

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF BELLINGHAM
AND
THE PORT OF BELLINGHAM**

**FOR FINANCIAL PARTICIPATION AND ESTABLISHMENT OF A TASK FORCE TO
ENGAGE IN WATERFRONT VISIONING, TO REVIEW PLANS AND PROGRAMS AND
IDENTIFY OPPORTUNITIES FOR REDEVELOPMENT AND REUSE OF LANDS ADJACENT
TO BELLINGHAM BAY**

This agreement is made and entered into between the City of Bellingham, a Washington municipal corporation (hereinafter the "City") and the Port of Bellingham, a Washington municipal corporation (hereinafter the "Port"), as follows:

WHEREAS, both the City and the Port agree on the need for timely review of the plans and development in light of changed conditions and opportunities affecting Bellingham's marine waterfront; and

WHEREAS, the City and the Port recognize that development on Bellingham's marine waterfront is already the subject of review and planning processes including the multi-agency Bellingham Bay Work Group, updates to the City Comprehensive Plan and the City's Shoreline Master Program and Shoreline Master Program Update, and site specific redevelopment and reuse opportunities; and

WHEREAS, both the City and the Port desire that such review be designed to address the community's long term vision for Bellingham's marine waterfront area; and

WHEREAS, both the City and the Port believe that a community Task Force should be established to review existing and proposed plans and policies and assist in identifying reuse and redevelopment opportunities on Bellingham's marine waterfront, with the Task Force reporting its findings and recommendations to both the City and the Port; and

WHEREAS, both the City and Port believe that the work of the Task Force will require consultant services to carry out its review and professional oversight to manage consultant contracts; and

WHEREAS, both the City and the Port intend that the Task Force will provide input to plans and programs, program updates and site-specific development opportunities for lands adjacent to Bellingham Bay, with particular emphasis on areas between Bellingham Bay and the City's city center; and

WHEREAS, both the Port Commission and the City Council desire that the Task Force provide them with regularly scheduled presentations of their findings and recommendations; and

WHEREAS, the Port and the City desire to enter into this Agreement under the terms and conditions of Chapter 39.34 RCW (entitled the Interlocal Cooperation Act);

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

1. ESTABLISHMENT OF TASK FORCE

1.1 Formation: The Task Force shall consist of ten (10) members of the community. Equal numbers of the Task Force members will be selected by the City of Bellingham and the Port of Bellingham and the Mayor shall make the appointments.

1.2 Chairman, Open Meetings: The Task Force will select a chair and establish guidelines consistent with applicable local and state requirements for groups advising the City and the Port. The Task Force will conduct its meetings in conformance with the Open Public Meetings Act, Chapter 42.30 RCW.

2. RESPONSIBILITIES AND DUTIES

2.1 Task Force Reporting: The Task Force shall report to both the City Council and the Port Commission. The Task Force shall regularly schedule and present progress reports at joint meetings of the City Council and Port Commission. These reports shall occur at least once every three months.

2.2 Scope of Work and Timeline: The first order of business of the Task Force shall be to review and revise a draft "Scope of Work" and Timeline prepared by Port and City staff and shall present a written "Scope of Work" to a joint meeting of the Port Commission and the City Council no later than four (4) weeks after the appointment of the Task Force Members.

2.2.1 In the event that the Port and/or the City do not approve the Scope of Work as presented by the Task Force, then the Port and/or the City shall provide the Task Force with specific comments and shall establish a deadline by which the Task Force shall submit a revised Scope of Work that addresses the requested changes.

2.2.2 In the event that the Port and the City do not both approve either the Scope of Work or the revised Scope of Work, then the party disapproving of the Scope of Work may terminate this Agreement without further notice.

2.3 Work Product: The Task Force will provide the Port and the City with specific, written analysis, suggestions and recommendations relating to existing and proposed plans programs and site-specific development opportunities for lands adjacent to Bellingham Bay, with a particular emphasis on areas between Bellingham Bay and the City's city center, as follows:

2.3.1 analysis of the Task Force's interaction with community members in both seeking feedback and developing a synthesized long-term community vision for Bellingham's marine waterfront,

2.3.2 analysis of the conformance between the community vision as recognized by the City and the Port and the existing City and Port policies and procedures and existing and proposed plans and projects in the marine waterfront area,

2.3.3 specific recommendations for revisions to land use plans of identified, underutilized marine properties,

2.3.4 identify and suggest strategies and/or redevelopment activities to accomplish the community's long-term vision of Bellingham's marine waterfront, including recommended revisions to adopted plans and policies of the City and the Port,

2.3.5 analysis of and recommendations regarding existing and proposed plans, programs and site-specific development opportunities on Bellingham's marine waterfront,

2.3.6 analysis of and recommendations regarding key proposals or intended actions of public agencies, private land owners or other organizations that would affect future land use patterns,

2.3.7 analysis of and recommendations regarding improvements in transportation, public access, and environmental quality,

2.3.8 a written reporting at the end of the term of the Task Force documenting the Task Force's activities, findings, suggestions/recommendations and conclusions, and

2.3.9 other specific analysis, suggestions or recommendations as requested by the City and the Port.

The analysis, recommendations and suggestions and the process of accumulating and analyzing information shall be referred to herein as the "study."

2.4 Responsibilities: The Task Force will undertake the study by doing the following:

2.4.1 assisting the City and the Port in developing and articulating a long-term community vision for the waterfront area,

2.4.2 reviewing existing plans and programs affecting the waterfront area,

2.4.3 soliciting ideas and communication with property owners, expert witnesses, governmental units and the broader community,

2.4.4 holding open meetings with the intent of encouraging community input;

2.4.5 evaluate the deliberations and proposals of the multi-agency Work Group under the Bellingham Bay Demonstration Pilot.

2.4.6 conferring with consultants, experts and City and Port staff as provided for herein,

2.4.7 evaluating existing and proposed plans, programs and site-specific development opportunities and their conformance with the long-term vision articulated by the City and the Port.

2.4.8 using the study process to analyze key proposals or intended actions of public agencies, private land owners or other organizations that would affect future land use patterns,

2.4.9 using the study process to analyze and to develop suggestions and recommendations for improvements in transportation, public access, and environmental quality, and

2.4.10 other means as necessary and as approved by the City and the Port.

2.5 Consultants and Experts: The Task Force may consult with Port and City staff, experts and consultants as necessary to achieve its purposes. The Task Force representatives will participate with City and Port staff in selecting consultants and working with consultants to achieve the Task Force's goals.

3. **EFFECTIVE DATE, DURATION AND TERMINATION**

3.1 Effective Date: This Agreement shall be effective upon execution by both the Port and the City, as noted below.

3.2 Duration, Survivability: The term of the Study shall not exceed one (1) year from the date of the approval of the Task Force's "Scope of Work," but may terminate sooner if the Port and the City agree that the Task Force has achieved its goals as established herein. The term of this Agreement may be extended by the Port and the City pursuant to a written extension executed under the proper authority of each. All covenants, promises and performance which are not fully performed as of the date of termination shall survive termination as binding obligations.

3.3 Failure of Task Force to Complete Work: In the event that the Task Force fails to fulfill the requirements responsibilities and duties imposed upon it by this Agreement and the Scope of Work within the one year term of this Agreement, then the Port and the City may:

3.3.1 agree to the continuation of the Task Force without an additional commitment of funds,

3.3.2 agree to terminate the Task Force and to share the information gathered and work product generated by it during its existence.

In the event that the Port and the City cannot agree upon option 3.3.1 or 3.3.2 then option 3.3.2 shall be the default and the Task Force shall be terminated.

4. **CONTRACT RESPONSIBILITIES**

4.1 The City will provide general contract administration for the Task Force and the study. Contracts for the employment of consultants and experts shall be approved by both the Port and the City.

4.2 Contracts with consultants will specify progress toward completion and how that is measured.

5. **FUNDING AND BUDGET**

5.1 Funding: The Port and the City shall share equally the expense of the Task Force and the study. The City's and Port's commitments shall not exceed \$250,000.00 each.

5.2 Budget: The Task Force shall create and submit a budget as a part of the Scope of Work submitted by the Task Force to the City and Port pursuant to Section 2.2 of this Agreement. The budget shall articulate anticipated costs, including, but not limited to, the cost of a project manager, consultant time and the cost of materials for presentation and documentation.

6. MISCELLANEOUS PROVISIONS

6.1 Status of Agreement: This Agreement is in addition to, and is not intended to replace, substitute, modify or otherwise amend any other agreement between the City and the Port. Those other agreements continue in effect according to the terms of those agreements.

6.2 Notices: All notices, demands, requests, consents and approvals which may, or are required to be given by any party to any other party hereunder, shall be in writing and shall be deemed to have been duly given if delivered personally, sent by facsimile, sent by a nationally recognized overnight delivery service, or if deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage prepaid to:

Port of Bellingham: _____
1801 Roeder Avenue
P.O. Box 1677
Bellingham, WA 98227

City of Bellingham: _____
210 Lottie Street
Bellingham, WA 98225

or to such other address as the foregoing parties hereto may from time-to-time designate in writing and deliver in a like manner. All notices shall be deemed complete upon actual receipt or refusal to accept delivery. Facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission, shall be the same as delivery of an original document.

6.3 Amendment: No modification, termination or amendment of this Agreement may be made except by written agreement signed by all parties, except as provided herein.

6.4 Waiver: No failure by any of the foregoing parties to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or any other covenant, agreement, term or condition. Any party hereto, by notice, and only by notice as provided herein may, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of any other party hereto. No waiver shall affect or alter this Agreement, and each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

6.5 Captions: The captions of this Agreement are for convenience and reference only and in no way define, limit, or describe the scope or intent of this Agreement.

6.6 Severability: In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

6.7 Neutral Authorship: Each of the provisions of this Agreement has been reviewed and negotiated, and represents the combined work product of all parties hereto. No

presumption or other rules of construction which would interpret the provisions of this Agreement in favor of or against the party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Agreement.

6.8 Rights and Remedies: The rights and remedies provided in this agreement are in addition to any other rights and remedies that may be provided by law.

6.9 Property: The parties do not expect the task force to acquire any real or personal property under this Agreement. If any such property is acquired, the parties will hold and dispose of it in accordance with a written agreement developed at that time.

6.10 Filing: Per RCW 39.34.040, this Agreement shall be filed with the Whatcom County Auditor; PROVIDED, that any delay in filing shall not affect the validity, purpose, or term of this Agreement.

6.11 Entire Agreement: The entire agreement between the parties hereto is contained in this Agreement, and this Agreement supersedes all of their previous understandings and agreements, written and oral, with respect to this transaction. This Agreement may be amended only by written instrument executed by the parties subsequent to the date hereof.

EXECUTED, for the PORT OF BELLINGHAM, this _____ day of _____, 2002:

Jim Darling, Executive Director

EXECUTED, for the CITY OF BELLINGHAM, this _____ day of _____, 2002:

Mark Asmundson, Mayor

Attest: _____
Finance Director

Departmental Approval:

Public Works Department Head

Approved as to form:

Office of the City Attorney