

WHEN RECORDED RETURN TO:

BANK OF THE WEST
6873 N WEST AVENUE #102
FRESNO, CA 93711



200807010073
Skagit County Auditor

7/1/2008 Page 1 of 13 1:47PM

Chicago Title Insurance Company

425 Commercial Street – Mount Vernon, Washington 98273 IC45129

DOCUMENT TITLE(s)

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

REFERENCE NUMBER(s) OF DOCUMENTS ASSIGNED OR RELEASED:

UNRECORDED LEASE, 200807010070

Additional numbers on page _____ of the document

GRANTOR(s):

1. SKAGIT RESPE, LLC
- 2.
- 3.

Additional names on page _____ of the document

GRANTEE(s):

1. BANK OF THE WEST
2. SKAGIT ACQUISITION CORP.
- 3.

Additional names on page _____ of the document

ABBREVIATED LEGAL DESCRIPTION:

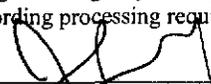
N/A

Complete legal description is on page _____ of the document

ASSESSOR'S PROPERTY TAX PARCEL ACCOUNT NUMBER(s):

N/A

(sign only if applicable) I am requesting an emergency nonstandard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document.

Signature 

This cover sheet is for the County Recorder's indexing purposes only.
The Recorder will rely on the information provided on the form and will not read the document to verify the accuracy or completeness of the indexing information provided herein.

Recording Requested by and When Recorded Mail to:

Bank of the West 6873 N. West Avenue, Ste 102 Fresno, CA 93711

Attn: Documentation Center (Nursery/Greenhouse ABC)

(Space above this line for Recorder's use)

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

NOTICE: THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT RESULTS IN YOUR LEASEHOLD ESTATE IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

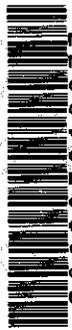
THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (the "Agreement") is entered into as of the as of the June 30, 2008 by and among BANK OF THE WEST, a banking corporation organized under the laws of the State of California ("Beneficiary"), SKAGIT RESPE LLC ("Landlord"), and SKAGIT ACQUISITION CORP. ("Tenant").

W I T N E S S E T H

WHEREAS, Landlord and Tenant have entered into lease dated June 30, 2008 of the property described herein (the "Lease"), pursuant to which Tenant leases from Landlord that certain real property described in Exhibit A attached hereto and the improvements located thereon (the "Property"); and

WHEREAS, Beneficiary has agreed to make certain credit accommodations to Landlord (the "Loan") to be secured by a first lien Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (the "Deed of Trust") encumbering Landlord's interests in the Property, provided that the Lease is subordinated to the lien of the Deed of Trust; and

WHEREAS, on the terms and conditions set forth herein: (a) the parties hereto desire expressly to subordinate the Lease to the lien of the Deed of Trust and (b) in consideration thereof, Beneficiary agrees not to disturb Tenant's possessory rights in the Property pursuant to the Lease in the event Beneficiary forecloses the Deed of Trust;



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NOW, THEREFORE, in consideration of the mutual covenants contained herein and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

- 1. Notwithstanding anything to the contrary set forth in the Lease, the Lease and the leasehold estate created thereby and all of Tenant's rights thereunder shall be and shall at all times remain subject, subordinate and inferior to the Deed of Trust and the lien thereof and all rights of Beneficiary thereunder and to any and all renewals, modifications, consolidations, replacements and extensions thereof.**
- 2. Tenant hereby declares, agrees and acknowledges that: (a) Beneficiary would not make the Loan without this Agreement; and (b) Beneficiary, in making disbursements pursuant to the agreements evidencing and securing the Loan, is under no obligation or duty to oversee or direct the application of the proceeds of such disbursements and such proceeds may be used by Landlord for purposes other than improvement of the Property.**
- 3. In the event of foreclosure of the Deed of Trust, or upon a sale of the Property encumbered thereby pursuant to the trustee's power of sale contained therein, or upon a transfer of said Property by deed in lieu of foreclosure, then so long as Tenant is not in default under any of the terms, covenants, or conditions of the Lease, the Lease shall continue in full force and effect as a direct lease between the succeeding owner of the Property and Tenant, upon and subject to all of the terms, covenants and conditions of the Lease for the balance of the term of the Lease. Tenant hereby agrees to attorn to and accept any such successor owner as landlord under the Lease, and to be bound by and perform all of the obligations imposed by the Lease, and Beneficiary or any such successor owner of the Property will not disturb the possession of Tenant, and will be bound by all of the obligations imposed by the Lease upon the landlord thereunder; provided, however, that Beneficiary or any purchaser at a trustee's or sheriff's sale or any other successor owner of the Property shall not be: (a) liable for any act or omission of a prior landlord (including Landlord); or (b) subject to any offsets or defenses which the Tenant might have against any prior landlord (including Landlord) that Beneficiary did not have notice of under Section 4 below; or (c) bound by any rent or additional rent which Tenant might have paid in advance to any prior landlord (including Landlord) for a period in excess of one month; or (d) liable or responsible for or with respect to the retention, application and/or return to Tenant of any security deposit paid to any prior landlord (including Landlord), whether or not still held by such**



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prior landlord, unless and until Beneficiary or such other purchaser or successor owner has actually received for its own account as landlord the full amount of such security deposit.

4. Tenant, from and after the date hereof, in the event of any act or omission by Landlord which would give Tenant the right, either immediately or after the lapse of time, to terminate the Lease or to claim a partial or total eviction or to defend or offset against the rental due under the Lease any amount due Tenant as a result of a breach by Landlord shall not exercise any such right: (a) until it has given written notice of such act to Beneficiary; and (b) after such written notice Beneficiary shall have failed to cure such act or omission within the time provided for in the Lease.

5. Landlord each agrees for itself and its respective heirs, successors and assigns, that:

(a) this Agreement does not (1) constitute a waiver by Beneficiary of any of its rights under the Deed of Trust, and/or (2) in any way release Landlord from its obligation to comply with the terms, provisions, conditions, covenants, agreements and clauses of the Deed of Trust; (b) the provisions of the Deed of Trust remain in full force and effect and must be complied with by Landlord; and (c) in the event of a default under the Deed of Trust, Tenant may pay all rent and all other sums due under the Lease to Beneficiary as provided in this Agreement.

1. Tenant acknowledges that it has notice that the Lease and the rent and all other sums due thereunder have been assigned or are to be assigned to Beneficiary as security for the Loan secured by the Deed of Trust. In the event that Beneficiary notifies Tenant of a default under the Deed of Trust and demands that Tenant pay its rent and all other sums due under the Lease to Beneficiary, Tenant agrees that it will honor such demand and pay its rent and all other sums due under the Lease directly to Beneficiary or as otherwise required pursuant to any such notice.
 1. Any provision of this Agreement to the contrary notwithstanding, Beneficiary shall have no obligation or incur any liability for completion of any improvements for Tenant's use and occupancy or
 2. for any breach of any warranty, covenant or indemnity in the Lease made by Landlord relating to the Property (including as relates to environmental matters).
2. Tenant from and after the date hereof shall send a copy of any notice or statement under the Lease to Beneficiary at the same time such notice or statement is sent to the Landlord under the Lease. All



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notices hereunder shall be deemed to have been duly given if mailed by United States registered or certified mail, with return receipt requested, postage prepaid to Beneficiary at the address set forth beneath its signature below (or at such other address as shall be given in writing by Beneficiary to Tenant) and shall be deemed complete three days following any such mailing.

9. This Agreement supersedes any inconsistent provisions of the Lease.

- 1. Nothing contained in this Agreement shall be construed to derogate from or in any way impair or affect the lien and charge or provisions of the Deed of Trust, except as specifically set forth herein.**
- 2. This Agreement shall inure to the benefit of the parties hereto, their successors and permitted assigns; provided, however, that in the event of the assignment or transfer of the interest of Beneficiary, all obligations and liabilities of Beneficiary under this Agreement shall terminate, and thereupon all such obligations and liabilities shall be the responsibility of the party to whom Beneficiary's interest is assigned or transferred; and provided further that the interest of Tenant under this Agreement may not be assigned or transferred without the prior written consent of Beneficiary.**
- 3. Tenant agrees that this Agreement satisfies any condition or requirement in the Lease relating to the granting of any subordination, non-disturbance or attornment agreement.**
- 4. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.**
- 5. This Agreement may be executed and delivered in any number of counterparts, each of which so executed and delivered shall be deemed an original and all of which together shall constitute one and the same agreement.**

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

BENEFICIARY:

BANK OF THE WEST

BY: _____

NAME: Richard Rehm, Vice President

LANDLORD:

SKAGIT RESPE LLC

By: Skagit Real Estate Holdings, LLC

**By: Skagit Acquisition Corp.,
Manager**

BY: Brian A. Oliver
NAME: Brian A. Oliver, Vice President



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TENANT:

SKAGIT ACQUISITION CORP.

BY: Brian A. Oliver NAME: Brian A. Oliver,
Vice President

ATTACH NOTARY ACKNOWLEDGMENT

SCHEDULE 1: DESCRIPTION OF LEASE, INCLUDING AMENDMENTS

Landlord and Tenant	Date of Lease	Term of Lease
Landlord: SKAGIT RESPE LLC	<u>June 30</u> , 2008	10 years
Tenant: SKAGIT ACQUISITION CORP.		

