

FedEx Office Store No. 0730

**SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT**

RECORDING REQUESTED BY, AND
WHEN RECORDED RETURN TO:

FedEx Office and Print Services, Inc. – Corporate Office
Real Estate Legal Department
7900 Legacy Drive
Plano, Texas 75024

This **SUBORDINATION, NON-DISTURBANCE, AND ATTORNMENT AGREEMENT** (this "Agreement") is made and entered into this 8th day of September, 2022, by and among **FEDEX OFFICE AND PRINT SERVICES, INC.**, a Texas corporation ("Tenant"), and **CAPSTAR BANK**, a Tennessee banking corporation, its successors and assigns ("Lender"), and **FRANZ-VISTA MELROSE, LLC** ("Borrower").

RECITALS:

A. Lender has agreed to make or has made a mortgage loan ("Loan") to Borrower to be secured by a deed to secure debt (the "Security Deed") on the real property (the "Property") legally described in Exhibit "A" attached hereto; and

B. Tenant is the tenant under a Lease Agreement dated April 15, 1999 (the "Lease") for the premises located at 117 Resource Center Parkway, Birmingham, AL 35242 (the "Premises") which is situated on the Property; and

C. Lender requires that Tenant subordinate the Lease and its interest in the Premises in all respects to the security title of the Security Deed and that Tenant attorn to Lender, and acknowledge that the Lease is in full force and effect as of the date hereof; and

D. In return, Lender is agreeable to not disturbing Tenant's possession of the Premises covered by the Lease so long as Tenant is not in default under the Lease beyond any applicable notice and cure periods.

NOW, THEREFORE, the parties hereby agree as follows:

1. Subordination. So long as Tenant's occupancy is not disturbed as provided in Paragraph 2 below, the rights of Tenant in, to, and under the Lease, and the Premises are hereby subjected and subordinated, and shall remain in all respects and for all purposes subject and subordinate, to the security title of the Security Deed, and to any and all renewals, modifications, and extensions thereof, and any and all other instruments held by Lender as security for the Loan.

2. Tenant Not to be Disturbed. So long as Tenant is not in default (beyond any period given Tenant by the terms of the Lease to cure such default) in the payment of minimum rent or additional rent ("Rent") or in the performance of any of the terms, covenants, or conditions of the Lease on Tenant's part to be performed, (a) Tenant's possession of the Premises, or any extension or renewal rights therefor in the Lease, shall not be diminished or interfered with by Lender, and Tenant's occupancy of the Premises shall not be disturbed by Lender during the Term of the Lease or any such extensions or renewals thereof, and (b) Lender will not join Tenant as a party defendant in any action or proceeding foreclosing the Security Deed unless such joinder is necessary to foreclose the Security Deed and then only for such purpose and not for the purpose of terminating the Lease.

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3. Tenant to Attorn to Lender. Should Lender become the owner of the Property by reason of foreclosure or other proceeding (or the Property is transferred by deed in lieu of foreclosure), the Lease shall continue in full force and effect as a direct lease between the then owner of the Premises and Tenant.

Tenant hereby attorns to Lender or any other such owner as its lessor, and said attornment will be effective and self-operative without the execution of any further instruments. Notwithstanding the foregoing, Lender or such other owner shall not be: (a) liable for any default of landlord under the Lease, except that Lender agrees to cure any default of landlord that is continuing as of the date Lender forecloses the Property within thirty (30) days from the date Tenant delivers written notice of such default, unless the default requires more than thirty (30) days to cure, then provided Lender diligently and continuously proceeds to cure such default, Lender shall be permitted additional time as necessary to cure; or (b) subject to any offsets or defenses which have accrued prior to the date of foreclosure, unless Tenant has delivered to Lender written notice of the default which gave rise to the offset or defense and permitted Lender the same right to cure the default as permitted Borrower, as landlord, under the Lease; or (c) bound by any Rent that Tenant may have paid under the Lease more than one month in advance; or (d) responsible for the return of any security deposit delivered to Borrower, as landlord, under the Lease. Tenant is under no obligation to pay Rent to Lender or any such other owner until Tenant receives written notice from Lender or any such other owner that it has succeeded to Borrower's interest under the Lease. Such notice shall be binding upon Borrower, and Borrower hereby agrees to release Tenant from any obligation to make payments to Borrower during such period that Tenant is making payments to Lender.

4. Notices. All notices required or permitted by any provision of this Agreement shall be in writing and sent by registered or certified mail or recognized overnight courier and directed as follows:

to Borrower at: Franz-Vista Melrose, LLC
2710 Locker Avenue West, Suite 100
Carlsbad, California 92011
Attn: Patrick N. O'Day

to Tenant at: FedEx Office and Print Services, Inc.
7900 Legacy Drive
Plano, TX 75024
Attn: Lease Administration

to Lender at: CapStar Bank
P.O. Box 305065
Nashville, Tennessee 37230
Attn: _____

5. Lender's Option to Cure Borrower's Default. Tenant agrees that Borrower shall not be in default under the Lease unless written notice specifying such default is given to Lender. Tenant agrees that Lender shall have the right to cure such default on behalf of Borrower within thirty (30) days after the receipt of such notice. Tenant further agrees not to invoke any of its remedies under the Lease until said thirty (30) days have elapsed, or during any period that Lender is proceeding to cure such default with due diligence to completion.

6. Rental Payment. Until such time as Tenant is otherwise notified in writing by Lender, it shall make all rental payments under the Lease to Borrower as provided therein.

7. Successors and Assigns. This Agreement and each and every covenant, agreement, and other provision hereof shall be binding upon and shall inure to the benefit of the parties hereto, and their heirs, administrators, representatives, successors, and assigns.

8. Effectiveness of Agreement. This Agreement shall become effective upon the execution and delivery by and to each party hereto.

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IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed as of the date first above.

Lender:

CAPSTAR BANK, a Tennessee banking corporation, its successors and assigns

By: 
Name: Joseph H. Crowder
Title: Closing officer

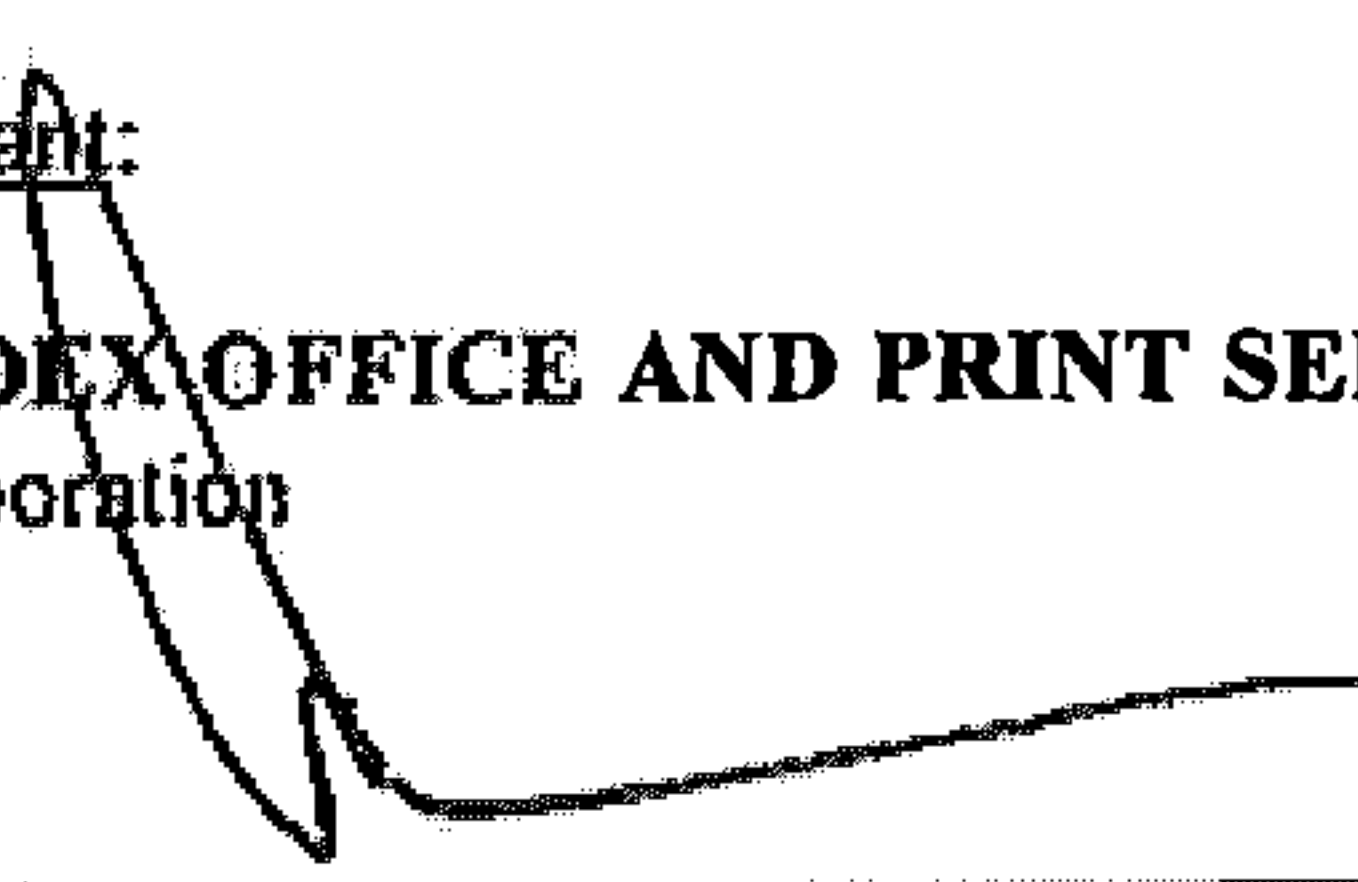
Borrower:

FRANZ-VISTA MELROSE, LLC

By: _____
Name: _____
Title: _____

Tenant:

FEDEX OFFICE AND PRINT SERVICES, INC., a Texas corporation

By: 
Name: Ari Spitzer
Title: Vice President – Real Estate and Development

APPROVED
By KZ at 3:17 pm, Aug 12, 2022

FedEx Office Store No. 0730

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed as of the date first above.

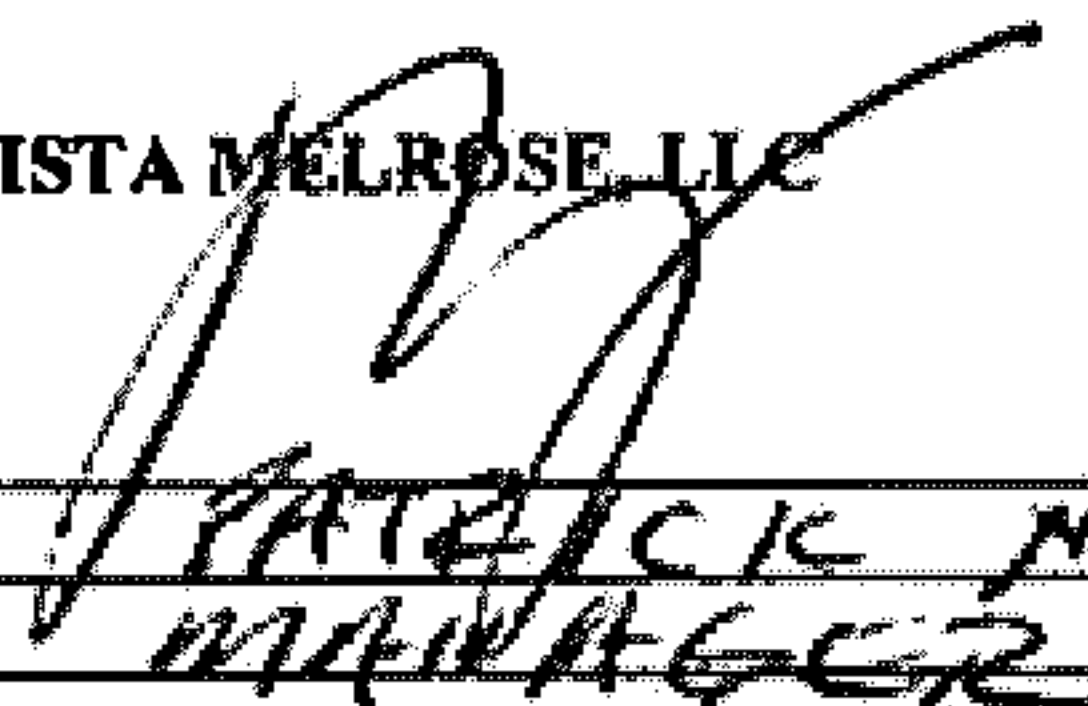
Lender:

CAPSTAR BANK, a Tennessee banking corporation, its successors and assigns

By: 
Name: Gayle H. Crowder
Title: Closing officer

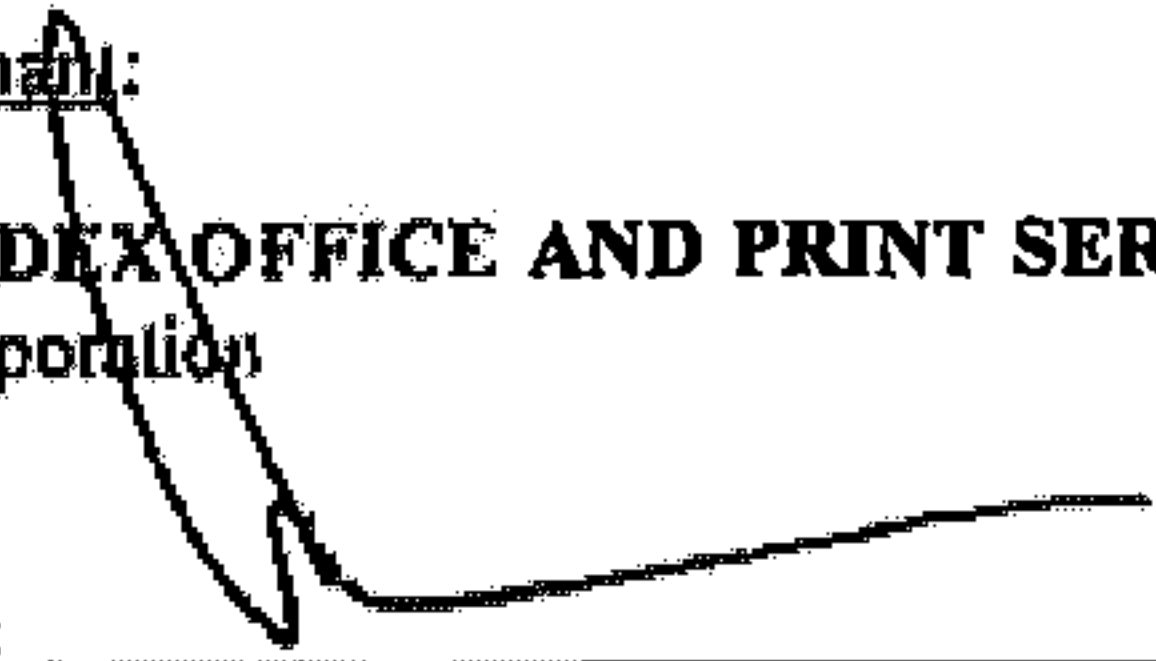
Borrower:

FRANZ-VISTA MELROSE, LLC

By: 
Name: PATRICK H O'DAN
Title: MANAGER

Tenant:

FEDEX OFFICE AND PRINT SERVICES, INC., a Texas corporation

By: 
Name: Ari Spitzer
Title: Vice President – Real Estate and Development

APPROVED
By KZ at 3:17 pm, Aug 12, 2022

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IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed as of the date first above.

Lender:

**CAPSTAR BANK, a Tennessee banking corporation, its
successors and assigns**

By: _____
Name: _____
Title: _____

Borrower:

FRANZ-VISTA MELROSE, LLC

By: _____
Name: _____
Title: _____

Tenant:

**FEDEX OFFICE AND PRINT SERVICES, INC., a Texas
corporation**

By: _____
Name: Ari Spitzer
Title: Vice President – Real Estate and Development

APPROVED
By KZ at 3:17 pm, Aug 12, 2022

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STATE OF TEXAS

COUNTY OF COLLIN

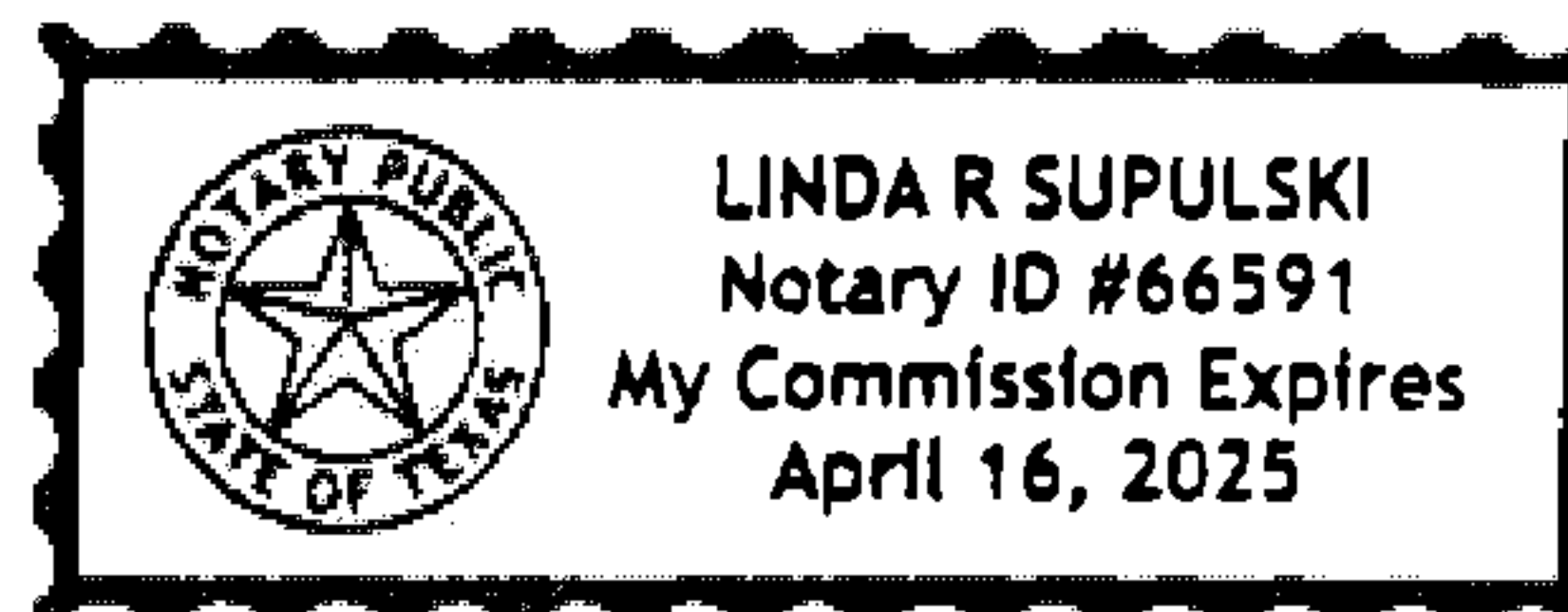
}
}
}

SS:

On August 16, 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared Ari Spitzer, Vice President of Real Estate and Development of FEDEX OFFICE AND PRINT SERVICES, INC., a Texas corporation, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on this instrument, the entity upon behalf of which he acted executed the instrument.

WITNESS my hand and official seal.

Linda R. Supulski
Notary Public
My commission expires April 16, 2025



STATE OF _____

}
}
}

SS:

COUNTY OF _____

On _____, 202__, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, _____ of _____, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on this instrument, the entity upon behalf of which he/she acted executed the instrument.

WITNESS my hand and official seal.

Notary Public
My commission expires _____.

STATE OF _____

}
}
}

SS:

COUNTY OF _____

On _____, 202__, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, _____ of _____, personally known to me to be the person personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on this instrument, the entity upon behalf of which he/she acted executed the instrument.

WITNESS my hand and official seal.

Notary Public
My commission expires _____.

FedEx Office Store No. 0730

STATE OF TEXAS

COUNTY OF COLLIN

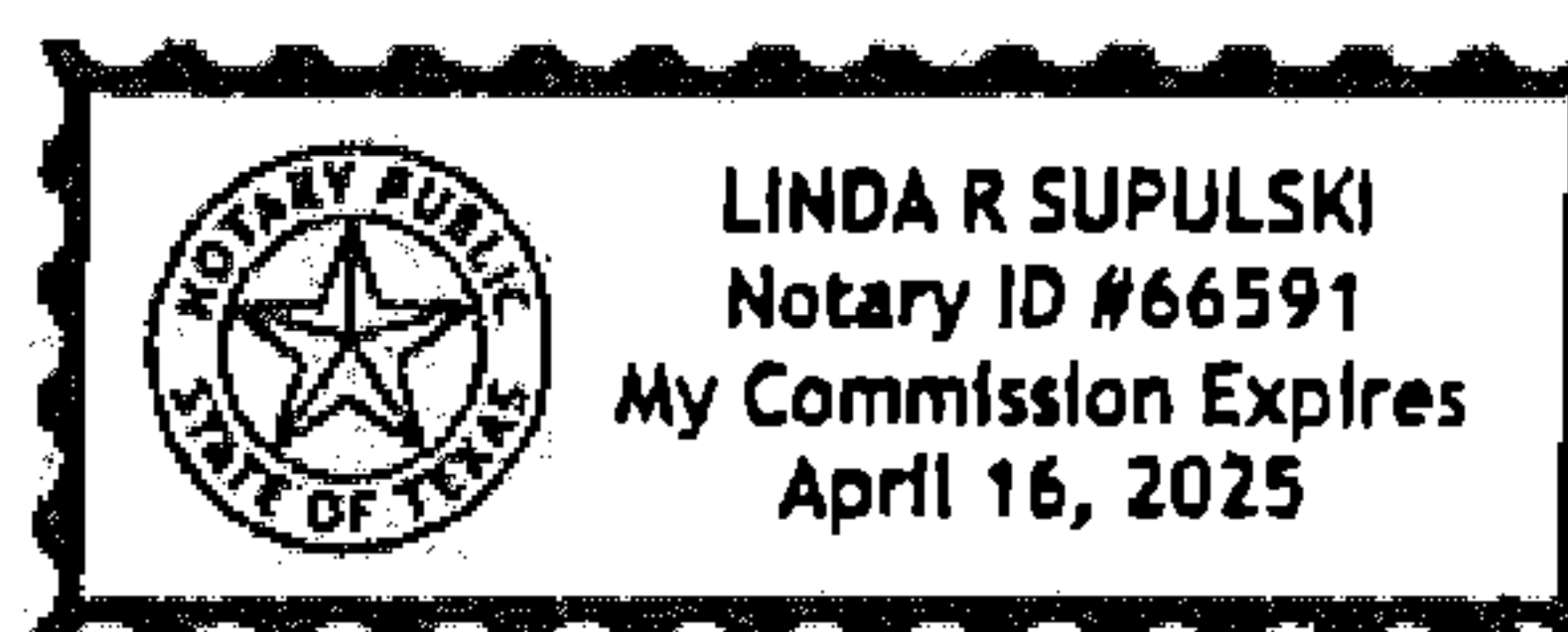
}
}
}

SS:

On August 16, 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared Ari Spitzer, Vice President of Real Estate and Development of FEDEX OFFICE AND PRINT SERVICES, INC., a Texas corporation, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on this instrument, the entity upon behalf of which he acted executed the instrument.

WITNESS my hand and official seal.

Linda R. Supulski
Notary Public
My commission expires April 16, 2025



STATE OF Indiana

COUNTY OF Hamilton

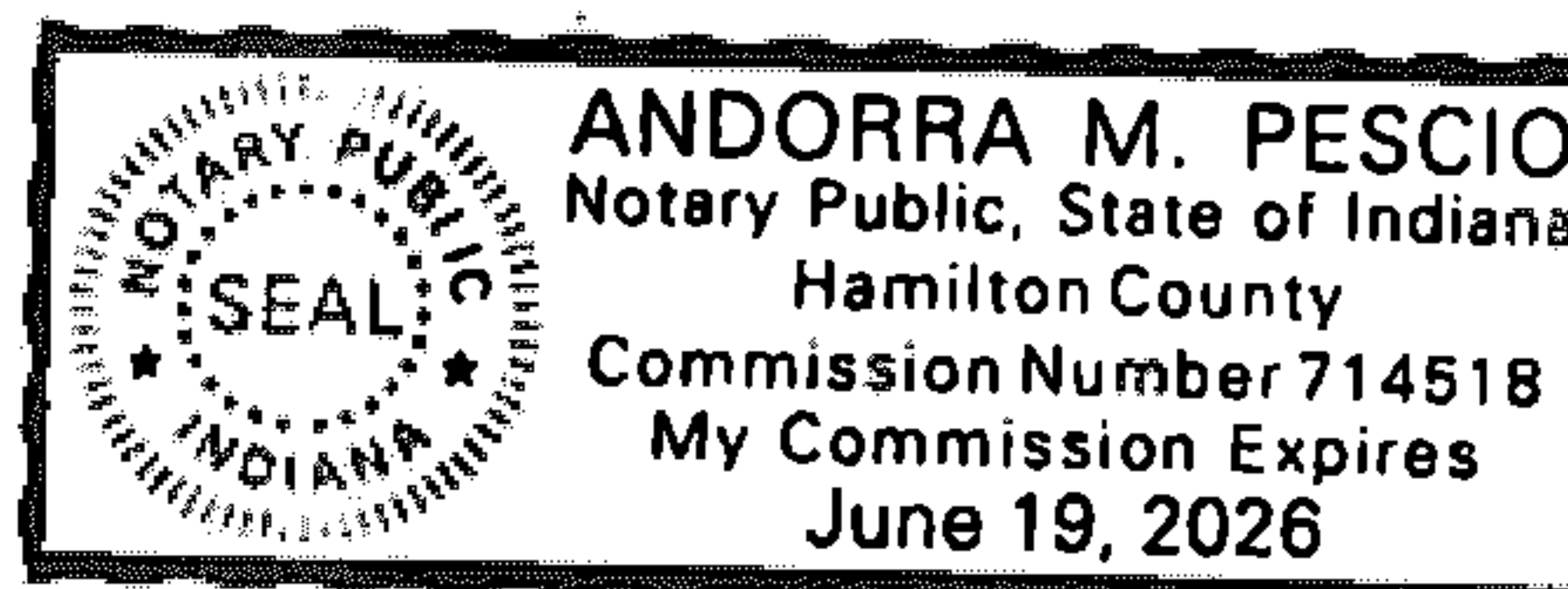
}
}
}

SS:

On August 19, 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared Joyce M. Crowder, Closing Officer of CapStar Bank, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on this instrument, the entity upon behalf of which he/she acted executed the instrument.

WITNESS my hand and official seal.

[Signature]
Notary Public
My commission expires 6/19/2026



STATE OF _____

COUNTY OF _____

}
}
}

SS:

On _____, 202____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, _____ of _____, personally known to me to be the person personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on this instrument, the entity upon behalf of which he/she acted executed the instrument.

WITNESS my hand and official seal.

Notary Public
My commission expires _____

FedEx Office Store No. 0730

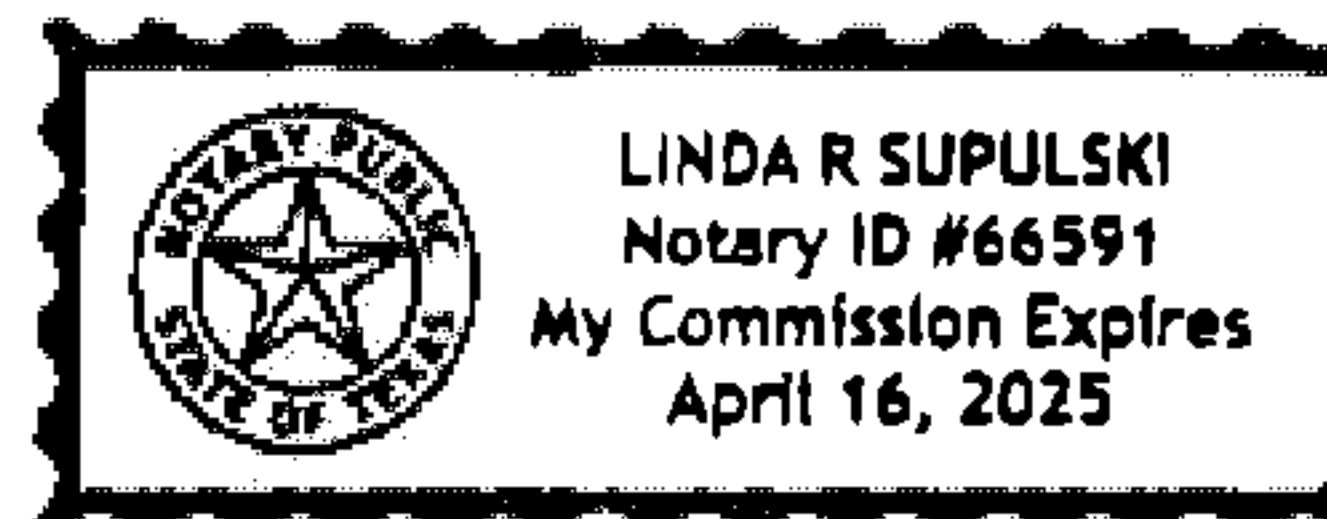
STATE OF TEXAS
COUNTY OF COLLIN

SS:

On August 16, 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared Ari Spitzer, Vice President of Real Estate and Development of FEDEX OFFICE AND PRINT SERVICES, INC., a Texas corporation, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on this instrument, the entity upon behalf of which he acted executed the instrument.

