

**INTERLOCAL AGREEMENT  
BETWEEN THE PORT OF OLYMPIA AND THE CITY OF TUMWATER**

**DESIGNATING SEPA LEAD AGENCY FOR PROJECT ACTIONS AS  
DEFINED BY WAC 197-11-704(2)(A)" ON PORT PROPERTIES IN THE  
CITY OF TUMWATER**

THIS INTERLOCAL AGREEMENT is made and executed this 19th day of February 2019, by and between the CITY OF TUMWATER, a Washington municipal corporation (the "City"), located and doing business at 555 Israel Road SW, Tumwater, Washington, and the PORT OF OLYMPIA, a Washington public port district (the "Port"), located and doing business at 606 Columbia Street NW, Olympia, Washington.

**RECITALS**

**WHEREAS**, RCW 39.34.010 permits the City of Tumwater (the "City") and Port of Olympia (the "Port") (collectively, the "Parties") to make the most efficient use of their powers by enabling them to cooperate on a basis of mutual advantage and 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, the City and the Port are authorized to contract to perform any governmental service, activity, or undertaking which each is authorized by law to perform; provided, that this Agreement shall be authorized by their respective governing bodies and shall set forth its purposes, powers, rights, objectives, and responsibilities of the Parties; and

**WHEREAS**, the Port owns certain property within the City of Tumwater ("Port Properties"); and

**WHEREAS**, the Port and the City anticipate that future projects on Port Properties will require review under the State Environmental Policy Act, chapter 43.21C RCW ("SEPA") (hereafter, the "Project Actions as defined by WAC 197-11-704(2)(a)"); and

**WHEREAS**, pursuant to the rules promulgated to administer SEPA, WAC 197-11-942, any agency may assume SEPA lead agency status if all agencies with jurisdiction agree; and

**WHEREAS**, the City and the Port are the two agencies with SEPA jurisdiction with respect to environmental review of Project Actions as defined by WAC 197-11-704(2)(a); and

**WHEREAS**, the City and the Port have agreed that the City should assume the role of SEPA lead agency with respect to review of Project Actions as defined by WAC 197-11-704(2)(a) in order to increase efficiency of review and consistency of administrative procedures; and

**WHEREAS**, the Tumwater Municipal Code, TMC 16.04.070, authorizes City departments to make agreements as to SEPA lead agency status, provided that the responsible official and any department that will incur responsibilities as a result of such lead agency agreement approves the agreement; and

**WHEREAS**, the Port Commission and Tumwater City Council have each authorized the execution of this Agreement; and

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

**I. PURPOSE**

This purpose of this Agreement is to designate the City as the SEPA lead agency for Project Actions as defined by WAC 197-11-704(2)(a) on Port Properties within the City of Tumwater for which applications are submitted after the date of this Agreement, with the exception of Project Actions within the Air Operations Area of the Olympia Regional Airport and/or subject to Airport Layout Plan approval by the Federal Aviation Administration (FAA). The Port shall retain SEPA lead agency status for these Project Actions, which are expressly excluded from this Agreement.

**II. DESIGNATION OF SEPA LEAD AGENCY**

The parties agree that the City is hereby designated as the SEPA lead agency for Project Actions as defined by WAC 197-11-704(2)(a) on Port Properties within the City of Tumwater pursuant to WAC 197-11-942, with the exception of Project Actions within the Air Operations Area of the Olympia Regional Airport and/or subject to Airport Layout Plan approval by the Federal Aviation Administration (FAA). The Port shall retain SEPA lead agency status for these Project Actions, which are expressly excluded from this Agreement

### **III. CITY RESPONSIBLE OFFICIAL AND DEPARTMENT APPROVAL**

Departments of the City are authorized to make agreements as to lead agency status or shared lead agency duties for a proposal under WAC 197-11-942 and 197-11-944; provided, that the responsible official and any department that will incur responsibilities as the result of such agreement must approve the agreement.

### **IV. TERM OF AGREEMENT**

This Agreement shall take effect on the date of the last authorizing signature affixed hereto. This Agreement shall remain valid and enforceable until one of the Parties provides notice, pursuant to Section VIII of this Agreement, to the other Party requesting termination of this Agreement. Upon the effective date of the notice of termination by one of the Parties, this Agreement shall terminate; provided that any Project Proposal initiated and proceeding pursuant to the terms of this Agreement prior to the effective date of the notice of termination shall proceed in accordance with this Agreement until the City's SEPA determination for that respective Project Proposal has become final. For the purposes of this paragraph, "final" means any applicable appeal period has passed without appeal or any appeals have been fully resolved without any unexpired rights to further appeal.

### **V. ENTIRE AGREEMENT**

This Agreement sets forth all the terms and conditions between the City and Port with respect to the subject matter addressed herein, and supersedes any and all prior agreements as to such matter, oral or otherwise. Any changes to this Agreement shall be in written form, signed by the duly authorized signatory of each Party.

### **VI. RECORDING**

This Agreement shall be recorded with the Thurston County Auditor's Office or, alternatively, posted upon the City's or the Port's websites or other electronically retrievable public source as required by RCW 39.34.040.

### **VII. RECORDS**

Each party shall maintain its own public records and shall be solely responsible for responding to public records requests it receives about the subject matter of this Agreement. Any public records request addressed to both parties as a group, as if this Agreement creates a separate legal entity or joint board, shall be deemed to be a request to each member individually, unless otherwise

clarified by the requester. The parties agree to fully and timely cooperate with one another in the event of any such request.

#### **VIII. NOTICE**

Any notice required or otherwise made under this Agreement shall be mailed to the parties at the addresses listed below and shall become effective three (3) days following the date of deposit in the United States Postal Service.

CITY OF TUMWATER

Attn: Mike Matlock, Director of  
Community Development  
RE: Port of Olympia and City of  
Tumwater SEPA Lead Agency  
555 Israel Road SW  
Tumwater, Washington 98501

PORT OF OLYMPIA

Attn: Rachael Jamison, Planning,  
Public Works & Environmental  
Director  
RE: Port of Olympia and City of  
Tumwater SEPA Lead Agency  
606 Columbia Street NW, Suite 300  
Olympia, Washington 98501

#### **IX. 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 this Agreement shall be the Superior Court of Thurston County.

#### **X. NO JOINT BOARD**

This Agreement creates no joint board and no separate legal entity.

IN WITNESS WHEREOF, each party has caused to be signed by its duly authorized officer or representative as of the date set forth below its signature.

**CITY OF TUMWATER**

**PORT OF OLYMPIA**

By: Pete Kmet  
Pete Kmet, Mayor

By: Sam Gibbony  
Sam Gibbony, Executive Director

Date: 2/21/19

Date: 2/26/19

**APPROVED AS TO FORM:**

By: Karen Kirkpatrick  
Karen Kirkpatrick, City Attorney

By: Heather L. Burgess  
Heather L. Burgess, Port Legal  
Counsel

