

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF LYNNWOOD
AND THE EDMONDS SCHOOL DISTRICT NO. 15
FOR THE IMPROVEMENT OF 204TH STREET SW**

This Interlocal Agreement (“Agreement”) is made and entered into on _____, 2023 (the “Effective Date”) by and between the City of Lynnwood, a Washington municipal corporation (the “City”) and Edmonds School District No. 15, a municipal corporation (the “District”) (individually a “Party” and collectively the “Parties”), for the purposes set forth below.

RECITALS

WHEREAS, 204th Street Southwest (“204th”) lies within the City limits of the City of Lynnwood, is adjacent to, and abuts College Place Elementary School (the “School”) which is owned by and within the jurisdiction of the District; and

WHEREAS, that portion of 204th immediately east of 76th Ave. W is not paved, is currently a gravel road, and is therefore in an undesirable condition for pedestrian travel to and from the School; and

WHEREAS, funding for the paving of 204th has been included in the City’s 2023-24 biennial budget, and both the City and the District desire to improve pedestrian safety adjacent to the School by adding improved pedestrian and road facilities (“Improvements”); and

WHEREAS, the City and the District agree that the Improvements will enhance pedestrian safety and the Improvements are therefore mutually beneficial to the School and to the surrounding community; and

WHEREAS, the City installation of the Improvements (the “Project”) will reduce the frontage improvement costs to the District when the District redevelops the School property in the future; and

WHEREAS, in exchange for the City’s agreement to pay for the Project, the District agrees to the following: (a) to dedicate, transfer and convey to the City approximately 2,604 square feet of District-owned property adjacent to 204th as depicted on **Exhibit A** attached hereto (the “ROW Property”) for right-of-way purposes (the “ROW”); (b) to execute in favor of the City a temporary construction easement (which shall include a depiction of the easement area) (the “TCE”); and (c) to execute in favor of the City a license agreement the “License Agreement”) with respect to certain District-owned property as depicted thereon (the “Storage Area”) for the storage of equipment and materials used in conjunction with the Improvements the period commencing on June 25, 2024 through September 1, 2024 (the “Construction Period”); and

WHEREAS, the City and the District have the authority to undertake joint and cooperative action pursuant to Chapter 39.34 RCW;

NOW, THEREFORE, in consideration of the following terms and conditions, the Parties agree as follows:

AGREEMENT

1. Purpose of Agreement. The purpose of this Agreement is to provide the terms and conditions under which the City will construct the Project at the City's sole cost and expense in exchange for the District's dedication, transfer and conveyance of the ROW Property to the City for purposes of the ROW, the District's execution of the TCE in favor of the City, and the City's use of the Storage Area for the temporary storage of roadway construction equipment and materials.

2. Joint Obligations. From and after the Effective Date, the City and the District shall use commercially reasonable efforts to negotiate, finalize and prepare the following documents:

A. A Quit Claim Deed (the "Deed"), which will, upon delivery, transfer and convey title to the ROW Property to the City.

B. A Real Estate Excise Tax (the "REETA"), which will accompany the Deed and which the City agrees to counter-sign.

C. The TCE.

D. The License Agreement. The License Agreement shall provide that if the Project is not complete by the last day of the Construction Period, the District and the City may, in each party's sole discretion, elect to extend the Construction Period to the period between June 25, 2025 and September 1, 2025 (the "Extended Construction Period"). Notwithstanding anything to the contrary as specified herein or in the License Agreement, the City acknowledges and agrees that if the Project is not complete by the last day of the Construction Period, the City shall ensure that the School is operable and there is no interference with the ordinary-course operation of the School thereafter.

E. Prior to the commencement of the Project, the Parties shall meet and confer in order to attempt to mitigate line of sight and bus access-related matters following completion of the Project.

3. The City's Obligations.

A. The City shall act as the SEPA (State Environmental Policy Act) lead agency on the Project.

B. The City and the City's consultants shall prepare and pay for all engineering and construction documents for the Project, and the City shall pay for the construction of the Project.

C. The City shall comply with the bidding requirements set forth in RCW 39.04 and shall comply with all other applicable provisions set forth in State law or in Federal law, as applicable, for the construction of a public works project.

D. The City shall provide construction management and inspection services for the Project.

E. The City shall be responsible for 100% of the fees, costs and expenses associated with the City's obligations specified herein.

F. The City shall ensure that ingress and egress to the School remains open and accessible to the District and the District's personnel and agents during the Project.

G. The City shall provide the District with regular (e.g., no less than monthly) updates regarding the status of the Project. In addition to the foregoing, the District shall have the right to request additional periodic updates from the City from time-to-time.

4. Consideration. The City shall not be required to pay any money to the District for the ROW Property. The consideration for the transfer and conveyance of the ROW Property is the District's enjoyment of the Improvements without the payment of any money for such Improvements. The City and the District agree that City's commitments herein constitute true and full value for the District's transfer and conveyance of the ROW Property and that the District's conveyance of the ROW Property constitutes true and full value for the City's commitments herein.

