

**INTERLOCAL AGREEMENT BETWEEN  
COWLITZ COUNTY AND PORT OF LONGVIEW**

This agreement is entered into between Cowlitz County (County) and Port of Longview (Port) pursuant to the Interlocal Cooperation Act, chapter 39.34 RCW.

**I. PURPOSE**

The purpose of this agreement is for the County to provide Administrative or Engineering Services, Construction, and Maintenance services to the Port, and for the Port to provide Administrative or Engineering Services, Construction, and Maintenance services to the County.

**II. SERVICES**

The County shall provide labor, equipment, and materials for administrative or engineering services, construction, and maintenance of roads or facilities as requested by the Port and to the extent that the County providing the service has labor, equipment, and materials available for said service. The Port shall provide labor, equipment, and materials for administrative or engineering services, construction, and maintenance of roads or facilities as requested by the County and to the extent that the Port providing the service has labor, equipment, and materials available for said service.

An authorized signature from the requesting and providing department in each respective agency shall request and approve specific services during a calendar year in writing. The requests shall describe the services, the timing anticipated for the services, and the maximum dollar amount of the services. The total of all services provided from one agency to the other shall not exceed \$6,000.00 per calendar year.

**III. COMPENSATION**

The County and Port agree to compensate the other agency at the agency's actual cost for services rendered including overhead costs at the current rate in use by each agency, not to exceed 20% without written agreement of the agencies.

**IV. ADMINISTRATION**

This agreement will be administered by Cowlitz County. No new or separate legal or administrative entity is created to administer the provisions of this Agreement. Each party

accepts responsibility for compliance with federal, state, or local laws and regulations.

#### **V. INDEPENDENT CONTRACTOR**

The services provided under this agreement are those of an independent contractor. Employees of the County are and will remain employees of the County. Employees of the Port are and will remain employees of the Port.

#### **VI. INDEMNIFICATION**

The County shall hold harmless, indemnify, and defend the Port, its officers, officials, employees, volunteers and agents solely for third party claims relating to bodily injury, sickness or death, or real or personal property damage or destruction and the loss of use thereof, including costs and attorney's fees in defense thereof, caused by or arising out of the County's negligence in the performance of its obligations under this Agreement. It is further specifically and expressly understood that the indemnification provided herein constitutes the County's waiver of immunity under industrial insurance, Title 51 RCW, solely for the purpose of indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

The Port shall hold harmless, indemnify, and defend the County, its officers, officials, employees, volunteers and agents solely for third party claims relating to bodily injury, sickness or death, or real or personal property damage or destruction and the loss of use thereof, including costs and attorney's fees in defense thereof, caused by or arising out of the Port's negligence in the performance of its obligations under this Agreement. It is further specifically and expressly understood that the indemnification provided herein constitutes the Port's waiver of immunity under industrial insurance, Title 51 RCW, solely for the purpose of indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the concurrent negligence of the Port, its officers, officials, employees, volunteers and agents, and the County, its officers, officials, employees, volunteers and agents, then the Port's liability, including any duty and cost to defend, hereunder shall be only to the extent of the Port's negligence, and the County's liability, including any duty and cost to defend, hereunder shall be only to the extent of the County's negligence.

#### **VII. AMENDMENT**

The County and Port may mutually amend this Agreement. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind the County and Port.

## **VIII. CHOICE OF LAW AND VENUE**

This agreement will be governed by the laws of the State of Washington, both as to interpretation and performance. Any action at law, suit in equity or other judicial proceeding for the enforcement of this agreement may be instituted only in a court of competent jurisdiction in the State of Washington, County of Cowlitz. Failure of either Party to declare any breach or default by the other Party immediately upon the occurrence thereof, or delay in taking any action in connection with, shall not waive such breach or default. Time is of the essence of this Agreement and each and all of its provisions in which performance is a factor.

## **IX. INTEGRATION CLAUSE**

This instrument embodies the whole agreement of the parties. There are no promises, terms, conditions or obligations other than those contained in this agreement. This agreement supersedes all previous communications, representations or agreements, either oral or written, between parties.

