

AFTER RECORDING, RETURN TO:

INTERVEST-MORTGAGE INVESTMENT COMPANY
Attn: Brenda Lund
5005 S.W. Meadows Road, Suite 400
Lake Oswego, Oregon 97035



200806170023
Skagit County Auditor

6/17/2008 Page 1 of 11 11:17AM

Document Title: Modification of Promissory Note and Deed of Trust

Reference No. of Document Modified: 200605040053 CHICAGO TITLE CO.
1C38049

Grantor: College Way Retail, LLC

Trustee: Chicago Title Insurance Company

Beneficiary: Intervest-Mortgage Investment Company

Legal Description: Portion of NW 1/4 of SW 1/4, Section 17, Township 34 North, Range 4 East, W.M., located in Skagit County, Washington. A complete legal description is attached as Exhibit "A."

Assessor's Property Tax Parcel/Account Number: 340417-0-057-0009

MODIFICATION OF PROMISSORY NOTE AND DEED OF TRUST

THIS MODIFICATION AGREEMENT is effective this 1st day of June, 2008, by and between COLLEGE WAY RETAIL, LLC, a Washington limited liability company (hereinafter referred to as "Borrower"), and INTERVEST-MORTGAGE INVESTMENT COMPANY (hereinafter referred to as "Lender").

RECITALS

1. On or about May 3, 2006, Borrower made, executed and delivered to Lender its Promissory Note (hereinafter "Note"), in writing, in the original principal amount of \$2,950,000.00, together with interest thereon at the rate equal to the one month LIBOR Rate (London Interbank Offer Rate) as published in the *Wall Street Journal*, plus 2.00%. The interest rate on all sums advanced shall be adjusted on the first day of the month following the date said rate is changed to equal the then present published one month LIBOR Rate plus 2.00%. Provided however that the interest rate shall never be less than 7.0587% per annum. The Note also allows Borrower to elect an interest calculation based on the Prime Rate as published in the Money Rates section of the *Wall Street Journal*. The Note provides for maturity on June 1, 2008.

2. At the same time as the execution and delivery of the Note, and in order to secure repayment of the same, Borrower executed, in favor of Lender, a Deed of Trust, Assignment of Rents and Security Agreement (hereinafter "Deed of Trust"), encumbering certain real property located in Skagit County, Washington (the "property"), and legally described in Exhibit "A" attached hereto. The Deed of Trust was thereafter recorded on May 4, 2006 under Auditor's File No. 200605040053, records of Skagit County, Washington.

3. At the same time as the execution and delivery of the Note and Deed of Trust, and in order to further secure repayment of the obligation of the Note, Borrower executed and delivered to Lender an Assignment of Leases and Cash Collateral (hereinafter "Assignment"), wherein Borrower assigned to Lender all of its rights under the leases, rents and income of the property. The Assignment was recorded on May 4, 2006 under Auditor's File No. 200605040054, records of Skagit County, Washington.

4. At the same time as the execution and delivery of the Note and Deed of Trust, Borrower executed and delivered to Lender (i) its Certificate and Indemnity Regarding Hazardous Substances, which warrants to Lender that the Property has been and will continue to be used in conformity and in compliance with all local, state and federal ordinances, statutes, rules and regulations relating to the use, disposal, storage or transfer of hazardous substances, and agrees to indemnify and hold Lender harmless from any loss or damage caused by a breach of said warranties, and (ii) its Building Laws Indemnity, which warrants to Lender that the Property has been and will continue to be used in conformity and in compliance with all local, state and federal ordinances, statutes, rules and regulations relating to the development, use and operation of the Property, including the Americans With Disabilities Act, and agrees to indemnify and hold Lender harmless from any loss or damage caused by a breach of said warranties (hereinafter collectively referred to as the "Indemnity").

5. At the same time as the execution and delivery of the Note and Deed of Trust, and in order to further secure repayment of the obligation of the Note, John C. Graham and Lisa Graham ("Guarantors"), and each of them, guaranteed repayment of Borrower's indebtedness to Lender in their written Guaranty. Said Guaranty is unconditional and shall remain in full force and effect as to the indebtedness of said Borrower under the Note and Deed of Trust, as modified herein. Guarantors do hereby reaffirm and ratify their previous Guaranty.

6. At the same time as the execution and delivery of the Note and Deed of Trust, Borrower and Lender entered into a written Construction Loan Agreement (hereinafter "Loan Agreement") which sets forth the terms and conditions on which Lender will advance funds to Borrower for construction of improvements on the property. As of June 1, 2008, construction is substantially complete and Lender has advanced \$2,413,840.23 to Borrower pursuant to the Loan Agreement.

7. Borrower is desirous of extending the maturity of the Note. Lender is willing to extend the maturity of the Note upon the other terms and conditions set forth herein.

8. The Note, the Deed of Trust, the Assignment, Indemnity, Loan Agreement, Guaranty and this Modification Agreement, and any other document executed in connection therewith or referred to therein, may hereinafter be referred to as the "Loan Documents."

AGREEMENT

NOW, THEREFORE, in consideration of their mutual benefits contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower and Lender hereby agree that the Note and Deed of Trust are modified as follows:



A. The maturity of the Note is hereby extended from June 1, 2008 to December 1, 2008. Borrower promises and agrees to pay principal and interest under the Note, as modified herein (a copy of the Modified Promissory Note is attached hereto as Exhibit "B" and by this reference made a part hereof), to Intervest-Mortgage Investment Company, 5005 S.W. Meadows Road, Suite 400, Lake Oswego, Oregon 97035, or at such other place as Lender may direct, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of private and public debts.

B. In consideration of Lender entering into this Modification Agreement, Borrower agrees to pay Lender a nonrefundable loan fee in the amount of Seven Thousand Three Hundred Seventy-Five Dollars (\$7,375.00), the receipt of which is hereby acknowledged. Borrower also agrees to pay the sum of One Thousand Two Hundred Fifty Dollars (\$1,250.00) as and for legal fees incurred in the preparation of this loan documentation, together with the cost of a modification endorsement to Lender's title policy, together with all costs of recording this Agreement with the Office of the Skagit County Auditor.

C. The Deed of Trust includes a security agreement wherein Borrower granted to Lender a security interest in Borrower's personal property. As to all of the personal property which is or which hereafter becomes a "fixture" under applicable law, this Agreement constitutes a fixture filing under the Washington Uniform Commercial Code, as amended or recodified from time to time. Borrower hereby authorizes Lender to file a financing statement, with or without Borrower's signature, to perfect Lender's lien and security interest in the Personal Property and Improvements as described in the Loan Documents (including any required continuation statements, amendment statements or other such documents necessary to perfect and continue the lien) and Borrower hereby expressly ratifies any financing statements Lender may have filed prior to the date of this Modification Agreement.

D. In the event Borrower shall, at any time be or have been in default hereunder or under the Loan Documents, Lender shall have the right, at Borrower's sole expense, to enter upon the property, either by itself or through its agent, for the purpose of conducting an MAI appraisal of the property. The cost of the appraisal shall be payable by Borrower to Lender on demand, and shall bear interest at the Note rate, as modified. It is expressly agreed and understood by Borrower that the occurrence of such a default shall be deemed to increase Lender's risk hereunder, thereby creating a need for Lender to have the information contained in an MAI appraisal of the property.

E. It is agreed and understood that all of the agreements, covenants and conditions of the Loan Documents shall remain in full force and effect, except for the amendments and modifications expressly mentioned herein.

F. Nothing herein contained shall in any manner affect the validity or priority of the lien established by the Deed of Trust encumbering the property referred to in Paragraph 2 above.

G. The recitals set forth in Paragraphs 1 through 8 above are incorporated into the substantive provisions of this Agreement.

H. BORROWER ACKNOWLEDGES THAT ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.



BORROWER:

COLLEGE WAY RETAIL, LLC,
a Washington limited liability company

By *[Signature]*
John C. Graham, Manager

GUARANTORS:

[Signature]
JOHN C. GRAHAM
[Signature]
LISA GRAHAM

LENDER:

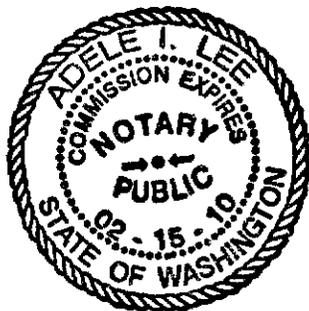
INTERVEST-MORTGAGE INVESTMENT
COMPANY

By *[Signature]*
Its Senior Vice President

State of Washington)
County of King)ss.

