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STATE OF NEW HAMPSHIRE
DEPARTMENT of RESOURCES and ECONOMIC DEVELOPMENT
DIVISION of PARKS and RECREATION

172 Pembroke Road P.O. Box 1856 Concord, New Hampshire 03302-1856
PHONE: (603) 271-3556 FAX: (603) 271-3553 E-MAIL: nhparks@dred.state.nh.us
WEB: www.nhstateparks.org

May 28, 2013

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Executive Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

1. In accordance with RSA 227-H:9 and RSA 216-A:3, III authorize the Department of Resources and Economic Development, Division of Parks and Recreation to issue a Facility Use Agreement to the Enriched Learning Center, LLC (ELC), Berlin, NH (Bus. ID #615514) for the exclusive use of certain facilities and outdoor recreation structures at Coleman State Park upon Governor and Executive Council approval through December 31, 2015.
2. Further authorize the Department to accept a one-time administrative fee in the amount of \$100, an annual Facility Rental Fee in the amount of \$2,000, plus a percentage of admission fees charged, to be paid by Enriched Learning Center, LLC in accordance with the terms of the Facility Use Agreement.

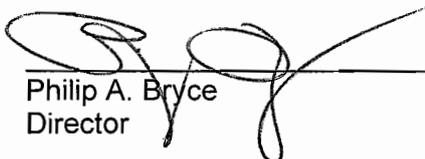
EXPLANATION

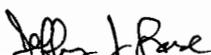
This Facility Use Agreement grants ELC "exclusive use" of certain facilities, outdoor recreation structures, and areas of the Coleman State Park to facilitate ELC's objective to provide experiential and adventure-based learning to students, youths, educators, and the general public, as a three-year pilot program. This Agreement strives to support the local economy, consider innovative partnerships with entities that support the State's mission, enhance park revenue, and provide new outdoor recreational opportunities to youths and the general public. Both parties recognize and agree that the State shall grant this Agreement at fees set for a test-of-concept, pilot period only, and that any future agreement with ELC shall contain fees set at reasonable market value as determined by the State.

The Attorney General's office has reviewed and approved this Agreement as to form, substance and execution.

Respectfully Submitted,

Concurred, *JR*


Philip A. Bryce
Director


Jeffrey J. Rose
Commissioner

PAB/JJR/jl

STATE OF NEW HAMPSHIRE
DEPARTMENT OF RESOURCES AND ECONOMIC DEVELOPMENT
DIVISION OF PARKS AND RECREATION

and
ENRICHED LEARNING CENTER, LLC

FACILITY USE AGREEMENT

RECEIVED

MAR 11 2013

D.R.E.D.

In accordance with RSA 227-H:9 and RSA 216-A:3, III, this Facility Use Agreement ("Agreement") is entered into by and between the State of New Hampshire Department of Resources and Economic Development, Division of Parks and Recreation ("State" or "Division") and the ENRICHED LEARNING CENTER LLC ("ELC"), P.O. Box 487, Berlin, NH 03570.

Whereas, Coleman State Park ("Park"), located in the town of Stewartstown, New Hampshire, is owned by the State of New Hampshire and managed through the Division of Parks and Recreation, and

Whereas, the area within the Park formally known as "Camp E-Toh-Anee," operated and managed by Eckerd Youth Alternatives, Inc., under contract with the NH Department of Health and Human Services, was unexpectedly vacated in November, 2011; and

Whereas, the State seeks use of certain areas within the camp, now known as "Coleman Estates," so as to support the local economy, consider innovative partnerships with entities that support the State's mission, enhance park revenue, and provide new outdoor recreational opportunities to youths and the general public; and

Whereas, the Enriched Learning Center LLC is a certified special education school; and is in "Good Standing" with the Secretary of State's Office (Bus. ID #615514); and

Whereas, ELC seeks to pilot outdoor experiential and adventure programs and services for students, youths, educators, and the general public at the Park through a Facility Use Agreement of certain Park facilities and outdoor recreation structures; and

Whereas, pursuant to RSA 216-A:1, State seeks "to make its park areas and facilities accessible to the public for recreational, education, scientific, and other uses consistent with their protection and preservation;" and "to encourage and support tourism and related economic activity within the State;" and

Whereas, pursuant to its Ten-Year Strategic Development and Capital Improvement Plan, the State seeks to accomplish the following objectives:

- Enhance revenue potential of existing and possible new recreational opportunities
- Seek support from foundations, businesses, and other entities
- Maximize revenue where compatible with purpose and mission
- Experiment with non-traditional products and pricing
- Develop all facets of programming to enhance the experience
- Establish ways to offer interactive, accessible, and coordinated environmental education and outdoor recreation programs in state parks; and

Whereas, the State has determined that this Agreement fulfills the intent and purpose to the State Park System Advisory Council's "Guiding Principles for Leasing;"

Now therefore, the Division and ELC agree to the following terms:

1. **PURPOSE.** This Agreement grants ELC "exclusive use" of certain facilities, outdoor recreation structures, and areas of the Park, as specifically identified herein and herein after known as the "Exclusive Premises;" and shared use of certain facilities, areas of the Park, associated roadways, pathways and trails, as specifically identified herein and herein after known as the "Shared Premises;" so as to facilitate ELC's objective to provide experiential and adventure-based learning to students, youths, educators, and the general public, as a three-year pilot program. Both parties recognize and agree that the State shall grant this Agreement at fees set for a test-of-concept, pilot period only, and that any future agreement with ELC shall contain fees set at reasonable market value as determined by the State.
2. **TERM.** The term of this Agreement shall be from date of Governor and Executive Council (G&C) approval through December 31, 2015, unless terminated earlier as provided herein. This Agreement is granted by the State as a test-of-concept, pilot program and shall not be extended or renewed. Any interest in continued operations by ELC shall be negotiated under a new Agreement with the State.
3. **FEES.** The following fees shall apply:
 - 3.1. *Administrative fee.* The ELC shall pay a one-time administrative fee of \$100.00, payable to the "Treasurer, State of New Hampshire." Payment shall accompany the signed Agreement.
 - 3.2. *Facility rental fee.* The ELC shall pay an annual facility rental fee of \$2,000.00, payable to the "Treasurer, State of New Hampshire." The first payment shall accompany the signed Agreement. All subsequent payments shall be made on the anniversary date of G&C approval, without demand. Late payments shall incur a \$100.00 late fee.
 - 3.3. *Admission fees.* The ELC shall pay the State the below prescribed admission fees. Admission fees shall be paid to the State on or before each December 1, and shall include a copy of booking records and the financial report used to calculate the payment. Late payments shall incur a \$100.00 late fee.
 - 3.3.1. \$100 per group rate booking, including but not limited to school and youth groups, and the North Country Health Consortium.
 - 3.3.2. \$5 per person for each private party booking, including but not limited to private parties, private summer camp groups, and the general public.
4. **PREMISES.** The ELC shall be granted "exclusive use" of the Park facilities, outdoor recreation structures, and areas specifically identified in Section 4.1 in the manner and conditions as stated.

The ELC shall be granted shared use of the Park facilities, outdoor recreation structures, and areas specifically identified in Section 4.2 in the manner and conditions so stated.

All facilities, structures, and areas granted for use and operation by the ELC is in "as is" condition, and the State shall not be required or compelled to improve, repair, rehabilitate, or

maintain such facilities, structures, and areas prior to or during the ELC's possession of same, except as provided herein.

- 4.1. *Exclusive Premises – “Exclusive Use.”* Access to and exclusive use of the following facilities, structures, and areas, herein after known as the “Exclusive Premises,” shall be granted to the ELC, at its sole liability and expense, under the following conditions and restrictions. See Attachment A, Coleman Estates Site Map.

For purposes of this Agreement, “exclusive use” shall mean that the State shall not expressly permit or grant use of the facilities, structures, and areas, known as the “Exclusive Premises” to any other party during the term of this Agreement. “Exclusive use” granted herein is a privilege to use said facilities, structures, and areas; and does not represent a real property interest in the land for which the State shall reserve all rights and privileges.

State Park lands are open to the public unless posted as closed or restricted. Therefore, the State does not prohibit or restrict public access to the Park, including but not limited to the Exclusive Premises. ELC shall not impede on the access, use, and enjoyment of the remaining Park facilities, structures, and areas by the general public. ELC may, however, reasonably prohibit or restrict general public use of certain facilities, structures, and areas under its “Exclusive Use” provided such prohibitions and restrictions is proposed in its annual Work Plan and is approved by the State. The Director’s determination in this matter shall be final.

- 4.1.1. *Warehouse, 2nd floor only (#COL27).* Use of the second floor of the warehouse, which shall be used as a three-season meeting room and function space. Access to the Warehouse shall be through the entryway door giving direct access to the second floor only. The State shall provide ELC 3 of keys, which ELC shall not duplicate and shall limit assignment to appropriate management staff. The use of or access to all other areas within the Warehouse shall be prohibited.
- 4.1.2. *Ropes Course A.* Use of the Ropes Course “A” located directly South of the Warehouse.
- 4.1.3. *Ropes Course B.* Use of the Ropes Course “B” located generally East of the Ropes Course “A.”
- 4.1.4. *Zip Line Course.* Use of the Zip Line Course located adjacent to the Warehouse, westerly.
- 4.1.5. *Climbing Wall.* Use of the Climbing Wall located adjacent to the Warehouse, westerly.
- 4.1.6. *Portable Structure (ID#).* Use of the Portable Structure, which shall be used as the check-in station and storage at the ropes course.
- 4.2. *Shared Premises – “Non-exclusive Use.”* Access to and non-exclusive use of the following facilities, structures, and areas located within the Exclusive Premises, herein after known as the “Shared Premises,” shall be granted to the ELC under the following conditions and restrictions. See Attachment A, Coleman Estates Site Map.

