

**MASTER INTERLOCAL AGREEMENT
BETWEEN LOTT CLEAN WATER ALLIANCE AND CITY OF OLYMPIA**

This Agreement is entered into in duplicate originals between the LOTT CLEAN WATER ALLIANCE, a 501(c)(3) corporation acting as a public agency to provide wastewater resource management services (hereinafter "LOTT"), and the CITY OF OLYMPIA, a municipal corporation (hereinafter "City"), pursuant to RCW 39.34.080.

WHEREAS, it is to the mutual advantage of LOTT and the City to cooperate as described herein in order to make the most efficient use of their resources to provide services and facilities needed by the citizens residing within their respective jurisdictions; and

WHEREAS, RCW 39.34.080 authorizes a public agency to contract with another public agency to perform any governmental service, activity, or undertaking that each public agency is authorized by law to perform;

NOW THEREFORE, by virtue of RCW 39.34.080 and in consideration of the terms, conditions, covenants, and performances contained herein, or attached and incorporated and made a part hereof, IT IS MUTUALLY AGREED AS FOLLOWS:

I

GENERAL

- 1.0 It is the purpose of the Agreement to permit the parties to make the most efficient use of their resources by enabling them to cooperate by providing staff support, equipment, and materials when available on a reimbursable basis for roadway, utility, and utility appurtenance maintenance activities or cooperate on joint roadway, utility, and utility appurtenance maintenance and repair projects. This will be done with the understanding that the work of the owner from whom resources have been requested takes first priority.
- 1.1 This Agreement sets forth all terms and conditions agreed upon by LOTT and the City and supersedes any and all prior agreements oral or otherwise with respect to the subject matter addressed herein.

II

DURATION

- 2.0 This Agreement shall become effective as of the date of the last authorizing signature affixed hereto upon recording with the Thurston County Auditor's Office or posting upon the websites or other electronically retrievable public source as required by RCW 39.34.040. This Agreement shall remain in effect for five (5) years unless terminated sooner as provided for herein. At the end of the five-year term, this Agreement may be renewed under those terms and conditions mutually agreed to by the parties.

III

REQUEST FOR SERVICES

- 3.0 Each request for service shall be submitted by the authorized official or designee on behalf of each entity. Each request for service shall be in writing and shall specify the particular service required, the amounts and types of labor, equipment, and material required, the location of the work, the estimated cost of the work, when the work is to be performed, and other information pertinent to the request on a Task Order form signed by their authorized official, an example of which is attached as Exhibit A. Upon receipt of the request, the party who has been requested to supply the service shall indicate their acceptance or rejection of the requested Task Order, have it signed by their authorized official, and return one (1) copy to the requesting party. The authorized official for LOTT is the Executive Director and for the City of Olympia is the City Manager. In cases of emergency, as declared in writing by the official at the requesting agency authorized to do so, the request and approval may be verbal, but must be agreed upon in a written Task Order within 48 hours of the verbal request.
- 3.1 The party that accepts the request for service agrees to perform, or cause to be performed, all work and furnish, or cause to be furnished, all materials and equipment required to procure and perform the work described in the Task Order. The work shall be procured and performed in accordance with this Agreement and all applicable city, state, and federal laws, policies, and regulations applicable to each Party, including but not limited to public works bid law.

IV

PAYMENT

- 4.0 The parties to this Agreement agree that the party receiving services under this Agreement shall reimburse the party providing the services for their actual direct and related indirect costs, which were estimated in the original Task Order. It is agreed that any such payment will not constitute agreements as to the appropriateness of any item or to the reasonableness of the cost incurred. Neither party may incur costs on behalf of the other beyond that expressed in their written Task Order to perform services without first obtaining the requesting party's written consent.
- 4.1 The maximum amount payable for work to be performed under this Agreement is \$100,000 per calendar year.

V

RECORDS RETENTION AND AUDIT

- 5.0 During the progress of the work and for a period not less than six (6) years from the final date of payment, the records and accounts pertaining to the work and accounting therefore are to be kept available for inspection and audit by either party and/or the State and Federal Government. Copies of all records, accounts, documents, or other data pertaining to the work will be furnished upon request. If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claim, or

audit finding has been resolved even though such litigation, claim, or audit continues past the 6-year retention period. The Parties agree that both shall comply with any requirements under the Washington Public Records Act and RCW 40.14 that exceed the six (6) year requirement described herein.

VI

REQUEST FOR USE OF EQUIPMENT/CARE AND MAINTENANCE OF EQUIPMENT

- 6.0 The parties agree that any time a request is made for the use of equipment, the requesting party shall be responsible for the proper care, maintenance, and security of the equipment until the equipment is returned to the owner. Any damage, other than normal wear and tear, will be the responsibility of the party in possession of the equipment at the time the equipment is damaged. Requests shall be made in writing on the Task Order Form.

VII

RIGHT OF ENTRY

- 7.0 The parties to this Agreement hereby grant and convey to each other the right of entry upon all land in which the parties have interest, within or adjacent to the right of way of the highway, road, or street for the purpose of accomplishing all work or services requested as part of this Agreement.

VIII

RELATIONSHIP OF PARTIES

- 8.0 The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party. This Agreement is for the benefit of the parties, and no third party beneficiary relationship is intended. No separate legal entity and no joint organization are created by this Agreement. No common budget is to be established. No personal or real property is to be jointly acquired or held.

IX

HOLD HARMLESS AND INDEMNIFICATION

- 9.0 The City shall hold harmless, indemnify, and defend LOTT, its officers, officials, employees and agents, solely for third party claims relating to bodily injury, sickness or death, or real or personal property damage or destruction and loss of use thereof, including costs and attorney's fees in defense thereof, caused by or arising out of the City's negligence in the performance of its obligations under this Agreement. It is further specifically and expressly understood that the indemnification provided herein constitutes the City's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

- 9.1 LOTT shall hold harmless, indemnify, and defend the City, its officers, officials, employees and agents, solely for third party claims relating to bodily injury, sickness or death, or real or personal property damage or destruction and loss of use thereof, including costs and attorney's fees in defense thereof, caused by or arising out of the LOTT's negligence in the performance of its obligations under this Agreement. It is further specifically and expressly understood that the indemnification provided herein constitutes LOTT's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.
- 9.2 The City's obligations hereunder shall not extend to bodily injury, sickness or death caused by or arising out of the sole negligence of LOTT, its officers, officials, employees or agents.
- 9.3 LOTT's obligations hereunder shall not extend to bodily injury, sickness or death caused by or arising out of the sole negligence of the City, its officers, officials, employees or agents.
- 9.4 In the event of the concurrent negligence of the parties, the City's obligations hereunder shall apply only to the percentage of fault attributable to the City, its officers, officials, employees or agents.
- 9.5 In the event of the concurrent negligence of the parties, the LOTT's obligations hereunder shall apply only to the percentage of fault attributable to LOTT, its officers, officials, employees or agents.
- 9.6 The provisions of this Section IX shall survive the expiration or termination of this Agreement and completion of the request for services.

X

INSURANCE

- 10.0 Both parties shall maintain Commercial General Liability or equivalent for bodily injury, personal injury and property damage, subject to limits of not less than \$1,000,000 per loss. The general aggregate limit shall apply separately to this Agreement and be no less than \$2,000,000. Participation in a governmental self-insured risk pool shall fulfill the above stated coverage requirements. An Evidence of Coverage acknowledgement letter from the jurisdictions' risk pools will be provided to each party. Other insurance coverage that may be unique to the work performed will be included in the Task Order following the acceptance of a request to perform work, as more particularly referred to in Section III herein.
- 10.1 Both parties shall maintain workers' compensation insurance as required by Title 51 RCW, and shall provide evidence of coverage to the other party upon request.

- 10.2 Both parties shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced with written notice mailed to each party.

