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07/29/2020 01:47 PM Pages: 1 of 18 Fees: \$120.50
Skagit County Auditor

Return Address:

Document Title(s):

Amendment Lease Agreement

Reference Number (if applicable): _____

Grantor(s):

☐ additional grantor names on page ____.

Birdsview LLC

Grantee(s):

☐ additional grantee names on page ____.

Janicki Family Trust
McGoffin, Mary T
Janicki Lisa

Abbreviated legal description:

☐ full legal on page(s) ____.

NE of SE 10-35-07

Assessor Parcel / Tax ID Number:

☐ additional parcel number(s) on page ____.

P111550

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

JUL 28 2020

Amount Paid \$ ✓
By Skagit Co. Treasurer
Deputy**AMENDMENT
TO****LEASE AGREEMENT (Skagit County Contract # 003989)**

THIS AMENDMENT (herein "Amendment" or "Lease Amendment") to that certain Lease Agreement (defined herein below) is made and entered into by and between Birdview, LLC, a Washington limited liability company, as successor to the Janicki Family Trust (Mary T. McGoffin and Lisa Janicki, Co-Trustees, created under Trust Agreement dated May 1, 1988), herein "Lessee", and Skagit County, a political subdivision of the State of Washington, herein "Lessor". Lessee and Lessor may be individually referred to herein as a "party", and may be collectively referred to herein as the "parties."

WHEREAS, the Lessor and Lessee entered into a Lease Agreement To Lease Land with the Cascade Trail Corridor, dated June 22, 1998 (Skagit County Contract # 003989), collectively herein the "Lease Agreement" or "lease"; and,

WHEREAS, due to changed circumstances and in the interest of clarity, the parties have mutually determined that it would be appropriate and beneficial for the parties to revise the terms of Lease Agreement, and accordingly the parties mutually desire to modify the terms of the Lease Agreement pursuant to the terms of this Amendment herein. A true and correct copy of the Lease Agreement is attached hereto as **Exhibit "A"**, and is hereby incorporated by reference.

NOW THEREFORE, in consideration of the forgoing, and following terms and conditions, the parties mutually agree as follows:

- A. **TERMS OF AMENDMENT:** The terms of the Lease Agreement are hereby revised as follows:
 - A.1 Section II. USE OF FACILITIES:
 - A. The Lessee may use the leased premises as described per the legal description included in Section I. of the lease, and as identified in the attached map for (also commonly identified as portion[s] of P111550 and P42413). Lessee shall not unreasonably interfere with the Lessor's use of the portion(s) of the leased premises (if any) as may currently be used by the general public as a non-motorized trail. Lessee accepts use of the leased premises "as is", without any representations or warranties from Lessor whatsoever (express or implied). The Lessee specifically recognizes and agrees that Lessor is not obligated to make, construct, operate, maintain, or repair any particular improvements or facilities at (or within the vicinity of) the leased premises pursuant to the terms of this Lessee. The Lessee agrees that use of the leased premises shall be at the sole risk of the Lessee.
 - B. SPECIFIED CONDITIONS
 - 1. The parties mutually recognize and agree that this lease does not include the use of any buildings and/or structures on the leased premises, and that any such buildings and/or structures shall continue to be the property of the Lessee. At the

sole discretion of the Lessor, upon termination or expiration of this lease, any such buildings and/or structures shall become property of the Lessor, or shall be promptly demolished and removed by Lessee (at Lessee's sole cost, expense, and liability) prior to the expiration of the lease term (and/or any subsequent renewals). While this lease is in effect, lessee shall be solely and separately responsible and liable for the use, maintenance, and operation of any such any buildings and/or structures located on the leased premises. Lessee shall, at Lessee's own cost, expense, and liability, obtain and comply with all applicable federal, state, and local laws, rules, and regulations, and any applicable permits and/or approvals, in using the leased premises, and Lessee shall be solely and separately liable and responsible for any non-compliance with any applicable federal, state, and local laws, rules, regulations, permits and/or approvals.

Section II.B.2 remains unchanged.

A.2 Section III. TERM

The lease shall commence on April 1, 1998, and shall expire on April 30, 2023.

The lease of this land is intended to be for an initial term period of twenty-five (25) years. Thereafter, this lease agreement may be automatically renewed for five additional two (2) year terms, for a total lease term not to exceed thirty-five (35) years, unless sooner terminated pursuant to the terms herein. Lessor (at Lessor's sole judgment and discretion), may elect to not renew this lease agreement by providing lessee with a written notice of non-renewal at least sixty (60) days prior to the expiration of the initial twenty-five (25) year term, or at least sixty (60) days prior to the expiration of each additional two (2) year term. Upon mutual execution of this Amendment by the parties, a true and correct copy of the Lease Agreement (including this Amendment) shall be promptly recorded with the Skagit County Auditor's office.

A.3 Section IV. LEASE PAYMENT SCHEDULE

The parties recognize and agree that prior lease payments due to the Lessor from Lessee could be considered to be in default, but the parties do not wish to spend additional time and cost that would be incurred by both parties arising from a dispute related to such default. As such, within thirty (30) days of mutual execution of this Amendment, Lessee shall pay Lessor a total amount of eleven thousand two hundred dollars (\$11,200), representing the previous six (6) years (including for the current year) of lease payments due to Lessor by Lessee, without interest imposed as would otherwise be provided by the terms of the lease.

Thereafter, effective April 1, 2021, Lessee shall pay Lessor an amount of two thousand dollars (\$2,000) per year until the end of the initial lease term of twenty five (25) years, ending on April 30, 2023. For each of the additional five (5) terms of two (2) years each, after the initial lease term, Lessee shall pay Lessor an amount of six thousand dollars (\$6,000) per year, or the Lessee may instead pay appraised fair market value for each additional two (2) year term.

In the event that Lessee elects to pay appraised fair market value for each additional two (2) year term (after the end of the initial lease term), Lessee shall have the right (at Lessee's sole cost and expense) to obtain an appraisal report (from a licensed appraiser

mutually agreeable to both parties) to determine the fair market value of rent for the leased premises for each additional two (2) year term (which appraised fair market rent value shall not include any value for the existing buildings because the buildings are owned by the Lessee). In the event that such appraised fair market value of rent for the leased premises is less than six thousand dollars (\$6,000) per year, the annual lease payment shall be reduced to the appraised fair market value of rent so determined by the appraisal report. In the event that such appraised fair market value of rent for the leased premises is more than six thousand dollars (\$6,000) per year, the annual lease payment shall be increased to the appraised fair market value of rent so determined by the appraisal report. Lessee shall promptly provide Lessor with complete, true, and correct copies of any and all appraisals obtained by Lessee involving the leased premises.

Annual lease payments shall be made by Lessee on or before January, 30th of each year that this lease is in effect.

NOTE: Lessee shall also be responsible for separately paying any and all applicable leasehold tax (and/or other taxes due arising from or related to the use of the leased premises by lessee) in addition to the lease amounts and payments identified above, and shall be paid by separate check at the time the annual lease payment is made to Lessor.

Commencing thirty (30) days after execution of this Lease Amendment, Lessee shall pay interest at the rate of twelve percent (12%) per year, until paid, for all past due lease payments and/or other sums owing to Lessor by Lessee. Interest shall commence upon the date such lease payment(s) and/or other sums is due and payable. In the event Lessor pays any sum or incurs any expense which Lessee is obligated to satisfy or pay under the terms of this lease, the Lessor shall be entitled to receive reimbursement from Lessee upon demand, together with interest thereon from the date of expenditure at the rate stated above.

Make checks payable (and send or deliver) to: Skagit County
Attn: Budget and Finance Director
1800 Continental Place
Mount Vernon, WA 98273
RE: Birdsvew, LLC Lease

A.4 Section V. LAND MANAGEMENT RESPONSIBILITIES, is hereby supplemented as follows (with the other terms of this section remaining unchanged):

In accordance with RCW 36.34.180, if new buildings or other improvements are proposed to be constructed upon the leased premises which such new buildings or other improvements are to be used for commercial, manufacturing, and/or industrial purposes by Lessee, the Lessee shall file with the Skagit County Board of Commissioners general plans and specifications of the building or buildings to be erected thereon for such purposes for review and approval in consultation with the Skagit County Engineer. Lessor may cancel and terminate this lease (without liability or recourse from Lessee) for the failure of Lessee to construct such building, buildings, and/or improvements within (3) three years of the date of approval of such building(s) or other improvements by Skagit County, and in case of failure to do so, the lease and all improvements thereon including the rentals paid shall, shall be forfeited to the Lessor, or at the sole option and discretion of the Lessor, shall be promptly demolished and removed by Lessee (at Lessee's sole cost, expense, and liability). No change or modifications of such plans and specifications

shall be made unless first approved by the Skagit County Board of Commissioners, in consultation with the County Engineer. If at any time during the term of this lease, the Lessee fails to use the leased property for the purposes leased, without first obtaining permission in writing from the Skagit County Board of Commissioners to do so, the lease shall be forfeited.

The parties recognize and agree that commercial and/or industrial activities are occurring (and/or have occurred and/or may occur) on the leased premises. As such, the Lessee shall, at Lessee's sole and separate cost, expense, and liability, comply with all hazardous waste laws, rules, and regulations and shall treat, store, dispose of or otherwise handle hazardous substances in a safe and proper manner and the Lessee shall not allow or cause any hazardous, toxic or petroleum materials to be released, disposed of, or discharged on any portion of the leased premises. The term "hazardous substance", "hazardous waste", or "hazardous material" shall specifically include, but shall not be limited to, petroleum and petroleum products and their by-products, residue, and remainder in whatever form or state, and any other material or substance which does cause or may cause environmental pollution or contamination (and associated liability and clean-up costs related thereto) as defined under applicable state and federal laws, rules, and regulations (specifically including, but not limited to, RCW 70.105D, and related Washington State Department of Ecology regulations, specifically including, but not limited to, WAC 174-340). The Lessee shall be solely and separately liable for the remediation of any hazardous materials that are spilled, released, or discharged on or about the leased premises that are caused by the actions, activities, or omissions of the Lessee, the Lessee's employee(s), contractor(s), sub-lessee(s) and/or agent(s). Lessee shall indemnify, defend and hold the Lessor harmless from any fines, suits, procedures, claims, costs, damages, expense, and actions of any kind arising out of or in any way connected with any releases, spills or discharges of hazardous substances or waste at the leased premises that are caused by the actions, activities, or omissions of the Lessee, the Lessee's employee(s), contractor(s), sub-tenant(s), and/or agent(s). This indemnity includes, but is not limited to: (a) liability to a governmental agency for all costs, including but not limited to, the Lessor's costs of removal or remedial action for hazardous substances; (b) damages to natural resources caused by hazardous substances, including the reasonable costs of assessing such damages; (c) liability for any other person's lawful costs of responding to hazardous substances; and (d) liability for any costs of investigation, abatement, mitigation, correction, cleanup, fines, penalties, or other damages arising under any environmental laws (specifically including, but not limited to, RCW 70.105D, and related Washington State Department of Ecology regulations, specifically including, but not limited to, WAC 174-340). The parties agree that the Lessor shall not be responsible or liable for the use, operation, or maintenance of Lessee's facilities located within the leased premises in any way.

A.5 Section VI. SUBLEASES and ASSIGNMENTS

Lessee shall not assign this lease, or any party thereof, and shall not let or sublet the whole or any portion of the premises, without the duly authorized prior written consent of Lessor. Lessor may assign this lease without the consent or approval of Lessee. This lease shall be assignable by operation of law. Should Lessor sell, convey, or transfer the premises during the term of hereof, this lease shall automatically be assigned by Lessor to any subsequent owner(s) of the premises without any further action of the parties, subject to the terms of RCW 36.34.180 requiring authorization for such lease assignment by resolution of the Skagit County Board of Commissioners. Any assignment of this lease

shall not extinguish or diminish the liability of Lessee. If consent is given once by Lessor to the assignment of this lease, or any interest herein, Lessor shall not be barred from afterward refusing to consent to any further assignment or insisting on performance by the prime Lessee. It is agreed that this lease and all rights of the Lessee hereunder shall, at the option of the Lessor, terminate upon the Lessee being adjudicated bankrupt or being declared insolvent in a receivership proceeding.

Lessee shall not hypothecate, mortgage, assign, encumber, transfer, or otherwise alienate this lease, or any interest therein or engage in any other transaction which has the effect of transferring or affecting the right of enjoyment of the leased premises without the prior written approval of Lessor, which shall not be unreasonably withheld.

In granting an approval of assignment or sublease, the Lessor reserves the right to negotiate with Lessee a change in the terms and conditions of this lease as it may affect or relate to the sub-lessee and/or assignee, which change shall be made pursuant to a duly executed written amendment or addendum to this lease. The Lessor shall be entitled to consider, among other items, the proposed sub-lessee's and/or assignee's financial condition, managerial capability, business reputation, nature of the proposed business and operations, the current fair market value of the leased premises, and such other factors and may relate to the suitability of the sub-lessee and/or assignee.

Lessor approves the existing sublease of Washington Woodland Cooperative, a Washington cooperative association; provided that Lessee shall be solely responsible and liable ensuring that said sub-lessee fully complies with the terms of this lease. Lessee shall be solely responsible and liable for all activities of said sub-lessee on the leased premises.

In accordance with Skagit County Resolution # R20200128, Lessor ratifies, approves, and consents to the prior assignment of this lease from the Janicki Family Trust (Mary T. McGoffin and Lisa Janicki, Co-Trustees, created under Trust Agreement dated May 1, 1988), to Birdsvew, LLC, a Washington limited liability company, as successor Lessee, effective October 1, 2019.

- A.6 Section VII. INSURANCE, is hereby supplemented as follows (with the other terms of this section remaining unchanged):

The insurance provided by Lessee shall be Commercial General Liability insurance. Thirty (30) days' written notice to the Lessor of cancellation of the Lessee's insurance is required. The Lessee's insurance shall be primary. Any insurance or self-insurance maintained by the Lessor, its officers, officials, employees or volunteers shall be excess of Lessee's insurance and shall not contribute to it. Lessor shall provide proof of insurance prior to or concurrent with this Lease amendment, and thereafter Lessor shall provide proof of insurance with each annual lease payment made to Lessor (and as may otherwise be reasonably requested by Lessor). Proof of insurance shall be in a form acceptable and approved by the Lessor.

- A.7 Section VIII. INDEMNITY

The Lessee hereby unconditionally releases and forever discharges and holds harmless the Lessor (including the Lessor's elected officials, employees, volunteers, officers, and/or agents in both their official and individual capacities) from any and all past, present, and/or future claims, counterclaims, demands, judgments, debts, costs, liabilities, expenses,

suits, and proceedings of any kind and nature, as arising from and/or related to the Lessee's use of the leased premises. The Lessee agrees to be responsible for and to assume liability for Lessee's own wrongful and/or negligent acts or omissions or those of Lessee's subtenant(s), officials, officers, agents, contractors, or employees to the fullest extent required by law, and further agrees to save, indemnify, defend, and hold the Lessor harmless from any such liability. It is further provided that no liability shall attach to the Lessor by reason of entering into this lease except as expressly provided herein. Any party having a claim against the Lessee (arising from and/or related to Lessee's use of the leased premises), shall have recourse only to the extent of assets and property of the Lessee, and shall have no recourse against Lessor, its appointed or elected officers, employees, volunteers or its/their assets or credits. In the event the Lessee enters into subleases, the Lessee's sub-lessee(s) shall indemnify the Lessor on a basis equal to or exceeding Lessee's indemnity obligations to the Lessor. The terms of this section shall survive any termination of this lease, and shall continue in full force and effect.

A.8 Section XI. AGENT OF LESSOR:

The following individuals are designated as representatives of the respective parties for purposes of any notice required by this lease agreement. The representatives shall be responsible for administration of this lease agreement and for coordinating and monitoring performance under this agreement. In the event such representatives are changed, the party making the change shall notify the other party.

The Lessor's representative shall be:

Skagit County Parks and Recreation Director, or his/her designee
1730 Continental Place,
Mount Vernon, WA 98273
Phone: (360) 416-1350

Lessee's representative shall be:

Birdsview, LLC
Attn: Robert Janicki
103 N. Township St.
Sedro Woolley, WA 98284
Phone: _____

