


**CITY OF MARYSVILLE**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE:** December 10, 2012

<b>AGENDA ITEM:</b>  Renewal of Facility Use Agreement with US Bankruptcy Court	<b>AGENDA SECTION:</b>	
<b>PREPARED BY:</b> Suzanne Elsner, Court Administrator 	<b>AGENDA NUMBER:</b>	
<b>ATTACHMENTS:</b> Facility Use Agreement	<b>APPROVED BY:</b>	
	MAYOR	CAO
<b>BUDGET CODE:</b>	<b>AMOUNT:</b>	

The United States Bankruptcy Court Western Washington Division has used the Marysville Municipal Court Facility since 2008 for preliminary bankruptcy hearings. Hearings are scheduled on the second and fourth Wednesday of each month. Hearings include Federal Judge Overstreet, a US Marshall, Court reporter and US Bankruptcy Clerk. Several attorneys and clients also appear for these hearings. The Bankruptcy participants begin to enter the building at 8:00 am and calendars start at 8:30 am and end at noon. Holding the hearings in the Municipal Court Building requires no staff time or participation. Since early 2010 there has been an increase in the size of the calendars and the time that Bankruptcy Court is using the facility. The current fee for use of the facility is \$300.00 per session.

Allowing the US Bankruptcy Court to use the facility for their court hearings has very little impact on the function of the Marysville Municipal Court and the calendars are easily merged into the Court's current schedule. Therefore, we see no reason not to continue the relationship with the United States Bankruptcy Court.

<b>RECOMMENDED ACTION:</b> Authorize the Mayor to sign the Renewal Facility Use Agreement with the United States Bankruptcy Court.
<b>COUNCIL ACTION:</b>

## FACILITIES USE AGREEMENT

The City of Marysville, a non-charter code city of the State of Washington, (hereafter “City”) and the United States Bankruptcy Court for the Western District of Washington (hereafter “Bankruptcy Court”) enter into this Agreement for the use by the Bankruptcy Court of certain facilities owned by the City, under the terms and conditions of this Agreement.

Whereas, the City owns and controls the use of the Municipal Courtrooms at 1015 State Avenue, Marysville, WA 98270 (hereafter “Facilities”), which Facilities are more particularly described below; and

Whereas, the Bankruptcy Court desires to use said Facilities, and the City is able and willing to make said Facilities available for such use by the Bankruptcy Court, for the purposes and activities, and under the terms and conditions, set forth below;

Now, therefore, in consideration of the above representations and the terms and conditions set forth herein, the parties agree as follows:

1. GENERAL AGREEMENT. For being permitted to use the Facilities for the purposes and activities stated below, the Bankruptcy Court agrees to pay the fees and abide by the terms and conditions set forth in this Agreement.
2. AUTHORIZED REPRESENTATIVES. The parties’ authorized representatives for the purposes of this Agreement are as follows:

City of Marysville

Authorized representative: Suzanne Elsner, Municipal Court Administrator

Address: City of Marysville, 1015 State Avenue, Marysville, WA 98270

Phone : 360-363-8054

Fax: 360-657-2960

Email: selsner@ci.marysville.wa.us

US Bankruptcy Court for the Western District of Washington

Authorized representative: Mark Hatcher, Clerk of the US Bankruptcy Court

Address: U.S. Bankruptcy Court, 700 Stewart Street, Room 6301, Seattle, WA 98101

Phone: 206-370-5205

Fax: 206-370-5210

Email: mark\_hatcher@wawb.uscourts.gov.

3. FACILITIES. Subject to the terms and conditions of this Agreement, the City hereby grants the Bankruptcy Court permission to use the following Facilities located at 1015 State Avenue in the City of Marysville: Courtrooms #1 and #2.

4. PERIOD AND TIME OF USE. The permission hereby given shall be for the following duration and time:

From January 1, 2013 to December 31, 2013 during the hours of 8:00 A.M. to 12:30 P.M., with the option to extend the term of this Agreement for four (4) years upon agreement of the parties as follows:

Option 1: from January 1, 2014 to December 31, 2014

Option 2: from January 1, 2015 to December 31, 2015

Option 3: from January 1, 2016 to December 31, 2016

Option 4: from January 1, 2017 to December 31, 2017

5. PURPOSES AND ACTIVITIES. The Facilities may be used for the purpose of conducting bankruptcy court proceedings.

6. PAYMENT. In consideration of the grant of permission herein contained, the Bankruptcy Court shall pay to the City the following amount(s) in the manner set forth:

a. \$300 for each half-day session, a minimum of two sessions per month.

b. Payment per session will be fixed-price for the duration of the Agreement.

c. Payment on or before the 15<sup>th</sup> day of each month for sessions conducted during the preceding month by check payable to City of Marysville at City Hall, 1049 State Avenue, Marysville, WA 98270.

