

WHEN RECORDED MAIL TO:

City Clerk  
City of Riverside  
City Hall, 3900 Main Street  
Riverside, California 92522



Project: Zoning Case CU-052-990

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COVENANT AND AGREEMENT  
ESTABLISHING EASEMENTS FOR INGRESS, EGRESS AND PARKING



THIS COVENANT AND AGREEMENT is made and entered into this 21st day of August 2001, by and between **Great Circle Family Foods, LLC**, a California Limited Liability Company, dba Krispy Kreme Doughnuts ("Parcel 1 Owner"), and **YTK CHICAGO, LLC**, a California limited liability company ("Parcel 2 Owner") with reference to the following facts:

A. Parcel 1 Owner is currently the owner of that certain real property commonly known as 1616 University Avenue, located in the City of Riverside, State of California, ("Parcel 1") which legal description is attached hereto as Exhibit "A" and made a part hereof.

B. Parcel 2 Owner is currently the owner of that certain real property commonly known as 3868 Chicago Avenue, located in the City of Riverside, State of California, ("Parcel 2") which legal description is attached hereto as Exhibit "B" and made a part hereof.

C. Parcel 1 and Parcel 2 are contiguous parcels of land, and are hereinafter collectively referred to as the "Property." Parcel 1 Owner and Parcel 2 Owner, their respective successors and assigns may be collectively referred to as "Parties."

D. Parcel 1 consists of approximately 1.15 acres located at 1616 University Avenue, Riverside, California. Parcel 1 Owner has filed an application with the Planning Department of the City of Riverside as Zoning Case No. CU-052-990 for Parcel 1.

E. As a condition to the approval of the conditional use permit in Zoning Case CU-052-990, Parcel 1 Owner is required to submit documentation to assure mutual access for ingress, egress, and parking across the Property.

F. Parcel 1 Owner intends by this document to comply with the condition above noted, and to impose upon the Property mutually beneficial restrictions, conditions, covenants and agreements for the benefit of the Property and the improvements constructed thereon or to be constructed thereon, and the future owners of each of the Parcels of the Property, and for the same purpose to grant and reserve easements over portions of the Property.

1. Definitions. In addition to the definitions hereinbefore set forth, the following words or phrases when used in this Covenant and Agreement (except when the context otherwise requires) shall have the following definitions:

(a) "Building Areas" shall mean those areas on each Parcel of the Property upon which buildings have been or are to be constructed pursuant to plans approved by the City and building permits issued therefor. Building Areas shall include landscaped areas.

(b) "Common Area" shall mean all the area of Parcels 1 and 2 **excluding** Building Areas (including landscaped areas).

(c) "Exclusive Parking Spaces" shall mean those parking spaces on a Parcel set-aside for the exclusive use of one or more of the uses on any Parcel of the Property.

(d) "Party" shall mean any person, whether an individual, corporation, association or otherwise, in which title to a Parcel is vested, as shown by the Official Records of Riverside County, California. If more than one person is Party of a Parcel, then all such persons shall be jointly and severally liable for all obligations herein.

(e) "Parcel 1" or "Parcel 2" shall mean the Parcel or Parcels of the Property hereinabove described.

2. Establishment of Easements for Ingress, Egress and Parking. Parties hereby establish, grant and reserve nonexclusive easements for parking, vehicular and pedestrian ingress and egress over, along, under and across the Common Areas of each Parcel of the Property (as said Parcel 1 and Parcel 2 now exist or may hereinafter be reconfigured or divided), designated as driveway and parking areas (other than Exclusive Parking Spaces) on the plans for the development of Parcel 1 and as currently exist on Parcel 2 of the Property as have been or may hereafter be approved by the City, for the use and benefit of and as an easement appurtenant to the Property (as Parcel 1 and 2 now exist or as each Parcel may hereinafter be reconfigured or divided); and

The easements herein established shall be and are for ingress, egress, and parking of motor vehicles, and the installation, construction, maintenance, repair, replacement, and use of driveways and parking spaces.

3. Construction of Common Access Driveway. Parcel 1 Owner, at Parcel 1 Owner's own expense has constructed all necessary curbing, paving and other work necessary to construct



a 30-foot long and 10-foot wide common driveway between Parcel 1 and Parcel 2 as depicted on Exhibit "C" and referred to as "Common Access Driveway".

4. Maintenance and Repair of Common Access Driveway. Parcel 1 Owner agrees to maintain the Common Access Driveway in good condition at all times, and to make all necessary repairs to the Common Access Driveway. Any maintenance, repair, replacement or construction work by Parcel 1 Owner shall be performed subject to the following terms and conditions:

(a) Parcel 1 Owner shall provide Parcel 2 Owner with at least 24 hours advance notice of intention to perform any work on the Common Access Driveway; provided, however, in the event of an emergency where serious loss will occur if such work is not performed immediately, Parcel 1 Owner need not provide such notice;

(b) All work performed by Parcel 1 Owner shall be performed in a manner which minimizes disruption and interference with Parcel 2 Owner's operations (or those of any entity in possession of any portion of Parcel 2) on Parcel 2;

(c) All work performed by Parcel 1 Owner shall be performed in a competent and workman-like manner in compliance with all applicable laws, ordinances, codes, rules and regulations;

(d) After performing any work, Parcel 1 Owner shall restore the Common Access Driveway to the condition that prevailed immediately prior to Parcel 1 Owner's work; and

(e) All entities who perform any work on the Common Access Driveway shall carry appropriate policies of insurance protecting Parcel 1 Owner and Parcel 2 Owner against loss or liability arising out of such work. Parcel 1 Owner agrees to indemnify, defend and hold Parcel 2 Owner harmless from and against any and all costs, losses, liability, damages or expenses (including reasonable attorney's fees and court costs arising out of Parcel 1 Owner's work on the Common Access Driveway).

4. Exclusive Parking Spaces. Parties may establish Exclusive Parking Spaces for the use and benefit of the uses on that Parcel of the Property which is within that Parcel Owner's control.

5. Barriers. Parties shall not construct, erect, install, maintain or permit the construction, erection, installation or maintenance of any barrier, barricade, wall, or fence between the Parcels of the Property which would preclude or interfere with the use of the Common Access Driveway, other driveways or parking spaces by the Owners, residents, occupants and invitees of Parcel 1 and Parcel 2; provided, however, nothing herein shall prevent the installation, construction or maintenance of necessary traffic control devices.

6. Future Development and Relocation of Easements. Nothing herein shall be deemed a limitation on any future development of either of the Parcels of the Property, and the Owner of a Parcel shall be allowed to redesign the site plan for such Parcel including the relocation or elimination of driveways and/or parking areas on such Parcel as may be necessary for such future development, subject to the approval of the City; provided that appropriate access to the adjoining public streets and the necessary number of parking spaces then required by the Zoning Code of the City for the use on each Parcel is accommodated.



7. Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Common Area to the general public or for the general public or for any public purpose whatsoever, it being the intention of the Parties that this document shall be strictly limited to and for the purposes herein expressed. The right of the public or any person to make use whatsoever of the Common Area of the Property, or any portion thereof (other than any use expressly allowed by a written or recorded map, agreement, deed or dedication) is solely by permission, and subject to the control of the Parties. Notwithstanding any other provision herein to the contrary, Parties may periodically restrict ingress and egress on the driveway and parking areas of the Common Area in order to prevent a prescriptive easement from arising by reason of continued public use. Any restriction on ingress or egress shall be limited to the minimum period necessary to prevent the creation of a prescriptive easement and shall occur at such time as to have a minimum effect on the Parties.

8. Non-Merger. This Covenant and Agreement shall not be subject to the doctrine of merger, even though the underlying fee ownership of the Property described herein is or may be vested in one party or entity.

9. Effect of Covenant and Agreement. Any person who now or hereafter owns or acquires any right, title or interest in or to any Parcel of the Property shall be deemed (a) to have consented and agreed to every covenant, condition, restriction and easement contained herein; and (b) to have been granted and be subject to each of the applicable easements described hereinabove, whether or not any reference to this Covenant and Agreement is contained in the instrument by which such person acquired an interest in the Property.

10. Mutuality, Reciprocity, Run With Land. All of the provisions contained herein are made for the direct, mutual and reciprocal benefit of Parcel 1 and Parcel 2 of the Property and create mutual, equitable servitude upon each parcel as the servient tenement in favor of each parcel as the dominant tenement and create reciprocal rights obligations among the respective Parties and privity of contract and estate among all grantees of the parcels, their successors and assigns in interest. In addition, each of the provisions hereof shall operate as covenants running with the land for the benefit of the Property and each parcel thereof and shall inure to the benefit of all Parties thereof, their successors and assigns in interest, and shall apply to and bind each successive owner of each parcel, their successors and assigns in interest.

11. Enforcement; Attorneys' Fees. The terms of this Covenant and Agreement may be enforced by the City, its successors and assigns and by any Owner, lessee or tenant of any Parcel of the Property. Should the City or any Owner, lessee or tenant bring an action to enforce the terms of this Covenant and Agreement, the prevailing party shall be entitled to reimbursement for the reasonable costs of litigation, including fees of experts and attorneys. This provision applies to proceedings in bankruptcy, including attempts to obtain relief from stay or to obtain reasonable attorneys' fees as fixed by the court.

12. Termination and Modification. Subject to the prior written approval of the City and Parties, any provision contained herein, may be altered, amended or modified as to all of the Property or any portion thereof, upon the written consent of all Parties. No such amendment, modification or alteration shall be effective until there shall be executed, acknowledged and



recorded in the Office of the Recorder of Riverside County, California, an appropriate instrument evidencing the same including the consent of the Planning Director of City.

IN WITNESS WHEREOF Declarant has caused this Covenant and Agreement to be executed the day and year first above written.

