

**APPENDIX 1**

*(As adopted by Commission – August 8, 2013)*

**MASTER LEASE**

**FOR THE FORT WORDEN STATE PARK CAMPUS**

**BY AND BETWEEN**

**STATE OF WASHINGTON,  
acting through the WASHINGTON STATE PARKS AND  
RECREATION COMMISSION, AS LANDLORD**

**FORT WORDEN LIFELONG LEARNING CENTER PUBLIC DEVELOPMENT  
AUTHORITY, AS TENANT**

**DATED: \_\_\_\_\_, 2013**

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### Definitions Page

**Annual Maintenance Plan** - Assigns routine and major maintenance priorities between the parties as provided under section 8.4.

**Campus** - Refers to the approximately 90 acres located within Fort Worden State Park that is leased to the Tenant.

**Campus Operating Expenses** - All costs and expenses assigned to the PDA that are associated with its Campus operating activities as provided under section 7.2 of the lease.,

**Capital fund** - A segregated bank account dedicated to deferred maintenance or capital improvements within the Campus pursuant to section 7.4.

**Capital Plan** - Plan for proposed capital projects prepared in accordance with Section 6.5 of the lease.

**Capital Projects List** - The list of capital projects prepared in accordance with section 6.5 of the lease.

**Chair** - Chairperson for the PDA.

**Commission** - Washington State Parks and Recreation Commission.

**Coordinating Committee** - The committee established under Section 5.1 of the lease.

**Development/Reserve Fund** - A fund held and administered by Tenant, which funds activities necessary for the continued operation and development of the Campus as provided in section 7.4 of the lease.

**Director** - Director of the State Parks and Recreation Department.

**Date of Possession** - The Date Tenant is entitled to occupy and take possession of the Campus for the purposes under this Lease.

**Effective Date** - The date the parties execute the lease and it becomes legally binding upon the parties.

**Operations Work Group** - The group established pursuant to section 5.2 of the lease. Park. Refers to the entire Fort Worden state Park consisting of 434 acres. This area is also referred to as the Property.

**Partner Group** - TBD

**PDA** - The Fort Worden Lifelong Learning Center Public Development Authority.

**Plan** - Long-range planning concluded with Commission adoption of two documents collectively known as the Fort Worden Long-range Plan in 2008, which includes the Fort Worden Site and Facilities Use and Development Plan and the Fort Worden Guidelines for Rehabilitation.

**Property** - See Park above.

**State Park** - Refers to that portion of the 434 acres within the Fort Worden State Park that is not leased to the Tenant and will continue to be managed by the Commission.

**State Reserved Area** - That portion of the Campus that is not leased to the PDA but instead reserved for use by the Commission for the periods described in the lease.

## MASTER LEASE

This MASTER LEASE (“Lease”), dated as of \_\_\_\_\_, 20\_\_\_\_, is by and between FORT WORDEN LIFELONG LEARNING CENTER PUBLIC DEVELOPMENT AUTHORITY, a Washington public authority chartered by the City of Port Townsend under authority of State law and City ordinance (“Tenant”), and the STATE OF WASHINGTON, acting through the WASHINGTON STATE PARKS AND RECREATION COMMISSION (“Commission”).

## RECITALS

- A. Fort Worden State Park (the “Park”) encompasses 434 acres within the City of Port Townsend, provides recreational opportunities, is home to more than 70 historic buildings and structures, and is designated a National Historic Landmark.
- B. Commission owns and manages the Park. Within the Park is a “built area” that has been devoted to cultural, artistic, educational, and historic programs and activities commonly referred to as the campus (the “Campus”). The Campus has historically been managed in partnership with the Washington State Arts Commission, the Superintendent of Public Instruction, and Centrum to serve as a conference center with a focus on arts, education, and the humanities.
- C. Long-range planning for the Park began in the fall of 2004. Since 2004, Commission has adopted a vision and mission statement for Fort Worden (May 2005); approved a roadmap and assumptions to guide long-range planning (August 2005); and adopted land classifications, long-term boundary, value statements, Park use and development principles, and refined the learning center concept (January 2007).
- D. Long-range planning concluded with Commission adoption of two documents collectively known as the Fort Worden Long-range Plan in 2008 (the “Plan”). The Plan included the Fort Worden Site and Facilities Use and Development Plan and the Fort Worden Guidelines for Rehabilitation.
- E. As a Lifelong Learning Center, the Park provides outdoor space for recreational and educational opportunities to house a variety of tenants and groups that would offer residential and nonresidential programs and classes involving, among others, performing and visual arts, environmental and natural resources, health and wellness, historic preservation, woodworking and cultural history, and the culinary arts.
- F. The PDA’s charter (adopted in September 2011) specifically directs the PDA to undertake, assist with, and facilitate the implementation of a Lifelong Learning Center at the Park consistent with the 2008 Plan and to develop the necessary agreements and partnerships for the use, operation, management, and development of State-owned facilities and properties within the Park.
- G. Commission and the PDA have developed this Lease under which the PDA is the Tenant primarily responsible for management and operation of the Campus. State Parks will

continue to manage and operate the balance of the Park not leased to the PDA (the “State Park”).

## **AGREEMENT**

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Commission and Tenant agree as follows:

### **ARTICLE 1 DESCRIPTION OF THE CAMPUS**

1.1 Recitals. The above Recitals are hereby incorporated by this reference.

1.2 Leased Area. Commission is the owner of approximately 434 acres of real property located in Port Townsend, Jefferson County, Washington, legally described and also depicted on Exhibit A hereto, together with all appurtenances, rights, and privileges now belonging or appertaining thereto (the “Property”). Approximately 90 acres of the Property, legally described and also depicted on Exhibit B (the “Campus”), includes those buildings, grounds, common areas, parking lots, and sidewalks located on said 90 acres of the Property including, without limitation, the seventy-one (71) buildings depicted on Exhibit C (the “Buildings”) and all associated appurtenant rights and easements thereto (including the easements described below). The Campus is the lease area subject to the reservations contained in this Lease and subject to various deed or grant restrictions affecting the Campus. As of the date of mutual execution of this Lease by Commission and Tenant (the “Effective Date”), Commission as landlord hereby leases to Tenant as tenant, and Tenant hereby leases from Commission, the Campus, subject to the obligations, terms, and conditions contained herein. Tenant’s right to use and occupy the Campus is subject to the State Reserved Rights.

1.3 Easements. To operate the Campus as a Lifelong Learning Center, certain easements are required, as hereinafter described. Thus, Commission hereby grants and conveys to Tenant non-exclusive easements for ingress, egress, and utilities (collectively, the “Easements”) for the Term, on the terms and conditions as set forth below. The memorandum of this Lease shall provide notice of these Easements. The Easements are located on and burden the Property, or portions thereof, surrounding the Campus.

1.3.1 Public Access. Commission grants Tenant a non-exclusive easement over the Property for public access (“Access Easement”). This right to access shall include all forms of access to the Campus, including access for cars, vans, trucks, construction vehicles, bicycles, and pedestrians. If the Access Easement is gated or otherwise secured so as to restrict access, Tenant shall be provided with a means of access through such gate or security system.

1.3.2 Utility Easement. Commission has previously installed water lines, electric services, sewer lines, conduits for communications, meters, fire department connections and hydrants, and other utility facilities (collectively, “Utilities”) to serve the Campus.. Commission shall keep the Utilities and related facilities, to the extent such utilities are located outside the Campus, in good condition and repair at all times at Commission’s sole cost and provide such utility services to the Campus. Repair and maintenance of the Utilities within the

Campus area shall be Commission's sole obligation, at its sole cost, during the first four (4) years from the Date of Possession, subject to the provisions of Section 16.10, and shall thereafter be the joint responsibility of the parties, with each party sharing in proportion to the amount of service provided to its respective area (leased area/reserved area). After the first four (4) years, Utility improvements within the Campus that meet the dollar threshold identified in section 6.5 shall be Capital Improvements subject to the provisions of Section 6.5. Commission is not responsible for the communications lines installed by a third party provider at the request of Tenant. Commission grants Tenant an easement ("Utility Easement") to use, maintain and access the Utilities serving or to serve the Campus and the Buildings. Tenant shall have a non-exclusive right to have a telecommunications provider(s) install its cables in the conduit in the Utility Easement.

Tenant may install additional utilities and upgrade or repair utilities in the Utility Easement Area at its sole cost and with the prior written approval of the Fort Worden State Park Park Manager. In doing such work, Tenant shall not disturb the vegetation and topography and improvements on the property outside of the Utility Easement area. Upon completion of such reconstruction, maintenance, repair, or other permitted activity, Tenant shall immediately restore all disturbed topography and vegetation to their condition immediately prior to the initiation of such maintenance or repair and, as to the installation of any new utilities by Tenant, Tenant shall thereafter be responsible for their maintenance and repair.

Tenant shall be responsible for utility charges related to its use or that of its subtenants or licensees. Prior to the Date of Possession the Commission shall arrange to have electric service and water service to the Property outside the Campus (including, without limitation, the campgrounds on the Property) and such structures reserved by Commission within the Campus separately metered, and all utility charges related to the same shall be Commission's obligation. From that point forward, electric and water charges shall be allocated based on the metered rates with Tenant paying for all utilities serving the Campus other than State Reserved Areas, which shall be the Commission's obligation. Electrical service and water to the leased buildings may be separately metered if so desired by Tenant. The parties recognize that electric service lines and service that serve facilities on the State Reserved Areas and/or State Park may be located on the Campus. Such lines will remain on the Campus and shall be maintained by Commission or the appropriate utility provider. Commission and the utility provider shall have the right to access, as needed, the areas on the Campus that house and provide such lines and service, to maintain, repair, and replace such lines and service, provided that such persons are accompanied by appropriate Tenant staff, or without Tenant staff, if necessitated by an emergency or dangerous condition. Such access shall be conducted in such a way as to minimize interference with the operation of the Campus activities and Commission shall repair any damage caused by such access.

1.4 State Reserved Rights. Not included under this Lease and reserved unto Commission are the following:

1.4.1 Timber, Minerals, and Valuable Material. Commission reserves any mineral rights, rights to remove merchantable timber, water rights, or any other right to excavate or withdraw minerals, gas, oil, or other material, except as specifically granted in this Lease.

1.4.2 Access. Commission reserves reasonable access to and over the Campus to facilitate its responsibilities for the management of the State Park.

1.4.3 Easements. Commission reserves the right to grant easements, licenses, and permits on the Campus, provided such grants do not unreasonably interfere with Tenant's use of the Campus.

1.4.4 Telecommunications. Commission reserves the right to allow telecommunication providers to install cables in conduits or along telephone poles to serve any tenants within the Campus.

1.4.5 State Reserved Areas. Commission reserves certain buildings and areas within the Campus set forth on Exhibit F (the "State Reserved Areas"), for the timeframes set forth on Exhibit F and illustrated in Exhibit F-1. Commission shall be responsible for the maintenance, repair, replacement, management, regulation, and programming of the State Reserved Areas. Commission shall manage and operate the State Reserved Areas in a clean, safe, and unobstructed manner consistent with the operation of the Campus. Tenant shall not obstruct members of the public from entering upon and using and enjoying the State Reserved Areas for park purposes, except as provided herein or by separate agreement of the parties. Commission will not block or obstruct, or permit the blocking or obstruction of the State Reserved Areas or modify the State Reserved Areas except for occasional, temporary obstructions for park events. Such obstructions shall not materially interfere with public access to the remaining areas of the Campus or Tenant's ability to use the Campus for its intended purposes. Commission will consult with Tenant to minimize any impacts from any temporary blockage or obstruction. That timeframes for State Reserved Areas being transmitted to the Tenant as set forth in Exhibit F may be adjusted upon mutual agreement of the parties to this lease.

Tenant shall have no responsibility or liability for the activities on the State Reserved Areas or the condition thereof, unless and to the extent caused by Tenant, or its employees or agents (as further provided in Section 14, Indemnity).

1.5 As-Is Condition. The acceptance of possession of the Campus by Tenant on the Date of Possession shall be conclusive evidence that Tenant accepts the Campus in its then "as-is" condition, subject to Commission's ongoing obligations as set forth herein. Tenant hereby acknowledges that Commission has made and makes no representations or warranties, express or implied, regarding the condition of the Campus or their suitability for the intended use, unless otherwise set forth herein. Tenant confirms that it has had ample opportunity to inspect the Campus and is familiar with its condition.

1.6 No Covenant and Warranty of Quiet Possession. Commission disclaims any warranty that Tenant's peaceable and quiet occupation, use and enjoyment of the Campus shall not be disturbed by Commission or anyone claiming by or through Commission. Tenant has had an opportunity to inspect title to the Property and accepts the Campus subject to prior restrictions in deeds or grant contracts affecting the Property. Notwithstanding this disclaimer, after the Effective Date, the Commission shall not encumber title to the Property in any way that affects

the possessory right of the Tenant without the Tenant's prior written approval, which approval shall not be unreasonably withheld.

1.7 Access to Property. Tenant shall not block access to the Property without prior approval by the Fort Worden State Park Manager.

## **ARTICLE 2 TERM**

2.1 Term. All obligations of Commission and Tenant hereunder shall commence and be binding on the parties as of the Effective Date unless a different date is set forth in this lease. Tenant shall be entitled to possession as set forth later in this lease. This Lease shall be and continue in full force and effect for a term (the "Term") that commences on the Effective Date and continues for fifty (50) years, unless sooner terminated pursuant to the provisions hereof. The Parties understand that extending the Term of this Lease with respect to the entire Campus, individual Buildings or specific areas within the Campus may be useful in facilitating private investment in the Campus arranged or provided by Tenant or subtenants. The Parties agree to consider such extensions in good faith to the extent permitted by law.

## **ARTICLE 3 CONSIDERATION**

3.1 Consideration. The parties agree that there is no monetary rent owed by Tenant to Commission hereunder. Rather, the consideration for this Lease consists of the Public Benefits to be provided, the maintenance and operation of the Campus at the expense of Tenant, except as provided herein, revenue sharing, and contributions to capital projects as provided herein.

3.2 Public Benefits. A central element of this Lease is the identification of and Tenant's commitment to the ongoing provision of certain public benefits as described herein. In fulfillment of Tenant's commitment, from and after the Date of Possession, Tenant shall operate or cause to be operated the Campus for the use set forth in Section 4.1 below and shall perform or ensure the provision of certain "Public Benefits" during the Term of this Lease, all at no cost to Commission. The Public Benefits generally include but are not limited to the following: operation of the Campus as a Lifelong Learning Center open and accessible to the public; provision of services and programs consistent with such use; provision of facilities conducive to public enjoyment of the Campus as a Lifelong Learning Center; and provision of ancillary benefits to the Port Townsend community resulting from such operation of the Campus. The Parties acknowledge that the scope and nature of Public Benefits may change as the Lifelong Learning Center matures. A Public Benefits Report shall be included as a part of the Annual Report from the Tenant to the Commission.

## **ARTICLE 4 USE OF CAMPUS**

4.1 Use of Campus. Tenant's use of the Campus shall be for purposes consistent with a Lifelong Learning Center Goal as that concept has been articulated in the adopted vision and mission statement for Fort Worden (May 2005); approved roadmap and assumptions to guide long-range planning (August 2005); adopted land classifications, long-term boundary, value



statements, Park use and development principles as refined the learning center concept (January 2007), and the Long-range Plan for Fort Worden (2008). Notwithstanding the foregoing, the parties hereto acknowledge that such uses may evolve and change over time while remaining focused on uses consistent with a Life Learning Center concept. The parties hereto further acknowledge and agree that the unique attributes of the Property and the potential of the Lifelong Learning Center concept make it particularly attractive to nonprofit organizations for a variety of artistic, cultural, educational, and recreational uses. Tenant shall promote the use of the Campus facilities for nonprofit, government and corporate events, meetings, workshops, seminars, and conferences even if such promotion and use is not the highest and best market use and may reduce the overall net revenues (due to discounted lease or conference rates); provided, however, Tenant shall also actively promote, market, and make available the facilities for independent travelers, family retreats, and other users. The Campus shall be operated by Tenant under the identifying name of "Fort Worden Lifelong Learning and Conference Center"; provided that Tenant shall be entitled to use or operate under such other names, brands or graphic logos as Tenant deems in the best interest of its marketing and promotion of the Campus, and further provided any signs to the park indicate that the name of the park remains Fort Worden State Park.

4.2 Alcohol Service. Although the Campus is located in a state park area managed by the Commission, prohibitions on the serving and consumption of alcoholic beverages on the Campus shall not apply, and Tenant may permit alcoholic beverages to be served on the Campus provided that Tenant is responsible for seeing that all required liquor permits/licenses are obtained.

4.3 Prohibited Activities. Nothing shall be done by Tenant or Commission, or their officers, directors, or employees upon or about the Campus or the State Reserved Areas that violates any Law. Neither Tenant nor Commission will do or keep anything in or upon the Campus or the State Reserved Areas that may prevent the obtaining of any insurance required under this Lease or carried with respect to the Campus or that may void any such insurance. Tenant agrees to adopt and implement a policy prohibiting any person, except for law enforcement officers and on-duty security personnel, from possessing firearms on the Campus.

