

185188

08-36-126-006-0000

13677055

5/28/2021 11:18:00 AM \$40.00

Book - 11182 Pg - 2490-2500

RASHELLE HOBBS

Recorder, Salt Lake County, UT

MOUNTAIN VIEW TITLE & ESCROW

BY: eCASH, DEPUTY - EF 11 P.

LOAN MODIFICATION AGREEMENT

BY AND BETWEEN

BOSTON MILLS HOLDINGS, LLC,

AS BORROWER

AND

KEYBANK NATIONAL ASSOCIATION,

AS LENDER

DATED AS OF: MARCH 31, 2021

PREPARED BY AND UPON RECORDATION RETURN TO:

Phillips Lytle LLP
28 East Main Street, Suite 1400
Rochester, New York 14614
Attention: Raymond L. Ruff, Esq.

LOAN MODIFICATION AGREEMENT

* * * * *

THIS LOAN MODIFICATION AGREEMENT (the "Agreement"), made this 31st day of March, 2021 between **BOSTON MILLS HOLDINGS, LLC**, a Utah limited liability company with offices at 751 West 800 South, Salt Lake City, Utah 84104 (the "Borrower"), and **KEYBANK NATIONAL ASSOCIATION**, a national banking association with an address of Attn: KCB NOORE Servicing, 11501 Outlook Street, Suite 300, Overland Park, Kansas 66211 (the "Lender").

WITNESSETH:

WHEREAS, Lender granted to Borrower a Loan in the original amount of \$1,200,000.00 (the "Loan") as evidenced by that certain Note in the initial principal amount of \$1,200,000.00 dated October 1, 2015 (the "Note"); and

WHEREAS, the Loan is further secured, in part, by a deed of trust dated October 1, 2015 and recorded in the Salt Lake City County Clerk's Office on October 6, 2015 in Book 10368, at page 2103, which mortgage is currently held by the Lender (the "Mortgage"), and which Mortgage encumbers certain real property currently known as 631 North 400 West, Salt Lake City, Utah 84103 (the "Premises"); and

WHEREAS, the Loan is further secured, in part, by an assignment of rents dated October 1, 2015 and recorded in the Salt Lake City County Clerk's Office, which assignment is currently held by the Lender (the "AOR"), and which AOR encumbers the Premises; and

WHEREAS, on or before the date hereof, the outstanding indebtedness under the Loan has been paid down to a principal balance of \$958,175.00

WHEREAS, the Loan is further supported by a guaranty of payment of the Borrower's obligation executed by Logan Woolley (the "Guarantor"), dated October 1, 2015 (the "Guaranty"); and

WHEREAS, the Note, the Security Agreement, the Mortgage, the AOR, the Guaranty and all of the Loan Documents executed in connection therewith on October 1, 2015 shall be defined herein as the "Loan Documents"; and

WHEREAS, contemporaneously with the execution of this Agreement, Borrower will be executing and delivering to Lender an amended and restated note (the "New Note") to further amend the terms of the Note; and

WHEREAS, the Borrower and the Lender have agreed to modify certain provisions of the Loan Documents evidencing the Loan all according to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of One and More Dollars (\$1.00+) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Any and all references in the Loan Documents to the Loan amount from Lender to Borrower being in the amount of \$1,200,000.00 shall be hereby amended to instead state the Loan amount shall be \$958,175.00.

2. Borrower and Lender hereby agree to extend the maturity date and modify and reaffirm the payment terms of the Note as follows:

