

**INTERLOCAL AGREEMENT
BETWEEN THE CITY OF NORTH BEND AND SI VIEW
METROPOLITAN PARK DISTRICT
FOR OWNERSHIP, MAINTENANCE, SCHEDULING AND
OPERATIONS OF CASCADE GOLF COURSE PROPERTY**

THIS AGREEMENT is dated effective the 15th day of November 2018 and is made between the City of North Bend (the “City”) and Si View Metropolitan 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 joint use of a portion of the Cascade Golf Course consisting of approximately 28 acres located at 14303 436th Ave SE, North Bend WA consisting of a portion of an existing golf course; the Little Store, a convenience store; a water right and pump; and a parking lot and legally described in Exhibit A attached hereto and incorporated herein by this reference (“Property”).

WHEREAS, the Kusak Tree Farm is located adjacent to the Property and consists of approximately 50 acres of heavily treed property abutting the South Fork of the Snoqualmie River (Kusak Property);

WHEREAS, the Kusak Property has filed an application with the King County Department of Environmental and Planning Review to subdivide and develop the Kusak Property into 11 or more residential building lots;

WHEREAS, the City and District wish to seek grants and other funding to preserve as open space the Kusak Tree Farm and any other adjacent properties to the Property.

WHEREAS, this Agreement will provide for the transfer of an undivided tenant in common interest in the Property to the District, the District’s maintenance and operation of the Property, and joint ownership of the Property by the City and the District;

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

II. AGREEMENT

1. Scope and Purpose.

- a. Purpose. The purpose of this Agreement is the joint ownership, development, maintenance, scheduling and operation of the Property.
- b. Joint Use of Property. The parties agree that the Property and its improvements are intended to be used jointly for recreation and utility purposes for the benefit of the District and the City at large.
- c. Water Rights. The parties agree that the City shall have the primary right to Water Right G1-00142C and/or G1-26456, as now existing or hereinafter amended or expanded, providing approximately 33 acre feet a year and primary right to the pond holding approximately 10' of water ("Water Right") to use such water for mitigation purposes for its Centennial Well ROE G1-26617. If the District can use such Water Right for landscape irrigation purposes consistent with whatever conditions are imposed by Department of Ecology (DOE) on the City's use of the ROE, then the District may also use this Water Right so long as such use is not inconsistent with the City's use and does not violate any requirement of DOE. In addition to the Water Right, Sallal membership No. 000168 has been partially purchased by the prior owner of the Property and the District may perfect this membership and use this potable water for any future park development on the Property.
- d. Recreation Improvements. The parties agree that the Property will not be used for purposes other than camping and recreation except as otherwise described in this Agreement. The District will conduct all master planning and make all decisions in connection with recreational development of the Property. As part of the District's Master Planning process, the District will include a briefing to the City's Park Commission.

2. Scheduling and Use. The District shall manage and schedule the use of all Property amenities other than the Water Right described in subsection 1(c) above. The City and District sponsored programs shall have priority scheduling over other entities. To ensure scheduling priority, the City and the District shall be required to reserve usage of the Property at least 30 days prior to a City or District event date. If fees are charged to users of the Property, then District and City users shall receive a lower and more favorable rate than non-City/District users, as determined by the District.
3. Maintenance, Repairs, and Operation. Effective November 15, 2018, the District shall be responsible for all regular, customary and ongoing maintenance, repairs, and operation of the Property, including but not limited to, mowing, irrigation, landscape maintenance, supplies and refuse collection. The District may elect to continue to

operate the Little Store and if it elects to continue such operations then both expenses and all income shall belong to the District.

4. **Utility Expenses.** The District will pay utility costs covering the Property except for any utility cost associated with the pump or water right described in Section 1(c) of this Agreement. Both parties agree to use best efforts to minimize increases to utility costs when making any improvements to the Property.

5. **City and District Contributions.**

- a. **Purchase Price for Property.** The City agreed to pay Two Million and Four Hundred Thousand Dollars and No/100 (\$2,400,000.00) to purchase the Property pursuant to that certain Purchase and Sale Agreement dated July 11, 2018 with a closing date of November 29, 2018 (“Purchase Agreement”).
- b. **District Contribution.** The District will pay the City One Million and Eight Hundred Thousand Dollars and No/100 (\$1,800,000) for a 75% tenant in common ownership interest in the Property. Upon such payment, the City will record the Bargain & Sales Deed attached as Exhibit B conveying such 75% tenant in common interest to the District.
- c. **Restrictive Covenant.** A Restrictive Covenant shall be included in the Bargain & Sale Deed as follows:
“The City and District covenant that the Property shall continue to only be used for open space, park, recreation (passive and active), or utility purposes. In the event the City or the District elects to sell all or a portion of its interest in the Property for any reason, the other party shall have a right of first refusal to purchase on the same terms and conditions of a bona fide offer received by the selling party”.
- d. **Failure of District to Make Contribution.** In the event the District’s November 2018 bond measure fails, then the City will not convey the tenant in common interest until such time as the District has available funds to purchase the 75% ownership interest in the Property. In the event the District fails to purchase this interest on or before January 15, 2020, the City may terminate this Agreement.
- e. **Park Impact Fees.** The City may wish to contribute park impact fees to improvements to the Property from time to time. The parties will agree on such contributions prior to the City making such contributions but no further amendments to this Agreement shall be required other than a Motion by the North Bend City Council authorizing such distribution and inclusion of such expenditure in the City’s budget.
- f. **Grants.** The parties may collectively or independently apply for grants for the Property. So long as the City Council or District Board has authorized staff to make application for such grant and for the funds to be expended on the Property, then the parties agree to approve the transfer of any funds to the District to be used for improvements to the Property consistent with the terms of such grants. No further amendments to this Agreement will be required for such applications or transfer of grant funds.

6. Kusak Tree Farm/Adjacent Property. The City and District shall apply for the King County conservation futures grant in order to protect the Kusak Property as open space and ensure access to the river for recreational purposes.
7. Boundary Review Board Application. The City and District shall apply to the Boundary Review Board to change the City's urban growth boundary to include the Property for the purpose of ensuring protection of the Property.
8. Independent Contractor. Each party to this Agreement is an independent contractor with respect to the subject matter herein.
9. 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 in connection with such act or omission it is alleged or claimed that an act of the District, its agents, or employees caused or contributed thereto from the City's use of the Water Right. 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 attorney's 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 in connection with such act or omission it is alleged or claimed that an act of the City, its agents, or employees caused or contributed thereto from the operation of a park, camp ground or other recreational use on the Property. 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 attorney's fees.
10. 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.

11. 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.
12. 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.
13. 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.
14. 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 unless terminated pursuant to Section 5(d). This Agreement will automatically renew for successive ten (10) year terms.
15. 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. The City and District do intend to jointly hold title to the Property under the terms of this Agreement, and the disposition of the Property at the end of the term of the Agreement is provided for in Section 5(c).
16. 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.

17. **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 20 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' 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 regards 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 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.
18. **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.

19. 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 suitor 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 attorney's fees, expert witness fees, and costs of suit.
20. 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

Londi Lindell
City Administrator
P.O. Box 896
North Bend, WA 98045

SI VIEW M.P.D.

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: _____
Executive Director, Travis Stombaugh

Date: _____

Date: _____

Attest: _____
Susie Oppedal, City Clerk

Attest: _____

Approved As To Form:

Approved As To Form:

Michael R. Kenyon, City Attorney

Rachel B. Turpin, District Attorney

EXHIBIT A

3. SUBJECT LEGAL DESCRIPTION:

The following is the legal description for the subject from the July 20, 2018 title report prepared by First American Title Insurance Company.

Real property in the County of King, State of Washington, described as follows:

PARCEL A:

THE SOUTH 204.00 FEET OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 23 NORTH, RANGE 8 EAST, W.M., IN KING COUNTY, WASHINGTON;

EXCEPT THE EAST 20.00 FEET THEREOF;

AND EXCEPT THAT PORTION CONVEYED TO THE STATE OF WASHINGTON FOR HIGHWAY PURPOSES BY INSTRUMENT RECORDED AUGUST 6, 1974 UNDER RECORDING NO. 7408060135.

PARCEL B:

THE WEST 20.00 FEET OF THE SOUTH 540.00 FEET OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 23 NORTH, RANGE 8 EAST, W.M., IN KING COUNTY, WASHINGTON;

EXCEPT THAT PORTION LYING NORTHERLY OF THAT RIGHT—OF—WAY LINE DRAWN PARALLEL WITH AND 30.00 FEET, SOUTHERLY, WHEN MEASURED AT RIGHT ANGLES, FROM THE FR-11 LINE SURVEY OF STATE HIGHWAY ROUTE NO. 90, ECHO LAKE INTERCHANGE TO TANNER; AND THE EAST 20 FEET OF THE SOUTH 204.00 FEET OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 23 NORTH, RANGE 8 EAST, W.M., IN KING COUNTY, WASHINGTON;

EXCEPT THAT PORTION CONVEYED TO THE STATE OF WASHINGTON FOR HIGHWAY PURPOSES BY INSTRUMENT RECORDED FEBRUARY 7, 1972 UNDER RECORDING NO. 7202070094.

PARCEL C:

LOT B, KING COUNTY LOT LINE ADJUSTMENT NO. L95L0087 RECORDED DECEMBER 5, 1995 UNDER RECORDING NO. 9512059002, IN KING COUNTY, WASHINGTON.

PARCEL D:

LOT 1 OF KING COUNTY BOUNDARY LINE ADJUSTMENT NO. L1OL0020, RECORDED JULY 13, 2010, UNDER KING COUNTY RECORDING NUMBER 20100712900014, RECORDS OF KING COUNTY, WASHINGTON.

Tax Parcel Numbers: 2223089002, 2223089019, 2223089055, and 2223089026

When recorded return to:
Londi K. Lindell
City Administrator
PO Box 896
North Bend, WA 98045

BARGAIN AND SALE DEED

THE GRANTOR, the City of North Bend, a Washington municipal corporation (“City”), for and in consideration of the sum of Ten Dollars (\$10.00), and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, conveys and warrants to the Si View Metropolitan Park District, a Washington state park district (“District”), as tenants in common, each as to an undivided percentage interest with the District owning a 75% tenant in common interest and the City owning an undivided 25% tenant in common interest, that certain real estate situated in King County, Washington, described on Exhibit “A” attached hereto and incorporated herein by this reference (“Property”).

Subject to the exceptions identified on Exhibit “B” attached hereto and incorporated herein by this reference and subject to the following restrictive covenant:

The City and District covenant that the Property shall continue to only be used for open space, park, recreation (passive and active), or utility purposes. In the event the City or the District elects to sell all or a portion of its interest in the Property for any reason, the other party shall have a right of first refusal to purchase on the same terms and conditions of a bona fide offer received by the selling party”.

Dated: October ____, 2018

Kenneth G. Hearing, Mayor
City of North Bend

Travis Stombaugh, Executive Director
Si View Metropolitan Park District

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this day personally appeared before me _____, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as free and voluntary act and deed, for the uses and purposes therein described.

GIVEN my hand and official seal this _____ day of October, 2018.

Name:
Notary name printed or typed:
Notary Public in and for the State of Washington
Residing at _____
My appointment expires:

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this day personally appeared before me _____, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as free and voluntary act and deed, for the uses and purposes therein described.

GIVEN my hand and official seal this _____ day of October, 2018.

Name:
Notary name printed or typed:
Notary Public in and for the State of Washington
Residing at _____
My appointment expires: