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Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 07/23/2013 02:52 PM Pg: 1 of 11

CRAIG D. JEFFREY, ESQ.
BRYAN CAVE LLP
161 NORTH CLARK STREET
SUITE 4300
CHICAGO, ILLINOIS 60601

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN THE LEASEHOLD ESTATE IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

This LEASE SUBORDINATION, ATTORNMENT AND NONDISTURBANCE AGREEMENT ("**Agreement**") is made as of June 19, 2013, by and among B.L. DOWNEY COMPANY LLC, as the tenant under the leased premises described below ("**Lessee**"), BLD REAL ESTATE LLC, a Delaware limited liability company ("**Lessor**"), and FIRSTMERIT BANK, N.A., a national banking association ("**Lender**").

RECITALS

A. Lender intends to make a loan to Lessor ("**Loan**"), which Loan is to be evidenced by a loan agreement of even date herewith by and between Lessor as borrower and Lender ("**Loan Agreement**"), and by a promissory note of even date herewith ("**Note**").

B. The Note is secured by a mortgage of even date herewith ("**Mortgage**"), affecting real property in Cook County, Illinois, described in the attached **Exhibit "A"** ("**Property**") and encumbering Lessor's fee interest in the Property.

C. Lessee and Lessor entered into a lease ("**Lease**"), the date and basic terms of which are attached hereto as **Exhibit "B"**, by which Lessee leased certain premises ("**Leased Premises**") constituting all or a portion of the Property.

D. Lender is willing to make the Loan provided the Mortgage is a lien and charge upon the Leased Premises prior and superior to the Lease and provided that Lessee expressly subordinates the Lease to the lien and charge of the Mortgage.

E. Lessee is willing that the Mortgage shall constitute a lien or charge upon the Leased Premises which is prior and superior to the Lease and is willing to attorn to Lender provided Lender grants Lessee a nondisturbance agreement as provided herein.

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First American Title Order #

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TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants and conditions set forth hereinbelow, and in order to induce Lender to make the Loan referred to above, the parties hereto agree as follows:

1. **DEFINITION OF LEASE.** As used in this Agreement, "**Lease**" includes, without limitation, all right, title and interest that Lessee may have in all or any portion of the Leased Premises, whether granted by the terms of the Lease, by a separate written or oral agreement or otherwise.

2. **NO UNAPPROVED ASSIGNMENT OR SUBLETTING.** Except as may otherwise be expressly provided in the Lease, Lessee shall not assign the Lease, nor sublet any portion of the Leased Premises, and Lessor shall not consent to any such assignment or subletting if required pursuant to the terms of the Lease or otherwise requested, without the prior written consent of Lender, which consent shall not be unreasonably withheld.

3. **SUBORDINATION OF LEASE.**

3.1 **Subordination.** The Mortgage and any amendments, modifications, renewals and extensions thereof shall unconditionally be and remain at all times a lien and charge on the Leased Premises, prior and superior to the Lease, to the leasehold estate created thereby and to all rights and privileges of Lessee or any other lessee thereunder, and the Lease, the leasehold estate created thereby and all rights and privileges of Lessee or any other lessee thereunder are hereby subjected and made subordinate to the lien and charge of the Mortgage in favor of Lender.

3.2 **Effect of Changes to the Loan.** This Agreement shall extend to any and all increases, renewals, extensions, modifications, substitutions, and consolidations of the Loan, and of any other documents securing the Loan, and Lender may, without notice or demand, and without affecting the subordination hereunder:

3.2.1 renew, compromise, extend, accelerate or otherwise change the time for payment or otherwise change the terms of the Loan or any part thereof, including increase or decrease of interest thereon,

3.2.2 waive or release any part of its lien on the Property,

3.2.3 apply proceeds from the sale of the Property and direct the order or manner of sale thereof as Lender, in its discretion, may determine, and

3.2.4 assign its rights hereunder or under the Loan, or both, in whole or in part.

4. **LESSEE'S ACKNOWLEDGMENTS.** Lessee agrees, declares and acknowledges each of the following:

4.1 **No Duty or Obligation.** Lender in making disbursements pursuant to any agreement with Lessor is under no obligation or duty to, nor has Lender represented that it will, see to the application of the proceeds of the Loan by Lessor or any other persons to whom Lender disburses the proceeds of the Loan. Any application or use of such proceeds for purposes other than those provided for in any agreement between Lender and Lessor shall not defeat the subordination made in this Agreement, in whole or in part.

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4.2 Waiver. Lessee intentionally subordinates the Lease, the leasehold estate created thereby together with all rights and privileges of Lessee or any other lessee thereunder in favor of the lien and charge upon the Leased Premises of the Mortgage, and understands that in reliance upon and in consideration of this subordination, specific loans and advances are being and will be made and specific monetary and other obligations are being undertaken and will be entered into which would not be made or entered into but for said reliance upon this subordination.

4.3 Entry Upon Property. Lender may enter upon the Leased Premises and inspect the same at any reasonable time upon reasonable prior notice to Lessee, provided that any such entry and inspection are undertaken at a time and in a manner which is least disruptive to Lessee's business operations within the Leased Premises as is reasonably practicable under the circumstances.

5. NONDISTURBANCE. So long as Lessee is not in default (beyond any period given Lessee in the Lease to cure such default) in the payment of rent or additional charges or in the performance of any of the other terms, covenants or conditions of the Lease on Lessee's part to be performed, Lessee shall not be disturbed by Lender in its possession of the Leased Premises during the term of the Lease, or any extension or renewal thereof, or in the enjoyment of its rights under the Lease. Lender shall not join Lessee as a party defendant in any action or proceeding foreclosing the Mortgage. Further, in the event of a transfer of the Property to Lender or any purchaser from Lender (after Lender has taken title to the Property by foreclosure or deed in lieu thereof) or pursuant to a trustee's sale conducted under the Mortgage ("**Purchaser**"), the Lease shall continue in full force and effect as a direct lease between Lender or Purchaser and Lessee, upon and subject to all of the terms of the Lease for the balance of the term remaining.

6. ATTORNMEN; LIMITATION OF LIABILITY.

6.1 Lessee's Attornment. If the interest of Lessor under the Lease shall be acquired by Lender or any Purchaser by reason of the exercise of the power of sale contained in the Mortgage or by foreclosure or other proceedings brought to enforce the rights of the holder thereof, by deed in lieu of foreclosure or by any other method, and Lender or Purchaser succeeds to the interest of Lessor under the Lease, Lessee shall attorn to Lender or Purchaser as its landlord, and be bound to Lender or Purchaser under the terms of the Lease for the balance of the term thereof and any extensions or renewals thereof. Said attornment is to be effective and self-operative without the execution of any other instruments on the part of either party hereto immediately upon Lender's or Purchaser's succeeding to the interest of the lessor under the Lease; provided, however, that Lessee agrees to provide written confirmation of its attornment within ten (10) days after receipt of a written request for such confirmation by Lender or Purchaser. In any such event as described above, the Lease shall continue in accordance with its terms between Lessee as lessee and Lender or Purchaser as lessor; provided, however, that:

6.1.1 No Personal Liability. Lender's liability under the Lease shall be limited to its ownership interest of Lender in the Property, and Lender shall only be liable for the lessor's obligations under the Lease accruing during the period of time that Lender is the owner of the Property;

6.1.2 No Liability for Prior Lessor's Acts or Omissions. Lender shall not be liable for any act or omission of any prior lessor (including Lessor) for which Lender has not received notice and opportunity to cure pursuant to Section 7 below;

6.1.3 Not Subject to Offsets or Defenses. Lender shall not be subject to any offsets or defenses which Lessee might have against any prior lessor (including Lessor), except for

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any offsets or defenses that may continue (provided Lender has received notice and opportunity to cure pursuant to Section 7 below) or that may arise during Lender's ownership of the Property;

