

SUBORDINATION, NONDISTURBANCE AND ATTORNMENT AGREEMENT

THIS AGREEMENT made the 15th day of May, 2004, between BANCORP SOUTH BANK, having an office at 2909 13th Street, Gulfport, Mississippi 39501 (for notices) (the "Mortgagee"), and O'CHARLEY'S INC., an Tennessee corporation, having an address at 3038 Sidco Drive, Nashville, Tennessee, 37204 (for notices) (the "Tenant");

WITNESSETH:

WHEREAS the Tenant acknowledges that the Mortgagee is or will be the holder of record of one or more mortgages (collectively called the "Mortgage") against the property located at more 7880 Craft-Goodman, Olive Branch, Mississippi, and more particularly described on Schedule A to this Agreement (such property being called the "Real Estate");

WHEREAS the Tenant represents that it is the tenant of all or a portion of the Real Estate pursuant to a lease which is more particularly described on Schedule B to this Agreement, together with each amendment to such lease, if any (such lease, as amended, together with all other rights of the Tenant with respect to the Real Estate (or any part thereof or interest therein) being called the "Lease"); and

WHEREAS the Tenant has agreed to subordinate the Lease to the Mortgage and to the lien of the Mortgage, and the Mortgagee has agreed to grant nondisturbance to the Tenant under the Lease, subject to and on the terms and conditions set forth in this Agreement;

NOW THEREFORE, in consideration of Ten (\$10) Dollars and other good and valuable consideration, the receipt of which is hereby acknowledged, the Mortgagee and the Tenant hereby covenant and agree as follows:

1 Subordination of Lease. The Tenant agrees that the Lease, and all of the terms, covenants and provisions of the Lease, and all rights, remedies and options of the Tenant under the Lease, are, and shall at all times continue to be, subject and subordinate in all respects to: 1) the Mortgage, and 2) the lien and security interest of the Mortgage, and 3) each other document or instrument evidencing or securing all or any part of the indebtedness secured by the Mortgage (the Mortgage and each such other document or instrument being called the "Loan Documents"), and 4) each increase, renewal, modification, spreader, consolidation, replacement and extension of any Loan Document (each such increase, renewal, modification, spreader, consolidation, replacement and extension being called an "Amendment"), and 5) each sum secured by any Loan Document, as amended by each such Amendment, with the same force and effect as if the Mortgage and the other Loan Documents and Amendments had been executed, delivered and recorded both prior to the execution and delivery of the Lease and prior to the date on which the Tenant first took possession of any part of the Real Estate.

Indexing: Lot 4, Crossings at Olive Branch

Prepared by,
Record & Return to:
Page, Mannino, Peresich and McDermott
759 Vieux Marche Mall
Biloxi, MS 39530
Tel. 228.374.2100

2 Nondisturbance. Except as provided below, the Mortgagee agrees that if any action or proceeding is commenced by the Mortgagee to foreclose the Mortgage or to sell the Real Estate, the Tenant shall not be named as a party in any such action nor shall the Tenant be named a party in connection with any sale of the Real Estate, provided that at the time of the commencement of any such action or proceeding or at the time of any such sale (i) the Tenant shall be in possession of the premises leased pursuant to the Lease, (ii) the Lease shall be in full force and effect, and (iii) the Tenant shall not be in default under any of the terms, covenants or conditions of either the Lease or of this Agreement. Notwithstanding the above, if, pursuant to the preceding sentence, the Tenant is entitled not to be named as a party in any such sale, action or proceeding, but if, in connection with the enforcement of any right of the Mortgagee under any Loan Document or Amendment, the Mortgagee believes that it is necessary or desirable to name the Tenant as a party in any such action or proceeding, then the Mortgagee may do so, as long as the Mortgagee does not enforce any money judgment against the Tenant personally or terminate the Lease.

