

RECEIVING NO. 1612  
DATE 1.17.03  
CITY CLERK [Signature]  
03.001

AGREEMENT BETWEEN  
THE NORTHWEST CENTER FOR THE RETARDED,  
THE CITY OF BOTHELL,  
THE CITY OF WOODINVILLE AND  
THE NORTSHORE SCHOOL DISTRICT  
CONCERNING THE OPERATION OF THE NORTSHORE POOL

1. PARTIES

This Agreement (hereinafter "AGREEMENT") is entered into by the City of Bothell, a Washington municipal corporation (hereinafter "BOTHELL"), the City of Woodinville, a Washington municipal corporation (hereinafter "WOODINVILLE"), the Northshore School District, a municipal corporation organized and existing under the laws of the State of Washington (hereinafter "NORTSHORE") and the Northwest Center for the Retarded, a § 501(c)(3) private non-profit corporation (hereinafter "NORTHWEST").

2. PURPOSE AND RECITALS

- 2.1 The Northshore Pool was built as part of the Forward Thrust initiative in 1971.
- 2.2 Since its construction, King County has operated and maintained the Northshore Pool on NORTSHORE property, pursuant to a forty (40) year lease agreement with NORTSHORE.
- 2.3 King County has declared that it will cease operating and maintaining the Northshore Pool at the end of 2002.
- 2.4 The Northshore School District and cities in the Northshore School District have expressed an interest in keeping the Northshore Pool operating for the next three years, pending the construction of a replacement pool facility.
- 2.5 NORTHWEST has expressed an interest in owning, operating and maintaining the Northshore Pool for a period of up to three (3) years, until the replacement pool facility is operational.
- 2.6 BOTHELL, WOODINVILLE, and NORTSHORE have agreed to contribute funds in support of NORTHWEST's operation and maintenance of the Northshore Pool if NORTHWEST is able to obtain ownership of the Northshore Pool from King County and an assignment of the Lease from the District and King County. This AGREEMENT is contingent upon NORTHWEST's ability to obtain such ownership and lease assignment.

229/16.03

### 3. NORTHWEST RESPONSIBILITIES

- 3.1 Maintenance & Operation of Northshore Pool. NORTHWEST shall own, maintain, and operate the Northshore Pool, located on NORTHSHORE property at 9815 NE 188th Street, Bothell, Washington for a period of three (3) years, beginning January 1 2003. NORTHWEST shall also make any capital improvements to the Northshore Pool that are necessary and reasonable to allow it to fulfill its commitment to operate the pool'; provided, however, that Northwest shall have no obligation to make any capital improvements or repairs that are necessitated by an act of nature or other event beyond the control of Northwest. BOTHELL, WOODINVILLE, and NORTHSHORE each acknowledges and agrees that if any one or more of them fails to provide the funding support set forth in Sections 4 through 7 below, and NORTHWEST is unable to find an alternate third party source of operating support, NORTHWEST may mothball and ultimately close the Pool, terminate the Lease, and convey title to the Pool to NORTHSHORE, as further provided in the Lease, the Lease Assignment, and/or the Pool Transfer Agreement between King County and NORTHWEST.
- 3.2 Pool Usage. The parties acknowledge that, in addition to providing general public access to the Pool, the NORTHSHORE swim teams currently use the Pool for practice and other team events, on the schedule attached hereto as Exhibit A. NORTHWEST agrees to maintain the schedule set forth on Exhibit A in all material respects, except to the extent that NORTHSHORE, BOTHELL, AND WOODINVILLE agree to changes to such schedule and notify NORTHWEST in writing of such agreed changes.
- 3.3 Quarterly Reports. NORTHWEST shall provide quarterly reports to the other parties regarding the maintenance and operation of the Northshore Pool, including, but not limited to, pool usage and revenue therefrom, capital improvements, fee schedules, utility costs, staffing costs, and repair and maintenance costs.
- 3.4 Ownership. NORTHWEST shall not transfer title of the Northshore Pool while this AGREEMENT remains in effect without the consent of all parties to this AGREEMENT, except in the following circumstances, in which case no consent by any of the parties shall be required. First, NORTHWEST may transfer title and possession of the Northshore Pool to NORTHSHORE, in accordance with the Lease (as amended by that certain Lease Assignment Agreement dated December ~~31~~, 2002 between NORTHWEST, NORTHSHORE, and King County) and the Lease Assignment if, as described therein, NORTHWEST is unable to adequately cover all costs of operating the swimming facility (including but not limited to reasonable allowances for overhead costs, reserves for repairs and capital improvements, and costs of insurance) with funds from operating revenues generated by the Pool, funds received from the BOTHELL, WOODINVILLE AND NORTHSHORE (and/or any other governmental or public support source (other than King County)), and any grants or donations from foundation or corporate donor resources that may be available to NORTHWEST for support of the facility. In addition, BOTHELL, WOODINVILLE AND NORTHSHORE each acknowledges that Northwest intends to create a limited liability company (of which Northwest will be the sole member) for the purpose of owning, managing, and operating Northwest's swimming

pool and certain other recreational assets (the "LLC"). Each of BOTHELL, WOODINVILLE AND NORTSHORE hereby consents to the transfer of title to the Pool to the LLC, agrees that NWC may, without their further consent, assign all of the rights, privileges, obligations and duties of NORTHWEST under this Agreement to the LLC, and agrees that upon such assignment, NORTHWEST shall be relieved of all further obligation and liability under this Agreement.

