

WHEN RECORDED, RETURN TO: _____



00551221

TENANT: OCB REALTY CO. (AS SUCCESSOR IN INTEREST TO BUFFETS, INC.)
LOAN NO: _____

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

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement") is entered into by and among OCB Realty Co., a Minnesota corporation, as successor in interest to Buffets, Inc., a Minnesota corporation ("Tenant"), whose address is 1460 Buffet Way, Eagan, MN 55121, and AMALGAMATED BANK OF CHICAGO, under Trust Agreement dated June 21, 1984 and known as Trust No. 4951 ("Landlord"), whose address is c/o 415 North LaSalle Street, Suite 200, Chicago, Illinois 60610, and MERRILL LYNCH CREDIT CORPORATION, a Delaware corporation ("Lender"), whose address is 4802 Deer Lake Drive East, Jacksonville, Florida 32246-6484.

WITNESSETH:

WHEREAS, Landlord is the owner in fee simple of the real property described in Exhibit A attached hereto, together with the improvements thereon (the "Property");

WHEREAS, Landlord or its predecessor and Tenant have entered into a certain lease dated November 20, 1987 [and amended/modified/extended/renewed by Assignment and Assumption of Lease dated July 14, 1994 by and between Buffets, Inc. as Assignor and OCB Realty Co. as Assignee; Sublease dated July 14, 1994 by and between OCB Realty Co. as Sublandlord and OCB Restaurant Co. as Subtenant; Memorandum of Lease dated February 29, 1996,] (as the same may hereafter be amended, modified, renewed, extended or replaced, collectively, the "Lease"), leasing to Tenant a portion of the Property (the "Premises");

WHEREAS, Lender has agreed to make a certain mortgage loan to Landlord (the "Loan"), which will be evidenced by Landlord's Promissory Note in such amount (the "Note") and secured by, among other things, a certain Mortgage [Deed of Trust], Assignment of Rents, Security Agreement and Fixture Filing (as the same may hereafter be amended, modified, extended or recast, the "Mortgage") and a certain Assignment of Leases and Rents (the "Assignment of Leases") encumbering the Property, which Mortgage and Assignment of Leases are to be recorded simultaneously herewith;

WHEREAS, Lender, Landlord and Tenant desire to confirm their understanding with respect to the Lease and the Loan and the rights of Tenant and Lender thereunder.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

BOX 333-CT1

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Subordination. The Lease, including all of the terms thereof, is and shall be subject and subordinate to the lien and interest created by the Mortgage to the full extent of all amounts secured by the Mortgage and interest thereon.

Attornment. Tenant agrees that it will attorn to and recognize any purchaser of the Property at a Mortgage foreclosure sale or any transferee who acquires the Property by deed in lieu of foreclosure or exercise of a power of sale or otherwise in respect of the Mortgage (in any such case, the "New Owner") and the successors and assigns of such purchaser or transferee, as its landlord for the unexpired balance (and any extensions or renewals, if exercised) of the term of said Lease upon the same terms and conditions set forth in said Lease.

Non-Disturbance. So long as Tenant is not in default, beyond any applicable cure periods provided in the Lease: (a) Tenant's possession of the Premises and Tenant's rights and privileges under the Lease shall not be terminated, canceled or in any way disturbed, diminished or interfered with by the Lender during the term of this Lease and any extension or renewal thereof, whether or not the Mortgage is in default and whether or not Lender acquires Landlord's interest in the Lease by foreclosure or deed in lieu of foreclosure, or otherwise, and (b) Lender will not join Tenant as a party defendant in any action or proceeding for the purpose of terminating Tenant's interest and estate under the Lease as a result of any default under the Mortgage; provided, however, Lender may join Tenant in a foreclosure action if such joinder is necessary for the purpose of foreclosing the Mortgage against Landlord, but then only for such purpose and not for the purpose of terminating the Lease.

Cure by Lender of Landlord Defaults. Tenant agrees to give Lender or any other New Owner (in accordance with Paragraph 8 hereof) a copy of any notice of default served upon Landlord which with the passage of time or otherwise would entitle Tenant to cancel the Lease or abate the rent under the Lease, provided that prior to such notice Tenant has been notified in writing of the address of the New Owner, or its agent, servicer or designee. Tenant further agrees that if Landlord shall have failed to cure such default within the time provided for in the Lease, then Lender have an additional thirty (30) days after its receipt of notice within which to cure such default or if such default cannot be cured within that time, then such additional time as may be necessary to cure such default shall be granted if within such thirty (30) days Lender has commenced and is diligently pursuing the remedies necessary to cure such default (including, but not limited to, commencement of foreclosure proceedings necessary to effect such cure), in which event the Lease shall not be terminated while such remedies are being so diligently pursued; provided, however, in no event shall such additional time exceed more than ninety (90) days before Tenant can exercise any right of termination.

