SULTAN CITY COUNCIL
AGENDA ITEM COVER SHEET

ITEM NO: D-1

DATE: May 1, 2008

SUBJECT: Building and Facility Maintenance

CONTACT PERSON: Deborah Knight, City Administrator

ISSUE:

The issue before the subcommittee is discussion and direction for long-term operation and maintenance of city buildings and facilities.

STAFF RECOMMENDATION:

1. Review the city's building and facility lease agreements
2. Discuss the issues raised by the Sultan Food Bank
3. Provide direction to staff regarding long-term operation and maintenance of city buildings and facilities.

SUMMARY:

The City owns and operates/leases nine facilities:

Facility	Location	Lease	Lease Agreement
Sultan Post Office	102 Forth St	$3,750/mo	
Sultan Food Bank	703 B First St	$280/mo	October 2001 expired 10/2002
Chamber of Commerce	719 First St	$108/mo	Jan. 2001 expired 01/2002
Boys and Girls Club	705 First St	$0	June 2004 1-yr renewals
City Hall/Community Center	319 Main St	None – Sno Isle Library uses space at no charge	N/A
Police Department	515 Main St.	N/A	N/A
Public Works Shop	703 First St.	N/A	N/A
Water Treatment Plant	31020 124th St.	N/A	N/A
Waste Water Treatment	203 W. Stevens	N/A	N/A

The Sultan Food Bank notified the city on March 17, 2008 (Attachment A) of several issues regarding the design and construction of roof and gutter system for the west addition to the building at 703 1st Street. The City Council approved a side sewer repair project for $12,500 at the Post Office on April 24, 2008.

The other buildings are also showing signs of deferred maintenance. The city has not established a fund or earmarked revenues to maintain its building and facilities.

The City Council may want to consider establishing a System Replacement/ Maintenance Fund during the 2009 budget process to address building replacement/ maintenance activities.

System Replacement/Maintenance Activities

Maintenance Planning. A major condition assessment performed on all City buildings maintained by the City to identify structural issues and other maintenance needs. The condition assessment should be reviewed every 2-5 years and new items identified. Projects from the condition assessment form the basis of a major maintenance plan. The goal is to have a 20-year plan of projects which is updated with each budget cycle.

Preventive Maintenance. The benefit of preventive maintenance is that it assures the life of systems and, because staff is working on systems on a regular basis, provides an opportunity to catch system deficiencies early which saves money on major repairs.

Systems that need to be routinely maintained should be identified and short-term schedules developed to complete the work. These activities include lubing and checking fluid levels on machinery such as HVAC systems; changing air filters; re-lamping office lights; and painting. While progress has been made, more needs to be done for a full preventive maintenance program.

Corrective Maintenance. When a component or part needs to be replaced, the equipment is scheduled for corrective maintenance. This is a proactive approach to equipment care that recognizes parts break down from wear, but allows the maintenance effort to be managed through early detection and the ability to schedule resources.

Trouble Calls. Equipment or systems can fail without warning and need to be repaired immediately. In cases where air conditioning has failed, lights have gone out, or toilets have backed-up, staff must respond immediately to ensure that the services provided in that building can continue. Because some buildings are open to the public outside of normal business hours, such as the Library, staff is expected to respond to trouble calls at any time. The efforts and resources expended in these areas will decrease over time as the preventive maintenance program has improved, reducing overall costs.

Service Calls. Requests for service such as hanging art work, setting-up meeting rooms, and moving filing cabinets are responded to as resources allow. Due to staff reductions in 2007, most of these requests can not be accommodated.

Service Contracts. Routine maintenance is contracted out, such as janitorial and HVAC maintenance. Staff develops the specifications for these projects, conducts the bid process, negotiates the contracts and oversees the service provided for quality control issues. Custodial service was cut from a full-time employee to twice a week in 2007. the monthly fee is $261/month.

Building Maintenance Funds

Cities establish System Replacement/Maintenance Funds to replace or repair the larger components of City owned buildings. The System Replacement/Maintenance Fund is an account designated for the specific purpose of ensuring replacement needs over the useful life of the facility.

Deposits in the replacement account can be made annually from the general fund. One-time major maintenance projects can be budgeted from certain revenue sources in the Capital Budget, or the City can sell existing facilities and set aside funds to maintain the remaining buildings.

ALTERNATIVES:

Option 1: Do not set aside any funds for system replacement and maintenance. This approach will leave the city in the same position it is in today. While this controls immediate costs it places a significant burden on future decision makers.

Option 2: Discuss annual contributions from existing lease agreements and/or the general fund. This is the most conservative approach. If authorized, it would assure that funds for replacement and maintenance would be available when needed. This approach, however, places a significant burden on the city at a time when resources are very limited.

Option 3: Discuss using the capital budget in 2009 for one-time major maintenance expenditures. The city could assess economic conditions and determine an appropriate course of action at a later date.

Option 4: Surplus and sell the city owned properties at First Street and use the receipt of sales to establish a System Replacement/Maintenance Fund (Attachment E).

City of Sultan

Attachment A

April 23, 2008

Sultan Food Bank
PO BOX 1181
Sultan, WA 98294

Re: various matters of concern

Dear Tom:

This letter is in response to your letter dated March 17, 2008 and our meeting on April 7, 2008 regarding three matters of concern raised by the Sultan Food Bank.

I will address each of the issues as they were outlined in March 17, 2008 letter.

1. Design of the roof and gutter system of the west addition to the building.

   The Food Bank has notified the City the design of the roof and gutter system for the west addition to the building allows water to "pour into the addition every time it rains."

   City staff have replaced the missing roof shingles. However, this does not address the long-term problem of the roof and gutter system design. One potential solution is to demolish the internal gutter and install a "cricket" to catch and drain the water where the addition connects to the main building.

   The City's 2008 budget does not include funding for this building improvement. City staff will bring this to the City Council for discussion and direction at the Council's May 10, 2008 meeting.

