



## AGENDA

CITY COMMISSION OF THE CITY OF WARRENTON  
REGULAR MEETING  
August 10, 2021– 6:00 P.M.  
Warrenton City Commission Chambers – 225 South Main Avenue  
Warrenton, OR 97146

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Public Meetings are conducted in the Commission Chambers unless otherwise noted. Meetings will also be audio and video live streamed.

Go to <https://www.ci.warrenton.or.us/administration/page/live-stream-public-meetings> for connection instructions.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. CONSENT CALENDAR

A. City Commission Meeting Minutes – 7.27.21

Items on the Consent Calendar have previously been discussed and/or are considered routine. Approval of the Consent Calendar requires a motion, a second, and no discussion, unless requested by a member of the City Commission.

4. COMMISSIONER REPORTS

5. PUBLIC COMMENT

At this time, anyone wishing to address the City Commission concerning items of interest may do so. The person addressing the Commission must complete a Public Comment Card and submit it to the City Recorder prior to the meeting. All remarks will be addressed to the whole City Commission and limited to 3 minutes per person. Public Comments may also be submitted by email to the City Recorder, at [cityrecorder@ci.warrenton.or.us](mailto:cityrecorder@ci.warrenton.or.us), no later than 5:00 p.m. the day of the meeting. The Commission reserves the right to delay any action, if required, until such time as they are fully informed on a matter.

6. PUBLIC HEARINGS – None

7. **BUSINESS ITEMS**

- A. Consideration of Spruce Up Warrenton Fall Festival Funding
- B. Consideration of Noise Variance; Hampton Mill Event
- C. Consideration of Sturgeon Paul Lease Transfer
- D. Consideration of Hammond Marina Food Truck License
- E. Consideration of Ordinance No. 1254; Amending Ord. No. 1128-A and 1076-A;  
Updating Purchasing Manager's Authority

8. **DISCUSSION ITEMS**

- A. Update on SE Honeysuckle Loop Vacation Rental Activity

9. **GOOD OF THE ORDER**

10. **EXECUTIVE SESSION**

*Under the authority of ORS 192.660(2)(e); to conduct deliberations with persons designated by the governing body to negotiate real property transactions.*

11. **ADJOURNMENT**

Warrenton City Hall is accessible to the disabled. An interpreter for the hearing impaired may be requested under the terms of ORS 192.630 by contacting Dawne Shaw, City Recorder, at 503-861-0823 at least 48 hours in advance of the meeting so appropriate assistance can be provided.

MINUTES  
 Warrenton City Commission  
 July 27, 2021  
 6:00 p.m.  
 Warrenton City Hall - Commission Chambers  
 225 S. Main  
 Warrenton, OR 97146

Mayor Balensifer called the meeting to order at 6:01 p.m. and led the public in the Pledge of Allegiance.

Commissioners Present: Mayor Henry Balensifer, Tom Dyer, Gerald Poe, Mark Baldwin, and Rick Newton

Staff Present: City Manager Linda Engbretson, City Recorder Dawne Shaw, Police Chief Mathew Workman, Public Works Director Collin Stelzig, Public Works Operations Manager Kyle Sharpsteen, Deputy City Recorder Rebecca Sprengeler, Public Works Secretary Nancy Ager, and Harbormaster Jane Sweet

CONSENT CALENDAR

- A. City Commission Meeting Minutes – 7.13.21
- B. Parks Advisory Board Minutes – 2.08.21
- C. Parks Advisory Board Minutes – 4.12.21
- D. Marina Advisory Committee Recommendation
- E. Police Department Monthly Statistics – June 2021
- F. Visitor Center Lease Agreement Termination
- G. Harbormaster Report – FY 20/21

Mayor Balensifer requested to add a letter of support for RDI's (Rural Development Initiatives) Reser Grant proposal to the consent calendar as item 3H and move consent item 3D to a business item 8D. There were no objections.

Commissioner Newton asked Police Chief Mathew Workman about the increase in overtime numbers. Chief Workman clarified. Brief discussion followed. Commissioner Newton discussed Marina revenue numbers with Harbormaster Jane Sweet and noted other figures in the department report.

**Commissioner Newton made the motion to approve the consent calendar as presented. Motion was seconded and passed unanimously.**

**Newton – aye; Dyer – aye; Poe – aye; Baldwin – aye; Balensifer – aye**

Public Works Director Collin Stelzig spoke about retiring Public Works Secretary Nancy Ager. Ms. Ager discussed her history with the City. Mayor Balensifer presented a plaque of

appreciation to Ms. Ager for 24 years of service and offered some comments.

#### COMMISSIONER REPORTS

Commissioner Newton noted he attended the CREST (Columbia River Estuary Study Taskforce) meeting and gave a few highlights.

Mayor Balensifer attended the CEDR (Clatsop Economic Development Resources) meeting and noted the current shortage of bookkeepers. Brief discussion followed.

PUBLIC COMMENT - None

PUBLIC HEARINGS – None

#### BUSINESS ITEMS

Ms. Engbretson discussed a proposed amendment to the City's purchase order process and petty cash limits to increase efficiency. Mayor Balensifer suggested increasing the purchase orders to \$5,000 and petty cash limit to \$150, noting spending is not what it used to be. After brief discussion there was consensus.

**Commissioner Newton made the motion to authorize staff to amend the City's administrative policies to require Purchase Orders for purchases over \$5,000 and increase Petty Cash to \$150. Motion was seconded and passed unanimously.**

**Newton – aye; Dyer – aye; Poe – aye; Baldwin – aye; Balensifer – aye**

Mr. Stelzig discussed a professional services contract with Otak for the Main Avenue Safe Routes to School and 9<sup>th</sup> Street Curb Ramp. He noted there will be opportunities for community input. Commissioner Newton asked for clarification on several points in the contract. He suggested changing the City's representative to "City Manager." There was brief discussion about insurance standards. Brief discussion followed about a gas station previously located on the Northeast side of 10<sup>th</sup> and Main Avenue.

**Commissioner Dyer made the motion to approve awarding the professional service contract for the Main Avenue Safe Routes to School and 9<sup>th</sup> Street Curb Improvements Project to Otak for \$138,959.04 as previously amended. Motion was seconded and passed unanimously.**

**Newton – aye; Dyer – aye; Poe – aye; Baldwin – aye; Balensifer – aye**

City Recorder Dawne Shaw presented Resolution No. 2610 Amending Resolution No. 2588, Exhibit A; Approved Residential Zone Vacation Rentals. Mayor Balensifer asked the response status from Ms. Lauren. He referenced discussion from the previous meeting that if a positive response was received, the Hammond property would maintain its grandfathered status, while a

MINUTES

Warrenton City Commission

Regular Meeting – 7.27.21

Page: 2

delayed response would result in the revocation of both properties. Ms. Engbretson noted the revocation process was started and notice was given. Commissioner Baldwin noted his agreement with Mayor Balensifer. Brief discussion continued. The Commission requested following up on the Hammond property at the next meeting.

**Commissioner Newton made the motion to approve Resolution No. 2610; Amending Resolution No. 2588, Exhibit A; Approved Residential Zone Vacation Rentals. Motion was seconded and passed unanimously.**

**Newton – aye; Dyer – aye; Poe – aye; Baldwin – aye; Balensifer – aye**

Commissioner Newton suggested a contract establishing terms for special circumstances like this in the future. Discussion followed. Mayor Balensifer suggested revisiting this idea on a case-by-case basis. Brief discussion continued.

Mayor Balensifer discussed the Marina Advisory Committee recommendation to support moving forward to engineer, permit and build Seawall option 1 for the Seafarers Park Fishing Pier concept for the Hammond Marina. Mayor Balensifer asked that board recommendations be added to the agenda as business items. Discussion followed.

**Commissioner Dyer made the motion to accept the Marina Advisory Committee recommendation related to the Seafarers Park Fishing Pier and send the message of concurrence on behalf of the Commission to them. Motion was seconded and passed unanimously.**

**Newton – aye; Dyer – aye; Poe – aye; Baldwin – aye; Balensifer – aye**

DISCUSSION ITEMS – None

GOOD OF THE ORDER

Commissioner Newton noted the young Olympian from Seward, Alaska won a gold medal in breaststroke.

There being no further business, Mayor Balensifer adjourned the regular meeting at 6:38 p.m.

Respectfully prepared and submitted by Rebecca Sprengeler, Deputy City Recorder.

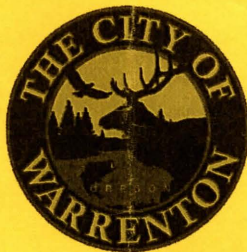
APPROVED:

\_\_\_\_\_  
Henry A. Balensifer III, Mayor

ATTEST:

\_\_\_\_\_  
Dawne Shaw, CMC, City Recorder

5 add



WARRENTON CITY COMMISSION PUBLIC COMMENT FORM

NAME: Patricia Shannon

ADDRESS: 165 AH Highway 101

EMAIL: artspace@earthlink.net

DOES YOUR COMMENT HAVE TO DO WITH AN AGENDA ITEM: (Y or N) Y

BRIEFLY DESCRIBE YOUR TOPIC: SEWER charges  
AH 101 - SPEED

PLEASE GIVE THIS CARD TO THE CITY RECORDER PRIOR TO THE MEETING



## AGENDA MEMORANDUM

TO: The Warrenton City Commission  
FROM: Linda Engbretson, City Manager  
DATE: August 10, 2020  
SUBJ: Spruce Up Fall Festival

### SUMMARY

Spruce Up Warrenton has requested funding for the Fall Festival. The City budgeted \$20,000 for holiday and community events. There has been some discussion the City would consider making an annual grant to Spruce Up or we can consider on a case-by-case basis. They will make a request for funding at the meeting.

### RECOMMENDATION/SUGGESTED MOTION

Staff recommends granting, at a minimum, the amount requested for fall festival. I recommend you consider retaining some funding for other community events, i.e., movies in the park, etc., that may not be on Spruce Up's current agenda.

### ALTERNATIVE

Other action as deemed appropriate by the City Commission.

### FISCAL IMPACT

N/A



## AGENDA MEMORANDUM

TO: The Warrenton City Commission  
FROM: Linda Engbretson, City Manager  
DATE: August 10, 2020  
SUBJ: Event Application - Amplification

### SUMMARY

Hampton Lumber Mill has submitted an event application for use of the Quincy Park for their annual employee and family picnic. Included in the application is notice of use of microphones. The City Code requires the City Commission to *permit the broadcast of music, news, speeches, or general entertainment.*

The event is scheduled from 11:00 am to 6:30 pm. Staff has no objection to the use of microphones or speakers during this timeframe. The event application is being reviewed through the normal channels to comply with parking and other facility use.

### RECOMMENDATION/SUGGESTED MOTION

"I move to permit the use of microphones and other amplification to Hampton Lumber Mill for their annual staff picnic on September 18."

### ALTERNATIVE

Other action as deemed appropriate by the City Commission.

### FISCAL IMPACT

N/A



## AGENDA MEMORANDUM

TO: The Warrenton City Commission  
FROM: Linda Engbretson, City Manager  
DATE: August 10, 2021  
SUBJ: Transfer of Lease – Sturgeon Paul to Jim Fowler – Big Game Fishing

### SUMMARY

The City Commission requested additional information regarding a proposed transfer of the Sturgeon Paul Lease at the Hammond Marina to Jim Fowler, dba, Big Game Fishing. Staff and legal have reviewed the business/credit and criminal background information and currently find no apparent reason to withhold the transfer approval. Staff is in the process of scheduling the property inspection as requested.

Attached is a letter from Mr. Fowler outlining his plans for the site/business. Financials shall be confidential.

As noted during the July 27 discussion, a change of terms in the lease should be considered at the first renewal option in 2023.

Mr. Fowler has been invited to attend the August 10 meeting.

Should the Commission wish to discuss the matter further, the Commission may convene an executive session under the authority of Real Property Transactions. The ORS authority for the executive session has been noted on the Agenda.

### RECOMMENDATION/SUGGESTED MOTION

"I move to authorize the Mayor's signature on the Agreement for Sale of Buildings, Equipment and Leasehold Interest."

### ALTERNATIVE

Other action as deemed appropriate by the City Commission.

### FISCAL IMPACT

No fiscal impact.

## Jim Fowler dba Big Game Fishing

My name is Jim Fowler and I am attempting to purchase Sturgeon Paul's from Paul Leitch. A little about me...

I am a husband and a father first to my wife Jennifer and my son Gus. Our intent is to run and build a strong family business in Hammond, Oregon. I have been self-employed my entire adult life. At 22 years old I started Northwest Paint Preparation, LLC. We specialized in lead paint removal from historic homes and structures throughout the northwest. Some of our projects included Waverly Country Club, Pittock Mansion, and the classical Chinese gardens and teahouse in Downtown Portland.

I sold my interest in the paint removal company and started Fowler Risk, LLC, an investigative firm dedicated to mitigating clients risk and exposure in a variety of claims. Our client list included municipalities such as the city of Vancouver, city of Portland, state of Washington, and many others. We also served large law firms and corporations such as Boeing, DHL/Airborne Express, Nike, and Intel as well as every major insurance company at one time or another.

Finally in 2013 I was able to pursue my true passion, fishing. I have been self-employed as a guide for 7 years now, and a full time resident of Clatsop county for the last four plus years. I have built a strong client list and am currently booked full and putting clients in boats for other great local guides.

The next chapter for our family will be written at Sturgeon Paul's in Hammond, and likely in 3 phases.

Phase one, we acquire the shop as soon as possible and continue to serve our current sport and commercial clients while also attracting new clients through the next couple months as a record salmon run passes through our community.

Phase 2 will involve a cleanup and rehabilitation of our current facilities. Specifically, the storage yard has far more potential than being the town dump. We will look to evict derelict items as soon as possible. We will also look to improve equipment to better serve clients.

Phase 3, work with the city to help create an overall vision for the Hammond marina that will make us the crown Jewel port on the Oregon coast. The potential is there. A strong private bait shop/fish processing/tourist business at the marina is vital to creating a marina environment that can attract visitors year round.

Please feel free to contact me with any other questions.

Jim Fowler

**AGREEMENT FOR SALE OF BUILDINGS, EQUIPMENT AND LEASEHOLD INTEREST  
(SECURITY AGREEMENT)**

**DATE:** July 9, 2021

**PARTIES:** Paul Leitch ("Seller")

James Fowler ("Buyer")  
Jennifer Fowler

**RECITALS**

**A.** Seller owns buildings located at the Hammond, Oregon Mooring Basin. The buildings are located on land sub-leased from the City of Warrenton based on the City's leasehold interests from the United States Army Corps of Engineers, Portland District Real Estate Office.

**B.** Buyer desires to acquire the buildings and the Seller's leasehold interests, and Seller desires to sell the buildings and Seller is willing, with the approval of the City of Warrenton and the United States Army Corps of Engineers, Portland District Real Estate Office, to assign such leasehold interests to Buyer.

**AGREEMENT**

**SECTION 1.**

**ASSETS PURCHASED; PURCHASE PRICE; PAYMENT OF PURCHASE PRICE;  
LIABILITIES ASSUMED**

**1.1 Assets Purchased.** Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller, all of the buildings Seller owns at the Hammond, Oregon Mooring Basin (hereinafter "Buildings") and equipment used in the operation of the business therein ("Equipment") and assign Seller's leasehold interest with the City of Warrenton, subject to the approval of the City of Warrenton and the United States Army Corps of Engineers, Portland District Real Estate Office ("Leasehold Interest"). A copy of the lease is attached hereto as Exhibit A.

**1.2 Purchase Price.** Buyer shall pay the sum of [REDACTED] as the total Purchase Price.

**1.3 Payment of the Purchase Price.**

**1.3.1 Payment at Closing.** Upon acceptance, Buyer shall pay to Seller Ten Thousand Dollars [REDACTED] as non-refundable earnest money. As partial

*PL*

*[Signature]*  
[DS]

payment of the Purchase Price, Buyer shall execute a promissory note in favor of Seller for the sum of [REDACTED] Thousand Dollars [REDACTED] ("Note") in the form attached as Exhibit B, with the balance of [REDACTED] paid by Buyer in the form of a cashier's check.

**1.4 Instruments.** At Closing, Seller shall provide a Bill of Sale for the Buildings and equipment and execute an assignment of the leasehold interest and Buyer shall execute the Note. The Parties shall execute a UCC-1 statement, which shall be filed as evidence of Seller's security in the assets conveyed herein and this document shall also serve as a security agreement.

**1.5 Liabilities Assumed.** Buyer is assuming no liabilities of Seller. This is an asset purchase only and the only assets are the Buildings, Equipment and the Leasehold Interest. Seller shall remain liable for all of his own debts.

**1.6 Resale.** Buyer may not resell Buildings or Equipment until Seller is paid in full.

## SECTION 2. OTHER AGREEMENTS

**At closing,** the parties shall execute the following additional agreements:

**2.1 Lease Assignment or Replacement.** The lease agreement between Buyer and Seller's landlord, pertaining to the land on which the Buildings sit, shall be assigned to Buyer with the City of Warrenton's and the United States Army Corps of Engineers' consent (if required), which consent shall serve to release Seller from his obligations under the lease; or Buyer shall obtain his own new lease with the City of Warrenton and United States Army Corps of Engineers, under which Seller shall have no liability to the City of Warrenton or the United States Army Corps of Engineers.

**2.1.1 Insurance.** Buyer shall keep the Buildings insured at Buyer's expense and name the Seller as loss-payee up to the total sum due Seller, with any over the sum due Seller, to be paid to Buyer, until the Seller is paid in full.

**2.2 Closing.** Closing shall occur in the offices of Buyer's attorney, Campbell & Popkin, LLC, at 1580 N. Roosevelt Drive, Seaside, Oregon on or before July 30, 2021.

**2.3 Removal of Personal Property.** Seller shall remove all personal property owned by Seller by 5:00 p.m. on the seventh (7th) day after Closing. Any personal property of Seller or owned by any entity of Seller remaining after 5:00 p.m. on the seventh (7th) day after Closing shall be deemed abandoned by Seller or his entity and shall thereafter become property of Buyer, as if it were a gift. This Agreement shall serve as a bill of sale or transfer of ownership for any such property, without the need for any further documentation of such transfer of ownership.

**SECTION 3.  
SECURITY**

The Buildings, Equipment and Leasehold Interest will be conveyed subject to the interest of the Seller, which shall be evidenced by a UCC-1 filing. In the event that Buyer fails to make a payment to Seller by 6:00 p.m. on the twentieth (20) day after it is due, then Buyer shall forfeit all rights in the Buildings, Equipment and Leasehold Interest and Seller shall have the right to immediate and exclusive occupancy of the Buildings and Seller shall retain all payments made under this Agreement by Buyer and Buyer shall have no right to return of said funds or other recourse.

**SECTION 4.  
SELLER'S REPRESENTATIONS**

Seller represents to Buyer as follows:

**4.1 Title and Condition of Buildings.** Seller owns all of the Buildings free and clear of all mortgages, pledges, security interests, options, claims, charges, or other encumbrances or restrictions of any kind, except that of the City of Warrenton and the Corps of Engineers.

**4.2 Accuracy of Representations and Warranties.** None of the representations of Seller contain any untrue statement of a material fact or omit or will omit or misstate a material fact necessary in order to make statements in this Agreement not misleading. Seller knows of no fact that has resulted, or that in the reasonable judgment of Seller will result, in a material change in the Buildings, that has not been set forth in this Agreement or otherwise disclosed to Buyer.

**SECTION 5.  
SELLER'S COVENANTS PENDING CLOSING**

**5.1 Seller's Use of Buildings Prior to Closing.** Seller agrees that between the date of this Agreement and the closing date, Seller will:

**5.1.1** Not assign, sell, lease, or otherwise transfer or dispose of any of the Buildings.

**5.1.2** Maintain the Buildings in their present condition, reasonable wear and tear and ordinary usage excepted.

**5.2 Access to Premises and Information.** At reasonable times before the Closing Date, Seller will provide Buyer and his representatives with reasonable access during business hours to the Buildings, and furnish such additional information concerning the Buildings as Buyer from time to time may reasonably request.

**5.3 Conditions and Best Efforts.** Seller will use his best efforts to effectuate

*F.2.*

A handwritten signature in black ink, possibly reading "R. J. F.", is written over a rectangular stamp that contains the letters "DS".

the transactions contemplated by this Agreement and to fulfill all the conditions of the obligations of Seller under this Agreement, and will do all acts and things as may be required to carry out his obligations under this Agreement and to consummate and complete this Agreement.

**SECTION 6.  
CONDITIONS PRECEDENT TO BUYER'S OBLIGATIONS**

The obligation of Buyer to purchase the Buildings is subject to the fulfillment, before or at the Closing Date, of each of the following conditions, any one or portion of which may be waived in writing by Buyer:

**6.1 Representations, of Seller.** All representations made in this Agreement by Seller shall be true as of the Closing Date.

**6.2 Licenses and Permits.** Buyer shall have obtained all licenses and permits from public authorities necessary to operate Buyer's desired business activities at the Buildings.

**6.3 Consent of Lessor/Landlord.** Buyer shall have obtained the City of Warrenton's and United States Army Corps of Engineers Portland District Real Estate Office's consent (if required) to the assignment of lease to Buyer, unless Buyer has obtained his own lease to the premises for the Buildings, either of which shall operate to release Seller from any further obligations to the City of Warrenton or the United States Army Corps of Engineers Portland District Real Estate Office for the Leasehold Interest.

**6.4 No Suits or Actions.** At the Closing Date, no suit, action, or other proceeding shall have been threatened or instituted to restrain, enjoin, or otherwise prevent the consummation of this Agreement or the contemplated transactions.

**SECTION 7.  
TERMINATION OF AGREEMENT**

**7.1 By Mutual Consent.** This Agreement may be terminated by mutual written consent of Buyer and Seller.

**7.2 Breach of Representations; Failure of Conditions.** Buyer may elect by notice to Seller, and Seller may elect by notice to Buyer, to terminate this Agreement if:

**7.2.1** The terminating party shall have discovered a material error, misstatement, or omission in the representations made in this Agreement by the other party.

**7.2.2** All of the conditions precedent of the terminating party's obligations under this Agreement have not occurred and have not been waived by the terminating party on or prior to the Closing Date.

**SECTION 8.  
MISCELLANEOUS.**

**8.1 Attorney Representation.** Seller is represented in this transaction by Lawrence J. Popkin, Campbell & Popkin, LLC. Buyer has been advised to seek independent legal advice.

**8.2 No Contest.** Neither party shall have the right to contest any of the terms of this Agreement. Each party specifically waives any such right.

**8.3 Integration.** Once executed, this Agreement shall serve as the complete and full agreement between the parties and shall supersede all prior written or oral agreements regarding the sale of the Buildings and Leasehold Interests. Any modifications to this Agreement must be in writing and signed by both parties to be effective.

**8.4 Survival.** All terms of this Agreement that benefit the Seller shall survive Closing and shall continue until all obligations of the Buyer to the Seller are satisfied in full.

**8.5 Notices.** Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be by certified mail, return receipt requested, postage prepaid, addressed to the parties as follows:

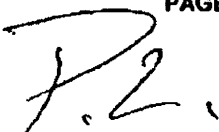
Seller: Paul Leitch  
PO Box 566  
Warrenton, OR 97146

w/copy to: Lawrence J. Popkin  
Campbell & Popkin, LLC  
1580 N. Roosevelt Dr.  
Seaside, OR 97138

Buyer: James and Jennifer Fowler  
90887 Lewis & Clark Road  
Astoria, OR 97103

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**Signatures on following page.**



IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date and year first above written.

**SELLER:**

**BUYER:**

~~\_\_\_\_\_~~  
Paul Leitch  
Date

James Fowler      7-9-21  
Date

DocuSigned by:  
Jennifer Fowler      7/9/2021  
Date

*PL*

<sup>DS</sup>  
JF

## PROMISSORY NOTE

July 30, 2021  
Warrenton, Oregon

FOR VALUE RECEIVED, the undersigned, James and Jennifer Fowler, ("Borrower"), jointly and severally promise to pay to the order of Paul Leitch ("Lender"), at PO Box 566, Warrenton, OR 97146, or to another person and at another place that Lender may designate, the principal sum of [REDACTED] Dollars [REDACTED], together with interest, payable in the manner and on the terms set forth in this Note:

1. *Interest Rate.* The outstanding principal balance will bear interest from the above date ("Date of Disbursement") at a rate of Three percent (3.0%) per annum ("Interest Rate"), until this Note is fully paid.

2. *Payments.* Borrower will make monthly installments of not less than [REDACTED] [REDACTED] each. The first installment must be paid on or before September 1, 2021, and subsequent installments must be paid on the first day of each month thereafter until the entire note is paid in full. Each payment will be applied first to any expenditures advanced by Lender under this Note; second, to the payment of any late charges; third, to the interest on the principal as of the date of payment; and fourth, the balance to principal. Checks will constitute payment only when collected. In the event a dishonored check is given by Borrower as payment, Lender shall be entitled to all remedies available under ORS 30.701 and other applicable statutes in effect under Oregon law.

In addition to the regular monthly payments, Borrower shall make a principal reduction payment of [REDACTED] on or before January 15, 2022

3. *Final Balloon Payment.* Borrower must pay the entire balance of principal and accrued but unpaid interest owed on September 30, 2022, which date is the maturity date of this Note ("Maturity Date"). BORROWER HEREBY ACKNOWLEDGES AND UNDERSTANDS THAT THE ENTIRE PRINCIPAL BALANCE OF THIS NOTE NOT OTHERWISE PAID PURSUANT TO SECTION 2 OR PREPAID BY BORROWER WILL STILL BE OWING AS OF THAT DATE AND MUST BE PAID BY BORROWER.

4. *Prepayments.* Borrower has the right to prepay this Note, in whole or in part, at any time with no prepayment penalties. Provided, however, that no prepayments shall be credited to a regular future payment or excuse Borrower from making a regular payment as provided for in this Note.

5. *Default and Acceleration.* Lender may declare this Note in default and the entire principal of this Note, together with interest, to be due and payable (acceleration), if any one of the following events occur: (a) Borrower fails to make any payment within twenty (20) days of when it's due; (b) Borrower defaults in the performance of, or compliance with, any term or provision of this Note, after not less than ten (10) days'

 DS

written notice to Borrower specifying with reasonable particularity the nonperformance or noncompliance and Borrower's failure to correct the default within that time period; (c) any party having liability under this Note suffers bankruptcy or insolvency or makes any assignment for the benefit of creditors; or (d) an action is commenced to appoint a receiver for the properties of any party having liability under this Note, or any other action or proceeding under the federal bankruptcy laws is commenced against any such person, which action is not dismissed within seventy-five (75) days after the date of filing. Any forbearance or failure to exercise this right will not constitute a waiver of Lender's right to exercise the right with respect to the default and any subsequent default.

6. **Default Interest Rate.** In the event of a default, Lender will have the right, in addition to any other remedy set forth in this Note, to increase the interest rate set forth in this Note by an additional nine percent (9%) per annum until the default is cured or until the Note is paid in full.

7. **Late-Payment Charge.** Borrower will pay to Lender a late charge ("Late Charge") of five percent (5%) of any monthly installment not received by Lender within ten (10) days after the payment is due. Any unpaid Late Charge will become part of the indebtedness due under this Note and will be added to any subsequent payments due under the Note. Lender's acceptance of any Late Charge will not be deemed a cure of any default under the Note and such acceptance will not constitute a waiver of any of Lender's rights under the Note. The Late Charge will be in addition to all other rights and remedies available to Lender upon the occurrence of a default under the Note. Lender's failure to collect the Late Charge will not constitute a waiver of Lender's right to require payment of the Late Charge for past or future defaults.

8. **Attorney Fees; Costs.** If Lender takes any action, judicial or otherwise, to enforce this Note, Lender will be entitled to recover from Borrower all expenses that Lender may reasonably incur in taking such action, including, but not limited to, costs and expenses provided by statute or otherwise, as well as reasonable attorney fees and accountant fees. If legal action is taken, such fees shall be as determined by the court, whether incurred in a suit or on appeal from a judgment or decree, in connection with any bankruptcy proceeding, or in connection with a nonjudicial action. Upon demand, Borrower will reimburse Lender for expenses so incurred, together with interest from the date of invoice to Borrower until repaid at the rate specified in Section 1.

9. **Governing Law; Severability; Venue.** This Note is to be governed by and construed in accordance with the laws of the state of Oregon. Because each party has had the opportunity to have their respective lawyers' review, revise, or negotiate the terms, conditions, and language of this Agreement, the rule of construction that ambiguities are to be resolved against the drafting party does not apply. If any provision or clause of this Note is construed by a court of competent jurisdiction to be void, invalid, or unenforceable, that construction will not affect other provisions of this Note that can be given effect without the void, invalid, or unenforceable provision, and



to this end the provisions of this Note are declared to be severable. Venue for all matters shall be in Clatsop County, Oregon.

10. *Waiver of Protest.* Borrower and each present or future maker, surety, endorser, and signatory to this Note, in whatever capacity, waives presentment, demand, protest, notice of dishonor, and all suretyship defenses, and agrees that Lender may exercise its rights under the Note in any order and at any time. Without notice to any such person (except for any notice to borrower specified in this Note and without the need to obtain further consent from any party), and without in any way diminishing the obligations of any person, Lender may (a) deal with any such person with reference to this Note by way of forbearance, extension, modification, compromise, or otherwise; (b) extend, release, surrender, exchange, compromise, discharge, or modify any right or obligation secured by or provided in this Note or any other document securing this Note; and (c) take any other action that Lender may deem reasonably appropriate to protect its interest in the collateral.

11. *Time Is of Essence.* Time is of the essence as to each and every term of this Note.

12. *Limitation of Interest.* In no event will any payment of interest or any other sum payable under this Note exceed the maximum amount permitted by applicable law. If it is established that any payment exceeding lawful limits has been received, Lender and payee of such amount will refund such excess or, at its option, credit the excess amount to principal. Such payments will not affect the obligation to make other payments required under this Note that do not cause the lawful limits to be exceeded.

13. *Security.* This Note is secured by a UCC-1 filing, encumbering all of the assets and buildings at the Hammond Mooring Basin owned by Borrower ("Property").

14. *Bankruptcy.* Borrower agrees that notwithstanding ORS 73.0602 and 73.0604, any payment under this Note that is avoided in a later bankruptcy proceeding or otherwise will not be deemed a payment, and Borrower's obligations under the Note will be reinstated and/or supplemented to the extent of any payment so avoided. In that event, Borrower will not be discharged even if this Note has been canceled, renounced, or surrendered.

15. *Notices.* Any notices between the parties shall be in writing and sent by first class mail to the addresses provided herein, unless a party provides an alternative address in writing. Any such notice shall be deemed conclusively to have been delivered to the addressee thereof five (5) days after the mailing proof thereof.

