

**INTERLOCAL MUTUAL COOPERATION AGREEMENT
BETWEEN
SAN JUAN COUNTY
AND
THE PORT OF FRIDAY HARBOR**

THIS Interlocal Mutual Cooperation Agreement ("AGREEMENT") is made and entered into pursuant to RCW 39.34.080, by and between San Juan County ("COUNTY"), and the Port of Friday Harbor ("PORT"), a municipal corporation duly organized and existing under the State of Washington. COUNTY and PORT may be individually referred to herein as a "party" and may be collectively referred to herein as the "parties." In consideration of the following, the parties mutually agree as follows:

WHEREAS, the COUNTY and the PORT desire to enter into an AGREEMENT to allow the PORT to manage commercial recreational use on the westerly 500' of the County's parcel number 352412001000; and

WHEREAS, the COUNTY will continue to use the Parcel for intermittent barge operations and require, upon occasion, the unimpeded use of, and access through, the entire parcel; and

WHEREAS, the COUNTY and the PORT recognize the benefits of relocating commercial kayak and paddle board uses, together with the associated parking and kayak storage, away from the public boat ramp at Jackson Beach;

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, the parties hereto agree as follows:

1. SCOPE OF RESPONSIBILITIES.

In accordance with and subject to the purpose of this AGREEMENT (as provided above), the COUNTY authorizes the PORT to manage commercial recreation and associated parking and storage within the westerly 500' of San Juan County parcel number 352412001000 (the "AGREEMENT AREA"). PORT's management of such activities is subject to the following requirements:

1.1. Upon seven (7) days' notice the PORT will ensure all portions of the AGREEMENT AREA identified by the COUNTY as needed for its use, for any purpose, will be free of any occupancy or encumbrances.

1.2. At no time will the PORT allow any commercial recreational user of the site to block, encumber, or restrict the existing access road through the site.

1.3. The PORT and its commercial agreement holders will ensure that the vehicle gates to the site remain locked when not being actively used by an authorized user, and that neither the PORT nor their agreement holders will interfere with the COUNTY'S free and unrestricted access through the gates.

1.4. The PORT, at its sole expense, will maintain the access road in good repair.

1.5. The PORT shall require all users of the AGREEMENT AREA to protect, defend, hold harmless, and indemnify San Juan County from and against any and all losses, liabilities or damages arising out of their activities. PORT shall require users to maintain insurance as described in Sections 9.1 through 9.3 below that is valid for the time of use and that names the COUNTY and the PORT as additional insured. PORT shall ensure such insurance is provided on an "occurrence" basis and so indicated on the Certificate. All insurance required under this section shall be primary and non-contributory. PORT shall obtain evidence of insurance consistent with this section prior to allowing use of the AGREEMENT AREA.

1.6 It shall be the responsibility of the port to identify and abate any dangerous artificial conditions within the AGREEMENT AREA. If, however, a potentially dangerous condition is found to exist in the AGREEMENT AREA, the County may take steps to abate such condition. If abatement requires the removal of any equipment or improvements, the PORT shall first obtain the consent of the COUNTY for its proposed manner of abatement, which consent shall not unreasonably be withheld.1.7. Upon termination of this agreement, the PORT will ensure the site is left in its original condition.

2. TERM.

The term of this AGREEMENT shall be from date of mutual execution through December 31, 2027, unless sooner terminated pursuant to the terms herein.

3. COMPENSATION AND MANNER OF FINANCING.

This ILA is for mutual convenience of the parties. No monetary compensation is part of this agreement.

4. ADMINISTRATION.

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. In the event such representatives are changed the party making the change shall notify the other party.

4.1. The COUNTY's representatives shall be the Public Works Director and the County Manager, or their designee(s).

4.2. The PORT's representatives shall be the Executive Director and the Chair of the Board of Commissioners, or their designee(s).

