



SEATTLE CITY COUNCIL

Legislative Summary

CB 119214

Record No.: CB 119214

Type: Ordinance (Ord)

Status: Passed

Version: 1

Ord. no: Ord 125569

In Control: City Clerk

File Created: 08/07/2017

Final Action: 04/27/2018

Title: AN ORDINANCE relating to the Department of Parks and Recreation (DPR); authorizing the Superintendent to enter into a Use, Occupancy and Maintenance Agreement with Woodland Park Lawn Bowling Club (WPLBC) to promote the lawn sports of bocce, croquet and lawn bowling and provide access and rental opportunities to the Woodland Park Lawn Bowling Clubhouse and Greens.

Notes:	<u>Date</u>
Sponsors: Juarez	Filed with City Clerk: Mayor's Signature: Vetoed by Mayor: Veto Overridden: Veto Sustained:

Attachments: Att A - Use, Occupancy and Maintenance Agreement v2

Drafter: Terri Burns

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published: Yes No

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Mayor	08/15/2017	Mayor's leg transmitted to Council	City Clerk			
	Action Text: The Council Bill (CB) was Mayor's leg transmitted to Council. to the City Clerk						
	Notes:						
1	City Clerk	08/15/2017	sent for review	Council President's Office			
	Action Text: The Council Bill (CB) was sent for review. to the Council President's Office						
	Notes:						
1	Council President's Office	08/18/2017	sent for review	Parks, Seattle Center, Libraries, and Waterfront Committee			

Action Text: The Council Bill (CB) was sent for review. to the Parks, Seattle Center, Libraries, and Waterfront Committee

Notes:

1 Full Council 03/12/2018 referred Civic Development, Public Assets, and Native Communities Committee

Action Text: The Council Bill (CB) was referred. to the Civic Development, Public Assets, and Native Communities Committee

Notes:

1 Civic Development, Public Assets, and Native Communities Committee 03/21/2018 discussed

Action Text: The Council Bill (CB) was discussed.

Notes:

1 Civic Development, Public Assets, and Native Communities Committee 04/18/2018 pass as amended Pass

Action Text: The Committee recommends that Full Council pass as amended the Council Bill (CB).

Notes:

In Favor: 3 Chair Juarez, Vice Chair Bagshaw, Member González

Opposed: 0

1 Full Council 04/23/2018 passed Pass

Action Text: The Council Bill (CB) was passed by the following vote, and the President signed the Bill:

Notes:

In Favor: 8 Councilmember Bagshaw, Councilmember González , Council President Harrell, Councilmember Herbold, Councilmember Johnson, Councilmember Juarez, Councilmember O'Brien, Councilmember Sawant

Opposed: 0

Absent(NV): 1 Councilmember Mosqueda

1 City Clerk 04/25/2018 submitted for Mayor's signature Mayor

Action Text: The Council Bill (CB) was submitted for Mayor's signature. to the Mayor

Notes:

1 Mayor 04/27/2018 Signed

1 Mayor 04/27/2018 returned City Clerk

1 City Clerk 04/27/2018 attested by City Clerk

Action Text: The Ordinance (Ord) was attested by City Clerk.

Notes:

CITY OF SEATTLE

ORDINANCE

125569

COUNCIL BILL

119214

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5
6 AN ORDINANCE relating to the Department of Parks and Recreation (DPR); authorizing the
7 Superintendent to enter into a Use, Occupancy and Maintenance Agreement with
8 Woodland Park Lawn Bowling Club (WPLBC) to promote the lawn sports of bocce,
9 croquet and lawn bowling and provide access and rental opportunities to the Woodland
10 Park Lawn Bowling Clubhouse and Greens.

11
12 WHEREAS, in 1932, the Woodland Park Lawn Bowling Greens was constructed and made
13 available for the public to participate; and

14 WHEREAS, Ordinance 89858, adopted in December 1960, authorized the construction of a
15 second lawn bowling green in Woodland Park; the acceptance of advance concession
16 payments from the Queen City Lawn Bowling Club; and a seven-year concession
17 agreement with said club; and

18 WHEREAS, Ordinance 90988, adopted in March 1962, appropriated certain money deposited in
19 the Parks Fund as a result of a donation by Mrs. Emma B. Underhill for the purchase of a
20 drinking fountain and memorial plaque to be installed at the Woodland Park Lawn
21 Bowling Greens; and

22 WHEREAS, previous Ordinances 108912 (1980), 111265 (1983), 115588 (1991) and 122638
23 (2008) all related to legislation that authorized the Superintendent of Parks and
24 Recreation ("Superintendent") to enter into agreements with the Woodland Park Lawn
25 Bowling Club (formerly Queen City Lawn Bowling Club, Inc.) (WPLBC) for the use of
26 the City's Woodland Park Lawn Bowling Facility; and

1 WHEREAS, the Department of Parks and Recreation wishes to continue this relationship with
2 WPLBC to maintain the delivery of services to the public at the Woodland Park Lawn
3 Bowling Facility; NOW, THEREFORE,

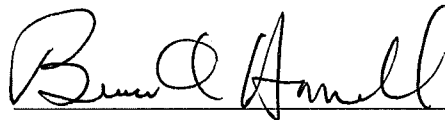
4 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

5 Section 1. The Superintendent of Parks and Recreation, or the Superintendent's
6 designee, is hereby authorized on behalf of The City of Seattle to execute a five-year Use,
7 Maintenance and Occupancy Agreement, substantially in the form attached as Attachment A to
8 this ordinance, with Woodland Park Lawn Bowling Club that also provides for two five-year
9 extensions at both parties' option.

10

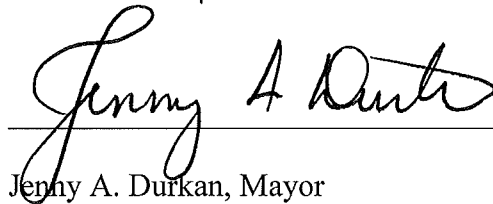
1 Section 2. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Municipal Code Section 1.04.020.

4 Passed by the City Council the 23rd day of April, 2018,
5 and signed by me in open session in authentication of its passage this 23rd day of
6 April, 2018.

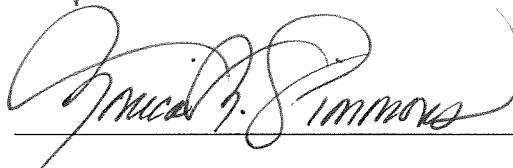
7 

8 President _____ of the City Council

9 Approved by me this 27th day of April, 2018.

10 
11 Jenny A. Durkan, Mayor

12 Filed by me this 27th day of April, 2018.

13 

14 Monica Martinez Simmons, City Clerk

15 (Seal)
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20 Attachments:

21 Attachment A – Use, Occupancy and Maintenance Agreement between The City of Seattle and
22 Woodland Park Lawn Bowling Club for the Woodland Park Lawn Bowling Facilities and Greens

USE, OCCUPANCY AND MAINTENANCE AGREEMENT
Between
THE CITY OF SEATTLE
and
WOODLAND PARK LAWN BOWLING CLUB
for
THE WOODLAND PARK LAWN BOWLING FACILITIES AND GREENS

AGREEMENT NUMBER: _____

THIS AGREEMENT is made and entered into by and between **THE CITY OF SEATTLE**, a Washington municipal corporation ("**City**"), acting by and through its **Department of Parks and Recreation ("DPR")**, and the **WOODLAND PARK LAWN BOWLING CLUB ("WPLBC")** a not-for-profit corporation organized under the laws of the State of Washington.

RECITALS

WHEREAS, in 1932, the Woodland Park Lawn Bowling Greens was constructed and made available for the public to participate; and

WHEREAS, Ordinance 89858, adopted in December 1960, authorized the construction of a second lawn bowling green in Woodland Park, the acceptance of advance concession payments from the Queen City Lawn Bowling Club, and a seven-year concession agreement with said club; and

WHEREAS, Ordinance 90988, adopted in March 1962, appropriated certain money deposited in the Parks Fund as a result of a donation by Mrs. Emma B. Underhill, for the purchase of a drinking fountain and memorial plaque to be installed at the Woodland Park Lawn Bowling Greens; and

WHEREAS, previous Ordinances 108912 (1980), 111265 (1983), 115588 (1991) and 122638 (2008) all related to legislation that authorized the Superintendent of DPR ("**Superintendent**") to enter agreements with the Woodland Park Lawn Bowling Club (formerly Queen City Lawn Bowling Club, Inc.), for the use of the City's Woodland Park Lawn Bowling Facility; and

WHEREAS, DPR wishes to continue this relationship with WPLBC to maintain the delivery of services to the public at the Woodland Park Lawn Bowling Facility; and

NOW, THEREFORE, in consideration of the mutual promises, terms, conditions, and performances described herein, the parties agree as follows:

DEFINITIONS

- 1.1.** "Agreement" means this temporary Use, Occupancy and Maintenance Agreement, including all exhibits, attachments and addenda appended hereto, as now existing or hereinafter amended.
- 1.2.** "City" means The City of Seattle.
- 1.3.** "DPR" means The City of Seattle's Department of Parks and Recreation.

- 1.4. "WPLBC" means the Woodland Park Lawn Bowling Club.
- 1.5. "Commencement Date" means the date on which WPLBC's authorized use and occupancy of the Premises under this Agreement may commence.
- 1.6. "Premises" means the Woodland Park Lawn Bowling Facility buildings (the clubhouse and three (3) storage sheds) and greens (lower and upper) to be used by WPLBC as shown in Exhibit A.
- 1.7. "Superintendent" means the Superintendent of The City of Seattle Department of Parks and Recreation.
- 1.8. "Parties" means the City and WPLBC.
- 1.9. "Public Benefit" means the programs and services provided for the public and approved by DPR by WPLBC under this Agreement.
- 1.10. "Exhibits" The following exhibits are made a part of this Agreement.
 - Exhibit A – Premises Map
 - Exhibit B – Legal Description
 - Exhibit C – Greens Maintenance
 - Exhibit D – Insurance
 - Exhibit E – Public Benefit

2. TERM OF AGREEMENT AND PURPOSE

- 2.1. **Term of Agreement.** This license Agreement commences as of the date this Agreement becomes effective pursuant to Section 28.10 (the "Commencement Date"), and shall expire December 31, 2022 (the "Expiration Date") (collectively the "Initial Term"), unless it is terminated earlier as provided herein. If WPLBC is not in default with respect to any material provision of this Agreement, WPLBC may extend this Agreement for two additional terms of five (5) years (the "Extended Term"), subject to the Superintendent's revision and approval of any terms and conditions of this Agreement the Superintendent determines in his or her sole discretion to be necessary and in the best interest of the City. WPLBC shall request extension by sending the City a written notice to that effect at least 90 days but no more than 365 days before the expiration of the Initial Term. If WPLBC decides not to request extension, it shall notify the City in writing as soon as reasonably possible. Unless the context clearly indicates otherwise, when used in this Agreement, the word "Term" includes both the Initial and the Extended Terms.

2.2. Purpose. Pursuant to DPR’s goal to provide opportunities to play, learn, build community and promote responsible stewardship of City parks, and in conjunction with WPLBC’s vision to promote lawn sports, both parties enter into this agreement for the purpose of WPLBC providing lessons and opportunity to play lawn sports in the form of lawn bowling, bocce and croquet. WPLBC intends to give lessons to organizations and park patrons to develop, teach, and enjoy the lawn sports experience in the park.

3. PREMISES

- 3.1. Premises.** The premises that WPLBC is authorized to use, manage and occupy during the Term consists of the entire interior area of the two (2) fenced green spaces (“Greens”) and the building and three (3) adjacent equipment storage sheds (“Buildings”) (collectively the “Premises”) at the Woodland Park Lawn Bowling Facility, which are located on that portion of real property graphically depicted on Exhibit A and legally described on Exhibit B.
- 3.2. Grant of Limited Permission to Access Premises.** Subject to the terms and conditions set forth in this Agreement, the City hereby grants to WPLBC limited exclusive permission to access, operate, use, occupy, repair and maintain the Premises (the “Access License”) for the sole purpose of performing the obligations set forth in this Agreement and any Revocable Use Permit (RUP) issued by DPR, if any.
- 3.3. Limitations of Permission and Use of City Property.** WPLBC’s licensed use of the Premises is limited for the purposes described in this Agreement, and WPLBC is responsible to limit its use to those purposes approved herein. WPLBC shall acquire no additional right or interest in the Premises beyond what is provided in this Agreement, nor to the occupancy of the same, or any part thereof, other than as described in this Agreement.
- 3.4. Revocation/Termination of Access License.** Termination of the Access License shall occur on the date the Agreement is terminated as permitted under Section 23.
- 3.5. Parking.** There is no reserved parking for the Premises. WPLBC may utilize the parking area adjacent to the Premises in common with and upon the same terms and conditions as other users of Woodland Park.

4. PERMITTED USE

4.1. Permitted Use. WPLBC’s permitted use of the Premises is for lawn bowling, bocce, and six-wicket croquet sport programs open to the public and may use the Premises for competitive, social, and organizational activities for the Club and for regional and national lawn bowling, bocce, and croquet organizations (collectively, the "Permitted Use"). WPLBC shall not use the Premises for any purpose whatsoever other than the uses specifically permitted herein unless it has obtained prior written authorization from DPR to do so.

4.2. Rentals. WPLBC shall be responsible for private rentals on a short-term basis to organizations and individuals, or other clients (hereinafter called “Renters”). The rights and privileges for the term specified are given in exchange for payment to the City of specified fees, the provision of certain services to the public on behalf of the City, and the performance of maintenance to the Premises, all in accordance with the terms of this Agreement. Rental responsibilities include:

- Marketing rental opportunities to the community.
- Processing all facility requests.
- Providing adequate and qualified staffing to setup, supervise and return Premises to a neat, orderly and safe condition.
- Requiring Renters to meet the minimum waiver, indemnification and/or insurance requirements mandated by DPR for rental of DPR-owned and operated locations.

Any use of the greens by Renters shall be limited to the Permitted Uses found in Section 4.1.

4.3. Alcohol Rentals. If a facility user or Renters would like to serve alcohol at a private event, WPLBC shall collect the below documentation and enforce the required conditions at all times:

- Any event wishing to sell alcohol will apply for a City of Seattle Special Events permit at least 90 days prior to the event date in order to be permitted for alcohol sales.

- Provide host liquor liability insurance for at least \$1,000,000 coverage with “The City of Seattle” named additional insured on liability insurance and a policy endorsement provided as evidence and retained by WPLBC.
- Provide liquor liability insurance for \$2,000,000 coverage with “The City of Seattle” named additional insured on liability insurance and a policy endorsement provided as evidence and retained by WPLBC.
- For private, hosted liquor events, a valid Washington State Liquor and Cannabis Board Banquet Permit will be obtained by the host and displayed at all times.
- Signs will be posted at all venue exits/entrances that no liquor is allowed outside and WPLBC will ensure that no liquor is consumed outside of the indoor facilities.

If a facility user or Renters would like to sell alcohol at a public or private event, WPLBC shall contact the DPR Contract Coordinator at least sixty (60) days prior to the event to discuss the potential event and obtain City approval, to be granted or withheld in the City’s sole discretion. Liquor sales require a Citywide Special Event permit and may not be approved.

5. HOURS OF OPERATION, SCHEDULING AND CLOSURES

5.1. Hours of Operation. Minimum hours of availability of greens and buildings on the Premises are as follows. Any changes by WPLBC to these minimum hours shall be subject to the Superintendent’s prior written approval. Field use must be scheduled in advance. Maximum hours of use may not exceed park open hours of 4:00 a.m. until 11:30 p.m. daily.

Scheduled Usage	Days	Schedule
Greens open for use*	Tuesday - Saturday	10:00 a.m. – Sunset.
Scheduled Rentals	Monday – Sunday	9:00 a.m. – 10:00 p.m.

* Green usage is subject to closure due to inclement weather and must be scheduled in advance

Open Night Scheduled	Days (June – October)	Schedule
Bocce Night*	Friday’s	5:30 – 9:30 p.m..
Lawn Bowling	Wednesday’s	6:00 – 9:00 p.m.
Croquet	Tuesday’s 1st & 3rd week of each month	6:00 – 9:00 p.m.

* Green usage is subject to closure due to inclement weather

- 5.2. WPLBC Closure of Premises.** WPLBC may close the Premises or any portion thereof for a reasonable period for repairs or remodeling, for taking inventory, or for other purposes authorized by the terms of this Agreement, subject to the Superintendent's prior written approval. WPLBC shall post written notice of such impending closure in a conspicuous place on the Premises at least two (2) weeks before the closure date.
- 5.3. DPR Closure of Premise.** DPR reserves the right to close the Premises or any portion thereof, without liability to WPLBC of any kind, for maintenance or repairs provided the City gives WPLBC at least ninety (90) days' prior notice of such impending closure except in cases of emergency, when the City may close the Premises without notice of any kind.
- 5.4. Keys.** Each key shall be assigned to and checked out by the WPLBC representative to whom it will be issued. All costs associated with replacing any keys for the facility or grounds will be the responsibility of the WPLBC including circumstances where DPR at its sole discretion deems a lock core replacement is necessary.
- 5.5. Staff.** WPLBC shall provide qualified personnel or assign volunteers in sufficient numbers to meet WPLBC's program staffing needs and shall comply with all rules, laws, and regulations when doing so. WPLBC shall review the conduct of any of its employees whose activities may be inconsistent with the proper administration of the Premises and take such lawful action as is necessary and appropriate to fully correct the situation. WPLBC shall engage a licensed agency or company to perform background checks of all staff it intends to work with youth under the age of 18 before they are hired. WPLBC shall provide DPR with a written list of the names and addresses of the members of its Board of Trustees and staff at the beginning of each calendar year and notify DPR of changes throughout the year.
- 5.6. Public Benefit.** Public benefit provided by WPLBC will include: public access to the clubhouse and greens, free facility rentals, volunteer hours, community outreach promoting the facilities, lessons, and improvements to the greens and buildings ("Public Benefits"). The requirements for these Public Benefits ("Public Benefits Requirement" are further described in Exhibit E.

