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FIRST AMERICA

File # 501178/50129

7/8



Doc#: 1218811120 Fee: \$56.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 07/08/2012 01:04 PM Pg: 1 of 10

M.G.R. TITLE

**THIS INSTRUMENT
PREPARED BY
AND AFTER RECORDING
RETURN TO:**
Jeffrey Jahns, Esq.
Seyfarth Shaw LLP
131 S. Dearborn St.
Suite 2400
Chicago, Illinois 60603-5577

This space reserved for Recorder's use only.

NONDISTURBANCE, ATTORNMEN AND SUBORDINATION AGREEMENT

THIS AGREEMENT, made and entered into as of the 2nd day of July, 2012, by and between I.M. Properties (Illinois 8) LLC and I.M. Property Investments (USA) LLC (herein, together, with their respective successors and assigns under the Mortgage hereinafter referred to, called "Lender") whose address is c/o IM Property Investments (USA) LLC, 1215 Panther Lane, #340, Naples, Florida 34109 and ROUNDY'S SUPERMARKETS, INC. (herein called "Tenant").

WITNESSETH:

WHEREAS, ROUNDY'S SUPERMARKETS, INC., as Tenant, and Bradford Harwood Heights 2 LLC, as Landlord (herein called "Landlord"), heretofore entered into a certain Lease dated January 30, 2012 (herein called the "Lease") demising to Tenant those certain premises described in the Lease which premises are located in the Village of Harwood Heights, Cook County, Illinois, and legally described in Schedule I attached hereto and made a part hereof (herein called the "Leased Premises"); and

WHEREAS, concurrently herewith, the Landlord is executing and delivering to Lender a Construction Mortgage (herein called the "Mortgage") dated as of July 2, 2012, creating a mortgage lien upon the Leased Premises as security for certain indebtedness evidenced by said Landlord's Construction Note dated as of July 2, 2012, in the principal sum of \$21,612,441 together with any and all advances made thereunder, all interest thereon and any renewals or extensions thereof (herein called the "Mortgage Debt"), and more fully described in the Mortgage; and

WHEREAS, as a condition precedent to disbursement of the Mortgage Debt, Lender has required that the Lease and the rights of Tenant thereunder be subordinated and made subject to the lien of the Mortgage upon the terms and conditions hereinafter expressed.

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NOW THEREFORE, in consideration of the foregoing premises and of the agreements hereinafter contained, and to induce Lender to disburse the Mortgage Debt, it is agreed as follows:

1. Tenant hereby agrees that the Lease, and the rights of Tenant in, to or under the Lease, shall be and remain in all respects and for all purposes, subject, subordinate and junior in right and interest to the lien of the Mortgage, as well as to any and all renewals, amendments, modifications, restatements or extensions thereof, and to the right and interest of the holder of the Mortgage Debt secured thereby whether now or hereafter outstanding, as fully and with the same effect as if the Mortgage had been duly executed, acknowledged, delivered and recorded by the record owner of the Leased Premises so as to constitute a first lien of record, and as if the Mortgage Debt had been fully disbursed prior to the execution and delivery of the Lease.

2. Tenant acknowledges and agrees that Tenant has notice that the Lease and the rent and other sums due under the Lease have been assigned to Lender as security for the Loan. If Lender notifies Tenant in writing of a default under the Mortgage and requests that Tenant pay its rent and other sums due under the Lease to Lender, Tenant shall pay such sums directly to Lender or as Lender may otherwise request. Landlord hereby irrevocably directs and authorizes Tenant to make such rental payment directly to Lender following receipt of Lender's notice and Landlord covenants and agrees that Tenant shall have the right to rely on such notice without any obligation to inquire as to whether any default exists under the Loan and notwithstanding any notice or claim by Landlord, Landlord shall have no right or claim against Tenant for by reason of any rental payments made by Tenant to Lender following receipt of such notice.

3. Lender hereby agrees that so long as Tenant, its successors, assigns and sublessees, shall not be in default under the provisions of the Lease:

The Lease shall remain in full force and effect without impairment of any of the rights of the Tenant thereunder, including the Tenant's continued right to possession of the Leased Premises during the Term of the Lease and any extension thereof, and the Lease shall continue with the same force and effect as if the Lender, as landlord, and Tenant, as tenant, had entered into a lease as of the date Lender takes possession of the Leased Premises containing the same terms, conditions and covenants as contained in the Lease.

In the event of foreclosure of the Mortgage or sale in lieu of foreclosure or other suit or proceeding under or pursuant to the Mortgage or consequent upon an Event of Default thereunder, the Tenant under the Lease will not be made a party to any such proceeding and the same shall not affect the rights of the Tenant under the Lease. Any purchaser of the Leased Premises pursuant to any such proceedings or deed in lieu of foreclosure shall take the Leased Premises subject to the Lease and shall be bound by all of its covenants as though the purchaser were the original Landlord; provided, however, that said purchaser shall in no way be liable or responsible for any alleged default by the Landlord under the Lease pertaining to any period prior to the time that purchaser acquires legal title to or possession of the Leased Premises.

4. From and after the date that Lender takes possession of the Leased Premises, or upon any foreclosure sale or conveyance in lieu thereof, and if the Tenant's right of possession has been preserved as hereinabove provided, Tenant will attorn to Lender (or the purchaser at

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foreclosure sale or grantee pursuant to deed in lieu of foreclosure; and for the purposes hereof, the term "Lender" shall include such purchaser or grantee) and the Lender will accept such attornment; the Lender will have the same obligations as Landlord had or would have had if the Lender had not taken possession of the Leased Premises and the same remedies by entry, action or otherwise for the nonperformance of any agreement contained in the Lease for the recovery of rent, for the commission of any waste or for any forfeiture, as the Landlord had or would have had. From and after the time of such attornment, Tenant shall have the same remedies against the Lender who shall be in possession of the Leased Premises for the breach of any covenant or agreement contained in the Lease that Tenant might have had against the Landlord; provided, however, that except for Tenant's right of offset contained in Section 19 of the Lease, which right Tenant shall retain against the Lender, the Lender shall not be (i) liable for any prior act or omission of Landlord; (ii) liable for any security deposit paid by Tenant to Landlord, unless any such security deposit was transferred to Lender; (iii) subject to any offsets or defenses which Tenant might have against Landlord; (iv) liable for more than one (1) month's rent or additional rent which Tenant might have paid in advance to the Landlord or (v) liable for any representation, warranty or indemnity given by any prior landlord (including Borrower). In addition, Tenant agrees that provided any successor owner assumes all of the landlord's obligation under the Lease, Lender and any other successor owner shall be discharged from all responsibility under the Lease which accrues or arises after Lender or such other successor owner disposes of its interest in the Leased Premises.

5. Lender shall not be bound by any modification or amendment of the Lease unless Lender has given its consent thereto in writing.

6. Lender agrees to permit the application of (i) all insurance proceeds derived from the policy of insurance carried by Landlord pursuant to Section 13 of the Lease to the restoration of the Leased Premises in accordance with Section 17 thereof and (ii) all proceeds resulting from any condemnation to the restoration or reconstruction of the Leased Premises in accordance with Section 16 of the Lease.

7. Tenant agrees that, so long as the Mortgage shall remain outstanding, Tenant shall not, without the prior written consent of Lender: (a) prepay any of the rents, additional rents or other sums due under the Lease more than one (1) month in advance of the due date thereof; (b) voluntarily surrender the Premises or enter into any agreement with Landlord to terminate the Lease or shorten the term thereof; provided, however, Tenant shall have the right to terminate the Lease without Lender's consent as permitted under the terms and provisions of the Lease; (c) voluntarily subordinate the Lease to any lien or encumbrance other than the Mortgage; or (d) assign the Lease or sublet the Premises or any portion thereof other than pursuant to the provisions of the Lease.

8. This instrument shall constitute acknowledgment by Tenant of notice of the existence of the Mortgage as a mortgage lien upon the Leased Premises and of the name and address of Lender as mortgagee. Upon assignment by Lender of its interest as mortgagee under the Mortgage, all rights of Lender shall immediately inure to its assignee, provided that Lender shall give notice of such assignment to Tenant within fifteen (15) days after any such assignment.

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9. In the event Tenant shall send any notice of default pursuant to or in connection with the Lease, Tenant shall simultaneously send a copy of said notice to Lender by certified mail, return receipt requested, addressed to Lender, or such other address as Lender may notify Tenant in writing. Tenant agrees that Lender shall have the same period of time provided to Landlord under the Lease to cure such default provided that if the circumstances so warrant said cure period shall be extended up to a maximum of thirty (30) additional days, provided Lender promptly undertakes such performance and prosecutes the same to its conclusion within such additional 30-day period during which period Tenant shall not exercise any remedies available to it under the Lease (including, without limitation, any right of termination; provided, however, that Tenant shall not be precluded from exercising prior to the expiration of such cure period, any self-help rights granted to Tenant under the Lease and Tenant's right of offset with respect to any such self-help). Notwithstanding the foregoing, it is expressly agreed that, although Lender shall have the right under this Agreement to cure lessor's defaults under the Lease, nothing herein shall be construed as requiring or obligating Lender to cure Lessor's defaults.

10. At any time, and from time to time, Lender may elect by written notice to Tenant to subordinate the Mortgage to the Lease, in which event, neither a foreclosure of the lien of the Mortgage, entry by Lender, nor any other action by Lender with respect to the Mortgage will affect the continued existence of the Lease or the rights and obligations of the Tenant thereunder. This election may be changed from time to time so that at all times, the Lease will be subordinate to the Mortgage, subject to the terms of this Agreement, or the Mortgage subordinate to the Lease, as elected by Lender.

11. All notices or other communications under this Agreement shall be in writing and shall be sent by registered or certified mail, return receipt requested, or by a reputable overnight carrier that provides a receipt, and shall be deemed given when addressed to the parties at their addresses listed above or below (or such other addresses and the parties may provide to the other party in writing), on the second (2nd) business day after being deposited in the mail, if sent by registered or certified mail, or on the next business day after being deposited with an overnight courier.

12. The individuals executing this Agreement hereby represent and warrant that they are empowered and duly authorized to so execute this Agreement on behalf of the parties and entities they represent. This instrument shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

[signature page follows]

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

Lender:

Tenant:

I.M. PROPERTIES (ILLINOIS 8) LLC

ROUNDY'S SUPERMARKETS, INC.

By: I.M. Property Investments (USA)
LLC

By: _____

Name: _____

Title: _____

By: _____
Name: ROBERT CAW
Title: VICE PRESIDENT

I.M. PROPERTY INVESTMENTS (USA)
LLC

By: _____

Name: ROBERT CAW

Title: VICE PRESIDENT

The undersigned has entered into this Agreement to reflect its agreement to the terms and provisions of Section 2 above.

BRADFORD HARWOOD HEIGHTS 2
LLC, an Illinois limited liability company

By: Bradford Real Estate Services Corp.,
its Manager

By: _____

Name: _____

Its: _____

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STATE OF Florida)
COUNTY OF Collier) SS

This instrument was acknowledged before me on the 29th day of June 2012, by Robert Charles Gould, as Manager of J. m Property Investments (USA)

SD: Driver license
G 430-463-60-146-0
Issued: 06/21/12
Expires: 01/21/15

Tameka Thomas
Notary Public, State of Florida

My Commission: EE 181003

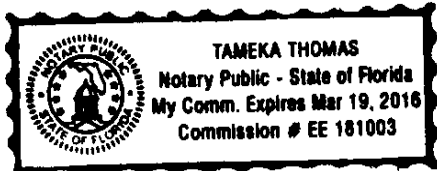


STATE OF Florida)
COUNTY OF Collier) SS

This instrument was acknowledged before me on the 29th day of June 2012, by Robert Charles Gould, as Manager of J. m Property Investments (USA)

Tameka Thomas
Notary Public, State of Florida

My Commission: EE 181003



STATE OF WISCONSIN)
COUNTY OF MILWAUKEE) SS

This instrument was acknowledged before me on the ___ day of _____ 2012, by _____, as _____ of ROUNDY'S SUPERMARKETS, INC.

Notary Public, State of Wisconsin

My Commission: _____

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.


Lender:

Tenant:

I.M. PROPERTIES (ILLINOIS 8) LLC

ROUNDY'S SUPERMARKETS, INC.

By: I.M. Properties Investments (USA) LLC

By: 

Name: Edward G. Kite

By: _____

Title: Group V-P - Legal, Risk & Treasury

Name: _____

Title: _____

Roundy's Supermarkets, Inc.

875 East Wisconsin Avenue

Milwaukee, WI 53202-5402

Attn: Daniel P. Farrell (MS-3300),

Vice President - Real Estate


I.M. PROPERTIES INVESTMENTS (USA) LLC

By: _____

Name: _____

Title: _____

The undersigned has entered into this Agreement to reflect its agreement to the terms and provisions of Section 2 above.

<p>c/o Bradford Real Estate Services Corp. 30 South Wacker Drive Suite 2850 Chicago, Illinois 60606 Attention: Chad Jones</p>	<p>BRADFORD HARWOOD HEIGHTS 2 LLC, an Illinois limited liability company</p> <p>By: Bradford Real Estate Services Corp., its Manager</p> <p>By: <u></u></p> <p>Name: <u>CHAD W. JONES</u> <u>TREASURER</u></p> <p>Its: _____</p>
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STATE OF _____)
) ss
COUNTY OF _____)

This instrument was acknowledged before me on the ___ day of _____ 2012, by _____, as _____ of _____.

Notary Public, State of Illinois

My Commission: _____

STATE OF _____)
) ss
COUNTY OF _____)

This instrument was acknowledged before me on the ___ day of _____ 2012, by _____, as _____ of _____.

Notary Public, State of Illinois

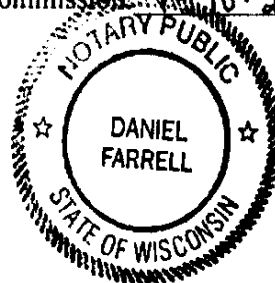
My Commission: _____

STATE OF WISCONSIN)
) ss
COUNTY OF MILWAUKEE)

This instrument was acknowledged before me on the 2 day of July 2012, by Edward G. Kitz, as Group VP of ROUNDY'S SUPERMARKETS, INC.

Daniel Farrell
Notary Public, State of Wisconsin

My Commission: 10-2016



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STATE OF ILLINOIS)
COUNTY OF COOK) ss

This instrument was acknowledged before me on the 2 day of JULY 2012, by CHAD JONES, as TREASURER of Bradford Real Estate Services Corp., its Manager of Bradford Harwood Heights 2 LLC,



Notary Public, State of Illinois

My Commission: 12-11-2013



Pro... of Cook County Clerk's Office

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SCHEDULE I

LEGAL DESCRIPTION OF LEASED PREMISES

PARCEL 1:

LOTS 6, 7 AND THE NORTH HALF OF LOT 8 IN KLEFSTAD'S INDUSTRIAL ADDITION TO HARWOOD HEIGHTS, A SUBDIVISION IN THE NORTH EAST QUARTER OF SECTION 13, TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN;

PARCEL 2:

LOTS 13 AND 14 IN BLOCK 1 AND THAT PART OF LOTS 15 TO 18 IN SAID BLOCK 1, LYING NORTH OF A LINE DRAWN FROM A POINT IN THE EAST LINE OF SAID LOT 15, WHICH IS 47.80 FEET SOUTH OF THE NORTH EAST CORNER OF SAID LOT 15 TO A POINT IN THE WEST LINE OF SAID LOT 18, WHICH IS 42.60 FEET SOUTH OF THE NORTH WEST CORNER OF SAID LOT 18, TOGETHER WITH THE EAST AND WEST VACATED 20 FOOT PUBLIC ALLEY IN SAID BLOCK 1 LYING SOUTH OF AND ADJOINING THE SOUTH LINE OF SAID LOT 14 AND THE SOUTH LINE OF SAID LOT 14, EXTENDED EAST TO THE EAST LINE OF SAID BLOCK 1 AND LYING NORTH OF AND ADJOINING THE NORTH LINE OF SAID LOTS 15 TO 18 AND THAT PART OF THE VACATED NORTH AND SOUTH PUBLIC ALLEY IN SAID BLOCK 1, LYING EAST OF AND ADJOINING THE EAST LINE OF LOTS 13 AND 14 AFORESAID ALL IN LAWRENCE LAWN'S ADDITION, BEING A SUBDIVISION OF THE SOUTH HALF OF THE NORTH HALF OF THE EAST HALF OF THE WEST HALF OF THE WEST HALF OF THE NORTHEAST QUARTER AND OF THE NORTH HALF OF THE WEST 10 ACRES OF THE EAST HALF OF THE WEST HALF OF THE NORTH EAST QUARTER OF SECTION 13, TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3

THE SOUTH HALF OF LOT 8 AND THE NORTH 112 FEET OF LOT 9 IN KLEFSTAD'S INDUSTRIAL ADDITION TO HARWOOD HEIGHTS, BEING A SUBDIVISION IN THE NORTHEAST QUARTER OF SECTION 13, TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS