

This Instrument was prepared by
P. Christopher Wrenn, Attorney-at-Law
whose address is P. O. Box B
Jacksonville, Florida 32203

Inst # 1997-37155

11/13/1997-37155
03:16 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
006 MCD 22.00

(Reserved for Clerk)

**SUBORDINATION, NONDISTURBANCE,
AND ATTORNMENT AGREEMENT**

THIS SUBORDINATION, NONDISTURBANCE, AND ATTORNMENT AGREEMENT (this "Agreement"), made this November 10, 1997, between **AMSOUTH BANK**, a Alabama banking corporation, whose address is P.O. Box 11007, Birmingham, Alabama 35288, Attention: Commercial Real Estate Department (together with its successors, assigns, and transferees "Lender") and **WINN-DIXIE MONTGOMERY, INC.**, a Kentucky corporation, whose address is 1550 Jackson Ferry Road, Montgomery, Alabama 36104-1718 (together with its successors and assigns, "Winn-Dixie");

RECITALS:

1. Lender has made or is about to make a loan to **HELENA MARKETPLACE, L.L.C.**, a Alabama limited liability company ("Landlord"), secured by a mortgage, deed of trust, security deed, or other financing instrument recorded or to be recorded in the Official Records of Shelby County, Alabama (together with any modifications, consolidations, extensions, replacements, or renewals thereof, the "Mortgage"), encumbering the real estate known as "Helena Marketplace" shopping center at the SEC corner of Shelby County Road #17 and Brookline Parkway, in Helena, Shelby County, Alabama, and more particularly described in the Mortgage and on Exhibit "A" attached hereto and incorporated herein (the "Shopping Center"); and

2. By Lease dated November 10, 1997 (as amended by Short Form Lease dated November 10, 1997 to be recorded in the public records of Shelby County, Alabama, and as otherwise to be amended from time to time, the "Lease"), Landlord did lease unto Winn-Dixie, as tenant, those certain premises which

constitute a portion of the Shopping Center and are more particularly described in the Lease (the "Premises"); and

3. Lender and Winn-Dixie desire that the Lease shall not terminate but rather shall remain in full force and effect in accordance with its terms if the Mortgage is foreclosed or any transfer of the Premises is made in lieu thereof.

NOW THEREFORE, for valuable consideration the receipt and sufficiency of which are hereby acknowledged, Lender and Winn-Dixie agree as follows:

1. Provided Winn-Dixie is not in material default under the terms of the Lease, then in the course of or following any exercise of any remedy under the Mortgage, any foreclosure sale of the Shopping Center or the Premises, or any transfer of the Shopping Center or the Premises thereafter or in lieu of foreclosure (together with any similar events, a "Foreclosure Event"):

(a) The right of possession of Winn-Dixie to the Premises and Winn-Dixie's rights arising out of the Lease shall not be affected or disturbed by Lender.

(b) Winn-Dixie shall not be named as a party defendant unless required by law.

(c) The Lease shall not be terminated or affected by any Foreclosure Event.

2. Following a Foreclosure Event, Winn-Dixie shall attorn to Lender as its new landlord and the Lease shall continue in full force and effect as a direct lease between Winn-Dixie and Lender. Notwithstanding the foregoing, Lender shall not be:

(a) liable for any act or omission of any prior landlord (including Landlord), unless such action was taken at the direction of or with the approval of Lender; or

(b) subject to any offsets or defenses which Winn-Dixie might have against any prior landlord (including Landlord) except those which arose out of such landlord's default under the Lease and accrued after Winn-Dixie has notified Lender and given Lender an opportunity to cure as provided in the Lease; or

(c) bound by any rent Winn-Dixie paid for more than the then current month to any prior landlord (including Landlord); or

(d) bound by any modification of the Lease made after the date hereof without Lender's consent.

3. Following a Foreclosure Event, Lender promptly shall give notice thereof to Winn-Dixie, stating its current address and providing evidence of Lender's title to the Premises.

4. The Lease is subject and subordinate to the lien of the Mortgage and to all advances made or to be made thereunder as though the Mortgage had been executed and recorded prior in point of time to the execution of the Lease. Notwithstanding the foregoing, subordination of the Lease to the Mortgage should not be construed to constitute Tenant's consent or agreement to any term, condition, or provision of the Mortgage or any related loan document which is inconsistent with or purports to modify, alter, or amend the Lease.

5. The foregoing provisions shall be self-operative and effective without the execution of any further instrument on the part of either party hereto. However, Winn-Dixie agrees to execute and deliver to Lender such other instrument as Lender shall reasonably request to evidence such provisions.

6. Winn-Dixie agrees it will not, without the prior written consent of Lender (i) modify the Lease or any extensions or renewals thereof in such a way as to reduce rent, accelerate rent payment, shorten the original term, or change any renewal option; (ii) terminate the Lease, except as provided by its terms; (iii) tender or accept a surrender of the Lease or make a prepayment in excess of one (1) month of any rent thereunder; or (iv) subordinate or knowingly permit subordination of the Lease to any lien subordinate to the Mortgage, except for those liens that are superior to the Mortgage by law, if any. Any such purported action without such consent shall be void as against Lender.

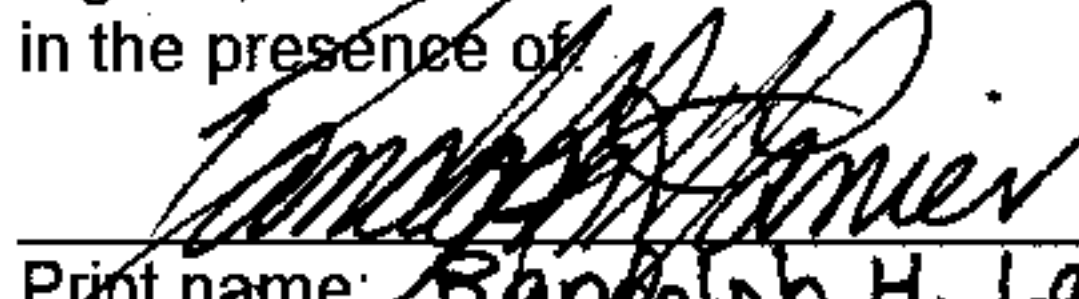
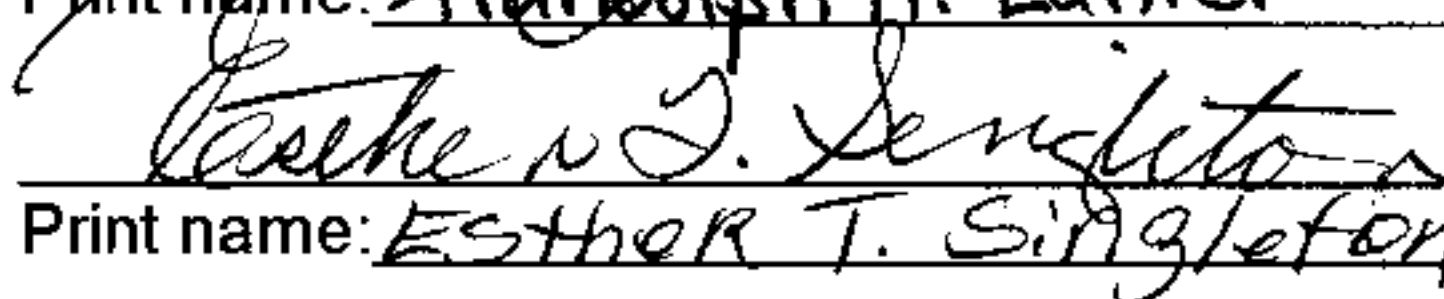
7. Winn-Dixie will give notices to Lender in accordance with paragraph 32 of the Lease at the address set forth in the first paragraph of this Agreement or at such other address as Lender may advise from time to time. Lender shall be entitled to the cure periods provided in paragraph 32 under the Lease.

8. If Lender, or its assignee, obtains Landlord's interest in the Shopping Center or enforces any right to collect rent under the Lease, Lender agrees to promptly provide or cause to be provided to Tenant (a) a copy of a current marked title commitment or title policy showing any new landlord as the owner thereof, (b) a W-9 form or its equivalent setting forth the name and tax identification number of the party collecting rent, signed by an authorized person, (c) a letter of instruction on the letterhead of Landlord (or new landlord in the


case of a sale or other transfer) stating (i) the name, address, phone number, and contact person of the entity collecting rent under the Lease, and (ii) the names, addresses, and telecopy numbers of all persons to be provided notices from Tenant under the Lease, (collectively, the "Transfer Requirements") and/or (d) such other information as Tenant may reasonably require. Following receipt of the foregoing, as of the date of any such transfer, the transferring landlord shall be released from any obligations accruing after the date of the transfer except as otherwise expressly provided in the Lease. The Transfer Requirements must be met to ensure that Tenant is paying rent to the proper, entitled party and Tenant shall have the right to temporarily withhold rent in trust pending receipt of Transfer Requirements.

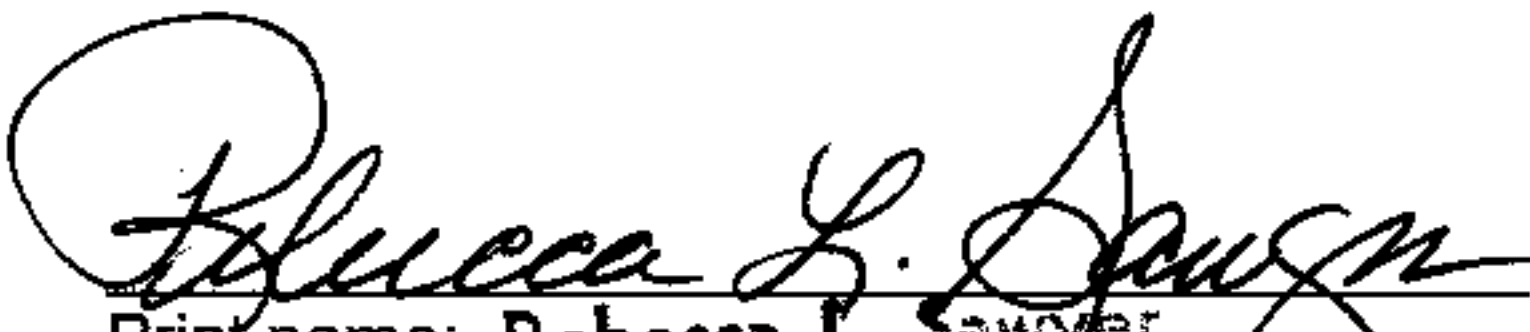
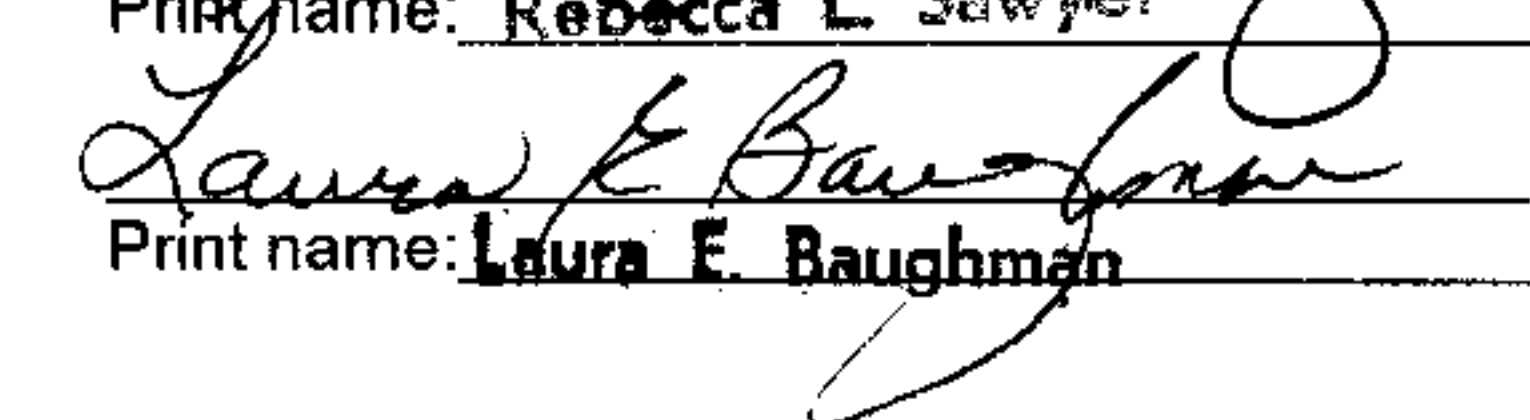
IN WITNESS WHEREOF, Lender and Winn-Dixie have executed this Agreement the day and year first above written.

Signed, sealed and delivered
in the presence of:



Print name: Randolph H. Lanier

Print name: ESTHER T. Singleton

AMSOUTH BANK

By: 
Rebecca D. Shuler
Its: Vice President
Date: November 13, 1997


Print name: Rebecca L. Sawyer

Print name: Laura E. Baughman

WINN-DIXIE MONTGOMERY, INC.

By: 
James Kufeldt
Its: Vice President
Date: 11-10-97

STATE OF Alabama
COUNTY OF Jefferson

I, Esther J. Singleton a Notary Public in and for said County, in said State, hereby
certify that Rebecca D. Shuler, whose name as Vice President of AmSouth
Bank, an Alabama banking corporation, is signed to the foregoing instrument, and who is known to me,
acknowledge before me on this day that, being informed of the contents of the instrument, he/she, as such
officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this 13 day of November, 1997.

Esther J. Singleton
Printed Name: ESTHER J. Singleton
Notary Public, State and County aforesaid
My Commission Expires: 11/19/99
Notary ID No.: _____
(NOTARIAL SEAL)

STATE OF FLORIDA
COUNTY OF DUVAL

I, Rebecca L. Sawyer, a Notary Public in and for said County, in said State, hereby
certify that James Kufeldt, whose name as Vice President of Winn-Dixie Montgomery, Inc.,
a Kentucky corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before
me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority,
executed the same voluntarily for and as the act of said corporation.

Given under my hand this 10 day of November, 1997.

Rebecca L. Sawyer
Printed Name: Rebecca L. Sawyer
Notary Public, State and County aforesaid
My Commission Expires: _____
Notary ID No.: _____
(NOTARIAL SEAL)

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REBECCA L. SAWYER
My Comm. Exp. June 2, 1998
Comm. No. CC 372310

EXHIBIT "A"

A parcel of land in the East ½ of the Southeast ¼ of Section 21, Township 20 South, Range 3 West, Shelby County, Alabama, more particularly described as follows:

Commence at the Northeast corner of the NE ¼ of the SE ¼ of said Section 21; thence run West along the quarter line 596.95 feet; thence left 90°00', 360.00 feet to the south line of Brookline Parkway and the Point of Beginning of the property described herein; thence continue southerly along the same course 483.08 feet; thence right 87°17'50" Westerly 661.68 feet to a point on the easterly right-of-way of Shelby County Highway No. 17; thence right 89°58'14" Northerly 323.00 feet; thence right 90°00'26" Easterly 202.30 feet; thence left 90°00'38" Northerly 182.79 feet to the South line of Brookline Parkway; thence right 92°48'04" Easterly 482.99 feet to the Point of Beginning.

Said parcel contains 6.846 Acres (298,202.343 square feet) more or less.

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