A.9 Section XIV. RAIL-BANKING

The parties recognize and agree that the Lessee's use of the leased premises is conditioned upon and subject to Lessee's full compliance with the requirements of all applicable rail-banking law(s) and agreement(s), including, but not limited to, the National Trails Systems Act, 16 U.S.C., Section 1247(d), and Skagit County Contract Number 01775 (dated August 20, 1993). In the event that the terms of this lease and the terms of the aforementioned rail-banking law(s) and agreement(s) are not consistent, the terms of the aforementioned rail-banking law(s) and agreement(s) shall prevail. Lessee recognizes and agrees that Lessee shall assume all risk associated with the possibility that the leased premises could be converted back to railroad uses (and/or for other purposes), and Lessee agrees that the Lessor has no duty or obligation whatsoever to attempt to prevent

or oppose such other potential future uses of the leased premises. The Lessor may immediately terminate this lease upon providing thirty (30) days written notice to Lessor (without penalty, liability, or recourse from Lessor), if the Lessor is required by court order, legislative action, and/or by other action of another governmental agency having jurisdiction over the leased premises, which would effectively limit, prohibit, eliminate, condition, and/or change either party's use of the leased premises.

A.10 Section XV. OTHER TERMS

Waiver or breach of any term or condition of this lease shall not be considered a waiver of any prior or subsequent breach. In the event any term or condition of this lease or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications of this lease which can be given effect without the invalid term, condition, or application. This lease is subject to public disclosure pursuant to applicable law (including RCW 42.56.). This lease is not intended to nor does it create any third party beneficiary or other rights in any third person or party, including, but not limited to, the general public, third party property owner(s) tenant(s), and/or sub-tenants at or in the vicinity of the leased premises, any other organization or entity, or any agent, contractor, subcontractor, consultant, employee, volunteer, or other representative of any party. This lease may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one lease agreement. This lease shall be construed under the laws of the State of Washington. It is agreed by the parties that the venue for any legal action brought under or relating to this lease shall be in Skagit County, State of Washington. Upon mutual execution, this lease (and amendment[s] thereto) shall be recorded with the Skagit County Auditor, and shall become effective immediately upon recording.

- B. All other terms and conditions of the Lease Agreement shall remain unchanged, unmodified, and in full force and effect.

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/// (signatures and acknowledgements follow)

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///

///

LESSEE:**Birdsview, LLC**, a Washington limited liability company.

By: _____

Robert Janicki, Member

Date: July 2, 2020

STATE OF WASHINGTON }

ss.

COUNTY OF SKAGIT }

I certify that I know or have satisfactory evidence that Robert Janicki, is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was duly authorized execute the instrument and acknowledged it as the sole member of Birdsview, LLC, a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes herein mentioned.

DATED this 2 day of July, 2020.

Notary Public

Print name: _____

Residing at: _____

My appointment expires: _____

CRAIG CAMMOCK

Mount Vernon WA

11-1-2023

LESSOR:

DATED this 27 day of July, 2020.

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON

Ron Wesen

Ron Wesen, Chair

Kenneth A. Dahlstedt

Kenneth A. Dahlstedt, Commissioner

RECUSED.

Attest:

Lisa Janicki, Commissioner

Linda Hammer

Clerk of the Board

Recommended:

[Signature]

Department Head

Authorization per Resolution R20160001:

County Administrator

Approved as to form:

[Signature] 7/17/20
Civil Deputy Prosecuting Attorney

Approved as to indemnification:

[Signature] 7/22/2020
Risk Manager

Approved as to budget:

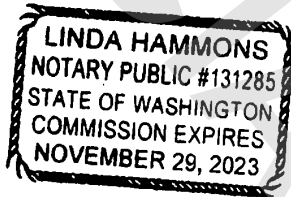
Lisa Joigne
Budget & Finance Director

STATE OF WASHINGTON }
COUNTY OF SKAGIT } ss.

I certify that I know or have satisfactory evidence that Kenneth A. Dahlstedt, ~~Lisa Janicki~~, and/or Ron Wesen is/are the person(s) who appeared before me, and said person(s) acknowledged that she/he/they signed this instrument, on oath stated that she/he/they was/were authorized execute the instrument and acknowledged it as Commissioner(s) of Skagit County, to be the free and voluntary act of such party for the uses and purposes herein mentioned.

DATED this 27 day of July, 2020.

(SEAL)



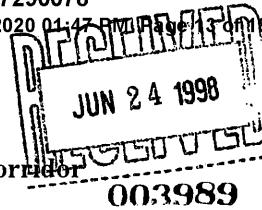
Linda Hammons
Notary Public
Print name: Linda Hammons
Residing at: Skagit County
My appointment expires: 11-29-2023

EXHIBIT "A"

LEASE AGREEMENT (Skagit County Contract # 003989).

