

## CITY-OWNER CONTRACT

THIS AGREEMENT, made this 6<sup>th</sup> day of July, 2006, between the City of Rochester, a Minnesota municipal corporation, (hereinafter referred to as "City"), and Rochester Active Sports Club., a Minnesota non-profit corporation (hereinafter "RASC")

### WITNESSETH, THAT WHEREAS

1. The City is the owner of real property commonly referred to as Quarry Hill Park, located at 701 Silver Creek Road NE, Rochester MN 55906, hereinafter referred to as "Quarry Hill Park".
2. RASC has requested permission to do, at its own expense, certain construction and trail grooming work in Quarry Hill Park. The work (hereinafter referred to as the "Project") consists of preparing and maintaining trails for Cross Country skiing. The Project will involve cutting and disposing of brush and small trees, leveling minor amounts of soil on or adjacent to the trails, providing erosion protection, placing wood chips on the trails, and in the winter grooming the trails for public use as cross country ski trails during the winter and for hiking during non skiing conditions. It is recognized by both parties that the trails constructed under this project are not to be used for or promoted for mountain biking. The general location of the project is shown in Addendum A.
3. City is willing to grant RASC permission to do the Project itself at its own expense, on the condition that the work be done under the general inspection of the Rochester Park Department. The Park Department shall have final authority to approve or disapprove of the means and methods proposed by RASC to complete the project.

NOW, THEREFORE, it is hereby mutually agreed between City and RASC as follows:

1. RASC Obligations. RASC hereby covenants and agrees to furnish all materials, all necessary tools and equipment, and to do and perform all the work and labor necessary in the construction of the Project hereinabove described.

A. RASC shall acquire a snowmobile and grooming equipment for use by RASC to groom the completed trails

B. RASC will establish grooming standards and schedules and make these available for Park Department distribution to the public

C. RASC shall perform trail construction activities to produce a 4-6 K Nordic skate ski trail. The trail construction to:

- a. widen existing trails;
- b. revegetate trails via seeding with grass seeding;
- c. route trails to minimize removal of large trees and emphasize removal of buckthorn;
- d. maintain a 5 degree or less slope on the base trail
- e. uphill side of trail sloped to 45 degree or less
- f. route trails to traverse the slope rather than run up / down the slope
- g. berm turns and grade reversals to manage water flow on uphill grades.

D. RASC, with Park Department approval, shall have the authority to restrict access to areas of Quarry Hill Park at such times as project work including trail grooming is being done or the project area is not considered safe for general public access.

Failure to do everything required by this agreement may be used as a basis for denying RASC the opportunity to construct other public improvement projects within the City under the City-Owner contract format.

2. Completion Date. RASC agrees that all work which is subject to this contract shall be done in three phases with Phase I to be completed in 2006, Phase II in 2007 and Phase III in 2008.

3. Contract Documents. The contract documents consist of the City Owner Contract

4. Easements. Not applicable

5. Maintenance: Ownership. City accepts no responsibility for the maintenance of the work performed until such work is accepted by City. When accepted by the City, the improvements shall become the property of the City without any further acts or deeds of the RASC, except that RASC guarantees and agrees to maintain the stability of any work done and materials furnished and installed pursuant to this contract for the period of two years after the work is accepted by City. The City will provide mowing as needed on the completed trails.

6. Non-acceptance: Contractor's Obligation. RASC, within 14 days after receiving notice from the City that the project, or a portion thereof, has

not been constructed in accordance with City requests or has not been accepted, shall perform such work identified as needing completion or correction, or shall provide a written schedule identifying the work to be done and the time in which it will be performed. Failure to perform the work or provide and abide by a schedule may be used as a basis for denying RASC the opportunity to construct other public improvement projects on Owner's land under the City-Owner contract format.

7. Safety. RASC agrees to take all precautions necessary to protect RASC members and the public against injuries, and keep danger signals at all places and at such times as the public safety may require.

8. Independent Contractor. It is expressly understood and agreed that RASC is an independent contractor and all persons employed by RASC or providing volunteer service in the performance of any work or services required or provided for herein, shall not be considered employees of the City for any purpose whatsoever, including, but not limited to, worker's compensation coverage, unemployment insurance benefits, social security coverage, retirement membership or credit, and any and all such claims and any act or omission on the part of RASC employees / members while engaged in any work or services under this agreement shall in no way be the obligation or responsibility of City.

9. Insurance. RASC agrees to, at its own expense, procure and maintain for a period ending two years after the work is accepted by the City, a general liability insurance policy naming the City of Rochester as an additional insured, with bodily injury limits of at least \$1,000,000/\$1,000,000 and property damage limits of at least \$500,000, and file such policy of insurance, or a certificate of such insurance, with the City Clerk. RASC further agrees to maintain insurance on its equipment and to maintain insurance on all equipment in the performance of this contract with bodily injury limits of at least \$1,000,000/\$1,000,000 and property damage limits of at least \$500,000, naming the City of Rochester as an additional insured, and to file a certificate or certificates of such automobile insurance with the City Clerk. RASC shall also file with the City Clerk a certificate indicating insurance is in effect for workers' compensation coverage for the specific purpose given.

IN WITNESS WHEREOF, the respective parties hereto have caused this agreement to be duly executed on the day and year hereinabove set forth.

CITY OF ROCHESTER, a Minnesota

ROCHESTER ACTIVE SPORTS CLUB

municipal corporation

a Minnesota non-profit corporation

By \_\_\_\_\_

By \_\_\_\_\_

ITS MAYOR

ITS PRESIDENT

The foregoing instrument was acknowledged before me this day of July 2006 by Ardell F. Brede and Judy K. Scherr, the Mayor and City Clerk, respectively, of the City of Rochester, a Minnesota municipal corporation, for and on behalf of the corporation.