

INTERLOCAL AGREEMENT

Draft of 9/20/21

Regarding

LICENSE FOR IMPOUND STORAGE LOT

Between

THE PORT OF CLARKSTON,
a Washington municipal corporation

and

THE CITY OF CLARKSTON,
a Washington municipal corporation.

**INTERLOCAL AGREEMENT
REGARDING
LICENSE FOR IMPOUND STORAGE LOT**

This **INTERLOCAL AGREEMENT REGARDING LICENSE FOR IMPOUND STORAGE LOT** (the "Agreement"), is made pursuant to Ch. 39.33 RCW, by and between the **PORT OF CLARKSTON**, a Washington municipal corporation (the "Port") and the **CITY OF CLARKSTON**, a Washington city (the "City"). The Port and the City are collectively known as the "Parties".

WHEREAS, the Parties are authorized to enter into this Agreement concerning a transfer of property rights between municipalities in accordance with RCW 39.33 *et seq.* on such terms and conditions as may be mutually agreed upon;

WHEREAS, the City has previously, and is currently, using an approximately fifty-by-fifty-foot (50' x 50') portion of Port property located at 100 14th Street N., Clarkston, WA 99403 (the "License Area"), for the temporary storage of vehicles the City impounded; and

WHEREAS, the City and Port desire to enter into this Agreement to memorialize their agreement concerning the terms and conditions surrounding the City's use of the License Area for the temporary storage of vehicles impounded by the City.

THEREFORE, for and in consideration of the mutual terms and conditions contained herein, the Parties hereby agree as follows:

1. **GRANT OF LICENSE.** Pursuant to RCW 39.33.010, the Port hereby grants a temporary license (the "License") to the City for the use of the License Area to temporarily store vehicles impounded by the City.

1.1 This License includes ingress and egress to the License Area.

1.2 The Port may move the License Area to another comparable area of Port property upon 30-days' advanced written notice to the City. Upon receipt of said notice, the City shall relocate any vehicles to the newly identified License Area.

1.3 Except as otherwise agreed to by the Port in writing, the City shall not store a specific vehicle in the License Area for more than four (4) months.

1.4 The City shall be responsible for compliance with applicable laws and regulations concerning its use of the License Area, including, without limitation, compliance with the requirements of Chapter 46.55 RCW - Towing and Impoundment.

2. **TERM AND TERMINATION.** This Agreement shall be effective when signed by the duly authorized governing bodies of the Port and the City and shall remain in full force and effect on a month-to-month basis, terminable by either Party upon 20-days' advance notice before the end of any month.

3. **INDEMNIFICATION.**

3.1 **City's Indemnification of the Port.** To the extent permitted by law, the City shall indemnify, save, defend, and hold harmless the Port, its Commissioners, officers, agents,

and employees from and against any and all claims, demands, judgments, losses, or liability for personal injury (including, without limitation, death) or property damage (collectively, "Claims") arising out of the City's use of the License Area or any willful misconduct or negligent act, error, or omission of the City, its officers, agents, or employees in connection with use of the License Area. The City's obligations under this section shall apply only to the extent of the negligence or willful misconduct of the City and shall not extend to Claims caused by, resulting from, or arising from the sole misconduct or sole negligence of the Port, its Commissioners, officers, agents, or employees.

3.2 Port's Indemnification of the City. To the extent permitted by law, the Port shall indemnify, save, defend, and hold harmless the City, its officers, agents, and employees from and against any and all Claims arising out of any willful misconduct or negligent act, error, or omission of the Port, its Commissioners, officers, agents, or employees in connection with the License Area. The Port's obligations under this section shall apply only to the extent of the negligence of willful misconduct of the Port and shall not extend to Claims caused by, resulting from, or arising from the sole misconduct or sole negligence of the City, its officers, agents, or employees.

