

# UNOFFICIAL COPY

Prepared by and after recording  
please return to:



Doc#: 0902618008 Fee: \$52.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 01/26/2009 10:38 AM Pg: 1 of 9

Levenfeld Pearlstein, LLC  
2 North LaSalle Street  
Suite 1300  
Chicago, IL 60602  
Attention: Steven F. Ginsberg, Esq.  
(Site Name: Moto HQ; 34679-72348)

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SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

## SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

This Subordination, Non-Disturbance and Attornment Agreement ("**Agreement**"), is made as of this 14th day of Jan, 2009 among Wells Fargo Bank, N.A., not individually, but solely as Trustee for the Certificate Holders of Credit Suisse First Boston Mortgage Securities Corp., Commercial Mortgage Pass-Through Certificates, Series 2006-C1 under that certain Pooling and Servicing Agreement dated as of March 1, 2006 ("**Lender**"), by and through Capmark Finance Inc., a California corporation, its Master Servicer under said Pooling and Servicing Agreement, HHP- Schaumburg, LLC., a Delaware Limited Liability Company ("**Landlord**"), and Chicago SMSA Limited Partnership, d/b/a Verizon Wireless. ("**Tenant**").

### Background

A. Lender is the owner and holder of a deed of trust or mortgage or other similar security instrument (either, the "Security Instrument"), covering, among other things, the real property commonly known and described as Embassy Suites Schaumburg, 1939 N. Meacham Road, Schaumburg, and further described on Exhibit "A" attached hereto and made a part hereof for all purposes, and the building and improvements thereon (collectively, the "Property").

B. Tenant is the lessee under that certain lease agreement between Landlord and Tenant dated 1/11/09, 2009 ("**Lease**") demising a portion of the Property described more particularly in the Lease and the lease. ("**Leased Space**").

C. Landlord, Tenant and Lender desire to enter into the following agreements with respect to the priority of the Lease and Security Instrument.

NOW, THEREFORE, in consideration of the mutual promises of this Agreement, and intending to be legally bound hereby, the parties hereto agree as follows:

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1. Subordination. Tenant agrees that the Lease, and all estates, options and rights created under the Lease, hereby are subordinated and made subject to the lien and effect of the Security Instrument.

2. Nondisturbance. Lender agrees that no foreclosure (whether judicial or nonjudicial), deed-in-lieu of foreclosure, or other sale of the Property in connection with enforcement of the Security Instrument or otherwise in satisfaction of the underlying loan shall operate to terminate the Lease or Tenant's rights thereunder to possess and use the leased space provided, however, that (a) the term of the Lease has commenced, (b) Tenant is in possession of the premises demised pursuant to the Lease, and (c) the Lease is in full force and effect and no uncured default exists under the Lease.

3. Attornment. Tenant agrees to attorn to and recognize as its landlord under the Lease each party acquiring legal title to the Property by foreclosure (whether judicial or nonjudicial) of the Security Instrument, deed-in-lieu of foreclosure, or other sale in connection with enforcement of the Security Instrument or otherwise in satisfaction of the underlying loan ("**Successor Owner**"). Provided that the conditions set forth in Section 2 above are met at the time Successor Owner becomes owners of the Property, Successor Owner shall perform all obligations of the landlord under the Lease arising from and after the date title to the Property was transferred to Successor Owner. In no event, however, will any Successor Owner be: (a) liable for any default, act or omission of any prior landlord under the Lease, (except that Successor Owner shall not be relieved from the obligation to cure any defaults which are non-monetary and continuing in nature, and such that Successor Owner's failure to cure would constitute a continuing default under the Lease); (b) subject to any offset or defense which Tenant may have against any prior landlord under the Lease provided, however, that Tenant shall retain the right to any offset or defense against Successor Owner as to any matters constituting a default under the Lease and which arise (i) after Successor Owner has taken possession of the Property and/or (ii) which are continuing as of the date Successor owner takes possession of the property and which remain uncured beyond Successor Owner's applicable cure period.; (c) bound by any payment of rent or additional rent made by Tenant to Landlord more than 30 days in advance; (d) bound by any modification or supplement to the Lease, or waiver of Lease terms, which revise Tenant's or Landlord's monetary obligations under the Lease, modifies the term of the Lease, the parties termination rights or the legal description, made without Lender's written consent thereto; (e) liable for the return of any security deposit or other prepaid charge paid by Tenant under the Lease, except to the extent such amounts were actually received by Lender; (f) liable or bound by any right of first refusal or option to purchase all or any portion of the Property; or (g) liable for construction or completion of any improvements to the Property or as required under the Lease for Tenant's use and occupancy (whenever arising). Although the foregoing provisions of this Agreement are self-operative, Tenant agrees to execute and deliver to Lender or any Successor Owner such further instruments as Lender or a Successor Owner may from time to time request in order to confirm this Agreement. If any liability of Successor Owner does arise pursuant to this Agreement, such liability shall be limited to Successor Owner's interest in the Property.

