



**KING COUNTY**

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

**Signature Report**

**October 2, 2012**

**Ordinance 17429**

**Proposed No. 2012-0244.3**

**Sponsors Lambert**

1           AN ORDINANCE authorizing the King County executive  
2           to execute a thirty-year use agreement with Hollywood  
3           Hills Saddle Club, a Washington nonprofit organization,  
4           for the operation, maintenance, programming and use of the  
5           equestrian facility located at the Woodinville Pit Park Site  
6           in King County, Washington.

7           STATEMENT OF FACTS:

- 8           1. King County, a home rule charter county and political subdivision of  
9           the state of Washington, is the owner of the property, located at NE 15205  
10          NE 172nd Street, Woodinville, Washington 98072, and illustrated in  
11          Exhibit A of Attachment A to this ordinance.
- 12          2. Hollywood Hills Saddle Club ("HHSC") is a not-for-profit Washington  
13          corporation that is tax-exempt under section 501(c)(3) of the Internal  
14          Revenue Code. HHSC is a community-based, open-membership club  
15          organized to provide opportunities for equestrian recreation to the public.
- 16          3. King County has long identified equestrian facilities as a regional and  
17          rural recreation need in King County, and has determined that the  
18          equestrian facility ("the facility") located at the Woodinville Pit Park Site  
19          has a significant and unique regional and rural public recreation value.

20 4. King County Ordinance 14509 authorized the department of natural  
21 resources and parks to create new public recreation opportunities by  
22 empowering user groups, sports associations and community  
23 organizations, like HHSC, to operate, maintain and implement mutually  
24 agreed-upon capital improvements for public recreation facilities on King  
25 County land, and thereby address regional or rural recreation needs  
26 without incurring new tax-funded operations and maintenance costs.

27 5. Allowing HHSC to operate, maintain, program, and use the facility will  
28 serve to implement the authority provided in Ordinance 14509 at no  
29 additional cost to the public. HHSC has historically provided the  
30 operational upkeep and maintenance of the Woodinville Pit Park Site as an  
31 equestrian facility and the use agreement, Attachment A to this ordinance,  
32 recognizes and formalizes HHSC's past thirty-year historical use.

33 6. In accordance with K.C.C. 4.56.150.E, the King County council may  
34 adopt an ordinance permitting the county to enter into agreements for the  
35 use of county property with bona fide nonprofit organizations if the  
36 property is to be used by the nonprofit organization to make improvements  
37 to the county property or to provide services that will benefit the public.

38 The agreements are exempt from the requirement of fair market value,  
39 appraisal and notice.

40 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

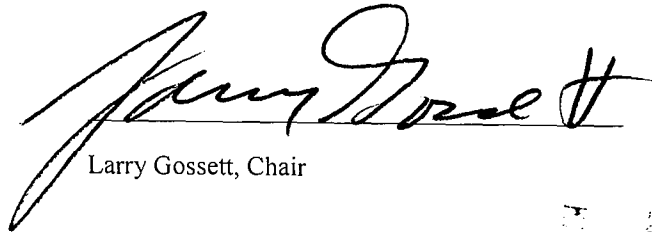
41 SECTION 1. The King County executive is hereby authorized to sign a use  
42 agreement, substantially the same as Attachment A to this ordinance, with Hollywood

43 Hills Saddle Club, for the operation, maintenance, programming and use of the equestrian  
44 facility located at the Woodinville Pit Park Site in King County, Washington.  
45

Ordinance 17429 was introduced on 7/16/2012 and passed as amended by the Metropolitan King County Council on 10/1/2012, by the following vote:

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

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON



Larry Gossett, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 12 day of OCTOBER, 2012



Dow Constantine, County Executive

RECEIVED  
2012 OCT 12 PM 4:11  
KING COUNTY COUNCIL CLERK

Attachments: A. Use Agreement, dated October 1, 2012, B. Washington State Recorder's Cover Sheet (RCW 65.04)

**USE AGREEMENT BETWEEN**

**KING COUNTY AND HOLLYWOOD HILLS SADDLE CLUB**

**for**

**THE EQUESTRIAN FACILITY**

**located at**

**WOODINVILLE PIT PARK SITE**

**Revised October 1, 2012**

This Use Agreement ("Agreement") is made and entered into by and between King County by and through its Department of Natural Resources and Parks, Parks and Recreation Division ("King County," or "the County"), and the Hollywood Hills Saddle Club, a Washington non-profit corporation ("HHSC") (collectively, the "Parties"), for the operation, maintenance, programming and use of the equestrian facility ("Facility") located at the Woodinville Pit Park Site in King County, Washington ("Site").

**RECITALS**

- A. King County, a home rule charter county and political subdivision of the State of Washington, is the owner of the Property, located at NE 15205 NE 172<sup>nd</sup> Street, Woodinville, WA 98072, and illustrated in Exhibit A to this Agreement.
- B. HHSC is a not-for-profit Washington corporation that is tax-exempt under section 501(c)(3) of the Internal Revenue Code. HHSC is a community-based, open-membership club organized to provide public opportunities for equestrian recreation.
- C. King County has long identified equestrian facilities as a regional or rural recreation need in King County, and has determined that the Facility located at the Site has a significant and unique regional and/or rural public recreation value.
- D. King County 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 HHSC, to operate, maintain, and program mutually agreed-upon capital improvements for public recreation facilities on King County land, and thereby address regional and/or rural recreation needs without incurring new tax-funded operations and maintenance costs.
- E. Allowing HHSC to operate, maintain, program, and use the Facility will serve to implement the authority provided in Ordinance 14509.
- F. King County Code sections 4.56.150.E and F authorize the Department of Natural Resources and Parks to enter into use agreements with bona fide nonprofit organizations in order for the

nonprofit organization to make improvements to King County property; or for the nonprofit organization to provide services that will benefit the public.

## AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and promises described below, the Parties agree as follows:

### 1. USE AGREEMENT

#### 1.1 Grant.

- A. Property. Pursuant to K.C.C. 4.56.150.E, King County hereby authorizes HHSC to develop, operate, use, and maintain the Facility and the Site (together, the "Property") illustrated in Exhibit A as a recreational facility for the benefit and use of the public, subject to the terms and conditions set forth in this Agreement.
- B. Trail Easement. The Parks and Recreation Division of the Department of Natural Resources and Parks ("Division") and the King County Department of Transportation ("KCDOT") have agreed in principle to establish a recreational trail easement ("Easement") over KCDOT property adjoining the Site. The proposed Easement is illustrated in Exhibit A. If established, the Easement would be appurtenant to, and for the benefit of, the Property, and the land that makes up the King County parks and recreation system. The Division hereby authorizes HHSC to develop, operate, maintain and use the Easement for equestrian trail purposes, subject to the requirement that the Division and KCDOT must first establish the Easement as a matter of public record. The Division will notify HHSC if and when the Easement is recorded; and thereafter HHSC may exercise the authority granted to it in this **Subsection 1.1.B**, and the Easement will constitute a portion of the Site. If the Division decides not to establish the Easement, or if KCDOT declines to grant the Easement, then the Division will so notify HHSC and upon such notice this **Subsection 1.1.B** will have no further force or effect.
- C. Condition of Property; Duty to Maintain. HHSC has inspected and knows the condition of the Property, and agrees to accept the Property in AS IS condition without further payments or contributions from the County. KING COUNTY MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, OF THE PROPERTY'S MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. HHSC agrees to assume full and complete responsibility for all operations, maintenance, and programming for the Property except as otherwise set forth herein. HHSC will be responsible for all costs associated with the operation, maintenance, programming and use of the Property during the Term as defined in **Section 1.2**. HHSC understands, acknowledges, and agrees that King County will be under no obligation, directly or indirectly, to pay for any labor, material, or improvement associated with the Property. HHSC will, upon request, inform any inquiring person or entity that King County has no further financial obligations associated with the Property.

