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2001-08-27 14:37:01
Cook County Recorder 63.00



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WHEN RECORDED MAIL TO:
and prepared by:
Robert S. Reda
Reda & Associates, P.C.
53 West Jackson Boulevard
Suite 715
Chicago, Illinois 60604

SUBORDINATION AND NON-DISTURBANCE AGREEMENT

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This Subordination and Non-Disturbance Agreement (the "Agreement") is made and entered into as of the 17th day of August 2000, by and among Parkway Bank & Trust Co., not individually but as Trustee w/t/a dated 8/20/94 a/k/a Trust No. 10903 ("Landlord" or "Grantor"), Portillo's Hot Dogs, Inc., an Illinois corporation ("Tenant"), C&O Chicago, L.L.C., an Illinois limited liability company ("Subtenant"), and Cole Taylor Bank, not individually but as Trustee w/t/a dated 7/25/00 a/k/a Trust No. 00-8630 ("Grantee").

I. RECITALS

1.1 The Tenant is the tenant under a certain Lease dated August 1, 1994, between Landlord and Tenant, pertaining to and covering a portion of that certain real estate which is legally described on Exhibit "A" attached hereto and the buildings and improvements located thereon (the "Property").

1.2 The Subtenant is the tenant under a certain Sub-Lease dated August 30, 1994, between Landlord and Tenant, pertaining to and covering a portion of that certain real estate which is legally described on Exhibit A attached hereto and the buildings and improvements located on the Property.

1.3 Grantee is presently contemplating accepting the grant of an easement over, under, upon and across the Property. Accordingly, this Agreement is entered into by the parties hereto with intention of having Grantee rely hereon in accepting said Grant of Easement.

II. WARRANTIES, COVENANTS AND AGREEMENTS

2.1 The Tenant's Lease and the Subtenant's Lease, mentioned above, all extensions, modifications, replacements and renewals thereof (hereinafter collectively the "Leases"), and all the provisions thereof, and all of Tenant's and Subtenant's rights and interests thereunder, shall be, are hereby made and shall remain completely subject and subordinate to that certain Grant of Easement and Declaration of Restrictions dated July 25, 2000, and recorded in the Office of the Cook County Recorder of Deeds on as Document No. 10787246, and all extensions, modifications, replacements and renewals thereof (the "Easement"), documents, now or hereafter securing the Easement ("Easement Instruments"), to extent as if the Easement Instruments had been executed, delivered and recorded execution of the Easement. The provisions of this Section 2.1 shall be effective in any provisions to the contrary in the Leases.

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2.2 Grantee shall have the right at any time to elect, by a notice in writing given to either the Tenant or the Sub-Tenant (hereinafter the "Tenants"), to make their respective Lease superior to the Easement Instruments, and, upon the giving of such notice to a Tenant, their Lease shall be deemed to be prior and superior to such Easement Instruments and the interest thereby created and evidenced.

2.3 Tenants hereby acknowledge that the Grantee (i) shall not be liable for any claims for damages or setoffs arising out of Landlord's interest in the Property, for the return of any security deposit, or for any act committed by Landlord or any breach or failure to perform by Landlord, and (ii) shall not be obligated by reason of the Leases or the exercise of any rights granted therein to perform any obligation of Landlord.

2.4 Whenever any of the parties hereto desires to give any notice to any of the others under this Agreement, it shall be sufficient for all purposes if such notice is hand delivered or sent by registered or certified U.S. mail, postage prepaid, return receipt requested, addressed to the intended recipient at the following address:

Landlord: Parkway Bank & Trust Co., not individually but as Trustee w/t/a dated
8/20/94 a/k/a Trust No. 10903
c/o
401 N. Michigan Avenue
Suite 2900
Chicago, IL 60611

Tenant: Portillo's Hot Dogs, Inc.
2001 Spring Road, Suite 500
Oak Brook, IL 60523-2032

Tenant: C&O Chicago, L.L.C.
2001 Spring Road, Suite 500
Oak Brook, IL 60523-2032

Grantee: Cole Taylor Bank, not individually but as Trustee w/t/a dated 7/25/00
a/k/a Trust No. 00-8630
c/o

10787247

2.5 This Agreement shall inure to the benefit of and shall be binding upon the Tenants, the Landlord, the Grantee, and their respective heirs, personal representatives, successors and assigns. 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 effect any of the provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision was not contained herein.

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This Agreement shall be governed by and construed accordingly to the laws of the State of Illinois.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed in manner and form sufficient to bind them, as of the date and year first above written.

PARKWAY BANK & TRUST CO.

LANDLORD:

By: [Signature]
Its: BY [Signature]
ACCT. CASHIER TRUST OFFICER
Vice President Trust Officer

TENANT:

By: [Signature]
Its: Richard J. Porhillo, President Porhillo's Hot Dogs, Inc.

SUB-TENANT:

By: [Signature]
Its: Richard J. Porhillo, President of Porhillo's Hot Dogs, Inc.
Managing member of C+O Chicago, L.L.C.

Trustee's Exoneration Rider Attached Hereto And Made A Part Hereof

GRANTEE:

as Trustee under its Trust No. 00-8630
and not individually.

By: [Signature]
Its: BY [Signature]
Trust Officer VICE PRESIDENT

The undersigned, being the guarantor of Tenant's obligations under the Lease, hereby consents to the foregoing Agreement and rearms his obligations under the guaranty executed by him. (Execute only if lease is guaranteed)

By: _____

The undersigned, being the guarantor of Subtenant's obligations under the Lease, hereby consents to the foregoing Agreement and rearms his obligations under the guaranty executed by him. (Execute only if lease is guaranteed)

By: _____

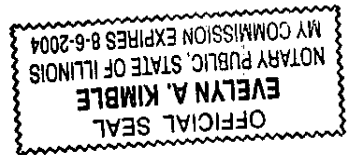
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This Agreement is signed by Parkway Bank & Trust Co., not individually but solely as Trustee under a certain Trust Agreement known as Trust No. 10903. Said Trust Agreement is hereby made a part hereof and any claims against said Trustee which may result from the signing of this Agreement shall be payable only out of any trust property which may be held thereunder, and said Trustee shall not be personally liable for the performance of any of the terms and conditions of this agreement or for the validity or condition of the title of said property or for any agreement with respect thereto. Any and all personal liability of Parkway Bank and Trust Co., is hereby expressly waived by the parties hereto and their respective successors and assigns.

PARKWAY BANK & TRUST COMPANY IS EXECUTING THIS DOCUMENT SOLELY IN ITS CAPACITY AS LAND TRUSTEE WITH THE AUTHORIZATION AND DIRECTION OF ITS BENEFICIARY AND HAS NO PERSONAL KNOWLEDGE OF ANY OF THE FACTS OR STATEMENTS CONTAINED HEREIN NOR THE ABILITY TO PERFORM ANY OF THE ACTS ASSOCIATED THEREWITH.

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Property of
10787247



Notary Public

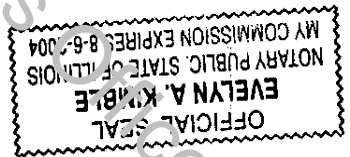
Evelyn A. Kimble

Given under my hand and seal, this 17th day of August 2000.

I, Evelyn A. Kimble, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Richard J. Portillo personally known to me to be the same person whose name is subscribed to the foregoing instrument on behalf of C&O Chicago, L.L.C. Tenant, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth.

STATE OF ILLINOIS
COUNTY OF COOK

) SS



Notary Public

Evelyn A. Kimble

Given under my hand and seal, this 17th day of August 2000.

I, Evelyn A. Kimble, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Richard J. Portillo personally known to me to be the same person whose name is subscribed to the foregoing instrument on behalf of Portillo's Hot Dogs, Inc. Tenant, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth.

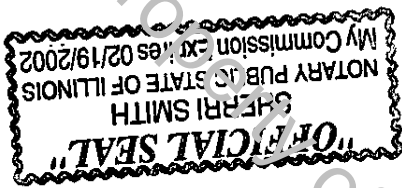
STATE OF ILLINOIS
COUNTY OF COOK

) SS

ACKNOWLEDGMENTS

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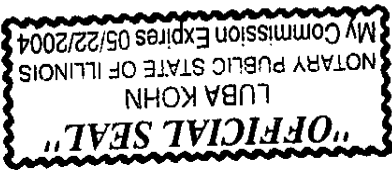
Notary Public

Given under my hand and seal, this 20th day of August 2000.

I, Sherri E. Smith, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that KENNETH W. FERRIS, personally known to me to be the same person whose name is subscribed to the foregoing instrument on behalf of COLE TAYLOR BANK FERRIS, appeared before me this day in person, and acknowledged that HE signed, sealed and delivered the said instrument as HIS free and voluntary act, for the uses and purposes therein set forth.

GRANTEE

STATE OF ILLINOIS
COUNTY OF COOK
) SS



Notary Public

Given under my hand and seal, this 29th day of August 2000.

I, THE UNDERSIGNED, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that DANE & PESSZYNSKI, personally known to me to be the same person whose name is subscribed to the foregoing instrument on behalf of Freemans Drive Trust Co, appeared before me this day in person, and acknowledged that HE signed, sealed and delivered the said instrument as HIS free and voluntary act, for the uses and purposes therein set forth.

LANDLORD

STATE OF ILLINOIS
COUNTY OF COOK
) SS

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It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee while in form purporting to be the warranties, indemnities, representations, covenants, undertakings and agreements of said Trustee are nevertheless each and every one of them, made and intended not as personal warranties, indemnities, representations, covenants, undertakings and agreements by the Trustee or for the purpose or with the intention of binding said Trustee personally but are made and intended for the purpose of binding only that portion of the trust property specifically described herein, and this instrument is executed and delivered by said Trustee not in its own right, but solely in the exercise of the powers conferred upon it as such Trustee; and that no personal liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against the Land Trustee on account of this instrument or on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the said Trustee in this instrument contained, either expressed or implied, all such personal liability, if any, being expressly waived and released.

