

**AGREEMENT FOR TERMS OF FUTURE CONVEYANCE OF THE POULSBO
MARINE SCIENCE CENTER BY THE CITY OF POULSBO TO WESTERN
WASHINGTON UNIVERSITY**

THIS AGREEMENT is entered into between the City of Poulsbo (“the City”) and Western Washington University (“Western”) for the purpose of establishing the conditions under which the property commonly known as the Poulsbo Marine Science Center will be conveyed by the City to Western.

RECITALS

A. The City is the owner of the Poulsbo Marine Science Center located at 18743 Front Street NE, Poulsbo, Washington. The Poulsbo Marine Science Center was constructed in 1991 with financing provided by the Poulsbo Public Development Authority and title was subsequently transferred to the City.

B. The Poulsbo Marine Science Center (also known as the “SEA Discovery Center”) is currently operated by Western under a Lease and Operating agreement with the City. A portion of the Poulsbo Marine Science Center is subleased to Sealaska Environmental Services, LLC.

C. On December 16, 2015, the City and Western entered into a Memorandum of Intent under which the City and Western expressed their intent for the City to convey the Poulsbo Marine Science Center to Western subject to certain terms and conditions.

D. Upon transfer of the Poulsbo Marine Science Center to Western, Western intends to operate a Marine Science Center for the benefit of the University and Poulsbo communities. Western intends to operate an aquarium that is open to the public, a marine science center that is open to the public, and a marine science education program for all educational levels, including post-secondary, secondary, and primary education. Western also intends to use the Poulsbo Marine Science Center for general university-level classroom instruction. The parties agree that the uses for this property will evolve over time to match the changing needs of the University, but that the University’s strategic goal of bringing educational resources and benefits to Poulsbo and the region will remain unchanged.

E. The City agrees that Western’s intended uses will promote economic development in downtown Poulsbo and tourism at the Poulsbo Marine Science Center by bringing Western students and their families to Poulsbo and, for a time, operating the aquarium and center as tourist attractions. The economic development and tourism benefits to be derived from Western’s operation and use will provide significant benefits to the City and provides ample consideration for the transfer of the Poulsbo Marine Science Center to Western under the terms and conditions agreed to by the parties.

F. The City and Western now desire to enter into a more formal agreement for the conveyance of the Poulsbo Marine Science Center and have agreed on the following terms for the transfer.

AGREEMENT

IN CONSIDERATION OF the mutual agreements contained herein, for one dollar and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the City and Western agree as follows:

1. Conveyance of Poulsbo Marine Science Center to Western. The City agrees to convey to Western, and Western agrees to accept from the City, subject to the terms and conditions set forth in this Agreement, the following:

1.1 Building. That certain building commonly known as the Poulsbo Marine Science Center (“the Poulsbo Marine Science Center Building”) and located at 18743 Front Street NE in the City of Poulsbo, Washington.

1.2 Land. That certain land surrounding the Poulsbo Marine Science Center Building (“the Land”) containing the building, its parking, and associated improvements. The City and Western shall agree on the amount of land and legal description thereof as part of this transaction prior to Closing. In consideration for Western’s agreement in this Agreement and in the Wind Down Lease between the parties for the SEA Discovery Center to accept the Building and Land as is, except as provided for in Section 7, and to assume all responsibility for maintenance of the same during the term of the Wind Down Lease and after Closing, the parties agree that the Land shall not include any portion of the fountain located northeast of the Building near the adjacent pharmacy.

1.3 Personal Property. All personal property owned by the City located within or used in connection with the operation of the Building or Land, such as, but not limited to, all furniture, furnishings, fixtures, ranges, refrigerators, draperies, carpeting, washers and dryers, hearing, air conditioning, and cooling units or systems, awnings, storm windows and doors, screens, antennas, signs, and boilers (“the Personal Property”).

1.4 The Property. The Building, the Land, and the Personal Property are hereafter referred to collectively as “the Property.”

2. Consideration. The City shall convey the Property to Western for one dollar and subject to all terms and conditions set forth in this Agreement. The parties agree that such terms and conditions provide sufficient consideration for the conveyance.

