



WHEN RECORDED RETURN TO:

CONTRACT NO. 78-16

Richland City Clerk  
PO Box 190, MS-05  
Richland, WA 99352

**INTERLOCAL COOPERATIVE AGREEMENT**

*BETWEEN*

**THE CITY OF RICHLAND AND THE PORT OF BENTON, WASHINGTON**

*FOR*

**RICHARDSON ROAD STORMWATER RETROFIT PROJECT**

**THIS INTERLOCAL COOPERATIVE AGREEMENT** is entered into this 15<sup>th</sup> day of March, 2016, between the City of Richland, a municipal corporation of the State of Washington, hereafter referred to as "Richland," and the Port of Benton, Washington, a political subdivision of the State of Washington, hereafter referred to as "Port," or referred to 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 Party 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 Party to the contract and shall set forth its purposes, powers, rights, objectives and responsibilities of the contracting parties; and

WHEREAS, the Jurisdictions entered in an interlocal agreement in April, 2007 to partner for compliance with the Eastern Washington Phase II General Stormwater National Pollution Discharge Elimination System (NPDES) Permit; and

WHEREAS, the primary objective of the NPDES Permit and the April, 2007 interlocal agreement is to improve water quality for stormwater runoff discharged to area rivers; and

WHEREAS, Richland has, as part of its Stormwater Management Plan, developed a

stormwater water quality outfall retrofit program. The program identifies and prioritizes stormwater outfalls to area rivers that can be retrofitted with water quality improvement features; and

WHEREAS, pursuant to the April, 2007 interlocal agreement, Richland evaluated the Port-owned outfall east of Richardson Road and 6th Street for a water quality retrofit feature. Richland's evaluation showed an infiltration pond feature was feasible to improve discharged water quality from this outfall; and

WHEREAS, after consultation with Port officials Richland applied for and secured a Department of Ecology grant which will fund seventy five percent (75%) of the estimated construction costs of the proposed infiltration pond; and

WHEREAS, pursuant to the April, 2007 interlocal agreement Port is responsible for funding capital improvements to its stormwater facilities, including matching funds to the Ecology grant; and

WHEREAS, the Jurisdictions desire to complete implementation of the Richardson Road outfall retrofit project as part of their ongoing objective to improve the water quality of stormwater runoff discharges to area rivers.

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 formalize a commitment to complete the Richardson Road Stormwater Retrofit project

**Section 2. Administration:** This Agreement shall be administered by the Richland City Manager or her designee. Such person shall be responsible for:

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

**Section 3. Funding:** The Port of Benton hereby commits to provide up to \$29,167 for project design, construction, construction management, and grant administration. The Port shall provide this funding within 30 days after the construction project award.

Within two business days after the bid opening for construction of the project the City shall provide the Port with an estimate of the final project costs to include engineering design, construction, construction management, and grant administration. If the estimate is lower than the project budget, as published in Richland's 2016 – 2030 Capital Improvement Plan, the City may proceed to contract award by the City Council. If the estimate is higher than the project budget Richland staff shall seek Port direction on the recommended path forward. The Port may request one of three City actions:

1. Richland award the construction contract with the understanding that the Port will provide any additional funds needed to complete the project; or
2. Richland rejects all bids and prepares the project for rebid with revisions aimed at reducing project costs; or
3. Richland rejects all bids and cancels the project.

If the project proceeds to construction Richland will provide progress reports as requested by the Port. At the conclusion of all project work the City will prepare a final accounting of project costs for review by the Port. Final project cost reconciliation will occur as follows:

1. If the final total project costs are below the project budget Richland will refund excess Port funding within thirty days of final project closeout.
2. If the final total project costs are higher than the project budget Richland will present its final cost report to the Port along with a request for funding required to cover the cost overrun.

**Section 4. Development and Bid Award Requirements:** Each Jurisdiction hereby commits to the provisions as set forth below:

- (a) The City will design and generate biddable construction drawings by February 20, 2015.
- (b) The City will advertise the project for bids.
- (c) The City will open bids.
- (d) The Port will review the bid results and project cost estimate and notify the City in writing if the bid is acceptable for award.

**Section 5. Modification:** This Agreement may be modified only by written consent of each Jurisdiction.

**Section 6. Term of Agreement and Termination:**

- (a) The term of this Agreement shall become effective on full execution hereof.
- (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 for three years after its termination.

**Section 8. No Separate Legal Entity:** It is not the intention that a separate legal entity be established to conduct the cooperative undertaking, nor shall any acquiring, holding or disposing of real or personal property 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 party deems it necessary to institute legal action arising from this Agreement, such action shall be instituted in Benton County Superior Court. The parties each consent to the personal jurisdiction of such court.

IN WITNESS WHEREOF, the parties have signed this Agreement as of the day and year written below.

CITY OF RICHLAND, WASHINGTON



CYNTHIA D. REENTS, ICMA-CM  
City Manager

Date: 3-25-16

ATTEST:



MARCIA HOPKINS  
City Clerk

APPROVED AS TO FORM:



HEATHER KINTZLEY  
City Attorney

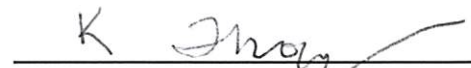
PORT OF BENTON



SCOTT D. KELLER  
Executive Director

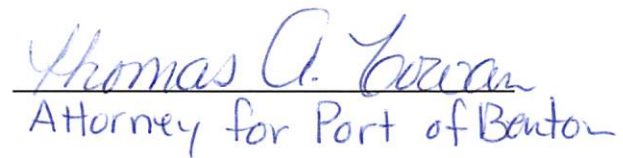
Date: 03-31-16

ATTEST:



KELLY THOMPSON  
ADMINISTRATIVE ASSISTANT

APPROVED AS TO FORM:



Attorney for Port of Benton