

**INTERLOCAL AGREEMENT
FOR
PORT OF LONGVIEW GRANT ASSISTANCE**

THIS AGREEMENT is entered into by and between the Cowlitz-Wahkiakum Council of Governments, a municipal corporation (hereinafter referred to as “COG”), and the Port of Longview (hereinafter “Agency”), collectively the “Parties” and individually the “Party.”

RECITALS

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

WHEREAS, Agency seeks assistance for the research for and development of applications for grants from a variety of sources; and

WHEREAS, COG has the experience, expertise and personnel to assist the Agency with these tasks;

NOW, THEREFORE, pursuant to the Interlocal Cooperation Act, 39.34 RCW, and in consideration of the terms, conditions, covenants, and performances contained herein, or attached and incorporated and made a part hereof,

IT IS MUTUALLY AGREED AS FOLLOWS:

1. PURPOSE

1.1 COG agrees to perform and complete the work as described in Attachment A – Scope of Work (hereinafter referred to as “work”), attached hereto and by this reference made a part of this Agreement.

1.2 Agency agrees to reimburse COG for the work as provided in Section 3 of this Agreement and as defined in Attachment B – Compensation Rate, attached hereto and by this reference made a part of this Agreement.

2. COG and AGENCY RESPONSIBILITIES

2.1 COG RESPONSIBILITIES

2.1.1 Perform the tasks as outlined on Attachment A, Scope of Work.

2.1.2 COG shall provide a proposed detailed scope of work and defined budget for submittal to the Agency.

2.1.3 COG shall not begin work on individual grant applications until the detailed scope of work and budget are approved in writing by the Agency.

2.2 AGENCY RESPONSIBILITIES

- 2.2.1 Agency staff will be consulted by COG staff during the contract period to coordinate the research and development of grant applications to insure assistance meets the Agency's plans, programs and needs for grant assistance.
- 2.2.2 Agency shall provide direction to the COG to proceed with the preparation of an application, prior to work beginning.
- 2.2.3 Agency shall approve in writing both the Scope of Work and budget prior to any preparation work done on the part of the COG.

3. PAYMENT

3.1 Agency, in consideration of the faithful performance of the services to be provided by COG as described in Attachment A Scope of Work, agrees to reimburse COG for actual direct and related indirect costs of the work to a not-to-exceed maximum amount of \$29,670, as established in this Agreement.

3.2 The compensation rate for services to be provided by COG is marked Attachment B – Compensation Rates, and is attached hereto and by this reference made a part of this Agreement.

3.3 Upon request of COG and upon COG's submission to Agency of invoices and supporting materials as deemed appropriate by the Agency, payment shall be made by Agency to COG for expenses reasonably and necessarily incurred in performing the work. COG shall request reimbursement not more than one time per calendar month from Agency.

3.4 COG'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 COG staff time and expenses.

3.5 To ensure payment, COG shall mail via United States Postal Service invoices and appropriate supporting materials to:

Port of Longview
PO Box 1258
Longview, WA 98632

3.6 Agency shall make payment in full to COG within thirty (30) calendar days after its receipt of an appropriate invoice and appropriate supporting materials from COG.

3.7 If there is a change in scope of work to be performed by COG 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 COG agrees to submit a final invoice to Agency within sixty (60) calendar days after COG 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 COG or under billings to Agency, COG agrees to refund any overpayment to the Agency within thirty (30) calendar days after receipt of an invoice from Agency and Agency agrees to reimburse the under billed amount to COG within thirty (30) calendar days after Agency's receipt of an invoice.

4. AMENDMENT

4.1 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 February 1, 2012 and terminate December 31, 2012 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 intention 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

6.1 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:

COG	AGENCY
<i>Representative:</i> Steve Harvey Director	<i>Representative:</i> Ken O'Hollaren Executive Director
<i>Mailing Address:</i> 207 – 4 th Avenue North Kelso, WA 98626	<i>Mailing Address:</i> PO Box 1258 Longview, WA 98632
<i>Phone/Fax:</i> Telephone: (360) 577-3041 Facsimile: (360) 425-7760	<i>Phone/Fax:</i> Telephone: 360-425-3305 Facsimile: 360-425-8650
<i>Email Address:</i> steveharvey@cwco.org	<i>Email Address:</i> koholleran@portoflongview.com

7. NOTIFICATION

7.1 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 6.1 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. INSURANCE

9.1 Both parties agree to maintain General Liability Insurance, Automotive Liability Insurance and Worker's Compensation coverage for its respective employees.

10. DISPUTES

10.1 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.

11. VENUE

11.1 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.

