

UNOFFICIAL COPY



Doc# 1804734060 Fee \$52.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 02/16/2018 01:56 PM PG: 1 OF 8

CONSENT AND SUBORDINATION AGREEMENT AND FIRST AMENDMENT TO DECLARATION OF RECIPROCAL EASEMENTS

(Above Space for Recorder's Use Only)

This **CONSENT AND SUBORDINATION AGREEMENT AND FIRST AMENDMENT TO DECLARATION OF RECIPROCAL EASEMENTS** ("Agreement") is executed and delivered as of February 2, 2018, by and among **PNC CDF 57, LP**, a Delaware limited partnership ("PNC") and **CDF SUBALLOCATEE XXV, LLC**, an Illinois limited liability company ("CDF" and together with PNC, "Lenders"), **ENGLEWOOD SQUARE, LP**, an Illinois limited partnership ("Developer") and **ENGLEWOOD SQUARE DEVELOPMENT PARTNERS, LP**, an Illinois limited partnership ("Operator").

WITNESSETH:

WHEREAS, Developer and Operator have entered into that certain Declaration of Reciprocal Easements (the "REA") dated as of January 18, 2018 recorded with the Cook County Recorder of Deeds as Document No. 1804734059 on February 16, 2018 with respect to that certain real property legally described on Exhibit A attached hereto (the "Property"); and

WHEREAS, Developer and Lenders have entered into that certain Loan Agreement effective as of June 29, 2015 (as amended, the "Loan Agreement") with respect to certain portions of the Property legally described on Exhibit B attached hereto ("Lots 6 and 7"), pursuant to which Lenders agreed to provide certain loans in the aggregate principal amount of \$13,290,000.00 (the "Loan"), and the repayment of the Loan is secured by certain liens and encumbrances on Lots 6 and 7 pursuant to the Loan Agreement (all such agreements and any other documents evidencing or securing the Loan, 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 Mortgage and Security Agreement, Assignment of Leases and Rents, and Fixture Filing given by Developer in favor of Lenders, effective as of September 15, 2015, encumbering Lots 6 and 7 and all improvements thereon or to be constructed thereon recorded with the Cook County Recorder of Deeds at 1526418069 (the "Mortgage"); and

Rd

7742418A

UNOFFICIAL COPY

WHEREAS, Developer has leased Lots 6 and 7 to Operator pursuant to that certain Lease dated as of September 15, 2015 (the "Master Lease"); and

WHEREAS, Developer and Operator have agreed that Operator will continue to manage the shopping center on the Property following Lenders' execution of this Agreement and that, for the period commencing on the date of this Agreement and expiring on September 14, 2022, neither Developer nor Operator will approve or execute an amendment to the REA changing the Operator without Lenders' prior written consent, such consent not to be unreasonably withheld, conditioned, or delayed.

WHEREAS, the Lenders hereby agree to subordinate its liens under the Mortgage to the REA subject to the terms and conditions set forth herein.

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

1. Subordination. All rights, interests and claims of the Lenders in Lots 6 and 7 pursuant to the Loan Documents are and shall be subject and subordinate to the REA, subject to the terms herein.

2. Consent. Lenders hereby consent to the REA and to the execution and recordation of the REA will not constitute a breach of or default under the Loan documents; provided, however, notwithstanding anything to the contrary set forth in the REA, so long as the Mortgage remains in effect, nothing set forth in the REA shall obligate Developer to pay to Operator any common area maintenance costs or otherwise reimburse Operator for any maintenance obligations under the REA. The parties hereto acknowledge that, notwithstanding anything set forth in the REA to the contrary, all financial responsibilities between Developer and Operator with respect to Lots 6 and 7 shall be governed by the terms of the Master Lease.

3. 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.

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

[Signatures on following pages]

UNOFFICIAL COPY

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

PNC:

PNC CDE 57, LP,
a Pennsylvania limited partnership

By: PNC Community Partners, Inc.,
a Pennsylvania corporation,
its general partner

By: Michael J. Kwiatkowski
Michael J. Kwiatkowski
Vice President

STATE OF

SS

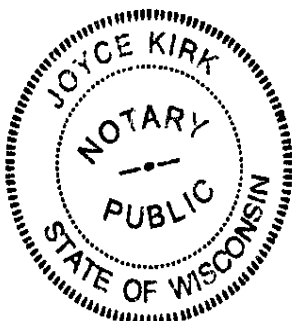
COUNTY OF

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Michael J. Kwiatkowski, Vice President of PNC Community Partners, Inc., a Pennsylvania corporation, general partner of **PNC CDE 57, LP**, a Pennsylvania limited partnership, 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 corporation as his free and voluntary act and deed and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal this 12th day of February, 2018.

