

UNOFFICIAL COPY

PREPARED BY:

Jeffrey S. Arnold
Brown, Udell, Pomerantz &
Delrahim, Ltd.
225 West Illinois Street
Suite 300
Chicago, Illinois 60654

WHEN RECORDED MAIL
TO:

TCB-MRM, LLC
c/o Newport Capital Partners,
LLC
350 North LaSalle Street
Suite 700
Chicago, Illinois 60654

CC HI 1802-566LD' 36F9



Doc# 1836145028 Fee \$52.00

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

EDWARD H. MOODY

COOK COUNTY RECORDER OF DEEDS

DATE: 12/27/2018 11:53 AM PG: 1 OF 8

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

ASSIGNMENT AND ASSUMPTION OF SUB-GROUND LEASE

THIS ASSIGNMENT AND ASSUMPTION OF SUB-GROUND LEASE (this "Assignment") is entered into as of the 21 of December, 2018 (the "Effective Date"), between EDENS ANNEX LLC, a Delaware limited liability company ("Assignor"), and TCB-MRM, LLC, a Delaware limited liability company ("Assignee").

RECITALS

Assignor and Assignee are parties to that certain Purchase and Sale Agreement, dated as of November 20, 2018, as amended (the "Agreement"), by and between Assignor, as Seller, and Assignee, as Purchaser. Capitalized terms not otherwise defined herein shall have the meaning given to them in the Agreement.

Assignor is the "Tenant" under that certain Sub-Ground Lease of the real property located in Cook County, Illinois, and being more particularly described on **Exhibit A** attached hereto (the "Property") by and between Assignor, as Tenant, and McRil, LLC, a Virginia limited liability company, as landlord dated as of August 1, 2016, a memorandum of which was recorded December 15, 2016, as Document No. 1635042015, in the real property records of Cook County, Illinois, as modified by that certain *ORDER GRANTING, IN PART, AND DENYING, IN PART, JOINT MOTION OF THE DEBTORS AND BON-TON PURCHASER FOR ENTRY OF AN ORDER*

R

UNOFFICIAL COPY

AUTHORIZING (I) THE SALE OF CERTAIN OF THE DEBTORS' REAL PROPERTY FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES TO THE BON-TON PURCHASER OR ITS DESIGNEE AND (II) GRANTING RELATED RELIEF entered November 30, 2018 (the "Bankruptcy Court Order") by the United States Bankruptcy Court for the District of Delaware in *In re: The Bon-Ton Stores, Inc., et al.* (Case No. 18-10248), and recorded as Document No. 1836145026 (as modified, the "**Sub-Ground Lease**").

Assignor desires to assign and transfer to Assignee and Assignee desires to assume all of Assignor's right, title and interest as Tenant in, to and under the Sub-Ground Lease and all of Assignor's right, title and interest, if any, in and to all Intangible Property (as defined in the Agreement) directly or indirectly related to the Property.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor and Assignee agree as follows:

1. Assignment. For good and valuable consideration received by Assignor, the receipt and sufficiency of which are hereby acknowledged, Assignor hereby grants, transfers and assigns to Assignee the entire right, title and interest of Assignor as Tenant under the Sub-Ground Lease, and all of Assignor's right, title and interest in and to the Intangible Property.

2. Assumption. Assignee hereby assumes and agrees to perform the obligations of Assignor under the Sub-Ground Lease and the Intangible Property which first arise or accrue and are attributable to the period from and after the Effective Date.

3. Indemnity.

(a) Assignor agrees to indemnify, protect, defend and hold Assignee and its members and managers, and the members, managers, partners, agents, and employees of the foregoing harmless from and against any third party loss, cost, damage, claim, liability or expense (including reasonable attorneys' fees and court costs) (collectively, "**Losses**") relating to the Sub-Ground Lease and the Intangible Property arising or accruing at any time prior to the Effective Date; and

(b) Assignee agrees to indemnify, protect, defend and hold Assignor and its members and managers, and the members, managers, partners, agents, and employees of the foregoing harmless from and against any Losses relating to the Sub-Ground Lease and the Intangible Property arising or accruing at any time from and after the Effective Date.

