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APPROVED: _____
EFFECTIVE: _____

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

ORDINANCE NO. 02-020

RELATING TO THE SNOHOMISH COUNTY PUBLIC FACILITIES DISTRICT; PROVIDING ADDITIONAL AUTHORITY FOR THE DISTRICT TO JOINTLY ACQUIRE, CONSTRUCT, OPERATE, AND/OR FINANCE REGIONAL CENTERS; MODIFYING THE SUBMITTAL DATE FOR REGIONAL CENTER PROPOSALS; REENACTING ORDINANCE NO. 01-041 AS AMENDED BY ORDINANCE NO. 02-005; AMENDING SCC 2.19.010 AND 2.19.050, AND REPEALING SCC 2.19.090; AND APPROVING AMENDMENTS TO THE CHARTER OF THE DISTRICT.

WHEREAS, by Amended Ordinance No. 01-041 Snohomish County (the "County") created the Snohomish County Public Facilities District (the "County PFD") coextensive with the boundaries of the County for the purpose of exploring the possible joint acquisition, construction, operation and/or financing of one or more Regional Centers with other public facilities districts under the authority of Chapter 36.100 RCW (the "County PFD Act"), RCW 35.57.020 and RCW 82.14.390; and

WHEREAS, a Regional Center is defined in the County PFD Act and in RCW 37.57.020 as "... a convention, conference, or special events center, or any combination of facilities, and related parking facilities, serving a regional population constructed, improved or rehabilitated after July 25, 1999, at a cost of at least Ten Million Dollars (\$10,000,000), including debt service"; and

WHEREAS, Ordinance No. 01-041 originally required that the County PFD identify viable Regional Center projects, if any, and submit a written report to the County Council detailing its final Regional Center project list by December 31, 2001; and

WHEREAS, by Resolution No. 01-015 the County expressed interest in extending the deadline for submission of a final Regional Center project list; and

WHEREAS, by Ordinance 02-005 the County formally extended the deadline for submittal of a final Regional Center project list to April 30, 2002; and

WHEREAS, County PFD revenues are running ahead of projections, costs are below projections, and the County and County PFD are interested in exploring the feasibility of funding additional qualifying Regional Center projects; and

WHEREAS, to allow for the funding of additional Regional Center projects, it is desirable to expand the authority of the County PFD to jointly acquire, construct, operate, and/or finance Regional Centers with other public agencies and, in the case of a Regional Center project located at Paine Field, with a nonprofit entity; and

WHEREAS, to allow the County PFD time to explore the feasibility of funding such additional qualifying Regional Center projects, it is necessary to further extend the deadline for submission of the Regional Center project list;

NOW, THEREFORE, BE IT ORDAINED:

Section 1. Snohomish County Code Section 2.19.010, adopted by Ordinance No. 01-041 on June 27, 2001, is reenacted and amended to read:

2.19.010 Creation and purpose.

Pursuant to Chapter 36.100 RCW (the "County PFD Act"), there is hereby created a public facilities district, which shall be called the Snohomish County Public Facilities District (the "District"), coextensive with the boundaries of the County, with only the powers and authority set forth in the County PFD Act as last amended by Chapter ~~((165-))~~ 363 Laws of Washington ~~((1999))~~ 2002. The District is established for the sole purpose of pursuing joint ownership, financing, or operational relationships with any other public ~~((facilities district))~~ agency within the County for the development of Regional Center projects and/or with a nonprofit entity for the development of a Regional Center project at Paine Field.

For the purposes of this section, the term "public agency" shall have the meaning set forth in RCW 39.34.020. The term "nonprofit entity" shall include any entity formed under Chapter 24.03 RCW or 24.06 RCW.

The Executive and other appropriate officers of the County are authorized and directed to take any and all such additional actions as may be necessary or desirable to accomplish the creation of the District.

