

Return Address
Northwest Business Development Assoc.
9019 E. Appleway Blvd., Suite 200
Spokane Valley, WA 99212



Skagit County Auditor \$79.00
1/27/2014 Page 1 of 8 11:18AM

LAND TITLE OF SKAGIT COUNTY

148089-0

SUBORDINATION AGREEMENT

200208160103

Reference #: 201311270059 Additional on page _____
Grantor: Subway Real Estate, LLC, a Delaware limited liability company, successor in interest to SUBWAY REAL ESTATE, CORP., a Delaware corporation
Additional on page _____
Grantee: Northwest Business Development Association
Additional on page _____

MC

Legal Description:

The South 200 feet of that portion of the West 330 feet of the Southwest ¼ of the Southwest ¼ of Section 21, Township 34 North, Range 4 East, W.M., lying Northerly of the County road along the South line thereof, EXCEPT the West 30 feet thereof conveyed to the City of Mount Vernon by deed recorded December 2, 1977, under Auditor's File No. 869709.

Situate in the County of Skagit, State of Washington.

P2731B

Assessor's Tax Parcel Account Number: 340421-3-017-0204

THIS AGREEMENT is made and entered into as of this 18th day of November, 2013, by NW PETRO INC., a Washington corporation ("Landlord"), whose address is 2323 E. Section Street, Mount Vernon, WA 98274, and SUBWAY REAL ESTATE, CORP., a Delaware corporation ("Tenant"), whose address is 325 Bic Drive, Milford, CT 06461

MC

WITNESSETH:

WHEREAS, NORTHWEST BUSINESS DEVELOPMENT ASSOCIATION, a Washington nonprofit corporation, ("Mortgagee"), whose address is 9019 E. Appleway Blvd., Suite 200 Spokane Valley, WA 99212, has agreed to make a mortgage loan in the amount of One Million Sixty Two Thousand Dollars and No Cents (\$1,062,000.00) to Landlord,

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 repayment of which is to be secured by a Deed of Trust or Mortgage (herein referred to as "Mortgage") on real estate (the "Premises") all as fully described in the legal description above; and

WHEREAS, the Mortgage is to be recorded in the county where the Premises are situate; and under Auditor's File No. 201311270059, and

WHEREAS, Tenant is the present lessee under a Lease dated January 31, 2002,* as amended from time to time, initially made by BELLMA INC. and subsequently assigned to NW PETRO INC., as landlord, demising all or a portion of the Premises (said Lease and all amendments thereto are hereafter referred to as the "Lease"); and

*recorded under Auditor's File No. 200208160103

WHEREAS, as a condition precedent to Mortgagee's disbursement of loan proceeds, Mortgagee has required that Tenant subordinate the Lease and its interest in the Premises in all respects to the lien of the Mortgage; and

WHEREAS, it will be of substantial benefit to Tenant for Mortgagee to disburse the loan proceeds; and

WHEREAS, Mortgagee is disbursing the loan proceeds in reliance upon the agreements contained in this Agreement.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each party hereto, it is hereby agreed as follows:

1. **SUBORDINATION.** The Lease, and the rights of Tenant in, to or under the Lease and the Premises, are hereby subjected and subordinated and shall remain in all respects and for all purposes subject, subordinate and junior to the lien of the Mortgage, and to the rights and interest of the from time to time holder of the Mortgage, as fully and with the same effect as if the Mortgage had been duly executed, acknowledged and recorded, and the indebtedness secured thereby had been fully disbursed prior to the execution of the Lease or possession of the Premises by Tenant, or its predecessors in interest.

2. **RELIANCE BY MORTGAGEE.** The parties are executing this instrument in order to induce Mortgagee to disburse the indebtedness secured by the Mortgage, and the parties further agree that the disbursement by Mortgagee of all or any part of the indebtedness shall constitute conclusive reliance by Mortgagee upon this Agreement and the provisions hereof and the subordination effected hereby.



3. **ATTORNMEN AT MORTGAGEE'S OPTION.** At Mortgagee's sole option, if the interest of Landlord shall be transferred to and owned by Mortgagee by reason of foreclosure or other proceedings brought by it in lieu of or pursuant to a foreclosure, or by any other manner, Mortgagee succeeds to the interest of the landlord under the Lease, Tenant shall be bound to Mortgagee under all of the terms, covenants, and conditions of the Lease for the balance of the term thereof remaining, and any extensions or renewals thereof which may be affected in accordance with any option therefor in the Lease, with the same force and effect as if Mortgagee were the landlord under the Lease. Tenant does hereby agree to attorn to Mortgagee as its landlord, said attornment to be effective and self-operative immediately upon Mortgagee succeeding to the interest of the landlord under the Lease without the execution of any further instruments on the part of any of the parties hereto. Except as required under any Assignment of Leases and/or Rents, Tenant shall be under no obligation to pay rent to Mortgagee until Tenant receives written notice from Mortgagee that it has succeeded to the interests of the landlord under the Lease. The respective rights and obligations of Tenant to Mortgagee upon such attornment, to the extent of the then remaining balance of the term of the Lease and any such extensions and renewals, shall be and are the same as those set forth therein, it being the intention of the parties hereto for this purpose to incorporate the Lease in this Agreement by reference with the same force and effect as if set forth at length herein.

