

**CONTRACT AGREEMENT
FOR
PORT OF LONGVIEW REDISTRICTING COMMISSIONERS' BOUNDARIES**

THIS AGREEMENT dated for reference purposes July 15, 2021 is entered into by and between the Cowlitz-Wahkiakum Council of Governments, a municipal corporation (hereinafter referred to as the "CWCOG"), and the Port of Longview (hereinafter referred to as the "Agency"), collectively the "Parties" and individually the "Party."

RECITALS

WHEREAS, the CWCOG is a regional planning agency organized under RCW 36.64.080 to serve general and special purpose governments in Cowlitz and Wahkiakum region; and

WHEREAS, according to RCW 29A.76.010 it is the responsibility of the Agency as a special purpose district with a governing body comprised of commissioner districts not based on statutorily required land ownership criteria to periodically redistrict its governmental unit, based on population information from the most recent federal decennial census; and

WHEREAS, the Agency desires to enter into agreement with the CWCOG for their assistance in preparing a plan for redistricting the Agency's commissioners' district boundaries; and

WHEREAS, the CWCOG retains qualified and experienced professional planning staff capable of providing such services; and

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. PURPOSE

- 1.1 The CWCOG agrees to perform and complete the work as described in Exhibit A – Scope of Work (hereinafter referred to as the "Work"), attached hereto and by this reference made a part of this Agreement.
- 1.2 The Agency agrees to reimburse the CWCOG for the Work as provided in Section 3 of this Agreement and as defined in Exhibit B – Compensation Rates, attached hereto and by this reference made a part of this Agreement.

2. CWCOG & AGENCY RESPONSIBILITIES

2.1 CWCOG RESPONSIBILITIES

- 2.1.1 The CWCOG shall provide experienced staff qualified to complete the Scope of Work and deliver the services as outlined in Exhibit A.

2.2 AGENCY RESPONSIBILITIES

- 2.2.1 The Agency shall provide direction, related and required documentation and data to CWCOG staff in order that they may satisfactorily complete the projects identified in Exhibit A – Scope of Work.

3. PAYMENT

- 3.1 The Agency, in consideration of the faithful performance of the services to be provided by the CWCOG as described in Exhibit A – Scope of Work, agrees to reimburse the CWCOG for actual direct and related indirect costs of the Work to a maximum, not-to-exceed amount of Four Thousand Three Hundred Fifty (\$4,350), as established in this Agreement.

- 3.2 The compensation rate for services to be provided by the CWCOG is marked Exhibit B – Compensation Rates, and is attached hereto and by this reference made a part of this Agreement.
- 3.3 Upon request of the CWCOG and upon the CWCOG’s submission to the Agency of invoices and supporting materials as deemed appropriate by the Agency, payment shall be made by the Agency to the CWCOG for expenses reasonably and necessarily incurred in performing the Work. The CWCOG shall request reimbursement from the Agency not more than one time per calendar month.
- 3.4 The CWCOG’s request for reimbursement to the Agency shall detail the Work accomplished during the current billing period, as well as a summary of the total costs billed to date. The invoice shall summarize all CWCOG staff time and expenses.
- 3.5 To ensure payment, the CWCOG shall email (preferred) or mail via United States Postal Service invoices and supporting materials to the appropriate contact in Section 6 of this Agreement.
- 3.6 The Agency shall make payment in full to the CWCOG within thirty (30) calendar days after its receipt of an appropriate invoice and approved supporting materials from the CWCOG.
- 3.7 If there is a change in the Scope of Work to be performed by the CWCOG that results in an increase in costs in excess of the maximum amount allowed under section 3.1 herein, the Parties shall enter into an amendment to this Agreement to document the change in scope and to increase the maximum amount reimbursable under this Agreement.
- 3.8 The CWCOG agrees to submit a final invoice to the Agency within sixty (60) calendar days after the CWCOG has completed the Work. At the time of final billing, all necessary adjustments will be made and reflected in the final payment. In the event that such final review or audit reveals overpayment to the CWCOG or under billings to the Agency, the CWCOG agrees to refund any overpayment to the Agency within thirty (30) calendar days after receipt of an invoice from the Agency and the Agency agrees to reimburse the under billed amount to the CWCOG within thirty (30) calendar days after the Agency’s receipt of an invoice.

