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Doc#: 0912503071 Fee: \$52.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
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This document was prepared by, and after recording return to:

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Attn: Michael J. Osty, Esq.

Permanent Tax Index Number:
15-30-201-014-0000

Premises Address:
2450 S. Wolf Road, Westchester, IL 60154

SUBORDINATION OF LEASEHOLD MORTGAGE

THIS SUBORDINATION OF LEASEHOLD MORTGAGE ("Subordination") is made effective March __, 2009 (the "Effective Date") by **PARK NATIONAL BANK**, a national banking association, with an office at 24 N. Washington, Naperville, Illinois 60540 ("Junior Lender"), Bank of America, NA, a national banking association, with an office at 135 S. LaSalle St., Chicago, IL 60603 ("Senior Lender") and **PRAIRIE MEDICAL CENTER, LLC**, an Illinois limited liability company, having its principal offices at 2450 S. Wolf Road, Westchester, IL 60154, as mortgagor ("Mortgagor").

BACKGROUND

A. Senior Lender is the mortgagee of a Leasehold Construction Mortgage dated as of February 8, 2006 and recorded with the Cook County Recorder of Deeds as Document Number 0625122107 dated September 8, 2006 made by Mortgagor in the amount of Three Million Seven Hundred Twenty Thousand and 00/100 Dollars (\$3,720,000.00), as it may be amended, and all documents and instruments evidencing or securing the indebtedness secured thereby (together with amendments, restatements, supplements and replacements, the "Senior Mortgage"), encumbering all right, title and interest of Mortgagor as the "Lessee" under or pursuant to that certain Lease dated January 1, 2005 by and between TDK Real Estate Venture Land, LLC as lessor ("Lessor") and Mortgagor as ("Lessee")(together with all amendments, supplements, modifications and replacements thereof, the "Subject Lease"), pursuant to which Mortgagor has leased from Lessor all of the land located in Cook County, Illinois, legally described in attached Exhibit A (such interest of Mortgagor being sometimes referred to herein as the "Leasehold Estate"). The Senior Mortgage secures Mortgagor's indebtedness to Senior Lender evidenced by a Promissory Note of even date with the Senior Mortgage (the "Senior Note") from Mortgagor payable to the order of Senior Lender in the original principal amount of Three Million Seven Hundred Twenty Thousand and 00/100 Dollars (\$3,720,000.00)(together with amendments, restatements, extensions and replacements, the "Senior Loan")(The Senior Note, the Senior Mortgage and the other documents and items signed and/or delivered by or on

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behalf of the Mortgagor or Senior Lender in connection with the Senior Loan, as any of them may be amended, restated or replaced, are collectively referred to as the "Senior Loan Documents").

B. Junior Lender is or is about to be the mortgagee of a leasehold mortgage dated March __, 2009 which has or is to be recorded in the Office of the Cook County Recorder (together with amendments, restatements, supplements and replacements, the "Junior Mortgage"), encumbering the Leasehold Estate. The Junior Mortgage secures Kenneth S. Nelson, Donald D. Higgins, Jr. and Thomas M. Nelson (collectively, the "Borrowers") indebtedness to Junior Lender evidenced by a Promissory Note of even date with the Junior Mortgage (the "Junior Note") from Borrowers payable to the order of Junior Lender in the original principal amount of \$694,000.00 (together with amendments, restatements, extensions and replacements, the "Junior Loan") (The Junior Note, the Junior Mortgage and the other documents and terms signed and/or delivered by or on behalf of the Borrowers, Mortgagor or Junior Lender in connection with the Junior Loan, as any of them may be amended, restated or replaced, are collectively referred to as the "Junior Loan Documents").

C. It is a condition precedent of Senior Lender's consent to Borrowers obtaining the Junior Loan from Junior Lender and Mortgagor granting the Junior Mortgage that the security interests, charges, liens, encumbrances and other interests under the Junior Mortgage shall unconditionally be and remain at all times a lien or charge upon the Leasehold Estate, subordinate and inferior to the security interests, charges, liens, encumbrances and other interests under the Senior Mortgage and the other Senior Loan Documents.