- a. All references to the final payment due date in the Note are hereby replaced and extended to **April 1, 2024** (the "Maturity Date").
- b. From and after the date of this Agreement through and including March 1, 2024, Borrower agrees to pay to Lender principal and interest in accordance with the terms of this Agreement and the New Note.
- c. Borrower agrees to pay Lender interest, calculated on the basis of a 360-day year for the actual number of days of each year (365 or 366, as applicable), on the outstanding principal sum from and including March 1, 2021 to, but not including, the date such outstanding principal sum is paid in full at a fixed interest rate equal to:
 - i. provided no Event of Default (as defined in the Loan Documents) has occurred and continues to exist, on each day through, but not including, the Maturity Date, a fixed rate of interest equal to 5.00% per annum (the "Fixed Rate");
 - ii. on each day on or after the Maturity Date or upon the occurrence and during the continuance of an Event of Default, an interest rate equal to 5.00% above the Fixed Rate.
- d. Commencing **May 1, 2021**, and continuing on the first day of each consecutive month, through and including **March 1, 2024**, Borrower shall make equal monthly payments to Lender of principal and interest in the amount of **\$6,360.35** each, based on a three hundred (300) month amortization period with the balance, plus all accrued and unpaid interest and fees due in a lump sum balloon payment on the Maturity Date, unless accelerated sooner as a result of an Event of Default.
- e. The provision titled "Additional Covenants and Conditions" in the Business Loan Agreement which requires the Borrower to attain a ratio of Operating Cash Flow to Fixed Charges of not less than 1.20 to 1.00 at the end of each fiscal year, is hereby deleted in its entirety.
- f. The provision titled "Prepayment" in the Note is hereby amended to provide that any prepayments of the Loan will be subject to a prepayment premium as follows:
 - i. This Note may be prepaid in whole or in part during the term of the Loan at any time or upon acceleration after the occurrence of an Event of Default hereunder, subject to and together with payment of a prepayment premium; provided, however, no such prepayment premium shall apply if the source of the prepayment of the Loan is loan proceeds provided by Lender or an affiliate of Lender. Prepayment premiums during the Loan term shall be based on the following percentage of the sum prepaid. For purposes of this Section, Loan Year One shall be deemed to mean the first twelve (12) full calendar months following the date hereof.

➤ Loan Term:

- a. Loan Year One: 3% of the amount of prepaid
- b. Loan Year Two: 2% of the amount of prepaid
- c. Loan Year Three: 1% of the amount of prepaid

3. The Borrower agrees to pay the Note in accordance with its terms, as modified herein, and Borrower and Guarantors acknowledge, covenant, warrant, represent and agree that:

- a. The Note as amended hereby, is a valid and binding obligation of Borrower, and Borrower currently owes to Lender the approximate principal sum of Nine Hundred Fifty-Eight Thousand One Hundred Seventy-Five and 00/100 Dollars (\$958,175.00) plus interest under the Note;
- b. No material adverse change has occurred in its financial status or that of the Guarantor since October 1, 2015;
- c. There are no judgments against the Borrower or Guarantor in any courts of the United States and there is no litigation, active, pending or threatened, against the Borrower or Guarantor which might adversely affect the Borrower's or Guarantor's ability to pay when due any amounts which may become payable in respect of the Loan;
- d. No default, nor event which with notice and/or passage of time would constitute a default, has occurred and is continuing under the Note, Mortgage or any of the Loan Documents;
- e. There are no offsets, defenses or counterclaims to the Borrower's or Guarantor's obligations under the Loan and the Loan Documents; and
- f. The Borrower has not entered into any agreements with creditors that expressly or otherwise prohibit the Borrower from entering into any extension or modification of the Loan or any Loan Document in connection therewith.

4. The Borrower and Guarantor shall comply with the Financial Reporting Requirements set forth on Exhibit A.

5. The Borrower acknowledges and confirms that the Lender has incurred legal fees in connection with the modification of the Loan, including, but not limited to, attorneys' fees, which Borrower hereby agrees to pay. The Borrower acknowledges and agrees to pay Lender an extension fee of \$2,400.00 and Lender's attorneys' fees of \$2,655.00.

6. The Borrower's obligations under this Agreement, the Note, the Security Agreement, the Mortgage and the other Loan Documents are absolute and unconditional and are valid irrespective of any other agreement or circumstance which might otherwise constitute a defense to the obligations under this Agreement, the Note, the Security Agreement, the Mortgage or the other Loan Documents or to the obligations of others related to it. This Agreement sets forth the entire understanding of the parties with respect to all modifications of the Loan which have occurred since October 1, 2015.

7. Except as specifically amended herein, all of the terms, covenants, conditions and stipulations contained in the Note and all of the other Loan Documents are hereby ratified and confirmed

in all respects, shall continue to apply with full force and effect; provided, however, that the terms of the Note remain unaffected with respect to the payments that were made or were to have been made thereunder to the date hereof.

8. The Borrower warrants and represents that its ownership and management has not changed since October 1, 2015, and that Logan Woolley is duly authorized to, and has the power and authority to sign documents on behalf of the Borrower and to legally bind the Borrower.

