

ATTACHMENT A

INTERLOCAL AGREEMENT

BETWEEN

KING COUNTY

AND

[ENTER SCHOOL DISTRICT NAME] RELATING TO THE

COLLECTION, DISTRIBUTION, AND

EXPENDITURE

OF SCHOOL IMPACT FEES

THIS INTERLOCAL AGREEMENT RELATING TO THE COLLECTION, DISTRIBUTION, AND EXPENDITURE OF SCHOOL IMPACT FEES (“Agreement”) is made and entered into this date by and between King County, a home rule charter county in the State of Washington, (the “County”) and **[Enter SCHOOL DISTRICT Name]** (“District”), a municipal corporation/political subdivision in the State of Washington.

WHEREAS, the Washington State Legislature passed the Growth Management Act of 1990 and 1991 RCW 36.70A et seq. and RCW 82.02 et seq. (the “Act”), which authorizes the collection of impact fees on development activity to provide public school facilities to serve new development; and

WHEREAS, the Act requires that impact fees may only be collected for public facilities which are addressed by a capital facilities element of a comprehensive land use plan; and

WHEREAS, King County had adopted Ordinances Nos. 10162 and 9785 for the purpose of implementing the Act; and

WHEREAS, the State Legislature has amended the Act’s authority related to impact fees several times since its original enactment and King County has adopted Ordinance Nos. **[Enter Impact Fee Methodology Ordinance No. and ILA Authorization Ordinance No.]** for the purpose of implementing the Act's 2023 amendments (SB 5258); and

WHEREAS, the County and the District entered into an agreement for the collection, distribution, and expenditure of school impact fees in the early 1990s (the “Original ILA”); and

WHEREAS, the County and the District intend for this Agreement to restate and replace the Original ILA in its entirety; and

WHEREAS, upon adoption of the District’s Capital Facilities Plan as a subelement of the capital facilities element of the King County Comprehensive Plan, King County will collect impact fees upon certain new residential developments on behalf of the District; and,

WHEREAS, the COUNTY and the DISTRICT enter into this Agreement pursuant to and in accordance with the State Interlocal Cooperation Act, Chapter 39.34 RCW, for the purposes of administrating and distributing the authorized impact fees;

NOW THEREFORE, in consideration of the terms and provisions herein and the above recitals which are incorporated into this Agreement and other valuable consideration, the sufficiency of which is hereby acknowledged, the County and the District agree to the above recitals and the following:

1. General Agreement; Restated. The County and the District agree to comply with the terms of this Agreement which governs the collection, distribution, and expenditure of school impact fees. The Parties recognize that this Agreement restates and replaces in whole the Original ILA and that, once fully executed, the Parties will look solely to this Agreement with regard to the subject matter. The terms of the Original ILA shall apply to activities and impact fees collected and expended prior to the date of this Agreement.

2. Responsibilities of the District.

2.1. Submittal of Six-Year Capital Facilities Plan. Except as otherwise allowed in subsection 3.2, for the update process occurring in 2026 for fees effective on January 1, 2027, and every two years thereafter, the District shall electronically submit to the chair of the school technical review committee a draft six-year capital facilities plan (Plan) and a final Plan that meets the requirements of the Act, King County Code (K.C.C.) 21A.43, and K.C.C. 21A.28.152A.1. through 5., as may be amended from time to time, on or before May 15, and June 30, respectively.

2.2 Collected Impact Fees. The District authorizes King County, as Treasurer for the District, to maintain a District Impact Fee Fund in which impact fee revenues, interest revenues, transfers of impact fees to the District Capital Projects Fund or Debt Service Fund will be recorded.

2.3 Transfer of Funds. The District will request transfers from the County Agency Fund, established in Section 3.3 of this Agreement, to the District Capital Projects Fund or Debt Service Fund by the District uploading an electronic spreadsheet or document in the format requested by King County to King County's preferred finance system. The request to King County shall include a certification that the District has expended or will expend the funds on facilities identified in the District's Plan, which has been adopted by King County as a sub-element of the capital facilities element of the King County Comprehensive Plan, or for expenditures authorized by K.C.C. 21A.43, as may be amended. The District shall provide to King County a list of individuals authorized to certify requests for transfers.

