

EVERETT SCHOOL DISTRICT NO. 2

RESOLUTION NO. 1114

**Authorization to Execute Limited Use Permit
Between the District and the Everett Public Schools Foundation**

A Resolution of the Board of Directors (the "Board") of Everett School District No. 2 (the "District") authorizing the Superintendent or his designee to execute a limited use permit ("Permit") permitting use of a portion of certain real property commonly known as the Community Resource Center (the "CRC") by Everett Public Schools Foundation, ("EPSF" and "Permittee"), a Washington nonprofit corporation.

WHEREAS, the Board is authorized by RCW 28A.335.040 to permit the rental, lease, or occasional use of all or any portion of surplus School District real property to any person, corporation, or governmental entity for profit or nonprofit, commercial or noncommercial purposes, subject to certain limitations and requirements;

WHEREAS, the District has previously adopted Policy No. 6112 regarding the rental, lease, or occasional use of surplus real property and Policy Nos. 4333 and 4333P regarding the use of school buildings, grounds, and equipment for non-school purposes;

WHEREAS, the Board determined by its Resolution No. 1066 on August 27, 2013, that portions of the real property commonly known as the CRC, which property is generally described on Exhibit A and depicted on Exhibit B (the "Property"), which exhibits are attached hereto and incorporated herein by this reference, are temporarily surplus and are not currently needed for school purposes;

WHEREAS, the District desires to encourage life-long learning for all citizens, including its students, and to extend opportunities to the community to use district facilities through a variety of programs that contribute to the achievement of the district's goals and objectives;

WHEREAS, the Board has determined that use by the EPSF of portions of the CRC will be for a lawful purpose, in compliance with existing local zoning ordinances applicable to the Property, and undertaken so as not to interfere with the conduct of the School District's educational program and related activities; and has further determined that use by the EPSF of portions of the CRC will not reflect negatively on the district, interfere with maintenance activities, or pose a high risk of damage to facilities;

WHEREAS, representatives of the School District and representatives of the EPSF have negotiated the Permit, which are attached hereto as Exhibit C-1 and incorporated herein by this reference, setting forth proposed terms and conditions under which the School District would allow the EPSF to use portions of the CRC;

WHEREAS, the Board has concluded that it is in the School District's best interest to permit the EPSF to use portions of the CRC for non-school use, pursuant to the terms and conditions set forth in the Permit; and

WHEREAS, the Board has determined that Permittee provides valuable services to the District's students through its programs. The District has determined that Permittee's provision of these programs and other services constitutes payment in-kind of "a rental amount which represents a fair

return, under all the surrounding factual circumstances, for the use and occupancy, by the private person or organization involved, of the particular property." Wash. AGO No. 10, at 8 (1978).

NOW, THEREFORE, be it resolved that:

(a) the Board declare, and hereby declares, that the use of portions of the CRC by the EPSF will be for a lawful purpose, in compliance with existing local zoning ordinances applicable to the Property, and undertaken so as not to interfere with the conduct of the School District's educational program and related activities; and has further determined that the use of portions of the CRC by the EPSF will not reflect negatively on the district, interfere with maintenance activities, or pose a high risk of damage to facilities;

(b) the Board declare, and hereby declares, that it is in the School District's best interest to permit the EPSF to so use portions of the CRC for non-school use;

(c) the Board declare, and hereby declares, that the EPSF provides valuable services to the District's students through its programs, and that the provision of such programs by the EPSF constitutes payment in-kind by each such organization of "a rental amount which represents a fair return, under all the surrounding factual circumstances, for the use and occupancy, by the private person or organization involved, of the particular property." Wash. AGO No. 10, at 8 (1978); and

(d) the Board authorize and direct, and hereby authorizes and directs, the Superintendent of the School District (or his designee) to:

(i) execute the Permit on behalf of the School District so as to permit use of portions of the CRC and the Property by the EPSF in accordance with Chapter 28A.335 RCW and Policy No. 6112, and other applicable laws and School District policies;

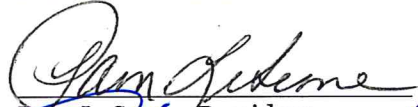
(ii) deposit compensation, if any, collected from the EPSF for the use of the Property by such organizations into the appropriate School District account(s);

(iii) collect any appropriate taxes and remit them to the Department of Revenue; and

(iv) execute, acknowledge and deliver all necessary documents, and do any and all other things necessary and advisable to be done to accomplish the foregoing Permit, all in accordance with Chapter 28A.335 RCW, Policy Nos. 4333 and 4333P, and other applicable laws or School District policies.

