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Karen A. Yarbrough  
Cook County Recorder of Deeds  
Date: 12/19/2014 03:46 PM Pg: 1 of 10

Realty Income Corporation  
Attn: Legal Department (SB)  
11995 El Camino Real  
San Diego, CA 92130

NLS-701862  
2 of 4

**FIRST AMENDMENT TO THE**  
**PERPETUAL PARKING**  
**EASEMENT AGREEMENT (NON-EXCLUSIVE)**

THIS FIRST AMENDMENT TO THE PERPETUAL PARKING EASEMENT AGREEMENT (NON-EXCLUSIVE) ("First Amendment") is made as of this 16<sup>th</sup> day of December, 2014 and is made by **AREA WIDE MURRAYS LLC**, an Illinois limited liability company, as successor to Area Wide 63<sup>rd</sup> Murray's, Inc., an Illinois corporation, as Grantor ("Area Wide").

**RECITALS:**

- A. On February 24, 1998 Area Wide and LaSalle National Bank, not individually, but as Trustee under a Trust Agreement dated February 14, 1998 and known as Trust No. 121564, as Grantee, entered into that certain Perpetual Parking Easement Agreement (Non-exclusive) ("Easement Agreement"), which Easement Agreement was recorded with the Recorder of Deeds of Cook County, Illinois on March 10, 1998 as document no. 98188558;

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- B. Area Wide is now the legal fee title holder of both Parcel 1 and Parcel 2 as described in the Easement Agreement;
- C. Parcel 1 has been leased to O'Reilly Automotive Stores, Inc., a Missouri corporation ("Tenant") pursuant to a Lease Agreement dated January 21, 1997 between Area Wide Property Management, Inc., an Illinois corporation as original landlord and Murray's Discount Auto Stores, Inc., a Michigan corporation as original tenant, as amended ("O'Reilly Lease");
- D. On the date hereof, Realty Income Illinois Properties 2, LLC, a Delaware limited liability company ("Realty Income") has purchased from Area Wide Parcel 1 as described in the Easement Agreement. For purposes of this Easement Agreement Area Wide and Realty Income shall be referred to as "Owner" or "Owners" of their respective Parcel;
- E. Area Wide desires to amend and modify the Easement Agreement.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Area Wide amends the grants, agreements, covenants and restrictions of the Easement Agreement as follows:

1. All capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms as set forth in the Easement Agreement.
2. As of and after the date of this First Amendment the Easement Agreement shall be amended and modified as follows:
  - (a) Parcel 1 is commonly known as 6331 South Western Avenue, Chicago, IL on which an O'Reilly Auto Parts Store is currently located.
  - (b) Except as set forth below pertaining to taxes, Area Wide shall be responsible for all duties, responsibilities of Grantor and payment of the Impositions as described in the Easement Agreement. The Owner of Parcel 1 shall be responsible for reimbursement of its share of the Impositions as set forth in the Easement Agreement. Area Wide shall also be responsible for the maintenance and repair of the Easement Parcel which shall include the obligation to hard-surface, properly drain, adequately light and landscape the common area and parking area, together with the necessary access roads for Parcel 1 and Parcel 2. Area Wide shall operate, manage and maintain in a

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good and first class manner all parking areas, roads, sidewalks, landscaping and drainage and lighting facilities on Parcel 1 and Parcel 2. For the avoidance of doubt, except for the payment of taxes on Parcel 1, which shall be the responsibility of the Owner of Parcel 1, Area Wide shall be responsible for all obligations and duties of the "Grantor" under the Easement Agreement. Area Wide will work in good faith with the Owner of Parcel 1 to directly invoice the Tenant for the Impositions under the Easement Agreement.

- (c) Area Wide shall not have the right, without the prior written consent of the Owner of Parcel 1: (i) to make any alterations or additions to, or to build additional stories on, buildings located on Parcel 2; (ii) to construct other buildings or improvements on Parcel 2 (except as exist as of the date of this First Amendment) or enlarge the buildings and improvements thereon; or (iii) change or reduce the parking or common areas located on Parcel 2. Further, the parking area shall not be used for any purpose other than parking and access and other similar uses for the benefit of all of the tenants of Parcel 1 and Parcel 2.
- (d) Area Wide shall not have the right, to lease, rent, occupy or permit to be occupied on Parcel 2, or sell any premises now or hereafter contained in Parcel 2 without a covenant prohibiting their use or occupancy as a business engaged in the sale of auto parts and accessories and no such premises shall be used or occupied for any such purpose.
- (e) Area Wide shall not lease, rent, occupy or permit any part or portion of Parcel 2 to be occupied for any noxious or offensive use, for manufacturing or for use as a restaurant, theater, bowling alley, funeral parlor, health club, gymnasium, exercise facility, school, bingo parlor, warehouse or office (except for such office or warehouse use as shall be incidental to a permitted use) and no such premises shall be used or occupied for any such purpose.
- (f) Notwithstanding the provisions of Section 4 of the Easement Agreement, commencing as of the date hereof, the Owner of Parcel 1 shall be responsible for payment of the taxes assessed against Parcel 1 and such taxes shall no longer be included in the Impositions payable by the Owner of Parcel 1. Area Wide and Realty Income will

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reconcile all obligations pertaining to the Impositions at the closing of the purchase and sale of Parcel 1.

- (g) Property Insurance – During the term of the O’Reilly Lease including any extensions or renewals thereof, Area Wide, at its sole cost and expense, shall keep insured for the mutual benefit of Realty Income and Tenant the buildings, improvements and building equipment located on Parcel 2 (“Parcel 2 Improvements”) against loss or damage by fire, and such other risks as shall be insurable against under present or future forms of fire and extended coverage policies which are standard for use in the State of Illinois on a full replacement cost basis. All such policies or certificates shall contain an agreement by the insurers that such policies shall not be cancelled or materially changed without at least thirty (30) days prior written notice to Realty Income and Tenant and shall provide that any loss shall be payable notwithstanding any act or negligence of Tenant or Realty Income which might otherwise result in forfeiture of said insurance. All property insurance proceeds recovered on account of damage or destruction to the Parcel 2 Improvements shall be applied to the payment of the cost of repairing and replacing the Parcel 2 Improvements so damaged. Except for reconstruction that is reasonably expected to cost less than \$500,000, all proceeds shall be deposited with a depository reasonably acceptable to Realty Income and Tenant.
- (h) Liability Insurance – During the term of the O’Reilly Lease, including any extensions or renewals thereof, Area Wide, at its sole cost and expense, shall obtain and maintain comprehensive general public liability insurance with insurers licensed to conduct business in Illinois for the benefit of Realty Income and Tenant in the sum of \$2,000,000 for damages resulting from one occurrence and \$500,000 for property damage occurring in, on or about the Easement Area. Area Wide shall deliver policies or copies thereof to Realty Income and Tenant.
- (i) Notices – Realty Income: Realty Income Corporation, Attn. Legal Department, 11995 El Camino Real, San Diego, CA 92130.
- (j) Audit – During the term of the O’Reilly Lease, including any extensions or renewals thereof, including a period of 3 years following the termination of the O’Reilly Lease, Area Wide shall make

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available to Tenant, upon 10 days advance written notice, the books and records of Area Wide relating to any expenses payable by Tenant under the O'Reilly Lease during the time period in which Area Wide was the Landlord under the O'Reilly Lease. If such an audit shall disclose that Tenant has paid more than required under the terms of Paragraph 15 of the O'Reilly Lease, Area Wide shall promptly refund any overpayment to Tenant, together with the costs of such audit.

(k) Default:

- a. The failure by any Owner ("Defaulting Owner") to: (i) make any payment due to another Owner hereunder for a period of ten (10) days after written notice that the same is due; (ii) observe or perform any of the covenants, conditions or obligations of this Agreement for a period within thirty (30) days after the issuance of written notice by another Owner; or (iii) timely comply with the requirements set forth below related to any mechanics, materialmen's or judgment lien against a Parcel, shall constitute a material default and breach of this Agreement by the Defaulting Owner.
- b. Any Owner that is not a Defaulting Owner ("Non-Defaulting Owner") shall have the right (but not the obligation) following written notice to the Defaulting Owner and the expiration of any applicable cure period, to cure such default by the payment of money or the performance of some other action for the account of and at the expense of the Defaulting Owner; provided, however, that in the event such default shall constitute an emergency condition, the Non-Defaulting Owner, shall have the right to cure such default upon such advance notice as is reasonably possible under the circumstances or, if necessary, without advance notice, so long as notice is given as soon as possible thereafter. To effectuate any such cure, the Non-Defaulting Owner shall have the right to enter upon the Parcel of the Defaulting Owner to perform any necessary work or furnish any necessary materials or services to cure the default of the Defaulting Owner. Each Owner shall be responsible for the default of its tenants and other occupants. In the event any Non-Defaulting Owner shall cure a non-monetary default, the Defaulting Owner shall reimburse the Non-Defaulting Owner for

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all costs and expenses incurred in connection with such curative action, plus an administrative charge of ten percent (10%) of such costs and expenses, within ten (10) days after receipt of demand therefor, together with reasonable documentation supporting the expenditures made. For failure to make payments due to another Owner hereunder, such delinquent sums shall accrue interest at the rate of ten percent (10%) per annum.

