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Skagit County Auditor

\$226.00

3/3/2017 Page

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AFTER RECORDING RETURN TO:
Bendich, Stobaugh & Strong, P.C.
701 Fifth Avenue, Suite 4850
Seattle, WA 98104

01-16-198-D
Land Title and Escrow

**CONSENT TO ASSIGNMENT OF LEASE AND DEED OF TRUST,
AGREEMENT TO GIVE NOTICE OF DEFAULT**

Grantor/Lessor:	Port of Skagit County	
Grantee/Lender:	Evergreen Business Capital	<i>201702240059</i>
Lessee:	MW Kemper LLC	<i>201702240060</i>
Legal Description:	Lot 11, Amended Skagit Regional Airport B.S.P., Phase 1 Additional legal is on Exhibit A.	
Tax Parcel ID#:	#P133020 and #P115569	

DEFINITIONS

LENDER ----Evergreen Business Capital

SBA-----Small Business Administration, an agency of the United States of America.

LESSOR---Port of Skagit County

LESSEE----MW Kemper LLC

INDEBTEDNESS ----A promissory note in the amount of \$270,000 executed by MW Kemper LLC and payable to LENDER.

GROUND LEASE -----Lease between LESSOR and LESSEE dated June 1, 2015, as amended in November 2015 (First Amendment) and as amended on January 15, 2016 (Second Amendment) and covering the real property described as:

A leasehold estate in the following described property:

Lot 11, "AMENDED SKAGIT REGIONAL AIRPORT BINDING SITE PLAN, PHASE 1," as per plat recorded on March 4, 2003, under auditor's file No. 200303040030, records of Skagit County, Washington. Situate in the County of Skagit, State of Washington ("Leasehold Property").

LEASEHOLD ESTATE-----Tenant's rights and obligations under the Lease.

LEASEHOLD SECURITY INSTRUMENTS----Assignment of Tenant's Interest in Lease as Collateral and Deed of Trust executed by Tenant to secure repayment of the Indebtedness.

AGREEMENT

Lessor, being the present owner and lessor of the Leasehold Property as more fully described in the Lease Agreement dated June 1, 2015, together with all assignments, renewals, extensions, modifications, consolidations and substitutions there ("Ground Lease", by and between Lessor and Chuckanut Brewery, LLC ("Chuckanut Brewery"), predecessor in interest to MW Kemper LLC ("Lessee), understands and acknowledges that LENDER is about to make a loan to MW Kemper LLC ("the Loan") in the original principal amount of \$270,000 secured by Lessee's interest in the Ground Lease and the Lessee's leasehold estate created thereby ("Leasehold Security Instruments"). Lessor further understands that it is a condition of the making of the Loan that this Agreement be executed by Lessor and recorded with Skagit County Auditor's Office. In consideration of the mutual benefits to be derived therefrom, Lessor, Lessee, and LENDER agree and certify as follows:

1. The Ground Lease is in full force and effect. Lessor and Lessee agree that during the term of the Loan, there shall be no voluntary cancellation, surrender or modification of the Ground Lease, by mutual agreement of the parties thereto, without LENDER's prior written consent; which consent shall not be unreasonably withheld.
2. There is no default presently known to exist under the Ground Lease in the payment of rent or in the observance or performance of any other covenant or condition to be observed or performed by Lessee or Lessee's predecessors in interest, and Lessor has no knowledge of any facts of information that, with the giving of notice, passage of time, or both, would constitute a default by Lessee thereunder.
3. Lessor consents to Lessee's execution and recording of Leasehold Security Instruments, subject to the following:
 - A. Lessor's consent contained herein shall not waive any of its rights to consent to any subsequent mortgage of Lessee's leasehold interest, assignment, sublease, or other transfer, LENDER hereby acknowledges and agrees that Lessor shall have no obligation or liability under the terms of the Leasehold Security Instruments.
 - B. Should LENDER become Lessee under the Ground Lease, it shall assume and meet all existing and subsequent liabilities of Lessee under the Ground Lease, provided its liability shall be limited to its interest in the Ground Lease.

LENDER must immediately provide written notice to Lessor should it become Lessee under the Ground Lease.

C. This consent shall not be construed as an agreement to subordinate Lessor's interest in the Premises to the Leasehold Security Instruments. The Leasehold Security Instruments shall not encumber the Leasehold Property in any fashion once the Ground Lease is terminated.

D. If the interests of Lessee in the Leasehold Property are owned by LENDER by reason such as by deed-in-lieu of foreclosure, judicial foreclosure, sale pursuant to any power of sale or other proceeding brought by LENDER or by any other manner, including but not limited to LENDER's exercise of its rights under the Leasehold Security Instruments, and LENDER succeeds to the interest of Lessee under the Ground Lease, LENDER shall be bound to Lessor under all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining and any extension thereof duly exercised by Lessee with the same force and effect as if LENDER were the Lessee under the Ground Lease; and LENDER hereby attorns to Lessor, as its landlord, said attornment to be effective and self-operative, with the execution of any further instruments on the part of any of the parties hereto, immediately upon LENDER succeeding to the interest of Lessee under the Ground Lease. The respective rights and obligations of Lessor and LENDER upon such attornment, to the extent of the then remaining balance of the term of the Ground Lease, shall be and are the same as now set forth therein, it being the intention of the parties hereto for the purpose of this Section 3(D) to incorporate the Ground Lease in this Agreement by reference with the same force and effect as if set forth in full herein.

E. Lessor makes no representations or warranties, expressed or implied, concerning the condition of the Leasehold Property, and, as between Lessor and LENDER, LENDER agrees to accept the Leasehold Property in its "as-is" condition as of the date, if any, that it succeeds to the interest of the Lessee under the Ground Lease, subject to Lessor's obligations under the Ground Lease.

F. Lessor's limited consent to assignment herein stated shall terminate upon payment in full to Lender of the above-referenced loan by Lessee, or payment in full of loan proceeds by a new assignee to Lender as the financing institution ("Terminated Event."). In either event, Lender is obligated to notify the Lessor of the same, in writing, with ten (10) days of the Lessors' request for verification that this letter agreement has been terminated on account of a Terminating Event. If Lender fails to provide said timely written notice, by acceptance of this Agreement, Lender has agreed to pay all of the Lessors' reasonable costs associated with verifying that this letter agreement has in fact terminated on a account of a Terminating Event.

Lessor also consents to LENDER assigning the Indebtedness and Leasehold Security Instruments to SBA.

4. Lessor, upon serving Lessee with notice of any default, shall simultaneously serve a copy thereof upon LENDER, and notice shall not be deemed to have served upon Lessee unless Lessor shall simultaneously serve a copy of such notice upon LENDER. Upon receipt of written notice of any default of Lessee, LENDER shall have sixty days after service of such notice upon LENDER to remedy or cause to be remedied the defaults complained of, and Lessor shall accept such performance as if the same had been done by Lessee. If the default is one that cannot reasonably be cured by LENDER (such as insolvency, bankruptcy or other judicial proceedings against Lessee, or the failure to maintain continuous business operations), then Lessor will not terminate the Ground Lease so long as Lessor receives all sums due under the Ground Lease for the period during which Lender is in possession of the Leasehold Property, or so long as LENDER reassigns the Ground Lease to a new lessee reasonable satisfactory to the Lender.

5. In the event the Ground Lease terminates for any reason including the rejection of the Ground Lease in a bankruptcy proceeding, or in the event that LENDER forecloses its Leasehold Security Instruments on Lessee's interest in the Ground Lease, Lessor agrees to enter in to a new ground lease with LENDER for the remainder of the term, effective as of the date of such termination, with conditions, covenants and agreements as contained the Ground Lease, except as provided herein ("New Ground Lease"). Lender shall deliver written request to Lessor for such a new lease within 15 days after the notice of termination has been served upon Lender, together with all sums then due to Lessor under the Ground Lease and shall further remedy any and all defaults of Lessee then in existence.

6. Notwithstanding the terms of Paragraph 28 entitled Assignment and Sublease of the Ground Lease, LENDER shall have the right to assign its interest in the New Ground Lease to a third party. Lessor shall have the right to approve any proposed assignment of the New Ground Lease but such approval shall be based on the Lessor's reasonable application of a due diligence review of the proposed assignee's financial ability to meet the terms of the Lease. Assignment shall be made only to a proposed assigned whose utilization of the premises is consistent with the applicable zoning and master plan as is acceptable to the Lessor.

7. In the event that LENDER forecloses its Leasehold Security Instruments on Lessee's interest in the Ground Lease, Lessor agrees that LENDER may use the Leasehold Property for a purpose not inconsistent with use described in paragraph 28 entitled ASSIGNMENT AND SUBLEASE of the Ground Lease.

8. LENDER shall not be liable under the Ground Lease following the assignment or other disposition of the Leasehold Property for any liability or obligation that accrues after assignment. However, if LENDER is the financing institution of the new assignee,

LENDER shall have the same rights with respect to the assignee, the Lessor and the Leasehold Property as set forth herein.

9. LENDER may be named as its interest shall appear on any standard mortgage endorsement on any and all insurance covering the Leasehold Property, the improvements or any part thereof.

10. All notices required by the Agreement shall be in writing at the addresses of the parties set forth below. Notices shall be deemed received three working days after deposited in the United States Mail to such addresses or any subsequent address of which a party provides written notice to the other parties:

LESSOR:

Port of Skagit County
15400 Airport Drive
Burlington, WA 98233

LESSEE:

MW KEMPER LLC
182 Hiline Road
Bellingham WA 98229

LENDER:

Evergreen Business Capital
13925 Interurban Ave. S. Suite 100
Seattle WA 98168

United States Small Business Administration
Fresno Commercial Loan Service Center
801 R Street, Suite 101
Fresno CA 93721

11. The statements, promises and agreements herein made shall be binding upon Lessor, Lessee and Lender and their successor and assigns, and shall insure to the benefit of Lessor, Lessee and Lender and their successors and assigns.

12. This agreement shall be governed by and construed in accordance with the laws of the state of Washington. Lender, Lessee and Lessor represent and warrant to each other that their respective undersigned agents have full power and authority to execute this agreement on each party's behalf. Neither party shall be deemed to have waived any rights hereunder unless such waiver is in writing designed by such party. No delay or omission on the part of a party in exercising any right shall operate as a waiver of such

