

**INTERLOCAL AGREEMENT
BETWEEN
PIERCE CONSERVATION DISTRICT
AND
CITY OF TACOMA**

THIS INTERLOCAL AGREEMENT (“Agreement”) is entered into by and between the PIERCE CONSERVATION DISTRICT, a conservation district organized under the laws of the state of Washington, hereinafter referred to as “PCD”, and the CITY OF TACOMA, a municipal corporation operating under the laws of the state of Washington as a first-class city, hereinafter referred to as “City” by and through the Environmental Services Department

I. INTRODUCTION

The Interlocal Cooperation Act, as amended, and codified in Chapter 39.34 of the Revised Code of Washington, authorizes agreements between jurisdictions to cooperate on a basis of mutual advantage to provide services and facilities in a manner that will accord best with geographic, economic, and other factors influencing the needs and development of local communities. The PCD and City have authority to enter into an interagency agreement pursuant to Interlocal Cooperation Act and desire to do so for the purposes specified herein.

No property will be acquired or held and no joint board will be created pursuant to this Agreement.

II. PURPOSE

“Depave” is a PCD program promoting the removal of unnecessary pavement and overly compacted lawn from urban areas to create community green spaces and mitigate stormwater runoff. Through community partnerships and volunteer engagement, Depave strives to overcome the social and environmental impacts of pavement with the use of action-oriented educational events, community stewardship, and advocacy to empower Tacoma neighbors to take action and improve their neighborhoods.

The “Orcas Love Raingardens” program is a collaborative partnership between the City and PCD and between the PCD and Tacoma Public School District to install one or more rain gardens providing stormwater quality and infiltration benefits to the City. This partnership will further promote water quality education by providing students and their families access to educational, interactive raingardens with opportunities to learn about the role of Green Infrastructure in protecting orcas.

PCD has agreed to partner with the City to establish and manage a Depave program in Tacoma, Washington. PCD has further agreed to partner with the City and Tacoma Public School District to establish and manage the Orcas Love raingardens program in Tacoma, Washington. The purpose of this Agreement is to formalize the terms of a working relationship between the PCD and the City in order to implement and provide high quality Depave and Orcas Love

Raingardens programs for the citizens of Tacoma. Depave projects authorized under this Agreement constitute contracted street improvement projects for purposes of Section 9.08.020 of the Tacoma Municipal Code (TMC). Depave projects and Orcas Love Raingardens projects are collectively referred to herein as “Project” or “Projects”.

III. PERIOD OF PERFORMANCE

The term of this Agreement shall commence on May 1, 2022, and will be indefinite, unless terminated by one of the two parties with written notification as described in Section VIII.

IV. SERVICE AREA

The geographic area receiving services defined in this Agreement consists of the work area and Depave and Orcas Love Raingardens project locations within the corporate boundaries of the City whether located on public right-of-way or privately owned property.

V. SCOPE OF WORK

A. Service Description. PCD and the City will work together to coordinate the PCD Work and City Work, as described herein, for an estimated 4,500 sf or more of Depave projects per year and one or more Orcas Love Raingarden projects per year. This agreement allows for the number of annual Projects to increase in the future as greater capacity and resources for the program become available. PCD will be the lead in managing project scoping, design, budgeting, community outreach, and management of volunteers and contractor labor. The City will be the lead in managing the permitting, design assistance and approval, coordination of City service contributions to the Projects as described in this Agreement and entering into a memorandum of understanding with the Tacoma Public School District for the Orcas Love Raingardens program. No separate legal or administrative entity shall be created pursuant to this Agreement.

B. Responsibilities/Requirements

1. Joint responsibilities of both PCD and the City for this Agreement includes:

- a. Establish site locations for the Projects within the service area.
- b. Media Communication.
- c. Coordinating the PCD work and the City work for the Projects.
- d. Administration of work undertaken pursuant to this Agreement.
- e. Pursuing sources of additional funding or in-kind services to complete project elements not already identified within the scope of this ILA.

2. The responsibilities of the Pierce Conservation District (the “PCD Work”) will be as follows:

- a. PCD shall facilitate community outreach efforts to enable Tacoma citizens to nominate Depave site locations.
- b. PCD staff will recruit volunteer leadership teams and community service organizations from the community where the Project site is located.
- c. PCD shall facilitate outreach to adjacent property owners of the selected Depave sites to ensure the adjacent property owner(s) consents in writing to the planting and

acknowledges the property owner's resulting maintenance obligations associated with the plantings at each site.

