Except as otherwise provided herein, all payments on this Note shall be applied first to all expenses of the Bank as hereafter provided; second, to all late charges due and owing as hereafter provided; third to accrued interest on the unpaid principal balance of this Note; and the remainder to principal. All payments due on this Note shall be made at the main office of the Bank or such other place as the Bank may from time to time in writing designate.

If payment becomes due and payable on a Saturday, Sunday or legal holiday under the laws of the State of Illinois, the due date shall be extended to the next business day.

D. "Liabilities" means all liabilities, obligations and indebtedness of any of the undersigned to the Bank for payment of any and all amounts due under this Note and of any other liabilities, obligations, indebtedness, or contractual duty of every kind and nature of the undersigned or any of them or any guarantor of this Note to the Bank, howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, primary or secondary, joint or several, heretofore, now or hereafter existing, due or to become due and howsoever owned, held or acquired, whether existing or arising through discount, overdraft, purchase, direct loan, as collateral, by operation of law or otherwise, including attorneys' and paralegals' fees in connection with perfecting the Bank's security interests and rights hereunder, advising the Bank or drafting any documents at any time. Liabilities includes all of the liabilities, obligations and indebtedness or contractual duties of partnerships to the Bank created, arising, existing or assumed while the undersigned or any of them or any guarantor of this Note may have been or may be a member of those partnerships.

E. "Prime Rate" or "Prime" means such rate as Bank determines to be its prime rate. Prime Rate is not necessarily the lowest rate charged by Bank. That Prime Rate will fluctuate from time to time and the effective date of any change in the Prime Rate shall be the day of such change established by Bank; the Bank is not obligated to give notice of such fluctuations.

F. "Maturity" means the date designated as the Date of Maturity or the date on which the unpaid principal balance of this Note becomes due, whether by acceleration or otherwise.

G. The term "undersigned" means each party signing this Note and the use of the term "undersigned" in the singular form shall include the plural form, unless otherwise designated. Each such undersigned shall be jointly and severally obligated hereunder. This Note shall be binding upon each of the undersigned and upon their respective heirs, estates, legal representatives, successors and assigns and shall inure to the benefit of the Bank and the Bank's successors and assigns. The term "guarantor" means any endorser, guarantor, accommodation party, pledgor or surety of any of the Liabilities.

The undersigned acknowledge that this Note is being accepted by the Bank in partial consideration of the Bank's right to enforce in the State of Illinois, County of Cook the terms and provisions hereunder and all related documents and agreements delivered to the Bank in connection with the Liabilities; the undersigned consents to jurisdiction in and construction under the laws of the State of Illinois and venue in the County of Cook for such purposes; and the undersigned waives any and all rights to contest jurisdiction and venue of the State of Illinois and County of Cook over the undersigned for the purposes of enforcing this Note and all related documents delivered in connection with the Liabilities.

Wherever possible, each provision of this Note shall be interpreted in such manner as to be effective and valid under applicable law. If any provisions of this Note are prohibited by or determined to be invalid under applicable law, such provisions shall be ineffective to the extent of such prohibitions or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Note. The undersigned hereby affirms and acknowledges that the undersigned has read all of the provisions of this Note and that all the blanks in this Note have been completed prior to the undersigned executing this Note in conformity with the terms of the agreement between the undersigned and Bank. No waiver of the Bank shall be deemed to have been made or authorized by the Bank, unless such waiver is in writing and signed by an authorized officer of the Bank. Unless otherwise provided for hereunder any notice required to be given by the undersigned or the Bank shall be given effectively, if deposited in the mail, postage prepaid, and mailed to the respective party at the address stated in this Note. No change in address shall be effective, unless sent in writing to the other party at the address stated in this Note or any substitute address changed in accordance with the terms hereof.

The undersigned understands and agrees that the Bank shall have no duty or obligation to look to or realize upon the Collateral for payment, or to protect, preserve or care for the Collateral in any manner whatsoever or to marshal any assets for application in favor of the undersigned or against any of the Liabilities. The acceptance by the Bank of Collateral as security for the Liabilities, or any failure, neglect or omission on the part of the Bank to realize upon or to protect, preserve or care for any Collateral shall not in any way affect the Liabilities and the undersigned hereby waives all claims, rights (including rights of set-off) and defenses against the Bank. The undersigned agrees that the Bank shall have exercise reasonable care in the preservation and custody of the Collateral, if the Bank shall act in accordance with the undersigned's written instructions delivered to the Bank, but failure to do so shall not be deemed a failure to exercise reasonable care.

The undersigned hereby agrees to deliver additional Collateral to the Bank of such kind and value as in the Bank's sole option shall be satisfactory security for the payment of all Liabilities, should the Bank at any time deem itself insecure. The surrender of this Note, upon payment, renewal or otherwise, shall not affect the right of the Bank to retain the Collateral to secure any and all other Liabilities.

