

**SOUTHWEST WASHINGTON
REGIONAL TRANSPORTATION PLANNING ORGANIZATION
AMENDED AND RESTATED INTERLOCAL AGREEMENT**

WHEREAS, the SOUTHWEST WASHINGTON REGIONAL TRANSPORTATION PLANNING ORGANIZATION (herein referred to as "SWRTPO") was voluntarily established by interlocal agreement December 1, 1990 and amended March 14, 1992 as authorized by Washington State's Growth Management Act of 1990 and formulated under Ch. 47.80 RCW with the full support and agreement of the Counties of Cowlitz, Wahkiakum, Grays Harbor, Pacific and Lewis (herein referred to collectively as "Counties") and those cities/towns (herein referred to collectively as "Cities") that lie within the boundaries of those counties, and the Cowlitz-Wahkiakum Council of Governments (hereinafter referred to as "CWCOG"); and

WHEREAS, the SWRTPO has been verified and recognized by the State of Washington through the Washington State Department of Transportation (WSDOT) as having met the requirements of local governments to create a regional transportation planning organization as set forth in RCW 47.80.020 and WAC 468-86-070 by including geographically contiguous counties having a population of at least one hundred thousand or contain a minimum of three counties whose members represent all counties and at least sixty percent (60%) of the cities/towns within the region and seventy-five percent of the population of those cities/towns; and

WHEREAS, the Counties are organized as counties pursuant to Title 36, Revised Code of Washington (RCW) and the boundaries of each county are as defined in RCW 36.04.080 and .350, respectively, and are authorized to engage in transportation planning pursuant to 36.53, 36.54 and 36.73 to 36.89; and

WHEREAS, the Cities are organized as cities and towns pursuant to Title 35 and 35A Revised Code of Washington (RCW) and are authorized to engage in transportation planning pursuant to 35.68 to 35.79; and

WHEREAS, RCW 47.80.020 states that the regional transportation planning organization is the same as the metropolitan planning organization designated for federal transportation planning purposes; and

WHEREAS, the CWCOG, formed in 1961 as the Cowlitz Regional Planning Commission under RCW 36.70.060, re-organized in 1974 as the Cowlitz-Wahkiakum Governmental Conference in accordance with RCW 36.64.080 through RCW 36.64.110, and subsequently renamed the Cowlitz-Wahkiakum Council of Governments in 1992, was designated as the Metropolitan Planning Organization (MPO) of the Longview-Kelso Urbanized Area by the Governor of the State of Washington January 11, 1982; and

WHEREAS, the parties as stated hereto have the authority to enter into interlocal agreements under Ch. 39.34 RCW for joint and cooperative activity to make the most efficient use of their powers by enabling them to cooperate with other localities; and

WHEREAS, the cooperative undertaking of the parties set forth in the original Interlocal Agreement was established as a joint policy board pursuant to RCW 39.34.030 (4) and required by RCW 47.80.040 and under same did not create a separate legal entity; and

WHEREAS, the SWRTPO, in accordance with RCW 47.80.023 (7) and permitted by RCW 39.34.030 (4) (a), did so designate the CWCOG as the Lead Planning Agency to carry out the responsibilities of the SWRTPO; and

WHEREAS, the Cowlitz-Wahkiakum Council of Governments Board of Directors did so agree to fulfill the role of Lead Agency for the SWRTPO; and

WHEREAS, the SWRTPO board did direct the CWCOG to amend and update the interlocal agreement to align with current required federal and state regulations and requirements;

NOW, THEREFORE, in consideration of the recitals set forth above and other considerations, it is hereby resolved that the SWRTPO Interlocal Agreement dated December 1, 1990 and subsequently amended on March 14, 1992 is hereby superseded and replaced by the following Agreement upon approval by all of the counties and at least sixty percent of the cities and towns within the region representing a minimum of seventy-five percent of the cities' and towns' population. The regions ports are also eligible to serve as voting members of the organization within the region and may sign on as parties to the agreement:

1. Purpose and Responsibility. The purpose of the SWRTPO is to coordinate transportation planning among jurisdictions and develop a regional transportation plan (WAC 468-86-020) to better ensure an efficient, effective transportation system that ensures mobility and accessibility, and addresses community needs and regional strategies (RCW 47.80.011).