- d. PCD will provide project schedule and initial design draft and secure funding and sources for vegetation per project design.
 - e. PCD staff will coordinate, manage and supervise all work of volunteers, and community service organizations during the day-of activities of the Projects and all activities related to pavement removal, soil preparation and mulching, and planting events for the Depave and Orcas Love Raingarden project(s).
 - f. PCD staff shall document in writing that each volunteer or participant has, prior to donating labor or participating, received written notice of the risks and responsibilities to be assumed by the donors or participants and that he or she is donating labor or otherwise participating as a result of his or her own free choice.
 - g. PCD shall pay the premiums and assessments for providing worker's compensation medical aid benefits provided to volunteers participating in the Projects.
 - h. PCD will ensure the maintenance of the Depave site(s) and the Orcas Love Raingardens sites for the first three years following planting to ensure establishment of the trees, shrubs and vegetation. PCD will notify responsible party when this time period is complete and provide guidance for continued maintenance.
 - i. PCD will coordinate with City contacts for delivery of City in-kind services.
 - j. PCD will secure funding for the expenses incurred in performance of its responsibilities.
3. The responsibilities of the City of Tacoma (the "City Work") will be as follows:
- a. City shall enter into a memorandum of understanding with the Tacoma Public School District to authorize the siting and installation of one or more rain gardens on Tacoma Public School property, to be owned and maintained by Tacoma Public Schools. The City and Pierce Conservation District will provide in-kind services and coordination as designated under the Responsibilities and Requirements of this Interlocal Agreement for the rain garden installation and ongoing interactive educational programming to engage students, families, and their communities with the rain gardens on school property.
 - b. City will review Project sites submitted through PCD and provide its concurrence or denial. City may also nominate sites through the City's public outreach efforts. Sites will be selected for environmental benefit and equity.
 - c. City will be responsible for review and concurrence with project design and schedule for Depave and Orcas Love Raingarden projects.
 - d. City Work for Depave sites includes work necessary to prepare the site for the Depave and planting events. City will be responsible for oversight, management and administration of any City Work performed under this Agreement including construction, construction management, construction administration, design review, site development permitting and inspection. City Work for the Orcas Love Raingarden sites includes supplying materials, design review, permitting and inspection.
 - e. Environmental Services will be responsible for the cost of and application to obtain all permits required for Depave and Orcas Love Raingardens projects.

- f. Using in-kind services, the City will provide drop off boxes and recycling services for the depave materials at the Depave events, at the request of and in coordination with PCD.
- g. Using in-kind services, the City will provide TAGRO products and delivery or provide additional soil and/or mulch products from other vendors as necessary for soil preparation and mulching of the Project sites.

VI. FUNDING

- 1. Each party will bear its own cost of performing under this Agreement.
- 2. City hereby agrees to provide funding, materials, and/or in-kind services valued in an amount up to \$75,000.00 for the Projects (hereinafter referred to as the “Available Funds”) annually, to be applied exclusively to performance of the City Responsibilities under this Agreement.
- 3. The Available Funds may be in the form of permit fees, City labor, design services, media communications and graphic design, dumpsters and recycling and disposal services, TAGRO products or soil products from other vendors, and plant material such as trees and shrubs.

VII. DISPUTE RESOLUTION.

In the event of a dispute between PCD and the City arising out of or relating to this Agreement, the PCD Executive Director and the City Manager or their designated representatives shall review such dispute and options for resolution. If the dispute cannot be resolved by PCD Executive Director and the City Manager, the dispute may be submitted to mediation, and if still not resolved, may be submitted to binding arbitration in accordance with the rules and procedures set forth in Chapter 7.04 RCW, and the judgment or award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

VIII. IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT

This Agreement may be changed, modified, or amended by written agreement executed by both parties and approved in the same manner as the Agreement. Either party may terminate this Agreement with or without cause upon thirty (30) days written notice to the other party. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

IX. INDEMNIFICATION AND HOLD HARMLESS

The City agrees to indemnify and hold harmless PCD, its officials, officers, agents, employees, volunteers, and representatives, from, and shall defend at its sole expense, against any and all claims, demands, damages, suits at law or at equity, liabilities, losses, judgments, liens, expenses, and costs arising out of or occasioned by the City’s negligence or wrongful conduct in fulfillment of its obligations pursuant to this Agreement. In the event of recovery due to the aforementioned circumstances, the City shall pay any judgment or lien arising therefrom, including any and all costs as part thereof. The foregoing indemnity is specifically and expressly

intended to constitute a waiver of City's immunity under Washington's Industrial Insurance Act, RCW Title 51, to the full extent necessary to provide PCD with a full and complete indemnity from claims made by City and its employees, to the extent of their negligence.