4. Rent Payments; Notice to Tenant Regarding Rent Payments. Tenant agrees not to pay rent more than one (1) month in advance unless otherwise specified in the Lease. After notice is given to Tenant by Lender that Landlord is in default under the Security Instrument and that the rentals under the Lease should be paid to Lender pursuant to the assignment of leases and rents granted by Landlord to Lender in connection therewith, Tenant shall thereafter pay to Lender all rent and all other amounts due or to become due to Landlord under the Lease, and Landlord hereby expressly authorizes Tenant to make such payments to Lender upon reliance on Lender's written notice (without any inquiry into the factual basis for such notice or any prior notice to or consent from Landlord) and hereby releases Tenant from all liability to Landlord in connection with Tenant's compliance with Lender's written instructions.

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5. Lender Opportunity to Cure Landlord Defaults. Tenant agrees that, until the Security Instrument is released by Lender, it will not exercise any remedies under the Lease following a Landlord default without having first given to Lender (a) written notice of the alleged Landlord default and (b) the opportunity to cure such default within the time periods provided for cure by Landlord, measured from the time notice is given to Lender. Tenant acknowledges that Lender is not obligated to cure any Landlord default, but if Lender elects to do so, Tenant agrees to accept cure by Lender as that of Landlord under the Lease and will not exercise any right or remedy under the Lease for a Landlord default. Performance rendered by Lender on Landlord's behalf is without prejudice to Lender's rights against Landlord under the Security Instrument or any other documents executed by Landlord in favor of Lender in connection with the Loan.

6. Miscellaneous.

(a) Notices. All notices under this Agreement will be effective only if made in writing and addressed to the address for a party provided below such party's signature. A new notice address may be established from time to time by written notice given in accordance with this Section. All notices will be deemed received only upon actual receipt.

(b) Entire Agreement; Modification. This Agreement is the entire agreement between the parties relating to the subordination and nondisturbance of the Lease, and supersedes and replaces all prior discussions, representations and agreements (oral and written) with respect to the subordination and nondisturbance of the Lease. This Agreement controls any conflict between the terms of this Agreement and the Lease. This Agreement may not be modified, supplemented or terminated, nor any provision hereof waived, unless by written agreement of Lender and Tenant, and then only to the extent expressly set forth in such writing.

(c) Binding Effect. This Agreement binds and inures to the benefit of each party hereto and their respective heirs, executors, legal representatives, successors and assigns, whether by voluntary action of the parties or by operation of law. If the Security Instrument is a deed of trust, this Agreement is entered into by the trustee of the Security Instrument solely in its capacity as trustee and not individually.

(d) Unenforceability. Any provision of this Agreement which is determined by a government body or court of competent jurisdiction to be invalid, unenforceable or illegal shall be ineffective only to the extent of such holding and shall not affect the validity, enforceability or legality of any other provision, nor shall such determination apply in any circumstance or to any party not controlled by such determination.

(e) Construction of Certain Terms. Defined terms used in this Agreement may be used interchangeably in singular or plural form, and pronouns cover all genders. Unless otherwise provided herein, all days from performance shall be calendar days, and a "business day" is any day other than Saturday, Sunday and days on which Lender is closed for legal holidays, by government order or weather emergency.

(f) Governing Law. This Agreement shall be governed by the laws of the State in which the Property is located (without giving effect to its rules governing conflicts of laws).

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(g) Waiver of Jury Trial. TENANT AND LENDER, AS AN INDUCEMENT FOR EACH OTHER TO PROVIDE THIS AGREEMENT AND THE ACCOMODATIONS TO EACH OTHER OFFERED HEREBY, HEREBY WAIVE THEIR RIGHT, TO THE FULL EXTENT PERMITTED BY LAW, AND AGREE NOT TO ELECT, A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS AGREEMENT

(h) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together constitute a fully executed agreement even though all signatures do not appear on the same document. The failure of any party hereto to execute this Agreement, or any counterpart hereof, shall not relieve the other signatories from their respective obligations hereunder.