5. TREATMENT OF ASSETS OR PROPERTY.

No fixed assets or personal or real property will be jointly or cooperatively acquired, held, used, or disposed of pursuant to this AGREEMENT. Real property owned by the County that used by the County and any improvements thereon made pursuant to this Agreement is the property of the County. Personal property furnished by any party under this agreement shall remain the property of the furnishing party.

6. NO PARTNERSHIP OR JOINT VENTURE.

No partnership and/or joint venture exists between the parties, and no partnership and/or joint venture is created by and between the parties by virtue of this AGREEMENT. No agent, employee, contractor, subcontractor, consultant, volunteer, and/or other representative of the parties shall be deemed an agent, employee, contractor, subcontractor, consultant, volunteer, or other representative of the other parties.

7. NO THIRD-PARTY BENEFICIARIES.

This AGREEMENT is not intended to nor does it create any third party beneficiary or other rights in any third person or party, including, but not limited to, the general public, property owners and residents at or in the vicinity of the Project(s), or any other organization or entity, or any agent, contractor, subcontractor, consultant, employee, volunteer, or other representative of any party.

8. INDEMNIFICATION.

Each party agrees to be responsible and assume tort liability for its own wrongful and/or negligent acts or omissions, or those of its officials, officers, agents, or employees to the fullest extent required by law, and agrees to save, indemnify, defend and hold the other party harmless from any such tort liability. In the case of negligence or wrongful acts by both the COUNTY and the PORT, any damages allowed shall be levied in proportion to the percentage of fault attributable to each party, and each party shall have the right to seek contribution from the other party in proportion of the percentage of negligence attributable to the other party.

9. INSURANCE.

Each party will carry and maintain throughout the period of the AGREEMENT at its own expense the following minimum insurance, which may be provided by a county or municipal risk management pool approved by the Washington State Insurance Commissioner:

9.1. Comprehensive commercial general liability insurance in the amount of no less than \$1,000,000, or if greater, to the limit of the policy for combined, single-limit bodily injury, including wrongful death, or property damage to defend and indemnify all activities and services covered by this AGREEMENT.

9.2. Auto liability insurance with limits of no less than \$1,000,000 for each person and/or \$1,000,000 for each occurrence for owned, hired and non-owned automobiles used for any activities and services covered by this AGREEMENT.

9.3. Statutory workers' compensation insurance and employer's liability insurance to cover employees and volunteers as required by state and federal law.

9.4. Each party shall provide the other with evidence of insurance in the form of a Certificate of Insurance satisfactory to the other, executed by a duly authorized representative of each insurer showing compliance with the insurance requirements set forth above. Upon request, a party shall also provide a duplicate copy of each insurance

policy and endorsements noted above and the name, address and telephone number of the broker who issued each one, if applicable as evidence of coverage.

10. MAINTENANCE AND INSPECTION OF RECORDS.

10.1. The PORT shall maintain books, records and documents, which sufficiently and properly reflect all commercial use agreements and the associated insurances.

10.2. The PORT shall retain all books, records, documents and other material relevant to this Agreement for six (6) years after its expiration. The PORT agrees that the other party or its designee shall have full access and right to examine any of said materials at all reasonable times during said period.

11. USE OF DOCUMENTS AND MATERIALS PRODUCED.

Not applicable.

12. COMPLIANCE WITH LAWS.

The parties to this AGREEMENT shall comply with all applicable federal, state and local laws, rules and regulations in carrying out the terms and conditions of this AGREEMENT.

13. TERMINATION.

Any party hereto may terminate this AGREEMENT upon thirty (30) days' notice in writing either personally delivered or mailed postage-prepaid by certified mail, return receipt requested to the party's last known address for the purposes of giving notice under this paragraph. 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, except the duty to indemnify pursuant to Section 8 shall survive such termination.

14. MEDIATION.

The parties shall use reasonable efforts to resolve any controversies or disputes arising out of or relating to this AGREEMENT through a good faith attempt at mediation. Each party will pay its own attorneys' fees and costs in connection with mediation.