PCD agrees to indemnify and hold harmless the City, its officials, officers, agents, employees, volunteers, and representatives, from, and shall defend at its sole expense, against any and all claims, demands, damages, suits at law or at equity, liabilities, losses, judgments, liens, expenses, and costs arising out of or occasioned by PCD's negligence or wrongful conduct in fulfillment of its obligations pursuant to this Agreement. In the event of recovery due to the aforementioned circumstances, PCD shall pay any judgment or lien arising therefrom, including any and all costs as part thereof. The foregoing indemnity is specifically and expressly intended to constitute a waiver of PCD's immunity under Washington's Industrial Insurance Act, RCW Title 51, to the full extent necessary to provide City with a full and complete indemnity from claims made by PCD and its employees, to the extent of their negligence.

X. INSURANCE

During the course and performance of the activities herein specified, PCD will maintain the insurance coverage specified in the City of Tacoma Insurance Requirements for Contracts document (hereinafter may be referred to as "Exhibit A", as applicable to the services and deliverables provided under this Agreement.

Failure by the City to identify a deficiency in the insurance documentation provided by PCD or failure of the City to demand verification of coverage or compliance by PCD with these insurance requirements shall not be construed as a waiver of PCD's obligation to maintain such insurance.

The City is self-insured and will provide PCD the City's Certificate of Insurance to verify coverage.

XI. ENTIRE AGREEMENT

This Agreement constitutes the complete terms and conditions agreed upon by the parties. No other understanding, oral or otherwise, regarding the subject matter of this Agreement shall be binding upon the parties unless in writing and signed by both parties.

XII. ORDER OF PRECEDENCE

This Agreement is governed by, and interpreted in accordance with, the laws of the State of Washington. In the event of an inconsistency in the terms and conditions contained in this Agreement, nothing contained herein shall be construed as giving precedence to provisions of this Agreement over any provision of the law.

XIII. CONTRACT ADMINISTRATION

City Work performed hereunder shall be performed under the coordination of Shauna Hansen, Professional Engineer, in the Environmental Services Department, or such other person designated by the Environmental Services Department Director, who may issue written instructions that do not change the contract conditions needed to accomplish the scope of work. PCD Work performed hereunder shall be under the direction of Melissa Buckingham, Water Quality Director, Pierce Conservation District, or such other person designated by Pierce Conservation District, who may issue written instructions that do not change the contract conditions that are needed to accomplish the scope of work. A project manager responsible for day-to-day operations will be appointed.

The Parties will jointly administer the work performed under this Agreement through their above-named appointed representatives, and their successors.

No property will be acquired or held pursuant to this Agreement.

XIV. EFFECTIVE DATE

This Agreement shall be effective upon execution by all of the parties and filing of a fully executed copy hereof with the Office of the Pierce County Auditor, or in the alternative, listed by subject on the City's or the PCD's web site or other electronically retrievable public source.

(Remainder of Page Left Intentionally Blank)

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates indicated below.

CITY OF TACOMA

DocuSigned by:

A395FED7BB064BB...
Elizabeth A. Pauli,
City Manager
5/9/2022
Date: _____

PIERCE CONSERVATION DISTRICT

DocuSigned by:

3B59E8595C6C414...
Dana Coggon,
Executive Director
5/9/2022
Date: _____

Approved:

DocuSigned by:

E372914782C7487...
Michael P. Slevin III, P.E.,
Environmental Services Director

Approved as to form:

DocuSigned by:

80986034992E471...
Charles Lee,
City Attorney

DocuSigned by:

5E64E6E57BB1487...
Saada Gegoux,
Risk Manager

Attest:

DocuSigned by:

765BE94F34094F3...
Doris Sorum,
City Clerk



CITY OF TACOMA INSURANCE REQUIREMENTS FOR CONTRACTS

The Contractor (Contractor) shall maintain at least the minimum insurance set forth below. By requiring such minimum insurance, the City of Tacoma shall not be deemed or construed to have assessed the risk that may be applicable to Contractor under this Contract. Contractor shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.

1. GENERAL REQUIREMENTS

The following General Requirements apply to Contractor and to Subcontractor(s) of every tier performing services and/or activities pursuant to the terms of this Contract. Contractor acknowledges and agrees to the following insurance requirements applicable to Contractor and Contractor's Subcontractor(s):

- 1.1. City of Tacoma reserves the right to approve or reject the insurance provided based upon the insurer, terms and coverage, the Certificate of Insurance, and/or endorsements.
- 1.2. Contractor shall not begin work under the Contract until the required insurance has been obtained and approved by City of Tacoma.
- 1.3. Contractor shall keep this insurance in force during the entire term of the Contract and for Thirty (30) calendar days after completion of all work required by the Contract, unless otherwise provided herein.
- 1.4. Insurance policies required under this Contract that name "City of Tacoma" as Additional Insured shall:
 - 1.4.1. Be considered primary and non-contributory for all claims.
 - 1.4.2. Contain a "Separation of Insured provision and a "Waiver of Subrogation" clause in favor of City of Tacoma.
- 1.5. Section 1.4 above does not apply to contracts for purchasing supplies only.
- 1.6. Verification of coverage shall include:
 - 1.6.1. An ACORD certificate or equivalent.
 - 1.6.2. Copies of all endorsements naming the City of Tacoma as additional insured and showing the policy number.
 - 1.6.3. A notation of coverage enhancements on the Certificate of Insurance shall not satisfy these requirements – actual endorsements must be submitted.
- 1.7. Liability insurance policies, with the exception of Professional Liability and Workers' Compensation, shall name the City of Tacoma and its officers, elected officials, employees, agents, and authorized volunteers as additional insured.
 - 1.7.1. No specific person or department should be identified as the additional insured.
 - 1.7.2. All references on certificates of insurance and endorsements shall be listed as "City of Tacoma".
 - 1.7.3. The City of Tacoma shall be additional insured for both ongoing and completed operations using Insurance Services Office (ISO) form CG 20 10 04 13 and CG 20



CITY OF TACOMA INSURANCE REQUIREMENTS FOR CONTRACTS

37 04 13 or the equivalent for the full available limits of liability maintained by the Contractor irrespective of whether such limits maintained by the Contractor are greater than those required by this Contract and irrespective of whether the Certificate of Insurance describes limits lower than those maintained by the Contractor.

- 1.8. Contractor shall provide a Certificate of Insurance for each policy of insurance meeting the requirements set forth herein when Contractor provides the signed Contract for the work to City of Tacoma. Contractor shall provide copies of any applicable Additional Insured, Waiver of Subrogation, and Primary and Non-contributory endorsements. Contract or Permit number and the City Department must be shown on the Certificate of Insurance.
- 1.9. Insurance limits shown below may be written with an excess policy that follows the form of an underlying primary liability policy or an excess policy providing the required limit.
- 1.10. Liability insurance policies shall be written on an "occurrence" form, except for Professional Liability/Errors and Omissions, Pollution Liability, and Cyber/Privacy and Security
- 1.11. If coverage is approved and purchased on a "Claims-Made" basis, Contractor warrants continuation of coverage, either through policy renewals or by the purchase of an extended reporting period endorsement as set forth below.
- 1.12. The insurance must be written by companies licensed or authorized in the State of Washington pursuant to RCW 48 with an (A-) VII or higher in the A.M. Best's Key Rating Guide www.ambest.com.
- 1.13. Contractor shall provide City of Tacoma notice of any cancellation or non-renewal of this required insurance within Thirty (30) calendar days.
- 1.14. Contractor shall not allow any insurance to be cancelled or lapse during any term of this Contract, otherwise it shall constitute a material breach of the Contract, upon which City of Tacoma may, after giving Five (5) business day notice to Contractor to correct the breach, immediately terminate the Contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith; with any sums so expended to be repaid to City of Tacoma by Contractor upon demand, or at the sole discretion of City of Tacoma, offset against funds due Contractor from City of Tacoma.
- 1.15. Contractor shall be responsible for the payment of all premiums, deductibles and self-insured retentions, and shall indemnify and hold the City of Tacoma harmless to the extent such a deductible or self-insured retained limit may apply to the City of Tacoma as an additional insured. Any deductible or self-insured retained limits in excess of Twenty Five Thousand Dollars (\$25,000) must be disclosed and approved by City of Tacoma Risk Manager and shown on the Certificate of Insurance.
- 1.16. City of Tacoma reserves the right to review insurance requirements during any term of the Contract and to require that Contractor make reasonable adjustments when the scope of services has changed.



CITY OF TACOMA INSURANCE REQUIREMENTS FOR CONTRACTS

- 1.17. All costs for insurance shall be incidental to and included in the unit or lump sum prices of the Contract and no additional payment will be made by City of Tacoma to Contractor.
- 1.18. Insurance coverages specified in this Contract are not intended and will not be interpreted to limit the responsibility or liability of Contractor or Subcontractor(s).
- 1.19. Failure by City of Tacoma to identify a deficiency in the insurance documentation provided by Contractor or failure of City of Tacoma to demand verification of coverage or compliance by Contractor with these insurance requirements shall not be construed as a waiver of Contractor's obligation to maintain such insurance.
- 1.20. If Contractor is a State of Washington or local government and is self-insured for any of the above insurance requirements, a certification of self-insurance shall be attached hereto and be incorporated by reference and shall constitute compliance with this Section.

