

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF SPOKANE,  
CITY OF AIRWAY HEIGHTS AND  
THE WEST PLAINS AIRPORT AREA PUBLIC DEVELOPMENT AUTHORITY  
REGARDING CONSULTING SERVICES RELATED TO  
6<sup>TH</sup> AND 10<sup>TH</sup>/12<sup>TH</sup> AVENUE TRANSPORTATION PROJECT**

**THIS INTERLOCAL AGREEMENT** (this "Agreement") is entered into by and between the **CITY of Airway Heights**, a political subdivision of the State of Washington, having offices for the transaction of business at 1208 S. Lundstrom, Washington 99001 (herein, "AIRWAY HEIGHTS"); the **CITY of Spokane**, a political subdivision of the State of Washington, having offices for the transaction of business at 808 West Spokane Falls Boulevard, Spokane, Washington 99201 (herein, "SPOKANE"); and the **West Plains Airport Area Public Development Authority**, a municipal corporation of the State of Washington, having offices for the transaction of business at 7106 W. Will Alton Lane, Suite 103A, Spokane, Washington 99224 (herein, the "PDA"), who are jointly herein referred to as the "PARTIES." AIRWAY HEIGHTS and SPOKANE are jointly herein referred to as the "CITIES."

**WITNESSETH:**

**WHEREAS**, pursuant to the provisions of RCW 35.21.730, the PDA was created to improve administration of authorized federal grants or programs, to improve government efficiency and services, or to improve the general living conditions in the urban areas of the state, any City, town, or county; and

**WHEREAS**, pursuant to the provisions of RCW 35.21.745(2), the PDA has authority to enter into agreements, receive funds and expend funds; and

**WHEREAS**, chapter 39.34 RCW (Interlocal Cooperation Act), authorizes municipal entities to contract with each other to perform certain functions which each may legally perform; and

**WHEREAS**, the West Plains is experience substantial economic growth which is contributing to increased traffic congestion; and

**WHEREAS**, the City of Airway Heights and the City of Spokane have included the future development of 6<sup>th</sup> and 10<sup>th</sup>/12<sup>th</sup> Avenues (herein referred to only as 12<sup>th</sup>) as a key project to provide additional capacity; and

**WHEREAS**, the Washington Department of Transportation has designated State Route 2 as a Highway of National Significance; and

**WHEREAS**, Fairchild Air Force Base relies on predictable response times for military personnel utilizing State Route 2 to report for duty.

**NOW, THEREFORE**, for and in consideration of the mutual promises set forth hereinafter, the PARTIES do mutually agree as follows:

**SECTION NO. 1: PURPOSE**

The purpose of this Agreement is to set forth the PARTIES' understanding of the terms and conditions under which the PDA will facilitate the planning, design and engineering of street/road improvements adequate (approximately 35% design) to submit a grant application for construction of 6<sup>th</sup> and 12<sup>th</sup> Avenues generally from Craig Road in the City of Airway Heights to Campus Road in the City of Spokane (the "Work"). The CITIES will each be responsible for reimbursement of consultant fees in accordance with Section No. 4. The PDA shall facilitate the project through approximately 35% design, adequate for submittal of a grant application. The PDA shall continue to provide support to the project team through final design. Thereafter, the CITIES either jointly or separately shall assume responsibility for further development of the improvements.

**SECTION NO. 2: DURATION**

This Agreement shall be effective at 12:01 A.M. on \_\_\_\_\_, 2020 and shall remain in full force and effect until otherwise terminated by mutual written agreement of the Parties hereto or pursuant to Section No. 16(G) of this Agreement.

**SECTION NO. 3: SERVICES**

Section 3.1: Services Provided by PDA: To support economic development within the PDA and surrounding area, the PDA will facilitate, in consultation with the CITIES, the following services to support development of the 6<sup>th</sup>/12<sup>th</sup> Avenue alignment from Craig Road to Campus Road (the "Project"):

1. Pursuant to applicable legal requirements solicit and contract with a Consultant to provide the planning, design and construction documents for the Project.
2. Administer the Project as the primary contact with the Consultant.
3. Coordinate with the City of Airway Heights and City of Spokane staff the development and delivery of the Scope of Work for the Project.
4. Engage key stakeholders in the Project including the City of Airway Heights, City of Spokane, Spokane County, WsDOT, Kalispel Tribe, Spokane Tribe, Spokane Transit Authority and Fairchild Air Force Base.
5. Prepare an application for a Transportation Improvement Board grant for partial funding of the Project to be submitted on behalf of one of the participating cities.
6. Proactively seek other private and public funding sources to cause the construction of the 6<sup>th</sup>/12<sup>th</sup> Avenue alignment (i.e., the Project).

Section 3.2: Services Provided by CITIES: Within each of their respective jurisdictions the CITIES shall:

1. Provide individuals with decision-making authority with Comprehensive Plan provisions, zoning code and municipal code; and compliance with any applicable public facilities or municipal utility plans.
2. Provide technical expertise related to local standards and regulations.
3. If and when needed, provide public outreach and facilitate community input.
4. Compensate the PDA and as described in Section 4 below and elsewhere herein.
5. Except as provided in Section 4 below, pay for all direct and indirect costs of design, financing, planning or construction of the roadway improvements contemplated hereunder.
6. Facilitate project review as the local permitting agency with expertise.
7. Act as the Responsible Official under SEPA, if requested by the PDA to do so.

#### **SECTION NO. 4: COMPENSATION**

In addition to facilitating the Work, the PDA will provide in-kind services to the Project to include the contract management and facilitation efforts under this Agreement. The CITIES shall reimburse the PDA for consultant fees as follows: The City of Airway Heights shall reimburse the PDA up to \$209,233.00. The City of Spokane shall reimburse the PDA up to \$60,000.00. And the PDA shall contribute up to \$17,365.00 in payment to the hired Consultant once the City of Spokane reimbursement to the PDA reaches \$60,000.00. The breakdown of costs can be found in the Scope of Work with T-O Engineering, Inc.

#### **SECTION NO. 5: PAYMENT**

The PDA will invoice the CITIES monthly for consultant fees the PDA has paid for the CITIES' respective portions of the Project. Reimbursement by the CITIES will be due thirty (30) days after receipt of the PDA's invoice, which shall detail work performed by the Consultant. Application for payment shall be made using the following addresses:

CITY OF AIRWAY HEIGHTS  
c/o Stanley Schubert, City Clerk  
1208 S. Lundstrom  
Washington 99001

CITY OF SPOKANE  
c/o \_\_\_\_\_  
808 West Spokane Falls Boulevard  
Spokane, Washington 99201

**SECTION NO. 6: AUDIT / RECORDS**

The PDA shall maintain for a minimum of three (3) years following final payment all records related to its performance of the Agreement. The PDA shall provide access to authorized representatives of the CITIES, including a respective Auditor of either or each, at reasonable times and in a reasonable manner to inspect and copy any such record. In the event of conflict between this provision and related auditing provisions required under federal law applicable to the Agreement, the federal law shall prevail.

**SECTION NO. 7: NOTICES**

All notices or other communications given hereunder shall be deemed given on: (i) the day such notices or other communications are received when sent by personal delivery; or (ii) the third day following the day on which the same have been mailed by certified mail delivery, receipt requested and postage prepaid addressed to PARTIES at the address set forth below, or at such other address as the PARTIES shall from time-to-time designate by notice in writing to the other PARTIES:

**CITY OF**

**AIRWAY HEIGHTS:** Mayor or designee  
City of Airway Heights  
1208 S. Lundstrom  
City of Airway Heights, Washington 99001

**CITY OF SPOKANE:** Mayor or designee  
City of Spokane  
Fifth Floor, City Hall  
808 West Spokane Falls Boulevard  
Spokane, Washington 99201

**PDA:** C/O Executive Director  
West Plains Airport Area Public Development Authority  
7106 W Will D Alton Lane, Suite 103A  
Spokane, Washington 99224

## **SECTION NO. 8: ASSIGNMENT**

This Agreement shall be binding upon the Parties, their successors and assigns. No Party may assign, in whole or in part, its interest in this Agreement without the approval of the other Party.

## **SECTION NO. 9: LIABILITY**

The PDA shall indemnify, defend and hold harmless the CITIES, their/its officers and employees from all claims, demands, or suits in law or equity arising from the PDA's intentional or negligent acts or breach of its obligations under the Agreement. The PDA's duty to indemnify shall not apply to loss or liability caused by the intentional or negligent acts of the CITIES, their/its officers and employees.

The CITIES shall indemnify, defend and hold harmless the PDA, its officers and employees from all claims, demands, or suits in law or equity arising from the CITIES's intentional or negligent acts or breach of its obligations under the Agreement. The CITIES's duty to indemnify shall not apply to loss or liability caused by the intentional or negligent acts of the PDA, its officers and employees.

If the comparative negligence of the Parties and their officers and employees is a cause of such damage or injury, the liability, loss, cost, or expense shall be shared between the Parties in proportion to their relative degree of negligence and the right of indemnity shall apply to such proportion.

Where an officer or employee of a Party is acting under the direction and control of the other Party, the Party directing and controlling the officer or employee in the activity and/or omission giving rise to liability shall accept all liability for the other Party's officer or employee's negligence.

Each Party's duty to indemnify shall survive the termination or expiration of the Agreement.

Each Party waives, with respect to the other Party only, its immunity under RCW Title 51, Industrial Insurance. The Parties have specifically negotiated this provision.

## **SECTION NO. 10: INSURANCE**

During the term of the Agreement, the PDA shall maintain in force at its own expense, each insurance noted below:

- a. Worker's Compensation Insurance in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers and Employer's Liability or Stop Gap Insurance in the amount of \$5,000,000;

- b. General Liability Insurance on an occurrence basis, with a combined single limit of not less than \$20,000,000 each occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this Agreement. It shall provide that the CITIES, its officers and employees are additional insureds but only with respect to the PDA's services to be provided under this Agreement; and
- c. Automobile Liability Insurance with a combined single limit, or the equivalent of not less than \$20,000,000 each accident for bodily injury and property damage, including coverage for owned, hired and non-owned vehicles.
- d. Professional Liability Insurance with a combined single limit of not less than \$20,000,000 each claim, incident or occurrence. This is to cover damages caused by the error, omission, or negligent acts related to the professional services to be provided under this Agreement. The coverage must remain in effect for two years after the Agreement is completed.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days written notice from the PDA or its insurer(s) to the CITIES.

As evidence of the insurance coverages required by this Agreement, the PDA shall furnish acceptable insurance certificates to the CITIES at the time it returns the signed Agreement. The certificate shall specify all of the parties who are additional insured; and include applicable policy endorsements, the thirty (30)-day cancellation clause, and the deduction or retention level. Insuring companies or entities are subject to CITIES acceptance. If requested, complete copies of insurance policies shall be provided to the CITIES. The PDA shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

#### **SECTION NO. 11: ANTI-KICKBACK**

No officer or employee of the CITIES, having the power or duty to perform an official act or action related to this Agreement shall have or acquire any interest in the Agreement, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in the Agreement.

#### **SECTION NO. 12: VENUE STIPULATION**

This Agreement has been and shall be construed as having been made and delivered within the State of Washington and it is mutually understood and agreed by each party that this Agreement shall be governed by the laws of the State of Washington both as to interpretation and performance. Any action at law, suit in equity or judicial proceeding for the enforcement of this Agreement, or any provision hereto, shall be instituted only in courts of competent jurisdiction within Spokane County, Washington.

**SECTION NO. 13: COMPLIANCE WITH LAWS**

The Parties shall observe all federal, state and local laws, ordinances and regulations, to the extent that they may be applicable to the terms of this Agreement.

**SECTION NO. 14: NON-DISCRIMINATION**

No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Agreement because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation, national origin, the presence of any sensory, mental or physical disability, or use of a service animal by a disabled person.

**SECTION NO. 15: MISCELLANEOUS**

- A. **NON-WAIVER:** No waiver by any party of any of the terms of this Agreement shall be construed as a waiver of the same or other rights of that party in the future.
- B. **ENTIRE AGREEMENT:** This Agreement contains terms and conditions agreed upon by the Parties. The Parties agree that there are no other understandings, oral or otherwise, regarding the subject matter of this Agreement. No changes or additions to this Agreement shall be valid or binding upon the Parties unless such change or addition is in writing, executed by the Parties.
- C. **MODIFICATION:** No modification or amendment to this Agreement shall be valid until put in writing and signed with the same formalities as this Agreement.
- D. **HEADINGS:** The section headings appearing in this Agreement have been inserted solely for the purpose of convenience and ready reference. In no way do they purport to, and shall not be deemed to define, limit or extend the scope or intent of the sections to which they pertain.
- E. **COUNTERPARTS:** This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same.
- F. **SEVERABILITY:** If any parts, terms or provisions of this Agreement are held by the courts to be illegal, the validity of the remaining portions or provisions shall not be affected and the rights and obligations of the Parties shall not be affected in regard to the remainder of the Agreement. If it should appear that any part, term or provision of this Agreement is in conflict with any statutory provision of the State of Washington, then the part, term or provision thereof that may be in conflict shall be deemed inoperative and null and void insofar as it may be in conflict therewith and this Agreement shall be deemed to modify to conform to such statutory provision.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on the date and year opposite their respective signature blocks.

DATED: April 16, 2020

WEST PLAINS AIRPORT AREA PUBLIC DEVELOPMENT AUTHORITY

  
\_\_\_\_\_  
Todd M. Coleman, Executive Director

DATED: 4-20-2020

CITY OF AIRWAY HEIGHTS

By:   
\_\_\_\_\_  
Albert Tripp, City Manager

Attest:

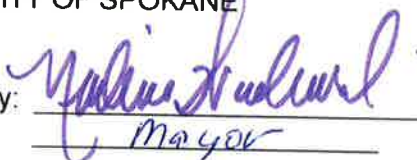
  
\_\_\_\_\_  
City Clerk

Approved as to form:

  
\_\_\_\_\_  
Assistant City Attorney

DATED: 5-4-2020

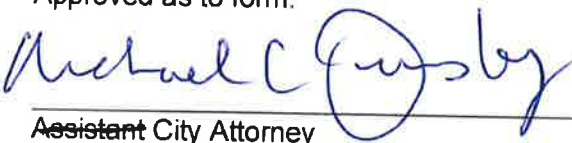
CITY OF SPOKANE

By:   
\_\_\_\_\_  
Mayor

Attest:

  
\_\_\_\_\_  
City Clerk

Approved as to form:

  
\_\_\_\_\_  
Assistant City Attorney



End of Agreement