ADOPTED this 25th day of August, 2015, and authenticated by the signatures affixed on the following page:

BOARD OF DIRECTORS:


Pam LeSesne, President


Ted Wenta, Vice President


Carol Andrews, Member


Caroline Mason, Member


Traci Mitchell, Member

ATTESTED BY:

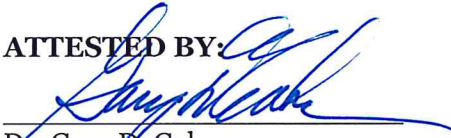

Dr. Gary D. Cohn
Superintendent & Secretary to the Board of Directors
Everett School District No. 2

EXHIBIT A

Legal Description for Everett Memorial Stadium

Section 29 Township 29 Range 05 Quarter SW - PTN OF SW1/4 SW1/4 SD SEC 29 LY W OF BROADWAY AVE & N OF SSH1-I (SR 526 AS SHOWN ON STATE HWY MAPEVRT JCT F.A. 1.5 WLY) EXC PTN THOF DAF BEG AT SW CORSD SW1/4 SW1/4 TH N02*43 44E ALG W LN THOF 270FT TH N90*00 00E 91.57FT TH S00*19 36E 80.72FT TH S44*41 27E 65.26FT TH S65*13 37E 90.36FT TH S01*30 07W TAP ON CRV OF N LN S/HWY R/W AS CONVDYD PER AF NO. 1561869 AT WH PT TANG TO SD CRV BEARS S75*21 29W TH IN ELY DIR ALG SD CRV TO L HAVG RAD OF 955.92FT TAP ON INT WITH W LN SD SSH 1-A TH SELY ALG SD W LN TO S LN OF SD SW1/4 SW1/4 TH W ALG S LN THOF TO POB & ALSO EXC BEG AT MON 39TH ST & BROADWAY AVE TH S ALG MON LN OF BROADWAY 40FT TH ANG R 90* 71.92FT TO W LN BROADWAY TH ANG R ALG SD W LN 220FT TO TPB TH N TO N LN SW1/4 SW1/4 TH W ALG SD N LN 120FT TH S TAP W OF POB TH E 120FT TO TPB & TGW ALL BLK 924 PLUS VAC ALLEY IN PLAT OF EVERETT DIV M TGW THAT PTN VAC OAKES AVE PER ORD NO. 640-79 DAF BEG SE COR BLK 923 TH N00*00 32W ALGE LN SD BLK 65FT TO S LN OF N 10FT OF LOT 19 IN SD BLK 923 TH N55*37 32E 48.41FT TO C/L SD OAKES AVE TH CONT N55*37 32E 48.40FT TO W LN SD BLK 924 TH S ALG W LN THOF TO N LN VAC 38TH ST TH W TO W LN OF VAC OAKES AVE TH N TO TPB & TGW PTN BLK 923 PLAT OF EVERETT DIV M DAF BEG 10FT S OF NE COR LOT 19 THS TO SE COR LOT 17 TH W 95FT TH NELY TO POB ALSO TGW VAC 38TH ST PER ORD 640-79 LY BTW WLY R/W MGN LOMBARD AVE & ELY MGN OF ALLEY ROCKEFELLER AVE LESS FDT PTNS OF NW1/4 SW1/4 & OF SW1/4 SW1/4 DAF A TR OF LD FOR ST PURPOSES DAF BEG AT SW COR LOT 16 BLK 923 PLAT OF EV DIV M REC VOL 5 PLATS PG 8 TH N89*59 46W AT R/A TO W LN SD LOT 16 BLK 923 DIST 39.955FT TAP ON CTR LN OF ROCKEFELLER AVE AS SHOWN ON SD PLAT TH S00*00 14W ALG SD C/L DIST 9.98FT TH N89*59 46W DIST 39.955FT TO SE COR LOT 17 BLK 922 SD PLAT TH N89*58 49W ALG S LN SD LOT 17 DIST 123.93FT TO SW COR SD LOT 17 TH S00*01 14W ALG SLY PROJ OF W LN SD LOT 17 DIST 0.15FT TAP ON N LN SD SW1/4 SW1/4 SEC 29 TH N88*53 22W ALG N LN SD SW1/4 SW1/4 DIST 3.75FT TO NW COR SD SW1/4 SW1/4 TH S02*46 58W ALG W LN SD SW1/4 SW1/4 DIST 59.99FT TAP ON ELY PROJ OF N LN LOT 1 BLK 1 PLAT CLIMAX LD CO'S 1ST ADD VOL 4 OF PLATS PG 21 & WH PT BEARS S89*58 49E ALG ELY PROJ OF N LN SD LOT 1 DIST 9.34FT M/L FR NE COR SD LOT 1 TH S89*58 49E ALG ELY PROJ OF N LN SD LOT 1 DIST 108.76FT TH ON A CRV TO L TANG TO PREVIOUS CRSE HAVG A RAD OF 96FT & HAVG A C/A OF 39*58 26AN ARC DIST OF 66.92FT TH N50*04 45E DIST 52.29FT TAP ON SLY PROJ OF W LN SD BLK 923 TH N00*00 14E ALG SLY PROJ OF W LN SD BLK 923 DIST 14.03FT TO POB & LESS STRIP OF LD FOR ALLEY PURPOSES 16FT INWIDTH LY E OF & ADJ TO W LN OF SW1/4 SW1/4 SEC 29 & LY S OF ELY PROJ OF N LN SD LOT 1 BLK 1 PLAT CLIMAX LD CO'S 1ST ADD & LY N OF ELY PROJ OF S LN OF N1/2 LOT 14 IN SD BLK 1 ALSO LESS ADD'L R/W TO CITY OF EVE PER SWD REC AF 9707230180 EXC BLDG [ESPRESSO STAND] - REFER TO 29052900300101 FOR BLDG [TAXABLE]