9. Any notice, demand, request, or other communication that any party hereto may be required or may desire to give hereunder shall be in writing and shall be deemed properly given (a) if hand delivered, when delivered; (b) if mailed by United States Certified Mail (postage prepaid, return receipt requested), three Business Days after mailing; (c) if by Federal Express or other nationally recognized overnight courier service, on the next Business Day after delivered to such courier service for delivery on the next Business Day; or (d) if by e-mail transmission, on the day of transmission so long as a copy is sent on the same day by Federal Express or other nationally recognized overnight courier, to the addresses set forth below, or at such other address as the party to be served with notice has furnished in writing to the party seeking or desiring to serve notice as a place for the service of notice:

If to Borrower:

BOSTON MILLS HOLDINGS, LLC
751 West 800 South
Salt Lake City, Utah 84104
Attention: Logan Woolley

If to Lender:

KeyBank National Association
Attn: KCB NOORE Servicing
11501 Outlook Street, Suite 300
Overland Park, KS 66211
Reference: BOSTON MILLS HOLDINGS, LLC

10. Neither this Agreement nor any other Loan Document nor any provision hereof or thereof may be modified, amended, changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

11. This Agreement may be executed in one or more counterparts each of which shall be an original but all of which when taken together shall constitute one and the same instrument. The failure of any party listed below to execute, acknowledge or join in this Agreement, or any counterpart hereof, shall not relieve the other signatories from the obligations hereunder.

12. This Agreement is and shall be deemed to be a contract entered into pursuant to the laws of the State of Utah and shall in all respects be governed, construed, applied and enforced in accordance with the laws of the State of Utah.

13. The Borrower agrees to submit to personal jurisdiction in the State of Utah in any action or proceeding arising out of this Agreement. In furtherance of such agreement, the Borrower hereby agrees and consents that without limiting other methods of obtaining jurisdiction, personal jurisdiction over the Borrower in any such action or proceeding may be obtained within or without the jurisdiction of any court

located in Salt Lake City County and that any process or notice of motion or other application to any such court in connection with any such action or proceeding may be served upon the Borrower by registered or certified mail to, or by personal service at, the last known address of the Borrower, whether such address be within or without the jurisdiction of any such court. The Borrower hereby agrees that the venue of any litigation arising in connection with the indebtedness, or in respect of any of the obligations of the Borrower under this Agreement, shall, to the extent permitted by law, be in Salt Lake City County.

14. This Agreement is binding upon, and shall inure to the benefit of, the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.

15. Nothing in this Agreement, or any Loan Document is intended to or shall be deemed to create any rights or obligations of partnership, joint venture, or similar association among the parties hereto.

16. If any term, covenant, provision or condition of this Agreement, the Note, the Security Agreement, the Mortgage or any of the other Loan Documents shall be held to be invalid, illegal or unenforceable in any respect, this Agreement shall be construed without such term, covenant, provision or condition.

17. **The parties hereto hereby irrevocably and unconditionally waive any and all rights to trial by jury in any action, suit or counterclaim arising in connection with, out of or otherwise related to this Agreement, the Note and every other Loan Document heretofore, now or hereafter executed and/or delivered in connection therewith, the Loan and all other obligations of the Borrower related thereto or in any way related to this transaction or otherwise with respect to the Loan.**

[SIGNATURE PAGE FOLLOWS]

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

BORROWER:

BOSTON MILLS HOLDINGS, LLC

By: [Signature]

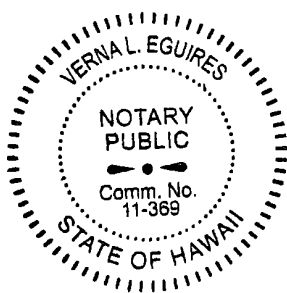
Name: Logan Woolley

Title: Member

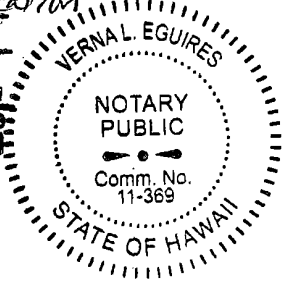
STATE OF HAWAII
COUNTY OF Honolulu ss.:

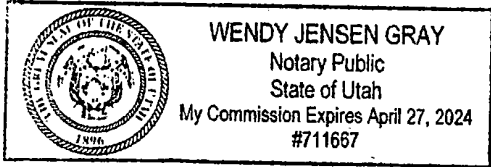
On this 14 day of April, 2021, before me personally appeared Logan Woolley, to me personally known or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, who being by me duly sworn, did say that he is a Member of Boston Mills Holdings, LLC, and the instrument was signed and sealed on behalf of the company by authority of its members, and Logan Woolley acknowledged the instrument to be the free act and deed of the company.