WITNESS my hand and official seal.

Linda R. Supulski
Notary Public
My commission expires April 16, 2025



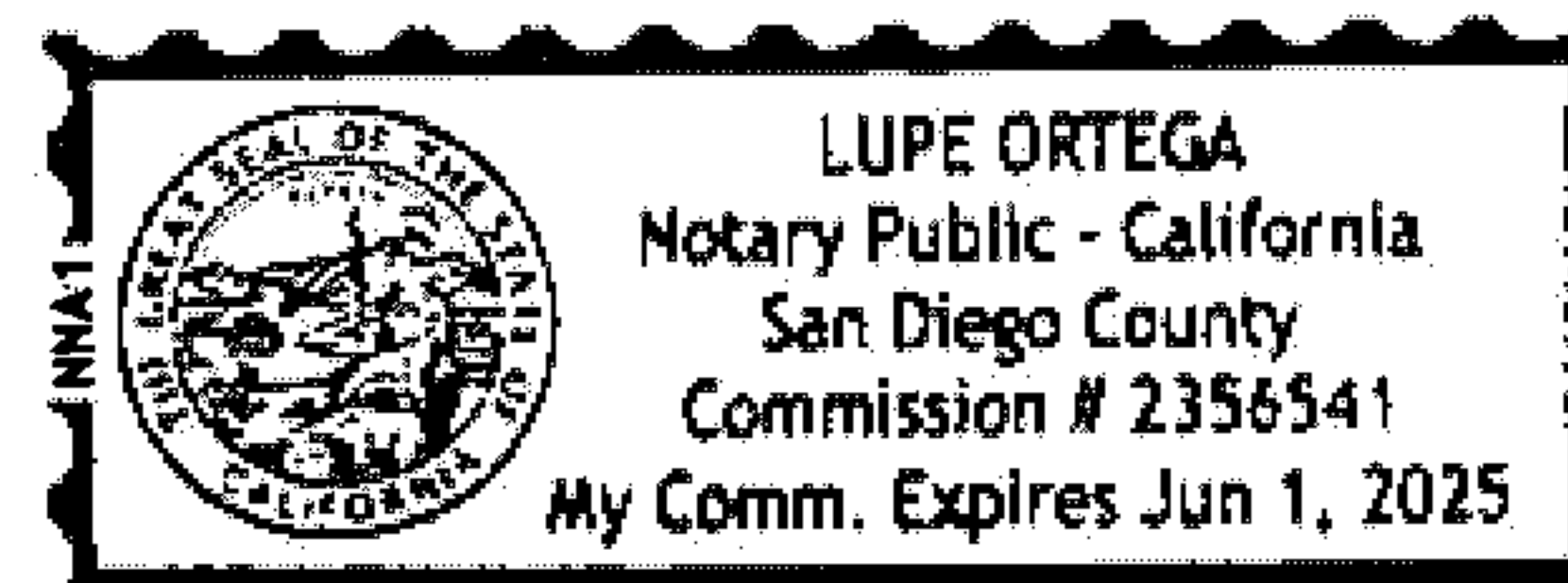
STATE OF California
COUNTY OF San Diego

SS:

On September 6, 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared Patrick N. O'Day, Manager of Franz Vista Melrose LLC, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on this instrument, the entity upon behalf of which he/she acted executed the instrument.

WITNESS my hand and official seal.

Lupe Ortega
Notary Public
My commission expires June 1, 2025



STATE OF _____
COUNTY OF _____

SS:

On _____, 202__, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, _____ of _____, personally known to me to be the person personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on this instrument, the entity upon behalf of which he/she acted executed the instrument.

WITNESS my hand and official seal.

Notary Public
My commission expires _____

EXHIBIT A

LEGAL DESCRIPTION

Lot 2C, according to the survey of Resource Center, as recorded in Map Book 24, Page 118, in the Probate Office of Shelby County, Alabama.



Filed and Recorded
Official Public Records
Judge of Probate, Shelby County Alabama, County
Clerk
Shelby County, AL
09/08/2022 03:06:09 PM
\$48.00 PAYGE
20220908000350810

Allen S. Bayl