6.1.4 Not Bound by Prepayment of Rent. Lender shall not be bound by any prepayment of rent more than thirty (30) days in advance or deposit, rental security or any other sums deposited with any prior lessor (including Lessor) under the Lease unless actually received by Lender;

6.1.5 Not Bound by Amendment. Lender shall not be bound by any material amendment or modification of the Lease made without Lender's consent (which shall not be unreasonably withheld or delayed);

6.1.6 Not Bound To Conduct Construction Work. Lender shall not be bound to commence or complete any restoration of improvements following any casualty not required to be insured under the Lease or for the costs of any restoration in excess of any proceeds recovered under any insurance required to be carried under the Lease; and

6.1.7 Not Bound by Environmental Indemnity. Notwithstanding any term of the Lease, upon foreclosure of the Mortgage, acceptance of deed in lieu thereof or other similar transfer, any environmental/hazardous material indemnity and/or reimbursement provisions under the Lease shall not be applicable to, or enforceable against, Lender or its successors and assigns.

Notwithstanding any other provision of this Section 6.1 to the contrary, the provisions of Sections 6.1.1 through 6.1.7 shall not be applicable to any Purchaser of the Property.

6.2 Application of Insurance Proceeds. Any insurance proceeds or condemnation or eminent domain awards shall be applied in accordance with the terms and provisions of the Lease only so long as:

6.2.1 The improvements on the Property are able to be restored in their entirety with such proceeds or awards (and/or with such other funds as Lender shall reasonably determine are available from any source other than from Lender for such purposes); and

6.2.2 Lessee is not in default under the Lease beyond the expiration of any applicable cure periods.

Provided, however, that nothing herein shall (a) prevent Lender from applying any such proceeds or awards in accordance with the terms of the Mortgage if, as required by Illinois law, Lender is able to demonstrate that its security has been impaired, or (b) be deemed to terminate any claim which Lessee may have against a prior landlord (including, with out limitation, Lessor) for any breach, act or omission of Lessor or any other prior landlord under the Lease.

7. NOTICE AND CURE RIGHTS. Lessee agrees with Lender that from and after the date hereof, Lessee will not terminate or seek to terminate the Lease by reason of any act or omission of the lessor thereunder or for any other reason until Lessee shall have given written notice, by registered or certified mail, return receipt requested, of said act or omission to Lender, which notice shall be addressed to FIRSTMERIT BANK, N.A., a national banking association, 222 N. LaSalle Street, 12th Floor, Chicago, Illinois 60601; and until a period of time equal to the greater of: (a) the time allowed Lessor under the Lease, or (b) thirty (30) days, shall have elapsed following the giving of such notice, during which period Lender shall have the right, but not be obligated, to remedy such act, omission or other matter.

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8. **ENTIRE AGREEMENT.** This Agreement shall be the whole and only agreement with regard to the subjection and subordination of the Lease and the leasehold estate created thereby together with all rights and privileges of Lessee or any other lessee thereunder to the lien and charge of the Mortgage, and shall supersede and cancel (but only insofar as would affect the priority between the Mortgage and the Lease) any prior agreements as to such subjection or subordination, including, without limitation, those provisions, if any, contained in the Lease which provide for the subjection or subordination of the Lease and the leasehold estate created thereby to a deed or deeds of trust or to a mortgage or mortgages.

9. **GOVERNING LAW.** This Agreement shall be governed by and construed according to the laws of the State of Illinois.

10. **ATTORNEYS' FEES.** Lessor shall promptly pay to Lender from Lessor's own funds and not from the proceeds of the Loan, upon demand, with interest thereon from the date of demand at the "Default Rate" (as described in the Note), reasonable attorneys' fees and all costs and other expenses paid or incurred by Lender in enforcing or exercising its rights or remedies created by, connected with or provided for in this Agreement. In the event of any dispute between Lender and Lessee, the prevailing party in such a dispute shall be entitled to payment in full by the non-prevailing party of all costs and expenses (including without limitation attorneys' fees and other related expenses) incurred by the prevailing party in resolving the dispute, whether by court action, arbitration, reference, mediation or some other alternative dispute resolution procedure.

