

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: February 8, 2021

AGENDA ITEM:	
Centennial Trail Connector – Interlocal Agreement with Snohomish County	
PREPARED BY:	DIRECTOR APPROVAL:
Kyle Woods, Project Engineer	<i>W</i> for <i>KN</i>
DEPARTMENT:	
Public Works, Engineering	
ATTACHMENTS:	
Snohomish County Interlocal Agreement for Construction and Maintenance of Centennial Trail Connector	
BUDGET CODE:	AMOUNT:
31000076.563000, P1601	N/A
SUMMARY:	

The Centennial Trail Connector project proposes to extend the existing Bayview Trail to the Centennial Trail. As part of this project, the trail will connect with the Snohomish County owned Centennial Trail in the vicinity shown on the attached interlocal agreement, Exhibit B. In accordance with the Snohomish County’s permitting requirements, the City is obligated to acquire an interlocal agreement for the construction and maintenance of the portion of trail on Snohomish County property.

RECOMMENDED ACTION: Staff recommends that Council authorize the Mayor to sign and execute the enclosed Construction and Maintenance Interlocal Agreement with Snohomish County.

PROPOSED MOTION: I move to authorize the Mayor to sign and execute the enclosed Construction and Maintenance Interlocal Agreement with Snohomish County.

**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF MARYSVILLE AND SNOHOMISH COUNTY FOR CONSTRUCTION
AND MAINTENANCE OF CENTENNIAL TRAIL CONNECTOR**

This INTERLOCAL AGREEMENT (this “Agreement”), is made and entered into this ____ day of _____, 20__, by and between SNOHOMISH COUNTY, a political subdivision of the State of Washington (the “County”), and the City of Marysville, a municipal corporation with corporate offices located at 1049 State Avenue, Marysville, WA 98270 (The “City”), pursuant to Chapter 39.34 RCW.

RECITALS

A. The County and City seek to collaborate to allow design, construction, and maintenance of a new section of recreational trail to connect the City to the existing County-owned Centennial Trail (“County Trail”) and to allow the City access to construct and maintain that new section of trail for efficiency purposes.

B. Further to this effort, a portion of the County Trail will be used to connect the County Trail to the City-owned Bayview trail, located outside the City of Marysville. This portion of the County Trail shall hereinafter be designated (the “Property”) and is legally described in Exhibit A (attached hereto and incorporated herein by this reference) and depicted on Exhibit B (attached hereto and incorporated herein by this reference). Improvements to the Property will include a paved connection to the existing asphalt County Trail utilizing a new asphalt trail surface. The trails will be connected in a way that provides a smooth transition between the two trails at the point of connection. The Property is 864 square feet, and lies entirely within the County Trail corridor.

C. Pursuant to 39.34 RCW, the parties wish to allow the City to construct and maintain the Property for the benefit of the public, while the County continues to maintain ownership of the Property.

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 City agree as follows:

PROVIDED THAT SUCH AGREEMENT IS SUBJECT TO ALL ACQUISITION AND FUNDING SOURCE GRANT REQUIREMENTS, in compliance with RCO Project Agreements 91-15A and 92-362D, administered by the Recreation and Conservation Office, and Conservation Futures funds administered by Snohomish County pursuant to County Code. RCO Project Agreements 91-15A and 92-362D are incorporated herein by this reference.

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 City

INTERLOCAL AGREEMENT BETWEEN CITY AND SNOHOMISH COUNTY FOR CONSTRUCTION AND MAINTENANCE OF CENTENNIAL TRAIL CONNECTOR

regarding the construction and maintenance of the Property for public recreational use.

2. Effective Date and Duration.

This Agreement shall take effect once it has been duly executed by both parties and either filed with the County Auditor or posted on the County’s Interlocal Agreements website (the “Effective Date”). This Agreement shall remain in effect for five (5) years following the Effective Date, unless earlier terminated pursuant to the provisions of Section 12 below, PROVIDED, HOWEVER, that the term of this Agreement may be extended or renewed for up to three (3) additional five (5) year terms, for a total of 20 years, at the sole discretion of the County, by written notice from the County to City.

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:

SNOHOMISH COUNTY
Kye Iris
Park Property Administrator
6705 Puget Park Drive
Snohomish, WA 98296
425-388-6623

City’s Initial Administrator:

CITY OF MARYSVILLE
1049 STATE AVE
Kyle Woods, PE
425-344-1505

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

4. **Enforcement.** Nothing contained in this Agreement shall be considered to diminish the governmental or police powers of the County. The Property is subject to Title 22 of the Snohomish County Code and all other rules and regulations adopted by the County. The County may, at its sole cost and expense, enforce the Snohomish County Code, rules and regulations within the Property, and monitor the Property for appropriate use.

