

September 15, 1999
SO:lh
Redmps-mot99

Introduced By: Rob McKenna

Proposed No.: 1999-0515

MOTION NO. **10780**

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A MOTION authorizing the county executive to execute an interlocal agreement with the city of Redmond for reciprocal collection of transportation impact fees, under the Interlocal Cooperation Act.

WHEREAS, RCW 82.02.050 through 82.02.100 authorize counties and cities to impose impact fees on development activities as part of the financing for public facilities, including transportation facilities, and

WHEREAS, King County and the city of Redmond have each adopted a comprehensive plan meeting the standards of the Growth Management Act, chapter 36.70A RCW, and have each adopted a transportation impact fee system that meets the standards of RCW 82.02.050 through 82.02.100, and

WHEREAS, developments in the unincorporated areas of the county may have an impact on city transportation facilities, and developments in the city may have an impact on transportation facilities in the unincorporated areas of the county-, and

WHEREAS, developments should pay a proportionate share of the cost of transportation facilities needed to serve new growth and development, and

WHEREAS, both the county's and the city's transportation impact fee systems allow for collection of fees for development traffic impacts on the other party's

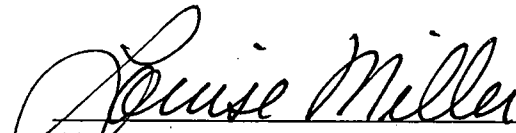
1 transportation facilities pursuant to an interlocal agreement, as authorized by chapter 39.34
2 RCW;

3 NOW, THEREFORE BE IT MOVED by the Council of King County:

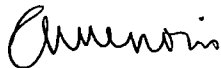
4 After council passage of Proposed Ordinance 1999-528, adopting a new Mitigation
5 Payment System fee schedule, the county executive is authorized to execute an interlocal
6 agreement, substantially in the form attached, with the city of Redmond for the reciprocal
7 collection of transportation impact fees.

8 PASSED by a vote of 12 to 0 this 27th day of September, 1999.

9 KING COUNTY COUNCIL
10 KING COUNTY, WASHINGTON

11 
12 Chair

13 ATTEST:

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15 Clerk of the Council

16 Attachments: Interlocal Agreement between King County and City of Redmond

**An Interlocal Agreement between King County and
the City of Redmond for the Reciprocal Collection of
Transportation Impact Fees**

AUTHORITY

THIS AGREEMENT is entered into pursuant to Chapter 39.34 RCW and RCW 82.02.050 through 82.02.100 between the City of Redmond ("the City") and King County, a political subdivision of the State of Washington ("the County").

RECITALS

- A. RCW 82.02.050 through 82.02.100 authorize counties and cities to impose impact fees on development activities as part of the financing for public facilities, including Transportation Facilities (as defined below).
- B. The County and the City have each adopted a comprehensive plan meeting the standards of the Growth Management Act, Chapter 36.70A RCW, and have each adopted a transportation impact fee system that meets the standards of RCW 82.02.050 through 82.02.100.
- C. The County's transportation impact fee system is referred to as its Mitigation Payment System ("MPS" or "the County System") and is codified at King County Code Chapters 14.65 and 14.75.
- D. The City's transportation impact fee system ("the City System") is authorized by Redmond Community Development Guide (RCDG) chapter 20D.210.
- E. Developments in the unincorporated areas of the County may have an impact on City Transportation Facilities.
- F. Developments in the City may have an impact on Transportation Facilities in the unincorporated areas of the County.
- G. Developments should pay a proportionate share of the cost of Transportation Facilities needed to serve new growth and development.
- H. Both the County's and the City's transportation impact fee systems allow for collection of fees for development traffic impacts on the other party's Transportation Facilities pursuant to an interlocal agreement.

AGREEMENT

NOW THEREFORE, the County and the City hereby agree:

1. Purposes of the Agreement.

(a) To include within the County System certain City Transportation Facilities for which the County will collect transportation impact fees from developments within the unincorporated areas of the County for transfer to the City.

(b) To include within the City System certain County Transportation Facilities for which the City will collect transportation impact fees from developments within the City for transfer to the County.

(c) To ensure that there is an equitable means to charge developments for their impacts on City and County Transportation Facilities.

(d) To define the procedure by which each party will impose, collect and transfer to the other party monies that are collected for traffic impacts to the receiving party's Transportation Facilities.

2. References.

(a) References in this Agreement to the County System shall mean the Mitigation Payment System, or MPS, established by the County for the imposition and collection of transportation impact fees codified at King County Code Chapters 14.65 and 14.75. References to King County Code Chapters 14.65 and 14.75 mean those chapters as they now exist or are hereafter amended.

(b) References in this Agreement to the City System shall mean the system established by the City for the imposition and collection of transportation impact fees as authorized by RCDG chapter 20D.210. References to RCDG chapter 20D.210 mean that chapter as it now exists or is hereafter amended.

(c) References in this Agreement to RCW Sections 82.02.050 through 82.02.100 mean those sections as they now exist or are hereafter amended.

3. Definitions. In addition to the definitions contained elsewhere in the text of this Agreement, the following definitions apply.

(a) **County-Collected Fees:** Transportation impact fees that the County collects in accordance with this Agreement from developments in unincorporated King County that have traffic impacts on selected City Transportation Facilities.

(b) **City-Collected Fees:** Transportation impact fees that the City collects in accordance with this Agreement from developments in the City that have traffic impacts on selected County Transportation Facilities.

(c) **City Project:** A growth-related (i) improvement on a City Transportation Facility or (ii) new City Transportation Facility, as described in the City Transportation Facilities Plan, as such Plan may be updated from time to time, that the City proposes and the County selects for inclusion in the County's System pursuant to King County Code Chapters 14.65 and 14.75. The list of such City Projects is referred to as "the City Projects List".

(d) **County Project:** A growth-related (i) improvement on a County Transportation Facility or (ii) new County Transportation Facility, as described in the County MPS Project List, as such list may be updated from time to time, that the County proposes and the City selects for inclusion in the City's System pursuant to RCDG chapter 20D.210. The list of such County Projects is referred to as "the County Projects List".

(e) **Project Cost:** The estimated cost of constructing a County or City Project, including, but not limited to, the costs of design, right-of-way acquisition and construction.

(f) **Transportation Facilities:** Principal, minor and arterial roads, streets and intersections, curb, gutter and sidewalks, street and road lighting systems, traffic signals, and such other appurtenances as are necessary to make a complete improvement meeting applicable standards. When they are part of a capacity improvement project, transit and high occupancy vehicle facilities and non-motorized facilities (i.e., for bicycles and pedestrians) are also included within the definition of Transportation Facilities.

4. City Responsibilities.

City Projects in the County System

(a) The City will give the County a list of proposed City Projects that meet the requirements for inclusion in the County System and that the City proposes for inclusion in the County System ("the Proposed City Projects List"). The initial Proposed City Projects List is an attachment (Exhibit A) to this Agreement.

(b) The City will update the Proposed City Projects List on a regular basis.

(c) The Proposed City Projects List will include total Project Cost in current year dollars, year of construction, existing p.m. peak hour capacity of the Transportation Facility without the proposed City Project and the p.m. peak hour capacity that would be added to the Transportation Facility by the proposed City Project.

(d) The City will provide the County with developer transportation impact data.

(e) The City will expend or encumber the County-Collected Fees for City Transportation Facilities which are identified on the City Projects List and that will reasonably benefit the new development that paid such fees, in accordance with RCW 82.02.050 through 82.02.100, within six (6) years of the date when such fees were paid to the County. In the event the City does not so expend or encumber any such fees, the City will return such fees to the County, unless there exists an extraordinary and compelling reason for the fees to be held longer than six years. Such extraordinary or compelling reasons shall be identified in written findings by the City Council pursuant to RCW 82.02.070(3).

(f) The City will maintain its own payment tracking system for County-Collected Fees including appropriate notations to identify special situations such as appeals, refunds and exemptions.

(g) The City will inform the County of the appropriate staff contact and address for transfer of revenues or other official contacts. Initially, the contact will be:

Finance Department
Attention: Christine Gianini
P. O. Box 97010
Redmond, WA 98073-9710

County Projects in the City System

(h) The City will determine which of the County's Proposed Projects will be included in the City System, pursuant to RCDG chapter 20D.210, and will collect impact fees from developments in the City that have an impact on such County Projects.

(i) The City will collect the impact fees as calculated by the County, as described in Section 6(b).

(j) The City will maintain its own impact fee accounts or funds as it deems appropriate for holding impact fee revenue prior to transfer to the County.

(k) The City will provide the County with the following information regarding the City-Collected Fee for each development in the City that pays such a fee: (1) development name; (2) street address; (3) permit application number; (4) King County Assessor's parcel number; (5) development location by zone number; (6) development type and size; for example, "single family residential - 10 units;" (7) the date the fee was paid to the City; and (8) any special notations as described in Section 5(f).

(l) The City will retain interest on City-Collected Fees while the revenues remain in the City's accounts. The City will not pay interest to the County on City-Collected Fees that are held prior to transfer.

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(m) Pursuant to RCW 82.02.070(4), the City shall allow City-Collected Fees to be paid under protest. Administrative appeals of City-Collected Fees will be processed through the City System's appeal procedure. The City will inform the County of any such appeal and the County and the City shall cooperate in defending the City-collected Fees in any such appeal proceeding.

(n) Refunds of City-Collected Fees will be made as follows:

(1) If a refund includes revenues that have not yet been transferred to the County, the refund (including interest) will be paid by the City out of such revenues and will be deducted from the revenues the City transfers to the County.

(2) If a refund includes revenues that have already been transferred to the County, the County will not be responsible to refund these monies to the City. Instead, the City will pay the refund (including interest) and will deduct a like amount from future amounts that would otherwise be transferred to the County.

(3) If revenues that have not been transferred to the County, or that can reasonably be expected to be collected in the future, will not be sufficient to cover all or part of a refund (including interest), such as, for example, in the event this Agreement is terminated pursuant to Section 11, the County will be responsible for the shortfall.

(4) Refunds that are ordered by a court shall be paid as described in Section 7.

(5) The City will promptly notify the County of any refunds the City makes and the effect of such refunds on revenues to be transferred to the County.

(o) The City will transfer the City-Collected Fees to the County quarterly, unless both parties agree to transfer said fees more or less frequently.

(p) Pursuant to RCW 82.02.060(4) and (5), the City will allow adjustments of the City - Collected Fees based upon unusual circumstances in specific cases in order to ensure that impact fees are imposed fairly; or based upon consideration of studies and data submitted by the developer to adjust the amount of the fee to be imposed on a particular development. Such adjustments shall be made under the City System's adjustment procedure.

5. County Responsibilities.

County Projects in the City System

(a) The County will give the City a list of proposed County Projects that meet the requirements for inclusion in the City System and that the County proposes for inclusion in the City System ("the Proposed County Projects List"). The initial Proposed County Projects List is an attachment (Exhibit B) to this Agreement.

(b) The County will update the Proposed County Projects List on a regular basis.

(c) The Proposed County Projects List will include total Project Cost in current year dollars, year of construction, existing p.m. peak hour capacity of the Transportation Facility without the proposed County Project and the p.m. peak hour capacity that would be added to the Transportation Facility by the proposed County Project.

(d) The County will provide the City with developer transportation impact data.

(e) The County will expend or encumber the City-Collected Fees for County Transportation Facilities which are identified on the County Projects List and that will reasonably benefit the new development that paid such fees, in accordance with RCW 82.02.050 through 82.02.100, within six (6) years of the date when such fees were paid to the City. In the event the County does not so expend or encumber any such fees, the County will return such fees to the City, unless there exists an extraordinary and compelling reason for the fees to be held longer than six years. Such extraordinary or compelling reasons shall be identified in written findings by the County Council pursuant to RCW 82.02.070(3).

(f) The County will maintain its own payment tracking system for City-Collected Fees including appropriate notations to identify special situations such as appeals, refunds and exemptions.

(g) The County will inform the City of the appropriate staff contact and address for transfer of revenues or other official contacts. Initially, the contact will be:

King County Department of Transportation
Road Services Division, Finance Unit
Attention: Lydia Barga
201 South Jackson Steet, MS KSC-TR-0315
Seattle, WA 98104-3856

City Projects in the County System

(h) The County will determine by ordinance which of the City's Proposed Projects will be included in the County System, pursuant to King County Code Chapters 14.65 and 14.75, and will collect impact fees from developments in unincorporated King County that have an impact on such City Projects.

(i) The County will calculate and collect the impact fees as described in Section 6(a).

(j) The County will maintain its own impact fee accounts or funds as it deems appropriate for holding impact fee revenue prior to transfer to the City.

(k) The County will provide the City with the following information regarding the County-Collected Fee for each development in unincorporated King County that pays such a fee:

(1) development name; (2) street address; (3) permit application number; (4) King County Assessor's parcel number; (5) development location by zone number; (6) total impact fee payment and amount apportioned to each party; (7) development type and size; for example, "single family residential - 10 units"; (8) the date the fee was paid to the County; and (9) any special notations as described in Section 4(f).

(l) The County will retain interest on County-Collected Fees while the revenues remain in the County's accounts. The County will not pay interest to the City on County-Collected Fees that are held prior to transfer.

(m) Pursuant to RCW 82.02.070(4), the County shall allow County-Collected Fees to be paid under protest. Administrative appeals of County-Collected Fees will be processed through the County System's appeal procedure. The County will inform the City of any such appeal and the City and the County shall cooperate in defending the County-collected Fees in any such appeal proceeding.

(n) Refunds of County-Collected Fees will be made as follows:

(1) If a refund includes revenues that have not yet been transferred to the City, the refund (including interest) will be paid by the County out of such revenues and will be deducted from the revenues the County transfers to the City.

(2) If a refund includes revenues that have already been transferred to the City, the City will not be responsible to refund these monies to the County. Instead, the County will pay the refund (including interest) and will deduct a like amount from future amounts that would otherwise be transferred to the City.

(3) If revenues that have not been transferred to the City, or that can reasonably be expected to be collected in the future, will not be sufficient to cover all or part of a refund (including interest), such as, for example, in the event this Agreement is terminated pursuant to Section 11, the City will be responsible for the shortfall.

(4) Refunds that are ordered by a court shall be paid as described in Section 7.

(5) The County will promptly notify the City of any refunds the County makes and the effect of such refunds on revenues to be transferred to the City.

(o) The County will transfer the County-Collected Fees to the City quarterly, unless both parties agree to transfer said fees more or less frequently.

(p) Pursuant to RCW 82.02.060(4) and (5), the County will allow adjustments of the County-Collected Fees based upon unusual circumstances in specific cases in order to ensure that impact fees are imposed fairly; or based upon consideration of studies and data submitted by the developer to adjust the amount of the fee to be imposed on a particular development. Such adjustments shall be made under the County System's adjustment procedure.

6. Calculation and Collection of Fees.

(a) The County will calculate impact fees for City Projects in the County System using the County methodology as described in King County Code Chapters 14.65 and 14.75 and development impact data supplied by the County and the City. The County will collect such fees.

(b) The County will calculate impact fees for County Projects in the City System using the County methodology as described in King County Code Chapters 14.65 and 14.75 and development impact data supplied by the City. The City will collect such fees.

7. Litigation.

In the event of litigation, each party to this Agreement will be responsible at its sole expense for defending its own codes, ordinances and administrative decisions. If either party is ordered by the court to refund fees, the party in possession of such fees shall make such refund, and the party for whom the fees were collected shall pay any interest, costs, fees or expenses that may be ordered by the court in connection with such refund.

8. Exemptions.

(a) The City will not collect impact fees from a development within the City having an impact on County Transportation Facilities when that development is exempt from paying impact fees under City ordinances.

(b) The County will not collect impact fees from a development within unincorporated King County having an impact on City Transportation Facilities when that development is exempt from paying impact fees under the County Code.

9. Novelty Hill Urban Planned Developments

To comply with the terms of the Settlement Agreement Regarding Novelty Hill Urban Planned Developments ("the Settlement Agreement") entered into by the City, the County, the Quadrant Corporation ("Quadrant") and Port Blakely Tree Farms ("Port Blakely"), recorded under King County recording No. 9705201514, if Quadrant undertakes and pays for the reconstruction of Union Hill Road from 178th Place NE to 188th Avenue NE, the City and the County shall reallocate King County MPS fees for the Northridge FCC/UPD from the County to the City, and correspondingly reduce the King County MPS fees for the Northridge FCC/UPD, as described in detail in sections 1.4 and 3.2 of the Settlement Agreement.

10. Amendments.

This Agreement may be amended only by an instrument in writing duly executed by the parties hereto.

11. Termination.

This Agreement may be terminated upon 60 days written notification by either party. On the effective date of the termination, the City and the County will cease collecting fees for impacts on the other party's Transportation Facilities. Any fees that have previously been collected by one party for impacts on the other party's Transportation Facilities, but not yet transferred, will be transferred to the other party in accordance with this Agreement. Refunds (including interest) that cannot be covered by fees pending transfer will be paid by the party for whom the fees that are to be refunded were collected.

12. Indemnification and Hold Harmless.

Each party shall protect, defend, indemnify and save harmless the other party, its officers, officials, employees and agents from any and all costs, claims, judgments, and/or awards of damages arising out of or in any way resulting from the indemnifying party's own acts or omissions in carrying out the terms of this Agreement. In the event the indemnified party incurs any costs including attorney's fees to enforce the provisions of this section, all such costs and fees shall be recoverable from the indemnitor. This indemnification shall include, by way of example, but not by way of limitation or exclusion, a party's responsibility under Section 7 to refund any fees with interest which are determined by a court of competent jurisdiction to have been improperly paid. Provided, however, that in any litigation the parties shall be responsible for defending any claims or challenges to their own ordinances and administrative decisions, and all costs associated with such defense.

13. No Third Party Rights.

Nothing contained herein is intended to, nor shall be construed to, create any rights in any third party, or to form the basis for any liability on the part of the City or the County, or their officials, employees, agents or representatives, to any third party.

14. Severability.

If any provision of this Agreement shall be held invalid, the remainder of the Agreement shall not be affected thereby if such remainder would then continue to serve the purposes and objectives of the parties.

15. Non-Waiver.

Waiver of any breach of any provision of this Agreement shall not be deemed to be a waiver of any prior or subsequent breach, and shall not be construed to be a modification of this Agreement.

16. Exhibits.

The following exhibits are attached hereto:

A. Proposed City Projects List.

B. Proposed County Projects List.

17. Survival.

The provisions of this Agreement related to expenditure or encumbrance of fees, refunds, litigation, indemnification and hold harmless shall survive the termination of this Agreement.

18. Entire Agreement.

This Agreement contains the entire agreement of the parties and any representations or understandings, whether oral or written, not incorporated herein are excluded.

IN WITNESS WHEREOF, the City and the County have executed this Agreement effective as of the date last written below.

King County

City of Redmond

By: _____
King County Executive

By: _____
Mayor of Redmond

Date

Date

Approved as to form:

Approved as to form:

Deputy Prosecuting Attorney

City Attorney