

1 **MEMORANDUM OF AGREEMENT**
2 **AMONG**
3 **COMMANDER, NAVY REGION NORTHWEST,**
4 **AND**
5 **THE WASHINGTON STATE HISTORIC PRESERVATION OFFICER,**
6 **AND THE**
7 **THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**
8 **REGARDING THE EA-18G “GROWLER” AIRFIELD OPERATIONS,**
9 **NAVAL AIR STATION WHIDBEY ISLAND,**
10 **ISLAND COUNTY, WASHINGTON**
11 **2018**

12
13 WHEREAS, Commander, Navy Region Northwest (hereinafter “Navy”) proposes to increase the
14 number of aircraft stationed at Naval Air Station (NAS) Whidbey Island and the number airfield
15 operations at both Ault Field and Outlying Field (OLF) Coupeville (Undertaking); and

16
17 WHEREAS, Navy will continue to implement its current operational mitigation practices to
18 avoid and minimize noise impacts on the surrounding communities as feasible; and

19
20 WHEREAS, Navy has determined that the proposed Undertaking has the potential to cause
21 effects on historic properties subject to review under section 106 of the National Historic
22 Preservation Act (hereinafter “NHPA”) 54 U.S.C. § 306108, and its implementing regulations,
23 36 C.F.R. § 800; and

24
25 WHEREAS, Navy invited the Advisory Council on Historic Properties (ACHP) to participate in
26 the entire section 106 process under Subpart B of 36 CFR § 800 and the ACHP agreed to
27 participate in the entire process; and

28
29 WHEREAS, Navy established the Area of Potential Effect (APE) for the Undertaking consistent
30 with 36 C.F.R. § 800.16(d), by taking into consideration the following three components of the
31 Undertaking:

- 32 • On-installation Direct Effect Area: Areas on the installation where historic properties
33 could be directly affected (e.g., by ground disturbance, demolition, or alteration).
- 34 • On-installation Indirect Effect Area: Areas within the installation bounded by the 65 dB
35 Day Night Sound Level (DNL) noise contours where historic properties could be disturbed
36 by the introduction of visual, atmospheric, or audible elements.
- 37 • Off-installation Indirect Effect Area: Areas off installation but within operational areas
38 bounded by the 65 DNL noise contours (i.e. introduction of visual, atmospheric, or audible
39 elements), including the Central Whidbey Island Historic District; and

40
41 WHEREAS, the Central Whidbey Island Historic was determined eligible for listing in the
42 National Register of Historic Places (NRHP) in 1973, and the 1978 National Parks and
43 Recreation Act designated the area of the historic district the Ebey’s Landing National Historic
44 Reserve (ELNHR) for the purposes of protecting a rural community and its significant history
45

46 WHEREAS, the ELNHR is the first historical reserve in the National Park System and is
47 managed by a Trust Board through coordination of the four land managing partners who have a
48 preservation and/or management interest in the Reserve: The National Park Service (hereinafter
49 “NPS”), Washington State Parks and Recreation Commission, the Town of Coupeville
50 (hereinafter “Coupeville”), and Island County; and

51

52 WHEREAS, Navy determined that the Undertaking will result in indirect adverse effects to the
53 Central Whidbey Island Historic District, as a result of more frequent aircraft operations
54 affecting certain landscape components of the historic district, specifically perceptual qualities
55 that currently make the Historic District eligible for the NRHP; and

56

57 WHEREAS, Navy has consulted with the Washington State Historic Preservation Officer
58 (SHPO) on the determination of effect, and SHPO concurred on June 27, 2018; and

59

60 WHEREAS, Navy has consulted with Swinomish Indian Tribal Community, Upper Skagit
61 Indian Tribe, Samish Indian Nation, Stillaguamish Tribe of Indians, the Lummi Nation, the
62 Tulalip Tribes of Washington, and the Jamestown S’Klallam Tribe who expressed no concerns
63 about the Undertaking; and

64

65 WHEREAS, Navy has consulted with Trust Board of Ebey’s Landing National Historical
66 Reserve (hereinafter “Trust Board”), NPS, Island County Commissioners (hereinafter
67 “Commissioners”), Coupeville, City of Port Townsend (hereinafter “Port Townsend”),
68 Washington State Parks, Seattle Pacific University, the Citizens of Ebey’s Reserve (hereinafter
69 “COER”), and Mr. David Day; and

70

71 WHEREAS, Navy has made information about its NHPA section 106 review of the Undertaking
72 available to the public during NEPA public meetings, as well as on the EIS website, and provided
73 opportunity for comments per 36 C.F.R. §800.5(d) and §800.8; and

74

75 WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), Navy notified the ACHP of the adverse
76 effect determination, providing the specified documentation, and the ACHP has chosen to
77 continue to participate in the consultation pursuant to 36 C.F.R. § 800.6(a)(1)(iii); and

78

79 WHEREAS, Navy invited Swinomish Indian Tribal Community, Upper Skagit Indian Tribe,
80 Samish Indian Nation, Stillaguamish Tribe of Indians, the Lummi Nation, the Tulalip Tribes of
81 Washington, and the Jamestown S’Klallam Tribe to participate in the development of this MOA;
82 and

83

84 WHEREAS, Swinomish Indian Tribal Community, Upper Skagit Indian Tribe, Samish Indian
85 Nation, Stillaguamish Tribe of Indians, and the Jamestown S’Klallam Tribe did not express an
86 interest to actively participate, but request review of final MOA and the Lummi Nation and the
87 Tulalip Tribes of Washington did not respond to Navy’s invitation to consult on the development
88 of this MOA; and

89

90 WHEREAS, Navy invited the Trust Board, NPS, Commissioners, Coupeville, Port Townsend,
91 Washington State Parks, Seattle Pacific University, COER, and Mr. David Day to participate in
92 the development of this MOA; and

93
94 WHEREAS, the Trust Board, NPS, Commissioners, Coupeville, Port Townsend, COER, and Mr.
95 David Day agreed to participate; and

96
97 NOW, THEREFORE, Navy, SHPO, ACHP, and NPS, as the signatory parties, agree that the
98 following stipulations resolve Adverse Effects to Historic Properties caused by the undertaking
99 in compliance with the NHPA and that the stipulations govern all aspects of the Undertaking
100 unless this MOA expires or is terminated.

101 102 STIPULATIONS

103
104 Navy will ensure that the following stipulations are implemented and carried out under the
105 supervision of a cultural resource professional(s) meeting the Secretary of the Interior (SOI)
106 Professional Qualifications as defined in 36 C.F.R. Part 61.

107 108 I) MITIGATION OF ADVERSE EFFECTS OF THE UNDERTAKING

109 A) **Landscape Preservation**

110
111 Navy will provide NPS with funds, not to exceed \$250,000, to support preservation of
112 landscape components in the five identified contributing landscapes of the Central Whidbey
113 Island Historic District where an indirect adverse effect was identified within the area of
114 substantive change in noise exposure, as defined in the consensus determination of adverse
115 effect dated June 26, 2018.

- 116
117 1) Preservation projects that enhance landscape integrity in proximity to the five
118 contributing views identified as being adversely affected in the determination of
119 effect will be eligible for preservation funding under this provision.
 - 120 2) Preservation projects must comply with the eligibility criteria of the Ebey's Forever
121 Heritage Grant Program.
 - 122 3) Prior to transfer of funds a plan for meeting funding requirements under this MOA
123 will be provided to the Navy for review to ensure legal requirements for transfer of
124 funds are met including:
 - 125 i. Providing specific and certain information about landscape eligibility components
126 for preservation projects under Ebey's Forever Heritage Grant Program, the
127 location of the components, and details on the preservation services to be
128 performed.
 - 129 ii. Plan for funds transferred to be obligated within the same fiscal year. Funds
130 which are unexpended at the conclusion of the fiscal year shall be returned to the
131 Navy.
 - 132 4) When preservation funds are transferred, Navy will fund a Navy staff member to
133 support preservation projects planned, not to exceed the equivalent of a GS-9, step 1
134 federal pay grade.
- 135

136 **B) Cultural Landscape Inventory**

137
138 Within four years of the execution of this agreement Navy will provide NPS with funds, not
139 to exceed \$125,000, to complete a professional cultural landscape inventory and assessment
140 of the condition of cultural landscape resources and integrity of the ten landscape character
141 areas defined in the Central Whidbey Island Historic District 1997 Nomination Addendum.

