



200605260117

Skagit County Auditor

5/26/2006 Page 1 of 8 11:17AM

RECORDING REQUESTED AND
WHEN RECORDED RETURN TO:

Albertson's, Inc.
250 Parkcenter Blvd.
Boise, ID 83706

Attention: Legal Department Real Estate (tjf)

Tammy Justice - Fleming

119309-T
LAND TITLE OF SKAGIT COUNTY

(Space above this line for Recorder's Use)

#489 - Mt. Vernon, WA

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT ("Agreement") is made as of the 30th day of March, 2006, between SKAGIT CAPITAL, LLC, a Delaware limited liability company ("**Landlord**"), ALBERTSON'S, INC., a Delaware corporation ("**Tenant**"), and WACHOVIA BANK, NATIONAL ASSOCIATION, a national banking association ("**Lender**").

WITNESSETH:

WHEREAS, Tenant is the holder of a leasehold interest in that certain real property together with all buildings and improvements thereon and all easements, rights and appurtenances thereto located in the City of Mount Vernon, County of Skagit, State of Washington ("**Leased Premises**") pursuant to that certain Shopping Center Lease dated as of April 22, 1992, between Landlord and Tenant, a Memorandum of which was recorded on October 2, 1992 under Recording No. 9210020069, Records of Skagit County, Washington. The Shopping Center Lease and Memorandum of Shopping Center Lease are hereinafter referred to as the "**Lease**"; and

WHEREAS, the Leased Premises are part of a larger tract of land located in the City of Mount Vernon, County of Skagit, State of Washington, more particularly described in Schedule I attached hereto and incorporated herein by this reference ("**Shopping Center**"); and

WHEREAS, pursuant to Article 6 ("**Landlord's Title**") of the Lease, Tenant has agreed to subordinate its rights under the Lease to the lien of any first mortgage or first deed of trust placed on the Leased Premises or Shopping Center by Landlord subject to the execution of a Subordination, Non-Disturbance and Attornment Agreement; and

WHEREAS, Lender is the beneficiary under that certain Deed of Trust encumbering the Shopping Center dated as of March 30, 2006, and recorded on March 31, 2006, as Recording No. 20060331103300 Records of Skagit County, Washington ("**Deed of Trust**"); and 200603310305

WHEREAS, the parties desire to subordinate the Lease to the Deed of Trust and to establish certain rights of quiet and peaceful possession to the Leased Premises for Tenant's benefit together with certain obligations of attornment, all in the manner hereinafter provided.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed between the parties as follows:

1. Tenant agrees that the Lease is and shall at all times be subordinate to the Deed of Trust and to any and all extensions, modifications, consolidations, renewals and replacements thereof.

2. Lender agrees that, if no default exists under the Lease which at such time would then permit Landlord to terminate the Lease or to exercise any dispossess remedy provided for therein, (a) Tenant will not be made a party in any action or proceeding to foreclose the Deed of Trust or to remove or evict Landlord from the Leased Premises or from any part of the Shopping Center; (b) Tenant will not be evicted or removed from the Leased Premises or from any part of the Shopping Center nor will its possession or right to possession of the Leased Premises or of any part of the Shopping Center under the Lease for the term thereof (including any and all extensions or renewals thereof effected in accordance with any option therefor in the Lease) be terminated or disturbed or in any way interfered with by any action taken by Lender to enforce any rights or remedies under the Deed of Trust; and (c) Lender, upon succeeding to Landlord's interest in the Leased Premises, will recognize the Lease and Tenant as its direct tenant under the Lease for the full term thereof (including any and all extensions or renewals thereof effected in accordance with any option therefor in the Lease), and will be bound by and perform all of the obligations of Landlord set forth in the Lease as if said person were originally named therein as the landlord thereunder.

3. Tenant agrees that, if the interest of Landlord in the Leased Premises shall be transferred to and owned by Lender by reason of foreclosure or other proceeding brought by it under any present or future lien against Landlord's interest in the Leased Premises, or by any other manner, Tenant shall be bound to the Lender under all of the terms, covenants, conditions and agreements set forth in the Lease for the balance of the term thereof remaining (including any and all extensions or renewals thereof effected in accordance with any option therefor in the Lease) with the same force and effect as if Lender were originally named therein as the landlord thereunder, and Tenant does hereby agree to attorn to Lender as its landlord thereunder so as to establish direct privity of estate and contract between Lender and Tenant, said attornment to be effective and self-operative without the execution of any further instruments on the part of either of the parties hereto immediately upon Lender succeeding to the interest of Landlord in the Leased Premises.

