

INTERLOCAL AGREEMENT

between the

**Parks and Recreation Division of the King County Department of Natural Resources and Parks,
and the
City of Maple Valley**

THIS AGREEMENT, made and entered into as of the date last set forth below by and between King County, a home rule charter county, through the Parks and Recreation Division of its Department of Natural Resources and Parks, (hereinafter "Division" or "King County") and the City of Maple Valley, Washington, a non-charter code city and municipal corporation organized pursuant to RCW Title 35A (hereinafter "City"), for contribution of funds towards the design, development, and construction of Combination Fields #1 and #2 and related infrastructure (two synthetic multiuse athletic fields) (the "Facility") at Ravensdale Park.

RECITALS

- A. King County is a home rule charter county that, among other things, provides regional and rural parks, recreation, and sports facilities for public use. RCW 36.68.090 authorizes the King County to build, construct, care for, control, supervise, improve, operate and maintain parks, swimming pools, and other recreational facilities.
- B. The City is a non-charter code city and municipal corporation organized pursuant to RCW Title 35A, with all of the applicable rights, powers, privileges, duties and obligations of a non-charter code city as established by law.
- C. The Ravensdale Park Foundation ("RPF") is a community-based nonprofit organization with a mission to steward the Ravensdale Park Master Plan on behalf of public users and other stakeholders of King County's Ravensdale Park.
- D. The City desires to support the development of public recreation facilities that provide recreational opportunities for its constituents which comprise approximately sixty percent of the youth served by RPF member organizations, and to secure field time for City contracted and/or operated programs distinct from those offered by RPF.
- E. RPF has the experience, ability, and resources to develop synthetic ballfields and related infrastructure and intends to develop the Facility for public use, with an expected infrastructure life of approximately thirty years with standard turf carpet replacements every ten years.
- F. RCW 36.89.050 authorizes King County to participate with other local governments in the financing, acquisition, construction, development, improvement, use, maintenance and operation of open space, park, recreation and community facilities.
- G. Under King County Code Section 2.16.045.E.1 the duties of the Division include providing active recreation facilities by facilitating agreements with other jurisdictions and entities.

- H. Pursuant to a Use Agreement between RPF and the County (the "RPF Use Agreement"), a form of which is attached hereto as Exhibit A, RPF will be responsible for designing, permitting and constructing the Facility consistent with the terms of such RPF Use Agreement.
- I. Consistent with the terms of this Agreement, the RPF Use Agreement shall reflect that one thousand (1,000) annual hours of first priority field use scheduling will be allocated to City contracted and/or operated programs at the Facility during peak field hours. Peak field hours are defined as 5:00 p.m. - 10:00 p.m. on weeknights and 9:00 a.m. – 10:00 p.m. on weekends.
- J. King County and the City have determined that constructing the Facility at King County's Ravensdale Park will have significant public recreation value.

NOW, THEREFORE, in consideration of the promises and commitments made herein, King County and the City of Maple Valley agree as follows:

AGREEMENT

- 1. **PARTIES.** The parties to this Agreement are the Division and the City. There are no other parties and no third party beneficiaries. This Agreement creates no legal right, obligation, or cause of action in any person or entity not a party to it. The parties' representatives are identified below. All communication, notices, coordination, and other aspects of this Agreement shall be managed by the parties' representatives. Either party may change or substitute its representative at any time during the term of this Agreement by providing written notice to the other party.

The Division's representative is:
Jessica Emerson, Section Manager
Parks and Recreation Division
Department of Natural Resources & Parks
201 South Jackson Street, Suite 700
Mailstop: KSC-NR-0700
Seattle, WA 98104-3855
Email: jessica.emerson@kingcounty.gov
Phone: 206-477-4563

The City's representative is:
Greg Brown, Director
City of Maple Valley
Parks and Recreation
PO Box 320
Maple Valley, WA 98038
Email: greg.brown@maplevalleywa.gov
Phone: 425-413-8800 ext. 663

- 2. **TERM.** Except as it may be later amended in writing pursuant to Section 23, or unless it is terminated as provided herein, the term of this Agreement shall commence on the date it is fully executed, and end on the thirtieth anniversary of the first day the Facility is open to the public.
- 3. **CONSIDERATION.**
 - A. If the conditions in this section are satisfied, the City shall remit to the County Two Million Dollars prior to March 31, 2014, which funds shall be disbursed by the County exclusively to pay for Facility related design and construction expenses. The City's obligation to remit Two Million Dollars to the County is

contingent upon the King County Council appropriating and paying equal funds of Two Million Dollars toward the Ravensdale Park Foundation for the construction of the Facility pursuant to the RPF Use Agreement. The City shall be under no obligation, directly or indirectly, to pay for any labor, material, or improvement associated with the Site or the Facility in excess of the Two Million Dollars contribution detailed above. The County shall use the City funds for these Facility related construction costs, and no other.

