

**HIGHLINE WATER DISTRICT
King County, Washington**

RESOLUTION 23-5-23A

RESOLUTION AUTHORIZING AN INTERLOCAL AGREEMENT BETWEEN THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION (WSDOT) AND HIGHLINE WATER DISTRICT RELATING TO PROJECT 22-3 SR509 PHASE 2 WATER MAIN REPLACEMENT

WHEREAS, the District owns and operates certain water facilities located within the rights-of-way of Burien, SeaTac, and WSDOT along the future alignment of the SR509 highway; and,

WHEREAS, the WSDOT will be constructing a new highway (WSDOT Work) within the vicinity that conflicts with the District's existing water facilities; and,

WHEREAS, the WSDOT has directed the District to relocate the water facilities in conflict with the proposed improvements; and,

WHEREAS, the District has identified and budgeted resources for the project (District Work) as 22-3 SR509 Phase 2 Water Main Replacement in the 2023 Capital Improvement Plan; and,

WHEREAS, Chapter 39.34 RCW authorizes two or more political subdivisions or units of local government of the State of Washington to cooperate on a basis of mutual advantage to provide for services and facilities; and

WHEREAS, integrating the District Work into the WSDOT Project would be more expedient, less expensive, and less disruptive to the public than if the District and WSDOT undertook the projects separately; and

WHEREAS, the Parties desire to establish a formal arrangement under which the District will pay WSDOT in consideration of the WSDOT incorporating the District Work into the design and construction of the WSDOT Work; and

WHEREAS, the Parties desire to enter into this Agreement for the purpose of defining their respective rights, obligations, costs, and liabilities regarding this undertaking.

NOW, THEREFORE, BE IT RESOLVED:

1. The General Manager or designee is authorized to enter an Interlocal Agreement with the Washington State Department of Transportation (Attachment #1 incorporated herein) to incorporate the design of the water relocation work into the design and construction of the WSDOT project.
2. The General Manager and/or the District's legal counsel are authorized to make minor changes to the Interlocal Agreement if required.

HIGHLINE WATER DISTRICT King County, Washington

RESOLUTION 23-5-23A

ADOPTED BY THE BOARD OF COMMISSIONERS of Highline Water District, King County, Washington, at an open public meeting held this **23rd** day of **May 2023**.

BOARD OF COMMISSIONERS

DocuSigned by:
Daniel Johnson
8E7D4CD7D88F4C7...
Daniel Johnson, President

DocuSigned by:
Polly Daigle
7B0086D074804E0...
Polly Daigle, Commissioner

DocuSigned by:
Vince Koester
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Vince Koester, Commissioner

DocuSigned by:
Kathleen Quong-Vermeire
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Kathleen Quong-Vermeire, Secretary

DocuSigned by:
Todd Fultz
8728D378F2E446D...
Todd Fultz, Commissioner

Utility Construction Agreement Utility Work by WSDOT– UTILITY Cost		Utility Name & Address Highline Water District (HWD) 23828 30 th Avenue S. Kent, WA 98032
Agreement Number UTB 1502	Region NWR	Project Title/Location SR 509 Completion Project Stage 2
State Route SR 509	Mileposts 21.24 to 23.38	
Estimated Agreement Amount \$ 587,243		Advance Payment Amount \$ 9,788
Description of Utility Work WSDOT will construct certain work elements for the Highline Water District (HWD) associated with WSDOT's SR 509 Completion Project Stage 2, including adding/ relocating/removing HWD Utility facilities associated with the S 192 nd Street Bridge.		
WSDOT		UTILITY
WSDOT Agency Representatives Ali Amiri, PE		Utility Representatives Jeremy Delmar
Title Design Project Manager		Title General Manager
Address 999 3 rd Avenue Suite 2300 Seattle, WA, 98104		Address 23828 30 th Avenue S. Kent, WA 98032
E-mail Address AmiriA@wsdot@wa.gov		E-mail Address jdelmar@highlinewater.org
Phone (206) 455-5547		Phone (206) 592-8904

This AGREEMENT is made is entered into between the Washington State Department of Transportation, hereinafter "WSDOT" and Highline Water District, hereinafter the "Utility," collectively the "Parties" and individually the "Party."

Recitals

- A. WSDOT is planning the construction or improvement of the State Route as shown above for the identified WSDOT Project, and in connection therewith, it is necessary to remove and/or relocate and/or add certain Utility facilities (Utility Work).
- B. The Utility is responsible for the cost of the Utility Work for (1) Utility facilities located without a documented ownership of and/or interest in real property, such as being Utility facilities located pursuant to a franchise, a permit, or undocumented permission, (2) all betterments, and (3) new facilities.
- C. WSDOT is responsible for the cost of the Utility Work affecting the Utility's facilities located pursuant to a documented ownership of and/or interest in real property, such as an easement, fee title, or court finding of prescriptive right, which is impacted by the WSDOT Project.
- D. The Utility Work shall be defined as all design, materials, equipment, labor, contract administration, taxes, rights of way acquisition and any other efforts required to perform the relocation, new construction, and/or removal of the Utility's facilities. The Utility Work is further identified in Exhibit A – Scope of Utility Work and Exhibit B – Conceptual Plans and Specifications.

- E. It is deemed to be in the best public interest for WSDOT to perform the relocation, removal, or new construction of Utility's facilities.

