

**INTERLOCAL AGREEMENT FOR DESIGN OF 56TH STREET/CIRQUE DRIVE
BETWEEN THE CITY OF TACOMA AND THE CITY OF UNIVERSITY PLACE**

THIS INTERLOCAL AGREEMENT ("Agreement") made and entered into pursuant to the Interlocal Cooperation Act, Chapter 39.34 of the Revised Code of Washington, on the _____ day of _____, 2013, by and between the City of Tacoma, a Washington municipal corporation, herein known as "Tacoma," and the City of University Place, a Washington municipal corporation, herein known as "University Place," (collectively referred to herein as the "Parties").

WHEREAS, 56th Street/Cirque Drive serves as a major arterial providing vital mobility to both Tacoma and University Place; and

WHEREAS, a joint application was submitted and approved for \$778,500 of federal funding (FHWA) for design of improvements to 56th Street/Cirque Drive between Interstate 5 and Grandview Drive, with a local match requirement of 13.5 percent, naming University Place as the Lead Agency for the purposes of grant administration; and

WHEREAS, under said application, Tacoma committed to provide 50 percent of the required local match; and

WHEREAS, each agency is currently qualified as a Certified Acceptance Agency (CA) under agreement with the Washington State Department of Transportation; and

WHEREAS, Chapter 39.34 of the Revised Code of Washington allows local governments to enter into interlocal agreements to make most efficient use of their powers by enabling them to work with other local jurisdictions on a mutually advantageous basis.

NOW, THEREFORE, pursuant to Chapter 39.34 RW, and in consideration of the mutual benefits and covenants described herein, the City of University Place and the City of Tacoma agree to cooperate in the design of 56th Street/Cirque Drive as follows:

1. INCORPORATION OF RECITALS

Each of the recitals set forth above is incorporated into this Agreement as though fully set forth herein.

2. PURPOSE AND GOALS

The purpose of this Agreement is to establish roles and responsibilities of each party to this Agreement, including but not limited to administration of the grant, billing and payment of local match amounts, awarding of contracts, and project administration.

The goals are to: (1) facilitate the improvements to 56th Street / Cirque Drive that include pavement overlay, curbs, sidewalks, bike lanes, street lighting, landscaping, and other roadway related amenities; (2) produce plans that meet the applicable standards required under the grant and approval of each City; and (3) to achieve maximum cost savings for the benefit of the public.

3. PROJECT AREA

The project area includes rights of way for improvements on 56th Street / Cirque Drive between Interstate 5 in Tacoma and Grandview Drive in University Place ("Project").

4. ALLOCATION OF FUNDS

Under this Agreement, fifty percent (50%) of the grant funding will be attributable to design work in each City. This percentage may be adjusted upon the written agreement of the Parties.

5. UNIVERSITY PLACE RESPONSIBILITIES

A. Project Lead. University Place shall take the lead role in coordinating the grant administration, including: (1) entering into a local agency agreement with the Highways and Local Programs Office of the Washington State Department of Transportation (WSDOT); (2) submitting requests for reimbursement; (3) maintaining project grant records; (4) reporting progress; (5) contract administration for its portion of the Project; and (6) when required and as applicable, a University Place representative shall participate in Project team meetings.

B. Design. University Place shall be responsible for the design of improvements within the City of University Place.

C. Advance Funds. University Place and Tacoma shall share in the cost of the design of the 56th Street / Cirque Drive Project. University Place agrees to advance funds as necessary to pay for Project expenses that will be shared jointly, including, but not limited to preparation of a biological assessment. University Place shall submit timely requests for reimbursement to the Department of Transportation for its advances and for work performed or paid for by Tacoma. Reimbursement requests shall be made at monthly intervals for the total amounts expended during that period, less the proportionate shares of the combined University Place and Tacoma matches. The Project reimbursement period shall begin after WSDOT has approved a Local Agency Agreement (LAA) authorizing Project expenditures. No expenditure made before this date is eligible for reimbursement. University Place shall bill Tacoma for its proportionate match share for any combined expenditures advanced by University Place.

D. Notice to Tacoma.

i. University Place shall notify Tacoma within fourteen (14) calendar days from the date of receipt by University Place of reimbursement from WSDOT for costs incurred by Tacoma and University Place. University Place shall pay to Tacoma its share of said reimbursement.

ii. University Place shall promptly notify Tacoma of any issues it feels are inconsistent with the design, construction documents, plans or this Agreement. University Place shall work cooperatively with Tacoma to resolve design and construction issues to the mutual satisfaction of both parties if reasonably practicable.

6. TACOMA RESPONSIBILITIES

A. Assist in Administration. Tacoma shall assign at least one (1) representative to represent Tacoma's interests and verify that the Project proceeds in accordance with this Agreement and state and federal requirements. When required and as applicable, Tacoma's representative(s) shall: (1) participate in Project team meetings; (2) assist in the interview and selection of a consultant(s) for joint activities; (3) assist with obtaining applicable permits; (4) assist with Project success monitoring; (5) contract administration for its portion of the Project; and (6) maintain its Project records as required by state and federal auditing requirements and shall present its records for review as requested.

B. Design. Tacoma shall be responsible for the design of improvements within the City of Tacoma.

C. Reimbursement to University Place. Tacoma shall pay to University Place all costs advanced by University Place on its behalf pursuant to Section 5 of this Agreement within thirty (30) days of receipt of an invoice.

D. Notice to University Place. Tacoma shall promptly notify University Place of any issues it feels are inconsistent with the design, construction documents, plans or this Agreement. Tacoma shall work cooperatively with University Place to resolve design and construction issues to the mutual satisfaction of both parties if reasonably practicable.

7. PLANS

Final design plans shall adhere to applicable standards of each respective city, as well as state and federal requirements.

8. DURATION OF AGREEMENT AND TERMINATION

This Agreement shall continue until final completion of the Project, at which time it shall terminate.

9. HOLD HARMLESS AND INDEMNITY AGREEMENT

A. Each party (the Indemnitor) agrees to defend, indemnify and save harmless each other (the Indemnitees), their board or council members, officers, agents and employees, from and against all loss or expense including, but not limited to, judgments, settlements, attorney's fees, and costs by reason of any and all claims for damages, penalties, or other relief based upon the Indemnitor's alleged negligence, or wrongful conduct, except for the injuries, penalties, and damages caused by the sole negligence or wrongful conduct of the Indemnitor. Such claims for damages or other relief include, but are not limited to, those for personal or bodily injury including death from such injury, property damage, torts, defamation, penalties imposed by any agency of the state or federal government for failure to comply with applicable law in the performance of this Agreement. If the claim, suit, or action involves concurrent negligence of the Parties, the indemnity provisions provided herein shall be applicable only to the extent of the percentage of each Party's negligence. It is further and expressly understood that the indemnification provided herein constitutes each Party's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the Parties. The provisions of this section shall survive the expiration or termination of this Agreement.

B. Each party acknowledges its CA status heretofore mentioned and therefore accepts its respective responsibility for complying with all state and federal requirements for design, finances, and all other aspects of the Project within its corporate limits. Failure to do so will result in that Party being financially responsible to WSDOT under the terms of the Local Agency Agreement. The City of University Place will be the lead agency for the Project, but it does not guarantee the adequacy of work performed by Tacoma, and Tacoma does not guarantee the adequacy of work performed by University Place.

10. NO THIRD PARTY BENEFICIARY

University Place, by this Agreement, does not assume any contractual obligations to any person or entity other than Tacoma. Tacoma, by this Agreement, does not assume any contractual obligations to any person or entity other than University Place. There is no third party beneficiary to the Agreement.

11. NO SEPARATE ENTITY CREATED

This Agreement does not create any separate legal or administrative entity. This Agreement shall be administered by the City Engineer for the City of University Place and the Interim Public Works Director/City Engineer for the City of Tacoma. There shall be no joint financing or jointly acquired or held assets and the Agreement will terminate as described herein.

12. NON-DISCRIMINATION

The Parties agree to take all steps necessary to comply with all federal, state, and City laws and policies regarding non-discrimination and equal employment opportunities. The Parties shall not discriminate in any employment action because of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, or the presence of any sensory, mental or physical handicap.

13. ASSIGNMENT

Neither Party shall have the right to transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the other Party.

14. NOTICE

All notices or communications under this Agreement shall be in writing and effective (i) when delivered in person or via overnight courier to the other Party; (ii) on the second business day following the date of mailing by regular or certified U.S. Mail, postage prepaid to the other Party at its address set forth below; or (iii) upon

confirmed transmission by facsimile to the other party at the facsimile number set forth below. The addresses for notices may be modified by either Party only by written notice delivered in conformance with this Section.

CITY OF UNIVERSITY PLACE

ATTN: Jack Ecklund, P.E.
City Engineer
3715 Bridgeport Way W.
University Place, WA 98466
Phone: 253.686.3066
Fax: 253.460.2542

CITY OF TACOMA

ATTN: Tom Rutherford, P.E.
Project Manager
747 Market Street, Room 544
Tacoma, WA 98402
Phone: 253.591.5767
Fax: 253.591.5181

15. WAIVER

No waiver by either Party of any term or condition of this Agreement shall be deemed or construed to constitute a waiver of any other term or condition or of any subsequent breach, whether of the same or a different provision of this Agreement.

16. ENTIRE AGREEMENT

This Agreement contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Agreement and no prior agreements shall be effective for any purpose.

17. MODIFICATION

Provisions within this Agreement may be modified upon the mutual written consent of the Parties hereto.

18. FILING

After execution of the Agreement, both Parties shall file copies of this Agreement with its respective City Clerk, together with resolutions of the University Place City Council and the Tacoma City Council approving and ratifying this Agreement.

19. SEVERABILITY

If any of the provisions contained in this Agreement are held to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Agreement this ____ day of _____, 2013.

CITY OF UNIVERSITY PLACE

CITY OF TACOMA

By _____
Stephen P. Sugg
City Manager

By _____
T. C. Broadnax
City Manager

By _____
Kurtis D. Kingsolver
Interim Public Works Director/
City Engineer

Approved as to form:

Approved as to form:

By _____
Steve Victor
City Attorney

By _____
Jeff Capell,
Deputy City Attorney

Attest:

Attest:

Emelita Genetia
City Clerk

Doris Sorum
City Clerk

