

WHEN RECORDED, RETURN TO:

Wells Fargo Bank, National Association  
BBOS Business Lending Loan Operations Center LDI  
P.O. Box 65119  
San Antonio, TX 78265

APNs: 32-003-0105, 32-003-0085, 32-003-0086,  
~~32-003-0121~~, 32-003-0117, ~~32-003-0119~~,  
~~32-003-0090~~, 32-003-0079, 32-003-0110,  
~~32-003-0103~~, 32-003-0111, 32-003-0109

*CTIA # 122693-WHF*

GROUND LESSOR'S ESTOPPEL AND AGREEMENT

*32-003-0124 32-003-0131  
32-003-0133  
32-003-0136 32-003-0141*

THIS GROUND LESSOR'S ESTOPPEL AND AGREEMENT (this "Agreement") is made as of March 31, 2020, by and among **Wells Fargo Bank, National Association** ("Lender"), **Santaquin Market, Inc.**, a Utah corporation ("Ground Lessee"), and the **CJM Limited Liability Limited Partnership**, an Idaho limited partnership ("Ground Lessor"), individually, a "Party" and collectively, the "Parties".

RECITALS

- A. Pursuant to that certain Amended and Restated Ground Lease (the "Ground Lease") dated as of March 31, 2020, Ground Lessor has leased to Ground Lessee, certain real property ("Premises") located in Santaquin, Utah County, Utah, more particularly described on Exhibit A, attached hereto and incorporated herein by this reference.
- B. Pursuant to a loan agreement of substantially even date herewith (the "Loan Agreement"), between Lender and Ground Lessee, Lender has agreed to extend to Ground Lessee a construction loan in the original principal amount of \$6,650,000.00 (as modified, amended, increased, restated or restructured, the "Loan") for the purpose of financing a portion of the cost of constructing improvements on the Premises. The Loan is secured by a leasehold construction deed of trust of substantially even date herewith, encumbering Ground Lessee's leasehold interest in the Premises, to be recorded with the Utah County, Utah Recorder (the "Deed of Trust").
- C. As a condition to extending the Loan, Lender requires that the Parties enter into this Agreement.

NOW, THEREFORE, in consideration of the above Recitals and the agreements of the Parties set forth below, and for other good and valuable consideration, the Parties agree as follows:

1. **ESTOPPEL.** Ground Lessor acknowledges and represents that:
  - 1.1 **Lease Effective.** The Ground Lease has been executed and delivered by Ground Lessor and Ground Lessee and, subject to the terms and conditions thereof and, to the best of Ground Lessor's knowledge, the Ground Lease is in full force and effect and there have been no modifications or additions to the Ground Lease, written or oral;
  - 1.2 **No Default.** To the best of Ground Lessor's knowledge, as of the date hereof: (i) there exists no breach, default, or event or condition which, with the giving of notice or the passage of time or both, would constitute a breach or default under the Ground Lease; and (ii) there are no existing claims, defenses or offsets against Ground Lessee under the Ground Lease; and
  - 1.3 **Entire Agreement.** The Ground Lease constitutes the entire agreement between Ground Lessor and Ground Lessee with respect to the Premises.

- 1.4 **Lender as Leasehold Mortgagee.** This Agreement shall constitute the notice of Lender's existence and address referenced in Section 12.02 of the Ground Lease. Accordingly, Ground Lessor acknowledges that Lender is a Leasehold Mortgagee, as defined in the Ground Lease, entitled to all rights of a Leasehold Mortgagee set forth in Article XII or elsewhere in the Ground Lease.
2. **EXERCISE OF CALL OPTION AND PUT OPTION.** As long as the Deed of Trust remains in effect, the following terms and conditions shall govern the exercise by Ground Lessor of the "Call Option" set forth in Section 11.01 of the Ground Lease and the exercise by Ground Lessee of the "Put Option" set forth in Section 11.02 of the Ground Lease:
- 2.1 Prior to an Event of Default (as defined in the Loan Agreement), Ground Lessor shall provide Lender written notice of its intent to exercise of the Call Option contemporaneously with the notice Ground Lessor sends to Ground Lessee and shall, as a condition to closing on the transaction contemplated with respect to the exercise of the Call Option, repay in full all obligations then outstanding under both the Loan and the equipment loan extended by Wells Fargo Equipment Finance, Inc. ("**WFEFI**") to Ground Lessee in the original principal amount of \$3,402,260.00, pursuant to such agreements and documents as may be executed between WFEFI and Ground Lessee (the "**Equipment Loan Documents**") (as modified, amended, increased, restated or restructured, the "**Equipment Loan**").
- 2.2 Prior to an Event of Default, Ground Lessee shall provide Lender written notice of its intent to exercise of the Put Option contemporaneously with the notice Ground Lessee sends to Ground Lessor and shall, as a condition to closing on the transaction contemplated with respect to the exercise of the Put Option, repay in full all obligations then outstanding under both the Loan and the Equipment Loan.
- 2.3 Ground Lessor shall provide Lender written notice of its intent to acquire the equity interests of the Ground Lessee (other than by exercising the Call Option or the Put Option) in accordance with the terms and conditions set forth in the Ground Lease and shall, as a condition to closing on such transaction contemplated with respect to the purchase of the equity interests of the Ground Lessee under the Ground Lease, repay in full all obligations then outstanding under both the Loan and the Equipment Loan.
- 2.4 After the occurrence of an Event of Default (which for purposes of clarity, shall not occur until after the expiration of any notice and cure period set forth in the Loan Agreement or the Equipment Loan Documents), in the event Lender determines to pursue remedies against the Ground Lessee through the exercise its power of sale, right to judicially foreclose on Ground Lessee's leasehold interest in the Premises pursuant to the Deed of Trust, pursue remedies under the Uniform Commercial Code or otherwise (in each event, "**Foreclosure Proceedings**"), Lender shall, at its option, either (a) provide written notice to Ground Lessor of its election to commence Foreclosure Proceedings (the "**Default Notice**") or (b) commence Foreclosure Proceedings by recording a notice of default (a "**Foreclosure Commencement**"). Lender hereby agrees that Ground Lessor shall have forty (40) days from its receipt of the Default Notice or from the date of a Foreclosure Commencement to provide written notice to Lender of its election to exercise of Call Option (the "**Call Exercise Notice**"). Lender shall then provide Ground Lessor sixty (60) days following the date of delivery of the Call Exercise Notice to close the transaction contemplated by the exercise of its Call Option, including repaying in full all obligations then outstanding under both the Loan and the Equipment Loan. Lender further agrees that, for purposes of this Section 2.4 and with respect to Ground Lessor only, Lender shall accept payment in full of all obligations then outstanding under the Loan and the Equipment Loan without any late fees or default interest that would otherwise be due.

- 2.5 Ground Lessor shall record with the Utah County, Utah Recorder a request for notice against the Premises in the form attached hereto as Exhibit B ("**Request for Notice**") and shall be responsible for keeping its address current in the Request for Notice and pursuant to this Agreement, and Lender shall be relieved of any claim that Ground Lessor may be able to assert regarding failure of Ground Lessor to receive any notice from Lender contemplated by this Agreement if provided to the address specified in the Request for Notice or this Agreement.
- 2.6 All obligations of Lender and all rights of Ground Lessor and Ground Lessee pursuant to this Section 2 of this Agreement shall terminate and be of no further force and effect after the expiration of the Call Option Period, Put Option Period, as such terms are defined in the Ground Lease, or other time period set forth in the Ground Lease, as applicable.
3. **NO TERMINATION EFFECTED BY FORECLOSURE.** Ground Lessor agrees that in the event that Lender comes into possession of or acquires the Ground Lessee's leasehold interest in the Premises as a result of foreclosure or the threat thereof, or as a result of any other means, such action shall not result in either a termination of the Ground Lease or the modification of any of the rights granted to Ground Lessee in the Ground Lease or any of Ground Lessee's obligations under the Ground Lease, including but not limited to provisions in the Ground Lease dealing with condemnation, fire and other casualties.
4. **RECOGNITION OF SUCCESSOR GROUND LESSEE.** Ground Lessor agrees with Lender that, notwithstanding anything to the contrary in the Ground Lease, (a) if the interest of Ground Lessee in the Premises shall be transferred to Lender by reason of foreclosure or other proceedings, or by any other manner, or in the event of a foreclosure sale of Ground Lessee's interest in the Premises to any other person, firm, or corporation, then in any of said events, the consent of Ground Lessor shall not be required for such transfer, and Ground Lessor shall be bound to Lender or such purchaser, grantee or other successor to Ground Lessee's interest ("**Successor Ground Lessee**") under all of the terms, covenants and conditions of the Ground Lease for the balance of the term remaining and any extensions or renewals thereof which may be effected in accordance with any option therefor in the Ground Lease, with the same force and effect as if the Successor Ground Lessee were the Ground Lessee under the Ground Lease, and the Successor Ground Lessee shall attorn to Ground Lessor, as the landlord under the Ground Lease, and the Successor Ground Lessee shall be bound to Ground Lessor under all of the terms, covenants and conditions of the Ground Lease and (b) in the event that Lender becomes a Successor Ground Lessee and subsequently transfers the interest of the Ground Lessee under the Ground Lease to another Successor Ground Lessee, Lender shall provide to Ground Lessor the information required under Section 10.01 of the Ground Lease, however, the consent of Ground Lessor shall not be required for such transfer, and Lender shall, upon such transfer, be released from liability under the Ground Lease for all obligations of the Ground Lessee arising after the date of such transfer.
5. **NEW LEASE.** Notwithstanding anything to the contrary in the Ground Lease, in the event that the Ground Lease shall terminate for any reason including, without limitation, a default by the Ground Lessee, or in the event that an actual or deemed rejection of the Ground Lease shall occur under any provision of the Bankruptcy Code (Title 11, United States Code) or any successor law having similar effect, then, and in any such event, Lender shall thereupon have the option to obtain a new lease ("**New Lease**") for the Premises in accordance with and upon the following terms and conditions:
- 5.1 Within thirty (30) days after Lender has delivered to Ground Lessor written request for a New Lease (such written request to also be delivered to Ground Lessor within thirty (30) days after the termination or the actual or deemed rejection of the Ground Lease), and subject to the provisions of Section 12.07 of the Ground Lease, Ground Lessor shall enter into a New Lease of the Premises with Lender (or its affiliate) or any entity succeeding to Lender's interest through foreclosure or similar proceeding (Lender (or its affiliate) or such successor entity, as the case may be, the "**New Tenant**"); provided, however, that if Ground Lessor receives no such written

request within said thirty (30) day period, then all of Lender's rights to a New Lease shall automatically terminate and Lender's rights in and to the Premises and the equipment shall terminate.

- 5.2 The New Lease shall be effective as of the date of the termination or actual or deemed rejection of the Ground Lease and shall be for the remainder of the term of the Ground Lease (including any unexercised options to extend the term of the Ground Lease) at the same rent, additional rent and other charges provided in the Ground Lease and otherwise upon the same agreements, terms, covenants and conditions contained in the Ground Lease, except that the New Lease shall also include an additional indemnity paragraph under the terms of which the New Tenant shall indemnify and hold Ground Lessor harmless from and against all claims, demands or liability whatsoever by whomsoever made for loss or damage arising out of or in connection with the issuance of the New Lease and will promptly reimburse Ground Lessor for its costs and expenses including reasonable attorneys' fees incurred in connection with the defense of any such claims. To the extent the same is within the sole control of Ground Lessor, the New Lease shall have the same relative priority in time and right as the Ground Lease and shall have the benefit of and vest in the New Tenant all of the same rights, title, interest, powers and privileges of Ground Lessee under the Ground Lease; provided, Ground Lessor shall be obligated to defend such title against claims arising by, through or under the New Tenant only at the cost and expense of the New Tenant. The New Lease shall, subject to the same agreements, terms, covenants and conditions contained herein and in the Ground Lease, also demise and transfer to the New Tenant Ground Lessor's interest in all buildings, improvements and appurtenances situated on the Premises together with all equipment, fixtures and machinery therein. Concurrently with execution of the New Lease, Ground Lessor shall assign to the New Tenant its interest in and to all then existing subleases affecting the Premises as to which the tenant thereunder has attorned to and been recognized by Ground Lessor, if any. During the period between the termination or actual or deemed rejection of the Ground Lease and execution of the New Lease, Ground Lessor shall not amend or modify such subleases or take any action which will adversely affect the Premises or give rise to any liens or encumbrances against the Ground Lessee's interest in the Premises.
- 5.3 As a condition to and concurrently with delivery of the New Lease, the New Tenant shall pay any and all sums which would at the time of the execution thereof be due under the Ground Lease from and after the date of the original default by the Ground Lessee, but for the termination or rejection as aforesaid, and shall fully otherwise remedy any existing defaults under the Ground Lease susceptible of cure by the New Tenant, and shall pay to Ground Lessor all costs and expenses, including but not limited to any insurance premiums paid by Ground Lessor in order to maintain the insurance coverage required under the terms of such of the Ground Lease from and after the date of the original default by the Ground Lessee, and the reasonable attorneys' fees, court costs and disbursements incurred by Ground Lessor by reason of the termination or actual or deemed rejection of the Ground Lease and in connection with the execution and delivery of such New Lease. Any default which cannot be cured by the New Tenant until it obtains possession shall be cured by the New Tenant within a reasonable time after it obtains possession.
- 5.4 Nothing contained in this Section 5 shall be deemed to impose any obligation on Ground Lessor to deliver physical possession of the Premises to the New Tenant; provided Ground Lessor shall use reasonable efforts to join with and assist the New Tenant in removing any third parties unlawfully in possession of the Premises from the Premises, all at the sole cost and expense of the New Tenant.
- 5.5 Lender, if it is the initial lessee under the New Lease, may assign such New Lease, subject to Lender providing to Ground Lessor the information required under Section 10.01 of the Ground Lease, and shall, from and after the effective date of such assignment, be released from all

liability for the performance or observance of the covenants and conditions in such New Lease contained and on the lessee's part to be performed and observed, provided that a certified copy of such assignment is provided to Ground Lessor.

6. **AMENDMENT OF LEASE.** As long as the Deed of Trust remains in effect, Ground Lessor will not enter into any amendment or modification of the Ground Lease without Lender's consent.
7. **NOTICES.** All notices or other communications required or permitted to be given pursuant to the provisions hereof shall be deemed served upon delivery or, if mailed, upon the first to occur of receipt or the expiration of three (3) days after deposit in United States Postal Service, certified mail, postage prepaid and addressed to the address of Lessee or Lender appearing below:

Ground Lessor: CJM Limited Liability Limited Partnership  
621 Washington Street South  
Twin Falls, Idaho 83301  
Attn: Mark Ridley

With a copy to: Snell & Wilmer L.L.P.  
15 W. South Temple, Suite 1200  
Salt Lake City, Utah 84101  
Attn: AJ Pepper

Ground Lessee: Santaquin Market, Inc.  
1050 South State Street  
Mount Pleasant, Utah 84647  
Attn: W. Scott Hymas

Lender: Wells Fargo Bank, National Association  
86 N. University Ave., Suite 210  
Provo, Utah 84601  
MAC U1501-021  
Attn: Auston L Belka

provided, however, any party shall have the right to change its address for notice hereunder by the giving of written notice thereof to the other party in the manner set forth in this Agreement.

8. **WAIVER OF GROUND LESSOR'S RIGHT TO CURE.** Notwithstanding anything to the contrary in the Ground Lease, but subject to the rights of Ground Lessor under Section 2.4 of this Agreement, Lender may accelerate the Loan without notice to Ground Lessor; and Ground Lessor shall have no right to cure any default of Ground Lessee under the Loan Agreement or the Deed of Trust. With respect to the Loan, Ground Lessor hereby waives any notice and cure rights it might otherwise have pursuant to the Ground Lease, subject to the rights of Ground Lessor under Section 2.4 of this Agreement.
9. **RIGHTS OF LENDER.** Ground Lessor authorizes Lender, without giving notice to Ground Lessor or obtaining Ground Lessor's consent, to renew, modify, or extend from time to time all or any portion of Ground Lessee's obligations under the Loan Agreement, Deed of Trust or any of the other Loan Documents (as defined in the Loan Agreement) or otherwise to modify the terms of any of the Loan Documents.
10. **TERMINATION.** This Agreement and Ground Lessor's obligations set forth in this Agreement shall terminate and be of no further force or effect upon the earlier of (i) the termination of Lender's rights as set forth in Section 5.1 of this Agreement, and (ii) payment of the Loan and Equipment Loan in full, whereupon Lender shall record a satisfaction, release, reconveyance or discharge of the Deed of Trust.

11. **MISCELLANEOUS.**

- 11.1 If any term, covenant, condition or agreement contained in this Agreement or the application thereof to any person, firm or entity shall at any time or to any extent be deemed or found to be invalid or unenforceable by operation of law, judicial proceedings, or otherwise, the remainder of this Agreement or the application of such term, covenant, condition or provision to persons or entities or to circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each remaining term, covenant, condition or provision of this Agreement or the application thereof shall be valid and enforced to the fullest extent permitted by law.
- 11.2 This Agreement shall bind and inure to the benefit of the parties hereto, their heirs, personal representatives, successors and assigns.
- 11.3 This document may be signed in any number of separate copies, each of which shall be effective as an original, but all of which taken together shall constitute a single document. An electronic transmission or other facsimile of this document or any related document shall be deemed an original and shall be admissible as evidence of the document and the signer's execution.
- 11.4 This Agreement contains the entire agreement between the parties and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. This Agreement may not be modified in any manner whatsoever except by an instrument in writing signed by each of the parties hereto.
- 11.5 At Lender's option, Lender may record this Agreement in the office of the County Recorder for Utah County, State of Utah.

*[Signature Pages to Follow]*



Signature Page for Ground Lessee:

Santaquin Market, Inc.,  
a Utah corporation

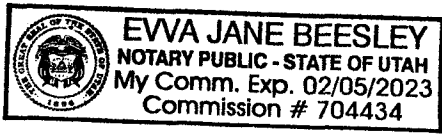
By: Walter Scott Hymas PRESIDENT  
Walter Scott Hymas, President

STATE OF Utah )  
COUNTY OF Sanpete ) : ss

The foregoing instrument was acknowledged before me this 30 day of March, 2020, by Walter Scott Hymas, President of Santaquin Market, Inc., a Utah corporation.

Ewa Jane Beesley  
Notary Public  
Residing at:

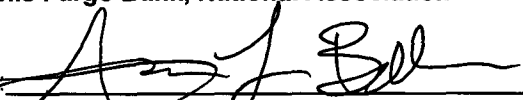
My commission expires:  
02/05/2023






**Signature Page for Lender:**

**Wells Fargo Bank, National Association**

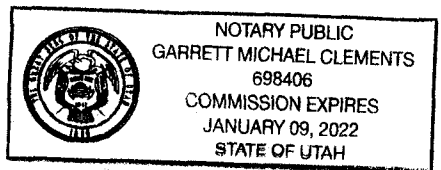
By:   
Auston L. Belka, Vice President

STATE OF UTAH                    )  
  : ss  
COUNTY OF Utah            )

The foregoing instrument was acknowledged before me this 31<sup>st</sup> day of March, 2020, by Auston L. Belka, Vice President of Wells Fargo Bank, National Association.

  
Notary Public  
Residing at: 86 N University Avenue Provo, UT 84601

My commission expires: January 09, 2022



### DESCRIPTION OF PREMISES

Exhibit A to Ground Lessor's Estoppel and Agreement dated as of March 31, 2020, by and among CJM Limited Liability Limited Partnership, an Idaho limited partnership, Santaquin Market, Inc., a Utah corporation, and Wells Fargo Bank, National Association.

All that certain real property located in the County of Utah, State of Utah, described as follows:

All of future Lot 1, of the forthcoming Ridley's Subdivision being described temporarily metes and bounds as follows:

A part of the Northeast quarter of Section 1, Township 10 South, Range 1 East, Salt Lake Base and Meridian, U.S. Survey in Utah County, Utah:

Beginning at a point on the East line of 400 East Street as dedicated at a point located 1737.87 feet South 00°30'50" East along the quarter section line; and 29.78 feet South 89°29'04" East from the North quarter corner of said Section 1; and running thence South 89°29'04" East 666.49 feet to a point of curvature; thence Southeasterly along the arc of a 115.00 foot radius curve to the right a distance of 94.95 feet (central angle equals 47°18'24" and long chord bears South 65°49'52" East 92.28 feet) to a point of tangency; thence South 42°10'40" East 36.60 feet to the Westerly line of 500 East Street as dedicated; thence along said Westerly line the following five courses: (1) South 47°49'20" West 105.21 feet; (2) South 54°56'50" West 88.68 feet; (3) South 47°49'20" West 141.27 feet; (4) South 19°16'14" West 52.56 feet and (5) Southwesterly along the arc of a 233.00 foot radius curve to the left a distance of 112.26 feet (center bears South 62°13'40" East, central angle equals 27°36'17" and long chord bears South 13°58'12" West 111.18 feet) to a point of tangency on the West line of 500 East Street as it exists at 31.00 foot half-width; thence South 00°10'03" West 142.84 feet along said West line; thence North 89°49'57" West 351.40 feet; thence North 00°10'03" East 258.59 feet; thence North 89°49'57" West 120.51 feet to said East line of 400 East Street; thence North 06°32'41" West 58.19 feet along said East line; thence South 89°29'04" East 127.50 feet; thence North 00°30'56" East 237.41 feet; thence North 89°29'04" West 127.50 feet to said East line of 400 East Street; thence North 00°30'56" East 32.50 feet along said East line to the point of beginning.

**REQUEST FOR NOTICE**

Exhibit B to Ground Lessor's Estoppel and Agreement dated as of March 31, 2020, by and among CJM Limited Liability Limited Partnership, an Idaho limited partnership, Santaquin Market, Inc., a Utah corporation, and Wells Fargo Bank, National Association.

[See Attached.]

**WHEN RECORDED RETURN TO:**

Snell & Wilmer L.L.P.  
Attn: AJ Pepper  
15 W. South Temple, Suite 1200  
Salt Lake City, UT 84101

APNs: 32-003-0105, 32-003-0085, 32-003-0086,  
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~~32-003-0103~~, ~~32-003-0111~~, 32-003-0109  
32-003-0124 32-003-0131  
32-003-0137 32-003-0130  
32-003-0141

REQUEST FOR NOTICE

The undersigned requests that a copy of any notice of default and a copy of notice of sale under the trust deed filed for record 4/3/20, 2020, and recorded in Book N/A, Page N/A, as Entry No. 43654 : 2020, Records of Utah County, Utah, executed by Santaquin Market, Inc. as Trustor, in which Wells Fargo Bank, National Association, as Beneficiary, and Cottonwood Title Insurance Agency, Inc. as Trustee, be mailed to AJ Pepper, Esq., Snell & Wilmer L.L.P., 15 West South Temple, Suite 1200, Salt Lake City, UT 84101 and CJM Limited Liability Limited Partnership, 621 Washington Street South, Twin Falls, Idaho 83301, Attn: Mark Ridley.

All that certain real property located in the County of Utah, State of Utah, described as follows:

All of future Lot 1, of the forthcoming Ridley's Subdivision being described temporarily metes and bounds as follows:

A part of the Northeast quarter of Section 1, Township 10 South, Range 1 East, Salt Lake Base and Meridian, U.S. Survey in Utah County, Utah:

Beginning at a point on the East line of 400 East Street as dedicated at a point located 1737.87 feet South 00°30'50" East along the quarter section line; and 29.78 feet South 89°29'04" East from the North quarter corner of said Section 1; and running thence South 89°29'04" East 666.49 feet to a point of curvature; thence Southeasterly along the arc of a 115.00 foot radius curve to the right a distance of 94.95 feet (central angle equals 47°18'24" and long chord bears South 65°49'52" East 92.28 feet) to a point of tangency; thence South 42°10'40" East 36.60 feet to the Westerly line of 500 East Street as dedicated; thence along said Westerly line the following five courses: (1) South 47°49'20" West 105.21 feet; (2) South 54°56'50" West 88.68 feet; (3) South 47°49'20" West 141.27 feet; (4) South 19°16'14" West 52.56 feet and (5) Southwesterly along the arc of a 233.00 foot radius curve to the left a distance of 112.26 feet (center bears South 62°13'40" East, central angle equals 27°36'17" and long chord bears South 13°58'12" West 111.18 feet) to a point of tangency on the West line of 500 East Street as it exists at 31.00 foot half-width; thence South 00°10'03" West 142.84 feet along said West line; thence North 89°49'57" West 351.40 feet; thence North 00°10'03" East 258.59 feet; thence North 89°49'57" West 120.51 feet to said East line of 400 East Street; thence North 06°32'41" West 58.19 feet

