

**INTERLOCAL AGREEMENT FOR THE DISPOSAL OF
SURPLUS PERSONAL PROPERTY THROUGH THE
COORDINATION OF AUCTION SERVICES, BETWEEN
THE CITY OF OAK HARBOR AND ISLAND COUNTY.**

THIS INTERLOCAL AGREEMENT ("Agreement") is made and entered into this 25 day of June, 2024, by and between the **City of Oak Harbor**, a municipal corporation and non-charter code city in the State of Washington (hereinafter referred to as "**OAK HARBOR**"), and the **Island County** a municipal corporation and political subdivision of the State of Washington (hereinafter referred to as "**PARTICIPATING AGENCY**"), pursuant to the authority granted by Chapter 39.34 RCW, the Interlocal Cooperation Act.

RECITALS:

1. OAK HARBOR hosts an annual city-wide auction event ("**EVENT**"), at which it disposes of city-owned personal property that has been declared or otherwise determined to be surplus to the city's needs.
2. PARTICIPATING AGENCY desires to participate in the EVENT to also dispose of its city-owned personal property that has been declared or otherwise determined to be surplus to the PARTICIPATING AGENCY's needs.
3. **IT IS THE PURPOSE OF THIS AGREEMENT** to coordinate the joint use of auction services by both OAK HARBOR and PARTICIPATING AGENCY to dispose of personal property that each city has determined to be surplus property, at the same EVENT, in order to reduce the overall administrative burdens and the associated costs for both cities.

AGREEMENT:

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the parties named above hereby agree as follows:

I. OAK HARBOR RESPONSIBILITIES

OAK HARBOR shall have the following duties and responsibilities under this Agreement:

- A. OAK HARBOR will retain the services of a qualified vendor to perform as an Auctioneer for the EVENT and shall be responsible for all direct transactions with the vendor, in accordance with applicable ordinances, statutes, rules, regulations and policies regarding procurement of the services and management of the service contract with the vendor.
- B. OAK HARBOR will supply the auction site for the EVENT and shall provide any additional personnel as may be necessary to secure the site, and to ensure that all surplus property designated as auction items are properly stored, sold and removed from site.

- C. OAK HARBOR will pay the 10 percent seller's commission to the Auctioneer based on the gross total of all surplus property originally belonging to the City of Oak Harbor that is sold at the EVENT.
- D. OAK HARBOR will take all necessary administrative actions to ensure that the surplus property sold at the EVENT is legally and fully transferred to the buyers of such surplus property, and OAK HARBOR will be responsible for resolving any ownership issues that may arise after surplus property is purchased.
- E. OAK HARBOR will remit all proceeds from the sale of PARTICIPATING AGENCY's surplus items that are sold at auction during the EVENT to PARTICIPATING AGENCY within 30 days after the EVENT concludes.

II. PARTICIPATING AGENCY RESPONSIBILITIES

PARTICIPATING AGENCY shall have the following duties and responsibilities under this Agreement:

- A. PARTICIPATING AGENCY will ensure that all property it designates for auction at the EVENT has been duly determined or declared to be surplus, in accordance with all surplus and disposal procedures, policies, ordinances, rules, and regulations applicable to PARTICIPATING AGENCY and its property.
- B. PARTICIPATING AGENCY will supply OAK HARBOR with a detailed list of items to be sold at auction, prior to the start of the EVENT.
- C. PARTICIPATING AGENCY will provide OAK HARBOR with signed vehicle and equipment titles, if applicable, for all surplus property it designates for auction.
- D. PARTICIPATING AGENCY will be responsible for transporting all items to be sold at auction to the auction site, to such specific area and at such time as shall be designated by the Auctioneer.
- E. PARTICIPATING AGENCY understands that no surplus property to be sold at the EVENT may contain any hazardous materials, and agrees to dispose of the following hazardous materials themselves:
 - i. Asbestos – Any product containing more than one percent asbestos, such as pipe insulation, fireproofing materials, fireproof safes, fire-retardant clothing, and related materials;
 - ii. Polychlorinated biphenyls (PCBs), including, but not limited to, electrical equipment containing capacitors or transformers, fluorescent fixtures, and liquid-filled electrical devices;
 - iii. Flammable or toxic liquids and powders, such as paints, solvents, cleaners, copier fluids, and similar substances;
 - iv. Radioactive materials, including, but not limited to, radioactive components contained in smoke detectors, x-ray machines, and other equipment; and

