

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of Designating Property on)
Dibblee Point as a County Beach and County) ORDER No. 44-2016
Park and Naming it Dibblee Beach County)
Park)

WHEREAS, pursuant to ORS 275.320, the Board of County Commissioners may by order designate any real property acquired by the County as a County forest, public park or recreational area; and

WHEREAS, the Columbia County Forest, Parks and Recreation Ordinance (Ordinance No. 94-9, as amended) provides for the designation of County forests, forest-parks, parks, beaches, boat dock facilities and recreational facilities; and

WHEREAS, Columbia County owns certain real property on Dibblee Point, which is designated as a County Beach by the Columbia County Forest, Parks and Recreation Ordinance; and

WHEREAS, through a lease with the State of Oregon Department of State Lands, which is attached hereto and incorporated herein by this reference, the County has acquired additional property on Dibblee Point; and

WHEREAS, a map depicting the County-owned portion of Dibblee Point and the area leased from DSL is attached as Exhibit A to the lease agreement; and

WHEREAS, designating the County-leased portion of Dibblee Point as a County Park and Beach is consistent with Article 5 of the lease, which provides that the "Premises shall be improved, used and maintained by Tenant as a park" and the Columbia County Comprehensive Plan (Ordinance No. 84-4, as amended), which identifies the State-owned portion of Dibblee Point as a recreational facility under non-County ownership; and

WHEREAS, designating the County-owned portion of Dibblee Point as a County Park in addition to a County Beach would provide consistent rules and regulations for both the County-owned and County-leased portions of Dibblee Point.

NOW THEREFORE THE BOARD OF COUNTY COMMISSIONERS HEREBY ORDERS:

- 1) The County-leased property at Dibblee Point, which is depicted in Exhibit A of the

attached lease agreement between Columbia County and the State of Oregon Department, is hereby designated as a County Park and County Beach and subject to the Columbia County Forest, Parks and Recreation Ordinance; and

- 2) The County-owned portion of Dibblee Point is hereby designated as a County Park in addition to its existing designation as a County Beach; and
- 3) Both the County-owned and County-leased portions of Dibblee Point shall be known as "Dibblee Beach County Park"; and
- 4) A certified copy of this Order shall be recorded in the Columbia County Deed Records without cost.

Dated this 10th day of August, 2016.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

Approved as to form

By: _____

Office of County Counsel

By: _____

Anthony Hyde, Chair

By: _____

Henry Heimuller, Commissioner

By: _____

Earl Fisher, Commissioner

**STATE OF OREGON
DEPARTMENT OF STATE LANDS
UPLAND LEASE AGREEMENT**

56901-SU

THIS LEASE AGREEMENT (the "Lease") is made and executed between the STATE OF OREGON, acting by and through its Department of State Lands ("Landlord"), and COLUMBIA COUNTY, a political subdivision of the State of Oregon, ("Tenant").

**ARTICLE 1
Definitions**

Anniversary Date means the date which occurs annually each year during the Term of the Lease on the anniversary of the Commencement Date.

Annual Rent. "Annual Rent means the rent specified in Section 4.1, due and payable on the Lease anniversary date during the Term of the Lease.

Approved Use. "Approved Use" or "Approved Uses" means a use of the Premises described in Section 5.1 or to which Landlord has given written consent.

Cancellation Notice. "Cancellation Notice" means written confirmation of cancellation of the Lease.

Commencement Date. "Commencement Date" means the last date upon which this Lease is executed by the Landlord or Tenant, or as specified in Section 3.1.

Construction Work. "Construction Work" means any grading or excavating for, or the building or demolition of, an Improvement on the Premises performed by or for Tenant, but not including the removal of aggregate or related site grading performed in Tenant's normal course of business.

Contractor. "Contractor" means a licensed, bondable, reputable contractor selected by Tenant or any Subtenant in accordance with the terms of this Lease under Section 7.2.

Design Professional. "Design Professional" means a suitably qualified and experienced architect or engineer licensed to practice as such in the State of Oregon.

Governmental Authority. "Governmental Authority" means any Federal, State or local jurisdiction that exercises authority over the Premises or the activities of Tenant. For the purposes of this Lease, Governmental Authority includes Tenant.

Hazardous Materials. "Hazardous Materials" means any material regulated by federal or state environmental protection laws or any material that may pose a threat to human health or the environment, including without limitation, hazardous substances, pesticides, herbicides, or petroleum products.

Impositions. "Impositions" means all taxes, assessments, fees and other special or general charges assessed against the Land by a taxing body or regulatory authority.

Improvements. "Improvements" means all buildings, structures, fixtures, fences, interior roads, garages, parking lots, fountains, utility installations, excavations, surfacing, water banks or channels, landscaping, grading and plantings which are currently located on the Premises and, following completion, all construction work to be performed on the Premises by Tenant or at Tenant's direction or under Tenant's authority in accordance with this Lease, and applicable codes and ordinances.

Institutional Lender. "Institutional Lender" means a commercial provider of financing in the form of mortgages or loans secured by one or more deeds of trust.

Insurance Trustee. "Insurance Trustee" means a neutral third party appointed by Landlord and Tenant for the purpose of holding and disbursing insurance proceeds following a casualty loss.

Land. "Land" means the Landlord-owned real property situated in the County of Columbia, State of Oregon, more particularly described in Exhibit A, attached hereto, that is the subject of the Lease.

Landlord. "Landlord" means the State of Oregon, acting by and through its Department of State Lands, or its successors and assigns.

Late Payment Rate. The "Late Payment Rate" means the maximum rate of interest permitted by applicable law after a default, such rate not to exceed nine (9) percent annually.

Lease. "Lease" means this Lease Agreement together with all Exhibits attached hereto. This Lease is subject to:

- a) all applicable state and federal statutes, rules, and regulations in effect on the Commencement Date of this Lease, and insofar as is constitutionally permissible, and
- b) all statutes, rules, and regulations which become effective after the Commencement Date of this Lease.

Lease Year. "Lease Year" means a year of 365 days (366 days in a leap year) commencing on the Commencement Date and each subsequent Anniversary Date.

Leasehold Mortgage. "Leasehold Mortgage" means any mortgage, deed of trust, or other security instrument encumbering Tenant's leasehold estate created hereby and which is in favor of an Institutional Lender.

Leasehold Mortgagee. "Leasehold Mortgagee" means the holder, trustee or beneficiary of a Leasehold Mortgage who is an Institutional Lender.

Person. "Person" means any entity, whether an individual, trustee, corporation, partnership, trust, unincorporated organization or otherwise.

Premises. "Premises" means Tenant's leasehold interest in the Land and any Improvements situated thereon.

Tenant. "Tenant" means Columbia County and Tenant's successors and assigns hereunder.

Term. "Term" means the period of time during which the Lease shall be in effect, as described in Sections 3.1.

Unavoidable Delay. "Unavoidable Delay" means delay due to strikes, lockouts, acts of God, unavailability of labor or material, embargoes, war, enemy action, civil commotion, fire, windstorm, flood, explosion, earthquake, unavoidable casualties, building or use moratorium imposed by applicable Governmental Authority, activities necessary to remediate any environmental condition of the Premises not caused by Tenant, or other similar causes beyond the reasonable control of Tenant, including any delay caused by the act or omission of Landlord.

