

This instrument prepared by and when recorded return to:  
SBA TOWERS, INC.  
Attn: BTS Leasing Department  
One Town Center Rd., 3<sup>rd</sup> Floor  
Boca Raton, Florida 33486  
(561) 995-7670

FILED SARPY CO. NE.  
INSTRUMENT NUMBER  
2000-000946

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*Shirley J. Glawson*  
REGISTER OF DEEDS

Counter ma  
Verify AK  
D.E. B  
Proof B  
Fee \$ 2600  
Ck  Cash  Chg  SEC

**SUBORDINATION NON-DISTURBANCE  
AND ATTORNMENT AGREEMENT**

THIS AGREEMENT (this "Agreement"), dated as of September 1, 1998 by SBA Towers, Inc., a Florida corporation, having its principal office and place of business located at One Town Center Road, Third Floor, Boca Raton, FL 33486 ("Tenant"), First Bank National Association, having an address of 16 North Avenue Birch, Hopkins, MI 55343 ("Lender").

PRELIMINARY STATEMENT:

A. On April 14, 1997, Lender and Karen K. Eveland ("Landlord") entered into that certain Mortgage recorded in Official Records Instrument #97-008680 of the Public Records of Sarpy County, State of Nebraska encumbering that certain real property (the "Property") described therein (such instrument and all amendments, modifications, renewals, substitutions, extensions, consolidations and replacements thereto and thereof, as applicable, are hereinafter collectively referred to as "Mortgage").

B. On September 3, 1997, Landlord and Tenant entered into a certain Option and Land Lease ("Lease") for that certain parcel of real property as more particularly described on Exhibit "A" attached hereto ("Premises"), which Premises is a portion of the Property.

C. Tenant desires that Lender recognize Tenant's rights under the Lease in the event of foreclosure of Lender's lien or any other Transfer and Tenant is willing to agree to attorn to Lender or the purchaser at such foreclosure or other Transfer if Lender will recognize Tenant's right of possession under the Lease.

Therefore, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lender and Tenant hereby agree as follows:

1. **Subordination.** Notwithstanding anything to the contrary set forth in the Lease, but subject to the express provisions of this Agreement, the Lease and the leasehold estate created thereby shall at all times remain subordinate and inferior to the Mortgage and the lien thereof, and to any and all renewals, modifications, consolidations, replacements and extensions thereof.

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2. **Non-Disturbance.** Provided (a) Tenant complies with this Agreement, (b) Tenant is not in default under the terms of the Lease and no event has occurred which, with the passage of time or the giving of notice or both, would constitute a default under the Lease, and (c) the Lease is in full force and effect, no default under the Mortgage and no proceeding to foreclose the same or other Transfer will disturb Tenant's possession under the Lease and the Lease will not be affected or cut off thereby, and notwithstanding any such foreclosure or other Transfer of the Property to Transferee, Transferee will recognize the Lease and will accept the attornment of Tenant thereunder. "Transfer" shall mean (a) the institution of any foreclosure, trustee's sale or other like proceeding, (b) the appointment of a receiver for the Landlord or the Property, (c) the exercise of rights to collect rents under the Mortgage or an assignment of rents, (d) the recording by Lender or its successor or assignee of a deed in lieu of foreclosure for the Property, or (e) any transfer or abandonment of possession of the Property to Lender or its successor or assigns in connection with any proceedings affecting Landlord under the Bankruptcy Code, 11 U.S.C. ' 101 et seq. "Transferee" shall mean the Lender or any successor or assignee of Lender taking title to the Property in connection with a Transfer.

3. **Attornment.** Upon the Transfer of the Property to Transferee, whether through foreclosure, deed in lieu of foreclosure or otherwise, Tenant shall attorn to Transferee as the landlord under the Lease. Said attornment shall be effective and self-operative without the execution of any further instruments upon Transferee's succeeding to the interest of the landlord under the Lease. Tenant and Lender shall, however, confirm the provisions of this paragraph in writing upon request by either of them.

4. **Miscellaneous.**

(a) This Agreement shall inure to the benefit of the parties hereto, their successors and assigns; provided, however, that in the event of the assignment or transfer of the interest of Transferee, all obligations and liabilities of Transferee under this Agreement shall terminate, and thereupon all such obligations and liabilities shall be the responsibility of the party to whom Transferee's interest is assigned or transferred.

