

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Bank of America, N.A.
100 North Tryon Street
Charlotte, NC 28255
Attn: Robert D. Howlett



200403010150
Skagit County Auditor

3/1/2004 Page 1 of 9 1:55PM

SPACE ABOVE THIS LINE FOR RECORDER'S USE

FIRST AMERICAN TITLE CO.

SUBORDINATION AGREEMENT

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

This Subordination Agreement (this "Agreement") is dated effective as of November 3, 2003, between Bank of America, N.A. as successor-in-interest to Bridger Commercial Funding LLC, a Missouri limited liability company, its successors and/or assigns ("Senior Lender"), and Bridger Commercial Funding LLC, a Missouri limited liability company ("Junior Lender").

Recitals

A. Trail West, LLC, a Washington limited liability company ("Borrower") is the owner of certain real property and all improvements thereon more particularly described in Exhibit A attached hereto and by this reference incorporated herein (the "Property").

B. Senior Lender has made a loan (the "Senior Loan") to Borrower in the principal amount of Two Million Eight Hundred Eighty Thousand Dollars (\$2,880,000.00) as evidenced by that certain Promissory Note dated November 3, 2003 (the "Senior Note"). The Senior Note is secured by, among other things, that certain Deed of Trust, Assignment of Rents, Leases and Agreements, and Security Agreement with Fixture Filing of even date herewith executed by Borrower, as Trustor, in favor of Senior Lender, as Beneficiary (the "Senior Deed of Trust") encumbering all of Borrower's right, title and interest in and to the Property and all other real and personal property collateral described therein. The Senior Note, the Senior Deed of Trust, any UCC-1 financing statements relating thereto, and all other documents governing, evidencing or securing the Senior Loan, including, without limitation, the Loan Documents (as defined in the Senior Deed of Trust), are hereinafter collectively referred to as the "Senior Loan Documents".

AA#000311050034

C. Junior Lender has made a loan to Borrower in the principal amount of \$185,000.00 as evidenced in that certain Promissory Note dated November 3, 2003 (the "Junior Loan"), which is secured by a certain deed of trust encumbering the Property (the "Junior Deed of Trust," collectively, with the Junior Note, any pledge or security agreements relating to the Junior Loan, any UCC-1 financing statements relating thereto, and all other documents governing, evidencing or securing the Junior Loan, the "Junior Loan Documents").

AA#000311050036

D. It is a condition precedent to Borrower's obtaining the Senior Loan that the Senior Loan and the Senior Loan Documents shall be and remain at all times prior and superior to the Junior Loan and the Junior Loan Documents, in accordance with the terms of this Agreement.

NOW, THEREFORE, in order to induce Senior Lender to make the Loan, the parties hereby agree as follows:

1. The recitals to this Agreement are incorporated herein and made a part hereof by this reference thereto. To the extent not otherwise defined herein, all capitalized terms shall have the meanings ascribed thereto in the Senior Loan Documents.

2. Junior Lender hereby agrees that (a) the liens, charges and security interests of the Junior Note, the Junior Deed of Trust, the Junior Loan, and the Junior Loan Documents are hereby made and shall at all times be wholly subordinate to the liens, charges and security interests of the Senior Deed of Trust, the Senior Loan, the Senior Loan Documents, and any and all amendments thereof (provided any such amendment shall not amount to a "Material Modification" [as defined below]), advances thereunder, and/or further disbursements (subject to the limitations set forth below in this section for any such advanced or disbursements) relating thereto, any new first-lien deed of trust executed, delivered and recorded by Borrower, or its successors and assigns, to refinance the obligations secured by the Senior Deed of Trust or any then-existing first lien instrument in favor of Senior Lender or its successors and assigns ("New First Lien Deed of Trust"), and the lien of any and all other security documents securing the indebtedness secured by any such new first lien deed of trust (together with the New First Lien Deed of Trust, collectively, "New First Lien Documents"); provided, however, that the maximum principal amount of the obligations secured by the New First Lien Deed of Trust shall not exceed the amount necessary to pay in full (including all accrued but unpaid interest) the balance of the Senior Loan; and (b) all amounts evidenced by, or due to the Junior Lender under, the Junior Note and/or the Junior Loan Documents (including interest and/or principal payments or prepayments, assignments of rents, and rights with respect to insurance proceeds and condemnation awards) are hereby made and shall at all times continue to be subject and subordinate in right of payment to the indebtedness of the Borrower evidenced or secured by the Senior Note, the Senior Loan Documents, the New First Lien Documents and any and all advances, and/or further disbursements made thereunder.