I certify that I know or have satisfactory evidence that John C. Graham is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as Manager of College Way Retail, LLC, to be the free and voluntary act of such party, for the uses and purposes mentioned in the instrument.

DATED: June 11, 2008.



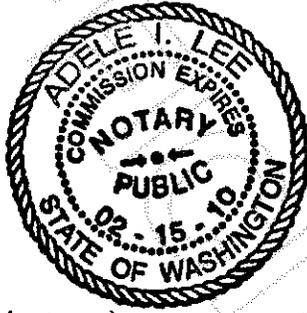
Adele I. Lee
Print Name: Adele I. Lee
Notary Public in and for the State
of Washington, residing at Lynnwood
My appointment expires: 2-15-2010



State of Washington }
County of King } ss.

I certify that I know or have satisfactory evidence John C. Graham is the person who appeared before me, and said person signed this instrument and acknowledged it to be his free and voluntary act, for the uses and purposes mentioned in the instrument.

DATED: June 11, 2008.



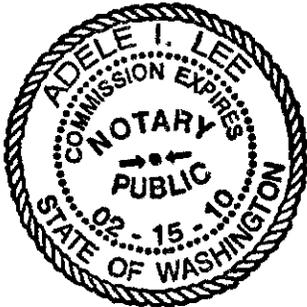
Adele I. Lee

Print Name: Adele I. Lee
Notary Public in and for the State
Of Washington, residing at Lynnwood
My appointment expires: 2-15-2010

State of Washington }
County of King } ss.

I certify that I know or have satisfactory evidence Lisa Graham is the person who appeared before me, and said person signed this instrument and acknowledged it to be her free and voluntary act, for the uses and purposes mentioned in the instrument.

DATED: June 11, 2008.



Adele I. Lee

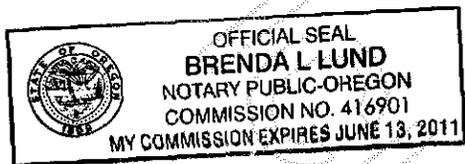
Print Name: Adele I. Lee
Notary Public in and for the State
Of Washington, residing at Lynnwood
My appointment expires: 2-15-2010



State of Oregon }
County of Clackamas } ss.

I certify that I know or have satisfactory evidence that JOANNE ECONOMAKI personally appeared before me, and on oath stated that she was authorized to execute the instrument and acknowledged it, as SR VICE PRESIDENT of INTERVEST-MORTGAGE INVESTMENT COMPANY, to be the free and voluntary act of such person, for the uses and purposes mentioned in the instrument.

DATED: JUNE 13, 2008.



Brenda L Lund
Print Name: BRENDA L. LUND
NOTARY PUBLIC in and for the State
of Oregon, residing at WILSONVILLE
My appointment expires: 06/13/11



EXHIBIT "A"

That portion of the Northwest Quarter of the Southwest Quarter of Section 17, Township 34 North, Range 4 East of the Willamette Meridian, described as follows:

Beginning at a point where the South right-of-way line of the Furber Road No. 208, now known as State Route 538, as said road existed on August 25, 1921, intersects the West right-of-way line of the Great Northern Railway Company, the said point being 30 feet South and 1,158.95 feet East along the East and West center line from the West Quarter corner of Section 17, Township 34 North, Range 4 East of the Willamette Meridian;

thence South $58^{\circ}41'$ West along the West line of the right-of-way of the Great Northern Railway Company a distance of 759.6 feet, more or less, to the North line of the South Half of the Northwest Quarter of the Southwest Quarter of said Section 17;

thence West along said North line a distance of 63.5 feet, more or less, to the East line of the right-of-way of the Pacific Northwest Traction Co.;

thence North along the East line of the right-of-way of the Pacific Northwest Traction Co. a distance of 654.4 feet, more or less, to the South line of the right-of-way of said Furber Road No. 208;

thence East along the South line of said right-of-way of said Furber Road No. 208 a distance of 368.61 feet to the point of beginning;

Except that portion conveyed to the State of Washington for highway purposes by deed recorded July 30, 1951, under Auditor's File No. 463811, records of Skagit County, Washington;

Also except all portion of said premises lying Northerly of a line drawn parallel with and 40 feet Southerly of, when measured at right angles to, the SR 538 survey line of SR 538, Jct. SR 5 to Laventure Road, as conveyed by right-of-way deed recorded on September 13, 1991, under Auditor's File No. 9109130066, records of Skagit County, Washington;

Situated in Skagit County, Washington.