(signatures follow on next page)

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200<sup>9</sup> IN WITNESS WHEREOF, this Agreement is executed this 17<sup>th</sup> day of Jan.

**LENDER:**

Wells Fargo Bank, N.A., Trustee

By: Capmark Finance Inc.,  
its Master Servicer

By: [Signature]  
Name: Carolyn K. Grandstaff  
Title: Vice President  
Midwest Area

**Lender Notice Address:**

Wells Fargo Bank, N.A. Trustee  
c/o Capmark Finance Inc.  
116 Welsh Road  
Attn: General Counsel  
Attn: Executive Vice President – Servicing Administration

**LANDLORD:**

By: [Signature]  
Name: Christopher D. Schott  
Title: Manager

**Landlord Notice Address:**

HHP-Schaumburg, LLC  
401 Veterans Memorial Boulevard, Suite 102  
Metairie, Louisiana 70005  
Attn: Christopher D. Schott

**TENANT:**

Chicago SMSA Limited Partnership,  
d/b/a Verizon Wireless

By: Cellco Partnership, its General Partner

By: [Signature]  
Name: Beth Ann Drohan  
Title: Vice President Network Operations  
1/19/09

**Tenant Notice Address:**

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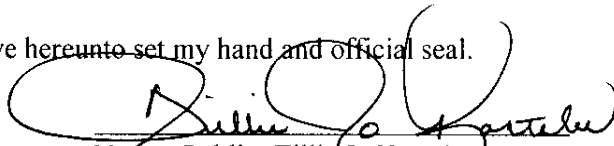
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Notary Acknowledgement for Lender:

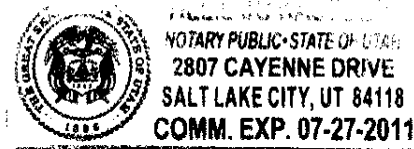
Commonwealth of State of Utah :  
:ss  
County of Salt Lake :

On this, the 17th day of Dec, 2008, before me, the undersigned Notary Public, personally appeared Carolyn K. Grandstaff known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and who acknowledged to me that he/she is an officer of Capmark Finance Inc. in the capacity stated and that he/she executed the within instrument in such capacity for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

  
Notary Public- Tillie Jo Kasteler

{seal}

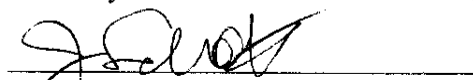


Notary Acknowledgement for Tenant:

State of Louisiana :  
Parish :ss  
County of St. Tammany :

On this, the 30th day of December, 2008, before me, the undersigned Notary Public, personally appeared Christopher Schott known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and who acknowledged to me that he/she is an officer of the Tenant in the capacity stated and that he/she executed the within instrument in such capacity for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

  
Notary Public

{seal}

**JUDY CANNELLA SCHOTT**  
Notary Public, LA BAR ID # 16845  
DULY COMMISSIONED IN ST. TAMMANY PARISH, LA.  
QUALIFIED FOR THE STATE OF LA. AT-LARGE  
MY COMMISSION IS ISSUED FOR LIFE

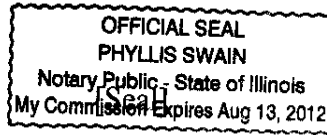
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STATE OF ILLINOIS )  
 ) ss.  
COUNTY OF COOK )

On 1/19/09 before me, Phyllis Swain  
\_\_\_\_\_, personally appeared Beth Ann Drohan, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

Signature: Phyllis Swain



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## Exhibit A Legal Description