3. Senior Lender may, without the consent of Junior Lender and without affecting the subordination of the Junior Deed of Trust, the Junior Loan, and/or the Junior Loan Documents (i) release or compromise any obligation in the Senior Loan Documents, (ii) release its liens in, or surrender, release or permit any substitution or exchange of all or any part of any properties securing repayment of the Senior Loan, (iii) release any person(s) obligated for any of the indebtedness evidenced or secured by the Senior Note and the Senior Loan Documents, (iv) retain or obtain a lien on any other property to further secure payment of the Senior Loan, (v) modify or amend the Senior Loan Documents, (vi) make advances under the Senior Loan Documents to protect Senior Lender's security, (vii) defer or extend, in whole or in part, time of payment, or (viii) take any other action with respect to the Senior Loan, the Property or the Borrower; provided, however, that Senior Lender shall not enter into any "Material Modifications" (as defined below) to the Senior Loan Documents without Junior Lender's prior written consent. As used herein, the term "Material Modifications" shall mean any modifications (a) shortening the maturity date of the Senior Note (other than an election to accelerate upon default), (b) increasing the interest rate charged under the Senior Note (other than an increase to a default rate and imposition of late charges after default, (c) increasing the total amount of the Senior Note (but protective advances made by Senior Lender to protect its security after a Senior Note loan default shall not constitute a Material Modification and shall not require Junior Lender's approval), or (d) eliminating or curtailing the terms of any notice or cure period afforded to Borrower under the Senior Loan Documents.

4. The Junior Lender acknowledges and agrees that, until the Senior Loan is indefeasibly paid in full (including, without limitation, in any bankruptcy or insolvency proceeding) and all other obligations under the Senior Loan Documents are satisfied:

(a) Junior Lender shall not initiate a bankruptcy or insolvency proceeding of Borrower.

(b) Junior Lender shall not be entitled to receive any cash or other payment or distribution in respect of the Junior Loan Documents following the occurrence of a "Default."



the Senior Loan Documents) under the Senior Loan Documents, other than timely principal, interest and penalty interest payments as outlined in the Junior Loan Documents, and shall hold in trust for the benefit of and immediately turn over to Senior Lender any payments received in violation of this clause (b).

(c) Junior Lender shall not collect any leases, income, rents, and profits of the Property that are assigned to Senior Lender in connection with the Senior Loan and upon the occurrence of a Default (as defined in the Senior Deed of Trust) under the Senior Loan Documents, Senior Lender shall have the sole and absolute right to collect all the rents and profits from the Property as provided in the Senior Deed of Trust.

5. On and during the continuance of any Default under the Senior Loan Documents, or in the event of any liquidation or dissolution of Borrower, or of any execution sale, receivership, insolvency, bankruptcy, liquidation, readjustment, reorganization, or other similar proceeding relative to the Borrower or the Property (collectively, a "Bankruptcy Event"), the Junior Lender shall not thereafter ask for, demand, or be entitled to receive or retain any payment or prepayment thereafter made under or with respect to the Junior Loan and all amounts due under the Senior Note or secured by the Senior Deed of Trust shall first be paid in full before any payment is made under the Junior Loan. In the event such a post-Bankruptcy Event payment is nevertheless received by Junior Lender, such amounts shall be held in trust by the Junior Lender for the benefit of Senior Lender and shall be paid over to Senior Lender for application in payment of the Senior Loan Documents. For the purposes of this Agreement, the Senior Note shall not be deemed paid or satisfied in full until such time that any preference period under state or federal bankruptcy law applicable to any payment received by Senior Lender has run and such payment is therefore not subject to disgorgement.

6. In the event of the occurrence of a Bankruptcy Event, any and all distributions, rights, claims, awards or other amounts paid or payable to Junior Lender shall be paid first to Senior Lender, and Senior Lender shall apply such amounts to the prior payment of the Senior Note. Junior Lender hereby appoints Senior Lender as Junior Lender's attorney-in-fact (coupled with an interest) to act in its name and stead for the purpose of accepting or rejecting any plan of reorganization and otherwise acting on behalf of or voting Junior Lender's claim in any proceeding under applicable bankruptcy or insolvency laws, or otherwise, as authorized under this Paragraph 7. The proceeds of Junior Lender's assignment of claims and rights to Senior Lender with respect to the Junior Loan and/or the Junior Loan Documents shall be applied to the prior payment of the Senior Loan.

7. Junior Lender hereby waives any right to require Senior Lender to (i) marshal the assets and/or liabilities of Borrower, and/or (ii) proceed against or exhaust any specific remedy for the collection of the indebtedness secured by the Senior Loan Documents.

8. Until the Senior Loan is paid in full and all other obligations under the Senior Loan Documents are satisfied, Junior Lender waives any right of subrogation to any interest Senior Lender may have under the Senior Loan Documents.

9. Junior Lender agrees to execute, acknowledge and deliver, upon Senior Lender's demand, at any time or from time to time, any and all further subordinations, agreements or other instruments in recordable form as Senior Lender may require for carrying out the purpose and intent of the covenants contained herein.

10. This Agreement shall be the entire agreement with regard to the subordination of the Junior Loan and the Junior Loan Documents to the Senior Loan and the Senior Loan Documents, and shall supersede and cancel any prior agreements as to such subordination.

11. Junior Lender hereby further confirms to and covenants to Senior Lender as follows:



(a) Junior Lender has delivered to Senior Lender true and complete copies of the Junior Loan Documents, and such documents have not been amended, modified or supplemented in any way and

(b) Junior Lender has received and reviewed the Senior Loan Documents; and

12. Senior Lender shall provide Junior Lender with notice of any default under the Senior Loan Documents at the same time Senior Lender notifies Borrower thereof Junior Lender shall have the right to cure any such default capable of being cured and Senior Lender shall accept such cure when tendered by Junior Lender within the same cure period granted to Borrower under the Loan Documents for such a default.

13. All notices, consents, approvals and requests required or permitted hereunder shall be given in writing and shall be effective for all purposes if hand delivered or sent by (a) hand delivery, with proof of attempted delivery, (b) expedited prepaid delivery service, either commercial or United States Postal Service, with proof of attempted delivery or (c) telecopier (with answer back acknowledged) provided that such telecopied notice must also be delivered by one of the means set forth in (a) or (b), addressed to the applicable addressee as set forth below, or at such other address and person or entity as shall be designated from time to time by any party hereto, as the case may be, in a written notice to the other parties hereto in the manner provided for in this Paragraph 14. Notices shall be sent as follows:

To Senior Lender:

Bank of America, N.A.
214 North Tryon Street
Charlotte, NC 28255
NC1-027-21-02
Attn. Robert D. Howlett

To Junior Lender:

Bridger Commercial Funding LLC
100 Shoreline Highway, Suite 100B
Mill Valley, CA 94941
Attn. Servicing Department

A notice shall be deemed to have been given: (a) in the case of hand delivery, at the time of delivery; (b) in the case of expedited prepaid delivery, upon the first attempted delivery on a business day; and (c) in the case of telecopier, upon receipt of answer back confirmation, provided that such telecopied notice was also delivered pursuant to this Paragraph 14. A party receiving a notice which does not comply with the technical requirements for notice under this Paragraph 14 may elect to waive any deficiencies and treat the notice as having been properly given.

14. This Agreement will be governed by, and construed and enforced in accordance with, the laws of the State of Washington.

15. This Agreement may be signed in multiple counterparts with the same effect as if all signatories had executed the same instrument.

16. This Agreement shall be binding upon and inure to the benefit of Junior Lender, Junior Lender's successors and assigns, Senior Lender and Senior Lender's successors and assigns. This Agreement shall not benefit Borrower, Borrower shall have no rights hereunder, and there shall be no third party beneficiaries, intended or otherwise, of this Agreement, and no party hereunder shall be liable to any person not a party hereto for any obligations provided herein.



