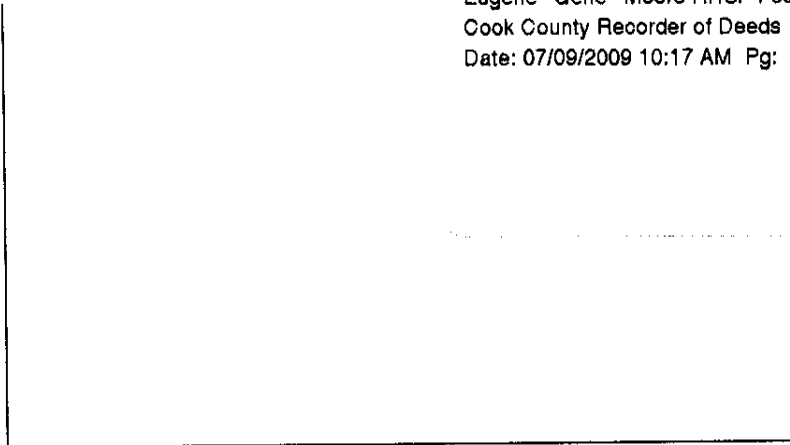




Doc#: 0919041041 Fee: \$52.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 07/09/2009 10:17 AM Pg: 1 of 9

This document was prepared by,
and after recording, return to:

Donald A. Ensing, Esq.
McGuireWoods LLP
77 West Wacker Drive, Suite 4100
Chicago, Illinois 60601-1815



The space above reserved for Recorders use only.

**SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT**

This Subordination, Non-Disturbance and Attornment Agreement (the "**Agreement**") is made and entered into as of the 30th day of June, 2009, by and among Gas City, Ltd., an Illinois corporation ("**Tenant**"), The William J. McEnery Revocable Trust ("**Landlord**"), and Cole Taylor Bank, an Illinois banking corporation ("**Lender**").

**ARTICLE I
RECITALS**

1.1 Tenant is the tenant under a certain Lease dated 1/01/07 between Landlord and Tenant, pertaining to and covering a portion of that certain real estate which is legally described on Exhibit "A" attached hereto and the buildings and improvements located thereon (the "**Property**").

1.2 Lender is presently contemplating the making of certain loans (the "**Loans**") to Landlord secured by the Property. Accordingly, this Agreement is entered into by the parties hereto with the intention of having Lender rely thereon in disbursing the Loan.

**ARTICLE II
WARRANTIES, COVENANTS AND AGREEMENTS**

2.1 Said lease, all extensions, modifications, replacements and renewals thereof (the "**Lease**"), and all of Tenant's rights and interests thereunder, shall be, are hereby made and shall remain completely subject and subordinate to that certain Mortgage, Assignment of Rents and Leases, Security Agreement and Fixture Filing dated as June 30, 2009 recorded on 0919041039, 2009, with the Recorder of Deeds of Cook County, State of Illinois, as Document No. 0919041039 and all extensions, modifications, replacements and renewals thereof (the "**Mortgage**"), (the Mortgage, and any other documents securing the loan being together referred to herein as the

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“*Loan Instruments*”), to the same extent as if the Loan Instruments had been executed, delivered and recorded prior to execution of the Lease.

2.2 Tenant agrees that it will not after the date hereof subordinate the Lease to any mortgage, deed of trust or other lien encumbering the Property, other than the Loan Instruments, without first obtaining the written consent of Lender.

2.3 Lender shall have the right at any time to elect, by a notice in writing given to Tenant, to make the Lease superior to the Loan Instruments, and, upon the giving of such notice to Tenant, the Lease shall be deemed to be prior and superior to such Loan Instruments and the interest thereby created and evidenced.

2.4 The Lease shall not, after the date hereof, be terminated, surrendered, renewed (except as specifically permitted by the Lease), or modified without first obtaining the prior written consent of Lender, and rent shall not be paid more than one month in advance.

2.5 Tenant hereby acknowledges that the interest of the Landlord under the Lease shall be assigned to Lender solely as security for the Loan and Lender (i) shall not be liable for any claims for damages or setoffs arising out of Landlord's interest in the Property, for the return of any security deposit unless it has specifically been received by Landlord, for any act committed by the Landlord or any breach or failure to perform by the Landlord, and (ii) shall not be obligated by reason of the Assignment or the exercise of any rights granted therein to perform any obligation of the Landlord.

2.6 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 thirty (30) days following the receipt of such notice (except that if Lender cannot cure such default within such period of time, such period shall be extended for a reasonable additional period of time, 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.