EXHIBIT A: DESCRIPTION OF PROPERTY

All of that certain real property, together with all easements, rights and appurtenances thereto and all improvements now or hereafter located thereon, situated in the City of Mount Vernon, County of Skagit, State of Washington, and described as follows:



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STATE OF OREGON)
) ss.
County of Multnomah)

This instrument was acknowledged before me on June 27 2008, by
Brian Oliver, Vice President of Skagit Acquisition Corp.



Kristen Eran

Notary Public for Oregon
My Commission Expires June 12, 2010



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EXHIBIT A

PARCEL A:

The North 165 feet of the Southwest Quarter of the Northwest Quarter of Section 32, Township 34 North, Range 4 East of the Willamette Meridian;

EXCEPT roads;

AND EXCEPT the South 45 feet of the West 120 feet thereof lying East of the former U.S. Highway 99;

AND ALSO EXCEPT all that portion thereof lying East of a line 295 feet West of Drainage Ditch No. 17.

Situated in Skagit County, Washington

PARCELS B and C:

That portion of the North 165 feet of the Southwest Quarter of the Northwest Quarter of Section 32, Township 34 North, Range 4 East of the Willamette Meridian, lying East of the drainage ditch of Drainage District No. 17;

Also the East 60 feet of that portion of the North 165 feet of the Southwest Quarter of the Northwest Quarter of said Section 32, lying West of aforesaid drainage ditch;

AND EXCEPT that portion of said premises conveyed to the State of Washington for Primary State Highway No. 1, by deed recorded March 12, 1972, under Auditor's File No. 764259, records of Skagit County, Washington.

TOGETHER WITH a non-exclusive easement for ingress and egress over and across the North 16.5 feet of said Southwest Quarter of the Northwest Quarter lying West of a point 60 feet West of aforesaid drainage ditch and East of Old Highway 99.

Situated in Skagit County, Washington.

continued.....



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EXHIBIT 'A' continued:

PARCEL D:

That portion of the Southwest Quarter of the Northwest Quarter of Section 32, Township 34 North, Range 4 East of the Willamette Meridian, described as follows:

Beginning at the intersection of the North line of said subdivision with a point 60 feet West of the West line of the drainage ditch of Drainage District No. 17;

Thence South 185 feet;

Thence West 235 feet;

Thence North 185 feet;

Thence East 235 feet to the point of beginning.

Situated in Skagit County, Washington

PARCEL E:

That portion of the North Half of the South Half of the Northwest Quarter of the Northwest Quarter of Section 32, Township 34 North, Range 4 East of the Willamette Meridian, described as follows:

Beginning at a point on the South line of said North Half of the South Half of the Northwest Quarter of the Northwest Quarter, 30 feet East of the Southwest corner thereof, said point being the East line of the State Highway "99" right of way, as said highway existed on January 7, 1954;

Thence East along the South line of said North Half of the South Half of the Northwest Quarter of the Northwest Quarter, 188 feet;

Thence North parallel with the West line of said subdivision 200 feet;

Thence West 188 feet to the East line of said State Highway right of way;

Thence South along the East line of said highway right of way, 200 feet to the point of beginning;

continued.....



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EXHIBIT 'A' continued:

TOGETHER WITH that portion of the North Half of the South Half of the Northwest Quarter of the Northwest Quarter of Section 32, Township 34 North, Range 4 East of the Willamette Meridian, described as follows:

Beginning a point on the South line of said North Half of the South Half of said Northwest Quarter of the Northwest Quarter, 30 feet East of the Southwest corner thereof, said point being on the East line of the State Highway 99 right of way, as said highway existed on January 7, 1954;

Thence North along the East line of said State Highway right of way, 200 feet;

Thence East 144 feet to the true point of beginning;

Thence continue East 44 feet;

Thence North parallel to the West line of said Northwest Quarter, 8.0 feet;

Thence West 44 feet;

Thence South 8.0 feet to the true point of beginning;

EXCEPT the North 6.13 feet thereof;

AND ALSO TOGETHER WITH the following described parcel:

The South 1.87 feet of the West 144.00 feet of that portion of the North Half of the South Half of the Northwest Quarter of the Northwest Quarter of Section 32, Township 34 North, Range 4 East of the Willamette Meridian, described as follows:

Beginning at a point on the East line of the State Highway, 200 feet North of the South line of said North Half of the South Half of the Northwest Quarter of the Northwest Quarter of said Section 32;

Thence East 144 feet;

Thence North parallel to the West line of said Northwest Quarter of the Northwest Quarter, 8 feet;

Thence East 44 feet, more or less, to a line which is distant 218 feet East of and parallel to the West line of said Northwest Quarter of the Northwest Quarter;

Thence North along said parallel line 122 feet, more or less, to the North line of said North Half of the South Half of the Northwest Quarter of the Northwest Quarter;

Thence West along said North line 188 feet, more or less, to the East line of said State Highway;

Thence South along said East line 130 feet to the point of beginning.