[Signature]
Notary Public Verna L. Eguires



Document Date: 4/14/2021 # of Pages: 7
Notary Name: Verna L. Eguires First Circuit
Doc. Description: Loan Modification Agreement for Logan Woolley
[Signature] 4/14/2021
Notary Signature Date
NOTARY CERTIFICATION





LENDER:

KEYBANK NATIONAL ASSOCIATION

By: [Signature]

Name: Jason Stoddard

Title: Regional Executive, KEY PRIVATE BANK

STATE OF UTAH)
COUNTY OF Salt Lake)

ss.:

On the 19 day of May, in the year 2021, before me, the undersigned, a Notary Public in and for said State, personally appeared Jason Stoddard, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

[Signature]
Notary Public

EXHIBIT "A"**Financial Reporting**

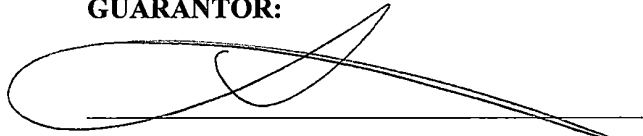
Individual or Entity Required to Provide Information	Information to Be Provided	Frequency
Boston Mills Holdings, LLC	Signed federal tax returns together with all schedules prepared by a professional accountant satisfactory to Lender	Annually, no later than 30 days after the applicable filing date (including any extensions)
Logan Woolley	Personal financial statements prepared by the Borrower	Annually, within 120 calendar days after the end of each fiscal year
Logan Woolley	Signed federal tax returns together with all schedules prepared by a professional accountant satisfactory to Lender	Annually, no later than 30 days after the applicable filing date (including any extensions)
Boston Mills Holdings, LLC	Rent roll for the Project	Annually, within 120 days after each fiscal year end

CONSENT AND REAFFIRMATION OF GUARANTY AGREEMENT

By signing below, the undersigned intending to be legally bound, hereby acknowledges and agrees that (i) he consents to the foregoing Loan Modification Agreement between Borrower and Lender, (ii) the Guaranty Agreement of the loan secured by the Note and any related agreement from the undersigned to Lender remains in full force and effect and is unaffected by the foregoing Loan Modification Agreement, (iii) Guarantor is bound as if he were a party to the Loan Modification Agreement, and (iv) the undersigned Guarantor hereby reaffirms and restates his continuing, absolute, irrevocable, and unconditional guaranty of the obligations and indebtedness of Borrower to Lender whether now existing or hereafter arising, including, but not limited to, those obligations and indebtedness evidenced by the foregoing Loan Modification Agreement.

[SIGNATURE PAGE FOLLOWS]

GUARANTOR:



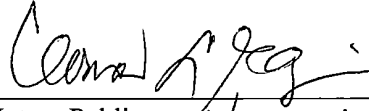
Logan Woolley

STATE OF HAWAII
COUNTY OF Honolulu



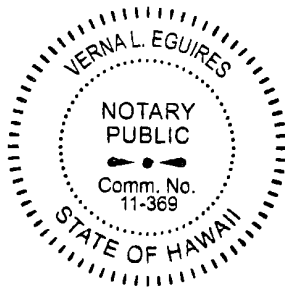
ss.:

On this 14 day of ^{April} ~~March~~, 2021, before me personally appeared Logan Woolley, to me known or proved to me on the basis of satisfactory evidence, to be the individual described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.



Notary Public

Verna L. Eguires



Document Date: 4/14/2021 # of Pages: 2

Notary Name: Verna L. Eguires First Circuit

Doc. Description: Consent and
reaffirmation of Guaranty
agreement for Logan Woolley
(Verna L. Eguires) 4/14/2021

Notary Signature _____ Date _____

NOTARY CERTIFICATION

