

**STORMWATER INTERLOCAL AGREEMENT
BETWEEN THE CITY OF BREMERTON
AND THE PORT OF BREMERTON**

THIS AGREEMENT, pursuant to RCW 39.34, is between the City of Bremerton (hereinafter referred to as “City”) and the Port of Bremerton (hereinafter referred to as “Port”).

WHEREAS, the City enacted Chapter 15.04 of the Bremerton Municipal Code establishing the Stormwater Management Program (SWMP) for the purpose of establishing a comprehensive approach to surface and stormwater management pursuant to RCW 35.67.030; and

WHEREAS, the City operates a Municipal Separate Storm Sewer System (MS4), which is permitted by the Washington State Department of Ecology (Ecology) pursuant to its authority to license MS4s in accordance with the National Pollution Discharge Elimination System (NPDES) requirements under the federal Clean Water Act; and

WHEREAS, the Port operates and maintains its own stormwater system and regional stormwater facility that provides proactive, protective and responsive activities to protect waters of the State pursuant to an Industrial Stormwater General Permit, also issued by Ecology in accordance with the Clean Water Act; and

WHEREAS, the Port’s property lies within the corporate boundaries of the City; and

WHEREAS, it is mutually beneficial for the City and the Port to enter into an agreement that addresses the program elements outlined in the City’s NPDES Permit, Stormwater Management Program and provisions of the City Stormwater Management code set forth in Chapter 15.04 BMC; and

WHEREAS, the Port is assessed Stormwater fees for impervious hard surfaces in its area of responsibility at the current City published rates in accordance with 15.06.015 BMC; and

WHEREAS, the City recognizes the Port has the necessary resources to operate, maintain, construct and expand its stormwater system; and further, the City recognizes the Port is geographically separated from the City’s primary MS4 facilities; and

WHEREAS, it is the Port’s intention to fund its own stormwater account from the funds retained pursuant to this agreement; and

WHEREAS, mutual benefits will accrue to the parties hereto in the cooperative development, maintenance, operation and construction of stormwater control facilities;

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NOW, THEREFORE, in consideration of the mutual covenants herein contained, the City and the Port agree as follows:

A. Purpose.

This agreement, applies retroactively to April 1, 2009 allowing the Port to retain 87.5% of its established monthly Stormwater assessment (“Retained Funds”) to provide funding for operation, maintenance, regulatory compliance, development and expansion of its stormwater infrastructure. The City will bill the Port 12.5% of the monthly Stormwater assessment established for the Port (as currently established and hereinafter adjusted pursuant to City policies and procedures for establishing and adjusting rates) to cover administration and oversight costs associated with the City’s NPDES Permit. The Port shall maintain a separate Stormwater account for the Retained Funds to track and document both revenues and expenditures of these funds. The City may, from time to time, request documentation to verify that expenditures from the Retained Funds were used for Stormwater related purposes.

B. Port Duties.

The Port will:

- 1) Renew its Industrial Stormwater Permit and comply with the provisions of that permit.
- 2) Maintain an accurate Stormwater Pollution Prevention Plan (SWPPP) and update as build-out occurs.
- 3) Maintain and update Stormwater Operations and Maintenance Program and Manual in compliance with 15.04 BMC and adopted Stormwater manuals and maintenance standards.
- 4) Maintain and operate stormwater collection, conveyance and treatment facilities in compliance with 15.04 BMC and adopted Stormwater manuals and maintenance standards.
- 5) Maintain the entrance to the Port, at Imperial Way at Highway 3, in accordance with past practices including: mowing, garbage collection and disposal, pruning of trees and maintaining general aesthetics.
- 6) Protect, preserve and maintain stormwater Low Impact Development (LID) features and facilities in accordance with current standards and shall not eliminate or modify existing LID without written approval from the City.
- 7) Prepare and implement a Permanent Stormwater Control Plan (Plan), as defined in the current Stormwater Management Manual for Western Washington, Volume I – Minimum Technical Requirements and Site Planning, for stormwater facilities servicing Owner’s property. Beginning January 1, 2017, development and redevelopment must meet the requirements of the Low Impact Development (LID) Manual and City Standards. The Plan shall be kept on-site and available for inspection by City Staff during normal business hours.
- 8) Provide a permanent Stormwater Control Plan and Stormwater Pollution Prevention Plan (SWPPP).
- 9) Provide an annual maintenance report for stormwater facilities by May 30 of each year.
- 10) Provide an updated stormwater facility map, showing stormwater collection system and appurtenances including but not limited to: pipes, catch basins, treatment devices, ponds, open ditches, control structures and flow direction.
- 11) Make all water quality data available to the City.

12) Utilize impervious hard surface unit (IHSU) calculations from May, 2014 for future Stormwater billing and adjust as build out or modification occurs.

13) Utilize the existing process and procedures for determining IHSU's, as those procedures may be modified in the future.

14) Provide the City access to and inspection of stormwater facilities as defined in 15.04 BMC.

15) Create a separate stormwater account from the Retained Funds for the purpose of funding operation, maintenance, regulatory compliance, development and expansion of its stormwater infrastructure.