Payments to Lender and Exculpation of Tenant. Tenant is hereby notified that the Lease and the rent and all other sums due thereunder have been assigned to Lender as security for the Loan. In the event that Lender notifies Tenant of a default under the Mortgage and directs that Tenant pay its rent and all other sums due under the Lease to Lender, Tenant shall honor such direction without inquiry and pay its rent and all other sums due under the Lease in accordance with such notice. Landlord agrees that Tenant shall have the right to rely on any such notice from Lender without incurring any obligation or liability to Landlord as if such notice were given at the direction of Landlord. Tenant is hereby instructed to disregard any notice to the contrary received from or at the behest of Landlord.

Estoppel. Tenant hereby states that as of the date hereof:

- a. The Lease, as described above, contains the complete agreement between Landlord and Tenant in connection with the premises leased by Tenant at the Property and has not been otherwise amended, supplemented or modified.
- b. As of the date hereof (i) the Lease is in full force and effect, (ii) to Tenant's knowledge, there are no defaults or events that with the passage of time or notice would constitute a default by Landlord or Tenant under the Lease; provided, however, Tenant has recently notified Landlord that Tenant's roof has been leaking which Landlord has apparently repaired, however, due to recent weather conditions, Tenant cannot confirm the roof leak is repaired, and (iii) to Tenant's knowledge, Landlord is in full compliance with all of the terms, conditions and covenants of the Lease.
- c. To Tenant's knowledge, Landlord has completed all construction obligations, if any, and has made any contribution to work to be performed by Tenant that was required under the Lease.
- d. To Tenant's knowledge, all payments, including additional rent for taxes, insurance and other charges, due and payable by Tenant under the Lease are current as of the date hereof.
- e. The commencement date of the initial term of the lease is April 6, 1988 and the expiration date is December 31, 2003. The current term of the lease or extension option expires December 31, 2003.
- f. Tenant has no extension options, right of first refusal, option to purchase or other interest in or claim to the Property, or any part thereof, except as set forth in the Lease.
- g. As of the date hereof, Tenant is currently exercising no claims, defenses, offsets or counterclaims against Landlord or otherwise to the enforcement of the Lease; provided, however, Tenant may have said rights as set forth in the Lease.

Limitation of Liability. If the New Owner acquires the interest of Landlord under the Lease, the New Owner shall not be:

- (a) monetarily liable for any consequential damages arising from any act or omission of any prior landlord (including Landlord);
- (b) subject to any claims, offsets, defenses or counterclaims which Tenant might have against any prior landlord (including Landlord) arising prior to the date upon which the New Owner shall succeed to the interests of Landlord under the Lease, other than those claim, offset, defense or counterclaim rights provided Tenant as set forth in the Lease;
- (c) bound by any rent or additional rent which Tenant shall have paid more than one (1) month in advance to any prior landlord (including Landlord); or
- (d) liable for the return of any security deposit not actually received by New Owner.

Lender shall not, either by virtue of the Mortgage, the Assignment of Leases or this Agreement, be or become (i) a mortgagee-in-possession or (ii) subject to any liability or obligation under the Lease or otherwise until Lender shall have acquired by foreclosure or otherwise the interest of Landlord in the Premises. In addition, upon such acquisition, Lender shall have no obligation, nor incur any liability, beyond Lender's then equity interest, if any, in the Premises. In the event of the assignment or transfer of the interest of Lender under this Agreement, all obligations and liabilities of Lender under this Agreement shall terminate and, thereupon, all such obligations and liabilities shall be the sole responsibility of the party to whom Lender's interest is assigned or transferred.

Notice. Any notice, consent or other communication made hereunder shall be in writing and delivered (i) personally, (ii) mailed by certified or registered mail, postage prepaid, return receipt requested or (iii) by depositing the same with a reputable overnight courier service, postage prepaid, for next business day delivery, to the parties at their addresses first set forth above and if to Lender, with a copy to Merrill Lynch Credit Corporation at 4802 Deer Lake Drive East, Jacksonville, Florida 32246-6484, Attention: Commercial Mortgage Servicing. Notice shall be deemed given when delivered personally, or four (4) business days after being placed in the United States mail, if sent by certified or registered mail, or one (1) business day after deposit with such overnight courier service. Any party can change its address or party to receive notice by giving at least fifteen (15) days prior notice to the other parties hereto in accordance with this provision. Tenant agrees to send a copy of any notice or statement under the Lease to Lender at the same time such notice or statement is sent to Landlord.