2. Use of the south addition to the property at 703 First Street.

   The Food Bank has been using the south part of the building to store food. This portion of the building is not a part of the lease agreement between the City and the Food Bank. The Food Bank wrote the City a letter on January 29, 2008 requesting use of the southern part of the building. The City has not formally replied to the Food Bank's request.

319 Main Street, Suite 200 • P.O. Box 1199 • Sultan Washington 98294
City Hall (360) 793-2231 • Fax (360) 793-3344

The Sultan City Council must approve lease agreements. The City Council will discuss the lease agreement with the Food Bank and expanded use of the building at the Council meeting on May 10, 2008.

3. Expired Lease

   The lease with the Food Bank for the property at 703 First Street expired at the end of 2001. The lease has continued under a month-to-month arrangement. The Food Bank is requesting a five-year lease.

   The Sultan City Council must approve lease agreements. The City Council will discuss the terms of the lease agreement with the Food Bank at the Council meeting on May 10, 2008.

The City appreciates the value and service the Food Bank brings to the Sultan Community. It is apparent, based on our conversation, that the Sultan Food Bank is working to improve its organization and service delivery. The City would like to continue to support the Food Bank in its efforts.

We encourage you to come to the City Council meeting on May 10, 2008 to share your concerns and listen to the Council's deliberations.

Sincerely,

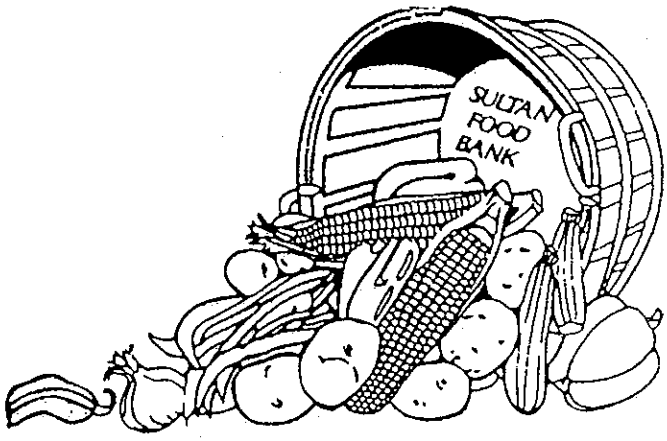
D. Knight

Deborah Knight
City Administrator

cc: Mayor Carolyn Eslick
City Council
Management Team

A-2

SULTAN FOOD BANK
PO Box 1181
703 1st Street
Sultan, WA 98294
360-793-8609



RECEIVED
MAR 18 2008
BY:

March 17, 2008

The Honorable Caroline Eslick, Mayor
City of Sultan
PO Box 1199
Sultan, WA 98294

Re: Various matters of concern

Dear Mayor Eslick:

The Sultan Food Bank greatly appreciates the support it has received for many years from the City of Sultan and looks forward to many more years of a constructive partnership with the City in service to hungry people in our community. We are now serving over 2,000 people per month, and the demand for our services is sure to increase given the current difficult economic forecasts. There are at the present time several issues concerning the relationship between the City and the Food Bank that need to be addressed as we prepare to meet the increased demand for food from our neighbors here in Sultan. On behalf of the Food Bank's Board of Directors I wish to draw your attention to the following matters.

First, there is a serious problem with the design of the west addition to the premises the Food Bank leases from the city at 703 1st Street that was built in 2004. Because of the design of the roof and gutter system, water pours into the addition, including into the refrigerator in the addition, every time it rains. This water problem makes it impossible for the Food Bank to store food in part of the space and requires us to keep the food kept in the refrigerator raised up off the floor. This problem must be addressed right away. It is a major problem for us, and we believe that it is the City's responsibility, as owner of the property and lessor, to remedy it.

Second, the Food Bank's right to use the south addition to the property at 703 1st Street must be clarified. On January 29, 2008, Ms. Terri Holcomb, on behalf of the Food Bank, wrote to the City requesting use of the southern part of the building. Although informal discussions ensued and the Food Bank has, with the City's consent, been storing food in that area, there has been no formal reply from the City; and no formal agreement has

been reached. We wish to formalize the agreement concerning our use of the south part of the building through executing a formal lease that will clarify our use and specify the rights and obligations of both the Food Bank and the City with regard to that space. If possible we would like to use one of the two offices located off the hall in that part of the building in addition to using the front room for food storage.

Third, our files reflect that although the Food Bank and the City signed a one year lease on the property at 703 1st Street in 2000, that lease expired at the end of 2001. It is our understanding that since then we have been leasing the property under a month to month lease with the same terms as those specified in the earlier written lease. We would like to enter into a new lease with the City, preferably for a term of up to five years, to secure and clarify our occupancy of the premises.

These matters are of considerable urgency for the Food Bank as we seek to improve our operations and expand our services to the citizens of Sultan. We would therefore appreciate your response to each of the three concerns we have raised at your earliest convenience. Thank you again for the City's support of the Food Bank. We look forward to hearing from you and working with you resolve these issues.

Sincerely,

Tom Sorenson

The Board of Directors
Sultan Food Bank
By Tom Sorenson, Member of the Board

cc: Sultan Food Bank

Attachment B

CITY OF SULTAN

LEASE AGREEMENT- COMMERICIAL PREMISES

THIS LEASE made this 12th, day of October,2001, by and between the City of Sultan, hereinafter called Lessor, and Sultan Food Bank hereinafter called Lessee,

WITNESSETH:

1. PREMISES Lessor does hereby lease to Lessee, those certain premises commonly known as:

703 "B" 1st Street, Sultan Washington

2. TERM: The term of this lease shall be for one (1) year commencing on the 17th day of April, 2001 and shall continually renew every year thereafter until such time it is decided by either the Lessor or Lessee to terminate this lease.

3. RENT: Lessee covenants and agrees to pay Lessee at the offices of Lessor the City of Sultan, 319 Main Street, Suite 200, P.O. Box 1199, Sultan, WA 98294 or to such other party or at such place as Lessor may hereafter designate, monthly rent in the amount of $280.00 dollars on the first day of each month, beginning with the first month of the lease term.

