

**INTERLOCAL AGREEMENT BETWEEN PACIFIC COUNTY
AND THE CITY OF ILWACO
FOR MUNICIPAL COURT SERVICES AND FACILITIES**

RECITALS

A. The County of Pacific (hereafter "Pacific County") is a municipal corporation organized under the laws of the State of Washington.

B. The City of Ilwaco (hereafter "Ilwaco") is a municipal corporation organized under the laws of the State of Washington.

C. Each of the parties to this Agreement is authorized under Washington law to create and operate a municipal court pursuant to chapter 3.50 RCW or a municipal court department pursuant to RCW 3.50.

D. The Interlocal Cooperation Act, chapter 39.34 RCW, authorizes municipal corporations to contract with one another to perform any act that each is independently authorized to perform.

E. RCW 3.62.070, 39.34.180 and 3.50.805 each directly or by implication authorize municipal corporations to enter into interlocal agreements for municipal court services.

F. Ilwaco has previously created and currently operates a municipal court pursuant to chapter 3.50 RCW.

G. Ilwaco has determined that a contract with Pacific County for the provision of certain municipal court services under the Interlocal Cooperation Act would be more efficient and cost effective than providing its own facilities and hiring employees.

I. Pacific County is willing to provide these municipal court services to Ilwaco on the terms and conditions set forth in this Agreement.

J. The parties enter this Agreement in consideration of the mutual covenants and promises set forth in this Agreement, the mutual benefits to be derived by each, and in the exercise of authority granted by the Interlocal Cooperation Act, chapter 39.34 RCW.

AGREEMENT

1. Purpose of Agreement. The purpose of this Agreement is to provide for the provision of certain municipal court services by Pacific County to Ilwaco, through the use of the facilities and personnel of the Pacific County South District Court, to the maximum extent permitted by law, for the filing and processing of Ilwaco's civil, traffic or other infractions and criminal citations; to set forth compensation to be paid by Ilwaco for such services; and to specify the responsibilities of Pacific County and Ilwaco respectively for such municipal court services.

2. Formation of Ilwaco Municipal Court and Appointment of Judge.

Ilwaco has previously created a municipal court pursuant to RCW 3.50 and a copy of that ordinance is attached hereto. Furthermore Ilwaco has previously appointed a municipal court judge, public defender and city prosecutor. The Ilwaco Municipal Court shall have jurisdiction as provided in RCW 3.50.020. A case filed in Pacific County South District Court shall continue to be a Ilwaco Municipal Court case, notwithstanding its filing in Pacific County South District Court.

3. Filing of Ilwaco Municipal Court Cases. Commencing January 1, 2013, all Ilwaco Municipal Court cases, which shall include all notices of infractions and criminal complaints or citations alleging violations of Ilwaco's ordinances, shall be filed in the Pacific County South District Court for processing under this Agreement.

4. Municipal Court Services Provided by Pacific County. All personnel of the Pacific County South District Court shall be employees of Pacific County South District Court, which shall be responsible for all compensation, benefits, and taxes of any nature related to their employment. Pacific County South District Court shall provide municipal court facilities and services for the processing of Ilwaco Municipal Court cases in the same manner and at the same level as Pacific County provides for the same type of cases originating in Pacific County South District Court, including but not limited to the following:

4.1 Court Staff. Pacific County South District Court shall provide court staff necessary to process all criminal and civil citations filed by Ilwaco. Pacific County shall provide a level of service the same as that provided for Pacific County cases and that which is necessary for the efficient processing of all municipal cases. By way of illustration and not by limitation, this "processing" shall include the issuance of all summonses, warrants, maintenance of court cases, and processing of all fines and forfeitures including collection thereof for municipal cases. Processing shall also include filing, adjudication and penalty enforcement of all Ilwaco cases filed, or to be filed, by Ilwaco in Municipal Court, including, but not limited to, the issuance of arrest warrants, setting motions and evidentiary hearings, discovery matters, bench and jury trials, sentencing, post-trial motions, the duties of municipal court regarding appeals and all local court services imposed by state statute, court rule, Ilwaco ordinance, or other regulation as now existing or hereinafter amended. The court staff shall utilize the DISCIS/Judicial Information System as appropriate for all municipal cases. Ilwaco shall be responsible for "discovery" as provided in court rules and statutes for all municipal cases.

