

M05-71613

Klamath County, Oregon

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Pages 7 Fee: \$51.00

WHEN RECORDED MAIL TO:

Umpqua Bank
c/o Loan Support Services
P.O. Box 1820
Roseburg, OR 97470

1st 131786

SUBORDINATION, ATTORNMENT AND NON-DISTURBANCE AGREEMENT

Parties:

Borrower:	Klamath-Etna, LLC P.O. Box 1583 Corvallis, OR 97339
Lessee:	Grocery Outlet, Inc. 2000 Fifth Street Berkeley, CA 94710
Lender:	Umpqua Bank c/o Loan Support Services PO Box 1820 Roseburg, OR 97470)

RECITALS

A. Borrower and Lessee have entered into that certain unrecorded Lease Agreement dated October 18, 2004 (the "**Lease**") by and between Klamath-Etna, LLC, an Oregon Limited Liability Corporation ("**Lessor**") and Grocery Outlet, Inc., a California Corporation ("**Lessee**"), with respect to all or a portion of the building (the "**Premises**") now or to be located on certain real property more particularly described as: 4333 S. 6th Street, Klamath Falls, OR (hereto the real property and improvements now or hereafter located thereon are referred to herein as the "**Property**").

B. Borrower has requested that Lender make a loan (the "**Loan**") to Borrower to be secured by a Deed of Trust, Commercial Security Agreement and an Assignment of Rents relating thereto, including an assignment of the Lease. The Deed of Trust, Commercial Security Agreement and Assignment of Rents, as either of the same may hereafter be amended, are collectively referred to herein in as the "**Security Instruments**." The Loan will be made in accordance with a Loan Agreement between Borrower and Lender, as the same may hereafter be amended (the "**Loan Agreement**"). As one of the conditions to making the Loan, Lender requires this agreement from the Lessee and Borrower.

C. The parties desire to execute this Agreement to confirm that the Lease will be subordinate to the Security Instruments and that Lessee's possession of the Property will not, subject to the terms and conditions of this Agreement, be disturbed by reason of a foreclosure of the Security Instruments.

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AGREEMENT

NOW, THEREFORE, in consideration of the Recitals and the covenants of the parties hereto, and as an inducement to Lender to make the Loan, the parties agree as follows:

1. The Lease shall at all times be subject and subordinate in all respects to the Security Instruments and to all renewals, modifications and extensions thereof. Any amendments heretofore or hereafter made to the Security Instruments or the Related Documents (as defined in the Deed of Trust) shall not require the consent of Lessee.

2. Lessee shall give prompt written notice to Lender of all defaults by Borrower of those obligations under the Lease which are of such a nature as to give Lessee a right to terminate the Lease, to reduce rent, or to credit or offset any amounts against future rents, and Lender shall have the following periods of time during which it may (but shall not be required) to cure the same: (a) in the case of monetary defaults, twenty (20) days after written notice, and (b) in the case of non-monetary defaults, sixty (60) days after written notice.

3. So long as Lessee is not in default in the payment or performance of the Lease as the same may hereafter be modified or amended, and no Default or Event of Default exists pursuant to the Security Instruments, Lessee shall not be disturbed by Lender in Lessee's possession, enjoyment, use and occupancy of the Premises during the original or any renewal term of the Lease or any extension or modification thereof.

4. If Lender, any receiver, or other person or entity exercises a right arising under the Security Instruments to receive the rents payable by Lessee under the Lease, such person or entity shall not thereby become obligated to Lessee for the performance of any of the terms, covenants, conditions and agreements of Borrower under the Lease. Borrower and Lessee agree that Lessee shall make the payments to be made by Lessee under the Lease to Lender or such receiver or other person or entity upon receipt of written notice of the exercise of such rights. Such receipt of rent by any other person or entity shall not relieve Borrower of its obligations under the Lease, and Lessee shall continue to look to Borrower only for performance thereof.