- v. Pesticides/herbicides, which includes all insecticides, fungicides, wood preservatives, disinfectants, and other substances intended to control pests or infestations.
- F. PARTICIPATING AGENCY will pay the 10 percent seller's commission to the Auctioneer based on the gross total of all surplus property originally belonging to PARTICIPATING AGENCY that is sold at the EVENT.
- G. PARTICIPATING AGENCY shall reimburse OAK HARBOR for one-half of the total contract cost for procurement of the Auctioneer; provided, however, that OAK HARBOR will bear the sole cost of any additional personnel that OAK HARBOR may choose to provide for the EVENT.

III. DURATION OF AGREEMENT

This Agreement will expire and be of no further effect on December 31, 2024, unless sooner terminated as provided in Section IV, below.

IV. TERMINATION OF AGREEMENT

Either party may choose to terminate this Agreement, with or without cause, by notifying the other party in writing at least 30 days prior to termination. PARTICIPATING AGENCY agrees to reimburse OAK HARBOR for one-half of the cost of any services provided through the date of termination of the Agreement, if such services were rendered pursuant to this Agreement, and then only to the extent that OAK HARBOR is financially responsible for such services.

V. FINANCING/BILLING

No budget or joint funding instrument shall be created pursuant to this Agreement. To the extent OAK HARBOR incurs any reimbursable expenses, such expenses shall be incurred on a reimbursement basis, and OAK HARBOR will invoice PARTICIPATING AGENCY for its eligible expenses within 30 days after the EVENT concludes.

VI. AGREEMENT ADMINISTRATION, COMMUNICATIONS AND RECORDS

- A. The Contract Managers designated below shall administer this Agreement. During the duration of this Agreement, the respective Contract Managers will communicate as needed via telephone, e-mail, or in person to relay information, answer questions, or to raise concerns related to the EVENT, or regarding the overall goals and objectives of the Agreement.

The OAK HARBOR Contract Manager responsible for management of this Agreement is:

Name: Sandra Place
Title: Central Services Manager, City of Oak Harbor
Address: 865 Barrington Drive
Oak Harbor, WA 98277
Phone: (360) 279-4757
Email: splace@oakharbor.org

The PARTICIPATING AGENCY Contract Manager responsible for management of this Agreement is:

Name: Markell Egelston
Title: Public Works Accounting Manager, Island County
Address: 1 NE 7th St
Coupeville, WA 98239
Phone: (360) 679 - 7333
Email: markelle @ islandcountywa . gov

Any written notice required pursuant to this Agreement shall be sent to the Contract Manager(s) designated above.

- B. The parties to this Agreement shall each maintain books, records, documents and other evidence which sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the services described herein. These records shall be subject to inspection, review or audit by personnel of either/both parties, other personnel duly authorized by either party, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents and other material relevant to this Agreement will be retained for six years after expiration and the Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access and the right to examine these materials during this period.
- C. This Agreement and all related records are subject to public disclosure as required by the Public Records Act, Chapter 42.56 RCW. Neither party shall release any record that would, in the judgment of the party, be subject to an exemption from disclosure under the Public Records Act, without first providing notice to the other party within 10 business days of the receipt of the request. The parties will discuss appropriate actions to be taken, including release of the requested information, seeking a protective order, or other action prior to the release of records. Should one party choose to seek a protective order, it shall do so at its sole expense.

