

16208764

UNOFFICIAL COPY



<p>RECORDING REQUESTED BY:</p> <p><i>Joy De Lara</i></p> <p>WHEN RECORDED MAIL TO:</p> <p>U.S. Bank National Association, a national banking association 9918 Hibert Street, Suite 301 San Diego, CA 92131</p>	<p>Doc# 1905208168 Fee \$60.00</p> <p>RHSP FEE:\$9.00 RPRF FEE: \$1.00</p> <p>EDWARD M. HOODY</p> <p>COOK COUNTY RECORDER OF DEEDS</p> <p>DATE: 02/21/2019 12:48 PM PG: 1 OF 12</p>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Space Above This Line For Recorder's Use

**SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT
(WITH SUBTENANT)**

NOTICE: THIS SUBORDINATION OF LEASE RESULTS IN THE LEASEHOLD ESTATE IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

THIS AGREEMENT, is entered into as of February 14, 2019 by and among U.S. BANK NATIONAL ASSOCIATION ("Lender") and Breanna Smith ("Subtenant"), with the consent of Our Shining Star Academy LLC ("Owner") and Raney's Daycare, LLC ("Tenant").

RECITALS

1. Lender has made or may make one or more loans to Owner secured by, among other things, a mortgage or deed of trust (as modified, supplemented, renewed, extended, consolidated, increased or replaced from time to time, and which mortgages or deeds(s) of trust may secure future advances made by Lender, collectively the "Deed of Trust/Mortgage") encumbering the real property described as;

LOT 5, LOT 6 AND THE WEST 1/2 OF THE VACATED ALLEY EAST OF AND ADJOINING LOT 6, THE NORTH 1/2 OF THE VACATED ALLEY SOUTH OF AND ADJOINING LOTS 5 AND 6 IN BLOCK 6 IN CALUMET PARK, A SUBDIVISION OF PART OF THE EAST 1/4 OF SECTION 3, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

hereto (the "Real Property"), which Real Property has an address of 785 East 142nd Street, Dolton, IL 60419 and a property tax identification number of: 29-03-405-005-0000 and 29-03-405-006-0000.

2. Owner and Tenant (or their respective predecessors-in-interest) entered into a Lease Agreement dated October 5, 2018 (the "Lease"), pursuant to which Owner leased to Tenant all or a portion of the Real Property (the "Leased Premises") on the terms and conditions set forth in the Lease.

3. Tenant and Subtenant (or their respective predecessors-in-interest) entered into a Sublease Agreement dated May 1, 2018 (the "Sublease"), pursuant to which Tenant subleased to Subtenant a portion of the Leased Premises (the "Subleased Premises") on the terms and conditions set forth in the Sublease.

4. Lender and Subtenant are entering into this Agreement to establish the relative priority of their interests in the Subleased Premises and their rights and obligations if certain events occur.



UNOFFICIAL COPY

AGREEMENT

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in order to induce Lender to make loans to Owner, it is hereby declared, understood and agreed as follows:

1. Subordination.

a. The Deed of Trust/Mortgage and any renewals, modifications, amendments or extensions thereof, shall unconditionally be and remain at all times a lien or charge on the Real Property prior and superior to the Sublease, to the leasehold estates created thereby and to all rights and privileges of Subtenant or its successors thereunder, and said Sublease, the leasehold estates created thereby together with all rights and privileges of Subtenant thereunder are hereby subjected, and made subordinate, to the lien or charge of the Deed of Trust/Mortgage in favor of Lender.

b. This agreement shall be the whole and only agreement with regard to the subjection and subordination of the Sublease to the lien or charge of the Deed of Trust/Mortgage in favor of Lender above referred to and shall supersede and cancel any prior agreements as to such subjection or subordination, including, but not limited to, those provisions, if any, contained in the Sublease that provide for the subjection or subordination of the Sublease and the leasehold estates created thereby to a deed or deeds of trust or to a mortgage or mortgages, to the extent that such agreements or provisions are inconsistent with the terms hereof.

2. Non-Disturbance Agreement. So long as the Sublease remains in full force and effect, and Subtenant is not in default of any material term thereof (beyond any applicable cure period), Lender shall not (a) take any action to disturb Subtenant's peaceful and quiet possession of the Subleased Premises or to diminish Subtenant's rights and privileges under the Sublease, or (b) name or join Subtenant in any foreclosure, trustee's sale, or other proceeding to enforce the Deed of Trust/Mortgage unless such joinder shall be legally required to perfect the foreclosure, trustee's sale, or other proceeding. In the latter case, Lender may join Subtenant as a defendant in such action only for such purpose and not to terminate the Sublease or otherwise adversely affect Subtenant's rights under the Sublease.

3. Attornment

a. If Lender or any other person or entity (a "Purchaser") shall succeed to Owner's interest in the Real Property by foreclosure of the Deed of Trust/Mortgage, by conveyance in lieu of foreclosure, or by any other exercise by Lender of its rights and remedies under the loan documents related to the Deed of Trust/Mortgage or at law (each of the foregoing, a "Foreclosure Action"), Subtenant shall attorn to such Purchaser under the Sublease for the balance of its term with the same force and effect as if such Purchaser were the sublessor under the Sublease.

b. Upon request, Lender and Subtenant shall execute and deliver appropriate documents of attornment and recognition, but no such separate agreements shall be required to effectuate the foregoing attornment, it being the intent of the parties hereto that Subtenant's attornment shall be self-executing.

4. Purchaser as Landlord. If Purchaser shall succeed to the interests of the sublessor under the Sublease, Purchaser shall be bound to Subtenant under all the terms, covenants and conditions of the Sublease, and Subtenant shall, from the date of Purchaser's succession to the sublessor's interest under the Sublease, have the same remedies against Purchaser for breach that Subtenant would have had under the Sublease against sublessor; provided, however, that despite anything to the contrary in this Agreement or the Sublease, no Purchaser shall be:

UNOFFICIAL COPY

- a. liable for any act or omission of any previous landlord (including Owner);
- b. subject to any offsets or defenses that Subtenant might have had against any previous landlord (including Owner);
- c. liable for any security deposit paid to any prior landlord (except to the extent Purchaser actually received such security deposit), or bound by any rent or additional rent that Subtenant may have paid for more than one month in advance to any previous landlord (including Owner);
- d. bound by an amendment or modification of the Sublease made without Lender's written consent; or
- e. bound by any covenant to undertake or complete any construction of the Real Property or the Subleased Premises, or any portion of them.

Purchaser shall be liable under the Sublease only during such time as it is the owner of the Real Property and the sublessor under the Sublease. Upon Purchaser's transfer of the Real Property, or such portion of the Real Property as encompasses the Subleased Premises, Purchaser shall be released and exonerated from any liability under the Sublease for any acts or omissions occurring after such transfer and Subtenant agrees to look solely to the transferee of Purchaser for performance of the obligations of the sublessor under the Sublease, as applicable.

5. Amendments to Lease and Sublease. Subtenant agrees that, without the Lender's prior written consent, it will not (a) amend the Sublease; (b) pay rent or any other sums due under the Sublease more than one (1) month in advance; (c) voluntarily surrender the Subleased Premises or terminate the Sublease; (d) further sublease the Subleased Premises; or (e) assign, pledge, or otherwise permit to exist any encumbrance upon its interests in the Subleased Premises, except the lien of the Lender under the Deed of Trust/Mortgage and any related loan documents.

6. Notice of Default, Right To Cure. Subtenant agrees concurrently to give Lender a copy of any written notice of any default given by Subtenant to the sublessor under the Sublease. Subtenant further agrees that, before it exercises any of its rights or remedies under the Sublease, as applicable, Lender shall have the right, but not the obligation, to cure the default within the same time given the sublessor in the Sublease, plus an additional thirty (30) days, or if no cure period is specified in the Sublease, then within a reasonable time.

7. Assignment of Rents. Subtenant acknowledges that the Owner has executed and delivered or will execute and deliver to Lender an Assignment of Rents and Leases conveying the rentals under the Sublease as additional security for said loan, and Subtenant hereby expressly consents to and recognizes such Assignment, and agrees to pay the rent to Lender or its nominee whenever Lender claims or requests the rent under the terms of said Assignment.

8. Lender's Status. Nothing in this Agreement shall be construed to be an agreement by Lender to perform any covenant of the sublessor under the Sublease, unless and until it obtains title to the Real Property by Foreclosure Action. Lender shall not be deemed a "mortgagor in possession" by virtue of its exercise of its rights to the rents or any other right under this Agreement.

9. General Terms.

- a. This Agreement shall become effective only upon the execution by all of the parties hereto.