Utilities. "Utilities" means all services and public utilities delivered to, provided for, or consumed on the Premises, including, without limitation, such services as janitorial and garbage pick-up and such utilities as natural and propane gas, water, sewer, storm sewer, electricity, cable television, and telephone and telefacsimile services.

Work. "Work" means all construction work, development and improvements to the Premises to be performed by or on behalf of Tenant.

ARTICLE 2

Lease of the Premises

2.1 **Demise.** Landlord hereby leases to Tenant and Tenant hereby hires from Landlord, the Premises shown in Exhibit A.

PROVIDED, HOWEVER, that the Premises shall at all times during the term of this Lease be subject to the rights of Landlord and to the limitations on uses set out in this Lease. Landlord also specifically reserves the right to use all access roads and easements, and to use the Premises as necessary to access that portion of said property that is not subject to this Lease.

2.2 **Sale of Premises.** Landlord reserves the right to sell Landlord's Fee Interest in all or any part of the Land at any time during the term of this Lease. Any such sale or sales of the Land shall be made subject to Tenant's rights under this Lease.

2.3 **Encumbrances; Reservation of Rights.** This Lease is subject to the following matters to the extent that they affect the Premises:

- a) Any lien, charge, claim or other encumbrance whether of record or not, to the extent valid and subsisting and affecting the Premises;
- b) The effect of all present building restrictions and regulations and present and future zoning laws, ordinances, resolutions and regulations and all present ordinances, regulations and orders of all boards, bureaus, commissions and bodies and any county, state or federal agency, now having, or hereafter having acquired, jurisdiction of the Premises and the use and improvement thereof, including, but not limited to, Columbia County's zoning ordinance and plans;
- c) The condition of the Premises on the Commencement Date;
- d) All taxes (including local improvement rates), duties, assessments, special assessments, water charges and sewer rents and any other Impositions, accrued or unaccrued, fixed or not fixed;
- e) Any facts and any current violations of law, ordinances, orders or requirements that might be disclosed by an accurate physical survey, or an examination and physical inspection or search of the Premises by any Governmental Authorities, as the same may exist on the Commencement Date; and

f) Landlord's reserved right to locate, construct, install, and maintain sewers, utility lines, dredge pipes, transit tubes, telecommunications lines, and similar installations or facilities in, on, under, over or across the Premises, and, further, Landlord's right to grant to third parties, rights of way, easements, or other rights to come on, move under, over, or across, gain access to, or otherwise use the Premises during the term of this Lease provided, that said Landlord's reserved right shall not unreasonably interfere with the right of quiet enjoyment of the Tenant and any Subtenant, and that Landlord shall provide reasonable prior notice in the event Landlord intends to exercise said reserved right.

2.4 Tenant's Waiver of Claims.

a) Tenant hereby acknowledges that it has had the opportunity to undertake all inspections and investigations of the Premises as it deems necessary; has requested of Landlord, and has reviewed, all reports, studies and investigations of the Premises as it deems necessary, and has otherwise undertaken such due diligence as it deems appropriate with respect to the Premises. Tenant acknowledges that it is leasing and accepts the Premises and the Improvements on an "As Is" and "Where Is" basis. Tenant acknowledges and agrees that Landlord has not made nor is Tenant relying upon any representations or warranties made with respect to the Premises, including but not limited to, the condition of the Premises, the use(s) to which the Premises may be put or for which the Premises may be developed.

b) Tenant hereby releases and waives claims against Landlord, its officers, public officials, employees, agents or contractors for injury or damage to person, property, or business sustained in or about the Premises by Tenant, its agents, employees, invitees, customers, or other occupants or users of the premises, which injury or damage results from any act, neglect, occurrence, or condition (including pre-existing conditions) in or about any Improvement or the Premises, unless such damage is caused by Landlord, its officers, public officials, employees, agents or contractors.

2.5 Indemnity.

a) *Landlord's obligations.* To the extent permitted by and subject to the limitations of the Oregon Constitution and the Oregon Tort Claims Act, and subject to ORS Chapter 180, Landlord shall indemnify, defend and hold harmless Tenant, its managers, employees, agents and invitees, from all claims, suits, actions and proceedings by third parties (collectively "Claims") (including reasonable attorneys' fees and expenses incurred in connection with such Claims) for personal injury, death or property damage occurring in, on or about the Premises, to the extent such injury or damage is caused by Landlord's negligence or intentional or reckless misconduct.

b) *Tenant's obligations.* To the extent permitted by and subject to the limitations of the Oregon Constitution and the Oregon Tort Claims Act, and subject to ORS Chapter 180 (to the extent such provisions of the Oregon Constitution, the Oregon Tort Claims Act and ORS Chapter 180 are applicable to Tenant), Tenant shall indemnify, defend and hold harmless Landlord, its directors, managers, employees, agents and invitees, from all Claims (including reasonable attorneys' fees and expenses incurred in connection with such Claims) for personal injury, death or property damage occurring in, on or about the Premises, to the extent such injury or damage is caused by Tenant's negligence or intentional or reckless misconduct.

2.6 **Landlord's Waiver of Claims.** Landlord hereby waives and releases Tenant, its officers, employees, agents or contractors from any and all liability, claims and damages of any type or kind that are caused by or are the proximate result of the acts or omissions of Landlord, its officers, employees or agents, except to the extent that the liability, claims or damages are related to or arise out of activities or omissions by Tenant, its agents, employees, or contractors.

ARTICLE 3

Term

3.1 **Term and Early Termination.** This Lease will continue for a period of 10 years commencing on July 1, 2015 the month and date of which will be known as the "Commencement Date" and expiring on June 30, 2025, unless terminated earlier as provided under Section 13.

ARTICLE 4

Rent

4.1 **Commencement.** Tenant shall commence making payments of \$ 500 per year as Annual Rent on the Commencement Date.

4.2 **Payment of Annual Rent.** Commencing on the Commencement Date and except as otherwise provided herein, Tenant shall pay to Landlord Annual Rent in advance on the commencement date, without any abatement, offset or deduction.

4.3 **Place for Payment of Rent.** All rent due and payable under this Lease shall be paid to Landlord at the Department of State Lands, 775 Summer St NE, Suite 100, Salem, OR 97301, or such other place as Landlord may from time to time designate by written notice given to Tenant.

4.4 **No Partnership and No Principal-Agent Relationship.** Nothing in this Lease shall be construed to render Landlord in any way or for any purpose a partner, joint venturer, or associate in any relationship with Tenant other than that of Landlord and Tenant, nor shall the Lease be construed to authorize either to act as agent for the other except as expressly provided to the contrary herein. Further, Tenant is not an "officer," "employee," or "agent" of Landlord, as those terms are used in ORS 30.265.

ARTICLE 5

Uses of the Premises

5.1 **Approved Uses.** The Premises shall be improved, used and maintained by Tenant as a park.

