

Ent 133641 Bk 994 Pg 851 - 859
Date: 11-Apr-2017 10:06:30AM
Fee: \$26.00 Check Filed By :IH
DAVID O CARPENTER, Recorder
SAN JUAN COUNTY CORPORATION
For: FIRST AMERICAN TITLE INSURANCE

When recorded mail to:

America First Credit union
Commercial Real Estate Department
4646 South 1500 West, Suite 130
Riverdale, UT 84405
Attn: Robin Bruner

APN: B00980000020

File No. NCS-832218-A-ai

SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT

STATE OF UTAH

SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT

COUNTY OF SAN JUAN

THIS AGREEMENT made and entered into this 5 day of April, 2017, by and among **O.K. RENTALS IDAHO LLC**, whose address is: 6616 West 10760 North, Highland, Utah 84003, ("Landlord"), **AMERICAN FIRST CREDIT UNION**, whose address is: PO Box 9199, Ogden, Utah 84409, ("Lender"), and **FAMILY DOLLAR, INC.**, a North Carolina corporation, whose address is: Post Office Box 1017, Charlotte, North Carolina 28201-1017, ("Tenant");

WITNESSETH:

A. Tenant entered into Lease Agreement dated June 29, 2005, as modified by Letter Agreement dated July 3, 2012 (the "Lease") with Landlord for premises located at 742 South Main Street, in the City of Blanding, County of San Juan, State of Utah, demised to Tenant (the "Demised Premises") as shown on the site plan attached as Exhibit B to the Lease which is incorporated herein by reference.

B. Lender intends to make a loan to Landlord to be secured by a mortgage or deed of trust (the "Mortgage") on the demised premises.

C. Tenant and Lender desire to confirm their agreement with respect to the Lease and the Mortgage.

NOW, THEREFORE, in consideration of the premises and the mutual covenants set forth below and other good and valuable consideration, the parties hereto agree as follows:

1. The Lease is and shall be subordinate to the lien of the Mortgage and to all renewals, modifications and extensions thereof subject to the terms of this Agreement.
2. So long as Tenant is not in default (beyond any period given Tenant to cure such default) in the payment of rent or in the performance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed, the nonperformance of which would entitle Landlord to terminate the Lease, (i) Tenant's possession of the demised premises and Tenant's rights and privileges under the Lease, and any extensions or renewals thereof or acquisition of additional space which may be effected in accordance with any option therefore in the Lease, shall not be diminished or interfered with by Lender in the exercise of any of its rights under the Mortgage, (ii) Tenant's occupancy of the demised premises shall not be disturbed by Lender in the exercise of any of its rights under the Mortgage during the term of the Lease or any such extensions or renewals thereof, and (iii) Lender will not join Tenant as a party defendant in any action or proceeding for the purpose of terminating Tenant's interest and estate under the Lease because of any default under the Mortgage.

3. If the interest of Landlord shall be acquired by Lender or by anyone claiming an interest in the Demised Premises by or through Lender including any purchaser at a foreclosure sale ("Successor Landlord") by reason of foreclosure of the Mortgage or other proceedings brought to enforce the rights of Lender or by deed in lieu of foreclosure, then Tenant and Lender or such Successor Landlord shall be bound to each other under all of the terms of the Lease for the balance of the term thereof remaining including any extensions or renewals thereof elected by Tenant, with the same force and effect as if Lender or such Successor Landlord were the Landlord under the Lease and Tenant hereby attorns to Lender or such Successor Landlord as the Landlord under the Lease, such attornment to be automatically effective without the execution of any further instrument. Notwithstanding the foregoing, Tenant shall be under no obligation to pay rent to Lender or to such Successor Landlord until Tenant has received written notice from Lender or such Successor Landlord that it has acquired the interest of the Landlord in the Demised Premises, which notice shall be accompanied by reasonable documentation evidencing such acquisition. The respective rights and obligations of Tenant and Lender or such Successor Landlord upon such attornment shall be as set forth in the Lease, including Tenant's right to such rent credits, if any, for leasehold improvements as are described in the Lease, it being the intention of the parties for this purpose to incorporate the Lease in this agreement by reference with the same force and effect as if set forth at length herein.