4.2 **Bailiff.** Pacific County South District Court shall provide a court bailiff as determined by Pacific County South District Court staff.

4.3 **Municipal Judge.** Ilwaco shall appoint a qualified judge or judge pro tem who shall preside over and hear Ilwaco municipal cases. The Mayor of Ilwaco shall appoint and the City Council shall confirm any subsequently appointed or reappointed judge as the judge of the Ilwaco Municipal Court.

4.4 **Supplies and forms.** The Pacific County South District Court shall provide all forms and paperwork necessary for processing Ilwaco Municipal Court cases. By way of illustration and not limitation, these include case setting forms, infraction hearing forms, warrants and general office supplies.

4.5 **Language Interpretation.** Pacific County South District Court shall provide and pay for all language interpretation services for defendants.

4.6 **Jury Fees.** Pacific County South District Court shall pay for all jury fees for Ilwaco Municipal Court cases.

4.7 **Collection for Nonpayment.** Pacific County South District Court will, through the collection process or as otherwise provided by law attempt to collect all fines and fees past due for Ilwaco cases as determined by the Pacific County South District Court staff.

4.8. **Facility and Utility Costs.** Pacific County South District Court shall provide and maintain all equipment such as copiers, computers, printers, and other equipment necessary for the processing of municipal cases. The Pacific County South District Court shall provide the use of the Pacific County South District Court courtroom, all office space necessary for the processing of municipal cases, and associated janitorial services, facility insurance, building repair and maintenance, and related expenses. Pacific County South District Court will be responsible for payment of all utility charges such as power, water, sewer, solid waste and telephone services for any portion of the facility or facilities utilized to process municipal cases.

4.9 **Ilwaco Municipal Court Calendar.** A Ilwaco Municipal Court calendar shall be scheduled at such times and dates as are compatible with the existing court calendars, the schedule of the judge and the schedule of the prosecutor. Matters heard on the regularly scheduled Ilwaco municipal calendar shall be pre-trial hearings, motions, bench trials, review, revocation and sentencing hearings. Jury trials will be scheduled at such times as determined by the Court Administrator and Pacific County South District Court. Release hearings and arraignment hearings for Ilwaco defendants may be held on other days consistent with the procedure for Pacific County South District Court arraignments and release hearings.

4.10 Quarterly Reporting. Pacific County South District Court will provide to Ilwaco a quarterly caseload report. The caseload report will provide the following information: Filings by case type, dismissals, number and type of hearings, trial settings and type of trial set, number of cases disposed during report period, number of deferred prosecutions, appeals to superior court and total revenue.

5. Municipal Court Services. The following municipal court services shall be provided by Ilwaco Municipal Court:

5.1 Prosecution and Discovery. Ilwaco shall be responsible for providing prosecution services for all Ilwaco Municipal Court cases. Ilwaco shall provide discovery for its cases. The Ilwaco prosecutor shall not be required to be present for arraignments, release hearings, contested infractions that are non-accident related or pro se, or infraction mitigation hearings. In addition, Ilwaco shall be responsible for assuring Defendants held in custody are afforded all constitutional protections including first appearances and appointment of counsel.

5.2 Public Defender. Ilwaco shall provide public defender services and cover all public defense costs for indigent defendants who are charged with violation of Ilwaco's ordinance and entitled by law to legal counsel at public expense.

5.3 Screening Services. Ilwaco shall provide screening services to determine whether a Ilwaco defendant qualifies for public defense services. The Ilwaco Municipal Court judge may appoint a public defender if it is determined that the defendant is indigent.

5.4 Filing of Citations. Criminal citations and infractions issued by Long Beach/Ilwaco Police Department shall be delivered to the Pacific County South District Court clerk for filing in the Ilwaco Municipal Court within five (5) business days after the violation or issuance of the citation. If a person is booked into a jail facility, Long Beach/Ilwaco Police Department shall fax the citation and police report to the Pacific County South District Court clerk no later than 10:00 a.m. the next day.

5.5 Warrants. Whenever Ilwaco executes a warrant, Ilwaco shall contact the Pacific County South District Court and make a return on the warrant as soon as possible.

5.6 Jail Costs. Ilwaco shall be responsible for incarceration arrangements for its defendants and the cost for such incarceration.

5.7 Subpoenas. Issuance of all subpoenas shall be the responsibility of the prosecutor or defense counsel. Pacific County South District Court shall issue subpoenas for infractions as timely requested by pro se defendants. The court will use the witnesses identified by the police on either the back of the Ilwaco citation or the police report.

