

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: June 12, 2017

AGENDA ITEM:	
Agreement for small capital projects with Snohomish County	
PREPARED BY:	DIRECTOR APPROVAL:
Jim Ballew	
DEPARTMENT:	
Parks, Culture and Recreation	
ATTACHMENTS:	
Agreement	
BUDGET CODE:	AMOUNT:
	\$5,000.00
SUMMARY:	

Staff had applied for grant funding to the Snohomish County Small Capital Projects Partnership Project to assist in the replacement of fencing at the Strawberry Fields for Rover Park. The Marysville Dog Owners Group (MDOG) has pledged support of an additional \$5,000 for a total project of \$10,000.00

Work will commence this summer to replace or repair fencing sections affected by age and weather impacts.

RECOMMENDED ACTION:

Staff recommends the City Council consider authorizing the Mayor to sign the Snohomish County Small Capital Projects Partnership Project Agreement for \$5,000.00 in funding to assist in the completion of the fencing project.

AGENCY: City of Marysville
CONTACT PERSON: Jim Ballew
ADDRESS: 6915 Armar Road
Marysville, WA 98270
TELEPHONE/FAX NUMBER: 360.363.8400
COUNTY DEPT: Snohomish County Council
DEPT. CONTACT PERSON: Carol Taber
TELEPHONE/FAX NUMBER: 425-388-3585/425-388-3496
PROJECT: Off-Leash Dog Park Fence Replacement
AMOUNT: \$5,000
FUND SOURCE: 191-5167005204
CONTRACT DURATION: Through December 31, 2017

AGREEMENT FOR SMALL CAPITAL PROJECTS PARTNERSHIP PROJECT

THIS AGREEMENT (the "Agreement") is made by and between SNOHOMISH COUNTY, a political subdivision of the State of Washington (the "County"), and the CITY OF MARYSVILLE, a municipal corporation in the State of Washington (the "Agency").

RECITALS

WHEREAS, RCW 82.46.035 authorized counties planning under the Growth Management Act the authority to levy an additional quarter percent tax on all sales of real estate; and

WHEREAS, by that legislation, this additional quarter percent tax on sales of real estate must be used solely on capital projects that are listed in a capital facilities plan; and

WHEREAS, capital projects are defined as public works projects of a local government for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation or improvement of streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, bridges, domestic water systems, storm and sanitary sewer systems; and planning, construction, reconstruction, repair, rehabilitation, or improvement of parks; and

WHEREAS, by Ordinance No. 16-097, adopted November 14, 2016, the Snohomish County Council provided funding within the Real Estate Excise Tax Fund for an application process for a Small Capital Projects Partnership (SCPP) grant program; and

WHEREAS, applications for the SCPP grants were received when due, March 31, 2017; and

WHEREAS, a review team evaluated and ranked the applications and made recommendations to County Council on April 25, 2017; and

WHEREAS, the Agency's project was one of ten (10) projects recommended by the review team and authorized by the County Council for funding by Motion 17-129 approved on May 3, 2017;

WHEREAS, the County determined that the Agency's project is eligible for the SCPP grant funding; and

NOW, THEREFORE, in consideration of the mutual benefits and covenants contained herein, the parties agree as follows:

1. Purpose of Agreement; Project Scope. The purpose of this Agreement is to provide funding for the Agency's off-leash dog park fence replacement.

2. Term; Time of Performance. This Agreement shall be effective on the date on which it has been executed by authorized representatives of both parties and shall expire on December 31, 2017. The Agency shall commence Project work immediately and complete the Project work required by this Agreement no later than December 31, 2017.

3. Reimbursement of Project Expenses. Subject to Section 6 hereof and upon the completion of the Project to the satisfaction of the County, the County will reimburse the Agency for Project expenses as set forth in the Project budget in Appendix A. The Agency shall submit a request for reimbursement for Project expenses supported by detailed statements, including a W-9 form and invoices from third parties incident to those Project expenses, if any, indicating Project work performed as appropriate and consistent with the schedule of Project work outlined in Appendix A. Total requests for reimbursement for this Project shall not exceed \$5,000 (the "Contract Maximum").

4. Direction and Control. The Agency agrees that it will perform the Project work under this Agreement as an independent contractor and not as an agent, employee, or servant of the County. The parties agree that neither the Agency nor its employees are entitled to any benefits or rights enjoyed by employees of the County. The Agency specifically has the right to direct and control Agency's own activities in performing the Project work in accordance with the specifications set out in this Agreement. The County shall only have the right to ensure performance. Nothing in this Agreement shall be construed to render the parties partners or joint ventures.

5. Changes. No changes or additions shall be made in this Agreement except as agreed to by both parties, reduced to writing and executed with the same formalities as are required for the execution of this Agreement.

6. Indemnifications and Hold Harmless. Except for the sole negligence of the County, the Agency shall indemnify and hold harmless the County, its officers, officials, agents and employees, from and against any and all suits, claims, actions, losses, costs, penalties and

damages of whatsoever kind or nature which are in any way resulting from Agency's activities and/or services associated with this Agreement. The duty to indemnify and hold the County harmless shall not extend to any claim regarding the Agency's eligibility to receive grant funding, unless such claim arises out of a misrepresentation by the Agency to the County that the County reasonably relied upon to its detriment.

In the event the County incurs attorney fees and/or costs in the defense of claims under this provision such attorney fees and costs shall be recoverable from the Agency. In addition Snohomish County shall be entitled to recover from the Agency its attorney fees, and costs incurred to enforce the provisions of this section.

The indemnification, protection, defense and save harmless obligations contained herein shall survive the expiration, abandonment or termination of this Agreement.

Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Agreement.

7. Insurance; No Limitation.

At execution of this Agreement, the Agency, at its own cost, shall have procured and will maintain for the duration of this Agreement, General Liability and Commercial Automobile Liability insurance with limits of not less than \$1 million combined single limit per occurrence. Agency is a member of the Washington Cities Insurance Authority (WCIA), a self-insured municipal risk pool of Washington public entities that join together for the purpose of providing liability and property financial protection to its members. Agency's membership in WCIA satisfies this insurance requirement and Agency will provide proof of its membership in WCIA upon County's request.

Subcontractors:

The Agency shall include all Subcontractors as insureds under its policies, or shall furnish separate certificates of insurance and policy endorsements for each Subcontractor. Insurance coverages provided by Subcontractors as evidence of compliance with the insurance requirements of this Agreement not provided by the Agency, shall be subject to all of the requirements stated herein.

8. Non-Discrimination. It is the policy of the County to reject discrimination which denies equal treatment to any individual because of his or her race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability as provided in Washington's Law against Discrimination, Chapter 49.60 RCW, and the Snohomish County Human Rights Ordinance, Chapter 2.460 SCC. These laws protect against specific forms of discrimination in employment, credit transactions, public accommodation, housing, county facilities and services, and county contracts.

The Agency shall comply with Chapter 2.460 SCC, which is incorporated herein by this reference. Execution of this Agreement constitutes a certification by the Agency of the Agency's compliance with the requirements of Chapter 2.460 SCC. If the Agency is found to have violated

this provision, or to have furnished false or misleading information in an investigation or proceeding conducted pursuant to Chapter 2.460 SCC, this Agreement may be subject to a declaration of default and termination at the County's discretion. This provision shall not affect the Agency's obligations under other federal, state, or local laws against discrimination.

9. Compliance with Laws. The Agency shall comply with all other applicable federal, state and local laws, rules, and regulations in performing this Agreement.

10. Termination.

a. If the Agency breaches any of its obligations hereunder, and fails to cure the same within five (5) business days of written notice to do so by the County, the County may terminate this Agreement, in which case the County shall pay the Agency only for the costs of the Project work accepted by the County for reimbursement in accordance with Sections 3 and 8 hereof.

b. The County may terminate this Agreement upon thirty (30) 'calendar days' written notice to the Agency for any reason other than stated in paragraph a of this Section 14, in which case the County shall pay the Agency for all costs incurred by the Agency in performing this Agreement prior to the date of termination. Payment shall be made in accordance with Sections 3 and 8 hereof.

c. Termination shall not affect the rights of the County under any other section or paragraph herein.

11. Notices. All notices and other communications shall be in writing and shall be sufficiently given and shall be deemed given on the date on which the same has been mailed by certified mail, return receipt requested, postage prepaid, addressed as follows:

If to the County:	Snohomish County Council 3000 Rockefeller Avenue, M/S 609 Everett, Washington 98201 Attention: Carol Taber Legislative Analyst
If to the Agency:	City of Marysville 6915 Armar Road Marysville, WA 98270 Attention: Jim Ballew, Director Parks, Culture & Recreation

The County or the Agency may, by notice to the other given hereunder, designate any further or different addresses to which subsequent notices or other communications shall be sent.

12 Waiver. Failure of the County to exercise any rights or remedies under this Agreement shall not be a waiver of any rights or remedies by the County and shall not prevent the County from pursuing those rights or remedies at any future time.

13. Nonassignment. The Agency shall not subcontract, assign or delegate any of the rights, duties or obligations covered by this Agreement without the prior express written consent of the County.

14. Conflicts Between Attachments and Text. Should any conflicts exist between any attached exhibit and schedule and the text of this Agreement, the text shall prevail.

15. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Washington. Any lawsuit regarding this Agreement must be brought in Snohomish County, Washington.

16 Authority. Each signatory to this Agreement represents that he or she has full and sufficient authority to execute this Agreement on behalf of the County or the Agency, as the case may be, and that upon execution of this Agreement it shall constitute a binding obligation of the County or the Agency, as the case may be.

17. Severability. Should any clause, phrase, sentence or paragraph of this Agreement be declared invalid or void, the remaining provisions of this Agreement shall remain in full force and effect.

18. Complete Agreement. This Agreement constitutes the entire understanding of the parties. Any written or verbal agreements that are not set forth herein or incorporated herein by reference are expressly excluded.

SNOHOMISH COUNTY:


AGENCY:

County Council

Date: _____

Date: _____

Approved as to form only:



Counsel to the Agency

5-30-17
Date

APPENDIX A

**SCOPE OF WORK
AND PROJECT BUDGET**

AGENCY: City of Marysville

PROJECT: Off-Leash Dog Park Fence Replacement

SCOPE OF WORK

1. The Agency will be reimbursed by the County for Project work, including eligible expenses incurred in executing the Project, pursuant to the Agreement in an amount not to exceed the Contract Maximum of \$5,000.
2. The Agency shall replace 190 treated fence system posts that have failed, along with 75 crossing rail boards.

Expenses eligible for reimbursement under the Agreement are defined as those listed in the 'COUNTY' line of the Project Budget below and, to the extent not inconsistent with this Appendix A. Invoices submitted to the County by the Agency will include itemized invoices from third parties, if any, for all eligible expenditures for which the Agency seeks reimbursement. In order to ensure timely closeout of the Project, the Agency shall submit its final invoice to the County no later than thirty (30) calendar days after completion of the Project work to be reimbursed pursuant to this Agreement, PROVIDED THAT, in no event shall billings submitted after that date to be paid by the County and PROVIDED FURTHER, that the aggregate of all billings submitted by the Agency and paid by the County pursuant to this Agreement shall not exceed the Contract Maximum of \$5,000.

PROJECT BUDGET

Total Project Cost:	\$ 10,000	
County SCPP Grant Funds:	\$ 5,000	
Supporting entity contribution	\$ 5,000	Marysville Dog Owners Group