

**INTERLOCAL AGREEMENT AMONG
THE CITY OF OLYMPIA, PORT OF OLYMPIA, AND THE LOTT CLEAN WATER
ALLIANCE FOR PLANNING AND ASSESSMENT OF POTENTIAL SEA LEVEL RISE**

INTERLOCAL AGREEMENT

This interlocal 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 desire to work to assess and plan for potential sea level rise in the downtown Olympia and Port peninsula areas; and

WHEREAS, the City, Port and LOTT each own properties and hold and have responsibilities to the public in the work area; and

WHEREAS, the information gathered from this assessment and planning work will inform capital facility and project planning by the City, Port, LOTT and other entities, and support the implementation of appropriate sea level rise responses over time.

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

I. Purpose/Objective

The Parties intend to complete a formal sea level rise planning process for downtown Olympia and the Port peninsula that will support the implementation of long-term

response strategies over time. The planning process is intended to identify and prioritize future sea level rise actions and include a public involvement process.

II. Scope of Agreement/Work

The Parties agree to jointly engage the services of one or more consultants to assist the Parties in a sea level response plan for downtown Olympia and the Port peninsula. The scope will focus on development of a sea level rise response plan that will include recommendations for capital projects, funding needs, implementation schedules, long-term decision-making thresholds, and emergency response to effectively respond to sea level rise and vulnerabilities projected to affect the City, LOTT, the Port of Olympia, and others. The plan will include a full analysis of options for responding to agreed upon sea level rise scenarios over a 100-year timeframe, and a flexible approach that allows for adapting to continually evolving sea level rise dynamics.

A consultant will be chosen through the standard selection process for professional services as required by the laws of the State of Washington. The Parties have developed and will issue a Request for Qualifications (RFQ) for the consulting work. A project committee has been formed by the Parties to review qualifications of submitting firms and will make a unified recommendation for selection of the firm. Once a consultant is selected, the project committee shall coordinate with the consultant in the development of a Scope of Work and Professional Services Agreement amenable to each Party as a joint contract. The City Manager is authorized to execute the necessary Professional Services Agreement.

City of Olympia staff will be responsible for the contract management, consultant communication and dissemination of project information, and the City assumes any liability arising from such responsibilities, and the performance of these responsibilities will be interpreted as within the scope of the City's obligations to defend, indemnify, and hold harmless as set forth in Section VI of this Agreement. However, all of the Parties will work together to guide the planning process. The Port and LOTT will be responsible for communication of information and decisions within their own jurisdictions.

III. Consultant and Legal Cost Sharing

The Parties will divide costs for consulting services. The Port and LOTT will pay up to \$75,000.00 each and the City will pay at least \$75,000.00. Total costs for such services are not to exceed Two Hundred and Fifty Thousand and 00/100 Dollars (\$250,000.00). Potential changes in scope or expectations that entail an increase in consultant costs will be negotiated and approved in writing. If agreed upon, a Party can supplement its cost share to accommodate a change in scope.

IV. Rights of Ownership – Final Products

All products that result from the work outlined in this Agreement will be jointly owned by the Parties.

V. Method of Payment

- a. The consultant will invoice the City on a monthly basis. Payment will be made by the City for the full amount of the invoice.
- b. The City will bill the other Parties 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. Duration of Agreement

This Agreement shall be effective on the date of its entry into force pursuant to Section 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 in this Agreement.

IX. Dispute Resolution

In the event of a dispute concerning any matter pertaining to this Agreement, the Parties involved shall address the dispute by utilizing the steps below.

- a. Step One – Negotiation. First, the Parties, involved in the dispute 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 imminently and substantially threatened.

X. Termination of Agreement

This Agreement may be terminated upon mutual written agreement of all 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 litigation to enforce any dispute arising out of this Agreement shall be the Superior Court of Thurston County.

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

After this Agreement has been duly executed by all Parties, the City shall file the Agreement for recording with the Thurston County Auditor's Office. This Agreement shall take effect on the day that this recording obligation is met. The City shall promptly notify the Port and the LOTT that the Agreement has taken effect.

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: Andy Haub, Water Resources Director
Re: Sea Level Rise Response Plan
PO Box 1967
Olympia, WA 98507-1967

PORT OF OLYMPIA

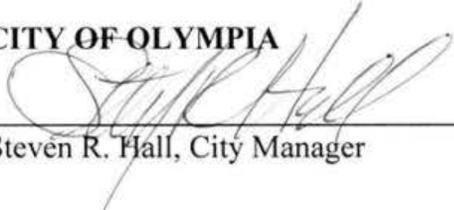
Attn: Rachael Jamison, Environmental Program Director
Re: Sea Level Rise Response Plan
915 Washington Street NE
Olympia, WA 98501

LOTT CLEAN WATER ALLIANCE

Attn: Lisa Dennis-Perez
Re: Sea Level Rise Response Plan
500 Adams Street NE
Olympia, WA 98501

This Agreement is hereby entered into among the Parties and shall take effect on the date described in Section XIII above.

CITY OF OLYMPIA



Steven R. Hall, City Manager

Date: 4-11-2017

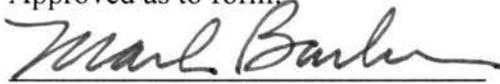
PORT OF OLYMPIA



Ed Galligan, Executive Director

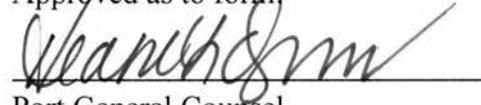
Date: 4.24.17

Approved as to form:



City Attorney

Approved as to form:



Port General Counsel

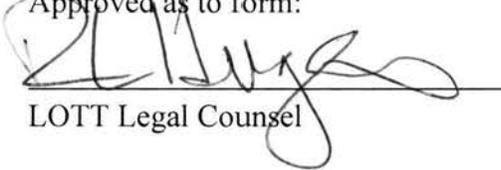
LOTT Clean Water Alliance



Michael Strub, Executive Director

Date: APRIL 17, 2017

Approved as to form:



LOTT Legal Counsel