

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS
CONSENT AGENDA REQUEST**

TO: Board of County Commissioners

FROM: Mark McCauley, County Administrator

DATE: December 18, 2023

RE: Interlocal Agreement: Between the City of Port Townsend and Jefferson County to Study a Possible County-wide Public Facilities District for Construction and Operation of Facility for a Pool and Other Activities

STATEMENT OF ISSUE: A multi-agency Steering Committee has been working to develop and bring forward a multipurpose facility for the community that would include a pool and other amenities. Carrie Hite, Project Manager, has conducted extensive community outreach seeking to inform the public and solicit input regarding the project.

The Board of County Commissioners has received a number of briefings on the project and has been debating its strengths and weaknesses. One of the topics being debated is how to finance the facility. After considering whether to seek to form a Metropolitan Parks District (MPD) which would finance the facility through property taxes or a Public Facilities District (PFD) that would finance the facility through sales and possibly excise taxes the steering committee is recommending the formation of a PFD.

During the Board of Commissioners meeting on Monday, December 11th the Board approved a motion directing staff to draft an interlocal agreement between the City of Port Townsend and Jefferson County. The interlocal would govern the creation of a study team to investigate and report out on the creation of a PFD and the completion of an independent financial feasibility review to be conducted by the Washington State Department of Commerce with cost to be split evenly between the two governments.

ANALYSIS: A draft interlocal agreement that complies with the Board's motion is attached. It has been coordinated with the City of Port Townsend.

FISCAL IMPACT: Consistent with the interlocal agreement the county will bear half the cost of the independent financial feasibility review which we estimate will be \$9,000 to be paid out of the General Fund.

RECOMMENDATION: That the Board of County Commissioners approve the attached interlocal agreement.

REVIEWED BY:


Mark McCauley, County Administrator

12/15/23
Date

CONTRACT REVIEW FORM

(INSTRUCTIONS ARE ON THE NEXT PAGE)

Clear Form

CONTRACT WITH: City of Port Townsend

Contract No: MOA PFD 2023

Contract For: Inter-local Agreement - Public Facilities District Term: Through April 2024

COUNTY DEPARTMENT: County Administrator

Contact Person: Mark McCauley

Contact Phone: 360-385-9130

Contact email: mmccauley@co.jefferson.wa.us

AMOUNT: approximately \$9,000

Revenue: N/A

Expenditure: approximately \$9,000

Matching Funds Required: N/A

Sources(s) of Matching Funds N/A

Fund # 001-270

Munis Org/Obj 001-270

PROCESS:

- ☒ Exempt from Bid Process
- ☐ Cooperative Purchase
- ☐ Competitive Sealed Bid
- ☐ Small Works Roster
- ☐ Vendor List Bid
- ☐ RFP or RFQ
- ☐ Other: _____

APPROVAL STEPS:

STEP 1: DEPARTMENT CERTIFIES COMPLIANCE WITH JCC 3.55.080 AND CHAPTER 42.23 RCW.

CERTIFIED: ☒ N/A: ☐

Signature

Date

STEP 2: DEPARTMENT CERTIFIES THE PERSON PROPOSED FOR CONTRACTING WITH THE COUNTY (CONTRACTOR) HAS NOT BEEN DEBARRED BY ANY FEDERAL, STATE, OR LOCAL AGENCY.

CERTIFIED: ☒ N/A: ☐

Signature

Date

STEP 3: RISK MANAGEMENT REVIEW (will be added electronically through Laserfiche):

Electronically approved by Risk Management on 12/15/2023.

STEP 4: PROSECUTING ATTORNEY REVIEW (will be added electronically through Laserfiche):

Electronically approved as to form by PAO on 12/15/2023.
ILA prepared with assistance of the PAO.

STEP 5: DEPARTMENT MAKES REVISIONS & RESUBMITS TO RISK MANAGEMENT AND PROSECUTING ATTORNEY(IF REQUIRED).

