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Skagit County Auditor

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RETURN TO:

LAW OFFICE

of

BRADFORD E. FURLONG, P.S.
825 CLEVELAND AVENUE
MOUNT VERNON, WASHINGTON 98273
(360) 336-6508

Document Title: Grant of Option

Reference number of documents assigned or released: N/A

Grantor: Michael Kelley, a single person

Grantee: Christopher Kresge, a single person

Partial Legal Description: (full legal on face of deed)

Ptn Lot 1 & ptn 2, SP #91-64, ptn SW $\frac{1}{4}$, 11-34-1 E W.M.

Assessor's Parcel/Tax I.D. Numbers: 340111-3-026-0006, P19139; 340111-3-001-0100, P109020

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

OCT 14 2005

Amount Paid \$
By Skagit Co. Treasurer
Deputy

Amount Paid \$
By Skagit Co. Treasurer
Deputy

OCT 14 2005

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

GRANT OF OPTION

THIS GRANT OF OPTION is made this 6th day of October 2005, by and between Michael Kelley, a single person, as his separate property (hereinafter referred to as the "Optionor"), and Christopher Kresge, a single person, (hereinafter referred to as the "Optionee").

1. **Property:** The Property subject to this Grant of Option is the real property owned by Optionor located in Skagit County, Skagit County Assessor's parcel numbers 340111-3-026-0006; P19139 and 340111-3-001-0100; P109020; and legally described in Exhibit A hereto (the "Property").

2. **Consideration:** "Consideration" for this agreement is one thousand dollars (\$1,000.00) to be paid by Optionee to Optionor on mutual acceptance hereof, the adequacy and sufficiency of which are acknowledged by Optionor. The Consideration is not refundable, except: (a) under the conditions set forth in paragraphs 7, 13 and 18; or (b) upon breach of this Agreement by Optionor. The Consideration shall apply to the purchase price at closing. The Optionor agrees that the Consideration shall be held by Closing Agent and not dispersed to Optionor until the matters affecting title mentioned in paragraph 18 are cleared.

3. **Right to Purchase:** Optionor hereby conveys and grants to Optionee an exclusive right to purchase the Property set forth in paragraph 1 provided that the closing of occur on or before thirty (30) days of October 10, 2010, subject to paragraph 4 hereof.

4. **Exercise of Option:** Optionee shall, if it so elects, exercise this option by giving written notice thereof to Optionor at any time after or upon October 10, 2010, with the closing of the sale to occur no less than fourteen (14) days nor more than thirty (30) days thereafter.

5. **Purchase Price:** The purchase price shall be three hundred thousand dollars (\$300,000.00) paid in cash at closing.

6. **Title:** Title to the Property shall be marketable at closing. Rights, reservations, covenants, conditions, and restrictions, easements, and encroachments, presently of record, and not materially affecting the value of the Property or unduly interfering with Optionee's intended use of the Property shall not cause the title to be considered unmarketable. Optionee shall conclusively be deemed to have accepted the condition of title unless Optionor receives notice of Optionee's objections within fourteen (14) days after the preliminary commitment for title insurance or any supplemental title report is received by or made available to Optionee.



Encumbrances not assumed in writing by Optionee shall be paid by Optionor on or before closing.

7. **Title Insurance:** Upon mutual acceptance hereof, Optionor authorizes closing agent, at Optionor's expense, to apply for a standard form owner's policy of title insurance, inflation protection endorsements, if applicable, and available at no additional cost, to be issued by Land Title Company. The title policy shall contain no exceptions other than those contained in said standard form and those not inconsistent with this Agreement. If title is not so insurable and cannot be made so insurable before or at closing, Optionee may elect either to waive such encumbrances or defects, or to terminate this Agreement and receive a refund of the option Consideration.

8. **Conveyance:** Title shall be conveyed by statutory warranty deed free of encumbrances and defects except those accepted by Optionee in writing.