Now, therefore, pursuant to RCW 47.01.210 and chapter 47.44 RCW and in consideration of the terms, conditions, covenants, and performances contained herein, as well as the attached Exhibit A -Scope of Utility Work which are incorporated and made a part hereof,

It Is Mutually Agreed As Follows:

Agreement

1. Conceptual Plans, Specifications and Request for Proposals (RFP)
 - 1.1. Program Guide: *Utility Relocation and Accommodation on Federal Highway Projects* (Program Guide) shall determine and establish the definitions and applicable standards for this Agreement. By this reference the Program Guide is adopted and made a part of this Agreement as if fully contained herein. In the event of inconsistencies, the language in the Agreement Sections 1 through 8 herein shall take precedence over the Program Guide.
 - 1.2. Betterment: A betterment is any improvement to the Utility's facilities not required by code, regulation, standard industry practice, or any other applicable regulation. If any of the Utility Work constitutes a betterment as defined in the Program Guide, the Utility is solely responsible for the costs of such improvement.
 - 1.3. WSDOT, acting on behalf of the Utility, agrees to perform the Utility Work in accordance with Exhibit A – Scope of Utility Work (Utility Work Elements) and Exhibit B – Conceptual Plans and Specifications, and Exhibit C – Design and Construction Standards, all attached hereto and by this reference made a part of this Agreement, where either: (1) Utility supplied the Utility Work conceptual plans and special provisions to WSDOT, or (2) WSDOT developed the Utility Work conceptual plans and special provisions from Utility-provided information. WSDOT will incorporate the Utility Work plans and special provisions into a WSDOT Project Request for Proposal (RFP) in accordance with utility and WSDOT requirements. The Utility agrees that it is responsible for ensuring that all Utility Work conceptual plans, special provisions, and Utility standards that Utility supplied to WSDOT relating to the Utility Work are in compliance with all applicable standards, codes, regulations, or any other requirements the Utility is obligated to meet, unless otherwise noted.
 - 1.4. WSDOT and the Utility will review and approve the Utility Work Elements and Conceptual Plans that will be incorporated into WSDOT Project RFP. WSDOT will be the lead agency during the bid advertisement and award period. When requested by WSDOT, the Utility shall timely assist WSDOT in answering proposal questions and resolving any design issues associated with the Utility Work Elements and Conceptual Plans that may arise during RFP evaluation. All comments and clarifications must go through WSDOT. If the Utility supplied the Utility Work plans and special provisions, the Utility agrees to provide WSDOT with any addenda required for the Utility Work during the RFP evaluation to the Parties' mutual satisfaction.
 - 1.5. WSDOT agrees that it is responsible for ensuring the procurement and contract award process is conducted in a manner that is in full compliance with all applicable statutes and regulations regarding the selection, procurement, execution, and completion of the Utility Work.

- 1.6. WSDOT has reviewed and commented on the Utility supplied Utility Work conceptual plans and special provisions and acknowledges the documents are in general conformance with the overall WSDOT SR509 Completion Project Stage 2 scope at the time of RFP issuance. Deviations or changes by WSDOT or its DB Contractor in the WSDOT SR509 Completion Project scope or project requirements after issuance of the RFP resulting in material changes in the Utility Work's conceptual plans and special provisions will be incidental to the maximum financial contribution for the Utility
- 1.7. Cost Estimating: WSDOT and the Utility negotiated a Lump Sum Cost Estimate for the Utility Work Elements for which Utility has cost responsibility based on similar work performed by WSDOT for Utility's Utility Work Elements listed in Exhibit D - Lump Sum Cost Estimate attached hereto and by this reference made a part of this Agreement. Notwithstanding anything to the contrary in this Agreement, the Parties agree that except for Utility's elective changes under Section 5 and except for those certain required changes for which the Utility is responsible under Section 5, the Utility's financial contribution to the Utility Work Elements under this Agreement is in the nature of a fixed-price contract and the Utility's maximum financial contribution for the Utility Work to be performed by WSDOT or its contractor under this Agreement shall not exceed **Five hundred eighty-seven thousand, two hundred forty-three dollars (\$587,243)** without separate written approval by the Utility
2. Final Design Documents and Release for Construction Plan
 - 2.1. Review: Utility will review and comment on construction plans and utility special provisions related to Utility facilities work developed by WSDOT's DB contractor. Comments will be provided to WSDOT fifteen (15) calendar days (exclusive of the day of notification) after each construction plans and Utility special provisions review submittals are transmitted to the Utility. WSDOT, collaborating with the Utility and WSDOT's DB contractor will resolve all comments received from the Utility before the Released for Construction plans related to Utility facilities work are approved for use.
3. Construction, Inspection, and Acceptance
 - 3.1. WSDOT agrees to administer the Utility Work on behalf of the Utility. WSDOT agrees that it is responsible for ensuring the Utility Work performed on behalf of the Utility is in full compliance with the Released for Construction plans, contract documents and all applicable statutes and regulations.
 - 3.2. WSDOT agrees to disconnect and/or reconnect Utility's facilities when such disconnection or reconnection is required by the Utility Work plans. Utility is responsible for notification to consumers of scheduled switchovers or outages related to temporary or permanent relocations of Utility's facilities WSDOT agrees, as part of the Utility Work, to remove disconnected and/or abandoned facilities at the Utility's cost (which costs are included as part of the Lump Sum Cost Estimate), except where specified otherwise in Exhibit A – Scope of Utility Work. Utility facilities not removed pursuant to this Agreement shall remain the ownership, operation and maintenance responsibility of the Utility.
 - 3.3. The Utility may furnish an inspector for the Utility Work. The Utility agrees that it is solely responsible for all such inspection costs. The Utility's inspector shall not directly contact WSDOT's contractor. All contact between the Utility's inspector and WSDOT's contractor shall be through WSDOT's representative(s). WSDOT's Project Construction Engineer may require the removal and/or replacement of the Utility's inspector if the inspector interferes with WSDOT's Project, WSDOT's contractor and/or the Utility Work.
 - 3.4. WSDOT shall promptly notify the Utility in writing when the Utility Work is completed.
 - 3.5. The Utility shall, within sixty (60) calendar days of being notified by WSDOT in writing that the Utility Work is completed: (a) deliver a letter of acceptance to WSDOT which shall include a release and waiver of all future claims or demands of any nature against WSDOT resulting from the performance of the Work and WSDOT's administration thereof or (b) deliver to WSDOT written reasons why the Utility Work does not comply with the previously approved Plans and Special Provisions for Utility Work Elements. The Utility agrees to work diligently and in good faith with WSDOT to resolve any

issues so as not to delay WSDOT's Project. If all issues are resolved, the Utility agrees to deliver to WSDOT a letter of acceptance as provided herein. WSDOT shall require its DB Contractor to provide the Utility any guaranty or warranty furnished as a customary trade practice in connection with the purchase of any equipment, materials, or items incorporated into the Utility Work. Utility's acceptance of the Utility Work as complete shall not be deemed to be a waiver of any Washington statute of limitations laws the Utility has rights to invoke against the WSDOT DB contractor(s) performing the Utility Work due to defective materials or workmanship that may be discovered by Utility after the warranty period expires. WSDOT's contract for the Utility Work shall specifically identify Utility as a third-party beneficiary under the contract to ensure that Utility has an adequate remedy for any warranty claims or for any claims associated with defective materials and workmanship.

