

Island Title Company

P. O. BOX 1228
ANACORTES, WA. 98221

SA-11537

LEASE

12/2/91
9207240214

THIS LEASE AGREEMENT is made this 6 day of MAY, 1990, by and between CITY OF ANACORTES, ("Lessor") and DEVELOPMENT VENTURES, INC., ("Lessee").

1. Premises. Lessor does hereby lease to Lessee those certain premises at Lessor's Industrial Park facility in Anacortes, Skagit County, Washington, being situated upon leased harbor area described in Exhibits 1 and 2 attached hereto and incorporated herein by reference.

2. Term. The term of this lease shall begin on February 3, 1989 and terminate on October 1, 2016 and may be renewed thereafter upon mutual agreement of the Lessor and Lessee.

3. Rent. Lessee covenants and agrees to pay lessor at P.O. Box 547, Anacortes, WA 98221, or to such other party or at such other place as the lessor may hereafter designate, an amount equal to three (3) times the total amount charged to the City for the lease with the Department of Natural Resources (Exhibit 3) ("DNR Lease"), pro rated for the portion of the 5.8 acres of tidelands subleased, said amounts to be payable on the first (1st) day of the sublease and annually thereafter on its anniversary date. The pro rated rent for 5.8 acres of tidelands shall be pursuant to the DNR Lease, #22-002664.

4. Late Payment and Interest. If any amount due from Lessee is not received in the Lessor's office on or before the tenth (10th) day of the month, a late charge of One Hundred Dollars (\$100.00) for each day after the tenth of the month shall become immediately due and payable, which late charge Lessor and Lessee agree represents a fair and reasonable estimate of the processing and accounting costs that Lessor will incur by reason of such late payment.

5. Use. Lessee shall use the premises for the purpose of small boat moorage and associated activities for no other purposes without the prior written consent of Lessor and shall comply with all laws and insurance requirements applicable to Lessee's use of the premises. Lessee shall specifically comply with all environmental laws and regulations and will indemnify and hold Lessor harmless from any liability arising out of Lessee's failure to comply with such laws and regulations. Additionally, Lessee shall specifically comply with all restrictions set-out in DNR Lease #22-002664, or as amended, attached as Exhibit 3 hereto and incorporated herein by reference.

6. Maintenance. Lessee agrees by taking possession that the premises are in good condition. Lessee shall at reasonable times perform routine maintenance on the premises, including the reconstruction of the premises called for in Shoreline Permit #175 (Exhibit 4 attached hereto and incorporated herein by reference). Lessee shall keep the premises in a neat and safe condition and shall at its sole expense repair any damage to the premises caused by Lessee's use thereof, including the dredging necessary to maintain the navigation channel and berthing area south of the north line of Tract 1 extended eastward at their federal authorized depths.

SKAGIT COUNTY WASHINGTON
Real Estate Excise Tax
PAID

9207240214

1
BK1098800510

JUL 24 1992

Amount Paid \$
Skagit County Treasurer
By: *ra* Deputy

7. Taxes. Lessor shall pay all real estate taxes, with Lessee paying the pro-rated State Leasehold Tax. Lessee shall pay all assessments including taxes, if any, direct or indirect, in whole or in part, upon the rents or income, if any, lessee derives from the leased premises.

8. Lessor's Reservations. Lessor reserves the right without liability to Lessee to inspect the premises at reasonable times and without unreasonable interference to the business of Lessee.

9. Assignment and Subletting: Lessee acknowledges that this Lease is in fact a sublease, that lessor is leasing the premises from the State of Washington Department of Natural Resources and that the State of Washington's approval of this Lease is a condition precedent to its effectiveness. Lessee shall not undertake any activity which could cause Lessor to be in violation of Lease No. 22-002664. Lessee shall neither voluntarily or by operation of law assign, transfer, convey or encumber this lease or its interest under it, or sublet the premises or any part thereof, or allow any other person to occupy or use the premises without the prior written consent of Lessor and the State of Washington. The consent of Lessor and the State of Washington shall not release or discharge Lessee from future liability under this lease and shall not waive the right of Lessor and the State of Washington to consent to any future assignment or sublease. Any assignment or subletting without the consent of Lessor and the State of Washington shall be void, and shall, at the option of Lessor and the State of Washington, constitute a default under this lease. Lessor, however, acknowledges that Lessee's intended use of the premises anticipates the construction and sub-leasing of marina slips for boat moorage and that such sub-leases will grant to the sub-lessees certain rights and privileges to use and access the common areas of the planned marina, as well. Lessor expressly consents to such sub-leases.