9. **Closing:** Closing agent shall be the Law Office of Bradford E. Furlong, P.S., 825 Cleveland Avenue, Mount Vernon, Washington 98273. This sale shall be closed in accordance with a date consistent with paragraphs 3 and 4 hereof. "Closing" means the date on which all documents are recorded and the sale proceeds are available for disbursement to Optionor. Optionee and Optionor shall deposit with closing agent all documents and monies required to complete this sale in accordance with this Agreement.

10. **Closing Costs & Proration:** Optionor shall pay title insurance, one-half escrow fee, real estate excise tax and any recording fees to unencumbered the Property. Optionee shall pay recording fees for conveyance of the Property. Property taxes shall be prorated at closing.

11. **Possession:** Optionee shall be entitled to possession on closing.

12. **Notices:** Unless otherwise specified in this Agreement, any and all notices required or permitted to be given under this Agreement must be given in writing. All notices must be signed by an authorized representative of party giving the notice. Notices shall be deemed to be given when actually received by or at the address/or facsimile number of the intended recipient or three (3) business days after deposited in the U.S. Mail, postage prepaid, to such addresses, whichever is sooner. Notices may be transmitted by facsimile so long as the original notice is deposited in the United States mail or other parcel delivery service by the next business day, addressed to the other party. Transmittal confirmation shall be preclusive evidence of addressee's receipt of notice by facsimile.

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MICHAEL KELLEY, OPTIONOR
CHRISTOPHER KRESGE, OPTIONEE



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Notices shall be given to:

Christopher Kresge
13562 Islewood Drive
Anacortes, Washington 98221-8597

Michael Kelley
13706 Islewood Drive
Anacortes, Washington 98221

With copy to:

Bradford E. Furlong
Attorney at Law
825 Cleveland Avenue
Mount Vernon, Washington 98273
Facsimile No. (360) 336-3318

With copy to:

Each party shall be deemed to have received notices when delivered to the foregoing address/facsimile numbers unless addressee has notified in writing the addressor of an address change prior to transmittal. The persons authorized by Optionee to give notices hereunder are: Christopher Kresge or Bradford E. Furlong or other legal counsel representing Christopher Kresge.

13. **Casualty Loss/Maintenance of Property:** If prior to closing, improvements on the Property are destroyed or materially damaged by fire or other casualty, Optionee may elect to terminate this Agreement and the earnest money shall be refunded to Optionee; or, alternatively, Optionee may, at its sole discretion choose to contract for the repair or reconstruction of any material damage to any structures on the premises prior to closing, the full cost of which (including but not limited to design, permits, debris clean up, removal and disposal and construction costs [both labor and material]) shall be deducted from the purchase price at closing. Optionor shall fully cooperate in any such repair or reconstruction and allow full access to the property for such work to take place. Prior to closing and as a condition to Optionee's obligation to close, Optionor shall not materially alter the grounds or vegetation on the property.

14. **Hazardous Substances:** Optionor shall disclose to Optionee within thirty (30) days of mutual acceptance:

- (a) Whether, to Optionor's knowledge, the Property, or any portion thereof, has been affected by the presence of, or there is present on any portion of the Property, oil, hazardous waste, toxic substances or other pollutants or material (hereinafter "Hazardous Substances") present that could be a detriment to the Property or in violation of any local, state or federal law or regulation; and/or
- (b) Whether, to Optionor's knowledge, there are potentially hazardous environmental conditions upon any portion of the Property; and/or

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(c) Whether, to Optionor's knowledge, Optionor or any other user or occupant of any part of the Property known to Optionor has ever been cited for violating any federal, state or local Hazardous Substances or environmental law or regulation with respect to operations or activities on or about the Property. Optionor shall also deliver any and all reports, test results, and/or other documents relating to the presence or absence of Hazardous Substances on or about the Property to Optionee within said thirty (30) day period. If Optionee shall receive information that the Property has been affected with any environmental contaminants or Hazardous Substances at any time prior to closing, Optionee, at its discretion, may; (i) delay closing up to ninety (90) days to investigate environmental conditions; or (ii) terminate its obligation to purchase the Property and receive a refund of its Consideration.


