

# UNOFFICIAL COPY

THIS INSTRUMENT PREPARED BY  
AND AFTER RECORDING MAIL TO:

Bruce A. Salk  
Cohen, Salk & Huvard, P.C.  
630 Dundee Road, Suite 120  
Northbrook, Illinois 60062

Doc#: 0506011447  
Eugene "Gene" Moore Fee: \$36.00  
Cook County Recorder of Deeds  
Date: 03/01/2005 02:07 PM Pg: 1 of 7



Doc#: 0506845085  
Eugene "Gene" Moore Fee: \$40.00  
Cook County Recorder of Deeds  
Date: 03/09/2005 10:26 AM Pg: 1 of 9

*\*\* This document is being re-recorded to include Lender's Signature.*

## SUBORDINATION AGREEMENT

THIS AGREEMENT, is executed as of February 25, 2005, among Chapman Kelley ("Optionee") and 301 West Wisconsin LLC, an Illinois limited liability company ("Optionor"), for the benefit of First Eagle National Bank ("Lender").

### WITNESSETH:

A. Optionee and Optionor have previously entered into an option agreement (as amended and modified, the "Option Agreement") dated as of February 25, 2005 pursuant to which Optionee has the right to purchase from Optionor that certain real property located in Cook County, Illinois, as more fully described on Exhibit A attached hereto and made a part hereof for all purposes, together with the buildings and improvements located thereon (the "Mortgaged Property").

B. Lender is about to make a Nine Hundred Eighty Two Thousand Eight Hundred Three and 37/100 Dollars (\$982,803.37) first mortgage loan to Optionor (the "Loan"), secured by a first mortgage and security agreement dated as of February 25, 2005 made by Optionor and encumbering the Mortgaged Property (the "Mortgage"). The Mortgage and all other documents securing that certain mortgage date (the "Note") in the principal amount of Nine Hundred Eighty Two Thousand Eight Hundred Three and 37/100 Dollars (\$982,803.37), made by Borrower in favor of Lender, are collectively referred to as the "First Loan Documents".

C. Optionee desires to sell the Mortgaged Property to Optionor and for Lender to provide financing to Optionor in connection with such acquisition.

D. As a condition to Lender's making the Loan, Lender has required that Optionee and Optionor execute this Agreement to confirm the priority of the First Loan Documents and to confirm certain other agreements of the parties.

NOW THEREFORE, in consideration of Lender's agreement to make the Loan, Optionee and Optionor do hereby covenant and agree with Lender as follows:

**Box 400-CTCC**

05 of 4  
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1. The Option Agreement and any and all of the terms, modifications, amendments, renewals, additions, consolidations and extensions of the foregoing Option Agreement shall be subject and subordinate to all liens and security interests created under the First Loan Documents for all sums which may be advances, payable (including, without limitation, fixed, additional and contingent interest and prepayment premiums of all kinds) or secured thereunder (including without limitation, sums advanced to protect, perfect, preserve or defend such liens or security interests), without notice to the holder of the Option Agreement and to any and all modifications, amendments, renewals, additions, consolidations, extensions and replacements of any of the First Loan Documents. Optionee agrees and acknowledges that this subordination is intentional and unconditional.
2. Notwithstanding anything to the contrary contained in the Option Agreement, Optionee declares, agrees and acknowledges that:
  - (a) Optionee consents to and approves all provisions of the First Loan Documents.
  - (b) Lender, in making disbursements pursuant to the First Loan Documents, is under no obligation or duty to, nor has Lender represented it will, see to the application of such loan proceeds by the person or persons to whom Lender disburses such proceeds, and any application or use of such proceeds for purposes other than those provided for in the First Loan Documents shall not defeat the subordination herein made in whole or in part.
  - (c) The holder of the Option Agreement shall not acquire, by subrogation or otherwise, any lien, estate, right or other interest in the Mortgaged Property which is or may be prior in right or pari passu to the First Loan Documents, including, without limitation, advances for real estate taxes and assessments or advances to cure any default under the First Loan Documents.
  - (d) In no event shall the provisions of the Option Agreement prohibit or restrict Optionor from executing, acknowledging and delivering all and every such further acts, deeds, conveyances and instruments that Optionor is obligated to deliver under the First Loan Documents.
  - (e) In no event shall the provisions of the Option Agreement prohibit or restrict Optionor from executing, acknowledging and delivering any lease of the Mortgaged Property.
  - (f) To further evidence the subordinations referred to in (a) through (p) above, Optionee agrees that, within twenty (20) days after request by the holder of the First Loan Documents (which requests may be made from time to time, including, such times as future advances may be made to the Optionor by Lender) it will do, execute, acknowledge and deliver any and all such further acts, deeds, conveyances and instruments, or reaffirmations of this subordination, as the holder of such First Loan Documents may reasonably request for the better assuring and evidencing of the foregoing subordinations.
3. All of the foregoing subordination provisions and other agreements in this Agreement are for the express benefit of Lender and any future holder of the First Loan Documents.
4. In the event of any conflict between the provisions of this Agreement and any other provisions of the Option Agreement, the provisions of this Agreement shall take priority and shall control and apply.
5. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

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6. In any action or proceeding brought by Lender to enforce any of the terms and provisions of this Agreement, Lender shall be entitled to recover from Optionee all costs and expenses (including reasonable attorneys' fees and costs) incurred by Lender in such action or proceeding.

