

# UNOFFICIAL COPY

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## SUBORDINATION AGREEMENT

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THIS SUBORDINATION AGREEMENT, made as of the 8<sup>th</sup> day of June, 1988 by and between THE TRAVELERS INSURANCE COMPANY, a Connecticut corporation ("Travelers"), and HIGHLAND SUPERSTORES, INC., a Michigan corporation ("Lender");

### W I T N E S S E T H:

WHEREAS, Travelers has made a loan to T&D General Partners No. 61, an Illinois general partnership ("Partnership"), in the original principal amount of \$11,500,000.00 ("Travelers Loan"), which Travelers Loan is evidenced by that certain Promissory Note dated June 8, 1988 ("Travelers Note"), and is secured by, among other documents, that certain Mortgage, Security Agreement and Assignment of Leases, Rents and Profits of even date herewith ("Highland Mortgage"), recorded in the Office of the Recorder of Deeds of Cook County, Illinois on June 24, 1988 as Document No. 88279655 which mortgage pertains to certain real estate legally described on Exhibit A attached hereto and made a part hereof ("Highland Real Estate") and that certain Mortgage, Security Agreement and Assignment of Leases, Rents and Profits of even date herewith ("Theatre-Restaurant Mortgage"), recorded in the Office of the Recorder of Deeds of Cook County, Illinois on June 24, 1988 as Document No. 88279653 which mortgage pertains to certain real estate legally described on Exhibit B attached hereto and made a part hereof ("Theatre-Restaurant Real Estate") (the Highland Mortgage and Theatre-Restaurant Mortgage are collectively "Travelers Mortgage") (the Travelers Note, the Travelers Mortgage, those certain Security Agreements dated June 8, 1988, those certain Collateral Assignments of Beneficial Interest and Power of Direction dated June 8, 1988, and the other documents securing the Travelers Note shall hereinafter collectively be referred to as the "Travelers Loan Documents"); and

WHEREAS, American National Bank and Trust Company of Chicago as Trustee under Trust Agreement dated August 20, 1986 and known as Trust No. 100677-00 ("Highland Trustee") is the legal owner of record of the Highland Real Estate, and

WHEREAS, American National Bank and Trust Company of Chicago as Trustee under Trust Agreement dated December 1, 1985 and known as Trust No. 66007 ("Theatre-Restaurant Trustee") is the legal owner of record of the Theatre-Restaurant Real Estate (The Highland Real Estate and the Theatre-Restaurant Real Estate shall hereinafter collectively be referred to as the "Real Estate"; the Highland Trustee and the Theatre-Restaurant Trustee shall hereinafter collectively be referred to as "Trustee"); and

WHEREAS, the Partnership is the owner of one hundred percent (100%) of the beneficial interest in, to and under Highland Trustee and Theatre-Restaurant Trustee; and

WHEREAS, Lender loaned to the Partnership funds in the original principal amount of \$1,200,000.00 ("Subordinate Loan"), which Subordinate Loan is evidenced by a Promissory Note dated October 8, 1987 ("Subordinate Note"), and is secured by, among other documents, a Trust Deed dated October 8, 1987 ("Subordinate Mortgage"), which Subordinate Mortgage was recorded against the Highland Real Estate in the Office of the Recorder of Deeds of Cook County, Illinois, on October 15, 1987, as Document No. 87,559,525 (the Subordinate Note, the Subordinate Mortgage, that certain Assignment of Rent recorded in connection therewith as Document No. 87,559,526, that certain Second Security Agreement (Chattel Mortgage) dated October 8, 1987, that certain Second Security Agreement: Assignment of Beneficial Interest Under Land

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Trust for Collateral Purposes ("Assignment") and the other documents securing the Subordinate Note shall hereinafter collectively be referred to as the "Subordinate Loan Documents"); and

WHEREAS, it is a condition to the Travelers Loan that the Subordinate Loan Documents be subordinated to the Travelers Loan Documents; and

WHEREAS, in consideration of and as an inducement to Travelers to make the Travelers Loan, Lender has agreed to subordinate the lien of the Subordinate Loan Documents to the lien of Travelers Loan Documents;

