

## 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 Cowlitz County Conservation District, hereinafter referred to as the "District," a political subdivision of the State 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 maintaining and improving flood control and wildlife habitat on the Columbia/Cowlitz River system; and

WHEREAS, the Parties have agreed that surplus untreated wood piling removed from the Port of Longview may benefit the Columbia/Cowlitz River system in various reuse scenarios and locations; and

WHEREAS, the Parties agree that the reuse of surplus untreated wood piling from the Port provides a mutual benefit to the Parties.

NOW, THEREFORE, the Parties agree as follows:

#### 1. SCOPE OF WORK

1.1 The Parties agree to facilitate coordination and transfer of removed untreated piling for use as the Parties determine are necessary to improve flood control and/or in-water habitat in the Columbia/Cowlitz River system.

#### 2. QUANTITIES AND SCHEDULE

2.1 This agreement does not obligate the Port to provide any number of piles or other materials in any quantities nor on any schedule.

#### 3. PROJECT COSTS

3.1 The Port agrees to provide labor and resources to remove piles, provide upland dressing to include cutting to the desired length, and to stockpile the piles for up to sixty (60) days after upland dressing activities.

3.2 The District agrees to provide labor and resources to pick up, transport, store, and place piles for use at Project sites. Once the piles are removed from Port real property, they are no longer the property of the Port.

3.3 Other than the above obligations related to Project Costs, no financial terms or budget are necessary or provided for in this Agreement. The Parties will be responsible for their own costs associated with this Agreement.

#### 4. COMMUNICATION

- 4.1 The Port agrees to notify the District when piles are available.
- 4.2 The District agrees to provide Project Information, including pictures and a written description of the Project, when piles are used as described Section 1 Scope of Work.
- 4.3 The Port may utilize Project information through public relations opportunities to promote environmental stewardship and local agency cooperation.

5. TERMS AND CONDITIONS

5.1 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.

5.2 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: Kara Metzger  
10 Port Way  
Longview, WA 98632  
[kmetzger@portoflongview.com](mailto:kmetzger@portoflongview.com)  
360-425-3305

To the District: Cowlitz County Conservation District  
Attn: Darin Houpt  
2125 8<sup>th</sup> Avenue  
Longview, WA 98632  
[ccddmgr@teamelect.com](mailto:ccddmgr@teamelect.com)  
360-425-1880

5.3 DURATION OF AGREEMENT

The term of this Agreement is force until December 31, 2020. Upon such, the Port and District have the option to renew, modify and renew, or not execute a future Agreement.

5.4 TERMINATION OF AGREEMENT

- 5.4.1 Either of the Parties may choose to terminate this Agreement by notifying the other in writing 30 days prior to termination as provided for herein.
- 5.4.2 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.
- 5.4.3 Upon termination of this agreement all piles retained by the Port on Port real property will remain in Port ownership, and all piles incorporated into a Project will remain part of that Project and owned by the owner of the Project.

5.5 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.

5.6 DISPUTES

The designated representatives herein under Section 4.2 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.

5.7 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.

5.8 RATIFICATION

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

5.9 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.

5.10 INDEMNIFICATION AND HOLD HARMLESS

- 5.10.1 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, suites, actions, judgement, 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 negligent acts or omissions of the other Party related to this Agreement.
- 5.10.2 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, and 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.
- 5.10.3 The Parties recognizes 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.

- 5.10.4 No liability shall attach to any of the Parties by reason of entering into this Agreement except as expressly provided herein.
- 5.10.5 The indemnification, hold harmless, and/or waiver obligation described in this Agreement in Section 5.10 shall survive the termination of this Agreement.

5.11 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.

5.12 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.

5.13 LEGAL RELATIONS

- 5.13.1 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 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.
- 5.13.2 Legal obligations. This Agreement does not relieve either Party of any obligation or responsibility imposed upon it by law.
- 5.13.3 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.

5.14 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.

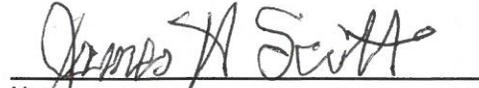
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement which shall be effective upon the date of recording.

PORT OF LONGVIEW

COWLITZ COUNTY CONSERVATION DISTRICT



Norman G. Krehbiel, PE  
Chief Executive Officer



Name  
Title

24 Sept. 2018  
Date

2 Oct. 2018  
Date

ATTEST

ATTEST



Robin Johnson  
Executive Assistant



Name  
Title District Auditor