

## **INTERLOCAL AGREEMENT TO PROVIDE A PHYSICAL ACTIVITY PROGRAM**

This Agreement is made between Public Hospital District No. 2, Snohomish County, Washington, d/b/a Verdant Health Commission, and the City of Mountlake Terrace to provide a physical activity program in Mountlake Terrace.

### **1. PARTIES**

1.1 Public Hospital District No. 2, Snohomish County, Washington, d/b/a Verdant Health Commission (“PHD2”), a public hospital district formed under Chapter 70.44 RCW; and

1.2 The City of Mountlake Terrace (the “City”), a Washington municipal corporation.

### **2. PURPOSE AND PROGRAM**

2.1 The purpose of this Agreement is to enable the City to provide a physical activity program for the benefit of PHD2 residents (the “Program”). The scope of the Program is described in the City’s grant application submitted on June 29, 2018, attached hereto as Exhibit A (the “Application”).

2.2 As described in the Application, the Physical activity program will provide opportunities for area residents to improve their health by exercising in Mountlake Terrace and the program will accomplish this by installing a new athletic field surface, including LED lights at the Evergreen Playfield (the “Facility”) and by making the space available for community use.

### **3. AUTHORITY**

3.1 PHD2 is authorized under RCW 70.44.240 to “contract” with any “legal entity” to “provide any hospital or other health care facilities or other health care services to be used by individuals, districts, hospitals, or others, including providing health care maintenance services.” RCW 70.44.007 defines “other health care services” to include “services that promote health, wellness, and prevention of illness and injury.”

3.2 The City is a Washington municipal corporation organized as a noncharter code city and is authorized by RCW 35A.67.010 to own and operate recreation facilities, including the Facility.

### **4. TERM AND TERMINATION**

4.1 The Agreement will begin on the date of the second signature on this Agreement.

4.2 The Agreement will end when the final reporting by the City is accepted and approved by PHD2 as described below.

**5. OBLIGATIONS OF PHD2**

PHD2 will fund the Program provided by the City in two payments tied to the completion of the Facility. An initial payment will be made by PHD2 after the City provides PHD2 written confirmation, satisfactory to PHD2, that the City has completed the final site design and engineering, and received the necessary permits, for the Facility and has secured binding commitments from funding sources other than PHD2 sufficient to complete the construction of the Facility. The written confirmation provided by the City shall include listing of the additional funding sources for the Facility and a summary of the terms and conditions of such funding including any requirements or restrictions relating to the use or operation of the Facility. A second milestone will be paid when the Facility is 100% complete and open for community use. Payment will be made by PHD2 via electronic funds transfer within 30 days of confirming the completion of the milestone. PHD2 obligations to provide the payments specified by below may be terminated by PHD2, at its sole discretion, by written notice to the City if the first milestone specified below is not achieved on or before September 1, 2020 or the second milestone specified below is not achieved on or before September 1, 2021.

<b>Milestone</b>	<b>PHD Payment</b>
1.) Site design, engineering, permits and funding complete	\$215,000
2.) 100% construction of the Facility is complete and the Facility open for community use	\$785,000

**6. OBLIGATIONS OF THE CITY**

6.1 As consideration for the participation of PHD2 in this agreement, the City agrees to construct the Facility substantially as described in the Application and make it available as described in the Application during the term of this Agreement for use to principally promote physical activity by residents and community groups and promote the use of the Facility by organizations that offer physical activity opportunities in the PHD2 service area.

6.2 The City will secure all additional funds required to complete the Facility. Any additional costs incurred by the City to complete the Facility that exceed the funding provided by PHD2 will be the sole responsibility of the City.

6.3 After the Facility is complete, the City will hire field monitors to oversee the rental activities and ensure the field is being used for its intended purpose. The City will measure the results of the physical activity program, including the number of participants that use the Facility and the estimated hours used per year. The City will use its best effort to ensure that the Facility is available for community use for an estimated 1,800 hours per year.

6.4 The City will submit progress reports of activities carried out under the program including summaries of outcomes and results according to the following schedule:

<b>Date due to PHD2</b>	<b>Type of report</b>
September 20, 2021	1st annual report
September 20, 2022	2nd annual report
September 20, 2023	3rd annual report
September 20, 2024	4th annual report
September 20, 2025	5th annual report
September 20, 2026	6th annual report
September 20, 2027	7th annual report
September 20, 2028	8th annual report
September 20, 2029	9th annual report
September 20, 2030	10th annual report

6.5 The City will use the funds provided by PHD2 solely for the Physical activity program and will return any portion of the payments that are not used for the Physical activity program by February 15, 2022.

6.6 The City recognizes that PHD2 is a public agency subject to audit by the Washington State Auditor. The City will provide PHD2 with any accessible information that PHD2 is requested to provide to the Washington State Auditor or otherwise required to provide to the State of Washington or to the Federal Government or pursuant to the Washington Public Records Act.

6.7 In constructing and operating the Facility, the City will comply with all local, state and federal laws.

6.8 During the term of this Agreement, the City will give every consideration to suggestions by PHD2 for modifications to the Program to obtain more favorable health outcomes of the participants.

6.9 The City will give credit to PHD2 that recognizes its funding of the Program. The use of PHD2's logo, when appropriate, is encouraged. PHD2 and the City will work cooperatively to find a mutually agreeable way to recognize PHD2's funding of the the Program in the Facility.

6.10 During the term of this Agreement, the City shall not sell, lease, or otherwise dispose of the Facility or change the use of the Facility after construction is complete without PHD2's prior written consent.

6.11 If a violation of any of the covenants herein occurs, PHD2 may, after 30 days' notice to the City, institute and prosecute any proceeding at law or equity to abate, prevent or enjoin any such violation or to compel specific performance by the City of its obligations

hereunder. No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage or waive the right of PHD2 to enforce the provisions hereof or to obtain relief against or recover for the continuation or repetition of such breach or violations or any similar breach or violation hereof at any later time.

## 7. MISCELLANEOUS PROVISIONS

7.1 Relationship of the Parties. The relationship created between PHD2 and the City in this Agreement is strictly that of independent contractors. The Agreement creates no partnership or joint venture between the parties, nor may any officer or employee of one party be considered to be an employee or agent of the other. Further, the Agreement provides no rights to any third parties and may not be relied on by any other person or entity.

7.2 Applicable Law. The Agreement is entered under the laws of the State of Washington. Any litigation arising from this Agreement must be filed in Snohomish County Superior Court.

7.3 Liability and Insurance. The City will indemnify, defend and hold PHD2 harmless from any claims, lawsuits or other actions, and judgments arising in any way from the Physical activity program provided under this Agreement. The City will maintain a liability insurance policy, or the equivalent self-insurance or risk pool coverage, of at least \$1,000,000 per occurrence during the term of the Agreement.

7.4 Entire Agreement; Amendments. This Agreement is complete and integrates all understandings between the parties. No amendment or other change to the Agreement will be binding on either party unless agreed to in writing and signed by each party.

7.5 Severability. If a court of competent jurisdiction rules any part of this Agreement to be invalid, the remainder of the Agreement will still be in full force and effect.

7.6 Force Majeure. Neither party will be in default or liable for failure to perform its obligations under this Agreement if that failure is due to causes beyond its reasonable control including, but not limited to, acts of God, acts of terrorism, fires, floods, windstorms earthquakes, labor disputes or governmental acts.

7.7 Notices and Reporting. Any notice or reporting required or otherwise given under this Agreement will be considered delivered or given when actually delivered or 48 hours after being deposited in the U.S. Mail as certified mail addressed to the following:

To PHD2:  
Robin Fenn, Superintendent  
Public Hospital District No. 2, Snohomish County  
4710 196<sup>th</sup> Street  
Lynnwood, WA 98036

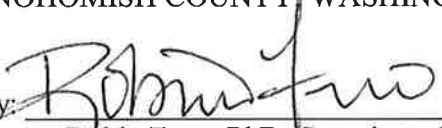
To the City of Mountlake Terrace:

Jeff Betz, Recreation & Parks Director  
5303 228th St SW  
Mountlake Terrace, WA 98043

7.8 Assignment. This Agreement may not be assigned without the written consent of the other party. Each party may consent to or decline a request for assignment by the other party at the sole discretion of the party from which consent is requested.

AGREED TO:

PUBLIC HOSPITAL DISTRICT NO. 2  
SNOHOMISH COUNTY, WASHINGTON

By:   
Robin Fenn, PhD, Superintendent

Date: 9.23.19

THE CITY OF MOUNTLAKE TERRACE

By: 

Date: 9/17/19

Name: SCOTT HUGGINS

Title: CITY MANAGER