5. Responsibilities of City.

5.1 The City agrees to perform maintenance of the Property. Such maintenance work shall include but not be limited to:

- (a) Maintenance of the asphalt trail surface to provide a smooth, uniform surface for pedestrian and bicycle traffic.
- (b) Maintenance of the connection point of the Bayview Trail and the Centennial Trail with a smooth coat of AR400W or similar in the area shown on Exhibit A.
- (c) Maintaining the Property free of vegetation such as branches and trees.

- (d) Providing 48 hours' notice to the appropriate Snohomish County staff for any trail maintenance activities that would impede pedestrian and bicycle traffic on the Centennial Trail.
- (e) Responding to any maintenance item requested by the County.
- (f) Resolving drainage issues such as standing water on the trail surface.

6. Alterations and Improvements.

6.1 **No Conversion or Non-Compliance with Grant Sources.** City may not make additions, changes, alterations, or improvements to the Property that are inconsistent with this Agreement, conveyance deed(s), easements, third party agreements, or Grant contracts associated with the Property. The Property shall continue to be used for the approved purpose for which it was acquired and for no purpose in conflict therewith.

6.2 **Consent by the County.** City may not make alterations to the Property ("Alterations") without first obtaining the prior written consent of the County.

6.3 **Alterations by City.** All Alterations shall be performed: (a) at City's sole cost and expense unless funding is obtained through a RCO or other grant or donation source; (b) in a good safe environment and performed in a professional workmanlike manner, with all materials used being of a quality at least as good as or better than existing condition those already in use on the Property; (c) in accordance with plans and specifications approved by County and associated grant/sponsor agencies; and (d) in compliance with all applicable laws, codes and regulations including but not limited to those related to prevailing wages (see RCW 39.12), retainage (see RCW 60.28), bonding (see RCW 39.08), use of licensed contractors (see RCW 39.06), and competitive bidding (see RCW 36.32 and RCW 35.21.278), and all codes and regulations. The County hereby expressly disclaims any responsibility or liability for same.

6.4 **Disposition of Alterations at Termination.** Upon the expiration or earlier termination of this Agreement, all fixed Alterations shall remain in and be surrendered with the Property as a part thereof, unless, with respect to any Alteration, the County specifies in its consent to the construction of such Alteration that such Alteration must be removed prior to surrender, in which case City shall, prior to surrender, remove the Alteration in question and repair any damage to the Property caused by such removal.

6.5 **Liens.** City shall keep the Property free from any liens arising out of work performed for, materials furnished to, or obligations incurred by, or on behalf of, City. Any construction liens filed against the Property for work claimed to have been furnished to City will be discharged by City, by bond or otherwise, within ten (10) days after the filing of the claim or lien, at City's sole cost and expense. Should City fail to discharge any such construction lien, the County may at its election pay that claim or post a bond or otherwise provide security to eliminate the lien as a claim against title and the cost to the County shall be immediately due and payable by City. City shall indemnify and hold the County harmless from and against any liability arising from any such lien.

7. Independent Contractor.

City will perform all work associated with the Property as an independent contractor and not as an agent, employee, or servant of the County. City shall be solely responsible for control, supervision, direction and discipline of its personnel, who shall be employees and agents of City and not the County. The County shall only have the right to ensure performance.

8. Indemnification/Hold Harmless.

City shall hold harmless, indemnify, and defend the County, its officers, elected and appointed officials, employees, and agents from and against all claims, losses, suits, 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, contractor, licensee, invitee and/or any other persons who may be in, on, around or upon the Property with the express or implied consent of City or arising out of or suffered, directly or indirectly, by reason of or in connection with the rights granted to City with relation to the Property or the performance of this Agreement, or any act, error, or omission of City, City's employees, agents, and subcontractors, whether by negligence or otherwise. In the event of the concurrent negligence of the parties, the City's obligations hereunder shall apply only to the percentage of fault attributable to City. It is specifically and expressly understood that the indemnification provided in this Agreement constitutes City's waiver of immunity under the state industrial insurance laws, Title 51 RCW, solely for the purpose of this indemnification. City agrees that this waiver has been mutually negotiated. Nothing contained herein is intended to limit either party's immunity under RCW 4.24.200 or RCW 4.24.210.

9. Condition of Property.

City acknowledges and agrees that it has had an adequate opportunity to inspect the Property and is accepting the Property in its current condition, AS IS, WHERE IS, subject to all faults and defects, known and unknown. City further represents and warrants to the County that except for the County's express representations, warranties, covenants and obligations under this Agreement and the exhibits hereto, City has not relied and will not rely on, and the County is not liable for or bound by, any warranties, guaranties, statements, representations or information pertaining to the Property and the Property Improvements.

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 City 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.

12.1 180 Days' Notice. Except as provided in Sections 12.2 and 12.3 below, either party may terminate this Agreement at any time, with or without cause, upon not less than one hundred eighty (180) days advance written notice to the other party, PROVIDED, HOWEVER, that the County may terminate this Agreement immediately if, in the County's sole discretion, immediate termination is necessary to protect the public health, safety or welfare. A termination notice given under this Section 12.1 shall specify the date on which the Agreement shall terminate.

12.2 Lack of Funding. This Agreement is contingent upon governmental funding and local legislative appropriations. In the event that funding from any source is withdrawn, reduced, limited, or not appropriated after the effective date of this Agreement, this Agreement may be terminated by either party immediately by delivering written notice to the other party. The termination notice shall specify the date on which the Agreement shall terminate.

12.3 Termination for Breach. In the event that City commits a Default as described in Section 11, the County may terminate this Agreement immediately by delivering written notice to CITY.

12.4 Termination upon Change of Ownership. Upon a change of ownership of the Property, this Agreement shall terminate immediately. Upon a change of ownership comprising "Property" for purposes of this Agreement, this Agreement shall terminate.

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. The prevailing party in any legal action shall be entitled to a reasonable attorneys' fee and court costs.

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. Nondiscrimination.

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.

City shall comply with the substantive requirements of Chapter 2.460 SCC, which are incorporated herein by this reference. Execution of this Agreement constitutes a certification by City of City's compliance with the requirements of Chapter 2.460 SCC. If CITY is found to have violated this provision, or to have furnished false or misleading information in an investigation or proceeding conducted pursuant to this Agreement or 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 City's obligations under other federal, state, or local laws against discrimination.

16. Miscellaneous.

16.1 Entire Agreement; Amendment(s). 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.

16.2 Conflicts between Attachments and Text. Should any conflicts exist between any attached exhibits or schedule and the text or main body of this Agreement, the text or main body of this Agreement, or to any modifications or amendments to this Agreement shall prevail.

16.3 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.

16.4 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.

16.5 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.

16.6 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.

16.7 No Assignment. This Agreement shall not be assigned, either in whole or in part, by City without the express written consent of the County, which may be granted or withheld at the County'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.

16.8 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.

16.9 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.

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

16.11 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.

16.12 No Third Party Beneficiaries. This Agreement and each and every provision hereof is for the sole benefit of the Town and the County. No other persons or parties shall be deemed to have any rights in, under or to this Agreement.

16.13 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 as of the date first above written.

COUNTY:

SNOHOMISH COUNTY, A POLITICAL
SUBDIVISION OF THE STATE OF
WASHINGTON

CITY:

CITY OF MARYSVILLE

By _____
Its:

By _____
Name: Dave Somers
Title: Snohomish County Executive

Approved as to Form:

Deputy Prosecuting Attorney

Exhibit A

Legal Description

A portion of Assessor's Parcel #30051300300900

A portion of the SW $\frac{1}{4}$ of Section 13, Township 30N, Range 05 E W.M.

Further depicted on Exhibit B attached and incorporated herein by this reference

Exhibit B

QUARTER SW	SECTION 13	TOWNSHIP N.W.B.L. 30	RANGE E.W.M. 5	ALL MAPS, DATA, AND INFORMATION SET FORTH HEREIN ("DATA"), ARE FOR ILLUSTRATIVE PURPOSES ONLY AND ARE NOT TO BE CONSIDERED AN OFFICIAL CITATION TO, OR REPRESENTATION OF, THE SNOHOMISH COUNTY CODE. AMENDMENTS AND UPDATES TO THE DATA, TOGETHER WITH OTHER APPLICABLE COUNTY CODE PROVISIONS, MAY APPLY WHICH ARE NOT DEPICTED HEREIN. SNOHOMISH COUNTY MAKES NO REPRESENTATION OR WARRANTY CONCERNING THE CONTENT, ACCURACY, CURRENCY, COMPLETENESS OR QUALITY OF THE DATA CONTAINED HEREIN AND EXPRESSLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. ALL PERSONS ACCESSING OR OTHERWISE USING THIS DATA ASSUME ALL RESPONSIBILITY FOR USE THEREOF AND AGREE TO HOLD SNOHOMISH COUNTY HARMLESS FROM AND AGAINST ANY DAMAGES, LOSS, CLAIM OR LIABILITY ARISING OUT OF ANY ERROR, DEFECT OR OMISSION CONTAINED WITHIN SAID DATA. WASHINGTON STATE LAW, CH. 42.56 RCW, PROHIBITS STATE AND LOCAL AGENCIES FROM PROVIDING ACCESS TO LISTS OF INDIVIDUALS INTENDED FOR USE FOR COMMERCIAL PURPOSES AND, THUS, NO COMMERCIAL USE MAY BE MADE OF ANY DATA COMPRISING LISTS OF INDIVIDUALS CONTAINED HEREIN.
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Centerline	Lot	Block	Section	City Limits
Gov Lot	Subdiv	ROW	Quarter	Tax Acct
Major Water	Other Lot	Vac ROW	16th	Easement
Minor Water	Other Subdiv	Vac Lot		

1 inch = 200 feet

Map produced on October 02, 2015

A product of the Assessor's Office
Snohomish County, Washington

