

**FOURTH SUPPLEMENTAL AGREEMENT  
TO THE INTERLOCAL AGREEMENT REGARDING THE  
“NEW WHATCOM SPECIAL DEVELOPMENT AREA”**

This Fourth Supplemental Interlocal Agreement to the “*Interlocal Agreement Regarding the New Whatcom Special Development Area*” is made and entered into by and between the Port of Bellingham (the “*Port*”) and the City of Bellingham (the “*City*”) pursuant to Chapter 39.34 RCW.

**WHEREAS**, recognizing this unique and historic opportunity and acting decisively to secure the benefits of redeveloping Bellingham’s central waterfront as a mixed-use area, on January 4, 2005, the Port and the City entered into the “Interlocal Agreement Regarding the New Whatcom Special Development Area.” This interlocal agreement created the “New Whatcom Special Development Area (“*NWSDA*”). The interlocal agreement addresses, in a comprehensive manner, issues necessary for the successful redevelopment of the *NWSDA* and specifies, in part, that the Port will convey at no cost to the City the appropriate property rights for the property containing public infrastructure and public parks and access areas as set forth in the a comprehensive master plan.

**WHEREAS**, on January 4, 2005, the Port and the City also entered into an “Interlocal Agreement for the Implementation of the Waterfront Futures Group Recommendations.”

**WHEREAS**, On January 20, 2005, the Port acquired from Georgia-Pacific Corporation its waterfront industrial property located within the *NWSDA*. Pursuant to the purchase agreement, the Port assumed responsibility for the environmental remediation of certain known environmental conditions on the former Georgia-Pacific Corporation property and in the Whatcom Waterway in exchange for transferring the property to the Port.

**WHEREAS**, the acquisition of the former Georgia-Pacific property and environmental remediation to a standard suitable for mixed-use redevelopment by the Port can only be accomplished if the Port formed strategic partnerships with key government agencies, such as the City, to assist in the redevelopment of the *NWSDA*.

**WHEREAS**, on December 14, 2005 the Port and the City entered into an “Interlocal Agreement Regarding the Acquisition of the Chevron Property and the Colony Wharf Property and the Remediation of the Cornwall Avenue Landfill Site and the Central Waterfront Site” which addressed property and environmental issues inside the *NWSDA*.

**WHEREAS**, the City and the Port recognized and continue to recognize the unique and historic opportunity for the citizens of Bellingham, Whatcom County, and the greater

Puget Sound region to redevelop the NWSDA as a mixed-use development with significant public access opportunities.

**WHEREAS**, redeveloping the NWSDA as a mixed-use area will provide numerous benefits for all of the citizens of Whatcom County. These benefits include: (1) providing new marine facilities, public parks, open space, and trails; (2) helping generate new family-wage jobs; (3) providing an area for both housing and business development to occur in a manner that helps preserve the County’s limited supply of agricultural and natural resource lands; (4) remediating environmental contamination within the NWSDA to a standard suitable for mixed-use redevelopment; and (5) creating valuable near shore habitat.

**WHEREAS**, it is in the community’s best interest to promote redevelopment of the NWSDA as a mixed-use area that would capture the unique and historic opportunity to create tremendous public amenities and value for the community and the environment, instead of having the NWSDA continue to be an underutilized and contaminated industrial site.

**WHEREAS**, redeveloping NWSDA as a mixed-use site requires a higher clean-up standard and corresponding cost than would simply allowing the area to remain as an industrial site.

**WHEREAS**, there is a shared public purpose for the City and the Port to jointly analyze the environmental impacts of redeveloping the NWSDA as a mixed-use area and to jointly prepare a development plan, development regulations, and a development agreement to ensure that the redevelopment is financially feasible for both jurisdictions and that the redevelopment reflects the interests of the City and Port and their constituents.

**WHEREAS**, fully implementing these interlocal agreements will result in both the Port and the City having significant property ownership within the NWSDA and a joint interest in ensuring the successful redevelopment of the NWSDA to maximize the value of this property and its benefit to the public.

**WHEREAS**, the Port and City have engaged in the process of developing a Draft Framework Plan for the NWSDA on which further planning, economic modeling, additional in-depth market analysis, and environmental impact statement work will be performed to prepare a Development Plan and Development Regulations which are anticipated to be embodied in a Development Agreement (hereinafter collectively referred to as the “*New Whatcom Development Plan*”).

**WHEREAS**, the New Whatcom Development Plan will define the specific mix of uses, design, and development standards to implement the community vision for the NWSDA and the Port’s Scheme of Harbor Improvements will address the marine infrastructure and development of Port properties within the NWSDA.

**WHEREAS**, the Port and the City will be developing the Environmental Impact Statement (“*EIS*”) under the State Environmental Policy Act (“*SEPA*”) for the New Whatcom Development Plan to analyze the potential impacts and corresponding mitigating measures to address the conversion of a two hundred and twenty (220) acre industrial Brownfield site to a new mixed-use waterfront development.

**WHEREAS**, the environmental review for the New Whatcom Development Plan and Scheme of Harbor Improvements, including the development of draft and final EIS documents and the continuing work on the New Whatcom Development Plan, require additional consulting services.

**WHEREAS**, the Port and City have agreed to jointly develop and fund the New Whatcom Development Plan.

**WHEREAS**, the Port and City have jointly, through a competitive selection process, selected a team of consultants, including Artifacts Consulting, Blumen Consulting, Collins Woerman, David Evans, Grette Associates, Landau Associates, LMN Architects, Northwest Archeological, Norton Arnold, Primedia Group, Transpo, and Walker Macy to provide additional consulting services for the preparation of the Preliminary Draft EIS and the continuing development of the New Whatcom Development Plan.

**WHEREAS**, the Port and City have agreed that the Port will serve as the lead SEPA agency for preparation of the EIS, and by resolution, the Port has identified Andrew W. Maron, as the SEPA Responsible Official for the SEPA Process.

**WHEREAS**, as the lead SEPA agency for the NWSDA, the Port issued a draft scoping document for public comment on the preparation of the EIS. Based on public comment and further analysis, the Port issued a final scoping document on July 13, 2007, describing the preparation of a planned action EIS.

**WHEREAS**, the City has appointed a “*Waterfront Project Manager*” to act as the point of contact with the City concerning the NWSDA and the New Whatcom Development Plan.

**WHEREAS**, the Port and the City have from time-to-time supplemented the terms of the Interlocal Agreement Regarding the New Whatcom Special Development Area and now desire to, once again, supplement the terms of the Interlocal Agreement Regarding the New Whatcom Special Development Area with this Fourth Supplemental Agreement to address the funding of the additional consulting work related to the New Whatcom Development Plan.

**NOW, THEREFORE**, in consideration of mutual covenants and conditions contained herein, the Port and the City agree as follows:

1. **SEPA Responsible Official Communications.** The Port shall coordinate with the City's Waterfront Project Manager regarding any communication with the SEPA Responsible Official. The Port will provide notice to the City of any material information impacting the project.

2. **Purpose and Joint Funding of EIS Preparation.** The Port and the City will provide additional funding in calendar years 2007 and early 2008 for the preparation of a Preliminary Draft EIS for the NWSDA as follows:

<b>DEIS Preparation</b>	<b>Cost</b>	<b>Port Share</b>	<b>City Share</b>
Additional cost for Preliminary Draft EIS.	\$127,825.00	\$63,912.50	\$63,912.50

The costs associated with the Draft and Final Environmental Impact Statement ("FEIS") will be submitted for approval in a supplemental amendment to the Interlocal Agreement Regarding the New Whatcom Special Development Area at such time as the scope and costs are quantified. Those costs are currently anticipated at approximately \$300,000. Final costs will depend on the amount of public comment and the number of required revisions.

3. **Purpose and Joint Funding of Master Plan Preparation and Public Involvement Program.** The parties agree to provide additional funding in calendar years 2007 and early 2008 for the preparation of a New Whatcom Master Plan as the Preferred Alternative in the Final EIS, as follows:

<b>Task 3 Amendment</b>	<b>Cost</b>	<b>Port Share</b>	<b>City Share</b>
Prepare a Master Plan for New Whatcom.	\$393,000.00	\$196,500.00	\$196,500.00

4. **Joint Funding for Continuing Work on the Development of the New Whatcom Master Development Regulations.** The parties agree to jointly provide additional funding in calendar years 2007 and 2008 to undertake continuing planning activities, as identified in Article III, paragraph 9(a) of the Interlocal Agreement Regarding the New Whatcom Special Development Area. These additional funds will be used to fund the development of Development Regulations.

<b>Task 4 Amendment</b>	<b>Cost</b>	<b>Port Share</b>	<b>City Share</b>
Create a set of development regulations for the NWSDA.	\$164,000.00	\$82,000.00	\$82,000.00

5. **Contract Administration.** The Port will be the lead agency in contracting for the consultant agreements for work to support the SEPA review process, including those

activities and costs described in Paragraph 2 above. The Port and City will each appoint its respective representative with regard to these contracts, and these representatives will coordinate direction to the consultants. Upon receipt of an invoice from the consultants for work completed, as described in Paragraph 2 above, the Port will provide a copy to the City for its review and the City will promptly pay to the Port its share of those costs that the Port and City's representatives jointly agree are due and payable through the invoice, as defined in Paragraph ~~12~~ above of this agreement. If there are any issues concerning the invoice, the Port and City representatives will meet and resolve the issues.

5.1 The Port will be the lead agency in contracting for the consultant agreements for developing a New Whatcom Master Plan, including those activities and costs described as Task 3 in Paragraph 3 above. The Port and City will each appoint its respective representative with regard to these contracts, and these representatives will coordinate direction to the consultants. Upon receipt of an invoice from the consultants for work completed, as described for Task 3 in Paragraph 3 above, the Port will provide a copy to the City for its review and the City will promptly pay to the Port its share of those costs that the Port and City representatives jointly agree are due and payable through the invoice, as defined for Task 3 in Paragraph 3 above. If there are any issues concerning the invoice, the Port and City representatives will meet and resolve the issues. The Port agrees to provide the City representative timely notice of any proposal by consultants to change or modify the scope and budget associated with contractual relationship. The Port agrees to obtain the City's agreement for the expenditure of any funds above the basic services for consultants. The Port agrees to provide the City's representative real time copies of all correspondence relevant to project decision making, with the understanding that material changes will require consensus between the parties.

5.2 The City will be the lead agency for completing the Development Regulations for the NWSDA, including those activities identified as Task 4 in Paragraph 4 above. The City will coordinate the contracting for the consultant agreements for this work identified as Task 4 in Paragraph 4 above. The City will take the lead for directly contracting \$164,000.00 to support Task 4. The City and Port will each appoint its respective representative with regard to these contracts, and these representatives will coordinate direction to the consultants. Upon receipt of an invoice from the consultants for work completed, as described in Task 4 of Paragraph 4 above, the City will provide a copy to the Port for its review. The Port will promptly pay its share of those costs that the City and Port representatives jointly agree are due and payable through the invoice, as defined in Task 4 of Paragraph 4 above. If there are any issues concerning the invoice, the City and Port representatives will meet and resolve the issues.

6. **Leadership in Environmental and Energy Design (LEED) Neighborhood Development Pilot Program.** The NWSDA has been accepted as a pilot program for national certification as a LEED Neighborhood Development project by the U.S. Green Building Council. The cost for participation in this program is \$20,000.00 to be shared

equally by the Port and City. The Port will be the lead agency for this program, making full payment to the U.S. Green Building Council. The City will pay the Port its \$10,000.00 share upon execution of this Fourth Supplemental Interlocal Agreement. The Port will keep the City advised and inform the City of any material issues and related decisions impacting the project related to this program.

7. **New Whatcom Interlocal Agreement – Timeline for Adoption of New Whatcom Development Plan.** The Port and the City have been working diligently and cooperatively to develop the New Whatcom Development Plan. The preparation and formal scoping, including public comment, for the New Whatcom EIS was initiated during the first half of 2007. Additional public comment on a Draft EIS is expected during the second half of 2007. The final New Whatcom Development Plan and associated SEPA documents will be presented to the Port commission and the City Council for consideration in 2008. However, the Port and the City recognize that these dates may be extended to ensure that comprehensive SEPA and New Whatcom Development Plan documents are provided for consideration.

8. **Terms and Conditions of Existing Interlocal Remain the Same.** The parties agree that, except as specifically modified hereinabove, the terms and conditions of the Interlocal Agreement Regarding the New Whatcom Special Development Area shall continue in full force and effect.

**ADOPTED** by each government noted below in an open public meeting on the date noted.

**PORT OF BELLINGHAM**

\_\_\_\_\_  
*Commission President*

Date \_\_\_\_\_

**CITY OF BELLINGHAM**

\_\_\_\_\_  
*Mayor*

Date \_\_\_\_\_

**Departmental Approval:**

\_\_\_\_\_  
*Department Head*

**Attest:**

**Approved as to form:**

\_\_\_\_\_  
*Finance Director*

\_\_\_\_\_  
*Office of the City Attorney*

POB/NEW WHATCOM WATERWAY/FOURTH SUPPLEMENTAL INTERLOCAL/NWSDA SUPPLEMENTAL AGREEMENT\_08-15-07(RSV)