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Doc#: 1308001097 Fee: \$58.00
RHSP Fee: \$10.00 Affidavit Fee:
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 03/21/2013 02:47 PM Pg: 1 of 11

This document prepared by,
and after recording, return to:

Nixon Peabody LLP
437 Madison Avenue
New York, New York 10022
Attn: William X. Lang, Esq.

Above space for Recorder's Use Only

SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT ("Agreement") is made effective this 21st day of March, 2013, by and between SELF-INSURERS' SECURITY FUND ("Mortgagee"), and JEWEL FOOD STORES, INC., an Ohio corporation ("Tenant").

WHEREAS, Mortgagee is the owner of and holds a Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing (the "Mortgage"), executed by JETCO PROPERTIES, INC., a Delaware corporation, (the "Mortgagor") on the land described on Exhibit "A," and recorded immediately prior hereto, together with present or future improvements (the "Real Property"); and

WHEREAS, Mortgagor, as successor in interest to 88th & Ridgeland Properties, Inc., has entered into a lease with Tenant, as successor in interest to Jewel Companies, Inc., as to all or a portion of the Real Property dated the 20th day of October, 1973 (which lease together with all amendments, assignments, options, extensions, renewals and replacements is the "Lease"); and

WHEREAS, Mortgagee and Tenant have reached certain agreements as to the subordination of that Lease to the Mortgage; and

WHEREAS, the parties desire to set forth in writing their agreements.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants herein contained, which the parties agree and acknowledge constitute good and adequate consideration, the parties mutually agree as follows:

1. **Subordination.** The Lease, all of its terms and provisions, and all of the Tenant's rights thereunder and as to the Real Property shall be and are subordinate to the Mortgage.

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2. **Consent to Assignment.** The Tenant consents to the assignment of the Lease to Mortgagee as security for the Loan.

3. **Notice to Lender in the Event of Landlord Default.** If Mortgagor defaults under the Lease and, upon notice, fails to cure its default within the cure period provided under the Lease, if any, Tenant will notify Mortgagee of the default and afford Mortgagee a reasonable opportunity to cure the default (but in no event exceeding forty-five (45) days after such notice) before terminating the Lease or exercising any self-help rights from which a right of setoff would arise.

4. **New Owner Obligations.** If Mortgagee forecloses the Mortgage, or acquires title to the Real Property by deed in lieu of foreclosure, and only if both (i) Mortgagee agrees in writing to recognize the Lease and Tenant's right's thereunder (which Mortgagee shall have the right to do or not do in its sole and absolute discretion) and (ii) Tenant agrees in writing to attorn to Mortgagee (which Tenant shall have the right to do or not to do in its sole and absolute discretion), the following terms and conditions will govern the respective rights and obligations of Tenant and Mortgagee or other new owner of the Real Property (in either case, the "New Owner"):

- a) Neither the New Owner or anyone claiming by, through or under the New Owner:
 - i. will be bound by any purchase rights of the Tenant contained in the Lease, including but not limited to options to purchase and rights of first refusal to purchase.
 - ii. will as to matters arising prior to the date New Owner acquires title to the Real Property, assume any of Mortgagor's liabilities to Tenant arising from any: (i) Mortgagor default, act or omission, or (ii) Lease indemnification or hold harmless provisions; provided, however that: (x) to the extent the Lease obligates the landlord under the Lease to maintain the Real Property in good repair, the New Owner will make the repairs of which the Mortgagee shall have received the notice required under Section 3; and (y) Tenant may exercise any of its rent reduction or abatement rights under the Lease for such default.
 - iii. will be subject to any defenses, counterclaims or off-sets which Tenant has as of the date New Owner acquires title to the Real Property that are not expressly allowed for under the Lease.
 - iv. will be liable to the Tenant in excess of the value of New Owner's interest in the Real Property.
 - v. will be bound by any modification of the Lease, including the release from liability of any party liable for the obligations of Tenant, made without Mortgagee's written consent, if such consent is required per the terms of the loan documents.
 - vi. will be bound by any rent paid more than one month in advance unless actually received by New Owner, except as expressly required by the Lease, or unless New Owner has consented to an advance payment in writing.
 - vii. will be liable for the return of security or other lease deposits, unless and then only to the extent of any security or funds actually received by New Owner.
 - viii. will be responsible for any consequential damages arising out of a default, act or omission of landlord under the Lease.

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- b) The Tenant will reissue all letters of credit, if any, issued to landlord under the Lease as security to the Lease to the New Owner.

5. **Tenant Obligations as to Payment of Rental under the Lease.** This Agreement will not vary any terms of the Lease that condition Tenant's obligation to pay rent on the landlord's performance of its covenants under the Lease in respect of the habitability and quiet enjoyment of the Real Property, which Mortgagee agrees shall apply to the New Owner as they have to the landlord, provided Tenant has performed all of its obligation under Paragraph 3 of this Agreement.

6. **Notices.** Any notice under this Agreement may be delivered by hand or sent by commercial delivery service or United States Postal Service express mail, in either case for overnight delivery with proof of receipt or sent by certified mail, return receipt requested, to the following addresses:

To Tenant: Jewel Food Stores, Inc.
c/o New Albertson's, Inc.
250 Parkcenter Blvd.
Boise, ID 83706
Attention: Legal Dept.

Mortgagee shall also deliver simultaneously a copy of any notice it delivers to the following addresses:

Greenberg Traurig LLP
77 West Wacker Drive, Suite 3100
Chicago, Illinois 60601
Attn: Corey E. Light, Esq.

To Mortgagee: Self-Insurers' Security Fund
100 Pringle Avenue, No. 525
Walnut Creek, CA 94596
Attn: Jeffery W. Pettegrew

Mortgagor shall also deliver simultaneously a copy of any notice it delivers to the following addresses:

Richard C. Pedone, Esq.
Nixon Peabody LLP
100 Summer Street
Boston, MA 02108

And

Daniel R. Sovocool, Esq.
Nixon Peabody LLP
One Embarcadero Center
18th Floor
San Francisco, CA 94111

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Notice shall be deemed to have been given upon receipt if delivered by hand, on the next business day if sent for overnight delivery by commercial delivery service or United States Postal service express mail, or three (3) business days following mailing if sent by certified mail, return receipt requested.

7. **No Modification.** No modification of this Agreement shall be valid unless in writing and executed by the party against whom enforcement is sought.

8. **Applicable Law.** This Agreement shall be construed according to and governed by the laws of the state in which the Real Property is located.

9. **Successors and Assigns.** This Agreement shall be binding on, and shall inure to the benefit of, the parties' successors and assigns.

10. **Counterparts.** This Agreement may be executed and delivered in counterparts for the convenience of the parties.


[Signature Page Follows]

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IN WITNESS WHEREOF, the parties have signed this Subordination Agreement as of the year and date first above written.

Mortgagee:

SELF-INSURERS' SECURITY FUND

By: 
 Name: **JEFFREY W. PETTEGREW**
 Title: Executive Director
 CA SELF-INSURER'S SECURITY FUND

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 COOK COUNTY OFFICE
 RECORDER OF DEEDS
 SCANNED BY _____

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ACKNOWLEDGMENT

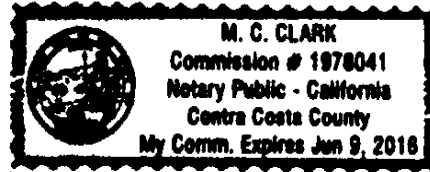
State of California
County of Contra Costa)

On March 15, 2013 before me, M. C. Clark
(insert name and title of the officer)

personally appeared Jeff Pettegrew
who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.



Signature  (Seal)

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IN WITNESS WHEREOF, the parties have signed this Subordination Agreement as of the year and date first above written.

Tenant:

JEWEL FOOD STORES, INC., an Ohio corporation

By: M Bessent
Name: M Bessent
Title: Treasurer

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RECORDER OF DEEDS
SCANNED BY _____

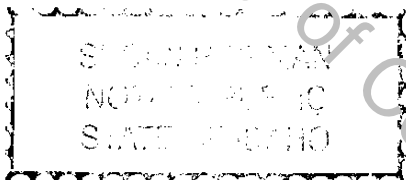
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NOTARY ACKNOWLEDGMENT

STATE OF IDAHO)
)
COUNTY OF ADA) SS:

I, Susan Hickman, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that M. Bessent, personally known to be to be the Treasurer of Jewel Food Stores, Inc., an Ohio corporation, and personally known to be the same person, whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that as such Treasurer he/she signed and delivered the said instrument pursuant to authority of said corporation as his/her free and voluntary act, and as the free and voluntary act and deed of said corporation for the uses and purposes therein set forth.

WITNESS MY HAND and Notary seal this 15th day of March 2013



Susan Hickman
Notary Public

My commission expires:

5/13/17

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EXHIBIT A

Description of the Land

See Legal Description Attached.

