

UNOFFICIAL DOCUMENT



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Document Title: Assignment of Lease

Reference Number :

Grantor(s): additional grantor names on page ___

- 1. Sanford, Delores
- 2.

Grantee(s): additional grantee names on page ___

- 1. Rennebohm, Ron
- 2.

Abbreviated legal description: full legal on page(s) ___

36-34-2

Assessor Parcel / Tax ID Number: additional tax parcel number(s) on page ___

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES
DOUG SUTHERLAND, Commissioner of Public Lands

NOTICE OF AND CONSENT TO ASSIGNMENT OF
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STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES
DOUG SUTHERLAND, Commissioner of Public Lands

NOTICE OF AND CONSENT TO ASSIGNMENT
NOTICE OF AND CONSENT TO ASSIGNMENT OF 22-002416

NOTICE OF AND CONSENT TO ASSIGNMENT AGREEMENT NO. 22-002416

THIS AGREEMENT is made by and between DELORES SANFORD, whose address is 327 North First Street, La Conner, Washington 98257 ("Assignor") and RON RENNEBOHM, whose address is 10310 Farm To Market Road, Bow, Washington 98232 ("Assignee").

BACKGROUND

A. Lease No. 22-002416 (the "Lease") was entered into on the 12th day of, December 1991, by and between Joe E. and Delores Sanford, a marital community as Lessee and the STATE OF WASHINGTON, acting through the Department of Natural Resources, as landlord ("State"). A copy of the Lease is attached as Exhibit "A".

B. This Lease was previously involuntary assigned to Delores Sanford due to Joe E. Sanford's death. A copy of the Assignment is attached as Exhibit B.

C. Assignor desires to assign and Assignee desires to assume the rights, duties, and liabilities of Lessee under the Lease. Assignor acknowledges the receipt and adequacy of consideration given by Assignee for this assignment. The Lease prohibits an assignment without State's consent. State is willing to give its consent based upon the assurances and agreements made in this Agreement.

THEREFORE, the parties agree as follows:

SECTION 1 NOTICE OF ASSIGNMENT

Assignor gives notice of its intent to assign all of its rights, title, and interest as Lessee under the Lease to Assignee effective the 15th day of October, 2007, for the balance of the lease term as provided in the Lease.

SECTION 2 ACCEPTANCE AND INDEMNIFICATION

Assignee gives notice of its intent to assume the obligations as Lessee under the Lease, and agrees to faithfully perform and discharge those obligations according to the terms of the Lease.



SECTION 3 LIMITED RELEASE

State releases Assignor from the obligation to perform under the provisions of the Lease to the extent such obligations arise after the effective date of the assignment. Assignor remains liable to State to the same extent as if no assignment had been made with regard to any obligations that accrued prior to the effective date of the assignment.

SECTION 4 ACKNOWLEDGMENT OF LEASE

Assignee acknowledges receipt of a copy of the Lease and any previous or contemporaneous amendments.

SECTION 5 WARRANTIES

Assignor represents and warrants to State and to Assignee that (i) the Lease is in full force and effect; (ii) Assignor is not in default or breach of the Lease; (iii) Assignor has no knowledge of any claims, offsets, or defenses of any lessee under the Lease; (iv) rents due subsequent to this assignment have not been paid in advance by any lessee; and, (v) to the best of Assignor's knowledge, the property is in full compliance with all applicable federal, state, and local governmental permits, rules, ordinances, and laws. Assignor shall defend, indemnify and hold State harmless from any breach of the foregoing warranties and from any claims or causes of action, known or unknown, of Assignor that have or may arise from circumstances that precede this assignment.



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SECTION 6 NOTICE

Assignor instructs State to send all future notices to Assignee. State has no obligation to provide Assignor any notice or information concerning the Lease or Assignee.

THIS AGREEMENT requires the signature of all parties and is executed as of the date of the last signature below.

ASSIGNOR: DELORES SANFORD

Date 11/8/07

By: DeLores Sanford
DELORES SANFORD

Address: 327 North First St.
La Conner, WA 98257
Phone: 360-424-2129

ASSIGNEE: RON RENNEBOHN

Date 11/16/07

By: Ron Rennebohn
RON RENNEBOHN

Address: 10310 Farm To Market Road
Bow, WA 98232
Phone: Cell # 360-840-0000

Approved as to Form 2004
by Mike Grossman,
Assistant Attorney General
State of Washington

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

JAN 08 2008

Amount Paid \$ 0
Skagit Co. Treasurer
By mm Deputy



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CONSENT TO ASSIGNMENT BY STATE

In consideration of the foregoing, State consents to the Assignment of the Lease to Assignee. However, State expressly conditions this consent on the understanding that neither State's consent nor its collection of rent from Assignee shall be a waiver of the covenant against future assignments or subletting. Furthermore, State's acceptance of Assignee as Lessee shall not be construed as releasing Assignor from full performance of the provisions of the Lease. Except as set forth in this Agreement, no provision of this consent alters or modifies any of the terms and conditions of the Lease, including the requirement that the written consent of the State be obtained before any further assignment of the Lease or subletting of the property occurs.

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

Date 12/14/07

By: David Roberts
DAVID ROBERTS

Its: Aquatic Lands Assistant Region Manager

Address: 919 N. Township Street
Sedro Woolley, WA 98284

Phone: 360-856-3500

Approved as to Form January 2004
by Mike Grossmann
Assistant Attorney General
State of Washington



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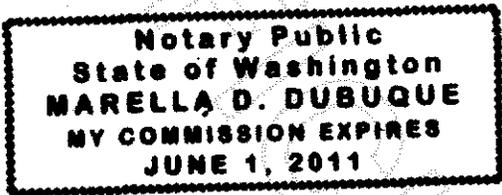
STATE OF WASHINGTON)
) ss.
COUNTY OF Skagit)

I certify that I know or have satisfactory evidence that DELORES SANFORD is the person who appeared before me. I further certify that said person acknowledge the foregoing instrument to be her free and voluntary act for the uses and purposes mentioned in the instrument

DATED: Nov. 8, 2007

Marella D. Dubuque
MARELLA D. DUBUQUE

(Type/Print Name)
Notary Public in and for the State of Washington
residing at La Corner
My Commission Expires June 1, 2011

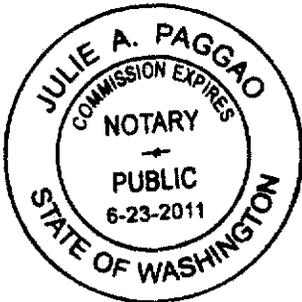


STATE OF WASHINGTON)
) ss.
COUNTY OF)

I certify that I know or have satisfactory evidence that RON RENNEBOHM is the person who appeared before me. I further certify that said person acknowledge the foregoing instrument to be his free and voluntary act for the uses and purposes mentioned in the instrument

DATED: 11/16/07

Julie Paggao
Julie Paggao
(Type/Print Name)
Notary Public in and for the State of Washington
residing at Anacortes
My Commission Expires 10/23/11



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STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES
Brian J. Boyle
Commissioner of Public Lands
Olympia, Washington 98504

AQUATIC LANDS LEASE NO. 22-002416

THIS LEASE AGREEMENT ("Lease") is made and entered into by and between the STATE OF WASHINGTON, acting in its proprietary capacity by and through the Department of Natural Resources (collectively referred to as "State"), and JOE E. and DELORES SANFORD, a marital community ("Lessee").

WHEREAS, State is the owner of that certain real property consisting of aquatic lands located in Skagit County, Washington, the survey, plat, diagram, and/or legal description of which are set forth in Exhibit A, attached hereto and incorporated herein;

WHEREAS, Lessee desires to lease the Property from State, and State desires to lease the Property to Lessee, pursuant to the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions set forth herein, the parties hereto agree as follows:

1. PROPERTY

1.1 Property.

(a) For and in consideration of Lessee's covenant to pay the Rent and other sums for which provision is made in this Lease, and the performance of the other covenants and obligations of Lessee hereunder, State leases to Lessee and Lessee leases from State that certain real property described in Exhibit A including all improvements thereon.

(b) The real property which is leased includes public aquatic land together with the right to occupy the water column and water surface in accordance with Subsection 5.3, for Lessee, its customers, invitees, approved sublessees, and employees. Said real property and rights leased thereby are herein referred to as the "Property."

(c) Except as is necessary to carry out Lessee's permitted use under Subsection 5.3, State does not convey: any right to disturb, alter, or modify the aquatic land; any right to harvest or collect any sea life or living plants from the aquatic land, the water column, or water surface; any right to excavate or withdraw sand, gravel, minerals, gas, oil or other material; any water rights; or any mineral rights.

(d) Lessee's rights are subject to all rights of the public, including all rights of the public which State holds in trust, under the public trust doctrine.

(e) Lessee's rights are further subject to valid easements and encumbrances of record as of the date of execution hereof as noted in the records of Skagit County, or on file in the Office of the Commissioner of Public Lands, Olympia, Washington.

(f) In executing this Lease, State is relying on a survey and/or legal description provided by the Lessee. The Lessee expressly assumes all liability for the correctness thereof and expressly agrees to indemnify and save harmless State, its employees, officers, and agents for all liability, damages (including damages to land, aquatic life and other natural resources), expenses, causes of action, suits, claims, costs, fees (including attorneys' fees and costs), penalties (civil and criminal) or judgments arising out of State's use of or reliance on the Lessee's survey and/or legal description.

2. TERM

2.1 Term. The term of this Lease is thirty (30) years, commencing on December 12, 1991, which date shall be referred to as the "Commencement Date" of the term of this Lease, and ending on November 30, 2021. The date upon which this Lease terminates, whether at the end of the above stated term or upon such earlier date in the event the Lease is terminated, or cancelled for any reason prior to the end of said period, shall be referred to as the "Termination Date." The period between the Commencement Date and Termination Date is referred to herein as the "Term" of this Lease.

2.2 Authority. This lease is entered into by State pursuant to the authority granted in Chapter 79.90 RCW et seq. and the Constitution of the state of Washington. The terms and conditions hereof are subject to such statutory and constitutional provisions as may be now in effect and such provisions which do not impair the contractual rights of Lessee under this Lease which may lawfully be enacted subsequent to the date of this Lease.



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3. RENT

3.1 Annual Rent.

(a) Lessee agrees to pay an initial rent in the amount of \$1,181.30, for the period December 12, 1991 to December 1, 1992 based on an annual rent of \$1,218.06, and subsequent rent, as determined by State in accordance with RCW 79.90.450-.902, or such laws as hereinafter shall be applicable ("Rent").

(b) Rent is due and payable by Lessee to State and is the essence of this Lease, and is a condition precedent to the continuance of this Lease or any rights thereunder.

(c) Payment is to be made in advance on or before the Commencement Date in the amount of \$1,181.30 and a like sum, as adjusted or revalued as provided for herein, on or before December 1 of each and every subsequent year of the Term.

3.2 Revaluation of Rent. State shall, at the end of the first four-year period of the Term, and at the end of each subsequent four-year period of the Term, revalue the annual rental in accordance with RCW 79.90.480 or such other laws and regulations of the Department of Natural Resources as are now or hereinafter shall be applicable. State shall not waive its right to revalue rent under this section by any failure to revalue at the end of a particular four-year period and shall retain the authority to revalue Lessee's rent and to bill Lessee retrospectively based on that revalued rent at any point subsequent to any four-year anniversary date.

3.3 Inflation Adjustment. After the initial year of the Term, State will adjust each year's Rent thereafter, exclusive of the years in which Rent is revalued under Subsection 3.2 hereof, in accordance with RCW 79.90.480 and such other laws and regulations of the Department of Natural Resources as are now or hereinafter shall be applicable.

3.4 Interest Penalty for Past-Due Rent and Other Sums Owed. Lessee shall pay interest at the rate of one percent (1%) per month (or at such higher rate as may be authorized by statute subsequent to the Commencement Date hereof), until paid, on Rent or other sums owing under the terms of this Lease (except for Leasehold Taxes) commencing the next day after the date such Rent or other sum is due and payable. In the event State pays any sum or incurs any expense which Lessee is obligated to pay under this Lease, or which is made on behalf of Lessee, State shall be entitled to receive reimbursement thereof from Lessee upon demand, together with interest thereon from the date of expenditure at the rate stated above.

3.5 Allocation of Rent. The Rent for the first year has been established based upon the use of the Property as described in Subsection 5.3 below. In the event Lessee changes the use of any portion of the Property, which change must be approved by State under Subsection 5.3 below, the rental rate to be paid for that portion of the area affected by such change of use shall be subject to adjustment to the then effective rental rate for the changed use for that portion of the Property.

3.6 Rent for Improvements.

(a) In Section 6, Lessee and State have determined ownership of improvements on the Property. In accord with RCW 79.90.515, the Rent set forth in Subsection 3.1 above includes no rental charge for improvements on the Property at this time. The State does reserve the right to charge rent for state-owned improvements in accord with RCW 79.90.515.

(b) In the event the restrictions on State's ability to charge rent for improvements contained in RCW 79.90.515 are removed in whole or in part, State reserves the right to increase the rent during any portion of the Term after such removal, to the extent then allowed based upon the then fair market value of such improvements owned by State.

4. OTHER EXPENSES

4.1 Utilities. From and after the Commencement Date, Lessee shall pay all expenses incurred in the use, enjoyment, and operation of the Property, including, but not limited to all charges for electricity, water, gas and telephone and all other utility services used on the Property. Lessee shall indemnify and hold State harmless against and from any loss, liability, or expense resulting from any failure of Lessee to pay all charges when due.



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4.2 Leasehold Taxes. From the Commencement Date and continuing throughout the Term, Lessee, unless exempt, shall pay to State the "Leasehold Tax" established and defined in Chapter 82.29A RCW. The Leasehold Tax shall be due and payable at the same time the rental charged herein is due and payable. Payment is to be made to the Department of Natural Resources, Division of Financial Services, PO Box 47041, Olympia, Washington 98504-7041. Any delinquent Leasehold Tax shall be a debt to State, and in the event any penalties or interest are due because of the failure of Lessee to timely pay the Leasehold Tax, such penalties shall be payable by Lessee to State.

4.3 Other Taxes and Assessments.

(a) The term "Taxes," as used herein, shall mean all taxes and other governmental charges, general and special, ordinary and extraordinary, of any kind whatsoever, applicable or attributable to the Property, Lessee's leasehold interest therein, improvements thereon, or Lessee's use and enjoyment thereof, excluding Leasehold Taxes, defined in Subsection 4.2, and Assessments as defined below. Unless exempt, Lessee shall pay when due all Taxes commencing with the Commencement Date and continuing throughout the Term.

(b) The term "Assessments," as used herein, shall mean all assessments for public improvements or benefits which heretofore or during the Term shall be assessed, levied, or imposed upon, or become due and payable, or become a lien upon the Property, any improvements constructed thereon, the leasehold estate created hereby, or any part thereof. Lessee shall not cause or suffer the imposition of any Assessment upon the Property, without the prior written consent of State. In the event any Assessment is proposed which affects the Property, any improvements constructed thereon, the leasehold estate created hereby, or any part thereof, Lessee shall promptly notify State of such proposal after Lessee has knowledge or receives notice thereof. Any Assessment upon the Property shall be made in compliance with all applicable statutes, including, but not limited to, Chapter 79.44 RCW. Lessee shall pay the total amount of all Assessments levied. In no event shall State be obligated to pay any Assessment or any portion thereof levied or created during the Term, irrespective of whether such Assessment or any portion thereof was specifically allocated to the Property or State's reversionary interest therein. No Assessment shall be payable in installments without State's prior written consent, which State may condition upon the posting by Lessee of a satisfactory bond guaranteeing the payment of such installments as they become due.

4.4 Payment Date and Proof. Lessee shall pay all payments for Taxes and Assessments at the time due. Lessee shall, if required by State, furnish to State receipts or other appropriate evidence establishing the payment of such amounts. Lessee may comply with this requirement by retaining a tax service to notify State when the taxes have been paid.

