



Doc#: 1323839123 Fee: \$60.00
RHSP Fee: \$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 08/26/2013 02:31 PM Pg: 1 of 12

CROSS ACCESS AND PARKING AGREEMENT

THIS CROSS ACCESS AND PARKING AGREEMENT ("**Agreement**") is made and entered into as of August 13, 2013, by and between 95th & Western, LLC, an Illinois limited liability company ("**95th**"), and Ingram Family Limited Partnership, an Ohio limited partnership ("**Ingram**").

RECITALS:

A. 95th is or will be by the time of the recording of this Agreement the owner of that certain parcel of land located in the Village of Evergreen Park, County of Cook, State of Illinois and more fully described on Exhibit A, attached hereto and incorporated herein by this reference (the "**95th Property**").

B. Ingram is the owner of that certain parcel of land located in the City of Evergreen Park, County of Cook, State of Illinois and more fully described on Exhibit B, attached hereto and incorporated herein by this reference (the "**Ingram Property**").

C. Because the 95th Property is located adjacent to the Ingram Property, 95th and Ingram have a substantial interest in the orderly development and use of the 95th Property and the Ingram Property.

D. The parties have agreed to subject the 95th Property and the Ingram Property to the terms, conditions and provisions of this Agreement in the manner hereinafter set forth.

AGREEMENT:

In consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties, intending to be legally bound hereby, agree as follows:

1. Recitals. The recitals set forth above are incorporated herein by reference as though fully set forth.
2. Definitions.

FIDELITY NATIONAL TITLE

11015734

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The term "**Common Area Access Facilities**" shall mean (i) all driveways, parking areas and paved areas existing from time to time within the Entire Premises (including the portion of entrances on public rights-of-way adjacent to the Entire Premises), and (ii) all sidewalks and walkways existing from time to time within the Entire Premises.

The term "**Entire Premises**" shall mean, collectively, the 95th Property and the Ingram Property.

The term "**Grantee**" shall mean the grantee of the easements granted in Section 3 of this Agreement.

The term "**Grantor**" shall mean the grantor of the easements granted in Section 3 of this Agreement.

The term "**Owner**" shall mean each owner in fee simple of any Tract.

The term "**Tract**" shall mean a separately owned fee simple interest in all or a portion of the 95th Property and the Ingram Property.

3. Reciprocal Access and Parking Easements. 95th hereby grants unto Ingram, its tenants, subtenants, concessionaires and licensees and for the benefit of the respective employees, agents, customers and invitees of each of such parties (collectively, the "**Ingram Parties**"), as an easement appurtenant to and for the benefit of the Ingram Property, the perpetual non-exclusive right, privilege and easement to (i) use the Common Area Access Facilities located on the 95th Property, as the same may from time to time be constructed and maintained for such use for the passage of vehicles and pedestrians and (ii) use the parking areas within the Common Area Access Facilities located on the 95th Property as the same may from time to time be constructed and maintained for vehicular parking of passenger vehicles. Ingram hereby grants unto 95th, its tenants, subtenants, concessionaires and licensees and for the benefit of the respective employees, agents, customers and invitees of each of such parties (collectively, the "**95th Parties**"), as an easement appurtenant to and for the benefit of the 95th Property, the perpetual non-exclusive right, privilege and easement to (i) use the Common Area Access Facilities located on the Ingram Property as the same may from time to time be constructed and maintained for such use for the passage of vehicles and pedestrians and (ii) use the parking areas within the Common Area Access Facilities located on the Ingram Property as the same may from time to time be constructed and maintained for vehicular parking of passenger vehicles. In no event shall any of the Common Area Access Facilities be used for any purpose which would obstruct the free flow of traffic.

