

MTT-73585LP

M06-10164

Klamath County, Oregon

05/19/2006 03:08:58 PM

Pages 9 Fee: \$61.00

WHEN RECORDED RETURN TO:

STANCORP MORTGAGE INVESTORS, LLC
19225 NW TANASBOURNE DRIVE
HILLSBORO, OR 97124

ATTN: COMPLIANCE, T3A

SIC Loan No. **A6030605**

SUBORDINATION, NONDISTURBANCE, AND
ATTORNMENMENT AGREEMENT

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

THIS SUBORDINATION AGREEMENT is dated as of **April 4, 2006**.

Recitals

A. The Lessor, **Gerald J. Bibler**, by assignment from **Capstone Development, LLC** and the undersigned Lessee are parties to a lease dated **December 1, 2005** ("the Lease"), which lease covers part or all of the real property (the "Property") described as follows:

See Exhibit "A" attached hereto and by this reference made a part hereof for legal description.

B. **Standard Insurance Company, an Oregon corporation** ("Lender") has agreed to make or purchase a loan to Lessor, evidenced by a promissory note, dated **April 4, 2006** (the "Note"), and secured by a Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing of even date (the "Deed of Trust") on the Property and by such other security instruments as Lender may require (the "Security Instruments").

C. As a condition precedent to Lender's disbursement of loan proceeds, Lender has required that Lessee subordinate the Lease and Lessee's interest in the Property in all respects to the lien of the Deed of Trust, which will be recorded in the county in which the Property is located, and to the lien and security title of the Security Instruments, if any, securing Lender's other interests in the Property.

D. It will be of substantial benefit to the Lessee for Lender to disburse the loan proceeds.

61.00

E. Lender is disbursing the loan proceeds in reliance upon the agreements contained in this instrument.

F. In return for the subordination, Lender is agreeable to not disturbing Lessee's possession of the Property under the Lease.

Agreement

NOW, THEREFORE, in order to induce Lender to make or purchase the loan to Lessor, and in consideration of the promises made herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Lessee, it is hereby agreed as follows:

1. **Subordination.** The Lease, including but not limited to any rights of first refusal and/or purchase options contained therein, and Lessee's leasehold estate and any other interests created thereby and any renewals, extensions, amendments or modifications thereof, shall be and are completely and unconditionally subject and subordinate to the lien of the Deed of Trust and to the liens of the Security Instruments, if any, and to all the terms, conditions and provisions thereof, to all advances made or to be made thereunder, and to any renewals, extensions, modifications or replacements thereof.

2. **Reliance By Lender.** The undersigned are executing this instrument in order to induce Lender to disburse the loan proceeds secured by the Deed of Trust, and the undersigned agree that the disbursement by Lender of all or any part of the loan proceeds shall constitute conclusive reliance by Lender upon this instrument and the provisions hereof and the subordination affected hereby.

3. **Tenant Not To Be Disturbed.** So long as Lessee is not in default (beyond any period given Lessee to cure such default) in the payment of rent or additional rent or in the performance of any of the other terms, covenants or conditions of the Lease on Lessee's part to be performed, Lessee's possession of the Property under the Lease and Lessee's rights and privileges under the Lease, including but not limited to any rights of first refusal and/or purchase options contained therein, or any extensions or renewals thereof which may be affected in accordance with any renewal rights therefor in the Lease, shall not be diminished or interfered with by Lender, and Lessee's occupancy of the Property shall not be disturbed by Lender for any reason whatsoever during the term of the Lease or any such extensions or renewals thereof.

4. **Lessee Not To Be Joined In Foreclosure.** So long as Lessee is not in default (beyond any period given Lessee to cure such default) in the payment of rent or additional rent or in the performance of any of the terms, covenants or conditions of the Lease on Lessee's part to be performed, Lender will not join Lessee as a defendant in any action or proceeding foreclosing the Deed of Trust unless such joinder is necessary to foreclose the Deed of Trust and then only for such purpose and not for the purpose of terminating the Lease.

