Inspections Division
Date: 10/02/13
COPY

470 Forest Ave. Suite 203, Portland, Maine 04101 – Phone 207.775.6561 – Fax 207.871.0914 – FishmanRealty.com

LETTER OF INTENT

TO: **The Proprietors of Custom House Wharf**
FROM: **Harding L. Smith, C/O Fishman Realty Group Inc.**
DATE: **July 3, 2012**
ADDRESS: **6 Custom House Wharf, Portland, ME**
RE: **LOI – Modified Gross Lease**

This Letter of Intent sets forth the terms and conditions under which **Harding Lee Smith** hereinafter referred to as ("Tenant") is willing to enter into lease agreement with The **Proprietors of Custom House Wharf** (hereinafter referred to as the "Landlord") for space at the above-mentioned location.

This Letter of Intent is non-binding to either party. It is intended with the sole purpose of establishing terms and conditions that are to be implemented in a binding lease agreement, which is subject to the satisfaction of both parties, within 10 days of the effective Letter of Intent.

Tenant: Harding Lee Smith

Demised Premise: The demised premises shall be deemed to contain approximately 4,250± RSF of ground level retail/restaurant space, 4,250± RSF 2nd Floor retail/restaurant space as well as roof rights at 6 Custom House Wharf, Portland, ME.

Use: Tenant to use property as a restaurant and bar.

Pre Rent:

$4,500.00 per month for a maximum period of 6 months. Pre Rent period will end on opening day if prior to Rent Commencement.

Base Rent:

$6,000.00 per month, ($72,000.00 per annum) Modified Gross.

Lease Term:

(5) Five Year Lease Term with an increase of five percent (5%) over the Base Rent effective at the beginning of the fourth year of the term.

Options:

(3) Three, (5) Five-year Options with rent increases in each such Option term of up to ten percent (10%) during the course of the term, provided that the rent shall not increase by more than five percent (5%) in any given year during such term (with such Options commencing in year 6, year 11 and year 16). The amounts and dates of the rent increases

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for each Option term shall be negotiated and agreed upon six (6) months in advance of the commencement of such Option term.

Operating Expenses:

Landlord will be responsible for real estate taxes, common area maintenance and liability building insurance covering the Demised Premises. Tenant shall be responsible for maintaining ~~property insurance~~ liability insurance, and shall list Landlord as ~~loss payee~~ additionally insured with respect to such insurance.

Tenant responsible for their pro rata share of property tax increases. Increases to be "passed through" to tenant as additional rent. Landlord to notify Tenant of these increases in writing on an annual basis.

Waters; Sewage: Tenant shall be responsible for the cost of any water and sewer fees.

Electric: Tenant responsible for cost of electric usage to leased space.

Heat and A/C:

Tenant responsible for cost of HVAC to the space. Landlord responsible for the cost of maintenance, cleaning, and replacement of the HVAC systems. Tenant to administer the contracting of maintenance, cleaning, and replacement of the HVAC systems. These costs to be billed back to the Landlord or credited to the Tenant's rent. This includes existing systems and all new systems to be installed as part of the renovation of the premises.

Natural Gas: Tenant responsible for the cost of all natural gas usage.

Snow Removal:

Landlord responsible for plowing, salting and sanding the Tenant's parking lot, deck, sidewalk and entryways. Tenant shall pay for Tenant's pro rata share of the cost of such snow removal.

Janitorial: Tenant is responsible for the janitorial services to leased space.

Security Deposit: Upon the execution of the Lease, the Tenant will deposit with Landlord the sum of $6,000.00. This money will represent the security deposit due under the lease. Said deposit to be returned to the Tenant at or before the end of the lease term, provided the premises are left in good repair, "broom clean". **No** interest will be paid on said deposit.

Landlord's Work:

1. Landlord is responsible for all infrastructure related repairs throughout the life of the lease agreement as well as during the renovation process. This includes, but is not limited to roof repairs, foundation repairs, and exterior building upkeep.

2. Landlord to deliver premises to tenant clear of all personal property and in "Broom Clean" condition, no later than the occupancy date. (See Below).

Parking: The entire parking lot adjacent to the premises shall be for the sole use of the Tenant other than those parking spaces located directly adjacent to Gilberts Chowder House.

Access: Upon execution of Letter of Intent, Inspection of current facilities, including but not limited to hood systems, exhaust systems, plumbing, and electrical, will be required by tenant. All inspections will be conducted by tenant or tenant's contractors. Inspections will require full access to basement, roof, and portion of building containing systems associated with the restaurant space.

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Tenant's Work: Tenant plans to significantly rehabilitate the premises. Renovations will include but will not be limited to paint, fixtures, bars, open commercial kitchen, prep kitchen, new floors, a renovated outdoor deck and roof deck (Dependent upon City approval…) .

1. Tenant to sprinkle the entire premises. This includes tapping into city water at the water main on Custom House Wharf.
2. Tenant to move restrooms to the NW corner of the facility.
3. Tenant to install restrooms on the second floor of the facility.
4. Tenant plans to add a wood fired commercial grill to the kitchen, and a wood fired fireplace within the dining facility.
5. Tenant to replace all lighting and significantly upgrade wiring.
6. Exterior remodeling of the building.
7. Replacement of windows and doors throughout the leased space.
8. Installation of interior stairway between the 1st and 2nd floors.

Signage: Tenant Responsible for signage. All signage is subject to Landlord approval, not to be unreasonably withheld. Tenant has rights to the Boons sign on Commercial Street. Tenant will also install signage on Custom House Wharf.

Zoning: It is the responsibility of the Tenant to determine all zoning information and secure all necessary or required permits and approvals for its proposed use of the subject premises. Landlord makes no representation or warranties as to the suitability of, or the ability to obtain regulatory approval for, the subject's premises for Tenant's intended use. (*Tenant intends to use outdoor seating with proper city approval.*)

Letter of Intent Expiration: Unless fully executed, this Letter of Intent is valid through July 3, 2012 at 12:00PM (Noon), but may be revoked by Tenant without prior written notice.

Facsimiles: The undersigned agree to accept fax copies of the documents, which have been sent to either party to the other, or to any other party or agent to this transaction, as original documents, with the exception of the final lease document.

Lease Agreement: Landlord agrees to forward its proposed lease to Tenant within 10 days of the full execution of this Letter of Intent. In the event Tenant and Landlord have not executed a mutually agreeable lease within 20 days of Tenant receipt of Landlord's lease, neither party is under any further obligation to the other.

Brokerage Commission: Landlord's sole responsibility. Landlord acknowledges Fishman Realty Group as the sole agent in this transaction. At lease signing, landlord will pay Fishman Realty Group Inc. a commission of 5% of the Gross Lease amount for the first (5) Five year term of the lease and 2% of the Gross Lease amount upon execution of the first renewal option (in year 6).

Occupancy: **November 1, 2012**

Pre Rent Commencement: **November 1, 2012**

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Rent Commencement: **The earlier of May 1, 2013 or Opening Day**

SEEN TO AND AGREED:

(TENANT)

By: _____ 7/19
Harding Lee Smith Date

(LANDLORD)

By: _____ 7-3-12
Proprietors of Custom House Wharf Date

Prepared by J. Lee Nelsen
Fishman Realty Group Inc.