EXHIBIT "B"

**MODIFIED
PROMISSORY NOTE**

\$2,950,000.00

Mount Vernon, Washington
June 1, 2008

The undersigned, jointly and severally ("Maker"), for value received, promises to pay to the order of INTERVEST-MORTGAGE INVESTMENT COMPANY ("Lender") the principal sum of Two Million Nine Hundred Fifty Thousand Dollars (\$2,950,000.00), and to pay interest on the unpaid principal thereof from the date of disbursement of principal at the rates hereinafter set forth, together with all costs and fees, including attorneys' fees, incurred by Lender in enforcing the obligations of this Note. The principal hereof and interest and premium, if any, hereon are payable to Lender at 5005 S.W. Meadows Road, Suite 400, Lake Oswego, Oregon 97035, or such other place as Lender may direct, in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Principal and interest shall be payable as follows:

a. Each loan advance shall bear interest from the date of such advance. Maker may elect interest calculated from the following two options (currently the LIBOR Rate is in effect):

(1) The annual rate of interest shall be equal to two percent (2.00%) in excess of the one month LIBOR Rate (London Interbank Offer Rate) as published in the *Wall Street Journal*. The interest rate on all sums advanced shall be adjusted on the first day of each month, to equal the then present published one month LIBOR Rate plus two percent (2.00%). Provided however, the interest rate hereon shall never be less than 7.0587% per annum. LIBOR Rate is based on the British Banker's Association average of interbank offered rates for dollar deposits in the London market based on quotations at 16 major banks. If the one month LIBOR Rate ceases to be published or announced, Lender will set the interest rate by using a comparable index or reference rate. Reference rate, as used herein, or any prime rate used as a substitute therefor, is only a standard or index for measuring rates. It is not itself necessarily a rate commonly charged to any class of borrowers, nor is it necessarily the lowest or best rate offered by Lender.

(2) The annual rate of interest shall be equal to the Prime Rate as published in the Money Rates section of the *Wall Street Journal*. The interest rate on all sums advanced shall be adjusted on the first day of each month, to equal the then present published Prime Rate. Provided however, the interest rate hereon shall never be less than 7.0587% per annum. Prime Rate is published in the Money Rates section of the *Wall Street Journal* and is based on the base rate on corporate loans posted by at least 75% of the nation's 30 largest banks. If the Prime Rate ceases to be published or announced, Lender will set the interest rate by using a comparable index or reference rate. Prime rate, as used herein, or any reference rate used as a substitute therefor, is only a standard or index for measuring rates. It is not itself necessarily a rate commonly charged to any class of borrowers, nor is it necessarily the lowest or best rate offered by Lender.



Accrued interest shall be paid monthly on the first day of each month on the outstanding balance. So long as Maker is not then in default under any of the provisions of any of the Loan Documents referred to herein, or with respect to any payment provided for herein, Maker may elect to change the interest rate from one of the above options to the other. Maker shall give Lender written notice of Maker's election to change the rate at least ten (10) days prior to the end of a month, with the new rate becoming effective on the first day of the following month.

b. The entire principal and any accrued interest on this Note shall be paid in full on or before December 1, 2008; provided, however, that so long as Maker is not then in default, nor has been in default, under any of the provisions of any of the Loan Documents referred to herein, or with respect to any payment provided for herein, Maker may elect to extend the maturity date of this Note to June 1, 2009, upon (i) giving Lender notice in writing of its intention to extend the maturity date at least thirty (30) days prior to the maturity date of this Note, (ii) providing evidence satisfactory to Lender that Maker has leased at least an additional 2869 square feet of the project to tenant(s) and on terms acceptable to Lender, and (iii) paying Lender the sum of Seven Thousand Three Hundred Seventy-Five Dollars (\$7,375.00) at least thirty (30) days prior to the maturity date, in consideration for the extension period. In the event that Maker elects to extend the maturity date subject to the requirements of this paragraph, all terms and conditions of this Note and the Loan Documents referred to herein shall remain in full force and effect.

Maker shall have the right, at any time, to prepay the whole or any part hereof without penalty. Any partial prepayment shall be applied against the principal amount outstanding and shall not postpone the due date of any subsequent installments or change the amount of such installments, unless Lender shall otherwise agree in writing.

Following default in the payment of any installment of interest when due hereunder, or default under any of the covenants or conditions of the Deed of Trust which secures this Note or any other document executed in connection with or to secure this Note (the "Loan Documents") and expiration of the applicable cure period, Lender may elect to (i) declare the whole amount then unpaid due and collectible, whether due by lapse of time or not, and/or (ii) declare an increase in the rate of interest so that this Note shall thereafter bear interest at the rate contained herein, plus three percent (3.00%) per annum, initially determined on the date of default and adjusted as any variable rate changes. Lender may exercise either or both of the foregoing remedies, and failure to exercise either of these options shall not constitute a waiver of the right to exercise the same at any other time.

In the event that any payment or portion thereof is not paid within fifteen (15) days after the date it is due, Lender may collect, and Maker agrees to pay with such payment, a "late charge" of Four Cents (\$0.04) for each dollar so over due as liquidated damages for the additional expense of handling such delinquent payments. Such late charge represents the reasonable estimate by the parties of a fair average compensation due to the failure of Maker to make timely payments. Such late charge shall be paid without prejudice to the rights of the Lender to collect any other amounts provided to be paid or to declare a default hereunder, under the Deed of Trust or under the Loan Documents.

In the event that Lender consults an attorney in connection with the default by Maker regarding the enforcement of any of Lender's rights under this Note or the Loan Documents, or if this Note is placed in the hands of an attorney for collection or if suit be brought to enforce this Note or the Loan Documents, Maker promises to pay all costs thereof, including attorneys' fees.



Said costs and attorneys' fees shall include, without limitation, costs and attorneys' fees incurred in any appeal or in any proceedings under the Bankruptcy Act or state receivership statutes. Maker and any endorsers severally waive presentment, protest and demand, notice of protest, demand of dishonor, and payment of this Note, and expressly agrees that this Note, or any payment hereunder, may be extended from time to time without in any way affecting the liability of Maker and any endorsers hereof.

This Note is issued under the provisions of a Construction Loan Agreement dated May 3, 2006 between Maker and Lender. This Note is secured by a Deed of Trust, Assignment of Rents and Security Agreement ("Deed of Trust") on real and personal property situated in Skagit County, Washington, dated May 3, 2006, and an Assignment of Leases and Cash Collateral ("Assignment") dated May 3, 2006, to which reference is hereby made for a description of the nature and extent of the security provided thereby and the rights and limitations of rights of Lender and Maker in respect of such security.

Maker acknowledges that the Deed of Trust contains certain provisions restricting the conveyance, transfer or further encumbrance of the property encumbered by the Deed of Trust without the prior written consent of Lender.

Maker particularly waives the right to demand any marshalling of assets as a condition to or in connection with the bringing of action hereon against it. Lender may accept additional or substitute security, or may release in whole or in part the security described in the Loan Documents now or hereafter securing the Note without in any way affecting or impairing the indebtedness evidenced hereby or the liability of Maker and any endorsers, guarantors or sureties hereof.

This Note is to be governed by and construed in accordance with the laws of the State of Washington. At the option of Lender, the venue of any action hereon may be laid in Skagit County, Washington, or in any county wherein is situate property subject to the Deed of Trust or the Loan Documents. In the event of any action hereon or for the enforcement hereof or in the event of the referring of this Note for collection, the Maker promises to pay all costs pertaining to the security therefor and all sums required to be paid under any of the Loan Documents.

This Note is given for an actual loan of the above amount and is secured by a Deed of Trust dated May 3, 2006, as modified by a modification agreement of even date herewith, which is a lien upon the property therein described. This Note supercedes and replaces the note dated May 3, 2006 executed by Maker.

EACH AND EVERY MAKER HEREOF AGREES THAT IT HAS RECEIVED VALUABLE CONSIDERATION HEREUNDER, THAT IT SIGNS THIS NOTE AS MAKER AND NOT AS A SURETY, AND THAT ANY AND ALL SURETYSHIP DEFENSES ARE HEREBY WAIVED.

MAKER ACKNOWLEDGES THAT ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.



COLLEGE WAY RETAIL, LLC,
a Washington limited liability company

EXHIBIT B – DO NOT SIGN

By _____
John C. Graham, Manager

UNOFFICIAL DOCUMENT

