

# CITY OF MARYSVILLE AGENDA BILL

## EXECUTIVE SUMMARY FOR ACTION

**CITY COUNCIL MEETING DATE: 12/10/18**

<b>AGENDA ITEM:</b>	
Interlocal Agreement Between the City of Lake Stevens and the City of Marysville	
<b>PREPARED BY:</b>	<b>DIRECTOR APPROVAL:</b>
Gloria Hirashima, Chief Administrative Officer	
<b>DEPARTMENT:</b>	
Executive	
<b>ATTACHMENTS:</b>	
1. Proposed Interlocal Agreement Between the City of Marysville and the City of Lake Stevens regarding improvements to Soper Hill Road. 2. Proposed Interlocal Agreement Between the City of Marysville and the City of Lake Stevens regarding improvements to Powerline Trail.	
<b>BUDGET CODE:</b>	<b>AMOUNT:</b>
	\$
<b>SUMMARY:</b>	

The City Councils of Marysville and Lake Stevens met jointly on May 15, 2018 to review a draft interlocal on transportation. Following the joint Council meeting, staff has jointly worked to rewrite the agreement and to produce an interlocal relating to a specific park improvement, referred to as the Powerline Trail. Lake Stevens is currently reviewing the agreements and had hoped to bring it to their Council in December for approval.

The proposed interlocal for Soper Hill Road, would enable the City of Marysville to proceed with a planned roundabout at 83<sup>rd</sup> Avenue NE and Soper Hill Road. Marysville proposes to wholly fund the improvement. The interlocal agreement also establishes a mutually agreed upon road standard for Soper Hill Road. Soper Hill Road is within the Lake Stevens city limits. The ILA provides the permitting jurisdiction for planned improvements within the right of way be maintained by Lake Stevens. The city of Marysville has completed transportation analysis and level of service modelling that demonstrates the planned improvements would enable the intersections to operate at LOS A through 2035 growth.

The proposed interlocal agreement for the Powerline Trail would establish an agreement to jointly design and pursue construction funding to enable a trail from Marysville's planned Centennial trail connection at Getchell Hill, through Marysville and the Sunnyside area, extending south to Lake Stevens and ultimately connecting easterly back to the Centennial trail in Lake Stevens. The planned trail would provide for a regional trail that benefits both the Marysville and Lake Stevens communities.

**RECOMMENDED ACTION: Staff requests authority to accept non-substantive language changes made by Lake Stevens following their approval process. Staff recommends that Council approve the Interlocal Agreements and authorize the Mayor to sign the Agreements.**

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF MARYSVILLE AND THE CITY OF LAKE STEVENS REGARDING IMPROVEMENTS TO SOPER HILL ROAD**

This Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2018, and is entered into by and between the City of Marysville, a municipal corporation under the laws of the state of Washington, (“Marysville”) and the City of Lake Stevens, a municipal corporation under the laws of the state of Washington (“Lake Stevens”), collectively referred to as the “parties.”

Whereas, the jurisdictional boundaries of Marysville and Lake Stevens meet along the northern boundary of the Soper Hill Road right-of-way, with the whole of Soper Hill Road, from the 8000 block east to State Route 9, being located within the jurisdictional boundaries of Lake Stevens; and

Whereas, future development in the Soper Hill Road area, largely within Marysville, and resulting traffic impacts may cause several Soper Hill Road intersections to fall below adequate levels of service for the cities of Marysville and Lake Stevens; and

Whereas, Marysville and Lake Stevens agree that future growth within Marysville will necessitate traffic control improvements at specific intersections within Lake Stevens to maintain adequate levels of service and wish to define general standards for the Soper Hill Road corridor and the manner in which those improvements will be designed and constructed; and

Whereas, Marysville and Lake Stevens have the authority to enter into this Agreement pursuant to and in accordance with the State Interlocal Cooperation Act, Chapter 39.34 RCW;

Now, therefore, in consideration of the mutual promises herein, the parties agree that:

**1. Requirements of the Interlocal Cooperation Act.**

- a. Purpose of Agreement. This Agreement is authorized by and entered into pursuant to the Interlocal Cooperation Act, Chapter 39.34 RCW. The purpose and intent of this Agreement is for Marysville and Lake Stevens to work together effectively and efficiently to accomplish the “Soper Hill Projects,” as defined in Section 3 of this Agreement. This Agreement establishes the responsibilities of Marysville and Lake Stevens for the planning, design, and construction of the Soper Hill Projects. Lake Stevens will cooperate with Marysville and Marysville will cooperate with Lake Stevens to the extent reasonably necessary to accomplish the Soper Hill Projects.
- b. No Separate Entity. The parties agree that no separate legal or administrative entities are necessary to carry out this Agreement.

- c. 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.
- d. 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:

Marysville’s Initial Administrator:	Lake Steven’s Initial Administrator:
Chief Administrative Officer Gloria Hirashima 1049 State Avenue Marysville, WA 98270	City Administrator Gene Brazel 1812 Main St. P.O. Box 257 Lake Stevens, WA 98258

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

- 2. **Effective Date.** This Agreement shall take effect upon being authorized for execution by the City Council of each party, fully executed by the mayor for each party, and being (a) filed with the Snohomish County Auditor or (b) being posted on either Marysville’s or Lake Stevens’ city website.
- 3. **Soper Hill Projects.** Soper Hill Road is an important east-west minor arterial forming a portion of the jurisdictional boundary between Marysville and Lake Stevens. Continued development in the area will necessitate improvements to the Soper Hill Road corridor.
  - a. Road Segments. The parties agree to the following conceptual layouts for the identified road segments, all as represented in the attached Exhibit A:
    - i. Soper Hill Road West of 83rd Avenue NE to City Limits. Two eleven foot wide travel lanes, five foot wide bike lanes, five foot wide planters, and five foot wide sidewalks.
    - ii. Soper Hill Road Between 83rd Avenue NE and 87th Avenue NE. Two eleven foot wide travel lanes and a twelve foot wide center turn lane, twelve foot shared used path north side, five foot sidewalk on south side, and a road buffer accommodating variable width planters.

- iii. Soper Hill Road Between 87th Avenue NE and Highway 9. Five eleven foot travel lanes (two westbound and three eastbound) at Highway 9 tapering to three eleven foot travel lanes (two westbound and one eastbound) at 87th Avenue NE. On the north side, a twelve foot shared use path and five foot planters.
  
- b. Traffic Control at 83rd Avenue NE and 87th Avenue NE. Two roadway traffic control improvement projects including the installation of two miniroundabouts and associated improvements including curb and gutter, sidewalks, and drainage improvements at the intersections of 83rd Avenue NE and Soper Hill Road (the “83rd Project”) and 87th Avenue NE and Soper Hill Road (the “87th Project”). Collectively, the 83rd Project and 87th Project constitute the “Soper Hill Projects.” As more fully detailed below and as shown in Exhibit A, the parties intend that the Soper Hill Projects will be substantially similar in their design and that Marysville will design and construct the 83rd Project and that a developer will design and construct the 87th Project, with Marysville having the option at its discretion to instead design and/or construct the 87<sup>th</sup> Project in lieu of a developer.. Lake Stevens will be the permitting agency and the lead agency for SEPA purposes on the Soper Hill Projects, within Lake Stevens’ jurisdictional boundaries.
  
- c. Marysville’s Responsibilities for the 83rd Project. With regard to the 83rd Project, Marysville, by and through its officials, officers, employees, and agents, agrees to:
  - i. Obtain Permits. Marysville is responsible for obtaining all required permits from Lake Stevens, including but not limited to construction plan approval, grading permit approval, environmental review, including issuance of a SEPA threshold determination, and right-of-way permit approval. The 83rd Project will be designed consistent with Lake Stevens’ ordinances and Engineering Design and Development Standards and consistent with the design and construction of the 87th Project. Marysville will comply with all applicable laws, rules, and regulations associated with said application and issuance of required permits and defense of all permitting decisions and any appeal thereof.
  
  - ii. Grant of Access. Marysville will obtain permission and written right-of-entry on, over, under, above, and through private property if, in the reasonable judgment of Marysville’s Engineer, access is necessary for designing or constructing the 83rd Project. Lake Stevens will reasonably assist Marysville to obtain permission and right-of-entry on, over, under, above, and through private property located within the jurisdictional boundaries of Lake Stevens as may be necessary from time to time. Any right-of-way, right of entry, or other real property interest that may need to be acquired by fee or easement will be the responsibility of Marysville and any private real property rights acquired by Marysville for the projects will be conveyed to Lake Stevens for properties located within Lake Stevens’ boundaries.

- iii. Project Design. All aspects of the 83rd Project will be designed in compliance with federal law and regulations and pursuant to Lake Stevens' ordinances and Engineering Design and Development Standards. Final design will be subject to Lake Stevens' written approval or permit approval, which shall not be unreasonably withheld.
  - iv. Sub-Contracting. Marysville may, in its sole discretion, hire one or more consultants, sub-consultants, contractors, and/or sub-contractors to perform some or all of the design or construction of the 83rd Project.
  - v. Timeline. Marysville will complete design, permitting, and construction of the 83rd Project within two years of the effective date of this Agreement.
  - vi. Conveyance. Within ninety (90) days following the later of (1) completion of construction of the 83rd Project, (2) final acceptance of the 83rd Project, or (3) resolution of all claims against retainage for the 83rd Project, Marysville will convey the 83rd Project, and any and all acquired interests in real property and improvements associated therewith and located within Lake Stevens, to Lake Stevens by bill of sale. The 83rd Project will be free of all liens and encumbrances at the time of conveyance.
- d. Lake Stevens' Responsibilities for the 83rd Project. With regard to the 83rd Project, Lake Stevens, by and through its officials, officers, employees, and agents, agrees to:
- i. Lead Agency. Pursuant to WAC 197-11-926(1), Lake Stevens will serve as the lead agency on the 83rd Project for purposes of SEPA.
  - ii. Permit Authority. Lake Stevens will act as the permitting authority related to the 83rd Project and associated improvements within the Soper Hill Road right of way, including but not limited to construction plan approval, grading permit approval, environmental review, issuance of a SEPA threshold determination, and right-of-way permit approval.
  - iii. Cooperation. Lake Stevens agrees to cooperate with Marysville as may be necessary from time to time in designing and constructing the 83rd Project.
  - iv. Grant of Access. Lake Stevens grants Marysville, its officials, officers, employees, and agents, for the purposes of designing and constructing the 83rd Project pursuant to this Agreement, permission and right-of-entry on, over, under, above, and through those Lake Stevens rights-of-way that are necessary in the design or construction of the 83rd Project. The terms and conditions of such access shall be pursuant to a right-of-way permit issued by Lake Stevens.

