

WHEN RECORDED RETURN TO:

Richland City Clerk
625 Swift Boulevard, MS-07
Richland, WA 99352

INTERLOCAL COOPERATIVE AGREEMENT
Between
THE CITY OF RICHLAND AND THE PORT OF BENTON
Re: 2021 Derailment Damage Repair Project

THIS INTERLOCAL COOPERATIVE AGREEMENT is entered into this 26th day of January, 2022 (the “Effective Date”), by and between the **City of Richland**, a Washington municipal corporation (hereafter “Richland” or “City”), and the **Port of Benton**, a political subdivision of the state of Washington (hereafter “the Port”). Richland and the Port are also herein referred to individually as a “Jurisdiction” and collectively as “the Jurisdictions.”

I. 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 localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, pursuant to RCW 39.34.080, each Jurisdiction is authorized to contract with any one or more public agencies to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform; provided that such contract shall be authorized by the governing body of each Jurisdiction to the contract and shall set forth its purposes, powers, rights, objectives and responsibilities of the contracting parties; and

WHEREAS, the Port has prepared a 2021 Derailment Damage Repair Project contract to perform rail repairs on a portion of Port railroad track; and

WHEREAS, the City has need to replace railroad ties on City-owned railroad track, and has an inventory of 300 rail ties to be used for replacement of rail ties that have little or no service life remaining; and

WHEREAS, the City’s program is small in comparison to the Port’s program; and

WHEREAS, the Jurisdictions have determined that including the City's 2022 rail tie replacements into the Port's 2021 Derailment Damage Repair contract serves the best interests of both Jurisdictions and the public; and

WHEREAS, the Jurisdictions, by their respective governing bodies, have determined this effort may be best implemented on a shared basis in a manner deemed most efficient and effective for the Jurisdictions.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Jurisdictions agree as follows:

II. AGREEMENT

Section 1. Purpose and Scope of Work: The purpose of this Agreement is to assist the City in preserving portions of City-owned rail located north of SR-240 and west of Stevens Drive in north Richland by replacing rail ties as marked in situ. Such preservation is for the benefit of all citizens and rail freight of Richland.

Section 2. Administration: The Port Executive Director or designee will administer this Agreement, and will be responsible for:

- a. Establishing policies for implementing this Agreement;
- b. Providing periodic progress reports to the elected officials of each Jurisdiction; and
- c. Monitoring progress of the Jurisdictions and other agencies in the fulfillment of their respective responsibilities.

Section 3. Funding: The City of Richland hereby commits to provide funding as set forth below:

- a. Contract work (including 10% contingency): \$ 75,000
- b. Contract administration/inspection: 3% of the City contract work value

This funding shall be used for the Project construction listed in the Bid Tabulations under Schedule B per the 2021 Derailment Damage Repair Project contract documents.

- c. The City of Richland will provide its own rail ties located at the City of Richland north storage yard and a storage location adjacent to Lineage Logistics facility for pick up by the contractor.

Section 4. Development and Bid Award Requirements: Each Jurisdiction hereby commits to the following:

- a. By January 7, 2022, the Port will include the City's rail tie replacements and generate biddable construction plans.
- b. January 16, 2022, the Port will advertise the project for bids.
- c. On or about February 8, 2022, the Port will open bids.
- d. The Port will provide the City with a copy of the bid results. If the total cost of Schedule B work is at or below \$75,000, the Port will proceed to award the project contract in accordance with Port process requirements. If the total cost of Schedule B work is higher than \$75,000, the City will review the bid received for Schedule B and notify Port in writing by February 18, 2022 if the bid is

acceptable for award.

The scheduled action completion dates identified in Section 4. may be adjusted by the parties to add up to sixty (60) days without written amendment to this Agreement. Adjustments to the scheduled action completion dates that are greater than sixty (60) days require written amendment to this Agreement, which may be executed administratively without further legislative action.

Section 5. Modification: Excepting the provisions in Section 4 above, amendments to this Agreement must be in writing and executed by the duly authorized representative for each Jurisdiction. Said amendments may be executed without further legislative body action.

Section 6. Term of Agreement and Termination:

- a. The term of this Agreement, commencing on the Effective Date, shall become effective on full execution hereof, and upon posting on at least one Jurisdiction's website as provided in RCW 39.34.040. Either Jurisdiction may choose to record this Agreement at its own expense, but recordation is not required.
- b. This Agreement shall expire on the date of completion of the Project.

Section 7. Inspection of Records: The records and documents with respect to all matters covered by this Agreement shall be subject to inspection by any Jurisdiction during the term of this Agreement, and shall be maintained thereafter in accordance with the retention schedule established by the State of Washington for municipal records.

Section 8. No Separate Legal Entity: By this Agreement, the Jurisdictions do not intend to form a separate legal entity to conduct the cooperative undertaking. Further, no acquiring, holding or disposing of real or personal property will occur under this Agreement.

Section 9. Severability: In the event any term or condition of this Agreement or application thereof to any person, entity or circumstance is held invalid, such invalidity shall not affect any 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.

Section 10. Venue, Applicable Law and Personal Jurisdiction: All questions related to this Agreement shall be resolved under the laws of the State of Washington. In the event that either Jurisdiction deems it necessary to institute legal action arising from this Agreement, such action shall be instituted in Benton County Superior Court.

Section 11. Authority To Execute: Each person executing this Agreement on behalf of another person, corporation, partnership, company, or other organization or entity represents and warrants that he or she is fully authorized to so execute and deliver this Agreement on behalf of the entity for which he or she is signing. The Jurisdictions hereby warrant to each other that each has full power and authority to enter into this Agreement and to undertake the actions contemplated herein, and that this Agreement is enforceable in accordance with its terms.

Section 12. Counterpart Originals: Execution of this Agreement and any amendment or other document related to this Agreement may be by electronic signature and in any number of counterpart originals, including portable document format (.pdf), each of which shall be deemed to constitute an original agreement, and all of which shall constitute one whole agreement.

[Signature Page to Follow]

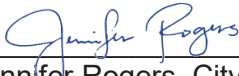
IN WITNESS WHEREOF, the Jurisdictions have entered into this Agreement as of the day and year first written above.

CITY OF RICHLAND



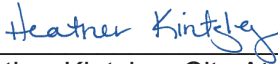
Jon Amundson, ICMA-CM
City Manager

Attest:



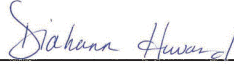
Jennifer Rogers, City Clerk

Approved as to form:



Heather Kintzley, City Attorney

PORT OF BENTON



Diahann Howard, Executive Director

Attest:

By: _____

Approved as to form:



David Billetdeaux, Port Counsel

RESOLUTION NO. 2022-06

**A RESOLUTION OF THE CITY OF RICHLAND, WASHINGTON,
AUTHORIZING AN INTERLOCAL COOPERATIVE AGREEMENT
WITH THE PORT OF BENTON REGARDING THE 2022 RAIL TIE
REPLACEMENT PROJECT.**

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 localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, pursuant to RCW 39.34.080, each Jurisdiction is authorized to contract with any one or more public agencies to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform; provided that such contract shall be authorized by the governing body of each Jurisdiction to the contract and shall set forth its purposes, powers, rights, objectives and responsibilities of the contracting parties; and

WHEREAS, the Port of Benton has prepared a 2021 Derailment Damage Repair Project contract to perform rail repairs on a portion of Port of Benton railroad track; and

WHEREAS, the City has need to replace railroad ties on City-owned railroad track, and has an inventory of 300 rail ties to be used for replacement of rail ties that have little or no service life remaining; and

WHEREAS, the City's program is small in comparison to the Port of Benton's program; and

WHEREAS, including the City's 2022 rail tie replacements with the Port of Benton's 2021 Derailment Damage Repair contract serves the best interests of both Jurisdictions and the public; and

WHEREAS, the Jurisdictions, by their respective governing bodies, have determined this effort may be best implemented on a shared basis in a manner deemed most efficient and effective for the Jurisdictions.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Richland that the City Manager is authorized to sign and execute an interlocal agreement with the Port of Benton related to the 2022 Rail Tie Replacement project.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately.

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ADOPTED by the City Council of the City of Richland, Washington, at a regular meeting on the 4th day of January, 2022.


Michael Alvarez, Mayor

Attest:


Jennifer Rogers, City Clerk

Approved as to Form:


Heather Kintzley, City Attorney