

PREPARED BY AND
MAIL RECORDED ORIGINAL TO:

Legal Department (Loc. #38629)
7-Eleven, Inc.
3200 Hackberry Road
Irving, TX 75063

110012-DMF

Tax Parcel No. 07:012:0005 and 07:012:0004

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

This Subordination, Non-Disturbance and Attornment Agreement ("Agreement"), made by and among 7-ELEVEN, INC., a Texas corporation ("Tenant"), with principal offices at 3200 Hackberry Road, Irving, Texas 75063, RED BRIDGE CAPITAL II, LLC, a Utah limited liability company ("Lender"), whose address is 6440 S. Wasatch Boulevard, Suite 200, Salt Lake City, Utah 84121, and SPANISH FORK LEASING, LLC, a Utah limited liability company ("Landlord"), whose address is 1086 E. Highway 193, Layton, Utah 84040; Attn: Matt Gertge.

RECITALS:

WHEREAS, Lender has agreed to make a loan to Landlord, to be secured by a Deed of Trust with Assignment of Leases and Rents, dated April 8, 2019 and filed in the official records of Utah County, State of UTAH (the "Official Records") on or about April 8, 2019, as Instrument No. 28891:2019, Book n/a, Page n/a (together with all amendments, renewals, modifications, consolidations, spreaders, combinations, supplements, replacements, substitutions, and extensions, either current or future) and an assignment of all leases relating thereto, including the Lease (as defined below) (the "Security Instrument"), encumbering Landlord's ownership interest in real property located at 289 South Main Street and 35 East 300 South, Spanish Fork, Utah, which is more particularly described in Exhibit A, attached hereto and made a part hereof (the "Premises");

WHEREAS, pursuant to that certain Freestanding Lease dated September 11, 2018, as same has been amended (collectively, the "Lease"), evidenced by that certain Memorandum of Lease to be recorded in the Official Records of Utah County, State of Utah, Landlord has leased the Premises to Tenant;

NOW THEREFORE, to confirm their understanding concerning the legal effect of the Security Instrument and the Lease and, in consideration of the mutual covenants and agreements contained in this Agreement and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lender and Tenant, intending to be legally bound, agree and covenant as follows:

1. Subordination. Subject to the provisions of Paragraphs 2 and 3 below, the Security Instrument shall constitute a lien on the Premises that is prior and superior to the Lease, and to the leasehold estate created by it. By this Agreement, the Lease, the leasehold estate created by it, together with all rights and privileges of Tenant under it, are subordinated, at all times, to the lien or charge of the Security Instrument in favor of Lender and all supplements, amendments, modifications, renewals and extensions of the Security Instrument.

2. Non-Disturbance. By execution of this Agreement, Lender consents to the Lease. Despite Tenant's subordination under section 28 of the Lease, so long as the Lease is then in full force and effect and Tenant is not in material default under the Lease (beyond any period given Tenant by the terms of the Lease to cure such default) in the payment of rent or other amounts owed pursuant to the Lease or in the performance of any of the material terms, covenants or conditions of the Lease on Tenant's part to be performed, then Lender, any successor or assign of Lender, or any owner of the Premises following a foreclosure sale or conveyance in lieu of foreclosure (collectively, the "Lender Entities") acknowledge and agree that: (i) Tenant's possession of the Premises, or any extension or renewal rights therefor in the Lease, shall not be disturbed, diminished or interfered with by the Lender Entities, (ii) the Lease shall not be terminated and all of Tenant's rights and privileges under the Lease shall be recognized by the Lender Entities, and (iii) the Lender Entities will not join Tenant as a party defendant in any action or proceeding foreclosing the Security Instrument unless such joinder is necessary to foreclose the Security Instrument and then only for such purpose and not for the purpose of terminating the Lease.

3. Attornment. If (i) Lender or its successors and assigns shall become the owner of the Premises, (ii) the Premises shall be sold by reason of foreclosure or other proceedings brought to enforce the Security Instrument, or (iii) the Premises shall be transferred by deed in lieu of foreclosure, the Lease shall continue in full force and effect as a direct lease between the then owner of the Premises and Tenant, and Tenant agrees to attorn to the owner of the Premises, said attornment to be effective and self operative without the execution of any further instruments. Tenant shall be under no obligation to pay rent to Lender or any such other owner until Tenant receives written notice from Lender or any such other owner that it has succeeded to Landlord's interest under the Lease, upon which notice Tenant shall be entitled to rely.

