



200609270122

Skagit County Auditor

After Recording Mail To:

9/27/2006 Page

1 of

10 11:34AM

FIRST HORIZON HOME LOAN CORPORATION

Attn: Construction Lending

Mail Code 7565

5808 Lake Washington Boulevard, Suite 400

Kirkland, WA 98033

CHICAGO TITLE IC39828

Loan No. 9654190201

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

**LEASE SUBORDINATION,
NONDISTURBANCE AND ATTORNMENT AGREEMENT
with ESTOPPEL CERTIFICATE**

SEP 27 2006

Amount Paid \$
Skagit Co. Treasurer
By Deputy

GRANTOR: PHYSICIAN'S CARE FAMILY MEDICINE, INC., P.S., a
(Subordinator) Washington professional services corporation

GRANTEE: FIRST HORIZON HOME LOAN CORPORATION, a
(Lender) Kansas corporation

LEGAL Ptn NE, Sec 27 T35N, R4EWM
DESCRIPTION The complete legal description is on Exhibit A.

ASSESSOR'S PROPERTY TAX PARCEL ACCOUNT NUMBERS:
350427-1-002-0102; 350427-1-003-0100; and 350427-1-020-0008

RECORDING NO. OF RELATED DOCUMENTS: 200609270118
200609270121

THIS AGREEMENT AND CERTIFICATE dated September 25, 2006, between FIRST HORIZON HOME LOAN CORPORATION, a Kansas corporation, ("**Lender**") and PHYSICIAN'S CARE FAMILY MEDICINE, INC., P.S., a Washington professional services corporation ("**Tenant**").

Recitals

J&J SKAGIT LLC, a Washington limited liability company ("**Landlord**") is the owner of a leasehold interest in real property ("**Property**") located in Skagit County, Washington, and legally described on Exhibit A. Tenant is a tenant of a portion of the Property ("**Premises**") under a lease with Landlord dated March 28, 2006 ("**Lease**"). Lender has

agreed to make a loan ("**Loan**") to Landlord, secured by a Deed of Trust, Assignment of Rents and Leases, Security Agreement, and Fixture Filing ("**Deed of Trust**") encumbering the Property. The Deed of Trust constitutes an assignment to Lender of all right, title, and interest of Landlord under the Lease as security for the Loan. The Deed of Trust was recorded on September 27, 2006, under Skagit County Recording No. 200609270121. Lender's agreement to make the Loan is conditioned on Tenant's subordination of the Lease to the Deed of Trust, and Tenant's agreement to attorn to Lender if Lender obtains possession of the Property by foreclosure or deed in lieu of foreclosure. Tenant is willing to do so in consideration of the benefits to Tenant from the Loan and Lease and Lender's agreement not to disturb Tenant's possession of the Premises under the Lease.

Agreement

NOW, THEREFORE, Lender and Tenant agree as provided below.

1. **Subordination.** Tenant hereby subordinates the Lease and all of its rights thereunder to the Deed of Trust and all of Lender's rights thereunder, including any and all renewals, modifications and extensions thereof. Without limiting the generality of the foregoing, such subordination shall include all rights of Tenant in connection with any insurance or condemnation proceeds with respect to the Premises or Property.
2. **Nondisturbance.** Subject to Section 8 below, Lender agrees that Tenant's possession of the Premises shall not be disturbed by Lender during the term of the Lease, and Lender shall not join Tenant in any action or proceeding for the purpose of terminating the Lease, except upon the occurrence of a default by Tenant under the Lease and the continuance of such default beyond any cure period given to Tenant under the Lease.
3. **Attornment.** If Lender obtains possession of the Property by foreclosure or deed in lieu of foreclosure, Tenant shall attorn to Lender and recognize Lender as the landlord under the Lease for the unexpired term of the Lease. Such attornment shall be effective without Lender being (a) subject to any offsets or defenses arising out of any prior act or omission of Landlord, (b) liable for any prior act or omission of Landlord, (c) bound by any amendment, modification, or waiver of any of the provisions of the Lease, or by any separate agreement between Landlord and Tenant relating to the Premises or Property, unless any such action was taken with the prior written consent of Lender, (d) liable for the return of any security or other deposit unless the deposit has been paid to Lender, (e) bound by any payment of rent or other monthly payment under the Lease made by Tenant more than one month in advance of the due date, (f) bound by any option, right of first refusal, or similar right of Tenant to lease any portion of the Property (other than the Premises), or (g) liable for any obligation of landlord under the Lease with respect to any property other than the Property given as security for the Loan, and Tenant will look solely to Landlord for the performance and observance of any and