10. Alterations. After prior written consent of Lessor, which consent may not be unreasonably withheld, Lessee may make minor alterations, additions and improvements in the premises at its sole cost and expense beyond those set-out in Shoreline Permit #175. Lessee agrees to save Lessor harmless from any damage, loss, or expense arising therefrom and to comply with all laws, ordinances, rules and regulations. Lessee shall bear all cost of connecting to utilities and shall be billed directly for such utilities. All improvements made by the Lessee shall be the property of the Lessee, but upon termination of this lease, alterations, additions and improvements made in, to and on the premises shall remain upon and be surrendered as a part of the premises; PROVIDED, upon Lessor's request, Lessee shall promptly remove those additions, alterations, or improvements as may be specified by Lessor, and repair and restore the premises to its original condition, excluding conditions resulting from dredging authorized pursuant to this Agreement, at Lessee's sole cost and expense.

11. Accidents and Liability. Lessor or its agents shall not be liable for any injury or damage to persons or property sustained by

Lessee or others in and about the leased premises. Lessee agrees to defend and hold Lessor and its agents harmless from any claim, accident caused by, or associated with, Lessee's activities on or about or tenancy of the premises and/or judgment for injury or damage to persons or property suffered in or about the premises by any person, firm or corporation. Lessee shall, at its expense, carry public liability and contractual liability insurance naming lessor as an additional insured, such insurance to afford minimum protection to the combined limit of not less than One Million Dollars (\$1,000,000) or such other lesser reasonable amount as Lessor may require in respect to injury or damage to persons or property. Lessee shall submit a certificate of such insurance to Lessor and such insurance shall not be cancellable without thirty (30) days prior written notice thereof to Lessor.

11A. Subrogation Waiver. Subject to the terms and conditions of insurance policies held by Lessee, and on the condition that the following condition shall not abrogate or avoid any insurance coverage in effect in favor of either Lessor or Lessee, Lessor and Lessee each release and relieve the other and waive its entire right of recovery against the other for loss or damage arising out of or incident to the perils of fire, explosion or any other perils described in the fire or extended coverage insurance endorsement approved for use in the State of Washington, which occurs in, on or about the premises, whether due to the negligence of either party, their agents, employees or otherwise.

12. Eminent Domain. If the whole of the premises shall be taken by any public authority under the power of eminent domain, or purchased by the condemnor in lieu thereof, then the term of this lease shall cease as of the date possession is taken by such public authority. If only a part of the premises shall be so taken, the lease shall terminate only as to the portion taken, and shall continue in full force and effect as to the remainder of the premises, and the monthly rent shall be reduced proportionately; PROVIDED, however, if the remainder of the premises cannot be made useful for the purposes for which Lessee has been using the premises, either party, by written notice to the other, given at least thirty (30) days prior to the date that possession must be surrendered to the public authority, may terminate this lease effective as of such surrender of possession. In the event of any taking, whether whole or partial, Lessor shall be entitled to all awards, settlements, or compensation which may be given for the leased premises. Lessee shall have a claim against Lessor for the value of any unexpired term of this lease or part thereof. Lessee shall have a second and separate claim for the value of any and all improvements to the premises, made by or on behalf of Lessee, the full use and/or enjoyment of which is denied or diminished as a result of a taking.

13. Liens and Insolvency. Lessee shall keep the premises and Lessee's interest under this lease free from any liens arising out of anywork performed for, materials furnished to, or obligations incurred by Lessee and shall hold Lessor harmless against the same. If Lessee shall be declared insolvent or bankrupt, or if Lessee's leasehold interest herein shall be levied upon or seized under writ of any court

of law, or if a trustee, receiver or assignee be appointed for the property of Lessee, whether under operation of state or federal statutes, Lessor may, at its option, immediately, without notice (notice being expressly waived), terminate this lease and take possession of the premises, without, however, terminating Lessee's obligations under this lease.