4. Notice to Cure Defaults. Tenant agrees to provide to Lender a copy of any notice of default served upon Landlord which with the passage of time or otherwise would entitle Tenant to cancel the Lease or abate the rent under the Lease. Tenant further agrees that if Landlord shall have failed to cure such default within the time provided for in the Lease, then Lender shall have an additional thirty (30) days after its receipt of notice within which to cure such default or if such default cannot be cured within that time, then such additional time as may be necessary to cure such default shall be granted if within such thirty (30) days Lender has commenced and is diligently pursuing the remedies necessary to cure such default (including, but not limited to, commencement of foreclosure proceedings necessary to effect such cure), in which event the Lease shall not be terminated while such remedies are being so diligently pursued, provided, that, such additional period of time shall not exceed ninety (90) additional days.

5. Limitation of Liability. In the event that Lender succeeds to the interest of Landlord under the Lease, then Lender and any successor to Lender's interest in the Lease shall assume and be bound by the obligations of Landlord under the Lease which accrue from and after such party's succession to any prior landlord's interest in the Premises, but Lender shall not be:

(i) bound by any rent or additional rent which Tenant has paid more than one (1) month in advance to any prior landlord (including, without limitation, Landlord), except as expressly provided in the Lease;

(ii) liable for any act or omission of any prior landlord (including, without limitation, Landlord), except (a) for any tenant improvement allowance owed to Tenant under the Lease that has not been previously remitted to Tenant; or (b) to the extent the default is non-monetary, relates to the repair or maintenance of the Premises, and continues to accrue after attornment, in which event, the successor landlord shall be bound to cure same within the time provided for in the Lease, which time shall be calculated from the date of attornment;

(iii) liable for the retention, application or return of any security deposit to the extent not paid over to Lender;

(iv) subject to any offsets or defenses which Tenant might have against any prior landlord (including, without limitation, Landlord), except as expressly provided in the Lease; or

(v) bound by any amendment or modification of the Lease made without Lender's written consent, such consent not to be unreasonably withheld or delayed, that: (a) reduces rent or additional rent payments to the landlord under the Lease, or (b) shortens the term of the Lease, or (c) imposes any additional material obligations upon the landlord under the Lease. All other amendments or modifications of the Lease that do not relate to the provisions set forth herein shall not require Lender approval.

Notwithstanding the foregoing, nothing in this section shall be deemed to waive any of Tenant's rights and remedies against any prior landlord (including, without limitation, Landlord).

6. Assignment of Leases. Tenant consents to the Assignment of Leases contained in the Security Instrument (collectively, the "Assignment"). Tenant agrees that after any foreclosure action, sale under a power of sale, transfer in lieu of the foregoing, or the exercise of any other remedy pursuant to the Security Instrument, if Lender, pursuant to the Assignment, and whether or not it becomes a mortgagee in possession, shall give written notice to Tenant that Lender has elected to require Tenant to pay to Lender the rent and other charges payable by Tenant under the Lease, Tenant agrees that it shall pay rent and all other sums due under the Lease directly to Lender without notice to or the consent of Landlord and without any obligation on the part of Tenant to determine whether or not the demand is proper. Landlord agrees that Tenant shall have the right to rely on any such notice from Lender without incurring any obligation or liability to Landlord as if such notice were given at the direction of Landlord.

7. Leasehold Improvements and Business Fixtures. Lender agrees that it will not claim and shall not have or assert any right, title or interest in and to any leasehold improvements and/or business fixtures installed upon the Premises by Tenant pursuant to the terms of the Lease.

8. Notices. Any notice required to be sent hereunder shall be in writing and shall be delivered by hand, sent prepaid by Federal Express (or a comparable overnight delivery service) or sent by the United States first-class mail, certified, postage prepaid, return receipt requested, to the following addresses:

If to Lender:

RED BRIDGE CAPITAL II, LLC
6440 S. Wasatch Boulevard, Suite 200
Salt Lake City, UT 84121

Attn: Paul Erickson

With a copy to:

Attn: _____

If to Landlord:

Spanish Fork Leasing, LLC
1086 E. Highway 193
Layton, UT 84040

Attn: Matt Gertge

With a copy to:

Attn: _____

If to Tenant:

