

**RESOLUTION NO. 697**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RUSTON, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE A LISTING AGREEMENT FOR REAL ESTATE REPRESENTATIVE SERVICES FOR LEASING THE RUSTON SCHOOL WITH NEIL WALTER COMPANY.**

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WHEREAS, RCW 35.27.010 provides that the City Council authority to lease real property; and

WHEREAS, the City has leased portions of the Ruston School to various entities; and

WHEREAS, there is additional vacant space in the Ruston School that could be leased for office space; and

WHEREAS, Neil Walter Company is a commercial brokerage firm that is willing and able to provide leasing representation services to the City; and

WHEREAS, the City has successfully used Neil Walter Company in the past for these services and authorized a prior listing agreement in 2014 under Resolution No. 578; and

WHEREAS, the City Council finds it in the public interest to authorize the Mayor to execute the proposed Listing Agreement with Neil Walter Company in substantially the form that is attached to this Resolution as Exhibit "1";

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RUSTON, WASHINGTON, DOES HEREBY RESOLVE AS FOLLOWS:**

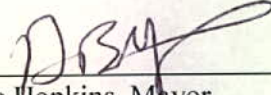
Section 1. The Mayor is hereby authorized to execute the Listing Agreement with Neil Walter Company in substantially the form that is attached to this Resolution as Exhibit "1".

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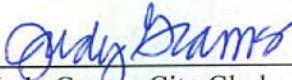
RESOLVED this 2nd day of January, 2019.

APPROVED:



\_\_\_\_\_  
Bruce Hopkins, Mayor

ATTEST/AUTHENTICATED:



\_\_\_\_\_  
Judy Grams, City Clerk

FILED WITH THE CITY CLERK: \_\_\_\_\_

PASSED BY THE CITY COUNCIL: \_\_\_\_\_

RESOLUTION NO.: 697

**EXHIBIT "1"**

**LISTING AGREEMENT**

**WITH**

**NEIL WALTER COMPANY**





**Neil Walter Company**  
 P.O. Box 2181 1940 East D Street, Suite  
 100  
 Tacoma, WA 98421  
 Phone: (253) 779-8400  
 Fax: (253) 779-8401

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**EXCLUSIVE LEASE LISTING AGREEMENT**

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

This Agreement is made by and between The City of Ruston ("Owner") and Neil Walter Company ("Firm"). Owner hereby grants to Firm the exclusive and irrevocable right to lease and to receipt for deposit in connection therewith Owner's commercial real estate legally described as set forth on attached Exhibit A and commonly described as 5219 North Shirley, City of Ruston, Pierce County, Washington (the "Property").

January 1, 2019

1. **DURATION OF AGREEMENT.** This Agreement shall commence on ~~December 1, 2018~~ and shall expire at 11:59 p.m. on ~~NOVEMBER 30, 2019~~ December 31, 2019
2. **PRICE AND TERMS.** Owner agrees to list the Property at a lease price of ~~\$14~~ Gross per sqft and shall consider offers that include the following terms:  
 \$15.00 NNN (triple net) per sqft  
 Term of Lease: Acceptable to Landlord  
 Terms: Acceptable to Landlord
3. **DEFINITIONS.** As used in this Agreement, (a) "CBA" shall mean the Commercial Brokers Association; (b) "lease" shall mean lease, sublease, sell, or enter into a contract to lease, sublease, or sell the Property; and (c) "lessee" shall include sublessees, if applicable. The phrases "this Agreement" and "during the term hereof" include extensions or renewals of this Agreement.
4. **AGENCY / DUAL AGENCY.** Owner authorizes Firm to appoint Theron Meier as Owner's Listing Broker. This Agreement creates an agency relationship with Listing Broker and any of Firm's brokers who supervise Listing Broker's performance as Owner's agent ("Supervising Broker"). No other brokers affiliated with Firm are agents of Owner, except to the extent that Firm, in its discretion, appoints other brokers to act on Owner's behalf as and when needed.  
  
 If the Property is leased to a tenant represented by one of Firm's brokers other than Listing Broker ("Tenant's Broker"), Owner consents to any Supervising Broker who also supervises Tenant's Broker acting as a dual agent. If the Property is leased to a tenant who Listing Broker also represents, Owner consents to Listing Broker and Supervising Broker acting as dual agents. Owner has received from Listing Broker the pamphlet entitled "The Law of Real Estate Agency."  
  
 If any of Firm's brokers act as a dual agent, Firm shall be entitled to the entire commission payable under this Agreement plus any additional compensation Firm may have negotiated with the tenant.
5. **PROPERTY OWNERSHIP AND INFORMATION.** Owner warrants that Owner has the right to lease the Property on the terms set forth in this Agreement, and that the Property is free and clear of any encumbrances which would interfere therewith. Owner also warrants that the information on the Property Information pages of this Agreement is correct. Owner understands that Firm and other members of CBA will make representations to prospective lessees based solely on the property information in this Agreement and agrees to indemnify and hold Firm and other members of CBA harmless in the event the foregoing warranties are incorrect. Owner acknowledges receipt of a copy of this Agreement, with the Property Information pages of this Agreement fully completed.
6. **COMMISSION.** Firm shall be entitled to a commission if: (a) Firm leases or procures a lessee on the terms of this Agreement, or on other terms acceptable to Owner; (b) Owner leases the Property directly or indirectly or through any person or entity other than Firm during the term of this Agreement; (c) Owner leases the Property within six months after the expiration or sooner termination of this Agreement to a person or entity that submitted an offer to purchase or lease the Property during the term of this Agreement or that appears on any registration list provided by Firm pursuant to this Agreement or an "Affiliate" of such a person or entity that submitted an offer or that appears on the registration list; (d) the Property is made unleaseable by Owner's voluntary act; or (e) Owner cancels this Agreement, or otherwise prevents Firm from leasing the Property. The commission shall be calculated as follows: 5% of the total lease amount.





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Tacoma, WA 98421  
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### EXCLUSIVE LEASE LISTING AGREEMENT

Firm shall submit any registration list to Owner within 15 days after the expiration or sooner termination of this Agreement and shall only include on the registration list persons or entities to whose attention the Property was brought through the signs, advertising or other action of Firm, or who received information secured directly or indirectly from or through Firm during the term of this Agreement. Owner shall provide the registration list to any other brokers that assist the Owner with this Property. "Affiliate" means, with respect to any person or entity that submitted an offer during the term of this Agreement or that appears on the registration list, a person or entity which has more than a 10% ownership or voting interest in such an entity or any entity in which more than 10% of the ownership or voting interests are owned or controlled by such a person or entity.

7. **FIRM/MULTIPLE LISTING.** Firm shall cause this listing to be published by CBA for distribution to all CBA members through CBA's listing distribution systems. Firm shall cooperate with all other members of CBA in working toward the lease of the Property. Owner understands and agrees that all property information contained in this Agreement or otherwise given to CBA becomes the property of CBA, is not confidential, and will be given to third parties, including prospective lessees, other cooperating members of CBA who do not represent the Owner and, in some instances, may represent the lessee and other parties granted access to CBA's listing systems. Owner agrees that Firm may record this Agreement. Regardless of whether a cooperating member is the firm of the lessee, the Owner, neither or both, the member shall be entitled to receive the selling office's share of the commission as designated by the listing office. IT IS UNDERSTOOD THAT CBA IS NOT A PARTY TO THIS AGREEMENT, AND ITS SOLE FUNCTION IS TO FURNISH THE DESCRIPTIVE INFORMATION SET FORTH IN THIS LISTING TO ITS MEMBERS, WITHOUT VERIFICATION AND WITHOUT ASSUMING ANY RESPONSIBILITY FOR SUCH INFORMATION OR IN RESPECT TO THIS AGREEMENT.
8. **ATTORNEY'S FEES.** In the event either party employs an attorney to enforce any terms of this Agreement and is successful, the other party agrees to pay a reasonable attorney's fee and any costs and expenses incurred. In the event of trial, venue shall be in the county in which the Property is located, and the amount of the attorney's fee shall be as fixed by the court.
9. **ADDITIONAL TERMS.** In addition to the Property Information pages of this Agreement and Exhibit A (legal description), the following amendments or addenda (which are also attached hereto) are part of this Agreement: This agreement shall only apply to new tenants or the expansions of existing tenants.

No commission shall be due under this agreement for renewals of existing spaces by existing tenants.



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**EXCLUSIVE LEASE LISTING AGREEMENT**

**OWNER**

  
 \_\_\_\_\_  
 Owner/Authorized Signature

Name: Bruce Hopkins  
 Title: Mayor  
 Date: January 2, 2019

\_\_\_\_\_

Name: \_\_\_\_\_  
 Title \_\_\_\_\_  
 Date \_\_\_\_\_

**FIRM**

NEIL WALTER CO.  
 \_\_\_\_\_, Firm (Company)  
 (Office)

By   
 \_\_\_\_\_  
 (Authorized Representative)

Date: 12/13/18



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**EXCLUSIVE LEASE LISTING AGREEMENT**

**EXHIBIT A**

(Legal Description)

Section 23 Township 21 Range 02 Quarter 12 HOWARD HEIGHTS 2ND: HOWARD HEIGHTS 2ND L 1 THRU 14 B 4