

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON

IN THE MATTER OF EXECUTING AN)
AMENDMENT TO THE INTERLOCAL)
AGREEMENT BETWEEN SPOKANE COUNTY)
AND THE CITY OF SPOKANE VALLEY)
REGARDING A MULTI-USE TRAIL ALONG A)
PORTION OF FORMER MILWAUKEE RAIL)
RIGHT-OF-WAY [RESOLUTION NO. 12-0453])

RESOLUTION

WHEREAS, pursuant to the Constitution and laws of the State of Washington, Spokane County, Washington is a class A county duly organized and existing; and,

WHEREAS, pursuant to the provisions of RCW 36.01.030, the powers of Spokane County can only be exercised through the Board of County Commissioners of Spokane County, Washington ("Board" or "Board of County Commissioners"); and,

WHEREAS, pursuant to the provisions of RCW 36.32.120(6), the Board of County Commissioners has the care of county property and the management of county funds and business; and

WHEREAS, pursuant to the provisions of RCW 36.68.090, counties acting through its Board of County Commissioners, are empowered to build, construct, care for, control, supervise, improve, operate and maintain parks, playgrounds, bicycle and bridle paths and other recreational area: and

WHEREAS, pursuant to RCW 36.34.340, any county or city may acquire by purchase, gift, devise, bequest, grant or exchange title or any interest or rights in real property for park or recreational purposes.

WHEREAS, pursuant to chapter 39.34 RCW (Interlocal Cooperation Act) counties and cities may contract with each other to perform certain functions which each may legally perform; and

WHEREAS, Spokane County acquired a parcel of property by a Quit Claim Deed from Richard B. Oglivie as Trustee of the property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, dated December 17, 1980, and recorded in Auditor's File Number 8012230081, records of Spokane County, commonly referred to as the "Milwaukee Right-of-Way"; and

WHEREAS, Spokane County and City of Spokane Valley entered into an interlocal agreement authorized by Resolution No. 12-0453 ("Agreement") for a portion of the Milwaukee Right-of-Way located within the City of Spokane Valley, namely from the easterly right-of-way line of University Road to where the Milwaukee Right-of-Way intersects with the jurisdictional limits of the City of Spokane Valley for a multi-use trail and potential linear park (Appleway Trail), acknowledging and recognizing the County's use of the Milwaukee Right-of-Way for the purpose of constructing, operating, repairing and maintaining public utility infrastructure and appurtenances thereto owned or controlled by the County as well as other potential uses of the right-of way to include mass transit; and

WHEREAS, both Spokane County and City of Spokane Valley would like to amend the Agreement to include , among other matters, the following:

- a. Authorization of the City of Spokane Valley to issue license agreements allowing non-motorized access to adjoining property owners for limited access and use of portions of the Milwaukee right-of-way to provide commercial and/or recreational amenities to the Appleway Trail. Negotiating, collecting and conferring license agreement fees which are to be given to Spokane County and indemnifying the County in regards to these fees.
- b. Assumption by the City of Spokane Valley of all expenses for the maintenance and operation of the Appleway Trail including all utility charges, property assessments resulting from the Appleway Trail, weed control, garbage abatement and maintenance of Appleway Trail and the County owned property adjoining the trail in good condition so it is an asset to the entire community.
- c. The City of Spokane Valley will keep all improvements from blocking the continuous, uninterrupted equipment access of Spokane County to the sewer manholes for maintenance and cleaning. If the City of Spokane Valley's Appleway Trail needs to be moved for Spokane County's utilities then the City of Spokane Valley will move it at their cost.
- d. Spokane County commits to working in good faith with the City of Spokane Valley to attempt to minimize the damage to the Appleway Trail during the County's operation, repair, or maintenance of its public utility infrastructure and appurtenances as they presently exist or as they may be expanded or improved in the future to include transmitting reclaimed water.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Spokane County, Washington, pursuant to the provisions of RCW 36.32.120(6) and RCW 36.68.090, that either the Chairperson of the Board or a majority of the Board be and is hereby authorized to execute that document entitled "*AMENDMENT NO. 1 TO THE INTERLOCAL AGREEMENT BETWEEN SPOKANE COUNTY AND CITY OF SPOKANE VALLEY REGARDING MULTI-USE TRAIL ALONG A PORTION OF FORMER MILWAUKEE RAIL RIGHT OF WAY*" pursuant to which Spokane County and the City of Spokane will amend that Agreement executed under Resolution No. 12-0453 as more particularly set for in the recitals set forth herein above.

PASSED AND ADOPTED this 17th day of January, 2023.



