

LEASE AGREEMENT

THIS LEASE AGREEMENT, made and entered into this ____ of _____, 2016, by and between the CITY OF CLEARWATER, FLORIDA, a municipal corporation, hereinafter referred to as "Lessor", and, Steven M. Hasley, d/b/a RE/MAX Action First, 25 Causeway Boulevard, Clearwater, Florida 33767, hereinafter referred to as "Lessee."

WITNESSETH:

That in consideration of the covenants herein contained of the granting of this lease and the sums paid and to be paid hereunder, the Lessor hereby leases to the Lessee and the Lessee hereby leases from the Lessor according to the terms, conditions and covenants herein contained the following described premises in the City of Clearwater, Pinellas County, Florida, to wit:

See attached Exhibit "A."

THE PARTIES HERETO HEREBY COVENANT AND AGREE AS FOLLOWS:

1. This lease shall be for a five (5) year lease term, with the option to renew for an additional five (5) year term beginning June 1, 2016, and ending either May 31, 2021 or 2026 (if the option is exercised). The Lessor retains the right to terminate this lease for any municipal purpose consistent with the Lessor's charter, as well as failure to pay rent in a timely manner or change in use of the property. In addition, Lessor may terminate this lease if the State of Florida or any of its agencies or political subdivisions thereof acquires the demised property or any portion thereof for a public purpose. This right of termination is in addition to the right of termination set out in paragraph 14 of this Agreement. This lease shall supersede and replace any prior lease agreements for the same leasehold.

2. The Lessee hereby covenants and agrees to pay rental thereof as follows:

a. To pay the total sum of \$17,318.31 plus tax for the first year of this lease, which shall be paid in equal monthly payments of \$1,443.19 plus tax through May 31, 2016. Each monthly payment shall be due and payable on the first day of the month, and shall be delinquent if not paid on or before the fifth day of the month. Rental rates increase by 3% over the previous lease year rate on June 1st of each subsequent year of the lease.

b. Any amount due from Lessee to Lessor under this lease which is not paid before the day the payment becomes delinquent shall bear interest at the rate of fourteen (14%) percent per annum from

date due until paid, plus a late charge of Ten Dollars (\$10.00) to cover Lessor's expenses in collecting such delinquency.

c. The city currently holds \$1,638.75 from the Lessee as a deposit to secure the faithful performance of the Lessee's obligations hereunder. The Lessor may deduct from the deposit any amount, which might become due from the Lessee to the Lessor for damage to the premises or for any reason or cause whatsoever except rent. At the end of the term of this lease, the deposit amount or the balance thereof, if any, shall be credited to Lessee's last monthly rental payment, and any funds remaining will be refunded to the Lessee.

d. If there is a default in the payment of any installment of rent, Steven M. Hasley, being the proprietor of the business at the demised premises, understands Lessee is individually liable for and guarantees to pay the amount of such installment within 30 days after receipt of notice of default and demand for payment as provided for therein, and as further detailed in Exhibit C herein.

3. The demised premises shall be used only for the purpose of conducting therein the business of a real estate office.

4. The Lessee hereby covenants and agrees to make no unlawful, improper, or offensive use of the leased premises. Lessee further covenants and agrees not to assign, mortgage, pledge, hypothecate or sublet this lease or any of its right herein in whole or in part without the prior written consent of Lessor. The consent of Lessor to any assignment, mortgaging, pledging, hypothecating or subletting shall not constitute a waiver of the necessity for such consent to any subsequent assignment, mortgage, pledging, hypothecating or subletting. If this lease is assigned, or if the premises or any part thereof are sublet or occupied by anybody other than Lessee, Lessor may collect rent from the assignee, sub-tenant or occupant, and apply the net amount collected to the rent herein required, but no such occupancy or collection shall be deemed a waiver of this covenant, or the acceptance of the assignee, sub-tenant or occupant as tenant, or a release of Lessee from the further performance by Lessee of covenants on the part of Lessee herein contained. If at any time during the term of this lease, any part or all of the corporate shares of Lessee shall be transferred by sale, assignment, bequest, inheritance, operation of law or other disposition so as to result in a change in the present effective voting control of Lessee by the person, persons or entity which presently is the ultimate owner of a majority of such corporate shares on the date of this lease, Lessee shall promptly notify Lessor in writing of such change. If the new owner is a private or public corporation, Lessor shall promptly advise Lessee if it has any objections thereto and the reasons there for. Lessor may terminate this lease any time after such change in control by giving Lessee thirty (30) days prior written notice of such termination.