15. ARBITRATION.

A. Any controversy or claim arising out of or relating to this Agreement that is not resolved through mediation, shall be resolved by final and binding arbitration pursuant to RCW 7.04A. Demand for arbitration shall be made in writing to the other party. The arbitration shall be held in San Juan County before a single arbitrator selected by the Agreement of the parties. If the parties cannot agree upon an arbitrator within fifteen (15) days after the demand for arbitration is made,

the arbitrator shall be selected by a judge in the Superior Court of San Juan County in accordance with the procedures set out in RCW 7.04A.110.

B. Unless the parties agree otherwise in writing, the arbitration hearing shall occur no later than sixty (60) days after the date the arbitrator is appointed.

C. The parties agree that, with the exception of the circumstances set out in RCW 7.04A.230, the arbitrator's decision shall be binding, final and not appealable to any court of law.

D. Each party shall pay its own costs of arbitration including attorneys' fees. The arbitrator's fee and any administrative expenses imposed by the arbitrator shall be shared equally by the parties.

E. This Agreement shall be governed by laws of the state of Washington, both as to interpretation and performance.

15. APPLICABLE LAW.

This AGREEMENT shall be governed by the laws of the State of Washington, both as to interpretation and performance.

16. CHANGES, MODIFICATIONS, AMENDMENTS, and WAIVERS.

The AGREEMENT may be changed, modified, amended or waived only by written agreement executed by the parties hereto. Waiver or breach of any term or condition of this AGREEMENT shall not be considered a waiver of any prior or subsequent breach. All remedies afforded in this AGREEMENT shall be taken as cumulative; that is, in addition to every other remedy provided herein or by law.

17. SEVERABILITY.

It is understood and agreed by the parties that in the event any term or condition of this AGREEMENT or application thereof to any person or circumstances is held by any court to be illegal or in conflict with any law of the State of Washington, the validity of the remaining portions of the AGREEMENT shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the AGREEMENT did not contain the particular term, part or provision held to be invalid.

18. ENTIRE AGREEMENT.

This instrument contains the entire AGREEMENT between the parties and any prior statements, promises, or inducements made by any party or agent of that party that are not contained in this AGREEMENT shall not be valid or binding.

19. NOTICE.

Notice provided for in this AGREEMENT shall be sent by certified mail to the following addresses designated for the parties:

SAN JUAN COUNTY PUBLIC WORKS
Colin F. Huntemer, Director
P.O. Box 729
Friday Harbor, WA 98250

PORT OF FRIDAY HARBOR
Todd Nicholson, Executive Director
P.O. Box 889
Friday Harbor, WA 98250

20. ELECTRONIC SIGNATURES.

A copy of this AGREEMENT signed electronically and transmitted by facsimile, email, or other means of electronic transmission, shall be deemed to have the same legal effect, for all purposes, as an original, manually executed copy.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed as of this 5TH day of APRIL, 2022.

ATTEST: Clerk of the Council

Ingrid Gabriel 4.05.2022
Ingrid Gabriel, Clerk Date

COUNTY COUNCIL
SAN JUAN COUNTY, WASHINGTON

Cindy Wolf
Cindy Wolf, Vice-Chair

District 2

REVIEWED BY COUNTY MANAGER

Michael J. Thomas 4/5/2022
Michael J. Thomas Date

Christine Minney 4.5.22
Christine Minney, Chair Date
District 1

APPROVED AS TO FORM ONLY
RANDALL K. GAYLORD

By: RK Gaylord 3/31/22
Date

Jamie Stephens 4/5/2022
Jamie Stephens, Member Date
District 3

PORT OF FRIDAY HARBOR

By:  3/30/2022
Todd Nicholson, Executive Director Date

Exhibit A

Map of Interlocal Agreement Area



San Juan County GIS, Pictometry International Corp., San Juan County Assessor's Office



This map is derived from San Juan County's Geographic Information System (GIS). It is intended for reference only and is not guaranteed to survey accuracy. The information represented on this map is subject to change without notice.

1 in = 84 feet



San Juan County - Polaris