



USE AGREEMENT

between the

Parks and Recreation Division of the King County Department of Natural Resources and Parks,

and the

Ravensdale Park Foundation

for the

Construction and Public Use of Combination Fields #1 and #2

at

Ravensdale Park

This Agreement ("Agreement") is entered into by and between the Parks and Recreation Division of the King County Department of Natural Resources and Parks, (hereinafter "Parks" or "Division") and the Ravensdale Park Foundation (hereinafter "RPF") (collectively, the "Parties") for the construction and public use of Combination Fields #1 and #2 and related infrastructure ("Facility") described in Exhibit A at Ravensdale Park (hereinafter "Site").

In consideration of the promises, covenants, and other provisions set forth in this Agreement, the Parties agree as follows.

SECTION 1. BACKGROUND

- 1.1 King County, a home rule charter county and political subdivision of the State of Washington, is the owner of the Site, located at SE Kent Kangley Rd and 272nd Avenue South, Ravensdale, Washington 98051, and described and depicted with greater particularity in Exhibit A to this Agreement.
- 1.2 RPF is a nonprofit Washington corporation that is tax-exempt under section 501(c)(3) of the Internal Revenue Code. RPF is a community-based organization, in good standing, with a mission to steward the Ravensdale Park Master Plan on behalf of public users and other stakeholders of Ravensdale Park. RPF directly represents the public interests related to public youth soccer, public youth baseball, public youth lacrosse, public youth football, passive recreation, and other stakeholders of the park.
- 1.3 RPF has the experience, ability, and resources to develop synthetic ballfields and related infrastructure at the Site and intends to develop a facility for public use, with an expected infrastructure life of approximately thirty years.

- 41 1.4 Parks has determined that constructing the Facility and related infrastructure at the Site
42 will have significant rural public recreation value.
43
- 44 1.5 King County Ordinance 14509 authorized the Department of Natural Resources and
45 Parks to create new public recreation opportunities by empowering user groups, sports
46 associations, and community organizations like RPF to develop mutually agreed upon
47 capital improvements for public recreation facilities on King County land, and thereby
48 address regional and/or rural community recreational needs while minimizing tax funded
49 operations and maintenance costs.
50
- 51 1.6 King County Code 4.56.150(E) and (F) and Revised Code of Washington 35.21.278
52 authorize King County to enter into agreements with non-profit organizations that
53 provide a service to the public and make improvements to King County property.
54
- 55 1.7 The City of Maple Valley (the "City") supports the development of public recreational
56 facilities that enhance recreational opportunities available to its constituents, and will
57 contribute Two Million Dollars, for the benefit of RPF and the public, toward the cost of
58 the project under the terms and conditions established in an Interlocal Agreement
59 ("Separate Agreement") between the City and King County, attached hereto as Exhibit E.
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61 SECTION 2. CONSIDERATION

- 62
- 63 2.1 EFFECTIVE DATE. The effective date ("Effective Date") of this Agreement is the date
64 of execution by the last party to execute this Agreement.
65
- 66 2.2 TERM. In light of RPF's substantial community investment in the Facility, as well as
67 RPF's ongoing supplemental maintenance responsibilities under this Agreement, the
68 term ("Term") of this Agreement will be thirty years from the Effective Date. The
69 Parties may modify this Agreement during the Term, as a condition of renewal,
70 extension, or during a renewal or extension term, consistent with *Section 5.21*,
71 Additional Terms.
72
- 73 2.3 RPF agrees to assume responsibility for design, permitting, and construction of the
74 Facility on the Site consistent with the terms and conditions set forth in this Agreement.
75 The Facility will include two multi-use synthetic ballfields, parking, restroom,
76 maintenance building, and related infrastructure, all as set forth in Exhibit A to this
77 Agreement.
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- 79 2.4 RPF has inspected and knows the condition of the Site, and agrees to accept the Site in
80 AS IS condition.
81
- 82 2.5 Parks does not make and specifically disclaims any warranties, express or implied,
83 including any warranty of merchantability or fitness for a particular purpose, with respect
84 to the Site, and no official, employee, representative, or agent of King County is

85 authorized to represent otherwise.

86
87 2.6 Parks will provide a total of Two Million Dollars towards the capital cost to construct the
88 Facility at the Site to be disbursed in accordance with the Grant Award Matrix (Exhibit
89 D). The County may in its sole discretion accelerate the payment schedule in support of
90 the project, and make appropriate deductions to cover interest or other expenses incurred
91 related to accelerating payments to RPF. Further, Parks will make available for the cost
92 of constructing the Facility all additional funds provided by the City, anticipated to total
93 Two Million Dollars, consistent with the Interlocal Agreement (Exhibit E).

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95 A. RPF will be solely responsible to secure and provide all other funding needed to
96 design and construct the Facility. The present total estimated market cost to design,
97 permit, and construct the Facility is Six Million Dollars. Although RPF may apply for
98 additional Community Partnership and Grants ("CPG") or Youth Sports Facility
99 Grants ("YSFG"), Parks is under no obligation, directly or indirectly, to pay for any
100 labor, material, or improvement associated with the Site or the Facility in excess of
101 the Two Million Dollars capital grant outlined above. RPF will, upon request, inform
102 any inquiring person or entity that Parks has no further financial obligations
103 associated with the construction of the Site or the Facility.

104
105 B. Public youth ballfield users represented by RPF shall have first priority public use
106 scheduling at the Facility up to five thousand (5,000) peak hours per year,
107 PROVIDED that RPF acknowledges and agrees that City contracted and/or operated
108 programs shall also receive first priority public use scheduling at the Facility up to
109 one thousand (1,000) peak hours per year, for years one through ten, pursuant to the
110 terms and conditions set forth in Exhibit E attached hereto, and PROVIDED
111 FURTHER that RPF agrees to work in good faith with the City to schedule each
112 party's allocation of priority hours at Ravensdale Park. RPF may utilize the balance of
113 unused City priority hours, if any, consistent with the terms and conditions
114 established in this Section. Public youth ballfield users represented by RPF include
115 public youth soccer, public youth baseball, public youth lacrosse, and public youth
116 football. An additional twelve thousand (12,000) hours at Ravensdale ballfields are
117 available for additional public scheduling through the Division's scheduling office or
118 drop-in use or other non-scheduled community uses or activities. Peak field hours are
119 defined as 5:00 p.m. - 10:00 p.m. on weeknights and 9:00 a.m. - 10:00 p.m. on
120 weekends.

121
122 C. RPF will pay King County a guaranteed annual field rental fee of Eighty Thousand
123 Dollars per year for RPF's first five thousand (5,000) annual hours of use, and
124 Sixteen Dollars for each unused City hour that RPF utilizes, if any, all starting from
125 the date of the Facility's completion, for years one through ten. For every hour of use
126 beyond RPF's five thousand (5,000) priority hours and those unused City hours that
127 RPF utilizes, RPF will pay King County standard hourly rate for Facility use. For
128 years eleven through twenty, RPF will pay an annual field rental fee equal to the
129 number of scheduled hours multiplied by the then-current hourly field use fee minus

130 an annual field use fee credit. The annual field use fee credit for years eleven through
131 twenty will equal the total amount, amortized over years eleven through twenty of
132 RPF's additional investment in the standard turf replacement cycle. For years twenty-
133 one through thirty, RPF will pay an annual field use fee equal the number of
134 scheduled hours multiplied by the going hourly field use fee rate minus an annual
135 field use fee credit. The annual field use fee credit for years twenty-one through thirty
136 will equal the total amount (amortized over years twenty-one through thirty) of RPF's
137 additional investment in the standard turf replacement cycle. Annual field use fees do
138 not include ballfield light use fees.
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140 2.7 This Agreement is for a term of thirty (30) years. During the course of this thirty-year
141 term, the parties anticipate that the Facilities may need additional capital
142 improvements/investments to maintain the quality of the Facility. The County and RPF
143 reserve the right to add supplemental terms to this agreement if necessary, relating to the
144 need for additional capital investments. At two points during the term of this contract, at
145 least twelve months before the end of the first ten years of the contract and the second ten
146 years of the contract, the parties shall determine if such capital improvements are
147 necessary. If so, the parties shall supplement the terms of this agreement accordingly. In
148 addition, the parties shall determine if supplemental terms regarding lighting, priority use,
149 hourly use or other details are necessary at the same two points during the term of this
150 contract. King County shall retain ownership of the Site and the Facility, including all
151 improvements, permanent fixtures, and county-purchased equipment.
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153 2.8 In recognition that the design, development, and construction of the Facility and Site will
154 benefit the public upon completion, Parks agrees to coordinate with RPF and to use its
155 best efforts to assist with and facilitate the issuance of any federal, state, county, or local
156 permits or approvals necessary for construction at the Facility and Site to begin. RPF
157 understands, acknowledges, and agrees that the Division's assistance and facilitation shall
158 not and does not constitute King County's official endorsement or approval of RPF's
159 plans, drawings, design documents, or construction for purposes of any applicable laws,
160 regulations, codes, ordinances, guidelines, or industry standards (collectively,
161 "authorities"). As between RPF and the Division, RPF will be solely responsible to
162 comply with all applicable authorities and to obtain all necessary permits, approvals, and
163 endorsements.
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165 2.9 Parks personnel or agents may inspect the Facility construction project at any time
166 provided that such persons observe due regard for workplace safety and security. Parks
167 may require RPF or its contractors to stop work if Parks deems work stoppage necessary
168 to remedy construction defects or to address risks to health, safety, or welfare. RPF
169 specifically understands, acknowledges, and agrees that at a minimum, Parks will inspect
170 the Facility construction project and approve work progress in writing at the following
171 milestones:
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- 173 A. Completed set of construction plans, drawings, specifications, and related design
174 documents for the Facility construction project;

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- B. Preconstruction meeting with RPF and primary contractor when all permits and approvals are in hand;
- C. Demolition, excavation of Site complete;
- D. Site plumbing complete and Site prepared for installation of base material;
- E. Initial compaction of each and every lift of base material installed on Site;
- F. Final compaction of base material;
- G. Installation of synthetic turf carpet surface prior to fill;
- H. G-max or equivalent shock test of synthetic turf carpet with completed fill; and
- I. Installation of Facility amenities other than playing surface (fencing, paving, bleachers, etc.).

2.10 When RPF considers that all work or work associated with the Facility is substantially complete, RPF shall give written notice to Parks. Parks will promptly inspect the work and, if it does not agree that the work is substantially complete, Parks will prepare a list of items to be completed or corrected ("Punch List"). RPF or its contractor shall promptly complete or correct all Punch List items at the sole cost of RPF or its contractor, as they may decide between them. For purposes of this Agreement, "substantially complete" means that:

- A. RPF and Parks have full and unrestricted use and benefit of the Facility for the purpose intended;
- B. All the systems and parts of the Facility are functional;
- C. Only minor incidental work or correction or repair remains to complete all Facility construction requirements; and
- D. RPF's contractor has provided all occupancy permits and easement releases, to the extent that any are required or applicable, to the Facility.

2.11 WARRANTIES.

- A. With respect to all warranties, express or implied, for work performed or materials supplied in connection with the Facility, RPF shall:
 - 1. Obtain all warranties, express or implied, that would be given in normal commercial practice from suppliers, manufacturers, contractors, or installers;

2. Require all warranties be executed, in writing, for benefit of King County;
3. Enforce all warranties for the benefit of King County; and
4. Be responsible to enforce any warranty of a contractor, subcontractor, manufacturer, or supplier.

B. If, within an applicable warranty period, any part of the Facility or work performed to construct the Facility is found not to conform to specifications, permit requirements, or industry standards, RPF shall correct it promptly after receipt of written notice from Parks to do so. If Parks determines that RPF's corrective action is not satisfactory and/or timely performed, then the Division may either correct the problem itself or procure the necessary services, recommendations, or guidance from a third party, and invoice RPF for the cost to remedy the problem. RPF shall promptly reimburse the Division for all costs, expenses, or damages incurred by Parks, including but not limited to the cost to remedy the problem. An invoice is deemed received by RPF three days after deposit in the U.S. mail with proper address and postage. Invoices must be paid within sixty days. Parks will add a late fee of five percent to any invoice not timely paid. Any invoice outstanding sixty days after receipt will be sent to collections.

C. The warranty-related remedies provided in this *Section 2.11* are in addition to any other rights or remedies provided elsewhere in this Agreement or by applicable law.

SECTION 3. CONSTRUCTION OF FACILITY

3.1 **CAPITAL IMPROVEMENTS**. The present total estimated market cost to design, permit, and construct the Facility is Six Million Dollars. The combined King County and City contribution is Four Million Dollars. RPF will raise and expend an estimated Two Million Dollars in cash or cash equivalents for the development and construction of the Facility on the Site. RPF contributions may include donated professional services, management services, manpower, materials, and contractor consideration. RPF will serve as the supervisory nonprofit corporation for development and construction of the Facility. RPF shall design, develop, and construct facilities, features, and amenities in accordance with all applicable design(s), timelines, restrictions, environmental considerations, permitting determinations, mitigations, and all other requirements in coordination with Parks. RPF understands, acknowledges, and agrees that it may not undertake or commence any construction activities on the Site until RPF can demonstrate to Parks' satisfaction that RPF has obtained and has in hand all Two Million Dollars of cash or cash equivalents, together with executed contracts or similarly firm, binding commitments for donated professional services, materials, equipment, and other in-kind contributions. Parks has sole discretion in determining if RPF has sufficient cash or cash equivalents in hand to satisfy this requirement. For purposes of this *Section 3.1*, "construction activities" do not include preliminary activities such as surveying, mapping, drainage test pits, installation of temporary fencing, or other low-impact or readily reversible actions.

- 265 3.2 EXCLUSIVE POSSESSION DURING CONSTRUCTION. RPF shall be entitled to
266 exclusive possession and use of that portion of the Site designated for development and
267 construction of the Facility during the design, development, and construction phases. This
268 right of exclusive possession and use by RPF will be provided in writing and is subject to
269 King County's entry, inspection, acceptance, and audit rights under *Sections 2.11, 4.12,*
270 *5.11, and 5.12* of this Agreement.
271
- 272 3.3 DESIGN. RPF has retained a licensed architect and/or licensed professional engineer,
273 registered in the State of Washington, who will prepare a design for the Site and the
274 Facility and exterior landscaping, which visually blends with the setting. Parks shall
275 review the design plans for the Site in concept and reserves the right to approve the final
276 design of the Site and the Facility, consistent with applicable King County code,
277 requirements.
278
- 279 3.4 CONSTRUCTION/SITEWORK/FENCING. RPF will be solely responsible for the site
280 work, required permits, and grading at the Facility. RPF will ensure the work area is
281 properly barricaded, and will ensure that signage is installed directing unauthorized
282 persons not to enter onto the construction site during any phase of development or
283 construction. Unless otherwise agreed to by the Parties in writing, fencing will be placed
284 around work areas. In addition, construction sites will be kept clean and organized during
285 development periods. RPF will be responsible for site security, traffic, and pedestrian
286 warnings at the Facility during the development and construction phases.
287
- 288 3.5 CONSTRUCTION DEADLINES. RPF is required to complete the development and
289 construction of the Facility within one year from the date that RPF receives all funding,
290 in-kind contributions, and the permits necessary to commence construction on the
291 Facility.
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- 293 3.6 RELOCATION OF UTILITY LINES. RPF will be responsible at its expense to relocate
294 and improve storm drains, sewers, water lines, and other utilities, if any, as required to
295 complete development and construction of the Facility.
296
- 297 3.7 ALTERATION OF SITE OR FACILITY AFTER CONSTRUCTION. After the Facility
298 is completed and accepted by RPF and Parks, as defined herein, RPF will not make any
299 material alteration to the Site or to the Facility, including any changes to the landscaping,
300 without express, written consent by Parks.
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- 302 3.8 DEVELOPMENT AND CONSTRUCTION FEES AND EXPENSES. RPF will be
303 responsible to obtain and pay for all necessary permits, fees, and expenses associated
304 with the development and construction of the Facility.
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- 306 3.9 PUBLIC WORKS LAWS. To the extent applicable, RPF will comply with all public
307 works laws, regulations, and ordinances, including but not limited to those related to
308 prevailing wages (see RCW 39.12), retainage (see RCW 60.28), bonding (see RCW
309 39.08), and use of licensed contractors (see RCW 39.06). RPF will indemnify and defend

310 King County should it be sued or made the subject of an administrative investigation or
311 hearing for a violation of such laws, regulations, and ordinances in connection with the
312 improvements. Without limiting the foregoing, RPF understands, acknowledges, and
313 agrees that before beginning construction of the Facility on the Site, RPF must execute
314 and deliver to King County a performance and payment bond in an amount equal to one
315 hundred percent of the estimated full value of the Facility construction contract, on a
316 form acceptable to King County with an approved surety company and in compliance
317 with RCW Ch. 39.08. King County must be named as the beneficiary of the payment and
318 performance bond. RPF must notify the surety of any changes in the work. RPF must
319 promptly furnish additional bond security to protect King County and persons supplying
320 labor or materials required to construct the Facility if (a) King County has a reasonable
321 objection to any surety; (b) any surety fails to furnish reports on its financial condition
322 pursuant to King County's request; or (c) the estimated cost of the Facility increases
323 beyond the bond amount.

324
325 3.10 CONTRACTOR INDEMNIFICATION AND HOLD HARMLESS. RPF will require its
326 construction contractors and subcontractors to defend, indemnify and hold King County,
327 the City of Maple Valley their officers, officials, employees, and volunteers harmless
328 from any and all claims, injuries, damages, losses, or suits including attorney's fees and
329 costs, arising out of or in connection with the design, development, and construction of
330 the Facility (hereinafter "Design and Construction Phase"), except for injuries and
331 damages caused solely by the negligence of King County or the City of Maple Valley.
332 The indemnification and hold harmless language will be at least as broad as that set forth
333 in Section 5.19 of this Agreement.

334
335 In the event it is determined that RCW 4.24.115 applies to this Agreement, the
336 Contractors shall agree to protect, defend, indemnify and save the County/City of Maple
337 Valley, its/their officers, officials, employees and agents from any and all claims,
338 demands, suits, penalties, losses damages judgments, or costs of any kind whatsoever for
339 bodily injury to persons or damage to property (hereinafter "claims"), arising out of or in
340 any way resulting from the Contractor's officers, employees, agents and/or subcontractors
341 of all tiers, acts or omissions, performance of failure to perform the rights and privileges
342 granted under this Agreement, to the maximum extent permitted by law or as defined by
343 RCW 4.24.115, as now enacted or hereafter amended.

344
345 3.11 CONTRACTOR INSURANCE. In addition to coverages provided in 3.12 and 3.13, RPF
346 will require its construction contractors and subcontractors to carry insurance meeting all
347 requirements set forth in *Section 4* of this Agreement.

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349 3.12 BUILDER'S RISK INSURANCE. RPF will require its construction contractors to
350 procure and maintain, for the duration of the Construction Phase of the Facility, builder's
351 risk insurance covering King County, the City of Maple Valley, RPF and the construction
352 contractor in the work as their interests may appear. The builders risk insurance will be in
353 the amount of the completed value of the Facility with no coinsurance provisions.
354 Builder's risk insurance will be on an all-risk policy form and will insure against the
355 perils of fire and extended coverage and physical loss or damage including flood and

356 earthquake, theft, vandalism, malicious mischief, collapse, temporary buildings, and
357 debris removal. This builder's risk insurance covering the work will have a deductible no
358 larger than Five Thousand Dollars for each occurrence, which will be the responsibility
359 of the construction contractor. Higher deductibles for flood and earthquake perils may be
360 accepted by King County upon written request by RPF and written acceptance by King
361 County. Any increased deductibles accepted by King County will remain the
362 responsibility of the construction contractor. The Builders Risk insurance will be
363 maintained until final acceptance of the work by RPF and King County. King County and
364 the City of Maple Valley shall be a loss payee as their interests may appear.
365

366 3.13 PROFESSIONAL ERRORS AND OMISSIONS. RPF must require its professional
367 service providers to carry insurance meeting all requirements set forth in *Section 4* of this
368 Agreement. In addition, RPF must require its professional service providers to carry
369 professional liability errors and omissions insurance in an amount of not less than One
370 Million Dollars per claim/aggregate. RPF must require its professional service providers
371 to provide copies of all insurance certificates or insurance policies to King County upon
372 request.
373

374 3.14 SUBCONTRACTORS. RPF will require its construction contractors during the Design
375 and Construction Phase to include all subcontractors as insured under its policies or will
376 furnish separate certificates and endorsements for each subcontractor. All coverage for
377 subcontractors will be subject to all of the same insurance requirements as stated herein
378 for the construction contractor.
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380 3.15 INSURANCE COVERAGE TYPE AND DURATION. Each insurance policy must be
381 written on an "occurrence" form; except that insurance on a "claims made" form may be
382 acceptable with prior approval by the King County Office of Risk Management. If
383 coverage is approved and purchased on a "claims made" basis, RPF warrants
384 continuation of coverage, either through policy renewals or the purchase of an extended
385 discovery period, if such extended coverage is available, for not less than three years
386 from the date of contract termination or expiration, and/or conversion from a "claims
387 made" form to an "occurrence" coverage form.
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389 3.16 VERIFICATION OF COVERAGE. RPF will furnish Parks with original certificates and
390 a copy of the amendatory endorsements, including but not necessarily limited to the
391 additional insured endorsement, evidencing the commercial general liability insurance of
392 the construction contractor before commencement of the work. Before any exposure to
393 loss may occur, RPF will file with Parks a copy of the builder's risk insurance policy that
394 includes all applicable conditions, exclusions, definitions, terms, and endorsements
395 related to work under this Agreement.
396

397 3.17 ACCEPTABILITY OF INSURERS. Unless otherwise approved by Parks, the following
398 provisions apply exclusively during the Design and Construction Phase:
399

- 400 A. Insurance is to be placed with insurers with a Best's rating of no less than A:VIII, or,
401 if not rated by Best's, with a rating in one of the two highest categories maintained by
402 Standard and Poor's Rating Group and Moody's Investor Service.
403
- 404 B. If at any time any of the foregoing policies fail to meet the above minimum standards,
405 then RPF will, upon notice to that effect from King County, promptly obtain a new
406 policy, and submit the same to Parks with certificates and endorsements, for
407 approvals.
408
- 409 C. The required liability insurance policies (except Professional and Workers
410 Compensation) are to be endorsed to:
- 411 • Name "King County, the City of Maple Valley, their officers, officials, agents and
412 employees" as additional insured with respect to use of the Site as outlined in this
413 Agreement (Form CG 2026 or CG 2010 11/85 or its equivalent); Coverage shall
414 include both on-going operations and products-completed operations.
 - 415 • Such coverage shall be primary and non-contributory insurance as respects King
416 County and the City of Maple Valley;
 - 417 • State that RPF's or its contractor's insurance shall apply separately to each insured
418 against whom claim is made or suit is brought except with respect to the limits of
419 the insurer's liability;
 - 420 • State that coverage shall not be suspended, voided, canceled, reduced in coverage
421 or in limits except after forty-five days prior written notice to King County.
422

423 3.18 WAIVER OF SUBROGATION. RPF will cause its contractors and subcontractors and
424 their insurance carriers to release and waive all rights of subrogation against King County
425 during the Design and Construction Phase to the extent a loss is covered by property
426 insurance in force. Except as otherwise provided in **Section 3** of this Agreement, RPF
427 hereby releases from liability and waives all right of recovery against King County or the
428 City of Maple Valley for any loss from perils insured against or under the respective fire
429 insurance policies of its contractors, subcontractors, or any of them, including any
430 extended coverage endorsements thereto; provided, that this provision shall be
431 inapplicable if it would have the effect of invalidating any insurance coverage of RPF,
432 the City of Maple Valley or King County.
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434 3.19 INSURANCE PROVISIONS ARE MATERIAL TERMS. By requiring such minimum
435 insurance as described in this **Section 3**, King County shall not be deemed or construed to
436 have assessed the risks that may be applicable to RPF under this Agreement. RPF shall
437 assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits
438 and/or broader coverage. Nothing contained within this **Section 3** shall be deemed to
439 limit the scope, application, and/or limits of the coverage afforded by the policies
440 specified herein, which coverage will apply to each insured to the full extent provided by
441 the terms and conditions of the policies. Nothing contained within this **Section 3** shall
442 effect and/or alter the application of any other provision contained within this Agreement.
443 Failure by RPF, its agents, employees, officers, and/or subcontractors to comply with
444 these insurance requirements shall constitute a material breach of this Agreement.

445 **SECTION 4. USE OF FACILITY**

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4.1 **STEWARDSHIP**. RPF must be a good steward of the Facility and Site. All approved activities and use by RPF shall be considerate of the capital, programmatic, and environmental value of the Facility and Site to the greatest extent possible. All approved construction, maintenance, and other modifications by RPF shall strictly adhere to all applicable environmental laws and regulations at all times.

4.2 **FACILITY USE POLICY**. RPF shall comply with the Good Neighbor/Facility Use Policy (Exhibit B) (hereinafter "Use Policy") as it may be modified by Parks from time to time to ensure positive relations with the surrounding community, as well as other current or future Site users. The Use Policy shall be posted in clear view at the Facility and/or integrated into posted or otherwise distributed use rules for the Site.

4.3 **FACILITY PROGRAMMING**. All costs associated with RPF's programming and use of the Facility will be the responsibility of RPF, but scheduled through Parks. All non-RPF use of the Facility shall be scheduled by and through Parks. By January 15 of each calendar year, RPF shall provide Parks with a master schedule (hereinafter "RPF Master Schedule") of its anticipated use for that year (e.g., hours and days of use) up to five thousand (5,000) hours for RPF programming and up to one thousand (1,000) hours for City programming in order that Parks may schedule Facility use by others around RPF's reserved use. The Parties recognize that the RPF Master Schedule may require periodic supplementation to accommodate RPF's changing practice needs and game schedules. At the beginning of each month (or earlier, if the need for schedule changes is known), RPF shall timely provide Parks with a revised monthly schedule if RPF's anticipated field use will deviate from the RPF Master Schedule. Any requested modifications to the RPF Master Schedule shall be approved by Parks unless (i) the request is determined by Parks to be unreasonable or (ii) the time requested by RPF is already scheduled by Parks for non-RPF use and cannot be reasonably re-scheduled. The Parties agree to coordinate in good faith with respect to all scheduling of the Facility. In December of each year RPF will convene with the City to discuss priority use scheduling for the following year, consistent with ***Section 2.6.B***.

- 4.4 **PUBLIC USE**. RPF's use is limited to:
- A. Soccer
 - B. Baseball/Softball
 - C. Lacrosse
 - D. Football
 - E. Other field sport uses
 - F. Picnicking and passive recreation (meadow, trails, playgrounds, etc.)
 - G. Community Events
 - H. All other public uses appropriate for the Facility as determined by Parks.

- 489 All uses must be scheduled through the scheduling office or otherwise on the official
490 scheduling office calendar.
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- 492 4.5 OPERATING HOURS. Regular hours of operations shall be limited to 8:00 a.m. to 11:00
493 p.m. Any additional public field use shall be scheduled and approved by Parks in
494 consultation with RPF.
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- 496 4.6 INCIDENTAL USES. RPF may conduct tax-exempt fundraising activities to support the
497 Site, the Facility, and RPF's own beneficial or charitable mission as a nonprofit
498 Washington corporation, provided that such fundraising activities shall not displace
499 public use of the Site or the Facility. Such activities shall be shown on RPF's Master
500 Schedule.
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- 502 4.7 SECURITY AND NUISANCE DURING USE. RPF will use the Site and the Facility for
503 no unlawful purposes and will not use or occupy the Site in any manner which would
504 constitute a public nuisance or otherwise violate federal, state, or local laws.
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- 506 4.8 SITE MAINTENANCE PLAN. Upon completion of the facility RPF and Parks will
507 develop a mutually agreed upon Site Maintenance Plan (Exhibit C), which shall become
508 part of this agreement. The Site Maintenance Plan will specify what maintenance tasks
509 may be delegated to RPF and what tasks are to remain the exclusive domain of King
510 County Parks staff.
511
- 512 4.9 PERFORMANCE REPORT. At the end of each calendar year during the Term, RPF
513 shall furnish the Division with a summary of the prior year's use by RPF for approved
514 activities on the Site or at the Facility.
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- 516 4.10 LIMITED USE. RPF shall use the Facility for no business or purpose other than as
517 explicitly provided under *Sections 4.4 and 4.6* of this Agreement or as otherwise
518 generally permitted to members of the public.
519
- 520 4.11 SIGNS. No sign, advertisement, notice, or other lettering will be exhibited, inscribed,
521 painted, or affixed by RPF nor allowed by RPF to be exhibited, inscribed painted, or
522 affixed on any part of the Facility without the prior written approval of Parks. All new
523 Facility and/or Site signs shall follow the King County Sign System Guide and shall be
524 manufactured and installed by King County, unless RPF receives prior written approval
525 from Parks to do otherwise. Written approval shall be requested through Parks' liaison. If
526 RPF violates this provision, Parks may remove the sign without any liability and may
527 charge the expense incurred by such removal to the RPF. All signs erected or installed
528 pursuant to Parks' prior written approval shall also comply with any applicable federal,
529 state, or local statutes, ordinances or regulations.
530
- 531 4.12 RIGHT TO INSPECT. King County at its discretion reserves the right to review and
532 approve RPF's use of the Facility and compliance with this Agreement. If Parks does not
533 approve of RPF's use and compliance, Parks will timely notify RPF in writing of the

534 specific items that Parks deems objectionable. RPF agrees to undertake reasonable
535 corrective action within a time period agreed to by the Parties, or if no time period is
536 agreed, within sixty days.

537
538 4.13 MINIMUM SCOPE OF INSURANCE FOR RPF. In addition to Contractor's insurance
539 requirements set forth in *Section 3*, upon inception of this agreement, RPF will at a
540 minimum maintain insurance that covers RPF's activities and usage of the Facility and
541 Site as follows:

542
543 4.13.1 Commercial General Liability coverage shall be at least as broad as Insurance
544 Services Office form number CG00 01, covering Commercial General Liability
545 with a limit of not less than one Million Dollars combined single limit per
546 occurrence, Two Million Dollars aggregate.

547
548 4.13.2 Automobile Liability, using Insurance Services Office form number (CA 00 01
549 Ed. 12 90) covering Business Automobile Coverage, symbol 1 "any auto"; or the
550 appropriate coverage provided by symbols 2, 8 or 9 for a limit of not less than
551 One Million Dollars combined single limit per occurrence.

552
553 4.13.3 Worker's compensation coverage as required by the Industrial Insurance Act of
554 the State of Washington, statutory limits.

555
556 4.13.4 Employer's Liability or "Stop Gap" coverage shall be at least as broad as the
557 protection provided by the Workers Compensation policy Part 2 (Employers
558 Liability) or, in states with monopolistic state funds, the protection provided by
559 the "Stop Gap" endorsement to the general liability policy.

560
561 4.13.5 "All Risk" property insurance, including Earthquake and Flood, covering the
562 replacement value of all improvements. King County shall be a loss payee as its
563 interest may appear.

564
565 4.14 DEDUCTIBLES AND SELF-INSURED RETENTIONS. Any deductibles or self-insured
566 retentions must be declared to and approved by King County. The deductible and/or self-
567 insured retention of the policies will not limit or apply to King County and will be the
568 sole responsibility of RPF.

569
570 4.15 OTHER INSURANCE PROVISIONS. The insurance policies required by *Section 4* of
571 this Agreement shall also contain or be endorsed to contain the following provisions
572 where applicable:

573
574 A. LIABILITY POLICIES.

- 575
576 1. Each insurance policy will be written on an "occurrence" form.
577 2. King County, the City of Maple Valley their officers, officials, employees, and
578 agents are to be covered as additional insureds as respects liability arising out of

579 activities and usage by RPF of the Facility and Site. Additional insured status
580 shall include on-going operation and products-completed operations.

- 581 3. RPF's commercial general liability insurance coverage will be primary insurance
582 as respects King County, the City of Maple Valley their officers, officials,
583 employees, and agents. Any insurance and/or self-insurance maintained by King
584 County, the City of Maple Valley, its officers, officials, employees or agents will
585 not contribute with RPF's insurance or benefit RPF in any way.

586
587 B. Coverage will not be suspended, voided, canceled, reduced in coverage or in limits
588 except by the reduction of the applicable aggregate limits by claims paid, until after
589 forty-five days prior written notice has been given to RPF and Parks.

590
591 C. RPF's insurance will apply separately to each insured against whom a claim is made
592 and/or lawsuit is brought, except with respect to the limits of the insurer's policy.

593
594 4.16 ACCEPTABILITY OF INSURERS. Unless otherwise approved by Parks, the following
595 provisions apply exclusively to RPF's activities and usage:

596
597 A. Insurance is to be placed with insurers with a Best's rating of no less than A:VIII, or,
598 if not rated by Best's, with a rating in one of the two highest categories maintained by
599 Standard & Poor's Rating Group and Moody's Investor Service.

600
601 B. If at any time any of the foregoing policies fail to meet the above minimum standards,
602 then RPF will, upon notice to that effect from King County, promptly obtain a new
603 policy, and submit the same to King County with certificates and endorsements, for
604 approvals.

605
606 4.17 WAIVER OF SUBROGATION. RPF and its insurance carriers will release and waive all
607 rights of subrogation against King County to the extent a loss is covered by property
608 insurance in force. RPF hereby releases from liability and waives all right of recovery
609 against King County for any loss from perils insured against or under their respective fire
610 insurance policies, including any extended coverage endorsements thereto; provided, that
611 this provision shall be inapplicable if it would have the effect of invalidating any
612 insurance coverage of RPF or King County.

613
614 4.18 INSURANCE LIMITS AND DOCUMENTATION.

615
616 A. By requiring such minimum insurance as specified herein, neither party is deemed to,
617 or construed to, have assessed the risks that may be applicable to the other party to
618 this Agreement. RPF will assess its own risks and, if it deems appropriate or prudent,
619 or both, maintain greater limits or broader coverage.

620
621 B. RPF will furnish Parks with certificates of insurance and endorsements as required by
622 this Agreement. The certificates and endorsements for each policy are to be signed by
623 a person authorized by that insurer to bind coverage on its behalf. The certificates and

624 endorsements for RPF's insurance are to be on forms approved by King County and
625 are to be received and approved by King County prior to the Effective Date of this
626 Agreement. Parks reserves the right to require complete certified copies of all
627 required policies at any time.
628

629 4.19 KING COUNTY INSURANCE. RPF acknowledges, agrees, and understands that King
630 County is self-insured for all of its liability exposures, including but not limited to
631 worker's compensation. King County agrees, at its own expense, to maintain through its
632 self-insurance program coverage for its liability exposures for the duration of this
633 Agreement, or, at King County's sole discretion, to purchase equivalent insurance
634 coverage through an insurance policy or policies, or through a risk sharing pool. King
635 County agrees to provide RPF with at least thirty days prior written notice of any change
636 in its self-insured status and will upon request provide RPF with a letter of self-insurance
637 as adequate proof of insurance.
638

639 **SECTION 5. GENERAL TERMS AND CONDITIONS**
640

641 5.1 PARTIES; NOTICES. All communications, notices, coordination, and other tenets of this
642 Agreement shall be managed by:
643

644	<u>If to Parks:</u>	<u>If to RPF:</u>
645	T.J. Davis, CPG Manager	Rob Nist, Co-Founder
646	Parks and Recreation Division	Ravensdale Park Foundation
647	Department of Natural Resources and Parks	PO Box 1001
648	201 South Jackson Street, Suite 700	Ravensdale, WA 98038
649	Seattle, WA 98104-3855	Email: rob@seattlebox.com
650	Email: tj.davis@kingcounty.gov	Phone: 206-849-7101
651	Phone: 206-229-3965	

652
653 5.2 NONDISCRIMINATION. RPF will comply with King County Code ("K.C.C.") Chapter
654 12.16 regarding nondiscrimination in employment, K.C.C. Chapter 12.17 regarding
655 nondiscrimination in contracting, and K.C.C. Chapter 12.18 regarding fair employment
656 practices.
657

658 A. EMPLOYMENT. RPF does not anticipate hiring any employees to develop the
659 Facility or otherwise perform its obligations under this Agreement. If RPF should
660 elect to do so, however, RPF agrees not to discriminate against any employee or
661 applicant for employment because of sex, race, color, creed, national origin, sexual
662 orientation, gender identity or expression, marital status or the presence of any
663 sensory, mental, or physical handicap or age, except by minimum age and retirement
664 provisions, unless based upon a bonafide occupational qualification. This requirement
665 shall apply without limitation to all aspects of employment (including lay-offs or
666 termination, rates of pay or other forms of compensation, and selection for training,
667 including apprenticeship) and advertisement.
668

669 B. SERVICES AND ACTIVITIES. No person shall be denied or subjected to
670 discrimination in receipt of the benefit of any services or activities made possible by
671 or resulting from this Agreement on the grounds of sex, race, color, creed, national
672 origin, sexual orientation, gender identity or expression, age (except minimum age
673 and retirement provisions), marital status, or the presence of any sensory, mental, or
674 physical handicap. Any violation of this provision shall be considered a violation of a
675 material provision of this Agreement and shall be grounds for termination or
676 suspension in whole or in part of this Agreement by King County and may result in
677 ineligibility for further King County agreements.
678

679 C. OTHER NONDISCRIMINATION LAWS. RPF shall also comply with all applicable
680 anti-discrimination laws or requirements of any and all jurisdictions having authority.
681

682 5.3 ASSIGNMENT. RPF may not assign this Agreement or any interest therein without King
683 County's prior written approval. King County will have the right to sell or otherwise
684 transfer or dispose of the Site or the Facility, or to assign this Agreement or any interest
685 of the County hereunder, provided that in the event of sale or transfer of the Site or the
686 Facility, King County will arrange for the purchaser or transferee to assume the
687 Agreement and King County's obligations hereunder.
688

689 5.4 ADVERTISING RESTRICTIONS. RPF understands that the advertising of tobacco
690 products as defined in King County Code 12.51 and spirits as defined in King County
691 Ordinance No. 14509 is strictly prohibited. RPF further understands that pursuant to
692 Ordinance No. 14509, additional subject-matter restrictions on advertising may be
693 imposed by the Director of the King County Parks and Recreation Division ("Director").
694 If the Director imposes additional restrictions, a copy of the restrictions will be included
695 in an attachment hereto over time. Therefore, RPF expressly covenants that neither it nor
696 any of its sponsors or concessionaires will at any time display, promote, or advertise any
697 tobacco products, spirits, or other subject matter expressly prohibited by the Director.
698 RPF further agrees that any violation of this *Section 5.4* by it will be a material breach of
699 its contractual obligations to Parks pursuant to this Agreement.
700

701 5.5 SOLICITING. Except as otherwise provided in this Agreement, canvassing, soliciting, or
702 peddling in the Site, the Facility, or in adjacent areas are each prohibited without the prior
703 written approval from Parks.
704

705 5.6 POWERS OF THE COUNTY. Nothing contained in this Agreement will be considered
706 to diminish the governmental or police powers of King County.
707

708 5.7 FORCE MAJEURE. The performance of this Agreement by either party is subject to acts
709 of God, war, government regulation or advisory, disasters, fire, accidents or other
710 casualty, strikes or threat of strikes, civil disorder, acts and/or threats of terrorism, or
711 curtailment of transportation services or facilities, cost or availability of power, or similar
712 causes beyond the control of either party making it illegal, impossible, or impracticable to
713 hold, reschedule, or relocate the RPF's use of the Site or the Facility as contemplated

714 herein. Either party may terminate or suspend its obligations under this Agreement if
715 such obligations are prevented by any of the above events to the extent such events are
716 beyond the reasonable control of the party whose reasonable performance is prevented.
717

718 5.8 AGREEMENT IS PUBLIC DOCUMENT. This Agreement will be considered a public
719 document and will be available for inspection and copying by the public.
720

721 5.9 TAXES. RPF agrees to pay on a current basis all applicable taxes or assessments levied
722 on its activities; PROVIDED, however, that nothing contained herein will modify RPF's
723 right to contest any such tax, and RPF will not be deemed to be in default as long as it
724 will, in good faith, be contesting the validity or amount of any such taxes.
725

726 5.10 NO RPF LIENS. RPF acknowledges and agrees that it has no authority, express or
727 implied, to create or place any lien or encumbrance of any kind or nature whatsoever
728 upon, or in any manner to bind, the interest of King County in the fee interest in the Site
729 or in the Facility, or to charge fees for any claim in favor of any person or entity dealing
730 with RPF, including those who may furnish materials or perform labor for any
731 construction or repairs. If any such liens are filed, King County may, without waiving its
732 rights and remedies for breach, and without releasing RPF from its obligations under this
733 Agreement, require RPF to post security in form and amount reasonably satisfactory to
734 King County or to cause such liens to be released by any means King County deems
735 proper, including payment upon satisfaction of the claim giving rise to the lien. RPF will
736 pay to King County upon demand any sum paid by King County to remove the liens.
737 Further, RPF agrees that it will save and hold King County harmless from any and all
738 loss, cost, or expenses based on or arising out of the asserted claims or liens, except those
739 of the lender, against this Agreement or against the right, title and interest of King
740 County in the Site and the Facility or under the terms of this Agreement, including
741 reasonable attorney's fees and costs incurred by King County to remove such liens, and
742 in enforcing this **Section 5.10**. Additionally, it is mutually understood and agreed that this
743 **Section 5.10** is intended to be a continuing provision applicable to future repairs and
744 improvements after the initial development and construction of the Site and the Facility.

745 5.11 RECORDS, AUDITS AND INSPECTIONS. During this Term of this Agreement, RPF's
746 books, records and other materials related to any matters covered by this Agreement and
747 not otherwise privileged shall be subject to inspection, review, and/or audit by King
748 County at King County's sole expense. Such books, records and other materials shall be
749 made available for inspection during regular business hours within a reasonable time of
750 the request.

751
752 5.12 ENTRY BY KING COUNTY. King County may enter the Site or the Facility during
753 RPF's usage for any reason. Any person or persons who may have an interest in the
754 purposes of King County's visit may accompany King County. King County has the right
755 to use any and all means that King County deems proper to open doors and gates to
756 obtain entry to the Site or to the Facility.
757

- 758 5.13 COMPLIANCE WITH ALL LAWS AND REGULATIONS. In using the Facility, RPF
759 and its members shall comply with all applicable laws, ordinances, and regulations from
760 any and all authorities having jurisdiction and, specifically, the requirements of the
761 Washington Industrial Safety and Health Act (WISHA). RPF specifically agrees to
762 comply and pay all costs associated with achieving such compliance without notice from
763 King County, and further agrees that King County does not waive this provision by
764 giving notice of demand for compliance in any instance.
765
- 766 5.14 INTERPRETATION OF COUNTY CODE AND RULES. If there is any question
767 regarding the interpretation of any provision of King County Code or any King County
768 rule or regulation, King County's decision will govern and will be binding upon RPF.
769
- 770 5.15 PERMITS AND LICENSES. RPF will obtain and maintain, at its own costs and expense,
771 all necessary permits, licenses, and approvals required for the activities contemplated
772 under this Agreement.
773
- 774 5.16 RISK OF LOSS. All personal property of any kind or description whatsoever on the Site
775 or the Facility shall be at RPF's sole risk, and King County will not be liable for any
776 damage done to, or loss of, such personal property. However, RPF will not be responsible
777 for losses or claims of stolen property during King County scheduled use of the Site or
778 the Facility by persons or entities other than RPF.
779
- 780 5.17 ENVIRONMENTAL LIABILITY.
781
- 782 A. "Hazardous Materials" as used herein shall mean any hazardous, dangerous or toxic
783 wastes, materials, or substances as defined in state or federal statutes or regulations as
784 currently adopted or hereafter amended.
785
- 786 B. RPF shall not, without first obtaining Parks' written approval, apply, store, deposit,
787 transport, release, or dispose of any hazardous substances, petroleum products,
788 sewage, medicinal, bacteriological, or toxic materials, or pollutants, on the Facility or
789 Site. All approved application, storage, deposit, transportation, release, and disposal
790 shall be done safely and in compliance with applicable laws.
791
- 792 C. Nothing in this Agreement shall be deemed to waive any statutory claim for
793 contribution that RPF might have against King County under federal or state
794 environmental statutes that arises from hazardous materials deposited or released on
795 the Site by King County. RPF may not, however, assert such a claim to the extent that
796 RPF creates the need for or exacerbates the cost of remediation upon which a
797 statutory claim for contribution is based as a result of RPF performing construction
798 activities on the Site, changing the configuration of the Site, or changing the use of
799 the Site.
800
- 801 D. If RPF discovers the presence of hazardous materials at levels that could give rise to a
802 statutory claim for contribution against King County it shall immediately notify Parks

803 in writing. RPF shall provide such notice not more than ten days after discovery. The
804 Parties shall make their best efforts to reach agreement as to which party is
805 responsible for remediation under the terms of this Agreement prior to undertaking
806 any remediation.

807
808 E. In no event shall King County be responsible for any costs of remediation that exceed
809 the minimum necessary to satisfy the state or federal agency with jurisdiction over the
810 remediation.

811
812 5.18 NO EMPLOYMENT RELATIONSHIP. In providing services under this Agreement,
813 RPF is an independent contractor, and neither it nor its officers, agents, employees, or
814 subcontractors are employees of King County for any purpose. RPF shall be responsible
815 for all federal and/or state tax, industrial insurance, and Social Security liability that may
816 result from the performance of and compensation for these services and shall make no
817 claim of career service or civil service rights which may accrue to a County employee
818 under state or local law. King County assumes no responsibility for the payment of any
819 compensation, wages, benefits, or taxes by, or on behalf of RPF, its employees,
820 subcontractors, and/or others by reason of this Agreement.

821
822 5.19 INDEMNIFICATION AND HOLD HARMLESS.

823
824 A. RPF shall protect, indemnify, and hold harmless King County, the City of Maple
825 Valley, their officers, agents, and employees from and against any and all claims,
826 costs, and/or losses whatsoever occurring or resulting from (1) RPF's failure to pay
827 any compensation, wages, benefits, or taxes in connection with or support of the
828 performance of this Agreement, and/or (2) RPF's failure to pay for work, services,
829 materials, or supplies to RPF employees or other RPF suppliers in connection with or
830 support of the performance of this Agreement.

831
832 B. RPF further agrees that it is financially responsible for and will repay King County all
833 indicated amounts following an audit exception which occurs due to the negligence,
834 intentional act, and/or failure for any reason to comply with the terms of this
835 Agreement by RPF, its officers, employees, agents, representatives, or subcontractors.
836 This duty to repay King County shall not be diminished or extinguished by the prior
837 termination of the Agreement.

838
839 C. RPF expressly agrees to protect, defend, indemnify, and hold harmless King County,
840 the City of Maple Valley, their elected and appointed officials, officers, employees,
841 and agents from and against liability for any claims (including all demands, suits, and
842 judgments) for damages arising out of injury to persons or damage to property where
843 such injury or damage is caused by, arises out of, or is incident to RPF's use of the
844 Site or Facility under this Agreement. RPF's obligations under this section shall
845 include, but not be limited to:

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1. The duty to promptly accept tender of defense and provide defense at RPF's expense for claims that fall within this **Section 5.19**;
 2. Indemnification of claims, including those made by RPF's own employees and/or agents for this purpose, for claims that fall within this **Section 5.19**;
 3. In the event King County or the City of Maple Valley incurs any judgment, award, and/or cost arising from claims that fall within this **Section 5.19**, including attorney's fees to successfully enforce the section, all such fees, expenses, and costs shall be recoverable from RPF.
 4. RPF shall protect, defend, indemnify, and hold harmless King County, the City of Maple Valley, their officers, employees, and agents from any and all costs, claims, judgments, and/or awards of damages arising out of, or in any way resulting from the performance or non-performance of the obligations under this Agreement by RPF's subcontractor(s), its officers, employees, and/or agents in connection with or in support of this Agreement.
 5. RPF expressly and specifically agrees that its obligations under this **Section 5.19** extend to any claim, demand, and/or cause of action brought by or on behalf of any of its employees, or agents. For this purpose, RPF, hereby expressly and specifically waives, with respect to King County and the City of Maple Valley only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW, but only to the extent necessary to indemnify King County and the City of Maple Valley.
 6. In all contracts entered into by RPF in conjunction with its duties under this Agreement, RPF will include a hold harmless provision similar to this **Section 5.19** to protect King County.
- 5.20 **WAIVER OF BREACH.** Waiver of any breach 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 King County, which shall be attached to the original Agreement.
- 5.21 **ADDITIONAL TERMS.** King County reserves the right to modify this agreement as necessary to equitably address unforeseen circumstances that may arise. The Parties agree to cooperate in good faith and in the spirit of this Agreement with respect to any such requested modifications. Any such amendments or addendums to this Agreement shall be in writing and executed with equal formality as this Agreement. King County must submit to RPF a written addendum to this Agreement of the additional terms for RPF to approve in writing.
- 5.22 **DISPUTE RESOLUTION.** The Parties agree to use their best efforts to resolve disputes regarding this Agreement in an economic and time efficient manner to advance the

892 purposes of this Agreement. In the event that a dispute arises and cannot be resolved
893 within two days of the dispute occurring, the field development director of RPF and the
894 CPG manager from Parks shall meet in person, within four days of the dispute arising,
895 and work to resolve the dispute. RPF and Parks shall attempt to resolve such dispute as
896 expeditiously as possible and will cooperate so that the express purposes of this
897 Agreement are not frustrated, and so that any design, planning, construction, or use of the
898 Facility or the Site is not delayed or interrupted. Provided, that nothing in this *Section*
899 *5.22* shall otherwise limit the Parties' legal, equitable, or other rights or remedies.
900

901 **5.23** TERMINATION/NOTICE/CURE. In recognition that RPF shall invest substantial funds
902 to develop the Facility at the Site, and recognizing that King County has fiduciary
903 responsibilities to its residents and taxpayers that may change over time, the Parties agree
904 that this Agreement may be terminated as follows:
905

906 **A. FAILURE TO PERFORM.**
907

- 908 1. **OBLIGATION TO PERFORM.** Nothing herein shall imply any duty upon King
909 County to do any work required to be performed by RPF in this Agreement, and
910 the performance thereof by King County will not constitute a waiver of RPF's
911 default. King County will not in any event be liable for inconvenience,
912 annoyance, and disturbance in its activities on the Site or the Facility, provided
913 that King County will not intentionally permit a loss of business or other damage
914 to RPF by reason of King County's actions pertaining to the Site or the Facility.
915
- 916 2. **PAYMENTS TO OTHER PARTIES.** Except as expressly provided hereunder, all
917 obligations of RPF under this Agreement will be performed by RPF at RPF's sole
918 cost and expense. If RPF fails to pay any sum of money owed to any party other
919 than King County for which RPF is liable hereunder, or if RPF fails to perform
920 any other act on its part to be performed hereunder, and such failure continues for
921 ten days after notice thereof by King County, King County may, without waiving
922 or releasing RPF from its obligations, make any such payment or perform any
923 such other act to be made or performed by RPF. Thereafter, on written demand by
924 King County, RPF shall promptly pay to King County an amount equal to all
925 sums so paid by King County, together with all necessary incidental costs
926 incurred by King County, plus interest on the sum total of such sums and costs.
927 For purposes of this *Section 5.23.A.2*, interest will be calculated at the lesser of
928 one percent per month or the maximum rate permissible by law, beginning on the
929 date that King County first makes a payment on behalf of RPF. RPF understands,
930 acknowledges, and agrees that King County is under no obligation to make any
931 payment on behalf of RPF.
932

933 **B. DEFAULT.**
934

- 935 1. **PARKS' DEFAULT.** Parks will not be in default unless Parks fails to perform an
936 obligation within sixty days after notice by RPF, which notice must specify the

937 alleged breach; provided that if the nature of Parks' breach is such that more than
938 sixty days are reasonably required for cure, then Parks will not be in default if
939 Parks commences to cure within sixty days of RPF's notice and thereafter
940 diligently pursues completion and completes performance within a reasonable
941 time.

942
943 2. RPF'S DEFAULT. The occurrence of any one or more of the following events
944 constitutes a default by RPF under this Agreement:

945
946 (1) RPF will be in default of the performance of any covenants, conditions, or
947 provisions of this Agreement, other than the covenants for the payment of use fees
948 required by this Agreement, where such failure continues for a period of sixty
949 days after written notice is given by King County; provided that if the nature of
950 RPF's breach is such that more than sixty days are reasonably required for cure,
951 then RPF will not be in default if RPF commences to cure within sixty days of
952 King County's notice and thereafter diligently pursues completion and completes
953 performance within a reasonable time; or

954
955 (2) RPF will be adjudged bankrupt, make a general assignment for the benefit of
956 creditors, or take the benefit of any insolvency act, or if a permanent receiver and
957 trustee in bankruptcy is appointed for RPF's estate and such appointment is not
958 vacated within sixty days; or

959
960 (3) RPF purports to assign the Site or the Facility is used by RPF for activities
961 other than in accordance with the terms of this Agreement, and such default is not
962 cured within thirty days after written notice from King County to RPF; or

963
964 (4) RPF fails to make any payment when due, or fails to make any other payment
965 required hereunder when due, when that failure is not cured within thirty days
966 after mailing of written notice thereof by King County.

967
968 C. TERMINATION FOR CHANGE IN RPF STATUS. King County may terminate this
969 Agreement without penalty or liability if, at any time during the Term of this
970 Agreement, RPF loses or changes its status: (1) as an active Washington nonprofit
971 corporation; or (2) as a tax-exempt organization under section 501(c)(3) of the
972 Internal Revenue Code as now or hereafter codified. Provided, that King County will
973 not terminate the Agreement under this *Section 5.23.C* if RPF reasonably cures any
974 and all such loss or change of status.

975
976 D. DEFAULT FOR OTHER CAUSE. This Agreement may be immediately terminated
977 for other cause by a party if the other party substantially fails to perform its
978 obligations under this Agreement, through no fault of the terminating party, and the
979 non-performing party does not commence correction of the failure of performance
980 within sixty days of the terminating party's sending notice to the non-performing
981 party.

982 E. OTHER RPF TERMINATION. RPF may terminate this Agreement for any reason
983 upon twelve months prior notice in writing to King County. In this event RPF shall
984 not be entitled to any compensation from King County for capital improvements
985 made by RPF to the Site.
986

987 F. OTHER KING COUNTY TERMINATION.
988

- 989 1. King County may terminate this Agreement without cause upon twelve months
990 prior notice in writing to RPF. In this event RPF shall be entitled to reasonable
991 compensation from King County for capital improvements made by RPF to the
992 Site with due regard for the funds invested by RPF, RPF debts remaining to be
993 paid relating to the Facility, the fair market value of the Facility at the time of
994 termination, and the length of time RPF has had use of the Facility.
995 2. Any King County obligations under this Agreement beyond the current
996 appropriation year are conditioned upon the King County Council's appropriation
997 of sufficient funds to support such obligations. If the Council does not approve
998 such appropriation, then this Agreement will terminate automatically at the close
999 of the current appropriation year.
1000

1001 G. REMEDIES ARE CUMULATIVE. Remedies under this Agreement are cumulative;
1002 the failure to exercise any right on any occasion will not operate to forfeit such
1003 remedy.
1004

1005 5.24 DESTRUCTION OF PREMISES AND USE OF INSURANCE PROCEEDS.
1006

1007 A. Unless otherwise mutually agreed by the Parties, if the Site or the Facility are
1008 destroyed or injured by fire, earthquake, or other casualty during the Design and
1009 Construction Phase, then RPF will proceed to rebuild and restore the Site and the
1010 Facility, or such part thereof as may be injured or destroyed. In the event of any loss
1011 covered by the insurance policies described and required under this Agreement,
1012 unless this Agreement is terminated as provided herein, RPF will use the proceeds of
1013 such insurance policies first to rebuild and then to restore the Site and the Facility and
1014 replace the improvements, fixtures, and equipment which may be damaged or
1015 destroyed by such casualty.
1016

1017 B. Unless otherwise mutually agreed by the Parties, if the Site and/or the Facility are
1018 destroyed by fire, earthquake, or other casualty after completion of the Design and
1019 Construction Phase, then King County will proceed to rebuild and restore the Site and
1020 the Facility, or such part thereof as may be injured or destroyed. In the event of any
1021 loss covered by the insurance policies described and required under this Agreement,
1022 unless this Agreement is terminated as provided herein, King County will use the
1023 proceeds of such insurance policies first to rebuild and then to restore the Site and the
1024 Facility and replace the improvements, fixtures, and equipment which may be
1025 damaged or destroyed by such casualty.
1026

- 1027 5.25 DUTIES UPON TERMINATION. Upon termination of this Agreement, RPF will
1028 remove from the Site and the Facility all its personal property, goods, and effects. If RPF
1029 fails to perform this duty at termination, Parks may cause such removal to be made and
1030 RPF's personal property, goods and effects to be stored, the cost and expense to be paid
1031 by RPF. It is understood and agreed that the real property constituting the Site and the
1032 Facility is the real property of King County and that all improvements to that real
1033 property will continue to belong to King County upon termination of this Agreement.
1034
- 1035 5.26 EMINENT DOMAIN. The following rules will govern the rights and duties of the Parties
1036 in the event of interference with RPF's design, construction, or use of the Site or the
1037 Facility as a result of the exercise of eminent domain or private purchase in lieu thereof.
1038
- 1039 A. RIGHT OF TERMINATION. If the whole of the Site or the Facility is taken for any
1040 public or quasi-public use under any statute or by right of eminent domain, or by
1041 private purchase in lieu thereof, then this Agreement will automatically terminate as
1042 of the date that title is taken. If more than twenty-five percent of the Site or the
1043 Facility is so taken and if the taking renders the remainder thereof unusable for the
1044 purposes contemplated under this Agreement, then RPF and King County will each
1045 have the right to terminate this Agreement on thirty-day notice to the other, given
1046 within ninety days after the date of such taking. Provided, however, that if King
1047 County is exercising its right of eminent domain, a fair value will be placed on this
1048 Agreement and the Facility with the compensation thereof awarded solely to RPF.
1049
- 1050 B. NON-TERMINATION. If any part of the Site or the Facility is so taken and this
1051 Agreement is not terminated, then the agreement remains in effect with respect to the
1052 remainder of the Site or Facility.
1053
- 1054 C. COMPENSATION. The compensation awarded or paid upon a total or partial taking
1055 of the Site or the Facility, or this Agreement, or any of them, will belong to and be
1056 apportioned between RPF and Parks in accordance with their respective interests
1057 under this Agreement as determined between them or by a court. Additionally, RPF
1058 may prosecute any claim directly against the condemning authority for the costs of
1059 removal of the goodwill, stock, trade fixtures, furniture, and other personal property
1060 belonging to RPF. King County will have no claim to condemnation proceeds
1061 attributable to RPF's interest in the Facility, nor will RPF have any interest in King
1062 County's condemnation proceeds, if any.
1063
- 1064 5.27 SURRENDER. Within thirty days of the time this Agreement expires or is terminated,
1065 RPF shall remove any and all of its portable improvements at the Facility. If
1066 improvements include non-portable fixtures, such improvements shall inure to the benefit
1067 of King County and shall remain at the Facility.
1068
- 1069 5.28 HEADINGS NOT PART OF AGREEMENT. The headings in this Agreement are for
1070 convenience only and shall not be deemed to expand, limit, or otherwise affect the
1071 substantive terms of this Agreement.

1072 5.29 GOVERNING LAW. This Agreement shall be governed by the laws of the State of
1073 Washington, without regard to its conflicts of law rules or choice of law provisions.
1074

1075 5.30 JURISDICTION AND VENUE. The exclusive jurisdiction and venue for any disputes
1076 arising under this Agreement, including matters of construction, validity and
1077 performance, shall be in the Superior Court for King County in Seattle, Washington.
1078

1079 5.31 RIGHT TO PARTICIPATE IN LITIGATION. Consistent with applicable law, RPF will
1080 have the right to participate in any litigation, arbitration, or dispute directly affecting the
1081 Site, the Facility, or interest of RPF therein, including, without limitation, any suit,
1082 action, arbitration proceeding, condemnation proceeding, or insurance claim. King
1083 County, upon instituting or receiving notice of any such litigation, arbitration, or dispute
1084 will promptly notify RPF of the same.
1085

1086 5.32 EXHIBITS. Exhibits A through E are attached hereto and Exhibits A through D are
1087 hereby incorporated herein by this reference:
1088

- 1089 A. Ravensdale Site Map and Project Scope
- 1090 B. Facility Use Rules
- 1091 C. Site Maintenance Plan
- 1092 D. Grant Award Matrix – Ravensdale Park Field Conversion
- 1093 E. Interlocal Agreement between the Parks and Recreation Division of the King County
1094 Department of Natural Resources and Parks and the City of Maple Valley
1095

1096 5.33 ENTIRE AGREEMENT. This Agreement and any and all exhibits expressly
1097 incorporated herein by reference and attached hereto shall constitute the whole agreement
1098 between King County and RPF. There are no terms, obligations, allowances, covenants,
1099 or conditions other than those contained herein.
1100

1101 5.34 SEVERABILITY. Should any provision of this Agreement be found to be invalid, illegal,
1102 or unenforceable by any court of competent jurisdiction, such provision shall be stricken
1103 and the remainder of this Agreement shall nonetheless remain in full force and effect
1104 unless striking such provision shall materially alter the intention of the Parties.
1105

1106 IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the last date
1107 written.
1108

1109 **Ravensdale Park Foundation**

**King County Department of Natural
Resources and Parks**

1110
1111
1112 By _____

By _____

1113
1114 TITLE _____

TITLE _____

1115
1116 Date _____

Date _____

Exhibit A

Ravensdale Site Map & Phase II Scope

Two multipurpose synthetic fields with lights
"Combination Fields #1 and #2"

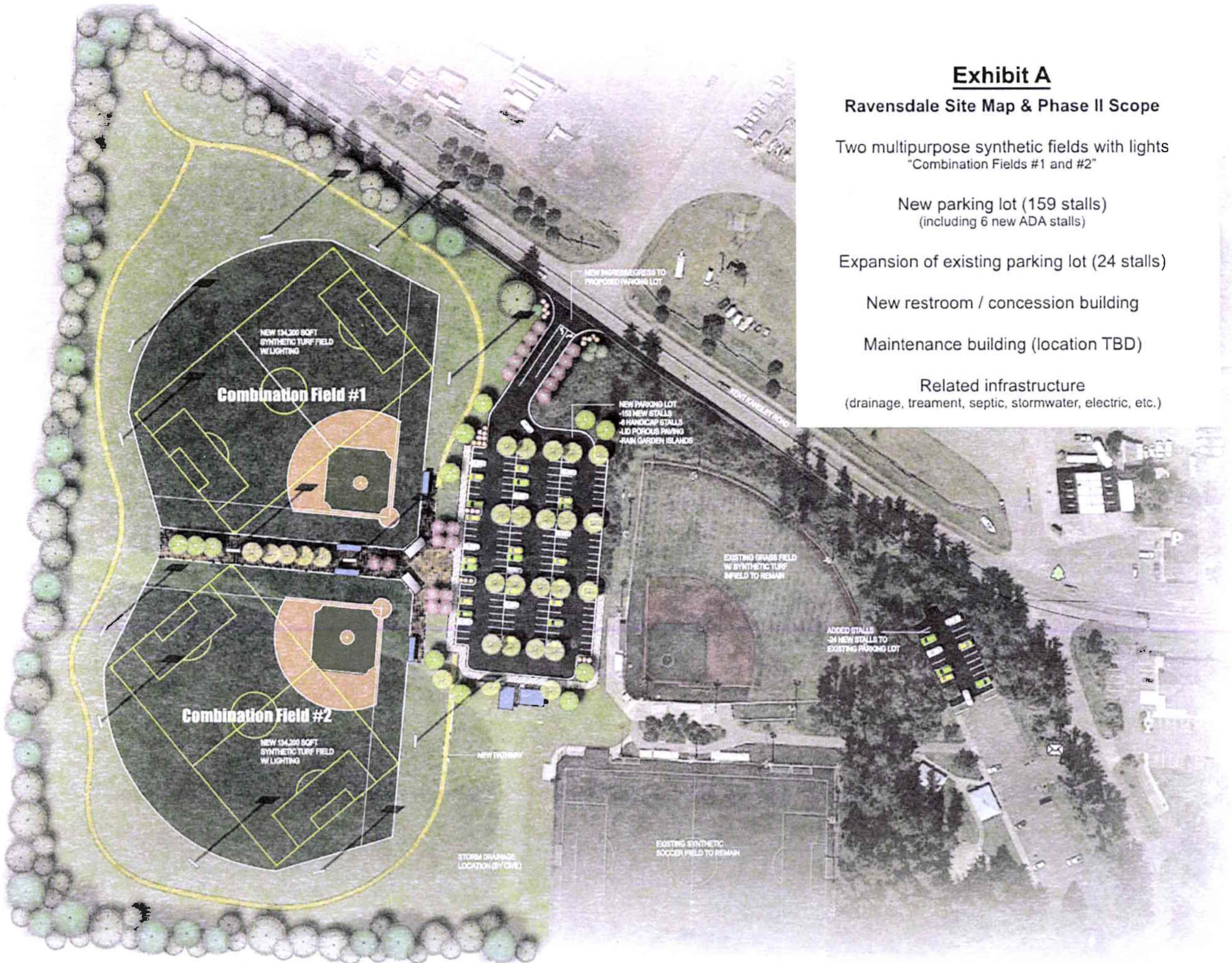
New parking lot (159 stalls)
(including 6 new ADA stalls)

Expansion of existing parking lot (24 stalls)

New restroom / concession building

Maintenance building (location TBD)

Related infrastructure
(drainage, treatment, septic, stormwater, electric, etc.)



Facility Use Policy

Ravensdale Synthetic Fields

- No gum is allowed on any of the turf surfaces by players, coaches, or fans.
- No seeds are allowed on any of the turf surfaces by players, coaches, or fans.
- No metal cleats are allowed on the turf surface.
- No high-heeled shoes are allowed on the turf surface.
- No soda is allowed on any of the turf surfaces by players, coaches, or fans.
- No Gatorade or other sugary drinks allowed on turf surface.
- No golfing is allowed on the turf surface.
- No pets are allowed on the turf surface.
- No folding chairs or outdoor furniture are allowed on the turf surface.
- No smoking or tobacco products of any kind are allowed on the turf surface.
- No tent stakes are allowed on the turf surface.
- During scheduled uses, only coaches, players, or referees are allowed on the turf surface (inside the fence).
- All children must be supervised for their own safety.
- All park users are prohibited from accessing bio swale, storm water pond, or other storm water facilities around the field and throughout the park.
- Organized field use must be scheduled through the regional scheduling office, but drop-in use is allowed if there are no scheduled uses.
- Lights are centrally automated based on scheduled uses and will shut off 15 minutes after end of scheduled use for egress safety.
- Parking in designated areas only / no parking after closing time.
- Dogs and / or domestic animals must be kept on a leash no greater than 8' long.
- Dogs and / or domestic animal's feces are to be removed from park.
- Cutting, picking, or destruction of plant life on King County property is prohibited.
- Removal of any county property prohibited.
- Unauthorized possession of firearms or weapons is prohibited.
- Household and / or commercial garbage dumping prohibited.
- Overnight camping is prohibited throughout the park.
- Model aircraft and rockets are prohibited on the turf surface and throughout the park.
- All fireworks are prohibited on the turf surface and throughout the park.
- Alcoholic beverages prohibited in the park.

Exhibit C: Site Maintenance Plan

(To be attached prior to completion of construction)

Exhibit D

Grant Award Matrix

Ravensdale Park Field Conversion

Milestone(s)	Grants and Milestone			Milestone	Documentation Requirements
	Total: \$2m	Balance: \$2m	Paid \$0		
Milestone #1 January 2014	\$500,000		\$0	<u>Milestone #1 Deliverables:</u> <input checked="" type="checkbox"/> 100% Design <input checked="" type="checkbox"/> Permit <input checked="" type="checkbox"/> Construction Contract w/ Performance Bonds <input checked="" type="checkbox"/> Fundraising Plan <input type="checkbox"/> ILA with City of Maple Valley <input checked="" type="checkbox"/> \$2,300,000 Match Committed	<u>RPF Documentation:</u> <input checked="" type="checkbox"/> 100% Design <input checked="" type="checkbox"/> Construction Contract w/ performance bonds <input checked="" type="checkbox"/> Progress Report <input checked="" type="checkbox"/> Fundraising Plan <input type="checkbox"/> ILA with City of Maple Valley <input checked="" type="checkbox"/> Documentation of Match
Milestone #2 January 2015	\$500,000		\$0	<u>Milestone #2 Deliverables</u> <input type="checkbox"/> Parks Review <input type="checkbox"/> Financial Report <input type="checkbox"/> Annual Performance Report	<input type="checkbox"/> 2014 Financial Report <input type="checkbox"/> 2014 Annual Report <input type="checkbox"/> Site maintenance Plan finalized
Milestone #3 January 2016	\$500,000		\$0	<u>Milestone #2 Deliverables</u> <input type="checkbox"/> Parks Review <input type="checkbox"/> Financial Report <input type="checkbox"/> Annual Performance Report	<input type="checkbox"/> 2015 Financial Report <input type="checkbox"/> 2015 Annual Report <input type="checkbox"/> Site maintenance Plan finalized
Milestone #4 January 2017	\$500,000		\$0	<u>Milestone #2 Deliverables</u> <input type="checkbox"/> Parks Review <input type="checkbox"/> Financial Report <input type="checkbox"/> Annual Performance Report	<input type="checkbox"/> 2016 Financial Report <input type="checkbox"/> 2016 Annual Report <input type="checkbox"/> Site maintenance Plan finalized
Total	\$2,000,000				

Exhibit D

**Grant Award Matrix
Ravensdale Park Field Conversion**

Milestone(s)	Grants and Milestone			Milestone	Documentation Requirements
	Total: \$2m	Balance: \$2m	Paid \$0		
Milestone #1 January 2014	\$500,000		\$0	Milestone #1 Deliverables: <input checked="" type="checkbox"/> 100% Design <input checked="" type="checkbox"/> Permit <input checked="" type="checkbox"/> Construction Contract w/ Performance Bonds <input checked="" type="checkbox"/> Fundraising Plan <input type="checkbox"/> ILA with City of Maple Valley <input checked="" type="checkbox"/> \$2,300,000 Match Committed	RPF Documentation: <input checked="" type="checkbox"/> 100% Design <input checked="" type="checkbox"/> Construction Contract w/ performance bonds <input checked="" type="checkbox"/> Progress Report <input checked="" type="checkbox"/> Fundraising Plan <input type="checkbox"/> ILA with City of Maple Valley <input checked="" type="checkbox"/> Documentation of Match
Milestone #2 January 2015	\$500,000		\$0	Milestone #2 Deliverables <input type="checkbox"/> Parks Review <input type="checkbox"/> Financial Report <input type="checkbox"/> Annual Performance Report	<input type="checkbox"/> 2014 Financial Report <input type="checkbox"/> 2014 Annual Report <input type="checkbox"/> Site maintenance Plan finalized
Milestone #3 January 2016	\$500,000		\$0	Milestone #2 Deliverables <input type="checkbox"/> Parks Review <input type="checkbox"/> Financial Report <input type="checkbox"/> Annual Performance Report	<input type="checkbox"/> 2015 Financial Report <input type="checkbox"/> 2015 Annual Report <input type="checkbox"/> Site maintenance Plan finalized
Milestone #4 January 2017	\$500,000		\$0	Milestone #2 Deliverables <input type="checkbox"/> Parks Review <input type="checkbox"/> Financial Report <input type="checkbox"/> Annual Performance Report	<input type="checkbox"/> 2016 Financial Report <input type="checkbox"/> 2016 Annual Report <input type="checkbox"/> Site maintenance Plan finalized
Total	\$2,000,000				

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 pay or 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 _____

Date _____