

**RESOLUTION NO. 2535**

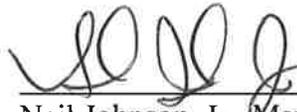
**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AUTHORIZING A LEASE AGREEMENT WITH BENNETT MUSIC STUDIOS, LLC FOR THE FORMER CITY HALL ANNEX BUILDING.**

**WHEREAS**, the City has been in the process of attempting to lease the old City Hall Annex, and

**WHEREAS**, the City through its agent has signed a Letter of Intent with Bennett Music Studios, LLC to lease the former City Hall Annex, subject to Council approval;

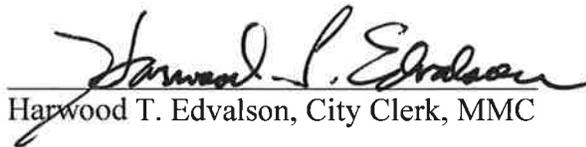
**NOW THEREFORE, BE IT RESOLVED**, that the City Council of the City of Bonney Lake, Washington, does hereby authorize the Mayor to sign the attached lease agreement with Bennett Music Studios, LLC to lease the former City Hall Annex building.

**PASSED BY THE CITY COUNCIL this 24<sup>th</sup> day of May, 2016.**



Neil Johnson, Jr., Mayor

AUTHENTICATED:



Harwood T. Edvalson, City Clerk, MMC

APPROVED AS TO FORM:



Kathleen Haggard, City Attorney

## LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is made and entered as of this 24<sup>th</sup> day of May, 2016 by and between the City of Bonney Lake ("Lessor"), and Bennett Music Studios, LLC, DBA Cappella Performing Arts Academy ("Lessee").

FOR AND IN CONSIDERATION of the rents herein reserved and in further consideration of the mutual promises, terms and conditions hereof, the parties hereby agree as follows:

### 1.0 PREMISES

Lessor leases to Lessee the building located at 8720 Main Street E, Bonney Lake, Washington (the "Premises"), said building consisting of approximately 2009 usable square feet. A legal description of the property is attached as Exhibit A. A sketch of the Premises is attached as Exhibit B.

### 2.0 BUSINESS PURPOSES

The Premises are to be used for the purpose of music office and studio space for the Lessee, and for no other business or purpose without the written consent of Lessor.

### 3.0 TERM

The term of this Lease shall be five years, commencing on June 1, 2016 (the "Commencement Date"), and terminating at midnight on August 31, 2021. Payment of Rent according to paragraph 4.1 of this Lease shall commence on September 1, 2016. Thereafter, Lessee and Lessor shall have the mutual option to renew for one (1) five (5) year period following the initial lease term. The Lessor shall not unreasonably withhold approval of the renewal. Lessee shall provide written notice to the Lessor of its desire to renew at least six months prior to the renewal date. The rent for the second renewal period shall be subject to negotiations.

#### 4.0 RENT

- 4.1 Lessee agrees to pay Lessor as rental for the Premises three thousand four hundred and fifty dollars (\$3,450.00) per month plus escalations as provided herein. Payment shall be due and payable on or before the first day of the month to Lessor at Lessor's office, or at such other place as Lessor may hereafter designate. Rent shall be based on a gross lease basis. Lessee shall pay a security deposit equal to the first month's rent due at lease execution. Lessee shall pay the first month's lease payment at lease execution. Rent shall be increased for each year of the lease by the change in the Seattle-Tacoma-Bremerton CPI-U or 2%, whichever is greater. Daniel and Brittany Bennett (aka Bennett Music Studios, LLC) shall provide a written guarantee for payment of the rent in a form acceptable to the parties.

#### 5.0 UTILITIES AND SERVICES

- 5.1 During the term of this Lease, Lessor shall furnish to the Premises and pay for water, sewer, and stormwater service.
- 5.2 Lessee shall open and maintain accounts for electricity, gas, telecommunications, and solid waste service in its own name. Lessee shall pay all utility charges in a timely manner and keep all accounts in good standing. Lessee shall properly dispose and arrange for the weekly collection of all solid waste and recycling generated from the Premises.
- 5.2 Lessor does not warrant that utilities or services will be free from interruption by reason of accident, repairs, alterations, Acts of God, improvements or action by third parties beyond its control. No utility interruption shall be deemed an eviction or disturbance of Lessee, or render Lessor liable to Lessee for damages or rent abatement, or relieve Lessee from the full and complete performance of Lessee's obligations under this Lease, provided however that, if such interruption is for a period in excess of five (5) days and is due to the negligence on the part of Lessor, Lessee shall be entitled to a proportionate rent abatement for such period in excess of five (5) days.

#### 6.0 CARE AND REPAIR OF PREMISES

- 6.1 Lessor shall maintain the exterior, grounds and landscaping, structural, major mechanical, and utility systems of the buildings including, but not limited to, roofs, central heating supply and ventilation systems, electrical distribution systems (panels and associated wiring and raceway between the panel and the main switch gear), water, plumbing and sewer systems from the street to the building, in good and proper repair, and in accordance with all applicable statutes, and directions or regulations of the proper public authorities. Lessor shall maintain and repair interior plumbing, except that Lessee shall keep all lavatories, sinks, and toilets in good order and repair.