4. Landlord hereby agrees that if Lender notifies Tenant that Lender is entitled to receive the rent and/or any other payments including reimbursements, if any, due under the Lease pursuant to an Assignment of Rents or any other instrument or agreement signed by Landlord, then Tenant will be entitled to comply with said instrument upon being furnished a copy of it by Landlord or Lender, and Tenant may rely on any assertion by Lender that Lender is entitled to receive the rents (and if applicable, other payments due under the Lease), whether due to Landlord's default under the Mortgage, or otherwise, and Tenant will have no obligation to make any independent determination as to whether the assertions of Lender are true. Any rent or other sums paid to Lender upon Lender's demand shall be deemed to be payments to Landlord pursuant to the Lease.

5. This Agreement will automatically expire upon the occurrence of either of the following: (i) The term of the Lease will expire or the Lease shall be terminated, or (ii) the loan secured by the Mortgage will be paid in full by the Landlord such that neither Lender nor anyone claiming by or through Lender has an interest in the Demised Premises and the Mortgage will be released of record.

6. This Agreement may not be cancelled or modified except by an agreement in writing signed by Lender and Tenant or their respective successors. This Agreement is contingent upon full execution by all parties, with a fully executed copy returned to Tenant within thirty (30) days of the date hereinabove written. In the event a fully executed copy has not been returned to Tenant within said period, Tenant's execution hereon shall be considered revoked and this Agreement shall be null and void and of no further force or effect as to Tenant.

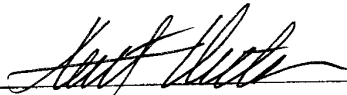
7. This Agreement and the rights and obligations hereunder of the Landlord, Tenant, and Lender will bind and inure to the benefit of their respective heirs, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly signed and sealed.

Witness:

LANDLORD
O.K. RENTALS IDAHO LLC

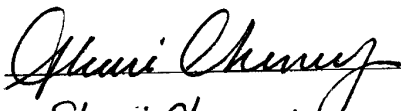
Vas Eugene Oeller

By:  4.3.17
Name: Kurt Oster
Title: member / Mgn.

Attest:

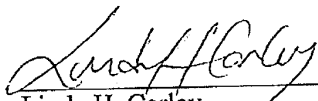
LENDER
AMERICA FIRST CREDIT UNION

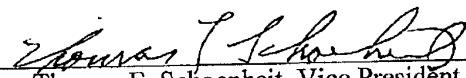
Secretary

By: 
Name: Shari Cheney
Title: Manager

ATTEST:

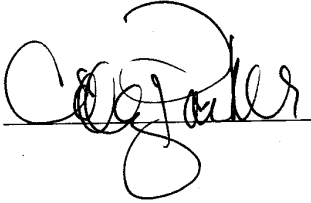
TENANT
FAMILY DOLLAR, INC.
A North Carolina corporation


Linde H. Carley
Assistant Secretary

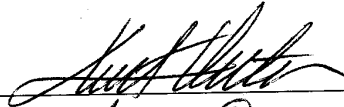
By: 
Thomas E. Schoenheit, Vice President

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly signed and sealed.

Witness:



LANDLORD
O.K. RENTALS IDAHO LLC

By:  4.5.17 -
Name: Kurt Oster
Title: Member / Mgr -

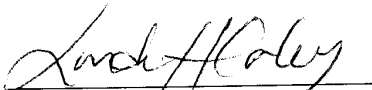
Attest:

Secretary

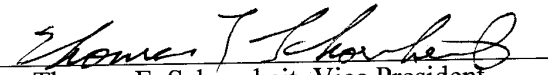
LENDER
AMERICA FIRST CREDIT UNION

By: _____
Name: _____
Title: _____

ATTEST:


Linde H. Carley
Assistant Secretary

TENANT
FAMILY DOLLAR, INC.
A North Carolina corporation

By: 
Thomas E. Schoenheit, Vice President

STATE OF Utah

NOTARY

COUNTY Salt Lake

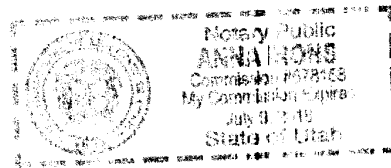
I, Anna Dean, a Notary Public in and for the aforesaid State and County, do hereby certify that Kurt Oester personally appeared before me this day and that by the authority duly given and on behalf of **O.K. RENTALS IDAHO LLC**, acknowledged the foregoing instrument was signed and executed by them for the purposes therein expressed.

WITNESS my hand and notarial seal this the 3 day of April, 2017.

Anna Dean
Salt Lake, Notary Public

My Commission Expires:

7-9-2018



NOTARY

STATE OF Utah

COUNTY OF Weber

I, Jill Ulm, a Notary Public in and for the aforesaid State and County, do hereby certify that Shari Cheney personally appeared before me this day and that by the authority duly given and on behalf of **AMERICA FIRST CREDIT UNION**, acknowledged the foregoing instrument was signed and executed by them for the purposes therein expressed.

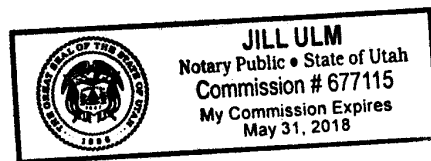
WITNESS my hand and notarial seal this the 4 day of April, 2017.

Jill Ulm
Jill Ulm, Notary Public

My Commission Expires:

May 31, 2018

FDS#7063; Blanding, UT



STATE OF UTAH

NOTARY

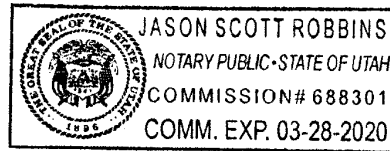
COUNTY UTAH

I, JASON SCOTT ROBBINS, a Notary Public in and for the aforesaid State and County, do hereby certify that KURT OSTLER personally appeared before me this day and that by the authority duly given and on behalf of **O.K. RENTALS IDAHO LLC**, acknowledged the foregoing instrument was signed and executed by them for the purposes therein expressed.

WITNESS my hand and notarial seal this the 5 day of APRIL, 2017.

[Signature], Notary Public

My Commission Expires: 03-28-2020



STATE OF _____

NOTARY

COUNTY OF _____

I, _____, a Notary Public in and for the aforesaid State and County, do hereby certify that _____ personally appeared before me this day and that by the authority duly given and on behalf of **AMERICA FIRST CREDIT UNION**, acknowledged the foregoing instrument was signed and executed by them for the purposes therein expressed.

WITNESS my hand and notarial seal this the _____ day of _____, 2017.

_____, Notary Public

My Commission Expires:

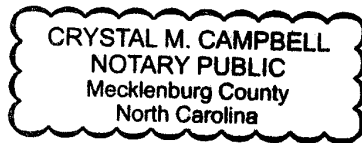
STATE OF NORTH CAROLINA

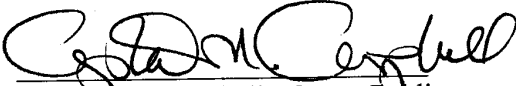
NOTARY

COUNTY OF MECKLENBURG

I, Crystal M. Campbell, a Notary Public in and for the aforesaid State and County, do hereby certify that **THOMAS E. SCHOENHEIT** and **LINDE H. CARLEY**, Vice President and Assistant Secretary, respectively, of **FAMILY DOLLAR, INC.**, a North Carolina corporation, personally appeared before me this day and that by the authority duly given and as the act of the corporation, the foregoing instrument was signed and executed by them for the purposes therein expressed.

WITNESS my hand and notarial seal this the 16 day of March, 2017.




Crystal M. Campbell, Notary Public

My Commission Expires:
January 6, 2018

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EXHIBIT 'A'

File No.: **832218-A (ami)**
Property: **810 South Main Street, Blanding, UT 84511**

04/11/2017

LOT 2, RED ROCK SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SAN JUAN COUNTY RECORDER'S OFFICE.

**TOGETHER WITH AN ACCESS EASEMENT FOR ACCESS ONTO UTAH STATE ROAD (SR-191) ALSO KNOWN AS MAIN STREET AS DESCRIBED IN THAT CERTAIN DECLARATION OF ACCESS EASEMENT RECORDED MAY 27, 2008, AS ENTRY NO. 103005, IN BOOK 892, AT PAGE 429 OF OFFICIAL RECORDS.
A.P.N. B00980000020**

Initials: _____