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

1. Lender hereby agrees that the lien of the Subordinate Mortgage and the liens and security interests of the other Subordinate Loan Documents, including, without limitation, the lien of the Subordinate Mortgage and the liens and security interests of the other Subordinate Loan Documents securing the payment of any and all present or future liabilities, obligations and indebtedness of the Partnership and the Highland Trustee to Lender, howsoever created or evidenced, whether direct or indirect, whether absolute or contingent, whether heretofore or hereafter contracted, created or arising, and whether or not presently contemplated (hereinafter referred to as the "Subordinate Debt"), are hereby made and shall be subject and subordinate in all respects to the lien of the Highland Mortgage, and to the liens and securities interests of the other Travelers Loan Documents, as the same may be subsequently modified or amended, including, without limitation, the lien of the Highland Mortgage and the liens and security interests of the other Travelers Loan Documents securing the payment of: (a) any and all advances heretofore or hereafter made by Travelers to the Partnership or the Trustee, whether said advances are obligatory or not, and whether said advances may ultimately exceed the face amount of the Travelers Note; (b) any and all other liabilities, obligations and indebtedness of the Partnership and the Trustee to Travelers howsoever created or evidenced, whether direct or indirect, whether absolute or contingent, whether heretofore or hereafter contracted, created or arising, and whether or not presently contemplated, in connection with the Real Estate or the improvements located thereon, including, without limitation, interest accruing at the Default Rate (defined in the Travelers Mortgage); and (c) any and all costs and expenses suffered or incurred by Travelers in completing and marketing the Real Estate and in enforcing any or all of its rights and remedies under the Travelers Loan Documents, regardless of whether the aforesaid liabilities, obligations and indebtedness of the Partnership to Travelers secured by the lien and security interests of the Highland Mortgage and other Travelers Loan Documents may ultimately exceed the face amount of the Note (hereinafter referred to as the "Senior Debt").

2. Lender hereby further covenants and agrees that the Subordinate Loan Documents shall not be modified or amended so as to increase the interest rate on the loan amount or extend the maturity date thereof, without the prior written consent of Lender.

3. Lender hereby expressly covenants and agrees that the effect of this Subordination Agreement, and the rights of Travelers hereunder, shall be in no way impaired, affected, diminished or released by any of the following, regardless of whether the same shall occur with or without the knowledge or consent of Lender: by any renewal or extension of the time of payment of the Senior Debt of the Partnership or the Trustee to Travelers, by any delay, forbearance, failure, neglect or refusal

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of Travelers in enforcing the payment thereof or in enforcing the lien of or attempting to realize upon the Travelers Mortgage or any other security which may have been or may hereafter be given for the Senior Debt of the Partnership or the Trustee to Travelers, or by any waiver or failure to exercise any right or remedy under the Travelers Mortgage, the Travelers Note, any other Travelers Loan Document, or any other document or instrument executed pursuant thereto or in connection with this transaction, or by any change, modification or amendment whatsoever of any of the aforesaid documents or instruments, or by any increase, decrease, substitution, release, withdrawal or other change in or of the amount of the Senior Debt or in or of any security regarding the Senior Debt of the Partnership and the Trustee to Travelers, or by any release or discharge of any guaranty or guarantor of the Senior Debt, or by any other act or failure to act by Travelers.

4. Any amounts received by Travelers from whatever sources may be applied by Travelers toward payment of such of the Senior Debt, in such order of application as Travelers may in its discretion elect. Furthermore, until such time as the Senior Debt has been fully and finally paid, Lender hereby waives and releases any and all rights to subrogation it may have against the Partnership and the Highland Trustee or the Highland Real Estate, which subrogation would result in Lender attaining a priority equal or superior to the priority of Travelers.

5. Lender hereby represents to Travelers that neither the Partnership nor the Highland Trustee is in default under the Subordinate Loan Documents and to the best of its knowledge, there is no condition or fact which, upon the passage of time or the giving of notice, or both, would constitute a default or event of default under the Subordinate Loan Documents. Furthermore, Lender hereby acknowledges and agrees that all references in the Subordinate Loan Documents to the mortgage and note in favor of Travelers securing and evidencing a debt of \$7,700,000 were intended (and are hereby revised) to refer to the mortgage and note in favor of Travelers securing and evidencing a debt of \$11,500,000.00, and that the Subordinate Loan Documents are subordinate to Travelers Loan Documents, subject to the terms and conditions of this Agreement. Lender hereby agrees to send to Travelers any notice of default given to Partnership and/or Trustee under the Subordinate Loan Documents and Travelers shall have the right but not the duty to cure such default within the time afforded to Partnership and Trustee under the Subordinate Loan Documents. Lender hereby acknowledges and agrees, as a result of this Subordination Agreement, the lien and security interest of Lender in the beneficial interest in Highland Trustee are hereby made and shall be subject and subordinate to the lien and security interest of Travelers in said beneficial interest and Lender shall have a subordinate position only with respect to said beneficial interest and shall not have any part of the power of direction under the Highland Trustee.

