

SUBORDINATION OF MORTGAGE

DOCUMENT NUMBER:

RETURN ADDRESS:

Prevail Bank
675 E Broadway Ave
PO Box 239
Medford, WI 54451

PARCEL I.D. NUMBER: 206-3035-00000, 206-0937-00000, 206-0939-00000

NOTICE: THIS SUBORDINATION OF MORTGAGE RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

THIS SUBORDINATION OF MORTGAGE dated April 30, 2020, is made and executed among Three Boos For You, LLC FKA Two Boos For You, LLC ("Borrower"); Sauk County ("Mortgagee"); and Prevail Bank ("Lender").

SUBORDINATED INDEBTEDNESS. Mortgagee has extended the following described financial accommodations, secured by the Real Property (the "Subordinated Indebtedness"):

Mortgage from Robert Hill III and Brooke A Hill, husband and wife, and Peek-A-Boo Day Care, LLC a Wisconsin limited liability company to Sauk County, for \$200,000.00 dated August 21, 2014 recorded August 22, 2014 as # 1096801.

SUBORDINATED MORTGAGE. The Subordinated Indebtedness is or will be secured by the Real Property and evidenced by a mortgage dated September 17, 2012 from Three Boos For You, LLC FKA Two Boos For You, LLC ("Mortgagor") to Sauk County ("Mortgagee") (the "Subordinated Mortgage") and recorded in Sauk County, State of Wisconsin as follows:

Document # 1096801 Recorded August 22, 2014 in Sauk County Register of Deeds.

REAL PROPERTY DESCRIPTION. The Subordinated Mortgage covers the following described real property (the "Real Property") located in Sauk County, State of Wisconsin:

Lands located in the City of Baraboo, Sauk County, Wisconsin, described as follows:

Part of the Northeast Quarter Fractional Northeast Quarter (NE 1/4) Section 2, Township 11 North of Range 6 East, City of Baraboo, described as: Commencing on the South line of the Baraboo River and the West line of Walnut Street; thence Southwest 56 feet; thence West 62.5 feet to the point of beginning; thence continuing West 58.5 feet; thence North to the Baraboo River; thence East along the River to a point North of the point of beginning; thence South to the point of beginning.

Also the West 16.5 feet of the East 20.5 foot strip adjacent to the above on the West. Lots 3 and 4, Block 1, Ruhland's Subdivision, City of Baraboo and part of Lot 2, Block 1, Ruhland's Subdivision, City of Baraboo described as: Being part of the Northeast Quarter (NE 1/4) of Section 2,

Township 11 North of Range 6 East, said subdivision being recorded as Document 138884 in the Register of Deeds office for Sauk County, Wisconsin, said parcel being described as follows:

Commencing at the Northeast corner of Lot 4, Block 1 of said Ruhland's Subdivision; thence South 12°05'13" West 43.97 feet along the East line of said subdivision to the Northeast corner of Lot 2, Block 1, of said subdivision and the point of beginning; thence South 89°58'12" West 94.73 feet along the North line of said Lot 2, Block 1; thence South 00°41'12" West 2.37 feet; thence North 89°42'54" East 94.34 feet to the East line of said subdivision; thence North 12°05'13" East 1.99 feet to the point of beginning.

AND

The East One-half of that part of the Northeast Quarter of the Northeast Quarter (NE 1/4 NE 1/4) of Section 2, Township 11 North of Range 6 East, commencing at a point on the wall on the West side of Bridge Street, City of Baraboo, 56 feet Southwest of the Southwest corner of the bridge, thence running on line toward the Southeast corner of W.F. Wachler's machine shop office 125 feet, thence North to the Baraboo River, thence down said river to bridge, and thence to the place of beginning, together with the right of an alley on the South of said land 16 1/2 feet wide; and EXCEPTING from the piece of land herein described the portion thereof sold to the City of Baraboo by deed recorded in Volume 135 of Deeds, Page 179, described as the West 4 feet thereof.

The Real Property or its address is commonly known as 106 Walnut Street, Baraboo, WI 53913. The Real Property tax identification number is 206-3035-00000, 206-0937-00000, 206-0939-00000.

SUPERIOR INDEBTEDNESS. Lender has extended or has agreed to extend the following described financial accommodations to Borrower,

SUBORDINATION OF MORTGAGE (Continued)

secured by the Real Property (the "Superior Indebtedness"):

Mortgage from Brooke A. Hill, to Prevail Bank in the amount of \$27,000.00 for a loan to Two Boo's For You, LLC.

LENDER'S LIEN. The Superior Indebtedness is or will be secured by the Real Property and evidenced by a mortgage, dated April 30, 2020, from Borrower to Lender (the "Lender's Lien") and recorded in Sauk County, State of Wisconsin as follows:

Mortgage Brooke A. Hill, to Prevail Bank, for \$27,000.00, dated April 30, 2020, recorded

_____, as document # _____.

As a condition to the granting of the requested financial accommodations, Lender has required that the Lender's Lien be and remain superior to the Subordinated Mortgage.

REQUESTED FINANCIAL ACCOMMODATIONS. Mortgagor, who may or may not be the same person or entity as Borrower, and Mortgagee each want Lender to provide financial accommodations to Borrower in the form of the Superior Indebtedness. Mortgagor and Mortgagee each represent and acknowledge to Lender that Mortgagee will benefit as a result of these financial accommodations from Lender to Borrower, and Mortgagee acknowledges receipt of valuable consideration for entering into this Subordination.

NOW THEREFORE THE PARTIES TO THIS SUBORDINATION HEREBY AGREE AS FOLLOWS:

SUBORDINATION. The Subordinated Mortgage and the Subordinated Indebtedness secured by the Subordinated Mortgage is and shall be subordinated in all respects to Lender's Lien and the Superior Indebtedness, and it is agreed that Lender's Lien shall be and remain, at all times, prior and superior to the lien of the Subordinated Mortgage. Mortgagee also subordinates to Lender's Lien all other Security Interests in the Real Property held by Mortgagee, whether now existing or hereafter acquired. The words "Security Interest" mean and include without limitation any type of collateral security, whether in the form of a lien, charge, mortgage, deed of trust, assignment, pledge, chattel mortgage, chattel trust, factor's lien, equipment trust, conditional sale, trust receipt, lien or title retention contract, lease or consignment intended as a security device, or any other security or lien interest whatsoever, whether created by law, contract, or otherwise.

MORTGAGEE'S REPRESENTATIONS AND WARRANTIES. Mortgagee represents and warrants to Lender that: (A) no representations or agreements of any kind have been made to Mortgagee which would limit or qualify in any way the terms of this Subordination; (B) this Subordination is executed at Borrower's request and not at the request of Lender; (C) Lender has made no representation to Mortgagee as to the creditworthiness of Borrower; and (D) Mortgagee has established adequate means of obtaining from Borrower on a continuing basis information regarding Borrower's financial condition. Mortgagee agrees to keep adequately informed from such means of any facts, events, or circumstances which might in any way affect Mortgagee's risks under this Subordination, and Mortgagee further agrees that Lender shall have no obligation to disclose to Mortgagee information or material acquired by Lender in the course of its relationship with Mortgagee.

MORTGAGEE WAIVERS. Mortgagee waives any right to require Lender: (A) to make, extend, renew, or modify any loan to Borrower or to grant any other financial accommodations to Borrower whatsoever; (B) to make any presentment, protest, demand, or notice of any kind, including notice of any nonpayment of any Superior Indebtedness secured by Lender's Lien, or notice of any action or nonaction on the part of Borrower, Lender, any surety, endorser, or other guarantor in connection with the Superior Indebtedness, or in connection with the creation of new or additional indebtedness; (C) to resort for payment or to proceed directly or at once against any person, including Borrower; (D) to proceed directly against or exhaust any collateral held by Lender from Borrower, any other guarantor, or any other person; (E) to give notice of the terms, time, and place of any public or private sale of personal property security held by Lender from Borrower or to comply with any other applicable provisions of the Uniform Commercial Code; (F) to pursue any other remedy within Lender's power; or (G) to commit any act or omission of any kind, at any time, with respect to any matter whatsoever.

