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Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 01/27/2015 12:08 PM Pg: 1 of 11

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Property of Cook County Clerk's Office

SUBORDINATION, NON-DISTURBANCE AND
ATTORNEY AGREEMENT

RETURN TO
PREPARED BY AND JPMORGAN CHASE BANK, NATIONAL ASSOCIATION
1111 POLARIS PARKWAY, SUITE 1E
MAIL CODE OH1-0241
COLUMBUS, OHIO 43240
ATTN: LEASE ADMINISTRATION

Box 400

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SUBORDINATION, NON-DISTURBANCE AND ATTORNMENMENT AGREEMENT

THIS AGREEMENT (the "Agreement") is made as of this 16 day of January 2014, by and between **Morgan Stanley Private Bank, National Association**, a national banking association ("Lender"), **JPMORGAN CHASE BANK, NATIONAL ASSOCIATION**, a national banking association ("Tenant"), and **Wheeling Shopping Center, Inc.**, an Illinois corporation, the predecessor-in-interest to **253 Dundee LLC**, an Illinois limited liability company ("Landlord" and "Borrower").

RECITALS

- A. Landlord is the owner of those certain premises described on Exhibit 1 annexed hereto and made a part hereof and commonly known as 253 East Dundee Road, Wheeling Illinois 60090-3176 (together with the improvements located thereon, the "Property");
- B. Under the terms of a certain Ground Lease, as amended by the agreements described on Exhibit 2 annexed hereto and made a part hereof (the "Lease"), Landlord, or a predecessor in interest, leased to Tenant, or a predecessor in interest, all or a portion of the Property, as more particularly described in the Lease;
- C. Lender has made a mortgage loan to Landlord or is about to make a mortgage loan to Landlord secured by a mortgage or deed of trust encumbering the Property, which includes an assignment of Landlord's interest in the Lease (the "Mortgage").
- D. The Mortgage constitutes a lien upon the Property;
- E. Tenant desires to be assured of Tenant's rights under the terms of its Lease and is willing to enter into this Agreement to induce Lender to recognize Tenant's rights under the Lease; and
- F. Lender is willing to enter into this Agreement on the terms and conditions hereinafter provided.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lender, Tenant and Landlord hereby agree as follows:

1. Provided Lender complies with the provisions of Paragraph 2 hereof, the Lease is and shall be subject and subordinate in all respects to the lien imposed by the Mortgage (the term Mortgage shall include any amendment, renewal, modification, replacement or extension hereafter made), and all advances made or to be made thereunder and all amounts secured thereby.
2. In the event of the foreclosure of the Mortgage or a sale of the Property under a power of sale in the Mortgage, or the acquisition of a deed to the Property in lieu of foreclosure by Lender prior to the expiration of the Lease, including any extensions and renewals of the Lease,

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provided Tenant is not in default beyond the expiration of any applicable notice or grace period under any of the terms, covenants and conditions of the Lease on its part to be observed and performed, Lender does hereby agree as follows:

- (a) Tenant's occupancy of the Premises shall not be disturbed by Lender;
- (b) The Lease shall continue in full force and effect and Lender shall not interfere with Tenant's rights and privileges thereunder and will thereby establish direct privity of estate and contract as between Lender and Tenant with the same force and effect and relative priority in time and right as though the Lease were originally made directly from Lender to Tenant (but subject to the provisions of this Agreement); and

(c) Lender shall not join Tenant as a party defendant in any action for the purpose of terminating Tenant's interest under the Lease due to any default by Landlord or its successors under the Mortgage; provided, however, Lender shall not in any way or to any extent be liable to Tenant:

(i) For any past act or omission to act or default on the part of the original or any prior landlord under the Lease and Tenant shall have no right to assert any damages arising therefrom against Lender except for damages, offsets, defenses, claims or counterclaims expressly provided for under the Lease; and provided, however, that such absence of liability or unavailability of claims for damages, offsets, defenses, claims or counterclaims shall not be deemed to permit the repetition or continuation of any such act or omission (or the continuation of a condition from a past act or omission) not otherwise permitted under the Lease;

(ii) For any prepayment of rent or deposit, rental security or any other sums deposited with the original or any prior landlord (unless paid pursuant to the express terms of the Lease), and not delivered to Lender;

(iii) For any modification or amendment to the Lease hereafter made without Lender's consent which results in a material reduction of any rent or other charges payable by Tenant under the Lease or which materially increases the obligations of Landlord under the Lease.