4.4 Compliance With Laws. Each party shall be solely responsible, at its sole cost for compliance with any laws relating to the responsibilities assigned to that party under this lease. The Commission shall correct any building code violations caused by the Commission, its employees or contractors between the Date of Execution and the Date of Possession. Each party agrees that either party shall have the right to reasonably contest, at its sole cost, any asserted or alleged violation of any laws, statutes, ordinances, regulations, rules and other governmental requirements of any kind applicable to the Campus (hereinafter "Laws").

4.5 Buildings #245 and #270. Commission shall be entitled to continue to use Buildings #245 and #270 (as depicted on the attached Exhibit C) for ranger housing until February 28, 2014. These two buildings shall be vacated by Commission and left in broom clean condition free of personal property no later than March 1, 2014. From and after March 1, 2014, these two buildings may be used for such purposes as Tenant desires, pursuant to the terms and conditions of this Lease.

4.6 Reservation Administration. Tenant shall provide reservation administration services for the accommodation and meeting facilities in the Campus. In addition, Tenant shall provide reservation administration services for the Property's two (2) campground areas. Tenant shall be entitled to charge and receive a service fee of Eight and 50/100 Dollars (\$8.50) (or such larger service fee as Commission may authorize from time-to-time) for each reservation made through Tenant at the Property. Tenant's reservation administration services for the two (2) campground areas shall be available to customers, at a minimum, between the hours of 8:00 AM - 5:00 PM, seven days a week year round, except the services shall be available for the extended period of 8:00 AM to 7:00 PM during the time period June 1- September 15 and Holiday weekends, and entail providing check-in services for campground users with their campground reservation and passes, but shall exclude, without limitation, responding to complaints or other issues that may arise in relation to the campgrounds. Commission shall be responsible for, without limitation, operating the two (2) campgrounds and responding to complaints and other issues associated with the same. Funds collected for camping services shall be remitted to the Commission in a timely manner in accordance with the fiscal procedures set forth in Exhibit I.

## **ARTICLE 5 COORDINATING COMMITTEE; OPERATIONS WORK GROUP**

### 5.1 Coordinating Committee

5.1.1 Operation and management of the Campus shall be monitored and reviewed by the Coordinating Committee, which shall be comprised of five (5) members. The members shall include two representatives from Tenant and two representatives from Commission and one at large member. The two Tenant representatives shall include the Campus Manager and a Tenant board member to be designated by the Tenant board on an annual basis. The Tenant board member representative shall not serve on the board of any Partner Group organization. The two Commission representatives shall include the Fort Worden Park Manager and the State Parks Assistant Director or his/her designee. The at large representative shall not be an elected official, PDA Board member, Partner Representative or current member of the Commission. The Coordinating Committee shall nominate the at large member to the Director and the Chair of the PDA Board. The By-laws for the Coordinating Committee will describe criteria for its nomination of the at-large member. An at-large member serves a two year term with, upon the mutual consent of the Director and the Chair of the PDA Board, the potential for two extensions of two additional years each for a maximum total term of six (6) years. The Coordinating Committee will strive for solutions and recommendations that clearly support the spirit and intent of this agreement and the long-term success of Fort Worden State Park and the lifelong learning center concept. The at large member is a voting member only when the PDA and Parks representatives cannot reach consensus on an issue.

5.1.2 The Coordinating Committee will serve as a forum dedicated to cooperation and collaboration between the parties to ensure (i) communication between the parties to this Lease and local stakeholders and (ii) the development of financial and policy recommendations to Tenant and Commission. The role of the Coordinating Committee is advisory, except as otherwise provided in this Lease. Specifically, the Coordinating Committee may:

5.1.2.1 Recommend changes to the existing Property and facility plans, or policies previously adopted by Commission;

5.1.2.2 Recommend and forward legislative initiatives to Tenant and Commission;

5.1.2.3 Review and recommend the annual maintenance plan submitted by the Operations Work Group;

5.1.2.4 Recommend capital projects list to Commission and Tenant;

5.1.2.5 Provide advice on capital proposals that are under consideration by Tenant or Commission;

5.1.2.6 Recommend capital improvement and major maintenance priorities and allocation of funds from the PDA managed Capital Fund;

5.1.2.7 Monitor and evaluate on an annual basis compliance with this Lease; and

5.1.2.8 Address and seek resolution of disputes or other issues from the Operations Work Group or other affected Fort Worden State Park stakeholders.

5.1.3 Meetings of the Coordinating Committee shall be set on a quarterly basis or may be called as needed by either the Tenant Chairperson or the State Parks Assistant Director. Meetings shall be noticed and open to the public in a manner consistent with the State Open Public Meetings Act. The Coordinating Committee shall hold at least one (1) annual public meeting to report on its activities and to receive stakeholder and public comments.

## 5.2 Operations Work Group.

5.2.1 The parties shall cooperate to form an “Operations Work Group,” which shall be a staff-level working group comprised of the Fort Worden State Park Manager, the Tenant Campus Manager, and one representative from the group of major tenants upon the Campus (the “Partners Group”) as appointed by the Partners Group.

5.2.2 The Operations Work Group shall be responsible for coordination of day-to-day operations, maintenance, and property management issues on the Campus under the terms and conditions of this Lease. Specifically, the Operations Work Group shall work in a collaborative manner to:

5.2.2.1 Monitor day-to-day compliance with the Lease;

5.2.2.2 Develop and recommend an annual Maintenance Plan for facility maintenance and repair to the Coordinating Committee;

5.2.2.3 Coordinate operations and maintenance duties to implement the Maintenance Plan;

5.2.2.4 Prepare an annual Maintenance Report that describes the tasks, priorities, uncompleted tasks, and any issues encountered in carrying out the annual Maintenance Plan;

5.2.2.5 Identify, prioritize, and recommend capital facility improvements and major maintenance needs to the Coordinating Committee;

5.2.2.6 Seek resolution of any grievances or tenant/visitor disputes affecting day-to-day operations; and

5.2.2.7 Facilitate communication and cooperation among the Parties in the operation of the Campus pursuant to this Lease.

5.2.3 Decisions of the Operations Work Group shall be made on a consensus basis. If a consensus cannot be reached, any unresolved issue shall be forwarded to the Coordinating Committee for resolution.

5.2.4 The Operations Work Group shall meet bi-weekly, or as needed.

## **ARTICLE 6 ALTERATIONS**

6.1 Alterations. “Alterations” are any alterations, additions, or improvements made by Tenant to the Buildings or Campus grounds. Tenant may, from time-to-time, at its own cost and expense make interior alterations to the Buildings in an amount not to exceed \$100,000 per building, without the consent of the Director or designee; for such things as carpeting, interior painting, changing electrical or light fixtures, plumbing fixtures, etc. Any alteration that requires or affects the structural components such as floors, walls or ceilings require advance consent from the Director unless such change meets the definition of modernization improvements discussed below. In conducting any construction work on the Campus, Tenant shall cause all work to be done in a good and workmanlike manner and shall comply with or cause compliance with all Laws. Tenant shall obtain or cause to be obtained and maintain in effect, as necessary, all building permits, licenses, and other governmental approvals that may be required in connection with such work and such insurance as Tenant, in consultation with the Coordinating Committee or Director, as applicable, determine is reasonable for the scope and scale of the work to be undertaken. Alterations must be in compliance with the United States Secretary of Interior Standards for the Treatment of Historic Properties and the Commission-adopted Fort Worden Guidelines for Rehabilitation. Tenant shall have a right to make modernization improvements to the interior or exterior of Buildings, including adding structures, to improve energy efficiencies (Modernization Improvements) in amounts not to exceed \$100,000 per building, at its sole cost and upon written notification at least 30 days in advance of the commencement of any work to the Park Manager describing the work to be undertaken.

6.2 Ownership of Alterations. Title to any Alterations thereto constructed by Tenant or subtenants shall be vested in Tenant, subtenant or, as may be required for financing purposes, other parties until the expiration or earlier termination of this Lease, at which time the Alterations thereto shall become the property of Commission, free and clear of all liens and

encumbrances, without any obligation on the part of Commission to pay therefore. At Commission's request, Tenant shall deliver a deed to the Buildings to Commission confirming this transfer at the expiration or termination of this Lease, together with a complete set of all as-built or other building plans and all keys to the Buildings and any other improvements on the Campus.

Subject to the terms of Section 10.1 relating to damage and destruction upon expiration or earlier termination of the Term of this Lease, whether by lapse of time or otherwise (including any holdover period), Tenant at its expense shall: (a) remove all of Tenant's moveable, un-affixed personal property, goods, and effects, and those of all persons claiming under Tenant from the Campus; (b) to the extent required by Commission, remove all of its exhibits and exhibit-related casework, and (c) promptly and peacefully surrender the Campus (including surrender of all Tenant's improvements, alterations, and additions installed on the Campus) in at least as good a condition as at the Date of Possession or the date of completion of the Alterations, reasonable wear and tear and casualty excepted. Any property left on the Campus more than thirty (30) days after the expiration or termination of the Term shall be deemed to have been abandoned and to have become the property of Commission to dispose of as Commission deems expedient, and Tenant shall be liable for all costs associated with the disposal of such property. Tenant hereby waives all claims for damages that may be caused by Commission re-entering and taking possession of the Campus or removing and storing Tenant's property as herein provided. No such reentry shall be considered or construed to be a forcible entry.

6.3 Exhibits. Changes to any exhibits, whether fixed or temporary exhibits, are subject to the Coordinating Committee's review or approval; provided, any such changes affecting the State Reserve Areas are subject to review and approval of the Commission.

6.4 Mechanic's Liens. Tenant shall have no authority, express or implied, to create or place any lien or encumbrance of any kind or nature upon, or in any manner to bind, the interest of Commission in the Campus for any claim in favor of any person dealing with Tenant, including those who may furnish materials or perform labor for any construction or repairs to the Campus. Each such claim shall affect and each such lien shall attach to, if at all, only the leasehold interest granted to Tenant by this Lease. Tenant will pay or cause to be paid all sums payable by them on account of any labor performed or materials furnished in connection with any work performed on the Campus. Tenant will discharge, by bond or otherwise, any mechanic's or materialman's lien filed against the Campus for work claimed to have been done for, or materials claimed to have been furnished to, Tenant within sixty (60) days after filing. Tenant shall indemnify, defend, and hold Commission harmless from any and all loss, cost, or expense based on or arising out of asserted claims or liens against the leasehold estate or against the right, title, and interest of Commission in the Campus or under the terms of this Lease.

6.5 Capital Improvements Plan. The Parties shall have shared responsibility for funding Capital Improvements throughout the Term, as determined by the parties hereto. Except as provided herein, any repair, improvement or alteration that meets the then current definition of a capital project as defined by the Office of Financial Management shall be a "Capital Improvement." Notwithstanding the foregoing, the Parties shall be responsible to fund their respective shares of Capital Improvements, subject to available funding. Commission's

obligation to fund Capital Improvements is expressly contingent upon the Legislature appropriating the funds necessary to meet Commission's commitment. Tenant and Coordinating Committee shall meet prior to March 1, 2014, to prepare an initial plan (the "Capital Plan") which shall identify the Capital Improvement priorities for the first (1<sup>st</sup>) seven (7) years of the Term. The Coordinating Committee shall identify one stand-alone project of high value to be initiated within three (3) years of the Date of Possession for inclusion in the initial Capital Plan. By March 1 of each even year thereafter, Tenant and the Coordinating Committee shall meet to prepare an updated Capital Plan for the next ensuing seven (7) years of the Lease term. The purpose of the Capital Plan is to establish capital improvement priorities at the Campus and targets for private investment, to assist in the development of capital budget requests to the Legislature, to develop a capital development strategy and to proposed funding responsibilities between the Parties. Tenant and Coordinating Committee shall also thereafter meet prior to March 1, 2014 and each even year thereafter to develop a list (the "Capital Projects List") for the upcoming biennium. Once established, a Capital Project list shall be promptly submitted to the Director. Commission shall incorporate those portions of the Fort Worden Campus Capital Projects lists into Commission's capital request as deemed appropriate by Commission, acting in its sole discretion, in light of other capital project needs throughout the state-wide parks system. The Commission recognizes that future capital funding, both public and private, is important to the revitalization and long-term success of the Lifelong Learning Center at Fort Worden State Park.

The parties acknowledge that it is their mutual interest to develop a cooperative strategy for each biennial capital budget submittal. The parties acknowledge that the Tenant is free to independently seek funding from the Legislature for Fort Worden Lifelong Learning Center projects or programs, regardless of whether the Coordinating Committee has recommended any such projects for funding or whether Commission has incorporated any such projects into its capital request.

6.6 Ownership of Buildings and Capital Improvements. Commission agrees to consider Tenant requests to (i) transfer ownership of Buildings or capital improvements in the Campus to Tenant (or a tax credit entity formed by Tenant) and/or (ii) extend the term of the Lease in its entirety or with respect to one or more Buildings in the Campus, consistent with its authority at the time of the request and as reasonably required to secure financing for improvements to the same, obtain tax credits or other favorable tax treatment, or otherwise secure favorable investment or tenants for the Campus.

6.6.1 Drawings and Records. The parties agree that they will make available to one another in a timely manner and at no cost to the parties to this agreement studies, plans, design and construction drawings, "as-built" drawings and other similar information.

6.7 Prevailing Wages. All Capital Improvements or repair work, including Major Maintenance performed under contract using public funds, shall be subject to prevailing wage requirements. However, work undertaken by Tenant using volunteer labor and/or private funding or donations may be exempt from the use of prevailing wages.

6.8 Financial Assurance. Prior to commencing construction of any Tenant/subtenant owned improvements in excess of five hundred thousand dollars (\$500,000) Tenant is required to provide to Commission one or more surety bond(s) or letters of credit (Surety) acceptable to Commission in an amount sufficient to assure completion of all Tenant or subtenant improvements, decommissioning, and reclamation. The amount of the Surety will be based on the costs of full execution of the work, and may be adjusted once every five (5) years to ensure adequate funding is available to complete the activities covered. The Surety will be deposited with Commission to remain in effect until the appropriate phase of development, decommissioning, or reclamation is complete and all associated costs have been paid in full, free from all liens and claims of contractors, subcontractors, mechanics, laborers, and materialmen. Any additional construction after completion of the work shall not commence until a new Surety is in place. Commission may accept as a substitute for construction bonding proof that a sufficient surety has been provided to a construction lender. The Parks Director will give reasonable consideration to any Tenant request to waive this requirements on a case by case basis.

6.9 Condition at End of Lease. Upon vacating the Campus on the termination date, Tenant shall leave the Campus and all improvements thereon in the state of repair and cleanliness required to be maintained by Tenant during the Term of this Lease and shall peaceably surrender the same to Commission.

## **ARTICLE 7 OPERATIONS AND EXPENSES**

7.1 Operation and Management. Tenant shall have overall management responsibility for the Campus in order to implement the Lifelong Learning Center, subject to the terms of this Lease (the “Campus Operation Activities”), including, without limitation, those responsibilities set forth below (subject to Commission’s maintenance and repair obligations during the first four (4) years of the Term):

7.1.1 Overseeing daily management and operation of the conference meeting facilities, accommodations, and hospitality services within the Campus;

7.1.2 Marketing the Center to fulfill the purposes of the Lifelong Learning Center;

7.1.3 Keeping the Campus in good, safe, and clean working order by providing the Maintenance described in Section 8 below;

7.1.4 Providing customer service to visitors of the Campus such as food services, housing, meeting rooms, technology needs, and any other hospitality provisions necessary for their health, safety, and comfort;

7.1.5 Negotiating and serving as the property manager for existing and new leases at the Campus;

7.1.6 Assisting and recruiting new partner organizations to offer programs, events, and other activities to implement the Lifelong Learning Center;

7.1.7 Operating the reservations system for a seamless customer service experience that includes park campgrounds (which may include a process established by the Coordinating Committee for referring campground complaints to Commission);

7.1.8 Keeping the Campus open for general public access and use as a Lifelong Learning Center, 365 days per year, except for emergency closures;

Campus Operation Activities shall exclude the improvements, restoration, repair, replacement, maintenance, operation, and management of the State Reserved Areas and all Major Maintenance as defined in Section 8 below.

7.2 Campus Operating Expenses. Tenant shall bear all costs and expenses (the “Campus Operating Expenses”) during the Term that are associated with its Campus operating activities, unless otherwise provided herein and subject to Commission’s maintenance and repair obligations during the first four (4) years of the Term. As of the Date of Possession, Tenant shall be responsible for direct payment of all Campus Operating Expenses accruing from and after the Date of Possession as and when any such expenses are due. The parties shall cooperate to arrange for direct billing of all Campus Operating Expenses from the service provider to Tenant (to the extent practical; for example, water service will be sub-metered from Commission’s meter). Campus Operating Expenses shall include, without limitation, the following:

7.2.1 Insurance premiums and deductibles as required under this Lease or as Tenant may elect;

7.2.2 All charges for public and private utility services, including but not limited to electricity, gas, heating, air conditioning, telephone and telecommunications service, garbage, janitorial services, sewer, and water services;

7.2.3 Permits, licenses, and certificates necessary for the Campus operation activities;

7.2.4 Expenses incurred to comply with any Laws with respect to the operation of the Campus (excluding expenses that are the responsibility of Commission under this Lease); and

7.2.5 Management, operation, repair, maintenance, and restoration of the Buildings to the extent required herein, including, without limitation, the Maintenance set forth below.

