



200509220165

Skagit County Auditor

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After Recording Mail To:

KEYBANK NATIONAL ASSOCIATION
Community Development Banking
1101 Pacific Avenue, Mailcode WA-31-01-0400
Tacoma, Washington 98402
Attention: Nina Hooser

1169168-P

LAND TITLE OF SKAGIT COUNTY

Loan No. 3113862491

SUBORDINATION AGREEMENT**Coversheet Recording Information:**

GRANTOR: THE CITY OF ANACORTES, a municipal corporation
(Subordinator) organized and existing under the laws of the State of Washington

GRANTEE: KEYBANK NATIONAL ASSOCIATION, a national
(Lender) banking association

GRANTEE PACIFIC NORTHWEST TITLE COMPANY OF
(trustee) WASHINGTON, INC.

LEGAL Lots 1-3 & ptn of Lot 4, Blk 37, Anac.
DESCRIPTION

The complete legal description is attached as Exhibit A

ASSESSOR'S PROPERTY TAX PARCEL ACCT NO: 3772-037-004-0008

RECORDING NOS. OF DOCUMENTS REFERRED TO:

KeyBank's Deed of Trust (Senior Lien): 200509220163

Subordinate Deed of Trust (Junior Lien): 200503020054

THIS SUBORDINATION AGREEMENT ("*Subordination*") is given as of September 20, 2005, by THE CITY OF ANACORTES, a municipal corporation organized and existing under the laws of the State of Washington, whose address is P.O. Box 547, Anacortes, Washington 98221-0547 ("*Subordinator*"), for the benefit of KEYBANK NATIONAL ASSOCIATION, a national banking association ("*Lender*"), whose mailing address is Community Development Banking, 1101 Pacific Avenue, Mailcode WA-31-01-0400, Tacoma, WA 98402, with the approval of THE WILSON

HOTEL HOUSING LLC, a Washington limited liability Company ("**Borrower**"), whose mailing address is c/o The Housing Authority of The City of Anacortes 719 Q Avenue, Anacortes, WA 98221, and with regard to the following facts:

A. Lender is making a loan (the "**KeyBank Loan**") to Borrower in the principal amount of \$4,351,000, which is evidenced by Borrower's promissory note (the "**KeyBank Note**"), dated as of September 00, 2005, and secured by Deeds of Trust dated the same date (the "**KeyBank Deed of Trust**"), which is being recorded in the real property records of ~~King~~ County, Washington under the recording number set forth above, and which encumber the property ("**Property**") legally described on Exhibit A hereto. (Said Deed of Trust recorded under Auditor's File No.

*Skagit 200509220163)

B. Subordinator has made a loan (the "**City CDBG Loan**") to Borrower in the principal amount of \$270,000, evidenced by a promissory note (the "**Subordinate Note**"), and secured by a deed of trust encumbering the Property dated as of January 20, 2005, and filed on March 2, 2005, under ~~King~~ County Recording No. 200503020054 (the "**Subordinate Deed of Trust**"). ** Skagit

C. It is a condition to closing of the KeyBank Loan that Subordinator enter into this Subordination.

NOW THEREFORE, Subordinator agrees as follows:

1. **Certain Definitions.** As used herein, "**KeyBank Loan Documents**" means the KeyBank Note, the KeyBank Deed of Trust, any Loan Agreement between Borrower and Lender related thereto, and all other agreements and documents that evidence, secure and otherwise relate thereto. "**KeyBank Indebtedness**" means (i) the lien, security interest, and all other rights granted to Lender under the KeyBank Deed of Trust and any other instruments, documents and agreements related thereto securing the KeyBank Note and/or encumbering the Property; (ii) all sums due or to become due under the KeyBank Loan Documents and under any other instruments evidencing indebtedness secured by KeyBank's Deed of Trust; and (iii) all modifications, extensions, renewals, and replacements thereof. "**Subordinate Loan Documents**" means the Subordinate Note, the Subordinate Deed of Trust, any Loan Agreement between Subordinator and Borrower related thereto, and all other agreements and documents that evidence, secure and otherwise relate thereto, *provided that* the housing covenants attached as Exhibit A to the Subordinate Deed of Trust are not included within the definition of "Subordinate Loan Documents." "**Junior Indebtedness**" means (i) the lien, security interest, and all other rights granted to Subordinator under the Subordinate Deed of Trust and any other instruments, documents and agreements securing the Subordinate Note and/or encumbering the Property; and (ii) all sums due or to become due under the Subordinate Loan Documents and under any other



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instruments evidencing indebtedness secured by the Subordinate Deed of Trust, and (iii) all modifications, extensions, renewals, and replacements thereof.

2. **Subordination.** As a condition of the KeyBank Loan and to induce Lender to make the KeyBank Loan, and in consideration of benefits to Subordinator from Borrower, the receipt and sufficiency of which are hereby acknowledged, Subordinator hereby unconditionally subordinates the Junior Indebtedness and all of its rights thereunder, to the KeyBank Indebtedness. Any payment of all or any portion of the Junior Indebtedness prior to payment in full of the KeyBank Indebtedness, shall be collected, enforced and received by Subordinator as trustee for Lender and promptly paid to Lender in payment of the KeyBank Indebtedness in such order as Lender may direct; *provided, however*, that Borrower may make and Subordinator may receive, regular installment payments in the amounts and according to the payment schedule set forth in the Subordinate Note. Subordinator agrees that the Junior Indebtedness and the Subordinate Loan Documents shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the KeyBank Loan Documents and to all advances heretofore made or which may hereafter be made pursuant to the KeyBank Loan Documents (including but not limited to, all sums advanced for the purposes of (x) protecting or further securing the lien of the KeyBank Deed of Trust, curing defaults by Borrower under the KeyBank Loan Documents or under any other lien affecting the Property, or for any other purpose expressly permitted by the KeyBank Loan Documents, or (y) constructing, renovating, repairing, furnishing, fixturing or equipping the Property. *This Subordination does not subordinate the housing covenants attached as Exhibit A to the Subordinate Deed of Trust recorded under Skagit County recording number 200503020054.*
3. **Dealings with Borrower.** Subordinator agrees that Lender may deal exclusively with Borrower in all matters relating to the KeyBank Indebtedness without notice to or the approval of Subordinator. It is intended that the subordination created by this Agreement shall remain fully effective regardless of any act or omission by Lender which might otherwise directly or indirectly result, by operation of law or otherwise, in the discharge or release in whole or in part of Borrower, or the discharge, release, or impairment of any collateral now or hereafter held as security for the KeyBank Indebtedness.
4. **Subordinator's Representations and Covenants.** Subordinator acknowledges that, prior to the execution hereof, it has had the opportunity to examine the terms of the KeyBank Loan Documents, and consents to the same. Subordinator agrees that Lender has no obligation to Subordinator to advance any funds under the KeyBank Deed of Trust or see to the application of any funds disbursed to Owner, and that any application or use of such funds for purposes other than the intended purpose shall not defeat the subordination made herein, in whole or in part. Until



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payment in full of all amounts owing under the KeyBank Loan Documents, Subordinator (i) irrevocably assigns to Lender all rights Subordinator may have with respect to the Junior Indebtedness in any proceeding involving Borrower under the U.S. Bankruptcy Code or any receivership or insolvency proceedings involving Borrower, (ii) irrevocably waives and agrees not to assert any such rights against Borrower in any such proceedings, and (iii) notwithstanding any default by Borrower under the Junior Indebtedness, Subordinator shall not take possession of the Property, petition for the appointment of a receiver, exercise any assignment of rents, commence foreclosure of the Subordinate Deed of Trust, take title to the Property, or otherwise exercise any of its rights or remedies with respect to the Property.

5. **Waivers.** Subordinator hereby waives any act or thing which might otherwise impair, alter, discharge or otherwise affect the subordination created by this Agreement; including without limitation any defense based on any of the following: (a) lack of diligence or any delays in collecting or enforcing the KeyBank Loan Documents; (b) any disability or other defense of Borrower, any guarantor, or any other person; (c) the loss or impairment of any right of recourse, reimbursement, contribution, subrogation or any other right or remedy of Subordinator against Borrower, any guarantor, or any other person; and (d) any modification of any of the terms and conditions of the KeyBank Loan Documents in any form whatsoever and without notice to Subordinator, including without limitation the renewal, extension, compromise, acceleration or other change in time for payment and performance thereof. Subordinator hereby waives any right to require Lender to marshal assets, proceed against Borrower, any guarantor or any other person, or to proceed against or exhaust any collateral for the KeyBank Indebtedness or pursue any other remedy in Lender's power before foreclosing the KeyBank Deed of Trust.
6. **Integration.** This Subordination is the whole and only agreement between the parties hereto with regard to the subordination of the Junior Indebtedness to the KeyBank Indebtedness. This Subordination supersedes and cancels any prior subordination agreements and provisions in any other instrument relating thereto, including, but not limited to, those provisions (if any) contained in the Subordinate Deed of Trust providing for the subordination of the lien or charge thereof to a mortgage or mortgages to be thereafter executed.
7. **General Provisions.** The assigns and successors in interest of Subordinator shall be bound by this Subordination. This Subordination is to be recorded concurrently with the recording of the KeyBank Deed of Trust and the Subordinate Deed of Trust, and Subordinator authorizes Lender, its agent, and/or any escrow or title company officer to insert the appropriate recording numbers herein.



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IN WITNESS WHEREOF Subordinator has executed and delivered this Agreement, with the acknowledgment and consent of Borrower.

"Subordinator"

THE CITY OF ANACORTES, a municipal corporation organized and existing under the laws of the State of Washington

By: H. Dean Maxwell
Name: H. DEAN MAXWELL
Title: MAYOR

Accepted and Approved by Borrower:

THE WILSON HOTEL HOUSING LLC, a Washington limited liability company

By: HOUSING AUTHORITY OF THE
CITY OF ANACORTES, a public body
corporate and politic of the State of
Washington

By: Theresa McCallum
Theresa McCallum
Executive Director



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Subordinator's Acknowledgment:

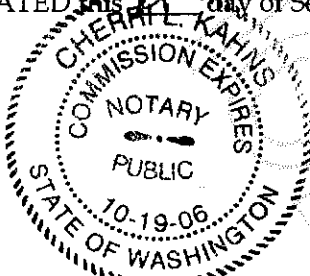
STATE OF WASHINGTON)

County of Skagit)

ss.

I certify that I know or have satisfactory evidence that H. Dean Maxwell is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the Mayor of The City of Anacortes, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 12th day of September, 2005.



Cheri C. Kahns

Notary Public in and for the State of Washington,
residing at Mount Vernon

Cheri C. Kahns
Name (printed or typed)

My appointment expires: 10-19-06

Owner's Acknowledgment:

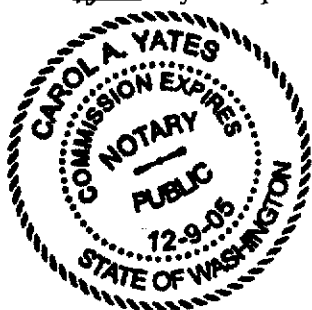
STATE OF WASHINGTON)

County of Skagit)

ss.

I certify that I know or have satisfactory evidence that Theresa McCallum is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the Executive Director of Housing Authority of the City of Anacortes, acting in its capacity as Managing Member of The Wilson Hotel Housing LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 12th day of September, 2005.



Carol A. Yates

Notary Public in and for the State of
Washington residing at Anacortes

Carol A. Yates
Name (printed or typed)

My appointment expires: 12/9/05



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**EXHIBIT A
TO
SUBORDINATION AGREEMENT**

The Property is located in Skagit County, Washington, and is legally described as follows:

Lots 1, 2, 3, and 4, Block 37, "MAP OF THE CITY OF ANACORTES, SKAGIT COUNTY, WASHINGTON," as per plat recorded in Volume 2 of Plats, page 4, records of Skagit County, Washington.

EXCEPT the West 20 feet of said Lot 4.

Situate in the City of Anacortes, County of Skagit, State of Washington.