3. Matters to be Accomplished prior to Closing. The parties acknowledge that a number of matters must be resolved prior to closing of this transaction. Both parties’ obligations under this Agreement are expressly contingent upon the resolution of these matters to both parties’ satisfaction. The parties agree to act with due diligence and in good faith to resolve these matters. Closing shall not occur unless these matters are resolved, or the parties agree to waive any unresolved matter or extend Closing for one or more specified periods to allow resolution. Either party may terminate this Agreement if one or more of these matters are not

resolved or waived at Closing, including any extensions. The matters to be resolved and the process the parties have agreed upon to resolve them are as follows:

3.1 Survey - Agreement on Land to be Conveyed. At its own expense, the City agrees to complete a survey of the parcel on which the Poulsbo Marine Science Center Building is located meeting the requirements of Chapter 58.09 RCW and to cause a legal description of the Land that the City is willing to convey with the Building to be prepared. The legal description of the Land, which shall include all land containing the buildings to be conveyed, shall be transmitted to Western for review and approval. Upon approval by Western, the legal description shall thereafter constitute the legal description of the Land to be conveyed under this Agreement, subject to the successful completion of any necessary boundary line adjustment or other process to create and/or confirm the Land as a separate legal lot. The City agrees to accomplish any such boundary line adjustment or other process prior to Closing. In the event that Western requires a survey meeting additional requirements over and above those set forth in Chapter 58.09 RCW in order to obtain extended title insurance coverage, Western shall be responsible for paying any additional costs for such survey over and above those that would be expended for a survey meeting the requirements of Chapter 58.09 RCW.

3.2 Lease to Port of Poulsbo. The parties acknowledge that a portion of the Land on which the Poulsbo Marine Science Center Building is located is currently leased by the City to the Port of Poulsbo. The City agrees to seek reformation of the lease with the Port of Poulsbo to exclude the parcel on which the Poulsbo Marine Science Center is located from the Port lease. Nothing in this agreement shall require the City to make compensation to the Port for reformation of the lease.

3.3 Parking. The parties must agree on the number of parking stalls to be located on the Land to be conveyed under this Agreement. The number and location of parking stalls shall be agreed upon at the same time and in the same manner as is provided in Section 3.1 above for the legal description of the Land to be conveyed.

3.4 City Pump Station. The City sewage pump station upland of the Poulsbo Marine Science Center Building will be segregated off on a separate legal parcel of land as part of the boundary line adjustment referred to in Section 3.1. The parties shall agree on the legal description of the separate parcel. The parties shall also agree on the terms of an access easement granting the City ingress to and egress from the pump station for the purpose of constructing, reconstructing, installing, operating, maintaining, and repairing the pump station and appurtenances. The easement shall also provide for the City to construct, reconstruct, install, operate, maintain, and repair a sewer line or lines through the Land to be conveyed to Western in order to connect the pump station to other off-site sewer facilities of the City. The necessary easements shall be drafted by the City and shall be transmitted to Western for review and approval. The City and Western shall agree on the easements at the same time and in the same manner as provided in Section 3.1 above for the Land to be conveyed. The easements shall be reserved at the time of conveyance as provided in Section 5 below.

3.5 Continued Access to Property. Vehicle and pedestrian access to Poulsbo Marine Science Center Building and Land is currently by way of an adjacent parking lot that is

owned by the City. The City agrees to convey an easement to Western across the parking lot for the purpose of continued and permanent access to the Poulsbo Marine Science Center Building and Land. The necessary easement shall be drafted by the City and shall be transmitted to Western for review and approval. The City and Western shall agree on the easement at the same time and in the same manner as provided in Section 3.1 above for the Land to be conveyed. The easement shall be conveyed at the same time as the Land is conveyed.

3.6 Easement for Generator Access. The City agrees to grant an easement to Western over, along, and upon the parcel of land retained by the City for the City sewer pump station referred to in Section 3.4 for the purpose of accessing, maintaining, repairing, and replacing the generator located on the upland side of the Marine Science Center. The necessary easement shall be drafted by the City and shall be transmitted to Western for review and approval. The City and Western shall agree on the easement at the same time and in the same manner as provided in Section 3.1 above for the Land to be conveyed. The easement shall be conveyed at the same time as the Land is conveyed.

3.7 Easement for Rip Rap Maintenance. The City agrees to grant an easement to Western over, along, and upon the tidelands adjacent to the Land on which the Marine Science Center is located for the purpose of maintaining, repairing, and replacing the rip rap adjacent to the building. The necessary easement shall be drafted by the City and shall be transmitted to Western for review and approval. The City and Western shall agree on the easement at the same time and in the same manner as provided in Section 3.1 above for the Land to be conveyed. The easement shall be conveyed at the same time as the Land is conveyed.