Notwithstanding the foregoing, it is hereby understood and agreed that in the event the Owner of the Ingram Property proposes to (i) change the use of the Ingram Property from a typical White Castle restaurant or (ii) modify or replace the existing improvements on the Ingram Property and the result of such modification or replacement would cause the Ingram

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Property to not meet the self-park requirements as set forth in the laws, codes or ordinances of the applicable governmental agencies approving such modifications or replacement and the Owner of the 95th Property does not approve such change in use and/or the failure to meet the self-park requirements, then both easements granted in the foregoing paragraph shall be extinguished as provided herein. If the Owner of the Ingram Property proposes either (i) or (ii), or both, as set forth in the preceding sentence, then it shall notify the Owner of the 95th Property of such proposal(s) and, within sixty (60) days after receipt of such notification, the Owner of the 95th Property shall either approve or disapprove of such proposal(s), which approval or disapproval shall not be unreasonably withheld or delayed. The Owner of the 95th Property shall be deemed not to be unreasonably withholding or delaying its approval if the modification or replacement proposed on the Ingram Property does not meet the self-parking requirements of the Village of Evergreen Park, Illinois for both the employees working and customers served on the Ingram Property. Within thirty (30) days after the end of such 60-day period, the Owner of the 95th Property shall record a supplement to this Agreement in which it either disapproves the proposal(s) and extinguishes both easements or approves the proposal(s) and ratifies both easements.

Further, notwithstanding the foregoing, it is hereby understood and agreed that in the event the Owner of the 95th Property proposes to modify or replace the existing improvements on the 95th Property and the result of such modification or replacement would cause the 95th Property to not meet the self-park requirements as set forth in the laws, codes or ordinances of the applicable governmental agencies approving such modification or replacement and the owner of the Ingram Property does not approve such failure to meet the self-park requirements, then both easements granted in the foregoing paragraph shall be extinguished as provided herein. If the Owner of the 95th Property makes the proposal as set forth in the preceding sentence, then it shall notify the Owner of the Ingram Property of such proposal and, within sixty (60) days after receipt of such notification, the Owner of the Ingram Property shall either approve or disapprove of such proposal, which approval or disapproval shall not be unreasonably withheld or delayed. The Owner of the Ingram Property shall be deemed not to be unreasonably withholding or delaying its approval if the modification or replacement proposed on the 95th Property does not meet the self-parking requirements of the Village of Evergreen Park, Illinois for both the employees working and customers served on the 95th Property. Within thirty (30) days after the end of such 60-day period, the Owner of the Ingram Property shall record a supplement to this Agreement in which it either disapproves the proposal and extinguishes both easements or approves the proposal and ratifies both easements.

4. Maintenance. Each Owner, at its cost and expense, shall maintain the Common Area Access Facilities located on its respective Tract in good condition and repair.

5. Access Improvements. To facilitate Ingram's exercise of the access rights set forth in Section 3, Ingram, at its cost and expense, may construct a curb cut allowing access between the 95th Property and the Ingram Property at the location shown on Exhibit C attached hereto and incorporated herein by this reference (the "**Access Improvements**"). Ingram or its contractors or agents shall have the right to enter upon the 95th Property for the purpose of constructing the Access Improvements and shall have the right to modify the 95th Property consistent with the drawing attached hereto as Exhibit C, provided that Ingram shall first submit its plans and specifications for all work on the 95th Property to the Owner of the 95th Property for

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its approval, which approval shall not be unreasonably withheld or delayed. Ingram shall obtain all permits and approvals required for it to construct the Access Improvements. Ingram agrees that the construction of the Access Improvements will be performed and completed at its sole cost and expense and in a good and workmanlike manner not later than June 30, 2014, lien free and performed in such a manner as to cause the least amount of disruption and convenience to the 95th Parties in connection with the operation of any business being conducted on the 95th Property.

6. Indemnification. Each Owner agrees to indemnify and hold harmless the other Owner from and against all costs, expenses, liabilities, losses, damages, or claims, including without limitation, reasonable attorney's fees, arising out of or related to the activities conducted pursuant to this Agreement by or at the direction of such indemnifying party.

7. Covenants To Run with Land. The easements herein granted and the benefits and burdens created hereby are made for the direct and mutual benefit of the Ingram Property and the 95th Property, and each and every portion thereof, and constitute covenants running with the land, and shall bind and inure to the benefit of the parties and their respective successors and assigns, and owners from time to time of the 95th Property and the Ingram Property.

8. Right to Modify. Except as otherwise provided in Section 3 herein, the provisions of this Agreement may be terminated, extended, modified or amended in whole or in part only with the consent of the Owners of the 95th Property and the Ingram Property by a written amendment executed and acknowledged by all such persons and recorded in the Office of the Recorder for Cook County, Illinois.

9. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all such counterparts together shall constitute one and the same instrument.

10. Partial Invalidity. If any term, provision, condition or covenant contained in this Agreement shall to any extent be held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement (or the application of such term, provision or condition to persons or circumstances other than those and respect of which it is held invalid or unenforceable) shall not be affected thereby, and each and every other term, provision and condition of this Agreement shall nevertheless remain in full force and effect.

11. Captions. The captions of the sections and paragraphs of this Agreement are for convenience only and shall not be considered or referred to in resolving questions of interpretation or condition.

12. Notice. All notices or communications ("Notices") to be given under or pursuant to this Agreement shall be in writing, addressed to the parties at their respective addresses as provided below, and if delivered in person (effective upon delivery), if sent by reputable overnight courier (effective the business day following delivery to such courier) or by certified or registered mail, postage prepaid, return receipt requested (effective three business days after mailing). The addresses of the parties to which such Notices are to be addressed will be Notices provided herein until further notice as follows:

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If to 95th:
 95th & Western, LLC
 c/o IBT Group, L.L.C.
 850 West Jackson Boulevard
 Chicago, Illinois 60607
 Attention: Gary A. Pachucki

With a copy to:
 Patrick J. O'Malley
 Attorney at Law
 12314 South 86th Avenue
 Palos Park, IL 60464

If to Ingram:
 Ingram Family Limited Partnership
 555 West Goodale Street
 Columbus, Ohio 43215
 Attention: General Counsel

For subsequent parties in interest, Notice shall be deemed given when sent in accordance with the standards set forth above, to the last address on record with the Cook County Tax Assessor's Office.

13. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

14. No Public Grant. The easements granted herein are not intended and shall not be construed as a dedication for public use and nothing contained herein shall be used or construed as a grant of any rights too any public or governmental authority or agency.

(SIGNATURES ON NEXT PAGES)

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EXHIBIT A

LEGAL DESCRIPTION OF 95th PROPERTY

PARCEL 1:

THE EASTERLY 100.00 FEET OF BLOCK 4 IN HARRY W. HONORE JR.'S SUBDIVISION OF THE NORTH $\frac{1}{4}$ OF THE EAST $\frac{1}{2}$ OF THE NORTHEAST $\frac{1}{4}$ AND THE NORTH $\frac{3}{8}$ OF THE WEST $\frac{1}{2}$ OF THE NORTHEAST $\frac{1}{4}$ OF SECTION 12, TOWNSHIP 37 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, WHICH PARCEL IS ALSO KNOWN AS LOT 1 IN BLOCK 5 IN PETERSON AND WEATHERFORD'S SUBDIVISION OF BLOCKS 1, 2, 3 AND 4 TOGETHER WITH VACATED STREETS BETWEEN BLOCKS 1, 2, AND 3 AND THE VACATED EAST 14 FEET OF STREET ADJOINING BLOCK 4 ON THE WEST IN HARRY W. HONORE JR.'S SUBDIVISION OF THE NORTH $\frac{1}{4}$ OF THE EAST $\frac{1}{2}$ OF THE NORTHEAST $\frac{1}{4}$ AND THE NORTH $\frac{3}{8}$ OF THE WEST $\frac{1}{2}$ OF THE NORTHEAST $\frac{1}{4}$ OF SECTION 12, TOWNSHIP 37 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOT 2 IN BLOCK 5 IN PETERSON AND WEATHERFORD'S SUBDIVISION OF BLOCKS 1, 2, 3 AND 4 TOGETHER WITH VACATED STREETS BETWEEN LOTS 1, 2, AND 3 AND THE VACATED EAST 14 FEET OF STREET ADJOINING BLOCK 4 ON THE WEST IN HARRY W. HONORE JR.'S SUBDIVISION OF THE NORTH $\frac{1}{4}$ OF THE EAST $\frac{1}{2}$ OF THE NORTHEAST $\frac{1}{4}$ AND THE NORTH $\frac{3}{8}$ OF THE WEST $\frac{1}{2}$ OF THE NORTHEAST $\frac{1}{4}$ OF SECTION 12, TOWNSHIP 37 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS;

EXCEPTING THEREFROM THAT PART OF PARCELS 1 AND 2 (TAKEN AS A TRACT) DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1, SAID CORNER ALSO BEING THE INTERSECTION OF THE SOUTH RIGHT OF WAY LINE OF 95TH STREET (U.S. ROUTE NUMBERS 12 AND 20) WITH THE WEST RIGHT OF WAY LINE OF THE BALTIMORE AND OHIO CHICAGO TERMINAL RAILROAD; THENCE SOUTHERLY ALONG THE EAST LINE OF SAID LOT 1, ALSO BEING SAID BALTIMORE AND OHIO CHICAGO TERMINAL RAILROAD WEST RIGHT OF WAY LINE, A DISTANCE OF 220.00 FEET; THENCE WESTERLY 90 DEGREES 29 MINUTES 22 SECONDS TO THE RIGHT OF THE LAST DESCRIBED COURSE EXTENDED, ALONG A LINE PARALLEL WITH SAID SOUTH RIGHT OF WAY LINE OF 95TH STREET A DISTANCE OF 192.00 FEET; THENCE NORTHEFLY 89 DEGREES 30 MINUTES 38 SECONDS TO RIGHT OF THE LAST DESCRIBED COURSE EXTENDED ALONG A LINE PARALLEL WITH SAID WEST LINE OF THE BALTIMORE AND OHIO CHICAGO TERMINAL RAILROAD, A DISTANCE OF 220.00 FEET, TO A POINT ON SAID SOUTH RIGHT OF WAY LINE OF 95TH STREET; THENCE EASTERLY ALONG SAID SOUTH RIGHT OF WAY LINE A DISTANCE OF 192.00 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

THE NORTH 30.00 FEET OF VACATED 96TH STREET LYING SOUTH OF AND ADJOINING PARCELS 1 AND 2, AS VACATED BY THE ORDINANCE RECORDED NOVEMBER 19, 1987 AS DOCUMENT NUMBER 87621848, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

THE EAST $\frac{1}{2}$ OF VACATED WASHTENAW AVENUE LYING WEST OF AND ADJOINING PARCEL 2, AS VACATED BY THE ORDINANCE RECORDED JULY 30, 2001 AS DOCUMENT NUMBER 0010685740, IN COOK COUNTY, ILLINOIS.

PARCEL 5:

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THE EAST 188.60 FEET OF THE NORTH 170 FEET OF THE EAST $\frac{1}{4}$ OF BLOCK 5 IN HARRY H. HONORE JR.'S SUBDIVISION OF THE NORTH $\frac{1}{4}$ OF THE EAST $\frac{1}{2}$ AND THE NORTH $\frac{3}{8}$ OF THE WEST $\frac{1}{2}$ OF THE NORTHEAST $\frac{1}{4}$ OF SECTION 12, TOWNSHIP 37 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS; AND ALSO, LOTS 1, 2, 3, 4 AND 5 (EXCEPT FROM SAID LOT 5 THAT PART THEREOF LYING SOUTH OF A LINE 100.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF LOT 7) ALL IN ADDITION TO EVERGREEN PARK HILLS, A SUBDIVISION OF THE EAST $\frac{1}{2}$ (EXCEPT THE NORTH 170 FEET THEREOF) OF BLOCK 5 IN HARRY H. HONORE JR.'S SUBDIVISION AFORESAID; AND ALSO, THAT PART OF THE 20.00 FOOT VACATED EAST AND WEST ALLEY ADJOINING THE NORTH LINE OF LOT 1 AFORESAID LYING EAST OF THE WEST LINE OF THE EAST 188.60 FEET OF BLOCK 5 AFORESAID AND WEST OF THE WEST RIGHT OF WAY LINE OF THE 66.00 FOOT WASHTENAW AVENUE, ALL IN COOK COUNTY, ILLINOIS.