2.3.1 Warrant Issuance. The District shall issue a warrant or warrants for the funds prior to submitting a request to King County for transfer or issue a warrant or warrants for the funds within five days after the funds have been transferred into the District's Capital Projects Fund or Debt Service Fund. The District may request that King County transfer funds on a date certain, and such request shall be submitted to King County at least five days prior to the date certain.

2.3.2 Authorized Expenditures. The District shall expend fee revenues provided to the District under this Agreement, and all interest proceeds on such revenues, solely for expenditures authorized by K.C.C. 21A.43, as may be amended from time to time, related to facilities identified in the District's Plan as adopted by King County as a sub-element of the capital facilities element of the King County Comprehensive Plan.

2.3.3 Refunding. The District shall refund fees and interest earned on impact fees which have been disbursed to the District Capital Projects Fund or Debt Service Fund pursuant to Section 2.3 and Section 3.6 of this Agreement when a refund is required under applicable law; including but not limited to (1)

when the proposed development activity does not proceed and no impact to the District has resulted, unless the District determines that it has expended or encumbered the fees in good faith prior to the application for a refund, (2) when the impact fees or interest earned on impact fees are not expended or encumbered within the time limits established by law, (3) when the school impact fee program is terminated, (4) when a refund is required under applicable law, or (5) when either party terminates this Agreement. The District shall reimburse the County's administrative costs of processing refunds that are a result of the District's acts, errors, or omissions.

2.4 Annual Reporting. The District shall prepare an annual report in accordance with the requirements of RCW 82.02.070 and K.C.C. 21A.43.090, as may be amended from time to time, showing the system improvements that were financed in whole or in part by impact fees and the amount of funds expended. The District's annual report shall be sent to the chair of the King County School Technical Review Committee, King County Department of Local Services, on or before April 1 of each year for the preceding calendar year.

2.5 Account and Record Maintenance. The District shall maintain all accounts necessary to ensure accounting for all impact fees and compliance with this Agreement, the Act, and K.C.C. 21A.43, as may be amended from time to time.

2.6 Compliance with State Environmental Policy Act. The District shall ensure its Plan is in compliance with the State Environmental Policy Act, Chapter, 43.21C RCW.

3. Responsibilities of the County.

3.1 Six-Year Capital Facilities Plan. The County shall conduct its review and action on the District's Plan and impact fee schedule for the District in a timely manner.

3.2 Off-Cycle Six-Year Capital Facilities Plan Update. In the event the District needs the County to adopt an amendment to its Plan to address an unforeseen critical issue prior to the next update required in subsection 2.1, the District may request an amendment be considered by the County. In the event of a requested amendment, the District shall electronically submit the materials listed in K.C.C. 21A.28.152 A.1. through 5., as may be amended from time to time, to the chair of the school technical review committee created under K.C.C. 21A.28.154. The capital facilities plan may only be amended once per calendar year unless the District's board of directors declares, and the county finds, that an emergency exists consistent with the requirements in K.C.C. 20.18.030.A.1., as may be amended from time to time.

3.3 Collected Impact Fees. The County shall deposit all impact fees collected on behalf of the District and interest earned thereon in a County Agency Fund with specific organizational identity for the District. Funds received by King County Department of Local Services - Permitting Division, or succeeding agency, and attributed to impact fees shall not be available for transfer to the District before the point in the development process when the fee is due as set forth K.C.C. 21A.43.050, as may be amended from time to time, and full payment has been made. Interest shall be calculated by procedures set forth under K.C.C. 21A43.090.

3.4 Cash Balances. The County shall invest cash balances in the County Agency Fund through its Department of Executive Services, Finance and Business Operations Division, or succeeding agency. King

County shall distribute the District's pro-rata share of the County Agency Fund interest earnings on the first of the following month to the District's County Agency Fund.

3.5 Reports.

3.5.1 Monthly Reports. The County shall generate and make available a report monthly to the District on the amount of impact fees and interest attributed to the District in the County Agency Fund.

3.5.2 Annual Report. As required under K.C.C. 21A.43.090, the County, based on the report submitted by the District pursuant to Section 2.4 of this Agreement, shall prepare a report on each impact fee account showing the source and amount of all moneys collected, earned, or received, and capital or system improvements that were financed in whole or in part by the impact fees.

