

INTERLOCAL AGREEMENT BETWEEN SNOHOMISH COUNTY AND THE CITY OF MILL CREEK FOR RECIPROCAL MITIGATION OF TRANSPORTATION IMPACTS

I. PARTIES AND CITATIONS

This Interlocal Agreement (hereinafter "Agreement") is entered into pursuant to Chapter 36.70A RCW (the Growth Management Act), Chapter 43.21C RCW (SEPA), Chapter 36.70B RCW (Local Project Review), Chapter 58.17 RCW (Subdivisions), Chapter 82.02 RCW (Excise Taxes), Chapter 39.34 RCW (the Interlocal Cooperation Act), Chapter 30.61 SCC (SEPA), Chapter 30.66B SCC (Concurrency and Road Impact Mitigation), Chapter 16.14 MCMC (Mitigation, Dedications and Contributions), Chapter 17.48 MCMC (Development Impact Mitigation), Chapter 18.04 MCMC (Environmental Policy) by Snohomish County, a political subdivision of the State of Washington (hereinafter "County") and the City of Mill Creek, a Washington municipal corporation (hereinafter "City") and collectively as the Parties.

II. PURPOSE AND RECITALS

- A. The best interests of the citizens of the County and the City is served through an Interlocal Agreement that specifies the reciprocal imposition of mitigation requirements and improvements.
- B. This Agreement relates to and addresses the policies and procedures for reciprocal review and mitigation of interjurisdictional transportation system impacts in the City by a development in the unincorporated County (hereinafter "County Development"), and impacts in the County by a development in the City (hereinafter "City Development").
- C. This Agreement supersedes and replaces the Interlocal Agreement between Snohomish County and the City of Mill Creek on Reciprocal Mitigation of Transportation Impacts entered into on August 1, 2006, recorded under Auditors File No. 200608010244.
- D. Within their own jurisdictions, the County and the City each have responsibility and authority derived from the Washington State Constitution, State laws, and any local Charter to plan for and regulate uses of land and resultant environmental impacts, and by law must consider the impacts of governmental actions on adjacent jurisdictions.
- E. The County and the City recognize that planning and land use decisions can have extra-jurisdictional impacts and that intergovernmental cooperation is an effective way to deal with impacts and opportunities that transcend local jurisdictional boundaries.
- F. The City has taken numerous actions to address mitigation of environmental and other impacts from new traffic generated by development proposals. The regulations, plans, codes, and mitigation policies designated in Section V below shall be collectively referred to as the City's mitigation policies which, together with this Agreement, provide the regulatory authority under which the City conditions City Developments to mitigate their transportation impacts on County roads.
- G. The County has also taken numerous actions to address mitigation of environmental and transportation impacts generated by development proposals. The regulations, plans, codes, and mitigation policies designated in Section VI below shall be collectively referred to as the County's mitigation policies which, together with this Agreement, provide the regulatory authority under which the County conditions County Developments to mitigate their transportation impacts on City roads.

- H. The City and County designated regulations, plans, codes, and mitigation policies for purposes of SEPA review and/or development review as identified in Sections V and VI below shall be as of the effective date of this agreement and as amended.