4. DEPOSIT: Lessee has deposited the of $0 dollars, receipt of which is hereby acknowledged, which sum is security and or damage deposit for Lessee's full performance of the obligation hereunder.

5. UTILITIES AND FEES: Lessee agreed to pay all charges for light, heat, water, sewer, garbage, drainage and all other utilities and services to the premises during the full term of this lease. Above items, if any, included in the rent payment are taxes and building insurance.

6.REPAIR AND MAINTENANCE Premises have been inspected and are accepted by Lessee in their present condition. Lessee shall, at its own expense and at all times, keep the premises neat, clean and in a sanitary condition, and keep and use the premises in accordance with applicable laws, ordinances, rules, regulations and requirements of government authorities. Lessee shall keep all drain pipes free and open, reasonably protect water, heating, and other pipes to prevent freezing or clogging; repair all leaks and damage caused by leaks; replace all glass in windows and doors of the premises which may become cracked or broken; and remove ice and snow from sidewalk adjoining the premises. Except for the roof, exterior walls and foundation and other structural elements of the building, which are the responsibility of the Lessee, Lessee shall make such repairs as necessary to maintain the premises in as good condition as they now are, reasonable use and wear and damage by fire and other casualty excepted.

7. SIGNS AND MAINTENANCE: All signs or symbols placed by Lessee on or about the premises shall be subject to Lessor's prior written approval which shall not be unreasonably delayed or withheld. After prior written consent of Lessor, Lessee may make alteration, additions and improvements in said premises, at Lessee's sole cost and expense.

8. LIENS AND INSOLVENCY: Lessee shall keep the premises free from any liens arising out of any work performed for, materials furnished to , or obligations incurred be Lessee and shall hold Lessee harmless against the same. In the event lessee became insolvent, bankrupt, or if a receiver, assignee or other liquidating officer is appointed for the business of Lessee, Lessor may cancel this lease at its option.

9. SUBLETTING OR ASSIGNMENT: Lessee shall not sublet the whole or any part of the premises, nor assign this lease without the written consent of Lessor, which will not be unreasonably delayed or withheld. This lease shell not be assignable by operation of law.

10. ACCESS: Lessor shall have the right to enter the premises at all reasonable times for the purpose of inspection or of making repairs, additions or alterations, and to show the premises to prospective tenants for sixty (60) days prior to the expiration of the lease term provided that twenty-four (24) hours notice be given to the Lessee. No inspections shall take place without the presence of the Chief of Police or other office assigned to maintain the security of confidential information.

11. DAMAGE OR DESTRUCTION, QUIET ENJOYMENT: In the event the premises are rendered untenantable in whole or in part by fire, the elements, other casualty, Lessor may elect, at its option, not to restore or rebuild the premises and shall so notify Lessee, in which event Lessee shall vacate the premises and this lease shall be terminated; or in the alternative, Lessor shall notify Lessee, within thirty (30) days after the notice of such casualty, that Lessor will undertake to rebuild or restore the premises, and that such work can be completed within one hundred eighty (180) days from date of such notice of intent, and Lessee did not earlier elect to terminate, then the lease may be terminated at Lessee's option in writing within ten (10) days to Lessor. During the period of untenantability, rent shall abate in the same ratio as the portion of the premises rendered untenantable bears to the whole of the premises and Lessor shall refund such portion of prepaid rent as shall have occurred and be continuing, Lessor covenants that Lessee shall have full and complete use and quiet enjoyment of the premises free form the interference of the Lessor or any person acting by , through, with, or in relation of Lessor. Lessor represents and warrants that he has full and complete title and ownership of the premises and that all limitation thereon have been fully an completely disclosed to Lessee. In the event of condemnation, Lessee shall retain any and all proceeds thereof relating to relocation and trade fixtures and shall, if the nature of the condemnation causes the premises to be inadequate in the sole discretion of the Lessee shall have the option to terminate this lease and any prepaid rent shall be rebated pro rata.

12. ACCIDENTS AND LIABILITY: Lessor or its agent shall not be liable for, and Lessee agrees to defend and hold Lessor and its agents harmless from, any claim, action and/ of judgment for damages to property or injury to persons suffered or alleged to be suffered on the premises by any person, firm or corporation, unless caused by Lessor's negligence.

13. COSTS AND ATTORNEY'S FEES: If , by reason of any default or breach on the part of either party in the performance of any of the previsions of this lease, a legal action is instituted, the losing party agrees to pay all reasonable costs and attorney's fees in connection therewith.

14. SUBORDINATION: Lessee agrees that this lease shall be subordinate to any mortgages or deeds of trust, placed on the property described in paragraph one above, provided that in the event of foreclosure if Lessee in not then in default and agrees to attorn to the mortgagee or beneficiary under deed of trust, such mortgagee or beneficiary shall recognize Lessee's right of possession for their term of this lease.

15. NO WAIVER OF COVENANTS: Any waiver either party of any breach hereof by the other shall not be considered a waiver of any future similar breach. This lease contains all the agreement between the parties; and there shall be no modification of the agreement contained herein except by written instrument.

16. SURRENDER OF PREMISES: Lessee agrees, upon termination of this lease, to peacefully quit and surrender the premises without notice, leaving the premises neat and clean and in the condition at the time of original occupancy, reasonable wear and tear excepted, and to deliver all keys to the premises to Lessor.

18. BINDING ON HEIRS, SUCCESSORS AND ASSIGNS: The covenants and agreements of this lease shall be binding upon the heirs, executors, administrators, successors and assigns of both parties hereto, except as hereinabove provided.

19. USE Lessee shall use the premises for the purposes of providing food and other such items to the citizens in need

20. NOTICE: Any notice required to be given by either party to the other shall be deposited in the United States mail, postage prepaid, addressed to the Lessor at P.O. Box 1199, Sultan, WA 98294 and to the Lessee at P.O. Box 1181 Sultan, WA 98294 or any such other address as either party may designate to the other in writing from time to time.

21. TIME IS OF THE ESSENCE OF THIS LEASE.

IN WITHNESS WHEREOF, the parties hereto have hereunto set their hands the date first written above.