5.7. Public Benefit Reporting Requirement. WPLBC shall submit to the City an annual Public Benefit Report as described in and on the date set out in Exhibit E (the “Public Benefit Reporting Requirement”).

6. USE FEES; DPR-APPROVED CREDITS AND ADJUSTMENTS HERETO; TAXES

6.1. Use Fee. Subject to all the provisions of this Section 6 and beginning on the Commencement Date, for WPLBC use and occupancy of the Premises during the term of this agreement, WPLBC shall pay the City an annual use fee of \$1,500 due in quarterly installments of \$375 or 15% of all facility rentals (“Use Fee”), whichever is greater, based on annual review of profit and loss statements. Payment is due on a quarterly basis as per the schedule on the table below. Due each year on or before January 10, WPLBC will submit the profit-and-loss statement for the previous year along with the minimum payment of \$375. If the 15% of all facility rentals from the previous year exceeds the \$1,500 annual amount, WPLBC shall also make a reconciliation payment of the net difference on or before January 10.

Use Fee Due Date	Amount Due	Time Period
April 10	\$375	Jan 1 – March 31
July 10	\$375	April 1 – June 30
October 10	\$375	July 1 – September 30
January 10	\$375 or 15% of annual rentals proceeds, whichever is greater	October 1 – December 31

6.2. Taxes. The Use Fee does not include any state tax that may be levied or assessed as a result of this Agreement or any activity of WPLBC. WPLBC shall pay, before delinquency, any and all taxes, assessments, license fees, and public charges levied, assessed, or imposed upon WPLBC’s personal property installed or located in the Premises or upon its interest in this Agreement or the Premises, including Washington State Leasehold Excise Tax (Ch. 82.29A RCW) on the Use Fee.

7. FINANCES AND PAYMENT PROCESSES

7.1. Payment of Use Fees and Tax. The quarterly Use Fee and applicable Washington State Leasehold Excise Tax shall be delinquent if not received on or before the due

date specified in Section 6.1. Payment should be made to the City of Seattle, and sent to:

Seattle Parks and Recreation
Contracts Administration and Support Office (C.A.S.O.)
ATTN: Contract Coordinator
800 Maynard Avenue South, #300
Seattle, WA 98134

or such other address as DPR may provide.

- 7.2. Administrative Charges Due to Late or Refused Payments.** WPLBC shall be subject to a twenty-dollar (\$20) late charge if DPR does not receive timely payment when due. DPR will assess a twenty-dollar (\$20) fee for each refused payment.
- 7.3. Interest Charges for Overdue Payments.** If any payment due hereunder is not paid within thirty (30) days after the due date, an additional late charge of one percent (1%) of the amount due and unpaid shall be added to the payment and the total sum shall become immediately due and payable, in accordance with Ordinance 117969.

8. UTILITIES AND RELATED CHARGES

- 8.1. Utility.** WPLBC shall pay when due oil service and delivery, telephone and communication costs. DPR shall pay electricity, water, and sewer service costs.
- 8.2. Refuse Collection and Recycling of Waste Materials.** WPLBC shall be responsible, along with any associated costs, for the proper storage and removal of trash, litter pickup and recycling consistent with City standards.
- 8.3. Utility Outages.** The City shall not be liable for any loss, injury or damage to person or property caused by or resulting from any variation, interruption or failure of services due to any cause whatsoever, including, but not limited to, electrical surges, or from failure to make any repairs or perform any maintenance. No temporary interruption or failure of such services incident to the making of repairs, alterations or improvements or due to accident, strike or conditions or events beyond City's reasonable control shall be deemed to be an eviction of WPLBC, or to relieve WPLBC from any of WPLBC's obligations hereunder, or to give WPLBC a right of action against City for damages. WPLBC acknowledges that there may be City-planned utility outages affecting the Premises and that such outages may interfere,

from time to time, with WPLBC's use of the Premises. The City shall make best efforts to provide WPLBC with not less than forty-eight (48) hours prior written notice of any City-planned electricity outage in the Premises. The City has no obligation to provide emergency or backup power to WPLBC. The provision of emergency or backup power to the Premises or to enable the equipment therein to properly function shall be the sole responsibility of WPLBC. If utilities are interrupted at the Premises so as to render them unfit for their permitted uses, then the rent for the year shall be abated for the duration of the disruption in the proportion that the number of days of the disruption bears to the number of days of the year.

9. CARE OF PREMISES

- 9.1. Routine Maintenance and Repair.** WPLBC shall arrange and pay all costs for routine maintenance and minor repairs to the Premises and all building systems, including but not limited to electrical and mechanical systems, glass, heating and plumbing systems, furniture, fixtures, and equipment; provided, however, that WPLBC shall not be obligated to perform any of the Major Maintenance items referenced in Section 9.2 below. All work shall be performed in a lien-free, professional manner and comply with this Agreement and all applicable permits, laws, rules, and regulations.
- 9.2. Major Maintenance.** DPR shall provide and be responsible for, at no cost to WPLBC, all necessary maintenance and repairs and replacements due to failure or otherwise of the electrical and mechanical systems (including heating, ventilating and plumbing), roof, exterior shell, elevated greens lighting, and exterior doors located on the Premises ("Major Maintenance"). DPR's Major Maintenance responsibilities will be limited to repairs that in the sole discretion of the Superintendent are necessary, reasonable and provided for within the existing DPR staffing and budget. DPR shall provide WPLBC with the requisite notice pursuant to Section 5.3 prior to conducting Major Maintenance.
- 9.3. Custodial.** WPLBC shall provide all necessary housekeeping and janitorial services for the interior of the buildings to a level consistent with other similar facilities and operations and to the Superintendent's reasonable satisfaction. WPLBC shall be

responsible for proper storage and removal of trash, litter pickup, and recycling consistent with City standards.

- 9.4. Waste; Illegal Activity.** WPLBC shall not commit or suffer waste upon the Premises; nor shall it conduct or permit any form of illegal or unlawful activity on the Premises.
- 9.5. Greens Maintenance.** WPLBC is responsible for the upkeep, care and maintenance of all greens and beds within the fenced area of the greens as described in this section and in Exhibit C. WPLBC shall keep the greens and beds in a neat, orderly and safe condition at a level meeting with the Superintendent's reasonable satisfaction, which includes routine greens keeping, mowing, fertilizing, sprinkler maintenance, weed control, shrubbery maintenance, and trash removal. DPR shall be responsible for the maintenance of the grounds outside the fenced area as described in this section and in Exhibit C, including the parking area, and outdoor lighting. Such maintenance shall be performed at the sole discretion of DPR, but will generally include lawn mowing and trimming, removal of plants when required, control of noxious weeds, and clearing of leaves and other natural debris and shall be to the same standard, and generally with the same frequency, as maintenance of grounds at other City parks.
- 9.6. Fire Alarm Systems; Equipment Permits.** WPLBC shall comply with all laws and regulations regarding ventilation, exhaust, and alarm warning systems, and shall have all necessary permits for the operation of any and all equipment on the Premises.
- 9.7. Joint Annual Inspection of Premises.** WPLBC shall participate in an annual inspection of the Premises with DPR and shall take any and all action that is consistent with the terms of this Agreement that DPR may specify as necessary to maintain and operate the Premises in a clean and safe manner.
- 9.8. City Remedy for Failure to Maintain Premises.** If WPLBC fails to maintain the Premises, within a reasonable time after delivery of a written notice of non-compliance, DPR shall have the right, at its option and in addition to all other remedies, to undertake such work and to invoice WPLBC for the costs. DPR shall have no liability to WPLBC for any damage, inconvenience, or interference with WPLBC's use of the Premises as a result of the City's performing any such work.
- 9.9. Security.** WPLBC shall be responsible for security for the Premises.

10. INDEMNIFICATION AND INSURANCE

10.1. Indemnification and Hold Harmless. To the fullest extent permitted by law, WPLBC shall indemnify and hold harmless the City, its officers, agents, employees, volunteers and contractors, from and against any and all liability, claims, suits, actions, damages, costs or expenses (including reasonable attorney's fees and costs and all other litigation expenses when incurred and whether incurred in defense of actual litigation or in reasonable anticipation of litigation) for bodily injury or damage to property arising from or relating to the use and occupancy of the Premises by WPLBC or any of its officers, employees, agents, contractors, or volunteers, or use and occupancy of the Premises by renters, or from any violation of law. WPLBC shall also require all Permitted Use participants to sign indemnification agreements holding the City, its employees, officers, officials, volunteers, and agents harmless from all claims related to or resulting from the participant's activities and resulting injuries or death. If any such claim, suit, or action is brought against the City, its officers, agents, employees, volunteers or contractors, WPLBC, upon notice of the commencement thereof, shall defend the same, at no cost and expense to the City, and promptly satisfy any final judgment adverse to the City or the City and WPLBC jointly; provided, that if the City determines that one or more principles of governmental or public law are involved, the City retains the right to participate in such action.

The above indemnity shall not apply to the extent the death, injury, damage, loss, cost, or expense was caused by or resulted from the sole negligence of the City or its officers, employees, agents or contractors.

