

TEMPORARY USE AGREEMENT

THIS AGREEMENT FOR TEMPORARY USE ("Agreement") is dated effective the 16th day of June, 2008 and is entered into between the City of Mercer Island, a Washington municipal corporation ("City") and the Seattle Housing and Resource Effort ("SHARE") a registered 501(c)(3) non-profit alliance and Women's Housing Equality and Enhancement League ("WHEEL"), a non-profit alliance ("SHARE/WHEEL") and Mercer Island United Methodist Church ("Church").

RECITALS

- A. The Seattle Housing and Resource Effort ("SHARE") and the Women's Housing Equality and Enhancement League ("WHEEL"), non-profit organizations experienced in operating and managing temporary encampments for homeless individuals, have collaborated to provide temporary housing on the Eastside of King County, under the designation "Tent City 4."
- B. Tent City 4 encampments operate under a strictly enforced Code of Conduct to protect the health and safety of Tent City 4 residents and to protect the host community from any negative effects of an encampment.
- C. Both the First Amendment to the United States Constitution and Article 1, Section 11 of the Washington State Constitution protect the free exercise of religion; further, the Religious Land Use and Institutionalized Persons Act of 2000 prohibits governments from imposing a land use regulation that unreasonably limits religious assemblies, institutions or structures. Court decisions hold that a church sponsoring a Temporary Homeless Encampment on its own property constitutes protected religious expression.
- D. The faith community of Mercer Island welcomes Tent City 4 to Mercer Island and pledges its support and assistance for a safe and positive experience for residents of both Tent City and the greater Mercer Island community.
- E. The Mercer Island United Methodist Church has extended a specific invitation for Tent City 4 to operate a Temporary Homeless Encampment on its property for a period not to exceed 93 days, beginning not earlier than August 5, 2008.
- F. Beginning in May 2004, Tent City 4 has had successful stays in several Eastside Cities including Bellevue, Bothell, Issaquah, Kirkland, Redmond, as well as in unincorporated communities in east King County including Finn Hill and Cottage Lake. Tent City 4 has accepted invitations to return to some of these jurisdictions after positive Tent City 4 experiences.
- G. The City of Mercer Island, its elected and appointed officials are committed to protect the health, safety and well-being of its citizens, as mandated by the State Constitution.

H. The Mercer Island City Code does not anticipate a Temporary Homeless Encampment such as that operated by SHARE/WHEEL, and none of the City's regulations or administrative procedures address this special use.

I. In keeping with the duties and responsibilities of municipal government, the City of Mercer Island must apply to the Tent City 4 encampment and the hosting Mercer Island United Methodist Church all the public safety, health and welfare protections routinely provided to Mercer Island citizens and visitors.

AGREEMENT

1. **Definitions.** For purposes of this Agreement, the following terms will have the following meanings:

"Temporary Homeless Encampment" shall mean a transient or interim gathering or community comprised of temporary enclosures (tents and other forms of portable shelter that are not permanently attached to the ground), which may include common areas designed to provide food, living and sanitary services to occupants of the encampment.

"Church" shall mean the United Methodist Church that has an agreement with SHARE/WHEEL to provide basic services and support for the residents of a Temporary Homeless Encampment and liaison with the surrounding community.

2. **Length of Stay.** SHARE/WHEEL and the Church will not host, sponsor or manage more than one Temporary Homeless Encampment in Mercer Island in any twelve month period, and the length of stay for such Temporary Homeless Encampment shall not exceed 93 days. No more than one Temporary Homeless Encampment will be maintained at any one time by SHARE/WHEEL within the city limits.
3. **Conditions.** SHARE/WHEEL and the Church will not host, sponsor or manage any Temporary Homeless Encampment on Mercer Island except in accordance with the following conditions and other provisions of this Agreement:
 - (i) **20' Setback.** The Temporary Homeless Encampment shall be located a minimum of 20 feet from the property line of abutting residential properties.
 - (ii) **Sight obscuring fence or screen.** A sight obscuring fence, vegetative screen or other visual buffering shall be provided between the Temporary Homeless Encampment and any abutting residential property. The purpose of this fence or screen is to provide a reasonable degree of privacy and visual buffering among neighboring properties. The Code Official shall consider existing vegetation, fencing, topographic variations and other site conditions in determining compliance with this requirement.
 - (iii) **Exterior Lighting.** Exterior lighting must be directed downward, away from adjoining properties, and contained within the Temporary Homeless Encampment.
 - (iv) **Maximum Residents.** The maximum number of residents within the Temporary Homeless Encampment is 100. In exigent circumstances, this number may be exceeded if a person or persons seek shelter overnight.

(v) Parking. A minimum of twenty-six (26) off-street parking spaces shall be maintained on Mercer Island United Methodist Church property on Saturdays, Sundays and after 6:00 PM on weekdays. A minimum of eight (8) off-street parking spaces shall be maintained on Mercer Island United Methodist Church property at all other times. During occasional events or gatherings where this parking capacity will be exceeded, visitors will be directed to available public on-street parking and, if necessary, to the public parking lot at the Park on the Lid.

(vi) Proximity to Transit. The Temporary Homeless Encampment shall be located within reasonable walking distance of transit service. The Parties acknowledge that the nearest transit service is located immediately across the street from the Church.

(vii) Children Prohibited. No children under the age of 18 are allowed to stay overnight in the Temporary Homeless Encampment. In exigent circumstances, if a child under the age of 18 attempts to stay overnight at the Temporary Homeless Encampment, the Encampment managers will immediately contact SHARE/WHEEL, and SHARE/WHEEL will contact Child Protective Services.

(viii) Code of Conduct. SHARE/WHEEL requires its residents to comply with a Code of Conduct, attached hereto as Exhibit A and incorporated into this Agreement as though fully set forth herein.

(ix) Compliance with Codes. SHARE/WHEEL and the Church shall comply with lawful Washington State and City codes concerning but not limited to, drinking water connections, human waste, solid waste disposal, electrical systems, cooking and food handling and fire resistant materials.

(x) Identification. SHARE/WHEEL shall obtain verifiable identification from prospective encampment residents and use the identification to obtain sex offender and warrant checks from the appropriate agency. Warrant checks are done before someone is permitted to become an encampment resident. SHARE/WHEEL shall report any positive results of sex offender or warrant checks to the Mercer Island Police Department, and comply with all requirements of the Mercer Island Police Department related to prospective residents identified as sex offenders or as having outstanding warrants. SHARE/WHEEL shall not allow any person to reside in the Temporary Homeless Encampment who has not completed a warrant check and registered sex offender check from the appropriate agency.

(xi) Inspections. SHARE/WHEEL and the Church shall permit regular inspections by the City and/or King County Health Department to check compliance with the standards for encampments. The Mercer Island Fire Department shall do an initial fire inspection and safety meeting at the inception of the Temporary Homeless Encampment at the Church.

4. Notice and Permit Requirements for Temporary Homeless Encampments.

(i) Public Meeting. A minimum of 20 calendar days prior to opening date of Temporary Homeless Encampment, SHARE/WHEEL and the Church shall conduct a neighborhood public information meeting by providing written notice to owners and residents of property within 600 feet of the proposed site, and residents and tenants adjacent to the proposed site. The notice of the neighborhood public information meeting shall also be published in the Mercer Island Reporter not less than 14 days prior to the scheduled

meeting. The Mercer Island Reporter is published each Wednesday and submissions are due at noon the Thursday prior to publication.

The Church shall also provide a designated spokesperson to answer public inquiries, and will state the name and telephone contact information of the designated spokesperson in all public notices.

The purpose of the neighborhood public information meeting is to provide the surrounding community with information regarding the proposed duration and operation of the Temporary Homeless Encampment, conditions that will likely be placed on the operation of the Temporary Homeless Encampment, requirements of the Code of Conduct, and to answer questions regarding the Temporary Homeless Encampment.

(ii) Schools/Daycares. SHARE/WHEEL and the Church shall meet and confer with the administration of any public or private elementary, middle, junior high or high school within 600 feet of the boundaries of the proposed site, and shall meet and confer with the operators of any known child care service within 600 feet of the boundaries of the proposed site. SHARE/WHEEL and the Church shall make a good faith effort to reach agreement with the school administration and/or child care service operator upon any additional conditions that may be appropriate or necessary to address school and/or child care concerns regarding the location of a Temporary Homeless Encampment within 600 feet of such a facility. The Parties are not aware of any schools or child care services within 600 feet of the Church.

5. **Violation of Agreement.** Upon determination that there has been a violation of any term or condition of this Agreement, the City will give written notice to SHARE/WHEEL and the sponsoring Church describing the alleged violation. Within 14 days of mailing of notice of violation, SHARE/WHEEL and the Church will either cure the violation or the Temporary Homeless Encampment use will be terminated.
6. **Indemnification and Hold Harmless.** SHARE/WHEEL and the Church agree that the City is not responsible for the actions, inactions or omissions of SHARE/WHEEL or of any resident of the Temporary Homeless Encampment. SHARE/WHEEL and the Church agree to indemnify, defend and hold the City, its City Council members, employees, agents and volunteers, past and present, harmless from all losses, actions, liabilities for and against any liability for damages to persons or property as the result of: (a) the actions, inactions or omissions of SHARE/WHEEL or of any Encampment resident or of the Church; (b) the City, the Church and SHARE/WHEEL's entry into this Agreement; and (c) the City's entry into the Temporary Homeless Encampment to enforce this Agreement. Provided, however, that the agreement to indemnify, defend and hold harmless set forth herein shall not apply to damages caused by the negligence of the City.
7. **Notice to Parties.** Any written notices required by this Agreement shall be directed to the Parties as follows:

Pastor Leslie Ann Knight
Mercer Island United Methodist Church
7070 SE 24th Street
Mercer Island, Washington 98040

Scott Morrow, SHARE Managing Organizer
SHARE/WHEEL
P.O. Box 2548
Seattle, Washington 98111

Katie H. Knight, Interim City Attorney
9611 SE 36th Street
Mercer Island, Washington 98040

8. **Authority to Sign.** Each person signing this Agreement represents and warrants that he or she is duly authorized and empowered to execute and deliver this Agreement on behalf of the party for whom he or she signs.
9. **General Provisions.** This Agreement contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Agreement. No provision of the Agreement may be amended or modified except by written agreement signed by the Parties. This Agreement shall be binding upon and inure to the benefit of the Parties' successors in interest, heirs and assigns. Any provision of this Agreement which is declared invalid or illegal shall in no way affect or invalidate any other provision. In the event any of the Parties defaults on the performance of any terms of this Agreement or either Party places the enforcement of this Agreement in the hands of an attorney, or files a lawsuit, each Party shall pay all its own attorney fees, costs and expenses. The venue for any dispute related to this Agreement shall be King County, Washington. Failure of the Parties to declare any breach or default immediately upon the occurrence thereof, or delay in taking any action in connection with, shall not waive such breach or default. Time is of the essence of this Agreement and each and all of its provisions in which performance is a factor.

CITY:

SHARE/WHEEL:

CITY OF MERCER ISLAND

**SEATTLE HOUSING AND
RESOURCE EFFORT**

By: 

Richard M. Conrad, City Manager
9611 SE 36th Street
Mercer Island, WA 98040

By: _____
Name: _____

Pastor Leslie Ann Knight
Mercer Island United Methodist Church
7070 SE 24th Street
Mercer Island, Washington 98040

Scott Morrow, SHARE Managing Organizer
SHARE/WHEEL
P.O. Box 2548
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CITY:

CITY OF MERCER ISLAND

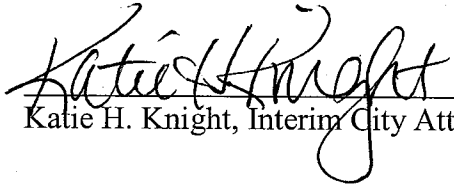
SHARE/WHEEL:

**SEATTLE HOUSING AND
RESOURCE EFFORT**

By: _____
Richard M. Conrad, City Manager
9611 SE 36th Street
Mercer Island, WA 98040

By: 
Name: SCOTT MORROW

APPROVED AS TO FORM:

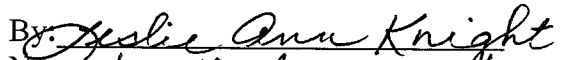

Katie H. Knight, Interim City Attorney

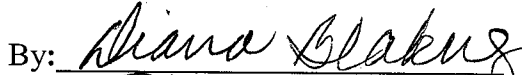
**WOMEN'S HOUSING EQUALITY
AND ENHANCEMENT LEAGUE**

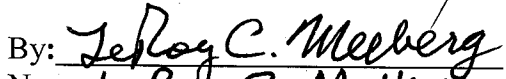
By: _____
Name: _____

CHURCH:

**MERCER ISLAND UNITED
METHODIST CHURCH**

By: 
Name: Leslie Ann Knight

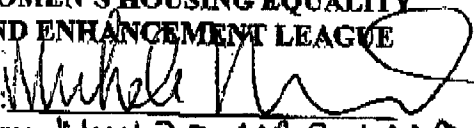
By: 
Name: Diana Blakney

By: 
Name: LeRoy C. Melberg

APPROVED AS TO FORM:

Katie H. Knight, Interim City Attorney

WOMEN'S HOUSING EQUALITY
AND ENHANCEMENT LEAGUE

By: 
Name: MICHELE MARZIANI

CHURCH:

MERCER ISLAND UNITED
METHODIST CHURCH

By: _____
Name: _____

By: _____
Name: _____

By: _____
Name: _____

EXHIBIT "A"

TENT CITY 4 CODE OF CONDUCT

WE, THE PEOPLE OF SHARE/WHEEL, IN ORDER TO KEEP A MORE HARMONIOUS COMMUNITY, ASK THAT YOU OBSERVE THE FOLLOWING CODE OF CONDUCT:

- SHARE/WHEEL'S TENT CITY 4 IS A DRUG AND ALCOHOL FREE ZONE. THOSE CAUGHT DRINKING OR USING DRUGS WILL BE ASKED TO LEAVE. SOBRIETY IS REQUIRED.
- NO WEAPONS ARE ALLOWED. KNIVES OVER 3-1/2 INCHES MUST BE CHECKED IN.
- VIOLENCE WILL NOT BE TOLERATED. PLEASE ATTEMPT TO RESOLVE ANY CONFLICT IN A CREATIVE AND NONVIOLENT MANNER.
- DEGRADING ETHNIC, RACIST, SEXIST OR HOMOPHOBIC REMARKS ARE NOT ACCEPTABLE. NO PHYSICAL PUNISHMENT, VERBAL ABUSE OR INTIMIDATION WILL BE TOLERATED.
- WE ARE A COMMUNITY. PLEASE RESPECT THE RIGHTS AND PRIVACY OF YOUR FELLOW CITIZENS.
- NO MEN IN THE WOMEN'S TENTS.
- NO WOMEN IN THE MEN'S TENTS.
- NO OPEN FLAMES.
- NO LOITERING OR DISTURBING NEIGHBORS.
- NO TRESPASSING.
- ATTENDANCE OF AT LEAST ONE OF THE SEVERAL COMMUNITY MEETINGS HELD THROUGH THE WEEK IS REQUIRED.
- DAYS AND TIMES WILL BE POSTED SO THAT YOU MAY WORK IT INTO YOUR SCHEDULE.

IF THESE RULES ARE NOT RESPECTED AND ENFORCED, TENT CITY 4 MAY BE PERMANENTLY CLOSED.