

SETTLEMENT AND INTERLOCAL AGREEMENT
BETWEEN
CITY OF SHORELINE
AND
TOWN OF WOODWAY

This Settlement and Interlocal Services Agreement (“ILA”) ILA sets forth the terms of agreement between the City of Shoreline (“Shoreline”) and the Town of Woodway (“Woodway”) for the purpose of addressing services, infrastructure, mitigation, impacts, and related issues related to development or re-development of the unincorporated area of Snohomish County commonly referred to as Point Wells. Shoreline and Woodway are each a “City” and collectively the “Cities” and “Parties” to this Agreement.

WHEREAS, the Interlocal Cooperation Act, chapter 39.34 RCW, authorizes Shoreline and Woodway to enter into a cooperative agreement for the provision of services and facilities in a manner that will accord best with the factors influencing the needs and development of their cities; and

WHEREAS, Shoreline and Woodway are both municipal corporations of the State of Washington organized and operating under Title 35A RCW and planning under the Growth Management Act, chapter 36.70A RCW (GMA); and

WHEREAS, both Shoreline and Woodway have identified the Point Wells Area, located within an unincorporated area of Snohomish County, for future annexation in their respective comprehensive plans, which property is described and depicted in Exhibit A; and

WHEREAS, Shoreline and Woodway each have responsibility and authority derived from the Washington State Constitution and State laws to plan for and regulate uses of land and the resultant environmental impacts; and

WHEREAS, Shoreline and Woodway recognized that planning and land use and transportation decisions can have extra-jurisdictional impacts and that intergovernmental cooperation is an effective way to deal with and mitigate impacts and provide opportunities that transcend local jurisdictional boundaries; and

WHEREAS, the State Environmental Policy Act, chapter 43.21C RCW (SEPA), requires Shoreline and Woodway to consider the environmental impacts of development on their communities, adjacent communities and where applicable, regional impacts; and

WHEREAS, following analysis of various options, the cities agree that the long-term regulation and development of Point Wells is best served and controlled by annexation of Point Wells by either Woodway or Shoreline; and

WHEREAS, Woodway’s Municipal Urban Growth Area Subarea Plan for Point Wells contains various goals and policies, including that development should be pursuant to a master plan that results from

a coordinated planning effort between the Point Wells property owner, Woodway, and Shoreline, and that Woodway should coordinate with Shoreline, the Richmond Beach Neighborhood, and other affected property owners to ensure that development is compatible with existing residential neighborhoods; and

WHEREAS, Shoreline's Point Wells Subarea Plan contains various goals and policies for Point Wells including that consideration of traffic mitigation should include the participation of Woodway; and

WHEREAS, Shoreline and Woodway have expended valuable public resources over the years to protect their respective community interests regarding Point Wells, and Shoreline and Woodway desire to work together and with others toward adoption of interlocal agreements to address the issues of land use planning, transportation, provision of urban services, construction and development impacts, and local governance; and

WHEREAS, Shoreline and Woodway desire to enter into this ILA that sets forth the framework to formulate future intergovernmental agreements under the Authority of the Interlocal Cooperation Act, chapter 39.34 RCW, for the provision of services and facilities in a manner that will accord best with the factors influencing the needs and development of their cities to ensure that any future project in Point Wells is developed or redeveloped in the best interest of their respective communities and mitigates the related impacts.; and

NOW, THEREFORE, Shoreline and Woodway agree as follows:

I. PROVISIONS APPLICABLE TO ALL PARTIES

- A. Joint Planning Working Group – Comprehensive Plan Policies, Development Regulations, and Design Standards.** Within sixty (60) calendar days from the execution of this ILA, the Cities agree to create a joint staff working group (“Working Group”) to develop and recommend mutually agreeable comprehensive plan policies, development regulations and design standards, including applicable zoning, for Point Wells that will be considered for adoption by each City prior to annexation of Point Wells by either City.
1. The Working Group shall be comprised of three (3) staff representatives from Woodway and three (3) staff representatives from Shoreline. Each City shall have sole discretion on selecting and appointing their representatives.
 2. The Working Group shall meet on a schedule mutually agreed to by its members, but no less than one (1) time per month until a recommendation is submitted to the Planning Commissions of Woodway and Shoreline for consideration and subsequent consideration and adoption by their respective Councils. The first meeting of the Working Group shall be held no later than thirty (30) calendar days after its formation. In formulating its recommendation, the Working Group shall consider this ILA, the goals and policies adopted in each of the Cities' Subarea Plans for Point Wells as contained in their respective comprehensive plans, and the goals

and requirements of the Growth Management Act and other applicable laws and regulations.

