

1 APPROVED: 12/13/2023  
2 EFFECTIVE: 12/24/2023  
3

4 SNOHOMISH COUNTY COUNCIL  
5 SNOHOMISH COUNTY, WASHINGTON  
6

7 ORDINANCE NO. 23-110  
8  
9

10 RELATING TO REET II FUNDS AND SNOHOMISH COUNTY/CITY PARTNERSHIP  
11 PROJECTS; AWARDING PROJECTS AND APPROVING AND AUTHORIZING THE  
12 COUNTY EXECUTIVE TO EXECUTE INTERLOCAL AGREEMENTS FOR AWARDED  
13 PROJECTS  
14  
15

16 **A.** WHEREAS, the 2015 Snohomish County Parks and Recreation Element, a  
17 component of the Snohomish County Growth Management Act Comprehensive Plan, has  
18 documented a County-wide need for a wide variety of recreational facilities; and  
19

20 **B.** WHEREAS, the County Executive and the County Council have determined  
21 that it is consistent with the Snohomish County Parks and Recreation Element and is in  
22 the public interest of County residents to participate in joint undertakings with local  
23 municipalities to increase recreational opportunities and facility capacity; and  
24

25 **C.** WHEREAS, the 2023 Adopted Budget, approved by Ordinance 22-059,  
26 included \$750,000 of REET II funds, collected pursuant to chapter 82.46 RCW, to be split  
27 equally between the five council districts for Council/City Partnership Projects; and  
28

29 **D.** WHEREAS, the County Council adopted benchmarks for Council/City  
30 Partnership Projects through Motion 23-259; and  
31

32 **E.** WHEREAS, pursuant to the adopted benchmarks, the Council identified  
33 various projects for inclusion in the 2023 Council/City Partnership Projects.  
34

35 NOW, THEREFORE, BE IT ORDAINED:  
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37 Section 1. The County Council hereby adopts the foregoing recitals as findings of  
38 fact and conclusions as if set forth in full herein.  
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40 Section 2. The County Council approves the following projects listed in Exhibit A  
41 for the receipt of REET II Funds through Council/City Partnership Projects.  
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43 Section 3. The County Council approves and authorizes Snohomish County  
44 Executive to execute interlocal agreements, with the recipients, and for the purposes

1 identified in Exhibit A, in a form substantially similar to the interlocal agreement attached  
2 hereto as Exhibit B.

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4  
5 PASSED this 13<sup>th</sup> day of December, 2023.  
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7  
8 SNOHOMISH COUNTY COUNCIL  
9 Snohomish County, Washington

10  
11 Jared Mead  
12 Chairperson  
13

14 ATTEST:

15  
16 McGowan  
17 Deputy Clerk of the Council  
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19 (X) APPROVED

20  
21 ( ) EMERGENCY

22  
23 ( ) VETOED

24 DATE: December 14, 2023

25  
26 D. S.  
27 County Executive  
28

29 ATTEST:

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31 Melissa Geraghty  
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33 Approved as to form only:

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36 /s/George B. Marsh 9/21/23  
37 Deputy Prosecuting Attorney  
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## EXHIBIT A

### 2023 Snohomish County/City Partnership Project Selections

District	Jurisdiction	Project Name	Amount
2	City of Everett	Kiwanis Park Sport Court Rehabilitation & Enhancements	\$75,000
5	City of Lake Stevens	Frontier Heights Park	\$45,000
3	City of Lynnwood	Pioneer Park Tennis Court Rehabilitation	\$25,000
2	City of Mukilteo	76 <sup>th</sup> Street Trailhead Parking Lot Paving	\$75,000
1	City of Arlington	Jensen Park Restroom	\$100,000

## **EXHIBIT B**

### **Template Interlocal Agreement**

*[See Attached]*

## **INTERLOCAL AGREEMENT BETWEEN SNOHOMISH COUNTY AND THE [RECIPIENT] FOR [PROJECT NAME]**

This INTERLOCAL AGREEMENT (the “Agreement”), is made by and between SNOHOMISH COUNTY, a political subdivision of the State of Washington (the “County”), and the [RECIPIENT], a Washington municipal corporation (the “[City/Town/District]”), collectively the “Parties,” pursuant to chapter 39.34 RCW.

### **RECITALS**

**A.** The 2015 Snohomish County Parks and Recreation Element, a component of the Snohomish County Growth Management Act Comprehensive Plan, has documented a County-wide need for a wide variety of recreational facilities; and

**B.** The County Executive and the County Council have determined that it is consistent with the Snohomish County Parks and Recreation Element and is in the public interest of County residents to participate in joint undertakings with local municipalities to increase recreational opportunities and facility capacity; and

**C.** The 2023 Adopted Budget, approved by Ordinance 22-059, included \$750,000 of REET II funds, collected pursuant to chapter 82.46 RCW, to be split equally between the five council districts for Council/City Partnership Projects; and

**D.** The County Council adopted benchmarks for Council/City Partnership Projects through Motion 23-259; and

**E.** Pursuant to the adopted benchmarks, the Council identified various projects for inclusion in the Council/City Partnership Projects; and

**F.** One of the identified Council/City projects is the [City/Town/District’s] [PROJECT NAME] (“the Project”) which will [project description]; and

**G.** Snohomish County has agreed to provide [PROJECT AMOUNT -spelled out numeric] of REET II funds (the “Funds”) in support of the Project; and

**H.** The [City/Town/District] has provided the following: copy of submission form for County funds (Attachment A, attached hereto and incorporated herein by reference); proof of [City/Town/District] ownership of the Project property (Attachment B, attached hereto and incorporated herein by this reference); relevant portions of the [City/Town/District]’s Capital Facilities Plan (“CFP”) identifying the Project (Attachment C, attached hereto and incorporated herein by this reference); and proof of Insurance if not covered by WCIA (Attachment D, attached hereto and incorporated herein by this reference); and

**I.** Pursuant to this Agreement, the County wishes to provide, and the [City/Town/District] wishes to accept, the above-described Funds from the County.

## AGREEMENT

NOW, THEREFORE, in consideration of the respective agreements set forth below and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the [City/Town/District] agree as follows:

### 1. Purpose of Agreement.

This Agreement is authorized by and entered into pursuant to chapter 39.34 RCW. The purpose and intent of this Agreement is to define the responsibilities of the County and the [City/Town/District] as they relate to the County's provision of the funds to the [City/Town/District]'s Project located at [ADDRESS] (the "Property").

### 2. Effective Date and Duration.

This Agreement shall take effect when it has been duly executed by both parties and either filed with the County Auditor or posted on the County's Interlocal Agreements website. This Agreement shall remain in effect through December 31, 2024, unless earlier terminated pursuant to the provisions of Section 12 below; PROVIDED HOWEVER, that each party's obligations are contingent upon local legislative appropriation of necessary funds for this specific purpose in accordance with applicable law.

### 3. Administrators.

Each party to this Agreement shall designate an individual (an "Administrator"), who may be designated by title or position, to oversee and administer such party's participation in this Agreement. The Parties' initial Administrators shall be the following individuals:

#### County's Initial Administrator:

Sharon Swan, Director  
Snohomish County Division of Parks &  
Recreation  
6705 Puget Park Drive  
Snohomish, Washington 98296  
(425) 388-6616 phone  
sharon.swan@snoco.org

#### [City/Town/District]'s Initial Administrator:

[Name, Title]  
[Organization]  
[Address]  
[City], Washington [Zip]  
[Phone]  
[Email]

Either party may change its Administrator at any time by delivering written notice of such party's new Administrator to the other party.

### 4. Project Performance.

4.1 Certification of Real Property Interest. The [City/Town/District] certifies to the County that the [City/Town/District] owns the Property, as evidenced by Exhibit B, and additional

real property or easements are not needed to complete the Project.

4.2 [City/Town/District]’s Financial Commitment. The [City/Town/District] certifies to the County that the [City/Town/District] will have sufficient monies to complete the Project by the Project deadline identified in Section 4.4 below (the “[City/Town/District]’s Financial Commitment”) and that the Project was included in the City/Town/District’s CFP as evidenced by Attachment C.

4.3 Project Completion. The [City/Town/District] shall complete the Project as detailed in Attachment A.

4.4 Project Deadline. On or before December 31, 2024, the [City/Town/District] shall complete the Project. In executing the Project, the [City/Town/District] shall obtain and, upon request, provide the County with copies of all permits necessary to complete the Project.

4.5 Recognition of County as Financial Sponsor. The [City/Town/District] shall recognize the County as a financial sponsor of the Project as follows:

4.5.1 Upon completion of the Project or dedication of the completed Project, whichever comes first, the [City/Town/District] shall install at the Project site a plaque in a form approved by the County that indicates that the County is a financial sponsor of or contributor to the Project;

4.5.2 The [City/Town/District] shall invite the County to all events promoting the Project and recognize the County at all such events as a financial sponsor of the Project;

4.5.3 The [City/Town/District] shall recognize the County as a financial sponsor in all brochures, banners, posters, and other promotional material related to the Project.