C. City Duties.

The City will:

1) Credit previous monthly stormwater assessment payments made by the Port to the City since April 1, 2009 in the amount of 87.5% of the Port's monthly stormwater assessment since April 1, 2009 until such time as a zero balance is achieved.

2) Bill the Port utilizing the City's established utility assessment and billing process to collect the 12.5% administration and oversight fee thereafter.

D. NPDES Stormwater Permit Coordination.

Coordination between the City and the Port is necessary to meet the requirements of the City's NPDES Phase II Stormwater Permit. Until such time that the Port becomes a Secondary Permittee, the parties agree to support and coordinate efforts with the following components that include:

1) Public Education and outreach. The city will provide materials such as brochures and the Port will distribute to its tenants. The Port will ensure that businesses located within its jurisdiction comply with City codes and adopted manuals to protect surface and ground waters of the State.

2) Public Involvement and Participation as opportunities occur.

3) Illicit Discharge Detection and Elimination. Coordinate with the City to allow access and support to locate, document, sample and eliminate illicit connections as needed. If one is found or suspected the City will work with the Port to identify and eliminate the connection.

4) Construction Site Stormwater Runoff Control as required by City codes, Stormwater Management Manual for Western Washington (current edition) and associated permits.

5) Post-Construction Stormwater Management for New Development and Redevelopment as required by City codes, Stormwater Management Manual for Western Washington (current edition) and associated permits.

6) Pollution Prevention and Good Housekeeping for Municipal Operations. The SWPPP and individual business oversight and inspections.

7) Compliance with Total Maximum Daily Load Requirements (TMDL). Should a Union river TMDL be put in place the Port agrees to comply with all specifically-tasked Ecology requirements. The City will assist as requested, providing staff is available.

8) Monitoring and Assessment as required.

9) Reporting Requirements as defined in this ILA and required by the Port's Industrial Stormwater General Permit, or other permits.

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In the event that the Port becomes a Secondary Permittee to the City's NPDES Stormwater Permit, the requirements identified in that permit will take precedence.

E. Stormwater Control Facilities.

The Port shall design, operate, maintain and construct stormwater quantity and quality control facilities, including the use of Low Impact Development design practices to the extent possible, at the Port's industrial complex known as Olympic View Industrial/Business Park and at the Bremerton National Airport.

F. Eligible Expenses.

1) Stormwater funds shall be used to support the design, operation (including permitting requirements), maintenance, and construction of existing or new stormwater infrastructure in compliance with City code and the Stormwater Management Manual for Western Washington.

2) Costs associated with the development of conceptual stormwater management studies; preliminary engineering plans and analyses, final engineered construction plans, specification, and estimates (PS&E), construction of regional stormwater quantity and quality control facilities, including construction management costs shall be eligible expenditures.

3) All capital improvements utilizing Retained Funds must have the prior approval of the City's Director of Public Works & Utilities, or designee, before expenditures are made on the improvements.

G. Nondiscrimination.

The Port and the City shall comply with all applicable local, state, and/or federal laws and ordinances, and agrees that they shall not be discriminate in their employment practices or delivery of services or other activities on the grounds of race, color, religion, national origin, age, sex, marital status, veteran status, sexual orientation, or the presence of any sensory, mental, or physical handicap. The Port shall ensure that any contractor shall fully comply with this paragraph.

H. Compliance with Laws.

The Port and the City shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations applicable to the performance of the Agreement. The Port and the City agree to comply with the provisions of the Americans with Disabilities Act and regulations interpreting or enforcing such act.

I. Indemnity.

Both the Port and the City agree to indemnify and hold harmless one another, their officers and employees from and against any and all liability, loss, costs, expenses, claims, or damages, known or unknown, to persons or property arising or alleged to have arisen directly or indirectly out of, or in any way connected with, the negligent acts, errors, or omissions of either parties' officers, employees, agents, contractors, or subcontractors for work performed under this Agreement.

J. Amendment to Agreement.

The parties hereby further agree that this Agreement cannot be amended or modified without the written concurrence of both parties.

K. Modification for Funding Reasons.

The City or Port may negotiate modification of this Agreement at any time.

L. Termination.

Either party to this Agreement may elect to terminate the Agreement for any reason (such reason to be identified) by delivery of a thirty (30) day written notice of intent to terminate to the other party. In the event of such termination, the City shall have the right to bill the Port the entire Stormwater rate until a new agreement is accepted.

M. Duration of Agreement.

This Agreement shall be in effect as long as the Port operates, maintains and holds ownership of its own stormwater facilities, or until terminated if terminated pursuant to Section L above.

IN WITNESS WHEREOF the parties hereto have executed this Agreement the date and year indicated.

CITY OF BREMERTON

Patty Lent
Patty Lent, Mayor

Date: 01-09-2015

PORT OF BREMERTON

Roger F. Zabinski
Roger Zabinski, Commission President

Date: 11-25-2014

ATTEST:

Shannon L. Corin
Shannon L. Corin, City Clerk

APPROVED AS TO FORM:

Roger Lubovich
Roger Lubovich, City Attorney