

✓

**INTERLOCAL AGREEMENT FOR REVIEW AND AUTHORIZATION FOR
COOPERATIVE PERMITTING OF THE NARROWS MARINA PHASED MASTER SITE PLAN
BETWEEN THE CITY OF TACOMA AND THE CITY OF UNIVERSITY PLACE**

THIS INTERLOCAL AGREEMENT ("Agreement") made and entered into pursuant to the Interlocal Cooperation Act, Chapter 39.34 of the Revised Code of Washington, on the 5th day of June, 2013, by and between the City of Tacoma, a municipal corporation of the State of Washington, herein known as "Tacoma," and the City of University Place, a municipal corporation of the State of Washington, herein known as "University Place," (collectively referred to herein as the "Parties").

WHEREAS, Narrows Marina, LLC, is creating a new Phased Master Site Plan to include but is not limited to: new piers and docks, boat houses, boat sales and service, water front restaurants, retail sales, office, residential and public access uses; and

WHEREAS, the property owned by Narrows Marina, LLC, (the Narrows Marina Site) is located in part within University Place and in part in Tacoma; and

WHEREAS, certain comprehensive plan goals and policies, zoning, shoreline regulations and construction codes and procedures differ between the two municipalities; and

WHEREAS, this shared jurisdiction, differing policies, regulations, codes and procedures creates permitting and construction challenges for Narrows Marina, LLC, as it refurbishes, upgrades and develops additional facilities and operations at the Narrows Marina Site; and

WHEREAS, in the interest of promoting economic development and avoiding burdensome duplicative processes, Tacoma and University Place desire to enter into an interlocal agreement to promote streamlining and efficiency in review and permitting of development within the Narrows Marina Site; and

WHEREAS, Chapter 39.34 of the Revised Code of Washington allows local governments to enter into interlocal agreements to make most efficient use of their powers by enabling them to work with other local jurisdictions on a mutually advantageous basis.

NOW, THEREFORE, pursuant to Chapter 39.34 RCW, and in consideration of the mutual benefits and covenants described herein, the City of University Place and the City of Tacoma agree to cooperate in the construction review and authorization of the Narrows Marina Phased Master Site Plan as follows:

1. INCORPORATION OF RECITALS

Each of the recitals set forth above is incorporated into this Agreement as though fully set forth herein.

2. PURPOSE

The purpose of this Agreement is to facilitate the creation and development of a Narrows Marina Phased Master Site Plan project, identify the roles and responsibilities of each party to this Agreement, and specify the planning goals and policies and development regulations, including, but not limited to, zoning, critical areas, environmental and shoreline regulations, and construction codes that apply within the project area.

3. PROJECT AREA

The project area includes parcels owned by Narrows Marina, LLC, in University Place and Tacoma, including parcels 0220044149, and 0220043002 in Tacoma, parcels 3430200310, 8950003641, 0220092029, 0220092009, 0220091017, 0220092039, and 0220092031 in University Place, and parcel 3430200340 which crosses the jurisdictional boundaries.

4. JOINT PLANNING

A. Conceptual Phased Master Site Plan: In order to enable the Parties to undertake joint review and permitting, Narrows Marina, LLC, in consultation with Tacoma and University Place, will develop a Conceptual Phased Master Site Plan that includes but is not limited to the general location and types of uses, driveways, parking, shoreline setbacks, building height, building design, landscaping, public access and phases of project development in Tacoma and University Place. During the Master Site Planning process, efforts will be made to ensure that to the greatest extent feasible, buildings and structures do not cross city boundary lines. Based on the Conceptual Phased Master Site Plan, Tacoma and University Place will collaboratively determine their respective jurisdictional responsibilities.

B. Public Access: The Parties will work in good faith to develop a public access plan that looks at the Narrows Marina property as a whole, and allows the best public access, irrespective of whether the public access improvements are in Tacoma or University Place, and allows for a phasing of public access improvements as the Narrow Marina redevelops and expands.

C. State Environmental Policy Act (SEPA): The Parties will enter into a Joint State Environmental Policy Act Agreement pursuant to WAC 197-11-944 substantially in the form of that attached to this Interlocal Agreement as Attachment A. Under this Agreement, Tacoma shall be the Nominal Lead Agency. The proposal to which this initial SEPA will apply shall be the Conceptual Phased Master Site Plan and Phase I project-specific proposals. The SEPA Threshold Determination shall include a condition that requires that the Determination be amended as needed following adoption of the University Place Shoreline Management Master Program, Comprehensive Plan and Zoning map amendments. When a subsequent project-specific proposal occurs in Tacoma, Tacoma shall be the Nominal Lead Agency for the purposes of determining if the SEPA needs to be amended to address impacts associated with the proposal. When a subsequent project-specific proposal occurs in University Place, University Place shall be the Nominal Lead Agency for the purposes of determining if the SEPA needs to be amended to address impacts associated with the proposal.

