

**INTERLOCAL COOPERATIVE AGREEMENT BETWEEN ASOTIN COUNTY AND  
THE PORT OF CLARKSTON  
FOR USE OF EQUIPMENT, REAL PROPERTY, AND/OR SERVICES**

THIS INTERLOCAL COOPERATIVE AGREEMENT BETWEEN ASOTIN COUNTY AND THE PORT OF CLARKSTON FOR USE OF EQUIPMENT AND/OR SERVICES (the "Agreement") is made and entered into by and between Asotin County (hereinafter "County") and the Port of Clarkston, (hereinafter the "Port") pursuant to the authority granted by Revised Code of Washington ("RCW") Chapter 39.34, INTERLOCAL COOPERATION ACT and Chapter 39.33 RCW, INTERGOVERNMENTAL DISPOSITION OF PROPERTY ACT.

**ARTICLE I  
AUTHORITIES**

WHEREAS, Chapter 39.34 RCW (short title: "Interlocal Cooperation Act") provides for any power or powers, privileges, or authority exercised or capable of exercise by any agency, political subdivision, or unit of local government of this state to be exercised and enjoyed jointly with any other public agency of this state, and jointly with any public agency of any other state or of the United States; and

WHEREAS, Chapter 39.33 RCW (short title: Intergovernmental Disposition of Property Act") provides for any municipality, or any political subdivision thereof, may sell, transfer, exchange, lease or otherwise dispose of any property, real or personal, or property rights, including, but not limited to, the title to real property, to the state or any municipality or any political subdivision thereof, or the federal government, or a federally recognized Indian tribe, on such terms and conditions as may be mutually agreed upon by the proper authorities of the state and/or the subdivisions concerned.

**ARTICLE II  
PURPOSE**

The purpose of this Agreement is to allow the parties to provide equipment, use of real property in the form of a temporary license, and/or services to the other party as agreed between the parties consistent with County and Port policies. The purpose advances the public interest by providing efficient use of governmental property and services between the parties to best serve their shared constituencies.

**ARTICLE III  
ADMINISTRATION**

The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party.

County's representative shall be the Public Works Director.  
Asotin County Public Works  
P.O. Box 160  
Asotin, WA 99402  
509-243-2074

The Port representative shall be the Port Executive Director.  
Port of Clarkston  
849 Port Way  
Clarkston, WA 99403  
509-758-5272

#### **ARTICLE IV DURATION AND RENEWAL OF AGREEMENT**

This Agreement shall be effective when executed by both parties for an initial term through December 31, 2026. After the initial term, this Agreement shall automatically renew annually on January 1st of each year for a one (1)-year term unless terminated by either party (the initial term, and any renewal terms, shall be referred to in this Agreement as the "Term"). This Agreement may be terminated by either party upon not less than thirty (30) days' prior written notice to the other party. Unless otherwise agreed to in writing by the parties, any project for which work has started upon shall be completed, and compensation provided per this Agreement, irrespective of the date of the written notice of termination provided by either party.

#### **ARTICLE V COMPENSATION**

Both parties agree to reimburse the other for the costs of the work performed or equipment rented and as described for each party below.

COUNTY. The costs of the work performed, real property licensed, or equipment rented from the County shall be based on actual cost as determined by County's current Equipment Revolving and Rental rate(s). Labor shall be based on the actual cost of labor, plus all costs for fringe benefits, including, but not limited to, Social Security, retirement, industrial insurance (Labor and Industries), prorated sick leave, holidays and vacation times, and group medical insurance. In addition, indirect costs shall be added for overhead expenses for accounting, billing, and administrative services at County's indirect rate used to bill for federal reimbursement. A certified statement of the costs shall be provided to the Port within thirty (30) days of service or equipment rental.

PORT. The costs of work performed, real property licensed, or equipment rented from the Port shall be based on the actual costs incurred by the Port as set forth in an invoice that includes copies for reasonable backup documents supporting the amounts set forth in the invoice or an amount otherwise agreed to in writing between the Port and County for the work to be performed, license or real property, or rented equipment.

The amount invoiced shall be paid to the party owed reimbursement within thirty (30) days of billing sent to the addresses identified in Article III of this Agreement or to such other address as directed by the party owed reimbursement.

## **ARTICLE VI PERFORMANCE OF AGREEMENT**

REQUESTS FOR SERVICES, EQUIPMENT, OR USE OF PROPERTY. During the Term of this Agreement, either party (the “requesting party”) may issue a written request (a “request”) to the other party (the “cooperating party”) seeking the cooperating party’s help to provide services, rent equipment, or license real property for temporary use (each an individual “request”). The cooperating party has sole and absolute discretion to determine whether to execute the request.

COMPLIANCE WITH ALL LAWS. Each party shall comply with all federal, state, and local laws, rules, regulations, and ordinances applicable to the performance of this Agreement, including, without limitation, all those pertaining to wages and hours, confidentiality, disabilities, and discrimination.