6. It is the intention of Travelers and Lender that in the event of a default by the Partnership under Travelers Loan or the Subordinate Loan, Lender shall have the right to acquire title to the Highland Real Estate and become the new borrower/mortgagor for \$7,700,000.00 of the Travelers Loan, as more specifically hereinafter set forth. Accordingly, Travelers and Lender hereby agree as follows: Travelers agrees not to foreclose the Highland Mortgage until Travelers gives written notice to Lender of the default and its intention to foreclose and allows Lender to acquire title to the Highland Real Estate, subject to the lien of the Highland Mortgage, but only so long as all of the following conditions have been fulfilled to Travelers' satisfaction:

- (i) Lender shall have commenced the foreclosure of the Subordinate Mortgage (or negotiations with the Highland Trustee and Partnership for a deed-in-lieu

of foreclosure) no later than sixty (60) days after the last day of the second loan year of the Travelers Loan and shall diligently and continuously prosecute the same.

(ii) Lender shall have cured and continues to cure any and all defaults under the Travelers Loan Documents; provided, however, Lender shall only be obligated to cure defaults to the extent said defaults pertain to the Highland Real Estate, and if there are defaults with respect to debt service payments, Lender shall only have to pay its proportionate share thereof (the proportionate share being 7,700,000/11,500,000 or 66.96%).

(iii) Lender shall have entered into a written loan assumption agreement in form mutually acceptable to Lender and Travelers in order to evidence the following (and Lender and Travelers agree to act in good faith in preparing a loan assumption agreement incorporating the concepts set forth below):

(A) the assumption by Lender, from and after the date it acquires title, of the principal balance outstanding under the Travelers Note but only for \$7,700,000.00 subject to reduction for insurance proceeds and condemnation awards pertaining to the Highland Real Estate, as more specifically described below, and all costs and expenses associated therewith ("Proportionate Share of Debt"); and

(B) the assumption by Lender, from and after the date it acquires title, of all of the other Travelers Loan Documents pertaining to the Highland Real Estate. The assumption agreement shall not impose any personal liability on the Lender, except for the exceptions to non-recourse set forth in Paragraph 6(a) of the Commitment (as defined in the Highland Mortgage); provided, however, from and after the date Lender acquires title to the Highland Real Estate, Lender shall not be liable for any prior act, omission, breach or default by the Partnership or the Highland Trustee under the Travelers Loan Documents. The written loan assumption agreement will confirm that if and when Lender satisfies all the conditions precedent to its acquiring the simple title to the Highland Real Estate, subject to the Highland Mortgage, the Travelers Loan Documents pertaining to the Highland Real Estate and the Theatre-Restaurant Real Estate shall no longer be cross-collateralized or cross-defaulted; it being the intent that the Highland Real Estate shall only secure the Lender's liabilities and obligations under the Travelers Note for its Proportionate Share of Debt, and the Theatre-Restaurant Real Estate shall only secure the Partnership's and the Theatre-Restaurant Trustee's liabilities and obligations under the Travelers Note for their portion of the principal balance thereunder in the amount of \$3,800,000.00, together with interest accrued thereon

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and costs and expenses associated therewith. Furthermore, to the extent the principal balance outstanding under the Travelers Note has been reduced by insurance proceeds or condemnation awards attributable to the Highland Real Estate in accordance with the Travelers Loan Documents, then Lender rather than the Partnership or the Theatre-Restaurant Trustee shall benefit from said reduction. In other words, the \$7,700,000.00 of debt assumed by Lender shall be reduced by the amount by which the Travelers Note has previously been reduced by said insurance proceeds or condemnation awards, as the case may be, and the Partnership and the Theatre-Restaurant Trustee shall be liable for \$3,800,000.00 of the Travelers Loan without any reduction for said insurance proceeds or condemnation awards.

- (iv) Lender shall have paid to Travelers all costs and expenses, including, without limitation, attorney's fees, incurred by Travelers in connection with the restructuring of the Travelers Loan with the Lender, as more specifically provided in subparagraph (iii) immediately above.
- (v) Lender shall have agreed, in writing, to deliver to Travelers, within five (5) days after acquiring title to the Highland Real Estate, a copy of the executed deed and copies of such other executed documents and instruments pertaining to the acquisition of title by Lender, as Travelers may request, including, without limitation, an Affidavit of Indemnification in the form of Exhibit C attached hereto and made a part hereof executed by Lender under oath.

7. Any notice which any party may be required or may desire to give hereunder shall be deemed to have been given if delivered personally, when delivered, or if mailed, postage prepaid, by registered or certified mail, return receipt requested, seven (7) days after being mailed, address as follows:

In the case of Lender: Highland Superstores, Inc.  
909 North Sheldon Road  
Plymouth, Michigan 48170  
Attn: Corporate Counsel

With a copy to: Honigman, Miller, Schwartz and  
Cohn  
2290 First National Building  
Detroit, Michigan 48226-3583  
Attn: Jerome M. Salle, Esq.

In the case of Travelers: The Travelers Insurance Company  
2215 York Road, Suite 504  
Oak Brook, Illinois 60521  
Attn.: Regional Counsel

With a copy to: Coffield Ungaretti Harris & Slavin  
3500 Three First National Plaza  
Chicago, Illinois 60602  
Attn.: Barbara J. Davis, Esq.

8. Lender covenants and agrees that Lender shall not exercise any of its rights and remedies under the Subordinate Loan Documents, including, without limitation, foreclosure, so as to

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terminate or adversely affect in any way the leases pertaining to the Highland Real Estate, without the prior written consent of Travelers.

9. Each party hereto individually represents and warrants that he has the power, capacity and authority to conduct his business as presently conducted and the power, capacity and authority to execute, deliver and perform this Subordination Agreement, and that this Subordination Agreement is the legal, valid and binding obligation of said party and is enforceable in accordance with its terms.

10. Each provision of this Subordination Agreement shall be interpreted in such manner as to be effective, valid and enforceable under applicable law, but if any provision of this Subordination Agreement shall be prohibited by or invalid under such law, such provision shall be deemed severable and ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Subordination Agreement.

11. This Subordination Agreement shall remain in full force and bind Lender, the Partnership and the Trustee, and each of them, until written notice of its discontinuance is received by them signed by Travelers.

IN WITNESS WHEREOF, the parties hereto, each by and through its duly authorized representatives, have hereunto caused this Subordination Agreement to be executed and their seals affixed, as of the day and year first above written.

ATTEST: THE TRAVELERS INSURANCE COMPANY,  
a Connecticut corporation

By: George Psaras Name: GEORGE PSARAS  
Title: ASSISTANT SECRETARY

By: Richard G. Griffith Name: RICHARD G. GRIFFITH  
Title: REGIONAL VICE PRESIDENT

ATTEST: HIGHLAND SUPERSTORES, INC., a  
Michigan corporation

By: Danette Wineberg Name: DANEHE WINEBERG  
Title: ASST. SECRETARY

By: Fra Motopy Name: FRA MOTOPY  
Title: EXEC. VICE PRESIDENT

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2025/03/04



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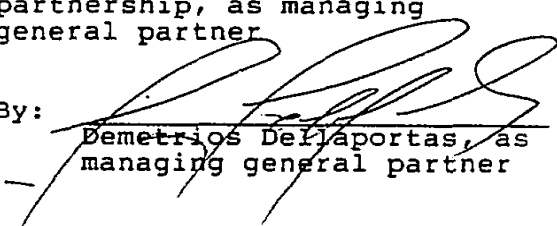
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## CONSENT

The undersigned hereby consents to the terms and conditions of the foregoing Subordination Agreement.

T&D GENERAL PARTNERS NO. 61, an Illinois general partnership, as sole beneficiary of Highland Trustee and Theatre-Restaurant Trustee

By: Lefkas General Partners No. 61, an Illinois general partnership, as managing general partner

By:   
Demetrios Dellaportas, as managing general partner

Property of 

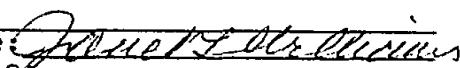
## TRUSTEE'S ENDORSEMENT

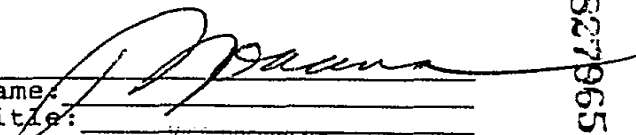
AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, as Trustee under that certain Trust Agreement dated August 20, 1986, and known as Trust No. 100677-00, hereby acknowledges receipt of the foregoing Subordination Agreement as of the 8<sup>th</sup> day of June, 1988. The undersigned hereby further acknowledges and agrees the lien and security interest of that certain Second Security Agreement: Assignment of Beneficial Interest Under Land Trust For Collateral Purposes ("Assignment") dated October 8, 1987, made by T&D General Partners No. 61, an Illinois general partnership ("Partnership"), in favor of Highland Superstores, Inc., a Michigan corporation ("Lender"), and accepted by the undersigned on October 15, 1987, are hereby made and shall be subject and subordinate to the lien and security interest of that certain Collateral Assignment of Beneficial Interest and Power of Direction dated June 8, 1988, made by the Partnership in favor of The Travelers Insurance Company, a Connecticut corporation, and ~~accepted by the undersigned on June 7, 1988~~, and the undersigned hereby further acknowledges and agrees Lender shall have a subordinate position only with respect to the beneficial interest in the aforementioned Trust and shall not have any part of the power of direction under said Trust.

Dated: \_\_\_\_\_, 1988.

ATTEST: (SEAL)

AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally but as Trustee as aforesaid

By:   
Name: Janet L. Williams  
Title: Authorized Officer

By:   
Name: \_\_\_\_\_  
Title: VICE PRESIDENT

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This instrument is executed by AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, not personally but solely as Trustee, as aforesaid. All the covenants and conditions to be performed hereunder by AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO are undertaken by it as Trustee, as aforesaid and not individually, and no responsibility shall be asserted or be enforceable against AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO by reason of any of the covenants, statements, representations or warranties contained in this instrument.

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STATE OF MICHIGAN )  
COUNTY OF WAYNE ) SS

I, KAREN WILLGUES, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that IRA MONDRY, the EXEC. VICE President of HIGHLAND SUPERSTORES, INC., a Michigan corporation, and DANETTE WINEBERG, and \_\_\_\_\_, the ASSISTANT Secretary, who are personally known to me to be the persons whose names are subscribed to the foregoing instrument as such EXEC. VICE President and ASSISTANT Secretary, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth; and the said ASSISTANT Secretary then and there acknowledged that he, as custodian of the corporate seal of said corporation, did affix the corporate seal of said corporation to said instrument as his own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 16<sup>th</sup> day of JUNE, 1988.

Karen Willgues  
Notary Public

My Commission expires:

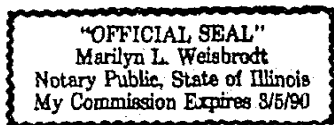
10-19, 1991

KAREN WILLGUES  
Notary Public, Wayne County, MI  
My Commission Expires 10-19-91

STATE OF ILLINOIS )  
COUNTY OF JUPAGE ) SS

I, Marilyn L. Weisbrodt, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that RICHARD G. GRIFFITH, REGIONAL VICE PRESIDENT President of THE TRAVELERS INSURANCE COMPANY, and GEORGE PSARAS, ASSISTANT SECRETARY Secretary of said corporation, who are personally known to me to be the persons whose names are subscribed to the foregoing instrument as such REGIONAL VICE President and ASSISTANT Secretary, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act of said corporation, for the uses and purposes therein set forth; and the said ASSISTANT secretary then and there acknowledged that he, as custodian of the corporate seal of said corporation, did affix the corporate seal of said corporation to said instrument as his own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 23<sup>rd</sup> day of June, 1988.



Marilyn L. Weisbrodt  
Notary Public

My Commission expires:

March 5, 1990

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STATE OF Ill. )  
COUNTY OF Cook ) SS

I, Peter A. Hess, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Demetrios Dellaportas, personally known to me to be the managing general partner of Lefkas General Partners No. 61, the managing general partner of T&D General Partners No. 61, in whose name the above and foregoing instrument is executed, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of said partnership for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 27 day of June, 1988

Peter A. Hess  
Notary Public

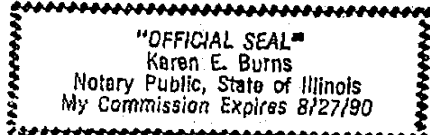
My Commission Expires:

3/19, 1988

STATE OF Ill )  
COUNTY OF Cook ) SS

I, KAREN E. BURNS, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Peter H. Schansek Second Vice President and Janet Williams Assistant Secretary of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, a national banking association, and Janet Williams Assistant Secretary, Secretary of said bank, who are personally known to me to be the persons whose names are subscribed to the foregoing instrument as such Second Vice President and Assistant Secretary, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said bank, not personally but as Trustee aforesaid, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this JUN 24 1988 day of June, 1988.