Miscellaneous.

Successors and Assigns. This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors, assigns and sublessees.

Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State in which the Property is located.

Counterparts. This Agreement may be executed in any number of separate counterparts, each of which shall be deemed an original, but all of which, collectively and separately, shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates set forth adjacent to their signatures below to be effective as of the date of the Mortgage.

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Date: April 3, 2000

TENANT:
OCB REALTY CO.,
a Minnesota corporation

By: [Signature]
Name: H. Thomas Mitchell
Title: Executive Vice President

Date: ~~April 12~~ ^{JUNE} 12, 2000

* LANDLORD:
AMALGAMATED BANK OF CHICAGO A/T/U/T #4951
and not personally.

By: [Signature]
Name: IRVING B. POLAKOW
Title: SENIOR VICE PRESIDENT

Date: ~~April 19~~ ^{MAY} 19, 2000

LENDER:
MERRILL LYNCH CREDIT CORPORATION

By: [Signature]
Name: James P. Hensley
Title: Vice President

* This instrument is executed by AMALGAMATED BANK OF CHICAGO, not personally but solely as Trustee, as aforesaid. All the covenants and conditions to be performed hereunder by AMALGAMATED BANK OF CHICAGO are undertaken by it solely as Trustee, as aforesaid and not individually, and no personal liability shall be asserted or be enforceable against AMALGAMATED BANK OF CHICAGO by reason of any of the covenants, statements, representations or warranties contained in this instrument.

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NOTARIZATION FORMS FOR SIGNATURES

Form of Notarial Acknowledgment

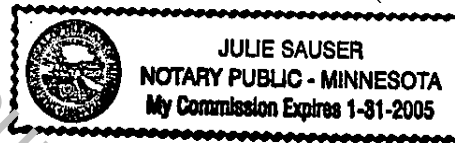
STATE OF MINNESOTA §
§
COUNTY OF DAKOTA §

On April 3, 2000, before me, Julie Sauser, the undersigned, a notary public for the state, personally appeared H. Thomas Mitchell, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Julie Sauser

(SEAL)



NOTARIZATION FORMS FOR SIGNATURES

Form of Notarial Acknowledgment

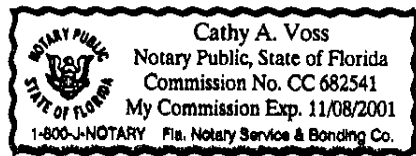
STATE OF FLORIDA §
§ ss.
COUNTY OF Duval §

On May 19, 2000, before me, Cathy A. Voss, the undersigned, a notary public for the state, personally appeared James P. Hensley, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Cathy A. Voss

(SEAL)



County Clerk's Office

NOTARIZATION FORMS FOR SIGNATURES

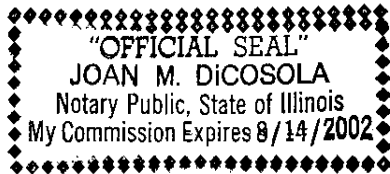
Form of Notarial Acknowledgment

STATE OF ILLINOIS §
§ ss.
COUNTY OF COOK §

On 4/12/2000, before me, JOAN M. DICOSOLA, the undersigned, a notary public for the state, personally appeared IRVING B. POLAKOW, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature *Joan M. Dicosola* (SEAL)



Property Clerk's Office

EXHIBIT A

Legal Description

PARCEL 1:

LOT 3 (except the Southwesterly 1.04 feet thereof);

LOT 7;

That part of Lot 8 described as follows:

Beginning at the Northeast corner of Lot 10; thence North 0 Degrees 15 Minutes 50 Seconds East on the East line of Lot 10 extended North a distance of 6.5 feet; thence North 89 Degrees 44 Minutes 10 Seconds West a distance of 15 feet to the West line of Lot 8; thence South 0 Degrees 15 Minutes 50 Seconds West a distance of 6.5 feet to the North line of Lot 10; thence South 89 Degrees 44 Minutes 10 Seconds East a distance of 15.0 feet to the point of beginning.

LOT 9 (except the South 8.5 feet of the East 18.25 feet of the West 33.0 feet thereof, also except the North 1.00 feet of the South 9.5 feet of the East 18.25 feet of the West 33.0 feet thereof, also except the South 1.00 feet of the East 241 feet thereof);

LOTS 10 through 17, both inclusive, and

Outlots A & B.