5. If Lender acquires the interest of Borrower by reason of foreclosure pursuant to the Security Instruments or other proceedings brought to enforce the rights of the holder thereof, by deed in lieu of foreclosure, or by any other method, and Lender succeeds to the interest of Borrower under the Lease, the Lease shall continue in full force and effect and shall not be terminated or disturbed except in accordance with the terms of the Lease. Lessee shall thereupon be bound to Lender under all the terms, covenants, and conditions of the Lease for the balance of the term remaining, and any extensions or renewals thereof which may be effected in accordance with any option contained in the Lease, with the same force and effect as if Lender were the Borrower under the Lease. Lessee hereby attorns to Lender as if to Borrower, said attornment to be effective and self-operative without the execution of any other instruments on the part of any party hereto immediately upon Lender succeeding to the interest of Borrower under the Lease. Lessee agrees that Lender shall not be responsible or liable in any way for any default under the Lease occurring prior to the time Lender obtains title to the estate owned by Borrower and is entitled to actual, unrestricted possession of the Property, subject only to Lessee's rights under the Lease.

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6. If Lender succeeds to the interest of Borrower under the Lease, as described above, Lender shall assume and perform the obligations of the Landlord under the Lease except that Lender shall not in any way or to any extent be:

- (a) liable for any act or omission of Borrower or any other Landlord; or
- (b) subject to any offsets or defenses which Lessee might have against Borrower; or
- (c) bound by any rent or other amounts which Lessee might have paid or might hereafter pay to Borrower for more than thirty (30) days in advance; or
- (d) in any way responsible for any deposit or security which was delivered to Borrower but which was not subsequently delivered to Lender; or
- (e) responsible for any obligation to construct, repair or improve the Property which arises before Lender obtains title to and possession of the Property; or
- (f) bound by any representations or warranties by Borrower under the Lease.

7. This Agreement shall be binding upon Lessee and Borrower and their successors and assigns and shall inure to the benefit of Lender and its successor and assigns.

8. In the event any provision hereof is deemed to be invalid by reason of the operation of any law or by reason of the interpretation place hereon by any court, this Agreement shall be construed as not containing such provision, and the invalidity of such provision shall not affect any other provisions which are otherwise lawful and valid and shall remain in full force and effect.

9. The failure at any time or times to require strict performance of any of the provisions, warranties, terms and conditions contained herein or in any other agreement, document or instrument heretofore, now or hereafter executed by the Borrower or Lessee and delivered to the Lender shall not waive, affect or diminish any right of the Lender to thereafter demand strict compliance or performance therewith and with respect to any other provisions, warranties, terms and conditions contained in such agreements, documents and other instruments, and any waiver of any default shall not waive or affect any other default, whether prior or subsequent thereto and whether of the same or of a different type. None of the warranties, conditions, provisions and terms contained in this Agreement or in any other agreement, document or instrument heretofore, now or hereafter executed by the Borrower or the Lessee and delivered to the Lender shall be deemed to have been waived by any act or knowledge of the Lender, its agents, officers or employees, but only by an instrument in writing signed by an officer of the Lender and directed to the Borrower and Lessee specifying such waiver.

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10. In the event Lender employs its in-house or outside counsel to commence, defend, intervene, file a petition, complaint, answer, motion or other pleading or take any other action with respect to any suit or proceeding relating to this Agreement or any other agreement, instrument or document heretofore, now or hereafter executed by the Lessee and delivered to the Lender with respect to the Borrower, the Lessee, the Lease or this Agreement, or to represent Lender in any litigation with respect to the affairs of the Lessee or to enforce any rights of the Lender or the obligations of Lessee or Borrower or any other person, firm or corporation which may be obligated to Lender by virtue of this Agreement, then in any such events all the reasonable attorneys' fees arising from such service, including attorneys' fees in appellate and bankruptcy proceedings, and expenses, costs or charges relating thereto, shall be due and payable to Lender by Borrower upon Lender's demand.

11. All notices, demands, or request, and responses thereto, required or permitted to be given pursuant to this Agreement or by applicable law shall be in writing and shall be deemed to have been properly given or served and shall be deemed received (a) on the date delivered, if sent by hand delivery (to the person or department if one is specified), (b) three (3) days following the date deposited in the United States mail, postage prepaid and certified with return receipt requested, or (c) one (1) day following the date deposited with Federal Express or other national overnight carrier, to the addresses set forth below with each party's name, address, or at such other single address in the United States as Borrower, Lender or Lessee may by notice in writing designate for notice.