16. *Assignment.* Lender may assign its interest in this Note without the consent of Borrower. Borrower may not assign its interest in this Note without the prior written consent of Lender, which consent may be withheld for any reason. Lender's consent in one instance shall not serve as a waiver of Lender's right to withhold consent to any future requests by Borrower. Failure to obtain Lender's consent to an

<sup>05</sup>  


assignment by Borrower shall constitute default. If Lender consents to Borrower's request to assign its interest, such assignment shall not relieve Borrower from liability for performance of the terms of the Note unless Lender specifically relieves Borrower in writing from liability.

17. *Integration.* This Note and the security instruments given as security for this Note contain the entire agreement of Borrower and Lender and supersede all prior agreements concerning the matters set forth herein, whether oral or written.

18. *Modification.* This Note may not be amended or modified except in writing signed by all parties.

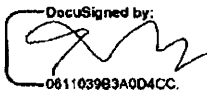
19. *Saving Clause.* If any provision of this Note or the application of a provision to any person or circumstance is held invalid, the remainder of this Note or the application of that provision to other persons or circumstances must not be affected thereby.

20. *Waiver of Jury Trial.* BORROWER, AFTER CONSULTING OR HAVING HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL, KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION BASED UPON OR ARISING OUT OF THIS NOTE OR ANY RELATED INSTRUMENT OR AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED BY THIS NOTE OR ANY RELATED COURSE OF CONDUCT, DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF EITHER BORROWER OR LENDER. NEITHER THE BORROWER NOR THE LENDER SHALL SEEK TO CONSOLIDATE, BY COUNTERCLAIM OR OTHERWISE, ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. THESE PROVISIONS SHALL NOT BE DEEMED TO HAVE BEEN MODIFIED IN ANY RESPECT OR RELINQUISHED BY EITHER THE BORROWER OR LENDER EXCEPT BY A WRITTEN INSTRUMENT EXECUTED BY BOTH PARTIES.

The undersigned caused this Note to be duly executed on the day and year first written above.



James Fowler  
90887 Lewis & Clark Road  
Astoria, OR 97103

DocuSigned by:  
  
061103983A004CC.

Jennifer Fowler

## BILL OF SALE

That in consideration of the sum of [REDACTED] Dollars, receipt of which hereby is acknowledged, the undersigned Seller, hereby grants, bargains, sells, transfers and delivers unto James and Jennifer Fowler, hereinafter called Buyer, the buildings and equipment used in the operation of the business located therein owned by the Seller, now being and situate at the Hammond Mooring Basin, City of Hammond, County of Clatsop, State of Oregon, to-wit:

TO HAVE AND TO HOLD the same unto said Buyer and Buyer's executors, administrators, successors and assigns forever.

That I am the owner of said personal property; that the same is free from all encumbrances; that I have a good right to sell the same, and that I, my heirs, executors and administrators shall warrant and defend the same against the lawful claims of all persons whomsoever.

WITNESS my hand this 30<sup>th</sup> day of July, 2021.

  
Paul Leitch



## ASSIGNMENT OF SUBLEASE

WHEREAS, the City of Warrenton leases 59.12 acres, known as the Hammond Marina, from the United States Army Corps of Engineers, and

WHEREAS, with approval by the United States Army Corps of Engineers the City of Warrenton, as Lessor, entered into a sublease dated January 10, 2006, with Kasey Rogers, KOR Inc., d/b/a Conquest Marine & Master Tackle & Bait, as Lessee for real property as shown on the map attached hereto as "Exhibit A;" and

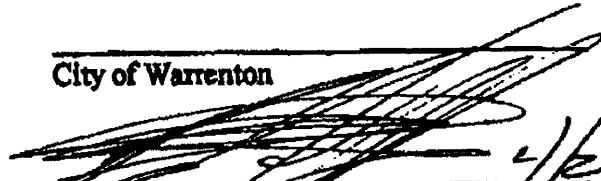
WHEREAS, Kasey Rogers, KOR Inc., d/b/a Conquest Marine & Master Tackle & Bait, and Paul Leitch have entered into an Agreement for Sale of Buildings and Leasehold Interest, dated April 13, 2010, attached hereto as "Exhibit B," which is subject to approval of the City of Warrenton and the United States Army Corps of Engineers.


NOW, THEREFORE, the City of Warrenton does hereby approve the sublease assignment as follows:

1. Rogers, KOR Inc., d/b/a Conquest Marine & Master Tackle & Bait, herewith assigns all of their rights, title, and interest in and to said sublease and property to Paul Leitch pursuant to the April 13, 2010, Agreement for Sale of Buildings and Leasehold Interest.
2. Paul Leitch agrees to all terms of said sublease and agrees to perform the same in full.
3. In consideration of benefits to each Kasey Rogers, KOR Inc., d/b/a Conquest Marine & Master Tackle & Bait, and the City of Warrenton herewith expressly and mutually release and discharge the other parties, their heirs, successors and assigns, any and all officers, directors, commissioners, board members, employees and agents, from: any and all past, present, and future claims, demands, obligations, the basis for which now exists or may hereafter become manifest that are directly or indirectly related to the facts in any of the claims of any kind asserted against or which could have been asserted in any of the claims, demands, rights, damages, costs, loss of services or income, attorney fees, expenses, compensation, or causes of action whatsoever, civil or criminal, or which may hereinafter accrue on account of, or in any way growing out of any and all known or unknown, foreseen and unforeseen difficulties including, but not limited to, any and all such claims arising out of the sublease with the City of Warrenton and Kasey Rogers, KOR Inc., d/b/a Conquest Marine & Master Tackle & Bait.
4. Paul Leitch and the City of Warrenton, subject to approval by the United States Army Corps of Engineers, ratify and confirm the sublease agreement, attached hereto as Exhibit C, in all other respects.

Approved by the City of Warrenton this \_\_\_\_\_ day of April, 2010.

City of Warrenton

  
\_\_\_\_\_  
Paul Leitch  
4/28/10  
Date

  
\_\_\_\_\_  
Kandy Rogers  
4-28-10  
Date

Approved by  
City Commission  
10/10/17

SUBLEASE AGREEMENT

RECITALS

THIS SUBLEASE AGREEMENT, made and entered into this 7<sup>th</sup> day of Feb, 2018, 2017, between the City of Warrenton, a municipal corporation of the state of Oregon, hereinafter referred to as "CITY," and Paul Leitch, d/b/a Sturgeon Paul's, hereinafter referred to as "SUBLESSEE."

WITNESSETH:

WHEREAS, CITY subleases to SUBLESSEE that certain real property as shown on the map attached hereto as "Exhibit A" and by this reference made a part hereof (the "Property"). The Property is located at the Hammond Marina; and

WHEREAS, the CITY has leased 59.12 acres from the United States Army Corps of Engineers (the "Corps") and has improved the area with recreation facilities; and

WHEREAS, said lease gives the CITY authority to enter into third party agreements to provide the facilities and services necessary to meet the public demand, as consistent with the Corps plan of recreational development and management; and

WHEREAS, the CITY has determined that it is in the interest of the City of Warrenton and the general public to allow a concession to operate at the Hammond Boat Basin and to enter into this Sublease Agreement with the SUBLESSEE for that purpose.

WHEREAS, the terms of this Sublease Agreement are subject to the terms, conditions, and provisions of that certain lease agreement #DACW57-1-88-33 between the city of Warrenton and the United States Army Corps of Engineers, which is attached hereto as "Exhibit B," and by this reference is incorporated herein and made a part hereof.

NOW, THEREFORE, IT IS AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

(1) TERM

The maximum Sublease term will be from the 1<sup>st</sup> of October, 2017, and continue through the 30<sup>th</sup> day of September, 2033. The initial term of this Sublease shall begin on October 1, 2017 and shall continue through September 30, 2018 (the "Initial Term", unless earlier terminated as otherwise provided in this Agreement. Unless either party provides written notice to the other party of its intent not to renew this Sublease at least six (6) months prior to the expiration of the Initial Term, this Sublease shall automatically be extended, on the same terms and conditions as provided herein, through September 30, 2023 (the "First Extended Term"), unless earlier terminated as otherwise provided in this Agreement. Unless either party provides written notice to the other party of its intent not to renew this Sublease at least six (6) months prior to the expiration of the First Extended Term, this Sublease shall automatically be extended, on the same terms and conditions as provided herein, through September 30, 2028 (the "Second Extended Term"). Unless either party provides written notice to the other party

of its intent not to renew this Sublease at least six (6) months prior to the expiration of the Second Extended Term, this Sublease shall automatically be extended, on the same terms and conditions as provided herein, through September 30, 2033 (the "Third Extended Term").

(2) RENT

Rent shall be set and automatically adjusted according to the applicable portion of the following rate schedule:

Initial Term (October 1, 2017 through September 30, 2018) - \$1,075.11 per month

First Extended Term (October 1, 2018 through September 30, 2023) - \$1,129.00 per month

Second Extended Term (October 1, 2023 through September 30, 2028) - \$1,185.00 per month

Third Extended Term (October 1, 2028 through September 30, 2033) - \$1,244.00 per month

Rent is due and payable on the first of each month. A \$20.00 late fee will be assessed if not received by the 10<sup>th</sup> of the month, and for each month thereafter that rent is delinquent an additional \$20.00 will be assessed.

(3) TAXES

In addition, SUBLESSEE shall pay all real property and personal property taxes levied on the property when payable.

(4) USE OF THE PROPERTY/COMPLIANCE WITH LAWS AND REGULATIONS/CIVIL RIGHTS ACT

SUBLESSEE agrees to comply with all RC (Recreational Commercial) Zone requirements of the City of Warrenton. All construction plans and landscaping is subject to approval of the Corps of Engineers District.

The Property shall be used for operations permitted by the land use regulations of the City of Warrenton, (and as described in Exhibit B) and for no other purpose. Any change to the operations, as described in Exhibit B, shall first be approved by the US Army Corps of Engineers and by written consent of the City. In addition, SUBLESSEE covenants that all licenses, tax I.D. numbers, bonds, industrial insurance accounts, or other matters required by federal, state or local governments in order to enable SUBLESSEE to do business, have been acquired by SUBLESSEE and are in full force and effect. The SUBLESSEE, in exercising the privileges granted by this Sublease Agreement, agrees not to discriminate because of race, religion, sex, handicap, or national origin, against any person by refusing to furnish such person any accommodations, facility or privileges in any manner that will directly or indirectly reflect upon or question the acceptability of the patronage of that person. SUBLESSEE shall also comply with the Civil Rights Act of 1964 as amended.

(5) CITY'S RIGHT OF ENTRY

It shall be lawful for the CITY, its agents and representatives, at any reasonable time, to enter into or upon said demised premises for the purpose of examining the condition thereof, or any other lawful purpose.

(6) RIGHT OF ASSIGNMENT

SUBLESSEE shall not assign, transfer, pledge, hypothecate, surrender, or dispose of this Sublease or any interest therein, or permit any other person or persons whomsoever to occupy the subleased premises without the written consent of the CITY being first obtained. This Sublease is personal to SUBLESSEE and is executed in material consideration of SUBLESSEE'S ability to satisfy the covenants contained in this Sublease. SUBLESSEE'S interest in whole or part cannot be sold, assigned, transferred, seized, or taken by operation of law, or under or by virtue of any execution or legal process, attachment or proceedings instituted against SUBLESSEE, or under or by virtue of any bankruptcy or insolvency proceedings had in regard to SUBLESSEE, or in any manner except as therein specifically mentioned.

(7) LIENS

SUBLESSEE will not permit any lien of any kind, type or description to be placed or imposed upon the leased premises, or any part thereof.

(8) UTILITIES

All water, sewer, storm sewer, sanitation, electrical service, garbage, and other utilities will be supplied by SUBLESSEE at its sole expense. SUBLESSEE is required to provide adequate garbage pickup and shall not use the City's facilities for waste disposal.

(9) INDEMNITY AND LIABILITY INSURANCE

SUBLESSEE agrees to, and shall indemnify and hold CITY and the United States Army Corps of Engineers harmless against, any and all claims and demands arising from the negligence of SUBLESSEE, its officers, agents, invitees, and/or employees, as well as those arising from SUBLESSEE'S failure to comply with any covenant of this Sublease on its part to be performed, and shall at its own expense defend CITY against any and all suits or actions arising out of such negligence, actual or alleged, and all appeals therefrom, and shall satisfy and discharge any judgment which may be awarded against CITY in any such suit or action.

SUBLESSEE further agrees, upon execution of this Sublease, at its own expense, to maintain and keep in effect, and to furnish and deliver to the CITY proof of, liability insurance policies in a form and with an insurer satisfactory to CITY, insuring against all liability for damages to personal property in or about the subleased premises with combined single limit for bodily injury in the amount of not less than \$1,000,000.00. Prior to commencement of any construction or improvement to the property, SUBLESSEE agrees, at his own expense, to maintain and keep thereafter in effect, and to furnish and deliver to the CITY proof of, liability insurance policies in a form and with an insurer satisfactory to CITY, naming CITY as a named insured against all liability for damages to personal property in or about the leased premises and not less than \$1,000,000.00 combined single limit for both bodily injury and

property damage. From time to time, the CITY may require an increase in the amount of liability insurance.

(10) DEFAULT

In the event of failure by SUBLESSEE to pay rent within thirty (30) days after it is due, or to comply with any other term or condition of this Sublease within ten (10) days after written notice by CITY, specifying the nature of the default, CITY, at its option, may elect to terminate the Sublease and SUBLESSEE agrees to vacate the premises within thirty (30) days of notice and perform clean-up, leaving the premises broom-clean. CITY may then take possession of, and re-rent the premises. CITY shall be entitled to recover as damages, the reasonable cost of re-entry and re-renting as stated above. The foregoing remedy shall be in addition to any other remedies available to CITY under applicable law.

(11) DAMAGES

In the event of termination on default, CITY shall be entitled to recover immediately, without waiting until the due date of any future rent, the following amounts as damages:

- a. The value of all SUBLESSEE'S obligations under this Sublease, including the obligation to pay rent from the date of default until the end of term; and
- b. The reasonable costs of re-entry and re-letting including, without limitation, the cost of any cleanup, removal of SUBLESSEE'S property and fixtures, or any other expenses occasioned by SUBLESSEE'S failure to quit the premises upon termination and to leave them in the required condition, together with any restoration costs, attorney fees, court costs, etc.

(12) DELIVERY OF PREMISES UPON TERMINATION

At the expiration of this Sublease, or upon any sooner termination thereof, SUBLESSEE will quit and deliver up said subleased premises, peaceably, quietly, and in order and condition, and will remove any structures erected by SUBLESSEE on the property. Any improvements remaining on the property at termination shall become the property of CITY, at CITY'S sole option. Because this Sublease incorporates "Exhibit B" and is subject to the terms, conditions and provisions therein, the parties hereby agree, acknowledge and understand that termination of "Exhibit A" shall also terminate this Sublease.

(13) NON-WAIVER

Waiver by either party of strict performance of any provision of this Sublease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision of this Sublease.

(14) ATTORNEY'S FEES

In the event suit or action is instituted to enforce any of the terms of this Sublease, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorney's fees at trial or on appeal of such suit or action, in addition to all other sums provided by law.

If any party to this Sublease places it in the hands of an attorney for collection or enforcement of the covenants contained herein, as a consequence of a default, as defined herein, the party in default agrees to pay reasonable fees and expenses of such attorney even though no suit or action is instituted, as a consequence of default.

(15) NOTICES

Any notice required or permitted under this Sublease shall be given when actually delivered or forty-eight (48) hours after deposited in United States mail as certified mail, addressed to the following addresses or to such other address as may be specified from time to time by either of the parties in writing.

CITY: City of Warrenton  
PO Box 250  
Warrenton, OR 97146

SUBLESSEE: Paul Leitch  
d/b/a The World Headquarters  
PO Box 566  
Warrenton, OR 97146

LESSOR: United States Army Corps of Engineers  
Portland District Division  
PO Box 2946/333 SW First  
Portland, OR 97208-2946

(16) SUCCESSION

Subject to the limitations on transfer of SUBLESSEE's interest provided herein, this Sublease shall be binding upon, and inure to, the benefit of the parties, their respective successors and assigns.

(17) Entire Agreement

This Sublease contains the entire agreement between the parties and replaces and supersedes all prior agreements regarding its subject matter. CITY and SUBLESSEE hereby mutually acknowledge and agree that there are no other verbal or written agreements or other representations, warranties, or understandings affecting this Sublease. Except as otherwise provided, this Sublease can be changed, modified, amended, or terminated only by an instrument in a writing executed by both Parties.

[Signatures on Following Page]

IN WITNESS WHEREOF, the parties have executed this lease in triplicate this \_\_\_\_\_ day of \_\_\_\_\_, 2018, the signature for the CITY OF WARRENTON being authority of its City Commission. 2018

CITY OF WARRENTON  
An Oregon Municipal Corporation

By: [Signature]  
Henry Balensifer III, Mayor

Attest: [Signature]  
Dawne Shaw, Deputy City Recorder

~~LESSEE: [Signature]  
Paul Leitch~~

~~Approved by: United States Army Corps of Engineers  
Portland District Corps of Engineers  
Real Estate Division~~

~~By: \_\_\_\_\_  
Chief, Real Estate Division~~

STATE OF OREGON)  
County of Clatsop)

On this 7 day of Feb., 2018, personally appeared Henry Balensifer III, who, being first duly sworn, did say that he is the Mayor of the City of Warrenton, a municipal corporation, and that said instrument was signed on behalf of the city of Warrenton by authority of its City Commission and they acknowledged said instrument to be their voluntary act and deed.

Before me: [Signature]  
Notary Public for Oregon

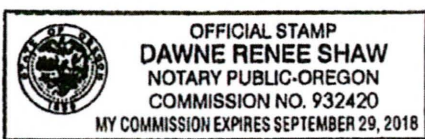
My Commission Expires: Sept. 29, 2018

STATE OF OREGON)  
County of Clatsop)

This instrument was acknowledged before me on the 7 date of Feb., 2018, by Paul Leitch.

Before me: [Signature]  
Notary Public for Oregon

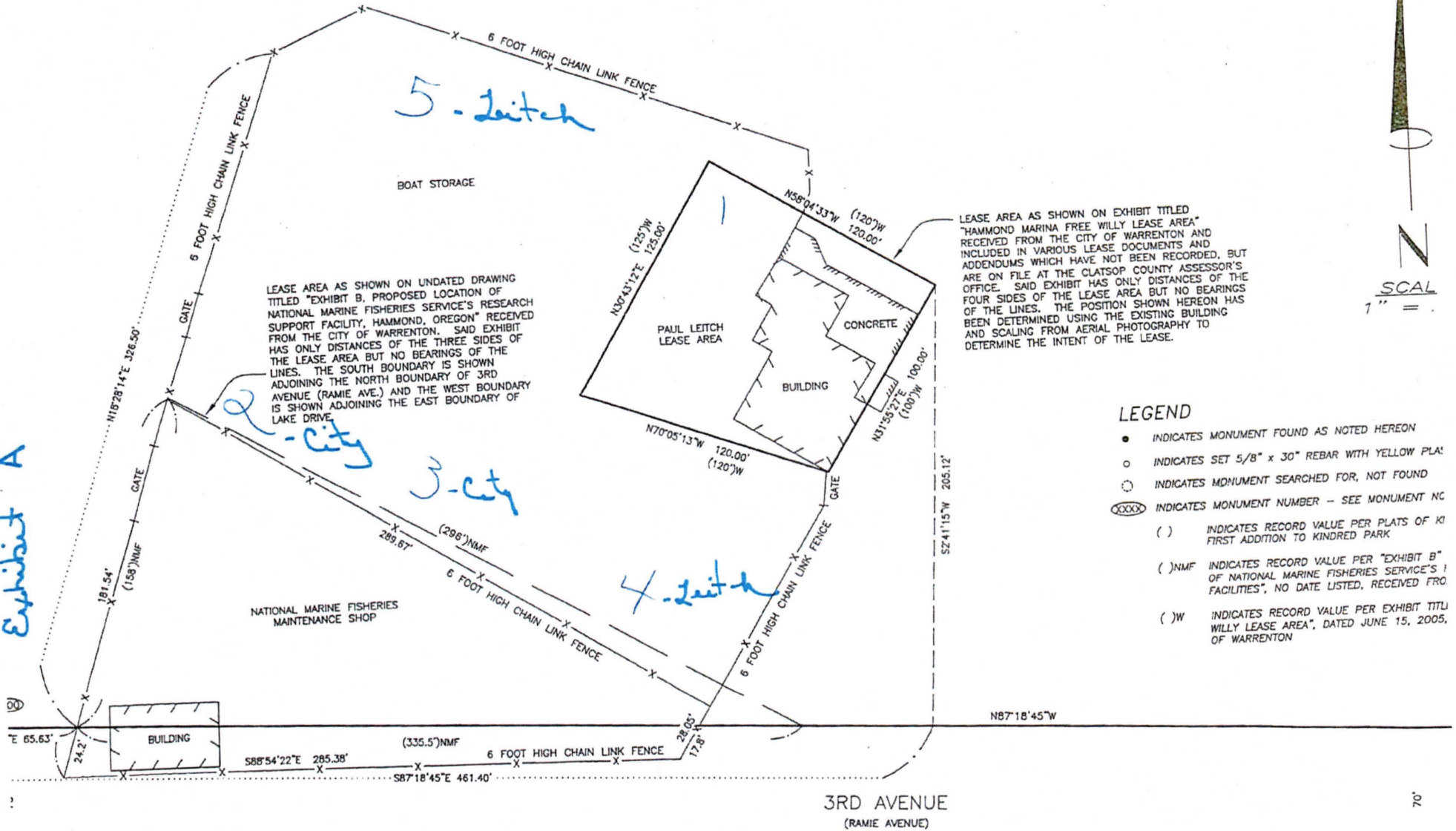
My Commission Expires: Sept 29, 2018



LEASE TO NATIONAL MARINE FISHERIES SERVICES. EXISTING IMPROVEMENTS FOR THE LEASE AREAS WERE LOCATED AS SHOWN HEREON.



