

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: Street Maintenance

THIS INTERLOCAL COOPERATIVE AGREEMENT is entered into this 13th day of April, 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 “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 City of Richland prepares and executes an annual pavement preservation program to extend the service life of the city streets; and

WHEREAS, the Port of Benton owns, operates and maintains a system of streets servicing its properties; and

WHEREAS, the Port of Benton owns, operates and maintains the Richland airport which includes asphalt pavement requiring similar maintenance as the Port’s streets; and

WHEREAS, the Port’s streets and airport maintenance programs are small in comparison to the City’s program; and

WHEREAS, the Jurisdictions, by their respective governing bodies, have determined that street and airport maintenance work 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 Port of Benton in preserving portions of Port-owned streets and its airport by adding Port work to the City Pavement Preservation Program when Port or City staff determine this approach to be in each Jurisdiction's best interest.

Section 2. Administration: The Richland City Manager or designee and the Port Executive Director or designee will administer this Agreement on behalf of each Party, 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: For each project, City shall be designated as the lead agency and assume the role of issuing a contract for the work consistent with City's procurement processes or performing work with its own labor force and equipment. Port shall be designated the participating jurisdiction. Each party shall be responsible for fully funding the work performed on its own facilities. In addition, Port shall pay reasonable costs for project development and construction management when those functions are performed by City or City's contractors. Reasonable project development and construction management costs shall be based on documented actual costs or estimates based on similar projects conducted by City.

Section 4. Development and Bid Award Requirements: Each Jurisdiction hereby commits to the following with respect to work to be completed by contract:

- a. At least ninety (90) calendar days before advertising for bids for maintenance work under City's Pavement Preservation Program, City will notify Port and offer participation in the project.
- b. Port shall notify City no later than forty-five (45) calendar days after notification of its intent to participate.
- c. Port shall identify its proposed scope of work and funding capacity no later than sixty (60) calendar days after City's notification.
- d. City shall include Port's scope of work in its bid documents. Port's scope of work may be presented as a bid alternate to preserve City's decision-making flexibility with regard to executing the work.
- e. City shall share the bid results with Port within two (2) business days of the bid opening.
- f. Based on review of the bid results, Port shall, within two (2) business days, provide written correspondence directing City to either award the contract to include their scope of work, or to exclude their scope of work from the contract award. Written direction to award Port's scope of work shall constitute a firm commitment to pay City for all associated costs for Port's work.
- g. The City shall issue regular invoices and supporting documentation to Port, but no more frequently than once per month.

- h. Port shall promptly pay invoices for its scope of work and supporting project development and construction management costs.
- i. City shall notify Port of significant project meetings, such as pre-construction meetings and any meetings to negotiate significant project changes involving Port's scope of work.
- j. City shall notify Port when Port's scope of work is complete to enable a final inspection by Port.
- k. Port shall notify City of its acceptance of the work or of any required corrections to the work within ten (10) business days of City's notification.
- l. The jurisdictions shall cooperate to achieve successful resolution of any deficiencies identified in the work. In the event of a dispute about the compliance of the work with the contract terms, City shall retain full authority to administer the close out process of its contract.

Section 5. Additional Provisions Regarding Work Performed by City of Richland. Each jurisdiction commits to the following with respect to work completed by City of Richland staff and equipment for Port of Benton:

- a. Upon receipt of a request from Port for City services, the City Public Works Department will determine its availability after considering the potential impact to City needs. If City determines that staff and equipment can support Port's requested work, City will notify Port of that determination within thirty (30) calendar days of receipt of the request.
- b. Port shall be responsible for planning, scheduling, and provision of necessary site safety and logistical support needed by City staff.
- c. City will prepare an invoice for the work performed using its standard labor, equipment and overhead rates.
- d. Port shall pay City's invoice in a timely manner.
- e. The jurisdictions shall cooperate to achieve successful resolution of any deficiencies identified in the work. Port waives any right to recover damages or to require a warranty for work or materials provided by City.

Section 6. Modification: Amendments to this Agreement must be in writing and executed by the duly authorized representative for each Jurisdiction. Said amendments may be executed by the Richland City Manager and Port of Benton Executive Director without further legislative action.

Section 7. 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 may be terminated upon thirty (30) calendar days' written notice of either party. Termination of this Agreement shall not void or alleviate the terminating party's obligations for work in progress or under executed contract at the time notice of termination is given.

Section 8. Disclaimer/No Liability

Neither party shall be liable to the other for the quality or timeliness of work performed by any contractor procured under this Agreement.

Section 9. 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 10. 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 11. 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 12. 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 13. 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 14. 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]

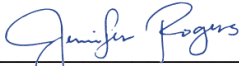
IN WITNESS WHEREOF, the Jurisdictions have entered into this Agreement as of the day and year first written above.

CITY OF RICHLAND



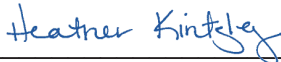
Jon Amundson, ICMA-CM
City Manager

Attest:



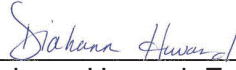
Jennifer Rogers, City Clerk

Approved as to form:



Heather Kintzley, City Attorney

PORT OF BENTON



Diahann Howard, Executive Director

Attest:



By: Sheri Collins

Approved as to form:



David Billetdeaux, Port Counsel

RESOLUTION NO. 2022-30

**A RESOLUTION OF THE CITY OF RICHLAND, WASHINGTON,
AUTHORIZING AN INTERLOCAL AGREEMENT WITH THE
PORT OF BENTON FOR STREET AND AIRPORT MAINTENANCE.**

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, thereby providing 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 City of Richland prepares and executes an annual Pavement Preservation Program (the “Program”) to extend the service life of the city streets; and

WHEREAS, the Port of Benton owns, operates and maintains a system of streets servicing its properties; and

WHEREAS, the Port of Benton owns, operates and maintains the Richland Airport, which includes asphalt pavement requiring similar maintenance as the Port of Benton’s streets; and

WHEREAS, the Port of Benton’s streets and airport maintenance programs are small in comparison to the City’s Program; and

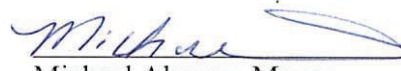
WHEREAS, the Jurisdictions, by their respective governing bodies, have determined that street and airport maintenance work may be best implemented on a shared basis in a manner deemed most efficient and effective for each Jurisdiction.

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 regarding street and airport maintenance.

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 5th day of April, 2022.


Michael Alvarez, Mayor

Attest:


Jennifer Rogers, City Clerk

Approved as to Form:


Heather Kintzley, City Attorney