12. This Agreement shall be deemed to supersede any conflicting provisions of the Lease.

13. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall comprise but a single instrument.

14. This Agreement has been delivered to lender and accepted by Lender in the State of Oregon. If there is a lawsuit, Lessee and Borrower agree upon Lender's request to submit to the jurisdiction of the courts of Lane County, Oregon, unless a different venue is required by law. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon.

IN WITNESS WHEREOF, the parties hereto have properly executed and delivered this Agreement as of December 2, 2005. 

BORROWER:

Klamath-Etna, LLC

By:

M. Eugene Dickerhoof

M. Eugene Dickerhoof,
Managing Member

Its:

LESSEE:

LENDER:

Umpqua Bank

By:

Aaron Walker,
Vice President

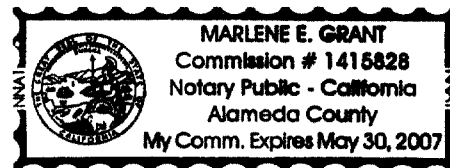
Its:

By:

Marc Drasin

Marc Drasin,
VP, Real Estate

Its:



STATE OF

California

)
) ss.

COUNTY OF

Alameda

The foregoing instrument was acknowledged before me this 2nd day of December, 2005, by ~~xxxxxx~~ Marc Drasin, VP Grocery Outlet, Inc.

Marlene E. Grant
Notary Public for State of California

STATE OF

Oregon

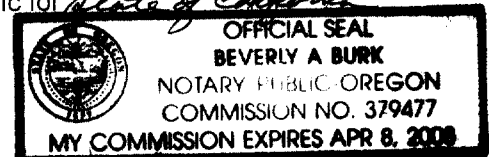
)
) ss.

COUNTY OF

Yamhill

The foregoing instrument was acknowledged before me this 6th day of December, 2005, by ~~xxxxxx~~ Aaron Walker, Vice President of Umpqua Bank

Beverly A. Burk
Notary Public for Oregon



STATE OF

Oregon

)
) ss.

COUNTY OF

Benton

The foregoing instrument was acknowledged before me this 21st day of December, 2005, by ~~xxxxxx~~ M. Eugene Dickerhoof, Managing Member of Klamath-Etna, LLC

Jan Connell
Notary Public for OREGON

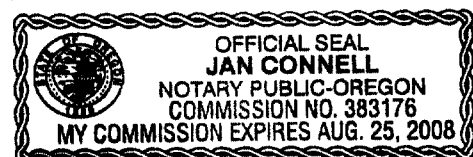


Exhibit "A"

Real property in the County of Klamath, State of Oregon, described as follows:

Parcel 1:

A tract of land situated in the SW 1/4 NW 1/4 of Section 2, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, described as follows:

Commencing at the Westerly one-quarter corner of said Section 2; thence North 89°44'52" East 517.06 feet; thence North 00°20'15" East 37.91 feet to a point on the Northerly boundary line of State Highway 66; thence North 89°43'30" East 166.30 feet; thence North 00°20'15" East 196.70 feet to the point of beginning; thence North 05°06'40" East 34.24 feet; thence North 00°15'00" West 205.91 feet; thence North 89°43'30" East 228.48 feet; thence South 00°06'39" East 142.53 feet; thence North 89°43'30" East 184.10 feet to the Westerly boundary line of Gary Street; thence South 00°09'21" West 37.47 feet; thence South 89°43'30" West 324.56 feet; thence South 00°20'15" West 60.00 feet; thence South 89°43'30" West 90.00 feet to the true point of beginning.

TOGETHER WITH an easement for the joint right to use for customer, patron, invitee and employee parking and for the purposes of ingress and egress and passage for automobile and pedestrian traffic on all that real property described hereinafter.