Tenant shall ensure that any use of the Premises complies at all times during the Term with all applicable laws and regulations, including but not limited to all building restrictions and regulations and zoning laws, ordinances, resolutions and regulations and all ordinances, regulations and orders of all boards, bureaus, commissions and bodies and any county, state or federal agency, now having, or hereafter having acquired, jurisdiction of the Premises and the use and improvement thereof.

5.2 **No Impairment of Reversionary Rights.** Tenant shall not suffer or permit the Premises, or any portion thereof, to be used by the public, as such, in a manner which would permit a claim or claims of:

- a) adverse usage or adverse possession by the public, as such, or
 - b) implied dedication of the Premises or any portion thereof to the public, as such.
- Any easements, dedications or other similar rights or obligations created or granted by Tenant shall affect only Tenant's leasehold estate in the Premises and shall not encumber or affect the Landlord's Fee Interest without Landlord's prior written consent.

5.3 **No Use in Violation of Law.** Tenant will not use or allow the Premises or any part thereof to be used or occupied for any purpose other than a use stated in Section 5.1 or, notwithstanding Section 5.1, for any unlawful purpose or in violation of any certificate of occupancy or certificate of compliance covering or affecting the Premises, or any part thereof, and Tenant will not suffer any dangerous condition to exist on the Premises or any part thereof unless appropriately safeguarded, and Tenant will not do or suffer to be done any act on the Premises which, in law, constitutes a nuisance, public or private (except that the development and/or continued use of an aggregate processing plant and associated buildings shall not constitute a private nuisance), or which may make void or voidable any insurance then in force with respect thereto.

ARTICLE 6

Taxes and Utilities

6.1 **Payment of Impositions.** In addition to the Annual Rent required to be paid under this Lease, Tenant shall pay or cause to be paid, and Tenant hereby agrees to pay, Tenant's share of all Impositions falling due or applicable during the Term of the Lease and any extended term, if applicable. Any and all Impositions and installments of Impositions required to be paid by Tenant under this Lease shall be paid by Tenant before each such Imposition or installment becomes delinquent and a true and correct copy of the official receipt for the payment of such Impositions shall be delivered to Landlord within fifteen (15) calendar days after the date such Impositions would be delinquent as provided by law. The payment of Impositions and all other sums required to be paid by Tenant under this Lease shall constitute additional rent.

ARTICLE 7

Construction

7.1 **Conditions to Construction.** Prior to commencement of any Construction Work for any Improvements started after the Commencement Date of the Lease, and before any building materials have been delivered to the Premises by Tenant or under Tenant's direction or authority, Tenant shall comply with all the following conditions or obtain Landlord's written waiver of the condition or conditions specified in the waiver:

- a) **Preliminary Plans.** Tenant shall deliver to Landlord for Landlord's reasonable approval, one (1) set of preliminary construction plans and specifications (Preliminary Plans) at least sixty (60) calendar days prior to the proposed date for commencing the Construction Work.

The Preliminary Plans shall be prepared by a design professional or engineer licensed to practice as such in Oregon. The Preliminary Plans shall include, as applicable, preliminary grading and drainage plans, soil tests, utilities, sewer and service connections, locations of ingress and egress to and from public thoroughfares and the

curbs, gutters, parkways, street lighting, storage areas, plazas, public areas and landscaping and all other items customarily required by construction lenders to be included in plans and specifications for similar projects located in Columbia County.

b) **Final Plans.** Upon approval of Landlord, which approval shall not be unreasonably withheld, the Preliminary Plans shall be designated the "Final Plans" and shall serve as the basis for the Construction Work.

c) **Building Permit.** Tenant shall, at its own cost and expense:

i. cause the Final Plans, or such appropriate parts thereof as may be necessary, to be filed with the appropriate governmental agencies ("Building Department"); and

ii. as a condition to commencing any phase of construction for which a permit is necessary, obtain such permits.

Promptly after issuance, a copy of each permit shall be delivered to Landlord. After such permit or permits are issued based upon the plans previously approved by Landlord, Tenant shall, at Tenant's sole cost and expense, proceed with diligence and continuity to carry out the Construction Work in accordance with the Final Plans and the requirements of all applicable governmental agencies. Landlord agrees, if requested by Tenant, to join in any request for authorization or application in connection with Tenant's performance of the Construction Work on the Premises or conducting business thereon at no cost to Landlord. Tenant may deliver working drawings and plans to any governmental body, or Institutional Lender, in connection with its application for a building permit or other permits provided that the same are first delivered to Landlord for approval as herein provided.

7.2 **Contractor.** All Construction Work shall be performed by licensed, bondable, reputable Contractors registered with the Construction Contractors Board as required in ORS chapter 701.

7.3 **Compliance With Law and Quality.** The Construction Work shall be performed in accordance with all statutes, ordinances, regulations, and orders of all federal, state, county, or local governmental agencies or entities having jurisdiction over Construction Work, the Premises, and the Improvements. All Construction Work performed on the Premises pursuant to this Lease, or authorized by this Lease, shall be done in a good and workmanlike manner, and only with materials of good and durable quality.

7.4 **Completion.** Tenant shall cause all Construction Work to be diligently pursued without unnecessary interruption.

7.5 **Inspection.** Landlord shall have the right, but not the obligation, to inspect the Premises in relation to the Construction Work at all reasonable times during normal business hours, upon reasonable prior notice to Tenant. Landlord's inspections shall not unreasonably interfere with the progress of such Construction Work. This Section shall in no way control any right of governmental inspection necessary and permitted under applicable codes and ordinances.

7.6 **Tenant's Construction Indemnity.** Tenant hereby assumes entire responsibility and liability for any and all damages or injury of any kind or nature whatever to all persons, whether employees or otherwise, and to all property, arising from the performance of the Construction Work whether on the Premises, on adjacent property or on surrounding or nearby public streets; and to the extent permitted by and subject to the limitations of the Oregon Constitution and the Oregon Tort Claims Act, and subject to ORS Chapter 180 (to the extent

such provisions of the Oregon Constitution, the Oregon Tort Claims Act and ORS Chapter 180 are applicable to Tenant), Tenant shall defend, indemnify and hold harmless Landlord, its directors, managers, employees, agents and invitees, from all Claims (including reasonable attorneys' fees and expenses incurred in connection with such Claims), for personal injury, death or property damages arising from, relating to, or occurring in connection with the Construction Work, excluding any gross negligence or wilful misconduct of Landlord or Landlord's officers, employees, or agents.

ARTICLE 8

Liens and Mortgages

8.1 **No Liens Permitted On Reversion.** Tenant will not create or permit to be created by its acts or omissions or the acts or omissions of its, contractors or subcontractors or to remain, and will discharge, any lien, encumbrance or charge which might be or become a lien, charge, or encumbrance on the fee interest of Landlord or any part thereof and will also discharge any lien levied on account of any Imposition or any mechanic's, laborer's or materialman's lien, mortgage, conditional sale, title retention agreement, security agreement or otherwise which might be or become a lien, encumbrance or charge upon the fee interest of Landlord or any part thereof and which has any priority or preference over or ranks on a parity with the estate, rights and interest of Landlord in the Land or any part thereof; provided, however, nothing herein shall require payment by Tenant of any lien or encumbrance on the Premises created by Landlord's acts or omissions or which is imposed upon Landlord by reason of Landlord's ownership of the fee estate (other than the Impositions) regardless of the tenancy of Tenant and not caused by the acts or omissions of Tenant. Tenant further agrees that Tenant will not, except as in this Lease provided, suffer or create any other matter or thing whereby the reversionary estate, rights and interest of Landlord in the Premises or any part thereof might be impaired; and any Imposition shall, after the same becomes a lien on the Premises, be paid (or contested) by Tenant in accordance with Article 6 hereof, and any mechanic's, laborer's or materialman's lien incurred by Tenant shall be discharged (or contested) in accordance with Section 8.2 below.