For purposes of this Agreement, "non-exclusive use" shall mean that facilities, structures, and areas so identified below shall have shared use with the State; and the State shall not expressly permit or grant use of said facilities, structures, and areas to any other party during the term of this Agreement. "Non-exclusive use" granted herein is a privilege to use said facilities, structures, and areas; and does not represent a real property interest in the land for which the State shall reserve all rights and privileges.

State Park lands are open to the public unless posted as closed or restricted. Therefore, the State does not prohibit or restrict public access to the Park, including but not limited to the Shared Premises: ELC shall not impede on the access, use, and enjoyment of the remaining Park facilities, structures, and areas by the general public. ELC may, however, reasonably prohibit or restrict general public use of certain facilities, structures, and areas under its "Shared Use" provided such prohibitions and restrictions is proposed in its annual Work Plan and is approved by the State. The Director's determination in this matter shall be final.

- 4.2.1. *Eckerd Way (ID#)*. Shared use with the State of Eckerd Way that provides roadway access to the Exclusive Premises. The State shall provide ELC 3 of keys to the roadway gate, which ELC shall not duplicate and shall limit assignment to appropriate management staff.
- 4.2.2. *Warehouse Parking Lot (ID#)*. Shared use with the State of the Warehouse parking lot.
- 4.2.3. *Associated roadways, footpaths, and trails*. Shared use with the State of the roadways, footpaths, and trails located within the Exclusive Premises.
 - 4.2.3.1. *Roadways and gates*. Roadways and gates will be open for vehicle traffic from the end of mud-season to the beginning of season closure, generally from Memorial Day weekend through Columbus Day weekend, unless there is a decision by the State to close specific roads indefinitely or temporarily, primarily as a result of adverse weather conditions or to prevent deterioration of the road bed. The State's decision in this matter shall be final, and the State shall inform ELC of any roadway restrictions or closures.
- 4.3. *Other Park Areas – Shared Use with the Public*. Access to and non-exclusive use of the following facilities, structures, and areas located within Coleman State Park shall be granted to the ELC under the following conditions and restrictions. See Attachment B, Coleman State Park Campground Map.
 - 4.3.1. *Coleman Visitor Center parking lot*. ELC use restricted to the winter season only, and for winter parking of standard vehicles only. ELC and its clients, customers, and visitors shall access the Exclusive Premises and the Park on foot using existing footpaths and trails, and by snowmobile using trails upon which snowmobiles are permitted. ELC shall be permitted to plow, at its cost and liability, the parking lot with prior permission from the State. The State shall not be required to plow the parking lot or roadways for the convenience of ELC.

- 4.3.2. *Coleman Campground.* Overnight use of the Exclusive Premises shall be prohibited. ELC, its participants and guests may reserve use of campsites at the Park Campground, using the State's standard procedures for camping reservations. All customary fees and rates shall apply.
- 4.4. *Utilities.* The State shall be responsible for the costs of electrical service within the Warehouse building, including the second floor area, for the purposes of lighting. No other utilities, including but not limited to water, septic, fuel, or communications services, shall be provided by the State.
- 4.4.1. Storage of fuels or firewood by ELC shall be prohibited.
- 4.5. ELC's activities at the Park and on the Exclusive and Shared Premises shall be conducted in a prudent, good and safe manner. Use of the Exclusive and Shared Premises shall be kept in good condition, including but not limited to matters of housekeeping, sanitation, and grounds upkeep, allowing for normal wear and tear as determined by the State. ELC shall promptly report any and all damage to the premises occasioned by storm, accident, or other such events.
- 4.5.1. ELC shall, at its sole expense, maintain the grounds within the Exclusive Premises as may be necessary for its programmatic needs. The State reserves its right to maintain the grounds within the Shared Premises and the Park, at its discretion, to protect and maintain park resources. The State shall not be required or compelled to maintain grounds and areas for the benefit or convenience of ELC.
- 4.6. ELC shall not alter, modify, nor make any improvements, whether temporary, cosmetic, or permanent, to the Exclusive or Shared Premises without prior approval from the State, as outlined below.
- 4.7. The State shall not be responsible for ELC's property stored, placed or left on the Exclusive or Shared Premises or the Park at any time.
- 4.8. The State shall inspect the Exclusive and Shared Premises at the end of each ELC summer operating season, or at least by each October 31, to ensure that the Exclusive and Shared Premises are in good working order and acceptable condition, normal wear and tear excepted. ELC shall fulfill, at its sole expense, all reasonable requests of the State to address any deficiencies found.
5. ANNUAL WORK PLAN AND REPORT. ELC shall provide to the State Regional Supervisor an annual written work plan and report ("Work Plan") that shall outline ELC's proposed activities and operations at the Park for the coming year, and shall summarize ELC's accomplishments over the previous year. The 2013 Work Plan shall be due 60-days upon signing of this Agreement, and each subsequent Work Plan shall be due each March 1st thereafter. The Work Plan shall include, but is not limited to the components outlined in Attachment C, Annual Work Plan & Report, which is incorporated herein.
- 5.1. The State shall review the Work Plan and shall, within 30 days, either approve the plan or request revision and resubmission of the Work Plan for the purpose of allowing ELC to address specific comments or objections made by the State, to the satisfaction of the State. The revised Work Plan shall be due to the State within 30 days following the