4. Non-Recourse. Assignee and Assignor each agrees that the liability of the other party under this Assignment, the Agreement, and any other agreement, document, certificate or instrument delivered by Assignor to Assignee, or under any law applicable to the Property or this transaction, shall be limited as provided in the Agreement.

UNOFFICIAL COPY

5. No Representation or Warranties; Further Acts. Notwithstanding any terms or provisions to the contrary contained herein, Assignee agrees that Assignor has made no representations or warranties regarding the Sub-Ground Lease or the Intangible Property except as expressly provided in the Agreement, and any liability of the Assignor with respect to such representation or warranty, if any, shall be limited as provided in the Agreement. The parties hereto agree to execute such further documents and agreements as may be reasonably necessary or appropriate to effectuate the purposes of this Assignment.

6. Successors and Assigns. This Assignment shall be binding upon and inure to the benefit of Assignor and Assignee and their respective successors and assigns.

7. Counterparts. This Assignment may be executed in any number of identical counterparts, any or all of which may contain the signatures of fewer than all of the parties but all of which shall be taken together as a single instrument.

8. Governing Law. This Assignment shall be governed and interpreted in accordance with the laws of the State of Illinois.

[SIGNATURE PAGE FOLLOWS]

UNOFFICIAL COPY

IN WITNESS WHEREOF, Assignor and Assignee have caused this Assignment and Assumption of Sub-Ground Lease to be executed as of Effective Date.

ASSIGNOR:

EDENS ANNEX LLC,
a Delaware limited liability company

By: Edens Center Associates, an Illinois
general partnership,
sole member

By: JJF-Edens Limited Partnership,
an Illinois limited partnership,
general partner

By: Edens Properties, Inc.,
an Illinois corporation,
general partner

By: William T. Barry
Name: William T. Barry
Its: President

By: Antonia-Edens Limited Partnership,
an Illinois limited partnership,
general partner

By: Antonia Holdings I, Inc.,
general partner

By: Louis J. G... Jr.
Name: Louis J. G..., Jr.
Its: President

Village of Wilmette
Real Estate Transfer Tax
EXEMPT
DEC 26 2018
Exempt - 12197 Issue Date _____

ASSIGNEE:

TCB-MRM, LLC,
a Delaware limited liability company

By: _____
Name: _____
Its: _____

UNOFFICIAL COPY

Notary Block for William T. Barry

STATE OF ILLINOIS)

) SS.

COUNTY OF COOK)

On 12-14-18, before me, MARISA TEEL, a Notary Public in and for said County and State, personally appeared William T. Barry, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity and that by his signature on the instrument he and the entity upon behalf of which he acted, executed the instrument.

WITNESS my hand and official seal.

Signature: Marisa D. Teel



Notary Block for Louis J. Garr, Jr.

STATE OF MISSOURI)

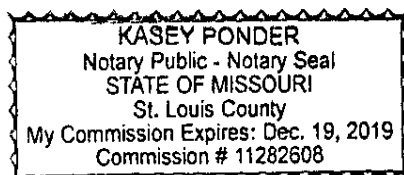
) SS.

COUNTY OF ST. LOUIS)

On 12-17-18, before me, Kasey Ponder, a Notary Public in and for said County and State, personally appeared Louis J. Garr, Jr., personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity and that by his signature on the instrument he and the entity upon behalf of which he acted, executed the instrument.

WITNESS my hand and official seal.

