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Doc#: 0701022070 Fee: \$38.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 01/10/2007 10:40 AM Pg: 1 of 8

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

John N. Oest
Lord, Bissell & Brook LLP
111 South Wacker Drive
Chicago, IL 60606

SUBORDINATION, NONDISTURBANCE, AND ATTORNMENT AGREEMENT

THIS AGREEMENT (the "Agreement") made and entered into this 4th day of January, 2007, by and between TOWN & COUNTRY PEDIATRICS, S.C., an Illinois service corporation ("Tenant"), BLACKHAWK/HALSTED, LLC, an Illinois limited liability company ("Landlord") and NATIONAL CITY BANK, a national banking association as Agent for itself and other Agents ("Agent").

RECITALS:

A. Tenant is present lessee under that certain lease executed between Tenant and landlord dated September 25, 2006 ("Lease"), for the Premises and certain other rights to the use of the Common Areas of the real property legally described on Exhibit A attached hereto and made a part hereof (the "Land").

B. Agent has agreed to make a mortgage loan ("loan") to Landlord in the maximum principal amount of \$ 70,000,000.00, to be secured by a mortgage (the "Mortgage") and an assignment of leases and rents from the Land.

C. As a condition to making the Loan, Agent requires that Tenant enter into this Agreement.

D. The terms used herein shall have the same meaning as defined in the Lease.

NOW THEREFORE, the parties hereby agree as follows:

1. Subordination. So long as Tenant's occupancy is not disturbed as provided in Section 2 below, the rights of Tenant in, to, and under the Lease, and the Premises are hereby subjected and subordinated, and shall remain in all respects and for all purposes subject and subordinate, to the lien of the Mortgage, and to any and all renewals, modifications, and extensions thereof, and any and all other instruments held by Agent as security for the loan; provided, however, such subordination will not diminish or modify the specific rights granted Tenant under Sections 1, 6, 7, 10, 12, 14, 15, 27, 28, 29, 31 of the Lease and Sections 2, 3, 4 and 9 of Exhibit C attached to the Lease.

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2. Tenant Not to be Disturbed. So long as Tenant is not in default (beyond any period given Tenant by the terms of the Lease to cure such default) in the payment of Base Rent or additional rent or in the performance of any of the terms, covenants, or conditions of the Lease on Tenant's part to be performed, (a) Tenant's possession and use of the Premises or the use of the Common Areas, or any extension or renewal rights therefore in the Lease, shall not be diminished or interfered with by Agent, and Tenant's occupancy of the Premises and of the Common Areas shall not be disturbed by Agent during the term of the Lease or any such extensions or renewals thereof, and (b) Agent will not join Tenant as a party defendant in any action or proceeding foreclosing the Mortgage unless such joinder is necessary to foreclose the Mortgage and then only for such purposes and not for the purpose of terminating the Lease, recognizing all restrictions imposed on the Land by the Lease, and affirmatively recognizing the validity of the Lease

3. Tenant to Attorn to Agent. If Agent shall become the owner of the Land, or the Land shall be sold by reason of foreclosure or other proceedings brought to enforce the Mortgage, or the Land shall be transferred by deed in lieu of foreclosure, the Lease shall continue in full force and effect as a direct lease between the then owner of the Land and Tenant, and Tenant hereby attorns to Agent or any other such owner as its lessor, said attornment to be effective and self-operative without the execution of any further instruments. The successor landlord shall be bound to Tenant under all the terms, covenants and conditions of the Lease, and Tenant, shall, from and after the succession to the interest of Landlord under the lease, have the same remedies against the successor for the breach of any agreement contained in the Lease that Tenant might have had under the Lease against Landlord; provided, however, that Agent or such other owner shall not be

(a) liable for any act or omission of any prior landlord under the Lease, (the foregoing shall not limit Tenant's rights or recourse, if any, against Landlord for its breach of any such obligation under the Lease); or

(b) subject to any offsets or defenses which Tenant might have against any such prior landlord (however, the foregoing shall not limit Tenant's rights of recourse, if any, against Landlord for such failure to complete or other such breach of its obligations under the Lease or limit Tenant's rights under the Lease to terminate the Lease based on such failure or breach, if no otherwise performed, or limit Tenant's right of set-off, defense or other rights or remedies under the Lease with respect to such failure or breach); or

(c) bound by any prepayment of Base Rent, Addition Rent, Insurance and Taxes or additional rent for more than one (1) month in advance which Tenant might have paid, except as otherwise expressly required by the terms of the Lease and Tenant's payments of the Addition Rent, Insurance and Taxes as provided for in the Lease, will be credited to or reimbursed to the Tenant as provided for in the Lease; or

(d) bound by any amendment or modification of the Lease or by any waiver or forbearance on the part of the Landlord or made or given without the written consent of Agent or any subsequent holder of the Mortgage; or

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(e) bound to return any security deposit unless Agent has actually received that security deposit; or

(f) bound by any covenant to perform (including without limitation, any covenant to complete) any renovation or construction of the Improvements; provided, however, if Agent or such other owner (collectively the "Successor") succeeds in the interest of Landlord by any of the methods described in this paragraph and elects to complete the construction of the Building, the Premises, the Garage Common Areas and the elevators (collectively, the "Improvements") on or prior to the Outside Delivery Date, the Lease shall continue in full force and effect and Successor will complete the Improvements in a timely manner pursuant to the terms of the Lease, but in no event later than Outside Delivery Date. If Successor elects not to complete the Improvements or it is determined that the Improvements will not be completed by Outside Delivery Date, Successor shall provide written notice to the Tenant as soon as practical after such election or determination, but in no event later than the Outside Delivery Date, and thereafter the Tenant will have the option to terminate the Lease by giving written notice to the Successor within 60 days after receipt of its notice and Successor will be liable for any monetary delay payments provided in Section 4 of the Workletter, and the parties shall have no further obligation to the other.

Tenant shall be under no obligation to pay rent to Agent or any such other owner until Tenant receives written notice from Agent or any such other owner that it has succeeded to Landlord's interest under the Lease.

4. Agent's Option to Cure Landlord's Default. Tenant agrees that Landlord shall not be in default under the Lease unless written notice specifying such default is given to Agent; provided however that Tenant shall have no obligation to deliver Agent any notice of default by Landlord under Section 4 of the Work Letter (attached to the Lease as Exhibit C) nor afford Agent any opportunity to cure such default. Tenant agrees that Agent shall have the right to cure such default on behalf of Landlord within thirty (30) days after the receipt of such notice. Tenant further agrees not to invoke any of its remedies under the Lease until said thirty (30) days have elapsed or five (5) days in the case of an emergency, or during any period that Agent is proceeding to cure such default with due diligence, or is diligently taking steps to obtain the right to enter the Premises and cure the default.

5. Assignment of Lease. Tenant acknowledges that the interest of Landlord in the Lease is held by Landlord and that Landlord's interest has been assigned to Agent as security under the Mortgage and that Agent assumes no duty, liability, or obligation under the Lease or any extension or renewal of the Lease, either by virtue of said assignment or by any subsequent receipt or collection or rents under the assignment, and that unless the written consent of Agent is first obtained, no cancellation, surrender, or modification may be made of the Lease and no rental shall be paid other than as now provided in the Lease or in such modification of the Lease and may receive the written approval of Agent. Agent, or any subsequent owner claiming by through or under Agent (including any purchaser at a foreclosure sale) shall be liable only for the performance of the other obligations of Landlord under the Lease only during the period Agent, or such other owner shall hold such interest in the Land.

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6. Rental Payment. Until such time as Tenant is otherwise notified in writing by Agent, it shall make all rental payments under the Lease to Landlord as provided therein.

7. Successor and Assigns. This Agreement and each and every covenant, agreement, and other provision hereof shall be binding upon and shall inure to the benefit of the parties hereto, and their heirs, administrators, representatives, successors, and assigns.

8. Non Reduction of Rent. The Landlord and Tenant represent and warrant that they have not heretofore and will not hereafter enter into any agreement other than the Lease between themselves or with third parties which in any way reduce the rental below its current monthly rate or allow an abatement in rental which would result in the failure to pay monthly rental payments to National City Bank as Agent or its successor in the event a default occurs in the obligation of the Landlord to National City Bank as agent.

9. Termination of Obligations. Notwithstanding anything herein to the contrary, this Agreement, and all obligations of Tenant hereunder, will terminate upon the release and satisfaction of the Mortgage.

10. Counterparts. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original but all of which when taken together shall constitute one agreement.

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed as of the date first above.

AGENT:

NATIONAL CITY BANK, as agent for itself and other lenders

By: [Signature]
Name: JOHN MURPHY
Title: VICE PRESIDENT

TENANT:

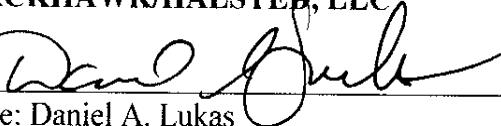
TOWN & COUNTRY PEDIATRICS, S.C., an Illinois service corporation

By: [Signature]
Name: Howard M. Rice, MD.
Title: President

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LANDLORD:

BLACKHAWK/HALSTED, LLC

By: 

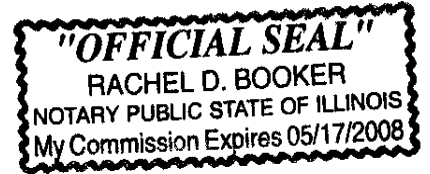
Name: Daniel A. Lukas

Its Manager

Property of Cook County Clerk's Office

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[Acknowledgment of Agent)



STATE OF Illinois)
) ss.
COUNTY OF LAKE)

On 1/5, 2007 before me, Rachel D. Booker, A Notary Public in and for said County and State, personally appeared John Murphy, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument on behalf of the Agent and acknowledged to me that he/she/they executed same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature: Rachel D. Booker

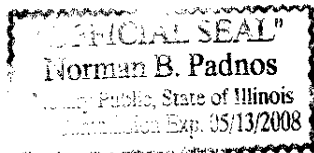
[Acknowledgment of Tenant)

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

On January 4, 2007 before me, Norman B. Padnos, a Notary Public in and for said County and State, personally appeared Howard M. Rice, MD personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument on behalf of the Tenant and acknowledged to me that he executed same in his authorized capacity and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature: Norman B. Padnos



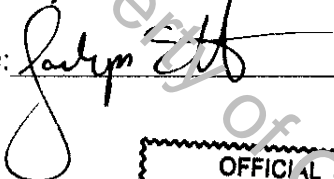
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[Acknowledgement of Landlord]

STATE OF Illinois)
) ss.
COUNTY OF Cook)

On January 5, 2007, 2007 before me, Jaclyn E Warren, a Notary Public in and for said County and State, personally appeared Daniel A Lukas, the manager of the Landlord personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed same in his authorized capacity and that by his signatures on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature: 



Cook County Clerk's Office

UNOFFICIAL COPY**EXHIBIT A****LEGAL DESCRIPTION**

Parcel 1

THE WEST 66 FEET OF LOTS 14 AND 15 (EXCEPT THE SOUTH 2 FEET 6 INCHES OF THE EAST 6 FEET THEREOF); THE WEST 60 FEET OF LOTS 16, 17, 18, 19, 20, 21 AND 22 AND THE NORTH 2 FEET 11 INCHES OF THE WEST 60 FEET OF LOT 23 IN J.A. YALE'S RESUBDIVISION OF BLOCK 59 IN ELSTON'S ADDITION TO CHICAGO IN THE NORTHEAST ¼ OF SECTION 5, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Parcel 2

LOTS 1 TO 8, BOTH INCLUSIVE; THE NORTH ½ OF LOT 9; THAT PORTION OF THE VACATED ALLEY WEST OF AND ADJOINING SAID LOTS 1 TO 8, BOTH INCLUSIVE, AND THE NORTH ½ OF LOT 9 AND EAST AND ADJOINING LOTS 14 TO 21, BOTH INCLUSIVE, AND THE NORTH ½ OF LOT 22, LOTS 14 AND 15, EXCEPT THE WEST 66 THEREOF; THE SOUTH 2 FEET 6 INCHES OF THE EAST 6 FEET OF THE WEST 66 FEET OF LOT 15; LOTS 16 TO 21, BOTH INCLUSIVE, EXCEPT THE WEST 60 FEET THEREOF AND THE NORTH ½ OF LOT 22, EXCEPT THE WEST 60 FEET THEREOF, ALL IN J.A. YALE'S RESUBDIVISION OF BLOCK 59 IN ELSTON'S ADDITION TO CHICAGO (HERETOFORE VACATED AS TO SAID LOTS AND SAID BLOCK 59) IN THE NORTHEAST ¼ OF SECTION 5, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Parcel 3

THE SOUTH ½ OF LOT 9, ALL OF LOTS 10, 11, 12 AND 13, THE SOUTH ½ OF LOTS 22 (EXCEPT THE WEST 60 FEET THEREOF), LOT 23 (EXCEPT THE NORTH 2 FEET 11 INCHES OF THE WEST 60 FEET THEREOF), AND LOTS 24, 25, AND 26, AND THAT PORTION OF THE VACATED ALLEY WEST OF AND ADJOINING SAID LOTS 10 TO 13, BOTH INCLUSIVE, AND THE SOUTH ½ OF LOT 9 AND EAST OF AND ADJOINING SAID LOTS 23 TO 26, BOTH INCLUSIVE, AND THE SOUTH ½ OF LOT 22 IN BLOCK 59 IN ELSTON'S ADDITION TO CHICAGO (HERETOFORE VACATED) IN THE NORTHEAST ¼ OF SECTION 5, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY ILLINOIS.

PIN: 17-05-219-002-0000, 17-05-219-003-0000, 17-05-219-005-0000, 17-05-219-006-0000

823 W. Belmont, Chicago, IL