



201001070083
Skagit County Auditor

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RETURN ADDRESS:

Pacific Continental Bank
RE:
PO Box 10727
Eugene, OR 97440

CHICAGO TITLE CO.

1963218

NOTICE: THIS SUBORDINATION OF DEED OF TRUST 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 OF DEED OF TRUST

Reference # (if applicable): 200710190059, 200611080126

Additional on page _____

Grantor(s):

1. Boss Construction, Inc.

Grantee(s)

1. Pacific Continental Bank

Legal Description: Tr 2, SP 89-79 and PTN NE 23/34/4

Additional on page _____

Assessor's Tax Parcel ID#: 340423-1-001-0006, 340423-1-003-0004, 340423-0-007-0002, 340423-0-011-0006

THIS SUBORDINATION OF DEED OF TRUST dated December 15, 2009, is made and executed among Boss Construction, Inc. ("Beneficiary"), whose address is 4945 Guide Meridian, Bellingham, WA 98226; Windward Real Estate Services, Incorporated ("Borrower"), whose address is 7981 168th Avenue NE #118, Redmond, WA 98052; and Pacific Continental Bank ("Lender"), whose address is C/O Washington Loan Operations, 1100 Olive Way, Suite 102, Seattle, WA 98101.

Chicago Title Company has placed
this document for recording as a
customer courtesy and accepts no
liability for its accuracy or validity

SUBORDINATED INDEBTEDNESS. Beneficiary has extended the following described financial accommodations, secured by the Real Property (the "Subordinated Indebtedness"):

Indebtedness evidenced by a Partial Settlement Agreement between Skagit Highlands, LLC and Boss Construction, Inc. dated August 30, 2007 for repayment of the sum of \$122,179.11. This is not a debt of Windward Real Estate Services, Incorporated.

SUBORDINATED DEED OF TRUST. The Subordinated Indebtedness is or will be secured by the Real Property and evidenced by a deed of trust dated September 28, 2007 from Windward Real Estate Services, Incorporated ("Trustor") to First American Title Insurance Company ("Trustee") in favor of Boss Construction, Inc. ("Beneficiary") (the "Subordinated Deed of Trust") and recorded in Skagit County, State of Washington as follows:

Recorded on October 19, 2007 as Instrument No. 200710190059.

REAL PROPERTY DESCRIPTION. The Subordinated Deed of Trust covers the following described real property (the "Real Property") located in Skagit County, State of Washington:

See legal description in Deed of Trust described above, which is made a part of this Subordination of Deed of Trust as if fully set forth herein

The Real Property or its address is commonly known as: 70 acre lot, Mt. Vernon, WA 98273. The Real Property tax identification number is 340423-1-001-0006; 340423-1-003-0004; 340423-0-007-0002; 340423-0-011-0006.

SUPERIOR INDEBTEDNESS. Lender has extended or has agreed to extend the following described financial accommodations to Borrower, secured by the Real Property (the "Superior Indebtedness"):

A Promissory Note from Borrower to Lender dated July 28, 2008 in the original principal amount of \$1,190,000.00 together with any and all Change in Terms Agreements executed thereafter, including all renewals, extensions, modifications, refinancings, consolidations and substitutions for the note.

LENDER'S LIEN. The Superior Indebtedness is or will be secured by the Real Property and evidenced by a mortgage, deed of trust, or other lien instrument from Borrower to Lender (the "Lender's Lien") and recorded in Skagit County, State of Washington as follows:

Lender's Deed of Trust was recorded on November 8, 2006 as Instrument No. 200611080126 in the original amount of \$1,000,000.00, together with a Modification of Trust Deed recorded on August 5, 2008 as Instrument No. 200808050048 whereby among other things, the principal amount of Lender's lien was increased from \$1,000,000.00 to \$1,190,000.00.

As a condition to the granting of the requested financial accommodations, Lender has required that the Lender's Lien be and remain superior to the Subordinated Deed of Trust.

REQUESTED FINANCIAL ACCOMMODATIONS. Beneficiary, who may or may not be the same person or entity as Trustor, and Borrower each want Lender to provide financial accommodations to Borrower in the form of the Superior Indebtedness. Borrower and Beneficiary each represent and acknowledge to Lender that Beneficiary will benefit as a result of these financial accommodations from Lender to Borrower, and Beneficiary acknowledges receipt of valuable consideration for entering into this Subordination.

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

SUBORDINATION. The Subordinated Deed of Trust and the Subordinated Indebtedness secured by the Subordinated Deed of Trust 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 the lien of the Subordinated Deed of Trust. Beneficiary also subordinates to Lender's Lien all other Security Interests in the Real Property held by Beneficiary, whether now existing or hereafter acquired. The words "Security Interest" mean and include without limitation any type of collateral security, whether in the form of a lien, charge, mortgage, deed of trust, assignment, pledge, chattel mortgage, chattel trust, factor's lien, equipment trust, conditional sale, trust receipt, lien or title retention contract, lease or consignment intended as a security device, or any other security or lien interest whatsoever, whether created by law, contract, or otherwise.

BENEFICIARY'S REPRESENTATIONS AND WARRANTIES. Beneficiary represents and warrants to Lender that: (A) no representations or agreements of any kind have been made to Beneficiary which would limit or qualify in any way the terms of this Subordination; (B) this Subordination is executed at Borrower's request and not at the request of Lender; (C) Lender has made no representation to Beneficiary as to the creditworthiness of Borrower; and (D) Beneficiary has established adequate means of obtaining from Borrower on a continuing basis information regarding Borrower's financial condition. Beneficiary agrees to keep adequately informed from such means of any facts, events, or circumstances which might in any way affect Beneficiary's risks under this Subordination, and Beneficiary further agrees that Lender shall have no obligation to disclose to Beneficiary information or material acquired by Lender in the course of its relationship with Beneficiary.

BENEFICIARY WAIVERS. Beneficiary 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



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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 Beneficiary, (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 this Subordination in approving any such plan of reorganization or arrangement. Any default by Borrower under the terms of the Subordinated Indebtedness 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 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, title insurance, and fees for the Trustee, to the extent permitted by applicable law. Beneficiary 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 Beneficiary represents and warrants that he or she has authority to execute this Subordination and to subordinate the Subordinated Indebtedness and the Beneficiary's security interests in Beneficiary'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 federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Washington without regard to its conflicts of law provisions. This Subordination has been accepted by Lender in the State of Washington.

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

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 Beneficiary 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.

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

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



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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 DECEMBER 15, 2009.

BORROWER:

WINDWARD REAL ESTATE SERVICES, INCORPORATED

By: [Signature]
James Tosti, President of Windward Real Estate Services, Incorporated

BENEFICIARY:

BOSS CONSTRUCTION, INC.

By: _____

Name: _____

Title: _____

LENDER:

PACIFIC CONTINENTAL BANK

X [Signature]
Authorized Officer

CORPORATE ACKNOWLEDGMENT

STATE OF Washington

COUNTY OF King

On this 22nd day of December, 2009, before me, the undersigned Notary Public, personally appeared **James Tosti, President of Windward Real Estate Services, Incorporated**, and personally known to me or proved to me on the basis of satisfactory evidence to be an authorized agent of the corporation that executed the Subordination of Deed of Trust 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 he or she is authorized to execute this Subordination and in fact executed the Subordination on behalf of the corporation.

By: [Signature] **Hao L. Quinn**

Notary Public in and for the State of
Washington

Residing [Signature] at _____

My 11/19/10 commission expires _____



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Skagit County Auditor

**CORPORATE ACKNOWLEDGMENT
(BOSS CONSTRUCTION, INC.)**

STATE OF _____)

) SS
)

COUNTY OF _____

On this _____ day of _____, 20____, before me, the undersigned Notary Public, _____ personally appeared _____

and personally known to me or proved to me on the basis of satisfactory evidence to be (an) authorized agent(s) of the corporation that executed the Subordination of Deed of Trust 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 he or she/they is/are authorized to execute this Subordination and in fact executed the Subordination on behalf of the corporation.

By _____

Residing _____ at _____

Notary Public in and for the State of _____

My _____ commission expires _____

LENDER ACKNOWLEDGMENT

STATE OF Washington _____

COUNTY OF King _____

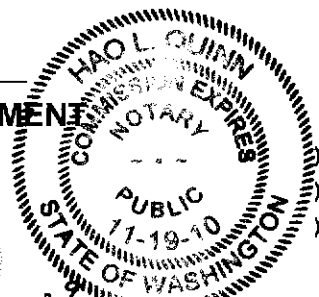
On this 22nd day of December, 2009, before me, the undersigned Notary Public, personally appeared Bonnie Lambert and personally known to me or proved to me on the basis of satisfactory evidence to be the VP, authorized agent for **Pacific Continental Bank** that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of **Pacific Continental Bank**, duly authorized by **Pacific Continental Bank** 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 in fact executed this said instrument on behalf of **Pacific Continental Bank**.

By Hao L. Quinn

Residing file at _____

Notary Public in and for the State of Washington

My 11/19/10 commission expires _____



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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 DECEMBER 15, 2009.

BORROWER:

WINDWARD REAL ESTATE SERVICES, INCORPORATED

By: _____
James Tosti, President of Windward Real Estate Services, Incorporated

BENEFICIARY:

ROSS CONSTRUCTION INC.

By: _____
Name: TIM HART
Title: PRESIDENT

LENDER:

PACIFIC CONTINENTAL BANK

X _____
Authorized Officer

CORPORATE ACKNOWLEDGMENT

STATE OF _____)

COUNTY OF _____)

) SS

On this _____ day of _____, 20____, before me, the undersigned Notary Public, personally appeared **James Tosti, President of Windward Real Estate Services, Incorporated**, and personally known to me or proved to me on the basis of satisfactory evidence to be an authorized agent of the corporation that executed the Subordination of Deed of Trust 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 he or she is authorized to execute this Subordination and in fact executed the Subordination on behalf of the corporation.

By _____

Residing _____ at _____

Notary Public in and for the State of _____

My _____ commission expires _____



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**CORPORATE ACKNOWLEDGMENT
(BOSS CONSTRUCTION, INC.)**

STATE OF WASHINGTON

COUNTY OF WHATCOM

On this 30th day of DECEMBER, 20 09, before me, the undersigned Notary Public, TIM HART personally appeared

and personally known to me or proved to me on the basis of satisfactory evidence to be (an) authorized agent(s) of the corporation that executed the Subordination of Deed of Trust and acknowledged the Subordination to be the free and voluntary act and deed of the corporation, by authority of its Board or by resolution of its board of directors, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this Subordination and in fact executed the Subordination on behalf of the corporation.

By James J. Longstaff Residing 3593 E SMITH RD, B'HAM, WA 98226 at

Notary Public in and for the State of WASHINGTON My commission expires JUNE 3, 2012

LENDER ACKNOWLEDGMENT

STATE OF _____

COUNTY OF _____

On this _____ day of _____, 20____, before me, the undersigned Notary Public, personally appeared _____ and personally known to me or proved to me on the basis of satisfactory evidence to be the _____, authorized agent for **Pacific Continental Bank** that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of **Pacific Continental Bank**, duly authorized by **Pacific Continental Bank** 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 in fact executed this said instrument on behalf of **Pacific Continental Bank**.

By _____

Residing _____ at

Notary Public In and for the State of _____

My commission expires _____

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