

CITY OF MARYSVILLE AGENDA BILL
EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: 3/2/2020

AGENDA ITEM: Deering Wildflower Acres Park Caretaker and Lease Agreement Renewal	
PREPARED BY: Tara Mizell DEPARTMENT: Parks, Culture and Recreation	DIRECTOR APPROVAL:
ATTACHMENTS: Caretaker and Lease Agreement	
BUDGET CODE:	AMOUNT:

SUMMARY:

Staff is recommending the renewal of the Deering Wildflower Acres Park Caretaker Agreement with Jeffrey and Karen Pickard. The Pickard’s have served the community well as Caretakers of the Deering Wildflower Acres Park for over fourteen years. They have maintained the facilities and grounds as required within the scope of work and have demonstrated exemplary stewardship on this unique facility within the park system.

The renewal agreement established a term of April 1, 2020 through March 2025.

<p>RECOMMENDED ACTION: Staff recommends that Council Authorize the Mayor to sign the Renewal Caretaker Agreement with Jeffrey and Karen Pickard as Caretakers for the Deering Wildflower Acres Park with a term of five years concluding in March of 2025.</p>

EXHIBIT A

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into by and between the CITY OF MARYSVILLE, a municipal corporation existing under the laws of the State of Washington, hereinafter referred to as "Landlord", and JEFFREY AND KAREN PICKARD, hereinafter referred to as "Tenant".

WITNESSETH:

Landlord does by these presents lease and demise unto Tenant the following described real estate and premises situate in the City of Marysville, County of Snohomish, State of Washington, to wit:

The mobile home residence, carport and fenced yard adjacent to the mobile home, located at 4708 - 79th Avenue NE, Marysville, WA 98270, situated upon the property commonly known as Deering Wildflower Acres.

PROVIDED, that this lease shall be limited to the mobile home residence, carport and adjacent fenced yard. The remaining property and all other structures situated upon the property are specifically NOT included as part of the lease premises, and may be used for whatever purposes Landlord elects, including, but not limited to, use by the public for park purposes. Landlord shall have access to the yard at all times.

The parties hereto mutually agree on the following terms and conditions governing said lease:

1. The term for said lease shall be for a maximum of five (5) years, commencing on April 1, 2020 and ending on March 31, 2025.
2. The market value of the leasehold interest is agreed to be NINE HUNDRED FIFTY AND NO/100THS DOLLARS (\$950.00) per month. Tenant shall pay leasehold excise tax to Landlord in the amount of 12.84% of the market value of the leasehold excise tax, for a monthly total of \$124.98 per month. Payment of the leasehold excise tax is the consideration for this lease. In the event that there is any change in the amount, manner, or method in which leasehold excise tax is determined or paid, Tenant shall pay the leasehold excise tax, as so changed, revised or recalculated.
3. The Landlord shall be compensated for this value in the following manner:

The Tenant shall perform all regular and necessary duties as an independent contractor pursuant to the terms of a separate Contract for Caretaker Services between the CITY OF MARYSVILLE and Tenant, attached hereto as **EXHIBIT B**. It is understood and agreed that the Tenant will not be obligated to pay the City the monthly rental for the premises in

question for any month during which the Tenant has fully performed pursuant to the terms of the **EXHIBIT B** Contract for Caretaker Services and complied with all terms of this agreement.

4. All interior maintenance of the premises shall be performed by the Tenant. Landlord shall provide all exterior maintenance to structures and repairs to the physical plant and roof systems of the premises. Landlord shall provide yard pruning services at least once every three months during the growing season. Tenant shall provide all other grounds maintenance including lawn mowing and watering the lawn and shrubbery as needed.
5. Landlord and Landlord's agents and employees shall have the right to access to the premises for the purposes of:
 - (a) Inspection;
 - (b) Maintenance, yard work, repairs, alterations or improvements;
 - (c) Display of the premises to prospective or actual workers or contractors.

Whenever practical, Landlord shall give Tenant advance notice of Landlord's intent to enter the property. Landlord shall not alter the property or home in any way so as to make the home uninhabitable by Tenant.

6. Tenant agrees that the mobile home will be used as the residence for Tenant only. Tenant agrees not to let or sublet the whole or any part of the premises nor assign this lease, or any interest therein. Tenant agrees not to operate any retail or service-oriented business within the residence or property described.
7. Tenant shall not maintain any pets or animals upon the premises without the prior written consent of Landlord. Landlord has consented to Tenant maintaining two (2) dogs upon the premises. Tenant shall not maintain any additional or different dogs upon the premises without Landlord's prior written approval. Tenant shall not permit the dogs to be outside the fenced yard except when leashed. Tenant acknowledges that dogs are prohibited within Deering Wildflower Acres, and Tenant agrees to strictly comply with this rule. When leashed the dogs shall be limited to the driveway and the lawn area immediately surrounding the mobile home. The dogs are permitted within the mobile home; provided, Tenant shall be fully responsible for all damages caused by Tenant's pets, including replacement of any soiled carpets, whether or not the Tenant believes the carpets might be cleaned. Tenant agrees to pay the Landlord in full for any damages caused by Tenant's pets. Tenant represents to Landlord that none of Tenant's pets has ever threatened to attack or attacked and/or bitten another domestic animal or a human being and Tenant's pets are not dangerous to human beings or other domestic animals.
8. Tenant agrees that all personal property kept at the lease premises by Tenant shall be at the risk of Tenant. Tenant further agrees not to hold Landlord liable in any manner or on account of any loss or damage sustained by action of fire, water, elements, theft or any third party.

9. Tenant shall maintain casualty insurance coverage for Tenant's personal property located at the premises and shall maintain public liability insurance for injuries to persons or property in at least the amount of \$500,000.00. Landlord shall provide hazard insurance for the improvements situated on the lease premises and shall also provide public liability insurance.

Landlord shall pay the real estate taxes for the lease premises.

Tenant shall pay all charges for utilities supplied to the residence including, but not limited to, electricity and garbage. The Landlord maintains telephone service to the residence. The Tenant will pay for all long distance telephone calls. The Landlord will invoice the Tenant for all charges each month. The Tenant is expected to make payments for all utilities billed within 30 days of the invoice date.

10. The carport portion of the lease premises was built prior to 1978 and is therefore subject to lead-based paint disclosure regulations issued by the federal Environmental Protection Agency (EPA) and the Department of Housing and Urban Development (HUD). A "Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards" is **ATTACHMENT 1** to this agreement.

11. It is agreed that if default should occur on any of the conditions herein contained, or in the Contract for Caretaker Services, then it shall be the option of Landlord to declare this lease terminated. Upon termination of the lease on account of Tenant's default, Landlord shall have the right to re-enter the premises and remove all persons and property therefrom.

12. Either party may terminate this Agreement by giving thirty (30) days' written notice to the other party. This lease shall automatically terminate in the event the Tenant ceases to occupy the subject premises for any reason for a period of thirty (30) consecutive days. Upon the expiration or early termination of this lease, the Tenant will quit and surrender the premises in as good state and condition as they were at the commencement of the lease term (ordinary wear and damage by the elements or fire excepted).

13. In the event of any litigation involving the rights or obligations of the Landlord or Tenant hereunder, the prevailing party in such litigation shall be entitled to receive from the other such reasonable attorney's fees and all costs as the court may award.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the _____ day of _____, 20__.

CITY OF MARYSVILLE

Tenant

By _____
Jon Nehring, Mayor

By 
Jeffrey Pickard

By Karen Pickard
Karen Pickard

ATTEST/AUTHENTICATED:

_____, Deputy City Clerk

Approved as to form:

Jon Walker, City Attorney

ATTACHMENT 1

Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards

Lead Warning Statement

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.

Lessor's Disclosure

(a) Presence of lead-based paint and/or lead-based paint hazards (check (i) or (ii) below):

(i) _____ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).

(ii) _____ Lessor has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

(b) Records and reports available to the lessor (check (i) or (ii) below):

(i) _____ Lessor has provided the lessee with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).

(ii) _____ Lessor has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

Lessee's Acknowledgment (initial)

(c) _____ Lessee has received copies of all information listed above.

(d) _____ Lessee has received the pamphlet *Protect Your Family from Lead in Your Home*.

Agent's Acknowledgment (initial)

(e) _____ Agent has informed the lessor of the lessor's obligations under 42 U.S.C. 4852d and is aware of his/her responsibility to ensure compliance.

Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

Lessor	Date	Lessor	Date
		<i>Karen Pickard</i>	<i>2-9-2020</i>
Lessee	Date	Lessee	Date
<i>[Signature]</i>	<i>2-9-2020</i>		
Agent	Date	Agent	Date

EXHIBIT B

CONTRACT FOR CARETAKER SERVICES

The CITY OF MARYSVILLE, a municipal corporation, hereinafter designated "City," and JEFF and KAREN PICKARD, hereinafter designated "Caretaker," hereby contract and agree as follows:

1. Property/Consideration: In consideration for the lease which is **EXHIBIT A** to this agreement, Caretaker agrees to perform certain caretaker duties more particularly described below, pertaining to the following described property:

Deering Wildflower Acres.

Situated in the County of Snohomish, State of Washington.

Street address: 4708 79th Avenue NE, Marysville, WA 98270

TOGETHER WITH the adjacent nature park acreage.

2. Caretaker Contract Term: This caretaker contract shall be for the term of the **EXHIBIT A** lease. Upon termination of said lease for any reason, this contract shall terminate.
3. Reporting Relationship: Caretaker shall report to the Director of Parks and Recreation, and Parks Maintenance Manager.
4. Scope of Work: Caretaker shall:
 - (a) Inspect facilities daily and advise Parks and Recreation Director or his/her designee of any repairs needed to facilities.
 - (b) Open and secure facilities daily on a schedule determined by the Park and Recreation Advisory Board. Caretaker shall open gates and lock gates at determined hours if gates are installed upon the premises. Caretaker shall be on site during scheduled activities when possible.
 - (c) Empty trash/refuse receptacles into the dumpster provided by City.
 - (d) Inspect and maintain portable restroom supplies. City is responsible for all holding tank cleaning requirements.
 - (e) Protect the park from vandal damage by reporting activities to law enforcement and public safety agencies.
 - (f) Coordinate site schedules with Parks and Recreation Department, admit scheduled tours to the Park, or provide a qualified representative.

5. General Requirements and Qualifications: Caretaker must possess:
 - (a) Physical abilities to perform all duties.
 - (b) Ability to read and speak English.
 - (c) Valid Washington State driver's license.

6. Special Requirements and Compensation:
 - (a) Caretaker shall live on the park property in housing leased from the City of Marysville.
 - (b) The housing provided to Caretaker is in lieu of monetary compensation for services rendered.
 - (c) Caretaker shall contact the Director of Parks and Recreation to arrange for any short term or extended leave of absence from residence and/or duties. Caretaker is responsible for providing substitute caretaker during absence.
 - (d) Equipment/Tools: From time to time the City may provide the use of certain tools and/or equipment, supplies and materials for Contractor's use. It shall be the sole responsibility of the Contractor to maintain and protect from damage or theft any equipment, supplies or materials provided by the City or third parties.
 - (e) Employment of Third Parties: The City is contracting for the special services of the Contractor, and as such, the Contractor shall not subcontract or employ other persons to perform the caretaker services, without the specific written authorization of the City.

7. Independent Contractor
 - (a) This Service Agreement is not intended in any fashion to create the relationship of employer-employee with respect to the City and Contractor. Neither Contractor nor any person residing with Contractor is to be considered at any time an employee of the City. Neither party to this Service Agreement is the agent of the other, and neither party shall have the right to bind the other by contract or otherwise, except as herein specifically provided.

8. Employee Benefits/Withholding
 - (a) Contractor agrees to pay any and all withholding taxes, Employment Security taxes, Social Security or FICA taxes, Labor & Industry premiums or fees, and otherwise shall pay all other government-imposed fees or charges with respect to the business of Contractor. Contractor shall be solely responsible for all of his own benefits

including, but not limited to vacation, sick leave, pension, life insurance, medical insurance, paid leave, and such other benefits as he may wish to acquire for himself.

9. Litigation:

(a) In the event of any litigation involving the rights or obligations of the City or Contractor hereunder, the prevailing party in such litigation shall be entitled to receive from the other such reasonable attorney's fees and all costs as the court may award.

10. Interpretation:

(a) This agreement shall be governed by the laws of the State of Washington. There are no other or further agreements between the parties hereto except as set forth herein, or as specifically attached to this Agreement and made a part hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date herein above first written.

CITY OF MARYSVILLE

Tenant

By _____
Jon Nehring, Mayor

By 
Jeffrey Pickard

By 
Karen Pickard

ATTEST/AUTHENTICATED:

_____, Deputy City Clerk

Approved as to form:

Jon Walker, City Attorney