- e. Marysville and Lake Stevens Responsibilities for Developer Construction of the 87th Project. With regard to the 87th Project, Marysville and Lake Stevens, by and through their officials, officers, employees, and agents, agree:
- i. Developer Construction. Marysville anticipates that a development will locate within Marysville, near 87th Avenue NE and Soper Hill Road, and that such a development will trigger the need for the 87th Project.
  - ii. Analysis of Development. Upon receiving a complete application for a development in the vicinity of 87th Avenue NE and Soper Hill Road that Marysville believes will trigger the need for the 87th Project, Marysville will provide Lake Stevens a notice of application and a timely opportunity for review, comment, staff consultation, and where applicable, participation in Marysville's development review and approval process. Marysville, in consultation with Lake Stevens, may either independently study the traffic impacts of a proposed development or may rely on a traffic impact study submitted by the applicant. Marysville may require the applicant to prepare a traffic impact study and may request such supplemental information and analysis as Marysville determines is necessary.
  - iii. Conditioning of Development. If Marysville determines that the development will trigger the need for the 87th Project, Marysville will condition the development upon construction of the 87th Project and conveyance of the 87th Project to Lake Stevens by a bill of sale.
  - iv. Permits. The developer will be required to obtain the necessary permits and approvals from Lake Stevens pursuant to the Lake Stevens Municipal Code. Lake Stevens will act as the permitting authority for the 87th Project and, pursuant to WAC 197-11-926(1), will serve as the lead agency for purposes of SEPA on the 87th Project.
  - v. Development Standards. Marysville and Lake Stevens agree that the 87th Project will be designed and constructed consistent with Lake Stevens' ordinances and Engineering Design and Development Standards and consistent with the design and construction of the 83rd Project.
  - vi. Cooperation. To the extent necessary, Marysville and Lake Stevens will coordinate to assure that the 87th Project is designed, permitted, and constructed in a form substantially similar to the 83rd Project.
  - vii. Conveyance. Following the developer's construction of the 87th Project, portions of the project shall be conveyed by the developer to Lake Stevens in accordance with the Lake Stevens Municipal Code and the Lake Stevens Engineering Design and Development Standards.

- viii. Marysville Public Improvement Project. In its sole discretion, Marysville will have the option to design, permit and potentially construct the 87<sup>th</sup> Project in lieu of a developer as a public improvement occurring in advance of a private development triggering said improvements. In the event Marysville exercises this option, then the terms of Section 3.c and 3.d will apply to the 87<sup>th</sup> Project (as though those Sections substituted “87th Project” in place of “83rd Project”) except for Section 3.c.v, which will be modified so that the 87th Project will be completed prior to any development occupancy that trigger the improvements consistent with Section 3.e.iii.

**4. Maintenance of the Soper Hill Projects.**

- a. 83rd Project. During construction of the 83rd Project, and until such time as this Agreement expires or is terminated, Marysville will be responsible for the maintenance and repair of all improvements of the 83rd Project including the roadway, curb, gutter, sidewalks, and storm water drainage improvements, but excluding pavement overlays and channelization.
- b. 87th Project.
  - i. Prior to conveyance to Lake Stevens, and in accordance with the Lake Stevens Municipal Code and the Lake Stevens Engineering Design and Development Standards, the developer shall be responsible for maintenance of the 87th Project.
  - ii. In accordance with the Lake Stevens Municipal Code and the Lake Stevens Engineering Design and Development Standards, Lake Stevens shall assure that any necessary maintenance or repair of the 87th Project is completed by the developer, or by Lake Stevens with resort to available bonds, prior to conveyance of the improvements to Lake Stevens.
  - iii. Upon conveyance of all or any portion of the 87th Project improvements to Lake Stevens, Lake Stevens may, within ninety (90) days, provide written notice to Marysville of the conveyance. The written notice must identify the specific improvements conveyed to Lake Stevens (the “Noticed Improvements”). Thereafter, and until such time as this Agreement expires or is terminated, Marysville will be responsible for the maintenance and repair of the Noticed Improvements, excluding pavement overlays.
  - iv. In the event Marysville exercises its option to construct the 87th project pursuant to Section 3.e.viii, then during construction of the 87th Project, and until such time as this Agreement expires or is terminated, Marysville will be responsible for the maintenance and repair of all improvements of the 87th Project including the

roadway, curb, gutter, sidewalks, and storm water drainage improvements, but excluding pavement overlays and channelization.