STEP 6: CONTRACTOR SIGNS

STEP 7: SUBMIT TO BOCC FOR APPROVAL

**INTERLOCAL AGREEMENT
BETWEEN THE CITY OF PORT TOWNSEND AND JEFFERSON COUNTY
TO INVESTIGATE A POSSIBLE COUNTY-WIDE PUBLIC FACILITIES DISTRICT
FOR CONSTRUCTION AND OPERATION OF FACILITY
FOR A POOL AND OTHER ACTIVITIES**

This Interlocal Agreement between the City of Port Townsend and Jefferson County to Investigate a Possible County-Wide Public Facilities District for Construction and Operation of a Facility For A Pool And Other Activities (this "Agreement") is made and entered into by and between the City of Port Townsend, a municipal corporation under the laws of the State of Washington ("City"), and Jefferson County, a political subdivision under the laws of the State of Washington ("County"), (collectively the "Parties").

WITNESSETH:

WHEREAS, the Parties wish to investigate the creation of a county-wide Public Facilities District ("PFD") under Chapter 36.100 of the Revised Code of Washington ("RCW") for the purpose of designing and building a multipurpose recreation facility, which would include among other things a pool, locker rooms and other amenities; and,

WHEREAS, an independent financial feasibility review is required under RCW 36.100.025 prior to forming a county-wide PFD and the Parties wish to share the cost of performing such a review; and,

WHEREAS, the Interlocal Cooperation Act, as amended, and codified in Chapter 39.34 RCW provides for Interlocal cooperation between governmental agencies; and,

WHEREAS, it would be in the best interest of the citizens of the Parties' respective jurisdictions to cooperation in these endeavors; and,

WHEREAS, the Parties hereto desire to enter into an Interlocal Agreement ("Agreement") so the Parties can agree to the terms establishing said cooperation; and,

NOW, THEREFORE, the Parties hereto agree as follows:

1. Purpose

The purpose of this Agreement is twofold:

- a. To establish a study team to investigate the formation of a county-wide PFD and prepare a report for the respective legislative bodies of the Parties for the purpose of obtaining a decision from each regarding whether to proceed with the actual formation of a county-wide PFD under Chapter 36.100 RCW, and
- b. To obtain an independent financial feasibility review to be conducted by the Washington State Department of Commerce prior to the formation of a county-wide PFD, as required under RCW 36.100.025 and to agree to sharing the cost of said review.

2. Investigation Committee

A study team shall be formed with each of the Parties appointing two individuals to investigate the requirements related to establishing a county-wide PFD, the ability of a county-wide PFD to issue debt and levy taxes and any other facts related to a county-wide PFD that would be useful for the legislative bodies to know when considering whether to support the formation of a county-wide PFD for the purpose stated in the WHEREAS section of this Agreement. The committee may invite others to participate in the investigation at its discretion.

3. Independent Financial Feasibility Review

The Parties agree to each pay one half of the cost of completing the independent financial feasibility review. If possible, Commerce should invoice each of the Parties separately for their share.

4. Study Team Report for a County-wide PFD

The study team shall prepare a report for submission to the legislative bodies of the Parties on or before February 1, 2024, and shall present their findings to each in a public meeting.

5. Mutual Indemnity

For its comparative liability, each Party agrees to indemnify, defend and hold the other Party, its officers, officials, employees, agents and volunteers (and their marital communities), harmless from and against any claims, damages, losses and expenses, including but not limited to court costs, attorney's fees and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which are alleged or proven to be caused by an act or omission, negligent or otherwise, of its officers, officials, employees, agents or volunteers (and their marital communities). A Party shall not be required to indemnify, defend, or hold the other Party or its officers, officials, employees, agents and volunteers (and their marital communities) harmless if the claim, damage, loss or expense for personal injury, for any bodily injury, sickness, disease or death or for any damage to or destruction of any property (including the loss of use resulting therefrom) is caused by the sole act or omission of the other Party or its officers, officials, employees, agents or volunteers. If any concurrent act occurs or omission of the Parties and their officers, officials, employees, agents and volunteers, negligent or otherwise, these indemnity provisions shall be valid and enforceable only for the comparative liability of each Party and its officers, officials, employees, agents or volunteers. The Parties agree to maintain a consolidated defense to claims made against them and to reserve all indemnity claims against each other until after liability to the claimant and damages are adjudicated. If any claim is resolved by voluntary settlement and the Parties cannot agree upon apportionment of damages and defense costs, they shall submit apportionment to binding arbitration. The indemnification obligations of the Parties shall not be limited by the Washington State Industrial Insurance Act, Title 51 RCW, or by application of any other workmen's compensation

act, disability benefit act or other employee benefit act. Each Party expressly waives any immunity afforded by such acts to the extent required by a Party's obligations to indemnify, defend and hold harmless the other Party, its officers, officials, employees, agents and volunteers (and their marital communities). A Party's waiver of immunity does not extend to claims made by its own employees directly against that Party as employer. The indemnity provisions of this section are a material inducement to enter into this Agreement and have been mutually negotiated. This section shall survive the expiration or termination of this Agreement.