#### 4. RESPONSIBILITIES OF BOTHELL

4.1 In consideration of NORTHWEST operating and maintaining the Northshore Pool at the levels of service specified herein, BOTHELL shall pay NORTHWEST as follows:

Fifty thousand dollars (\$50,000.00) in 2003, in equal monthly payments due on the first business day of each month, beginning January 1, 2003.

Fifty thousand dollars (\$50,000.00) in 2004 in equal monthly payments due on the first business day of each month, beginning January 1, 2004

Fifty thousand dollars (\$50,000.00) in 2005, in equal monthly payments due on the first business day of each month, beginning January 1, 2005.

#### 5. RESPONSIBILITIES OF WOODINVILLE

5.1 In consideration of NORTHWEST operating and maintaining the Northshore Pool at the levels of service specified herein, WOODINVILLE shall pay NORTHWEST as follows:

Twenty-five thousand dollars (\$25,000.00) in 2003, in equal monthly payments due on the first business day of each month, beginning January 1, 2003.

Twenty-five thousand dollars (\$25,000.00) in 2004, in equal monthly payments due on the first business day of each month, beginning January 1, 2004.

Twenty-five thousand dollars (\$25,000.00) in 2005, in equal monthly payments due on the first business day of each month, beginning January 1, 2005.

#### 6. RESPONSIBILITIES OF NORTSHORE

6.1 In consideration of NORTHWEST operating and maintaining the Northshore Pool at the levels of service specified herein, NORTSHORE shall pay NORTHWEST as follows:

Twenty-five thousand dollars (\$25,000.00) in 2003, in equal monthly payments due on the first business day of each month, beginning January 1, 2003.

Twenty-five thousand dollars (\$25,000.00) in 2004, in equal monthly payments due on the first business day of each month, beginning January 1, 2004.

Twenty-five thousand dollars (\$25,000.00) in 2005, in equal monthly payments due on the first business day of each month, beginning January 1, 2005.

## 7. AMENDMENTS

- 7.1 Amendments. The parties recognize that amendments to this AGREEMENT may be necessary to clarify particular sections or to update and expand the AGREEMENT.
- 7.2 Process for addending or amending this AGREEMENT. An addendum or amendment must be mutually agreed by all four parties and executed in writing before becoming effective. Any addendum or amendment to the AGREEMENT shall be executed in the same manner as provided by law for the execution of the AGREEMENT.

## 8. DISPUTE RESOLUTION

The parties mutually agree to use a formal dispute process such as mediation, through an agreed upon mediator and process, if agreement cannot be reached regarding interpretation or implementation of any provision of this AGREEMENT. All costs for mediation services would be divided equally among the parties to the dispute. Each party would be responsible for the costs of their own legal representation, PROVIDED THAT nothing in this paragraph should be construed to negate the various obligations to defend set forth in section 10, below.

## 9. EFFECTIVE DATE, DURATION AND TERMINATION

- 9.1 This AGREEMENT shall become effective following the approval of the AGREEMENT by the official action of the governing bodies of each of the parties hereto and the signing of the AGREEMENT by the duly authorized representative of each of the parties hereto. Unless mutually extended by all four parties, this AGREEMENT shall terminate at the end of 2005.
- 9.2 This AGREEMENT may be terminated upon mutual agreement of all four parties. Any mutual termination shall become effective ninety (90) days following written amendment to the AGREEMENT executed by the parties.
- 9.3 The funds provided by BOTHELL, WOODINVILLE and NORTHSORE, pursuant to sections 4, 5 and 6 of this AGREEMENT, are intended to provide a short-term continuation of operation of the Northshore Pool, and shall not continue beyond 2005. Should a new publicly owned swimming pool facility be constructed in the Northshore area during the term of this AGREEMENT, the obligations of BOTHELL, WOODINVILLE and NORTHSORE under this AGREEMENT shall cease upon the opening for operation of that new swimming pool facility even if such opening occurs prior to the end of 2005.

## 10. INDEMNIFICATION AND LIABILITY

- 10.1 NORTHWEST shall protect, save harmless, indemnify, and defend, at its own expense, the other parties, their elected and appointed officials, officers, employees and agents, from any loss or claim for damages of any nature whatsoever brought by any third party, but only to the extent such loss or claim results from NORTHWEST's failure to comply with any duty or obligation undertaken by it under this Agreement, or any negligence or willful misconduct of NORTHWEST in carrying out its duties and obligations under this Agreement including claims by NORTHWEST's employees or third parties,.
- 10.2 BOTHELL shall protect, save harmless, indemnify, and defend, at its own expense, the other parties, their elected and appointed officials, officers, employees and agents, from any loss or claim for damages of any nature whatsoever brought by any third party, but only to the extent such loss or claim results from BOTHELL's failure to comply with any duty or obligation undertaken by it under this Agreement, or any negligence or willful misconduct of BOTHELL in carrying out its duties and obligations under this Agreement including claims by BOTHELL's employees or third parties,..
- 10.3 WOODINVILLE shall protect, save harmless, indemnify, and defend, at its own expense, the other parties, their elected and appointed officials, officers, employees and agents, from any loss or claim for damages of any nature whatsoever brought by any third party, but only to the extent such loss or claim results from WOODINVILLE's failure to comply with any duty or obligation undertaken by it under this Agreement, or any negligence or willful misconduct of WOODINVILLE in carrying out its duties and obligations under this Agreement including claims by WOODINVILLE's employees or third parties,
- 10.4 NORTHSHORE shall protect, save harmless, indemnify, and defend, at its own expense, the other parties, their elected and appointed officials, officers, employees and agents, from any loss or claim for damages of any nature whatsoever, brought by any third party, but only to the extent such loss or claim results from NORTHSHORE's failure to comply with any duty or obligation undertaken by it under this Agreement, or any negligence or willful misconduct of NORTHSHORE in carrying out its duties and obligations under this Agreement including claims by NORTHSHORE's employees or third parties, .
- 10.5 In the event of any party's liability for damages of any nature whatsoever arising out of the performance of this AGREEMENT by any party, including claims by any party's own officers, officials, employees, agents, or volunteers, or claims by third parties, caused by or resulting from the concurrent negligence of two or more parties, their officers, officials, employees or volunteers, each party's liability hereunder shall be limited to the extent of that party's negligence.
- 10.6 No liability shall be attached to any party by reason of entering into or performing this AGREEMENT except as expressly provided herein.

10.7 It is further specifically and expressly understood that each party's indemnification provided herein constitutes each party's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section 10 shall survive the expiration or termination of this Agreement.

## 11. INSURANCE

From January 1, 2003 through December 31, 2005, NORTHWEST shall maintain commercial general liability insurance coverage of not less than \$1 million per occurrence and \$3 million in the aggregate.

## 12. SEVERABILITY

Should a court of competent jurisdiction declare any clause, phrase, sentence or paragraph of this AGREEMENT invalid or void, the remaining provisions of this AGREEMENT not so declared shall remain in full force and effect.

## 13. EXERCISE OF RIGHTS OR REMEDIES

Failure of any party to exercise any rights or remedies under this AGREEMENT shall not be a waiver of any obligation by either party and shall not prevent either party from pursuing that right at any future time.

## 14. RECORDS

The parties shall maintain adequate records to document obligations performed under this AGREEMENT. The parties shall have the right to review every other party's records with regard to the subject matter of this AGREEMENT, upon reasonable notice.

## 15. ENTIRE AGREEMENT

This AGREEMENT constitutes the entire AGREEMENT between the parties with respect to the maintenance and operation of the Northshore Pool.

## 16. GOVERNING LAW AND STIPULATION OF VENUE

This AGREEMENT shall be governed by the laws of the State of Washington. Any action hereunder must be brought in the Superior Court of Washington for King County.

17. CONTACTS FOR AGREEMENT. The contact persons for this AGREEMENT are:

David Wunderlin  
Chief Executive Officer  
Northwest Center  
1600 W. Armory Way  
Seattle, WA 98119  
(206) 285-9140

James V. Thompson  
City Manager  
City of Bothell  
18305 – 101<sup>st</sup> Avenue NE  
Bothell, WA 98011  
(425) 486-3256

Lane Youngblood  
Parks & Recreation Director  
City of Woodinville  
17301 – 133<sup>rd</sup> Ave. NE  
Woodinville, WA 98072  
~~(206) 285-9140~~ (425) 489-2700

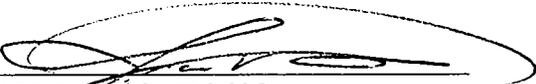
Dr. Karen A. Forys  
Superintendent  
Northshore School District  
18315 – Bothell Way N.E.  
Bothell, WA 98011  
(425) 489-6344

IN WITNESS WHEREOF, the parties have signed this AGREEMENT, effective on the date indicated below.

Dated this 20<sup>th</sup> day of December, 2002

CITY OF BOTHELL

NORTHSHORE SCHOOL DISTRICT

  
\_\_\_\_\_  
JAMES V. THOMPSON  
CITY MANAGER

\_\_\_\_\_  
DR. KAREN FORYS  
SUPERINTENDENT

Approved as to form:

Approved as to form:

  
\_\_\_\_\_  
Michael Weight  
Bothell City Attorney

\_\_\_\_\_  
Joe McKamey  
School District General Counsel

CITY OF WOODINVILLE

NORTHWEST CENTER FOR THE  
RETARDED

BY:

BY:

See attached documents  
\_\_\_\_\_  
DONALD D. ROSE  
CITY MANAGER

  
\_\_\_\_\_  
DAVID WUNDERLIN  
CHIEF EXECUTIVE OFFICER

16. GOVERNING LAW AND STIPULATION OF VENUE

This AGREEMENT shall be governed by the laws of the State of Washington. Any action hereunder must be brought in the Superior Court of Washington for King County.

17. CONTACTS FOR AGREEMENT. The contact persons for this AGREEMENT are:

David Wunderlin  
Chief Executive Officer  
Northwest Center  
1600 W. Armory Way  
Seattle, WA 98119  
~~(206) 285-9140 (425) 489-2700~~

James V. Thompson  
City Manager  
City of Bothell  
18305 – 101<sup>st</sup> Avenue NE  
Bothell, WA 98011  
(425) 486-3256

Lane Youngblood  
Parks & Recreation Director  
City of Woodinville  
17301 – 133<sup>rd</sup> Ave. NE  
Woodinville, WA 98072  
(206) 285-9140

Dr. Karen A. Forys  
Superintendent  
Northshore School District  
18315 – Bothell Way N.E.  
Bothell, WA 98011  
(425) 489-6344

IN WITNESS WHEREOF, the parties have signed this AGREEMENT, effective on the date indicated below.

Dated this 20<sup>th</sup> day of December, 2002.

CITY OF BOTHELL

NORTHSHORE SCHOOL DISTRICT

\_\_\_\_\_  
JAMES V. THOMPSON  
CITY MANAGER

Karen Forys  
\_\_\_\_\_  
DR. KAREN FORYS  
SUPERINTENDENT

Approved as to form:

Approved as to form:

\_\_\_\_\_  
Michael Weight  
Bothell City Attorney

Joseph A. McKamey  
\_\_\_\_\_  
Joe McKamey  
School District General Counsel

CITY OF WOODINVILLE

NORTHWEST CENTER FOR THE  
RETARDED

17. CONTACTS FOR AGREEMENT. The contact persons for this AGREEMENT are:

David Wunderlin  
Chief Executive Officer  
Northwest Center  
1600 W. Armory Way  
Seattle, WA 98119  
(206) 285-9140

James V. Thompson  
City Manager  
City of Bothell  
18305 – 101<sup>st</sup> Avenue NE  
Bothell, WA 98011  
(425) 486-3256

Lane Youngblood  
Parks & Recreation Director  
City of Woodinville  
17301 – 133<sup>rd</sup> Ave. NE  
Woodinville, WA 98072  
~~(206) 285-9140~~ (425) 489-2700

Dr. Karen A. Forys  
Superintendent  
Northshore School District  
18315 – Bothell Way N.E.  
Bothell, WA 98011  
(425) 489-6344

IN WITNESS WHEREOF, the parties have signed this AGREEMENT, effective on the date indicated below.

Dated this 20<sup>th</sup> day of December, 2002

CITY OF BOTHELL

NORTHSHORE SCHOOL DISTRICT

\_\_\_\_\_  
JAMES V. THOMPSON  
CITY MANAGER

\_\_\_\_\_  
DR. KAREN FORYS  
SUPERINTENDENT

Approved as to form:

Approved as to form:

\_\_\_\_\_  
Michael Weight  
Bothell City Attorney

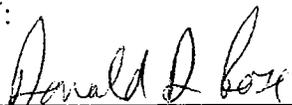
\_\_\_\_\_  
Joe McKamey  
School District General Counsel

CITY OF WOODINVILLE

NORTHWEST CENTER FOR THE  
RETARDED

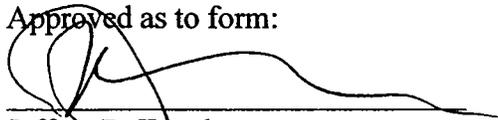
BY:

BY:

  
\_\_\_\_\_  
DONALD D. ROSE  
CITY MANAGER

\_\_\_\_\_  
DAVID WUNDERLIN  
CHIEF EXECUTIVE OFFICER

Approved as to form:



---

Jeffrey B. Taraday  
Woodinville City Attorney

RECEIVING NO. 2412  
DATE 2-19-09  
CITY CLERK GJK  
03-001

**AGREEMENT BETWEEN  
THE NORTHWEST CENTER FOR THE RETARDED,  
THE CITY OF BOTHELL,  
THE CITY OF WOODINVILLE, AND  
THE NORTHSHORE SCHOOL DISTRICT  
CONCERNING THE OPERATION OF THE NORTHSHORE POOL**

**1. PARTIES**

This Agreement (hereinafter "AGREEMENT") is entered into by the City of Bothell, a Washington Municipal Corporation (hereinafter "BOTHELL"), the City of Woodinville, a Washington Municipal Corporation (hereinafter "WOODINVILLE"), the Northshore School District, a municipal corporation organized and existing under the laws of the State of Washington (hereinafter "NORTHSHORE") and the Northwest Center for the Retarded, a 501(c)(3) private non-profit corporation (hereinafter "NORTHWEST").

**2. PURPOSE AND RECITALS**

- 2.1 The Northshore Pool was built as part of the Forward Thrust initiative in 1971.
- 2.2 Since its construction, King County operated and maintained the Northshore Pool on NORTHSHORE property, pursuant to a forty (40) year lease agreement with NORTHSHORE.
- 2.3 King County ceased operating and maintaining the Northshore Pool at the end of 2002.
- 2.4 The Northshore School District, Bothell, and Woodinville have kept the Northshore Pool operating for the past three years and have expressed interest in keeping the Northshore Pool operating for an additional three years, pending the construction of a replacement pool facility.
- 2.5 NORTHWEST has expressed an interest in owning, operating and maintaining the Northshore Pool for an additional period of up to three (3) years, until the replacement pool facility is operational.
- 2.6 BOTHELL, WOODINVILLE, and NORTHSHORE have agreed to contribute funds in support of NORTHWEST's operation and maintenance of the Northshore Pool if NORTHWEST is able to continue ownership of the Northshore Pool and the Lease from the District and King County. This AGREEMENT is contingent upon NORTHWEST's ability to continue such ownership and lease assignment.

### 3. NORTHWEST RESPONSIBILITIES

- 3.1 Maintenance & Operation of Northshore Pool. NORTHWEST shall own, maintain, and operate the Northshore Pool, located on NORTHSHORE property at 9815 NE 188th Street, Bothell, Washington for an additional period of three (3) years, beginning January 1, 2006. NORTHWEST shall also make any capital improvements to the Northshore Pool that are necessary and reasonable to allow it to fulfill its commitment to operate the pool; provided, however, that NORTHWEST shall have no obligation to make any capital improvements or repairs that are necessitated by an act of nature or other event beyond the control of NORTHWEST. BOTHELL, WOODINVILLE, and NORTHSHORE each acknowledges and agrees that if any one or more of them fails to provide the funding support set forth in Sections 4 through 7 below, and NORTHWEST is unable to find an alternate third party source of operating support, NORTHWEST may mothball and ultimately close the Pool, terminate the Lease, and convey title to the Pool to NORTHSHORE, as further provided in the Lease, the Lease Assignment, and/or the Pool Transfer Agreement between King County and NORTHWEST.
- 3.2 Pool Usage. The parties acknowledge that, in addition to providing general public access to the Pool, the NORTHSHORE swim teams currently use the Pool for practice and other team events, on the schedule attached hereto as Exhibit A. NORTHWEST agrees to maintain the schedule set forth on Exhibit A in all material respects, except to the extent that NORTHSHORE, BOTHELL, AND WOODINVILLE agree to changes to such schedule and notify NORTHWEST in writing of such agreed changes.
- 3.3 Quarterly Reports. NORTHWEST shall provide quarterly reports to the other parties regarding the maintenance and operation of the Northshore Pool, including, but not limited to, pool usage and revenue there from, capital improvements, fee schedules, utility costs, staffing costs, and repair and maintenance costs.
- 3.4 Ownership. NORTHWEST shall not transfer title of the Northshore Pool while this AGREEMENT remains in effect without the consent of all parties to this AGREEMENT, except in the following circumstances, in which case no consent by any of the parties shall be required. First, NORTHWEST may transfer title and possession of the Northshore Pool to NORTHSHORE, in accordance with the Lease (as amended by that certain Lease Assignment Agreement dated December 31, 2002 between NORTHWEST, NORTHSHORE, and King County) and the Lease Assignment if, as described therein, NORTHWEST is unable to adequately cover all costs of operating the swimming facility (including but not limited to reasonable allowances for overhead costs, reserves for repairs and capital improvements, and costs of insurance) with funds from operating revenues generated by the Pool, funds received from BOTHELL, WOODINVILLE and NORTHSHORE (and/or any other governmental or public support source (other

than King County)), and any grants or donations from foundation or corporate donor resources that may be available to NORTHWEST for support of the facility. In addition, BOTHELL, WOODINVILLE AND NORTHSHORE each acknowledges that NORTHWEST intends to create a limited liability company (of which NORTHWEST will be the sole member) for the purpose of owning, managing, and operating NORTHWEST's swimming pool and certain other recreational assets (the "LLC"). Each of BOTHELL, WOODINVILLE and NORTHSHORE hereby consents to the transfer of title to the Pool to the LLC, agrees that NORTHWEST may, without their further consent, assign all of the rights, privileges, obligations and duties of NORTHWEST under this Agreement to the LLC, and agrees that upon such assignment, NORTHWEST shall be relieved of all further obligation and liability under this Agreement.

#### **4. RESPONSIBILITIES OF BOTHELL**

4.1 In consideration of NORTHWEST operating and maintaining the Northshore Pool at the levels of service specified herein, BOTHELL shall pay NORTHWEST as follows:

Fifty thousand dollars (\$50,000.00) in 2006, in equal monthly payments due on the first business day of each month, beginning January 1, 2006.

Fifty thousand dollars (\$50,000.00) in 2007 in equal monthly payments due on the first business day of each month, beginning January 1, 2007.

Fifty thousand dollars (\$50,000.00) in 2008, in equal monthly payments due on the first business day of each month, beginning January 1, 2008.

#### **5. RESPONSIBILITIES OF WOODINVILLE**

5.1 In consideration of NORTHWEST operating and maintaining the Northshore Pool at the levels of service specified herein, WOODINVILLE shall pay NORTHWEST as follows:

Twenty-five thousand dollars (\$25,000.00) in 2006, in equal monthly payments due on the first business day of each month, beginning January 1, 2006.

Twenty-five thousand dollars (\$25,000.00) in 2007, in equal monthly payments due on the first business day of each month, beginning January 1, 2007.

Twenty-five thousand dollars (\$25,000.00) in 2008, in equal monthly payments due on the first business day of each month, beginning January 1, 2008.

## **6. RESPONSIBILITIES OF NORTSHORE**

- 6.1 In consideration of NORTHWEST operating and maintaining the Northshore Pool at the levels of service specified herein, NORTSHORE shall pay NORTHWEST as follows:

Twenty-five thousand dollars (\$25,000.00) in 2006, in equal monthly payments due on the first business day of each month, beginning January 1, 2006.

Twenty-five thousand dollars (\$25,000.00) in 2007, in equal monthly payments due on the first business day of each month, beginning January 1, 2007.

Twenty-five thousand dollars (\$25,000.00) in 2008, in equal monthly payments due on the first business day of each month, beginning January 1, 2008.

## **7. AMENDMENTS**

- 7.1 Amendments. The parties recognize that amendments to this AGREEMENT may be necessary to clarify particular sections or to update and expand the AGREEMENT.
- 7.2 Process for addending or amending this AGREEMENT. An addendum or amendment must be mutually agreed by all four parties and executed in writing before becoming effective. Any addendum or amendment to the AGREEMENT shall be executed in the same manner as provided by law for the execution of the AGREEMENT.

## **8. DISPUTE RESOLUTION**

The parties mutually agree to use a formal dispute process such as mediation, through an agreed upon mediator and process, if agreement cannot be reached regarding interpretation or implementation of any provision of this AGREEMENT. All costs for mediation services would be divided equally among the parties to the dispute. Each party would be responsible for the costs of their own legal representation, PROVIDED THAT nothing in this paragraph should be construed to negate the various obligations to defend set forth in section 10, below.

## **9. EFFECTIVE DATE, DURATION AND TERMINATION**

- 9.1 This AGREEMENT shall become effective following the approval of the AGREEMENT by the official action of the governing bodies of each of the parties hereto and the signing of the AGREEMENT by the duly authorized representative of each of the parties hereto. Unless mutually extended by all four parties, this AGREEMENT shall terminate at the end of 2008.

- 9.2 This AGREEMENT may be terminated upon mutual agreement of all four parties. Any mutual termination shall become effective ninety (90) days following written amendment to the AGREEMENT executed by the parties.
- 9.3 The funds provided by BOTHELL, WOODINVILLE and NORTHSORE, pursuant to sections 4, 5 and 6 of this AGREEMENT, are intended to provide a short-term continuation of operation of the Northshore Pool, and shall not continue beyond 2008. Should a new publicly owned swimming pool facility be constructed in the Northshore area during the term of this AGREEMENT, the obligations of BOTHELL, WOODINVILLE and NORTHSORE under this AGREEMENT shall cease upon the opening for operation of that new swimming pool facility even if such opening occurs prior to the end of 2008.

## **10. INDEMNIFICATION AND LIABILITY**

- 10.1 NORTHWEST shall protect, save harmless, indemnify, and defend, at its own expense, the other parties, their elected and appointed officials, officers, employees and agents, from any loss or claim for damages of any nature whatsoever brought by any third party, but only to the extent such loss or claim results from NORTHWEST's failure to comply with any duty or obligation undertaken by it under this Agreement, or any negligence or willful misconduct of NORTHWEST in carrying out its duties and obligations under this Agreement including claims by NORTHWEST's employees or third parties.
- 10.2 BOTHELL shall protect, save harmless, indemnify, and defend, at its own expense, the other parties, their elected and appointed officials, officers, employees and agents, from any loss or claim for damages of any nature whatsoever brought by any third party, but only to the extent such loss or claim results from BOTHELL's failure to comply with any duty or obligation undertaken by it under this Agreement, or any negligence or willful misconduct of BOTHELL in carrying out its duties and obligations under this Agreement including claims by BOTHELL's employees or third parties.
- 10.3 WOODINVILLE shall protect, save harmless, indemnify, and defend, at its own expense, the other parties, their elected and appointed officials, officers, employees and agents, from any loss or claim for damages of any nature whatsoever brought by any third party, but only to the extent such loss or claim results from WOODINVILLE's failure to comply with any duty or obligation undertaken by it under this Agreement, or any negligence or willful misconduct of WOODINVILLE in carrying out its duties and obligations under this Agreement including claims by WOODINVILLE's employees or third parties.
- 10.4 NORTHSORE shall protect, save harmless, indemnify, and defend, at its own expense, the other parties, their elected and appointed officials, officers, employees and agents, from any loss or claim for damages of any nature whatsoever brought by any third party, but only to the extent such loss or claim

results from NORTSHORE's failure to comply with any duty or obligation undertaken by it under this Agreement, or any negligence or willful misconduct of NORTSHORE in carrying out its duties and obligations under this Agreement including claims by NORTSHORE's employees or third parties.

10.5 In the event of any party's liability for damages of any nature whatsoever arising out of the performance of this AGREEMENT by any party, including claims by any party's own officers, officials, employees, agents, or volunteers, or claims by third parties, caused by or resulting from the concurrent negligence of two or more parties, their officers, officials, employees or volunteers, each party's liability hereunder shall be limited to the extent of that party's negligence.

10.6 No liability shall be attached to any party by reason of entering into or performing this AGREEMENT except as expressly provided herein.

10.7 It is further specifically and expressly understood that each party's indemnification provided herein constitutes each party's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section 10 shall survive the expiration or termination of this Agreement.

## **11. INSURANCE**

From January 1, 2006 through December 31, 2008, NORTHWEST shall maintain Commercial General Liability insurance coverage of not less than \$1 million each occurrence and \$3 million general aggregate.

## **12. SEVERABILITY**

Should a court of competent jurisdiction declare any clause, phrase, sentence or paragraph of this AGREEMENT invalid or void, the remaining provisions of this AGREEMENT not so declared shall remain in full force and effect.

## **13. EXERCISE OF RIGHTS OR REMEDIES**

Failure of any party to exercise any rights or remedies under this AGREEMENT shall not be a waiver of any obligation by either party and shall not prevent either party from pursuing that right at any future time.

## **14. RECORDS**

The parties shall maintain adequate records to document obligations performed under this AGREEMENT. The parties shall have the right to review every other party's records with regard to the subject matter of this AGREEMENT, upon reasonable notice.

15. ENTIRE AGREEMENT

This AGREEMENT constitutes the entire AGREEMENT between the parties with respect to the maintenance and operation of the Northshore Pool.

16. GOVERNING LAW AND STIPULATION OF VENUE

This AGREEMENT shall be governed by the laws of the State of Washington. Any action hereunder must be brought in the Superior Court of Washington for King County.

17. CONTACTS FOR AGREEMENT. The contact persons for this AGREEMENT are:

David Wunderlin  
Chief Executive Officer  
Northwest Center  
1600 W. Armory Way  
Seattle, WA 98119  
206-285-9140

Manny Ocampo  
Assistant City Manager  
City of Bothell  
18305 101<sup>st</sup> Avenue NE  
Bothell, WA 98011  
425-486-3256

Lane Youngblood  
Parks & Recreation Director  
City of Woodinville  
17301 133rd Avenue NE  
Woodinville, WA 98072  
425-489-2700 x2286

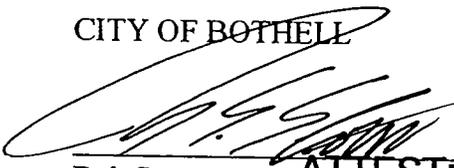
Dr. Karen A. Forys  
Superintendent  
Northshore School District  
3330 Monte Villa Parkway  
Bothell, WA 98021-8972  
425-489-6353

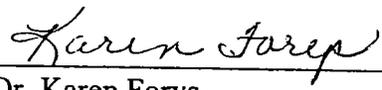
IN WITNESS WHEREOF, the parties have signed this AGREEMENT, effective on the date indicated below.

Dated this 1<sup>st</sup> day of January, 2005.

CITY OF BOTHELL

NORTHSHORE SCHOOL DISTRICT

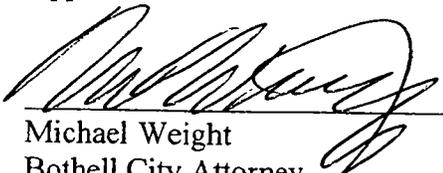
  
\_\_\_\_\_  
Bob Stowe  
City Manager

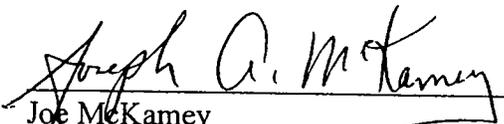
  
\_\_\_\_\_  
Dr. Karen Forys  
Superintendent

  
\_\_\_\_\_  
BOTHELL CITY CLERK

Approved as to form:

Approved as to form:

  
\_\_\_\_\_  
Michael Weight  
Bothell City Attorney

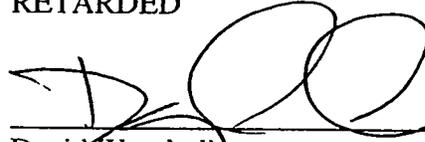
  
\_\_\_\_\_  
Joe McKamey  
School District General Counsel

CITY OF WOODINVILLE

NORTHWEST CENTER FOR THE  
RETARDED

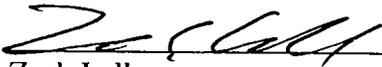


\_\_\_\_\_  
Donald D. Rose  
City Manager



\_\_\_\_\_  
David Wunderlin  
Chief Executive Officer

Approved as to form:



\_\_\_\_\_  
Zach Lell  
Woodinville City Attorney

**POOL USAGE**

Northshore shall pay NORTHWEST for Pool usage at the rate of \$46.00 per hour for the three-year period during which Northshore has agreed to provide support pursuant to Section 6 hereof.

Northshore shall be allowed and provided exclusive use of the pool facilities on the leased premises during such times and days as currently utilized by the District (i.e., 2:30 p.m. to 6:00 p.m., Mondays through Fridays during the months of August through February), or during such additional or other time periods as may be mutually agreed upon by the parties; provided that, the School District may, from time to time and in its sole discretion, elect to reduce the hours or even eliminate its use of the pool, upon giving 30 days written notice of its intent to do so, in which event the District's hourly use payments shall be reduced accordingly. To govern the District's use of the pool facilities, the parties agree to negotiate in good faith to either assign to NORTHWEST the existing Pool Use Agreement (and the agreement incorporated therein by reference) between the County and the District, or to enter into a new pool use agreement covering substantially the same matters, and on substantially similar terms; provided that such pool use agreement may not be inconsistent with this Section 4(b).

This Exhibit A shall be subject to further negotiation in good faith from time to time to supplement the terms hereof with additional terms concerning the parties' usage of the Pool.

**ADDENDUM NO. 1**

03-001

**ADDENDUM TO  
AGREEMENT BETWEEN  
NORTHWEST CENTER,  
THE CITY OF BOTHELL,  
THE CITY OF WOODINVILLE, AND  
THE NORTSHORE SCHOOL DISTRICT  
CONCERNING THE OPERATION OF THE NORTSHORE POOL**

**THIS ADDENDUM** is made and entered into this 16th day of February, 2009, by the City of Bothell, a Washington municipal corporation (hereinafter "BOTHELL"), the City of Woodinville, a Washington municipal corporation (hereinafter "WOODINVILLE"), the Northshore School District, a municipal corporation organized and existing under the laws of the State of Washington (hereinafter "NORTSHORE") and Northwest Center, a § 501(c)(3) private non-profit corporation (hereinafter "NORTHWEST") as an addendum to the Agreement between the parties for operation and funding of the Northshore Pool executed on the 1st day of January, 2005.

WITNESSETH:

WHEREAS, the parties wish to revive and amend the prior agreement (Exhibit A) in order to provide continued funding for operation of the Northshore Pool.

NOW THEREFORE in consideration of their mutual covenants, conditions and promises, the PARTIES HERETO HEREBY AGREE as follows:

ITEM ONE: REVISION TO NORTHWEST RESPONSIBILITIES: That Section 3.1 of the Agreement is amended to read as follows:

- 3.1 Maintenance & Operation of Northshore Pool. NORTHWEST shall own, maintain and operate the Northshore Pool, located on NORTSHORE property at 9815 NE 188th Street, Bothell, Washington during the term of this agreement which begins January 1, 2009. NORTHWEST shall also make any capital improvements to the Northshore Pool that are necessary and reasonable to allow it to fulfill its commitment to operate the pool; provided, however, that NORTHWEST shall have no obligation to make any capital improvements or repairs that are necessitated by an act of nature or other event beyond the control of NORTHWEST. BOTHELL, WOODINVILLE, and NORTSHORE each acknowledge and agrees that if any one or more of them fails to provide the funding support set forth in Sections 4 through 7, and NORTHWEST is unable to find an alternate third party source of operating support, NORTHWEST may mothball and ultimately close the Pool, terminate the Lease, and convey title to the Pool to NORTSHORE, as further provided in the Lease, the Lease

Assignment, and/or the Pool Transfer Agreement between King County and NORTHWEST.

ITEM TWO: REVISION TO RESPONSIBILITIES OF BOTHELL: That Section 4.1 of the Agreement is amended to read as follows:

In consideration of NORTHWEST operating and maintaining the Northshore Pool at the levels of service specified herein, BOTHELL shall pay NORTHWEST as follows:

Fifty thousand dollars (\$50,000.00) in 2009, in equal monthly payments, beginning January 1, 2009 or as soon thereafter as this Addendum may be approved.

Thirty-three thousand three hundred thirty-four dollars (\$33,334.00) for January 1, 2010 through August 31, 2010, in equal monthly payments, beginning January 1, 2010.

ITEM THREE: REVISION TO RESPONSIBILITIES OF WOODINVILLE: That Section 5.1 of the Agreement is amended to read as follows:

In consideration of NORTHWEST operating and maintaining the Northshore Pool at the levels of service specified herein, WOODINVILLE shall pay NORTHWEST as follows:

Twenty-five thousand dollars (\$25,000.00) in 2009, in equal monthly payments, beginning January 1, 2009 or as soon thereafter as this Addendum may be approved.

Sixteen thousand six hundred sixty-seven and 50/100 dollars (\$16,666.50) for January 1, 2010 through August 31, 2010, in equal monthly payments, beginning January 1, 2010.

ITEM FOUR: REVISION TO RESPONSIBILITIES OF NORTSHORE: That Section 6.1 of the Agreement is amended to read as follows:

In consideration of NORTHWEST operating and maintaining the Northshore Pool at the levels of service specified herein, NORTSHORE shall pay NORTHWEST as follows:

Twenty-five thousand dollars (\$25,000.00) in 2009, in equal monthly payments, beginning January 1, 2009 or as soon thereafter as this Addendum may be approved.

Sixteen thousand six hundred sixty-seven and 50/100 dollars (\$16,666.50) for January 1, 2010 through August 31, 2010, in equal monthly payments, beginning January 1, 2010.

ITEM FIVE: REVISION TO EFFECTIVE DATE, DURATION AND TERMINATION: That Section 9 of the Agreement is amended to read as follows:

## 9. EFFECTIVE DATE, DURATION AND TERMINATION

- 9.1 This AGREEMENT shall become effective following the approval of the AGREEMENT by the official action of the governing bodies of each of the parties hereto and the signing of the AGREEMENT by the duly authorized representative of each of the parties hereto. Unless mutually extended by all four parties, this AGREEMENT shall terminate on August 31, 2010.
- 9.2 This AGREEMENT may be terminated by any party hereto, at any time. Any such termination shall become effective ninety (90) days following written notice to the other parties. For the sake of clarity, it is understood and agreed that all funding obligations set out in this AGREEMENT will continue during the 90 day period.
- 9.3 The funds provided by BOTHELL, WOODINVILLE and NORTSHORE, pursuant to sections 4, 5 and 6 of this AGREEMENT, are intended to provide a short-term continuation of operation of the Northshore Pool, and shall not continue beyond August 31, 2010. Should a new publicly owned swimming pool facility be constructed in the Northshore area during the term of this AGREEMENT, the obligations of BOTHELL, WOODINVILLE and NORTSHORE under this AGREEMENT shall cease upon the opening for operation of that new swimming pool facility even if such opening occurs prior to the August 31, 2010.

ITEM SIX: REVISION TO INSURANCE: That Section 11 of the Agreement is amended to read as follows:

### 11. INSURANCE

From January 1, 2009 through August 31, 2010, NORTHWEST shall maintain Commercial General Liability insurance coverage of not less than \$1 million each occurrence and \$3 million general aggregate.

ITEM SEVEN: REMAINING TERMS UNCHANGED: That all other provisions of the Agreement between the parties for operation and funding of the Northshore Pool executed on the 1st day of January, 2005, shall remain unchanged, and in full force and effect.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written.

CITY OF BOTHELL

NORTHSHORE SCHOOL DISTRICT

ROBERT S. STOWE  
CITY MANAGER

LARRY FRANCOIS  
SUPERINTENDENT

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to form:

Approved as to form:

Joseph N. Beck  
Bothell City Attorney

School District General Counsel

CITY OF WOODINVILLE  
BY:

RICHARD LEAHY  
CITY MANAGER

Date: \_\_\_\_\_

Approved as to form:

Woodinville City Attorney

NORTHWEST CENTER  
BY:

TOM EVERILL  
CHIEF EXECUTIVE OFFICER

Date: 2/16/09

Approved as to form:

Attorney for Northwest Center