- 3.6. If the Utility does not respond within sixty (60) calendar days as provided in section 3.5, the Utility Work and the administration thereof will be deemed accepted by the Utility, and WSDOT shall be released from all future claims and demands.
 - 3.7. Upon completion and acceptance of the Utility Work pursuant to Sections 3.5 or 3.6, the Utility agrees that it shall be solely responsible for all future ownership, operation and maintenance costs of its facilities, without WSDOT liability or expense. Nothing in the Agreement will prevent the Utility from utilizing or commissioning the Utility Work in service prior to final acceptance.
 - 3.8. WSDOT will prepare the final construction documentation in general conformance with WSDOT's Construction Manual (M 41-01.34). WSDOT will maintain one set of plans as the official "as-built" set, then make notations in red of all plan revisions typically recorded per standard WSDOT practice, as directed by WSDOT's Construction Manual. Once the Utility has accepted the Utility Work per Section 3.5 or 3.6, WSDOT upon request by the Utility will provide one reproducible set of contract as-builts to the Utility, and the Utility agrees to pay the cost of reproduction upon receipt of a WSDOT invoice. WSDOT shall also provide Utility with an electronic copy of the as-builts at no additional cost.
 - 3.9. WSDOT shall include a provision in its contract for the Utility Work that requires the Utility to be named as an additional insured on all insurance policies and coverages required to be maintained by the contractor under WSDOT's contract for the Utility Work. The contract shall require the contractor to provide the Utility with either a certified copy of all policies with endorsements attached, or a Certificate of Insurance with endorsements attached as are necessary to comply with the terms of this Agreement.
4. Payment
- 4.1. The Utility agrees that it shall be responsible for a lump sum payment to WSDOT that covers WSDOT's costs, including design reviews, mobilization, construction engineering, contract administration and overhead costs, and the costs of the Contractor and designers associated with the construction of the Utility Work. An itemized estimate of Utility-responsible costs for Utility Work to be performed by WSDOT on behalf of the Utility is included in Exhibit D - Lump Sum Cost Estimate.
 - 4.2. The Utility agrees to pay WSDOT the Lump Sum Cost Estimate in two payments. Upon the execution of this Agreement the Utility agrees to pay WSDOT an initial payment amount sufficient to cover WSDOT's preliminary engineering expenses incurred for the Utility Work. The remaining balance of the Lump Sum Cost Estimate shall be paid by the Utility to WSDOT after the full execution of the contract between WSDOT and its contractor for the Utility Work and within thirty (30) calendar days after WSDOT issues the first notice to proceed to its contractor. The initial payment shall be **Nine thousand seven hundred eighty-eight (\$9,788)** which is the negotiated cost for WSDOT Preliminary Engineering and Submittal Review (2.5% of the Base Design-Build Contract) for the Utility Work. In the event the SR 509 Design-Builder's Notice to Proceed is delayed past April 15, 2024 or the Project Utility Scope of Work (Exhibit A) is cancelled entirely, WSDOT shall be required to refund any portion of the Lump Sum Payment relating to Utility Work not completed unless an alternative project schedule is negotiated and approved between the Parties.

- 4.3. The Parties acknowledge and agree that WSDOT does not have the legal authority to advance State funds for the Utility's Utility Work under this Agreement. Should the Utility fail to make payment according to the terms of this Agreement, WSDOT shall have the right to terminate this Agreement, charging the Utility for all associated costs of termination, including non-cancellable items, as well as associated Project delay and contractor claims. Such termination shall not relieve the Utility's obligation to timely relocate its facilities

5. Change in Utility Work or Cost Increase

- 5.1. Increase in Cost: WSDOT is authorized on behalf of the Utility to negotiate and approve change orders with the DB Contractor related to the Utility Work up to a contingency of fifteen percent (15%) of the Lump Sum Cost Estimate identified in Section 1.7. This contingency will not be used for Utility requested elective changes. If unforeseen causes require the cost of the Utility's Work to exceed the authorized fifteen percent (15%) contingency amount, this Agreement shall be modified and amended by the Parties through a supplemental agreement covering the increased cost for the Utility Work.
- 5.2. The Utility agrees that asbestos cement material (AC) owned by the Utility that conflicts with the Project's construction shall be removed or abandoned in place by WSDOT's Design-Build contractor. The Utility has identified all known locations of AC materials in Exhibit A - Scope of Utility Work with the cost for its removal reflected in Exhibit D (Lump Sum Cost Estimate). If additional AC material is discovered resulting in a change in the cost of the Utility Work, the Utility will reimburse WSDOT for all costs of removing and abating or abandoning in place any conflicting AC material owned by the Utility. These costs will be considered a change as defined in Section 5.1.
- 5.3. If WSDOT determines that additional Utility Work or a change in the Utility Work scope described in Exhibit A is required, prior written concurrence must be secured from the Utility; however, where the change is required to mitigate a Project emergency or safety threat to the traveling public, WSDOT will direct the change without the Utility's prior approval. WSDOT will notify the Utility of such change as soon as possible thereafter.
- 5.4. The Utility agrees to respond by either concurring, not concurring or requesting additional information to all WSDOT change order requests in writing and within seven (7) calendar days, exclusive of the day of notification. WSDOT notification shall not be required for Utility- requested changes. If additional Utility Work or changes in the Utility Work are the direct result of the Utility's failure to timely respond as required, the Utility agrees to pay all reasonable costs associated with the changed Utility Work, including the costs of Project or Utility Work delays and/or subsequent contractor claims directly resulting from the Utility's delay.
- 5.5. Utility shall not be responsible for costs associated with any changed Work caused by or resulting from WSDOT's actions or conduct or the responsibility for such changed Work has been assigned to WSDOT by contract or other agreement of the Parties.
- 5.6. The Utility may request additions to the Utility Work through WSDOT in writing. WSDOT will implement the requested changes as elective changes, provided that a change does not negatively impact WSDOT's transportation system and complies with the standard specifications, Project permits, state and/or federal law, applicable rules and/or regulations, and/or WSDOT design policies, and does not unreasonably delay critically scheduled Project contract activities.
- 5.7. All elective changes to the Utility Work shall be approved in writing by the Utility before WSDOT directs the contractor to implement the changes, even if an executed change order is not required by the Project contract. The Utility agrees to pay for the increases in cost, if any, for such elective changes in accordance with this Section 5.
- 5.8. WSDOT will make available to the Utility all change order documentation related to the Utility Work.

