

Record and Return to:

Attn:

FRONTIER BANK
Smokey Point Office
PO Box 3429
Arlington, WA 98223



200211010176

Skagit County Auditor

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LAND TITLE COMPANY OF SKAGIT COUNTY P95508

**SUBORDINATION, NONDISTURBANCE AND
ATTORNMMENT AGREEMENT WITH ESTOPPEL CERTIFICATE**

THIS AGREEMENT is made and entered into as of the ____ day of _____, 2002, by and among **Frontier Bank**, a Washington Banking Corporation ("Lender"), **ELLIS PROPERTIES, LLC**, *** A Washington Limited Liability Corporation ("Borrower"), and Subway Real Estate Corp., a Washington Delaware Corporation, ("Tenant"). Lender, Borrower and Tenant are sometimes singularly referred to as a "Party" and collectively referred to as the "Parties."

***now known as J. Ellis Properties, LLC

RECITALS:

A. Tenant has a lease (herein the "Lease") with its landlord, **ELLIS PROPERTIES, LLC** (herein "Borrower") dated Sept 14, 2001. Under that Lease, Tenant is leasing the real property located in **SKAGIT County, Washington**, commonly known as **108 AND 116 N. Township St, SUITE A Sedro Woolley, Washington**, Suite (herein the "Property") and legally described on Exhibit "A" which is attached hereto and incorporated herein by this reference and briefly described as follows:

Short legal: A Ptn of NE ¼ of NE ¼, 24-35-4 E W.M.

Assessor's Property Tax Parcel Account Number(s): (A) 350424-1-125-0007
(B) 350424-0-127-0100
(C) 350424-0-127-0005

B. A loan (herein "Loan") has been made or is about to be made by Lender to Borrower and Lender, as a condition precedent to disbursement of loan proceeds, has required that Tenant subordinate the Lease and its interest in the Property.

C. Tenant believes it will benefit from this Agreement and is willing to give such subordination and make such acknowledgment on the terms and conditions hereinafter set forth.

NOW, THEREFORE, the parties agree as follows:

1. Tenant hereby agrees that the Lease and all rights, options, liens and charges created thereby, are subordinate to the lien of Lender's Deed of Trust ("Deed of Trust") in the principal amount of \$986,809.74 dated June 7, 2001 and recorded June 8, 2001 under Skagit County Auditor's File No. 200106080099st and any and all instruments held by Lender as security for the Loan. Tenant further agrees that the Lease shall be subordinate to the Lien of any renewal, modification, extension, substitution, replacement or consolidation of said Deed of Trust and other security instruments.

*and re-recorded under Auditor's File #200209110138

2. So long as Tenant is not in default under the Lease, Lender hereby agrees that it will not disturb Tenant's quiet possession of the leased premises, nor deprive Tenant of any of its rights under the Lease.

3. If Lender becomes the owner of the Property or if the Property shall be sold by reason of foreclosure or other proceedings brought to enforce the Deed of Trust, or if the Property is transferred by deed in lieu of foreclosure, the Lease shall continue in full force and effect as a direct lease between the then owner of the Property (including the Lender or other grantee under a deed in lieu of foreclosure) and Tenant for the balance of the term of the Lease and Tenant agrees to attorn unto the then owner as its landlord. From and after said owner's acquisition of title, Tenant shall have the same remedies for breach of a covenant under the Lease that Tenant might have against its present landlord except that said owner shall not be: ~~(a) liable for any act or omission of any prior landlord (including Borrower); (b) subject to any offsets or defenses which Tenant might have against any prior landlord (including Borrower); (c) bound by any payment of rent or which Tenant might have paid for more than one (1) month in advance; (d) bound by any amendment or modification of the Lease or by any waiver or forbearance on the part of any prior landlord (including Borrower) made or given without the written consent of Lender; (e) bound by a guarantee of work performed by or for the landlord or any warranty of workmanship or materials or of any other personal guaranty of the landlord; or (f) bound for return of any security deposit unless the same has been specifically transferred to said owner.~~ This leasing arrangement shall be effective and self-operative without the execution of any further instruments. Tenant, however, shall be under no obligation to pay rent to Lender until Tenant receives written notice from Lender or the new owners that it has succeeded to Borrower's interest under the Lease.

~~4. Tenant agrees that Borrower shall not be in default under the Lease unless written notice specifying such default is given to Lender. Tenant agrees that Lender shall have the right to cure such default on behalf of Borrower within thirty (30) days after the receipt of such notice. Tenant further agrees not to invoke any of its remedies under the Lease until said thirty (30) days have elapsed, or during any period that Lender is proceeding to cure such default with due diligence, or is diligently taking steps to obtain the right to enter the lease premises and cure the default, whichever is later.~~



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5. Any options or rights contained in the Lease to acquire title to the Property are hereby made subject and subordinate to the rights of Lender under the Deed of Trust, and any acquisition of title to the Property made by Tenant during the term of the Deed of Trust shall be made subordinate and subject to the Deed of Trust.

6. Tenant subordinates its right, title and interest under the Lease to the interest of Lender in any award of condemnation or eminent domain, and Tenant does assign and transfer to Lender the right and privilege to receive any interest of Tenant in and to the full extent of such award of condemnation or eminent domain, or, if said Deed of Trust is not yet fully satisfied, to the extent necessary to pay in full any and all sums secured by the Deed of Trust (Tenant authorizing Lender to apply any funds so received in satisfaction of any sums secured by the Deed of Trust). Notwithstanding the foregoing, Tenant shall be entitled to retain any amounts payable to Tenant in connection with relocation or destruction expenses or as compensation for Tenant improvements.

7. Tenant represents to Lender that the exercise by Lender of its rights and remedies under the Deed of Trust, or related loan documents, including without limitation its right of foreclosure, shall not constitute an event of default under the Lease.

8. Tenant waives presentment, demand, protest, and notice and agrees that Lender, without notice to or consent of Tenant, upon such terms as Lender may deem advisable, without releasing or discharging Tenant from this Agreement or affecting the lien or priority of the Deed of Trust, may:

- a) extend, in whole or in part, by renewal or otherwise, the time for payment or performance of any obligations secured by the Deed of Trust;
- b) release, surrender, exchange or modify any obligations secured by the Deed of Trust, or any security for such obligations; and/or
- c) settle or compromise any claim with respect to any obligation secured by the Deed of Trust or any claim against any person who has given security for such obligation.

Tenant hereby ratifies any such extension, renewal, release, surrender, exchange, modification, settlement or compromise and waives all defenses, counterclaims or offsets which it might have by reason thereof.

9. Tenant hereby certifies to Lender that:

- a) The Lease is dated October 2, 2002, is in full force and effect, and has not been modified, changed, altered or amended, except as noted:



b) The Lease term commenced on November 1, 2001, and terminates on October 31, 2006, subject to earlier termination and renewal as set forth in the Lease.

c) Tenant has taken possession to the demised premises and has accepted the same

d) The minimum monthly rent is \$ 1250.00, and Tenant has made no agreements concerning free rent, partial rent, rebate of rental payments or any other type of rental concessions, except as noted: _____

e) Tenant agrees not to ~~cancel, modify, assign, renew, extend or~~ prepay more than one (1) month's rent without Lender's prior written consent.

f) Tenant knows of no uncured default by Borrower (as landlord) under the Lease.

g) Tenant does not have an option to purchase the Property, nor does it have a right of first refusal or any other right to acquire the Property at any time.

10. Tenant acknowledges that the interest of Borrower in the Lease has been assigned to Lender as security under the Deed of Trust described in Paragraph 1 above and that until Lender obtains title to the Property, Lender assumes no duty, liability or obligation under the Lease or any extension or renewal of the Lease, either by virtue of said assignment or by any subsequent receipt or collection of rents under the assignment.

11. This Agreement may not be modified except in writing and executed by the parties hereto or their successors in interest. This Agreement shall inure to the benefit of and be binding upon the parties hereto, and their successors and assigns.

12. In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of Lender, not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

DATED as of the date first above written.

Lender:

FRONTIER BANK

By: Robbison Remig

Its: VP

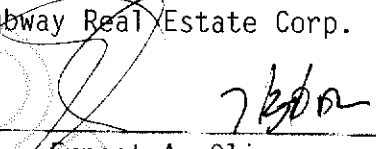


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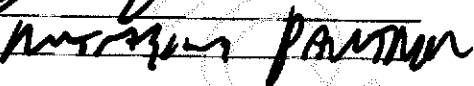
Tenant: Subway Real Estate Corp.

By: 
Its: Ernest A. Oliver

Duly-authorized Signatory

~~7-3-02~~

Borrower:
Ellis Properties, LLC

By: 
Its: 



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ACKNOWLEDGEMENTS.

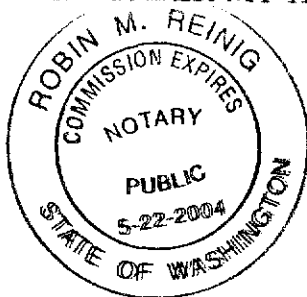
STATE OF WASHINGTON)
) ss.
 COUNTY OF Skagit)

I, the undersigned, a notary public in and for the State of Washington, hereby certify that on this 30 day of July, 2002, personally appeared before me John Ellis to me known to be the Managing Partner of Ellis Properties LLC; the entity that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute the said instrument.

**now known as J. Ellis Properties, LLC

2002

GIVEN UNDER MY HAND and official seal this 30 day of July.



Robin M. Reinig
 (Name Robin M. Reinig)
 NOTARY PUBLIC in and for the State of
 Washington, residing at Marquette
 My commission expires: 5/22/04



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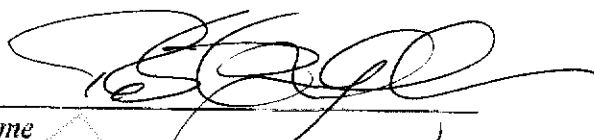
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Connecticut
STATE OF ~~WASHINGTON~~
COUNTY OF New Haven) ss.

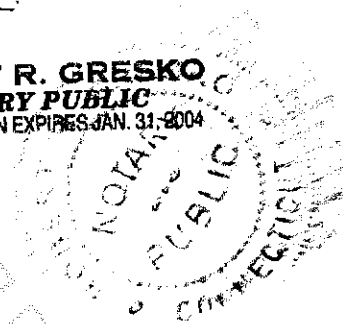
I, the undersigned, a notary public in and for the State of ~~Washington~~ *Connecticut*, hereby certify that on this 30 day of July 2002 ~~2001~~, personally appeared before me Ernest A. Oliver, to me known to be the Duly Authorized of Skagit Real Estate Corp, the entity that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute the said instrument.

~~2001~~

GIVEN UNDER MY HAND and official seal this 30 day of July 2002


(Name)
NOTARY PUBLIC in and for the State of
~~Washington~~, residing at _____
My commission expires: _____

ROBERT R. GRESKO
NOTARY PUBLIC
MY COMMISSION EXPIRES JAN. 31, 2004



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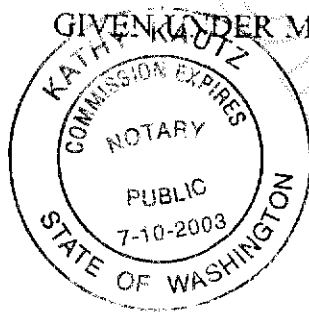
STATE OF WASHINGTON)

) ss.

COUNTY OF SNOHOMISH)

I, the undersigned, a notary public in and for the State of Wa, hereby certify that on this 30th day of July, 2002, personally appeared before me Robin Peinig, to me known to be the Officer of **FRONTIER BANK**, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute the said instrument.

2002



GIVEN UNDER MY HAND and official seal this 30th day of July.

Kathy Krutz
(Name Kathy Krutz)
NOTARY PUBLIC in and for the State
of Wa, residing at Stanwood
My commission expires: 7-10-2003



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