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OCT 21 2011 16:13 P 10

Fee amount: 51.00
FB: 61-14810
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Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
10/21/2011 16:13:56.00



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THE ABOVE SPACE IS RESERVED FOR THE REGISTER OF DEEDS RECORDING INFORMATION

**THIS PAGE INCLUDED
FOR INDEXING**

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After recordation please return to:

Mr. Greg Silvershein
BPG Fund I LLC
19 Beechwood Road
Summit, New Jersey 07901

Reb c 1048585

SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement") is made as of this 20th day of October, 2011, by and among Five Points Bank, a Nebraska state chartered Bank (the "Lender"), NBC Restaurant Properties, L.L.C. ("Borrower"), and BPG Fund I LLC ("BPG").

WITNESSETH:

WHEREAS, Borrower owns, leases or controls the land ("Land") described in Exhibit A attached hereto;

WHEREAS, Borrower is the Lessor under that certain Lease Agreement No. 7048, as the same may have been amended (the "Lease") by and between Borrower, as Lessor and The Lamar Companies, as Lessee, ("Lessee"). Under the terms of the Lease, Lessor has leased the Land to Lessee and, among other rights and obligations, has given Lessee the right to erect and maintain certain improvements on the Land;

WHEREAS, under the terms of that certain Assignment of Lease and Perpetual Easement Agreement, dated October 20, 2011 (the "Lease and Easement Agreement"), (i) Borrower has sold and assigned to BPG certain of Borrower's rights and interests in and to the Lease (the "Assigned Rights"), including, among others, the right to receive and collect Rent (as defined in the Lease) payable under the Lease and (ii) Borrower has granted to BPG certain perpetual easements (the "Easement Rights") in, upon, over and across the Land for the benefit of BPG, its successors, assigns, and grantees, all as more fully set forth in the Lease and Easement Agreement;

WHEREAS, Borrower is indebted to Lender as evidenced by: (1) that certain Deed of Trust executed by Borrower to First State Bank - Omaha, Trustee and First State Bank, Beneficiary, filed June 20, 2002 in Book 7209, Page 123 in the office of the Register of Deeds of Douglas County, Nebraska, as assigned to First Point Bank by assignment filed March 28, 2011 in the same office as Inst. No. 2011-027323; (2) that certain Deed of Trust executed by Charles on the Lake and Borrower to First State Bank - Omaha, Trustee and

First State Bank, Beneficiary, filed August 4, 2005 as Inst. No. 2005-095085 in the office of the Register of Deeds of Douglas County, Nebraska and as assigned to First Point Bank by assignment filed March 28, 2011 in the same office as Inst. No. 2011-027302; and (3) that certain Deed of Trust executed by Borrower to First State Bank – Omaha, Trustee and First State Bank, Beneficiary, filed October 6, 2005 as Inst. No. 2005-125773 in the office of the Register of Deeds of Douglas County, Nebraska, , as modified by that certain Modification of Deed of Trust filed May 5, 2006 in the same office as Inst. No. 2006-050199, and as assigned to First Point Bank by assignment filed March 28, 2011 in the same office as Inst. No. 2011-027322 (collectively, the "Mortgage"). Pursuant to the Mortgage, Borrower has encumbered Borrower's interest in the Land, to secure, among other things, advances made from time to time by the Lenders or their successors or assigns to Borrower; and

WHEREAS, the parties hereto desire to have the Lease and Easement Agreement be subordinate to the Mortgage, to establish certain rights of non-disturbance and attornment for the benefit of BPG under the Lease and Easement Agreement, and further to define the terms, covenants and conditions precedent for such rights.

NOW, THEREFORE, for ONE DOLLAR (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Subordination. The Lease and Easement Agreement is and at all times shall be subordinate to the Mortgage.

