

**CITY OF NORTH BONNEVILLE
RESOLUTION NO. 512**

**A RESOLUTION APPROVING INTERLOCAL AGREEMENT TO ALLOW NORTH
BONNEVILLE PUBLIC DEVELOPMENT RELOCATION TO THE CITY OF STEVENSON**

WHEREAS, the City Council adopted Ordinance No. 1028 establishing the North Bonneville Public Development Authority ("NBPDA" or the "Authority") under RCW 35.21.730 to seek licensing for a retail marijuana facility pursuant to I-502 and WAC Ch. 314-55, and

WHEREAS, the City recognizes that the NBPDA has sought an improved location and lower rent for its facility, and

WHEREAS, the choices for a location within the City of North Bonneville are limited and NBPDA wishes to move its location to the City of Stevenson where it has improved visibility and lower rent, and

WHEREAS, RCW 35.21.740 prohibits a Public Development Authority from relocating outside its incorporating city unless it does so by contract with another city or jurisdiction, and

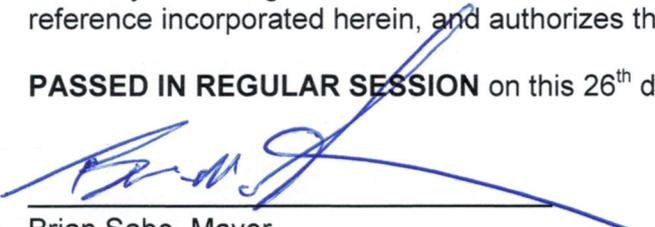
WHEREAS, the City of Stevenson has approved a contract for the relocation of the NBPDA, subject to approval by the City of North Bonneville, and

WHEREAS, the City of North Bonneville is willing to allow relocation of the NBPDA subject to the terms and conditions of the Interlocal Agreement, attached hereto.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of North Bonneville:

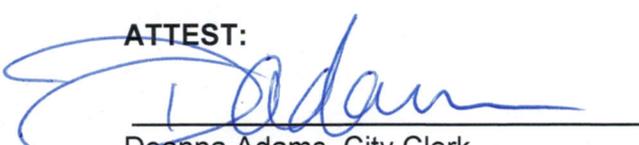
The City Council hereby approves the relocation of the North Bonneville Public Development Authority according to the terms of the Interlocal Agreement, attached hereto and by this reference incorporated herein, and authorizes the mayor to sign the Agreement.

PASSED IN REGULAR SESSION on this 26th day of June, 2018.



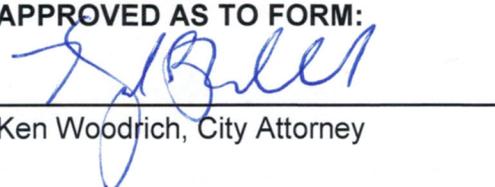
Brian Sabo, Mayor

ATTEST:



Deanna Adams, City Clerk

APPROVED AS TO FORM:



Ken Woodrich, City Attorney

INTERLOCAL AGREEMENT
NORTH BONNEVILLE PUBLIC DEVELOPMENT AUTHORITY
RELOCATION AGREEMENT

This Agreement made and entered into this ____ day of **June, 2018**, by the City of North Bonneville, a municipal corporation, under the laws of the State of Washington, hereinafter referred to as "North Bonneville," and the City of Stevenson, a municipal corporation, under the laws of the State of Washington, hereinafter referred to as "Stevenson", and North Bonneville Public Development Authority, hereinafter referred to as "NBPDA".

WHEREAS, pursuant to RCW 35.21.730-.755, in 2014 North Bonneville formed a Public Development Authority ("PDA") for the purpose of establishing a cannabis retail store; and

WHEREAS, NBPDA has been operating in a location within North Bonneville since its inception; and

WHEREAS, NBPDA seeks to relocate due to high lease costs and poor visibility and access in its present location; and

WHEREAS, RCW 35.21.740 provides that a PDA has no authority beyond the jurisdictional limits of the city that formed the PDA, unless otherwise provided for under a contract with the foreign city; and

WHEREAS, NBPDA wishes to relocate to Stevenson, and Stevenson is amenable to such a transfer, under the terms and conditions set forth herein.

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

1. **Cities' consent to relocate.** Stevenson and North Bonneville hereby consent to

the relocation of NBPDA under the following terms and conditions:

- a. Stevenson consents to the PDA's relocation to 25 NE Second Street, Stevenson, WA 98648, presently owned by the Beverly A. Stacy Trust ("the Relocation Premises"). This consent is specific to this location, and shall not transfer to a different location without Stevenson's express written consent, which consent may be withheld in Stevenson's sole discretion, by action of the City Council.
- b. This consent shall be revocable during the term upon the PDA's default as set forth below.
- c. NBPDA shall at all times maintain a Stevenson City Business License.
- d. This consent is expressly contingent upon the PDA's ability to relocate its license with the Washington Liquor and Cannabis Control Board (WLCCB) to the new location.
- e. In consideration of the sales tax revenue lost by North Bonneville, NBPDA agrees to allocate one point five percent (1.5%) of gross sales to North Bonneville's general fund payable at such intervals as NBPDA reports sales tax to the Washington Department of Revenue, and to give a preference to North Bonneville in awarding grants consistent with NBPDA's charter.
- f. Signage shall be subject to approval by Stevenson City Council.

2. **Term & Duration:** This Agreement shall be in effect upon signature by the Parties, and will continue for as long as NBPDA remains on the Relocation Premises or another location approved as set forth above, and is not in default hereof, unless modified by mutual Agreement of the parties.

3. **Legislative Approval and Amendments:** This agreement is binding any party only upon approval of all parties' legislative authorities. This Agreement may be amended at any time in writing and only if approved in the same manner as the original ILA.

4. **Indemnification:** NBPDA shall indemnify North Bonneville and Stevenson against any liability relating to the operation of the PDA, and maintain public liability insurance at all times. NBPDA shall include North Bonneville as an additional insured on any such policy.

In any situation where the damage, loss or injury is caused by the concurrent negligence of one or more parties or their agents and employees and another party's agents and employees, then the each party expressly and specifically agrees to hold the other parties harmless to the extent of that party's or its agents' and employees' concurrent negligence.

All parties both specifically waive their immunity under RCW 51 (Industrial Insurance Statute), and acknowledges that this waiver of immunity was mutually and expressly negotiated by the parties, and expressly agree that this promise to indemnify and hold harmless applies to all claims filed by and/or injuries to each party's employees against the other. This provision is not intended to benefit any third parties.

If a Subcontractor is used, then the parties shall ensure that all Subcontracts also provide that the Subcontractor will waive its immunity under RCW 51.

The provisions of this Section shall survive the expiration or termination of this Agreement with respect to acts and omissions occurring during the term hereof.

5. **Termination/Cancellation:** This Agreement may be terminated or cancelled for any reason upon mutual written agreement of the Parties. The parties shall cooperate to address any reasonable concerns regarding this Agreement.

6. **Conformance and Severability:** The provisions of this Agreement are severable. If any provision of this Agreement violates a Federal or Washington State statute or rule of law, or if this Agreement is deemed to be in conflict with the authorized use or authority, that provision shall be modified to conform to such statute or rule of law, or authority. If any court holds any provision of this Agreement (including any document incorporated by reference) invalid, that invalidity shall not affect the other provisions of this Agreement. In the event of a conflict between the terms of this agreement and the

Utilities Cooperation Agreement entered into between the Cities of Stevenson and North Bonneville, the latter shall control.

7. Events of Default:

The following shall constitute an event of default after not fewer than thirty (30) days' written notice to all parties specifying the nature of the default and providing the defaulting party an opportunity to cure:

- a. Failure to maintain license: Revocation or lapse of NBPDA's WLCCB license;
- b. Transfer of license without prior consent: NBPDA shall be in default in the event of a transfer or encumbrance its WLCCB license without prior consent of both North Bonneville and Stevenson, approved by both legislative bodies;
- c. Failure to follow Stevenson's land use codes: a finding of a court or hearings officer that NBPDA has failed to comply with Stevenson's land use laws after legal process shall constitute a default;
- d. Nuisance code violations: NBPDA's failure to cure nuisance abatement orders or civil violations and/or pay levied fines for nuisance code violations shall constitute a default hereunder;
- e. [other reasons for default].

8. Remedies upon Default:

In the event of default, Stevenson shall have the following remedies:

- a. Withdraw consent and terminate this agreement;
- b. Notify WLCCB of NBPDA's default and Stevenson's intent to revoke consent;
- c. Seek a judicial declaration that NBPDA is in default, and in the event of a finding of default, Stevenson shall be entitled to its attorney fees and costs at trial and on appeal;
- d. Such other and further relief as a Court may deem fair and equitable in the premises.

