



26           **2.     Purpose and Use.**

27           The purpose of this Agreement is to allow Lakewood to maintain and operate the Facility  
28 in a manner that provides joint equal benefit to all citizens of the County.

29           **3.     Finance and Conditions.**

30           The County promises and agrees to pay \$150,000 to Lakewood by July 1, 2011.  
31 Lakewood will submit a financial report to the County listing all revenues and expenses incurred  
32 in 2011. This financial report shall be due January 15, 2012.

33           **4.     Fees for Use.**

34           Lakewood and the County shall have the right to establish and collect fees or other  
35 charges for Facility use at Fort Steilacoom Park. Any and all fees collected by the County will be  
36 paid to Lakewood by the County in the same amount. All fees and charges shall be the same for  
37 all citizens whether they reside in the incorporated or unincorporated portions of the County.  
38 Revenue received for activities scheduled at Fort Steilacoom Park will be used by Lakewood to  
39 offset maintenance costs at Fort Steilacoom Park.

40           **5.     Rights of Use and Scheduling.**

41           Lakewood shall be solely responsible for scheduling use of the Facility including Special  
42 Events, use of the athletic fields and other public uses. Nevertheless, it is the intention of the  
43 Parties that Lakewood will, upon timely request, cooperate with the County in the scheduling of  
44 County events which do not unduly interfere with the activities of Lakewood's use rights on the  
45 particular requested time and date.

46           Lakewood will communicate and actively work with traditional user groups and Special  
47 Event groups at the Facility, including, but not limited to: model boat clubs, school cross country

48 teams, private running and walking clubs, bicycling groups, bird watching groups, group picnics,  
49 Dog-a-thon, weddings, the annual Korean American Association of Tacoma picnic, and the Civil  
50 War Reenactment.

51 **6. Concessions.**

52 Lakewood shall be solely responsible for scheduling use of the concession facility and for  
53 providing concessions for the Facility and will retain concession proceeds. For County events,  
54 the County shall have the right to provide concessions and pay Lakewood those concession  
55 proceeds. Lakewood and the County shall not permit the sale of tobacco products at the Facility.

56 **7. Signs.**

57 Signage for the Facility should be designed to inform the public that the Facility is  
58 managed and operated by Lakewood. Pierce County shall be listed as a project partner on signage  
59 for capital improvements located at the Facility for which Pierce County contributed funding.

60 **8. Sponsorship & Scholarships**

61 If scholarships to low-income or special individuals are provided they shall be made  
62 equally available for all citizens whether they reside in the incorporated or unincorporated  
63 portions of the County.

64 **9. Security.**

65 Lakewood shall be solely responsible for the security of the Facility.

66 **10. Maintenance.**

67 Lakewood shall be responsible for all maintenance, repair and routine replacement costs  
68 associated with the operation and maintenance of the Facility. Lakewood shall, at its own  
69 expense, at all times keep the property and all improvements thereon in safe, sanitary, neat, good

70 working condition and in a good state of repair. The condition of the facility in general must be  
71 maintained at the same standards as before the execution of this Agreement when maintained by  
72 the County. The County has no obligation to maintain or to make any repairs, additions, or  
73 improvements to the premises unless a joint agreement concerning such improvements is  
74 executed between the two parties.

75 **11. Capital Improvements.**

76 Lakewood shall be responsible for any and all Capital Improvements to the Facility  
77 during the term of this Agreement. It is understood that the park has historically significant  
78 structures that may not readily be restored or replaced if damaged. The County has no obligation  
79 to contribute funds for any and all Capital Improvements to the Facility premises unless a joint  
80 agreement concerning such capital improvements is executed between the two parties.

81 **12. Planning.**

82 Lakewood and the County agree to work cooperatively on any and all management plans  
83 affecting the Facility.

84 **13. Successors to the Agreement.**

85 Subject to applicable law, the County may at its option retain its rights to the Facility or  
86 may at its option assign or transfer its rights hereunder to a park and recreation service area, park  
87 and recreation district, metropolitan park district or other municipal corporation. In the event the  
88 County elects to transfer and/or assign its rights to the Facility, Lakewood shall be given the right  
89 of first refusal: the opportunity to accept the transfer and/or assignment before any other entity  
90 can be considered. In the event that Lakewood elects to decline the transfer and/or assignment  
91 from the County, the County may then, at its option, elect to transfer its right to another entity.

92 However, any such transfer, to a special purpose district shall be effective only upon Lakewood's  
93 written acceptance of the assignment, which acceptance shall not be unreasonably withheld, and  
94 transfer subject to the terms and conditions of this Agreement and City rights hereunder.

95 Similarly, if Lakewood is merged with another governmental entity, special use district or  
96 Municipal Corporation, Lakewood, may, at its option assign and transfer its rights under this  
97 Agreement, so long as the successor accepts that assignment and transfer in writing, subject to  
98 the terms and conditions of this Agreement and the County's rights hereunder.

99 **14. Termination.**

100 This Agreement may be terminated at any time by mutual agreement of the Parties on  
101 such terms and conditions as they may then agree. Any funds or refunds due to the other party,  
102 pursuant to paragraph 3, shall be made within 30 days.

103 **15. Indemnification.**

104 The County shall defend, indemnify, and save harmless Lakewood, its officers,  
105 employees and agents from any and all costs, claims, judgments, awards of damages, resulting  
106 from the sole negligence of the County, its officers, employees, or agents associated with this  
107 agreement. In executing this agreement, the County does not assume liability or responsibility for  
108 or release Lakewood from any liability or responsibility to the extent that such liability or  
109 responsibility arises from the existence or effect of Lakewood ordinance, rules, regulations,  
110 resolutions, customs, policies or practices. If any cause, claim, suit, action or administrative  
111 proceeding is commenced in which the enforceability and/or validity of any such Lakewood  
112 ordinance, rule, regulation, resolution, custom, policy or practice is at issue, Lakewood shall  
113 defend the same at its sole expense and if judgment is entered or damages awarded against

114 Lakewood, the County or both, Lakewood shall satisfy the same, including all chargeable costs  
115 and attorney fees.

116 Lakewood shall defend, indemnify, and save harmless the County, its officers, employees  
117 and agents from any and all costs, claims, judgments, awards of damages, resulting from the sole  
118 negligence of Lakewood, its officers, employees, or agents associated with this agreement. In  
119 executing this agreement, Lakewood does not assume liability or responsibility for or release the  
120 County from any liability or responsibility to the extent that such liability or responsibility arises  
121 from the existence or effect of County ordinance, rules, regulations, resolutions, customs,  
122 policies or practices. If any cause, claim, suit, action or administrative proceeding is commenced  
123 in which the enforceability and/or validity of any such County ordinance, rule, regulation,  
124 resolution, custom, policy or practice is at issue, the County shall defend the same at its sole  
125 expense and if judgment is entered or damages awarded against the County, Lakewood or both,  
126 the County shall satisfy the same, including all chargeable costs and attorney fees.

127 Lakewood will defend the County against claims for damages that (a) arise out of or in  
128 connection with acts or activities relating to this agreement; and (b) that are claimed to be caused  
129 by or claimed to result from the concurrent negligence of the County and Lakewood. This  
130 obligation to defend is independent of the outcome of any claim.

131 Should the County be determined liable for said damages caused by or resulting from the  
132 concurrent negligence of the County and Lakewood, Lakewood shall indemnify the County only  
133 to the extent of Lakewood's negligence and the County shall indemnify Lakewood only to the  
134 extent of the County's negligence.

