After Recording Return To:
San Juan County Administration
350 Court Street #5
Friday Harbor, WA 98250

SJC Agreement No.
11AU.002

INTERLOCAL AGREEMENT
FOR PROFESSIONAL SERVICES

THIS Agreement is made and entered into at Friday Harbor, Washington, pursuant to RCW 39.34.080, between San Juan County ("COUNTY"), and the Port of Friday Harbor, a junior taxing district in the State of Washington ("PUBLIC ENTITY").

WHEREAS, the COUNTY, through the San Juan County Auditor’s Office, has provided to the PUBLIC ENTITY payroll and other services set forth in Exhibit A to this Agreement for many years, due to the PUBLIC ENTITY’s status as a junior taxing district; and

WHEREAS, the services set forth in Exhibit A are not required to be provided by the Auditor’s Office under RCW 36.22.090; and

WHEREAS, the COUNTY and the PUBLIC ENTITY now desire to enter into a formal, written interlocal agreement with the COUNTY to perform certain services and/or tasks set forth below requiring specialized skills and other supportive capabilities of the COUNTY; and

WHEREAS, the COUNTY represents that it is qualified and possesses sufficient skills and the necessary capabilities, including technical and professional expertise, where required, to perform the services and/or tasks set forth in this Agreement.

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

1. **SCOPE OF SERVICES**

The COUNTY shall perform such services and accomplish such tasks, including the furnishing of all materials and equipment necessary, as are designated in the responsibilities of the COUNTY throughout this Agreement and as described in Exhibit A, attached and incorporated herein.

2. **TERM; AMENDMENT**

Services performed under this contract shall begin on January 1, 2011, and shall continue through December 31, 2015, for the issuance of warrants; and through February 28, 2016, for the submission of required annual reports to vendors, employees, the Internal Revenue Service, the Social Security Administration, and PUBLIC ENTITY. Contract may be amended as specified in Section 8 or terminated as specified in Section 9.
3. **COMPENSATION AND METHOD OF PAYMENT**

Payment for services provided shall be made following the performance of such services, unless otherwise permitted by law and approved in writing by the COUNTY and the PUBLIC ENTITY. No payment shall be made for any service rendered by the COUNTY except for services identified and set forth in this Agreement, including Exhibit A. Fees for services shall be in accordance with the fee schedule attached as Exhibit B and shall not exceed $20,000 per calendar year. Exhibit B may be revised on a yearly basis no later than October 31 of the prior contract year beginning October 31, 2011 for the year 2012.

4. **ADMINISTRATION.**

This Agreement shall be administered for the COUNTY by Milene Henley, County Auditor, and for the PUBLIC ENTITY by Marilyn O’Connor, Port Director.

5. **INDEMNIFICATION.**

Each party agrees to be responsible and assume tort liability for its own wrongful acts or omissions, or those of its 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 PUBLIC ENTITY, 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.

The PUBLIC ENTITY shall indemnify the COUNTY against all liability and loss in connection with, and shall assume full responsibility for, payment of all federal, state and local taxes or contributions imposed or required under unemployment insurance, workman’s compensation, social security and income tax laws, for the PUBLIC ENTITY and any employees or volunteers of the PUBLIC ENTITY.

The PUBLIC ENTITY further agrees to indemnify the COUNTY, a third-party payroll processor, against all liability and loss in connection with the timeliness and accuracy of payroll services rendered under this Agreement. The PUBLIC ENTITY shall remain responsible for complying with all applicable state and federal tax filing requirements, and shall remain liable for ensuring that all tax returns are timely filed and all payments and deposits are timely made.

6. **INSURANCE**

A. The PUBLIC ENTITY will carry and maintain throughout the period of the Agreement at its own expense the following minimum insurance:

   1. Comprehensive commercial general liability insurance in the amount of no less than $1,000,000 for combined, single-limit bodily injury, including wrongful death, or property damage to defend and indemnify all activities and services covered by this Agreement with a commercial insurance carrier protected under the State of Washington Guaranty Fund or
with a risk pool approved by the Insurance Commissioner. Any payment of a deductible or self-insured retention shall be the sole responsibility of the PUBLIC ENTITY.

2. Standard professional liability insurance covering damages resulting from errors or omissions of the PUBLIC ENTITY or its employees or agents. The limit of liability shall not be less than $1,000,000 per claim and annual aggregate. Notwithstanding paragraph 5, professional liability insurance is not required to hold harmless or defend the COUNTY for any claim.

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

B. The PUBLIC ENTITY shall provide the COUNTY evidence of insurance in the form of a Certificate of Insurance satisfactory to the COUNTY, executed by a duly authorized representative of each insurer showing compliance with the insurance requirements set forth above. The COUNTY is a self-insured public entity that is a member of a public entities’ risk pool, which insurance exceeds the limits set forth above in paragraph 6A. Upon request of the PUBLIC ENTITY, the COUNTY shall provide a Certificate of Insurance satisfactory to the PUBLIC ENTITY setting forth the COUNTY’s evidence of insurance.

7. **MAINTENANCE AND INSPECTION OF RECORDS**

A. The PUBLIC ENTITY and the COUNTY shall maintain books, records and documents, which sufficiently and properly reflect all work related to the performance of the Agreement. In addition, the COUNTY shall maintain all accounting records in a form necessary to assure proper accounting of all funds paid pursuant to this Agreement. All of the above shall be subject at all reasonable times to inspection, review, or audit by the PUBLIC ENTITY, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.

B. The PUBLIC ENTITY and the COUNTY shall retain all books, records, documents and other material relevant to this Agreement for six (6) years after its expiration. The PUBLIC ENTITY agrees that the COUNTY or its designee shall have full access and right to examine any of said materials at all reasonable times during said period; and that the PUBLIC ENTITY shall have similar access to said materials maintained by the COUNTY pursuant to this Agreement.

8. **EXTRA WORK**

A. Within the general scope of the Agreement and after consulting with each other the parties may, by written agreement, make changes in the services to be performed.

B. If any such change causes an increase or decrease in the estimated cost of, or the time required for performance of any part of the work under this Agreement, the parties shall make an equitable adjustment in (1) the maximum amount payable, (2) the delivery or completion schedule, and (3) other affected terms, and shall amend the Agreement accordingly.

C. The maximum amount payable for this Agreement shall not be increased or considered to be increased except by specific written amendment to this Agreement.
9. **TERMINATION**

A. **Termination for Convenience.** Either party may terminate this Agreement, in whole or in part, at any time, by at least thirty (30) days prior written notice. The COUNTY shall be paid for work performed and expenses incurred to the date of termination.

B. **Termination for Cause.** If the COUNTY fails to perform in the manner called for in this Agreement, or if the COUNTY fails to comply with any other provisions of the Agreement and fails to correct such noncompliance within five (5) days written notice thereof, the PUBLIC ENTITY may terminate this Agreement for cause. Termination shall be effected by serving a notice of termination on the COUNTY setting forth the manner in which the COUNTY is in default. The COUNTY will be paid for services already performed in accordance with the manner of performance set forth in this Agreement, up to the date of termination.

10. **MEDIATION**

The parties shall attempt 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.

11. **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.

12. **WAIVER**

The waiver by, or the failure to take action with respect to, breach of any term, covenant or condition of the Agreement shall not be deemed to be a waiver of such term, covenant or condition
on any 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.

13. **SEVERABILITY**

It is understood and agreed by the parties that if any term or provision of this Agreement 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 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.

14. **ENTIRE AGREEMENT**

This instrument contains the entire Agreement between the parties, and 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. This Agreement may not be enlarged, modified, or altered except in writing signed by all parties.

15. **NOTICE**

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

Marilyn O’Connor, Port Director  
Port of Friday Harbor  
PO Box 889  
Friday Harbor, WA 98250

Milenë Henley, County Auditor  
San Juan County  
PO Box 638  
Friday Harbor, WA 98250

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of this 26th day of October 2010.

Marilyn O’Connor, Port Director  
San Juan County

Milenë Henley, County Auditor  
San Juan County

APPROVED AS TO FORM ONLY  
Randall K. Gaylord  
San Juan County Prosecuting Attorney

By: Karen Laked 11/3/10  
Date

Pete Rose, County Administrator  
San Juan County

By: Date 12/1/10

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Exhibit A

Scope of Services – Port of Friday Harbor

1. The San Juan County Auditor’s Office shall perform accounts payable services, which exceed those services mandated by RCW 36.22.090, for the PUBLIC ENTITY as follows:
   a. Enter the PUBLIC ENTITY’s annual budget into the County’s financial management system.
   b. Enter invoices into the County’s financial management system.
   c. Code invoices to BARS account lines as authorized by the PUBLIC ENTITY.
   d. Mail warrants weekly, or deliver them weekly to the PUBLIC ENTITY, as requested by PUBLIC ENTITY.
   e. Produce accounting reports, from those available in the County’s financial management system, as requested by the PUBLIC ENTITY.
   f. Maintain a vendor list, ensuring proper record keeping, including W-9s, for the PUBLIC ENTITY.
   g. Produce and submit or mail 1099s to Internal Revenue Service and to PUBLIC ENTITY vendors as required by the Internal Revenue Code.

2. In addition, the San Juan County Auditor’s office shall perform payroll services, which exceed those services mandated by RCW 36.22.090, for the San Juan Island [agency] as follows:
   a. Set up PUBLIC ENTITY employees, hour types, pay scales, and benefit deductions in the County’s financial management system.
   b. Change rates of pay for employees as directed by the PUBLIC ENTITY.
   c. Using semi-monthly payroll worksheets submitted by the PUBLIC ENTITY, enter employees’ hours, calculate employer benefit liabilities and employee benefit deductions, and create net paychecks for employees.
   d. Submit benefit payments to appropriate agencies.
   e. Prepare and submit quarterly payroll reports to appropriate agencies.
   f. Interface with benefit and liability agencies as required, passing information along to PUBLIC ENTITY.
   g. Prepare annual payroll reports, including W-2s, for timely submission to the IRS, the Social Security Administration, PUBLIC ENTITY employees, and the PUBLIC ENTITY.
   h. Provide payroll reports, from those available in the County’s financial management system, as requested by the PUBLIC ENTITY.
   i. Maintain original employee records for PUBLIC ENTITY.
   j. Make Section 125 disbursements and maintain program records.

3. There shall be no charges under this Agreement for actual issuance of the warrants. This service is provided by the Auditor at no cost pursuant to RCW 36.22.090.
Exhibit B

Fee Schedule – Port of Friday Harbor

1. The county will bill quarterly for services provided under this agreement. Services performed in the first quarter will be billed in April; services performed in the third quarter will be billed in July; services performed in the second quarter will be billed in October; and services performed in the fourth quarter will be billed in January.

2. Accounts payable services will be billed by number of accounts payable warrants, including electronic funds transfers, issued. Accounts payable warrants will include all warrants, including electronic funds transfers, cut for the PUBLIC ENTITY which are not payroll warrants. Replacement warrants will be counted as additional warrants.

3. Payroll services will be billed by number of payroll warrants issued. Payroll warrants will include paychecks and payroll liability checks (including checks issued to IRS, health insurance provider, other government/taxing agencies, and other payroll deduction or benefit agencies), whether paid by direct deposit, electronic funds transfer, interfund transfer, or paper check. Replacement warrants will be counted as additional warrants.

4. Rates for 2011 will be as follows:
   a. A/P warrants $1.95 per warrant
   b. Payroll warrants $8.22 per warrant

5. Rates for subsequent years will be calculated and agreed-to by both parties by October of the preceding year.

6. In addition, the Auditor’s Office will bill the PUBLIC ENTITY annually, at the end of each year, for the cost of paper products (envelopes and warrant stock) and postage used to provide accounts payable and payroll services.