

After Recording Return To:

Christopher D. Adams
Adams & Duncan, Inc., P.S.
3128 Colby Ave.
Everett, WA 98201



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Skagit County Auditor

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Document Title:

RIGHT OF FIRST REFUSAL AGREEMENT FOR THE PURCHASE OF REAL PROPERTY

Reference Number : N/A

Grantor(s):

additional grantor names on page ___

1. BARBLESS INVESTMENTS, LLC, A WASHINGTON STATE LIMITED LIABILITY COMPANY
- 2.

Grantee(s):

additional grantee names on page ___

1. WEXLER MOUNT VERNON, LLC, A WASHINGTON STATE LIMITED LIABILITY COMPANY
- 2.

Abbreviated legal description:

full legal on page(s) 1.

ACREAGE ACCOUNT, ACRES 0.31, DK 17: THAT PORTION OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 18, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M., DESCRIBED AS FOLLOWS: BEGINNING AT A POINT THAT IS 40 FEET NORTH OF THE SOUTH LINE OF SAID SUBDIVI -

Assessor Parcel / Tax ID Number:

additional tax parcel number(s) on page ___

P26138

**RIGHT OF FIRST REFUSAL AGREEMENT
FOR THE PURCHASE OF REAL PROPERTY**

THIS AGREEMENT (the "Agreement") is entered into effective as of this 30th day of ~~SEPTEMBER~~ 2011, by and between WEXLER MOUNT VERNON, LLC, a Washington state limited liability company (the "Purchaser"), or as assigns, and Barbless Investments, LLC, a Washington state limited liability company (the "Seller").

WITNESSETH:

WHEREAS, Seller is the fee simple owner of certain real property situated in the county of Snohomish, state of Washington (the "Premises") legally described as follows:

DK 17: THAT PORTION OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 18, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M., DESCRIBED AS FOLLOWS: BEGINNING AT A POINT THAT IS 40 FEET NORTH OF THE SOUTH LINE OF SAID SUBDIVISION AND 237 FEET WEST OF THE WEST LINE OF U.S. HIGHWAY NO. 99 (SAID POINT BEING 245 FEET WEST OF SAID HIGHWAY AS IT EXISTED PRIOR TO 1947); THENCE NORTH, 125 FEET; THENCE EAST, 50 FEET; THENCE SOUTH, 125 FEET, MORE OR LESS, TO A POINT 40 FEET NORTH OF THE SOUTH LINE OF SAID SUBDIVISION AND 50 FEET EAST OF THE POINT OF BEGINNING; THENCE WEST TO THE POINT OF BEGINNING, EXCEPT THAT PORTION CONVEYED TO THE CITY OF MOUNT VERNON BY INSTRUMENT RECORDED DECEMBER 3, 2007, UNDER AUDITOR'S FILE NO. 200712030192, RECORDS OF SKAGIT COUNTY, WASHINGTON. TOGETHER WITH THAT PORTION OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 18, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M. MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT 30 FEET NORTH AND 150 FEET WEST OF THE SOUTHEAST CORNER OF SAID SOUTHEAST 1/4 OF THE NORTHEAST 1/4; THENCE NORTH, 90 FEET; THENCE WEST ALONG A LINE, 120 FEET NORTH OF THE SOUTH LINE OF SAID SOUTHEAST 1/4 OF THE NORTHEAST 1/4 60 FEET TO THE SOUTHWEST CORNER OF A TRACT CONVEYED TO A. A. WEXIER, ET UX, BY DEED RECORDED SEPTEMBER 28, 1981, UNDER AUDITOR'S FILE NO. 8109280018; THENCE NORTH ALONG A WESTERLY LINE OF SAID WEXLER TRACT TO A POINT 180 FEET NORTH OF THE SOUTH LINE OF SAID SOUTHEAST 1/4 OF THE NORTHEAST 1/4.; THENCE WEST PARALLEL TO SAID SOUTH LINE, A DISTANCE OF 65 FEET; THENCE SOUTH PARALLEL TO THE EAST LINE OF SAID SOUTHEAST 1/4, OF THE NORTHEAST 1/4, 150 FEET; THENCE EAST ALONG A LINE, 30 FEET NORTH OF SAID SOUTH LINE, A DISTANCE OF 125 FEET TO THE POINT OF BEGINNING, EXCEPT STATE HIGHWAY RIGHT OF WAY, AND ALSO EXCEPT THAT PORTION DESCRIBED AS FOLLOWS: BEGINNING AT A POINT THAT IS 40 FEET NORTH OF THE SOUTH LINE OF SAID SUBDIVISION, AND 237 FEET WEST OF THE WEST LINE OF U.S. HIGHWAY NO. 99 (SAID POINT BEING 245 FEET WEST OF SAID HIGHWAY, AS IT EXISTED PRIOR TO 1947); THENCE NORTH, 125 FEET; THENCE EAST, 50 FEET; THENCE SOUTH, 125 FEET, MORE OR LESS, TO A POINT 40 FEET NORTH OF THE SOUTH LINE OF SAID SUBDIVISION AND 50 FEET EAST OF THE POINT OF BEGINNING; THENCE WEST TO THE POINT OF BEGINNING, EXCEPT THAT PORTION CONVEYED TO THE CITY OF MOUNT VERNON BY INSTRUMENT RECORDED DECEMBER 3, 2007, UNDER AUDITOR'S FILE NO. 200712030192, RECORDS OF SKAGIT COUNTY, WASHINGTON. SURVEY AF#200807080054. ALSO EXCEPT THAT PORTION OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M., DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER OF THE NORTHEAST QUARTER; THENCE NORTH 00-24-07 WEST ALONG THE EAST LINE OF SAID SUBDIVISION, SAID LINE BEING ALSO THE CENTERLINE OF RIVERSIDE DRIVE, A DISTANCE OF 120.00 FEET; THENCE NORTH 90-00-00 WEST ALONG A LINE DRAWN PARALLEL TO AND 120 FEET NORTH OF THE SOUTH LINE OF SAID SUBDIVISION A



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DISTANCE OF 150.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTH 90-00-00 WEST ALONG SAID PARALLEL LINE 60.00 FEET; THENCE SOUTH 00-24-07 EAST ALONG A LINE DRAWN PARALLEL TO THE EAST LINE OF SAID SUBDIVISION A DISTANCE OF 76.36 FEET TO THE NORTH MARGIN OF COLLEGE WAY AS ESTABLISHED BY DEED RECORDED UNDER AUDITOR'S FILE NO. 200712030192; THENCE NORTH 87-42-23 EAST ALONG SAID NORTH MARGIN A DISTANCE OF 60.03 FEET TO A POINT WHICH BEARS SOUTH 00-24-07 EAST FROM THE TRUE POINT OF BEGINNING; THENCE NORTH 00-24-07 WEST 73.95 FEET TO THE TRUE POINT OF BEGINNING.

Tax Parcel No.: P26138

WHEREAS, Purchaser desires to secure an exclusive Right of First Refusal to purchase the Premises upon the terms and conditions of this Agreement.

WHEREAS, both parties desire to avoid real estate agent commissions.

NOW THEREFORE, for good and valuable consideration, including the easements which are executed concurrently, the receipt and sufficiency of which is hereby, acknowledged, and for the mutual covenants contained in the Agreement, Purchaser and Seller agrees as follows:

1. Right of First Refusal. Seller hereby grants to Purchaser the exclusive right of first refusal and privilege to purchase the Premises upon the following terms and conditions:

- a. Should Seller desire to sell the Premises to any third party, Seller shall obtain from such third party purchaser a bona fide written offer to purchase such Premises, stating the terms and conditions upon which the purchase is to be made and the consideration offered therefor. Seller shall give written notice to the Purchaser of Seller's intention to so transfer such Premises. Such notice shall set forth the complete terms of the written offer to purchase and include a copy of the purchase and sale agreement.
- b. The Purchaser shall have the first right to purchase the Premises upon the same terms and conditions stated in the notice given pursuant to Paragraph 1(a) above by giving written notice to the Seller within two (2) business days after such notice from the Seller. The failure of Purchaser to so notify the Seller of the desire to exercise the first refusal rights within said two (2) businesses days as required by this paragraph shall result in the termination of such Purchaser's first refusal rights.
- c. If Purchaser has elected to purchase the Premises, the Seller shall sell said Premises to Purchaser upon substantially the same terms and conditions specified in the notice required by paragraph 1(a) above, and the Purchaser shall close the purchase within sixty (60) calendar days after Seller's receipt of Purchaser's desire to purchase.



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d. If Purchaser does not elect to purchase the Premises, then Seller shall be entitled to sell the Premises to the third party purchaser in accordance with the terms and conditions upon which the purchase is to be made as specified in the notice under paragraph 1(a) above. However, if such sale is not completed the Premises shall continue to be subject to the rights of first refusal set forth in this Agreement. If such sale is completed, this agreement and all of purchaser's rights here in shall terminate.

e. If Purchaser gives Seller notice that it elects to purchase the subject property upon substantially the same terms and conditions specified in the notice required by paragraph 1(a) above, and the Purchaser fails to complete the sale of the subject property within 60 days, this agreement shall terminate and Purchaser shall have no future rights under this agreement.

2. **Default by Seller, Remedies of Purchaser.** If Seller fails to perform its obligations under this Agreement, Purchaser shall be entitled to either sue for specific performance or terminate this Agreement and sue for money damages. Upon execution by the parties of the purchase and sale agreement, their respective rights and remedies shall be as provided in that agreement.

3. **Notices.** All notices, requests and other communications that a party is required or elects to deliver shall be in writing and shall be delivered personally, or by facsimile, or by recognized overnight courier service or by United States mail, first class, certified or registered, postage prepaid, return receipt requested, to the other party at its address set forth below or to such other address as such party may designate by notice given pursuant to this section.

If to Purchaser: Wexler Mount Vernon, LLC
 c/o Eldon Wexler
 1101 Ave D, Suite D-201
 Snohomish, WA 98290
 Facsimile: (360) 862-8384

With a copy to: Adams & Duncan, Inc. PS
 c/o Christopher D. Adams
 3128 Colby Avenue
 Everett, WA 98201
 Facsimile: (425) 339-2353

If to Seller Andrew Barber
 Po Box 473
 Redmond WA 98073
 Facsimile: 425-803-2948



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4. **Governing Law.** The laws of the State of Washington shall govern this Agreement. All suits, actions, claims, and causes of action relating to this Agreement shall be in the Courts of Snohomish County.


5. **Successors and Assigns.** This Agreement shall apply to and inure to the benefit of the Purchaser's respective heirs, successors, and/or assigns.

6. **Recording.** Either party may record this Agreement at its sole expense.

7. **Entire Agreement.** This Agreement (including all addenda, exhibits, and schedules) is intended by the parties as the final and binding expression of their agreement and as the complete and exclusive statement of its terms, and all prior negotiations and agreements relating to the subject matter of this Agreement are merged herein. This Agreement shall not be modified or amended unless such amendment is set forth in writing and executed by both Seller and Purchaser.


8. **Attorney's Fees.** In the event of litigation or this agreement is otherwise placed with an attorney for action, then the prevailing party shall be awarded all reasonable attorney's fees, litigation costs and expenses, title report fees and other expenses incident to the enforcement of rights hereunder.

PURCHASER: Wexler Mount Vernon, LLC


ELDON WEXLER, Managing Member

Date: 9-28-2011.

SELLER: Barbless Investments, LLC


Andrew Barber, its MANAGER / MEMBER

Date: 9-30-2011.

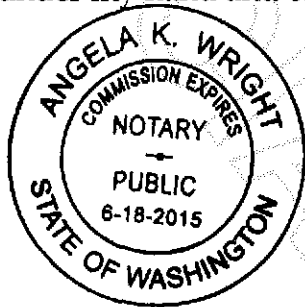


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STATE OF WASHINGTON)
)ss.
COUNTY OF SNOHOMISH)

I certify that I know or have satisfactory evidence that ELDON WEXLER is the person who appeared before me, and said person acknowledged that he/she signed this instrument and on oath stated that he/she was authorized to execute the instrument and acknowledged it as the Managing Member of Wexler Mount Vernon, LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Given under my hand and official seal this 28th day of September, 2011.



Angela K. Wright
Print Name: Angela K. Wright
Notary Public in and for the State of
Washington, residing at Everett, WA WA
My Commission expires: 06/18/2015

STATE OF WASHINGTON)
)ss.
COUNTY OF SNOHOMISH)

I certify that I know or have satisfactory evidence that ANDREW BARBER is the person who appeared before me, and said person acknowledged that he/she signed this instrument and on oath stated that he/she was authorized to execute the instrument and acknowledged it as the MANAGER/MEMBER of Barbless Investments, LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Given under my hand and official seal this 30th day of September, 2011.



Patty L. Letourneau
Print Name: Patty L. Letourneau
Notary Public in and for the State of
Washington, residing at Everett, WA
My Commission expires: 7-31-2013



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