4.5 Failure to Pay.

(a) In the event Lessee fails to pay any of the expenses or amounts specified in this Section 4, State may, but shall not be obligated to do so, pay any such amount and the amounts so paid shall immediately be due and payable by Lessee to State and shall thereafter bear interest at the rate specified in Subsection 3.4 above.

(b) Any failure to pay any expense or amount specified in this Section 4 or any other amount to be paid by Lessee under the term of this Lease shall be a material breach hereunder by Lessee and such breach shall entitle State to pursue all remedies specified in this Lease, and all remedies otherwise available to it in law or equity, including the rights to terminate this Lease and to pursue the remedies available pursuant to Chapter 59.12 RCW.

4.6 No Counterclaim, Setoff, or Abatement of Rent. Rent and all other sums payable by Lessee hereunder shall be paid without the requirement of prior notice or demand by State, and shall not be subject to any counterclaim, setoff, deduction or defense and without abatement. The obligations and liabilities of Lessee hereunder shall in no way be released, discharged or otherwise affected (except as expressly provided herein) by reason of:

(a) Any damage to, or destruction of, or any taking of the Property, or improvements on the Property, or any part thereof (except as allowed in Section 11 or 12);

(b) Any restriction of, or prevention of, or interference with any use of the Property, improvements, or any part thereof, which does not result in the eviction of Lessee therefrom (except as allowed in Section 10);

(c) Any title defect or encumbrance upon the Property or any part thereof which does not result in the eviction of Lessee therefrom;

(d) Any claim which Lessee has or might have against State;

(e) Any failure on the part of State to perform or comply with any of the terms hereof or of any other agreement with Lessee so long as such failure to perform or comply does not have the result of eviction of Lessee from the Property.

4.7 Right to Contest. Lessee may contest the basis or amount of any Leasehold Taxes, Taxes, or Assessments at its sole cost and expense so long as Lessee shall furnish State with a bond or other security reasonably acceptable to State, and otherwise in compliance with law, in the full amount of such amount contested.



5. POSSESSION AND USE

5.1 Possession at Commencement Date. If for any reason whatsoever State does not deliver possession of the Property or a portion thereof at the Commencement Date, Rent shall be abated until such date as possession of the Property is tendered by State, and in all other respects this Lease shall remain in full force and effect and the Term shall not be extended thereby. If in the interim, Lessee shall take possession of any portion of the Property, Lessee shall pay the full Rent specified herein reduced pro rata for the portion of the Property not available for possession by Lessee. In no event shall State be liable for damages caused by failure to deliver possession of the Property.

5.2 Inspection. Lessee has inspected and made an independent investigation of the Property and will accept the same on the Commencement Date in its present condition.

5.3 Permitted Use. Lessee shall have use of the Property only for the specified purposes of maintenance of dock and float for nonresidential commercial boat moorage, and for no other purpose whatsoever. State's prior written consent shall be required for any change in use of the Property or any portion thereof.

5.4 Entry.

(a) State shall have access to the Property at all reasonable times for the purpose of inspecting the Property and securing compliance with the terms and conditions of this Lease. State shall exercise its right of access in a manner that will not unreasonably interfere with Lessee's permitted use of the Property.

(b) The right reserved in Subsection 5.4(a) above includes the right to perform or have performed such environmental tests, audits, surveys or investigations as State, in its sole discretion, deems appropriate. Such tests, audits, surveys, or investigations may include, but shall not be limited to, the determination of whether Lessee is improperly storing, handling or disposing of Hazardous Substances, as defined in Subsection 5.6(d) below, or of refuse, as defined in Subsection 5.6(b) below.

(c) This reserved right imposes no obligation upon State to make inspections, tests, audits, surveys, or investigations and shall impose no liability upon State for failure to do so. This reserved right is in addition to and separate from Lessee's obligation to test under Subsection 5.6(d)(3) below.

5.5 State's Right to Grant Easements. State reserves the right to grant easements and other land uses on the Property to others when the easement or other land uses will not unduly interfere with Lessee's permitted use under Subsection 5.3. State will notify Lessee of any easement or other land use request by third parties. No easement or other land uses shall be granted to third parties until payment for any damages to the leasehold have been paid to Lessee by the third party or a waiver of damages is signed by Lessee.

5.6 Restrictions on Use.

(a) Conformance With Laws.

1. Lessee shall, at its own expense, conform to all applicable laws, regulations, permits, orders or other directives of any public authority affecting the Property or Lessee's use or occupation of the Property.

2. Lessee shall, at its own expense, obtain all regulatory or proprietary consents or approvals required to be obtained from any public authority or third party in connection with any work on the Property (including, but not limited to, the construction, repair, or replacement of any improvements) or Lessee's use or occupation of the Property.

3. Upon the State's request, Lessee shall provide, at its own expense, evidence of compliance with Subsections 1 and 2 above (including, but not limited to, copies of permits, licenses, or orders).

4. Lessee shall correct, at Lessee's own expense, any failure of compliance with the terms of Subsections 1 through 3 above.

(b) Refuse. Lessee shall not make, or suffer to be made, any filling in of the Property or any deposit of rock, earth, ballast, refuse, garbage, waste matter (including chemical, biological or toxic wastes), hydrocarbons, any other pollutants, or other matter within or upon the Property, except as approved in writing by State. If Lessee shall fail to remove all nonapproved fill material, refuse, garbage, wastes or other of the above materials from the Property and restore the Property to its condition immediately prior to the deposition of the unauthorized material, Lessee agrees that State may remove such materials and charge Lessee for the cost of removal and disposal together with interest thereon from the date of expenditure at the rate specified in Subsection 3.4 above.

(c) Waste. At all times during the Term, Lessee shall neither commit nor suffer waste to be committed to the Property.

(d) Hazardous, Toxic, or Harmful Substances.

1. Lessee shall not keep, use, dispose, transport, generate, and/or sell on or about the Property, any substances now or hereinafter designated as, and/or containing components now or hereinafter designated as, and/or which are subject to regulation as, hazardous, toxic, dangerous, or harmful by any federal, state or local law, regulation, statute or ordinance, including but not limited to RCRA, CERCLA, SARA, and the Washington Model Toxic Control Act (hereinafter collectively referred to as "Hazardous Substances"), in violation of any such law, regulation, statute, or ordinance.



2. Lessee shall promptly notify State of all spills or releases of any Hazardous Substances, which are otherwise required to be reported to any federal, state, or local regulatory agency and, upon notice thereof, shall promptly notify State of all failures to comply with any federal, state, or local law, regulation or ordinance, as now enacted, or as subsequently enacted or amended, all inspections of the Property by any regulatory entity concerning the same, all regulatory orders or fines, and all response or interim cleanup actions taken by or proposed to be taken by any government entity or private party on the Property.

3. Lessee agrees to conduct, at its own expense, all tests, audits, surveys, or investigations requested by State, in writing, during the Term of the Lease as are reasonable and necessary to ascertain the existence, scope, or effects of Hazardous Substances on the Property, adjacent property, or associated natural resources where State has reason to believe the Hazardous Substances result from or are associated with Lessee's use, occupation, or control of the Property or adjacent property by Lessee, any predecessor-in-interest of Lessee, or any entity related to Lessee, and to provide the results of such tests, audits, surveys, or investigations to State. If Lessee fails to conduct such tests, State may conduct such tests and State shall be entitled to receive full reimbursement from Lessee upon demand, together with interest thereon from the date of expenditure at the rate stated above.

4. Lessee shall be fully and completely liable to State, and shall waive any claims against State for contribution or otherwise, and shall indemnify, defend, and save harmless State and its agencies, employees, officers, directors, and agents with respect to any and all liability, damages (including damages to land, aquatic life, and other natural resources), expenses, causes of action, suits, claims, costs (including testing, auditing, surveying, and investigation costs), fees (including attorneys' fees and costs), penalties (civil and criminal), and response, cleanup, or remediation costs assessed against or imposed upon Lessee, State, or the Property, as a result of Lessee's control of the Property, or Lessee's use, disposal, transportation, generation and/or sale of Hazardous Substances or that of Lessee's employees, agents, assigns, sublessees, contractors, subcontractors, licensees, permittees, or invitees, and for any breach of this Subsection 5.6(d).

(e) Marine Plastics Act. Lessee shall, in addition to compliance with all other applicable laws and regulations, comply with the Marine Plastic Pollution Research and Control Act of 1987 (Public Law 100-220) which became effective December 31, 1988. Under that Act, Lessee may be required among other things to provide waste reception facilities, permit Coast Guard inspection of the adequacy of these facilities, and provide for waste handling and disposition.

(f) Lessee to Take Corrective Action. The parties expressly agree that Lessee will, at its own expense, upon any failure to comply with the above Subsections 5.6(a)-(e), and upon direction to do so by State, take corrective or remediation action measures satisfactory to State to restore the Property, as nearly as possible, to the condition the Property would have been in absence of such failure to comply (with lack of or failure to expend funds not to adversely affect the possibility of restoration). If Lessee fails to do so, Lessee agrees that State may take such corrective action and State shall be entitled to receive full reimbursement therefore from Lessee upon demand, together with interest thereon from the date of expenditure at the rate in Subsection 3.4 above.

5.7 Development Rights. Lessee shall not undertake development of the Property except in accordance with Subsection 5.3 above. Lessee shall not represent to any person, governmental body, or other entity, that Lessee is the fee owner of the Property, nor shall Lessee execute any petition, application, permit, plat, or other document on behalf of State as the "owner" of the Property without State's express written consent which may be withheld for any reason whatsoever. Lessee, in its own name and as Lessee under this Lease, may execute and apply for permits, petitions, or applications in connection with work allowed pursuant to Subsection 5.3 above. Lessee shall notify State in writing of any proposed or pending governmental action of which Lessee receives written notice which affects the Property, its zoning or the right to develop the Property for any future use.

5.8 Control and Indemnification. During the Term of this Lease, Lessee shall have exclusive control and possession of the Property (subject to easements or other land uses that may be granted under Subsection 5.5, and any interference by third parties as identified in Subsection 10.2), and State shall have no liabilities, obligations, control, or responsibilities whatsoever with respect thereto, or with respect to any plans or specifications submitted to State pursuant to this Lease, or improvements or repairs made to the Property or any activity conducted thereon. State's approval or disapproval of any such plans and specifications or improvements shall not render State liable therefore.



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5.9 Reports. Lessee shall:

(a) Submit a written report to State prior to December 1 of each calendar year in which Lessee shall summarize and describe all uses which have occurred upon the Property during the preceding calendar year.

(b) Provide copies to State of all monitoring reports prepared and submitted by Lessee as required by any federal, state or local permit, including but not limited to any NPDES Permit, Army Corps of Engineer Permit, State Hydraulics Permit, State Water Quality Certification, or Substantial Development Permit, where such reports concern water quality or sediment quality.

6. IMPROVEMENTS

6.1 Authorized Improvements.

(a) Existing Improvements. There are constructed upon the Property as of the date of this Lease, the following improvements: 8 pilings for a dock and two three-pile dolphins for a float. All of the improvements on the Property as of the date of this Lease shall be considered to be the property of Lessee ("Lessee-owned Improvements"). Lessee acknowledges ownership of, and responsibility for, all Lessee-owned Improvements. The other improvements on the Property as of the date of this Lease shall be considered to be the property of Lessee ("Lessee-owned Improvements"). Lessee acknowledges ownership of, and responsibility for, all Lessee-owned Improvements.

(b) New Improvements.

1. Any improvements made to the Property during the Term, subject to the exclusion below, shall be referred to herein as "New Improvements." New Improvements shall not include: any construction, reconstruction, alteration, or addition to the existing Improvements on the Property made by Lessee pursuant to its obligation to maintain the Property in good order and repair, including, without limitation, repairs, replacements, reconstruction, alterations, or additions made pursuant to Subsections 9.2 or 11.1 below; or any unauthorized improvements made to the Property. New Improvements shall include any material changes, alterations, or modifications to the Existing Improvements, not excluded by the preceding sentence.

2. No New Improvements shall be placed on the Property without the prior written consent of State. There are authorized to be constructed upon the Property, as of the date of this Lease, the following improvements: none. Construction, reconstruction, alteration, or additions to the Existing Improvements on the Property made by Lessee pursuant to its obligation to maintain the Property in good order and repair may be undertaken by Lessee after written notice to State and State's prior written consent shall not be required.

3. All improvements, repairs, alterations, maintenance, and replacements to the Property shall be made in a good and workmanlike manner and in compliance with all applicable building and zoning codes, shorelines management, health, safety, and environmental laws and other legal requirements.

4. The plans and specifications for any and all New Improvements including amendments of such plans and specifications, shall be submitted to State for its prior approval, which approval will not be unreasonably withheld.

5. No New Improvements shall be made except under the supervision of an architect or engineer selected by Lessee and approved in writing by State, which approval will not be unreasonably withheld.

6. Upon completion of any improvements, repairs or alterations to the Property, the Lessee shall furnish State with a certificate of substantial completion of such work executed by the Lessee or its architect or engineer, and a complete set of "as built" plans showing all changes or alterations. The Lessee shall also furnish to State copies of certificates of occupancy or other similar documents issued to certify completion of construction in compliance with applicable requirements.

(c) Ownership. All new improvements authorized under Subsection 6.1(b) made to the Property or installed thereon by Lessee during the Term, and all Lessee-owned Improvements, shall remain the property of Lessee until the Termination Date, whether such date occurs at the end of the stated term of this Lease or upon earlier cancellation, termination, or surrender, at which time ownership of said improvements shall, at State's option, revert to and become immediately vested in State, without payment therefor by State. Lessee hereby conveys and quitclaims to State as of the Termination Date, all interest in and to all New Improvements and all Lessee-owned Improvements, contingent upon State's exercise of its option.

(d) Removal of Certain Improvements. Lessee agrees to sever, remove, and dispose of all New Improvements and/or Lessee-owned Improvements to which State does not elect to claim title by the Termination Date. If such action is not taken by Lessee, Lessee agrees that State may remove such improvements and charge Lessee for the cost of removal and disposal, together with interest thereon from the date of expenditure at the rate stated above. It shall be the duty of Lessee to inquire of State as to whether State will exercise its option to take ownership of all, or a portion of, the New Improvements and/or Lessee-owned Improvements sufficiently, but in no event less than sixty (60) days, in advance of the Termination Date to permit Lessee, in the event State declines to claim title, to sever, remove, and dispose of the unclaimed improvements by the Termination Date.



6.2 Unauthorized Improvements.

(a) Improvements made on or to the Property without State's prior written consent or not in conformance with the approved plan of development (not including repairs, maintenance or replacements due to ordinary wear) ("Unauthorized Improvements"), shall immediately become the property of State, unless State elects otherwise.

(b) State may, at its option, require Lessee to sever, remove and dispose of any or all Unauthorized Improvements, or, in addition to any other remedy State may have for such breach of the Lease, State may charge Lessee Rent for the use of such improvements based upon the value thereof, which Rent shall be due and payable together with all installments of Rent due hereunder. If Lessee fails to sever and complete removal of such Unauthorized Improvements within thirty (30) calendar days of request for removal by State, State may (i) remove and dispose of such Unauthorized Improvements at Lessee's expense; (ii) cancel this Lease; or (iii) pursue any other remedies for default provided that all such severance and completion of removal must be accomplished by the Termination Date. Any cost of removal and disposal borne by State shall become an obligation of Lessee due and owing under this Lease together with interest thereon from the date of expenditure at the rate stated above.

6.3 Trade Fixtures.

(a) All trade fixtures brought onto the Property by Lessee shall remain the property of Lessee. Lessee agrees to sever and remove those fixtures by the Termination Date.

(b) All trade fixtures allowed to remain on the Property thereafter shall, at State's option, become the property of State. If State does not elect to claim title to said trade fixtures, Lessee agrees that State may remove and dispose of such trade fixtures. Any costs of removal and disposal borne by State shall become an obligation of Lessee due and owing under this Lease together with interest thereon from the date of expenditure at the rate stated above.

