

LEASE  
(WRLT/Stanley)

THIS LEASE ("Lease") is made and entered into this \_\_\_\_\_ day of November, 2015, by and between WOOD RIVER LAND TRUST COMPANY, an Idaho nonprofit corporation and Internal Revenue Code section 501(c)(3) charitable organization ("Lessor"), with a mailing address of 119 East Bullion Street, Hailey, ID 83333, and CITY OF STANLEY, a municipal corporation ("City") (the City is referred to as "Lessee"), with a mailing address of PO Box 53, Stanley, ID 83278. Lessor is organized to protect and conserve natural areas and ecologically significant land for scientific, charitable, and educational purposes.

The parties covenant and agree as follows:

1. **LEASED PREMISES.** Lessor hereby leases to Lessee and Lessee leases from Lessor, the real property owned by Lessor legally described in the Warranty Deed attached as Exhibit A to Lease, and subject to the conditions contained in Exhibit A to Warranty Deed, which is primarily unimproved property (the "Premises"). Lessor acquired the Premises intending to preserve conservation values for the public benefit (as defined in section 1.170A-14(d)(2)(i) of the Internal Revenue Service Regulations) including, without limitation, significant relatively natural habitat for fish, wildlife, and plants; functioning ecosystems and associated native flora and fauna ("Conservation Values").
2. **USE OF PREMISES.** The Premises may be used and occupied by Lessee and Lessee's invitees for all purposes consistent with the Conservation Values and for no other purpose or purposes without Lessor's prior written consent. Lessor retains the right to use the Premises for those purposes, and Lessee allows Lessor to continue to use the Premises for those purposes as well. Lessor is not obligated to provide any services to Lessee for the use of the Premises, including access. Lessor agrees to provide notice to the Lessee at least 24 hours prior to scheduled events at the Premises of more than 15 people. The Lessee agrees to ensure that all scheduled events by the Lessee at the Premises of more than 15 people are properly supervised and that the conservation values of Valley Creek Preserve are not compromised. The Lessee shall not allow or permit any fire on the Premises such as a fire pit during the Lease Term, as defined below.
3. **LEASE TERM.** The term of this Lease shall commence on the last party to sign the Lease and expire September 30, 2016 ("Lease Term"). This Lease may be renewed for subsequent years on an annual basis, as set out in Section 5, below, unless the Lease terminates as also set out in Section 4, below, or if either party gives notice terminating the Lease prior to thirty (30) days in advance of the end of the current Lease Term.
4. **RENT.** On or before the Lease Term, Lessees shall pay to Lessor as rent for the Premises, without offset or reduction, the sum of Ten Dollars (\$10.00).
5. **DUE DILIGENCE.** Lessee and Lessor will develop a joint management plan (the "Plan") by September 30, 2016. For this Lease Term, Lessee will work cooperatively with Lessor to provide due diligence and research that will support the development of a Management Plan, including but not limited to investigation of adjoining property rights, public access easements, land ownership, and original platting and parcel delineation. During the term of this lease, Lessee will be responsible for fifty percent (50%) of the costs up to \$4,000 of such due diligence, including the costs of investigations undertaken by the City. Lessee, by entering into this Lease, acknowledges its obligation to and will make all payments due at the time services are rendered. Lessor's remedies will be limited to recovery of only the funds appropriated for the purposes of this Lease, or termination of the Lease, automatically effective thirty (30) days after Lessee fails to cure any default in such payments.

7. **INSURANCE.** During the Lease Term, Lessees shall, at their own expense, maintain in full force, comprehensive liability insurance, including public liability and property damage of the Lessee, written by a responsible insurance company licensed to do business in Idaho, insuring against liability for claims of damage because of injury to persons and property and for death of any person or persons occurring in or about the Premises resulting from those acts or omissions attributable to the City's use of the Premises. Such policy shall provide insurance against claims under the Idaho Tort Claims Act (Title 6, Chapter 9 IC) with a limit of \$500,000 in aggregate per occurrence, provided, however, the minimum limits of insurance as set forth herein shall be automatically increased at any time the liability limits of Stanley are increased pursuant to the Idaho Tort Claims Act (Idaho Code Sections 6-901, *et seq.*). Upon request by Lessor, the Lessee shall provide Lessor evidence of acceptable insurance.

