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Skagit County Auditor

Return Address:

MJB Properties LLC
5050 1st Ave S, Suite 102
Seattle WA 98134

Document Title:

Consent To Assignment of Lease for Security Purposes

Reference Number (if applicable): Lease No. 22-A-78655

202406050030

Grantor(s):

additional grantor names on page ___

- 1) Washington State Department of Natural Resources
- 2) _____

Grantee(s):

additional grantor names on page ___

- 1) MJB Properties LLC
- 2) US Bank National Association

Abbreviated Legal Description:

full legal on page(s) ___

SE 1/4 SW 1/4, Section 19, Township 35 North, Range 2E

Assessor Parcel /Tax ID Number:

additional parcel numbers on page ___

P32977

When recorded, return to:
MJB Properties LLC
5050 1st Ave. S. Ste. 102
Seattle, WA 98134



HILARY S. FRANZ
COMMISSIONER OF PUBLIC LANDS

CONSENT TO ASSIGNMENT OF LEASE FOR SECURITY PURPOSES

Lease No. 22-A78655

Grantor: Washington State Department of Natural Resources
Grantee(s): MJB Properties LLC, U.S. Bank National Association
Legal Description: SE1/4 SW1/4, Section 19, Township 35 North, Range 2 East, W.M.
Auditor Reference Number(s) 202406050030
Assessor's Property Tax Parcel or Account Number: Not Applicable
Assessor's Property Tax Parcel or Account Number for Upland parcel used in conjunction with this lease: P32977

THIS CONSENT TO ASSIGNMENT OF LEASE FOR SECURITY PURPOSES (this "Consent") is made by and between the STATE OF WASHINGTON, acting through the Department of Natural Resources ("State"), and MJB PROPERTIES LLC, a Washington limited liability company ("Tenant"), and U.S. BANK NATIONAL ASSOCIATION, a national banking association ("Lender").

BACKGROUND

- A. Lease No. 22-A78655 was entered into on the 29th day of April, 2024, by and between Tenant and State, and recorded with the Skagit County Auditor's Office under Auditor's File Number 202406050030 (the "Lease"). The Commencement Date of the Lease is May 1, 2024 and the Termination Date of the Lease, unless terminated sooner under the terms of the Lease, is April 30, 2036.

- B. The Lease is for the Property legally described in Exhibit A to the Lease.
- C. The term "Lease" in this Consent includes all amendments to the Lease entered into previous to the date of this Consent.
- D. Pursuant to a certain Loan Agreement dated April 21, 2022, Lender has agreed to make a loan to Tenant in the amount of Ten Million Dollars (\$10,000,000.00) (the "Loan"). Part of the security for payment of the Loan is an assignment of the Lease. The Lease prohibits such an assignment without State's consent. State is willing to give its consent based upon the assurances and agreements made in this Agreement.
- E. Capitalized terms in this Consent that are not expressly defined herein have the meaning assigned to them in the Lease.

Therefore, the parties agree as follows:

SECTION 1 TENANT'S REPRESENTATIONS

Tenant represents and warrants to State and to Lender that:

- (a) the Lease is in full force and effect,
- (b) Tenant is not in default or breach of the Lease,
- (c) Tenant has no knowledge of any claims, offsets, or defenses under the Lease or against State,
- (d) the rents due subsequent to this Consent have not been paid in advance,
- (e) to the best of Tenant's knowledge, the Property, which is described in the Lease, is in full compliance with all applicable federal, state, and local governmental permits, rules, ordinances, and laws.

Tenant shall defend, indemnify, and hold harmless State from any breach of the foregoing warranties and from any claims or causes of action, known or unknown, of Tenant that have or may arise from circumstances that precede this Consent.

SECTION 2 STATE CONSENTS TO THE ASSIGNMENT OF THE LEASE FOR SECURITY PURPOSES

Subject to the conditions of this Consent, State consents to: (1) the execution and delivery by Tenant of a deed of trust ("Security Instrument") to Lender, pursuant to which Tenant will grant a security lien on all of its right, title, and interest in and to the Lease and the leasehold estate in the Property, (2) the assignment of the Lease to Lender upon foreclosure under the Security Instrument, and (3) assignment of the Lease to Lender in lieu of foreclosure under the Security Instrument. State is not consenting to any other assignment of the Lease.