III. MITIGATION FOR IMPACTS IN THE CITY BY COUNTY DEVELOPMENTS

- A. County Transportation Service Area (TSA) and the City Street System. For purposes of this Agreement and implementing the provisions of Chapter 30.66B SCC, it has been determined that the County Development influence areas as shown in the County Development Traffic Percentage Influence Area Map (included as part of Exhibit 1) are currently located in TSAs D, E, and F as shown on the TSA Map in the Snohomish County Transportation Needs Report (TNR).
- B. Role of Chapters 43.21C RCW, 197-11 WAC, 30.61 SCC and 18.04 MCMC (SEPA). For most County Developments, compliance with this Agreement will satisfy the requirements to mitigate adverse and significant adverse impacts under Chapter 43.21C RCW (SEPA) for impacts on City streets. However, this Agreement does not limit the ability of the City to request additional mitigation pursuant to Chapter 43.21C RCW, Chapter 197-11 WAC, and Chapter 18.04 MCMC (SEPA) where the City has determined and identified specific environmental impacts of the development as being significant adverse impacts that are not addressed by this Agreement or City code.
- C. Applicability to County Developments. This Agreement applies to all proposed County Developments located in the traffic influence areas as identified in the County Development Traffic Percentage Influence Area Map (included as part of Exhibit 1) that have submitted a complete application on or after the effective date of this Agreement and which the County determines to: 1) be subject to the requirements of Chapter 30.61 SCC (SEPA); and 2) be subject to the Concurrency and Road Impact Mitigation regulations in Chapter 30.66B SCC.
- D. Providing Notice. Within seven (7) days of submittal of a complete development application subject to the terms of this Agreement, the County shall give the City written notice and afford the City a timely opportunity for review, comment, or staff consultation as provided by the Snohomish County Code related to the impacts that a County Development may have on the City's transportation system under the City's mitigation policies. Notice may be in the form of an email or by the US Postal Service. If by the US Postal Service the notice may be either a post card with a link to the information submitted by the applicant or, at the County's sole discretion, the County may mail a paper copy of the information to the City.
- E. Traffic Study. The County, through this Agreement, shall require a traffic study from any County Development that may have impacts on the City's transportation system requiring mitigation in accordance with this Agreement. Any such County Development shall submit the requested traffic study to the County as part of its initial development application.
1. The City shall provide to the County the criteria for preparation of the traffic study (see Exhibit 1) that shall include, but not be limited to, the items listed in the "The City of Mill Creek Traffic Mitigation Worksheet for Developments in Snohomish County". Mitigation shall be consistent with applicable City's mitigation policies and state and federal law.
 2. The County may waive the requirement for all or part of the traffic study if the City indicates that all information necessary to assess the impact of the development is available.

3. The County shall provide the applicant, at the pre-submittal conference, either a copy of the City's requirements for traffic studies and mitigation as shown in Exhibit 1 or a link to the City's web site where the information on traffic study requirements may be obtained.
 4. Following review of the traffic study, the City may only request supplemental information to determine the impacts of the development in accordance with this Agreement. The County shall only require the applicant to submit the supplemental information and analysis to the extent that the County determines the information is necessary to determine the impacts of the development in accordance with this Agreement.
 5. The City will recognize any Transportation Demand Management (TDM), pass-by, internal capture or other vehicle trip reduction credits determined by the County for County Developments.
- F. **Mitigating Measures.** If the City determines that a County Development will impact the City's transportation system with three (3) or more directional PM peak hour trips, the City shall notify the County of the specific impact and mitigation measure(s) the City has determined are reasonably necessary to mitigate said impacts in accordance with the City's mitigation policies referenced in Section V.
1. For each mitigating measure requested, the City shall identify the specific impacts and reference the relevant City mitigation policies. Notification of the specific mitigating measures shall be provided by the City within twenty-one (21) days of the City's receipt of written notice of application from the County as provided in accordance with Section III (D), except where notice is for review of an environmental impact statement, in which case the review period shall be as established in accordance with WAC 197-11-502 as now existing or hereafter amended.
 2. If the County does not receive timely notification of the City's requested mitigating measures consistent with Section III (F)(1) above, the County shall assume that the City has no comments or information relating to potential impacts of the development on City streets and will not require any mitigation from the developer of the development for impacts on City streets.
- G. **Scope of Mitigating Measures.** Under this Agreement, County Developments may be required to mitigate impacts on City streets for any of the following: capacity (proportionate share impact mitigation); safety; access and circulation; and level of service capacity improvement projects. County Developments which front on City right-of-way may also be required to provide frontage improvements, dedicate or deed right-of-way, and meet access-point requirements consistent with City standards identified in Section V of this Agreement.
- Vehicle trips and impacts on City streets will be evaluated under applicable provisions of the Snohomish County Code and the adopted City of Mill Creek Traffic Mitigation Program.
- H. **Proportionate Share Impact Mitigation for County Developments.** The City may request that a County Development contribute its proportionate share of programmed system improvements meeting the requirements of RCW 82.02.050 needed to mitigate capacity impacts on City streets. The two options available for determining the County Development's proportionate share of impact mitigation are:
1. **Option one.** When supported by a traffic study, a County Development's

proportionate share impact mitigation may be satisfied by payment in lieu of construction by determining the development's impact on the City's adopted list of capacity improvements on City streets as included in the City of Mill Creek's Traffic Impact Mitigation Program as adopted or subsequently amended. The fee is determined by multiplying the development's newly-generated vehicle trips impacting each planned improvement by the appropriate City residential or commercial capacity mitigation rate (i.e., impact fee) for that improvement in effect on the date the development's application is deemed complete.