State's request for revision. The State reserves the right to reject any part of a proposed scope of work, but shall provide the basis of its decision in writing.

6. MEETINGS. The parties shall meet at least once annually on or before April 30, to discuss ELC's Annual Work Plan and Report. Subsequent meetings shall be held when deemed necessary by the State or Club at a place and time to be mutually agreed upon for the purpose of discussing operational and construction issues, official requests to the State, and other pertinent business which may arise.
7. STAFF AND SUPERVISION OF MINORS AND GUESTS. ELC shall ensure that its staff and volunteers are properly trained, certified and licensed, as is required for its operation; and shall comply with all requirements and best practices for the proper supervision and safety of minors and its guests. ELC shall be solely responsible and liable for its staff, subcontractors, volunteers, operations, programs, and all other associated activities conducted on the Exclusive and Shared Premises and within the Park.
8. IMPROVEMENTS, CONSTRUCTION, AND MAINTENANCE. ELC may only undertake or subcontract improvements, construction, and/or maintenance at the Park or on the Exclusive Premises if approved within the Annual Work Plan and/or with the expressed written permission of the State.
 - 8.1. *Cost of projects.* ELC shall bear the cost of all improvements, construction, and maintenance projects using its own equipment, tools, and materials, or subcontracting such State-approved work; and shall ensure that such work is done in a good and workmanlike manner and in compliance with all applicable laws, regulations, and building codes.
 - 8.2. *Sections 6(F) and 106 Regulatory Reviews.* The State agrees to facilitate the necessary review process under Section 6(f) of the Land and Water Conservation Fund program and Section 106 of the National Historic Preservation Act, if applicable. ELC agrees to hire and finance an archeologist, biologist, and any other consultant, if required for compliance with Sections 6(f) and 106. ELC agrees that no work will begin until all applicable regulatory approvals have been obtained by the State.
 - 8.3. *Title to Improvements.* **Any and all improvements fixed or permanently installed within or upon the Exclusive Premises by ELC or its subcontractors shall remain the property of ELC for the duration of this Agreement. Any and all improvements fixed or permanently installed within or upon the Exclusive Premises by ELC or its subcontractors shall vest, free and clear and without cost, to the State upon termination of this Agreement, unless the State, at its sole discretion, requires such improvements and/or installations be removed by ELC.** Should the State require such improvements and/or installations to be removed by ELC, ELC shall, at its expense, remove such improvements and installations within 30 days of the request or as arranged by mutual agreement, and shall restore the Exclusive Premises to its original condition prior to the execution of this Agreement, reasonable wear and tear excepted.
 - 8.3.1. All temporary improvements or structures built or installed by ELC that can be removed from the Exclusive Premises with no adverse or permanent impact to the

site or original structure, and can be removed with the site or original structure being restored to its original condition before such temporary improvement or construction occurred as determined by the State, shall remain the personal property of ELC. ELC shall remove such temporary improvements or structures within 30 days prior to the termination of this Agreement or as arranged by mutual agreement, and shall restore the Exclusive Premises to its original condition, reasonable wear and tear excepted. The decision of the DRED Commissioner relative to whether an improvement or structure built or installed by ELC is deemed fixed or permanent or temporary shall be final and conclusive to this matter.

9. **SIGNS, PROMOTIONS, AND ADVERTISING.** All signs, promotions and advertising matters shall be in good taste and acceptable to the State, whose decision will in all cases be final. All advertising shall credit the "State of New Hampshire, NH Division of Parks and Recreation" as a supporter of the ELC. The State reserves the right to prohibit any such materials or promotions.

Both parties agree to post a link to each other's website during the term of the Agreement.

10. **PROHIBITED ACTIVITIES.** No commercial activities or special events shall occur upon the Exclusive and Shared Premises or at the Park, except as is specifically provided for herein and through an approved Work Plan, or by separate Special Use Permit from the State.

11. **SPECIAL USE PERMITS.** Special Use Permits are required to grant ELC permission to hold special events at or reserve additional facilities or areas of the Park, including but not limited to the recreation building and other parking areas, not specifically granted to ELC herein and through an approved Work Plan. ELC shall apply for a Special Use Permit from the Regional Park Supervisor in accordance with the applicable administrative rules and park permitting policies, and all customary permitting and associated fees shall apply.

12. **RISK OF LOSS, DAMAGE, OR DESTRUCTION.** All property of every kind within the Exclusive Premises and the Park shall be at the sole risk of ELC and the State shall not be liable to the ELC or any other person for any injury, loss, damage, or inconvenience occasioned by any cause whatsoever to said property, including, but not limited to, any loss of income for any function, program or contract that may not take place for whatever reason due to an emergency or unforeseeable situation, or due to interruptions or loss of utilities.

12.1. The ELC shall, within 24-hours, report to the State, and restore or repair any and all damages or shall reimburse the State for any and all restoration and repair of State-owned real and personal property that is performed by the State, resulting from the ELC's use, or its subcontractors or any and all affiliates, of such property.

12.2. In the event that the facilities or trails, or any part thereof during said term, be destroyed or damaged by fire, flood, storm, war, or other casualty so that the same shall be thereby rendered unfit for the purposes of the ELC, the ELC may terminate this Agreement at its option. In any event, the State shall not be obligated to rebuild or replace any facility or trail, wholly or substantially destroyed by fire, flood, storm, war or other casualty. The State shall not be liable to the ELC for any loss, damage, or inconvenience occasioned by any cause whatsoever to the ELC's revenues, operations, activities or programs.

13. COMPLIANCE WITH LAWS AND REGULATIONS. The ELC shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the ELC. The ELC shall also comply with the policies and regulations of the Department of Resources and Economic Development, and all reasonable requests of the Division Director and his/her agents. The ELC shall procure at its expense all necessary licenses and permits required in connection with the operations described herein.

14. INDEMNIFICATION AND SOVEREIGN IMMUNITY.

14.1. To the full extent of the insurance required of the ELC, as stated herein, the ELC agrees to hold harmless and indemnify the State, its officers, employees and agents against any and all loss, damage, liability, expense, suits, demands and claims, including, but not limited to, cases of injury to third parties or their property, resulting from and arising out of:

14.1.1. Any improper act, improper failure to act, or negligence of the ELC, its servants, agents or invitees occurring on the Exclusive and Shared Premises or the Park in conjunction with the ELC's activities under this Agreement;

14.1.2. Anything owned or controlled by the ELC, its servants, agents, or invitees and used on the Exclusive and Shared Premises or the Park in connection with the ELC's activities under this Agreement; or

14.1.3. Any nuisance made by the ELC, its servants, agents, or invitees on the Exclusive and Shared Premises or the Park in connection with the ELC's activities under this Agreement.

14.2. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this Agreement.

15. INSURANCE.

15.1. *General Liability Insurance.* It is agreed that during the term of this agreement, ELC at its sole cost and expense and for mutual benefit of ELC and the State shall carry and maintain comprehensive general liability insurance against all claims of bodily injury or death in amounts of not less than One Million Dollars (\$1,000,000) per claim and Two Million Dollars (\$2,000,000) per incident; and of not less than \$300,000 for property damage, which insurance shall be extended to cover the State of New Hampshire in respect to the foregoing indemnification.

15.2. *Workers Compensation Insurance.* To the extent ELC is subject to the requirements of NH RSA chapter 281-A, ELC shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. ELC shall furnish the State proof of Workers' Compensation in the manner described in NH RSA chapter 281-A and any applicable renewal(s) thereof. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for ELC, or any subcontractor or employee of ELC, which might

arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of ELC under this Agreement.

- 15.3. *Standard Form.* All insurance shall be in the standard form employed in the State of New Hampshire, issued by underwriters acceptable to the State, and authorized to do business in the State. Each policy shall contain a clause prohibiting cancellation or modification of the policy earlier than ten (10) days after written notice thereof has been received by the State. Each policy shall also extend to the State of New Hampshire as additionally insured. ELC shall deposit with the State certificates of such insurance. Failure to comply may cause a delay in opening for business on schedule and shall be considered a material breach of this Agreement.
16. **SUBLETTING AND ASSIGNMENT.** ELC shall not assign this Agreement or sublet the Exclusive and Shared Premises, in whole or in part.
17. **RELATION TO THE STATE.** It is the intent of the parties hereto that ELC shall be legally considered as an independent contractor and that neither ELC nor its employees shall, under any circumstances, be considered servants or agents of the State of New Hampshire, and that neither the State nor ELC shall at any time be legally responsible for any acts of omissions on the part of the other, its servants, or invitees resulting in either personal or property damage to any individual, firm or corporation.
18. **SUPPORT FOR STATE ACTIONS.** ELC hereby acknowledges that the Park is managed by the State for a broad range of public purposes and ELC hereby agrees to support the State's management of the Park in good faith and also agrees that the rights and privileges granted herein shall not be used as a basis to oppose the State's sovereign privileges, management and corresponding actions taken by the State in the interests of the Park and the state park system.
19. **FINAL AUTHORITY.** ELC shall comply with all reasonable requests made by the State. The decision of the DRED Commissioner relative to the proper performance of the conditions of this Agreement shall be final and conclusive as to each matter not covered in the Agreement and questions that may arise in connection with the privileges granted, and also as to each matter which is not clearly covered herein.
20. **WAIVER OF BREACH.** No failure by the State to enforce any provisions hereof after any event of default on the part of ELC shall be deemed a waiver of its rights with regard to that event, or any subsequent event. No express failure of any event of default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other default on the part of ELC.
21. **ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto. If any provision of this Agreement is determined to be invalid or unenforceable, it shall not affect the validity or enforcement of the remaining provision hereof.
22. **AMENDMENT.** This Agreement may be amended, but shall not be extended, only by an instrument in writing signed by both parties hereto.

23. TERMINATION.

- 23.1. This Agreement shall be subject to cancellation by ELC, regardless of grounds therefore, by giving the State sixty (60) days written notice of cancellation.
- 23.2. This Agreement shall be subject to cancellation by the State, in the event of the failure of ELC to perform, keep and observe any of the conditions of the Agreement and the failure of ELC to correct the default or breach within a time specified by the Department Commissioner, by giving ELC thirty (30) days written notice of cancellation.

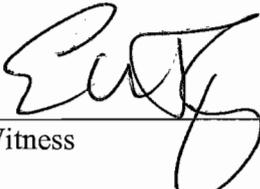
24. FIELD CONTACTS. In matters pertaining to field operations, the following persons shall represent their respective agencies:

STATE
 Sanford Young, GNWMA Supervisor
 P: 603-538-6707
 E: Sanford.Young@dred.state.nh.us

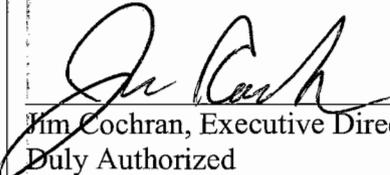
Enriched Learning Center LLC
 Jim Cochran, Exec. Director
 P: 603-215-0002
 E: jcochran@enrichedlearning.net

IN WITNESS WHEREOF, the parties hereto have set their hands the date herein named.

ENRICHED LEARNING CENTER LLC



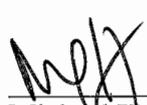
 Witness Date 3/4/12



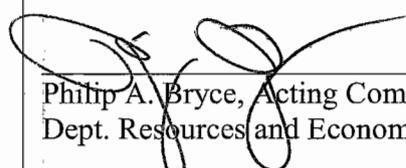
 Jim Cochran, Executive Director Date 3/4/13
 Duly Authorized

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF RESOURCES AND ECONOMIC DEVELOPMENT**

Concur:



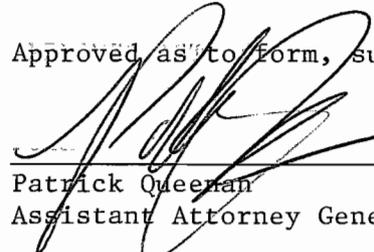
 Michael Housman, Park Ops Supv Date 3/19/13
 Division of Parks and Recreation



 Philip A. Bryce, Acting Commissioner Date
 Dept. Resources and Economic Develop.

PAB/ttl.022213

Approved, as to form, substance and execution



 Patrick Queenan Date 5/6/13
 Assistant Attorney General

Governor & Executive Council Approval Date _____ Item # _____

ATTACHMENT A: COLEMAN ESTATES SITE MAP

INSERT MAP

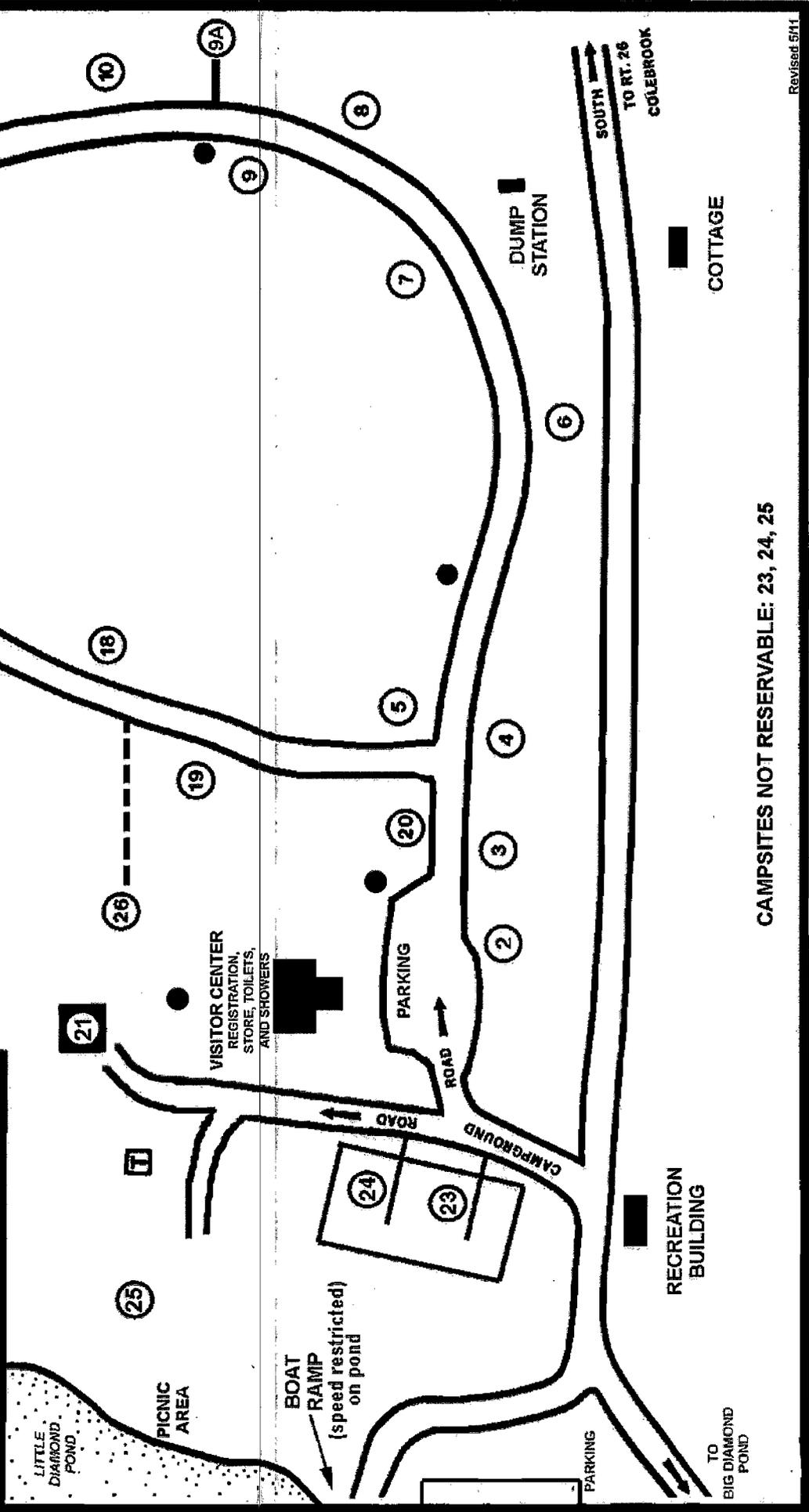
ATTACHMENT B: COLEMAN CAMPGROUND SITE MAP

INSERT MAP

COLEMAN STATE PARK
CAMPGROUND
STEWARTSTOWN, NH

LEGEND

-  **CAMP SITE**
-  **WATER**
-  **PIT TOILET**
-  **LEAN-TO SITE**



CAMPSITES NOT RESERVABLE: 23, 24, 25

ATTACHMENT C: ANNUAL WORK PLAN & REPORT

As stipulated in the Agreement under Article 5, Annual Work Plan & Report, ELC shall provide to the State an annual Work Plan and Report ("Work Plan") that outlines ELC's proposed activities, including but not limited to any proposed construction, and operations for the coming year, and summarizes ELC's accomplishments over the previous year. The initial Work Plan shall be due within 60-days following the execution of this Agreement. Subsequent Work Plans shall be due each March 1st and shall include, but is not limited to the components outlined in this Attachment C, Annual Work Plan & Report.

The State's review, request for revision, and approval of the Work Plan shall follow the provisions under Article 5.1, which states:

"5.1. The State shall review the Work Plan and shall, within 30 days, either approve the plan or request revision and resubmission of the Work Plan for the purpose of allowing ELC to address specific comments or objections made by the State, to the satisfaction of the State. The revised Work Plan shall be due to the State within 30 days following the State's request for revision. The State reserves the right to reject any part of a proposed scope of work, but shall provide the basis of its decision in writing."

The Work Plan shall include, but is not limited to, the following matters:

A. Status on previously State-approved Park improvements, construction, and maintenance projects

ELC shall list and summarize any and all current and completed improvements, construction, and maintenance for the previous year, including but not limited to trails and facilities. Each project-specific summary shall also include the following:

1. Volunteer Activities: Total number of volunteers and volunteer hours, a list and the value of donated equipment and materials.
2. Contracted Activities: Total number of contracted labor, total value of contracted work, a list and the value of purchased equipment and materials.

B. Proposed Park improvements, construction, and maintenance projects

ELC shall list and describe any and all proposed improvement, construction, and planned maintenance projects for the year, including but not limited to trails, appurtenant structures, buildings, and facilities. All proposed improvements, construction, and maintenance projects require prior written approval by the State.

C. Report on operations of previous year

ELC shall summarize its operations activities for the previous year, based upon its approved operations plan from the previous year. The report shall include, but is not limited to:

1. Actual hours of operation;
2. Actual rate and fee schedules, including complimentary and discounted tallies;
3. Attendance and visitor records categorized by service, program or event;
4. Actual income and expenses of operations, and a balance sheet;

5. Actual marketing, advertising, and promotional activities;
6. Collaborative activities with sponsors, partners, and other parties;
7. Actual trails and facilities usage, including utilities.
8. Emergency, accident or incident reports; and
9. Any notable achievements or the recognition of individuals or sponsors.

D. Proposed Operations Plan

ELC shall list and describe any and all proposed operations plans for the upcoming season, including:

1. Recreation services and programs.
 - a) Hours of Operation and Event Dates.
 - b) Programs, Activities, and Events.
 - i. All customary programs, activities, and events being offered by ELC to its clients, customers, and the general public shall be submitted to the State.
 - ii. Any new program or event not covered in the Work Plan shall be approved separately and individually through the Special Use Permit program. All customary policies, procedures, fees, and requirements of the Special Use Permit program shall apply.
 - c) Fees and Insurance.
 - i. Rate Schedule. All program fees, admission, rates and prices charged by ELC shall be competitive with similar privately operated facilities. The State's approval shall be automatic unless the State makes a determination that the rates are not competitive and so notifies ELC.
2. Public use restrictions.
3. Promotions and advertising initiatives and activities.
4. Grants and sponsorship initiatives and activities.

E. Report on financial accountability

ELC shall submit a financial report of its business, including but not limited to: 1) an accounting of its annual fee due the State, as stipulated in the Agreement under Article 3, Fees; 2) Profit & Loss Statement and Balance Sheet associated with its operation upon the Exclusive Premises and the Park; 3) its reinvestment in the Exclusive Premises or the Park facilities; and 4) any other information normally associated with its operation at or upon the Exclusive Premises and the Park.

F. Organizational accountability

ELC shall remain in good standing with the Secretary of State's Office, including but not limited to compliance with registration and annual reporting requirements.

Client#: 97732

ENRILEA

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/28/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER: CBIZ Insurance Services, Inc. 44 Baltimore St, Cumberland, MD 21502, 301 777-1500. CONTACT NAME: John Buchanan, PHONE: 301 777-1500. INSURER A: New Hampshire Insurance Co. NAIC #: 23841. INSURED: Enriched Learning Center, PO Box 487, Berlin, NH 03570.

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Table with columns: INSR LTR, TYPE OF INSURANCE, ADDL SUBR INSR, WVD, POLICY NUMBER, POLICY EFF (MM/DD/YYYY), POLICY EXP (MM/DD/YYYY), LIMITS. Includes sections for General Liability, Automobile Liability, Umbrella Liab, and Workers Compensation.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required) It is understood and agreed that the Certificate Holder is named as Additional Insured, but only with respect to its liability arising out of the activities of the named insured. Ropes Course Liability insurance pending.

CERTIFICATE HOLDER: New Hampshire Division of Parks and Recreation, PO Box 1856, Concord, NH 03302. CANCELLATION: SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE: [Signature]