In addition to all of the other rights possessed by the Bank, whether before or after any of the Liabilities have become due and payable, the Bank may: (i) transfer all or any part of the Collateral into the name of the Bank or its nominee, with or without disclosing that the Collateral is subject to the lien and security interest granted hereunder; (ii) notify some or all parties obligated on any of the Collateral to make payment to the Bank of any or all amounts due or to become due thereunder; (iii) enforce collection of any of the Collateral by suit or otherwise, or surrender, release or exchange all or any part of the Collateral, or compromise, extend or renew for any period (whether or not longer than the original period) any indebtedness evidenced thereby; (iv) receive dividends, interest and other distributions on the Collateral or take control of any or all proceeds of the Collateral; and (v) exercise such additional rights and powers, if any, with respect to any security for or guaranty of any of the Liabilities, as may be provided in any written instrument which is in addition to this Note.

Upon Default, (i) this Note and any and all other Liabilities shall, at the sole option of the Bank and without notice or

demand, become immediately due and payable within 10 days of the date due; (ii) the undersigned shall pay all expenses of the Bank, including attorneys' and paralegals' fees, expenses and court costs incurred in connection with the collection or attempted collection or enforcement of this Note, and all expenses incurred in the enforcement or preservation of rights in the Collateral, including all attorneys' and paralegals' fees, expenses, replevin bonds, court costs, costs of retaking, holding, preparing for sale, selling, leasing and other costs incurred in connection with the disposition, protection or preservation of the Collateral or the Bank's rights in the Collateral; (iii) the Bank may, without demand or notice, demand and notice being specifically waived by the undersigned, set-off, appropriate and apply toward the payment of the Liabilities and in such order of application as the Bank may from time to time elect, any balances, cash, credits, deposits, accounts, securities or any other property of the undersigned in the possession, custody or control of the Bank; and (iv) the Bank shall have all the rights and remedies of a secured party under the Illinois Uniform Commercial Code.

If any notification of intended disposition of any of the Collateral is required by law, such notification shall be deemed reasonably and properly given if mailed at least five (5) days before such intended disposition. Notification shall not be necessary if the Collateral is perishable or threatens to decline speedily in value, or is of a type customarily sold in a recognized market. The sale, lease or other disposition of any or all of the Collateral after Default may be for cash, credit or any combination thereof, and the Bank may purchase any or all of the Collateral at a public sale or if permitted by law at a private sale. Any sale of the Collateral may involve only a part of it, and may occur at different locations. The Bank shall have the right to conduct the sale of the Collateral on the undersigned's premises. Any proceeds derived from the disposition of any of the Collateral may be applied by the Bank, in its sole discretion, to the payment of all expenses incurred by the Bank, including costs and attorneys' and paralegals' fees, in connection with the disposition of the Collateral, and any balance of such proceeds may be applied by the Bank to the payment of the Liabilities, in such order of application as the Bank may from time to time elect. If there are more than one undersigned, the Bank shall pay any surplus proceeds to any one or more of the undersigned as the Bank may determine. The undersigned does hereby agree to indemnify, defend and hold the Bank harmless from any and all claims, causes of action, and liabilities relating to any action of the Bank in dealing with the Collateral, or any claims by, against, between or among the undersigned arising out of or in connection with any of the Liabilities or the Collateral.

The undersigned and any guarantor do hereby waive presentment, demand, notice of dishonor, protest, and all other notices whatsoever, except notices which by law may not be waived and agree that the Bank may, from time to time, extend or renew this Note for any period (whether or not longer than the original period of the Note) and grant any releases, compromises, extensions, renewals or indulgences with respect to this Note, any Collateral for the Liabilities or any of the undersigned or any guarantor, all without notice to or consent of any of the undersigned or any guarantor and without affecting the Liabilities of the undersigned or any guarantor.

No delay or omission on the part of the Bank in exercising any right hereunder shall operate as a waiver of such right or of any other right under this Note or under any document or agreement delivered in connection with the Liabilities. A waiver on any one occasion shall not be construed as a bar to or waiver of any such right or remedy on any past or future occasion.

The following definitions apply to the words and phrases used herein:

A. "Bank" means and includes the payee named herein, its successors, assigns or the legal holder of this Note.

B. "Collateral" means (i) the property in which the undersigned has granted the Bank a continuing security interest, which has been, is being or will be delivered, pledged, assigned or otherwise tendered to the Bank as security for payment of the Liabilities, (ii) any and all other property of every kind or description of the undersigned now or hereafter in the possession or control of the Bank, whether as collateral security or for any other purpose, including without limitation, all cash, deposits, securities, dividends, distributions, negotiable instruments and documents, and (iii) all books and records relating to the Collateral and all insurance policies insuring any of the Collateral. "Collateral" also includes any Guaranty which has been, is being or will be given to the Bank and all property in which any guarantor has granted the Bank a security interest as security for the payment of the Liabilities.

