

# UNOFFICIAL COPY



Doc#: 0629731078 Fee: \$46.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 10/24/2006 02:00 PM Pg: 1 of 12

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

## SUBORDINATION AGREEMENT

This Subordination Agreement ("Agreement") is made and entered into as of the 20th day of October, 2006 between the **CITY OF CHICAGO** by and through its Department of Planning and Development (the "City"), and **BRIDGEVIEW BANK GROUP**, an Illinois banking corporation (the "Lender").

### WITNESSETH:

**WHEREAS**, the project is located at 105<sup>th</sup> Street and Vincennes, Chicago, Illinois ("**Project**") and which is legally described in Exhibit A to this Agreement.

**WHEREAS**, pursuant to the execution and recording of a mortgage and note as part of obtaining financing for the Project, MGM/TGI 105<sup>th</sup> Street, LLC, an Illinois limited liability company (the "**Developer**"), has entered into a certain Construction Loan Agreement dated as of July 18, 2006 with the Lender pursuant to which the Lender has agreed to make a loan to the Developer in the stated principal amount of \$17,275,000.00 (the "**Loan**"), which Loan is evidenced by three notes, Construction Loan Note #1 in the stated principal amount of \$12,275,000.00, Construction Loan Note #2 in the stated principal amount of \$4,000,000.00 and Construction Loan Note #3 in the stated principal amount of \$1,000,000.00, all executed by the Developer in favor of the Lender (collectively, the "**Note**"), and the repayment of the Loan is secured by, among other things, certain liens and encumbrances on the Project pursuant to the following: (i) Amended and Restated Mortgage dated July 18, 2006 and recorded August 30, 2006, as document number 0624210146 made by the Developer to the Lender (the "**Mortgage**"); (ii) Amended and Restated Assignment of Rents and Lessor's Interest in Leases dated July 18, 2006 and recorded August 30, 2006 as document number 0624210147 made by the Developer to the Lender; and (iii) other security (all such agreements referred to above and otherwise relating to the Loan referred to herein collectively as the "**Loan Documents**");

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**WHEREAS**, the Developer desires to enter into a 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 Project, as set forth in Section 8.02 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 Project, and (b) an agreement by the Lender to subordinate its respective liens under the Loan Documents to the City Encumbrances upon the terms and conditions herein set forth; 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. **Subordination.** All rights, interests and claims of the Lender in the Project pursuant to the Loan 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 any of the Lender's other rights or other priorities under the Loan Documents, including without limitation 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 exercise its rights pursuant to the Loan Documents, except as provided herein. Furthermore, nothing herein shall have any effect whatsoever on the respective rights, obligations and covenants of the Lender and the City under that certain Redevelopment Agreement of even date herewith. The liabilities and obligations of the Lender with respect to the City Encumbrances and the City Agreements shall be as set forth in Article 16 of the Redevelopment Agreement.

2. **Notice of Default.** The Lender shall use reasonable 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. Failure of either party to deliver such notices or waivers shall in no instance alter the rights or remedies of such party under the Loan Documents or the City Agreements.

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3. 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 instances 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 Lender.

5. Section Titles; Plurals. The section titles contained in this Agreement are and shall be without substantive meaning or content of any 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 LaSalle Street, Room 1000  
Chicago, IL 60602  
Attention: Commissioner

With a copy to: City of Chicago Department of Law  
121 North LaSalle Street, Room 600  
Chicago, IL 60602  
Attention: Finance and Economic Development Division

If to the Lender: Bridgeview Bank Group  
7300 West 87th Street  
Bridgeview, IL 60455  
Attention: Bill Iaculla

With a copy to: Holland & Knight LLP  
131 South Dearborn  
30th Floor  
Chicago, IL 60603  
Attention: Anthony L. Frink, Esq.

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

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sent by overnight deliver 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 or 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 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. Subordinate Financing. Lender and City acknowledge and agree that 105<sup>th</sup> & Vincennes, LLC ("**Junior Lender**") is the assignee of a Mortgage made by Developer to Junior Lender, dated October 14, 2005, and recorded October 18, 2005, as Document Number 0529127056 in the official records of Cook County, Illinois, said mortgage having been previously assigned to Freeman Realty Advisors, Inc. ("**Freeman**") by Junior Lender, by virtue of an Assignment of Mortgage dated March 3, 2006, and recorded on March 3, 2006, as Document Number 0606231411 ("**Junior Mortgage**") and reassigned by Freeman to Junior Lender by virtue of an Assignment of Mortgage dated July 5, 2006, and recorded on July 14, 2006, as Document Number 0619518017. Lender has entered into a separate Subordination and Intercreditor Agreement with Junior Lender dated October 14, 2005, and recorded on October 18, 2005 as Document Number 0529127055, as amended by the First Amendment to Intercreditor and Subordination Agreement dated July 18, 2006, and recorded on August 30, 2006, as Document Number 0624210148, pursuant to which Junior Lender agreed, among other things, to subordinate the lien of the Junior Mortgage to the lien of the Mortgage. City will enter into a separate subordination agreement with Junior Lender pursuant to which Junior Mortgage shall agree to subordinate the lien of the Junior Mortgage to the City Encumbrances. Said subordination agreements shall provide for Junior Lender to give written notice to City or Lender, as the case may be, of any defaults under the Junior Mortgage. City and Lender agree, each to the other, to use reasonable efforts to give notice of any notices of default either should receive from Junior Lender with respect to a default under the Junior Mortgage.

8. Foreclosure. In the event Lender shall become the owner of the Project, or the Project shall be sold by reason of non-judicial foreclosure or judicial foreclosure or other proceedings brought by Lender to enforce the Mortgage, or the Project shall be conveyed to Lender or an affiliate by deed in lieu of foreclosure, then Lender shall give notice thereof to City and the City Encumbrances shall continue in full force and effect and City shall recognize Lender, or such purchaser or affiliate, as the successor to Developer, as the case may be, under the City Encumbrances, so long as Lender, or such purchaser or affiliate, shall perform or otherwise satisfy the Developer's obligations under the Redevelopment Agreement within the time periods so specified thereunder and execute and deliver such documentation as the City may require to effectuate such assignment and assumption. As used in this Section 8, an "affiliate" of Lender shall mean any entity that is directly or indirectly, controlled by, under common control of, or controlling Lender.

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9. Counterparts. 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.

[The remainder of this page is intentionally  
left blank and the signature page follows]

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

**BRIDGEVIEW BANK GROUP**, an  
Illinois banking corporation

By: [Signature]  
Its: SVP

**CITY OF CHICAGO**

By: [Signature: Louis J. Healey]  
Its: \_\_\_\_\_ Commissioner,  
Department of Planning and  
Development [Signature]

ACKNOWLEDGED AND AGREED TO  
THIS \_\_\_\_ DAY OF \_\_\_\_\_, 200\_\_

**MGM/TGI 105<sup>TH</sup> STREET, LLC**,  
an Illinois limited liability company

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

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

**BRIDGEVIEW BANK GROUP**, an  
Illinois banking corporation

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

**CITY OF CHICAGO**

By: \_\_\_\_\_  
Its: \_\_\_\_\_ Commissioner,  
Department of Planning and  
Development

**ACKNOWLEDGED AND AGREED TO**  
THIS 20 DAY OF October, 2006

**MGM/TGI 105<sup>TH</sup> STREET, LLC**,  
an Illinois limited liability company

By: [Signature]  
John J. Mayher, Jr.

Its: Manager

By: [Signature]  
Patrick C. Terrell

Its: Manager

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STATE OF ILLINOIS        )  
                                          ) SS  
COUNTY OF COOK        )

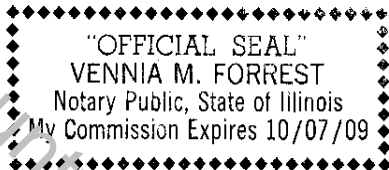
I, the undersigned, a notary public in and for the County, and in the State aforesaid, DO HEREBY CERTIFY THAT William Taculla, personally known to me to be the Vice President of Bridgeview Bank Group, an Illinois banking corporation, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed, sealed and delivered the said instrument pursuant to the authority given to him/her by said Bank, as his/her 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 this 20<sup>th</sup> day of October, 2006  
200\_\_.

Vennia M. Forrest  
Notary Public

My Commission Expires 10/07/09

(SEAL)



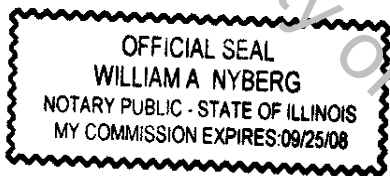


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STATE OF ILLINOIS        )  
                                           ) SS  
 COUNTY OF COOK         )

I, the undersigned, a notary public in and for the County, and in the 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 ~~s~~he signed and delivered the said instrument pursuant to authority, as ~~his~~her free and voluntary act, and as the free and voluntary act and deed of said City, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 20th day of October, 2006.



*William A. Nyberg*  
 \_\_\_\_\_  
 Notary Public

My Commission Expires 09/25/08

(SEAL)

Property of Cook County Clerk's Office

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STATE OF ILLINOIS    )  
                                          ) SS  
COUNTY OF COOK    )

I, the undersigned, a notary public in and for the County, and in the State aforesaid, DO HEREBY CERTIFY THAT John J. Mayher, Jr. and Patrick C. Terrell, personally known to me to be the Managers of MGM/TGI 105<sup>th</sup> Street, LLC, an Illinois limited liability company, and 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, sealed and delivered the said instrument pursuant to the authority given to them by said company, as their free and voluntary act, and as the free and voluntary act of said company, for the uses and purposes therein set forth.

2006. GIVEN under my hand and notarial seal this 20 day of October,



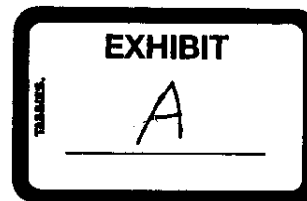
*Lauren E. SchAAF*  
\_\_\_\_\_  
Notary Public

My Commission Expires 8/27/07

(SEAL)

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ALTA Commitment

File No.: 1438195

Legal Description:

Parcel 1:

Lots 15, 16, 17, 18, and 22 in Block 5 in Hillard and Hitt's Subdivision of part of the East 1/2 of the Northwest 1/4 of Section 17, Township 37 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

Parcel 2:

All of Block 6; also

The North and South vacated alley through Block 6; also

The East and West vacated alley between East line of railroad and East lines of Lots 13 and 22; also

The 1/2 vacated street West of and adjoining Lot 18; also

All vacated alley West of and adjoining Lot 19; also

The North 1/2 of vacated 106th street between the Easterly line of the right of way of the Chicago, Rock Island and Pacific Railroad and West line of Throop Street all in Hillard and Hitt's Subdivision of part of the East 1/2 of the Northwest 1/4 of Section 17, Township 37 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

Parcel 3:

Lots 1 to 48 inclusive, in Block 1; Lots 1 to 48, inclusive, in Block 2 and Lots 1 to 22, inclusive, in Block 3 in Hillard and Hitt's Resubdivision of Block 7 in Hillard's and Hitt's Subdivision of that part of the East 1/2 of the Northwest 1/4 lying East of the Chicago Rock Island and Pacific Railroad of Section 17, Township 37 North, Range 14 East of the Third Principal Meridian, and of Lot 17 in Block 12 in Washington Heights, being a subdivision by the Blue Island Land and Building Company of the West 1/2 of the Northwest 1/4 of Section 17, Township 37 North, Range 14, East of the Third Principal Meridian, (except those portions of Lots 2 and 22 in Block 3 aforesaid, if any, falling within the right of way of the Chicago, Rock Island and Pacific Railroad); also

The South 1/2 of vacated 106th Street North and adjoining the North lines of Blocks 1, 2, and 3 and the North line of said Block 1 produced West 66 feet and the North line of said Block 2 produced West 80 feet; also

All that part of vacated Martin Street West of and adjoining the West line of Block 1 aforesaid and East of and adjoining the East line of Block 2 aforesaid; also

All that part of vacated Loomis Street West of and adjoining the West line of Block 2 aforesaid and East of and adjoining Block 3 aforesaid; also

The North and South vacated alley in Block 1, also

The North and South vacated alley in Block 2, also the East and West vacated alleys in Block 3, also

The vacated alley West of and adjoining the West line of Lots 3 to 14, inclusive, in Block 3 and East of and adjoining the Easterly line of the right of way of the Chicago, Rock Island and Pacific Railroad and West of and adjoining the East and West alleys in said Block 3, all in Hillard and Hitt's Resubdivision of Block 7 in Hillard and Hitt's Subdivision of the East 1/2

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of the Northwest 1/4 lying East of the Chicago, Rock Island and Pacific Railroad right of way of Section 17, Township 37 North, Range 14 East of the Third Principal Meridian, and of Lot 17 in Block 12 in Washington Heights, being a subdivision by the Blue Island Land and Building Company of the West 1/2 of the Northwest 1/4 of Section 17, Township 37 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

Parcel 4:

Outlot 'A' and the West 1/2 of vacated Loomis Street, lying North of 106th Street and Southeasterly of the Railroad right of way in Hillard and Hitt's Resubdivision of Block 7 in Hillard and Hitt's Subdivision of the East 1/2 of the Northwest 1/4 of Section 17, Township 37 North, Range 14, East of the Third Principal Meridian, and Lot 17 in Block 12 of the Blue Island Land and Building Co's Subdivision of the Washington Heights in the West 1/2 of the Northwest 1/4 of Section 17, Township 37 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

Parcel 5:

Lots 1 through 9 (except the South 15.00 feet thereof) and Lots 14, 17, 20, 21, 22, 23, 24, 36, 37, 38, 39, 40, 41, 42 and 43 (excepting from said lots the following real estate:

That part of Lot 1, lying Easterly of a line extending from a point on the Easterly line of said Lot 1, 58 feet Southeasterly of the Northeast corner of said Lot 1, to a point in the South line of said Lot 1, a distance of 84.50 feet East of the Southwest corner of Lot 4; also

That part of Lots 36 to 43, inclusive, lying Easterly of a line extending from the Southwest corner of Lot 36 to the North line of Lot 43, 90.50 feet East of the Northwest corner of said Lot 43; also

That part of Lots 20 to 24, inclusive lying Easterly of a line extending from a point in the South line of Lot 24, 20 feet East of the Southwest corner of Lot 24, to the North line of Lot 20, 96 feet East of the Northwest corner of Lot 20) all in Block 1 in Russell and Anderson's Resubdivision of Lots 8 to 20 in Block 8 in Hillard and Hitt's Subdivision in the East 1/2 of the Northwest 1/4 of Section 17, Township 37 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.