

INTERLOCAL AGREEMENT 22-12660

FOR MASTER PLANNING PUBLIC POWER BENEFIT FUNDS FOR RECREATION FIELDS OWNED BY THE DISTRICT AND OPERATED BY THE CITY

THIS INTERLOCAL AGREEMENT ("Agreement") is hereby entered by and between the CITY OF CHELAN ("City") and PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY ("District"), sometimes individually referred to as a "Party" or collectively referred to as the "Parties."

RECITALS

1. The District granted a Land Use Permit ("Permit") to the City for use of the Recreational Area which is more particularly described in Exhibit A and approximately as shown shaded green on Exhibit B, both attached hereto. The terms of the Permit were amended by a Letter of Permission dated July 24, 1997, and Permit Amendment Nos. 1, 2 and 3 dated November 27, 2002, June 25, 2004, and June 12, 2015, respectively. The Permit is valid unless terminated by either Party providing ninety (90) days written notice. Copies of the Permit and amendments thereto are available at the offices of the District.
2. The City received Public Power Benefit Funding ("PBB") in the total amount of \$100,000 for the purpose of hiring a consultant to develop a Master Plan that encompasses community preferences for potential future uses of the Recreational Area currently permitted to the City.
3. The City and the District have both agreed to provide funding towards a Master Plan to provide information regarding the District's customer owner's thoughts and ideas for possible alternative use(s) of the Recreational Area. The results shall be memorialized and provided to both the City and District (hereinafter "Master Plan").
4. The Parties understand and agree that development of a Master Plan will require the consultant to contact appropriate planning officials ("Officials") to confirm that the proposed design components meet zoning, occupancy, safety and other development requirements. The District and its contractors agree to work cooperatively to provide information regarding electrical safety issues that may be discovered in the development of the Master Plan and completion of other components of this Agreement.
5. The Parties desire to continue their cooperative efforts through the Master Plan process as set forth in this Agreement.
6. The Parties understand and agree that, in the event the use(s) of the Recreational Area are modified, a new permit will be issued subject to appropriate terms and conditions.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, and the foregoing representations, which are incorporated by this reference into the Agreement, the Parties agree as follows:

1. Purpose

The purpose of this Agreement is to articulate appropriate uses of the PPB funds. The funding provided from the District to the City shall only be used to fund the development of a Master Plan. The District has not committed to funding any changes to the Recreational Area at the time of this Agreement. The intent of the Master Plan is to provide both the District and the City with potential options and approximate costs associated with those options.

2. Scope of Work and Responsibilities

The Master Plan effort shall be managed by the City's parks department, which shall contract with a landscape architecture firm ("City's Consultant") specializing in Recreational Area master planning. The District shall be represented and provide input during the evaluation and selection process of the City's Consultant, which will be in accordance with RCW 39.80. The District's parks superintendent, or their designee, shall participate and may provide feedback and comments to draft documents in the development of the Master Plan. In the unlikely event that the Parties are not able to resolve disagreements relating to the language or content included within the draft documents, the District shall have the final decision with regards to resolving any such disagreements before finalization of the documents.

The Master Plan (the selection and design of new amenities or features) shall be informed by public input, but may include the following features:

- Perimeter Walking Path
- Inclusive Playground
- Skatepark/Pump track
- Parking Lot Enhancements
- Reconfiguration of Ball Fields
- Water Fountains
- Picnic Shelters/Benches
- Open Space & Shade Trees
- Multigenerational Focused Spaces/ amenities
- ADA Upgrades
- Ecological enhancements
- LED Lighting/Dark Sky Compliant
- Community Garden Space

Community stakeholders may include:

- Chelan Parks & Recreation Advisory Board

- Little League and other users of the current ballfields
- Senior Citizens and Senior Center representatives
- Surrounding residents
- Any District Advisory Groups
- All interested community members

Timeline

~~The Master Plan construction drawings and related documents to include a dog park and pickle ball courts are anticipated to be completed by December 31, 2023.~~

4. Duration and Termination

This Agreement shall become effective upon the Effective Date and shall terminate upon the completion of the Master Plan, which is anticipated by **December 31, 2023**. However, the provisions in Sections 6 (Records Maintenance), 7 (Mutual Indemnity), and 14 (Governing Law; Venue) shall survive termination of this Agreement.

5. Funding

Development of the Master Plan will be funded as follows:

- The District shall provide the City of Chelan with up to \$100,000 in PPB funding.
- The City shall contribute a minimum of \$10,000 in matching funds to be applied to the Master Plan effort.
- The City will invoice the District on a periodic basis for actual City expenditures incurred in its performance under this Agreement, including reasonable administrative fees, up to an amount not to exceed \$100,000.

It is understood that completion of the Master Plan is dependent upon availability of PPB funding, and any actual costs associated with development of the Master Plan that exceed the identified funding levels herein shall be borne solely by the City.

6. Records Maintenance

The Parties to this Agreement shall each maintain books, records, documents and other evidence, which sufficiently and properly reflect all direct and indirect costs expended by either Party in their performance under this Agreement. These records shall be subject to inspection, review or audit by personnel of both Parties, other personnel duly authorized by either Party, or the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six (6) years after termination of the Agreement and the Office of the State Auditor, federal auditors, and any persons duly authorized by the Parties shall have full access and the right to examine any of said books, records, documents, and materials during this period. Records and other documents, in any medium, furnished by one Party to this agreement to the other Party, will remain the property of the furnishing Party, unless otherwise agreed. Each Party will utilize

reasonable security procedures and protections to assure that records and documents provided by the other Party are not erroneously disclosed to third parties.