14. Default and Re-entry. If Lessee fails to keep or perform any of the covenants and agreements herein contained, the same shall constitute a breach hereof, and if lessee has not remedied such breach within ten (10) days after written notice thereof from Lessor if the breach is non-payment of rent or other charges, or within thirty (30) days after written notice thereof from Lessor in the event of the breach of any other covenant provided, however, a breach shall not be deemed to be uncured if Lessee commences to cure within thirty (30) days and for so long as Lessee is diligently attempting to cure, Lessor may, at its option, without further notice or demand:

a. Cure such breach for the account and at the expense of lessee and such expense shall be deemed additional rent due on the first of the following month; or

b. Re-enter take possession of the premises, remove all property therefrom at Lessee's risk and expense, and (1) terminate this lease, or (2) without terminating the lease or in any way effecting the rights and remedies of Lessor or the obligations of Lessee, re-let the whole or any part of the premises as agent for Lessee, upon such terms and conditions as lessor may deem advisable. In either event, any monies received from Lessee may first be applied by Lessor to any damages suffered by lessor as a result of such default and the balance of such amounts may be applied toward payment of other sums due to Lessor hereunder. In the event the premises are re-let for Lessee's account, Lessee shall pay to Lessor monthly any deficiency; however, Lessor shall not be required to pay any excess to Lessee.

The above remedies of Lessor are cumulative and in addition to R.C.W. 59.12 or any other remedies now or hereafter allowed by law or elsewhere provided for in this lease.

15. Costs and Attorney's Fees. In the event either party shall commence legal action to enforce any provision of this lease, the Court shall award to the prevailing party all reasonable attorney's fees and all costs incurred in connection therewith, including fees and costs on appeal. Any action relating to this lease shall be brought in Skagit County.

16. Holding Over. If Lessee, with the implied or express consent of Lessor, shall hold over after the expiration of the term of this Lease, Lessee shall remain bound by all the covenants and agreements herein, except that tenancy shall be from month to month.

17. Surrender of Possession. Lessee shall, prior to the termination of this lease or of Lessee's right to possession, remove from the premises all property which Lessee is entitled to remove and those alterations, additions, improvements or signs which may be

required by Lessor to be removed and shall repair or pay for all damage to the premises caused by such removal. All such property remaining and every interest of lessee in the same shall be conclusively presumed to have been conveyed by Lessee to Lessor under this lease as a bill of sale, without compensation, allowance, or credit to Lessee. Lessee shall upon termination of this lease or of Lessee's right of possession, peacefully quit and surrender the premises without notice, neat and clean, and in as good condition as when Lessee took possession, except for reasonable wear and tear as determined by Lessor.

18. Notice. Any notice required to be given by either party to the other pursuant to the provisions of this lease or any law, present or future, shall be in writing and shall be deemed to have been duly given or sent if either delivered personally or deposited in the United States mail, postage prepaid, registered or certified, return receipt requested, addressed to the Lessor at P.O. Box 547, Anacortes, WA 98221, or to Lessee at the following address, or to such other address as either party may designate to the other in writing from time to time:

Development Ventures, Inc.
2430 Carillon Point, Suite 430
Kirkland, WA 98033

19. No Waiver of Covenants. Time is of the essence of this lease. Any waiver by either party of any breach hereof by the other shall not be considered a waiver of any future, similar or other breach.

20. Entire Agreement. It is expressly understood and agreed by Lessor and Lessee that there are no promises, agreements, conditions, understandings, inducements, warranties, or representations, oral or written, express or implied, between them, other than as herein set forth and that this lease shall not be modified in any manner except by an instrument in writing executed by the parties.

21. Binding on Heirs, Successors and Assigns. The covenants and agreements of this lease shall be binding upon the successors and assigns of both parties hereto, except as herein above provided.