2. Option two. A County Development may choose to have its proportionate share impact mitigation calculated by the County and the City to fairly represent the average impacts of County Developments on the capacity of City streets for traffic influence areas as shown in the County Development Traffic Percentage Influence Area Map (included in Exhibit 1). A County Development may satisfy its obligations under this Section by making a voluntarily offered payment in lieu of construction equal to the applicable percentage of the total new average PM peak hour daily trips generated by a development multiplied by the development's newly-generated vehicle trips multiplied by the appropriate City residential or non-residential capacity mitigation rate (i.e., impact fee) in effect on the date the development's application is deemed complete.
 1. Mitigation for Impacts on Safety. Mitigation of impacts on City identified, documented and designated safety problem locations on City streets is required prior to the impacts of the traffic from County Development in order to improve such locations in accordance with adopted City standards. If such conditions are found to be existing before the development application is determined complete by the County, and the County Development will either put ten (10) or more average daily trips through the identified location or cause a safety problem location at the time of full occupancy of the development, the City may request that the development not be approved until provisions are made to remedy the safety problem condition. This provision will only apply if the City demonstrates that it is also applying the same restrictions and mitigation on City Developments.
 - J. Mitigation for Impacts on Access and Circulation. The City may request that any County Development which abuts a City street be required to provide for access and transportation circulation on those abutting City streets in accordance with the City's designated mitigation policies referenced in Section V. The developer may be required to design and construct such access on City streets in accordance with the City's adopted policies and standards, and to improve existing City streets that abut and provide access to the development in order to comply with the City's adopted design policies and standards. The City shall review, inspect, and issue all permits required for improvements to City streets.

The City may also request that County Developments make access and/or circulation provisions for future City streets to be located in the City's Urban Growth Area including, but not limited to, provisions for connections to existing or planned City streets when it is determined that the future City streets either will abut or extend in to or through the development. This may include, but is not limited to, the dedication of right-of-way, reservation of right-of-way, design for a potential way of access, recording of easements for City streets, design and construction of City streets, and construction of improvements to existing City streets. All requests must be based on a demonstrated need and be consistent with the mitigation policies identified in Section V of this Agreement.

- K. Mitigation for Impacts on Level of Service.** County Developments which add more than fifty (50) directional PM peak hour trips to City streets may be required to conduct traffic studies to determine their impacts on the level of service (LOS) of City's arterial street system. The City may request mitigation for impacts on the LOS of the City arterial street system from any such County Development that causes a LOS deficiency. For the purposes of this Agreement, a future LOS deficiency means that a level of service deficiency is forecast to occur at the time of or prior to the development's certificate of occupancy. No mitigation will be requested if the City's current six-year transportation improvement program (TIP) identifies improvements which will remedy the forecast LOS deficiency and are scheduled and fully-funded.
- L.** The City shall make recommendations to the County regarding application of the City's mitigation policies to County Developments that impact the City's transportation system in a manner consistent with the City's application of mitigation policies to City Developments that impact City streets.
- M.** Consistent with SCC 30.66B.720(3), County staff shall recommend to the County approving authority imposing the mitigating measures identified by the City under this Agreement as a condition of the County's development approval to the extent that the County determines such mitigating measures are reasonably related to the impact of the development and consistent with the terms of this Agreement and applicable law. If County staff determines they will not recommend imposing any or some of the mitigating measures requested by the City, the County will notify the City as soon as possible, and work with the City to mutually resolve any differences prior to development approval. For developments going before the County Hearing Examiner, if the parties cannot agree upon appropriate mitigation, the County will proceed with its recommendation, and the City may provide comments on City requested mitigation measures to the County Hearing Examiner during public hearings related to the proposed County Development.
- N.** The City shall be responsible for analysis, documentation, hearing testimony, and legal review (including the private property protection process of RCW 36.70A.370) of any recommendation made by the City for imposition of mitigation measures on a County Development. The City shall provide all supporting documentation to the County for inclusion in the record for a County Development. The City shall be responsible for all accounting, administration, and compliance with Chapter 82.02 RCW related to mitigation by a County Development for impacts in the City.
- O. Administrative Provisions for Mitigating Measures.**
1. Payment of any monies shall be made before the County issues building permits.
 2. Construction of any mitigation measures must be complete before occupancy of building(s).
 3. Right-of-way required for City streets shall be:
 - A. Deeded before recording of a subdivision or short subdivision or the issuance of development permits for development not related to a subdivision or short subdivision; or
 - B. Dedicated on the face of the final plat or short plat at the time of recording.
 4. The City may enter into an agreement with a developer related to payment of mitigation monies or construction of improvements required under this Agreement.
 5. Chapter 30.66B SCC shall be used to determine any transportation mitigation that a developer must provide under this Agreement.