D. Junior Lender is agreeable to subordinating its lien under the Junior Mortgage to the lien of the Senior Mortgage and Senior Lender is agreeable to consenting to the Junior Mortgage provided that the Junior Mortgage is subordinate to the Senior Mortgage, and, to evidence and effect the subordination and the terms of that subordination, Junior Lender, Senior Lender and Mortgagor are entering into this Subordination.

THEREFORE, in consideration of the statements in the Background and other consideration the receipt and sufficiency of which are acknowledged, Junior Lender and Senior Lender agree as follows:

1. The Background. The statements in the Background are incorporated by reference into this Subordination as if restated as provisions below. Senior Lender and Junior Lender acknowledge that the statements in the Background are true and correct as of the Effective Date. Capitalized words and phrases defined in the Background have the same meanings when used elsewhere in this Subordination.

2. Consent; Subordination. Senior Lender hereby consents to the making of the Junior Loan and lien of the Junior Mortgage. Notwithstanding anything to the contrary contained in the Junior Mortgage (or in any Junior Loan Documents):

2.1 the Junior Mortgage is **subordinate and junior in all respects** to the Senior Mortgage;

2.2 the Junior Mortgage is in the original principal amount equal to \$694,000.00 and the Junior Mortgage shall not under any circumstances secure in excess of \$1,200,000.00, including without limitation principal, interest, advances and costs of collection; and

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2.3 from and after the occurrence of an Event of Default under the terms of either the Senior Loan Documents or the Junior Loan Documents, as the case may be, Senior Lender and Junior Lender shall use their reasonable efforts to promptly provide the other with (a) notices of any and all such Events of Default under their respective loan documents, including copies of any and all notices delivered to their respective obligors, mortgagors, guarantors, indemnitors, grantors, or to anyone acting on behalf of any one or more of the foregoing, and (b) notices of any enforcement and/or collection actions, procedures, remedies and/or proceedings with respect to the Senior Loan Documents and Junior Loan Documents, as the case may be.

3. Standby.

(a) Regardless of whether a default exists under the Junior Loan Documents until Senior Lender has notified Junior Lender in writing that all of the obligations secured by or otherwise due under the Senior Loan Documents (the "Senior Obligations") have been paid and satisfied in full and have been discharged, Junior Lender shall not, without the prior written consent of Senior Lender and except as set forth in Paragraph 4 of this Agreement (a) demand payment of, sue for or receive all or any part of the obligations secured by the Junior Loan Documents (the "Junior Obligations") or (b) take any action to enforce any security interest in or lien on, or exercise any other rights with respect to the Leasehold Estate in which Junior Lender now or at any time hereafter has a security interest pursuant to the Junior Loan Documents (including, without limitation, commence a foreclosure action, all of the foregoing actions in (a) and (b) above being referred to herein, collectively, as the "Junior Lender Remedies"), with respect to the Junior Obligations, until the earlier to occur of any of the following:

- (i) acceleration of the Senior Obligations;
- (ii) the passage of 90 days from the delivery to Senior Lender of written notice from Junior Lender that a default under the Junior Loan Documents has occurred and such default shall not have been cured or waived within such period; or
- (iii) the commencement or initiation of any action or proceeding by a party other than Junior Lender or any party on behalf of Junior Lender;

provided that in no event shall Junior Lender exercise any remedies upon the expiration of the period set forth in clause (ii) above any earlier than ten (10) Business Days after delivery of written notice by Junior Lender to Senior Lender of its intention to take any Junior Lender Remedies. For purposes of this Agreement, "Business Day" means a day of the year on which banks are not required or authorized to close in Chicago, Illinois.

