

135667-DTF

Account #: 0552891-6101  
SBA Loan No. 78589289-02

PREPARED BY AND UPON RECORDING RETURN TO:

Kevin A. Morrissey, Esq.  
ReadyCap Lending, LLC  
200 Connell Drive  
Suite 4000  
Berkeley Heights, NJ 07922

~~10-042-0041~~  
10-042-0040

**SUBORDINATION, ATTORNMENT, NON-DISTURBANCE AND ESTOPPEL AGREEMENT**

THIS AGREEMENT entered this 20 day of May, 2021 is between KA Layton Hotel, LLC, a Utah limited liability company ("Borrower"), FD BBQ Layton LLC, a Delaware limited liability company ("Tenant") and ReadyCap Lending, LLC, a Delaware limited liability company ("Lender").

Recitals

WHEREAS, Tenant, by virtue of a certain lease dated October 12, 1988, with amendments, (the "Lease"), entered into with Borrower as landlord, by assignment, a copy of the Lease has been provided to Lender which is the correct and most current lease and to which there have been no addendums added, and a copy of said Lease is attached hereto as Exhibit "B", has leased a portion of the real property known as 1977 North 1200 West, Layton, Utah 84041, of which is more particularly described on Exhibit "A" attached hereto and by reference incorporated herein (the "Premises");

WHEREAS, Borrower has requested that Lender make a loan (the "Loan") to be secured by a lien on real estate from Borrower to Lender (the "Mortgage/Deed of Trust") encumbering the Premises; and

WHEREAS, Lender has required as a condition for the making of the Loan that the subject Agreement be executed by Tenant, whereby the Lease is subordinated to the Mortgage/Deed of Trust in all respects.

Agreement

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth below and in order to induce Lender to make the Loan, the parties do hereby agree and covenant as follows:

A. Tenant hereby certifies, represents, warrants, confirms, covenants and agrees for the benefit of Lender as follows:

1. Tenant is "tenant" or "lessee" under the Lease.
2. The Lease is in full force and effect and has not been modified, altered, amended, changed, supplemented, terminated or superseded in any manner other than that such First and Second Amendments and Assignments.

3. The Lease constitutes a complete statement of the agreements, covenants, terms and conditions of Tenant and Borrower with respect to the Premises, and there are no other agreements or understandings between Borrower and Tenant with respect to the Premises or the Lease.
  4. The Lease and all rights of Tenant thereunder are and shall at all times continue to be subject and subordinate in all respects to the terms and provisions of the Loan and the Mortgage/Deed of Trust and to all renewals, modifications and extensions thereof, subject to the terms and conditions set forth in this Agreement.
  5. The primary term of the Lease expired on December 11, 2013. Tenant had two (2) option(s) of five (5) years each to renew and extend the term of the Lease from December 11, 2013. Tenant is currently in possession of the Premises under the second extension.
  6. Rents due monthly during the primary term of the Lease are currently paid no more than one month in advance.
  7. All agreements and conditions of the Lease to be performed or complied with by Borrower relating to the improvements or the use of the Premises have been satisfied and the improvements were fully and timely completed and have been approved and accepted by Tenant.
  8. Tenant has accepted possession and is in actual occupancy of the Premises and as of the date of this Agreement, there are no defenses to Borrower's enforcement of its rights under the Lease.
  9. Tenant has no charges, liens, claims, credits or offsets against rentals under the Lease.
  10. Borrower is holding a security deposit of \$\_\_\_\_\_ to secure Tenant's obligations; no rents have been prepaid, except as provided in paragraph 6 above, and there are no periods of free rentals applicable to the term of the Lease, except as specified in the Lease. In no event will Tenant look to Lender for the return of any security deposit.
  11. Without Lender's prior written consent, Tenant and Borrower will not (a) modify or in any manner alter the agreements, covenants, terms or conditions of the Lease or any modification or amendment thereto specified herein; (b) waive or release performance of any obligation under the Lease or under any modification or amendment thereto specified herein; (c) accept surrender, abandonment, cancellation or termination of the Lease; (d) pay or accept the rent or any other sums becoming due under the terms of the Lease more than one month in advance unless the Lease or any modification or amendment specified herein provides otherwise; or (e) accept waiver of or release from the performance of any obligations under the Lease.
  12. From time to time upon request, Tenant will timely execute and deliver Estoppel Letters to Lender or Lender's designees or assigns, including any instrument that may be necessary or appropriate to evidence attornment. Tenant hereby irrevocably appoints Lender its attorney-in-fact to execute and deliver for and on behalf of Tenant any such instrument.
  13. Tenant has not subleased, nor will Tenant sublease in the future, any portion of the Premises and Tenant has not assigned, nor will Tenant assign in the future, whether outright or by collateral assignment, all or any portion of Tenant's rights under the Lease.
- B. By reason of the execution of this Agreement, no duty or responsibility is imposed upon Lender to perform or comply with any of the terms, provisions or conditions of the Lease required to be performed by Borrower.
- C. If Lender acquires the Premises pursuant to a foreclosure proceeding or deed in lieu thereof, Tenant will attorn to Lender as successor to Borrower under the terms of the Lease. Tenant waives the right, if any, under

any statute or rule of law now or hereinafter in effect, which may allow Tenant to terminate the Lease or to surrender possession of the Premises in the event any proceeding is brought by Lender.

D. In the event the Mortgage/Deed of Trust is foreclosed for any reason, Lender will succeed to the interest of Borrower under the Lease and Tenant will be bound to Lender under all of the terms of the Lease for the balance of the term thereof remaining with the same force and effect as if Lender were landlord under the Lease. Tenant shall be under no obligation to pay rent to Lender until Tenant receives written notice from Lender that it has succeeded to the interest of Borrower under the Lease, or until Tenant receives notice from Lender pursuant to any assignment of leases and rents executed by Borrower in connection with the Loan. To the extent of the then remaining balance of the term of the Lease the respective rights and obligations of Tenant and Lender upon such attornment shall be the same as now set forth in the Lease.

E. In the event of a foreclosure under the Deed of Trust, so long as there shall then exist no default (beyond applicable notice and cure periods) on the part of Lessee under the Lease, Lender agrees for itself and its successors and assigns that the leasehold interest of Lessee under the Lease shall not be extinguished or terminated by reason of such foreclosure, but rather the Lease shall continue in full force and effect as a direct agreement between Lender, as landlord, and Lessee, as tenant, and Lender shall recognize and accept Lessee as tenant under the Lease subject to the terms and provisions of the Lease except as modified by this Agreement; provided, however, that Lessee and Lender agree that the following provisions of the Lease (if any) shall not be binding on Lender: any option to purchase with respect to the Property; any right of first refusal to purchase with respect to the Property. The lien of the Deed of Trust does not and will not encumber any trade fixtures, equipment or personal property used by Lessee in its business on the Property.

F. In the event Lender succeeds to the rights of Borrower as landlord under the Lease, Lender shall not be (a) liable for any act or omission of any prior landlord, including Borrower, (b) subject to any offsets or defenses which Tenant may have against any prior landlord, (c) bound by any rent or additional rent which Tenant might have paid for more than thirty (30) days in advance, (d) bound by any amendment or modification of the Lease made without Lender's consent, (e) bound by any lease provisions with respect to landlord's obligation to complete any construction on the Premises, or (f) liable to Tenant under the Lease to any extent beyond Lender's interest in the Premises.

G. This Agreement may be modified only in writing, signed by the parties or their respective successors in interest. This Agreement shall inure to the benefit of and be binding upon the parties, their respective heirs, successor and assigns; it being expressly understood that all references to "Lender" shall be deemed to include not only Lender but also its successors and assigns, including any purchaser at a foreclosure sale.

H. A standard mortgagee clause naming Lender as Mortgagee shall be added to any and all insurance policies required to be carried under the Lease or Mortgage/Deed of Trust, and the insurance proceeds are to be applied in the manner specified in the Mortgage/Deed of Trust. Such standard mortgagee clause shall also provide for non-cancellation of the policy without at least thirty (30) days prior written notice to Lender. Borrower and Tenant shall provide Lender with copies of the endorsement containing such standard mortgagee clause, together with a complete copy of the exclusions and exceptions section of the insurance policy(ies) within twenty (20) days after the execution of this Subordination, Attornment and Estoppel Agreement.

I. Whenever Borrower or Tenant shall give notice to the other of a breach of any of the conditions, covenants, or provisions of this Lease, Borrower and Tenant agree to also send a copy of such notice to Lender at 200 Connell Drive, Suite 4000, Berkeley Heights, NJ 07922.

J. Borrower and Tenant affirm that as of the date of this Agreement, there are no breaches of any of the covenants, conditions or provisions of the Lease.

K. Notwithstanding the terms of the Lease, in the event of breach of any of the covenants, conditions, or provisions of the Lease by Borrower, Tenant agrees that Borrower shall have thirty (30) days from the date Borrower receives notice, specifying such breach, to cure said breach. Tenant further agrees that Lender shall also have a reasonable period of time to cure such breach, which period of time shall include, if necessary, the time necessary for Lender to secure possession of the Premises.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth above.

BORROWER: KA Layton Hotel, LLC

By: Kulwant Kaur

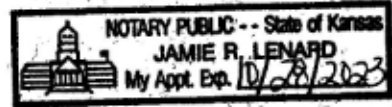
Its: KULWANT KAUR

State of ~~Utah~~ Kansas  
County of Johnson

On this 19th day of May, 2021, personally appeared before me Kulwant Kaur whose identity is personally known to me (or proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say that he/she is the managing member of KA Layton Hotel, LLC and that said document was signed by him/her in behalf of said company.

Witness my hand and official seal.

Jamie Lenard  
Notary signature



(notary seal)

TENANT: **FD BBQ Layton LLC, a Delaware limited liability company**

By: Paul M

Its: Vice President

State of ~~Utah~~ WA  
County of King

On this 20th day of May, 2021, personally appeared before me Paul Herber, whose identity is personally known to me (or proven on the basis of satisfactory evidence) and who by me duly sworn/affirmed, did say that he/she is the Vice President of FD BBQ Layton LLC and that said document was signed by him/her in behalf of said corporation.

Witness my hand and official seal.

Kimberly J Dow  
Notary signature



LENDER:

ReadyCap Lending, LLC

By: [Signature]  
Its: Authorized Person

CORPORATE ACKNOWLEDGEMENT

STATE OF NEW JERSEY

COUNTY OF UNION

On this 19<sup>th</sup> day of May, in the year 2021, before me, the undersigned, a Notary Public in and for said County and State, personally appeared John Washier known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument as Authorized Person of the company therein named and acknowledged to me that the corporation executed it.

Signature [Signature]  
Notary Public in and for said County and State

My Commission Expires: 10/6/2021

ELIZABETH BASTEDO  
NOTARY PUBLIC OF NEW JERSEY  
Comm. # 50046938  
My Commission Expires 10/6/2021

### LEGAL DESCRIPTION

BEGINNING at a point 33 feet West along the Section line and South 60 feet from the Northeast corner of Section 18, T. 4 N., R. 1 W., S.L.B. & M., and running thence SO degrees 22' 10" W 192.82 feet; thence S 89 degrees 57' 40" W 53.00 feet; thence South 13.40 feet; thence S 89 degrees 42' 00" W 190.00 feet; thence N 6 degrees 20' 12" W 30.99 feet; thence S 81 degrees 37' 08" W 40.00 feet to a point on a 748.51 foot radius curve to the right; said point also being (in the Easterly line of an exit ramp of State Highway; thence Northly along said curve 102.93 feet (Note: Tangent to said curve at its point of beginning bears N 8 degrees 22' 52" W); thence N 00 degrees 06' E 79.74 feet; thence leaving said Easterly Highway R.O.W. line and running East 295.06 feet to the point of beginning.  
Containing 1.35 Acres.

Commonly known as 1977 North 1200 West, Layton, Utah 84041