- B. For the first ten (10) years City contracted and/or operated programs shall be allocated one thousand (1,000) peak field hours of Facility use on an annual basis, PROVIDED that the City acknowledges and agrees that RPF programs shall also receive first priority public use scheduling at the Facility up to five thousand (5,000) peak hours per year, for years one through ten, pursuant to the terms and conditions set forth in the Separate Agreement attached hereto as Exhibit A, and PROVIDED FURTHER that the City agrees to work in good faith with RPF to schedule each party's allocation of priority hours at Ravensdale Park. Peak field hours are defined as 5:00 p.m. - 10:00 p.m. on weekdays and 9:00 a.m. - 10:00 p.m. on weekends. For the first ten (10) years of operation, the City shall be charged a reduced rate of Sixteen Dollars (\$16.00) per hour, per field. For every hour of annual use beyond the 1,000 hours, the City shall pay King County the standard hourly rate established for the Facility. The City's reduced hourly rate does not include ballfield lighting, which shall be charged at the Division's standard rate. After the City has received its annual allocation of hours, it may, on a monthly basis, opt to waive any portion of its allocated hours and have them reallocated to RPF or other users by the County at the County's discretion. The City shall not incur any charges for field time or lights associated with any hours that are waived pursuant to this provision. The City acknowledges and agrees that the City and RPF's youth programming shall be given preference in determining allocation of the earlier times slots during the weekday and weekend peak field hours.
- C. This Agreement is for a term of thirty years. During the course of this thirty-year term, the parties anticipate that the Facilities may need additional capital improvements/investments to maintain the quality of the Facility. The County and the City reserve the right to negotiate supplemental terms to this agreement if necessary, relating to the need for additional capital investments. At two points during the term of this contract, at least twelve months before the end of the first ten years of the contract and the second ten years of the contract, the parties shall determine if such capital improvements are necessary. If so, the parties may supplement the terms of this agreement accordingly by mutual agreement. In addition, the parties may determine if supplemental terms regarding lighting, priority use, hourly use or other details are necessary at the same two points during the term of this contract. King County shall retain ownership of the Site and the Facility, including all improvements, permanent fixtures, and county-purchased equipment. The City shall have no obligation to contribute toward any additional capital investments that might be deemed necessary.

D. The City shall remit Facility use payments to the Division at the address below:

King County Parks / Regional Scheduling Office
PO Box 2798
Renton, WA 98056

4. USE OF BOND PROCEEDS FUNDS. All funds remitted hereunder to the County from proceeds of bonds issued by the City (referred to herein as the "Bond"), which is expected to comprise \$1,500,000 of the \$2,000,000 remitted pursuant to Section 3(A) above, shall be used by the County only and solely for the purposes described in this Agreement. The County hereby agrees to consult with bond counsel to the City with respect to any proposed change in use of the Facility from athletic fields to another use.
5. DISPUTE RESOLUTION. In the event any dispute regarding this Agreement cannot be resolved by informal methods, then prior to commencing litigation or taking any administrative action, the aggrieved party shall notify the other in writing of the particulars of the grievance, and the other party shall reply in writing within ten working days, setting forth its position and stating what, if any, action it will take with respect to the grievance. The aggrieved party shall respond in writing, indicating its satisfaction or dissatisfaction, as the case may be; in the event the aggrieved party is dissatisfied, the parties shall then meet in person and confer in good faith to resolve their differences before litigation is commenced.
6. ANTI-DISCRIMINATION. In all hiring or employment made possible or resulting from this Agreement, there shall be no discrimination against any employee or applicant for employment because of sex, age, race, color, creed, national origin, sexual orientation, gender identity or expression, age (except minimum age and retirement provisions), marital status or the presence of any sensory, mental, or physical handicap, unless based upon a bonafide occupational qualification. This requirement shall apply to but not be limited to the following: employment, advertising, lay-off, or termination, rates of payor other forms of compensation, and selection for training, including apprenticeship. Further, no person shall be denied or subjected to discrimination in receipt of the benefit of any services or activities made possible by or resulting from this Agreement on the grounds of sex, race, color, creed, national origin, sexual orientation, gender identity or expression, age (except minimum age and retirement provisions), marital status, or the presence of any sensory, mental, or physical handicap. Any violation of this provision shall be considered a violation of a material provision of this Agreement and shall be grounds for termination or suspension in whole or in part of this Agreement by King County and may result in ineligibility for further King County agreements.
7. FINANCING CONTINGENCY. The City's funding obligations herein are contingent on the City's satisfactory completion of a sale of bonds, the proceeds of which will be used to satisfy the City's obligation.
8. COMPLIANCE WITH ALL LAWS AND REGULATIONS. The City and the County agree to comply with all applicable laws, ordinances and regulations from any and all authorities having jurisdiction over it, the activities contemplated in this Agreement.

9. INSURANCE. No insurance certification is required. However, the Parties agree to maintain premises and vehicle liability insurance in force with coverages and limits of liability that would generally be maintained by similarly situated agencies, and workers compensation insurance as may be required by Washington State statutes.
10. BREACH BY COUNTY. If the County fails to perform its obligations under this agreement after the City has satisfied its funding obligation, including issuing any required permits for the facility, the City shall have available to it any legal or equitable remedies including specific performance.
11. NO EMPLOYMENT RELATIONSHIP. With regard to any of the City's programming or activities at the Facility which occur pursuant to this Agreement, the City is an independent Contractor, and neither it nor its officers, agents, employees, or subcontractors are employees of the Division for any purpose. The City shall be responsible for all federal and/or state tax, industrial insurance, and Social Security liability that may result from the performance of and compensation for these services and shall make no claim of career service or civil service rights which may accrue to a Division employee under state or local law. With regard to the City's programming, the Division assumes no responsibility for the payment of any compensation, wages, benefits, or taxes by, or on behalf of the City, its employees, subcontractors and/or others by reason of this Agreement. The City shall protect, indemnify, and save harmless the Division, its officers, agents, and employees from and against any and all claims, costs, and/or losses whatsoever occurring or resulting from (1) the City of Maple Valley's failure to pay any such compensation, wages, benefits, or taxes, and/or (2) the supplying to the City of work, services, materials, or supplies in connection with or support of the performance of this Agreement.
12. INDEMNIFICATION AND HOLD HARMLESS; RELEASE AND WAIVER. The City of Maple Valley and the County agree to defend, indemnify and hold harmless each other, their respective officials, agents and employees, from and against any and all claims, damages, injuries, liabilities, actions, fines, penalties, costs and expenses (including reasonable attorney fees) that arise out of or are related to the negligent acts or omissions of the indemnifying party, (and its officials, agents, employees acting within the course and scope of their employment) the performance of said party's obligations under this Agreement or the exercise of a party's rights and privileges under this Agreement. In the event any such liability arises from the concurrent negligence of the indemnifying party and the other party the indemnity obligation of this section shall apply only to the extent of the negligence of the indemnifying party and its actors.

The foregoing provisions specifically and expressly intend to constitute a waiver of each party's immunity under industrial insurance, Title 51 RCW, as respects the other party only, and only to the extent necessary to provide the indemnified party with a full and complete indemnity of claims made by the indemnitor's employees. This waiver has been mutually negotiated.

13. ENTIRE AGREEMENT. This Agreement and any and all attachments expressly incorporated herein by reference and attached hereto shall constitute the whole agreement between the Division and the City. It replaces all other negotiations and agreements. There are no terms, obligations, allowances, covenants, or conditions other than those contained herein.
14. WAIVER. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such through written approval by the Parties, which shall be attached to the original Agreement.
15. ATTACHMENTS.
Exhibit A: Use Agreement between the Parks and Recreation Division of the King County Natural Resources and Parks and the Ravensdale Park Foundation for the Construction and Public Use of Combination Fields #1 and #2 at Ravensdale Park.
16. POLICE POWERS. Nothing contained in this Agreement shall be considered to diminish the governmental or police powers of the Division or the City.
17. IMPOSSIBILITY. The performance of this Agreement by either party is subject to acts of God, war, government regulation or advisory, disasters, fire, accidents or other casualty, strikes or threat of strikes, civil disorder, acts and/or threats of terrorism, or curtailment of transportation services or facilities, cost or availability of power, or similar causes beyond the control of either party making it illegal, impossible or impracticable to hold, reschedule or relocate the Event as set forth. Either party may terminate or suspend its obligations under this Agreement if such obligations are prevented by any of the above events to the extent such events are beyond the reasonable control of the party whose reasonable performance is prevented.
18. NO PARTNERSHIP. Nothing contained herein shall make, or be deemed to make, the Division and City a partner of one another, and this Agreement shall not be construed as creating a partnership or joint venture.
19. SINGULAR AND PLURAL. Wherever the context shall so require, the singular shall include the plural and plural shall include the singular.
20. HEADINGS NOT PART OF AGREEMENT. The headings in this Agreement are for convenience only and shall not be deemed to expand, limit, or otherwise affect the substantive terms of this Agreement.
21. GOVERNING LAW. This Agreement is made under and shall be governed by the laws of the State of Washington.
22. JURISDICTION AND VENUE. King County Superior Court shall have jurisdiction over any litigation arising under this Agreement, and the venue for any such litigation shall be the King County Superior Court in Seattle, Washington.

23. AMENDMENT. This Agreement may be modified or amended only if the amendment is made in writing and is signed by King County and the City with this same formality as this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the last date set forth below.

King County, Parks and Recreation Division

City of Maple Valley

By 
Kevin R. Brown, Division Director

By 
David Johnston, City Manager

Date 4/9/14

Date 4/4/2014