D. Traffic Impacts: The Parties agree to evaluate the Transportation Report prepared by Greg Heath for Narrows Marina in 2011 and make the maximum feasible use of this work in identifying traffic mitigation measures required by the Narrows Marina redevelopment; however, depending on the scope of this redevelopment, additional traffic studies may be required. The Parties agree that the City Engineers of Tacoma and University Place will coordinate their actions on evaluation, further studies, and implementation of mitigation measures that allow for a phasing of transportation improvements as the Narrow Marina redevelops and expands. The Parties agree that the South 19th Street access corridor to the Narrows Marina should be rebuilt to a consistent set of design standards and that grant funding opportunities should be jointly explored by the Parties.

E. Timing: Current project development is occurring in Tacoma, and Tacoma will likely experience the next phases of the project because Tacoma's Shoreline Master Program and Use

Regulations Update needed for the project to move forward is nearing completion. Project development in University Place is likely to occur during later project phases because University Place's Shoreline Master Program and Use Regulations Update is still under development and both the Comprehensive Plan Map Designation and Zoning need to be amended to allow the types of uses contemplated by Narrows Marina.

F. Shoreline and Land Use Permits: Shoreline and land uses in Tacoma that require shoreline and land use permits shall be processed in accordance with City of Tacoma policies and procedures. Shoreline and land uses in University Place that require shoreline and land use permits shall be processed in accordance with University Place policies and procedures.

G. Joint Permits: Where building and/or site development cross jurisdictional boundaries, the Parties shall work together to determine which jurisdiction shall process, and shall issue a single permit for that building or development. All conditions from both Parties shall be included as conditions of permit approval. For example, the Parties agree to use the Tacoma fire requirements for the boathouses in the Day Island Lagoon, with the Tacoma Fire Department issuing the permits after consultation with West Pierce Fire and Rescue. Tacoma Public Works will have nominal lead on utilities issues, and will work in consultation with University Place Public Works.

5. DESIGNATED CITY AND COUNTY REPRESENTATIVES

5.1 Tacoma Representative:

Peter Huffman, Planning and Development Services Interim Director
City of Tacoma
747 Market Street, Room 408
Tacoma, WA 98402
Tel: (253) 591-5373
Fax: (253) 591-5097
Email: phuffman@cityoftacoma.org

5.2 University Place Representative:

David Swindale, Planning and Development Services Director
City of University Place
3715 Bridgeport Way West, Suite B
University Place, WA 98466-4456
Tel: (253) 460-2519
Fax: (253) 566-5658
Email: dswindale@cityofup.com

9. NO SEPARATE ENTITY CREATED

This Agreement does not create any separate legal or administrative entity. This Agreement shall be administered by the Planning and Development Services Director for Tacoma and the Planning and Development Services Director for University Place. There shall be no joint financing or jointly acquired or held assets and the Agreement will terminate as described herein.

10. MODIFICATION OF AGREEMENT

This Agreement may be amended at any time by written agreement of Tacoma and University Place.

11. DISPUTE RESOLUTION

Unless otherwise specified, disputes regarding any matter contained herein shall be referred to the Tacoma Planning and Development Services Director and the University Place Planning and Development Services Director for mediation and/or settlement. Any controversy or claim arising out of, or relating to, this Agreement or the alleged breach thereof that cannot be resolved by the Planning and Development Services Director for Tacoma and the Planning and Development Services Director for University Place, shall be submitted to arbitration in accordance with the rules and procedures set forth in Chapter 7.04 RCW. Tacoma will appoint one arbitrator and University Place will appoint one arbitrator. The decision rendered by the arbitrators may be entered in Pierce County Superior Court. The cost of arbitrating the dispute will be borne equally by both Parties. Nothing in this Agreement shall preclude the use of a mediator to resolve disputes should the Parties agree to utilize the services of a mediator.

12. DURATION OF AGREEMENT AND TERMINATION

This Agreement shall continue until final completion of all projects to be identified in the Narrows Marina Phased Master Site Plan, at which time it shall terminate.