4. **NON-DISTURBANCE.** So long as the Tenant is not in default (after the giving of written notice and following the expiration of any applicable cure period) in the payment of rent or in the performance of any of the other covenants of the Lease that Tenant is to perform, the Tenant's possession and quiet enjoyment of the Leased Premises and the Tenant's other rights under the Lease, or any extensions or renewals thereof, shall not be diminished or interfered with by Lender. In addition, Mortgagee shall not join Tenant as a party defendant in any action or proceeding for the purpose of terminating the Tenant's interest under the Lease or otherwise.

5. **MORTGAGEE NOT BOUND BY CERTAIN ACTS OF LANDLORD.** If Mortgagee shall succeed to the interest of landlord under the Lease, Mortgagee shall not be liable for any act or omission of any prior landlord (including Landlord herein) nor be subject to any offsets or defenses which Tenant might have against any prior landlord (including Landlord herein); nor bound by any rent or additional rent which Tenant might have paid for more than the then current installment nor be bound by any **material** amendment or modification of the Lease made without its consent.



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6. **NOTICE.** In the event that Landlord shall default in the performance or observance of any of the terms, conditions or agreements in the Lease, Tenant shall **use its best efforts** to give written notice thereof to Mortgagee, and Mortgagee shall have the right (but not the obligation) to cure such default. Tenant shall not take any action with respect to such default under the Lease, including and without limitation, any action in order to terminate, rescind or avoid the Lease or to withhold any rental thereunder, for a period of ten

(10) days after receipt of such written notice thereof by Mortgagee with respect to any such default capable to being cured by the payment of money and for a period of thirty (30) days after receipt of which written notice thereof by Mortgagee with respect to any other such default (provided, that in the case of any default which cannot be cured by the payment of money and cannot with diligence be cured within such thirty (30)-day period because of the nature of such default or because Mortgagee requires time to obtain possession of the Premises in order to cure the default, if Mortgagee shall proceed promptly to attempt to obtain possession of the Premises, where possession is required, and to cure the same and thereafter shall prosecute the curing of such default with diligence and continuity, then the time within which such default may be cured shall be extended for such period as may be necessary to complete the curing of the same with diligence and continuity).

7. **PURCHASE OPTIONS.** Any option or rights contained in the Lease to acquire title to the Premises are hereby made subject and subordinate to the rights of Mortgagee under the Mortgage and any acquisition of title to the Premises made by Tenant during the term of the Mortgage shall be made subordinate and subject to the Mortgage.

8. **SUCCESSORS AND ASSIGNS.** This Agreement and each and every covenant, agreement and other provisions hereof shall be binding upon the parties hereto and their heirs, administrators, representatives, successors and assigns, including without limitation each and every from time to time holder of the Lease or any other person having an interest therein and shall inure to the benefit of Mortgagee and its successors and assigns.

9. **CHOICE OF LAW.** This Agreement is made and executed under and in all respects is to be governed and construed by the laws of the state where the Premises are situate.

10. **CAPTIONS AND HEADINGS.** The captions and headings of the various sections of this Agreement are for convenience only and are not to be construed as confining or limiting in any way the scope or intent of the provisions hereof. Whenever



the plural, the plural shall include the singular and the masculine, feminine and neuter shall be freely interchangeable.

11. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall continue one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed as of the date first above.

LANDLORD: NW PETRO INC.,
a Washington corporation



RAMIN FORGHANI, President

TENANT: SUBWAY REAL ESTATE CORP.,
a Delaware corporation

Name:
Title:



the context requires or permits, the singular shall include the plural, the plural shall include the singular and the masculine, feminine and neuter shall be freely interchangeable.

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LANDLORD: NW PETRO INC.,
a Washington corporation

RAMIN FORGHANI, President

TENANT: Subway Real Estate, LLC, a Delaware limited liability company,
successor in interest to SUBWAY REAL ESTATE CORP.,
a Delaware corporation

Name: Matthew Whelan
Title: Manager



STATE OF WASHINGTON)
) ss.
County of Snohomish)

I certify that I know or have satisfactory evidence that RAMIN FORGHANI signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the President of NW PETRO INC., to be the free and voluntary act of such corporation, for the uses and purposes mentioned in the instrument.

DATED: 11/18, 2013



Marilyn A. Leon
Notary Public in and for the
State of Washington, residing at
Lake Stevens WA.
My appointment expires 8-17-17.

STATE OF _____)
) ss.
County of _____)

I certify that I know or have satisfactory evidence that _____ signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ of SUBWAY REAL ESTATE CORP., a Delaware corporation, to be the free and voluntary act of such corporation, for the uses and purposes mentioned in the instrument.

DATED: _____

Notary Public in and for the
State of _____,
residing at _____.
My appointment expires _____.



STATE OF WASHINGTON)
) ss.
County of _____)

I certify that I know or have satisfactory evidence that RAMIN FORGHANI signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the President of NW PETRO INC., to be the free and voluntary act of such corporation, for the uses and purposes mentioned in the instrument.

DATED: _____, 2013

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

My appointment expires _____.

STATE OF CONNECTICUT)
)ss. Milford
County of NEW HAVEN)

I certify that I know or have satisfactory evidence that Matthew Whelan signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the Manager of SUBWAY REAL ESTATE, LLC, A DELAWARE LIMITED LIABILITY COMPANY, to be the free and voluntary act of such limited liability company, for the uses and purposes mentioned in the instrument.

DATED: December 18, 2013



Sharon A. Chaco
NOTARY PUBLIC
State of Connecticut
My Commission Expires
April 30, 2017

Sharon A. Chaco
Notary Public in and for the State
of CONNECTICUT, residing at
Milford, Connecticut. My
appointment expires 4/30/17.