IV. MITIGATION FOR IMPACTS IN THE COUNTY BY CITY DEVELOPMENTS

- A. Transportation Service Area (TSA) and Urban Growth Area (UGA).** For purposes of this Agreement, the County shall determine the transportation impacts of City developments on the County road system in TSAs D, E and F, as currently shown (or as amended) on the TSA Map in the Snohomish County Transportation Needs Report referenced in Section VI below. It is recognized that all developments within the City are located inside the Urban Growth Area (UGA) as established in the Snohomish County GMA Comprehensive Plan referenced in Section VI below.
- B. Role of Chapters 43.21C RCW, 197-11 WAC, 18.04 MCMC and 30.61 SCC (SEPA).** For most City developments, compliance with this Agreement will satisfy the requirements to mitigate adverse and significant adverse impacts under Chapter 43.21C RCW for impacts on County roads. However, this Agreement does not limit the ability of the County to request additional mitigation pursuant to Chapter 43.21C RCW, Chapter 197-11 WAC, and Chapter 30.61 SCC (SEPA) where the County has determined and identified specific impacts of the development are significant adverse impacts and are not addressed by this Agreement or County code.
- C. Applicability to City Developments.** This Agreement applies to all proposed City Developments that have submitted a complete application on or after the effective date of this Agreement and which the City determines are subject to the requirements of: 1) Chapter 18.04 MCMC (SEPA); 2) Chapter 16.14 MCMC (Mitigation, Dedications and Contributions); and 3) Chapter 17.48 MCMC (Development Impact Mitigation regulations).
- D. Providing Notice.** Within seven (7) days of submittal of a complete development application subject to the terms of this Agreement, the City shall give the County written notice and afford the County a timely opportunity for review, comment, or staff consultation as provided by the Mill Creek Municipal Code related to the impacts that a City Development may have on the County's transportation system under the County's mitigation codes and policies. Notice may be in the form of an email or by the US Postal Service. If by the US Postal Service the notice may be either a post card with a link to the information submitted by the applicant or, at the City's sole discretion, the City may mail a paper copy of the information to the County.
- E. Traffic Study.** The City, through this Agreement, shall require a traffic study from any City Development that may have impacts on the County's transportation system requiring mitigation in accordance with this Agreement. Any such City Development shall submit the requested traffic study to the City as part of its initial development application.
1. The County shall provide to the City the criteria for preparation of the traffic study (see Exhibit 2) that shall include, but not be limited to, the items listed in the "Snohomish County Traffic Worksheet and Traffic Study Requirements for Developments in the City of Mill Creek". Mitigation shall be consistent with applicable County code and state and federal law
 2. The City may waive the requirement for all or part of the traffic study if the County indicates that all information necessary to assess the impact of the development is available.
 3. The City shall provide an applicant, at the pre-application stage, either a copy of the County's requirements for traffic studies and mitigation as shown in Exhibit 2 or a link to the County's web site where the information on traffic study requirements may be obtained.

4. Following review of the traffic study, the County may request supplemental information and analysis as necessary to determine the impacts of the development in accordance with this Agreement. The City shall only require the applicant to submit the supplemental information and analysis to the extent the City determines the information is necessary to determine the impacts of the development in accordance with this Agreement.
 5. The County will recognize any transportation demand management (TDM), pass-by, internal capture, or other vehicle trip reduction credits determined by the City for City Developments.
- F. **Mitigating Measures.** If the County determines that a City Development will impact the County's road system, the County shall notify the City of specific mitigation measure(s) reasonably necessary to mitigate said impacts in accordance with the County's mitigation policies referenced in Section VI.
- 1 For each mitigating measure requested the County shall identify the specific impacts and reference the relevant County mitigation policies. Notification of the specific mitigating measures shall be provided by the County within twenty-one (21) days of the receipt of application provided in accordance with Section IV (D), except where notice is for review of an environmental impact statement, in which case the review period shall be as established in accordance with WAC 197-11-502 as now existing or hereafter amended.
 - 2 If the City does not receive timely notification of the County's requested mitigating measures consistent with Section IV (F) (1), the City may assume that the County has no comments or information relating to potential impacts of the development on County roads and may not require any mitigation from the development for impacts on County roads.
- G. **Scope of Mitigating Measures.** Under this Agreement, City Developments may be required to mitigate impacts on County roads for any of the following: capacity (proportionate share impact mitigation), safety, access and circulation, and level of service capacity improvement projects. City Developments which front on County right-of-way may also be required to provide frontage improvements, dedicate or deed right-of-way, and meet access-point requirements consistent with County standards identified in Section VI of this Agreement.
- H. **Proportionate Share Impact Mitigation for City Developments.** The County may request that a City Development contribute a proportionate share of programmed capacity improvements meeting the requirements of RCW 82.02.050 needed to mitigate capacity impacts on County roads. The two options available for determining the City Development's proportionate share of impact mitigation are:
1. **Option one.** When supported by a traffic study, a City Development's proportionate share impact mitigation may be satisfied by payment in lieu of construction by determining the development's impact on the County's adopted list of capacity improvements on County roads included in Appendix D of the Snohomish County Transportation Needs Report (TNR) for TSAs D, E and F. The individual payment amounts for TSAs D, E, and F are calculated by multiplying the development's newly-generated vehicle trips impacting each planned improvement in TSAs D, E, and F by the appropriate road system impact fee in effect for each TSA on the date the development's application is deemed complete. The total payment amount will be calculated by adding the individual payment amounts for TSAs D, E and F.

2. **Option two.** A City Development may choose to have its proportionate share impact mitigation calculated by the County and the City to fairly represent the average impacts of City Developments on the capacity of County roads (included in Exhibit 2). Traffic from City Developments will impact TSAs D, E and F. The average proportionate percentage share calculated by the City and County of the net new average daily trips generated by a development is 70% and is broken down as follows; 20% for TSA D, 25% for TSA E and 25% for TSA F. A City Development may satisfy its obligations under this Section to contribute a proportionate share of County capacity improvements by making a voluntarily offered payment equal to the total of amount for each TSA. The amount for each TSA is determined by taking the applicable TSA percentage of the total new average daily trips generated by a City Development (identified above and in Exhibit 2) multiplied by the development's newly-generated vehicle trips multiplied by the appropriate County road system impact fee for each TSA in effect on the date the development's application is deemed complete by the City.
- I. **Mitigation for Impacts on Safety.** Mitigation of impacts on County identified, documented and designated safety problem locations on County roads is required prior to the impacts of the traffic from City Development in order to improve such locations in accordance with adopted County standards. If such a condition is identified, documented, and designated by the County before the development application is determined complete by the City and the City Development will put three (3) or more average daily trips through that location, the County may request that the development not be approved until provisions are made to remedy the documented safety problem. This provision shall only apply if the County demonstrates that it is also applying the same restrictions and mitigation on County Developments.
- J. **Mitigation for Impacts on Access and Circulation.** The County may request that any City Development impacting County roads be required to provide for access and transportation circulation on County roads in accordance with the County's designated mitigation policies referenced in Section V. The developer may be required to design and construct such access on County roads in accordance with the County's adopted policies and standards, and to improve existing County roads that abut and provide access to the development in order to comply with the County's adopted design policies and standards. The County shall review, inspect, and issue all permits required for improvements to County roads.
- K. **Mitigation for Impacts on Level of Service.** City Developments which add more than fifty (50) peak-hour trips to County roads shall be required to include in the traffic study a future level of service (LOS) analysis to determine the City Development's expected impacts on the LOS of County roads in TSAs D, E and F. The County may request mitigation for impacts on the future LOS of the County road system from a City Development that either causes an arterial unit to be determined in arrears, as defined in SCC 30.91A.290, or impacts a current arterial unit in arrears in the critical time and direction with three (3) or more peak-hour trips.
- L. The County shall make recommendations to the City regarding application of the County's mitigation policies to City Developments that impact the County's road system in a manner consistent with the County's application of mitigation policies to County Developments that impact the County's road system.
- M. The City shall recommend imposing the mitigating measures requested by the County in accordance with this Agreement as a condition of the City's development approval to

the extent that such requirements are reasonably related to the impact of the development and consistent with the terms of this Agreement and applicable law. The approving authority for the City will impose such mitigating measures as a condition of approval of the development in conformance with the terms of this Agreement unless such action would not comply with existing laws or statutes. If the City does not recommend imposing the mitigating measures as requested by the County, the City will notify the County as soon as possible, and work with the County to mutually resolve any differences prior to development approval. For developments going before the City Hearing Examiner, if the parties cannot agree upon appropriate mitigation, the City will proceed with its recommendation, and the County may provide comments on County requested mitigation measures to the City Hearing Examiner during public hearings related to a proposed City Development.

N. The County shall be responsible for analysis, documentation, hearing testimony, and legal review (including the private property protection process of RCW 36.70A.370) of any recommendation made by the County for imposition of mitigation measures on a City Development. The County shall provide all supporting documentation to the City for inclusion in the record for a City Development. The County shall be responsible for all accounting, administration, and compliance with Chapter 82.02 RCW related to mitigation by a City Development for impacts in the County.

O. Administrative Provisions for Mitigating Measures.

1. Payment of any monies for mitigation shall be made before the City issues building permits.
2. Construction of any mitigation measures must be complete before occupancy of building(s).
3. Right-of-way required for County roads shall be:
 - A. Deeded before recording of a subdivision, short subdivision, or the issuance of development permits for development not related to a subdivision or short subdivision; or
 - B. Dedicated on the face of the final plat or short plat at the time of recording.
4. The County may enter into an agreement with a developer related to payment of mitigation monies or construction of improvements required under this Agreement.
5. The Mill Creek Municipal Code shall be used to determine any transportation mitigation requirements that a developer must provide under this Agreement.

V. COUNTY RECOGNITION OF CITY'S DESIGNATED REGULATIONS, PLANS, CODES AND MITIGATION POLICIES FOR PURPOSES OF SEPA REVIEW AND/OR DEVELOPMENT REVIEW

The County recognizes the following adopted mitigation policies and regulations of the City, as now existing or hereafter amended, as a basis for the County's exercise of review and mitigation authority pursuant to state and local law:

- A. Chapter 17.48 MCMC (Development Impact Mitigation).
- B. Chapter 18.04 MCMC (Environmental Policy).
- C. Chapter 16.14 MCMC (Mitigation, Dedications and Contributions).

- D. Chapter 17.22 MCMC (General Provisions and Standards).
- E. The City's Comprehensive Plan (the "City Plan") specifically including, but not limited to, the Capital Facilities Element and the Transportation Element.
- F. All City ordinances, codes, chapters, resolutions, regulations, plans or reports incorporated by reference or applicable to Chapters 17.48 and 18.04 MCMC.
- G. Mill Creek Design and Construction Standards and Specifications.

VI. CITY RECOGNITION OF COUNTY'S DESIGNATED REGULATIONS, PLANS, CODES, AND MITIGATION POLICIES FOR PURPOSES OF SEPA REVIEW AND/OR DEVELOPMENT REVIEW

The City recognizes the following adopted mitigation policies and regulations of the County, as now existing or hereafter amended, as a basis for the City's exercise of review and mitigation authority pursuant to state and local law.

- A. Chapter 30.61 SCC (Environmental Review (SEPA)).
- B. Chapter 30.66B SCC (Concurrency and Road Impact Mitigation).
- C. The Department of Public Works' Administrative Rules relating to Chapter 30.66B SCC.
- D. The Snohomish County GMA Comprehensive Plan including, but not limited to, the General Policy Plan, Capital Facilities Element and the Transportation Element.
- E. All County codes, chapters, resolutions, plans or reports incorporated by reference in titles, chapters, documents, or plans cited above, including, but not limited to the County's EDDS (Engineering Design and Development Standards) adopted under Chapter 13.05 SCC.
- F. The Snohomish County Transportation Needs Report.

VII. RELATIONSHIP TO EXISTING LAWS AND STATUTES

This Agreement in no way modifies or supersedes existing laws and statutes. In meeting the commitments encompassed in this Agreement, all parties shall comply with the requirements of the Open Public Meetings Act, Growth Management Act, State Environmental Policy Act, Annexation Statutes, and other applicable laws and regulations. The County and City retain the ultimate authority for land use and development decisions within their respective jurisdictions. By executing this Agreement, the County and City do not purport to abrogate the decision-making responsibility vested in them by law.

VIII. RELATIONSHIP TO FUTURE PLANNING AND RECIPROCAL IMPACT MITIGATION AGREEMENTS

Separate from this Agreement, the City and County understand that many multi-jurisdictional planning and growth management issues will need to be addressed as growth continues. Both parties also understand that joint planning agreements will be required to accomplish the planning and plan implementation requirements of the Growth Management Act of 1990 as amended. Such agreements may focus on particular issues and delineate specific responsibilities that are beyond the scope of this Agreement.

IX. DEVELOPMENT AND REVIEW OF MITIGATION POLICIES

The County and the City will periodically review their existing mitigation policies for consistency in the implementation of this Agreement, and will promptly notify the other in the event of any material change in such policies. In that event, the parties agree to

amend this Agreement as appropriate.

X. EFFECTIVE DATE, DURATION, AMENDMENT AND TERMINATION

- A. This Agreement and any amendments shall take effect upon execution by the parties and posting of the Agreement on the County's website pursuant to RCW 39.34.040.
- B. This Agreement shall remain in effect for a period of six (6) years unless amended, extended, or terminated as provided in this Section X, PROVIDED, that each party's obligations after December 31st for each calendar year in which this Agreement is effective is contingent upon local legislative appropriation of necessary funds in accordance with applicable laws.
- C. This Agreement may be amended upon mutual agreement of the parties. Any amendment shall become effective thirty (30) days following written amendment to the Agreement executed by both parties unless a different effective date is specified in the amendment. Any amendments of this Agreement shall be in writing and executed in the same manner as provided by law for the execution of this Agreement, PROVIDED, that except for either the County or City Development Traffic Percentage Influence Area Maps, amendment to Exhibits 1 or 2 shall be allowed administratively.
- D. By written agreement the parties may administratively extend this Agreement for no more than two additional six (6) year terms.
- E. Either party may terminate its obligations under this Agreement upon advance written notice to the other. Any termination shall become effective ninety (90) days following receipt of the termination notice by the non-terminating party.
- F. Following any amendment or termination, the County and City are mutually responsible for fulfilling any outstanding obligations under this Agreement incurred prior to the effective date of the amendment or termination. The County and City agree to follow the terms of this Agreement for any County or City Developments submitted prior to the effective date of the amendment or termination.

XI. INDEMNIFICATION AND LIABILITY

- A. The City shall protect, save harmless, indemnify, and defend, at its own expense, the County, its elected and appointed officials, officers, employees and agents, from any loss or claim for damages of any nature whatsoever, arising out of the City's performance of this Agreement, including claims by the City's employees or third parties, except for those claims or damages arising from any act or omission of the County, its elected and appointed officials, officers, employees or agents.
- B. The County shall protect, save harmless, indemnify, and defend, at its own expense the City, its elected and appointed officials, officers, employees and agents from any loss or claim for damages of any nature whatsoever, arising out of the County's performance of this Agreement, including claims by the County's employees or third parties, except for those claims or damages arising from any act or omission of the City, its elected and appointed officials, officers, employees or agents.
- C. In the event of liability for damages of any nature whatsoever arising out of the performance of this Agreement by the City and the County, including claims by the City's or the County's own officers, officials, employees, agents, volunteers, or third parties, caused by or resulting from the concurrent negligence of the County and the City, their officers, officials, employees and volunteers, each party's liability hereunder shall only be to the extent of that party's negligence.
- D. No liability shall be attached to the City or the County by reason of entering into this

Agreement except as expressly provided herein. The City shall hold the County harmless and defend at its expense any legal challenges to the City's requested mitigation and/or any failure by the City to comply with RCW 82.02.020 or RCW 82.02.070. The County shall hold the City harmless and defend at its expense any legal challenges to the County's requested mitigation and/or any failure by the County to comply with RCW 82.02.020 or RCW 82.02.070.

XII. COMPLIANCE WITH THE LAW

The County and the City shall comply with all applicable federal, state, and local laws in performing this Agreement.

XIII. EXERCISE OF RIGHTS OR REMEDIES

Failure of either party to exercise any rights or remedies under this Agreement shall not be a waiver of any obligation by either party and shall not prevent either party from pursuing that right at any future time.

XIV. RECORDS

Both parties shall maintain adequate records to document obligations performed under this Agreement. This Agreement and all public records associated with this Agreement shall be retained and be available from both the City and the County for inspection and copying where required by the Public Records Act, Chapter 42.56 RCW.

XV. SEVERABILITY

Should any clause, phrase, sentence, or paragraph of this Agreement or its application be declared invalid or void by a court of competent jurisdiction, the remaining provisions of this Agreement or its application of those provisions not so declared shall remain in full force and effect.

XVI. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties with respect to the reciprocal mitigation of traffic impacts.

XVII. GOVERNING LAW AND STIPULATION OF VENUE

This Agreement shall be governed by the laws of the State of Washington. Any action hereunder must be brought in the Superior Court of Washington for Snohomish County.

XVIII. AGREEMENT 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 changing of a parties Administrator shall not be considered an amendment to this Agreement. The parties' initial Administrators shall be the following individuals:

Gina Hortillosa, PE PMP
Director
Department of Public Works and
Development Services
15728 Main Street
Mill Creek, WA 98012
(425) 921-5708
ginah@cityofmillcreek.com

Erik Olson
Transportation Specialist
Snohomish County Public Works
3000 Rockefeller Ave
Everett, WA 98201
(425) 388-3488
erik.olson@snoco.org

XIX. CHAPTER 39.34 RCW REQUIREMENTS NOT FOUND ELSEWHERE IN THE AGREEMENT

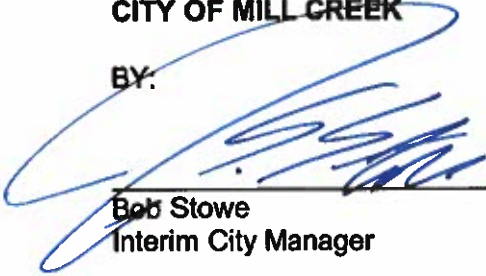
No separate legal or administrative entity is created under this Agreement. The City and County shall each be separately responsible for budgeting for and financing their contractual obligations under this Agreement under their normal budgetary processes. No real or personal property will be acquired, held, or disposed of under this Agreement. The County shall either place this Agreement on its web site or other electronically retrievable public source or file it with the Snohomish County Auditor. The City shall either place this Agreement on its web site or other electronically retrievable public source or file it with the Snohomish County Auditor.

IN WITNESS WHEREOF, the parties have signed this Agreement, effective on the date indicated below.

Dated this 20th day of February 2019.

CITY OF MILL CREEK

BY:



Bob Stowe
Interim City Manager

SNOHOMISH COUNTY

BY:



Dave Somers
County Executive

Approved as to form:



City Attorney

Approved as to form:

 10/30/18

Deputy Prosecuting Attorney for
Snohomish County

COUNCIL USE ONLY	
Approved	<u>2.13.19</u>
Docfile	<u>D-14</u>