EXHIBIT B

Floor Plan of Community Resource Center

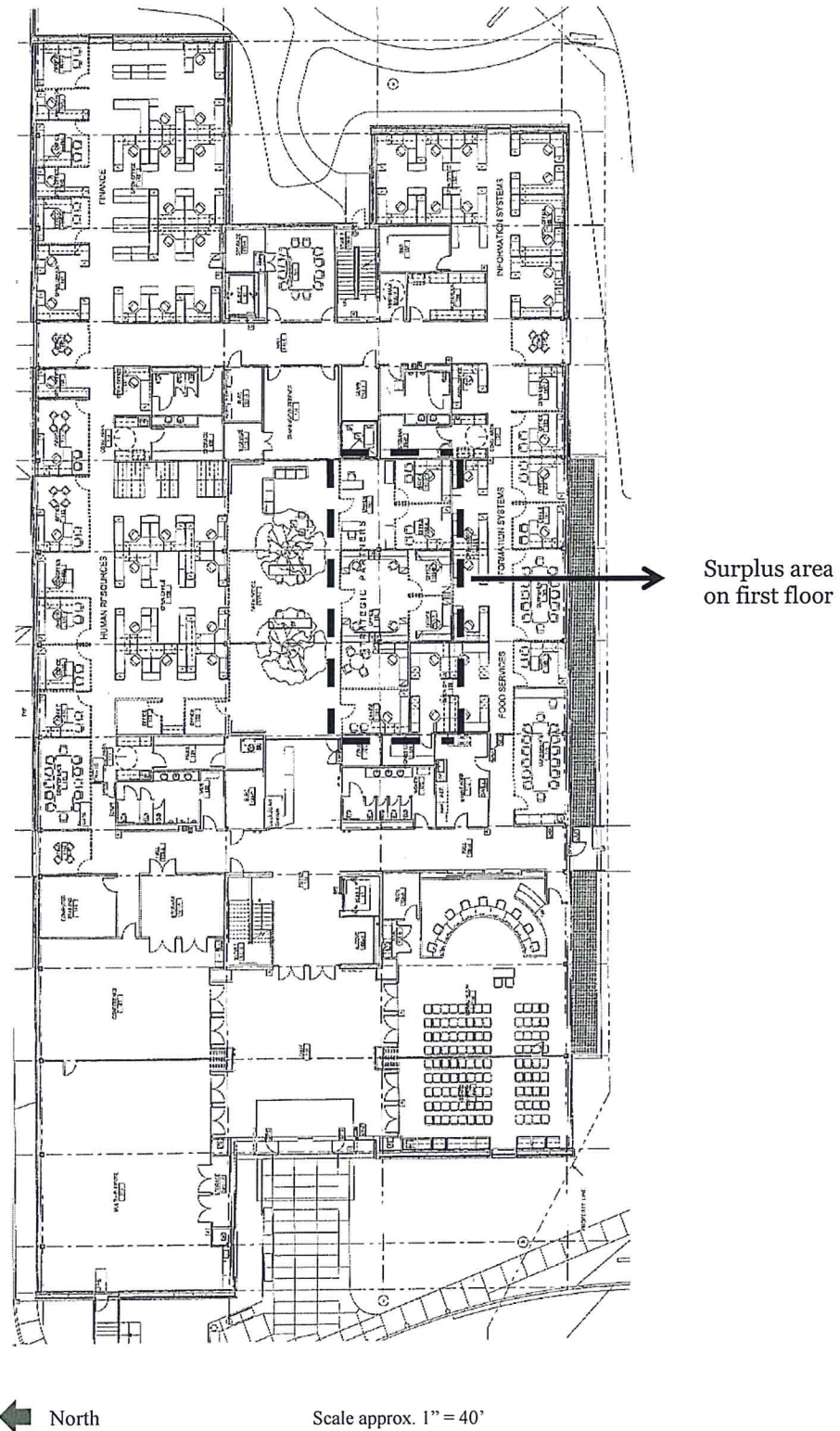


EXHIBIT C-1

Limited Use Permit between the District and Everett Public Schools Foundation

LIMITED USE PERMIT

This LIMITED USE PERMIT ("Permit") is dated as of this ____ day of _____, 2015 ("Effective Date") and is made by and between the EVERETT SCHOOL DISTRICT NO. 2, a Washington municipal corporation ("District"), and the EVERETT PUBLIC SCHOOLS FOUNDATION, a Washington non-profit corporation ("Permittee").

RECITALS

A. The District owns certain real property commonly known as the Memorial Stadium (the "Property"), which is legally described on Exhibit A hereto.

B. The Community Resource Center ("CRC") is located in the southeast corner of the Property.

C. Permittee desires to use as office space that portion of the CRC labeled "Permit Area" on the floor plan attached hereto as Exhibit B, measuring approximately 509 square feet (the "Permit Area").

D. The District has determined that the Permit Area are temporarily surplus to its current needs and that the Permittee's use is for a lawful purpose and will not interfere with the conduct of the District's educational program and related activities.

E. The District desires to encourage life-long learning for all citizens, including its students, and to extend opportunities to the community to use district facilities, including the CRC, through a variety of programs that contribute to the achievement of the district's goals and objectives. The public investment in school facilities and the general welfare of the community provide strong justification for the use of school buildings and grounds by community groups for cultural, civic, and recreational purposes, when surplus to the needs of the District.

F. The District has determined that Permittee provides valuable services to the District's students through its programs, including:

- a. Early Learning Support
- b. Innovation, Excellence and Achievement
- c. High School and Beyond
- d. Service to our Schools and Community

The District has determined that Permittee's provision of these programs and other services (collectively, the "Services") constitutes payment in-kind of "a rental amount which represents a fair return, under all the surrounding factual circumstances, for the use and occupancy, by the private person or organization involved, of the particular property." Wash. AGO No. 10, at 8 (1978).

G. The District has further determined that the Permittee's use will not reflect negatively on the district, interfere with maintenance activities, or pose a high risk of damage to facilities.