(b) This Agreement is the whole and only agreement between the parties hereto with regard to the subject matter hereof. This Agreement may not be modified in any manner or terminated except by an instrument in writing executed by the parties hereto.

(c) This Agreement shall be deemed to have been made in the state where the Property is located and the validity, interpretation and enforcement of this Agreement shall be determined in accordance with the laws of such state.

(d) In the event any legal action or proceeding is commenced to interpret or enforce the terms of, or obligations arising out of, this Agreement, or to recover damages for the breach thereof, the party prevailing in any such action or proceeding shall be entitled to recover from the non-prevailing party all reasonable attorneys' fees, costs and expenses incurred by the prevailing party.

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2000-000946 B

(e) Any notices or communications required or permitted to be given or made hereunder shall be deemed to be so given or made when in writing and delivered in person or sent by United States registered or certified mail, postage prepaid, or by nationally recognized overnight courier service, directed to the parties at the following addresses listed above or to such other address as such party may from time to time designate in writing to the other party. Notices or communications mailed in the U.S. mail shall be deemed to be served on the third business day following mailing, notices or communication served by hand or by overnight courier shall be deemed served upon receipt.

IN WITNESS WHEREOF, this Agreement has been signed and delivered as of the date and year first above set forth.

**LENDER:**  
First Bank National Association

Witnesses

Mary E. Wood  
Sign Name / Print Name  
  
\_\_\_\_\_  
Sign Name / Print Name

By: Patrick Hark  
Print Name: Patrick Hark  
Its: Credit Officer

Witnesses:

Deborah L. Martinez  
Sign Name / Print Name Deborah L. Martinez  
Kathleen Cameron  
Sign Name / Print Name

SBA TOWERS, INC.,  
a Florida corporation  
By: Lawrence M. Weisberg  
Print Name: Lawrence M. Weisberg  
Its: Dir. of Site Admin. / Corp. Counsel

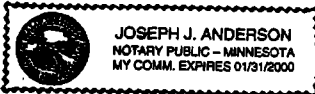
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LENDER:

STATE OF MN  
COUNTY OF Hennepin

Before me, the undersigned authority, a Notary Public in and for said County and State, personally appeared Rakim Gruber, with whom I am personally acquainted, or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged himself to be Credit Officer of First National Bank of Council Bluffs, a \_\_\_\_\_, and that he as such credit officer executed the foregoing instrument for the purpose therein contained, by signing the name of First National Bank of Council Bluffs by himself as Credit Officer

WITNESS my hand and official seal in the County and State last aforesaid the 10<sup>th</sup> day of August, 1998.



Sign Name: [Signature]  
Print Name: Joseph J. Anderson  
Notary Public

My Commission expires on: 1-31-2000

LENDER:

STATE OF Florida  
COUNTY OF Palm Beach

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid, to take acknowledgments, personally appeared Lawrence M. Weisberg, as Director of Site Administration of SBA TOWERS, INC., a Florida corporation, to me known to be the person described in and who executed the foregoing instrument and who acknowledged before me that he executed the same in the capacity aforesaid.

WITNESS my hand and official seal in the County and State last aforesaid the 1<sup>st</sup> day of September, 1998.



