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Skagit County Auditor

7/15/2011 Page

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33 8:54AM

Return Address:

**WHIDBEY ISLAND BANK
16710 SMOKEY POINT BLVD
SUITE # 401
ARLINGTON WA, 98223**

LAND TITLE OF SKAGIT COUNTY

139376-0

Document Title(s) (for transactions contained therein): 1. DEED OF TRUST AND ASSIGNMENT OF RENTS 2. 3. 4.
Reference Number(s) of Documents assigned or released: (on page of documents(s))
Grantor(s) 1. LACONNER ASSOCIATES LLC 2. 3. 4.
Additional Names on page _____ of document.
Grantee(s) 1. WHIDBEY ISLAND BANK 2. 3. TRUSTEE: FIRST AMERICAN TITLE COMPANY 4.
Additional Names on page _____ of document.
Legal Description (abbreviated i.e. lot, block, plat or section, township, range) PTN HARBOR AREA IFO TRS 15, 16 & PTN 14, PLATE 18, LACONNER TDLDS.
Additional legal is on page _____ of document.
Assessor's Property Tax Parcel/Account Number
The Auditor/Recorder will rely on information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

**LEASEHOLD DEED OF TRUST
AND ASSIGNMENT OF RENTS**

Borrower/Grantor:

**LaConner Associates Limited Liability
Company
813 South Second Street
P.O.Box 1155
LaConner, WA 98257**

Lender/Beneficiary:

**Whidbey Island Bank
16710 Smokey Point Blvd.
Suite No. 401
Arlington, WA 98223**

This LEASEHOLD DEED OF TRUST AND ASSIGNMENT OF RENTS (this "Deed of Trust") is granted and entered into by **LACONNER ASSOCIATES LIMITED LIABILITY COMPANY**, who acquired title as LaConner Associates, a limited liability company, who is a Washington Limited Liability Company ("Grantor") with a mailing address of 813 South Second Street, LaConner, WA 98257, to **FIRST AMERICAN TITLE INSURANCE COMPANY** ("Trustee") whose mailing address is 1818 Stewart Street, Suite 800, Seattle WA, 98101, for the benefit of **WHIDBEY ISLAND BANK** ("Beneficiary") (and as successor to North County Bank), whose address is 16710 Smokey Point Blvd, Suite No. 401, Arlington, WA, 98223, to encumber a leasehold interest created under that certain Harbor Area Lease No. 22-002724 dated as of May 26, 1989, and recorded under Skagit County Auditor No. 201106070022. between Washington State Department of Natural Resources as "Lessor" and LaConner Associates Limited Liability Company as "Lessee" (successor by assignment and assumption from Moore-Clark Co. Inc. by Assignment dated December 31, 1997 and recorded under Skagit County Auditor No. 201106070023), as amended by Letter Amendment dated September 20, 2001 and recorded under Skagit County Auditors No. 201106070024 (the Harbor Area Lease as amended, assigned and assumed, the "Lease"), with respect to the real property (tidelands) described in Exhibit A attached hereto and incorporated herein by reference (the "Property"). Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Promissory Note from Grantor payable to Beneficiary, dated September 10, 2003, as amended (the "Note"). Pursuant to the Note (as amended) Beneficiary made a loan to Grantor in the principal amount of Four Million Nine Hundred Seventy Thousand and No/100 Dollars (\$4,970,000.00) (the "Loan"). The Note and all other documents executed by Grantor in connection with the Loan (including without limitation all other deeds of trust from Grantor to Beneficiary) are hereinafter collectively the "Loan Documents".

NOW, THEREFORE, in consideration of the mutual covenants set forth in that certain Forbearance Agreement between Grantor and Beneficiary dated as of even date herewith, and other good and valuable consideration to Grantor, the receipt and sufficiency of which is hereby acknowledged, and in order to further secure payment of all amounts due and payable by Grantor under the Note and other Loan Documents (including any increases, modifications, renewals and extensions of such amounts), to secure the performance and observance of all agreements, warranties, representations and provisions therein and herein contained, and to secure performance or payment of all other direct, indirect or contingent obligations of Grantor to Beneficiary, or any of their successors or assigns, arising out of or relating to the Indebtedness, whether heretofore or hereafter incurred, and for and in consideration of the Loan, GRANTOR

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Skagit County Auditor

DOES HEREBY IRREVOCABLY GRANT, BARGAIN, SELL, ASSIGN AND CONVEY TO TRUSTEE IN TRUST, WITH POWER OF SALE, ALL OF GRANTOR'S EXISTING AND AFTER-ACQUIRED INTEREST IN THE LEASE AND PROPERTY, which interest is evidenced by the Lease, a copy of which is attached hereto as Exhibit B, including all rights to and options to renew and extend the Lease, and all of Grantor's right and interest in any replacement lease or new lease of, or after acquired title in or to, all or any portion of the Property which replaces or supersedes the Lease. Grantor is negotiating an extension or replacement of the Lease with the Property Owner, and it is the express intent of Grantor that upon consummation of any such extension or replacement or new lease the lien of this Deed of Trust shall extend to, attach to and cover all of Grantor's right title and interest (as lessee or otherwise) in, to and under any such replacement lease. Nothing set forth in this Deed of Trust shall operate to amend or modify the terms and provisions of the Lease. This Deed of Trust does not secure the obligations of any guarantor under any personal guaranty delivered in connection with the Loan

GRANTOR FURTHER COVENANTS AND AGREES AS FOLLOWS:

1. **SECURITY.**

1.1 The "Property" includes:

(a) all right, title and interest of Grantor under the Lease (including all options to extend or renew such Lease), all right and interest of Grantor under any new or replacement lease of all or any portion of the Property, all after acquired right, interest or title in or to the real property described in Exhibit A, and all tangible personal property of Grantor of every kind and description, whether now or at any time hereafter located at the Property;

(b) all of Grantor's interest in any and all docks, underwater structures, buildings and other improvements (the "Improvements") now or hereafter constructed or located on the Property;

(c) all intangible property of Grantor relating to the improvement or use of the Property, including all governmental permits relating to the construction of Improvements on the Property, to the extent assignable;

(d) all of Grantor's interest in and to any and all contracts or agreements with contractors or architects, or otherwise with respect to the development or construction of Improvements on the Property and in and to all plans, specifications, studies, drawings, and other design documents and data with respect to the Property prepared by or for Grantor; and

(e) any and all proceeds of any or all of the foregoing described property, with the term "proceeds" being construed in its broadest sense and shall include whatever is receivable or received with respect to the Property when the Property or foregoing property is sold, leased, collected, exchanged or otherwise disposed of, whether voluntarily or involuntarily, and shall include without limitation all rights to payment, including interest and premiums.



1.2 The Property is not used principally for agricultural or farming purposes. The Property will be used for business or commercial purposes and not for Grantor's personal, family or household purposes.

1.3 Grantor agrees to execute and deliver, from time to time, such further instruments as reasonably may be required by the Beneficiary to confirm or perfect the assignment to the Beneficiary of any award or payment relating to the Property.

1.4 Grantor hereby agrees that if Grantor shall, at any time prior to the payment in full of the Indebtedness secured hereby, acquire any other estate in the Property or Collateral not otherwise included herein, then the lien of this Deed of Trust shall, and hereby does attach, extend to, and include such other estate.

1.5 To the extent not secured by this Deed of Trust as real property, Grantor hereby grants a security interest to Beneficiary in and to all personal property described herein, and shall have all rights and remedies of a secured party under the Uniform Commercial Code of the State of Washington, as well as all other rights and remedies available under any other Security Agreement, the Credit Agreement or other agreements between Grantor and Beneficiary, as well as at law and at equity. Grantor hereby agrees, at Grantor's cost and expense, to execute and deliver and, if appropriate, to file with the appropriate filing officer or office, such security agreements, financing statements, continuation statements or other instruments as Beneficiary may request or require in order to impose, perfect or continue the perfection of, or protect, the lien and security interest created by this Deed of Trust.

1.6 Upon the occurrence and during the continuance of any Event of Default of Grantor, and in addition to any other remedies set forth in this Deed of Trust, the Note or other Loan Documents, Beneficiary may use the Property for any purpose for which Grantor could have used it or with respect to the construction, financing, management, use, operation or occupancy of any improvements on the Property, and Grantor hereby irrevocably appoints Beneficiary as its attorney-in-fact to exercise (but Beneficiary shall not be obligated to and shall incur no liability to Grantor or any third party for failure so to exercise) any and all rights and powers which the Grantor might exercise with respect to any of the Property. Grantor agrees to reimburse Beneficiary on demand for any and all costs and expenses, including without limitation reasonable attorneys' fees, which Beneficiary may incur while acting as Grantor's attorney-in-fact hereunder, together with interest thereon at the rate provided in the Promissory Note, all of which costs and expenses and interest thereon shall be secured by this Deed of Trust and any other documents or agreements now or hereafter securing the Promissory Note. Beneficiary shall also have all other rights and remedies with respect to any of the personal property or the enforcement of its Security Interest upon default by Grantor as are provided under the Security Agreement, or under applicable law to a secured creditor, including without limitation the right to notify any account holder, account debtor or depository to make payment directly to Beneficiary, and the right to foreclose or otherwise enforce Beneficiary's security interest in any manner permitted by applicable law or provided for herein, all of which rights and remedies shall be cumulative and in addition to all rights, powers, and remedies which Beneficiary at any time may have under the other instruments, agreements or documents now or hereafter securing or relating to the Promissory Note. Without limiting the foregoing, in the event that Beneficiary elects to sell or dispose of or cause to be sold or disposed of any of the personal property at any one or more public or private sales as permitted by applicable law, such sale or disposition may, in the discretion of Beneficiary, be made together with or separately from any sale of the leasehold interest and other property encumbered hereby, and any such sale or disposition may be conducted by an employee or agent of Beneficiary or Trustee. Any person, including both



Grantor and Beneficiary, shall be eligible to purchase any part or all of the property at any such sale or disposition.

1.7 Expenses of retaking, holding, preparing for sale, selling and the like shall be borne by Grantor and shall include Beneficiary's and Trustee's attorneys' fees and legal expenses. Grantor, upon demand of Beneficiary and at Grantor's cost and expense, shall assemble any personal property and make it available to Beneficiary at the Property, a place which is hereby deemed to be reasonably convenient to Beneficiary and Grantor. Beneficiary shall give Grantor at least fifteen (15) days' prior written notice of the time and place of any public sale or other disposition of any personal property or of the time of or after which any private sale or any other intended disposition is to be made, and if such notice is sent to Grantor, as the same is provided for the mailing of notices herein, it is hereby deemed that such notice shall be and is reasonable notice to Grantor.

2. ABSOLUTE ASSIGNMENT OF RENTS; RECEIVER; BENEFICIARY IN POSSESSION.

2.1 *Absolute Assignment.* As part of the consideration for the Indebtedness, Grantor hereby absolutely and irrevocably assigns, transfers and sets over to Beneficiary all of Grantor's right, title, and interest in and to all income of every kind and nature from the Property, including all rents, issues and profits accrued and to accrue from time to time (collectively "Rents"), and all present and future occupancy agreements, leases and subleases of the Property or any portion thereof. So long as there shall be no Event of Default, Grantor may collect and receive the assigned Rents, but only as the same become due and payable, and not for more than one month in advance. Upon the occurrence and continuance of an Event of Default, Grantor's privilege to collect Rents shall wholly and immediately terminate; at any time thereafter Beneficiary at its option, but without obligation to do so, may collect and receive Rents and do any acts and take any action to do so, including notifying persons (including Grantor's subtenants) and directing them to pay Rents to Beneficiary or otherwise in accordance with Beneficiary's instructions, seeking the appointment of a receiver or other custodian, entering into possession of the Property and managing or operating them, directly or through agents or representatives, making, modifying, terminating and extending leases or subleases or tenancies, and taking any other action to protect Beneficiary's rights or interests. Beneficiary may apply Rents which it receives to any expenses to effect the foregoing, including without limitation paying taxes, costs of insurance, assessments, repairs and renovations to the extent Beneficiary may elect from time to time, to other costs and expenses of collecting and receiving Rents, including fees to and expenses of professional persons and consultants and upon sums secured hereby, whether or not then due and payable.

2.2 *Receiver.* Grantor hereby consents to the appointment by any court of competent jurisdiction of a receiver or other person to receive or collect Rents and otherwise take charge of the Property upon the occurrence of an Event of Default, with authority to do all such things as Beneficiary could do if Beneficiary were to enter into possession of the same after such occurrence and continuance.

2.3 *Compliance with Leases.* Grantor will promptly perform and observe all the terms, covenants and conditions required to be performed and observed by it, as sublandlord under all subleases and rental agreements and will do all things necessary to preserve and keep unimpaired its rights thereunder and will maintain all subleases and rental agreements in full force and effect and will enforce the same and will take such action to that end as Beneficiary may



request. Grantor will not create, nor permit any lien, charge or encumbrance upon their interest as sublandlord of the subleases or rental agreements (except for Permitted Liens).

2.4 **Effect of Acts.** The receipt or collection of sums by Beneficiary by reason of the exercise of any provisions of this section shall not effect a cure of any Event of Default. Beneficiary's election to exercise or failure to exercise any one or more remedies provided for in this section shall not constitute a waiver of such rights or remedies or of any Event of Default, or be deemed a consent by Beneficiary to any acts or failure of Grantor to act in any respect.

3. **INDEBTEDNESS.** "Indebtedness," shall include all sums due and obligations now owed or hereafter due and owing under the Note, this Deed of Trust, and any other Loan Document.

4. **WARRANTY OF TITLE; MAINTENANCE OF LEASE.**

4.1 Grantor warrants that it has, and at all times shall hold, clear title to the lessee's interest under the Lease and the Property, free from all liens, encumbrances, and rights of re-entry of any person and defects of title of any kind other than the Permitted Liens. Grantor shall not permit to be created any liens or encumbrances on the Property except for Permitted Liens. Grantor shall defend title to the Property and any other Collateral, as warranted above, from any and all claims and demands of all persons or entities with respect thereto, other than those arising from the Permitted Liens.

4.2 Grantor covenants that, in addition to the payment of all rent, additional rent, impositions and other payments and charges required to be paid by Grantor, as tenant, under and pursuant to the provisions of the Lease, Grantor:

(a) will diligently perform and observe all of the terms, covenants and conditions of the Lease required to be performed and observed by Grantor as tenant thereunder, to the end that all things shall be done which are necessary to keep unimpaired Grantor's rights as tenant under the Lease and to preserve the security of this Deed of Trust;

(b) will maintain the Property and all Improvements thereon in a rentable and tentable condition and state of repair, and in the manner required under the Lease, will not commit nor suffer any waste of the Property, and will comply with all federal, state and municipal laws, ordinances, regulations, covenants, conditions and restrictions respecting said Property or the use thereof, will pay all fees or charges of any kind in connection therewith and will complete promptly and in a good workmanlike manner any Improvement which may be constructed, damaged or destroyed thereon, and pay when due all costs incurred therefor. The Beneficiary may recover as damages for any breach of this covenant the amount it would cost to put the Property in the condition called for herein. Grantor shall permit Beneficiary or its agents the opportunity to inspect the Property, including the interior of any structures, at reasonable times and after reasonable notice;

(c) will not structurally alter, remove or demolish any Improvements on the Property without Beneficiary's prior written consent, and will not remove any property covered by this Deed of Trust and adapted to the proper use and enjoyment of the Property without like consent except if removed in the ordinary course of business and promptly replaced;



(d) will promptly, after learning thereof notify Beneficiary in writing of the occurrence of any event which, regardless of the lapse of time, either has constituted or will constitute a default under the Lease, and will promptly notify the Beneficiary in writing of any notice by the landlord under the Lease of the default of Grantor in the performance or observance of any of the covenants, agreements, obligations or conditions on the part of Grantor to be performed or observed under the Lease;

(e) will appear in and defend any suit, action or proceeding that might affect the value of this Deed of Trust or the security itself or the rights and powers of Beneficiary or Trustee; and should Beneficiary or Trustee elect also to appear in or defend any such action or proceedings, be made a party to such action or proceeding by reason of this Deed of Trust, or elect to prosecute such action as appears necessary to preserve said value, Grantor will at all times indemnify from, and on demand, reimburse Beneficiary or Trustee for any and all loss, damage, expense or cost, including cost of evidence of title and attorneys' fees, arising out of or incurred in connection with any such suit, action or proceeding, and the sum of such expenditures shall be secured by this Deed of Trust with interest as provided in the Promissory Note secured hereby and shall be due and payable on demand;

(f) will not (i) surrender the Lease or Grantor's leasehold estate and interest therein, or terminate or cancel the Lease prior to the natural expiry provided for in the Lease (or if month to month, Grantor shall not agree to termination or expiration of such month to month tenancy and shall continue such month to month lease until such tenancy is replaced with a longer term lease acceptable to Beneficiary); (ii) assign or sublet or permit any assignment or sublease of the Property other than as permitted under Section 11 below without the prior written consent of Beneficiary (provided that, as to subleases only, Beneficiary shall not unreasonably withhold or delay its consent and which consent shall be deemed given if no response is given by Beneficiary to Grantor within fifteen (15) days of Beneficiary being given a copy of the proposed sublease together with any information about the proposed sublessee as is reasonably required by Beneficiary); (iii) permit any option to renew or extend the Lease or purchase the Property to expire without first notifying Beneficiary, in writing at least thirty (30) days before expiration of the option, of such option and of Grantor's intent to let such option expire unexercised; nor (iv) without the prior written consent of Beneficiary, modify, change, supplement, alter or amend the Lease in any material way, either orally or in writing, or by any other means (except, in either case, to the extent commercially reasonable, and then only after thirty (30) days' prior written notice to Beneficiary of the facts and circumstances thereof, and Beneficiaries' consent thereto). Any termination, cancellation, modification, change, supplement, alteration or amendment of the Lease inconsistent with the foregoing terms, shall be void and of no force and effect.

5. PAY INDEBTEDNESS; COMPLY WITH LOAN DOCUMENTS. Grantor shall pay the Indebtedness and all portions thereof as the same become due and payable, shall pay all amounts due under the Lease, shall comply with all provisions of the Note and any other Loan Document, and to the extent there are any taxes and assessments on the Property shall pay all installments thereof before their due date. Grantor shall pay, before they become delinquent, all sums which become owing on or by reason of Permitted Liens, if any, and comply with all agreements, conditions, terms and conditions relating thereto.