Exhibit A

Lease Agreement To Lease Land with the Cascade Trail Corridor



This lease made and entered into this 22ND day of JUNE, 1998, by and between SKAGIT COUNTY, a Municipal Corporation of the State of Washington, hereinafter called the "LESSOR", and JANICKI FAMILY TRUST (Mary T. McGoffin and Lisa Janicki Trustees); 103 North Township, Sedro Woolley WA 98284 hereinafter called "LESSEE".

I. PURPOSE:

In consideration of and in accordance with the terms, covenants and conditions hereinafter set forth, and subject to the provisions of any special endorsements, the LESSOR hereby leases to the LESSEE the premises and generally property described below in this agreement for use as industrial property.

LEGAL DESCRIPTION

That certain tract of land in the northeast quarter of the southeast quarter of Section 10, Township 35 North, Range 7 East, W.M. conveyed to the Seattle and Northern Railway Company by deed filed in Volume 40 of deeds at page 277 as AF#32495; and later conveyed by Rails to Trails Conservancy and Burlington Northern Railroad Company to Skagit County by Quit Claim Deed Vol 1266 of deeds at page 116 as AF #9312010036; except the south 115 feet thereof. NOTE: Appendix A for map of property included in this legal description identified as "Subject Property for Lease".

II. USE OF FACILITIES:

A. The LESSEE may use the entire facilities within the area described above and identified on the attached map.

B. SPECIFIED CONDITIONS

1. This lease does not include use of buildings on site, as the Janicki Family Trust owns them.
2. Skagit County Board of Commissioners reserves the right to make recreational developments to the extent that such developments do not reduce the land acreage to any major degree or interfere with LESSEE's buildings, improvements or commercial activity, and further provided that LESSOR and LESSEE shall agree in a written addendum to this LEASE to the proposed development(s) and to the allocation of management responsibilities, expenses and liabilities as a result of the LESSOR's use of the leased premises.

III. TERM

This lease shall commence on April 1, 1998, and expire on April 30, 2023.

The lease of this land is intended for an extended period of twenty-five (25) years. This lease agreement will be automatically renewed every five (5) years, on a continuous basis and without the need to resubmit bids, provided conditions of the lease agreement are maintained in satisfactory order, and further provided that LESSEE does not provide LESSOR a written notice of non-renewal within sixty (60) days of expiration of the then current five (5) year term.

IV. LEASE PAYMENT SCHEDULE

The LESSEE shall pay to the LESSOR for the use and occupation of the premises described in "II. USE OF FACILITIES" above. Lease payments shall be made annually prior to the beginning of each annual term per the schedule below.

During years 1-5 the LESSEE shall pay Skagit County \$1,050.00 per year

*pd
\$1437
6/2/98*

003989

During years 6-10 the LESSEE shall pay Skagit County	\$1,300.00 per year
During years 11-15 the LESSEE shall pay Skagit County	\$1,550.00 per year
During years 16-20 the LESSEE shall pay Skagit County	\$1,800.00 per year
During years 21-25 the LESSEE shall pay Skagit County	\$2,000.00 per year

NOTE: a leasehold tax of 12.6% will be paid in addition to the lease amount identified above and shall be paid by separate check at the time the annual lease is paid to Skagit County Parks and Recreation .

PAID 6/2/98
\$1,323.30
CH 4/1438

LESSEE shall pay interest at the rate of one percent (1%) per month (or at such higher rate as may be authorized by statute after the commencement date hereof), until paid, on Rent or other sums owing under the terms of this Lease commencing the date such Rent or other sum is due and payable. In the event LESSOR pays any sum or incurs any expense which LESSEE is obligated to satisfy or pay under this Lease, or which is made on behalf of LESSEE, COUNTY 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.