All of the above in the Landings Planned Unit Development, a Subdivision of part of the Southwest 1/4 of Section 19, Township 36 North, Range 15 East of the Third Principal Meridian, according to the plat thereof recorded on August 15, 1985 as Document No. 85,148,127 in Cook County, Illinois.

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED EXCEPTION PARCELS A, B, C, D, E AND F:

EXCEPTION PARCEL A:

A North and South 30 foot wide roadway of uniform width being a tract of land with its East and Southeasterly line described as follows, said 30 foot wide roadway lying to the West and Northwest of that part of Outlot A in the Landings Planned Unit Development being a subdivision of part of the Southwest 1/4 of Section 19, Township 36 North, Range 15 East of the Third Principal Meridian described as beginning at a point on the North line of Outlot A, said point being at the Northeast corner of said Outlot A; thence South 0 Degrees 15 Minutes 50 Seconds West on the East line of said Outlot A, a distance of 794.45 feet to a point on the Northwesterly right of way line of the Public Service Company of Northern Illinois, said point being on the Southeasterly line of Outlot A; thence South 25 Degrees 22 Minutes 17 Seconds West on the last described line, a distance of 226.44 feet to a bend point in Outlot A; the following 3 courses being on the Southeasterly line of Outlot A; thence South 25 Degrees 14 Minutes 34 Seconds West a distance of 894.67 feet; thence South 0 Degrees 03 Minutes 26 Seconds West a distance of 7.18 feet; thence South 25 Degrees 29 Minutes 28 Seconds West, a distance of 499.73 feet to the most Southeasterly corner of Outlot A, said point being on the North line of 170th Street in Cook County, Illinois.

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EXCEPTION PARCEL B:

That part of Outlot A and Outlot B in the Landings Planned Unit Development being a subdivision of part of the Southwest 1/4 of Section 19, Township 36 North, Range 15 East of the Third Principal Meridian, bounded and described as follows:

Beginning at the point of intersection of the North line of Outlot A, said North line being a line 2319.72 feet North of and parallel with the South line of said Southwest 1/4, and the East right of way line of Torrence Avenue, being the Westerly line of said Outlot A extended Northerly; thence South 89 Degrees 44 Minutes 10 Seconds East on the North line of Outlot A and B a distance of 1285.31 feet; thence South 64 Degrees 37 Minutes 43 Seconds East a distance of 287.48 feet to the Southeasterly line of Outlot B, being the Northwesterly right of way line of Public Service Company of Northern Illinois; thence South 25 Degrees 22 Minutes 17 Seconds West on the last described line a distance of 66.0 feet; thence North 64 Degrees 37 Minutes 43 Seconds West a distance of 291.10 feet to a point of curve; thence Northwesterly on the arc of a circle convex to the Northeast, having a radius of 267.0 feet and an arc distance of 117.00 feet to a point of tangent; thence North 89 Degrees 44 Minutes 10 Seconds West parallel to the North line of Outlot A, a distance of 1142.69 feet (the last described line being 33.0 feet South of and parallel with the North line of Outlot A) to the Easterly right of way line of Torrence Avenue aforesaid; thence North 3 Degrees 40 Minutes 10 Seconds East on said Easterly right of way and said line extended a distance of 33.06 feet to the point of beginning, all in Cook County, Illinois.

EXCEPTION PARCEL C:

That part of Outlot A in the Landings Planned Unit Development being a subdivision of part of the Southwest 1/4 of Section 19, Township 36 North, Range 15 East of the Third Principal Meridian, described as follows:

Commencing at the point of intersection of the North line of Outlot A, said North line being a line 2319.72 feet North of and parallel with the South line of said Southwest 1/4, and the East right of way line of Torrence Avenue being the Westerly line of said Outlot A extended Northerly; thence South 3 Degrees 40 Minutes 10 Seconds West on the Easterly line of said Outlot A, a distance of 436.88 feet; thence South 3 Degrees 12 Minutes 32 Seconds West on the Westerly line of said Outlot A, a distance of 383.14 feet to a point on a line 318.75 feet South of and parallel to the North line of said Outlot A for the point of beginning of the center line of a 50 foot wide roadway, 25 feet on either side of the following described line; thence North 86 Degrees 44 Minutes 21 Seconds East a distance of 386.31 feet; thence South 89 Degrees 44 Minutes 10 Seconds East a distance of 545.06 feet to the Easterly end of said 50 foot roadway, in Cook County, Illinois.

