Doc#: 0605318009 Fee: \$40.00

Eugene "Gene" Moore

Cook County Recorder of Deeds
Date: 02/22/2006 10:43 AM Pg: 1 of 9

This document prepared by and after recording return to: Juan Carlos Linares, Esq. Assistant Corporation Counsel Department of Law 121 North LaSalle Street, Room 600 Chicago, IL 60602

#### SUBORDINATION AGREEMENT

This Cubordination Agreement ("Agreement") is made and entered into as of the  $\frac{2|H|}{2}$  day of February, 2006 between the City of Chicago by and through its Department of Planning and Development (the "City"), and National City Bank of the Midwest, N.A., a national banking association (the "Lender").

#### WIJNESSETH:

whereas, The Developer intends to undertake the redevelopment project described in <a href="Exhibit B">Exhibit B</a> (the "Project") of the CityEscape Redevelopment Agreement (the "Redevelopment Agreement") of even date herewith between the City and the Developer and recorded on February 2006 in the Office of the Recorder of Cook County, Illinois as a cument number 0605318008 with respect to certain property owned of leased by the Developer located within the Redevelopment Area and commonly known as 3022 West Lake Street and legally described on <a href="Exhibit A">Exhibit A</a> attached hereto (the "Property") and Exhibit C of the Redevelopment Agreement. The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement. The Project will be carried out in accordance with this Agreement and the City of Chicago Kinzie Industrial Corridor Redevelopment Project Area Tax Increment Financing Program Redevelopment Plan (the "Redevelopment Plan").;

WHEREAS, Lender and CityEscape Garden and Design

Gentar, LLC (the "Borrower"), have entered into a certain Loan

Agreement dated as of <u>Ferrandy 21 2004</u> pursuant to which the

Lender has agreed to make a loan to the Borrower in an amount not

to exceed \$2,730,000 (the "Loan"), which Loan is evidenced by a

Commercial Time Note, dated as of February21, 2006 and executed

by the Borrower to the order of the Lender (the "Note"), and the

repayment of the Loan is secured by, among other things, certain

liens and encumbrances on the Property and other property of the

Borrower pursuant to the following: (i) Mortgage dated as of

February 21, 2006 and recorded on February 22, 2006 in the Office

of the Recorder of Cook County, Illinois as document number

0605318006 made by the Borrower to the Lender; and (ii)

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Assignment of Rents and Leases dated as of February 21, 2006 and recorded on February 22, 2006 in the Office of the Recorder of Cook County, Illinois as document number 0605318007 made by the Borrower to the Lender (all such agreements referred to above and otherwise relating to the Loan referred to herein collectively as the "Loan Documents");

WHEREAS, the Developer has entered into the certain Redevelopment Agreement dated the date hereof with the City in order to obtain additional financing for the Project (the "Redevelopment Agreement," referred to herein along with various other agreements and documents related thereto as the "City Agreements");

WHEREAS, pursuant to the Redevelopment Agreement, the Developer will agree to be bound by certain covenants expressly running with the Property, as set forth in Sections 7.2, 8.05 and 8.14 of the Redevelopment Agreement (the "City Encumbrances");

WHEREAS, the City has agreed to enter into the Redevelopment Agreement with the Developer as of the date hereof, subject, among other things, to (a) the execution by the Developer of the Redevelopment Agreement and the recording thereof as an encumbrance against the Property; and (b) the agreement by the Lender to subordinate their respective liens under the Loan Documents to the City Encumbrances; and

NOW, THEREFORE, for good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Lender and the City agree as hereinafter set forth:

- 1. <u>Subordination</u>. All rights, increasts and claims of the Lender in the Property pursuant to the Lear Documents are and shall be subject and subordinate to the City Encumbrances. In all other respects, the Redevelopment Agreement shall be subject and subordinate to the Loan Documents. Nothing herein, however, shall be deemed to limit the Lender's right to receive and the Developer's ability to make, payments and prepayments of principal and interest on the Note, or to the Lender's exercising its rights pursuant to the Loan Documents.
- efforts to give to the City, and the City shall use reasonable efforts to give to the Lender, (a) copies of any notices of default which it may give to the Developer with respect to the Project pursuant to the Loan Documents or the City Agreements, respectively, and (b) copies of waivers, if any, of the Developer's default in connection therewith. Under no circumstances shall the Developer or any third party be entitled to rely upon the agreement provided for herein. The failure by the Lender to provide any such copies of notices or waivers shall not preclude the Lender from exercising any right or remedy under the Lender's Loan Documents or impair the enforceability,

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validity or priority of the lien and security interest in the Property granted by the Lender's Loan Documents

- Waivers. No waiver shall be deemed to be made by the City or the Lender of any of their respective rights hereunder, unless the same shall be in writing, and each waiver, if any, shall be a waiver only with respect to the specific instance involved and shall in no way impair the rights of the City or the Lender in any other respect at any other time.
- 4. Governing Law; Binding Effect. This Agreement shall be interpreted, and the rights and liabilities of the parties hereto determined, in accordance with the internal laws and decisions of the State of Illinois, without regard to its conflict of laws principles, and shall be binding upon and inure to the benefit of the respective successors and assigns of the City and the Lerder.
- Section Titles; Plurals. The section titles contained in this Agreement are and shall be without substantive meaning or content of ary kind whatsoever and are not a part of the agreement between the parties hereto. The singular form of any word used in this Agreement shall include the plural form.
- 6. Notices. Any notice required hereunder shall be in writing and addressed to the party to be notified as follows:

If to the City:

City of Chicago Department of Planning

and Development

121 North Lasaile Street, Room 1000

Chicago, Illinois 60602 Attention: Commissioner

With a copy to:

City of Chicago Department of Law 121 North LaSalle Street, Room 600

Chicago, Illinois 60602 Attention: Finance and Ecchemic

Development Division

If to the Lender:

National City Bank of the Midwest, N.A. One North Franklin Street, 20th Ficor

Chicago, Illinois 60606

Attention: Commercial Loan Division,

Locator No. C-NOC-CM

or to such other address as either party may designate for itself by notice. Notice shall be deemed to have been duly given (i) if delivered personally or otherwise actually received, (ii) if sent by overnight delivery service, (iii) if mailed by first class United States mail, postage prepaid, registered or certified, with return receipt requested, or (iv) if sent by facsimile with facsimile confirmation of receipt (with duplicate notice sent by United States mail as provided above). Notice mailed as provided in clause (iii) above shall be effective upon the expiration of

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three (3) business days after its deposit in the United States mail. Notice given in any other manner described in this paragraph shall be effective upon receipt by the addressee thereof; provided, however, that if any notice is tendered to an addressee and delivery thereof is refused by such addressee, such notice shall be effective upon such tender.

7. <u>Counterparts</u>. This Agreement may be executed in two or more counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one instrument.

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Cook County Clerk's Office. [The remainder of this page is intentionally left blank.]

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### **UNOFFICIAL COPY**

IN WITNESS WHEREOF, this Subordination Agreement has been signed as of the date first written above.

> NATIONAL CITY BANK OF THE MIDWEST, N.A.

By: Juan C lest

Its: ASSISTANT VICE PRESIDENT

CITY OF CHICAGO

By:

TO OR COOK

ACKNOWLEDGED AND AGREED TO THIS

2/5' DAY OF FEBRUARY, 2006

\*\*CAPE GARDEN AND DESIGN, LLC,

\*\* limited liability company

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## **UNOFFICIAL COPY**

IN WITNESS WHEREOF, this Subordination Agreement has been signed as of the date first written above.

	NATIONAL CITY BANK OF THE MIDWEST, N.A.
	By:
	Its:
DO OF CO	CITY OF CHICAGO  By: Soul. Clally
O <sub>F</sub> COO <sub>A</sub>	Its: Commissioner, Department of Planning and Development
ACKNOWLEDGED AND AGREED TO THE 21 DAY OF FEBRUARY, 2006	IIS O
CITYESCAPE GARDEN AND DESIGN, an Illinois limited liability	LLC, company
	75
By:	- O <sub>/Sc.</sub>
Its:	

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### **UNOFFICIAL COPY**

STATE	OF	ILLINOIS		SS
COUNTY	OF	COOK	)	

I, the undersigned, a notary public in and for the County and State aforesaid, DO HEREBY CERTIFY THAT Lori T. Healey, personally known to me to be the Commissioner of the Department of Planning and Development of the City of Chicago, Illinois (the "City") 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 as such Commissioner, she signed and delivered the said instrument pursuant to authority given to her, as her free and voluntary act, and as the free and voluntary act and deed of said City, for the uses and purposes there in set forth.

GIVEN under my hand and notarial seal this  $\frac{21^{54}}{}$  day of nanci Ox Cook Count February, 2006.

(SEAL)

Otticial Seal Bickl Knight Horary Prioric State of Illinois WV Commission Express 06/21/2009 TH'S OFFICE

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STATE	OF :	ITLINOI		~ ~
			)	SS
COUNTY	OF	COOK	)	

I, FRANCES S. GRAFIN a notary public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY \_, personally known to me to be the  $\beta . \cancel{p}$ . of National City Bank of the Midwest, N.A., a national banking association, 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 said instrument, pursuant to the authority given to him/her by Lender, as his/her free and voluntary act ard as the free and voluntary act of the Lender, for the uses and purposes therein set forth.

GIVEN under my nard and notarial seal this 218t. day of Notary Public

My Commission Expires 13/39/09 February, 2006.

OFFICIAL SEAL FRANCES S GRIFFIN

(SEAL)

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#### EXHIBIT A - LEGAL DESCRIPTION

LOT 52 IN THE SUBDIVISION OF BLOCK 9 IN D.S. LEE AND OTHERS SUBDIVISION OF THE SOUTHWEST 1/4 SECTION OF 12, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, ALSO THE WEST 1/2 OF THAT PART OF THE NORTH AND SOUTH 20 FEET PUBLIC ALLEY LYING EAST AND ADJOINING THE EAST LINE OF LOT 52 AFORESAID, AND NORTHERLY OF THE CENTERLINE OF THE VACANTED ALLEY SOUTHERLY OF LOT 91 IN FLINT'S ADDITION TO CHICAGO OF THE SOUTHWEST 1/4 OF SECTION 12, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly known and numbered as : 3022 W. Lake Street Ser: 16

Of County Clarks Office

Permanent Index Number: 16-12-313-027