2.7 Notwithstanding the subordination of the Lease as aforesaid, in the event that Lender or any other party succeeds to the rights of Landlord under the Lease (“*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, then Tenant agrees that (i) it shall attorn to, and be liable 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; (ii) thereafter, it shall make payments of rent (minimum, basic, percentage, additional or otherwise) to Successor Landlord, and otherwise perform all of Tenant's obligations set forth in the Lease; (iii) Successor Landlord shall be responsible only for the performance of those of lessor's obligations to be performed during the period of its ownership; and (iv) Tenant shall look solely to the interest of Successor Landlord in the Property for recovery of any judgment, it being specifically agreed that neither Successor Landlord, nor Lender, nor anyone claiming under Landlord or Lender, shall ever be personally

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liable for any such judgment. So long as Tenant shall pay, when due, such rent and impositions and otherwise perform such other tenant obligations as set forth in the Lease, 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, Tenant shall be evicted from the Property, nor shall any of Tenant's rights to use and possession under the Lease be affected in any way by reason of the subordination or any modification of or default under the Mortgage, and 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.

2.8 Tenant agrees that on the written request of Lender made from time to time, Tenant will promptly execute and deliver to Lender an estoppel certificate addressing such matters pertaining to the Lease as Lender may request.

2.9 Whenever any of the parties hereto desires to give any notice to any of the others under this Agreement, it shall be sufficient for all purposes if such notice is hand delivered or sent by registered or certified U.S. mail, postage prepaid, return receipt requested, addressed to the intended recipient at the following addresses:

Lender:	Cole Taylor Bank 225 West Washington Street Chicago, Illinois 60606 Attention: Michael D. Smith Telephone: (312) 442-5120 Facsimile: (847) 698-5700
Tenant:	Gas City, Ltd. 160 South LaGrange Road Frankfort, Illinois Attention: Dan Marshall Telephone: (815) 469-9000 Facsimile: (815) 469-1184
Landlord:	William J. McEnery Revocable Trust 160 South LaGrange Frankfort, Illinois 60423

2.10 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 be for any reason by 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.

2.11 Nothing contained in this Agreement shall in any way impair or affect the lien created by the Mortgage, except as specifically set forth herein.

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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:

**GAS CITY, LTD.,
an Illinois corporation**

By: [Signature]
Its: PRESIDENT

LANDLORD:

WILLIAM J. MCENERY REVOCABLE TRUST

By: [Signature]
Its: SOLE TRUSTEE

LENDER:

**COLF. TAYLOR BANK,
an Illinois banking corporation**

By: _____
Its: _____

Property of Cook County Clerk's Office

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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:

GAS CITY, LTD.,
an Illinois corporation

By: _____
Its: _____

LANDLORD:

WILLIAM J. MCENERY REVOCABLE TRUST

By: _____
Its: _____

LENDER:

COLE TAYLOR BANK,
an Illinois banking corporation

By: *[Signature]*
Its: *ITSDP*

Property of Cook County Clerk's Office

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Tenant Acknowledgement

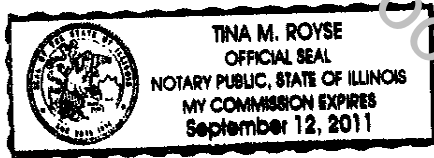
ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS
COUNTY OF Will)

I, Tina M. Royse, a Notary Public in and for said County and State, DO HEREBY CERTIFY THAT William S. McEnery, of Gas City, Ltd., an Illinois corporation, personally known to me to be the same person whose name if subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that s/he signed and delivered said instrument as his/her 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 25th day of June, 2009.

Tina M. Royse
Notary Public



My Commission Expires:
9/12/11

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Landlord Acknowledgement

ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS
COUNTY OF Will)

I, Tina M. Royse a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT William J. McEnery, personally known to me to be the sole Trustee of The William J. McEnery Revocable Trust, an Illinois trust, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such he signed and delivered the said instrument pursuant to proper authority, as the free and voluntary act and deed of said trust, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 25th day of June, 2009.



Tina M. Royse
Notary Public

My Commission Expires:
9/12/11

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Lender Acknowledgement

ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS
COUNTY OF Kane)

I, Leigh Smith a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT Michael Smith, personally known to me to be the GSVP President of Cole Taylor Bank, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such GSVP President he/she signed and delivered the said instrument pursuant to proper authority, as the free and voluntary act and deed of said banking corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 24th day of June, 2009.

Leigh Smith
Notary Public

My Commission Expires:

10/26/11



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EXHIBIT A

Legal Description

LOTS 3 AND 4 (EXCEPT THE NORTH 72.50 FEET OF SAID LOTS AND EXCEPT ANY PART THEREOF ACQUIRED FOR HIGHWAY PURPOSE PER DOCUMENT 85L51095) IN CONNELL'S RESUBDIVISION OF LOT 8 IN DOWD'S SUBDIVISION OF THE WEST 35 ACRES OF THE NORTHWEST ¼ OF SECTION 34, TOWNSHIP 37 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

Common Address: 13059 South LaGrange Road
Palos Park, Illinois

P.I.N. 23-34-100-061
23-34-100-062