

# Port of Port Angeles

*Port Angeles, Washington*

## Commissioner's Resolution No. 24-1292

### **RESOLUTION OF THE PORT OF PORT ANGELES APPROVING AN INTERSTATE COMPACT WITH SOURCEWELL AND AUTHORIZING THE PORT'S EXECUTIVE DIRECTOR TO ENTER INTO COMPETITIVELY PROCURED COOPERATIVE PURCHASING AGREEMENTS THROUGH SOURCEWELL**

WHEREAS, pursuant to Legislative authorization codified in RCW chapter 39.34, the Port is authorized to enter into agreements with other governmental entities for joint or cooperative action to furnish such goods and services as deemed appropriate by both parties.

WHEREAS, pursuant to Washington law, the Port is authorized to jointly exercise any powers or authorities conferred with another public agency of this or any other state to the extent the laws of each state allow, including entering into cooperative purchasing agreements for any goods or services pursuant to RCW 39.34.030(1).

WHEREAS, any such cooperative purchasing must be done in accordance with an agreement entered into between the participants pursuant to RCW 39.34.030(1).

WHEREAS, Sourcewell is a State of Minnesota local government unit and service cooperative created by the Minnesota legislature under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) and Minn. Const. art. XII, sec. 3, and as such under its enabling statute, Sourcewell is authorized to provide cooperative purchasing services to eligible members. Minn. Stat. § 123A.21 Subd. 7(23).

WHEREAS, Sourcewell follows the competitive contracting law process to solicit, evaluate, and award cooperative purchasing contracts for goods and services (Sourcewell Master Agreements). Sourcewell Master Agreements are made available through the joint exercise of powers law to eligible agencies. Minn. Stat. § 471.59 (2019).

WHEREAS, the Port desires to utilize certain of Sourcewell's competitively procured cooperative purchasing Master Agreements for itself as set forth in a Participation Agreement for each such Sourcewell Master Agreement.

NOW THEREFORE BE IT RESOLVED that:

1. The Interstate Compact Agreement ("Agreement") by and between the State of Washington acting by and through the Port of Port Angeles, a Washington State public port district and Sourcewell, a Minnesota local government unit attached hereto as **Exhibit A** is adopted, and

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2. The Port's Executive Director is authorized to enter into competitively procured cooperative purchasing agreements through Sourcewell, subject to reporting each instance to the Commission in writing.

ADOPTED by the Port Commission of the Port of Port Angeles at a regular meeting thereof held this 12<sup>th</sup> day of March 2024.

PORT OF PORT ANGELES  
BOARD OF COMMISSIONERS



Connie L. Beauvais, President



Colleen M. McAleer, Vice President



Steve D. Burke, Secretary

**EXHIBIT A**  
**INTERSTATE COMPACT AGREEMENT**  
**BETWEEN**  
**THE PORT OF PORT ANGELES, A WASHINGTON STATE PUBLIC PORT DISTRICT**  
**AND**  
**SOURCEWELL,**  
**A STATE OF A MINNESOTA LOCAL GOVERNMENT UNIT**  
**REGARDING USE OF SOURCEWELL COOPERATIVE PURCHASING MASTER AGREEMENTS**

Pursuant to RCW Chap. 39.34, this Interstate Compact Agreement (“Agreement”) is made and entered into by and between the State of Washington acting by and through the Port of Port Angeles, a Washington State public port district (“Port”) and Sourcewell, a Minnesota local government unit (“Sourcewell”, collectively “Parties”) and is dated and effective as of \_\_\_\_\_.

**R E C I T A L S**

- A. Pursuant to Legislative authorization codified in RCW chapter 39.34, the Port is authorized to enter into agreements with other governmental entities for joint or cooperative action to furnish such goods and services as deemed appropriate by both parties.
- B. Pursuant to Washington law, the Port is authorized to jointly exercise any powers or authorities conferred with another public agency of this or any other state to the extent the laws of each state allow, including entering into cooperative purchasing agreements for any goods or services. See RCW 39.34.030(1). Any such cooperative purchasing must be done in accordance with an agreement entered into between the participants. See RCW 39.34.030(1).
- C. Sourcewell is a State of Minnesota local government unit and service cooperative created by the Minnesota legislature under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21). See Minn. Const. art. XII, sec. 3. Under its enabling statute, Sourcewell is authorized to provide cooperative purchasing services to eligible members. Minn. Stat. § 123A.21 Subd. 7(23). Sourcewell follows the competitive contracting law process to solicit, evaluate, and award cooperative purchasing contracts for goods and services (Sourcewell Master Agreements). Sourcewell Master Agreements are made available through the joint exercise of powers law to eligible agencies. Minn. Stat. § 471.59 (2019).
- D. The Port desires to utilize certain of Sourcewell’s competitively procured cooperative purchasing Master Agreements for itself as set forth in a Participation Agreement for each such Sourcewell Master Agreement.