22. Leasing Additional Space. Prior to February 3, 1993 the Lessee shall have the right to lease an additional 14.7 acres of tideland area as described in Exhibits 1 and 2 in consideration of the Buyer making annual payments to the City in an amount equal to the total amount charged to the City for the DNR Lease pro rated for the portion subleased, said amounts to be payable on the first (1st) day of the sublease and annually thereafter on this anniversary date and to be payable in addition to the amount due for the lease of the 5.8 acres of Phase I property.

The pro rated rent for 14.7 acres of tidelands shall be pursuant to DNR Lease #22-002664. From and after exercise of the option for this Phase II Property, the sublease payments shall increase to an amount

equal to three (3) times the total amount charged to the City on the DNR Lease, on a basis pro rated to the portion subleased.

The Lessee acknowledges that the DNR Lease provides for periodic rent adjustments and that the sublease rent will be adjusted accordingly.

DEVELOPMENT VENTURES, INC.

CITY OF ANACORTES

By: [Signature]

By: [Signature]

Its _____

Its _____

President

Mayor

"Lessee"

"Lessor"

Approved this 6th day of May, 1990.

STATE OF WASHINGTON DEPARTMENT OF NATURAL RESOURCES

By: [Signature]

Section Mgr/Agreements

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Jerald Hansen is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the President of Development Ventures, Inc. to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED:

May 18, 1990

Melody A. Woodbridge
NOTARY PUBLIC in and for the State
of Washington, residing at Federal Way, WA

My appointment expires 2-28-94

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

I certify that I know or have satisfactory evidence that James Rice is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of The City of Anacortes to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED:

May 24, 1990

Kathy Schroder
NOTARY PUBLIC in and for the State
of Washington, residing at Anacortes

My appointment expires 8-28-92

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BK1098PG0616

EXHIBIT I

JERRY MCINTURFF
SKAGIT COUNTY AUDITOR

92 JUL 24 P3:38

PARCEL A (Phase 1 Fidalgo Marina DNR Sublease)

RECORDED _____ FILED _____
REQUEST OF _____

That portion of the harbor area situate in Skagit County, Washington, in front of Tracts 1 to 4, inclusive, Anacortes Tide Lands (plate 11), within Section 30, Township 35 North, Range 2 East, W.M. being more particularly described as follows:

Beginning at a point on the inner harbor line which is North 29°47'00" West a distance of approximately 950 feet from the northeast corner of Tract 1, Anacortes Tide Lands (plate 11), this being the true point of beginning, thence North 84°00'00" East a distance of approximately 50 feet, thence North 6°00'00" West a distance of approximately 775 feet, thence North 77°00'00" West a distance of approximately 270 feet, thence North 6°00'00" West a distance of approximately 860 feet, thence North 84°00'00" East a distance of approximately 229.09 feet to the inner harbor line, thence North 29°47'00" West along said inner harbor line a distance of approximately 188.95 feet to the true point of beginning, having an approximate area of 5.34 acres.

PARCEL B (Phase 2 Fidalgo Marina DNR Sublease)

That portion of the harbor area situate in Skagit County, Washington, in front of Tracts 4 to 7, inclusive, Anacortes Tide Lands (plate 11), within Section 30, Township 35 North, Range 2 East, W.M. being more particularly described as follows:

Beginning at a point on the inner harbor line which is North 29°47'00" West a distance of approximately 1,138.95 feet from the northeast corner of Tract 1, Anacortes Tide Lands (plate 11), this being the true point of beginning, thence North 84°00'00" East a distance of approximately 229.09 feet, thence North 6°00'00" West a distance of approximately 284.01 feet, thence North 89°47'00" West a distance of approximately 318.50 feet to the outer harbor line, thence North 29°47'00" West along said outer harbor line a distance of approximately 1,010 feet, thence North 60°23'00" East a distance of approximately 600 feet to the inner harbor line, thence North 29°47'00" West along said inner harbor line a distance of approximately 1,000 feet to the true point of beginning, having an area of approximately 14.22 acres.

Note: The above legal descriptions are approximate and are subject to revision when additional survey and detailed design work are completed for the Fidalgo Marina project.