- 5.9. In the event WSDOT reduces their project scope causing a material reduction in the Project Utility Scope of Work (Exhibit A), the Parties agree to negotiate and modify Exhibit D to include such reasonable cost reduction.

6. Franchise or Permit

- 6.1. Upon completion of the Utility Work, the Utility shall apply for a permit, franchise or an amendment to its current franchise for those new or modified Utility facilities that will be located within WSDOT's right of way. After receiving the application, WSDOT will issue the Utility a permit or a new or amended franchise. The franchise fees identified in WAC 468-34 are included in the Lump Sum Cost Estimate.
- 6.2. Upon completion of the Utility Work covered under this Agreement, the Utility agrees to prepare, execute and deliver to WSDOT a quit claim deed for all existing easement, fee title, or court finding of prescriptive right, which will be vacated as a result of the relocation of Utility facilities and as identified in Exhibit A.
- 6.3. In exchange for the quit claim deed, WSDOT agrees to grant or issue the Utility an easement, permit, or franchise, as defined in Exhibit A, for those Utility facilities which will remain on or which cross WSDOT's property or right of way and for which the Utility had an easement, fee title or court finding of prescriptive right. The terms of any easement granted by WSDOT to replace a fee interest, easement or prescriptive right released by the Utility under Section 6.2 shall be as favorable as the terms of any fee interest, easement or prescriptive right relinquished by the Utility.

7. Right of Entry

- 7.1. The Utility agrees to arrange for rights of entry upon all privately owned lands not acquired by WSDOT, upon which the Utility has a claimed property right and which are necessary to perform the Utility Work. The Utility also agrees to obtain all necessary permissions for WSDOT to perform the Utility Work on such lands, which may include reasonable use restrictions on those lands. The Utility agrees to provide the rights of entry and applicable permissions under this section to WSDOT within ninety (90) calendar days of entering into this Agreement. Upon completion of the Utility Work on such lands, the rights of entry and permissions shall terminate.

8. General Provisions

- 8.1. Indemnification: To the extent authorized by law, the Utility and WSDOT shall indemnify and hold harmless one another and their employees, officials and/or officers from and shall process and defend at its own expense any and all claims, demands, suits at law or equity, actions, penalties, losses, damages (both to persons and/or property), or costs, of whatsoever kind or nature, brought against the one Party arising out of, in connection with, or incident to the other Party's performance or failure to perform any aspect of this Agreement, provided, however, that if such claims are caused by or result from the concurrent negligence of (a) the Utility and (b) WSDOT, their respective employees, officials and/or officers, or involves those actions covered by RCW 4.24.115, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Utility or WSDOT, and provided further, that nothing herein shall require the Utility or WSDOT to hold harmless or defend the other or its employees and/or officers from any claims arising from that Party's sole negligence or that of its employees and/or officers.

The Parties agree that their obligations under this section extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of their officers, officials, employees or agents. For this purpose only, the Parties, by mutual negotiation, hereby waive, with respect to each other only, any immunity that would otherwise be available against such claims under the Industrial Insurance

provisions of Title 51 RCW. This indemnification and waiver will survive the termination of this Agreement.

- 8.2. Disputes: If a dispute occurs between the Utility and WSDOT at any time during the prosecution of the Utility Work, the Parties agree to negotiate at the Representative level to resolve any issues. Should such negotiations fail to produce a satisfactory resolution, the Parties agree to enter into arbitration and/or mediation before proceeding to any other legal remedy. Each Party shall be responsible for its own fees and costs. The Parties agree to equally share the cost of a mediator or arbiter.
- 8.3. Venue: In the event that any Party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the Parties hereto agree that any such action or proceedings shall be brought in a court of competent jurisdiction situated in King County, Washington. Each Party shall be responsible for its own attorney's fees and costs.
- 8.4. Termination:
- 8.4.1. Unless otherwise provided herein, the Utility may terminate this Agreement upon thirty (30) calendar days written notice to WSDOT. If this Agreement is terminated by the Utility prior to the fulfillment of the terms stated herein, the Utility shall reimburse WSDOT for all actual direct and related indirect expenses and costs that have not been paid in accordance with the initial and balance payment terms stated herein, including design reviews, mobilization, construction engineering, contract administration and overhead costs, incurred up to the date of termination associated with the Utility Work, as well as the cost of non-cancelable obligations, including any redesign, reengineering or re-estimating, if necessary, to delete the Utility Work, and contractor claims associated with Utility Work, if any, from payment in accordance with Section 4. Further, the Utility acknowledges and agrees that should it terminate this Agreement, such termination shall not relieve the Utility from its responsibility to design, remove, relocate and/or add its facilities so as not to delay or conflict with WSDOT's Project. WSDOT agrees to provide to the Utility all Utility Work-related documents upon final payment by the Utility.
- 8.4.2. Unless otherwise provided herein, WSDOT may terminate this Agreement upon thirty (30) calendar days' written notice to the Utility. The Utility acknowledges and agrees that should WSDOT terminate this Agreement, such termination shall not relieve the Utility from its responsibility to design, remove, relocate and/or construct its facilities so as not to delay or conflict with WSDOT's Project. WSDOT agrees to provide to the Utility all Utility Work-related documents upon termination of the Agreement.
- 8.4.3. If this Agreement is terminated by either Party subsequent to Utility's lump sum payment to WSDOT for Utility Work to be performed by WSDOT on behalf of the Utility, WSDOT shall reimburse the payment amount included in Exhibit D – Lump Sum Cost Estimate for Utility Work not performed.
- 8.5. Amendments: This Agreement may be amended by the mutual agreement of the Parties. Such amendments or modifications shall not be binding unless put in writing and signed by persons authorized to bind each of the Parties.
- 8.6. Independent Contractor: Both Parties shall be deemed independent contractors for all purposes, and the employees of each Party and any of its contractors, subcontractors, consultants, and the employees thereof, shall not in any manner be deemed to be the employees of the other Party.

8.7. **Counterpart and Electronic Signature.** This Agreement may be signed in multiple counterparts, each of which constitutes an original and all of which taken together constitute one and same agreement. Electronic signatures or signatures transmitted via e-mail in a "PDF" may be used in place of original signatures on this Agreement. The Parties intend to be bound by its electronic or "PDF" signature on this Agreement, are aware that the other Parties are relying on its electronic or "PDF" signature, and waives any defenses to the enforcement of this Agreement based upon the form of signature.

8.8. **Audit and Records:** During the progress of the Utility Work and for a period of not less than six (6) years from the date of completion, both Parties shall maintain the records and accounts pertaining to the Utility Work and shall make them available during normal business hours and as often as necessary, for inspection and audit by the other Party, State of Washington, and/or Federal Government and copies of all records, accounts, documents or other data pertaining to the Utility Work will be furnished upon request. The requesting Party shall pay the cost of copies produced. If any litigation, claim or audit is commenced, the records and accounts along with supporting documentation shall be retained until any litigation, claim or audit finding has been resolved even though such litigation, claim or audit continues past the six-year retention period.

8.9. **Calendar Days:** Calendar days for this Agreement are defined as Any day, or portion of a day, on the calendar including Saturdays, Sundays, and legal holidays, beginning and ending at midnight.

In Witness Whereof, the parties hereto have executed this Agreement as of the day and year last written below.

Requesting Entity	Washington State Department of Transportation
By:	By:
Printed:	Printed:
Title:	Title:
Date:	Date:

EXHIBIT A SCOPE OF WORK (WORK ELEMENTS)

Description of Work

The Work proposed in this agreement includes the design and construction by the Washington State Department of Transportation (WSDOT) for the Highline Water District (Utility) water main facilities, including additions/relocations/removals as part of the SR 509 Completion Project Stage 2. The proposed water main facilities will be constructed at the various street crossings of the SR 509 New Expressway. (See **Exhibit B – Conceptual Plans and Specifications**).

Excluded from this Agreement (Advance Work):

1. Utility will contract directly with a third-party, or self-perform, to construct the following replacement/relocations/removals:
 - UI-W-121 at S 196th Place – 8" existing DI main will be cut and capped outside of WSDOT ROW in advance of the WSDOT project work.
 - UI-W-93 at S 194th Street – 8" and 6" existing DI main will be cut and capped in advance of the WSDOT project work.
 - UI-W-147 at S 186th Lane – 8" existing CAS main will be cut and capped at WSDOT ROW in advance of the WSDOT project work.
 - UI-W-92 & UI-W-156 at 11th Pl S – 4" existing AC main will be cut and capped at S 194th Street main, existing hydrant assembly will be removed, and service line will be relocated in advance of the WSDOT project work.
 - UI-W-219 near S 259th Street – 8" existing DI main will be cut and capped in advance of the WSDOT project work.
2. Utility may abandon the decommissioned water mains in place provided they are asbestos free. WSDOT will remove abandoned water mains that are asbestos free as an incidental expense if it is required during/for any Stage 2 construction work.

Stage 2:

Water Main Design and General Construction Criteria

1. Utility will provide Conceptual Plans (**Exhibit B**) for relocated water mains. These plans are for use by WSDOT and the Utility to develop water main cost estimates and for use by the Design-Build (DB) Contractor to develop final design documents. These plans include:
 - 1.1. Water main design criteria, including type of pipe, size and connections
 - 1.2. Notes explaining major design assumptions
 - 1.3. Horizontal and vertical location of the water main route
 - 1.4. Location of possible conflicts with other utilities and underground structures
 - 1.5. Approximate location of valves, service connections and fire hydrants, including the totals of each category
 - 1.6. Width of trench or typical trenching section
 - 1.7. Confirmation that location is within acquired right of way or easements
 - 1.8. Confirmation that the water main route avoids known sensitive areas.
2. WSDOT's DB Contractor will design and construct water mains in accordance with the standards listed in **Exhibit C – Design and Construction Standards**.
3. WSDOT and/or its DB Contractor shall apply and secure all necessary permits by agencies with authority for the Utility work including, but not limited to City ROW permitting, NPDES Coverage, NEPA/SEPA/EIS, WSDOT approvals, if required. All work shall be in compliance with said permitting requirements.
4. WSDOT shall provide Utility with an electronic copy of the SR 509 Stage 2 Design Builder preliminary

and final Plans, Specifications and Working Drawings related to Work reference in Agreement (Contract Documents) for review and comment.

5. WSDOT shall endeavor to resolve all Utility comments and obtain Utility approval on preliminary and final contract documents before Release for Construction Contract Documents are issued.
6. All water mains shall be designed at a depth as indicated in the Conceptual Plans or as approved by the Utility. In no case shall mains be installed greater than eight feet (8') of the final surface grade unless directed by WSDOT and approved by the Utility.
7. If the DB Contractor presents a concept that requires more than one move of the water main or appurtenances, the DB Contractor shall be responsible for the interim moves at their expense.
8. The DB Contractor will provide final engineered and stamped Contract Documents to the Utility prior to construction.

Water Pipe Abandonment and Removal

1. All decommissioned pipe and appurtenances to be abandoned in place by the Utility shall require a WSDOT utility permit for the portion lying within WSDOT Limited Access ROW, identifying the type size and location. Design Build Contractor is responsible for preparing, signing, obtaining District signature(s) and submitting the WSDOT utility permit application forms 224-696 and 224-697 (Permit) for WSDOT review, approval and execution. Utility is 100% responsible for the cost of any pipe maintenance, repair, removal and disposal that may be required in the future for WSDOT projects.
2. All decommissioned pipe and appurtenances to be removed by the project shall be removed and lawfully disposed by the DB Contractor.
3. Utility has identified the location of all known AC pipe materials within the SR 509 construction area.
4. AC water mains identified for removal shall be removed, hauled and lawfully disposed of in accordance with all Federal, State, and local regulations by a contractor's personnel certified for AC handling procedures.
5. Utility will be responsible for the cost to remove and dispose of said AC mains currently located within City right of way. WSDOT will be responsible for costs to remove and dispose of said AC mains located within easements owned by Utility.
6. The costs to remove AC pipe deemed the responsibility of the Utility is included in the cost estimates of this Agreement based on the locations identified by Utility.

Location Specific Project Assumptions

UI-W-89 16" DI Water Main under S. 200th Street

1. The existing water main will remain in service after the SR 509 Stage 2 construction and be protected in place for the duration of the new bridge overpass construction.
2. WSDOT will grant a utility Permit to the Utility for the portion of UI-W-89 that is within WSDOT Limited Access ROW.

UI-W-148 10" AC Water Main under S. 200th Street

1. Utility may abandon the existing, decommissioned AC water main in place provided it is not in conflict with the Project construction.
2. WSDOT will grant a utility Permit to the Utility for the portion of the existing, decommissioned pipe and appurtenances within WSDOT Limited Access ROW. Type, size and limits of the existing decommissioned pipe will be based on available record documents and non-destructive location measures.

UI-W-137 12" Water Main under 20th Avenue S.

1. The existing water main will remain in service after the SR 509 Stage 2 construction and be protected in place for the duration of the new bridge overpass construction.

2. WSDOT will grant a utility Permit to the Utility for the portion of UI-W-137 that is within WSDOT Limited Access ROW.

UI-W-122 6" and 4" AC Water Main under S. 196th Street

1. Utility is 100% responsible for the estimated cost of the UI-W-122 asbestos cement pipe removal and disposal.
2. The decommissioned pipe and appurtenances within the WSDOT Limited Access ROW will be removed as part of the Project work.

UI-W-145 8" DI Water Main under Des Moines Memorial Drive S.

1. The existing water main will remain in service after the SR 509 Stage 2 construction and be protected in place for the duration of the new bridge overpass construction.
2. WSDOT will grant a utility Permit to the Utility for the portion of UI-W-145 that is within WSDOT Limited Access ROW.

UI-W-92 4" AC Water Main under 11th Place S.

1. WSDOT is 100% responsible for the estimated cost of the remaining UI-W-92 asbestos cement pipe removal and disposal.
2. The decommissioned pipe and appurtenances within the WSDOT Limited Access ROW will be removed as part of the Project work.

UI-W-94 8" DI Water Main under S. 192nd Street

1. Utility is 100% responsible for the estimated cost of the UI-W-94 water main construction associated with the new S. 192nd Street underpass and replacement bridge.
2. WSDOT's conceptual plan closes S. 192nd Street during Project construction of the underpass crossing. The current (before construction) water main in S. 192nd Street will be taken out of service, cut and capped just outside of the construction limits and the existing hydrant assembly removed before the crossing work commences and will remain out of service until the new bridge crossing is completed.
3. A new 12-inch ductile iron restrained joint water main will connect to the existing main on west side and east side of new street crossing SR 509 and hang on the new bridge between girders.
4. New main will be insulated and affixed permanently to the bridge by proposal from the DB Contractor in accordance with WSDOT design criteria and reviewed and approved by the Utility.
5. WSDOT will grant a utility Permit to the Utility for the portion of UI-W-94 that is within WSDOT Limited Access ROW.

UI-W-149 8" AC Water Main under Des Moines Memorial Drive/S. 188th Street

1. Utility is 100% responsible for the estimated cost of the UI-W-149 asbestos cement pipe removal and disposal.
2. The decommissioned pipe and appurtenances within the WSDOT Limited Access ROW (DMW 23+02 to 37+15) will be removed as part of the Project work.

UI-W-161 Hydrant Assembly on Des Moines Memorial Drive/S. 188th Street

1. Utility is 100% responsible for the estimated cost of the UI-W-161 hydrant relocation associated with the new DMMD shared use path construction.
2. WSDOT will grant a utility Permit to the Utility for the relocated hydrant assembly under UI-W-161 that is within WSDOT Limited Access ROW.

Water Main Cost Estimates and Cost Sharing

1. Cost estimates and breakdown of any cost sharing based on the assumptions defined herein are provided in **Exhibit D - Lump Sum Cost Estimate**.
2. Estimates include mutually agreed breakdowns for missing bid items, temporary erosion and sediment control, maintenance of traffic, mobilization, Design-Builder engineering, Design-Builder contract administration, Design-Builder engineering mobilization, WSDOT construction

- engineering, WSDOT standard Contingency, Sales Tax, WSDOT CEVP risk analysis cost, WSDOT preliminary engineering, WSDOT CEVP estimated escalation.
3. The WSDOT conceptual plans and Utility preliminary plans were used to estimate the cost of the Utility water main replacement/relocations/removals. All cost estimates were estimated by Utility using WSDOT provided template and verified by WSDOT. WSDOT and Utility agree these fixed costs and/or percentages accurately reflect the true opinion of probable project costs regardless of design changes implemented by the DB Contractor.
 4. Design Builder may alter WSDOT's conceptual and Utility's preliminary plan upon approval of WSDOT and Utility, which shall not be unreasonably withheld, at no additional cost to the Utility.
 5. For project locations not identified in this Agreement that arise during construction, the parties agree to negotiate a modified Scope of Work and cost estimate for the work that is not in scope or seek a change order proposal from the DB Contractor.

EXHIBIT B PLANS AND SPECIFICATIONS

The Plans and Specifications for the District Work shall be the 30% preliminary design documents as prepared by PACE Engineers, Inc., and issued by WSDOT on behalf of the District.

EXHIBIT C DESIGN AND CONSTRUCTION STANDARDS

In addition to the Plans and Specifications identified in **Exhibit B** the design and construction standards of the Washington State Department of Health Water System Design Manual (DOH Pub 331-123) and the Highline Water District Developer Extension Design and Construction Standards and Specifications shall be incorporated.

