

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF WINLOCK AND
THE CITY OF TOLEDO FOR THE PROVISION OF WASTEWATER
TREATMENT PLANT OPERATIONS AND TESTING SERVICES**

This Agreement is made and entered into this 6 day of January 2025 ("Effective Date"), by and between the City of Winlock, a Washington non-charter code city ("Winlock"), and the City of Toledo, a Washington non-charter code city ("Toledo") with Winlock and Toledo jointly referred to as "Parties".

WHEREAS, Toledo has requested Winlock's assistance in wastewater treatment plant operations and testing; and

WHEREAS, Winlock is willing to provide such assistance to Toledo pursuant to the terms of this agreement ("Agreement"); and

WHEREAS, the Parties are authorized by the Interlocal Cooperation Act, RCW Chapter 39.34, to enter into such agreements when appropriate;

NOW, THEREFORE, in consideration of the terms and conditions set forth herein, it is agreed as follows:

- 1. Purpose.** The purpose of this Interlocal Agreement ("Agreement") is to provide assistance in wastewater treatment plant operations and testing services to Toledo.
- 2. Administration.** Winlock Water/Sewer Superintendent ("Winlock Superintendent") shall administer the provisions of this Agreement in coordination with Toledo's Water/Sewer Department Coordinator ("Toledo Coordinator").
- 3. Services.** Winlock will provide wastewater treatment plant operations and testing services ("Services") to Toledo. Such services shall be provided in accordance with industry standards. For the purposes of this Agreement, the services to be provided:
 - a.) Upon the request of Toledo, Winlock will provide Wastewater Treatment Plant Operations and Testing services within the service area of Toledo.
 - b.) Additional services such as code interpretations and/or other technical assistance may also be included under this Agreement.
- 4. Duties of Winlock.** Winlock shall perform the following duties on behalf of Toledo:
 - a.) Provide wastewater treatment plant operations and testing services to Toledo.
 - b.) In the event Winlock's duties under this Agreement are enlarged or increased due to state mandates or new requirements from Toledo, Winlock may increase the hourly rates or add a supplemental monthly fee payable by Toledo to cover the costs incurred in providing services to Toledo. Winlock will notify Toledo of the effective date of the fee changes, which may be immediate or retroactive as required by law. Either Party may request mediation as to the amount of such fee change. Toledo shall timely pay the new fees from their effective date even if mediation is requested.

- 5. Duties of Toledo.** Toledo shall perform the following duties:

- a.) Payment to Winlock as set forth in section 10 of this Agreement.
- b.) Coordinate assistance and inspections with Winlock Superintendent.

6. Duration. The Agreement shall take effect on this ____ day of _____, 202__ or as soon thereafter as all of the following events have occurred (“Commencement Date”):

- a.) Approval of the Agreement by the official action of the governing bodies of each of the Parties; and
- b.) Execution of the Agreement by the duly authorized representative of each of the Parties; and
- c.) Filing a copy of this Agreement or posting a copy of this Agreement to the Parties websites or recording a copy with the County Auditor as required by RCW 39.34.040.

This Agreement shall automatically terminate on the 31st day of December, 2025, if not sooner as provided in Section 7. Unless otherwise notified, the contract will automatically renew in one (1) year increments.

7. Termination. The Agreement may be terminated without cause by either Party upon thirty (30) calendar days’ notice in writing to the other as set forth in Section 13.

8. Breach. If either Toledo or Winlock fail to keep or perform any of the terms and conditions herein contained, it shall constitute a breach hereof. The failure of either Party to insist upon strict performance of any of the terms and conditions of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other terms and conditions, but the same shall be remain in full force and effect.

- a.) If Toledo materially breaches this Agreement by failing to pay amounts due after receipt of a thirty (30) day written notice to cure, Winlock may terminate this Agreement immediately. The purpose of this section, a “material breach” is defined as a breach that is serious enough in degree that such breach substantially defeats the purpose of the Agreement.
- b.) If Winlock materially breaches this Agreement and fails to cure any material breach after receipt of a thirty (30) day written notice to cure, Toledo may terminate this Agreement.

9. Supervision. Personnel providing Services to Toledo shall be supervised in providing such Services by Winlock. Toledo shall have no power to discipline such personnel.

10. Payment. In consideration for the Services, Toledo agrees to pay Winlock as provided below:

- a.) Payment for Services provided shall be made following the performance of such services, unless otherwise permitted by law and approved in writing by Toledo and Winlock. No payment shall be made for any Services rendered by Winlock except for services identified and set forth in this Agreement. Payment is due in full upon receipt of the invoice by Toledo and becomes delinquent thirty (30) days thereafter.
- b.) Fees for all Services will be billed at the following rates:

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|--|--|
| During regular work hours (7:30 am to 4:30 pm) | \$55.00 per hour per person providing Services |
| Outside of regular work hours | \$82.50 per hour per person providing Services with a minimum of four (4) hours. |

- c.) Fees shall be adjusted annually by Agreement of the Parties.

d.) Toledo will reimburse Winlock for all of its expenses, including, without limitation, its postage and mailing costs on behalf of Toledo and its vehicle use at the current Office of Financial Management (OFM) rates.

e.) A late payment fee may be applied to any remaining balance thirty (30) days after receipt of invoice. Late payment charges, if any, will be imposed on the unpaid balance at a rate of one percent (1%) per month.

11. Indemnification.

a.) Toledo agrees to defend, indemnify, and hold harmless Winlock, its elected and appointed officials, officers, agents, and employees from and against any and all claims, losses, and liabilities for injuries, sickness, death, and/or property damage, arising from any act, error, or omission in the performance of the Agreement, except to the extent caused by the sole negligence of Winlock.

b.) Winlock agrees to defend, indemnify, and hold harmless Toledo, its elected and appointed officials, officers, agents, and employees from and against any and all claims, losses, and liabilities for injuries, sickness, death, or property damage, arising from any act, error, or omission in the performance of the Agreement, except to the extent caused by the negligence of Toledo.

