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2012-000289

Klamath County, Oregon

RECORDING COVER SHEET

(Per ORS 205.234 or ORS 205.244)

This cover sheet has been prepared by the person presenting the attached instrument for recording. Any errors in this cover sheet do not effect the Transaction(s) contained in the instrument itself



00112417201200002890100105

T 01/12/2012 11:29:47 AM

Fee: \$82.00

the County Recording Office

After recording return to:
Zions First National Bank
One South Main Street, Suite 1400
Salt Lake City, UT 84113-1109

- 1) Title(s) of Transaction(s) ORS 205.234(a)**
Subordination, Non-Disturbance and Attornment Agreement
- 2) Direct Party/Grantor(s) and address ORS 205.125(1)(b) and ORS 205.160**
AutoZone Development Corporation, 123 South Front Street, Memphis, TN 38103
- 3) Indirect Party/Grantee(s) and address ORS 205.125(1)(a) and ORS 205.160**
Zions First National Bank, One South Main St., Suite 1400, Salt Lake City, UT 84113-1109
- 3a) Landlord and address, if any**
Klamath Falls Bailey, LLC, 19300 Merridy Street Northridge, CA 91324
- 4) True and Actual Consideration ORS 93.030**
\$0.00
- 5) Send Tax Statements to:**
Zions First National Bank, One South Main St., Suite 1400, Salt Lake City, UT 84113-1109

☐ : If this box is checked, the below applies:

If this instrument is being Re-Recorded, complete the following statement, in accordance with ORS 205.244: "Rerecorded at the request of to correct previously recorded in Book and Page , or as Fee Number ."

(Legal description if corrected is attached to included certified document of the original.)

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SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "**Agreement**") is made as of the 10th day of January, 2012, by and among Zions First National Bank, a national banking association ("**Lender**"), AutoZone Development Corporation, a Nevada corporation, ("**Tenant**"), and Klamath Falls Bailey, LLC ("**Landlord**").

RECITALS:

A. Lender is the present owner and holder or beneficiary of a certain mortgage or deed of trust (the "**Mortgage**") dated January 4, 2012, given by Landlord to Lender which encumbers the real property described in the Lease and in Exhibit A attached hereto and made a part hereof (the "**Property**") and which secures the payment of certain indebtedness owed by Landlord to Lender evidenced by a certain promissory note given by Landlord to Lender;

B. Tenant is the current holder of a leasehold estate in premises located at 2977 Washburn Way, Klamath Falls, Klamath County, OR, under and pursuant to the provisions of a certain lease dated October 24, 2006, as amended, between Landlord, as current landlord, and Tenant, as current tenant (the "**Lease**"), which premises are a portion of the Property; and

C. At the request of Landlord and Lender Tenant has agreed to subordinate the Lease to the Mortgage on the terms and conditions hereinafter set forth.

AGREEMENT:

For good and valuable consideration, Tenant, Lender and Landlord agree as follows:

1. Subordination. Subject to this Agreement and provided the Lease and Tenant's rights and obligations under the Lease are not amended by the Mortgage or any of the other instruments to which the Lease is subordinated, the Lease is and shall at all times continue to be subject and subordinate to the lien of the Mortgage, which term shall include all renewals, increases, modifications, spreaders, consolidations, replacements and extensions thereof and to all sums secured thereby and advances made thereunder.

2. Non-Disturbance. So long as Tenant is not in default beyond any applicable curative period in performance of Tenant's Lease obligations for which

Landlord may terminate the Lease, and the Lease is in effect, Lender and Purchaser shall honor the Lease and shall not violate or disturb Tenant's rights under the Lease, and any and all actions to enforce the Lender's right of foreclosure shall be strictly subject to this Agreement as between Lender or Purchaser and Tenant.

3. Attornment. If Lender or any other party shall become the owner of the Property or succeed to Landlord's interest under the Lease by reason of the foreclosure of the Mortgage or the acceptance of a deed or assignment in lieu of foreclosure or by reason of any other enforcement of the Mortgage or Lender's other rights (Lender or such other purchaser or successor landlord being herein referred as "**Purchaser**"), the Lease shall not be terminated or affected thereby but shall continue in full force and effect as a direct lease between Purchaser and Tenant upon all of the terms, covenants and conditions set forth in the Lease, and Tenant shall attorn to Purchaser; provided, however, that Purchaser shall not be (a) liable for the return of rental security deposits, if any, paid by Tenant to any prior landlord in accordance with the Lease unless such sums are actually received by Purchaser, (b) bound by any payment of rents, additional rents or other sums which Tenant may have paid more than one (1) month in advance of its due date under the Lease to any prior landlord unless (i) such sums are received by Lender or Purchaser or (ii) such prepayment is approved of in writing by Lender or Purchaser, or (c) bound by any amendment of the Lease made without the written consent of Lender or Purchaser.

4. Proceeds. In the event there is loss, damage or destruction of the improvements to the Property due to casualty or condemnation, Lender shall promptly make resulting insurance proceeds and condemnation awards available for repairs and restoration of said improvements unless the Lease is terminated due to the casualty or condemnation.

5. Notice to Tenant. Commencing no later than fifteen (15) days after Tenant's actual receipt of written demand by notice from Lender, Tenant shall thereafter pay to Lender or as directed by the Lender, the rentals and other monies that are then due and payable to Landlord or that become due and payable to Landlord under the Lease and Landlord hereby expressly authorizes Tenant to make such payments to Lender and hereby irrevocably releases and discharges Tenant from any liability to Landlord on account of any such payments. Lender shall use all such payments except the base or minimum monthly rent for the purposes for which paid.

6. Notice to Lender and Right to Cure. Prior to terminating the Lease due to Landlord default, Tenant shall notify Lender of such default and Lender shall have thirty (30) days after the date of Lender's actual receipt of such notice during which to cure such default. No notice of termination thereof shall be or become effective if such default is cured within such thirty (30) day cure period. Lender shall have no obligation to cure any such default.

7. Notices. All notices or other written communications hereunder shall be deemed to have been properly given (i) upon delivery, if delivered in person or by facsimile transmission with receipt acknowledged by the recipient thereof and confirmed by telephone by sender, (ii) one (1) Business Day (hereinafter defined) after having been deposited for overnight delivery with any reputable overnight courier service, or (iii) three (3) Business Days after having been deposited in any post office or mail depository regularly maintained by the U.S. Postal Service and sent by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to Tenant: AutoZone Development Corporation
AutoZone Department 8700
123 South Front Street
Memphis, TN 38103

If to Lender: Zions First National Bank
One South Main Street, #1200
Salt Lake City, UT 84133

If to Landlord: Klamath Falls Bailey, LLC
19300 Merridy Street
Northridge, CA 91324

or addressed as such party may from time to time designate by written notice to the other parties; PROVIDED, HOWEVER, that notices to Tenant must be in writing and shall be effective only upon actual delivery by Federal Express or other overnight courier service that keeps records of its deliveries. For purposes of this Section 7, the term "Business Day" shall mean a day on which commercial banks are not authorized or required by law to close in the state where the Property is located. Either party by notice to the other may designate additional or different addresses for subsequent notices or communications. If either party requests or directs that notice be given to more than one addressee or address, then delivery to one shall be deemed delivery to all.

8. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of Lender, Tenant and Landlord and their respective successors and assigns.

9. Governing Law. This Agreement shall be deemed to be a contract entered into pursuant to the laws of the State where the Property is located and shall in all respects be governed, construed, applied and enforced in accordance with the laws of the State where the Property is located.

10. Miscellaneous. Headings or titles of paragraphs are for convenience only and should not be used in construing this Agreement. This

Agreement may not be modified in any manner or terminated except by an instrument in writing executed by the parties hereto. If any term, covenant or condition of this Agreement is held to be invalid, illegal or unenforceable in any respect, this Agreement shall be construed without such provision. This Agreement may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original. This Agreement may be executed in several counterparts, each of which counterparts shall be deemed an original instrument and all of which together shall constitute a single Agreement. The failure of any party hereto to execute this Agreement, or any counterpart hereof, shall relieve all signatories from their obligations hereunder. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

11. Failure of Acceptance by Lender and Landlord. All of Tenant's agreements in this Agreement shall be void from their inception unless and until Tenant actually receives a fully executed original of this Agreement by means of and at the place for notice under this Agreement, on or before March 31, 2012.

[SIGNATURES COMMENCE ON THE NEXT PAGE]

EXECUTED as of the day and year first above written.

LENDER:
ZIONS FIRST NATIONAL BANK

TENANT
AUTOZONE DEVELOPMENT CORP

By: Kathy Thomas
Its: GR-VF

By: _____
Its: _____

LANDLORD
KLAMATH FALLS BAILEY, LLC

By: _____

Its: member
Catherine A. Holst as member
Stephen M. Bailey as member
Raymond D. Bailey as member
Joseph Bailey trustee of
Bailey Family Trust
Donna M. Bailey trustee of
Bailey Family Trust

[Signature] as member

STATE OF UT

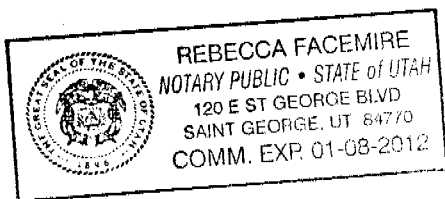
COUNTY OF Salt Lake

On December 22, 2011 before me, Rebecca Facemire
(Name of Notary Public)

personally appeared Kathy Thomas
who 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 signature(s) on the instrument
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Rebecca Facemire
(Signature of Notary Public)



LENDER:

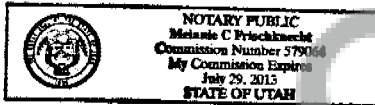
Zions First National Bank, a national banking association

By: Jason Dean

Title: Vice President.

STATE OF Utah)
COUNTY OF Salt Lake) ss.

On this 10th day of January, 2012, before me personally appeared Jason Robinson, to me known to be the Vice President of Zions First National Bank, a national banking association, who is personally known to me (or who proved to me through satisfactory evidence of identification, which was a driver's license) to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for the its stated purpose.



Melissa C. Prieckhach
Notary Public for
Utah
My commission expires:
7-29-2013

AZ#3753 01 01

IN WITNESS WHEREOF, Lender, Tenant and Landlord have duly executed this Agreement as of the date first above written.

TENANT:

AUTOZONE DEVELOPMENT
CORPORATION,
a Nevada corporation

By: [Signature]
HARRY L. GOLDSMITH
Title: Executive Vice President, General
Counsel & Secretary

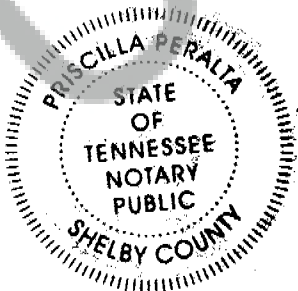
By: [Signature]
Title: Vice President

APPROVED, VERIFIED AND
PASSED FOR SIGNING

GB KH

STATE OF TENNESSEE)
) ss.
COUNTY OF SHELBY)

On this 5th day of January, 2012, before me personally appeared
J.S. Murphy and Harry L. Goldsmith to me known to be the
Vice President and Executive Vice President, respectively, of
AUTOZONE DEVELOPMENT CORPORATION, a Nevada corporation and whose
names are signed on the preceding or attached document, and acknowledged to me
that they signed it voluntarily for its stated purpose.



[Signature]
Notary Public for
Autozone, Inc. - Shelby, CO
My commission expires:
3.7.15

NOTARY ACKNOWLEDGEMENT
ATTACHED TO DOCUMENT Subordination, Non-Disturbance and Attornment Agreement and
Estoppel Certificate

File No: **7101-1775290 (KZ)**

Date: **December 27, 2011**

STATE OF California)
County of Los Angeles)ss.

This instrument was acknowledged before me on this 4 day of January, 2012
by Stephen M. Bailey as member, Raymond P. Bailey as member, Catherine A. Holst as member, Julie E.
Bailey as member, Joseph R. Bailey as Trustee of Bailey Family Trust, Member of Klamath Falls Bailey LLC
and Donna M. Bailey, Trustee of Bailey Family Trust, Member of Klamath Falls Bailey, LLC as Members of
Klamath Falls Bailey, LLC , on behalf of the limited liability company.



[Signature]
Notary Public for California
My commission expires: Mar 28, 2013

EXHIBIT A

Parcel 3 of Land Partition 22-00 in the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 3, Township 39 South, Range 9 East of the Willamette Meridian, as on file with the Clerk of Klamath County, Oregon

Unofficial
Copy