- 6.2 Lessee shall furnish custodial services to the Leased Premises on the Lessee's regular schedule and according to the Lessee's custodial standards, including exterior and interior window washing, restroom cleaning and supply restocking, light bulb replacement, and general cleaning of surfaces and floors.
- 6.3 During the term of this Lease and any extension thereof, Lessee shall exercise reasonable care to avoid damaging the Premises. Lessee will quit the Premises in a condition at least as good as when received, normal wear and tear excepted. In the event Lessee fails to repair any damage caused by its employees or agents, Lessor shall give Lessee notice to do such acts as are reasonably required to so maintain the Premises and/or repair damage. In the event Lessee fails to commence such work within ten (10) business days of notice and to diligently prosecute it to completion, then Lessor shall have the right, at its option and in addition to all other remedies, to do such acts and expend such funds to maintain the Premises and to invoice Lessee for costs incurred. Lessor shall have no liability to Lessee for any damage, inconvenience or interference with the use of the Premises by Lessee as a result of performing any such work.
- 6.4 No representation as to the condition or the repair of the Premises or any attachments thereto have been expressed by the Lessor, Lessee having made its own inspection and having accepted the Premises in their present condition.

#### 7.0 WAIVER OF SUBROGATION

Lessor and Lessee do each herewith and hereby release and relieve the other from responsibility for, and waive their entire claim of recovery for, any loss or damage to the real or personal property of either located anywhere in the Premises, arising out of or incident to the occurrence of any of the perils which are covered by any insurance policy obtained by Lessee or Lessor. Each party shall obtain any special endorsements, if required by its insurer, to evidence compliance with the aforementioned waiver.

#### 8.0 LIABILITY AND PROPERTY INSURANCE

##### A. Insurance Term

The Lessee shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Lessee's operation and use of the leased Premises.

##### B. No Limitation

Lessee's maintenance of insurance as required by the agreement shall not be construed to limit the liability of the Lessee to the coverage provided by such insurance, or otherwise limit the Lessor's recourse to any remedy available at law or in equity.

##### C. Minimum Scope of Insurance

Lessee shall obtain insurance of the types and coverage described below:

1. Commercial General Liability insurance shall be at least as broad as Insurance Services Office (ISO) occurrence form CG 00 01 and shall cover premises and contractual liability. The Lessor shall be named as additional insured on Lessee's Commercial General Liability insurance policy using ISO Additional Insured-Managers or Lessors of Premises Form CG 20 11 or a substitute endorsement providing at least as broad coverage.
2. Property insurance shall be written on an all risk basis.

D. Minimum Amounts of Insurance

Lessee shall maintain the following insurance limits:

1. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
2. Property insurance shall be written covering the full value of Lessee's property and improvements with no coinsurance provisions.

E. Other Insurance Provisions

The Lessee's Commercial General Liability insurance policy or policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the Lessor. Any Insurance, self-insurance, or self-insured pool coverage maintained by the Lessor shall be excess of the Lessee's insurance and shall not contribute with it.

F. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.

G. Verification of Coverage

Lessee shall furnish the Lessor with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Lessee.

H. Waiver of Subrogation

Lessee and Lessor hereby release and discharge each other from all claims, losses and liabilities arising from or caused by any hazard covered by property insurance on or in connection with the premises or said building. This release shall apply only to the extent that such claim, loss or liability is covered by insurance.

I. Lessor's Property Insurance

Lessor shall purchase and maintain during the term of the lease all-risk property insurance covering the Building for its full replacement value without any coinsurance provisions.

J. Notice of Cancellation

The Lessee shall provide the Lessor with written notice of any policy cancellation within two business days of their receipt of such notice.

K. Failure to Maintain Insurance

Failure on the part of the Lessee to maintain the insurance as required shall constitute a material breach of lease, upon which the Lessor may, after giving five business days notice to the Lessee to correct the breach, terminate the Lease or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the Lessor on demand.

L. Lessor Full Availability of Lessee Limits

If the Lessee maintains higher insurance limits than the minimums shown above, the Lessor shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Lessee, irrespective of whether such limits maintained by the Lessee are greater than those required by this contract or whether any certificate of insurance furnished to the Lessor evidences limits of liability lower than those maintained by the Lessee.

Lessor will maintain fire insurance on the building but not on the contents owned by Lessee. Insurance of the contents owned or used by Lessee shall be the sole responsibility of Lessee.

9.0 ALTERATIONS OR IMPROVEMENTS

- 9.1 Prior to July 1, 2016, Lessor shall repair, replace or repaint exterior doors where rust is showing, and remove unused items attached to the side of the building. Lessor will also replace the window with the blown seal.
- 9.2 Lessee shall receive from Lessor a tenant improvement allowance of up to forty thousand one hundred and eighty dollars (\$40,180) for Lessee's work as described in paragraph 9.6 below. Lessee shall be reimbursed the allowance within 10 days following completion of the work and submission of receipts to Lessor.
- 9.3 Lessee shall be responsible for installation of all tenant improvement work including planning and design, construction contracting and build-out, and permit issuance by Lessee's contractor. Lessor reserves the right to approve the Lessee's contractor(s), but shall not unreasonably withhold approval.
- 9.4 Lessee shall not make further alterations, additions, renovations or improvements in or to the Premises without first obtaining the written consent of Lessor. All alterations, additions, renovations and improvements which shall be made shall be at the sole cost and expense of Lessee.
- 9.5 Lessee further agrees to indemnify and hold Lessor and the Premises free and harmless from, and against, any and all damages, injuries, losses, liens, cost or expenses (including attorneys' fees) incurred, claimed or arising out of said work performed in accordance with this Section.