Make checks payable to: Skagit County Parks and Recreation
315 S Third Street
Mount Vernon WA 98273
RE: Cascade Trail Corridor Lease

V. LAND MANAGEMENT RESPONSIBILITIES

- A. Weed Control. LESSEE shall control all weeds on all lands under this lease. LESSEE shall be responsible for, or shall immediately reimburse LESSOR for any weed control cost incurred, as a result of LESSEE's failure to control weeds on said premises.
- B. Management. The premises, and all improvements regardless of ownership Thereon, shall be managed and maintained in accordance with customary standards of the industry.
- C. Hazardous, Toxic or Harmful Substances.
 1. Deleterious Material. LESSEE shall not make, or suffer to be made, any filling in of the premises or any deposit of rock, earth, ballast, refuse, garbage, waste matter, chemical, biological or other wastes, hydrocarbons, any other pollutants, or other matter within or upon the premises, except as approved in writing by the LESSOR. If the LESSEE fails to remove all nonapproved fill material, refuse, garbage, wastes or any other of the above materials from the premises, the LESSEE agrees that the LESSOR may, but is not obligated to, remove such materials and charge the LESSEE for the cost of removal and disposal.
 2. Hazardous, Toxic or Harmful Substances.
 - a. LESSEE shall not keep on or about the premises, any substances now or hereinafter designated as or containing components now or hereinafter designated as hazardous, toxic, dangerous or harmful, and/or which are subject to regulation as hazardous, toxic, dangerous, or harmful by any federal, state or local law, regulation, statute or ordinance (hereinafter collectively referred to as "Hazardous Substances") unless such are necessary to carry out LESSEE's permitted use under subsection II, and unless LESSEE fully complies with all federal, state and local laws, regulations, statutes and ordinances, now in existence or as subsequently enacted or amended.
 - b. LESSEE shall:
 - (1) Immediately notify the LESSOR of

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(i) all spills or releases of any hazardous substance affecting the premises; (ii) all failures to comply with any federal, state or local law, regulation or ordinance, as now enacted or as subsequently enacted or amended, (iii) all inspections of the premises by, or any correspondence, orders, citations or notifications from any regulatory entity concerning hazardous substances affecting the premises; (iv) all regulatory orders or fines or all response or interim cleanup actions taken by or proposed to be taken by any government entity or private party concerning the premises; and

(2) On request, provide copies to the LESSOR of any and all correspondence, pleadings, and/or reports received by or required of LESSEE or issued or written by LESSEE or on LESSEE's behalf with respect to the use, presence, transportation or generation of hazardous substances related to the premises.

- c. LESSEE shall be fully and completely liable to the LESSOR, and shall indemnify, defend and save harmless LESSOR and its agencies, employees, officers, and agents with respect to any and all damages, costs, fees (including attorney's fees and costs), penalties (civil and criminal), and cleanup costs assessed against or imposed as a result of LESSEE's use, disposal, transportation, generation and/or sale of hazardous substances or that of LESSEE's employees, agents, assigns, subleases, contractors, subcontractors, licensees or invitees, and for any breach of this subsection.

VI. SUBLEASES and ASSIGNMENTS

- A. Sublease. The premises, in whole or in part, and appurtenances thereon shall not be subleased without written approval from the LESSOR, which approval shall not be unreasonably withheld. LESSOR approves the existing usage of the premises by NW Forest Fibre Products, Inc. as sub-lessee. If approved, LESSEE shall remain obligated for all actions on the premises including compliance with all provisions contained in this lease.
- B. Assignment. LESSEE shall not hypothecate, mortgage, assign, encumber, transfer or otherwise alienate this lease, or any interest therein or engage in any other transaction which has the effect of transferring or affecting the right of enjoyment of the premises without the prior written approval of the LESSOR, which approval shall not be unreasonably withheld.
- C. Approval of Sublease or Assignment. In granting such approval, LESSOR reserves the right to negotiate with LESSEE a change in the terms and conditions of this lease as it may affect the sublessee/assignee, which change shall be memorialized in an addendum to this Lease. The LESSOR shall be entitled to consider, among other items, the proposed sublessee's/assignee's financial condition, managerial capability, business reputation, nature of the proposed sublessee's/assignee's business, the then current fair market rental value of the premises, and such other factors as may reasonably bear upon the suitability of the sublessee/assignee or transferee as a tenant of the premises or the holder of this lease.

VII. INSURANCE:

LESSEE, at LESSEE's expense, further agrees to provide adequate property damage and liability insurance for LESSOR, and agrees to hold LESSOR harmless for any and all claims arising from the acts of LESSEE's agents and employees. LESSEE shall present a certificate of insurance in the amount of one million (\$1,000,000) dollars for liability insurance to LESSOR, that names Skagit County as an additional insured as follows: "IT IS AGREED SKAGIT COUNTY, ITS COMMISSIONERS AND EMPLOYEES ARE

ADDITIONAL INSUREDS.” LESSEE shall provide a certificate of insurance with the first payment for or term of this agreement.

VIII. INDEMNITY:

Except as provided in Section II. B. above, and except for claims, rights, actions or damages caused by the willful acts or omissions or negligence of LESSOR or arising from issues concerning LESSOR's title or ownership of the lease premises, the LESSEE covenants and agrees to assume all responsibility and liability connected with the use and occupation of the leased premises during the entire period of this lease and to save, defend and hold harmless the LESSOR from any and all claims, rights or actions, or for damages of every kind and character and description that may be occasioned by or through LESSEE's use and occupation of said premises for any work, labor, or construction done thereon, which may or might be suffered or claimed by any party of person or corporation, whatsoever, either to property or person and to defend any and all actions that may or might be instituted in which the LESSOR shall become a party by virtue of this lease, and to pay any and all judgment that may or might be obtained against the LESSOR thereby.

IX. TERMINATION:

- A. LESSOR shall have the right to terminate this lease for any default in payments on the part of LESSEE or breach of any condition of this lease provided such termination shall become effective thirty (30) days after written notice of default/termination is presented to LESSEE, and provided further that LESSEE has failed to cure the default within the thirty (30) day period. ~~It is also agreed that each party shall have the right to terminate the lease, without cause, by giving low (2) months written notice.~~ J. M. M.
- B. Upon termination in A. above, LESSOR may immediately reenter the premises and repossess itself thereof, as of its former estate. If upon the reentry of LESSOR, there remains any personal property of LESSEE or of any other person, firm or corporation upon the premises, LESSOR may, but without the obligation to do so, remove said personal property and place the same in a public warehouse or garage, as may be reasonable, at the expense and risk of the owners thereof, and LESSEE shall reimburse LESSOR for any expense incurred by LESSOR in connection with said removal and/or storage. Notwithstanding any such reentry, the liability of LESSEE for the full rent for the then current five (5) year term shall not be extinguished, but shall be extinguished for all remaining renewal terms.

X. AMENDMENTS:

Any amendments, revisions, supplements or additions to this lease or the attached exhibits shall be made in writing executed by the parties hereto, and neither LESSOR nor LESSEE shall be bound by verbal or implied agreements. Such changes may be made by re-execution of the signature page and deletion and addition of the appropriate new effective pages or exhibits governing the change, if any.

XI. AGENT OF LESSOR:

The Board of Skagit County Commissioners has designated the Director of Parks and Recreation as the “Agent of the LESSOR”. Mail all correspondence to:

Skagit County Parks and Recreation
C/O Jon T. Aarstad, Director
315 S Third Street
Mount Vernon WA 98273
360-336-9414

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XII. CONDITION AT END OF LEASE

Prior to vacating the premises, the LESSEE shall leave the premises and all improvements thereon to which LESSOR has elected to claim title in the state of repair and cleanliness required to be maintained by LESSEE during the term of the lease and shall peaceably and quietly surrender the same to LESSOR.

XIII. ENTIRE AGREEMENT

This written lease or its successor or replacement 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.

LESSEE: Date 6 / 22 / 98BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTONMary T. McGoffin
Mary T. McGoffin, Co-TrusteeRobert Hart
Robert Hart, ChairmanLisa Janicki
Lisa Janicki, C-TrusteeHarvey Wolder
Harvey Wolder, CommissionerJanicki Family Trust
103 North Township
Sedro Woolley WA 98284Ted W. Anderson
Ted W. Anderson, Commissioner

Approved:

By: Jon T. Arstad
Department HeadBy: Devin Huchka
Budget/Finance DirectorBy: [Signature]
Risk Manager

Approved as to form only:

By: [Signature]
Deputy Prosecuting Attorney

ATTEST:

Patti Chambers
Patti Chambers, Clerk of the Board
Skagit County Commissioners

003989

ATTACHMENT A

THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 10,
TOWNSHIP 35 NORTH, RANGE 7 EAST, W.M.

