

E 161297 B 392 P 1348
Date 21-Jun-2022 02:55PM
Fee: \$40.00 ACH
Filed By: JP
BRENDA NELSON, Recorder
MORGAN COUNTY
For: COTTONWOOD TITLE INSURANCE AGENCY,
Recorded Electronically by Simplifile

RECORDING REQUEST BY AND
WHEN RECORDED RETURN TO:

First Community Bank Utah
1601 N Hill Field RD,
Layton, UT 84041
Loan #4904220002445

SUBORDINATION, ATTORNMEN AND NON-DISTURBANCE AGREEMENT

Tax ID: 00-0004-4998
Serial No: 05-406

157720-DWP

This Subordination, Attornment and Non-Disturbance Agreement ("Agreement") is made as of June 13, 2022, by and among Arden Limited Partnership, whose address is 1236 S Highway 66, Morgan, Utah 84050 ("Landlord"); and Adam Walker and Shauna Walker, whose address is unknown (Tenant"); and First Community Bank Utah, Division of Glacier Bank, whose address is 12 South Main St., Layton, UT 84041 ("Beneficiary").

R E C I T A L S:

1. Landlord and Tenant entered into a written lease agreement dated February 8, 2016 (the "Lease") with respect to that certain real property located at 167 N. Commercial St., Morgan UT 84050 and more particularly described here in (the "Property") a portion of which constitutes the leased premises (the "Leased Premises"), for the term and on the conditions set forth in the Lease. Substantially concurrent with the execution and the recording of this Agreement, Original Landlord has conveyed the Property to Landlord and has assigned the entire lessor's interest in the Lease to Landlord.

A. Landlord has executed, is executing or will execute a Deed of Trust, Assignment of Leases and Rents, Security Agreement, Financing Statement and Fixture Filing ("Deed of Trust") covering Landlord's fee interest in the Property in favor of Beneficiary to secure a Promissory Note ("Note") dated on or about the date of this Agreement, in favor of Beneficiary.

B. For the purpose of complying with the provisions of the Note, and Deed of Trust, and for the reliance of Beneficiary, the parties desire to expressly subordinate the Lease to the lien of the Deed of Trust.

A G R E E M E N T:

NOW, THEREFORE, in consideration of the covenants herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. No agreement between Landlord and Tenant amending, extending, modifying, or terminating the Lease, or any provision thereof including without limitation the amount or timing of rent due or becoming due thereunder, or surrendering the Leased Premises, shall be effective without the prior written consent of Beneficiary, nor shall Tenant prepay rent without the prior written consent of Beneficiary.

2. Tenant hereby absolutely and unconditionally subordinates its leasehold interest in the Property and all of Tenant's rights under the Lease to the Deed of Trust and to all extensions, renewals, modifications, consolidations and replacements of the Note and Deed of Trust, and all advances made or to be made thereunder, to the full extent of all obligations secured by the Deed of Trust; and the Deed of Trust shall unconditionally be and at all times remain a lien or charge on the Property, prior to and superior to the Lease and leasehold interest of Tenant.

3. So long as the Lease is in full force and effect and Tenant is not in default (beyond any period given Tenant by the terms of the Lease to cure such default) in the payment of rent, or in the performance of any of the obligations, terms, covenant or conditions of the Lease to be performed on Tenant's part, Tenant's rights under the Lease shall not be affected and Tenant's possession of the Leased Premises under the Lease, or any extensions or renewals thereof which may be effected in accordance with any option therefor in the Lease, shall not be diminished or interfered with by Beneficiary, prior to or after any foreclosure sale, or sale under private power pursuant to the Deed of Trust, provided that Tenant complies with the provisions of Paragraph 4 hereof.

4. In the event Beneficiary or any other purchaser succeeds to the interest of Landlord under the Lease by reason of any foreclosure of or sale under private power contained in the Deed of Trust or the acceptance by Beneficiary of a deed in lieu of foreclosure or by any other method, it is agreed that:

(a) Tenant shall recognize and be bound to Beneficiary or such other purchaser, and to any and all successors-in-interest to Beneficiary or such other purchaser, under all the terms, covenants and conditions of the Lease for the remaining balance of the term of the Lease, with the same force and effect as if Beneficiary or such other purchaser or successor-in-interest were the landlord under the Lease, and Tenant does hereby agree to attorn to Beneficiary or such other purchaser or successor-in-interest as its landlord; and such attornment shall be effective and self-operative without the execution of any further instruments on the part of any parties to this Agreement, immediately upon Beneficiary's or other purchaser's or successor-in-interest's succeeding to the interest of Landlord under the Lease;

(b) Subject to the observance and performance by Tenant of all of the terms, covenants and conditions of the Lease to be observed and performed on the part of Tenant, Beneficiary or such other purchaser or successor-in-interest shall recognize the leasehold estate of Tenant under all of the terms, covenants and conditions of the Lease for the remaining balance of the term with the same force and effect as if Beneficiary or such other purchaser or successor-in-interest were the landlord under the Lease; provided, however, that Beneficiary or such other purchaser or successor-in-interest shall not be (i) liable for any act or omission of any prior landlord (including Landlord), (ii) liable for the return of any security deposits, (iii) subject to any offsets or defenses which Tenant might have against Landlord or any prior landlord, (iv) liable for any act or omission of any subsequent landlord, (v) bound by any payment of rent or any other monetary sums which Tenant might have paid to Landlord or any prior landlord for more than the current month, or (vi) bound by any termination, cancellation, amendment or modification of the Lease or any continuing waiver of any covenant of Lessee thereunder made without

Beneficiary's or such other purchaser's or successor-in-interest's express prior written consent; and

(c) The succession of Beneficiary or such other purchaser or successor-in-interest to the interest of Landlord under the Lease shall not interfere or otherwise interrupt Tenant in its use and quiet enjoyment of the premises pursuant to the Lease so long as Tenant is current in the payment of all rentals and charges required under the Lease and is not otherwise in default under the Lease.

5. In case of any default or alleged default by Landlord under the Lease, the Lease shall not be subject to termination by Tenant nor shall rent be subject to offset, abatement, or deduction unless and until (a) Tenant has delivered to Beneficiary a written notice describing with reasonable specificity each event of default claimed by Tenant to exist and requesting Beneficiary to cure such event of default and (b) such event of default is not cured within ninety (90) days after the date of delivery of such written notice or, if the default cannot reasonably be cured within such 90-day period, such longer period of time as may be reasonably necessary to cure such default, so long as Beneficiary commences efforts to cure such default and prosecutes such efforts with reasonable diligence including, without limitation, such time as may be necessary to foreclose on its Deed of Trust, judicially or by power of sale.

6. Landlord and Tenant acknowledge that Beneficiary shall make a loan to Landlord in reliance upon the representations, warranties and covenants of Landlord and Tenant as set forth above, and Landlord and Tenant enter into this Agreement with the intent that Beneficiary shall so rely.

7. The provisions of this Agreement shall be covenants running with the Property, and shall be binding upon and shall inure to the benefit of the parties to this Agreement and their respective heirs, representatives, successors and assigns.

8. Tenant hereby recognizes and acknowledges Beneficiary's rights and entitlements under the Deed of Trust and understands that pursuant thereto Beneficiary is the unconditional, absolute owner of the rents, issues and profits of the Property and the leases of the Property, including but not limited to the Lease, subject only to the right and license of Landlord to collect the rents so long as no Event of Default has occurred, as therein provided. Upon written notification from Beneficiary that an Event of Default has occurred, Tenant immediately shall pay to Beneficiary (or Beneficiary's designee specified in such notice), and not to Landlord, all of the rents and other sums owing under the Lease as and when the same become due and owing from and after the date of such notice unless and until such time as Beneficiary notifies Tenant that such Event of Default is cured and that Landlord's license to collect the rents has been reinstated. Landlord hereby authorizes and directs Tenant to comply with Beneficiary's notices and demands as aforesaid, irrespective of any contrary or countermanding notice or demand by Landlord, and without inquiry or investigation by Tenant as to the propriety of any such notice or demand.

9. If any legal action, arbitration, or other proceeding is commenced to enforce any provision of this Agreement, the prevailing party shall be entitled to any award of its actual expenses, including without limitation, expert witness fees, actual attorney fees and disbursements. This document is construed under the laws of the State of Utah.

10. All notices to Beneficiary, Landlord or Tenant shall be by personal delivery or certified mail, return receipt requested, to the address given for each such party at the beginning of this Agreement, and shall be deemed given upon personal delivery and two (2) days after such deposit in the United States Mail, postage prepaid.

11. From time-to-time upon request by Beneficiary, Tenant shall execute such additional documents as Beneficiary may require to implement the terms hereof, and such certificates as Beneficiary may request as to whether or not any default on the part of Landlord exists under the Lease and the nature of any such default, as to the terms of the Lease and any modifications, amendments, and revisions thereto, and to such other matters as Beneficiary may request. Tenant shall execute such documents upon ten (10) days notice from Beneficiary or Landlord.

12. The recitals and all exhibits attached hereto and referred to herein are true and correct and are hereby incorporated herein by reference.

13. This Agreement shall be executed in recordable form and shall be recorded in the Official Records of the County in which the Property is located at the request of Beneficiary.

14. This Agreement may not be modified other than by an agreement in writing signed by the parties hereto or their respective successors.

IN WITNESS WHEREOF, the parties to this Agreement have executed this Agreement as of the day and year first written above.

TENANT:

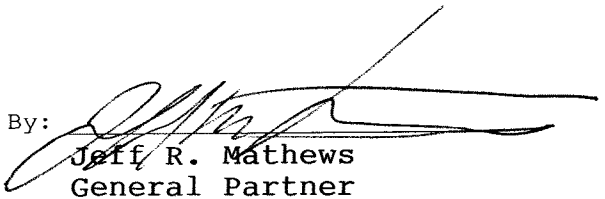
Adam Walker and Shauna Walker

By: 

By: 

LANDLORD:

Arden Limited Partnership

By: 
Jeff R. Mathews
General Partner

BENEFICIARY:

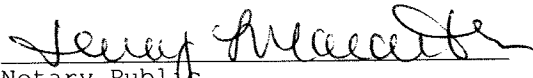
First Community Bank Utah,
Division of Glacier Bank

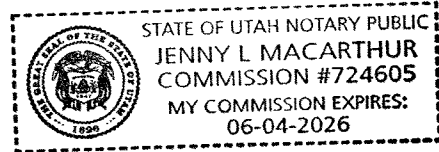
By: 
Tammy Sommers
Loan Processor

STATE OF UTAH)
COUNTY OF MORGAN) SS.

On 6-13-22, before me, Jenny L MacArthur, a Notary Public in and for said County, personally appeared Adam Walker, 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.



Notary Public

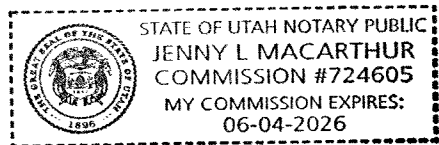


STATE OF UTAH)
COUNTY OF MORGAN) SS.

On 6-13-22, before me, Jenny L MacArthur, a Notary Public in and for said County, personally appeared Shanna Walker, 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.


Notary Public

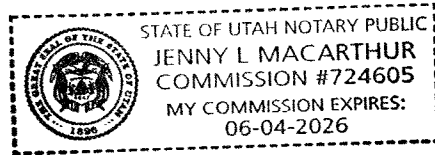


STATE OF UTAH)
COUNTY OF Morgan) SS.

On 6-13-22, before me, Jenny L MacArthur, a Notary Public in and for said County, personally appeared Jeff R Matthews*, 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.

***on behalf of Arden Limited Partnership as General Partner**
WITNESS my hand and official seal.

Jenny MacArthur
Notary Public

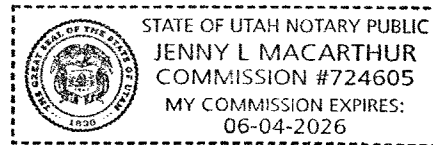


STATE OF UTAH)
COUNTY OF Morgan) SS.

On 6-13-22, before me, Jenny L MacArthur, a Notary Public in and for said County, personally appeared Tammy Sommers**, 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.

Jenny MacArthur
Notary Public



****on behalf of First Community Bank, Division of Glacier Bank as Loan Processor**

File No. 157720-DWP.

EXHIBIT A
PROPERTY DESCRIPTION

A part of Section 36, Township 4 North, Range 2 East, Salt Lake Base and Meridian, more particularly described as follows:

Beginning at a point on the Southwest right of way line of Commercial Street and the Northwest corner of Parcel 05-409, said point being North 58°00'00" West 193.5 feet from Monument "B", said monument being South 640.0 feet from the Northwest corner of said section (basis of bearing being South 58°00'00" East between said Monument "B" and a railroad spike set in the walk 1,603.15 feet away); thence South 32°00'00" West 115.00 feet, more or less, along Parcel 05-409; thence North 58°00'00" West 17.5 feet; thence South 32°00'00" West 81 feet to the Northeast corner of Serial No. 05-406-01 which was deeded to Ben Day property recorded in Book 197, at Page 939; following said property North 58°00' West 35 feet, more or less, to the Northwest corner of said property; thence North 32°00'00" East 196.50 feet to said Southwesterly right of way line; thence South 58°00' East 52.5 feet, more or less, to the place of beginning.

Tax Id No.: 00-0004-4998; Serial No. 05-406