MAINTENANCE AND AUDIT OF RECORDS. Each party shall maintain books, records, documents, and other materials relevant to its performance under this Agreement. These records shall be subject to inspection, review, and audit by either party or its designee, and the Washington State Auditor’s Office. Each party shall retain all such books, records, documents, and other materials for the applicable retention period under federal and Washington law.

ON-SITE INSPECTIONS. Either party or its designee may conduct on-site inspections to determine whether equipment, real property, or personnel are being used in a manner consistent with this Agreement and with federal, state, and local laws, rules, regulations, and ordinances.

### SUPERVISION OF EMPLOYEES.

- A. In performing the services for the requesting party, the cooperating party shall be solely responsible for supervision, direction and discipline of the cooperating party’s employees’ performance, including, without limitation, supervision of both the services provided by such cooperating party employees and the means by which the services are accomplished. The cooperating party shall not have any authority to control or direct the requesting party’s employees.
  
- B. In the event the requesting party’s employees are working on the same project as the cooperating party’s employees, the requesting party shall be solely responsible for supervision, direction and discipline of the requesting party’s employees’ performance on the project. Neither party shall have the authority to direct or control the actions of the other party’s employees.

EMPLOYEE BENEFITS AND WITHHOLDINGS. Each party shall be responsible for the following with regard to its own employees, even when the cooperating party's employees are performing services at the request of the requesting party:

- A. Administration of payment of all salaries, wages, and other forms of compensation due to each party's own employees.
- B. Compliance with all rules and regulations governing reporting, payment, and withholding of federal and state taxes imposed with respect to each party's own employees, including, but not limited to:
  - i. Federal income tax withholding;
  - ii. State and local income tax withholding;
  - iii. Federal Insurance Contributions Act ("FICA") and Medicare tax withholding, as well as the employer component of FICA and Medicare tax;
  - iv. Federal Unemployment Tax Act ("FUTA") obligations; and
  - v. Applicable state unemployment tax obligations.
- C. Compliance with applicable workers' compensation laws applicable to each party's own employees.
- D. Compliance with union/labor agreements applicable to each party's own employees.

LICENSES. If either party's request is for a license to use the other party's real property, the following provisions shall apply:

- A. The parties acknowledge that the license authorizes the requesting party only temporary use of the identified real property for the purposes stated in the request (the "authorized use") for the time period stated in the request. If no period of time is stated in the request, then the license shall terminate at the conclusion of the authorized use or upon written notice from the cooperating party to the requesting party. It is a breach of this Agreement if the requesting party conducts activities other than the authorized use(s) in stated in the license.
- B. The requesting party shall restore the property of the cooperating party to the condition it was in prior to the commencement of the authorized use at the end of the license period.
- C. The cooperating party reserves the right, privilege, and authority to use the licensed property for any purposes that do not otherwise interfere with authorized use of the requesting party.

NOTICE. Except as set forth elsewhere in this Agreement, except for service of process, notice to County shall be to the Public Works Director, P.O. Box 160, Asotin, WA 99402, and to the Asotin County Board of Commissioners, P.O. Box 250, Asotin, WA 99402. Notice to Port for all purposes under this Agreement shall be to the Port of Clarkston Executive Director, 849 Port Way, Clarkston, WA 99403.

## **ARTICLE VII INDEMNIFICATION**

To the extent permitted by law, each party agrees to and shall defend, indemnify, and hold harmless the other party, its appointed and elective officials, agents and employees, successors, designees, and assigns from and against any and all claims, penalties, demands, causes of action, liabilities, damages, losses, or expenses arising out of or in connection with the actions of that party under this Agreement. This defense and indemnification provision includes, but is not limited to, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon such party, its elected or appointed officials, agents or employees successors, designees and assigns, including for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to the property including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of a party, its elected officers, employees, agents, successors, designees or assigns. However, the defense and indemnification requirement in this section shall not apply to any claims or causes of action to the extent that the damages were caused by the negligent or wrongful conduct of the indemnified party. It is further provided that no liability shall attach to either party by reason of entering into this Agreement, except as expressly provided herein. In the event of joint liability, this defense and indemnification shall only apply to the percentage fault of the indemnifying party.

**FOR PURPOSES OF THE FOREGOING INDEMNIFICATION PROVISION ONLY, AND ONLY TO THE EXTENT OF CLAIMS AGAINST ON PARTY BY THE OTHER UNDER SUCH INDEMNIFICATION PROVISION, THE PARTIES SPECIFICALLY WAIVE ANY IMMUNITY THEY MAY BE GRANTED UNDER THE WASHINGTON STATE INDUSTRIAL INSURANCE ACT, TITLE 51 RCW. THE INDEMNIFICATION OBLIGATION UNDER THIS AGREEMENT 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.**

Each party agrees to maintain One Million Dollars (\$1,000,000.00) in commercial general liability insurance.

