

31

DOC # 0781125
04/06/2011 11:00 AM Deputy: GB

OFFICIAL RECORD

Requested By:

OLD REPUBLIC

**Parcel Numbers: 142006602015
142006602023
142006602028
142006602031**

Douglas County - NV
Karen Ellison - Recorder

Page: 1 Of 18 Fee: 31.00
BK-0411 PG- 0827 RPTT: 0.00



**SUBORDINATION, NON-DISTURBANCE
AND ATTORNMENT AGREEMENT
DATED 12-01-2010**

Recording Requested by:

Old Republic National Title Insurance Company
10655 Park Run Drive, Suite 130
Las Vegas, NV 89144

Return to:

Old Republic National Title Insurance Company
✓ 10655 Park Run Drive, Suite 130
Las Vegas, NV 89144

This page added to provide additional information required by NRS 111.312

This cover page must be typed or printed clearly in black ink only.

When recorded, mail to:

SPACE ABOVE THIS LINE FOR RECORDER'S USE

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

This Subordination, Non-Disturbance and Attornment Agreement (this "Agreement") is entered into as of December 1, 2010 (the "Effective Date"), between Deutsche Bank Trust Company Americas, having an address at 280 Park Avenue, Floor 4E, New York, NY 10017, Attn: David C. Williams, Director ("Mortgagee"), and BORDERS, INC., a Colorado corporation, whose address is 100 Phoenix Drive, Ann Arbor, MI 48108 Attention: Vice President - Real Estate ("Tenant"), with reference to the following facts:

A. Carson Valley Center, LLC, (successor-in-interest to AIG Baker Carson Valley, LLC) having an address c/o The Kroenke Group, 211 N. Stadium Boulevard, Suite 201, Columbia, MO 65203 ("Landlord"), owns the real property located at Carson Valley Plaza, Carson, Nevada (such real property, including all buildings, improvements, structures and fixtures located thereon, "Landlord's Premises"), as more particularly described in Schedule A attached hereto.

B. Mortgagee intends to make a loan to Landlord in the original principal amount of \$ 29,175,000 (the "Loan").

C. To secure the Loan, Landlord intends to encumber Landlord's Premises by entering into that certain mortgage, deed of trust, deed to secure debt or similar agreement, in favor of Mortgagee (as amended, increased, renewed, extended, spread, consolidated, severed, restated, or otherwise changed from time to time, the "Mortgage") to be recorded among the Land Records of the County of Douglas, State of Nevada (the "Land Records").

D. Pursuant to a Lease dated as of December 23, 2002, First Amendment to Lease dated September 22, 2003, and Commencement of Lease Term Agreement dated January 7, 2004 (the "Lease"), Landlord demised to Tenant a portion of Landlord's Premises ("Tenant's Premises").

E. A memorandum of the Lease was recorded in the Land Records on January 6, 2003 as Document No. 0562849 at Book 0103, Pages 1142 - 1159.

F. Tenant and Mortgagee desire to agree upon the relative priorities of their interests in Landlord's Premises and their rights and obligations if certain events occur.

NOW THEREFORE, for good and valuable consideration, Tenant and Mortgagee agree:

1. *Definitions.*

The following terms shall have the following meanings for purposes of this Agreement.

1.1 *Construction-Related Obligation.* A "*Construction-Related Obligation*" means any obligation of Landlord under the Lease to make, pay for, or reimburse Tenant for any alterations, demolition, or other improvements or work at Landlord's Premises, including Tenant's Premises. "*Construction-Related Obligations*" (a) shall include any obligation of Landlord to pay to Tenant a construction or improvement allowance, but (b) shall not include: (i) reconstruction or repair following fire, casualty or condemnation; or (ii) day-to-day maintenance and repairs.

1.2 *Foreclosure Event.* A "*Foreclosure Event*" means: (a) foreclosure under the Mortgage; (b) any other exercise by Mortgagee of rights and remedies (whether under the Mortgage or under applicable law, including bankruptcy law) as holder of the Loan and/or the Mortgage, as a result of which Successor Landlord becomes owner of Landlord's Premises; or (c) delivery by Landlord to Mortgagee (or its designee or nominee) of a deed or other conveyance of Landlord's interest in Landlord's Premises in lieu of the foregoing.

