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IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
FOR PACIFIC COUNTY

BEACON CHARTERS AND RV)
PARK, LLC, FKA BEACON RV PARK)
)
Plaintiff,)
)
v.)
)
LAWRENCE BERGQUIST,)
and all other occupants, 332 Elizabeth Av SE)
space 40, Ilwaco, WA 98624;)
Defendants.)

Case No. 22-2-00135-25
DECLARATION IN SUPPORT OF
RESPONSE IN OPPOSITION TO
DEFENDANT'S MOTION
FOR PRELIMINARY INJUNCTION

I, Michael J. Werner, II declare as follows:

1. I am one of the members of Beacon Charters and RV Park, LLC, and one of the owners of the Beacon RV Park.
2. I am familiar with the circumstances of this matter.
3. Beacon Charters and RV Park, LLC ("Beacon") was formed by me and Denise Werner with the purpose of operating and holding an interest in the Beacon RV Park located in Ilwaco, WA.
4. Denise Werner and I were the purchasers of the Beacon RV Park. We purchased the assets of the park, but the land on which the Park is located is leased with the Port of Ilwaco.
5. A copy of the new signed lease with the Port of Ilwaco is attached as Exhibit 1.

1 6. Originally a notice to vacate issued on 2/25/22 provided options for the residents to move
2 to different parks in the area or to seek further assistance with Deer Point/RV Inn Style. The notice
3 was issued based on the request of the seller, Mr. Mike Cassinelli. Mr. Cassinelli operated Beacon
4 as an RV Park with some long term residents on site and had rental agreements with such residents.
5 A copy of the agreement with Mr. Cassinelli is attached hereto as Exhibit 2.

6 7. Subsequent notice issued on 4/6/22 was withdrawn.

7 8. The reason for the notices was that the park was in quite dilapidated condition at the time
8 of purchase.

9 9. The Port of Ilwaco's lease required us to remodel the park completely to bring it up to the
10 high standards by September of 2022 and to operate the park in a "first class" manner and that should
11 we fail to do so, we would be considered in violation of the lease.

12 10. The park's purchase was completed on or about on April 6, 2022.

13 11. The park was in deplorable condition prior to the sale to us.

14 12. To bring it up to the "first class" glamping condition, we agreed to provide the park with
15 the complete remodel, which included removal of all underground utilities.

16 13. A contractor, Schram Brothers Excavating, LLC is unable to proceed with the remodeling
17 project because it cannot be safely done with any remaining residents on site due to the need to
18 disconnect and remove all utilities on site that require digging numerous trenches up to 12 feet deep.

19 14. Beacon did not accept any rent from any remaining residents in the Park after the sale of
20 Beacon was completed and a new lease with the Port of Ilwaco signed by us.

21 15. Notices issued to residents of the Park on February 25, 2022 and April 6, 2022 were later
22 withdrawn on April 13, 2022.

23 16. The utility disconnect notice of April 6, 2022 was withdrawn because of the phone
24 conference with the AG's office, where both Mr. Aflatooni and Mr. Miller were present.

25 17. Per the agreement reached at the meeting with the AG's office, I promised to not
26 disconnect the utilities and having all future notices approved by my counsel, Mr. Mark Passannante.

Page 2 - DECLARATION / WERNER

1 18. I kept my promise. No utilities were disconnected to the park and I did not issue any other
2 notices.

3 19. Based on the conference of April 13, 2022, Mr. Passannante issued a letter to the
4 residents at Beacon dated April 19, 2022, which detailed significant safety issues in the Park, advised
5 clearly of the need for the replacement of the roads and utilities , admonished residents to properly
6 park their RV s on their sites and requested corrective action on sewer hookups, which were not
7 properly done by some of the residents of the park resulting in sewage spills on site.

8 20. Nobody from any of the defendant entities served any notices to the Park's residents with
9 a gun.

10 21. A copy of the Cassinelli's lease termination is attached hereto as Exhibit 3.

11 I declare under penalty or perjury of laws of the State of Washington that the foregoing is true
12 and correct.

Signed in Vancouver WA, on October 26, 2022



Michael J Werner, II

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CERTIFICATE OF SERVICE

28

I hereby certify that on October 26, 2022, I served the foregoing Declaration on the party(s) listed below by the method described below:

Facsimile

U.S. Mail, postage prepaid

Last known address:

Sebastian Miller, WA AAG
Washington State Attorney General
800 Fifth Avenue, Suite 2000
Seattle WA 98104

Robina Rayamajhi
Thurston County Volunteer Legal Services
P.O. Box 405
Olympia, WA 98507

Hand delivered in Court:

28

DATED: October 26, 2022

/s/ Robert S. Phed

Mark G. Passannante, WSBA#
Robert S. Phed, WSBA# 42399
Of Attorneys for Defendants

EXHIBIT 1

WHEN RECORDED RETURN TO:
Michael and Denise Werner
10009 SE Evergreen Highway
Vancouver, WA 98664

DOCUMENT TITLE(S):
LEASE

REFERENCE NUMBER(S) OF DOCUMENTS ASSIGNED OR RELEASED:

GRANTOR:
Port of Ilwaco, a municipal corporation

GRANTEE:
Michael J. Werner II and Denise L. Werner individuals, as Lessee

ABBREVIATED LEGAL DESCRIPTION:
BLDG ON LEASED LAND #81663, PORT OF ILWACO TR 18 1-3

TAX PARCEL NUMBER(S):
81663050000

04/11/2022 03:48:59

3211407 04/11/2022 03:48:59 PM Pg. 1 of 18
Lease Emerald Coast Title
Pacific County Auditor's Office Fee: \$220.50



LPB 01-05

EXHIBIT 1
PAGE 1 of 18

LEASE

Between

PORT OF ILWACO,
a municipal corporation of the State of Washington, as Lessor,

and

Michael J. Werner II and Denise L. Werner
individuals, as Lessee,

dated

March 1, 2022

REAL ESTATE EXCISE TAX

Aff # 0XIMPT

Excise Tax Paid 0

Amount 0

PACIFIC COUNTY TREASURER

By CP Date 4/11/22

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LEASE

THIS INDENTURE OF LEASE, dated the 1st day of March, 2022, by and between the **PORT OF ILWACO**, a municipal corporation of the State of Washington, hereinafter referred to as the "Lessor", and Michael J. Werner II and Denise L. Werner hereinafter collectively referred to as the "Lessee," in consideration of the mutual covenants herein contained,

WITNESSETH:

1. Description of Real Property Leased to Lessee. The Lessor does hereby lease to the Lessee and the Lessee does hereby lease from the Lessor certain real property situated in Pacific County, Washington, described as follows:

That certain parcel of land, being in Pacific County, Washington, and lying-in front of Sec. 34, TION, R11W, W.M. and within Lots 1 through 4 (both inclusive), Block 18 and Lots 1 and 2, Block 19, Official Plat of Ilwaco Tidelands, filed on March 31, 1934, in the Office of the Commissioner of Public Lands at Olympia, Washington, more particularly as follows:

Beginning at a point on the North Lot 1, Block 18, said Plat, which bears S25 00'41" E, 707.33 feet from the quarter corner common to Sections 33 and 34, said township and range; thence N85 40'44.6" E, 89.79 feet to a concrete monument on the North line of Lot 3, Block 18, said township and range; thence S85 22'20.1" E, 151.14 feet, along the North line of said Blocks 18 and 19 to the Southeast corner Eliza Street; thence S21 47' E, 265.72 feet to the Northeast corner of a tract of owned by the Town of Ilwaco; thence N89 40'56.4" W, 234.71 feet, along the North line of said tract, to a point on the North line thereof, thence N22 32' W, 271.61 feet to the point of beginning containing approximately 63,784 square feet as shown on Attachment A.

Situs Address: 332 Elizabeth Ave NE, Ilwaco, WA 98624

Wherever in this Lease the term "Leased Premises" is used, it shall refer to the real property hereby leased by Lessor to Lessee, and the Lessee owned improvements and structures placed upon the said real property by Lessee and/or their predecessors-in-interest.

2. Purposes-Improvements. The Leased Premises are to be used for the purpose of operating an RV Resort and Camping facility for recreational vehicles, pick up campers, camper trailers, recreational vehicles, tenting and similar vehicles or structures and for operating and advertising a general merchandise store, general food sales, include prepared

meals, fishing supplies and tackle and for advertising and subcontracting operation of a sport fishing charter service, including provisions for fish cleaning and storage. Lessee shall maintain the resort and camping facilities in accordance with the requirements of appropriate governing bodies of the State of Washington for a recreational vehicle park. This authorization is contingent upon satisfactory compliance with all federal, state and local laws and requirements. Compliance is the responsibility of the Lessee. Lessee shall use the Leased Premises only for the purposes stated above and shall not use them for any other purpose without the written consent of the Lessor. Lessee agrees to have a retail business operational and open for business beginning June 30, 2022. Lessee further agrees to be open for business not less than 5 days per week, 16 hours per day. Lessee shall use the entire Leased Premises for the conduct of said business in a first-class manner during the entire term of this lease.

2.1 - Lessor and Lessee acknowledge that certain current usage violates the above limitations. Lessor agrees that it will not act regarding any usage violations existing on the commencement date of this Lease for at least six months. Lessor further agrees to allow a reasonable extension of this timeframe if Lessee demonstrates and Lessor determines that Lessee is making active efforts to gain compliance.

3. Term. Expected Term: The term of this Lease shall be for 30 years, to commence on the 1st day of March, 2022, and end on the 29th day of February, 2052, inclusive. Any extensions of this Lease must be in writing, signed by all parties.

4. Rental. (a) Base Rent: Lessee covenants and agrees to pay the Lessor as rental for said land the sum of \$1,700.00 (One Thousand Seven Hundred Dollars and 00/100) per month plus leasehold tax in the sum of \$ 218.28 (Two Hundred Eighteen Dollars and 28/100) per month, commencing as of the 1st day of March, 2022, and continuing through the 28th day of February, 2023. The amount of the initial monthly lease payment will be pro-rated to coincide with the closing date of the purchase. Thereafter the rental amounts to be paid during each subsequent year of this Lease shall be increased by the annual percentage increase in the Consumer Price Index for all Urban Consumers, U.S. City Average, All Items as published by the United States Department of Labor, Bureau of Labor Statistics. The index month to be used in the calculation shall be September of the year immediately preceding the applicable lease year provided the index month statistic is timely reported by the U.S. Department of Labor, Bureau of Labor Statistics. In the case of an un-timely statistic, the index month used shall be the last published month available. At no time shall the lease rate be reduced, unless by action of the Port Commission.

(b) Rent Adjustment: On each fifth annual anniversary of the Commencement Date of this Lease, the Base Rent will be increased to reflect any increase in the fair market value of the Premises disregarding the existence of this Lease and any Improvements on the Premises constructed by Tenant. If the parties cannot agree with respect to the rental rate within sixty (60) days prior to the commencement of the renewal period, then the amount of rent shall be fixed by arbitration in the manner set forth in paragraph 6.

(c) **New rental rate:** Rental amounts agreed upon or established by arbitration subsequent to commencement of a particular annual period shall relate back to the commencement of such period and be payable as of such commencement. During such time after commencement of such period, until the rental for the period is agreed upon or established by arbitration, Lessee shall pay the rental at the last rate in effect, and when such rent is agreed upon or established by arbitration for the current annual period, Lessor or Lessee, as the case may be, shall forthwith pay the difference between the former rental rate and the new rate and thenceforth the rental payments shall continue at the agreed or arbitrated rate for the balance of such annual period.