5. Delegation of Authority.

A. The Lynnwood City Council and the Edmonds School District No. 15 School Board delegate to the City's engineering staff and District staff, respectively, the authority to make minor revisions the limits and dimensions of the ROW, TCE, and Laydown Area prior to execution of final engineering drawings and documents for the same.

B. The Mayor of the City of Lynnwood and the Executive Director of Edmonds School District No. 15 are authorized to execute the Deed and TCE, referred to Section 2 and 3(A) herein.

6. Duration of Agreement. This Agreement shall take effect upon the Effective Date hereof (after signature by both Parties) and shall remain in effect until the Project has been completed and approved by the City and the District unless otherwise terminated in accordance with Section 11 herein.

7. Administration. No separate legal entity is created by this Agreement. This Agreement shall be jointly administered by the Lynnwood Director of Public Works and Engineering or his designee and the Edmonds School District Superintendent or her designee.

8. No Joint Property. The parties do not intend to acquire any joint property or assets in connection with this Agreement. Upon conveyance of the ROW Property described on Exhibit A by the District to the City, sole ownership of the ROW shall be in City, subject only to the conditions set forth in the deed and this Agreement. All improvements to be made by City to the ROW Property described on Exhibit A shall be the sole property of the City and the District shall have no ownership or other interest in the same.

9. No Joint Venture. The parties do not intend to create any partnership or joint venture by entering into this Agreement. The sole purpose of this Agreement is to establish the terms and conditions under which the District is transferring the ROW Property described on **Exhibit A** to the City.

10. Amendment. This Agreement may be amended or modified only by the mutual agreement of the Parties. Such amendments or modifications shall not be binding unless they are in writing and signed by persons authorized to bind each of the Parties.

11. Termination. Neither the District nor the City may terminate this Agreement without obtaining the written concurrence of the other Party. If the Parties agree to terminate this Agreement, the Parties shall mutually agree on and memorialize the terms and conditions relating to such termination. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination. Termination by the District shall not result in invalidation of the transfer and conveyance of the ROW Property to the City or modify the Deed or have the effect of early terminating the TCE or the License Agreement.

12. Disputes. It is the Parties' intent to resolve any disputes relating to the interpretation or application of this Agreement informally through discussions at staff level. In the event disputes cannot be resolved informally at the staff level, then the Parties agree to submit the dispute to non-binding mediation/dispute resolution. If a dispute arises from or relates to this Agreement or the breach thereof, and if the dispute cannot be resolved through direct discussions, the Parties agree to endeavor first to settle the dispute in an amicable manner by mediation pursuant to chapter 7.07 RCW. Following mediation, any unresolved controversy or claim arising from or relating to this Agreement or breach thereof shall be settled through binding arbitration which shall be conducted under the American Arbitration Association's Arbitration Rules. The arbitrator may be selected by agreement of the Parties or through the American Arbitration Association. All fees and expenses for mediation or arbitration shall be borne by the Parties equally. However, each Party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation of evidence.

13. Venue. In the event that either Party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the Parties agree that any such action or proceedings shall be brought in Snohomish County Superior Court. Further, the Parties agree that each will be solely responsible for payment of its own attorney's fees, witness fees, and costs.

14. Insurance. Each Party shall be responsible for maintaining its own insurance with respect to the Project and each Party's property ownership interests as contemplated herein.

15. Indemnity. Each of the Parties shall protect, defend, indemnify, and hold harmless the other Party and its employees and authorized agents, while acting within the scope of their employment as such, from any and all costs, claims, judgements, and/or awards of damages (both to persons and/or property), arising out of, or in any way resulting from, that Party's obligations performed or to be performed pursuant to the provisions of this Agreement. No Party shall be required to indemnify, defend, or hold harmless the other Party if the claim, suit, or action for

injuries, death, or damages (both to persons and/or property) is caused by the negligence of the other Party; provided that, if such claims, suits, or actions result from the concurrent negligence of (a) the District, its employees and authorized agents and (b) the City, its employees, contractors, consultants, or authorized agents, or involves those actions covered by RCW 4.24.115, the indemnity provisions provided herein shall be valid and enforceable only to the extent of the negligence of the other Party, its employees, contractors, consultants, and authorized agents. For this purpose, each of the Parties, by mutual negotiation, hereby waives, with respect to the other Party only, any immunity that would otherwise be available to it against such claims under the Industrial Insurance provisions of Title 51 RCW.

16. Entire Agreement; Amendments. This Agreement constitutes the entire Agreement between the parties concerning the ROW Property and ROW, the TCE and the License Agreement, and supersedes any and all prior discussions and understandings with respect thereto. This Agreement may be amended only by written instrument executed by both parties.

17. Filing. As set forth in RCW 39.34.040, this Agreement shall be filed with the Snohomish County Department of Records and Elections.

[Signature Page Follows]

EXECUTED this _____ day of _____, 2023.

CITY OF LYNNWOOD

EDMONDS SCHOOL DISTRICT NO. 15

Christine Frizzell
Mayor

ATTEST/AUTHENTICATED

ATTEST/AUTHENTICATED

Luke Lonie
City Clerk

APPROVED AS TO FORM

APPROVED AS TO FORM

Lisa M. Marshall
City Attorney

ROW PROPERTY

[To be attached]