



2018-012141

Klamath County, Oregon

10/03/2018 02:35:00 PM

Fee: \$132.00

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO:

Klamathhoof, LLC
P O Box 1800
Corvallis, OR 97339

All tax statements shall be sent to the following address:

Klamathhoof, LLC
P O Box 1800
Corvallis, OR 97339

(Space above for Recorder's Use)

Assessor's Parcel Number: R526087

**ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT
AND LANDLORD'S CONSENT TO ASSIGNMENT**

This ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT (this "Assignment") is made as of this 26th day of September 2018 ("Assignment Date"), by and among HH PROPERTY NORTH, LLC (f/k/a HAGGEN PROPERTY NORTH, LLC), a Delaware limited liability company ("Assignor"), and KLAMATHHOOF, LLC, an Oregon limited liability company ("Assignee").

A. JEFFERSON SQUARE OF KLAMATH, L.L.C., an Oregon limited liability company, as lessor ("Lessor"), and Assignor, as lessee, under various assignments are parties to that certain Ground Lease dated February 16, 2000 (the "Lease"), regarding certain premises located at 2848 South 6th Street, Klamath Falls, Oregon, legally described on the attached Exhibit A (the "Property"), such Lease originally dated June 28, 1979 for which a Memorandum of Lease was recorded on September 27, 1979 in Volume M79, Page 22862 of the records of Klamath County, Oregon (the "Original Lease"), which Original Lease was made by and between Frederick Ehlers and Helen Ehlers, as landlord ("Original Landlord"), and Payless Drug Stores Northwest, as tenant (the "Original Tenant"), and which Original Lease was terminated pursuant to the terms of the Lease by Lessor, as successor-in-interest to Original Landlord, and Safeway, Inc., as successor-in-interest to Original Tenant, and replaced and restated by the Lease, for which a Shopping Center Lease (Short Form) was recorded on March 7, 2000 in Volume M00, Page 7302 of the records of Klamath County, Oregon, and which Lease was assigned to Assignor pursuant to Assignment and Assumption of Lease made as of the 29th day of April, 2015 between Safeway Inc., a Delaware corporation, and Assignor recorded on May 1, 2015 in Volume 2015-004180 of the records of Klamath County, Oregon.

B. Pursuant to that certain Purchase and Sale Agreement dated as of August 15, 2018, by and between Assignor and Heslin Holdings, Inc., a Florida corporation ("**Heslin**") and to that certain Assignment of Purchase and Sale Agreement between Heslin and Assignee dated the 21st day of September, 2018 (hereinafter together referred to as the "**Sale Agreement**"), Assignor desires to assign all its right, title and interest in the Lease to Assignee, and Assignee desires to assume all rights and obligations of Assignor under the Lease which relate to or arise on or after the Assignment Date, pursuant to the provisions of this Assignment.

C. Unless otherwise defined herein, capitalized terms as used herein shall have the same meanings as given thereto in the Lease.

NOW, THEREFORE, in consideration of the sum of \$10.00 and other good and valuable consideration, the receipt and sufficiency of which Lessor, Assignor and Assignee hereby acknowledge, Lessor, Assignor and Assignee hereby agree as follows:

AGREEMENT

1. **Recitals.** The foregoing Recitals are incorporated herein by reference.
2. **Assignment of Lease.** Assignor hereby transfers, assigns and conveys to Assignee, and Assignee's successors and assigns, all of Assignor's right, title and interest in, to and under the Lease except with respect to any of Assignor's duties or obligations which relate to, or arose prior to, the Assignment Date (collectively, the "**Assigned Interests**").
3. **Assumption of Lease.** Assignee hereby accepts the assignment of the Assigned Interests and agrees to perform, observe, keep and comply with all the terms, covenants, conditions, provisions and agreements contained in the Lease on the part of the lessee therein to be performed, observed, kept and complied with to the extent relating to, or first arising, on or after the Assignment Date. Assignee hereby indemnifies Assignor with respect to any loss, cost or damage suffered by Assignor in connection with any matter arising under the Lease from and after the Assignment Date.
4. **Assignor's Warranties and Indemnity.** Assignor hereby represents and warrants to Assignee that Assignor is lawfully seized of the lessee's interest under the Lease conveyed to it and that Assignor has good right and lawful authority to sell and convey the lessee's interest under the Lease. Assignor hereby warrants the title to the lessee's interest under the Lease that it received, and agrees to defend Assignee and the lessee's interest under the Lease against the lawful claims of all persons whomsoever claiming by, through or under Assignor.
5. **Miscellaneous.** This Assignment shall be binding on and inure to the benefit of Lessor, Assignor, Assignee and their respective successors and assigns. This Assignment may be executed in counterparts which, when taken together, shall constitute one and the same instrument. For purposes of the execution of this Assignment, facsimile or electronic signatures shall be deemed originals. In the event a dispute arises concerning this Assignment, the prevailing party in such dispute shall be entitled to receive from the other party any and all costs and expenses incurred by the prevailing party in enforcing or establishing its rights hereunder, including, without limitation, court costs and reasonable attorneys' fees. This Assignment shall be governed by, and construed under, the laws of the state where the property that is the subject of the Lease is located. Each party represents that the person signing this Assignment on behalf of such party has full right and authority to execute this Assignment and that execution and delivery of this Assignment has been authorized by any required vote, consent or approval. No provision in this Assignment shall be deemed to enlarge, alter, waive, abrogate or amend the terms or