(d) **Date due:** All rental amounts shall be paid on or before the tenth (10th) day of each month. Any rental amounts unpaid after the tenth (10th) day of each month shall be delinquent. If Lessee shall fail to pay rent by the fifteenth (15th) day of any month, said rent shall be in default.

5. **Interest During Default.** All monthly payments and any other charges under this Lease are due on the first day of each month, and if not paid within ten (10) days of that date, shall bear interest from the due date until paid, at the highest rate permissible under RCW §19.52.020 (the "Statute"), being the higher of 12% per annum or four (4) percentage points above the equivalent coupon issue yield (as published by the Board of Governors of the Federal Reserve System) of the average bill rate for twenty-six (26) week Treasury bills as determined at the first bill market auction conducted as further described in the Statute, or as said Statute may be amended from time to time; provided, however, that the minimum charge assessed against Lessee pursuant to this Section 5 shall be \$25.00 per month.

6. **Dispute Resolution.** If a dispute arises regarding the meaning of a term of the lease, the following method for resolving disputes shall apply: The matter shall be submitted to a board of arbitrators, three (3) in number, one to be named by each party and the third to be selected by the two so named; the decision of any two of said arbitrators shall be final and conclusive upon the parties hereto.

7. **Improvements to Demised Real Property - Plans.** Lessee agrees that the improvement, construction, operation, alteration, maintenance or repair of any improvements now located upon said parcel or to be located thereon, will conform to the building and zoning codes of the State of Washington, Pacific County and City of Ilwaco, and any other applicable laws. Any construction or alterations other than ordinary maintenance and repair of the improvements and structures located or to be located upon said real property to be accomplished by the Lessee must receive the written approval of the Port Commission, prior to the commencement thereof, and Lessee agrees to submit detailed plans and specifications to Lessor for consideration in connection with such approval.

8. **Ownership of Improvements Upon Termination or Expiration of Lease.** Lessee is the owner of the buildings and structures located upon the demised real property. Lessee shall be responsible for all maintenance on any and all buildings located upon the Leased

Premises during the term of this Lease and renewals thereof. Lessee agrees to perform reasonable maintenance in respect thereof at its sole expense. It is agreed between the parties that all Lessee improvements to the real property herein demised, placed thereon by the Lessee (or their predecessors-in-interest), heretofore or hereafter shall be and remain the property of the Lessee. The Lessee may remove any Lessee improvements prior to termination or expiration of this Lease. If the Lessee improvements are not removed prior to the termination or expiration hereof, such improvements shall on termination or expiration of this lease revert to and become the property of the Lessor. If Lessee removes any Lessee improvements prior to the termination or expiration of this Lease and any extension thereof, Lessee must remove all of its improvements unless the Lessor agrees otherwise, in writing. If, within 60 days after termination or expiration of the Lease and any extensions, Lessor makes written demand upon Lessee to remove all or a specified portion of said improvements, Lessee shall remove such improvements as are specified by Lessor to be removed, at its own expense, within 60 days of the receipt of such notice, and shall leave the remaining improvements which have not been specified by Lessor for removal, in good condition and repair. The remaining improvements, not specified for removal by Lessor, shall be and become the property of Lessor.

Lessee agrees to pay to Lessor double the lease rental of the land during such period after termination or expiration of the lease that said Lessee improvements which have been specified by Lessor for removal by Lessee, remain upon or at the demised real property from the date of such specification.

9. Acceptance of Premises-Maintenance. Lessee, having ascertained the physical condition of the real property from a careful and complete inspection thereof, accepts the real property in the present condition and "as is".

Lessee shall, at its own expense, maintain and keep the Leased Premises in good, neat and sanitary physical condition, and shall promptly make all repairs and do all acts and things necessary or incident thereto. At the expiration of the term of this Lease, or at its earlier termination, Lessee shall re-deliver possession of the said real property to the Lessor and Lessee covenants and agrees that at the time of the expiration or termination, the real property and any improvements and structures remaining upon the real property will be in good, neat and sanitary physical condition.

10. Parking. Lessee agrees that Lessee, its employees and customers will not park their vehicles on Lessor's property except as may be designated by Lessor. Lessee agrees that any residential overnight parking will be on the Leased Premises only. Lessee agrees that neither it, nor its employees and customers who park in Lessor's designated parking spaces will park any vehicle overnight without approval of the Lessor.

11. Illegal Uses Prohibited. The Lessee further agrees that the Leased Premises will not be put to any use which is contrary to the laws of the United States of America, State of Washington, Pacific County, City of Ilwaco or regulations of the Port of Ilwaco.

12. Leasehold Tax. The Lessee shall pay to the Lessor at its address at Ilwaco, Washington, the leasehold tax, if applicable, as set forth in RCW Chapter 82.29A, or as said Chapter may be amended. The tax shall be due and payable at the same time any payment required herein is due and payable. Any Leasehold taxes due shall be a debt to the Lessor under this Lease and in the event the Lessor is subject to any penalties or interest or charges of any kind because of the failure of the Lessee to pay such taxes, such penalties, interest and charges shall be payable by the Lessee to the Lessor and shall be considered a debt to the Lessor.

13. Other Taxes. In the event of any laws or changes in the laws or policies of any federal, state or local governmental body which require that Lessor must pay or collect any tax, fee license, or charge of any kind to such federal, state or local government body on account of Lessor's ownership or leasing of the property herein demised, Lessee agrees to pay any such tax, fee, license, or charge when due, to such federal, state or local governmental body, or Lessor, as the law requires. Lessee agrees to furnish all information necessary to Lessor as may be reasonably required to enable Lessor to comply with or be assured of Lessee's compliance with such laws.

14. Personal Property Taxes. Lessee shall pay all personal property taxes due Pacific County as a consequence of the ownership of the improvements and structures located upon the real property. The failure by Lessee to pay such taxes when due shall constitute a default under this Lease.

15. Liability Insurance. The Lessee further agrees that it will maintain at its sole expense liability insurance for any injuries or damages to Lessor or third parties arising out of all aspects of its operations in an amount not less than \$1,000,000.00 single limit per occurrence and \$2,000,000.00 aggregate. Said liability insurance shall cover comprehensive/commercial general liability combined for bodily injury and property damage to include explosion, collapse, underground; contractual liability; personal injury liability; liquor liability (if alcohol sold or distributed); products/ completed operations. Lessee will provide Lessor with a certificate of insurance evidencing the coverage required by this paragraph and will immediately upon cancellation of any of the required coverage, provide the Lessor with the maximum period of written notice possible, but not less than thirty (30) days.

The Lessor shall be named as an additional insured on the above policies. Such inclusion as additional insured shall not create any premium liability for the Lessor.

The Lessor reserves the right to require Lessee, at any lease rent renewal date during the term of this lease, to increase the policy limits or to change the form of the insurance coverage required under this paragraph. Provided, however, that Lessor shall not require any increase or change in form that is unreasonable.

16. Hazard Insurance. Lessee further agrees that it will maintain at its sole expense "all risk" property insurance upon the Leased Premises in an amount not less than the

replacement value of the Leased Premises. Lessee will provide Lessor with a certificate of insurance evidencing the coverage required by this paragraph and will immediately upon cancellation of any of the required coverage, provide the Lessor with the maximum period of written notice possible, but not less than thirty (30) days.

17. Environmental Standards. (a) Definitions.

(i) "Toxic or Hazardous Substances" means any hazardous, regulated or toxic substance as defined in all Environmental Laws as the same now exist or as may hereafter be amended or are enacted.

(ii) "Environmental Laws" means all federal, state and local laws, regulations, and ordinances relating to the environment, pollution control, regulation and/or control of Toxic or Hazardous Substances, and land use.

(b)(i) The Parties agree there has been no testing for Toxic or Hazardous Substances on the Leased Premises. Lessee acknowledges responsibility for any and all Toxic or Hazardous Substances which Lessee may from this time forth release or dispose of on or from the Leased Premises or which may have been heretofore released or disposed of on or from the Leased Premises by Lessee while in possession of the Leased Premises under any prior lease with Lessor.

(ii) Prior to termination of this Lease, Lessee shall remove all Toxic and Hazardous Substances from the Leased Premises for which it has responsibility under Paragraph 17(b)(i).

(c)(i) Lessee shall fully comply with all Environmental Laws in its use and operation of the Leased Premises. If Lessee is in violation of any such Environmental Laws it shall promptly take whatever action is necessary to mitigate and correct the violation.

(ii) Lessee shall immediately notify the Lessor of any release of any quantity of a Toxic or Hazardous Substance at or upon the Leased Premises or within the boat basin.

(iii) Lessee shall promptly notify the Lessor and provide copies of any correspondence that it receives from or provides to any federal, state, or local governmental body regarding any Environmental Laws.

(d) If the Lessee is violating any Environmental Law, is releasing toxic or hazardous substances, upon or from the Leased Premises, or is not acting in a prompt and prudent manner to fulfill its obligations under this paragraph, the Lessor reserves the right, but has no obligation, to come onto the Leased Premises, to act in place of the Lessee and to take such action as the Lessor deems necessary to ensure compliance or to correct, cure or mitigate the violation, release, or damage to the Leased Premises. All reasonable costs and expenses incurred by the Lessor in connection with such actions shall be payable by the Lessee upon demand by the Lessor.

(e) Lessor is not the operator of the Leased Premises.

(f) In executing this Lease, neither party waives any rights, or allocates or transfers any liabilities either party now has or in the future may have under any environmental law with respect to the Leased Premises, including, but not limited to, rights of contribution.

18. Liability for Injuries at the Leased Premises. Lessor, its employees and agents shall not be liable for any injury to any persons or for damage to any property, regardless of how such injury or damage be caused, sustained or alleged to have been sustained by Lessee or by others as a result of any condition (including existing or future defects in the Leased Premises), or occurrence whatsoever related in any way to Leased Premises or related in any way to Lessee's use or occupancy of the Leased Premises, so long as such injury or damage is not proximately caused or contributed to by action of the Lessor, its employees or agents.

19. Entire Agreement. This Lease contains the entire agreement of the parties and no representations, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect. Neither this Lease nor any provision hereof may be changed, waived, discharged or terminated orally but only by instrument in writing executed by Lessor and Lessee.

20. Utilities and Services. After Lessee's installation of all utilities and services as may be required by Lessee, Lessee shall be liable for and shall pay for all utility services furnished to the Leased Premises, including but not limited to, electricity, water, sewer and garbage service, including any connection fees, and any fire protection, police protection, or emergency health services as furnished by local authorities and as may be the subject of a contract between the Lessor and such local authorities or as imposed by ordinance or statute. The Lessee may, with approval of the Lessor, elect to pay collection costs at an appropriate rate and term as determined by the Lessor for the use of the Lessor's garbage containers for business refuse. No household garbage shall be allowed.

21. Waiver of Subrogation. The Lessor and the Lessee hereby mutually release each other from liability and waive all right of recovery against each other for any loss from perils insured against under their respective insurance contracts, including any extended coverage endorsements thereto, provided, that this paragraph shall be inapplicable to the extent it would have the effect of invalidating the insurance coverage of the Lessor or Lessee.