4. AMENDMENT

This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and understandings, agreements, representations not contained in this Agreement shall not be binding on either Party. Either Party may request changes to the provisions of this Agreement. Such changes that are mutually agreed upon shall be incorporated by written amendment to this Agreement. No variation or alteration of the terms of this Agreement shall be valid unless made in writing and signed by authorized representatives of the Parties hereto.

5. TERM / TERMINATION

- 5.1 The term of this Agreement shall begin July 15, 2021 and terminate December 31, 2021, or earlier if agreed to in writing by the Parties, except as set forth below in this section. The term of this Agreement may be modified and continued by amendment for work beyond this date at the discretion of the Parties.
- 5.2 Either Party may terminate this Agreement at any time in the event the other Party fails to perform a material obligation of this Agreement or fails to perform any of the requirements of this Agreement, including, but not limited to, if either Party fails to make reasonable progress on the Work or other violation of this Agreement that endangers substantial performance of the Work. The Parties shall serve written notice of a Party’s intent to terminate this Agreement setting forth in detail the reasons for such termination. The Party receiving such notice of intent to

terminate shall be given the opportunity to remedy the default within fifteen (15) calendar days of receipt of such notice. If the default is not cured within the designated time period, this Agreement may be terminated immediately by written notice of the aggrieved Party to the other.

5.3 Either Party may terminate this Agreement for convenience and without cause upon thirty (30) days written notice to the other Party. The Agency shall pay in full for all services provided up to the date of termination of this Agreement.

6. PARTY CONTACTS

All contact between the Parties, including, but not limited to, Agreement administration, will be between the representatives of each Party or their designee as follows:

CWCOG	AGENCY
William A. (Bill) Fashing, Executive Director Email: bfashing@cwkog.org Financial/Contract Amendments Designee: Anisa Kisamore, CAO Email: akisamore@cwkog.org Planning/Scope of Work Designee: Ken Pearrow, Planner/GIS III Email: kpearrow@cwkog.org	Jennifer Brown, Chief Administrative & Financial Officer Email: jbrown@portoflongview.com Electronic Invoice Designee: Debbie Martin, Accounts Payable Specialist Email: dmartin@portoflongview.com
Cowlitz-Wahkiakum Council of Govts Administration Annex / 207 4 th Avenue N Kelso, WA 98626	10 International Way Longview, WA 98632
Telephone: (360) 577-3041 Facsimile: (360) 214-3425	Telephone: (360)425-3305 Facsimile: (360) 577-6529

7. NOTIFICATION

Any notice required pursuant to this Agreement shall be in writing and shall be sent postage prepaid by U.S. Mail, return receipt requested, to the individual(s) identified in Section 6 herein unless otherwise indicated in writing by the Parties to the Agreement.

8. INDEMNIFICATION

8.1 Each Party to this Agreement shall protect, defend, indemnify, and hold harmless the other Party, its officers, employees, and agents, while acting within the scope of their employment as such, from any and all costs (including reasonable attorneys' fees and costs), claims, judgments, and/or awards of damages (both to persons and/or property), arising out of, or in any way resulting from, each of the Party's own negligent acts or omissions with respect to the provisions of this Agreement. No party will be required to indemnify, defend, or save harmless the other Party if the claim, suit, or action for injuries, death, or damages (both to persons and/or property) is caused by the sole negligence of the other Party. Where such claims, suits, or actions result from the concurrent negligence of the Parties, the indemnity provisions provided herein shall be valid and enforceable only to the extent of the Party's own negligent acts or omission. Each Party

waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend, and hold harmless the other Party and its agencies, officials, agents, or employees.

8.2 The indemnification obligation described in this section shall survive the termination of this Agreement.

9. **DISPUTES**

The designated representatives herein under Section 6 of this Agreement shall use their best efforts to resolve disputes between the Parties. If these individuals are unable to resolve a dispute, the Parties shall agree upon a third party to provide non-binding mediation of the issue prior to institution of litigation. Each Party shall bear its own costs and one-half of the cost of the third-party mediator.

10. **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 superior court situated in the County of Cowlitz, State of Washington.

11. **ATTORNEY FEES & COSTS**

In the event a suit, or other proceeding of any nature whatsoever, including without limitation any proceeding under the U.S. Bankruptcy Code, is instituted, or the services of an attorney are retained to interpret or enforce any provision of this Agreement or with respect to any dispute relating to this Agreement, the prevailing party shall be entitled to recover from the losing party its attorneys', paralegals', accountants', and other experts' fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith. In the event of suit, action, arbitration, or other proceeding, the amount thereof shall be determined by the judge or arbitrator, and shall include fees and expenses incurred on any appeal or review, and shall be in addition to all other amounts provided by law.