2. CONTRACTOR

As used herein, "Contractor" shall be the Supplier(s) entering a Contract with City of Tacoma, whether designated as a Supplier, Contractor, Vendor, Proposer, Bidder, Respondent, Seller, Merchant, Service Provider, or otherwise.

3. SUBCONTRACTORS

It is Contractor's responsibility to ensure that each subcontractor obtain and maintain adequate liability insurance coverage. Contractor shall provide evidence of such insurance upon City of Tacoma's request.

4. REQUIRED INSURANCE AND LIMITS

The insurance policies shall provide the minimum coverages and limits set forth below. Providing coverage in these stated minimum limits shall not be construed to relieve Contractor from liability in excess of such limits.

4.1 Commercial General Liability Insurance

Contractor shall maintain Commercial General Liability Insurance policy with limits not less than One Million Dollars (\$1,000,000) each occurrence and Two Million Dollars (\$2,000,000) annual aggregate. The Commercial General Liability Insurance policy shall be written on an Insurance Services Office form CG 00 01 04 13 or its equivalent. Products and Completed Operations shall be maintained for a period of three years following Substantial Completion of the Work related to performing construction services.

This policy shall include product liability especially when a Contract solely is for purchasing supplies. The Commercial General Liability policy shall be endorsed to include:

- 4.2 A per project aggregate policy limit, using ISO form CG 25 03 05 09 or an equivalent endorsement.

4.3 Workers' Compensation



CITY OF TACOMA INSURANCE REQUIREMENTS FOR CONTRACTS

Contractor shall comply with Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington, as well as any other similar coverage required for this work by applicable federal laws of other states. The Contractor must comply with their domicile State Industrial Insurance laws if it is outside the State of Washington.

4.4 Employers' Liability Insurance

Contractor shall maintain Employers' Liability coverage with limits not less than One Million Dollars (\$1,000,000) each employee, One Million Dollars (\$1,000,000) each accident, and One Million Dollars (\$1,000,000) policy limit.

4.5 Other Insurance

Other insurance may be deemed appropriate to cover risks and exposures related to the scope of work or changes to the scope of work required by City of Tacoma. The costs of such necessary and appropriate Insurance coverage shall be borne by Contractor.

BINDER

(Summary of Coverage)

MEMBER:

Pierce Conservation District
 PO Box 1057
 Puyallup, Washington 98371

MEMORANDUM #

2022-00-148

EFFECTIVE:

9/1/2021 through 8/31/2022

This binder is subject to the terms and conditions as references in the Memorandum of Coverage.

COVERAGE:	COVERAGE TYPE	LIMIT	DEDUCTIBLE
GENERAL LIABILITY <i>General Liability; Professional Liability</i>	Each occurrence	\$20,000,000	\$1,000
AUTO LIABILITY <i>Hired and Non-Owned; Temporary Substitute</i>	Each occurrence	\$20,000,000	\$1,000
PUBLIC OFFICIALS ERRORS AND OMISSIONS LIABILITY	Each Wrongful Act Member Aggregate	\$20,000,000 \$20,000,000	\$1,000
EMPLOYMENT PRACTICES LIABILITY	Aggregate Per member	\$20,000,000	20% Co-pay*
CRIME BLANKET COVERAGE WITH FAITHFUL PERFORMANCE OF DUTY	Per Occurrence Member Aggregate	\$250,000 N/A	\$1,000
NAMED POSITION COVERAGE WITH FAITHFUL PERFORMANCE OF DUTY	Per Occurrence Member Aggregate	N/A N/A	N/A N/A
PROPERTY/MOBILE EQUIPMENT/BOILER AND MACHINERY	Replacement Cost	Per Schedule with Enduris	Per Schedule with Enduris
CYBER COVERAGE	Member Aggregate Program Aggregate	\$2,000,000** \$40,000,000	20% Co-pay* -
AUTOMOBILE PHYSICAL DAMAGE	Per Schedule with Enduris	Per Schedule with Enduris	\$250
IDENTITY FRAUD EXPENSE REIMBURSEMENT	Per Occurrence Member Aggregate	\$25,000 \$25,000	\$1,000

*Co-pay may be waived as per Memorandum of Coverage

**Subject to limits and sub-limits as noted on the Memorandum of Coverage



Rafael Ortiz
 Authorized Representative
 Chief Operating Officer