6.4 Mechanics, Liens, Labor Liens, and Project Completion.

(a) Mechanics and Labor Liens. Lessee agrees that it will not permit any claim of lien made on any mechanic, materialman, laborer, or other similar liens to stand against the Property, any improvements or trade fixtures located thereon, or Lessee's leasehold, for work, labor, services, or materials furnished to Lessee or its sublessees in connection with any construction, improvements, alterations, maintenance, or repair thereof made by Lessee or its agents or sublessees upon the Property. Lessee further agrees to cause any such claim of lien to be fully discharged within thirty (30) calendar days after the date of filing thereof. In the event Lessee in good faith disputes the validity or amount of any such claim of lien, and Lessee shall, at Lessee's expense, give to State such security as State may reasonably require, indemnifying State, the Property, improvements and trade fixtures on the Property, and Lessee's leasehold against all liability, costs and expenses, including attorneys' fees, which State may incur as a result of the lien; then Lessee shall not be deemed to be in breach of this Subsection 6.4 so long as:

1. Lessee is diligently pursuing a resolution of such dispute;
2. At no time is the Property, any improvements or trade fixtures located thereon, or Lessee's leasehold in any danger of being sold, forfeited or lost; and
3. Upon entry of final judgment resolving the dispute if litigation or arbitration results therefrom, Lessee discharges said lien within the time limits specified above. Nothing contained in this section shall be deemed a waiver of any provision of Washington law which exempts property owned by State from any such lien claims.

(b) Security for Completion of Changes and Improvements. Lessee shall provide security for the completion of all construction, all changes or alterations to the Property, and all improvements thereon, and for the payment in full of claims of all persons for work performed in, or materials furnished for construction by either of the following methods:

1. Posting a surety bond issued by a corporate surety acceptable to State in an amount equal to the cost of all construction, changes, alterations or improvements, said bond to be deposited with State and to remain in effect until the work shall have been constructed and insured as provided in this Lease, and the entire cost of the alterations shall have been paid in full, free from all liens and claims of contractors, subcontractors, mechanics, laborers, and materialmen. Said bond shall be conditioned upon the faithful performance of the provisions of this Lease by Lessee, and shall give all claimants the right to action to recover upon such bond.

2. Any other method first approved in writing by State.



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7. ASSIGNMENT AND SUBLETTING

7.1 Assignment and Subletting.

(a) State Consent Required. Lessee shall not hypothecate, mortgage, assign, encumber, transfer, sublease or otherwise alienate this Lease, or any interest therein or engage in any other transaction which has the present effect or future possibility of transferring the right of enjoyment of the Property without the prior written consent of State, which shall not be unreasonably withheld or delayed. In granting such consent, State reserves the right to: (1) Change the terms and conditions of this Lease, including the rental terms, as it may affect the transferee; (2) Consider, among other items, the proposed transferee's financial condition, business reputation, the nature of the proposed transferee's business, the then current value of the Property, and such other factors as may reasonably bear upon the suitability of the transferee as a lessee of the Property; and, (3) Require Lessee or transferee to conduct such tests, audits, surveys, or investigations as are identified in Subsection 5.6(d)(3). Lessee shall submit information regarding any proposed transferee or assignee under this Subsection 7.1 to State at least thirty (30) days prior to the date of the proposed transfer or assignment. Consent of State to any one transfer shall not constitute a waiver of State's right to approve subsequent transfers.

(b) Rent Payments Following Assignment. The acceptance by State of the payment of Rent following an assignment or other transfer shall not constitute consent to any assignment or transfer, and State's consent shall be evidenced only in writing.

7.2 Corporations, General Partnerships, Limited Partnerships.

(a) Corporations. If Lessee is a corporation, any merger, consolidation, liquidation, or any change in ownership of, or the power to vote the majority of its outstanding voting stock, shall constitute an assignment of this Lease which requires prior approval of State, whether the result of a single transaction or a series of transactions.

(b) General Partnerships. If Lessee is a general partnership, the death, withdrawal or expulsion of a partner or partners owning, or transfer or interests representing, in the aggregate more than fifty percent (50%) of the partnership profits or capital shall constitute an assignment of this Lease which requires prior approval of State, whether as the result of a single transaction or a series of transactions.

(c) Limited Partnerships. If Lessee is a limited partnership, the death, withdrawal or expulsion of any general partner shall constitute an assignment of this Lease which requires prior approval of State.

(d) Marital Communities. If Lessee is a marital community, the dissolution of the marital community shall constitute an assignment of this Lease which requires prior approval of State.

7.3 Assignee Obligations. Each permitted assignee, or transferee, other than State, shall assume and be deemed to have assumed all obligations under this Lease and shall become liable for all payments and for the due performance and satisfaction of all provisions, covenants, and conditions herein contained. Notwithstanding any such assignment or transfer, Lessee shall be and remain jointly and severally liable with the assignee or transferee for all obligations under this Lease, unless released, in writing, by State.

7.4 Copies of Instruments. In connection with any assignment, sublease, or transfer, Lessee shall, at State's option, provide State with copies of all assignments, subleases, assumption instruments or other documentation.

7.5 Assignment by State. State may, if legally permissible, assign its interest in this Lease.

7.6 Assignment of Right to Receive Rentals. Lessee hereby assigns to State for the purpose of securing all Lessee's obligations under this Lease the right to receive all rentals reserved under any sublease executed with respect to the Property. This Lease shall constitute a security agreement with respect to the rentals to be received thereunder, and Lessee shall execute such further documents as may be required to perfect such security interest including but not limited to UCC financing statements.

8. LESSEE'S INDEMNITY: SECURITY BOND AND INSURANCE

8.1 Indemnity. Lessee shall indemnify and save harmless State, its employees, officers, and agents from any and all liability, damages (including damages to land, aquatic life, and other natural resources), expenses, causes of action, suits, claims, costs, fees (including attorneys' fees and costs), penalties (civil and criminal), or judgments, by any reason whatsoever caused, arising out of the use, occupation, or control of the Property by Lessee, its sublessees, invitees, agents, employees, licensees, or permittees



except as may arise solely out of the willful or grossly negligent act of State or State's employees, officers, or agents. To the extent that RCW 4.24.115 is applicable to any indemnification provision of this Lease, State and Lessee agree that provision shall not require Lessee to indemnify and save State harmless from State's sole or concurrent negligence if any.

8.2 Bond or Other Security.

(a) Upon execution of this Lease, Lessee shall furnish State a good and sufficient corporate surety bond or provide other security satisfactory to State (hereinafter referred to as "Bond") in an amount equal to \$8,700.00, which shall secure the full performance by Lessee of all the terms, conditions, and covenants of this Lease to be performed by Lessee, including, but not limited to, the payment by Lessee of all amounts now or hereafter due and payable to State. The Bond shall be in a form and issued by a surety company acceptable to State. The amount of the Bond may be adjusted by State at the same time as the adjustment of the rent, as a condition of approval of assignment or sublease of this Lease, upon any breach by Lessee of Subsections 5.6(b)-(d) above, upon a change in the condition of the improvements, or upon a request for a change in the Permitted Use. A new or modified Bond shall be delivered to State not less than thirty (30) calendar days following any adjustment by State of the amount of the Bond.

(b) Upon any default by Lessee in its obligations under this Lease, any or all of the Bond may be appropriated by State to offset the liability of Lessee to State, but such Bond and State's appropriation thereof or realization thereon shall in no way limit the liability or other security or obligations of Lessee or the rights or remedies of State nor shall such realization in any manner reinstate, cure or relieve Lessee from a termination of its rights under this Lease following a material default. Lessee's failure to have a Bond in force at all times during the Term in the full amount as required by this paragraph shall constitute a material breach of this Lease.

8.3 Acquisition of Insurance Policies. Lessee shall, at its sole cost and expense, procure and maintain, or cause to be procured and maintained, during the entire Term, the insurance described in Subsections 8.4 and 8.5, issued by an insurance company or companies licensed to do business in the state of Washington satisfactory to State, covering and protecting Lessee, State, and the Property, including any improvements.

8.4 Types of Required Insurance.

(a) Comprehensive General Liability Insurance. Lessee shall procure and maintain comprehensive general liability insurance covering all claims with respect to injuries or damages to persons or property sustained in, or about the Property, and the appurtenances thereto, with limits of liability no less than: \$1,000,000 for each occurrence and not less than \$2,000,000 annual aggregate for property damage in any one occurrence. Such limits may be achieved through the use of umbrella liability insurance sufficient to meet the requirements of this section. The limit of liability may be adjusted by State at the same time as adjustment of the Rent, as a condition of approval of assignment or sublease of this Lease, upon any breach by Lessee of Subsections 5.6(b)-(d) above, upon a change in the condition of the improvements, or upon a request for a change in the Permitted Use.

(b) Physical Property Damage Insurance. Lessee shall procure and maintain physical damage insurance covering all real and personal property, excluding property paid for by sublessees or paid for by Lessee for which sublessees have reimbursed Lessee, located on or in, or constituting a part of, the Property in an amount equal to at least one hundred percent (100%) of replacement value of all such property, with commercially reasonable deductibles.

(c) Builder's Risk Insurance. During construction, repair, alteration, maintenance, or replacement of any improvements located on or in, or constituting a part of the Property that may be made by Lessee, Lessee shall procure and maintain contingent liability and all builder's risk insurance in an amount reasonably satisfactory to State until such work is completed and evidence of completion is provided to the State.

(d) Worker's Compensation Insurance.

1. State of Washington Worker's Compensation coverage, as applicable, with respect to any work by employees of Lessee on or about the Property.
2. Longshore and Harbor Worker's Act and Jones Act coverage, as applicable, with respect to any work by employees of Lessee on or about the Property.

8.5 Terms of Insurance. The policies required under Subsections 8.3 and 8.4 shall name State as an additional insured (except for state of Washington Worker's Compensation) and Lessee shall provide promptly to State certificates of insurance and copies of policies obtained by Lessee hereunder, provided that receipt of such policies by State does not constitute approval by State of the terms of such policies. Further, all policies of insurance described in Subsection 8.3 shall:

- (a) Be written as primary policies not contributing with and not in excess of coverage that State may carry;



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(b) Contain an endorsement providing that such insurance may not be materially changed, amended or cancelled with respect to State except after thirty (30) calendar days, prior written notice from the insurance company to State;

(c) Contain an endorsement containing express waiver of any right of subrogation by the insurance company against State and State's officers, elected officials, agents and employees;

(d) Provide that the insurance proceeds of any loss will be payable notwithstanding any act or negligence of Lessee which might otherwise result in a forfeiture of said insurance;

(e) Expressly provide that State shall not be required to give notice of accidents or claims and that State shall have no liability for premiums;

(f) Provide that all proceeds shall be paid jointly to State and Lessee.

8.6 State's Acquisition of Insurance. If Lessee at any time during the Term fails to procure or maintain such insurance or to pay the premiums therefore, State shall have the right to procure substitute insurance as State deems appropriate and to pay any and all premiums thereon, and Lessee shall pay to State upon demand the full amount so paid and expended by State, together with interest thereon at the rate provided in Subsection 3.4, hereof from the date of such expenditure by State until repayment thereof by Lessee.

9. REPAIRS

9.1 State's Repairs. State shall not be required or obligated to make any repairs, alterations, maintenance, replacements or repairs in, on, or about the Property, or any part thereof, during the Term of this Lease.

9.2 Lessee's Repairs, Alteration, Maintenance and Replacement.

(a) Lessee shall, at its sole cost and expense, keep and maintain the Property and all improvements thereon and all facilities appurtenant thereto (regardless of ownership) in good order and repair and safe condition, sufficient for the safe conduct of any activities or enterprises conducted on the Property pursuant to this Lease and keep and maintain the whole of the Property, including all improvements in a clean, sanitary and attractive condition.

(b) Lessee shall, at its sole cost and expense, make any and all additions to: repairs, alterations, maintenance, replacements or changes about and to the Property, which may be required by any public authority affecting the Property and its use.

(c) Ownership of Repairs.

1. All repairs, alterations, maintenance to, or replacement of the Property, including any state-owned improvements, as defined in Subsection 6.1, shall immediately become the property of State.

2. All repairs, alterations, maintenance to, or replacement of New Improvements and/or Lessee-owned Improvements, as defined in Subsection 6.1, shall remain the property of Lessee subject to the terms of Subsection 6.1.

3. All repairs, alterations, maintenance to, or replacements of any Unauthorized Improvements as defined in Subsection 6.2 shall immediately become the property of State subject to the terms of Subsection 6.2.

9.3 Condition at End of Lease. Upon vacating the Property on the Termination Date, Lessee shall leave the Property and all improvements thereon to which State has elected to claim title in the state of repair and cleanliness required to be maintained by Lessee during the Term of this Lease and shall peaceably surrender the same to State.

10. DISCLAIMER OF IMPLIED COVENANTS OF POWER TO LEASE AND QUIET ENJOYMENT

10.1 Power to Lease. State believes that it has full right, power and authority to make this Lease. However, State expressly disclaims and Lessee expressly releases State from any and all claims for breach of any implied covenant of power to lease.

10.2 Quiet Enjoyment. State expressly disclaims and Lessee expressly releases State from any claim for breach of any implied covenant of quiet enjoyment with respect to the possession of the Property during the Term of this Lease or any holdover. This disclaimer includes but is not limited to, interference arising from or in connection with access or other use rights of adjacent property owners or the public over the water surface or in or under the water column, rights held by Indian tribes, and the general power and authority of State and the United States to regulate the use of navigable waters, bedlands, tidelands, and shorelines. In the event that Lessee is evicted from the



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Property by reason of successful assertion of any such rights, this Lease shall be deemed terminated as of the date of such eviction. In the event of a partial eviction, Lessee's Rental obligations hereunder shall abate as of the date of the partial eviction in direct proportion to the extent of the eviction, but in all other respects, this Lease shall remain in full force and effect.

11. DAMAGE OR DESTRUCTION

11.1 Possible to Repair Within Term.

(a) In the event of any damage to or destruction of the Property or any improvements, Lessee shall promptly give written notice thereof to State. Lessee shall promptly reconstruct, repair or replace the Property as nearly as possible to its condition immediately prior to such damage or destruction. All such reconstruction, repair and replacement shall be performed in accordance with the requirements of Subsection 9.2 above.

(b) Lessee's duty to reconstruct, repair, or replace any damage or destruction of the Property or any improvements thereon shall not be conditioned upon the availability of any insurance proceeds to Lessee from which the cost of repairs may be paid.

(c) Unless this Lease is terminated by mutual agreement, there shall be no abatement or reduction in Rent during such reconstruction, repair and replacement.

(d) Any insurance proceeds payable by reason of the damage or destruction shall be made available to pay the cost of the reconstruction.

(e) In the event Lessee is in default under the terms of this Lease at the time damage or destruction occurs, State may elect to terminate the Lease and State shall thereafter have the right to retain any and all insurance proceeds payable as a result of such damage or destruction.

(f) Upon completion of reconstruction, repair or replacement by Lessee, any insurance funds in excess of the cost of such reconstruction, repair or replacement shall be paid to Lessee provided, however, State shall have a lien on Lessee's share of such proceeds to the extent Lessee has failed to pay any moneys to State under the terms of this Lease.

11.2 Not Possible to Repair Within Term.

If such damage or destruction cannot be substantially repaired within the time remaining in the Term, this Lease shall terminate as of the date of such damage or destruction. Any insurance proceeds shall be divided between State and Lessee prorated based upon the unexpired Term of the Lease, with Lessee receiving a fraction thereof which is equal to the then remaining Term divided by the original Term, and State receiving the remainder.

12. CONDEMNATION

12.1 Definitions.

(a) Total Taking. The term "total taking," as used in this Lease, means the taking of the entire Property and any improvements thereon under the power of eminent domain either by judgment or settlement in lieu of judgment, or the taking of so much of the Property and improvements as to prevent the use thereof by Lessee or, in the judgment of State, renders the Property impractical to operate for the uses and purposes hereinabove provided.

(b) Partial Taking. The term "partial taking" means the taking of a portion only of the Property which does not constitute a total taking as defined above.

(c) Voluntary Conveyance. The terms "total taking" and "partial taking" shall include a voluntary conveyance to any agency, authority, public utility, person or corporate entity empowered to condemn property in lieu of formal court proceedings.

(d) Date of Taking. The term "date of taking" shall mean the date upon which title to the Property or a portion thereof passes to and vests in the condemnor or the effective date of any order for possession if issued prior to the date title vests in the condemnor.

