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Doc#: 0814133137 Fee: \$48.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 05/20/2008 02:19 PM Pg: 1 of 7

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

PARKWAY BANK AND TRUST COMPANY
4800 N. Harlem Avenue
Harwood Heights, IL 60706

SUBORDINATION, NONDISTURBANCE, AND ATTORNMENT AGREEMENT

THIS AGREEMENT (the "Agreement") made and entered into this 14 day of May, 2008 by and between Portillo's Hot Dogs, Inc. (the "Prime Tenant"), C&O Chicago, LLC (the "Subtenant") (Prime Tenant and Subtenant are collectively referred to as "Tenant") and Parkway Bank and Trust Company (the "Lender"), whose address is 4800 N. Harlem Avenue, Harwood Heights, IL 60706.

RECITALS:

A. Lender has agreed to make a mortgage loan (the "Loan") to Ontario Great Lakes Properties Corporation (the "Borrower" and the "Landlord") in amount of \$6,429,000, to be secured by a Mortgage (the "Mortgage") on the real property (the "Premises") legally described as follows:

SEE ATTACHED EXHIBIT

B. Tenant is present lessee under a lease dated August 1, 1994 and a First Amendment to Lease dated December 6, 2004 and a Sublease to C&O Chicago, LLC by Sublease and Assumption dated August 30, 1994 of the Premises (said lease being referred to as the "Lease") which Lease is also subject to a Leasehold Mortgage, Assignment of Loans and Rents and Financing Statement dated October 26, 2001 and recorded on November 13, 2001 as Document No. 0011062554; and

C. Lender requires that Tenant subordinate the Lease and its interest in the Premises in all respects to the lien of the Mortgage and that Tenant attorn to Lender, and acknowledge that the lease is in full force and effect; and

D. In return, Lender is agreeable to not disturbing Tenant's possession of the portion of the Premises covered by the Lease (the "Demised Premises"), so long as Tenant is not in default under the Lease.

NOW THEREFORE, the parties hereby agree as follows:

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1. Subordination. So long as Tenant's occupancy is not disturbed as Provided in Section 2 below, the rights of Tenant in, to, and under the Lease, and the Demised Premises are hereby subjected and subordinated, and shall remain in all respects and for all purposes subject and subordinate, to the lien of the Mortgage, 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 rent or additional 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 Demised Premises, or any extension or renewal rights therefore in the Lease, shall not be diminished or interfered with by Lender, and Tenant's occupancy of the Demised 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 Mortgage unless such joinder is necessary to foreclose the Mortgage and then only for such purpose and not for the purpose of terminating the Lease.

3. Tenant to Attorn to Lender. If Lender shall become the owner of the Demised Premises, or the Demised Premises shall be sold by reason of foreclosure or other proceedings brought to enforce the Mortgage, or the Demised Premises shall be 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 Demised Premises and Tenant, and Tenant hereby attorn to Lender or any other such owner as its lessor, said attornment to be effective and self-operative without the execution of any further instruments; provided, however, that Lender or such other owner shall not be

(a) liable for any act or omission of any prior lessor (including Borrower as lessor), except that Tenant shall retain all rights and remedies available to Tenant at law or pursuant to the Lease; or

(b) subject to any offsets or defenses which Tenant might have against any such prior lessor, unless Tenant shall have delivered to Lender written notice of the default which gave rise to such offset or defense and permitted Lender the same right to cure such default as permitted Borrower under the Lease; or

(c) bound by any prepayment of rent or additional rent which Tenant might have paid, except as otherwise expressly required by the terms of the Lease; or

(d) bound by any amendment or modification of the Lease or by any waiver or forbearance on the part of any such prior lessor made or given without the written consent of Lender or any subsequent holder of the Mortgage; or

(e) bound to return any security deposit unless Lender has actually received that security deposit.

Tenant shall be 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.

4. Purchase Option. Any option or rights contained in the Lease, or otherwise, to acquire any or all of the Demised Premises are hereby made subject and subordinate to the rights of Lender under the Mortgage.

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

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have elapsed, or during such longer time as may be allowed for the Landlord under the Lease to cure such default. Notwithstanding the foregoing, nothing herein shall preclude Tenant from maintaining or repairing the Demised Premises pursuant to the Lease.

6. Assignment of Lease. Tenant acknowledges that the Interest of landlord in the Lease is held by Borrower and that Borrower's Interest has been assigned to lender as security under the Mortgage and that Lender assumes no duty, liability, or obligation under the Lease or any extension or renewal of the Lease, either by virtue of said assignment or by any subsequent receipt or collection or rents under the assignment, and that unless the written consent of Lender is first obtained, no cancellation, surrender, or modification may be made of the Lease and no rental shall be paid other than as now provided in the Lease or in such modification of the Lease and may receive the written approval of Lender.

7. 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.

8. Successor 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.

9. Non Reduction of Rent. The landlord and tenant represent and warrant that they have not heretofore and will not hereafter enter into any agreement between themselves or with third parties which in any way reduce the rental below its current monthly rate or allow an abatement in rental which would result in the failure to pay monthly rental payments to Parkway Bank and Trust Company or its successor in the event a default occurs in the obligation of the landlord to Parkway Bank and Trust Company.

BALANCE OF PAGE BLANK – SIGNATURES FOLLOW NEXT PAGE-----

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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:

PARKWAY BANK AND TRUST COMPANY
4800 N. HARLEM AVENUE
HARWOOD HEIGHTS, ILLINOIS 60706

By: *Naraine J. Weber*

Title: *Vice President*

TENANT:

Portillo's Hot Dogs, Inc.

By: *Derek Portillo*

Title: *President*

C&O Chicago, LLC

By Portillo's Hot Dogs, Inc., Managing Member

By: *Richard Portillo*

Title: *President*

LANDLORD:

~~ONTARIO GREAT LAKES PROPERTIES CORP.~~

By: *[Signature]*

Title: *PRESIDENT*

Property of C&O Chicago, LLC
Clerk's Office

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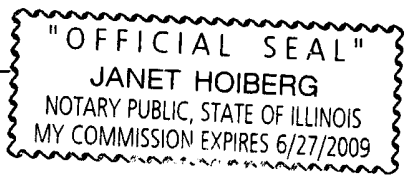
[Acknowledgment of Lender]

STATE OF Illinois)
)
COUNTY OF Cook) ss.

On May 15, 2008 before me, the undersigned a Notary Public in and for said County and State, personally appeared Marion L. Wagner 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 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: Janet Hoiberg



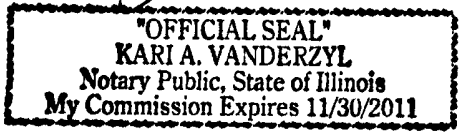
[Acknowledgment of Tenant]

STATE OF ILLINOIS)
)
COUNTY OF DUPAGE) ss.

On May 14, 2008, 2008 before me, the undersigned, a Notary Public in and for said County and State, personally appeared Richard J. Portillo, President of Portillo's Hot Dogs, Inc. 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 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: Kari A. Vanderzyl


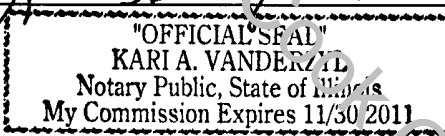


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STATE OF ILLINOIS)
) ss.
COUNTY OF DUPAGE)

On May 14, 2008, 2008 before me, the undersigned, a Notary Public in and for said County and State, personally appeared Richard J. Portillo, President of Portillo's Hot Dogs, Inc. , the Managing Member of C&O Chicago, LLC, 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 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.

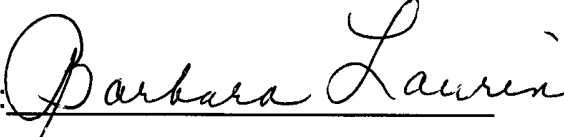

Signature: 


[Acknowledgement of Landlord]

STATE OF ILLINOIS)
) ss.
COUNTY OF DuPAGE)

On MAY 14, 2008 before me, the undersigned, a Notary Public in and for said County and State, personally appeared JOHN TERZAKIS personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed same in their authorized capacities and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

Signature: 


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EXHIBIT LEGAL DESCRIPTION

LOTS 1, 2, AND 3 IN BLOCK 22 IN WOLCOTT'S ADDITION TO CHICAGO ALSO LOT 5 IN A. J. MCBEANS SUBDIVISION OF LOTS 14 AND 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, IN COOK COUNTY, ILLINOIS

P.I.N. Nos.: 17-09-225-014-0000
17-09-225-023-0000

Property of Cook County Clerk's Office