

LEASE AMENDMENT

This Amendment, entered into this _____ day of _____, 2018, between the Town of Rockport, by and through its Board of Selectmen (“Town”), and _____ (“Tenant”), amends certain provisions of the 2014 Lease between the Town and Tenant for certain land located at Long Beach, as follows:

1. Section 2.6 of the 2014 Lease will be superseded by the following language:

Lot Lines/Use By Others. Tenant acknowledges that the lot lines of the Land as shown on the Assessors Map or other maps or plans may not accurately reflect the location of the existing Improvements, and that buildings, structures, objects, utilities, driveways, and/or landscaping of abutters existing as of the date of this Lease may encroach into the Premises. Tenant agrees not to disturb, remove, harm or otherwise adversely affect such encroachments or interfere with the rights of others to use, occupy, maintain, repair, restore and/or replace the same. Tenant further acknowledges that abutters and other residents of Long Beach may use portions of the Land for pedestrian access to their respective lots and/or to other parts of Long Beach, and agrees not to disturb, hinder, or otherwise interfere with such access rights. Tenant further acknowledges that members of the public may cross the leased land for pedestrian access only to and from the beach when tenants are not occupying the premises between December 1 and March 31.

2. The last sentence of Section 4.2 of the 2014 Lease will be superseded by the following language:

Base Rent may be paid in two equal installments, the first on or before January 31 of the Lease Year and the second on or before May 31 of the Lease Year. Alternatively, Base Rent may be paid in full in a single installment on or before January 31 of the Lease Year.

3. The following provision will be added as Section 12.18 to the 2014 Lease:

Right of First Refusal

Tenant shall have a right of first refusal subject to the following terms and conditions:

In the event that the Town elects to sell the Land being leased herein without first having received an offer to purchase from a third-party, the Town shall so notify the Tenant and the Town and the Tenant shall have thirty days, or such longer period as both parties may agree upon, in which to attempt to agree upon terms of purchase and sale. Neither the Tenant nor the Town shall have any recourse or remedy in the event that the Town and the Tenant fail to reach an agreement; provided, however, all of the other rights and obligations contained in this Paragraph 12.18 shall remain in full force and effect.

In the event that the Town receives a bona fide third-party offer to purchase the Land, the Town shall provide Tenant with written notice of such offer and a copy of the offer, sent by certified mail, return receipt requested, and Tenant shall have a period of thirty (30) days from the date of such notice to exercise its right of first refusal by giving written notice to the Town that the Tenant agrees to purchase the Land on the same terms and conditions as set forth in the third-party offer.

The third-party's offer shall be in writing, signed, and shall include the name and address of the prospective purchaser, the purchase price offered, and all other terms and conditions of the sale.

The Tenant's written notice of agreement to purchase shall be accompanied by a deposit equal to the deposit paid or to be paid, or both, by the third-party purchaser under its offer. Any deposit shall be applied to the purchase at the time of closing and, in the event that Tenant does not purchase the property, the deposit paid by Tenant shall be disbursed in accordance with the deposit provisions set forth in the third-party offer.

If Tenant exercises the right of first refusal, it shall purchase the Land within sixty (60) days after notice of its agreement to purchase is received by the Town, or such longer period of time as the parties may agree to in writing. Upon the recording of the deed to the property, the Lease and all of the parties' future obligations thereunder shall automatically terminate.

If Tenant elects not to exercise its right of first refusal or, having exercised it, fails to complete the purchase in accordance with the terms of the third-party offer, the Town will be free to sell the Land to the third party, provided that no term of such sale transacts more favorably to the purchaser than any term presented in the third-party offer. The Town shall notify Tenant, in writing, of its election to sell the property at least ninety (90) days prior to the date of closing. This notification may be made at the same time as the notification of the offer, referred to above, and is meant to be consistent with, and not in addition to, the 90-day notification period provided in Section 3.2 of the 2014 Lease. The Lease and any tenancy thereby created shall cease upon the closing of the sale.

In the event that the Town elects to sell all of the property it owns at Long Beach as a whole without first having received an offer to purchase same from a third-party, the Town shall so notify all Tenants and any Tenant or group of Tenants shall have thirty days, or such longer period as all parties may agree upon, in which to attempt to agree upon terms of purchase and sale. Neither the Tenant(s) nor the Town shall have any recourse or remedy in the event that the Town and the Tenant(s) fail to reach an agreement; provided,

however, all of the other rights and obligations contained in this Paragraph 12.18 shall remain in full force and effect.

In the event that the Town receives a bona fide third-party offer to purchase all of said property, the Town shall provide all of the Tenants with simultaneous written notice of such offer, and a copy of the offer, sent by certified mail, return receipt requested. Any Tenant or group of Tenants shall have a period of ninety (90) days from the date of such notice to exercise this right of first refusal, by giving written notice to the Town of its agreement to purchase all of said property for the same price and on the same terms and conditions as set forth in the third-party offer. Should more than one Tenant or group of Tenants wish to exercise the right of first refusal, then the Town will accept the first qualifying notice the Town receives in writing and the right of first refusal of all others will be deemed null and void. All provisions of this section applying to a sale of the Land only shall apply to the right of first refusal process for the sale of the Long Beach property as a whole except as to any such provisions which are inconsistent with provisions for the sale of the whole and as to those provisions the provisions for the sale of the whole shall control.

Nothing in this provision shall obligate the Town to offer any property in Long Beach for sale, at any time, and any decision by the Town to offer all or any portion of its property for sale shall be contingent upon legislative authority or some other form of relief as may be necessary to sell such property and to exempt the Town from the provisions of G.L. c. 30B. In the event that the Town elects to sell the Land or the whole of the property at Long Beach, the Town shall use best efforts to obtain such legislative authority or other relief as may be appropriate.

IN WITNESS WHEREOF, this Amendment is executed by the parties hereto, under seal.

TOWN OF ROCKPORT

TENANT:

By its Board of Selectmen

Sarah J. Wilkinson, Chair

Name:

Donald J. Campbell, Jr., Vice-Chair

Name:

Paul F. Murphy

Denise Donnelly

Ruth C. George