12. ATTORNEY FEES and COSTS

12.1 In the event of 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.

13. SEVERABILITY

13.1 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.

14. ASSIGNMENT

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

15. NONDISCRIMINATION

15.1 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

16. RECORD RETENTION and AUDIT

16.1 During the progress of the work and for a period of not less than six (6) years from the date of final payment to COG, 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.

17. COPYRIGHTS

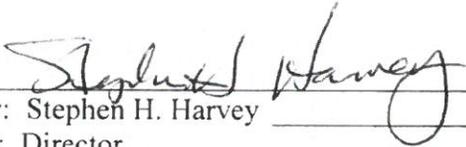
17.1 Copyright of all material created by COG and paid for with funds as a part of this Agreement shall be deemed the property of the Agency authored by COG. Either Party may use the material and permit others to use such for any purpose consistent with the Party's respective mission. This material includes, 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 said material.

18. AUTHORIZED SIGNATURES

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

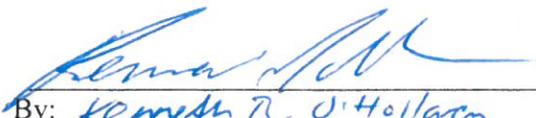
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the last date written below.

**COWLITZ-WAHKIAKUM
COUNCIL OF GOVERNMENTS**


By: Stephen H. Harvey _____
Its: Director _____

Date: 4/17/12

PORT OF LONGVIEW

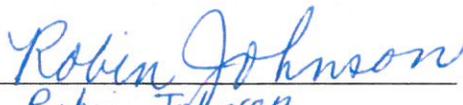

By: Kenneth B. O'Hollaren
Its: Executive Director

Date: 4/23/12

ATTEST


By: Anisa J Kisamore _____
Its: Office Administrator _____

Date: 04/17/12


By: Robin Johnson
Its: Executive Assistant

Date: 4-23-12

ATTACHMENT A

**SCOPE OF WORK
FOR
PORT OF LONGVIEW GRANT ASSISTANCE**

A1. OBJECTIVE

To assist the Port of Longview with grant research and, as directed, preparation of grant applications to a variety of funding sources.

A2. TASKS

1. Coordinate with port staff to identify the nature, type and projected timing of projects and programs for which grant sources are to be researched. These include but are not limited to handling storm water, waste water, fuels, buildings and other facilities (new, demolitions and improvements to existing as appropriate), roadways, rail facilities and equipment, feasibility studies, berth and related marine facilities and equipment, energy efficiency, technology, recreation facilities and features in coordination with other local governments, and measures to improve air quality in operations and facilities.

2. Undertake grant research, per coordination steps above, for federal, state and, if relevant, other sources of funds. Loan programs, as appropriate, will also be considered in this research. Likely sources are, but are not limited to the U.S. Department of Transportation (Federal Highway Administration, Federal Railroad Administration), U.S. Economic Development Administration and other departments of the Commerce Department, Federal Emergency Management Administration (FEMA) – Homeland Security, Environmental Protection Agency, U.S. Coast Guard, U.S. Department of Energy, Washington State Department of Commerce, Department of Ecology, Department of Health, Department of Transportation, Recreation and Conservation Office (in partnership with other local governments).

3. Advise staff of the characteristics, time frames and deadlines of potential grant sources.

4. Once the individual scope of work for a grant or loan is proposed and approved by the Port, prepare applications for grant and/or loan funds and assist with identifying and securing any letters of support needed or beneficial to the success of receiving funding.

5. At least quarterly update port staff via verbal, written and/or email correspondence on the progress and status of research, applications and related information., as requested, report to port staff and board of commissioners on the progress and status of research, applications and related information. At the request of staff, report to the Port Commission on the progress and status of research, applications and related information.

6. Other similar tasks as requested.

A3. DELIVERABLES

1. At a minimum, quarterly updates via verbal, written and/or email correspondence on grant and loan program availability.
2. Individual grant application scopes of work will define the specific deliverables required, but in general, will:
 - a. Provide application status updates once an application is underway via verbal, written, and/or email correspondence;
 - b. Provide succinct application drafts for port staff review;
 - c. Provide final complete application documents along with all associated and supporting application materials.

ATTACHMENT B

**COMPENSATION RATES
FOR
PORT OF LONGVIEW GRANT ASSISTANCE**

The following rates are applicable to the 2012 calendar year.

<i>Position</i>	<i>Rate Range</i>
Managing Planner	\$61.20-77.55
Senior Planner	\$63.15-64.50
Assistant Planner	\$53.15-59.60