

INTERLOCAL AGREEMENT FOR MARINE PATROL SERVICES

THIS INTERLOCAL AGREEMENT (“Agreement”) is between the City of Mercer Island, a municipal corporation of the State of Washington, hereinafter “Mercer Island”, and the Town of Hunts Point, a municipal corporation of the State of Washington, hereinafter “Hunts Point”.

WHEREAS, Mercer Island maintains a Marine Patrol unit to provide Marine Patrol services in the water of its municipal jurisdiction; and

WHEREAS, Hunts Point borders on Lake Washington and has certain of the waters of Lake Washington within its municipal jurisdiction; and

WHEREAS, Hunts Point wishes to avail itself of the Marine Patrol services of Mercer Island in and on the waters within its municipal jurisdiction; and

WHEREAS, Mercer Island is agreeable to rendering such Marine Patrol services on terms and conditions negotiated between the parties;

NOW, THEREFORE, pursuant to the provisions of the Interlocal Cooperation Act, Chapter 39.34, Mercer Island and Hunts Point hereby agree as follows:

Section 1. Definition of “Marine Patrol Services”:

For purposes of this Agreement, “Marine Patrol Services” means the routine patrol of waters for the purpose of enforcing applicable laws and ordinances and establishing a deterrent and preventative effect in the waters, including responses to serious emergency complaints arising from conduct or situations on or under the waters, in accordance with standard emergency dispatch protocol; and the providing of fire suppression services from a Marine Patrol vessel.

Section 2. Mercer Island Obligations:

In consideration of the promises of Hunts Point set forth in this Agreement and payment of the sum specified below, Mercer Island promises as follows:

- (A) Mercer Island will provide emergency services twenty-four (24) hours per day during the entire year.
- (B) Through its Marine Patrol Unit, Mercer Island shall provide routine patrol of waters on Lake Washington under the authority of Hunts Point as described under Section 1(C) for the purpose of enforcing applicable laws and ordinances, promoting boater safety, and preventing law or safety violations, including responding to emergency complaints in accordance with standard emergency dispatch protocol.
- (C) Mercer Island shall provide routine patrol services in the water areas under the jurisdiction of Hunts Point on Lake Washington by rendering service of the same level, degree, and type as rendered for Mercer Island in its jurisdiction, provided that marine patrol services shall be subject to interruption for vessel repair and maintenance. The shifts shall emphasize afternoon and early evening hours of the boating season beginning with opening day and continuing for four months (approximately April 1st through September 30th each year).
- (D) At the specific request of Hunts Point, and at times when its workload priorities permit, Mercer Island shall provide patrol services and/or respond to emergencies at times other than those of the daily boating season shift and outside the boating season.
- (E) During the first quarter of each calendar year, Mercer Island shall provide Hunts Point with an annual report of the marine patrol services rendered within Lake Washington waters, including number of calls for service (dispatched and on-view), number and type of citations and warnings issued, and safety checks made.
- (F) Furnish all personnel and any and all other things appropriate to accomplish the level of Marine Patrol services described above.

Section 3. Hunts Point Obligations:

In consideration of the promises of Mercer Island set forth in this Agreement, Hunts Point's obligations are as follows:

- (A) Hunts Point confers municipal police authority on Mercer Island officers engaged pursuant to this Agreement in enforcing State laws and

regulations and Hunts Point ordinances with Hunts Point's waters for the purposes of carrying out this Agreement.

- (B) Hunts Point agrees to pay Mercer Island a fee of \$23,000 for providing Marine Patrol services for the 2022 calendar year described in Section 2 of this agreement. On January 1, 2023 and on January 1 of each year thereafter that this Agreement is in effect, the fees set for in this section shall increase by a percentage equal to the Seattle-Tacoma-Bellevue CPI-W from June to June of the preceding year, unless the increase in the Seattle-Tacoma-Bellevue CPI-W from June to June of the preceding year is less than 1%, in which case the fees set forth in this section shall increase by 1%.
- (C) Hunts Point agrees to pay the amount to Mercer Island on or before December 30th of each year, with the first payment to be made on or before December 30, 2021. Payment shall be made to the City of Mercer Island at 9611 SE 36th Street, Mercer Island, Washington 98040.
- (D) Vessel tax revenue for all of the Town of Hunts Point will accrue to the City of Mercer Island.
- (E) Hunts Point will reasonably provide public support to applications by Mercer Island for grants related to its Marine Patrol.

Section 4. Supervision and Personnel:

In the providing of services as set forth above, each agency is acting as an independent contractor so that:

- (A) Control of Personnel. Control of personnel, standards of performance, discipline, and all other aspects of performance shall be governed entirely by the agency providing the service through its employees.
- (B) Independent Contractors. Each party to this Agreement is an independent contractor with respect to the subject matter herein. Nothing in this Agreement shall make any employee of Mercer Island an employee of Hunts Point, and vice versa, for any purpose, including, but not limited to withholding taxes, payment of benefits, insurance, worker's compensation pursuant to Title 51 RCW, or any other rights or privileges accorded to wither city's employee by virtue of their employment. At all times pertinent hereto, employees of Mercer Island

are acting as Mercer Island employees, and employees of Hunts Point are acting as Hunts Point employees.

- (C) Liabilities. All liabilities to employees of each agency for wages and benefits or sickness arising from performance of the law enforcement services for the other agency shall remain the liability of the employing agency.

Section 5. Indemnification:

- (A) In executing this agreement, Mercer Island does not assume liability or responsibility for or in any way release Hunts Point from any liability or responsibility which arises in whole or in part from the existence, validity or effect of Hunts Point's ordinances, rules, regulations or from any statutory, common law or similar duty to the public that Hunts Point has by virtue of its status as a municipality in the State of Washington. In any such cause, claims, suit, action, or administrative proceeding is commenced, Hunts Point shall defend the same at its sole expense and if judgement is entered or damages are awarded against Hunts Point, Mercer Island, or both, Hunts Point shall satisfy the same, including all chargeable costs and attorney's fees.
- (B) Subject to Section 5(A), Mercer Island shall indemnify and hold harmless Hunts Point and its officers, agents, and employees, or any of them, from and against any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, which are caused by or result from any negligent act or omission of Mercer Island, its officers, agents, and employees in performing services pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss or damage is brought against Hunts Point or Hunts Point and Mercer Island, Mercer Island shall defend the same as its sole cost and expense; and if final judgment be rendered against Hunts Point and its officers, agents, and employees or jointly against Hunts Point and Mercer Island and their respective officers, agents and employees, Mercer Island shall satisfy the same.
- (C) Hunts Point shall indemnify and hold harmless Mercer Island and its officers, agents, and employees, or any of them, from and against any and all claims, actions, suits, liability, loss, costs, expenses, and damages

of any nature whatsoever, which are caused by or result from any negligent act or omission of Hunts Point, its officers, agents, and employees in performing services pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss or damage is brought against Mercer Island or Mercer Island and Hunts Point, Hunts Point shall defend the same as its sole cost and expense; and if final judgment be rendered against Mercer Island and its officers, agents, and employees or jointly against Hunts Point and Mercer Island and their respective officers, agents and employees, Hunts Point shall satisfy the same.

(D) This indemnification provision shall survive the expiration or termination of this Agreement.

Section 6. Insurance; Risk of Loss:

Each party shall maintain in full force throughout the duration of this Agreement comprehensive general liability insurance that is sufficient to protect itself against all applicable risks associated with this Agreement, including coverage necessary to address liability associated with U.S. Longshore and Harbor Workers Act and Jones Act coverage, as amended, with minimum coverage of \$1,000,000 per occurrence / \$2,000,000 aggregate for personal injury and property damage. This requirement shall be deemed satisfied by evidence of Mercer Island's membership in a municipal self-insurance pool, including evidence of limits of coverage, exclusions, and limits of liability satisfactory to Hunts Point; in addition, this requirement shall be deemed satisfied by evidence of Hunts Point's self-insurance satisfactory to Mercer Island. Each party will be liable for all loss or damage, other than ordinary wear and tear, for property in the other's possession or control that is caused by the other party's negligence. In the event of any such loss or damage, the damaging party will pay the damaged party the full current replacement cost of such equipment or property within a reasonable time, not less than sixty (60) days after its loss or damage.

