

# **STATE OF WASHINGTON**

## **AGENCY: The Evergreen State College**

### **DELEGATED STATE RENTAL AGREEMENT**

1. This RENTAL AGREEMENT is made and entered into between City of Olympia, a Washington municipal corporation whose address is 601 4<sup>th</sup> Ave E for its heirs, executors, administrators, successors, and assigns (Landlord), and the State of Washington, the Evergreen State College (Tenant or TESC), acting under a delegation of authority from the Department of Enterprise Services or its successor Washington state government entity, in accordance with RCW 43.82.010.

**WHEREAS**, the Department of Enterprise Services is granted authority to lease property under RCW 43.82.010; and

**WHEREAS**, the Director of the Department of Enterprise Services is also granted authority to delegate the leasing function to agencies; and

**WHEREAS**, the Director has so delegated the authority for this Rental Agreement; and

**WHEREAS**, On December 17, 2018, Landlord acquired title to the real property at 112 4<sup>th</sup> Ave. W, Olympia, WA. Because of its location and zoning, the property is a suitable location for use as a venue for lectures, events, and educational programming and as an art studio, performance space, and a Café, all of which are consistent with the needs and objectives in the City of Olympia's Downtown Strategy; and

**WHEREAS**, the objective of this rental agreement is, in part, to introduce TESC as a fixture to downtown Olympia. During the course of this rental agreement the parties will continue to collaborate on perspective future partnerships that will advance this objective. This is directly supported by the following City of Olympia Comprehensive Plan Goals: and

PE6.7 - Collaborate with The Evergreen State College, St. Martin's University, and South Puget Sound Community College on their efforts to educate students in skills that will be needed in the future, to contribute to our community's cultural life, and attract new residents.

PE6.8 - Encourage The Evergreen State College, St. Martin's University, and South Puget Sound Community College to establish a physical presence in downtown; and

**WHEREAS**, it is anticipated that TESC will enter into a user agreement or agreements with one or more organizations whereby such organization(s) will be able to utilize the premises subject to this Rental Agreement; and

**WHEREAS**, Evergreen will utilize the premises subject to this Rental Agreement for lecture series, events, and educational programming. One or more non-profit users may use the space for activities such as event programming, art studio, performance space, and a café; and

**WHEREAS**, the Landlord and Tenant deem it to be in the best public interest to enter into this Rental Agreement;

**NOW, THEREFORE**, in consideration of the terms, conditions, covenants, and performances contained herein, **IT IS MUTUALLY AGREED AS FOLLOWS**:

2. The Landlord hereby rents to the Tenant the following described premises (Leased Premises):

**Legal Description**: THE EASTERLY 37 FEET OF LOTS 5 AND 8 IN BLOCK 4 OF SYLVESTER'S PLAT OF OLYMPIA, AS RECORDED IN VOLUME 1 OF PLATS, PAGE 14

**Common Street Address**: 112 4<sup>th</sup> Ave. W Olympia, WA

## **USE**

3. Tenant may use the Leased Premises for the following purpose(s): lecture series, events, and educational programming. In addition, Tenant may, through a user agreement, authorize one or more non-profit organizations to use the Leased Premises for activities consistent with this lease, such as event programming, art studio, performance space, and a Café (as provided in paragraph 9 below, any such user agreement is subject to Landlord's prior consent and approval).

As part of its use of the Leased Premises, Tenant may place signs in and on the Leased Premises, provided such signs comply with the City of Olympia's sign code, Olympia Municipal Code Chapter 18.43.

## **TERM**

4. This Rental Agreement is effective for a period of two years from the date of last signature below (which is the "effective date"). This lease may be extended for additional one-year terms upon mutual written agreement of the parties.

## **RENTAL RATE**

5. The Tenant shall pay rent to the Landlord for the Leased Premises at the following rate:

\$ 0.00 per month

In lieu of monetary rent, the Tenant shall operate a workforce development and education program ("program services") onsite and Tenant shall provide a written annual report summarizing its provision of program services. This report will be submitted by June 15 of each

following calendar year to Mike Reid, Economic Development Director, City of Olympia, P.O. Box 1967, Olympia, Washington 98507-1967.

## **EXPENSES**

6. During the term of this Rental Agreement, Landlord shall pay all real estate taxes, all property assessments, insurance, storm water, and maintenance and repair (except minor maintenance) as described below,

6.1. Tenant shall pay for only utilities (including water, sewer, gas, garbage, cable, internet and telephone service), janitorial expenses (including vacuuming, emptying of garbage, washing of windows, dusting, and general cleaning, maintenance of all landscaping upon the Leased Premises, replacement of light bulbs, interior repair, and toilet articles), and minor maintenance expenses.

## **MAINTENANCE AND REPAIR**

7. The Landlord shall maintain the Leased Premises in good repair and tenantable condition during the continuance of this Rental Agreement, except in case of damage arising from the negligence of the tenant's agents or employees. For the purposes of maintenance and repair, the Landlord reserves the right at reasonable times to enter and inspect the Leased Premises and to do any necessary maintenance and repairs to the building. Landlord's maintenance and repair obligations shall include, but not be limited to, the mechanical, electrical, interior lighting (including replacement of ballasts, starters as required, but not including replacement of light bulbs), plumbing, heating, ventilating and air-conditioning systems (including replacement of filters as recommended in equipment service manual); floor coverings; window coverings; inside and outside walls (including windows and entrance and exit doors); all structural portions of the building (including the roof and the watertight integrity of same); porches, stairways; sidewalks; exterior lighting (except replacement of lightbulbs); wheel bumpers; drainage; and continuous satisfaction of all governmental requirements generally applicable to similar premises in the area (example: fire, building, energy codes, indoor air quality and requirements to provide an architecturally barrier-free premises for people with disabilities, etc.). If significant maintenance is required (such as a full electrical system failure or roof replacement) the Landlord may terminate this lease agreement as provided in paragraph 8, below. "Significant maintenance" for purposes of this section means maintenance with a cost in excess of \$10,000 for a single project, of \$50,000 in cumulative maintenance costs over the course of any 12-month period.

Landlord is not responsible for financial or material loss of perishable food products as a result of mechanical or electrical failure or loss of any effects resulting from equipment failure.

Tenant agrees to keep the Leased Premises clean and in a sanitary condition, to repair and/or pay for the repair of any and all damage to the Leased Premises caused by Tenant, its agents, invitees, contractors, employees, or students, and upon surrendering possession, to leave the Leased Premises in good condition, except for ordinary wear and tear. Tenant will not make any alterations, additions, or improvements without prior written consent of Landlord. Tenant will

not commit any waste or damage of the Leased Premises. Tenant is responsible for securing all the Leased Premises. Landlord is not responsible for any loss sustained by Tenant as a result of failure to properly secure the Lease Premises.

## **TERMINATION**

8. This Rental Agreement may be terminated by either party at any time by giving written notice not less than 120 days. In the event of a critical system failure requiring Tenant to cease operation on the Leased Premises, this Rental Agreement terminates 60 days from the occurrence of the system failure.

## **ASSIGNMENT/SUBLEASE**

9. Tenant may not assign this Rental Agreement or sublet the Leased Premises, or authorize any organization to use the Leased Premises pursuant to a user agreement, without the prior written consent of the Landlord.

Tenant's sublease or user agreement with any user must include the following indemnification and insurance provisions, or such other indemnification and insurance provisions as Landlord may approve in writing:

User shall defend, indemnify, and hold harmless the City of Olympia, its officers, officials, employees, and volunteers from and against any and all claims, suits, actions, or liabilities for injury or death of any person, or for loss or damage to property, which arises out of User's use of the Leased Premises, or from the conduct of User's business, or from any activity, work, or thing done, permitted, or suffered by User in or about the Leased Premises, except only such injury or damage as has been occasioned by the sole negligence of the City of Olympia. It is further specifically and expressly understood that the indemnification provided herein constitutes the User's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. The provisions of this section survive the expiration or termination of User's use/partnership agreement with the Evergreen State College.