In the event of default, North Bonneville shall have the following remedies:

- e. Withdraw consent and terminate this agreement;
- f. Notify WLCCB of NBPDA's default and North Bonneville's intent to relocate NBPDA back to its native jurisdiction;
- g. Seek a judicial declaration that NBPDA is in default, and in the event of a finding of default, North Bonneville shall be entitled to its attorney fees and costs at trial and on appeal;
- h. Such other and further relief as a Court may deem fair and equitable in the premises.

9. Notices:

All notices which are given or required to be given pursuant to this Agreement shall be hand delivered or mailed certified mail, return receipt requested, postage paid, as follows:

North Bonneville:

City of North Bonneville
P.O. Box 7
North Bonneville, WA 98639

Stevenson:

City of Stevenson
7121 E. Loop Road, PO Box 371
Stevenson, WA 98648

NBPDA:

North Bonneville Public Development Authority
P.O. Box 376
North Bonneville WA., 98639

10. Ratification:

Acts taken pursuant to this Agreement but prior to its effective date are hereby ratified

and confirmed.

11. Governing Law/Venue:

This Agreement shall be deemed to have been executed and delivered within the State of Washington and the rights and obligations of the parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of Washington without regard to the principles of conflict of laws. The signature shall have legal authority to enter into this Agreement and be at least 18 years of age. Any action or suit brought in connection with this Agreement shall be brought in the Superior Court of Skamania County, Washington.

12. Interlocal Act Representations

This is an Interlocal Agreement under RCW Ch. 39.34. Pursuant thereto, the parties state as follows:

- A. Duration. The duration shall be as set forth in paragraph 2 above, or as otherwise agreed to by the parties pursuant to this Agreement.
- B. Organization. No new entity will be created to administer this agreement.
- C. Purpose. The purpose is to assign the roles and responsibilities of the parties to facilitate the relocation of NBPDA to a new jurisdiction.
- D. Manner of Financing. The parties intends to finance this agreement through NBPDA revenue and allocation as set forth herein.
- E. Termination of Agreement. The parties shall have the right to terminate this agreement only by mutual agreement as provided in paragraph 5, above.
- F. Other. All terms are covered by this Agreement. No additional terms are contemplated.
- G. Selection of Administrator. The City Administrator of the City of Stevenson be the Administrator for this Interlocal Agreement.
- H. Manner of Acquiring Property. This Agreement will result in NBPDA's relocation to the location within the City of Stevenson set forth above according to the terms and conditions set forth herein.

13. Integration and Amendment

This Agreement constitutes the complete and final agreement of the Parties, replaces and supersedes all oral and/or written proposals and agreements heretofore made by the Parties on the subject matter, and may be modified only by a writing signed by the Parties hereto.

14. No Third-Party Beneficiaries.

This Agreement is executed for the sole and exclusive benefit of the signatory Parties. Nothing in this ILA, whether expressed or implied, is intended to confer any right, remedy or other entitlement upon any person other than the Parties hereto, nor is anything in this ILA intended to relieve or discharge the obligation or liability of any third party, nor shall any provision herein give any third party any right of action against any Party hereto.

15. Obligations.

This Agreement shall not relieve any Party of any obligation or responsibility imposed upon it by law. Each Party hereto is responsible for the costs it incurs in carrying out the obligations stated herein

16. Recording.

A copy of this Agreement shall be recorded in the Office of the Clark County Auditor as provided by law, or shall be posted to each Parties' web site.

17. Consent to Dual Representation. This agreement was drafted by Kenneth B Woodrich of Kenneth B Woodrich PC, who is the appointed City Attorney for both North Bonneville and Stevenson. Both cities understand he is acting as a scrivener and does not represent either party in this transaction. He has not participated in negotiations concerning this agreement, and has advised both parties to seek independent legal advice to understand their rights and responsibilities hereunder. NBPDA is represented by attorney Teunis Wyers, who has reviewed this agreement on behalf of his client.

DATED this _____ day of **June, 2018**

CITY OF STEVENSON, a Municipal Corporation

BY: _____
Mayor

ATTEST:

Approved as to Form:

Finance Director

City Attorney

CITY OF NORTH BONNEVILLE, a Municipal Corporation

BY: _____
Mayor

ATTEST:

Approved as to Form:

Finance Director

City Attorney

**NORTH BONNEVILLE PUBLIC DEVELOPMENT AUTHORITY, a Municipal Public
Development Authority**

BY: _____
Executive Director

ATTEST:

Approved as to Form:

Finance Director

NBPDA Attorney