3 Attornment. The Tenant agrees that if 1) the Mortgagee, or 2) any successor in interest to the Mortgagee, or 3) any purchaser or grantee of the Real Estate (or any portion thereof subject to the Lease) (the Mortgagee, each such successor, and each such purchaser or grantee, being collectively called a "Transferee") shall become the owner of the Real Estate (or the portion thereof which is subject to the Lease) by reason of the foreclosure of the Mortgage or the acceptance of a deed or assignment in lieu of foreclosure of the Mortgage, or otherwise, then the Lease shall not be terminated or affected by such transfer to the Transferee, but shall continue in full force and effect as a direct lease between the Transferee and the Tenant upon all of the terms, covenants and conditions set forth in the Lease and in that event the Tenant agrees to attorn to the Transferee and the Transferee agrees to accept such attornment.

4 Representations and Warranties by Tenant. The Tenant hereby represents and warrants to the Mortgagee that as of the date hereof (i) the Tenant is the owner and holder of the tenant's interest under the Lease, (ii) a true and complete copy of the Lease is annexed hereto and made a part hereof as Schedule A and the Lease has not been modified or amended (except for any amendments which are annexed to Schedule A, (iii) the Lease is in full force and effect and the term thereof has commenced, pursuant to the provisions thereof, (iv) the Tenant has taken possession of the Leased Premises on a rent paying basis, (v) neither the Tenant nor the Landlord is in default under any of the terms, covenants or provisions of the Lease, and the Tenant to the best of its knowledge knows of no event which but for the passage of time or the giving of notice or both would constitute an event of default by the Tenant or the Landlord under the Lease, (vi) neither the Tenant nor the Landlord has commenced any action or given or received any notice for the purpose of terminating the Lease, (vii) all rents, additional rents and other sums due and payable under the Lease have been paid in full and no rents, additional rents or other sums payable under the Lease have been paid for more than one (1) month in advance of the due dates thereof, and (viii) there is no offset or defense to the payment of any rent, additional rent, or other sums payable under the Lease.

5 Covenants by Tenant. The Tenant shall not, without the prior written consent of the Mortgagee (i) enter into any agreement amending, modifying or terminating the Lease, (ii) prepay any of the rents, additional rents or other sums due under the Lease for more than one (1) month in advance of the due date thereof, (iii) voluntarily surrender the premises leased under the Lease or terminate the Lease without cause or shorten the term thereof, or (iv) assign the Lease or sublet the premises leased under the Lease or any part thereof. Any such amendment, modification,

termination, prepayment, voluntary surrender, assignment or subletting, without the prior written consent of the Mortgagee shall not be binding on the Mortgagee.

6 Notices. Any notice, request or demand given or made under this Agreement (each such notice, request, or demand being called a "Notice") shall be in writing and shall be hand delivered or sent by Federal Express or other reputable courier service or by postage prepaid registered or certified mail, return receipt requested. Each Notice which is given by the Tenant or the Mortgagee (the party giving the Notice is called the "Sending Party") to the other (such other party being called the "Receiving Party") shall be deemed given: (a) when received by the Receiving Party at its address set forth below, if such Notice is hand delivered or is sent by Federal Express (or other reputable courier service) to such address, and (b) three (3) business days after being postmarked and addressed to such Receiving Party at its address set forth below if sent by registered or certified mail, return receipt requested:

If to the Tenant: O'Charley's Inc.
3038 Sidco Drive
Nashville, Tennessee 37204
Attention: Director of Real Estate

If to the Mortgagee: BancorpSouth Bank
2909 13th Street
Gulfport, Mississippi 39501
Attention: James M. Ray, South Mississippi Region President

With a copy to: Page, Mannino, Peresich & McDermott, PLLC
759 Vieux Marche Mall
Biloxi, Mississippi 39530
Attention: Michael B. McDermott, Esquire

When the Sending Party gives a Notice to a Receiving Party, then such Sending Party will use reasonable efforts also to send a copy of such Notice to the address which immediately follows the address of the Receiving Party and is preceded by the legend "With a copy to." However, failure to deliver such copy or copies to any address which is immediately preceded by such legend shall have no consequence whatsoever to the effectiveness of any such Notice if it is nonetheless actually given as provided above to the Receiving Party. Each party to this Agreement may designate a change of address by Notice given, as provided in this Environmental Guarantee, to the other party fifteen (15) days prior to the date such change of address is to become effective.