Any provision of this Agreement which is declared invalid or illegal shall in no way effect or invalidate any other provision. In the event either of the parties defaults on the performance of any terms of this Agreement or either party places the enforcement of this Agreement in the hands of any attorney, or files a lawsuit, each party shall pay all its own attorneys' fees, costs and expenses.

## **X. TERMINATION CLAUSE**

This agreement shall continue until cancelled by either party. Either party may terminate this agreement by delivering notice of termination to the other party at least ninety (90) days in advance. If this Agreement is so terminated, the terminating party shall be liable only for performance in accordance with the terms of this Agreement for performance rendered prior to the effective date of termination.

## **XI. PROPERTY AND EQUIPMENT**

Upon termination or non-renewal of this agreement, all property purchased by the County in furtherance of this agreement shall remain the property of the County and all property purchased by Port in furtherance of this agreement shall remain the property of Port. All property shall be returned to its owner upon termination or non-renewal of this Agreement.

## **XII. DISPUTES**

In the event that a dispute arises under this Agreement, it will be resolved in the following manner: the County and Port will each individually appoint one member to a

Dispute Board and jointly appoint a third member. The Dispute Board will evaluate the dispute and make a determination of the dispute. The decision of the Dispute Board may be appealed to the Superior Court for *de novo* review.

**XIII. RECORDING**

As provided by RCW 39.34.040, this Agreement shall not take effect unless and until it has (i) been duly executed by both parties, and (ii) either filed or posted in accordance with the respective parties' Interlocal Agreement policies.

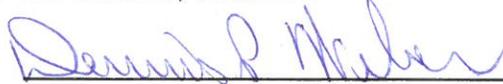
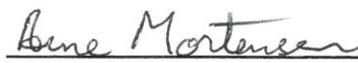
**XIV. TERM**

This agreement will take effect when executed by the parties, and will remain in effect unless terminated as provided herein. The parties have caused duplicate originals of this Agreement to be executed on the day and year the last signature hereto is affixed.

**PORT OF LONGVIEW**

By:   
Printed: Norm Krehbiel  
Title: Chief Executive Officer

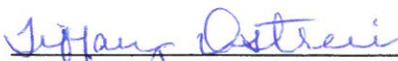
**BOARD OF COUNTY COMMISSIONERS  
OF COWLITZ COUNTY, WASHINGTON**

  
Joe Gardner, Chairman  
  
Dennis P. Weber, Commissioner  
  
Arne Mortensen, Commissioner

Dated this 9<sup>th</sup> day of August, 2017

Dated this 29<sup>th</sup> day of August, 2017

ATTEST:

  
Clerk of the Board



APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy Prosecuting Attorney

**INDIVIDUAL REQUEST FOR REIMBURSABLE WORK**  
**by**  
**COWLITZ COUNTY, WASHINGTON**  
**for**  
**PORT OF LONGVIEW, WASHINGTON**

**REQUEST:** It is requested that the following work be performed by Cowlitz County on a reimbursable basis:

Crack Seal Services at the Port of Longview and Willow Grove Park

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Desired completion date: \_\_\_\_\_ Total not to exceed: \$6,000.00 \_\_\_\_\_

The above described work will be accomplished under the terms and conditions of the INTERLOCAL AGREEMENT BETWEEN COWLITZ COUNTY AND PORT OF LONGVIEW to provide administrative or engineering services, construction, and maintenance services executed on August 9, 2017.

The Port of Longview further agrees to provide all necessary easements, permits and rights-of-way to accomplish the work.

**PORT OF LONGVIEW**

  
\_\_\_\_\_  
William Burton  
Director, Engineering/Facilities

17 August 2017  
Date Approved

**APPROVAL BY COWLITZ COUNTY:**

  
\_\_\_\_\_  
Authorized Signature

8-29-17  
Date Approved

Brad Bastin  
Printed Name

Director/County Engineer  
Title