KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

King County

Signature Report

February 25, 2014

Ordinance 17759

Proposed No. 2014-0042.2 **Sponsors** Dunn

AN ORDINANCE authorizing the King County executive to execute a use agreement with the Ravensdale Park Foundation for the continued use of the Phase 1 Improvements and the construction and use of the Phase 2 Improvements at Ravensdale Park located at Southeast Kent Kangley Road and 272nd Avenue South, Ravensdale, Washington.

STATEMENT OF FACTS:

1. King County, a home rule charter county and political subdivision of the state of Washington, is the owner of the property known as Ravensdale park, located at Southeast Kent Kangley Road and 272nd Avenue South, Ravensdale, Washington.

2. The Ravensdale Park Foundation is a nonprofit Washington corporation that is tax-exempt under Title 26 U.S.C. Sec. 501(c)(3) of the Internal Revenue Code of 1986 and is a community-based organization whose mission is to steward the Ravensdale Park Master Plan on behalf of public users and other stakeholders at Ravensdale park. The foundation represents the public interest of: public youth soccer, public youth

baseball, public youth lacrosse and public youth football; passive recreation; and other park stakeholders.

3. The foundation has demonstrated its experience, ability and resources to develop synthetic ballfields and related infrastructure at Ravensdale park through the work it performed pursuant to a 2011 community partnerships and grants agreement ("Phase 1 Improvements"), which included the design and construction of two synthetic fields.

4. King County has determined that synthetic baseball fields and other public recreation amenities ("Phase 2 Improvements") at Ravensdale park will have significant rural recreational value. The Phase 2 Improvements will allow for multiple public uses and users throughout the year, thus increasing public access and utilization of park facilities.

5. Under this project, the foundation will design and construct the Phase 2 Improvements, consisting of two multiuse synthetic ballfields, a restroom, a maintenance building, a parking lot and related infrastructure, as set forth in Attachment A to this ordinance, using a total of two million dollars in Community Partnerships and Grants Program funds and up to four million dollars in additional capital fundraising, in-kind services and community resources.

6. In light of the foundation's significant investment, King County shall grant a public use agreement so long as the foundation is in compliance with the terms and conditions outlined in Attachment A to this ordinance.

7. Ordinance 14509 authorized the department of natural resources and parks to create new public recreation opportunities by empowering user groups, sports associations, and community organizations, like the Ravensdale Park Foundation, to operate, maintain and implement mutually agreed upon capital improvements for public recreation facilities on King County land, and thereby address regional or rural recreation needs at minimal operating and maintenance costs.

8. Use agreements are authorized under K.C.C. 4.56.150.E. and F.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. The King County executive is hereby authorized to sign a public use agreement, substantially in the form of Attachment A to this ordinance, with the Ravensdale Park Foundation for the continued use of the Phase I Improvements and for the use, development and construction of Phase 2 Improvements at Ravensdale park,

Ravensdale, Washington. This ordinance constitutes project authorization under Ordinance 17392.

Ordinance 17759 was introduced on 1/27/2014 and passed by the Metropolitan King County Council on 2/24/2014, by the following vote:

Yes: 9 - Mr. Phillips, Mr. von Reichbauer, Mr. Gossett, Ms. Hague, Ms. Lambert, Mr. Dunn, Mr. McDermott, Mr. Dembowski and Mr. Upthegrove
No: 0
Excused: 0

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Larry Phillips, Chair

ATTEST:

Anne Noris, Clerk of the Council

RECEIVED
2014 MAR -6 PM 3:51
CLERK
KING COUNTY COUNCIL

APPROVED this 6 day of MARCH, ~~2013~~ 2014.

Dow Constantine, County Executive

Attachments: A. Use Agreement - Revised February 11, 2014

Attachment A

King County

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 Phase 1 and Phase 2 Improvements

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:

(1) Continued use of the Phase 1 improvements consisting of the synthetic soccer and baseball fields constructed pursuant to the 2011 Community Partnerships and Grants Agreement (Contract # D4135D) between the Parties ("Phase 1 Improvements"); and

(2) The construction and use of Combination Fields #1 and #2 and related infrastructure ("Phase 2 Improvements"). Collectively, the Phase 1 and Phase 2 Improvements will be referred to as the "Facility," and described on Exhibit A, Ravensdale Site Map & Phase II Scope 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 I. 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 demonstrated its experience, ability, and resources to develop synthetic ballfields and related infrastructure at the Site through the work it performed pursuant to Contract D4135D and the design and construction of the Phase 1 Improvements. RPF intends to develop the Phase 2 Improvements for public use, with an expected infrastructure life of the Phase 2 Improvements of approximately thirty years.

1.4 Parks has determined that constructing the Phase 2 Improvements at the Site will have significant rural public recreation value.

1.5 King County Ordinance 14509 authorized the Department of Natural Resources and Parks to create new public recreation opportunities by empowering user groups, sports association, and community organizations like RPF to develop mutually agreed upon capital improvements for public recreation facilities on King County land, and thereby address regional and/or rural community recreational needs while minimizing tax funded operations and maintenance costs.

1.6 King County Code 4.56.150(E) and (F) and Revised Code of Washington 35.21.278 authorize King County to enter into agreements with non-profit organizations that provide a service to the public and make improvements to King County property.

1.7 The Parties intend this Agreement to extend for up to thirty years, provided the Parties exercise the extension options as set forth in ***Section 2.13***

1.8 The City of Maple Valley (the "City") supports the development of public recreational facilities that enhance recreational opportunities available to its constituents, and will contribute Two Million Dollars, for the benefit of RPF and the public, toward the cost of the project under the terms and conditions established in an Interlocal Agreement ("Separate Agreement") between the City and King County, attached hereto as Exhibit E.

SECTION 2. CONSIDERATION

2.1 EFFECTIVE DATE. The effective date ("Effective Date") of this Agreement is the date of execution by the last party to execute this Agreement.

2.2 TERM The term of this Agreement shall be ten (10) years from the Effective Date of the Agreement ("Term"), provided that:

A. The Parties agree that once the Parks determines the Phase 2 Improvements are substantially complete as defined in ***Section 2.11***, Contract # D4135D shall terminate and the terms and conditions of this Agreement shall control regarding the obligations of each party relative to the continued use of the Phase 1 Improvements by RPF; and

B. The Parties may extend the Agreement for up to two separate additional ten year periods based on negotiations provided for in ***Section 2.13.*** RPF will notify Division in writing at least twelve (12) months prior to the expiration of this Agreement whether RPF desires to negotiate renewal or extension of the Agreement (including any proposed modifications). The Parties may modify this Agreement during the Term, as a condition of renewal, extension, or during a renewal or extension term, consistent with ***Section 2.13.*** Any renewal, extension, or amendment, except as provided in ***Section 5.1***, is subject to King County Council approval by ordinance.

2.3 RPF agrees to assume responsibility for design, permitting, and construction of the Phase 2 Improvements on the Site consistent with the terms and conditions set forth in this Agreement. The Phase 2 Improvements will include two multi-use synthetic ballfields, parking, restroom, maintenance building, and related infrastructure, all as set forth in Exhibit A to this Agreement.

2.4 Upon completion of the Phase 2 Improvements, RPF and Parks will develop a mutually agreed upon Site Maintenance Plan (Exhibit C), which shall become part of this Agreement. The Site Maintenance Plan will specify the maintenance responsibilities of RPF and the maintenance responsibilities of Parks for the Facility and Site.

2.5 RPF has inspected and knows the condition of the Site, and agrees to accept the Site in AS IS condition.

2.6 Parks does not make and specifically disclaims any warranties, express or implied, including any warranty of merchantability or fitness for a particular purpose, with respect to the Site, and no official, employee, representative, or agent of King County is authorized to represent otherwise.

2.7 Parks will provide a total of Two Million Dollars towards the capital cost to construct the Phase 2 Improvements at the Site to be disbursed in accordance with the Grant Award Matrix (Exhibit D). The County may in its sole discretion accelerate the payment schedule in support of the project, and make appropriate deductions to cover interest or other expenses incurred related to accelerating payments to RPF. Further, Parks will make available for the cost of constructing the Phase 2 Improvements all additional funds provided by the City, anticipated to total Two Million Dollars, consistent with the Interlocal Agreement (Exhibit E).

A. RPF will be solely responsible to secure and provide all other funding needed to design and construct the Phase 2 Improvements. The present total estimated market cost to design, permit, and construct the Phase 2 Improvements is Six Million Dollars. Although RPF may apply for additional Community Partnerships and Grants ("CPG") or Youth Sports Facility Grants ("YSFG"), Parks is under no obligation, directly or indirectly, to pay for any labor, material, or improvement associated with the Site or the Phase 2 Improvements in excess of the Two Million Dollars capital grant outlined above. RPF will, upon request, inform any inquiring person or entity that Parks has

no further financial obligations associated with the construction of the Site or the Phase 2 Improvements.

B. Upon the substantial completion of Phase 2 Improvements, public youth ballfield users represented by RPF shall have first priority public use scheduling at the Facility up to five thousand (5,000) peak hours per year, PROVIDED that RPF acknowledges and agrees that City contracted and/or operated programs shall also receive first priority public use scheduling at the Facility up to one thousand (1,000) peak hours per year, for years one through ten, pursuant to the terms and conditions set forth in Exhibit E attached hereto, and PROVIDED FURTHER that RPF agrees to work in good faith with the City to schedule each party's allocation of priority hours at Ravensdale Park. RPF may utilize the balance of unused City priority hours, if any, consistent with the terms and conditions established in this Section and ***Section 4.3***. The priority use hours may be used at any of the four fields. 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.

C. For the use of the Facility, RPF will pay King County a guaranteed annual field rental fee of Eighty Thousand Dollars per year for RPF's first five thousand (5,000) annual hours of use, and Sixteen Dollars for each unused City hour that RPF utilizes, if any, starting in the year the Phase 2 Improvements are completed and continuing through the Term of this Agreement. For every hour of use beyond RPF's five thousand (5,000) priority hours and those unused City hours that RPF utilizes, RPF will pay King County standard hourly rate for Facility use.

2.8 Upon termination of this Agreement, King County shall retain ownership of the Site and the Facility, including all improvements made by RPF, permanent fixtures installed by RPF, and county-purchased equipment.

2.9 In recognition that the design, development, and construction of the Phase 2 Improvements will benefit the public upon completion, Parks agrees to coordinate with RPF and to use its best efforts to assist with and facilitate the issuance of any federal, state, county, or local permits or approvals necessary for construction of the Phase 2 Improvements at the Site to begin. RPF understands, acknowledges, and agrees that the Division's assistance and facilitation shall not and does not constitute King County's official endorsement or approval of RPF's plans, drawings, design documents, or construction for purposes of any applicable laws, regulations, codes, ordinances, guidelines, or industry standards (collectively, "authorities"). As between RPF and the Division, RPF will be solely responsible to comply with all applicable authorities and to obtain all necessary permits, approvals, and endorsements.

2.10 Parks personnel or agents may inspect the Phase 2 Improvements construction project at any time provided that such persons observe due regard for workplace safety and security. Parks may require RPF or its contractors to stop work if Parks deems work stoppage necessary to remedy construction defects or to address risks to health, safety, or welfare. RPF specifically understands, acknowledges, and agrees that at a minimum,

Parks will inspect the Phase 2 Improvements construction project and approve work progress in writing at the following milestones:

A. Completed set of construction plans, drawings, specifications, and related design documents for the Phase 2 Improvements construction project;

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 amenities other than playing surface (fencing, paving, bleachers, etc.).

2.11 When RPF considers that all work or work associated with the Phase 2 Improvements 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 or 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 Phase 2 Improvements for the purpose intended;

B. All the systems and parts of the Phase 2 Improvements are functional;

C. Only minor incidental work or correction or repair remains to complete all Phase 2 Improvements 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 Phase 2 Improvements.

2.12 <u>WARRANTIES</u>.

A. With respect to all warranties, express or implied, for work performed or materials supplied in connection with the Phase 2 Improvements, RPF shall:

1. Obtain all warranties, express or implied, that would be given in normal commercial practice from supplies, 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 Phase 2 Improvements or work performed to construct the Phase 2 Improvements 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 2.12*** are in addition to any other rights or remedies provided elsewhere in this Agreement or by applicable law.

2.13 EXTENSIONS

A. At least twelve (12) months before the expiration of (a) this Agreement's Term or (b) the first 10 year extension period, provided that RPF is then in compliance with the terms and conditions of this Agreement, Parks and RPF will begin negotiations regarding extending this Agreement for an additional ten year period contingent upon RPF replacing the synthetic surfaces on the fields in Phase 1 and Phase 2 Improvements on a schedule acceptable to Parks and/or other investments in the Facility mutually agreeable to the Parties, and the Parties reaching agreement on maintenance responsibilities, priority use, and hourly fees in consideration for such Facility investments made by RPF. Prior to the expiration either of the Term or the first 10 year extension period, King County shall not negotiate with any person or entity other than RPF regarding a use agreement for the Facility.

SECTION 3. CONSTRUCTION OF PHASE 2 IMPROVEMENTS

3.1 CAPITAL IMPROVEMENTS. The present total estimated market cost to design, permit, and construct the Phase 2 Improvements is Six Million Dollars. The combined King County and City contribution is Four Million Dollars. RPF will raise and expend and

estimated Two Million Dollars in cash or cash equivalents for the development and construction of the Phase 2 Improvements 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 Phase 2 Improvements. 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.

3.2 EXCLUSIVE POSSESSION DURING CONSTRUCTION. RPF shall be entitled to exclusive possession and use of that portion of the Site designated for development and construction of the Phase 2 Improvements during the design, development, and construction phases. This right of exclusive possession and use by RPF will be provided in writing and is subject to King County's entry, inspection, acceptance, and audit rights under ***Sections 2.10, 4.12, 5.11, and 5.12*** of this Agreement.

3.3 DESIGN. RPF has retained a licensed architect and/or licensed professional engineer, registered in the State of Washington, who will prepare a design for the Site and the Phase 2 Improvements and exterior landscaping, which visually blends with the setting. Parks shall review the design plans for the Site in concept and reserves the right to approve the final design of the Site and the Phase 2 Improvements, consistent with applicable King County code requirements. Parks' approval shall not constitute King County regulatory approval.

3.4 CONSTRUCTION/SITEWORK/FENCING. RPF will be solely responsible for the site work, required permits, and grading at the Phase 2 Improvements. RPF will ensure the work area is properly barricaded, and will ensure that signage is installed directing unauthorized persons not to enter onto the construction site during any phase of development or construction. Unless otherwise agreed to by the Parties in writing, fencing will be placed around work areas. In addition, construction sites will be kept clean and organized during development periods. RPF will be responsible for site security, traffic, and pedestrian warnings at the Site during the development and construction phases.

3.5 CONSTRUCTION DEADLINES. RPF is required to complete the development and construction of the Phase 2 Improvements within one year from the date that RPF

receives all funding, in-kind contributions, and the permits necessary to commence construction on the Phase 2 Improvements.

3.6 RELOCATION OF UTILITY LINES. RPF will be responsible at its expense to relocate and improve storm drains, sewers, water lines, and other utilities, if any, as required to complete development and construction of the Phase 2 Improvements.

3.7 ALTERATION OF SITE OR PHASE 2 IMPROVEMENTS AFTER CONSTRUCTION. After the Phase 2 Improvements are completed and accepted by RPF and Parks, as defined herein, RPF will not make any material alteration to the Site or to the Facility, including any changes to the landscaping, without express, written consent by Parks.

3.8 DEVELOPMENT AND CONSTRUCTION FEES AND EXPENSES. RPF will be responsible to obtain and pay for all necessary permits, fees, and expenses associated with the development and construction of the Phase 2 Improvements.

3.9 PUBLIC WORKS LAWS. To the extent applicable, RPF will comply with all public works laws, regulations, and ordinances, including but not limited to those related to prevailing wages (see RCW 39.12), retainage (see RCW 60.28), bonding (see RCW 39.08), and use of licensed contractors (see RCW 39.06). RPF will indemnify and defend King County should it be sued or made the subject of an administrative investigation or hearing for a violation of such laws, regulations, and ordinances in connection with the improvements. Without limiting the foregoing, RPF understands, acknowledges, and agrees that before beginning construction of the Phase 2 Improvements on the Site, RPF must execute and deliver to King County a performance and payment bond in an amount equal to one hundred percent of the estimated full value of the Phase 2 Improvements construction contract, on a form acceptable to King County with an approved surety company and in compliance with RCW Ch. 39.08. King County must be named as the beneficiary of the payment and performance bond. RPF must notify the surety of any changes in the work. RPF must promptly furnish additional bond security to protect King County and persons supplying labor or materials required to construct the Phase 2 Improvements if (a) King County has a reasonable objection to any surety; (b) any surety fails to furnish reports on its financial condition pursuant to King County's request; or (c) the estimated cost of the Phase 2 Improvements increases beyond the bond amount.

3.10 CONTRACTOR INDEMNIFICATION AND HOLD HARMLESS. RPF will require its construction contractors and subcontractors to defend, indemnify and hold King County, the City of Maple Valley their officers, officials, employees, and volunteers harmless from any and all claims, injuries, damages, losses, or suits including attorney's fees and costs, arising out of or in connection with the design, development, and construction of the Phase 2 Improvements (hereinafter "Design and Construction Phase"), except for injuries and damages caused solely by the negligence of King County or the City of Maple Valley. The indemnification and hold harmless language will be at least as broad as that set forth in Section 5.19 of this Agreement.

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

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

3.12 BUILDER'S RISK INSURANCE. RPF will require its construction contractors to procure and maintain, for the duration of the Construction Phase of the Phase 2 Improvements, builder's risk insurance covering King County, the City of Maple Valley, RPF and the construction contractor in the work as their interests may appear. The builders risk insurance will be in the amount of the completed value of the Phase 2 Improvements with no coinsurance provisions. Builder's risk insurance will be on an all-risk policy form and will insure against the perils of fire and extended coverage and physical loss or damage including flood and earthquake, theft, vandalism, malicious mischief, collapse, temporary buildings, and debris removal. This builder's risk insurance covering the work will have a deductible no larger than Five Thousand Dollars for each occurrence, which will be the responsibility of the construction contractor. Higher deductibles for flood and earthquake perils may be accepted by King County upon written request by RPF and written acceptance by King County. Any increased deductibles accepted by King County will remain the responsibility of the construction contractor. The Builders Risk insurance will be maintained until final acceptance of the work by RPF and King County. King County and the City of Maple Valley shall be a loss payee as their interests may appear.

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

3.14 SUBCONTRACTORS. RPF will require its construction contractors during the Design and Construction Phase to include all subcontractors as insured under its policies or will furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors will be subject to all of the same insurance requirements as stated herein for the construction contractor.

3.15 INSURANCE COVERAGE TYPE AND DURATION. Each insurance policy must be written on an "occurrence" form; except that insurance on a "claims made" form may be acceptable with prior approval by the King County Office of Risk Management. If coverage is approved and purchased on a "claims made" basis, RPF warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three years from the date of contract termination or expiration, and/or conversion from a "claims made" form to an "occurrence" coverage form.

3.16 VERIFICATION OF COVERAGE. RPF will furnish Parks with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the commercial general liability insurance of the construction contractor before commencement of the work. Before any exposure to loss may occur, RPF will file with Parks a copy of the builder's risk insurance policy that includes all applicable conditions, exclusions, definitions, terms, and endorsements related to work under this Agreement.

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

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

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

C. The required liability insurance policies (except Professional and Workers Compensation) are to be endorsed to:
   - Name "King County, the City of Maple Valley, their officers, officials, agents and employees" as additional insured with respect to use of the Site as outlined in this Agreement (Form CO 2026 or CO 2010 11/85 or its equivalent); Coverage shall include both on-going operations and products-completed operations.
   - Such coverage shall be primary and non-contributory insurance as respects King County and the City of Maple Valley;
   - State that RPF's or its contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the insurer's liability;
   - State that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after forty-five days prior written notice to King County.

3.18 WAIVER OF SUBROGATION. RPF will cause its contractors and subcontractors and their insurance carriers to release and waive all rights of subrogation against King County during the Design and Construction Phase to the extent a loss is covered by property

insurance in force. Except as otherwise provided in Section 3 of this Agreement, RPF hereby releases from liability and waives all right of recovery against King County or the City of Maple Valley for any loss from perils insured against or under the respective fire insurance policies of its contractors, subcontractors, or any of them, including any extended coverage endorsements thereto; provided, that this provision shall be inapplicable if it would have the effect of invalidating any insurance coverage of RPF, the City of Maple Valley or King County.

3.19 INSURANCE PROVISIONS ARE MATERIAL TERMS. By requiring such minimum insurance as described in this ***Section 3*** and ***Section 4***, King County shall not be deemed or construed to have assessed the risks that may be applicable to RPF under this Agreement. RPF shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage. Nothing contained within this Section 3 shall be deemed to limit the scope, application, and/or limits of the coverage afforded by the policies specified herein, which coverage will apply to each insured to the full extent provided by the terms and conditions of the policies. Nothing contained within this ***Section 3*** and ***Section 4*** shall effect and/or alter the application of any other provision contained within this Agreement. Failure by RPF, its agents, employees, officers, and/or subcontractors to comply with these insurance requirements shall constitute a material breach of this Agreement.

SECTION 4. USE OF FACILITY

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 FACILTY 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' scheduling office. Additionally, the Facility shall be available to the public for drop-in use or other non-scheduled community uses or activities.

A. 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 Maple Valley's anticipated use that year 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.

B. In order to submit the RPF Master Schedule timely, no later than December of each year for the duration of the initial Term of the Agreement, RPF will meet with the City to agree on the City's priority use scheduling for the following year to include the City's use hours in the RPF Master Schedule.

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.

All uses must be scheduled through the scheduling office or otherwise on the official scheduling office calendar.

4.5 OPERATING HOURS. Regular hours of operations shall be limited to 8:00 a.m. to 11:00 p.m. Any additional public field use shall be scheduled and approved by Parks in consultation with RPF.

4.6 INCIDENTAL USES. RPF may conduct tax-exempt fundraising activities to support the Site, the Facility, and RPF's own beneficial or charitable mission as a nonprofit Washington corporation, provided that such fundraising activities shall not displace public use of the Site or the Facility. Such activities shall be shown on RPF's Master Schedule.

4.7 SECURITY AND NUISANCE DURING USE. RPF will use the Site and the Facility for no unlawful purposes and will not use or occupy the Site in any manner which would constitute a public nuisance or otherwise violate federal, state, or local laws.

4.8 Not used.

4.9 PERFORMANCE REPORT. At the end of each calendar year during the Term, RPF shall furnish the Division with a summary of the prior year's use by RPF for approved activities on the Site or at the Facility.

4.10 LIMITED USE. RPF shall use the Facility for no business or purpose other than as explicitly provided under ***Sections 4.4 and 4.6*** of this Agreement or as otherwise generally permitted to members of the public.

4.11 SIGNS. No sign, advertisement, notice, or other lettering will be exhibited, inscribed, painted, or affixed by RPF nor allowed by RPF to be exhibited, inscribed painted, or affixed on any part of the Facility without the prior written approval of Parks. All new Facility and/or Site signs shall follow the King County Sign System Guide and shall be manufactured and installed by King County, unless RPF receives prior written approval from Parks to do otherwise. Written approval shall be requested through Parks' liaison. If RPF violates this provision, Parks may remove the sign without any liability and may charge the expense incurred by such removal to the RPF. All signs erected or installed pursuant to Parks' prior written approval shall also comply with any applicable federal, state, or local statutes, ordinances or regulations.

4.12 RIGHT TO INSPECT. King County at its discretion reserves the right to review and approve RPF' s use of the Facility and compliance with this Agreement. If Parks does not approve of RPF's use and compliance, Parks will timely notify RPF in writing of the specific items that Parks deems objectionable. RPF agrees to undertake reasonable corrective action within a time period agreed to by the Parties, or if no time period is agreed, within sixty days.

4.13 MINIMUM SCOPE OF INSURANCE FOR RPF. In addition to Contractor's insurance requirements set forth in ***Section 3,*** no later than the Effective Date of this Agreement, , RPF will at a minimum procure and maintain insurance that covers RPF' s activities and usage of the Facility and Site as follows:

4.13.1 Commercial General Liability Coverage shall be at least as broad as Insurance Services Office form number CG00 01, covering commercial general liability with a limit of not less than one Million Dollars combined single limit per occurrence, Two Million Dollars aggregate.

4.13.2 Automobile Liability. Coverage shall be at least as broad as Insurance Services Office form number (CA 00 01) covering business automobile coverage, symbol 1 "any auto"; or the combination of symbols 2, 8 and 9, One Million Dollars combined single limit per accident. If the work involves the transport of pollutants (as defined by the standard auto policy exclusion of pollution) the auto policy shall be endorsed to include endorsements CA 9948 (or its equivalent) and MCS 90.

4.13 .3 Workers' Compensation. Statutory requirements of the State of residency. Coverage shall be at least as broad as Workers' Compensation coverage, as

required by the Industrial Insurance Act of the State of Washington, as well as any similar coverage required for this work by applicable Federal or "other States" State Law. Limit: statutory limits.

4.13.4 Employer's Liability or "Stop Gap". Coverage shall be a least as broad as the protection provided by the Workers Compensation policy Part 2 (Employers Liability) or, in states with monopolistic state funds, the protection provided by the "Stop Gap" endorsement to the general liability policy. Limit: One Million Dollars.

4.13.5 "All Risk" Property Insurance, including Earthquake and Flood. Coverage shall include the replacement value of all improvements. King County shall be a loss payee as its interest may appear.

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

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

A. LIABILITY POLICIES.

1. Each insurance policy will be written on an "occurrence" form.
2. King County, the City of Maple Valley their officers, officials, employees, and agents are to be covered as additional insureds as respects liability arising out of activities and usage by RPF of the Facility and Site. Additional insured status shall include on-going operation and products-completed operations.
3. RPF's commercial general liability insurance coverage will be primary insurance as respects King County, the City of Maple Valley their officers, officials, employees, and agents. Any insurance and/or self-insurance maintained by King County, the City of Maple Valley, its officers, officials, employees or agents will not contribute with RPF's insurance or benefit RPF in any way.

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

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

4.16 ACCEPT ABILITY OF INSURERS. Unless otherwise approved by Parks, the following provisions apply exclusively to RPF' s activities and usage:

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

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

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

4.18 INSURANCE LIMITS AND DOCUMENTATION.

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

B. RPF will furnish Parks with certificates of insurance and endorsements as required by this Agreement. The certificates and endorsements for each policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for RPF's insurance are to be on forms approved by King County and are to be received and approved by King County prior to the Effective Date of this Agreement. Parks reserves the right to require complete certified copies of all required policies at any time. The County reserves the right to withhold its Two Million Dollar contribution to the Phase 2 Improvements, as specified in ***Section 2.7***, until proof of insurance acceptable to King County is provided.

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

SECTION 5. GENERAL TERMS AND CONDITIONS

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

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

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

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

B. SERVICES AND ACTIVITIES. 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.

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

5.3 ASSIGNMENT. RPF may not assign this Agreement or any interest therein without King County's prior written approval. King County will have the right to sell or otherwise

transfer or dispose of the Site or the Facility, or to assign this Agreement or any interest of the County hereunder, provided that in the event of sale or transfer of the Site or the Facility, King County will arrange for the purchaser or transferee to assume the Agreement and King County's obligations hereunder.

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

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

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

5.7 FORCE MAJEURE. 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 RPF's use of the Site or the Facility as contemplated herein. 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.

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

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

5.10 NO RPF LIENS. RPF acknowledges and agrees that it has no authority, express or implied, to create or place any lien or encumbrance of any kind or nature whatsoever upon, or in any manner to bind, the interest of King County in the fee interest in the Site or in the Facility, or to charge fees for any claim in favor of any person or entity dealing

with RPF, including those who may furnish materials or perform labor for any construction or repairs. If any such liens are filed, King County may, without waiving its rights and remedies for breach, and without releasing RPF from its obligations under this Agreement, require RPF to post security in form and amount reasonably satisfactory to King County or to cause such liens to be released by any means King County deems proper, including payment upon satisfaction of the claim giving rise to the lien. RPF will pay to King County upon demand any sum paid by King County to remove the liens. Further, RPF agrees that it will save and hold King County harmless from any and all loss, cost, or expenses based on or arising out of the asserted claims or liens, except those of the lender, against this Agreement or against the right, title and interest of King County in the Site and the Facility or under the terms of this Agreement, including reasonable attorney's fees and costs incurred by King County to remove such liens, and in enforcing this ***Section 5.10.*** Additionally, it is mutually understood and agreed that this ***Section 5.10*** is intended to be a continuing provision applicable to future repairs and improvements after the initial development and construction of the Site and the Facility.

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

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

5.13 COMPLIANCE WITH ALL LAWS AND REGULATIONS. In using the Facility, RPF and its members shall comply with all applicable laws, ordinances, and regulations from any and all authorities having jurisdiction and, specifically, the requirements of the Washington Industrial Safety and Health Act (WISHA). RPF specifically agrees to comply and pay all costs associated with achieving such compliance without notice from King County, and further agrees that King County does not waive this provision by giving notice of demand for compliance in any instance.

5.14 INTERPRETATION OF COUNTY CODE AND RULES. If there is any question regarding the interpretation of any provision of King County Code or any King County rule or regulation, King County's decision will govern and will be binding upon RPF.

5.15 PERMITS AND LICENSES. RPF will obtain and maintain, at its own costs and expense, all necessary permits, licenses, and approvals required for the activities contemplated under this Agreement.

5.16 RISK OF LOSS. All personal property of any kind or description whatsoever on the Site or the Facility shall be at RPF's sole risk, and King County will not be liable for any

damage done to, or loss of, such personal property. However, RPF will not be responsible for losses or claims of stolen property during King County scheduled use of the Site or the Facility by persons or entities other than RPF.

5.17 ENVIRONMENTAL LIABLITY.

A. "Hazardous Materials" as used herein shall mean any hazardous, dangerous or toxic wastes, materials, or substances as defined in state or federal statutes or regulations as currently adopted or hereafter amended.

B. RPF shall not, without first obtaining Parks' written approval, apply, store, deposit, transport, release, or dispose of any hazardous substances, petroleum products, sewage, medicinal, bacteriological, or toxic materials, or pollutants, on the Facility or Site. All approved application, storage, deposit, transportation, release, and disposal shall be done safely and in compliance with applicable laws.

C. Nothing in this Agreement shall be deemed to waive any statutory claim for contribution that RPF might have against King County under federal or state environmental statutes that arises from hazardous materials deposited or released on the Site by King County. RPF may not, however, assert such a claim to the extent that RPF creates the need for or exacerbates the cost of remediation upon which a statutory claim for contribution is based as a result of RPF performing construction activities on the Site, changing the configuration of the Site, or changing the use of the Site.

D. If RPF discovers the presence of hazardous materials at levels that could give rise to a statutory claim for contribution against King County it shall immediately notify Parks in writing. RPF shall provide such notice not more than ten days after discovery. The Parties shall make their best efforts to reach agreement as to which party is responsible for remediation under the terms of this Agreement prior to undertaking any remediation.

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

5.18 NO EMPLOYMENT RELATIONSHIP. In providing services under this Agreement, RPF is an independent contractor, and neither it nor its officers, agents, employees, or subcontractors are employees of King County for any purpose. RPF 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 County employee under state or local law. King County assumes no responsibility for the payment of any compensation, wages, benefits, or taxes by, or on behalf of RPF, its employees, subcontractors, and/or others by reason of this Agreement.

5.19 INDEMNIFICATION AND HOLD HARMLESS.

A. To the maximum extent permitted by law, RPF agrees to defend, indemnify, and save harmless The City of Maple Valley and King County, its/their officers, agents and employees, from and against any and all suits, claims, actions, losses, costs, penalties, judgments, settlements and damages of whatsoever kind or nature arising out of, in connection with, or incident to the performance or non-performance of the duties pursuant to the Agreement, and/or the negligent performance of work or services performed by or on behalf of RPF, except for liability arising out of or caused by the sole negligence of the City of Maple Valley or King County. 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.

B. In the event of litigation between the parties to enforce the rights under this paragraph, reasonable attorney fees shall be allowed to the prevailing party. The indemnification, protection, defense and save harmless obligations contained herein shall survive the expiration, abandonment or termination of this Agreement. Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this agreement.

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

D. 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, executed with equal formality as this Agreement and subject to approval by ordinance. Notwithstanding the foregoing, King County Council approval shall not be required for any amendment to add Exhibit C to this Agreement.

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

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

A. FAILURE TO PERFORM.

1. OBLIGATION TO PERFORM. Nothing herein shall imply any duty upon King County to do any work required to be performed by RPF in this Agreement, and the performance thereof by King County will not constitute a waiver of RPF's default. King County will not in any event be liable for inconvenience, annoyance, and disturbance in its activities on the Site or the Facility, provided that King County will not intentionally permit a loss of business or other damage to RPF by reason of King County's actions pertaining to the Site or the Facility.

2. PAYMENTS TO OTHER PARTIES. Except as expressly provided hereunder, all obligations of RPF under this Agreement will be performed by RPF at RPF's sole cost and expense. If RPF fails to pay any sum of money owed to any party other than King County for which RPF is liable hereunder, or if RPF fails to perform any other act on its part to be performed hereunder, and such failure continues for ten days after notice thereof by King County, King County may, without waiving or releasing RPF from its obligations, make any such payment or perform any such other act to be made or performed by RPF. Thereafter, on written demand by King County, RPF shall promptly pay to King County an amount equal to all sums so paid by King County, together with all necessary incidental costs incurred by King County, plus interest on the sum total of such sums and costs. For purposes of this ***Section 5.23.A.2,*** interest will be calculated at the lesser of one percent per month or the maximum rate permissible by law, beginning on the date that King County first makes a payment on behalf of RPF. RPF understands,

acknowledges, and agrees that King County is under no obligation to make any payment on behalf of RPF.

B. DEFAULT.

1. PARKS' DEFAULT. Parks will not be in default unless Parks fails to perform an obligation within sixty days after notice by RPF, which notice must specify the alleged breach; provided that if the nature of Parks' breach is such that more than sixty days are reasonably required for cure, then Parks will not be in default if Parks commences to cure within sixty days of RPF's notice and thereafter diligently pursues completion and completes performance within a reasonable time.

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

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

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

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

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

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

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

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

F. OTHER KING COUNTY TERMINATION.

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

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

5.24 <u>DESTRUCTION OF PREMISES AND USE OF INSURANCE PROCEEDS</u>.

A. Unless otherwise mutually agreed by the Parties, if the Site or the Phase 2 Improvements are destroyed or injured by fire, earthquake, or other casualty during the Design and Construction Phase, then RPF will proceed to rebuild and restore the Site and the Phase 2 Improvements, or such part thereof as may be injured or destroyed. In the event of any loss covered by the insurance policies described and required under this Agreement, unless this Agreement is terminated as provided herein, RPF will use the proceeds of such insurance policies first to rebuild and then to restore the Site and the Phase 2 Improvements and replace the improvements, fixtures, and equipment which may be damaged or destroyed by such casualty.

B. Unless otherwise mutually agreed by the Parties, if the Site and/or the Facility are destroyed by fire, earthquake, or other casualty after completion of the Design and Construction Phase, then King County will proceed to rebuild and restore the Site and the Facility, or such part thereof as may be injured or destroyed to the extent of

available insurance proceeds. In the event of any loss covered by the insurance policies described and required under this Agreement, unless this Agreement is terminated as provided herein, King County will use the proceeds of such insurance policies first to rebuild and then to restore the Site and the Facility and replace the improvements, fixtures, and equipment which may be damaged or destroyed by such casualty.

5.25 DUTIES UPON TERMINATION. Upon termination of this Agreement, RPF will remove from the Site and the Facility all its personal property, goods, and effects. If RPF fails to perform this duty at termination, Parks may cause such removal to be made and RPF's personal property, goods and effects to be stored, the cost and expense to be paid by RPF. It is understood and agreed that the real property constituting the Site and the Facility is the real property of King County and that all improvements to that real property will continue to belong to King County upon termination of this Agreement.

5.26 EMINENT DOMAIN. The following rules will govern the rights and duties of the Parties in the event of interference with RPF's design, construction, or use of the Site or the Facility as a result of the exercise of eminent domain or private purchase in lieu thereof.

A. RIGHT OF TERMINATION. If the whole of the Site or the Facility is taken for any public or quasi-public use under any statute or by right of eminent domain, or by private purchase in lieu thereof, then this Agreement will automatically terminate as of the date that title is taken. If more than twenty-five percent of the Site or the Facility is so taken and if the taking renders the remainder thereof unusable for the purposes contemplated under this Agreement, then RPF and King County will each have the right to terminate this Agreement on thirty-day notice to the other, given within ninety days after the date of such taking. Provided, however, that if King County is exercising its right of eminent domain, a fair value will be placed on this Agreement and the Facility with the compensation thereof awarded solely to RPF.

B. NON-TERMINATION. If any part of the Site or the Facility is so taken and this Agreement is not terminated, then the Agreement remains in effect with respect to the remainder of the Site or Facility.

C. COMPENSATION. The compensation awarded or paid upon a total or partial taking of the Site or the Facility, or this Agreement, or any of them, will belong to and be apportioned between RPF and Parks in accordance with their respective interests under this Agreement as determined between them or by a court. Additionally, RPF may prosecute any claim directly against the condemning authority for the costs of removal of the goodwill, stock, trade fixtures, furniture, and other personal property belonging to RPF. King County will have no claim to condemnation proceeds attributable to RPF's interest in the Facility, nor will RPF have any interest in King County's condemnation proceeds, if any.

5.27 SURRENDER. Within thirty days of the time this Agreement expires or is terminated, RPF shall remove any and all of its portable improvements at the Facility. If

improvements include non-portable fixtures, such improvements shall inure to the benefit of King County and shall remain at the Facility.

5.28 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.

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

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

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

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

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

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

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

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

Ravensdale Park Foundation	**King County Department of Natural Resources and Parks**
By _____	By _____
TITLE _____	TITLE _____
Date _____	Date _____

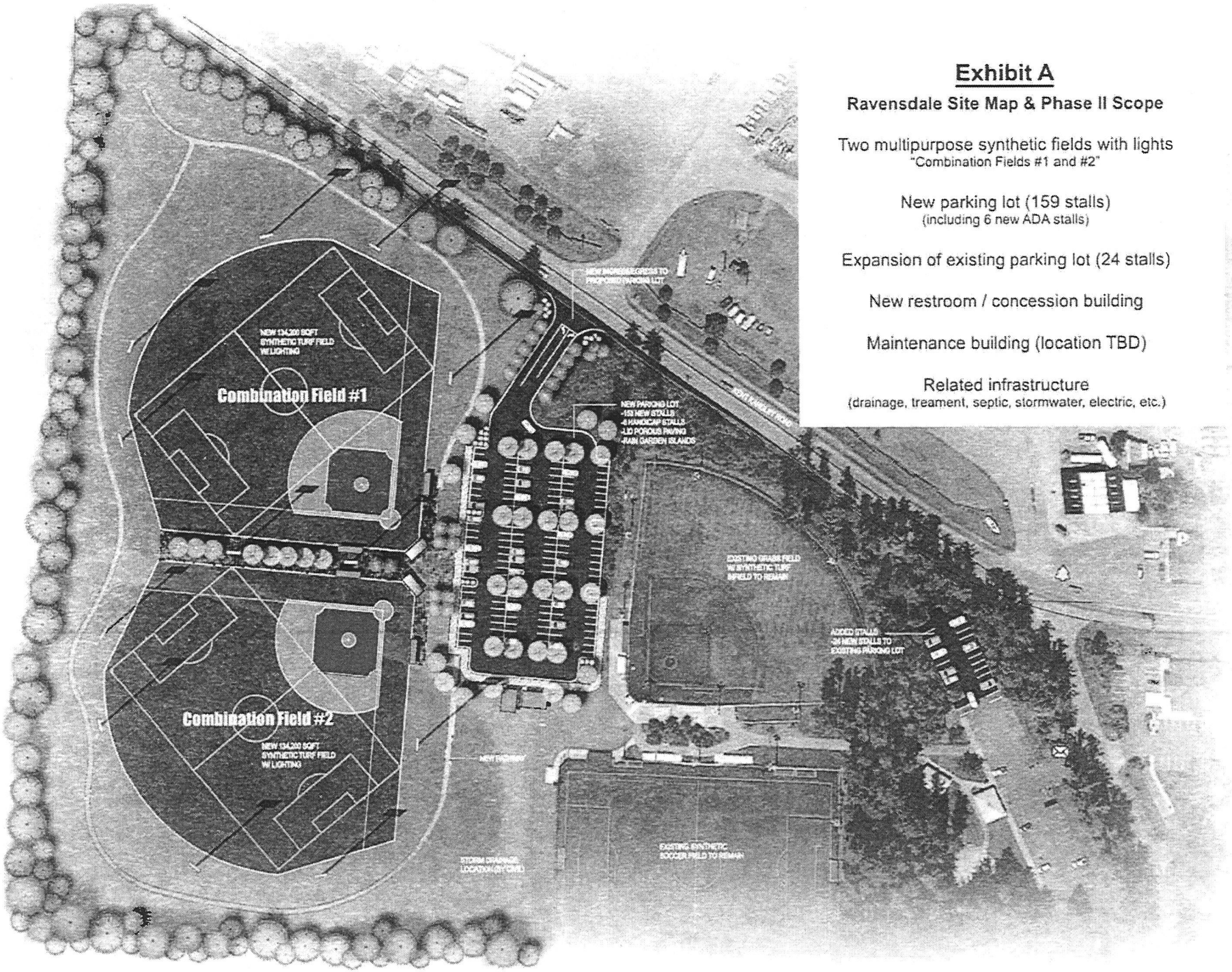

Exhibit A

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, treament, septic, stormwater, electric, etc.)

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Exhibit B

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	**Milestone #1 Deliverables:** [X] 100% Design [X] Permit [X] Construction Contract w/ Performance Bonds [X] Fundraising Plan [ ] ILA with City of Maple Valley [X] $2,300,000 Match Committed	**RPF Documentation:** [X] 100% Design [X] Construction Contract w/ performance bonds [X] Progress Report [X] Fundraising Plan [ ] ILA with City of Maple Valley [X] Documentation of Match
Milestone #2 January 2015	$500,000	$0	**Milestone #2 Deliverables** [ ] Parks Review [ ] Financial Report [ ] Annual Performance Report	[ ] 2014 Financial Report [ ] 2014 Annual Report [ ] Site maintenance Plan finalized
Milestone #3 January 2016	$500,000	$0	**Milestone #2 Deliverables** [ ] Parks Review [ ] Financial Report [ ] Annual Performance Report	[ ] 2015 Financial Report [ ] 2015 Annual Report [ ] Site maintenance Plan finalized
Milestone #4 January 2017	$500,000	$0	**Milestone #2 Deliverables** [ ] Parks Review [ ] Financial Report [ ] Annual Performance Report	[ ] 2016 Financial Report [ ] 2016 Annual Report [ ] Site maintenance Plan finalized
Total	**$2,000,000**			

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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:** [X] 100% Design [X] Permit [X] Construction Contract w/ Performance Bonds [X] Fundraising Plan [ ] ILA with City of Maple Valley [X] $2,300,000 Match Committed	**RPF Documentation:** [X] 100% Design [X] Construction Contract w/ performance bonds [X] Progress Report [X] Fundraising Plan [ ] ILA with City of Maple Valley [X] Documentation of Match
Milestone #2 January 2015	$500,000	$0	**Milestone #2 Deliverables** [ ] Parks Review [ ] Financial Report [ ] Annual Performance Report	[ ] 2014 Financial Report [ ] 2014 Annual Report [ ] Site maintenance Plan finalized
Milestone #3 January 2016	$500,000	$0	**Milestone #2 Deliverables** [ ] Parks Review [ ] Financial Report [ ] Annual Performance Report	[ ] 2015 Financial Report [ ] 2015 Annual Report [ ] Site maintenance Plan finalized
Milestone #4 January 2017	$500,000	$0	**Milestone #2 Deliverables** [ ] Parks Review [ ] Financial Report [ ] Annual Performance Report	[ ] 2016 Financial Report [ ] 2016 Annual Report [ ] Site maintenance Plan finalized
Total	**$2,000,000**			

17759

Exhibit E

INTERLOCALAGREEMENT

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, theRPF 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:	The City's representative is:
Jessica Emerson, Section Manager	Greg Brown, Director
Parks and Recreation Division	City of Maple Valley
Department of Natural Resources & Parks	Parks and Recreation
201 South Jackson Street, Suite 700	PO Box 320
Mailstop: KSC-NR-0700	Maple Valley, WA 98038
Seattle, WA 98104-3855	Email:greg.brown@maplevalleywa.gov
Email: jessica.emerson@kingcounty.gov	Phone: 425-413-8800 ext. 663
Phone: 206-477-4563	

2. TERM. Except as it may be later amended in writing pursuant to Section 23, or unless it is terminated as provided herein, the term of this Agreement shall commence on the date it is fully executed, and end on the thirtieth anniversary of the first day the Facility is open to the public.

3. CONSIDERATION.
   A. If the conditions in this section are satisfied, the City shall remit to the County Two Million Dollars prior to March 31, 2014, which funds shall be disbursed by the County exclusively to pay for Facility related design and construction expenses. The City's obligation to remit Two Million Dollars to the County is

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

B. For the first ten (10) years City contracted and/or operated programs shall be allocated one thousand (1,000) peak field hours of Facility use on an annual basis,PROVIDED that the City acknowledges and agrees that RPF programs shall also receive first priority public use scheduling at the Facility up to five thousand (5,000) peak hours per year, for years one through ten, pursuant to the terms and conditions set forth in the Separate Agreement attached hereto as Exhibit A, and PROVIDED FURTHER that the City agrees to work in good faith with RPF to schedule each party's allocation of priority hours at Ravensdale Park. Peak field hours are defined as 5:00 p.m. -10:00 p.m. on weekdays and 9:00 a.m. – 10:00 p.m. on weekends. For the first ten (10) years of operation, the City shall be charged a reduced rate of Sixteen Dollars ($16.00) per hour, per field. For every hour of annual use beyond the 1,000 hours, the City shall pay King County the standard hourly rate established for the Facility. The City's reduced hourly rate does not include ballfield lighting, which shall be charged at the Division's standard rate. After the City has received its annual allocation of hours, it may, on a monthly basis, opt to waive any portion of its allocated hours and have them reallocated to RPF or other users by the County at the County's discretion. The City shall not incur any charges for field time or lights associated with any hours that are waived pursuant to this provision. The City acknowledges and agrees that the City and RPF's youth programming shall be given preference in determining allocation of the earlier times slots during the weekday and weekend peak field hours.

C. This Agreement is for a term of thirty years. During the course of this thirty-year term, the parties anticipate that the Facilities may need additional capital improvements/investments to maintain the quality of the Facility. The County and the City reserve the right to negotiate supplemental terms to this agreement if necessary, relating to the need for additional capital investments. At two points during the term of this contract, at least twelve months before the end of the first ten years of the contract and the second ten years of the contract, the parties shall determine if such capital improvements are necessary. If so, the parties may supplement the terms of this agreement accordingly by mutual agreement. In addition, the parties may determine if supplemental terms regarding lighting, priority use, hourly use or other details are necessary at the same two points during the term of this contract. King County shall retain ownership of the Site and the Facility, including all improvements, permanent fixtures, and county-purchased equipment. The City shall have no obligation to contribute toward any additional capital investments that might be deemed necessary.

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

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

4. USE OF BOND PROCEEDS FUNDS. All funds remitted hereunder to the County from proceeds of bonds issued by the City (referred to herein as the "Bond"), which is expected to comprise $1,500,000 of the $2,000,000 remitted pursuant to Section 3(A) above, shall be used by the County only and solely for the purposes described in this Agreement. The County hereby agrees to consult with bond counsel to the City with respect to any proposed change in use of the Facility from athletic fields to another use.

5. DISPUTE RESOLUTION. In the event any dispute regarding this Agreement cannot be resolved by informal methods, then prior to commencing litigation or taking any administrative action, the aggrieved party shall notify the other in writing of the particulars of the grievance, and the other party shall reply in writing within ten working days, setting forth its position and stating what, if any, action it will take with respect to the grievance. The aggrieved party shall respond in writing, indicating its satisfaction or dissatisfaction, as the case may be; in the event the aggrieved party is dissatisfied, the parties shall then meet in person and confer in good faith to resolve their differences before litigation is commenced.

6. ANTI-DISCRIMINATION. In all hiring or employment made possible or resulting from this Agreement, there shall be no discrimination against any employee or applicant for employment because of sex, age, race, color, creed, national origin, sexual orientation, gender identity or expression, age (except minimum age and retirement provisions), marital status or the presence of any sensory, mental, or physical handicap, unless based upon a bonafide occupational qualification. This requirement shall apply to but not be limited to the following: employment, advertising, lay-off, or termination, rates of payor other forms of compensation, and selection for training, including apprenticeship. Further, no person shall be denied or subjected to discrimination in receipt of the benefit of any services or activities made possible by or resulting from this Agreement on the grounds of sex, race, color, creed, national origin, sexual orientation, gender identity or expression, age (except minimum age and retirement provisions), marital status, or the presence of any sensory, mental, or physical handicap. Any violation of this provision shall be considered a violation of a material provision of this Agreement and shall be grounds for termination or suspension in whole or in part of this Agreement by King County and may result in ineligibility for further King County agreements.

7. FINANCING CONTINGENCY. The City's funding obligations herein are contingent on the City's satisfactory completion of a sale of bonds, the proceeds of which will be used to satisfy the City's obligation.

8. COMPLIANCE WITH ALL LAWS AND REGULATIONS. The City and the County agree to comply with all applicable laws, ordinances and regulations from any and all authorities having jurisdiction over it, the activities contemplated in this Agreement.

9. INSURANCE. No insurance certification is required. However, the Parties agree to maintain premises and vehicle liability insurance in force with coverages and limits of liability that would generally be maintained by similarly situated agencies, and workers compensation insurance as may be required by Washington State statutes.

10. BREACH BY COUNTY. If the County fails to perform its obligations under this agreement after the City has satisfied its funding obligation, including issuing any required permits for the facility, the City shall have available to it any legal or equitable remedies including specific performance.

11. NO EMPLOYMENT RELATIONSHIP. With regard to any of the City's programming or activities at the Facility which occur pursuant to this Agreement, the City is an independent Contractor, and neither it nor its officers, agents, employees, or subcontractors are employees of the Division for any purpose. The City shall be responsible for all federal and/or state tax, industrial insurance, and Social Security liability that may result from the performance of and compensation for these services and shall make no claim of career service or civil service rights which may accrue to a Division employee under state or local law. With regard to the City's programming, the Division assumes no responsibility for the payment ofany compensation, wages, benefits, or taxes by, or on behalfof the City, its employees, subcontractors and/or others by reason of this Agreement. The Cityshall 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 ofwork, 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 ofthe 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 ofthe 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 _____	By _____
Kevin R. Brown, Division Director	David Johnston, City Manager
Date _____	Date _____

17759