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STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

2011 018690

2011 MAR 31 AM 8:45

RBS CITIZENS, N.A.
d/b/a Charter One
Commercial Real Estate Dept.
1 Grant Square – 1st Floor
Hinsdale, IL 60521

MICHAEL J. GUMAN
RECORDER

SUBORDINATION, NONDISTURBANCE AND
ATTORNMEN AGREEMENT

THIS AGREEMENT, made this MARCH 31, 2011, by and between RBS CITIZENS, N.A. d/b/a Charter One organized under the laws of the United States of America ("Bank"), Chicago SMSA Limited Partnership, D/B/A Verizon Wireless, by Cellco Partnership, a Delaware general partnership, its general partner ("Tenant") and Ross Plaza LLC ("Landlord").

WITNESSETH:

WHEREAS, Tenant is now the lessee under a certain lease agreement dated October 5, 2000, as amended by that certain First Lease Extension Agreement dated May 19, 2005, as amended by that certain Second Lease Extension Agreement dated December 1, 2010 (collectively, the "Lease") covering all or a portion of certain real property located at 401 W 81st Ave., and situated in the City of Merrillville, County of Lake and State of Indiana, as said premises are described in Exhibit A attached hereto ("Premises"), which Premises are owned by Landlord under the terms of the Lease; and

WHEREAS, Landlord granted to Bank an Open-Ended Mortgage and Security Agreement (the "Mortgage") and an Assignment of Leases and Rents (the "Assignment") each covering the Premises in order to secure certain sums to be loaned ("Loan") by the Bank which Mortgage is dated February 4, 2003, and was recorded February 18, 2003 with the Recorder of Lake County, Indiana as Document Number 2003017054; and

WHEREAS, it is a condition precedent to obtaining advances under the Loan that the Mortgage shall be, and remain, a lien or charge upon the Premises hereinbefore described, prior and superior to the Lease, and the leasehold estate created thereby; and

WHEREAS, Tenant desires to facilitate the making of the Loan by the Bank.

NOW, THEREFORE, in consideration of the foregoing, the mutual promises and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Bank and Tenant agree as follows:

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ck 2676
Refi ✓ Non con AB

1. Subordination. Subject to the terms of this Agreement, the Mortgage and Assignment and any renewals or extensions thereof, shall be and remain at all times a lien or charge on the Premises prior and superior to the Lease, the leasehold estate created thereby and to any options to lease or to purchase the Premises contained therein, and to all rights, privileges, and conditions therein contained. Subject to the terms of this Agreement, Tenant declares and acknowledges that it hereby intentionally waives, relinquishes, and subordinates the priority and superiority of the leasehold estate created by the Lease to the Mortgage and Assignment. All amendments, modifications, substitutions, renewals, extensions and replacements of the Lease shall be and remain so subordinated as provided in this paragraph without the necessity of any further act of the parties. Tenant also declares and acknowledges that it understands that in reliance upon and in consideration of this waiver, relinquishment, and subordination, specific loans and advances secured by the Mortgage and Assignment will be made, and monetary and other obligations will be entered into by third parties which would not be made or entered into but for said reliance upon this waiver, relinquishment and subordination.

2. Non-Disturbance. Bank shall not, in the exercise of any right, remedy or privilege granted by the Mortgage or the Assignment, or otherwise available to Bank at law or in equity, disturb Tenant's possession under the Lease or interfere with any of the rights of Tenant under the Lease so long as Tenant is not in default under any provision of the Lease. Nothing contained in this Paragraph 2, however, shall be construed to limit or prevent Bank in or from exercising any of its rights hereunder, at law, or in equity in connection with any breach by Tenant of its or his obligations under the provisions of this Agreement.

3. Attornment.

(a) Tenant shall, upon written notice from Bank or Landlord, attorn (i) to Bank, (ii) to any receiver or similar official for the Premises appointed at the instance, upon the request or with the consent of Bank, (iii) to Bank upon any acquisition by Bank of the Premises and Landlord's interest in the Lease, and (iv) to any person or entity who acquires the Premises and the Landlord's interest in the Lease pursuant to Bank's exercise of any right, remedy, or privilege granted by the Mortgage or the Assignment, or otherwise available at law or in equity. Without limiting the generality of the foregoing, Tenant shall attorn to any person or entity that acquires the Premises pursuant to foreclosure under the Mortgage, or by any proceeding or voluntary conveyance in lieu of such foreclosure, or from Bank, whether by sale, exchange, or otherwise.

(b) Upon any attornment under this Paragraph 3, the Lease shall continue in full force and effect as a direct lease between Tenant and the person or entity to whom Tenant attorns, in accordance with the foregoing subparagraph and any such person or entity to whom Tenant attorns shall not be: (i) liable for any breach, act or omission of any prior landlord; (ii) subject to any claims or to any defenses which Tenant might have against any prior landlord; (iii) bound by any rent, additional rent or other payment in lieu of rent which Tenant might have paid to any prior landlord more than one (1) month in advance of its due date under the Lease; (iv) bound by any amendment or modification of the Lease, made without Bank's prior written consent which would reduce fixed annual rent or any other monetary obligation of Tenant under the Lease; (v) bound by any election or exercise of any option to purchase by Tenant unless (A) Tenant delivers to Bank written notice thereof and (B) the sales proceeds of such purchase would be sufficient to pay in full all sums then due and outstanding on the Loan; (vi) bound by any

notice of default given by Tenant to Landlord, whether or not such notice is given pursuant to the terms of the Lease, unless a copy thereof was then also given to Bank; or (vii) be liable for the return of any security deposit or other sums held by any prior landlord, unless actually received.

(c) Bank and any other person or entity to whom Tenant attorns shall be liable to Tenant under the Lease only to the extent provided therein and only for liabilities which occur during such person's or entity's period of ownership of the Premises.

4. Rents. The Assignment provides for the direct payment to Bank of all rents and other monies due and to become due to Landlord under the Lease (collectively, "Rents"), but grants a license to Landlord to receive the Rents unless such license is revoked upon the occurrence of certain conditions as set forth in the Assignment, without Lender's taking possession of the Premises or otherwise assuming Landlord's obligations under the Lease. Upon receipt from Bank of written notice to pay Rents to or at the direction of Bank, Tenant shall make all such payments to or at the direction of Bank without liability to Landlord. Upon receipt of such notice, Tenant thereafter shall pay all Rents then due and becoming due from Tenant under the Lease, to or at the direction of Bank without liability to Landlord. Tenant agrees that Bank's demanding and/or receiving any such payments shall not operate to impose any liability upon Bank for performance of any obligation of Landlord under the Lease. Such payment of Rents to Bank shall continue until Bank directs Tenant otherwise in writing, or until Tenant receives (i) a court order directing Tenant to pay Rents to another person or entity, or (ii) notice that the Premises have been sold to a person or entity other than Bank. The provisions of this Paragraph 4 will terminate upon the earliest to occur of (a) termination of the Lease, (b) the recording of a release of the Assignment, duly executed by Bank, or (c) Tenant's receipt of written notice to such effect from Bank.

5. Waste; Damage to Premises. Tenant agrees that anything to the contrary appearing in said Lease notwithstanding, the Bank shall in no event be liable for any waste permitted on the Premises by the Landlord or any tenant or be liable by reason of any damage to or defective condition of the Premises resulting in loss or injury to Tenant nor be liable for any other default, act or omission of the Landlord arising or accruing prior to the date when the Bank acquires title to the Premises, nor shall the Bank be subjected to any claim, or cause of action, or to any set off or credit or defense against rentals accruing after the Bank acquires such title, for any default, act or omission by the Landlord which arose or accrued prior to the date when the Bank acquired title.

6. Integrated Agreement. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties or their successors and permitted assigns.

7. Notices. Any and all notices required or permitted to be given or served by the terms and provisions of this Agreement shall be in writing and signed by the duly authorized representative of the party giving the notice and shall be deemed duly given when (1) sent certified or registered mail, postage prepaid, return receipt requested, (2) delivered in person, or (3) delivered by express overnight delivery. If to the Bank, notice shall be addressed as follows: RBS Citizens, N.A., Attention: Commercial Loan Servicing Department, 1215 Superior Ave., Cleveland, Ohio 44114; if to Tenant, notice shall be addressed as follows: Chicago SMSA Limited Partnership, Attn: Director of Retail and Facilities, 1515 Woodfield Road, 14th Floor, Schaumburg, Illinois 60173 and to Verizon Wireless Portfolio Management, c/o Cushman Wakefield, 4458 Madison

Industrial lane, Mail Code FLG1-300, Tampa, FL 33619, Attn: James Thomasson, Senior Lease Analyst-Client Solutions-Verizon Account. All notices shall be deemed received upon receipt, if delivered by personal or courier delivery, or if delivered by certified mail, then upon the earlier of (i) actual receipt, or (ii) the date of the first attempted delivery thereof. Either party hereto may change its address and designate such other parties to receive additional copies of any notice for the above purposes by giving notice as aforesaid stating the change and setting forth the new address.

8. Assignability. The Bank shall have the right to assign this Agreement to the purchaser upon any foreclosure sale of the Premises or to any purchaser of its rights under the Mortgage Note and the Mortgage securing the same; provided that written notice of such assignment is delivered to Tenant within 15 business days following such assignment.

10. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

11. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all such counterparts shall constitute one and the same instrument.

12. Severability. A determination that any provision of this Agreement is unenforceable or invalid shall not affect this enforceability or validity of any other provision, except to the extent such provisions are expressly inter-dependent. The parties agree that Paragraphs 1 and 2 above are interdependent. Any determination that the application of any provision of this Agreement to any person or to particular circumstances is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to other persons or circumstances.


TENANT HEREBY AND BANK BY ITS ACCEPTANCE HEREOF, EACH WAIVES THE RIGHT OF A JURY TRIAL IN EACH AND EVERY ACTION ON THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS, IT BEING ACKNOWLEDGED AND AGREED THAT ANY ISSUES OF FACT IN ANY SUCH ACTION ARE MORE APPROPRIATELY DETERMINED BY A JUDGE SITTING WITHOUT A JURY; FURTHER TENANT HEREBY CONSENTS AND SUBJECTS ITSELF TO THE JURISDICTION OF COURTS OF THE STATE OF ILLINOIS AND, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, TO THE VENUE OF SUCH COURTS IN THE COUNTY IN WHICH THE PREMISES IS LOCATED.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates shown hereinbelow.



"BANK"

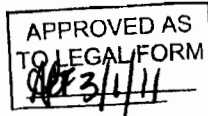
RBS CITIZENS, N.A.
d/b/a Charter One

By: 

Its: VICE PRESIDENT

"TENANT"

Chicago SMSA Limited Partnership,
D/B/A Verizon Wireless, by Cellco
Partnership, a Delaware general
Partnership, its general partner



By: Rita Barr

Its: 3-1-11 Rita Barr
Associate Director
Retail Real Estate
Midwest Area - Verizon Wireless

"LANDLORD"

Ross Plaza LLC, an Indiana limited
liability company

By: Dean Siampas

Its: Member

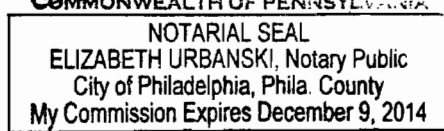


COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF PHILADELPHIA) ss.:

Before me, a Notary Public in and for said county and state, personally appeared RBS CITIZENS, N.A. d/b/a Charter One, duly organized under the laws of the United States of America, by Allan B. Ziegler, its Vice President, who acknowledged that he/she is duly authorized and who acknowledged that he/she did sign the foregoing instrument and that the same is his/her free act and deed personally and as such officer and is the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at Philadelphia, Pennsylvania, this 13 day of January, 2011.

Elizabeth Urbanski
Notary Public



STATE OF PA IL)
COUNTY OF PHILADELPHIA COOK) SS:

Before me, a Notary Public in and for said county and state, personally appeared CHICAGO SMSA LIMITED PARTNERSHIP d/b/a Verizon Wireless, by RITA BARR, its ASSOCIATE DIRECTOR, who acknowledged that he/she is duly authorized in the premises, and who acknowledged that he/she did sign the foregoing instrument and that the same is his/her free act and deed personally and as such officer and is the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at SCHAUMBURG, IL, this 1st day of MARCH, 2011.



Georgiette Scott
Notary Public

STATE OF Illinois)
COUNTY OF Cook) SS:

Before me, a Notary Public in and for said county and state, personally appeared Ross Plaza LLC, by Dean Siemmer, its Member, who acknowledged that he/she is duly authorized in the premises, and who acknowledged that he/she did sign the foregoing instrument and that the same is his/her free act and deed personally and as such officer and is the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at Palos Hills, Illinois, this 19th day of January, 2011.



AC Carrillo
Notary Public

EXHIBIT A

Legal Description

PARCEL 1:

Lots 2 and 3, Merrillville Road Plaza, as shown on plat recorded in Plat Book 59, page 31, in Lake County, Indiana.

PARCEL 2:

An easement for access over and across the West 45 feet of the North 40 feet of Lot 5, Broadway Center, as shown in Plat Book 56, page 31, Lake County, Indiana, as granted in Easement Agreement dated September 25, 1985, recorded February 21, 1986 as Document No. 842205, in the Recorder's Office of Lake County, Indiana, made by E.N. Maisel and Associates, a Michigan Partnership, and Lake County Trust Company, as Trustee under Trust Agreement dated April 1, 1985 and known as Trust No. 3492.

PARCEL 3:

The easement rights granted or reserved to the owners of Parcel 1 herein to use the access easements, sidewalks and parking areas described in Amended Declaration of Protective Covenants and Restrictions for Merrillville Road Plaza, dated June 26, 1985 and recorded July 6, 1985 as Document No.813076 in the Recorder's Office of Lake County, Indiana.

Common Address: 401-431 West 81st Street
Merrillville, Indiana