State is not consenting to any lien against the State of Washington's fee simple or reversionary interest in the Property or any Improvement thereon owned by the State of Washington. Further, State is not disclaiming, waiving, or subordinating any of its interests in the Property, Improvements located on the Property, or Personal Property located on the Property.

Prior to any assignment of the Lease to Lender as described in Section 3, Lender must register to do business in the state of Washington.

Any Security Instrument shall contain a statement that Lender is disclaiming any interest or lien against the State of Washington's fee simple and reversionary interest in the Property and any Improvement thereon owned by the State of Washington. The statement shall further provide that State shall have no liability whatsoever in connection with such Security Instrument or the instruments and obligation secured by such Security Instrument.

Except as set forth in this Consent, no provision of this Consent modifies any of the terms and conditions of the Lease, including the requirement that the written consent of State be obtained before any further assignment of the Lease occurs.

SECTION 3 LENDER'S NOTICE OF ASSIGNMENT OF THE LEASE AND ASSUMPTION OF ALL LEASE OBLIGATIONS

In the event of an assignment of the Lease to Lender upon foreclosure of the Security Instrument, or delivery of an assignment of the Lease to Lender in lieu of foreclosure under the Security Instrument, and upon Lender's submission of the "Lender's Notice" to State, the Lease shall continue in full force and effect as a direct lease between State and Lender, and Lender shall be fully liable for all obligations of Tenant under the Lease. The "Lender's Notice" to State shall: (1) confirm that Lender has completed the foreclosure or assignment in lieu of foreclosure, (2) confirm that Lender has acquired Tenant's interest in the Lease, and that Lender is assuming all of the Tenant's obligations under the Lease, including curing any prior defaults, (3) be signed by the Lender, and (4) reference the recording number (Auditor's File Number) for the assignment or other document, which evidences the Lease has been assigned to the Lender. The Lender's Notice shall be submitted to State within thirty (30) days of the assignment of the Lease to Lender. Any assignment to Lender shall be voidable by State if Lender fails to timely provide State with the required Lender's Notice. Prior to such assignment of the Lease to Lender, Lender shall not be liable for any of the obligations of Tenant under the Lease.

SECTION 4 TRANSFER OR ASSIGNMENT OF SECURITY INSTRUMENT

This Consent only applies to Lender and is not assignable. Any change in control of the Security Instrument shall require the prior written consent of State.

SECTION 5 DEFAULT

Except as set forth below, State may not terminate the Lease upon an Event of Default under Section 14 of the Lease or pursue any other right or remedy under the Lease triggered by an Event of Default under Section 14 of the Lease unless State has sent Lender a notice of the default and Lender's cure period has expired; provided, however, that State is not otherwise obligated to send Lender notices of default. Lender's cure period for a default is the same cure period that is provided to Tenant under the Lease and shall commence upon State's provision of notice of the default to Lender. Failure to provide a notice of default to Lender shall not relieve Tenant of its obligations under the Lease nor extend the time in which Tenant has the right to cure the default. Lender agrees that if State has the right to terminate the Lease under Paragraph 12.5 of the Lease, State may terminate the Lease without providing Lender or Tenant prior notice of the default(s) or an opportunity to cure such default(s). Lender agrees that if State elects to deem a default an Event of Default under Paragraph 14.2(d), State may terminate the Lease without providing Lender or Tenant prior notice of the default or an opportunity to cure such default. Lender acknowledges that the Termination Date of the Lease, unless terminated sooner under the terms of the Lease, is April 30, 2036 and Tenant has no right to renew the Lease.

SECTION 6 STATE'S COLLECTION ON BONDS

If Tenant defaults on the Lease, State reserves the right to collect on any bonds or other Security posted by Tenant for the benefit of State. Any interest Lender may have in the bonds or other Security posted by Tenant shall be inferior to State's interest in the bonds and Security.

SECTION 7 CONSENT OF LENDER

No agreement between State and Tenant modifying, canceling, or surrendering the Lease shall be effective without the prior written consent of Lender; provided that nothing in this Section 7 shall limit State's right to terminate the Lease upon an Event of Default in accordance with the provisions of this Consent or upon condemnation in accordance with the terms of the Lease.