[NOTARY SEAL]

Joyce Kirk
Notary Public Exp. 11/14/2020



[Signature pages continue on next page]

SIGNATURE PAGE TO
CONSENT AND SUBORDINATION AGREEMENT AND FIRST AMENDMENT TO REA

UNOFFICIAL COPY

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

CDF SUBALLOCATEE XXV, LLC,
an Illinois limited liability company

By: CDF Management, LLC,
an Illinois limited liability company
its managing member

By:

Aarti Kotak
Aarti Kotak
Vice-President and Secretary-Treasurer

STATE OF ILLINOIS)

COUNTY OF COOK)

SS

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Aarti Kotak, Vice-President and Secretary-Treasurer of CDF Management, LLC, an Illinois limited liability company, managing member of **CDF Suballocatee XXV, LLC**, an Illinois 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 and Secretary-Treasurer 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 13 day of February, 2018..

[NOTARY SEAL]

Betra Brown
Notary Public



[Signature Pages Continue on Next Page]

SIGNATURE PAGE TO
CONSENT AND SUBORDINATION AGREEMENT AND FIRST AMENDMENT TO REA

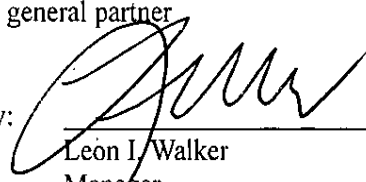
UNOFFICIAL COPY

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

OPERATOR:

**ENGLEWOOD SQUARE DEVELOPMENT PARTNERS,
LP**, an Illinois limited partnership

By: Fresh Property Management, LLC,
an Illinois limited liability company,
its general partner

By: 
Leon I. Walker
Manager

STATE OF ILLINOIS)

) SS

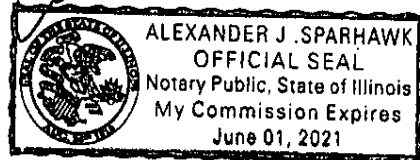
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Leon I Walker, the manager of Fresh Property Management, LLC, an Illinois limited liability company, the general partner of **Englewood Square Development Partners, LP**, an Illinois limited partnership, 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 manager 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 12th day of February, 2018.

[NOTARY SEAL]

Notary Public



SIGNATURE PAGE TO
CONSENT AND SUBORDINATION AGREEMENT AND FIRST AMENDMENT TO REA

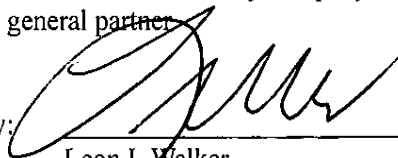
UNOFFICIAL COPY

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

DEVELOPER:

ENGLEWOOD SQUARE, LP,
an Illinois limited partnership

By: Fresh Property Management, LLC,
an Illinois limited liability company,
its general partner

By: 
Leon I. Walker
Manager

STATE OF ILLINOIS

SS

COUNTY OF COOK

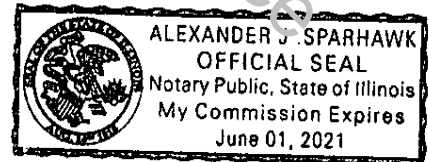
I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Leon I Walker, the manager of Fresh Property Management, LLC, an Illinois limited liability company, the general partner of **Englewood Square, LP**, an Illinois limited partnership, personally known 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 manager 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 12th day of February, 2018.

[NOTARY SEAL]


Notary Public

[End of Signature Pages]



SIGNATURE PAGE TO
CONSENT AND SUBORDINATION AGREEMENT AND FIRST AMENDMENT TO REA

UNOFFICIAL COPY

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Lot 6, 7 and 8 in the Plat of Subdivision of Halsted Parkway Resubdivision, being a Resubdivision of part of the Southeast ¼ 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.

COOK COUNTY
RECORDER OF DEEDS

COOK COUNTY
RECORDER OF DEEDS

COOK COUNTY
RECORDER OF DEEDS

EXHIBIT A TO
CONSENT AND SUBORDINATION AGREEMENT TO REA

UNOFFICIAL COPY

EXHIBIT B

LEGAL DESCRIPTION OF LOTS 6 AND 7

Lot 6 and Lot 7 in the Plat of Subdivision of Halsted Parkway Resubdivision, being a Resubdivision of part of the Southeast ¼ 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.

COOK COUNTY
RECORDER OF DEEDS

COOK COUNTY
RECORDER OF DEEDS

EXHIBIT B TO
CONSENT AND SUBORDINATION AGREEMENT TO REA