provisions of the Sale Agreement and, in the event of a conflict between this Assignment and the Sale Agreement, the parties agree that this Assignment shall control.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the date first written above.

ASSIGNOR:

**HH PROPERTY NORTH, LLC (f/k/a HAGGEN
PROPERTY NORTH, LLC),**
a Delaware limited liability company

By: [Signature]
Name: Michael Niegsch
Title: Authorized Signatory

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of Los Angeles)

On October 2nd 2018, before me Yelena Osadchaya Notary Public
(insert name of notary)

Notary Public, personally appeared Michael Niegsch, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

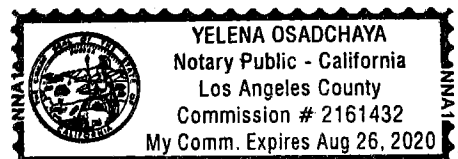
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

[Signature]

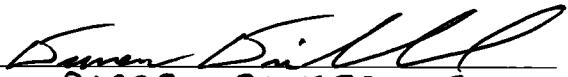
(Seal)



ASSIGNEE:

KLAMATHHOOF, LLC

an Oregon limited liability company

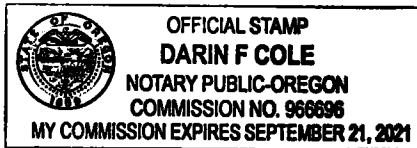
By: 
Name: DARREN DICKERHOOF
Title: MANAGER


ACKNOWLEDGMENT

STATE OF OREGON)
) ss.
County of BENTON)

I certify that **Darren Dickerhoof** appeared personally before me and that I know or have satisfactory evidence that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as **Manager** of **Klamathhoof LLC**, an Oregon limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 27th day of SEPTEMBER, 2018.




Notary Public for Oregon
My Commission Expires: SEPTEMBER 21, 2021

Landlord's Consent

Landlord hereby consents to the assignment of the Lease to Assignee as such assignment is evidenced by the Assignment and Assumption of Lease Agreement to which this consent is attached. No provision in this Consent shall be deemed to enlarge, alter, waive, abrogate or amend the terms of provisions of the Lease.

"Landlord"

JEFFERSON SQUARE OF KLAMATH, L.L.C.,
an Oregon limited liability company

By: Walter Scott

Name: Walter Scott

Title: Manager

ACKNOWLEDGMENT

STATE OF OREGON)
) ss.
County of _____)

I certify that _____ appeared personally before me and that I know or have satisfactory evidence that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as _____ of **Jefferson Square of Klamath, L.L.C.**, an Oregon limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this _____ day of _____, 2018.

Notary Public for Oregon
My Commission Expires: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

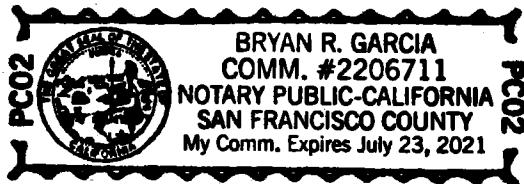
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
 County of San Francisco)
 On September 26, 2018 before me, Bryan R. Garcia, Notary Public,
Date Here Insert Name and Title of the Officer
 personally appeared Walter George Sepat Jr.
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____
 Document Date: _____ Number of Pages: _____
 Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
 Signer Is Representing: _____

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
 Signer Is Representing: _____

Exhibit A

LEGAL DESCRIPTION

PARCEL 1 OF LAND PARTITION NO. 48-05, BEING A REPLAT OF A PORTION OF LOTS 35 AND 44 OF ENTERPRISE TRACTS, LOCATED IN THE WEST 1/2 OF THE NW 1/4 OF SECTION 3, TOWNSHIP 39 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON.

LESS AND EXCEPT THAT PORTION DEEDED TO THE CITY OF KLAMATH FALLS AND ITS SUCCESSORS AND ASSIGNS ON JULY 15, 2008 IN 2008-10156, RECORDS OF KLAMATH COUNTY, OREGON.

TOGETHER WITH RECIPROCAL EASEMENT AND MAINTENANCE AGREEMENT AS DISCLOSED BY DOCUMENT RECORDED DECEMBER 8, 1995 IN VOLUME M95 PAGE 33582, RECORDS OF KLAMATH COUNTY, OREGON.