7.3 Real Estate Taxes. Tenant shall bear all costs and expenses of any taxes and assessments related to the Campus accruing during the Term, including without any limitation the following (collectively, “Real Estate Taxes”):

7.3.1 General real estate taxes levied against the Buildings or taxes in lieu thereof;

7.3.2 Special assessments or taxes in the nature of improvement or betterment assessments;



7.3.3 Any taxes relating to operation of the Campus by Tenant;

7.3.4 All taxes on personal property and intangibles of Tenant on or used in connection with the Campus; and

7.3.5 Any leasehold excise tax applicable to the Campus as a result of any subleasing under or assigning of this Lease, which tax shall be payable by the appropriate subtenant or assignee.

As of the Date of Possession, Tenant shall be responsible for direct payment of all Real Estate Taxes accruing during the Term before any such taxes are delinquent, subject to the protest rights described below. The parties may agree to implement direct billing of all Real Estate Taxes to Tenant, with appropriate notice to Commission. All Real Estate Taxes that are payable by Tenant pursuant hereto for the tax year in which the Term commences, as well as during the year in which the Term expires, shall be prorated between Commission and Tenant on an actual per diem basis. If any of the Real Estate Taxes that Tenant is obligated to pay in whole or in part is permitted by law to be paid in installments, Tenant may pay the taxes in installments. Any exemption for property tax, in lieu tax, or leasehold excise tax will accrue to the benefit of Tenant (i.e., it will have no obligation to pay such taxes to the extent of such exemption).

Tenant may contest the validity or amount, including the assessed valuation upon the Campus, of any Real Estate Taxes that they in good faith believe is excessive, improper, or invalid. In such event, the payment thereof may be deferred during the pendency of such contest, if diligently prosecuted. Commission agrees to join at Tenant's request in any such contest to the extent such joinder is a prerequisite to such prosecution under statute, regulation, or administrative practice. In connection with a judicial or administrative challenge to any assessment, Tenant may take advantage of any stay in collection available under statute, regulation, or court or administrative order or rules. Nothing herein contained, however, shall be so construed as to allow such items to remain unpaid for such length of time as shall permit the Campus, or any part thereof, to be sold by any governmental authority for the nonpayment of the taxes. Within thirty (30) days after the amount of such contested item is finally determined to be due, Tenant shall pay the amounts so determined, together with any penalties, interest, and expenses associated with such contest.

7.4 Campus Revenues. Tenant shall be entitled to any and all revenues generated at the Campus throughout the Term of this Lease, subject to the revenue sharing provisions of this Lease.

7.4.1 External Financing. Tenant may seek private or other governmental sources of funding to meet its operating and maintenance obligations hereunder and/or to fund any capital improvement projects it elects to undertake. Commission will work in good faith with Tenant to assist with such efforts and will consider the use of security interests or finance contracts deemed necessary and appropriate for such funding. In addition, Tenant shall be permitted to utilize federal tax credits in support of the development of the Campus, specifically including providing for an optional structure involving requisite tax credit entities. Although such structure may involve security interests in Tenant's improvements and leasehold interest, no such deed of trust or other financing encumbrance may attach to the Campus.

7.4.2 Fees and Prices. Tenant shall have the authority to set the amount of prices and fees for accommodations, meeting room rentals, lease rates, hospitality services rendered, concession agreements, or sales made to the public or otherwise provided or managed by Tenant. Tenant shall not charge for parking within the Campus without the prior consent of the Director.

7.4.3 Development/Reserve Fund. Tenant shall establish a development/reserve fund (“Development/Reserve Fund”) in an amount determined by Tenant in its sole discretion to be held and administered solely by Tenant, and which shall be dedicated to specifically fund activities necessary for the continued operation and development of the Campus. The Development/Reserve Fund may be used without limitation for payment of planning, design, permitting, and construction costs of improvements or capital improvements, as matching funds for grants related to the development and operation of the Campus, marketing of the Campus’s facilities and programs, or for the replacement, substitution, repair, and/or restoration of any furniture, fixtures, or equipment and/or modernization improvements located on the campus.

7.4.4 Capital Fund. Tenant shall establish a segregated (bank account) capital fund dedicated specifically in an amount determined by Tenant in its sole discretion to fund deferred maintenance or capital improvements within the Campus (the “Capital Fund”); provided that the existence of such Capital Fund shall not reduce Commission’s obligation with respect to deferred maintenance or capital improvements under this Lease. The Capital Fund may be used solely for the replacement, repair, and restoration of Buildings, landscaping, site improvements, and infrastructure within the Campus, including without limitation, emergency repairs; roof and boiler replacement; exterior and interior painting; electrical, plumbing, and mechanical systems replacement and repair; road and parking improvements; and site and drainage improvements.

7.5 Placement of Artifacts in the Property. From time to time, Tenant may request that certain of its artifacts be placed on the State Park surrounding the Campus or on the State Reserved Areas. Such a request shall be in writing and accompanied by details of the nature and proposed location of the artifact and the plans for installation. If approved by Coordinating Committee, Tenant shall be responsible for the cost of installation and maintenance of the artifact. The placement of such artifact on the State Park or on the State Reserved Areas shall be at the risk of Tenant, and Commission shall not be responsible for any damage to or loss of such artifact. Following installation, Tenant may remove the artifact at its discretion.

7.6 Signage. Tenant shall have the right to place informational and directional signage in the State Park to inform the public about the location of and access to the Campus, with the Coordinating Committee’s prior approval. Tenant shall develop for the Coordinating Committee’s review and approval a signage plan for the installation of appropriate signage for the Campus within the State Park. In determining whether to approve such signage plan, the following factors, among others, may be considered: Tenant’s need for public awareness of the location of and access to the Campus; the signage needs of other State Park tenants and uses; the design, scale, placement, and materials proposed for such signage; and compatibility of the proposed signage with other State Park installations. Tenant may request modifications of the signage plan from time-to-time, such changes also being subject to the Coordinating Committee’s approval.

In addition, Tenant may install temporary signage at the entrance to the Park to advertise special events on the Campus, subject to the approval of the Coordinating Committee as to size, location, and content and applicable City regulations.

7.7 Naming Rights. Tenant shall have the right to name interior spaces in the Campus without Commission's consent. Tenant shall have the right to name buildings and exterior infrastructure or areas in the Campus subject to Commission's consent. Commission acknowledges, without limitation, that Tenant may want to recognize donors for their contributions to the Campus by naming certain improvements and displaying recognition names. Tenant's naming rights for Buildings under this paragraph shall comply with existing policies established by Commission, if any.

#### 7.8 Discover Pass Annual Proceeds

As part consideration for the benefits accruing to the Commission under this Lease, visitors to and patrons of the Campus shall not be required to acquire a Discover Pass or Day Use Permit to operate or park a vehicle within the Campus. In return for this concession, Tenant commits to sell at least Two Hundred Fifty Thousand Dollars (\$250,000) of Discover Passes ("Annual DP Obligation"), under the terms of a separate vendor agreement (copy attached as Exhibit H), for each fiscal year (July 1- June 30) starting from the Date of Possession for the first seven (7) years of the Term. The first year obligation shall be prorated based on the Date of Possession and the number of months remaining in that fiscal year. In the event the Tenant is not able to meet its Annual Discover Pass obligation, Tenant shall pay to Commission, by September 15 following the applicable fiscal year, the deficiency between Tenant's actual sales revenue from Discover Passes and its Annual Discover Pass obligation. Notwithstanding the foregoing, Tenant's Annual Discover Pass obligation for any particular year shall be reduced for that year in proportion to any reduction in the ratio of direct sales of Discover Passes in state parks across the state to sales of Discover Passes by any means. Direct Sales is defined as Discover Pass sales transacted within a state park. Additionally, if total Discover Pass sales statewide drop below the Fiscal Year 2013 baseline, the Tenant Discover Pass sales requirement will be adjusted downward by that percentage change. Should statewide Discover Pass sales exceed the Fiscal Year 2013 baseline the Tenant Discover Pass sales obligation will remain at \$250,000; provided that sales in excess of the Annual Discover Pass obligation shall pass on to the Commission.

7.9 Revenue Sharing. Commencing as of the seventh (7<sup>th</sup>) annual anniversary of the Date of Possession, Tenant shall pay to Commission three and one-half percent (3.5%) of the Gross Revenues (defined below) received by Tenant ("Annual Revenue Payment"). The Annual Revenue Payment owing for calendar year 2021 shall be pro-rated. The Annual Revenue Payment shall be paid by Tenant to Commission on a bi-annual basis, no later than sixty (60) days following each June 30 and December 31. For purposes of this paragraph, "Gross Revenues" means only the revenue actually received by Tenant from leases, concession agreements, accommodations and facility rentals, and the sale of other goods and services from or on the Campus. Gross Revenues exclude, without limitation, donations, grants, campground revenue, Discover Pass revenues and Lodging Tax allocations from the City of Port Townsend. Notwithstanding the foregoing, if in any year following the Date of Possession and prior to the fourth (4<sup>th</sup>) anniversary of the Date of Possession the Commission fails to perform its maintenance obligations, subject to the provisions of Section 8 and 16.10, at the Campus and if

the Tenant has not been otherwise compensated, an amount equal to the Commission unfulfilled monetary obligation shall be applied as an offset to any revenue due in the eighth year and thereafter until the Commission's obligation is satisfied.

7.10 Financial Reporting. Tenant shall establish and maintain a chart of accounts and records that is specifically related to its management activities associated with this Lease. Such accounts and records shall be open to review by Commission's representative on a reasonable basis. Tenant shall obtain and provide Commission, at Tenant's sole expense, a copy of an independent auditor's report and financial statements prepared annually by a public accounting firm mutually acceptable to Commission and Tenant.

7.11 Law Enforcement. For the four (4) years following the Date of Possession, Commission shall, to the extent practical and available and at its own cost, provide law enforcement in the Campus during daylight hours through its park rangers. In the event that rangers are not available, such law enforcement may be provided by the City of Port Townsend at no cost to the Commission. Tenant may enter into a mutual aid agreement with the City of Port Townsend to provide such law enforcement services at any time.

7.12 Complaints. Tenant shall be responsible for any complaints raised by its customers within the Campus, on a 24 hour/7 day a week basis. Commission is responsible for any visitor complaints outside of the Campus, including without limitation complaints related to campground administration, parking, beach and trail access, leash laws, and Discover Pass enforcement Issues.

## **ARTICLE 8 MAINTENANCE OF CAMPUS**

8.1 Commencing on the Date of Possession, the maintenance duties on the Campus will be divided between the Tenant and Commission as set forth in Exhibit G until the last day of the 48<sup>th</sup> calendar month of the Term, at which time all maintenance responsibilities will be at the sole cost and responsibility of the Tenant. All maintenance work completed by the tenant must be in compliance with the United States Secretary of Interior Standards for the Treatment of Historic Properties and the Commission adopted Fort Worden Guidelines for Rehabilitation. Each party's responsibilities are subject to available funding to the extent the responsibility meets the definition of major maintenance. To the extent a maintenance item is not expressly covered by Exhibit G, the following shall guide the allocation of responsibility.

8.1.2. Tenant Years 1 – 4. Tenant will be responsible for all janitorial/custodial services routine repair and maintenance on the campus including restroom and facility cleaning, waste removal, interior and exterior upkeep; furniture, fixture and equipment replacement and repair, unclogging toilets and drains, and replacing light bulbs.

8.1.3 Commission Years 1 – 4. The Commission will be responsible for preventative maintenance and repair of facilities, as well as, regular grounds and roads maintenance. These duties include such examples as mowing & trimming, pothole repair, paving, replacement of broken plumbing or electrical service, repair to major utilities, and structural building repairs. The responsibility of the Commission is limited

to provide the resources specified in Exhibit G1 to complete this work. The application of identified resources will be prioritized and directed by the Annual Maintenance Plan as described in Section 8.4 of this lease. The parties may, upon mutual agreement, modify their maintenance responsibilities as vacancies occur among Commission staff in order to facilitate a seamless transition of maintenance responsibilities as described in Section 8.1.4 below.

8.1.4. Tenant year 5+. Commencing the first day of the 49<sup>th</sup> month of the Lease, the Tenant will be responsible for all maintenance responsibilities on the Campus other than major maintenance that is deemed a capital project. .

8.2. Major Maintenance. “Major Maintenance” consists of any maintenance project that meets the then established definition of a Capital Project as defined by the Office of Financial Management. Major Maintenance shall be funded as a capital project as provided under Section 6.5, subject to specific legislative appropriation of funds.

8.3 Partner/Tenant Responsibilities. The Parties acknowledge that existing or new partners/tenants at the Campus may be required to perform some of maintenance obligations allocated to Tenant or Commission under this Lease, according to the terms of the applicable lease or other agreement.

8.4 Annual Maintenance Plan. Within one hundred twenty (120) days of the Possession Date, the Operations Work Group shall present an initial plan (“Annual Maintenance Plan”) for the Campus for the first operating year. This initial Annual Maintenance Plan shall be submitted to the Coordinating Committee for its review and adoption. The Annual Maintenance Plan shall be updated on an annual basis and submitted to the Coordinating Committee by December 1 of each year. The purpose of the Annual Maintenance Plan is to assign and coordinate Routine Maintenance and Major Maintenance priorities between the parties hereto (subject to the terms of this Lease), establish minimum standards to be met and a schedule that includes frequency of maintenance (e.g., daily, monthly, annually, or as needed). The Annual Maintenance Plan shall include the lead party for specific tasks as well as the anticipated costs for each task included in the plan and, as applicable, the respective share of such costs allocated to each party. The parties acknowledge that maintenance needs are not always predictable and that unforeseen circumstances may require the parties to adjust agreed upon Annual Maintenance Plan priorities.

8.5 Annual Maintenance Report. Following the first year of the Term and by October 31 of each year thereafter, the Operations Work Group shall provide to the Coordinating Committee a status report regarding the tasks and priorities described in the Annual Maintenance Plan. A final annual maintenance report shall be submitted by the Coordinating Committee to Tenant and Commission by December 1 of each year.

8.6 Default in Maintenance Responsibilities. If either party fails to perform its obligations subject to any conditions or limitations contained herein under this Section 8 following sixty (60) days’ prior written notice (or such shorter period as may be necessitated by an emergency or dangerous condition, or such longer time as may be needed provided that defaulting party is diligently pursuing the necessary work) to the non-defaulting party, the non-

defaulting party may perform such work and will be entitled to reimbursement for its work after making demand for reimbursement. The party in default shall make payment to the non-defaulting party within sixty (60) days of demand therefore, which demand shall be accompanied by reasonable substantiation of such costs.

## **ARTICLE 9 ENVIRONMENTAL**

### 9.1 Hazardous Substances

9.1.1 For the purposes of this Lease, (a) the term “Environmental Law” means any federal, state, or local law, statute, ordinance, regulation, or order pertaining to hazardous substances or materials, including without limitation those defined in this Section 9.1.1 as “Hazardous Substances,” and (b) the term “Hazardous Substance” means any hazardous or toxic substance, material or waste, pollutants or contaminants, as defined, listed, or regulated now or in the future by any federal, state, or local law, ordinance, code, regulation, rule, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Substances, including without limitation, (i) chlorinated solvents, (ii) petroleum products or by-products, (iii) asbestos, (iv) polychlorinated biphenyls, (v) lead-based paint, and (vi) mold, fungus, and other microbial matter.

#### 9.1.2 Tenant agrees that:

(a) Neither Tenant nor its employees, agents, contractors, assignees, subtenants, licensees, or invitees will use, generate, manufacture, produce, store, release, discharge, or dispose of, on, under, or about the Campus, or transport to or from the Campus, any Hazardous Substances except in such quantities as are typically used in connection with the construction, rehabilitation, operation, and use of property of the similar sort for the uses permitted under this Lease, and then only in compliance with all Environmental Laws.

#### (b) Tenant shall give prompt written notice to Commission of:

(i) Any proceeding or inquiry by any governmental authority known to Tenant with respect to the presence or release of any Hazardous Substance on, in, about, or from the Campus or the State Reserved Areas, or relating to any loss or injury resulting from any Hazardous Substance, all caused or alleged to be caused by Tenant or their employees, agents, contractors, assignees, subtenants, or invitees;

(ii) All claims made or threatened by any third party in writing against Tenant with respect to the Campus or the State Reserved Areas relating to any loss or injury resulting from any Hazardous Substance caused or alleged to be caused by Tenant;

(iii) Discovery after the Effective Date by Tenant of any occurrence or condition on the Campus or the State Reserved Areas that could cause them to be subject to any restrictions on occupancy or use under any Environmental Law; and

(iv) Any release of a Hazardous Substance on or from the Campus by Tenant.

(c) Excluded from all obligations of Tenant under this Section 9.1 are any obligations, claims, or liabilities arising out of the use or condition of or events occurring with respect to (i) the State Reserved Areas, State Park, or surrounding State property or property in the vicinity, or (ii) Hazardous Substances existing on, under, in, or about the Campus or the State Reserved Areas prior to the Effective Date unless arising in whole or in part from Tenant's conduct.

(d) Except as provided in Sections 9.2 and 14.1.2, Tenant shall protect, indemnify, pay the defense costs of, and hold harmless Commission Parties (as defined in Section 14.1.2) from any loss, damage, cost, expense, claim, suit, action, penalty, or liability (collectively, "Claims"), including, without limitation, reasonable attorneys' fees and costs and the costs of any required or necessary repairs or cleanup of the Campus or the State Reserved Areas and the implementation of any remediation or other plans required by any Environmental Law directly or indirectly arising out of or attributable to the presence, use, generation, manufacture, production, storage, release, discharge, or disposal of a Hazardous Substance on, under, or emanating from the Campus or the State Reserved Areas (i) on or after the Effective Date and (ii) caused by Tenant, its employees, agents, assignees, subtenants, or licensees.

9.1.3 The indemnity provisions of this Section 9.1 shall survive expiration or termination of this Lease.

9.2 Commission Obligation. Notwithstanding the disclaimer in Section 1.5, Commission agrees to the following:

9.2.1 Neither Commission nor its employees, agents, contractors, assignees, subtenants, licensees, or invitees will use, generate, manufacture, produce, store, release, discharge, or dispose of, on, under, or about the Campus, or transport to or from the Campus, any Hazardous Substances except in such quantities as are typically used in connection with the construction, rehabilitation, operation, and use of property of the similar sort for the uses permitted under this Lease, and then only in compliance with all Environmental Laws.

9.2.2 Commission shall give prompt written notice to Tenant of:

(a) Any proceeding or inquiry by any governmental authority known to Commission with respect to the presence or release of any Hazardous Substance on, in, about, or from the Campus or State Reserved Areas;

(b) All claims made or threatened by any third party in writing against Commission with respect to the Campus or the State Reserved Areas relating to any loss or injury resulting from any Hazardous Substance; and

(c) Commission's discovery of any occurrence or condition on the Campus or the State Reserved Areas that could cause them to be subject to any restrictions on use under any Environmental Law.

Excluded from Commission's obligations under this Section 9.2 are any obligations, claims, or liabilities arising out of the use or condition of the Campus or the State Reserved

Areas on or after the Effective Date caused by Tenant or its employees, agents, assignees, subtenants, or licensees that are the responsibility of Tenant under Section 9.1.2.

## **ARTICLE 10 DAMAGE AND DESTRUCTION**

10.1 Repair and Rebuilding. In the event of any damage to or destruction of the Campus or any improvements thereon from any causes whatever, Tenant shall promptly give written notice thereof to Commission. In the event of destruction totaling more than Ten percent (10%) of the total square footage contained within all of the Buildings on the Campus; Tenant shall have a right to terminate this Lease. In the event of any destruction, the Parties shall meet to confer on who shall bear the responsibility to repair the damage consistent with the allocation of responsibilities under this Lease and ownership of the improvement at the time of loss. The parties must come to mutual agreement on any decision to repair or rebuild. If the parties come to agreement, the Parties shall develop a timeframe and budget to implement the agreed upon repairs. Any obligations assumed by Commission or Tenant hereunder are contingent upon available funding. Any insurance proceeds from insurance payable by reason of such damage or destruction available to the Parties shall be applied to pay the cost of such reconstruction. Insurance funds in excess of the cost of such reconstruction shall be paid to Commission and Tenant prorated based upon the unexpired term of this Lease, with Tenant receiving the fraction thereof which is equal to the then remaining term divided by the original term of this Lease. In the event such damage or destruction occurs within the last ten (10) years of the Term of this Lease, and if such damage or destruction cannot be substantially repaired within one hundred eighty (180) days, either Commission or Tenant may elect by written notice to the other, within ninety (90) days after the date of such damage or destruction, to terminate this Lease. Tenant may need to procure property insurance for certain Buildings. In such event, Commission agrees at Tenant's request to procure such property insurance, the cost of which shall be paid by Tenant or may be passed through to the applicable subtenant.

10.2 Subtenant Insurance. Except insurance procured by Commission at Tenant or subtenant cost as provided in Section 10.1, the Parties acknowledge that Tenant and subtenants may be able or chose to insure only their respective tenant improvements and fixtures, furniture and equipment and that any such insurance would not be available for repair or restoration of Commission-owned buildings.

## **ARTICLE 11 CONDEMNATION**

### 11.1 Definitions.

(a) Total Taking. The term "total taking," as used in this Lease, means the taking of the entire Campus and any improvements thereon under the power of Eminent Domain either by judgment or settlement in lieu of judgment, or the taking of so much of the Property and improvements as to prevent the use thereof by Tenant or render the Property commercially impossible to operate for the uses and purposes hereinabove provided.



(b) Partial Taking. The term “partial taking” means either a temporary taking or the taking of a portion only of the Campus, which does not constitute a total taking as defined above.

(c) Volunteer Conveyance. The terms “total taking” and “partial taking” shall include a voluntary conveyance to any agency, authority, public utility, person, or corporate entity empowered to condemn property in lieu of formal court proceedings.

(d) Date of Taking. The term “date of taking” shall mean the date upon which title to the Campus or a portion thereof passes to and vests in the condemnor or the effective date of any order for possession if issued prior to the date title vests in the condemnor.

11.2 Effect of Taking. If during the Term hereof there shall be a total taking under the power of Eminent Domain, then the leasehold estate of Tenant in and to the Campus shall cease and terminate as of the date of taking. If this Lease is so terminated, all rentals and other charges payable by Tenant to decommission hereunder shall be paid by Tenant up to the date of taking by the condemnor, and the Parties thereupon shall be released from any liability arising after the date of termination.

11.3 Allocation of Award. Any award or payment made in respect to a total taking shall be allocated between Commission and Tenant as follows:

(a) Total Taking

(i) Tenant shall receive that portion of the award which is equal to all sums so paid attributable to the taking of its personal property, as well as that portion of award which is equal to all sums so paid attributable to the taking of the improvements made by Tenant upon the Campus, multiplied by a fraction, the numerator of which is the number of years remaining, as of the date of the taking, in the original term of this Lease, and the denominator of which is the number of the years remaining as of the date of completion of such improvements in the original Term of this Lease. In the event that the improvements shall have been completed in more than one (1) year, the amount of Tenant’s award shall be computed separately with respect to each such work of improvement.

(ii) If the portion of the award attributable to the taking of the improvements is not determined at the time the payment or award is made, the portion of the award attributable to the taking of the improvements shall be that portion of the award as the value of the improvements made upon the Campus bear to the total value of the Campus as improved which has been taken. These amounts shall be determined by a qualified real estate appraiser mutually selected by the State and Tenant.

(iii) The balance of the award or payment after deducting the above sums shall be paid to Commission.

**ARTICLE 12  
ACCESS TO CAMPUS**

12.1 Commission Access. Commission and its agents, employees, and representatives shall have the right to access, enter, and inspect the Campus at any reasonable time for the purpose of ascertaining the condition of the Campus, monitoring compliance with this Lease, or for any other purpose permitted under the terms of this Lease. In exercising such rights, the parties shall cooperate and shall take all reasonable steps to avoid disruption or unnecessary interference with Tenant's use and operations of the Campus.

12.2 Public Access. Tenant agrees that the public shall have free access through the Campus in order to reach adjacent areas of the Property, subject to such reasonable rules and regulations as Tenant may from time-to-time impose for the safe and efficient functioning of the Campus. Tenant shall be entitled to establish such access rules, procedures, and policies as it deems appropriate for the Buildings within the Campus (subject to Commission's rights to Buildings under this Lease), and may convey exclusive use of and access to a Building or space within a Building to tenants, licensees, or other users of the same.

**ARTICLE 13  
INSURANCE, WAIVER OF CLAIMS AND LIMITATION OF LIABILITY**

13.1 Tenant's Liability Insurance. Tenant, at its expense, shall purchase and keep in force during the Term Commercial General Liability insurance with limits of not less than Two Million and 00/100 Dollars (\$2,000,000.00) combined single limit each occurrence, covering bodily injury to persons, including death and damage to property. Such insurance shall provide coverage for Tenant's premises and operations and contractual liability assumed in Article 13. Tenant shall cause their Commercial General Liability insurer to name Commission as an additional insured under such insurance and such policy shall contain a severability of interests provision, a provision that the insurance provided to Commission as additional insured shall be primary to and not contributory with insurance maintained by Commission, and a provision that an act or omission of one of the insureds or additional insureds that would void or otherwise reduce coverage shall not reduce or void the coverage as to the other named and additional insureds.

13.2 Campus Property Insurance Neither party has an obligation to insure the structures located on the Campus, except as otherwise set forth in this Lease. Either party may elect, at its discretion, to insure one or more structures under its control at its own cost. Further, Tenant may impose such insurance obligations on any tenant that rents a structure, as deemed appropriate by Tenant or required by any finance agreement affecting the structure. Commission and Tenant shall assist and cooperate with any insurance company in the adjustment or litigation of all insurance claims arising under the insurance provided.

13.3 General Insurance Requirements. All of the third party insurance policies required to be maintained under Sections 13.1 shall: (a) be issued by insurance companies authorized to do business in the State of Washington and having an A.M. Best's rating of not less than A- VII, unless placed as a surplus line by an authorized Washington State surplus lines broker; (b) contain an endorsement requiring thirty (30) days' written notice from the insurance company to both

parties before cancellation, non-renewal, or change in the coverage, scope, or amount of any policy; and (c) be written as primary policies, not contributing with and not supplemental to the coverage that other party may carry. Certificates of insurance evidencing that the insurance required under this section is in effect shall be delivered to Commission before any entry on the Campus by Tenant, and shall be kept current throughout the Term. Such certificate shall reflect the status of Commission as additional insured (as to the insurance under Section 13.1), and shall provide for at least thirty (30) days' advance notice to Commission in the event of cancellation. Commission and Tenant shall assist and cooperate with any insurance company in the adjustment or litigation of all insurance claims arising under the insurance required by this Section. A certificate of demonstrating procurement of the required insurance, including an actual copy of the additional insured policy provision, shall be issued to the State of Washington. However, the original certification shall not be mailed but sent either by facsimile transmission to the Director or emailed as an attachment in PDF format.

13.4 Waiver of Recovery and Subrogation. Commission and Tenant release and relieve the other from any liability they might otherwise have and waive their entire right of recovery for loss or damage to property located within or constituting a part or all of the Campus to the extent that the loss or damage either (a) is actually covered by the injured party's property insurance, or (b) would have been covered by the property insurance the injured party is required to carry under this Section 13, whichever is greater. This waiver applies regardless of the cause or origin of the claim including without limitation loss due to the negligent acts or omissions of Commission or Tenant, or their respective officers, directors, council members, employees, agents, contractors, invitees, Tenant's assignees, or subtenants. The parties shall have their property insurers endorse the applicable insurance policies to reflect the foregoing waiver of claims; provided, however, that the endorsement shall not be required if the applicable policy of insurance permits the named insured to waive rights of subrogation on a blanket basis, in which case the blanket waiver shall be acceptable.

13.5 Reallocation of Insurance Responsibilities. Notwithstanding the allocations of responsibility to insure contained in Sections 13.1-13.4 above, the parties may by mutual agreement decide to reallocate such responsibilities, including allocating the cost thereof in an appropriate way among the parties. The parties will engage in good faith discussions, including consulting with their insurance professionals, to agree on the preferred arrangements for purchasing the insurance and sharing the cost thereof, which may change from time-to-time by mutual agreement. In addition, the parties may by mutual agreement amend the insurance requirements of this Lease from time-to-time as appropriate to address changes in insurance practices and the insurance needs of the parties consistent with their rights and obligations hereunder.

13.6 Limitation of Tenant's Liability. In no event shall Commission, its successors or assigns, have any recourse whatsoever for any damages payable, obligations assumed or indemnifications proffered by Tenant under this Lease to any funds that have been pledged for a specific purpose as a condition of the pledge by the donor/grantor.

## **ARTICLE 14 INDEMNIFICATION**

### **14.1 Tenant Indemnification**

14.1.1 Subject to the waiver of recovery and subrogation in Section 13.5, Tenant shall indemnify, pay the defense costs of, and hold harmless Commission and its council members and employees from Claims for damages, costs, personal injury, death, or for loss or damage to property that arise out of or relate to: (a) the acts or omissions of Tenant, its employees, agents, contractors, affiliates, or licensees in the development, improvement, operation, maintenance, or use of the Campus; or (b) any breach or default by Tenant in the performance of any obligation on Tenant's part to be performed under this Lease.

14.1.2 This indemnity does not apply: (1) to Claims to the extent they are caused by the acts, omissions, or misconduct of Commission Parties; or (2) to damages, claims, suits, actions or liabilities waived under Section 13.5. The term "Commission Parties" means Commission, its council members, agents, employees, contractors, and licensees.

### **14.2 Commission Indemnification**

14.2.1 Subject to the waiver of recovery and subrogation in Section 13.5, Commission shall indemnify, pay the defense costs of, and hold harmless Tenant and its officers, directors, employees, from Claims for damages, costs, personal injury, death, or for loss or damage to property that arise out of or relate to the negligence of Commission, its officers, or employees in connection with the Campus or this Lease.

14.2.2 This indemnity does not apply: (1) to Claims to the extent they are caused by the acts or omissions or misconduct of Tenant, including its officers, directors, trustees, agents, employees, contractors, affiliates, and licensees; or (2) to damages, claims, suits, actions, or liabilities waived under Section 13.5.

14.3 Joint, Comparative, or Concurrent Negligence. If the parties are determined to be jointly and severally liable in any action, then each party's duty to indemnify and defend shall be proportionate to such party's allocable share of joint, comparative or concurrent negligence.

14.4 Waiver of Indemnity. Commission and Tenant agree that the foregoing indemnities specifically include, without limitation, Claims brought by either party's employees against the other party. THE FOREGOING INDEMNITIES ARE EXPRESSLY INTENDED TO CONSTITUTE A WAIVER OF EACH PARTY'S IMMUNITY UNDER WASHINGTON'S INDUSTRIAL INSURANCE ACT, RCW TITLE 51, TO THE EXTENT NECESSARY TO PROVIDE THE OTHER PARTY OR PARTIES WITH A FULL AND COMPLETE INDEMNITY FROM CLAIMS MADE BY EACH PARTY AND ITS EMPLOYEES, TO THE EXTENT OF THEIR NEGLIGENCE. COMMISSION AND TENANT ACKNOWLEDGE THAT THE INDEMNIFICATION PROVISIONS OF THIS ARTICLE WERE SPECIFICALLY NEGOTIATED AND AGREED UPON BY THEM.

**ARTICLE 15**  
**ASSIGNMENT AND SUBLETTING**

15.1 Assignment and Subletting. No party may directly or indirectly make or permit an assignment, transfer, sublease, or other alienation of such party's rights or obligations under this Lease at any time without the prior written consent of the other parties, except as otherwise set forth herein.

15.2 Right to Sublet. Tenant shall have the right, without the need to obtain Commission's prior consent, to sublet any part or parts of the Campus and to assign, encumber, or renew any sublease so long as:

15.2.1 Each sublease shall contain a provision reasonably satisfactory to Commission and to each leasehold mortgagee having an interest at the time the sublease is executed, requiring the subtenant to attorn to Commission, or in the event of any proceeding to foreclose any leasehold mortgage, to the leasehold mortgagee, or any person designated in a notice from the leasehold mortgagee, if Tenant defaults under this Lease and if the subtenant is notified of Tenant's default and instructed to make subtenant's rental payments to Commission or leasehold mortgagee or designated person as provided in this Section 15.2.1.

15.2.2 Tenant shall promptly, after execution of each sublease, furnish Commission a true copy thereof.

15.2.3 Tenant shall not accept directly or indirectly more than three (3) months' prepaid rent from any subtenant.

15.2.4 Each sublease is expressly subordinate to the interests and rights of Commission in the Campus and under this Lease, and requires the subtenant to take no action in contravention of the terms of this Lease.

15.2.5 Each sublease does not exceed a duration of twenty-five (25) years without Commission approval.

15.3 The Director will reasonably consider nondisturbance agreements requested by subtenants (providing, without limitation, that the applicable subtenant will attorn to Commission and that the applicable sublease will not be disturbed by Commission in the event of the early termination of this Lease so long as such subtenant is not in default under its sublease). The Director shall respond in writing to any request for a non-disturbance agreement to benefit a subtenant within thirty (30) days of request with either a decision on the request or an explanation of information required before a decision can be made on the request. The Director's failure to respond in such thirty (30) day period shall be deemed to be consent to such nondisturbance agreement.

**ARTICLE 16**  
**DEFAULT AND REMEDIES**

16.1 Default. In the event of any material breach of any provision of this Lease by either party, the non-defaulting party shall have a right to terminate this Lease subject to the

provision set forth below, and seek any other remedies set forth in this Lease or otherwise available at law or equity. Commission shall not cancel this Lease if the breach pertains to the failure to pay monies indisputably due under this Lease so long as the same is paid by Tenant to Commission within ten (10) days of receipt of written notice from Commission of an overdue amount. Commission shall not cancel this Lease if the breach pertains to a matter other than the payment of any monies due under this Lease, and Tenant shall promptly commence to cure the breach and shall cure the breach within forty-five (45) days. If such breach is non-monetary in nature and, as determined by Commission, is not reasonably susceptible of being cured in said forty-five (45) days (provided that the lack of funds, or the failure or refusal to spend funds, shall not be an excuse for a failure to cure), Tenant shall commence to cure such breach within said period and diligently pursue such action with continuity to completion and shall not be deemed in default so long as Tenant performs the same.

16.2 Reentry. Except as provided in 16.1, in the event of material breach by Tenant, Commission shall have the right, with or without canceling the Lease, to reenter the Campus and remove all persons and property from the Campus and take whatever actions may be necessary or advisable to relet, protect, or preserve the Campus. Any property so removed may be stored in a public warehouse or other suitable place or otherwise disposed of in Commission's discretion at the expense and for the account of Tenant. Commission shall not be responsible for any damages or losses suffered by Tenant as a result of such reentry, removal, storage or other disposition, and no such action shall be construed as an election to terminate this Lease unless a written notice of termination is given to Tenant.

16.3 Termination of Agreements. Whether or not Commission elects to terminate this Lease on account of any material breach by Tenant and subject to any non-disturbance and attornment agreements, if any, Commission shall have a right to terminate any and all subleases, licenses, concessions, or other arrangement for possession affecting the Campus that were entered into after the Effective Date. Alternatively, Commission, in its sole discretion, may succeed to Tenant's interest in such sublease, license, concession, or arrangement, and Tenant shall have no further right to or interest in the rent or other consideration receivable thereunder.

16.4 Survival. All obligations of the parties to be performed prior to the expiration or earlier termination shall not cease upon the termination or expiration of this Lease and shall continue as obligations until fully performed. All clauses of this Lease that require performance beyond the termination or expiration date shall survive the termination or expiration date of this Lease. Upon expiration or earlier termination of this Lease, the rights of Tenant and of all persons, firms, corporations, and entities claiming under it in and to the Campus and all improvements hereon, unless specified otherwise in this Lease, shall cease.

16.5 Right to Cure Defaults. Unless otherwise specified herein, if either party fails to perform or make any payment owing under this Lease and is in default of any undertaking or promise contained herein, the non-defaulting party shall have the option, but is not obligated, to make such performance or make such payment after giving ten (10) days' written notice to the party in default. The non-defaulting party's costs and expense to correct the default shall be reimbursed and shall be due and payable, together with interest accruing at 3 percent from the date such cost or expense is incurred, within thirty (30) days of receipt of invoice supported by reasonable evidence of the amount paid. If Commission fails to pay Tenant such amounts owing within such thirty (30) day period, then Tenant shall be entitled to offset such unpaid amounts against any revenue received by Tenant and due the Commission as Annual Revenue Payment, and such amounts owing may be carried forward into subsequent years until fully recouped. Notwithstanding this right of offset, either party may challenge the amount due through the dispute resolution process and, following that process, litigation.

16.6 Termination by Tenant. If Commission fails to cure a default under this Lease within the timeframes provided for above, and if such default has a material adverse effect on Tenant's ability to operate the Campus for its intended purpose, then Tenant may terminate this Lease upon written notice to Commission. Tenant also may terminate this Lease on twelve (12) month's written notice to Commission in the event Tenant reasonably concludes that the Parties have failed to achieve the vision for use of the Campus as a self-sustaining Lifelong Learning Center or that the collaborative relationship between the Parties essential to achievement of that vision has failed to materialize, specifically including but not limited to the inability of Commission to financially participate in needed capital improvements (regardless of the availability of funding for the same).

16.7 Remedies Cumulative. The specified remedies to which the parties may resort under the terms of this Lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which a party may lawfully be entitled in case of any breach or threatened breach of any provision of this Lease.

16.8 Nonwaiver. Waiver of strict performance of any provision of this Lease shall not be a waiver of nor prejudice a party's right to require strict performance of the same provision in the future or of any other provision. The acceptance of performance, rent, or any other sum owing following a breach of any provision of this Lease shall not constitute a waiver of any right with respect to such breach. Any waiver shall be valid only if in writing.

16.9 Force Majeure. A party's failure to comply with any of the obligations under this Lease shall be excused if due to causes beyond their control and without the fault or negligence of that party, including acts of God, acts of the public enemy, acts of any government, fires, floods, epidemics, and strikes.

16.10 Appropriation of Funds. Notwithstanding any commitment in this Lease, the Commission's obligations are expressly contingent upon the Commission receiving an appropriation from the legislature for both the operating and capital responsibilities set forth herein. For the first four years following the date of possession, the Commission will provide resources to the Fort Worden Area operation which will support the campus maintenance obligations as shown in Exhibit G1 assuming that the following conditions are met:

1. Parks legislative appropriation for its operating budget does not fall below 13/15 biennium level AND
2. The combination of revenue and general fund tax support is adequate to fund said appropriation.

Should these conditions not be met, the Commission may reduce operating support to the Campus proportionate to overall statewide reductions. The Commission considers future cost avoidance in the lease as beneficial to the overall Park system and will consider this when prioritizing operating support. Unless subsequently negotiated by the parties, all Commission responsibility for the operation and maintenance of the Campus, excepting state reserved areas, ceases at the end of the fourth (4<sup>th</sup>) year of this lease from the Date of Possession. The Commission and Tenant continue to have shared responsibility for capital improvements as described in Section 6.5 of this lease.

## **ARTICLE 17 NOTICES**

17.1 Notices. All notices, demands or requests that may or are required to be given by one party to the other under this Lease shall be given in writing and delivered personally, or sent by U.S. certified mail, postage prepaid, return receipt requested, or nationally recognized overnight air carrier, and addressed to Commission's address or Tenant's address, as follows:

Commission's address for notices: Director  
Washington State Parks and Recreation  
Commission  
1111 Israel Road SW  
Olympia, Washington 98504-2650

Tenant's address for notices:  
Executive Director  
Fort Worden Lifelong Learning Center  
Public Development Authority  
250 Madison Street, 2<sup>nd</sup> Floor  
Port Townsend, WA 98368

Notices shall be deemed to have been given upon receipt or attempted delivery where delivery is not accepted. Either party may change its address and/or those receiving copies of notices upon written notice given to the other.

## **ARTICLE 18 MEMORANDUM OF AGREEMENT**

18.1 Memorandum. This Lease shall not be recorded except as permitted in this Section 18. The parties shall promptly execute and record, at Tenant's cost, a short form memorandum describing the Campus and stating the Term, the Effective Date, and any other information the Parties reasonably agree.



**ARTICLE 19  
DISPUTE RESOLUTION**

19.1 In General; Mediation. In the event of any dispute or difference that shall arise between the parties relating to the construction, meaning, or effect of this Lease, or of the rights or liabilities of the parties hereunder, the parties shall first follow the procedures in this section before filing or initiating a lawsuit. The parties shall make their best efforts to resolve disputes as expeditiously as possible through negotiations at the lowest possible decision-making level, and in the event such negotiations are unsuccessful, the matter shall be referred to the Director and the Chair. If those officials are unable to resolve the dispute within a period of fifteen (15) days after the matter has been formally referred to them for resolution, they shall meet during the immediately succeeding seven (7) days to select a mediator to assist in the resolution of such dispute. Tenant and Commission agree to participate in non-binding mediation with the agreed upon mediator for a reasonable amount of time and in good faith. The cost of the mediation shall be shared equally between Tenant and Commission.

**ARTICLE 20  
MISCELLANEOUS**

20.1 No Partnership. Nothing contained in this Lease shall create any partnership, joint venture, or other relationship between Tenant and Commission. It is the intent of the parties that this Lease creates a leasehold estate in the Campus and that the relationship of the parties hereunder is that of landlord and tenant only.

20.2 Successors. This Lease shall bind and inure to the benefit of Commission, its successors and assigns, and Tenant, and its successors and assigns.

20.3 Severability. If any provision of this Lease is determined to be invalid or unenforceable, then that provision and the remainder of this Lease shall continue in effect and be enforceable to the fullest extent permitted by law. It is the intention of the parties that if any provision of this Lease is capable of two constructions, one of which would render the provision void, and the other of which would render the provision valid, then the provision shall have the meaning that renders it valid.

20.4 Integration and Amendments. This Lease contains the entire integrated agreement between the parties as to the matters covered herein and supersedes any oral statements or representations or prior written matter not contained in this instrument as to the matters set forth herein. This Lease shall not be modified except by a written document signed by Commission and Tenant (or their successors in title).

20.5 Governing Law. This Lease shall be governed by and construed and enforced in accordance with the laws of the State of Washington.

20.6 Construction. The following rules shall apply to the construction of this Lease unless the context otherwise requires:

(a) Words describing the singular number shall include the plural number and vice versa, except where otherwise indicated.

(b) All references herein to particular articles, sections, or exhibits are references to articles, sections, or exhibits of this Lease, unless otherwise expressly stated.

(c) The headings and table of contents herein are solely for convenience of reference and shall not constitute a part of this Lease nor shall they affect its meaning, construction, or effect.

(d) This Lease shall not be construed as if it had been prepared by one of the parties, but rather as if all parties had prepared it.

20.7 Tenant Authority. Tenant hereby warrants that it has the authority to enter into this Lease and to perform its obligations hereunder and that all necessary approvals, acts, or resolutions to authorize this transaction have been taken, and the signatories, by executing this Lease, warrant that it has the authority to bind the PDA

20.8 Consents and Approvals. In any instance when either party's consent or approval is required under this Lease, such consent or approval shall not be unreasonably withheld, conditioned, or delayed. No permission, consent, or approval of Commission contained herein or given pursuant to this Lease is, or shall be construed as, a representation or assurance that the matter consented to or approved complies with applicable Laws, nor shall any such consent or approval be construed to authorize any failure to comply with such Laws.

20.9 Counterparts. This Lease may be executed in counterparts for the convenience of the parties, and such counterparts shall together constitute one Lease.

20.10 Exhibits. Exhibits attached hereto are hereby incorporated herein and made a part of this Lease, and the term "Lease" shall include all exhibits hereto.

20.11 Limitation on Third Party Rights. Nothing in this Lease expressed or implied is intended or shall be construed to give to any person other than Commission or Tenant any legal or equitable right, remedy, or claim under or in respect of this Lease or any covenant, condition, or provision herein contained; and all such covenants, conditions, and provisions are and shall be held to be for the sole and exclusive benefit of Commission and Tenant.

20.12 Commission's Authority. This Lease is entered into by Commission pursuant to the authority granted by statute and the Constitution of the State of Washington. The terms and conditions hereof are subject to such statutory and constitutional provisions as may be now in effect and such provisions which do not impair the contractual rights of Tenant under this Lease which may lawfully be enacted subsequent to the date of this Lease.

20.13 Mandatory Disclaimer. The Fort Worden Lifelong Learning Center Public Development Authority is organized pursuant to City of Port Townsend Ordinance No. 3063 and RCW 35.21.660, RCW 35.21.670, and RCW 35.21.730-.755. RCW 35.21.750 provides in part as follows: "[A]ll liabilities incurred by such public corporation, commission, or authority shall be satisfied exclusively from the assets and properties of such public corporation, commission, or authority and no creditor or other person shall have any right of action against the city, town, or county creating such corporation, commission or authority on account of any debts, obligations, or liabilities of such public corporation, commission, or authority." The powers of the PDA are

limited by state and federal law and regulations, ordinances of the City of Port Townsend, and other elements of the local regulatory scheme.

## **ARTICLE 21 TRANSITION**

To ensure a smooth transfer of the Campus to Tenant and facilitate management of the Campus, the parties have agreed to complete the following activities by the dates set forth herein. Performance of such activity assigned to Tenant herein are a condition precedent to Tenant taking possession of the Campus, unless otherwise provided herein. Timeframes for completing some of these activities are material, and Tenant shall not take possession until they have been completed. Once those activities have been completed, Tenant may take possession. The parties shall acknowledge in writing that the material activities have been completed and memorialize the date of completion, which will then be established as the “Date of Possession” as used in this Lease. The time between the Effective Date and Date of Possession shall be referred to as the “Transition Period.” In the event Tenant fails to perform those responsibilities deemed material within the specified timeframe, Commission shall have a right to terminate this Lease, unless the parties agree to an extension of time.

21.1 Mobilization Fund. Within ninety (90) days of the Effective Date of this Lease, Tenant shall provide documentation that it has secured \$300,000 toward the mobilization and start-up costs for transition to management and operation of the Campus by the PDA (Material).

21.1.1 Line of Credit. Within sixty (60) days of the Effective Date of this Lease, the PDA will provide evidence of a minimum \$250,000 line of credit or term loan, including a comfort letter from a lender or financing source (Material)

21.2 Financial Plan. Within one hundred and twenty (120) days of the Effective Date of this Lease, Tenant shall submit to Commission for its review and approval, which shall not be unreasonably withheld, a revised ten (10) year pro forma that reasonably projects sustainability in operations by Year 4 with adequate cash flow and financing. (Material).

21.3 Marketing Plan. Within one hundred and twenty (120) days of the Effective Date, Tenant shall allocate monies from its mobilization fund to design and implement a Marketing Plan to promote the identity and name recognition of the Fort Worden Lifelong Learning Center at Fort Worden State Park, and advertise the facilities and programs to prospective users (Material). Tenant shall coordinate the Marketing Plan with other tenants and users of the Campus. The Marketing Plan shall provide for the planning, publicity, and advertising, internal and external Fort Worden businesses and attractions, and budgeting of activities which may include:

(a) Production, distribution, and placement of general promotional materials to independent travelers and programmatic users;

(b) Production, distribution, and placement of specialized promotional materials targeted to programmatic users of the Center;

(c) Production and distribution of educational and customer service materials to inform Center staff and Park employees understanding of the Center;

(d) Preparation and distribution of new releases and other promotional materials that describe the relationship between State Parks and the PDA;

(e) Production and maintenance of an integrated website describing Center facilities and partner business programs; and

(f) Operation of an accommodations and conference meeting room reservations system, with current room inventories and associated rates, taxes, and associated fees.

21.4 Staffing and Management Plan. Within one hundred twenty (120) days of the Effective Date, Tenant shall develop a staffing and management plan that describes the type and number of staff who will be working for Tenant. The plan shall include job descriptions, an organizational chart, benefit packages, and personnel policies. The plan shall also include the hiring and selection process as well as the timing of hiring staff to work on detailed hospitality operational planning tasks as the project moves through the Transition Period toward commencement of PDA management of operations and longer-term maintenance responsibilities (Material).

21.5 Assignment of Leases. By the date of possession the Commission shall assign and the PDA shall assume all the leases identified under Exhibit E to this Lease, subject to this Lease becoming effective. The PDA Board agrees that it will honor the terms and conditions of all existing and valid leases assumed by it. Should Commission assign to the PDA a lease that has expired, the PDA will have the sole responsibility to extend, re-negotiate, or cancel that lease (Material).

21.6 Inventory Personal Property. Within one hundred twenty (120) days from the Effective Date, the Parties shall agree which personal property is appropriate for transfer to the PDA to carry out its responsibilities under this Lease. Commission shall retain any personal property deemed reasonably necessary to carry out Commission's continuing responsibilities at the Park. Commission shall transfer certain personal property located within the Campus, including vehicles, furniture, supplies, equipment, fixtures, and other such property in order for Tenant to meet its operational responsibilities at the Date of Possession. . After the fourth year following the Date of Possession, the Parties shall meet to discuss further potential transfers of personal property to the Tenant to carry out its routine maintenance responsibilities. Tenant agrees to maintain all such Personal Property in good condition and repair during the Term of this Lease and replace, as necessary, any such Personal Property that becomes inoperable or unusable. Upon expiration or earlier termination of this Lease, such Personal Property shall automatically revert to Commission and, if necessary, Tenant agrees to execute any necessary and appropriate deed, certificate of title, or bill of sale to document such reversion.

21.7 Coordinating Committee. Within 90 days of the Effective date, the parties shall form the Coordinating Committee. The Coordinating Committee will develop recommended by-

laws for its purpose and function for consideration and approval by the PDA Board and the Director by December 31, 2013.

21.8 Operations Work Group. Within 90 days of the Effective Date, the parties shall form the Operations Work Group.

21.9 Date of Possession- It is the intention of the parties that the date of possession and occupancy of the Campus by the Tenant is May 1, 2014. Tenant agrees to give the Director 90 days prior notice should the Date of Possession be later than May 1,2014.

21.10 Early Access. Tenant shall be given access to all buildings and facilities contained within the Campus as necessary to prepare for its management of the Campus. Tenant shall have the ability to enter and show all Campus buildings and facilities, when not in use, to prospective tenants, lenders or donors. Tenant shall have the right to occupy office space in the Park Office (Building #200) and clean or make alterations, repairs or improvements necessary to support its operations. Tenant shall also have the right to inspect, clean or make alterations, repairs or improvements to the Campus or its buildings, consistent with the terms of the Lease, as the Tenant deems necessary, and reasonably approved by the Park Manager, prior to the Possession Date.

## **ARTICLE 22 CONDITION TO EFFECTIVENESS**

22 The lease must be approved by the following organizations as a condition precedent to taking possession of the Campus. In the event that either organization fails to approve the lease within 12 months of the Effective Date , the lease becomes void, unless the parties mutually agree to extend the time for such approvals. In the event that all approvals are not acquired within 6 months of the Effective Date, Tenant shall have a right to terminate the lease.

22.1 Department of Interior, National Parks-Service.

22.2 The Recreation Conservation Office for Washington state

[signatures on next page]

IN WITNESS WHEREOF, this Lease is executed on the day and year first above written.

