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Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 01/22/2016 01:38 PM Pg: 1 of 8

STCA146-3755 5/5

REDEVELOPMENT CONSENT AND SUBORDINATION AGREEMENT

STEWART TITLE
800 E. DIFHL ROAD
SUITE 130
NAPERVILLE, IL 60563

(Above Space for Recorder's Use Only)

This **REDEVELOPMENT CONSENT AND SUBORDINATION AGREEMENT** ("Agreement") is executed and delivered as of January 15, 2016, by and between PNC Community Development Company, LLC, a Delaware limited liability company (the "Lender") and the City of Chicago, an Illinois municipal corporation (the "City").

WITNESSETH:

WHEREAS, Englewood Square, LP, an Illinois limited partnership ("Englewood 1") and Englewood Square Development Partners, LP, an Illinois limited partnership (the "Borrower" and together with Englewood 1, the "Developer") and the City, acting by and through its Department of Planning and Development, have entered into that certain Agreement for the Sale and Redevelopment of Land dated as of September 15, 2015, and recorded with the Office of the Recorder of Deeds of Cook County, Illinois, on September 21, 2015, as Document No. 15264180665 ("Redevelopment Agreement"), pursuant to which the City has agreed to sell and the Developer has agreed to purchase the real property legally described on Exhibit A attached hereto (the "Property"); and

WHEREAS, pursuant to the terms of the Redevelopment Agreement, the Developer has agreed to construct on the Property a commercial/retail building containing approximately 4,300 square feet with two retail spaces (the "Project"), including a fast casual restaurant (Chipotle) and a coffee shop (Starbucks); and

WHEREAS, the City has the right to record a Reconveyance Deed (as defined in the Redevelopment Agreement) and revest title to the Property upon the occurrence of an Event of Default (as defined in the Redevelopment Agreement) as more fully set forth in the Redevelopment Agreement (the "Reverter Rights"); and

WHEREAS, as part of obtaining financing for the Project, the Developer and DL3 Realty, L.P., an Illinois limited partnership ("DL3"), entered into that certain Construction Loan Agreement dated as of even date herewith, as assigned by DL3 to Lender pursuant to that certain Assignment of Note and Credit Documents, dated as of even date herewith (collectively, the "Loan Agreement"), pursuant to which the Lender has agreed to provide certain loans in the aggregate principal amount of \$1,500,000 (the "Loan"), and the repayment of the Loan is secured by certain liens and encumbrances on the Property pursuant to the Loan Agreement (all such agreements and any other documents evidencing or securing the Loan,

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including the Mortgage (as defined below) being referred to herein collectively as the "Loan Documents"; and

WHEREAS, the repayment of the Loan is secured by, among other things, that certain Construction Mortgage, Assignment of Leases and Rents and Fixture Filing given by Developer on or about the date hereof in favor of DL3, as assigned by DL3 to Lender pursuant to that certain Assignment of Mortgage dated on or about the date hereof (collectively, the "Mortgage") encumbering the Property and all improvements thereon or to be constructed thereon; and

WHEREAS, pursuant to the Redevelopment Agreement, the Developer has agreed to be bound by certain covenants expressly running with the Property, as set forth in Section 13 (Commencement and Completion of Project), Section 15 (Restrictions on Use), Section 16 (Prohibition Against Sale or Transfer of Property), Section 17 (Limitation Upon Encumbrance of Property), Section 18 (Real Estate Taxes), and Section 23.4 (Release for Environmental Conditions) of the Redevelopment Agreement (the "City Encumbrances"), and

WHEREAS, the Redevelopment Agreement requires, as a condition to closing, that the Lender agree to subordinate its liens under the Loan Documents to the City Encumbrances.

NOW, THEREFORE, for good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the Lender hereby agrees as follows:

1. Subordination. All rights, interests and claims of the Lender in the Property pursuant to the Loan Documents are and shall be subject and subordinate to the City Encumbrances. Nothing herein, however, shall be deemed to limit the Lender's other rights or other priorities under the Loan Documents, including, without limitation, the Lender's rights to receive, and the Developer's obligation to make, payments and prepayments of principal and interest on the Note or to exercise the Lender's rights pursuant to the Loan Documents except as provided herein.