ATTEST:

Ginna Vasquez
Ginna Vasquez
Clerk of the Board

BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON

Mary L. Kuney
MARY L. KUNEY, CHAIR

Josh Kerns
JOSH KERNS, VICE-CHAIR

Al French
AL FRENCH, COMMISSIONER

Amber Waldref
AMBER WALDREF, COMMISSIONER

Chris Jordan
CHRIS JORDAN, COMMISSIONER

**AMENDMENT NO. 1 to the INTERLOCAL AGREEMENT BETWEEN SPOKANE COUNTY
AND CITY OF SPOKANE VALLEY REGARDING MULTI-USE TRAIL ALONG A PORTION
OF FORMER MILWAUKEE RAIL RIGHT-OF WAY**

THIS AMENDMENT NO. 1 pertains to the **INTERLOCAL AGREEMENT BETWEEN SPOKANE COUNTY AND CITY OF SPOKANE VALLEY REGARDING MULTI-USE TRAIL ALONG A PORTION OF FORMER MILWAUKEE RAIL RIGHT-OF WAY** dated June 27, 2012. This amendment, is made and entered into by and between **Spokane County**, a political subdivision of the State of Washington, having offices for the transaction of business at 1116 West Broadway Avenue, Spokane, Washington 99260, hereinafter referred to as “**COUNTY**” and the **City of Spokane Valley**, a municipal corporation of the State of Washington, having offices for the transaction of business at 10210 E. Sprague Avenue, Spokane Valley, Washington 99206, hereinafter referred to as “**CITY**,” jointly hereinafter referred to as the “**PARTIES**.” The **PARTIES** agree to the following modifications to the Agreement:

I. SECTION No. 2: DEFINITIONS is hereby superseded and replaced in its entirety with the following:

Agreement: “Agreement” means this Interlocal Agreement between the CITY and COUNTY regarding the joint use of a portion of the Milwaukee Right-of-Way for a multi-use trail and other potential linear park.

Appleway Trail. “Appleway Trail” means the City of Spokane Valley Appleway Trail and all associated and related Appleway Trail park amenities, fixtures and improvements. Such amenities, fixtures, and improvements are limited to the improved non-motorized thoroughfare, stormwater facilities for collecting on and incidental offsite water, and all existing and future landscaping, irrigation, lighting, signage, restrooms and benches.

City: “CITY” means the City of Spokane Valley.

County: “COUNTY” means Spokane County.

Milwaukee Right-of-Way: “Milwaukee Right-of-Way”, and also referred to as the “Milwaukee ROW”, means those parcels of property owned by Spokane County and acquired by quitclaim deed from Richard B. Oglivie as Trustee of the property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, dated December 17, 1980, and recorded in Auditor’s File Number 8012230081, records of Spokane County.

Portion of Milwaukee Right-of-Way: Portion of Milwaukee Right-of-Way means that portion of the Milwaukee Right-of-Way located within the City of Spokane Valley, namely from the easterly right-of-way line of University Road to where the Milwaukee Right-of-Way intersects with the jurisdictional limits of the City of Spokane Valley.

II. All references to “Multi Use Trail” and “Potential Linear Park” are hereby deleted and replaced with “Appleway Trail,” and where both such terms are used together, only one term of “Appleway Trail” shall be used in their place. As an example, the phrase “The purpose of this Agreement is to reduce to writing the PARTIES’ understandings and responsibilities regarding the use of the Portion of Milwaukee ROW for a Multi-Use Trail and Potential Linear Park.” becomes “The purpose of this Agreement is to reduce to writing the PARTIES’ understandings and responsibilities regarding the use of the Portion of Milwaukee ROW for the Appleway Trail.”

III. Paragraph A.1 of SECTION NO. 5: PARTIES RESPONSIBILITIES / COMMITMENTS is hereby amended as follows:

1. Allow the use of the Portion of the Milwaukee ROW for the Appleway Trail for the term of this Agreement. The COUNTY hereby agrees to process any necessary permits for Appleway Trail improvements in a timely manner pursuant to its standard permit processing procedures, including but not limited to sewer connection permits for restrooms. Such use shall be subject to any easements, encumbrances, exceptions, and reservations of record on the Milwaukee ROW.

IV. Paragraph A.4 of SECTION NO. 5: PARTIES' RESPONSIBILITIES / COMMITMENTS is deleted in its entirety and replaced with the following paragraph A.4:

4. Grant limited non-motorized access through appropriate documents such as license agreements to property owners adjoining the north and south Portions of the Milwaukee Right-of-Way so they can access the Appleway Trail. The COUNTY authorizes the CITY to issue license agreements for limited access and use of Portions of the Milwaukee Right-of-Way. Such license agreements shall be restricted to activities which provide commercial or recreational amenities to the Appleway Trail. This authorization is conditioned on each license agreement applicant meeting certain design and location criteria as shall be mutually agreed upon by the COUNTY and CITY, as determined by the Chief Executive Officer (CEO) for the COUNTY, and the City Manager for the CITY, which may be amended as needed by the CEO and City Manager. These criteria shall include a requirement for review of each license application by the Spokane County Senior Director of Public Works, or his/her authorized representative. Any license agreement issued by the CITY shall further be subject to all restrictive conditions pursuant to Section 5(C) of this Agreement regarding primacy of the COUNTY use for utility purposes.

V. Paragraph B.4 of SECTION NO. 5: PARTIES RESPONSIBILITIES / COMMITMENTS is hereby amended as follows:

4. Assume the sole responsibility and expense for all maintenance and operation of the Appleway Trail subsequent to its construction, to include all amenities, fixtures and improvements and all utility payments including but not limited to sewer charges associated with installed restrooms, and all assessments, including but not limited to stormwater charges, for the property resulting from and directly related to construction and operation of the Appleway Trail. Upon the commencement date of the Agreement, to be responsible for weed control, garbage abatement, and similar light maintenance of the Portion of the Milwaukee Right-of-Way. This responsibility shall continue with regard to the Portion of the Milwaukee Right-of-Way adjacent to the Appleway Trail. The COUNTY grants the CITY express permission for such purpose. PARTIES recognize the necessity of maintaining not only the Appleway Trail but the adjoining right-of-way in good condition so it is an asset to the entire community.

VI. The following paragraphs B.5 and B.6 are added to SECTION NO. 5: PARTIES' RESPONSIBILITIES / COMMITMENTS:

5. The CITY shall keep files on all license agreements granted by the CITY pursuant to Section 5(A)(4), and shall collect the associated annual fees and leasehold tax from all such licensees. The CITY shall be responsible for negotiating, collecting, and conferring license fees to the COUNTY in compliance with RCW 43.09.210(3) and RCW 82.29A and the CITY agrees to indemnify the

COUNTY for any violation of these statutes. The CITY shall provide a copy of each such license agreement to the COUNTY within 30 days of its completed execution.

6. In December of each year, the CITY shall send the total annual license agreement fees and leasehold tax collected by the CITY during the preceding year to the COUNTY.

VII. Paragraph C.2 of SECTION NO. 5: PARTIES' RESPONSIBILITIES / COMMITMENTS is hereby amended as follows:

2. PARTIES agree to coordinate the location of the Appleway Trail and all aspects thereof such as landscaping, stormwater facilities, park amenities, lighting, and restrooms to best fit with current and future uses of the Portion of the Milwaukee Right-of-Way. In the event of a disagreement as to the location, COUNTY's determination as to location shall control. All improvements in conjunction with the Appleway Trail must allow for continuous, uninterrupted equipment access by COUNTY to the sewer manholes for maintenance and cleaning. If any portion of the constructed Appleway Trail needs to be removed or relocated for the COUNTY to operate, repair, or maintain its public utility infrastructure and appurtenances as they presently exist or as they may be expanded or improved in the future to include transmitting reclaimed water, the CITY will be responsible at its sole expense for reconstructing or relocating that portion of the Appleway Trail to include paved pathway, gravel sub grade, and any landscaping disturbed by the COUNTY or its contractors or other public agency. In the event the corridor is needed for location of mass transit facilities, the COUNTY will not be responsible for the cost of relocating the Appleway Trail. COUNTY commits to working in good faith to attempt to minimize damage to the Appleway Trail during the COUNTY's operation, repair, or maintenance of its public utility infrastructure and appurtenances as they presently exist or as they may be expanded or improved in the future to include transmitting reclaimed water. The PARTIES agree that installation, maintenance, and operation of the Appleway Trail and associated improvements, such as utility infrastructure, including but not limited to water, electricity/lighting, stormwater facilities, and restrooms, are limited solely to those purposes, and that no third-party utility company may otherwise use the Right-Of-Way to provide service to other neighboring parcels. Therefore, such installation shall not be construed as approval by either PARTY for other third-party use of the Milwaukee Right-of-Way except as otherwise provided herein and to serve the Appleway Trail.

IN WITNESS WHEREOF, the PARTIES have caused this Agreement to be executed on date and year opposite their respective signatures.

DATED: 1-17-2023

**BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON**

ATTEST:

Clerk of the Board



Chair

Mary E. Koney

Ginna Vasquez
Ginna Vasquez

[Signature]
Vice-Chair

23 - 0039

Approved as to form:

[Signature]
Commissioner

[Signature]
Spokane County Prosecutor's Office

[Signature]
Commissioner

[Signature]
Commissioner

DATED: 1-5-23

CITY OF SPOKANE VALLEY

ATTEST:



John Hohman, City Manager

Approved as to form:



Office of the City Attorney