12.2 Effect of Taking. If during the Term hereof there shall be a Total Taking under the power of eminent domain, then the leasehold estate of Lessee in and to the Property shall cease and terminate as of the Date of Taking. If this Lease is so terminated, in whole or in part, all Rentals and other charges payable by Lessee to State hereunder and attributable to the Property taken, shall be paid by Lessee up to the Date of Taking by the condemnor, and the parties thereupon shall be released from all further liability in relation thereto. If Lessee has pre-paid Rent, Lessee will be entitled to a refund of the pro rata share of this pre-paid Rent attributable to the period after the Date of Taking. In the event of a Partial Taking, such that Lessee is no longer able to use a portion of the Property, there shall be a partial abatement of Rent in a percentage equal to the percentage of Property taken.



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12.3 Allocation of Award. State and Lessee agree that in the event of any condemnation, the award shall be allocated between State and Lessee based upon the ratio of the Fair Market Value of Lessee's Leasehold Estate and Lessee-owned Improvements and New Improvements on the Property and State's interest in the Property, including State's landlord interest in the Leasehold reversionary interest in Lessee-owned Improvements and New improvements, and ownership of State-owned Improvements. In the event of a Partial Taking, this ratio will be computed on the basis of the portion of Property or improvements taken. If Lessee and State are unable to agree on the allocation, it shall be submitted to binding arbitration in accordance with the rules of the American Arbitration Association.

13. INSOLVENCY

13.1 Insolvency May Constitute Default. If a receiver or trustee is appointed to take possession of all or substantially all of the assets of Lessee, or if any action is taken or suffered by Lessee pursuant to an insolvency, bankruptcy or reorganization act, including the filing of a petition in bankruptcy, or if Lessee makes a general assignment for the benefit of its creditors, and if such appointment or assignment continues for a period of thirty (30) calendar days, it shall, at State's option, constitute a default by Lessee and State shall be entitled to the remedies set forth in Section 14 below, which may be exercised by State without prior notice or demand upon Lessee. In the event that any provision of this Section 13 is contrary to any applicable law, such provision shall have no force or effect.

13.2 Notice of Insolvency. Lessee shall be required to notify State, within ten (10) days of filing, that it has filed a petition for relief under the bankruptcy code.

14. BREACH BY LESSEE

14.1 Breach and Default.

(a) Any breach of any provision of this Lease by Lessee, shall be deemed a default after State has delivered to Lessee notice of the alleged breach and demand that the breach be remedied immediately. Such a default entitles State to the remedies set forth in this Lease or otherwise available at law or in equity. If Lessee shall promptly commence to cure the default and shall cure the default within for sixty (60) calendar days after receipt of the notice; or within for sixty (60) calendar days after receipt of the notice if the default pertains to the payment of rent, the breach shall no longer constitute a default.

(b) In the event State deems the breach to constitute a threat to safety, life, or property it may elect to intervene immediately without notice to remedy the breach and Lessee hereby agrees to repay State for all costs in remedying the breach upon demand, together with interest thereon from the date of expenditure at the rate set forth in Subsection 3.4 above. Alternatively, State may require Lessee itself to act immediately to remedy the breach, should State deem it a threat to safety, life, or property.

14.2 Reletting in the Event of Default.

(a) State's Right to Relet. In the event of a default, State, in addition to any other rights or remedies that it may have, shall have the immediate right of re-entry. Should State elect to re-enter or take possession of the Property, it may either terminate this Lease or, from time-to-time without terminating this Lease, relet the Property or any part thereof, for any term or terms and conditions as State in its sole discretion may deem advisable with the right to complete construction of or make alterations and repairs to the improvements. Lessee shall pay to State the cost and expenses incurred by State in such reletting, completion of construction, or in making such alterations and repairs.

(b) Allocation of Rentals. Rentals received by State from reletting shall be applied: first, to the payment of any indebtedness, other than Rent, due hereunder from Lessee to State; second, to the payment of Rent due and unpaid hereunder; and the residual, if any, shall be held by State and applied in payment of future rent or damages as the same may become due and payable hereunder. The balance, if any, at the end of the Term shall belong to State. Should such rentals received from time-to-time from reletting during any month be less than the Rent agreed to be paid during that month by Lessee, Lessee shall pay the deficiency to State. The deficiency shall be calculated and paid monthly. At the option of State following Lessee's default, State may accelerate and demand as immediately due the difference between (i) all Rent reserved for the unexpired portion of the Term following the event of Lessee's default, and (ii) the fair market rental value of the Property for the unexpired portion of the Term reduced by any costs of State in reletting the Property.



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(c) Exercise of Right Not an Election. No such reletting of the Property by State shall be construed as an election on its part to terminate Lessee's obligations under this Lease unless a notice of such intention be given to Lessee or unless the termination thereof be decreed by a court of competent jurisdiction. Notwithstanding any such reletting without termination, State may at any time thereafter elect to terminate this Lease for such previous breach, provided that it has not been cured. Should State at any time terminate this Lease for any breach, in addition to any other remedy it may have, it may recover from Lessee all damages it may incur by reason of such breach.

15. HOLDING OVER AND EXPIRATION

15.1 Unapproved Holdover. Any holding over by Lessee without the express written consent of State shall not constitute a renewal or extension of this Lease or give Lessee any rights in or to the Property and this Lease shall terminate without further notice at the Termination Date. Such occupancy shall be subject to the same terms and conditions as set forth herein. At State's option, Rent may be charged for each month of occupancy, or any portion thereof, on a prorated basis, equal to one hundred sixty percent (160%) of the amount of full fair market Rent due for the last month of the term of this Lease.

15.2 Approved Holdover. If Lessee shall, with the written consent of State, holdover after the Termination Date, the resulting tenancy shall, unless otherwise mutually agreed, be for an indefinite period of time on a month-to-month basis. During such month-to-month tenancy, Lessee shall pay State Rent as provided herein, unless a different rate shall be agreed upon, and shall be bound by all the terms of this Lease.

16. NOTICE

16.1 Procedure. Any notice required or desired to be given under this Lease shall be in writing with copies directed as indicated herein and shall be personally served or sent by mail. Any notice given by mail shall be deemed to have been received when seventy-two (72) hours have elapsed from the time when such notice was deposited in the United States mails, correctly addressed to the party to be served at the last address given by that party to the other party under the provisions of this Section 16. At the date of the execution of this Lease, the address of State is:

DEPARTMENT OF NATURAL RESOURCES
Division of Aquatic Lands
14th and Water Street, Room 202
PO Box 47027
Olympia, WA 98504-7027

and the address of Lessee is:

JOE E. and DELORES SANFORD,
PO Box 103
LaConner, WA 98257

16.2 Change of Address. Lessee shall notify State immediately of any change of address.

17. SUCCESSORS

17.1 Successors and Assigns Bound. The covenants and agreements contained in this Lease shall be binding on the parties hereto and on their respective successors and assigns, to the extent the Lease is assignable, and upon any person, firm, or corporation coming into ownership or possession of any interests in the Property or improvements on the Property by operation of law or otherwise, and shall be construed as covenants running with the land.

18. TERMINATION

18.1 Lessee's Rights Cease Upon Lease Termination. Upon the termination of this Lease by expiration of time or otherwise, the rights of Lessee and of all persons, firms, corporations, and entities claiming under Lessee in and to the Property and all improvements hereon, unless specified otherwise in this Lease, shall cease.

19. MISCELLANEOUS

19.1 Headings. The Section and Subsection headings used in this Lease are for convenience only. They shall not be construed to limit or to extend the meaning of any part of this Lease.



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19.2 Amendments. Any amendments or additions to this Lease shall be made in writing executed by the parties hereto, and neither State nor Lessee shall be bound by verbal or implied agreements.

19.3 Waiver. The waiver by State of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. The acceptance by State of Rent or any other sum owing, following a breach by Lessee of any provision of this Lease shall not constitute a waiver of any right of State with respect to such breach. State shall be deemed to have waived any right hereunder only if State shall expressly do so in writing.

19.4 Cumulative Remedies. Each right, power and remedy of State provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, and the commencement of the exercise by State of any one or more of the rights, powers, or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute, or otherwise, shall not preclude the simultaneous or later exercise by State of any or all such other rights, powers or remedies.

19.5 Time of Essence. Time is expressly declared to be of the essence of this Lease and each and every covenant of Lessee hereunder.

19.6 Entire Agreement. This Lease contains the entire agreement of the parties hereto with respect to the matters covered hereby, and no other agreement, statement or promise made by any party hereto, or to any employee, officer or agent of any party hereto, which is not contained herein, shall be binding or valid.

19.7 Language. The word "Lessee" when used herein, shall be applicable to one (1) or more persons, as the case may be, and if there be more than one (1), the obligations hereof shall be joint and several. The words "Persons" whenever used shall include individuals, firms, associations and corporations. This Lease, and its terms, have been agreed upon after Lessee has been given the opportunity to negotiate its terms. The language in all parts of this Lease shall in all cases be construed as a whole and in accordance with its fair meaning, and shall not be construed strictly for or against State or Lessee.

19.8 Invalidity. If any term or provision of this Lease or the application thereof to any person or circumstance shall to any extent prove to be invalid, unenforceable, void or illegal, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced as written to the fullest extent permitted by law.

19.9 Applicable Law and Venue. This Lease shall be interpreted and construed under and pursuant to the laws of the state of Washington. Any reference to a statute enacted by the state of Washington shall refer to that statute as presently enacted and any subsequent amendments thereto, unless the reference to said statute specifically provides otherwise. The parties agree that venue for any action arising out of or in connection with this Lease shall be in the Superior Court for Thurston County, Washington.

19.10 Authority. Persons executing this Lease on behalf of Lessee represent that they are authorized to do so and represent and warrant that this Lease is a legal, valid and binding obligation on behalf of Lessee, and is enforceable in accordance with its terms.

19.11 Date of Execution. The date this Lease is executed shall be deemed to be the day and year when executed by State.

19.12 Survival. All obligations of Lessee to be performed after the Termination Date shall not cease upon the Termination of this Lease, and shall continue as obligations until fully performed. All clauses of this Lease which require performance beyond the Termination Date shall survive the Termination Date of this Lease.

19.13 Recordation. Lessee shall record this Lease in the county in which the Property is located at Lessee's sole expense. Lessee shall provide State with recording information including the date of recordation and file number. Lessee shall have thirty (30) days from the Commencement Date of the Lease to comply with the requirements of this paragraph.



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19.14 Discrimination. Lessee shall not conduct or suffer any business upon the Property which unlawfully discriminates against any person on the basis of race, color, creed, religion, sex, age, or physical or mental handicap.

IN WITNESS WHEREOF, this Lease Agreement is executed on the day and year when executed by the state of Washington.

STATE:

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

James A. Stearns
JAMES A. STEARNS, Supervisor
Date Aug. 12, 1992

LESSEES:

JOE E. SANFORD, a marital community

Joe E. Sanford
Delores Sanford
DELORES SANFORD, a marital community
PO Box 103
LaConner, WA 98257
Date 7/24/92

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF WASHINGTON)
County of Thurston) ss.

On this 12th day of August, 1992, personally appeared before me JAMES A. STEARNS, to me known to have signature authorization delegated to him to sign for BRIAN J. BOYLE, the Commissioner of Public Lands, and ex officio administrator of the Department of Natural Resources of the state of Washington, the department that executed the within and foregoing instrument on behalf of the state of Washington, and acknowledged said instrument to be the free and voluntary act and deed of the state of Washington for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument and that the seal affixed is the official seal of the Commissioner of Public Lands for the state of Washington.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

SEAL
Ann M. Reiter
NOTARY PUBLIC in and for the
state of Washington


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Skagit County Auditor

To:james/22002416.lse

22-002416

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CERTIFICATE OF ACKNOWLEDGMENT
INDIVIDUAL

STATE OF)
County of) ss

On this day personally appeared before me JOE E. SANFORD, a marital community, 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.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

S E A L

Susie Spauth
NOTARY PUBLIC in and for the
state of Washington

CERTIFICATE OF ACKNOWLEDGMENT
INDIVIDUAL

STATE OF)
County of) ss

On this day personally appeared before me DELORES SANFORD, a marital community to me known to be the individual described in and who executed the within and foregoing instrument and acknowledged that she signed the same as her free and voluntary act and deed for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

S E A L

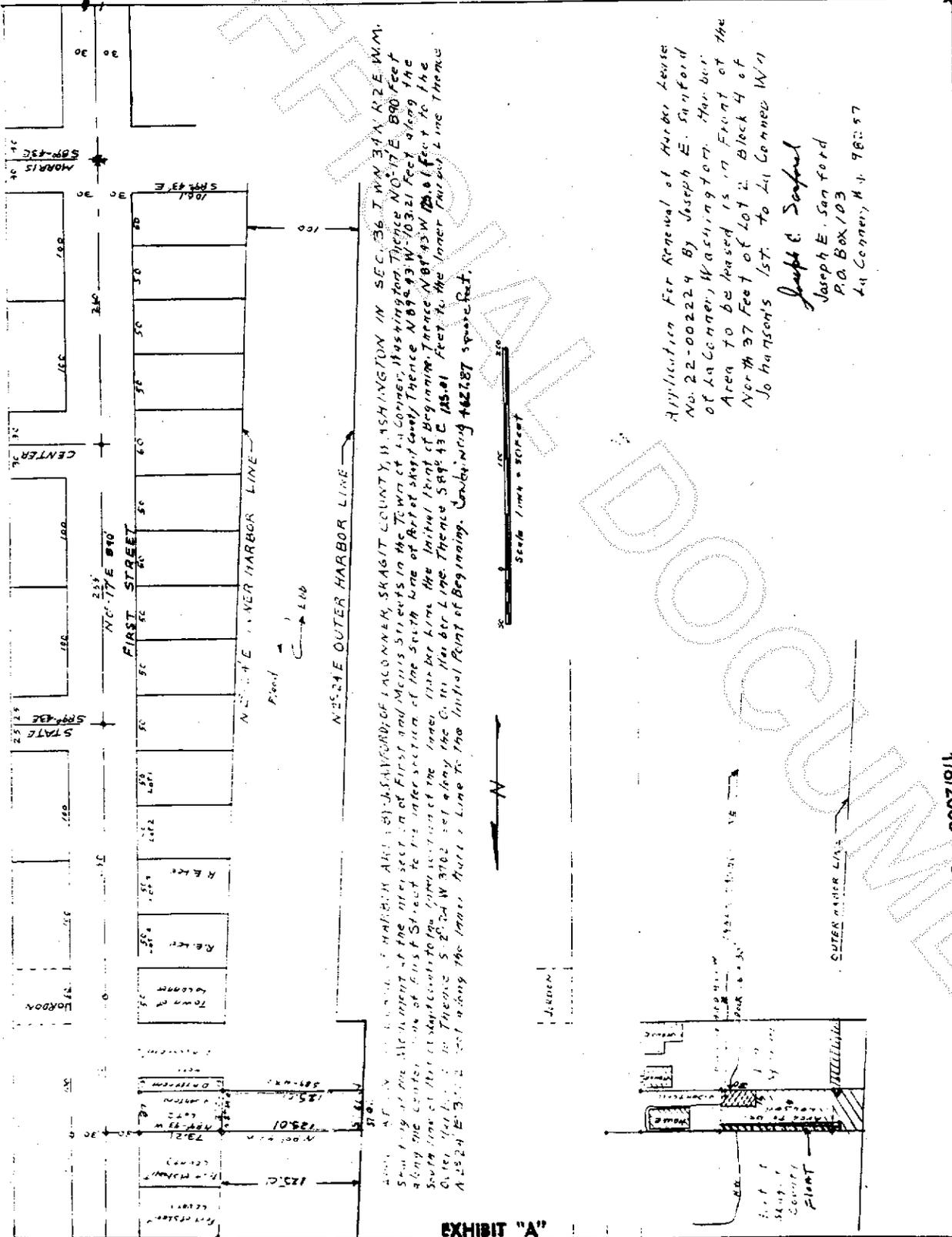
Susie Spauth
NOTARY PUBLIC in and for the
state of Washington



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HA2416



APPLY FOR HARBOUR ARE (8) JAS VORDE FACONNEY, SKAGIT COUNTY, WASHINGTON IN SEC. 36 T. 34 N. R. 2 E. W. 11. S. 1/4 of the 31st lot of the 1st block of the 1st street in the town of La Conner, Washington. Thence N 0° 17' E 890 feet along the center of First Street to the intersection of the south line of the lot of Mrs. J. W. 10. 3. 21 feet along the south line of the lot of Mrs. J. W. 10. 3. 21 feet to the initial point of beginning. Thence N 81° 43' W 120. 0 feet to the outer harbor line. Thence S 2° 24' W 390. 2 feet along the center of the harbor line. Thence S 89° 43' E 148. 01 feet to the inner harbor line. Thence N 52° 4' E 312. 2 feet along the inner harbor line to the initial point of beginning. Containing 442,287 square feet.