Dated: 8-21-01

**GREAT CIRCLE FAMILY FOODS, LLC**  
a California Limited Liability Company,  
dba Krispy Kreme Doughnuts

By: *Richard G. Reimis*  
Richard G. Reimis  
[Printed Name]  
CEO  
[Title]

Dated: 10-12-01

**YTK CHICAGO, LLC**  
a California limited liability company

By: *Yong B. Kim*  
Yong B. Kim, Manager

Approved as to Content:

*Diane Jenkins*  
Planning Department

"OFFICIAL SEAL"  
HOLLY KOHLMEIER  
NOTARY PUBLIC—STATE OF ILLINOIS  
MADISON COUNTY, IL  
MY COMMISSION EXPIRES AUG. 24, 2005

*Holly Kohlmeier*

10/11/01

Approved as to Form:

*Kathleen M. Anzue*  
Assistant City Attorney

OFFICIAL SEAL  
LINDA BAILLY  
NOTARY PUBLIC STATE OF ILLINOIS  
MADISON COUNTY  
My Commission Expires 04-01-2003

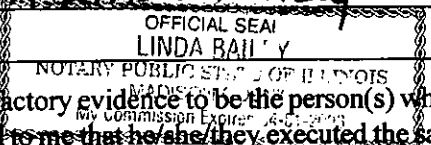
*Linda Bailly* 10/12/01



ACKNOWLEDGMENT

STATE OF ~~TEXAS~~ ILLINOIS )  
 ) ss:  
COUNTY OF MADISON )

On October 12, 2001, before me, Yang B Kim Linda Bailey  
Notary Public, personally appeared Yang B Kim



personally known to me or  proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Linda Bailey  
Signature



**ILLEGIBLE NOTARY SEAL DECLARATION  
(GOVERNMENT CODE 27361.7)**

I certify under penalty of perjury that the notary seal on the document to which this statement is attached reads as follows:

Name of Notary Hinda Bailey

Commission No. 21A

Date Commission Expires 04/01/03

Date and Place of Notary Execution 10/2/01, Illinois

Date and Place of This Declaration 3/19/02, Riverside

[Handwritten Signature]  
Signature

City of Riverside, Redevelopment  
Firm Name (if any)



# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

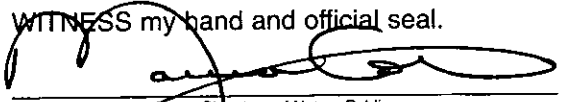
State of California  
County of Los Angeles } ss.

On 8/21/01, before me, Marcia Cox - Notary Public,  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")  
personally appeared Richard Reinis,  
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.  
  
Signature of Notary Public

Place Notary Seal Above

## OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

### Description of Attached Document

Title or Type of Document: Covenant and Agreement Establishing Easements for Ingress, Egress and Parking

Document Date: 8/01 Number of Pages: 8

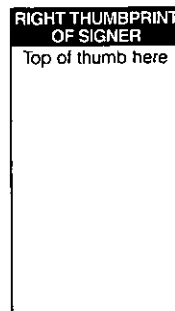
Signer(s) Other Than Named Above: \_\_\_\_\_

### Capacity(ies) Claimed by Signer

Signer's Name: Richard Reinis

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_



CIA 764

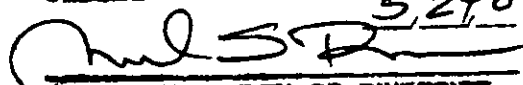


EXHIBIT "A"

LEGAL DESCRIPTION OF PARCEL 1

That portion of Lot 1 in Block 1 of the Subdivision of Section 30, Township 2 South, Range 4 West, San Bernardino Meridian, in the City of Riverside, County of Riverside, State of California as per map recorded in Book 2 Page 37 of Maps in the Office of the County Recorder of said County described as follows:

Beginning at the northeast corner of said Lot 1; Thence westerly, on the southerly line of Eighth Street, 300 feet; Thence southerly parallel with the easterly line of Chicago Avenue, 168 feet; Thence easterly, parallel with the southerly line of Eighth Street, 300 feet to the easterly line of said Lot; Thence northerly, along the easterly line of said lot, 168 feet to the point of beginning.

DESCRIPTION APPROVAL: 5,2401  
  
SURVEYOR CITY OF RIVERSIDE

COPY

EXHIBIT "A"



2002-140023  
03/19/2002 08 00A  
9 of 10

C/A 764


EXHIBIT "B"

LEGAL DESCRIPTION OF PARCEL 2

- (1) Parcel 2 of Amended Parcel Map No. 10975, in the City of Riverside, County of Riverside, State of California, as Per Map Recorded in Book 57, Pages 12 and 13 of Parcel Maps, in the Office of the County Recorder of said County.
- (2) Parcel 1 of Parcel Map No. 11375, in the City of Riverside, County of Riverside, State of California, as per map recorded in Book 65, Pages 14 and 15 of Parcel Maps, in the Office of the County Recorder of said County.

A Certificate of Parcel Merger was recorded April 26, 1982 as Instrument No. 70386, Official Records.

DESCRIPTION APPROVAL

*5, 24, 01*  
  
 SURVEYOR, CITY OF RIVERSIDE

COPY

EXHIBIT "B"



2002-140023  
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