2. Notice of Default. The Lender shall use reasonable efforts to give to the City (a) copies of any notices of default which they may give to the Developer with respect to the Project pursuant to the Loan Documents, and (b) copies of waivers, if any, of the Developer's default in connection therewith. Neither the Developer nor any other third party is an intended beneficiary of this Section 2. Failure of the Lender to deliver such notices or waivers shall in no instance alter the rights or remedies of the Lender under the Loan Documents.

3. Consent. The City hereby consents to Developer obtaining the Loan from Lender and executing the Mortgage in favor of Lender and thereby encumbering the Property, in accordance with the terms of the Redevelopment Agreement. The City hereby acknowledges and agrees that (a) the Loan constitutes "Lender Financing" (as defined in the Redevelopment Agreement); (b) Lender shall have the benefit of the provisions running to mortgagees under Section 17 of the RDA; (c) in the event of a Nonperformance Foreclosure, neither Lender, nor any of its affiliates, nor any successor of Lender that qualifies as a Bona Fide Third Party Purchaser following any Nonperformance Foreclosure of the Mortgage, shall be subject to the provisions set forth in Section 26 of the Redevelopment Agreement; and (d) in the event of a Performance Foreclosure, neither Lender nor any of its affiliates shall be subject to Section 26 of the Redevelopment Agreement; provided, however, any successor to Lender following a Performance Foreclosure of the Mortgage shall be subject to the provisions of Section 26 of the Redevelopment Agreement. The execution and recordation of the Mortgage will not constitute a breach of or default under the Redevelopment Agreement. No further consents are required from the City with

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respect to Developer's execution and delivery of the Mortgage or any future enforcement thereof by Lender.

The following terms used in this Section 3 shall have the meanings set forth below:

"Bona Fide Third Party Purchaser" shall mean any purchaser or transferee of the Property at a foreclosure sale or other transfer from Lender that is not in any way related to Developer or any individual or entity which is an owner or member of Developer.

"Nonperformance Foreclosure" shall mean any foreclosure (or deed in lieu of foreclosure) of the Mortgage that is not a Performance Foreclosure.

"Performance Foreclosure" shall mean any foreclosure (or deed in lieu of foreclosure) of the Mortgage caused by the action or inaction of Developer in connection with the maintenance or operation of the Property.

4. City's Approval. The City has approved the Scope Drawings and Plans and Specifications prior to the date hereof in accordance with Section 11 of the Redevelopment Agreement. In accordance with Section 16 of the Redevelopment Agreement, the City has previously reviewed and approved those certain leases of the Property identified on Exhibit B attached hereto

5. [Reserved].

6. Lender Notice and Cure Rights. The City hereby agrees to send Lender a duplicate copy of any notice of default or other notice the City sends under the Redevelopment Agreement (each, a "Notice") at the same time the City sends such Notice to Developer. Lender may cure any default by Developer within the later of: (a) the actual cure period provided under the Redevelopment Agreement or (b) within 90 days after Lender's receipt of a Notice of such default. If the default cannot be cured by the payment of money and Lender begins to cure the default within the time period specified in the previous sentence and diligently continues to cure the default, such time period will be extended for as long as is reasonably necessary to cure the default. Notwithstanding anything to the contrary in the Redevelopment Agreement, Lender's rights to notice and cure as set forth herein shall apply to all potential defaults of Developer under the Redevelopment Agreement, including those defaults for which no cure period is granted to Developer under Section 20.3 of the Redevelopment Agreement. The City shall not exercise any rights or remedies under the Redevelopment Agreement following a default without giving Lender a Notice of such intended action and an opportunity to cure the default in accordance with the Redevelopment Agreement and this Agreement.

7. Waivers. No waiver shall be deemed to be made by the City of any of its rights hereunder unless the same shall be in writing, and each waiver, if any, shall be a waiver only with respect to the specific instance involved and shall in no way impair the rights of the City in any other respect at any other time.

8. Governing Law; Binding Effect. This Agreement shall be interpreted, and the rights and liabilities of the parties hereto determined, in accordance with the internal laws and decisions of the State of Illinois, without regard to its conflict of laws principles, and shall be binding upon and inure to the benefit of the respective successors and assigns of the City and the Lender.

9. Section Titles; Plurals. The section titles contained in this Agreement are and shall be without substantive meaning or content of any kind whatsoever and are not a part of the agreement

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between the parties hereto. The singular form of any word used in this Agreement shall include the plural form.

10. Notices. Any notice required hereunder shall be in writing and addressed to the parties as set forth below by any of the following means: (a) personal service; (b) overnight courier; or (c) registered or certified first class mail, postage prepaid, return receipt requested:

If to the City:

City of Chicago
Department of Planning and Development
121 North LaSalle Street, Room 1000
Chicago, Illinois 60602
Attn: Commissioner

With a copy to:

City of Chicago
Department of Law
121 North LaSalle Street, Suite 600
Chicago, Illinois 60602
Attn: Real Estate and Land Use Division

If to the Lender:

INC Community Development Company, LLC
One North Franklin, Suite 2900
Chicago, Illinois 60606
Attention: Thurman "Tony" Smith
Telecopy (312) 214-2146

With copy to:

Kutak Rock LLP
The Omaha Building
1650 Farnam Street
Omaha, NE 68102
Attention: Scott C. Neill, Esq.
Facsimile: (402) 346 1148
E mail: scott.neill@kutakrock.com

Any notice given pursuant to clause (a) hereof shall be deemed received upon such personal service. Any notice given pursuant to clause (b) shall be deemed received on the day immediately following deposit with the overnight courier. Any notice given pursuant to clause (c) shall be deemed received three (3) business days after mailing. The parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, demands or communications shall be given.

[Signatures on following pages]

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IN WITNESS WHEREOF, the parties hereto have caused this Redevelopment Consent and Subordination Agreement to be executed as of the day and year first written above.

**PNC COMMUNITY DEVELOPMENT COMPANY,
LLC**, a Delaware limited liability company

By: _____

Thurman Smith
Vice President

STATE OF IL)
)
COUNTY OF COOK) SS

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Thurman Smith, Vice President of PNC Community Development Company, LLC, a Delaware limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, as having executed the same, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument in his capacity as Vice President of such limited liability company as his free and voluntary act and deed and as the free and voluntary act and deed of said limited liability company, for the uses and purposes therein set forth.

Given under my hand and official seal this 15 day of January, 2016.

[NOTARY SEAL]

OFFICIAL SEAL
MELISSA M WHELAN
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES: 08/25/16

Notary Public

[Signature pages continue on next page]

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IN WITNESS WHEREOF, the parties hereto have caused this Redevelopment Consent and Subordination Agreement to be executed as of the day and year first written above.

CITY OF CHICAGO, an Illinois municipal corporation

By: *Aarti Kotak*

Aarti Kotak, Managing Deputy Commissioner, Bureau of Economic Development, Department of Planning and Development

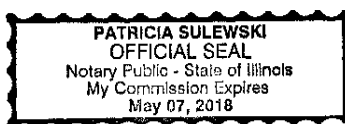
STATE OF ILLINOIS)

) SS.

COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Aarti Kotak, the Managing Deputy Commissioner of the Bureau of Economic Development in the Department of Planning and Development ("DPD") of the City of Chicago, an Illinois municipal corporation ("City"), and the authorized designee of the Commissioner of DPD, 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, being first duly sworn by me, acknowledged that, as said Managing Deputy Commissioner, she signed and delivered the foregoing instrument pursuant to authority given by the City as her free and voluntary act and as the free and voluntary act and deed of the City, for the uses and purposes therein set forth.

GIVEN under my notarial seal this 15th day of January, 2016.



Patricia Sulewski
NOTARY PUBLIC

[End of signature pages]

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EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

LOT 8 IN THE PLAT OF SUBDIVISION OF HALSTED PARKWAY RESUBDIVISION, BEING A RESUBDIVISION OF PART OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 17, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED MARCH 30, 2015 AS DOCUMENT NUMBER 1508916071, IN COOK COUNTY, ILLINOIS.

Permanent Index Numbers: 20-17-431-026, (027), (028), (031) and parts of 20-17-431-017, (032) and (033)
(Volume number 424)

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EXHIBIT B

LEASES

Leases:

(i) That certain Commercial Lease by and between Developer, as landlord, and Starbucks Corporation, as tenant, dated as of June 30, 2015.

(ii) That certain Lease Agreement by and between Developer, as landlord, and Chipotle Mexican Grill, Inc., as tenant, dated as of September 22, 2015.

Property of Cook County Clerk's Office