3.3 LIMITED WAIVER OF IMMUNITY UNDER WASHINGTON STATE INDUSTRIAL INSURANCE ACT, TITLE 51 RCW AND OTHER SIMILAR INDUSTRIAL INSURANCE SCHEMES. FOR PURPOSES OF THE FOREGOING INDEMNIFICATION PROVISIONS, AND ONLY TO THE EXTENT OF CLAIMS AGAINST THE CITY BY THE PORT UNDER SUCH INDEMNIFICATION PROVISION, THE CITY SPECIFICALLY WAIVES ANY IMMUNITY IT MAY BE GRANTED UNDER THE WASHINGTON STATE INDUSTRIAL INSURANCE ACT, TITLE 51 RCW, THE UNITED STATES LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT, 33 USC §901-950, OR ANY OTHER SIMILAR WORKERS' COMPENSATION SCHEMES. THE INDEMNIFICATION OBLIGATION UNDER THIS LICENSE SHALL NOT BE LIMITED IN ANY WAY BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION, OR BENEFITS PAYABLE TO OR FOR ANY THIRD PARTY UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS, OR OTHER EMPLOYEE BENEFIT ACTS. THE FOREGOING PROVISION WAS SPECIFICALLY NEGOTIATED AND AGREED UPON BY THE PARTIES HERETO.

4. INSURANCE. The City shall procure and maintain, for the duration of the License, insurance against claims for injuries to persons or damages to property that may arise from, or in connection with, the City's use of the License Area as follows:

4.1 Commercial Liability Insurance. Commercial General Liability ("CGL") Insurance policy covering all claims for bodily injury (including, without limitation, death); property damage (including, without limitation, all real and personal property located on the License Area or Port's property); and personal and advertising injury arising from the License Area or Port's property as a result of or arising out of City's use of the License Area. The limits of liability shall be not less than One Million Dollars (\$1,000,000.00) for each occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to the License Area or the general aggregate limit shall be twice the required occurrence limit. The CGL policy shall be written on an occurrence basis with the insurer's duty to defend outside of the limits of the policy, meaning that the defense obligation does not erode the liability limits. The CGL coverage shall be at least as broad as Insurance Services Office ("ISO") Form CG 00 01. Coverage is to be placed with insurers authorized to conduct business in the State of Washington with a current A.M. Best's rating of no less than A: VII. The CGL policy shall provide coverage for damage to the Port's property caused by the City.

4.2 Pollution Legal Liability Remediation and/or Errors & Omissions. The City shall obtain Pollution Legal Liability and Remediation and/or Errors & Omissions coverage with a limit of no less than One Million Dollars (\$1,000,000.00) per claim or occurrence and Two Million Dollars (\$2,000,000.00) aggregate per policy period of one (1) year. This policy shall include coverage for bodily injury, property damage, personal injury, and environmental site restoration, including, without limitation, fines and penalties in accordance with applicable environmental laws and regulations. If the Pollution Legal Liability Remediation and/or Errors & Omissions coverages are written on a claims-made form, (i) the retroactive date must be shown and must be before the date of the Agreement; (ii) insurance must be maintained and evidence of insurance must be maintained for at least five (5) years after the termination of the License; (iii) if coverage is canceled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the License effective date, the City must purchase an extended period coverage for a minimum of five (5) years after the termination of the License; and (iv) a copy of the claims reporting requirements must be submitted to the Port for review.

4.3 Insurance Provisions. The insurance policies required above shall contain, or be endorsed to contain, the following provisions:

4.3.1 Additional Insured. The foregoing liability insurance policies shall name the Port as additional insured by way of a policy endorsement at least as broad as ISO Form CG 20 10. The defense and indemnification of the Port as an "additional insured" will not be affected by any act or omission by the City which might otherwise result in a forfeiture of said insurance.

4.3.2 Primary Coverage. For claims related to or arising from this License, the City's coverage shall be primary and non-contributory, and at least as broad as ISO CG 20 01 04 13 with respect to the Port, and its elected Commissioners, officials, employees, or agents.

4.3.3 Notice of Change or Cancellation. Each required insurance policy shall provide that coverage shall not be materially changed, amended, or canceled with respect to the Port except upon thirty (30) days' prior written notice from the insurance company to the Port.

4.3.4 Waiver of Subrogation. The City grants the Port, and its elected Commissioners, officials, employees, and agents, a waiver of any right to subrogation which any insurer of the City may acquire against the Port by virtue of the payment of any loss under such insurance. The City shall obtain any endorsement(s) that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether the Port has received such an endorsement from the insurer.

4.3.5 Separation of Insureds. The CGL policy shall contain a separation of insureds provision such that the policy applies separately to each insured that is subject of a claim or suit. The CGL policy shall not contain a cross-claim, cross-suit, or other exclusion that eliminates coverage by one insured against another.

