



200407290086

Skagit County Auditor

7/29/2004 Page

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5 11:51AM

RETURN ADDRESS:

Bank of America, N.A.
WA1-501-13-10
P.O. Box 84448
Seattle, WA 98124

NOTICE: THIS SUBORDINATION AGREEMENT - LEASE 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.

SUBORDINATION AGREEMENT - LEASE

*Chicago Title
EC 30617 ✓
Escrow BE9026*

Reference # (if applicable): 139026

Additional on page ____

Grantor(s):

1. Munson Properties, LLC

Grantee(s)

1. Bank of America, N.A.

Legal Description: Lots 1B and 1C of Bay Ridge Business Park Binding Site Plan BSP NO. 00-0054; being a ptn. of the E/2 of the NE Sec. 3, T34N, R3EWM Additional on page 2

Assessor's Tax Parcel ID#: P118503 and P118504

THIS SUBORDINATION AGREEMENT - LEASE dated July 23, 2004, is made and executed among William E. Munson Company ("Lessee"); Munson Properties, LLC ("Borrower"); and Bank of America, N.A. ("Lender").

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UNRECORDED LEASE DATED 4/26/04

**SUBORDINATION AGREEMENT - LEASE
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LEASE. Lessee has executed a lease dated April 26, 2004 of the property described herein (the "Subordinated Lease").

REAL PROPERTY DESCRIPTION. The Lease covers a portion of the following described real property located in Skagit County, State of Washington:

Lots 1B and 1C of BAY RIDGE BUSINESS PARK BINDING SITE PLAN, BSP NO. 00-0054, approved October 29, 2001, and recorded October 29, 2001, under Auditor's File No. 200110290120, records of Skagit County, Washington; being a portion of Lot 1, SKAGIT COUNTY SHORT PLAT NO. 96-012 in the East Half of the Northeast Quarter of Section 3, Township 34 North, Range 3 East of the Willamette Meridian.

The Real Property or its address is commonly known as 15806 and 15828 Preston Place, Burlington, WA 98233. The Real Property tax identification number is P118503 and P118504

REQUESTED FINANCIAL ACCOMMODATIONS. Lessee and Borrower each want Lender to provide financial accommodations to Borrower in the form of (A) new credit or loan advances, (B) an extension of time to pay or other compromises regarding all or part of Borrower's present indebtedness to Lender, or (C) other benefits to Borrower. Borrower and Lessee each represent and acknowledge to Lender that Lessee will benefit as a result of these financial accommodations from Lender to Borrower, and Lessee acknowledges receipt of valuable consideration for entering into this Subordination.

LENDER'S LIEN. As a condition to the granting of the requested financial accommodations, Lender has required that its lien on the Real Property ("Lender's Lien") be and remain superior to the Subordinated Lease.

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

SUBORDINATION. All of Lessee's right, title, and interest in and to the Subordinated Lease and the Real Property 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 Lessee's interests in the Subordinated Lease and the Real Property. Lessee also subordinates to Lender's Lien all other Security Interests in the Real Property held by Lessee, whether now existing or hereafter acquired.

LESSEE'S REPRESENTATIONS AND WARRANTIES. Lessee hereby represents and warrants to Lender that Lessee has heretofore delivered to Lender a true, correct and complete copy of the Lease, which constitutes the entire agreement between the parties thereto and Lessee further acknowledges that the Lease is in full force and effect and that no default by Lessee or, to Lessee's knowledge, by other party under the terms and provisions of the Lease exists as of the date hereof.

LESSEE WAIVERS. Lessee 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 Lessee, (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.

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 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



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**SUBORDINATION AGREEMENT - LEASE
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this Subordination in approving any such plan of reorganization or arrangement. Any default by Borrower under the terms of the Subordinated Lease also shall constitute an event of default under the terms of the Superior Indebtedness in favor of Lender.

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

Amendments. This Subordination, together with any Related Documents, 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, and to the extent not prohibited by law, 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. Lessee 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 Lessee represents and warrants that he or she has authority to execute this Subordination and to subordinate the Subordinated Indebtedness and the Lessee's security interests in Lessee'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, construed and enforced in accordance with federal law and the laws of the State of Washington. This Subordination has been accepted by Lender in the State of Washington.

Choice of Venue. If there is a lawsuit, Lessee agrees upon Lender's request to submit to the jurisdiction of the courts of any County, State of Washington.

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 Lessee, shall constitute a waiver of any of Lender's rights or of any of Lessee'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.

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 Lessee 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.

Waive Jury. All parties to this Subordination hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by any party against any other party.

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR REAL PROPERTY SECURITY TO OBTAIN A LOAN, A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.

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 JULY 23, 2004.



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**SUBORDINATION AGREEMENT - LEASE
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BORROWER:

MUNSON PROPERTIES, LLC

By: [Signature]

William E. Munson, Manager of Munson Properties, LLC

By: [Signature]

Janet M. Munson, Manager of Munson Properties, LLC

LESSEE:

WILLIAM E. MUNSON COMPANY

By: [Signature]

William E. Munson, President of William E. Munson Company

By: [Signature]

Janet M. Munson, Secretary of William E. Munson Company

LENDER:

X [Signature]

Authorized Officer

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF Washington

COUNTY OF Skagit

On this 28th day of July, 2004, before me, the undersigned Notary Public, personally appeared **William E. Munson, Manager; Janet M. Munson, Manager of Munson Properties, LLC**, and personally known to me or proved to me on the basis of satisfactory evidence to be of the limited liability company that executed the Subordination Agreement - Lease 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 they are authorized to execute this Subordination and in fact executed the Subordination on behalf of the limited liability company.

By [Signature]
Notary Public in and for the State of Washington
Marcia J. Jennings

Residing at Sedro Woolley

My commission expires 10/15/2004



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CORPORATE ACKNOWLEDGMENT

STATE OF Washington

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COUNTY OF Skagit

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On this 28th day of July, 2004, before me, the undersigned Notary Public, personally appeared **William E. Munson, President of William E. Munson Company; Janet M. Munson, Secretary of William E. Munson Company**, and personally known to me or proved to me on the basis of satisfactory evidence to be authorized agents of the corporation that executed the Subordination Agreement - Lease 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 they are authorized to execute this Subordination and in fact executed the Subordination on behalf of the corporation.

By Marcia J. Jennings
Notary Public in and for the State of Washington
Marcia J. Jennings

Residing at Sedro Woolley

My commission expires 10/5/2004

LENDER ACKNOWLEDGMENT

STATE OF CALIFORNIA

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) SS

COUNTY OF SACRAMENTO

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On this 23rd day of JULY, 2004, before me, the undersigned Notary Public, personally appeared STEPHANIE BAKER and personally known to me or proved to me on the basis of satisfactory evidence to be the BANK OF AMERICA, authorized agent for the Lender that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of the said Lender, duly authorized by the Lender 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 that the seal affixed is the corporate seal of said Lender.

By Dean Williams Hooker
Notary Public in and for the State of CALIFORNIA

Residing at PANCHO CORDOVA, CA

My commission expires DECEMBER 03, 2007



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Skagit County Auditor