As security for payment of the Liabilities, the undersigned hereby pledges or grants, or agrees to cause to be pledged or granted, to the Bank a continuing security interest in the Collateral described below, or described in the security agreement(s) referred to herein:

ALL RIGHT, TITLE AND INTEREST OF NBD SKOKIE BANK, N.A., IN AND TO ALL DOCUMENTS AND
AGREEMENTS APPLICABLE TO HUNTINGTON MANOR AS MORE FULLY DESCRIBED ON THE ASSIGNMENT
ATTACHED HERETO AS EXHIBIT 'A'.

The undersigned hereby irrevocably appoints the Bank as Attorney-In-Fact to execute on behalf of the undersigned any and all financing statements, amendments thereto and continuation statements, as well as documents of assignment, in order to perfect and maintain a security interest in the Collateral granted hereby. The Bank is authorized to execute and file such documents when, where, and as often as the Bank shall deem reasonable and to endorse in the name of the undersigned or Bank any item for payment on or proceeds of the Collateral.

UNOFFICIAL COPY

C. "Default" means any one or more of the following events, conditions or acts: (i) failure by the undersigned to make any timely payment of any amount due hereunder within 10 days of the date due; (ii) failure by the undersigned or any guarantor to make any timely payment due under any other note, instrument or agreement which shall cause or permit the holder thereof to cause the obligations of the undersigned or any guarantor to become due prior to maturity; (iii) failure or neglect by the undersigned or any guarantor or any other party to comply with or to perform in accordance with any representation, warranty, covenant, term, condition or agreement contained in any instrument which secures the Liabilities or is delivered in connection with the Liabilities, which representations, warranties, covenants, terms, conditions or agreements are hereby incorporated by reference herein; (iv) failure by the undersigned or any guarantor to make any timely payment of any other Liabilities when due; (v) at any time any statement, application or agreement furnished to the Bank by the undersigned or any guarantor is false or incorrect in any material respect; (vi) failure of the undersigned or any guarantor, after request, to furnish the Bank with additional or periodic financial statements as requested from time to time; (vii) insolvency of the undersigned or any guarantor or the inability of the undersigned or any guarantor to pay any of their respective debts as they mature; (viii) any admissions, either verbally or in writing, by the undersigned or any guarantor of the inability to pay any of their respective debts as they mature; (ix) the execution of an assignment for the benefit of creditors by the undersigned or any guarantor or the filing or commencement of any proceedings against the undersigned or any guarantor for relief under the Bankruptcy Code, as may be amended from time to time, or insolvency laws or any laws relating to the relief of debtors, readjustment of any indebtedness, reorganization, composition or extension of debts; (x) the appointment of a receiver or a trustee for the undersigned or any guarantor; (xi) any judgment, attachment, lien, execution or levy against the undersigned or any guarantor or against the property of the undersigned or any guarantor in any amount which is not paid, discharged, released, bonded, stayed on appeal or otherwise fully satisfied; (xii) death or incompetency of the undersigned or any guarantor; (xiii) failure of the undersigned or any guarantor to pledge or grant or cause to be pledged or granted to the Bank a continuing security interest in the Collateral, or to furnish additional Collateral immediately upon request from the Bank when the Bank, in its sole discretion, shall deem itself insecure for any reason whatsoever; (xiv) dissolution of the undersigned or any guarantor whether by voluntary or involuntary action; or (xv) any and all other events or circumstances which cause the Bank, in good faith to believe that the prospect of payment, performance or realization on the Collateral (if any) is impaired.

STREET _____
CITY _____ STATE _____
ZIP _____ PHONE _____
PIN # _____

HUNTINGTON MANOR LIMITED PARTNERSHIP,
AN ILLINOIS LIMITED PARTNERSHIP

BY: HUNTINGTON MANOR, AN IL GENERAL PARTNERSHIP

SIGNATURE: _____

TITLE: BY: _____

SIGNATURE: _____

TITLE: _____

THIS NOTE IS EXECUTED PURSUANT TO AND IS SUBJECT TO THE TERMS AND CONDITIONS OF THE COMMITMENT LETTER OF BANK DATED OCTOBER 24, 1990 AS ACCEPTED BY THE UNDERSIGNED ON OCTOBER 28, 1990 AND IS A REPLACEMENT OF THE \$4,330,000 MORTGAGE NOTE DATED JANUARY 27, 1989 PAYABLE TO THE ORDER OF NBD SKOKIE BANK, N.A., WHICH WAS SOLD, ASSIGNED AND TRANSFERRED TO FIRST ILLINOIS BANK & TRUST PURSUANT TO ASSIGNMENT DATED NOVEMBER _____, 1990.

90550077

When documents prepared by & mail to:
John Burk
First Illinois Bank & Trust
311 S. Arlington Hts Rd.
Arlington Hts. IL 60005-1930

FID-125-B-8/84

(page 4 of 4)