

Record and Return to:

Attn: TIM COULTER

Frontier Bank

332 SW Everett Mall Way

Everett, WA 98204

✓ 425-514-0731 0789 0813

→ 353-7550 206 2093490 DAVE

FAX: 425 514 0829

t:culter@frontierbank.com



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CHICAGO TITLE C26663 /

**SUBORDINATION, NONDISTURBANCE AND  
ATTORNEYMENT AGREEMENT**

8 THIS AGREEMENT is made and entered into as of the  
day of MAY, 2003, by and among **Frontier Bank**,  
a Washington banking corporation ("Lender"), with an  
address at 332 SW Everett Mall Way, Everett, WA, and  
**MADRONA REAL ESTATE INVESTORS ONE, LLC** ("Landlord"), with  
an address at 500 UNION STREET, SUITE 900, SEATTLE, WA  
98101, and **ORCHARD PARTNERS, ('the ASSIGNOR') AND  
NORTHWEST RESTAURANTS, INC. ('the ASSIGNEE') DBA TACO  
BELL** ("Tenant"), with an address at 11875 SILVERDALE WAY  
NW, SUITE 105, SILVERDALE, WA 98383. Lender, Landlord  
and Tenant are sometimes singularly referred to as a  
"Party" and collectively referred to as the "Parties".

-200305090150

RECITALS:

A. Tenant has a lease (herein the "Lease") with its  
Landlord, **MADRONA REAL ESTATE INVESTORS ONE,  
LLC**, (herein "Borrower") dated **December 7, 1998**. Under  
that Lease, Tenant is leasing a portion of the real  
property located in Skagit\* County, Washington, commonly  
known as **1702 COMMERCIAL AVENUE, ANACORTES, WA  
98221** (herein the "Property") and legally described on  
Exhibit "A" which is attached hereto and incorporated  
herein by this reference and briefly described as  
follows:

\*SKAGIT

**LOTS 1-8, BLK 46, VOL 2, PAGES 4-7, SKAGIT CO WA**

**Property Tax Parcel Account Number(s):**

**3772-046-004-009, and -006-007, and -008-005 and -020-0009**

B. A loan (herein "Loan") has been made or is about to be made by Lender to Borrower and the loan documents require that Tenant acknowledge that its Lease is in full force and effect and subordinate the Lease to the lien of Lender's Deed of Trust.

C. Tenant believes it will benefit from this Agreement and is willing to give such subordination and make such acknowledgement 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 in the principal amount of \$2,272,500.00 dated MAY 9, 2003 and recorded MAY 9, 2003 under SKAGIT County Auditor's File No. 200305090150, 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.

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



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waiver or forbearance on the part of an 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.

5. 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.

6. 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.

7. This Agreement shall inure to the benefit of and be binding upon the parties, hereto, their successors in interest, heirs and assigns and any subsequent owner of the Property.

8. Should any action or proceeding be commenced to enforce any of the provisions of this Agreement or in connection with its meaning, the prevailing party in such



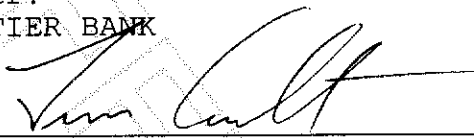
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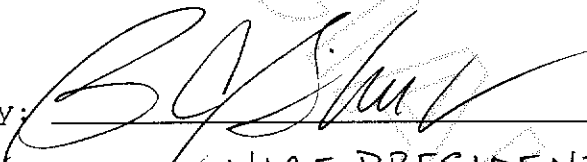
action shall be awarded, in addition to any other relief it may obtain, its reasonable costs and expenses, not limited to taxable costs, and reasonable attorneys' fees.

DATED as of the date first above written.

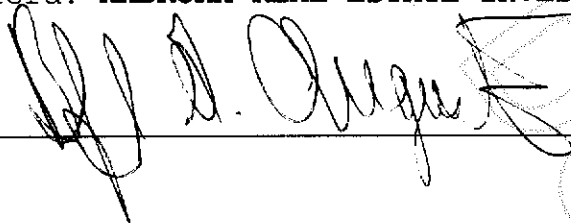
Lender:  
FRONTIER BANK

By:   
Tim Coulter  
Its: Vice President and Commercial Loan Officer

Tenant: **NORTHWEST RESTAURANTS, INC**

By:   
Its: VICE PRESIDENT

Landlord: **MADRONA REAL ESTATE INVESTORS ONE, LLC**

By: 



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**ACKNOWLEDGMENTS.**

STATE OF WASHINGTON )

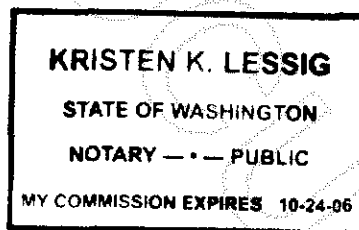
COUNTY OF King )

I, the undersigned, a notary public in and for the state of Washington, hereby certify that on this 11th day of June, 2003 personally appeared before me Bradford G. Augustine, to me known to be the Managing Member of Madrona Real Estate Investors, 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.

GIVEN UNDER MY HAND and official seal this 11th day of June, 2003.

Kristen K. Lessig  
(Name KRISTEN KLESSIG)

NOTARY PUBLIC in and for the  
State of Washington, residing at Seattle.  
My commission expires: 10/24/06.



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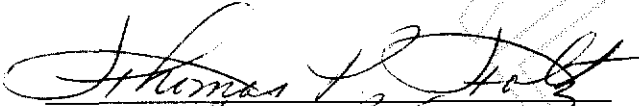
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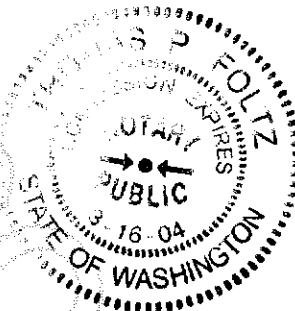
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STATE OF WASHINGTON )  
COUNTY OF KING ) ss.

I, the undersigned, a notary public in and for the State of Washington, hereby certify that on this 8 day of MAY, 2003, personally appeared before me BRETT C. SIBERT, to me known to be the VICE PRESIDENT of NORTHWEST REST., INC., 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.

8TH day of MAY, 2003. GIVEN UNDER MY HAND and official seal this

  
(Name Thomas P. Folz)  
NOTARY PUBLIC in and for the  
State of Washington, residing  
at WOODINVILLE  
My commission expires: 3-16-04.



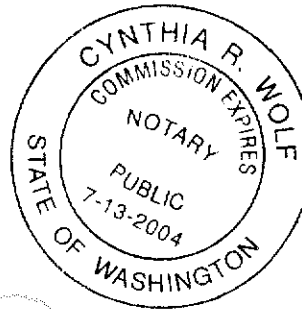
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STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF SNOHOMISH )

I, the undersigned, a notary public in and for the State of Wa, hereby certify that on this 28<sup>th</sup> day of May, 2003, personally appeared before me Tim Cougle, to me known to be the SVP Commercial Bank 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.

GIVEN UNDER MY HAND and official seal this 28<sup>th</sup> day of May, 2003.

Cynthia R. Wolf  
(Name Cynthia R. Wolf)  
NOTARY PUBLIC in and for the State  
Washington, residing at Everett  
My commission expires: 7/13/04



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**EXHIBIT A**

**LOTS 1 THROUGH 8, INCLUSIVE, IN BLOCK 46, MAP OF  
THE CITY OF ANACORTES AS RECORDED IN VOLUME 2 OF  
PLATS, PAGES 4 THROUGH 7, RECORDS OF SKAGIT COUNTY  
WASHINGTON.**



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