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WHEN RECORDED MAIL TO:

American Stores Properties, Inc.
Attn: Legal Department
P.O. Box 27447
Salt Lake City, Utah 84127-0447

DEPT-01 RECORDING \$41.50
740009 TRAN 5912 12/03/96 15:06:00
\$1245 + SK *-96-914789
COOK COUNTY RECORDER

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

Jewel Warehouse No. 01-52150

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT ("Agreement") is made as of November 25, 1996, by and among Jewel Food Stores, Inc., a New York corporation ("Tenant"), LaSalle National Trust, N.A., Trustee under Trust Agreement dated August 28, 1996 and known as Trust Number 120449 ("Landlord"), and The Money Store Investment Corporation, a New Jersey corporation ("Lender"), collectively, the "Parties" and individually, a "Party".

RECITALS

- A. Lender has agreed to make a loan ("Loan") to Landlord, repayment of which is to be secured by that certain Mortgage entered into by Landlord, as Mortgagor, and Lender, as Mortgagee ("Mortgage"), which pertains to that certain real property located in Bellwood, Illinois, more particularly described on Exhibit "A" attached hereto and incorporated herein by reference ("Property") and certain other written agreements between Lender and Landlord relating to the Loan (collectively, "Loan Documents").
- B. Tenant is the current lessee of all or a portion of the Property ("Premises") under a lease entered into with Landlord dated February 28, 1982, as amended from time to time (collectively, "Lease").
- C. As a condition precedent to Lender's making the Loan to Landlord, Lender has required that Tenant execute this Agreement and in return for Tenant's execution of this Agreement, Lender is willing to agree to not disturb Tenant's quiet possession of the Premises as long as Tenant is not in default under the Lease.
- D. Lender is making the Loan in reliance upon the agreements and certifications herein made by Tenant and Tenant is entering into this Agreement in reliance upon the agreements and certifications herein made by Lender.

NOW, THEREFORE, in consideration of the foregoing, Lender, Landlord, and Tenant agree as follows: FIRST AMERICAN TITLE INSURANCE # CC 9682 12/1/96



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1. **SUBORDINATION.** All rights of Tenant under the Lease are hereby subjected and subordinated and shall remain subject, subordinate, and junior to the lien of the Mortgage, and to the rights and interest of the from time-to-time holder of the Mortgage; provided, however, Tenant shall not be bound by any of the terms, conditions, or covenants of the Mortgage, Loan Documents, or any other document executed by Landlord in connection with its loan from Lender. Lender acknowledges that the subordination of the Lease is solely for the purpose of establishing the priority of the Mortgage in the real property records and that Lender has not supplied Tenant with copies of the Mortgage or any of the Loan Documents and does not intend Tenant to be bound by the terms of those documents.

2. **NON-DISTURBANCE AND ATTORNMENT.** Provided Tenant is not in default under the Lease (as defined in the Lease and beyond any period given Tenant to cure the default), then Tenant's right of possession to the Premises and Tenant's other rights pursuant to the Lease or otherwise shall not be affected or disturbed by Lender or any successor or assign in the exercise of any of its rights under the Mortgage. Further, Tenant shall not be named as a party defendant in any foreclosure on the lien of the Mortgage nor in any other way be deprived of its rights under the Lease. In the event Lender or any other person acquires title to the Premises pursuant to the exercise of any remedy provided for in the Mortgage or by any conveyance in lieu of foreclosure, the Lease shall not be terminated or affected by the foreclosure, conveyance, or other proceeding. Lender also covenants that any sale by it of the Premises as a result of the exercise of any rights and remedies under the Mortgage, or otherwise, shall be subject to the Lease and the rights of Tenant under the Lease, and Tenant covenants and agrees to attorn to Lender or any person or persons, corporation, or association, acquiring the rights and interest of Landlord under the Lease, in any manner whatsoever ("Successor") as its new landlord, and the Lease shall continue in full force and effect as a direct lease between Tenant and Successor, upon all of the terms, covenants, conditions, and agreements set forth in the Lease; provided, except as set forth in Section 3 hereof, Tenant shall be under no obligation to pay rent to Successor until Tenant receives a photostatic copy of the recorded deed or other instrument by which such interest passed evidencing that Successor has succeeded to Landlord's interest under the Lease. Successor shall be liable to Tenant, effective as of the date of such acquisition, for the performance of all obligations of Landlord arising under the Lease from and after the date of such acquisition. Provided Successor has received notice pursuant to Section 5 hereof, Successor shall also be liable as landlord for every obligation of Landlord arising or accruing under the Lease prior to the date of such acquisition which has not yet been performed or satisfied ("Existing Obligation"). Tenant's remedies for an Existing Obligation shall be limited to the right of offset and any other remedies provided under the Lease; provided, however, that Successor's liability for Existing Obligations under the Lease shall be limited to its interest in the Property. No foreclosure or conveyance or other act or omission by a Successor shall, in any event, relieve Landlord of any of the covenants, liabilities, or obligations of Landlord under the Lease. Successor shall not be bound by any payment of rent or additional rent or other charges made by Tenant to Landlord more than one month in advance, except if such payment is made pursuant to the terms of the Lease.

3. **PAYMENT OF RENT.** Upon the occurrence of an event of default under the Mortgage, and at any time thereafter during the continuance thereof, Lender may, at its option, send a notice

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to Tenant, which notice shall: (i) reference the name of the ASPI operating company and store number set forth at the top of this Agreement; (ii) indicate that an event of default has occurred and that Lender has revoked Landlord's right or license to collect rent under the Lease; (iii) indicate that Lender has elected to exercise its rights under this section of this Agreement; (iv) direct Tenant thereafter to make all payments of rent and to perform all obligations under the Lease to or for the benefit of Lender or as Lender shall direct; and (v) contain the Lender's employer identification number. Within fifteen (15) business days of receipt of any such notice from Lender, Tenant shall comply with the provisions of such notice, to make all payments of rent and to perform all obligations under the Lease to and for the benefit of Lender or as Lender shall direct. Such notice and direction shall remain effective until the first to occur of: (i) the receipt by Tenant of a subsequent notice from Lender to the effect that such event of default has been cured or that Lender has appointed Landlord to act as agent for Lender; (ii) the appointment of a receiver, in which event Tenant shall thereafter make payments of rent and perform all obligations under the Lease as may be directed by such receiver; or (iii) the issuance of a court order directing Tenant to pay rent and perform obligations in a manner not consistent with the notice. Tenant shall be entitled to rely upon any notice from Lender and shall be protected with respect to any payment made pursuant to such notice, irrespective of whether a dispute exists between Landlord and Lender with respect to the existence of an event of default or the rights of Lender hereunder. If Tenant receives a notice from Lender pursuant to this section, Tenant shall not be required to investigate or determine the validity or accuracy of such notice or the validity or enforceability of this Agreement. Landlord hereby agrees to indemnify, defend, and hold Tenant harmless from and against any and all loss, claims, damage, or liability arising from or related to any payment of rent or performance of obligations under the Lease by Tenant made in good faith in reliance on and pursuant to such notice.

4. **LENDER AUTHORIZATION.** As an express condition of, and as consideration for, Tenant's entering into this Agreement, Lender represents and warrants to Tenant that it has obtained all authorizations necessary to execute and deliver this Agreement and that this Agreement is valid, legal, and enforceable against Lender.

5. **NOTICES OF DEFAULT.** Before any termination due to a breach under the Lease shall be declared by Tenant, or Tenant shall exercise any other remedy as a result of the occurrence of an event of default under the Lease, Tenant shall give notice in writing to Lender of the specific breach(es) of the Lease. Notice to Lender shall be given at least thirty (30) days (or such longer period as provided in the Lease for Landlord to cure the default) before Tenant shall terminate the Lease or Tenant shall exercise any other remedy as a result of the occurrence of an event of default. If Tenant has given notice to Lender pursuant to the preceding sentence, Lender may, in addition to any other remedies provided in the Mortgage, elect to make such payments and cure such defaults on behalf of Landlord, and in connection therewith, do all work and make all payments deemed necessary or appropriate by Tenant to cure such default. Landlord hereby agrees to indemnify, defend, and hold Tenant harmless from and against any and all loss, claims, damage, or liability arising from or related to any payment or performance of obligations under any Lease by Lender.

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If Lender elects to pursue foreclosure upon the occurrence of an event of default under the Mortgage, Lender shall give notice in writing to Tenant of the specific reason by virtue of which such default or event of default is claimed. Notice of the occurrence of a default or an event of default may be combined with the notice required under Section 3 of this Agreement but is required regardless of whether Lender exercises its option under Section 3. The failure of Lender to give such notice under this Agreement shall not invalidate Lender's foreclosure action provided that Lender has complied with all applicable statutory procedures, including giving all statutorily required notices to Tenant.