12. Insurance. Toledo shall maintain appropriate liability insurance or self-insured coverage to cover potential liabilities arising from this Agreement. Said insurance or coverage shall have limits of at least \$1,000,000 per occurrence and \$5,000,000 aggregate for personal injury and \$1,000,000 per occurrence/aggregate for property damage.

13. Notices. Required notices, with the exception of legal process, shall be given in writing to the following respective addresses.

To WINLOCK:
BRANDON SVENSON, Mayor
323 NE 1st St.
PO Box 777
Winlock, WA, 98596

To TOLEDO:
CHERIE DEVORE, Mayor
130 N. Second St.
PO Box 236
Toledo, WA 98591

With a copy to:
JILL DAVIS, City Treasurer
323 NE 1st St.
PO Box 777
Winlock, WA 98596

With a copy to:
RACHEL BEAVER, City Clerk/Treasurer
130 N. Second St.
PO Box 236
Toledo, WA 98591

AND a copy to:
Water/Sewer Superintendent
323 NE 1st St.
PO Box 777
Winlock, WA 98596

AND a copy to:
Water/Sewer Department Coordinator
130 N. Second St.
PO Box 236
Toledo, WA 98591

14. Waiver. Waiver by either Party of the right to strict performance of any provision of this Agreement or any breach thereof shall not constitute a waiver of the right to require future strict

performance of that provision or any other provision.

15. Attorney's Fees and Costs. If either City commences litigation against the other to enforce any provision of this Agreement or to redress any breach hereof, the prevailing City in such litigation shall be entitled to recover from the other Party its costs and reasonable attorney's fees incurred in such litigation.

16. Assignment. Neither Party shall assign any obligations or rights under this Agreement without the express written consent of the other.

17. Actions Contesting Agreement. Each Party shall appear and defend any action or legal proceeding brought to determine or contest: (i) the validity of this Agreement and/or (ii) the legal authority of Toledo and/or Winlock to undertake the activities contemplated by this Agreement. If both Parties to this Agreement are not named as Parties to the action, the Party named shall give the other Party prompt notice of the action and provide the other an opportunity to intervene. Each Party shall bear any costs and expenses taxed by the court against it; any costs and expenses assessed by a court against both Parties jointly shall be shared equally.

18. Independent Contractor. 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 Toledo a Winlock's employee for any purpose, including, but not limited to, for withholding of taxes, payment of benefits, worker's compensation pursuant to Title 51 RCW, or any other rights or privileges accorded Winlock employees by virtue of their employment. Nothing in this Agreement shall make any employee of Winlock a Toledo employee for any purpose, including but not limited to, for withholding taxes, payment of benefits, worker's compensation pursuant to Title 51 RCW, or any other rights or privileges accorded Toledo employees by virtue of their employment. At all times pertinent hereto, employees of Winlock are acting as Winlock employees and employees of Toledo are acting as Toledo employees.

19. No Separate Legal Entity Created. This Agreement creates no Joint Board and no separate legal entity.

20. No Separate or joint budget Created. No separate or joint budget is created by the Agreement, and this Agreement does not contemplate acquisition or disposal of any property.

21. Finances. The parties are each responsible for their own finances in connection with this Agreement, and nothing in this Agreement shall be deemed or constructed otherwise. The Parties do not intend to acquire, hold, or dispose of any real or personal property pursuant to this Agreement.

22. Entire Agreement. This Agreement constitutes the final and completely integrated agreement between the Parties concerning the subject matter herein and shall supersede all prior agreements, oral or otherwise. No modification or amendment of this Agreement shall be valid or effective unless evidenced in writing and signed by both Parties.

23. Headings Not Controlling. The headings in the Agreement are for convenience only and shall not affect the meaning of the terms as set out in the text.

24. Force Majeure. Neither party shall be deemed in default and neither shall be liable to the other if either cannot perform its obligations by any fire, earthquake, flood, tsunami, hurricane, epidemic, accident, explosion, strike, riot, civil disturbance, act of public enemy, embargo, war, military necessity or operations, act of God, any municipal county, state or national ordinance or law, any executive or judicial order, or similar event beyond such party's control.

25. Counterparts. The 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.

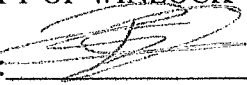
26. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Washington and any lawsuit regarding this Agreement shall be brought in Lewis County Superior Court, Washington.

27. Compliance with Laws. The Parties shall comply with all applicable federal, state, and local laws, rules, and regulations in performing this Agreement.

28. Public Records Act. The Parties agree that this Agreement and all public records associated with this Agreement shall be available from Toledo or from Winlock for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act").

IN WITNESS WHEREOF, the parties hereto, through their duly authorized elected officials, have executed this Agreement this 6 day of January, 2025.

CITY OF WINLOCK

By: 
Brandon Svenson, Mayor

Approved by City Council on: 12/23/2024

Attest:


Jill Davis, City Treasurer

Approved as to Form:

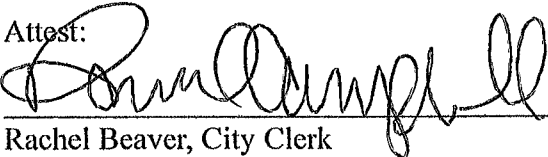

Marissa Y. Jay, City Attorney

CITY OF TOLEDO

By: 
Cherie Devore, Mayor

Approved by City Council on: 1-6-2025

Attest:


Rachel Beaver, City Clerk

Approved as to Form:

James M.B. Buzzard, City Attorney