1.3 *Former Landlord.* A "*Former Landlord*" means Landlord and any other party that was landlord under the Lease at any time before the occurrence of any attornment under this Agreement.

1.4 *Offset Right.* An "*Offset Right*" means any right or alleged right of Tenant to any offset, defense (other than one arising from actual payment and performance, which payment and performance would bind a Successor Landlord pursuant to this Agreement), claim, counterclaim, reduction, deduction, or abatement against Tenant's payment of Rent or performance of Tenant's other obligations under the Lease, arising (whether under the Lease or other applicable law) from Landlord's breach or default under the Lease.

1.5 *Rent.* The "*Rent*" means any fixed rent, base rent or additional rent under the Lease.

1.6 *Successor Landlord.* A "*Successor Landlord*" means any party that becomes owner of Landlord's Premises as the result of a Foreclosure Event.

1.7 *Termination Right.* A "Termination Right" means any right of Tenant to cancel or terminate the Lease or to claim a partial or total eviction arising (whether under the Lease or under applicable law) from Landlord's breach or default under the Lease.

2. *Subordination.*

The Lease shall be, and shall at all times remain, subject and subordinate to the lien imposed by the Mortgage, and all advances made under the Mortgage.

3. *Non-disturbance, Recognition and Attornment.*

3.1 *No Exercise of Mortgage Remedies Against Tenant.* So long as the Lease has not been terminated on account of Tenant's default that has continued beyond applicable notice and cure periods (an "Event of Default"), Mortgagee shall not name or join Tenant as a defendant in any exercise of Mortgagee's rights and remedies upon a default under the Mortgage unless applicable law requires Tenant to be made a party thereto as a condition to proceeding against Landlord or prosecuting such rights and remedies (at no cost to Tenant). In the latter case, Mortgagee may join Tenant as defendant in such action only for such purpose and not to terminate the Lease or otherwise adversely affect Tenant's rights under the Lease or this Agreement in such action.

3.2 *Non-disturbance and Attornment.* If the Lease has not been terminated on account of an Event of Default by Tenant, then, when Successor Landlord takes title to Landlord's Premises: (a) Successor Landlord shall not terminate or disturb Tenant's possession of Tenant's Premises under the Lease, except in accordance with the terms of the Lease and this Agreement; (b) Successor Landlord shall be bound to Tenant under all the terms and conditions of the Lease (except as provided in this Agreement); (c) Tenant shall recognize and attorn to Successor Landlord as Tenant's direct Landlord under the Lease as affected by this Agreement; and (d) the Lease shall continue in full force and effect as a direct lease, in accordance with its terms (except as provided in this Agreement), between Successor Landlord and Tenant.

3.3 *Further Documentation.* The provisions of this Article 3 shall be effective and self-operative without any need for Successor Landlord or Tenant to execute any further documents. Tenant and Successor Landlord shall, however, confirm the provisions of this Article 3 in writing upon request by either of them.

4. *Protection of Successor Landlord.*

Notwithstanding anything to the contrary in the Lease or Mortgage, Successor Landlord shall not be liable for or bound by any of the following matters:

4.1 *Claims Against Former Landlord.* Any Offset Right that Tenant may have against any Former Landlord relating to any event or occurrence before the date of attornment, including

any claim for damages of any kind whatsoever as the result of any breach by Former Landlord that occurred before the date of attornment. (The foregoing shall not limit (a) Tenant's right to exercise against Successor Landlord any Offset Right otherwise available to Tenant because of events occurring after the date of attornment, (b) Tenant's right to claim any offset, claim or counterclaim resulting from an audit of Landlord's business records, or (c) Successor Landlord's obligation to correct any conditions that existed as of the date of attornment and violate Successor Landlord's obligations as Landlord under the Lease.)

4.2 *Prepayments.* Any payment of Rent that Tenant may have made to Former Landlord more than thirty days before the date such Rent was first due and payable under the Lease with respect to any period after the date of attornment except if, and only to the extent that, the Lease expressly required such a prepayment (e.g., Lease required escrows on account of additional rent) or permitted such a prepayment (e.g., prepayment of amortization of a construction or improvement allowance).