4. Lender hereby ratifies, confirms, approves and agrees to be bound by each and every term, covenant, condition and agreement contained in the Lease as if each thereof were set forth herein at length, and each of said terms, covenants, conditions and agreements shall inure to the benefit of and be enforceable by Tenant, its successors and assigns, including without limitation, the mortgagee or beneficiary under any mortgage or deed of trust on Tenant's interest in the Lease or the Leased Premises, its successors and assigns. Lender covenants and agrees that in the event of a conflict whether in the express provisions or by reason of variation in inclusion of provisions, between the Deed of Trust and the Lease, the provisions of the Lease shall govern for all purposes. Lender hereby acknowledges and agrees that, with respect to any assignment of rents contained in the Deed of Trust, said assignment shall apply only to the rent which Landlord is entitled to receive pursuant to the Lease.



200605260117
Skagit County Auditor

5. Lender agrees that all condemnation awards and insurance proceeds payable to Landlord or Lender with respect to the Leased Premises or the Shopping Center shall be paid and applied to restoration of the Leased Premises and the Shopping Center in accordance with the provisions of Article 19 (Condemnation) and Article 18 (Casualty; Property Insurance) of the Lease.

6. For the purpose of this Agreement, (a) the term "Lease" shall be deemed to include all amendments, modifications and supplements thereto provided, however, that no such amendment, modification or supplement shall be binding on Lender without Lender's written consent, which consent shall not be unreasonably withheld or delayed; (b) the term "foreclosure" shall be deemed to include the acquisition of Landlord's interest in the Leased Premises by foreclosure or pursuant to the exercise of any power of sale contained in the Deed of Trust, or by deed (or assignment) given in lieu of, or in anticipation of, foreclosure or the exercise of any such power of sale or by any other means whatsoever; and (c) the term "Lender" shall be deemed to include anyone who succeeds to Landlord's interest in the Leased Premises pursuant to the Deed of Trust including, without limitation, any purchaser at foreclosure or pursuant to the exercise of any power of sale contained in the Deed of Trust, or any grantee of a deed (or assignment) given in lieu of, or in anticipation of, foreclosure or the exercise of any such power of sale.

7. If any term, covenant, condition or agreement contained in this Agreement or the application thereof to any person, firm or entity shall at any time or to any extent be deemed or found to be invalid or unenforceable by operation of law, judicial proceedings or otherwise, the remainder of this Agreement or the application of such term, covenant, condition or provision to persons or entities or to circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each remaining term, covenant, condition or provision of this Agreement or the application thereof shall be valid and enforced to the fullest extent permitted by law.

8. All notices given pursuant to this Agreement shall be in writing and shall be given by personal delivery, by United States registered or certified mail, or by United States express mail, postage or delivery charge prepaid, return receipt requested, addressed to the appropriate party at the addresses set forth below:

Landlord:	Skagit Capital, LLC <u>1850 S. Sepulveda Blvd.</u> <u>L.A. Ca. 90025</u>
Tenant:	Albertson's, Inc. 250 Parkcenter Boulevard (83706) P.O. Box 20 Boise, Idaho 83726 Attention: Legal Department Real Estate (#489)
Lender:	Wachovia Bank, National Association Commercial Real Estate Services 8739 Research Drive, URP-4 NC 1075 Charlotte, North Carolina 28262 Loan Number: 50-2854958 Attention: Portfolio Management



200605260117

Skagit County Auditor

With a copy to: Winston & Strawn LLP
200 Park Avenue
New York, New York 10166-4193
Attention: Colette Bonnard, Esq.

The person and address to which notices are to be given may be changed at any time by any party upon written notice to the other party. All notices shall be deemed given upon receipt. For the purpose of this Agreement, the term "receipt" shall mean any of the following: (a) the date of delivery of the notice or other document as shown on the return receipt; (b) the date of actual receipt of the notice or other document by the person or entity specified pursuant to this section; or (c) in the case of the refusal to accept delivery or inability to deliver the notice or other document, the earlier of (i) the date of the attempted delivery or refusal to accept delivery, (ii) the date of the postmark on the return receipt, or (iii) the date of receipt of notice of refusal or notice of nondelivery by the sending party.