### **A. Insurance Term**

The User shall procure and maintain for the duration of the Lease, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the User's operation and use of the Leased Premises.

### **B. No Limitation**

The User's maintenance of insurance as required herein may not be construed to limit the liability of the User to the coverage provided by such insurance, or otherwise limit the City of Olympia's recourse to any remedy available at law or in equity.

### **C. Minimum Scope of Insurance**

The User shall obtain insurance of the types and coverage described below:

1. Commercial General Liability insurance must be at least as broad as Insurance Services Office (ISO) occurrence form CG 00 01 and must cover premises and contractual liability. The City of Olympia must be named as additional insured on User's Commercial General Liability insurance policy using ISO Additional Insured-Managers or Lessors of Premises Form CG 20 11 or a substitute endorsement providing at least as broad coverage.

2. Property insurance must be written on an all risk basis.

D. Minimum Amounts of Insurance

The User shall maintain the following insurance limits:

1. Commercial General Liability insurance must be written with limits no less than \$2,000,000 each occurrence, \$2,000,000 general aggregate.

2. Property insurance must be written covering the full value of User's property and improvements with no coinsurance provisions.

E. Other Insurance Provisions

The User's Commercial General Liability insurance policy or policies are to contain, or be endorsed to contain, that they are primary insurance as respect the City of Olympia. Any insurance, self-insurance, or self-insured pool coverage maintained by the City of Olympia is excess of the User's insurance and does not contribute with it.

F. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:  
VII.

G. Verification of Coverage

The User shall furnish the City of Olympia with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to, the additional insured endorsement, evidencing the insurance requirements of the User.

H. Waiver of Subrogation

User and City of Olympia hereby release and discharge each other from all claims, losses, and liabilities arising from or caused by any hazard covered by property insurance on or in connection with the Premises or said building. This release applies only to the extent that such claim, loss, or liability is covered by insurance.

I. Notice of Cancellation

The User shall provide the City of Olympia with written notice of any policy cancellation within two business days of their receipt of such notice.

**J. Failure to Maintain Insurance**

Failure on the part of the User to maintain the insurance as required constitutes a material breach, upon which the City of Olympia may, after giving five business days notice to the User to correct the breach, terminate the Rental Agreement with TESC or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City of Olympia on demand.

**K. City of Olympia Full Availability of User Limits**

If the User maintains higher insurance limits than the minimums shown above, the City of Olympia is insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the User, irrespective of whether such limits maintained by the User are greater than those required by this Lease or whether any certificate of insurance furnished to the City of Olympia evidences limits of liability lower than those maintained by the User.

**FIXTURES AND FURNITURE**

10. The Tenant shall have the right during the existence of this Rental Agreement with the written permission of the Landlord (such permission shall not be unreasonably withheld), to make alterations, attach fixtures, and erect additions, structures or signs, in or upon the Leased Premises. Performance of any of the rights authorized above shall be conducted in compliance with all applicable governmental regulations, building codes, including obtaining any necessary permits. Any fixtures, additions, or structures so placed in or upon or attached to the Leased Premises shall be and remain the property of the Tenant and may be removed therefrom by the Tenant upon the termination of this Rental Agreement. Any damage caused by the removal of any of the above items shall be repaired by the Tenant.

Tenant shall provide, at its own expense, all furniture necessary for its possession and use in or upon the Leased Premises.

**PREVAILING WAGE**

11. Landlord agrees to pay the prevailing rate of wage to all workers, laborers, or mechanics employed in the performance of any part of this Rental Agreement when required by state law to do so, and to comply with the provisions of Chapter 39.12 RCW, as amended, and the rules and regulations of the Department of Labor and Industries and the schedule of prevailing wage rates for the locality or localities where this Rental Agreement will be performed as determined by the Industrial Statistician of the Department of Labor and Industries, are by reference made a part of this Rental Agreement as though fully set forth herein.

## **PAYMENT**

12. Any and all payments provided for herein when made to the Landlord by the Tenant shall release the Tenant from any obligation therefore to any other party or assignee.

## **COMPLIANCE WITH STATE/FEDERAL LAWS**

13. Landlord is responsible for complying with all applicable provisions of the Americans With Disabilities Act of 1990 (42 U.S.C. 12101- 12213) and the Washington State Law Against Discrimination, Chapter 49.60 RCW, as well as the regulations adopted thereunder, with respect to the Leased Premises.

## **DISASTER**

14. In the event the Leased Premises are destroyed or injured by fire, earthquake or other casualty so as to render the Leased Premises unfit for occupancy either party may immediately terminate this Rental Agreement.

## **NO GUARANTEES**

15. It is understood that no guarantees, express or implied, representations, promises or statements have been made by the Tenant unless endorsed herein in writing and it is further understood that the Tenant, a State agency, is acting in compliance with a delegated authority from the Department of Enterprise Services in accordance with RCW 43.82.010. Any amendment or modification of this Agreement must be in writing and signed by both parties.

## **HAZARDOUS SUBSTANCES**

16. Landlord warrants that, to the best of its knowledge, no hazardous substance, toxic waste, or other toxic substance has been produced, disposed of, or is or has been kept on the Leased Premises hereby rented which if found on the property would subject the owner or user to any damages, penalty, or liability under any applicable local, state or federal law or regulation. Landlord shall indemnify and hold harmless the Tenant with respect to any and all damages, costs, attorney fees, and penalties arising from the presence of such substances on the Leased Premises, except for such substances as may be placed on the Leased Premises by the Tenant.

## **BINDING AUTHORITY**

17. It is further understood that this Rental Agreement shall not be binding upon the State of Washington, the Evergreen State College, unless signed by the Tenant's President or the President's designee and approved as to form by the Office of the Attorney General. And it is further understood that this Rental Agreement shall not be binding upon the City of Olympia, unless signed by the authorized employee and approved as to form by the City Attorney or his/her designee.

## **CAPTIONS**

18. The captions and paragraph headings hereof are inserted for convenience purposes only and shall not be deemed to limit or expand the meaning of any paragraph.

## **INTEGRATED DOCUMENT**

19. This Rental Agreement and the exhibits hereto constitute the entire agreement between the parties with respect to the rental of Leased Premises and supersedes all prior and contemporaneous agreements and understandings between the parties hereto relating to the subject matter hereof.

## **NOTICES**

20. Wherever in this Rental Agreement written notices are to be given or made, they will be sent to the contact listed below unless a different address shall be designated in writing and delivered to the other party.

**LANDLORD:**

City of Olympia  
Mike Reid, Economic Development Director  
Olympia City Hall  
601 4<sup>th</sup> Avenue East  
PO Box 1967  
Olympia, Washington 98507-1967  
(360) 753-8591  
[mreid@ci.olympia.wa.us](mailto:mreid@ci.olympia.wa.us)

**TENANT:**

William G. Ward, MBA  
Chief Administrative Officer  
The Evergreen State College  
2700 Evergreen Parkway NW | Olympia, WA 98505  
Cell: 360.918.4340m Office: 360.867.6115  
[wardw@evergreen.edu](mailto:wardw@evergreen.edu)

**AND:**

Department of Enterprise Services  
Real Estate Services  
1500 Jefferson Street S.E., 2<sup>nd</sup> Floor  
Post Office Box 41015  
Olympia, Washington 98504-1015



TESC Rental Agreement – 112 4<sup>th</sup> Ave – Page 9

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF THURSTON )

I certify that I know or have satisfactory evidence that **Steven J. Burney**, is the person who appeared before me, and as City Manager for the City of Olympia, Washington, on behalf of said municipal corporation and with authority to sign same, acknowledged that he signed this instrument, and on oath stated that he was authorized to execute this instrument, and acknowledged it as his free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2022.

\_\_\_\_\_  
Signature  
Name (typed or printed): \_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington  
Residing at \_\_\_\_\_  
My appointment expires: \_\_\_\_\_