Commission:

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Approved as to form:

Jim Schwartz 8-2-13 \_\_\_\_\_

Tenant:

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



**EXHIBIT A**  
**LEGAL DESCRIPTION OF THE PROPERTY**

**PARCEL A: (101 341 004)**

Beginning at a point on the East line of the Ruel Ross Donation Claim, 565 feet, more or less, South of the Northeast corner thereof, being the point of intersection with the produced South line of 58th Street in California Addition to Port Townsend, as recorded in Volume 2 of Plats, page 99, records of Jefferson County, Washington;  
Thence South 2,310 feet, more or less, to the Northeast corner of the "Thomas Bracken Tract";  
Thence turning an angle of 90°45' Westerly, 438.4 feet;  
Thence North 30 feet;  
Thence at a right angle West, 832 feet along the North line of County Road to the Southeast corner of the California Addition;  
Thence North along the East line of said California Addition, 2,280 feet to the South line of 58th Street aforesaid;  
Thence East along said produced South line, 1,270.4 feet, more or less, to the Place of Beginning;

EXCEPTING THEREFROM that portion of the following description lying within the above described property:

That portion of the East half of the Ruel Ross Donation Land Claim in Section 34, Township 31 North, Range 1 West, W.M., Jefferson County, Washington, described as follows:

Commencing at the brass cap in concrete marking the centerline intersection of Kuhn Street and 57<sup>th</sup> Street as shown on the survey for the State of Washington Department of Parks and Recreation Commission, recorded March 6, 1989 in Volume 10 of Surveys, page 25, records of Jefferson County, Washington;

Thence South 89°01'30" East along the centerline of 57th Street as shown in said survey, a distance of 225.80 feet to the East line of California Addition as shown on said survey (all bearings and distances herein are based on the Washington Coordinate System Grid, North Zone);

Thence North 00°58'30" East along the East line of California Addition as shown on said survey, a distance of 99.99 feet to the True Point of Beginning;

Thence North 00°58'30" East along the East line of California Addition as shown on said survey, a distance of 178.59 feet;

Thence South 89°01'30" East, a distance of 28.00 feet;

Thence South 02°49'06" West, a distance of 178.68 feet;

Thence North 89°01'30" West, a distance of 22.25 feet to the True Point of Beginning, as per agreed order filed in Jefferson County Superior Court April 20, 1993, Case No. 90-2-00111-2;

ALSO EXCEPT that portion of the East half of the Ruel Ross Donation Land Claim in Section 34, Township 31 North, Range 1 West, W.M., Jefferson County, Washington, described as follows:

Commencing at the brass cap in concrete marking the centerline intersection of Kuhn Street and 57<sup>th</sup> Street as shown on the survey for the State of Washington Department of Parks and



Recreation Commission, recorded March 6, 1989 in Volume 10 of Surveys, page 25, records of Jefferson County, Washington;

Thence South  $89^{\circ}01'30''$  East along the centerline of 57th Street as shown on said survey, a distance of 225.80 feet to the East line of California Addition as shown on said survey (all bearings and distances herein are based on the Washington Coordinate System Grid, North Zone);

Thence North  $00^{\circ}58'30''$  East along the East line of California Addition as shown on said survey, a distance of 30.00 feet to the Southeast corner of Block 41 in California Addition and the True Point of Beginning;

Thence North  $00^{\circ}58'30''$  East along the East line of California Addition as shown on said survey, a distance of 69.99 feet;

Thence South  $89^{\circ}01'30''$  East, a distance of 22.25 feet;

Thence South  $02^{\circ}49'06''$  West, a distance of 70.03 feet;

Thence North  $89^{\circ}01'30''$  West, a distance of 20.00 feet to the True Point of Beginning, as per agreed order filed in Jefferson County Superior Court April 20, 1993 Case No. 90-2-00111-2;

ALSO EXCEPT that portion if any for 49th Street and Pettygrove Avenue.

Situate in the County of Jefferson, State of Washington.

**PARCEL B: (101 341 005)**

Beginning at a point on the East line of California Addition to Port Townsend, as recorded in Volume 2 of Plats, page 99, records of Jefferson County, Washington, 2,280 feet North of the Southeast corner thereof, being the Northeast corner of Block 41 of said California Addition;

Thence North 48.6 feet to the North line of 58th Street of said California Addition;

Thence West along the North line of said 58th Street, 150 feet to a point 50 feet East of the East line of Kuhn Street;

Thence at a right angle North to the meander line of the Straits of Juan de Fuca;

Thence Easterly along said meander line to the Northeast corner of the Ruel Ross Donation Claim;

Thence South along the East line of said claim, 565 feet, more or less, to an intersection with the produced South line of said 58th Street;

Thence West along said line, 1,270.4 feet, more or less, to the Place of Beginning;

LPB

EXCEPT that portion of the East half of the Ruel Ross Donation Land Claim in Section 34, Township 31 North, Range 1 West, W.M., Jefferson County, Washington, described as follows:

Commencing at the brass cap in concrete marking the centerline intersection of Kuhn Street and 57<sup>th</sup> Street as shown on the survey for the State of Washington Department of Parks and Recreation Commission, recorded March 6, 1989 in Volume 10 of Surveys, page 25, records of Jefferson County, Washington;

Thence South  $89^{\circ}01'30''$  East along the centerline of 57th Street as shown on said survey, a distance of 225.80 feet to the East line of California Addition as shown on said survey (all bearings and distances herein are based on the Washington Coordinate System Grid, North Zone);

Thence North 00°58'30" East along the East line of California Addition as shown on said survey, a distance of 30.00 feet to the Southeast corner of Block 41 in California Addition and the True Point of Beginning;

Thence North 00°58'30" East along the East line of California Addition as shown on said survey, a distance of 69.99 feet;

Thence South 89°01'30" East, a distance of 22.25 feet;

Thence South 02°49'06" West, a distance of 70.03 feet;

Thence North 89°01'30" West, a distance of 20.00 feet to the True Point of Beginning, as per agreed order filed in Jefferson County Superior Court April 20, 1993 Case No. 90-2-00111-2;

ALSO EXCEPT that portion, if any for 58th Street.

TOGETHER WITH Tideland Tax "A" in Section 34, Township 31 North, Range 1 West, further described as follows:

Beginning at the meander corner between Sections 26 and 27, Township 31 North, Range 1 West, which is the initial point for this description;

Thence along meander line by the following courses and description;

Thence South 84°47' West, 331.7 feet;

Thence South 68°34' West, 724.8 feet;

Thence North 77°45' West, 30 feet;

Thence North 378 feet to low water line;

Thence along the line of low water North 81°05' East, 1,056 feet to the line between Sections 26 and 27 produced;

Thence South 256 feet to the Place of Beginning;

ALSO Tideland Tax "A" in Section 35, Township 31 North, Range 1 West, further described as follows:

Beginning at the meander corner between Sections 26 and 27, Township 31 North, Range 1 West, which is the initial point for this description;

Thence along the meander line North 84°00' East, 330 feet;

Thence South 86°00' East, 118 feet to the East line of the Ruel Ross Donation Claim;

Thence North, 223 feet to low water;

Thence North 88°48' West, 441.6 feet to Point on the line between Sections 26 and 27 produced;

Thence South, 256 feet to the Place of Beginning.

Situate in the County of Jefferson, State of Washington.

**PARCEL C: (101 352 001)**

Beginning at a point on the East line of the Ruel Ross Donation Claim at a point 731 feet North of the Northwest corner of the F. W. Pettygrove Donation Claim in Section 35, Township 31 North, Range 1 West, W.M.;

Thence along said East line of the Ruel Ross Donation Claim, 699 feet to a point 1,430 feet North of the said Northwest corner of the F. W. Pettygrove Donation Claim;

Thence East, 209 feet to a point;

Thence South, 699 feet parallel to the East line of the Ruel Ross Donation Claim, to a point;

Thence West, 209 feet to the Point of Beginning.

Situate in the County of Jefferson, State of Washington.

**PARCEL D: (101 352 001)**

Beginning at a point on the East line of the Ruel Ross Donation Claim at the Northwest corner of the F. W. Pettygrove Donation Claim in Section 35, Township 31 North, Range 1 West, W.M., and thence running along the North line of said Pettygrove Donation Claim East 441 feet to post; Thence at right angle North 594 feet; Thence West 232 feet; Thence North 137 feet; Thence West 209 feet to the East line of said Ruel Ross Donation Claim; Thence South along said line 731 feet, more or less, to the Place of Beginning;

EXCEPT that portion, if any, for Admiralty Avenue.  
Situate in the County of Jefferson, State of Washington.

**PARCEL E: (101 353 004)**

That portion of Section 35, Township 31 North, Range 1 West, of the Willamette Meridian, described as follows, to-wit:  
Commencing at Boundary Corner No. 31 of the Fort Worden Military Reservation, said corner being an 18" X 18" X 5 1/2' concrete corner post with brass rod imbedded in the top located at the Southwest corner of the cemetery of said Fort Worden;  
Thence along the South boundary of said Fort South 79°31'00" East 1,048.90 feet, more or less, to the True Point of Beginning, which point is marked by a 1" iron pipe;  
Thence South 79°30'00" East 200 feet;  
Thence North 10°22'30" East 200 feet;  
Thence North 79°30'00" West 200 feet;  
And thence South 10°22'30" West 200 feet to the True Point of Beginning;

EXCEPTING THEREFROM that portion of W Street, if any.

Situate in the County of Jefferson, State of Washington.

**PARCEL F: (portion of 101 351 001)**

The following described property lying within Section 35, Township 31 North, Range 1 West, W.M., Jefferson County, State of Washington;

Commencing at a point on the meander line of the Strait of Juan de Fuca in Section 26, Township 31 North, Range 1 West, W.M., said point being the Northwest corner of Fowler's Donation Land Claim;

Thence South 92.98 feet to the Jefferson County Monument No. 40;

Thence South 1,786.00 feet;

Thence North 89°54'00" East, 208.5 feet to a 6"X6" monument, the True Point of Beginning;

Thence North 89°54' East 649.92 feet;

Thence South 67°23'30" East, 692.01 feet;

Thence South 79°26'30" East, 357.46 feet;

Thence South 83°39'30" East, 322.42 feet;

Thence North 78°03'30" East, 884.62 feet;

Thence South 4°22'30" East, 775.04 feet;

Thence South 78°09' East, 368.82 feet to the West edge of Front Street (vacated);

Thence South 82°40' East, 54.88 feet to the Inner Harbor line;

Thence South 8°23' West, 728.87 feet along the Inner Harbor line;

Thence South 23°05' East, 728 feet along the Inner Harbor line;

Thence North 79°30' West, 3,059.11 feet along the North line of 17th Street, Pettygrove's 2nd Addition to Port Townsend, as recorded in Volume 2 of Plats, page 17, records of Jefferson County, Washington, to the Southeast corner of the Military Cemetery;

Thence North 10°40' East, 222 feet to the Northeast corner of the Military Cemetery;

Thence North 79°30' West, 230.03 feet to the Northwest corner of the Military Cemetery;

Thence North 10°40' East, 134.95 feet;

Thence North 38°45' West, 128.4 feet;

Thence North 0°05' West, 544.0 feet;

Thence South 89°52' West, 232.3 feet;

Thence North 0°07' East, 835.5 feet to the True Point of Beginning;

EXCEPTING that certain parcel of land containing the shorelands, tidelands and a portion of the uplands facing the Strait of Juan de Fuca, East of a line commencing at a point on the North line of 17th Street, Pettygrove's Second Addition to Port Townsend, as recorded in Volume 2 of Plats, page 17, 8' East of Roadway No. 2, (which roadway runs generally North and South on the bluff overlooking the Strait of Juan de Fuca),

Thence generally in a Northerly direction parallel to said Roadway No. 2 along the Easterly side of the concrete and brick gate post nearest the Strait of Juan de Fuca at the Southeast gate;

Thence running parallel to said Roadway No. 2 to its intersection with Roadway No. 1,

Thence running parallel to said Roadway No. 1, 8' from its Easterly edge to the North boundary line of the former Fort Worden Military Reservation;

EXCEPTING ALSO, any portion lying within Spruce Street, Admiralty Avenue and W Street.

All Situate in the County of Jefferson, State of Washington.

**PARCEL G: (PORTION OF 101 351 001)**

The following described property lying within Section 35, Township 31 North, Range 1 West, W.M., Jefferson County, Washington:

Beginning at a point on the meander line of the Strait of Juan de Fuca in Section 26, Township 31 North, Range 1 West, W.M.;

Thence South a distance of 92.98 feet to a Witness Monument Jefferson County No. 40;

Thence South a distance of 1,786.00 feet;

Thence North 89°54'00" East a distance of 858.42 feet;

Thence South 67°23'30" East a distance of 692.01 feet;

Thence South 79°26'30" East a distance of 357.46 feet;

Thence South 83°39'30" East a distance of 322.42 feet;

Thence North 78°03'30" East a distance of 884.62 feet;

Thence South 4°22'30" East a distance of 775.04 feet;

Thence South 78°09'00" East a distance of 240 feet plus or minus to a point on the meander line;

Thence Northerly and Westerly along meander line to the Point of Beginning;

TOGETHER WITH abutting tidelands as conveyed by the United States of America in that certain document title "Correction to Deed" recorded January 5, 1973 under Auditor's File No. 216190;

EXCEPT all that land in Sections 25 and 26, Township 31 North, Range 1 West, W.M., Jefferson County, Washington, lying North and East of the following described line:

Commencing at the Southwest corner of Section 25;

Thence North 66°19' East along the meander line of Admiralty Inlet, 101.05 feet to a point which is the Southerly point of the line (or the True Point of Beginning);

Thence North 23°45' West 497.8 feet, more or less, to the meander line of the Strait of Juan de Fuca, together with abutting tidelands.

Situate in the County of Jefferson, State of Washington.

**EXHIBIT B**  
**LEGAL DESCRIPTION OF CAMPUS**  
**Lease Area**

All those portions of land lying within the following described property and more clearly depicted in EXHIBIT B MAP:

That portion of Section 35, Township 31 North, Range 1 West, of the Willamette Meridian, described as follows:

Commencing at Boundary Corner No. 31 of the Fort Worden Military Reservation, said corner being an 18" X 18" X 5 ½' concrete corner post with brass rod imbedded in the top located at the Southwest corner of the cemetery of said Fort Worden;

Thence along the South boundary of said Fort South 79°31'00" East 1,048.90 feet, more or less, to the True Point of Beginning, which point is marked by a 1" iron pipe;

Thence South 79°30'00" East 200 feet;

Thence North 10°22'30" East 200 feet;

Thence North 79°30'00" West 200 feet;

And thence South 10°22'30" West 200 feet to the True Point of Beginning;

EXCEPTING THEREFROM that portion of W Street, if any.

**ALSO:**

Commencing at a point on the meander line of the Strait of Juan de Fuca in Section 26, Township 31 North, Range 1 West, W.M., said point being the Northwest corner of Fowler's Donation Land Claim;

Thence South 92.98 feet to the Jefferson County Monument No. 40;

Thence South 1,786.00 feet;

Thence North 89°54'00" East, 208.5 feet to a 6"X6" monument, the True Point of Beginning;

Thence North 89°54' East 649.92 feet;

Thence South 67°23'30" East, 692.01 feet;

Thence South 79°26'30" East, 357.46 feet;

Thence South 83°39'30" East, 322.42 feet;

Thence North 78°03'30" East, 884.62 feet;

Thence South 4°22'30" East, 775.04 feet;

Thence South 78°09' East, 368.82 feet to the West edge of Front Street (vacated);

Thence South 82°40' East, 54.88 feet to the Inner Harbor line;

Thence South 8°23' West, 728.87 feet along the Inner Harbor line;

Thence South 23°05' East, 728 feet along the Inner Harbor line;

Thence North 79°30' West, 3,059.11 feet along the North line of 17th Street, Pettygrove's 2nd Addition to Port Townsend, as recorded in Volume 2 of Plats, page 17, records of Jefferson County, Washington, to the Southeast corner of the Military Cemetery;

Thence North 10°40' East, 222 feet to the Northeast corner of the Military Cemetery;

Thence North 79°30' West, 230.03 feet to the Northwest corner of the Military Cemetery;

Thence North 10°40' East, 134.95 feet;  
Thence North 38°45' West, 128.4 feet;  
Thence North 0°05' West, 544.0 feet;  
Thence South 89°52' West, 232.3 feet;  
Thence North 0°07' East, 835.5 feet to the True Point of Beginning;

EXCEPTING that certain parcel of land containing the shorelands, tidelands and a portion of the uplands facing the Strait of Juan de Fuca, East of a line commencing at a point on the North line of 17th Street, Pettygrove's Second Addition to Port Townsend, as recorded in Volume 2 of Plats, page 17, 8' East of

Roadway No. 2, (which roadway runs generally North and South on the bluff overlooking the Strait of Juan de Fuca),

Thence generally in a Northerly direction parallel to said Roadway No. 2 along the Easterly side of the concrete and brick gate post nearest the Strait of Juan de Fuca at the Southeast gate;

Thence running parallel to said Roadway No. 2 to its intersection with Roadway No. 1,

Thence running parallel to said Roadway No. 1, 8' from its Easterly edge to the North boundary line of the former Fort Worden Military Reservation;

EXCEPTING ALSO, any portion lying within Spruce Street, Admiralty Avenue and W Street.

**ALSO:**

Beginning at a point on the meander line of the Strait of Juan de Fuca in Section 26, Township 31 North, Range 1 West, W.M.;

Thence South a distance of 92.98 feet to a Witness Monument Jefferson County No. 40;

Thence South a distance of 1,786.00 feet;

Thence North 89°54'00" East a distance of 858.42 feet;

Thence South 67°23'30" East a distance of 692.01 feet;

Thence South 79°26'30" East a distance of 357.46 feet;

Thence South 83°39'30" East a distance of 322.42 feet;

Thence North 78°03'30" East a distance of 884.62 feet;

Thence South 4°22'30" East a distance of 775.04 feet;

Thence South 78°09'00" East a distance of 240 feet plus or minus to a point on the meander line;

Thence Northerly and Westerly along meander line to the Point of Beginning;

TOGETHER WITH abutting tidelands as conveyed by the United States of America in that certain document title "Correction to Deed" recorded January 5, 1973 under Auditor's File No. 216190;

EXCEPT all that land in Sections 25 and 26, Township 31 North, Range 1 West, W.M., Jefferson County, Washington, lying North and East of the following described line:

Commencing at the Southwest corner of Section 25;

Thence North 66°19' East along the meander line of Admiralty Inlet, 101.05 feet to a point which is the Southerly point of the line (or the True Point of Beginning);

Thence North 23°45' West 497.8 feet, more or less, to the meander line of the Strait of Juan de Fuca, together with abutting tidelands;

**ALSO:**

That portion of the harbor area situate in front of District No. 5, Port Townsend Tide Lands, included within the limits of the following described tract:

Beginning at a point in the inner harbor line which is S 29° 42' W 1680 feet from the northwest corner of said District No. 5, and running thence S 29° 42' W, along said inner harbor line, 920 feet to an angle point therein, thence S 8° 23' W 500 feet, thence S 82° 23' E, across the harbor area to a point of intersection with a line drawn parallel with and 300 feet distant easterly, as measured at right angles from said inner harbor line, thence N 8° 23' E and N 29° 42' E along said parallel line to a point in the harbor area which bears S 60° 18' E from the point of beginning and thence N 60° 18' W 300 feet to the point of beginning.

Said District No. 5 being as shown on the official maps of Port Townsend Tide Lands on file in the office of the Commissioner of Public Lands at Olympia, Washington.

**EXCEPTING THE FOLLOWING BUILDINGS AND RELATED PARKING:**

Building #365

Building # 296

Building # 305

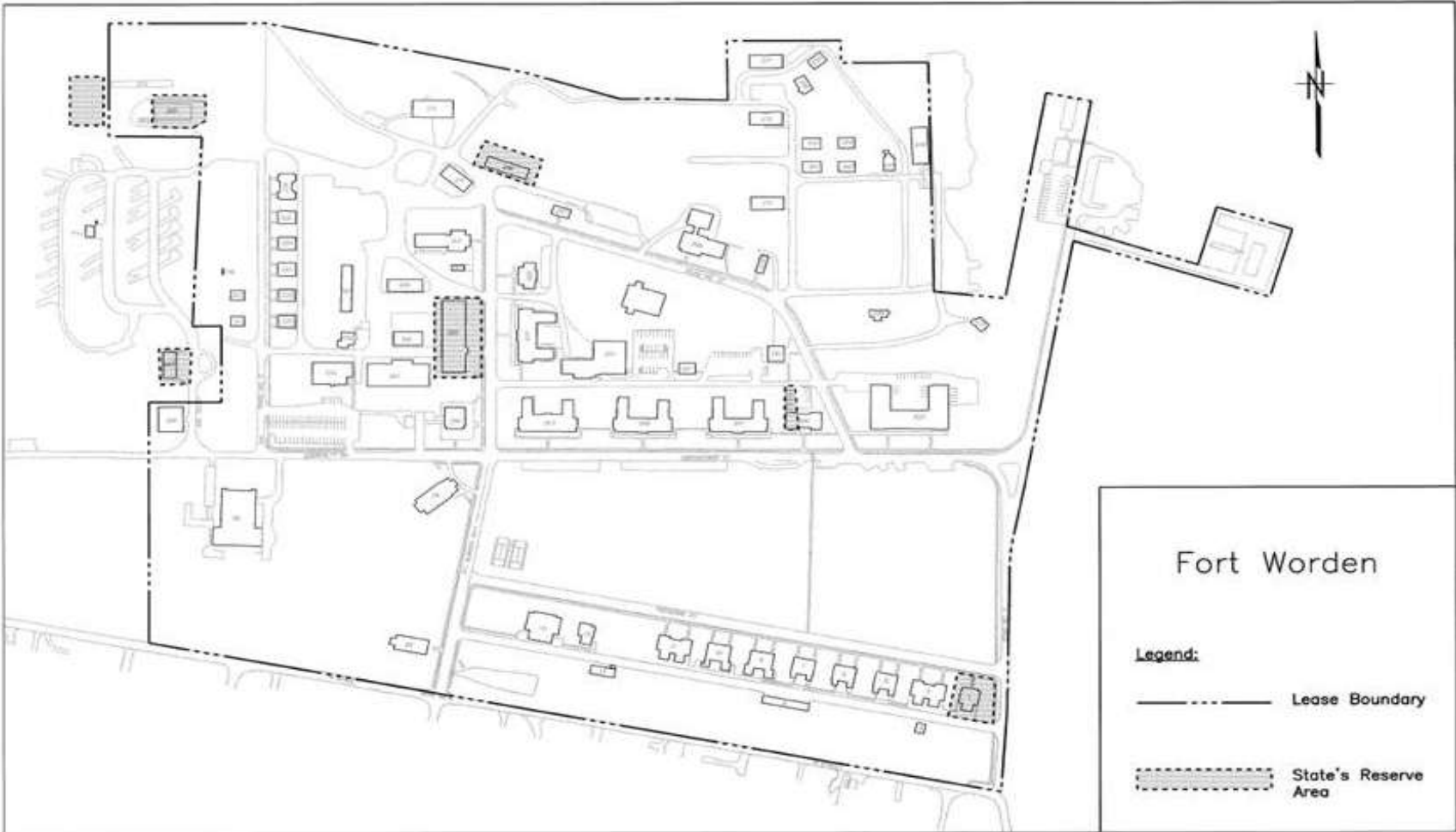
Building # 1

And that portion of Building 200 as depicted in Exhibit B-1 Map

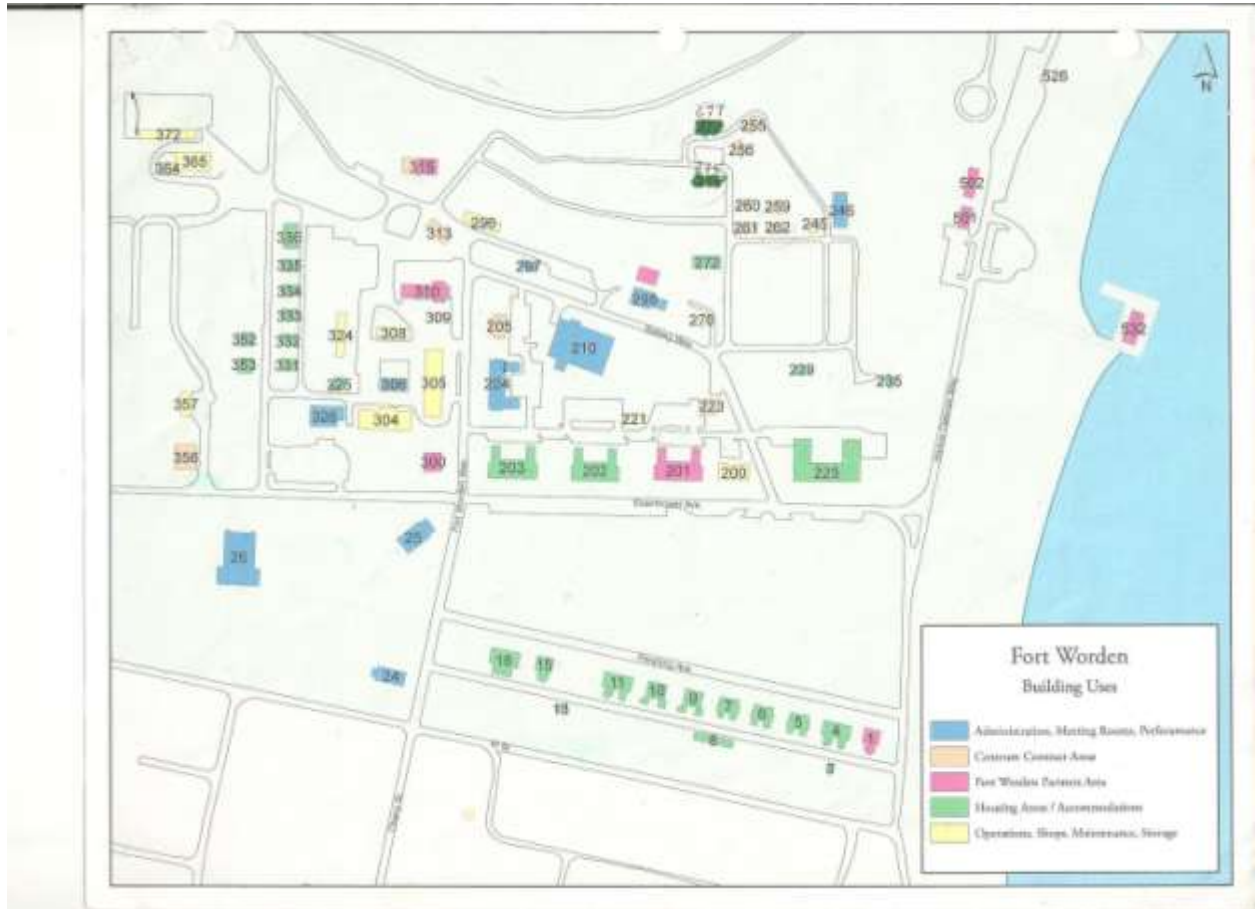
All situate in the County of Jefferson, State of Washington.



**EXHIBIT B-1  
CAMPUS**



**EXHIBIT C  
ILLUSTRATION OF BUILDING LOCATIONS**



**EXHIBIT C-1**

**LIST OF HISTORIC STRUCTURES WITH  
IN THE CAMPUS**

Historic Structures							
Building Number	Gross Sq. Ft.	Date Built	Historical Use	NPS Historical Significance	Current Use	Lease / Agreement Expires	Building Condition
1	5976	1904	Field (Commanding) Officer's Quarters	Contributing	COQ Museum	Jefferson County Hist. Soc.: 12/2011-13	Good
3	493	1920	Officer's Garage - 2 car		Storage		Fair
4	10,314	1904	Double Officer's Quarters	Contributing	Vacation Housing		Fair
5	5907	1904	Double Officer's Quarters	Contributing	Vacation Housing		Fair
6	5907	1904	Double Officer's Quarters	Contributing	Vacation Housing		Fair
7	5907	1904	Double Officer's Quarters	Contributing	Vacation Housing		Fair
8	2320	1922	Officer's Garage - 13 car		Garage/Storage		Poor
9	6464	1905	Double Officer's Quarters	Contributing	Vacation Housing		Fair
10	6464	1905	Double Officer's Quarters	Contributing	Vacation Housing		Fair
11	10,314	1905	Double Officer's Quarters	Contributing	Vacation Housing		Fair
13	1400	1932	Officer's Garage - 6 car		Garage/Storage		Poor
15	5979	1905	Double Officer's Quarters	Contributing	Vacation Housing		Fair
16	14,719	1915	Bachelor Officer's Quarters	Contributing	Vacation Housing		Fair
24	3286	1941	Regimental Chapel		Event Venue		Excellent
25	4918	1932	Theater	Contributing	Theater		Fair
26	19,035	1921/91	Balloon Hangar	Contributing	Event Venue		Good
200	10,688	1908	Post Headquarters	Contributing	Park Offices		Good
201	19,344	1904	Company Barracks	Contributing	Coast Artillery Museum	CAM: 12/2011	Fair
202	19,344	1904	Company Barracks	Contributing	Dormitory		Fair
203	19,344	1904	Company Barracks	Contributing	Dormitory		Fair
204	19,344	1905	Company Barracks	Contributing	Event Venue		Good

205	7656	1904	Band Barracks	Contributing	Centrum / Corvidae Press / Goddard Classrooms	Centrum: 9/2013 Goddard: 12/2011	Fair
221	1040	1941	Company Storehouse and Administration		Laundry	P.T. Hospitality: 12/2014	Good
223	4160	1904	Administration	Contributing	Centrum Offices	Centrum: 9/2013	Good
225	39,200	1908	2 Company Barracks	Contributing	Dormitory		Fair
229	1454	c 1890	Alexander's Castle	Contributing	Vacation Housing		Good
245	1030	1898	NCO Quarters		Park Ranger Housing		Good
246	4100	1941	Regimental Recreation Hall		JFK Event Venue		Excellent
255	1040	1941	NCO Quarters		Centrum Housing		Fair
256	1125	1941	NCO Quarters		Centrum Housing		Fair
259	1040	1941	NCO Quarters		Centrum Housing		Fair
260	1125	1941	NCO Quarters		Centrum Housing		Fair
261	1125	1941	NCO Quarters		Centrum Housing		Fair
262	1040	1917	NCO Quarters		Event Meeting		Good
270	1665	1904	Hospital Stewards Quarters	Contributing	Park Ranger Housing		Good
272	4780	1941	4 Family Officer's Quarters		Rental Housing		Good
275	4780	1941	4 Family Officer's Quarters		Centrum Housing	Centrum: 9/2013	Fair
277	4780	1941	4 Family Officer's Quarters		Mad. Vista Rental Housing		Fair
296	2821	1941	Regimental Storehouse		Lawn Mower Shop		Good
298	20,608	1904/10	Post Hospital	Contributing	Schoolhouse	Goddard Coll: 9/2014 Peninsula Coll: 12/2016	Fair
300	3668	1904	Guard House	Contributing	Visitor's Center	Friends of FW: 3/2014	Good
304	9240	1941	Storehouse		Storage/Wood Shop		Fair
305	18,720	1904	Quartermaster Storehouse	Contributing	Park Maintenance		Fair
306	4798	1904	Commissary	Contributing	Conf./Classroom	PTSW: 4/2011	Fair
308	2505	1905	Quartermaster Storehouse	Contributing	Storage		Fair
309	210	1920	Post Exchange Gas Station		Unoccupied		Fair
310	6044	1908	Post Exchange/Gymnasium	Contributing	Madrona Mind Body Inst.	MMBI: 1/2033	Excellent

313	2220	1905	Quartermaster Workshop	Contributing	Centrum / Copper Canyon Press	Centrum: 9/2013	Good
315	4686	1907	Powerhouse	Contributing	Port Townsend School of Woodworking Centrum/Synergy Sound	PTSW: 4/2011 Centrum: 9/2013	Good
324	3095	1909	Quartermaster Storehouse	Contributing	Storage		Fair
325	1216	1905	Double NCO Quarters	Contributing	ADA Vacation Housing		Fair
326	5395	1941	Service Club (USO)		Conf. / Event Venue		Excellent
331	4505	1909	Double NCO Quarters	Contributing	Vacation Housing		Fair
332	4505	1905	Double NCO Quarters	Contributing	Vacation Housing		Fair
333	4505	1904	Double NCO Quarters	Contributing	Vacation Housing		Fair
334	4505	1904	Double NCO Quarters	Contributing	Vacation Housing		Fair
335	4505	1909	Double NCO Quarters	Contributing	Vacation Housing		Fair
336	2101	1909	Firemen's Quarters	Contributing	Vacation Housing		Fair
352	4505	1915	Double NCO Quarters	Contributing	Vacation Housing		Good
353	4505	1915	Double NCO Quarters	Contributing	Vacation Housing		Good
356	4154	1921	Gas Generator House		Centrum Storage	Centrum: 9/2013	Fair
357	2072	1921	Balloon Hangar Garage		Storage		Good
365	5000	1920	Motor Pool Garage		Storage		Very Poor
372	7872	1910	Wagon Shed & Quarters	Contributing	Unoccupied		Poor
501	2000	1910	Cable Storehouse	Contributing	Cablehouse Canteen	Bon Appetit: 11/2014	Good
502	2000	1921	Ordnance Machine Shop	Contributing	Marine Science Center	MSC: 6/2024	Good
532	2735	1943	Dock Warehouse		Marine Science Center	MSC: 6/2024	Fair
N/A	UNK	1943	Dock Structure		Marine Science Center	MSC: 6/2024	Fair
Total sf	423,302						

Non-Historic Structures							
Building Number	Gross Sq. Ft.	Date Built	Historical Use	NPS Historical Significance	Current Use	Lease Expires	Building Condition
210	19,679	2003	None	N/A	Fort Worden Commons	Bon Appetit: 11/2014	Good
235	861	1917	NCO Quarters	N/A	Bliss Vista Rental Housing		Good
297	972	1960	None	N/A	Seminar		Fair
364	662	1917	Motor Pool Carpenter Shop	N/A	Park Paint Shop		Good
604	36	UNK	None	N/A	Ticket Booth		Good
Total sf	22,210						

**EXHIBIT D**  
**Intentionally Left Blank**



**EXHIBIT E  
EXISTING LEASES**

Bon Appetit	Concession agreement
Centrum Foundation	Cooperative agreement
Friends of Fort Worden/Fort Worden Conservancy	Cooperating association agreement
Goddard College	Office lease
Jefferson County Historical Society	Cooperative agreement
Jefferson County Historical Society	Local agreement
Madrona Mindbody Institute	Concession lease
Marine Science Center	Lease
Peninsula College	Lease
Port Townsend Hospitality	Concession lease
Port Townsend Marine Science Center	Lease agreement
Port Townsend Outdoors	Lease
Port Townsend School of Wood	MOA
Puget Sound Coast Artillery Museum	Cooperative agreement
Student Conservation Association	Office lease
Washington State Arts Commission & Dept of Corrections	Interagency agreement



**EXHIBIT F**  
**STATE RESERVED AREAS**

State Reserved Area

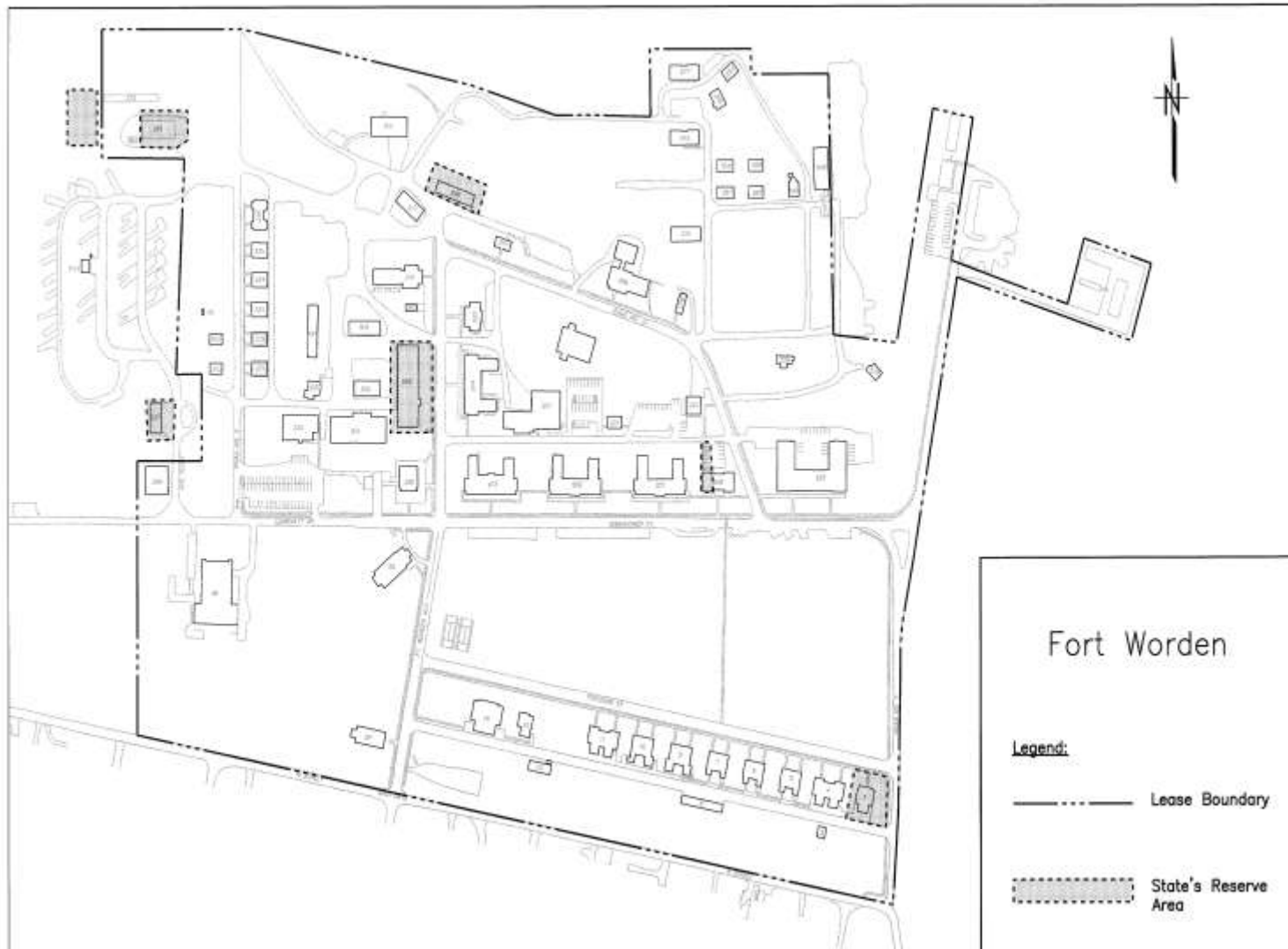
The following buildings, facilities, and ground areas will not be transmitted to the Tenant in the lease agreement and will be referred to as the State Reserved Area:

- Building #1 Commanding Officer's Museum
- Building 357 and the parking foot print around the building
- Building 296 – Park Shop and the parking and storage foot print around the building
- Building 200 – office and storage space within the Fort Worden Office, space consisting of current manager office and foyer, ranger office, and ranger-volunteer coordinator office. These spaces are located at the west end and northwest corner of the first floor. Appropriate parking space for staff will also be included. (need to get square footage)
- Fenced storage area located off of the northwest corner of building 372, commonly known as the Mule Barn.
- Building 365 – contains artifacts, like the steam locomotive and a searchlight tower, that we do not currently have funding or a location to properly store. This building could be included in the lease of the Tenant at a later date if a location and funder were procured to move and store the contents of building 365.

The following buildings, facilities, and grounds will part of the State Reserved Area for a period of time past the Date of Occupation.

- Building 305 – Park Shop and associated parking space. Will become part of the State Reserved Area until after the last day of the 60<sup>th</sup> month from the date of occupation by the Tenant.

**EXHIBIT F-1**  
**STATE RESERVED AREA ILLUSTRATION**



## EXHIBIT G

# Maintenance Responsibilities(7-19-13)

**List of example maintenance duties for Tenant and Commission for year 1-4**

*This list is intended as a demonstration of examples and may not encompass all possible required duties of either party.*

### **PDA responsibilities: Year 1 - 4**

#### **General Housekeeping/Janitorial**

- Janitorial, custodial of all campus facilities
- Trash, recycling, compost, debris
- Waste line, sink, & toilet clogs
- Windows/glass cleaning
- Decks and building cleaning, pressure washing
- Artwork maintenance and repair

#### **Building Repairs**

- Lock repairs
- Furniture, fixture and equipment maintenance, upgrade and replacement

#### **Mechanical & Electrical**

- HVAC control adjustment
- Boiler and heat pump minor adjustment & startup
- Security system testing and maintenance
- Emergency and exit lighting
- Smoke detector maintenance/replacement

#### **Signage**

- PDA / tenant signage
- Tenants - by tenants - as approved by PDA & State Parks

#### **Other**

- Wireless network troubleshooting
- Telecommunications (phones/TV/cable)

#### **Equipment Maintenance and Repair -**

#### **Facility Repair & Upgrade Replacements**

*Includes all minor and major improvement or upgrades including but not limited to:*

- Furniture, fixture & equipment repair and replacement
- Office furniture
- Office equipment
- HVAC controls - for efficiency upgrades

Efficiencies upgrades; heating, electrical, water, etc.  
Excludes tenant supplied equipment

## **State Parks Responsibilities: Year 1 - 4**

### **Underground/overhead utilities**

- Water supply lines
- Storm and sanitary sewer lines
- Electrical
- Electric vaults above and below ground
- Replace/repair drainage systems

### **Structural**

- Replacement /repair of roofs
- Repair/replacements of porches, building access
- Floor separation/sealing
- Beams, columns, walls (cracks & spalling)
- Major repairs to windows and door frame sealants
- Staircase bearing/safety issues
- Foundations
- Masonry—tuck-point and sealing
- Chimneys (complete to foundation)
- Building exterior painting
- Plaster repairs - major delimitation/cracking

### **Streets, Sidewalks & Parking Areas**

- Paving and resurfacing
- Repair potholes, cracks
- Striping (streets, parking areas)
- Access control gates
- Maintenance of curbs, driveways, graveled areas

### **Signage**

- Traffic
- Directional
- Discover Pass
- Handicapped parking

### **Mechanical & Electrical**

- Standpipes
- Electric wiring and systems
- Plumbing system
- HVAC equipment, ductwork, piping
- Fuel oil tanks
- Radiator and control valve replacement
- Fire alarm system testing and maintenance

Sprinkler head checking and maintenance

Elevator testing and maintenance

Solar panel maintenance

**Grounds maintenance**

Mowing

Brushing

Weeding

Pruning

**Interior maintenance**

Routine painting

Wall & ceiling repair

Plumbing fixtures and exposed & interior piping repair

Electric fixture and exposed & interior wiring maintenance

Floor covering repairs (carpet, tiles, etc.)

**Exterior maintenance**

Painting

Window and door replacement/repair

Window glass replacement

**Road/walkways**

Maintain curbs, walkways, driveways, graveled areas

Replace street light bulbs as needed

**Exhibit G-1**  
**Washington State Parks & Recreation Commission**

**Maintenance Expenses on Campus Year 1-4**

<b>Expense</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4</b>
Salaries/wages & benefits*	389,949	396,773	396,773	403,716
Materials and Services:				
Preventive Maintenance	94,395	95,811	97,248	98,707
Deferred Maintenance	57,246	58,105	58,976	59,861
Minor Maintenance	30,421	30,877	31,340	31,810
<i>Total Expense</i>	\$ 572,010	\$ 581,565	\$ 584,337	\$ 594,094

\*Expenditure represents 5 FTE maintenance staff responsible for Campus maintenance.

**EXHIBIT H**



**LIMITED LICENSE DEALER CONTRACT**

DATE: \_\_\_\_\_ DEALER NUMBER: \_\_\_\_\_

BUSINESS NAME: \_\_\_\_\_

BUSINESS OWNERS NAME: \_\_\_\_\_ PHONE #: \_\_\_\_\_

BUSINESS LOCATION: \_\_\_\_\_  
City State/Province Zip Code (+4)

MAILING ADDRESS (if different): \_\_\_\_\_  
City State/Province Zip Code (+4)

COUNTY: \_\_\_\_\_ TELEPHONE NO. (\_\_\_\_\_) \_\_\_\_\_



THIS CONTRACT IS ENTERED INTO BY AND BETWEEN the Limited License Dealer named above (hereinafter "Limited License Dealer") and the Washington Department of Fish and Wildlife (hereinafter the "Department").

**PURPOSE**

This Contract defines the obligations and responsibilities of the parties with respect to the Department's selection of Limited License Dealers, and Limited License Dealer's responsibilities and obligations related to the sale of One Day and Annual "Discover Pass" and other license documents.

**TERMS OF THE AGREEMENT**

1. **General License Dealer Obligations:** The Limited License Dealer shall comply with all applicable laws, rules, and issuing instructions.
2. **License Document Sales:** The Limited License Dealer agrees to sell and issue Department One Day and Annual "Discover Pass" issued by the Department. The Limited License Dealer also agrees to issue the One Day and Annual "Discover Pass" and all necessary documents as instructed in the License Dealer Manual.
3. **Purchase of** One Day and Annual "Discover Pass" books of 10 or 25: The Limited License Dealer agrees to purchase One Day and Annual "Discover Pass on a prepaid basis. The Limited License Dealer acknowledges that all purchases are final and that there are no refunds for unsold One Day and Annual "Discover Pass". The Limited License Dealer shall charge the same amount to its customers as the value of the pass, and may charge a two-dollar (\$2.00) dealer fee, as authorized by RCW 77.32.050 and WAC 220-55-115.
4. **Necessary Documents:** The Department agrees to provide books 10 or 25 One Day and Annual "Discover Pass" (upon purchase) and other necessary license documents.
5. **Training:** The Limited License Dealer agrees to call the Department's Help Line to arrange for any technical or other support.
6. **Limited License Dealer Not Employee of The Department:** In the performance of this Contract, the parties will be acting in their individual, corporate or governmental capacities and not as agents, employees, partners, joint venture's, or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. The Limited License Dealer and its employees, agents, representatives or sub-contractors will not hold themselves out as nor claim to

be an officer or employee of the Department or of the State of Washington by reason hereof. Neither the Limited License Dealer, nor its employees, agents, representatives nor sub-contractors performing under this Contract shall make any claim of right, privilege or benefit which would accrue to a Department or State of Washington employee under chapter 41.06 RCW or Title 51 RCW.

7. **Nondiscrimination:** During the performance of this Contract, the Limited License Dealer shall comply with all federal and state nondiscrimination laws, regulations and policies, including but not limited to: Title VII of the Civil Rights Act, 42 U.S.C. 12101 et seq.; the Americans with Disabilities Act (ADA); and Title 49.60 RCW, Washington Law Against Discrimination. In the event of the Limited License Dealer's noncompliance or refusal to comply with any nondiscrimination law, regulation, or policy, this Contract may be rescinded, canceled or terminated in whole or in part under the Termination for Default section of this Contract, and the Limited License Dealer may be declared ineligible for further contracts with the Department. The Limited License Dealer shall be given a reasonable time in which to cure this noncompliance. In addition to the cancellation of this Contract, Vendor may be subject to penalties under federal and state law.
8. **Subcontracting:** Neither the Limited License Dealer nor any subcontractor shall enter into subcontracts for any of the work contemplated under this Contract without obtaining prior written approval from the Department. In no event shall the existence of a subcontract operate to release or reduce the liability of the Limited License Dealer to the Department for any breach in the performance of the Limited License Dealer duties. For purposes of this Contract, Limited License Dealer agrees that all subcontractors shall be held to be agents of the Limited License Dealer, and the Limited License Dealer further agrees to hold the Department harmless from acts or omissions of the Limited License Dealer's Subcontractors, their agents, or employees,
9. **Amendments:** The Department may, at any time, by written order make changes in the general scope of the services to be performed under this Contract. The Limited License Dealer acknowledges that the terms and conditions of this Contract are subject to change upon prior notice to the Limited License Dealer. No payment for changes or extras shall be made unless such changes or extras and the price have been authorized in advance in writing by the Department.
10. **Limited License Dealer Remedies:**
  - a. **Limitation On Claims:** To the fullest extent permitted by law, Limited License Dealer shall indemnify, defend and hold harmless the Department, and all Department officials, agents and employees from and against all claims arising out of or resulting from the performance of this Contract. Limited License Dealer's sole remedy shall be to seek performance by the Department of its obligations under this Contract. This precludes but is not limited to any claim for damages for lost revenue, lost dealer fees, lost profits, lost earnings capacity, or any other element or measure of damages. Limited License Dealer's obligation to indemnify, defend, and hold harmless includes any claim by Limited License Dealer's agents, employees, representatives, or any subcontractor or its employees.
  - b. **Failure To Comply:** Limited License Dealer agrees that if the Department has failed to comply with any of the terms and conditions of this Contract, Limited License Dealer's sole remedy shall be to promptly notify the Department regarding its concern and provide a reasonable time within which the Department may remedy such noncompliance. If Limited License Dealer has a further dispute over the Department's performance under this Contract, Limited License Dealer shall mediate that dispute with the Department prior to seeking any judicial review of this Contract.
11. **Limited License Dealer Contract Termination:** The Limited License Dealer may cancel this Contract at any time by providing written notification to the Department's License Division at the address below.
12. **Department Termination of License Dealer Contract:**
  - a. **Termination for Convenience:** The Department may, by thirty (30) days written notice, beginning on the second day after the mailing, terminate this Contract, in whole or in part if the Department determines that such a termination is in the best interest of the Department. If this Contract is so terminated, the Department shall be liable only for payment required under the terms of this Contract for services rendered or goods delivered prior to the effective date of termination.





## **EXHIBIT I FISCAL POLICY**

In accordance with approval granted to the Washington State Parks and Recreation Commission (State Parks) from the Office of the State Treasurer (OST), the Port Townsend Development Authority (PDA) shall safe keep and accumulate up to \$10,000 (maximum limit) in receipts on behalf of State Parks and deposit such receipts at least every 7 days in a bank account specified by OST. If total collections under safekeeping by the PDA for State Parks at Fort Worden State Park meet or exceed the maximum limit, the total collections must be deposited within 24 hours.

If the maximum limit approved by the OST changes, State Parks will notify the PDA of the new limit and the PDA will deposit receipts accordingly.

The PDA shall provide to State Parks electronic summary and detail collection reports in the format specified by State Parks for all transactions included in each bank deposit.

The PDA agrees to be responsible for full risk of loss for any funds received as payments on behalf of the State until remitted to the specified State's bank account(s). Vendor agrees to supply proof of insurance from the Vendor's insurance carrier, documenting an extent of liability coverage of \$20,000 at a minimum. Such coverage must remain in effect throughout the term of this contract. This requirement will be reviewed no less than annually to ensure adequate protection of state funds. Vendor must agree to be contractually responsible for full risk of loss for any funds received on behalf of the State until remitted to the Office of the State Treasurer (OST) account(s).