PIN NUMBER:

24-05-100-015-0000 Vol. 239

24-05-100-032-0000 Vol. 239

STREET ADDRESS:

8801 S. Ridgeland Avenue
Oak Lawn, IL 60453

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RECORDER OF DEEDS
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NCS # 587291-20

PARCEL 1:

LOT 1 IN 89TH STREET AND RIDGELAND AVENUE SUBDIVISION OF THE WEST 514 FEET OF THE SOUTH WEST QUARTER OF THE NORTH WEST QUARTER OF THE NORTH WEST QUARTER OF SECTION 5, TOWNSHIP 37 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THAT PART OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 5, TOWNSHIP 37 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE POINT 50.00 FEET SOUTH OF THE NORTH LINE OF SAID NORTHWEST 1/4 (SAID LINE BEING ALSO THE CENTER LINE OF 87TH STREET) AND 336.00 FEET WEST OF THE EAST LINE OF SAID NORTHWEST 1/4 (SAID LINE BEING ALSO THE CENTER LINE OF MOBILE AVENUE); THENCE SOUTH 00°00'00" EAST ALONG A LINE 136.00 FEET WEST OF THE CENTER LINE OF MOBILE AVENUE, 588.57 FEET; THENCE NORTH 89°41'25" WEST, 242.58 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°41'25" WEST TO THE EAST LINE OF RIDGELAND AVENUE AS DEDICATED, 243.79 FEET; THENCE NORTH 00°02'08" EAST ALONG SAID EAST LINE OF RIDGELAND AVENUE, 214.78 FEET TO THE POINT OF CURVATURE; THENCE NORTHEASTERLY ALONG A CURVE HAVING 597.27 FEET RADIUS, 60.36 FEET; THENCE SOUTH 89°45'52" EAST, 324.91 FEET; THENCE SOUTH 00°04'41" WEST, 85.27 FEET TO THE POINT OF CURVATURE; THENCE SOUTHWESTERLY ALONG A CURVE HAVING 11.00 FEET RADIUS, 17.28 FEET; THENCE NORTH 82°55'19" WEST, 48.80 FEET TO THE POINT OF CURVATURE; THENCE SOUTHWESTERLY ALONG A CURVE HAVING 5.00 FEET RADIUS, 7.05 FEET; THENCE SOUTH 00°04'41" WEST, 127.36 FEET; THENCE SOUTH 27°06'47" WEST, 41.22 FEET; THENCE SOUTH 00°04'41" WEST, 10.00 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS, CONTAINING 78,019.1 SQUARE FEET (1.791 ACRES).

PARCEL 3:

NON-EXCLUSIVE EASEMENTS FOR THE BENEFIT OF PARCEL 2 AS CREATED BY EASEMENT, MAINTENANCE AND RESTRICTIONS AGREEMENT RECORDED DECEMBER 3, 1990 AS DOCUMENT 90586613 WHEREIN STANDARD BANK AND TRUST COMPANY OF HICKORY HILLS, AS TRUSTEE UNDER A TRUST AGREEMENT DATED NOVEMBER 2, 1990 AND KNOWN AS TRUST NUMBER 5098 GRANTS TO GLENVIEW STATE BANK, AS TRUSTEE UNDER A TRUST AGREEMENT DATED OCTOBER 29, 1990 AND KNOWN AS TRUST NUMBER 3916 (A) AN EASEMENT OF INGRESS AND EGRESS TO REPAIR, MAINTAIN AND REPLACE THE ROOF AND (B) AN EASEMENT FOR PARTY WALL OVER A PORTION OF THE FOLLOWING DESCRIBED PROPERTY:

THAT PART OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 5, TOWNSHIP 37 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE POINT 50.00 FEET SOUTH OF THE NORTH LINE OF SAID NORTHWEST 1/4 (SAID LINE BEING ALSO THE CENTERLINE OF 87TH STREET) AND 136 FEET WEST OF THE EAST LINE OF SAID NORTHWEST 1/4 (SAID LINE BEING ALSO THE CENTERLINE OF MOBILE AVENUE); THENCE NORTH 89 DEGREES 51 MINUTES 25 SECONDS WEST, ALONG THE SOUTH LINE OF 87TH STREET, 101.59 FEET; THENCE SOUTH 00 DEGREES 10 MINUTES 15 SECONDS WEST, 6.28 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 10 MINUTES 15 SECONDS WEST, 64.88 FEET; THENCE SOUTH 89 DEGREES 49 MINUTES 45 SECONDS EAST, 6.24 FEET; THENCE SOUTH 00 DEGREES 10 MINUTES 15 SECONDS WEST, 5.02 FEET; THENCE SOUTH 89 DEGREES 49 MINUTES 45 SECONDS EAST, 70.52 FEET; THENCE NORTH 00 DEGREES 10 MINUTES 15 SECONDS EAST, 45.50 FEET; THENCE NORTH 29 DEGREES 15 MINUTES 03 SECONDS WEST, 28.01 FEET; THENCE NORTH 89 DEGREES 49 MINUTES 45 SECONDS WEST, 63.00 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS. CONTAINING 5,166 SQUARE FEET (0.119 ACRE).

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PARCEL 4:

NON-EXCLUSIVE LEASEHOLD EASEMENT FOR THE BENEFIT OF PARCELS 1 AND 2 CREATED BY CONSTRUCTION OPERATION AND RECIPROCAL EASEMENT AGREEMENT RECORDED FEBRUARY 7, 1991 AS DOCUMENT 91061339 FOR THE RIGHT TO USE THE DRIVEWAYS, SERVICE DRIVES AND PARKING FACILITIES WHICH MAY EXIST FROM TIME TO TIME ON THE PROPERTY DESCRIBED BELOW FOR THE TERM OF THE LEASE:

THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 (EXCEPT THAT PART TAKEN FOR HIGHWAYS AND STREETS) AND ALSO EXCEPTING THE FOLLOWING PARCEL: THE EAST 136 FEET OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 5, TOWNSHIP 37 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL, MERIDIAN (EXCEPT THAT PART TAKEN FOR HIGHWAY) IN COOK COUNTY, ILLINOIS.

EXCLUDED FROM THE FOREGOING IS THE FOLLOWING:

THAT PART OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 5, TOWNSHIP 37 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS; COMMENCING AT THE POINT 50.00 FEET SOUTH OF THE NORTH LINE OF SAID NORTHWEST 1/4 (SAID LINE BEING ALSO THE CENTER LINE OF 87TH STREET) AND 136.00 FEET WEST OF THE EAST LINE OF SAID NORTHWEST 1/4 (SAID LINE BEING ALSO THE CENTERLINE OF MOBILE AVENUE); THENCE NORTH 89°51'25" WEST, ALONG THE SOUTH LINE OF 87TH STREET, 101.59 FEET; THENCE SOUTH 00°10'15" WEST, 6.28 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00°10'15" WEST, 64.88 FEET; THENCE SOUTH 89°49'45" EAST 6.24 FEET; THENCE SOUTH 00°10'15" WEST, 5.02 FEET; THENCE SOUTH 89°49'45" EAST, 70.52 FEET THENCE NORTH 00°10'15" EAST, 45.50 FEET; THENCE NORTH 29°15'03" WEST, 28.01 FEET; THENCE NORTH 89°49'45" WEST, 63.00 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS. CONTAINING 5,166 SQUARE FEET (0.119 ACRE).

AND ALSO EXCLUDING:

THAT PART OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 5, TOWNSHIP 37 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE POINT 50.00 FEET SOUTH OF THE NORTH LINE OF SAID NORTHWEST 1/4 (SAID LINE BEING ALSO THE CENTER LINE OF 87TH STREET) AND 336.00 FEET WEST OF THE EAST LINE OF SAID NORTHWEST 1/4 (SAID LINE BEING ALSO THE CENTER LINE OF MOBILE AVENUE); THENCE SOUTH 00°00'00" EAST ALONG A LINE 136.00 FEET WEST OF THE CENTER LINE OF MOBILE AVENUE, 588.57 FEET; THENCE NORTH 89°41'25" WEST, 242.58 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°41'25" WEST TO THE EAST LINE OF RIDGELAND AVENUE AS DEDICATED, 243.79 FEET; THENCE NORTH 00°02'08" EAST ALONG SAID EAST LINE OF RIDGELAND AVENUE, 214.78 FEET TO THE POINT OF CURVATURE; THENCE NORTHEASTERLY ALONG A CURVE HAVING 597.27 FEET RADIUS, 60.36 FEET; THENCE SOUTH 89°45'52" EAST, 324.91 FEET; THENCE SOUTH 00°04'41" WEST, 85.27 FEET TO THE POINT OF CURVATURE; THENCE SOUTHWESTERLY ALONG A CURVE HAVING 11.00 FEET RADIUS, 17.28 FEET; THENCE NORTH 89°55'19" WEST, 48.80 FEET TO THE POINT OF CURVATURE; THENCE SOUTHWESTERLY ALONG A CURVE HAVING 5.00 FEET RADIUS, 7.05 FEET; THENCE SOUTH 00°04'41" WEST, 127.36 FEET; THENCE SOUTH 27°46'47" WEST, 41.22 FEET; THENCE SOUTH 00°04'41" WEST, 10.00 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS, CONTAINING 78,019.1 SQUARE FEET (1.791 ACRES).