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Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
8/29/2016 13:46:40.00



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AMENDMENT TO MEMORANDUM OF LEASE AND SUBLEASE

THIS AMENDMENT TO MEMORANDUM OF LEASE AND SUBLEASE (this "Amendment") is entered into as of August 15, 2016, by and among Steven Held, as Trustee of the Christopher R. Held Irrevocable Trust ("Landlord"), Hardee's Restaurants LLC, a Delaware limited liability company, as successor in interest to Hardee's Food Systems, Inc., a North Carolina corporation ("Sublandlord"), Westar Foods, Inc., a Colorado corporation ("Subtenant"), and QUIKTRIP CORPORATION, an Oklahoma corporation ("QUIKTRIP").

WITNESSETH:

Ⓢ

WHEREAS, pursuant to that certain unrecorded Ground Lease dated February 21, 1990 (as amended from time to time, the "Ground Lease") by and between Landlord, as successor-in-interest to Stockyards Plaza Limited Partnership, a Nebraska limited partnership ("Stockyards Plaza LP"), as landlord, and Sublandlord, as tenant, whereby Landlord (i) leased to Sublandlord that certain real property legally described as Lot 1, in Stockyards Plaza II, an Addition to the City of Omaha, as surveyed, platted, and recorded in Douglas County, Nebraska (the "Leased Premises"), and (ii) granted Sublandlord a non-exclusive easement over and across the adjacent real property for parking, use of common areas, and ingress/egress, which adjacent real property was owned by Stockyards Plaza LP at the time of the execution of the Ground Lease and which is legally known as Lot 3, in Stockyards Plaza II, an Addition to the City of Omaha, as surveyed, platted, and recorded in Douglas County, Nebraska (the "Adjacent Premises").

WHEREAS, the Ground Lease was memorialized by that certain Memorandum of Lease executed by Landlord and Sublandlord and recorded on April 17, 1990 in Book 920, Page 281, Official Records, Douglas County, Nebraska (the "Lease Memorandum").

WHEREAS, pursuant to that certain unrecorded Sublease Agreement by and between Sublandlord, as sublandlord, and Subtenant, as subtenant, dated as of July 24, 2007 (the "Sublease"), Sublandlord subleased all of its rights to the Leased Premises and the Adjacent Premises, as set forth in the Ground Lease, to Subtenant, which Sublease was memorialized by that certain Memorandum of Sublease by and between Sublandlord and Subtenant dated July 24, 2007 and recorded on August 6, 2007 as Instrument No. 2007089348, Official Records, Douglas County, Nebraska (the "Sublease Memorandum").

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WHEREAS, QUIKTRIP is the current owner of the Adjacent Premises.

WHEREAS, the parties hereto wish to enter into this Amendment for the purposes of clarifying the terms and rights as set forth in the Ground Lease and Sublease, as memorialized in the Lease Memorandum and Sublease.

NOW, THEREFORE, in consideration of \$1.00 and other good and valuable consideration, the receipt and adequacy whereof are hereby acknowledged, the parties hereto agree as follows:

- (1) Any right of first refusal set forth in the Ground Lease and/or Sublease relates only to the Leased Premises, and not to the Adjacent Premises.
- (2) The terms of the Ground Lease and/or Sublease shall not be deemed to restrict the rights of QUIKTRIP, as the current owner of the Adjacent Premises, and/or any future owner of the Adjacent Premises, to modify and improvements and/or construct new improvements on the Adjacent Premises in any manner deemed advisable by QUIKTRIP and/or any future owner, in such owner's sole and absolute discretion, including, but not limited to, modifications/improvements made to the common areas, parking and/or easement areas, without the consent of Landlord, Sublandlord, and/or Subtenant; provided, however, that neither QUIKTRIP or any of its successors and assigns shall (i) erect any barrier or fence which would eliminate the flow of vehicular or pedestrian traffic from the Premises to the remainder of the shopping center or Adjacent Premises, (ii) nor modify the layout/configuration of the shaded areas shown on site plan attached hereto as Exhibit "A".
- (3) Except as set forth herein, the terms and conditions of the Lease Memorandum and the Sublease Memorandum shall remain in full force and effect.

[Remainder of Page Left Intentionally Blank; Execution Pages Follow.]

IN WITNESS WHEREOF, this Amendment has been duly executed the day and year first above written.

LANDLORD

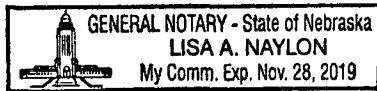
Steven Held, as Trustee of the Christopher R. Held Irrevocable Trust

SH
Steven Held, Trustee

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 1 day of Aug 2016, by Steven Held, Trustee of the Christopher R. Held Irrevocable Trust.

Lisa A. Naylor
Notary Public



Commission Expires: 11.28.19

SUBLANDLORD

Hardee's Restaurants LLC,
a Delaware limited liability company

By: *Kathy Steininger*
Name: **Kathy Steininger**
Its: **Vice President**
Real Estate Asset Management

STATE OF _____)
) ss.
COUNTY OF _____)

The above and foregoing instrument was acknowledged before me this ___ day of _____, 2016 by _____, the _____ of Hardee's Food Systems, Inc., a North Carolina corporation, on behalf of said corporation.

Notary Public
Commission Expires: _____

SEE ATTACHED

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

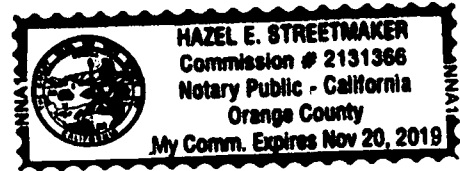
STATE OF CALIFORNIA }
COUNTY OF ORANGE }

On August 3, 2016 before me, Hazel E. Streetmaker, Notary Public, personally appeared Kathy Steininger, who 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/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Hazel E. Streetmaker (Seal)



QUIKTRIP

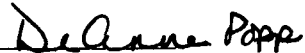
QUIKTRIP CORPORATION,
an Oklahoma corporation

By: 
Name: Jason Acord
Its: Division Real Estate Manager

STATE OF Kansas

COUNTY OF Johnson

This instrument was acknowledged before me on this 15th of August, 2016, by Jason Acord, to me personally known, who, being by me duly sworn, did say that he is the Division Real Estate Manager of QuikTrip Corporation and acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it voluntarily executed.


Notary Public

My Commission Expires:

8/07/2017



Exhibit "A"

Attached.

