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Doc#: 1011144124 Fee: \$46.00  
Eugene "Gene" Moore RHSP Fee:\$10.00  
Cook County Recorder of Deeds  
Date: 04/21/2010 02:34 PM Pg: 1 of 6

When recorded, return to: David S. Dordek, 8424 Skokie Blvd., Suite 200  
Skokie, Illinois 60077

FOR THE PROTECTION OF THE PARTIES, THIS **SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT** SHALL BE FILED WITH THE RECORDER OF DEEDS.

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**TOTAL PAGES:** 6

**AGREEMENT DATE:**  
January 26, 2010

**LANDLORD:**  
8915 S. Stony, LLC  
an Illinois limited liability company

**TENANT:**  
Family Dollar, Inc.  
A North Carolina corporation

**LENDER:**  
New Century Bank

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Chicago#401303.doc  
 STATE OF ILLINOIS  
 COUNTY OF COOK

SUBORDINATION, NON-DISTURBANCE AND  
 ATTORNMENT AGREEMENT

THIS AGREEMENT made and entered into this 26th day of January, 2010, by and among 8915 S. STONY, LLC, an Illinois limited liability company, whose address is: 5000 West Roosevelt Road, Suite 101, Chicago, IL 60644; ("Landlord"); NEW CENTURY BANK, whose address is: 1554 West North Avenue, Chicago, IL 60622; ("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 a Lease Agreement dated January 26, 2010, (the "Lease") with Landlord for premises located in Landlord's Shopping Center located on the southeast corner of the intersection of South Stony Island Avenue and East 89<sup>th</sup> Street, in the City of Chicago, County of Cook, State of Illinois. The Shopping Center and said premises demised to Tenant (the "Demised Premises") are shown on the site plan attached as Exhibit A to the Lease which is incorporated herein by reference.
- B. Lender holds a mortgage or deed of trust (the "Mortgage") on the Shopping Center.
- 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 will 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



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additional space which may be effected in accordance with any option therefor in the Lease, will 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 will 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 will be acquired by Lender or by anyone claiming an interest in the Shopping Center by or through Lender including any purchaser at a foreclosure sale (a "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 will 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 will 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 Landlord in the Shopping Center, which notice will be accompanied by reasonable documentation evidencing such acquisition. The respective rights and obligations of Tenant and Lender or such Successor Landlord upon such attornment will 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.

Notwithstanding the foregoing, Lender will not be:

- (a) Liable for any breach, act or omission of Landlord or any prior landlord but Lender will be liable for curing any defaults and performing the obligations of Landlord (but not for any losses or damages of Tenant) from and after the date Lender succeeds to the interest of Landlord; or
- (b) Subject to any offsets, claims or defenses which Tenant may have against Landlord or any prior landlord unless the offset, claim and defense arises out of a prior landlord's (including Landlord's) failure to perform its obligations under the Lease or a violation of a covenant set forth in the Lease of which Lender was given notice pursuant to Paragraph 4 of this agreement; or
- (c) Bound by any rent or additional rent or other payment in lieu of rent which Tenant might have paid Landlord or any prior Landlord more than 30 days in advance of its due date under the Lease, but this part (c) will not affect the rent credits, if any, to which Tenant is entitled pursuant to Paragraph 4 of the Lease as reimbursement for improvements made to the Demised Premises;
- (d) Bound by any amendment or modification of the Lease made without Lender's prior written consent which would shorten the initial term of the lease or during the initial term reduce the rent or otherwise reduce the value of the Lease as security for the mortgage;



*[Handwritten mark]*

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(e) Bound by any notice of default given by Tenant to Landlord or to any prior landlord whether or not such notice is given pursuant to the terms of the Lease unless a copy was also given to Lender;

(f) Liable for any security deposit or other sums held by Landlord or any prior landlord, unless actually received by Lender; or

(g) Bound by any provision of the Lease which obligates the Landlord or any prior Landlord to erect or complete a new building or to perform any construction work or to make any improvements to the Demised Premises prior to Tenant's opening for business.

Lender and any of its successors or assigns will be liable to Tenant only during their respective periods of ownership, and such liability will not continue or survive after a transfer by Lender or its successors or assigns of their interests in the Lease and the Demised Premises.

4. Tenant agrees to give prompt written notice ("Default Notice") to Lender of any default by Landlord or any prior landlord of its obligations under the Lease which would entitle Tenant to terminate the Lease, reduce rents or credit or offset any amounts against rents or other payments, specifying the nature of the default. For 30 days after receipt of a Default Notice, Lender will have the right (but not the obligation) to correct or cure the default by Landlord or any prior landlord. [If the default is of such a nature that it cannot be cured within 30 days, then Tenant will take no action to terminate the Lease or reduce the rent so long as Lender commences to cure the default within such 30-day period and diligently prosecutes the curing of the default until it is completely cured.] Nothing in this paragraph will be deemed to impose any obligation on the Lender to correct or cure any default.

5. 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 will be deemed to be payments to Landlord pursuant to the Lease.

6. This Agreement will automatically expire upon the occurrence of either of the following: (i) The term of the Lease will expire or the Lease will 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 any interest in the Shopping Center and the Mortgage will be released of record.

7. This Agreement may not be canceled or modified except by an agreement in writing signed by Lender and Tenant or their respective successors.

8. 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.



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

Witnesses:

LANDLORD  
8915 S. STONY, LLC (SEAL)

Cindy J. Bell

By: [Signature]  
Richard Sciortino  
Managing Member

ATTEST:

LENDER  
NEW CENTURY BANK

[Signature]  
Secretary

By: [Signature]  
(Title) Vice President

ATTEST:

TENANT  
FAMILY DOLLAR, INC.

[Signature]  
Thomas E. Schoenheit  
Assistant Secretary

By: [Signature]  
Thomas M. Nash  
Senior Vice President  
Real Estate Development

Property of Cook County Clerk's Office



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STATE OF ILLINOIS

NOTARY

COUNTY OF Cook

I, Monika Bogdanska, a Notary Public in and for the aforesaid State and County, do hereby certify that RICHARD SCIORTINO, Managing Member, personally appeared before me this day and that by the authority duly given and on behalf of 8915 S. STONY, LLC, the foregoing instrument was signed and executed by him for the purposes therein expressed.

WITNESS my hand and notarial seal this the 29th day of January, 2010.



[Signature]  
Notary Public

STATE OF ILLINOIS

NOTARY

COUNTY OF COOK

I, Leonard Maversky Jr, a Notary Public in and for the aforesaid State and County, do hereby certify that James McDonald personally appeared before me this day and that by the authority duly given and on behalf of NEW CENTURY BANK, the foregoing instrument was signed and executed by him for the purposes therein expressed.

WITNESS my hand and notarial seal this the 13th day of April, 2010.

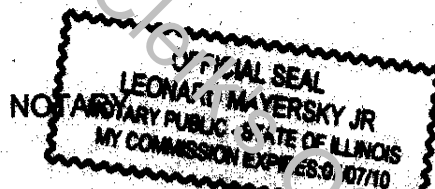
[Signature]  
Notary Public

My Commission Expires:

07/1/10

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG



I, Christine Giacchetta, a Notary Public in and for the aforesaid State and County, do hereby certify that THOMAS M. NASH and THOMAS E. SCHOENHEIT, Senior Vice President-Real Estate Development and Assistant Secretary, respectively, of FAMILY DOLLAR, INC., 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 26th day of January, 2010.

[Signature]  
Notary Public

My Commission Expires:

March 22, 2014