4.3 *Payment; Security Deposit.* Any obligation: (a) to pay Tenant any sum(s) that any Former Landlord owed to Tenant or (b) with respect to any security deposited with Former Landlord, unless such security was actually delivered to Mortgagee. This paragraph is not intended to apply to Landlord's obligation to make any payment that constitutes a "Construction-Related Obligation."

4.4 *Modification, Amendment or Waiver.* Any modification or amendment of the Lease, or any waiver of any terms of the Lease, made following the date of this Agreement without Mortgagee's written consent.

4.5 *Surrender, Etc.* Any consensual or negotiated surrender, cancellation, or termination of the Lease, in whole or in part, agreed upon between Landlord and Tenant, unless effected unilaterally by Tenant pursuant to the express terms of the Lease.

5. *Exculpation of Successor Landlord.*

Notwithstanding anything to the contrary in this Agreement or the Lease, upon any attornment pursuant to this Agreement the Lease shall be deemed to have been automatically amended to provide that Successor Landlord's obligations and liability under the Lease shall never extend beyond Successor Landlord's (or its successors' or assigns') interest, if any, in Landlord's Premises from time to time, including insurance and condemnation proceeds, Successor Landlord's interest in the Lease, and the proceeds from any sale or other disposition of Landlord's Premises by Successor Landlord (collectively, "Successor Landlord's Interest"). Tenant shall look exclusively to Successor Landlord's Interest (or that of its successors and assigns) for payment or discharge of any obligations of Successor Landlord under the Lease as affected by this Agreement. If Tenant obtains any money judgment against Successor Landlord with respect to the Lease or the relationship between Successor Landlord and Tenant, then Tenant shall look solely to Successor Landlord's Interest (or that of its successors or assigns) to

collect such judgment. Tenant shall not collect or attempt to collect any such judgment out of any other assets of Successor Landlord.

6. *Mortgagee's Right to Cure.*

6.1 *Notice to Mortgagee.* Notwithstanding anything to the contrary in this Agreement or the Lease, before exercising any Termination Right or Offset Right, Tenant shall provide Mortgagee with notice of the breach or default by Landlord giving rise to same (the "Default Notice") and, thereafter, the opportunity to cure such breach or default as provided for below.

6.2 *Mortgagee's Cure Period.* After Mortgagee receives a Default Notice, Mortgagee shall have a period of thirty (30) days beyond the time available to Landlord under the Lease in which to cure the breach or default by Landlord. Mortgagee shall have no obligation to cure (and shall have no liability or obligation for not curing) any breach or default by Landlord, except to the extent that Mortgagee agrees or undertakes otherwise in writing.

6.3 *Extended Cure Period.* In addition, as to any breach or default by Landlord the cure of which requires possession and control of Landlord's Premises, provided only that Mortgagee undertakes to Tenant by written notice within thirty (30) days after receipt of the Default Notice to exercise reasonable efforts to cure or cause to be cured by a receiver such breach or default within the period permitted by this paragraph, Mortgagee's cure period shall continue for such additional time (the "Extended Cure Period") as Mortgagee may reasonably require to either (a) obtain possession and control of Landlord's Premises and thereafter cure the breach or default with reasonable diligence and continuity or (b) obtain the appointment of a receiver and give such receiver a reasonable period of time in which to cure the default.

7. *Confirmation of Facts.*

Tenant represents to Mortgagee and to any Successor Landlord, in each case as of the Effective Date:

7.1 *Acceptance.* Tenant has accepted possession of Tenant's Premises and, excepting further any latent defects, Landlord has performed all Construction-Related Obligations related to Tenant's initial occupancy of Tenant's Premises and Tenant has accepted such performance by Landlord.

7.2 *Due Authorization.* Tenant has full authority to enter into this Agreement, which has been duly authorized by all necessary actions.

8. *Miscellaneous.*

8.1 *Notices.* All notices or other communications required or permitted under this Agreement shall be in writing and given by certified mail (return receipt requested) or by

nationally recognized overnight courier service that regularly maintains records of items delivered. Each party's address is as set forth in the opening paragraph of this Agreement, subject to change by notice under this paragraph. Notices shall be effective the next business day after being sent by overnight courier service, and five business days after being sent by certified mail (return receipt requested).