22. Inspection. The Lessor or its authorized representatives reserves the right to inspect the Leased Premises at reasonable times and upon reasonable written notice to Lessee for the purpose of determining the uses being made of the Leased Premises and the condition thereof, provided that it shall not interfere unduly with Lessee's operations. However, Lessor shall have no duty to inspect the Leased Premises. The Lessor shall have the right to place and maintain "For Rent" signs in conspicuous places on the Leased Premises for a reasonable period of time prior to the expiration of this Lease.

23. Advances by Lessor for Lease. If Lessee shall fail to do anything required to be done by it under the terms of the Lease, except to pay rent, the Lessor may, at its sole option, do such act or thing on behalf of Lessee, and upon notification to Lessee of the cost thereof to the Lessor, Lessee shall promptly pay the Lessor the amount of that cost. However, if the Lessor shall pay any monies on Lessee's behalf, Lessee shall repay such monies, together with interest thereon commencing on the date the Port paid such monies and shall be calculated at the rate set forth in paragraph 5.

24. Termination by the Lessor for Public Use. In the event the Lessor shall require the use of the Leased Premises for public use as contemplated by RCW 53.08.010 then this Lease may be terminated by the Lessor by written notice delivered or mailed by the Port to the Lessee twelve (12) months or more before the termination date specified in the notice, and damages to Lessee, if any, resulting therefrom shall be determined by agreement between the parties hereto, otherwise by arbitration as herein provided. Damages or other compensation shall be determined in accordance with RCW 53.08.010 and Title 8 as appropriate.

25. Non-Discrimination. The Lessee covenants and agrees that in the performance of this Lease Agreement, the Lessee shall conduct its activities in a manner that will assure fair, equal and non-discriminatory treatment of all persons regardless of race, creed, sex, marital status or ethnic origin. The Lessee shall comply with all applicable federal, state and local laws, rules or regulations concerning hiring and employment and assuring the service of all patrons, customers, members or invitees, without discrimination as to any person's race, creed, sex, marital status or ethnic origin.

26. Invalidity of Particular Provisions. If any term or provision of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease or the application of such term or provision to such persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect.

27. Waiver. The acceptance of rental by the Lessor for any period or periods after a default by Lessee hereunder shall not be deemed a waiver of such default unless the Lessor shall so intend and shall so advise Lessee in writing. No waiver by the Lessor of any default hereunder by Lessee shall be construed to be or act as a waiver or any subsequent default by Tenant.

28. Premises to Be Clean. Lessee shall at all times keep the Leased Premises neat, clean, in a safe and sanitary condition and free from infestation of pests. Lessee shall not cause the Leased Premises nor any areas in the vicinity of the Leased Premises to accumulate garbage or other litter generated by the operation of Tenant's business. The Lessee shall be required to contract for garbage collection and shall not use Port dumpsters.

29. Liens, Insolvency, Etc. The Lessee shall keep the Leased Premises (excluding improvements) free from any lien arising out of any work performed, materials furnished or

obligations incurred by the Lessee. In the event the Lessee becomes insolvent, voluntarily or involuntarily bankrupt, or if a receiver or a liquidating officer be appointed for the business of the Lessee, then the Lessor may cancel this Lease at the Lessor's option.

30. Subletting or Assignment. The Lessee shall not, without the written consent of the Lessor, let or sublet the whole or any part thereof, nor assign this Lease.

This Lease shall not be assignable by operation of law.

Lessee shall be responsible to Lessor for any activities of any sublessee which, if conducted or performed by Lessee, would constitute a breach of the provisions of this Lease.

31. Notices. Any notice required to be served in accordance with the terms of this Lease or as required by laws shall be sent by mail, the notice from the Lessee to be sent to the Lessor at its office at the Port of Ilwaco, P.O. Box 307, Ilwaco, Washington 98624, and the notice from the Lessor to be sent to the Lessee at its address of 4611 NW Fruit Valley Road, Vancouver, Washington 98660.

32. Default. Time is of the essence of this Lease, and if any rents above reserved, security fees, or any part thereof, shall be and remain unpaid when the same shall become due, or if the Lessee shall violate or default in any of the covenants and agreements herein contained, or if the Lessee should fail to utilize the demised premises for the purposes set forth in paragraph 2 for two consecutive years (not necessarily calendar years), then the Lessor may cancel this Lease upon giving notice required by law and if such defaults are not cured by the Lessee in the notice period, Lessor may re-enter the said Leased Premises, but notwithstanding such re-entry by the Lessor, the liability of the Lessee for the rent provided for herein shall not be extinguished for the balance of the term of this Lease, and the Lessee covenants and agrees to make good to the Lessor any deficiency arising from the re-entry and re-letting of the Leased Premises at a lesser rental than herein agreed to. The Lessee shall pay such deficiency each month as the amount thereof is ascertained by the Lessor.

33. Lease Surety. Pursuant to RCW 53.08.085, the Lessee shall, upon execution of this Lease, file with the Port a good and sufficient surety, or such other form of security as is satisfactory to the Port Commission. The form and terms of such surety, or security, shall be subject to approval of the Port and shall guaranty the full performance by Lessee of all the terms and conditions of this Lease and the payment by Lessee of the rents and all other amounts herein provided for the full term hereof. The surety or security required is by a bond with surety satisfactory to the Lessor in a minimum amount equal to two years' rental payments, plus Washington State leasehold tax, based upon the rental then currently in effect. Said bond amount shall be adjusted whenever a new rental rate which is agreed upon or established by agreement or by arbitration. Said surety or security agreement shall not expire until ninety (90) days after expiration of this Lease. After the Lessee establishes good credit, and if the Lessee has paid its account in advance for a year, the Lessee may apply to the Lessor to waive the lease security requirements. These provisions as to lease surety, or security, are subject to

revision and adjustment as may hereafter result from changes in state requirements or as established by the Port Commission.

34. Disposition of Personal Property. In the event of any entry in, or taking possession of, the Leased Premises as aforesaid, the Lessor shall have the right, but not the obligation, to remove from the Leased Premises all personal property located therein, and may store the same in any place selected by Lessor, including, but not limited to a public warehouse, at the expense and risk of the owners thereof, with the right to sell such stored property, with fifteen (15) days' written notice to Lessee, after it has been stored for a period of thirty (30) days, or more, the proceeds of such sale to be applied to the costs of said sale, second to the payment of the charges for storage, if any, and third to the payment of any other sums of money which may then be due from Lessee to Lessor under any of the terms hereof, and the balance, if any, to be paid to Lessee.

35. Signs - Advertisements. All signs or symbols posted or displayed on the Leased Premises by Lessee shall be subject to the prior approval of the Lessor or Lessor's agent.

36. Offensive Conditions. Lessee further agrees that it will not cause or permit offensive sights, sounds or odors to exist upon or at the Leased Premises.

37. Hold Harmless/Indemnification. Lessee hereby agrees to hold harmless and indemnify Lessor of and from any default or breach by Lessee of any provisions of this Lease and any injuries or damage to persons or property related in any way to the Leased Premises. Nothing in this Paragraph shall be construed as indemnifying Lessor should liability result from the negligence of Lessor or its agents.

38. Tenant Waiver of Immunity. For purposes of the indemnity obligations of Tenant set forth in the foregoing Section 37, Tenant expressly waives any and all immunity as would otherwise be enjoyed under the Washington State Industrial Act, a/k/a. Worker's Compensation Law, RCW Title 51 (as now existing or as hereafter amended); and Tenant acknowledges that such waiver of immunity has been separately negotiated and mutually agreed upon by tenant and landlord, and is binding upon tenant, its successors and assigns.

39. Assignment. The covenants of this Lease shall be binding upon the legal heirs, successors and assigns of any or all of the parties hereto.

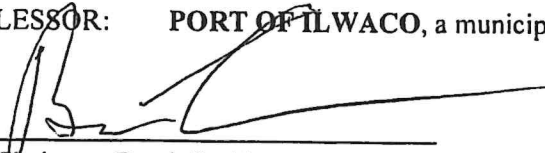
40. Expenses Due to Breach. If, by reason of any default on the part of any party in the performance of any of the provisions of this Lease, it becomes necessary for the non-defaulting party to incur any expense, or to employ an attorney, the defaulting party shall pay all costs, expenses (including collection agency charges) and attorneys' fees expended or incurred by the non-defaulting party in connection therewith. In the event suit or action is filed to enforce the provisions of this Lease, the prevailing party shall be entitled to recover from the non-prevailing party its reasonable attorney fees and court costs at trial, and on appeal.

41. Guarantors. The undersigned Guarantors hereby guarantee the performance of all the terms and provisions of the foregoing Lease by the Lessee therein named.

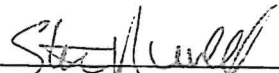
42. Payments for Legal Expenses - Lease Documents. Lessee agrees to pay any reasonable legal expenses incurred by Lessor in connection with the preparation or review of any Lease documents requested or required by Lessee or their bank or other financial institution.

DATED this 27 day of February, 2022

LESSOR: **PORT OF ILWACO**, a municipal corporation



Chairman Butch Smith

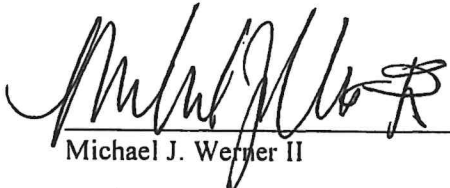


Commissioner Steve Newell

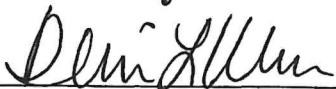


Commissioner Alan Bennett

LESSEE: Michael J. Werner II and Denise L. Werner, Individuals



Michael J. Werner II

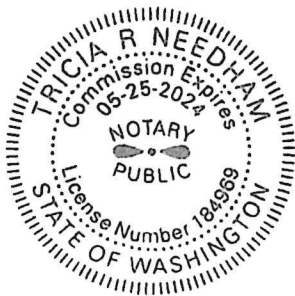


Denise L. Werner

STATE OF WASHINGTON)
County of Pacific)ss.

On this 1st day of March, 2022, before me, the undersigned, a Notary Public in and for the state of Washington, duly commissioned and sworn, personally appeared **Butch Smith**, known to be the Chairman of the Port of Ilwaco, a Washington municipal corporation, the corporation that executed the foregoing instrument, and acknowledged the instrument to be the free and voluntary act and deed of that corporation for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute the instrument on behalf of the corporation.

WITNESS my hand and official seal hereto affixed the day and year first above written.



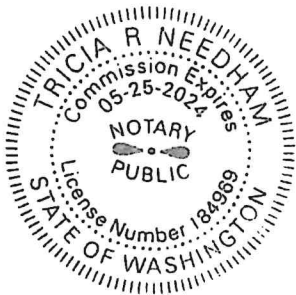
Tricia R. Needham
Signature
Tricia R. Needham
Printed Name

NOTARY PUBLIC in and for the State of
Washington residing at Bay Center, WA

STATE OF WASHINGTON)
County of Pacific)ss.

On this 1st day of March, 2022, before me, the undersigned, a Notary Public in and for the state of Washington, duly commissioned and sworn, personally appeared **Steve Newell**, known to be the Commissioner of the Port of Ilwaco, a Washington municipal corporation, the corporation that executed the foregoing instrument, and acknowledged the instrument to be the free and voluntary act and deed of that corporation for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute the instrument on behalf of the corporation.

WITNESS my hand and official seal hereto affixed the day and year first above written.



Tricia R. Needham
Signature
Tricia R. Needham
Printed Name

NOTARY PUBLIC in and for the State of
Washington residing at Bay Center, WA

STATE OF WASHINGTON)
County of Pacific) ss.

