



Doc#: 0334602108
Eugene "Gene" Moore Fee: \$82.00
Cook County Recorder of Deeds
Date: 12/12/2003 10:07 AM Pg: 1 of 11

This Document Prepared by
and after Recording Return to:

Sidley Austin Brown & Wood LLP
Bank One Plaza
10 S. Dearborn Street
Chicago, Illinois 60603
Attn: Andrew P. Massmann

This space reserved for recording.

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENMENT AGREEMENT

8151962 02-166
11/14/03
Gateway Palatine
THIS AGREEMENT is made as of the 31st day of Oct, 2003, but effective as of the 24th day of Nov, 2003, by and between **CAPITOL CONSTRUCTION SERVICES, L.P.**, a Delaware limited partnership ("**Tenant**"), ~~PALATINE GATEWAY LLC~~, a(n) Delaware limited liability company ("**Landlord**"), and **LASALLE BANK NATIONAL ASSOCIATION**, a national banking association, its successors and assigns ("**Mortgagee**").

RECITALS:

A. Mortgagee is the holder of a certain Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated as of Nov 24, 2003 (as amended from time to time "Mortgage") encumbering the Real Estate (hereinafter defined) and securing a principal indebtedness in an amount equal to Ten Million Three Hundred Seventy-Five Thousand and No/100ths Dollars (\$10,375,000.00).

B. Tenant has entered into a lease agreement (such lease agreement hereinafter being referred to as "Lease Agreement," and the Lease Agreement, together with all amendments and modifications thereof, hereinafter being referred to as "Lease") dated as of November 19, 2002 with Landlord (or Landlord's predecessor-in-interest), pursuant to which Tenant leased certain premises ("Leased Premises") consisting of approximately 11,980 rentable square feet of space in the building ("Building") on the parcel of land ("Land") legally described in Exhibit A attached hereto (the Land and Building herein being collectively referred to as "Real Estate"), all as more specifically set forth in the Lease.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby covenant and agree as follows:

BOX 333-CT

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1. Tenant represents and warrants to Mortgagee that the Lease constitutes the entire agreement between Tenant and Landlord with respect to the Leased Premises and there are no other agreements, written or verbal, governing the tenancy of Tenant with respect to the Leased Premises. Mortgagee shall not be bound by any amendment or modification of the Lease made without the written consent of Mortgagee, which consent shall not be unreasonably withheld.
2. Mortgagee hereby consents to and approves the Lease.
3. Tenant has executed and delivered to Mortgagee a certain Tenant Estoppel Certificate (the "Estoppel Certificate") dated on or about the date hereof. The provisions of the Estoppel Certificate are hereby incorporated into this Agreement as if fully set forth in this Agreement in their entirety, and Tenant acknowledges that Mortgagee will be relying on the statements made in the Estoppel Certificate in determining whether to disburse the proceeds of the loan secured by the Mortgage and whether to enter into this Agreement.
4. Tenant shall (a) provide Mortgagee with written notice of any Landlord's default under the Lease ("Landlord's Default") specifying the nature thereof, and (b) allow Mortgagee the same period of time provided Landlord under the Lease within which to cure such Landlord's Default. Tenant shall not exercise any right to terminate the Lease as a result of any Landlord's Default unless Mortgagee fails to cure same within the time period specified above.
5. Tenant and Landlord covenant with Mortgagee that the Lease is and shall continue to be subject and subordinate in all respects to the lien of the Mortgage and to any renewals, modifications, consolidations, replacements and extensions thereof and to all advancements made thereunder, to the full extent of all principal, interest and all other amounts now or hereafter secured thereby and with the same force and effect as if the Mortgage had been executed and delivered prior to the execution and delivery of the Lease.
6. Tenant acknowledges that Landlord has collaterally assigned to Mortgagee all leases affecting the Real Estate, including the Lease, and the rents and other amounts, including, without limitation, lease termination fees, if any, due and payable under such leases, and Tenant expressly consents to such assignment. In connection therewith, Tenant agrees that, upon receipt of a notice of a default by Landlord under such assignment and a demand by Mortgagee for direct payment to Mortgagee of the rents due under the Lease, Tenant will honor such demand and make all subsequent rent payments directly to Mortgagee. Landlord hereby (a) authorizes Tenant to rely conclusively on such notice and demand by Mortgagee, without inquiry or investigation; (b) directs Tenant to make such payments to Mortgagee; and (c) releases Tenant from any liability for such payments.
7. Mortgagee agrees that so long as Tenant is not in default under the Lease after expiration of applicable notice and cure periods:
 - (a) Tenant shall not be named or joined as a party in any suit, action or proceeding for the foreclosure of the Mortgage or the enforcement of any rights under the Mortgage (unless Tenant is a necessary party under applicable law); and
 - (b) The possession by Tenant of the Leased Premises and Tenant's rights thereto shall not be disturbed, affected or impaired by, nor will the Lease or the term

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thereof be terminated or otherwise materially adversely affected by (i) any suit, action or proceeding for the foreclosure of the Mortgage or the enforcement of any rights under the Mortgage, or by any judicial sale or execution or other sale of the Leased Premises, or any deed given in lieu of foreclosure, or (ii) any default under the Mortgage;

8. If Mortgagee or any future holder of the Mortgage shall become the owner of the Real Estate by reason of foreclosure of the Mortgage, judicial sale or otherwise, or if the Real Estate shall be sold as a result of any action or proceeding to foreclose the Mortgage or transfer of ownership by deed given in lieu of foreclosure, the Lease shall continue in full force and effect, without necessity for executing any new lease, as a direct lease between Tenant and the new owner of the Real Estate (any such new owner hereinafter referred to as "New Owner") as "landlord" upon all the same terms, covenants and provisions contained in the Lease and such New Owner shall be deemed to be Landlord's successor and assignee under the Lease (notwithstanding anything in the Lease prohibiting or restricting assignment by the Landlord or establishing conditions under which an assignment by Landlord would be permitted) and shall be entitled to all rights, benefits and privileges of the Landlord under the Lease (subject to the exclusions set forth in subparagraph (b) below), and in such event:

(a) Tenant shall be bound to such New Owner under all of the terms, covenants and provisions of the Lease for the remainder of the term thereof (including the extension periods, if Tenant elects or has elected to exercise its options to extend the term), and Tenant hereby agrees to attorn to such New Owner and to recognize such New Owner as "landlord" under the Lease without any additional documentation to effect such attornment (provided, however, if applicable law shall require additional documentation at the time Mortgagee exercises its remedies then Tenant shall execute such additional documents evidencing such attornment as may be required by applicable law provided such documents neither increase Tenant's obligations nor limit the rights of Tenant under the Lease);

(b) Such New Owner shall be bound to Tenant under all of the terms, covenants and provisions of the Lease for the remainder of the term thereof (including the extension periods, if Tenant elects or has elected to exercise its options to extend the term); provided, however, that such New Owner shall not be:

(i) liable for any act or omission of any prior landlord (including Landlord) except for any continuing act or omission of which New Owner has notice and fails to cure;

(ii) subject to any claims, offsets or defenses which Tenant has against any prior landlord (including Landlord) except claims, offsets or defenses related to any continuing act or omission of which New Owner has notice and fails to cure;

(iii) bound by any base rent, percentage rent, additional rent or any other amounts payable under the Lease not received by Mortgagee or New Owner which Tenant might have paid more than one month in advance to any prior landlord (including Landlord);

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(iv) bound by any amendment or modification of the Lease made without Mortgagee's consent;

(v) bound by, or liable for any breach by any prior landlord (including Landlord) of, any representation or warranty contained in the Lease or otherwise made by any prior landlord (including Landlord); or

(vi) personally liable or obligated to perform any such term, covenant or provision, such New Owner's liability being limited in all cases to its interest in the Real Estate.

9. Any notices, communications and waivers under this Agreement shall be in writing and shall be (i) delivered in person, (ii) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or (iii) by overnight express carrier, addressed in each case as follows:

To Mortgagee: LaSalle Bank National Association
135 South LaSalle Street
Suite 1225
Chicago, Illinois 60603
Attn: Manager of Real Estate Administration

With a copy to: LaSalle Bank National Association
135 South LaSalle Street
Suite 1225
Chicago, Illinois 60603
Attn: Group Head, Commercial Real Estate

and to: Sidley Austin Brown & Wood LLP
Bank One Plaza
10 S. Dearborn Street
Chicago, Illinois 60603
Attn: Andrew P. Massman

To Tenant: Capitol Construction Services, L.P.
220 N. Smith Street, Suite 210
Palatine, Illinois 60067
Attn: ~~Douglas Mathews~~ David McAllen

With a copy to: Graycor, Inc.
One Graycor Drive
Homewood, Illinois 60430
Attn: Elyse Pearlman

or to any other address as to any of the parties hereto, as such party shall designate in a written notice to the other party hereto. All notices sent pursuant to the terms of this Paragraph shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by overnight,

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express carrier, then on the next federal banking day immediately following the day sent, or (iii) if sent by registered or certified mail, then on the earlier of the third federal banking day following the day sent or when actually received.

10. Mortgagee acknowledges and agrees that all fixtures and equipment whether owned by Tenant or any subtenant or leased by Tenant and installed in or on the Leased Premises, regardless of the manner or mode of attachment, shall be and remain the property of Tenant and may, subject to the provisions of the Lease, be removed by Tenant at any time. In no event (including a default under the Lease or Mortgage) shall Mortgagee have any liens, rights or claims in Tenant's fixtures and equipment, whether or not all or any part thereof shall be deemed fixtures; and Mortgagee expressly waives all rights of levy, distraint or execution with respect to said fixtures and equipment arising out of the Mortgage.

11. In the event of any discrepancy or conflict between the terms and provisions of this Agreement and the terms and provisions of the Lease, the terms and provisions of this Agreement shall govern and control.

12. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their respective successors and assigns and any nominees of Mortgagee, all of whom are entitled to rely upon the provisions hereof. This Agreement shall be governed by the laws of the State of Illinois.

13. This Agreement may be executed in multiple counterparts and all of such counterparts together shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the parties hereto have executed these presents the day and year first above written.

Tenant:

**CAPITOL CONSTRUCTION SERVICES, L.P.,
a Delaware limited partnership**

By: David D. McAllen
Name: David D. McAllen
Title: Vice Chairman

Landlord:

Gateway Palatine
PALATINE GATEWAY LLC,
a(n) Delaware limited liability company
BY: HP GATEWAY CENTER LLC
By: [Signature]
Name: RONALD C. LUNT
Its: Managing Member

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express carrier, then on the next federal banking day immediately following the day sent, or (iii) if sent by registered or certified mail, then on the earlier of the third federal banking day following the day sent or when actually received.

10. Mortgagee acknowledges and agrees that all fixtures and equipment whether owned by Tenant or any subtenant or leased by Tenant and installed in or on the Leased Premises, regardless of the manner or mode of attachment, shall be and remain the property of Tenant and may, subject to the provisions of the Lease, be removed by Tenant at any time. In no event (including a default under the Lease or Mortgage) shall Mortgagee have any liens, rights or claims in Tenant's fixtures and equipment, whether or not all or any part thereof shall be deemed fixtures; and Mortgagee expressly waives all rights of levy, distraint or execution with respect to said fixtures and equipment arising out of the Mortgage.

11. In the event of any discrepancy or conflict between the terms and provisions of this Agreement and the terms and provisions of the Lease, the terms and provisions of this Agreement shall govern and control.

12. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their respective successors and assigns and any nominees of Mortgagee, all of whom are entitled to rely upon the provisions hereof. This Agreement shall be governed by the laws of the State of Illinois.

13. This Agreement may be executed in multiple counterparts and all of such counterparts together shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the parties hereto have executed these presents the day and year first above written.

