INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY OF ROCHESTER HILLS AND THE CITY OF AUBURN HILLS FOR THE CONSTRUCTION OF THE AUBURN HILLS PATHWAY SEGMENT

This Interlocal Cooperation Agreement ("Agreement") is made and entered into this __ day of _____, 2025, ("Effective Date") by and between the **City of Rochester Hills**, a Michigan municipal corporation, whose address is 1000 Rochester Hills Drive, Rochester Hills, Michigan 48309 ("Rochester Hills"), and the **City of Auburn Hills**, a Michigan municipal corporation, whose address is 1827 N. Squirrel Road, Auburn Hills, Michigan 48326 ("Auburn Hills"). Rochester Hills and Auburn Hills may be referred to individually as a "Party" or collectively as the "Parties."

RECITALS

WHEREAS, the Parties are municipal corporations organized under the laws of the State of Michigan; and

WHEREAS, the Urban Cooperation Act of 1967, MCL 124.501, *et seq*., authorizes public agencies to enter into agreements with one another for joint or cooperative action; and

WHEREAS, Rochester Hills is undertaking a project to design and construct non-motorized pathway improvements within its municipal boundaries (the "Rochester Hills Project"); and

WHEREAS, a segment of non-motorized pathway located within Auburn Hills (the "Auburn Hills Segment") is contiguous with and provides a logical connection to the Rochester Hills Project; and

WHEREAS, the Parties find it is in the best interest of their respective citizens to include the Auburn Hills Segment in the Rochester Hills Project to achieve economies of scale, ensure consistent design, and promote regional connectivity; and

WHEREAS, the governing bodies of each Party have, by resolution, authorized the execution of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the Parties agree as follows:

SECTION 1: PURPOSE

The purpose of this Agreement is to establish the terms and conditions for the **bidding, construction, project administration, and full reimbursement of construction costs** for the Auburn Hills Segment, which will be constructed as an integral part of the larger Rochester Hills Project.

SECTION 2: SCOPE OF SERVICES AND RESPONSIBILITIES

A. Responsibilities of the City of Rochester Hills:

1. **Project Administration:** Act as the lead agency for the bidding and construction administration of the Total Project, defined as the combined Rochester Hills Project and the Auburn Hills Segment.
2. **Plan Integration:** Incorporate the construction plans and specifications for the Auburn Hills Segment, as prepared and provided by Auburn Hills' consultant, into a single, cohesive bid package for the Total Project.
3. **Bidding and Award:** Administer the public bidding process and award a construction contract for the Total Project in accordance with its purchasing policies and applicable state laws.
4. **Construction Management:** Administer and oversee the construction contract, including conducting inspections, processing payments to the contractor, and managing change orders, in coordination with the engineering consultant for Auburn Hills. Any change order that exclusively affects the Auburn Hills Segment and exceeds a value of [$5,000] shall require prior written approval from the Auburn Hills Director of Public Services or their designee.
5. **Financial Management:** Initially pay all contractor invoices for the construction of the Total Project. Rochester Hills shall separately track all construction costs directly attributable to the Auburn Hills Segment.
6. **Documentation:** Upon completion of the project, provide the City of Auburn Hills with a final, itemized accounting of all construction costs associated with the Auburn Hills Segment.

B. Responsibilities of the City of Auburn Hills:

1. **Professional Services:** Procure, contract with, and directly manage a professional engineering consultant for all design and construction engineering services required for the Auburn Hills Segment.
2. **Plan Development:** Ensure its consultant prepares and delivers complete, biddable construction plans and specifications for the Auburn Hills Segment to Rochester Hills in a compatible format and in accordance with the project schedule for Rochester Hills to put the project out for competitive bids by December 1, 2025.
3. **Direct Payment of Consultant:** Pay all invoices from its engineering consultant directly. These costs shall not be passed through the City of Rochester Hills.
4. **Reimbursement for Construction:** Provide full reimbursement to the City of Rochester Hills for all construction costs incurred for the Auburn Hills Segment, as detailed in Section 4 of this Agreement.
5. **Ownership and Maintenance:** Upon final completion and acceptance of the Auburn Hills Segment, the City of Auburn Hills shall assume all ownership, liability, and future maintenance responsibilities for the pathway and any related appurtenances located within its municipal jurisdiction. Final acceptance of the Auburn Hills Segment shall be

formalized by a written notice of acceptance issued by the Auburn Hills Director of Public Services to the Rochester Hills Director of Public Services.

SECTION 3: TERM AND DURATION

This Agreement shall commence on the Effective Date and shall remain in effect until the construction of the Auburn Hills Segment is complete, final acceptance has been issued, and final payment has been made by Auburn Hills to Rochester Hills, unless terminated earlier pursuant to Section 5.

Each Party shall agree to request a Maintenance Bond with the obligation of good working condition, free of faulty or defective workmanship or materials, for a period of two (2) years from date of payment of final acceptance for the Total Project with correction to the satisfaction of the City where the work is located. The sum to be requested in the Maintenance Bond shall be no less than twenty-five (25%) of the contract amount by a Surety that is licensed and admitted to do business in the State of Michigan.

SECTION 4: FINANCIAL CONSIDERATIONS & COMPENSATION

A. Project Costs: The City of Auburn Hills shall be responsible for one hundred percent (100%) of the Actual Construction Costs of the Auburn Hills Segment. For the purpose of this Agreement, "Actual Construction Costs" are defined only as the payments made by Rochester Hills to the construction contractor for the physical labor, materials, and equipment required for the construction of the Auburn Hills Segment. Costs for all design and construction engineering for the Auburn Hills Segment are the sole responsibility of Auburn Hills and will be paid directly by Auburn Hills to its selected consultant.

B. Estimated Cost: The construction costs for the Auburn Hills Segment are currently estimated to be One Hundred Fifty Thousand Dollars ($150,000.00). The Parties acknowledge that this is a non-binding estimate for construction costs only. Auburn Hills is responsible for the final Actual Construction Costs, whether they are higher or lower than this estimate.

C. Invoicing and Payment:

1. **Initial Invoice:** On or after April 1, 2026, Rochester Hills shall invoice Auburn Hills for fifty percent (50%) of the estimated construction cost, totaling Seventy-Five Thousand Dollars ($75,000.00).
2. **Final Invoice:** Upon final completion and acceptance by Auburn Hills of the Auburn Hills Segment, Rochester Hills shall submit a final invoice for the remaining balance due. The balance shall be calculated as the total Actual Construction Costs minus the initial $75,000.00 payment.
3. **Payment Term:** Auburn Hills shall pay each invoice in full within thirty (30) days of receipt.

SECTION 5: INDEMNIFICATION AND LIABILITY

To the extent permitted by law, each Party agrees to be responsible and assume liability for the negligent acts or omissions of its own officers, employees, and agents in the performance of this Agreement. Neither Party assumes any liability for the other Party. This provision shall not be construed as a waiver of any governmental immunity provided to either Party or its employees under Michigan law.

SECTION 6: INSURANCE

Each Party shall maintain, at its own expense, Commercial General Liability insurance with limits of not less than $1,000,000 per occurrence and a Workers' Compensation policy as required by the State of Michigan for the duration of this Agreement. Rochester Hills shall ensure that its awarded construction contractor maintains insurance at levels appropriate for the project's scope, naming both the City of Rochester Hills and the City of Auburn Hills as additional insureds.

SECTION 7: DISPUTE RESOLUTION

In the event of a dispute arising from the design or construction of the Project, the Directors of each city's Department of Public Services, their designees, or representatives from their respective contractual Construction Engineering firms, shall meet to resolve the dispute in good faith. If the dispute cannot be resolved at this level, the Parties agree to pursue non-binding mediation before initiating any legal action.

SECTION 8: GENERAL PROVISIONS

A. Governing Law: This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.

B. Entire Agreement: This Agreement constitutes the entire agreement between the Parties and supersedes all prior oral or written agreements concerning the subject matter hereof.

C. Amendments: This Agreement may only be amended by a written instrument duly executed by authorized representatives of both Parties.

D. Notices: Any notices required under this Agreement shall be in writing and delivered in person or sent by certified mail to the respective City Clerk's office at the addresses first listed above.

E. Severability: If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

CITY OF ROCHESTER HILLS

By: _____ [Mayor / City of Rochester Hills]

Date: _____

CITY OF AUBURN HILLS

By: _____ [City Manager / City of Auburn Hills]

Date: _____