Signature: Kasey Ponder



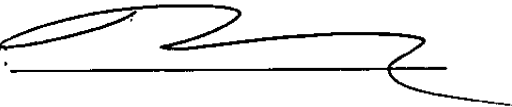
UNOFFICIAL COPY

ASSIGNEE:

TCB-MRM, LLC,
a Delaware limited liability company

By: NEWPORT CAPITAL PARTNERS FUND II, LP,
its Manager

By: NEWPORT FUND II GP, LLC, its general
partner

By: 
Derrick McGavic, its Manager

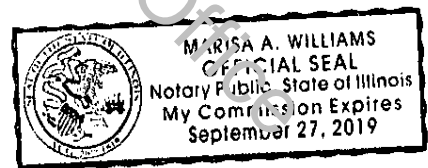
Property of Cook County

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

On December 20, 2018, before me, Marisa A. Williams a Notary Public in and for said County and State, personally appeared Derrick McGavic, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity and that by his signature on the instrument he and the entity upon behalf of which he acted, executed the instrument.

WITNESS my hand and official seal.

Signature: Marisa A. Williams



UNOFFICIAL COPY

Exhibit A

Property

Parcel 1:

Legal description of Permissible Building Area Annex "A"

That part of Lot 1 in Edens Plaza, being a subdivision in the Southeast Quarter of Section 30, Township 42 North, Range 13, East of the Third Principal Meridian, according to the Plat thereof recorded September 20, 1967 as document 20265607, in Cook County, Illinois, described as follows:

Commencing at the Northwest Corner of said Lot 1; thence South 00 degrees 06 minutes 29 seconds East along the West Line of said Lot 1, a distance of 598.76 feet to the North Line of Parcel 3 described in the Special Warranty Deed recorded March 29, 2006 as Document No. 0608827139; thence South 89 degrees 27 minutes 04 seconds East along said North Line, 118.04 feet; thence South 00 degrees 10 minutes 17 seconds West, 143.13 feet to the point of beginning; thence North 89 degrees 53 minutes 30 seconds East, 93.54 feet; thence along a curve concave to the North having a radius of 81.50 feet and an arc distance of 26.66 feet, the chord of said arc having a length of 26.54 feet and a bearing of North 80 degrees 31 minutes 10 seconds east; thence South 00 degrees 04 minutes 36 seconds East, 76.42 feet to the North Wall of the existing Carson's Building; thence along the North Wall and Westerly extension thereof of said Carson's Building the following 3 courses: 1) South 89 degrees 55 minutes 24 seconds West, 3.25 feet, 2) South 00 degrees 04 minutes 36 seconds East, 8.24 feet, and 3) South 89 degrees 55 minutes 24 seconds West, 116.82 feet; thence North 00 degrees 10 minutes 17 seconds East, 80.27 feet to the point of beginning.

Excepting therefrom the buildings and improvements located thereon.

Legal description of Permissible Building Area Annex "B"

That part of Lot 1 in Edens Plaza, being a Subdivision in the Southeast Quarter of Section 30, Township 42 North, Range 13, East of the Third Principal Meridian, according to the Plat thereof recorded September 20, 1967 as document 20265607, in Cook County, Illinois, described as follows:

Commencing at the Northwest Corner of said Lot 1; thence South 00 degrees 06 minutes 29 seconds East along the West Line of said Lot 1, a distance of 598.76 feet to the North line of Parcel 3 described in the Special Warranty Deed recorded March 29, 2006 as Document No. 0608827139; thence South 89 degrees 27 minutes 04 seconds East along said North Line, 269.11 feet; thence South 00 degrees 01 minute 57 seconds West 117.21 feet to the point of beginning; thence along a curve concave to the Northwest having a radius of 81.50 feet and an arc distance of 24.93 feet, the chord of said arc having a length of 24.84 feet and a bearing of North 35 degrees 49 minutes 06 seconds East to a point of reverse curve; thence along said reverse curve, being concave to the South and having a radius of 25.00 feet and an arc distance of 55.26 feet, the chord of said arc having a length of 44.68 feet and a bearing of South 89 degrees 37 minutes 16 seconds East; thence South 26 degrees 17 minutes 46 seconds East, 97.04 feet to the Easterly line of said Parcel 3; thence South 00 degrees 02 minutes 14 seconds East along said Easterly line 37.36 feet to the Easterly extension of the North Wall of the existing Carson's Building; thence along the North Wall and Easterly extension thereof of said Carson's Building the following 3 courses: 1) North 89 degrees 58 minutes 03 seconds West, 99.04 feet, 2.) North 00 degrees 01 minute 57 seconds East, 8.24 feet and 3.) North 89 degrees 58 minutes 03 seconds West, 3.25 feet; thence North 00 degrees 01 minute 57 seconds East, 96.22 feet to the point of beginning.