3.6 Interfund Transfer. An Interfund Transfer from the County Impact Fee Fund to the District Capital Projects Fund or Debt Service Fund shall be completed upon a District uploading a spreadsheet or document in the format requested by King County to King County's preferred finance system. King County shall transfer the funds within five days of the date of the District's request or on the date certain requested by the District, provided that the date certain is at least five days after the date of the request. King County, as Treasurer for the District, will not charge the District any fees or penalties for overdrafts on the District's Capital Projects Fund or Debt Service Fund caused by King County's failure to timely comply with this requirement.

3.7 Refunds. The County shall refund impact fees and interest earned on impact fees which are held in the County Agency Fund when a refund is required under applicable law or when this Agreement is terminated by either party. The District shall reimburse the County's administrative costs of processing refunds that are a result of the District's acts, errors, or omissions as set forth under Section 2.3.3. of this Agreement.

3.8 Exemptions and Adjustments.

3.8.1 Low-Income Exemptions. The County shall determine whether applicants for low-income exemptions approved by the District are qualified pursuant to K.C.C. 21A.43.080, as may be amended from time to time.

3.8.2 Other Exemptions. The County shall determine whether applicants are excluded from the application of the impact fee pursuant to K.C.C. 21A.43.070 A., as may be amended from time to time.

3.8.3 Adjustments. The County shall process adjustments pursuant K.C.C. 21A.43.070(E) and (F), as may be amended from time to time.

3.9 Permit/Demographic Information. The County shall cooperate with the District and assist the District in determining student generation factors of new developments and/or document demographic similarities between school districts within King County.

4. Agreement Administration. The [Insert Title], or authorized designee, and the Superintendent of the District, or authorized designee, shall administer this Agreement.

5. Duration. This Agreement shall be effective when executed by both parties and shall remain in effect until terminated pursuant to Section 7. of this Agreement.

6. Termination. Either party may terminate this Agreement with thirty (30) days advance written notice of the intent to terminate to the other party at the address listed below, with such termination occurring no earlier than the completion of all refunds required pursuant to Section 2.2.3 or Section 3.7, as applicable.

7. Indemnification. The parties acknowledge that King County is vested with the authority to impose and collect school impact fees. The parties agree that, except as specifically provided herein, King County shall in no event be liable to the District for the payment of money in connection with the school impact fee program, with the exception of remitting to the District the impact fees collected on behalf of the District and the interest earned thereon. Notwithstanding the generality of the foregoing, the parties agree to the following indemnification provisions given the mutual obligations related to operation of the school impact fee program:

a. The District shall, at its own cost and expense, protect, defend, indemnify, and hold harmless King County, its officers, employees, and agents, from any and all costs, claims, suits, judgments or awards of damages, including attorney fees, arising out of or in any way resulting from the acts or omissions of the District, its officers, employees or agents, relating to its duties under this Agreement or the District's participation in the King County school impact fee program pursuant to [King County Ordinance X], all as may be amended from time to time; provided, however, that if the District offers to defend, the District shall not be liable for any of King County's attorney's fees or litigation costs incurred after such offer to defend is made.

b. King County shall, at its own cost and expense, protect, defend, indemnify and hold harmless the District, its officers, employees, or agents, from that portion of any and all costs, claims, suits, judgments or awards of damages resulting from King County's (by its officers, employees, agents or representatives) failure to perform its duties under this Agreement or the terms of [King County Ordinance X], all as may be amended from time to time; provided, however, that if King County offers to defend, King County shall not be liable for any of the District's attorney's fees or litigation costs incurred after such offer to defend is made; and provided further that the parties agree that any liability created by King County's performance of its duties under this Agreement or under the terms of [King County Ordinance X] be satisfied first out of any impact fees attributable to the activity out of which the liability arises that have been collected by King County on behalf of the District for the particular development activity at issue, and only in the event that such impact fees collected for the particular development activity at issue are insufficient, shall King County be liable to satisfy the liability.

c. The foregoing provisions specifically and expressly intend to constitute a waiver of each party's immunity under industrial insurance, Title 51 RCW, as respects the other party only, and only to the extent necessary to provide the indemnified party with a full and complete indemnity of claims made by the indemnitor's employees. This waiver has been mutually negotiated.

The provisions of this Section shall survive the termination of this Agreement.

8. Audit.

8.1 Record Retention. The books, records, and documents with respect to all matters covered by this Agreement shall be maintained in accordance with the Secretary of State's records retention requirements for governments in the state of Washington and shall be subject at all times to inspection,

review, or audit by the Parties and/or federal/state officials so authorized by law during the term of this Agreement and six (6) years after termination hereof.

8.2 District Cooperation. The District agrees to cooperate with any monitoring or evaluation activities conducted by King County that pertain to the subject of this Agreement. The District agrees to allow King County, or appropriate state agencies and/or any of their employees, agents, or representatives to have full access to and the right to examine during normal business hours, all of the District's records with respect to all matters covered by this Agreement. King County and/or any of its employees, agents, or representatives shall be permitted to audit, examine, and make excerpts or transcripts from such records and to make audits of all invoices, materials payrolls, and record of matters covered by this Agreement. King County will give at least fifteen calendar days advance notice to the District of fiscal audits to be conducted.

8.3 Audit Results. The results and records of said audit shall be maintained and disclosed in accordance with Chapter 42.17. RCW.

9. Miscellaneous

9.1 No Third Party Beneficiaries. This Agreement is entered into solely for the benefit of the parties hereto and gives no right to any other party. No joint venture or partnership is formed as a result of this Agreement. No employees or agents of one party or any of its contractors or subcontractors shall be deemed, or represent themselves to be, employees of the other party.

9.2 Filing/Website. A completed copy of this Agreement shall be recorded with the King County Recorder's Office. It shall be listed by subject on the County's website or other electronically retrievable public source and the District may include it on its website.

9.3 Non-Waiver of Breach. The failure of either party to insist upon strict performance of any of the covenants and agreements contained in this Agreement, or to exercise any option conferred by this Agreement in one or more instances shall not be construed to be a waiver or relinquishment of those covenants, agreements, or options, and the same shall be and remain in full force and effect.

9.4 Dispute Resolution. If either party believes the other party has failed to comply with the terms of this Agreement, the parties shall attempt to resolve the matter informally. If the parties are unable to do so, it shall be forwarded for discussions to the highest executive of each party. If this process fails to resolve the matter within thirty (30) days after such referral, a party may then pursue any legal remedy available to it or the parties may agree to submit the matter to mediation. If the parties submit the matter to mediation and the matter is not resolved, then the aggrieved party shall be entitled to pursue any legal remedy available.

9.5 Amendments. This Agreement may be amended or modified, and such an amendment shall become effective only when the parties have executed a written addendum to this Agreement signed by the parties.

9.6 Entire Agreement. Subject to Section 1 above, the written terms and provisions of this Agreement, together with any Exhibits attached hereto, shall supersede all prior communications, negotiations, representations or agreements, either verbal or written of any officer or other

representative of each party, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner this Agreement.

9.7 Severability. If any section of this Agreement is adjudicated to be invalid, such action shall not affect the validity of any section not so adjudicated.

9.8 Interpretation. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

9.9 Notice. All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of this Agreement, unless notified to the contrary. Any written notice hereunder shall become effective upon personal service or three (3) business days after the date of mailing by registered or certified mail and shall be deemed sufficiently given if sent to the addressee at the address stated in this Agreement or such other address as may be hereafter specified in writing.

9.10 Non-Exclusive Agreement. The parties to this Agreement shall not be precluded from entering into similar agreements with other municipal corporations.

9.11 Venue. This Agreement shall be interpreted in accordance with the laws of the State of Washington. The Superior Court of King County, Washington, shall have exclusive jurisdiction and venue over any legal action arising under this Agreement.

9.12 Nondiscrimination. The parties shall comply with the nondiscrimination requirements under federal and state laws.

9.13 No Assignment. No party shall transfer or assign a portion or all of its responsibilities or rights under this Agreement.

9.14 Public Records Act. Each party shall be responsible for responding to public disclosure requests addressed to the specific party in accordance with the Public Records Act (RCW 42.56).

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed and shall be effective as of last date signed by both parties.

Shannon Braddock

King County Executive

Date: _____

[Insert Name]

Superintendent

[District Name]

Date: _____