

**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF PACIFIC AND
THE CITY OF AUBURN FOR THE STEWART ROAD PROJECT
(FUNDING ONLY)**

THIS AGREEMENT is made and entered into by and between the City of Pacific, a municipal corporation of the State of Washington ("Pacific") and the City of Auburn, a municipal corporation of the State of Washington ("Auburn") (collectively "Parties" or individually a "Party").

RECITALS

A. Pacific is constructing improvements to Stewart Road from Valentine Ave SE to Butte Ave SE (Project) that will provide additional roadway capacity and pedestrian facilities.

B. The Project provides benefit to Auburn as the increased roadway capacity of Stewart Road will carry vehicles that would have otherwise used Auburn roadways and Auburn residents utilize Stewart Road for access to SR 167 and Jovita Boulevard.

C. Auburn's Transportation Improvement Program (TIP) includes the Project with Auburn providing Project funding in 2021 in the amount of \$100,000.00, which is also included in Auburn's adopted 2021-2022 biennial budget.

D. Auburn has evaluated and determined it is in Auburn's best interest to negotiate an interlocal agreement ("ILA") with Pacific agreeing to contribute \$100,000.00 to the Project.

E. Pursuant to RCW 35A.21.150, Pacific and Auburn each have the legal authority to maintain a transportation system.

F. The Parties are authorized to undertake joint and cooperative action pursuant to RCW 35A.11.040 and Chapter 39.34 RCW.

AGREEMENT

In furtherance of the foregoing and in consideration of the following terms and conditions, the Parties agree as follows:

1. This Agreement shall be effective upon execution by both Parties ("Effective Date"). There shall be no fixed term associated with this Agreement, however, this Agreement may be terminated, and all property acquired and used by the Parties disposed, by mutual agreement of the Parties per RCW 39.34.030(3). Unless otherwise expressly provided herein, ownership of any real

and personal property acquired or owned by a Party before and during the term of this Agreement shall remain vested in said Party upon termination.

2. The Parties do not by this Agreement create any separate legal or administrative entity. The City of Pacific City Administrator, or his designee shall be responsible for working with the City of Auburn Mayor, or his/her designee to administer the terms of this Agreement. The Parties do not intend to jointly own any real or personal property as part of this undertaking. The Parties will cooperatively work together to further the intent and purpose of this Agreement.

3. Pacific agrees to construct the portion of Stewart Road between Valentine Ave SE (136th) and Butte Ave SE (138th).

4. Pacific agrees to provide one single complete invoice to Auburn within 60 days of Completion of Project. For the purposes of the agreement, Completion shall refer to physical completion of the Project construction work.

5. Auburn agrees to pay Pacific for the amount invoiced to Auburn pursuant to Paragraph 4 within 60 days of receipt of the invoice from Pacific, not to exceed \$100,000.00 total.

6. The Parties agree to fund their respective administrative costs and fees, and not seek reimbursement from each other for the same.

7. Pursuant to all applicable regulatory requirements, Pacific shall secure right-of-way use permit(s) from Auburn as may be necessary, convenient, and/or proper in order to construct the Project, including, but not limited to, for signage and detours within Auburn rights-of-way. Pacific will be responsible for paying Auburn permits fees per Auburn's fee schedule.

8. Indemnification.

8.1. Pacific agrees to indemnify and hold Auburn, its elected officials, officers, employees, agents and volunteers harmless from any and all claims, demands, losses, actions, and liabilities (including costs and all attorney fees) to or by any and all persons or entities, including, without limitation, their respective agents, licensees, or representatives arising from, resulting from, or connected with this Agreement to the extent caused by the negligent acts, errors, or omissions of Pacific, its elected officials, officers, employees, agents, and volunteers, or by Pacific's breach of this Agreement.

8.2. Auburn agrees to indemnify and hold Pacific, its elected officials, officers, employees, agents, and volunteers harmless from any and all claims, demands, losses, actions, and liabilities (including costs and all attorney fees) to or by any and all persons or entities, including, without limitation, their respective agents, licensees, or representatives arising from, resulting from, or connected with this Agreement to the extent caused by

the negligent acts, errors, or omissions of Auburn, its elected officials, officers, employees, agents, and volunteers or by Auburn's breach of this Agreement.

8.3. In the event of a claim, loss, or liability based upon the alleged concurrent or joint negligence of the Parties, the Parties shall bear their respective liability, including cost, in accordance with their respective liability established in accordance with the laws of the State of Washington.

8.4. FOR PURPOSES OF INDEMNIFICATION ONLY, THE PARTIES, BY MUTUAL NEGOTIATION, HEREBY WAIVE, AS RESPECTS THE OTHER PARTY ONLY, ANY IMMUNITY THAT WOULD OTHERWISE BE AVAILABLE AGAINST SUCH CLAIMS UNDER THE INDUSTRIAL INSURANCE PROVISIONS OF TITLE 51 RCW.

8.5. The provisions of this section shall survive the expiration or termination of this Agreement with respect to acts and omissions occurring during the term hereof.

9. Both Pacific and Auburn shall maintain membership in AWC or WCIA liability and risk pool or have equivalent limits of liability from another insurance program or liability pool.

10. This Agreement shall be governed in all respects by the laws of the State of Washington. The Venue for any dispute related to this Agreement shall be King County Superior Court, with both Parties expressly agreeing to personal jurisdiction in the same. In any suit or action instituted to enforce any right granted in this Agreement, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorney fees from the other party.

11. Neither Party may assign this Agreement or any interest, obligation, or duty therein without the express written consent of the other Party.

12. This Agreement constitutes the complete and final agreement of the Parties, and replaces and supersedes all oral and/or written proposals and agreements heretofore made by the Parties on the subject matter. No provision of this Agreement may be amended or added to except by agreement, in writing, signed by both Parties.

13. This Agreement is executed for the sole and exclusive benefit of the signatory Parties. Nothing in this Agreement, whether express or implied, is intended to confer any right, remedy, or other entitlement upon any person other than the Parties hereto, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third party, nor shall any provision herein give any third party any right of action against any Party hereto.

14. Any notice or information required or permitted to be given to the Parties under this Agreement may be sent to the following addresses unless otherwise specified.

City of Pacific
Attn: Public Works Manager
100 3rd Ave, SE
Pacific, WA 98047

City of Auburn
Attn: Public Works Director
25 West Main Street
Auburn, WA 98001


15. Pacific shall cause a copy of this fully executed Agreement to be filed with Pierce County Auditor.


16. Should any clause, phrase, sentence or paragraph of this Agreement or its application be declared invalid or void by a court of competent jurisdiction, the remaining provisions of this Agreement or its applications of those provisions not so declared shall remain in full force and effect.

IN WITNESS WHEREOF, authorized representatives of the Parties hereto have signed their names in the spaces below:

CITY OF PACIFIC


CITY OF AUBURN



Name: Terrence Guier
Title: Mayor
Date: 4/12/2021


Name: Nancy Backus
Title: Mayor
Date: 4-19-21

Attested to:

Attested to:


Name: Laurie Cassell
Title: City Clerk


Name: Shawn Campbell
Title: City Clerk

April 21, 2021

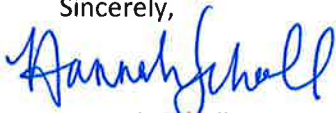
City of Pacific
Attn: Laurie Cassell
100 3rd Avenue SE
Pacific, WA 98047

Whom it may concern:

Enclosed, you will find one fully signed copy of the contract between the City of Auburn and the City of Pacific. You will also find a copy of the corresponding Resolution.

If you have any questions please contact Shawn Campbell at 253-931-3055.

Sincerely,



Hannah Scholl
Records Clerk
City of Auburn

RESOLUTION NO. 5588

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF AUBURN AND THE CITY OF PACIFIC RELATING TO THE CITY OF PACIFIC'S STEWART ROAD IMPROVEMENTS PROJECT

WHEREAS, the City of Pacific ("Pacific") is constructing improvements to Stewart Road from Valentine Ave SE to Butte Ave SE ("Project") that will provide additional roadway capacity and pedestrian facilities; and

WHEREAS, the Project provides benefit to the City of Auburn ("Auburn") as the increased roadway capacity of Stewart Road will carry vehicles that would have otherwise used Auburn roadways and Auburn residents utilize Stewart Road for access to SR 167 and Jovita Boulevard; and

WHEREAS, Auburn's Transportation Improvement Program ("TIP") includes the Project with Auburn providing Project funding in 2021 in the amount of \$100,000.00, which is also included in Auburn's adopted 2021-2022 biennial budget; and

WHEREAS, Auburn has evaluated and determined it is in Auburn's best interest to negotiate an interlocal agreement ("ILA") with Pacific and Auburn agrees to contribute \$100,000.00 to the Project; and

WHEREAS, pursuant to RCW 35A.21.150, Pacific and Auburn ("the Parties") each have the legal authority to maintain a transportation system; and

WHEREAS, the Parties are authorized to undertake joint and cooperative action pursuant to RCW 35A.11.040 and Chapter 39.34 RCW.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, RESOLVES as follows:


Section 1. The Mayor is authorized to execute an Interlocal Agreement with the City of Pacific related to the City of Pacific's Stewart Road Improvements Project, which Agreement will be in substantial conformity with the Agreement attached as Exhibit A.

Section 2. The Mayor is authorized to implement those administrative procedures necessary to carry out the directives of this legislation.

Section 3. This Resolution will take effect and be in full force on passage and signatures.

Dated and Signed this 19th day of April, 2021.

CITY OF AUBURN



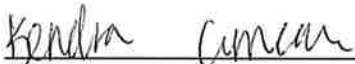
NANCY BACKUS, MAYOR

ATTEST:



Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:



Kendra Comeau, City Attorney