135 In the event that one party defends the other, the defending party shall have the sole right  
136 to select legal counsel to defend against the claim, demand, or cause of action. In the event that  
137 defense is undertaken, the defending party shall be empowered to settle or compromise the claim,  
138 demand, or cause of action, and the defended party shall not interfere therewith, provided that if  
139 the defending party settles a claim, demand, or cause of action against the other party without  
140 that party's consent, the non-consenting party shall not be liable for any settlement or fees.

141 **16. Insurance (General Liability & Property).**

142 Each Party shall be responsible for maintaining adequate insurance or adequate self  
143 insurance to provide for any liabilities which might arise under this Agreement or in the  
144 operation and maintenance of the Facilities.

145 **17. Notice and Communication.**

146 Formal notice and communication between the Parties under this Agreement shall be  
147 through the person named below or their successors or through any other person or persons  
148 designated by Lakewood and by the County, respectively.

149 CITY OF LAKEWOOD  
150 Parks & Recreation Department  
151 6000 Main St. S.W.  
152 Lakewood, WA 98499  
153 Contact: Director or Designee  
154 Currently: Mary Dodsworth

PIERCE COUNTY  
Pierce County Parks & Recreation  
9112 Lakewood Dr. S.W.  
Lakewood, WA 98499  
Contact: Director or Designee  
Currently: Kathryn Kravit-Smith

155  
156 Should either Party to this agreement be presented a written claim for damages relating  
157 to activity at the Facility, the Party receiving that claim shall forward a copy of that claim to the  
158 other party within thirty days of receipt. Failure to forward a copy of a claim as prescribed by  
159 this agreement shall irrebuttably mean that the Party failing to forward the claim assumes all  
160 liability for that claim and all responsibility to defend that claim.





**Pierce County**  
**Contract Signature Page**  
City of Lakewood – Ft Steilacoom Park

Contract # 078748-0

IN WITNESS WHEREOF, the parties have executed this agreement this 1<sup>st</sup> day of Feb, 2011.

**PIERCE COUNTY:**

**City of Lakewood:**

Approved as to form only:

By M. Peter Plully 01/20/11  
Deputy Prosecuting Attorney Date

SEE ATTACHED

By P. Kenney 1-26  
Budget & Finance Date

**Approved:**

By Kathryn Krawt-Smith 1/18/11  
Department Director Date  
(under \$250,000)  
or

By Pat M'Carthy 2/1/11  
Pierce County Executive Date  
(\$250,000 or more)

**EXHIBIT 1**  
**LEGAL DESCRIPTION OF FACILITY**

Government Lots 3, 13 and 14, Lots 1 to 5, inclusive, Edward Miller 5 Acre Tracts and the North 14.25 acres of the SE ¼ NW ¼, All in Section 4, Township 19 North, Range 2 East, W.M.; also

The West 30 feet of Government Lot 2, in Section 4, Township 19 North, Range 2 East, W.M., except the South 30 feet thereof; said 30 foot strip lies parallel to an abutts on the west line of Lot 1 of plat of Edward Miller 5 Acre Tracts, which was recorded in records of Pierce County Auditor's Office on page 61 of Volume 10, March 30, 1911; also

That certain strip of road right of way abutting on the north end of Lots 1, 2, 3, 4, and 5 of said plat lying west of a line parallel to and 60 feet west of the east line of Lot 5 of said plat produced north to intersect the extreme north line of said plat.

Subject, however, to easements for rights of way for county roads upon, over and across the following described lands:

Parcel #1- The East 60 feet of Tract 5 as shown on the recorded plat of Edward Miller 5 Acre Tracts in Section 4, Township 19 North, Range 2 East, W.M., as recorded in the office of Pierce County Auditor at Tacoma, Washington.

Parcel #2- The South 30 feet of Tracts 1, 2, 3, 4, and 5, as shown on the plat of Edward Miller 5 Acre Tracts in Section 4, Township 19 North, Range 2 East, W.M., as recorded in the office of Pierce County Auditor at Tacoma, Washington.

Parcel #3- Beginning at a point on the west line of Government Lot 2, Section 4, Township 19 North, Range 2 East, W.M., which is N 1° 20' 30" E 30 feet from the southwest corner thereof ; thence south along said west line and the west line of Government Lot 12, said Section 4, to the northeast corner of Homeside Addition as recorded in the office of the Pierce County Auditor; thence westerly along the north line of said Homeside Addition 30 feet; thence northerly parallel to and 30 feet west of the west line of said Lots 2 and 12 to a point 30 feet west of the point of beginning; thence easterly to the point of beginning.

Parcel #4- All that land in Edward Miller 5 Acre Tracts and Government Lot 13 in Section 4, Township 19 North, Range 2 East, W.M., lying west of the west right of way line of 87<sup>th</sup> Avenue Southwest and east of the following described line:

Beginning at the northeast corner of said Section 4; thence N 89° 48' 97" W along the north line of Section 4, 1,454.1 feet to the true point of beginning; thence S 19° 02' 09" W 862.49 feet; thence on a curve to the right with a radius of 954.93 feet, through an angle of 19° 33' for a distance of 290 feet, more or less, to the north right of way line of 100<sup>th</sup> Street Southwest.

**EXHIBIT 1, con't.**  
**LEGAL DESCRIPTION OF FACILITY**

Subject, however, to the right and privilege granted to the City of Tacoma to install poles and anchors with equipment on a string transmission, distribution, communication and guy wires along and across portions of the following described property:

Parcel #1- Government Lot 3 and the North 14.25 acres of the SE 1/4 NW 1/4, All in Section 4, Township 19 North, Range 2 East, W.M.

Parcel #2- Tract 5 of Edward Miller 5 Acre Tracts in Government Lot 2 in the NW 1/4 NE 1/4 of Section 4, Township 19 North, Range 2 East, W.M.

Poles, anchors, equipment, transmission, distribution and communication wires to be located on the above Parcel #1 within a strip of land 10 feet in width, the centerline of which is described as follows:

Beginning at a point on the east line of said Government Lot 3 which is North 25 feet from the southeast corner thereof, thence westerly parallel with the south line of said Government Lot 3 to a point on the west line thereof.

Anchor, equipment and guy wires to be located on Parcel #2 within a strip of land 5 feet wide, the centerline of which is described as follows:

Beginning at the southeast corner of said Tract 5 of Edward Miller 5 Acre Tracts, thence north along the east line of said Tract 5 and the northerly projection of said east line, a distance of 666.3 feet, thence west 7 feet to the northeasterly line of said Tract 5 and point of beginning for this description, thence west 23 feet; also,

The S 1/2 SW 1/4, Government Lots 11 and 13 and those portions of the John Van Buskirk D.L.C., and the SE 1/4 NW 1/4, the NE 1/4 SW 1/4, and Government Lots 10 and 12 lying southerly of Steilacoom Boulevard as now located and constructed, All in Section 33, Township 20 North, Range 2 East, W.M.

Subject, however, to an easement for right of way for country road over the following described parcel of land:

Beginning at the Southeast Quarter (1/4) of Section 33, Township 20 North, Range 2 East, W.M.; thence West along the South line of said Section, a distance of 1,444.1 feet to the point of beginning; thence North along the West right of way line of Elwood Drive Southwest to the South right of way line of Steilacoom Boulevard; thence West along the South line of Steilacoom Boulevard, a distance of 10 feet; thence South and parallel with the West line of Elwood Drive to the South line of the Southeast Quarter (1/4) of said Section 33, thence East 10 feet to the true point of beginning.

Subject, however, to any existing rights of way for county roads, streets and /or public utilities.

The above described lands have a total area of 330.8 acres, more or less.

# EXHIBIT 2

## 2366835

STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES  
BERT L. COLE, Commissioner of Public Lands

Lease No. 58685

By this Lease, by and between the State of Washington, Department of Institutions, acting by and through the Department of Natural Resources, hereinafter called the State, and PIERCE COUNTY, acting by and through its BOARD OF COUNTY COMMISSIONERS, hereinafter called the Lessee, the State leases to the Lessee the following described Department of Institution's lands in Pierce County, Washington, on the terms and conditions stated herein, to wit:

Government Lots 3, 13 and 14, Lots 1 to 5, inclusive, Edward Miller 5 Acre Tracts and the North 14.25 acres of the SE 1/4 NW 1/4, All in Section 4, Township 19 North, Range 2 East, W.M.; also

The West 30 feet of Government Lot 2, in Section 4, Township 19 North, Range 2 East, W.M., except the South 30 feet thereof; said 30 foot strip lies parallel to and abutts on the west line of Lot 1 of plat of Edward Miller 5 Acre Tracts, which was recorded in records of Pierce County Auditor's Office on Page 61 of Volume 10, March 30, 1911; also

That certain strip of road right of way abutting on the north end of Lots 1, 2, 3, 4 and 5 of said plat lying west of a line parallel to and 60 feet west of the east line of Lot 5 of said plat produced north to intersect the extreme north line of said plat.

Subject, however, to easements for rights of way for county roads upon, over and across the following described lands:

Parcel #1 - The East 60 feet of Tract 5 as shown on the recorded plat of Edward Miller 5 Acre Tracts in Section 4, Township 19 North, Range 2 East, W.M., as recorded in the office of Pierce County Auditor at Tacoma, Washington.

Parcel #2 - The South 30 feet of Tracts 1, 2, 3, 4 and 5, as shown on the plat of Edward Miller 5 Acre Tracts in Section 4, Township 19 North, Range 2 East, W.M., as recorded in the office of Pierce County Auditor at Tacoma, Washington.

Parcel #3 - Beginning at a point on the west line of Government Lot 2, Section 4, Township 19 North, Range 2 East, W.M., which is N 1° 20' 30" E 30 feet from the southwest corner thereof; thence south along said west line and the west line of Government Lot 12, said Section 4, to the northeast corner of Homeside Addition as recorded in the office of the Pierce County Auditor; thence westerly along the north line of said Homeside Addition 30 feet; thence northerly parallel to and 30 feet west of the west line of said Lots 2 and 12 to a point 30 feet west of the point of beginning; thence easterly to the point of beginning.

Parcel #4 - All that land in Edward Miller 5 Acre Tracts and Government Lot 13 in Section 4, Township 19 North, Range 2 East, W.M., lying west of the west right of way line of 87th Avenue Southwest

RECORDED IN THE PUBLIC LANDS OFFICE  
MAURICE RAYMOND, PIERCE CO. TREASURER

2366835

Parcel #1 - Government Lot 3 and the North 14.25 acres of the SE 1/4 NW 1/4, All in Section 4, Township 19 North, Range 2 East, W.M.

Parcel #2 - Tract 5 of Edward Miller 5 Acre Tracts in Government Lot 2 in the NW 1/4 NE 1/4 of Section 4, Township 19 North, Range 2 East, W.M.

Poles, anchors, equipment, transmission, distribution and communication wires to be located on the above Parcel #1 within a strip of land 10 feet in width, the centerline of which is described as follows:

Beginning at a point on the east line of said Government Lot 3 which is North 25 feet from the southeast corner thereof, thence westerly parallel with the south line of said Government Lot 3 to a point on the west line thereof.

Anchor, equipment and guy wires to be located on Parcel #2 within a strip of land 5 feet wide, the centerline of which is described as follows:

Beginning at the southeast corner of said Tract 5 of Edward Miller 5 Acre Tracts, thence north along the east line of said Tract 5 and the northerly projection of said east line, a distance of 666.3 feet, thence west 7 feet to the northeasterly line of said Tract 5 and point of beginning for this description, thence west 23 feet; also,

The S 1/2 SW 1/4, Government Lots 11 and 13 and those portions of the John Van Buskirk D.L.C., and the SE 1/4 NW 1/4, the NE 1/4 SW 1/4, and Government Lots 10 and 12 lying southerly of Steilacoom Boulevard as now located and constructed, All in Section 33, Township 20 North, Range 2 East, W.M.

Subject, however, to an easement for right of way for county road over the following described parcel of land:

Beginning at the Southeast Quarter (1/4) of Section 33, Township 20 North, Range 2 East, W.M.; thence West along the South line of said Section, a distance of 1,444.1 feet to the point of beginning; thence North along the West right of way line of Elwood Drive Southwest to the South right of way line of Steilacoom Boulevard; thence West along the South line of Steilacoom Boulevard, a distance of 10 feet; thence South and parallel with the West line of Elwood Drive to the South line of the Southeast Quarter (1/4) of said Section 33, thence East 10 feet to the true point of beginning.

Subject, however, to any existing rights of way for county roads, streets and/or public utilities.

The above described lands have a total area of 330.8 acres, more or less.

SECTION 1 OCCUPANCY

1.01 Term. This lease shall commence on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and continue to the 1st day of December, 2025. This lease is issued under authority of RCW 79.01.414.

1.02 Renewal. The Lessee shall have the right to the extent provided by law, to apply for a re-lease of the site.

SECTION 2 USE OF THE SITE

2.01 Permitted Use. The site shall only be used for the purpose of educational and recreational facilities. For purposes of this lease, joint use of parking facilities as required by Clauses 6.01 (1) and (2) shall be considered to be public outdoor recreation use.

2.02 Additional Use. The patent by which the State received title to certain of

### SECTION 3 RENTAL

4.01 Amount. Starting December 1, 1970, the Lessee shall pay to the State at P. O. Box 168, Olympia, Washington 98501, annually, in advance, \$1,500.00.

### SECTION 4 RESERVATIONS

4.01 Compliance. The State shall have access to the site at all reasonable times for the purpose of securing compliance with the terms and conditions of this lease.

4.02 Access. The State reserves the right to grant easements and other land uses on the site to itself and others when the easement or other land uses applied for will not unduly interfere with the use to which the Lessee is putting the site or interfere unduly with the plan of development for the site. No easement or other land uses shall be granted until damages to the leasehold shall first have been ascertained by the State and paid to the Lessee by the applicant for the easement or other land use.

4.03 Restrictions on Use. In connection with use of the site the Lessee shall:

(1) Remove no State owned valuable material without prior written consent of the State. The Lessee must pay to the State the Fair Market Value of the valuable material, as determined by the State, before removal authorization is granted;

(2) Take all reasonable precautions to protect the land and improvements on the leased site from fire, make every reasonable effort to report and suppress such fires as may affect the leased site, and shall be subject to applicable fire laws affecting the leased site;

(3) Not allow debris or refuse to accumulate on the leased site;

(4) Permit patients at Western State Hospital, or any similar institution located in the vicinity of the premises, the right to use the premises for recreation when so authorized by the officials of the institution concerned;

(5) Permit the State to retain the right for and the use of the water facilities presently located on the premises. The State may maintain this system and have exclusive use of any and all water obtained, provided that the Lessee may use portions of the water when not needed by the State. The Lessee shall have a meter installed, and pay for the water taken from the premises, at a rate based on the average cost of said water being delivered by the State to the Western State Hospital grounds north of Steilacoom Boulevard;

(6) Permit the State to retain the right for and the use and maintenance of the present power and phone services on the premises that are serving the Western State Hospital grounds located north of Steilacoom Boulevard.

### SECTION 5 REQUIREMENTS

5.01 Assignment and Sublease. This lease or any portion thereof may not be assigned nor may the lands held hereunder be sublet without the written consent of the State.

5.02 Duty. The Lessee, at his sole cost and expense, shall at all times keep or cause all improvements installed pursuant to this lease (regardless of ownership) to be kept in as good condition and repair as originally constructed or as hereafter put, except for reasonable wear and tear. The State, or any authorized agency shall have the legal right to inspect the premises and improvements thereon. The Lessee shall carry a sufficient amount of fire, lightning, or the hazards of the extended coverage endorsement, to cover the replacement cost of any or all improvements, excluding those which are maintained by and for the benefit of the State, that may be damaged by fire or other casualty. In the event of fire or casualty damage to any or all of the improvements, the paid insurance benefits shall be used to immediately replace said improvements in a manner subject to reasonable approval by the State, or at the option of the Lessee, the proceeds from such insurance may be paid to the State in such amount as may be necessary to reimburse the State for those improvements which existed on the premises at the time this lease is executed.

Default. If any rent shall be and remain unpaid when the same shall become due, or if Lessee shall violate or default in any of the covenants and agreements herein contained, then the State may cancel this lease, provided the Lessee has been notified of the rental due, the violation or the default, 60 days prior to said cancellation.

5.06 Insolvency of Lessee. If the Lessee becomes insolvent or bankrupt, or if a receiver is appointed, the State may cancel, at its option, the lease unless the lease has been used as collateral with the State's consent. If the Lessee should default in payment to the lending agency, the State upon request by the lender shall assign the lease to the lending agency who may, thereafter, either operate the leased site, or with the approval of the State, assign the lease.

## SECTION 6 OPERATION OF PREMISES

6.01 Development Plan. Before the Lessee develops the premises, a general plan of development must be submitted to the State and have the State's written approval. No permanent facilities except for boating, picnicking, and swimming will be permitted within 200 feet of any body of water. Said plan is to encompass, but is not limited to, the following features:

(1) Joint and mutually agreed use of parking and recreational facilities with the Community College being proposed for the adjoining property to the south and west of this leased premises. If the subject parties cannot agree, the dispute will be arbitrated by a board of arbitrators. The arbitration board will be made up of one person appointed by the State Board of Community Colleges, one person appointed by the Pierce County Board of Commissioners, and these two individuals will select the third party. The decision of this board of arbitrators shall be binding on both parties;

(2) Joint use of parking and recreational facilities with any proposed school that may be placed on the 15 acres reserved under Clause 2.02. If the subject parties cannot agree, the dispute will be arbitrated by a board of arbitrators. The arbitration board will be made up of one person appointed by the Pierce County Superintendent of Schools, one person by the Pierce County Board of Commissioners, and these two individuals will select the third party. The decision of this board of arbitrators shall be binding on both parties.

(3) Maintenance of the cemetery located on the premises;

(4) Fort Steilacoom Community College shall have unencumbered access to Waughop Lake, as designated, in those areas where land subject to this lease lies between the campus of Fort Steilacoom Community College and Waughop Lake as designated. This access shall in no event preclude bicycle, pedestrian and like casual traffic from traveling around the perimeter of said lake. Said college shall be included in any planning or design of such development to be included on the subject area between the campus and the lake. If the College and the Lessee cannot mutually agree on the plan of development, the decision will be arbitrated as set forth in Section 6.01 (1).

(5) Schedule of development within the framework of available financing. Said schedule may be altered as needed to fulfill recreational needs and needed financing;

(6) Proposed use of buildings located on the premises, also to include removal of those not to be used by the Lessee;

(7) Security fencing with gates will be installed around the water towers and pump house. Said fencing is to be in place prior to usage of the premises as a park. Said fence should be 6 feet high with one top strand barbed wire and on steel posts. Maintenance of such fence to be the responsibility of the Lessee;

(8) The area within the Community College District No. 11 lease adjacent to the water towers and 200 feet outward from the present circular road serving said towers shall be developed by mutual agreement and maintained by the Lessee. Such development shall be compatible with the proposed landscaping to be provided by and on lands administered by the College. If the College and Lessee cannot mutually agree on the plan of development, such plan will be arbitrated as set forth in Section 6.01 (1). Said area shall be designated as the viewpoint area.

6.02 Lake Access. Pierce County Parks shall have unencumbered access for the

2366835

6.03 Building Replacement. Before storage buildings utilized by the Department of Institutions are removed or used by the Lessee, the Lessee must provide a replacement building of 50 feet by 100 feet in size and provide up to a maximum of four (4) buildings or a total of 20,000 square feet. The Lessee shall determine the schedule of utilization or replacement, provided that at least one building shall be constructed prior to July 1, 1972. Said buildings are to be constructed at Lessee's expense and to be placed at a location designated by the State and to the north of Steilacoom Boulevard on the Western State Hospital grounds. Title to said buildings shall convey to the Department of Institutions upon the satisfactory completion of construction. Type of buildings for replacement are found in Schedule 1 and by mention herein made a part of this lease.

SECTION 7 MISCELLANEOUS

7.01 No Partnership. The State is not a partner nor a joint venturer with the Lessee in connection with business carried on under this lease and shall have no obligation with the respect to the Lessee's debts or other liabilities.

7.02 Warranty. The State warrants that it is the owner of the leased site and has the right to lease it free of all encumbrances except those set out under the description of the leased premises.

7.03 Non-Waiver. Waiver by either party of strict performance of any provisions of this lease shall not be a waiver of nor prejudice the party's right to require strict performance of the same provision in the future or of any other provisions.

7.04 Attorney Fees. If suit or action is instituted in connection with any controversy arising out of this lease, the prevailing party shall be entitled to recover costs including such sum as the court may adjudge reasonable as attorney fees.

7.05 Succession. Subject to the limitations as stated in Sections 5-5.01 and 5-5.06, on transfer of the Lessee's interest, this lease shall be binding upon and inure to the parties, their respective successors and assigns.

7.06 Notices. Any notice required or permitted under this lease shall be given when actually deposited in the United States mail as certified mail addressed as follows: To the State: Department of Natural Resources, Public Lands-Social Security Building, P. O. Box 168, Olympia, Washington 98501. To the Lessee: At the address given by the Lessee in the signature block or as specified in writing by the Lessee.

7.07 State's Right to Cure Default. If the Lessee is in default by failure to perform any covenant(s) of this lease, the State shall have the option to correct the default or cancel the lease after sixty (60) days' written notice to the Lessee. All of the State's expenditure to correct the default shall be reimbursed by the Lessee on demand with interest at the rate of 8% per annum from the date of expenditure by the State. The written notice shall have no effect if the Lessee cures the default specified in the notice during the 60 day period.

7.08 Lease Recording. Within 30 days after receipt of this lease, a notification of leasing is to be recorded by the Lessee with the Pierce County Auditor's office located in Tacoma, Washington.

SECTION 8 OPERATION OF SITE

8.01 Operational Uses and Responsibilities. In conjunction with the operation of

2366835

site after termination or expiration of this lease if this lease is not renewed, shall thereupon become the property of the State.

The Lessee expressly agrees to all covenants herein and binds himself for the payment of the rental hereinbefore specified.

Executed this 26<sup>th</sup> day of October, 1970.

STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES

By Bert L. Cole  
BERT L. COLE  
Commissioner of Public Lands

Signed this 20th day of October, 1970.



BOARD OF COUNTY COMMISSIONERS  
PIERCE COUNTY

By Richard A. Greco  
Chairman

By \_\_\_\_\_

City-County Building  
Tacoma, Wa. 98402

App. No. 58685  
srn

RECEIVED  
OCT 30 1970  
PIERCE COUNTY

Filed for record Oct 30 1970 2 <sup>15</sup>/<sub>PM</sub>  
Request of County Commrs  
Richard A. Greco, Pierce County Auditor