

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: June 24, 2019

AGENDA ITEM:	
Interlocal Agreement Between City of Kenmore and the City of Marysville for Outdoor Video Services	
PREPARED BY:	DIRECTOR APPROVAL:
Lauren Woodmansee	Jim Ballew
DEPARTMENT:	
Parks, Culture and Recreation	
ATTACHMENTS:	
Interlocal Agreement	
BUDGET CODE:	AMOUNT:
00110367 376015	\$2,800.00
SUMMARY:	

The City of Kenmore has requested Marysville Parks, Culture and Recreation Department's assistance in offering an outdoor movie series for their citizens based on the success of our program. The City of Kenmore is hosting four free events on city-owned property. Marysville Parks, Culture and Recreation has agreed to provide equipment and staff to present each film at a cost of \$700.00 per event, payable by the City of Kenmore.

Our City Attorney's Office has developed an Interlocal Agreement between the City of Kenmore and City of Marysville to clearly define services provided by Marysville Parks, Culture and Recreation and identifies responsibilities of each jurisdiction and associated indemnifications.

The events are scheduled for:

1. Wednesday, July 10, 2019
2. Wednesday, July 24, 2019
3. Wednesday, August 7, 2019
4. Wednesday, August 21, 2019

RECOMMENDED ACTION:

Staff recommends the City Council consider authorizing the Mayor to sign the attached Interlocal Agreement between the City of Kenmore and the City of Marysville for Outdoor Video Services.

**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF KENMORE
AND THE CITY OF MARYSVILLE
FOR OUTDOOR VIDEO SERVICES**

This Interlocal Agreement effective July 10, 2019 between the City of Kenmore, a Washington municipal corporation, herein after referred to as “KENMORE” and the City of Marysville, a Washington municipal corporation, herein after referred to as “MARYSVILLE”, pursuant to the authority granted by Chapter 39.34 RCW.

WHEREAS, the City of KENMORE is the organizer/host jurisdiction of outdoor movie presentations which shall be selected, provided and licensed by City of KENMORE and presented on July 10, July 24, August 7, August 21; and

WHEREAS, the City of KENMORE is the owner of the property where the movie will be shown to the community for free; and

WHEREAS, the City of MARYSVILLE has sufficient OUTDOOR VIDEO equipment, staff and vehicles to provide OUTDOOR VIDEO SERVICES for public events within the City of Marysville and for other Cities as well; and

WHEREAS, the City of KENMORE desires to utilize the City of MARYSVILLE’S OUTDOOR VIDEO SERVICES; and

WHEREAS, this Agreement between Parties is made pursuant to Chapter 39.34 RCW, the Interlocal Cooperation Act, for the City of MARYSVILLE to provide OUTDOOR VIDEO SERVICES to the City of KENMORE to exercise their powers jointly and thereby maximize their abilities to provide services and facilities that will best fulfill common needs and achieve common goals.

NOW, THEREFORE, in consideration of the terms and conditions contained herein, KENMORE and MARYSVILLE agree as follows:

1. SCOPE OF SERVICES

- A. MARYSVILLE agrees to provide OUTDOOR VIDEO SERVICES to KENMORE as defined in this Agreement. MARYSVILLE’S performance of said services under this Agreement may be limited by the availability of MARYSVILLE’S personnel and equipment. MARYSVILLE will notify the City of KENMORE at least 48 hours before the event if it is not able to provide personnel and/or equipment.
 - 1. MARYSVILLE will provide OUTDOORVIDEO SERVICES to KENMORE.
 - 2. MARYSVILLE will provide the video and audio equipment including movie screen, personnel and vehicles to transport the equipment and personnel to

KENMORE. MARYSVILLE personnel will operate the video equipment and vehicles.

- B. KENMORE will provide the following:
1. An authorized location.
 2. Two (2) 20 amp circuits for event power.
 3. Other services/personnel.
- C. The date for video services (FILM) will be:
1. Wednesday, July 10, 2019
 2. Wednesday, July 24, 2019
 3. Wednesday, August 7, 2019
 4. Wednesday, August 21, 2019
- E. It is understood and agreed by all parties that MARYSVILLE staff providing services pursuant to this Agreement are acting in their official capacity as employees of MARYSVILLE and shall be under the exclusive direction and control of MARYSVILLE.
- It is understood and agreed by all parties that KENMORE staff providing services pursuant to this Agreement are acting in their official capacity as employees of KENMORE and shall be under the exclusive direction and control of KENMORE.
- F. KENMORE and MARYSVILLE agree to cooperate with all terms and conditions of this Agreement, and shall furnish any information, or other material available to it as may be required in the course of the performance of this Agreement.
- G. KENMORE, by this Agreement, and to the extent contained herein, delegates on an as needed, as requested basis to MARYSVILLE the authority to perform on KENMORE'S behalf those services as provided in this Agreement.

2. COMPENSATION/FEES

- A. KENMORE will pay MARYSVILLE per performance for the use of the employees, equipment and vehicles in the amount of \$700.00 per date.
- B. KENMORE will pay MARYSVILLE 25% of the event fee in the event KENMORE cancels an event with less than 12 hours phone notice to MARYSVILLE as provided in Section 8 (C) (2) of this Agreement.
- C. MARYSVILLE shall bill KENMORE and KENMORE shall pay MARYSVILLE within thirty (30) days receipt of the bill.

3. AMENDMENTS/MODIFICATION

Provisions within this Agreement may be amended with the mutual consent of the parties hereto. No additions to, or alterations of, the terms of this Agreement shall be valid unless made in writing, formally approved and executed in the same manner as this Agreement.

4. INDEMNIFICATION AND LIABILITY

A. Indemnification:

1. KENMORE will at all times indemnify and hold harmless and defend MARYSVILLE, their elected officials, officers, employees, agents and representatives, from and against any and all lawsuits, damages, costs, charges, expenses, judgments and liabilities, including attorney's fees (including attorney's fees in establishing indemnification), collectively referred to herein as "losses" resulting from, arising out of, or related to one or more claims arising out of negligent acts, errors, or omissions of KENMORE in performance under this agreement.
2. MARYSVILLE will at all times indemnify and hold harmless and defend KENMORE, their elected officials, officers, employees, agents and representatives, from and against any and all lawsuits, damages, costs, charges, expenses, judgments and liabilities, including attorney's fees (including attorney's fees in establishing indemnification), collectively referred to herein as "losses" resulting from, arising out of, or related to one or more claims arising out of negligent acts, errors, or omissions of MARYSVILLE in performance under this agreement.
3. The term "claims" as used herein shall mean all claims, lawsuits, causes of action, and other legal actions and proceedings of whatsoever nature, involving bodily or personal injury or death of any person or damage to any property including, but not limited to, persons employed by MARYSVILLE, KENMORE, or other person and all property owned or claimed by MARYSVILLE, KENMORE, or affiliate of thereof, or any other person; except for those losses or claims for damages solely caused by the negligence or willful misconduct of MARYSVILLE or KENMORE, their elected and appointed officials, officers, employees or agents.

B. NOTHING HEREIN SHALL REQUIRE OR BE INTERPRETED TO:

1. Waive any defense arising out of RCW Title 51
2. Limit or restrict the ability of any City or employee or legal counsel for any City or employee to exercise any right, defense or remedy which a party to a lawsuit may have with respect to claims or third parties, including, but not limited to, any good faith attempts to seek dismissal or legal claims against a party by any proper means allowed under the civil rules in either state or federal court.

3. Cover or require indemnification or payment of any judgment against any individual or Party for intentional or wrongful conduct outside the scope of employment of any individual or for any judgment for punitive damages against any individual or city. Payment of punitive damage awards, fines or sanctions shall be the sole responsibility of the individual against whom said judgment is rendered and/or his or her municipal employer, should that employer elect to make said payment voluntarily. This agreement does not require indemnification of any punitive damage awards or for any order imposing fines or sanctions.

C. The provisions of this section shall survive the expiration or termination of the Agreement.

5. INSURANCE

- A. Both parties to this Agreement shall maintain public liability insurance either through the Washington Cities Insurance Authority (WCIA) or through an equivalent combination of self-insurance and appropriate insurance coverage and shall maintain their membership in WCIA or their insurance policies throughout the term of this Agreement.
- B. Such insurance shall not be reduced or canceled without forty-five (45) days written notice from the other party. Reduction or cancellation of the insurance shall render this Agreement void.
- C. Upon request by one party to the other, the party receiving such request shall provide to the party making such request proof of insurance coverage or membership in WCIA verifying that party is a covered member in good standing.

6. INDEPENDENT CONTRACTOR

- A. Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between KENMORE and MARYSVILLE or any of KENMORE'S or MARYSVILLE's agents or employees.

KENMORE shall retain all authority for rendition of services, standards of performance, control of personnel, and other matters incident to the performance of services by KENMORE pursuant to this Agreement.

MARYSVILLE shall retain all authority for rendition of services, standards of performance, control of personnel, and other matters incident to the performance of services by MARYSVILLE pursuant to this Agreement.

- B. Nothing in this Agreement shall make any employee of KENMORE a MARYSVILLE employee for any purpose, including, but not limited to, withholding of taxes, payment of benefits, worker's compensation pursuant to Title 51 RCW, or any other rights or privileges accorded KENMORE or employees by virtue of their employment.

Nothing in this Agreement shall make any employee of MARYSVILLE a KENMORE employee for any purpose, including, but not limited to, withholding of taxes, payment of benefits, worker's compensation pursuant to Title 51 RCW, or any other rights or privileges accorded MARYSVILLE employees by virtue of their employment.

7. LEGAL RELATIONS

- A. The prevailing Party in any action to enforce any provision of this Agreement or to redress any breach hereof shall be entitled to recover from the other party its costs and reasonable attorney' fees incurred in such action.
- B. The Parties shall comply with all federal, state and local laws and ordinances applicable to work to be done under this agreement. This Agreement shall be interpreted and construed in accordance with the laws of Washington. Venue for any action commenced relating to the interpretation, breach or enforcement of this agreement shall be in Snohomish County Superior Court.
- C. The parties agree that, following reasonable attempts at negotiation and compromise, any unresolved dispute arising under this contract may be resolved by a mutually agreed upon alternative dispute resolution of arbitration or mediation.

8. DURATION/TERMINATION/NOTICE/EMERGENCY NOTICE

- A. This Agreement will become effective on the date of affixing the last signature hereto and shall remain in effect for a period of six months, subject to renewal.
- B. Either party may terminate this Agreement, for any reason, upon providing thirty (30) days written notice to the other party, in which case each City shall pay the other City for all services provided up to and including the date of termination.
- C. Notices

- 1. Required notices, with the exception of legal process, shall be given in writing to the following respective addresses:

City of MARYSVILLE:
6915 Armar Road
Marysville, WA 98270

City of KENMORE:
18120 68th Ave NE
Kenmore, WA 98028

- 2. Event Cancellation Notice via Phone/Emergency Contact:

The below named individuals are designated as the representatives of the respective parties. The representatives shall be responsible for administration of this

Agreement. In the event a representative is changed, the party making the change shall notify the other party.

MARYSVILLE:

Name: Lauren Woodmansee, Cultural Arts Supervisor

Phone Number: 360-363-8408

KENMORE:

Name: Nicole Suarez, Seasonal Event Assistant

Phone Number: 425-984-6166

- D. Termination shall not affect the rights and obligations of the parties under Sections 4, 5, 6 and 11 of this Agreement.

9. WAIVER

No term or provision herein shall be waived and no breach excused unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented.

10. ENTIRE AGREEMENT

This Agreement, including any exhibits and documents referenced herein, constitutes the entire agreement between the parties, and supersedes all proposals, oral or written, between the parties regarding plan review and inspection services.

11. PRIVILEGES AND IMMUNITIES

All privileges and immunities from liability, exemption from ordinances, rules, laws, all pension, disability, workers' compensation and other benefits which apply to the activities of MARYSVILLE employees while performing their functions within the territorial limits of MARYSVILLE shall apply to them to the same degree and extent while they are engaged in the performance of any of their authorized functions and duties within KENMORE under the provisions of this Agreement.

12. THIRD PARTY BENEFICIARY STATUS

The parties agree that this Agreement shall not confer third-party beneficiary status on any non-party to this Agreement.

13. SEVERABILITY

If any provision of this Agreement or its application to any person or circumstance is held invalid, the remainder of the provision and/or the application of the provisions to other persons or circumstances shall not be affected.

14. APPROVAL AND FILING

APPROVAL AND FILING. Each party shall approve this Agreement pursuant to the laws of the governing body of said party. The attested signature of the officials identified below shall constitute a presumption that such approval was properly obtained. A copy of this Agreement shall be filed with the Snohomish County Auditor's office pursuant to RCW 39.34.040.

(REMAINDER OF PAGE LEFT INTENTIONALLY BLANK.)