On this 1st day of March, 2022, before me, the undersigned, a Notary Public in and for the state of Washington, duly commissioned and sworn, personally appeared **Alan Bennett**, known to be the Commissioner of the Port of Ilwaco, a Washington municipal corporation, the corporation that executed the foregoing instrument, and acknowledged the instrument to be the free and voluntary act and deed of that corporation for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute the instrument on behalf of the corporation.

WITNESS my hand and official seal hereto affixed the day and year first above written.

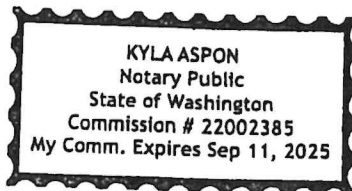


[Signature]
Signature
Tricia R. Needham
Printed Name
NOTARY PUBLIC in and for the State of
Washington residing at Buy Lenton, W.A.

STATE OF Washington)
COUNTY OF Clark) ss.

I certify that I know or have satisfactory evidence that Michael J. Werner II and Denise L. Werner (is/are) the person(s) who appeared before me, and said person(s) acknowledged that (he/she/they) signed this instrument and acknowledged it to be (his/her/their) free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this 28 day of February, 2022



[Signature]
Notary Public in and for the State of WA
residing at Clark County, WA. My
commission expires on September 11, 2025

ATTACHMENT A

Approximately 63,784 square feet

PLATE III, PLATE THREE, ILWACO TIDE LANDS
ILWACO TIDE FLATS OF 1894
CLATSOP COUNTY, WASHINGTON

SCALE: 1 INCH = 100 FEET
JANUARY 30, 1965

N85 40'44.6" E, 89.79 feet +
S85 22'20.1" E, 151.14 feet

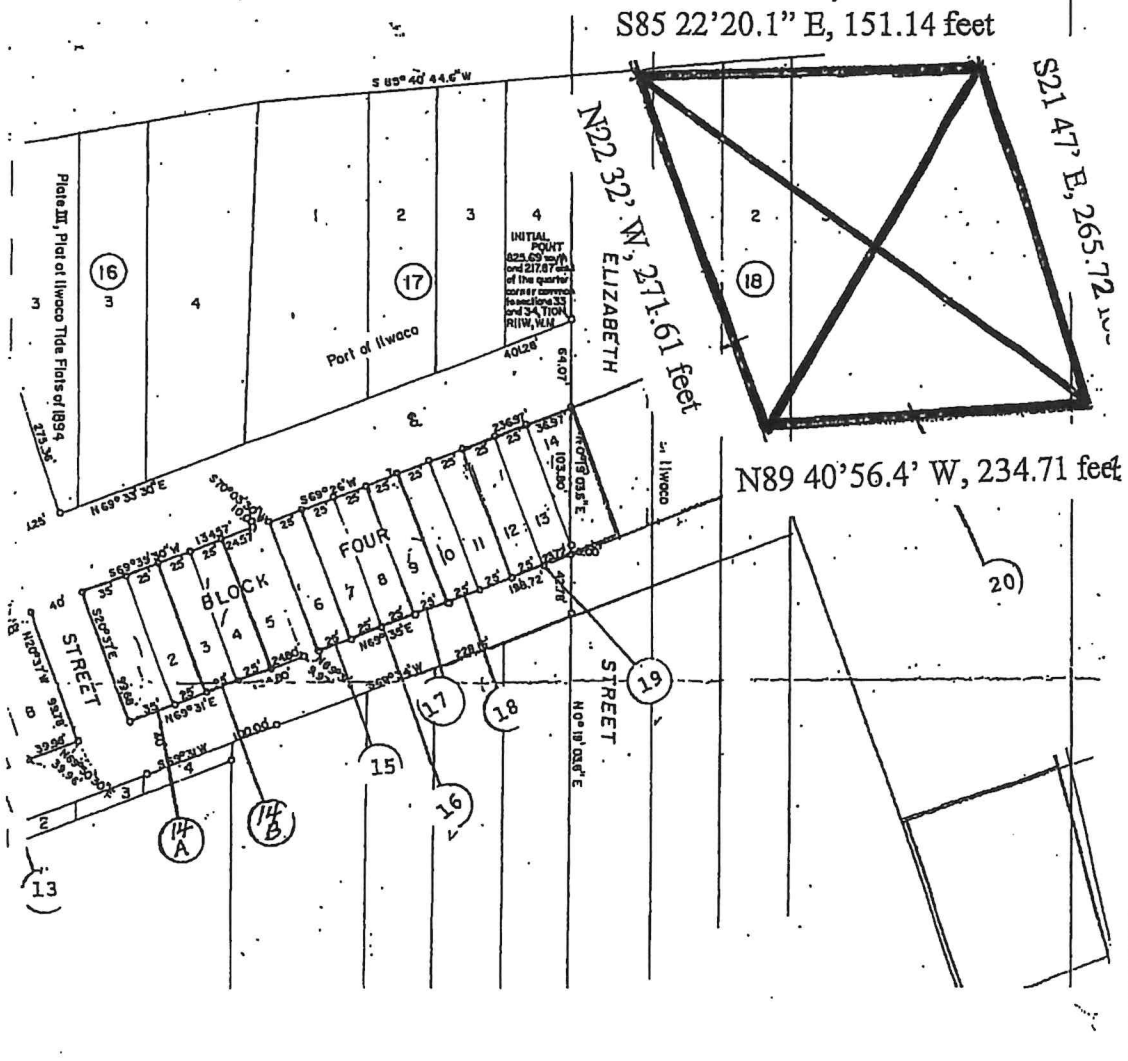


EXHIBIT 2



COMMERCIAL & INVESTMENT REAL ESTATE
PURCHASE & SALE AGREEMENT

DW 12/16/21 SPECIFIC TERMS

Reference Date: December 09, 2021 MW 01-14-2022

Offer Expiration Date: 12/12/2021 5:00pm (the third day after Reference Date, if not completed)

1. PROPERTY: The Property is legally described on Exhibit A. Address: 332 MC Dub 01/05/22
Elizabeth Avenue SE
City of Illwaco Pacific County, Washington. Tax Parcel No(s): 81663050000

Included Personal Property: None; If on and used in connection with the Property, per Section 25 (None, if not completed).

2. BUYER(S): Michael & Denise Werner Denise Werner
a(n) _____

3. SELLER(S): Michael Cassinelli
a(n) _____

4. PURCHASE PRICE: \$ 1,500,000.00 One Million Five Hundred Thousand Dollars
Payable as: Cash; Financing (attach CBA Form PS_FIN); Other: 22c- seller financing MC 01/05/22

5. EARNEST MONEY: \$ 15,000.00 Dollars; Held by: Selling Firm; Closing Agent 81-88-2022

Form of Earnest Money: Wire/Electronic Transfer; Check; Note (attach CBA Form PS_EMN); Other: DW MW

Earnest Money Due Date: 5 days after Mutual Acceptance; _____ days after the Feasibility Contingency Date; or

6. FEASIBILITY CONTINGENCY DATE: 12/23/2021 (30 days after Mutual Acceptance if not completed.)

7. CLOSING DATE: 01/05/2022 see counteroffer days after _____

8. CLOSING AGENT: Wendy Gehrm: Chicago Title see counteroffer

9. TITLE INSURANCE COMPANY: Chicago Title: Portland see counteroffer

10. DEED: Statutory Warranty Deed; or Bargain and Sale Deed. MW DW

11. POSSESSION: on closing; Other: _____ (on closing if not completed).

12. SELLER CITIZENSHIP (FIRPTA): Seller is; is not a foreign person for purposes of U.S. income taxation.

13. BUYER'S DEFAULT: (check only one) Forfeiture of Earnest Money; Seller's Election of Remedies.

14. SELLER'S DEFAULT: (check only one) Recover Earnest Money or Specific Enforcement; Buyer's Election of Remedies.

15. UNPAID UTILITIES: Buyer and Seller Do Not Waive (attach CBA Form UA); Waive

16. AGENCY DISCLOSURE: Selling Broker represents: Buyer; Seller; both parties; neither party
Listing Broker represents: Seller; both parties

17. EXHIBITS AND ADDENDA. The following Exhibits and Addenda are made a part of this Agreement:

- Earnest Money Promissory Note, CBA Form EMN
- Blank Promissory Note, LPB Form No. 28A
- Blank Short Form Deed of Trust, LPB Form No. 20
- Blank Deed of Trust Rider, CBA Form DTR
- Utility Charges Addendum, CBA Form UA
- FIRPTA Certification, CBA Form 22E
- Assignment and Assumption, CBA Form PS-AS
- Addendum/Amendment, CBA Form PSA
- Back-Up Addendum, CBA Form BU-A
- Vacant Land Addendum, CBA Form VLA
- Financing Addendum, CBA Form PS_FIN
- Tenant Estoppel Certificate, CBA Form PS_TEC
- Defeasance Addendum, CBA Form PS_D
- Lead-Based Paint Disclosure, CBA Form LP-LS
- Other 34
- Other 35

INITIALS: Buyer DW Date 12/09/2021 Seller MW Date 12/05/21
Buyer MW Date 12/09/2021 Seller _____ Date _____



COMMERCIAL & INVESTMENT REAL ESTATE PURCHASE & SALE AGREEMENT

SPECIFIC TERMS

Reference Date: December 09, 2021 (DW) 12/15/2021

Offer Expiration Date: 12/12/2021 5:00pm (the third day after Reference Date, if not completed)

1. PROPERTY: The Property is legally described on Exhibit A. Address: 332 Elizabeth Avenue SE City of Ilwaco Pacific County, Washington. Tax Parcel No(s): 81663050000

Included Personal Property: [] None; [x] If on and used in connection with the Property, per Section 25 (None, if not completed).

2. BUYER(S): Michael & Denise Werner Denise Werner a(n)

3. SELLER(S): Michael Cassinelli a(n)

4. PURCHASE PRICE: \$ 1,500,000.00 One Million Five Hundred Thousand Dollars Payable as: [] Cash; [] Financing (attach CBA Form PS_FIN); [] Other:

5. EARNEST MONEY: \$ 15,000.00 Dollars; Held by: [] Selling Firm; [x] Closing Agent Form of Earnest Money: [x] Wire/Electronic Transfer; [] Check; [] Note (attach CBA Form PS_EMN); [] Other: Earnest Money Due Date: [x] 5 days after Mutual Acceptance; [] days after the Feasibility Contingency Date; or

6. FEASIBILITY CONTINGENCY DATE: 12/23/2021 (30 days after Mutual Acceptance if not completed.)

7. CLOSING DATE: [x] 01/06/2022 see counteroffer days after

8. CLOSING AGENT: Wendy Geurin Chicago Title see counteroffer

9. TITLE INSURANCE COMPANY: Chicago Title Portland see counteroffer

10. DEED: [x] Statutory Warranty Deed; or [] Bargain and Sale Deed.

11. POSSESSION: [x] on closing; [] Other: (on closing if not completed).

12. SELLER CITIZENSHIP (FIRPTA): Seller [] is; [x] is not a foreign person for purposes of U.S. income taxation.

13. BUYER'S DEFAULT: (check only one) [x] Forfeiture of Earnest Money; [] Seller's Election of Remedies.

14. SELLER'S DEFAULT: (check only one) [x] Recover Earnest Money or Specific Enforcement; [] Buyer's Election of Remedies.

15. UNPAID UTILITIES: Buyer and Seller [x] Do Not Waive (attach CBA Form UA); [] Waive

16. AGENCY DISCLOSURE: Selling Broker represents: [x] Buyer; [] Seller; [] both parties; [] neither party Listing Broker represents: [x] Seller; [] both parties

17. EXHIBITS AND ADDENDA. The following Exhibits and Addenda are made a part of this Agreement:

- [] Earnest Money Promissory Note, CBA Form EMN [] Back-Up Addendum, CBA Form BU-A [] Blank Promissory Note, LPB Form No. 28A [] Vacant Land Addendum, CBA Form VLA [] Blank Short Form Deed of Trust, LPB Form No. 20 [] Financing Addendum, CBA Form PS_FIN [] Blank Deed of Trust Rider, CBA Form DTR [] Tenant Estoppel Certificate, CBA Form PS_TEC [x] Utility Charges Addendum, CBA Form UA [] Defeasance Addendum, CBA Form PS_D [x] FIRPTA Certification, CBA Form 22E [] Lead-Based Paint Disclosure, CBA Form LP-LS [x] Assignment and Assumption, CBA Form PS-AS [x] Other 34 [x] Addendum/Amendment, CBA Form PSA [x] Other 35

INITIALS: Buyer (DW) Date 12/09/2021 Seller (MW) Date 12/15/21 Buyer (MW) Date 12/09/2021 Seller Date



COMMERCIAL & INVESTMENT REAL ESTATE
PURCHASE & SALE AGREEMENT
(CONTINUED)

18. IDENTIFICATION OF THE PARTIES. The following is the contact information for the parties involved in this Agreement:

Buyer(s):

Contact: Michael & Denise Werner
Address: _____
Business Phone: _____
Cell Phone: _____
Fax: _____
Email: Semi4444@msn.com

Seller(s):

Contact: Michael Cassinelli
Address: 204 Eliza Avenue, Ilwaco, WA 98624
Business Phone: (503) 970-1284 360 642 2138
Cell Phone: 503 970 1284
Fax: _____
Email: beacon@willapabay.org

MW

DW

Selling Firm

Name: Real Living Real Estate Group
Assumed Name: _____
Selling Broker: Kristen Spellman
Selling Broker DOL License No.: 139767
Firm Address: 1905 SE 192nd Ave, Ste 203 Camas WA 98607
Firm Phone: (360) 703-9900
Broker Phone: (971) 338-0022
Firm Email: _____
Broker Email: kristen.spellman@rlregroup.com
Fax: (360) 703-3820
CBA Office No.: 2730
Selling Firm DOL License No.: 18809

Listing Firm

Name: Realty One Group Pacifica
Assumed Name: _____
Listing Broker: Michele Gutierrez
Listing Broker DOL License No.: 20115736
Firm Address: 511 Pacific Ave Long Beach WA 98631
Firm Phone: (360) 777-1001
Broker Phone: (360) 355-7218
Firm Email: firm.rogpacifica@gmail.com
Broker Email: realtyONEgonecoastal@gmail.com
Fax: (360) 368-6111
CBA Office No.: 6212
Listing Firm DOL License No.: 24583

Copy of Notices to Buyer to:

Name: _____
Company: _____
Address: _____
Business Phone: _____
Fax: _____
Cell Phone: _____
Email: _____

Copy of Notices to Seller to:

Name: _____
Company: _____
Address: _____
Business Phone: _____
Fax: _____
Cell Phone: _____
Email: _____

INITIALS: Buyer DW Date 12/09/2021 Seller [Signature] Date 12/15/21
Buyer MW Date 12/09/2021 Seller _____ Date _____



COMMERCIAL & INVESTMENT REAL ESTATE
PURCHASE & SALE AGREEMENT
(CONTINUED)

GENERAL TERMS

- 19. **Purchase and Sale.** Buyer agrees to buy and Seller agrees to sell the commercial real estate identified in Section 1 as the Property and all improvements thereon. Unless expressly provided otherwise in this Agreement or its Addenda, the Property shall include (i) all of Seller's rights, title and interest in the Property, (ii) all easements and rights appurtenant to the Property, (iii) all buildings, fixtures, and improvements on the Property, (iv) all unexpired leases and subleases; and (v) all included personal property.
- 20. **Acceptance; Counteroffers.** If this offer is not timely accepted, it shall lapse and the earnest money shall be refunded to Buyer. If either party makes a future counteroffer, the other party shall have until 5:00 p.m. on the 2 day (if not filled in, the second day) following receipt to accept the counteroffer, unless sooner withdrawn. If the counteroffer is not timely accepted or countered, this Agreement shall lapse and the earnest money shall be refunded to Buyer. No acceptance, offer or counteroffer from Buyer is effective until a signed copy is received by Seller, the Listing Broker or the licensed office of the Listing Broker. No acceptance, offer or counteroffer from Seller is effective until a signed copy is received by Buyer, the Selling Broker or the licensed office of the Selling Broker. "Mutual Acceptance" shall occur when the last counteroffer is signed by the offeree, and the fully-signed counteroffer has been received by the offeror, his or her broker, or the licensed office of the broker. If any party is not represented by a broker, then notices must be delivered to that party and shall be effective when received by that party.
- 21. **Earnest Money.** Selling Broker and Selling Firm are authorized to transfer Earnest Money to Closing Agent as necessary. Selling Firm shall deposit any check to be held by Selling Firm within 3 days after receipt or Mutual Acceptance, whichever occurs later. If the Earnest Money is to be held by Selling Firm and is over \$10,000, it shall be deposited to: the Selling Firm's pooled trust account (with interest paid to the State Treasurer); or a separate interest bearing trust account in Selling Firm's name, provided that Buyer completes an IRS Form W-9 (if not completed, separate interest bearing trust account). The interest, if any, shall be credited at closing to Buyer. If this sale fails to close, whoever is entitled to the Earnest Money is entitled to interest. Unless otherwise provided in this Agreement, the Earnest Money shall be applicable to the Purchase Price.
- 22. **Title Insurance.**
 - a. **Title Report.** Seller authorizes Buyer, its Lender, Listing Broker, Selling Broker or Closing Agent, at Seller's expense, to apply for and deliver to Buyer a standard coverage owner's policy of title insurance from the Title Insurance Company. Buyer shall have the discretion to apply for an extended coverage owner's policy of title insurance and any endorsements, provided that Buyer shall pay the increased costs associated with an extended policy including the excess premium over that charged for a standard coverage policy, the cost of any endorsements requested by Buyer, and the cost of any survey required by the title insurer. If Seller previously received a preliminary commitment from a title insurer that Buyer declines to use, Buyer shall pay any cancellation fee owing to the original title insurer. Otherwise, the party applying for title insurance shall pay any title cancellation fee, in the event such a fee is assessed.
 - b. **Permitted Exceptions.** Buyer shall notify Seller of any objectionable matters in the title report or any supplemental report within the earlier of: (a) 20 days (20 days if not completed) after receipt of the preliminary commitment for title insurance; or (b)

INITIALS: Buyer DW Date 12/09/2021 Seller [Signature] Date 12/15/21
 Buyer [Signature] Date 12/09/2021 Seller _____ Date _____



**COMMERCIAL & INVESTMENT REAL ESTATE
PURCHASE & SALE AGREEMENT
(CONTINUED)**

the Feasibility Contingency Date. This Agreement shall terminate and Buyer shall receive a refund of the earnest money, less any costs advanced or committed for Buyer, unless within five (5) days of Buyer's notice of such objections Seller shall give notice, in writing, of its intent to remove all objectionable provisions before Closing. If Seller fails to give timely notice that it will clear all disapproved objections, this Agreement shall automatically terminate and Buyer shall receive a refund of the earnest money, less any costs advanced or committed for Buyer, unless Buyer notifies Seller within three (3) days that Buyer waives any objections which Seller does not agree to remove. If any new title matters are disclosed in a supplemental title report, then the preceding termination, objection and waiver provisions shall apply to the new title matters except that Buyer's notice of objections must be delivered within three (3) days of receipt of the supplemental report by Buyer and Seller's response or Buyer's waiver must be delivered within two (2) days of Buyer's notice of objections. The Closing Date shall be extended to the extent necessary to permit time for these notices. Buyer shall not be required to object to any mortgage or deed of trust liens, or the statutory lien for real property taxes, and the same shall not be deemed to be Permitted Exceptions; provided, however, that the lien securing any financing which Buyer has agreed to assume shall be a Permitted Exception. Except for the foregoing, those provisions not objected to or for which Buyer waived its objections shall be referred to collectively as the "Permitted Exceptions." Seller shall reasonably cooperate with Buyer and the title company to clear objectionable title matters and shall provide an affidavit containing the information and reasonable covenants requested by the title company. The title policy shall contain no exceptions other than the General Exclusions and Exceptions common to such form of policy and the Permitted Exceptions.

c. **Title Policy.** At Closing, Buyer shall receive an ALTA Form 2006 Owner's Policy of Title Insurance with standard or extended coverage (as specified by Buyer) dated as of the Closing Date in the amount of the Purchase Price, insuring that fee simple title to the Property is vested in Buyer, subject only to the Permitted Exceptions ("Title Policy"), provided that Buyer acknowledges that obtaining extended coverage may be conditioned on the Title Company's receipt of a satisfactory survey paid for by Buyer. If Buyer elects extended coverage, then Seller shall execute and deliver to the Title Company on or before Closing the such affidavits and other documents as the Title Company reasonably and customarily requires to issue extended coverage.

23. **Feasibility Contingency.** Buyer's obligations under this Agreement are conditioned upon Buyer's satisfaction, in Buyer's sole discretion, concerning all aspects of the Property, including its physical condition; the presence of or absence of any hazardous substances; the contracts and leases affecting the Property; the potential financial performance of the Property; the availability of government permits and approvals; and the feasibility of the Property for Buyer's intended purpose. This Agreement shall terminate and Buyer shall receive a refund of the earnest money unless Buyer gives notice that the Feasibility Contingency is satisfied to Seller before 5:00pm on the Feasibility Contingency Date. If such notice is timely given, the feasibility contingency shall be deemed to be satisfied and Buyer shall be deemed to have accepted and waived any objection regarding any aspects of the Property as they exist on the Feasibility Contingency Date.

a. **Books, Records, Leases, Agreements.** Within 3 days (3 days if not filled in) Seller shall deliver to Buyer or post in an online database maintained by Seller or Listing Broker, to which Buyer has been given unlimited access, true, correct

INITIALS: Buyer DW Date 12/09/2021 Seller [Signature] Date 12/15/21
Buyer [Signature] Date 12/09/2021 Seller _____ Date _____



**COMMERCIAL & INVESTMENT REAL ESTATE
PURCHASE & SALE AGREEMENT
(CONTINUED)**

be solely responsible for all costs of its inspections and feasibility analysis and has no authority to bind the Property for purposes of statutory liens. Buyer agrees to indemnify and defend Seller from all liens, costs, claims, and expenses, including attorneys' and experts' fees, arising from or relating to entry onto or inspection of the Property by Buyer and its agents, which obligation shall survive closing. Buyer may continue to enter the Property in accordance with the foregoing terms and conditions after removal or satisfaction of the Feasibility Contingency only for the purpose of leasing or to satisfy conditions of financing.

- c. Buyer waives, to the fullest extent permissible by law, the right to receive a seller disclosure statement (e.g. "Form 17") if required by RCW 64.06 and its right to rescind this Agreement pursuant thereto. However, if Seller would otherwise be required to provide Buyer with a Form 17, and if the answer to any of the questions in the section of the Form 17 entitled "Environmental" would be "yes," then Buyer does not waive the receipt of the "Environmental" section of the Form 17 which shall be provided by Seller.

24. Conveyance. Title shall be conveyed subject only to the Permitted Exceptions. If this Agreement is for conveyance of Seller's vendee's interest in a Real Estate Contract, the deed shall include a contract vendee's assignment sufficient to convey after-acquired title. At Closing, Seller and Buyer shall execute and deliver to Closing Agent CBA Form PS-AS Assignment and Assumption Agreement transferring all leases and Vendor Contracts assumed by Buyer pursuant to Section 25(b) and all intangible property transferred pursuant to Section 25(b).

25. Personal Property.

- a. If this sale includes the personal property located on and used in connection with the Property, Seller will itemize such personal property in an Exhibit to be attached to this Agreement within ten (10) days of Mutual Acceptance. The value assigned to any personal property shall be \$ 0.00 (if not completed, the County-assessed value if available, and if not available, the fair market value determined by an appraiser selected by the Listing Broker and Selling Broker). Seller warrants title to, but not the condition of, the personal property and shall convey it by bill of sale.
- b. In addition to the leases and Vendor Contracts assumed by Buyer pursuant to Section 24 above, this sale includes all right, title and interest of Seller to the following intangible property now or hereafter existing with respect to the Property including without limitation: all rights-of-way, rights of ingress or egress or other interests in, on, or to, any land, highway, street, road, or avenue, open or proposed, in, on, or across, in front of, abutting or adjoining the Property; all rights to utilities serving the Property; all drawings, plans, specifications and other architectural or engineering work product; all governmental permits, certificates, licenses, authorizations and approvals; all rights, claims, causes of action, and warranties under contracts with contractors, engineers, architects, consultants or other parties associated with the Property; all utility, security and other deposits and reserve accounts made as security for the fulfillment of any of Seller's obligations; any name of or telephone numbers for the Property and related trademarks, service marks or trade dress; and guaranties, warranties or other assurances of performance received.

INITIALS: Buyer DW Date 12/09/2021 Seller [Signature] Date 12/15/21
 Buyer [Signature] Date 12/09/2021 Seller _____ Date _____



**COMMERCIAL & INVESTMENT REAL ESTATE
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- 26. **Seller's Underlying Financing.** Unless Buyer is assuming Seller's underlying financing, Seller shall be responsible for confirming the existing underlying financing is not subject to any "lock out" or similar covenant which would prevent the lender's lien from being released at closing. In addition, Seller shall provide Buyer notice prior to the Feasibility Contingency Date if Seller is required to substitute securities for the Property as collateral for the underlying financing (known as "defeasance"). If Seller provides this notice of defeasance to Buyer, then the parties shall close the transaction in accordance with the process described in CBA Form PS_D or any different process identified in Seller's defeasance notice to Buyer.
- 27. **Closing of Sale .** Buyer and Seller shall deposit with Closing Agent by 12:00 p.m. on the scheduled Closing Date all instruments and monies required to complete the purchase in accordance with this Agreement. Upon receipt of such instruments and monies, Closing Agent shall cause the deed to be recorded and shall pay to Seller, in immediately available funds, the Purchase Price less any costs or other amounts to be paid by Seller at Closing. "Closing" shall be deemed to have occurred when the deed is recorded and the sale proceeds are available to Seller. Time is of the essence in the performance of this Agreement. Sale proceeds shall be considered available to Seller, even if they cannot be disbursed to Seller until the next business day after Closing. Notwithstanding the foregoing, if Seller informed Buyer before the Feasibility Contingency Date that Seller's underlying financing requires that it be defeased and may not be paid off, then Closing shall be conducted in accordance with the three(3)-day closing process described in CBA Form PS_D. This Agreement is intended to constitute escrow instructions to Closing Agent. Buyer and Seller will provide any supplemental instructions requested by Closing Agent provided the same are consistent with this Agreement.
- 28. **Closing Costs and Prorations.** Seller shall deliver an updated rent roll to Closing Agent not later than two (2) days before the scheduled Closing Date in the form required by Section 23(a) and any other information reasonably requested by Closing Agent to allow Closing Agent to prepare a settlement statement for Closing. Seller certifies that the information contained in the rent roll is correct as of the date submitted. Seller shall pay the premium for the owner's standard coverage title policy. Buyer shall pay the excess premium attributable to any extended coverage or endorsements requested by Buyer, and the cost of any survey required in connection with the same. Seller and Buyer shall each pay one-half of the escrow fees. Any real estate excise taxes shall be paid by the party who bears primary responsibility for payment under the applicable statute or code. Real and personal property taxes and assessments payable in the year of closing; collected rents on any existing tenancies; expenses already incurred by Seller that relate to services to be provided to the Property after the Closing Date; interest; utilities; and other operating expenses shall be pro-rated as of Closing. Seller will be charged and credited for the amounts of all of the pro-rated items relating to the period up to and including 11:59 pm Pacific Time on the day preceding the Closing Date, and Buyer will be charged and credited for all of the pro-rated items relating to the period on and after the Closing Date. If tenants pay any of the foregoing expenses directly, then Closing Agent shall only pro rate those expenses paid by Seller. Buyer shall pay to Seller at Closing an additional sum equal to any utility deposits or mortgage reserves for assumed financing for which Buyer receives the benefit after Closing. Buyer shall pay all costs of financing including the premium for the lender's title policy. If the Property was taxed under a deferred classification prior to Closing, then Seller shall pay all taxes, interest, penalties, deferred taxes or similar items which result from removal of the Property from the deferred classification. At Closing, all refundable deposits on tenancies shall be credited to Buyer or delivered to Buyer for deposit

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in a trust account if required by state or local law. Buyer shall pay any sales or use tax applicable to the transfer of personal property included in the sale.

- 29. **Post-Closing Adjustments, Collections, and Payments.** After Closing, Buyer and Seller shall reconcile the actual amount of revenues or liabilities upon receipt or payment thereof to the extent those items were prorated or credited at Closing based upon estimates. Any bills or invoices received by Buyer after Closing which relate to services rendered or goods delivered to the Seller or the Property prior to Closing shall be paid by Seller upon presentation of such bill or invoice. At Buyer's option, Buyer may pay such bill or invoice and be reimbursed the amount paid plus interest at the rate of 12% per annum beginning fifteen (15) days from the date of Buyer's written demand to Seller for reimbursement until such reimbursement is made. Notwithstanding the foregoing, if tenants pay certain expenses based on estimates subject to a post-closing reconciliation to the actual amount of those expenses, then Buyer shall be entitled to any surplus and shall be liable for any credit resulting from the reconciliation. Rents collected from each tenant after Closing shall be applied first to rentals due most recently from such tenant for the period after closing, and the balance shall be applied for the benefit of Seller for delinquent rentals owed for a period prior to closing. The amounts applied for the benefit of Seller shall be turned over by Buyer to Seller promptly after receipt. Seller shall be entitled to pursue any lawful methods of collection of delinquent rents but shall have no right to evict tenants after Closing. Any adjustment shall be made, if any, within 180 days of the Closing Date, and if a party fails to request an adjustment by notice delivered to the other party within the applicable period set forth above (such notice to specify in reasonable detail the items within the Closing Statement that such party desires to adjust and the reasons for such adjustment), then the allocations and prorations at Closing shall be binding and conclusive against such party.
- 30. **Operations Prior to Closing.** Prior to Closing, Seller shall continue to operate the Property in the ordinary course of its business and maintain the Property in the same or better condition than as existing on the date of Mutual Acceptance but shall not be required to repair material damage from casualty except as otherwise provided in this Agreement. After the Feasibility Contingency Date, Seller shall not enter into or modify existing rental agreements or leases (except that Seller may enter into, modify, extend, renew or terminate residential rental agreements or residential leases for periods of 12 months or less in the ordinary course of its business), service contracts, or other agreements affecting the Property which have terms extending beyond Closing without obtaining Buyer's consent, which shall not be withheld unreasonably.
- 31. **Possession.** Buyer shall accept possession subject to all tenancies disclosed to Buyer before the Feasibility Contingency Date.
- 32. **Seller's Representations.** Except as disclosed to or known by Buyer prior to the satisfaction or waiver of the Feasibility Contingency, including in the books, records and documents made available to Buyer, or in the title report or any supplemental report or documents referenced therein, Seller represents to Buyer that, to the best of Seller's actual knowledge, each of the following is true as of the date hereof: (a) Seller is authorized to enter into the Agreement, to sell the Property, and to perform its obligations under the Agreement, and no further consent, waiver, approval or authorization is required from any person or entity to execute and perform under this Agreement; (b) The books, records, leases, agreements and other items delivered to Buyer pursuant to this Agreement comprise all material documents in Seller's possession or control regarding the operation and condition of the Property, are true,

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accurate and complete to the best of Seller's knowledge, and no other contracts or agreements exist that will be binding on Buyer after Closing; (c) Seller has not received any written notices that the Property or any business conducted thereon violate any applicable laws, regulations, codes and ordinances; (d) Seller has all certificates of occupancy, permits, and other governmental consents necessary to own and operate the Property for its current use; (e) There is no pending or threatened litigation which would adversely affect the Property or Buyer's ownership thereof after Closing; (f) There is no pending or threatened condemnation or similar proceedings affecting the Property, and the Property is not within the boundaries of any planned or authorized local improvement district; (g) Seller has paid (except to the extent prorated at Closing) all local, state and federal taxes (other than real and personal property taxes and assessments described in Section 28 above) attributable to the period prior to closing which, if not paid, could constitute a lien on Property (including any personal property), or for which Buyer may be held liable after Closing; (h) Seller is not aware of any concealed material defects in the Property except as disclosed to Buyer before the Feasibility Contingency Date; (i) There are no Hazardous Substances (as defined below) currently located in, on, or under the Property in a manner or quantity that presently violates any Environmental Law (as defined below); there are no underground storage tanks located on the Property; and there is no pending or threatened investigation or remedial action by any governmental agency regarding the release of Hazardous Substances or the violation of Environmental Law at the Property; (j) Seller has not granted any options nor obligated itself in any matter whatsoever to sell the Property or any portion thereof to any party other than Buyer; and (k) Neither Seller nor any of its respective partners, members, shareholders or other equity owners, is a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute or executive order; and (l) the individual signing this Agreement on behalf of Seller represents and warrants to Buyer that he or she has the authority to act on behalf of and bind Seller. As used herein, the term "Hazardous Substances" shall mean any substance or material now or hereafter defined or regulated as a hazardous substance, hazardous waste, toxic substance, pollutant, or contaminant under any federal, state, or local law, regulation, or ordinance governing any substance that could cause actual or suspected harm to human health or the environment ("Environmental Law"). The term "Hazardous Substances" specifically includes, but is not limited to, petroleum, petroleum by-products, and asbestos.

If prior to Closing Seller or Buyer discovers any information which would cause any of the representations above to be false if the representations were deemed made as of the date of such discovery, then the party discovering the information shall promptly notify the other party in writing and Buyer, as its sole remedy, may elect to terminate this Agreement by giving Seller notice of such termination within five (5) days after Buyer first received actual notice (with the Closing Date extended to accommodate such five (5) day period), and in such event, the Earnest Money Deposit shall be returned to Buyer. Buyer shall give notice of termination within five (5) days of discovering or receiving written notice of the new information. Nothing in this paragraph shall prevent Buyer from pursuing its remedies against Seller if Seller had actual knowledge of the newly discovered information such that a representation provided for above was false.

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- 33. **As-Is.** Except for the express representations and warranties in this Agreement, (a) Seller makes no representations or warranties regarding the Property; (b) Seller hereby disclaims, and Buyer hereby waives, any and all representations or warranties of any kind, express or implied, concerning the Property or any portion thereof, as to its condition, value, compliance with laws, status of permits or approvals, existence or absence of hazardous material on site, suitability for Buyer's intended use, occupancy rate or any other matter of similar or dissimilar nature relating in any way to the Property, including the warranties of fitness for a particular purpose, tenantability, habitability and use; (c) Buyer takes the Property "AS IS" and with all faults; and (d) Buyer represents and warrants to Seller that Buyer has sufficient experience and expertise such that it is reasonable for Buyer to rely on its own pre-closing inspections and investigations.
- 34. **Buyer's Representations.** Buyer represents that Buyer is authorized to enter into the Agreement; to buy the Property; to perform its obligations under the Agreement; and that neither the execution and delivery of this Agreement nor the consummation of the transaction contemplated hereby will: (a) conflict with or result in a breach of any law, regulation, writ, injunction or decree of any court or governmental instrumentality applicable to Buyer; or (b) constitute a breach of any agreement to which Buyer is a party or by which Buyer is bound. The individual signing this Agreement on behalf of Buyer represents that he or she has the authority to act on behalf of and bind Buyer.
- 35. **Claims.** Any claim or cause of action with respect to a breach of the representations and warranties set forth herein shall survive for a period of nine (9) months from the Closing Date, at which time such representations and warranties (and any cause of action resulting from a breach thereof not then in litigation, including indemnification claims) shall terminate. Notwithstanding anything to the contrary in this Agreement: (a) Buyer shall not make a claim against Seller for damages for breach or default of any representation or warranty, unless the amount of such claim is reasonably anticipated to exceed \$25,000; and (b) under no circumstances shall Seller be liable to Buyer on account of any breach of any representation or warranty in the aggregate in excess of the amount equal to \$250,000, except in the event of Seller's fraud or intentional misrepresentation with respect to any representation or warranty regarding the environmental condition of the Property, in which case Buyer's damages shall be unlimited.
- 36. **Condemnation and Casualty.** Seller bears all risk of loss until Closing, and thereafter Buyer bears all risk of loss. Buyer may terminate this Agreement and obtain a refund of the earnest money if improvements on the Property are materially damaged or if condemnation proceedings are commenced against all or a portion of the Property before Closing, to be exercised by notice to Seller within ten (10) days after Seller's notice to Buyer of the occurrence of the damage or condemnation proceedings. Damage will be considered material if the cost of repair exceeds the lesser of \$100,000 or five percent (5%) of the Purchase Price. Alternatively, Buyer may elect to proceed with closing, in which case, at Closing, Seller shall not be obligated to repair any damage, and shall assign to Buyer all claims and right to proceeds under any property insurance policy and shall credit to Buyer at Closing the amount of any deductible provided for in the policy.
- 37. **FIRPTA Tax Withholding at Closing.** Closing Agent is instructed to prepare a certification (CBA or NWMLS Form 22E, or equivalent) that Seller is not a "foreign person" within the meaning of the Foreign Investment in Real Property Tax Act, and Seller shall sign it on

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or before Closing. If Seller is a foreign person, and this transaction is not otherwise exempt from FIRPTA, Closing Agent is instructed to withhold and pay the required amount to the Internal Revenue Service.

- 38. **Notices.** Unless otherwise specified, any notice required or permitted in, or related to, this Agreement (including revocations of offers and counteroffers) must be in writing. Notices to Seller must be signed by at least one Buyer and must be delivered to Seller and Listing Broker with a courtesy copy to any other party identified as a recipient of notices in Section 18. A notice to Seller shall be deemed delivered only when received by Seller and Listing Broker, or the licensed office of Listing Broker. Notices to Buyer must be signed by at least one Seller and must be delivered to Buyer, with a copy to Selling Broker and with a courtesy copy to any other party identified as a recipient of notices in Section 18. A notice to Buyer shall be deemed delivered only when received by Buyer and Selling Broker, or the licensed office of Selling Broker. Selling Broker and Listing Broker otherwise have no responsibility to advise parties of receipt of a notice beyond either phoning the represented party or causing a copy of the notice to be delivered to the party's address provided in this Agreement. Buyer and Seller shall keep Selling Broker and Listing Broker advised of their whereabouts in order to receive prompt notification of receipt of a notice. If any party is not represented by a licensee, then notices must be delivered to and shall be effective when received by that party at the address, fax number, or email indicated in Section 18. Facsimile transmission of any notice or document shall constitute delivery. E-mail transmission of any notice or document (or a direct link to such notice or document) shall constitute delivery when: (i) the e-mail is sent to both Selling Broker and Selling Firm or both Listing Broker and Listing Firm at the e-mail addresses specified on page two of this Agreement; or (ii) Selling Broker or Listing Broker provide written acknowledgment of receipt of the e-mail (an automatic e-mail reply does not constitute written acknowledgment). At the request of either party, or the Closing Agent, the parties will confirm facsimile or e-mail transmitted signatures by signing an original document.
- 39. **Computation of Time.** Unless otherwise specified in this Agreement, any period of time in this Agreement shall mean Pacific Time and shall begin the day after the event starting the period and shall expire at 5:00 p.m. of the last calendar day of the specified period of time, unless the last day is a Saturday, Sunday or legal holiday as defined in RCW 1.16.050, in which case the specified period of time shall expire on the next day that is not a Saturday, Sunday or legal holiday. Any specified period of five (5) days or less shall not include Saturdays, Sundays or legal holidays. Notwithstanding the foregoing, references to specific dates or times or number of hours shall mean those dates, times or number of hours; provided, however, that if the Closing Date falls on a Saturday, Sunday, or legal holiday as defined in RCW 1.16.050, or a date when the county recording office is closed, then the Closing Date shall be the next regular business day. If the parties agree upon and attach a legal description after this Agreement is signed by the offeree and delivered to the offeror, then for the purposes of computing time, mutual acceptance shall be deemed to be on the date of delivery of an accepted offer or counteroffer to the offeror, rather than on the date the legal description is attached.
- 40. **Assignment.** Buyer's rights and obligations under this Agreement are not assignable without the prior written consent of Seller, which shall not be withheld unreasonably; provided, however, Buyer may assign this Agreement without the consent of Seller, but with notice to Seller, to any entity under common control and ownership of Buyer, provided no such assignment shall relieve Buyer of its obligations hereunder. If the words "and/or assigns" or similar words are used to identify Buyer in Section 2, then this Agreement

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may be assigned with notice to Seller but without need for Seller's consent. The party identified as the initial Buyer shall remain responsible for those obligations of Buyer stated in this Agreement notwithstanding any assignment and, if this Agreement provides for Seller to finance a portion of the purchase price, then the party identified as the initial Buyer shall guarantee payment of Seller financing.

41. Default and Attorneys' Fees.

- a. **Buyer's default.** In the event Buyer fails, without legal excuse, to complete the purchase of the Property, then the applicable provision as identified in Section 13 shall apply:
 - i. **Forfeiture of Earnest Money.** Seller may terminate this Agreement and keep that portion of the earnest money that does not exceed five percent (5%) of the Purchase Price as liquidated damages as the sole and exclusive remedy available to Seller for such failure.
 - ii. **Seller's Election of Remedies.** Seller may, at its option, (a) terminate this Agreement and keep that portion of the earnest money that does not exceed five percent (5%) of the Purchase Price as liquidated damages as the sole and exclusive remedy available to Seller for such failure, (b) bring suit against Buyer for Seller's actual damages, (c) bring suit to specifically enforce this Agreement and recover any incidental damages, or (d) pursue any other rights or remedies available at law or equity.
- b. **Seller's default.** In the event Seller fails, without legal excuse, to complete the sale of the Property, then the applicable provision as identified in Section 14 shall apply:
 - i. **Recover Earnest Money or Specific Enforcement.** As Buyer's sole remedy, Buyer may either (a) terminate this Agreement and recover all earnest money or fees paid by Buyer whether or not the same are identified as refundable or applicable to the purchase price; or (b) bring suit to specifically enforce this Agreement and recover incidental damages, provided, however, Buyer must file suit within sixty (60) days from the Closing Date or from the date Seller has provided notice to Buyer that Seller will not proceed with closing, whichever is earlier.
 - ii. **Buyer's Election of Remedies.** Buyer may, at its option, (a) bring suit against Seller for Buyer's actual damages, (b) bring suit to specifically enforce this Agreement and recover any incidental damages, or (c) pursue any other rights or remedies available at law or equity.
- c. Neither Buyer nor Seller may recover consequential damages such as lost profits. If Buyer or Seller institutes suit against the other concerning this Agreement, the prevailing party is entitled to reasonable attorneys' fees and costs. In the event of trial, the amount of the attorneys' fees shall be fixed by the court. The venue of any suit shall be the county in which the Property is located, and this Agreement shall be governed by the laws of the State of Washington without regard to its principles of conflicts of laws.

42. Miscellaneous Provisions.

- a. **Complete Agreement.** This Agreement and any addenda and exhibits thereto state the entire understanding of Buyer and Seller regarding the sale of the Property. There are no verbal or other written agreements which modify or affect the Agreement, and no modification of this Agreement shall be effective unless agreed in writing and signed by the parties.

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- b. **Counterpart Signatures.** This Agreement may be signed in counterpart, each signed counterpart shall be deemed an original, and all counterparts together shall constitute one and the same agreement.
 - c. **Electronic Delivery and Signatures.** Electronic delivery of documents (e.g., transmission by facsimile or email) including signed offers or counteroffers and notices shall be legally sufficient to bind the party the same as delivery of an original. At the request of either party, or the Closing Agent, the parties will replace electronically delivered offers or counteroffers with original documents. The parties acknowledge that a signature in electronic form has the same legal effect as a handwritten signature.
 - d. **Section 1031 Like-Kind Exchange.** If either Buyer or Seller intends for this transaction to be a part of a Section 1031 like-kind exchange, then the other party agrees to cooperate in the completion of the like-kind exchange so long as the cooperating party incurs no additional liability in doing so, and so long as any expenses (including attorneys' fees and costs) incurred by the cooperating party that are related only to the exchange are paid or reimbursed to the cooperating party at or prior to Closing. Notwithstanding this provision, no party shall be obligated to extend closing as part of its agreement to facilitate completion of a like-kind exchanged. In addition, notwithstanding Section 40 above, any party completing a Section 1031 like-kind exchange may assign this Agreement to its qualified intermediary or any entity set up for the purposes of completing a reverse exchange.
43. **Information Transfer.** In the event this Agreement is terminated, Buyer agrees to deliver to Seller within ten (10) days of Seller's written request copies of all materials received from Seller and any non-privileged plans, studies, reports, inspections, appraisals, surveys, drawings, permits, applications or other development work product relating to the Property in Buyer's possession or control as of the date this Agreement is terminated.
44. **Confidentiality.** Until and unless closing has been consummated, Buyer and Seller shall follow reasonable measures to prevent unnecessary disclosure of information obtained in connection with the negotiation and performance of this Agreement. Neither party shall use or knowingly permit the use of any such information in any manner detrimental to the other party.
45. **Agency Disclosure.** Selling Firm, Selling Firm's Designated Broker, Selling Broker's Branch Manager (if any) and Selling Broker's Managing Broker (if any) represent the same party that Selling Broker represents. Listing Firm, Listing Firm's Designated Broker, Listing Broker's Branch Manager (if any), and Listing Broker's Managing Broker (if any) represent the same party that the Listing Broker represents. If Selling Broker and Listing Broker are different persons affiliated with the same Firm, then both Buyer and Seller confirm their consent to the Brokers' Designated Broker, Branch Manager (if any), and Managing Broker (if any) representing both parties as a dual agent. If Selling Broker and Listing Broker are the same person representing both parties, then both Buyer and Seller confirm their consent to that person and his/her Designated Broker, Branch Manager (if any), and Managing Broker (if any) representing both parties as dual agents. All parties acknowledge receipt of the pamphlet entitled "The Law of Real Estate Agency."