XI

TERMINATION

- 11.0 Either party may terminate this Agreement upon 30 calendar days' prior written notice to the other party. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination. The hold harmless and indemnification provision shall survive the termination of this Agreement and completion of the request for services. In exercising its right to Termination, the Parties agree to act reasonable to minimize any costs associated with the overall project and the work specifically being undertaken pursuant to this Agreement.

XII

LEGAL RELATIONS

- 12.0 No liability shall attach to the parties by reason of entering into this Agreement except as expressly provided herein.

XIII

ADMINISTRATION AND NOTICE

- 13.0 The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. Wherever written notice is required under this Agreement, such notice shall be provided to the representatives designated below. In the event such representatives are changed, the party making the change shall notify the other party.

The City's representative shall be the Public Works Director, PO Box 1967, Olympia, WA 98507-1967, 360-753-8495.

LOTT's representative shall be the Contract Administrator, 500 Adams Street NE, Olympia, WA 98501, 360-528-5718.

- 13.1 Any notice required under this Agreement shall become effective three (3) calendar days following the date of deposit in the United States Postal Service.

XIV

CHANGES, MODIFICATIONS, AND AMENDMENTS

- 14.0 This Agreement may be changed, modified, amended or waived only by written agreement executed by the authorized officials of both parties hereto.

XV

GOVERNING LAW AND VENUE

15.0 This Agreement has been and shall be construed as having been made and delivered within the State of Washington and it is agreed by each party hereto that this Agreement shall be governed by the laws of the State of Washington both as to its interpretation and performance. Any action at law, suit in equity, or judicial proceeding arising out of this Agreement shall be instituted and maintained only in a court of competent jurisdiction in Thurston County, Washington.

XVI

WAIVER

16.0 A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

XVII

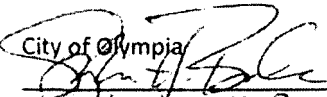
SEVERABILITY

17.0 If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

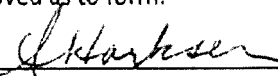
XVIII

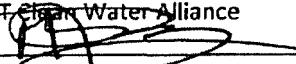
EQUAL OPPORTUNITY TO DRAFT

18.0 The parties have participated and had an equal opportunity to participate in the drafting of this Agreement, and the Exhibits, if any, attached. No ambiguity shall be construed against any party upon a claim that such party drafted the ambiguous language.

City of Olympia

By: Stephen H. Buzbaum
Its: Mayor
Dated: 10-28-14

ATTEST: _____
_____, City Clerk

Approved as to form:
By: 
Annaliese Harksen, Assistant City Attorney

LOTT Clean Water Alliance

By: Michael D. Strub
Its: Executive Director
Dated: 12/9/2014

ATTEST: 
Farah Derosier, Corporate Secretary

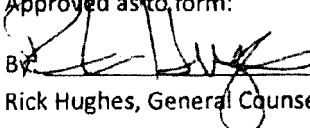
Approved as to form:
By: 
Rick Hughes, General Counsel

EXHIBIT A

LOTT/CITY OF OLYMPIA Task Order Form 2014						
Who is requesting work?	LOTT Contract #	City Pro-Law #	2014 Task Order #	City Administration Use ONLY		
		14-4650		Budget Verified	Yes	No
Not-to-Exceed Amount 2014	This Task Order Amount	Total Amount Used in 2014	2014 Contract Amount Remaining			
\$ 100,000.00	\$ -	\$ -		Filed Task Order		
Brief Project Description:						
Location of Work:						
Scope of Work: Please see attached Exhibit A - Scope of Work/Timeline and Exhibit B - Total estimated cost						
TASK ORDER SUMMARY						
Task Order #	Task Name				Amount	
1					\$	-
2					\$	-
3					\$	-
4					\$	-
5						
6						
7						
8						
9						
City Manager				Executive Director		

- NOTES:**
1. Task Orders must be compliant with the provisions of the main contract.
 2. Where a Task Order cannot be accommodated on the form; use as a cover (noting "See Attached" in the appropriate spaces above). Any substitute format must include all elements of this form for each item of work.