

WHEN RECORDED RETURN TO:
Mountain West Small Business Finance
2595 East 3300 South
Salt Lake City, Utah 84109

5-090037
10-00-454-023

12128735
9/9/2015 9:05:00 AM \$16.00
Book - 10360 Pg - 27-30
Gary W. Ott
Recorder, Salt Lake County, UT
BACKMAN TITLE SERVICES
BY: eCASH, DEPUTY - EF 4 P.

Real Estate Lease Subordination Agreement and Assignment of Rents

This Subordination Agreement is entered into by:

VIAL FOTHERINGHAM LLP

("Lessee") for the benefit of Mountain West Small Business Finance ("MWSBF") and its successor in interest, the Small Business Administration ("SBA").

RECITALS

A. Lessee has heretofore leased from:

THIRD SOUTH LLC

("Lessor") by lease dated January 5, 2015 for a term of twenty years (the "Lease") certain real and personal property described in SBA Loan Authorization, SBA 504 No.: 73843650-05 (the "Leased Premises") known as:

515 South 400 East, Salt Lake City, UT 84111

located in the County of Salt Lake, State of Utah and described as follows:

See Exhibit "A" which is attached hereto and incorporated herein by this reference.

B. MWSBF and the SBA have authorized the making of an SBA 504 Loan, Loan No. 73843650-05, to Lessor in the amount of \$ 720,000.00, due and payable on or before a time to be determined by the U.S. Secretary of the Treasury (the "Loan").

C. The Loan is for the benefit of both Lessee and Lessor, in that the funds are to be used for the benefit of the business conducted on the Leased Premises purchased and/or renovated by Loan proceeds.

D. A condition of the Loan is that the Lease be subordinated to the lien of a trust deed executed by Lessor and recorded as a lien superior to the Lease.

AGREEMENT

NOW, THEREFORE, in consideration of disbursement of the Loan or any part thereof, and for other good and valuable consideration the receipt and legal sufficiency of which are hereby acknowledged, Lessee covenants and agrees as follows:

1. No Default. Lessee is not now in default in the performance of the Lease; and Lessee will perform the covenants and conditions required of is by the Lease for the term of the Loan and any extensions or renewals of it.

2. Subordination of Lease. All rights under the Lease together with any and all right, interest, estate, title, lien, or charge against or respecting the Leased Premises (or any portion thereof) by virtue of the Lease, shall be and the same are hereby made subject, subordinate, inferior, and junior to the lien and title of MWSBF and the SBA represented by the SBA Note in the amount of \$ 720,000.00 and security instruments related to the Loan, including without limitation the Promissory Note, Deed of Trust, Security Agreement and UCC Financing Statements (filed with the Uniform Commercial Code Division for the State of Utah and as fixture filings in Salt Lake County, Utah) (the "Loan Documents") and to all rights, powers, title, and authority of MWSBF and the SBA under or in any way related to or arising out of the Loan Documents and to all sums heretofore or hereafter advanced on the security of the Loan Documents or any of them, including all sums advanced or costs incurred as fees, expenses, disbursements, or charges in connection with the Loan Documents or the Loan. The Lease Rights, together with any and all right, interest, estate, title, lien, or charge against or respecting the Leased Premises (or any portion thereof) by virtue of the Lease, are hereby subordinated to the Loan Documents the same and as fully as if the Loan Documents had been executed, delivered and, where appropriate, filed, prior to execution, delivery and filing of the Lease.

3. Assignment of Rents. The undersigned Lessee, for and in consideration of the moneys lent pursuant to the aforesaid note and other valuable consideration, receipt of which is hereby acknowledged, assign, transfer, and set over to CDC/SBA all sub-leases, including rents, profits, and income derived from the real estate and the building and improvements thereon, the full and complete right in SBA, in case of default in the payment of the indebtedness or any part thereof or failure to comply with any of the terms or conditions of the Note, Deed of Trust and Loan Agreements, as its assignee, to demand, collect, receive, and receipt for such rents, income and profits, to take possession of the premises and all leaseholds without having a receiver appointed therefore, to rent and manage the same from time to time and apply the net proceeds of the rents, income, and profits from the property on the indebtedness until all delinquencies, advances, and the indebtedness are paid in full by the application of the rents, or until title, is obtained through foreclosure otherwise.

4. This Agreement shall be binding upon and inure to the benefit of the personal representatives, successors and assigns of the parties hereto.

DATED August 11, 2015

LESSEE:

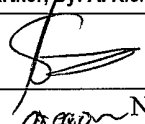
VIAL FOTHERINGHAM LLP

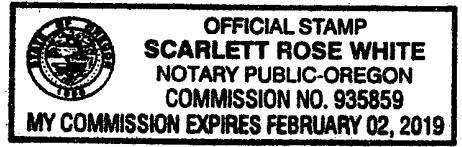

By: A.R. VIAL ASSOCIATES, P.C., Partner, By: A. Richard Vial, President

LEASE SUBORDINATION NOTARY PAGE

STATE OF Oregon)
)
) :ss.
)
COUNTY OF Multnomah)

The foregoing instrument was acknowledged before me this 17th day of August 2015
by A.R. VIAL ASSOCIATES, P.C., Partner, By: A. Richard Vial, President
VIAL FOTHERINGHAM LLP


Notary Public



Order No.: 5-090037

EXHIBIT "A"

LEGAL DESCRIPTION

Parcel 1:

Beginning at a point on the West line of Lot 5, and the East line of 400 East Street, said point being South 00°01'50" East 90.00 feet from the Northwest corner of Lot 5, Block 23, Plat "B", Salt Lake City Survey, and running thence North 89°57'37" East 97.24 feet; thence along the West face of an existing wall South 00°03'19" East 132.75 feet; thence South 89°57'37" West 97.30 feet; thence North 00°01'50" West 132.75 feet to the point of beginning.

Parcel 2:

Together with the appurtenant rights, terms and conditions as set forth in that certain Declaration of Easements and Covenants for joint use of parking terrace, recorded March 28, 1979 as Entry No. 3256391 in Book 4835 at Page 697 of Official Records.

Parcel No.: **16-06-454-023**