## **ARTICLE IX DISPUTES**

GOVERNING LAW AND VENUE. This Agreement shall be governed exclusively by the laws of the State of Washington. The Asotin County Superior Court shall be the sole proper venue for any and all suits brought to enforce or interpret the provisions of this Agreement.

DISPUTES. Any dispute will be first discussed between the Public Works Director, or their delegate, and a third party chosen by the parties to see if a resolution can be reached. This group may suggest mediation.

MEDIATION. The parties may engage in mediation at any time to resolve disputes. The site of any non-judicial hearing or action, of whatever nature or kind regarding this Agreement, will be conducted in Asotin, Washington, unless otherwise agreed by the parties.

ATTORNEYS' FEES. If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, each party shall pay its own attorney's fees incurred in that action, mediation, or other proceeding.

#### **ARTICLE X**

#### **NO SEPARATE LEGAL ENTITY, NO JOINT FINANCING REQUIRED OR BUDGET REQUIRED, NO PERSONAL OR REAL PROPERTY WILL BE ACQUIRED**

The parties specify that it is not the intent of this Agreement to create any separate legal entity or a joint entity between the parties. It is not the parties' intent that there will be any financing of joint or cooperative undertaking, or to establish any budget. It is not the intent of the parties to acquire, hold, or dispose of any joint personal or real property pursuant to this Agreement. The parties hereto are independent municipal corporations. Except for the specific terms in this Agreement, nothing herein shall be construed to limit the discretion of the governing bodies of each party. The parties shall not be liable for the acts or omissions of the other party, and/or their respective public officials, employees, or agents.

#### **ARTICLE XI**

#### **GENERAL PROVISIONS**

CHANGES, MODIFICATIONS, AMENDMENTS, AND WAIVERS. The Agreement may be changed, modified, amended, or waived only by written agreement signed by the parties' authorized representatives and adopted by resolution of each party's legislative authority. Any waiver of a term or condition of this Agreement shall apply only to the specific act, occurrence, or omission and shall not constitute a waiver as to any other term or condition or future act, occurrence, or omission. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

ASSIGNMENT. Neither party may assign its rights or delegate its duties under this Agreement, whether by assignment, further subcontract, or other means. Any such attempted assignment or delegation shall be void and shall constitute a material breach of this Agreement.

NO WAIVER. No failure by either party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement, or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach, or any other covenant, agreement, term, or condition. Either party hereto, by notice, and only by notice as provided herein, may, but shall be under no obligation to, waive any of its rights or any conditions to its

obligations hereunder, or any duty, obligation, or covenant of the other party hereto. No waiver shall affect or alter this Agreement, and each and every covenant, agreement, term, and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

COUNTERPARTS. This Agreement may be executed in any number of counterparts, and each such executed counterpart shall be deemed to be an original instrument, but all such executed counterparts together shall constitute one (1) and the same instrument. Any signature page delivered by facsimile or electronic image transmission shall be binding to the same extent as an original signature page. Any party that delivers a signature page by facsimile or electronic image transmission shall deliver an original counterpart to any other party that requests such original counterpart.

NEUTRAL AUTHORSHIP. Each of the provisions of this Agreement has been reviewed, negotiated, and represents the combined work product of the parties. No presumption or other rules of construction that would interpret the provisions of this Agreement in favor of or against the party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Agreement.

SEVERABILITY. In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this end, the terms and conditions of this Agreement are declared severable.

ENTIRE AGREEMENT. This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

FILING. This Agreement shall be filed pursuant to RCW 39.34.040.

IN WITNESS THEREOF, the parties have executed this agreement this 8 day of June, 2026.

APPROVED:

ASOTIN COUNTY BOARD OF COMMISSIONERS

**Absent**

Chris Seubert, Chairman

IN WITNESS THEREOF, the parties have executed this agreement this 16 day of June, 2026.

APPROVED:

PORT OF CLARKSTON

  
Mark Brigham, Commissioner

  
\_\_\_\_\_  
Brian Shinn, Vice Chair

  
\_\_\_\_\_  
Dayna Weatherly-Wilson, Commissioner

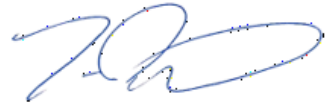
  
\_\_\_\_\_  
Charles Whitman, Member

  
\_\_\_\_\_  
Jay Backus, Commissioner


ATTEST:

APPROVED AS TO FORM:

By:   
\_\_\_\_\_  
Tara Sanchez, Clerk of the Board

By:   
\_\_\_\_\_  
Timothy D. Schermetzler  
Attorney Port of Clarkston  
WSBA #49737

APPROVED AS TO FORM:

By:   
Curt L. Liedkie  
Prosecuting Attorney  
WSBA#3037