

**ORIGINAL**

**INTERLOCAL AGREEMENT  
BY AND BETWEEN  
PORT DISTRICT OF SOUTH WHIDBEY ISLAND  
AND  
SOUTH WHIDBEY FIRE/EMS**

**PURPOSE:** This Interlocal Agreement, between the PORT DISTRICT OF SOUTH WHIDBEY ISLAND, hereinafter referred to as the Port, and SOUTH WHIDBEY FIRE/EMS, hereinafter referred to as SWFE, defines the funding and operational terms and conditions for the provision of funds from the Port Security Grant Program, including moorage arrangements for the emergency response vessel purchased by SWFE with those funds.

**WHEREAS,** in order to better serve their South Whidbey Island constituents, the Port and SWFE (both municipal corporations organized under the laws of the State of Washington and wholly situated in Island County) have joined in the South Whidbey Marine Security Consortium for improvement of the Port District's economic resiliency, and for improvement of marine emergency response, and;

**WHEREAS,** the mission of the Port is:

***"To enhance the economic well-being of the community and improve public access to marine areas while respecting the unique rural character and environment of South Whidbey Island"***

In pursuit of this mission, the Board of Commissioners of the Port, as the lead agency in the South Whidbey Marine Security Consortium, is prepared to administer federal aid from the Department of Homeland Security's Port Security Grant Program's 2009 federal appropriation, and;

**WHEREAS,** a portion of these funds is designated for purchase of an emergency response vessel for SWFE, thereby enabling the Board of Fire Commissioners of SWFE to pursue its mission which is:

***"To protect and prepare the South Whidbey community through service and education."***

**NOW, THEREFORE,** in accordance with the provisions of the Washington State InterLocal Cooperation Act (RCW 39.34) and for the mutual considerations set forth herein, the Port and SWFE do hereby agree to establish this agreement as follows:

1. Provisions for the Administration of this Agreement:
  - a. The Port shall administer this Agreement. The Port and SWFE shall not jointly hold any property.

- b. All maintenance and operations expenses of the SWFE emergency response vessel shall be the responsibility of SWFE. All maintenance and operations expenses of the moorage facility shall be the responsibility of the Port.
  - c. The Port shall provide all necessary reports and participate in audits related to the operation and/or expansion of the moorage facility. SWFE shall provide all necessary reports and participate in audits related to the purchase and/or operation of the emergency response vessel. If reports required of the Port require information and data related to the emergency response vessel, SWFE shall provide that information and data to the Port as expeditiously as possible. If reports required by SWFE require information and data related to the moorage, the Port shall provide that information and data to SWFE as expeditiously as possible.
2. Operations and Harbor Regulations:
- a. SWFE shall comply with the Port's Harbor Regulations, as amended.
3. Financing and Budget:
- a. The Port is the lead agency in the South Whidbey Marine Security Consortium which has applied for and received federal aid through the Department of Homeland Security's Port Security Grant Program's 2009 federal appropriation. A component of this grant agreement, the funding contract which is referenced in this Interlocal Agreement, provides funds to be used by SWFE to purchase an emergency response vessel for use within SWFE's response area and, when requested by the US Coast Guard (USCG), to support USCG emergency response activities within the USCG's response area within Puget Sound. SWFE shall be responsible for the 25% match requirement for the Port Security Grant Funds used to purchase the emergency response vessel.
  - b. In exchange for the moorage cited in 3.c., a section of the newly expanded moorage facility shall be reserved for use by SWFE's emergency response vessel cited in 3.a, for the duration of this agreement.
  - c. The cost of the moorage cited in 3.b. shall be as follows:
    - i. SWFE will be responsible for moorage fees and all applicable taxes to moor the response vessel in South Whidbey Harbor. Utilities, including electricity, lighting, sewer, water and garbage removal, are included in the base moorage rate.
    - ii. For the first year, base moorage and utilities will be \$8.80/foot/month plus Leasehold Tax. The response vessel being 34.5 feet, the monthly moorage will cost \$303.60 per month plus 12.84% Leasehold Tax for a total of \$342.58/month, or \$4,110.96 for the first year.
    - iii. For each subsequent year, the cost for base moorage and utilities will increase by 3% to account for general inflation and rising costs for normal Port operations. [Please note that at the time of the signing of this ILA, the annual moorage cost to all other customers is \$11/foot/month and SWFE is receiving a discount on the

regular customer moorage rate.] The subsequent years' cost, starting at year 2, for moorage will be as follows:

Year	Base cost per foot per month	Monthly total Incl. Leasehold Tax	Total annual moorage
2	\$9.06	\$352.70	\$4,232.40
3	\$9.34	\$363.60	\$4,363.20
4	\$9.62	\$374.50	\$4,494.00
5	\$9.91	\$385.79	\$4,629.48
Etc.	Etc.	Etc.	Etc.

2015  
2014  
2017  
2018

4. Duration: This agreement shall remain effective from the final date of approval by the Port and SWFE until:

- a. SWFE no longer owns and operates the emergency response vessel purchased, in part, with grant funds provided by the Port Security Grant Program's 2009 federal appropriation, or
- b. The Port no longer owns and operates the Port of South Whidbey Harbor at Langley moorage facility, or
- c. Both parties agree to terminate the agreement for the mutual benefit of the residents of their respective districts.
- d. Either party is in material breach of this agreement.

5. Indemnification:

- a. SWFE shall at all times protect, indemnify and hold the Port harmless from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including, without limitation, reasonable attorney fees and expenses) imposed upon or reasonably incurred by or asserted against SWFE on account of
  - (i) any failure of the Port to comply with any of the terms of this Agreement, or
  - (ii) any loss or damage to real or personal property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to the Project or the use or financing thereof, or
  - (iii) any use of the Project in violation of applicable law (including environmental laws); provided, the SWFE has no obligation to indemnify the Port for any claim or liability resulting from the Port's sole negligence or willful misconduct. This paragraph shall survive the completion, expiration, and/or termination of this Agreement.

b. SWFE shall maintain, during the life of the Agreement, Industry Standard Occurrence Commercial General Liability Insurance in the amount of \$1,000,000.00 Per Occurrence and \$2,000,000.00 Aggregate, including Premises/Operations, Products/Completed Operations, Blanket Contractual Liability and Personal Injury Coverage, to protect the Port from claims for damages for bodily injury, including wrongful death, as well as from claims of property damage which may arise from any operations under this contract whether such operations be by SWFE or by anyone directly employed by or contracting with SWFE. SWFE's insurance policy shall name the Port as an "additional insured."

6. Compliance with Other Agreements SWFE shall comply will the terms and conditions of Port Management Agreement #20-080034 and Aquatic Lands Lease #20-085090 (Exhibits A and B, respectively).

7. No Separate Legal Entity. It is not the intention of this Agreement that a separate legal entity be established to conduct this cooperative undertaking. For purposes of RCW 39.34.030(4)(a), the Port's chief administrative officers shall administer the Project.


8. Modification of the Agreement. This Agreement may be modified only by the informed written consent of each party.


9. Mediation. If a dispute arises out of or relating to any aspect of this Agreement between the Port and SWFE, or the breach thereof, and if the dispute cannot be settled through negotiation, parties agree to discuss in good faith the use of mediation before resorting to arbitration, litigation, or any other dispute resolution procedure.

**IN WITNESS WHEREOF**, the parties have executed this Interlocal Agreement on the day and year shown below their signatures.

\_\_\_\_\_  
Port Commissioner Chris Jerome      Date

 2/12/14  
Port Commissioner Curt Gordon      Date

 2/12/14  
Port Commissioner Dennis Gregoire      Date

 1-14-14  
SWFE Commissioner, Robert Elliot      Date

 1-14-14  
SWFE Commissioner, Mike Helland      Date

 1/14/14  
SWFE Commissioner, Kenon Simmons      Date