**EXHIBIT D
LUMP SUM COST ESTIMATE**

I-5/SR 509 Gateway Stage 2
 SR 509 COMPLETION PROJECT
 Summary of Quantities and Cost Estimate
UI-94: S. 192nd St Bridge Water Main Replacement

CN - Total: (DB Contract Total + Other Total)				Unit Cost	QUANTITY	ITEM TOTAL
STD ITEM NO.	UNIT	ITEM				
ADD OTHER NEW ITEMS BELOW THIS LINE. IF ADDITIONAL LINES ARE NEEDED, INSERT AS NEEDED						
(item no.)	LF	Trench Safety		\$2.00	580	\$1,160.00
(item no.)	EA	8" Gate Valve & Valve Box Cut-in and Crush Rock Backfill		\$2,500.00	1	\$2,500.00
(item no.)	EA	Fire Hydrant Assembly Cut-in and Crushed Rock Backfill		\$9,500.00	1	\$9,500.00
(item no.)	EA	Cut and Cap Ex. 8" DI Water Main		\$1,000.00	1	\$1,000.00
(item no.)	EA	Temporary 2" Blow-off Assembly		\$5,000.00	1	\$5,000.00
(item no.)	LF	Remove and Dispose of Ex 8" DI Water Main and Crushed Rock Backfill		\$30.00	220	\$6,600.00
(item no.)	LB	Additional Water Main Fittings & Mega-lug joints		\$3.00	1000	\$3,000.00
(item no.)	LF	Final Sawcut Ex Pavement		\$4.00	600	\$2,400.00
(item no.)	TN	6" HMA Class 1/2" PG 58-22 Trench Patch		\$275.00	60	\$16,500.00
(item no.)	LF	Concrete Extruded Curb		\$75.00	10	\$750.00
(item no.)	LF	Furnish & Install 12" Class 52 DI Pipe - Open Cut w/ full depth Crushed Rock Backfill		\$165.00	220	\$36,300.00
(item no.)	LF	Furnish & Install 12" Class 52 DI Pipe - in 24" Steel Casing - Open Cut w/ full depth Crushed Rock Backfill		\$375.00	70	\$26,250.00
(item no.)	LF	Furnish & Install 12" Class 52 DI Pipe - Bridge Crossing		\$250.00	125	\$31,250.00
(item no.)	EA	12" Flexible Expansion Joint Assembly		\$7,500.00	2	\$15,000.00
(item no.)	EA	12" Linear Expansion Joint Assembly		\$7,500.00	1	\$7,500.00
(item no.)	LS	Site Restoration		\$5,000.00	1	\$5,000.00

DO NOT ADD DATA BELOW THIS LINE

CONSTRUCTION TOTAL	Base Item Total	\$	169,710.00
Estimated Bid Items, see below		\$	-
Water Pollution Control /TESC (% of Base Item Total)	1%	\$	1,897.10
Maintenance of Traffic (% of Base Item Total)	1%	\$	1,897.10
	Subtotal 1		\$173,104.20
CONSTRUCTION MOBILIZATION (% of Subtotal1)	10%	\$	17,310.42
	Subtotal 2		\$190,414.62
DB Engineering and Quality (% of Subtotal 2; assumption that 30% design provided by Highline)	11.0%	\$	20,945.61
DB Contract Administration including subcontractor mark-up and small tools (% of Subtotal 2)	5.0%	\$	9,520.73
DB Engineering Mobilization (% DB Engineering and DB Contract Admin)	10.0%	\$	3,046.63
	Base DB Contract Subtotal 3		\$23,927.59
Sales Tax (% of Subtotal 3)	10.1%	\$	22,616.69
WSDOT DB Construction Engr and Quality Verification (% of Subtotal 3)	7.0%	\$	15,674.93
Standard Contingency (see below)		\$	-
	Subtotal 4	\$	38,291.62
	DB Contract Subtotal (subtotal 3 + subtotal 4, Before Escalation)	\$	262,219.21
Provision for Risk and Escalation (Contingency)	12.00%	\$	31,466.31
	DB Contract Total	\$	293,685.52
Stipends (2 Stg x2 Stipend@\$1M/Stg, BVP Stipend is included in DB Engr&Quality)	\$4,000,000		n/a
	CN - Total: (DB Contract Total + Other Total)	\$	293,685.5

WSDOT PE - Total			
WSDOT Preliminary Engineering and Submittal Review (2.5% of Subtotal 3)	2.5000%	\$	5,598.19
Risk assumed as 0%, Highline providing information	Risk (PE) 0.0000%	\$	-
Escalation assumed 0%, current work	Escalation 0.0000%	\$	-
	PE - Total		\$5,598.2
	Subtotal 5		\$299,284
PARCEL NO.	PARCEL NAME	ROW - Total	\$0
		Subtotal 6	\$299,284
Indirect Cost Allocation (13.23% of all cost, excluding sales tax) (This is HQ overhead and State overhead)	13.23%	\$	36,603.0
	TOTAL		\$335,886.75

I-5/SR 509 Gateway Stage 2
 SR 509 COMPLETION PROJECT
 Summary of Quantities and Cost Estimate
UI-122: S. 196th St AC Water Mains

CN - Total: (DB Contract Total + Other Total)					
STD ITEM NO.	UNIT	ITEM	Unit Cost	QUANTITY	ITEM TOTAL
<i>ADD OTHER NEW ITEMS BELOW THIS LINE. IF ADDITIONAL LINES ARE NEEDED, INSERT AS NEEDED</i>					
(item no)	LF	Remove and Dispose Existing AC Pipe	\$60.00	630	\$37,800.00
(item no)	LS	Site Restoration	\$5,000.00	1	\$5,000.00

DO NOT ADD DATA BELOW THIS LINE

CONSTRUCTION TOTAL	Base Item Total				\$42,800.00	
Estimated Bid Items, see below					\$ -	
Water Pollution Control /TESC (% of Base Item Total)	1%				\$ 428.00	
Maintenance of Traffic (% of Base Item Total)	1%				\$ 428.00	
	Subtotal 1				\$43,656.00	
CONSTRUCTION MOBILIZATION (% of Subtotal1)	10%				\$ 4,365.60	
	Subtotal 2				\$48,021.60	
DB Engineering and Quality (% of Subtotal 2; assumption that 30% design provided by High	11.0%				\$ 5,282.38	
DB Contract Administration including subcontractor mark-up and small tools (% of Subtotal :	5.0%				\$ 2,401.08	
DB Engineering Mobilization (% DB Engineering and DB Contract Admin)	10.0%				\$ 768.35	
	Base DB Contract				Subtotal 3	\$56,473.40
Sales Tax (% of Subtotal 3)	10.1%				\$ 5,703.81	
WSDOT DB Construction Engr and Quality Verification (% of Subtotal 3)	7.0%				\$ 3,953.14	
Standard Contingency (see below)					\$ -	
	Subtotal 4				\$ 9,656.95	
	DB Contract Subtotal (subtotal 3 + subtotal 4, Before Escalation)				\$ 66,130.35	
Provision for Risk and Escalation (Contingency)	12.00%				\$ 7,935.64	
	DB Contract Total				\$ 74,066.00	