- 1.2 **Term.** The term of this Agreement is approximately thirty (30) years, effective as of the date that both Parties have executed this Agreement, and expiring at 11:59:59 PM on December 31, 2042, unless terminated earlier as provided under ***Section 7*** of this Agreement.
- 1.3 **Conditional Right of First Refusal.** For a period of five (5) years beginning upon expiration of the Term, and ending on December 31, 2047, HHSC shall have the right of first refusal to accept any subsequent use agreement that the County may consider in connection with the Property. PROVIDED, that if this Agreement is terminated for any reason prior to the expiration of the Term, then this ***Section 1.3*** shall be void and HHSC will have no right of first refusal regarding any subsequent use agreement or other instrument relating to the Property.
- 1.4 **Use Fees.** HHSC may not charge a use fee for unscheduled use of the Site or the Facility. HHSC may charge a use fee for special events or for reserved use of the Site or the Facility or any part of them. HHSC may not charge fees to other organizations or individuals for the use of the Site or the Facility that exceed the amount charged for the use of comparable publicly accessible facilities of like kind and quality. Any use fee increases shall be approved in advance by King County, which approval shall not be unreasonably withheld.
- 1.5 **Operating Rules and Hours.**
- A. **Operating Rules.** Operating rules for the Site shall be consistent with King County ordinances and published policies relating to health and safety. The King County Parks and Recreation rules (King County Use of Facilities – K.C.C. Ch. 7.12 as now codified or hereafter amended) shall apply; provided that in the event of a conflict between this Agreement and those rules, ordinances, or policies, the terms of this Agreement shall control. Nothing contained in this Agreement shall be considered to diminish the governmental or police powers of the County.
- B. **Operating Hours.** Facility operating hours will be set on an annual basis, documented in the Annual Report required under ***Section 5*** of this Agreement, and posted in plain view on the Site.
- 1.6 **Public Access.** HHSC understands, acknowledges, and agrees that substantial public access to and use of the Property was and is a material consideration for King County's execution of this Agreement. Therefore, HHSC shall make the Property available to the general public for use by any organization or individual for reserved use or scheduled activities, consistent with and pursuant to ***Section 2*** of this Agreement. HHSC shall further make the Property available to the general public without charge for use by individuals for informal, unscheduled use, consistent with and pursuant to ***Section 2*** of this Agreement; provided that such use by the public shall not include any use that is inconsistent with the use of the Property for equestrian purposes, or that could result in any damage to the Property other than ordinary wear and tear; and provided further that any such use complies with all applicable laws, ordinances and regulations.

- 1.7 **Open Membership.** HHSC's equestrian program shall be open to all persons within its service area on a nondiscriminatory basis consistent with Federal and State law. HHSC shall assure access to its equestrian program and to the Property for outdoor park and recreational activities through the use of needs-based rates and programs, which shall be on terms that are consistent with County standards, for all persons residing in HHSC's service area who desire to participate in the equestrian program.
- 1.8 **Nondiscrimination.** HHSC 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.** HHSC agrees not to discriminate against any employee or applicant for employment because of sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age except by minimum age and retirement provisions, unless based upon a bona fide 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 race, color, age, gender, marital status, sexual orientation, religion, ancestry, national origin, disability or use of a service or assistive animal by an individual with a disability, unless based upon a bona fide contractual qualification. 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.** HHSC shall also comply with all applicable anti-discrimination laws or requirements of any and all jurisdictions having authority.
- 1.9 **Tax Covenants.** At all times from and after the effective date of this Agreement, HHSC will:
- Maintain its purposes and engage only in activities which are in furtherance of its purposes and which are permitted by the Washington State Nonprofit Act, RCW 24.03, or as hereafter amended ("the Act");
  - Maintain its status as a nonprofit corporation under the Act and as an organization described in Section 501(c)(3) of the U.S. Internal Revenue Code ("the Code") whose income does not inure to the benefit of any private person;
  - Not encumber, pledge, hypothecate or grant a security interest in all or any part of the Facility, the Site, or both of them;

- Not engage in any activities related to the Facility or the Site which would cause the transaction contemplated under this Agreement to constitute an unrelated trade or business under section 513(a) of the Code; and
- Not take any action or omit to take any action which, if taken or omitted, would adversely affect HHSC's nonprofit status or otherwise cause a tax lien to attach to the Site, the Facility, or both of them.

## 2. OPERATIONS

2.1 **Authorized Uses and Priorities.** The Property shall be open for the following uses and in the indicated order of priority:

- First, equestrian activities and programs, with scheduling preference to HHSC programs;
- Second, other equestrian-compatible activities or programs;
- Third, any other recreational activity not constituting a “*prohibited use*” as defined herein;

“*Prohibited use*” means any use of the Property that (i) violates any provision of K.C.C. Chapter 7.12, Park Use Rules; or (ii) is inherently incompatible with the maintenance and care of an equestrian facility, such uses to be identified in the Maintenance Plan contemplated in ***Section 3.3***, as may be revised from time to time.

2.2 **Scheduling Considerations.** In scheduling use of the Facility, HHSC shall:

- 2.2.1 Allow year-round, unscheduled access to the Facility by the general public if such use:
- (i) does not otherwise interfere with any scheduled use; and (ii) does not impact any area closed to all use for maintenance, safety, or other valid reasons.
- 2.2.2 Seek to keep the Property open for public recreation (whether scheduled or unscheduled) to the maximum extent practicable, subject to and consistent with the specific criteria set forth in the Maintenance Plan, which criteria are intended to preserve the Property.
- 2.2.3 Schedule use of no more than fifty percent (50%) of Facility operating hours during any rolling ninety-day period of time.
- 2.2.4 As a first-priority user, schedule HHSC’s own programs for not more than fifty percent (50%) of Facility operating hours.
- 2.2.5 Publicize the Facility scheduling process by posting information about that process in plain view at the Facility, and by enabling scheduling requests to be made via the Internet on HHSC's home page, the home page for the Facility, and the web pages for the King County Parks and Recreation Division.



- 2.2.6 At such intervals as the Parties may agree upon, give the County an updated Facility use schedule.
- 2.3 **Amplification.** HHSC shall ensure any amplification is employed in accordance with rules for amplification in King County parks.
- 2.4 **Lighting.** Permanent artificial lighting of the Property is prohibited, except as may be required for purposes of safety at walkways, building exteriors, or parking areas. HHSC may not use or allow others to use any artificial lighting to extend recreational use of the Property without prior written permission from the County.
- 2.5 **Concessions.** HHSC may contract for food, souvenir, and product concessions; and concession rights and revenue from concessions shall belong to HHSC, all subject to and consistent with *Section 1.6* of this Agreement.
- 2.6 **Security and Nuisance during Use.** HHSC shall take reasonable precautions to secure the Facility, and shall not use the Site or Facility for any unlawful purpose or use or occupy the Site in any manner that would constitute a public nuisance or otherwise violate federal, state or local laws. HHSC shall not permit overnight camping in or on the Site without prior written permission of the County.
- 2.7 **Advertising, Sponsorships, and Naming Rights.**
- A. **Advertising and Sponsorships.** The grant of authority to HHSC in *Section 1* of this Agreement includes the right of HHSC to advertise at and secure sponsorships for, the Property; PROVIDED that the revenue generated from any such advertising or sponsorships is applied to the cost of improving and maintaining the Property. HHSC understands that the advertising of tobacco products as defined in King County Ordinance No. 10615 and spirits as defined in King County Ordinance No. 14509 is strictly prohibited. HHSC 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 Recreations Division ("Director"). If the Director imposes additional restrictions, HHSC will receive written notification thereof. Therefore, HHSC expressly covenants that neither it nor any of its sponsors or concessionaires will at any time display, promote or advertise on the Property any tobacco products, spirits or other subject matter expressly prohibited by the Director.
- B. **Naming Rights.** Naming rights to the Property belong to King County consistent with K.C.C. 7.08.080 and RCW 36.32.430. King County will consult with HHSC before signing any naming rights agreement or transmitting any legislation that would establish a new or different name for the Facility or the Site. HHSC may pursue naming rights agreements, or propose transactions related to naming rights, all for benefit of the Site or the Facility, or both; but HHSC may not enter into any such agreement or execute any such transaction.

2.8 **Signage.** HHSC shall not erect or install any sign, notice, or other lettering at the Facility or Site without the prior written approval of King County, which approval shall not be unreasonably withheld. 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 HHSC receives prior written approval of King County to do otherwise. Written approval shall be requested through King County's liaison. If HHSC violates this provision, King County may remove the sign without any liability and may charge the expense incurred by such removal to the HHSC. All signs erected or installed pursuant to King County's prior written approval shall also comply with any applicable federal, state or local statutes, ordinances or regulations.

2.8.1 Signage at the Facility shall include information regarding scheduling processes and opportunities, a phone number for contacting HHSC, and information about where to file concerns regarding scheduling, operations or access to the Property. In addition, signage at the Facility should include information regarding HHSC's home page and home page for the Facility.

2.8.2 Signage on the Site shall include information regarding contact information for the King County Parks and Recreation Division, or its successor agency. Signage on the Site will identify HHSC as operating the Property on behalf of King County, and will identify the Property as being open to the public.

2.9 **Incidental Uses.** Subject to and consistent with *Section 1.9* of this Agreement, HHSC may use the Property to conduct tax-exempt fundraising activities to support the Site, the Facility, or HHSC's own beneficial or charitable mission as a non-profit Washington corporation; provided, that fundraising activities to support HHSC will occur during times actually reserved or scheduled by HHSC under *Section 2.2* above, and not during times that are reserved or scheduled by others, and not during times that are otherwise allocated to unscheduled use.

2.10 **King County's Role in Resolving Issues between HHSC and User Groups or the General Public.** HHSC acknowledges that, as the owner of the Property, King County is accountable to all of its citizens regarding the uses of and operations at the Property, including those uses and operations contemplated under this Agreement. To that end, HHSC agrees that it will attempt to resolve potential issues between itself and user groups or between itself and the general public as quickly as possible, in conformance with the general intent and specifics of *Section 2* of this Agreement. HHSC also agrees to utilize the Annual Meeting, under *Section 5.2* of this Agreement, as an opportunity to identify and resolve issues. However, if a significant dispute arises between HHSC and one or more user groups or between HHSC and the general public, King County, as the Property owner, retains the right to attempt to resolve such dispute in an expeditious manner. Nothing in this *Section 2.10* shall operate to limit the methods or options available to King County.

### 3. **MAINTENANCE**

3.1 **Scope of Responsibility**. During the Term, HHSC will be solely responsible for all ordinary maintenance and upkeep of the Property, including but not limited to rehabilitation or restoration necessitated by ordinary wear and tear, weather-related damage, or vandalism.

3.2 **Maintenance Guidelines**. As between King County and HHSC, all cost and expense to operate, maintain, program, and use the Property, including but not limited to utilities, utility infrastructure, and utility bills, shall be borne solely by HHSC. In maintaining the Property, HHSC shall:

- Schedule maintenance in a manner that maximizes both scheduled and unscheduled use of the Site to the greatest extent practicable;
- Maintain the Facility in a manner that is consistent with the high-quality experience envisioned for the Site;
- Keep the Property attractive and inviting to the public;
- Maintain sanitation and sanitary facilities in accordance with applicable State and local public health standards;
- Keep the Property reasonably safe for public use and, in particular, maintain fire prevention and similar activities at levels reasonable to prevent loss of the lives of users; and
- Keep buildings, roads, trails, and other structures and improvements in reasonable repair throughout their estimated lifetime, so as to prevent undue deterioration and not to discourage public use.

3.3 **Maintenance Plan**. HHSC shall prepare an annual Maintenance Plan (“the Plan”), for King County’s approval, which approval shall not be unreasonably withheld. The Plan shall:

- Describe HHSC’s maintenance standards and schedule for the Property, and any planned Facility or Site closures;
- Specify the criteria that HHSC will use to determine whether, on a day-to-day basis, it is necessary to close all or part of the Facility or the Site to any type of use;
- Outline the process that HHSC will use to notify King County if and when HHSC decides it is necessary to close all or part of the Property to any type of use, other than previously planned closures;
- Enumerate higher impact “uses” of the Facility or Site that could potentially result in unacceptably severe wear and tear on the Property, and set forth the criteria upon which such higher impact uses will be allowed;

- Enumerate any prohibited "uses" of the Facility or Site, other than those uses prohibited under any King County ordinance or regulation; and
- Ensure that King County does not incur any operations and maintenance costs requiring additional public funds to be invested in the Property during the Term.

HHSC may amend the Plan from time to time during the course of the calendar year, subject to King County's written approval, which approval shall not be unreasonably withheld.

4. **IMPROVEMENTS**

4.1 **Scope of Responsibility.** During the Term, HHSC shall have primary responsibility and control over making any and all improvements to the Property, including, but not limited to, securing requisite funding, hiring professional consultants, completing designs, obtaining requisite permits and approvals, contracting and overseeing the work, and complying with environmental and other development restrictions. If required by the King County Code, any improvement with a fair market value in excess of fifty thousand dollars will require approval by ordinance by the King County Council. All Property improvements shall be designed to comply with the spirit and intent of the federal Americans with Disabilities Act and all applicable regulations and guidelines enacted pursuant thereto.

4.2 **Project Plan; Division Review.**

- A. **Project Plan.** HHSC shall present a "Project Plan" to King County before making any material alteration to the Property, including any substantial change to the landscaping. Each Project Plan shall describe the planning process with a time line and milestones; describe the principal features of the proposed improvement; provide conceptual design drawings, if applicable; describe in reasonable detail and rationale the goals and objectives of the improvement; identify the party primarily responsible for supervising the project; and provide a schedule showing the sources and timing of funding for the project.
- B. **Division Review.** HHSC may not begin work or authorize others to begin work on any particular project without first obtaining the Division's written approval of the relevant Project Plan, which approval shall not be unreasonably withheld. The Division's right of review and approval is in addition to and separate from any permits or other process that may be required by law. HHSC acknowledges that the Division's review and approval of HHSC's plans does not relieve HHSC of any responsibility for such plans; and HHSC further acknowledges that the Division's review and approval of HHSC drawings or plans does not constitute a building permit or other land-use authorization to conduct any work or make any improvements or alterations. The Division's review of HHSC plans shall not constitute endorsement or approval of plans by any other King County agency. As between the parties, HHSC is solely responsible to ensure that its plans, drawings,

design documents, and construction comply with all applicable laws, regulations, codes, ordinances, guidelines, and industry standards.

- 4.3 **No Financial Responsibility.** HHSC understands, acknowledges, and agrees that King County will be under no obligation, directly or indirectly, to pay for any labor, material, or improvement associated with the Property. HHSC will, upon request, inform any inquiring person or entity that King County has no further financial obligations associated with the programming, operation, maintenance, repair, or rehabilitation of the Property.
- 4.4 **No Liens.** HHSC 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 Property, or to charge fees for any claim in favor of any person or entity dealing with HHSC, including those who may furnish materials or perform labor for any construction, operation, repairs, or maintenance. If any such liens are filed, King County may, without waiving its rights and remedies for breach, and without releasing HHSC from its obligations under this Agreement, require HHSC to post security in a 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. HHSC will pay to King County, upon demand, any sum paid by King County to remove the liens.
- 4.5 **Contractor Indemnification and Hold Harmless.** HHSC will require its construction contractors and subcontractors to defend, indemnify and hold King County, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees and costs, arising out of or in connection with the design, development, or construction of any improvements that HHSC may make to the Property, except for injuries and damages caused by the negligence of King County. The indemnification and hold harmless language will be at least as broad as that set forth in *Section 6.7* of this Agreement.
- 4.6 **Contractor Insurance.** HHSC will require its construction contractors and subcontractors to carry insurance meeting all requirements set forth in *Section 6* of this Agreement.

In addition, HHSC will require its construction contractors and subcontractors to provide, for the duration of any construction on the Property, Builders Risk insurance covering interests of the County, HHSC, and the construction contractor(s) in the work, in the amount of the completed value of the improvements with no coinsurance provisions. Such Builders Risk insurance will be on an "all-risk" policy form including flood and earthquake, theft, vandalism, malicious mischief, collapse. Coverage for temporary buildings and debris removal shall be included. This Builders Risk insurance covering the work will have a deductible no larger than \$5,000 for each occurrence, which will be the responsibility of the HHSC. Higher deductibles for flood and earthquake perils may be accepted by the County upon written request by HHSC and written acceptance by the County. Any increased deductibles accepted by the

County will remain the responsibility of HHSC. The Builders Risk insurance will be maintained until final acceptance of the work by HHSC. HHSC will require its construction contractors and subcontractors to provide copies of insurance certificates and additional insured endorsements or insurance policies to the County upon request.

4.7 **Professional Liability Errors and Omissions.** If HHSC directly or indirectly requires professional services in connection with the exercise of HHSC's rights, privileges, duties, or obligations under this Agreement, then HHSC will require its professional service providers to carry insurance meeting all requirements set forth in **Section 6** of this Agreement. In addition, HHSC will require its professional service providers to carry Professional Liability Errors and Omissions insurance in an amount not less than \$1,000,000 per claim/aggregate. HHSC will require its professional service providers to give the County copies of all insurance certificates or insurance policies upon request.

4.8 **Payment and Performance Bonds.** HHSC will require its construction contractors to provide payment and performance bonds, each for one hundred percent of the contract price, on a form of bond acceptable to the County with an approved surety company and in compliance with Chapter RCW 39.08 RCW. HHSC or its contractor shall notify the surety of any changes in the work. HHSC or its contractor shall promptly furnish additional bond security to protect the County and persons supplying labor or materials required by the project if:

- A. The County has a reasonable objection to any surety;
- B. Any surety fails to furnish reports on its financial condition pursuant to the County's request; or
- C. The contract price increases beyond the bond amount.

4.9 **Licensed Contractors and Professional Service Providers.** HHSC will use only contractors and professional service providers that are licensed and authorized to do business in Washington State, consistent with RCW 39.06.

4.10 **Prevailing Wage.** HHSC understands, acknowledges, and agrees that construction on the Property constitutes "public work" for purposes of the prevailing wage statute, RCW Ch. 39.12, such that prevailing wages will be paid as may be required under that statute.

## 5. **REPORTING**

5.1 **Annual Report.** HHSC shall furnish the following information to King County not later than January 31<sup>st</sup> of each calendar year during the Term of this Agreement:

- 5.1.1 A general summary of the usage of the Property during the calendar year preceding the date of the report.

- 5.1.2 A general description of the maintenance work performed on the Property during the calendar year preceding the date of the report.
- 5.1.3 A detailed summary and evidence of HHSC's expenditures made on capital improvements to the Property during the calendar year preceding the date of the report.
- 5.1.4 A copy of HHSC's most recent Form 990 as filed with the Internal Revenue Service.
- 5.1.5 The Maintenance Plan for the twelve (12) months following the date of the report.
- 5.1.6 An initial schedule for the twelve (12) months following the date of the report, allocating Property use among reserved uses, scheduled use, and drop-in use, all consistent with and pursuant to **Section 2** of this Agreement.
- 5.1.7 A summary of issues, proposed resolutions to issues and minutes from any meeting(s) that occurred between HHSC, affected residential and user group communities and other interested parties during the past calendar year.
- 5.2 **Annual Meeting.** HHSC and King County, by and through their designated representatives, shall meet at least once per calendar year during the Term of this Agreement to discuss the prior and upcoming years' operations, maintenance, and capital improvements. The annual meeting shall occur during the first quarter of the calendar year, or as soon thereafter as reasonably possible, in connection with HHSC's submittal of its annual report to King County. PROVIDED, that each calendar year during the Term, the County may determine, in its sole discretion, that an annual meeting is not required for that year. If the Division so determines then it will so notify HHSC.
- 5.3 **Records and Audits.** HHSC shall keep such full and detailed accounts as may be necessary for proper financial management under this Agreement. During the Term of this Agreement, HHSC'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.
- 5.4 **Site Inspection.** King County may inspect the Property at any time, with or without notice. King County will take reasonable steps to exercise its right of inspection so as to avoid or minimize disturbance of any activities taking place on the Property. HHSC will provide King County with a key to any dual-locked structures, gates or storage containers. The Parties agree, for reasons of protection and safety, to promptly secure and lock any doors, gates, or storage containers unlocked for activities, use or access. King County has the right to use any and all means that King County deems proper to open doors and gates in an emergency in order to obtain entry to the Property. The Parties agree that nothing in this **Section 5.4** shall limit the governmental or police powers of the County.