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Skagit County Auditor

17. This Agreement shall terminate upon payment of the Senior Loan in full and the full reconveyance of the Senior Deed of Trust. Upon termination of this Agreement as provided herein, Senior Lender shall promptly reassign and release to Junior Lender, without warranty, the rights and interests assigned by Junior Lender to Senior Lender under Paragraph 7 hereof.

18. Junior Lender shall give Senior Lender notice of any default under the Junior Loan Documents and acknowledges that any default under the Junior Loan Document shall constitute an Event of Default under the Senior Loan Documents.

19. Upon the recordation of the New First Lien Deed of Trust, all references herein to the Senior Deed of Trust and the Senior Loan Documents shall be deemed references to the New First Lien Deed of Trust and the New First Lien Loan Documents, and all references herein to the Senior Lender shall be deemed references to the holder of the New First Lien Deed of Trust and the lender under the New First Lien Loan Documents.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

JUNIOR LENDER:

Bridger Commercial Funding LLC,
a Missouri limited liability company

By: _____

Name: Robert S. Schonefeld

Title: Chief Executive Officer

SENIOR LENDER:

Bank of America, N.A.,
a national banking association

By: _____

Name: _____

Title: _____



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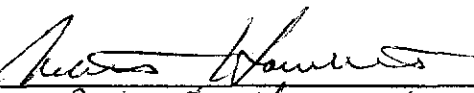
JUNIOR LENDER:

Bridger Commercial Funding LLC,
a Missouri limited liability company

By: 
Name: Robert S. Schonefeld
Title: Chief Executive Officer

SENIOR LENDER:

Bank of America, N.A.,
a national banking association

By: 
Name: Robert Howick
Title: Principal

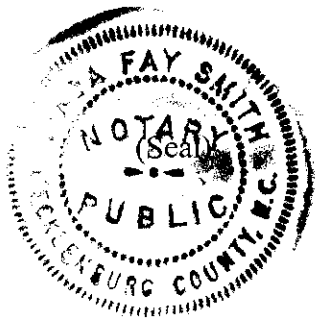


STATE OF North Carolina

COUNTY OF Mecklenburg

I Linda Fay Smith, a Notary Public of the County and State aforesaid, certify that Robert Howlett, personally came before me this day and acknowledged that he is a Principal, of Bank of America, N.A., a national banking association, that executed the foregoing instrument, and acknowledged to me that the same was the act of the said association, and that he executed the same as then act of such association for the purposes and consideration. Therein expressed and in the capacity therein stated.

WTNESS my hand and official stamp or seal, this 20th day of February, 2004



Notary Linda Fay Smith

My Commission Expires: January 13, 2009



200403010150
Skagit County Auditor

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

Marin

SS.

On

1/26/2004

before me,

Roseann Johnson

personally appeared

Robert S. Schonfeld

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

Name(s) of Signer(s)

- ☐ personally known to me
☒ 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.

Roseann Johnson
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document:

Subordination Agreement

Document Date:

1/26/2004

Number of Pages:

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer

Signer's Name:

- ☐ Individual
☒ Corporate Officer — Title(s): CEO
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other:

Signer Is Representing

Bridger Commercial Funding LLC

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here



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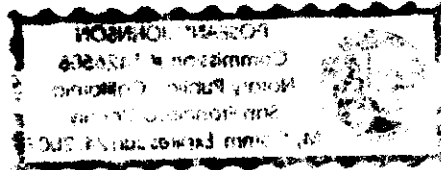


EXHIBIT A

LEGAL DESCRIPTION:

The West 425.25 feet of the North 1/2 of Lot 6, "SEDRO ACREAGE", as per plat recorded in Volume 3 of Plats, page 35, records of Skagit County, Washington;

EXCEPT the Westerly 25 feet thereof for future road purposes;

TOGETHER WITH Lot 2 of Short Plat No. SW-02-0452 as recorded under Auditor's File No. 200208210072, being a portion of the South 1/2 of said Lot 6, "SEDRO ACREAGE".

(Said property also shown as Tract "B" of Survey BLA No. SW-02-453 recorded under Auditor's File No. 200209050045).



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