

**INTERLOCAL COOPERATION AGREEMENT
BETWEEN THE CITY OF PORT ANGELES AND THE PORT OF PORT ANGELES
FOR THE PRESERVATION AND ENHANCEMENT
OF THE PORT ANGELES HARBOR AND WATERFRONT**

THIS INTERLOCAL COOPERATION Agreement (the "Agreement") is made and entered into by and between the City of Port Angeles (the "City"), a Washington municipal corporation organized as a code city, and the Port of Port Angeles (the "Port"), Clallam County, Washington, a Washington municipal corporation organized under Title 53 RCW (together, the "Parties").

The Parties agree as follows:

PART 1. RECITALS - PURPOSE OF AGREEMENT

- 1.1 The Washington State Department of Ecology ("DOE") is currently responsible for cleanup of the former Rayonier mill site (the "Rayonier Site") located in Port Angeles, which was closed in 1997. DOE has encouraged participation by the City and the Port in the final stages of the cleanup, to facilitate redevelopment of the site.
- 1.2 The DOE is currently investigating the entire Port Angeles harbor for the existence of toxic materials in the marine environment. Depending on the outcome of that investigation, DOE will formulate plans and strategies for responding to toxic substances in the marine environment. DOE seeks participation from local government agencies on these issues as well.
- 1.3 The City Council of the City of Port Angeles on May 20, 2008, adopted Resolution 2-08, finding that it is in the best interest of the City and its taxpayers to participate with the Port:
 - 1.3.1 in the implementation of appropriate measures to remediate and redevelop the Rayonier Mill property so that it may contribute to the economic development and general welfare of the region;
 - 1.3.2 in the investigation of the nature and extent of hazardous waste and wood waste in Port Angeles Harbor and the development of reasonable, necessary and feasible remediation measures for such conditions; and
 - 1.3.3 to coordinate those efforts with other appropriate governmental and private entities.

- 1.4 The Board of Commissioners of the Port of Port Angeles on May 20, 2008, adopted Resolution 08-968, finding that it is in the best interest of the Port and its taxpayers to participate with the City:
 - 1.4.1 in the implementation of appropriate measures to remediate and redevelop the Rayonier Mill property so that it may contribute to the economic development and general welfare of the region;
 - 1.4.2 in the investigation of the nature and extent of hazardous waste and wood waste in Port Angeles Harbor and the development of reasonable, necessary and feasible remediation measures for such conditions; and
 - 1.4.3 to coordinate those efforts with other appropriate governmental and private entities.
- 1.5 The Parties are authorized pursuant to Chapter 39.34 RCW to contract with each other to effectively and efficiently operate, administer and carry out their programs and public projects.

PART 2. AGREEMENT TO COOPERATE IN CLEANUP AND REDEVELOPMENT

- 2.1 General. The City and the Port agree to coordinate actions related to the potential redevelopment of the Rayonier Site. This is contemplated to include, but not be limited to:
 - 2.1.1 Participating in meetings with representatives from Rayonier, the Washington State Department of Ecology, the Washington State Department of Natural Resources, the U.S. Environmental Protection Agency, and other federal, state, local and tribal governmental entities with an interest in the Rayonier Site to develop plans for completing environmental cleanup of the site.
 - 2.1.2 Developing and implementing a plan for redevelopment activities on all or a portion of the Rayonier Site which, subject to appropriate planning activity, environmental and financial review, is anticipated may include the following components:
 - (a) Infrastructure, including pipelines, tankage and outflow amenable to enhancement of City stormwater/sewer systems shall be so utilized;
 - (b) Harbor area leases, including filled harbor areas and adjacent uplands, should receive primary consideration for maritime commercial/industrial use implementing, where appropriate, the management authority of the Port relating to harbor areas;
 - (c) Cultural areas that will have an emphasis of use for archeological interest and public education;
 - (d) Areas of the property to be subject of a mix of industrial, commercial or residential uses;

- (e) Public, open space, cultural, trail, and recreational amenities.
- 2.1.3 The Parties will coordinate utilization of their respective authorities to facilitate comprehensive land use and environmental analysis of site redevelopment alternatives and identification of preferred alternatives.
- 2.1.4 Developing and implementing a plan for financing any improvements to be undertaken by the Parties in connection with the remediation and redevelopment of the Rayonier Site.
- 2.2 The City and the Port agree to coordinate actions related to the potential responses to the existence of toxic materials in the marine environment of the Port Angeles harbor. This is contemplated to include, but not be limited to:
 - 2.2.1 Participating in meetings with representatives from the Washington State Department of Ecology, the Washington State Department of Natural Resources, the U.S. Environmental Protection Agency, and other federal, state, local and tribal governmental entities with an interest in the Port Angeles harbor and/or the Rayonier Site to develop plans for responding to hazardous waste and/or wood waste determined to be located in the Port Angeles Harbor marine environment and having significant adverse environmental effects upon the marine environment.
 - 2.2.2 Developing and implementing a plan involving the City, Port, and other appropriate parties for responding to toxic substances in the Port Angeles harbor marine environment.
 - 2.2.3 Developing and implementing a plan for financing any work to be undertaken in connection with the response plan.
- 2.3 Organization and Administration. The most efficient means to carry out the actions contemplated by Part 1, Sections 2.1, and 2.2 of this Agreement is by creation of a single, separate entity. The entity will be dedicated to execution of the purposes and the cooperative actions intended under this Agreement. To that end, the City will form a Public Development Authority (PDA) as an independent public authority under RCW 35.21.730-.759, that will be governed by a Board of persons nominated by the City and the Port as described in its Charter. The parties agree that the PDA will be the primary operating entity to carry out the purposes and actions contemplated by this Agreement. The Parties shall, at the request of the PDA, engage in activities determined to be consistent with the goals of this Agreement utilizing their respective statutory authorities.
- 2.4 Finance and Operational Arrangements. The Parties agree to provide the PDA access to reasonable start-up funding for expected operating and capital costs. After the PDA has secured start-up funding, in the event the PDA needs additional funding that cannot be obtained from other sources, the Parties agree to contribute as necessary and appropriate to the operating and capital costs of the PDA. Apart from the PDA, each Party shall bear its own costs and maintain its own insurance related to any activities conducted in furtherance of this Agreement. All liabilities incurred by the PDA shall be satisfied exclusively from the assets and properties of the PDA and neither the PDA nor any creditor or other person shall have any right of action against the City or the Port by virtue of this interlocal

agreement. Any bonds, notes, or other evidences of indebtedness issued by the PDA shall contain a recital to the effect that they are not obligations of the City or the Port and that neither the faith and credit nor the taxing power of the State or any municipal corporation or subdivision of the State or any agency of any of the foregoing, is pledged to the payment of principal, interest, or premium, if any, thereon.

2.5 Liability Indemnification.

2.5.1 The City shall protect, save harmless, indemnify, and defend, at the City's expense, the Port, its elected and appointed officials, officers, employees and agents from any loss or claim for damages of any nature whatsoever (collectively "claims"), arising out of the City's performance of this Agreement, or any City or any City assignee work to fulfill the terms and conditions of this Agreement.

2.5.2 The Port shall protect, save harmless, indemnify, and defend, at the Port's expense, the City, its elected and appointed officials, officers, employees and agents, from any loss or claim for damages of any nature whatsoever arising out of the Port's performance of this Agreement, or any Port or any Port assignee work to fulfill the terms and conditions of this Agreement.

2.5.3 The PDA shall protect, save harmless, indemnify, and defend, at its expense, the City and the Port, their elected and appointed officials, officers, employees and agents, from any loss or claim for damages of any nature whatsoever arising out of the PDA's performance of the terms and conditions of this Agreement.

2.6 Adoption of Charter. In furtherance of this Agreement, the parties anticipate that the City shall forthwith adopt a Charter for the Public Development Authority in substantially the form attached hereto as **Exhibit A**, and that the parties shall cooperate with the Public Development Authority when formed, in accordance with the provisions of **Exhibit A**.

PART 3. DISSOLUTION

3.1 Upon the dissolution of the Authority, the City and Port agree that any net assets remaining shall be divided between them in proportion to the net contribution made by each to the Authority.

PART 4. REVISION, AMENDMENT OR SUPPLEMENTATION.

4.1 The terms of this Agreement may be revised, amended or supplemented by written Agreement executed by the Parties. No revision, amendment or supplement shall take effect if it impairs any contractual obligation of either Party.

PART 5. MISCELLANEOUS.

- 5.1 The Effective Date of this Agreement is the date the last agreeing party affixes its signature hereto.
- 5.2 This Agreement shall continue to be in full force and effect until December 31, 2012, subject to renewal thereafter for successive 1-year terms by resolution of each party's governing body. Termination of this Agreement shall have no effect upon the continued existence of the PDA.
- 5.3 This Agreement may be terminated only upon mutual agreement of both Parties. The Agreement may not be terminated if doing so would cause terms previously fulfilled by either party to violate Washington law.
- 5.4 This Agreement is entered into for the benefit of the Parties only and shall confer no benefits, direct or implied, upon any third person.
- 5.5 No waiver by either Party of any term or condition of this Agreement shall be deemed or construed to constitute a waiver of any other term or condition or of any subsequent breach whether of the same or of a different provision of this Agreement.
- 5.6 This Agreement may be executed in one or more counterparts and shall be filed consistent with Chapter 39.34 RCW.

DATED May 21, 2008.

THE CITY OF PORT ANGELES,
a Washington municipal corporation

By Mark E. Madsen
Mark E. Madsen, City Manager

DATED May 21, 2008.

THE PORT OF PORT ANGELES, Clallam
County, Washington, a municipal corporation

By Robert McChesney
Robert McChesney, Executive Director

ATTEST:

Becky J. Upton
Becky J. Upton, City Clerk

APPROVED AS TO FORM:

William E. Bloor
William E. Bloor, City Attorney

APPROVED AS TO FORM/ATTEST:

James
Secretary of the Board