10.2. Survival of Indemnification Obligation. The indemnification and hold harmless obligations of WPLBC hereunder shall survive the expiration or earlier termination of this Agreement.

10.3. Insurance To Be Secured By WPLBC. At all times during the Term, WPLBC shall maintain, at no expense to the City, a policy or policies of insurance as described in Exhibit D.

11. CITY CONTROL OF PREMISES AND VICINITY

11.1. City Control of Premises. Woodland Park and the parking areas surrounding the Premises are under the City's exclusive control and management. Accordingly, the City may do any and all of the following (among other activities in support of Parks

and Recreation or other municipal objectives), all without incurring any liability whatsoever to WPLBC:

- **Change of Vicinity.** Increase, reduce, or change in any manner whatsoever the number, dimensions, and locations of the walks, buildings, and parking areas in the vicinity of the Premises.
- **Traffic Regulation.** Regulate all traffic within and adjacent to the Premises, including the operation and parking of vehicles of WPLBC and its invitees, employees, and patrons.
- **Display of Promotional Materials.** Erect, display, and remove promotional exhibits and materials and permit special events on property adjacent to the Premises.
- **Promulgation of Rules.** Promulgate, from time to time, reasonable rules and regulations regarding the use and occupancy of any DPR property, including but not limited to the Premises.

11.2. DPR Use. DPR shall have access to the Premises at no charge for small community hearings and other DPR staff meetings on an as-available basis by contacting WPLBC at least two (2) weeks in advance of the proposed use date. DPR designated staff will be responsible for opening and closing the Premises in such circumstances.

12. ALTERATIONS OR IMPROVEMENTS

WPLBC shall improve the Premises during the term(s) of the Agreement and shall allocate a minimum of \$3,000 annually toward any major alterations, additions, renovations, or improvements in or to the Premises (“Improvements”), which may be funded by WPLBC, matching grants, corporate sponsorships, and/or any combination thereof. WPLBC and DPR shall mutually agree on the Improvements to be completed during a term of the Agreement, but WPLBC shall not make Improvements without the Superintendent's prior written approval of plans and specifications. The Superintendent may impose restrictions or conditions on any proposed work, including requiring payment and performance bonds in the amount of the work. Actual expenditures on Improvements may vary annually and annual project funding may be combined over multiple years within a term toward one of more projects, but a term's collective minimum total (\$15,000) must be spent within the respective term. Any Improvement investment exceeding \$20,000 that is spent during a term of the

Agreement may be credited toward WPLBC's minimum improvement obligations for the following term if the Agreement is extended. All DPR-approved alterations, additions, renovations, or improvements that are made by WPLBC shall be completed (a) at the sole cost and expense of WPLBC; (b) in accordance with applicable laws (including but not limited to all standards and requirements mandated by the federal Americans with Disabilities Act (ADA) at the time of the improvement), rules, regulations, and permits; (c) in a lien-free, professional and safe manner; and (d) with due diligence to minimize interference or disturbance of use of the Premises. Notwithstanding the foregoing, DPR and not WPLBC shall be responsible for updating the Premises to comply with any new ADA standards or requirements occurring outside the scope of WPLBC's Improvements or after WPLBC's completion of any Improvements. Improvements shall remain in and be surrendered with the Premises at the expiration or earlier termination of this Agreement, or at the sole discretion of DPR be removed from the Premises at the expiration or earlier termination of this Agreement, unless DPR otherwise agrees in writing. At the time WPLBC proposes to make a capital improvement, WPLBC may request DPR to notify WPLBC whether such Improvement may or must be removed upon expiration or termination of this Agreement.

13. DAMAGE OR DESTRUCTION

If the Premises are partially or wholly destroyed or damaged by fire, earthquake, or other casualty, the City at its sole discretion may elect to repair, restore, or rebuild the Premises or any portion thereof, in which event the City shall promptly commence such repairs as will restore the Premises to the condition immediately preceding the casualty as nearly as reasonably possible. Notwithstanding the foregoing, if (i) more than fifty percent (50%) of the Premises are damaged as a result of the casualty; or (ii) repair and restoration cannot reasonably be completed within eighteen (18) months from the date of the casualty; (iii) the casualty occurs during the final two (2) years of the Term; or (iv) the insurance proceeds plus the deductible and any funds contributed by WPLBC are insufficient to restore the Premises; or (v) the City fails to notify WPLBC of the City's election to restore the Premises within 30 days after such casualty, then either WPLBC or the City may terminate this Agreement upon 30 days' written notice to other specifying the effective date of such termination, and in such

event, WPLBC shall promptly deliver to the City all insurance proceeds payable on account of the damage to the building in which the Premises are located.

From the date of the casualty through completion of repairs (or termination of this Agreement, if applicable), the Use Fee shall be abated in the same proportion that the unusable portion bears to the whole of the Premises, as the City may reasonably determine, unless WPLBC's negligence or that of its agents, invitees, or guests, or WPLBC's breach of this Agreement caused or contributed to the casualty, in which event there shall be no abatement.

The City shall not be liable to WPLBC for damages, compensation, or other sums for inconvenience, loss of business, or disruption resulting from any repairs to or restoration of any portion of the Premises. In no event shall the City be required to repair or replace any equipment, inventory, fixture, or other personal property located on the Premises and owned or maintained by WPLBC or other users of the Premises.

14. CONDEMNATION

If any part of the Premises is taken or condemned, and a part thereof remains susceptible of occupation hereunder, this Agreement shall, as to the part so taken, terminate as of that date and title shall vest in the condemning authority. The Use Fee payable by WPLBC to the City shall be adjusted so that WPLBC shall pay only for that useable portion of square feet remaining after the condemnation, but in such event the City shall have the option to terminate this Agreement by notice to WPLBC within thirty (30) days of the date when title to the part so condemned vests in the condemning authority. If part or all of the Premises is taken or condemned, all compensation awarded upon such condemnation or taking shall go to the City, and WPLBC shall have no claim, and shall irrevocably assign and transfer to the City any right to compensation or damages payable by reason of the condemnation.

15. COMPLIANCE WITH LAW

15.1. General Requirements. WPLBC shall comply with all applicable laws of the United States and the State of Washington; the Charter and Ordinances of the City of Seattle; and rules, regulations, orders and directives of their administrative agencies and officers thereof now existing or hereafter enacted or promulgated. Whenever WPLBC is informed of any violation of any such law, ordinance, rule, regulation, license,

permit, or authorization committed by it or any of its officers, employees, contractors, subcontractors, agents, or invitees, WPLBC shall immediately desist from and/or prevent or correct such violation.

15.2. Licenses and Other Authorizations. WPLBC, at no cost to the City, shall secure and maintain in full force and effect during the term of this Agreement, all required licenses, permits, and similar legal authorizations, and comply with all requirements thereof. WPLBC shall submit to DPR such evidence as may be required by DPR prior to the modification of the Premises. WPLBC shall be responsible for payment of all fees and charges incurred in obtaining any required permits or other governmental approvals and for obtaining a certificate of occupancy prior to the use or occupancy of any modified portion of the Premises.

15.3. Equality of Treatment. WPLBC shall conduct its business in a manner that assures fair, equal, and nondiscriminatory treatment at all times, in all respects, to all persons in accordance with all applicable laws, ordinances, resolutions, rules, and regulations. Any failure to comply with this provision shall be a material breach of this Agreement.

15.4. Nondiscrimination. WPLBC shall comply with all applicable equal employment opportunity and nondiscrimination laws of the United States, the State of Washington, and the City of Seattle, including but not limited to Chapters 14.04, 14.10, and 20.42 of the Seattle Municipal Code (SMC), as they may be amended; and rules, regulations, orders, and directives of the associated administrative agencies and their officers.

15.5. Prevailing Wages. WPLBC agrees that the undertaking of any construction, alteration, improvement, enlargement, repair, demolition, maintenance, and the performance of janitorial service activity by janitors, rug shampooers, floor waxers, and window cleaners is subject to the requirements of RCW Ch. 39.12 (Prevailing Wages on Public Works), as amended or supplemented. WPLBC agrees to meet all such requirements of RCW 39.12.

16. ENVIRONMENTAL STANDARDS.

16.1. General. WPLBC shall not commit or suffer any waste to be dumped upon the Premises and will not do or permit to be done in or about the Premises anything that is inconsistent with this Agreement or the Seattle Municipal Code, or any City

department rule or regulation as now existing or hereafter amended or any activity that is inconsistent with the use authorized or that will be dangerous to life or limb, or that will increase any insurance rate upon the Premises.

- 16.2. Hazardous Substances.** WPLBC shall not cause to occur upon the Premises or permit the Premises to be used to generate, produce, manufacture, refine, transport, treat, store, handle, dispose, transfer, or process any hazardous substances, as defined by any state or federal law, except in compliance with all applicable laws and regulations. If requested WPLBC shall maintain and provide the City with a (USEPA) waste generator number, and with copies of all Material Safety Data Sheets (MSDS), and annual dangerous waste reports, environmentally related regulatory permits or approvals and any correspondence WPLBC receives from, or provides to, any governmental unit or agency in connection with the handling of hazardous substances or the presence, or possible presence, of any hazardous substance.
- 16.3. Environmental Testing and Annual Inspection.** WPLBC shall permit the City access to the Premises upon reasonable notice for the purpose of conducting annual inspections and environmental testing at the City's expense. WPLBC shall not conduct, or permit others to conduct, environmental testing on the Premises without the Superintendent's prior written approval. WPLBC shall provide a copy of all test results to the City upon receipt.
- 16.4. Violation of Environmental Standards.** City's Remedial Rights. If WPLBC violates any of the conditions concerning the presence or use of hazardous substances or the handling or storing of hazardous wastes, WPLBC shall promptly take such action as is necessary to mitigate and correct the violation. If WPLBC does not act in a prudent and prompt manner, the City reserves the right, but not the obligation, to come onto the Premises and to take such action as deemed necessary to ensure compliance or to mitigate the violation. In addition, the City shall be entitled to full reimbursement from WPLBC for any costs resulting from the violation including, but not limited to, costs of clean-up or other remedial activities, fines, penalties assessed directly against the City, injuries to third persons or other properties, and loss of revenues resulting from an inability to allow other persons or entities to use or occupy the Premises due to its environmental condition as the result of WPLBC's violation (even if such loss of revenue occurs after the expiration or earlier termination of this Agreement).

17. LIENS AND ENCUMBRANCES

WPLBC shall keep the Premises free and clear of any liens and encumbrances arising or growing out of its use and occupancy of the Premises. At the City's request, WPLBC shall furnish the City written proof of payment of any item that would or might constitute the basis for such a lien on the Premises if not paid.

18. RECORDS, BOOKS AND DOCUMENTS/REPORTING

- 18.1. Accounting Records.** WPLBC shall maintain books, records, documents and other evidence of accounting procedures and practices, which sufficiently and properly reflect all revenue as well as direct and indirect costs of any nature expended in the performance of this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit in King County by personnel duly authorized by DPR, City, the Office of the State Auditor, and other officials so authorized by law, rule, regulation, or contract.
- 18.2. Annual Financial Report.** WPLBC shall submit to DPR an annual financial report of operations prepared by a reputable accounting firm or bookkeeper within ninety (90) days after the end of each of its fiscal years during the Term. Such annual report shall cover WPLBC's fiscal year and include all tests, findings and financial reports in accordance with generally accepted accounting procedures (GAAP). If DPR in its sole discretion is not satisfied in any way with the financial report provided by WPLBC, DPR may require, by not less than 90 days' prior notice to WPLBC, that such financial report be compiled by an independent Certified Public Accountant.
- 18.3. Over and Under-payments.** If, through any audit or otherwise, WPLBC is found to have made any overpayment or underpayment hereunder, the Superintendent shall notify WPLBC of the amount of the over- or underpayment. Any overpayment shall be a credit against any fees and charges subsequently due or shall be refunded to WPLBC, at its option; under-payments shall be immediately due and payable and shall be delinquent if not paid within ten (10) days after the date of such notice.
- 18.4. Retention of Records.** WPLBC shall retain all books, records, documents, and other material relevant for six (6) years after the expiration or termination of this Agreement, and make them available for inspection by persons authorized under this Agreement at such times and on such forms as the City may require. The provisions of this Article shall survive the expiration or earlier termination of this Agreement.

19. ENTRY & INSPECTION OF PREMISES

DPR or its agents shall have the right to inspect and to show the Premises to other prospective users at all reasonable times, and to enter the same for purposes of cleaning, repairing, altering, or improving the Premises but this right shall impose no obligation on DPR to make any inspection, repair, or improvement.

20. SIGNS AND ADVERTISING

- 20.1. Signs, Generally.** Except for existing signs and except on one or more existing exterior bulletin boards, WPLBC shall not inscribe, post, place, or in any manner display any sign, notice, picture, poster, or any advertising matter whatsoever anywhere in or about the Premises without the Superintendent's prior written consent. WPLBC shall remove all signage at the expiration or earlier termination of this Agreement and repair any resulting damage or injury to the Premises.
- 20.2. On-Premises Signs.** WPLBC may install permanent exterior signage subject to the Superintendent's advance approval.
- 20.3. Temporary Signs or Banners.** Temporary signs or banners not more than 24 square feet in size may be displayed on or about the Premises to advertise a special event beginning no earlier than two weeks immediately before the event advertised, and shall be removed no later than immediately after the conclusion of such event.
- 20.4. Recognition.** When applicable, WPLBC shall include a statement in its printed materials stating, "We would like to thank the Department of Parks and Recreation for providing a location for Woodland Park Lawn Bowling Club." WPLBC shall also list DPR and the DPR logo in the "Thanks to our sponsors" section of its quarterly or other event schedule(s).

21. INSOLVENCY

If (i) WPLBC becomes insolvent and a receiver takes possession of all or any part of WPLBC's assets, or (ii) WPLBC makes a general assignment for the benefit of creditors, or (iii) WPLBC takes any action under any insolvency or bankruptcy act, and, if such action continues for a period of thirty (30) days, WPLBC shall be in breach of this Agreement, and DPR may, at its election and without notice, terminate this Agreement. In that event, DPR shall be entitled to immediate possession of the Premises.

22. MORTGAGING, TRANSFERRING, SUBLEASING, ASSIGNMENT OR SALE OF INTEREST

22.1. Interests not Transferable. WPLBC shall not transfer, assign, mortgage, hypothecate or convey this Agreement or any interest therein, in whole or in part, nor lease or license use or occupancy of the Premises or any part thereof to any other person, firm or corporation (except rentals for productions and programs permitted under this Agreement) without the Superintendent's prior written approval, which approval may be granted, withheld, or conditioned in each instance in the Superintendent's sole discretion. Any assignee or transferee approved by DPR must accept and assume, in writing, all the terms and conditions of this Agreement. Any transfer of this Agreement by merger, consolidation, transfer of assets, or liquidation shall constitute an assignment hereunder.

22.2. No Waiver. The Superintendent's consent to any assignment or transfer shall not waive the need for consent to any subsequent assignment or transfer.

23. TERMINATION

23.1. Process for Termination of Agreement.

- **For Cause.** Either party may terminate this Agreement if the other party has materially breached the Agreement and such breach has not been corrected to the reasonable satisfaction of the dissatisfied party within the time stated in this Agreement or, if no time is stated, then within thirty (30) days after notice of breach has been provided to such other party. If, however, the nature of such party's obligation is such that more than thirty (30) days are required for performance, then such party shall not be in default if it commences performance within such thirty day (30-day) period and diligently seeks to remedy the default or deficiency.
- **For Reasons beyond the Control of the Parties.** Either party may terminate this Agreement without recourse by the other party where performance is rendered impossible or impracticable for reasons beyond such party's reasonable control, such as but not limited to: acts of Nature; war or warlike operations; civil commotion; riot; labor dispute including strike, walkout, or lockout; sabotage; or superior governmental regulation or control.

- **For DPR's Convenience.** If DPR determines at any time that the Premises should no longer be available for use by WPLBC, it may terminate upon ninety (90) days' written notice to WPLBC.
- **For WPLBC's Convenience.** If WPLBC determines, at any time, that the Premises are no longer required for its use, it may terminate Agreement upon ninety (90) days' written notice to DPR.

24. NOTICE OF TERMINATION

- 24.1. Notice of Termination.** Notice of termination, other than conveniences of either party as mentioned in Section 23 above, shall be given, in writing, by the party terminating this Agreement to the other party not less than five (5) days prior to the effective date of termination.
- 24.2. City Remedies for Material Breach.** If the City terminates this Agreement for cause, DPR, in addition to other rights or remedies that it may have, shall have the right to re-enter said Premises and to make necessary alterations and repairs to restore the Premises to the condition desired by DPR, and authorize others to temporarily use and occupy the Premises, all at WPLBC's cost and expense. No temporary use or relating of the Premises following WPLBC's material breach of this Agreement shall relieve WPLBC from liability for the Use Fees WPLBC is required to pay hereunder unless the Superintendent determines otherwise.

25. VACATING OF PREMISES

Upon the expiration or earlier termination of this Agreement, WPLBC shall return the Premises, together with all DPR-approved capital improvements made thereto and fixtures installed therein, in good condition, except for normal wear and tear, unless the City consents otherwise. All right, title and interest of WPLBC in the Premises including but not limited to the Improvements installed therein shall vest in the City without the need for any action by either party hereto except that WPLBC shall provide the City with a deed or bill of sale for the same at the City's request.

WPLBC shall remove any portable personal property that is easily removed and confirmed as WPLBC's and if there is damage to the Premises as a result of the removal, then WPLBC shall restore them to their pre-existing condition. If WPLBC

fails to remove its personal property from the Premises, DPR shall have the right, but not the obligation, to remove the same and may store it in any place selected by DPR, including but not limited to a public warehouse, at WPLBC's sole expense and risk and such property shall be subject to sale, without notice to WPLBC, after it has been stored for a period of thirty (30) days or more. The proceeds of such sale shall be applied first, to the cost of such sale; second, to the payment of the charges for storage, if any; and third, to the payment of any other sums of money that may be due from WPLBC to the City. The balance, if any, shall be paid to WPLBC.

26. VISUAL ARTIST RIGHTS ACT

26.1. Installation or Integration of Any Work of Visual Art on Premises

- a. **Reservation of Rights by City; Prohibition Against Installation or Integration of Any Work of Visual Art on Premises Without Superintendent's Prior Express Written Consent.** The City reserves to and for itself the right to approve or disapprove of the installation or integration on or into the Premises of any "work of visual art," as that term is defined in the Visual Artists Rights Act of 1990, as now existing or as later amended, and to approve or disapprove of each and every agreement regarding any such installation or integration on or into the Premises of a work of visual art. WPLBC shall not, without the prior, express, written consent of the Superintendent, install on or integrate into, or permit any other person or entity to install on or integrate into, any portion of the Premises any "work of visual art." The Superintendent's consent to the installation of any such artwork may be granted upon one or more conditions, or withheld in the Superintendent's discretion.
- b. **WPLBC's Indemnification of City Against Liability under Visual Artists Rights Act of 1990.** If the Superintendent has not given such official consent to the installation or integration of any work of visual art on or into the Premises, WPLBC shall protect, defend, and hold the City harmless from and against any and all claims, suits, actions or causes of action, damages and expenses (including attorneys' fees and costs) arising as a consequence of the installation or integration during the term of this Agreement of that work of visual art on or into any portion of the Premises. This Indemnification

obligation shall exist regardless of whether WPLBC has consented to or has prior knowledge of such installation or integration. The indemnification obligation of this section shall survive the expiration or earlier termination of this Agreement.

27. NOTICES

All communications between the parties under this Agreement shall be in writing and shall be sufficiently given if either personally served upon the other party or sent via fax or the U.S. Postal Service, postage prepaid, certified mail, return receipt requested, and addressed as follows:

To WPLBC:

Woodland Park Lawn Bowling Club
President
PO Box 31164
Seattle, WA 98103
Telephone: (206) 782-1515

To City:

Seattle Parks and Recreation
Contracts Administration and Support Office
ATTN: Contract Manager
800 Maynard Avenue South, #300
Seattle, WA 98134
Telephone: 206-684-8008/ Fax: 206-233-3949

or to such other address as either party hereto may specify, in writing.

28. MISCELLANEOUS

28.1. Captions. The paragraph and section headings hereof are for convenience only and shall not be used to expand or interpret the meaning of any part of this Agreement.

28.2. Binding Effect. The provisions, covenants, and conditions contained in this Agreement inure to the benefit of the parties hereto and their successors and assigns.

- 28.3. Applicable Law.** This Agreement shall be construed and interpreted under Washington law.
- 28.4. Jurisdiction and Venue.** The jurisdiction and venue for any litigation between the parties regarding this Agreement shall be in King County Superior Court of the state of Washington.
- 28.5. No Partnership or Joint Venture Created.** The City does not by this Agreement, in any way or for any purpose, become a partner or joint venture with WPLBC.
- 28.6. City's Remedies Cumulative.** The City's rights under this Agreement are cumulative; failure on the part of the City to exercise promptly any rights given hereunder shall not operate to forfeit any such rights. The City shall also have any other remedy given by law. The use of one remedy shall not be taken to exclude or waive the right to use another.
- 28.7. Amendments.** This Agreement may be amended by mutual agreement between the parties. No modification of this Agreement shall be binding unless reduced to writing and signed by an authorized representative of each of the parties hereto.
- 28.8. Force Majeure.** Neither party shall be in default hereunder if and to the extent a party's non-performance is the result of events not reasonably foreseeable by and beyond the reasonable control of the affected party ("Force Majeure Event"). Force Majeure Events include, but are not limited to, acts of nature; acts of war or public rebellion; fire or other casualty for which WPLBC is not responsible.
- 28.9. No Third Party Rights.** No term or provision of this Agreement is intended to be, or shall be, for the benefit of any person, firm, organization or corporation that is not a party hereto.
- 28.10. Effectiveness of Agreement.** This Agreement shall become effective only when approved by the Seattle City Council and executed by an authorized representative of each party.
- 28.11. No Waivers.** No action other than a written document from the Superintendent specifically so stating shall constitute a waiver by City of any particular breach or default by, irrespective of any knowledge any City officer or employee may have of such breach, default, or noncompliance. The City's failure to insist upon full performance of any provision of this Agreement shall not be deemed to constitute consent to or acceptance of such incomplete performance in the future.

28.12. Exhibits. The following documents, whether or not attached hereto, are hereby incorporated into this Agreement as if set forth in full herein:

- Exhibit A – Premises Map
- Exhibit B – Legal Description
- Exhibit C – Greens Maintenance
- Exhibit D – Insurance
- Exhibit E – Public Benefit

28.13. Severability. Should any term, provision, condition or other portion of this Agreement be held invalid, such invalidity shall not affect the other provisions of this Agreement, which shall otherwise continue in full force and effect.

28.14. Entire Agreement. This Agreement, and all attachments and exhibits pertaining to it, constitute the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes all prior oral or written understandings, agreements, promises or other undertakings between the parties on the subject. The parties acknowledge that this is a negotiated agreement, that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of the Agreement are not to be construed against either party based on drafting.

28.15. Public Disclosure. Under Washington State Law (RCW Chapter 42.56, the Public Records Act) all materials received or created by the City of Seattle are considered public records. These records include but are not limited to bid or proposal submittals, agreement documents, contract work product, or other bid material. The Public Records Act requires that public records must be promptly disclosed by the City upon request unless that RCW or another Washington state statute specifically exempts records from disclosure. Exemptions are narrow and explicit and are listed in Washington state law (RCW 42.56 and RCW 19.108).

IN WITNESS WHEREOF, the parties hereto have caused this Use and Occupancy Agreement to be executed by their respective representative:

CITY:

THE CITY OF SEATTLE

Department of Parks and Recreation

By:

Date: _____

By: _____

Print Name: Jesús Aguirre

Title: Superintendent

Department of Parks and Recreation

WPLBC:

WOODLAND PARK LAWN BOWLING
CLUB

A Washington nonprofit corporation

By:

Date: _____

By: _____

Print Name: _____

Title: _____

Woodland Park Lawn Bowling Club

NOTARY – WOODLAND PARK LAWN BOWLING CLUB

STATE OF WASHINGTON)

) ss:

COUNTY OF KING)

I certify that I know of or have satisfactory evidence that _____ signed this instrument, on oath stated he/she was authorized to execute the instrument and acknowledged it as the Director of Woodland Park Lawn Bowling Club to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

(Signature of Notary Public)

(Printed name)

Residing at: _____

My appointment expires: _____

NOTARY - THE CITY OF SEATTLE

Department of Parks and Recreation

Jesús Aguirre, Superintendent, Parks and Recreation

STATE OF WASHINGTON)

) ss:

COUNTY OF KING)

I certify that I know or have satisfactory evidence that Jesús Aguirre signed this instrument, on oath stated that he was authorized to execute this instrument and acknowledged it as the Superintendent of the Department of Parks and Recreation of the City of Seattle to be the free and voluntary act of The City of Seattle for the uses and purposes mentioned in this instrument.

(Signature of Notary Public)

(Printed name)

Residing at: _____

My appointment expires: _____

EXHIBIT "A"
PREMISES MAP
WOODLAND PARK LAWN BOWLING FACILITY AND GREEN



**EXHIBIT “B”
LEGAL DESCRIPTION**

Woodland Park Lawn Bowling Facility

That part of NE1/4NW1/4 of Section 7, Township 25N, Range 4E lying easterly of Aurora Avenue North, westerly of West Green Lake Way North, northerly of North 59th Street extended and Southerly of North 65th Street extended.

Part of Tax Parcel No 0725049002

EXHIBIT “C”
WOODLAND PARK LAWN BOWLING GREEN MAINTENANCE

Woodland Park Lawn Bowling Club (WPLBC) and the Department of Parks and Recreation collaboratively maintain the Greens.

Greens and Ground Maintenance

WPLBC is responsible to maintain all greens and beds within the fenced area of the Woodland Park Lawn Bowling facility. That would include:

- Routine greens keeping
- Mowing
- Fertilizing
- Sprinkler maintenance
- Weed control
- Shrubbery maintenance
- Trash removal

WPLBC also owns the greens mower, perimeter mower, broadcast spreader and all the other equipment necessary to maintain the greens on a regular basis. The WPLBC maintains this equipment and pays for all necessary repairs and replacements.

Seattle Parks and Recreation support the maintenance of the Woodland Park Lawn Bowling Club Greens by providing the following services:

- Aerating greens once per year if requested
- Sanding both greens annually in the fall
- Purchase and replace Green Court Lighting on Upper Green.
- Maintain the lawn on the outside of the perimeter fences to help control weeds

**EXHIBIT “D”
INSURANCE**

1. **Furnished Coverages and Limits of Liability:** WPLBC shall, at no expense to the City, maintain in full force and effect the following minimum limits of insurance, and adhere to all terms and conditions below, at all times during the term of this Agreement:

Commercial General Liability (CGL) written on an occurrence form at least as broad as ISO CG 00 01, with Minimum Limits of Liability:

\$1,000,000 per Occurrence

\$2,000,000 General Aggregate

\$2,000,000 Products/Completed Operations Aggregate

\$1,000,000 Personal/Advertising Injury Liability

\$1,000,000 Damage to Premises Rented to You

Employers Liability / Washington Stop

\$1,000,000 Each Accident/Each Disease/Policy Limit

Alternatively, may be evidenced as Employer’s Liability insurance under Part B of a Workers Compensation insurance policy.