**A G R E E M E N T**

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the Parties agree as follows:

- 1. **TERM.** The term of this Agreement is ten (10) years, commencing \_\_\_\_\_ and ending \_\_\_\_\_; *Provided*, however, that this Agreement may be terminated earlier by either party with or without cause by written notice. Upon termination, the Port no longer shall have authority to

use Sourcewell Master Agreements; *Provided*, however, that the Port shall be liable for its outstanding orders, if any, at the time of termination. Upon termination, the Parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement and any applicable Participation Agreement prior to the effective date of such termination.

2. **JOINT POWERS AGREEMENT.** Sourcewell is a government unit within the State of Minnesota empowered to enter into this Agreement pursuant to Minn. Stat. § 471.59, subd. 1 (2019). Governmental units may enter into joint powers agreements whereby one of the governmental units performs on behalf of the other any service or function which the governmental unit providing the service or function is authorized to provide for itself. The Port, by means of this joint powers/interstate contract agreement, may authorize ordering from Master Agreements established by Sourcewell. The Port agrees to order under the established terms and conditions of the Sourcewell Master Agreement subject to a Participation Agreement between the Port and the Sourcewell Master Agreement-awarded contractor. The Port shall provide a copy of any such Participation Agreement to Sourcewell.
3. **WASHINGTON STATE ACCESS TO SOURCEWELL MASTER AGREEMENTS.** Pursuant to this Agreement, the Port shall have access, in its sole discretion, to competitively solicited and awarded Sourcewell Master Agreements. The Port may participate in any such Sourcewell Master Agreement through a Participation Agreement executed by the Port's Executive Director and the awarded contractor. Such Participation Agreement shall specify eligible purchasers as authorized by the Port.
4. **SOURCEWELL AFFIRMS THAT COMPETITIVE BID PROCESS SATISFIED.** With respect to the Port purchasing or otherwise contracting through a bid, proposal, or contract awarded by Sourcewell, the Port's obligation with respect to competitive bids or proposals that applies is satisfied because Sourcewell, the public agency that awarded the bid, proposal, or contract, affirms that it complied with its own statutory requirements and either (i) posted the bid or solicitation notice on a website established and maintained by Sourcewell for the purposes of posting public notice of bid or proposal solicitations, or (ii) provided an access link on Sourcewell's state's web portal to the notice.
5. **AGREEMENT MANAGEMENT.** The Parties hereby designate the following agreement administrators as the respective single points of contact for purposes of this Agreement, each of whom shall be the principal contact for business activities under this Agreement. The Parties may change administrators by written notice as set forth below. Any notices required or desired shall be in writing and sent by U.S. mail, postage prepaid, or sent via email, and shall be sent to the respective addressee at the respective address or email address set forth below or to such other address or email address as the parties may specify in writing:

**Port of Port Angeles:**

Attn: Paul Jarkiewicz  
Executive Director  
338 W First Street  
Port Angeles, WA 98362  
Tel: (360) 457-8527

**Sourcewell:**

Attn: Attn: Jeremy Schwartz  
Sourcewell Chief Procurement Officer  
202 12<sup>th</sup> St. NE Box 219  
Staples MN, 56479  
Tel: (877) 894-1930

Email: paulj@portofpa.com

Email: info@sourcewell-mn.gov

CC: Marcus Miller General  
Counsel  
202 12<sup>th</sup> St. NE Box 219  
Staples MN, 56479

Notices shall be deemed effective upon the earlier of receipt, if mailed, or, if emailed, upon transmission to the designated email address of said addressee.

**6. RECORDS RETENTION & PUBLIC RECORDS.**

- a. **AGREEMENT AVAILABILITY.** Prior to its entry into force, this Agreement shall be posted on the Port's and Sourcewell's website or other electronically retrievable public source as required by RCW 39.34.040.
  - b. **RECORDS RETENTION.** Each party shall each maintain records and other evidence that sufficiently and properly reflect all direct and indirect costs expended by either party in the performance and payment of the services described herein. These records shall be subject to inspection, review, or audit by personnel of both Parties, other personnel duly authorized by either party, the Office of the State Auditor, and officials authorized by law. Such records shall be retained for a period of six (6) years following expiration or termination of this Agreement or final payment for any service placed against this Agreement, whichever is later; *Provided*, however, that if any litigation, claim, or audit is commenced prior to the expiration of this period, such period shall extend until all such litigation, claims, or audits have been resolved.
  - c. **PUBLIC INFORMATION.** This Agreement and all related records are subject to public disclosure as required by Washington's Public Records Act, RCW chapter 42.56 and Minnesota's Data Practices Act, Minn. Stat. chapter 13. 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 or the Data Practices Act, without first providing notice to the other party within ten (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.
- 7. RESPONSIBILITY OF THE PARTIES.** Each party to this Agreement assumes responsibility for claims and/or damages to persons and/or property resulting from any act or omission on the part of itself, its employees, or its agents. Neither party assumes any responsibility to the other party for any third-party claims.
- 8. STATE TO BE MADE WHOLE.** Because this Agreement is entered into pursuant chapter 39.34 RCW and is between or among one or more public agencies of this state and one or more public agencies of another state, this Agreement has the status of an interstate compact, but in any case or controversy involving performance or interpretation thereof or liability thereunder, the

