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STEP 1
481700



Doc#: 0615705008 Fee: \$40.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 06/06/2006 09:13 AM Pg: 1 of 9

INSTRUMENT PREPARED BY:
NICHOLAS GEROULIS
MARTIN & KARCAZES, LTD.
161 North Clark Street
Suite 550
Chicago, Illinois 60601

PLEASE MAIL TO:
Allegiance Community Bank
8001 West 183rd Street
Tinley Park, IL 60477

INTERCREDITOR AND SUBORDINATION AGREEMENT

This INTERCREDITOR AND SUBORDINATION AGREEMENT (the "Agreement"), dated as of the 31st day of May, 2006, is entered into by and among ALLEGIANCE COMMUNITY BANK (the "Bank"), SOUTHPOINT GRAND AVENUE, LLC a Florida limited liability company (the "Subordinated Lender"), and GRAND INVESTMENT GROUP, LLC, an Illinois limited liability company (the "Borrower").

PRELIMINARY STATEMENTS

1. On May 31, 2006, for full value received, Borrower executed and delivered to Bank a Promissory Note in the principal amount of FOUR MILLION ONE HUNDRED EIGHTY FIVE THOUSAND AND 00/100 (\$4,185,000.00) DOLLARS (the "Note"), pursuant to the terms and conditions of a Non-Revolving Line of Credit Loan Agreement and Construction Loan Agreement, each dated May 31, 2006, between Borrower and Lender (collectively referred to herein as the "Loan Agreement").

2. Borrower has secured the Note, by granting to Bank a certain first mortgage (the "Mortgage") and an Assignment of Leases and Rents (the "Assignment of Rents") each dated May 31, 2006, covering certain real property in the County of Cook, State of Illinois, which Mortgage and an Assignment of Leases and Rents was recorded with the Recorder of Deeds of Cook County, Illinois, covering the property described below (the "Mortgaged Premises"):

LOTS 31, 32, 33 AND 34 IN BLOCK 13 IN BICKERDIKE'S ADDITION TO CHICAGO, IN THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 17-08-123-038-0000
17-08-123-039-0000
17-08-123-040-0000

9KG

STEWART TITLE OF ILLINOIS
2 N. LaSalle Street
Suite 625
Chicago, IL 60602
312-849-4243

MAIL TO →

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Common Address: 1400-08 West Grand Avenue, Chicago, Illinois

3. Borrower has executed and delivered to the Subordinated Lender a Secured Promissory Note dated May 31, 2005 in the amount of \$485,000.00 (the "Subordinated Loan") and a Mortgage dated May 31, 2005 upon the Mortgaged Premises recorded on June 9, 2005 with the Cook County Recorder of Deeds Office as document number 05-16034080 as modified by that certain Modification of Promissory Note and Mortgage dated May __, 2006 (the "Subordinated Mortgage").

5. It is condition precedent of the Bank in making its loan to Borrower pursuant to the Loan Agreement, that the Bank, Subordinated Lender and Borrower shall have entered into this Agreement to, inter alia, agree upon their relative rights with respect to the Mortgaged Premises from time to time subject to the Mortgage and Assignment of Rents and the Subordinated Mortgage.

NOW, THEREFORE in consideration of the mutual covenants contained herein, the parties hereto hereby agree as follows:

1. **Subordination and Priority:** Notwithstanding the date, manner, or order of attachment or perfection, or the lack thereof or the description of any collateral or security interests, liens, claims, or encumbrances covered or granted by the Mortgage and Assignment of Rents and the Subordinated Mortgage, the Subordinated Lender agrees that the Subordinated Mortgage is and shall be subordinate, to the extent and in the manner hereinafter set forth, to all rights of the Bank under the Mortgage and Assignment of Rents, and that the Bank shall have at all times an interest prior and superior to that of the Subordinated Lender in the Mortgaged Premises and until the payment in full of all obligations of the Borrower now or hereafter existing under the Loan Agreement and the Note, whether for principal, interest (including without limitation interest, as provided in the Note, accruing after the filing of a petition initiating any proceeding referred to in Section 3(a)), fees, expenses, or otherwise incurred or advanced by Bank in the enforcement and protection of its rights under the Loan Agreement, Note, Mortgage and Assignment of Rents (such obligations being collectively hereinafter referred to as the "Obligations").

2. **Exercise of Remedies:**

a. The Subordinated Lender agrees not to enforce, ask, demand, or sue for any right or remedy in respect of the Subordinated Loan, Subordinated Mortgage or the Mortgaged Premises or any proceeds of Mortgaged Premises, or take or receive from the Borrower, directly or indirectly, in cash or other property or by setoff or in any other manner, whether pursuant to any enforcement, collection, execution, levy, or foreclosure proceeding or otherwise, the Mortgaged Premises or any proceeds of Mortgaged Premises, in each case unless and until the Obligations shall have been paid in full. The Subordinated Lender agrees that, until the Obligations have been paid in full, its only right under the Subordinated Loan and Subordinated

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Mortgage for the Subordinated Loan to be secured by the collateral referred to therein for the period and to the extent provided for in the Subordinated Mortgage and to receive interest payments from Borrower to the extent and at the time provided in the Subordinated Loan.

b. The Subordinated Lender agrees that, so long as any of the Obligations shall remain unpaid, it will not commence, or join with any creditor other than the Bank in commencing, any enforcement, collection, execution, levy, or foreclosure proceeding with respect to the Mortgaged Premises or proceeds of the Mortgaged Premises. Upon request by the Bank, the Subordinated Lender will, at the expense of Borrower, join in enforcement, collection, execution, levy, or foreclosure proceedings and otherwise cooperate fully in the maintenance of such proceedings by the Bank, including without limitation by executing and delivering all such consents, pleadings, releases, and other documents and instruments as the Bank may reasonably request in connection therewith, it being understood that the conduct of such proceedings shall at all times be under the exclusive control of the Bank.

c. The Subordinated Lender agrees, upon written request by the Bank, to release its lien and security interest in the Mortgaged Premises upon any sale, lease, transfer, or other disposition of such Mortgaged Premises or part thereof in accordance with, or for application of proceeds pursuant to, the terms of the Loan Agreement, the Note, Mortgage and Assignment of Rents, and the Subordinated Mortgage.

d. The Subordinated Lender agrees not to contest, or to bring (or join in) any action or proceeding for the purpose of contesting, the validity, perfection or priority of, or seeking to avoid, the Mortgage and Assignment of Rents or any other rights of the Bank in or with respect to the Mortgaged Premises.

e. Lender and Borrower agree that the Subordinated Lender shall be given written notice of any default by Borrower under the Loan Agreement, the Note and the Mortgage and Assignment of Rents, and that in the event Borrower fails to cure the default within the time set forth in such written notice, or in the event Lender has filed a complaint to foreclose the Mortgage, Subordinated Lender shall have the right, but not the obligation, to purchase from the Bank, without recourse, all of the Bank's right, title and interest under the Loan Agreement, the Note and the Mortgage and Assignment of Rents, at any time prior to entry of Judgment of Foreclosure and Sale.

3. Subordinated Lender agrees as follows:

a. Upon any distribution of all or any of the Mortgaged Premises or proceeds of the Mortgaged Premises to creditors of the Borrower upon the dissolution, winding up, liquidation, arrangement, reorganization, adjustment, protection, relief, or composition of the Borrower or its debts, whether in any bankruptcy, insolvency, arrangement, reorganization, receivership, relief, or similar proceedings or upon an assignment for the benefit of creditors or any other marshalling of the assets and liabilities of the Borrower or otherwise, any distribution of any kind of the Mortgaged Premises or proceeds of Mortgaged Premises that otherwise would be

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deliverable upon or with respect to the Subordinated Loan shall be delivered directly to the Bank for application (in the case of cash) to or as collateral (in the case of noncash property) for the payment or prepayment of the Obligations until the Obligations shall have been paid in full.

b. If any proceeding referred to in subsection 3(a) is commenced by or against the Borrower,

i. The Bank is hereby irrevocably authorized and empowered (in its own name or in the name of the Subordinated Lender or otherwise), but shall have no obligation, to demand, sue for, collect and receive every distribution referred to in subsection 3(a) and give acquittance therefor and to file claims and proofs of claim and take such other action (including without limitation enforcing the Subordinated Mortgage) as it may deem necessary or advisable for the exercise or enforcement of any of the rights or interests of the Bank hereunder; and

ii. The Subordinated Lender shall duly and promptly take such action, at the expense of the Borrower, as the Bank may request (A) to take possession of the Mortgaged Premises and proceeds of Mortgaged Premises for the account of the Bank and to file appropriate claims or proofs of claim in respect to the Mortgaged Premises and proceeds of Mortgaged Premises; (B) to execute and deliver to the Bank such powers of attorney, assignments, or other instruments as it may request in order to enable it to enforce any and all claims with respect to the Mortgaged Premises and proceeds of Mortgaged Premises; and (C) to collect and receive any and all payment or distributions that may be payable or deliverable upon or with respect to the Mortgaged Premises or proceeds of Mortgaged Premises.

c. All payments or distributions upon or with respect to the Mortgaged Premises or proceeds of Mortgaged Premises that are received by the Subordinated Lender contrary to the provisions of this Agreement shall be received for the benefit of the Bank, shall be segregated from other funds and property held by the Subordinated Lender and shall be forthwith paid over to the Bank in the same form as so received (with any necessary endorsement) to be applied (in the case of cash) to or held as collateral (in the case of noncash property or securities) for the payment or prepayment of the Obligations in accordance with the terms of the Loan Agreement.

d. The Bank is hereby authorized to demand specific performance of this Agreement at any time when the Subordinated Lender shall have failed to comply with any of the provisions of this Agreement applicable to it. The Subordinated Lender hereby irrevocably waives any defense based on the adequacy of a remedy at law that might be asserted as a bar to such remedy of specific performance.

4. The Bank agrees as follows:

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a. No event of default under any other obligation due from Borrower to Lender shall trigger an event of default under the Loan Agreement, the Note, or the Mortgage and Assignment of Rents.

b. The lien of the Mortgage and Assignment of Rents secures only the Obligations and no other loan, debt or obligation of Borrower arising outside of the Loan Agreement and the Note.

c. Subordinated Lender shall be entitled to receive interest payments as provided in the Subordinated Loan.

d. The Bank will not amend or otherwise modify the Note or the Loan Agreement or otherwise permit the terms of the Note or the Loan Agreement to be changed without the prior written consent of the Subordinated Lender.

5. Rights of Subrogation: The Subordinated Lender agrees that no payment or distribution to the Bank pursuant to the provisions of this Agreement shall entitle the Subordinated Lender to exercise any rights of subrogation in respect thereof until the Obligations shall have been paid in full.

6. Further Assurances: The Subordinated Lender will, at the expense of the Borrower, at any time and from time to time promptly execute and deliver all further instruments and documents, and take all further action that the Bank may reasonably request, in order to protect any right or interest granted or purported to be granted hereby or to enable the Bank to exercise and enforce its rights and remedies hereunder.

7. No Change in Subordinated Mortgage: The Subordinated Lender will not sell, assign, pledge, encumber, or otherwise dispose of any of its rights in the Mortgaged Premises or in proceeds of Mortgaged Premises, amend or otherwise modify the Subordinated Mortgage or otherwise permit the terms of the Subordinated Mortgage to be changed without the prior written consent of the Bank.

8. Representations and Warranties: Each of the Bank and the Subordinated Lender represents and warrants to the other as follows:

a. It has, under the Loan Agreement, the Note, Mortgage and Assignment of Rents, the Subordinate Loan and the Subordinated Mortgage, respectively, full power and authority to enter into, and perform its obligations under, this Agreement; and

b. This Agreement is binding upon the Bank and the Subordinated Lender.

9. Waiver of Marshalling and Similar Rights: The Subordinated Lender waives, to the fullest extent permitted by applicable law, any requirement regarding (and agrees not to demand, request, plead, or otherwise claim the benefit of) any marshalling, appraisal, valuation, or

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other similar right that may otherwise be available under applicable law or any other similar rights which a junior creditor or junior secured creditor may have under applicable law.

10. Enforcement: The Subordinated Lender agrees that this Agreement shall be enforceable against it under all circumstances, including without limitation in any proceeding referred to in section 3(a).

11. Obligations Hereunder Not Affected: All rights and interests of the Bank hereunder, and all agreements and obligations of the Subordinated Lender under this Agreement, shall remain in full force and effect irrespective of:

- a. Any lack of validity or enforceability of the Loan Agreement, the Note, the Mortgage and Assignment of Rents, the Subordinated Loan and the Subordinated Mortgage, or any other agreement or instrument relating thereto;
- b. Any change in the time, manner, or place of payment of, or in any other term of, all or any of the Obligations, or any other amendment or waiver of or any consent to departure from the Note, the Loan Agreement, the Mortgage and Assignment of Rents;
- c. Any exchange, release or non-perfection of the lien of the Mortgaged Premises or any other collateral, or any release or amendment or waiver of or consent to departure from the Guaranty or any other guaranty, for all or any of the Obligations; or
- d. Any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrower, a subordinated creditor or a secured subordinated creditor.

The Agreement shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any of the Obligations is rescinded or must otherwise be returned by the Bank upon the insolvency, bankruptcy, or reorganization of the Borrower or otherwise, all as though such payment had not been made.

12. Obligations and Subordinated Debt Unimpaired: Nothing in this Agreement shall impair (a) as between the Borrower and any guarantor and any party hereto, the obligations of the Borrower or any guarantor to such party, including without limitation the Obligations and the Subordinated Loan or (b) as between the Bank and the Subordinated Lender, the subordination provisions of the Subordinated Mortgage; provided that it is understood that the enforcement of remedies against the Mortgaged Premises shall be subject to the terms of this Agreement.

13. Amendments, Etc.: Neither amendment or waiver of any provision of this Agreement nor consent to any departure by the Subordinated Lender therefrom shall in any event be effective unless the same shall be in writing and signed by the Bank, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

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14. Expenses: The Borrower shall pay, upon demand, to the Bank the amount of any and all reasonable expenses, including the reasonable fees and expenses of its counsel, that the Bank may incur in connection with the exercise or enforcement of any of the rights or interests of the Bank hereunder.

15. Addresses for Notices: All demands, notices, and other communications provided for hereunder shall be in writing and, if to the Bank, mailed or delivered to it, addressed to it at 8001 West 183rd Street, Tinley Park, IL 60477; if to the Subordinated Lender, mailed or delivered to it, addressed to Southpoint Grand Avenue, LLC, 411 North New River Drive East, Suite 605, Fort Lauderdale, Florida 33301, Attention: Eric Saltzman; and if to Borrower, mailed or delivered to it, addressed to it at the address of the Borrower specified in the Loan Agreement, or as to each party at such other address as shall be designated by such party in a written notice to each other party complying as to delivery with the terms of this Section. All such demands, notices, and other communications shall, when mailed, be effective when deposited in the mails or sent, as the case may be, addressed as aforesaid.

16. No Waiver; Remedies: No failure on the part of the Bank to exercise, and no delay in exercising any right hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

17. Continuing Agreement; Transfer of Note: This Agreement is a continuing agreement and shall (a) remain in full force and effect until the Obligations shall have been paid in full; (b) be binding upon the Subordinated Lender and its respective successors and assigns; and (c) inure to the benefit of and be enforceable by the Bank and its respective successors, transferees and assigns. Without limiting the generality of the foregoing clause (c), Bank may assign or otherwise transfer the Note held by it, or grant any participation in its rights or obligations under the Loan Agreement and Note, to any other person or entity, and such other person or entity shall thereupon become vested with all the rights in respect thereof granted to such Bank herein or otherwise.

18. Governing Law: This Agreement shall be governed by, and construed in accordance with, the laws of Illinois.

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IN WITNESS WHEREOF, the Bank, Subordinated Lender and Borrower have caused this Agreement to be duly executed and delivered by its officer thereunto duly authorized as of the date first above written.

ALLEGIANCE COMMUNITY BANK

By: [Signature]
Print Name: WILFRED E. RAMIREZ
Title: Senior Vice Pres.

GRAND INVESTMENT GROUP, LLC,
an Illinois limited liability company

By: [Signature]
Michael Gaylor, Manager

SOUTHPOINT GRAND AVENUE, LLC
a Florida limited liability company

By: [Signature]
Print Name: ERIC J. SALTAMON
Title: Manager

Property of Cook County Clerk's Office

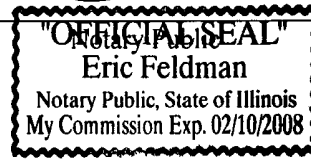
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STATE OF ILLINOIS)
) SS.
 COUNTY OF COOK)

The undersigned, a Notary Public in and for said County, in the aforesaid State, does hereby certify that on this day personally appeared before me, Will Ramirez, personally known to me to be the same person whose name is subscribed to the foregoing instrument and personally known to me to be the Senior VP President of ALLEGIANCE COMMUNITY BANK and acknowledged that (s)he signed and delivered the said instrument as his/her free and voluntary act and deed, and as the free and voluntary act of said corporation for the uses and purposes set forth.

Given under my hand and notarial seal this 31 day of May, 2006.

[Handwritten Signature]

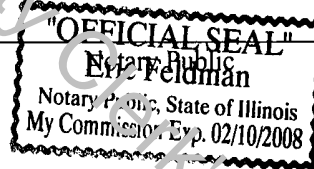


STATE OF ILLINOIS)
) SS.
 COUNTY OF COOK)

The undersigned, a Notary Public in and for said county, in the aforesaid State, does hereby certify that Michael Gaylor, and known to me to be the same person whose name is subscribed to the foregoing instrument as the Manager of GRAND INVESTMENT GROUP, LLC, an Illinois limited liability company, 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 company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 31 day of May, 2006.

[Handwritten Signature]



STATE OF FLORIDA)
) SS.
 COUNTY OF BROWARD)

The undersigned, a Notary Public in and for said county, in the aforesaid State, does hereby certify that ERIC SAITZMAN, and known to me to be the same person whose name is subscribed to the foregoing instrument as the Manager of SOUTHPOINT GRAND AVENUE, LLC, a Florida limited liability company, 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 company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 26th day of MAY, 2006.

[Handwritten Signature]

 Notary Public