SECTION 8 RECORDING OF CONSENT

Tenant shall record this Consent in the county in which the Property resides and provide State with the Auditor's File Number within sixty (60) days of the effective date of this Consent.

SECTION 9 NOTICE

The parties shall direct notices required or permitted under this Consent to the following addresses:

State: DEPARTMENT OF NATURAL RESOURCES
Orca-Straits District
919 North Township Street
Sedro-Woolley, WA 98284

Tenant: MJB PROPERTIES LLC
5050 1st Ave. S., Suite 102
Seattle, WA 98134

Lender: U.S. BANK NATIONAL ASSOCIATION
10800 NE 8th Street, Suite 1000
Bellevue, WA 98004

Any Party may change the place of delivery upon ten (10) days' written notice to the others. Notice is effective upon personal delivery or three (3) days after mailing.

SECTION 10 TERMINATION OF CONSENT

This Consent shall continue in force until either the Lease terminates or Tenant's obligations under the Loan are satisfied, whichever comes first.

THIS AGREEMENT requires the signature of all parties and is effective on the date of the last signature below.

MJB PROPERTIES LLC

Dated: 10/2/2024, 20

Gary Merlino

By: GARY M. MERLINO
Title: Manager
Address: 5050 1st Ave. S. Ste. 102
Seattle, WA 98134

Dated: 10/2/2024, 20

John Jones

By: JOHN R. JONES
Title: Manager
Address: 5050 1st Ave. S. Ste. 102
Seattle, WA 98134

U.S. BANK NATIONAL ASSOCIATION

Dated: 10/2/2024, 20

Phil Davis

By: PHIL DAVIS
Title: Senior Vice President
Address: 10800 NE 8th Street, Suite 1000
Bellevue, WA 98004
Phone: 425-637-2481

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

Dated: 10/3/2024, 20

Thomas Gorman

By: THOMAS GORMAN
Title: Aquatic Resources Division Manager
Address: 1111 Washington St SE, Olympia, WA
98501

REPRESENTATIVE ACKNOWLEDGMENT

Notarized online using audio-video communication

STATE OF Washington)
) ss.
COUNTY OF skagit)

I certify that I know or have satisfactory evidence that Gary M. Merlino is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the Member of MJB Properties LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

This notarial act involved the use of communication technology.

Dated: 10/2/2024

Kathleen Lowe

(Signature)

(Seal or Stamp)

KATHLEEN LOWE
Notary Public
State of Washington
Commission # 23024315
Commission Expires 8/10/2027

Kathleen Lowe

(Print Name)

Notary Public in and for the State of Washington,
residing at Sedro-woolley, WA

My appointment expires 8/10/2027

REPRESENTATIVE ACKNOWLEDGMENT

Notarized online using audio-video communication

STATE OF Washington)
) ss.
COUNTY OF Skagit)

I certify that I know or have satisfactory evidence that John R. Jones is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the Member of MJB Properties LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

This notarial act involved the use of communication technology.

Dated: 10/2/2024



(Signature)

(Seal or Stamp)

KATHLEEN LOWE
Notary Public
State of Washington
Commission # 23024315
Commission Expires 8/10/2027

Kathleen Lowe

(Print Name)

Notary Public in and for the State of Washington,
residing at Sedro-Woolley, WA

My appointment expires 8/10/2027

STATE ACKNOWLEDGMENT

Notarized online using audio-video communication

STATE OF WASHINGTON)
County of whatcom) ss
)

I certify that I know or have satisfactory evidence that Thomas Gorman is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the Aquatic Resources Division Manager of the Department of Natural Resources, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

This notarial act involved the use of communication technology.

Dated: 10/3/2024

Kathleen Lowe

(Signature)

(Seal or Stamp)

KATHLEEN LOWE
Notary Public
State of Washington
Commission # 23024315
Commission Expires 8/10/2027

Kathleen Lowe

(Print Name)

Notary Public in and for the State of Washington,
residing at Bellingham, Washington

My appointment expires 8/10/2027