AGREEMENT

The parties agree as follows:

1. The District hereby grants a license to Permittee to use the Permit Area for general office purposes and no other use and to use the CRC as necessary to access the Permit Area. Permittee may use other space in the CRC for occasional meetings and events provided that Permittee reserves such space in advance in accordance with District policies regarding rental of CRC space and subject to any fees or charges that may apply to such use. Permittee's use is subject to the following conditions:

a. such use is for a lawful purpose and shall, at all times, be undertaken by Permittee in a manner that is in compliance with any and all applicable federal, state, and local laws, including local zoning ordinances;

b. such use shall, at all times, be undertaken in a manner which does not unreasonably interfere with the District's educational programs or related activities; and

c. Permittee shall provide the Services, or, with the District's prior written consent, which may be withheld in the District's sole discretion, other services or programs of equivalent value to the District, for the benefit of the District and its students.

2. The term of the Permit ("Term") for the use of the Permit Area shall commence as of September 1, 2015 and shall expire on August 31, 2020, unless earlier terminated pursuant to the terms of this Agreement.

3. In recognition of the Permittee's long history of providing valuable services to the District and its students and the Permittee's commitment to continue providing such services, any rental charge or use fee applicable to Permittee's use of the Permit Area, including but not limited to fees or charges due under District Policy Nos. 4333, 4333P and Schedule 7220S, may be paid in-kind through the Permittee's provision of the Services to the District (the "Use Fee"). *See* Wash. AGO No. 10, at 8 (1978).

4. The District shall provide the following to Permittee as part of the Use Fee: furniture and equipment for Permittee's use in the Permit Area during the Term, as more specifically described on Exhibit C hereto; telephone service; internet access; utilities; maintenance services; and custodial services. Furniture and equipment must be returned to the District at the end of the Term in the condition received.

5. The District is not responsible for damages or inconvenience caused by interruptions in or failure of telephone service; internet access; utilities; maintenance services; or custodial services.

6. This Agreement does not authorize or permit the use of any school facilities for Permittee's programs, other than as described in Section 1 above.

7. The Permittee shall keep and maintain detailed records of the Services provided to the District and shall make such records available to the District upon request. Once per quarter, the Permittee shall prepare and provide to the District an itemized summary of such Services. The Permittee shall also provide the District with an annual report of the Services provided during the previous year (a year being calculated from July 1 to June 31) on or before July 31 of each year of the Term.

8. This Agreement shall be reviewed annually to ensure that the value of the Services provided to the District meets or exceeds the amount of the Use Fee and any other rental charge or use fee applicable to Permittee's use of the Permit Area.

9. Permittee shall pay any leasehold excise tax due as a result of the permitted use. Permittee shall be solely responsible for establishing its qualification for leasehold excise tax exemptions, if any are or may be applicable.

10. Permittee's employees and frequent volunteers are required to attend an orientation to the CRC organized by the District.

11. Permittee shall be subject to, and shall cause its employees and volunteers to comply with, such reasonable rules, regulations, and policies (including, but not limited to, dress code and requirements for workspace tidiness, professional behavior, and use of technology) as may be imposed by the District to ensure that Permittee's use is compatible with and does not interfere with any joint use of the CRC by the District or other users. To the extent practicable, as determined by the District in its sole discretion, such rules, regulations, and policies shall be developed in collaboration with the Permittee and other users of the CRC. The Permittee shall promote, and shall cause its employees, volunteers, and other guests and invitees to promote, a welcoming and collaborative office environment in the CRC.

12. Permittee assumes the risk of any loss or damage to equipment and other personal property brought into the Permit Area by Permittee, its employees, volunteers, visitors, and participants.

13. Permittee will pay the costs of all repairs for damage to facilities, except for normal wear and tear. The District may, at its sole option and in its sole discretion, terminate this Permit at any time in the event that Permittee abuses or misuses facilities or fails to pay for required repairs.