VII. HOLD HARMLESS/INDEMNIFICATION

- A. PARTICIPATING AGENCY RESPONSIBILITY. PARTICIPATING AGENCY agrees to indemnify, defend, save and hold harmless OAK HARBOR, its officials, employees and agents from any and all liability, demands, claims, causes of action, suits or judgments, including costs, attorney fees and expenses incurred in connection therewith, or whatsoever kind or nature, arising out of, or in connection with, or incident to, any act or omission made by PARTICIPATING AGENCY pursuant to this Agreement.
- i. In the event that any suit based on such a claim, demand, loss, damage, cost, or cause of action is brought against PARTICIPATING AGENCY, OAK HARBOR retains the right to participate in said suit if any principle of public law is involved.
 - ii. This indemnity and hold harmless shall include any claim made against OAK HARBOR by an employee of PARTICIPATING AGENCY or subcontractor or agent of PARTICIPATING AGENCY, even if PARTICIPATING AGENCY is otherwise immune from liability pursuant to the workers' compensation statute, Title 51 RCW, except to the extent that such liability arises from the sole negligence of OAK HARBOR. PARTICIPATING AGENCY specifically acknowledges that the provisions contained herein have been mutually negotiated by the parties and it is the intent of the parties that PARTICIPATING AGENCY shall provide the broadest scope of indemnity permitted by RCW 4.24.115.
- B. OAK HARBOR RESPONSIBILITY. OAK HARBOR agrees to indemnify, defend, save and hold harmless PARTICIPATING AGENCY, its officials, employees and agents from any and all liability, demands, claims, causes of action, suits or judgments, including costs, attorney fees and expenses incurred in connection therewith, or whatsoever kind or nature, arising out of, or in connection with, or incident to, the conduct of OAK HARBOR pursuant to this Agreement.
- C. CONCURRENT NEGLIGENCE. Notwithstanding the foregoing, to the extent that liability arises from the concurrent negligence of both OAK HARBOR and PARTICIPATING AGENCY, the costs, fees and expenses in connection therewith shall be shared between OAK HARBOR and PARTICIPATING AGENCY in proportion to their relative degrees of negligence.

VIII. DISPUTE RESOLUTION

It is the parties' intent to resolve any disputes relating to the interpretation or application of this Agreement informally through discussions between the Contract Managers. In the event disputes cannot be resolved informally, then the parties agree to first submit the dispute to non-binding mediation/dispute resolution, after which either party may then commence legal proceedings to enforce compliance with or interpret any of the terms, covenants, or conditions of this Agreement. The venue for any such action shall lie with the Island County Superior Court, and the prevailing

party shall be entitled to collect, in addition to necessary court costs, such sums as the court may adjudge as reasonable attorneys' fees.

IX. NO ASSIGNMENT

Neither party shall transfer or assign, in whole or in part, any or all of its respective rights or obligations under this Agreement.

X. NO THIRD-PARTY BENEFICIARY

Except as expressly provided herein, nothing in this Agreement shall be construed to permit anyone other than the parties hereto to rely upon the covenants and agreements herein, or to give any such third party a cause of action (as a third-party beneficiary or otherwise) on account of either party's performance or nonperformance hereunder.

XI. WAIVER

No waiver by either party of any term or condition of this Agreement incorporated in this Agreement shall be deemed or construed to constitute a waiver of any other term or condition or of any subsequent breach, whether of the same or different provision.

XII. SEVERABILITY

To the greatest extent possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. Any provisions of this Agreement, which is held to be invalid, void, or illegal, by a court of competent jurisdiction, shall in no way affect, impair, or invalidate any other provisions herein, and such other provisions shall remain in full force and effect.

XIII. ENTIRE AGREEMENT

This Agreement and any amendments thereto mutually agreed to by the parties, constitutes the entire Agreement between the parties hereto and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind either of the parties. Either party may request changes to the Agreement. Proposed changes that are mutually agreed upon shall be incorporated by written amendment hereto.

XIV. REPRESENTATIONS, COMPLIANCE WITH CHAPTER 39.34 RCW

By signing this Agreement below, each party represents and warrants to the other party that it has the authority to enter into this Agreement in accordance with Chapter 39.34 RCW, and that it has obtained such approval as may be required from its local legislative body. Executed copies of this

Agreement shall be filed as required by RCW 39.34.040 prior to this Agreement becoming effective. This Agreement may be executed in one or more counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same Agreement.

XV. INSURANCE

Each party shall maintain in effect, during the term of this Agreement, insurance with limits in the amount each party currently has in place as of the effective date of this Agreement. Each party shall provide the other with proof of insurance, if so requested, prior to execution of this Agreement.

IN WITNESS WHEREOF said parties have caused this Agreement to be signed by the duly authorized officials on the day and year first above written.

ENTERED this 25 day of June, 2024.

CITY OF OAK HARBOR

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

ISLAND COUNTY

Jill Johnson
Jill Johnson, Chair

ATTEST:

Jennifer Roll
Jennifer Roll, Clerk of the Board