6. INSURANCE.

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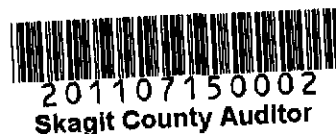
6.1 Grantor shall, at its own expense, maintain fire and other risk insurance, public liability insurance, and such other insurance as Lender may require with respect to the Property and any other of Grantor's properties and operations, in form, amounts, coverages and with insurance companies reasonably acceptable to Lender. Each such policy shall in addition (i) name Beneficiary and Grantor as insured parties thereunder as their interest may appear, (ii) contain an agreement by the insurer that any loss thereunder shall be payable notwithstanding any action, inaction or breach of representation or warranty by Grantor, (iii) provide that there shall be no recourse against Beneficiary for the payment of premiums or other amounts with respect thereto and (iv) provide that at least thirty (30) days' prior written notice of cancellation or of lapse shall be given to Beneficiary by the insurer. Grantor shall, if so requested by Beneficiary, deliver to Beneficiary original or duplicate policies of such insurance and, as often as Beneficiary may reasonably request, a report of a reputable insurance broker showing the coverage required hereby is in effect. Further, Grantor shall, at request of the Beneficiary, duly execute and deliver instruments of assignment of such insurance policies and cause the respective insurers to acknowledge notice of such assignment.

6.2 Upon the occurrence and continuance of any Event of Default, all proceeds of insurance with respect to the Property shall be paid directly to Beneficiary and shall be applied by Beneficiary first, to the payment of all fees, charges, and other sums due to Beneficiary under this Deed of Trust upon the occurrence and continuance of an Event of Default; second, to accrued but unpaid interest, fees, and other charges to be paid by Grantor under the Note and any deed of trust that secures the Note; third, to the principal then outstanding under the Note; and fourth, to Grantor. If no Event of Default is then continuing, all such proceeds of insurance shall be paid to Grantor and may be applied to repair and reconstruction of the Property.

7. **CONDEMNATION.** If the Property, Improvements or any Collateral or any part thereof, or any right, title or interest therein, shall be damaged or taken by power of eminent domain or subjected to any taking or condemnation, fire, earthquake or other casualty, or if the Lease is terminated as a result of any of the foregoing events affecting the Property, Beneficiary at its option may commence or appear in or prosecute in its own name any action or proceeding with respect thereto, and shall be entitled to apply all compensation, awards or other relief with respect thereto, to the Indebtedness. Grantor agrees to execute such further assignments of any such compensation, award, damages, rebates, return of premiums, repayments, rights of action and proceeds as Beneficiary or Trustee may require.

8. **SUITS, ACTIONS ETC.** Beneficiary or Trustee at its or their election may (i) appear and participate in any action, suit or proceeding, judicial or otherwise, including bankruptcy proceedings, which may affect any of their rights or remedies or any liens or security interests created by this Deed of Trust; (ii) commence, appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; (iii) pay, purchase, contest, or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior to or superior hereto (other than Permitted Liens); and in exercising any such power, may incur any liability, expend whatever amounts in its sole discretion may be necessary, employ an attorney, and pay said attorneys' fees.

9. **REIMBURSE BENEFICIARY AND TRUSTEE FOR EXPENSES ETC.** Grantor shall from time to time reimburse Beneficiary and Trustee for all costs and expenses which they or either of them may incur with respect to enforcing or determining the rights, remedies and interests they or either of them may have, arising from this Deed of Trust. Such costs and expenses shall include: (i) reasonable attorneys' fees and expenses (whether at trial or



on appeal, or in any proceeding, including receivership, bankruptcy, or arbitration proceedings), fees for other services and advice, costs of title searches and reports, and costs, expenses and fees of accountants, engineers, appraisers and other professional consultants, advisers and assistants, (ii) costs and expenses incurred in the custody, preservation, use or operation of, or the sale of, collection from, or other realization upon, the Property, Improvements or any of the Collateral, (iii) costs and expenses of the exercise or enforcement of any of the rights of Beneficiary or Trustee hereunder or (iv) costs and expenses resulting from the failure by Grantor to perform or observe any of the provisions hereof.

10. BENEFICIARY MAY PERFORM. If Grantor shall fail to pay any sum, other than principal or interest under the Note, or perform or comply with any other obligation required by this Deed of Trust or any Loan Document, Beneficiary at its election may thereafter pay such sum or cause or effect performance of such obligation and is hereby authorized to enter upon the Property for such purposes. In such event, Grantor shall reimburse Beneficiary immediately on demand for all reasonable sums so paid by Beneficiary and for all expenses and expenditures of Beneficiary in such respects, together with interest thereon from the date of demand until paid at the applicable rate provided for by the Note. Beneficiary's election to pay any sum or perform any obligation hereunder shall not be a waiver of any other right of Beneficiary of any default of Grantor, and Beneficiary shall not be liable to Grantor for failure to exercise any such option.

11. NO TRANSFER OR ENCUMBRANCE OF LEASE.

11.1 Except to the extent expressly allowed by the Note or this Deed of Trust, Grantor shall not cause, suffer or permit any change in the ownership or occupancy of the tenant's interest under the Lease, whether beneficial or otherwise, or other Collateral, or encumber the same, without Beneficiary's prior written consent in Beneficiary's sole discretion. "Change in ownership or occupancy" shall include any grant of or succession to any interest in the Property, voluntarily, involuntarily, by operation of law or otherwise. Any encumbering of the Property by deed of trust or mortgage shall constitute such change.

11.2 Grantor shall not, except as may be expressly allowed under the Note, permit any transfer of a material ownership interest in the Grantor without the prior written consent of Beneficiary. The execution and delivery by the Grantor of any joint venture agreement, partnership agreement, declaration of trust, option agreement or other instrument under which any other party may become entitled, directly or indirectly, to the possession or enjoyment of the Property, or the income or other benefits to be derived therefrom, shall in each case be deemed to be a conveyance or assignment of the Grantor's interest in the Property for the purposes of this section, and shall require the prior written consent of the Beneficiary.

12. EVENTS OF DEFAULT. An "Event of Default" shall occur hereunder if there is any abandonment of the Property by Grantor, if Grantor fails to perform or observe any of the covenants, agreements, or conditions required of Grantor under this Deed of Trust, or if an event of default occurs under the Note or any other Loan Document.

13. REMEDIES.

13.1 *General.* If any Event of Default shall have occurred and be continuing, and after delivery of written notice as required under the Note, Beneficiary may exercise any one or more of the following remedies:



- (i) declare all sums secured hereby immediately due and payable;
- (ii) take any action that Beneficiary deems necessary or desirable to prevent or remedy any default by Grantor, or to otherwise protect the security of this Deed of Trust;
- (iii) sell all interests under the Lease, any interest of Grantor in the Property, Improvements or other Collateral and any personal property pledged hereby, in such manner as may be permitted by law, including pursuant to the power of sale granted hereinabove, under the Uniform Commercial Code (as applicable) or, at Beneficiary's option, to have this Deed of Trust foreclosed in judicial proceedings as a mortgage;
- (iv) enter into and upon and take possession of all or any part of the Property, Improvements or other Collateral and exclude Grantor, and all persons claiming under Grantor, and its or their agents or servants, wholly or partly therefrom; holding the same, Beneficiary may occupy, use, administer, manage, operate, and control the Property and exercise all rights and powers of Grantor in the name, place and stead of Grantor, or otherwise, as the Beneficiary shall deem best; in the exercise of any of the foregoing rights and powers Beneficiary shall not be liable to Grantor for any loss or damage thereby sustained unless due to the willful misconduct or gross negligence of Beneficiary; and
- (iv) exercise all other rights and remedies which may be provided for herein, in the Note and in the Loan Documents, and all rights and remedies which may be applicable pursuant to law, including the Uniform Commercial Code of the State of Washington.

13.2 **Nonjudicial Foreclosure.** In the event of a nonjudicial foreclosure sale, any person except Trustee may bid at the Trustee's sale. Trustee shall apply the proceeds of the sale as follows: (1) to the expense of sale, including a reasonable Trustee's fee and attorneys' fee; (2) to all the indebtedness evidenced by the Promissory Note and all other Indebtedness secured by this Deed of Trust or any other instrument; and (3) the surplus, if any, shall be distributed in accordance with the provisions of RCW 61.24. Trustee shall deliver to the purchaser at the sale its deed, without warranty, which shall convey to the purchaser the interest in the Property which Grantor has or had the power to convey at the time of their execution of this Deed of Trust, and such as they may have acquired thereafter. The Trustee's deed shall recite the facts showing that the sale was conducted in compliance with all the requirements of law, and such recitals shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchasers and encumbrances for value.

13.3 **Foreclosure as a Mortgage.** In the event that this Deed of Trust is foreclosed as a mortgage and the Property sold at a foreclosure sale, the purchaser may, during the statutory redemption period make such repairs or alterations on said Property as may be reasonably necessary for the proper operation, care, preservation, protection and insuring thereof. Any sums so paid together with interest thereon from the time of such expenditure at the highest lawful rate shall be added to and become a part of the amount required to be paid for redemption from such sale.

13.4 **Remedies Cumulative.** Beneficiary may exercise its rights and remedies at such times and in such order as Beneficiary may elect. All rights and remedies provided for herein and in any other Related Document and by law shall be cumulative. The entering upon and taking possession of the Property, the collection of any rents, issues, and profits, or the proceeds of fire



and other insurance policies or compensation or awards for any taking or damage of the Property, and the application or release thereof, or exercise of any other remedy by Beneficiary, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

14. NON-MERGER. If Grantor's leasehold interest and the fee title to the Property shall at any time become vested in one owner, this Deed of Trust shall not be destroyed or terminated by application of the doctrine of merger, and in such event, Beneficiary shall continue to have and enjoy all of the rights, title, interest and privileges of Beneficiary under the Deed of Trust as to the Lease. In the event Grantor shall, prior to payment in full of the Indebtedness secured by this Deed of Trust, acquire fee simple title to the Property, such fee simple title shall not merge with the leasehold estate secured hereby, but such fee simple estate shall immediately and without further action on the part of Grantor, become subject to the lien hereof. Grantor agrees to execute, acknowledge and deliver to Beneficiary such further instruments, conveyances and assurances as Beneficiary may reasonably require in order to further confirm and assure that the fee simple title so acquired by Grantor is subject to the terms and provisions and lien of this Deed of Trust.

15. RECONVEYANCE. Upon Beneficiary's written request, the Trustee shall reconvey, without warranty, all or any part of the property then held hereunder. The grantee may be described in such reconveyance as "the person or persons legally entitled thereto."

16. SEVERABILITY. If any provision of this Deed of Trust shall be invalid or unenforceable at any time, such invalidity or unenforceability shall not affect the remaining portions of this Deed of Trust, all of which shall remain in full force and effect.

17. NOTICES. All notices required hereunder shall be delivered to the proper address mentioned above in the manner provided in the Note.

18. NO AMENDMENTS WITHOUT WRITING. No change, amendment, modification, cancellation or discharge hereof shall be valid unless in writing and signed by the parties hereto or their respective successors and assigns.

19. NON-WAIVER. A waiver in one or more instances of any of the terms, covenants, conditions or provisions hereof or any other Loan Document, shall apply to the particular instance or instances and at the particular time or times only, and no such waiver shall be deemed a continuing waiver; but all of the terms, covenants, conditions and other provisions of this Deed of Trust and the Loan Documents Note shall survive and continue to remain in full force and effect. No delay on Beneficiary's part in exercising any right shall be deemed a waiver.

20. WASHINGTON STATE LAW GOVERNS. This Deed of Trust is to be governed by and construed in accordance with the laws of the State of Washington. Jurisdiction and venue of any action shall be in the Superior Court for King County. Grantor and Beneficiary hereby waive all rights to a trial by jury.

21. MISCELLANEOUS. This Deed of Trust applies to, inures to the benefit of, and is binding not only on the parties hereto, but on their heirs, devisees, legatees, administrators, executors, successors and assigns. The term "Beneficiary" shall mean the holder and owner, including pledgees, of the Promissory Note secured hereby, whether or not named as Beneficiary herein. Without affecting the liability of any other person for the payment of any obligation herein mentioned (including Grantor should it convey the Property) and without affecting the lien hereof



upon any portion of the Property not released, Beneficiary may, without notice, release any person so liable, extend the maturity or modify the terms of any such obligation, or grant other indulgences, release or reconvey or cause to be released or reconveyed at any time all or part of the Property, take or release any other security or make compositions or other arrangements with debtors. Beneficiary may also accept additional security, either concurrently herewith or thereafter, and sell same or otherwise realize thereon, either before, concurrently with, or after sale hereunder. This Deed of Trust shall be so construed that wherever applicable, the use of the singular number shall include the plural number, the use of the plural number shall include the singular number, the use of any gender shall be applicable to all genders and shall likewise be so construed as applicable to and including a corporation.

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

IN WITNESS WHEREOF Grantor has executed this instrument as of the 13th day of July, 2011.

LaConner Associates Limited Liability Company, a Washington limited liability company

By: 
Its: Manager

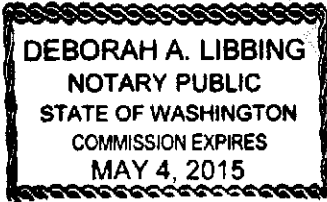


GRANTOR ACKNOWLEDGEMENT

STATE OF WASHINGTON)
COUNTY OF Inghamish) SS.

On this day personally appeared before me Vaugh W. Solley, to me known to be the Manager of LaConner Associates Limited Liability Company, the limited liability company that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute the same instrument.

GIVEN under my hand and official seal this 13th day of July, 2011.



Deborah A. Libbing
Deborah A Libbing
(print notary's name)
Notary Public in and for the State of Washington,
residing at Marysville
My commission expires: 5-4-15



EXHIBIT A
(Legal description of leased property)

The Harbor Area of the Swinomish Channel fronting Tracts 15 and 16 and Southwesterly 26.50 feet of Tract 14 within Government Lots 3 and 4 of Section 36, Township 34 North, Range 2 East, W.M., LaConner Tidelands Plates, bounded by the inner and outer harbor lines, the Northeast line of the Southwesterly 26.50 feet of Tract 14 produced Northwesterly across the harbor Area and the Southwesterly line of said Tract 16 produced Northwesterly across the Harbor Area.

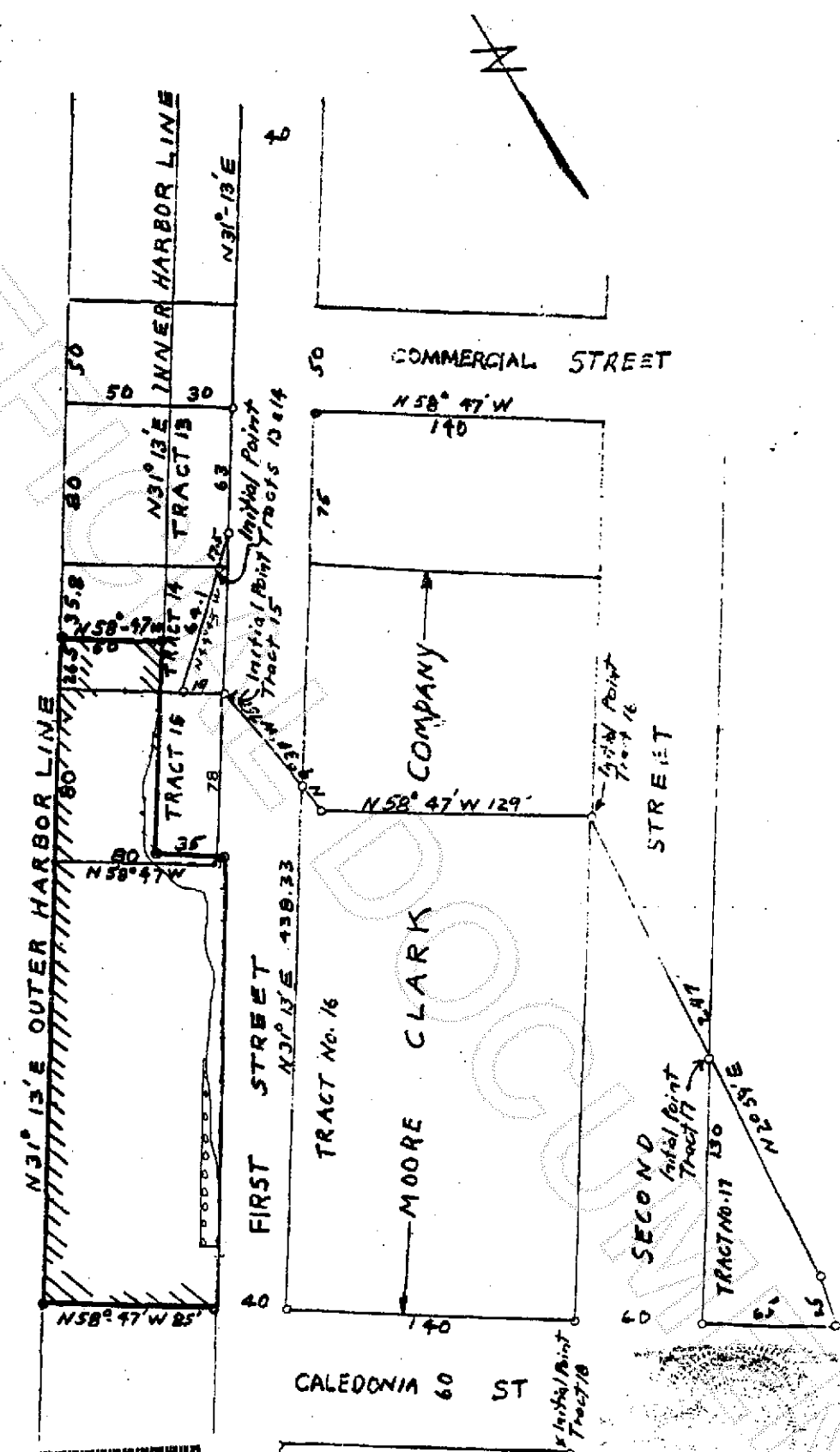
Situate in the Town of LaConner, County of Skagit, State of Washington.



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Skagit County Auditor

UNOFFICIAL



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 Skagit County Auditor
 7/15/2011 10:11:48AM

EXHIBIT A

201107150002
 Skagit County Auditor

EXHIBIT B
(Copy of Lease)



201106070022
Skagit County Auditor

6/7/2011 Page 1 of 10 11:46AM

LAND TITLE OF SKAGIT COUNTY

139376-0
Document Title: Harbor Area Lease # 22-002724

Reference Number :

Grantor(s):

additional grantor names on page ___

1. State of Washington

2.