14. Permittee shall indemnify and hold harmless the District (and the District's directors, officers, employees, agents, servants and representatives) from and against any and all claims, liens, demands, actions, harm, costs, losses, expenses, damages and liability (including, but not limited to, attorneys' fees) of any kind or character asserted or arising directly or indirectly from, on account of, or in connection with Permittee's use of the Permit Area and/or the use of the Permit Area by Permittee's agents, servants, employees, contractors, representatives, licensees, invitees, or visitors. The foregoing indemnity, however, shall not apply to the extent of damages arising out of bodily injury to persons, or damage to property, caused by or resulting from the District's (or the District's directors, officers, employees, agents, servants and representatives) sole, or gross, negligence or willful misconduct.

15. Permittee shall maintain insurance in the amount of \$1 million combined single limits naming the District as an additional insured. Permittee shall direct its insurance company to mail a certificate of insurance to the District.

16. As required by RCW 28A.335.040(1), the District shall have the right, at any time during the Term, to terminate this Permit and recapture the Permit Property if the District's Board of Directors determines that the Permit Property is then required for school purposes ("Recapture"). In such event, the District shall give Permittee not less than thirty (30) days advance written notice of the date on which the District shall Recapture the Permit Area.

17. Either the District or Permittee may terminate this Agreement for any reason by providing not less than sixty (60) days advance written notice of the date on which the terminating party will terminate this Agreement.

18. In the event of default hereunder, the non-defaulting party shall have the right to (i) terminate this Permit upon five (5) days advance written notice to the defaulting party and (ii) seek any other remedy available at law or in equity, unless such default is current within such five (5) day period. In the event that the value of the Services does not meet or exceed the amount of the Use Fee and any other rental charge or use fee applicable to the Permittee's use of the Permit Area during any part of the Term, Permittee shall not be in default; provided, however, that the District may invoice Permittee for the portion of the Use Fee and any other rental charge or use fee applicable to the Permittee's use of the Permit Area that are not paid in-kind. Permittee shall pay such amounts promptly upon receipt of such invoice.

19. This Agreement is personal to Permittee and may not be assigned by Permittee under any circumstances.

20. Permittee accepts the Permit Area in its "AS-IS" condition and acknowledges that the District makes or gives no warranties or representations with respect to the Permit Property (including, but not limited to, the condition of the Permit Area or existence or absence of conditions upon the Permit Area). Permittee further acknowledges that, in all respects, any and all actions it takes in furtherance of the rights, benefits, and privileges granted to Permittee under this Permit are taken at Permittee's sole risk and expense.

Executed as of the date first written above.

