

**FIFTH SUPPLEMENTAL AGREEMENT
TO THE INTERLOCAL AGREEMENT REGARDING THE
"NEW WHATCOM SPECIAL DEVELOPMENT AREA"**

This Fifth 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, 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, the Port and the City have executed four previous supplements to the Interlocal Agreement Regarding the "New Whatcom Special Development Area" to wit:

- (i) First Supplemental Agreement to the Interlocal Agreement Regarding the "New Whatcom Special Development Area dated July 24, 2006.
- (ii) Second Supplemental Agreement to the Interlocal Agreement Regarding the "New Whatcom Special Development Area dated December 20, 2006.
- (iii) Third Supplemental Agreement to the Interlocal Agreement Regarding the "New Whatcom Special Development Area dated April 12, 2007.
- (iv) Fourth Supplemental Agreement to the Interlocal Agreement Regarding the "New Whatcom Special Development Area dated August 21, 2007.

WHEREAS, the Port and the City now desire to again supplement the terms of the Interlocal Agreement Regarding the "New Whatcom Special Development Area" with this Fifth Supplemental Agreement to address the funding of the additional consulting work related to the preparation of the Draft EIS and the Final EIS.

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

DEIS Preparation	Cost	Port Share	City Share
Additional cost for Preliminary Draft EIS	\$104,240.00	\$52,120.00	\$52,120.00

3. **Joint Funding of Final EIS Preparation.** The Port and the City will provide funding in the year 2008 for the preparation of a Final Environmental Impact Statement ("FEIS") for the NWSDA as follows:

FEIS Preparation	Cost	Port Share	City Share
Prepare FEIS	\$185,000.00	\$92,500.00	\$92,500.00

4. **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 Paragraphs 2 and 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 in Paragraph 2 and 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's representatives jointly agree are due and payable through the invoice as defined in Paragraph 1 of this Agreement. If there are any issues concerning the invoice the Port and City representatives will meet and resolve the issues.

5. **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 first half of 2008. 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.

6. **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 and the previous supplements thereto shall continue in full force and effect.

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

THE PORT OF BELLINGHAM

Commission President

Date: _____

CITY OF BELLINGHAM

Mayor

Date: _____

Attest:

Departmental Approval:

Finance Director

Department Head

Approved as to form:

Office of the City Attorney