Karen E. Burns  
Notary Public

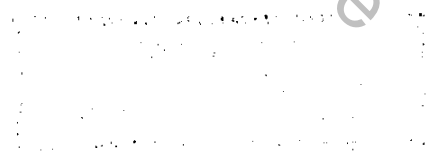
My Commission Expires: \_\_\_\_\_, 19\_\_

This instrument prepared by and after recording mail to:  
  
Mark S. Litner, Esq.  
Coffield Ungaretti Harris & Slavin  
3500 Three First National Plaza  
Chicago, Illinois 60602

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2008-01-02



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## EXHIBIT A

### Highland Legal Description

#### PARCEL 1:

Lots 1 and 2 in the Landings Phase II, being a subdivision of part of the West 1/2 of Section 19, Township 36 North, Range 15, East of the Third Principal Meridian, in Cook County, Illinois, according to the Plat thereof recorded July 7, 1987 as Document 87,372,563.

Permanent Tax Numbers: 30-19-300-011      Volume: 225  
(Affects part of Parcel 1, part of Parcel 2 and other property)

30-19-301-004  
(Affects part of Parcel 1 and other property)

30-19-100-113  
(Affects part of Parcel 1)

Common Address:      North of 170th Street and east of  
the Commonwealth Edison power lines  
Lansing, Illinois

88279655

EXHIBIT 8

Theatre-Restaurant Legal Description

PARCEL 2:

Lots 1 and 2 in the Landings Phase III, being a subdivision of part of the West 1/2 of Section 19, Township 36 North, Range 15, East of the Third Principal Meridian, in Cook County, Illinois, according to the Plat thereof recorded June 6, 1988 as Document 88243895.

PARCEL 3

Easement for the benefit of Parcel 2, as created and defined in that certain Tri-Party Easement and Other Agreement dated June 6, 1988 and recorded June 9, 1988 as Document No. 88251969, as amended by Amendment to Tri-Party Easement and Other Agreement dated June 21, 1988, and recorded June 24, 1988, as Document No. 88279655 for parking, pedestrian and vehicular passage to and from Parcel 2 and construction and maintenance permitted or required pursuant to the Agreement, over and across that part of the following described real estate designated on the Site Plan attached as Exhibit C to said Agreement:

Lot 3 in the Landings Phase III, being a subdivision of part of the West 1/2 of Section 19, Township 36 North, Range 15, East of the Third Principal Meridian, in Cook County, Illinois, according to the Plat thereof recorded June 6, 1988 as Document 88243895.

Permanent Tax Numbers: 30-19-300-011 Volume: 225  
(Affects part of Parcel 1, part of Parcel 2 and other property)

30-19-100-007  
(Affects part of Parcel 2)

Common Address:

North of 170th Street and <sup>west</sup> east of  
the Commonwealth Edison power lines  
Lansing, Illinois

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EXHIBIT 5

LOAN NO. \_\_\_\_\_

AFFIDAVIT AND AGREEMENT OF INDEMNIFICATION

DEPT. OF RECORDING

\$22.00

T#2222 TRAN 8049 06/24/88 16:00:00

Mortgagor hereby represents and warrants to Mortgagee the following: #3285 # D # 88279655  
COOK COUNTY RECORDER

- (i) The Mortgagor's U.S. Taxpayer Identification Number is \_\_\_\_\_.
- (ii) The business address of Mortgagor is \_\_\_\_\_.
- (iii) Mortgagor is not a "foreign person" within the meaning of Internal Revenue Code ("Code") Sections 1445 and 7701 (i.e., Mortgagor is not a nonresident alien, foreign corporation, foreign partnership, foreign trust or foreign estate as those terms are defined in the Code and Regulation promulgated thereunder).

Mortgagor does hereby indemnify and hold Mortgagee, Mortgagee's agents and Mortgagor's agents harmless of, from and against any and all loss, liability, costs, damages, claims or causes of action which may arise or be incurred by Mortgagee, Mortgagee's agents or Mortgagor's agents by reason of any representation or warranty made herein not being true and correct in all respects when made, including but not limited to any liability for Mortgagee's failure to withhold any amount required under Code Section 1445 in the event of foreclosure or other transfer of the Mortgaged Premises.

\_\_\_\_\_  
\_\_\_\_\_

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11/15/2011

01/03/2012