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Skagit County Auditor

9/24/2012 Page 1 of 11 2:32PM

RETURN ADDRESS:

First Federal Savings and Loan
P O Box 351
Port Angeles WA 98362

ABSOLUTE ASSIGNMENT OF LEASES AND RENTS

GRANTOR: MOUNT VERNON PLAZA ASSOCIATES, L.L.C.
GRANTEE: FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF PORT ANGELES
ABBREVIATED LEGAL DESCRIPTION: SECTION 17, TOWNSHIP 34 NORTH, RANGE 4 EAST; PTN. NW SW; SKAGIT COUNTY, WA
(SEE PAGE 11 FOR FULL LEGAL DESCRIPTION)
ASSESSOR'S TAX PARCEL NO(S): 340417-0-077-0005 (P25673); 340417-0-079-0003 (P25677)

GUARDIAN NORTHWEST TITLE CO.

103663-3

THIS ABSOLUTE ASSIGNMENT OF LEASES AND RENTS (this "Assignment") is made this 19th day of September, 2012, by MOUNT VERNON PLAZA ASSOCIATES, L.L.C., a Washington limited liability company ("Assignor"), whose address is 650 South Orcas Street, Suite 210, Seattle, Washington 98108, for the benefit of FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF PORT ANGELES ("Assignee"), whose address is 105 West Eighth Street, Port Angeles, Washington 98362.

WITNESSETH:

Assignor, as an inducement to Assignee to make the Loan referred to below, and for other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby assign, convey, and deliver to Assignee all of its right, title and interest in and to all present leases, as described on the Schedule of Leases (the "Schedule") attached hereto as Exhibit A and incorporated herein by this reference, of the real property legally described in Exhibit B attached hereto and incorporated herein by this reference (the "Property"), together with any and all future leases, including subleases

thereof, guaranties, amendments, extensions and renewals of any and all leases. (All of said leases, subleases and tenancies, present and future, and all guaranties, amendments, extensions and renewals thereof, are collectively referred to as the "Leases".)

Together with the immediate and continuing right to collect and receive all of the rents, income, receipts, revenues, issues and profits (hereinafter the "Rents"), now due or which may become due or to which Assignor may now or shall hereafter become entitled to or which it may demand or claim, including those Rents coming due during any redemption period, arising or issuing from or out of the Leases or from or out of the Property or any part thereof, including but not limited to minimum rents, additional rents, percentage rents, deficiency rents and liquidated damages following default, and all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by destruction or damage to the Property, together with any and all rights and claims of any kind that Assignor may have against any tenant under the Leases or any subtenants or occupants of the Property, excepting therefrom any sums which, by the express provisions of any of the Leases, are payable directly to any governmental authority or to any other person, firm, or corporation other than the landlord under the Leases.

TO HAVE AND TO HOLD the same unto Assignee, its successors and assigns, until termination of the assignment as hereinafter provided.

A. This Assignment is made for the purposes of securing:

1. The repayment of a loan from Assignee to Assignor in the original principal amount of Two Million Five Hundred Thousand and 00/100 Dollars (US\$2,500,000.00) (the "Loan"). The Loan is evidenced by a Promissory Note in said amount (the "Note") and is secured by a Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing (the "Deed of Trust") that encumbers the Property in a first lien position. (The Note, Deed of Trust, and any other document given by Assignor to evidence or secure the Loan are referred to as the "Loan Documents").

2. The payment of all other sums with interest thereon becoming due and payable to Assignee under the provisions of the Loan Documents.

3. The performance and discharge of each and every term, covenant and condition of Assignor contained in the Loan Documents.

B. Assignor further agrees that Assignee may enforce this Assignment without first resorting to or exhausting any other security or collateral; however, nothing herein contained shall prevent Assignee from suing on the Note, jointly or severally, foreclosing on the Deed of Trust or exercising any other right under any other Loan Document.



The parties intend that this Assignment shall be a present, absolute, and unconditional assignment and shall, immediately upon execution, give Assignee the right to collect the Rents and to apply them in payment of the principal, interest and all other sums payable under the Loan Documents.