Exhibit A



LEASE AREA AS SHOWN ON EXHIBIT TITLED "HAMMOND MARINA FREE WILLY LEASE AREA" RECEIVED FROM THE CITY OF WARRENTON AND INCLUDED IN VARIOUS LEASE DOCUMENTS AND ADDENDUMS WHICH HAVE NOT BEEN RECORDED, BUT ARE ON FILE AT THE CLATSOP COUNTY ASSESSOR'S OFFICE. SAID EXHIBIT HAS ONLY DISTANCES OF THE FOUR SIDES OF THE LEASE AREA BUT NO BEARINGS OF THE LINES. THE POSITION SHOWN HEREON HAS BEEN DETERMINED USING THE EXISTING BUILDING AND SCALING FROM AERIAL PHOTOGRAPHY TO DETERMINE THE INTENT OF THE LEASE.

- LEGEND**
- INDICATES MONUMENT FOUND AS NOTED HEREON
  - INDICATES SET 5/8" x 30" REBAR WITH YELLOW PLATE
  - INDICATES MONUMENT SEARCHED FOR, NOT FOUND
  - ⊗ INDICATES MONUMENT NUMBER - SEE MONUMENT NO
  - ( ) INDICATES RECORD VALUE PER PLATS OF K1 FIRST ADDITION TO KINDRED PARK
  - ( )NMF INDICATES RECORD VALUE PER "EXHIBIT B" OF NATIONAL MARINE FISHERIES SERVICE'S 1 FACILITIES", NO DATE LISTED, RECEIVED FRO
  - ( )W INDICATES RECORD VALUE PER EXHIBIT TITL WILLY LEASE AREA", DATED JUNE 15, 2005, OF WARRENTON

FIRST ADDITION TO KINDRED PARK

Exhibit B



DEPARTMENT OF THE ARMY  
PORTLAND DISTRICT, CORPS OF ENGINEERS  
P. O. BOX 2946  
PORTLAND, OREGON 97208-2946

Reply to  
Attention of:

March 2, 1992

Real Estate Division

Gilbert G. Gramson  
City Manager/Auditor  
City of Warrenton  
Post Office Box 250  
Warrenton, Oregon

Dear Mr. Gramson:

Enclosed is your fully executed copy of the Supplemental Agreement No. 3 to the Department of the Army Lease No. DACW57-1-88-33. This document officially transfers all rights and privileges of the lease, including supplements, from the Town of Hammond to the City of Warrenton.

Thank you for your cooperation. Please direct any questions that you may have regarding this lease to Vic Bartkus of my staff at (503) 326-6040.

Sincerely,

A handwritten signature in cursive script, appearing to read "John S. Minger".

John S. Minger  
Chief, Real Estate Division

Enclosure

DEPARTMENT OF THE ARMY

U.S. ARMY ENGINEER DISTRICT, PORTLAND

SUPPLEMENTAL AGREEMENT NO. 3

LEASE NO. DACW57-1-88-33

THIS SUPPLEMENTAL AGREEMENT by and between the UNITED STATES OF AMERICA, hereinafter called the "Government", and the City of Warrenton, a political subdivision of the State of Oregon, hereinafter called the "lessee",

WITNESSETH THAT:

WHEREAS, on the 22nd day of August 1988, the Town of Hammond and Government entered into Lease No. DACW57-1-88-33 covering the use of property at the Columbia River at the Mouth Project area for the term 5 August 1988 and extending through 4 August 2013; and,

WHEREAS, on the 18th day of April 1989 and on the 5th day of October 1989, the same parties hereto entered into Supplemental Agreements Nos. 1 and 2 of said lease; and,

WHEREAS, on the 5th day of December 1991, the Town of Hammond officially merged with the City of Warrenton;

WHEREAS, as the result of said merger, the City of Warrenton is now responsible for all of the debts, liabilities, assets, and legal obligations previously the responsibility of the Town of Hammond;

NOW, THEREFORE, in consideration of the premises, said lease is amended in the following particular, but no others, in order to substitute the City of Warrenton as the new lessee and thereby assume all the previous obligations and rights of the Town of Hammond under said lease:

1. The granting clause is amended to read "... hereby grants to the City of Warrenton ...".
2. All remaining terms and conditions of said lease remain unchanged.

IN WITNESS WHEREOF the parties hereto subscribed their names as of the day and year first above written.

CITY OF WARRENTON

UNITED STATES OF AMERICA

The above instrument, including all its conditions, is hereby accepted.

IN WITNESS WHEREOF, I have hereunto set my hand by the authority/direction of the Secretary of the Army.

By *Leslie W. Newton*  
Leslie W. Newton, Mayor

By *John S. Minger*  
John S. Minger  
Chief, Real Estate Division  
U.S. Army Engineer District  
Portland, Oregon

2-26-92  
Date

2 March 1992  
Date

I, Gilbert Gramson, certify that I am the City Manager/Auditor of the City of Warrenton named as the lessee herein; that Leslie W. Newton, who signed this Supplemental Agreement No. 3 on behalf of the City of Warrenton, was then the Mayor of said city; that said Supplemental Agreement No. 3 was duly signed for and on behalf of said city by authority of its governing body, and is within the scope of its corporate powers.

IN WITNESS WHEREOF, I have hereunto affixed my hand and the seal of the City of Warrenton, this 26<sup>th</sup> day of February, 1992.

(Corporate Seal)

*Gilbert Gramson*

DEPARTMENT OF THE ARMY

LEASE

DACW57-1-88-33

FOR PUBLIC PARK AND RECREATIONAL PURPOSES

COLUMBIA RIVER AT THE MOUTH (FORT STEVENS) PROJECT AREA

THE SECRETARY OF THE ARMY under authority of Section 4 of the Act of Congress approved 22 December 1944, as amended (16 U.S.C. 460d), hereby grants to

Town of Hammond, a political subdivision of the State of Oregon, a lease for a period of 25 years, years commencing on 5 August, 1988, and ending on 4 August, 2013, to use and occupy approximately 59.7 acres of land and water areas under the primary jurisdiction of the Department of the Army in the Fort Stevens Project Area, hereinafter referred to as the premises as shown on attached Exhibit "A", dated July 7, 1988, for public park and recreational purposes.

THIS LEASE is granted subject to the following conditions:

1. The lessee shall conform to such regulations as the Secretary of the Army may issue to govern the public use of the project area, and shall comply with the provisions of the above cited Act of Congress. The lessee shall protect the premises from fire, vandalism, and soil erosion, and may make and enforce such regulations as are necessary, and within its legal authority, in exercising the privileges granted in this lease, provided that such regulations are not inconsistent with those issued by the Secretary of the Army or with provisions of the above cited Act of Congress.

2. The lessee shall administer and maintain the premises in accordance with the U.S. Army Engineers' Master Plan and the implementing General Development Plan for the premises and with an Annual Management Program to be mutually agreed upon between the lessee and the U.S. Army District Engineer in charge of the administration of the project, which may be amended from time to time as may be necessary. Such Annual Management Program shall include, but is not limited to, the following:

a. Plans for management activities to be undertaken by the lessee or jointly by the U.S. Army Engineers and the lessee, including improvements and other facilities to be constructed thereon.

b. Budget of the lessee for carrying out the management activities.

c. Personnel to be used in the management of the area.

3. The lessee shall provide the facilities and services necessary to meet the public demand either directly or through concession agreements with third parties. All such agreements shall state that they are granted subject to the provisions of this lease and that the concession agreement will not be effective until approved by the District Engineer.

4. Admission, entrance or user fees may be charged by the lessee for the entrance to or use of the premises or any facilities constructed thereon, PROVIDED, prior written approval of the District Engineer is obtained.

5. The amount of any fees and all rates and prices charged by the lessee or its concessionaires for accommodations, food (except packaged goods), and services furnished or sold to the public shall be subject to the prior approval of the District Engineer. The lessee shall, by 15 April ~~and October~~ of each year, submit to the District Engineer for approval a list of the fees, rates and prices proposed for the following ~~categories~~, including justification for any proposed increase or decrease. The District Engineer will give written notice to the lessee of his approval of or objection to any proposed fee, rate or price and will, if appropriate, state an approved fee, rate or price for each item to which an objection has been made. The lessee and/or its concessionaires shall keep a schedule of such fees, rates or prices posted at all times in a conspicuous place on the leased premises.

6. All monies received by the lessee from operations conducted on the premises, including, but not limited to, entrance and admission fees and user fees and rental or other consideration received from its concessionaires, ~~may~~ be utilized by the lessee for the administration, maintenance, operation and development of the premises. ~~Any such monies may be utilized for any purpose for which the lessee is responsible and shall be deposited in the District Engineer's office at the end of each year period.~~ The lessee shall establish and maintain adequate records and accounts and render annual statements of receipts and expenditures to the District Engineer, except for annual or weekly entrance fees which also are honored at other recreational areas operated by the lessee. The District Engineer shall have the right to perform audits of the lessee's records and accounts, and to require the lessee to audit the records and accounts of third party concessionaires, and furnish the District Engineer a copy of the results of such an audit.

7. All structures shall be constructed and landscaping accomplished in accordance with plans approved by the District Engineer. Further, the lessee shall not discharge waste or effluent from the premises in such a manner that such discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.

8. The right is reserved to the United States, its officers, agents, and employees, to enter upon the premises at any time and for any purpose necessary or convenient in connection with river and harbor and flood control work, and to remove timber or other material required for such work, to flood the premises when necessary, and/or to make any other use of the land as may be necessary in connection with public navigation and flood control, and the lessee shall have no claim for damages of any character on account thereof against the United States or any agent, officer or employee thereof.

9. Any property of the United States damaged or destroyed by the lessee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the lessee to the satisfaction of the District Engineer.

10. The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property of the lessee, or for damages to the property or injuries to the person of the lessee's officers, agents, servants, or employees or others who may be on the premises at their invitation or the invitation of any one of them, arising from or incident to the flooding of the premises by the Government or flooding from any other cause, or arising from or incident to any other governmental activities, and the lessee shall hold the United States harmless from any and all such claims.

11. That at the time of the commencement of this lease, the lessee will obtain from a reputable insurance company, acceptable to the Government, liability or indemnity insurance providing for ~~insurance with a limit of \$500,000 aggregate coverage per event~~ ~~and a separate limit of \$100,000 for any number of persons or claims arising from any one incident with respect to bodily injuries or death resulting therefrom and \$100,000 for damages to property suffered or alleged to have been suffered by any person or persons resulting from the operations of the lessee under the terms of this lease~~ (combined bodily injury and property damage per event). A certificate of insurance evidencing the purchase of such insurance shall be furnished to the District Engineer.

12. This lease may be relinquished by the lessee at any time by giving to the Secretary of the Army, through the District Engineer, at least 1 year's notice in writing.

13. This lease may be revoked by the Secretary of the Army in the event the lessee violates any of the terms and conditions of this lease and continues and persists therein for a period of 30 days after notice thereof in writing by the District Engineer.

14. On or before the date of expiration of this lease or its relinquishment by the lessee, the lessee shall vacate the premises, remove its property therefrom, and restore the premises to a condition satisfactory to the District Engineer. If, however, this lease is revoked, the lessee shall vacate the premises, remove its property therefrom, and restore the premises as aforesaid within such time as the Secretary of the Army may designate. In either event, if the lessee shall fail or neglect to remove its property and so restore the premises, then its property shall become the property of the United States without compensation therefor, and no claim for damages against the United States or its officers or agents shall be created by or made on account thereof.

15. The lessee shall not discriminate against any person or persons or exclude from participation in the lessee's operations, programs or activities conducted on the leased premises, because of race, color, religion, sex, age, handicap, national origin or place of residency. The lessee, by acceptance of this lease, hereby gives assurance that it will comply with the provisions of Title VI of the Civil Rights Act of 1964 as amended (42 U.S.C. Section 2000d; the Age Discrimination Act of 1975 (42 U.S.C. Section 6102); the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794); and all requirements imposed by or pursuant to the Directive of the Department of Defense (32 CFR Part 300) issued as Department of Defense Directive 5500.11, December 28, 1964. This assurance shall be binding on the lessee, its agents, successors, transferees, sublessees and assignees. \*

16. All notices to be given pursuant to this lease shall be addressed, if to the lessee, to the Town of Hammond, P.O. Box 161, Hammond, Oregon 97121; if to the Government, to the U. S. Army Corps of Engineers, Post Office Box 2946, Portland, Oregon 97208-2946; or as may from time to time be directed by the parties. Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelope or wrapper, addressed as aforesaid and deposited postage prepaid in a post office or branch post office regularly maintained by the United States Government.

17. This lease is subject to all existing easements and easements subsequently granted for roadways and utilities located or to be located on the premises, provided that the proposed grant of any easement will be coordinated with the lessee and easements will not

be granted which will in the opinion of the District Engineer interfere with developments, present or proposed by the lessee.

18. That the grantee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archaeological, architectural or other cultural artifacts, relics, vestiges, remains or objects of antiquity. In the event such items are discovered on the premises, the grantee shall immediately notify the District Engineer, Portland District, and the site and the material shall be protected by the grantee from further disturbance until a professional examination of them can be made or until clearance to proceed is authorized by the District Engineer.

19. Within the limits of their respective legal powers, the parties to the lease shall protect the project against pollution of its water. The lessee shall comply promptly with any regulations, conditions or instructions affecting the activity hereby authorized if and when issued by the Environmental Protection Agency and/or a state water pollution control agency having jurisdiction to abate or prevent water pollution. Such regulations, conditions, or instructions in effect or prescribed by the Environmental Protection Agency or state agency are hereby made a condition of this lease.

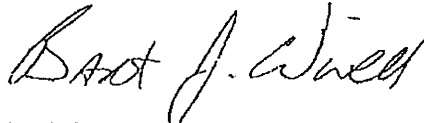
20. All necessary precautions should be taken to maintain the integrity of the adjacent National Register Historic Site, Fort Stevens Historic Site.

21. The lessee shall not conduct, or allow to be conducted, gambling on lease premises. As an exception, some games of chance, such as raffles, games and sporting events, may be conducted by non-profit organizations under special use permits issued in conjunction with special events held on Corps lands, if permissible by state and local law. Any request to conduct a game of chance must be submitted in writing to the District Commander.

22. In addition to the rights of revocation previously stated, the District Commander or his representative upon discovery will notify the lessee of any health or hazardous conditions within the area covered by the lease which present an immediate threat to health and/or danger to life or property. If the condition is not corrected within the time specified by the District Commander, the District Commander will have the option to (1) correct the health or hazardous conditions and collect the costs of repairs from the lessee, or (2) suspend the lessee's use of the premises or the lessee's operation where the health or hazardous condition exists until such condition is corrected. The lessee shall have no claim for damages against the United States, or any officer, agent, or employee thereof on account of action taken pursuant to this condition.

Before the execution of this lease, conditions were revised and added in the following manner: The Granting Clause and Conditions No. 5, 6, and 11 were revised and Conditions No. 18 through 22 were added.

IN WITNESS WHEREOF I have hereunto set my hand this 22nd day of August, 1988.



BART J. WIVELL  
Chief, Real Estate Division  
U. S. Army Engineer District,  
Portland

The above instrument, together with the provisions and conditions thereof, is hereby accepted this 16th day of August, 1988.

By:   
Mayor, Town of Hammond



## AGENDA MEMORANDUM

TO: The Warrenton City Commission

FROM: Jane Sweet Harbormaster

DATE: Commission Meeting August 10, 2021

SUBJ: Food Truck Hammond

**SUMMARY:** Proposed seasonal food truck to be located in the Hammond Marina

Attached is an email proposal from Alex Cabalona to locate a food truck in the Hammond Marina Thursdays – Saturdays for the Buoy 10 season 2021. The food truck will be completely self-contained. Photos have been included of possible locations. This temporary agreement would provide an additional \$300. To the Hammond Marina Fund.

**RECOMMENDATION/SUGGESTED MOTION:** “I move to approve the temporary food truck agreement in the Hammond Marina for the Buoy 10 season 2021.”

### ALTERNATIVE

None Recommended

FISCAL IMPACT: \$300. Rental fee to the Hammond Marina Fund.

Approved by City Manager: Linda Engbretson

All supporting documentation, i.e., maps, exhibits, etc., should be attached to the memorandum.

## FOOD TRUCK LICENSE AGREEMENT

This License Agreement (“Agreement”) is made this \_\_\_ day of \_\_\_, 2021, by and between the City of Warrenton (“Grantor”), and \_\_\_\_\_, an Oregon for profit corporation (“Grantee”), collectively referred to as the “Parties” in this Agreement.

### Recitals

**WHEREAS**, Grantor owns an undeveloped public parking lot in which Grantee would like to park and operate a Food Truck;

**WHEREAS**, Grantor’s property (the “Property”) is described as follows: “Hammond Marina, 1090 First Avenue, Hammond, OR 97121

**WHEREAS**, Grantor will permit Grantee to use the Property in accordance with the terms of this Agreement. Grantee acknowledges the use of the lot for periodic use by the Fire Department for training purposes.

### Agreement

**NOW, THEREFORE**, the Parties agree as follows:

1. License. Grantor grants to Grantee a non-exclusive, temporary license (“License”) on and across the Property for vehicular access and Food Truck operations purposes. The actual consideration for the License is \$300 paid as monthly rent for \_\_\_, and \$400 thereafter, due on or before the 1<sup>st</sup> day of each month, plus city utilities if any, as well as the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged. This Agreement shall automatically renew on a monthly basis until terminated by either Party as provided in this Agreement. The agreement expires on \_\_\_, \_\_\_\_\_. Either party shall provide written notice to terminate two weeks prior termination.
2. Rights Granted for License Area. Grantee and Grantee’s agents, employees, contractors, and other authorized parties will have the right to enter upon and use the License Area for Food Truck operation purposes, including all customary uses that may arise out of or be necessitated by that use. Grantor, in coordination with Grantee, reserves the right to use the Property for all purposes that do not unreasonably interfere with Grantee’s rights under this Agreement, including but not limited to issuance of licenses to others for use of the Property outside of the License Area. Grantee may not pave, tar, asphalt, grade, place rock, or fill any part of the Property, remove any vegetation or construct any improvements within the License Area or elsewhere on the Property without Grantor’s prior written authorization, which Grantor may authorize in its sole discretion. Grantor does not grant Grantee any mineral or subsurface rights to the Property.

3. Compliance with Laws and Regulations. Grantee, at Grantee's sole expense, must comply with all laws, rules, orders, ordinances, directions, regulations, and requirements of federal, state, county and municipal authorities pertaining to Grantee's use of the Property and License Area, and with any recorded covenants, conditions, and restrictions, regardless of when they become effective. These include, without limitation, any required alteration of the License Area or the Property because of Grantee's specific use, and all applicable federal, state, local laws, regulations or ordinances pertaining to air and water quality, Hazardous Materials as defined in in this Agreement, food safety regulations, waste disposal, air emissions and other environmental matters, and all zoning and other land use matters. Grantee shall obtain all necessary permits and other authorizations required for Grantee's use of the License Area, and any other related activities undertaken by Grantee on the Property. Grantee shall remain in compliance with all such permits and authorizations granted.
  
4. Maintenance. While the Agreement is in effect, Grantee must keep the License Area in good condition at its sole expense, and maintain the Property free of trash and other debris. To this end, Grantee will provide adequate garbage and recycling receptacles within the License area, and remove all trash and recycling from the Property on a regular basis. Grantee will provide portable landscaping, seating area, and restrooms. Grantee will comply with all applicable rules, laws, ordinances, and requirements regarding Grantee's use of the License Area. Prior to vacating the License Area, Grantee must remove all of its personal property, any improvements and return the License Area to the condition that existed prior to Grantee's use of the License Area, to Grantor's satisfaction, unless otherwise agreed to in writing by the Grantor. Any maintenance of the Property by Grantor is at the sole discretion of Grantor, and is not required under the terms of this Agreement.
  
5. Environmental Contamination. Grantee shall be responsible for any and all spills, releases, discharges, or leaks of (or from) environmental pollutants or hazardous substances or materials which the Grantee has brought onto the License Area; and promptly clean up, without cost to the Grantor, such spills, releases, discharges, or leaks to the Grantor's satisfaction and in compliance with all applicable federal, state, or local statutes, rules or ordinances. Grantee shall not cause or knowingly permit any Hazardous Materials to be brought upon, kept or used in or about the Property by Lessee, its agents, employees, contractors, or invitees without the prior written consent of Grantor. Grantee shall indemnify, defend and hold Lessee and its officers, employees, agents and representatives harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses (including without limitation, diminution in value of the Property, attorneys' fees, consultant fees, and expert fees) that arise during or after the term of this Agreement term as a result of contamination by Hazardous Materials. This indemnification of Grantor by Grantee includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Materials present in the soil or groundwater on or under the Property. Without limiting the foregoing, if the presence of any Hazardous

Materials on the Property caused or permitted by the acts or omissions of Grantee or its agents, employees, contractors or invitees results in any contamination of the Property during the term of this Agreement, Grantee shall promptly take all actions at its sole expense as necessary to return the Property to the condition existing prior to the release of any such Hazardous Materials to the Property, provided that Grantor's approval of such actions shall first be obtained. The foregoing indemnity shall survive the expiration or earlier termination of this Agreement, and is in addition to all other indemnifications provided by Grantee under the terms of this Agreement. As used in this Agreement, the term "Hazardous Materials" means any hazardous or toxic substance, material, or waste, including, but not limited to, those substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101) or by the United States Environmental Protection Agency as hazardous substances (40 CFR Part 302) and amendments thereto, ORS Chapter 465, petroleum products or such other similar substances, materials or wastes that are or become regulated under any applicable local, state, or federal laws.

6. No Assignment or Sub-Licensing. Grantee may not sublicense the License Area or any part thereof and may not transfer or assign the License granted by this Agreement without obtaining the advance written consent of Grantor in each case. Grantor's consent may be granted or denied at Grantor's sole discretion. Grantor retains the right to transfer the Property and has the option to assign this Agreement to the transferee.
7. No Liens on the Property. Grantee will not suffer or permit any construction liens to attach in all or any part of the Property by reason of any work, labor, services, or materials done for, or supplied to, or claimed to have been done for or supplied to, Grantee or anyone occupying or holding an interest in all or any part of any improvements on the Property through or under Grantee. If any such lien at any time is filed against the Property, Grantee will cause the lien to be discharged of record within 10 business days after the date of filing the same, by payment, deposit, or bond. Nothing in this Agreement shall be construed in any way as constituting the consent or request, express or implied, by inference or otherwise, to any person, firm, or corporation for the performance of any labor or the furnishing of any materials for any construction, rebuilding, alteration, or repair of or to the Property, or as giving any right, power, or authority to contract for or permit the rendering of any services or the furnishing of any materials that might in any way give rise to the right to file any lien against the Property.
8. Indemnity. To the extent allowed under the Oregon Tort Claims Act and the Oregon Constitution, Grantee will indemnify, defend, and hold Grantor harmless from and against any injury, expense, damage, liability, or claim including but not limited to attorney fees incurred by Grantor arising directly or indirectly from the rights granted by Grantor to Grantee in this Agreement or any act or omission by Grantee, its agents and assigns or any other person entering upon or using the License Area with Grantee's

express or implied invitation or consent, except for those acts occurring solely because of Grantor's negligence.

9. Insurance. Grantee acknowledges and assumes responsibility for any and all liability arising out of Grantee's operations undertaken pursuant to the terms of this Agreement, and shall maintain occurrence form commercial general liability and automobile liability insurance for the protection of Grantee and Grantor, Grantor's Commissioners, officers, agents and employees. Coverage shall include personal injury, bodily injury (including death) and broad form property damage, including loss of use of property, occurring in the course of or in any way related to Grantee's operations, in an amount not less than Two Million Dollars (\$2,000,000.00) combined single limit per occurrence. Such insurance shall name the City of Warrenton as an additional insured. Grantee shall furnish Grantor certificates evidencing the date, amount, and type of insurance required by this Agreement. All policies will provide for not less than thirty (30) days' written notice to Grantor before they may be canceled. The coverage provided by insurance required under this Agreement shall be primary, and any other insurance carried by Grantor shall be excess. Grantee shall require its agents and contractors to carry commercially reasonable comprehensive liability coverage for injury to or death of a person and for damage to property occasioned by or arising out of any use of the License Area or Property.
10. Default. If Grantee violates any of the terms, covenants, or conditions of this Agreement or fails to perform any of its obligations under this Agreement in a timely fashion, Grantor may declare in writing to Grantee that the License is null and void and of no further force and effect, provided Grantee will have five (5) business days to cure the default, or such additional time as Grantor may in writing and in its sole discretion permit.
11. Notices. Notices required by this Agreement must be in writing and are deemed given and received upon deposit in the United States mail, certified or registered mail, postage prepaid, return receipt requested, addressed to the parties at their respective addresses listed herein.

Notices to Grantor:

Notices to Grantee:

City of Warrenton  
Attn: City Manager  
P.O. Box 250  
Warrenton, Oregon 97146

12. General. Grantee's obligation to indemnify Grantor and return the License Area to its original condition survives the termination of this Agreement. Time is of the essence under this Agreement. There are no third-party beneficiaries to this Agreement. This Agreement represents the entire agreement and understanding between the Parties. It is not effective until both Parties sign it. Any amendments to it must be in a separate writing signed by both Parties. The waiver of one breach of any term, condition, covenant, or obligation herein is not a waiver of that or any other term, condition,

covenant, or obligation or of any subsequent breach thereof. This Agreement shall be construed so that the plural includes the singular and the singular includes the plural. This Agreement is binding upon the parties, their successors and assigns. This Agreement shall be governed by the laws of the State of Oregon. Venue shall be Clatsop County, Oregon. The prevailing party in any lawsuit arising out of this agreement is entitled to attorney fees, costs and disbursements, both at trial and on appeal.

- 13. Exhibits. All exhibits, including a site plan illustrating the location of the food truck, to this Agreement are incorporated by reference into the Agreement as if they were set out in full within this document.

**GRANTOR**

**GRANTEE**

**City of Warrenton**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

From: [oneknifellc@gmail.com](mailto:oneknifellc@gmail.com) [mailto:[oneknifellc@gmail.com](mailto:oneknifellc@gmail.com)]

Sent: Friday, July 30, 2021 8:14 AM

To: Jane Sweet

Subject: Proposal

Thank you for all your help with this.

Site: Hammond Marina. Either on the ramp if the trailer can be moved, or directly across the street up against the concrete parking stops.

Menu: no standard menu, however most likely will be 2 sandwiches. Fillers will be made by me, not sliced deli meats. Steak sandwich and another choice.  
Breakfast burrito, most likely chorizo, potatoes and eggs.

Coffee: i am contacting Columbia river coffee and sleepy monk coffee and will serve 1 of the 2

Sandwiches \$7

Coffee \$2

Box lunch style \$10 with chips and fruit

Dates:

8-11-21 thru 9-6-21

4:30am - 7:30am maybe later.

And consideration for 11:00 am - 3:00 pm Friday and Saturday I have commitments to my current employer and Astoria Sunday Market which dictates some hour choice's.

What time is the meeting on the 10th?

I will plan to be there

Thank you again for your help and support.

Alex Cabalona

Sent from my iPhone







## AGENDA MEMORANDUM

TO: The Warrenton City Commission  
FROM: Dawne Shaw, City Recorder  
DATE: August 10, 2021  
SUBJ: Consideration of Ordinance No. 1254; Amending Ord. No. 1128-A  
and 1076-A; Updating Purchasing Manager's Authority

### SUMMARY

At its July 13, 2021 meeting, the City Commission conducted a brief discussion on increasing the City Manager's contract signing authority. There was consensus to increase signing authority from \$25,000 to \$50,000. An ordinance making this amendment has been prepared and is before you for its first reading.

### RECOMMENDATION/SUGGESTED MOTION

"I move to conduct the first reading, by title only, of Ordinance No. 1254, an Ordinance Amending Section 1 of Ordinance No. 1128-A; Amending Section 5 of Ordinance No. 1076-A; Updating the Purchasing Manager's Authority."

### ALTERNATIVE

1) None recommended

### FISCAL IMPACT

N/A

Approved by City Manager:

All supporting documentation, i.e., maps, exhibits, etc., must be attached to this memorandum.

ORDINANCE NO. 1254

Introduced by All Commissioners

Amending Section 1 of Ordinance No. 1128-A; Amending Section 5 of Ordinance No. 1076-A;  
Updating the Purchasing Manager's Authority

NOW, THEREFORE, the City of Warrenton ordains as follows:

**Section 1.** Section 1 of Ordinance No. 1128-A is repealed.

**Section 2.** Section 5 of Ordinance No. 1076.A is replaced with the following new Section 5 language:

**Section 5. Public Contracts – Authority of Purchasing Manager.**

**General Authority.** The City Manager shall be the purchasing manager for the City of Warrenton and is hereby authorized to issue all solicitations and to award all City of Warrenton contracts for which the contact price does not exceed \$50,000. As required by City Charter, the City Commission shall approve the plans and specifications of any public improvement in excess of \$5,000 to be made by a private contractor. Subject to the provisions of the Ordinance, the purchasing manager may adopt and amend all solicitation materials, contracts and forms required or permitted to be adopted by contracting agencies under the Oregon Public Contracting Code or otherwise convenient for the City of Warrenton's contracting needs. The purchasing manager shall hear all solicitations and award protests.

First Reading: August 10, 2021

Second Reading:

Adopted by the City Commission this \_\_\_\_ day of \_\_\_\_\_, 2021.

APPROVED:

\_\_\_\_\_  
Henry A. Balensifer, III, Mayor

Attest:

\_\_\_\_\_  
Dawne Shaw, City Recorder