8.2 *Successors and Assigns.* This Agreement shall bind and benefit the parties, their successors and assigns, any Successor Landlord, and its successors and assigns. If Mortgagee assigns the Mortgage, then, upon delivery to Tenant of written notice thereof accompanied by the assignee's written assumption of all obligations under this Agreement, all liability of the assignor accruing thereafter shall terminate.

8.3 *Entire Agreement.* This Agreement constitutes the entire agreement between Mortgagee and Tenant regarding the subordination of the Lease to the Mortgage and the rights and obligations of Tenant and Mortgagee as to the subject matter of this Agreement.

8.4 *Interaction with Lease and with Mortgage.* If this Agreement conflicts with the Lease, then this Agreement shall govern as between the parties and any Successor Landlord, including upon any attornment pursuant to this Agreement. This Agreement supersedes, and constitutes full compliance with, any provisions in the Lease that provide for subordination of the Lease to, or for delivery of non-disturbance agreements by the holder of, the Mortgage. Mortgagee confirms that Mortgagee has consented to Landlord's entering into the Lease.

8.5 *Mortgagee's Rights and Obligations.* Except as expressly provided for in this Agreement, Mortgagee shall have no obligations to Tenant with respect to the Lease. If an attornment occurs pursuant to this Agreement, then all rights and obligations of Mortgagee under this Agreement shall terminate, without thereby affecting in any way the rights and obligations of Successor Landlord provided for in this Agreement.

8.6 *Interpretation; Governing Law.* The interpretation, validity and enforcement of this Agreement shall be governed by and construed under the internal laws of the State in which Tenant's Premises are located.

8.7 *Amendments.* This Agreement may be amended, discharged, or terminated, or any of its provisions waived, only by a written instrument executed by all parties thereto.

8.8 *Execution.* This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

8.9 *Mortgagee's Representation.* Mortgagee represents that Mortgagee has full authority to enter into this Agreement, and Mortgagee's entry into this Agreement has been duly authorized by all necessary actions.

8.10 *Effectiveness.* Tenant's subordination hereunder and the terms of this Agreement shall become null and void, and of no further force and effect, unless and until Tenant receives in its possession, delivered in accordance with the Notices requirement of this Agreement, within thirty (30) days following the date of Tenant's execution hereto, either a fully-executed and dated original of this Agreement or a photocopy of the fully-executed and dated original Agreement reflecting recording references, following recordation among the land records of the recording authority in which the Landlord's Premises is located.

SIGNATURES AND ACKNOWLEDGEMENTS
ON FOLLOWING PAGES

IN WITNESS WHEREOF, this Agreement has been duly executed by Mortgagee and Tenant as of the Effective Date.

MORTGAGEE:
DEUTSCHE BANK TRUST
COMPANY AMERICAS

By: *David C. Williams*
Name: David C. Williams
Its: Director

By: *Marcy Morgan*
Name: Marcy Morgan
Its: Director

STATE OF NY
COUNTY OF NY : ss.

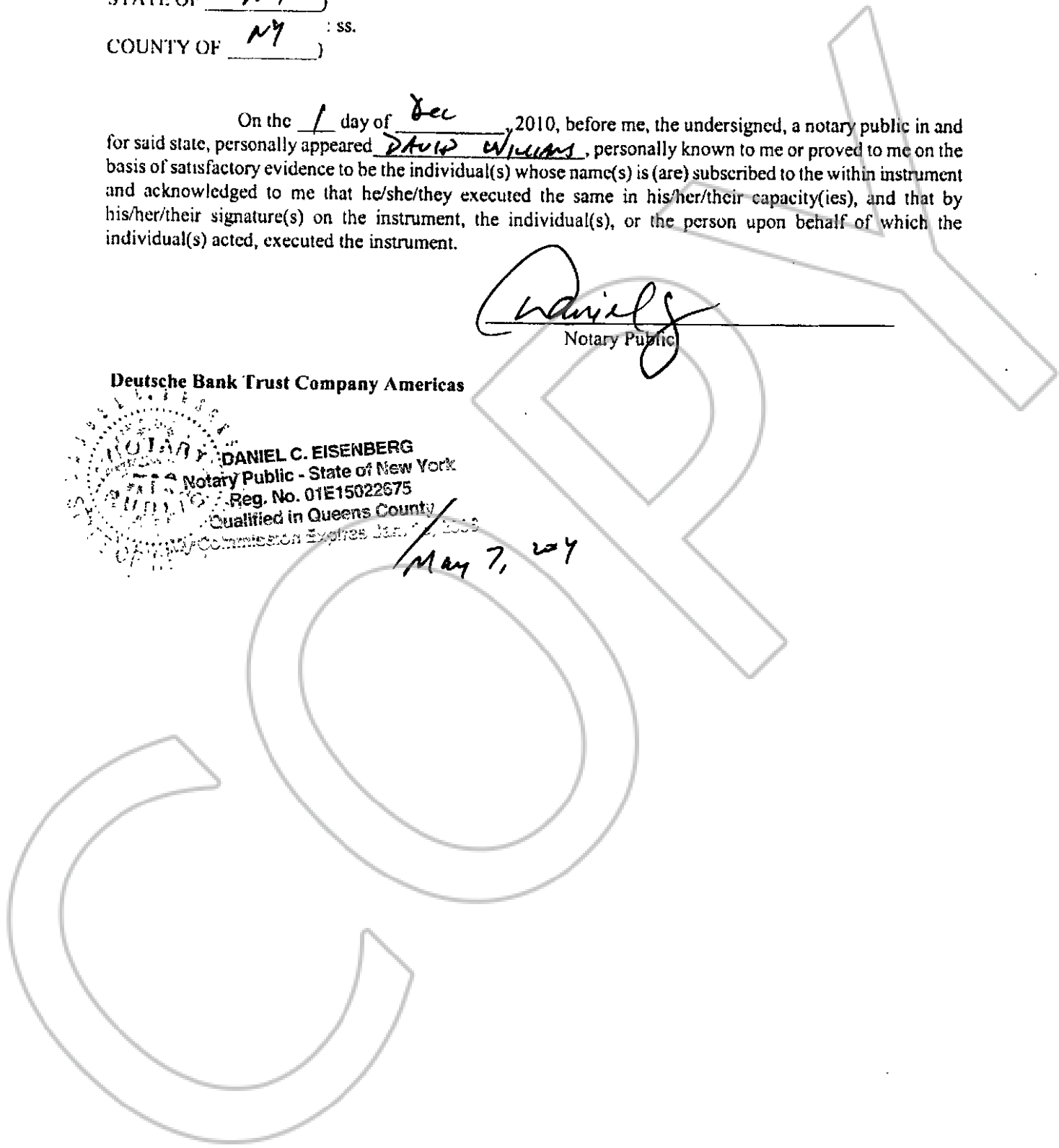
On the 1 day of Dec, 2010, before me, the undersigned, a notary public in and for said state, personally appeared DAVID WILLIAMS, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

[Signature]
Notary Public

Deutsche Bank Trust Company Americas

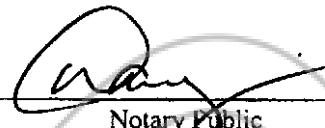
DANIEL C. EISENBERG
Notary Public - State of New York
Reg. No. 01E15022675
Qualified in Queens County
Commission Expires Jan. 12, 2013

May 7, 2011



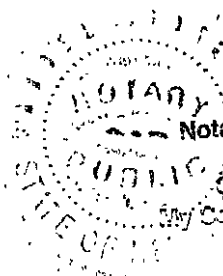
STATE OF NY)
COUNTY OF NY) : ss.

On the 1 day of Dec, 2010, before me, the undersigned, a notary public in and for said state, personally appeared Mary Moran, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(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 capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



Notary Public

Deutsche Bank Trust Company Americas


DANIEL C. EISENBERG
Notary Public - State of New York
Reg. No. 01E15022675
Qualified in: Queens County
My Commission Expires Jan. 2, 2015

MAY 7 2014

TENANT:
BORDERS, INC.,
a Colorado corporation

By: *Glen Tomaszewski*
(jm) Name: Glen TOMASZEWSKI
Its: Vice President

COPY

CONSENT OF LANDLORD

Landlord consents and agrees to the foregoing Agreement, which was entered into at Landlord's request. The foregoing Agreement shall not alter, waive or diminish any of Landlord's obligations under the Mortgage or the Lease. The above Agreement discharges any obligations of Mortgagee under the Mortgage and related loan documents to enter into a nondisturbance agreement with Tenant. Landlord is not a party to the above Agreement.

LANDLORD:
CARSON VALLEY CENTER, LLC
By: CV Development Corp., its manager

By: [Signature]
Its: Authorized Agent
Date: 11/24/10

[Borders, Inc. Acknowledgment]

STATE OF MICHIGAN)
) SS.
COUNTY OF WASHTENAW)

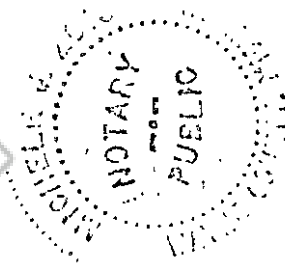
On November 5, 2010, before me, Michele J. Zois, a Notary Public in and for said State, personally appeared Colen Tomaszewski personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity on behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature [Handwritten Signature] (Seal)

My term expires:

MICHELE J. ZOIS
NOTARY PUBLIC, STATE OF MI
COUNTY OF WAYNE
MY COMMISSION EXPIRES Apr 28, 2011
ACTING IN COUNTY OF Washtenaw



[Landlord Acknowledgment]

STATE OF Missouri)
) SS.
COUNTY OF Boone)

On November 24, 2010, before me, Jason S. Gannon, a Notary Public in and for said State, personally appeared R. Otto Maly, personally known to me (or 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 signatures(s) on the instrument the person(s), or the entity on behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature J. S. Gannon

My term expires: 1/21/13

JASON S. GANNON
Notary Public - Notary Seal
State of Missouri
County of Boone
My Commission Expires January 21, 2013
Commission #09734704
(Seal)

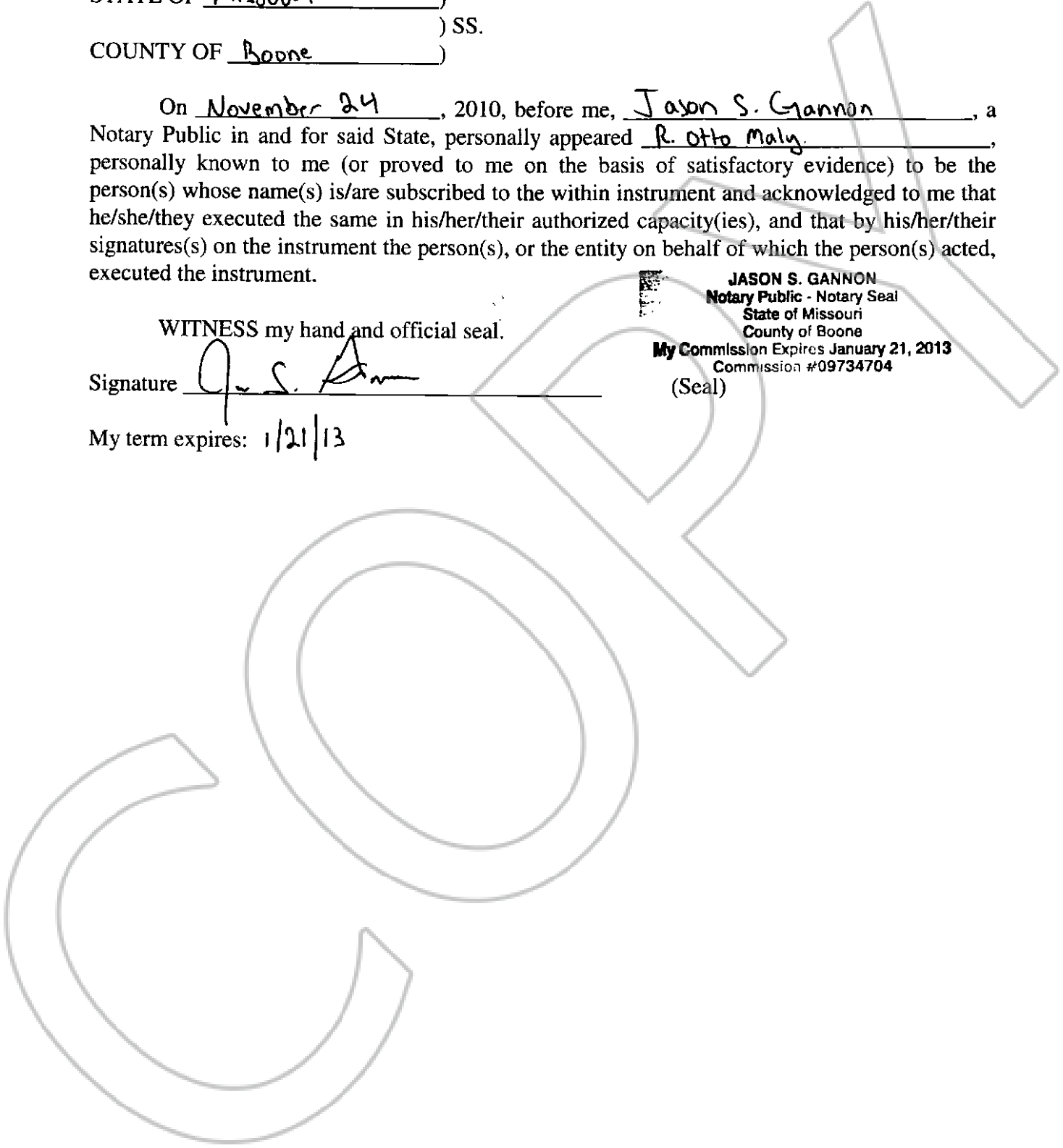


Exhibit "A"
(Legal Description)

All that certain land situate in Douglas County, Nevada and lying within the South Half (S ½) of the Northeast Quarter (NE ¼) of Section 6, Township 14 North, Range 20 East, M.D.B.&M., described as follows:

PARCEL A:

Beginning at a point on the southerly right of way of Topsy Lane from which the center of said Section 6 bears South 39° 39' 12" West a distance of 1693.02 feet; thence with said right of way North 89° 32' 09" a distance of 248.02 feet; thence North 89° 31' 04" East a distance of 45.98 feet; thence departing said right of way South 00° 43' 23" East a distance of 226.11 feet; thence South 89° 16' 37" West a distance of 294.00 feet; thence North 00° 43' 23" West a distance of 227.42 feet to the Point of Beginning.

The above described land is also designated as Parcel A on the Record of Survey recorded October 8, 2002 in Book 1002 at Page 2839 as Document No. 554147.

PARCEL 7:

Beginning at a point on the easterly right of way of Vista Grande Boulevard from which the center of said Section 6 bears South 89° 32' 59" West a distance of 100.01 feet; thence with said right of way North 00° 17' 22" East a distance of 1211.46 feet; thence along a tangent circular curve to the right with a radius of 36.00 feet and a central angle of 89° 14' 47" an arc length of 56.08 feet to a point on the south right of way of Topsy Lane; thence with said right of way North 89° 32' 09" East a distance of 416.38 feet; thence along a tangent circular curve to the left with a radius of 540.00 feet and a central angle of 11° 24' 42" an arc length of 107.55 feet; thence departing said right of way with a non-tangent line South 00° 18' 51" West a distance of 926.02 feet; thence North 89° 32' 49" East a distance of 729.35 feet to a point on the westerly right of way of U.S. Highway 395; thence with said right of way South 07° 48' 25" West a distance of 335.28 feet; thence departing said right of way South 89° 32' 34" West a distance of 27.35 feet; thence South 89° 32' 59" West a distance of 1216.34 feet to the Point of Beginning.

The above described land is also designated as Parcel 7 on the Record of Survey recorded April 3, 2003 in Book 403 at Page 1471 as Document No. 572306.

(Continued)

Exhibit "A" (Continued)
Page 2 of 3

ADJUSTED PARCEL 8:

Beginning at the northwest corner of Parcel 8, as shown on that certain Record of Survey in support of a Boundary Line Adjustment recorded in Book 403 at Page 1471 as Document No. 572306, said point also being on the southerly right of way of Topsy Lane, from which the center of said Section 6 bears South 27° 46' 02" West a distance of 1427.31 feet; thence with said right of way from a tangent which bears North 78° 07' 28" East, along a circular curve to the left with a radius of 54000 feet and a central angle of 04° 23' 05" an arc length of 41.33 feet; thence North 73° 44' 22" East a distance of 12.15 feet; thence along a tangent circular curve to the right with a radius of 285.50 feet and a central angle of 13° 02' 54" an arc length of 65.02 feet; thence along a tangent circular curve to the left with a radius of 314.50 feet and a central angle of 09° 27' 32" an arc length of 51.92 feet; thence along a tangent circular curve to the right with a radius 446.00 feet and a central angle of 12° 04' 54" an arc length of 94.05 feet; thence along a tangent circular curve to the right with a radius of 26.00 feet and a central angle of 90° 54' 58" an arc length of 41.26 feet; thence with a non-tangent line South 89° 40' 24" East a distance of 42.87 feet; thence departing said right of way South 00° 19' 37" West a distance of 939.45 feet; thence South 89° 32' 43" West a distance of 329.16 feet; thence North 00° 18' 51" East a distance of 926.02 feet to the Point of Beginning.

The above described land is also designated as Parcel 8 on the Record of Survey filed September 17, 2002 as File No 590198.

EXCEPTING THEREFROM Parcels 2 and 3 as shown on the Record of Survey recorded April 3, 2003 in Book 403 at Page 1471 as Document No. 572306, and Adjusted Parcel 1 as shown on the Record of Survey recorded September 17, 2003 in Book 903 at Page 8767 as Document No. 590198.

ADJUSTED PARCEL 9:

Beginning at the northwest corner of Parcel 9 as shown on that certain Record of Survey in support of a Boundary Line Adjustment, Book 403, Page 1471 as Document No. 572306, Official Records of Douglas County, Nevada, said point also being on the southerly right of way of Topsy Lane, from which the center of said Section 6 bears South 37° 51' 52" West a distance of 1620.06 feet; thence with said right of way South 89° 40' 24" East a distance of 47.13 feet; thence North 00° 19' 36" East a distance of 1.96 feet; thence along a tangent circular curve to the right with a radius of 26.00 feet and a central angle of 89° 12' 33" an arc length of 40.48 feet; thence North 89° 32' 09" East a distance of 9.27 feet; thence departing said right of way South 00° 43' 23" East a distance of 227.42 feet; thence North 89° 16' 37" East a distance of 294.00 feet; thence North 00° 43' 23" West a distance of 226.11 feet to a point on said right of way; thence with said right of way North 89° 31' 04" East a distance of 8.82 feet; thence along a tangent circular curve to the right with a radius of 285.50 feet and a

(Continued)

Exhibit "A" (Continued)
Page 3 of 3

central angle of 11° 28' 42" an arc length of 57.20 feet; thence along a tangent circular curve to the left with a radius of 314.50 feet and a central angle of 11° 28' 43" an arc length of 63.01 feet; thence along a tangent circular curve to the right with a radius of 934.65 feet and a central angle of 01° 18' 19" an arc length of 21.29 feet to a point on the westerly right of way of US Highway 395; thence with said right of way along a non-tangent line South 07° 48' 25" West a distance of 352.56 feet; thence South 89° 16' 31" West a distance of 115.16 feet; thence South 00° 43' 29" East a distance of 50.00 feet; thence South 89° 16' 31" West a distance of 64.00 feet; thence South 00° 43' 29" East a distance of 198.63 feet; thence South 82° 24' 33" East a distance of 140.29 feet to a point on said right of way; thence with said right of way along a non-tangent line South 07° 48' 25" West a distance of 339.75 feet; thence departing said right of way South 89° 32' 49" West a distance of 400.19 feet; thence North 00° 19' 37" East a distance of 939.45 feet to the Point of Beginning.

EXCEPTING THEREFROM all that property contained within Parcel 4 as shown on that certain Record of Survey in support of a Boundary Line Adjustment recorded April 3, 2003 in Book 403 at Page 1471 as Document No. 572306, and Adjusted Parcel 5 as shown on that certain Record of Survey in support of a Boundary Line Adjustment recorded June 25, 2004 in Book 0604 at Page 12432 as Document No. 617112.

Together with such easements as may be appurtenant to the parcels described above, as set forth in the "Agreement of Covenants, Conditions and Restriction and Grant of Easements" dated September 17, 2003 and recorded September 26, 2003 in Book 0903 at Page 15219 as Document No. 591480.

Assessor's Parcel Number(s):

142006602015
142006602023
142006602028
142006602031

(End of Exhibit "A")