5.8 Witness Fees. Ilwaco shall pay for all fees for witnesses requested by the Ilwaco prosecutor.

5.9 Appeals. In the event that Ilwaco appeals a case, Ilwaco shall be charged the fee to file a notice of appeal and the costs for preparing and/or copying any court recordings.

6. Compensation and Other Costs. Ilwaco shall compensate Pacific County for providing all services as specified in Section 4 of this Agreement by payment of \$2,400.00 per year. Ilwaco shall additionally pay Pacific County all other costs as specified as the responsibility of Ilwaco in Section 5 hereof.

7. Payment of Compensation. Pacific County South District Court shall bill Ilwaco monthly for amounts due under this Agreement. Ilwaco shall pay the amount due within 45 days of receipt. However, if Ilwaco has a good faith dispute with the amount of the invoice, Ilwaco shall pay the non-disputed amount within the time frame set forth in this section.

8. Additional Compensation.

8.1 Adjustment for Additional Duties. In the event that Pacific County's duties under this Agreement are enlarged or increased due to local, state, or federal mandates, or new requirements from Ilwaco, Pacific County may request an increase in the compensation or a supplemental monthly fee to Ilwaco to cover the costs to Ilwaco for the change. Pacific County shall notify Ilwaco of the effective date of the fee changes, which may be immediately. Either party may request mediation as to the amount of this fee change. Ilwaco shall timely pay the new fees from their effective date even if mediation is requested.

8.2 Annual Adjustment. Commencing in 2014 and annually thereafter during the term of this Agreement and any extensions thereof, the parties shall meet on or before June 30 to review the cost of the services provided by Pacific County and the filing fees to be paid by Ilwaco to fairly compensate Pacific County for such services. The parties shall use best efforts to determine whether an adjustment of compensation is warranted, and if so, the amount thereof.

9. Disbursal of Local Court Revenues to Ilwaco. Pursuant to RCW 3.62.070 and RCW 39.34.180, Ilwaco shall receive one hundred percent (100%) of Local Court Revenues from Ilwaco Municipal Court cases, excluding probation revenues received at the municipal court and excluding restitution or reimbursement to Ilwaco or a crime victim, or other restitution as may be awarded by a judge. For purposes of this section, Local Court Revenues include all fines, forfeited bail, penalties, court cost recoupment and parking ticket payments derived from Ilwaco Municipal Court cases after payment of any and all assessments required by state law thereon. Local Court Revenues include all revenues as defined herein received by the Pacific County South District Court for Ilwaco Municipal Court cases as of opening of business January 1, 2013.

10. Factors Considered. In entering into this Interlocal Agreement for municipal court services, Pacific County and Ilwaco have considered, pursuant to RCW 39.34.180, the anticipated costs of services, anticipated and potential revenues to fund the services, including fines and fees, filing fee recoupment, criminal justice funding, and state sales tax funding.

11. Monthly Reporting and Payment of Local Court Revenues. Pacific County South District Court shall provide Ilwaco a monthly remittance report and a check or wire transfer for Local Court Revenues no later than 45 business days after the end of each calendar month.

12. Ilwaco Ordinances, Rules and Regulations. In executing this Agreement, Pacific County does not assume liability or responsibility for or in any way release Ilwaco from any liability or responsibility which arises in whole or in part from the existence or effect of Ilwaco ordinances, rules, or regulations, policies or procedures. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any Ilwaco ordinance, rule, or regulation is at issue, Ilwaco shall defend the same at its sole expense and if judgment is entered or damages are awarded against Ilwaco, Pacific County, or both, Ilwaco shall satisfy the same, including all chargeable costs, attorneys' fees and litigation expenses.

13. Indemnity. The parties shall each indemnify the other as follows:

13.1 Pacific County Indemnity. Pacific County shall protect, indemnify and save harmless Ilwaco, its officers, elected officials, agents, volunteers and employees from any and all costs, claims, judgments, or awards of damages (including costs and all attorney fees), arising out of or in any way resulting from the negligent acts, errors or omissions of Pacific County Court South District Court staff, its officers, employees and agents in performing this Agreement.

