MOTION NO. 20-286

MOTION AUTHORIZING THE COUNTY EXECUTIVE TO SIGN ADDENDUM NO. 3 TO THE INTERLOCAL AGREEMENT WITH THE CITY OF EDMONDS, THE EDMONDS PUBLIC FACILITIES DISTRICT, SNOHOMISH COUNTY AND THE SNOHOMISH COUNTY PUBLIC FACILITIES DISTRICT

WHEREAS, the City of Edmonds, the Edmonds Public Facilities District, Snohomish County and the Snohomish County Public Facilities District (PFD) (collectively the “Parties”) entered into an Interlocal Agreement dated November 4, 2002, recorded with the Auditor of the County of Snohomish, State of Washington under recording number 2002116003 (the “Interlocal Agreement”) to provide for the development of a Regional Center as defined in RCW 35.57.020 known as the “Edmonds Centre for the Arts” (the “Regional Center”); and

WHEREAS, on March, 2, 2009, the Parties amended the Interlocal Agreement through Addendum No. 1 to provide for additional allocation of the Sales and Use Tax that exceeded the original Aggregate Tier 1 Allocations and created Aggregate Tier 2 Allocations; and

WHEREAS, on this date the Parties authorized an additional amendment to the Interlocal Agreement via approval of Addendum No. 2 to extend the Tier 2 funding allocations for the years 2026 through 2041; and

WHEREAS, in the first quarter of 2020, a public health emergency was declared due to Covid-19 that ultimately included limitations on the size of gatherings and closure of all non-essential businesses, which resulted in a significant decrease in revenue for the Regional Center; and

WHEREAS, the Board of Directors of the Snohomish County Public Facilities District approved an agreement that allows for early distribution of the semi-annual Tier II payments made to the Regional Center; and

WHEREAS, by this Addendum No. 3, the Parties desire to amend and restate Addendum Nos. 1 and 2 to the Interlocal Agreement to provide for early payment of the November 2020 Tier 2 Allocation;

NOW THEREFORE, ON MOTION the Snohomish County Council authorizes the Snohomish County Executive to sign Addendum No. 3 to the Interlocal Agreement.
PASSED this 12th day of August, 2020.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

[N. Nelson]
Council Chair

ATTEST:

[Melina Ras]
Asst. Clerk of the Council

D-15
ORDINANCE NO. 4182

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AUTHORIZING THE EXECUTION AND DELIVERY OF ADDENDUM NO. 3 TO INTERLOCAL AGREEMENT FOR DEVELOPMENT OF THE EDMONDS CENTRE FOR THE ARTS; AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH; AND FIXING A TIME WHEN THE SAME SHALL BE EFFECTIVE.

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings and Determinations. The City Council makes the following findings and determinations:

1.1 The City of Edmonds (the “City”), the Snohomish County Public Facilities District (the “County PFD”), Snohomish County (the “County”), and the Edmonds Public Facilities District (the “City PFD,” and together with the City, the County PFD, and the County, the “Parties”) entered into an Interlocal Agreement dated November 4, 2002, recorded with the Auditor of the County under recording number 200211060003 (the “Interlocal Agreement”), to provide for the development of a Regional Center as defined in RCW 35.57.020 known as the “Edmonds Centre for the Arts” (the “Regional Center”).

1.2 In 2005, the Parties entered into the First Amendment To Interlocal Agreement For Development of the Edmonds Centre For The Arts to extend the required operational date to March 31, 2007.

1.3 The County PFD, under the authority of RCW 82.14.390, has imposed a sales and use tax (the “Sales and Use Tax”), a portion of which the County PFD has allocated and agreed to contribute through intergovernmental project payments to the payment of debt service on the bonds issued to finance the Regional Center in accordance with and subject to the terms and conditions of the Interlocal Agreement, including without limitation, in accordance with the schedule contained in Exhibit “B-1” of the Interlocal Agreement, which payments extend to December 2026 (the “Tier 1 Allocation”).

1.4 The County PFD entered into similar interlocal agreements to provide funding for three other regional centers, which were recorded with the Auditor of the County under recording numbers 20021160349, 200212260514, and 200312260486, pursuant to which the County PFD allocated and committed contributions from the Sales and Use Tax for the payment of debt service on the respective bonds issued to finance the development thereof (when added to the Tier 1 Allocation, the “Aggregate Tier 1 Allocations”), which Aggregate Tier 1 Allocations are in a fixed amount allocated prior to the date of this ordinance.
1.5 On March 2, 2009, the Parties amended the Interlocal Agreement through Addendum No. 1 to provide for additional allocation of the Sales and Use Tax that exceeded the Aggregate Tier 1 Allocations and created Aggregate Tier 2 Allocations to the four regional centers.

1.6 Pursuant to Chapter 164, Laws of 2017, the Legislature extended the time period for the Sales and Use Taxes imposed under RCW 82.14.390 from a maximum 25-year term to a maximum 40-year term.

1.7 On July 19, 2018, the Board of Directors of the County PFD determined that the Aggregate Tier 2 Allocations, as previously allocated, should be extended through the additional funding years of 2026 through 2041, subject to applicable terms, and the Board of Directors approved a revised allocation of the Sales and Use Tax revenue to reflect the 40-year full term of the Sales and Use Taxes including the extended period authorized in the 2017 legislation, which such Board action was incorporated into a Board Resolution on October 25, 2018.

1.8 The Parties amended the Interlocal Agreement through Addendum No. 2 to the Interlocal Agreement ("Addendum No. 2") to provide for the extension of the time period for the Tier 2 Allocations and specify the certain terms that the Board directed as part of the extension of Tier 2 Allocations.

1.9 On January 31, 2020, the United States Department of Health and Human Services Secretary declared a public health emergency for COVID-19. On February 29, 2020, Governor Jay Inslee proclaimed a state of emergency within the State of Washington due to COVID-19. On March 1, 2020, the President of the United States proclaimed that the COVID-19 outbreak in the United States constitutes a national emergency. On March 4, 2020, Snohomish County Executive Dave Somers proclaimed a state of emergency within Snohomish County due to COVID-19. On March 4, 2020, the Snohomish County Health Officer declared a public health emergency in Snohomish County due to COVID-19. On March 10, 2020, the Snohomish County Health District Board of Health declared a public health emergency. On March 11, 2020, the Snohomish County Health Officer reduced large gathering limits to 250 people and placed restrictions on gatherings of fewer than 250 attendees. On March 16, 2020, Governor Jay Inslee mandated a two week closure of all restaurants, bars, entertainment and recreational facilities, and reduced large gathering limits to 50 people.

1.10 As a result of the above-described responses to COVID-19, the City PFD has suffered a significant decrease in revenue. This revenue decrease is anticipated to continue into the foreseeable future, as upcoming events continue to be cancelled.

1.11 To assist the City PFD in meeting its financial obligations during this challenging time, the Parties desire to amend the Interlocal Agreement to provide for the early distribution of the Tier 2 Allocation distributions currently scheduled for May 1, 2020 and November 1, 2020.

Section 2. Approval of Addendum No. 3. The form of Addendum No. 3 to Interlocal Agreement for Development of the Edmonds Centre for the Arts attached as Exhibit A and incorporated by this reference ("Addendum No. 3") is approved, and the Mayor is authorized and directed to execute and deliver Addendum No. 3 on the City's behalf.
Section 3. **Authorization and Ratification.** The Administrative Services Director, the Mayor, and the other appropriate officers of the City are authorized and directed to take any actions and to execute such documents as in their judgment may be necessary or desirable to carry out the terms of, and complete the transactions contemplated in connection with, this ordinance and the Interlocal Agreement, as amended by the First Amendment thereto, Addendum No 1 thereto, Addendum No. 2, and Addendum No. 3. All actions previously taken in furtherance of and not inconsistent with the provisions of this ordinance are hereby ratified and confirmed in all respects.

Section 4. **Effective Date.** This ordinance shall take effect and be in full force from and after its passage and five days following its publication as required by law.

PASSED by the City Council at a regular open public meeting thereof this 7th day of April, 2020.

\[Signature\]

MAYOR MIKE NELSON

ATTEST/AUTHENTICATED:

\[Signature\]

CITY CLERK SCOTT PASSEY

APPROVED AS TO FORM:

\[Signature\]

FOSTER GARVEY P.C., BOND COUNSEL

FILED WITH THE CITY CLERK: April 3, 2020
PASSED BY THE CITY COUNCIL: April 7, 2020
PUBLISHED: April 10, 2020
EFFECTIVE DATE: April 15, 2020
ORDINANCE NO.: 4182
Form of Addendum No. 3
ADDENDUM NO. 3 TO INTERLOCAL AGREEMENT FOR DEVELOPMENT OF THE EDMONDS CENTRE FOR THE ARTS

This Addendum No. 3 ("Addendum No. 3") is made and entered into as of the ___ day of April, 2020 among the City of Edmonds, a city duly organized and existing under and by virtue of the laws of the State of Washington ("City"); the Snohomish County Public Facilities District, a municipal corporation duly organized and existing under the laws of the State of Washington ("County PFD"); Snohomish County, a political subdivision of and duly organized and existing under the laws of the State of Washington and the Charter of Snohomish County ("County"); and the Edmonds Public Facility District, a municipal corporation duly organized and existing under and by virtue of the laws of the State of Washington, established by the City of Edmonds ("City PFD"). The City, County PFD, County, and City PFD are collectively referred to herein as the "Parties".

RECATALS

A. The Parties entered into an Interlocal Agreement dated November 4, 2002, which was amended in 2005 by the First Amendment to the Interlocal Agreement for Development of the Edmonds Centre for the Arts ("Interlocal Agreement") to provide for the development of a Regional Center as defined in RCW 35.57.020 known as the "Edmonds Centre for the Arts" ("Regional Center").

B. The County PFD, under the authority of RCW 82.14.930, has imposed a Sales and Use Tax ("Sales and Use Tax"), a portion of which the County PFD has allocated and agreed to contribute through intergovernmental project payments to the payment of debt service on the bond issued to finance the Regional Center in accordance and subject to the terms and conditions of the Interlocal Agreement ("Tier 1 Allocation").

C. The County PFD entered into similar interlocal agreements to provide funding for three (3) other regional centers pursuant to which the County PFD has allocated and committed contributions from the Sales and Use Tax for the payment of debt service on the respective bonds issued to finance the development of the regional centers thereof, which when added to the Tier 1 Allocation shall be referred to herein as the "Aggregate Tier 1 Allocations." The Aggregate Tier 1 Allocations are in a fixed amount.

D. Thereafter, the County PFD experienced actual Sales and Use Tax revenue collection substantially in excess of the Aggregate Tier 1 Allocations. As a result, the County PFD allocated additional Sales and Use Tax revenues among the Regional Center and the three (3) other regional centers ("Aggregate Tier 2 Allocations").

E. On February 25, 2009, the Parties to the Interlocal Agreement entered into Addendum No. 1 to the Interlocal Agreement ("Addendum No. 1") whereby the County PFD allocated a portion of the Aggregate Tier 2 Allocations to the City PFD ("Tier 2 Allocation"). Addendum No. 1 provides for semi-annual payments of the Tier 2 Allocation on May 1 and November 1 of every year so long as the bond indebtedness incurred to finance the Regional Center remains outstanding.
F. Pursuant to legislative authorization that extended the time period for the Sales and Use Taxes imposed under RCW 82.14.390 from a maximum 25-year term to a maximum 40-year term, the Parties amended the Interlocal Agreement through Addendum No. 2 to the Interlocal Agreement ("Addendum No. 2") which became effective on the ___ day of _______, 2020.

G. On January 31, 2020, the United States Department of Health and Human Services Secretary declared a public health emergency for COVID-19. On February 29, 2020, Governor Jay Inslee proclaimed a state of emergency within the State of Washington due to COVID-19. On March 1, 2020, the President of the United States proclaimed that the COVID-19 outbreak in the United States constitutes a national emergency. On March 4, 2020, Snohomish County Executive Dave Somers proclaimed a state of emergency within Snohomish County due to COVID-19. On March 4, 2020, the Snohomish County Health Officer declared a public health emergency in Snohomish County due to COVID-19. On March 10, 2020, the Snohomish County Health District Board of Health declared a public health emergency. On March 11, 2020, the Snohomish County Health Officer reduced large gathering limits to 250 people and placed restrictions on gatherings of fewer than 250 attendees. On March 16, 2020, Governor Jay Inslee mandated a two week closure of all restaurants, bars, entertainment and recreational facilities, and reduced large gathering limits to 50 people. On March 23, 2020, Governor Jay Inslee mandated a closure of all non-essential businesses and ordered all people within the State of Washington to cease leaving their home except in limited circumstances.

H. As a result of the above-described responses to COVID-19, the City PFD has suffered a significant decrease in revenue. This revenue decrease is anticipated to continue into the foreseeable future, as upcoming events continue to be cancelled.

I. To assist the City PFD in meeting its financial obligations during this challenging time, the Parties desire to amend the Interlocal Agreement by this Addendum No. 3 to provide for the early distribution of the Tier 2 Allocation distributions currently scheduled for May 1, 2020 and November 1, 2020.

NOW, THEREFORE, the Parties hereby agree as follows:

**AGREEMENT**

1. The Tier 2 Allocation distribution schedule as described in Addendum No. 1 shall be amended as follows:

   a. Distribution of May 1, 2020 Tier 2 Allocation shall occur within seven (7) days of the Effective Date (as defined below) of this Addendum No. 3.

   b. Distribution of the November 1, 2020 Tier 2 Allocation may occur on July 31, 2020, if the Snohomish County Public Facilities District Board of Directors determines it is financially feasible after reviewing the revenue available for Tier 2 Allocation.
2. Except as otherwise stated, all other terms and conditions of the Tier 2 Allocation
distribution schedule as described in Addendum No. 1 shall remain in full force and effect.

3. This Addendum No. 3 shall become effective upon execution by each party and
filing with the Snohomish County Auditor as provided in RCW 39.34.040.

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SNOHOMISH COUNTY PUBLIC FACILITIES DISTRICT

By: Steven Shelton, President
Date: 8/12/20

EDMONDS PUBLIC FACILITIES DISTRICT

By: David Mercer, Chair of the Board of Directors
Date: 4/8/20

CITY OF EDMONDS

By: Mike Nelson, Mayor
Date: 4/8/20

Attested:

By: Scott Passey, City Clerk

Approved as to Form:

By: _________________________, City Attorney

SNOHOMISH COUNTY

By: Dave Somers, County Executive
Date: 8/12/20
SNOHOMISH COUNTY PUBLIC FACILITIES DISTRICT

By: Steven Shelton, President
Date: 3/27/20

EDMONDS PUBLIC FACILITIES DISTRICT

By: David Waid, Chair of the Board of Directors
Date: 4/15/2020

CITY OF EDMONDS

By: Mike Nelson, Mayor
Date: 

Attested:

By: ________________________, City Clerk

Approved as to Form:

By: ________________________, City Attorney

SNOHOMISH COUNTY

By: Dave Somers, County Executive
Date: 