6. **ADDRESSES FOR NOTICES.** All notices and other communications hereunder shall be in writing and shall be given by (i) established express delivery service which maintains delivery records, (ii) hand delivery, or (iii) certified or registered mail, postage prepaid, return receipt requested, to the Parties at the following addresses, or at such other address as the Parties may designate by written notice in the above manner:

To Lender at: The Money Store Investment Corporation
Servicing Department
P.O. Box 162247
Sacramento, California 95816

To Tenant at: Jewel Food Stores, Inc.
Attn: Property Management (reference Store No. 01-52150)
2100 Swift Drive
Oak Brook, Illinois 60521

With a copy to: American Stores Properties, Inc.
Attn: Legal Department (reference Store No. 01-52150)
P.O. Box 27447
Salt Lake City, UT 84127-0447

To Landlord at: LaSalle National Trust
Trustee under Trust Number 120449
c/o Cohen Financial Corporation
2 North LaSalle Street
Chicago, Illinois 60602

Communications may also be given by fax, provided the communication is concurrently given by one of the above methods. Notices are effective upon receipt, or upon attempted delivery if delivery is refused or if delivery is impossible because of failure to provide a reasonable means for accomplishing delivery.

7. **INSURANCE PROCEEDS.** Lender agrees that, notwithstanding any provision contained in the Mortgage or any other agreement or instrument affecting Lender's interest in the Property, in the event of damage or destruction to the Property, any insurance proceeds relating

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thereto shall be made available by Lender without diminution, or offset, to pay the cost of repair or rebuilding of the Property pursuant to the Lease, without condition, other than that Tenant not be in default beyond any applicable cure period under the Lease at the time of such payment; it being the intention of the Parties that all of such proceeds shall be utilized to effect the repair or rebuilding of the Property. Lender hereby waives, to the extent permitted by law, any equitable claims it may have on such insurance proceeds.

8. **CONDEMNATION.** Lender agrees that, notwithstanding any provision contained in the Mortgage or any other agreement or instrument affecting Lender's interest in the Property, in the event of a taking or other transfer in lieu of condemnation, all proceeds relating thereto shall be made available by Lender without diminution or offset, to pay the condemnation award due to Tenant under the Lease and the law of the state in which the Property is located (including, if applicable, compensation for the cost of removal and decrease in value as a result of such taking of Tenant's fixtures, equipment, and stock-in-trade located in the Premises, the value of the leasehold of which Tenant is deprived for the remainder of the term of the Lease, including options, if any, and the value of any compensable goodwill associated with Tenant's business) and to repair or restore the Property, if required by the Lease.

9. **FIXTURES.** The Loan Documents shall not cover or encumber, and shall not be construed as subjecting in any manner to the lien thereof, any of Tenant's trade fixtures, furniture, furnishings, equipment, or other personal property at any time placed or installed in the Premises.

10. **COSTS AND ATTORNEYS' FEES.** In the event a Party brings or commences a legal proceeding to enforce any of the terms of this Agreement, the prevailing Party in such action shall have the right to recover reasonable attorneys' fees and costs from the losing Party, to be fixed by the court in the same action. The term "legal proceedings" shall include appeals from a lower court judgment as well as proceedings in the Federal Bankruptcy Court, whether or not they are adversary proceedings or contested matters. The "prevailing Party" involved in proceedings in the Federal Bankruptcy Court shall mean the prevailing Party in an adversary proceeding or contested matter, or any other actions taken by the non-bankrupt Party which are reasonably necessary to protect its rights under the terms of this Agreement.

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

12. **AMENDMENT OF LEASE.** Lender and Tenant agree that notice to or consent of Lender shall not be required for any amendment to Lease; provided, Lender's consent shall be required for any amendment to the Lease which purports to terminate the Lease (other than pursuant to the terms of the Lease), reduce the term of the Lease, reduce the fixed or minimum rental due under the Lease, or modify the allocation between Landlord and Tenant of the cost of providing insurance or the responsibility for the payment of taxes. If the Lender's consent is

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required for an amendment to the Lease and such consent has not been obtained, any provisions of such an amendment for which such consent is required shall not be binding against Lender or any Successor (but shall be enforceable against Landlord), and any other terms of such an amendment shall be binding against Lender or a Successor. Except with respect to the foregoing restriction on modification, no provision contained herein shall be deemed an amendment or modification of any provision contained in the Lease, including, without limiting the generality of the foregoing, any rights hereunder given to Tenant to terminate the Lease.

13. SUCCESSORS AND ASSIGNS. All of the rights and obligations of the Parties under this Agreement shall bind and the benefits shall inure to their respective heirs, legal representatives, successors, and assigns.

14. LANDLORD'S TITLE. Landlord warrants and covenants that it has good and marketable fee simple title to the Premises with full right and authority to grant the interest conveyed by the Mortgage. Landlord covenants that as of the date the Mortgage is recorded, there are no other monetary encumbrances, other than taxes not yet delinquent, recorded against Landlord's interest in the Premises.

15. NO OTHER AGREEMENTS. The terms set forth in this Agreement are intended by the Parties as a final expression of their agreement with respect to such terms and may not be contradicted or supplemented by evidence of any prior agreement or of any contemporaneous oral agreement. This Agreement is intended to be a complete and exclusive statement of the terms of the agreement between the Parties, and the terms of this Agreement may not be explained or supplemented by evidence of consistent additional terms. This Agreement may not be amended or modified by any act or conduct of the Parties or by oral agreement, unless reduced to a writing signed by all Parties.

16. DELIVERY OF EXECUTED DOCUMENTS. THE SUBMISSION OF THIS DOCUMENT FOR EXAMINATION OR ITS NEGOTIATION OR THE NEGOTIATION OF THE TRANSACTION DESCRIBED HEREIN DOES NOT CONSTITUTE AN OFFER TO SUBORDINATE OR AMEND THE LEASE, AND THE EXECUTION OF THIS DOCUMENT BY LANDLORD AND LENDER DOES NOT CONSTITUTE A BINDING CONTRACT UNTIL SUCH TIME AS THIS DOCUMENT HAS BEEN APPROVED BY THE GOVERNING REAL ESTATE COMMITTEE OF TENANT, EXECUTED BY AUTHORIZED OFFICERS OF TENANT, AND DELIVERED TO LANDLORD. IF THIS DOCUMENT IS NOT RETURNED TO TENANT, HAVING BEEN EXECUTED BY LANDLORD AND LENDER, ON OR BEFORE JANUARY 2, 1997, TENANT WILL CONSIDER THE REQUEST FOR THIS AGREEMENT WITHDRAWN.

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IN WITNESS WHEREOF, this Agreement has been executed as of the date first above written.

The Money Store Investment Corporation, a New Jersey corporation

By: *Craig C. Landray*
Its: _____

ATTEST

By: *Sharon P. Stoen*
Its: _____

"LENDER"

LaSalle National Trust, N.A., Trustee under Trust Agreement dated August 28, 1996, and known as Trust Number 120449 AND NOT PERSONALLY

By: *[Signature]*
Its: VICE PRESIDENT

ATTEST

By: *Nancy A. Starek*
Its: ASSISTANT SECRETARY

"LANDLORD"

Jewel Food Stores, Inc., a New York corporation

By: *[Signature]*
Its: VICE PRESIDENT

ATTEST

By: *[Signature]*
Its: ASSISTANT SECRETARY

"TENANT"

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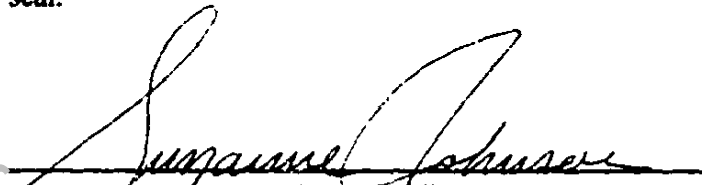
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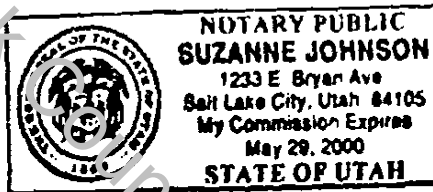
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STATE OF UTAH)
 : S. S.
COUNTY OF SALT LAKE)

On November 25, 1996, before me, Suzanne Johnson, a notary public in and for such County and State, personally appeared Jack Lunt and Julie A. Webb, personally known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument, the persons or entity upon behalf of which the persons acted, executed the instrument.

Witness my hand and official seal.


Notary Public



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CORPORATE ACKNOWLEDGMENT

STATE OF ILLINOIS)
) SS.
COUNTY OF Cook)

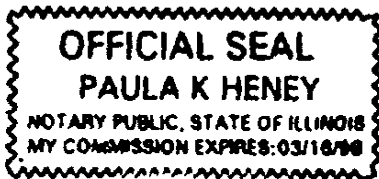
I, Paula K. Heney, a Notary Public in and for said County, in the State aforesaid, do hereby certify that on this day personally appeared before me, Casey A. Pendlay, personally known to me to be the same person(s) whose name(s) is/are subscribed to the foregoing instrument and personally known to me to be the Assistant Vice-President, respectively, of The Money Store Investment Corporation., and acknowledged that they signed, sealed, and delivered the said instrument as their free and voluntary act and deed, for the uses and purposes therein set forth, and that the seal affixed to the foregoing instrument is the corporate seal and the said instrument was signed, sealed, and delivered in the name and on behalf of said corporation by the authority of their stockholders and board of Directors and the free and voluntary act of said corporation for the uses and purposes set forth, including the waiver of rights of redemption and waiver of all rights and benefits under and by virtue of the homestead exemption laws of this state.