CN - Total: (DB Contract Total + Other Total) \$ 74,066.0

SDOT PE - Total					
WSDOT Preliminary Engineering and Submittal Review (2.5% of Subtotal 3)	2.5000%				\$ 1,411.84
Risk assumed as 0%, Highline providing information	Risk (PE)	0.0000%			\$ -
Escalation assumed 0%, current work	Escalation	0.0000%			\$ -
	PE - Total				\$1,411.8
	Subtotal 5				\$75,478
	ROW - Total				\$0
	Subtotal 6				\$75,478
Indirect Cost Allocation (13.23% of all cost, excluding sales tax) (This is HQ overhead and S	13.23%				\$ 9,231.1
	TOTAL				\$84,708.93

I-5/SR 509 Gateway Stage 2
 SR 509 COMPLETION PROJECT
 Summary of Quantities and Cost Estimate
UI-149: S. Des Moines Memorial Drive/S 188th St AC Water Main Removal

CN - Total: (DB Contract Total + Other Total)					
STD ITEM NO.	UNIT	ITEM	Unit Cost	QUANTITY	ITEM TOTAL
ADD OTHER NEW ITEMS BELOW THIS LINE. IF ADDITIONAL LINES ARE NEEDED, INSERT AS NEEDED					
(item no.)	LF	Remove and Dispose Existing AC Pipe	\$60.00	1320	\$79,200.00
(item no.)	LS	Site Restoration	\$5,000.00	1	\$5,000.00

DO NOT ADD DATA BELOW THIS LINE

CONSTRUCTION TOTAL	Base Item Total				\$84,200.00
Estimated Bid Items, see below					\$ -
Water Pollution Control /TESC (% of Base Item Total)	1%				\$ 842.00
Maintenance of Traffic (% of Base Item Total)	1%				\$ 842.00
	Subtotal 1				\$85,884.00
CONSTRUCTION MOBILIZATION (% of Subtotal1)	10%				\$ 8,588.40
	Subtotal 2				\$94,472.40
DB Engineering and Quality (% of Subtotal 2; assumption that 30% design)	11.0%				\$ 10,391.96
DB Contract Administration including subcontractor mark-up and small to	5.0%				\$ 4,723.62
DB Engineering Mobilization (% DB Engineering and DB Contract Admin)	10.0%				\$ 1,511.56
	Base DB Contract				Subtotal 3
					\$111,099.54
Sales Tax (% of Subtotal 3)	10.1%				\$ 11,221.05
WSDOT DB Construction Engr and Quality Verification (% of Subtotal 3)	7.0%				\$ 7,776.97
Standard Contingency (see below)					\$ -
	Subtotal 4				\$ 18,998.02
DB Contract Subtotal (subtotal 3 + subtotal 4, Before Escalation)					\$ 130,097.56
Provision for Risk and Escalation (Contingency)	12.00%				\$ 15,611.71
	DB Contract Total				\$ 145,709.27
CN - Total: (DB Contract Total + Other Total)					\$ 145,709.3

WSDOT PE - Total					
WSDOT Preliminary Engineering and Submittal Review (2.5% of Subtotal 4)	2.5000%				\$ 2,777.49
Risk assumed as 0%, Highline providing information	Risk (PE)	0.0000%			\$ -
Escalation assumed 0%, current work	Escalation	0.0000%			\$ -
	PE - Total				\$2,777.5
	Subtotal 5				\$148,487
	ROW - Total				\$0
	Subtotal 6				\$148,487
Indirect Cost Allocation (13.23% of all cost, excluding sales tax) (This is F)	13.23%				\$ 18,160.3
TOTAL					\$166,647.01

ID	Total	Preliminary
UI-94	\$ 335,886.75	\$ 5,598.19
UI-122	\$ 84,708.93	\$ 1,411.84
UI-149	\$ 166,647.01	\$ 2,777.49
TOTAL	\$ 587,242.70	\$ 9,787.51

Agenda Item No.: 5.1

Agenda Date: 05/23/23

Reviewed By: 

Subject: Resolution authorizing an interlocal agreement between Washington State Department of Transportation and Highline Water District relating to Project 22-3 SR509 Phase 2 Water Main Replacement.

CATEGORY	
<i>Executive</i>	<input type="checkbox"/>
<i>Administrative</i>	<input type="checkbox"/>
<i>Engineering/Operations</i>	<input checked="" type="checkbox"/>

FINANCIAL			
<i>Expenditures?</i>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
<i>Budgeted?</i>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
			<i>Not-to Exceed</i>
<i>Amount: \$ _____</i>			

Attachments:

1. Resolution 23-5-23A
2. Attachment #1 – Interlocal Agreement w/Exhibits

Comments:

The District owns and operates certain water facilities located within the rights-of-way of Burien, SeaTac, and WSDOT along the future alignment of the SR509 highway. WSDOT will be constructing a new highway (WSDOT Work) within the vicinity that conflicts with the District's existing water facilities. The District has identified and budgeted resources for the project (District Work) as 22-3 SR509 Phase 2 Water Main Replacement in the 2023 Capital Improvement Plan.

Chapter 39.34 RCW authorizes two or more political subdivisions or units of local government of the State of Washington to cooperate on a basis of mutual advantage to provide for services and facilities and integrating the District Work into the WSDOT Project would be more expedient, less expensive, and less disruptive to the public than if the District and WSDOT undertook the projects separately.

The Parties desire to establish a formal arrangement under which the District will pay WSDOT in consideration of the WSDOT incorporating the District Work into the design and construction of the WSDOT Work. The Parties desire to enter into this Agreement for the purpose of defining their respective rights, obligations, costs, and liabilities regarding this undertaking.

Staff recommends approval of this resolution.