4.3.6 Certificates and Policy Documents. If requested by the Port, the City shall provide certificates of insurance, policy declarations, and endorsement pages, and copies of any policy evidencing insurance compliant with this Section 4. Receipt of such documents by the Port does not constitute approval by the Port of the terms of such policy.

4.3.7 Higher Insurance Limits. If the City maintains broader coverage and/or higher limits than the minimums required in this Section 4, the Port requires, and shall be entitled to, the broader coverage and/or higher limits maintained by the City.

5. **COMPENSATION.** The Port considers the indemnification and insurance requirements of this Agreement, along with the other terms and conditions, true and full value for the City's use of the License Area. Accordingly, the Port requires no additional monetary consideration for the City's use of the License Area.

6. **SURVIVAL.** The City's obligations in Sections 3 and 4 of this Agreement survive the termination of the License and/or City's use of the License Area as provided for herein.

7. **DISPUTE RESOLUTION.** The Parties shall attempt to resolve all claims, disputes, and other matters in question arising out of or related to this Agreement, first through informal discussions and then through formal written notification and cure, before resorting to litigation.

8. **SEVERABILITY.** In the event any term or condition contained in this Agreement or application thereof to any person or circumstances is held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other term or condition hereof, and the parties will reasonably cooperate to modify this Agreement to achieve the purposes set forth herein.

9. **MODIFICATIONS.** This Agreement may be amended and modified by a written agreement signed by the Parties, in the same manner as the signing of the original Agreement.

10. **WAIVER.** No failure by the Parties to insist upon the strict performance of any term or condition of this Agreement, or to exercise any right or remedy upon a breach thereof, shall constitute a waiver or breach of any other term or condition of this Agreement.

11. **GOVERNING LAWS.** This Agreement and the rights of the Parties hereto shall be governed by and construed in accordance with the laws of the State of Washington.

12. **NO THIRD-PARTY BENEFICIARIES.** This Agreement is intended to be enforceable only by the Port and the City. There are no third-party beneficiaries to this Agreement.

13. **NOTICE.** The Parties designate the following individuals as their contact persons concerning this Agreement. All notices, demands, requests, consents, and approvals that may or are required by this Agreement shall be given in writing and directed to:

The Port: Executive Director
Chris Rasmussen
849 Port Drive
Clarkston, WA 99403

The City: Mayor
Monika Lawrence
829 Fifth Street
Clarkston, WA 99403

14. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts with the same effect as if the Parties had signed the same Agreement. All counterparts will be construed together and evidence only one Agreement. Signatures on the Agreement, or any other documents delivered in connection to the Agreement, may be sent by facsimile or e-mail transmission, and signatures on facsimile or e-mail copies have the same force and effect as original signatures. This Agreement and any other documents delivered in connection to the Agreement, may be electronically signed, and any electronic signature appearing on this Agreement or such other document shall have the same force and effect as handwritten original signatures.

15. **ENTIRE AGREEMENT.** This Agreement contains all terms and conditions agreed upon by the Parties on the issues covered by it, except as supplemented by subsequent written agreements the Parties make. All prior negotiations and draft written agreements are merged into and superseded by this Agreement. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind either of the Parties hereto.

16. **EXECUTION.** The persons signing below represent and warrant that they have the requisite authority to bind the Party on whose behalf they are signing.


IN WITNESS HEREOF, the Port and the City have caused this Agreement to be executed in their names and to be attested by their duly authorized officers this 8th day of January, 2025.

THIS LICENSE CONTAINS INDEMNIFICATIONS FROM THE CITY TO THE PORT, RELEASES BY THE CITY AND A LIMITED WAIVER OF IMMUNITY UNDER THE WASHINGTON STATE INDUSTRIAL INSURANCE ACT, TITLE 51 RCW, OR ANY OTHER SIMILAR WORKERS' COMPENSATION SCHEMES

PORT OF CLARKSTON

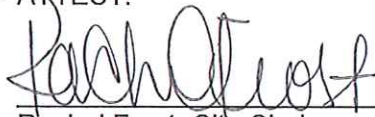
CITY OF CLARKSTON



Chris Rasmussen, Executive Director
Date: 1-8-25


Monika Lawrence, Mayor
Date: 1-8-25

ATTEST:

Beth Hason, City Attorney

ATTEST:

Rachel Frost, City Clerk

APPROVED AS TO FORM:

Suzanne Hason, City Attorney