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46. **Seller's Acceptance and Brokerage Agreement.** Seller agrees to sell the Property on the terms and conditions herein, and further agrees to pay a commission in a total amount computed in accordance with the listing or commission agreement. If there is no written listing or commission agreement, Seller agrees to pay a commission of - % of the sales price or \$ 0.00. The commission shall be apportioned between Listing Firm and Selling Firm as specified in the listing or any co-brokerage agreement. If there is no listing or written co-brokerage agreement, then Listing Firm shall pay to Selling Firm a commission of 3. % of the sales price or \$ 0.00. Seller assigns to Listing Firm and Selling Firm a portion of the sales proceeds equal to the commission. If the earnest money is retained as liquidated damages, any costs advanced or committed by Listing Firm or Selling Firm for Buyer or Seller shall be reimbursed or paid therefrom, and the balance shall be paid one-half to Seller and one-half to Listing Firm and Selling Firm according to the listing agreement and any co-brokerage agreement. Seller and Buyer hereby consent to Listing Firm and Selling Firm receiving compensation from more than one party and irrevocably instruct the Closing Agent to disburse the commission(s) directly to the Firm(s). In any action by Listing Firm or Selling Firm to enforce this Section, the prevailing party is entitled to reasonable attorneys' fees and expenses. Neither Listing Firm nor Selling Firm are receiving compensation from more than one party to this transaction unless disclosed on an attached addendum, in which case Buyer and Seller consent to such compensation. The Property described in attached Exhibit A is commercial real estate. Notwithstanding Section 44 above, the pages containing this Section, the parties' signatures and an attachment describing the Property may be recorded.

Listing Broker and Selling Broker Disclosure. EXCEPT AS OTHERWISE DISCLOSED IN WRITING TO BUYER OR SELLER, THE SELLING BROKER, LISTING BROKER, AND FIRMS HAVE NOT MADE ANY REPRESENTATIONS OR WARRANTIES OR CONDUCTED ANY INDEPENDENT INVESTIGATION CONCERNING THE LEGAL EFFECT OF THIS AGREEMENT, BUYER'S OR SELLER'S FINANCIAL STRENGTH, BOOKS, RECORDS, REPORTS, STUDIES, OR OPERATING STATEMENTS; THE CONDITION OF THE PROPERTY OR ITS IMPROVEMENTS; THE FITNESS OF THE PROPERTY FOR BUYER'S INTENDED USE; OR OTHER MATTERS RELATING TO THE PROPERTY, INCLUDING WITHOUT LIMITATION, THE PROPERTY'S ZONING, BOUNDARIES, AREA, COMPLIANCE WITH APPLICABLE LAWS (INCLUDING LAWS REGARDING ACCESSIBILITY FOR DISABLED PERSONS), OR HAZARDOUS OR TOXIC MATERIALS INCLUDING MOLD OR OTHER ALLERGENS. SELLER AND BUYER ARE EACH ADVISED TO ENGAGE QUALIFIED EXPERTS TO ASSIST WITH THESE DUE DILIGENCE AND FEASIBILITY MATTERS, AND ARE FURTHER ADVISED TO SEEK INDEPENDENT LEGAL AND TAX ADVICE RELATED TO THIS AGREEMENT.

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IN WITNESS WHEREOF, the parties have signed this Agreement intending to be bound.

Buyer Michael & Denise Werner

Buyer ^{Authentic:} Denise Werner
Printed name and type of entity
Signature and title

Date signed 12/09/2021

Seller Michael Cassinelli

Seller [Signature]
Printed name and type of entity
Signature and title

Date signed 12/15/21

Buyer Denise Werner

Buyer ^{Authentic:} Michael Werner
Printed name and type of entity
Signature and title

Date signed 12/09/2021

Seller _____

Seller _____
Printed name and type of entity
Signature and title

Date signed _____

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Buyer [Signature] Date 12/09/2021 Seller _____ Date _____

WHEN RECORDED RETURN TO:

Michael Cassinelli
204 Elizabeth Avenue
Ilwaco, WA 98624

DOCUMENT TITLE(S):
MUTUAL TERMINATION OF LEASE

REFERENCE NUMBER(S) OF DOCUMENTS ASSIGNED OR RELEASED:

GRANTOR:
Port of Ilwaco, a municipal corporation

GRANTEE:
Michael Cassinelli, dba Beacon RV and Charter Office

ABBREVIATED LEGAL DESCRIPTION:
BLDG ON LEASED LAND #81663, PORT OF ILWACO TR 18 1-3

TAX PARCEL NUMBER(S):
81663050000

05/2022@C

3211406 04/11/2022 03:48:59 PM Pg. 1 of 5
Termination Of Lease Emerald Coast Title
Pacific County Auditor's Office Fee: \$207.50



LPB 01-05

MUTUAL TERMINATION OF LEASE

THIS AGREEMENT, made and entered into this 18th day of February, 2022 by and between the Port of Ilwaco, a municipal corporation, of Ilwaco, Pacific County, Washington, hereinafter referred to as the "Lessor" and Michael Cassinelli doing business as Beacon RV and Charter office hereinafter referred to as "Lessee" in consideration of the mutual covenants herein contained,

WITNESSETH:

WHEREAS, Lessor and Lessees' predecessors in interest, entered into an Indenture of Lease dated the 1st day of July, 2003. Whereby the Lessor did lease to the Lessees, that certain parcel of land situated in Pacific County, Washington, described as follows:

That certain parcel of land, being in Pacific County, Washington, and lying-in front of Sec. 34, TION, R11W, W.M. and within Lots 1 through 4 (both inclusive), Block 18 and Lots 1 and 2, Block 19, Official Plat of Ilwaco Tidelands, filed on March 31, 1934, in the Office of the Commissioner of Public Lands at Olympia, Washington, more particularly as follows:

Beginning at a point on the North Lot 1, Block 18, said Plat, which bears S25 00'41" E, 707.33 feet from the quarter corner common to Sections 33 and 34, said township and range; thence N85 40'44.6" E, 89.79 feet to a concrete monument on the North line of Lot 3, Block 18, said township and range; thence S85 22'20.1" E, 151.14 feet, along the North line of said Blocks 18 and 19 to the Southeast comer Eliza Street; thence S21 47' E, 265.72 feet to the Northeast comer of a tract of owned by the Town of Ilwaco; thence N89 40'56.4' W, 234.71 feet, along the North line of said tract, to a point on the North line thereof, thence N22 32' W, 271.61 feet to the point of beginning containing approximately 63,784 square feet as shown on Attachment A.

and

WHEREAS, the parties to said indenture of lease desire to mutually terminate said lease, subject, however, to the indemnity provision hereinafter contained.

NOW, THEREFORE,

The Lessor does hereby agree to release the Lessees of and from any and all obligations of Lessees set forth in the above described Indenture of Lease, provided however, that Lessee agrees to indemnify, defend and to save and hold Lessor harmless from all liability or expense (including expense of litigation) in connection with any toxic or hazardous substances which are found to have been released, placed or disposed of on or from the leased premises by Lessee from and after October 1, 1995 to the effective date hereof. The property has been used for the purposes of operating a camp ground for tenting, pickup campers, camper trailers and recreational vehicles, and

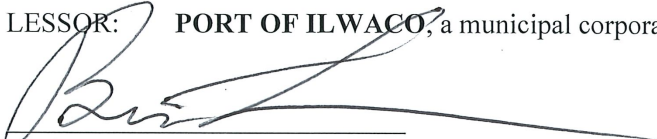
for operating and advertising of a sport fishing charter services, including facilities for selling fishing supplies and tackle, packaged lunches for Lessees' charter customers and for fish cleaning and storage. Pursuant to said purposes, the Lessee agreed to maintain a campground which meets the requirements of the appropriate governing bodies of the State of Washington for the duration of said lease. At the present time to the best of either party's knowledge there has been no contamination to the property by Lessee.


The said Lessees hereby release the Lessor of and from any and all obligations of Lessor arising out of the above-described Indenture of Lease.

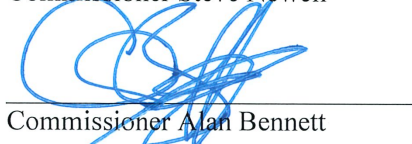
Subject to the foregoing, it is mutually agreed by and between the parties hereto that the said Indenture of Lease, dated the 1st day of July, 2003, be and is hereby mutually terminated, effective upon closing of the sale of the business property to Michael J. Werner II and Denise L. Werner, anticipated to occur on or before March 10, 2022.

DATED this 15th day of March, 2022.

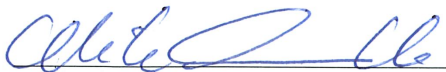
LESSOR: **PORT OF ILWACO**, a municipal corporation


Chairman Butch Smith


Commissioner Steve Newell


Commissioner Alan Bennett

LESSEE: **MICHAEL CASSINELLI** dba Beacon RV and Charter, sole proprietor


Michael Cassinelli

STATE OF WASHINGTON)
) ss.
COUNTY OF PACIFIC)

I, a Notary Public in and for the State of Washington, do hereby certify I know or have satisfactory evidence that BUTCH SMITH, STEVE NEWELL, AND ALAN BENNETT, are the person(s) who appeared before me and said person(s) acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the Commissioners of the PORT OF ILWACO to be the free and voluntary act and deed on behalf of the said PORT OF ILWACO for the uses and purposes mentioned in the instrument.

DATED this 15th day of March, 2022.



Tricia R. Needham
Tricia R. Needham

Notary Public in and for the State of Washington
residing at Bay Center, WA. My Commission
expires: May 25, 2024.

STATE OF WASHINGTON)
) ss.
COUNTY OF Pacific)

I certify that I know or have satisfactory evidence that Michael Cassinelli is/are the person(s) who appeared before me, and said person(s) acknowledged that he/she/they signed this instrument and acknowledged it to be his/she/their free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this 9th day of March, 2022.



Tricia R. Needham
Notary Public in and for the State of WA residing at Bay Center, WA
My commission expires on 05/25, 2024.

ATTACHMENT A

Approximately 63,784 square feet

PLATE THREE, ILWACO TIDE LANDS
 ILWACO TIDE FLATS OF 1894
 COUNTY, WASHINGTON

SCALE: 1 INCH = 100 FEET
 JANUARY 30, 1965

N85°40'44.6" E, 89.79 feet +
 S85°22'20.1" E, 151.14 feet

