



# SEATTLE CITY COUNCIL

## Legislative Summary

CB 118620

Record No.: CB 118620

Type: Ordinance (Ord)

Status: Passed

Version: 1

Ord. no: Ord 125271

In Control: City Clerk

File Created: 11/06/2015

Final Action: 03/10/2017

**Title:** AN ORDINANCE relating to the West Seattle Stadium; and authorizing the Superintendent of Parks and Recreation to execute a 12-year lease, plus an option to extend, with the West Seattle Sportsmen's Club to operate the Roger Dahl Rifle Training Range at the West Seattle Stadium.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: Juarez

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments: Att 1 - Lease Between Parks and Recreation and West Seattle Sportsmen's Club v3

Drafter: charles.ng@seattle.gov

Filing Requirements/Dept Action:

### History of Legislative File

Legal Notice Published:  Yes  No

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Mayor	11/24/2015	Mayor's leg transmitted to Council	City Clerk			
	Action Text: The Council Bill (CB) was Mayor's leg transmitted to Council. to the City Clerk						
	Notes:						
1	City Clerk	11/24/2015	sent for review	Council President's Office			
	Action Text: The Council Bill (CB) was sent for review. to the Council President's Office						
	Notes:						
1	Council President's Office	11/24/2015	sent for review	Parks, Seattle Center, Libraries, and Gender Pay Equity Committee			
	Action Text: The Council Bill (CB) was sent for review. to the Parks, Seattle Center, Libraries, and Gender Pay Equity Committee						
	Notes:						

- 1 Council President's Office 01/26/2016 sent for review Parks, Seattle Center, Libraries, and Waterfront Committee  
Action Text: The Council Bill (CB) was sent for review. to the Parks, Seattle Center, Libraries, and Waterfront Committee  
Notes:
- 1 Full Council 02/01/2016 referred Parks, Seattle Center, Libraries, and Waterfront Committee Pass  
Action Text: The Council Bill (CB) was referred. to the Parks, Seattle Center, Libraries, and Waterfront Committee  
Notes:
- 1 Parks, Seattle Center, Libraries, and Waterfront Committee 02/04/2016 discussed  
Action Text: The Council Bill (CB) was discussed in Committee.
- 1 Parks, Seattle Center, Libraries, and Waterfront Committee 03/02/2017 pass as amended Pass  
Action Text: The Committee recommends that Full Council pass as amended the Council Bill (CB).  
In Favor: 3 Chair Juarez, Vice Chair Bagshaw, Member Harrell  
Opposed: 0
- 1 Full Council 03/06/2017 passed Pass  
Action Text: The Council Bill (CB) was passed by the following vote, and the President signed the Bill:  
Notes:  
In Favor: 8 Councilmember Bagshaw, Councilmember Burgess, Councilmember González , Councilmember Herbold, Councilmember Johnson, Councilmember Juarez, Councilmember O'Brien, Councilmember Sawant  
Opposed: 0
- 1 City Clerk 03/07/2017 submitted for Mayor's signature Mayor
- 1 Mayor 03/10/2017 Signed
- 1 Mayor 03/10/2017 returned City Clerk
- 1 City Clerk 03/10/2017 attested by City Clerk  
Action Text: The Ordinance (Ord) was attested by City Clerk.  
Notes:
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**Text of Legislative File CB 118620**

**CITY OF SEATTLE**

**ORDINANCE** 125271

**COUNCIL BILL** 118620

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4  
5 AN ORDINANCE relating to the West Seattle Stadium; and authorizing the Superintendent of  
6 Parks and Recreation to execute a 12-year lease, plus an option to extend, with the West Seattle  
7 Sportsmen's Club to operate the Roger Dahl Rifle Training Range at the West Seattle Stadium.  
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10 WHEREAS, the West Seattle Sportsmen's Club (the "Club") currently occupies the City-owned  
11 facility commonly known as the Roger Dahl Rifle Training Range (the "facility"), which  
12 is located at the Department of Parks and Recreation's West Seattle Stadium; and

13 WHEREAS, the Club participated in the construction of the facility in 1961 and has  
14 continuously occupied and maintained the facility at its own cost and expense since that  
15 time; and

16 WHEREAS, the Club provides valuable educational programs to Seattle's residents in  
17 partnership with state agencies; and

18 WHEREAS, the Department of Parks and Recreation recognizes the Club's many public  
19 contributions, including its delivery of firearm safety education and training classes; and

20 WHEREAS, the Club has agreed to continue providing public access and training and  
21 educational programs to benefit Seattle's citizens and desires to renew the lease with the  
22 City; and

23 WHEREAS, the Superintendent of Parks and Recreation desires to renew the current lease and  
24 continue the Club's management and operation of the facility; and

25 WHEREAS, a long term lease is often a prerequisite of the Washington State grant applications,  
26 and the Club plans to apply for state grants to improve the facility; NOW, THEREFORE,  
27

1 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

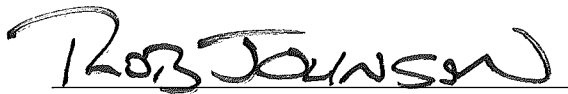
2           Section 1. The Superintendent of Parks and Recreation is authorized to execute, for and  
3 on behalf of the City, a lease with the West Seattle Sportsmen's Club (the "Club"), substantially  
4 in the form of the Lease between The City of Seattle Department of Parks and Recreation and  
5 West Seattle Sportsmen's Club attached hereto as Attachment 1, providing for the Club's  
6 occupancy and use of the facility known as the Roger Dahl Rifle Training Range at West Seattle  
7 Stadium for an initial term of 12 years. Consistent with the provisions of the lease authorized by  
8 this Section, the Superintendent is also authorized to extend the lease for one five year term as  
9 the Superintendent deems in the best interest of the Department of Parks and Recreation.

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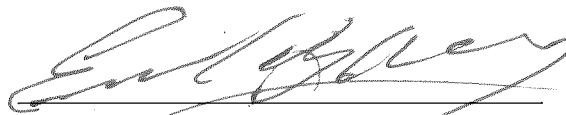
1 Section 2. This ordinance shall take effect and be in force 30 days after its approval by  
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it  
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the 6<sup>th</sup> day of March, 2017, and  
5 signed by me in open session in authentication of its passage this  
6 6<sup>th</sup> day of March, 2017.

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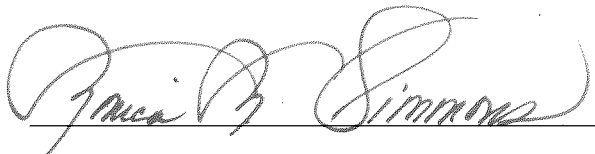
9 President Pro Tem of the City Council

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11 Approved by me this 10<sup>th</sup> day of March, 2017.

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14 Edward B. Murray, Mayor

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16 Filed by me this 10<sup>th</sup> day of MARCH, 2017.

17  
18 

19 Monica Martinez Simmons, City Clerk

20  
21 (Seal)

22 Attachments:

23 Attachment 1 – Lease between The City of Seattle Department of Parks and Recreation and West  
24 Seattle Sportsmen’s Club  
25

**LEASE**  
**Between**  
**THE CITY OF SEATTLE**  
**DEPARTMENT OF PARKS AND RECREATION**  
**and**  
**WEST SEATTLE SPORTSMEN'S CLUB,**

THIS LEASE ("Lease") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between **THE CITY OF SEATTLE** ("City"), a municipal corporation of the State of Washington, acting by and through its Department of Parks and Recreation ("Parks") and the Superintendent thereof ("Superintendent"), and the West Seattle Sportsmen's Club. ("Lessee"), a Washington non-profit corporation, acting by and through its Board of Directors, organized under the laws of the State of Washington (collectively, the "Parties").

AGREEMENT

IN CONSIDERATION of the mutual covenants contained herein, City and Lessee covenant and agree as follows:

1. **Lease Data; Exhibits.** The following terms shall have the following meanings, except as otherwise specifically modified in this Lease:

1.1 **Premises.** A space commonly referred to as the Roger Dahl Rifle Training Range located in the West Seattle Stadium, 4432 35<sup>th</sup> Ave. SW, Seattle, Washington 98126, as depicted on the Floor Plan and Premises Map attached as Exhibit A. The Premises are situated on a portion of real property legally described on Exhibit B.

1.2 **Commencement Date.** The date when this Agreement has been signed by an authorized representative of both Parties.

1.3 **Expiration Date.** The last day of the 144<sup>th</sup> full month following the Commencement Date, unless extended under Section 3.2.

1.4 **Rent, Additional Charges, and Reporting Requirements.**

1.4.1 Lessee shall pay an annual fee of \$1,000.00 ("Rent") payable to the City in quarterly installments of \$250.00 in advance of each quarter as further provided in Section 4.

1.4.2 Whether or not so designated, all other sums due from Lessee under this Lease shall constitute "Additional Charges," payable when specified by this Lease.

1.4.3 In addition to the foregoing Rent payments and Additional Charges, Lessee is required to provide public access, training and educational programs at the Premises and submit an annual report describing these activities and programs as referenced in Section 39.2.

Terri Burns  
DPR Dahl Range ORD ATT 1  
D3

1.5 Exhibits. The following exhibits are made a part of this Lease:

Exhibit A –Premises Map

Exhibit B – Legal Description

Exhibit C – WSSC Range Mgt. Lead Policies and Practices

Exhibit D – Public Benefit and Reporting Requirements

1.6 Addresses for Notice.

To City:

Seattle Department of Parks and Recreation  
Contracts Administration and Support Office  
ATTN: Joanne Orsucci, Manager  
800 Maynard Ave S, 3<sup>rd</sup> Floor  
Seattle, Washington, 98134  
(206) 684-8001  
joanne.orsucci@seattle.gov

To Lessee:

The West Seattle Sportsmen's Club  
Gary Moseley, President  
P.O. Box 16258  
Seattle, WA 98116  
(206) 935-9240  
glmoseley@comcast.net

2. **Premises**.

2.1 Grant. City hereby leases to Lessee and Lessee hereby leases from City those certain spaces described in Section 1.1 (the "Premises").

2.2 Permitted Use. Lessee shall use the Premises for a rifle and pistol target shooting range, for instruction, training, tournaments, and for meetings related to those functions. All such functions shall be open to the public. The Lessee shall not use the Premises for any other purpose without the prior written consent of the Superintendent.

2.3 Condition. City leases the Premises and Lessee accepts the Premises in their "as is" condition.

2.4 Common Areas. During the Term, Lessee and its licensees and invitees shall have access to and non-exclusive use of common areas and public spaces around the West Seattle Stadium (the "Building"), such as parking areas and walkways adjacent to the Premises, designated by the Superintendent for use in common with the City and general public ("Common Areas"). City shall at all times have exclusive control and management of the Common Areas and no diminution thereof shall be deemed a constructive or actual eviction or entitle Lessee to compensation or a reduction or abatement of Rent.

3. **Lease Term.**

3.1 Initial Term. This Lease shall be for an initial term beginning on the Commencement Date specified in Subsection 1.2 and ending on the Expiration Date specified in Subsection 1.3, unless the Lease Term is terminated earlier in accordance with the provisions of this Lease or extended as provided in Subsection 3.2.

3.2 Extended Term. Parks and Lessee shall have the option to extend this Lease for up to one (1) individual extended term of five (5) years by mutual agreement ("Extended Term"). Parks will give Lessee written notice of its intention to extend at least ninety (90) days prior to the beginning of the Extended Term. As used in this Lease, "Lease Term" or "Term" means the initial term specified in Subsection 3.1 and the Extended Term, if any.

4. **Annual Rent.**

4.1 Rent. Beginning on the Commencement Date and thereafter on or before January 15, April 15, July 15, and October 15 of each year during the Term, Lessee shall pay to City at the address and to the account specified by City, without notice or demand or any setoff or deduction whatsoever, in lawful money of the United States (a) the quarterly amount of the Annual Rent specified in Subsection 1.4, in advance; and (b) the applicable amount of LET due under Section 4.2, and (c) Additional Charges as and when specified elsewhere in this Lease, but if not specified, then within ten (10) days after written demand. Rent and, if appropriate, as reasonably determined by City, Additional Charges shall be prorated on a daily basis for any partial quarter within the Lease Term.

4.2 Leasehold Excise Tax. In addition to the Rent, Lessee shall pay all Leasehold Excise Tax (LET) on Lessee's interest in this Lease and any leasehold interest deemed to have been created by this Lease under RCW 82.29A. As of the Commencement Date of this Lease Agreement, the applicable LET rate is 12.84% of Rent, which rate and amount is subject to change from time to time.

4.3 Late Charge; Interest. If Lessee fails to pay the City Rent or Additional Charges when due, such amount shall bear interest at the rate of 12% per annum from the date due until the date paid.



4.4 Returned Check, Insufficient Funds. If any payment or check for payment is returned for insufficient funds, Lessee shall owe as an administrative charge an additional \$25.00, or such larger sum as may be established by ordinance.

4.5 Payment Addresses. All payments shall be delivered to the City at the address for notice in Subsection 1.6 or to such other address designated by the Superintendent in writing.

5. Hours of Operation, Access to the Premises: The Lessee shall have access to the Premises, but shall restrict use of the shooting range to the Superintendent-approved scheduled operating hours for the Building, which as of the Commencement Date are between the hours of 8:00 am and 10:00 pm, Monday through Sunday.

6. Lessee's Operations.

6.1 Prohibited Use. Lessee shall not at any time use the Premises or permit the Premises to be used for the reloading or manufacture or remanufacture of ammunition, or for the storing of supplies used in the reloading of ammunition, including but not limited to loaders, sizers, powder and any other component used in the reloading of ammunition.

6.2 Restricted Use. The Department reserves the right to review and approve the types of firearms which may be present or used on the Premises, including the management practices, programs, and associated fees charged by Lessee. The Lessee shall not permit the presence or discharge of any firearm at the Premises which is not a type of firearm approved by the Department.

6.3 Condition of the Premises. The Lessee accepts the Premises in "as is" condition. Lessee shall make no improvement or modification to the Premises without the prior written consent of the Department.

6.4 Closure. The Department reserves the right to close the Premises, or any portion thereof, for making repairs or improvements to the Premises or the Building, and the Department shall give the Lessee reasonable notice of such closure. The Department may close the Premises or any portion of the Premises without notice in case of emergency.

6.5 Premises Supervision. Lessee shall at all times staff the Premises with appropriately trained personnel. At no time will the target shooting range be used without the presence of designated "Range Masters", as follows:

6.5.1 Designated Range Masters: Range Masters must have a current national certification, approved by the Officers of the West Seattle Sportsmen's Club ("WSSC"), in a discipline which involves operational range safety.

6.5.2 At all times, the range will be managed by Range Masters who are designated by the Officers of the West Seattle Sportsmen's Club. Only Range Masters

designated by the Officers may open the range to the general public or for stakeholder groups. A Range Master must supervise the range whenever marksmanship activities occur.

6.6 Safe Operation. Lessee shall be solely responsible for the safe operation of the target shooting range and shall not assign, let or permit any other entity, individual or organization undertake that function without the written consent of the Department.

6.7 Compliance with Laws. Lessee shall not use or permit the Premises or any part thereof to be used for any purpose in violation of any municipal, county, state or federal law, ordinance or regulation, or for any purpose offensive to the standards of the community. Lessee shall promptly comply, at its sole cost and expense, with all laws, ordinances and regulations now in force or hereafter adopted relating to or affecting the condition, use or occupancy of the Premises, provided that Lessee shall not be responsible for maintaining in compliance with laws those portions not within the Premises and as such are the City's responsibility to maintain under terms of this Lease.

6.8 Nondiscrimination. Without limiting the generality of Section 6.7, Lessee agrees to and shall comply with all applicable equal employment opportunity and nondiscrimination laws of the United States, the State of Washington, and The City of Seattle, including but not limited to Chapters 14.04, 14.10 and 20.42 of the Seattle Municipal Code, as they may be amended from time to time, and rules, regulations, orders and directives of the associated administrative agencies and their officers.

6.9 Liens and Encumbrances. Lessee shall keep the Premises free and clear of, and shall indemnify, defend and hold City harmless from, any and all, liens and encumbrances arising or growing out of any act or omission, or breach of this Lease or the use, improvement or occupancy of the Premises by Lessee or any of its principals, officers, employees, members, agents or subtenants. Lessee shall inform the City in writing of any lien filed against the Premises within ten (10) days of the filing date of the lien. If any lien is so filed against the Premises, Lessee shall either cause the same to be fully discharged and released of record within ten (10) days after City's written demand therefor or, within such period, provide City with cash or other security acceptable to City in an amount equal to one and one-half (1½) times the amount of the claimed lien as security for its prompt removal. City shall have the right to disburse such security to cause the removal of the lien if City deems such necessary, in City's sole discretion.

6.10 Hazardous Substances. Lessee shall not, without City's prior written consent, keep on or about the Premises any substance designated as, or containing any component now or hereafter designated as hazardous, dangerous, toxic or harmful and/or subject to regulation under any federal, state or local law, regulation or ordinance ("Hazardous Substances"), except Hazardous Substances stored and handled in compliance with the WSSC Range Mgt. Lead Policies and Practices Plan attached as Exhibit C, and except for customary office, kitchen, cleaning and other related supplies in normal quantities handled in compliance with applicable laws. With respect to any Hazardous Substances stored with City's consent, Lessee shall promptly, timely and completely comply with all governmental requirements for reporting and

record keeping; submit to City true and correct copies of all reports, manifests and identification numbers at the same time as they are required to be and/or are submitted to the appropriate governmental authorities; within five (5) days after City's request therefor, provide evidence satisfactory to City of Lessee's compliance with all applicable governmental rules, regulations and requirements; and comply with all governmental rules, regulations and requirements regarding the proper and lawful use, sale, transportation, generation, treatment and disposal of Hazardous Substances. Any and all costs incurred by City and associated with City's inspections of the Premises and City's monitoring of Lessee's compliance with this Subsection 6.10, including City's attorneys' fees and costs, shall be Additional Charges and shall be due and payable to City within ten (10) days after City's demand therefor, if Lessee's violation of this Subsection 6.10 is discovered as a result of such inspection or monitoring. During the term of the lease and at the cost of the lessee, the Lessee shall meet annually with the City's Hazardous Waste and Environmental Management staff at minimum one scheduled time to conduct testing and inspection of the premises to ensure that all proper procedures and cleanup are complied with regarding lead management and mitigation

6.11 Cleanup Costs. Lessee shall be fully and completely liable to City for any and all cleanup costs and expenses and any and all other charges, expenses, fees, fines, penalties (both civil and criminal) and costs imposed with respect to Lessee's use, disposal, transportation, generation and/or sale of Hazardous Substances in or about the Premises, including but not limited to any costs or expenses associated with lead abatement, whether or not Lessee has complied with the Hazardous Substances/Lead Safety Plan. Without limiting the generality of Section 13, Lessee shall indemnify, defend and hold City harmless from any and all of the costs, fees, penalties, charges and expenses claimed and assessed against the City (as well as City's attorneys' fees and costs) as a result of Lessee's use, release, disposal, transportation, generation and/or sale of Hazardous Substances, including those covered by the WSSC Range Mgt. Lead Policies and Practices Plan, on or about the Premises. The indemnification obligation of this subsection shall survive the expiration or earlier termination of this Lease.