13.2 Ilwaco Indemnity. Ilwaco shall protect, defend, indemnify and save harmless Pacific County, its officers, employees and agents, volunteers and employees including the prosecuting attorney and public defender from any and all costs, claims, judgments or awards of damages, (including costs and all attorney fees), arising out of or in any way resulting from the negligent acts, errors or omissions of Ilwaco, its officers, employees or agents attorney in performing this Agreement.

13.3 Survival of Indemnities. The provisions of this section shall survive the expiration or termination of this Agreement. No obligation shall exist to indemnify for injuries caused by or resulting from events occurring after the last day of court services under this Agreement.

14. 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 Ilwaco and/or Pacific County 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 such party shall move to intervene. Each party shall bear any costs and expenses taxed by the court against it separately, provided, any costs and expenses assessed by a court against both parties jointly shall be shared equally.

15. Financing. There shall be no financing of any joint or cooperative undertaking pursuant to this Agreement. There shall be no budget maintained for any joint or cooperative undertaking pursuant to this Agreement.

16. **Property.** This Agreement does not provide for the acquisition, holding or disposal of real or personal property.

17. **Joint Administrative Board.** No separate legal or administrative entity is created by this Agreement. To the extent necessary, this Agreement shall be administered by the Mayor for Ilwaco or his designee, and the Pacific County South District Court Judge and Ilwaco Municipal Court Judge as a Joint Administrative Board.

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 Ilwaco a Pacific County 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 Ilwaco employees by virtue of their employment. Nothing in this Agreement shall make any employee of Pacific County a Ilwaco 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 Ilwaco employees by virtue of their employment. At all times pertinent hereto, Pacific County employees are acting as Pacific County employees.

19. **Notices.** Any notice or other communication given hereunder shall be deemed sufficient, if in writing and delivered personally to the addressee, or sent by certified or registered mail, return receipt requested, addressed as follows, or to such other address as may be designated by the addressee by written notice to the other party:

To Pacific County:

Pacific County South District Court
7013 Sandridge Road
Long Beach, WA. 98631

To Ilwaco:

Ilwaco Municipal Court
PO Box 548
Ilwaco, WA 98624

20. **Partial Invalidity.** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. Any provision of this Agreement which shall prove to be invalid, void or illegal shall in no way affect, impair, or invalidate any other provisions hereof, and such other provisions shall remain in full force and effect.

21. **Assignability.** The rights, duties, and obligations of either party to this Agreement shall not be assignable.

22. **Entire Agreement.** This Agreement contains the entire understanding between the parties and supersedes any prior understandings and agreements between them regarding the subject matter hereof. There are no other representations, agreements, or understandings, oral or written, between

the parties hereto relating to the subject matter of this Agreement. No amendment of, or supplement to, this Agreement shall be valid or effective unless made in writing and executed by the parties hereto.

23. **Duration.** The initial term of this Agreement shall commence upon execution by both parties and shall expire on December 31, 2013, unless terminated earlier pursuant to section 25 (Termination). This Agreement shall automatically be renewed and extended for an additional two (2) year period upon the same terms and conditions set forth herein, or as amended, unless terminated accordance with section 25, subject only to mutual agreement as to filing fees, which shall not be subject to section 19, Dispute Resolution, for extensions.

24. **Termination of Agreement.** Either party may give notice of termination for any reason. Ilwaco shall provide written notice of its intent to terminate this Agreement without cause not less than one year prior to expiration of this Agreement or any renewal thereof. Pacific County shall provide written notice of its intent to terminate this Agreement not less than one year prior to expiration of this Agreement. In the event of termination of this Agreement or any extension thereof, the Ilwaco Municipal Court shall move to the new venue within 90 days. If appropriate, this transition may involve compensation, on a case-by case basis, for cases left "open" after termination of this agreement and after transition to the new venue.

25. **Recording.** Consistent with RCW 39.34.040, this Agreement shall be filed for recording with the Pacific County Department of Records upon full execution.

26. **General Provisions.** This Agreement contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Agreement. No provision of the Agreement may be amended or modified except by written agreement signed by the Parties. Any provision of this Agreement which is declared invalid or illegal shall in no way effect or invalidate any other provision. Failure of a party to declare any breach or default immediately upon the occurrence thereof, or delay in taking any action in connection with, shall not waive such breach or default. Time is of the essence of this Agreement and each and all of its provisions in which performance is a factor.

DATED this 14th day of November, 2012.

PACIFIC COUNTY

CITY OF ILWACO



Mike Cassinelli, Mayor