3.8 Easement for Intake Pipes. The City agrees to grant an easement over, along and upon the tidelands for the purpose of drawing water for use as part of the Marine Science Center's aquatic exhibits. The necessary easement shall be drafted by the City and shall be transmitted to Western for review and approval. The City and Western shall agree on the easement at the same time and in the same manner as provided in Section 3.1 above for the Land to be conveyed. The easement shall be conveyed at the same time as the Land is conveyed. Western may also seek authorization from the port of Poulsbo for continued use of intake pipes, and the City agrees to support Western in seeking such approval.

4. Consistency with SMP and Other Laws. Any future uses contemplated by Western occurring within the building or surrounding premises shall be consistent with the uses allowed through the City's Shoreline Master Program and with other federal, state and local laws. Western shall obtain all necessary permits and other governmental approvals necessary for any such work, including but not limited to work within the easement areas described in Sections 3.4 - 3.7.

5. Title.

5.1 Deed. At Closing, the City shall convey to Western all right, title and interest of the City in the Property by duly executed and acknowledged Statutory Warranty Deed or other form of deed mutually agreeable to both parties, subject to any and all title exceptions agreed to by the parties as provided in this Section excluding the general exceptions to the

preliminary commitment, reserving to the City the sewer easements agreed to under Section 3.4 above, and subject to the following condition subsequent:

Grantee shall at all times use and operate the Property conveyed by this deed as a education facility, which, for a period of at least ten years after [the date of this Agreement], will include the operation and maintenance of (1) an aquarium that is open to the public; (2) a marine science center with exhibits that is open to the public; and (3) a marine science education program. Grantee shall maintain the Property in good order, condition, and repair. The parties agree that the uses for this property will evolve over time to match the changing needs of the University, but that the University's strategic goal of bringing educational resources and benefits to Poulsbo and the region will remain unchanged. If Grantee ceases to use, operate, and maintain the Property as provided herein or otherwise seeks to dispose of the property within twenty years of [the date of execution of this agreement], the City of Poulsbo reserves a power of termination and may declare a forfeiture and cancellation of this conveyance, and upon such declaration with twenty days notice to Western the Property shall revert to the City of Poulsbo, unless otherwise agreed by the parties. The City shall not be required to assume any debt encumbering the Property that is not directly related to improvements to the Property financed by that debt and any such encumbrance shall be removed from the Property upon reversion to the City. The City of Poulsbo's power of termination and this condition subsequent shall expire, terminate, and be of no force and effect if not exercised by, _____2036.

5.2 Sublease. The conveyance shall also be expressly subject to the sublease between the Poulsbo Marine Science Foundation and Sealaska Environmental Services, LLC for the term of that lease. Any renewal of the sublease and any future subleases shall provide only for uses that meet the requirements of the City of Poulsbo Shoreline Master Program.

5.3 Preliminary Commitment. Upon the parties' agreement as to the legal description of the land to be conveyed and upon completion of any boundary line adjustment or other process necessary to create/confirm the Land as a separate legal parcel, the City shall order a preliminary commitment ("the Preliminary Commitment") for an ALTA extended owner's coverage policy of title insurance in the amount of \$ _____ from Land Title Company ("the Title Company"). The City shall instruct the Title Company to deliver a copy of the Preliminary Commitment and all title related documents referred to in the Preliminary Commitment to Western. In the event that Land Title Company is unable or unwilling to provide an extended owner's coverage policy of title insurance for the Land, Western may use a different title insurance company to do so and Western shall pay any cancellation fee charged by Land Title, if any.

5.4 Permitted and Disapproved Exceptions. Western shall advise the City by written notice what exceptions to title contained in the Preliminary Commitment, if any, are disapproved by Western (the "Disapproved Exceptions") within thirty (30) days after receipt of the Preliminary Commitment. Any exception not disapproved by Western shall be considered an

Approved Exception. The City will have fifteen (15) days after receipt of Western's notice ("City's Title Response Period") to give Western notice that (i) the City will remove Disapproved Exceptions or (ii) the City elects not to remove Disapproved Exceptions. If the City fails to give Western notice before the expiration of the fifteen (15) day period, the City will be deemed to have elected not to remove the Disapproved Exceptions. If the City elects not to remove any Disapproved Exceptions, Western will have ten (10) days after expiration of the expiration of the City's Title Response Period to notify the City of Western's election either to proceed with the conveyance and take the Property subject to those exceptions, or to terminate this Agreement. If the City gives notice that it will cause one or more exceptions to be removed but fails to remove those exceptions on or before the Expiration Date, Western will have the right to either (i) elect to terminate this Agreement by written notice to the City or (ii) proceed with the conveyance of the Property subject to those exceptions.

5.5 Supplement by Title Company. If the Title Company issues a supplement to the Preliminary Commitment, the procedure set forth in Section 5.4 will apply to such supplement, except that Western will have seven (7) days to notify the City of its disapproval of any new exceptions, and the City will have seven (7) days (which shall be treated as "the City's Title Response Period") to give Western notice that the City will either remove or not remove any new Disapproved Exceptions. Western will then have the right, within five (5) days after the City's Title Response Period, to either (i) elect to terminate this Agreement by written notice to the City or (ii) proceed with the conveyance of the Property subject to those exceptions. However, in no event will Closing occur later than the Expiration Date, as defined in this Agreement.

5.6 Termination. If Western elects to terminate this Agreement under Section 5.4 or Section 5.5, the escrow will be terminated, the lease between the City and Western will be terminated, however, lease termination may be delayed at the discretion of the University to avoid disruption of any ongoing programmatic and/or classroom schedules until such obligations are completed, and neither party will have any rights or obligations under this Agreement except as otherwise provided herein. If this Agreement is terminated, then the City and Western shall share equally in any costs of terminating the escrow and any cancellation fee for the Preliminary Commitment.

5.7 Western's Title Policy. Unless directed otherwise by Western, the City shall cause the Title Company to issue to Western at Closing a standard coverage owner's policy of title insurance insuring Western's title to the Real Property in the full amount set forth in Section 5.3.

6. Feasibility Contingency.

6.1 Contingency Period. Western's obligations under this Agreement are conditioned upon Western's satisfaction, in Western's sole discretion, concerning all aspects of the Property, including without limitation the physical condition of the Property, the structural condition of Building, the presence or absence of pest infestation, the presence or absence of any hazardous substances, the soils conditions on the Land, the presence or absence of wetlands or other sensitive areas, the contracts and leases affecting the Property, and the fitness of the

Property for Western's intended purposes. Western shall have a period of sixty (60) days (the "Feasibility Period") from the execution of this Agreement by both parties to conduct such inspections, tests, and studies as Western deems necessary or desirable in its sole discretion, in order to ascertain the condition and suitability of the Property. Western shall not perform any invasive testing (including environmental assessment beyond a Phase I assessment) without the City's prior consent, which shall not be unreasonably withheld. Western shall restore any portion of the Property disturbed by such inspections, tests, and studies immediately upon completion of the same. To the extent permitted by law, Western shall protect, and indemnify the City from and against any construction or other liens or encumbrances arising in connection with Western's right of entry and the conduct of its inspections, tests, and studies and from Western's failure to restore the Property.

6.2 Termination of Agreement. Western shall have the right to terminate this Agreement if, in Western's sole judgment, the Property is not suitable for Western's intended use or if the Property contains hazardous substances or materials, or if the parties cannot otherwise reach an agreement on any of the contingencies set forth in this Agreement. Western's right to terminate must be exercised by delivering written notice of the election to terminate to the City before expiration of the Feasibility Period. In the event Western terminates this Agreement pursuant to this Section 6.2, then, within ten (10) days thereafter: (i) Western shall deliver copies of all reports, tests and studies that it has obtained about the Property (without warranty), (ii) this Agreement will terminate, (iii) any lease between the City and Western will terminate, and (iv) Western and the City will be released from all further obligations or liabilities hereunder, except as otherwise specified by this Agreement and except for Western's obligations to indemnify the City under Section 6.1. Lease termination by Western may be delayed at the discretion of the University to avoid disruption of any ongoing programmatic and/or classroom schedules until such obligations are completed.

7. Building and Land Conveyed As Is. Western acknowledges that, except for any title warranties contained in the deed provided by the City, Western is accepting the condition of the Building and the Land on an "as is" and "where is" basis, with all faults, and subject to no representations or warranties whatsoever, express or implied, including habitability, merchantability, fitness for a particular purpose, design, condition, or quality, absence or presence of hazardous substances, absence or presence of wetlands or floodplains, absence or presence of defects or other faults, flooding and/or compliance with any applicable laws or environmental laws. Western further acknowledges that it is relying solely on its own investigations inspections, and tests in respect of the Property concerning the condition, environmental or otherwise, of the Property. The City agrees to forebear any code enforcement action against Western for any outstanding defects constituting a violation of city code for a period of two years from date of transfer to allow Western sufficient opportunity to initiate those repairs needed to become compliant. The parties understand that this forbearance applies to the City's actions only and do not control the action of any other agency.

8. Closing.

8.1 Closing Date. "Closing" means the consummation of the conveyance transaction through the escrow contemplated by this Agreement. The "Closing Date" means the

date on which all documents deposited into escrow are released and recorded by the Escrow Agent. This transaction will be closed in escrow by the Title Company chosen by the parties acting as escrow agent (“the Escrow Agent”). The Closing will be held at the offices of the Title Company on or before December 31, 2017 (“the Closing Date”), unless said date is extended by agreement of the parties. If Closing does not occur on or before the Closing Date and the same is not extended by the parties, then Escrow Agent will immediately terminate the escrow and return all documents to the party that deposited them.

8.2 City’s Escrow Deposits. On or before the Closing Date, the City shall deposit into escrow the following:

- (a) The duly executed and acknowledged Statutory Warranty Deed;
- (b) A duly executed and completed Real Estate Excise Tax Affidavit; and
- (c) A non-foreign person affidavit pursuant to the Internal Revenue Code.

8.3 Western’s Escrow Deposits. On or before the Closing Date, Western shall deposit into escrow a duly executed and completed Real Estate Excise Tax Affidavit.

8.4 Additional Instruments. The City and Western shall each deposit any other instruments and documents that are reasonably required by the Escrow Agent or otherwise required to close the escrow and consummate the conveyance of the Property from the City to Western as provided in this Agreement.

8.5 Closing Costs. Western shall be solely responsible for the payment of all closing costs associated with this transaction, including, but not limited to, the cost of the title insurance policy to be provided by the Title Company, the escrow fees charged by the Escrow Agent, and the cost of recording the deed. Each party shall pay its own legal fees associated with this transaction.

8.6 Foreign Investment in Real Property Tax Act. The parties agree to comply in all respects with the Internal Revenue Code and the regulations issued thereunder (“the Regulations”). The City is not a “foreign person” (as defined in the Regulations) and shall, if required, deliver to Western through escrow a non-foreign certificate as prescribed by the Regulations and in form and content satisfactory to Western.

9. Insurance. The City shall continue to insure the Property though the Closing Date, provided, that any lease between the City and Western between the date this Agreement is signed and the Closing Date may require Western to obtain insurance for the Property.

10. Liability. Except as otherwise provided in this Agreement and any lease entered into between the City and Western for the Property, from and after Closing the parties will be responsible for their own negligent acts or omissions and that of their employees, officers, volunteers, or agents respecting the Property and its easements. Neither party will be considered

the agent of the other and neither party assumes any responsibility to the other party for the consequences of any act or omission of any person, firm, or corporation not a party to this Lease.

11. Casualty. Except as otherwise provided in any lease entered into between the City and Western for the Property, if any fire, earthquake, flood or casualty occurs and materially affects all or any portion of the Property on or after the date of this Agreement and prior to the Closing, Western may elect, by written notice to the city, to terminate this Agreement and the escrow created pursuant hereto and be relieved of its obligation to purchase the Property. If Western terminates this Agreement, neither Western nor the City have any further liability to the other hereunder, except as otherwise provided in any lease entered into between the parties. If Western fails to make such election prior to the Closing Date, this Agreement shall continue in effect. The City shall forthwith notify Western in writing of any such casualty respecting the Property.

12. Notices. Unless applicable law requires a different method of giving notice, any and all notices, demands or other communications required or desired to be given hereunder by any party (collectively, "notices") shall be in writing and shall be validly given or made to another party if delivered either personally or by Federal Express or other overnight delivery service of recognized standing, or if deposited in the United States mail, certified, registered, or express mail with postage prepaid. If such notice is personally delivered, it shall be conclusively deemed given at the time of such delivery. If such notice is delivered by Federal Express or other overnight delivery service of recognized standing, it shall be deemed given twenty four (24) hours after the deposit thereof with such delivery service. If such notice is mailed as provided herein, such shall be deemed given forty-eight (48) hours after the deposit thereof in the United States mail. Each such notice shall be deemed given only if properly addressed to the party to whom such notice is to be given as follows:

To the City: Mayor Rebecca Erickson
Poulsbo City Hall
200 NE Moe Street
Poulsbo, WA 98370

To Western: Earl F. Gibbons
Vice Provost for Extended Education
Western Washington University
516 High Street
MS: 91102
Bellingham, WA 98225

Any party hereto may change its address for the purpose of receiving notices as herein provided by a written notice given in the manner aforesaid to the other party hereto.