Application For Renewal of Harbor Lease
 No. 22-002224 By Joseph E. Sanford
 of La Conner, Washington Harbor
 Area to be leased is in front of the
 North 37 feet of Lot 2 Block 4 of
 Johnsons 1st. to La Conner W'n

Joseph E. Sanford
 Joseph E. Sanford
 P.O. Box 103
 La Conner, W. 98107

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EXHIBIT "A"

Exhibit "B"
STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES
DOUG SUTHERLAND, Commissioner of Public Lands

INVOLUNTARY ASSIGNMENT OF LEASE

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STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES
DOUG SUTHERLAND, Commissioner of Public Lands

INVOLUNTARY ASSIGNMENT OF LEASE

NOTICE OF AND CONSENT TO ASSIGNMENT NO. 22-002416

THIS AGREEMENT is made by and between the STATE OF WASHINGTON acting through the Department of Natural Resources ("State"), and DELORES SANFORD, a single individual, whose address is PO Box 103, La Conner, WA 98257 ("Assignee").

BACKGROUND

- A. Lease No. 22-002416 (the "Lease") was entered into on the 12th day of December, 1991, by and between Joe E. and Delores Sanford as Lessee and the STATE OF WASHINGTON, acting through the Department of Natural Resources, as landlord ("State"). A copy of the Joe E. Sanford community property agreement or death certificate is attached as Exhibit A.
- B. The Lease prohibits an assignment without State's consent. Assignee desires to assume the rights, duties, and liabilities of Lessee under the Lease. State is willing to give its consent based upon the assurances and agreements made in this Agreement.

THEREFORE, the parties agree as follows:

SECTION 1 ACCEPTANCE AND INDEMNIFICATION

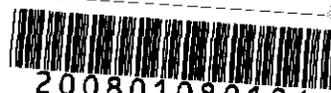
Assignee gives notice of its intent to assume the obligations as Lessee under the Lease, and agrees to faithfully perform and discharge those obligations according to the terms of the Lease.

SECTION 2 NO RELEASE

State is not releasing the previous Lessee from fully performing the provisions of the Lease.

SECTION 3 MODIFICATION OF LEASE AT TIME OF ASSIGNMENT

The assignment and any modification or amendment to the Lease shall occur contemporaneously. Assignee acknowledges receipt of a copy of the Lease and any previous or contemporaneous amendments.



SECTION 4 WARRANTIES

Assignee represents and warrants to State that:

- (i) the Lease is in full force and effect;
- (ii) Any breaches or defaults under the lease that existed at the time the Lease was involuntary assigned to Assignee have been fully cured and Assignee is not in default or breach of the Lease;
- (iii) Assignee has no knowledge of any claims, offsets, or defenses of the Assignee or of any previous lessee under the Lease;
- (iv) rents due subsequent to this assignment have not been paid in advance by the Assignee or by any previous lessee; and,
- (v) to the best of Assignee's knowledge, the property is in full compliance with all applicable federal, state, and local governmental permits, rules, ordinances, and laws. Assignee shall defend, indemnify and hold State harmless from any claims or causes of action, known or unknown, of the Assignee or its predecessors in interest that have or may arise from circumstances that precede this assignment, for any breach of the foregoing warranties and for subsequent claims or causes of action arising from State's consent to this assignment that may be asserted by any of Assignee's predecessors in interest.



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SECTION 5 CONSENT TO ASSIGNMENT BY STATE

In consideration of the foregoing, State consents to the Assignment of Lease to Assignee. However, State expressly conditions this consent on the understanding that neither State's consent nor its collection of rent from Assignee shall be a waiver of the covenant against future assignments or subletting. Furthermore, State's acceptance of Assignee as Lessee shall not be construed as releasing any previous Lessee from full performance of the provisions of the Lease.

Except as set forth in this Agreement, no provision of this consent alters or modifies any of the terms and conditions of the Lease, including the requirement that the written consent of the State be obtained before any further assignment of the Lease or subletting of the property occurs.

THIS AGREEMENT requires the signature of all parties and is executed as of the date of the last signature below.

DELORES SANFORD

Dated: _____

By: _____

Title:

Address: PO Box 103

La Conner, WA 98257

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

Dated: _____

By: _____

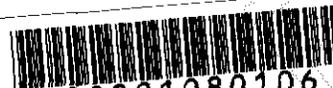
DAVID ROBERTS

Title: Aquatic Region Assistant Manager

Address: 919 N. Township St.

Sedro Woolley, WA 98284

Approved as to Form in October 2003
by Mike Grossmann
Assistant Attorney General
State of Washington



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STATE OF WASHINGTON)
) ss.
COUNTY OF)

I certify that I know or have satisfactory evidence that DELORES SANFORD is the person who appeared before me. I further certify that said person acknowledge the foregoing instrument to be her free and voluntary act for the uses and purposes mentioned in the instrument

DATED: _____

(Type/Print Name)
Notary Public in and for the State of Washington
residing at _____
My Commission Expires _____

STATE OF WASHINGTON)
) ss.
County of)

I certify that I know or have satisfactory evidence that DAVID ROBERTS personally appeared before me, and is the Aquatic Lands Assistant Region Manager of the Department of Natural Resources, a state agency. I further certify that said person acknowledged the foregoing to be the free and voluntary act and deed of said agency, for the uses and purposes mentioned in the instrument, and on oath stated that he is duly authorized to execute and acknowledge said instrument.

DATED: _____

(Type/Print Name)
Notary Public in and for the State of Washington
residing at _____
My Commission Expires _____



STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES
Brian J. Boyle
Commissioner of Public Lands
Olympia, Washington 98504

Exhibit "A"

AQUATIC LANDS LEASE NO. 22-002416

THIS LEASE AGREEMENT ("Lease") is made and entered into by and between the STATE OF WASHINGTON, acting in its proprietary capacity by and through the Department of Natural Resources (collectively referred to as "State"), and JOE E. and DELORES SANFORD, a marital community ("Lessee").

WHEREAS, State is the owner of that certain real property consisting of aquatic lands located in Skagit County, Washington, the survey, plat, diagram, and/or legal description of which are set forth in Exhibit A, attached hereto and incorporated herein;

WHEREAS, Lessee desires to lease the Property from State, and State desires to lease the Property to Lessee, pursuant to the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions set forth herein, the parties hereto agree as follows:

1. PROPERTY

1.1 Property.

(a) For and in consideration of Lessee's covenant to pay the Rent and other sums for which provision is made in this Lease, and the performance of the other covenants and obligations of Lessee hereunder, State leases to Lessee and Lessee leases from State that certain real property described in Exhibit A including all improvements thereon.

(b) The real property which is leased includes public aquatic land together with the right to occupy the water column and water surface in accordance with Subsection 5.3, for Lessee, its customers, invitees, approved sublessees, and employees. Said real property and rights leased thereby are herein referred to as the "Property."

(c) Except as is necessary to carry out Lessee's permitted use under Subsection 5.3, State does not convey: any right to disturb, alter, or modify the aquatic land; any right to harvest or collect any sea life or living plants from the aquatic land, the water column, or water surface; any right to excavate or withdraw sand, gravel, minerals, gas, oil or other material; any water rights; or any mineral rights.

(d) Lessee's rights are subject to all rights of the public, including all rights of the public which State holds in trust, under the public trust doctrine.

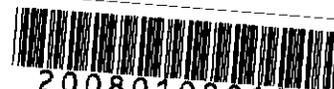
(e) Lessee's rights are further subject to valid easements and encumbrances of record as of the date of execution hereof as noted in the records of Skagit County, or on file in the Office of the Commissioner of Public Lands, Olympia, Washington.

(f) In executing this Lease, State is relying on a survey and/or legal description provided by the Lessee. The Lessee expressly assumes all liability for the correctness thereof and expressly agrees to indemnify and save harmless State, its employees, officers, and agents for all liability, damages (including damages to land, aquatic life and other natural resources), expenses, causes of action, suits, claims, costs, fees (including attorneys' fees and costs), penalties (civil and criminal) or judgments arising out of State's use of or reliance on the Lessee's survey and/or legal description.

2. TERM

2.1 Term. The term of this Lease is thirty (30) years, commencing on December 12, 1991, which date shall be referred to as the "Commencement Date" of the term of this Lease, and ending on November 30, 2021. The date upon which this Lease terminates, whether at the end of the above stated term or upon such earlier date in the event the Lease is terminated, or cancelled for any reason prior to the end of said period, shall be referred to as the "Termination Date." The period between the Commencement Date and Termination Date is referred to herein as the "Term" of this Lease.

2.2 Authority. This lease is entered into by State pursuant to the authority granted in Chapter 79.90 RCW et seq. and the Constitution of the state of Washington. The terms and conditions hereof are subject to such statutory and constitutional provisions as may be now in effect and such provisions which do not impair the contractual rights of Lessee under this Lease which may lawfully be enacted subsequent to the date of this Lease.



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3. RENT

3.1 Annual Rent.

(a) Lessee agrees to pay an initial rent in the amount of \$1,181.30, for the period December 12, 1991 to December 1, 1992 based on an annual rent of \$1,218.06, and subsequent rent, as determined by State in accordance with RCW 79.90.450-.902, or such laws as hereinafter shall be applicable ("Rent").

(b) Rent is due and payable by Lessee to State and is the essence of this Lease, and is a condition precedent to the continuance of this Lease or any rights thereunder.

(c) Payment is to be made in advance on or before the Commencement Date in the amount of \$1,181.30 and a like sum, as adjusted or revalued as provided for herein, on or before December 1 of each and every subsequent year of the Term.

3.2 Revaluation of Rent. State shall, at the end of the first four-year period of the Term, and at the end of each subsequent four-year period of the Term, revalue the annual rental in accordance with RCW 79.90.480 or such other laws and regulations of the Department of Natural Resources as are now or hereinafter shall be applicable. State shall not waive its right to revalue rent under this section by any failure to revalue at the end of a particular four-year period and shall retain the authority to revalue Lessee's rent and to bill Lessee retrospectively based on that revalued rent at any point subsequent to any four-year anniversary date.

3.3 Inflation Adjustment. After the initial year of the Term, State will adjust each year's Rent thereafter, exclusive of the years in which Rent is revalued under Subsection 3.2 hereof, in accordance with RCW 79.90.480 and such other laws and regulations of the Department of Natural Resources as are now or hereinafter shall be applicable.

3.4 Interest Penalty for Past-Due Rent and Other Sums Owed. Lessee shall pay interest at the rate of one percent (1%) per month (or at such higher rate as may be authorized by statute subsequent to the Commencement Date hereof), until paid, on Rent or other sums owing under the terms of this Lease (except for Leasehold Taxes) commencing the next day after the date such Rent or other sum is due and payable. In the event State pays any sum or incurs any expense which Lessee is obligated to pay under this Lease, or which is made on behalf of Lessee, State shall be entitled to receive reimbursement thereof from Lessee upon demand, together with interest thereon from the date of expenditure at the rate stated above.

3.5 Allocation of Rent. The Rent for the first year has been established based upon the use of the Property as described in Subsection 5.3 below. In the event Lessee changes the use of any portion of the Property, which change must be approved by State under Subsection 5.3 below, the rental rate to be paid for that portion of the area affected by such change of use shall be subject to adjustment to the then effective rental rate for the changed use for that portion of the Property.

3.6 Rent for Improvements.

(a) In Section 6, Lessee and State have determined ownership of improvements on the Property. In accord with RCW 79.90.515, the Rent set forth in Subsection 3.1 above includes no rental charge for improvements on the Property at this time. The State does reserve the right to charge rent for state-owned improvements in accord with RCW 79.90.515.

(b) In the event the restrictions on State's ability to charge rent for improvements contained in RCW 79.90.515 are removed in whole or in part, State reserves the right to increase the rent during any portion of the Term after such removal, to the extent then allowed based upon the then fair market value of such improvements owned by State.

4. OTHER EXPENSES

4.1 Utilities. From and after the Commencement Date, Lessee shall pay all expenses incurred in the use, enjoyment, and operation of the Property, including, but not limited to all charges for electricity, water, gas and telephone and all other utility services used on the Property. Lessee shall indemnify and hold State harmless against and from any loss, liability, or expense resulting from any failure of Lessee to pay all charges when due.



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4.2 Leasehold Taxes. From the Commencement Date and continuing throughout the Term, Lessee, unless exempt, shall pay to State the "Leasehold Tax" established and defined in Chapter 82.29A RCW. The Leasehold Tax shall be due and payable at the same time the rental charged herein is due and payable. Payment is to be made to the Department of Natural Resources, Division of Financial Services, PO Box 47041, Olympia, Washington 98504-7041. Any delinquent Leasehold Tax shall be a debt to State, and in the event any penalties or interest are due because of the failure of Lessee to timely pay the Leasehold Tax, such penalties shall be payable by Lessee to State.

4.3 Other Taxes and Assessments.

(a) The term "Taxes," as used herein, shall mean all taxes and other governmental charges, general and special, ordinary and extraordinary, of any kind whatsoever, applicable or attributable to the Property, Lessee's leasehold interest therein, improvements thereon, or Lessee's use and enjoyment thereof, excluding Leasehold Taxes, defined in Subsection 4.2, and Assessments as defined below. Unless exempt, Lessee shall pay when due all Taxes commencing with the Commencement Date and continuing throughout the Term.

(b) The term "Assessments," as used herein, shall mean all assessments for public improvements or benefits which heretofore or during the Term shall be assessed, levied, or imposed upon, or become due and payable, or become a lien upon the Property, any improvements constructed thereon, the leasehold estate created hereby, or any part thereof. Lessee shall not cause or suffer the imposition of any Assessment upon the Property, without the prior written consent of State. In the event any Assessment is proposed which affects the Property, any improvements constructed thereon, the leasehold estate created hereby, or any part thereof, Lessee shall promptly notify State of such proposal after Lessee has knowledge or receives notice thereof. Any Assessment upon the Property shall be made in compliance with all applicable statutes, including, but not limited to, Chapter 79.44 RCW. Lessee shall pay the total amount of all Assessments levied. In no event shall State be obligated to pay any Assessment or any portion thereof levied or created during the Term, irrespective of whether such Assessment or any portion thereof was specifically allocated to the Property or State's reversionary interest therein. No Assessment shall be payable in installments without State's prior written consent, which State may condition upon the posting by Lessee of a satisfactory bond guaranteeing the payment of such installments as they become due.

4.4 Payment Date and Proof. Lessee shall pay all payments for Taxes and Assessments at the time due. Lessee shall, if required by State, furnish to State receipts or other appropriate evidence establishing the payment of such amounts. Lessee may comply with this requirement by retaining a tax service to notify State when the taxes have been paid.

4.5 Failure to Pay.

(a) In the event Lessee fails to pay any of the expenses or amounts specified in this Section 4, State may, but shall not be obligated to do so, pay any such amount and the amounts so paid shall immediately be due and payable by Lessee to State and shall thereafter bear interest at the rate specified in Subsection 3.4 above.

(b) Any failure to pay any expense or amount specified in this Section 4 or any other amount to be paid by Lessee under the term of this Lease shall be a material breach hereunder by Lessee and such breach shall entitle State to pursue all remedies specified in this Lease, and all remedies otherwise available to it in law or equity, including the rights to terminate this Lease and to pursue the remedies available pursuant to Chapter 59.12 RCW.