LENDER'S RIGHTS. Lender may take or omit any and all actions with respect to Lender's Lien without affecting whatsoever any of Lender's rights under this Subordination. In particular, without limitation, Lender may, without notice of any kind to Mortgagee, (A) make one or more additional secured or unsecured loans to Borrower; (B) repeatedly alter, compromise, renew, extend, accelerate, or otherwise change the time for payment or other terms of the Superior Indebtedness or any part of it, including increases and decreases of the rate of interest on the Superior Indebtedness; extensions may be repeated and may be for longer than the original loan term; (C) take and hold collateral for the payment of the Superior Indebtedness, and exchange, enforce, waive, and release any such collateral, with or without the substitution of new collateral; (D) release, substitute, agree not to sue, or deal with any one or more of Borrower's sureties, endorsers, or guarantors on any terms or manner Lender chooses; (E) determine how, when and what application of payments and credits, shall be made on the Superior Indebtedness; (F) apply such security and direct the order or manner of sale of the security, as Lender in its discretion may determine; and (G) transfer this Subordination to another party.

PROPERTY PROCEEDS. In the event that Mortgagee is entitled to collect any Payments pursuant to the Subordinated Mortgage, such amounts will be distributed and otherwise handled in accordance with the terms of the Lender's Lien regardless of any conflicting provisions in the Subordinated Mortgage. Until such time as the obligations contained under the Superior Indebtedness are satisfied, Mortgagee agrees to transfer, or cause to be transferred to Lender for application to the Superior Indebtedness, any Payments collected or received by the Mortgagee. The "Payments" covered under this provision include but are not limited to all claims, awards, payments, rents, income, compensation or profits stemming from any actions or proceedings including eminent domain, takings, condemnations, deed in lieu, foreclosure, damages for injury to property or proceeds from insurance claims regarding the Real Property.

EXPENDITURES. In the event that Mortgagee or Lender performs or causes to be performed any duties of Borrower under the Subordinated Mortgage or Lender's Lien on account of Borrower's failure to perform such duties, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Property and paying all costs for insuring, maintaining and preserving the Property ("Expenditures"), the Expenditures shall be added to the Superior Indebtedness if performed by Lender or, if performed by Mortgagee with Lender's consent and secured by the Subordinated Mortgage, given the priority they would have received under the Subordinated Mortgage but for this Subordination of Mortgage.

DEFAULT BY BORROWER. If Borrower becomes insolvent or bankrupt, this Subordination shall remain in full force and effect. In the event of a corporate reorganization or corporate arrangement of Borrower under the provisions of the Bankruptcy Code, as amended, this

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Subordination shall remain in full force and effect and the court having jurisdiction over the reorganization or arrangement is hereby authorized to preserve such priority and subordination provided under this Subordination in approving any such plan of reorganization or arrangement. Any default by Borrower under the terms of the Subordinated Indebtedness also shall constitute an event of default under the terms of the Superior Indebtedness in favor of Lender.

PROVISIONS. Lender agrees that Mortgagee is not liable for any of Lender's costs, fees, charges or expenses as it relates to attorney fees and expenses explained in the miscellaneous provision section subtitled Attorneys' Fees; Expenses. Borrower agrees that it shall be liable for all of Lender's costs, fees, charges or expenses pursuant to this same paragraph described in miscellaneous provisions section subtitled Attorneys' Fees; Expenses.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Subordination:

Amendments. This Subordination constitutes the entire understanding and agreement of the parties as to the matters set forth in this Subordination. No alteration of or amendment to this Subordination shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Attorneys' Fees; Expenses. If Lender institutes any suit or action to enforce any of the terms of this Subordination, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses whether or not there is a lawsuit, including attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees and title insurance, to the extent permitted by applicable law. Mortgagee also will pay any court costs, in addition to all other sums provided by law.

Authority. The person who signs this Subordination as or on behalf of Mortgagee represents and warrants that he or she has authority to execute this Subordination and to subordinate the Subordinated Indebtedness and the Mortgagee's security interests in Mortgagee's property, if any.

Caption Headings. Caption headings in this Subordination are for convenience purposes only and are not to be used to interpret or define the provisions of this Subordination.

Governing Law. This Subordination will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Wisconsin without regard to its conflicts of law provisions. This Subordination has been accepted by Lender in the State of Wisconsin.

Choice of Venue. If there is a lawsuit, Mortgagee agrees upon Lender's request to submit to the jurisdiction of the courts of Taylor County, State of Wisconsin.

Successors. This Subordination shall extend to and bind the respective heirs, personal representatives, successors and assigns of the parties to this Subordination, and the covenants of Mortgagee herein in favor of Lender shall extend to, include, and be enforceable by any transferee or endorsee to whom Lender may transfer any or all of the Superior Indebtedness.

No Waiver by Lender. Lender shall not be deemed to have waived any rights under this Subordination unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Subordination shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance with that provision or any other provision of this Subordination. No prior waiver by Lender, nor any course of dealing between Lender and Mortgagee, shall constitute a waiver of any of Lender's rights or of any of Mortgagee's obligations as to any future transactions. Whenever the consent of Lender is required under this Subordination, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

EACH PARTY TO THIS SUBORDINATION ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS SUBORDINATION, AND EACH PARTY AGREES TO ITS TERMS. THIS SUBORDINATION IS DATED APRIL 30, 2020.

BORROWER:

THREE BOOS FOR YOU, LLC FKA TWO BOOS FOR YOU, LLC

By: Brooke A Hill, Member of Three Boos For You, LLC FKA Two Boos For You, LLC

SUBORDINATION OF MORTGAGE
(Continued)

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MORTGAGEE:

SAUK COUNTY

By:

Rebecca C. Evert
Authorized Signer for Sauk County

By:

Rebecca C. Evert, Sauk County Clerk
Authorized Signer for Sauk County



LENDER:

PREVAIL BANK

X

Craig Philipp, Senior Vice President

This Subordination of Mortgage was drafted by: Kalie Abel, Commercial Loan Processor

Complete either Authentication Section or Acknowledgment Section

AUTHENTICATION

Signature(s) of Sauk County authenticated this 28th day of April, 2020

Signature of Rebecca C Evert County Clerk authenticated
by David A Bretl, Attorney

Title: Member State Bar of Wisconsin Bar # 1018957

authorized under Section 706.06, Wis. Stats.

**SUBORDINATION OF MORTGAGE
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LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF _____)
) SS
COUNTY OF _____)

On this _____ day of _____, 20_____, before me, the undersigned Notary Public, personally appeared **Brooke A Hill, Member of Three Boos For You, LLC FKA Two Boos For You, LLC**, and known to me to be a member or designated agent of the limited liability company that executed the Subordination of Mortgage and acknowledged the Subordination to be the free and voluntary act and deed of the limited liability company, by authority of statute, its articles of organization or its operating agreement, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this Subordination and in fact executed the Subordination on behalf of the limited liability company.

By _____ Residing at _____

[Type or Print Name]

Notary Public in and for the State of _____ My commission expires _____

CORPORATE ACKNOWLEDGMENT

STATE OF _____)
) SS
COUNTY OF _____)

On this _____ day of _____, 20_____, before me, the undersigned Notary Public, personally appeared _____,

and known to me to be (an) authorized agent(s) of the corporation that executed the Subordination of Mortgage and acknowledged the Subordination to be the free and voluntary act and deed of the corporation, by authority of its Bylaws or by resolution of its board of directors, for the uses and purposes therein mentioned, and on oath stated that he or she/they is/are authorized to execute this Subordination and in fact executed the Subordination on behalf of the corporation.

By _____ Residing at _____

[Type or Print Name]

Notary Public in and for the State of _____ My commission expires _____

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(Continued)**

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LENDER ACKNOWLEDGMENT

STATE OF _____)
) SS
COUNTY OF _____)

On this _____ day of _____, 20 _____, before me, the undersigned Notary Public, personally appeared **Craig Philipp** and known to me to be the **Senior Vice President**, authorized agent for **Prevail Bank** that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of **Prevail Bank**, duly authorized by **Prevail Bank** through its board of directors or otherwise, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this said instrument and in fact executed this said instrument on behalf of **Prevail Bank**.

By _____ Residing at _____

[Type or Print Name]

Notary Public in and for the State of _____ My commission expires _____