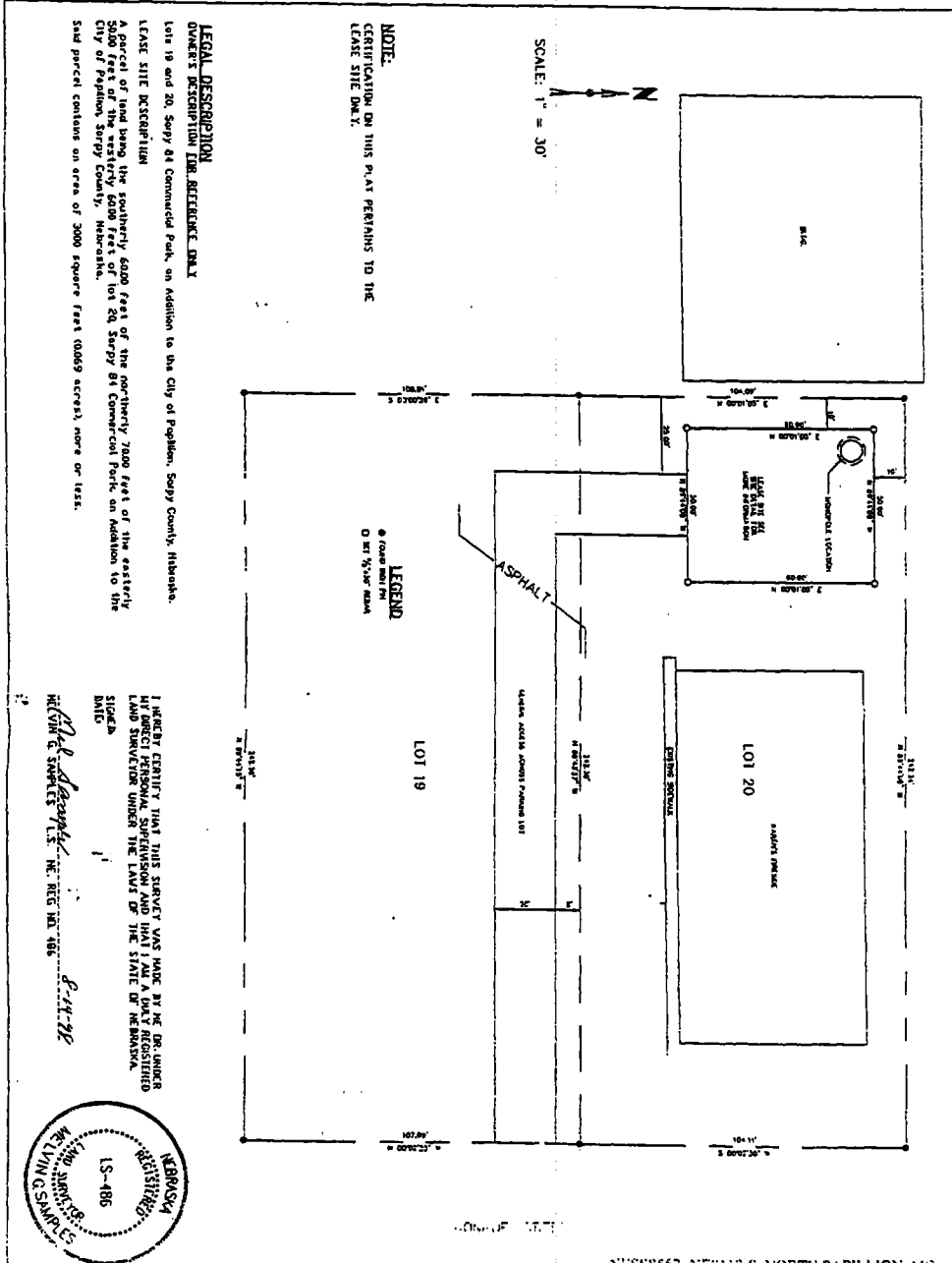
Sign Name: [Signature]  
Print Name: Lena Arnett  
Notary Public

My Commission expires on: September 8, 2000  
BONDED THRU TROY FARM INSURANCE, INC.

see

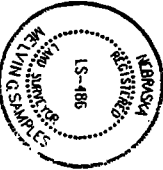
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EXHIBIT "A"  
Legal Description



**LEGAL DESCRIPTION**  
 OWNER'S DESCRIPTION FOR REFERENCE ONLY  
 Lot 19 and 20, S30y 84 Commercial Park, on addition to the City of Papillion, S30y County, Nebraska.  
**LEASE SITE DESCRIPTION**  
 A parcel of land being the southerly 6000 feet of the northerly 7000 feet of the easterly 3000 feet of the southerly 6000 feet of lot 20, S30y 84 Commercial Park, on addition to the City of Papillion, S30y County, Nebraska.  
 Said parcel contains an area of 3000 square feet (0.0689 acres), more or less.

I HEREBY CERTIFY THAT THIS SURVEY WAS MADE BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF NEBRASKA.  
 SIGNED  
 DATE: 8-11-98  
 MERVIN G. STAMPER, S.E. REG. NO. 408



N855552 N70112-S NORTH PAVILLION MO.

SCC