GENERAL EXCULPATORY CLAUSE

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COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 5;
 THENCE SOUTH 00 DEGREES 11 MINUTES 28 SECONDS EAST, A DISTANCE OF 11.39 FEET;
 THENCE SOUTH 10 DEGREES 48 MINUTES 47 SECONDS EAST, A DISTANCE OF 7.00 FEET TO
 THE POINT OF BEGINNING;
 THENCE NORTH 79 DEGREES 13 MINUTES 13 SECONDS EAST, A DISTANCE OF 7.00 FEET;
 THENCE SOUTH 10 DEGREES 48 MINUTES 47 SECONDS EAST, A DISTANCE OF 14.00 FEET;
 THENCE NORTH 79 DEGREES 11 MINUTES 13 SECONDS WEST, A DISTANCE OF 3.00 FEET;
 THENCE SOUTH 79 DEGREES 48 MINUTES 47 SECONDS WEST, A DISTANCE OF 5.00 FEET;
 THENCE NORTH 10 DEGREES 48 MINUTES 47 SECONDS EAST, A DISTANCE OF 3.00 FEET;
 THENCE SOUTH 10 DEGREES 48 MINUTES 47 SECONDS WEST, A DISTANCE OF 5.00 FEET;
 THENCE NORTH 79 DEGREES 11 MINUTES 13 SECONDS WEST, A DISTANCE OF 3.00 FEET;
 THENCE SOUTH 79 DEGREES 48 MINUTES 47 SECONDS EAST, A DISTANCE OF 14.00 FEET;
 TO THE POINT OF BEGINNING, LYING BELOW A HORIZONTAL PLANE OF ELEVATION + 14.86
 FEET CHICAGO CITY DATUM, IN COOK COUNTY, ILLINOIS.

EASEMENT NO. 3

THAT PART OF LOT 3 IN BLOCK 22 IN WOLCOTT'S ADDITION TO CHICAGO, ALSO LOT 5 IN A J.
 MC BEAN'S SUBDIVISION OF LOTS 14, 15 AND 16 IN BLOCK 22 IN WOLCOTT'S ADDITION TO
 CHICAGO, ALL IN NORTH PART OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 9,
 TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, MORE
 PARTICULARLY DESCRIBED AS FOLLOWS:
 COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 5;
 THENCE SOUTH 00 DEGREES 11 MINUTES 28 SECONDS EAST, A DISTANCE OF 11.39 FEET TO
 THE POINT OF BEGINNING;
 THENCE SOUTH 10 DEGREES 48 MINUTES 47 SECONDS EAST, A DISTANCE OF 7.00 FEET TO
 THE POINT OF BEGINNING;
 THENCE NORTH 79 DEGREES 13 MINUTES 13 SECONDS EAST, A DISTANCE OF 7.00 FEET;
 THENCE SOUTH 10 DEGREES 48 MINUTES 47 SECONDS EAST, A DISTANCE OF 17.10 FEET;
 THENCE SOUTH 04 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 52.00 FEET;
 THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 15.50 FEET;
 THENCE NORTH 10 DEGREES 48 MINUTES 47 SECONDS WEST, A DISTANCE OF 54.91 FEET;
 THENCE SOUTH 86 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 5.16 FEET;
 THENCE NORTH 10 DEGREES 48 MINUTES 47 SECONDS WEST, A DISTANCE OF 52.21 FEET TO
 THE POINT OF BEGINNING, LYING ABOVE A HORIZONTAL PLANE OF ELEVATION + 45.00 FEET
 CHICAGO CITY DATUM, IN COOK COUNTY, ILLINOIS.

EASEMENT NO. 2

THAT PART OF LOT 5 IN A J. MC BEAN'S SUBDIVISION OF LOTS 14, 15 AND 16 IN BLOCK 22 IN
 WOLCOTT'S ADDITION TO CHICAGO, ALL IN NORTH PART OF THE EAST 1/2 OF THE NORTHEAST
 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN,
 MORE PARTICULARLY DESCRIBED AS FOLLOWS:
 BEGINNING AT THE POINT 11.39 FEET SOUTH OF THE NORTHWEST CORNER OF SAID LOT 5;
 THENCE NORTH 79 DEGREES 13 MINUTES 13 SECONDS EAST, A DISTANCE OF 7.00 FEET;
 THENCE SOUTH 10 DEGREES 48 MINUTES 47 SECONDS WEST, A DISTANCE OF 7.00 FEET;
 THENCE SOUTH 79 DEGREES 11 MINUTES 13 SECONDS WEST, A DISTANCE OF 7.00 FEET;
 THENCE NORTH 10 DEGREES 48 MINUTES 47 SECONDS EAST, A DISTANCE OF 14.00 FEET;
 TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

EASEMENT NO. 1

Address: 100 W. Ontario, Chicago, IL
 P/N: 17-09-225-014-000 and 17-09-225-023-000

Easement as created by Grant of Perpetual Easements and Declaration of Restrictions dated July 25, 2000:

Legal Description

EXHIBIT A

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