Section 2. Snohomish County Code Section 2.19.020, adopted by Ordinance No. 01-041 on June 27, 2001, is reenacted to read:

2.19.020 Board of directors.

The members of the board of directors of the District (the "Board") shall be recommended by the Executive consistent with the procedures and criteria set forth in chapter 2.03 Snohomish County Code, and appointed by the Council, as

required by the County PFD Act. The Board shall consist of five members. The members of the Board shall be selected and appointed by the Council to reflect the interests of cities and towns in the county, as well as the unincorporated area of the county. The members shall serve four-year terms. Of the initial members, two shall be appointed for two-year terms, and the remainder shall be appointed for four-year terms.

If it is determined by the Council for any reason that any or all of the Board members should be removed from office, the Council may by motion approved by two-thirds of the Council remove that Board member(s) from office. The term of any Board member removed pursuant to this section shall expire when the removal motion takes effect. Vacancies shall be filled by appointment by the Council, and the person appointed to fill a vacancy shall serve for the remainder of the unexpired term of the office for the position to which he or she was appointed.

All corporate powers of the District shall be exercised by or under the authority of the Board; and the business, property and affairs of the District shall be managed under the direction of the Board, except as may be otherwise provided for by law, herein or in the Charter.

Section 3. Snohomish County Code Section 2.19.030, adopted by Ordinance No. 01-041 on June 27, 2001, is reenacted to read:

2.19.030 Organizational meeting.

The District shall be established as of the date of the appointment of the initial members of its Board. Upon such date, the Executive or designee shall call an organizational meeting of the initial Board within 10 days, giving at least three days' advance written notice to each Board Member, unless waived in writing. At such meeting, the Board shall organize itself, may appoint officers, and shall select the District's place of business.

Section 4. Snohomish County Code Section 2.19.040, adopted by Ordinance No. 01-041 on June 27, 2001, is reenacted to read:

2.19.040 Loan of working capital.

In order to provide the District with initial working capital for legal and formation expenses, the County may loan the District up to \$25,000 from the General Fund. Any such loan shall be made pursuant to an interlocal agreement negotiated between the District and the County, shall require Council approval prior to expenditure, and shall be repaid with interest within twelve calendar months.

Section 5. Snohomish County Code Section 2.19.050, last amended by Amended Ordinance No. 02-005 on March 13, 2002, is reenacted and amended to read:

2.19.050 Powers, duties and limitations. The District shall have the following powers and duties, subject to the following limitations:

- (1) The District shall have the powers set forth in its Charter as approved by Ordinance No. 01-041 or as amended with Council approval by ordinance.
- (2) Except as specifically provided in an interlocal agreement between the District and the County, the District shall take no action that might impose liability upon the County. All liabilities incurred by the District shall be satisfied exclusively from the assets, credit, and properties of the District, and no creditor or other person shall have any right of action against or recourse to the County, its assets, credit, or services, on account of any debts, obligations, liabilities or acts or omissions of the District.
- (3) In the event that the District determines by August 1, 2001, that one or more joint Regional Center project(s) (as defined in the County PFD Act) located within the County is a viable project that is likely to begin construction before January 1, 2003, the District shall impose all or a portion of the sales tax authorized under RCW 82.14.390(1) in support of pursuing joint ownership, financing, or operational relationships with such Regional Center(s). Such tax proceeds shall be apportioned between such Regional Centers (taking into account adequate reserves to be maintained by the District) in an equitable manner that supports construction and operation of any viable joint Regional Center project or projects located in Snohomish County. In order to apportion the tax proceeds in an equitable manner, the District shall, at a minimum, make the following distributions: first, the District shall negotiate an interlocal agreement to guarantee to a viable Regional Center developed by the City of Everett and the Everett Public Facilities District an amount equal to \$7,000,000 (present value); second, of the remaining tax proceeds, the District shall apply up to 10% to pay for parking to be provided to one or more Regional Centers by the County; and, third, the District shall apply the remaining 90% of tax proceeds equitably among viable Regional Centers (in all cases, taking into account adequate reserves to be maintained by the District).
- (4) No later than ~~((April 30))~~ December 31, 2002, the District shall provide a written report to the Council detailing its ~~((final))~~ project list, and the percentage of anticipated tax proceeds flowing to each project.
- (5) In consideration of the County's loan of working capital to the District and to ensure that joint Regional Centers are developed in a manner that is consistent with the County's regional planning objectives, intergovernmental relations with its incorporated cities, and available and planned infrastructure, the District shall not enter into an interlocal agreement to expend revenues in excess of \$50,000 on such a joint Regional Center unless the County is party to the interlocal agreement.

- (6) The District shall prepare, maintain and provide to the Council a financial and activities report not less than quarterly, and otherwise as directed by the Council.
- (7) In consideration for the County's loan of working capital, the District shall not impose any tax authorized under the County PFD Act, other than sales taxes imposed pursuant to RCW 82.14.390, without prior approval of the Council.

Section 6. Snohomish County Code Section 2.19.060, last amended by Ordinance No. 02-005 on March 13, 2002, is reenacted to read:

2.19.060 Approval of Charter and Bylaws.

The council approved the initial Charter and Bylaws of the District by Ordinance No. 01-041. The Charter shall be issued in duplicate originals, each bearing the County seal attested by the Clerk of the Council. One original shall be filed with the County; a duplicate original shall be provided to the District. The Charter shall be amended only with council approval by ordinance.

The Board shall maintain rules of procedure and governance of its activities through its bylaws. The power to alter, amend, or repeal the bylaws or adopt new bylaws shall be vested in the Board, except as follows. The bylaws shall be consistent with this ordinance and the Charter. As necessary and appropriate in the discretion of the Council, the Council may amend the bylaws by ordinance adopted at a public meeting held with notice to the District. Amendments to the bylaws approved by the Council may not be further amended by the District for one year except with Council approval.

Section 7. Snohomish County Code Section 2.19.070, adopted by Ordinance No. 01-041 on June 27, 2001, is reenacted to read:

2.19.070 Applicability of public laws.

District activity shall, as required by law, comply with the Open Public Meetings Act and other provisions of state law applicable to Municipal Corporations.

Section 8. Snohomish County Code Section 2.19.080, adopted by Ordinance No. 01-041 on June 27, 2001, is reenacted to read:

2.19.080 Dissolution.

The District shall dissolve on December 31, 2001 in the event that the District determines that there are no viable Regional Center projects located within the County. After such time, if the Council finds, following a public hearing or hearings, that the continued existence of the District would no longer serve the purposes of this Ordinance, it may by ordinance and in such manner as may be

required by State law order that the District be dissolved. If the District has outstanding obligations at the time of such dissolution, the ordinance dissolving the District shall be subject to the payment in full of the outstanding obligations. Upon dissolution of the District and the winding up of its affairs, title to all remaining property and assets of the District shall vest in the County to be used for public purposes.

Upon satisfactory completion of dissolution proceedings, the Clerk of the Council shall indicate such dissolution by inscription of "Charter cancelled" on the Charter of the District on file with the County and, when available, on the duplicate original of the District, and the existence of the District shall cease. The Clerk of the Council shall give notice thereof pursuant to State law and to other persons requested by the District in its dissolution statement.

Section 9. Snohomish County Code Section 2.19.090, adopted by Ordinance No. 01-041 on June 27, 2001, is repealed.

Section 10. In accordance with SCC 2.19.050 and 2.19.060, the Council approves the following amendment to Article IV of the Charter of the Snohomish County Public Facilities District approved by Ordinance No. 01-041 on June 27, 2001:

ARTICLE IV

Purpose

The purpose of the District is to provide a legal entity under RCW 36.100.010 and the Formation Ordinance to acquire, construct, own, remodel, maintain, equip, reequip, repair, and operate sports facilities, entertainment facilities, convention facilities, or regional centers as defined in RCW 35.57.020,¹ together with contiguous parking facilities:

Specifically, the District is established for the sole purpose of pursuing joint ownership, financing or operational relationships with any other public ((~~facility-district~~)) agency (or, in the case of a Regional Center at Paine Field, a public agency or a nonprofit entity) within the County(~~that the District determines, by August 1, 2001 is viable and likely to commence construction of a new Regional Center before January 1, 2003~~)). The District shall have no purpose

¹ RCW 35.57.020: For purposes of this chapter, "regional center" means a convention, conference, or special events center, or any combination of facilities, and related parking facilities, serving a regional population constructed, improved, or rehabilitated after July 25, 1999, at a cost of at least ten million dollars, including debt service. "Regional center" also includes an existing convention, conference, or special events center, and related parking facilities, serving a regional population, that is improved or rehabilitated after July 25, 1999, where the costs of improvement or rehabilitation are at least ten million dollars, including debt service. A regional center is conclusively presumed to serve a regional population if state and local government investment in the construction, improvement, or rehabilitation of the regional center is equal to or greater than ten million dollars.

other than acquisition, construction, ownership, remodeling, maintenance, equipping, reequipping, repair, financing, and operation (either directly or by contract) of any Regional Centers so determined to be viable by the District under the terms of the Formation Ordinance.

To the extent appropriate and consistent with the District's specific purpose, the District may acquire and manage real property, including but not limited to ownership of all or a portion of one or more Regional Centers; provide or secure financing; undertake or otherwise provide for the construction, financing, development, management and/or operation of one or more Regional Centers; and otherwise undertake and accomplish all activities and projects necessary for one or more Regional Centers.

For the purpose only of securing the exemption from federal income taxation for interest on obligations of the District (in the event that the District desires to issue bonds, notes or other obligations on a tax-exempt basis), the District constitutes an authority and instrumentality of Snohomish County (within the meaning of those terms in federal regulations and rulings pursuant to Section 103 of the Internal Revenue Code).

Section 11. In accordance with SCC 2.19.050 and 2.19.060, the Council approves the following amendment to Section 5.2(F) of the Charter of the Snohomish County Public Facilities District approved by Ordinance No. 01-041 on June 27, 2001:

Section 5.2. Limitation of Powers.

F. The District's power to acquire, construct, own, remodel, maintain, equip, reequip, repair, finance, and operate (either directly or by contract) one or more Regional Centers is subject to the limitations set forth in the Formation Ordinance. Specifically, the District shall determine by August 1, 2001 whether any Regional Center project located within the County is a viable project that will commence construction prior to January 1, 2003. In the event that the District determines that one or more Regional Center projects is viable, it shall impose all or a portion of the sales tax authorized under RCW 82.14.390(1) in support of such Regional Center. Such tax proceeds shall be apportioned between such Regional Centers (taking into account adequate reserves to be maintained by the District) in an equitable manner that supports construction and operation of any viable joint Regional Center project or projects located in the County, all as set forth in the Formation Ordinance. Within 30 days after December 1, ~~((2001))~~ 2002, the District shall provide a written report to the Council detailing its ~~((final))~~ project list, and the percentage of anticipated tax proceeds flowing to each project. In consideration of the County's loan of working capital to the District and to ensure that joint city and County Regional Centers are developed in a manner that is consistent with the County's regional planning objectives, intergovernmental relations with its incorporated cities, and available and planned infrastructure, the District shall not enter into an interlocal agreement to expend

revenues in excess of \$50,000 on such a joint city and County Regional Center unless the County is party to the interlocal agreement;

Section 12. This ordinance shall become effective as provided in Section 2.110 of the County Charter.

PASSED this 4th day of November, 2002.

ATTEST:

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

Sheila McCallister
Asst. Clerk of the Council

[Signature]
Chairperson

- APPROVED
- EMERGENCY
- VETOED

Date: 11/5/02

ATTEST:

Laura Nelson

[Signature]
County Executive

Approved as to form only:

[Signature]
Special Deputy Prosecuting Attorney

[Signature]

GARY WEIKEL
Deputy Executive

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