

INTERGOVERNMENTAL AGREEMENT

THIS INTERLOCAL COOPERATION AGREEMENT ("Agreement") is made and entered into pursuant to chapter 39.34 of the Revised Code of Washington, by and between the Port of Longview, hereinafter referred to as the "Port," a municipal corporation under the laws of the State of Washington, and the Yakima Regional Clean Air Agency, operating through its Northwest Opacity Certification enterprise, hereinafter referred to as the "YRCAA," a municipal corporation, as defined in chapter 70A.15.1560 of the revised code of Washington and jointly referred to as 'the Parties'.

RECITALS

WHEREAS, RCW § 39.34.010 permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other agencies on a basis of mutual advantage; and

WHEREAS, the Parties have a shared interest in providing training to individuals in the Environmental Protection Agency (EPA) method 9 requirements for visual opacity from a stationary source; and

WHEREAS, the Parties have agreed that training individuals for such methods in this region is essential and beneficial to both Parties.

NOW, THEREFORE, the Parties agree as follows:

1. SCOPE OF USE

1.1 The Port will provide an area north of the Port's main office at 10 International Way, Longview, Washington free of charge for trainings to occur illustrated in Exhibit A ("Site").

1.2 The YRCAA will allow Port employees to participate in the training per their registration process.

1.3 The YRCAA will manage all manner of the trainings including, but not limited to, scheduling of the trainings and equipment mobilization to and from the Site.

1.4 The YRCAA will abide by current COVID safety and health protocols, until such time as they are deemed non-applicable by the Federal Centers for Disease Control, Washington State, local jurisdictions, and the Port.

1.5 The YRCAA will provide portable restrooms, hand washing stations, and refuse containers as needed.

1.6 The YRCCA will leave the Site in the same condition as they found it.

1.7 The YRCAA will provide the Port with a certificate of insurance for their use of the Site per the Port's requirements naming the Port of Longview as an additional insured.

1.8 The YRCAA will notify the Port of its desired use of the property no later than two months prior to the scheduling of the trainings.

1.9 The Port will approve the use if feasible but cannot guarantee the use of the Site.

1.10 The YRCAA acknowledges and agrees that it is accepting the Site "as-is" and with all its faults, and is entering the Site at its own risk.

1.11 The Parties will incur their own costs in carrying out their obligations under this Agreement; there will no joint financing or budget prepared.

2. AMENDMENT

The provisions of this Agreement may be amended with the mutual consent of the Parties. No additions to, or alterations of, the terms of this Agreement shall be valid unless made in writing and formally approved and executed by the duly authorized agents of the Parties.

3. NOTIFICATION

Any notice required or permitted to be given pursuant to this Agreement shall be in writing, and shall be sent postage prepaid by U.S. Mail, return receipt requested, to the following addresses unless otherwise indicated by the Parties to this Agreement:

To the Port: Port of Longview
Attn: Lindsey Harris
10 International Way
Longview, WA 98632
lharris@portoflongview.com
360-425-3305

To the YRCAA: Yakima Regional Clean Air Agency
Northwest Opacity Certification Enterprise
Attn: Mark Edler
186 Iron Horse Court, Suite 101
Yakima, WA 98901
mark@yrcaa.org
509-834-2050, ext. 110

The above contacts will be the administrators of this Agreement under RCW 39.34.030(4)(a). No separate entity is created under this Agreement.

4. DURATION OF AGREEMENT

This Agreement shall remain in force until December 31, 2022. Upon such, the Port and YRCAA have the option to renew, modify and renew, or not execute a future Agreement.

5. TERMINATION OF AGREEMENT

5.1 Either of the Parties may choose to terminate this Agreement, with or without cause, by notifying the other in writing 30 days prior to termination as provided for herein.

5.2 Any termination of this Agreement or suspension of future performance under this Agreement in accordance with this Section shall not relieve the Parties of liability for any obligation previously incurred.

6. RECORDS RETENTION AND AUDIT

During the progress of the work on the Project and for a period not less than six (6) years from the date of the termination of this Agreement, the records and accounts pertaining to the Project and accounting thereof are to be kept available for inspection and audit. In the event of litigation, claim, or audit, the records and accounts, along with supporting documentation shall be retained until all litigation, claims, or audit finding has been resolved, even though such litigation, claim, or audit continues past the initial six-year retention period. This provision is not intended to alter or amend records retention requirements established by applicable state and federal laws.

7. DISPUTES

The designated representatives herein under Section 3. NOTIFICATION, shall use their best efforts to resolve disputes between the Parties. If the designated representatives are unable to resolve a dispute, the matter shall be reviewed by the department director or chief executive officer of each Party or his or her designee. The Parties agree to exhaust each of these procedural steps before seeking to resolve disputes in a court of law or any other forum.

8. NO THIRD-PARTY BENEFICIARY

This Agreement is entered into solely for the mutual benefit of the Parties. This Agreement is not entered into with the intent that it shall benefit any other person or entity and no other such person or entity shall be treated as a third-party beneficiary of this Agreement.

9. RATIFICATION

Acts taken in conformity with this Agreement prior to its execution are hereby ratified and affirmed.

10. DOCUMENT EXECUTION AND POSTING

Copies of this Agreement shall either be filed with the Cowlitz County Auditor's Office after execution or posted on each Parties' website listed by subject or other electronically retrievable public source, as allowed by RCW 39.34.040, and shall be filed with the respective Party authorities.

11. INDEMNIFICATION AND HOLD HARMLESS

11.1 To the maximum extent permitted by law, each Party shall protect, defend, indemnify, and hold harmless the other Parties, their officers, officials, employees, and agents from any and all costs, claims, demands, suits, actions, judgments, and/or awards of damages, including but not limited to reasonable attorney's fees, to the extent arising out of, or in any way resulting from the negligent acts or omissions of the other Party related to this Agreement.

11.2 Each Party agrees 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 employees or agents. For this purpose, each Party hereby waives, with respect to the other Parties only, immunity that would otherwise be available against such claims under the Industrial Insurance provision of Title 51 RCW to the extent necessary to provide indemnification as required under this Agreement.

11.3 The Parties recognize that this waiver was the subject of mutual negotiation. In the event any Party incurs attorney's fees, costs or other legal expenses to enforce the provisions of this Agreement against any other Party, all such fees, costs and expenses shall be recoverable by the prevailing Party.

11.4 No liability shall attach to any of the Parties by reason of entering into this Agreement except as expressly provided herein.

11.5 The indemnification, hold harmless, and/or waiver obligation described in this Agreement in Section 11 shall survive the termination of this Agreement.

12. SEVERABILITY

The provisions of this Agreement are hereby declared to be separate and severable, and the invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this Agreement or the invalidity of its application to any person or circumstance shall not affect the validity of its application to other persons and circumstances.

13. VENUE

This Agreement shall be deemed to be made in the County of Cowlitz, State of Washington, and the legal rights and obligations of the Parties shall be determined in accordance with the laws of the State of Washington. All legal actions in connection with this Agreement shall be brought in the County of Cowlitz, State of Washington.

14. LEGAL RELATIONS

14.1 Independent Municipal Governments. The Parties hereto are independent governmental entities, and nothing herein shall be construed to limit the independent government

powers, authority or discretion of the governing bodies of each Party. It is understood and agreed that this Agreement is solely for the benefit of the Parties hereto and gives no right to any other party. No separate legal or administrative entity is created by this Agreement. No joint venture or partnership is formed as a result of this Agreement. No employees or agents or any Party shall be deemed or represent themselves to be employees of the other Party. The Parties will not jointly acquire, hold or dispose of real or personal property.

14.2 Legal obligations. This Agreement does not relieve either Party of any obligation or responsibility imposed upon it by law.

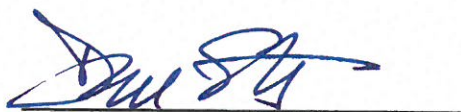
14.3 Timely Performance. The requirements of this Agreement shall be carried out in a timely manner according to a schedule negotiated by and satisfactory to the Parties.

15. ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement of the Parties, supersedes all previous oral or written understandings, and incorporates all prior discussions and agreements pertaining to this subject matter. The Parties participated equally in any negotiations and the process leading to execution of this Agreement. If a dispute should arise with regard to the meaning or interpretation of any provision hereof, there shall be no presumption of draftsmanship as to such provision.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement which shall be effective upon the date of the last signature below.

PORT OF LONGVIEW



Dan Stahl
Chief Executive Officer

February 23, 2021

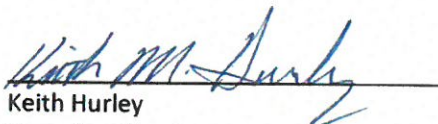
Date

ATTEST



Robin Johnson
Executive Assistant

Yakima Regional Clean Air Authority,
operating through its Northwest Opacity
Certification Enterprise

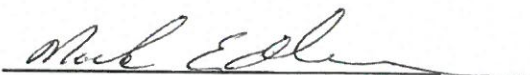


Keith Hurley
Executive Director

2/23/21

Date

ATTEST



Mark Edler
Administrative Division Supervisor

EXHIBIT A
SITE