7-Eleven, Inc.
Attention: Corporate Real Estate
3200 Hackberry Road
Irving, TX 75063
Store #38629

Any notice, request, demand or other communication delivered or sent in the manner aforesaid shall be deemed delivered on the earlier to occur of (i) actual receipt or (ii) the date of delivery, refusal or non-delivery indicated on the return receipt, if deposited in a United States Postal Service Depository, postage prepaid, sent certified or registered mail, return receipt requested, or if sent via a recognized commercial courier service providing for a receipt, addressed to Tenant or Lender, as the case may be, at the addresses set forth above. Any of the above persons or entities may change such person's or entity's address by notifying the other persons and entities of the new address in any manner permitted by this paragraph.

9. Joinder of Landlord. Landlord hereby agrees to the subordination and attornment effected hereunder upon the terms herein stated.

10. Successors and Assigns. This Agreement and each and every covenant, agreement and other provision hereof shall be binding upon and shall inure to the benefit of the parties hereto and their representatives, successors and assigns, as applicable.

11. Counterparts. This Agreement may be executed in any number of Counterparts, all of which taken together shall constitute one and the same instrument, and any person intended to be a signatory hereto may execute this Agreement by signing any such Counterpart.

12. Governing Law. The laws of the state in which the Premises are located shall govern the validity, performance and enforcement of this Agreement. The invalidity or unenforceability of any provision of this Agreement shall not affect or impair any other provision.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates set forth in their respective acknowledgments.

*[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.
SIGNATURE PAGES TO FOLLOW.]*

[SIGNATURE AND ACKNOWLEDGMENT PAGE OF LENDER TO SUBORDINATION, NON-DISTURBANCE AND ATTORNMENMENT AGREEMENT]

WITNESS the following signatures and seals.

Witness:

[Signature]
Print Name: Cyrus Spencer

"LENDER"
RED BRIDGE CAPITAL II, LLC

By: Cherokee & Walker Management, LLC
Its: Manager

By: [Signature]
Name: Shane R. Peery
Title: Manager

By: [Signature]
Name: Paul K. Erickson
Title: Manager

ACKNOWLEDGEMENT

STATE OF Utah
COUNTY OF Salt Lake

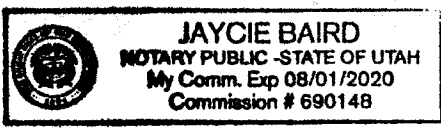
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BEFORE ME, the undersigned, a Notary Public in and for the aforesaid County and State, on this day personally appeared Shane R. Peery & Paul K. Erickson a or the Managers of Red Bridge Capital II, LLC, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of the said entity and that he or she executed the same as the act of such entity for the purposes therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 8 day of April, 2019.

[Signature]
(Notary signature)
Jaycie Baird
(typed or printed name)

(seal)



My commission expires: 8/01/20

[SIGNATURE AND ACKNOWLEDGMENT PAGE OF TENANT TO SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT]

WITNESS the following signatures and seals.

“TENANT”

7-ELEVEN, INC., a Texas corporation

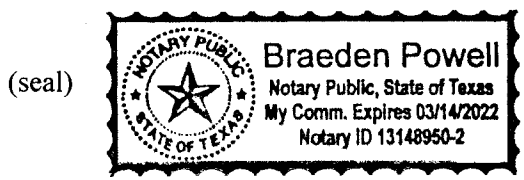
By: Marijan Smith
Name: Marijan Smith
Title: Assistant Secretary

ACKNOWLEDGEMENT

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

BEFORE ME, the undersigned, a Notary Public in and for the aforesaid County and State, on this day personally appeared Marijan Smith, a(n) Assistant Secretary, respectively, of 7-ELEVEN, INC., known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that the same was the act of the said corporation and that they each executed the same as the act of such corporation for the purposes therein expressed and in the capacities therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 5th day of April, 2019.



Braeden Powell
(Notary signature)
Braeden Powell
(typed or printed name)

My commission expires: 3-14-2022

[SIGNATURE AND ACKNOWLEDGMENT PAGE OF LANDLORD TO SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT]

WITNESS the following signatures and seals.

Witness:

“LANDLORD”

Print Name: _____

Spanish Fork Leasing LLC,
a Utah limited liability company

By: [Signature]
Name: Matt Gergte
Title: Member

ACKNOWLEDGEMENT

STATE OF UTAH
COUNTY OF DAVIS

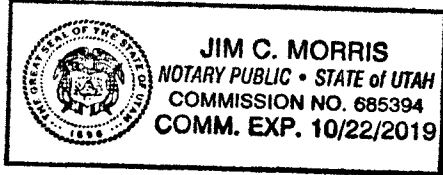
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BEFORE ME, the undersigned, a Notary Public in and for the aforesaid County and State, on this day personally appeared MATT GERGTE a or the MEMBER of SPANISH FORK LEASING, LLC, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of the said entity and that he or she executed the same as the act of such entity for the purposes therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 8 day of April, 2019.

[Signature]
(Notary signature)
JIM C MORRIS

(seal)



(typed or printed name)

My commission expires: 10-22-19

Exhibit A

Legal Description of the Premises

The land referred to herein is located in Utah County, Utah, and is legally described as:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 2, BLOCK 12, PLAT "A", SPANISH FORK CITY SURVEY; RUNNING THENCE NORTH 132.00 FEET; THENCE EAST 132.00 FEET; THENCE SOUTH 132.00 FEET; THENCE WEST 132.00 FEET TO THE POINT OF BEGINNING

Said property is also known by the street address of:

289 South Main Street
Spanish Fork, UT 84660
Tax Parcel No. 07:012:0005

AND

PARCEL 1:

COMMENCING AT A POINT 132.00 FEET EAST OF THE SOUTHWEST CORNER OF LOT 2, BLOCK 12, PLAT "A", SPANISH FORK CITY SURVEY; THENCE NORTH 132.00 FEET, MORE OR LESS, TO A POINT 66.00 FEET SOUTH OF THE NORTH LINE OF SAID LOT 2; THENCE EAST 33.00 FEET, MORE OR LESS; THENCE NORTH 66.00 FEET, MORE OR LESS, TO THE NORTH LINE OF SAID LOT 2; THENCE EAST 46.5 FEET, MORE OR LESS, TO THE WEST LINE OF THE BARTHOLOMEW PROPERTY AS RECORDED IN BOOK 1466, AT PAGE 733, RECORDS OF UTAH COUNTY, UTAH; THENCE SOUTH 56.00 FEET, MORE OR LESS; THENCE EAST 6.0 FEET TO A POINT 178.50 FEET WEST, MORE OR LESS, FROM THE EAST LINE OF SAID BLOCK 12; THENCE SOUTH 58.00 FEET, MORE OR LESS, ALONG A LINE AND THE WEST LINE OF THE HALES PROPERTY AS RECORDED IN BOOK 2808, AT PAGE 61, RECORDS OF UTAH COUNTY, UTAH; THENCE WEST 1.5 FEET, MORE OR LESS ALONG THE SAID HALES PROPERTY LINE; THENCE SOUTH 84.00 FEET, MORE OR LESS ALONG THE SAID HALES PROPERTY LINE TO THE SOUTH LINE OF SAID BLOCK 12; SAID POINT BEING 180.00 FEET WEST OF THE SOUTHEAST CORNER OF SAID BLOCK 12; THENCE WEST 83.50 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

PARCEL 1A:

A RIGHT OF WAY FOR INGRESS AND EGRESS CREATED BY THAT CERTAIN WARRANTY DEED RECORDED APRIL 6, 1946 AS ENTRY NO. 4449 IN BOOK 446 AT PAGE 351 OF OFFICIAL RECORDS OVER THE FOLLOWING DESCRIBED PROPERTY: COMMENCING 36 FEET EAST OF THE SOUTHWEST CORNER OF LOT 1, BLOCK 12, PLAT "A", SPANISH FORK CITY SURVEY OF BUILDING LOTS; THENCE NORTH 87 FEET; THENCE WEST 52 DEGREES NORTH 28 FEET, MORE OR LESS; THENCE NORTH 12 1/2 FEET; THENCE EAST 52 DEGREES SOUTH 38 FEET, MORE OR LESS TO A POINT 45 FEET EAST OF THE WEST LINE OF LOT 1, BLOCK 12, PLAT "A", SPANISH FORK CITY SURVEY OF BUILDING LOTS; THENCE SOUTH 92 FEET; THENCE EAST 9 FEET TO THE PLACE OF BEGINNING.

Said property is also known by the street address of:

35 East 300 South
Spanish Fork, UT 84660
Tax Parcel No. 07:012:0004