11. **MISCELLANEOUS PROVISIONS.** This Agreement shall inure to the benefit of and shall be binding upon Lessee, Lessor and Lender, and their respective heirs, personal representatives, successors and assigns. This Agreement may not be altered, modified or amended except in writing signed by all of the parties hereto. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. This Agreement and any attached exhibits requiring signatures may be executed in counterparts, but all counterparts shall constitute but one and the same document.

[Remainder of page intentionally left blank.]
[Signatures follow on next page.]


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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR LEASE TO OBTAIN A LOAN, A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.


LESSEE

B.L. DOWNEY COMPANY LLC, a Delaware limited liability company

By: 
MICHAEL J. DOAN, CHAIRMAN

LESSOR

BLD REAL ESTATE LLC, a Delaware limited liability company

By: 
MICHAEL J. DOAN, CHAIRMAN

[Signatures continue on next page.]

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LENDER

FIRSTMERIT BANK, N.A., a national banking association

By: *[Signature]*
MICHAEL T. KEENAN
VICE PRESIDENT

State of Illinois)
County of Cook)

This instrument was acknowledged before me on JUNE 14, 2013 (date) by MICHAEL T. KEENAN (name/s of person/s) as VICE PRESIDENT (type of authority, e.g., officer trustee, etc.) of FIRSTMERIT BANK, N.A. (name of party on behalf of whom instrument was executed).

(SIGNATURE AND SEAL OF NOTARY)
[Signature] Notary Public (Signature)
Alice Treska (Notary's printed name)
My commission expires 2/3/2014



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State of Illinois 12)
County of COOK)

This instrument was acknowledged before me on JUNE 10 2013 (date) by MICHAEL J DEAN (name/s of person/s) as CHAIRMAN (type of authority, e.g., officer, trustee, etc.) of B.L. DOWNNEY COMPANY LLC (name of party on behalf of whom instrument was executed).



(SIGNATURE AND SEAL OF NOTARY)

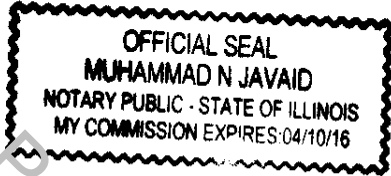
Muhammad Javaid Notary Public (Signature)
Muhammad Javaid (Notary's printed name)
My commission expires 4-10-2016

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State of Illinois 12)
County of COOK)

This instrument was acknowledged before me on June 10, 2013 (date) by MICHAEL J. DAN (name/s of person/s) as CHAIRMAN (type of authority, e.g., officer, trustee, etc.) of BLD REAL ESTATE LLC (name of party on behalf of whom instrument was executed).



(SIGNATURE AND SEAL OF NOTARY)

Muhammad N Javaid Notary Public (Signature)
Muhammad N Javaid (Notary's printed name)
My commission expires 4-10-2016

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EXHIBIT "A"
Legal Description

THE LAND REFERRED TO HEREIN IS SITUATED IN COOK COUNTY, ILLINOIS, AND IS DESCRIBED AS FOLLOWS:

THAT PART OF LOT 16 LYING WEST OF THE WEST RIGHT OF WAY LINE OF INDIANA HARBOR BELT RAILROAD COMPANY (EXCEPT THAT PART TAKEN FOR ROOSEVELT ROAD) IN SCHOOL TRUSTEES' SUBDIVISION OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN NOS.: 15-16-420-004-0000 AND 15-16-420-005-0000

2101 - 2125 Gardner Road
Brookview, IL 60155

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EXHIBIT "B" Lease Description

1. **LEASE DATE.** November 30, 2007.
2. **RENT AMOUNT.** As set forth in Section 2 of the Lease.
3. **LEASE TERM.** Twenty-one (21) years, as extended.
4. **RENEWAL OPTION(S).** N/A.
5. **INSURANCE.** As set forth in Section 5 of the Lease.

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