3. The Working Group's shall attempt to complete its work within 180 calendar days of its first meeting. Upon completion of the work, the Working Group shall submit its recommendation to their respective Planning Commissions and City Councils for final consideration and adoption and inclusion in that City's respective comprehensive plan and/or implementing regulations applicable to Point Wells pursuant to the amendment process set forth in the Woodway Municipal Code (WMC), including chapter 15.04 WMC and Title 14 WMC, and the Shoreline Municipal Code (SMC), including chapter 20.30 SMC.
4. The recommendation developed by the Working Group shall be consistent with the provisions of this ILA and shall contain, at a minimum:
 - a. Requirements that Point Wells be zoned and developed as a primarily residential development, and that any mixed-use development be pedestrian-oriented and incorporate a variety of residential types and limited commercial uses along with public recreation accessible to residents of both cities. This provision does not apply to Snohomish County Tax Parcel No. 27033500303600.
 - b. Requirement that any development application for Point Wells include a traffic study for Shoreline and Woodway roads consistent with the preparation criteria required by each City.
 - c. A building height limitation of no more than 75 feet and a process or regulations for additional height restrictions for development located within the southern portions of Point Wells based on consideration and preservation of view corridors for Woodway's residents and Shoreline's Richmond Beach neighborhoods.
 - d. Mandatory public recreational facilities and public access to the Puget Sound shoreline, with adequate public parking requirements that must be incorporated into the site plan in a manner that avoids large surface parking lots.
 - e. Requirements that development at Point Wells must demonstrate appropriate and adequate sensitivity to the natural environment, with mixed-use and residential development reflecting an effort to achieve the highest level of environmental sustainability for design, construction, and operation of buildings and infrastructure.
 - f. Requirements that development must adhere to "dark skies" standards, such as light source shielding to prevent the creation of light pollution from light fixtures and landscaping.

g. A requirement that development or redevelopment of Point Wells shall be subject to a Master Development Plan or a Development Agreement with a required design review process that includes a consultation with each City.

h. A traffic restriction of 4,000 ADT on Richmond Beach Drive in Shoreline and a LOS D with 0.9 V/C for the remaining Richmond Beach Road Corridor. This requirement or level of service will apply within each city as well as for any development in Point Wells per the applicable County development regulations, such as Urban Center or Urban Village, to the fullest extent allowed by law.

- B. Adoption of Recommended Policies, Regulations, and Standards.** Each City agrees to timely process the Working Group's recommendation and to place the Planning Commission's and Working Group's recommendation (if different) before its City Council for consideration and adoption within 180 calendar days of submittal of the Working Group's recommendations, PROVIDED that the Cities recognize that any recommended amendments to a City's comprehensive plan or development agreement shall adhere to the requirements of the Growth Management Act (GMA). Prior to the effective date of a City ordinance or state legislation authorizing annexation, a City will consider necessary amendments to its comprehensive plan and development regulations in the manner set forth in Section IA. Each City further agrees that it will affirmatively recommend to its City Council not to amend or repeal the adopted regulations or amendments resulting from the Working Group's recommendations for a period of two (2) years after: (1) the effective date of any state unilateral annexation legislation; or (2) adoption of a city resolution or ordinance annexing Point Wells, unless required to do so by a court of competent jurisdiction, including the Growth Management Hearings Board, or unless the other City formally agrees to such modifications in writing.
- C. Amendment of Comprehensive Plan and Implementing Regulations.** Each City shall provide the other City with at least thirty (30) calendar days written notice (unless otherwise agreed to or waived in writing), and a review and comment opportunity, for any legislative actions that may modify or amend the comprehensive plan policies or development regulations adopted from the recommendations from the Working Group, or that otherwise impacts the uses, development or redevelopment of the Point Wells area. Notice shall include, but not be limited to, notice of all Planning Commission and City/Town Council meetings and hearings related to such legislative considerations or actions.
- D. Reciprocal Mitigation Agreements.** The Cities will create reciprocal mitigation agreements related to the impacts of development and redevelopment within the Cities for recommended adoption by the respective legislative bodies of the Cities for approval. The agreements will provide for issues related to cooperative review of environmental impacts and will include, but not be limited to, issues such as SEPA lead status, review process, and review of impacts related to transportation and park/recreation facilities and may address other impacts of development as well.