15. **Hold Harmless:** In the event it is determined, after this transaction closes, that due to any act or omission of Optionor or its predecessor owners of the Property, there is a presence of Hazardous Substances or other pollutants or material that could be a detriment to the Property or which renders the Property in violation of any local, state or federal law or regulation, and of which Optionor had knowledge prior to closing, then in that event, Optionor agrees to pay, be responsible for and hold Optionee harmless from any remedial action to either remove or repair the cause of said Hazardous Substance, waste or other pollutants or material that is a detriment to the Property or that renders the Property in violation of any local, state or federal law or regulation or constitutes and health hazard to any life form and from any and all fines, penalties or assessments imposed upon Optionee therefor. This Paragraph 15 shall survive closing and shall bind and inure to the benefit of the parties' successors and assigns.

16. **Computation of Time:** Unless otherwise expressly specified herein, any period of time specified in this Agreement shall expire at 5:00 p.m. of the last calendar day of the specified period of time, unless the last day is Saturday, Sunday, or legal holiday, as prescribed in RCW 1.16.050, in which event the specified period of time shall expire at 5:00 p.m. of the next business day. Any specified period of five (5) days or less shall include business days only.

17. **Termination:** In the event of termination of this Agreement, any costs authorized under this Agreement shall be paid by the party responsible therefor.

18. **General Provisions:** Time is of the essence. There are no verbal agreements which modify this Agreement. This Agreement constitutes the full understanding between Optionor and Optionee. This agreement is contingent upon the removal of the *lis pendens* filed under Skagit County Auditor's file number 20050513008 and the termination of the trustee's sale mentioned in the Notice of Trustee's Sale dated September 30, 2005 concerning that deed of trust recorded under Skagit County Auditor's file number 9906290123 or any continuation thereof. If the Trustee's sale takes place and/or if the *lis pendens* is not cleared from title as a result of Skagit County cause of action number 05-2-00902-3, the Consideration shall refunded to Optionee.

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19. **Litigation, Costs:** If any legal action or any other proceeding, including an arbitration or action for declaratory relief, is brought for the enforcement of this Agreement or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover reasonable attorney fees and other costs incurred in that action or proceeding, including appeals, in addition to any other relief to which the prevailing party may be entitled.

"Prevailing party" shall include without limitation:

- (a) a party dismissing an action in exchange for sums allegedly due;
- (b) a party receiving performance from the other party of an alleged breach of covenant or a desired remedy where the performance is substantially equal to the relief sought in an action; or
- (c) the prevailing party as determined by a court of law.

Venue for any suit shall be solely in Skagit County; this Agreement shall be interpreted pursuant to Washington law.

20. **Successors and Assigns:** This Agreement shall, in whole or in part, inure to the benefit of and be binding on the parties and their respective successors, heirs, assigns, mortgagee and/or beneficiaries. All references to "Optionor" and "Optionee" include respective successors, heirs, assigns, mortgagees and/or beneficiaries of each.

21. **Recordation:** This Agreement, or a memorandum thereof, may be recorded at Optionee's option and expense.

22. **Quitclaim Deed:** Upon termination of this Agreement in accordance with its terms, Optionee shall deliver to Optionor a signed and acknowledged Quitclaim Deed in the appropriate form. Optionor may record the Quitclaim Deed following the termination of this Agreement.

23. **Exhibits:** All exhibits and any others referred to in this Agreement are incorporated into this Agreement by reference.

24. **Captions:** Captions and headings in this Agreement, including the title of this Agreement, are for convenience only and are not to be considered in construing this Agreement.

25. **Modification and Amendment:** This Agreement may not be modified or amended except in writing signed by Optionor and Optionee.

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Signed this 6th day of October 2005, by:

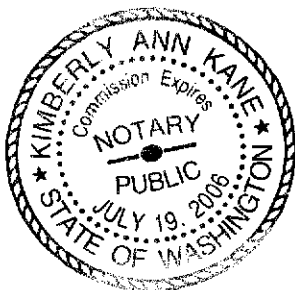
OPTIONEE:

Christopher Kresge
Christopher Kresge

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)


On this day personally appeared before me Christopher Kresge to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this 6th day of October 2005



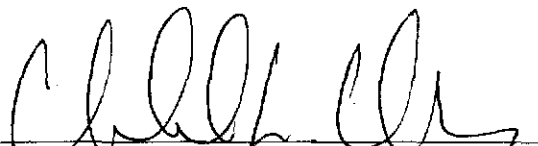
Kimberly Ann Kane
Notary Public in and for the state of
Washington, residing at Anacortes, Wa.
My commission expires: July 19, 2006
Printed Name: Kimberly Ann Kane

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MICHAEL KELLEY, OPTIONOR
CHRISTOPHER KRESGE, OPTIONEE


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Signed this 16 day of Oct 2005, by:

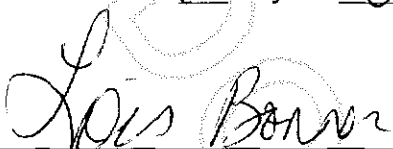
OPTIONOR:


Michael Kelley

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

On this day personally appeared before me Michael Kelley to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as his free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this 16th day of October 2006
2005.


Notary Public in and for the state of
Washington, residing at Anacortes, WA
My commission expires: 11-15-07
Printed Name: Lois Banner

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CHRISTOPHER KRESGE, OPTIONEE



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PARCEL "A"

A portion of Lot 1 of Short Plat No. 91-064, approved October 21, 1991 and recorded November 4, 1991 in Volume 10 of Short Plats, pages 22 and 23, under Auditor's File No. 9111040048, being a portion of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 11, Township 34 North, Range 1 East, W.M., described as follows:

Beginning at the Southwest corner of Lot 2 of said Short Plat No. 91-064;
thence North $4^{\circ}09'09''$ East along the Westerly line of said Lot 2 a distance of 202.71 feet;
thence North $89^{\circ}11'58''$ West a distance of 110.52 feet to the Westerly line of Lot 1 of said Short Plat No. 91-064;
thence South $3^{\circ}03'20''$ West along the Westerly line of said Lot 1 a distance of 202.52 feet to the South line of said Short Plat No. 91-064;
thence South $89^{\circ}11'58''$ East along the South line of said Short Plat a distance of 106.64 feet to the point of beginning.

Situate in the County of Skagit, State of Washington.

PARCEL "B":

A portion of Lot 1 of Short Plat No. 91-064, approved October 21, 1991 and recorded November 4, 1991 in Volume 10 of Short Plats, pages 22 and 23, under Auditor's File No. 9111040048, being a portion of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 11, Township 34 North, Range 1 East, W.M., described as follows:

Beginning at the Southwest corner of Lot 2 of said Short Plat No. 91-064;
thence North $4^{\circ}09'09''$ East along the Westerly line of said Lot 2, a distance of 202.71 feet to the true point of beginning;
thence South $89^{\circ}11'58''$ East along the Northerly line of said Lot 2 a distance of 258.49 feet;
thence North $4^{\circ}09'09''$ East along the Westerly line of said Lot 2 a distance of 247.29 feet to the Northwestern corner of said Lot 2;
thence North $89^{\circ}11'58''$ West, a distance of 2.35 feet;
thence South $37^{\circ}37'34''$ West a distance of 144.87 feet;
thence South $55^{\circ}20'14''$ West a distance of 225.61 feet to the true point of beginning.

Situate in the County of Skagit, State of Washington.

PARCEL "C":

Lot 2 of Short Plat No. 91-064, approved October 21, 1991 and recorded November 4, 1991 in Volume 10 of Short Plats, pages 22 and 23, under Auditor's File No. 9111040048, being a portion of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 11, Township 34 North, Range 1 East, W.M.

Situate in the County of Skagit, State of Washington.



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