



Doc#: 0831841162 Fee: \$54.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 11/13/2008 11:42 AM Pg: 1 of 10

5 of 6

08-03861

PREPARED BY AND WHEN
RECORDED MAIL TO:

Pamela J. Sandborg, Esq.
Levenfeld Pearlstein, LLC
400 Skokie Boulevard
Suite 700
Northbrook, Illinois 60062

PREMIER TITLE

SUBORDINATION, NONDISTURBANCE
AND ATTORNMENT AGREEMENT

This Agreement is dated as of June 6, 2008 and is made by and between Elston Avenue Properties, L.L.C., an Illinois limited liability company ("Landlord"), David's Bridal, Inc., a Florida corporation ("Tenant") and FIRST MIDWEST BANK ("Lender").

P R E A M B L E:

Pursuant to that certain Lease more fully described on Exhibit B attached hereto (said lease, as amended, and as may from time to time be amended, modified, substituted, extended, renewed or restated shall be referred to as the "Lease"), Elston Avenue Properties, L.L.C. ("Landlord"), the owner of the property more fully described on Exhibit "A" attached hereto ("Property"), leased to Tenant the portion of the Property described in the Lease. Landlord has requested Lender to provide financing (the "Financing") from time to time to Landlord, which Financing shall be secured by the Property. Lender has agreed to provide such Financing so long as, among other things, this Agreement is entered into by Tenant.

NOW, THEREFORE, in consideration of the foregoing, to induce Lender to provide the Financing to Landlord and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties mutually agree as follows, provided Tenant, within 60 days of the date it executes this Agreement, is in receipt of a fully executed and confirmed copy of this Agreement:

1. Representations Regarding Lease. Tenant represents and warrants to Lender that (a) Tenant is not in possession of the Property; (b) except as described on Exhibit B hereto, there have been no changes, modifications, alterations or amendments to the Lease; (c) no current default or event of default (howsoever such terms are defined) currently exists under the Lease; (d) all parties to the Lease are currently in full compliance with the terms and provisions of the

100B

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Lease; (e) ~~no all rent and or any other payments are required to be paid by Tenant under the Lease as of the date of this Agreement have been paid in full; and (f) Tenant has no offsets or defenses to Tenant's performance under the Lease.~~

2. Attornment. Tenant covenants and agrees to attorn to Lender or any other purchaser at any foreclosure sale of the Property as its new landlord and Lender or any other purchaser at any foreclosure sale of the Property covenant and agree to attorn to Tenant and upon such event the Lease shall continue in full force and effect as a direct lease between the Tenant and Lender or such other person, upon all terms, covenants, conditions and agreements set forth in the Lease; provided, however, that in no event shall Lender or such third person be (a) liable for any act or omission of the Landlord, except with respect to acts of omissions of an ongoing nature of which Lender has received notice and an opportunity to cure, provided that such liability shall only arise after the date on which Lender succeeds to the interest of Landlord; (b) subject to any offsets or deficiencies, except those which are either specifically permitted in the Lease or of which Lender has prior written notice, which the Tenant might be entitled to assert against Landlord; (c) bound by any payment of rent or additional rent made by the Tenant to Landlord for more than one month in advance of its due date, except estimated prepayments of Tenant's pro-rata share of real estate taxes, insurance and common area maintenance paid by Tenant in compliance with the terms set forth in the Lease. Tenant retains all of its rights to review prior payments made and to receive any overpayments that may be due from Landlord or successor landlord; or (d) bound by any amendment or material modification of the Lease made after the date Tenant receives a fully executed copy of this Agreement that decreases the length of the Term thereof or the Rent due thereunder, or otherwise materially increases the Lender's obligations, made without the consent of Lender, said consent not to be unreasonably withheld, conditioned or delayed.

3. Subordination of Lease. Tenant covenants and agrees that all of Tenant's right, title and interest in and under the Lease is and shall be subordinated to the lien or interest of Lender in and to the Property, and to all right, title and interest granted to Lender in and to the Property, in the same manner as if the Lease had been executed after execution, delivery and recording of Lender's interest in the Property, provided Tenant's rights and obligations as set forth in the Lease shall not be materially adversely affected.

4. Nondisturbance. Lender covenants and agrees that in the event that Lender or any other person exercises any of its rights, powers or remedies pursuant to any agreement, instrument or document relating to the Financing with respect to the Property, and Lender or any other person acquires title to the Property pursuant to the exercise of any such right, power or remedy, and provided that the Tenant is not then in default under the Lease, then Tenant's leasehold shall not be disturbed by Lender's or any third parties' exercise of any of such rights, powers or remedies. In the event of a default beyond any applicable cure period under the Lease by Tenant, Lender shall be permitted to pursue all remedies of Landlord set forth therein.

5. Amendment, Modifications. This Agreement may not be modified other than by agreement in writing signed by Lender, Landlord and Tenant, or by their respective successors in interest.

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6. Binding Agreement. This Agreement shall inure to the benefit of and shall be binding upon Lender and its successors and assigns, and be binding upon Tenant and its successors and assigns.