Grantee(s):

additional grantee names on page ___

1. Moore-Clark Co.

2.

Abbreviated legal description:

full legal on page(s) ___

Tidelands in front of tracts 14-16, LaConner Tide lands, Plate 18

Assessor Parcel / Tax ID Number:

additional tax parcel number(s) on page ___

I Bob Weymuth am hereby requesting an emergency non-standard recording for an additional fee provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document. Recording fee is \$62.00 for the first page, \$1.00 per page thereafter per document. In addition to the standard fee, an emergency recording fee of \$50.00 is assessed. This statement is to become part of the recorded document.

Signed Bob Weymuth Dated 6-7-11



201107150002
Skagit County Auditor

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES
Brian J. Boyle
Commissioner of Public Lands
Olympia, Washington 98504

HARBOR AREA LEASE NO. 22-002724

BY THIS LEASE, by and between the STATE OF WASHINGTON, acting by and through the Department of Natural Resources, hereinafter called the Lessor, and MOORE-CLARK CO., INC., hereinafter called the Lessee, the Lessor leases to the Lessee on the terms and conditions as hereinafter set forth, the following described Harbor Area situate in Skagit County, Washington, to wit:

The Harbor Area of the Swinomish Channel fronting Tracts 15 and 16 and southwesterly 26.50 feet of Tract 14 within Government Lots 3 and 4 of Section 36; Township 34 North, Range 2 East, W.M., La Conner Tidelands Plates, bounded by the inner and outer harbor lines, the northeast line of the southwesterly 26.50 feet of Tract 14 produced northwesterly across the Harbor Area and the southwesterly line of said Tract 16 produced northwesterly across the Harbor Area, as shown in red on the attached Exhibit A, containing approximately .56 acres, more or less.

SECTION 1 OCCUPANCY

1.1 Term. This lease shall commence on the 7th day of January 1989 and continue to the 1st day of January 2001.

SECTION 2 USE OF PREMISES

2.1 Permitted Use. The Lessee shall have use of the leased premises for the purposes of maintaining and operating a loading and unloading facility for the processing of fish as shown on the attached exhibit and approved by the Lessor: Exhibit A - plat.

SECTION 3 PAYMENT

3.1 Rent.

(1) Annual Rent. Initial rent in the amount of \$3,154.77, for the period January 7, 1989 to January 1, 1990, based on an annual rent of \$3,207.51, and subsequent annual rent, as determined by the Lessor in accordance with Chapter 221, Laws of 1984 (RCW 79.90.450 - .902), or as amended by subsequent legislation, is due and payable in advance by the Lessee to the Lessor and is the essence of this lease, and is a condition precedent to the continuance of this lease or any rights thereunder. Payment is to be to the Department of Natural Resources, Olympia, Washington 98504.

(2) Inflation Adjustment. After payment of the initial rent, annual rent shall be adjusted each year thereafter according to the change in the Producer Price Index, as provided by regulations of the Department of Natural Resources.

(3) Interest Penalty for Past Due Rent Balances. A one percent charge, per month, shall be due to Lessor, from the Lessee, on any rent balance which is more than thirty days past due.

3.2 Leasehold Tax. The Lessee shall pay to the Lessor at Olympia, Washington 98504, the leasehold tax, if applicable, as set forth in Chapter 61, Laws of 1976, 2nd Ex. Sess., or as may be amended. The tax shall be due and payable at the same time the rental charged herein is due and payable. Failure to pay said tax when due and payable shall be considered a breach of the provisions of this lease and the Lessor shall be entitled to all remedies they are entitled to by law, and the remedies provided herein for a breach of a provision of this lease. Any delinquent taxes shall be a debt to the Lessor and in the event the Lessor is subject to any penalties or interest because of the failure of the Lessee to pay such taxes, such penalties and interest shall be payable by the Lessee to the Lessor and shall be considered a debt to the Lessor. In the event the Lessor suffers any costs of whatsoever nature, including attorney fees, or other costs of litigation in collecting said tax, such costs shall be payable by the Lessee and shall be considered a debt due and owing to the Lessor by the Lessee.

3.3 Revaluation of Rent. The Lessor shall at the end of the first four year period of the lease term and at the end of each subsequent four year period of the lease term, determine the annual rental in accordance with RCW 79.90.480 or as amended by subsequent legislation.



Skagit County Auditor

SECTION 4 RESERVATIONS AND CONDITIONS OF USE

4.1 Discrimination. The Lessee covenants and agrees that in the performance of this lease agreement, the Lessee shall conduct its activities in a manner that will assure fair, equal and non-discriminatory treatment of all persons regardless of race, creed, sex, marital status or ethnic origin. Notwithstanding any exemption contained in state or federal law, the Lessee shall comply with all federal and state laws, rules or regulations concerning hiring and employment and assuring the service of all patrons, customers, members or invitees without discrimination as to any person's race, creed, sex, marital status or ethnic origin.

Non-compliance with this clause by the Lessee shall constitute a breach of this lease and the Lessor may initiate appropriate formal or informal action to assure compliance or may, at its discretion, terminate this lease upon thirty day's notice to the Lessee setting forth the claimed violation or violations and giving the Lessee a right to appeal to the Commissioner of Public Lands for a contested case hearing in accordance with the State Administrative Procedures Act (RCW 34.04).

4.2 Improvements. No improvement in addition to those authorized by the Permitted Use clause herein shall be placed upon the Harbor Area without the prior written authorization of the Lessor. Authorized improvements constructed or placed on the leased premises during the term of this lease by the Lessee, unless otherwise specified, are the property of the Lessee. Upon the cancellation or expiration of this lease, the Lessee agrees to sever, remove and dispose of those improvements on the premises designated by the Lessor within six months from date of termination or expiration. In those cases where the Lessor requires removal of improvements and such action is not taken by the Lessee, the Lessee agrees that the Lessor may remove such improvements and charge the Lessee for cost of removal and disposal. All improvements allowed to remain on the area herein described, upon termination or expiration of this lease, shall be the property of the Lessor.

4.3 Unauthorized Improvements. All improvements made on or to the premises without the written consent of the Lessor shall immediately become the property of the Lessor. The Lessor may, at its option, require the Lessee to remove and dispose of any or all improvements, and in those instances where such action is not taken by the Lessee, the Lessor may remove such improvements, charging the Lessee for the cost of the removal and disposal, and cancel the lease.

4.4 Entry.

(a) The State shall have access to the Property at all reasonable times for the purpose of inspecting the Property and securing compliance with the terms and conditions of this lease.

(b) The right reserved in Subsection 4.4(a) above includes the right to perform or have performed such environmental tests, audits, surveys or investigations as the State, in its sole discretion, deems appropriate. Such tests, audits, surveys, or investigations may include, but shall not be limited to, the determination of whether the Lessee is improperly storing, handling or disposing of Hazardous Substances, as defined in Subsection 4.6(d) below, or of refuse, as defined in Subsection 4.6(b) below.

4.5 Access. The Lessor reserves the right of access to and across the leasehold premises for all purposes and further reserves the right to grant easements and other land uses on the premises to others when the easement or other land uses applied for will not unduly interfere with the use to which the Lessee is putting the premises or interfere unduly with the approved plan of development for the premises. No easement or other land uses shall be granted to third parties until payment for damages to the leasehold have been paid to the Lessee or a waiver of damages is signed by the Lessee.

4.6 Restrictions on Use.

(a) Conformance With Laws. The Lessee shall, at its own expense, conform to all applicable laws, regulations, permits, orders or requirements of any public authority affecting the property and the use thereof. Copies of such permits or orders shall be supplied to the State upon request. The Lessee shall correct at the Lessee's own expense any failure of compliance created through the Lessee's fault or by reason of the Lessee's use.

(b) Refuse. The Lessee shall not make, or suffer to be made, any filling in of the Property or any deposit of rock, earth, ballast, refuse, garbage, waste matter (including chemical, biological or toxic wastes), hydrocarbons, any other pollutants, or other matter within or upon the Property, except as approved in writing by the State. If the Lessee shall fail to remove all nonapproved fill material, refuse, garbage, wastes or other of the above materials from the Property and restore the Property to its condition immediately prior to the deposition of the unauthorized material, the Lessee agrees that the State may remove such materials and charge the Lessee for the cost of removal and disposal together with interest thereon from the date of expenditure at the rate of one percent per month.



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(c) Waste. At all times during the Term, the Lessee shall neither commit nor suffer waste to be committed to the Property.

(d) Hazardous, Toxic, or Harmful Substances.

1. The Lessee shall not keep on or about the Property, any substances now or hereinafter designated as, or containing components now or hereinafter designated 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 the Lessee fully complies with all federal, state and local laws, regulations, statutes, and ordinances, now in existence or as subsequently enacted or amended.

2. The Lessee shall immediately notify the State of all spills or releases of any Hazardous Substance, all failures to comply with any federal, state, or local law, regulation or ordinance, as now enacted, or as subsequently enacted or amended, all inspections of the Property by any regulatory entity concerning the same, all regulatory orders or fines, and all response or interim cleanup actions taken by or proposed to be taken by any government entity or private party on the Property.