Tenant:

CAPITOL CONSTRUCTION SERVICES, L.P.,
a Delaware limited partnership

By: David D. McAllen
Name: David D. McAllen
Title: Vice Chairman

Landlord:


GATEWAY PALATINE
PALATINE GATEWAY LLC,
a(n) Delaware limited liability company

By: Donald C. Hunt
Name: Donald C. Hunt
Its: Managing Member

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Mortgagee:

**LASALLE BANK NATIONAL
ASSOCIATION, a national banking association**

By: 
Name: Mark Eisenmann
Title: AVP

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STATE OF Illinois)
) SS.
COUNTY OF Cook)

I, Sandra S. Smalley, a Notary Public in and for said County in the State aforesaid, do hereby certify that David O. McAllen, a Vice Chairman of Capitol Construction Services LP, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such David O. McAllen, appeared before me this day in person and acknowledged that he/she signed and delivered such instrument as his/her own free and voluntary act and as the free and voluntary act of said partnership/corporation, for the uses and purposes set forth therein.

Given under my hand and notarial seal on October 31, 2003.



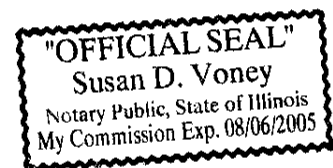
Sandra S. Smalley
Notary Public

STATE OF IL)
) SS.
COUNTY OF DePage)

I, Susan D. Voney, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Ronald C. Hunt, a Manager/Member of H.P. Gateway Center, an LLC, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such member, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said member, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 25 day of November, 2003.

Susan D. Voney
Notary Public

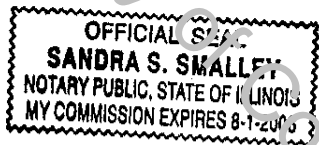


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STATE OF Illinois)
) SS.
COUNTY OF Cook)

I, Sandra Smalley, a Notary Public in and for said County in the State aforesaid, do hereby certify that David O. McAllen, a Vice Chairman of Capitol Construction Services LP, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such David O. McAllen, appeared before me this day in person and acknowledged that he/she signed and delivered such instrument as his/her own free and voluntary act and as the free and voluntary act of said partnership/corporation, for the uses and purposes set forth therein.

Given under my hand and notarial seal on October 31, 2003.



Sandra S. Smalley
Notary Public

STATE OF _____)
) SS.
COUNTY OF _____)

I, _____, a Notary Public in and for said County, in the State aforesaid, do hereby certify that _____, a _____ of _____, a _____, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such _____, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said _____, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this _____ day of _____, 2003

Notary Public

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, MARIA T. ESPARZA, a Notary Public in and for said County in the State aforesaid, do hereby certify that MARK EISENMAN, a AVP of LASALLE BANK NATIONAL ASSOCIATION, a national banking association, who is personally known to be to be the same person whose name is subscribed to the foregoing instrument as such AVP, appeared before me this day in person and acknowledged that he/she signed and delivered such instrument as his/her own free and voluntary act and as the free and voluntary act of said Bank, for the uses and purposes set forth therein.

Given under my hand and notarial seal on 11-10, 2003.

Maria T. Esparza
Notary Public

OFFICIAL SEAL
MARIA T ESPARZA
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES: ~~04/29/07~~

4/29/07

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Exhibit A

LEGAL DESCRIPTION

PARCEL 1:

LOT 1 OF PLAT OF RESUBDIVISION OF GATEWAY CENTER BEING A SUBDIVISION OF A PART OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 15, TOWNSHIP 42 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, SAID PLAT HAVING BEEN RECORDED OCTOBER 30, 2001 AS DOCUMENT 0011012354.

PARCEL 2:

EXCLUSIVE EASEMENT IN FAVOR OF PARCEL 1 AS CREATED BY EASEMENT OPERATING AGREEMENT, RECORDED OCTOBER 30, 2001 AS DOCUMENT 0011012357, FOR PARKING.

Permanent Index No.: 02-15-400-054-0000
Common Address: 220 North Smith Street, Palatine, Illinois

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