

**INTERLOCAL AGREEMENT
BETWEEN THE
PORT OF PORT TOWNSEND
AND THE CITY OF PORT TOWNSEND**

This Agreement is entered into by and between the City of Port Townsend, a municipal corporation of the State of Washington (“City”), and Port of Port Townsend, a municipal corporation of the State of Washington (“Port”), for resource sharing and Public Works construction services as described in this Agreement.

RECITALS

- A. Chapter 39.34 RCW permits local governmental units to make official use of their powers enabling them to cooperate with other localities based on mutual advantage.
- B. The Port and the City perform Public Works contracting including bidding and prevailing wages in accordance with the RCW to accomplish maintenance and capital improvements.
- C. The Port and City mutually benefit from various infrastructure owned by each agency.
- D. Based on proximity, prosecution of work, efficiencies, and mutual other benefits, the City and the Port may desire to cooperate under a single public works contract.
- E. The Port and the City both own and operate specialized equipment and sharing of resources is mutually beneficial.
- F. The Port and the City may desire to use a single engineering consultant to design both Port and City infrastructure together.

AGREEMENT

In consideration of the mutual covenants contained in this Agreement, and pursuant to provisions of Ch. 39.34 RCW, the parties agree as follows:

- 1. **PURPOSE.** The purpose of this agreement is to gain the efficiencies in execution of Public Works projects and to share resources.
- 2. **AUTHORITY.** This agreement is based upon the authority of RCW 39.34.030.
- 3. **TERM.** This Agreement shall be in effect for the period beginning May 1, 2020 through December 31, 2020 and shall be automatically renewed annually thereafter.

4. PROCESS AND PERFORMANCE. The Port and the City agree as follows:

- 4.1. Prior to any work being performed, the Port Executive Director or the City Manager shall provide the other party written authorization for a specific task assignment including the scope of work and cost estimates. Both parties will agree, in writing, to the scope of work and cost estimate, including hourly rates for labor and equipment, for the specific task. The parties agree to reimburse each other for the actual costs, including overhead at the current hourly rates in use by the party at the time the work is being performed. For work in excess of \$15,000, the cost estimate, including contingency, shall be considered a not to exceed amount unless both parties agree, in writing, to costs above the estimate. For emergencies and work less than \$15,000, the work shall not exceed the estimate by more than 20% without written approval.
- 4.2. The party requesting the work may monitor the performance and will accept the work in writing.
- 4.3. Record Maintenance. Each party shall maintain records its own records consistent with the Washington Public Records Act, as amended, and the records retention requirements of the Washington State Archives.
- 4.4. Invoicing and billing shall be made within 60 days of the work being completed. Payment for such work shall be made within 60 days of receipt of invoices.

5. ALLOCATION OF LIABILITIES.

- 5.1. Indemnity. Each party shall indemnify, defend and hold harmless the other party, their officers, agents, employees, and volunteers, from and against any and all claims, demands, damages, judgments, losses, liability and expense (including, attorney's fees), including but not limited to those for personal injury, death or property damage suffered or incurred by any person, by reason of or in the course of performing this Agreement which is or alleged to be caused by or may directly or indirectly arise out of any act or omission of the party, its officers, employees, agents and volunteers.
- 5.2. Proportionate Share. Except as provided above, in the event more than one party is responsible or negligent, each party shall be responsible in proportion to its negligence.
- 5.3. Waiver of Immunity under Title 51 RCW. Each party waives its immunity under Title 51 RCW (Industrial Insurance) solely for the purposes of this provision and acknowledges that this waiver was mutually negotiated.

6. DISPUTES BETWEEN THE PARTIES.

- 6.1. Negotiation. Disputes shall be resolved by first trying to negotiate a settlement between the parties. Written notice in the manner required by this Agreement commences a dispute.

- 6.2. Mediation. If settlement cannot be reached within 30 days of written notice of the dispute, the parties agree to submit the matter to non-binding mediation through the Peninsula Dispute Resolution Center or other agreed upon mediator. A demand for mediation made by written notice in the manner required by this Agreement commences a mediation. The mediator shall be selected by agreement of the parties. The cost of mediation shall be shared equally between the parties.
- 6.3. Venue. Any legal action about the terms and conditions of this Agreement shall be brought solely in the appropriate state court in Jefferson County, Washington, subject to the venue provisions for actions against counties in RCW 36.01.050.

7. NOTICE.

- 7.1. Sufficient Notice. Any notice required to be given by either party to the other shall be in writing and shall be considered sufficient notice if deposited in the United States mail, postage prepaid, addressed as follows:

To the Port at:

Executive Director
333 Benedict Street
Port Townsend, WA 98368

To the City at:

City Manager
250 Madison Street, Suite 2
Port Townsend, WA 98368

- 7.2. Personal Service of Notice Also Allowed. Personal notice of any required notice may be provided in the manner prescribed for personal service of a summons or other legal process.

8. INTERLOCAL AGREEMENT REQUIRED TERMS.

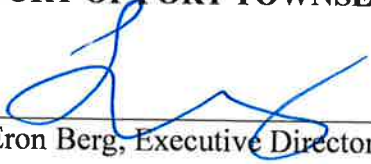
- 8.1. Administration. This Agreement does not create any separate legal or administrative entity. The parties understand and agree that there will be communications between the parties to effectuate the terms of this Agreement.
- 8.2. No Joint Budget. This Agreement does not contemplate a joint budget.
- 8.3. No Property Acquisition. This Agreement does not contemplate the joint acquisition of property by the parties. At termination, each party shall remain the sole owner of its own property.

- 9. REQUIRED FILING.** Pursuant to RCW 39.34.040, prior to entry into force this Agreement shall be filed with the Jefferson County Auditor or listed on the Port and City websites.
- 10. GENERAL TERMS.** The following general terms shall govern this agreement:
- 10.1. **Headings.** The headings of the sections of this Agreement are for convenience of reference only and do not restrict, affect, or be of any weight in the interpretation or construction of the provisions of the sections or this Agreement.
- 10.2. **Nondiscrimination; Equal Employment Opportunity.**
- 10.2.1. In the performance of this Agreement, the parties and their employees and agents shall always comply with all federal, state, or local laws, ordinances, rules, or regulations with respect to nondiscrimination and equal employment opportunity which may at any time be applicable.
- 10.2.2. The parties shall not discriminate against any employee or applicant for employment because of age, sex, marital status, sexual orientation, race, creed, color, national origin, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability as required by law.
- 10.2.3. The parties and their employees and agents shall not at any time discriminate against any other persons or entity because genetic information, gender identity, age, sex, marital status, sexual orientation, race, creed, color, national origin, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability.

(SIGNATURES FOLLOW ON THE NEXT PAGE)

PORT OF PORT TOWNSEND

CITY OF PORT TOWNSEND


Eron Berg, Executive Director

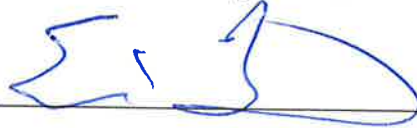
10/14/20
Date


John Mauro, City Manager


10.29.20
Date

Approved as to Legal Form:

Approved as to Legal Form:



10/16/20
Date


Heidi Greenwood, City Attorney

10/28/2020
Date