8.2 **Mechanic's Liens.** If any mechanic's, laborer's or materialman's lien shall at any time be recorded against the Premises or any part thereof, Tenant shall immediately provide a copy of such claim of lien to Landlord and within twenty (20) business days after notice to Tenant of such lien or claim of lien, will cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. If Tenant shall fail to cause such lien to be discharged as herein provided within the period aforesaid, then, in addition to any other right or remedy which Landlord may have under this Lease or otherwise, Landlord may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding proceedings, and in any such event Landlord shall be entitled, if Landlord so elects, to defend the prosecution of an action for the foreclosure of such lien by the lienor and to pay the amount of any judgment in favor of the lienor with interest, costs and allowances included in such judgment, and recover such sums plus interest from Tenant.

8.3 **No Implied Consent.** Nothing contained in this Lease shall be deemed or construed in any way as constituting the consent or request of Landlord, express or implied by inference or otherwise, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any specific improvement, alteration to or repair of the Premises or any part thereof, nor as giving Tenant any right, power or authority to contract for or permit the rendering of any services or the furnishing of any

materials that would give rise to the filing of any lien against the Landlord's Fee Interest or any part thereof if not paid.

8.4 **No Encumbrance of Leasehold Interest Without Prior Consent.** Tenant, its successors and assigns shall not encumber the Leasehold Interest of Tenant, nor mortgage or grant a security interest in Tenant's interest in this Lease or the Premises or in any Subleases without the prior written consent of the Landlord, which consent shall not be unreasonably withheld.

ARTICLE 9

Maintenance and Repairs

9.1 **Maintenance by Tenant.** Throughout the Term of this Lease, Tenant, at its sole cost and expense, will take good care of the Premises and appurtenances thereto and every part of and portion thereof and any sidewalks, parking lots, garages, driveways, walls, concrete aprons, utility systems, piers, curbs and vaults adjoining and/or appurtenant to the Premises and will keep the same in good order and condition, and will make all necessary repairs and environmental remediation, as required by Article 16, thereto, interior and exterior, structural and non-structural, ordinary and extraordinary, and unforeseen and foreseen, all to the effect that the Premises shall throughout the term of this Lease be maintained in good condition, less normal wear and tear, suitable for their intended use.

9.2 **Requirements of Governmental Authorities.** At all times during the term of the Lease, Tenant, at Tenant's own cost and expense, shall:

a) Make all alterations, additions, or repairs to the Premises and/or the Improvements required by the terms of any applicable law, ordinance, statute, order, or regulation now or hereafter made or issued by any Governmental Authority; including, without limitation, Title III of the Americans with Disabilities Act of 1990, all regulations issued thereunder and the Accessibility Guidelines for Buildings and Facilities issued pursuant thereto, as the same are in effect on the Commencement Date of this Lease and as may be hereafter modified, amended or supplemented.

b) Observe and comply with all applicable laws, ordinances, statutes, orders, and regulations now or hereafter made or issued respecting the Premises and/or the Improvements by any Governmental Authority;

Tenant's Indemnity obligations under Section 2.5(b) include any Claims arising or resulting from Tenant's failure to comply with or perform the requirements of this Section 9.2.

9.3 **No Duties on Landlord.** Landlord shall not be required to furnish any services or facilities whatsoever or to make any repairs or alterations in or to the Premises or the Improvements. Tenant hereby assumes the full and sole responsibility for the condition, operation, repair, replacement, maintenance, development and management of the Premises and the Improvements throughout the entire Term of this Lease.

ARTICLE 10
Ownership of Improvements

10.1 **Ownership of Improvements During Term.** All Improvements at any time constructed on the Premises by Tenant shall be owned by Tenant until expiration of the Term hereof or sooner termination of this Lease as herein provided. Tenant or any successors to their rights shall not remove any Improvements from the Premises nor waste, destroy, or modify any Improvements except as permitted by this Lease. Tenant may place fixtures, partitions, personal property, and the like in the Premises and may make improvements and alterations to the Premises at its own cost and expense without approval from Landlord.

10.2 **Ownership at Termination.** Upon expiration or termination of this Lease, Tenant shall remove all structures, fixtures, partitions and personal property within sixty (60) days of the date of termination unless expressly authorized by Landlord in writing.

ARTICLE 11
Insurance

11.1 **Commercial General Liability Insurance.** Concurrent with the execution of this Lease, Tenant, at Tenant's sole expense, shall procure and shall thereafter maintain in full force and effect throughout the entire Term of the Lease, Commercial General Liability insurance against claims for injury or death to persons or damage to property occurring on or about the Premises with minimum limits of liability of \$1,000,000.00 combined single limit for each occurrence. Such insurance shall include, but not be limited to, Bodily Injury Liability, Personal Injury Liability, Property Damage Liability, Broad Form Property Damage Liability, Fire Legal Liability, Contractual Liability, Products/Completed Operations Liability, and Liability for Property of Others in the care, custody, and control of Tenant.

The liability insurance shall cover all operations and activities of Tenant including, but not limited to, Tenant's own direct activities on and off the Premises, all construction, repair and improvement activities on and off the Premises and all explosion, collapse, and underground exposures associated with these activities.

11.2 **Insurance Requirements.** All insurance policies required under this Lease shall include these additional provisions, conditions, and requirements:

- a) The Landlord shall be named as additional insured on all policies.
- b) Tenant shall provide Landlord written notice of any cancellation or material modification to the policies purchased by Tenant at least thirty (30) days prior to the effective date of such cancellation or change.
- c) Tenant shall provide properly executed Certificates of Insurance to the Landlord at least ten (10) days prior to occupancy of the Premises and prior to commencement of any Construction Work, and thereafter, at least thirty (30) days prior to the effective date of any renewal or replacement policy.
- d) At its sole discretion, Landlord may require that true and certified copies of one or more insurance policies be provided to Landlord for its review and retention in its files.
- e) If Tenant shall fail or refuse to procure, pay for or keep in force the policies of insurance set forth herein, or to deliver evidence of such insurance to Landlord, Landlord may, at its election, place in force and/or from time to time renew such insurance. All amounts expended for such insurance, together with interest thereon at an annual rate of ten percent (10%) per annum, shall be additional rent due from Tenant to Landlord payable within fifteen (15) days after invoices are delivered to Tenant.

f) Tenant may purchase an Umbrella Liability Policy to provide the limits of coverage specified for Sections 11.2 and 11.3 so long as such policy provides coverage at least as broad as specified for the individual policies, is equivalent or in excess of the limits specified for each individual policy, and the policy applies directly above (without gap in limit of liability) the individual underlying policy.

g) Unless otherwise specifically agreed in writing by the Landlord prior to the effective date of the policy(ies):

i. All liability insurance policies shall be written on an occurrence coverage basis;

ii. All insurance policies shall be non assessable;

iii. All property insurance policies purchased by Tenant shall contain or be endorsed acknowledging that the insurer waives its rights of subrogation against Landlord; and

iv. All insurance policies procured by Tenant shall be primary and non contributing with any insurance that may be carried by Landlord.

i) At the termination of this Lease for whatever reason, in the event Tenant is able to assign to Landlord its right, title, and interest in the insurance policies required to be maintained hereunder, and provided Landlord agrees to such assignment, Landlord shall reimburse Tenant pro rata for all advanced premiums paid on such insurance.

j) All property insurance shall be specifically acknowledged and endorsed by the insurer whereby the insurer agrees to make any and all payments as applicable under said policies payable to Tenant and Landlord jointly.

ARTICLE 12

Mortgaging and Subleasing

12.1 Leasehold Mortgage. If Tenant is not then in default under this Lease, Tenant may, with the prior written consent of Landlord and subject to the terms and conditions as may reasonably be imposed, dispose of all or any portion of Tenant's interest under this Lease and the leasehold estate hereby created to any trustee by way of a deed of trust in favor of any Leasehold Mortgagee, for the purpose of creating an encumbrance on such interest.

12.2 Subleasing. Subleasing is not allowed under the terms of this lease.

ARTICLE 13
Tenant's Default

13.1 **Events of Default/Cure and Termination.** The occurrence of any of the following events shall be an "Event of Default" hereunder:

- a) If Tenant fails to pay any installment of Annual Rent or additional rent when and as the same shall become due and payable and, as to any other sums required to be paid by Tenant under this Lease, when and as the same shall become due and payable, and such failure continues for a period of ten (10) calendar days after written notice given by Landlord to Tenant;
- b) If Tenant fails to perform or comply with any of the covenants, agreements, terms or conditions contained in this Lease and such failure continues for a period of thirty (30) calendar days, after written notice given by Landlord to Tenant;
- c) The subjection of any right or interest of Tenant under this Lease to attachment, execution, or other levy, or to seizure under legal process;
- d) The appointment of a receiver to take possession of the Premises and/or Improvements or of Tenant's interest in the leasehold estate or of Tenant's operations for any reason, including but not limited to, assignment for the benefit of creditors or voluntary bankruptcy proceedings, but not including receivership:
 - i. pursuant to administration of the estate of any deceased or incompetent Tenant or of any deceased or incompetent individual partner of any Tenant, or
 - ii. pursuant to a Leasehold mortgage, or
 - iii. instituted by Landlord, the event of default being not the appointment of a receiver at Landlord's instance but the event justifying the receivership, if any;
- e) An assignment by Tenant for the benefit of creditors or the filing of a voluntary petition by or against Tenant under any law for the purpose of adjudicating Tenant as bankrupt; or for extending time for payment, adjustment or satisfaction of Tenant's liabilities to creditors generally; or for reorganization, dissolution, or arrangement on account of or to prevent bankruptcy or insolvency;
- f) Tenant's failure to comply with Hazardous Materials Laws or with any requirement in Article 16;
- g) Tenant's failure to procure, maintain or qualify for such insurance as Landlord may from time to time require in accordance with the provisions of Article 11.

13.2 **Notice to Certain Persons.** Landlord shall, before pursuing any remedy, give notice of any Event of Default to Tenant and Leasehold Mortgagees, if any, whose names and mailing addresses were previously given to Landlord.

13.3 **Landlord's Remedies.** If any Event of Default by Tenant shall continue uncured, following notice of default as required by this Lease (if any is required), for the period applicable to the default under the applicable provision of this Lease, Landlord has the following remedies in addition to all other rights and remedies provided by law or equity, to which Landlord may resort cumulatively or in the alternative:

- a) **Termination.** Landlord may at its election terminate this Lease by giving Tenant notice of termination.
- b) **Right of Reentry and Ejection.** Landlord may reenter, take possession of the Premises and Improvements and eject all parties in possession or eject some and not others or eject none and may remove any persons or property by legal action or by self-help with the use of reasonable force and without liability for damages and without having accepted a surrender.
- c) **Reletting.** Following reentry or abandonment, Landlord may relet the Premises and in that connection may make any suitable alterations or refurbish the

Premises, or both, or change the character or use or purpose of the Premises, but Landlord shall not be required to relet for any use or purpose other than that specified in the Lease or which Landlord may reasonably consider injurious to the Premises, or to any tenant that Landlord may reasonably consider objectionable. Landlord may relet all or part of the Premises, alone or in conjunction with other properties, for a term longer or shorter than the term of this Lease, upon any reasonable terms and conditions, including the granting of some rent-free occupancy or other rent concessions. Landlord shall be entitled to all rents from the use, operation, or occupancy of the Premises or Improvements or both.

d) **Damages.** Whether or not Landlord cancels or takes possession of the Premises, Landlord has the right to recover its damages, including without limitation, (i) all lost rentals; and (ii) all costs incurred by Landlord in restoring the Premises or otherwise preparing the Premises for reletting.

13.4 **Right To Sue More Than Once.** Landlord may sue periodically to recover damages during the period corresponding to the remainder of the Lease Term, and no action for damages shall bar a later action for damages subsequently accruing.

13.5 **Landlord's Right to Cure Defaults.** If Tenant fails to perform any obligation under this Lease, after the cure period, if any, Landlord shall have the option to so perform after giving written notice to Tenant. All of Landlord's expenditures to correct the default shall be reimbursed by Tenant on demand with interest at the Prime Rate from the date of expenditure by Landlord. Such action by Landlord shall not waive any other remedies available to Landlord because of the default.

13.6 **Remedies Cumulative.** The remedies given to Landlord herein shall not be exclusive but shall be cumulative with and in addition to all remedies now or hereafter allowed by law and elsewhere provided in this Lease.

13.7 **Surrender of Premises.** Promptly after notice of termination, Tenant shall surrender and vacate the Premises and Improvements in broom-clean condition.

13.8 **Waiver of Breach.** No waiver by a party of any default by the other shall constitute a waiver of any other breach or default by the other, whether of the same or any other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give the other any contractual right by custom, estoppel, or otherwise. The subsequent acceptance of rent pursuant to this Lease shall not constitute a waiver of any preceding default by Tenant other than default in the payment of the particular rental payment so accepted, regardless of Landlord's knowledge of the preceding breach at the time of accepting the rent, nor shall acceptance of rent or any other payment after termination constitute a reinstatement, extension, or renewal of this Lease or revocation of any notice or other act by Landlord.

ARTICLE 14
Hazardous Materials

14.1 **Use of Hazardous Materials.** Tenant will be responsible for any and all Hazardous Materials that Tenant brings onto the Premises and for any other material the use, generation, manufacture, storage or disposal of which may violate Department of Environmental Quality (DEQ) standards or create a safety or environmental hazard or result in a DEQ violation. Tenant shall keep and maintain the Premises in compliance with any and all laws regulating the use, generation, manufacture, storage and disposal of Hazardous Materials. Tenant shall not cause or permit the use, generation, manufacture, storage or disposal on, under or about the Premises, or the transportation to or from the Premises, of any Hazardous Materials in violation of any law or regulation relating to such Hazardous Material.

14.2 **Tenant's Indemnity Obligations.** Tenant's indemnity obligations under Section 2.5(b) include any Claims arising in any manner whatsoever out of:

- a) a breach of the obligations of Section 14.1; or
- b) the use, generation, manufacture, storage or disposal of Hazardous Materials on, under, or about the Premises after the Commencement Date or during any previous lease of the Premises by Tenant; or
- c) surface migration of Hazardous Materials onto the Premises caused by or arising in connection with activities conducted on or associated with the Premises during the term of this Lease or during any previous lease of the Premises by Tenant.

Tenant's indemnity obligations under this Section 14.2 shall include, but not be limited to: (i) all liabilities, losses, claims, demands, penalties, fines, settlements, damages, response, remediation, closure or inspection costs; (ii) any expenses (including reasonable attorney and consultant fees, investigation expenses, and laboratory and litigation costs) of whatever kind or nature that are incurred by Landlord; (iii) any personal injuries or property damages, real or personal; (iv) any violations of law, orders, regulations, requirements or demands of governmental authorities; and (v) any lawsuit brought or threatened, settlement reached, or government order arising out of or in any way related to the release of Hazardous Materials on the Premises after the Commencement Date or during any previous lease of the Premises by Tenant.

PROVIDED, HOWEVER, that Tenant's indemnity obligations under this Section 14.2 shall not include any liability, damage, loss, costs, and expense suffered by Landlord and resulting from:

- a) Hazardous Materials present in or on or under the Premises as of the Commencement Date; or
- b) Hazardous Materials present in or on or under the Premises as of the Commencement Date that migrate, percolate, flow, diffuse, or in any way move within, from or off the Premises after the Commencement Date.

The indemnities of Tenant provided in this Section shall survive the expiration or earlier termination of this Lease.

14.3 **Notice.** Landlord agrees to give prompt written notice to Tenant with respect to any suit or claim initiated or threatened to be initiated against Landlord which Landlord has reason to believe is likely to give rise to a claim for indemnity hereunder, and Tenant shall promptly proceed to provide an appropriate defense, compromise, or settlement of such suit or claim at its sole expense; provided, however, that Landlord shall have the right promptly to furnish counsel at Tenant's sole expense to carry out such defense, compromise, or settlement, which expenses, as well as payments in satisfaction, settlement or compromise of such suit or

claim, shall be immediately due and payable to Landlord upon receipt by Tenant of an invoice therefor.

14.4 Remediation by Tenant. Without limiting the foregoing, if Tenant, its agents, contractors, guests, invites or cause or permit Hazardous Materials to be used, generated, manufactured, stored, disposed of or released on the Premises during the term of this Lease or any extended term, in violation of any Hazardous Material laws, or (subject to Section 14.5) if Hazardous Materials enter upon the Premises from or through surface migration, Tenant shall promptly take all actions at its sole expense to comply with all laws and regulations governing such use, generation, manufacture, storage, disposal or release of such Hazardous Materials and/or to remediate the condition created by such Hazardous Materials; provided that except in an emergency Landlord's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld.

14.5 Surface Migration. If surface migration onto the Premises of Hazardous Materials was not caused by and did not arise in connection with activities being conducted on or associated with the Premises during the Term of this Lease or during any prior lease of the Premises by Tenant, and if Tenant is not otherwise responsible for the surface migration, Tenant shall not be obligated to indemnify Landlord under this section for the damages caused by such surface migration, nor shall Tenant be required to bear the cost of remediation related to such surface migration.

14.6 Disclosure. Within five (5) business days after the receipt of written notice thereof, Tenant shall advise Landlord and Landlord shall advise Tenant, as the case may be, in writing of:

- a) any and all notices of enforcement or other governmental or regulatory actions pursuant to which cleanup or remediation of Hazardous Materials on the Premises will be required; and
- b) all written claims made by any third party against Tenant or Landlord, as the case may be, or the Premises relating to damage, contribution, cost recovery, compensation, loss or injury resulting from Hazardous Materials on the Premises.

14.7 Inspection. Landlord and its agents shall have the right, but not the duty, at Landlord's sole cost and expense to conduct reasonable inspections of the Premises, to determine whether Tenant is complying with this Article 14.

14.8 Governing Provisions for Environmental Matters. Notwithstanding any other provision of this Lease, this Article 14 and Section 2.5(b) shall supersede and take precedence over all other provisions of this Lease regarding environmental matters including, but not limited to, the scope of indemnification of Landlord by Tenant and the survival of the indemnification provisions contained in this Lease. Nothing in this Article 14 is intended nor shall it limit Landlord's rights in the event of default, as set out in Article 13 of this Lease.

14.9 Notice of Hazardous Materials; Limitation of Tenant Liability. Landlord hereby acknowledges that it has made available to Tenant such information as is currently available and known by the Department of State Lands regarding Hazardous Materials existing on the Premises. Tenant shall have no responsibility for remediating any Hazardous Materials existing as of the Commencement Date, except Hazardous Materials that were used, generated, manufactured, stored or disposed of by Tenant or any of its employees, agents or assigns during the term of this Lease or as required in Section 9.1. Landlord and Tenant agree that any Hazardous Materials pre-existing this Lease, whether known or unknown to the parties, that become evident as a result of Tenant's occupancy shall be the sole responsibility of

Landlord, and Landlord will be responsible to DEQ for remediation of such pre-existing conditions.

ARTICLE 15
Notices

15.1 Any notice, communication, request, reply or advice, or duplicate thereof (herein severally and collectively, for convenience called "notice") provided or permitted to be given under this Lease to any person, entity, or party, or made or accepted by either party to any other party must be in writing and shall, unless otherwise in this instrument or by law expressly provided, be given or be served by:

- a) depositing the same in the United States mail, postage prepaid, registered or certified mail, with return receipt requested, or
- b) personal delivery service with charges therefor billed to shipper, or
- c) expedited delivery service with charges therefor billed to shipper, or
- d) prepaid telegram, telex or facsimile, all such notices, however given, to be addressed to the party for whom the notice is intended at the address set forth below or at such other address as any party may have designated to any other party in the manner above provided.

Any notice or communication sent as herein provided shall be deemed received:

- a) upon receipt if sent by telegram, telex or facsimile or if personally delivered (provided that such delivery is confirmed by the receiving telex or facsimile operator, including electronic confirmation of receipt, or by the courier delivery service, as the case may be),
- b) three (3) business days after the date of deposit in a post office or other official depository under the care and custody of the United States Postal Service, if sent by United States mail;
- c) on the date of delivery by any expedited delivery service, or
- d) on the date any party declines to accept any notice given as herein provided.

No person or entity who is entitled to notice or is required to be given notice hereunder shall have an address, for the purposes of such notice, which is outside the continental United States; and any such person or entity shall designate an agent for the purpose of receiving notices hereunder whose address is within the continental United States. Any party may change its address for the purposes of receiving notices hereunder by giving notice of such change of address to the other party in the manner required for giving notices pursuant to this Article 15.

If to Tenant:

Columbia County
1040 Oregon St
St. Helens, OR 97051
Telephone: 503-366-3962
Fax: 503-397-7215

If to Landlord:

Department of State Lands
Aquatic Resource Management
Proprietary
775 Summer Street NE Suite 100
Salem, OR 97301
Telephone: 503-986-5200
Fax: 503-378-4844

ARTICLE 16
Surrender of Premises; Holding Over

16.1 **Good Condition.** The Lease shall terminate without further notice at expiration of the Term. On expiration or sooner termination of the Lease, Tenant shall surrender the Premises and, subject to Article 10, the Improvements, and all facilities in any way appurtenant to the Premises, to Landlord in good order, condition and repair, and in as safe and clean condition as practicable, reasonable wear and tear and acts of God excepted, and free and clear of all liens and encumbrances, and Hazardous Materials other than those which have been created by Landlord. Any holding-over by Tenant after expiration of the Lease shall not constitute a renewal or extension or give Tenant any rights in or to the Premises except as otherwise expressly provided in the Lease.

16.2 **Survival.** The provisions of this Article 16 shall survive the expiration or any termination of this Lease.

ARTICLE 17
Miscellaneous

17.1 **Governing Law.** This Lease, and all matters relating to this Lease, shall be governed by the laws of the State of Oregon in force at the time any need for interpretation of or decision regarding this Lease arises.

17.2 **Binding on Successors.** This Lease shall be binding on and shall inure to the benefit of the parties and to the successors, but nothing in this section shall be construed as a consent by Landlord to any disposition or transfer of the Lease or any interest herein by Tenant except as otherwise expressly provided in this Lease.

17.3 **Partial Invalidity.** Should any provision of this Lease be held by a court of competent jurisdiction to be either invalid, void, or unenforceable, the remaining provisions of this Lease shall remain in full force and effect unimpaired by the holding.

17.4 **Time of Essence.** Time is expressly declared to be the essence of Tenant's performance of each and every duty and obligation under this Lease.

17.5 **Nonmerger of Fee and Leasehold Estates.** If both Landlord's and Tenant's estates in the Premises or the Improvements or both become vested in the same owner, this Lease shall nevertheless not be destroyed by application of the doctrine of merger except at the express election of the holder of both estates and the consent of each Leasehold Mortgagee of record.

17.6 **Agreement to Act Reasonably.** Except where specifically provided to the contrary in this Lease, in each instance in this Lease where the approval or consent of a party is required, both Landlord and Tenant intend and agree to act reasonably. As used in the foregoing sentence, the term "reasonable" shall not be interpreted as justifying arbitrary action but shall mean an even-handed application of judgment in accordance with all applicable requirements of federal and state law, traditional business policies and practices, industry standards and commercial usage and custom concerning major real estate transactions involving properties similar to the Premises. Except where specifically provided to the contrary, any approval or consent shall not be unreasonably delayed.

17.7 **Joint and Several Obligations.** If Tenant consists of more than one Person, the obligation of all such Persons is joint and several.

17.8 **Captions; Table of Contents.** Any table of contents attached to this Lease and the captions of the various sections of this Lease are for convenience and ease of reference only and do not define, limit, augment, or describe the scope, content or intent of the Lease or of any part or parts of the Lease. This Lease will be liberally construed to effectuate the intention of the parties with respect to the transaction described herein.

17.9 **Gender, Singular and Plural.** The neuter gender includes the feminine and masculine, the masculine includes the feminine and neuter, and the feminine includes the masculine and neuter, and each includes corporation, partnership, or other legal entity when the context so requires. The singular number includes the plural whenever the context so requires.

17.10 **Exhibits.** All Exhibits to which reference is made in this Lease are incorporated in this Lease by the respective references to them, whether or not they are actually attached, provided they have been signed or initialed by the parties. References to "this Lease" includes matters incorporated by reference.

17.11 **Nondiscrimination and Nonsegregation.** Tenant covenants by and for himself or herself or itself, and for his or her or its heirs, executors, administrators, and assigns, and all persons claiming under or through him or her or it, and this Lease is made and accepted upon and subject to the condition that there shall be no unlawful discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, gender, sexual preference, handicap, marital status, national origin, or ancestry, in the leasing, use, occupancy, tenure, or enjoyment of the Premises herein leased or the Construction Work nor shall the Tenant himself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of lessees, contractors, or vendees in the Premises and Improvements herein leased.

17.12 **Quiet Enjoyment.** Landlord covenants that, upon paying the rent and all other charges herein provided for and observing and keeping all covenants and agreements in this Lease on its part to be kept, Tenant shall have the right to occupy the Premises peaceably and quietly in accordance with the terms of this Lease. PROVIDED, HOWEVER, that this covenant of quiet enjoyment is expressly subject to the various encumbrances and reservations of right affecting the Premises and Tenant acknowledges and agrees that its peaceable and quiet possession of the Premises is subject to all encumbrances and reservations of right, whether of record or provided for in this Lease.

17.13 **INDEMNIFICATIONS.** TENANT EXPRESSLY ACKNOWLEDGES AND AGREES TO THE TERMS OF THE INDEMNITY PROVISIONS CONTAINED IN SECTIONS 2.5(b), 7.6, 9.2 AND 14.2 OF THIS LEASE. ALL OBLIGATIONS OF ONE PARTY TO

INDEMNIFY THE OTHER PARTY SHALL SURVIVE TERMINATION OR EXPIRATION OF THE LEASE.

17.14 **Execution in Counterparts.** This Lease may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument. For convenience of the parties the signature pages to any counterpart may be detached and reattached to a single counterpart.

17.15 **Inspection.** Landlord shall have the right personally and through Landlord's agents and employees to enter into and onto the Premises to inspect the Premises and examine the conditions thereof.

17.16 **Modification.** Any term or condition of this Lease may be modified upon mutual consent of both parties, but any such modification shall be effective and binding only upon execution by both parties or a written amendment to the Lease.

17.17 **Entire Agreement.** THIS LEASE, TOGETHER WITH THE ATTACHED EXHIBITS, CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS LEASE SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS OR REPRESENTATIONS, ORAL OR WRITTEN NOT SPECIFIED HEREIN REGARDING THIS LEASE. TENANT, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE HEREBY ACKNOWLEDGES THAT TENANT HAS READ THIS LEASE, UNDERSTANDS IT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS. THIS LEASE SUPERSEDES ALL PRIOR OR EXISTING LEASE OR RENTAL AGREEMENTS BETWEEN THE PARTIES.

17.18 **Authority.** Tenant has full power, authority and legal right to enter into this Lease and to incur and perform its obligations hereunder.

17.19 **Dispute Resolution.** The parties will attempt to resolve any dispute arising out of or relating to this Lease by first meeting and conferring to achieve resolution through mutual agreement. If the parties are unable to resolve the dispute by mutual agreement, either party may refer the dispute to the Governor or the Governor's designee, whose decision will be conclusive. The parties will bear equally the costs, if any, to resolve the dispute.

IN WITNESS WHEREOF, Landlord and Tenant have by their duly authorized representatives executed this Lease.

Executed this 7th day of October, 2015.

LANDLORD
State of Oregon, by and through its
Department of State Lands

TENANT
Columbia County

by:

[Signature]
Authorized Signature/Printed Name
Aquatic Resource Management

By: [Signature]
Authorized Signature

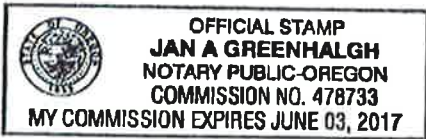
STATE OF _____)
County of Columbia) ss.

The foregoing instrument was acknowledged before me this 7th day of
October, 2015, by Henry Heimuller

the CHAIR of Columbia County,
(title of officer or agent) (name of business entity)

a _____
(state or place of incorporation) (corporation, general partnership, limited liability company, etc.)

on behalf of said _____
(corporation, general partnership, limited liability company, etc.)



[Signature]
Notary Signature:
My commission expires: 6/3/2017

State of Oregon
Department of State Lands



- Oregon Dept. of State Lands
- Columbia County Parks
- Sand & Gravel License

This product is for informational purposes only and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

Exhibit A

State of Oregon
Department of State Lands
775 Summer St. NE, Suite 100
Salem, OR 97301
503-986-5200
www.oregon.gov/DSL
Date: 6/2/2015

**Exhibit B
INSURANCE REQUIREMENTS**

During the term of the Lease Lessee shall maintain in force at its own expense, each insurance noted below: (State must check boxes for #2, #3, #4, #5 and #6 to indicate whether insurance is required or not.)

1. **Required by State of lessee with one or more workers, as defined by ORS 656.027.**
Workers' Compensation. All employers, including Lessee, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Lessee shall require and ensure that each of its sublessees (if permitted) complies with these requirements.

2. **Required by State** **Not required by State.**
Professional Liability coverage, insuring against claims for damages caused by error, omission or negligent acts related to professional services to be provided under this Lease. Lessee shall provide proof of insurance of not less than the following amounts:

\$ _____

or

Amounts not less than the amounts listed in the following schedule:

Per occurrence limit for any single claimant:

From commencement of the Lease term to June 30, 2014: \$1,900,000.

July 1, 2014 to June 30, 2015: \$2,000,000.

July 1, 2015 and thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 3 (Senate Bill 311).

Per occurrence limit for multiple claimants:

From commencement of the Lease term to June 30, 2014: \$3,800,000.

July 1, 2014 to June 30, 2015: \$4,000,000.

July 1, 2015 and thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 3 (Senate Bill 311).

3. **Required by State** **Not required by State.**

General Liability coverage, insuring against claims for bodily injury, death and property damage. Coverage must include contractual liability coverage for the indemnity provided under this Lease. **The commercial general liability insurance coverages required under this Lease must include the State of Oregon, and its agencies, departments, divisions, commissions, branches, officers, employees, and agents as additional insureds. See Number 9 below.**

Lessee shall provide proof of liability or commercial general liability insurance in not less than the following amounts:

Bodily Injury/Death:

- \$1,000,000.00 combined single limit per occurrence
 \$2,000,000.00 aggregate limit for all claims per occurrence

or

- Amounts not less than the amounts listed in the following schedule:

Per occurrence limit for any single claimant:

From commencement of the Lease term to June 30, 2014: \$1,900,000.
July 1, 2014 to June 30, 2015: \$2,000,000.
July 1, 2015 and thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 3 (Senate Bill 311).

Per occurrence limit for multiple claimants:

From commencement of the Lease term to June 30, 2014: \$3,800,000.
July 1, 2014 to June 30, 2015: \$4,000,000.
July 1, 2015 and thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 3 (Senate Bill 311).

Property Damage:

- \$100,000.00

or

- Amounts not less than the amounts listed in the following schedule:

Per occurrence limit for any single claimant:

From commencement of the Contract term to June 30, 2014: \$106,700.
From July 1, 2013, and every year thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 5 (Senate Bill 311).

Per occurrence limit for multiple claimants:

From commencement of the Contract term to June 30, 2014: \$533,400.
From July 1, 2013, and every year thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 5 (Senate Bill 311).

4. Required by State Not required by State.

Automobile Liability coverage, insuring against claims for bodily injury and property damage, including coverage for owned, hired or non owned vehicles, as applicable. **The automobile liability insurance coverages required under this Lease must include the State of Oregon, and its agencies, departments, divisions, commissions, branches, officers, employees, and agents as additional insureds. See Number 9 below.** Lessee shall provide proof of insurance of not less than the following amounts:

Bodily Injury/Death:

- \$_____ combined single limit per occurrence
 \$_____ aggregate limit for all claims per occurrence

or

- Amounts not less than the amounts listed in the following schedule:

Per occurrence limit for any single claimant:

From commencement of the Lease term to June 30, 2014:	\$1,900,000.
July 1, 2014 to June 30, 2015:	\$2,000,000.
July 1, 2015 and thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 3 (Senate Bill 311).	

Per occurrence limit for multiple claimants:

From commencement of the Lease term to June 30, 2014:	\$3,800,000.
July 1, 2014 to June 30, 2015:	\$4,000,000.
July 1, 2015 and thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 3 (Senate Bill 311).	

Property Damage:

- \$_____

or

- Amounts not less than the amounts listed in the following schedule:

Per occurrence limit for any single claimant:

From commencement of the Contract term to June 30, 2014:	\$106,700.
From July 1, 2013, and every year thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 5 (Senate Bill 311).	

Per occurrence limit for multiple claimants:

From commencement of the Contract term to June 30, 2014:	\$533,400.
From July 1, 2013, and every year thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 5 (Senate Bill 311).	

5. Required by State Not required by State.
Marine Protection and Indemnity Coverage. Lessee shall obtain, at Lessee's expense, and keep in effect during the term of the Lease, marine protection and indemnity coverage. Shall not be less than \$_____.
6. Required by State Not required by State.
Pollution Liability: Lessee shall obtain at Lessee's expense, and shall keep in effect during the term of the Lease, pollution liability insurance covering Lessee's liability for bodily injury, property damage and environmental damage resulting from sudden accidental and gradual pollution and related cleanup costs incurred by Lessee, all arising out of Lessee's lease of the Leasehold. Shall not be less than \$_____.
7. **"Tail" Coverage.** If any of the required liability insurance is on a "claims made" basis, Lessee shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of this Lease, for a minimum of 24 months following the termination or expiration of the Lease.
8. **Certificates of Insurance.** As evidence of the insurance coverages required by this Lease, the Lessee shall furnish acceptable insurance certificates to State prior to commencing any work to be performed under the Lease. The certificate must specify all of the parties who are additional insureds. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to State. Lessee shall pay for all deductibles, self insured retention and self insurance.
9. **Additional Insured.** The commercial general liability and automobile liability insurance coverages required under this Lease must include the State of Oregon, and its agencies, departments, divisions, commissions, branches, officers, employees, and agents as additional insureds but only with respect to Lessee's activities to be performed under this Lease. Coverage shall be primary and non contributory with any other insurance and self insurance.