3. The Lessee shall be fully and completely liable to the State, and shall indemnify, defend, and save harmless the State and its agencies, employees, officers, directors and agents with respect to any and all liability, damages (including damages to land, aquatic life and other natural resources), expenses, causes of action, suits, claims, costs (including testing, auditing, surveying and investigation costs), fees (including attorneys' fees and costs), penalties (civil and criminal), and response or 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, sublessees, contractors, subcontractors, licensees, permittees, or invitees, and for any breach of this Subsection 4.6(d).

(e) Marine Plastics Act. The Lessee shall, in addition to compliance with all other applicable laws and regulations, comply with the Marine Plastic Pollution Research and Control Act (MPPRCA) of 1987 (Public Law 100-220), which will become effective December 31, 1988. Under that Act, Lessee may be required among other things to provide waste reception facilities, permit Coast Guard inspection of the adequacy of these facilities, and provide for waste handling and disposition.

(f) Any failure to comply with the above Subsections 4.6(a)-(e) shall be considered grounds for cancellation of the Lease, in addition to the exercise of any other remedies available to the State. The parties expressly agree that the Lessee will, at its own expense, upon any failure to comply with the above Subsections 4.6(a)-(e) and upon direction to do so by the State, take corrective action measures satisfactory to the State. If the Lessee fails to do so, the Lessee agrees that the State may take such corrective action and the State shall be entitled to receive full reimbursement therefrom from the Lessee upon demand, together with interest thereon from the date of expenditure at the rate of one percent per month.

4.7 Regulations. The Lessor shall have the right to regulate, under rules established by it, maintenance and design requirements of all improvements, rates of wharfage, dockage and other tolls to be imposed by the Lessee upon commerce for any of the purposes for which leased Harbor Areas may be used, and to change such regulations and rates from time-to-time.

4.8 Testing. The Lessee agrees to conduct, at its own expense, all tests, audits, surveys, or investigations requested by the State during the term of the Lease as are necessary to ascertain the existence, scope, effects, or potential effects, of Hazardous Substances on the Property or associated natural resources resulting from or associated with the Lessee's use, occupation, or control of the Property and to provide the results of such tests, audits, surveys, or investigations to the State. If the Lessee fails to conduct such tests, the State may conduct such tests and the State shall be entitled to receive full reimbursement from the Lessee upon demand, together with interest thereon from the date of expenditure at the rate of one percent per month.

4.9 Reports. Lessee shall, at the State's request:

(a) Submit a written report to the State prior to January 31 of each calendar year in which the Lessee shall summarize and describe all uses which have occurred upon the Property during the preceding calendar year.

(b) Provide copies to the State of all monitoring reports required by permits issued by any federal, state or local regulatory agency related to water quality or sediment quality.

SECTION 5 REQUIREMENTS

5.1 Assignment and Sublease. This lease, or any portion thereof, may not be assigned, mortgaged, sublet or otherwise transferred without the prior written consent of the Lessor. In granting such consent the Lessor reserves the right to change the terms and conditions of this lease as it may affect the assignee. Further, if the Lessee is a corporation or partnership and if at any time during the term of this lease any part or all of the corporate shares or partnership interests of the Lessee shall be transferred by

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sale, assignment, bequest, inheritance, operation of law, or other disposition so as to result in a change in the present control of the corporation or partnership by the person or persons now owning a majority of the shares, or change in the holding of the corporate or partnership interest, the same shall constitute an assignment of this lease and as such shall require prior written consent of the Lessor. Failure to obtain written approval of any assignment defined in this lease shall be grounds for cancellation.

5.2 Maintenance.

(1) The Lessee, at its sole cost and expense, shall at all times keep, or cause all improvements regardless of ownership to be kept, in as good condition and repair as originally constructed or as hereafter put, except for reasonable use.

(2) The Lessee shall not allow debris or refuse to accumulate on the leased premises, caused either by itself or any person on the premises. Failure to comply with this provision shall be cause to permit the Lessor to remove the debris and refuse and collect the cost of such removal from the Lessee and/or cancel this lease.

(3) The Lessee may, following thirty days' notice to the Lessor, and after obtaining any required federal, state, or local permits, dredge the leased area as needed to maintain the water depths normal to the property. Specific written approval by the Lessor and payment for material is required for improvement dredging. In the event materials from improvement dredging are sold or deposited on privately owned property for improvement purposes, such material shall be paid for at the Lessor's appraisal.

5.3 Condition of Premises and Liability.

(1) The premises have been inspected by the Lessee and are accepted in their present condition. The Lessee agrees to defend and hold Lessor harmless from any and all claims suffered, or alleged to be suffered on the premises, or arising out of operations on the premises. The Lessor reserves the right to require the Lessee to conduct such sediment sampling and testing as the Lessor may direct. The Lessee agrees to remove any contaminated sediment, as may now or hereafter be defined by the federal and/or state regulatory agencies, as directed by the Lessor. The Lessee agrees to remove such sediments at its own expense and whether or not such sediments have been contaminated by the herein named Lessee.

(2) The Lessee shall carry with a responsible company or companies satisfactory to the Lessor, a sufficient amount of fire and casualty insurance to recover the value of any or all improvements located on the leased premises. A copy of such insurance policy or policies is to be endorsed and delivered to the Lessor with provision of ten days' notice of change, expiration and/or cancellation to the Lessor. In the event of fire or casualty damage to any improvement owned by the Lessor, or required to be left on the leased premises at the expiration of this lease, the paid insurance benefits shall be used to immediately replace said improvements in a manner acceptable to the Lessor or, if directed by the Lessor, rehabilitate the area in a manner suitable to the Lessor. Any portion of the insurance proceeds not so utilized shall be returned to the Lessor or if so permitted, to be used to satisfy any outstanding obligations incurred by reason of this lease being utilized for loan security. In the event of fire or casualty damage to any improvement owned by the Lessee, the paid insurance benefits shall be used to either replace the improvement, or in lieu thereof, rehabilitate the area in a manner suitable to the Lessor. The Lessee shall guarantee that all sublessees shall have provisions to either replace their own damaged improvements or to rehabilitate the area, as defined above.

5.4 Assessments. The Lessee shall pay all the annual payments on all assessments that may be legally charged, whether or not such assessments have been levied against the leasehold or the Lessor by the assessing agency.

5.5 Insolvency of the Lessee. If the Lessee becomes insolvent, bankrupt, a receiver appointed, or his interest is transferred by operation of law, the Lessor may cancel this lease at its option. Insolvency as used herein, will mean the inability of the Lessee to meet obligations as they come due.

SECTION 6 MISCELLANEOUS

6.1 No Partnership. The Lessor is not a partner nor a joint venturer with the Lessee in connection with the business carried on under this lease and shall have no obligation with respect to the Lessee's debts or other liabilities.

6.2 Non-Waiver. Waiver by either party of strict performance of any provisions of this lease shall not be a waiver of, nor prejudice the party's right to require strict performance of the same provision or of any other provision in the future.

6.3 Attorneys' Fees. If suit or action is instituted in connection with any controversy arising out of this lease, the prevailing party shall be entitled to recover, in addition to costs, such sum as the court may adjudge reasonable as attorneys' fees.

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6.4 Succession. Subject to the limitations as stated in paragraph 5.1 on transfer of the Lessee's interest, this lease shall be binding upon, and inure to the benefit of the parties, their respective successors and assigns.

6.5 Notices. Any notice required or permitted under this lease shall be given when actually delivered or when deposited in the United States mail addressed as follows: To the Lessor: Department of Natural Resources, Mail Stop QW-21, Olympia, Washington 98504. To the Lessee: At the address given by the Lessee in the signature block, or as shown on later official documents of record with this lease.

6.6 Liens.

(1) No person shall have the right to file or place any lien of any kind or character upon the land or improvements within the leasehold premises without the prior written consent of the Lessor.

(2) In the event unauthorized liens or other charges are placed on the leasehold premises, including land or improvements, arising out of the Lessee's actions directly or indirectly, the Lessee shall immediately cause such liens or charges to be discharged. The Lessor may forthwith cancel this lease if the Lessee fails to discharge such liens or charges after ten days' notice to do so by the Lessor. The Lessee shall pay and indemnify the Lessor for all costs, damages or charges of whatsoever nature, including attorneys' fees necessary to discharge such liens or charges, whether such costs, damages or charges are incurred prior or subsequent to any cancellation of this lease.

6.7 Default. If the Lessee shall violate or default any of the covenants and agreements contained herein, including the obligation to pay rent, then the Lessor may cancel this lease provided that the Lessee has been notified of the violation or default thirty days prior to such cancellation and such violation or default has not been corrected within such time. In the event the Lessor elects to cancel this lease, all improvements located thereon shall become the property of the state of Washington.

6.8 The Lessor's Right to Cure Defaults.

(1) If the Lessee fails to perform any requirements or obligations under this lease, the Lessor shall have the option to correct any default of this lease by the Lessee after thirty days' written notice to the Lessee. All of the Lessor's expenditures to correct the default shall be reimbursed by the Lessee on demand, with interest at the rate of one percent per month accrued from the date of expenditure by the Lessor.

(2) In the event any violation or breach of the provisions of this lease is causing damage to the leasehold premises or the Lessee is utilizing the leasehold premises in a manner not permitted by the provisions of this lease, or in any case damages are occurring to the leasehold premises, the Lessor may immediately enter upon the leasehold premises and take such action as necessary to cease such damages or use. In the event the damage to the leasehold is occurring the Lessee shall be liable for all costs incurred by the Lessor if the Lessor acts to cure such damages. The Lessor, at its option may send notice to the Lessee of such violations and the Lessee shall immediately cease such use or violation and correct and remedy such violations.

6.9 Security. The Lessee shall furnish a surety bond in such amount as may be determined by the Lessor from time-to-time in accordance with Title 79 RCW, as amended, as a guarantee of the faithful performance of the conditions and terms prescribed in this lease. Security other than a surety bond may be substituted if first approved in writing by the Lessor. The amount of the surety bond as of the date of this lease shall be \$5,500.00.

6.10 Litigation. In the event this lease, its terms, its use, its occupation or it in any way becomes a matter of litigation, the Lessor shall be notified of such litigation

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

JUN 07 2011

Amount Paid \$
Skagit Co. Treasurer
By *CAM* Deputy



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Skagit County Auditor

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within fifteen days after such litigation is begun. Failure to notify the Lessor of such action shall be cause for cancellation or termination of this lease.

The Lessee expressly agrees to all covenants herein, and binds himself for the payment hereinbefore specified.

Executed this 26th day of May, 1989.

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

James A. Stearns
JAMES A. STEARNS, Supervisor

Signed this 5th day of May, 1989.

MOORE-CLARK CO., INC.

Larry J. Lee
Larry J. Lee
PO Box M
813 S Second
La Conner, WA 98257

CERTIFICATE OF ACKNOWLEDGMENT
JAMES A. STEARNS

STATE OF WASHINGTON)
County of Hunter ss.

I certify that I know or have satisfactory evidence that

James A. Stearns
JAMES A. STEARNS signed this instrument, and oath stated that he was

authorized to execute the instrument and acknowledge it as the Supervisor 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.

Dated: 5-26-89

James M. Berta
Notary Public in and for the
State of Washington

(Seal or stamp)

My appointment expires 2-1-93



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Skagit County Auditor

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CERTIFICATE OF ACKNOWLEDGMENT

STATE OF WASHINGTON)
County of Skagit) ss.

I certify that I know or have satisfactory evidence that Larry J. Lee
Name of Person
signed this instrument, and oath stated that (he/she/they) (was/were) authorized to
execute the instrument and acknowledged it as the President
(type of authority, e.g., officer,
trustee, partner, marital community, etc.) of Moore-Clark Co., Inc.
(name of party(ies) on behalf of
whom instrument was executed) to be the free and voluntary act of such party(ies) for the
uses and purposes mentioned in the instrument.

Dated: 05/05/89

Donna D. Eschbach
Donna D. Eschbach
Notary Public in and for the state of
Washington

(seal or stamp)

My appointment expires
03/04/91

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Skagit County Auditor

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Skagit County Auditor

STATE LEASE/CONTRACT

BOND NO. 2S100302630-388

KNOW ALL MEN BY THESE PRESENTS: THAT WE, Moore-Clark Company, Inc.
of LaConner, Washington, as Principal, and The Aetna Casualty and Surety Company
Connecticut a corporation organized under the laws of the State of
State of Washington, as Surety, are held and firmly bound unto the STATE OF WASHINGTON, in
the full and just sum of Six thousand five hundred and no/100----- DOLLARS
(\$ 6,500.00), for which sum, well and truly to be paid, we bind ourselves, our heirs,
executors, administrators, successors and assigns, jointly and severally firmly by these
presents.

SEALED WITH OUR SEALS AND DATED THIS 25th DAY OF April, 19 89.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the Principal has entered into an agreement with the State of Washington, acting
by and through the Department of Natural Resources, dated January 7
19 89, under the Lease/Contract No. 22-002724 for rights described in same for the
following described land situated in the County of _____,
State of Washington to wit:

WHEREAS, the Principal has been required to file a bond in the sum of Six thousand
five hundred and no/100----- DOLLARS (\$ 6,500.00), to guarantee compliance with
all terms and conditions of Lease/Contract, issued under Application No. _____
including the payment of all sums due the State and all damages accrued to the State by
reason of operations under this agreement.

NOW, THEREFORE, if the said Principal shall comply with all terms and conditions of said
Lease/Contract as set forth in the preceding paragraph, then this obligation is to be
void, otherwise to remain in full force and effect.

MOORE-CLARK COMPANY, INC.

BY _____
Signature: Principal E. Whitehead
Title Treasurer

P.O. Box M, 813 S. Second
LaConner, Washington 98257
Mailing Address

THE AETNA CASUALTY AND SURETY COMPANY
Surety

1900 East 9th St., Suite 2600
Cleveland, Ohio 44114
Mailing Address

Monica H. Peres
Signature: Attorney-in-fact
Monica H. Peres

Not required
Signature: Washington Resident Agent

Bond Approval:

Date May 19, 1989

Daniel Ball
LEASE ADMINISTRATOR
Division of Aquatic Lands


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Seal

Agency

Mail


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Document Title: Assignment of lease

Reference Number: 201106070022

Grantor(s): additional grantor names on page ___

1. Moore Clark Co.

2.

Grantee(s): additional grantee names on page ___

1. LaConner Associates, LLC

2.

Abbreviated legal description: full legal on page(s) ___

Tidelands in front of tracts 14-16, LaConner
Tide lands, Plate 18

Assessor Parcel / Tax ID Number: additional tax parcel number(s) on page ___

I Bob Weymouth am hereby requesting an emergency non-standard recording for an additional fee provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document. Recording fee is \$62.00 for the first page, \$1.00 per page thereafter per document. In addition to the standard fee, an emergency recording fee of \$50.00 is assessed. This statement is to become part of the recorded document.

Signed Bob Weymouth Dated 6-7-11



201107150002
Skagit County Auditor

7/15/2011 Page 25 of 33 8:54AM

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES
JENNIFER M. BELCHER
Commissioner of Public Lands
Olympia, WA 98504

NOTE CAREFULLY

*Recorded Under Auditor File NO. 201106070 022

The Commissioner of Public Lands will not approve or enter any assignment unless the lease or contract is in good standing. The original lease or contract must be submitted along with three (3) copies of this assignment form and a \$25.00 fee.

ASSIGNMENT OF LEASE

FOR VALUE RECEIVED, the undersigned hereby assigns that certain Lease No. 22-002724 (the "Lease"), dated the 1st day of September, 1997, between the Washington State Department of Natural Resources (the "Department") as Grantor, and the undersigned as Grantee/Assignor MOORE-CLARK CO., INC., a Delaware Corporation, covering those certain premises situated in the County of Skagit, State of Washington, particularly described as follows:

The Harbor Area of the Swinomish Channel fronting Tracts 15 and 16 and Southwesterly 26.50 feet of Tract 14 within Government Lots 3 and 4 of Section 36, Township 34 North, Range 2 East, W.M., LaConner Tidelands Plates, bounded by the inner and outer harbor lines, the Northeast line of the Southwesterly 26.50 feet of Tract 14 produced Northwesterly across the Harbor Area and the Southwesterly line of said Tract 16 produced Northwesterly across the Harbor Area, as shown in red on the attached Exhibit A, containing approximately .56 acres, more or less.

The undersigned hereby Assigns all right, title and interest in and to and under the said lease, to LACONNER ASSOCIATES, a Limited Liability Company (the "Assignee"), whose address is P. O. Box 1155, LaConner, Washington 98257, and said assignee LACONNER ASSOCIATES, a Limited Liability Company, hereby binds and obligates themselves to perform all the conditions and covenants of said lease or contract.

In consideration of this Assignment and of the consent of the Department, the undersigned Assignor and Assignee agree as follows:

1. The Assignee hereby assumes and agrees to make all the payments required under the Lease, and to do and perform and be bound by all covenants, conditions, terms, stipulations, and agreements in the Lease binding upon Lessee;
2. The Department, through its consent to this Assignment, hereby releases Assignor from any liability that may be incurred under the lease by the Assignee from and after the effective date of the Assignment;
3. The Assignment shall not modify any of the terms and conditions of the Lease, except as provided in Exhibit B;
4. The Assignment shall not preclude the Department from exercising its right to consent to any further Assignment of the Lease;
5. Assignor represents and warrants that to the best of its knowledge, after due and diligent inquiry, it is unaware of the presence or dispersal of any hazardous or toxic substance on the property;
6. Assignor represents and warrants that it has no knowledge, after due and diligent inquiry, of any state of facts which would give rise to claims against the Department or pending or threatened litigation or claims against the Department;
7. Assignor represents and warrants that it is not in default under the lease, and has no knowledge, after due and diligent inquiry, of any state of facts or events which, with the passage of time or the giving of notice thereof would constitute a default thereunder; and

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

JUN 07 2011



201107150002
Skagit County Auditor

8. Assignor represents and warrants that to the best of its knowledge, after due and diligent inquiry, the property is in full compliance with all applicable federal, state, and local governmental permits, rules, ordinances, laws, and statutes.

GRANTEE/ASSIGNOR
MOORE-CLARK CO., INC.
a Delaware Corporation

ASSIGNEE
LACONNER ASSOCIATES
a Limited Liability Company

By: [Signature]

By: [Signature]

Title: 10/30/97 President
P.O. Box 200
Public Square 10-B
Cleveland, Ohio 44114-2375

Title: [Signature]
P.O. Box 1155
LaConner, WA 98257

Date: 10/30/97

Date: 10/9/97

CONSENT TO ASSIGNMENT

The Department consents to the Assignment of the above-mentioned Lease unto LACONNER ASSOCIATES, a Limited Liability Company upon the express conditions contained in said Assignment; and no further Assignment of said lease or subletting of said premises or any part thereof shall be made without the written consent of the Department.

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

[Signature]
CHARLES BAUM
Department Supervisor

Date 12/31/97

jg:asg

201106070023
Skagit County Auditor

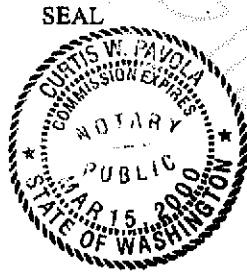
201107150002
Skagit County Auditor

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF WASHINGTON)
COUNTY OF Thurston) ss.

On this 31st day of December, 1997, personally appeared before me CHARLES BAUM, to me known to have signature authorization delegated to her to sign for JENNIFER M. BELCHER, Commissioner of Public Lands, and ex officio administrator of the Department of Natural Resources of the State of Washington, the Department that executed the within and foregoing instrument on behalf of the State of Washington, and acknowledged said instrument to be the free and voluntary act and deed of the State of Washington for the uses and purposes therein mentioned, and on oath stated that she was authorized to execute said instrument and that the seal affixed is the official seal of the Commissioner of Public Lands for the State of Washington.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



DATE: 12-31-97
Curtis W. Pavola
Curtis W. Pavola
(Type or Print Name)
Notary Public in and for the State of Washington
My Commission Expires 3-15-2000



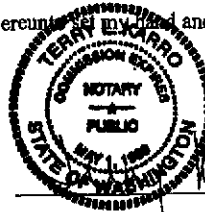
201107150002
Skagit County Auditor

CERTIFICATE OF ACKNOWLEDGMENT
CORPORATION
GRANTEE/ASSIGNOR

STATE OF)
) ss.
County of)

On this 9th day of October, 1997, personally appeared
before me Washu W. Jolley, to me known to be the Manager
of the corporation that executed the within and foregoing instrument, and acknowledged said
instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes
therein mentioned, and on oath stated that (he/she was) (they were) authorized to execute said instrument
for said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and
year first above written.



SEAL

NOTARY PUBLIC in and for the
state of Washington
My commission expires 11/1/99

CERTIFICATE OF ACKNOWLEDGMENT
CORPORATION
~~ASSIGNEE~~ ASSIGNOR

STATE OF)
) ss.
County of)

On this 30th day of October, 1997, personally appeared before me
Graham H. Evans, to me known to be the President
of the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be
the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on
oath stated that (he/she was) (~~they were~~) authorized to execute said instrument for said corporation, ~~and that the~~
~~seal affixed is the corporate seal of said corporation.~~

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year
first above written.

SEAL

Glenn F. Torch

NOTARY PUBLIC in and for the
state of Ohio

Commission expires

GLENN F. TORCH, Attorney at Law
NOTARY PUBLIC, STATE OF OHIO
My commission expires 11/1/98
Section 137.05 & 6.





201106070024
Skagit County Auditor

6/7/2011 Page 1 of 4 11:47AM

Document Title: Letter

Reference Number: 201106070022 & 201106070023

Grantor(s): additional grantor names on page ___

1. State of Washington Department of Natural Resources
- 2.

Grantee(s): additional grantee names on page ___

1. LaConner Associates, LLC
- 2.

Abbreviated legal description: full legal on page(s) ___

Tidelands in front of tracts 14-16 LaConner
Tidelands, Plate 18

Assessor Parcel / Tax ID Number: additional tax parcel number(s) on page ___

I, Barb Weymuth, am hereby requesting an emergency non-standard recording for an additional fee provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document. Recording fee is \$62.00 for the first page, \$1.00 per page thereafter per document. In addition to the standard fee, an emergency recording fee of \$50.00 is assessed. This statement is to become part of the recorded document.

Signed Barb Weymuth Dated 6-7-11



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Skagit County Auditor

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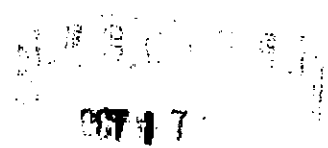
WASHINGTON STATE DEPARTMENT OF
Natural Resources

DOUG SUTHERLAND
Commissioner of Public Lands

September 20, 2001

CERTIFIED MAIL
7099 3400 0016 5143 2714

LaConner Associates
Vaughn Jolley, Manager
PO Box 1155
LaConner, WA 98257



Re: Holdover of Aquatic Lands Lease No. 22-002724

Dear Mr. Jolley:

The subject agreement, which expired on January 1, 2001, refers to the lease between the State, as Lessor, and Moore-Clark Co. as lessee. The lease was previously amended by Assignment respectively dated December 31, 1997 to LaConner Associates, a Limited Liability Company. Assignor now possesses the rights, duties, and liabilities under the Lease as amended.

The legal description for this lease is stated as follows:

The Harbor Area of the Swinomish Channel fronting Tracts 15 and 16 and Southwesterly 26.50 feet of Tract 14 within Government Lots 3 and 4 of Section 36, Township 34 North, Range 2 East, W.M., LaConner Tidelands Plates, bounded by the inner and outer harbor lines, the Northeast line of the Southwesterly 26.50 feet of Tract 14 produced Northwesterly across the harbor Area and the Southwesterly line of said Tract 16 produced Northwesterly across the Harbor Area, containing approximately .56 acres, more or less.

It is agreed, it is in the best interest of both Lessor and Lessee to extend the subject lease for an indefinite period time, on a month-to-month tenancy, which may be terminated by either party on Thirty (30) days written notice, or to the commencement date of the new lease.

We are forwarding this letter to confirm our mutual agreement regarding this extension from the expiration date of lease No. 22-002724 and Lessee ability to remain on the premises. The extension of this lease is acceptable to the State of Washington and Lessee, with all conditions thereto remaining the same. The rent and leasehold tax (LHT) to be paid under this holdover agreement by the Lessee shall be as provided by the expired lease as if it continued:

The rent and LHT amount is \$3,265.08. This rent and LHT must be paid in a timely manner as if

Holdover Letter For 22-002724

1

NORTHWEST REGION ■
FAX: (360) 856-2
Equal



201107150002
Skagit County Auditor

RECYCLED PAPER

the lease were in effect for this holdover agreement to be valid and upon timely payment will represent full payment through December 31, 2001. Late payment will also cause interest to be added to your account at one percent (1%) per month as provided by law.

In the event that the holdover granted by this Agreement is revoked by State or terminated by Lessee, Lessee shall be entitled to a refund of a prorated portion of the paid rent based upon the unexpired term of the holdover.

This holdover is issued with the understanding that you will diligently pursue and consummate a lease agreement.

Please acknowledge your agreement to the above by signing this letter where provided and returning it no later than October 25, 2001 to:

Department of Natural Resources
919 N. Township Street
Sedro-Woolley, WA 98284

If you have any questions, please contact JoAnn Gustafson at (360) 854-2832.

State:

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES
RESOURCES

Lessee:

LACONNER ASSOCIATES
a Limited Liability Company

By:

William J. Wallace
WILLIAM J. WALLACE

Its: Northwest Region Manager

By:

Vaughn W. Volley
VAUGHN W. VOLLEY

Its: General Manager

Dated:

October 15, 2001

Dated:

10/03/01

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

JUN 07 2011

Amount Paid \$
Skagit Co. Treasurer
By CM Deputy

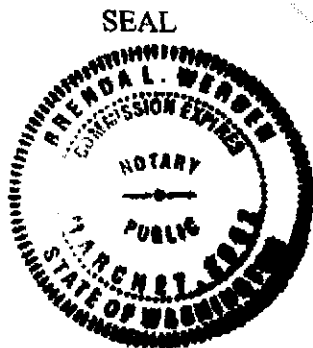
Holdover Letter for 22.

201107150002
Skagit County Auditor

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

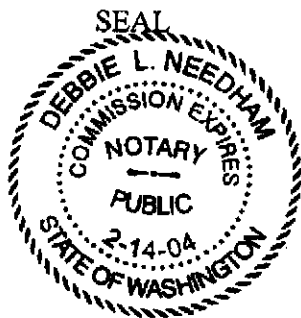
I certify that I know or have satisfactory evidence that WILLIAM J. WALLACE is the person who appeared before me, and is the Northwest Region Manager of the STATE OF WASHINGTON DEPARTMENT OF NATURAL RESOURCES. I further certify that said person acknowledged the foregoing to be the free and voluntary act of the STATE OF WASHINGTON DEPARTMENT OF NATURAL RESOURCES for the uses and purposes mentioned in the instrument, and on oath stated that he is duly authorized to execute and acknowledge said instrument.



DATED: October 15, 2001
Brenda L. Warden
Brenda L. Warden
Notary Public in and for the State of Washington
residing at Burlington
My Commission Expires Mar 27, 2002.

STATE OF WASHINGTON)
) ss.
COUNTY OF)

I certify that I know or have satisfactory evidence that VAUGHN W. JOLLEY is the person who appeared before me. I further certify that said person acknowledge the foregoing instrument to be his free and voluntary act for the uses and purposes mentioned in the instrument



DATED: October 3, 2001
Debbie L. Needham
Debbie L. Needham
(Type/Print Name)
Notary Public in and for the State of Washington
residing at Sedro Woolley WA
My Commission Expires 2-14-04

Holdover Letter for 22-002724