7. OCCUPANCY LIMITS: The Bankruptcy Court shall comply with the occupancy limits of the Facilities, which are as follows:

a. Courtroom #1: 114

b. Courtroom #2: 94

8. ADDITIONAL RULES. The Bankruptcy Court shall comply with the additional rules for its use of the Facilities, which are attached hereto as Exhibit A and are incorporated herein by this reference:

9. INGRESS/EGRESS. All portions of the sidewalks, entries, doors, passages, vestibules, halls, corridors, stairways, passageways, and all ways of access to public utilities of the premises must be kept unobstructed by the Bankruptcy Court and must not be used by the Bankruptcy Court or its patrons for any purpose other than ingress to or egress from the premises.

10. CONDITION OF FACILITIES. The Bankruptcy Court accepts the Facilities as being clean and in good condition and agrees to keep the premises in the same condition as when received, reasonable wear and tear excepted. The Bankruptcy Court shall be financially responsible for the repair and replacement of any property that is damaged as a specific result of its use, limited by and subject to the

procedures and terms of the Federal Tort Claims Act described in item 14 (below).

11. QUIET ENJOYMENT. The Bankruptcy Court shall not permit any waste upon or to the Facilities or engage in any activity that is unlawful or that constitutes a nuisance or that disturbs the quiet enjoyment of the ongoing activities of the City. Further, the Bankruptcy Court shall not disturb the quiet enjoyment of adjacent facilities.

12. TEMPORARY EQUIPMENT AND SIGNS. Temporary equipment and signs may be placed upon City facilities only with the prior approval of the City's authorized representative. The Bankruptcy Court shall remove all such temporary equipment and signs when not using the Facilities and store them in the location designated by the City.

13. ALTERATIONS. No alterations shall be made to the Facilities without the written approval of the City. Any alterations shall be at the sole expense of the Bankruptcy Court. Any alterations of the premises except movable furniture and trade fixtures shall become, at once, a part of the realty and belong to the City.

14. LIABILITY. Notwithstanding any other terms or provision of this Agreement, the liability of the Bankruptcy Court with respect to any claim for personal injury, death, property loss or damage pursuant to this Agreement, shall be limited by and subject to the procedures and terms of the Federal Tort Claims Act and the Anti-deficiency Act and all other applicable Federal Laws and regulations.

15. INSURANCE. It is understood that the Bankruptcy Court is self insured.

16. WAIVER. The waiver by the City of any breach of any term or condition of this Agreement shall not be deemed to be a waiver of such term or condition or any subsequent breach of the same or any other term or condition herein contained. The subsequent acceptance of any payment by the City shall not be deemed to be a waiver of any preceding breach by the Bankruptcy Court of any term or condition of this Agreement other than the failure of the Bankruptcy Court to pay the particular sum so accepted, regardless of the City's knowledge of such preceding breach at the time of acceptance of such payment.

17. ASSIGNMENT. The Bankruptcy Court shall not assign this Agreement in whole or in part or allow any use of the Facilities other than as provided herein without the written consent of the City. Any assignment without written consent shall be void and shall, at the option of the City, terminate this Agreement.

18. ENTIRE AGREEMENT. This Agreement constitutes the entire understanding of the parties and supersedes any prior oral or written expressions of the parties.

19. AMENDMENT. Any amendment or modification of this Agreement shall be effective only if in writing and executed by each of the parties hereto.

20. NOTICE. Any notice, request, or demand or other communication related to this Agreement shall be given to the parties' authorized representatives as set forth above.

21. GOVERNING LAW. This Agreement shall be construed under the laws of the United States of America.

22. TERMINATION. This Agreement shall be terminated either on the date set forth under Section 4, as may be extended by written agreement of the parties, or by either party giving 30 days written notice to the other party.

23. SEVERABILITY. The terms of this Agreement are severable such that if one or more provisions are declared illegal, void, or unenforceable, the remainder of the provisions shall continue to be valid and enforceable.

The undersigned certify that they are authorized to sign this Agreement on behalf of the Bankruptcy Court and the City, respectively, and that the Bankruptcy Court and the City acknowledge and accept the terms and conditions herein and attached hereto.

Administrative Office of the United States Courts for the  
United States Bankruptcy Court for the Western District of Washington:

By: \_\_\_\_\_  \_\_\_\_\_  
Name: Don Price

Position: Contracting Officer

Dated: \_\_\_\_\_ November 21st \_\_\_\_\_ 2012

City of Marysville

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

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Dated: \_\_\_\_\_ 2012