7. Counterparts. This Agreement may be executed in any number of counterparts, each of which counterparts, once executed and delivered, shall be deemed to be an original and all of which counterparts taken together, shall constitute but one and the same Agreement.

8. Governing Laws. This Agreement shall be deemed to be a contract made under the laws of the State of Illinois and for all purposes shall be construed in accordance with the internal laws, and not the conflict of laws provisions, of the State of Illinois.

**[THE BALANCE OF THIS PAGE IS INTENTIONALLY LEFT BLANK;
SIGNATURE PAGE FOLLOWS]**

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IN WITNESS WHEREOF, the authorized representatives of the parties have executed this Agreement on the day and year first set forth above.

FIRST MIDWEST BANK

By: [Signature]
Title: Commercial Banking Officer

ELSTON AVENUE PROPERTIES, L.L.C.
an Illinois limited liability company

By: [Signature]
Title: John Novak, Manager

DAVID'S BRIDAL, INC.,
a Florida corporation

By: [Signature]
Michael H. Mirsky
Title: Vice President Real Estate

Wade 4/6/08

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LANDLORD

If a limited liability company:

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The Undersigned, a Notary Public in and for said County in the state aforesaid, DO
HEREBY CERTIFY THAT John Novak, (member/manager), and
 , (member/manager), of Elston Avenue Properties LLC personally
known to me to be the same persons whose names are subscribed to the foregoing instrument as
such (members/managers) Manager respectively, appeared before me this
day in person and acknowledged that they signed and delivered said instrument as their own free
and voluntary act, and as the free and voluntary act of said limited liability company, for the uses
and purposes therein set forth.

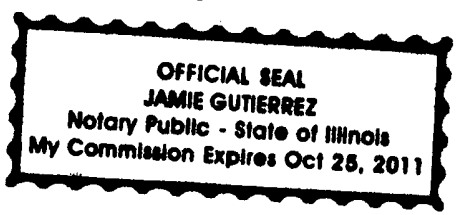
GIVEN under my hand and Notarial Seal this 26th day of June, 2008.

[Handwritten Signature]

NOTARY PUBLIC

My Commission Expires:

10/25/2011
[SEAL]



Cook County Clerk's Office

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TENANT

If a corporation:

STATE OF ~~ILLINOIS~~ PENNSYLVANIA)
) SS. Conshohocken
COUNTY OF ~~COOK~~ MONTGOMERY)

The Undersigned, a Notary Public in and for said County in the state aforesaid, DO HEREBY CERTIFY THAT Michael H. Mirsky, Vice President Real Estate,—and _____, of David's Bridal, Inc. personally known to me to be the same persons whose names are ~~is~~ subscribed to the foregoing instrument as such Vice President Real Estate, _____ and _____ respectively, appeared before me this day in person and acknowledged that they signed and delivered said instrument as ~~their~~ his own free and voluntary act, and as the free and voluntary act of said Corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 6th day of June 2008.

Carol Mehrman
NOTARY PUBLIC
Carol Mehrman

My Commission Expires:

11/18/10
[S E A L]

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Carol Mehrman, Notary Public
Brookhaven Boro, Delaware County
My Commission Expires Nov. 18, 2011
Member, Pennsylvania Association of Notaries

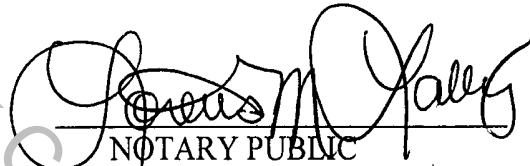
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LENDER

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The Undersigned, a Notary Public in and for said County in the state aforesaid, DO HEREBY CERTIFY THAT Sтивен M. Вермонт CBD, of First Midwest Bank personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Sтивен M. Вермонт, appeared before me this day in person and acknowledged that such person signed and delivered said instrument as such person's own 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 18 day of September 2005.


NOTARY PUBLIC

My Commission Expires:

2/27/10

[SEAL]



EXHIBIT "A"
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File No.: 2008-03861-PT

Commitment No.: 2008-03861-PT

PROPERTY DESCRIPTION

The land referred to in this commitment is described as follows:

LOTS 11 THROUGH 29 AND LOT 49 IN GEORGE R. HOTCHKISS JR'S SUBDIVISION OF LOT 5 (EXCEPT PART LYING EAST OF LOGAN BOULEVARD AND EXCEPT BOULEVARD AND EXCEPT STREETS) IN SUPERIOR COURT PARTITION OF SNOW ESTATE IN THE SOUTHWEST QUARTER OF SECTION 30, IN TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ALSO