EXCEPTION PARCEL D:

That part of Outlot A in the Landings Planned Unit Development bounded and described as follows:

Beginning at the most Southeasterly corner of Lot 1 aforesaid, thence South 25 Degrees 14 Minutes 34 Seconds West on the Southwesterly prolongation of the Easterly line of said Lot 1, a distance of 50.0 feet; thence North 64 Degrees 45 Minutes 26 Seconds West a distance of 93.0 feet; thence South 25 Degrees 14 Minutes 34 Seconds West a distance of 82.32 feet; thence North 37 Degrees 48 Minutes 25 Seconds West a distance of 5.61 feet to an angle point of said Lot 1; thence North 25 Degrees 14 Minutes 34 Seconds East on a line of said Lot 1, a distance of 129.78 feet to an angle point of said Lot 1; thence South 64 Degrees 45

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Minutes 26 Seconds East on a line of said Lot 1, a distance of 98.0 feet to the point of beginning.

EXCEPTION PARCEL E:

That part of Outlot A in the Landings Planned Unit Development bounded and described as follows:

Beginning at the Northwesterly corner of Lot 1 aforesaid, thence North 64 Degrees 45 Minutes 26 Seconds West on the Northwesterly prolongation of the Northerly line of said Lot 1 a distance of 7.0 feet; thence South 25 Degrees 14 Minutes 34 Seconds West a distance of 180.0 feet to a point on a line of said Lot 1; thence South 64 Degrees 45 Minutes 26 Seconds East on a line of said Lot 1 a distance of 7.0 feet to an angle point of said Lot 1; thence North 25 Degrees 14 Minutes 34 Seconds East on a line of said Lot 1 a distance of 180.0 feet to the point of beginning.

EXCEPTION PARCEL F:

That part of Outlot A described as follows:

Commencing at the most Southwesterly corner of Lot 9; thence South 89 Degrees 44 Minutes 10 Seconds East in the South line of Lot 9 a distance of 14.75 feet to the point of beginning, thence continuing South 89 Degrees 44 Minutes 10 Seconds East a distance of 3.25 feet to the West line of Lot 8; thence South 0 Degrees 15 Minutes 50 Seconds West a distance of 168.5 feet; thence North 89 Degrees 44 Minutes 10 Seconds West a distance of 3.25 feet; thence North 0 Degrees 15 Minutes 50 Seconds East a distance of 168.5 feet to the point of beginning, all in the Landings Planned Unit Development, being a Subdivision of part of the Southwest Quarter of Section 19, Township 36 North, Range 15 East of the Third Principal Meridian, in Cook County, Illinois.

PARCEL 2:

Easements appurtenant to and for the benefit of Parcel 1 for the purposes of parking, ingress and egress, passage and accommodation of pedestrians, "Common Utility Facilities" and for "Common Area Improvements", as set forth, defined and limited in Section 2.2(a), 2.2(b), 2.2(c), 2.3 and 2.5 of that certain Declaration of Reciprocal Easements and Operating Covenants recorded August 16, 1985 as Document No. 85,149,087, as amended by First Amendment to said Declaration, recorded December 18, 1985 as Document No. 85,329,731, and as further amended by Second Amendment to said Declaration, recorded March 11, 1988 as Document No. 88,103,519, and as modified by Assumption Agreements recorded October 2, 1985 as Document 85,216,667, October 15, 1985 as Document No. 85,235,392, October 15, 1985 as Document No. 85,235,396, August 16, 1985 as Document No. 85,149,097 and August 16, 1985 as Document No. 85,149,098, over and across "Common Areas" as that term is defined and limited therein, excepting from said "Common Areas" those portions thereof falling within Parcel 1 hereinabove.

PARCEL 3:

Easements appurtenant to and for the benefit of Parcel 1 for all "construction", as defined in Section 4.1; maintenance and repair of Parcel 1 improvements and for storage of materials and equipment as set forth, defined and limited in Section 4.5 of the Declaration set forth in Parcel 2 hereinabove, as amended and assumed, over and across "Common Areas" as that term is defined and limited therein, excepting from said "Common Areas" those portions thereof falling within Parcel 1 hereinabove and/or falling within Lots 4 or 5 in said Landings Planned Unit Development.

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30-19-300-028-0000 10 OF 12
30-19-300-029-0000 11 OF 12
30-19-300-030-0000 12 OF 12

LANSING LANDINGS SHOPPING CENTER 170TH & TORRENCE AVENUE
LANSING, ILLINOIS

Prepared By & MAILED TO:

SCHWABER HARRISON Goldstein & Mapello

265 Franklin Street

Boston MASSACHUSETTS 02110-3192

ATTN: MARK BRESLER.