7. This Agreement shall, in all respects, be governed by and construed in accordance with the laws of the State of Illinois, including all matters of construction, validity and performance.

8. This Agreement constitutes the entire agreement between the parties with respect to the aforesaid Option Agreement and shall not be amended or modified in any way except by a document in writing executed by all of the parties thereto.

9. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall be one agreement.

10. No waiver by the Lender of any right hereunder or under the Note or the Mortgage or any other agreement between the Optionor and the Lender shall affect or impair any of the other rights of the Lender hereunder. A waiver by the Lender of any right hereunder shall be limited to the specific right and specific instance and shall not waive such right to the Lender with respect to another or a different occurrence of the event or another event in respect of which the waiver was given.

11. If the lien of the Mortgage shall be set aside as a voidable preference by a court of competent jurisdiction, the effect of which would, because of the priorities established by this Agreement, entitle any other person not a party to this Agreement (including a trustee in bankruptcy) to a priority over the lien of the Option Agreement (provided the lien of the Option Agreement is held to be enforceable and perfected), the priorities established pursuant to this Agreement shall, but only to such extent, be null and void and priority shall be determined under the Illinois Mortgage Foreclosure Law.

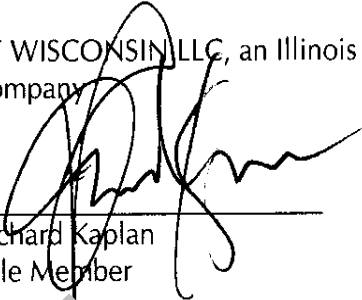
This Agreement constitutes a continuing subordination until the Note (and any expenses and disbursements incurred by Lender pursuant to the Mortgage) shall have been repaid in full.

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IN WITNESS WHEREOF, Lender, Optionee and Optionor have caused this Agreement to be executed as of the day and year first above written.

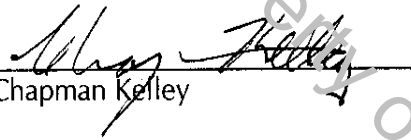
OPTIONOR

301 WEST WISCONSIN LLC, an Illinois limited liability company

By:   
Richard Kaplan

Its: Sole Member

OPTIONEE:

  
Chapman Kelley

LENDER:

FIRST EAGLE NATIONAL BANK

By: \_\_\_\_\_

Its: \_\_\_\_\_

Property of Cook County Clerk's Office

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IN WITNESS WHEREOF, Lender, Optionee and Optionor have caused this Agreement to be executed as of the day and year first above written.

OPTIONOR

301 WEST WISCONSIN LLC, an Illinois limited liability company

By: \_\_\_\_\_

Richard Kaplan

Its: Sole Member

OPTIONEE:

\_\_\_\_\_  
Chapman Kelley

LENDER:

FIRST EAGLE NATIONAL BANK

By: *Angela Scott*

Its: *President*

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STATE OF ILLINOIS )  
 ) ss  
COUNTY OF COOK )

The undersigned, a Notary Public in and for the State and County aforesaid, does hereby certify that \_\_\_\_\_ and \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_, respectively, of \_\_\_\_\_, a national banking association, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said Bank, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal \_\_\_\_\_, 20\_\_.

Notary Public

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Richard Kaplan is personally known to me as the sole member of 301 WEST WISCONSIN LLC, an Illinois limited liability company and personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he/she signed, sealed and delivered the said instrument as such member of said limited liability company, as his/her own and free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 25<sup>th</sup> day of February, 2005.

Meghan L. Rutledge  
Notary Public

My Commission Expires: 10/23/06



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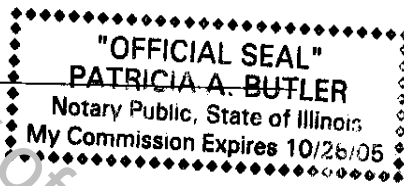
STATE OF ILLINOIS     )  
  )  
COUNTY OF COOK     )     SS

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that CHAPMAN KELLEY personally appeared before me this day and subscribed his name to the foregoing instrument for the uses and purposes therein stated.

Given under my hand and notarial seal this 25 day of Feb, 2005.

*Patricia Butler*  
\_\_\_\_\_  
Notary Public

My Commission Expires:



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## EXHIBIT "A"

PIN: 14-33-407-010-0000

ADDRESS: 301 W. Wisconsin, Chicago, Illinois

LOT 1 IN ANTON CARLSON'S SUBDIVISION OF THE EAST 170 FEET OF THE NORTH 100 FEET OF BLOCK 44 IN CANAL TRUSTEE'S SUBDIVISION OF PART OF SECTION 33, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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