GIVEN under my hand and notarial seal this 22nd day of November, 19 96.

(NOTARIAL SEAL)

Paula K. Heney
Notary Public

My commission expires: 3/16/98



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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

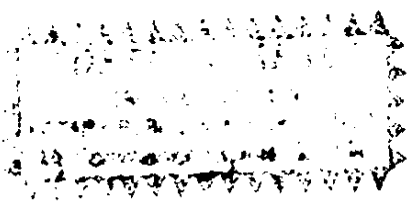
I, Jackie Felden, a Notary Public in and for said County in the state aforesaid, DO HEREBY CERTIFY THAT Corinne Bek, ~~Assistant~~ Vice President of LA SALLE NATIONAL TRUST, N.A., and Nancy A. Stack, Assistant Secretary of said Bank personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such ~~Assistant~~ Vice President and Assistant Secretary respectively, appeared before me this day in person and acknowledged that they signed and delivered said instrument as their own free and voluntary act, and as the free and voluntary act of said bank, for the uses and purposes therein set forth; and said Assistant Secretary did also then and there acknowledge that he/she, as custodian of the Corporate Seal of said Bank, did affix said Corporate Seal of said Bank to said instrument as his/her own free and voluntary act, and as the free and voluntary act of said bank for the uses and purposes therein set forth.

Given under my name and notarial seal this 22nd day of November, 19 96

Jackie Felden
NOTARY PUBLIC

My Commission Expires: _____

Form XX0135



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Exhibit "A"

That part of Lot 13 (except that part falling in railroad right-of way and except that part taken for Madison Street) lying West of the West line of that part described as follows: Beginning at a point in the South line of Madison Street 119.7 feet East of the West line of said Lot 13, said point being in the West line of the corporate limits of the Village of Maywood, thence south along said West line 75.45 feet to the northerly right-of-way line of the Chicago Great Western Railroad, thence Easterly along said Northerly right-of-way line 172.15 feet, thence North parallel with the West line of the corporate limits of the Village of Maywood 100.55 feet to the South line of Madison Street, thence West along the South line of Madison Street 170.46 feet to the point of beginning; also:

Lot 18 (except that part falling in railroad right-of-way and except that part taken for Madison Street) and also except the West 29.8 feet as measured on the North line of said Lot, all in Commissioner's Partition of the North 56 acres of the North West quarter of Section 15, Township 39 North, Range 12 East of the Third Principal Meridian; also:

Lot 85 in Cummings and Foreman Real Estate Corporation Sixth Addition to Golf Club Subdivision, in the Southwest quarter of Section 10, Township 39 North, Range 12 East of the Third Principal Meridian; also:

A triangular shaped parcel of land in the Southwest quarter of the Southwest quarter of Section 10, Township 39 North, Range 12 East of the Third Principal Meridian described as follows: Beginning at the intersection of the South right-of-way line of the Indiana Harbor Belt Railroad Company with the original North line and West line of Madison Street in said Village, thence Southwardly along the said original West line of Madison Street, a distance of 33.48 feet, more or less, to a point of intersection with the Southerly line of said Section 10, a distance of 165.77 feet to a point in the Northerly right-of-way line of the Chicago Great Western Railroad Company, thence Northeasterly to the point of beginning; also:

Parcel B: That part of the Northwest quarter of Section 15, Township 39 North, Range 12 East of the Third Principal Meridian, described as follows: Beginning at a point on the Northerly right-of-way line of the Chicago and Northwestern Railway Company (formerly the Chicago, Great Western Railway Company) and the West line of the corporate limits of the Village of Maywood, thence South along the Southerly extension of said West boundary line of the Village of Maywood to a point being 39 feet Southwesterly, measured at right angles, from the Northerly right-of-way line, thence Northwesterly and parallel with the Northerly right-of-way line a distance of 687 feet, thence Northeasterly at right angles to the last described course 39 feet to the Northerly right-of-way line, thence Southeasterly along said last described line to the point of beginning, all in Cook County, Illinois.

Property commonly known as: 2150 Madison Street, Bellwood, IL 60104

PIA 15-10-332-003, + 004

1545-100-003, 002, 004 + 018

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