4.6 Project Maintenance. The [City/Town/District] shall be responsible for on-going capital improvements to, and maintenance of, the Project and the Property. The County makes no commitment to support the Project or Property beyond what is provided for in this Agreement and assumes no obligation for future support of the Project or Property except as expressly set forth in this Agreement.

4.7 Availability to County Residents. The [City/Town/District] shall make the Property available to all County residents on the same terms as it is available to residents of the [City/Town/District].

## **5. Invoicing and Payment.**

5.1 Invoicing. Within thirty days of final completion of the Project or by December 30, 2025, whichever occurs first. The [City/Town/District] shall submit to the County one invoice on [City\Town\District] letterhead requesting disbursement of the Funds for the Project. The invoice needs to include name and address of [City\Town\District], name and the address of

who the invoice is addressed to (the County), the date, the amount being requested for reimbursement, and the name of the project being funded. Invoices shall provide line-item detail for materials, labor and overhead. Backup documentation should include of copies of invoices paid by the [City/Town/District] to contractors/consultants for the work performed, which covers the full amount being requested for reimbursement and proof of payment on those invoices. Additionally, providing progress photos of the site is strongly recommended with prior, during and after completion photos.

5.2 Payment. Unless the County delivers to the [City/Town/District] written notice disputing the amount of a particular line item, within twenty (20) working days of receipt from the [City/Town/District] of an invoice properly submitted to the County pursuant to Section 5.1, the County shall remit to the [City/Town/District] an amount not to exceed [PROJECT AMOUNT – spelled out numeric]. In the event the total costs of the Project is less than [Project amount], the County shall only remit those fund necessary to pay the submitted invoice in full unless otherwise disputed as provided in this Section 5.2.

5.3 Accounting. The [City/Town/District] shall maintain a system of accounting and internal controls that complies with generally accepted accounting principles and governmental accounting and financial reporting standards and provisions concerning preservation and destruction of public documents in accordance with applicable laws, including chapter 40.14 RCW.

5.4 Recordkeeping. The [City/Town/District] shall maintain adequate records to support billings. The records shall be maintained by the [City/Town/District] for a period of five (5) years after completion of this Agreement. The County, or any of its duly authorized representatives, shall have access to books, documents, or papers and records of the [City/Town/District] relating to this Agreement for purposes of inspection, audit, or the making of excerpts or transcripts.

5.5 Audit and Repayment. The [City/Town/District] shall return Funds disbursed to it by the County under this Agreement upon the occurrence of any of the following events:

5.5.1 If overpayments are made; or

5.5.2 If an audit of the Project by the State or the County determines that the Funds have been expended for purposes not permitted by the REET II statute, the State, the County, or this Agreement.

In the case of 5.5.1 or 5.5.2, the County shall make a written demand upon the [City/Town/District] for repayment, and the [City/Town/District] shall be obligated to repay to the County the Funds demanded within sixty (60) calendar days of the demand. The County's right to demand repayment from the [City/Town/District] may be exercised as often as necessary to recoup from the [City/Town/District] all funds required to be returned to the County.



The [City/Town/District] is solely responsible for seeking repayment from any subcontractor in conformance with its debt collection policy.

**6. Independent Contractor.** The [City/Town/District] will perform all work associated with the Project as an independent contractor and not as an agent, employee, or servant of the County. The [City/Town/District] shall be solely responsible for control, supervision, direction and discipline of its personnel, who shall be employees and agents of the [City/Town/District] and not the County. The County shall only have the right to ensure performance.

**7. Indemnification/Hold Harmless.**

The [City/Town/District] shall assume the risk of liability for damage, loss, costs and expense arising out of the activities under this Agreement and all use of any improvements it may place on the Property. The [City/Town/District] shall hold harmless, indemnify and defend the County, its officers, elected and appointed officials, employees and agents from and against all claims, losses, lawsuits, actions, counsel fees, litigation costs, expenses, damages, judgments, or decrees by reason of damage to any property or business and/or any death, injury or disability to or of any person or party, including but not limited to any employee, arising out of or suffered, directly or indirectly, by reason of or in connection with the acquisition or use of the Property and this Agreement; PROVIDED, that the above indemnification does not apply to those damages solely caused by the negligence or willful misconduct of the County, its elected and appointed officials, officers, employees or agents. This indemnification obligation shall include, but is not limited to, all claims against the County by an employee or former employee of [City/Town/District], and [City/Town/District], by mutual negotiation, expressly waives all immunity and limitation on liability, as respects the County only, under any industrial insurance act, including Title 51 RCW, other Worker's Compensation act, disability benefit act, or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of such claim.

**8. Liability Related to [City/Town/District] Ordinances, Policies, Rules and Regulations.**

In executing this Agreement, the County does not assume liability or responsibility for or in any way release the [City/Town/District] from any liability or responsibility which arises in whole or in part from the existence or effect of [City/Town/District] ordinances, policies, rules or regulations. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any such [City/Town/District] ordinance, policy, rule or regulation is at issue, the [City/Town/District] shall defend the same at its sole expense and, if judgment is entered or damages are awarded against the [City/Town/District], the County, or both, the [City/Town/District] shall satisfy the same, including all chargeable costs and reasonable attorney's fees.

**9. Insurance.**

The [City/Town/District] shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damages to property which may arise from, or

in connection with, exercise of the rights and privileges granted by this Agreement, by the [City/Town/District], its agents, representatives, and employees/subcontractors. The cost of such insurance shall be paid by the [City/Town/District].

9.1 Minimum Scope and Limits of Insurance. General Liability: Insurance Services Office Form No. CG 00 01 Ed. 11-88, covering COMMERCIAL GENERAL LIABILITY with limits no less than \$1,000,000 combined single limit per occurrence for bodily injury, personal injury, and property damage.

9.2 Other Insurance Provisions. Coverage shall be written on an “Occurrence” form. The insurance policies required in this Agreement are to contain or be endorsed to contain the County, its officers, officials, employees, and agents as additional insureds as respects liability arising out of activities performed by or on behalf of the [City/Town/District] in connection with this Agreement.

9.3 Verification of Coverage. The [City/Town/District] shall furnish the County with certificate(s) of insurance and endorsement(s) required as evidenced by Attachment D.

9.4 If the [City/Town/District] is self-insured, in lieu of the insurance required in this Section 9, the [City/Town/District] shall, upon request of the County, provide the County a letter certifying the [City/Town/District]’s self-insurance program.

☐ [City/Town/District] certifies it has a self-insurance program, in lieu of carrying Commercial General Liability.

## **10. Compliance with Laws.**

In the performance of its obligations under this Agreement, each party shall comply with all applicable federal, state, and local laws, rules and regulations.

## **11. Default and Remedies.**

11.1 Default. If either the County or the [City/Town/District] fails to perform any act or obligation required to be performed by it hereunder, the other party shall deliver written notice of such failure to the non-performing party. The non-performing party shall have twenty (20) days after its receipt of such notice in which to correct its failure to perform the act or obligation at issue, after which time it shall be in default (“Default”) under this Agreement; provided, however, that if the non-performance is of a type that could not reasonably be cured within said twenty (20) day period, then the non-performing party shall not be in Default if it commences cure within said twenty (20) day period and thereafter diligently pursues cure to completion.

11.2 Remedies. In the event of a party’s Default under this Agreement, then after giving notice and an opportunity to cure pursuant to Section 11.1 above, the non-Defaulting party shall have the right to exercise any or all rights and remedies available to it in law or equity.

## **12. Early Termination.**

12.1 30 Days' Notice. Except as provided in Section 12.2 below, either party may terminate this Agreement at any time, with or without cause, upon not less than thirty (30) days' advance written notice to the other party. The termination notice shall specify the date on which the Agreement shall terminate.

12.2 Termination for Breach. In the event that the [City/Town/District] fails to complete the Project by December 31, 2025 and/or otherwise commits a Default as described in Section 11, the County may terminate this Agreement immediately by delivering written notice to the [City/Town/District]. Within thirty (30) days of such early termination, the [City/Town/District] shall return to the County all Funds previously disbursed from the County to the [City/Town/District] for the Project plus interest at the rate of twelve percent (12%) per annum beginning thirty (30) days from the date of early termination.

## **13. Dispute Resolution.**

In the event differences between the Parties should arise over the terms and conditions or the performance of this Agreement, the Parties shall use their best efforts to resolve those differences on an informal basis. If those differences cannot be resolved informally, the matter may be referred for mediation to a mediator mutually selected by the Parties. If mediation is not successful or if a party waives mediation, either of the Parties may institute legal action for specific performance of this Agreement or for damages.

## **14. Notices.**

All notices required to be given by any party to the other party under this Agreement shall be in writing and shall be delivered either in person, by United States mail, or by electronic mail (email) to the applicable Administrator or the Administrator's designee. Notice delivered in person shall be deemed given when accepted by the recipient. Notice by United States mail shall be deemed given as of the date the same is deposited in the United States mail, postage prepaid, and addressed to the Administrator, or their designee, at the addresses set forth in Section 3 of this Agreement. Notice delivered by email shall be deemed given as of the date and time received by the recipient.

## **15. Miscellaneous.**

15.1 Entire Agreement; Amendment. This Agreement constitutes the entire agreement between the Parties regarding the subject matter hereof, and supersedes any and all prior oral or written agreements between the Parties regarding the subject matter contained herein. This Agreement may not be modified or amended in any manner except by a written document executed with the same formalities as required for this Agreement and signed by the party against whom such modification is sought to be enforced.

15.2 Conflicts between Attachments and Text. Should any conflicts exist between any attached exhibit or schedule and the text or main body of this Agreement, the text or main body of this Agreement shall prevail.

15.3 Governing Law and Venue. This Agreement shall be governed by and enforced in accordance with the laws of the State of Washington. The venue of any action arising out of this Agreement shall be in the Superior Court of the State of Washington, in and for Snohomish County. In the event that a lawsuit is instituted to enforce any provision of this Agreement, the prevailing party shall be entitled to recover all costs of such a lawsuit, including reasonable attorney's fees.

15.4 Interpretation. This Agreement and each of the terms and provisions of it are deemed to have been explicitly negotiated by the Parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either of the Parties hereto. The captions and headings in this Agreement are used only for convenience and are not intended to affect the interpretation of the provisions of this Agreement. This Agreement shall be construed so that wherever applicable the use of the singular number shall include the plural number, and vice versa, and the use of any gender shall be applicable to all genders.

15.5 Severability. If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be found invalid or unenforceable, the remainder of this Agreement and the application of that provision to other persons or circumstances shall not be affected thereby, but shall instead continue in full force and effect, to the extent permitted by law.

15.6 No Waiver. A party's forbearance or delay in exercising any right or remedy with respect to a Default by the other party under this Agreement shall not constitute a waiver of the Default at issue. Nor shall a waiver by either party of any particular Default constitute a waiver of any other Default or any similar future Default.

15.7 No Assignment. This Agreement shall not be assigned, either in whole or in part, by either party without the express written consent of the other party, which may be granted or withheld in such party's sole discretion. Any attempt to assign this Agreement in violation of the preceding sentence shall be null and void and shall constitute a Default under this Agreement.

15.8 Warranty of Authority. Each of the signatories hereto warrants and represents that he or she is competent and authorized to enter into this Agreement on behalf of the party for whom he or she purports to sign this Agreement.

15.9 No Joint Venture. Nothing contained in this Agreement shall be construed as creating any type or manner of partnership, joint venture or other joint enterprise between the Parties.

15.10 No Separate Entity Necessary. The Parties agree that no separate legal or administrative entities are necessary to carry out this Agreement.

15.11 Ownership of Property. Except as expressly provided to the contrary in this Agreement, any real or personal property used or acquired by either party in connection with its performance under this Agreement will remain the sole property of such party, and the other party shall have no interest therein.

15.12 No Third Party Beneficiaries. This Agreement and each and every provision hereof is for the sole benefit of the [City/Town/District] and the County. No other persons or Parties shall be deemed to have any rights in, under or to this Agreement.

15.13 Execution in Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date set forth under their signatures below, and effective as of the date of the last party to sign. .

**County**

**[City/Town/District]**

SNOHOMISH COUNTY

**[RECIPIENT]**

By \_\_\_\_\_  
Title: County Executive Date

By \_\_\_\_\_  
Title: \_\_\_\_\_ Date

**Approved as to Form:**

**Approved as to Form:**

\_\_\_\_\_  
Deputy Prosecuting Attorney Date

\_\_\_\_\_  
Office of the [City/Town/District]  
Attorney Date

#### ATTACHMENTS A-D

1. A Submission Form to the County for the funds (Attachment A)
2. A confirmation from the [City/Town/District] indicating ownership interest in the property (Attachment B)
3. Relevant portions of the [City/Town/District]/Town Capital Facilities Plan (“CFP”) identifying the Project (Attachment C)
4. Proof of Insurance (If not covered by WCIA) (Attachment D)