

UNOFFICIAL COPY

FOR RECORDER'S USE ONLY

PREPARED BY AND WHEN RECORDED MAIL TO:

Pamela J. Sandborg, Esq.
Levenfeld Pearlstein
211 Waukegan Road
Suite 300
Northfield, Illinois 60093



Doc#: 0500633193
Eugene "Gene" Moore Fee: \$40.00
Cook County Recorder of Deeds
Date: 01/08/2005 01:08 PM Pg: 1 of 9

CHICAGO TITLE
SA 6295291
01-MTR-1E
2/7/16

SUBORDINATION, NONDISTURBANCE AND ATTORNMEN T AGREEMENT

This Agreement is dated as of December 15 2004 (effective as of 12/15/2004) and is made by and between Subway Real Estate Corp. ("Tenant") and AMERICAN CHARTERED BANK ("Lender").

P R E A M B L E:

Pursuant to that certain Lease more fully described on Exhibit B attached hereto (said lease, as amended, and as may from time to time be amended, modified, substituted, extended, renewed or restated shall be referred to as the "Lease"), Cole Taylor Bank U/T #95-4151 and its beneficiaries named thereunder ("Landlord"), the owner of the property more fully described on Exhibit "A" attached hereto ("Property"), leased to Tenant the portion of the Property described in the Lease. Advance Real Estate Management, L.L.C. and Ahmet Zeki Borekci Declaration of Trust dated March 29, 2002 ("Purchaser") have requested Lender to provide financing (the "Financing") from time to time, which Financing shall be secured by the Property. Lender has agreed to provide such Financing so long as, among other things, this Agreement is entered into by Tenant.

NOW, THEREFORE, in consideration of the foregoing, to induce Lender to provide the Financing to Landlord and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties mutually agree as follows:

1. Representations Regarding Lease. Tenant represents and warrants to Lender that (a) Tenant is in possession of the Property; (b) except as described on Exhibit B hereto, there have been no changes, modifications, alterations or amendments to the Lease; (c) no default or event of default (howsoever such terms are defined) exists under the Lease; (d) all parties to the Lease are in full compliance with the terms and provisions of the Lease; (e) all rent and other payments required to be paid by Tenant under the Lease as of the date of this Agreement have been paid in full; and (f) Tenant has no offsets or defenses to Tenant's performance under the Lease.

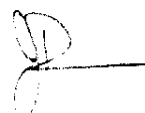
2. Attornment. Tenant covenants and agrees to attorn to Lender or any other purchaser at any foreclosure sale of the Property as its new landlord and upon such event the Lease shall continue in full force and effect as a direct lease between the Tenant and Lender or such other person, upon all terms, covenants, conditions and agreements set forth in the Lease; provided, however, that in no event shall Lender or such third person be (a) liable for any act or omission of the Landlord; (b) subject to any offsets or deficiencies which the Tenant might be

9/8

Box 400-CTCC

UNOFFICIAL COPY

entitled to assert against any Landlord; (c) bound by any payment of rent or additional rent made by the Tenant to any Landlord for more than one month in advance; or (d) ~~bound by any amendment or material modification of the Lease after the date of this Agreement made without the consent of Lender.~~



3. Subordination of Lease. Tenant covenants and agrees that all of Tenant's right, title and interest in and under the Lease is and shall be subordinated to the lien or interest of Lender in and to the Property, and to all right, title and interest granted to Lender in and to the Property, in the same manner as if the Lease had been executed after execution, delivery and recording of Lender's interest in the Property.

4. Nondisturbance. Lender covenants and agrees that in the event that Lender or any other person exercises any of its rights, powers or remedies pursuant to any agreement, instrument or document relating to the Financing with respect to the Property, and Lender or any other person acquires title to the Property pursuant to the exercise of any such right, power or remedy, and provided that the Tenant is not then in default under the Lease, then Tenant's leasehold shall not be disturbed by Lender's or any third parties' exercise of any of such rights, powers or remedies.

5. Amendment, Modifications. This Agreement may not be modified other than by agreement in writing signed by Lender and Tenant, or by their respective successors in interest.

6. Binding Agreement. This Agreement shall inure to the benefit of and shall be binding upon Lender and its successors and assigns, and be binding upon Tenant and its successors and assigns.

7. Counterparts. This Agreement may be executed in any number of counterparts, each of which counterparts, once executed and delivered, shall be deemed to be an original and all of which counterparts taken together, shall constitute but one and the same Agreement.

8. Governing Laws. This Agreement shall be deemed to be a contract made under the laws of the State of Illinois and for all purposes shall be construed in accordance with the internal laws, and not the conflict of laws provisions, of the State of Illinois.

**[THE BALANCE OF THIS PAGE IS INTENTIONALLY LEFT BLANK;
SIGNATURE PAGE FOLLOWS]**

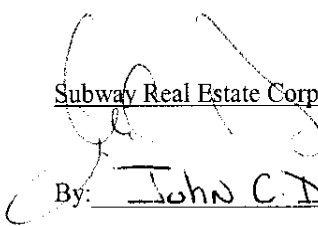
UNOFFICIAL COPY

IN WITNESS WHEREOF, the authorized representatives of the parties have executed this Agreement on the day and year first set forth above.

AMERICAN CHARTERED BANK

By: 
Title: GROUP SUP

Subway Real Estate Corp.

By:  John C. Devine
Title: Vice President

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT A
LEGAL DESCRIPTION

PIN Number: 08-16-200-111-0000, 08-16-200-112-0000 and 08-16-200-113-0000

Common Address: 15-89 West Golf Road and 1910-1918 South Arlington Heights Road, Illinois

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT A

ARLINGTON HEIGHTS

LEGAL DESCRIPTION

PARCEL 1:

That part of Lots 5 and 6 (Taken as a Tract) in the Subdivision of Joseph A. Barnes' Farm in Sections 9, 15 and 16, Township 41 North, Range 11 East of the third Principal Meridian described as follows: Beginning at a point on the North line of Section 16 aforesaid, distance 498.99 feet West of the center line of Arlington freights Road; running thence South parallel with center line of said road to a straight line drawn through a point in the center line of said road distance 481.13 feet Southerly from the North line of said Section 16, (measured on the Northwesterly lines of said Lots 5 and 6); thence Easterly along said last described line to the center line of said road; thence Northerly along said center line to the North line of said Section 16; thence West along said North line to the point of beginning (Except that part of said tract lying Easterly of a line drawn from a point in the North line of said Tract 265 feet West of the North East corner thereof, to a point in the South line of said Tract 265 feet West of the South East corner thereof) and except that part; of said tract described as follows: Beginning at a point in the North line of Section 1G, aforesaid, 265 feet West of the center line of Arlington Heights Road; thence South parallel with said center line 200 feet; thence West parallel with the North line of said Section 100 feet thence North parallel with the center line of said road, 200 feet to the North line of said Section; thence East along said North line to the point of beginning, in Cook County, Illinois.

PARCEL 2:

That part of Lots 5 and 6 (Taken as a Tract) in the Subdivision of Joseph A. Barnes' Farm in Sections 9, 15 and 16, Township 41 North, Range 11 East of the third Principal Meridian, described as follows: Beginning at a point in the North line of Section 16, aforesaid distant 811.37 feet East of the intersection of said North line with the Northwesterly line of Lot 5 aforesaid; running thence East along said Section line, 271.90 feet to a point 519.99 feet West of the center line of Arlington Heights Road; thence Southerly 1183.13 feet along a line parallel with the center line of said road; thence West along a line drawn parallel with the North line of Section 1G, aforesaid, 271.90 feet; thence North along a line drawn parallel with the center line of said Arlington Heights road, 481.13 feet to the point of beginning, in Cook County, Illinois.

ALSO:

That part of Lots 5 and 6 (Taken as a Tract) in the Subdivision of Joseph A. Barnes' Farm in Sections 9, 15 and 16, Township 41 North, Range 11 East of the Third Principal Meridian, described as follows: Beginning at a point on the North line of Section 16, aforesaid, distant 356.27 feet East of the intersection of said North line with the Northwesterly line of Lot 5 aforesaid; running thence East along said Section line, 91 feet to a point 498.99 feet West of the center line of Arlington Heights Road; thence Southerly 1181.33 feet along a line parallel with the center line of said road; thence West along a line parallel with the North line of Section 16 aforesaid, 91 feet; thence North along a line drawn parallel with the center line of said Arlington Heights Road, 481.13 feet to the point of beginning, in Cook County, Illinois.

PARCEL 3:

That part of Lots 5 and 6 in the Subdivision of Joseph A. Barnes' Farm in Sections 9, 15 and 1G, Township 41 North, Range 11 East of the Third Principal Meridian, described as follows: Beginning at a point on the North line of said Section 1G, which is 190 feet West of its intersection with the center line of Arlington Heights Road; thence continuing West along said Section line 75 feet; thence Southwardly parallel with the center line of Arlington Heights Road, 481.13 feet to the South line of the tract of land conveyed to William C. Boettcher and Mary Boettcher, his wife by Warranty

UNOFFICIAL COPY

EXHIBIT A

ARLINGTON HEIGHTS LEGAL DESCRIPTION (CONTINUED)

Deed dated July 21, 1929 and filed in the office of the Registrar of Titles of Cook County, Illinois, on August 9, 1929 as Document 473203; thence East along said South line of said Tract so conveyed 211.90 feet to a line 50 feet (as measured at right angles) West of and parallel with the center line of Arlington Heights Road; thence North along the last described line, a distance of 317.13 feet; thence West parallel with the North line of Section 16, aforesaid, 139.90 feet; thence Northwardly parallel with the center line of Arlington Heights Road, 1611 feet to tile point of beginning, in Cook County, Illinois.


PARCEL 4:

That part of Lots 5 and 6 (Taken as a Tract) in the Subdivision of Joseph A. Barnes' Farm in Sections 9, 15 and 16, Township 41 North, Range 11 East of the Third Principal Meridian, described as follows: beginning at a point on the North line of Section 16, aforesaid, which is 265 feet West of the center line of Arlington Heights Road; thence running South parallel with the center line of Arlington Heights Road, 200 feet; thence running West parallel with the center line of Arlington Heights Road, 200 feet to the intersection with the North line of said Section 16; thence East along the North line of said Section 16, to point of beginning in Cook County, Illinois.

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT B TO
SUBORDINATION, NONDISTURBANCE AND NONDISTURBANCE AGREEMENT



Property of Cook County Clerk's Office