9.6 Tenant Improvements may include: Reconfigure the space by relocating, adding and removing walls – the intent being to retain as many existing walls as possible to mitigate expenses; relocate doors, electrical and HVAC vents as required; install new carpet; interior painting; repaint exterior (Lessor to approve paint color prior to painting); remove “popcorn” from ceilings; extend HVAC to front two (2) rooms; relocate kitchen per approved floor plan; install signs (must meet sign code); install/relocate lighting; make other improvements to accommodate the redesign necessary to meet the needs of a music studio.

#### 10.0 DAMAGE OR DESTRUCTION

In the event that any of the buildings on the Premises are substantially or wholly destroyed or damaged by fire, earthquake, or other casualty, it shall be optional with Lessor to repair or rebuild the same, and in the meantime the rent shall be abated in the same proportion as the untenable portion of the Premises bears to the whole Premises. Unless Lessor within sixty (60) days after the happening of any such damage or casualty shall notify Lessee of its election to restore said Premises or Building, this Lease shall thereupon terminate. If Lessor or Lessee does not terminate this Lease, it shall remain in full force and effect. Lessor shall not be required to repair or restore any damage or injury nor replace any equipment, inventory, fixtures or other personal property of Lessee or others located on the Premises. Any proceeds payable to Lessor from insurance policies carried by Lessor and covering the Premises or the Building shall be the sole and exclusive property of Lessor.

#### 11.0 ACCIDENTS AND INDEMNIFICATION

11.1 Lessee shall defend, indemnify and hold harmless the Lessor from and against any and all suits, actions, damages, claims, liability, and expense in connection with loss of life, bodily or personal injury, or property damage arising from or out of any occurrence in, upon, at or from the Premises, or the occupancy or use by Lessee of the Premises or any part thereof, or occasioned wholly or in part by any act or omission of the Lessee, its agents, contractors, employees, servants, invitees, licensees, or concessionaires. The foregoing indemnity shall apply only to the extent that any matter with respect to which indemnity is sought is not caused by the negligence or willful misconduct of the Lessor or its employees or agents.

11.2 Lessor shall not be responsible or liable at any time for any loss or damage to Lessee’s personal property or to Lessee’s business, including any loss or damage to either the person or property of Lessee that may be occasioned by or through the acts or omissions of persons occupying adjacent, connecting, or adjoining space. Lessee shall store its property in and shall use and enjoy the Premises and all other portions of the Building and improvements at its own risk, and hereby releases Lessor, to the full extent permitted by law, from all claims of every kind resulting in loss of life, personal or bodily injury, or property damage, except as otherwise set forth in this Lease.

12.0 COMPLIANCE WITH LAWS

Lessor and Lessee shall comply fully with all federal and state statutes and city ordinances now or hereafter in force in respect to the Premises and Lessee's activities therein. Lessee warrants and represents to Lessor that Lessee shall use the Premises only for lawful purposes.

13.0 ACCESS

Lessor shall have the right to inspect the Premises at all reasonable times and enter the same for purposes of cleaning, repairing, altering, improving the Premises. Any access directly related to Lessor's maintenance obligations, or any emergent situations requiring immediate access, Lessor shall provide a minimum twenty-four (24) hours notice prior to any inspection of the premises. Lessor's access to the Premises under this section shall not unreasonably disturb Lessee. Lessee shall provide Lessor with keys and security codes needed to access the building. Lessor shall have the right to show the Premises to prospective Lessees and to maintain "For Rent" signs in a conspicuous place on or about the Premises three months prior to the expiration of the term of this Lease.

14.0 SIGNS OR ADVERTISING

Lessee may place signage on the premises and on the building façade/canopy subject to Lessor's approval, which approval shall not unreasonably withheld. Any proposed signage must be in compliance with the Bonney Lake Municipal Sign Code and otherwise subject to Lessee's sole satisfaction on size, location, fabrication and design. All signage must be maintained so that it is readable and in a good state of repair. Lessee will remove signage specific to Lessee's name or business at the termination of the tenancy herein created and repair any damage or injury to the Premises or the Building caused thereby.

15.0 WASTE AND UNLAWFUL USE

Lessor and Lessee will not commit or suffer any waste upon the Premises, nor shall Lessor or Lessee disturb the quiet enjoyment of any other occupants of the Building by making or suffering any nuisance, undue or unseemly noise, or otherwise, and will not do or permit to be done in or about the Premises anything which is illegal or unlawful, or which will be dangerous to life or limb, or which will increase any insurance rate upon the Premises or the Building.

16.0 SUCCESSORS

All the covenants, agreements, terms and conditions contained in this Lease shall apply to and be binding upon Lessor and Lessee and their respective heirs, executors, administrators, successors, marital communities and assigns. Any assignment or subletting of the Premises or any interest in this Lease shall not relieve Lessee of primary responsibility for the performance of the terms and payment of the sums to be performed or paid by Lessee hereunder, unless otherwise agreed by Lessor.