Situated in Skagit County, Washington

continued.....



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EXHIBIT 'A' continued:

PARCEL F:

The North Half of the South Half of the Northwest Quarter of the Northwest Quarter of Section 32, Township 34 North, Range 4 East of the Willamette Meridian;

EXCEPT the West 218 feet thereof;

AND EXCEPT that portion thereof conveyed to the State of Washington for highway purposes by deed dated January 29, 1953 and recorded February 12, 1953, under Auditor's File No. 485836, records of Skagit County, Washington and deed recorded December 21, 1971, under Auditor's File No. 762101, records of Skagit County, Washington;

Situated in Skagit County, Washington

PARCEL G:

The South 330 feet of the Northwest Quarter of the Northwest Quarter of Section 32, Township 34 North, Range 4 East of the Willamette Meridian;

AND EXCEPT Old State Highway 99 along the West line thereof;

AND ALSO EXCEPT that portion conveyed to the State of Washington for Primary State Highway No. 1 along the East line thereof, by deed dated February 3, 1953, recorded March 12, 1953, under Auditor's File No. 485839, records of Skagit County, Washington;

AND ALSO EXCEPT that portion, if any, lying within the North Half of the South Half of the Northwest Quarter of the Northwest Quarter;

AND ALSO EXCEPT that portion thereof condemned by the State of Washington for highway purposes in Skagit County Superior Court Cause No. 33040.

Situated in Skagit County, Washington

continued.....



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EXHIBIT 'A' continued:

PARCEL H and I:

Lots 2 and 3 of SKAGIT COUNTY SHORT PLAT NO. 94-033, approved September 26, 1944 and recorded September 30, 1997, in Volume 11 of Short Plats, pages 121 and 122, under Auditor's File No. 9409300084, records of Skagit County, Washington; being a portion of the North Half of the Northwest Quarter of the Northwest Quarter of Section 32, Township 34 North, Range 4 East of the Willamette Meridian.

Situated in Skagit County, Washington

PARCEL J and L:

Government Lot 7 of Section 12, Township 34 North, Range 3 East of the Willamette Meridian, and a tract of land in the Northeast Quarter of the Northeast Quarter of Section 13, Township 34 North, Range 3 East of the Willamette Meridian, described as follows:

Beginning at the Northeast corner of said Section 13;
Thence South 83°31' West along the North line of said Section 13, a distance of 1,273.6 feet, more or less, to the Northwest corner of the Northeast Quarter of the Northeast Quarter of said Section 13;
Thence South along the West line of said Northeast Quarter of the Northeast Quarter, a distance of 160.6 feet;
Thence South 89°33' East, a distance of 1,275 feet, more or less, to the East line of said Section 13;
Thence North along the East line of said Section; a distance of 314.8 feet, more or less, to the point of beginning;

EXCEPT the East 40 feet of that portion of the subject property lying within Government Lot 7 in Section 12, Township 34 North, Range 3 East of the Willamette Meridian and as conveyed to Skagit County for road purposes by deed recorded April 5, 1911, in Volume 83 of Deeds, page 536;

AND EXCEPT the East 40 feet of that portion of the subject property lying within Section 13, Township 34 North, Range 3 East of the Willamette Meridian, as conveyed to John Krangness by deed recorded April 4, 1924, in Volume 132 of Deeds, page 576;

AND ALSO EXCEPT the North 2 acres of the West 10 acres of the remainder.

Situated in Skagit County, Washington

continued.....



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EXHIBIT 'A' continued:

PARCEL K:

That portion of Government Lot 6, Section 12, Township 34 North, Range 3 East of the Willamette Meridian, described as follows:

Beginning at the Southwest corner of said Lot;
Thence North $83^{\circ}40'02''$ East 1,193.75 feet along the South line of said Section 12, to a point that is South $83^{\circ}40'02''$ West 1,285.18 feet from the Southeast corner of said Section 12 said point being the true point of beginning;
Thence North $0^{\circ}19'30''$ West 204.05 feet;
Thence South $88^{\circ}38'19''$ East 48.51 feet to the East line of said Lot;
Thence South $0^{\circ}33'18''$ West 197.86 feet along said East line to the Southeast corner thereof;
Thence South $83^{\circ}40'02''$ West 45.71 feet along said South line to the true point of beginning;

Being a portion of Lot 2, Short Plat No. 79-80, recorded in Volume 5 of Short Plats, page 125, under Skagit County Auditor's File No. 8109110008, records of Skagit County, Washington.

Situated in Skagit County, Washington

- END OF EXHIBIT "A" -



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