2. Non-Disturbance. In the event of foreclosure of the Mortgage or conveyance in lieu of foreclosure, and so long as BPG is not in default under any of the terms, covenants and conditions of the Lease and Easement Agreement, Lender agrees on behalf of itself, its successors and assigns, including any purchaser at such foreclosure ("Purchaser"), that BPG shall have the right to enjoy and enforce, without interference from Lender or Purchaser, any and all of the Assigned Rights and the Easement Rights as granted by the Lease and Easement Agreement. Lender acknowledges (on behalf of itself and any Purchaser) that BPG has a claim superior to Lender's or any Purchaser's claim for insurance proceeds or condemnation awards, if any, received with respect to any value or rights attributable to or derived from the Lease and Easement Agreement and any improvements erected on the Land in connection therewith.

3. Attornment. In the event of foreclosure of the Mortgage or conveyance in lieu of foreclosure, BPG shall recognize Lender or Purchaser as having all of Borrower's rights under the Lease and Easement Agreement. So long as BPG is not in default beyond applicable notice and grace periods under any of the terms, covenants and conditions of the Lease and Easement Agreement, Lender or Purchaser shall recognize and accept the Assigned Rights and Easement Rights of BPG under the Lease and Easement Agreement, whereupon the Lease and Easement Agreement shall continue, without further agreement, in full force and effect as a direct agreement between Lender or Purchaser and BPG for the full term thereof, upon the same terms, covenants and conditions as therein provided, and Lender or Purchaser shall thereafter assume and perform all of Borrower's obligations, as

Borrower under the Lease and Easement Agreement, with the same force and effect as if Lender or Purchaser were originally named therein as Borrower.

4. Limitation of Liability. Notwithstanding anything to the contrary contained herein or in the Lease and Easement Agreement or the Lease, in the event of foreclosure of the Mortgage or conveyance in lieu of foreclosure, the liability of Lender, its successors and assigns, or Purchaser, as the case may be, shall be limited to its interest in the Land; provided, however, that Lender or Purchaser, as the case may be, and their respective successors and assigns, shall in no event and to no extent:

(a) be liable to BPG for any past act, omission or default on the part of Borrower or any other prior landlord under the Lease or Lease and Easement Agreement, and neither BPG nor Lessee shall have any right to assert the same or any damages arising therefrom as an offset, defense or deficiency against Lender, Purchaser or the successors or assigns of either of them;

(b) be subject to any offsets or defenses which BPG or Lessee might have against Borrower;

(c) be liable to BPG for any monetary obligations of the Borrower under the Lease and Easement Agreement prior to the date that Lender or Purchaser succeeded to the rights of Borrower thereunder, including without limitation any obligation to return any security deposit paid;

(d) be bound by any amendment, modification or termination of the Lease and Easement Agreement or Lease to which Lender has not consented; or

(e) be bound by any warranty or representation of Borrower or any other prior landlord under the Lease or Lease and Easement Agreement.

5. Further Documents. The foregoing provisions shall be self-operative and effective without the execution of any further instruments on the part of any party hereto. BPG agrees, however, to execute and deliver to Lender, Purchaser or such other person to whom BPG herein agrees to attorn such other instruments as such party shall reasonably request in order to effectuate said provisions.

6. Notice and Cure. BPG agrees that if there occurs a default by Borrower under the Lease and Easement Agreement:

(a) A copy of each notice given to Borrower pursuant to the Lease and Easement Agreement shall also be given to Lender; and

(b) If Borrower shall fail to cure any default within the time prescribed by the Lease and Easement Agreement, BPG shall give further notice of such fact to Lender. Lender shall be allowed thirty (30) days following receipt of such further notice to cure such default before BPG may exercise remedies thereunder.

7. Notices. All notices and other communications given pursuant to this Agreement shall be in writing sent to the addresses listed below and shall be deemed properly given: (i) when hand delivered; (ii) five (5) days after being mailed by certified mail, return receipt requested, with postage prepaid; or (iii) one (1) business day after being sent by Federal Express or other reputable overnight courier service which provides delivery confirmation. Any party may change their address for notices by notice given to the others in accordance with the terms of this section.

If to Lender: FIVE POINTS BANK
9718 Giles Road
LaVista, Nebraska 68128

Attn.: Mr. Thomas Kelley

If to Borrower: NBC RESTAURANT PROPERTIES, L.L.C.
13550 Fairview Rd.
Springfield, Nebraska 68059

Attn.: Yves Menard

If to BPG: BPG FUND I LLC
19 Beechwood Road
Summit, New Jersey 07901

Attn: Greg Silvershein

8. Binding Effect. The terms, covenants and conditions hereof shall inure to the benefit of and be binding upon the parties hereto, and their respective heirs, executors, administrators, successors and assigns.

9. Modification. This Agreement may not be modified orally or in a manner other than by an agreement signed by the parties hereto or their respective successors in interest.

10. Choice of Law. This Agreement shall be governed by the internal law (and not the law of conflicts) of the state in which the Land is located.

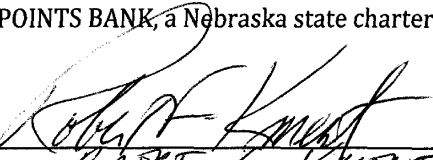
11. Counterparts. This Agreement may be signed in counterparts, each of which shall be deemed an original and all of which together shall constitute one document.

[SIGNATURE PAGE TO SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT]

WITNESS the due execution of this instrument by the parties hereto the day and year first above written.


LENDER:

FIVE POINTS BANK, a Nebraska state chartered bank

By: 
Name: ROBERT F. KUENT
Title: SVP

BORROWER:

NBC RESTAURANT PROPERTIES, L.L.C.

By: 
Name: YVES MENARD
Title: Dir

BPG:

BPG FUND I LLC

By: BILLBOARD PROPERTY GROUP LLC, its Manager

By: _____
Greg Silvershein, its Manager

[SIGNATURE PAGE TO SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT]

WITNESS the due execution of this instrument by the parties hereto the day and year first above written.

LENDER:

FIVE POINTS BANK, a Nebraska state chartered bank

By: _____
Name: _____
Title: _____

BORROWER:


NBC RESTAURANT PROPERTIES, L.L.C.

By: _____
Name: _____
Title: _____

BPG:

BPG FUND I LLC

By: BILLBOARD PROPERTY GROUP LLC, its Manager

By:  _____
Greg Silvershein, its Manager

STATE OF NEBRASKA)
)
COUNTY OF SARPY) SS

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Robert F. Kment, personally known to me to be the SVP of Five Points Bank, a Nebraska state chartered bank, appeared before me this day in person and acknowledged that (s)he signed and delivered said instrument as his/her free and voluntary act and deed, and as the free and voluntary act and deed of said bank, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 12th day of October, 2011.



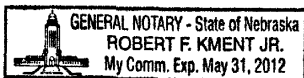
Kristine K. Crosby
Notary Public

My Commission Expires: Aug 29, 2015

STATE OF NEBRASKA)
)
COUNTY OF SARPY) SS

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that YVES MENARD, personally known to me to be the MANAGER of NBC Restaurant Properties, L.L.C., a Nebraska limited liability company, appeared before me this day in person and acknowledged that (s)he signed and delivered said instrument as his/her free and voluntary act and deed, and as the free and voluntary act and deed of said limited liability company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 13th day of October, 2011.



Robert F. Kment Jr.
Notary Public

My Commission Expires: 5-31-12

STATE OF New Jersey)
)
COUNTY OF Union) SS

I do hereby certify that Greg Silvershein, Manager of BILLBOARD PROPERTY GROUP LLC, a New Jersey limited liability company which is Manager of BPG Fund I LLC, a Delaware limited liability company, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his free and voluntary act and deed, and as the free and voluntary act and deed of said limited liability company for the uses and purposes therein set forth.

Given under my hand and notarial seal this 20 day of October 2011.

Gail Pester
Notary Public

My Commission Expires: GAIL LEOPOLD PESTER
ID # 2401195
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 10/7/2015

EXHIBIT A

Legal Description of the Land

All of Lot 4 and the South 45 feet of Lot 3, in Hampton Commercial Plaza, an Addition to the City of Omaha in Douglas County, Nebraska.