Section 7. Duration:

- (A) This Agreement is effective upon authorization and signature by both parties. The initial contract period shall be for one year, which shall automatically renew for successive one-year terms under the same terms and conditions indefinitely, unless one party gives the other party ninety (90) days prior written notice of its intent to terminate this Agreement.
- (B) Either party may initiate a process to terminate this Agreement as follows: the party desiring to terminate the Agreement shall provide ninety (90) days prior written notice to the other party.

Section 8. General Provisions:

- (A) Governing Law; Venue; Attorney's Fees. This Agreement shall be governed by the laws of the State of Washington and its choice of laws rules. In the event of any suit or other proceeding instituted to enforce any term of this Agreement, the venue shall be King County, Washington. In any lawsuit between the Parties with respect to the matters covered by this Agreement, the prevailing party will be entitled to receive its reasonable attorney's fees and costs of suit, in addition to any other relief it may be awarded.
- (B) Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. If any provision of the Agreement is held to be invalid or unenforceable by a court of competent jurisdiction for any reason, the remaining provision will continue in full force without being impaired or invalidated in any way. Hunts Point and Mercer Island agree to replace any invalid provision with a valid provision that most closely approximates the intent and economic effect of the invalid provision.
- (C) Nonwaiver. Any failure by either party to enforce strict performance of any provision of the Agreement will not constitute a waiver that party's right to subsequently enforce such provision or any other provision of the Agreement.
- (D) No Assignment. Neither this Agreement nor any of the rights or obligations of any party arising under this Agreement may be assigned to any third party, without the other party's prior written consent, which consent shall not be unreasonably withheld. Subject to the

- foregoing, this Agreement shall be binding upon, enforceable by, and inure to the benefit of, the parties and their successors and assigns.
- (E) No Third-Party Rights. Except as expressly provided herein, nothing in this Agreement shall be construed to permit anyone other than the Parties hereto and their successors and assigns to rely upon the covenants and agreements herein contained nor to give any such third party a cause of action (as a third-party beneficiary or otherwise) on account of any nonperformance hereunder.
- (F) Discrimination Prohibited. Neither party shall discriminate against any employee or any person seeking service under this Agreement on the basis of race, color, religion, creed, sex, age, national origin, marital status, or the presence of any sensory, mental or physical handicap or any other protected class status under applicable Federal, State, or Local laws.
- (G) Notices. All notices and other communications under the Agreement must be in writing, and must be given by registered or certified mail, postage prepaid, or delivered by hand to the party to whom the communication is to be given, at its address set forth in the signature blocks below.
- (H) Counterparts. This Agreement may be signed in counterparts, each of which shall be deemed an original, and all of which, taken together, shall be deemed one and the same document.
- (I) Amendments. This Agreement represents the entire and integrated Agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended, modified, or added to only by written instrument properly signed by both parties hereto.
- (J) Filing Requirement. This Agreement shall be filed/posted in accordance with RCW 39.34.040.
- (K) No New Entity Created. This Agreement does not create any separate legal or administrative entity.
- (L) Administrators. The Administrators responsible for administering this Agreement are the signatories shown below, or their designees.

(M) Holding and Disposing of Property. Mercer Island will provide all personal property used in the course of this Agreement. The Parties will not jointly hold any real property as a result of this Agreement

City of Mercer Island

Town of Hunts Point

Jessi Bon
City Manager
9611 SE 36th Street
Mercer Island, WA 98040
Dated:

3000 Hunts Point Road
Hunts Point, WA 98004
Dated:

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Bio Park
City Attorney

David Linehan, Madrona Law Firm
Town Attorney