12. **SEVERABILITY**

If any provision of this Agreement or its application is held invalid, the remainder of the Agreement or the application of the remainder shall not be affected.

13. **ASSIGNMENT**

Neither this Agreement nor any interest therein may be assigned by either Party without first obtaining the written consent of the other Party.

14. **NONDISCRIMINATION**

No person shall, on the grounds of race, creed, color, national origin, sex, sexual orientation, or handicapped condition, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under activities performed pursuant to this Agreement.

15. **RECORD RETENTION & AUDIT**

During the progress of the Work and for a period of not less than six (6) years from the date of final payment to the CWCOG, the records and accounts pertaining to the services under this Agreement and accounting thereof shall be kept available for inspection and audit by the Parties, City, State, and/or Federal Government, and copies of all records, accounts, documents, or other data pertaining to this Agreement will be furnished upon request. The Parties shall have full access to and right to examine and copy said records during normal business hours and as often as it

deems necessary. The Parties agree that the services performed herein are subject to audit by either or both Parties.

16. COPYRIGHTS

Copyright of all material created by the CWCOG and paid for with funds as a part of this Agreement shall be deemed the property of the Agency authored by the CWCOG. Either Party may use the material and permit others to use such for any purpose consistent with the Party's respective mission. This material includes, but is not limited to, documents, reports, books, videos, pamphlets, sound reproductions, photographs, studies, surveys, tapes, and training material. Materials used to perform the services and create the deliverables of this Agreement that are not created for or paid for through this Agreement shall be owned by such party as determined by law. The legal owner thereof hereby grants a perpetual, unrestricted, royalty free, non-exclusive license to the other party to use and to permit others to use for any purpose consistent with the respective mission of said material.

17. AUTHORIZED SIGNATURES

The undersigned acknowledge that they are authorized to execute this Agreement and bind their respective agencies to the obligations set forth herein.

18. COUNTERPARTS

This agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all such counterparts shall constitute one agreement.

(Signatures on next page)

IN WITNESS HEREOF, the Parties have subscribed their names hereto effective as of the year and date first written above.

**COWLITZ-WAHKIAKUM
COUNCIL OF GOVERNMENTS**



By: William A. Fashing
Its: Executive Director
Date: 7-20-2021

PORT OF LONGVIEW



By: Dan Stahl
Its: Chief Executive Officer
Date: 16 July 2021

ATTEST



By: Anisa Kisamore
Its: Chief Administrative Officer
Date: 07/20/21

ATTEST



By: Robin Johnson
Its: Executive Assistant
Date: 16 July 2021

**SCOPE OF WORK
FOR
PORT OF LONGVIEW REDISTRICTING COMMISSIONERS' BOUNDARIES**

1. WORK TASKS

The CWCOG shall complete redistricting of the Agency's commissioners' district boundaries in order to equalize the population as closely as possible across each district based on population data from the 2020 federal decennial census.

1.1 MAPPING

- 1.1.1 Map existing commissioners' boundaries and provide existing population estimates based on the 2020 Census Block data.
- 1.1.2 Work with Agency staff to realign boundaries to be as equally divided as possible using the 2020 Census population counts and considering where future growth will likely to occur.
- 1.1.3 Attend port commissioner meeting(s) to present the proposed redistricting boundary map along with a supporting report detailing the proposals' adherence to state requirements.

1.2 PUBLIC OUTREACH

- 1.2.1 CWCOG will prepare materials for a public hearing notice, complete a written report outlining the redistricting process, provide a resolution template for use by Agency commissioners in approving the new boundaries, and a map for use during the final public hearing presentation.

1.3. DELIVERABLE(S)

- 1.3.1 Materials for a Public hearing notice
- 1.3.2 Report outlining the redistricting process
- 1.3.3 Resolution template for use by the Agency commissioners in approving the new boundaries
- 1.3.4 Final map in printed and file geodatabase format with associated metadata for use in a geographic information system (GIS)
- 1.3.5 Participate in Port Commission Meeting and Public Hearing as needed on December 8

**COMPENSATION RATES
FOR
PORT OF LONGVIEW REDISTRICTING COMMISSIONERS' BOUNDARIES**

The following rates are applicable to the 2021 calendar year.

LEAD PLANNER:

<i>Position</i>	<i>Rate</i>
Ken Pearrow, Planner III/GIS	\$77.41