- c. Delinquent payments, costs, expenses and interest accruing and/or assessed pursuant to this Section, including all reasonable costs and expenses of collecting and enforcing the remedies provided herein shall constitute a lien against the Defaulting Owner's Parcel. Such lien shall attach and take effect only upon recordation of a claim of lien in the public land records in the County of the State in which the Shopping Center is located by the Owner making such claim. The claim of lien shall include the following:
- i. The name of the lien claimant;
  - ii. A statement concerning the basis for the claim of lien and identifying the lien claimant as a Non Defaulting Party;
  - iii. An identification of the Owner or reputed Owner of the Parcel or interest therein against which the lien is claimed;
  - iv. A description of the Parcel against which the lien is claimed;
  - v. A description of the unpaid debt or work performed which has given rise to the claim of lien and a statement itemizing the amount thereof;
  - vi. Any other information required by law or necessary for the enforcement of the lien.
- d. Each Non-Defaulting Owner shall have the right to prosecute any proceedings at law or in equity against any Defaulting Owner hereto, or any other person, violating or attempting to violate or defaulting upon any of the provisions contained in this Agreement, and to recover damages for any such violation or default. Such proceeding shall include the right to restrain by injunction any violation or threatened violation by another Owner or person of any of the terms, covenants or conditions of this Agreement, or to obtain a decree to compel performance of any such terms, covenants or conditions, it being agreed that the

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remedy at law for a breach of any such term, covenant or condition (except those, if any, requiring the payment of a liquidated sum) is not adequate. All of the remedies permitted or available to an Owner under this Agreement or at law or in equity shall be cumulative and not alternative, and the invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

- 3. Except as specifically set forth herein, all terms, provisions, covenants and conditions of the Easement Agreement shall remain in full force and effect.

**IN WITNESS WHEREOF**, this First Amendment is entered into as of the day and year first above written.

**AREA WIDE:**

**AREA WIDE MURRAYS LLC.,**  
an Illinois limited liability company

By: Faysal Mohamed  
Faysal Mohamed, Manager

**CONSENT**

The Royal Savings Bank hereby consents to the foregoing First Amendment to the Parking Easement Agreement.

**ROYAL SAVINGS BANK,**  
an Illinois banking corporation

By: [Signature]  
Its: COMMERCIAL LOAN OFFICER

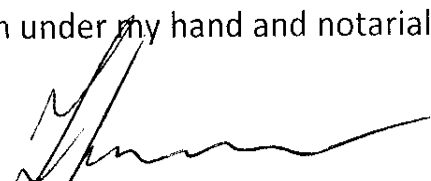


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STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

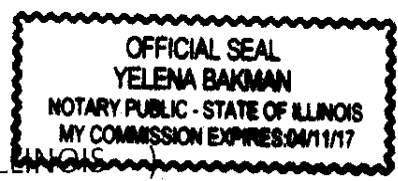
I, the undersigned, a notary public in and for said county, and state aforesaid, do hereby certify that Faysal Mohamed, personally known to me to be the Manager of Area Wide Murray's LLC, an Illinois limited liability company (the "Company"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged, signed and delivered the said instrument in his capacity as Manager of the Company, pursuant to authority given by the Company and as the free and voluntary act of the Company, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 16 day of ~~November~~<sup>December</sup>, 2014.

  
\_\_\_\_\_  
Notary Public

My commission expires: 4/11/2017

(Seal)



STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

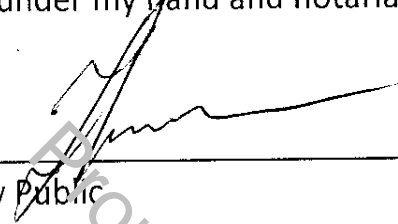
I, the undersigned, a notary public in and for said county, and state aforesaid, do hereby certify that Jennifer Bryant, personally known to me to be the Commercial Loan Officer's VP of Royal Savings Bank (the "Bank"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this



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day in person and acknowledged, signed and delivered the said instrument in his(her) capacity as Commercial Home Office of the Bank, pursuant to authority given by the Bank and as the free and voluntary act of the Bank for the uses and purposes therein set forth.

Given under my hand and notarial seal this 16 day of <sup>December</sup> ~~November~~, 2014.

  
\_\_\_\_\_  
Notary Public

My commission expires: 4/11/2017

(Seal)



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## Exhibit "A"

### Legal Description

Real property in the City of Chicago, County of Cook, State of Illinois, described as follows:

PARCEL 1:

LOTS 17 TO 21, BOTH INCLUSIVE IN BLOCK 16 IN SOUTH LYNNE, BEING VAIL'S SUBDIVISION OF THE NORTH 1/2 OF SECTION 19, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOT 13 (EXCEPT THE NORTH 14.85 FEET THEREOF) AND ALL OF LOTS 14, 15 AND 16 IN BLOCK 16 IN SOUTH LYNNE, BEING VAIL'S SUBDIVISION OF THE NORTH 1/2 OF SECTION 19, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMON ADDRESS:

6315-33 South Western Avenue  
Chicago, IL

PIN'S:

20-19-100-039-0000

20-19-100-040-0000

20-19-100-041-0000

20-19-100-042-0000

Property of Cook County Clerk's Office