

**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”.

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 _____, 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.

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 two Depave projects per year and one or more Orcas Love Raingarden projects. This agreement allows for the number of annual Projects to increase in the future with greater capacity and resources for the program. PCD will manage community outreach and the volunteer labor components of the Projects and will enter into an interlocal agreement with the Tacoma Public School District for the Orcas Love Raingardens project, while the City will manage the design and construction aspects of the Projects as described in this Agreement and supply materials for the Orcas Love Raingarden project(s). 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.
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 shall enter into an agreement with the Tacoma Public School District to authorize the siting and installation of one or more raingardens on Tacoma Public School property, authorizing access to students and their families in support of interactive education water quality programs, and providing for on-going maintenance of the raingardens.
 - c. PCD staff will recruit volunteer leadership teams and community service organizations from the community where the Project site is located.
 - d. 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.

- e. PCD will secure funding for the expenses incurred in performance of its responsibilities.
 - f. 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 the day of planting event for the Depave project.
 - g. PCD staff will, for the Depave projects, obtain all permits required for planting of vegetation (e.g. TMC 9.19.010), and will coordinate, manage and supervise all work of volunteers and community service organizations during the planting event.
 - h. PCD staff will obtain all permits required for the Orcas Love Raingarden project(s) and will coordinate, manage and supervise all work of volunteers and community service organizations during the Orcas Love Raingarden project(s).
 - i. 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.
 - j. PCD shall pay the premiums and assessments for providing worker's compensation medical aid benefits provided to volunteers participating in the Projects.
 - k. 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.
3. The responsibilities of the City of Tacoma (the "City Work") will be as follows:
- a. 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.
 - b. Following the PCD's creation of a volunteer leadership team, signed consent and maintenance agreements from property owners adjacent to the Depave sites and the Tacoma Public School District for the Orcas Love Raingardens sites, and secured funding for vegetation to be planted, City will be responsible for concurrence on project proposals, and for Depave sites located within the right of way creating project schedules, and project design.
 - c. City Work for Depave sites located within the right of way is anticipated to include work necessary to prepare the site for pavement removal and planting vegetation and may include, cutting pavement, removing concrete, installing soil amendments and mulch and otherwise preparing the site prior to 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 is anticipated to include supplying materials, design review, permitting and inspection.
 - d. For sites located within the right of way the City will coordinate with other City departments for permitting.
 - e. The City will provide drop off boxes for the depaved asphalt at the Depave event, at the request of and in coordination with PCD. The City will facilitate having the asphalt recycled.

VI. FUNDING

- A. Each party will bear its own cost of performing under this Agreement.
- B. City hereby agrees to provide funding, materials, and/or in-kind services valued in an amount up to \$75,000.00 for the Depave projects (hereinafter referred to as the “Available Funds”) annually, to be applied exclusively to performance of the City Work under this Agreement. City hereby further agrees to provide an amount up to \$10,000.00 to be applied exclusively by the City to the purchase of materials for the Orcas Love Raingardens project(s) under this Agreement.
- C. The Available Funds may be in the form of City labor, contracted services, pavement disposal by recycling, TAGRO, 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. 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.

XI. 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.

XII. CONTRACT ADMINISTRATION

City Work performed hereunder shall be performed under the coordination of _____, *(name and title)* in the _____ Department, or such other person designated by the _____ 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 Kathy Chance (360) 586-4848, Managing Director, Business Technical Assistance Unit of OTED, or such other person designated by OTED, 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.

XIII. 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.

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IN WITNESS WHEREOF, the parties execute this Agreement as of the date last written below:

PIERCE CONSERVATION DISTRICT

Pierce Conservation District (Name, Title)

Date

CITY OF TACOMA:

Elizabeth A. Pauli, City Manager

Date:

Approved:

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

Andrew Cherullo, Finance Director

Approved as to form:

Deputy City Attorney

Saada Gegoux, Risk Manager

ATTEST:

Doris Sorum, City Clerk