

Clerk's  
Receiving No. 806  
Date: 05/26/2006  
Reference: P-06-480  
City Clerk: *[Signature]*  
Deputy *[Signature]*

**AGREEMENT BETWEEN THE CITY OF MAPLE VALLEY AND THE  
GREATER MAPLE VALLEY COMMUNITY CENTER REGARDING THE  
OPERATION AND USE OF CERTAIN FACILITIES AT LAKE  
WILDERNESS PARK**

**I. RECITALS**

WHEREAS, RCW 35A.11.020 authorizes the City of Maple Valley ("City") to enter into agreements with private entities for the use of real property; and

WHEREAS, the City is interested in the health and welfare of its residents; and

WHEREAS, the Greater Maple Valley Community Center ("GMVCC") is an independent non-profit agency that provides a range of human services primarily to citizens who reside within the City of Maple Valley and within the Greater Maple Valley area; and

WHEREAS, the City is the fee simple owner of the real property upon which facilities owned and operated by the GMVCC ("GMVCC Facility") are located ("Community Site"), and the GMVCC is the owner of the current structures serving as the GMVCC Facility on said City property; and

WHEREAS, in April 1994 the GMVCC and King County entered into an agreement for the use of the Community Site and that agreement was subsequently assigned by King County to the City in 2000; and

WHEREAS, the April 1994 agreement between the GMVCC and King County terminated by its own terms after ten (10) years and is therefore no longer in effect; and

WHEREAS, both parties agree that the current GMVCC Facility provides an essential venue for positive, safe, and life-enriching programs and activities for children, youth, families and seniors and thereby fulfills an important public purpose and public benefit; and

WHEREAS, the City and the GMVCC desire to work together to establish a new Youth Center in which the GMVCC, in addition to other agencies, will operate Youth Programs; and

WHEREAS, the City will construct and/or install buildings on the Community Site, including a Youth Center, and the City will be the owner of such building(s); and

WHEREAS, both parties agree that it would be in the community interest for the GMVCC to lease and have operational control of the Youth Center subject to the terms of this

Agreement, reserving the right of the City to use the Youth Center; and

WHEREAS, both parties intend that the GMVCC will continue to operate its current GMVCC Facility and the new Youth Center in a manner that will provide positive and healthful programs for children, youth, teens, families and seniors;

NOW, THEREFORE, in consideration of the mutual undertakings, promises, terms, and provisions herein, the parties agree as follows:

## II. DEFINITIONS

- A. "Agreement" means this Agreement herein, and any amendments that may be agreed upon by the parties in writing.
- B. "City" is the City of Maple Valley, a municipal corporation and political subdivision of the State of Washington organized under the laws of the State of Washington.
- C. "Community Site" is the area of approximately five acres, legally described in **Exhibit A** which is incorporated by this reference as if fully set forth herein, owned by the City in fee simple, and upon which are located buildings housing the current GMVCC Facility, certain aspects of the Maple Valley Historical Society, and a skateboard park.
- D. "GMVCC" is the Greater Maple Valley Community Center, an independent non-profit agency organized under the laws of the State of Washington.
- E. "GMVCC Facility" are the current existing structures located at 22010 SE 248th Street in Maple Valley, Washington, and in which the GMVCC conducts its operations and programs, including caretaker facilities.
- F. "Youth Center" is a building or buildings to be constructed and/or installed adjacent to the GMVCC Facility and in which the GMVCC will conduct and provide Youth Programs.
- G. "Youth Programs" are the services and programs which may be provided by the GMVCC in order to encourage and support the physical, social, and emotional well-being of the youth and teens of Maple Valley..
- H. "Premises" refers to the current GMVCC Facility and the new Youth Center.