17.0 TAXES

Lessee shall pay before delinquency any and all taxes, assessments, license fees and public charges levied, assessed or imposed and which shall become payable during the term of this Lease upon Lessee's fixtures, furniture and personal property installed or located in the Premises.

Lessor shall be responsible for remitting the leasehold excise tax out of the Rent collected.

18.0 COSTS AND ATTORNEYS' FEES

If, by reason of any default or breach hereunder by Lessor or by Lessee, it becomes necessary to institute suit, the substantially prevailing party in such suit shall be entitled to recover, as part of any judgment, such amount as the court shall determine reasonable as attorneys' fees for the prevailing party in such suit, together with taxable costs.

19.0 NONWAIVER OF BREACH

The failure of Lessor to insist upon strict performance of any of the covenants and agreements of this Lease or to exercise any option herein conferred in any one or more instances shall not be construed to be a waiver or relinquishment of any such or of any other covenant or agreement, but the same shall be and remain in full force and effect.

20.0 REMOVAL OF PROPERTY

In the event of any entry in, or taking possession of, the Premises upon the termination of this Lease, Lessor shall have the right, but not the obligation, to remove from the Premises all personal property located therein, and may store the same in any place selected by Lessor, including but not limited to a public warehouse, at the expense and risk of the owners thereof, with the right to sell such stored property, without notice to Lessee, after it has been stored for a period of thirty (30) days or more. The proceeds of such sale shall be applied first to the cost of such sale, second to the payment of the charges for storage, if any, and third to the payment of any other sums of money which may then be due from Lessee to Lessor under any of the terms hereof, with the balance, if any, to be paid to Lessee.

## 21.0 ASSIGNMENT

- 21.1 Lessee shall not transfer, assign, mortgage, or hypothecate this Lease, in whole or in part, or permit the use of the Premises by any person or persons other than Lessee, or sublet the Premises, or any part thereof, without the prior written consent of Lessor in each instance. Such prohibition against assigning or subletting shall include any assignment or subletting by operation of law. Any transfer of this Lease from the Lessee by merger, consolidation, or transfer of assets shall constitute an assignment for purposes of this Lease.
- 21.2 Any assignment or subletting without Lessor's consent shall be void, and shall constitute a default hereunder which, at the option of Lessor, shall result in the termination of this Lease or exercise of Lessor's other remedies hereunder. Consent to any assignment or subletting shall not operate as a waiver of the necessity for consent to any subsequent assignment or subletting, and the terms of such consent shall be binding upon any person holding by, under, or through Lessee.
- 21.3 If this Lease is assigned or if the Premises or any portion thereof are sublet or occupied by any person other than Lessee, Lessor may collect rent and other charges from such assignee or other party and apply the amount collected to the rent and other charges reserved hereunder, but such collection shall not constitute consent or waiver of the necessity of consent to such assignment, subleasing, or other transfer, nor shall such collection constitute the recognition of such assignee, sublessee, or other party as Lessee hereunder or a release of Lessee from the further performance of all of the covenants and obligations of Lessee herein contained.

## 22.0 NOTICES

All notices, statements, demands, requests, consents, approvals, authorization, offers, agreements, appointments, or designations under this Lease by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if sent by certified mail, return receipt requested, postage prepaid, and addressed as follows:

To Lessee, addressed to Lessee at the Premises, and also to Daniel and Brittany Bennett, 7228 Rebecca Ave SE, Auburn, WA 98092.

To Lessor, addressed to Lessor at the City of Bonney Lake Justice and Municipal Center, 9002 Main St E, Bonney Lake, WA, 98391, or to such other place as Lessor may from time to time designate by notice to Lessee.

Except where applicable law requires delivery through other methods, notices shall also be deemed sufficiently given if sent by e-mail or facsimile and placed in the U.S. Mail, first class, postage prepaid, on the same day.

## 23.0 BREACH BY LESSEE

In the event that the Lessee defaults in the performance of any of the terms, provisions, covenants and agreements to be kept, observed and performed on the Lessee's part, and such default is not corrected within thirty (30) days after the receipt of notice thereof from the Lessor, or such longer period as may be reasonable under the circumstances provided that Lessee is making reasonable efforts to cure the breach; or if the Lessee shall abandon, desert, vacate or remove from the Premises; then, in such event, the Lessor, at its option at any time thereafter, may terminate this Lease together with all of the estate, right, and title thereby granted to or vested in the Lessee by giving twenty (20) days notice in writing of such election, by certified mail addressed to the Lessee at the address specified in this Lease, and at the expiration of such (20) day period, this Lease and all of the estate, right, title and interest thereby granted to or vested in the Lessee shall then cease and terminate, and the Lessor may re-enter said premises using such force as may be required. Notwithstanding such re-entry by the Lessor and anything to the contrary in this agreement, the liability of the Lessee for the rent provided for herein shall not be extinguished for the balance of the term of this Lease.

#### 24.0 VACATING OF PREMISES

Upon termination of this Lease, Lessee shall return the Premises in good order and condition, except for normal wear and tear. On or before the date of termination, Lessee shall have removed all furniture, equipment, supplies, and other materials owned and controlled by Lessee. At the request of Lessor, Lessee shall remove at its sole expense any improvements, additions, fixtures or alterations made by Lessee to the Premises which the Lessor has not selected for remaining with the property.

#### 25.0 PARKING.

Lessor grants to Lessee and Lessee's employees, guests, members, licensees and invitees, a license to use twelve (12) dedicated parking spaces and eight (8) shared spaces in the parking lot connected with the Premises for parking motor vehicles during the Lessee's business hours during the term of this Lease. The location of the parking stalls is shown on the attached Exhibit C. Lessee shall take reasonable measures to ensure that its members and guests observe all State and City regulations with regard to parking, and do not store nuisance or junk vehicles on the Property.

#### 26.0 MISCELLANEOUS

26.1 The paragraph and section headings hereof are for convenience only and shall not be used to expand or interpret the meaning of any part of this Lease.

26.2 Time is of the essence hereof.

26.3 If any portion of this Lease shall be deemed void, illegal or unenforceable, the balance of this Lease shall not be affected thereby.

26.4 This Lease shall be interpreted under the laws of the State of Washington.

- 26.5 The parties agree that the Superior Court of the State of Washington for Pierce County shall have sole jurisdiction over any question, claim, loss or injury arising hereunder.
- 26.6 Lessee acknowledges that except as expressly set forth in this Lease, neither Lessor nor any other person has made any representation or warranty with respect to the Premises. Specifically, but not in limitation of the foregoing, no representation has been made or relied on with respect to the suitability of the Premises for the conduct of Lessee's business.
- 26.7 Lessor does not by this Lease, in any way or for any purpose, become a partner or joint venture of Lessee in the conduct of its business or otherwise.
- 26.8 Lessor and Lessee shall be excused for the period of any delay in the performance of any obligations hereunder when prevented from so doing by cause or causes beyond Lessor's or Lessee's control, including labor disputes, civil commotion, war, governmental regulations or controls, fire or other casualty, inability to obtain any material or service, or acts of God.
- 26.9 This Lease and the Exhibits, Riders, and/or Addenda, if any, attached hereto, constitute the entire agreement between the parties. All Exhibits, Riders, or Addenda mentioned in this Lease are incorporated herein by reference. Any guaranty attached hereto is an integral part of this Lease and constitutes consideration given to Lessor to enter into this Lease. Any prior conversations or writings are merged herein and extinguished. No subsequent amendment to this Lease shall be binding upon Lessor or Lessee unless reduced to writing and signed. Submission of this Lease for examination does not constitute an option for the Premises and becomes effective as a lease only upon approval of this Lease by the Bonney Lake City Council. If any provision contained in a Rider or Addenda is inconsistent with a provision in the body of this Lease, the provision contained in said Rider or Addenda shall control. The captions and paragraph number appearing herein are inserted only as a matter of convenience and are not intended to define, limit, construe, or describe the scope or intent of any paragraph.
- 26.10 Lessor and Lessee shall comply with the requirements of State and Federal regulations that prohibit discrimination based on sex, race, national origin, age, and/or disability.
- 26.11 Each of the parties represents and warrants that there are no claims for brokerage commissions or finder's fees in connection with the execution of this Lease and agrees to indemnify the other against, and hold it harmless from, all liabilities arising from any such claim (including, without limitation, the cost of counsel fees in connection therewith).

26.12 Lessee shall make available to Lessor such records as may be requested by Lessor to monitor compliance with this Agreement, including but not limited to a description of improvements or investments made.

26.14 Lessee shall not allow smoking or any tobacco products inside the Premises or within twenty-five (25) feet of any doorway.

27.0 AGENCY/BROKERAGE DISCLOSURES AND REPRESENTATIONS

27.1 Agency Disclosure. At the signing of this Lease, Lessor is represented by Steve Dorenbush/Coldwell Banker Offenbecher (the "Lessor's Broker").

27.2 Commission Agreement. Lessor shall pay commissions according to the existing agreement between Lessor and Lessor's Broker.

27.3 Representation. Lessor's broke has made no representations or warranties concerning the premises, the meaning of the terms and conditions of this Lease, Lessor's or Lessee's financial standing, zoning, compliance of the premises with applicable laws, service or capacity of utilities, operating costs, or hazardous materials. Lessor and Lessee have each had the opportunity to seek independent legal advice on these and other matters arising under this Lease.

IN WITNESS WHEREOF, the parties subscribe their names.

**Bennett Music Studios, LLC**

**CITY OF BONNEY LAKE**

By: 



Title: Member

Neil Johnson, Jr., Mayor

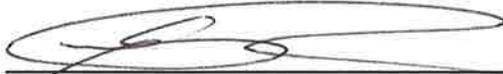
Date: 5/21/16

STATE OF Washington )  
 ) ss.  
County of Pierce )

On this 21 day of May, ~~2013~~ <sup>2016</sup> before me personally appeared Daniel Bennett and said person(s) acknowledged that he signed this instrument, and on oath stated that he was authorized to execute the instrument and acknowledged it as the Member of the LLC. to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

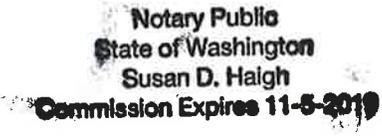


  
Notary Public in and for the State of Washington,  
Residing at Tacoma, WA, Pierce County  
My commission expires 05/29/18

STATE OF WASHINGTON )  
 ) ss.  
County of Pierce )

On this 24th day of May, ~~2013~~ <sup>2016</sup> before me personally appeared **Neil Johnson, Jr.** and said person(s) acknowledged that he signed this instrument, and on oath stated that he was authorized to execute the instrument and acknowledged it as the **Mayor** of the **City of Bonney Lake** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.