## 7. Utilities.

7.1 General. So long as the Lessee is not in Default under this Lease, the City shall furnish and pay for electric, water, sewer, and garbage collection services to the Premises. Lessee has investigated the same and accepts them in 'as is' condition. Lessee shall obtain the Superintendent's prior written consent before installing lights or equipment in the Premises that exceed the Premises standard mechanical loads. Neither mail delivery nor communications services shall be provided by the City.

7.2 Refuse Collection; Recycling of Waste Materials. Lessee shall provide all necessary housekeeping and janitorial services to maintain the Premises in a neat, safe and sanitary condition and in a manner consistent with other similar Parks and Recreation facilities and operations and to the Superintendent's reasonable satisfaction. Lessee shall be responsible for proper storage and removal of trash, litter pickup and recycling, consistent with City standards.

7.3 **Interruption.** City shall not be liable for any loss, injury or damage to person or property caused by or resulting from any variation, interruption or failure of services due to any cause whatsoever, including, but not limited to, electrical surges, or from failure to make any repairs or perform any maintenance. No temporary interruption or failure of such services incident to the making of repairs, alterations or improvements or due to accident, strike or conditions or events beyond City's reasonable control shall be deemed to be an eviction of Lessee, or to relieve Lessee from any of Lessee's obligations hereunder, or to give Lessee a right of action against City for damages. Lessee acknowledges that there may be City-planned utility outages affecting the Premises and that such outages may interfere, from time to time, with Lessee's use of the Premises. City shall provide Lessee with not less than forty-eight (48) hours prior written notice of any City-planned electricity outage in the Premises. City has no obligation to provide emergency or backup power to Lessee. The provision of emergency or backup power to the Premises or to enable the equipment therein to properly function shall be the sole responsibility of Lessee. If utilities are interrupted at the Premises so as to render them unfit for their permitted uses, then the Rent for the year shall be abated for the duration of the disruption in the proportion that the number of days of the disruption bears to the number of days of the year.

## 8. **Licenses and Taxes.**

8.1 **General Obligation.** Without any deduction or offset whatsoever, Lessee shall be liable for, and shall pay prior to delinquency, all taxes, license and excise fees, and occupation taxes covering the business conducted on the Premises and all personal property taxes and other impositions levied with respect to all personal property located at the Premises; Lessee shall be responsible for, and shall pay prior to delinquency, all fees, charges, or costs, for any governmental inspections or examinations relating to Lessee's use and occupancy of the Premises, including but not limited to all taxes on the leasehold interest created by this Lease as provided under Section 4.2.

8.2 **Contests.** Lessee shall have the right to contest the amount and validity of any taxes by appropriate legal proceedings, but this shall not be deemed or construed in any way as relieving Lessee of its covenant to pay any such taxes. City shall not be subjected to any liability or for the payment of any costs or expenses in connection with any such proceeding brought by Lessee, and Lessee hereby covenants to indemnify and hold City harmless from any such costs or expenses. The indemnification obligation of this subsection shall survive the expiration or earlier termination of this Lease.

9. **Alterations by Lessee.** The Lessee shall not make, or cause to be made, any alteration, addition or improvement in the Premises without first obtaining the written consent of the Superintendent for such work. Lessee covenants that it will cause all alterations, additions and improvements to the Premises to be completed at Lessee's sole cost and expense by a contractor approved by City and in a manner that (a) is consistent with the City approved plans and specifications and any conditions imposed by City in connection therewith; (b) is in conformity with first-class, commercial standards; (c) includes acceptable insurance coverage for City's benefit; (d) does not affect the structural integrity of the Premises or the Building or any of the

mechanical systems; (e) does not disrupt the operation of the parks and Building (unless otherwise approved in writing by the Superintendent); and (f) does not invalidate or otherwise affect the construction or any system warranty then in effect with respect to the Premises or the Building. Lessee shall secure all governmental permits and approvals required for the work; shall comply with all other applicable governmental requirements and restrictions; and reimburse City for any and all expenses incurred in connection therewith. Lessee shall complete design and construction of all improvements and alterations within the Premises in compliance with all permitting and legal requirements, including but not limited to compliance with applicable building codes and with the Americans with Disabilities Act (ADA). Lessee expressly acknowledges that the provisions of the ADA may exceed requirements contained in building codes and other regulations and that in such instances, the ADA requirements shall control. Lessee shall indemnify, defend and hold City harmless from and against all losses, liabilities, damages, liens, costs, penalties and expenses (including attorneys' fees, but without waiver of the duty to hold harmless) arising from or out of Lessee's performance of such alterations, additions and improvements, including, but not limited to, all which arise from or out of Lessee's breach of its obligations under terms of this Section 9. All alterations, additions and improvements (expressly including all light fixtures; heating and ventilation units; floor, window and wall coverings; and electrical wiring), except Lessee's moveable trade fixtures and appliances and equipment not affixed to the Premises (including without limitation furniture, computers, point of sale systems and registers) shall become the property of City at the expiration or termination of this Lease without any obligation on its part to pay for any of the same. At City's request, Lessee shall execute a deed or bill of sale in favor of City with respect to such alterations and/or improvements. Notwithstanding the foregoing, Lessee shall remove all or any portion of such alterations and/or improvements on the expiration or termination of this Lease if City specifically so directs, in writing, at the time of City's issuance of its approval thereof. Within ninety (90) days after the completion of any alteration, addition or improvement to the Premises, Lessee shall deliver to City a full set of "as-built" plans of the Premises showing the details of all alterations, additions and improvements made to the Premises by Lessee. Notwithstanding the foregoing, the City reserves an unqualified right to make alterations to the Premises or to the Building (1) where conditions deemed by the Superintendent to constitute an emergency, exist; or (2) in order to correct code-deficiencies; or (3) where the Superintendent deems such alterations to be in the best interest of all users of the Building and park, so long as the alterations do not unreasonably interfere with the ordinary operation of the Premises by the Lessee.

10. **Care of Premises.**

10.1 General Obligation of Lessee and City. Lessee shall take good care of the Premises and shall reimburse City for all damage done to the Premises that results from any act or omission of Lessee or any of Lessee's officers, contractors, agents, invitees, licensees, members or employees, including, but not limited to, cracking or breaking of glass.

10.2 Custodial Service for Premises. Lessee shall at its own expense, at all times, keep the Premises and areas immediately adjacent thereto, including the paved exterior walkways and entry ways that surround the perimeter of the Building in a neat, clean, safe, and sanitary

condition; and keep the glass of all windows and doors serving the Building and the areas identified in the foregoing sentence clean and presentable. Lessee shall furnish all cleaning supplies and materials needed to operate such areas in the manner prescribed in this Lease. Lessee shall be responsible for all services necessary to meet the Lessee's obligation to maintain the Premises and keep the paved exterior walkways and entry ways that surround the Building free of litter and clean of spills resulting from Lessee's operations. Lessee may utilize its own staff to meet this obligation, but shall contract for a professional cleaning service, if in the opinion of the City, such service is necessary to adequately maintain such areas. The Lessee will seek the approval by the City of any such professional cleaning service prior to entering into such arrangement. The City's approval shall not be unreasonably withheld.

10.3 Failure to Comply with Custodial Service Obligation. If, Lessee fails to meet the obligations of Section 10.2, and after City has provided written notice of Lessee's failure to comply with that Section, the City may in its sole discretion, elect to perform said work, or may contract for an outside service. In the event that the City elects to perform the work or contract with an outside service, Lessee shall promptly reimburse the City for its actual and reasonable cost thereof as an Additional Charge.

10.4 Major Repairs. All major repairs necessary to maintain the Premises in a reasonably good operating condition, as determined by City, shall be performed by City at its expense. Major repairs include the structural aspects and exterior of the Premises, the Common Areas, graffiti clean-up, utility, electrical and plumbing and other systems and equipment serving the Premises with the exception of the heating and ventilation. All major repairs necessary to maintain the heating and ventilation unit in a reasonably good operating condition, as determined by the City, shall be performed by the Lessee, at its expense. The foregoing sentence does not extend to maintenance occasioned by an act or omission of Lessee or its officers, agents, employees, members or contractors. Except in the event of City's gross negligence or intentional misconduct, there shall be no abatement or reduction of rent arising by reason of City's making of repairs, alterations or improvements.

10.5 Prohibition Against Installation or Integration of Any Work of Visual Art on Premises Without City's Consent. City reserves to and for itself the right to approve or disapprove of the installation or integration on or in the Premises of any "work of visual art," as that term is defined in the Visual Artists Rights Act of 1990, as now existing or as later amended, and to approve or disapprove of each and every agreement regarding any such installation or integration. Lessee shall not install on or integrate into, or permit any other person or entity to install on or integrate into, the Premises any such work of visual art without City's prior, express, written consent. City's consent to the installation of any such art work may be granted upon one or more conditions, or withheld at the City's discretion.

10.6 Lessee's Indemnification of City Against Liability under Visual Artists Rights Act of 1990. Lessee shall protect, defend, and hold City harmless from and against any and all claims, suits, actions or causes of action, damages and expenses (including attorneys' fees and costs) arising as a consequence of (a) the installation or integration of any work of visual art on or into the Premises; or (b) the destruction, distortion, mutilation or other modification of the art

work that results by reason of its removal; or (c) any breach of Subsection 10.5 of this Lease; or (d) any violation of the Visual Artists Rights Act of 1990, as now existing or hereafter amended; by Lessee or any of its officers, employees, members or agents. This indemnification obligation shall exist regardless of whether City or any other person employed by City has knowledge of such installation, integration, or removal or has consented to any such action or is not required to give prior consent to any such action. The indemnification obligation of this subsection shall survive the expiration or earlier termination of this Lease.

11. **Signs and Advertising.**

11.1 **Signs, Generally.** The Lessee shall not display, inscribe, paint or affix to any part of the Premises any sign except a sign that has been approved by the Superintendent.

11.2 **Recognition.** Lessee shall include a statement and the Parks and Recreation logo in its printed materials stating, in effect, that: "We would like to thank Seattle Parks and Recreation for providing a location for the Roger Dahl Rifle Training Range."

12. **Surrender of Premises.**

12.1 **General Matters.** At the expiration or sooner termination of the Lease Term, Lessee shall return the Premises to City in the same condition in which received on the Commencement Date (or, if altered, then the Premises shall be returned in such altered condition unless otherwise directed by City pursuant to Section 9), reasonable wear and tear, casualty and condemnation damages not resulting from or contributed to by negligence of Lessee, excepted. Prior to such return, Lessee shall remove its moveable trade fixtures and appliances and equipment that have not been attached to the Premises, and shall repair any damage resulting from their removal. In no event shall Lessee remove floor coverings; heating or ventilating equipment; lighting equipment or fixtures; or floor, window or wall coverings, unless otherwise specifically directed by City in writing at the time when City's approval of their installation is issued. Lessee's obligations under this Section 12 shall survive the expiration or termination of this Lease. Lessee shall indemnify City for all damages and losses suffered as a result of Lessee's failure to remove voice and data cables, wiring and communication lines and moveable trade fixtures and appliances and to redeliver the Premises on a timely basis.

12.2 **Cable and Wiring.** Notwithstanding any provision to the contrary in this Lease and if the City so directs, on or by the Expiration Date, or if this Lease is terminated before the Expiration Date, within fifteen (15) days after the effective termination date, whichever is earlier, Lessee shall remove all voice and data communication and transmission cables and wiring installed by or for Lessee to serve any telephone, computer or other equipment located in that portion of the Premises. Cables and wiring shall include all of the same located within the interior and exterior walls, through or above the ceiling, through or below the floor, vertical or horizontal risers, raceways, conduits, channels, or connection openings of such portion of the Premises to be vacated and surrendered to City as of the Expiration Date or earlier termination date. Lessee shall leave the mud rings, face plates and floor boxes in place.

13. **Waiver; Indemnification.**

13.1 Lessee's Indemnification. Except as otherwise provided in this section, Lessee shall indemnify, defend (using legal counsel reasonably acceptable to City) and save City, City's officers, agents, employees, members and contractors harmless from all claims, suits, losses, damages, fines, penalties, liabilities and expenses (including City's actual and reasonable personnel and overhead costs and attorneys' fees and other costs incurred in connection with claims, regardless of whether such claims involve litigation) resulting from any actual or alleged injury (including death) of any person or from any actual or alleged loss of or damage to, any property arising out of or in connection with (i) Lessee's occupation, use or improvement of the Premises, or that of any of its employees, members, agents, contractors, licensees, or invitees, (ii) Lessee's breach of its obligations hereunder, or (iii) any act or omission of Lessee or any subtenant, licensee, assignee or concessionaire of Lessee, or of any officer, agent, employee, guest or invitee of any of the same in or about the Premises.

Lessee agrees that the foregoing indemnity specifically covers actions brought by its own employees or members. This indemnity with respect to acts or omissions during the Lease Term shall survive termination or expiration of this Lease. The foregoing indemnity is specifically and expressly intended to, constitute a waiver of Lessee's immunity under Washington's Industrial Insurance Act, RCW Title 51, to the extent necessary to provide City with a full and complete indemnity from claims made by Lessee and its employees or members, to the extent of their negligence. Lessee shall promptly notify City of casualties or accidents occurring in or about the Premises. **CITY AND LESSEE ACKNOWLEDGE THAT THEY SPECIFICALLY NEGOTIATED AND AGREED UPON THE INDEMNIFICATION PROVISIONS OF THIS SECTION 13.1.**

13.2 Lessee's Release of Claims. Lessee hereby fully and completely waives and releases all claims against City to the extent a loss or damage is covered by insurance for any losses or other damages sustained by Lessee or any person claiming through Lessee resulting from any accident or occurrence in or upon the Premises, including but not limited to any defect in or failure of Building equipment; any failure to make repairs; any defect, failure, surge in, or interruption of Building facilities or services; any defect in or failure of Common Areas; broken glass; water leakage; the collapse of any Building component; or any act, omission or negligence of co-tenants, licensees or any other persons or occupants of the Premises.

14. **Insurance.**

14.1 Lessee's Insurance Coverages and Limits. Lessee shall, at its sole cost and expense, maintain, and cause its Subtenant(s), if any, to maintain in full force and effect the following minimum limits of insurance throughout the entire Lease Term:



14.1.1 **Commercial General Liability (CGL)** written on an occurrence form at least as broad as ISO CG 00 01, with Minimum Limits of Liability:

\$1,000,000 per Occurrence  
\$2,000,000 General Aggregate  
\$2,000,000 Products/Completed Operations Aggregate  
\$1,000,000 Personal/Advertising Injury Liability  
\$ 1,000,000 Damage to Premises Rented to You

Employers Liability / Washington Stop  
\$1,000,000 Each Accident / Each Disease / Policy Limit

Alternatively, may be evidenced as Employer's Liability insurance under Part B of a Workers Compensation insurance policy.

Coverage shall include: Premises and Operations; Broad Form Property Damage (Including Completed Operations); Liability assumed under an Insured Contract (including tort liability of another assumed in a business contract); Personal Injury and Advertising Liability; Independent Contractors; Severability of Interest Clause; Waiver of Subrogation endorsement in favor of Owner as required by contract; General Aggregate Limits of Insurance shall apply separately; "Claims Made" and "Modified Occurrence" policy forms are not acceptable.

The limits of liability described above are minimum limits of liability only. Regardless of provisions to the contrary under the terms of any insurance policy maintained by Lessee, the specification of any such minimum limits shall neither be (1) intended to establish a maximum limit of liability to be maintained by Lessee as respects this Agreement, nor (2) construed as limiting the liability of any of Lessee's insurers, which must continue to be governed by the stated limits of liability of the relevant insurance policies.

14.1.2 **Automobile Liability insurance** at least as broad as ISO CA 00 01 including coverage for owned, non-owned, leased or hired vehicles as applicable, with a minimum limit of \$1,000,000 each accident for bodily injury and property damage.

14.1.3 **Workers' Compensation** insurance securing Lessee's liability for industrial injury to its employees or members in accordance with the provisions of Title 51 of the Revised Code of Washington.

14.1.4 **Umbrella or Excess Liability** insurance if and as necessary to maintain total CGL insurance limits of \$2,000,000 Each Occurrence and be no less broad than coverages described above.

14.1.5 **Property Insurance.** During the duration lessee is engaged in the performance of the Improvements or other renovation of the Premises, the Lessee shall maintain in full force and effect "All Risks" Builder's Risk Property insurance or equivalent for the portion of the Premises under renovation, including fire and flood, on a replacement cost

new basis subject to a deductible of no more than \$50,000 each loss. In the event of a claim under the builder's risk policy, Lessee or its contractor(s) shall be responsible for paying any deductible under the policy if Lessee or any of its agents, employees, members or contractors is responsible for the loss or damage. It shall be Lessee's responsibility to properly coordinate with the City's Risk Management Division the placement of Builder's Risk Property insurance prior to any new construction on, or structural alteration of, the Premises.

14.1.6 In the event that the City deems insurance to be inadequate to protect Lessee and the City, Lessee shall increase coverages and/or liability limits as the City shall deem reasonably adequate within sixty (60) days after the date of written notice.

#### 14.2 City's Property Insurance Coverage and Limits.

14.2.1 City will maintain at its expense Property Insurance or self-insurance under which the Premises, excluding Lessee's Business Personal Property and Tenant Improvements, are insured throughout the Lease Term in an amount not less than the replacement cost new thereof, against the following hazards: (i) loss from the perils of fire and other risks of direct physical loss (including earthquake), not less broad than provided by the insurance industry standard "Causes of Loss - Special Form (ISO form CP 1030 or equivalent); (ii) loss or damage from water leakage or sprinkler systems now or hereafter installed in or on the Premises; (iii) loss or damage by explosion of steam boilers, pressure vessels, or above-ground oil or gasoline storage tanks or similar apparatus now or hereafter installed on the Premises. City's Property Insurance currently is subject to a \$250,000 deductible for most claims for which Lessee shall be responsible only to the proportional extent to which the loss or damage is attributable to Lessee's negligent acts that are, or should be, covered by Tenant's Fire/Tenant Legal Liability insurance.

#### 14.3 General Requirements for Lessee's Insurance.

14.3.1 The CGL insurance and, in addition, Excess and/or Umbrella liability insurance, if any, shall include "The City of Seattle, its officers, officials, employees, members, agents and volunteers" as additional insureds. Lessee's insurance shall be primary and non-contributory to any insurance maintained by or available to the City. The term "insurance" in this paragraph shall include insurance, self-insurance (whether funded or unfunded), alternative risk transfer techniques, capital market solutions or any other form of risk financing.

14.3.2 Coverage shall not be cancelled without forty-five (45) day written notice of such cancellation, except ten (10) day written notice as respects cancellation for non-payment of premium, to the City at its notice address except as may otherwise be specified in Revised Code of Washington (RCW) 48.18.290 (Cancellation by insurer.). The City and the Lessee mutually agree that for the purpose of RCW 48.18.290 (1) (b), for both liability and property insurance the City is deemed to be a "mortgagee, pledge, or other person shown by (the required insurance policies) to have an interest in any loss which may occur thereunder."

14.3.3 Each insurance policy required hereunder shall be (1) subject to reasonable approval by City that it conforms with the requirements of this Section, and (2) be issued by an insurer rated A-:VII or higher in the then-current A. M. Best's Key Rating Guide and licensed to do business in the State of Washington unless procured under the provisions of chapter 48.15 RCW (Unauthorized insurers).

14.3.4 Any deductible or self-insured retention ("S.I.R.") must be disclosed to, and shall be subject to reasonable approval by, the City. Lessee shall cooperate to provide such information as the City may reasonably deem to be necessary to assess the risk bearing capacity of the Lessee to sustain such deductible or S.I.R. The cost of any claim falling within a deductible or S.I.R. shall be the responsibility of Lessee. If a deductible or S.I.R. for CGL or equivalent insurance is not "fronted" by an insurer but is funded and/or administered by Lessee or a contracted third party claims administrator, Lessee agrees to defend and indemnify the City to the same extent as the City would be protected as an additional insured for primary and non-contributory limits of liability as required herein by an insurer.

14.4 Waiver of Subrogation. Unless such waiver would void the property insurance coverage to be provided pursuant to this section, the City and Lessee waive all subrogation rights each may have against the other, or any subtenant, for damages caused by fire or other perils to the extent covered by property insurance obtained pursuant to this section or other property insurance applicable to the Premises, except such rights as they have to proceeds of such insurance held by the City or the Lessee or both as fiduciary. This waiver of subrogation shall be effective to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, whether or not the person or entity paid the insurance premium directly or indirectly, and whether or not the person or entity has an insurable interest in the property damaged

14.5 Evidence of Insurance. On or before the Commencement Date, and thereafter not later than the last business day prior to the expiration date of each such policy, the following documents must be delivered to City at its notice address as evidence of the insurance coverage required to be maintained by Lessee:

14.5.1 Certification of insurance documenting compliance with the coverage, minimum limits and general requirements specified herein; and

14.5.2 A copy of the policy's declarations pages, showing the insuring company, policy effective dates, limits of liability and the Schedule of Forms and Endorsements specifying all endorsements listed on the policy including any company-specific or manuscript endorsements;

14.5.3 A copy of the CGL insurance policy provision(s) documenting the City of Seattle and its officers, elected officials, employees, members, agents and volunteers as additional insureds (whether on ISO Form CG 20 26 or an equivalent additional insured or blanket additional insured policy wording), showing the policy number, and the original

signature and printed name of the representative of the insurance company authorized to sign such endorsement;

14.5.4 Pending receipt of the documentation specified in this Section 14, Lessee may provide a copy of a current complete binder. An ACORD certificate of insurance will not be accepted in lieu thereof.

Original certification of insurance shall be issued to:

The City of Seattle Parks and Recreation  
Attention: Joanne Orsucci, Manager  
800 Maynard Avenue S. #300  
Seattle, WA 98134

14.6 Assumption of Property Risk. The placement and storage of Lessee's Business Personal Property in or about the Premises shall be the responsibility, and at the sole risk, of Lessee.

14.7 Adjustments of Claims: The Lessee shall provide for the prompt and efficient handling of all claims for bodily injury, property damage or theft arising out of the activities of the Lessee under this Agreement.

14.8 Lessee's Responsibility: The procuring of the policies of insurance required by this Agreement shall not be construed to limit the Lessee's liability hereunder. Notwithstanding said insurance, the Lessee shall be obligated for the full and total amount of any damage, injury or loss caused by negligence of the Lessee, or any of its agents, officers, members and employees or through use or occupancy of the Premises.

15. **Assignment or Sublease.**

15.1 Lessee shall not sublet or encumber the whole or any part of the Premises, nor shall this Lease or any interest thereunder be assignable or transferable by operation of law or by any process or proceeding of any court or otherwise without the prior written consent of the Superintendent, whose consent may be given or withheld in that official's sole discretion. The granting of consent to a given transfer shall not constitute a waiver of the consent requirement as to future transfers. Any assignment or sublease without the Superintendent's prior written consent, at Superintendent's option, shall be void. No assignment or sublease shall release Lessee from primary liability hereunder. Each assignment and sublease shall be by an instrument in writing in form satisfactory to City. If Lessee is a corporation, then any transfer of this Lease by merger, consolidation or liquidation, or any direct or indirect change, in the ownership of, or power to vote the majority of, Lessee's outstanding voting stock, shall constitute an assignment for the purposes of this Lease. If Lessee is a partnership, then a change in general partners in, or voting or decision-making control of, the partnership shall also

constitute an assignment. This provision does not preclude Lessee from subcontracting out for routine maintenance and programming services.

16. **Assignment by City.** If City sells or otherwise transfers the Premises, or if City assigns its interest in this Lease, such purchaser, transferee, or assignee thereof shall be deemed to have assumed City's obligations under this Lease arising after the date of such transfer, and City shall thereupon be relieved of all liabilities under this Lease arising thereafter, but this Lease shall otherwise remain in full force and effect. Lessee shall attorn to City's successor, which assumes and agrees to perform all of City's obligations under this Lease.

17. **Damage or Destruction.** If the Premises are rendered partially or totally untenantable by fire or other casualty, the City shall proceed with reasonable diligence as soon as sufficient insurance, self-insurance and/or other funds are available therefor (in any event, within twenty-four (24) months from the date of the occurrence of a fire or other casualty), to prepare plans and specifications for, and thereafter to carry out, all work necessary to repair or replace the Building, the Premises or any portions thereof that were damaged or destroyed by a fire or other casualty. However, the City retains the sole option to not repair or replace the Building or Premises for any reason, in which case the City may terminate this Lease by giving Lessee written notice at least thirty (30) days prior to the effective termination date. In this eventuality, the City shall retain the insurance proceeds for the Building, the Premises or any portions thereof that were damaged or destroyed by a fire or other casualty. Rent and Additional Charges shall be abated in the proportion that the un-tenantable portion of the Premises bears to the whole thereof, as the City determines, for the period from the date of the casualty to the completion of the repairs. If the damage to the Premises is uninsured or cannot be repaired within twenty-four (24) months from the date of the occurrence, or if thirty percent (30%) or more of the Building interior is destroyed or damaged (regardless of whether the Premises are damaged or not), Lessee may elect to terminate this Lease upon written notice to City within sixty (60) days after the occurrence. In the event of damage by casualty, Lessee shall, at its sole cost and expense, repair all damage to its own personal property. Except in the event of City's gross negligence, intentional misconduct or breach of this Lease, City shall not be liable to Lessee for damages, compensation or other sums for inconvenience, loss of business or disruption arising from any repairs to or restoration of any portion of the Premises.

18. **Eminent Domain.**

18.1 **Taking.** If all of the Premises are taken by Eminent Domain, this Lease shall terminate as of the date Lessee is required to vacate the Premises and all Rent and Additional Charges shall be paid to that date. The term "Eminent Domain" shall include the taking or damaging of property by, through or under any governmental or statutory authority, and any purchase or acquisition in lieu thereof, whether the damaging or taking is by government or any other person. If a taking of any part of the Premises by Eminent Domain renders the remainder thereof unusable for the business of Lessee, in the reasonable judgment of City, the Lease may, at the option of either party, be terminated by written notice given to the other party not more than thirty (30) days after City gives Lessee written notice of the taking, and such termination shall be effective as of the date when Lessee is required to vacate the portion of the Premises so

taken. If this Lease is so terminated, all Rent and Additional Charges shall be paid to the date of termination. Whenever any portion of the Premises is taken by Eminent Domain and this Lease is not terminated, City, at its expense, shall proceed with all reasonable dispatch to restore, to the extent of available proceeds and to the extent it is reasonably prudent to do so, the remainder of the Premises to the condition they were in immediately prior to such taking, and Lessee, at its expense, shall proceed with all reasonable dispatch to restore its personal property and all improvements made by it to the Premises to the same condition they were in immediately prior to such taking, to the extent award is available therefor. The Rent and Additional Charges payable hereunder shall be reduced from the date Lessee is required to partially vacate the Premises in the same proportion that the Rentable Area taken bears to the total Rentable Area of the Premises prior to taking.

18.2 Award. Except as otherwise provided below, City reserves all rights to the entire damage award or payment for any taking by Eminent Domain, and Lessee waives all claim whatsoever against City for damages for termination of its leasehold interest in the Premises or for interference with its business. Lessee hereby grants and assigns to City any right Lessee may now have or hereafter acquire to such damages and agrees to execute and deliver such further instruments of assignment as City, from time to time, may request. Lessee, however, shall have the right to claim from the condemning authority all compensation that may be recoverable by Lessee on account of any loss incurred by Lessee in moving Lessee's merchandise, furniture, trade fixtures and equipment and the cost of restoring its personal property and improvements made by it to the Premises.

19. **Default by Lessee.**

19.1 Definition. If Lessee violates, breaches, or fails to keep or perform any term, provision, covenant, or any obligation of this Lease; or if Lessee files or is the subject of a petition in bankruptcy, or if a trustee or receiver is appointed for Lessee's assets or if Lessee makes an assignment for the benefit of creditors, or if Lessee is adjudicated insolvent, or becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, or liquidated, voluntarily or otherwise; then Lessee shall be deemed in default ("Default").

19.2 City Remedies. If Lessee has defaulted and such Default continues or has not been remedied to the reasonable satisfaction of the Superintendent within thirty (30) days after written notice has been provided to Lessee, or in the case of a monetary Default within fifteen (15) days after written notice to Lessee, then City shall have the following nonexclusive rights and remedies at its option: (1) to cure such default on Lessee's behalf and at Lessee's sole expense and to charge Lessee for all actual and reasonable costs and expenses incurred by City in effecting such cure as an Additional Charge; (2) to terminate this Lease; provided, however, that if the nature of Lessee's obligation (other than monetary obligations and other than vacation or abandonment of the Premises) is such that more than thirty (30) days is required for performance, then Lessee shall not be in default if it commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion.

19.3 Reentry by City Upon Termination. Upon the termination of this Lease, City may reenter the Premises, take possession thereof, and remove all persons therefrom, for which actions Lessee shall have no claim thereon or hereunder. Lessee shall be liable and shall reimburse City upon demand for all actual and reasonable costs and expenses of every kind and nature incurred in retaking possession of the Premises. If City retakes the Premises, City shall have the right, but not the obligation, to remove therefrom all or any part of the personal property located therein and may place the same in storage at any place selected by City, including a public warehouse, at the expense and risk of Lessee. City shall have the right to sell such stored property, after reasonable prior notice to Lessee or such owner(s), after it has been stored for a period of thirty (30) days or more. The proceeds of such sale shall be applied first, to the cost of such sale; second, to the payment of the charges for storage, if any; and third, to the payment of any other sums of money that may be due from Lessee to City; the balance, if any, shall be paid to Lessee.

19.4 Vacation or Abandonment. If Lessee vacates or abandons the Premises in their entirety and fails to reoccupy them within thirty (30) days after City (1) delivers a notice to Lessee's notice address set forth in Section 1.6 above demanding such re-occupancy and (2) mails by certified or registered mail a copy of the notice to any forwarding address given by Lessee to City in writing, Lessee shall be in default under this Lease.

19.5 City's Non-exclusive Remedies upon Termination due to Default of Lessee. Notwithstanding any reentry by City and anything to the contrary in this Lease, in the event of the termination of this Lease due to the Default of Lessee, the liability of Lessee for all sums due under this Lease provided herein shall not be extinguished for the balance of the Term of this Lease. Lessee shall also be liable to City for any other amount (excluding consequential or specific damages) necessary to compensate City for all the detriment proximately caused by Lessee's failure to perform its obligations under this Lease or that in the ordinary course of things would be likely to result therefrom, including but not limited to, any costs or expenses incurred in maintaining or preserving the Premises after such Default, and any costs incurred in authorizing others for the use and occupancy of the Premises and in preparing the Premises for such use and occupancy, and such other amounts in addition to or in lieu of the foregoing as may be permitted by the laws of the State of Washington. The provisions of this Subsection 19.5-19.5 shall survive the expiration or earlier termination of this Lease.

20. **City's Remedies Cumulative; Waiver.** City's rights and remedies hereunder are not exclusive, but cumulative, and City's exercise of any right or remedy due to a default or breach by Lessee shall not be deemed a waiver of, or deemed to alter, affect or prejudice any other right or remedy that City may have under this Lease or by law or in equity. Neither the acceptance of rent nor any other act or omission of City at any time or times after the happening of any event authorizing the cancellation or forfeiture of this Lease shall operate as a waiver of any past or future violation, breach or failure to keep or perform any covenant, agreement, term or condition hereof or to deprive City of its right to cancel or forfeit this Lease, upon the written notice provided for herein, at any time that cause for cancellation or forfeiture may exist, or be

construed so as to estop City at any future time from promptly exercising any other option, right or remedy that it may have under any term or provision of this Lease.

21. **Default by City.** City shall be in default if City fails to perform its obligations under this Lease within thirty (30) days after its receipt of notice of nonperformance from Lessee; provided, that if the default cannot reasonably be cured within the thirty (30) day period, City shall not be in default if City commences the cure within the thirty (30) day period and thereafter diligently pursues such cure to completion. Upon City's default, Lessee may pursue any remedies at law or in equity that may be permitted by the laws of the State of Washington.

22. **Termination for Convenience.** Notwithstanding anything else in this Lease to the contrary, the City may, at any time and without liability of any kind to Lessee, terminate this Lease upon thirty (30) days' written notice to Lessee at its convenience.

23. **Attorneys' Fees.** If either party retains the services of an attorney in connection with enforcing the terms of this Lease, each party agrees to bear its own attorneys' fees and costs.

24. **Access by City.** City and its agents shall have the right to enter the Premises at any reasonable time to examine the same, and to show them to prospective purchasers, lenders or tenants, and to make such repairs, alterations, improvements, additions or improvements to the Premises as City may deem necessary or desirable. If Lessee is not personally present to permit entry and an entry is necessary in an emergency, City may enter the same by master key or may forcibly enter the same, without rendering City liable therefor, except in the event of City's gross negligence or intentional misconduct. Nothing contained herein shall be construed to impose upon City any duty of repair or other obligation not specifically stated in this Lease. Lessee shall change the locks to the Premises only through City and upon paying City for all actual and reasonable costs related thereto.

25. **Holding Over.** Unless otherwise agreed in writing by the parties hereto, any holding over by Lessee after the expiration of the Lease Term, whether or not consented to by City, shall be construed as a tenancy from month-to-month on the terms and conditions set forth herein. Either party may terminate any holdover tenancy by written notice delivered to the other party not later than twenty (20) days prior to the end of the final month. If Lessee fails to surrender the Premises upon the expiration or termination of this Lease without City's written consent, Lessee shall indemnify, defend and hold harmless City from all losses, damages, liabilities and expenses resulting from such failure, including, without limiting the generality of the foregoing, any claims made by any succeeding tenant arising out of such failure. Lessee's obligations under this paragraph shall survive expiration or termination of this Lease.

26. **Notices.** Any notice, demand or request required hereunder shall be given in writing to the party's address set forth in Subsection 1.6, or such other address as may be designated by either party in writing, by any of the following means: (a) personal service; (b) commercial or legal courier; or (c) registered or certified, first class mail, postage prepaid, return receipt requested. Such addresses may be changed by notice to the other parties given in the same manner as above provided. Notices shall be deemed to have been given upon the earlier of



actual receipt, as evidenced by the deliverer's affidavit, the recipient's acknowledgment of receipt, or the courier's receipt, except in the event of attempted delivery during the recipient's normal business hours at the proper address by an agent of a party or by commercial or legal courier or the U.S. Postal Service but refused acceptance, in which case notice shall be deemed to have been given upon the earlier of the day of attempted delivery, as evidenced by the messenger's affidavit of inability to deliver stating the time, date, place and manner in which such delivery was attempted and the manner in which such delivery was refused, or on the day immediately following deposit with such courier or, if sent pursuant to subsection (c), forty-eight (48) hours following deposit in the U.S. mail.

27. **Successors or Assigns.** All of the terms, conditions, covenants and agreements of this Lease shall extend to and be binding upon City, Lessee and, subject to the terms of Sections 15 and 16, their respective heirs, administrators, executors, successors and permitted assigns, and upon any person or persons coming into ownership or possession of any interest in the Premises by operation of law or otherwise.

28. **Authority and Liability.** Lessee warrants that this Lease has been duly authorized, executed and delivered by Lessee, and that Lessee has the requisite power and authority to enter into this Lease and perform its obligations hereunder. Lessee covenants to provide City with evidence of its authority and the authorization of this Lease upon request. All persons and entities named as Lessee herein shall be jointly and severally liable for Lessee's liabilities, covenants and agreements under this Lease.

29. **Partial Invalidity.** If any court determines that any provision of this Lease or the application hereof to any person or circumstance is, to any extent, invalid or unenforceable, the remainder of this Lease, or application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each other term, covenant or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

30. **Force Majeure.** Neither City nor Lessee shall be deemed in default hereof nor liable for damages arising from its failure to perform its duties or obligations hereunder if such is due to any cause beyond its reasonable control, including, but not limited to an act of Nature, act of civil or military authority, fire, flood, windstorm, earthquake, strike or labor disturbance, civil commotion, delay in transportation, governmental delay, or war; provided, however, that the foregoing shall not excuse Lessee from the timely payment of Rent and Additional Charges due hereunder, when due.

31. **Counterparts.** This parties may execute this Lease in counterparts, which, taken together, constitute the entire Lease.

32. **Headings.** The section headings used in this Lease are used for purposes of convenience and do not alter in any manner the content of the sections.

33. **Context.** Whenever appropriate from the context, the use of any gender shall include any other or all genders, and the singular shall include the plural, and the plural shall include the singular.

34. **Execution by City and Lessee; Effective Date.** Neither City nor Lessee shall be deemed to have made an offer to the other party by furnishing the other party with a copy of this Lease with particulars inserted. No contractual or other rights shall exist or be created between City and Lessee until all parties hereto have executed this Lease and the appropriate legislative authority approves it. This Lease shall become effective on the date (the "Effective Date") on which this Lease is executed by City and Lessee and approved by the Seattle City Council and signed by the Mayor. City shall have no liability to Lessee and shall have the right to terminate this Lease upon written notice to Lessee if this Lease is legislatively disapproved.

35. **Time of Essence; Time Calculation Method.** Time is of the essence with respect to this Lease. Except as otherwise specifically provided, any reference in this Lease to the word "day" means a "calendar day"; provided, however, that if the final day for any action required hereunder is a Saturday, Sunday or City holiday, such action shall not be required until the next succeeding day that is not a Saturday, Sunday or City holiday. Any reference in this Lease to the word "month" means "calendar month."

36. **Continuous Operation.** Lessee shall keep the Premises open and use them to transact business with the public daily during hours as designated in Section 5 or as otherwise may be designated by the Superintendent. Subject to the Superintendent's prior reasonable approval, Lessee may, upon posting a written notice to the public of not less than one (1) week in duration prior to any approved closure, close the Premises or a portion thereof for a reasonable period for repairs or any approved remodeling, or for taking inventory. Lessee shall close to accommodate reasonable operational requirements of City's business, upon thirty (30) days' prior written notice to Lessee, and Lessee shall immediately close in the case of any emergency as determined by the Superintendent; provided, however, that if Lessee shall close pursuant to this sentence at the direction of City, and if Lessee remains closed at the direction of City for more than three (3) days, then Lessee's Rent and Additional Charges shall be prorated for the duration of the closure in the proportion that the number of days of the closure bears to the number of days of the month. Lessee shall furnish an approved sign at the Premises entrance advising the public of any approved closure, unless closed at the direction of City.

37. **Standards.** Lessee recognizes that, although it is operating its facilities as an independent operator, Parks and Recreation is organized and exists for the purpose of maintaining park and recreation facilities for the use and enjoyment of the general public. Lessee, its agents, members and employees, will devote their efforts toward rendering courteous service to the public as though they were employees of the City, with a view of adding to the enjoyment of the patrons of this recreational facility. Lessee shall operate and conduct the facilities on the Premises in a businesslike manner, and will not permit any conduct on the part of Lessee's employees or members, which would be detrimental to City's operations

37.1 Relationship. Notwithstanding the foregoing, in no event shall the City be construed or held to have become in any way or for any purpose a partner, associate, or joint venture of Lessee or any party associated with Lessee in the conduct of Lessee's business or otherwise. This Lease does not make Lessee the agent or legal representative of the City for any purpose whatsoever.

38. **City's Control of Premises and Vicinity**. All common and other facilities provided by City in or about the Premises are subject to the City's exclusive control and management by City. Accordingly, City may do any and all of the following (among other activities in support of Parks and Recreation or other municipal objectives), all without incurring any liability whatsoever to Lessee:

38.1 Change of Vicinity. City may increase, reduce, or change in any manner whatsoever the number, dimensions, and locations of the walks, landscaping, exhibit, service area, and parking areas in the vicinity of the Premises;

38.2 Traffic Regulation. City may regulate all traffic within and adjacent to the Premises, including the operation and parking of vehicles of Lessee and its invitees, employees, members and patrons.

38.3 Display of Promotional Materials. City may erect, display, and remove promotional exhibits and materials and permit special events on property adjacent to and nearby the Premises.

38.4 Promulgation of Rules. City may promulgate, from time to time, reasonable rules and regulations regarding the use and occupancy of any Department property including, but not limited to, the Premises.

38.5 Change of Businesses. City may change the size, number, type and identity of concessions, stores, businesses and operations being conducted or undertaken in the vicinity of the Premises.

39. **Lessee's Records; Annual Report**.

39.1 Records. Lessee shall maintain books, records, documents, and other evidence of accounting procedures and practices, including a statement of income and expenses for the recent calendar year, which reflect all direct and indirect income and fees collected by the Lessee as well as any costs incurred by the Lessee in the performance of this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit by the City, the Office of the State Auditor, and other officials so authorized by law, rule, regulation, or contract. Lessee shall retain all books of accounting and any other information that will affect the reporting in Section 39.2 for a period of six (6) years after expiration or termination of this lease, and Lessee shall make them available for the inspection at Lessee's office within ten (10) days of City's prior written demand therefore. Each quarter of each year during the Term, Lessee shall provide the City with a written report of income and expenses, on a form provided by the Superintendent.

39.2. Annual Reporting. Lessee shall submit to the City an annual public benefit Report describing its programs, activities and educational services. Seattle Parks and Recreation will provide a template for this report by October 15th each year with the items being requested within the report for the following year. This report will be submitted to the City by March 10th of each calendar year during the Term of the Agreement.

Lessee shall also submit to Seattle Parks and Recreation an Annual Statement of Income and Expenses for the Roger Dahl Rifle Range for the prior calendar year due on April 20th.

Public benefits for the West Seattle Sportsmen's Club will include firearms safety training, rifle range access, volunteer hours and community outreach promoting firearms safety training. Range improvements within the facility will also be reported. These public benefits are described more fully in Exhibit D.

40. **40. Miscellaneous.**

40.1 Entire Lease; Applicable Law; Venue. This Lease and the Exhibits attached hereto, and by this reference incorporated herein, set forth the entire agreement of City and Lessee concerning the Premises, and there are no other agreements or understanding, oral or written, between City and Lessee concerning the Premises. Any subsequent modification or amendment of this Lease shall be binding upon City and Lessee only if reduced to writing and signed by them. This Lease shall be governed by, and construed in accordance with the laws of the State of Washington. The venue for any action under this Lease shall be King County Superior Court.

40.2 Negotiated Lease. The parties to this Lease acknowledge that it is a negotiated agreement, that they have had the opportunity to have this Lease reviewed by their respective legal counsel, and that the terms and conditions of this Lease are not to be construed against any party on the basis of such party's draftsmanship thereof.

Terri Burns  
DPR Dahl Range ORD ATT 1  
D3

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year indicated below.

**CITY:**

**THE CITY OF SEATTLE**  
Department of Parks and Recreation

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

Date: \_\_\_\_\_

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

Print Name: Jesús Aguirre  
Title: Superintendent

Department of Parks and Recreation

**LESSEE:**

**WEST SEATTLE SPORTSMEN'S CLUB**  
A Washington nonprofit corporation

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

Date: \_\_\_\_\_

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

Print Name: Gary Moseley  
Title: President

West Seattle Sportsmen's Club.

Terri Burns  
DPR Dahl Range ORD ATT 1  
D3

STATE OF WASHINGTON )  
) ss. (Acknowledgement for City)  
COUNTY OF KING )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared \_\_\_\_\_, known to me to be the \_\_\_\_\_ of the Department of Parks and Recreation of **THE CITY OF SEATTLE**, the party that executed the foregoing instrument as City, and acknowledged said instrument to be the free and voluntary act and deed of said party, for the purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year in the certificate above written.

\_\_\_\_\_  
[Signature] \_\_\_\_\_ [Printed Name]

NOTARY PUBLIC in and for the State of Washington residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_.

STATE OF WASHINGTON )  
) ss. (Acknowledgement for \_\_\_\_\_)  
COUNTY OF KING )

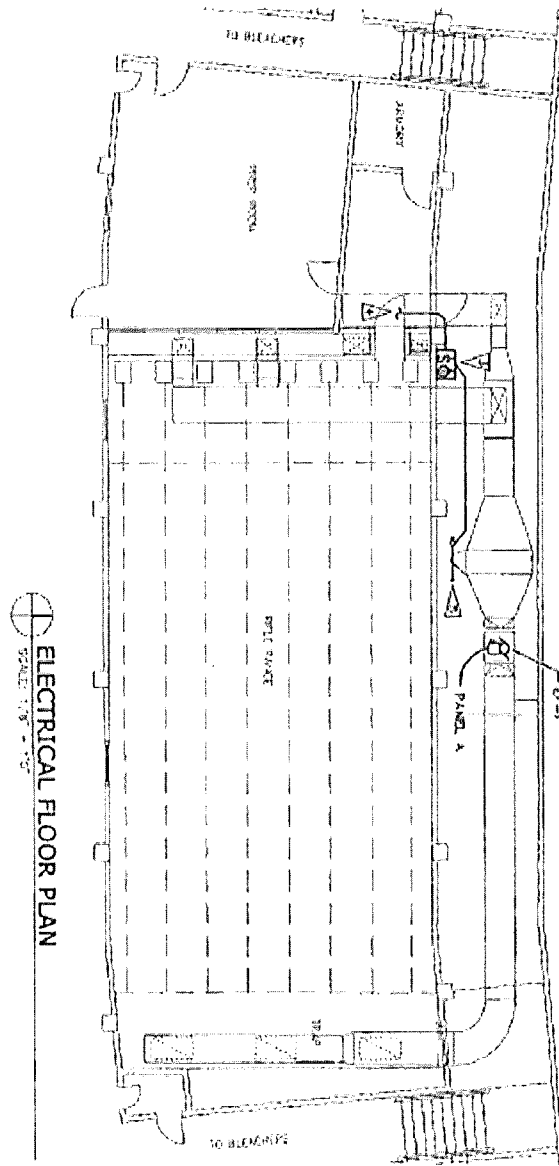
On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_, to me known to be the \_\_\_\_\_ of \_\_\_\_\_, the entity that executed the foregoing instrument as \_\_\_\_\_; and acknowledged to me that he signed the same as the free and voluntary act and deed of said entity for the uses and purposes therein mentioned and that he was authorized to execute said instrument for said entity.

WITNESS my hand and official seal the day and year in this certificate above written.

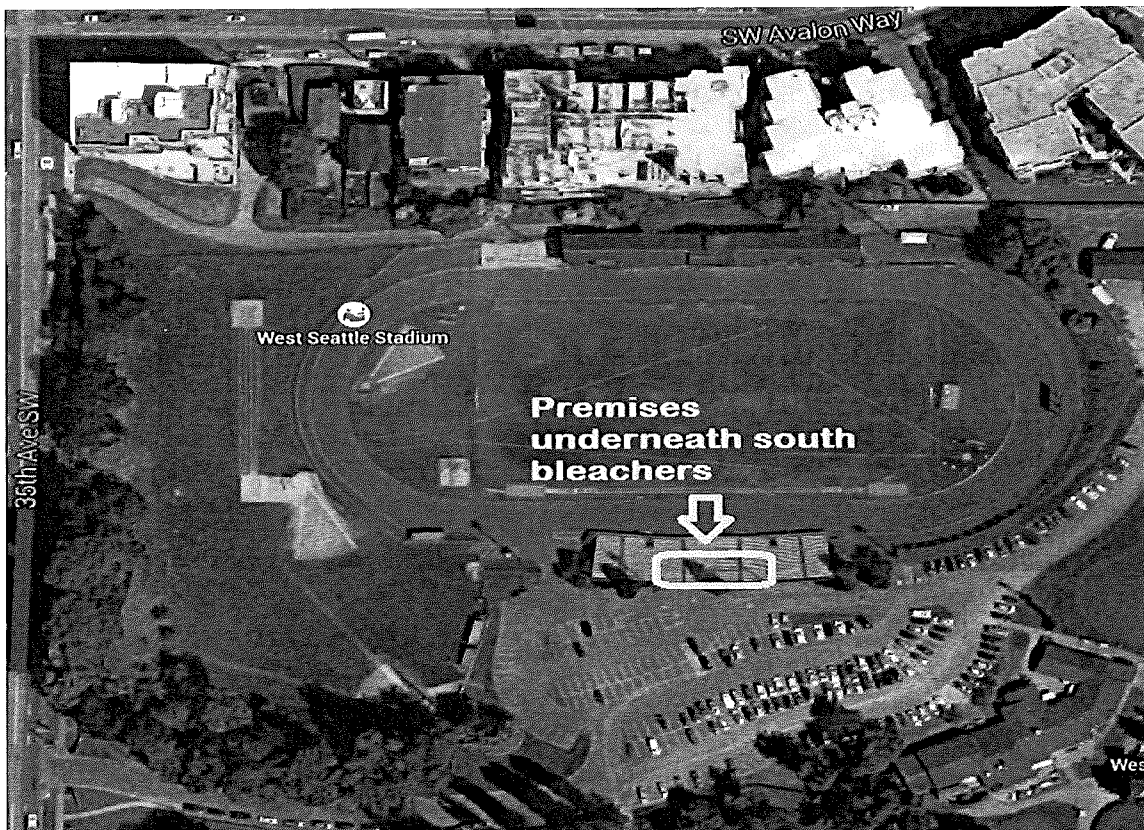
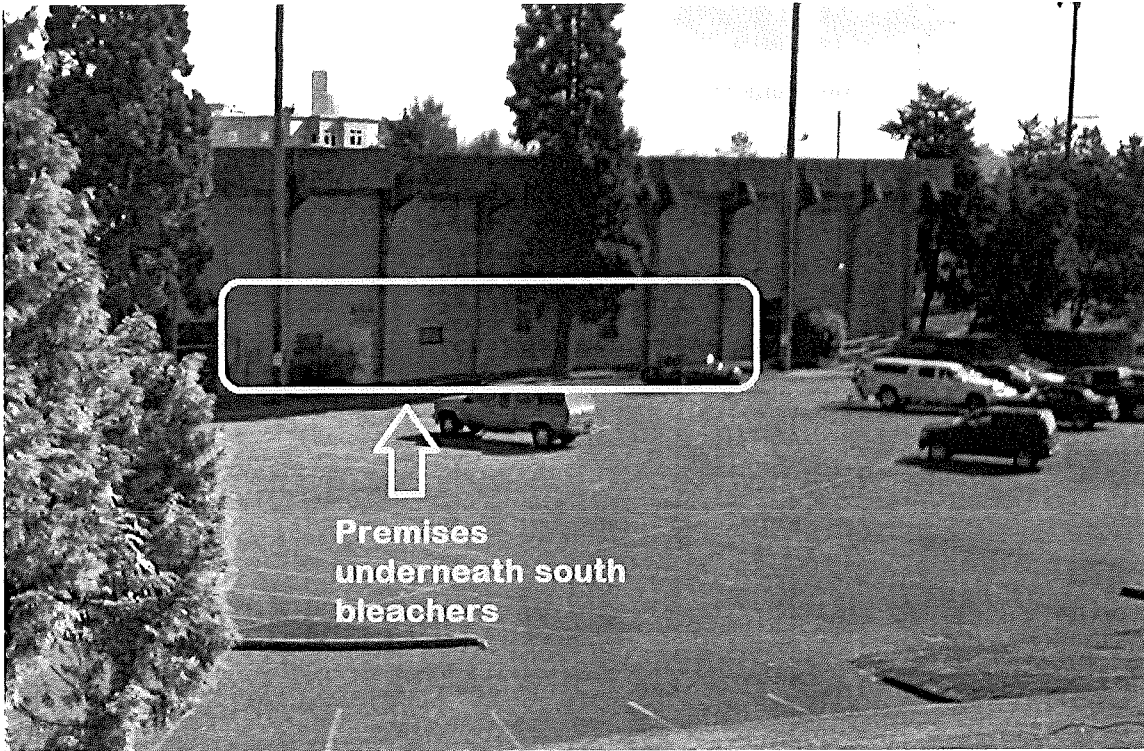
\_\_\_\_\_  
[Signature] \_\_\_\_\_ [Printed Name]

NOTARY PUBLIC in and for the State of Washington residing at \_\_\_\_\_.  
My commission expires \_\_\_\_\_.

**EXHIBIT A (PAGE 1 OF 2)**  
**FLOOR PLAN OF DAHL RIFLE RANGE AND PREMISES MAP.**



**EXHIBIT A (PAGE 2 of 2)**





Terri Burns  
DPR Dahl Range ORD ATT 1  
D3

## **EXHIBIT B LEGAL DESCRIPTION**

That part of SW1/4SW1/4 of Section 13, Township 24 North, Range 3 East, lying south of Block 13, West Holme Addition, East of 35th Avenue S.W. and West of 31st Avenue S.W. extended.

Tax Parcel No. 132403 9101

## EXHIBIT C-WSSC RANGE MGT. LEAD POLICIES AND PRACTICES PLAN

### Policy

The range equipment room will be vacuum cleaned once a month. This will include vertical surfaces and flat surfaces. This activity will be entered into the maintenance log. This area is not a designated lead area. Any volunteer may perform this activity without supervision.

The floor of this area is not a designated lead area nor is it a mud area. The floor will be wet cleaned on a semi-annual basis in a manner similar to cleaning the club room. This cleaning will be entered into the Range Maintenance Log.

### Policy

The anteroom will be vacuum cleaned on a weekly basis. This will include all vertical and flat surfaces. The tack mat will be wet cleaned as directed on a weekly basis when the ante room is cleaned. The floor will be wet cleaned on a monthly basis at the same time the range floor is wet cleaned. These cleaning activities will be entered into the Range Maintenance Log.

### Policy

The down-range area is a designated lead area. The down-range area is designated as beginning at the 10 meter red line to the light pit. The down-range area will be cleaned every three months. The cleaning must be performed by a Range Master or specially trained volunteer under the direct supervision of a Range Master. This cleaning will be entered into the Range Maintenance Log.

The Hunter Education Program utilizes the down-range area. Before the beginning of any Hunter Education class a Range Master or specially trained volunteer will clean the down-range area. These cleanings will suffice as a quarterly cleaning.

The down-range cleaning will use the three pass/three bucket method of cleaning. All collected water will be deposited in the 55 gallon waste water barrel.

**Before entering the down range area a person will put on booties. The booties will be removed before returning beyond the 10 meter line.** Booties will be deposited in the dry waste barrel.

### Policy

There are four Lead Hazard areas where precautions are required:

- 1) Impact Area from the light pit forward
- 2) Lead Collection Area
- 3) Mud Area
- 4) Filter Plenum

**Policy**

Any entry into the Impact area will require HEPA mask, booties and gloves to be worn. If pulley work is expected to exceed 5 minutes full protection will be worn. Full protection must be worn for any work which disturbs dust. This includes cleaning and remedial work.

Any entry into the Lead Collection Area will require full protection.

Entry into and out of the Mud Area will require booties. Booties are to be removed after each egress from the Mud Area. If work in the Mud Area is expected to exceed 5 minutes or if the work brings your body into contact with the dirt or HVAC system Tyvek Suits and Nitrate Gloves will be worn. If work involves entry into the Filter Plenum for any amount of time full protection will be worn.

In all cases anyone entering any of the Lead Hazard Areas will use the provided lead wipes to immediately clean their hands then immediately wash their hands and/or face or any exposed skin using soap and cold water.

## **EXHIBIT D - PUBLIC BENEFIT AND REPORTING REQUIREMENTS**

Annual Reporting. Lessee shall submit to the City an annual public benefit report describing its programs, activities and educational services. Seattle Parks and Recreation will provide a template for this report by October 15th each year with the items being requested within the report for the following year. This report will be submitted to the City by March 10th of each calendar year during the Term of the Agreement.

Lessee shall also submit to Seattle Parks and Recreation an Annual Statement of Income and Expenses for the Roger Dahl Rifle Range for the prior calendar year due on April 20th.

Public Benefit for the West Seattle Sportsmen's Club will include firearms safety training, rifle range access, volunteer hours and community outreach promoting firearms safety training. Range improvements within the facility will also be reported.

### **1) Public Access to the Rifle Range:**

Open the Roger Dahl Rifle Range for Public Access for a minimum of 900 hours per year. The days and times for public access shall be consistent and predictable. Provide reduced fee access for community youth organizations to receive structured safety instruction from State and Nationally Certified Instructors for the purpose of learning the safe and proper recreational and competitive use of firearms and archery tackle. Work with each organization to promote firearms and archery safety to each youth group that allows the use of firearms and archery tackle.

### **2) Hunter Education Training:**

Provide Hunter Education Training which includes firearms safety in the home and in the field, conservation, good sportsmanship, hunting laws and regulations. A comprehensive written test will be administered to each student to assess their understanding of the instructional material. There will be 3 classes of up to 40 individuals annually.

### **3) Scholarships:**

Provide a minimum of \$3,000 assistance in the form of scholarships, equipment loans, training materials and travel subsidies for low-income youth and/or adults. Scholarships and assistance would be used to help the individuals compete in local, regional, or national shooting competitions and /or for youth conservation camp.

**4) Community Outreach:**

WSSC will promote firearm safety at a minimum of two community events annually. The Club will produce and distribute 500 each marketing materials which promote gun safety, access to the Club's marksmanship activities and information regarding the importance of using lock boxes for securing personal firearms.

**5) Rifle Range Improvements:**

Amount will vary annually for improvements to the rifle range facility. Plans will need to be mutually agreed to in advance of work beginning. WSSC and Seattle Parks and Recreation will work cooperatively on facilities improvements.

**6) Gun Lock Box and Gun Locks:**

WSSC will promote the use of gun lock boxes and gun locks at the Roger Dahl Rifle Range and on their website, publications and at all community events.