

AFTER RECORDING RETURN TO:

Mason County PUD 3
P.O. Box 2149
Shelton, WA 98584

**INTERLOCAL AGREEMENT FOR
PORT OF ALLYN LED STREET LIGHTING PROJECT**

This Interlocal Agreement (Agreement) is made and entered into this 20th day of June 2014, by and between the Port of Allyn, a municipal corporation in Mason County, Washington (Port of Allyn) and Public Utility District No. 3 of Mason County, a municipal corporation in Mason County, Washington (PUD 3), and collectively referred to hereinafter as the "Parties."

RECITALS

WHEREAS: The Port of Allyn operates street lighting for the benefit of the public and in the interest of public safety;

WHEREAS: PUD 3 has a strong interest and history in implementing conservation and energy efficiency measures to reduce the need to acquire new resources to service electrical demands;

WHEREAS: The utilization of light emitting diode (LED) street lights provides significant benefits to the Port of Allyn and members of the public;

WHEREAS: The benefits of using newer technology utilizing LED street lights includes the following: improved night visibility due to higher color rendering, higher color temperature and increased illuminance uniformity; significantly longer lifespan; lower energy consumption; reduced maintenance costs; instant-on with no run-up or re-strike delays; no mercury, lead or other known disposable hazards; lower environmental footprint; and an opportunity to implement programmable controls, e.g., bi-level lighting;

WHEREAS: The Port of Allyn and PUD 3 are interested in installing approximately twenty-two (22) LED street light fixtures;

For and in consideration of the mutual covenants hereinafter provided and pursuant to the Interlocal Cooperation Act, Chapter 39.34 RCW, the parties hereby recite, covenant, and agree as follows:

1. PUD 3 shall purchase all LED street lights, and perform all labor to install new or replace existing mercury vapor and sodium halide street lights with modern LED street lighting systems, at PUD 3's sole and exclusive expense.
2. PUD 3 shall perform light placement and mast arm length evaluations to ensure that the LED lighting is being located for the best performance under existing conditions. The purchase and use of extended length mast arms and other materials are not included in the daily rate as dictated by PUD 3 Schedule 41 Overhead Light Rate, and payment for these materials will be the responsibility of the Port of Allyn at the time of installation.
3. After installation, PUD 3 shall own, maintain, repair and replace the LED street lighting systems during the term of this agreement at PUD 3's sole and exclusive expense.
4. The Port of Allyn agrees not to disconnect the LED street or area lights and pay the rates established and adjusted by PUD 3 from time to time for such lights for a minimum period of ten (10) years from the date of agreement.
5. If PUD 3 increases the LED street or area light rates greater than a twenty percent (20%) from the rate established at the time of this agreement, the Port of Allyn may choose to terminate this agreement upon not less than ninety (90) days written notice to PUD 3.
6. There are no additional parties intended to be benefited under this agreement. There are no other agreements or representations, written or oral, concerning the subject matter of this agreement.
7. This Agreement shall be governed for all purposes by the law of the State of Washington. The venue for any action arising under this Agreement shall be in Mason County, Washington, unless otherwise mutually agreed in writing by the parties.
8. No amendments or variations of the terms and conditions of this Agreement shall be valid unless they are in writing and signed by all of the parties thereto.
9. The Parties agree to perform any further acts and to execute and deliver any further documents as may be reasonably necessary to fully effectuate the provisions of this Agreement.
10. None of the Parties shall be liable nor deemed to be in default for any delay or failure in performance under the Agreement or other interruption of service or employment resulting, directly or indirectly, from acts of God, civil or military authority, acts of the public enemy, terrorism, bomb threats, computer virus, epidemic, power outage, acts of war, accidents, fires, explosions, earthquakes,

floods, failure of transportation, machinery, or supplies, vandalism, strikes or other work interruptions by the employees of any party, or any other cause beyond the reasonable control of the party affected thereby. However, each party shall utilize its best good faith efforts to perform under this Agreement in the event of any such occurrence or circumstance.

11. PUD 3 shall serve as the administrator of this agreement.
12. This agreement shall be effective immediately upon execution by the Parties, and shall continue in full force and effect for ten (10) years from the date of execution unless sooner terminated, amended, or superseded by mutual, written agreement of the parties.
13. After the initial ten (10) year term of this agreement, the agreement shall automatically renew on a year-to-year basis and may thereafter be terminated, with or without cause, upon not less than ninety (90) days written notice to the other party.
14. The Port of Allyn agrees to protect, defend, indemnify and hold harmless PUD 3 for any and all activities by Port of Allyn employees, officers, elected officials, agents and volunteers, from any and all claims, demands, losses, liens, liabilities, penalties, fines, lawsuits, and other proceedings and all judgments, awards, costs and expenses (including attorneys' fees and disbursements) caused by or occurring by reason of any violation of law or negligent act and/or omission of its elected officials, officers, agents, volunteers or employees, arising out of or in connection with the activities of the Port of Allyn under and pursuant to this Agreement, including but not limited to any personal injury, death, and/or property damage claim, demand, lawsuit or other proceeding, including industrial insurance claims and administrative enforcement actions, brought against PUD 3 or the Port of Allyn.
15. PUD 3 agrees to protect, defend, indemnify and hold harmless the Port of Allyn for any and all activities by PUD 3 employees, officers, elected officials, agents and volunteers, from any and all claims, demands, losses, liens, liabilities, penalties, fines, lawsuits, and other proceedings and all judgments, awards, costs and expenses (including attorneys' fees and disbursements) caused by or occurring by reason of any violation of law or negligent act and/or omission of its elected officials, officers, agents, volunteers or employees, arising out of or in connection with the activities of PUD 3 under and pursuant to this Agreement, including but not limited to any personal injury, death, and/or property damage claim, demand, lawsuit or other proceeding, including industrial insurance claims and administrative enforcement actions, brought against the Port of Allyn or PUD 3.
16. This Agreement will be enforced to the fullest extent permitted by applicable law. If any term or provision of this Agreement is held to be invalid, illegal, or

unenforceable by a court or other governmental authority of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement, which shall remain in full force and affect.

IN WITNESS WHEREOF, the parties hereto have duly executed this agreement effective the date first indicated above;

Port of Allyn:

Rusty A. Bonsen 5/30/2014
Rusty Bonsen, Executive Director Date

PUD No. 3:

Annette Creekpaum 6/20/2014
Annette Creekpaum, Manager Date