ALL THAT PART OF THE NORTHWESTERLY-SOUTHEASTERLY 16 FOOT PUBLIC ALLEY, INCLUDING TWO (2), 5 FOOT BY 5 FOOT TRIANGULAR PUBLIC ALLEYS ADJOINING THE SOUTHEASTERLY TERMINUS OF THE AFORESAID NORTHWESTERLY-SOUTHEASTERLY 16 FOOT PUBLIC ALLEY AND TWO (2) IRREGULARLY SHAPED PUBLIC ALLEYS ADJOINING THE NORTHERLY TERMINUS OF THE AFORESAID NORTHWESTERLY-SOUTHEASTERLY 16 FOOT PUBLIC ALLEY, LYING EASTERLY AND NORTHEASTERLY OF THE EASTERLY AND NORTHEASTERLY LINES OF LOT 18, LYING NORTHEASTERLY OF THE NORTHEASTERLY LINE OF LOTS 19 TO 27, BOTH INCLUSIVE, LYING NORTHWESTERLY, SOUTHWESTERLY AND SOUTHERLY OF THE NORTHWESTERLY, SOUTHWESTERLY AND SOUTHERLY LINES OF LOT 49, LYING SOUTHERLY OF THE NORTHERLY LINE OF LOT 27 EXTENDED SOUTHEASTERLY TO THE POINT OF INTERSECTION WITH THE NORTH LINE OF LOT 49 EXTENDED WESTERLY, LYING SOUTH AND SOUTHERLY OF THE NORTH LINE OF LOT 49 EXTENDED WESTERLY TO THE POINT OF INTERSECTION WITH THE NORTHERLY LINE OF LOT 27 EXTENDED SOUTHEASTERLY AND LYING NORTHWESTERLY OF A LINE DRAWN FROM THE POINT OF INTERSECTION OF THE EASTERLY AND SOUTHEASTERLY LINES OF LOT 18 TO THE POINT OF INTERSECTION OF THE SOUTHEASTERLY AND SOUTHERLY LINES OF LOT 49 ALL IN GEORGE R. HOTCHKISS JR'S SUBDIVISION OF LOT 5 (EXCEPT PART LYING EAST OF LOGAN BOULEVARD AND EXCEPT BOULEVARD AND EXCEPT STREETS) IN SUPERIOR COURT PARTITION OF SNOW ESTATE IN THE SOUTHWEST QUARTER OF SECTION 30, IN TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, SAID PART OF PUBLIC ALLEY HEREIN VACATED BEING FURTHER DESCRIBED AS THE NORTHWESTERLY-SOUTHEASTERLY 16 FOOT PUBLIC ALLEY WHOSE SOUTHWESTERLY LINE IS 120 FEET, MORE OR LESS, NORTHEASTERLY OF THE NORTHEASTERLY LINE OF N. ELSTON AVENUE, SAID PART OF PUBLIC ALLEY LYING NORTHWESTERLY OF THE NORTHWESTERLY LINE OF A NORTHEASTERLY-SOUTHWESTERLY 20 FOOT PUBLIC ALLEY WHOSE SOUTHEASTERLY LINE IS 125 FEET, MORE OR LESS, NORTHWESTERLY OF THE NORTHWESTERLY LINE OF W. LOGAN BOULEVARD SAID PART OF THE PUBLIC ALLEY ALSO LYING SOUTH OF THE WESTERLY EXTENSION OF THE SOUTH LINE OF THE EAST-WEST 16 FOOT PUBLIC ALLEY WHOSE NORTH LINE IS 125 FEET, MORE OR LESS, SOUTH OF THE SOUTH LINE OF W. DIVERSEY AVENUE AND LYING SOUTHERLY OF THE EASTERLY EXTENSION OF THE SOUTHERLY LINE OF THE EASTERLY-WESTERLY 20 FOOT PUBLIC ALLEY IN THE BLOCK BOUNDED BY W. DIVERSEY AVENUE, W. LOGAN BOULEVARD AND N. ELSTON AVENUE AS VACATED PER ORDINANCE RECORDED DECEMBER 31, 2007 AS DOCUMENT NO. 0736503042.

ALSO

ALL THAT PART OF THE NORTHEASTERLY/SOUTHWESTERLY 20 FOOT PUBLIC ALLEY VACATED PER ORDINANCE RECORDED SEPTEMBER 12, 2008 AS DOCUMENT NO. 0825631101 AND DEPICTED ON PLAT OF VACATION/DEDICATION RECORDED SEPTEMBER 12, 2008 AS DOCUMENT NO. 0825631102.

ALSO

EXCEPT THE NORTHEASTERLY 20.00 FEET OF LOT 12, IN GEORGE R. HOTCHKISS JR'S SUBDIVISION OF LOT 5 (EXCEPT PART LYING EAST OF LOGAN BOULEVARD AND EXCEPT BOULEVARD AND EXCEPT STREETS) IN SUPERIOR COURT PARTITION OF SNOW ESTATE IN SOUTHWEST QUARTER OF SECTION 30, IN TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS AS DEDICATED PER ORDINANCE RECORDED SEPTEMBER 12, 2008 AS DOCUMENT NO. 0825631101 AND DEPICTED ON PLAT

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EXHIBIT "A"
(Continued)

File No.: 2008-03861-PT

Commitment No.: 2008-03861-PT

OF VACATION/DEDICATION RECORDED SEPTEMBER 12, 2008 AS DOCUMENT NO. 0825631102.

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EXHIBIT B TO
SUBORDINATION, NONDISTURBANCE AND NONDISTURBANCE AGREEMENT

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and flourishes, is written across the page. The signature is positioned over a diagonal watermark.

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