all such obligations. Lender's obligations as landlord under the Lease after obtaining possession of the Property by foreclosure or deed in lieu of foreclosure shall terminate upon Lender's subsequent transfer of its interest in the Property.

4. **Covenants of Tenant.** Tenant covenants and agrees with Lender as follows:

4.1 Upon written demand of Lender, Tenant shall pay to Lender all rent and other payments otherwise payable to Landlord under the Lease. The consent and approval of Landlord to this Agreement shall constitute an express authorization for Tenant to make such payments to Lender and a release and discharge of all liability of Tenant to Landlord for any such payments made to Lender.

4.2 Tenant shall enter into no material amendment or modification of any of the provisions of the Lease without Lender's prior written consent.

4.3 Tenant shall not subordinate its rights under the Lease to any other mortgage, deed of trust, or other security instrument without the prior written consent of Lender.

4.4 In the event the Lease is rejected or deemed rejected in any bankruptcy proceeding with respect to Landlord, Tenant shall not exercise its option to treat the Lease as terminated under 11 U.S.C. § 365(h), as amended.

4.5 Tenant shall not accept any waiver or release of Tenant's obligations under the Lease by Landlord, or any termination of the Lease by Landlord, without Lender's prior written consent.

4.6 Tenant shall promptly deliver written notice to Lender of any default by Landlord under the Lease. Lender shall have the right to cure such default within thirty (30) days after the receipt of such notice. Tenant further agrees not to invoke any of its remedies under the Lease until the thirty (30) days have elapsed, or during any period that Lender is proceeding to cure the default with due diligence, or is attempting to obtain the right to enter the Premises and cure the default.

5. **Effect of Assignment.** Notwithstanding that Landlord has assigned its rights under the Lease to Lender as security for the Loan, Lender shall not be liable for any of the obligations of Landlord to Tenant under the Lease until Lender has obtained possession of the Property by foreclosure or deed in lieu of foreclosure, and then only to the extent provided in Section 3 above and this Section 6. Notwithstanding any provision in the Lease to the contrary, if Lender has obtained possession of the Property, its liability under the Lease shall be limited to Lender's interest in the Property, and any judgment against Lender will be enforceable solely against Lender's interest in the Property.



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6. **Estoppel Certifications.** Tenant hereby certifies to Lender as provided below.

- 6.1 The Lease constitutes the entire agreement between Landlord and Tenant relating to the Premises and the Property.
- 6.2 The term of the Lease shall terminate 180 months after the "Commencement Date" as defined in the Lease. Tenant has one option to extend the Lease term for ten years.
- 6.3 The Lease is in full force and effect, and has not been amended, modified, or assigned by Tenant.
- 6.4 No payments to become due under the Lease have been paid more than one month in advance of the due date.
- 6.5 Tenant has no present claim, offset or defense under the Lease, and Tenant has no knowledge of any uncured default by Landlord under the Lease.
- 6.6 Tenant has no knowledge of any prior sale, transfer, assignment, hypothecation or pledge of Landlord's interest under the Lease or of the rents due under the Lease.
- 6.7 Except as otherwise provided in the Lease, Tenant has made no agreements with Landlord concerning free rent, partial rent, rebate of rental payments, setoff, or any other type of rental concession.

7. **Purchase Option.**

- 7.1 Any option to purchase, right of first refusal, ground lease, or other right that Tenant has to acquire all or any part of the Property (together, the "**Option**") is set forth in Schedule 19 of the Lease.
- 7.2 The Option is hereby acknowledged by Tenant to be subject and subordinate to the Deed of Trust.
- 7.3 Tenant acknowledges and agrees that as a condition to Tenant's exercise of any Option, Tenant shall pay the "Purchase Price" (as defined in Schedule 19 of the Lease) for the Option to Lender at the address shown at the top of the first page of this Agreement.

8. **Costs and Attorney Fees.** In the event of any claim or dispute arising out of this Agreement, the party that substantially prevails shall be awarded, in addition to all other relief, all attorney fees and other costs and expenses incurred in connection with such claim or dispute; including without limitation those fees, costs, and expenses incurred before or after suit, and in any arbitration, and any appeal, any



proceedings under any present or future bankruptcy act or state receivership, and any post-judgment proceedings.

9. **Notices.** Any notice, offer, acceptance, demand, request, consent, or other communication required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given or made: (a) upon delivery, if personally delivered to a party; (b) on the date of dispatch, if by facsimile transmission to a party with confirmation of successful transmission; (c) one business day after deposit, if sent to a party by a nationally recognized courier service offering guaranteed overnight delivery; or (d) three business days after deposit in the United States first class mail, certified mail, postage prepaid, return receipt requested addressed to a party. A communication will be deemed to be properly addressed if provided to a party at its address set forth herein. A party may at any time during the term of this Agreement change the address to which notices and other communications directed to it must be sent by providing written notice of a new address within the United States to the other parties to this Agreement.
10. **Additional Terms.** This Agreement may not be modified except in writing and executed by the parties hereto or their successors in interest. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns. As used herein, "**Landlord**" shall include Landlord's predecessors and successors in interest under the Lease, and "**Lender**" shall include any purchaser of the Property at any foreclosure sale. If any provision of this Agreement is determined to be invalid, illegal or unenforceable, such provision shall be considered severed from the rest of this Agreement and the remaining provisions shall continue in full force and effect as if such provision had not been included. This Agreement shall be governed by the laws of the State of Washington.
11. **Execution.** This Agreement may be executed in several counterparts and all so executed shall constitute one Agreement, binding on all the parties hereto even though all the parties are not signatories to the original or the same counterpart. Delivery of a facsimile or other copy of a signed version of this Agreement has the same effect as delivery of an original.


[Signatures on following page]



IN WITNESS WHEREOF, Tenant and Lender have signed this Agreement as of the date first written above.

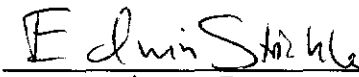
"Lender"

FIRST HORIZON HOME LOAN
CORPORATION, a Kansas corporation

By: 
Name: WILLIAM F. GLENN
Title: V.P.

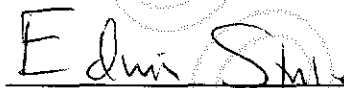
"Tenant"


PHYSICIAN'S CARE FAMILY MEDICINE,
INC., P.S., a Washington professional
services corporation

By: 
Name: Edwin Stickle
Title: Co-Managing Partner


Address:
2241 Hospital Drive
Sedro Woolley, WA 98284

The undersigned Guarantors of Tenant's Lease obligations hereby agree and consent to the foregoing Agreement:


Edwin Stickle


Vanoy Smith


Jonathan Fish


Robert Jacobsen, M.D.



CONSENTED AND AGREED TO:

"Landlord"

J&J SKAGIT LLC, a Washington limited liability company

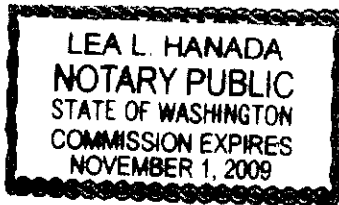
By: [Signature]
John S. Teutsch, Manager

By: [Signature]
John Walker, Manager

STATE OF WASHINGTON)
) ss.
County of King)

I certify that I know or have satisfactory evidence that WILLIAM L. GLENN 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 VICE PRESIDENT of **FIRST HORIZON HOME LOAN CORPORATION** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 26th day of September, 2006.



Lea L. Hanada
Notary Public in and for the State of Washington,
residing at Belleme
Name (printed or typed) LEA L. HANADA
My appointment expires: 11-01-09



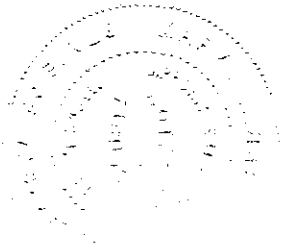
STATE OF WASHINGTON)

County of Skagit)

ss.

I certify that I know or have satisfactory evidence that H. Edwin Stickle 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 co-managing partner of **PHYSICIAN'S CARE FAMILY MEDICINE, INC.**, **P.S.** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 19th day of September, 2006.



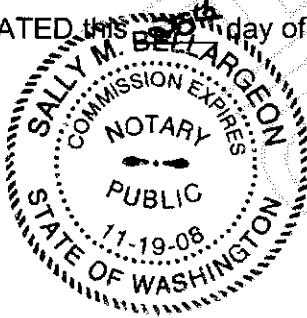
Karyn Larae Clark
Notary Public in and for the State of Washington
KARYN LARAE CLARK
Name (printed or typed)
residing at Burlington
My appointment expires: 030107



STATE OF WASHINGTON)
)
County of King) ss.

I certify that I know or have satisfactory evidence that John S. Teutsch is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as a Manager of **J&J SKAGIT LLC**, a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 20th day of September, 2006.



Sally M. Bellargeon

Notary Public in and for the State of Washington,
residing at 936 N. 78th St Seattle, WA

Sally M. Bellargeon

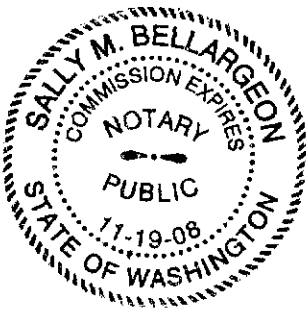
Name (printed or typed)

My appointment expires: 11-19-08

STATE OF WASHINGTON)
)
County of King) ss.

I certify that I know or have satisfactory evidence that John Walker is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as a Manager of **J&J SKAGIT LLC**, a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 20th day of September, 2006.



Sally M. Bellargeon

Notary Public in and for the State of Washington,
residing at 936 N. 78th St Seattle, WA

Sally M. Bellargeon

Name (printed or typed)

My appointment expires: 11-19-08



EXHIBIT A

LEGAL DESCRIPTION

A leasehold interest in realty located in Skagit County, Washington, legally described as follows:

Building Legal Description

That portion of the west half of the southeast quarter of the northeast quarter of Section 27, Township 35 North, Range 4 East, Willamette Meridian, described as follows:

Commencing at the southeast corner of Parcel F as shown on survey for United General Hospital Dist. #304, recorded April 29, 2005, under Auditor's File Number 200504290057; records of Skagit County, Washington; thence S 61°42'33" W along the south line of Parcel F and Parcel B of said survey, a distance of 347.16 feet to the most southerly corner of Parcel B; thence N 56° 49'37" W along the south line of said Parcel B, a distance of 41.43 feet; thence N 00°00'00" E, a distance of 323.41 feet to the point of beginning of this description; thence N 90°00'00" E, a distance of 343.05 feet to the east line of said Parcel F; thence N 00°50'50" E along the east line of said Parcel F, a distance of 153.80 feet to the northeast corner of said Parcel F; thence S 88°21'23" E along the south line of Parcel G of said survey, a distance of 96.70 feet to the southeast corner of said Parcel G; thence N 00°50'50" E along the east line of said Parcel G, a distance of 50.00 feet to the south line of the north 50 feet of said Parcel G; thence N 88°21'23" W along the south line of said north 50 feet, a distance of 442.91 feet; thence S 00°00'00" W, a distance of 213.71 feet to the point of beginning of this description.

Situate in the City of Sedro Woolley, Skagit County, Washington.


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