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10/4/2006 11:07:00 AM \$30.00  
Book - 9360 Pg - 8717-8725  
Gary W. Ott  
Recorder, Salt Lake County, UT  
FIRST AMERICAN TITLE  
BY: eCASH, DEPUTY - EF 9 P.

After recording return to:  
sterling Bank Attn: Carla Carleton  
Po Box 40333 Houston, TX 77240-0444  
Folio # 311-474 3326 ah

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

This Subordination, Non-Disturbance and Attornment Agreement (this "Agreement") is made as of the 2 day of October, 2006, by and between **STERLING BANK**, a Texas banking corporation ("Lender"), **JJD&S, LLC** ("Landlord"), and **Millennial Falls Wedding & Reception Center, LLC** ("Tenant").

RECITALS:

A. The Lender is relying on this Agreement as an inducement in making a first lien mortgage loan to Landlord (the "Loan"), secured by a deed of trust and/or an assignment of rents and leases (collectively, the "Mortgage") covering that certain real property located at 12375 South 1300 East, Draper City, UT 84020 (the "Property").

B. Tenant is the tenant under that certain Lease Agreement dated July 1, 2005, which has on or before this date been assigned to this Landlord (the "Lease"), covering the Property (the "Leased Premises").

C. Lender requires, as a condition to the extending the Loan, that the Mortgage be and remain superior to the Lease and that its rights under the Mortgage be recognized.

D. Tenant requires as a condition to the Lease being subordinate to the Mortgage that its rights under the Lease be recognized.

E. Lender, Landlord, and Tenant desire to confirm their understanding with respect to the Mortgage and the Lease.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and agreements contained this Agreement, and other valuable consideration, the receipt and sufficiency of which the parties to this Agreement acknowledge, and with the understanding by Tenant that Lender shall rely on this Agreement in making the Loan, Lender, Landlord, and Tenant agree as follows:

1. Subordination. The Lease and the rights of Tenant under the Lease (including, without limitation, any right to purchase the Property and/or lease additional space at the Property) are subordinate and inferior to the Mortgage and all renewals, modifications, amendments, consolidations, replacements, increases and extensions of the Mortgage, as though the Mortgage, and each such renewal, modification, amendment, consolidation, replacement, increase or extension of the Mortgage were executed and recorded, before the execution of the Lease.

2. Non-Disturbance. So long as Tenant is not in default (beyond any period expressed in the Lease within which Tenant may cure such default) in the payment of

rent or in the performance or observance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed or observed:

- (a) Tenant's occupancy of the Leased Premises shall not be disturbed by Lender in the exercise of any of its rights under the Mortgage during the term of the Lease, or any extension or renewal thereof made in accordance with the terms of the Lease; and
- (b) 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. Attornment and Certificates. If Lender succeeds to the interest of Landlord, as landlord, under the Lease, or if the Property or the Leased Premises are sold under the power of sale under the Mortgage or transferred by a deed in lieu of foreclosure, Tenant shall attorn to Lender, or a purchaser upon any such foreclosure sale or under any such deed in lieu of foreclosure, and shall recognize Lender, or such purchaser, thereafter as the Landlord under the Lease. That attornment shall be effective and self-operative without the execution of any further instrument. Tenant agrees, however, to execute and deliver at any time and from time to time, upon the request of any holder of any of the indebtedness or other obligations secured by the Mortgage, or upon request of any such purchaser:

- (a) an instrument or certificate which, in the reasonable judgment of such holder, or such purchaser, may be necessary or appropriate in any such foreclosure proceeding or otherwise to evidence such attornment; and
- (b) an instrument or certificate regarding the status of the Lease, consisting of statements, if true (and if not true, specifying in what respect): (i) that the Lease is in full force and effect, (ii) the date through which rentals have been paid, (iii) the duration and date of the commencement of the term of the Lease, (iv) the nature of any amendments or modifications to the Lease, (v) that no default, or state of facts, which with the passage of time, or notice, or both, would constitute a default, exists on the part of either party to the Lease, and (vi) the dates on which payments of additional rent, if any, are due under the Lease.

4. Limitations. If Lender exercises any of its rights under the Mortgage, or if Lender shall succeed to the interest of Landlord under the Lease in any manner, or if any purchaser acquires the Property, or the Leased Premises, upon or after any foreclosure of the Mortgage, or any deed in lieu thereof, Lender or such purchaser, as the case may be, shall have the same remedies by entry, action, or otherwise in the event of any default by Tenant (beyond any period expressed in the Lease within which Tenant may cure such default) in the payment of rent or in the performance or observance of any of the terms, covenants and conditions of the Lease on Tenant's part to be paid, performed or observed that the Landlord had or would have had if Lender or such purchaser had not succeeded to the interest of the present Landlord. From and after any such attornment, Lender or such purchaser shall be bound to Tenant under all the terms, covenants and conditions of the Lease, and Tenant shall, from and after such attornment

to Lender, or to such purchaser, have the same remedies against Lender, or such purchaser, for the breach of an agreement contained in the Lease that Tenant might have had under the Lease against Landlord; provided, however, that Lender or such purchaser shall only be bound during the period of its ownership, and that in the case of the exercise by Lender of its rights under the Mortgage, or a foreclosure, or deed in lieu of foreclosure, all Tenant claims shall be satisfied only out of the interest, if any, of Lender, or such purchaser, in the Property, and Lender and such purchaser shall not be:

- (a) liable for any act or omission of any prior landlord (including the Landlord);
- (b) liable for or incur any obligation with respect to the construction of the Property or any improvements of the Leased Premises or the Property;
- (c) subject to any offsets or defenses which Tenant might have against any prior landlord (including the Landlord);
- (d) bound by any rent or additional rent which Tenant might have paid for more than the then current rental period to any prior landlord (including the Landlord);
- (e) bound by any amendment or modification of the Lease, or any consent to any assignment or sublet, made without Lender's prior written consent;
- (f) bound by or responsible for any security deposit not actually received by Lender;
- (g) liable for or incur any obligation with respect to any breach of warranties or representations of any nature under the Lease or otherwise including without limitation any warranties or representations respecting use, compliance with zoning, landlord's title, landlord's authority, habitability and/or fitness for any purpose, or possession; or
- (h) liable for consequential damages.

5. Rights Reserved. Nothing contained in this Agreement is intended, nor shall it be construed, to abridge or adversely affect any right or remedy of:

- (a) the Landlord under the Lease, or any subsequent landlord, against the Tenant in the even of any default by Tenant (beyond any period expressed in the Lease within which Tenant may cure such default) in the payment of rent or in the performance or observance of any of the terms, covenants or conditions of the Lease on Tenant's part to be performed or observed; or
- (b) the Tenant under the Lease against the original or any prior landlord in the event of any default by the original landlord to pursue claims against such original or prior landlord whether or not such claim is barred against Lender or a subsequent purchaser.

6. Notice and Right To Cure. Tenant agrees to provide Lender with a copy of each notice of default given to Landlord under the Lease, at the same time it gives any notice of default to Landlord. If Landlord fails to cure such default within the time provided for in the Lease, Tenant will take no action to terminate the Lease:

- (a) if the default is not curable by Lender (so long as the default does not interfere with Tenant's use and occupation of the Leased Premises); or
- (b) if the default is curable by Lender, unless the default remains uncured for an additional period of sixty (60) days after written notice thereof shall have been given, postage prepaid, to Lender at the address provided in Section 7 below; provided, however, that if any such default is such that it reasonably cannot be cured within such sixty (60) day period, that period shall be extended for such additional time as shall be reasonably necessary (including, without limitation, a reasonable time to obtain possession of the Property and to foreclose the Mortgage), if Lender gives Tenant written notice within that sixty (60) day period of Lender's election to undertake the cure of the default and if curative action (including, without limitation, any action to obtain possession and foreclose) is instituted within a reasonable time and is thereafter diligently pursued. Lender shall have no obligation to cure any default under the Lease.

7. Notices. Any notice or communication required or permitted hereunder shall be in writing, and shall be given or delivered: (i) by United States mail, registered or certified, postage fully prepaid, return receipt requested, or (ii) by recognized courier service or recognized overnight delivery service; and in any event addressed to the party for which it is intended at its address set forth below:

To Lender: Sterling Bank  
P.O. Box 40333  
Houston, Texas 77240-0333  
Attention: Stephen C. Rife

To Landlord: JJD&S LLC  
9014 Greenhills Drive  
Sandy, UT 84093  
Attn: David L. Guymon

To Tenant: Millennial Falls Wedding & Reception Center, LLC  
9014 Greenhills Drive  
Sandy, UT 84093  
Attn: Judy L. Guymon

or such other address as such party may have previously specified by notice given or delivered in accordance with the foregoing. Any such notice shall be deemed to have been given and received

on the date delivered or tendered for delivery during normal business hours as provided in this Agreement.

8. No Oral Change. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties in this Agreement or their respective successors in interest.

9. Successors and Assigns. This Agreement shall inure to the benefit of and be binding on the parties to this Agreement, their respective heirs, personal representatives, successors and assigns, and any purchaser or purchasers at foreclosure of the Property or any portion thereof, and their respective heirs, personal representatives, successors and assigns.

10. Payment of Rent to Lender. Tenant acknowledges that it has notice that the Lease and the rent and all sums due under the Lease have been assigned to Lender as part of the security for the Loan and all other indebtedness and obligations secured by the Mortgage. Should the Lender notify Tenant of a default under the Loan or any other indebtedness or obligations secured by the Mortgage, and demand that Tenant pay its rent and all other sums due under the Lease to Lender, Tenant agrees that it will honor that demand and pay its rent and all other sums due under the Lease to Lender, or Lender's designated agent, until otherwise notified in writing by Lender. Landlord unconditionally authorizes and directs Tenant to make rental payments directly to Lender following receipt of that notice and further agrees that Tenant may rely on that notice without any obligation to further inquire into whether any default exists under the Loan, any other indebtedness or obligations secured by the Mortgage, or the Mortgage, and that Landlord shall have no right or claim against Tenant for or by reason of any payments of rent or other charges made by Tenant to Lender following receipt of that notice.

11. No Amendment or Cancellation of Lease. So long as the Loan or any other indebtedness or obligations secured by the Mortgage remains unpaid and the Mortgage remains valid and of record, Tenant shall not amend, modify, cancel, or terminate the Lease, or consent to an amendment, modification, cancellation, or termination of the Lease, or agree to subordinate the Lease to any other mortgage, without Lender's prior written consent in each instance.

12. Options. With respect to any options or rights to lease additional space or purchase the Property provided to Tenant under the Lease, Lender agrees to recognize the same if Tenant is entitled thereto under the Lease after the date on which Lender succeeds as Landlord under the Lease by virtue of foreclosure or deed in lieu of foreclosure or Lender takes possession of the Leased Premises; provided, however, Lender shall not be responsible for any acts of any prior landlord under this lease, or the acts of any tenant, subtenant, or other party that prevent Lender from complying with the provisions of this Agreement and Tenant shall have no right to cancel the Lease or to make any claims against Lender on account of such acts.

13. Captions. Captions and headings of sections are not parts of this Agreement and shall not be deemed to affect the meaning or construction of any of the provisions of this Agreement.

14. Counterparts. This Agreement may be executed in several counterparts each of which when executed and delivered is an original, but all of which together shall constitute one instrument.

15. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the state where the Property is located.

16. Parties Bound. The provisions of this Agreement shall be binding upon and inure to the benefit of Tenant, Lender, and Landlord and their respective successors and assigns; provided, however, reference to successors and assigns of Tenant shall not constitute a consent by Landlord or Lender to an assignment or sublet by Tenant, but has reference only to those instances in which such consent is not required under the Lease or for which such consent has been given.

[SIGNATURE PAGES ATTACHED]

LENDER:

**STERLING BANK, a Texas banking corporation**

By: *Stephen C. Rife*  
Stephen C. Rife, Senior Vice President

THE STATE OF TEXAS §  
  §  
COUNTY OF HARRIS §

This instrument was subscribed, sworn to, and acknowledged before me this and day of October, 2006, by Stephen C. Rife, a Senior Vice President of **STERLING BANK, a Texas banking corporation**, for and on behalf of said banking corporation.

(SEAL) 

My Commission Expires:  
2-13-10

*Carla J. Carleton*  
Notary Public, State of Texas

Notary Name Printed or Typed:  
Carla J. Carleton

LANDLORD:

JJD&S, LLC

By: David L. Guymon *mmgr.*  
David L. Guymon, Manager

THE STATE OF UTAH           §  
  §  
COUNTY OF Salt Lake    §

This instrument was subscribed, sworn to, and acknowledged before me this 2 day of October, 2006, by David L. Guymon, Manager of JJD&S LLC, for and on behalf of said limited liability company.

(SEAL)

Aaron C Hansen  
Notary Public, State of Utah

My Commission Expires:

7/18/2010

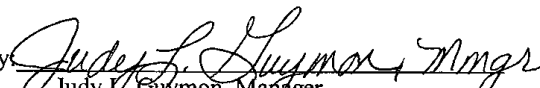
Notary Name Printed or Typed:

Aaron C Hansen



TENANT:

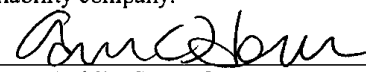
Millenial Falls Wedding & Reception Center, LLC

By   
Judy L. Guymon, Manager

THE STATE OF Utah      §  
   §  
COUNTY OF Salt Lake      §

This instrument was subscribed, sworn to, and acknowledged before me this 2 day of October, 2006, by Judy L. Guymon, Manager of Millenial Falls Wedding & Reception Center, LLC, for and on behalf of said limited liability company.

(SEAL)

  
Notary Public, State of Utah

My Commission Expires:

7/18/2010

Notary Name Printed or Typed:

Aaron C Hansen

After recording return to:  
Sterling Bank  
P.O. Box 40333  
Houston, Texas 77240-0444  
Attn: Carla Carleton

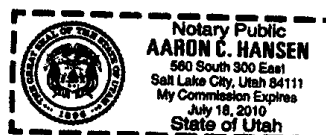




EXHIBIT "A "

Escrow No. **311-4743326 (ach)**  
A.P.N.: **28-28-351-007**

PARCEL 1: APN: 28-28-351-007

BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER SECTION 28, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE EAST 272.25 FEET; THENCE SOUTH 483.45 FEET TO THE NORTH LINE OF A STREET; THENCE WESTERLY ALONG SAID STREET 296.34 FEET, MORE OR LESS; THENCE NORTH 346.5 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPTING THEREFROM:

BEGINNING SOUTH 0°29'56" WEST 1348.99 FEET FROM THE EAST QUARTER CORNER OF SECTION 29, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE SOUTH 24°12'19" EAST 108.08 FEET; THENCE SOUTHEASTERLY ALONG A CURVE TO THE LEFT 38.31 FEET; THENCE NORTH 59°19' WEST 62.81 FEET; THENCE NORTH 24°12'19" WEST 38.86 FEET; THENCE NORTH 0°29'56" EAST 59.22 FEET TO THE POINT OF BEGINNING.

ALSO LESS AND EXCEPTING THEREFROM:

BEGINNING SOUTH 0°29'56" WEST 1514.13 FEET FROM THE EAST QUARTER CORNER OF SECTION 29, THENCE SOUTHEASTERLY ALONG A CURVE TO THE RIGHT 94.85 FEET TO THE NORTH LINE OF AN EXISTING ROAD; THENCE NORTH 71°11' WEST 26.13 FEET; THENCE NORTH 0°25'56" EAST 83.3 FEET TO THE POINT OF BEGINNING.

PARCEL 2: APN: 28-29-479-002

BEGINNING AT A POINT 1408.21 FEET SOUTH 0°29'56" WEST ALONG THE EAST SECTION LINE FROM THE EAST QUARTER CORNER OF SECTION 29, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; THENCE SOUTH 0°29'56" WEST 105.92 FEET TO A POINT ON THE EAST LINE OF A PROPOSED 100 FOOT RIGHT OF WAY SAID POINT BEING ON THE ARC ON A 1050 FOOT-RADIUS CURVE TO THE LEFT THE CENTER OF WHICH BEARS SOUTH 72°44'46" WEST; THENCE 114.47 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE 6°14'47"; THENCE NORTH 65°47'41" EAST 36.63 FEET; THENCE SOUTH 24°12'19" EAST 17.93 FEET TO THE POINT OF BEGINNING.

PARCEL 3: APN: 28-29-479-001

BEGINNING AT A POINT ON THE EAST LINE OF 1300 EAST STREET, SAID POINT BEING ON THE ARC OF A 1050.00 FOOT-RADIUS CURVE AND BEING 1388.469 FEET SOUTH 0°29'56" WEST ALONG THE EAST SECTION LINE AND 44.880 FEET SOUTH 65°47'41" WEST FROM THE EAST QUARTER CORNER OF SECTION 29, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; THENCE RUNNING NORTHWESTERLY 139.09 FEET ALONG THE ARC OF SAID 1050.00 FOOT-RADIUS CURVE THROUGH A CENTRAL ANGLE OF 7°35'23", CHORD BEARS NORTH 27°17'43" WEST 138.99 FEET TO A POINT ON A 97.00 FOOT-RADIUS CURVE; THENCE SOUTHEASTERLY 62.37 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 36°50'32", CHORD BEARS SOUTH 42°37'36" EAST 61.30 FEET; THENCE SOUTH 24°12'18" EAST 80.624 FEET; THENCE SOUTH 65°47'41" WEST 11.880 FEET TO THE POINT OF BEGINNING.