4.6 No Counterclaim, Setoff, or Abatement of Rent. Rent and all other sums payable by Lessee hereunder shall be paid without the requirement of prior notice or demand by State, and shall not be subject to any counterclaim, setoff, deduction or defense and without abatement. The obligations and liabilities of Lessee hereunder shall in no way be released, discharged or otherwise affected (except as expressly provided herein) by reason of:

(a) Any damage to, or destruction of, or any taking of the Property, or improvements on the Property, or any part thereof (except as allowed in Section 11 or 12);

(b) Any restriction of, or prevention of, or interference with any use of the Property, improvements, or any part thereof, which does not result in the eviction of Lessee therefrom (except as allowed in Section 10);

(c) Any title defect or encumbrance upon the Property or any part thereof which does not result in the eviction of Lessee therefrom;

(d) Any claim which Lessee has or might have against State;

(e) Any failure on the part of State to perform or comply with any of the terms hereof or of any other agreement with Lessee so long as such failure to perform or comply does not have the result of eviction of Lessee from the Property.

4.7 Right to Contest. Lessee may contest the basis or amount of any Leasehold Taxes, Taxes, or Assessments at its sole cost and expense so long as Lessee shall furnish State with a bond or other security reasonably acceptable to State, and otherwise in compliance with law, in the full amount of such amount contested.



5. POSSESSION AND USE

5.1 Possession at Commencement Date. If for any reason whatsoever State does not deliver possession of the Property or a portion thereof at the Commencement Date, Rent shall be abated until such date as possession of the Property is tendered by State, and in all other respects this Lease shall remain in full force and effect and the Term shall not be extended thereby. If in the interim, Lessee shall take possession of any portion of the Property, Lessee shall pay the full Rent specified herein reduced pro rata for the portion of the Property not available for possession by Lessee. In no event shall State be liable for damages caused by failure to deliver possession of the Property.

5.2 Inspection. Lessee has inspected and made an independent investigation of the Property and will accept the same on the Commencement Date in its present condition.

5.3 Permitted Use. Lessee shall have use of the Property only for the specified purposes of maintenance of dock and float for nonresidential commercial boat moorage, and for no other purpose whatsoever. State's prior written consent shall be required for any change in use of the Property or any portion thereof.

5.4 Entry.

(a) State shall have access to the Property at all reasonable times for the purpose of inspecting the Property and securing compliance with the terms and conditions of this Lease. State shall exercise its right of access in a manner that will not unreasonably interfere with Lessee's permitted use of the Property.

(b) The right reserved in Subsection 5.4(a) above includes the right to perform or have performed such environmental tests, audits, surveys or investigations as State, in its sole discretion, deems appropriate. Such tests, audits, surveys, or investigations may include, but shall not be limited to, the determination of whether Lessee is improperly storing, handling or disposing of Hazardous Substances, as defined in Subsection 5.6(d) below, or of refuse, as defined in Subsection 5.6(b) below.

(c) This reserved right imposes no obligation upon State to make inspections, tests, audits, surveys, or investigations and shall impose no liability upon State for failure to do so. This reserved right is in addition to and separate from Lessee's obligation to test under Subsection 5.6(d)(3) below.

5.5 State's Right to Grant Easements. State reserves the right to grant easements and other land uses on the Property to others when the easement or other land uses will not unduly interfere with Lessee's permitted use under Subsection 5.3. State will notify Lessee of any easement or other land use request by third parties. No easement or other land uses shall be granted to third parties until payment for any damages to the leasehold have been paid to Lessee by the third party or a waiver of damages is signed by Lessee.

5.6 Restrictions on Use.

(a) Conformance With Laws.

1. Lessee shall, at its own expense, conform to all applicable laws, regulations, permits, orders or other directives of any public authority affecting the Property or Lessee's use or occupation of the Property.

2. Lessee shall, at its own expense, obtain all regulatory or proprietary consents or approvals required to be obtained from any public authority or third party in connection with any work on the Property (including, but not limited to, the construction, repair, or replacement of any improvements) or Lessee's use or occupation of the Property

3. Upon the State's request, Lessee shall provide, at its own expense, evidence of compliance with Subsections 1 and 2 above (including, but not limited to, copies of permits, licenses, or orders).

4. Lessee shall correct, at Lessee's own expense, any failure of compliance with the terms of Subsections 1 through 3 above.

(b) Refuse. Lessee shall not make, or suffer to be made, any filling in of the Property or any deposit of rock, earth, ballast, refuse, garbage, waste matter (including chemical, biological or toxic wastes), hydrocarbons, any other pollutants, or other matter within or upon the Property, except as approved in writing by State. If Lessee shall fail to remove all nonapproved fill material, refuse, garbage, wastes or other of the above materials from the Property and restore the Property to its condition immediately prior to the deposition of the unauthorized material, Lessee agrees that State may remove such materials and charge Lessee for the cost of removal and disposal together with interest thereon from the date of expenditure at the rate specified in Subsection 3.4 above.

(c) Waste. At all times during the Term, Lessee shall neither commit nor suffer waste to be committed to the Property.

(d) Hazardous, Toxic, or Harmful Substances.

1. Lessee shall not keep, use, dispose, transport, generate, and/or sell on or about the Property, any substances now or hereinafter designated as, and/or containing components now or hereinafter designated as, and/or which are subject to regulation as, hazardous, toxic, dangerous, or harmful by any federal, state or local law, regulation, statute or ordinance, including but not limited to RCRA, CERCLA, SARA, and the Washington Model Toxic Control Act (hereinafter collectively referred to as "Hazardous Substances"), in violation of any such law, regulation, statute, or ordinance.



2. Lessee shall promptly notify State of all spills or releases of any Hazardous Substances, which are otherwise required to be reported to any federal, state, or local regulatory agency and, upon notice thereof, shall promptly notify State of all failures to comply with any federal, state, or local law, regulation or ordinance, as now enacted, or as subsequently enacted or amended, all inspections of the Property by any regulatory entity concerning the same, all regulatory orders or fines, and all response or interim cleanup actions taken by or proposed to be taken by any government entity or private party on the Property.

3. Lessee agrees to conduct, at its own expense, all tests, audits, surveys, or investigations requested by State, in writing, during the Term of the Lease as are reasonable and necessary to ascertain the existence, scope, or effects of Hazardous Substances on the Property, adjacent property, or associated natural resources where State has reason to believe the Hazardous Substances result from or are associated with Lessee's use, occupation, or control of the Property or adjacent property by Lessee, any predecessor-in-interest of Lessee, or any entity related to Lessee, and to provide the results of such tests, audits, surveys, or investigations to State. If Lessee fails to conduct such tests, State may conduct such tests and State shall be entitled to receive full reimbursement from Lessee upon demand, together with interest thereon from the date of expenditure at the rate stated above.

4. Lessee shall be fully and completely liable to State, and shall waive any claims against State for contribution or otherwise, and shall indemnify, defend, and save harmless State and its agencies, employees, officers, directors, and agents with respect to any and all liability, damages (including damages to land, aquatic life, and other natural resources), expenses, causes of action, suits, claims, costs (including testing, auditing, surveying, and investigation costs), fees (including attorneys' fees and costs), penalties (civil and criminal), and response, cleanup, or remediation costs assessed against or imposed upon Lessee, State, or the Property, as a result of Lessee's control of the Property, or Lessee's use, disposal, transportation, generation and/or sale of Hazardous Substances or that of Lessee's employees, agents, assigns, sublessees, contractors, subcontractors, licensees, permittees, or invitees, and for any breach of this Subsection 5.6(d).

(e) Marine Plastics Act. Lessee shall, in addition to compliance with all other applicable laws and regulations, comply with the Marine Plastic Pollution Research and Control Act of 1987 (Public Law 100-220) which became effective December 31, 1988. Under that Act, Lessee may be required among other things to provide waste reception facilities, permit Coast Guard inspection of the adequacy of these facilities, and provide for waste handling and disposition.

(f) Lessee to Take Corrective Action. The parties expressly agree that Lessee will, at its own expense, upon any failure to comply with the above Subsections 5.6(a)-(e), and upon direction to do so by State, take corrective or remediation action measures satisfactory to State to restore the Property, as nearly as possible, to the condition the Property would have been in absence of such failure to comply (with lack of or failure to expend funds not to adversely affect the possibility of restoration). If Lessee fails to do so, Lessee agrees that State may take such corrective action and State shall be entitled to receive full reimbursement therefore from Lessee upon demand, together with interest thereon from the date of expenditure at the rate in Subsection 3.4 above.

5.7 Development Rights. Lessee shall not undertake development of the Property except in accordance with Subsection 5.3 above. Lessee shall not represent to any person, governmental body, or other entity, that Lessee is the fee owner of the Property, nor shall Lessee execute any petition, application, permit, plat, or other document on behalf of State as the "owner" of the Property without State's express written consent which may be withheld for any reason whatsoever. Lessee, in its own name and as Lessee under this Lease, may execute and apply for permits, petitions, or applications in connection with work allowed pursuant to Subsection 5.3 above. Lessee shall notify State in writing of any proposed or pending governmental action of which Lessee receives written notice which affects the Property, its zoning or the right to develop the Property for any future use.

5.8 Control and Indemnification. During the Term of this Lease, Lessee shall have exclusive control and possession of the Property (subject to easements or other land uses that may be granted under Subsection 5.5, and any interference by third parties as identified in Subsection 10.2), and State shall have no liabilities, obligations, control, or responsibilities whatsoever with respect thereto, or with respect to any plans or specifications submitted to State pursuant to this Lease, or improvements or repairs made to the Property or any activity conducted thereon. State's approval or disapproval of any such plans and specifications or improvements shall not render State liable therefore.



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5.9. Reports. Lessee shall:

(a) Submit a written report to State prior to December 1 of each calendar year in which Lessee shall summarize and describe all uses which have occurred upon the Property during the preceding calendar year.

(b) Provide copies to State of all monitoring reports prepared and submitted by Lessee as required by any federal, state or local permit, including but not limited to any NPDES Permit, Army Corps of Engineer Permit, State Hydraulics Permit, State Water Quality Certification, or Substantial Development Permit, where such reports concern water quality or sediment quality.

6. IMPROVEMENTS

6.1 Authorized Improvements.

(a) Existing Improvements. There are constructed upon the Property as of the date of this Lease, the following improvements: 8 pilings for a dock and two three-pile dolphins for a float. All of the improvements on the Property as of the date of this Lease shall be considered to be the property of Lessee ("Lessee-owned Improvements"). Lessee acknowledges ownership of, and responsibility for, all Lessee-owned Improvements. The other improvements on the Property as of the date of this Lease shall be considered to be the property of Lessee ("Lessee-owned Improvements"). Lessee acknowledges ownership of, and responsibility for, all Lessee-owned Improvements.

(b) New Improvements.

1. Any improvements made to the Property during the Term, subject to the exclusion below, shall be referred to herein as "New Improvements." New Improvements shall not include: any construction, reconstruction, alteration, or addition to the existing Improvements on the Property made by Lessee pursuant to its obligation to maintain the Property in good order and repair, including, without limitation, repairs, replacements, reconstruction, alterations, or additions made pursuant to Subsections 9.2 or 11.1 below; or any unauthorized improvements made to the Property. New Improvements shall include any material changes, alterations, or modifications to the Existing Improvements, not excluded by the preceding sentence.

2. No New Improvements shall be placed on the Property without the prior written consent of State. There are authorized to be constructed upon the Property, as of the date of this Lease, the following improvements: none. Construction, reconstruction, alteration, or additions to the Existing Improvements on the Property made by Lessee pursuant to its obligation to maintain the Property in good order and repair may be undertaken by Lessee after written notice to State and State's prior written consent shall not be required.

3. All improvements, repairs, alterations, maintenance, and replacements to the Property shall be made in a good and workmanlike manner and in compliance with all applicable building and zoning codes, shorelines management, health, safety, and environmental laws and other legal requirements.

4. The plans and specifications for any and all New Improvements including amendments of such plans and specifications, shall be submitted to State for its prior approval, which approval will not be unreasonably withheld.

5. No New Improvements shall be made except under the supervision of an architect or engineer selected by Lessee and approved in writing by State, which approval will not be unreasonably withheld.

6. Upon completion of any improvements, repairs or alterations to the Property, the Lessee shall furnish State with a certificate of substantial completion of such work executed by the Lessee or its architect or engineer, and a complete set of "as built" plans showing all changes or alterations. The Lessee shall also furnish to State copies of certificates of occupancy or other similar documents issued to certify completion of construction in compliance with applicable requirements.

(c) Ownership. All new improvements authorized under Subsection 6.1(b) made to the Property or installed thereon by Lessee during the Term, and all Lessee-owned Improvements, shall remain the property of Lessee until the Termination Date, whether such date occurs at the end of the stated term of this Lease or upon earlier cancellation, termination, or surrender, at which time ownership of said improvements shall, at State's option, revert to and become immediately vested in State, without payment therefor by State. Lessee hereby conveys and quitclaims to State as of the Termination Date, all interest in and to all New Improvements and all Lessee-owned Improvements, contingent upon State's exercise of its option.

(d) Removal of Certain Improvements. Lessee agrees to sever, remove, and dispose of all New Improvements and/or Lessee-owned Improvements to which State does not elect to claim title by the Termination Date. If such action is not taken by Lessee, Lessee agrees that State may remove such improvements and charge Lessee for the cost of removal and disposal, together with interest thereon from the date of expenditure at the rate stated above. It shall be the duty of Lessee to inquire of State as to whether State will exercise its option to take ownership of all, or a portion of, the New Improvements and/or Lessee-owned Improvements sufficiently, but in no event less than sixty (60) days, in advance of the Termination Date to permit Lessee, in the event State declines to claim title, to sever, remove, and dispose of the unclaimed improvements by the Termination Date.



6.2 Unauthorized Improvements.

(a) Improvements made on or to the Property without State's prior written consent or not in conformance with the approved plan of development (not including repairs, maintenance or replacements due to ordinary wear) ("Unauthorized Improvements"), shall immediately become the property of State, unless State elects otherwise.

(b) State may, at its option, require Lessee to sever, remove and dispose of any or all Unauthorized Improvements, or, in addition to any other remedy State may have for such breach of the Lease, State may charge Lessee Rent for the use of such improvements based upon the value thereof, which Rent shall be due and payable together with all installments of Rent due hereunder. If Lessee fails to sever and complete removal of such Unauthorized Improvements within thirty (30) calendar days of request for removal by State, State may (i) remove and dispose of such Unauthorized Improvements at Lessee's expense; (ii) cancel this Lease; or (iii) pursue any other remedies for default provided that all such severance and completion of removal must be accomplished by the Termination Date. Any cost of removal and disposal borne by State shall become an obligation of Lessee due and owing under this Lease together with interest thereon from the date of expenditure at the rate stated above.

6.3 Trade Fixtures.

(a) All trade fixtures brought onto the Property by Lessee shall remain the property of Lessee. Lessee agrees to sever and remove those fixtures by the Termination Date.

(b) All trade fixtures allowed to remain on the Property thereafter shall, at State's option, become the property of State. If State does not elect to claim title to said trade fixtures, Lessee agrees that State may remove and dispose of such trade fixtures. Any costs of removal and disposal borne by State shall become an obligation of Lessee due and owing under this Lease together with interest thereon from the date of expenditure at the rate stated above.

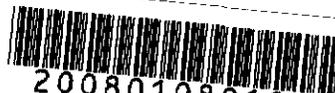
6.4 Mechanics, Liens, Labor Liens, and Project Completion.