5. **Lessee To Attorn To Lender.** If the interests of Lessor shall be transferred to and owned by Lender by reason of foreclosure or other proceedings brought by Lender in lieu of or pursuant to a foreclosure, or by any other manner, and Lender succeeds to the interest of the Lessor under the Lease, Lessee shall be bound to Lender under all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining and any extensions or renewals thereof which may be effected in accordance with any option therefor in the Lease, with the same force and effect as if Lender were the Lessor under the Lease, and Lessee does hereby attorn to Lender as its Lessor, said attornment to be effective upon Lender succeeding to the interest of the Lessor under the Lease without the execution of any further instrument, provided that Lessee shall be under no obligation to pay rent to Lender until Lessee receives written notice from Lender that it has succeeded to the interest of the Lessor under the Lease. The respective rights and obligations of Lessee and Lender upon such attornment, to the extent of the then remaining balance of the term of the Lease and any such extensions and renewals, shall be and are the same as now set forth therein, subject to paragraph 6 below concerning condemnation; it being the intention of the parties hereto for this purpose to incorporate the Lease in this Agreement by reference with the same force and effect as if set forth herein, subject to paragraph 6 below concerning condemnation.

6. **Condemnation.** Without limiting the generality of the foregoing, Lessee subordinates its right, title and interest under the Lease to the interest of Lender in any award of condemnation or eminent domain, and Lessee does assign and transfer to Lender the right and privilege to receive any interest of Lessee in and to the full extent of such award of condemnation or eminent domain, or, if the Deed of Trust is not yet fully satisfied, to the extent necessary to pay in full any and all sums secured by the Deed of Trust (Lessee authorizing Lender to apply any funds so received in satisfaction of any sums secured by the Deed of Trust).

7. **Exercise of Rights Under Loan Documents Not Lease Default.** The undersigned represents to Lender that the exercise by Lender of its rights and remedies under the Deed of Trust, under the Security Instruments or under the Note, including without limitation its rights of foreclosure, shall not constitute an event of default under the Lease.

8. **Lender Not Bound By Certain Acts of Lessor.** If Lender shall succeed to the interests of Lessor under the Lease, Lender shall not be (a) liable for any act or omission of any prior lessor (including Lessor), (b) subject to any offsets or defenses which Lessee might have against any prior lessor (including Lessor), (c) bound by any rent or additional rent which Lessee might have paid for more than the then current installment, or (d) bound by any amendment or modification of the Lease made without its consent, or (e) liable for any security or other deposits which were paid by Lessee, or any predecessor in interest to Lessee, to any Lessor, and which were not received by Lender.

9. **Waiver.** Without limiting the generality of the foregoing, Lessee waives presentment, demand, protest, and notice and agrees that Lender, without notice to or consent of Lessee, upon such terms as Lender may deem advisable, without releasing or discharging Lessee from this Agreement or affecting the lien or priority of the Deed of Trust, may:

- (a) extend, in whole or in part, by renewal or otherwise, the time of payment or performance of any obligation secured by the Deed of Trust;
- (b) release, surrender, exchange, or modify any obligation secured by the Deed of Trust, or any security for such obligation; and/or
- (c) settle or compromise any claim with respect to any obligation secured by the Deed of Trust or any claim against any person who has given security for any such obligation.

The undersigned ratifies any such extension, renewal, release, surrender, exchange, modification, settlement, or compromise and waives all defenses, counterclaims, or offsets which it might have by reason thereof.

10. **Successors and Assigns.** This Agreement and each and every covenant, agreement and other provision hereof shall be binding upon the parties hereto and their heirs, devisees, executors, administrators, representatives, successors and assigns, including without limitation each and every lessee and lessor under the Lease or any other person having an interest therein and shall inure to the benefit of Lender and its successors and assigns.

11. **Choice of Law.** The law of the state in which the Property is located shall govern the validity, interpretation, construction, and performance of this Agreement.

12. **Captions and Headings.** The captions and headings of the various sections of this Agreement are for convenience only and are not to be construed as confining or limiting in any way the scope or intent of the provisions hereof. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular, and the masculine, feminine and neuter shall be freely interchangeable.

13. **Notices.** All notices required or permitted under this Agreement shall be in writing and may be telecopied, cabled, delivered by hand, or mailed by first class registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

If to Lender:
Standard Insurance Company
Attn: Mortgage Loan Servicing T3A
19225 NW Tanasbourne Drive
Hillsboro, OR 97124

If to Lessee:
State of Oregon
Department of Human Services
500 Summer St. NE, #E-90
Salem, OR 97301-1115
Attn: Linda Riddell, or successor

Changes in the respective addresses to which such notices shall be directed may be made from time to time by either party by notice to the other party given at least ten (10) days before such change of address is effective. Notices given by mail in accordance with this provision shall

be deemed to have been given three (3) days after the date of dispatch; notices given by any other means shall be deemed to have been given when received.

14. **Severability.** 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.

IT IS RECOMMENDED THAT, PRIOR TO THE EXECUTION OF THIS AGREEMENT, THE UNDERSIGNED CONSULT WITH ITS ATTORNEYS WITH RESPECT THERETO.

LESSEE:

State of Oregon acting by and through its
Department of Human Services

By: [Signature]

Its: OFFICE OF FACILITIES ADMINISTRATOR

APPROVAL:

State of Oregon acting by and through its
Department of Administrative Services

By: _____

Its: _____

APPROVAL per ORS 27A.033
OREGON DEPT OF ADMINISTRATIVE SERVICES
FACILITIES DIVISION

Sy: [Signature]

Date: May 14, 2006

DAS Lease Number 1167

LENDER:

Standard Insurance Company,
an Oregon corporation

By: [Signature]

Mark Fisher, Assistant Vice President

Attest By: [Signature]

Assistant Secretary

By its signature the State is incorporating by reference the additional terms, conditions, and limitations set forth in the attached cover letter. The additional terms may substantially modify or limit the rights and undertaking set forth above.

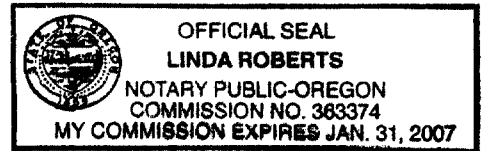
**NOTARY ACKNOWLEDGMENTS TO BE ATTACHED
IN ACCORDANCE WITH STATE LAW.**

STATE OF OREGON

County of Marion

This instrument was acknowledged before me on May 11, 2006 by
Linda Liddell as Administrator of
DHS, Office of Facilities

Linda Roberts
Notary Public
My Commission expires: 01/31/07



STATE OF OREGON

County of _____

This instrument was acknowledged before me on _____, 2006 by
_____ as _____ of

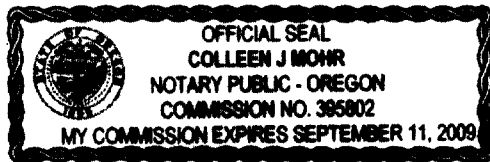
Notary Public
My Commission expires: _____

STATE OF OREGON)

)ss

County of Marion)

On this 10th day of May, 2006, before me personally appeared Valerie S. McBride, and she acknowledged the foregoing instrument to be her voluntary act and that she executed the foregoing as a free and voluntary act as Manager of Leasing Services for the State of Oregon, Department of Administrative Services.




Colleen J. Mohr
Notary Public for Oregon
My commission expires: 9/11/09

STATE OF OREGON)
) ss:
COUNTY OF WASHINGTON)

On this 5th day of April, 2006, before me appeared MARK FISHER and AMY FRAZEY, both to me personally known, who being duly sworn did say that he, the said MARK FISHER is the Assistant Vice President, and she, the said AMY FRAZEY is the Assistant Secretary of STANDARD INSURANCE COMPANY, the within named corporation, and that the seal affixed to said document is the corporate seal of said corporation, and that the said document was signed and sealed in behalf of said corporation by authority of its Board of Directors, and MARK FISHER and AMY FRAZEY acknowledged said document to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal the day and year last above written.





Janette M Hess
Notary Public for Oregon
My Commission Expires: June 12, 2009

EXHIBIT "A"
SUBORDINATION, NONDISTURBANCE AND
ATTORNMENMENT AGREEMENT
DATED: April 4, 2006
LOAN NO. A6030605

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 in Block 78 of KLAMATH ADDITION to the City of Klamath Falls, Oregon, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.