However, Assignee grants to the Assignor a license to collect, and to retain the use and benefit of, subject to the provisions set forth below and in the Deed of Trust, the Rents as they become due and to enforce the Leases, so long as no uncured default exists by Assignor in the performance of the terms, covenants or provisions of the Loan Documents or this Assignment.

C. Assignor warrants, and shall be deemed to reaffirm as of the time of each disbursement of Loan proceeds by Assignee to Assignor, that:

1. To the best of Assignor's knowledge, the Leases are unmodified and remain in full force and effect (except for modifications in the ordinary course of business);

2. To the best of Assignor's knowledge, no default exists on the part of any tenant under the Leases or Assignor (except for defaults by tenants in the ordinary course of business and except as disclosed on the Schedule);

3. To the best of Assignor's knowledge, subject to exceptions in the ordinary course of business and except as otherwise set forth in the Schedule, all Rents due to date under the Leases have been collected; no Rents have been collected more than thirty (30) days in advance; and no tenant has been granted any rental concession or inducement whatsoever that has not been set forth on the Schedule;

4. None of the Leases nor any interest in them has been assigned or pledged by Assignor; and

5. To the best of Assignor's knowledge, no tenant has a defense, set-off or counterclaim against Assignor.

D. Assignor covenants and agrees with Assignee as follows:

1. That there is no present lease of the Property not listed on the Schedule;

2. That the sole ownership of the entire landlord's interest in the Leases is vested in Assignor; that, to the best of Assignor's knowledge, there is no default now existing under any of the Leases except as disclosed in the Schedule; and, to the best of Assignor's knowledge, there exists no state of fact which, with the giving of notice or



lapse of time or both, would constitute a default under the Leases;

3. Assignor has not and shall not without the prior written consent of Assignee: (a) perform any act or execute any other instrument which might prevent Assignee from fully exercising its rights under any term, covenant or condition of this Assignment; (b) execute any assignment, pledge or hypothecation of Rents or any of the Leases except this Assignment and the other Loan Documents; (c) accept any payment of any Rents or installment thereof more than one (1) month before the due date thereof, in addition to a security deposit; (d) alter, modify, amend or, except where the tenant is in default, terminate, cancel or surrender any of the Leases or waive, excuse, condone, discount, set-off, compromise or in any manner release or discharge any tenant under any Lease from any obligation, covenant or condition under a Lease; or (e) suffer or permit any of the Leases to become subordinate to any lien other than the lien of the Deed of Trust, this Assignment and general real estate taxes not delinquent. Assignee shall respond promptly to any request for consent or approval required under this Paragraph D.3 and shall be deemed to have given its consent or approval if it does not notify Assignor to the contrary within ten (10) days of such request;

4. Assignor shall not without giving Assignee written notice within ten (10) days of the event: (a) lease more than ten percent (10%) of the rentable area of the Property to any single tenant, or renew or extend the term of any Lease of the Property for a term greater than one year unless an option therefor was originally reserved by the tenant in the Lease; or (b) with respect to any Lease covering ten percent (10%) or more of the rentable area of the Property under Leases with a term greater than one year, (i) relocate any tenant within the Property, or (ii) consent to (A) any modification of the express purposes for which the Property has been leased, (B) any subletting of the Property or any part thereof, (C) any assignment of the Leases by any tenant thereunder, and (D) any assignment or further subletting of any sublease;

5. Assignor shall observe, perform and discharge, duly and punctually, all the obligations, terms, covenants, conditions and warranties of the Loan Documents on its part to be fulfilled; shall fulfill and perform each and every covenant and condition of each of the Leases by the landlord thereunder to be fulfilled or performed; and shall give prompt notice to Assignee of any failure of the part of Assignor to observe, perform and discharge same;

6. That, if any of the Leases provide for a security deposit paid by the tenant to Assignor, this Assignment transfers to Assignee all of Assignor's right, title and interest in the security deposit; provided that Assignor shall have the right to retain that security deposit so long as Assignor is not in default under this Assignment beyond any applicable cure periods or the Loan Documents; and, however, Assignee shall have no obligation to the tenant with respect to that security deposit unless and until Assignee comes into actual possession and control of the deposit. Assignor further agrees,



contemporaneously with such delivery, to notify in writing each and every present or future tenant or occupant of all or part of the Property that any security deposit or other deposit which has been delivered to Assignor, has been retained by Assignor, or assigned and delivered to Assignee, as the case may be;