- E. **Consultation on land use permit applications.** After annexation, each city agrees to provide the other no less than thirty (30) calendar days written notice of all land use permit applications for Point Wells consistent with chapter 36.70B RCW, Local Project Review. Each city agrees to invite the other city's staff to attend meetings between city staff and the applicant relating to such permit applications, including, pre-applications meetings, and allow the other city reasonable review and comment opportunity.
- F. In the event neither city has annexed Point Wells prior to the developer submitting a development application to Snohomish County each city, except as required by law or by a judicial or administrative order/decision, agrees not to enter into any agreement(s) with the developer and/or Snohomish County inconsistent with the terms set forth in this Agreement.

II. PROVISIONS APPLICABLE TO THE CITY OF SHORELINE

- A. **No Annexation of Point Wells.** In accordance with this ILA, Shoreline agrees that it will take no actions to annex Point Wells, except as otherwise allowed and provided for herein.
- B. **Support of Woodway Annexation of Point Wells.** Upon the Effective Date of this ILA, Shoreline agrees not to challenge or object to Woodway's annexation of Point Wells, including any administrative or judicial process. Shoreline further agrees to work with Woodway and to fully support Woodway's annexation of Point Wells, including support of any legislation necessary to effectuate an annexation without the consent of the Point Wells property owner, provided said legislation does not interfere or conflict with the requirements of this ILA. Should there be inconsistency between any legislation providing for such annexation and the terms of this ILA, Woodway and Shoreline mutually agree, to the extent the law allows, that the requirements of this ILA shall control.
- C. **Richmond Beach Drive.** Shoreline agrees that, following annexation of Point Wells by Woodway, Shoreline will not take action that would reduce the current 4,000 ADT limitation on Richmond Beach Drive. The Cities assume that the 4,000 ADT limitation should allow for approximately 400 to 800 multi-family residential units with such estimate being subject to appropriate mitigation. Further, Shoreline agrees that it will not restrict access to Point Wells via Richmond Beach Drive in any way that would unreasonably interfere with or prevent use of the road by the general public, unless agreed to in writing by Woodway, who shall not unreasonably withhold its approval. Notwithstanding the foregoing, nothing shall prevent Shoreline from taking standard health and safety actions to protect its residents and the public from risk or harm or implement emergency measures.

III. PROVISIONS APPLICABLE TO THE TOWN OF WOODWAY

A. **Annexation of Points Wells.** Woodway shall use its best efforts to effectuate the annexation of Point Wells as expeditiously as reasonably possible considering the factors affecting its ability to annex Point Wells, consistent with this ILA.

1. If Woodway, by resolution or formal action of its Town Council, notifies Shoreline of Woodway's election to not annex Point Wells, then Section II(A) of this ILA shall become immediately null and void, and Shoreline may seek annexation of Point Wells under any method legally available to Shoreline. Under such circumstance, Woodway agrees to support and work with Shoreline to have Snohomish County include Point Wells into Shoreline's Municipal Growth Area in Snohomish County, and to fully support Shoreline's annexation, including support of any changes in state legislation necessary to facilitate such annexation.
2. If Woodway fails to file a notice of intent to annex Point Wells with the Boundary Review Board (if such a notice is legally required) or to adopt an annexation ordinance (if Boundary Review Board approval is not required) within three (3) years from the date of a direct petition or within three (3) years after the availability of a statutorily-authorized method of annexation without the property owner's consent becomes legally available, (whichever occurs first), then Shoreline may seek annexation of Point Wells under any method legally available to Shoreline. Should this occur, there shall be no requirement of a resolution of Woodway's Town Council and upon Shoreline providing a notice to Woodway of Shoreline's desire to annex Point Wells, Sections II(A) and (B)) of this ILA shall become immediately null and void, and upon receipt of such notice Woodway shall fully support Shoreline's annexation as set forth in subsection (1) of this section above.
3. Should Shoreline fail after being fully able to annex Point Wells to move forward and file a notice of intent to annex Point Wells with the Boundary Review Board (if such a notice is legally required) or to adopt an annexation ordinance (if Boundary Review Board approval is not required) within three (3) years from the date of a direct petition, or within three (3) years after the availability of a statutorily-authorized method of annexation without the property owner's consent becomes legally available (whichever occurs first), Woodway's obligation under the preceding section to fully support Shoreline's annexation shall become immediately null and void. Shoreline and Woodway may then pursue annexation of Point Wells without obligation of support from the other party.

B. **Woodway Access Road.**

Upon annexation of Point Wells by Woodway, Woodway shall require that any development or redevelopment of Point Wells of 25 or more units or commercial development that would trigger the equivalent number of trips, or any combination thereof, shall, as a condition of development approval, provide a general-purpose public access road wholly within Woodway that connects into Woodway's transportation network and provides a full second vehicular access point to Point Wells into Woodway. This road shall

be built to Woodway's standards and shall accommodate full access for commercial, emergency and residential traffic that meets acceptable engineering standards, and provides a viable reasonable alternative to the use of Richmond Beach Drive. This secondary access road, including the ingress and egress to and from the road, shall not be restricted in any way that would prevent such use of the road by the general public, unless agreed to in writing by Shoreline. Notwithstanding the foregoing, nothing shall prevent Woodway from taking standard health and safety actions to protect its residents and the public from risk or harm or implement emergency measures. This provision may not be relied upon by any applicant, other third party, or governmental entity as an obligation on Woodway to construct the access or a requirement to approve access.

C. State Environmental Policy Act (SEPA) Mitigation.

1. Per WAC 197-11-944, the cities will share or divide the responsibilities of lead agency on SEPA review and mitigation for specific environmental impacts from any non-exempt SEPA action and in relation to the development or redevelopment of Point Wells. The City in which the development is located shall designate one of them as the nominal lead agency and the cities shall apply the mitigations, conditions and levels of service as set forth in Section I of this ILA.
2. Nothing in this ILA limits the ability of either City to request additional mitigation pursuant to SEPA where a City has determined and identified specific environmental impacts of development as being significant adverse impacts that are not addressed by this ILA or a SEPA determination.
3. If Snohomish County is the jurisdiction responsible for SEPA review and mitigation in relation to the development or redevelopment of Point Wells, each city agrees to support the mitigation measures and applicable terms set out in this ILA when participating in the County's environmental review process.

IV. GENERAL PROVISIONS

A. TERM

The intent of the Cities is that this ILA shall remain in full force and effect until the responsibilities and obligations of the parties set forth herein are fulfilled, but no later than December 31, 2034, unless an extension is mutually agreed to in writing by the parties. This ILA may be terminated at any time by mutual consent of the Cities, provided that such consent to terminate is in writing and authorized by the Shoreline City Council and the Woodway Town Council.

B. SEVERABILITY

This Agreement does not violate any federal or state statute, rule, regulation or common law known; but any provision which is found to be invalid or in violation of any statute, rule, regulation or common law shall be considered null and void, with the remaining provisions remaining viable and in effect.

C. DISPUTE RESOLUTION.

1. **Dispute Resolution.** It is the Cities' intent to work cooperatively and in good faith to resolve any disputes in an efficient and cost-effective manner. If any dispute arises between the Cities relating to this ILA, then the Shoreline City Manager, or designee, and the Woodway Town Administrator, or designee, shall meet and seek to resolve the dispute, in good faith, within ten (10) calendar days after a City's written request for such a meeting to resolve the dispute. If the matter cannot be resolved amicably and promptly by the Shoreline City Manager and the Woodway Town Administrator, then the matter shall be subject to mediation.
2. **Mediation proceedings.** The mediator will be selected by mutual agreement of the Cities. If the Cities cannot agree on a mediator, a mediator shall be designated by the American Arbitration Association. Any mediator so designated must be acceptable to the Cities. The mediation will be conducted in King County, Washington. Any City may terminate the mediation at any time. All communications during the mediation are confidential and shall be treated as settlement negotiations for the purpose of applicable rules of evidence, including Evidence Rule 408. However, evidence that is independently admissible shall not be rendered inadmissible by nature of its use during the mediation process. The mediator may not testify for either City in any subsequent legal proceeding related to the dispute. No recording or transcript shall be made of the mediation proceedings. The cost of any mediation proceedings shall be shared equally by the Cities. Any cost for a City's legal representation during mediation shall be borne by the hiring City.

D. INDEMNIFICATION AND LIABILITY.

1. **Indemnification of Woodway.** Shoreline shall protect, save harmless, indemnify and defend, at its own expense, Woodway, its elected and appointed officials, officers, employees, volunteers and agents, from any loss or claim for damages of any nature whatsoever arising out of Shoreline's good faith performance of this ILA, including claims by Shoreline's employees or third parties, except for those damages caused solely by the negligence, recklessness or intentional misconduct of Woodway, its elected and appointed officials, officers, employees, volunteers or agents.

2. Indemnification of Shoreline. Woodway shall protect, save harmless, indemnify, and defend at its own expense, Shoreline, its elected and appointed officials, officers, employees, volunteers and agents from any loss or claim for damages of any nature whatsoever arising out of the Woodway's good faith performance of this ILA, including claims by Woodway's employees or third parties, except for those damages caused solely by the negligence, recklessness or intentional misconduct of Shoreline, its elected and appointed officials, officers, employees, volunteers or agents.
3. Extent of liability. In the event of liability for damages of any nature whatsoever arising out of the performance of this ILA by Shoreline and Woodway, including claims by Shoreline's or Woodway's own officers, officials, employees, agents, volunteers, or third parties, caused by or resulting from the concurrent negligence of Shoreline and Woodway, their officers, officials, employees and volunteers, each party's liability hereunder shall be only to the extent of that party's negligence.
4. Hold harmless. No liability shall be attached to Shoreline or Woodway by reason of entering into this ILA except as expressly provided herein. Shoreline shall hold Woodway harmless and defend at its expense any legal challenges to Shoreline's requested mitigation. Woodway shall hold Shoreline harmless and defend at its expense any legal challenges to Woodway's requested mitigation.

E. GENERAL PROVISIONS

1. **Notice.** Any notice required under this ILA will be in writing, addressed to the appropriate City at the address which appears below (as modified in writing from time to time by such City), and given personally, by registered or certified mail, return receipt requested, by facsimile or by a nationally recognized overnight courier service. All notices shall be effective upon the date of receipt.

City Manager
City of Shoreline
17500 Midvale Avenue N
Shoreline, WA 98133-4905
(206) 801-2700
dtarry@shorelinewa.gov

Town Administrator
Town of Woodway
23920 113th Place W
Woodway, WA 98020
(206) 542-4443
eric@townofwoodway.com

2. **Governing Law.**

- a. This ILA shall be construed and enforced in accordance with the laws of the State of Washington.
 - b. This ILA in no way modifies or supersedes existing law and statutes. In meeting the commitments encompassed in this ILA, Shoreline and Woodway shall comply with the requirements of the Open Public Meetings Act, chapter 42.30 RCW, Growth Management Act, chapter 36.70A RCW, State Environmental Policy Act, chapter 43.21C RCW, Public Records Act, chapter 42.56 RCW, Annexation by Code Cities, chapter 35A.14 RCW, and other applicable laws and regulations, as amended from time to time.
 - c. By executing this ILA, Shoreline and Woodway do not purport to abrogate any land use and development authority vested in them by the law.
3. **Venue.** Venue of any suit between the Cities arising out of this ILA shall be in either King County Superior Court or Snohomish County Superior Court.
4. **Third Party Beneficiaries.** There are no third-party beneficiaries to this ILA, and this ILA shall not be interpreted to create any third-party beneficiary rights.

Each individual signing below hereby represents and warrants that he/she is duly authorized to execute and deliver this Interlocal Agreement on behalf of the city for which they are signing and, that such city shall be bound by the terms contained in this Interlocal Agreement.

CITY OF SHORELINE

TOWN OF WOODWAY

By:

By:

City Manager

Mayor

Approved as to form:

Approved as to form:

City Attorney

Town Attorney

EXHIBIT A – POINT WELLS DESCRIPTION

DRAFT