

2022
INTERLOCAL AGREEMENT
BETWEEN THURSTON COUNTY, CITY OF LACEY, CITY OF OLYMPIA, & CITY
OF TUMWATER

This Agreement is entered into in duplicate originals this 18 day of July 2022 between the CITIES OF LACEY, OLYMPIA, TUMWATER, municipal corporations (hereinafter "Lacey, Olympia, and Tumwater, or Cities"), and THURSTON COUNTY, a municipal corporation (hereinafter "County"), collectively referred to as "parties" and individually as "party" pursuant to RCW 39.34.

WHEREAS, RCW 39.34.010 permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, it is to the mutual advantage of Thurston County and the Cities of Lacey, Olympia, and Tumwater to cooperate as described herein in order to make the most efficient use of their resources to collaborate on soliciting the request for proposals for service provider or service providers to manage public, education, and government (PEG) access funds and PEG access channels, facilities and equipment, and provide noncommercial PEG access services to the parties; and

WHEREAS, RCW 39.34.080 authorizes a public agency to contract with another public agency to perform any governmental service, activity, or undertaking 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. It is the purpose of the Agreement to permit the parties to make the most efficient use of their resources by enabling them to collaborate on soliciting a request for proposals to enter into separate contracts with a designated service provider or service providers to manage public, education, and government (PEG) access funds and operate PEG access channels, facilities, and equipment, and provide noncommercial PEG access services. Noncommercial PEG access services include: public access programming; education access programming; and government access programming; and cable-casting public, educational and governmental programming on access channels. All jurisdictions represented in this Agreement shall: 1) work together to create the request for proposal, which shall include that vendors provide proposals for each party to this agreement, and 2) review the applications submitted through the request for proposal process. Each party reserves the right to select and enter into contracts with a vendor at their own discretion based on the needs of their respective jurisdiction. Each party also reserves the right to not enter into an agreement through this process.

**II.
DURATION**

2. This Agreement shall become effective on the date written above and shall remain in effect for one (1) year and automatically renew for an additional one (1) year unless changed, modified, amended, or terminated sooner as provided for herein. The total duration of this Agreement shall not exceed two (2) years. Prior to commencement, this Agreement shall be filed or posted in accordance with RCW 39.34.040.

**III.
SERVICES**

For the duration of the coordinated project, Lacey will serve as the lead agency. The lead agency will create a draft request for proposals, which shall include that vendors provide proposals for each party to this agreement. The non-lead jurisdictions will review the draft request for proposals. All jurisdiction will agree to the draft request for proposals in writing prior to finalizing and publishing the request for proposal. The request for proposal shall include, but is not limited to: scope of services, solicitation and review schedule, a defined process for answering questions, evaluation criteria, desired qualifications, and submission requirements. Should the parties be unable to agree on the draft request for proposals, each jurisdiction may move forward with separate request for proposals concurrently with terminating this Agreement.

The lead agency agrees to collect submitted requests for proposals. The lead agency will coordinate the review of submitted requests for proposals with each party to this agreement. The non-lead jurisdictions agree to review the submitted requests for proposals with the lead agency.

Each party is responsible for selecting and entering into contracts with a vendor at their own discretion based on the needs of their respective jurisdiction. Each party also reserves the right to not enter into an agreement through this process.

**IV.
RECORDS RETENTION AND AUDIT**

3. During the progress of the work and for a period not less than six (6) years from the final date of December 31, 2022, 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 Federal Government and 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. Each party will promptly notify the other of any such litigation hold on records.

**V.
RELATIONSHIP OF THE PARTIES**

4. 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 is created by this Agreement. No joint organization is created. No common budget is to be established. No payments shall be made between any party to this agreement. No personal or real property is to be jointly acquired or held.

**VI.
TERMINATION**

5. Any party may terminate this Agreement upon ninety (90) 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.

**VII.
LEGAL RELATIONS**

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

**VIII.
FORCE MAJEURE**

7. Neither party will be liable to the other or deemed in default under this Agreement if and to the extent that such party's performance of this Agreement is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and could not have been avoided by exercising reasonable diligence. Force majeure will include, without limitation by the following enumeration: acts of nature, acts of civil or military authorities, fire, epidemics, civil or public disturbances, or other similar occurrences. If any party is unable to perform under this Agreement due to a force majeure event, upon giving notice and reasonably full particulars to the other party, such obligation or condition will be suspended only for the time and to the extent commercially practicable to restore normal operations.

**IX.
ADMINISTRATION**

8. 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 County's representative shall be the Public Information Supervisor (360)490-0562, the City of Lacey's representative shall be the Assistant City Manager (360)412-2891, the City of Olympia's representative shall be Kellie Purce Braseth (360)753-8361, and the City of Tumwater's representative shall be Ann Cook (360)754-4123.

**X.
CHANGES, MODIFICATIONS, AND AMENDMENTS**

9. This Agreement may be changed, modified, amended, or waived only by written agreement executed by each party's authorized governing authority .

**XI.
GOVERNING LAW AND VENUE**

10. 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 or, if against Thurston County, in the superior court of either of the two nearest judicial districts..

**XII.
WAIVER**

11. 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

**XIII.
SEVERABILITY**

12. 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.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

THURSTON COUNTY

CITY OF LACEY

Ramiro Chavez, County Manager

Scott Spence, City Manager

Approved as to form:

Approved as to form:

Jon Tunheim, Prosecuting Attorney

David Schneider, Lacey City Attorney

CITY OF OLYMPIA

CITY OF TUMWATER

Steven J. (Jay) Burney

Debbie Sullivan, Mayor

Approved as to form:

Approved as to form:

Michael Young, Deputy City Attorney

Karen Kirkpatrick, City Attorney