Port and Sourcewell shall be real parties in interest and Washington state may maintain an action to recoup or otherwise make itself whole for any damages or liability which it may incur by reason of being joined as a party therein. Such action shall be maintainable against the party whose default, failure of performance, or other conduct caused or contributed to the incurring of damage or liability by Washington state, as is required by RCW 39.34.040.<sup>1</sup>

9. **DISPUTE RESOLUTION.** To the extent practicable, the Parties shall use their best, good faith efforts cooperatively and collaboratively to resolve any dispute that may arise in connection with this Agreement as efficiently as practicable, and at the lowest possible level with authority to resolve such dispute. The Parties shall make a good faith effort to continue without delay to carry out their respective responsibilities under this Agreement while attempting to resolve any such dispute. If, however, a dispute persists and cannot reasonably be resolved, it may be escalated within each organization. In such circumstance, upon notice by either party, each party, within five (5) business days shall reduce its description of the dispute to writing and deliver it to the other party. The receiving party then shall have three (3) business days to review and respond in writing. In the event that the parties cannot then agree on a resolution of the dispute, the parties shall schedule a conference between the respective senior managers of each organization to attempt to resolve the dispute.

10. **GENERAL PROVISIONS.**

- a. **INTEGRATED AGREEMENT.** This Agreement constitutes the entire agreement and understanding of the Parties with respect to the subject matter and supersedes all prior negotiations, representations, and understandings between them. There are no representations or understandings of any kind not set forth herein.
- b. **AMENDMENT OR MODIFICATION.** Except as set forth herein, this Agreement may not be amended or modified except in writing and signed by a duly authorized representative of each party hereto, and approved by the Port's Board of Commissioners by Resolution adopted at a meeting open to the public.
- c. **AUTHORITY.** Each party to this Agreement, and each individual signing on behalf of each party, hereby represents and warrants to the other that it has full power and authority to enter into this Agreement and that its execution, delivery, and performance of this Agreement has been fully authorized and approved, and that no further approvals or consents are required to bind such party.
- d. **NO SEPARATE LEGAL ENTITY.** This Agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking.
- e. **PARTIES' COSTS.** Each party shall finance its own activities undertaken pursuant to this

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<sup>1</sup> RCW 39.34.040 Methods of filing agreements—Status of interstate agreements—Real party in interest—Actions. "... In the event that an agreement entered into pursuant to this chapter is between or among one or more public agencies of this state and one or more public agencies of another state or of the United States the agreement shall have the status of an interstate compact, but in any case or controversy involving performance or interpretation thereof or liability thereunder, the public agencies party thereto shall be real parties in interest and the state may maintain an action to recoup or otherwise make itself whole for any damages or liability which it may incur by reason of being joined as a party therein. Such action shall be maintainable against any public agency or agencies whose default, failure of performance, or other conduct caused or contributed to the incurring of damage or liability by the state."

Agreement.

- f. PARTIES' OBLIGATIONS NOT AFFECTED. This Agreement does not relieve any party hereto of any obligation or responsibility imposed upon it by law.
- g. CAPTIONS & HEADINGS. The captions and headings in this Agreement are for convenience only and are not intended to, and shall not be construed to, limit, enlarge, or affect the scope or intent of this Agreement nor the meaning of any provisions hereof.
- h. ELECTRONIC SIGNATURES. A signed copy of this Agreement or any other ancillary agreement transmitted by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement or such other ancillary agreement for all purposes.
- i. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Agreement at different times and places by the parties shall not affect the validity thereof so long as all the Parties hereto execute a counterpart of this Agreement.

EXECUTED AND EFFECTIVE as of the day and date first above written.

**PORT OF PORT ANGELES  
A WASHINGTON PUBLIC PORT DISTRICT**

**By:** \_\_\_\_\_  
**Name:**  
**Title:**

**SOURCEWELL,  
A MINNESOTA GOVERNMENTAL AGENCY**

**By:** \_\_\_\_\_  
**Name: Mike Wilson**  
**Title: Chair, Board of Directors**