REGIONAL CENTER INTERLOCAL AGREEMENT
Between the Kitsap Public Facilities District and the Port of Bremerton

This **REGIONAL CENTER INTERLOCAL AGREEMENT** (the "Agreement") is made pursuant to Chapter 39.34 RCW between the Port of Bremerton, a Washington political subdivision organized and operating pursuant to RCW 53 ("the Port"), and the Kitsap Public Facilities District, a Washington special purpose district operating under Chapter 36.100 RCW (the "District").

WHEREAS, pursuant to RCW 36.100.030(1) and RCW 35.57.020, the District is authorized to acquire, construct, own, remodel, maintain, equip, repair, and operate a regional center, and pursuant to Chapter 36.100.030(2), the District may enter into interlocal agreements with other agencies to operate such facilities. For these purposes, "regional center" means a convention, conference, or special events center under RCW 35.57.020(1)(a), or any combination of facilities and related parking facilities, serving a regional population constructed after July 25, 1999, at cost of at least ten million dollars.

WHEREAS, pursuant to RCW 82.14.390, the District is entitled to receive certain local sales taxes which the District may use for the development of qualifying regional centers.

WHEREAS, the District believes it has the financial capacity to support the development of one or more new regional centers in Kitsap County and has requested proposals from public agencies for new regional centers in Kitsap County.

WHEREAS, the District Board has completed an evaluation and review process for seven (7) new regional centers and has initially determined to proceed with further review for possible funding with several applicants.

WHEREAS, the Port has proposed a project (the "Project"), which qualifies as a regional center and which is more fully described in Attachment "A" (Project Summary), attached hereto and incorporated by reference.

WHEREAS the Port and the District previously entered into an Interlocal Agreement to provide funding for certain tasks related to public components of what was then referred to as Phase II of the Circuit of the Northwest Project on or about December 3, 2018, without a commitment to further funding.

WHEREAS the District now anticipates collaborating with the Port on the development of a regional center, specifically, Port of Bremerton/Circuits of the Northwest facility on Port owned property, where the District's primary role would be to provide funding to create public benefits for Kitsap County.

WHEREAS the District and the Port are committed to undertaking their respective obligations hereunder.

WHEREAS District funding may be subject to an independent financial feasibility

review prior to the issuance of any indebtedness or the long-term lease, purchase, or development of a regional facility pursuant to RCW 36.100.025.

NOW, THEREFORE, in consideration of the mutual obligations and benefits herein, the parties agree as follows:

1. **Purpose of Agreement.** The purpose and intent of this Agreement is for the Port and the District to collaborate efficiently and effectively in order for the parties to begin design and construction documents for the public portions of the Project and, if feasible, construct the certain public portions of the Project with funds from the Port in part, from Circuits of the Northwest in part, from other contributors, such as C-STOCK, in part, and from the District in part.

2. **Port Funding Request.** The Port has requested, and has been awarded by the District, funding in the amount of $1,439,000.00 (One Million Four Hundred Thirty-Nine Thousand Dollars) for the design and construction documents for the public portions of the Project in accordance with the Agreement Tasks, on Exhibit "B" as attached.

3. **Port Obligations.** The Port shall undertake and fund the design and construction documents for the public portions Project, subject to reimbursement by the District as further described below. In addition, the Port shall undertake the following:

3.1 Contract Administration. The Port shall be responsible for all aspects of the contract administration for the Agreement Tasks, which shall include, but not be limited to, advertising, bidding, awarding, and monitoring the contract(s), as generally required by any applicable RCW. However, all invoiced or out of pocket expenses related to the project, except staff salary, benefits, and overhead costs, are eligible for reimbursement. This includes but is not limited to advertising, permitting, connection fees, testing, sub-consulting, and construction.

3.2 Reporting. The Port shall regularly (not less than quarterly) meet with the District or the District's representative listed in Paragraph 7 below, to evaluate the progress of its Agreement Tasks. The meetings can be held remotely as needed, consistent with applicable Open Public Meetings Act (OPMA) requirements and Port Bylaws.

3.3 Timing of Agreement Tasks. The anticipated timing of the Agreement Tasks is set forth in Attachment "B."

3.4 Ownership of Work Product and / or Intellectual Property. All design drawings and construction documents, associated work product, and associated intellectual property shall be the property of the Port.

3.5 Recognition. The Port shall publicly recognize the District's contribution to the Project in a manner to be agreed upon. The District may require some identification of the Project as "Regional Center" or "Special Event Center."

4. **The District's Obligations.** The District shall fund the tasks set forth in Attachment

"B" in an amount not to exceed the Funding Request in Section 2 above. The dollar amounts for each task listed in Attachment B are estimates for each project phase but may be shifted as needed; provided in the event the Port proposes to shift or reallocate funds to different tasks, it shall first provide written notice to the District, who shall have a right of approval, not to be unreasonably withheld.

5. Process for Payment.

5.1 Accounting and Reporting. The Port intends to utilize its existing accounts and fund structure to manage this Project. However, the Port shall be able separately account for and report all activity, funds and expenses related to this Project.

5.2 Manner and Timing of Payment. The Port will initially fund the Agreement Tasks. The Port may submit payment requests to the District upon completion of several tasks in Exhibit B, or may wait until the completion of all the tasks in Exhibit B. When submitting a request for payment, the Port shall notify the District of completion and submit a request for payment with an accounting of invoices received by the Port and other such information as the District may reasonably require. Thereafter, at its sole discretion, the District may pay the Port:

- In a lump sum, if otherwise unallocated funds are available, at any point in time with no penalty for prepayment, or
- Periodic payments over ten (10) years at 0% interest on an annual basis until paid

5.3 Use of Funds. The funds from the District shall solely be used for the payment of the Agreement Tasks and no other purposes. The Port may not reimburse itself for salary, benefits and overhead, but all other out of pocket expenses related to the Funding Request are eligible for reimbursement.

5.4 Port Matching Contributions. All accounting of staff time, Port expenses including consultant fees and Port contributions directly related to the Project may be considered as part of the matching element of this project for District funding.

6. **Conditions/ Contingencies/Checkpoints.** The District and the Port are committed to funding the Project as set forth in this Agreement, subject to the following conditions:

6.1 Independent Feasibility Review - Department of Commerce. The District's funding commitment may be subject to the statutory independent feasibility review of RCW 36.100.025.

6.2 Availability of Funds. This Agreement is contingent upon the availability of funding from the District. In the event that the District's expected funding payable to the Port hereunder is withdrawn, reduced, limited, or not otherwise available after the effective date of this Agreement, this Agreement may be terminated by either party.

6.3 The Port's Performance of its Assigned Tasks. District funding is conditioned upon the Port's timely completion (as measured by the deadlines set out in Attachment “B”)

of its Assigned Tasks including, but not limited to, obtaining necessary permits, and obtaining necessary funding in addition to the funding from the District.

6.4 The Circuit of the Northwest's Performance of its Obligations to the Port. District funding is conditioned upon the Circuit of the Northwest's timely completion of its commitments to the Port specific to the tasks set forth in Exhibit B.

6.5 Adoption of Operational Standards. Prior to the District's reimbursement to the Port under this Agreement, the parties, through their designated representatives shall form a plan to addressing construction review and operational standards, replacement/reserve funding standards, reporting obligations, and any other agreed standards applicable only to the Project.

6.6 Process for Termination. In the event any of the required conditions are not satisfied, the Agreement may be terminated, by either party delivering thirty (30) days written notice to the other. The termination notice shall specify the date on which the Agreement shall terminate.

7. **Notice and Project Coordinators.** The following individuals are the Project Coordinators and official contacts for the Port and the District. Any notice, request, approval, direction, invoice, statement, or other communication which may, or are required to be given under this Agreement, shall be in writing and shall be deemed to have been given if hand delivered, sent by a nationally recognized overnight delivery service, or if deposited in the U.S. mail and sent by certified mail, return receipt requested, postage prepaid to the Project Coordinators:

For the Port: Jim Rothlin ,CEO
Port of Bremerton
8850 SW Highway 3
Bremerton, WA 98312
Phone: 360-674-2381
Email: jimr@portofbremerton.org

For the District: Michael Walton
Executive Director
Kitsap Public Facilities District
9230 Bay Shore Drive NW, Suite 101
Silverdale, WA 98383
Phone: 360-698 1885
Email: mwalton@kitsap-pfd.org

All notices shall be deemed complete upon actual receipt or refusal to accept delivery.

8. **Non-Assignability.** Neither party may assign any interest in this Agreement and shall not transfer any interest in this Agreement without the prior written consent of the other party.

9. **Independent Governments - No Liability.** Each party is and shall remain an independent government. This Agreement does not create a partnership or other similar

arrangement. The parties shall not be liable for the acts or omissions of the other party or their respective public officials, employees, or agents.

10. **Term of Agreement.** Except as otherwise stated herein, the term of this Agreement shall commence upon execution by both of the parties and shall continue until 30 days after the date of the last payment or January 31, 2022, whichever occurs last. This Agreement may be reasonably extended by the parties as may be necessary to complete the Assignment Tasks, as the parties otherwise agree.

11. **Amendment.** No modification or amendment of this Agreement may be made except by a written document signed by both parties.

12. **Counterparts and Electronic Transmission.** This Agreement may be signed in counterparts. Electronic transmission of any signed original document, and retransmission of any signed electronic transmission shall be the same as delivery of an original document.

13. **Governing Law.** This Agreement, and the right of the parties hereto, shall be governed by and construed in accordance with the laws of the State of Washington, and the parties agree that in any such action, jurisdiction and venue shall lie exclusively in Kitsap County, Washington.

14. **No Third-Party Beneficiaries.** There are no third-party beneficiaries to this Agreement.

15. **Interpretation.** Each party participated in this Agreement and has had this Agreement reviewed by legal counsel. Therefore, any language herein shall not be construed against either party on the basis of which party drafted the particular language.

16. **True and Full Value.** The Port and the District have each independently determined as to itself that: (i) it has the authority to enter into this Agreement; and (ii) the promises and covenants received from the other party represent "true and full value" received by it pursuant to RCW 43.09.210.

17. **Survivability.** All obligations contained herein shall survive termination until fully performed.

18. **Entire Agreement.** This Agreement, including all predicate paragraphs and exhibits which are incorporated into this Agreement, contains all of the understandings between the parties. Each party represents that no promises, representations, or commitments have been made by the other as a basis for this Agreement, which have not been reduced to writing herein. No oral promises or representations shall be binding upon any party whether made in the past or to be made in the future, unless such promises or representations are reduced to writing in the form of a written modification of this Agreement executed by both parties.

IN WITNESS WHEREOF, the Port of Bremerton and the District have executed this Agreement as of the date last written below.

PORT OF BREMERTON	**KITSAP PUBLIC FACILITIES DISTRICT**
_____	___Daron Jagodzinske_____
By: Jim Rothlin	By: Daron Jagodzinske
Its: CEO	Its: Chair
Date: _____	Date: __2/22/2021___
	ATTEST:
	____*Patrick Hatchel*_____
	By:__Patrick Hatchel
	APPROVED AS TO FORM:
	_____*Brian E. Lawler*_____
	Brian E. Lawler, District Legal Counsel

ATTACHMENT "A"

PROJECT SUMMARY/DESCRIPTION

Short Summary :
The creation and administration of the design for all portions of the CNW/Port project which the public will have access and use of upon completion.

The creation and administration of the construction documents needed to implement the above.

Description of Project:
The request for funding at this stage is to design a public events center and outdoor event space located on the west side of Highway 3, across from the Bremerton Airport. The event center and outdoor event space will be on Port of Bremerton property that is currently leased to CNW.

1. Regional Sporting Event Area:

The Port of Bremerton already has a designated area on which multiple sporting events currently take place. However, in 2023, that area will be closed down as it lies in the path of the extension of Airport Industrial Way.
The KPFD funding for design and construction documents will allow an upgraded facility to be constructed across the highway in order to continue the existing schedule of events, and the ability to add new events.
The funding would be utilized to design and create the construction documents for parking areas, access roads, pedestrian walkways and bridges, supporting utilities, and the events areas. Development would be coordinated with the proposed CNW site to maximize the efficient use of funds.
For 2020 at the existing facility, there were approximately 130 scheduled events on the paved facility alone, with motocross adding many more. The sports events that have been taking place at the current facility for a number of years include:
Motocross, PacWest MX, including nationally recognized motocross competitions. Competitors stay on site for the weekend, competitions have had up to 445 entries, with 1500 participants when spectators are included.
Porsche Club car rally and meetings taking place each month with approximately 150 participants.
Sports Car Club of America, monthly events with approximately 150 attendees
Autocross
Car Races: rallies, racing, weekend events, camping. For example, the drag racing alone accounts for approximately 1000 participants per event. Drag Racing is scheduled for twelve events (36 days total) in 2020 alone.
Northwest Nights: There are four events scheduled this year, with an expected turnout of 1500 per event.
Karting
A few examples of new types of events that can be held in the proposed sporting facility:
Car Shows, including shows and concerts hosted by the LeMay Car Museum
Street Drag racing in a controlled, hosted environment.
It should be noted that each event draws not only the participants/competitors, but also

members of the public participate as spectators. These can be multi day events. Currently, every weekend is consistently booked from Spring through Fall every year. It is critical to Kitsap County to not lose the ability to host these types of events.

2. Community Events Center

The design and construction documents would also encompass this second portion, which is the outdoor events center with the capability to hold large scale events of up to 10,000 attendees, which would be a completely unique and necessary facility for Kitsap County. A soft surface terrain with mountain views would also contain stage and vendors areas to host such events as:

- Festival events: wine and beer festivals
- Musical events/concerts
- Theater performances
- Outdoor meetings/corporate events
- Trade shows, or vendors fairs

An example of community clients for such a space would include:

- Drafts and Drums (charity music festival, 1500 attendees)
- LiveNation
- LeMay AAT
- RPM Foundation
- TechForce Foundation
- Kitsap County Rodeo
- Wilkinson Events
- Permission to Start Dreaming Foundation

3. Parking Areas, Access Roads, Design:

To accommodate larger public gatherings, parking (both paved and grass) is necessary to derive the highest economic benefit to the public. For the larger events it is crucial to the project that adequate paved parking and access roads be available. Without the inclusion of the paved infrastructure, the facility cannot accommodate larger crows or operate during inclement weather (an important feature in the Pacific Northwest).

Roadways and other infrastructure such as upgrades stormwater systems, and wastewater disposal, will also be a part of this project in order to provide adequate public access and use.

ATTACHMENT "B"

AGREEMENT TASKS

(WITH ESTIMATED BUDGETS AND TIMING)

See attached documents.