Excepting therefrom the buildings and improvements located thereon.

UNOFFICIAL COPY

Parcel 2:

Non-exclusive easement in favor of Parcel 1 as created by the Edens Plaza Reciprocal Operating and Easement Agreement dated March 25, 1994 and recorded March 30, 1994 as document 94287447 and amended by Second Amendment recorded December 15, 2016 as document number 1635042016, made by and between NBD Bank, as Trustee under Trust Number 4671-AH, Edens Center Associates and CPS Department Stores, Inc., for the purposes set forth therein over, upon, under and on the following Land:

That part of Lot 1 in Edens Plaza, being a Subdivision in the Southeast Quarter of Section 30, Township 42 North, Range 13, East of the Third Principal Meridian, according to the Plat thereof recorded September 20, 1967 as document 20265607, in Cook County, Illinois, described as follows:

Commencing at the Northwest Corner of Lot 1 aforesaid; thence on an assumed Azimuth of 129 degrees 36 minutes 27 seconds along the Northerly line of said Lot 1, a distance of 585.84 feet to the Easterly line of said Lot 1, thence on an Azimuth of 153 Degrees 45 Minutes 59 Seconds along said Easterly line, being Also the Westerly Line of Skokie Blvd., 76.51 feet to a point of curvature in said line; thence Southeasterly along a tangential curve concave to the West, radius 5679.65 feet, central angle 02 degrees 51 minutes 55 seconds, 284.03 feet for a point of beginning; thence on an Azimuth of 250 degrees 52 minutes 06 seconds, 223.90 feet; thence on an Azimuth of 166 degrees 51 minutes 28 seconds, 113.94 feet; thence on an Azimuth of 160 degrees 20 minutes 46 seconds 95.91 feet; thence on an Azimuth of 269 degrees 57 minutes 45 seconds, 78.44 feet; thence on an Azimuth of 359 degrees 57 minutes 45 seconds, 223.80 feet; thence on an Azimuth of 333 degrees 27 minutes 26 seconds, 166.82 feet; thence on an Azimuth 270 degrees 32 minutes 56 seconds 296.68 feet to a point on the West Line of Lot 1 which is 598.76 feet South of the Northwest Corner thereof; thence on an Azimuth of 179 degrees 53 minutes 30 seconds along said West Line, 486.59 feet to an angle point therein, thence on an Azimuth of 125 degrees 04 minutes 59 seconds along the West Line of said Lot 1, a distance of 204.00 feet; thence on an Azimuth of 35 degrees 04 minutes 59 seconds, 50.64 feet; thence on an Azimuth of 89 degrees 55 minutes 36 seconds, 175.52 feet; thence on an Azimuth of 359 degrees 57 minutes 45 seconds, 141.04 feet; thence on an Azimuth of 89 degrees 57 minutes 45 seconds, 93.57 feet; thence on an Azimuth of 160 degrees 20 minutes 46 seconds, 190.61 feet; thence on an Azimuth of 90 degrees 00 minutes 00 seconds, 210.19 feet; thence on an Azimuth of 341 degrees 36 minutes 33 seconds, 185.60 feet; thence on an Azimuth of 69 degrees 58 minutes 08 seconds, along radial line 46.59 feet to the East Line of Lot 1; thence Northerly along said East line and a curve concave to the West (being also the West Line of Skokie Blvd.), radius 5679.65 foot, a central angle 03 degrees 20 minutes 14 seconds, 330.82 feet to the point of beginning.

3200 Lake St
Wilmette IL

05-03-405-019