13. HOLD HARMLESS AND INDEMNITY AGREEMENT

Each party (the Indemnitor) agrees to defend, indemnify and save harmless each other (the Indemnitees), their board or council members, officers, agents and employees, from and against all loss or expense including, but not limited to, judgments, settlements, attorney's fees, and costs by reason of any and all claims for damages, penalties, or other relief based upon the Indemnitor's alleged negligence, or wrongful conduct, except for the injuries, penalties, and damages caused by the sole negligence or wrongful conduct of the Indemnitor. Such claims for damages or other relief include, but are not limited to, those for personal or bodily injury including death from such injury, property damage, torts, defamation, penalties imposed by any agency of the state or federal government for failure to comply with applicable law in the performance of this Agreement. If the claim, suit, or action involves concurrent negligence of the Parties, the indemnity provisions provided herein shall be applicable only to the extent of the percentage of each party's negligence. It is further and expressly understood that the indemnification provided herein constitutes each party's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the Parties. The provisions of this section shall survive the expiration or termination of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement this 5th day of June, 2013.

City of Tacoma

By

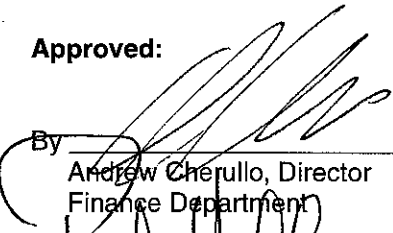
T. C. Broadnax
City Manager

CITY OF UNIVERSITY PLACE

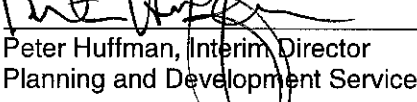
By

Stephen P. Sugg
City Manager

Approved:

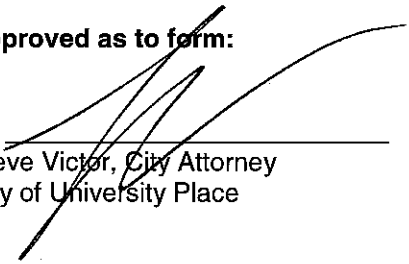
By 

Andrew Cherullo, Director
Finance Department

By 

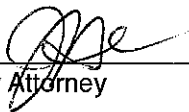
Peter Huffman, Interim Director
Planning and Development Services

Approved as to form:

By 

Steve Victor, City Attorney
City of University Place

Approved as to form:

By 

Deputy City Attorney

Attachment A

SEPA CO-LEAD AGENCY AGREEMENT MEMORANDUM OF UNDERSTANDING FOR

Narrows Marina, Inc., Tacoma and University Place - SEPA Review

The City of Tacoma (hereinafter "Tacoma") and the City of University Place (hereinafter "University Place") agree to share lead agency responsibilities under the State Environmental Policy Act, chapter 43.21C RCW ("SEPA"), to conduct environmental review for certain expanded mixed-use development proposals (hereinafter "proposals") as they are put forward by Narrows Marina, Inc. (hereinafter "proponent"). This memorandum of understanding (MOU) delineates: the duties of each co-lead agency; how decisions will be made; how conflicts may be resolved; how the MOU may be dissolved; and other terms and conditions.

I. DUTIES

A. General

1. Tacoma shall act as nominal lead during the development of a Conceptual Phased Master Site Plan and Phase I project-specific proposals. When a subsequent project-specific proposal occurs in Tacoma, Tacoma shall be the Nominal Lead Agency for the purposes of determining if the SEPA Threshold Determination will need to be amended to address impacts associated with the proposal. When a subsequent project-specific proposal occurs in University Place, University Place shall be the Nominal Lead Agency for the purposes of determining if the SEPA Threshold Determination will need to be amended to address impacts associated with the proposal. As nominal lead, the adopted SEPA public notice and the SEPA procedures of the nominal lead agency shall be used for proposal(s) submitted.

Any SEPA Threshold Determination shall include a condition that requires the Determination be amended as needed following adoption of the University Place Shoreline Master Program and associated Comprehensive Plan and Zoning map amendments.

2. Tacoma and University Place, either jointly or independently, may determine that consultant(s) are needed to assist in completing the required SEPA analysis and documentation for the proposals. The costs for consultants hired by the parties to review the required SEPA analysis and documentation on behalf of the parties shall be borne by the proponent. The proponent shall reimburse University Place for any associated consultant costs incurred by University Place pursuant to University Place's regulations and fee schedule. The proponent shall reimburse Tacoma for any associated consultant costs incurred by Tacoma pursuant to Tacoma's regulations and fee schedule.

3. Comments on all SEPA document(s) shall be submitted to and received by the jurisdiction acting as the Nominal Lead Agency, which shall forward copies of all written and electronic comments received to the other agency.

4. In all other respects, the two co-lead agencies shall act as partners in meeting the responsibilities of lead agency under SEPA, with equal standing in all decisions to be made.

B. Preparing Analyses

1. It is expected that the proponent will provide the following types of information regarding the proposal, its environmental impacts, and potential mitigation: a completed environmental checklist and exhibits; an impacts analysis and mitigation report; wetland report and mitigation plan; traffic study; and related materials in support of the proposals when determined to be applicable by the Nominal Lead Agency.

2. Information provided by the proponent shall be reviewed and may be supplemented in the following manner: consistent with Section (A)(2) above, Tacoma and University Place may seek the assistance of outside consultants related to their respective areas of analysis.

C. Scope/Content

1. Mitigation identified and/or assessed in the SEPA document(s), beyond that suggested by the proponent, shall be determined by the co-lead agencies consistent with the division of responsibility stated in paragraph I(A)(1) above. If an environmental impact statement (EIS) is prepared for the proposals, the co-lead agencies shall jointly design the scope of the EIS and the alternatives to be considered in the EIS so that both agencies are satisfied that a range of reasonable alternatives is represented.

2. At a minimum, a representative of each agency shall review the environmental analysis and documentation prior to issuance of all necessary SEPA documents. A responsible official from each agency shall sign the SEPA documents prior to issuance. The signature of the responsible officials shall represent approval of the document, including the adequacy of the environmental analysis it contains.

II. DECISION MAKING AND DISPUTE RESOLUTION

A. University Place and Tacoma, as co-lead agencies, agree to try to make decisions by consensus throughout the SEPA process in regards to scope, content and timing of all SEPA documents. The co-lead agencies recognize that the final SEPA document must contain sufficient environmental analysis for decision-making by all agencies with jurisdiction. Therefore, areas of environmental concern, potential mitigation, and reasonable alternatives suggested by either co-lead agency shall be included in the document if agreement cannot be reached between the two agencies that the area, mitigation or alternative need not be assessed.

B. If the co-lead agencies cannot agree on an issue that would prevent their approval of the SEPA document or otherwise prevent them from sharing lead agency duties, either agency may withdraw from this MOU following notification to the other co-lead agency in writing of the issue under dispute, including a suggested resolution. The co-lead agency having receipt of such a letter shall have the option to agree to the suggested resolution, offer an alternate resolution, or agree to dissolve the MOU.

C. If at any time the MOU is dissolved, University Place and Tacoma shall acquire full responsibility as lead agency for the proposals, or parts of the proposals, and shall continue with completion of the SEPA process.

D. University Place and Tacoma will each participate in any appeal challenging the environmental review contemplated by this agreement to the extent the appeal challenges the analysis prepared by that agency. In any such appeal, University Place and Tacoma will cooperate and share responsibilities and decision making authority equally, consistent with the principles outlined above.

III. OTHER TERMS

A. Term. The effective date of this MOU is the date of the final signature below of the parties. This MOU shall continue until terminated in writing by both or one of the parties.

B. Communications. The following persons shall be the contact persons for all communications regarding this MOU:

City of University Place
David Swindale, Planning and Development Services Director
City of University Place
3715 Bridgeport Way West, Suite B
University Place, WA 98466-4456
Tel: (253) 460-2519
Fax: (253) 566-5658
Email: dswindale@cityofup.com

City of Tacoma
Peter Huffman, Planning and Development Services Interim Director
City of Tacoma
747 Market Street, Room 408
Tacoma, WA 98402
Tel: (253) 591-5373
Fax: (253) 591-5097
Email: phuffman@cityoftacoma.org

C. Changes. The parties may, from time to time, require changes in the scope of services performed under this MOU. The parties shall mutually agree to the changes by written amendment to this MOU.

This MOU is executed by the persons signing below, who warrant they have the authority to execute this MOU.

Agency: City of University Place



David Swindale, Planning and Development Services Director

6/5/13
Date:

Agency: City of Tacoma



Peter Huffman, Planning and Development Services Interim Director

5/22/13
Date: