

WHEN RECORDED RETURN TO:

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

Contract No. 331-24

INTERLOCAL COOPERATIVE AGREEMENT

Between

CITY OF RICHLAND AND PORT OF BENTON

Re: Steptoe Street and Taptéal Drive Intersection Improvements

THIS INTERLOCAL COOPERATIVE AGREEMENT is entered into this 15th day of August, 2024 (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” or “Party” and collectively as “the Jurisdictions” or “the Parties”.

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, City owns and operates Steptoe Street, which hosts the Port’s railroad track and at-grade rail crossing system crossing Steptoe Street; and

WHEREAS, a proposed intersection improvement project at Steptoe Street and Tapteal Drive (the "Project") will make modifications to an at-grade city street crossing of the Port's railroad track; and

WHEREAS, RCW 81.53.060 requires that the City file a petition with the Washington State Transportation and Utilities Commission (WUTC) and receive approval prior to beginning construction of the Project; and

WHEREAS, the WUTC administrative process requires input from railroad companies operating on Port railroad, and the Class I railroad companies who participate in review of the Project will require compensation; and

WHEREAS, the Jurisdictions agree that the Project provides mutual benefit; and

WHEREAS, the Jurisdictions, by their respective governing bodies, have determined that the WUTC petition and cooperation with the railroads will 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: 1) enable the Jurisdictions to combine resources to develop a WUTC petition and engage in the requisite hearing process related to the Project; and 2) share in costs associated with Class I railroad review of the Project.

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. Party Assignments & Funding: City is designated as the lead agency and assumes the role of Petitioner in the WUTC process. City is also responsible for establishing and managing a contract with the Class I railroads for Project review. The Port is a participating agency responsible for providing timely information to City throughout the process. Each Jurisdiction is responsible for funding the work performed by its own staff. City and the Port shall each be responsible for fifty percent (50%) of the cost of work associated with this agreement, except Port's contribution will not exceed \$27,733 recognizing its previous investment of \$72,267 toward this crossing.

Section 4. WUTC Process and Class I Railroad Review Contract Requirements:

Each Jurisdiction hereby commits to the following with respect to work to be completed under this Agreement:

- a. City shall be the Petitioner and lead agency related to the WUTC petition and hearing process.
- b. The Port shall provide reasonable staff resources to support City's petition and the WUTC hearing process.
- c. Prior to execution, City shall provide the Port with the Class I railroad review contract for review.
- d. The Port shall review contract terms and notify the City of acceptance of contract terms within five (5) business days of receipt. Written direction of acceptance shall constitute a firm commitment to pay City for the Port's share of the contract work.
- e. City shall provide the Port with the fully executed agreement with the Class I railroads prior to commencing work under the agreement.
- f. City will issue invoices and supporting documentation to the Port on a regular basis, but no more frequently than once per month.
- g. The Port shall pay invoices within thirty (30) calendar days of receipt.
- h. City shall notify the Port of Project-related meeting/hearings with the Class I railroads or the WUTC.

Section 7. 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 8. 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. The duration of this Agreement shall be from the Effective Date to the earlier of the date of the Project's completion or December 31, 2026. 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 if the Project is abandoned, or upon mutual agreement of the Parties. 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 9. 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 10. 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 11. 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 12. 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 13. 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 14. 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 15. 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, City Manager

Attest:




Jennifer Rogers, City Clerk

Approved as to form:



Heather Kintzley, City Attorney

PORT OF BENTON



Diahann Howard, Executive Director

Attest:



Jeff Lubeck, Director of Finance

Approved as to form:



John O'Leary, Port Counsel

RESOLUTION NO. 2024-83

**A RESOLUTION OF THE CITY OF RICHLAND, WASHINGTON,
AUTHORIZING AN INTERLOCAL AGREEMENT WITH THE
PORT OF BENTON FOR STEPTOE STREET AND TAPTEAL
DRIVE INTERSECTION IMPROVEMENTS.**

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 owns and operates Steptoe Street, which hosts the Port of Benton’s railroad and at-grade crossing system crossing Steptoe Street; and

WHEREAS, a proposed intersection improvement project at Steptoe Street and Tapteal Drive (the “Project”) will make modifications to an at-grade city street crossing of the Port’s railroad; and

WHEREAS, RCW 81.53.060 requires that the City file a petition with the Washington Utilities and Transportation Commission (WUTC) and receive approval prior to beginning construction of the Project; and

WHEREAS, the WUTC administrative process requires input from railroad companies operating on the Port of Benton railroad, and the Class I operating railroad companies require compensation for their review of the Project; and

WHEREAS, the Project provides mutual benefit to the Jurisdictions; and

WHEREAS, efforts to obtain WUTC approval and the cooperation of the railroads will 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, in substantially the form attached as **Exhibit A**, related to the Steptoe Street and Tapteal Drive Intersection Improvements Project as provided therein.

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

ADOPTED by the City Council of the City of Richland, Washington, at a regular meeting on the 2nd day of July, 2024.


Theresa Richardson, Mayor

Attest:


Jennifer Rogers, City Clerk

Approved as to Form:


Heather Kintzley, City Attorney

WHEN RECORDED RETURN TO:

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

INTERLOCAL COOPERATIVE AGREEMENT

Between

CITY OF RICHLAND AND PORT OF BENTON

Re: Steptoe Street and Tapteal Drive Intersection Improvements

THIS INTERLOCAL COOPERATIVE AGREEMENT is entered into this _____ day of July, 2024 (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, City owns and operates Steptoe Street, which hosts the Port’s railroad and at-grade rail crossing system crossing Steptoe Street; and

WHEREAS, a proposed intersection improvement project at Steptoe Street and Tapteal Drive (the “Project”) will make modifications to an at-grade city street crossing of

the Port's railroad; and

WHEREAS, RCW 81.53.060 requires that the City file a petition with the Washington State Transportation and Utilities Commission (WUTC) and receive approval prior to beginning construction of the Project; and

WHEREAS, the WUTC administrative process requires input from railroad companies operating on Port railroad, and the Class I railroad companies who participate in review of the Project will require compensation; and

WHEREAS, the Jurisdictions agree that the Project provides mutual benefit; and

WHEREAS, the Jurisdictions, by their respective governing bodies, have determined that the WUTC petition and cooperation with the railroads will 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: 1) enable the Jurisdictions to combine resources to develop a WUTC petition and engage in the requisite hearing process related to the Project; and 2) share in costs associated with Class I railroad review of the Project.

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. Party Assignments & Funding: City is designated as the lead agency and assumes the role of Petitioner in the WUTC process. City is also responsible for establishing and managing a contract with the Class I railroads for Project review. The Port is a participating agency responsible for providing timely information to City throughout the process. Each Jurisdiction is responsible for funding the work performed by its own staff. City and the Port shall each be responsible for fifty percent (50%) of the cost of work associated with this agreement; provided, however, that Port's contribution will not exceed \$27,733 (recognizing previous investment of \$72,267 toward this crossing).

Section 4. WUTC Process and Class I Railroad Review Contract Requirements:

Each Jurisdiction hereby commits to the following with respect to work to be completed under this Agreement:

- a. City shall be the Petitioner and lead agency related to the WUTC petition and hearing process.
- b. The Port shall provide reasonable staff resources to support City's petition and the WUTC hearing process.
- c. Prior to execution, City shall provide the Port with the Class I railroad review contract for review.
- d. The Port shall review contract terms and notify the City of acceptance of contract terms within five (5) business days of receipt. Written direction of acceptance shall constitute a firm commitment to pay the City for the Port's share of the contract work.
- e. City shall provide the Port with a fully executed contract with the Class I railroads.
- f. City will issue regular invoices and supporting documentation to the Port, but no more frequently than once per month.
- g. The Port shall pay invoices within thirty (30) calendar days of receipt.
- h. City shall notify the Port of Project-related meeting/hearings with the Class I railroads or the WUTC.

Section 7. 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 8. 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 if the Project is abandoned or by mutual agreement of the Parties. 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 9. 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 10. 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 11. 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 12. 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 13. 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 14. 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 15. 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.

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

CITY OF RICHLAND

PORT OF BENTON

Jon Amundson, City Manager

Diahann Howard, Executive Director

Attest:

Attest:

Jennifer Rogers, City Clerk

By:

Approved as to form:

Approved as to form:

Heather Kintzley, City Attorney

John O'Leary, Port Counsel

DRAFT