

UNOFFICIAL COPY

THIS INSTRUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:

Valeria St. Vicina Bailey, Esq.
LaSalle Bank Corporation
135 South LaSalle Street
Suite 925
Chicago, Illinois 60603



Doc#: 0700233227 Fee: \$38.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 01/02/2007 11:32 AM Pg: 1 of 8

PERMANENT INDEX NUMBERS:

12-02-414-013-0000
12-02-415-00-0000

PROPERTY ADDRESS:

8303 West Higgins Road, Chicago, Illinois

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

This Subordination, Non-Disturbance and Attornment Agreement (this "Agreement") is made as of the December 28, 2006 by and among LASALLE BANK NATIONAL ASSOCIATION, a national banking association (the "Tenant"), HIGGINS ROAD, LLC, an Illinois limited liability company (the "Landlord"), and FIRST DUPAGE BANK, an Illinois banking corporation (the "Lender").

A. Tenant is the tenant under a Retail Branch Bank Lease dated as of December 28, 2006 (as the same may be amended from time to time, the "Lease") between Landlord and Tenant, pertaining to the ground floor of a six-story office building located on real estate commonly known as 8303 W. Higgins Road, Chicago, Illinois and more specifically described on Exhibit A attached hereto (the "Property").

B. Lender has made a loan in the amount of \$6,272,000.00 (the "Loan") to Landlord as evidenced by the promissory note of Landlord to Lender dated December 28, 2006 (the "Note") and secured by the Mortgage (described below) recorded against the Property, and the parties desire hereby to evidence the subordination of the Lease and non-disturbance thereof as set forth herein.

NOW, THEREFORE, in consideration of the foregoing, the parties hereby agree as follows:

1. Subordination. Landlord, Tenant and Lender hereby agree and acknowledge that the Lease, and all of Landlord's and Tenant's respective rights and interests thereunder, shall be, are hereby

Box 400-CTCC

828817 > 02 < 182828
708 8
CW

8
/

UNOFFICIAL COPY

made and shall remain completely subject and subordinate to the certain Mortgage recorded against the Property made by Landlord to Lender dated December 28, 2006 and recorded in the Office of the Recorder of Deeds of Cook County, Illinois on 02/02/07 as Document No. X (the "Mortgage").

0700233225

2. Lease Superior. Landlord and Tenant hereby acknowledge and agree that Lender shall have the right at any time to elect, by a notice in writing given to Landlord and Tenant, to make the Lease superior to the Mortgage, and, upon the giving of such notice to Landlord and Tenant, the Lease shall be deemed to be prior and superior to such Mortgage and the interest thereby created and evidenced.

3. Attornment. If Lender or any other party succeeds to the rights of Landlord under the Lease (the "Successor Landlord"), whether through foreclosure, the acceptance of a deed in lieu of foreclosure or any possession, surrender, assignment, judicial action or any other action taken by Lender, Tenant agrees that (i) that it shall attorn to and recognize Successor Landlord as the lessor under the Lease for the balance of the term of the Lease upon and subject to all the terms and conditions of this Agreement and of the Lease; and (ii) thereafter, it shall make payments of rent to Successor Landlord and otherwise perform Tenant's obligations set forth in the Lease.

4. Nondisturbance. So long as Tenant shall pay rent as provided in the Lease and otherwise perform its obligations thereunder, Tenant's leasehold estate under the Lease shall not be terminated or disturbed during the term of the Lease by reason of any default under the Mortgage, including, without limitation, the following: (i) Tenant shall not be joined as an adverse party defendant in any action or proceeding which may be instituted or commenced by Lender to foreclose or enforce the Mortgage unless such joinder is required by applicable law, (ii) Tenant shall not be evicted from the Property and (iii) Tenant's rights to use and possession under the Lease shall not be affected in any way by reason of the subordination or any modification of or default under the Mortgage; provided, however, that Lender or holder of the Note shall not be:

(a) liable to Tenant for damages for any act or omissions of Landlord or any prior landlord; provided, however, Lender or holder of the Note will be liable for any act or omission that continues or occurs after the date it succeeds to the interest of Landlord; or

(b) subject to any offsets, claims or defenses which Tenant might have against Landlord or against any prior landlord, unless Tenant shall have provided Lender or holder of the Note with notice of the default that gave rise to such offset, claim or defense and the opportunity to cure the same all in accordance with the cure periods provided in the Lease; or

(c) bound by any rent or additional rent or deposit paid in advance for more than the current month, rental security or any other sums which Tenant may have paid to Landlord or any other landlord; or

(d) bound by any amendment or modification of the Lease made without Lender's prior written consent (it being expressly acknowledged and agreed that Landlord or

UNOFFICIAL COPY

holder of the Note shall be bound, without providing prior written consent, by Tenant's exercise of any renewal options under the Lease or any amendment made to the Lease as expressly required in the Lease); or

(e) bound to the Tenant subsequent to the date upon which the Lender transfers its interest in the Property to any third party provided such transferee agrees to be bound by the terms and provisions of the Lease; or

(f) obligated or liable to Tenant with respect to the construction and completion of improvements in or to the Property for Tenant's use, enjoyment or occupancy; or

(g) obligated or liable to Tenant for any moving, relocation or refurbishment allowance or any payment or allowance for improvements to the Property or any part thereof; or

(h) liable for the payment of any leasing commissions or other expenses for which Landlord or any prior landlord incurred the obligation to pay; or

(i) bound or liable to Tenant under any oral or written notice given by Tenant to Landlord or any prior landlord unless Tenant shall have provided Lender or holder of the Note with such written notice; or

(j) be bound by any environmental or other indemnities of Landlord.

5. Lender's Right to Cure. In the event of any default by Landlord under the Lease, Tenant shall promptly give notice of such default to Lender and, in such event and prior to the exercise by Tenant of any of its rights or remedies under the Lease or otherwise with respect to such default, Lender shall have the right, but not the obligation, to cure such default within 30 days following the receipt of such notice (except that if Lender cannot reasonably cure such default within such period of time, such period shall be extended for a reasonable additional period of time (not to exceed 120 days), provided that Lender commences to take action in order to cure such default within such period and proceeds diligently thereafter to effect such cure), and, if Lender does cure such default, then the Lease shall remain in full force and effect. Landlord notice address is Attention: Dean Lawrence, 550 N. Cass Avenue, Westmont, IL 60559.

6. Rent Payments. Tenant agrees that, after the date hereof, rent shall not be paid more than one month in advance without the prior consent of Lender.

7. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon Tenant, Landlord, Lender and their respective heirs, personal representatives, successors and assigns. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any of the provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision was not contained herein. This Agreement shall be governed by and construed according to the laws of the State of Illinois.

UNOFFICIAL COPY

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed in manner and form sufficient to bind them, as of the day and year first above written.

TENANT:

LANDLORD:

LASALLE BANK NATIONAL ASSOCIATION

HIGGINS ROAD, LLC, an Illinois limited liability company

By: [Signature]
Name: Richard R. Saulig
Title: Senior Vice President

By: [Signature]
Name: Charles Markopoulos
Title: Manager

Approved
ABN
AMRO
[Signature]
Real Estate
DAB
Legal

Property of Cook County Clerk's Office

LENDER:

By: _____
Name: _____
Title: _____

UNOFFICIAL COPY

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed in manner and form sufficient to bind them, as of the day and year first above written.

TENANT:

LANDLORD:

LASALLE BANK NATIONAL
ASSOCIATION

HIGGINS ROAD, LLC, an Illinois
limited liability company

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Approved
ABN
AMRO

Real Estate

Legal

LENDER:

FIRST DUPAGE BANK,
an Illinois banking corporation

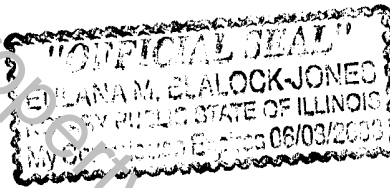
By: *Joseph A. Keyser*
Name: JOSPH A. KEYSER
Title: SENIOR VICE PRESIDENT

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, EULANA M. BLALOCK-JONES, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY THAT CARLOS MARRON, personally known to me and known by me to be the Manager of Higgins Road, LLC., an Illinois limited liability company, in whose name the above and foregoing instrument is executed, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his 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 28 day of December, 2006.



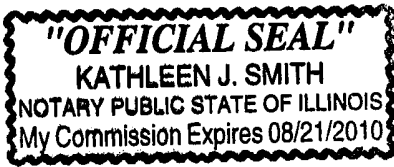
Eulana M. Blalock-Jones
Notary Public

My Commission Expires:
6/3/09

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, Kathleen J. Smith, a Notary Public in and for said County in the State aforesaid, do hereby certify that Richard R. Sullivan, personally known to me and known by me to be the Senior Vice President of LASALLE BANK NATIONAL ASSOCIATION, in whose name the above and foregoing instrument is executed, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of said national banking association, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 21st day of December, 2006.



Kathleen J. Smith
Notary Public

My Commission Expires:
8/21/10

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS
COUNTY OF DuPage)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY THAT Lana S Kaske personally known to me and known by me to be the JR VP of First DuPage Bank in whose name the above and foregoing instrument is executed, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of said entity, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 28th day of November, 2006.

Lana S Kaske
Notary Public

My Commission Expires 6-6-08



Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT A TO SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

Legal Description of Property

THAT PART OF LOTS 1 AND 50 AND VACATED NORTH FAIRVIEW AVENUE ADJOINING SAID LOTS 1 AND 50 TAKEN AS A TRACT DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE STRAIGHT NORTHERLY AND STRAIGHT EASTERLY LINES OF SAID LOT 50 EXTENDED, THENCE NORTHWESTERLY ALONG SAID NORTHERLY LINE AS EXTENDED 87 FEET; THENCE SOUTHWESTERLY PARALLEL WITH THE STRAIGHT EAST LINE AFORESAID, 20 FEET TO THE PLACE OF BEGINNING, THENCE CONTINUING SOUTHWESTERLY ALONG SAID PARALLEL LINE 49.85 FEET, THENCE SOUTHEASTERLY 103.09 FEET TO A POINT IN SAID EASTERLY LINE OF SAID LOT 125.48 FEET FROM THE SAID INTERSECTION OF THE STRAIGHT NORTHERLY AND EASTERLY LINES OF SAID LOT AS EXTENDED; THENCE CONTINUING SOUTHEASTERLY IN A STRAIGHT LINE TO THE SOUTHWEST CORNER OF SAID LOT 1, THENCE EAST ALONG SOUTH LINE OF SAID LOT 1 TO SOUTHEAST CORNER OF SAID LOT 1, THENCE NORTH ALONG EAST LINE OF SAID LOT 1 TO THE NORTHEAST CORNER OF SAID LOT 1, THENCE WEST ALONG NORTH LINE OF SAID LOT 1 BEING ALSO THE SOUTH LINE OF HIGGINS ROAD TO THE AFORESAID INTERSECTION OF THE STRAIGHT NORTHERLY AND STRAIGHT EASTERLY LINE OF SAID LOT 50 EXTENDED, THENCE SOUTHWESTERLY TO THE PLACE OF BEGINNING, ALL IN HIGGINS ROAD ADDITION BEING A SUBDIVISION OF LOTS 13, 14 AND 15 IN PENNOYER SUBDIVISION IN SECTIONS 1, 2, 11 AND 12, TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Cook County Clerk's Office