

**INTERLOCAL AGREEMENT
BETWEEN THE CITY OF NORTH BEND AND SI VIEW
METROPOLITAN PARK DISTRICT
REGARDING PARK IMPACT FEES**

THIS AGREEMENT is dated effective the 15th day of June 2019 and is made between the City of North Bend, a Washington municipal corporation (the “City”) and Si View Metropolitan Park District, a Washington municipal park district (the “District”).

I. RECITALS

WHEREAS, the City is a municipal corporation of the State of Washington, organized and operating under the Optional Municipal Code, Title 35A RCW; and

WHEREAS, the District is a municipal corporation of the State of Washington, organized and operating under 35.61 RCW; and

WHEREAS, this Agreement is made under the authority of the Interlocal Cooperation Act, chapter 39.34 RCW; and

WHEREAS, the City and the District are stewards of public lands in the City, and the parties recognize that through cooperation, these publicly-held lands can be used to meet broader community needs for recreation and open space than either party can provide separately; and

WHEREAS, the City and District have reached an agreement regarding the construction of the “Tanner Trail Project,” a project which will include a paved trail with pedestrian full cut off lights along North Bend Way, starting from 424th Avenue Southeast and North Bend Way, and terminating at the roundabout, more specifically described in Exhibit A (Tanner Trail Project);

WHEREAS, the City and District have reached an agreement regarding the construction of the “Tollgate Farm Park to Downtown Trail” project, a project which will include a pedestrian trail and streetscape improvements along West North Bend Way, starting from Northeast 8th Street and terminating south of the South Fork Snoqualmie River more specifically described in Exhibit A (Tollgate Farm Park to Downtown Trail Project);

WHEREAS, the District passed a certain Bond measure known as Proposition 1 Connect and Protect Parks, Trails and Recreational Facilities, providing for the construction of certain new park improvements some of which are located within North Bend more specifically described in Exhibit A to this Agreement and having an estimated construction cost of approximately Ten Million Dollars (\$10,000,000) (Park Projects);

WHEREAS state law authorizes the City to impose park impact fees for “publicly owned parks, open space and recreation facilities” (“PIF”). See RCW 82.02.050;

WHEREAS, the City collects PIF from new developments and is obligated to spend PIF on projects described in the City’s Park Capital Facilities Plan within a certain period of time;

WHEREAS, the Park Projects are listed as future City park projects in the City’s Park Capital Facilities Plan; and

WHEREAS, the City wishes to allocate a certain percentage of PIF it collects each year to the District to be invested in the Park Projects.

NOW, THEREFORE, it is agreed by and between the City and the District as follows:

II. AGREEMENT

1. Scope and Purpose.

- a. Description of Property and Improvements. The subject of this Agreement is the construction of the Park Projects and the transfer of PIF to the District.
- b. Joint Use of Park Projects. The parties agree that the Park Projects and any associated improvements are intended to be used jointly for recreation purposes for the benefit of the District and the City at large.

2. Construction, Maintenance, Repairs, and Operation of Trail Projects.

- a. City Design, Construction and Maintenance. The City shall design and construct the Tanner Trail Project and Tollgate Farm Park to Downtown Trail (collectively the “Trail Projects”). Regular, customary and ongoing maintenance, repairs, and operation of the Trail Projects shall be the responsibility of the City, including but not limited to, mowing, irrigation, landscape maintenance, and refuse collection.
- b. District Responsibility. The City will advertise the Trail Projects for bid and the District will transfer to the City from the Bond proceeds an amount equal to the lowest bid by a responsible and responsive bidder. The engineer’s estimate for the Trail Projects is an amount equal to \$632,301.00. The District will transfer this payment upon the City Council’s award of the bid or bids for the Trail Projects.

3. Fees and Charges. There shall be no user fees for the use of the Park Projects, with the exception of Special Events which require a permit from the City and/or the District or in the event the City and District agree in writing upon a fee schedule.

4. **City Contributions for Park Projects.** In order to construct the Park Projects within North Bend, the City shall pay the District forty eight percent (48%) of all PIFs collected during the next five (5) years until the City has transferred one million dollars (\$1,000,000.00) to the District; provided, however, that the City shall repay with PIF any existing commitments on PIF including repayment of other City funds used for the acquisition of the Tennant Trailhead Park and construction of the City Hall Tanner Trail prior to this 48% PIF transfer occurring. In addition to this amount and to the extent the City collects additional PIF for other projects included in the Park Element of the City's Capital Facilities Plan the City may remit those impact fees to the District for the purpose of constructing any park improvements described in the City's Park Element, subject to the District's consent to receive such funds and to be responsible for making such park improvements. It is within the sole discretion of the City what, if any, improvements are included in the City's Capital Facilities Plan.
5. **Independent Contractor.** Each party to this Agreement is an independent contractor with respect to the subject matter herein.
6. **Indemnification.**
 - a. The City shall indemnify, defend, and hold harmless the District, its agents, and employees from and against any and all liability arising from injury or death to persons or damage to property resulting in whole or in part from negligent acts or omissions of the City, its agents, servants, officers, or employees, irrespective of whether such act or omission it is alleged or claimed that an act of the District, its agents, or employees caused or contributed thereto. In the event that the District shall elect to defend itself against any claim or suit arising from such injury, death, or damage, the City shall, in addition to indemnifying and holding the District harmless from any liability, indemnify the District for any and all expenses incurred by the District in defending such claim or suit, including reasonable attorneys' fees.
 - b. The District shall indemnify, defend, and hold harmless the City, its agents, and employees from and against any and all liability arising from injury or death to persons or damage to property resulting in whole or in part from negligent acts or omissions of the District, its agents, servants, officers, or employees, irrespective of whether such act or omission it is alleged or claimed that an act of the City, its agents, or employees caused or contributed thereto. In the event that the City shall elect to defend itself against any claim or suit arising from such injury, death, or damage, the District shall, in addition to indemnifying and holding the City harmless from any liability, indemnify the City for any and all expenses incurred by the City in defending such claim or suit, including reasonable attorneys' fees.

7. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. Any provisions of this Agreement that prove to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provision hereof, and such other provisions shall remain in full force and effect.
8. Assignability. The rights, duties, and obligations of either party to this Agreement may not be assigned to any third party without the prior written consent of the other party, which consent shall not be unreasonably withheld.
9. No Third-Party Rights. Except as expressly provided herein, nothing in this Agreement shall be construed to permit anyone other than the parties hereto and their successors and assigns to rely upon the covenants and agreements herein contained nor to give any such third party a cause of action (as a third-party beneficiary or otherwise) on account of any nonperformance hereunder.
11. Entire Agreement and Modifications. This Agreement constitutes the entire Agreement between the parties and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind any of the parties hereto. No provision of this Agreement may be amended or modified except by written agreement signed by the parties.
12. Term and Termination. The term of this Agreement shall commence on the date first shown above and shall be in effect for a period of ten (10) years. This Agreement will automatically renew for successive ten (10) year terms unless either party elects to terminate it by providing written notice to the other party at least twelve (12) months prior to the proposed termination date.
13. Filing with Auditor and Interlocal Cooperation Act Compliance. This Agreement shall be filed with the King County Auditor or listed by subject on the City's website or other electronically retrievable public source, pursuant to RCW 39.34.040. No separate legal entity has been created pursuant to this Agreement, and the City and District do not intend to jointly acquire or hold title property the under the terms of this Agreement. The disposition of the Property at the end of the term of the Agreement is provided for in Section 9.
14. Insurance.
 - a. The City shall maintain in full force throughout the duration of this Agreement comprehensive general liability insurance with a minimum coverage of \$1,000,000 per occurrence/aggregate for personal injury and property damage and name the District as an additional insured thereon. This requirement shall be deemed satisfied by evidence of the City's membership in a municipal self-insurance pool, including evidence of limits of coverage, exclusions, and limits of liability satisfactory to the District.

- b. The District shall maintain in full force throughout the duration of this Agreement comprehensive general liability insurance with a minimum coverage of \$1,000,000 per occurrence/aggregate for personal injury and property damage and name the City as an additional insured thereon. This requirement shall be deemed satisfied by evidence of the District's membership in a municipal self-insurance pool including evidence of limits of coverage, exclusions, and limits of liability satisfactory to the City.
15. Dispute Resolution. If a dispute arises between the parties concerning the performance of any provision of this Agreement or the interpretation thereof, the parties agree to follow the procedures set forth herein. It is the goal of the parties to resolve differences as early in this step-process as possible.
- a. Step One – Informal Discussions. Each party shall designate a representative, and the designated representatives shall meet and attempt to resolve the dispute. This step may involve more than one meeting.
- b. Step Two – Written Notification and Resolution. If informal discussions are not successful, then the aggrieved party shall mail, via certified mail, written notice of the dispute to the other party as set forth in Section 17 of this Agreement. The notice shall set forth the nature of the dispute and the desired outcome. A written response shall be provided by the recipient of the notice within ten (10) days of receipt of the certified, mailed notice. The response to the notice shall include the respondent's version of the dispute and a proposed resolution. The parties shall then meet within (10) business days following respondent's answer to determine whether the dispute can be resolved amicably. If the dispute is amicably resolved, the parties shall sign a memorandum of understanding with regard thereto.
- c. Step Three – Mediation. If the parties are unable to resolve their differences at Step Two, the parties will endeavor to settle the dispute by mediation under such mediation rules as shall be agreeable to the parties. Mediation shall be non-binding but a condition precedent to having the dispute resolved pursuant to Step Four - Arbitration, below. Mediation shall commence, unless otherwise agreed, within thirty (30) days of a party's written request to the other party for mediation of a dispute. Any resolution of the dispute at this stage shall be reduced to writing and, if the resolution involves an interpretation of the Agreement herein, the Agreement herein shall be amended to include the interpretation.
- d. Step Four – Arbitration. If the parties are unable to resolve their differences at Step Three, the dispute will be resolved by arbitration. A written notice requesting arbitration must be delivered to the other party. The parties will select an arbitrator by mutual agreement. If the parties cannot agree on an arbitrator within ten (10) working days after service of the arbitration request, then the dispute shall be referred to Judicial Arbitration and Mediation

Services, Inc. ("JAMS"), and an arbitrator will be selected either by agreement of the parties or at random by JAMS if the parties cannot agree upon an arbitrator.

16. Discrimination Prohibited. Neither party shall discriminate against any employee or any person seeking service under this Agreement on the basis of race, color, religion, creed, sex, age, national origin, marital status, or the presence of any sensory, mental or physical handicap.
17. Applicable Law, Venue, and Attorney's Fees. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In the event of any suit, arbitration, or other proceeding instituted to enforce any term of this Agreement, the venue shall be exclusively in the Superior Court for King County, Washington, and the substantially prevailing party shall be entitled, in addition to any other relief, to an award of attorneys' fees, expert witness fees, and costs of suit. The Parties acknowledge that they are represented by attorneys from Kenyon Disend and have explicitly waived any potential conflict arising therefrom.
18. Administrators/Notices. The Administrators listed below, or their successors, shall be the contact persons responsible for all notices and communications regarding the performance under this Agreement.

CITY OF NORTH BEND

SI VIEW M.P.D.

Mark Rigos
Interim City Administrator
P.O. Box 896
North Bend, WA 98045

Travis Stombaugh
Executive Director
P.O. Box 346
North Bend, WA 98045

IN WITNESS WHEREOF, authorized representatives of the parties hereto have signed their names in the spaces set forth below.

CITY OF NORTH BEND

SI VIEW METROPOLITAN PARK DISTRICT

By: 
Kenneth G. Hearing, Mayor

By: 
Travis Stombaugh, Executive Director

Date: June 12, 2019

Date: 5/17/19

Attest: 
Susie Oppedal, City Clerk

Attest: 

Approved As to Form:



Eileen Keiffer, City Attorney

Approved As to Form:



Rachel Turpin, District Attorney

Exhibit A

Projects

Trail Construction:

Tollgate Farm to Downtown Trail

Project Summary and Assumptions: Project will include a sidewalk and streetscape improvements along W North Bend Way, starting from NE 8th Street and terminating south of South Fork Snoqualmie River. Assumes connections to existing sidewalk.

Tollgate Farm to Downtown Trail Concept



Tollgate to SVT Extension

Project Summary and Assumptions: Project will include extending gravel trail from 202 to Snoqualmie Valley trail. Assumes the construction of multiple boardwalks, raingarden and ramp up to SVT.

Tanner Trail Development & Acquisition

Project Summary and Assumptions: Project will include a paved trail along North Bend Way, starting from 424th Avenue SE and North Bend Way and terminating at the roundabout. Assumes connections to existing sidewalk.

Exhibit A

Park Improvements:

Tennant Trailhead Park Development Including KC

Project Summary and Assumptions: Project will include construction of mountain bike and multi-user trails in the Tennant trail natural area. Does not include proposed King County improvements (trailhead, interpretive, parking lot, crossings, and associated items.)

Tollgate Farm Improvements

Agriculture Development – Phase I

Project Summary and Assumptions: Project will include a new barn and covered wash structure, vehicle access improvements and small parking area, water line, and livestock fencing. Does not include acquisition costs, historic gardens, enter signs, etc.; or furnishings and interior utilities beyond pre-fab construction.

Torguson

Project Summary and Assumptions: Project will include supplemental landscaping and irrigation, new cyclone fencing, skate park improvements, Bike Park lighting, new backstop additions and outfield improvements.

William H. Taylor Park & Train Depot Improvements

Project Summary and Assumptions: Project will include remodeling the Train Depot interior to better accommodate public programming and potentially allow for vendor space. Site line and landscaping improvements will occur within the park area and improvements to the pedestrian railroad crossing. A hard scape gathering area could augment the potential vendor space created in the Train Depot building.

Park or Trail Acquisition:

New park and trail acquisitions outside and within the City limits of North Bend connecting greenspaces.