EVERETT SCHOOLS DISTRICT NO. 2, a
Washington municipal corporation

By: _____

Its: Superintendent

EVERETT PUBLIC SCHOOLS FOUNDATION,
a Washington non-profit corporation

By: _____

Its: _____

By: _____

Its: _____

EXHIBIT A

Legal Description

Section 29 Township 29 Range 05 Quarter SW - PTN OF SW1/4 SW1/4 SD SEC 29 LY W OF BROADWAY AVE & N OF SSH1-I (SR 526 AS SHOWN ON STATE HWY MAPEVRT JCT F.A. 1.5 WLY) EXC PTN THOF DAF BEG AT SW CORSD SW1/4 SW1/4 TH N02*43 44E ALG W LN THOF 270FT TH N90*00 00E 91.57FT TH S00*19 36E 80.72FT TH S44*41 27E 65.26FT TH S65*13 37E 90.36FT TH S01*30 07W TAP ON CRV OF N LN S/HWY R/W AS CONVDYD PER AF NO. 1561869 AT WH PT TANG TO SD CRV BEARS S75*21 29W TH IN ELY DIR ALG SD CRV TO L HAVG RAD OF 955.92FT TAP ON INT WITH W LN SD SSH 1-A TH SELY ALG SD W LN TO S LN OF SD SW1/4 SW1/4 TH W ALG S LN THOF TO POB & ALSO EXC BEG AT MON 39TH ST & BROADWAY AVE TH S ALG MON LN OF BROADWAY 40FT TH ANG R 90* 71.92FT TO W LN BROADWAY TH ANG R ALG SD W LN 220FT TO TPB TH N TO N LN SW1/4 SW1/4 TH W ALG SD N LN 120FT TH S TAP W OF POB TH E 120FT TO TPB & TGW ALL BLK 924 PLUS VAC ALLEY IN PLAT OF EVERETT DIV M TGW THAT PTN VAC OAKES AVE PER ORD NO. 640-79 DAF BEG SE COR BLK 923 TH N00*00 32W ALGE LN SD BLK 65FT TO S LN OF N 10FT OF LOT 19 IN SD BLK 923 TH N55*37 32E 48.41FT TO C/L SD OAKES AVE TH CONT N55*37 32E 48.40FT TO W LN SD BLK 924 TH S ALG W LN THOF TO N LN VAC 38TH ST TH W TO W LN OF VAC OAKES AVE TH N TO TPB & TGW PTN BLK 923 PLAT OF EVERETT DIV M DAF BEG 10FT S OF NE COR LOT 19 THS TO SE COR LOT 17 TH W 95FT TH NELY TO POB ALSO TGW VAC 38TH ST PER ORD 640-79 LY BTW WLY R/W MGN LOMBARD AVE & ELY MGN OF ALLEY ROCKEFELLER AVE LESS FDT PTNS OF NW1/4 SW1/4 & OF SW1/4 SW1/4 DAF A TR OF LD FOR ST PURPOSES DAF BEG AT SW COR LOT 16 BLK 923 PLAT OF EV DIV M REC VOL 5 PLATS PG 8 TH N89*59 46W AT R/A TO W LN SD LOT 16 BLK 923 DIST 39.955FT TAP ON CTR LN OF ROCKEFELLER AVE AS SHOWN ON SD PLAT TH S00*00 14W ALG SD C/L DIST 9.98FT TH N89*59 46W DIST 39.955FT TO SE COR LOT 17 BLK 922 SD PLAT TH N89*58 49W ALG S LN SD LOT 17 DIST 123.93FT TO SW COR SD LOT 17 TH S00*01 14W ALG SLY PROJ OF W LN SD LOT 17 DIST 0.15FT TAP ON N LN SD SW1/4 SW1/4 SEC 29 TH N88*53 22W ALG N LN SD SW1/4 SW1/4 DIST 3.75FT TO NW COR SD SW1/4 SW1/4 TH S02*46 58W ALG W LN SD SW1/4 SW1/4 DIST 59.99FT TAP ON ELY PROJ OF N LN LOT 1 BLK 1 PLAT CLIMAX LD CO'S 1ST ADD VOL 4 OF PLATS PG 21 & WH PT BEARS S89*58 49E ALG ELY PROJ OF N LN SD LOT 1 DIST 9.34FT M/L FR NE COR SD LOT 1 TH S89*58 49E ALG ELY PROJ OF N LN SD LOT 1 DIST 108.76FT TH ON A CRV TO L TANG TO PREVIOUS CRSE HAVG A RAD OF 96FT & HAVG A C/A OF 39*58 26AN ARC DIST OF 66.92FT TH N50*04 45E DIST 52.29FT TAP ON SLY PROJ OF W LN SD BLK 923 TH N00*00 14E ALG SLY PROJ OF W LN SD BLK 923 DIST 14.03FT TO POB & LESS STRIP OF LD FOR ALLEY PURPOSES 16FT INWIDTH LY E OF & ADJ TO W LN OF SW1/4 SW1/4 SEC 29 & LY S OF ELY PROJ OF N LN SD LOT 1 BLK 1 PLAT CLIMAX LD CO'S 1ST ADD & LY N OF ELY PROJ OF S LN OF N1/2 LOT 14 IN SD BLK 1 ALSO LESS ADD'L R/W TO CITY OF EVE PER SWD REC AF 9707230180 EXC BLDG [ESPRESSO STAND] - REFER TO 29052900300101 FOR BLDG [TAXABLE]