LESSOR _____ LESSEE Carolyn Eslick - President

ATTEST: _____ APPROVED AS TO FORM

_____ _____

Attachment C

CITY OF SULTAN

LEASE AGREEMENT – COMMERCIAL PREMISES

THIS LEASE made this _15th__, day of _January_, _2001, by and between the City of Sultan, hereinafter called Lessor, and __Sultan Chamber of Commerce_, hereinafter called Lessee,

WITNESSETH:

1. PREMISES: Lessor does hereby lease to Lessee, those certain premises commonly known as:

   719 First Street, Sultan Washington

2. TERM: The term of this lease shall be for one (1) year commencing on the _1st___ day of _January, _2001 and shall terminate on the _31st_ day of _December_ 2001_.

3. RENT: Lessee covenants and agrees to pay Lessor at the offices of Lessor the City of Sultan, 319 Main Street, Suite 200, P.O. Box 1199, Sultan, WA 98294 or to such other party or at such place as Lessor may hereafter designate, monthly rent in the amount of $_108.00_ dollars on the first day of each month, beginning with the first month of the lease term.

4. DEPOSIT: Lessee has deposited the of $_0___ dollars, receipt of which is hereby acknowledged, which sum is security and or damage deposit for Lessee's full performance of the obligations hereunder.

5. UTILITIES AND FEES: Lessee agrees to pay a portion of the charges for light, heat, water, sewer, garbage, drainage and all other utilities and services to the premises during the full term of this lease. Above items, if any, included in the rent payment are taxes and building insurance.

6. REPAIR AND MAINTENANCE: Premises have been inspected and are accepted by Lessee in their present condition. Lessee shall, at its own expense and at all times, keep the premises neat, clean and in a sanitary condition, and keep and use the premises in accordance with applicable laws, ordinances, rules, regulations and requirements of governmental authorities. Lessee shall keep all drain pipes free and open, reasonably protect water, heating, and other pipes to prevent freezing or clogging; repair all leaks and damage caused by leaks; replace all glass in windows and doors of the premises which may become cracked or broken; and remove ice and snow from sidewalks adjoining the premises. Except for the roof, exterior walls and foundation and other structural elements of the building, which are the responsibility of the Lessor, Lessee shall make such repairs as necessary to maintain the premises in as good condition as they now are, reasonable use and wear and damage by fire and other casualty excepted.

7. SIGNS AND ALTERATIONS: All signs or symbols placed by Lessee on or about the premises shall be subject to Lessor's prior written approval which shall not be unreasonably delayed or withheld. After prior written consent of Lessor, Lessee may make alteration, additions and improvements in said premises, at Lessee's sole cost and expense.

8. LIENS AND INSOLVENCY: Lessee shall keep the premises free from any liens arising out of any work performed for, materials furnished to, or obligations incurred by Lessee and shall hold Lessor harmless against the same. In the event Lessee becomes insolvent, bankrupt, or if a receiver, assignee or other liquidating officer is appointed for the business of Lessee, Lessor may cancel this lease at its option.

9. SUBLETTING OR ASSIGNMENT: Lessee shall not sublet the whole or any part of the premises, nor assign this lease without the written consent of Lessor, which will not be unreasonably delayed or withheld. This lease shall not be assignable by operation of law.

10. ACCESS: Lessor shall have the right to enter the premises at all reasonable times for the purpose of inspection or of making repairs, additions or alterations, and to show the premises to prospective tenants for sixty (60) days prior to the expiration of the lease term provided that twenty-four (24) hours notice be given to the Lessee. No inspection shall take place without the presence of the Chief of Police or other office assigned to maintain the security of confidential information.

11. DAMAGE OR DESTRUCTION, QUIET ENJOYMENT: In the event the premises are rendered untenantable in whole or in part by fire, the elements, or other casualty, Lessor may elect, at its option, not to restore or rebuild the premises and shall so notify Lessee, in which event Lessee shall vacate the premises and this lease shall be terminated; or in the alternative, Lessor shall notify Lessee, within thirty (30) days after the notice of such casualty, that Lessor will undertake to rebuild or restore the premises, and that such work can be completed within one hundred eighty (180) days from date of such notice of intent, and Lessee did not earlier elect to terminate, then the lease may be terminated at Lessee's option in writing within ten (10) days to Lessor. During the period of untenantability, rent shall abate in the same ratio as the portion of the premises rendered untenantable bears to the whole of the premises and Lessor shall refund such portion of prepaid rent as shall have occurred and be continuing, Lessor covenants the Lessee shall have full and complete use and quiet enjoyment of the premises free from the interference of the Lessor or any person acting by, through, with, or in relation of Lessor. Lessor represents and warrants that he has full and complete title and ownership of the premises and that all limitation thereon has been fully and completely disclosed to Lessee. In the event of condemnation, Lessee shall retain any and all proceeds thereof relating to relocation and trade fixtures and shall, if the nature of the condemnation causes the premises to be inadequate in the sole discretion of the Lessee shall have the option to terminate this lease and any prepaid rent shall be rebated pro rata.

12. HOLD HARMLESS AND INSURANCE: Lessee agrees to indemnify and hold harmless the City of Sultan, its appointed and elected officials and employees while acting within the scope of their duties as such, from and against all claims, demands, loss, liability of any kind

and character, including costs of defense, arising out of or in any way connected with the Lessee's use of the facilities specified in this Agreement. A Certificate or Insurance in an amount not less than _____ General Liability coverage with the City of Sultan named as an additional insured will be presented prior to the use of the facilities.

13. COSTS AND ATTORNEY'S FEES: If, by reason of any default or breach on the part of either party in the performance of any of the previsions of this lease, a legal action is instituted, the losing party agrees to pay all reasonable costs and attorney's fees in connection therewith.

14. SUBORDINATION: Lessee agrees that this lease shall be subordinate to any mortgages or deeds of trust, placed on the property described in paragraph one above, provided that in the event of foreclosure if Lessee is not then in default and agrees to attorn to the mortgagee or beneficiary under deed of trust, such mortgagee or beneficiary shall recognize Lessee's right of possession for their term of this lease.