**5. Access to Soper Hill Road.**

- a. Marysville and Lake Stevens shall retain all permitting authority with regard to right-of-way use permits allowing access onto Soper Hill Road within their respective jurisdictions.
- b. The parties agree that one right-in or right-in-right-out access point onto Soper Hill Road may be located between State Route 9 and 87th Avenue NE and at least one access point onto Soper Hill Road may be located between 87th Avenue NE and 83rd Avenue NE, generally aligning with 85th Drive NE. An additional access point for emergency access only, as required by the Fire District, may also be located between 87th Avenue NE and 83rd Avenue NE for the subdivision known as Belle Haven.
- c. The access points in Marysville will be designed, constructed, and approved in compliance with Marysville ordinances and Marysville's Engineering Design and Development Standards. This includes the location and spacing of the access points relative to existing intersections and other access points and the nature of the access point (right-in-right-out, full access, etc.). Marysville will consult with Lake Stevens regarding the design and location of the Soper Hill Road access points and to the greatest extent practicable will incorporate Lake Stevens' design standards and aesthetics in its permitting decision.

**6. Coordination of Future Growth.** Marysville is committed to assuring that future growth in the area of the Soper Hill Projects does not unduly burden Lake Stevens.

- a. Density. Lake Stevens desires to have future development within Marysville, in the area of the Soper Hill Projects, occur at densities similar to those found in Lake Stevens' Campus Park development, which is located adjacent to the Soper Hill Projects. Existing Marysville zoning allows slightly higher density. To the extent Marysville seeks to modify underlying zoning within the East Sunnyside/Whiskey Ridge Subarea in a manner that further increases density, Marysville will provide Lake Stevens notice of the possible modifications and reasonably attempt to address concerns raised by Lake Stevens.
- b. Traffic. Marysville will continue to consider the traffic impacts of potential development within Marysville and condition such developments upon mitigation of traffic impacts as provided in the Marysville Municipal Code.



- c. Parks. An interlocal agreement titled “Interlocal Agreement between the City of Marysville and City of Lake Stevens regarding improvements to Powerline Trail” provides for coordination of future recreation improvements between the cities.
- d. Schools. Both Marysville and Lake Stevens are committed to supporting quality school facilities. Marysville regularly adopts the Lake Stevens School District’s Capital Facilities Plan as a sub-element of the Public Facilities and Services Element of the Marysville Comprehensive Plan. This allows Marysville to collect impact fees to fund the Lake Stevens School District’s necessary capital facility improvements and assure that future developments in the area of the Soper Hill Projects bear the cost of facilities necessitated by that future development. Marysville will continue to coordinate with the Lake Stevens School District to address the District’s needs for capital facilities improvements.
- e. Coordination of Traffic Impacts on SR9. Marysville and Lake Stevens agree to coordinate with the Washington State Department of Transportation (“WSDOT”) on future development impacts at the intersection of Soper Hill Road and SR9, as well as the intersection of SR92 and SR9, to ensure that new developments construct improvements necessary to mitigate safety and transportation impacts. Marysville will be responsible for coordinating (through its development review and approvals) intersection improvements and realignment of the intersection of Soper Hill Road and SR 9 on the west side of SR 9. Lake Stevens will be responsible for coordinating (through its development review and approvals) intersection improvements and realignment of the intersection of Soper Hill Road and SR 9 on the east side of SR 9. Each party’s responsibilities for the Soper Hill/SR 9 intersection improvements and realignment will include addressing WSDOT specifications, and if one party’s improvements on their geographic side of the intersection (as described in this Section 6.e) trigger WSDOT specifications in the other party’s geographic side, that other party will be responsible for addressing those specifications on their geographic side of the intersection.

## **7. Indemnification/Hold Harmless.**

- a. Marysville’s Indemnification of Lake Stevens. Marysville shall protect, hold harmless, indemnify, and defend, at its own expense, Lake Stevens, its elected and appointed officials, officers, employees, and agents, from any loss or claim for damages of any nature whatsoever arising out of Marysville’s performance of this Agreement, including claims by Marysville’s own employees or third parties, except for (1) those damages caused solely by the negligence or misconduct of Lake Stevens, its elected and appointed officials, officers, employees, or agents or (2) those damages caused by any breach by Lake Stevens under this Agreement.

- b. Lake Stevens' Indemnification of Marysville. Lake Stevens shall protect, hold harmless, indemnify, and defend, at its own expense, Marysville, its elected and appointed officials, officers, employees, and agents, from any loss or claim for damages of any nature whatsoever arising out of Lake Stevens' performance of this Agreement, including claims by Lake Stevens' own employees or third parties, except for (1) those damages caused solely by the negligence or misconduct of Marysville, its elected and appointed officials, officers, employees, or agents or (2) those damages caused by any breach by Marysville under this Agreement.
  - c. Waiver of Immunity Under Industrial Insurance Act. The indemnification provisions of Section 7.a. and Section 7.b. above are specifically intended to constitute a waiver of each party's immunity under Washington's Industrial Insurance Act, Title 51 RCW, as respects the other party only, and only to the extent necessary to provide the indemnified party with a full and complete indemnity of claims made by the indemnitor's employees. The parties acknowledge that these provisions were specifically negotiated and agreed upon by them.
  - d. Survival. The provisions of this Section 7 shall survive the expiration or earlier termination of this Agreement.
8. **Insurance.** Each party shall maintain its own insurance and/or self-insurance (including membership in a self-insured pool) for its liabilities from damages to property and or injuries to persons arising out of its activities associated with this Agreement as it deems reasonably appropriate and prudent. The maintenance of, or lack thereof of insurance and/or self-insurance (including membership in a self-insured pool) shall not limit either party's indemnification obligations under Section 7.
9. **Duration.** This Agreement shall continue in force and effect until the earliest occurrence of:
- a. Marysville has constructed the 83rd Project and conveyed it to Lake Stevens and a developer (or Marysville pursuant to Section 3.e.viii) has constructed the 87th Project and conveyed it to Lake Stevens and thereafter Lake Stevens provides Marysville written notice that Lake Stevens no longer wishes for Marysville to provide maintenance of the Soper Hill Projects as provided in this Agreement.
  - b. Fifteen (15) years from the date this Agreement is effective.
10. **Compliance with Laws.** Each party, in performing its obligations under this Agreement, shall comply with all applicable federal, state, and local laws, regulations, and rules.
11. **Dispute Resolution.**