13. Default.

13.1 By the City before Closing. In the event the City fails, without legal excuse, to complete the transfer of the Property, Western may elect either to terminate this Agreement or, alternatively, to obtain specific performance of the City's obligation to complete the sale of the Property. Western's remedies in this Section 13.1 are Western's sole and exclusive remedy for such failure.

13.2 By Western before Closing. In the event Western fails, without legal excuse, to complete the purchase of the Property, the City may cancel this Agreement as its sole and exclusive remedy.

13.3 Remedies after Closing. Respecting the contractual obligations of the parties that survive Closing, each party shall have all remedies at law or equity on account of a breach of such obligations and all such remedies shall be cumulative.

14. Miscellaneous.

14.1 Applicable Law. This Agreement shall in all respects, be governed by the laws of the State of Washington.

14.2 Further Assurances. Each of the parties shall execute and deliver any and all additional papers, documents and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of its obligations hereunder, to carry out the intent of the parties hereto.

14.3 Modification of Amendment Waivers. No amendment, change or modification of this Agreement shall be valid, unless in writing and signed by all of the parties hereto. No waiver of any breach of any covenant or provision in this Agreement shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision in this Agreement. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

14.4 Successors and Assigns. Neither party may assign its rights or obligations under this Agreement without the express written consent of the other.

14.5 Entire Agreement. This Agreement constitutes the entire understanding and agreement of the parties with respect to its subject matter and any and all prior agreements, understandings or representations with respect to its subject matter are hereby canceled in their entirety and are of no further force or effect. The parties do not intend to confer any benefit under this Agreement to any person, firm or corporation other than the parties

14.6 Attorney's Fees. Should either party bring suit arising out of this Agreement, or the covenants, agreements, representations and warranties that survive this Agreement or the breach hereof or thereof, the prevailing party in such lawsuit shall be entitled to an award of its reasonable attorneys' fees and costs incurred in connection with such lawsuit

14.7 Construction. Captions are solely for the convenience of the parties and are not a part of this Agreement. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared it. If the date on which the City or Western is required to take any action under the terms of this Agreement is not a business day, the action shall be taken on the next succeeding business day.

14.8 Partial Invalidity. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby; and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

14.9 Survival. The covenants, agreements, representations and warranties made in this Agreement shall survive the Closing unimpaired and shall not merge into the Deed and the recordation thereof.

14.10 Finder's or Broker's Fees. The City and Western represent and warrant to each other that they have not dealt with any broker or finder to which a commission or other fee is due in connection with any of the transactions contemplated by this Agreement and insofar as they know, no broker or other person is entitled to any commission, charge or finder's fee in connection with the transactions contemplated by this Agreement. Each party agrees to indemnify and hold harmless the other party against any loss, liability, damage, cost, claim or expense, including interest, penalties and reasonable attorneys' fees, that the non-breaching party shall incur or suffer as a result of a breach by the breaching party of the representation and warranty set forth above.

14.11 Time. Time is of the essence of every provision of this Agreement.

14.12 Force Majeure. Performance by the City or Western of their obligations under this Agreement shall be extended by the period of delay caused by force majeure. However, no event of force majeure may extend the Closing Date. Force majeure is war, natural catastrophe, strikes, walkouts or other labor industrial disturbance, order of any government, court or regulatory body having jurisdiction, shortages, blockade, embargo, riot, civil disorder, or any similar cause beyond the reasonable control of the party who is obligated to render performance (but excluding financial inability to perform, however caused).

14.13 Counterparts. This Agreement may be executed in one or more counterparts.

14.14 Effective Date. This Agreement is effective on the date on which the last party signs and dates this Agreement below. If one party neglects to fill in its execution date, then the other party is authorized to fill in the same date on which it executes the Agreement.

EXECUTED by the parties on the dates set forth below.

CITY OF POULSBO

WESTERN WASHINGTON UNIVERSITY

Mayor Rebecca Erickson

Date: _____

Sue Sharpe, Chair

Date: _____