### **III. TERM OF AGREEMENT**

- A. Effective Date of Agreement. This Agreement shall be effective upon execution.
- B. Term. The term of this Agreement shall be ten (10) years, subject to the GMVCC's programming and operation of the current GMVCC Facility and the new Youth Center consistent with the letter and spirit of this Agreement. After the initial ten-year term, the Agreement will be automatically renewed on an annual basis unless the parties agree otherwise.
- C. Termination of Agreement. Upon no less than nine (9) month's written notice from one party to the other, a party may terminate this Agreement, subject to the conditions herein. Additionally, as to the City owned Youth Center covered by this Agreement, the City or the GMVCC may terminate this Agreement, subject to the provisions herein. In such event, the GMVCC will immediately surrender the Youth Center to the City. As to the GMVCC owned buildings and/or structures covered by this Agreement (i.e., the current GMVCC Facility), the City and the GMVCC will work cooperatively through the dispute resolution process stated in Section XXX of this Agreement to determine an appropriate use of the GMVCC Facility, including purchase of same for fair market value.

### **IV. OWNERSHIP OF REAL PROPERTY AND OF CURRENT GMVCC FACILITY**

Consistent with the April 1994 agreement between the GMVCC and King County (as subsequently assigned to the City in 2000), the real property shall remain the property of the City. The GMVCC will continue to own the current GMVCC Facility, including the fixed assets and other improvements made by the GMVCC to the Community Site during the leased period prior to the 1994 Agreement and the ten (10) year term of that agreement, as well as any such assets and improvements made between the expiration of the 1994 agreement with King County and the execution of this Agreement herein. Any personal property stored at the Community Site (i.e., furniture, pictures, clothing, supplies) will remain the property of the party which owns it.

### **V. REMOVAL OF CURRENT YOUTH SERVICES COUNSELING TRAILER**

The GMVCC authorizes the City to remove the current "Youth Services Counseling Trailer" on the site in order to provide adequate space for the new Youth Center. The City will remove said trailer at its own expense. The GMVCC agrees that it will not seek any reimbursement or compensation for the removal and demolition of said trailer.

## **VI. GMVCC'S LEASE OF NEW YOUTH CENTER FROM CITY**

The City, as landlord, hereby leases to the GMVCC, and the GMVCC, as tenant, hereby leases from the City, subject to the terms and conditions herein, the Youth Center, which will be located on the Community Site, more particularly described as follows: Assessor's Parcel Number 2122069028 located at 22010 SE 248th Street in Maple Valley, Washington.

## **VII. RENT**

In consideration of the value to the residents of the City and the greater Maple Valley area of the GMVCC's operation and maintenance of the Premises, and subject to the terms and conditions of this Agreement, the GMVCC shall pay no rent for the Premises during the term of this Agreement.

The GMVCC may continue to charge entities other than the City for temporary use of the GMVCC Facility. The GMVCC is also authorized to charge entities other than the City for the temporary use of the new Youth Center facility.

## **VIII. AUTHORIZED USE OF PREMISES**

- A. Scheduling. The GMVCC shall continue to be responsible for scheduling the use of the Premises for the provision of health and human services and for all other compatible and historical uses of the site, including but not limited to community meetings, conferences, and other related activities.
- B. Authorized Use by the GMVCC. The City and the GMVCC agree that the GMVCC shall use the Premises for the primary purpose of providing health and human services, cultural, and recreational activities to the public. The GMVCC may use the Premises for its organizational purposes including offices, staff training, and meetings.
- C. Authorized Use by the City.
  - 1. The City reserves the right to use the Youth Center, with the exception of the GMVCC's administrative offices, on a space available basis. Scheduling and use procedures shall be coordinated by the respective facility managers. In any event, space for GMVCC programs will be the first priority for the Youth Center where the uses of the GMVCC and the City are in conflict.
  - 2. The City shall be allowed to use the Youth Center without rental charge but shall pay all expenses related to use of the Youth Center. GMVCC staff is

not required to be at the Youth Center for City events. The City is required to provide janitorial services for City events at its own expense and may use GMVCC services at its expense. The parties will determine a reasonable method to prorate costs where applicable.

#### **IX. ANNUAL MEETINGS**

Designated representatives of the City and the GMVCC shall meet at least once per year for the purpose of discussing issues related to the parties' programs and services, progress toward meeting or exceeding mutually agreed upon program achievements, and the implementation and operation of this Agreement.

#### **X. RESERVE, RECORD KEEPING, AND REPORTING**

- A. The City Manager (or designee) shall have administrative responsibility for the City's performance under this Agreement and shall review and may approve for payment reimbursement requests submitted by the GMVCC. The Executive Director of the GMVCC shall be responsible for overall administration of GMVCC's services and for coordination with the City with respect to this Agreement.
- B. The GMVCC shall maintain books, records, documents, and other accounting procedures and practices in accordance with Generally Accepted Accounting Principles ("GAAP") consistently applied (e.g., a unitary, internally consistent system of accounts and records) that sufficiently and properly reflect all receipts and direct and indirect costs of any nature associated with the exercise of rights and the performance of obligations by the GMVCC under this Agreement.
- C. The GMVCC shall provide monthly reports to the City on a schedule and in a form acceptable to the City. The reports shall include, at a minimum, program assessment reports, which will include the number of programs offered and the number of unduplicated participants, insofar as practical, involved in drop-in activities and programs.

#### **XI. IMPROVEMENTS, ALTERATIONS, AND ADDITIONS TO THE PREMISES; MAINTENANCE AND UPKEEP; UTILITIES**

- A. GMVCC Owned Facilities.
  - 1. Improvements, Alterations, and Additions to GMVCC Owned Facilities.  
The City and the GMVCC agree that any and all improvements which

enlarge the footprint of the buildings and other built structures on the Premises, or which alter the exterior appearance of said structures or of the grounds of the Community Site, shall be subject to the review and approval of the City. It is further agreed that such alterations to said structures or to the grounds which may be authorized during the ten (10) year term of this Agreement may be required by the City to be removed from the Community Site by the GMVCC at the end of the term of this Agreement, unless otherwise agreed by the parties.

2. Utilities, Maintenance, and Upkeep. The GMVCC, with respect to the buildings and/or structures on the Community Site for which it owns, shall, throughout the term of this Agreement, be responsible and pay for the utilities, maintenance, and general upkeep of said buildings and/or structures, including repairs, improvements, and mechanical, heating, water, and sewer systems related to same.

B. City Owned Youth Center.

1. Tenant Improvements. The GMVCC may make tenant improvements to the Youth Center with the written consent of the City. Said improvements shall be paid for by the GMVCC, unless otherwise agreed between the parties.
2. Other Improvements, Alterations, and Additions. The GMVCC shall not alter any structural features of the Youth Center without written City approval. The GMVCC, at its sole expense and with written City approval, may redecorate any interior surface of walls, ceilings, windows, and doors of the Youth Center.
3. Maintenance, Cleaning, Repair, and Utilities as Relates to the Youth Center.
  - a. City Responsibilities. The City shall be responsible for repair of the structural components of the Youth Center, which shall include the roof, exterior walls, foundation, HVAC system, and plumbing that is beyond the fixture drain and trap. The City shall also be responsible for replacement of exterior windows and maintenance which is necessary for the structural integrity of the Youth Center, including maintenance of load bearing members and of main lines of mechanical, electrical, and plumbing systems to the point of entry. Before entering the Youth Center, the City shall give the GMVCC at least twenty-four (24) hours notice. In the event of an

emergency, however, no such notice shall be required. The City shall also be responsible for maintenance and repair of theft and fire alarm systems as to the Youth Center.

- b. GMVCC Responsibilities. The GMVCC shall be responsible for maintenance of the HVAC system as well as maintenance and repair of the interior of the Youth Center, which shall include tenant improvements, audio/visual systems, sound systems, telephone equipment, and any routine maintenance, repair, and/or replacement related to lighting fixtures, kitchen and plumbing fixtures, and appliances. The GMVCC's responsibility for kitchen and plumbing fixtures includes attempting to clear clogs by means of a plunger and/or toilet auger. The GMVCC's janitorial and routine maintenance responsibilities include: timely repair or replacement of light fixtures and/or bulbs and electrical switches or controls; and cleaning, repair, or replacement of seating, curtains, carpets, flooring, faucets, and interior windows. The GMVCC shall be responsible for the servicing and janitorial care of restroom facilities. The GMVCC shall be responsible for landscape maintenance of the grounds surrounding the Premises that meet City standards. The GMVCC shall timely pay the charges for the utility services to the Premises, including same for water, sewer, electricity, gas, and telephone utilities, unless otherwise agreed between the parties.

## **XII. POTENTIALLY DANGEROUS CONDITIONS AND/OR NATURAL HAZARDS**

- A. GMVCC Responsibilities. The GMVCC shall be responsible to remedy all hazardous or potentially dangerous conditions which may occur at the GMVCC Facility which arise directly or indirectly out of the GMVCC's use of the Premises.
- B. City Responsibilities. The City shall be responsible to reasonably remedy all potential natural hazards at the Youth Center.

## **XIII. INDEMNIFICATION / HOLD HARMLESS**

The GMVCC shall defend, indemnify, and hold harmless the City, 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 the GMVCC's use of the Premises, or from the conduct of the GMVCC's business, or from any activity, work, or thing done, permitted, or suffered by the GMVCC in or about the Premises, except only such injury or

damage as shall have been occasioned by the sole negligence of the City.

#### XIV. INSURANCE

- A. The City shall maintain insurance covering the Youth Center in an amount equal to its replacement cost, insuring against the perils of fire, lightning, extended coverage, vandalism and malicious mischief, as extended by a special extended coverage endorsement to insure against all other risks of direct physical loss, such coverages and endorsements to be as defined, provided, and limited in the standard bureau forms prescribed by the insurance regulatory authority for the State of Washington for use by insurance companies admitted in the state for the writing of such insurance on risks located within the state. Subject to the terms of this Agreement, such insurance shall be for the sole benefit of the City and under its sole control.
- B. The GMVCC shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damage to property which may arise from or in connection with the GMVCC's operation and use of the leased Premises.
1. Minimum Scope of Insurance.

The GMVCC shall obtain insurance of the types described below:

- a. Commercial General Liability insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 and shall cover premises and contractual liability. The City shall be named as an insured on GMVCC's Commercial General Liability insurance policy using ISO Additional Insured-Managers or Lessors of Premises Form CG 20 11 or a substitute endorsement providing equivalent coverage.
- b. Property insurance shall be written on an all risk basis.

2. Minimum Amounts of Insurance.

The GMVCC shall maintain the following insurance limits:

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

- b. Property insurance shall be written covering the full value of the GMVCC's property and improvements with no coinsurance provisions.

3. Other Insurance Provisions.

The insurance policies are to contain, or be endorsed to contain, the following provisions for Commercial General Liability insurance:

- a. The GMVCC's insurance coverage shall be primary insurance as respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the GMVCC's insurance and shall not contribute with it.
- b. The GMVCC's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

4. Acceptability of Insurers.

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

5. Verification of Coverage.

The GMVCC shall furnish the City 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 GMVCC.

6. Waiver of Subrogation.

The GMVCC and City 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. This release shall apply only to the extent that such claim, loss or liability is covered by insurance.

## **XV. SIGNAGE**

The GMVCC may install signs on the Premises, including the exterior of the structures and/or buildings on the Premises, identifying the buildings as affiliated with the GMVCC and containing other information related to the GMVCC, subject to City regulations. The design, installation, and location of said signs shall comply with the City Municipal Code, including but not limited to zoning provisions and building regulations, and shall be subject to the written approval of the City Manager or designee.

## **XVI. ASSIGNMENT, SUBLEASE, OR TRANSFER**

Obligations or rights of the GMVCC under this Agreement may not be assigned, subleased, or otherwise transferred by the GMVCC, without prior written consent of the City, which consent may be withheld at the sole discretion of the City. The assignment, sublease, or transfer of this Agreement without such consent shall constitute an Event of Default. Any such assignment, sublease, or transfer shall be specifically subject to all the terms and conditions of this Agreement. In the event of any proposed assignment, sublease, or transfer of this Agreement, the GMVCC shall cause to be delivered to the City simultaneously with such proposed assignment, sublease, or transfer an instrument in writing, executed by the assignee, in which the assignee shall assume and agree to accept all the terms and conditions of this Agreement.

## **XVII. COMPLIANCE WITH LAW**

- A. Lawful Use. The GMVCC and the City each agree to abide by, conform, and comply with all applicable federal, state, and local laws, and obtain all required licenses, permits, and authorizations. Whenever either party or its authorized representative is informed of any violation of any such law, ordinance, rule, regulation, license, permit, or authorization committed by it, it shall immediately desist from such violation. The final judgment of any court or administrative body of competent jurisdiction or the admission by a party in any action against it, whether the other party is a party thereto or otherwise, that it or its invitees has violated any law, ordinance, rule, or regulation shall be conclusive of that fact as between the City and the GMVCC.
- B. Licenses and Similar Authorizations. The GMVCC, at no expense to the City, shall secure and maintain in full force and effect during the term of this Agreement all required licenses, permits, and similar legal authorizations and comply with all requirements thereof. The City shall issue such licenses, permits, or authorizations in accordance with applicable City rules and regulations.

- C. Attendance and Safety Standards. The fire district, by and through its personnel, shall have the authority to determine the number of persons that may be admitted to and safely and freely move about in the Premises. The GMVCC shall not sell or issue tickets or credentials for admission to the Premises in an aggregate number that exceeds the fire district's determined number. The GMVCC shall not admit to the Premises more people than the number so determined by the fire district. The GMVCC shall not permit any chair or movable seat or other obstruction to be erected or placed in any passageway or fire exit. Sidewalks, grounds, entries, passages, vestibules, halls, elevators, abutting streets, and all ways of access to the Premises shall not be obstructed by the GMVCC or used for any purpose other than for ingress and egress to the Premises for persons or property. The City shall be responsible for assuring compliance with each of the foregoing requirements during periods of City use of the Premises under this Agreement.
- D. Nondiscrimination. The GMVCC shall not deny or substantially impair any person's receipt of services, permission to use the Premises, or benefits offered by virtue of this Agreement on the grounds of race, religion, color, sexual orientation, nationality, sensory, mental, or physical handicap, or gender. The GMVCC shall not discriminate against any employee or applicant for employment in connection with this Agreement due to age, gender, marital status, race, creed, color, sexual orientation, nationality, or the presence of any sensory, mental, or physical handicap, except where there is a bona fide occupational limitation as permitted by law.
- E. Americans with Disabilities Act. The GMVCC shall comply with all governmental laws, ordinances, and regulations applicable to the use of the Premises, including, without limitation, Title III of the Americans with Disabilities Act.
- F. Applicable Law and Venue. This Agreement shall be construed under the laws of the State of Washington. The venue for any litigation relating to this Agreement shall be in the Superior Court of the State of Washington for King County.

#### **XVIII. ROYALTIES, LICENSE FEES, AND SIMILAR PAYMENTS**

The GMVCC shall pay, before delinquency, all royalties, license fees, and other charges due and payable to any person or entity as the consequence of any public performance(s) or display(s) or copyrighted work(s) during its use of the Premises. The City shall be responsible for all similar royalties, license fees, and other charges in connection with the City's use of the

Premises.

#### **XIX. LIENS AND ENCUMBRANCES**

The GMVCC shall keep the Premises and the GMVCC's interest in this Agreement free from all liens and encumbrances arising out of obligations incurred by the GMVCC. Upon written request from the City, the GMVCC will furnish written proof of payment of any charge which, if not paid, could provide the basis for a lien on the Premises.

#### **XX. ACCESS FOR INSPECTION OR UPKEEP**

The City reserves the right to inspect the Youth Center with reasonable notice.

#### **XXI. HAZARDOUS SUBSTANCES**

The GMVCC shall not, without first obtaining the City's prior written approval, generate, release, spill, store, deposit, transport, or dispose of (collectively "Release") any hazardous substances, sewage, petroleum products, radioactive substances, medicinal, bacteriological, or disease-producing substances, hazardous materials, toxic substances, or any pollutants or substances defined as hazardous or toxic in accordance with applicable federal, state, and local laws and regulations in any reportable quantities (collectively "Hazardous Substances") in, on, or about the Premises. The GMVCC will attach a separate list of Hazardous Substances it proposes to store at the Youth Center as acceptable to the City. In the event, and only in the event, the City approves such Release of Hazardous Substances on the Premises, the GMVCC agrees that such Release shall occur safely and in compliance with all applicable federal, state, and local laws and regulations. The GMVCC shall indemnify, hold harmless, and defend the City from any and all claims, liabilities, losses, damages, clean up costs, response costs, and expenses, including reasonable attorneys fees and expert witness fees, arising out of or in any way related to the Release by the GMVCC, or any of its agents, representatives, or employees, of such Hazardous Substances, or to the presence in, on, or about the Premises of such Hazardous Substances, occurring at any time after the effective date of this Agreement to the full extent of the GMVCC's liability therefor.

#### **XXII. DEFAULT**

- A. **Default.** The following events shall constitute a default and material breach of this Agreement as to the GMVCC's use of the Youth Center:
1. The failure to comply with any of the terms of this Agreement regarding insurance;
  2. The material violation of any law, ordinance, rule, or regulation which,

after notice and reasonable time to cure, remains uncured;

3. The abandonment or vacating of the Youth Center for a period of thirty (30) days or more;
4. The absence of any scheduled activities for a period of thirty (30) days or more, when not due to repair problems or maintenance work for which the City is responsible;
5. The dissolution of the GMVCC, or the incorporation of the GMVCC by another entity without the prior written approval of the City;
6. The assignment or transfer of this Agreement without the prior written consent of the City as described in this Agreement; and
7. The failure to perform any other condition or covenant of this Agreement where such failure in performance is not remedied within the time allowed by this Agreement, or such other period for remedial action as is expressly otherwise provided for in this Agreement, or agreed upon by both parties.

- B. Extension of Period to Remedy Default. Neither the City nor the GMVCC shall be in default unless such party fails to perform an obligation required of it within thirty (30) days after written notice from the aggrieved party has been sent by the other, specifying the particular obligation that the other has failed to perform; provided, that if the nature of the other party's obligation is such that more than thirty (30) days are reasonably required for performance, then the other party shall not be in default if it commences performance within such thirty (30) day period, and thereafter diligently prosecutes the same to completion within one hundred eighty (180) days.

### **XXIII. REMEDIES UPON DEFAULT**

Upon the occurrence of any default by the GMVCC as to the Youth Center, the City shall have the option to pursue any one or more of the following remedies without notice or demand:

- A. Terminate this Agreement, in which event the GMVCC shall immediately surrender the Youth Center to the City, and if the GMVCC fails to do so, the City may enter upon and take possession of the Youth Center and expel or remove the GMVCC and any other person who may be occupying same or any part thereof, and the GMVCC agrees to pay the City, on demand, the amount of all loss and damage the City may suffer by reason of such termination.

- B. Enter upon and take possession of the Youth Center and expel or remove the GMVCC and any other person who may be occupying same or any part thereof, and re-let the Youth Center for such terms ending before, on, or after the expiration date of the term of this Agreement, at such rentals and upon such other conditions as the City in its sole discretion may determine, and receive the rent therefor.
- C. Enter upon the Youth Center and do whatever the GMVCC is obligated to do under the terms of this Agreement. The GMVCC agrees to reimburse the City on demand for any expenses the City may incur in effecting compliance with the GMVCC's obligations under this Agreement, and the GMVCC further agrees that the City shall not be liable for any damages resulting to the GMVCC from such action, whether caused by the negligence of the City or otherwise.
- D. Pursuit of one remedy shall not preclude pursuit of any other remedies, such remedies being cumulative and non-exclusive.
- E. If either party brings an action or proceeding against the other party arising out of or concerning performance or interpretation of this Agreement, the prevailing party shall be entitled to recover from the other party its attorneys fees and costs.

**XXIV. SURRENDER OF YOUTH CENTER AND REMOVAL OF PROPERTY**

- A. Surrender of Premises. Upon termination or expiration of this Agreement, the GMVCC shall surrender to the City the Youth Center and all keys related thereto.
- B. Conditions of Youth Center Upon Surrender. The Youth Center to be surrendered to the City shall be surrendered in as good a condition as on the date of its acceptance by the GMVCC, except for: the effects of improvements, additions, alterations, and repairs made with the concurrence of the City; property damage by fire and/or other perils insured in contracts or policies of fire, extended coverage, and/or vandalism; reasonable wear and tear; and acts of God.
- C. Removal of Property. Prior to the expiration of this Agreement, or within ten (10) days after termination in the event of an earlier termination of this Agreement, the GMVCC shall remove from the Premises, at no cost or expense to the City, all personal or other property owned and placed in or on the Premises by the GMVCC, its agents, invitees, employees, contractors, or successors. In removing such personal and/or other property, the GMVCC shall take due care to not damage or injure the Premises, and any such damage or injury shall be

immediately repaired by the GMVCC to the City Manager's (or designee's) reasonable satisfaction, at the GMVCC's sole cost and expense. Structural alteration, additions, and tenant improvements shall not be removed from the Youth Center.

**XXV. NO WAIVERS**

No action other than a written document by the City Manager (or designee) or the GMVCC Executive Director specifically so stating shall constitute a waiver by a party of any particular breach or default by the other. No such document shall waive a failure to fully comply with any term or condition of this Agreement not specifically referenced therein, irrespective of any knowledge any officer or employee of a party may have of such breach, default, or noncompliance. A party's failure to insist upon full performance of any provision of this Agreement shall not be deemed to constitute consent to or acceptance of such incomplete performance in the future.

**XXVI. REMEDIES CUMULATIVE**

The rights under this Agreement are cumulative. The failure to exercise promptly any right recognized hereunder shall not operate to forfeit any such right. The use of one remedy shall not be taken to exclude or waive the right to use another.

**XXVII. NOTICES**

Unless otherwise directed in writing, all notices and reports shall be in writing, and together with any payments, shall be delivered to the City at the following address:

CITY OF MAPLE VALLEY  
City Manager  
Post Office Box 320  
Maple Valley, WA 98038

And to the GMVCC at the following address:

GREATER MAPLE VALLEY COMMUNITY CENTER  
Executive Director  
22010 S.E. 248<sup>th</sup> Street  
Maple Valley, WA 98038

Either party may change its address for receipt of reports, notices, or payments without a formal amendment of this Agreement by giving the other party written notice of such change not

less than fifteen (15) days prior to the effective date thereof.

**XXVIII. TITLES OF SECTIONS**

The titles of sections and subsections set forth herein are for convenience only and do not in any way define, limit, or construe the contents of any section.

**XXIX. AMENDMENTS**

No change, alteration, modification, or addition to this Agreement shall be effective unless it is in writing and properly signed by both parties hereto.

**XXX. DISPUTE RESOLUTION**

- A. The parties agree to attempt to resolve disputes under this Agreement through a binding arbitration process. Such process shall be conducted by a mutually agreed upon arbitrator and/or arbitration service. .
- B. Each party shall bear their own costs in pursuing dispute resolution. Compliance with this section and good faith participation in this process shall be conditions precedent to the commencement of a civil action.

**XXXI. INDEPENDENT CONTRACTOR**

The GMVCC and the City agree that the GMVCC is an independent contractor with respect to the services provided pursuant to this Agreement. Nothing in the Agreement shall be considered to create the relationship of employer and employee between the parties hereto. Neither the GMVCC nor any employee of the GMVCC shall be entitled to any benefits accorded to City employees by virtue of the services provided under this Agreement. The City shall not be responsible for withholding or otherwise deducting federal income tax or social security or contributing to the State Industrial Insurance program, or otherwise assuming the duties of an employer with respect to the GMVCC or any employees of the GMVCC.

**XXXII. SEVERABILITY**

Any provision or part of this Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the City and the GMVCC, who agree that the Agreement shall be reformed to replace such stricken provision or part with a valid and enforceable provision that comes as close as reasonably possible to expressing the intent of the stricken provision.

**XXXIII. ENTIRE AGREEMENT**

The parties hereto acknowledge that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against either party on the basis of that party's having drafted the same. The Agreement, together with all of the exhibits attached hereto, embodies the entire Agreement of the parties hereto. There are no other understandings or agreements, written or oral, between the parties regarding the Premises except as expressly referenced herein.

IN WITNESS WHEREOF, the authorized representative of the parties hereto has executed this Agreement by affixing their signatures in the space below.

DATED this 24<sup>th</sup> day of May, 2006.

GREATER MAPLE VALLEY COMMUNITY CENTER

By: \_\_\_\_\_

Lynn Roberts  
Executive Director

~~CITY OF MAPLE VALLEY~~ \_\_\_\_\_

By: \_\_\_\_\_

Anthony Hemstad  
City Manager

Attest/Authenticated:

\_\_\_\_\_  
Irralene Moni, City Clerk

Approved as to form:

\_\_\_\_\_  
Bruce L. Disend, City Attorney  
Joseph B. Levan, Assistant City Attorney

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that **Lynn Roberts** is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the **Executive Director of the Greater Maple Valley Community Center, a non-profit agency operated under the laws of the State of Washington**, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal this 24<sup>th</sup> day of May, 2006.

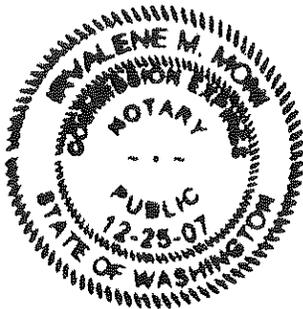


\_\_\_\_\_  
Notary Public in and for the State of  
Washington, residing at Kent  
Printed Name: Bonnie Gillen Barney  
My appointment expires: 05/09/2008

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that **Anthony Hemstad** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the **City Manager of the City of Maple Valley, a municipal corporation of the State of Washington**, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal this 24 day of May, 2006.



\_\_\_\_\_  
Notary Public in and for the State of  
Washington, residing at King County  
Printed Name: IRVALENE M. MORKI  
My appointment expires: 12-25-07

EXHIBIT "A"  
LEGAL DESCRIPTION

The westerly 370 feet of the southwest quarter, of the northeast quarter, of Section 21, Township 22 North, Range 6 East, W.M., King County, Washington, as measured at right angles to the westerly line of said northeast quarter, and lying southerly of the "Green to Cedar River Trail" right-of-way, formerly the Burlington Northern Railway right-of-way, (also formerly known as Columbia and Puget Sound Railroad; Pacific Coast Railroad; Chicago, Milwaukee, St. Paul and Pacific Railroad).

EXCEPT existing county roads.

This parcel contains 5.03 acres.