7. That, if any of the Leases provide for the abatement of rent during the repair of the Property by reason of fire or other casualty, Assignor shall furnish rental and/or business interruption insurance to Assignee, the policies to be in an amount, from and written by companies as shall be satisfactory to Assignee;

8. That Assignor shall give prompt notice to Assignee of each notice received by Assignor or any to them claiming that a default has occurred under any of the Leases on the part of the landlord, together with a complete copy of each such notice;

9. That each of the Leases shall remain in full force and effect irrespective of any merger of the interest of any landlord and any tenant under any of the Leases;

10. That Assignor shall enforce or secure in the name of Assignor the performance of each and every obligation, term, covenant, condition and agreement in the Leases to be performed by any tenant; shall notify Assignee of the occurrence of any default under the Leases beyond any applicable cure period; and shall notify Assignee if it commences an action of ejectment or any summary proceedings for dispossession of the tenant under any of the Leases or exercises any right of recapture provided in any Leases;

11. That Assignor shall appear in and defend any action or proceeding arising under, occurring out of, or in any manner connected with the Leases or the obligations, duties or liabilities of Assignor and any tenant thereunder, and upon request by Assignee, do so in the name and on behalf of Assignor, but in all cases at the expense of Assignor;

12. That Assignor shall manage the Property and will not hire, retain or contract with, any other party for property management services without the prior written approval by Assignee of that party and the terms of its contract for management services which approval shall not be unreasonably withheld; and

13. That Assignee may assign its right, title and interest in the Leases to any subsequent holder of the Deed of Trust or any participating interest in it or to any person acquiring title to all or any part of the Property through foreclosure or otherwise. Any subsequent assignee shall have all of the rights and powers provided to Assignee by this Assignment.



E. **Default.** In the event any representation or warranty of Assignor made herein shall be found to be untrue in any material respect, or upon any default by Assignor under this Assignment or any of the Loan Documents, which remains uncured within the time period specified (an "Event of Default") and without notice to or the consent of Assignor, Assignee shall have the following rights:

1. To terminate, without taking possession, the license granted to Assignor to collect the Rents and to demand, collect, receive, sue for, attack and levy against the Rents in Assignee's own name; to give proper receipts, releases and acquittance therefor; and, after deducting all necessary and proper costs and expenses of operation and collection as determined by Assignee, including reasonable attorneys' fees, to apply the net proceeds thereof, together with any funds of Assignor deposited with Assignee, to the Loan in such order as Assignee may determine.

2. To declare all sums secured hereby immediately due and payable and, at its option, exercise all or any of the rights and remedies contained in the Note, Deed of Trust, or other Loan Documents.

3. Without regard to the adequacy of the security or the solvency of Assignor, with or without any action or proceeding through any person, by agent or by a receiver to be appointed by a court and, without regard to Assignor's possession, to enter upon, take possession of, manage, and operate the Property or any part thereof; to use and possess, without rental or charge, the furniture, appliances and all other personal property of Assignor located on, and used in the operation or occupancy of, the Property. Assignee may apply any of the Rents generated by the Property to pay installments due for personal property rented or purchased on credit, insurance premiums on personal property, or other charges relating to personal property on the Property. However, this Assignment shall not make Assignee responsible for the control, care, management or repair of the Property or any personal property or for the carrying out of any of the terms of the Leases.

4. To make, modify, enforce, cancel or accept surrender of any Leases now or hereafter in effect on said Property or any part thereof; to execute new leases on market rate terms demising any part of the Property, including leases that extend beyond the term of the Deed of Trust; remove and evict any tenant; increase or decrease rents on market rate terms; decorate, clean and repair; otherwise do any act or incur any costs or expenses that Assignee shall deem proper to protect the security hereof, as fully and to the same extent as Assignor could do if in possession; and apply the Rents so collected in such order as Assignee shall deem proper to the operation and management of said Property, including the payment of reasonable management, brokerage and attorneys' fees, taxes, insurance, improvements, maintenance, other items relating to the Property, the indebtedness under the Note and Deed of Trust and payment for replacements to a reserve fund that shall not bear interest.



5. Require Assignor to transfer all security deposits to Assignee, together with all records evidencing these deposits.

Provided, however, that the acceptance by Assignee of this Assignment, with all of the rights, powers, privileges and authority so created, shall not be deemed or construed to constitute Assignee a "Mortgagee in Possession", nor thereafter or at any time or in any event obligate Assignee to appear in or defend any action or proceeding relating to the Leases or to the Property, to take any action hereunder, to expend any money, incur any expenses, or perform or discharge any obligation, duty or liability under the Leases, or to assume any obligation or responsibility for any security deposits or other deposits delivered to Assignor by any tenant thereunder and not assigned and delivered to Assignee. Assignee shall not be liable in any way for any injury or damage to person or property sustained by any person or persons, firm or corporation in or about the Property.

Provided further, that the collection of the Rents and their application as aforesaid and/or the entry upon and taking possession of the Property shall not cure or waive any default; waive, modify or affect any notice of default required under the Note and the Deed of Trust; or invalidate any act done pursuant to such notice. The enforcement of any right or remedy by Assignee, once exercised, shall continue until Assignee shall have collected and applied enough Rents to cure, for the time, the original default. Although the original default be cured and the exercise of any right or remedy be discontinued, the same or any other right or remedy hereunder shall not be exhausted any may be reasserted at any time and from time to time following any subsequent default. The rights and powers conferred on Assignee hereunder are cumulative and not in lieu of any other rights and powers otherwise granted Assignee.

6. Assignor hereby irrevocably appoints Assignee its true and lawful attorney-in-fact, with full power of substitution and with full power for Assignee in its own name and capacity or in the name and capacity of Assignor to, after an Event of Default, demand, collect, receive and given complete acquittance for any and all Rents accruing from the Property, and in an Event of Default, at Assignee's discretion, to file any claim or take any other action or proceeding and make any settlement of any claims, in its own name or in the name of Assignor or otherwise, which Assignee may deem necessary or desirable in order to collect and enforce the payment of the rents. All present and future tenants of the Property are hereby expressly authorized and directed to pay to Assignee, or to such nominee as Assignee may designate once an Event of Default has occurred, in a writing delivered to and received by such tenants, all amounts due Assignor or any of them pursuant to the Leases. All present and future tenants are expressly relieved of all duty, liability or obligation to Assignor and each of them in respect of all payments so made to Assignee or such nominee.



F. Assignor hereby agrees, except to the extent of Assignee's negligence or willful misconduct, to indemnify and hold Assignee harmless from any liability, loss or damage including, without limitation, reasonable attorneys' fees which may or might be incurred by Assignee under the Leases or by reason of this Assignment, and from any and all claims and demands whatsoever which may be asserted against Assignee by reason of any term, covenant or agreement contained in any of the Leases.

G. Assignee may: (i) take or release other security; (ii) release any party primarily or secondarily liable for any of the Indebtedness secured hereby; (iii) grant extensions, renewals or indulgences with respect to the Loan or the Loan Documents; and (iv) apply any other security therefor held by Assignee to the satisfaction of the indebtedness secured hereby.

H. That Assignee may, after an Event of Default, at its option although it shall not be obligated to do so, perform any Lease covenant for and on behalf of Assignor, and all monies expended in so doing shall be chargeable to Assignor, with interest thereon at the rate of default set forth in the Note applicable to a period when a default exists under the Loan Documents, and shall be added to the indebtedness secured hereby, and shall be immediately due and payable.

I. This Assignment is intended to be supplementary to, not in substitution for, or in derogation of, any assignment of rents contained in the Deed of Trust, or in any Loan Document. Failure of Assignee to avail itself of any of the terms of this Assignment for any period of time or for any reason shall not constitute a waiver of the Assignment.

J. Assignor hereby covenants and agrees to make, execute, and deliver to Assignee upon demand and at any time any and all assignments and other records and instruments, including, but not limited to, rent rolls and books of account sufficient for the purpose, that Assignee may deem to be advisable for carrying out the purposes and intent of this Assignment.

K. Upon payment in full of all the indebtedness evidenced by the Note, as well as all sums payable hereunder, this Assignment shall be void and of no effect.

L. All notices hereunder shall be deemed to have been duly given if mailed by United States registered or certified mail (return receipt requested and postage prepaid), sent by a reputable overnight delivery service, or personally delivered to the parties at the addresses set forth on Page 1 of this Assignment (or at such other addresses as shall be given in writing by any party to the other), and shall be deemed complete upon any such mailing, sending or delivery.



ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, MODIFY LOAN TERMS OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

IN WITNESS WHEREOF, Assignor has executed this Assignment as of the date first written above.

"ASSIGNOR"

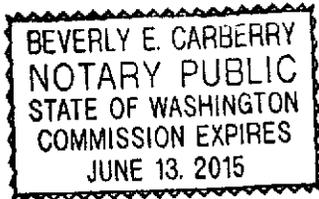
MOUNT VERNON PLAZA ASSOCIATES, L.L.C.,
a Washington limited liability company

By 
Eli Genauer, Managing Member

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that ELI GENAUER is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Managing Member of MOUNT VERNON PLAZA ASSOCIATES, L.L.C., to be the free and voluntary act and deed of said limited liability company, for the uses and purposes mentioned in the instrument.

WITNESS my hand and official seal hereto affixed this 19th day of September, 2012.




(Signature of Notary)

(Print or stamp name of Notary)
NOTARY PUBLIC in and for the State
of Washington
My Appointment Expires: _____



EXHIBIT A

SCHEDULE OF LEASES

<u>Tenant:</u>	<u>Term:</u>	<u>Expires:</u>	<u>Size/SF:</u>	<u>Option to Extend:</u>
JoAnn Fabrics	10 year	05/19/2021	24,450	2x5 years
Century 21	10 year	05/31/2016	5,904	2x5 years
Quality Sewing	10 year	08/31/2022	5,270	2x5 years
Cash America	10 year	07/31/2022	10,379	2x5 years
Opus Bank pad	10 year	09/30/2022	3,000	2x5 years



**EXHIBIT B
LEGAL DESCRIPTION**

PARCEL "C":

THAT PORTION OF THE NORTH 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4, SECTION 17, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE A.W. FURBER ROAD (NOW CALLED COLLEGE WAY) AT ITS INTERSECTION WITH THE WEST LINE OF THE PACIFIC NORTHWEST TRACTION COMPANY'S FORMER RIGHT-OF-WAY; THENCE WEST ALONG THE SOUTH LINE OF SAID ROAD 262.33 FEET; THENCE SOUTH 190 FEET, MORE OR LESS, TO A POINT 450 FEET NORTH OF THE SOUTH LINE OF SAID SUBDIVISION; THENCE EAST PARALLEL WITH THE SOUTH LINE OF SAID ROAD TO THE WESTERLY LINE OF SAID PACIFIC NORTHWEST TRACTION COMPANY'S FORMER RIGHT-OF-WAY; THENCE NORTHERLY ALONG THE WESTERLY LINE OF SAID RIGHT-OF-WAY TO THE POINT OF BEGINNING;

EXCEPT THE NORTH 10 FEET CONVEYED TO THE CITY OF MOUNT VERNON BY DEED RECORDED UNDER AUDITOR'S FILE NO. 816621;

ALSO EXCEPT THAT PORTION CONVEYED TO THE CITY OF MOUNT VERNON BY DEED DATED MARCH 26, 2008, AND RECORDED UNDER AUDITOR'S FILE NO. 200804150169, RECORDS OF SKAGIT COUNTY, WASHINGTON.

PARCEL "D":

THOSE PORTIONS OF THE NORTH 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4, SECTION 17, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M., DESCRIBED AS FOLLOWS:

THE NORTH 115 FEET OF THE SOUTH 450 FEET OF THAT PORTION OF SAID NORTH 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 17, LYING WESTERLY OF THE PACIFIC NORTHWEST TRACTION COMPANY'S RIGHT-OF-WAY AND EAST OF THE PACIFIC HIGHWAY;

EXCEPT THE WEST 211 FEET OF THAT PORTION OF SAID PREMISES LYING EAST OF THE PACIFIC HIGHWAY.