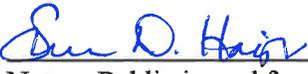
 Susan D. Haigh  
Notary Public in and for the State of Washington,  
Residing at Tacoma, WA  
My commission expires 5 November 2016

Exhibit A

**Tax Parcel Number:**

**Common Street Address:** 8720 Main Street E, Bonney Lake, WA

Section 33 Township 20 Range 05 Quarter 23 MCDONALD FRUIT TRACTS: MCDONALD  
FRUIT TRACTS S 100 FT OF W 1/2 OF TR 22 ITEM 1

Situated in Pierce County, Washington.

Having the Pierce County tax parcel number 5640001380

EXHIBIT B  
SKETCH OF PREMISES

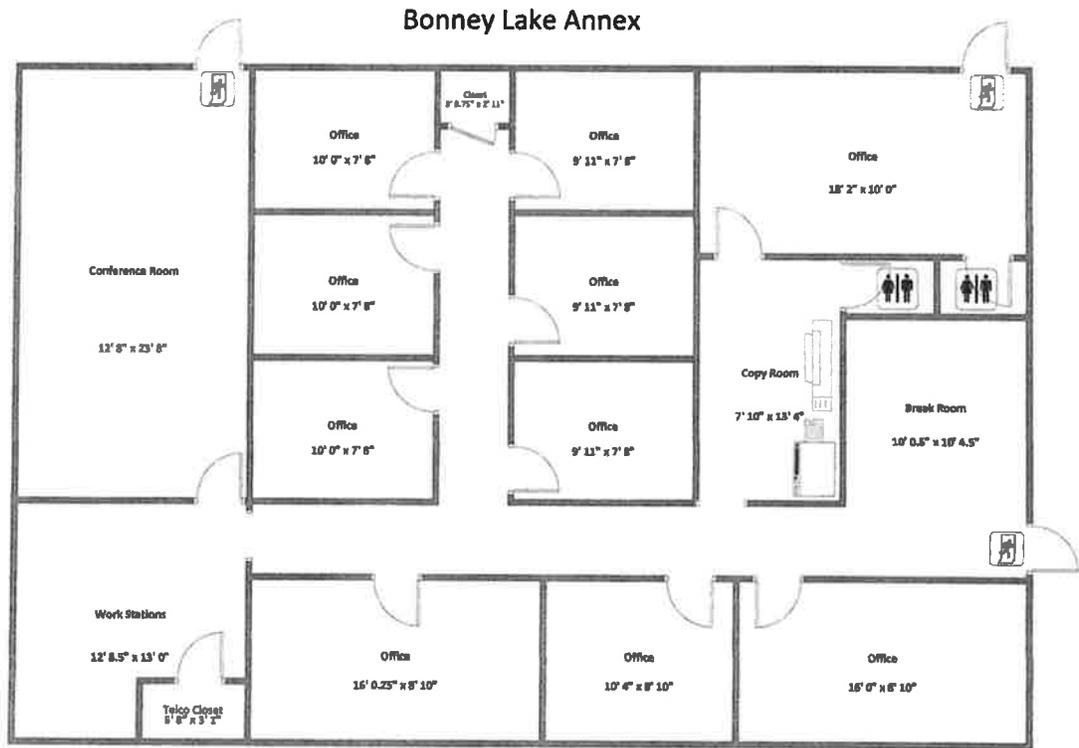
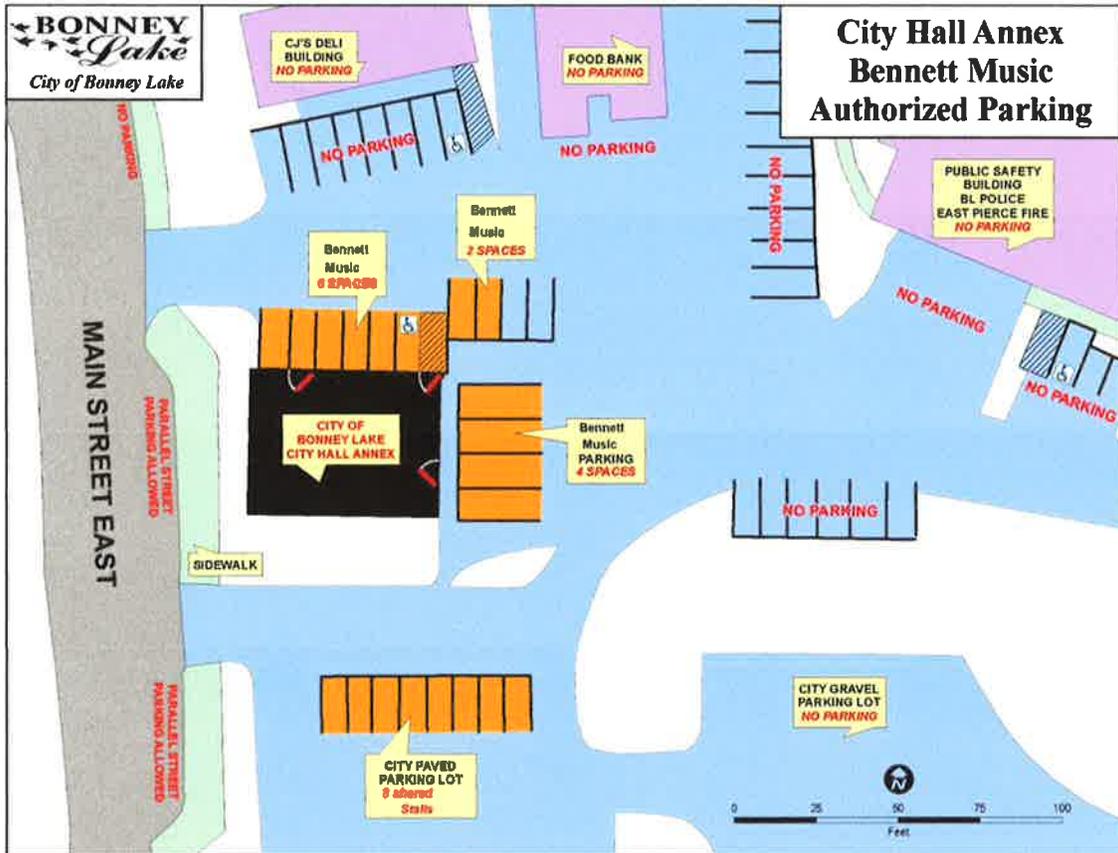