(b) Notwithstanding anything contained herein to the contrary, if following the acceleration of the Senior Obligations by Senior Lender such acceleration is rescinded (whether or not any existing default under the Senior Loan Documents has been cured or waived), then all of the remedies taken by Junior Lender shall likewise be rescinded if the exercise of such remedies is

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based solely on clause (i) of paragraph (a) of this Paragraph 3.

(c) Upon a distribution of the assets or readjustment of the indebtedness of Mortgagor by reason of liquidation, bankruptcy, arrangement, receivership, assignment for the benefit of creditors or any other action or proceeding involving the readjustment of all or any of the debts of Mortgagor, the application of the assets of Mortgagor to the payment, liquidation or satisfaction of the Senior Obligations shall have priority over the payment, liquidation and satisfaction of the Junior Obligations.

(d) Upon a default under the Senior Loan Documents exists, if Senior Lender undertakes to enforce its liens, security interests and other rights under the Senior Loan Documents, Junior Lender agrees that it will not hinder, delay or otherwise prevent Senior Lender from taking any and all action to enforce its liens, security interests and other rights under the Senior Loan Documents.

(e) Notwithstanding anything contained herein to the contrary or any rights or remedies available to Junior Lender under any of the Junior Loan Documents, applicable law or otherwise, prior to the time that the Senior Obligations have been fully paid and discharged, in the event that any payments, distributions or other proceeds are obtained by Junior Lender from the exercise of any Junior Lender Remedies in violation of this Subordination or any payment is made or delivered to Junior Lender in violation of the terms of this Subordination, Junior Lender shall hold such payment in trust for the benefit of Senior Lender and shall immediately pay and deliver such payment to Senior Lender. In such event, Junior Lender agrees to reimburse Senior Lender for all costs, including reasonable attorney's fees, incurred by Senior Lender in the course of collecting said sums should Junior Lender fail to voluntarily turn the same over to Senior Lender as herein required.

4. Right to Cure Senior Loan Defaults and/or Purchase Senior Loan. Notwithstanding anything to the contrary contained in Senior Loan Documents, Junior Lender shall have the opportunity (but not the obligation), following a continuing default or Event of Default under the Senior Loan Documents to:

4.1 cure such default or Event of Default under the Senior Loan Documents during the applicable cure period with respect thereto, if any, available to the obligors thereunder (other than a default by reason of any bankruptcy, insolvency or similar proceeding of any kind, whether voluntary or involuntary), prior to Senior Lender exercising any of its remedies under the Senior Loan Documents. If such cure is not completed or concluded to Senior Lender's complete satisfaction (in its sole and absolute discretion) during such applicable cure period, Senior Lender may proceed to exercise its remedies in accordance with the terms and provisions of the Senior Loan Documents; and

4.2 make *regularly scheduled* payments of interest on the Senior Loan, and payments of principal and/or interest on the Senior Loan as and when due (whether at maturity, upon acceleration or otherwise). Senior Lender is hereby authorized to obtain, receive and apply the foregoing payments and/or performance on the Senior Loan Documents by Junior Lender, in such amount(s) (partial or full) and on such date(s) and terms as are required, permitted or otherwise contemplated by the Senior Loan

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Documents. Unless otherwise agreed by Senior Lender in writing, such payments and/or performance by Junior Lender in favor of Senior Lender shall not relieve or discharge the Mortgagor or any other obligor(s) from their payment or performance obligations under the Senior Loan Documents, which obligations shall continue to remain in full force and effect as their primary obligations, until all of such obligations (whether now existing or hereinafter incurred) have been indefeasibly paid in full and completely performed and discharged, as the case may be; and/or

4.3 purchase (in immediately available funds and without any recourse to Senior Lender) not less than all of Senior Lender's interests in the Senior Loan at *par*, including all outstanding principal and accrued interest thereon (at the non-default rate), plus all of Senior Lender's accrued and unpaid expenses, costs, charges and all fees (including legal and collection fees and costs) with respect thereto, through and including the date of such purchase, on such terms and conditions (including closing conditions) as are mutually agreeable to both Senior Lender and Junior Lender in their reasonable discretion.

