

Filed for Record at the Request of:

Chmelik Sitkin & Davis P.S.  
1500 Railroad Avenue  
Bellingham, WA 98225



Skagit County Auditor  
3/25/2015 Page 1 of 6 8:47AM \$77.00

### LICENSE AGREEMENT

Grantor(s): PORT OF ANACORTES, a Washington municipal corporation  
Grantee(s): TS ANACORTES ENTERPRISES, LLC  
Legal Description: LOTS 1-20, BLK 31, ANACORTES  
Tax Parcel No(s): P55040, P55039, P55038, P55037, P55036, P55035

**THIS LICENSE AGREEMENT** (the "License") is entered into this 23rd day of March, 2015 between the **PORT OF ANACORTES**, a Washington municipal corporation, (the "Port"), and **TS ANACORTES ENTERPRISES, LLC**, a Washington limited liability company (hereinafter "Licensee").

#### **Land Title and Escrow**

**WHEREAS**, the Port recently purchased from Licensee, under that certain Real Property Purchase and Sale Agreement dated November 6, 2014 (the "Purchase Agreement"), the real property encompassing an entire city block located at 202 and 212 Commercial Ave and 1012 and 1014 3<sup>rd</sup> Street, Anacortes, Washington 98221 and identified by Skagit County parcel identification numbers P55040, P55039, P55038, P55037, P55036, and P55035 (the "Property"). The Property is legally described as follows:

Lots 1-20 of Block 31, Map of Anacortes, According to the Plat thereof recorded in Volume 2 of Plats, pages 4 -7, records of Skagit County, Washington; and

**WHEREAS**, as part consideration for the deferred payments set forth under the Purchase Agreement, the Port agrees to grant a license to Licensee to allow Licensee to continue to occupy the Property pursuant to the terms and conditions contained herein.

**NOW THEREFORE**, the parties hereto agree as follows:

1. **License to Occupy.** The Port hereby grants Licensee a license to occupy the Property until November 31, 2016, at which time the westerly one-half (1/2) portion of the Property ("Westerly Portion") will be vacated and Licensee shall be entitled to occupy the easterly one-half (1/2) portion of the Property ("Easterly Portion") until November 31, 2017, at which time the entire Property will be vacated by Licensee.

1.1 This License is personal to the Licensee and may not be transferred, assigned, sub-leased, or shared with any third party without the express written consent of the

Port, which consent may be withheld for any or no reason.

1.2 This License shall automatically terminate without any notice from the Port upon Licensee's failure to comply with any term or condition outlined herein.

2. **Term.** This License shall be effective upon execution and shall terminate on November 31, 2016 with regard to the westerly one-half (1/2) portion of the Property and shall terminate on November 31, 2017 with regard to the easterly one-half (1/2) portion of the Property.

3. **Consideration/Rents/Leasehold Excise Tax.** This License is granted as part consideration for the deferred payments allowed by Licensee to the Port under the Purchase Agreement. Licensee shall retain all revenue and rents from its occupation of Westerly and Easterly Portions of the Property, respectively, until each Portion is vacated by Licensee. Licensee shall be responsible for payment of all applicable Washington state leasehold excise tax due as a result of this License.

4. **"As Is".** Licensee has inspected the Property described herein and accepts it in its present condition "as is", and agrees to return it at termination of this License in broom clean (free of all debris) condition and free of all personal property unless such personal property has been expressly accepted by the Port. Licensee is not relying on any representation or warranty from the Port or any representative of the Port as to the suitability of the Property for its purposes, but is instead relying on its own knowledge and history of use of the Property.

5. **Utilities.** Licensee will arrange for and pay for all utilities used by and/or necessary for Licensee during the term of this License. At the conclusion of this License, Licensee shall arrange for such utility services to be terminated and for the final bill to be sent to Licensee. Licensee shall be liable for all utility charges that accrue if it fails to so terminate services.

6. **Licensee's General Obligations.** Licensee agrees to the following:

6.1 To keep the Property in a neat and clean condition and to keep said area clear of all trash and debris.

6.2 To conform to and abide by all rules, codes, laws, and regulations in connection with the use of the Property and the operation of Licensee's business thereon and not to permit the Property to be used in violation of any lawful rule, code, law, regulation or other authority.

6.3 To keep the Property free and clear of all liens and charges whatsoever arising from Licensee's use of the Property.

6.4 For all of its activities on the Property, Licensee shall be an equal opportunity employer in accordance with Title VI of the 1964 Civil Rights Act and will comply with all requirements of the Americans With Disabilities Act of 1990.

6.5 In sublicensing or subleasing the house on the Property, the Licensee will ensure that it complies with the provisions of the Washington Residential Landlord Tenant Act of 1973 as it now exists or is hereinafter amended applicable to landlords.

7. **Improvements.** Licensee shall not make or install any improvements or fixtures on the Property without the Port's prior written consent which shall be granted or withheld in the Port's sole discretion.

8. **Signs.** No signs shall be installed or placed on the Property without the express written permission of the Port.

9. **Licensee's Property, Waiver.** Licensee shall be solely responsible for any loss or damage of whatsoever nature, including but not limited to theft, of any real, personal, or mixed property used or owned by Licensee (or its sublicense or sublessor) that comes to be located or stored on the Property regardless as to whether or not such loss or damage is occasioned by the acts or omissions of the Licensee, the Port, some third party, fire, storm, act of nature, or other casualty. The Port and its insurance carriers shall have no obligation to (i) pay for any such loss, and (ii) have no obligation to provide security for or otherwise be responsible for any property used or stored on the Property by Licensee, this includes, but is not limited to, any property located or stored on the Property that is owned, leased, subleased, or consigned by Licensee, or any other property that Licensee otherwise has or appears to have dominion or control over (collectively hereafter "Licensee's Property").

9.1 *Waiver.* Licensee hereby waives any and all claims that Licensee may have or come to have against the Port, its elected officials, officers, employees, insurance carriers, the Port's insurance policies and agents arising from loss or damage to Licensee's Property regardless as to whether or not such loss or damage is occasioned by the acts or omissions of the Licensee, the Port, some third party, fire, storm, act of nature, or other casualty.

9.2 *Licensee's Property Hold Harmless.* Licensee shall defend, indemnify, and hold the Port, its elected officials, officers, employees, and agents harmless from any and all claims and costs (including reasonable attorneys fees and costs) arising from the loss or damage to Licensee's Property regardless as to whether or not such loss or damage is occasioned by the acts or omissions of the Licensee, the Port, some third party, fire, storm, act of nature, or other casualty.

10. **General Hold Harmless.** Licensee shall defend, indemnify, and hold the Port, its elected officials, officers, employees, and agents harmless from any loss, claim, cost, damage, fine, judgment, or lawsuit (including reasonable attorneys fee's and costs) whether for personal injury (including death) or damage to real or personal property arising as a result of accidents, injuries, or other occurrences occasioned by the willful, reckless, or negligent conduct of Licensee, its officers, employees and agents, regardless as to who the injured party may be. Provided that to the extent such injury or damage arises from the joint negligence of both the Port and Licensee, Licensee shall only hold the Port harmless to extent of Licensee's respective negligence. Without limiting the foregoing, the Licensee shall be responsible for and hold the Port harmless from any claims, demands, damages, cause of action or attorney fees arising from the sublicense or sublease of the houses on the west one-half of the property except and in proportion to the extent that such loss or damage is caused by the negligence of the Port. Without limiting the foregoing, the Licensee shall be responsible for and hold the Port harmless from any claims, demands, damages, cause of action or attorney fees arising from the Licensee's (acting as the Landlord) violation of the Washington Residential Landlord Tenant Act of 1973 as it now exists or is hereinafter amended.

11. **Environmental Hold Harmless.** Licensee shall indemnify and hold the Port harmless from any and all claims, demands, judgments, orders, or damages resulting from hazardous substances on the Property caused in whole or in part by the activity of the Licensee, its officers, employees, and agents. The term "hazardous substances", as used herein, shall mean any substance heretofore or hereafter designated as hazardous under the Resource Conservation and Recovery Act, 42 U.S.C. Sec 6901 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. Sec. 1257 et seq.; the Clean Air Act, 42 U.S.C. Sec. 2001 et seq.; the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. Sec. 9601 et seq.; or the Hazardous Waste Cleanup-Model Toxic Control Act, RCW 70.105D all as amended and subject to all regulations promulgated thereunder.

12. **Insurance.** The Licensee shall at all times carry a comprehensive general liability insurance policy covering its activities at the Property. Said policy shall provide coverage for both bodily injury and property damage in an amount not less than Five Hundred Thousand Dollars (\$500,000) combined single limit coverage. The Port shall be named as an additional insured on the policy. Licensee shall cause a certificate of insurance to be delivered to the Port evidencing the policy and indicating that the Port is an additional insured. Licensee believes and states that the insurance obligation herein does not exceed that which the Licensee would otherwise normally place upon itself.

13. **Not an Interest in Property.** This License is not a lease nor does it assign any interest whatsoever in the Property to Licensee. This License shall not be recorded with the Skagit County Auditor's Office and shall not be considered a lien or encumbrance on title.

14. **Notices.** All notices, demands, requests, consents, and approvals which may, or are required to be given by any party to any other party hereunder, shall be in writing and shall be deemed to have been duly given if delivered personally, sent by facsimile, sent by a nationally recognized overnight delivery service, or if mailed or deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage prepaid to:

The Port at:                    John Hachey  
Interim Executive Director  
Port of Anacortes  
100 Commercial Avenue  
Anacortes, WA 98221

Licensee at:                    TS Anacortes Enterprises LLC  
Attn: Steve Demopoulos  
202 Commercial Avenue  
Anacortes, WA 98221

or to such other address as the foregoing parties hereto may from time-to-time designate in writing and deliver in a like manner. All notices shall be deemed complete upon actual receipt or refusal to accept delivery. Facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission shall be the same as delivery of an original document.

15. **Waiver.** No failure by any of the foregoing parties to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or any other covenant, agreement, term, or condition. Any party hereto, by notice, and only by notice as provided herein may, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of any other party hereto. No waiver shall affect or alter this Agreement, and each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

16. **Captions.** The captions of this Agreement are for convenience and reference only and in no way define, limit, or describe the scope or intent of this Agreement.

17. **Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

18. **Neutral Authorship.** Each of the provisions of this Agreement has been reviewed and negotiated, and represents the combined work product of all parties hereto. No presumption or other rules of construction which would interpret the provisions of this Agreement in favor of or against the party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Agreement.


19. **Governing Law.** This Agreement and the right of the parties hereto shall be governed by and construed in accordance with the laws of the State of Washington and the parties agree that in any such action venue shall lie exclusively in Skagit County, Washington.

20. **Time of Performance.** Time is specifically declared to be of the essence of this Agreement and of all acts required to be done and performed by the parties hereto.

21. **Entire Agreement.** The entire agreement between the parties hereto is contained in this Agreement and the exhibits hereto; and this Agreement supersedes all of their previous understandings and agreements, written and oral, with respect to this transaction. This Agreement may be amended only by written instrument executed by the parties subsequent to the date hereof.

**- THIS LICENSE AGREEMENT CONTAINS A WAIVER AND HOLD HARMLESS -**

**TS ANACORTES ENTERPRISES, LLC**

  
By: Steve Demopoulos  
Its: Manager/Member

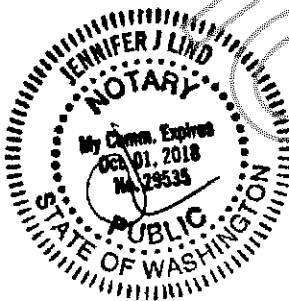
**PORT OF ANACORTES**

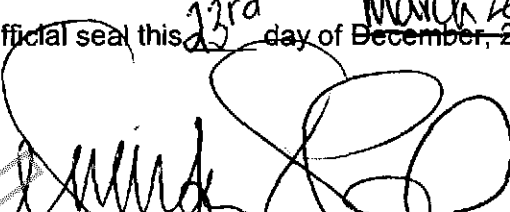
  
By: John Hachey  
Its: Interim Executive Director

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF SKAGIT)

On this day before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared, Steve Demopoulos, to me known to be the Manager/Member of TS ANACORTES ENTERPRISES, LLC and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute the said instrument on behalf of the limited liability company.

GIVEN under my hand and official seal this 23<sup>rd</sup> day of ~~December, 2014~~ March 2015

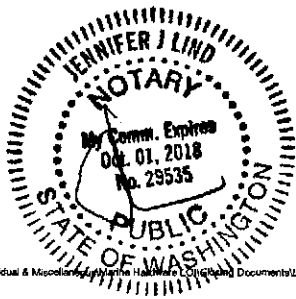


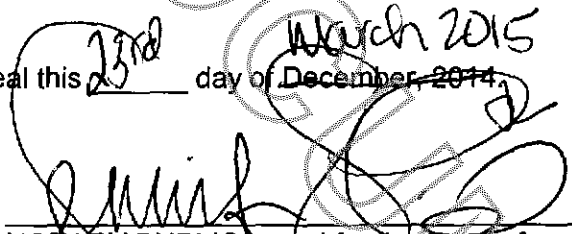
  
Print Name: Jennifer J Lind  
NOTARY PUBLIC in and for the  
State of Washington, residing at Bow  
My commission expires: 10/01/2018

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF SKAGIT)

I certify that I know or have satisfactory evidence that **JOHN HACHEY** is the person who appeared before me and on oath acknowledged that he signed this instrument, that he was authorized to execute this instrument, and acknowledged it as the Interim Executive Director of the **PORT OF ANACORTES** 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 23<sup>rd</sup> day of ~~December, 2014~~ March 2015



  
NOTARY PUBLIC in and for the State of  
Washington, residing at Bow  
My Commission Expires: 10/01/2018

PORT OF ANACORTES Individual & Miscellaneous Licenses, Documents License Agreement.doc