PARCEL 6:

THAT PART OF LOTS 5, 6 AND 7 LYING SOUTH OF A LINE WHICH IS 100.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID LOT 7, ALL IN ADDITION TO EVERGREEN PARK HILLS, A SUBDIVISION OF THE EAST $\frac{1}{2}$ OF THE EAST $\frac{1}{2}$ (EXCEPT THE NORTH 170 FEET THEREOF) OF BLOCK 5 IN HARRY H. HONORE JR.'S SUBDIVISION OF THE NORTH $\frac{1}{2}$ OF THE EAST $\frac{1}{2}$ AND THE NORTH $\frac{3}{8}$ OF THE WEST $\frac{1}{2}$ OF THE NORTHEAST $\frac{1}{4}$ OF SECTION 12, TOWNSHIP 37 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 7:

THAT PART OF VACATED WASHTENAW AVENUE LYING EAST OF THE NORTH 180.00 FEET (INCLUDING THAT PART OF THE VACATED ALLEY) IN HARRY H. HONORE JR.'S SUBDIVISION OF THE NORTH $\frac{1}{2}$ OF THE EAST $\frac{1}{2}$ OF THE NORTHEAST $\frac{1}{4}$ AND THE NORTH $\frac{3}{8}$ OF THE WEST $\frac{1}{2}$ OF THE NORTHEAST $\frac{1}{4}$ OF SECTION 12; THAT PART OF VACATED WASHTENAW AVENUE LYING EAST OF LOTS 1 THRU 7 INCLUSIVE, IN ADDITION TO EVERGREEN PARK HILLS; AND THAT PART OF WASHTENAW AVENUE LYING EAST OF AND ADJACENT TO LOT 8 AND THE PUBLIC ALLEY NORTH OF LOT 8 (EXCEPT THE WEST 37 FEET) IN ADDITION TO EVERGREEN PARK HILLS, A SUBDIVISION OF THE EAST $\frac{1}{2}$ OF THE EAST $\frac{1}{2}$ (EXCEPT THE NORTH 170 FEET THEREOF) IN BLOCK 5 OF HARRY H. HONORE JR.'S SUBDIVISION, ALL LOCATED IN THE WEST $\frac{1}{2}$ OF THE NORTHEAST $\frac{1}{4}$ OF SECTION 12, TOWNSHIP 37 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN's: 24-12-201-017-0000
 24-12-201-018-0000
 24-12-201-019-0000
 24-12-201-020-0000
 24-12-201-030-0000
 24-12-201-032-0000
 24-12-201-033-0000
 24-12-201-034-0000
 24-12-201-035-0000
 24-12-202-002-0000

Address: 2601 W. 95th Street, Evergreen Park, Illinois 60805

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EXHIBIT B

LEGAL DESCRIPTION OF THE INGRAM PROPERTY

LEGAL DESCRIPTION

Part of Lots 1 and 2 in Block 5 in Peterson and Weatherford's Subdivision of Blocks 1, 2, 3 and 4 together with vacated streets between Blocks 1, 2 and 3 and the vacated East 14 feet of the street adjoining Block 4 on the West in Harry H. Honore Junior's Subdivision of the North Quarter of the East Half of the Northeast Quarter and the north three eighths of the West Half of the Northeast Quarter of Section 12, Township 37 North, Range 13 East of the Third Principal Meridian, according to the Plat recorded as Document No. 6363776 in the County of Cook, in the State of Illinois described as follows: Beginning at the Northeast corner of said lot 1, said corner being the intersection of the South Right of Way Line of 95th Street (U.S. Route No's. 12 and 20) with the West Right of Way Line of the Baltimore and Ohio Chicago Terminal Railroad; thence Southerly along the East line of said Lot 1, also being said Baltimore and Ohio Chicago Terminal Railroad West Right of Way Line, a distance of 220.00 feet; thence Westerly $90^{\circ} 25' 22''$ to the Right of the Last Described Course extended, along a line parallel with said South Right of Way Line of 95th Street, a distance of 192.00 feet; thence northerly $89^{\circ} 30' 38''$ to the Right of the Last Described Course extended, along a line parallel with said West line of the Baltimore and Ohio Chicago Terminal Railroad, a distance of 220.00, to a point on said South Right of Way Line of 95th Street; thence Easterly along the said South Right of Way Line, a distance of 192.00 feet to the place of beginning.

PIN: 24-12-202-003-0000

Address: 2555 W. 95th Street, Evergreen Park, Illinois 60805

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EXHIBIT C

DRAWING DEPICTING THE LOCATION OF THE ACCESS IMPROVEMENTS

Property of Cook County Clerk's Office



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EXHIBIT C