(a) Mechanics and Labor Liens. Lessee agrees that it will not permit any claim of lien made on any mechanic, materialman, laborer, or other similar liens to stand against the Property, any improvements or trade fixtures located thereon, or Lessee's leasehold, for work, labor, services, or materials furnished to Lessee or its sublessees in connection with any construction, improvements, alterations, maintenance, or repair thereof made by Lessee or its agents or sublessees upon the Property. Lessee further agrees to cause any such claim of lien to be fully discharged within thirty (30) calendar days after the date of filing thereof. In the event Lessee in good faith disputes the validity or amount of any such claim of lien, and Lessee shall, at Lessee's expense, give to State such security as State may reasonably require, indemnifying State, the Property, improvements and trade fixtures on the Property, and Lessee's leasehold against all liability, costs and expenses, including attorneys' fees, which State may incur as a result of the lien, then Lessee shall not be deemed to be in breach of this Subsection 6.4 so long as:

1. Lessee is diligently pursuing a resolution of such dispute;
2. At no time is the Property, any improvements or trade fixtures located thereon, or Lessee's leasehold in any danger of being sold, forfeited or lost; and
3. Upon entry of final judgment resolving the dispute if litigation or arbitration results therefrom, Lessee discharges said lien within the time limits specified above. Nothing contained in this section shall be deemed a waiver of any provision of Washington law which exempts property owned by State from any such lien claims.

(b) Security for Completion of Changes and Improvements. Lessee shall provide security for the completion of all construction, all changes or alterations to the Property, and all improvements thereon, and for the payment in full of claims of all persons for work performed in, or materials furnished for construction by either of the following methods:

1. Posting a surety bond issued by a corporate surety acceptable to State in an amount equal to the cost of all construction, changes, alterations or improvements, said bond to be deposited with State and to remain in effect until the work shall have been constructed and insured as provided in this Lease, and the entire cost of the alterations shall have been paid in full, free from all liens and claims of contractors, subcontractors, mechanics, laborers, and materialmen. Said bond shall be conditioned upon the faithful performance of the provisions of this Lease by Lessee, and shall give all claimants the right to action to recover upon such bond.
2. Any other method first approved in writing by State.



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7. ASSIGNMENT AND SUBLETTING

7.1 Assignment and Subletting.

(a) State Consent Required. Lessee shall not hypothecate, mortgage, assign, encumber, transfer, sublease or otherwise alienate this Lease, or any interest therein or engage in any other transaction which has the present effect or future possibility of transferring the right of enjoyment of the Property without the prior written consent of State, which shall not be unreasonably withheld or delayed. In granting such consent, State reserves the right to: (1) Change the terms and conditions of this Lease, including the rental terms, as it may affect the transferee; (2) Consider, among other items, the proposed transferee's financial condition, business reputation, the nature of the proposed transferee's business, the then current value of the Property, and such other factors as may reasonably bear upon the suitability of the transferee as a lessee of the Property; and, (3) Require Lessee or transferee to conduct such tests, audits, surveys, or investigations as are identified in Subsection 5.6(d)(3). Lessee shall submit information regarding any proposed transferee or assignee under this Subsection 7.1 to State at least thirty (30) days prior to the date of the proposed transfer or assignment. Consent of State to any one transfer shall not constitute a waiver of State's right to approve subsequent transfers.

(b) Rent Payments Following Assignment. The acceptance by State of the payment of Rent following an assignment or other transfer shall not constitute consent to any assignment or transfer, and State's consent shall be evidenced only in writing.

7.2 Corporations, General Partnerships, Limited Partnerships.

(a) Corporations. If Lessee is a corporation, any merger, consolidation, liquidation, or any change in ownership of, or the power to vote the majority of its outstanding voting stock, shall constitute an assignment of this Lease which requires prior approval of State, whether the result of a single transaction or a series of transactions.

(b) General Partnerships. If Lessee is a general partnership, the death, withdrawal or expulsion of a partner or partners owning, or transfer or interests representing, in the aggregate more than fifty percent (50%) of the partnership profits or capital shall constitute an assignment of this Lease which requires prior approval of State, whether as the result of a single transaction or a series of transactions.

(c) Limited Partnerships. If Lessee is a limited partnership, the death, withdrawal or expulsion of any general partner shall constitute an assignment of this Lease which requires prior approval of State.

(d) Marital Communities. If Lessee is a marital community, the dissolution of the marital community shall constitute an assignment of this Lease which requires prior approval of State.

7.3 Assignee Obligations. Each permitted assignee, or transferee, other than State, shall assume and be deemed to have assumed all obligations under this Lease and shall become liable for all payments and for the due performance and satisfaction of all provisions, covenants, and conditions herein contained. Notwithstanding any such assignment or transfer, Lessee shall be and remain jointly and severally liable with the assignee or transferee for all obligations under this Lease, unless released, in writing, by State.

7.4 Copies of Instruments. In connection with any assignment, sublease, or transfer, Lessee shall, at State's option, provide State with copies of all assignments, subleases, assumption instruments or other documentation.

7.5 Assignment by State. State may, if legally permissible, assign its interest in this Lease.

7.6 Assignment of Right to Receive Rentals. Lessee hereby assigns to State for the purpose of securing all Lessee's obligations under this Lease the right to receive all rentals reserved under any sublease executed with respect to the Property. This Lease shall constitute a security agreement with respect to the rentals to be received thereunder, and Lessee shall execute such further documents as may be required to perfect such security interest including but not limited to UCC financing statements.

8. LESSEE'S INDEMNITY: SECURITY BOND AND INSURANCE

8.1 Indemnity. Lessee shall indemnify and save harmless State, its employees, officers, and agents from any and all liability, damages (including damages to land, aquatic life, and other natural resources), expenses, causes of action, suits, claims, costs, fees (including attorneys' fees and costs), penalties (civil and criminal), or judgments, by any reason whatsoever caused, arising out of the use, occupation, or control of the Property by Lessee, its sublessees, invitees, agents, employees, licensees, or permittees



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except as may arise solely out of the willful or grossly negligent act of State or State's employees, officers, or agents. To the extent that RCW 4.24.115 is applicable to any indemnification provision of this Lease, State and Lessee agree that provision shall not require Lessee to indemnify and save State harmless from State's sole or concurrent negligence if any.

8.2 Bond or Other Security.

(a) Upon execution of this Lease, Lessee shall furnish State a good and sufficient corporate surety bond or provide other security satisfactory to State (hereinafter referred to as "Bond") in an amount equal to \$8,700.00, which shall secure the full performance by Lessee of all the terms, conditions, and covenants of this Lease to be performed by Lessee, including, but not limited to, the payment by Lessee of all amounts now or hereafter due and payable to State. The Bond shall be in a form and issued by a surety company acceptable to State. The amount of the Bond may be adjusted by State at the same time as the adjustment of the rent, as a condition of approval of assignment or sublease of this Lease, upon any breach by Lessee of Subsections 5.6(b)-(d) above, upon a change in the condition of the improvements, or upon a request for a change in the Permitted Use. A new or modified Bond shall be delivered to State not less than thirty (30) calendar days following any adjustment by State of the amount of the Bond.

(b) Upon any default by Lessee in its obligations under this Lease, any or all of the Bond may be appropriated by State to offset the liability of Lessee to State, but such Bond and State's appropriation thereof or realization thereon shall in no way limit the liability or other security or obligations of Lessee or the rights or remedies of State nor shall such realization in any manner reinstate, cure or relieve Lessee from a termination of its rights under this Lease following a material default. Lessee's failure to have a Bond in force at all times during the Term in the full amount as required by this paragraph shall constitute a material breach of this Lease.

8.3 Acquisition of Insurance Policies. Lessee shall, at its sole cost and expense, procure and maintain, or cause to be procured and maintained, during the entire Term, the insurance described in Subsections 8.4 and 8.5, issued by an insurance company or companies licensed to do business in the state of Washington satisfactory to State, covering and protecting Lessee, State, and the Property, including any improvements.

8.4 Types of Required Insurance.

(a) Comprehensive General Liability Insurance. Lessee shall procure and maintain comprehensive general liability insurance covering all claims with respect to injuries or damages to persons or property sustained in, or about the Property, and the appurtenances thereto, with limits of liability no less than: \$1,000,000 for each occurrence and not less than \$2,000,000 annual aggregate for property damage in any one occurrence. Such limits may be achieved through the use of umbrella liability insurance sufficient to meet the requirements of this section. The limit of liability may be adjusted by State at the same time as adjustment of the Rent, as a condition of approval of assignment or sublease of this Lease, upon any breach by Lessee of Subsections 5.6(b)-(d) above, upon a change in the condition of the improvements, or upon a request for a change in the Permitted Use.

(b) Physical Property Damage Insurance. Lessee shall procure and maintain physical damage insurance covering all real and personal property, excluding property paid for by sublessees or paid for by Lessee for which sublessees have reimbursed Lessee, located on or in, or constituting a part of, the Property in an amount equal to at least one hundred percent (100%) of replacement value of all such property, with commercially reasonable deductibles.

(c) Builder's Risk Insurance. During construction, repair, alteration, maintenance, or replacement of any improvements located on or in, or constituting a part of the Property that may be made by Lessee, Lessee shall procure and maintain contingent liability and all builder's risk insurance in an amount reasonably satisfactory to State until such work is completed and evidence of completion is provided to the State.

(d) Worker's Compensation Insurance.

1. State of Washington Worker's Compensation coverage, as applicable, with respect to any work by employees of Lessee on or about the Property.

2. Longshore and Harbor Worker's Act and Jones Act coverage, as applicable, with respect to any work by employees of Lessee on or about the Property.

8.5 Terms of Insurance. The policies required under Subsections 8.3 and 8.4 shall name State as an additional insured (except for state of Washington Worker's Compensation) and Lessee shall provide promptly to State certificates of insurance and copies of policies obtained by Lessee hereunder, provided that receipt of such policies by State does not constitute approval by State of the terms of such policies. Further, all policies of insurance described in Subsection 8.3 shall:

(a) Be written as primary policies not contributing with and not in excess of coverage that State may carry;



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(b) Contain an endorsement providing that such insurance may not be materially changed, amended or cancelled with respect to State except after thirty (30) calendar days, prior written notice from the insurance company to State;

(c) Contain an endorsement containing express waiver of any right of subrogation by the insurance company against State and State's officers, elected officials, agents and employees;

(d) Provide that the insurance proceeds of any loss will be payable notwithstanding any act or negligence of Lessee which might otherwise result in a forfeiture of said insurance;

(e) Expressly provide that State shall not be required to give notice of accidents or claims and that State shall have no liability for premiums;

(f) Provide that all proceeds shall be paid jointly to State and Lessee.

8.6 State's Acquisition of Insurance. If Lessee at any time during the Term fails to procure or maintain such insurance or to pay the premiums therefore, State shall have the right to procure substitute insurance as State deems appropriate and to pay any and all premiums thereon, and Lessee shall pay to State upon demand the full amount so paid and expended by State, together with interest thereon at the rate provided in Subsection 3.4, hereof from the date of such expenditure by State until repayment thereof by Lessee.

9. REPAIRS

9.1 State's Repairs. State shall not be required or obligated to make any repairs, alterations, maintenance, replacements or repairs in, on, or about the Property, or any part thereof, during the Term of this Lease.

9.2 Lessee's Repairs, Alteration, Maintenance and Replacement.

(a) Lessee shall, at its sole cost and expense, keep and maintain the Property and all improvements thereon and all facilities appurtenant thereto (regardless of ownership) in good order and repair and safe condition, sufficient for the safe conduct of any activities or enterprises conducted on the Property pursuant to this Lease and keep and maintain the whole of the Property, including all improvements in a clean, sanitary and attractive condition.

(b) Lessee shall, at its sole cost and expense, make any and all additions to: repairs, alterations, maintenance, replacements or changes about and to the Property, which may be required by any public authority affecting the Property and its use.

(c) Ownership of Repairs.

1. All repairs, alterations, maintenance to, or replacement of the Property, including any state-owned improvements, as defined in Subsection 6.1, shall immediately become the property of State.

2. All repairs, alterations, maintenance to, or replacement of New Improvements and/or Lessee-owned Improvements, as defined in Subsection 6.1, shall remain the property of Lessee subject to the terms of Subsection 6.1.

3. All repairs, alterations, maintenance to, or replacements of any Unauthorized Improvements as defined in Subsection 6.2 shall immediately become the property of State subject to the terms of Subsection 6.2.

9.3 Condition at End of Lease. Upon vacating the Property on the Termination Date, Lessee shall leave the Property and all improvements thereon to which State has elected to claim title in the state of repair and cleanliness required to be maintained by Lessee during the Term of this Lease and shall peaceably surrender the same to State.

10. DISCLAIMER OF IMPLIED COVENANTS OF POWER TO LEASE AND QUIET ENJOYMENT

10.1 Power to Lease. State believes that it has full right, power and authority to make this Lease. However, State expressly disclaims and Lessee expressly releases State from any and all claims for breach of any implied covenant of power to lease.

10.2 Quiet Enjoyment. State expressly disclaims and Lessee expressly releases State from any claim for breach of any implied covenant of quiet enjoyment with respect to the possession of the Property during the Term of this Lease or any holdover. This disclaimer includes but is not limited to; interference arising from or in connection with access or other use rights of adjacent property owners or the public over the water surface or in or under the water column, rights held by Indian tribes, and the general power and authority of State and the United States to regulate the use of navigable waters, bedlands, tidelands, and shorelines. In the event that Lessee is evicted from the



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Property by reason of successful assertion of any such rights, this Lease shall be deemed terminated as of the date of such eviction. In the event of a partial eviction, Lessee's Rental obligations hereunder shall abate as of the date of the partial eviction in direct proportion to the extent of the eviction, but in all other respects, this Lease shall remain in full force and effect.

11. DAMAGE OR DESTRUCTION

11.1 Possible to Repair Within Term.

(a) In the event of any damage to or destruction of the Property or any improvements, Lessee shall promptly give written notice thereof to State. Lessee shall promptly reconstruct, repair or replace the Property as nearly as possible to its condition immediately prior to such damage or destruction. All such reconstruction, repair and replacement shall be performed in accordance with the requirements of Subsection 9.2 above.

(b) Lessee's duty to reconstruct, repair, or replace any damage or destruction of the Property or any improvements thereon shall not be conditioned upon the availability of any insurance proceeds to Lessee from which the cost of repairs may be paid.

(c) Unless this Lease is terminated by mutual agreement, there shall be no abatement or reduction in Rent during such reconstruction, repair and replacement.

(d) Any insurance proceeds payable by reason of the damage or destruction shall be made available to pay the cost of the reconstruction.

(e) In the event Lessee is in default under the terms of this Lease at the time damage or destruction occurs, State may elect to terminate the Lease and State shall thereafter have the right to retain any and all insurance proceeds payable as a result of such damage or destruction.

(f) Upon completion of reconstruction, repair or replacement by Lessee, any insurance funds in excess of the cost of such reconstruction, repair or replacement shall be paid to Lessee provided, however, State shall have a lien on Lessee's share of such proceeds to the extent Lessee has failed to pay any moneys to State under the terms of this Lease.

11.2 Not Possible to Repair Within Term.

If such damage or destruction cannot be substantially repaired within the time remaining in the Term, this Lease shall terminate as of the date of such damage or destruction. Any insurance proceeds shall be divided between State and Lessee prorated based upon the unexpired Term of the Lease, with Lessee receiving a fraction thereof which is equal to the then remaining Term divided by the original Term, and State receiving the remainder.

12. CONDEMNATION

12.1 Definitions.

(a) Total Taking. The term "total taking," as used in this Lease, means the taking of the entire Property and any improvements thereon under the power of eminent domain either by judgment or settlement in lieu of judgment, or the taking of so much of the Property and improvements as to prevent the use thereof by Lessee or, in the judgment of State, renders the Property impractical to operate for the uses and purposes hereinabove provided.

(b) Partial Taking. The term "partial taking" means the taking of a portion only of the Property which does not constitute a total taking as defined above.

(c) Voluntary Conveyance. The terms "total taking" and "partial taking" shall include a voluntary conveyance to any agency, authority, public utility, person or corporate entity empowered to condemn property in lieu of formal court proceedings.

(d) Date of Taking. The term "date of taking" shall mean the date upon which title to the Property or a portion thereof passes to and vests in the condemnor or the effective date of any order for possession if issued prior to the date title vests in the condemnor.

12.2 Effect of Taking. If during the Term hereof there shall be a Total Taking under the power of eminent domain, then the leasehold estate of Lessee in and to the Property shall cease and terminate as of the Date of Taking. If this Lease is so terminated, in whole or in part, all Rentals and other charges payable by Lessee to State hereunder and attributable to the Property taken, shall be paid by Lessee up to the Date of Taking by the condemnor, and the parties thereupon shall be released from all further liability in relation thereto. If Lessee has pre-paid Rent, Lessee will be entitled to a refund of the pro rata share of this pre-paid Rent attributable to the period after the Date of Taking. In the event of a Partial Taking, such that Lessee is no longer able to use a portion of the Property, there shall be a partial abatement of Rent in a percentage equal to the percentage of Property taken.



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12.3 Allocation of Award. State and Lessee agree that in the event of any condemnation, the award shall be allocated between State and Lessee based upon the ratio of the Fair Market Value of Lessee's Leasehold Estate and Lessee-owned Improvements and New Improvements on the Property and State's interest in the Property, including State's landlord interest in the Leasehold reversionary interest in Lessee-owned Improvements and New Improvements, and ownership of State-owned Improvements. In the event of a Partial Taking, this ratio will be computed on the basis of the portion of Property or improvements taken. If Lessee and State are unable to agree on the allocation, it shall be submitted to binding arbitration in accordance with the rules of the American Arbitration Association.

13. INSOLVENCY

13.1 Insolvency May Constitute Default. If a receiver or trustee is appointed to take possession of all or substantially all of the assets of Lessee, or if any action is taken or suffered by Lessee pursuant to an insolvency, bankruptcy or reorganization act, including the filing of a petition in bankruptcy, or if Lessee makes a general assignment for the benefit of its creditors, and if such appointment or assignment continues for a period of thirty (30) calendar days, it shall, at State's option, constitute a default by Lessee and State shall be entitled to the remedies set forth in Section 14 below, which may be exercised by State without prior notice or demand upon Lessee. In the event that any provision of this Section 13 is contrary to any applicable law, such provision shall have no force or effect.

13.2 Notice of Insolvency. Lessee shall be required to notify State, within ten (10) days of filing, that it has filed a petition for relief under the bankruptcy code.

14. BREACH BY LESSEE

14.1 Breach and Default.

(a) Any breach of any provision of this Lease by Lessee, shall be deemed a default after State has delivered to Lessee notice of the alleged breach and demand that the breach be remedied immediately. Such a default entitles State to the remedies set forth in this Lease or otherwise available at law or in equity. If Lessee shall promptly commence to cure the default and shall cure the default within for sixty (60) calendar days after receipt of the notice; or within for sixty (60) calendar days after receipt of the notice if the default pertains to the payment of rent, the breach shall no longer constitute a default.

(b) In the event State deems the breach to constitute a threat to safety, life, or property it may elect to intervene immediately without notice to remedy the breach and Lessee hereby agrees to repay State for all costs in remedying the breach upon demand, together with interest thereon from the date of expenditure at the rate set forth in Subsection 3.4 above. Alternatively, State may require Lessee itself to act immediately to remedy the breach, should State deem it a threat to safety, life, or property.

14.2 Reletting in the Event of Default.

(a) State's Right to Relet. In the event of a default, State, in addition to any other rights or remedies that it may have, shall have the immediate right of re-entry. Should State elect to re-enter or take possession of the Property, it may either terminate this Lease or, from time-to-time without terminating this Lease, relet the Property or any part thereof, for any term or terms and conditions as State in its sole discretion may deem advisable with the right to complete construction of or make alterations and repairs to the improvements. Lessee shall pay to State the cost and expenses incurred by State in such reletting, completion of construction, or in making such alterations and repairs.

(b) Allocation of Rentals. Rentals received by State from reletting shall be applied: first, to the payment of any indebtedness, other than Rent, due hereunder from Lessee to State; second, to the payment of Rent due and unpaid hereunder; and the residual, if any, shall be held by State and applied in payment of future rent or damages as the same may become due and payable hereunder. The balance, if any, at the end of the Term shall belong to State. Should such rentals received from time-to-time from reletting during any month be less than the Rent agreed to be paid during that month by Lessee, Lessee shall pay the deficiency to State. The deficiency shall be calculated and paid monthly. At the option of State following Lessee's default, State may accelerate and demand as immediately due the difference between (i) all Rent reserved for the unexpired portion of the Term following the event of Lessee's default, and (ii) the fair market rental value of the Property for the unexpired portion of the Term reduced by any costs of State in reletting the Property.



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(c) Exercise of Right Not an Election. No such reletting of the Property by State shall be construed as an election on its part to terminate Lessee's obligations under this Lease unless a notice of such intention be given to Lessee or unless the termination thereof be decreed by a court of competent jurisdiction. Notwithstanding any such reletting without termination, State may at any time thereafter elect to terminate this Lease for such previous breach, provided that it has not been cured. Should State at any time terminate this Lease for any breach, in addition to any other remedy it may have, it may recover from Lessee all damages it may incur by reason of such breach.

15. HOLDING OVER AND EXPIRATION

15.1 Unapproved Holdover. Any holding over by Lessee without the express written consent of State shall not constitute a renewal or extension of this Lease or give Lessee any rights in or to the Property and this Lease shall terminate without further notice at the Termination Date. Such occupancy shall be subject to the same terms and conditions as set forth herein. At State's option, Rent may be charged for each month of occupancy, or any portion thereof, on a prorated basis, equal to one hundred sixty percent (160%) of the amount of full fair market Rent due for the last month of the term of this Lease.

15.2 Approved Holdover. If Lessee shall, with the written consent of State, holdover after the Termination Date, the resulting tenancy shall, unless otherwise mutually agreed, be for an indefinite period of time on a month-to-month basis. During such month-to-month tenancy, Lessee shall pay State Rent as provided herein, unless a different rate shall be agreed upon, and shall be bound by all the terms of this Lease.

16. NOTICE

16.1 Procedure. Any notice required or desired to be given under this Lease shall be in writing with copies directed as indicated herein and shall be personally served or sent by mail. Any notice given by mail shall be deemed to have been received when seventy-two (72) hours have elapsed from the time when such notice was deposited in the United States mails, correctly addressed to the party to be served at the last address given by that party to the other party under the provisions of this Section 16. At the date of the execution of this Lease, the address of State is:

DEPARTMENT OF NATURAL RESOURCES
Division of Aquatic Lands
14th and Water Street, Room 202
PO Box 47027
Olympia, WA 98504-7027

and the address of Lessee is:

JOE E. and DELORES SANFORD,
PO Box 103
LaConner, WA 98257

16.2 Change of Address. Lessee shall notify State immediately of any change of address.

17. SUCCESSORS

17.1 Successors and Assigns Bound. The covenants and agreements contained in this Lease shall be binding on the parties hereto and on their respective successors and assigns, to the extent the Lease is assignable, and upon any person, firm, or corporation coming into ownership or possession of any interests in the Property or improvements on the Property by operation of law or otherwise, and shall be construed as covenants running with the land.

18. TERMINATION

18.1 Lessee's Rights Cease Upon Lease Termination. Upon the termination of this Lease by expiration of time or otherwise, the rights of Lessee and of all persons, firms, corporations, and entities claiming under Lessee in and to the Property and all improvements hereon, unless specified otherwise in this Lease, shall cease.

19. MISCELLANEOUS

19.1 Headings. The Section and Subsection headings used in this Lease are for convenience only. They shall not be construed to limit or to extend the meaning of any part of this Lease.

19.2 Amendments. Any amendments or additions to this Lease shall be made in writing executed by the parties hereto, and neither State nor Lessee shall be bound by verbal or implied agreements.

19.3 Waiver. The waiver by State of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. The acceptance by State of Rent or any other sum owing, following a breach by Lessee of any provision of this Lease shall not constitute a waiver of any right of State with respect to such breach. State shall be deemed to have waived any right hereunder only if State shall expressly do so in writing.

19.4 Cumulative Remedies. Each right, power and remedy of State provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, and the commencement of the exercise by State of any one or more of the rights, powers, or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute, or otherwise, shall not preclude the simultaneous or later exercise by State of any or all such other rights, powers or remedies.

19.5 Time of Essence. Time is expressly declared to be of the essence of this Lease and each and every covenant of Lessee hereunder.

19.6 Entire Agreement. This Lease contains the entire agreement of the parties hereto with respect to the matters covered hereby, and no other agreement, statement or promise made by any party hereto, or to any employee, officer or agent of any party hereto, which is not contained herein, shall be binding or valid.

19.7 Language. The word "Lessee" when used herein, shall be applicable to one (1) or more persons, as the case may be, and if there be more than one (1), the obligations hereof shall be joint and several. The words "Persons" whenever used shall include individuals, firms, associations and corporations. This Lease, and its terms, have been agreed upon after Lessee has been given the opportunity to negotiate its terms. The language in all parts of this Lease shall in all cases be construed as a whole and in accordance with its fair meaning, and shall not be construed strictly for or against State or Lessee.

19.8 Invalidity. If any term or provision of this Lease or the application thereof to any person or circumstance shall to any extent prove to be invalid, unenforceable, void or illegal, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced as written to the fullest extent permitted by law.

19.9 Applicable Law and Venue. This Lease shall be interpreted and construed under and pursuant to the laws of the state of Washington. Any reference to a statute enacted by the state of Washington shall refer to that statute as presently enacted and any subsequent amendments thereto, unless the reference to said statute specifically provides otherwise. The parties agree that venue for any action arising out of or in connection with this Lease shall be in the Superior Court for Thurston County, Washington.

19.10 Authority. Persons executing this Lease on behalf of Lessee represent that they are authorized to do so and represent and warrant that this Lease is a legal, valid and binding obligation on behalf of Lessee, and is enforceable in accordance with its terms.

19.11 Date of Execution. The date this Lease is executed shall be deemed to be the day and year when executed by State.

19.12 Survival. All obligations of Lessee to be performed after the Termination Date shall not cease upon the Termination of this Lease, and shall continue as obligations until fully performed. All clauses of this Lease which require performance beyond the Termination Date shall survive the Termination Date of this Lease.

19.13 Recordation. Lessee shall record this Lease in the county in which the Property is located at Lessee's sole expense. Lessee shall provide State with recording information including the date of recordation and file number. Lessee shall have thirty (30) days from the Commencement Date of the Lease to comply with the requirements of this paragraph.



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19.14 Discrimination. Lessee shall not conduct or suffer any business upon the Property which unlawfully discriminates against any person on the basis of race, color, creed, religion, sex, age, or physical or mental handicap.

IN WITNESS WHEREOF, this Lease Agreement is executed on the day and year when executed by the state of Washington.

STATE:

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

James A. Stearns
JAMES A. STEARNS, Supervisor
Date Aug. 12, 1992

LESSEES:

JOE E. SANFORD, a marital community

Joe E. Sanford
DeLores Sanford
DELORES SANFORD, a marital community
PO Box 103
LaConner, WA 98257
Date 7/24/92

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss.
County of Thurston)

On this 12th day of August, 1992, personally appeared before me JAMES A. STEARNS, to me known to have signature authorization delegated to him to sign for BRIAN J. BOYLE, the Commissioner of Public Lands, and ex officio administrator of the Department of Natural Resources of the state of Washington, the department that executed the within and foregoing instrument on behalf of the state of Washington, and acknowledged said instrument to be the free and voluntary act and deed of the state of Washington for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument and that the seal affixed is the official seal of the Commissioner of Public Lands for the state of Washington.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

SEAL
Anna M. Reiter
NOTARY PUBLIC in and for the
state of Washington



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lo:james/22002416.1se
22-002416

CERTIFICATE OF ACKNOWLEDGMENT
INDIVIDUAL

STATE OF)
County of) ss

On this day personally appeared before me JOE E. SANFORD, a marital community, 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.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

SEAL

Susie Spooth
NOTARY PUBLIC in and for the
state of Washington

CERTIFICATE OF ACKNOWLEDGMENT
INDIVIDUAL

STATE OF)
County of) ss

On this day personally appeared before me DELORES SANFORD, a marital community to me known to be the individual described in and who executed the within and foregoing instrument and acknowledged that she signed the same as her free and voluntary act and deed for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

SEAL

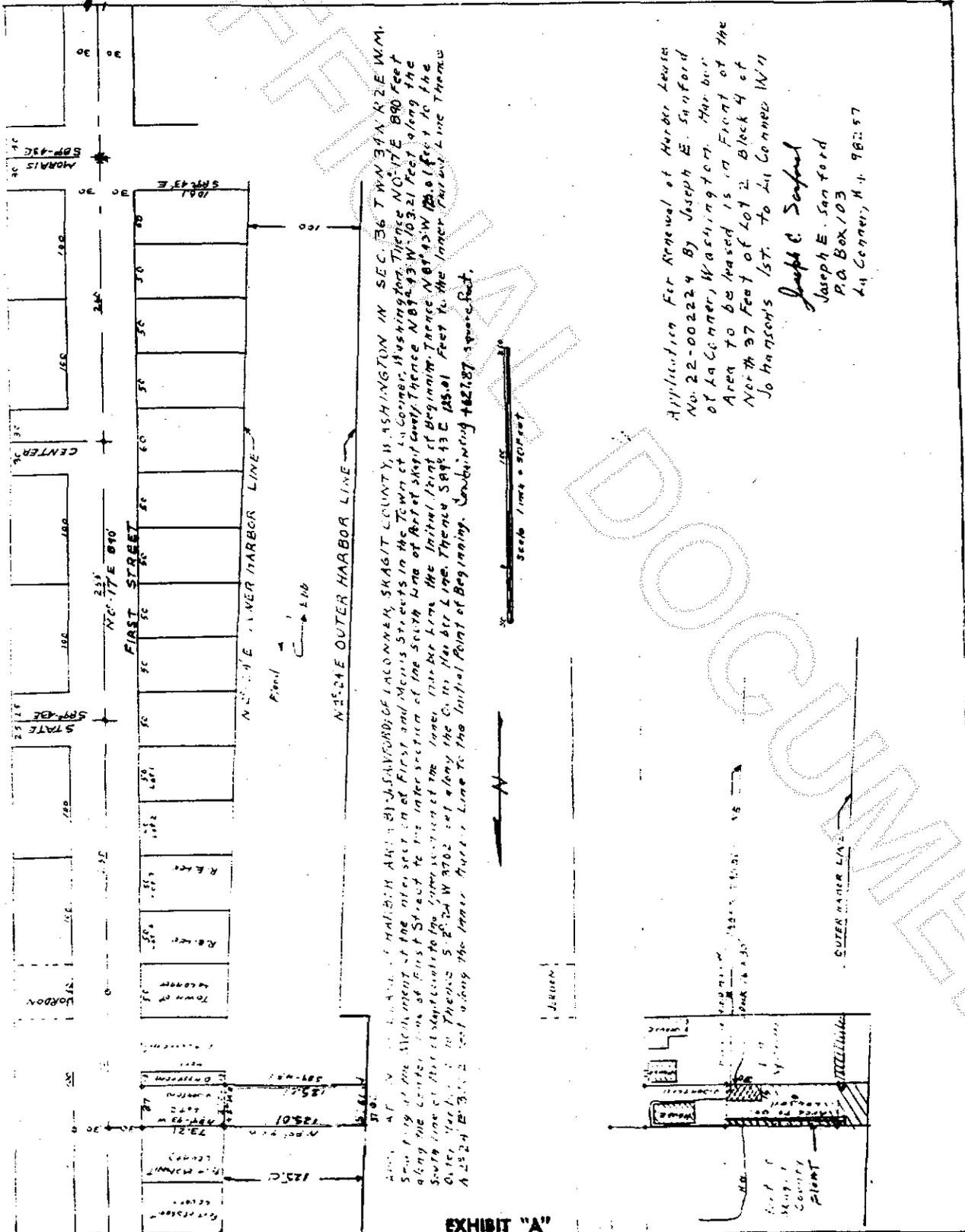
Susie Spooth
NOTARY PUBLIC in and for the
state of Washington



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HA 2416



Application for Renewal of Harbor Lewis
 No. 22-002224 By Joseph E. Sanford
 of La Conner, Washington Harbor
 Area to be leased is a front of the
 North 17th Street Block 4 of
 Johnson's 1st. To the Conner Wm

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EXHIBIT "A"