
**INTERLOCAL AGREEMENT
FOR LOAN OF FUNDS BETWEEN
THE PORT OF ORCAS AND
THE ORCAS ISLAND PARKS AND RECREATION DISTRICT**

This Interlocal Agreement for Loan of funds (the "Agreement") is made and entered into by and between the Port of Orcas, a Washington municipal corporation (the "Port"), and the Orcas Island Parks and Recreation District (the "District"), a Washington municipal corporation, for the purpose of loaning certain monies from the Port to the District. This Agreement is entered into pursuant to RCWs 39.34.030, 36.69.130, 36.69.350, and 53.08.140, 53.08.240(2).

RECITALS

WHEREAS, the District is presently in need of funds to begin refurbishment and repairs of the Skate Park at Buck Park; and

WHEREAS, the Port and the District wish to enter into an interlocal agreement pursuant to RCW 39.34.030 and other authorities, whereby the Port will loan funds to the District; and

WHEREAS, the Port has sufficient funds available to make said loan to the District and is satisfied the District will have the means to repay the amount of the loan plus interest thereon; and

WHEREAS, the Port and the District wish to memorialize in this Agreement the terms, covenants and conditions under which the Port will make the loan to the District as described herein; and

WHEREAS, on November 9, 2017, the District approved a motion to adopt this Agreement with the Port for the purpose of providing funding to the District, and authorizing the Board to execute this Agreement on behalf of the District; and

WHEREAS, on November 9, 2017, the Port duly approved a motion adopting and authorizing this Agreement with the District.

NOW, THEREFORE, in consideration of the terms, conditions, mutual covenants and promises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. **INCORPORATION OF RECITALS.** The recitals set forth above are hereby incorporated in and made part of this Agreement as though fully set forth herein.
2. **DURATION OF AGREEMENT.** This Agreement shall commence on the date the Agreement is signed by both parties, and shall terminate no later than December 1, 2022, or until the loan is paid off in full, whichever occurs first.
3. **PURPOSE.** The purpose of the Agreement is to provide the District funding for refurbishment and repair of the Skate Park at Buck Park. The District will use the funds provided under this Agreement to accomplish and complete planned refurbishment and repair of the Skate Park. The purpose of this Agreement is to allow the District to pay off the loan from taxes and other sources of revenue pursuant to RCWs 39.34.030, 36.69.130, 36.69.350, and 53.08.140, 53.08.240(2). The parties do not intend for this Agreement to constitute a tax anticipation note.

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4. AMOUNT OF LOAN AND TERMS OF REPAYMENT

4.1 **Amount; distribution.** The Port agrees to loan the District an amount not to exceed Twenty Five Thousand and no/100 (\$25,000.00) with interest thereon at the rate of three (3.6%) percent per annum. The Port will distribute the full amount of said loan (\$25,000.00), payable to the Orcas Island Parks and Recreation District no later than December 1, 2017 or within 10 days of the execution of this Agreement, whichever is later.

4.2 **Repayment Schedule.** The first payment to the Port from the District in the amount of Thirteen Thousand Six Hundred Two and 47/100 dollars (\$13,602.47) comprised of Ten Thousand and no/100 dollars (\$10,000.00) as principal plus interest in the amount of Three Thousand Six Hundred Two and 47/100 dollars (\$3,602.47) shall occur no later than December 1, 2021. Subsequent payments shall occur on the dates and shall be in the amounts as set forth below:

Date of Payment	Principal	Interest	Total
December 1, 2022	\$15,000.00	\$540.00	15,540.00

4.3 **Source of Revenue.** The District will create a District budget for fiscal years 2018-2022 that will include revenue collected from taxes and other sources including user fees, for the sole purpose of paying off the principal and interest of the loan.

4.4 This loan is secured with the District's full faith, credit and resources, as a special taxing district and municipal corporation.

4.5 There shall be no prepayment penalty. The Port shall not be responsible for submitting any invoices for payments.

4.6 In addition to repayment of the principal amount of the loan plus all accrued interest, the District agrees to pay the attorney's fees incurred by the Port in the preparation of this Agreement, in an amount not to exceed \$375.

4.7 Both parties will make best efforts to comply with the payment and repayment terms of this Agreement.

5. **BUDGET.** Each party will be responsible for preparing its own budget for fiscal years 2018 to 2022, for the effective period of this Agreement, including costs pursuant to this Agreement, in accordance with applicable law.

6. **NO SEPARATE LEGAL ENTITY; ADMINISTRATION.** No separate legal entity is created or authorized pursuant to this Agreement. This Agreement shall be administered by the Port's Manager and the District's Administrator.

7. **CONTRACTS AND AGREEMENTS.** Any and all contracts, agreements, proposals, partnerships, interlocal agreements, memoranda of understanding, subcontracting or other actions taken pursuant to the provisions of this Agreement which may legally bind the Port and/or the District and/or which encumber public funds of each entity, shall be separately and individually reviewed and approved by the Commissioners of the Port or the District, respectively, prior to entering into any such agreements.

8. **DISPUTE RESOLUTION.** In the event a dispute arises between the parties hereto, the Port and the District agree to first attempt to resolve such dispute through a mediation conducted by a neutral third party mediator selected by mutual agreement of the parties, and paid for equally by the parties. If the mediation is not successful in resolving the dispute, the parties agree to submit the dispute to binding arbitration according to the rules of the American Arbitration Association. The arbitrator shall be selected by the mutual agreement of the parties.

9. **MEDIATION AND ARBITRATION.** Each party shall bear its own expenses for mediation and arbitration, except that the arbitrator may, at the arbitrator's discretion, award reasonable attorney's fees and costs to the prevailing party at arbitration. The arbitrator's decision shall be binding, final and not appealable to any court of law, except as set forth in RCW 7.04A.230. The arbitrator's decision may be reduced to a judgment in a court of competent jurisdiction.

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10. TERMINATION.

10.1 This Agreement shall terminate upon the Port's receipt of the final payment due and payable by the District, as set forth in paragraph 4, above.

10.2 Either party may terminate this Agreement with cause by giving 60 days prior written notice to the other party under the following circumstances:

10.2.1 A material breach of the contract by either party, which breach is not cured or in good faith attempted to be cured within 30 calendar days of notice of such breach to the breaching party.

10.2.2 Non-payment under this Agreement by either party, which non-payment is not cured within 30 calendar days after the non-paying party is notified in writing of such delinquency.

10.2.3 Bankruptcy, the threat of bankruptcy, or the legal dissolution of either party.

10.2.4 On such terms as agreed to in writing by both parties.

10.3 In the event of termination for cause, the District will pay to the Port any remaining outstanding balance for the loan within 30 calendar days of the date of termination.

10.4 No property is assigned, secured, or transferred as part of this Agreement, and none will be assigned or transferred when the Agreement is terminated.

11. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties regarding the matters described herein and supersedes all prior oral or written agreements pertaining to said matters. No modification of this Agreement shall be valid unless it is set forth in writing and signed by all parties hereto.

12. **SEVERABILITY.** If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the rest of the Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

13. NO WAIVER.

13.1 No waiver of any default or breach under this Agreement will be implied from any omission to take action on account of this Agreement, regardless of any custom and practice or course of dealing.

13.2 No waiver will affect any default other than the default specified in said waiver, and then the waiver will be operative only for the time and to the extent stated in the Agreement. Waivers of the breach of any covenant will not be construed as a waiver of any subsequent breach of the same covenant. No waiver by either party of any provision under this Agreement will be effective unless in writing and signed by the waiving party.

14. **CHOICE OF LAW AND VENUE.** This Agreement will be construed and enforced in accordance with the laws of the State of Washington, and venue for any court proceeding shall be in San Juan County, Washington.

15. **MODIFICATION.** This Agreement may be modified by mutual written consent of the governing bodies of the parties. Minor modifications to correct scrivener's errors, clarify the meaning of words or phrases, or clarify how terms or conditions under this Agreement shall be executed shall not constitute a modification of this Agreement, and may be agreed to between the Chairs of both parties' boards.

16. **NO THIRD PARTY BENEFICIARY.** The provisions of this Agreement are not intended to create any third-party beneficiary contract rights, and therefore none should be deemed created by this Agreement. The Agreement between the parties is only intended to create rights and/or obligations as between the signatory parties.

17. **NOTICES.** All notices to be given under this Agreement will be in writing and mailed, postage prepaid, by

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certified or registered mail, return receipt requested, or delivered by personal or courier delivery, or sent by telecopy and immediately thereafter mailed or sent by one of the preceding methods, to the addresses provided below for each party, or to any agent designated in writing by either party. Notices shall be sent to the parties as follows:


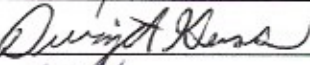


Anthony G. Simpson
Airport Manager
Port of Orcas
Post Office Box 53
Eastsound, WA 98245

Marcia West
Director
Orcas Island Parks & Recreation District
Post Office Box 575
Eastsound, WA 98245


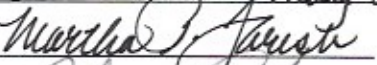

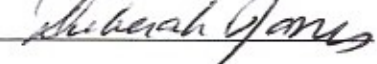
18. **EXECUTION.** This Agreement, or any amendment thereto, shall be executed on behalf of each party by that party's duly authorized representative. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute on and the same instrument. This Agreement shall be deemed adopted on the date of execution by the duly authorized representative of each party.

DATED this 9th day of November, 2017.


THE PORT OF ORCAS

By 
By Audrey Wells
By 
By 
By 

ORCAS ISLAND PARKS AND RECREATION DISTRICT

By 
By Vechi Vandermay (in absence by Marcia West)
By 
By 
By 

ATTEST:


Clerk of Port