7 Tenant's Obligation to Notify Transferee; Right to Cure. The Tenant shall notify the Transferee of any default by the Landlord under the Lease or any other circumstance which would entitle the Tenant to cancel or terminate the Lease or abate the rents, additional rents or other sums payable thereunder, and agrees that, notwithstanding any provisions of the Lease to the contrary, no notice of cancellation, termination or abatement thereof shall be effective unless the Transferee shall have received notice of the default or other circumstance giving rise to such cancellation, termination or abatement and shall have failed within sixty (60) days after receipt of such notice to cure such default or remedy such circumstance, or if such default cannot be cured within sixty (60) days, shall have failed within sixty (60) days after receipt of such notice to commence (and to thereafter diligently pursue) any action necessary to cure such default or remedy such circumstance, as the case may be.

8 Transferee Not Personally Liable. Anything in this Agreement or in the Lease to the contrary notwithstanding, in the event that any Transferee shall acquire title to the Real Estate, or shall otherwise acquire any rights of the Landlord under the Lease, then such Transferee shall have no personal obligation, nor incur any personal liability, with respect to the Real Estate or the Lease for acts done or obligations incurred prior to the date Transferee acquired title to the Real Estate.. The Transferee is hereby released or relieved of any other liability under this Agreement and under the Lease prior to such date.

9 Successors And Assigns. This Agreement shall be binding upon and inure to the benefit of the Mortgagee and the Tenant and their respective successors and assigns.

10 Definitions. Notwithstanding anything to the contrary in this Agreement, "Mortgagee," as used in this Agreement, includes the successors and assigns of the Mortgagee and any person, party or entity which shall become the owner of the Real Estate by reason of a foreclosure of the mortgage or the acceptance of a deed or assignment in lieu of foreclosure or otherwise. "Landlord" as used in this Agreement means and includes the present landlord under the Lease and such landlord's predecessors and successors in interest under the Lease. "Real Estate" as used in this Agreement means the Real Estate, the improvements now or hereafter located thereon and the estates therein encumbered by the Mortgage.

11 No Oral Changes. This Agreement may not be modified in any manner or terminated except by an instrument in writing executed by the parties to this Agreement.

12 Applicable Law. This Agreement shall be governed by and construed under the substantive laws of the State of Mississippi.

13 Headings Have No Legal Effect. The headings and captions of this Agreement are for convenience of reference only, and have no legal effect, and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions of this Agreement.

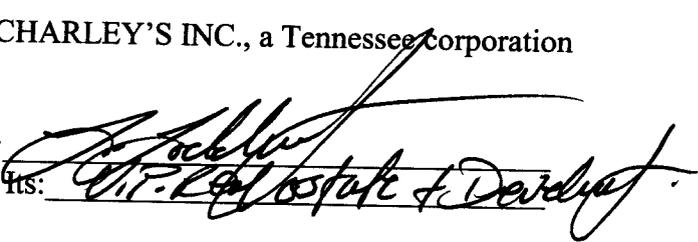
IN WITNESS WHEREOF, the Mortgagee and the Tenant have duly executed this Agreement as of the date first above written.

TENANT:

O'CHARLEY'S INC., a Tennessee corporation

By:

Its:

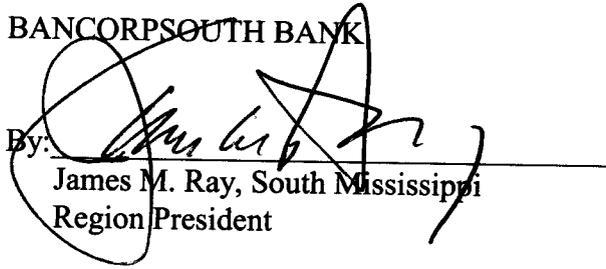


LENDER:

BANCORPSOUTH BANK

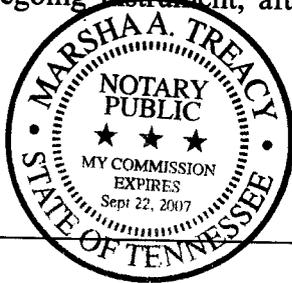
By:

James M. Ray, South Mississippi
Region President



STATE OF TENNESSEE
COUNTY OF DAVIDSON

Personally appeared before me, the undersigned authority in and for the said county and stated, on this 16th day of March, 2004, within my jurisdiction, the within named Les Lockhart, who acknowledged that he is Vice-President of Real Estate and Development of O'CHARLEY'S INC., a Tennessee corporation, and that for and on behalf of said corporation, and as its act and deed he executed the above and foregoing instrument, after first having been duly authorized by said corporation so to do.



Marsha A Treacy
NOTARY PUBLIC

My Commission Expires: _____

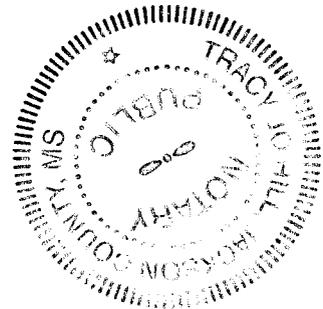
STATE OF MISSISSIPPI
COUNTY OF HARRISON

PERSONALLY appeared before me, the undersigned authority in and for the County and State aforesaid, on this 12th day of May, 2004, within my jurisdiction, the within named James M. Ray known to me to be the South Mississippi Region President of BANCORPSOUTH BANK, a state banking association organized and existing under the laws of the State of Mississippi, who acknowledged that he signed and delivered the foregoing instrument on the day and year therein mentioned, as the act and deed of said state banking institution, after first having been duly authorized in the premises.

Tracy J Hill
NOTARY PUBLIC

My Commission Expires: _____

NOTARY PUBLIC STATE OF MISSISSIPPI AT LARGE
MY COMMISSION EXPIRES: June 11, 2006
BONDED THRU NOTARY PUBLIC UNDERWRITERS



Schedule A

Description of Real Estate

Commencing at the Southwest corner of the Chili's parcel, Lot 6 of the Crossings At Olive Branch, as recorded in Deed Book 382 at Page 411, Desoto County, Mississippi; thence along a curve to the left having a radius of 4990.00 and a chord bearing North 49° 16'00" West and a chord length of 46.02 ft. to the Point of Beginning on the herein described parcel; thence along a curve to the left having a radius of 4984.00 ft. and a chord bearing of North 47° 11'21" West and a chord length of 315.40 ft.; thence run North 44° 44'27" East, 223.49 ft.; thence run South 45° 19'12" East, 265.73 ft.; thence run South 11° 23'09" East, 49.06 ft.; thence run along a curve to the left having a radius of 91.00 ft. and a chord bearing of South 55° 35'21" West and a chord length of 32.51 ft.; thence run South 39° 36'29" West, 51.13 ft.; thence run South 38° 59'28" West, 103.48 ft. to the Point of Beginning, containing 1.53 acres, more or less.

Schedule B

Description of Lease

Ground Lease Agreement dated effective as of November 18, 2002 by and between Bolton Properties, LLC and thereafter assigned to Orange Grove Utilities, Inc., ("Landlord") by virtue of an Assignment and Assumption of Ground Lease Agreement dated effective March 17, 2003, and O'Charley's, Inc., a Tennessee Corporation ("O'Charley's").