3. Provided that the conditions and agreements set forth herein, including non-disturbance, are complied with, in the event of the foreclosure of the Mortgage or a judicial sale of the Property, or the acquisition of a deed to the Property in lieu of foreclosure by Lender prior to the expiration date of the Lease, including any extensions and renewals of the Lease, Tenant hereby covenants and agrees to make full and complete attornment to Lender for the balance of the term of the Lease, including any extensions and renewals thereof (to the extent elected by Tenant from time to time), upon the same terms, covenants and conditions as therein provided, so as to establish direct privity of estate and contract as between Lender and Tenant with the same force and effect and relative priority in time and right as though the Lease were originally made directly from Lender to Tenant (but subject to the provisions of this Agreement), and Tenant will thereafter make all rent payments directly to Lender. Notwithstanding the foregoing, Tenant shall be under no obligation to pay rent to Lender until Tenant receives written notice from Lender that it has succeeded to the interest of Landlord under the Lease. Landlord hereby irrevocably authorizes and directs Tenant to

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make all rent payments directly to Lender upon receipt of such notice from Lender.

4. It is understood and agreed that until Lender shall become the owner of the Property, Lender shall not have any responsibility as owner of the Property or as landlord under the Lease. Tenant hereby acknowledges and agrees that in the event Lender or its affiliate, successor, designee or assignee shall become the owner of the Property, that any liability or obligation of the landlord under the Lease shall be limited to the landlord's interest in the Property and no recourse shall be had to any other assets of Lender or its affiliate, successor, designee or assignee. Subject to the foregoing limitation as to landlord's interest in the Property, during such time as Lender or its affiliate, successor, designee or assignee shall be the owner of the Property, Tenant may exercise any right or remedy provided in the Lease or by law in the event of any failure to perform any obligation of the landlord under the Lease.

5. Tenant agrees to use its reasonable efforts to send a copy of any notice or statement under the Lease to Lender (at Lender's address as given herein or the last address of Lender furnished to Tenant in writing as described in paragraph 6) at the same time as such notice or statement is sent to the Landlord under the Lease, whenever any such notice or statement alleges a default by, or failure on the part of, the Landlord to perform its duties under the Lease. Notwithstanding anything contained herein to the contrary, failure to send such notice shall not impair the validity of Tenant's notice to Landlord.

6. Tenant hereby agrees that, from and after the date hereof, in the event of any act or omission by the Landlord under the Lease which would give Tenant the right, either immediately or after the lapse of a period of time, to terminate the Lease, or to claim a partial or total eviction, Tenant will not exercise any such right (a) until it has given written notice of such act or omission, by registered or certified mail, return receipt requested, addressed to Lender, at Lender's address as given herein or at the last address of Lender furnished to Tenant in writing (by registered or certified mail addressed to Tenant at Tenant's address as given herein or the last address of Tenant furnished to Lender by written notice in the manner above specified), and (b) if the default by Landlord is of a nature which can be cured by Lender, and if Lender is proceeding with diligence to cure such default, until expiration of thirty (30) days beyond the receipt of written notice from Tenant (provided that Tenant has not been materially deprived of the effective use and occupancy of the Premises for the normal operation of Tenant's business).

7. Except as expressly permitted in the Lease, Tenant will not make any prepayment of rent for a period in excess of one (1) month.

8. The terms, covenants and conditions hereof shall inure to the benefit of and be binding upon the respective parties hereto, and their respective successors and assigns. For the purposes hereof, any purchaser at a sale foreclosing the Mortgage or at a sale conducted under a power of sale in the Mortgage or otherwise acquiring the Property (for the purposes hereof, acquisition of title to the Property by deed in lieu of mortgage foreclosure, shall be deemed a purchase at a sale) shall be deemed a successor to Lender.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed, sealed and delivered in their respective names and behalf, by its officers duly authorized, the date and year first written above.

Address:
2000 Westchester Avenue
Floor 3SE
Purchase, New York 10577
Attention: Portfolio Management

LENDER:
Morgan Stanley Private Bank, National Association

By: _____

Title: _____

Attest: _____

Address:
Attn: Lease Administration
1111 Polaris Parkway, Ste 1E
Mail Code: OH1-0241
Columbus, OH 43240

TENANT:
JPMorgan Chase Bank, National Association

By:  _____
Donna Ogilbee

Title: Assistant Vice President

Address:
580 North Bank Lane
Ste 33
Lake Forest, Illinois 60045

LANDLORD:
Wheeling Shopping Center, Inc.

By:  _____

Title: _____

Attest: _____

After recording, return to:

JPMorgan Chase Bank, National Association
1111 Polaris Parkway, Suite 1E
Mail Code OH1-0241
Columbus, OH 43240
Attn: Lease Administration

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LENDER'S NOTARY

STATE OF IL

) SS

COUNTY OF Cook

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that John Sugas, Member of Wheeling Shopping Center, Inc. personally known to me to be the same persons whose name is subscribed to the foregoing instrument as such _____ appeared before me this day in person and acknowledged that (s)he signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said corporation/association, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 13th day of July, 2015

Notary Public

My Commission Expires: 10-10-17



TENANT'S NOTARY

STATE OF OHIO _____

) SS

COUNTY OF FRANKLIN _____

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that **Donna Ogilbee** of JPMorgan Chase Bank, National Association, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such she appeared before me this day in person and acknowledged that (s)he signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said corporation/association, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 30th day of October, 2014

Lisa Ransom

Notary Public

My Commission Expires: 1/8/2016



LISA RANSOM
Notary Public
in and for
the State of Ohio
My Commission Expires
January 8, 2016

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LENDER'S NOTARY

STATE OF Illinois)

) SS

COUNTY OF Cook)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Jeff Green, _____ of _____, personally known to me to be the same persons whose name is subscribed to the foregoing instrument as such Jeff Green appeared before me this day in person and acknowledged that (s)he signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said corporation/association, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 14 day of Jan, 2015.

[Signature]



Notary Public

My Commission Expires: 08/01/2018

TENANT'S NOTARY

STATE OF OHIO _____)

) SS

COUNTY OF FRANKLIN _____)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that **Donna Ogilbee** of JPMorgan Chase Bank, National Association, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such she appeared before me this day in person and acknowledged that (s)he signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said corporation/association, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 30th day of October, 2014.

[Signature]

Notary Public

My Commission Expires: 1/8/2016



LISA RANSOM
Notary Public
In and for
the State of Ohio
My Commission Expires
January 8, 2016

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed, sealed and delivered in their respective names and behalf, by its officers duly authorized, the date and year first written above.

Address:
2000 Westchester Avenue
Floor 3SE
Purchase, New York 10577
Attention: Portfolio Management

LENDER:
Morgan Stanley Private Bank, National Association

By: [Signature]
Title: V.P. Authorized Signatory
Attest: [Signature]

Address:
Attn: Lease Administration
1111 Polaris Parkway, Ste 1E
Mail Code: OH1-0241
Columbus, OH 43240

TENANT:
JPMorgan Chase Bank, National Association

By: [Signature]
Donna Ogilbee
Title: Assistant Vice President

Address:
580 North Bank Lane
Ste 33
Lake Forest, Illinois 60045

LANDLORD:
Wheeling Shopping Center, Inc.

By: _____
Title: _____
Attest: _____

After recording, return to:

JPMorgan Chase Bank, National Association
1111 Polaris Parkway, Suite 1E
Mail Code OH1-0241
Columbus, OH 43240
Attn: Lease Administration

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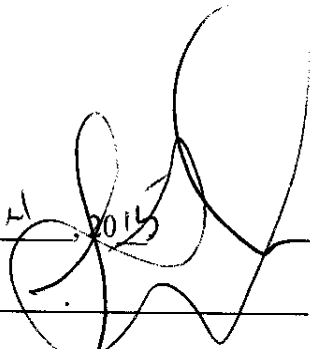
LANDLORD'S NOTARY

STATE OF IL)
) SS

COUNTY OF Cook)

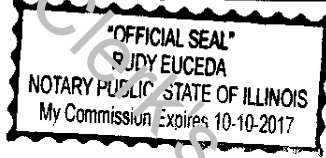
I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that John Svigos, Member of Wheeling Shopping Center Inc., personally known to me to be the same persons whose name is subscribed to the foregoing instrument as such _____ appeared before me this day in person and acknowledged that (s)he signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said corporation/association, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 17 day of July, 2015



Notary Public

My Commission Expires: 10-10-17



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Exhibit 1

Property Description

PARCEL 1:

LOT 2 IN FRESH FARMS - WHEELING SUBDIVISION; BEING A RESUBDIVISION OF PART OF THE SOUTHWEST QUARTER OF SECTION 2 AND THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 7, 2011 AS DOCUMENT 1134116010, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

A NON-EXCLUSIVE ACCESS EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY PLAT OF SUBDIVISION RECORDED DECEMBER 7, 2011 AS DOCUMENT 1134116010.

*253 Dundee Rd
Wheeling Ill 60090
0302415048*

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EXHIBIT 2 Description of Lease and Amendments

Ground Lease, dated August 31, 2010, between Wheeling Shopping Center, Inc., as Landlord and JPMorgan Chase Bank, N.A., as Tenant.

Memorandum of Lease, dated November 15, 2010, between Wheeling Shopping Center, Inc., as Landlord and JPMorgan Chase Bank, N.A., as Tenant.

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