

INTERLOCAL AGREEMENT  
BETWEEN THE CITY OF MOUNTLAKE TERRACE AND THE CITY OF EDMONDS  
FOR BALLINGER PARK IMPROVEMENTS

This Interlocal Agreement (“Agreement”) is made and entered into this 2nd day of October 2023, by and between the CITY OF MOUNTLAKE TERRACE, a municipal corporation of the State of Washington (“Mountlake Terrace”), and the CITY OF EDMONDS, a municipal corporation of the State of Washington (“Edmonds”) pursuant to Chapter 39.34 RCW.

WHEREAS, the Parties share an interest in community parks and recreation opportunities; and

WHEREAS, Ballinger Park lies within the City of Mountlake Terrace which abuts the City of Edmonds; and

WHEREAS, residents of Mountlake Terrace and Edmonds use and enjoy Ballinger Park; and

WHEREAS, Mountlake Terrace desires to construct improvements on the west side of Ballinger Park including a viewing platform, trails, and an improved Interurban Trail entry (“the Project”); and

WHEREAS, Edmonds desires to support improvements to Ballinger Park for more convenient access at the park’s west perimeter and increased access to and on Lake Ballinger by Edmonds residents by providing funding in support of Project construction activities;

NOW, THEREFORE, the parties hereto, in consideration of the promises and mutual covenants set forth herein, agree as follows:

1. **PURPOSE.** The purpose of this Agreement is to define the responsibilities of the parties as they relate to Mountlake Terrace’s Project improving Ballinger Park and Edmonds’ financial contribution thereto. Each party’s obligations hereunder are contingent upon local legislative appropriation of necessary funds for this specific purpose in accordance with applicable law.
2. **DURATION.** This Agreement shall terminate on December 31, 2025 unless extended in writing by the parties. A party may terminate this Agreement with 90 days prior written notice to the other party.
3. **EDMONDS’ DUTIES.**
  - 3.1. Edmonds shall pay City of Mountlake Terrace Two Hundred Thousand Dollars (\$200,000) in a lump sum through an invoice after the Project has reached substantial completion to assist with the costs of Project construction. Edmonds shall not incur any additional obligation or liability with regard to the Project or Ballinger Park.
4. **MOUNTLAKE TERRACE’S DUTIES.**
  - 4.1. Mountlake Terrace shall assume all responsibility for design and construction of the Project, to include design of the viewing platform, various trail surfaces and an improved Interurban Trail entry point in 2023 and 2024, and shall construct the Project no later than the end of 2025 in accordance with regulatory agency requirements in compliance with applicable law.

4.2 Mountlake Terrace agrees to maintain books, records, and documents which sufficiently and properly reflect all direct and indirect costs and expenses allowable under this Agreement related to the Project and maintain such accounting procedures and practices as may be deemed necessary by law and State guidelines. These records shall be subject, at all reasonable times, to inspection, review or audit by Edmonds, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.

5. **MODIFICATION.** This Agreement may be modified or amended only by written amendment signed by each of the parties.
6. **NON-DELEGATION / NO ASSIGNMENT.** Neither party may delegate the performance of any contractual obligation hereunder to a third party, unless mutually agreed upon in writing. Neither party may assign this Agreement without the written consent of the other party.
7. **HOLD HARMLESS.** Each party shall be liable and responsible for the consequences of any negligence or wrongful act or failure to act on the part of itself and its employees. Neither party assumes responsibility for the other party for the consequences of any act or omission of the other party or of any person, firm, or corporation not a party to this Agreement.

Mountlake Terrace shall defend, indemnify and hold Edmonds, its officers, officials, employees and volunteers harmless from claims, injuries, damages, losses or suits including attorney fees, arising out of, in connection with, or incident to any negligent or intentional acts, errors or omissions, or conduct arising out of the construction of the Project, whether such claims sound in contract, tort, or other legal theory, except for injuries and damages caused by the sole negligence of Edmonds.

8. **INSURANCE.** Each party shall maintain its own insurance and/or self-insurance for its liabilities from damage to property and /or injuries to persons arising out of its activities associated with this Agreement as it deems reasonably appropriate and prudent. The maintenance of, or lack thereof of insurance and/or self-insurance shall not limit the liability of the indemnifying party to the indemnified party. Each party shall provide the other with a certificate of insurance or letter of self-insurance as the case may be upon request.

Nothing contained herein shall modify Mountlake Terrace's sole ownership of and responsibility for Ballinger Park; Mountlake Terrace shall continue to insure Ballinger Park and shall insure the Project as necessary.

9. **NO JOINT VENTURE / NO SEPARATE ENTITY/ OWNERSHIP OF PROPERTY.** 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. The parties agree that no separate legal entity is necessary to carry out this Agreement. Any real or personal property owned by Mountlake Terrace will remain the property of Mountlake Terrace. Any real or personal property used or acquired by either party in connection with the performance of this Agreement shall remain the sole property of such party and the other party shall have no interest therein.
10. **NO THIRD-PARTY RIGHTS.** Except as expressly provided herein, nothing in this Agreement shall be construed to permit anyone other than the parties hereto and their successors and assigns to rely upon the covenants and agreements herein contained nor to give any such third party a

cause of action (as a third-party beneficiary or otherwise) on account of any nonperformance hereunder.

- 11. ENTIRE AGREEMENT. This Agreement constitutes the entire understanding between the parties with respect to the subject matter of this Agreement and supersedes all other agreements, whether written or oral, between the parties.
- 12. EFFECTIVE DATE. This Agreement shall become effective when all parties have signed it and it has been filed as set forth in Section 13, below. The date of this Agreement shall be the date this Agreement is signed by the last party to sign it (as indicated by the date associated with that party's signature).
- 13. FILING. Executed copies of this Agreement shall be filed as required by Section 39.34.040 of the Revised Code of Washington prior to this Agreement becoming effective or, alternatively, posted on the website of each party.
- 14. 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:

Mountlake Terrace's Initial Administrator:      Edmonds' Initial Administrator:

Jeff Betz, Recreation and Parks Director  
 Recreation and Parks Department  
 5303 228<sup>th</sup> St. SW  
 Mountlake Terrace, Washington 98270  
 425-640-3101  
 jbetz@mltwa.gov

Angie Feser, Parks, Recreation &  
 Human Services Department  
 700 Main Street  
 Edmonds, Washington 98020  
 (425) 771-0256  
 angie.feser@edmondswa.gov

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

- 15. NOTICES. All notices required to be given by a 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 14 of this Agreement. Notice delivered by email shall be deemed given as of the date and time received by the recipient.
- 16. 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.
- 17. 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.

- 18. 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.
- 19. WARRANTY OF AUTHORITY. Each of the signatories hereto warrants and represents that they are competent and authorized to enter into this Agreement on behalf of the party for whom they purport to sign this Agreement.
- 20. 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.

DATED THIS 2nd of October 2023.

CITY OF EDMONDS

CITY OF MOUNTLAKE TERRACE

*Michael Nelson*

*Jeff Niten*

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Mike Nelson, Mayor

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Jeff Niten, City Manager

ATTEST/AUTHENTICATED

ATTEST

*Scott Passey*

*Jennifer C Joki*

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Scott Passey, City Clerk

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Jennifer Joki, City Clerk

APPROVED AS TO FORM

APPROVED AS TO FORM

*Sharon Cates*

*H. Evans*

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Office of the City Attorney

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Hillary J. Evans, City Attorney