7. Mutual Indemnity

Each Party hereto shall indemnify, defend and hold harmless the other Party, its officers, agents, and employees, from and against any and all claims, losses or liability, costs, or any portion thereof, arising from injury or death to persons or damage to property occasioned by any negligent act, omission or failure of the indemnitor Party, its officers, agents, and employees, in connection with activities related to this Agreement, or arising out of the indemnitor Party's non-observance or non-performance of any law, ordinance, or regulation applicable to the indemnitor Party's activities under this Agreement.

This indemnity obligation of each Party specifically includes liability or alleged liability that may arise from injury or loss suffered by any employee of either Party or any contractor therefor, regardless of any immunity provided by the Washington Industrial Insurance Act, RCW Title 51, or any other applicable law. **THE TERMS OF THIS SECTION, SPECIFICALLY INCLUDING THE PRECEDING WAIVER OF IMMUNITY, SHALL BE DEEMED MUTUALLY NEGOTIATED BY THE PARTIES TO THE FULLEST EXTENT ALLOWED BY THE LAWS OF WASHINGTON APPLICABLE TO THE PARTIES.**

8. No Warranties

The Parties make no warranty to each other, express or implied, regarding the work performed by the City's Contractor.

9. Severability

In the event that any provision of this Agreement shall be determined to be unenforceable or otherwise invalid for any reason, such provision shall be enforced and validated to the extent permitted by law. All other provisions of this Agreement are severable, and the unenforceability or invalidity of any single provision hereof shall not affect the remaining provisions.

11. Attorney's Fees

In the event of litigation regarding any of the terms of this Agreement, each Party shall pay their own attorney's fees and costs.

12. Construction

This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements or understandings among the Parties with respect thereto. This Agreement may be amended only by an agreement in writing signed by the Parties.

13. Mutual Negotiation

This Agreement and each of the terms and provisions hereof are deemed to have been explicitly negotiated between, and mutually drafted 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 Party.

14. Governing Law; Venue

This Agreement is governed by the laws of the State of Washington, without regard to its conflict of law provisions. The jurisdiction of any action hereunder shall be in the Superior Court of Chelan County, located in Chelan County, Washington.

15. Public Disclosure

The obligations of the Parties regarding confidential information may be subject to state and federal public disclosure laws, including by not limited to RCW 42.56, as now exist or as may be hereafter amended. The Parties may disclose confidential information to the extent it is required to be disclosed pursuant to the public disclosure laws. If a public disclosure of confidential information is requested, the Party receiving the request agrees to notify the other of such request at least ten (10) business days prior to disclosure being made. The other Party may immediately seek a protective order in the appropriate court of law. The receiving Party will reasonably cooperate with the other in such action but is under no obligation to obtain or seek any court protection.

16. No Third Party Beneficiaries

This Agreement is made and entered into for the sole benefit of the Parties, and the Parties intend that no other person or entity shall be a direct or indirect beneficiary of this Agreement.

17. Relationship of Parties

The Parties intend that an independent cooperative agency relationship will be created by this Agreement. Neither Party, their officers, employees, agents, contractors of subcontractors shall be considered an agent or employee of the other for any purpose, and neither Party is entitled to any of the benefits that the other provides for its respective employees.

18. Parties Representatives

The following shall be the Parties authorized representatives and contact persons for administration of this Agreement, communication, and service of all notices, except service of process:

Public Utility District No. 1 of Chelan County, Attn: Ryan Baker, 327 N. Wenatchee Avenue Wenatchee, WA 98807 Phone: (509) 661-4022, Email: Ryan.Baker@chelanpud.org.

City of Chelan, Attn: Robert Goedde, PO Box 1669, Chelan, WA 98816, Phone: (509) 682-8018, Email: bgoedde@cityofchelan.us.

Each Party shall promptly notify the other Party in writing of any change of contact information.

Each individual executing this Agreement warrants they are fully authorized to bind their principal to the terms and conditions of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date of last signature below. (Effective Date).

PUBLIC UTILITY DISTRICT NO. 1 OF
CHELAN COUNTY

By: Justin Erickson
DocuSigned by: F66ED47AAB12E433...

Name: Justin Erickson

Title: Managing Director, Dist. Services

Date: 6/22/2023

CITY OF CHELAN

By: Robert Goedde
DocuSigned by: F1DD14B2F27C4C6...

Name: Robert Goedde

Title: Mayor

Date: 6/15/2023

EXHIBIT A

All that part of the following described Parcel A and Parcel B approximately as shown shaded green on Exhibit B.

PARCEL A: A tract of land in the northeast quarter of the southeast quarter of Section 13, Township 27 North, Range 22 East WM, Chelan County, Washington, described as follows:

Beginning at the northwest corner of the aforesaid subdivision and the true point of beginning; thence South $88^{\circ}00'$ east for a distance of 79 feet; thence south $00^{\circ}00'$ east for a distance of 350 feet; thence south $88^{\circ}00'$ east for a distance of 100 feet; thence north $00^{\circ}00'$ west for a distance of 350 feet; thence south $88^{\circ}00'$ east for a distance of 873 feet; thence south $14^{\circ}22'$ west for a distance of 555 feet; thence south $75^{\circ}38'$ east for a distance of 150 feet; thence south $45^{\circ}26'$ west for a distance 290 feet; thence south $74^{\circ}44'$ west for a distance of 334 feet; thence north $44^{\circ}59'$ west for a distance of 450 feet; thence north $55^{\circ}37'$ west for a distance of 250 feet, to the west boundary of said northeast quarter of the southeast quarter; thence north $00^{\circ}00'$ for a distance of 380.3 feet, more or less, to the true point of beginning.

PARCEL B: That part of the east half of the northeast quarter of the southeast quarter of Section 13, Township 27 North, Range 22, East WM, except Parcel A described above.

EXHIBIT B



Drawing provided for informational purposes only and is not a survey