EXHIBIT C  
PARKING AREA





**Coldwell Banker Commercial  
OFFENBECHER**  
929 East Main  
Puyallup, WA 98372  
Phone: (253) 840-5574  
Fax: (866) 232-1602

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Association 2011  
ALL RIGHTS RESERVED



CBA Form LOR  
Guaranty  
Rev. 1/2011  
Page 1 of 2

**GUARANTY OF TENANT'S LEASE OBLIGATIONS RIDER**

CBA Text Disclaimer: Text deleted by licensee indicated by strike.  
New text inserted by licensee indicated by small capital letters.

This Guaranty of Tenant's Lease Obligations Rider (the "Guaranty") is made by Daniel Bennett and Brittany Bennett, whose address is 7228 Rebecca Avenue SE, Auburn, WA 98092 ("Guarantor"), for the benefit of the City of Bonney Lake ("Landlord"), whose address is 9002 Main St E, Bonney Lake, WA, 98391.

1. **Underlying Lease.** Landlord and Bennett Music Studios, LLC, DBA Cappella Performing Arts Academy ("Tenant"), have entered into that certain Lease Agreement dated May, 2016 (the "Lease") concerning the leased space commonly known as 8720 Main Street E, Bonney Lake, Washington (the "Premises").
2. **Guaranty.** Guarantor induced Landlord to enter into the Lease in consideration for Guarantor's guaranty, and Guarantor further acknowledges that it receives direct financial and economic benefits because Tenant will lease the Premises. Therefore, Guarantor absolutely, unconditionally and irrevocably guarantees to Landlord and its successors and assigns, without deduction by reason of set-off, defense or counterclaim, a) the full, punctual, and complete payment of all rent and other sums to be paid to Landlord under the Lease, including all attorney's fees, costs and expenses of collection incurred by Landlord in enforcing its rights and remedies under the Lease and this Guaranty; and b) the full, punctual, and complete discharge and performance of each and every other term, covenant, obligation and warranty of Tenant contained in the Lease. If Tenant defaults or breaches the Lease, Guarantor shall perform Tenant's obligations on Tenant's behalf. This Guaranty shall remain in full force and effect until all the terms, covenants, conditions, and agreements contained in the Lease are fully performed and observed. This Guaranty shall be enforceable against Guarantor without the necessity of any suit or proceeding on the part of Landlord against Tenant or any other party.
3. **No Discharge of Guarantor.** This Guaranty shall not be discharged and the liability of Guarantor shall in no way be affected by (a) the release or discharge of Tenant in any receivership, bankruptcy or other proceeding; (b) the impairment, limitation or modification of any liability to Landlord of Tenant or the estate of Tenant in bankruptcy, or of any remedy for the enforcement of Tenant's liability under the Lease or resulting from the operation of any present or future provision of federal or state bankruptcy or insolvency laws or other statute or from the decision in any court; (c) the rejection or disaffirmance of the Lease in any bankruptcy, insolvency, or similar proceeding; (d) the assignment, transfer, or encumbrance of all or any portion of the Tenant's interest in the Lease, the subletting of all or any portion of the Premises, or the granting to any third party of any rights of occupancy of all or any portion of the Premises; (e) waiver of discharge by Landlord of default or future performance by Tenant of any term of the Lease or Guaranty; (f) the exercise, forbearance, or election by Landlord of any of its rights or remedies reserved under the Lease, this Guaranty, or by law; (g) the release by Landlord of any security given to Landlord; or (h) any extension, renewal, amendment, expansion, or termination of the Lease.
4. **Notice.** Landlord shall have no obligation to notify Guarantor of any of the events described in Paragraph 3 of this Guaranty, and Guarantor waives any such notice and acknowledges specifically that such waiver includes notice of acceptance of this Guaranty, notice of any event of default under the Lease or this Guaranty, opportunity to cure any event of default under the Lease or this Guaranty, and proof of notice or demand to Tenant relating to any event of default. Guarantor hereby further waives any and all defenses, rights of subrogation, reimbursement, indemnification, contribution, and any other rights and defenses that are or may become available to it. Until all of the obligations of Tenant set forth in the Lease are fully performed and observed (including without limitation the payment of all rent and other sums required to be paid by Tenant to Landlord), Guarantor shall have

INITIALS: LANDLORD dlb DATE 5-24-16 TENANT DLB DATE 5/21/16  
 LANDLORD \_\_\_\_\_ DATE \_\_\_\_\_ TENANT DLB DATE 5/21/16



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Guaranty  
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Page 2 of 2

**GUARANTY OF TENANT'S LEASE OBLIGATIONS RIDER**

no right of subrogation against Tenant by reason of any payments or acts of performance by Guarantor hereunder, and subordinates any liability or indebtedness of Tenant now or hereafter held by Guarantor to the obligations of Tenant to Landlord under the Lease.

- 5. **Attorneys' Fees.** If either party is required to employ an attorney to enforce or declare its rights hereunder, including in any appeal, bankruptcy or insolvency proceeding involving Tenant or any Guarantor, the prevailing party in any such action shall be entitled to recover its attorneys' fees and costs.
- 6. **Successors and Assigns.** The benefits of this Guaranty shall inure to the successors and assigns of Landlord and shall be binding upon Guarantor's successors, assigns, heirs, and legal and personal representatives.

*[Signature]* 5/21/16  
GUARANTOR DATE

*[Signature]* 5/21/16  
GUARANTOR DATE

\_\_\_\_\_  
SPOUSE (if personal guaranty) DATE

\_\_\_\_\_  
SPOUSE (if personal guaranty) DATE

INITIALS: LANDLORD *[Signature]* DATE 5-24-16 TENANT *DAS* DATE 5/21/16  
 LANDLORD \_\_\_\_\_ DATE \_\_\_\_\_ TENANT *BAB* DATE 5/21/16

City of Bonney Lake, Washington  
**City Council Agenda Bill (AB)**

<b>Department/Staff Contact:</b> Executive / Don Morrison	<b>Meeting/Workshop Date:</b> 24 May 2016	<b>Agenda Bill Number:</b> AB16-73
<b>Agenda Item Type:</b> Resolution	<b>Ordinance/Resolution Number:</b> 2535	<b>Councilmember Sponsor:</b> Lewis

**Agenda Subject:** Lease of the former City Hall Annex

**Full Title/Motion:** A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing The Mayor To Sign A Lease With Bennett Music Studios, LLC For The Former City Hall Annex.

**Administrative Recommendation:** Approve

**Background Summary:** After considerable marketing, the City's leasing agent, Offenbecher Commercial has secured a mutual Letter of Intent to lease the former Annex building to Bennett Music Studio, LLC, effective June 1st. The lease would be a five (5) year lease, with a mutual option to renew for another 5 years. Rent would be \$3,450.00 per month (\$20.60/sf) for a total initial value of \$207,000. Rates adjust each year according to changes in the CPI. Tenant is responsible for all utilities. The tenant is paying a reasonably high lease rate that is offset by an initial Tenant Improvement allowance of up to \$40,180 (reducing net effective rental rate to \$16.40/sf). Tenant is also required to personally guarantee the lease before the Mayor signs it. (e.g. if the LLC defaults on the lease, City would have legal recourse against the guarantors of the music studio.)

**Attachments:** Resolution No. 2535; Lease

<b>BUDGET INFORMATION</b>				
Budget Amount	Current Balance	Required Expenditure	Budget Balance	Fund Source
				<input type="checkbox"/> General <input type="checkbox"/> Utilities <input checked="" type="checkbox"/> Other
<b>Budget Explanation:</b> Up to \$40,180 from General Govt. CIP for TI Allowance				

<b>COMMITTEE, BOARD &amp; COMMISSION REVIEW</b>			
<b>Council Committee Review:</b>	<i>Approvals:</i>	Yes	No
Date:	Chair/Councilmember	<input type="checkbox"/>	<input type="checkbox"/>
	Councilmember	<input type="checkbox"/>	<input type="checkbox"/>
	Councilmember	<input type="checkbox"/>	<input type="checkbox"/>
Forward to:	<b>Consent Agenda:</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<b>Commission/Board Review:</b>			
<b>Hearing Examiner Review:</b>			

<b>COUNCIL ACTION</b>	
Workshop Date(s): May 17, 2016	Public Hearing Date(s):
Meeting Date(s):	Tabled to Date:

<b>APPROVALS</b>		
<b>Director:</b>	<b>Mayor:</b>	<b>Date Reviewed by City Attorney:</b> (if applicable)