6. Term

This Agreement shall take effect immediately and shall continue in effect until terminated. It may be terminated by either Party by giving ten (10) days written notice to the other; provided, however, that termination shall not affect or impair joint purchases of the Parties that were agreed to on or before the date of termination.

7. Compliance with Laws

Each Party accepts responsibility for compliance with federal, state or local laws and a regulation including, in particular, that Party's bidding requirements applicable to the acquisition of any goods, services, or equipment obtained through the cooperative process agreed to herein.

8. Survival

Those provisions of this Agreement that by their sense and purpose should survive the term of this Agreement shall survive the term of this Agreement. Without limiting the generality of the preceding sentence, and for the avoidance of doubt, the provisions that survive the term of this agreement include: (a) controlling law; and, (c) indemnification.

9. Severability

Any provision of this Agreement held to be prohibited or unenforceable shall be ineffective only to the extent of such prohibition or unenforceability, without invalidating the remaining provisions or affecting the validity or enforcement of such provisions.

10. Contact Persons:

The Parties stipulate that the following persons shall be the contact person for their respective jurisdiction.

CITY OF PORT TOWNSEND:

John Mauro
City Manager
250 Madison Street
Port Townsend, WA 98368
Phone: 360-379-5043

JEFFERSON COUNTY:

Mark McCauley
County Administrator
Jefferson County
1820 Jefferson St., Port Townsend, WA 98368
Phone: (360) 385-2130

11. Recording

A copy of this Agreement shall be recorded by the County in the Jefferson County Auditor's Office.

12. General Provisions

a. No new or separate legal or administrative entity is created to administer the provisions of this Agreement.

b. This Agreement contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Agreement.

c. No provision of this Agreement may be amended or modified except by written agreement signed by the Parties.

d. This Agreement shall be binding upon and inure to the benefit of the Parties' successors in interest, heirs and assigns.

e. The Parties do not intend, and nothing in this Agreement shall be construed to mean, that any provision in this Agreement is to benefit any person or entity who is not a Party.

f. This Agreement may be amended or supplemented only by a writing signed by duly authorized representatives of all the Parties.

g. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Agreement at different times and places by the Parties shall not affect the validity of this Agreement, so long as all the Parties execute a counterpart of this Agreement.

h. The Parties agree that facsimile and electronic signatures shall have the same force and effect as original signatures.

i. Any provision of this Agreement or either Party places the enforcement of this Agreement in the hands of an attorney, or files a lawsuit, each Party shall pay all its own attorneys' fees, costs and expenses.

j. It is understood and agreed this Agreement is entered into in the State of Washington. This Agreement shall be governed by and construed under the laws of the United States, the State of Washington and the County of Jefferson, as if applied to transactions entered into and to be performed wholly within Jefferson County, Washington between Jefferson County residents. No Party shall argue or assert that any state law other than Washington law applies to the governance or construction of this Agreement.

k. The venue for any legal action shall be solely in the appropriate state court in Jefferson County, Washington, subject to the venue provisions for actions against counties in RCW 36.01.050.

l. Each Party shall be responsible for its own compliance with the Washington Public Records Act, Chapter 42.56 RCW (as may be amended). This Agreement, once executed, will be a "public record" subject to production to a third-party if it is requested under the Chapter 42.56 RCW.

m. No Party may sell, transfer or assign any rights or benefits under this Agreement without the written approval of all the Parties.

(SIGNATURES FOLLOW ON NEXT PAGE)

JEFFERSON COUNTY WASHINGTON

Board of County Commissioners
Jefferson County, Washington

By: _____
Greg Brotherton, Chair Date

By: _____
Kate Dean, Commissioner Date

By: _____
Heidi Eisenhour, Commissioner Date

SEAL:

ATTEST:



December 15, 2023

Carolyn Galloway Date
Clerk of the Board

Approved as to form only:

Philip C. Hunsucker, Date
Chief Civil Deputy Prosecuting Attorney

CITY OF PORT TOWNSEND

By: _____
John Mauro, City Manager Date