15. NO WAIVER OF COVENANTS: Any waiver by either party of any breach hereof by the other shall not be considered a waiver of any future similar breach. This lease contains all the agreement between the parties; and there shall be no modification of the agreements contained herein except by written instrument.

16. SURRENDER OF PREMISES: Lessee agrees, upon termination of this lease, to peacefully quit and surrender the premises without notice, leaving the premises neat and clean and in the condition at the time of original occupancy, reasonable wear and tear excepted, and to deliver all keys to the premises to Lessor.

17. HOLDING OVER: If Lessee, with the implied or express consent of Lessor, shall hold over after the expiration of the term of this lease, Lessee shall remain bound by all the covenants and agreements herein, except that the tenancy shall be from month to month. Lessee shall provide forty-five (45) days written notice to the Lessor of their intent to continue on a month to month basis.

18. BINDING ON HEIRS, SUCCESSORS AND ASSIGNS: The covenants and agreements of this lease shall be binding upon the heirs, executors, administrators, successors and assigns of both parties hereto, except as hereinabove provided.

19. USE Lessee shall use the premises for the purposes of Sultan Chamber office space and storage and for no other purposes, without written consent of Lessor.

20. NOTICE Any notice required to be given by either party to the other shall be deposited in the United States mail, postage prepaid, addressed to the Lessor at P.O. Box 1199, Sultan, WA 98294 and to the Lessee at _____ or any such other address as either party may designate to the other in writing from time to time.

DS

C-3

Attachment D

LEASE AGREEMENT

City of Sultan
and
Boys and Girls Clubs of Snohomish County

The parties hereto are the **CITY OF SULTAN** a municipal corporation of the State of Washington ("Landlord"), and **BOYS' AND GIRLS' CLUBS OF SNOHOMISH COUNTY**, a charitable corporation ("Tenant").

RECITALS

WHEREAS, the City of Sultan has as building located at 707 First Street, Sultan, WA, commonly known as the "Old City Council Chamber Building" available for lease; and

WHEREAS, the building is in need of various repairs to bring it up to an acceptable condition so it may be occupied and properly used and maintained as a recreational facility benefiting the new growth and development in the City of Sultan: and

WHEREAS, the building in addition to repairs is in need of certain improvements to meet the needs of the tenant and occupancy permit requirements of the City; and

WHEREAS, the Tenant will contribute up to the sum of $1,750.00 toward the completion of the improvements; and

WHEREAS, the Landlord will assist the Tenant with the required improvements in the amount of $ 1, 750.00 in order to expand the recreational opportunities for residents of the city; and

WHEREAS, the Tenant is a charitable corporation whose corporate purpose is to foster and sponsor recreational, cultural, athletic and educational programs and activities for the use of the community's families and youth;

NOW, THEREFORE, FOR AND IN CONSIDERATION OF the mutual covenants hereinafter contained, the parties agree as follows:

COVENANTS

1. **LEASE AND DESCRIPTION**. Upon the terms and conditions hereinafter set forth, the Landlord does hereby lease to Tenant and the Tenant does hereby lease from Landlord those certain premises situated in the City of Sultan, County of Snohomish, State of Washington, depicted on the map thereof filed with the Landlord's Clerk, and being

described in **Attachment A**, hereinafter the above described property is called "premises."

2. **BUILDING CONSTRUCTION ON PREMISES** The premises is located at 705 First Street. The Tenant shall not commence any construction on the premises without written consent of the Landlord.

3. **OCCUPANCY**. The Tenant shall not occupy or use any building hereafter erected on the premises until a certificate of occupancy thereof shall have been issued by the Landlord's Building Official. Tenant may use all portions of the building and parking areas depicted on **Attachment A ONLY.**

4. **BUSINESS PURPOSE.** The premises are to be used primarily for the purpose of a community youth center for such other and further purposes as are consistent with use of the facility as a family-oriented recreational cultural center. Other uses may be permitted on a space available basis and with prior approval by the Landlord.

5. **USE.** A description of Tenant's initial program and schedule to serve as a community youth center is set forth in **Attachment B**. Throughout the term of this lease Tenant shall generally offer programs and services as a community youth center consistent with the intended program.

a. The Tenant shall conduct and carry on only the business for which said premises are leased. The Tenant shall at all times keep and use the premises in accordance with the laws of the State of Washington and ordinances of the City of Sultan and in accordance with all directions, rules and regulations of the health officer, fire marshal, building official or other proper officer of any pertinent and authorized public authority, at the sole cost and expense of the Tenant.

b. The Tenant shall be responsible for other uses of the premises. The Tenant shall be responsible for ensuring that any use of the premises is consistent with the intended purposes and uses of the premises as stated herein and that such other users are approved by the Landlord and the users are properly insured. Tenant may charge a reasonable rent to another user to offset the costs of janitorial service and utilities for such use. Rents collected in excess by the Tenant of those necessary to offset janitorial and utility costs shall be forwarded to the Landlord.

c. The Tenant shall submit an annual report to the Landlord of the schedule of programming by the Tenant and of the schedule of other use.

d. Any future construction on the site is specifically excluded from this lease and the terms herein. The preparation of any lease arrangements and terms for any new construction of additions will be at the sole discretion of the Landlord.

e. Failure to provide adequate youth programming or any of the use requirements stated herein constitutes a default of this lease. In such an event, the Landlord will notify the Tenant, in writing, of such and the Tenant shall correct same within ninety (90) days

of the date of the Notification. Failure to correct such conditions constitute grounds for termination of this lease.

6. **TERM**. The term of this lease shall be for One (1)-years, commencing upon the issuance of a Certificate of Occupancy and ending at midnight One (1)-year thereafter. If a Certificate of Occupancy already exists, the lease shall be deemed to commence on _____ and shall end on midnight One (1)-year thereafter. The Tenant shall have the option of renewing this lease for One (1)- year periods; such renewal is conditional on the approval of the Landlord and based on the lessee's full adherence to the terms of this lease agreement. Tenants shall give Landlord not less than 60-day written notice of its intent to renew said lease agreement.

7. **RENTAL FEE**. In consideration of and in exchange for a contribution of the recreational opportunities, programs, services and maintenance and operation of the premises from the Tenant including providing access (keys) for and monitoring of the public restrooms located adjacent to the premises in Osprey Park during the tenants typical hours of operation as herein defined, the annual rental amount shall be $1.00 to be paid in advance for the entire initial term of this lease.

8. **UTILITIES**. The Tenant shall pay for all utilities, such as power, heat, gas, telephone, and cable.

9. **ACCESS**. The Tenant will allow the Landlord or the Landlord's agents free access at all reasonable times and upon at least twenty-four (24) hours notice to said premises during normal business hours for the purpose of inspection. Nothing herein shall be construed as in any way limiting the authority of the Landlord's Building Official under existing law.

10. **CARE OF PREMISES**.

    a. Tenant shall at all times keep the premises neat, clean and, in a sanitary condition and shall at all times preserve said premises in good repair except for reasonable wear and tear and damage by fire or other unavoidable casualty.
    b. All maintenance and operating costs shall be borne by the Tenant, unless otherwise agreed to, in writing, by the Landlord. This includes, but is not limited to, all HVAC systems and fixtures. The Landlord will be responsible for replacement or major repairs to these systems unless said replacement or repairs are necessitated by Tenant neglect.
    c. Tenant will commit or permit no waste, damage, or injury to the premises. This includes, but is no limited to: the replacement of any glass of all broken windows and doors of the building as may become cracked or broken; keeping all drainage pipes free and open and protecting water, heating and other pipes so that they will not freeze or become clogged; and, the repair of all leaks and all damages caused by leaks or by reason of the Tenant's failure to protect and

keep free, open and unfrozen any of the pipes and plumbing on said premises. All such maintenance and repairs shall be at the sole expense of the Tenant.

d. To the extent permitted by law, the Landlord may assist Tenant in soliciting donations and in kind services for purposes of this section.

e. Landlord agrees that the expense of maintaining the foundation, walls, and roof of the premises will be the responsibility of Landlord.

11. **MAINTENANCE OF GROUNDS**. The Tenant shall maintain the grounds and parking areas. The Tenant shall make every effort to keep the grounds and parking areas clean and free of debris.

12. **STORAGE OF MATERIALS, SUPPLIES, ETC**. The Tenant covenants to not store or deposit materials, supplies or other objects on the exterior of the leased premises without the permission of the Landlord. Failure of Tenant to fully carry out this agreement shall be a breach of covenant of this lease.

13. **HAZARDOUS WASTES**. The Tenant shall not permit dangerous wastes, hazardous wastes, or extremely hazardous wastes as defined by RCW 70.105.010, *et seq.* to exist on the premises and shall, at Tenant's sole expense, undertake to comply with all rules, regulations and policies of the Washington State Department of Ecology and the United States Environmental Protection Agency. Tenant shall promptly notify the City Fire Department of the existence of dangerous wastes, hazardous wastes, or extremely hazardous wastes as required by state and federal regulations. Tenant shall comply with any provisions of the local Hazardous Waste Plan as now in existence or hereinafter enacted. Tenant shall comply with any requirements for hazardous waste disposal as may be imposed by RCW 70.105D.030 and the State Department of Ecology.

14. **MOTOR VEHICLE PARKING ON PREMISES**. The Landlord shall provide parking on the leased premises, a shown on **Attachment A**, in accordance with an agreed-upon plan for parking facilities for all motor vehicles in connection with Tenant's business. The Tenant shall at all times see that all such vehicles park within the leased premises.

15. **VACATING THE PREMISES**. Tenant agrees that at the expiration or sooner termination of this lease the Tenant will quit and surrender said premises without notice and in a neat and clean condition and will deliver to the Landlord all keys to all buildings on the premises. At the expiration or termination of this lease the Landlord will work in good faith with the Tenant to secure a location at which programs for youth can be provided.

16. **INDEMNITY**. All personal property on said leased premises shall be at the risk of Tenant. Landlord shall not be liable for any damage, either to person or property, sustained by Tenant or others, caused by any defects now in said premises or hereafter occurring therein, or due to the condition of any buildings hereafter erected to any part or

appurtenance thereof becoming out of repair, or caused by fire or by the bursting or leaking of water, gas, sewer, or steam pipes, or from any act or neglect of tenants or other occupants of said buildings, or any other persons, or due to the happening of any accident from any cause in or about said buildings. Tenant covenants to protect, save and indemnify Landlord, its elected and appointed officials and employees while acting within the scope of their duties as such, harmless from and against all claims, demands and causes of action of any kind or character, including the cost of defense thereof, arising in favor of Tenant's employees or third parties on account of personal injuries, death or damage to property arising out of the premises leased by Tenant or in any way resulting from the willful or negligent acts or omissions of the Tenant and/or its agents, employees or representatives. Landlord covenants to protect, save and indemnify Tenant, its elected and appointed officials and employees while acting within the scope of their duties as such, harmless from and against all claims, demands and causes of action of any kind or character, including the cost of defense thereof, arising in favor of Landlord's employees or third parties on account of personal injuries, death or damage to property arising out of Landlord's obligations under this lease or in any way resulting from the willful or negligent acts or omissions of the Landlord and/or its agents, employees or representatives.

17. **LIABILITY INSURANCE**. Tenant shall at all times carry and maintain liability insurance in a company or companies rated in the current edition of Best's General Ratings as at least A (Excellent), and Financial Size Category of not less than Class X, or in such other company or companies not so rated which may be acceptable to Landlord, insuring Tenant against all claims for damages for personal injury, including death, and against all claims for damage and destruction of property, which may arise by the acts or negligence of the Tenant, its agents, employees or servants, or by any means of transportation whatsoever including owned, non-owned and hired automobiles, to the extent of at least Two Million Dollars ($2,000,000) combined single limit. Landlord shall be named in all such policies as an additional insured, and a duplicate true certified copy of the original of such insurance policy or policies shall be furnished to Landlord. Each such policy shall provide that the policy may not be cancelled without the company first giving Landlord at least thirty (30) days written notice.

18. **FIRE INSURANCE**. The Tenant shall, at all times, carry at its own expense fire insurance, extended coverage and vandalism and malicious mischief fire insurance on all buildings existing or hereafter constructed on the premises acceptable to the Landlord, which policy or policies shall name the Landlord as the insured, and to the extent of one hundred percent (100%) of value as mutually agreed upon by Tenant and Landlord. The original policy, a duplicate true certified copy, or such other evidence of insurance as the Landlord shall in writing have agreed to accept, shall be on deposit with the Landlord's Clerk at all times during the term hereof. Each such policy shall provide that the policy may not be cancelled without the company first giving the Landlord at least thirty (30)

days prior written notice. No such policy shall contain a deductible clause greater than One Thousand Dollars ($1,000) per claim. In the event of loss, the Tenant shall pay such deductible sum.

19. INSURANCE PROCEEDS IN EVENT OF LOSS.

a. Total Destruction. If the premises are totally destroyed by fire, earthquake or other casualty during the term of this lease, and if the Tenant desires to rebuild, the proceeds of insurance shall be used for the purpose of rebuilding such building. The balance of funds shall be payable pro rata to the Landlord and Tenant based on the investment of the parties; the Tenant's portion subject further to being reduced proportionately to the remaining length of the lease. If either Landlord or Tenant elects to rebuild as above provided, such party shall prosecute the work of such rebuilding or repairing without delay. If both Landlord and Tenant fail to give notice of intention to build as aforesaid, within the times specified, both the Landlord and Tenant shall have the right to declare this lease terminated by written notice served upon the other party by mail as in this lease provided.

b. Partial Destruction. In case of partial destruction, the proceeds shall be used for repairing the damage.

c. Duties Regardless of Extent of Destruction. The Tenant shall give notice of loss immediately and of intention to rebuild within sixty (60) days of loss. Prior to termination of this lease whether by expiration of the term or by notice as in this paragraph, rent for the premises shall not abate as between the Landlord and Tenant in the event of loss or destruction of any buildings placed on the premises.

20. LIENS AND INSOLVENCY. Tenant shall keep the leased premises and the property in which the leased premises are situated free from any liens arising out of any work performed, materials furnished or obligations incurred by Tenant, except for financing instruments obtained with the written consent of the Landlord. If the Tenant becomes insolvent, voluntarily or involuntarily bankrupt, or if a receiver, assignee or other liquidating officer is appointed for the business of the Tenant, the Landlord may cancel this lease at Landlord's option, provided at least ninety (90) days prior notice is given to Tenant.

21. ASSIGNMENT AND SUBLETTING. This lease may not be assigned or sublet because the lease calls for Tenant to rent the premises at less than fair market value. Notwithstanding the above, this lease may be assigned to an assignee such as a bank for security for money loaned or advanced to the Tenant for construction on the premises or other business purposes of the Tenant. No such assignment for security purposes shall have priority over the interest of the Landlord.

22. **NOTICE.** All notices and consents hereunder shall be given in writing, delivered in person or mailed by certified mail, postage prepaid, to the receiving party at its address below, or to such other address as the receiving party may notify the sender beforehand referring to this lease:

BOYS' AND GIRLS' CLUBS OF SNOHOMISH COUNTY
4322 Rucker
Everett, WA 98203

CITY OF SULTAN
319 Main Street, Suite 200
P.O. Box 1199
Sultan, WA 98294

23. **GOVERNMENTAL FEES.** Except for those which may be approved by Resolution of the City Council of the City of Sultan, all fees due under applicable law to the City, County or State on account of any inspection made on leased premises by any officer thereof shall be paid by Tenant.

24. **SIGNS.** All signs and symbols placed in the windows or doors or elsewhere about the premises, or upon the exterior part of the building, shall be subject to the approval of the Landlord or Landlord's agents. Landlord agrees to allow the Tenant logo on the exterior of the building to meet standards of Boys and Girls Clubs of America. In the event Tenant shall place signs or symbols on the exterior of said building or in the windows or doors or elsewhere where they are visible from the street that are not satisfactory to the Landlord or Landlord's agents, the Landlord or Landlord's agents may immediately demand the removal of such signs or symbols, and the refusal of the Tenant to comply with such demand within a period of twenty-four (24) hours will constitute a breach of this lease, and entitle the Landlord to immediately recover possession of said premises in the manner provided by law. Any signs so placed on the premises shall be so placed upon the understanding and agreement that Tenant will remove same at the termination of the tenancy herein created and repair any damage or injury to the premises caused thereby, and if not so removed by Tenant, then Landlord may have the same removed at Tenant's expense. Tenant shall in respect to signs conform to all requests of the City of Sultan Sign Code and Building Code, and pay applicable fees.

25. **ALTERATIONS.** The Tenant shall not make any material alterations, additions or improvements to the leased premises without written consent of the Landlord, and all alterations, additions and improvements which shall be made, shall be at the sole cost and expense of the Tenant, and shall become the property of the Landlord, except those not attached to the building and shall remain in and be surrendered with the premises as part thereof at the termination of this lease, without disturbance, molestation or injury. The term "material alterations additions or improvements" shall include but not be limited to

any structural modification of the building or its components. If the Tenant shall perform work with the consent of the Landlord, as aforesaid, Tenant agrees to comply with all laws ordinances, rules and regulations of the pertinent and authorized public authorities. The Tenant further agrees to save the Landlord free and harmless from damage, loss or expense arising out of said work. Heating systems, plumbing systems (including hot water tanks) and all lighting and electrical systems and parts thereof shall be considered fixtures, and become part of the real estate upon being installed in any building.

26. **DEFAULT AND RE-ENTRY.** If any rents above reserved, or any part thereof, shall be and remain unpaid when the same shall become due, or if the Tenant shall violate or default in any of the covenants and agreements therein contained, then the Landlord may cancel this lease upon giving the written notice required by law, and re-enter said premises, but notwithstanding such re-entry by the landlord, the liability of the Tenant for the rent provided for herein shall not be extinguished for the balance of the term of this lease, and the Tenant covenants and agrees to make good to the Landlord any deficiency arising from a re-entry and re-letting of the premises at a lesser rental than herein agreed to.
The Tenant shall pay such deficiency each month as the amount thereof is ascertained by the Landlord, together with leasehold tax. Notwithstanding anything contained herein to the contrary, Landlord shall provide Tenant with written notice of default and shall allow the Tenant a sixty (60) day period to cure (or, in case of impracticability, commence to sure) such default.

27. **COSTS AND ATTORNEY'S FEES.** If by reason of any default on the part of either party, litigation is commenced to enforce any provision of this lease or to recover for breach of any provision of this lease, the prevailing party shall be entitled to recover from the other party reasonable attorney's fees in such amount as is fixed by the court, and all costs and expenses incurred by reason of the breach or default by the other under this lease.

28. **NON-WAIVER OF BREACH.** The failure of either party to insist upon strict performance of any of the covenants and agreements of this lease, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such strict performance or of the exercise of such option or any other covenants or agreements but the same shall be and remain in full force and effect.

29. **REMOVAL OF PROPERTY.** In the event of default and failure to cure, or taking possession of the leased premises as aforesaid, the Landlord shall have the right, but not the obligation, to remove from the leased premises all personal property located therein or thereon, and may store the same in any place selected by Landlord, including but not limited to a public warehouse, at the expense and risk of the owners thereof, with the right to sell such stored property with notice to the Tenant, after it has been stored for a

period of at least sixty (60) days, the proceeds of such sale to 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 which may then be due from Tenant to Landlord under any of the terms hereof, and the balance, if any, to be paid to Tenant.

30. **HEIRS AND SUCCESSORS**. Subject to the provisions hereof pertaining to assignment and subletting, the covenants and agreements of this lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, legal representatives, successors and assigns of any of all of the parties hereto.

31. **HOLD OVER**. If the Tenant shall, with the written consent of Landlord, hold over after the expiration of the term of this lease, such tenancy shall be determined as provided by the laws of the State of Washington. During such tenancy Tenant agrees to pay Landlord the same rate of rental as set forth herein, unless a different rate is agreed upon, and to be bound by all of the terms, covenants and conditions as herein specified, so far as applicable.

32. **VENUE**. The venue of any suit which may be brought by either party under the terms of this lease or growing out of the tenancy under this lease shall at the option of the Landlord be in court or courts in Snohomish County, Washington.

IN WITNESS WHEREOF, the parties hereto have executed this lease on the 9th day of June, 2004.

CITY OF SULTAN, LANDLORD

By _____
Benjamin R. Tolson, Mayor

Attest:

By _____
Laura Koenig, City Clerk

Approved as to form:

By _____
Thom H. Graafstra, City Attorney

BOYS AND GIRLS CLUBS OF SNOHOMISH COUNTY, TENANT

By _____
Bill Tsoukalas,
Executive Director

Approved as to form:

By _____
Mark Olson, Attorney for the
BOYS' AND GIRLS' CLUBS

STATE OF WASHINGTON)
ss.
COUNTY OF SNOHOMISH)

I certify that I know or have satisfactory evidence that **BENJAMIN R. TOLSON** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath acknowledged that he was authorized to execute the instrument, and acknowledged it as the **MAYOR** of the **CITY OF SULTAN** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 23rd day of June, 2004.

CYNTHIA C. DONK
COMMISSION EXPIRES
NOTARY
PUBLIC
3-19-2007
STATE OF WASHINGTON

[Legibly print name of notary]
NOTARY PUBLIC in and for the State
of Washington, residing at Sultan
My commission expires 3-19-07

STATE OF WASHINGTON)
ss.
COUNTY OF SNOHOMISH)

I certify that I know or have satisfactory evidence that **BILL TSOUKALAS** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath acknowledged that he was authorized to execute the instrument, and acknowledged it as the **EXECUTIVE DIRECTOR** of **THE BOYS' AND GIRLS' CLUBS OF SNOHOMISH COUNTY** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 2nd day of July, 2004.

CYNTHIA C. DONK
COMMISSION EXPIRES
NOTARY
PUBLIC
3-19-2007
STATE OF WASHINGTON

[Legibly print name of notary]
NOTARY PUBLIC in and for the State
of Washington, residing at Sultan
My commission expires 3-19-07

Interoffice Memo

Attachment E

Date: 7/15/2007

To: Deborah Knight, City Administrator

From: Laura Koenig, Clerk/Deputy Finance Director

RE: General Fund

The original location of the City Hall was at 4th and Main Streets in a building that was built to house both the Police and Fire Departments (General Fund activities). In the early 1980's the City negotiated a lease with the US Post Office for the building. The City offices were moved to a leased complex on First Street owned by the Department of Natural Resources. This complex had facilities for the Administrative Offices, Public Works Office and the City Utility Shop.

In 1982 the Council approved the purchase of property at 703 1st Street and also approved the issuance of Councilmatic General Obligation Bonds to fund the purchase. The pledged source for payment of the bonds was property taxes. Payment of the bonds was made from property taxes and from the lease payments received from the Post Office. The total purchase of the property was made from General Fund resources.

The option of selling City owned property has been discussed as a short term solution for the current financial crisis. The First Street complex has three buildings currently in use by other agencies and the Public Works shop and storage facilities.

The facility was purchased by the General Fund and therefore all rents or sale of the property would be considered to be General Fund receipts. The City receives a monthly rent from the Chamber of Commerce and the Food Bank. The Boys/Girls Club does not pay rent for the other two buildings.

The City should consider charging a monthly rental fee to the Public Works Department for the facilities they are using.

Attachments
1. November 8, 1982 minutes
2. 1983/1984 Financial reports
3. Ordinance 431 – GO Bonds