EXHIBIT B

Depiction of Permit Area
EVERETT PUBLIC SCHOOLS FOUNDATION

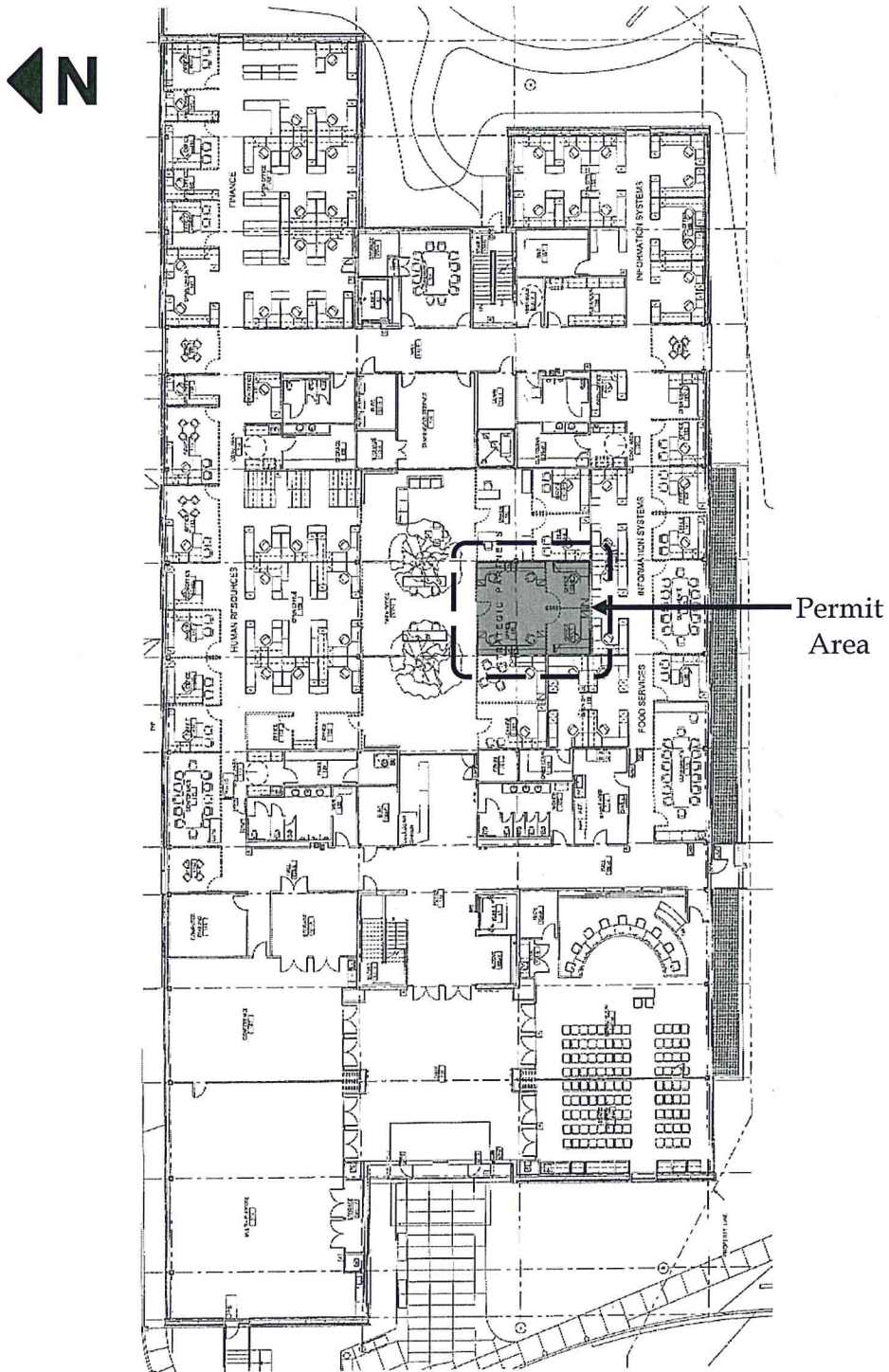


EXHIBIT C

Furniture and Equipment Provided by District EVERETT PUBLIC SCHOOLS FOUNDATION

1. The following items of furniture are provided to Permittee by the District for Permittee's use during the Term: 3 desks, 3 task chairs, 1 table, 6 side chairs, 1 filing cabinet, 1 cabinet, 1 counter.
2. The following items of equipment are provided to Permittee by the District for Permittee's use during the Term: 3 computers, 3 telephones, 2 printers (1 b/w & 1 color), 1 copying machine (networkable).