(SIGNATURES APPEAR ON NEXT PAGE)

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IN WITNESS WHEREOF, Junior Lender, Senior Lender and Mortgagor have caused this SUBORDINATION OF MORTGAGE to be executed as of the date first written above.

JUNIOR LENDER:

PARK NATIONAL BANK, a national banking association

By: Tom Carlson
Name: Tom Carlson
Title: Vice President

SENIOR LENDER:

Bank of America, NA, a national banking association

By: [Signature]
Name: KEYUR GHAYAL
Title: VICE PRESIDENT

MORTGAGOR:

PRAIRIE MEDICAL CENTER, LLC, an Illinois limited liability company

By: [Signature]
Name: KENNETH S. NELSON, M.D.
Title: MEMBER

By: [Signature]
THOMAS A. NELSON, D.O., member

By: [Signature]
DAVID D. HIGGINS, Jr. D.O. member

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ACKNOWLEDGEMENTS

STATE OF ILLINOIS)
)SS
COUNTY OF Cook)

The undersigned, a Notary Public for the County and State identified above, certifies that Tom Carlson, as Vice President of **PARK NATIONAL BANK**, a national banking association, personally known to me, appeared before me today and acknowledged the signing of the foregoing instrument on behalf of said entity.

WITNESS my hand and official stamp or seal, ^{April} March 30, 2009.

[Signature]
Notary Public

My Commission Expires: _____

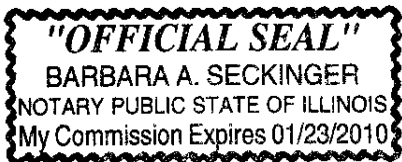
STATE OF ILLINOIS)
)SS
COUNTY OF DeWitt)

The undersigned, a Notary Public for the County and State identified above, certifies that Kevin Shyal, as Vice President of **Bank of America, N.A.**, a national banking association, personally known to me, appeared before me today and acknowledged the signing of the foregoing instrument on behalf of said entity.

WITNESS my hand and official stamp or seal, ^{April} March 2, 2009.

[Signature]
Notary Public

My Commission Expires: 1/23/2010



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STATE OF ILLINOIS)
COUNTY OF Madison)SS

The undersigned, a Notary Public for the County and State identified above, certifies that Ken Nelson, Tom Nelson & Don Hyatt, as the sole members of **PRAIRIE MEDICAL CENTER, LLC**, an Illinois limited liability company, personally known to me, appeared before me today and acknowledged the signing of the foregoing instrument on behalf of said entity.

WITNESS my hand and official stamp or seal March 30, 2009.

[Signature]
RONALD M. JARVIS, JR.
NOTARY PUBLIC STATE OF ILLINOIS
"OFFICIAL SEAL"
My Commission Expires: _____
11/07/01 58983 NOISSMARD
COMMISSION EXPIRES 10/9/2011

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EXHIBIT A LEGAL DESCRIPTION OF THE LEASEHOLD ESTATE

Mortgagor's interest in that certain Lease dated January 1, 2005 by and between TDK Real Estate Venture Land, LLC as lessor and Mortgagor as lessee with respect to the following described property:

THE SOUTH 150 FEET OF THE NORTH 528 FEET OF THE EAST 495 FEET OF THE SOUTH ½ OF THE NORTHEAST ¼ OF SECTION 30, TOWNSHIP 39 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPT THE EAST 50 FEET THEREOF CONVEYED TO THE STATE OF ILLINOIS, DEPARTMENT OF TRANSPORTATION BY WARRANTY DEED RECORDED AS DOCUMENT 2745446, IN COOK COUNTY, ILLINOIS.

PROPERTY ADDRESS OF REAL ESTATE:

2450 S. Wolf Road
Westchester, Il 60154

PERMANENT TAX IDENTIFICATION NUMBER:

15-30-201-014-0000