A tract of land situated in the SW 1/4 NW 1/4 of Section 2, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at the West one-fourth corner of said Section 2, said point being marked by a brass plug in a capped monument which is 1.60 feet North of the centerline of State Highway 66 (South Sixth Street); thence North 89°44'52" East along the East-West centerline of said Section 2 (this is the bearing to the center one-fourth corner of said Section 2 which is monumented by a bolt in the pavement that is 1.20 feet North of the centerline of said highway) a distance of 517.06 feet; thence North 0°20'15" East a distance of 37.91 feet to a one-half inch iron pin on the Northerly line of State Highway 66 to be relocated a distance of 40.00 feet at right angles to the centerline of said highway; thence North 89°43'30" East along said Northerly line of State Highway 66 a distance of 166.30 feet to a 5/8 inch iron pin on the true point of beginning of this description, said point being on the Westerly line of the Peace Memorial Church property as described in Deed Volume 317 at Page 491, Klamath County Deed Records and the Easterly line of the Bennington property as described in Deed Volume 331 at Page 402, Klamath County Deed Records; thence North 0°20'15" East along the last described line a distance of 196.70 feet to a 5/8 inch iron pin; thence North 89°43'30" East a distance of 90.00 feet to a 5/8 inch iron pin; thence North 0°20'15" East a distance of 60.00 feet to a 5/8 inch iron pin on the Southerly line of the Collier property as described in Deed Volume 353 at Page 398, Klamath County Deed Records; thence North 89°43'30" East along the Southerly line of said Collier property a distance of 76.30 feet to a 5/8 inch iron pin; thence South 0°20'15" West a distance of 256.70 feet to a 5/8 inch iron pin on the Northerly line of the above described State Highway 66 right of way, said point also being on the Easterly line of the above described church property; thence South 89°43'30" West along said Northerly line of State Highway 66 a distance of 166.30 feet to the true point of beginning.

Parcel 2:

A tract of land situated in the SW 1/4 NW 1/4 of Section 2, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at the West one-quarter corner of said Section 2, said point being marked by a brass plug in a capped monument which is 1.60 feet North of the centerline of State Highway 66 (South Sixth Street); thence North 89°44'52" East along the East-West centerline of said Section 2 (this is the bearing to the center one-fourth corner of said Section 2 which is monumented by a bolt in the pavement that is 1.20 feet North of the centerline of said highway) a distance of 517.06 feet; thence North 0°20'15" East a distance of 37.91 feet to a one-half inch iron pin on the true point of beginning of this description, said point being on the Northerly line of State Highway 66, as relocated a distance of 40.00 feet at right angles to the centerline of said highway, said point also being on the Westerly line of the Bennington property as described in Deed Volume 331 at Page 402, Klamath County Deed Records; thence North 89°43'30" East along the Northerly line of Highway 66 as relocated a distance of 40.00 feet at right angles to the centerline of said highway a distance of 166.30 feet to a 5/8 inch iron pin on the Easterly line of said Bennington property and the Westerly line of the Peace Memorial Presbyterian Church property as described in Deed Volume 317 at Page 491, Klamath County Deed Records; thence North 0°20'15" East along the last described line a distance of 196.70 feet to a 5/8 inch iron pin; thence North 05°06'40" East a distance of 34.24 feet; thence North 00°15'00" East a distance of 205.91 feet; thence South 89°43'30" West a distance of 155.57 feet; thence South 00°14'10" East a distance of 205.89 feet; thence South 17°20'35" West a distance of 46.27 feet; thence South 00°20'15" West a distance of 186.70 feet to the true point of beginning.

TOGETHER WITH a non-exclusive easement for ingress, egress, and traveling by vehicular or pedestrian travel over and across the herein mentioned described easement area and for utility and service line over, under and across that said certain easement area situated in the SW 1/4 NW 1/4 of Section 2, Township 39 South, Range 9 East of the Willamette Meridian, more particularly described as follows:

Commencing at the West one-quarter corner of said Section 2; thence North 89°44'52" East 517.06 feet; thence North 00°20'15" East, 224.61 feet; thence North 17°20'35" East, 46.27 feet to the Southwest corner of an existing building; thence along the Westerly face of said building North 00°14'10" West 123.96 feet to the Northwest corner of said building; thence continuing North 00°14'10" West 30.00 feet to the true point of beginning; thence South 89°43'30" West 148.30 feet to the Easterly boundary line of Etna Street; thence North 00°20'15" East 20.00 feet; thence leaving the Easterly boundary line of Etna Street North 89°43'30" East 148.10 feet; thence South 00°14'10" East 20.00 feet to the true point of beginning.

Tax Parcel Number: R516846 and R787599