Street Address: 1939 North Meacham Road, Schaumburg, Illinois 60173

Permanent Tax Identification Numbers: 07-01-101-007-0000, 07-12-101-022-0000

### **Parcel 1: (Fee)**

Lot 1 in the Resubdivision of Lots 1 and 2 in WALDEN INTERNATIONAL, being a Subdivision of part of Fractional Section 1 and part of the North ½ of Section 12, in Township 41 North, Range 10, East of the Third Principal Meridian, according to the plat of Resubdivision recorded October 6, 1982 as Document 26374113, (less and except that part taken through Condemnation Case 89L50751) and except that part of the land conveyed to the Village of Schaumburg falling in Meacham Road, described as follows: Commencing at the intersection of the North line of said Lot 1 with the Easterly right-of-way line of Meacham Road according to the final judgment order Condemnation Case Number 89L50751 filed November 14, 1995 in the Circuit Court of Cook County, Illinois; thence on an assumed bearing of North 89 degrees 39 minutes 31 seconds East along the North line of said Lot 1, a distance of 4.57 feet; thence Southerly 597.15 feet along a curve to the right having a radius of 13713.33 feet, the chord of said curve bears South 4 degrees 49 minutes 29 seconds West, 597.10 feet to the Southerly line of said Lot 1; thence South 69 degrees 50 minutes 30 seconds West along the Southerly line of said Lot 1, a distance of 4.27 feet to the Easterly right-of-way line of Meacham Road according to the final judgment order Condemnation Case Number 89L50751; thence North 5 degrees 12 minutes 24 seconds East along the said Easterly right-of-way line of Meacham Road, a distance of 127.51 feet (127.49 feet, recorded); thence Northerly 471.03 feet (470.97 feet, recorded) along the said Easterly right-of-way line of Meacham Road on a curve to the left having a radius of 11529.16 feet, the chord of said curve bears North 4 degrees 26 minutes 52 seconds East, 471.00 feet (470.93 feet, recorded) to the Point of Beginning, in Cook County, Illinois.

### **Parcel 2: (Easement)**

Perpetual and non-exclusive easements appurtenant to and for the benefit of Parcel 1 as created by Article IV of the Declaration of Protective Covenants, recorded March 28, 1980 as Document No. 25406331, for Ingress and Egress and Utilities upon, over, along, and across "Drummer Drive" as depicted on Exhibit 3 of Document No. 25406331.

### **Parcel 3: (Easement)**

Perpetual and non-exclusive easements appurtenant to and for the benefit of Parcel 1 as set forth in paragraph 1 of the Declaration of Easements for Resubdivision of Lots 1 and 2 in WALDEN INTERNATIONAL, for the purpose of Ingress and Egress upon, over, along and across the areas designated as "Access and Circulation Roads and Sidewalks" on Exhibit "B" of Document No. 26442124 and created by deed recorded December 17, 1982 as Document No. 26442125.



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**Parcel 4: (Easement)**

Perpetual and non-exclusive easements appurtenant to and for the benefit of Parcel 1 as created by Article IV of the Declaration of Protective Covenants recorded March 28, 1980 as Document No. 25406331 for Drainage over and upon the "Storm Water Detention Areas" as depicted on Exhibit 3 of Document No. 25406331.

**Parcel 5: (Easement)**

Easements appurtenant to and for the benefit of Parcel 1 upon, over, under, along and across those parts of Lots 3, 4, 5, and 6 as set forth on the Plat of Subdivision of WALDEN INTERNATIONAL, recorded January 30, 1980 as Document No. 25342431, within the area marked "Utility Easements" and upon, over, under along and across those parts of Lots 2 and 3 as set forth on the Plat of Resubdivision of Lots 1 and 2 of WALDEN INTERNATIONAL, recorded October 5, 1982 as Document No. 26374113, within the areas marked "Utility Easements Hereby Dedicated" and "Existing Utility Easements", for the purposes of sewer, gas, and water services.

**Parcel 6: (Easement)**

Perpetual and non-exclusive easements appurtenant to and for the benefit of Parcel 1 upon, over, under, along and across those parts of Lot 2 and 3 of the Resubdivision of Lots 1 and 2 in WALDEN INTERNATIONAL, as set forth in the Declaration of Easements for Resubdivision of Lots 1 and 2 in WALDEN INTERNATIONAL, for constructing, utilizing, repairing, maintaining, and reconstructing "Utility Lines" as depicted in Exhibit C of said Declaration recorded December 17, 1982 as Document No. 26442124 and as created by deed recorded December 17, 1982 as Document No. 26442125, all in Cook County, Illinois.

**Parcel 7: (Easement)**

Non-exclusive and Perpetual Easement for Ingress and Egress for the use of office parking area for the parking of motor vehicles and for the Ingress and Egress for motor vehicles and pedestrians to and from the hotel parcel from and to the office parcel parking area in order to use the office parcel parking area as set forth in the Parking Easement Agreement dated November 17, 1995 and recorded December 29, 1995 as Document No. 95908016 made by American National Bank and Trust Company as Trustee under Trust number 107177-00 and Quebec Street Investments, Inc. over portions of the following land: Lots 2 and 3 in the Resubdivision of Lots 1 and 2 in WALDEN INTERNATIONAL, being a subdivision of part of fractional Section 1 and that part of the North ½ of Section 12, both in Township 41 North, Range 10, East of the Third Principal Meridian, according to the Plat of Resubdivision recorded as Document 26374113.

Dallas\_14265510\1  
21587-184 10/31/2005