UNOFFICIAL COPY

b. This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns. The provisions of this Agreement shall be binding upon any guarantor of landlord's obligations under the Lease.

c. Subtenant acknowledges that it is relying solely on its decision and the advice of its own legal counsel and other consultants in entering into this Agreement, and that neither the Lender nor any of its respective employees, agents, contractors, attorneys, accountants or other representatives have provided any advice to Subtenant in connection with this Agreement, any of its provisions or any of the transactions contemplated herein, or regarding any legal, financial, tax or other impact this Agreement may have to Subtenant.

d. Each party hereto shall execute any and all documents and perform any and all acts reasonably necessary or appropriate to consummate the terms and conditions set forth in this Agreement, provided, however, that this provision does not require any party to agree to provisions which are not part of the agreement.

e. All representations, warranties, covenants, agreements, terms and conditions made herein will survive the execution of this Agreement and all transactions contemplated hereunder.

f. The descriptive headings of the several sections of this Agreement are inserted for convenience and will not be deemed to affect the meaning or construction of any of the provisions hereof.

g. The parties agree that the rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Agreement. The terms of this Agreement shall be interpreted consistent with the Deed of Trust/Mortgage and the Sublease, except as specifically modified by the terms set forth herein.

h. The defined terms in this Agreement will apply equally to both the singular and the plural forms of the terms defined. Whenever the context may require, any pronoun will include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" when used in this Agreement will be deemed to be followed by the phrase "without limitation". The words "approval" and "notice" when used in this Agreement will be deemed to be preceded by the word "written". All references to "Exhibit" or "Exhibits" in this Agreement mean the exhibits attached hereto, the terms and conditions of which are made a part hereof. All references to "Section" or "Sections" in this Agreement mean the applicable section of this Agreement unless otherwise specified. To the extent applicable, the term "landlord" shall refer to a "lessor" or similarly situated person and the term "tenant" shall refer to a lessee or similarly situated person.

i. This Agreement constitutes the entire agreement between the parties hereto with respect to the priority of the Sublease and the obligations of Lender as landlord under the Sublease, and supersedes any other agreements, negotiations, communications, understandings and commitments whether written or oral, relating thereto. This Agreement may be modified only by a writing signed by all parties to this Agreement.

j. If any one or more of the provisions contained in this Agreement for any reason shall be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Agreement.

k. Time is of the essence in the execution and performance of this Agreement and each of its provisions.

UNOFFICIAL COPY

I. This Agreement shall be interpreted, construed and governed by the laws of the state set forth in the Deed of Trust/Mortgage.

m. All notices to be given under this Agreement shall be in writing and either: (a) Sent by priority overnight delivery by means of a nationally recognized overnight courier which provides for online (Internet) tracking of packages, in which case notice shall be deemed delivered one (1) business day after deposit with such courier, or (b) By telecopy or similar means, if a copy of the notice is also sent by priority overnight delivery by means of a nationally recognized overnight courier which provides for online (Internet) tracking of packages, in which case notice shall be deemed delivered on transmittal by telecopier or other similar means, provided that a transmission report is generated reflecting the accurate transmission of the notice and the copy is also delivered.

Notice shall be given to the following persons on behalf of the parties and shall be deemed complete only if given to all the designated individuals:

Bank: SAG Manager
 SBA Division
 U. S. Bank National Association
 9918 Hibert Street, 2nd Floor
 San Diego, CA 92131
 Tel: 858-536-4545
 Fax: 858-877-4568

Owner: Coy. Shining Star Academy LLC
 785 East 142nd Street
 Dolton, IL 60419

Tenant: Raney's Day care, LLC
 785 East 142nd Street
 Dolton, IL 60419

Subtenant: Breanna Smith
 785 East 142nd Street
 Dolton, IL 60419

NOTICE: THIS SUBORDINATION OF LEASE CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR LEASE TO OBTAIN A LOAN A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first indicated above.

LENDER:
 U.S. Bank National Association

By: 
 Authorized Signer of U.S. Bank National Association


UNOFFICIAL COPY

ACKNOWLEDGED AND AGREED:

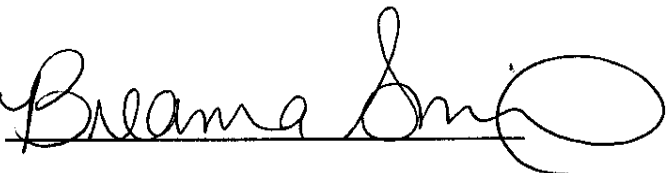
TENANT: Raniey's Daycare, LLC

By: 
Cencirea Robinson, Manager

OWNER: Our Shining Star Academy LLC


By: 
Cencirea Robinson, Manager

SUBTENANT: Breanna Smith

BY: 

Subscribed and sworn to before me

this 12th day of February, 2019
at Dolton, County of Cook, State of Illinois.

Notary Public: 



UNOFFICIAL COPY

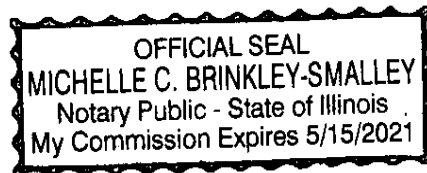
STATE OF ILLINOIS
COUNTY OF COOK) SS.

On 02-12-2019 before me, ^{MB} ~~(MB)~~ Michelle Brinkley Smalley personally appeared LENIRRA ROBINSON - BREANNA SMITH, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of ILLINOIS that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Michelle Brinkley Smalley (Seal)



UNOFFICIAL COPY

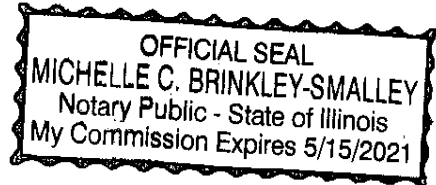
STATE OF ILLINOIS)
COUNTY OF COOK) SS.

On 02-12-2019, before me, MICHELLE C. BRINKLEY-SMALLEY, personally appeared CECILIA ROBINSON-BREANNA SUITE, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of ILLINOIS that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Michelle C. Brinkley-Smalley (Seal)



UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

On 02-12-2019 before me, Michelle Brinkley Smalley, personally appeared CEN CIRBA ROBINSON - BREWSTER SMITH, who 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.

I certify under PENALTY OF PERJURY under the laws of the State of ILLINOIS that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Michelle Brinkley Smalley (Seal)



Property of Cook County Clerk's Office

UNOFFICIAL COPY

ASSIGNMENT AND ASSUMPTION OF LEASE AND CONSENT

THIS ASSIGNMENT AND ASSUMPTION OF LEASE AND CONSENT (the "Assignment") is made this February 14, 2019 by and between Our Shining Star Academy LLC ("Assignor"), Raniey's Daycare, LLC ("Assignee") and Breanna Smith ("Tenant").

WITNESSETH:

A. Assignor is the owner of that certain real property located at 785 East 142nd Street, Dolton, IL 60419, which is more particularly described as;

LOT 5, LOT 6 AND THE WEST 1/2 OF THE VACATED ALLEY EAST OF AND ADJOINING LOT 6, THE NORTH 1/2 OF THE VACATED ALLEY SOUTH OF AND ADJOINING LOTS 5 AND 6 IN BLOCK 6 IN CALUMET PARK, A SUBDIVISION OF PART OF THE EAST 1/4 OF SECTION 3, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

B. Pursuant to a lease (the "Lease") dated May 1, 2018, Assignor leased to Tenant a portion of the Real Property described as 785 East 142nd Street, Dolton, IL 60419 (the "Leased Premises"). A copy of the Lease is attached hereto as Exhibit B.

C. Assignor has sold or otherwise transferred to Assignee all of Assignor's right, title, and interest in the Real Property, and Assignor now desires to assign all of its right, title and interest in the Lease to Assignee.

D. Assignee is willing to accept such assignment, to assume the obligations of the Assignor as landlord under the Lease and to accept Tenant as its tenant under the terms of the Lease.

E. Tenant is willing to consent to such assignment and assumption and to attorn to Assignee as the new landlord under the Lease, upon the following terms and conditions.

NOW, THEREFORE, it is hereby agreed as follows:

1. **Assignment.** Assignor transfers, assigns and sets over to Assignee all of the right, title and interest of Assignor in and to the Lease. The assignment herein made shall be effective as of the date first set forth above (the "Effective Date"). The parties hereto acknowledge and agree that Assignor, by way of this assignment, is hereby released and discharged from any and all liabilities and/or obligations of the landlord under the Lease occurring on or after the Effective Date.

2. **Acceptance and Assumption:** Assignee accepts the assignment made in Paragraph 1 above, assumes the Lease, accepts Tenant as its tenant under the Lease, and agrees to observe and perform all covenants, agreements and obligations to be observed or performed by the landlord under the Lease from and after the Effective Date.

3. **Consent:** Tenant hereby consents to the assignment made in Paragraph 1 above and the acceptance and assumption made in Paragraph 2 above and hereby attorns to Assignee as the landlord under the Lease, as if the Lease were originally between Tenant and Assignee; provided, that notwithstanding such consent Tenant does not waive any claims, rights, suits or actions that it may have against Assignor under the Lease which occurred before the Effective Date.

4. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of Landlord, its successors and assigns and Assignor, Assignee and their respective heirs, legal representatives and permitted successors and permitted assigns.

IN WITNESS WHEREOF, this instrument is executed as of the day and year aforesaid.

UNOFFICIAL COPY


ASSIGNOR: Our Shining Star Academy LLC

ASSIGNEE: Raniey's Daycare, LLC

By: 
Cencirea Robinson, Manager

By: 
Cencirea Robinson, Manager

TENANT:

By: 
Breanna Smith

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT B

LEASE

(see attached)

**COOK COUNTY
RECORDER OF DEEDS**

**COOK COUNTY
RECORDER OF DEEDS**

**COOK COUNTY
RECORDER OF DEEDS**

Property of Cook County Clerk's Office