Lessee shall not permit any business to be operated in or from the premises by any concessionaire or Licensee.

5. Lessee agrees that it will promptly pay all ad valorem real property taxes and personal property taxes that may be assessed and filed against the demised property or the leasehold created by this agreement, or both, during the term of this lease. Lessee further agrees that it will pay any state sales tax due on the rental payment made by the Lessee to the Lessor and that it will pay all other taxes and fees, including, but not limited to, occupational license, and permits relating the operation of the business conducted on the demised premises, which are required by law. Nothing herein shall obligate Lessee to pay or to reimburse Lessor for the payment of assessments for permanent improvements, including but not limited to sidewalks, sewers, and streets, that would benefit the demised premises.

6. The Lessee hereby covenants and agrees to pay all bills for electrical service to the premises when due, which service shall be provided by Progress Energy Corporation, in accordance with the company's rates and billing. At no expense to the Lessee, the Lessor agrees to furnish a refuse disposal location and a refuse disposal container located outside the demised premises for the use of the Lessee.

7. The Lessee further covenants and agrees to operate the business authorized to be conducted on the premises on-going during the term of this lease, except for any period of time involved in natural disasters, including governmental orders or requirements such as evacuation for hurricane preparations, and any time necessary to repair or replace any damage caused to the demised premises by as natural disaster. Lessee shall notify Lessor of any time office is closed for vacation.

8. The Lessee assumes full responsibility for and covenants and agrees to save harmless and indemnify the Lessor from any and all liability for damage to property and injury to persons resulting from or in connection with the Lessee's use and occupancy of the demised premises under this lease. In addition, during the term of the lease, Lessee shall at Lessee's expense obtain and maintain insurance coverage conforming to the requirements in Exhibit "B" attached hereto. Nothing contained herein shall be construed as a waiver of any immunity from or limitation of liability the Lessor may be entitled to under the doctrine of sovereign immunity or section 768.28, Florida Statutes.

9. If at any time during the term of this lease, the building or premises or any part, system or component hereof (hereinafter, the "demised premises") shall be damaged or destroyed to the extent that the Lessee cannot operate the business authorized to be conducted thereon, and the Lessor determines that said demised premises can be restored by making appropriate repairs, the monthly rent as provided for in paragraph 2a above shall abate until the demised premises have been restored or until commencement of

business by the Lessee, whichever is sooner.

If the demised premises shall be totally destroyed or so damaged as to render it practically useless during the term of this lease, then and in that event, the Lessee or Lessor may terminate this lease as of the date of such damage or upon thirty (30) days written notice to the other party to this lease.

In the event of damage or destruction as enumerated above, and except as otherwise specifically provided under this agreement, both parties waive any and all rights of recovery against the other party for any direct or indirect loss occurring to the demised premises or as a result of damage or destruction of the demised premises.

In the case of demolition and reconstruction of the Marina or major renovation by construction, the Lessee shall be given the first opportunity to bid for similar space, provided that space for Lessee's type of business is allocated therein.

10. Except as otherwise provided herein, upon the happening of any one or more of the following events ("Events of Default"):

a. Lessee's default in the payment of any rental or other sums due for a period of five (5) days after the due date;

b. Lessee's continued default with respect to any other covenant of this lease for a period of fifteen (15) days after receipt of written notice of such default by Lessee from Lessor, provided that if such default reasonably requires more than fifteen (15) days to cure, there shall be no Event or Default if Lessee has commenced curative action with the fifteen (15) day period and diligently prosecutes such action to completion;

c. There shall be filed by or against Lessee in any court pursuant to any statute either of the United States or of any state, a petition in bankruptcy or insolvency or for reorganization or arrangement, or for the appointment of a receiver or trustee of all or a portion of Lessee's property, or if Lessee makes an assignment for the benefit of creditors or if there is an assignment by operation of law, or if Lessee makes application to Lessee's creditors to settle or compound or extend the time for payment of Lessee's obligations, or if execution, seizure or attachment shall be levied upon any of Lessee's; property or the premises are taken or occupied or attempted to be taken or occupied by someone other than Lessee; however, in the event of execution, seizure or attachment, Lessee may post a bond satisfactory to Lessor which bond shall stay the default resulting from any execution, levy, seizure or attachment for a period of 120 days. Failure to remove the levy, seizure or attachment within the 120 day period shall constitute an

Event or Default, and the bond posted shall be forfeited; or

d. Lessee's vacating or abandoning the premises for more than ten (10) days; then Lessor, at its option, may exercise any one or more of the following remedies which shall be cumulative;

(1) Terminate Lessee's right to possession under this lease and re-enter and take possession of the premises, and re-let or attempt to re-let the premises on behalf of Lessee; however, such re-letting or attempt to re-let shall only involve a prospective tenant capable of providing comparable or better type service, at such rent and under such terms and conditions as Lessor may deem best under the circumstances for the purpose of reducing Lessee's liability, and Lessor shall not be deemed to have thereby accepted a surrender of the premises, and Lessee shall remain liable for all rents and additional rents due under this lease and for all damages suffered by Lessor because of Lessee's breach of any of the covenants of this lease. Said damages shall include, but not be limited to, charges for removal and storage of Lessee's property, remodeling and repairs, leasing, commissions and legal fees. In addition to its remedies hereunder, Lessor may accelerate all fixed rentals due under this lease, in which event the Lessee shall be liable for all past due rent, accelerated rent and damages as described above; however, with respect to the accelerated rent, Lessor shall receive only the present value of such accelerated rent. At any time during repossession and re-letting pursuant to this subsection, Lessor may by delivering written notice to Lessee, elect to exercise its option under the following subparagraph to accept a surrender of the premises, terminate and cancel this lease, and retake possession and occupancy of the premise on behalf of Lessor.

(2) Declare this lease to be terminated, whereupon the term hereby granted and all rights, title and interest of Lessee in the premises shall end and Lessor may re-enter upon and take possession of the premises. Such termination shall be without prejudice to Lessor's right to collect from Lessee any rental or additional rental which has accrued prior to such termination together with all damages, including, but not limited to, the damages specified in subparagraph (1) of this paragraph which are suffered by Lessor because of Lessee's breach of any covenant under this lease.

(3) Exercise any and all rights and privileges that Lessor may have under the laws of the State of Florida and the United States of America.

11. The Lessee hereby covenants and agrees to keep and maintain the premises and fixtures located herein in good condition and repair during the term of this lease and any extension hereof, and to return the premises to the Lessor upon the expiration of the term hereof in as good condition as they now are, ordinary wear and tear and damage by the elements only excepted. No alteration or improvements may be made to the premises without the written consent of the Lessor. Any and all fixtures attached to the

premises shall revert absolutely and become the property of the Lessor upon the expiration of the term hereof; provided, however, that the Lessor at its option may require the Lessee to remove all fixtures, partitions, racks, shelves or other improvements from the premises upon the expiration of the term of the lease at the cost of the Lessee. Any damage to the premises occasioned by said removal shall be repaired at the Lessee's expense.

12. The Lessee, at its own cost, may place only window, wall or canopy signs on the demised premises, provided said signs are approved as to color, style and letter size by the Marine & Aviation Director of the Lessor, and additionally conform to the sign ordinance of Lessor presently in force or as may be amended from time to time during the term of the lease. No other signs shall be placed or maintained by the Lessee on the premises. Any nonconforming sign now on the premises shall be removed by the Lessee within 30 days of approval of the lease. The Lessee shall, upon expiration or termination of the lease, completely remove any and all signs that have been placed on the leased premises by the Lessee.

13. If at any time during the term of the lease the Lessee is authorized to make improvements to the demised premises, Lessee agrees in such event to indemnify and save harmless the Lessor as follows:

- a. For any mechanic's lien which may be asserted as a claim against the leased property; and
- b. For the faithful performance of the covenants contained in paragraph 11 above; and
- c. To obtain from the contractor a good and sufficient performance and payment bond signed by a reputable insurance company doing business in Florida, which bond shall be in an amount equal to one hundred (100%) percent of the cost of construction of the contemplated improvements to the demised premises, guaranteeing that the improvements will be completed and that subcontractors, laborers and materialmen will be paid in accordance with the contract for the improvements.

14. In the event of the acquisition of this property or any portion thereof by exercise of proper authority, by any governmental agency other than Lessor, whether by eminent domain or otherwise, it is understood and agreed that notification of the institution of such action shall be promptly given Lessee, so the Lessee may intervene in such action as a party. Lessee agrees to comply with the results of any such actions, and agrees to release and hold the Lessor harmless from any damages resulting thereof.

15. Lessor covenants and agrees that upon payment by Lessee of the rents herein provided, and upon observance and performance by Lessee of all the covenants, terms and conditions required of the Lessee by the lease, Lessee shall peaceably and quietly hold and enjoy the leased premises for the term of the lease without hindrance or interruption by Lessor. Lessor also covenants to construct a conference room in

the leasehold described herein in Exhibit D, and the Lessor retains sole discretion in determining costs and dimensions of constructing such conference room in the leasehold.

16. Notices hereunder shall be given only by registered or certified mail, and shall be deemed given when the letter is deposited in the mail, postage and other charges prepaid, addressed to the party for whom intended at such party's address first herein specified or to such other address as may be substituted by proper notice hereunder. Lessor's notices shall be directed in care of its Law Department at the above-cited address.

17. As required by Section 404.056(8), Florida Statutes, the Lessee shall take notice of the following:

RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

18. The undersigned shall personally guarantee to Lessor the timely performance of all covenants and provisions of this Lease Agreement, including, but not limited to the timely payment of all rent due hereunder.

19. This lease agreement constitutes the entire contract between Lessor and Lessee concerning the leasing of the premises and consideration thereof.

20. In the event either party seeks to enforce this agreement or interpret any provision thereof by law, or through attorneys at law, each party agrees to pay for its own attorney's fees and costs, and that jurisdiction shall be in a court of competent jurisdiction in Pinellas County, Florida.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this ____ day of _____, 2016 .

Countersigned:

CITY OF CLEARWATER, FLORIDA

George N. Cretekos, Mayor

By _____

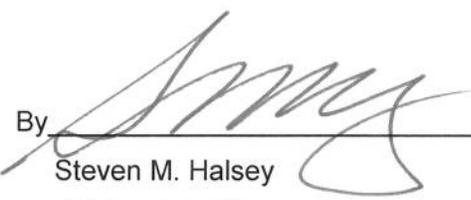
William B. Horne, II, City Manager

Approved as to form:

Attest:

Camilo Soto, Assistant City Attorney

Rosemarie Call, City Clerk

By  _____

Steven M. Halsey

D/B/A RE/MAX

Exhibit "A"

LEGAL DESCRIPTION

That certain portion of the first floor of the Clearwater Beach Marina Building depicted in Exhibit "D" attached hereto and by this reference made a part hereof, containing 1,321 square feet, more or less, of interior floor area, measured to the unfinished interior surfaces of its perimeter walls, which is a portion of:

Lot 11 and 12, City Park Sub according to the map or plat thereof as recorded in Plat Book 23, Page 37, of the public Records of Pinellas County, Florida

EXHIBIT "B"

INSURANCE REQUIREMENTS. The Lessee shall, at its own cost and expense, acquire and maintain during the term with the City, sufficient insurance to adequately protect the respective interest of the parties. Coverage shall be obtained with a carrier having an AM Best Rating of A-VII or better. In addition, the City has the right to review the Lessee's deductible or self-insured retention and to require that it be reduced or eliminated.

Specifically the Lessee must carry the following minimum types and amounts of insurance on an occurrence basis or in the case of coverage that cannot be obtained on an occurrence basis, then coverage can be obtained on a claims-made basis with a minimum three (3) year tail following the termination or expiration of this Agreement:

- a. **Commercial General Liability Insurance** coverage, including but not limited to, premises operations, products/completed operations, products liability, contractual liability, advertising injury, personal injury, death, and property damage in the minimum amount of \$1,000,000 (one million dollars) per occurrence and \$2,000,000 (two million dollars) general aggregate.
- b. **Commercial Automobile Liability Insurance** coverage for any owned, non-owned, hired or borrowed automobile is required in the minimum amount of \$1,000,000 (one million dollars) per occurrence and in the aggregate.
- c. Unless waived by the State of Florida, and proof of waiver is provided to the City, statutory **Workers' Compensation Insurance** coverage in accordance with the laws of the State of Florida, and **Employer's Liability Insurance** in the minimum amount of \$100,000 (one hundred thousand dollars) each employee each accident, \$100,000 (one hundred thousand dollars) each employee by disease and \$500,000 (five hundred thousand dollars) aggregate by disease with benefits afforded under the laws of the State of Florida. Coverage should include Voluntary Compensation, Jones Act, and U.S. Longshoremen's and Harbor Worker's Act coverage where applicable. Coverage must be applicable to employees, Lessees, sub-lessees, and volunteers, if any.
- d. **Legal Liquor Liability** coverage with minimum coverage of \$500,000 per occurrence if the Lessee is selling or providing alcoholic beverages during operations.

The above insurance limits may be achieved by a combination of primary and umbrella/excess liability policies.

Other Insurance Provisions.

- a. Prior to the execution of this Agreement, and then annually upon the anniversary date(s) of the insurance policy's renewal date(s) for as long as this Agreement remains in effect, the Lessee will furnish the City with a Certificate of Insurance(s) (using appropriate ACORD certificate, SIGNED by the Issuer, and with applicable endorsements) evidencing all of the coverage set forth above and naming the City as an "Additional Insured" on the Commercial General Liability, and the Commercial Automobile Liability Insurance policies. In addition when requested in writing from the City, Lessee will provide the City with certified copies of all applicable policies. The address where such certificates and certified policies shall be sent or delivered is as follows:

**City of Clearwater
Attn: Marine and Aviation Department
25 Causeway Blvd.
Clearwater, FL 33767**

- b. Lessee shall provide thirty (30) days written notice of any cancellation, non-renewal, termination, material change or reduction in coverage.
- c. Lessee's insurance as outlined above shall be primary and non-contributory coverage for Lessee's negligence.
- d. Lessee reserves the right to appoint legal counsel to provide for the Lessee's defense, for any and all claims that may arise related to Agreement, work performed under this Agreement, or to Lessee's design, equipment, or service. Lessee agrees that the City shall not be liable to reimburse Lessee for any legal fees, costs, or expenses as a result of Lessee providing its defense as contemplated herein.

The stipulated limits of coverage above shall not be construed as a limitation of any potential liability to the City, and failure to request evidence of this insurance shall not be construed as a waiver of Lessee's obligation to provide the insurance coverage specified.

Exhibit "C" N/A

GUARANTY OF PAYMENT OF RENT UNDER LEASE AGREEMENT

Guaranty is made this ____ day of _____, 2016, by Steven M. Hasley herein referred to as "Obligor" to CITY OF CLEARWATER, C/O City Attorney, P.O. Box 4748, Clearwater, Florida 33758, herein referred to as "Obligee".

RECITALS

1. Obligee has leased premises at 25 Causeway Blvd. to Obligor, whose business address is 25 Causeway Blvd., City of Clearwater, County of Pinellas, State of Florida, for use by Obligor in conducting its business of a convenience store.
2. Obligor understands that all signatories to this lease are jointly and severally liable for payment of rent, and in the unfortunate event of obligors' passing, the obligors' estate guarantees payment of the rent hereunder.

SECTION ONE

STATEMENT OF GUARANTY

If there is a default in the payment of any installment of rent, obligors shall pay the amount of such installment within 30 days after receipt of notice of default and demand for payment. Obligor's liability hereunder shall not be affected by reason of any extension of time for payment of any installment granted by obligee to obligor.

SECTION TWO

DURATION

This guaranty shall not be revoked during the three year term of the lease. Thereafter, if the lease is renewed on the same terms, this guaranty shall remain in force until receipt by obligee of written notice of revocation from guarantors, or until terminated pursuant to Section Three hereof. Renewal of the lease on different terms shall, at the option of the guarantors, operate to terminate this guaranty as of the end of the three year period.

SECTION THREE

LIMITATION OF LIABILITY

The maximum amount recoverable by obligee from guarantors pursuant to this guarantee is \$19,665.00 plus tax, which amount is equal to the total rent due during the first lease year of the lease. If the aggregate of payments made by guarantors hereunder reaches the above-mentioned amount, this guaranty shall terminate immediately.

SECTION FOUR

WAIVER OF NOTICE OF ACCEPTANCE

Notice of acceptance of this guaranty is expressly waived.

IN WITNESS WHEREOF, guarantors have executed this guaranty at Clearwater Beach Marina the day and year first above written.

N/A

Steven M. Hasley

Exhibit "D"

Diagram