8. **EXCULPATORY CLAUSES.**

a. **Exemption of Lessor from Lessee's Liability.** Lessor shall not be liable to Lessee or to any other person for any injury to persons or damage to property occurring within or about the Premises arising out of Lessee's use of the Premises.

b. **Indemnification.** Each party agrees to indemnify, defend and save the other party harmless from and against any and all claims arising from any accident, injury, or damage directly attributable to the intentional or negligent actions of that party or that party's employees.

9. **ASSIGNMENT AND SUBLETTING.** Lessee shall not assign, mortgage or hypothecate this Lease, or any interest in this Lease, or permit the use of the Premises, in whole or in part, by any person or persons other than Lessee's employees, without Lessor's prior written consent, which consent shall be in Lessor's sole discretion, but which will not be unreasonably withheld; provided, however, Lessee shall remain liable for the obligations arising from this Lease.

10. **SURRENDER.** Except as otherwise provided in this Lease, below, upon the expiration of the Lease Term, Lessee shall quit and surrender the Leased Premises, in good condition and repair (reasonable wear and tear, and damage by act of God excepted). The City shall remove all items placed on the Leased Premises on or before the end of the Lease Term, except for permanent structures approved by Lessor pursuant to Paragraph 5.

11. **FIRST OPTION.** The parties agree that upon Lessee's full performance of the initial term and any subsequent renewal terms of the Lease, it is Lessor's intent to sell the Premises to Lessee for a nominal sum to cover Lessor's costs in owning the Premises from the date of the recording of Exhibit A to the end of the Lease term and any costs associated with the sale to Lessee. The sale will be of the fee simple interest by special warranty deed, that would exclude exceptions to title insurance from the commitment for title insurance, effective as of the date of the deed, and include any and all mineral rights for the Premises, if any, that exist as of the date of the recording of Exhibit A. Prior to such transfer, both Lessor and Lessee agree that Lessor may seek a vacation of the existing subdivision plat for the Premises and any sale under the terms of this Lease shall be contingent on Lessor's agreement to the vacation. In addition, during the Lease Term, Lessor shall have the ability to record restrictions against the Premises in such a way as to preserve the Conservation Values and that such agreement shall also be a precondition to any sale of the Premises by Lessor to Lessee.

12. **MISCELLANEOUS PROVISIONS.**

a. **Interpretation.** The headings in this Lease are inserted for convenience and identification only. No presumption shall exist in favor of or against any party to this Lease as the result of the drafting and preparation of the document.

b. Provisions Severable. Every provision of this Lease is intended to be severable. The invalidity or illegality of any provision shall not affect the remainder of this Lease.

c. Binding Effect. This Lease shall bind and inure to the benefit of the successors and assigns of the parties.

d. Governing Law. This Lease shall be governed by, construed and enforced in all respects in accordance with the laws of the State of Idaho.

e. No Waiver. No waiver of any breach by a party of the terms of this Lease shall be deemed a waiver of any subsequent breach of the Lease.

f. Amendment. No amendment of this Lease shall be effective unless the amendment is in writing, signed by all parties.

g. Time is of the Essence. Time and timely performance is of the essence of this Lease.

h. Interpretation. The parties waive the right to make any argument interpreting any ambiguity in the Lease against each other as a result of having drafted the Lease or any provision of it.

i. Dispute Resolution. The parties shall submit any dispute arising out of or related to the Lease to at least two (2) sessions of mediation of at least two (2) consecutive hours each session prior to commencing any litigation. The parties shall use a mediator or mediators acceptable to both parties and bear equally the costs of mediation. Each party involved in the mediation agrees to pay each party's own attorney fees incurred prior to and during a mediation.

j. Attorneys' Fees and Costs. The prevailing party in any litigation to enforce the Lease shall be entitled to reimbursement from the non-prevailing party of all costs and attorneys' fees, including without limitation attorney fees incurred on appeal or in bankruptcy court.

k. Notices. Any and all notices required or permitted to be given shall be written and considered given as of the date personally delivered or if mailed by registered or certified mail, postage prepaid and with return receipt requested, to the parties at the addresses specified in the Lease, or subsequent addresses updated by using this notice procedure, then three (3) days following the date mailed.

l. No Recording Lease. Both parties agree this Lease shall not be recorded.

m. Authority. Each party agrees that it has full authority and consent to enter into and for the below signatories to sign this Lease.

LESSOR THE WOOD RIVER LAND TRUST COMPANY

By \_\_\_\_\_  
Scott Boettger, Executive Director

LESSEE CITY OF STANLEY

By \_\_\_\_\_  
Herbert W. Mumford, Mayor

ATTEST:

By \_\_\_\_\_  
Carri Tassano, City Clerk

DRAFT