



Doc#: 0516002156  
Eugene "Gene" Moore Fee: \$38.00  
Cook County Recorder of Deeds  
Date: 06/09/2005 01:24 PM Pg: 1 of 8

THIS DOCUMENT WAS  
PREPARED BY AND  
AFTER RECORDING  
RETURN TO:

David G. Williams, Esq.  
King & Spalding LLP  
191 Peachtree Street  
Atlanta, Georgia 30303

The above space for recorder's use

NOTICE OF LEASE EXPANSION RIGHTS

**THIS NOTICE OF LEASE EXPANSION RIGHTS** (this "Notice"), made effective as of the 1<sup>st</sup> day of June, 2005, by and among **85 WEST ALGONQUIN L.L.C.**, an Illinois limited liability company ("**Owner**"), and **SB ARLINGTON PROJECT CORPORATION**, a Delaware corporation ("**Landlord**").

WITNESSETH:

**WHEREAS**, 95 West Algonquin L.L.C., an Illinois limited liability company ("**Prior Landlord**") and SBC Services, Inc. ("**Tenant**") entered into that certain Lease Agreement dated as of May 24, 1996, as amended by that certain Lease Amendment No. 1 dated as of July 29, 1996, as further amended by that certain Second Lease Amendment dated as of October 18, 1998, that certain Third Lease Amendment dated as of January 21, 1997, that certain Fourth Lease Amendment dated as of April 28, 1997, that certain Fifth Lease Amendment dated as of January 15, 1998, and that certain Sixth Amendment to Office Lease Agreement (the "**Sixth Amendment**") dated as of November 5, 2004 (as amended, the "**Lease**") for certain premises (the "**Premises**") located at 95 West Algonquin Road, Arlington Heights, Cook County, Illinois (the "**95 West Algonquin Road Building**");

**WHEREAS**, Owner owns the fee simple interest in certain real property located at 85 West Algonquin Road, Arlington Heights, Cook County, Illinois (the "**85 West Algonquin Road Building**") located on certain real property described on **Exhibit A** attached hereto and incorporated herein by this reference;

**WHEREAS**, the Lease contains an expansion right to lease additional space in the 85 West Algonquin Road Building, which right to expand shall be referred to herein as the "**Expansion Right**";

Box 400-CTCC

(A) 8278525 DR CB 30F3

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**WHEREAS**, Prior Landlord is contemporaneously herewith selling the 95 West Algonquin Road Building to Landlord and assigning its interest in the Lease to Landlord; and

**WHEREAS**, Owner and Landlord wish to provide record notice of the Expansion Right.

**NOW, THEREFORE**, in consideration of the mutual promises and obligations contained in the Lease, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Owner and Landlord hereby covenant, acknowledge and agree as follows:

1. **RECITALS; DEFINED TERMS.** The foregoing recitals are acknowledged as being true and correct, and are incorporated herein by reference. Unless otherwise defined herein, all capitalized terms used in this Notice shall have the meanings ascribed to them in the Lease.

2. **NOTICE OF EXPANSION RIGHT.** With the recording of this Notice in the Cook County Recorder's Office, Cook County, Illinois, Owner and Landlord hereby give record notice of the Expansion Right, which Expansion Right is subject to the terms and conditions set forth in the Lease and is described in Section 12 of the Sixth Amendment as follows:

“Tenant shall have a continuous right of first offer on space which is or becomes available at the 85 West Algonquin Road Building. Landlord shall provide Tenant with quarterly reports on space availability for the 85 West Algonquin Road Building. Tenant must notify Landlord in writing of its interest in a specific space which is available or to become available. Tenant shall provide Landlord with written notice of its intent to lease space. The rental terms for said space shall be the same as the terms for the 95 West Algonquin Road Building leased premises including: a) coterminous lease expiration, b) coterminous termination options (which may be exercised independent of the 95 West Algonquin Road Building space) and the penalty for which shall be based on the unamortized amount of commissions (which on any right of first offer space shall equal \$1.00 per rentable square foot per year and shall be payable to Tenant's designated real estate broker upon lease execution) and tenant improvement allowances applicable to the right of first offer space amortized on a straight line basis over the term of the right of first refusal space at nine percent (9%) annually, c) an improvement allowance equal to \$3.00 per square foot per year and, d) Tenant's then escalated per square foot rental rate. However, in no event shall such lease be less than three (3) years and, if the specific available space has third party interest (as evidenced by Landlord's receipt of a bonafide third party offer to lease such space received by Landlord within fifteen (15) business days prior to Tenant's notice), Tenant must lease such space within ten (10) days under the same terms and conditions proposed by such third party or Tenant's notice with regards to such space shall be null and void. Landlord and Tenant shall use best efforts to allow Tenant to expand into the 85 West Algonquin Road Building under this right of first offer provision, however, it will not be considered a default of the 95 West Algonquin Road lease should such expansion be unsuccessful.”

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3. **EXERCISE OF EXPANSION RIGHT.** Owner hereby acknowledges that in the event Tenant exercises the Expansion Right, Owner will comply with the terms and conditions set forth in Paragraph 2 above. Owner further agrees that Owner shall be responsible for payment to Equis of the brokerage commission due Equis upon Tenant's exercise of the Expansion Right as such commission is described in that certain side-letter dated October 19, 2004 by and between Equis and Hamilton Partners.

4. **PARKING.** Owner hereby acknowledges that in the event Tenant exercises the Expansion Right, Owner will comply with the terms and conditions set forth in the Lease as described in Section 12 of the Sixth Amendment as follows:

"Should Tenant lease space at the 85 West Algonquin Road Building, Tenant shall receive a proportionate share of the 85 West Algonquin Road Building parking spaces."

5. **SPACE AVAILABILITY.** Owner hereby acknowledges that it will continue to provide Tenant with information regarding space availability in the 85 West Algonquin Road Building in the same manner and in the same time frame as it has been providing such information to Tenant prior to the execution of this Notice.

6. **CORRESPONDENCE.** Owner agrees to provide Landlord with copies of any and all correspondence with Tenant regarding the Expansion Right. Landlord's address for delivery of such correspondence is: c/o HDG Mansu, Investment Services, Inc., 10 West Market Street, Suite 1200, Indianapolis, IN 46204, Attention: Eric Schilling.

7. **TERMINATION, MODIFICATION, WAIVER.** If at any time the Expansion Right terminates, is modified or is waived, each party hereto agrees to execute a termination or modification of this Notice and the Expansion Right, as applicable, in recordable form within thirty (30) days after written request therefor from any other party.

8. **INDEMNITIES.** Each of Owner and Landlord agrees to indemnify and defend the other and to save the other harmless from any and all claims, costs, damages, losses, liabilities and expenses (including reasonable attorneys' fees) incurred by the other and arising by reason of any breach, violation or nonperformance of any covenant in this Notice on the part of the indemnifying party to be observed or performed.

9. **EFFECT.** This Notice is intended to give notice of the Expansion Right. All rights and obligations of Owner, Landlord and Tenant documented herein are to be governed by and are not intended to alter, modify or amend the terms, covenants, conditions, limitations and restrictions contained in the Lease, except for Paragraphs 5, 6 and 7 hereof regarding information on space availability and termination, modification or waiver of this Notice or the Expansion Right. Except as otherwise expressly provided herein, in the event of a conflict between the information contained in this Notice and the terms and conditions of the Lease, the Lease shall control and prevail.

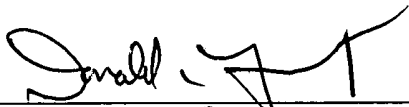
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IN WITNESS WHEREOF, 85 West Algonquin Owner and Landlord have hereunto set their respective hands and seals as of the day and year first above written.

**“OWNER”**

**85 ALGONQUIN L.L.C.**, an Illinois limited liability company

By: H.P. 85 Algonquin L.L.C., an Illinois limited liability company, its Manager

By:   
Printed Name: Donald A. Hunt  
Title: Manager member

Date: May 31, 2005

[Execution and notary provision needs to meet IL requirements]

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STATE OF ILLINOIS                    )  
                                  KANE                    ) SS.  
COUNTY OF ~~COOK~~                    )

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Ronald C. Lunt, a managing member of H.P. 85 Algonquin L.L.C., an Illinois limited liability company, the sole manager of 85 Algonquin L.L.C., an Illinois limited liability company, personally known to me, whose name is subscribed to the foregoing Notice of Lease Expansion Rights, appeared before me this day in person and acknowledged that he signed and delivered said Notice as his free and voluntary act and as the free and voluntary act of said companies for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 31<sup>st</sup> day of May, 2005.

*Mary El MCBride*  
\_\_\_\_\_  
Notary Public



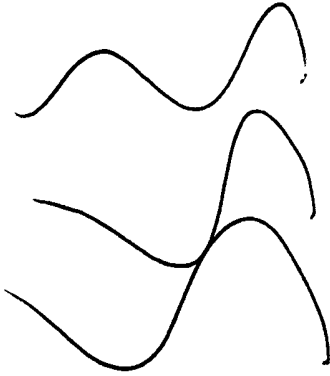
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# UNOFFICIAL COPY

Exhibit "A"

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## EXHIBIT B

Parcel 1: Lot 2 in Arlington Place Subdivision, being a subdivision in Section 16, Township 41 North, Range 11, East of the Third Principal Meridian, in Cook County, Illinois, except that part taken in fee simple title by the Department of Transportation of the State of Illinois in Case Number 93LS1190, as follows: that part of Lot 2 in Arlington Place Subdivision, being a subdivision in part of Section 16, Township 41 North, Range 11, East of the Third Principal Meridian, in Cook County, Illinois, according to the plat thereof recorded November 29, 1979 as document 25261219, described as follows: beginning at the Northeast corner of said Lot 2; Thence on an assumed bearing of South 32° 56' 06" West along the Easterly line of said Lot 2, a distance of 14.43 feet to a point on a 2551.07 foot radius curve, the center of circle of said curve bears North 33° 27' 05" East from said point; Thence Northwesterly along said curve, radius 2551.07 feet, central angle 1° 33' 00" 69.01 feet to the Westerly line of said Lot 2, being also a point on a 30.00 foot radius curve, the center of circle of said curve bears South 89° 23' 13" West from said point; Thence Northwesterly along said curve, being also the said Westerly line of Lot 2, radius of 30.00 feet, central angle 55° 09' 09" 28.83 feet to the Northwest corner of said Lot 2, being also a point on a 2541.29 foot radius curve, the center of circle of said curve bears North 34° 19' 04" East from said point; Thence Southeasterly along said curve, being also the Northerly line of said Lot 2, radius 2541.29 feet, central angle 2° 06' 11" 93.28 feet (93.29 feet, recorded) to the point of beginning.

85 West Algonquin Road  
Arlington Heights  
Cook County, Illinois

P.I.N. 08-16-200-102