

**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF OLYMPIA, PORT OF OLYMPIA, AND LOTT CLEAN WATER ALLIANCE
REGARDING SCOPING FOR A MULTI-PURPOSE TRAINING CENTER**

This interlocal agreement (the "Agreement") is entered into by and among the City of Olympia ("City"), a Washington non-charter code city, and the Port of Olympia ("Port"), a Port District formed under RCW Chapter 53.04 and the LOTT Clean Water Alliance ("LOTT"), a 501(c)(3) corporation acting as a public agency to provide wastewater resource management services. The City, Port, and LOTT are referred to herein collectively as the "Parties."

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 other 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 Parties; and

WHEREAS, the Parties share an interest in fostering education, trade training, workforce development, economic development, and environmental sustainability; and

WHEREAS, a multi-purpose training center would be a vital community asset and serve as a hub to advance these shared interests; and

WHEREAS, the Port owns property located in the North Point and East Bay districts that could potentially serve this purpose, and the Port has interest in advancing training opportunity for maritime careers; and

WHEREAS, the City has designated a tech/trade district in the area and has interest in advancing a cross-functional space such as a training center; and

WHEREAS, LOTT depends on employees with highly specialized technical and trade training, and operates a state-of-the-art wastewater treatment facility with advanced and unique treatment capabilities that could benefit from and contribute to related training programs; and

WHEREAS, the Parties recognize that by working together there is opportunity to leverage resources and that other organizations and community groups may also wish to participate; and

WHEREAS, the Parties wish to express their commitment to jointly explore these opportunities;

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties agree as follows:

I. PURPOSE/OBJECTIVE

The Parties intend to conduct a joint scoping exercise to explore a possible collaborative project and define a pathway toward implementation. The scoping exercise will identify and prioritize goals for the project, considering opportunities for physical infrastructure as well as related training/programming.

II. SCOPE OF AGREEMENT/WORK

- a. The scoping exercise will consist of a one day or partial day workshop, with pre- and post-activities, interest group meetings to inform the process and refine written products, and a one day or partial day workshop to prepare final conclusions and next steps.
- b. Each of the Parties will provide staff time for participation in the scoping activities and respond to requests for information and feedback in a timely manner.
- c. The Parties agree to jointly engage the services of one or more consultants to assist in the scoping effort. The consultant scope will focus on facilitating the scoping workshops, compiling feedback, preparing and revising a written summary of workshop results to define a potential joint project and steps toward implementation, disseminating project information, and assisting in outreach to other potential parties.
- d. For this first phase of work, LOTT will be responsible for the contract management and consultant communication. However, all of the Parties will work together to guide the planning process, and responsibility for managing any future phases of this effort will be shifted to the other Parties in turn.
- e. Each of the Parties will be responsible for communication of information about the scoping process to their own jurisdictions and gathering feedback from their organizations to inform the joint effort.

III. COST SHARING

- a. The Parties will divide costs for consulting services. The City, Port, and LOTT will each contribute up to \$10,000. Total costs for such services are not to exceed \$30,000. Potential changes in scope or expectations that entail an increase in consultant costs will be negotiated and approved in writing. If agreed upon, parties can supplement their cost share to accommodate a change in scope.
- b. The Center for Sustainable Infrastructure and other organizations that are invited to participate in the scoping effort will provide only in-kind contributions.

IV. RIGHTS OF OWNERSHIP – FINAL PRODUCTS

All products or intangible property that result from the work outlined in this Agreement will be jointly owned by the Parties. Such joint ownership shall continue after termination or expiration of this Agreement.

V. METHOD OF PAYMENT

- a. The consultant will invoice LOTT on a monthly basis. Payment will be made by LOTT for the full amount of the invoice.
- b. LOTT will bill the other Parties for their share on a regular basis not to exceed once per month, or at the end of the planning process, depending on the Parties' preference.

VI. INDEMNIFICATION

Each Party agrees to defend, indemnify and hold the other Parties, their officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits, including reasonable attorney fees, arising out of or in connection with the indemnifying Party's performance of this Agreement, including injuries and damages caused by the negligence of the indemnifying Party's officers, officials, agents, and employees.

VII. NO SEPARATE LEGAL ENTITY CREATED

This Agreement creates no separate legal entity.

VIII. EFFECTIVE DATE AND DURATION OF AGREEMENT

This Agreement shall become effective on the first date when i) the Agreement has been duly executed by all of the Parties, and ii) the Agreement has been recorded or published pursuant to XIII below, and shall terminate upon completion of the tasks necessary to accomplish the purpose of the Agreement, unless sooner terminated by the Parties as provided herein.

IX. DISPUTE RESOLUTION

- a. Step One – Negotiation. In the event of a dispute concerning any matter pertaining to this Agreement, the Parties involved shall attempt to address their differences by informal negotiation. The Party perceiving a dispute or disagreement persisting after informal attempts at resolution shall notify the other Parties in writing of the general nature of the issues. The letter shall be identified as a formal request for negotiation and shall propose a date for representatives of the Parties to meet. The other Parties shall respond in writing within ten (10) business days. The response shall succinctly and directly set out that Party's view of the issues or state that there is no disagreement. The Parties shall accept the date to meet or shall propose an alternate meeting date not more than ten (10) business days later than the date proposed by the Party initiating dispute resolution. The representatives of the Parties shall meet in an effort to resolve the dispute. If a resolution is reached the resolution shall be memorialized in a memorandum signed by all Parties which shall become an addendum to this Agreement. Each Party will bear the cost of its own attorneys, consultants, and other Step One expenses. Negotiation under this provision shall not exceed 90 days. If a resolution is not reached within 90 days, the Parties shall proceed to mediation.

- b. Step Two – Mediation. If the dispute has not been resolved by negotiation within ninety (90) days of the initial letter proposing negotiation, any Party may demand mediation. The mediator shall be chosen by agreement. Each Party will bear the cost of its own attorneys, consultants, and other Step Two expenses. The Parties to the mediation will share the cost of the mediator. A successful mediation shall result in a memorandum agreement which shall become an addendum to this Agreement. Mediation under this provision shall not exceed 90 days. If the mediation is not successful within 90 days, the Parties may proceed to litigation.
- c. Step Three – Litigation. Unless otherwise agreed by the Parties in writing, Step One and Step Two must be exhausted as a condition precedent to filing of any legal action. A Party may initiate an action without exhausting Steps One or Two if the statute of limitations is about to expire and the Parties cannot reach a tolling agreement, or if either Party determines the public health, safety, or welfare is threatened.

X. TERMINATION OF AGREEMENT

This Agreement may be terminated upon mutual agreement of the Parties.

XI. INTERPRETATION AND VENUE

This Agreement shall be governed by the laws of the State of Washington as to interpretation and performance. The Parties hereby agree that venue for enforcement of any provisions shall be the Superior Court of Thurston County, subject to the dispute resolution process in Section IX having been exhausted or dispensed with by agreement.

XII. ENTIRE AGREEMENT

This Agreement sets forth all terms and conditions agreed upon by the Parties and supersedes any and all prior agreements oral or otherwise with respect to the specific subject matter addressed herein.

XIII. RECORDING

Prior to its entry into force, this Agreement shall be filed with the Thurston County Auditor's Office or posted upon the Parties' websites as provided by RCW 39.34.040.

XIV. NOTICE

Any notice required under this Agreement shall be to the party at the address listed below and shall become effective three days following the date of deposit with the United States Postal Service.

CITY OF OLYMPIA:

Attn: Mike Reid, Economic Development Director
City of Olympia
PO Box 1967
Olympia, WA 98507-1967

PORT OF OLYMPIA:

Attn: Jennie Foglia-Jones, Senior Manager of Communications
Port of Olympia
606 Columbia Street NW, Suite 300
Olympia WA 98501

LOTT CLEAN WATER ALLIANCE:

Attn: Lisa Dennis-Perez, Environmental Planning & Communications Director
LOTT Clean Water Alliance
500 Adams Street NE
Olympia, WA 98501

XV. SIGNATURES

This Agreement is hereby entered into between the Parties and shall take effect on the date of the last authorizing signature affixed hereto.

CITY OF OLYMPIA

Steven J. Burney
Steven J. (Jay) Burney, City Manager

Date: 04/19/2022

Approved as to form:

Mark Barber
City Attorney

LOTT CLEAN WATER ALLIANCE

Mike Strub
Michael Strub, Executive Director

Date: 04/19/2022

Approved as to form:

Ryan Espgaard
LOTT Legal Counsel

PORT OF OLYMPIA

Sam Gibboney
Sam Gibboney, Executive Director

Date: 04/19/2022

Approved as to form:

Richard L. Hughes
Port Legal Counsel