- a. Informal Discussions; Mediation. The parties agree that any dispute, claim, or controversy arising out of or relating to this Agreement will first be discussed between the parties' Administrators. Thereafter and except as herein provided, no civil action with respect to any dispute, claim, or controversy arising out of or relating to this Agreement may be commenced until the dispute, claim, or controversy has been submitted to a mutually agreed upon mediator. The parties agree that they will participate in the mediation in good faith, and that they will share equally in its costs. Each party shall be responsible for the costs of its own legal representation. Either party may seek equitable relief prior to the mediation process, but only to preserve the status quo pending the completion of that process.
- b. Civil Action. In the event the dispute, claim, or controversy is not resolved within 45 days of the commencement of mediation as described in Section 11.a, either party exercise any and all rights and remedies available to it in law or equity to resolve said dispute, claim, or controversy. The prevailing party shall be entitled to recover reasonable attorney's fees together with costs.

**12. Relationship to Existing Laws and Statutes.** This Agreement in no way modifies or supersedes existing state laws and statutes. In meeting the commitments encompassed in this Agreement, all parties will comply with all applicable state or local laws. Marysville and Lake Stevens will retain the ultimate authority for land use and development decisions within their respective jurisdictions. By executing this Agreement, Marysville and Lake Stevens do not intend to abrogate the decision-making responsibility or police powers vested in them by law.

**13. 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. 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 1.d. of this Agreement. Notice delivered by email shall be deemed given as of the date and time received by the recipient.

**14. Miscellaneous.**

- a. 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 approved by the city council of each party and signed by the mayor of both parties.

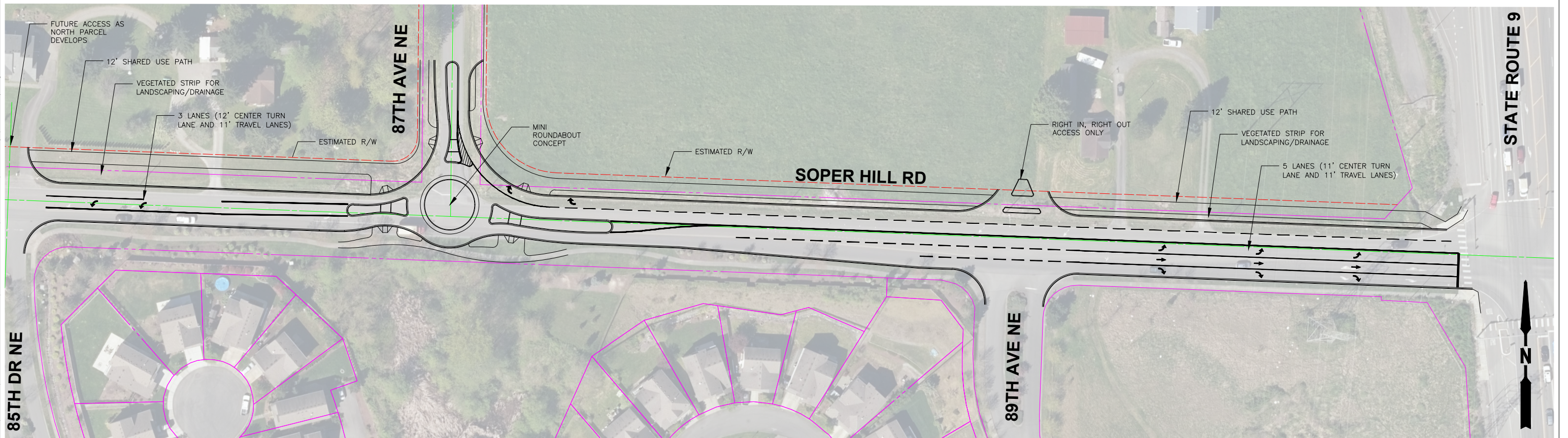
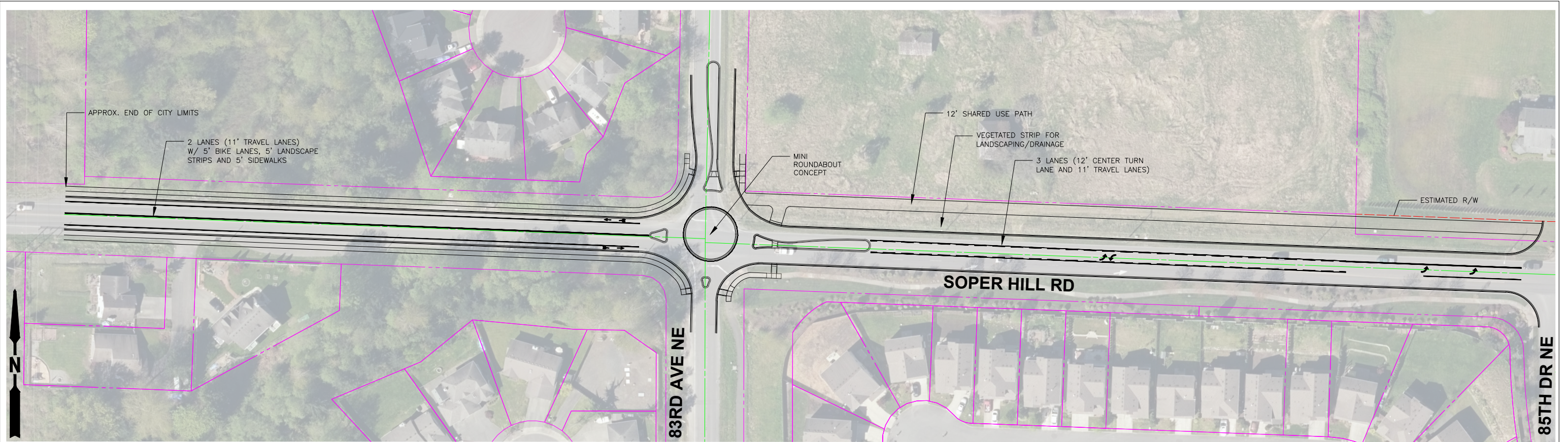
- b. Governing Law and Venue. This Agreement shall be governed by and enforced in accordance with the laws of the State of Washington. The venue of any action arising out of this Agreement shall be the Superior Court of the State of Washington, in and for Snohomish County.
- c. Interpretation. This Agreement 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.
- d. 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.
- e. 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.
- f. 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.
- g. 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.
- h. 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.
- i. No Third Party Beneficiaries. This Agreement and each and every provision thereof are for the sole benefit of Marysville and Lake Stevens. No other persons or parties shall be deemed to have any rights in, under, or to this Agreement.

- j. 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 as of the last date written below.

CITY OF MARYSVILLE	CITY OF LAKE STEVENS
By: _____ Jon Nehring, Mayor	By: _____ John Spencer, Mayor
Attested/Authenticated:  _____ April O'Brien, Deputy City Clerk	Attested/Authenticated:  _____ Barb Stevens, City Clerk
Approved as to form:  _____ Jon Walker, City Attorney	Approved as to form:  _____ Grant Weed, City Attorney





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# SOPER HILL RD (west of 83rd Ave NE to SR 9) CONCEPTUAL PLAN



**INTERLOCAL AGREEMENT BETWEEN THE CITY OF MARYSVILLE AND THE CITY OF LAKE STEVENS REGARDING IMPROVEMENTS TO POWERLINE TRAIL**

This Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2018, and is entered into by and between the City of Marysville, a municipal corporation under the laws of the state of Washington, (“Marysville”) and the City of Lake Stevens, a municipal corporation under the laws of the state of Washington (“Lake Stevens”), collectively referred to as the “parties.”

Whereas, powerlines and associated easements run through the jurisdictional boundaries of Marysville and Lake Stevens; and

Whereas, development of a trail on or along these powerlines would benefit both cities and their citizens, provide recreational opportunities, and provide alternative transportation routes (bicycle and pedestrian) linking the cities; and

Whereas, Marysville and Lake Stevens agree that development of a trail (the “Powerline Trail”) along this route as shown in **Exhibit A** would benefit the public health and welfare and that its benefits would be greatly enhanced by joint development through both cities; and

Whereas, the Powerline Trail will be developed so as to connect to the Centennial Trail, with the connections tentatively planned at or near the Getchell trailhead site in Marysville, and at or near 20<sup>th</sup> SE in Lake Stevens; and

Whereas, the Powerline Trail will serve a population beyond that of Marysville and Lake Stevens; and

Whereas, Marysville and Lake Stevens have the authority to enter into this Agreement pursuant to and in accordance with the State Interlocal Cooperation Act, Chapter 39.34 RCW;

Now, therefore, in consideration of the mutual promises herein, the parties agree that:

**1. Requirements of the Interlocal Cooperation Act.**

- a. Purpose of Agreement. This Agreement is authorized by and entered into pursuant to the Interlocal Cooperation Act, Chapter 39.34 RCW. The purpose and intent of this Agreement is for Marysville and Lake Stevens to work together effectively and efficiently to accomplish the “Powerline Trail Projects,” as defined in Section 3 of this Agreement. This Agreement establishes the responsibilities of Marysville and Lake Stevens for the planning, design, and construction of the Powerline Trail Projects. Lake

Stevens will cooperate with Marysville and Marysville will cooperate with Lake Stevens to the extent reasonably necessary to accomplish the Powerline Trail Projects.

- b. No Separate Entity. The parties agree that no separate legal or administrative entities are necessary to carry out this Agreement.
- c. 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.
- d. 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:

Marysville’s Initial Administrator:	Lake Steven’s Initial Administrator:
Chief Administrative Officer Gloria Hirashima 1049 State Avenue Marysville, WA 98270	City Administrator Gene Brazel 1812 Main St. P.O. Box 257 Lake Stevens, WA 98258

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

- 2. **Effective Date.** This Agreement shall take effect upon being authorized for execution by the City Council of each party, fully executed by the mayor for each party, and being (a) filed with the Snohomish County Auditor or (b) being posted on either Marysville’s or Lake Stevens’ city website.

3. **Powerline Trail Project Design.**

- a. Design. The Powerline Trail would be an important north-south recreational and transportation corridor. Each city will commit to funding preliminary (30%) design of the project for the segments of the Powerline Trail located within their jurisdiction up to \$200,000.00 per jurisdiction. The city of Marysville will plan , locate and provide a neighborhood park with parking and restroom facilities along their segment of the trail within ½ mile of the intersection of Soper Hill Road. The cities will coordinate planning of the trail and cooperate on design to ensure consistency throughout the project and each



will be the lead agency for design and future construction within their jurisdiction, unless otherwise agreed.

- b. Design Option. Upon written consent of both parties, Marysville may, in lieu of Lake Stevens, also design the segments of the Powerline Trail that are located in Lake Stevens, and Lake Stevens will reimburse Marysville for the cost of designing those segments.
- c. Preliminary design will be completed within two years of the effective date of this agreement.

**4. Final Design and Construction of the Powerline Trail Project.**

Following preliminary design, the cities agree to coordinate a phasing and funding plan for the final design, easement or property acquisition and trail construction. The parties agree to jointly prioritize the trail segments (if construction must occur in phases). The parties also agree to seek grant opportunities through joint application for State and Federal grants. and to work cooperatively on securing funding until all phases are constructed.

**5. Maintenance of the Powerline Trail Project.**

In the event the Powerline Trail is constructed, each city will be responsible for maintenance of the trail within its jurisdiction.

**6. Access to Powerline Trail.**

Each city will take all reasonable measures to ensure access to the trail and to connect the trail with other trails and recreational sites. On the north end, Marysville will ensure connection to the Centennial Trail and on the south end, Lake Stevens will connect to its trail section on 20<sup>th</sup> St SE which will ultimately connect to Centennial trail via the interconnected trail system.

**7. Indemnification.** Each party to this Agreement shall be responsible for its own acts and/or omissions and those of its officers, employees and agents. No party to this Agreement shall be responsible for the acts and/or omissions of entities or individuals not a party to this Agreement. The provisions of this Section 6 shall survive the expiration or earlier termination of this Agreement.

**8. Insurance.** Each party shall maintain its own insurance and/or self-insurance (including membership in a self-insured pool) for its liabilities from damages to property and or injuries to persons arising out of its activities associated with this Agreement as it deems reasonably appropriate and prudent. The maintenance of, or lack thereof of insurance and/or self-

insurance (including membership in a self-insured pool) shall not limit either party's indemnification obligations under Section 6.

**9. Duration.** This Agreement shall continue in force and effect until the earliest occurrence of:

- a. Completion of trail construction
- b. Ten years from the date this Agreement is effective, or as mutually extended by the parties.

**10. Compliance with Laws.** Each party, in performing its obligations under this Agreement, shall comply with all applicable federal, state, and local laws, regulations, and rules.

**11. Dispute Resolution.** The parties agree that any dispute, claim, or controversy arising out of or relating to this Agreement will first be discussed between the parties' Administrators. Thereafter and except as herein provided, no civil action with respect to any dispute, claim, or controversy arising out of or relating to this Agreement may be commenced until the dispute, claim, or controversy has been submitted to a mutually agreed upon mediator. The parties agree that they will participate in the mediation in good faith, and that they will share equally in its costs. Each party shall be responsible for the costs of its own legal representation. Either party may seek equitable relief prior to the mediation process, but only to preserve the status quo pending the completion of that process.

**12. Relationship to Existing Laws and Statutes.** This Agreement in no way modifies or supersedes existing state laws and statutes. In meeting the commitments encompassed in this Agreement, all parties will comply with all applicable state or local laws. Marysville and Lake Stevens will retain the ultimate authority for land use and development decisions within their respective jurisdictions. By executing this Agreement, Marysville and Lake Stevens do not intend to abrogate the decision-making responsibility or police powers vested in them by law.

**13. 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. 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 1.d. of this Agreement. Notice delivered by email shall be deemed given as of the date and time received by the recipient.

#### 14. Miscellaneous.

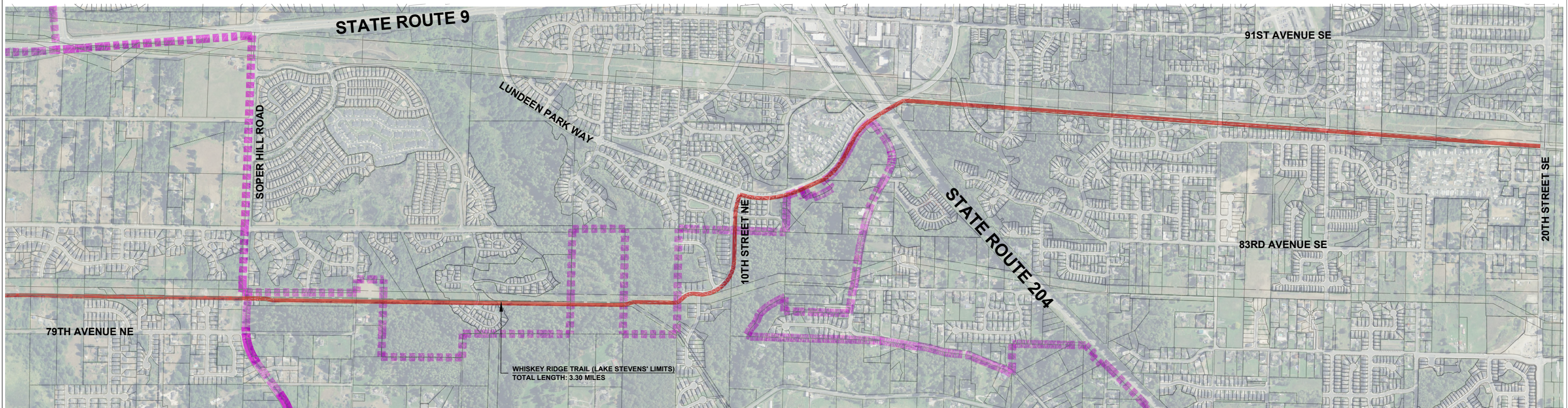
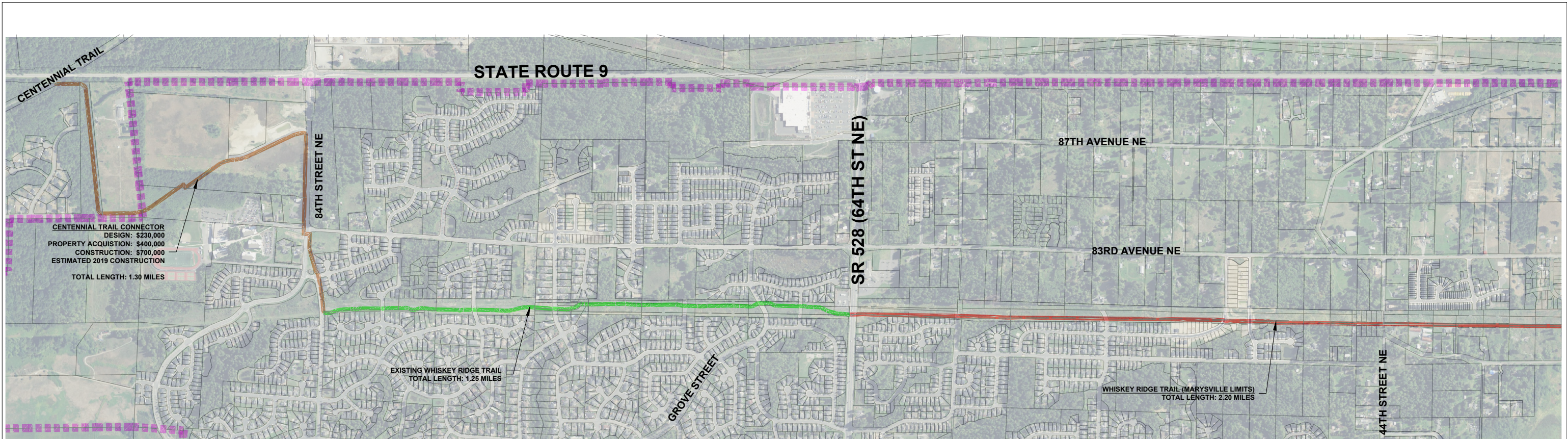
- a. Entire Agreement; Amendment. This Agreement constitutes the entire agreement between the parties regarding the subject matter hereof and supersedes any and all prior oral or written agreements between the parties regarding the subject matter contained herein. This Agreement may not be modified or amended in any manner except by a written document approved by the city council of each party and signed by the mayor of both parties.
- b. 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 the Superior Court of the State of Washington, in and for Snohomish County.
- c. 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.
- d. 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.
- e. 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.
- f. 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.

- g. 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.
- h. 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.
- i. No Third Party Beneficiaries. This Agreement and each and every provision thereof are for the sole benefit of Marysville and Lake Stevens. No other persons or parties shall be deemed to have any rights in, under, or to this Agreement.
- j. Recitals; Exhibits. The recitals and attached exhibits are incorporated into and shall be considered part of this Agreement.
- k. 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.

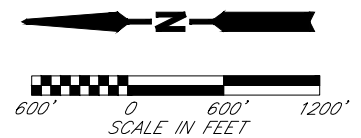
In witness whereof, the parties have executed this Agreement as of the last date written below.

CITY OF MARYSVILLE	CITY OF LAKE STEVENS
By: _____ Jon Nehring, Mayor	By: _____ John Spencer, Mayor
Attested/Authenticated:  _____ Tina Brock, Deputy City Clerk	Attested/Authenticated:  _____ Barb Stevens, City Clerk
Approved as to form:  _____ Jon Walker, City Attorney	Approved as to form:  _____ Grant Weed, City Attorney





- - - - CITY LIMITS
- EXISTING TRAIL
- PROPOSED TRAIL (FUNDED)
- PROPOSED TRAIL (UNFUNDED)
- PARCEL



# WHISKEY RIDGE TRAIL (CENTENNIAL TRAIL to 20th St NE)