9. If any litigation is commenced between the parties hereto concerning this Agreement or the rights or obligations of any party in relation thereto, the prevailing party in such litigation shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for its attorney's fees in such litigation (including any appeal thereof), which sum shall be determined by the court in such litigation or in a separate action brought for that purpose.

10. This Agreement shall bind and inure to the benefit of the parties hereto, their heirs, personal representatives, successors and assigns, including, without limitation, the mortgagee or beneficiary under any mortgage or deed of trust on Tenant's interest in the Lease or the Leased Premises, its successors and assigns.

11. This Agreement may be executed in any number of counterparts, each of which shall for all purposes be deemed to be an original and all of which together shall constitute but one and the same instrument, and shall be effective upon execution of one or more of such counterparts by each of the parties hereto.

12. This Agreement contains the entire agreement between the parties and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. This Agreement may not be modified in any manner whatsoever except by an instrument in writing signed by each of the parties hereto.

13. In construing the provisions of this Agreement and whenever the context so requires, the use of a gender shall include all other genders, the use of the singular shall include the plural, and the use of the plural shall include the singular.

14. This Agreement shall be recorded in the Public Records of Snohomish County, Washington.

[signatures on following page]



200605260117
Skagit County Auditor

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

TENANT:
ALBERTSON'S, INC.,
a Delaware corporation *tr*

By: *William H. Arnold*
William H. Arnold
Group Vice President, Real Estate Law

STATE OF IDAHO)
County of Ada) ss.

On this 24th day of May, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared William H. Arnold, to me known to be the Group Vice President, Real Estate Law, of **Albertson's, Inc.**, the corporation that executed the foregoing instrument, and acknowledged to me that the said instrument is the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written.

My commission expires:
10/28/10

R. A. Leone
Notary Public in and for the
State of Idaho
Residing at Boise, Idaho



200605260117
Skagit County Auditor

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

LENDER:
WACHOVIA BANK, NATIONAL ASSOCIATION,
a national banking association

By: Terry Livingston
its Terry P. Livingston
Managing Director

STATE OF New York
County of New York) ss.

On this 11 day of May, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared Terry P. Livingston to me known to be the Managing Director of **Wachovia Bank, National Association**, the national banking association that executed the foregoing instrument, and acknowledged to me that the said instrument is the free and voluntary act and deed of said national banking association, for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute the said instrument.

WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written.

My commission expires:

Madeline Zorrilla
Notary Public in and for the
State of _____
Residing at _____

MADELINE ZORRILLA
Notary Public, State of New York
No. 01Z06043997
Qualified in Westchester County
My Commission Expires June 26, 2006


200605260117
Skagit County Auditor

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

LANDLORD:
SKAGIT CAPITAL, LLC,
a Delaware limited liability company
By: *Safco Advisory Corp. - its Manager*

By: *[Signature]*
Name: JOHN SAFI
Its President

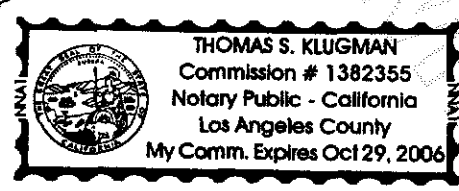
STATE OF CALIFORNIA)
County of LOS ANGELES) ss.

On this 17th day of MARCH, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared JOHN SAFI, to me known to be the PRESIDENT of Skagit Capital, LLC, the limited liability company that executed the foregoing instrument, and acknowledged to me that the said instrument is the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written.

My commission expires:
OCTOBER 29, 2006

[Signature]
Notary Public in and for the
State of CALIFORNIA
Residing at TORRANCE, CA



SCHEDULE I

Legal Description of Shopping Center

LOTS 1-7, AND LOT "B", INCLUSIVE, BINDING SITE PLAN NO. MV-1-93 ENTITLED SKAGIT VALLEY SQUARE, APPROVED SEPTEMBER 29, 1993, RECORDED SEPTEMBER 30, 1993 IN BOOK 10 OF SHORT PLATS, PAGES 240-246, INCLUSIVE, UNDER AUDITOR'S FILE NO. 9309300143 AND BEING A PORTION OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 18, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M.



200605260117
Skagit County Auditor

5/26/2006 Page

8 of

8 11:17AM