Coverage shall include: Premises and Operations; Broad Form Property Damage (including Completed Operations); Liability assumed under an Insured Contract (including tort liability of another assumed in a business contract); Personal Injury and Advertising Liability; Independent Contractors; Severability of Interest Clause; Waiver of Subrogation endorsement in favor of Owner as required by contract; General Aggregate Limits of Insurance shall apply separately; “Claims Made” and “Modified Occurrence” policy forms are not acceptable.

The limits of liability described above are minimum limits of liability only. Regardless of provisions to the contrary under the terms of any insurance policy maintained by WPLBC, the specification of any such minimum limits shall neither be (1) intended to establish a maximum limit of liability to be maintained by WPLBC regarding this Agreement, nor (2) construed as limiting the liability of any of

WPLBC's insurers, which must continue to be governed by the stated limits of liability of the relevant insurance policies.

Automobile Liability insurance at least as broad as ISO CA 00 01 including coverage for owned, non-owned, leased or hired vehicles as applicable, with a minimum limit of \$1,000,000 each accident for bodily injury and property damage.

Workers' Compensation insurance securing WPLBC's liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington.

Property Insurance under which the Woodland Park Lawn Bowling Facility buildings and the WPLBC's furniture, trade fixtures, equipment and inventory ("Business Personal Property") and all alterations, additions and improvements that WPLBC makes to the Premises are insured throughout the Term in an amount not less than the replacement cost new thereof, against the following hazards: (i) loss from the perils of fire and other risks of direct physical loss (including earthquake for the buildings), not less broad than provided by the insurance industry standard "Causes of Loss - Special Form" (ISO form CP 1030 or equivalent); (ii) loss or damage from water leakage or sprinkler systems now or hereafter installed in or on the Premises; (iii) loss or damage by explosion of steam boilers, pressure vessels, or above-ground oil or gasoline storage tanks or similar apparatus now or hereafter installed on the Premises; (iv) loss from business interruption or extra expense, with sufficient coverage to provide for the payment of Rent and Additional Charge and other fixed costs during any interruption of WPLBC's business. Coverage shall contain a waiver of coinsurance or agreed amount endorsement(s). City shall be named as a loss payee, as its interest may appear, as respects property insurance covering the buildings and alterations, additions and improvements under such policy.

Crime Insurance: Crime Fidelity, Theft, Disappearance & Destruction Liability (to include employee theft, wire transfer, forgery and mail coverage, and client coverage): with minimum limit \$250,000 per occurrence and in the aggregate. The policy shall cover "client's property," not just when legally liable and shall have a Joint Loss Payee Endorsement in favor of the City of Seattle.

In the event that the City deems insurance to be inadequate to protect WPLBC and the City, WPLBC shall increase coverages and/or liability limits as the City shall deem reasonably adequate within sixty (60) days after the date of written notice.

2. Terms and Conditions for WPLBC's Insurance.

The City of Seattle as Additional Insured: "The City of Seattle" shall be named as an additional insured under each policy required by this Agreement, using ISO form #CG 20 12, CG 20 26 or equivalent, and shall be given at least forty-five (45) days' prior notice of any change, cancellation, expiration or renewal of the policy. WPLBC's insurance shall be primary and non-contributory to any insurance maintained by or available to the City. The term "insurance" in this paragraph shall include insurance, self-insurance (whether funded or unfunded), alternative risk transfer techniques, capital market solutions or any other form of risk financing.

Endorsements Prohibited: WPLBC's insurance policy shall include a "separation of insureds" or "severability" clause that applies coverage separately to each insured and additional insured, except with respect to the limits of the insurer's liability. WPLBC's insurance policy shall not contain any provision, exclusion or endorsement that limits, bars, or effectively precludes the City of Seattle from coverage or asserting a claim under the WPLBC's insurance policy on the basis that the coverage or claim is brought by an insured or additional insured against an insured or additional insured under the policy. WPLBC's CGL policy shall NOT include any of the following endorsements (or their equivalent endorsement or exclusions): (a) Contractual Liability Limitation, (CGL Form 21 39 or equivalent), b) Amendment Of Insured Contract Definition, (CGL Form 24 26 or equivalent), (c) Limitation of Coverage to Designated Premises or Project, (CGL Form 21 44 or equivalent), (d) any endorsement modifying or deleting the exception to the Employer's Liability exclusion, (e) any "Insured vs. Insured" or "cross-liability" exclusion, and (f) any type of punitive, exemplary or multiplied damages exclusion. WPLBC's failure to comply with any of the requisite insurance provisions shall be a material breach of, and grounds for, the immediate termination of the Agreement with the City of Seattle; or if applicable, and at the discretion of the City of Seattle, shall serve as grounds for the City to procure or renew insurance coverage with any related costs of premiums to be repaid by WPLBC or reduced and/or offset against the Agreement.

Cancellation Notice: Coverage shall not be cancelled without forty-five (45) days' written notice of such cancellation, except ten (10) days' written notice as respects cancellation for non-payment of premium, to the City at its notice address except as may otherwise be specified in Revised Code of Washington (RCW) 48.18.290 (Cancellation by insurer). The City and WPLBC mutually agree that for the purpose of RCW 48.18.290 (1) (b), for both liability and property insurance the City is deemed to be a "mortgagee, pledge, or other person shown by (the required insurance policies) to have an interest in any loss which may occur thereunder."

Minimum Security Requirements: Each insurance policy required hereunder shall be (1) subject to reasonable approval by City that it conforms with the requirements of this section, and (2) be issued by an insurer rated A-:VIII or higher in the then-current A. M. Best's Key Rating Guide and licensed to do business in the state of Washington unless procured under the provisions of chapter 48.15 RCW (Unauthorized insurers).

Deductible or Self-Insured Retention: Any deductible or self-insured retention ("S.I.R.") must be disclosed to, and shall be subject to reasonable approval by the City. WPLBC shall cooperate to provide such information as the City may reasonably deem to be necessary to assess the risk bearing capacity of the WPLBC to sustain such deductible or S.I.R. The cost of any claim falling within a deductible or S.I.R. shall be the responsibility of WPLBC. If a deductible or S.I.R. for CGL or equivalent insurance is not "fronted" by an insurer but is funded and/or administered by WPLBC or a contracted third-party claims administrator, WPLBC agrees to defend and indemnify the City to the same extent as the City would be protected as an additional insured for primary and non-contributory limits of liability as required herein by an insurer.

WPLBC's Fire/Legal Liability insurance: During such time as WPLBC is engaged in the performance of the Improvements or other renovation of the Premises, the WPLBC shall maintain in full force and effect "All Risks" Builder's Risk Property insurance or equivalent for the portion of the Premises under renovation, including fire and flood, on a replacement cost new basis subject to a deductible of no more than \$50,000 each loss. In the event of a claim under the builder's risk policy, WPLBC or its contractor(s) shall be responsible for paying any deductible under the policy if WPLBC or any of its agents, employees, or contractors is responsible for the loss or damage. It shall be WPLBC's responsibility to properly coordinate with the City's Risk Management Division the

placement of Builder's Risk Property insurance prior to any new construction on, or structural alteration of, the Premises.

Waiver of Subrogation: Unless such waiver would void the property insurance coverage to be provided pursuant to this section, the City and WPLBC waive all subrogation rights each may have against the other, or any subtenant, for damages caused by fire or other perils to the extent covered by property insurance obtained pursuant to this section or other property insurance applicable to the Premises, except such rights as they have to proceeds of such insurance held by the City or the WPLBC or both as fiduciary. This waiver of subrogation shall be effective to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, whether or not the person or entity paid the insurance premium directly or indirectly, and whether or not the person or entity has an insurable interest in the property damaged.

Evidence of Insurance: On or before the Commencement Date, and thereafter not later than the last business day prior to the expiration date of each such policy, the following documents must be delivered to City at its notice address as evidence of the insurance coverage required to be maintained by WPLBC:

Certification of insurance documenting compliance with the coverage, minimum limits and general requirements specified herein; and

- A copy of all policies' declarations pages, showing the insuring company, policy effective dates, limits of liability and the Schedule of Forms and Endorsements specifying all endorsements listed on the policy including any company-specific or manuscript endorsements;
- A copy of the CGL insurance policy provision(s) and endorsements expressly including the City of Seattle and its officers, elected officials, employees, agents and volunteers as additional insureds (whether on ISO Form CG 20 26 or an equivalent additional insured or blanket additional insured policy wording), showing the policy number, and the original signature and printed name of the representative of the insurance company authorized to sign such endorsement;

Pending receipt of the documentation specified in this Section. WPLBC may provide a copy of a current complete binder. An ACORD certificate of insurance will not be accepted in lieu thereof.

Evidence of Insurance as set forth above, shall be issued to:

The certificate holder shall be:

The City of Seattle c/o Seattle Parks and Recreation

800 Maynard Avenue South, #300

Seattle, WA 98134

with an electronic copy to terri.burns@seattle.gov

Assumption of Property Risk: The placement and storage of WPLBC's Business Personal Property in or about the Premises shall be the responsibility, and at the sole risk, of WPLBC.

Adjustments of Claims: The WPLBC shall provide for the prompt and efficient handling of all claims for bodily injury, property damage or theft arising out of the activities of the WPLBC under this Agreement.

WPLBC's Responsibility: The procuring of the policies of insurance required by this Agreement shall not be construed to limit the WPLBC's liability hereunder. Notwithstanding said insurance, the WPLBC shall be obligated for the full and total amount of any damage, injury or loss caused by negligence of the WPLBC, or any of its agents, officers and employees or through use or occupancy of the Premises.

EXHIBIT “E – PUBLIC BENEFITS”

Woodland Park Lawn Bowling Clubhouse and Green is managed by Woodland Park Lawn Bowling Club (WPLBC) through a long-term agreement with Seattle Parks and Recreation (DPR). The mutually beneficial relationship between DPR and the WPLBC aligns with DPR’s mission to create “healthy people, healthy environment and strong communities.”

WPLBC maintains the clubhouse and green as well as promotes active recreation within the community by managing opportunities to participate and enjoy lawn sports and access to the clubhouse.

The partnership with WPLBC saves the City approximately \$330,149 annually in grounds maintenance and facility management cost. In exchange, the city provides the space to WPLBC for a lower rent and requires that WPLBC provide additional public benefits to the community.

Public Benefits

WPLBC Public Benefits are to provide free access to the facility and greens, community outreach, lessons, rentals, and to maintain and make improvements to the clubhouse and greens. WPLBC can use paid or volunteer time to provide these services to the community. The service labor, either paid or volunteer, to provide these services to the community can be counted towards their annual public benefits. The service value for all volunteer hours will be calculated using the National Value of Volunteer Time (Volunteer Rate) as reported on the Independent Sector. The Independent Sector will be used to determine the hourly value for each hour submitted on the public benefit report. The Volunteer Rate for 2017 is \$24.14 which is being used to demonstrate the monetary value of service that the volunteers provide.

Listed below is the public benefit provided by WPLBC and the minimum commitment per year that WPLBC and DPR agreed would be appropriate value for the use of the Woodland Park Lawn Bowling Green and Facility.

1) Public Drop-in Access to the Greens and Clubhouse:

WPLBC will provide drop-in access to the greens and clubhouse for the public to play bocce, lawn bowling and croquet which includes lessons, if needed. The days and times for public access will be consistent and predictable. The public drop-in hours will be posted on their website. WPLBC will provide a minimum of 150 drop-in hours per year which will require a minimum of 300 hours of paid or volunteer support. Service Value for drop-in access is determined by the annual cost to operate the facility divided by public access hours to determine hourly value. In 2017 the hourly amount calculated to provide service is \$20.26 per hour. The Volunteer Value is calculated using the 2017 rate of \$24.14 per hour.

Service Value: \$3039.00

Volunteer Value: \$7242.00

2) Community Outreach:

Woodland Park Lawn Bowling Club will provide outreach to organizations whose mission is to serve low-income youth, underrepresented communities, seniors, including low-income housing providers and/or other nonprofits to promote bocce, croquet and/or lawn bowling. Each organization in the Target Audience will receive an annual invitation to receive a free group lesson and/or the use of the space as a meeting facility from WPLBC. Any organization not listed in the Target Audience who has similar missions as those listed will also be able to receive a free group lesson and/or the use of the space as a meeting facility. WPLBC will promote this opportunity on their website and other marketing materials and in signage posted at the WPLBC. In addition, DPR will provide information to the public about such lessons and the use of the space as a meeting or event facility on the DPR Public Benefits website, neighborhood blogs, at community centers and other DPR facilities, libraries, and neighborhood service centers. DPR will work with the Department of Neighborhoods in disseminating this information. WPLBC is required to provide a minimum of 10 hours of paid or volunteer support to provide this service.

WPLBC will make initial contact with the organizations listed below. This is in addition to the broader outreach efforts referenced in the paragraph above.

Service Value: NA

Volunteer Value: \$241.40

Target Audience

Low-Income Youth	
North Seattle Boys & Girls Club	8635 Fremont Ave N, Seattle, WA
Wallingford Boys & Girls Club	1310 N 45th St, Seattle, WA
Bitter Lake Community Center	13035 Linden Ave N, Seattle, WA
Northgate Community Center	10510 5th Ave NE, Seattle, WA

Target Audience (continued)

Senior Citizen Groups	
Greenwood Senior Citizen Center	525 N 85th St., Seattle, WA
Wallingford Senior Citizen Center	4649 Sunnyside Ave N, Seattle, WA
Ballard Senior Citizen Center	5429 32nd Ave NW, Seattle, WA
Norse Home Retirement	5311 Phinney Ave N, Seattle, WA
Other Non-Profit Organizations	
Phinney Neighborhood Assoc.	6532 Phinney Ave N, Seattle, WA
Low-Income Housing Providers	

3) Lessons to Community Nonprofits Organizations

WPLBC will provide free lawn sports lessons to local schools, senior centers and other non-profit organization serving low-income youth, underrepresented communities and/or seniors. A minimum of 12 lessons will be taught annually. WPLBC will do their best to provide lessons to all community nonprofits who contact them, but this will depend on volunteer and facility availability. WPLBC will provide a form on their website for community groups to fill out to request lessons. Service value is calculated on posted rental value which includes one hour of the clubhouse (\$100/hr.) and two rinks (\$40/rink/hr.) with a total value of \$180 per hour. WPLBC is required to provide a minimum 12 hours of paid or volunteer support.

Service Value: \$2160

Volunteer Value: \$289.68

4) Rentals:

Private Rentals - WPLBC will facilitate, manage and staff private rentals of the clubhouse. All rentals will be staffed by WPLBC volunteers or paid staff. Rental fees will be posted on their website and promoted within the community. WPLBC is required to manage a minimum of 100 hours of rentals each year. Service value for the rental is not counted toward the public benefit as the rentals are private and require a fee to reserve. WPLBC is required to provide private access to the space in which the paid or volunteer staffing value can be used toward their public benefit. WPLBC is required to provide a minimum of 100 hours of paid or volunteer support.

Service Value: N/A due to paid rental

Volunteer Value: \$2414

Free Rental – WPLBC will provide free rental to any organization in the Target Audience or similar organization whose mission is to serve low-income youth, underrepresented communities, seniors and/or other nonprofits. The free facility rental, meeting or event must be open to the public and advertised. WPLBC must provide a minimum 10 hours of rentals per year with a minimum annual total for all rentals of \$1400 providing access to the Clubhouse (\$100/hr.) and/or green rinks (\$40/hr./rink). WPLBC must provide a minimum of 10 hours of paid or volunteer staff annually to manage and staff rentals.

Service Value: \$1400

Volunteer Value: \$241.40

5) Clubhouse and Greens Improvements:

WPLBC has committed to making improvements to the Premises during the term(s) of the Agreement. WPLBC would like to continue to resurface the greens with artificial greens which would increase playability and decrease utility cost. WPLBC shall allocate a minimum of \$3,000 annually on improvements, which may be funded by WPLBC, matching grants, corporate sponsorships, and/or any combination thereof. Actual expenditures on improvements may vary annually and annual project funding may be combined over multiple years within a term toward one of more projects, but a term's collective minimum total (\$15,000) must be spent within the respective term. Any improvement investment exceeding \$20,000 that is spent during a term of the Agreement

may be credited toward WPLBC’s minimum improvement obligations for the following term if the Agreement is extended.

Service Value: \$3000

Volunteer Value: Not applicable

6) Clubhouse and Greens Maintenance

WPLBC will maintain the Clubhouse and Greens to DPR Standards. WPLBC must provide a minimum 275 hours of paid or volunteer support per year.

Service Value: NA

Volunteer Value: \$6638.50

Summary of Public Benefits / Minimum Annual Requirements

Services Provided	Minimum Annual Requirement	Volunteer Value	Service Value
Public Drop-in Access to the Greens and Clubhouse	150 drop-in hours	7242.00	\$3039.00
Community Outreach	10 hours annual req'd	241.40	
Group Lessons for Target Audience or similar Community Organizations	12 lessons	289.68	\$2160.00
Paid Rentals	Minimum of 100 annual volunteer hours required.	2414.00	N/A
Free Rental	10 hours of rentals per year with a minimum annual value of \$1400	241.40	\$1400.00
Clubhouse and Greens Improvements	\$3,000 annual investment on improvements required		\$3000.00
Clubhouse and Greens Maintenance	Minimum 275 paid or volunteer hours req'd annually	6638.50	N/A
Total Service Minimum per year		\$17,066.98	\$9,599.00
Total Service and Volunteer value by Woodland Park Lawn Bowling Club			\$26,665.98

Reporting Requirements. As provided in Section 5.7 of the Agreement, Woodland Park Lawn Bowling Club shall submit to the City an annual Public Benefit Report describing its programs, activities and educational services for the previous year. This report will be submitted to the City by March 10th of each calendar year during the Term of the Agreement.