- 142 1) Prior to transfer of funds NPS will coordinate with the Reserve to develop a scope of
143 work and execution plan for project goals and with the Navy to ensure legal
144 requirements for transfer of funds are met.
145 2) All funds transferred will be obligated within the same fiscal year.
146 3) The results of this inventory will serve as a baseline for future inventories and
147 evaluations.

148
149 **C) Southern Gateway**

150
151 Within four years of the execution of the agreement Navy will provide NPS with funds, not
152 to exceed \$75,000, to complete the design, construction, and installation of a southern
153 gateway entry sign to the ELNHR.

- 154 1) Prior to transfer of funds NPS will coordinate with the Reserve to develop a scope of
155 work and execution plan on project goals and with the Navy to ensure legal
156 requirements for transfer of funds are met.
157 2) NPS will provide Navy opportunity to participate in the development of the portion of
158 the gateway exhibit referencing Navy history and/or current aviation use at Outlying
159 Field Coupeville with the goal to provide context to visitors explaining the presence
160 of Navy lands and aircraft in the ELNHR.
161 3) All funds transferred will be obligated within the same fiscal year.

162
163 **D) Historic Preservation Easements**

164
165 In fiscal year 2020, Navy will seek partnership opportunities through the Readiness and
166 Environmental Protection Integration (REPI) Program to support the creation of scenic
167 easements. Navy will communicate its support for appropriate conservation easements to
168 DoD officials, but cannot guarantee the outcome of the REPI process.

169
170 **E) Navy Volunteer Collaboration**

171
172 Navy will communicate to NASWI personnel that volunteer opportunities exist in ELNHR
173 for Sailors to take part in the restoration and care of the reserve.

- 174 1) Sailors seeking to improve their communities often volunteer their time and energy to
175 projects and causes. The Navy does not mandate volunteerism, but does
176 communicate community needs to interested Sailors.
177 2) NASWI will connect interested volunteers with the needs of the reserve through the
178 NASWI Command Master Chief, who will communicate directly with NPS and
179 ELNHR to understand the Reserve's schedule and needs and match those needs with
180 volunteer Sailors.

181

182 **ADMINISTRATIVE PROVISIONS**

183
184 I) **DISPUTE RESOLUTIONS**

185
186 A) Should any signatory party to this MOA object at any time to any actions proposed or the
187 manner in which the terms of this MOA are implemented, the party shall notify Navy in
188 writing, and Navy shall consult with the parties to the PA to resolve the objection. If
189 Navy determines that such objection cannot be resolved, Navy will:

190
191 1) Forward all documentation relevant to the dispute, including Navy’s proposed
192 resolution, to the ACHP. The ACHP shall provide Navy with its advice on the
193 resolution of the objection within thirty (30) calendar days of receiving adequate
194 documentation.

195 (i) Prior to reaching a final decision on the dispute, Navy shall prepare a written
196 response that takes into account any timely advice or comments regarding the
197 dispute from the ACHP and/or signatories, and provide them with a copy of this
198 written response. Navy will then proceed according to its final decision.
199

200 2) If the ACHP does not provide its advice regarding the dispute within the thirty (30)
201 calendar day time period, Navy may make a final decision on the dispute and proceed
202 accordingly.

203 (i) Prior to reaching such a final decision, Navy shall prepare a written response that
204 takes into account any timely comments regarding the dispute from the
205 signatories to the MOA, and provide them and the ACHP with a copy of such
206 written response.
207

208 B) Navy's ability and responsibility to carry out all other components of the Undertaking not
209 subject to the dispute shall remain unchanged.
210

211
212 II) **ANTI-DEFICIENCY ACT**

213
214 A) The Anti-Deficiency Act, 31 U.S.C. § 1341, prohibits federal agencies from incurring an
215 obligation of funds in advance of or in excess of available appropriations. Accordingly,
216 the Signatory Parties agree that any requirement for the obligation of funds arising from
217 the terms of this MOA will be subject to the availability of appropriated funds for that
218 purpose. The Stipulations contained in this MOA will not be interpreted as requiring the
219 obligation or expenditure of funds in violation of the Anti-Deficiency Act.
220

221 B) If compliance with the Anti-Deficiency Act impairs Navy's ability to implement the
222 Stipulations of this MOA, Navy will consult with the Signatory Parties to determine if an
223 amendment is necessary to fully satisfy the stipulation herein.
224

225 III) **AMENDMENTS**

226

227 This MOA may be amended when such an amendment is agreed to in writing by all
228 signatories. The amendment will be effective on the date a copy signed by all of the
229 signatories is filed with the ACHP.

230
231 IV) TERMINATION

232
233 A) If any signatory to this MOA determines that its terms will not or cannot be carried out,
234 that party shall immediately consult with the other parties to attempt to develop an
235 amendment per Stipulation IV, above. If within thirty (30) calendar days (or another time
236 period agreed to by all signatories) an amendment cannot be reached, any signatory may
237 terminate the MOA upon written notification to the other signatories.

238
239 B) Once the MOA is terminated, and prior to work continuing on the undertaking, Navy
240 must either (a) execute an MOA pursuant to 36 C.F.R. § 800.6 or (b) request, take into
241 account, and respond to the comments of the ACHP under 36 C.F.R. § 800.7. Navy shall
242 notify the signatories as to the course of action it will pursue.

243
244 V) COORDINATION

245
246 Navy will ensure that each Signatory and Concurring Party is provided a copy of the fully
247 executed MOA within thirty (30) calendar days of executing the MOA.

248
249 VI) POST REVIEW DISCOVERY

250
251 If during the performance of the undertaking or in the course performance of the
252 stipulations in this MOA previously unknown historic properties are discovered or
253 unanticipated effects on historic properties found, Navy shall immediately implement the
254 Inadvertent Discovery Plan (Appendix B).

255
256 VII) DURATION

257
258 This MOA will expire if its terms are not carried out within five (5) years from the date
259 of its execution. Prior to such time, Navy may consult with the other signatories to
260 reconsider the terms of the MOA and amend it in accordance with Stipulation IV above.

261
262 Execution of this MOA by Navy, SHPO, and the ACHP and implementation of its terms
263 evidence that Navy has taken into account the effects of this undertaking on historic properties
264 and afforded the ACHP an opportunity to comment.

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AND
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THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING THE SECURITY ENHANCEMENTS AT
OUTLYING LANDING FIELD COUPEVILLE,
NAVAL AIR STATION WHIDBEY ISLAND,
ISLAND COUNTY, WASHINGTON
2018**

SIGNATORIES:

DEPARTMENT OF THE NAVY

By: _____ Date: _____
CHRISTOPHER GRAY, Rear Admiral, U.S. Navy
Commander, Navy Region Northwest

By: _____ Date: _____
MATHEW ARNY, Captain, U.S. Navy
Commander, Naval Air Station Whidbey Island

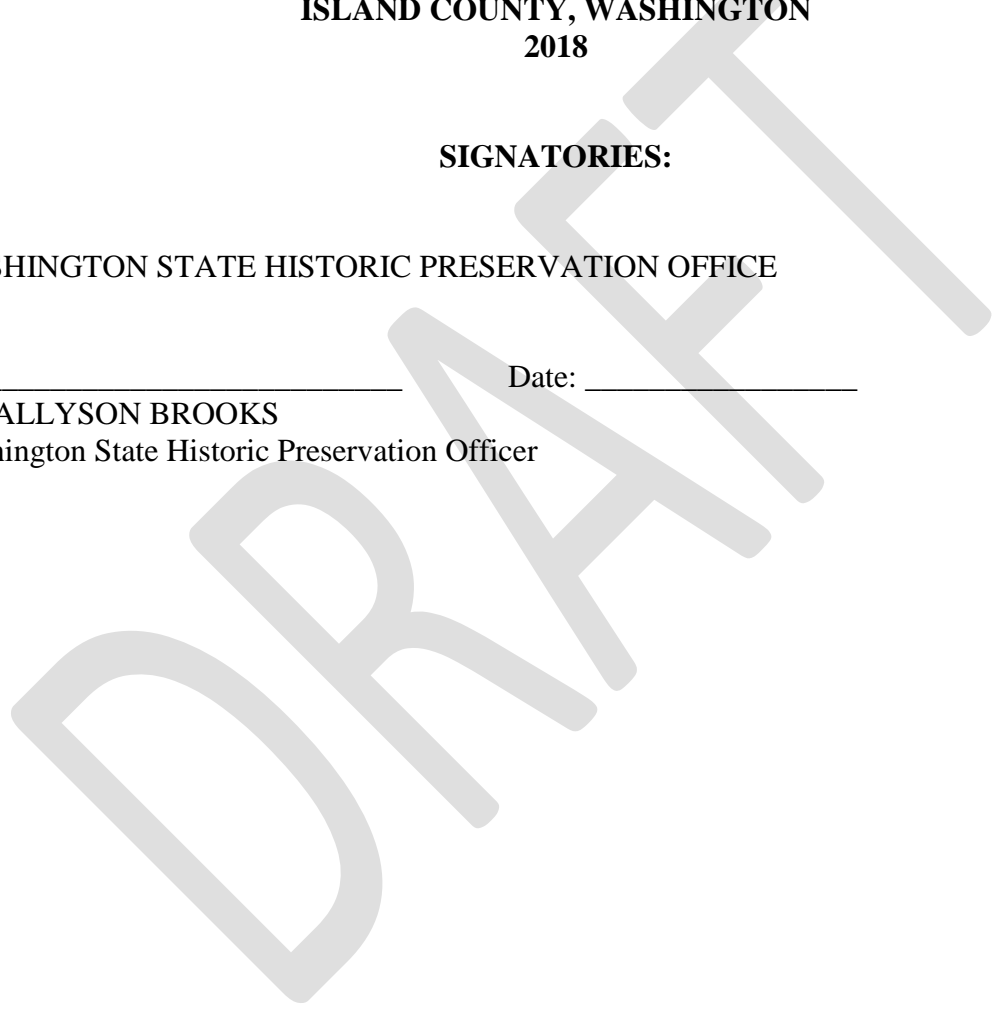
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SIGNATORIES:

WASHINGTON STATE HISTORIC PRESERVATION OFFICE

By: _____ Date: _____
DR. ALLYSON BROOKS
Washington State Historic Preservation Officer



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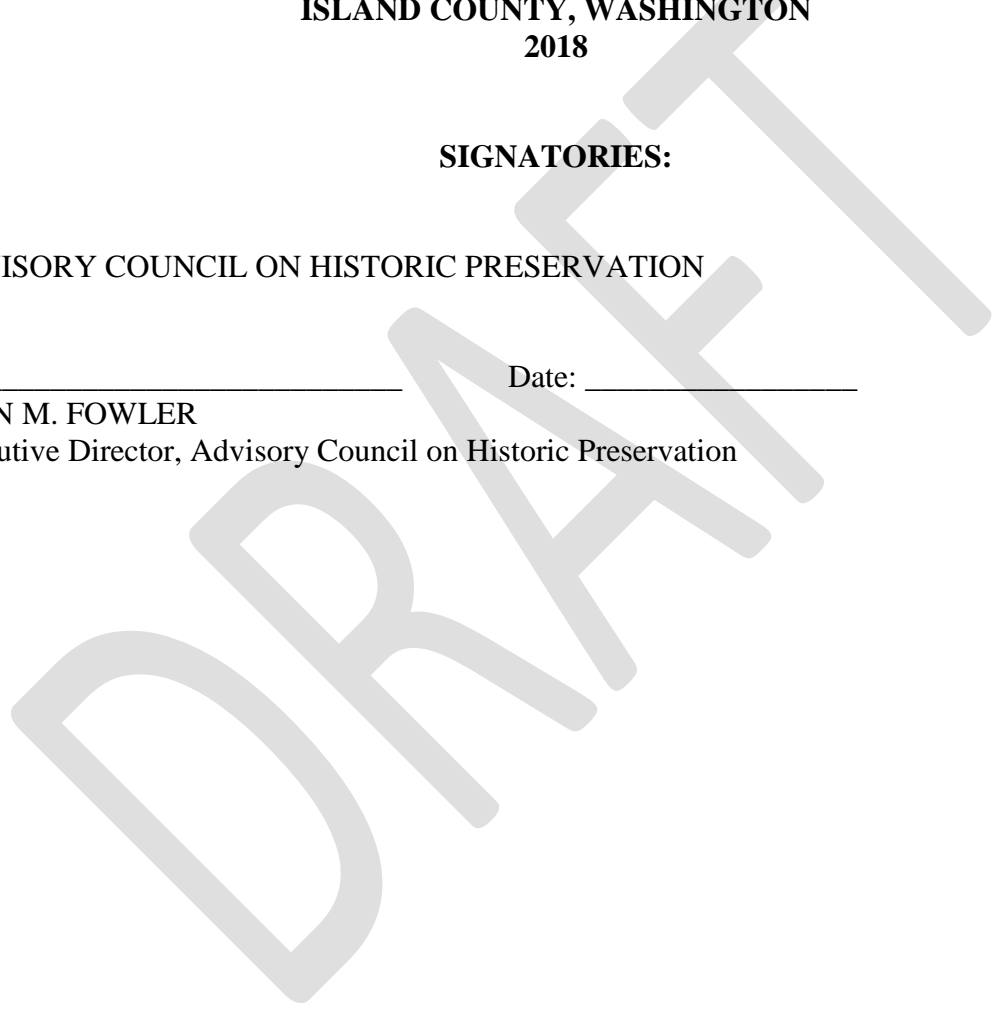
SIGNATORIES:

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____ Date: _____

JOHN M. FOWLER

Executive Director, Advisory Council on Historic Preservation



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353 **2018**

354
355 **CONCURRING PARTIES:**

356
357 **NATIONAL PARK SERVICE AT EBEBY'S LANDING NATIONAL HISTORICAL RESERVE**
358

359
360 By: _____ Date: _____

361 **ROY ZIPP**

362 **Operations Manager, National Park Service at Ebey's National Historical Reserve**
363

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375 **2018**

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377 **CONCURRING PARTIES:**

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379
380 **TRUST BOARD OF EBEBY'S LANDING NATIONAL HISTORICAL RESERVE**

381
382
383 By: _____ Date: _____
384 KRISTEN GRIFFIN
385 General Manager, Ebey's Landing National Historical Reserve
386

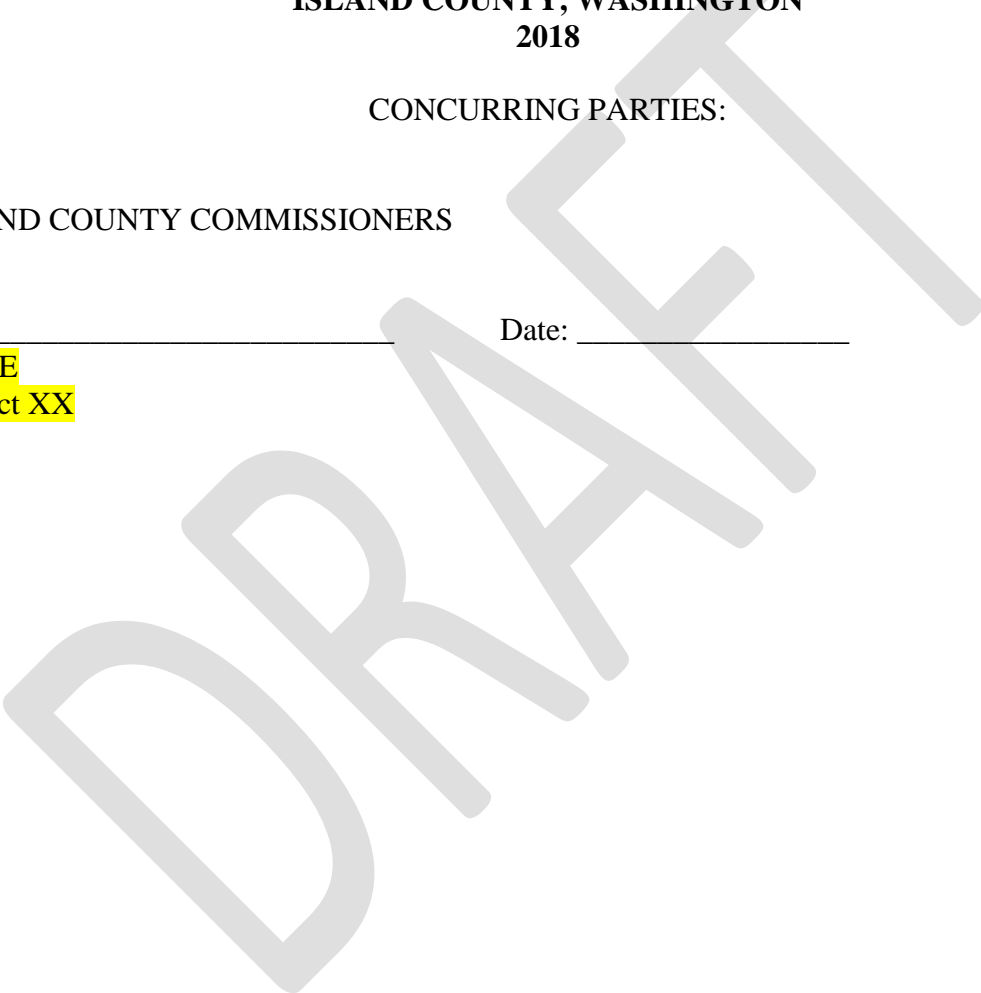
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CONCURRING PARTIES:

ISLAND COUNTY COMMISSIONERS

By: _____ Date: _____
NAME
District XX



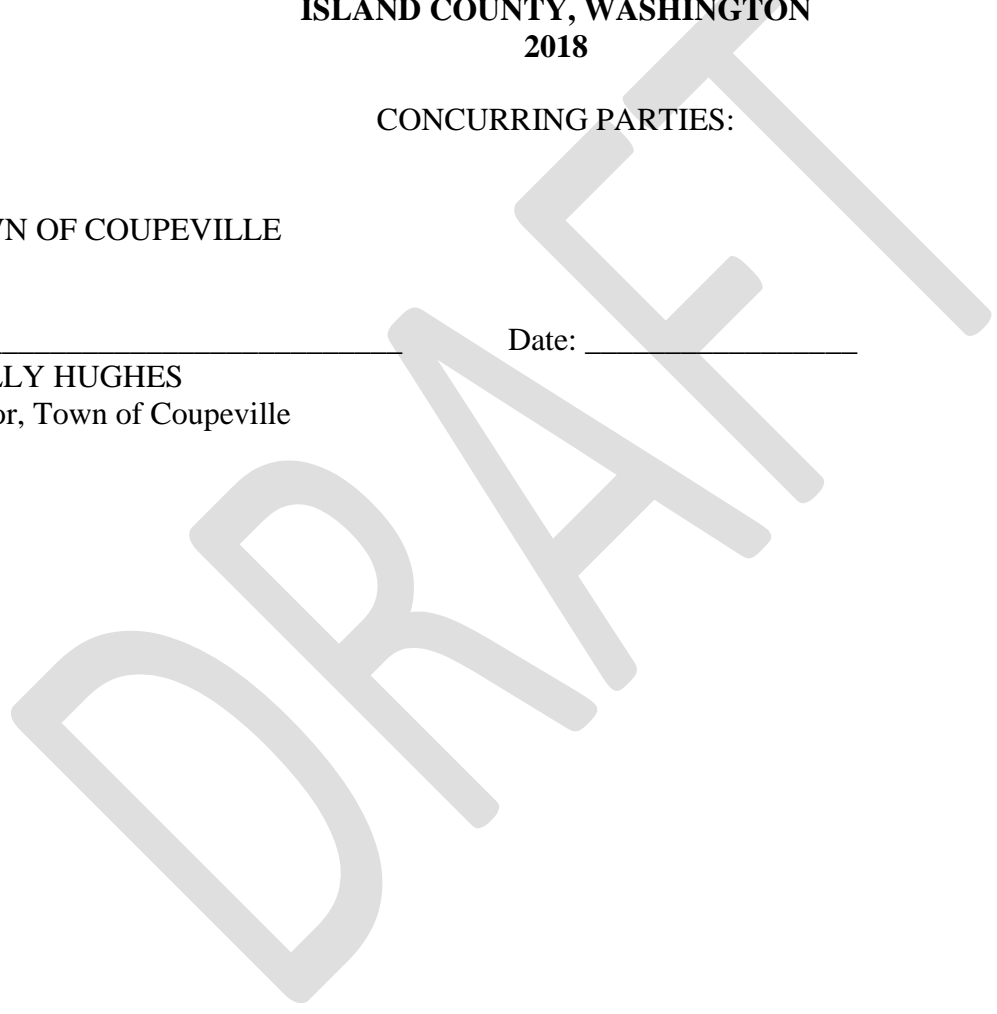
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CONCURRING PARTIES:

TOWN OF COUPEVILLE

By: _____ Date: _____
MOLLY HUGHES
Mayor, Town of Coupeville



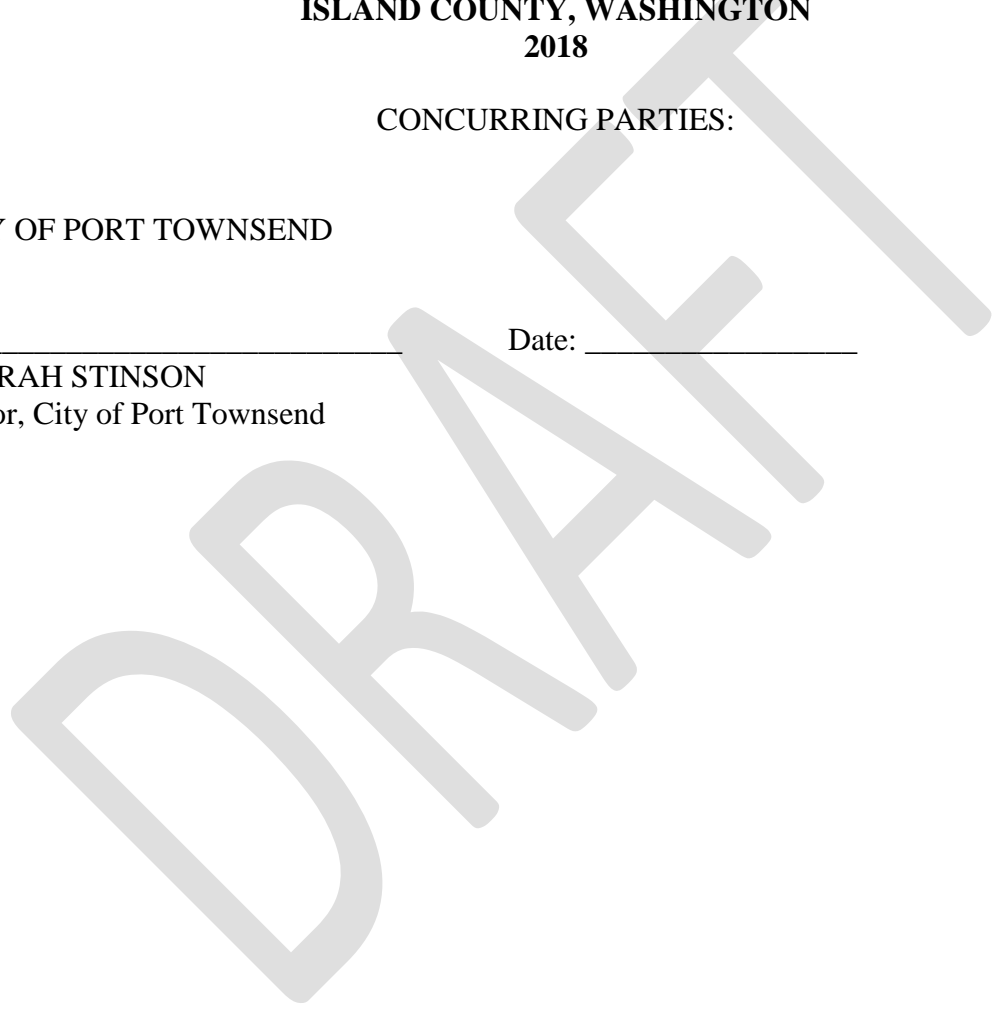
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CONCURRING PARTIES:

CITY OF PORT TOWNSEND

By: _____ Date: _____
DEBRAH STINSON
Mayor, City of Port Townsend



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466 **ISLAND COUNTY, WASHINGTON**
467 **2018**

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469 **CONCURRING PARTIES:**

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471
472 **CONCERNED CITIZEN OF COUPEVILLE**

473
474
475 By: _____ Date: _____
476 DAVID DAY

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CONCURRING PARTIES:

CITIZENS OF EBEBY'S RESERVE

By: _____ Date: _____
[NAME]