The direct responsibility of the SWRTPO outlined in RCW 47.80.023 is to (1) prepare and periodically update a regional transportation strategy for the region; (2) prepare a regional transportation plan; (3) certify that the local governments' transportation plans, elements of plans, and policies meet state requirements and are consistent with the regional and county-wide transportation plan and policies; (4) where appropriate, certify that countywide planning policies adopted under RCW 36.70A.210 and the adopted regional transportation plan are consistent; (5) develop a six-year regional transportation improvement program; and (6) develop and or provide input into the coordinated transit-human services transportation plan; (7) designate a lead planning agency to coordinate the business of the RTPO; (8) support the regional effort to evaluate transportation facilities and corridors; (9) Work with cities, counties, transit agencies the department of transportation and others to develop level of service standards or alternative transportation performance measures; (10) develop and submit a prioritized regional human service and transportation project list every two years.

The RTPO will conduct other such duties and responsibilities as required by WSDOT or the state legislature, or that the RTPO Board deems necessary for the success of the program including the review the Regional Transportation Plan every two years to ensure that it is current.

2. Authority. This Agreement is primarily established to facilitate recognition under Washington State law as set forth in RCW 47.80.070 and WAC 468-86-050 relating to regional transportation planning organizations and to enable federal and state funding mechanisms. The parties understand that initiating joint programs under state law and other federal, state or local legislation can provide significant benefits to the agencies in the five counties that are signatory, including the individuals, businesses and other governmental entities of the five-county area.
3. Amendments to Agreement. The Agreement supersedes and replaces in its entirety the agreement dated December 1, 1990 and amended March 14, 1992.

This Agreement and any collateral instruments, referenced herein, contain the entire agreement and may be modified or amended by request of the SWRTPO Board, and approved by the Board as determined by the SWRTPO Bylaws. Amendments must be filed with Cowlitz County as provided for in Section 13.4 of this Agreement and with WSDOT.

4. Boundaries. This Agreement does hereby affirm that the boundaries of the SWRTPO include the full boundaries of Cowlitz, Grays Harbor, Lewis, Pacific and Wahkiakum Counties and those cities/towns within such boundaries.
5. Name. This Agreement does affirm that the five-county regional transportation planning organization shall be named the SOUTHWEST WASHINGTON REGIONAL TRANSPORTATION PLANNING ORGANIZATION (hereinafter referred to as "SWRTPO"). The SWRTPO may also be referred to as the Regional Transportation Planning Organization or RTPO.
6. Board and Committees.
 - 6.1. SWRTPO Policy Board. For the purposes of the SWRTPO, the Organization and the state required Transportation Policy Board (RCW 47.80.040) are one and the same. The SWRTPO is a policy and guidance board maintaining authority over the regional transportation program's direction. The SWRTPO shall provide its direction to the Lead Agency to act for and on behalf of the SWRTPO on all programmatic matters as set forth in Section 9.1 of this Agreement.

The board shall strive to meet, at a minimum, four times a year for purposes outlined in the SWRTPO Bylaws.
 - 6.2. Technical Advisory Committees (TACs). A Technical Advisory Committee shall be established for each of the five counties and shall utilize the technical expertise of each of their jurisdiction's staff to primarily develop recommendations to the SWRTPO Board to insure that the Regional Transportation Plan is appropriately updated and is in compliance with all state/ federal requirements and to facilitate the plan's public participation process within each of their jurisdictions.
7. Officers. The officers of the SWRTPO Board shall include the Chairman, Vice-Chairman and Secretary. The Chairman and Vice-Chairman shall be elected according to the SWRTPO Bylaws. The CWCOG Executive Director shall serve as the ex-officio Secretary of the SWRTPO.
8. Membership. Membership within SWRTPO will be contingent upon meeting the conditions of membership as included in the Bylaws and revised by the Board as needed. Membership shall be changed by a vote of the Board as prescribed in the Bylaws.

The membership of the SWRTPO Board shall endeavor to be comprised of at least one representative from each of the five Counties, sixty percent of the Cities/Towns representing seventy-five percent of the population within the five-county region in accordance with RCW 47.80.020(3); as well as, representatives from port districts, WSDOT, public transit agencies, non-profit public transportation agencies, tribes and tribal interests, major employers and others as interested so as to ensure that its membership is broadly representative of the principal transportation interests of the region.
9. Administration.
 - 9.1. Lead Agency. As the Metropolitan Planning Organization for the Longview WA/OR Urban Area and as designated by the SWRTPO Board, the CWCOG will fulfill the role as lead agency for the SWRTPO. The Lead Agency will serve as the administrator responsible for managing the cooperative undertakings and duties of the SWRTPO Board (RCW 47.80.023) and to carry out the administrative functions as permitted by RCW 39.34.030 and this Agreement. As such, the CWCOG shall be considered the administrative and legal entity responsible for all budgetary, financial, contractual, and legal undertakings of the SWRTPO.

- 9.2. Personnel. The CWCOG shall provide staffing to support the activities, finances and coordination of the SWRTPO in accordance with the requirements of WSDOT Administrative Guidelines, consistent with the CWCOG policies and procedures, and consistent with all applicable state and federal requirements. Staff assigned to SWRTPO programs and activities are employees of the CWCOG and shall remain under the sole authority and direction of the CWCOG and neither the CWCOG or SWRTPO shall be considered dual employers as that term is defined under law. The CWCOG may contract work to meet the goals and objectives of the SWRTPO.
- 9.3. Records. The CWCOG shall be the depository for all records and documents of the SWRTPO and shall be responsible for the records management, recording and retention requirements of the SWRTPO established by state law, as set forth in the Public Records Act (RCW 42.56.001 et seq).
- 9.4. Funding. Funding and compensation for the administration of the SWRTPO, and in coordination with the MPO, are disseminated to the Lead Agency as the state designated recipient of Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and WSDOT grant funds as well as any other funding sources deemed applicable in supporting the responsibilities of the SWRTPO and its Lead Agency. (RCW 47.80.050).
- 9.5. Financial Depository. The Cowlitz County Treasurer, as fiscal agent to the CWCOG, shall be the financial depository for all funds supportive of the cooperative undertaking among the parties pursuant to this Agreement.
- 9.6. Acquisition of and Disposition of Property. The SWRTPO as a board is not expected to acquire personal or real property and, therefore, shall not be required to dispose of property. It is expected that the CWCOG may acquire personal property to fulfill its obligations under this Agreement.
10. Mutual Indemnity. To the extent of its comparative liability, each party agrees to indemnify, defend and hold the other party, its elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease or death and for damage to or destruction of any property (including the loss of use resulting therefrom) which are alleged or proven to be caused by an act or omission, negligent or otherwise, of its elected and appointed officials, employees, agents or volunteers.
- In the event of any concurrent act or omission of the parties, each party shall pay a proportionate share of any damages awarded. The parties agree to maintain a consolidated defense to claims made against them and to reserve all indemnity claims against each other until after liability to the claimant and damages, if any, are adjudicated. If any claim is resolved by voluntary settlement and the parties cannot agree upon apportionment of damages and defense costs, they shall submit apportionment to binding arbitration.
- The parties agree all indemnity obligations shall survive the completion, expiration or termination of this Agreement.
11. Insurance. The CWCOG's membership in the governmental self-insured risk pool, Washington Cities Insurance Authority (WCIA), shall satisfy all conditions of insurance to fulfill the role of Administrative Agency for this Agreement. Should coverage through WCIA terminate, the CWCOG shall maintain comparable coverage.
12. Duration and Dissolution. This SWRTPO shall exist until it is dissolved by a majority vote of the voting membership of the Board as prescribed by the Bylaws and written approval by WSDOT, provided the

business of dissolution is listed on the agenda of a regularly scheduled meeting.

13. Miscellaneous Provisions.

- 13.1 **Waiver.** No waiver of any breach of any covenant or Agreement contained herein shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by either party of any covenant, agreement or undertaking, the non-defaulting party may nevertheless accept from the other any payment or payments or performance hereunder without in any way waiving its right to exercise any of its rights and remedies provided for herein or otherwise with respect to any such default or defaults that were in existence at the time such payment or payments or performance were accepted by it. The exercise of any remedy provided by law or the provisions of this Agreement shall not exclude other consistent remedies.
- 13.2 **Assignment.** None of the parties shall assign this Agreement, or any part hereof, without the written consent of all other parties. The Agreement shall inure to the benefit of and be binding upon each party and their successors and permitted assigns.
- 13.3 **Applicable Law and Venue.** This Agreement shall be construed in accordance with the laws of the State of Washington. Venue for any dispute related to the Agreement shall be Cowlitz County, Washington.
- 13.4 **Filing.** A copy of this Agreement and any subsequent amendments shall be filed with the Auditor of Cowlitz County, Washington, within five days of the date of its execution, provided, however, that failure to file this Agreement shall not affect the validity of the Agreement.
- 13.5 **Severability.** If a court of law determines any provision of the Agreement to be unenforceable or invalid, the parties hereto agree that all other portions of this Agreement shall remain valid and enforceable.
- 13.6 **No Third-Party Beneficiaries.** This Agreement is made and entered into for the sole protection and benefit of the parties hereto and their successors and permitted assigns. No other person or entity shall have any right of action or interest in this Agreement based upon any provision of the Agreement.
- 13.7 **Force Majeure.** The timing or performance by any party under this Agreement shall be excused during any extraordinary natural events or weather conditions, war, riots, labor disputes or inability to procure required supplies or materials, delays in environmental review, permitting, or other environmental requirements or work, including environmental mitigation, delays as a result of legal or administrative challenges brought by parties other than the signatories to this Agreement.
- 13.8 **Notices.** All communications, notices and demands of any kind which any party requires or desires to give to any of the other parties shall be in writing and either served to the Lead Agency to be disseminated to the membership or deposited in the U.S. Mail, certified mail, postage prepaid, return receipt requested, and addressed to the CWCOG Executive Director at the current place of business.
- 13.9 **Compliance with Laws.** All parties shall comply with all applicable federal, state and local laws, regulations and rules in performing this Agreement.
- 13.10 **Interlocal Cooperation Act.** The performance of the obligations of this Agreement shall comply with the provisions of RCW 39.34.030 (4), the Interlocal Cooperation Act. The parties do affirm that no

separate legal entities are necessary in order to carry out this Agreement and that none have been created.

Nothing herein shall imply that any signatory waives, surrenders, or otherwise transfers any right, obligation or duty imposed upon it by Law, and which it alone is authorized to execute.

14. Counterparts. This agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all such counterparts shall constitute one agreement.
15. Effective Date: The Agreement shall be considered fully executed upon receipt by the CWCOG of the approved resolutions of all the counties and at least sixty percent of the cities and towns within the region representing a minimum of seventy-five percent of the cities' and towns' population. The document effective date shall be considered the signatory date of the CWCOG executed upon receipt of the approved resolution that completes the counties, cities and towns population requirements as set forth by this agreement.

The Agency does hereby approve by resolution the Southwest Washington Regional Transportation Planning Organization's Amended and Restated Interlocal Agreement this day, March 22, 2021.

AGENCY

CITY MANAGER

Jim Anderson Jim Anderson

Title, Full Signature Name

Date: 3/25/2021

Title, Full Signature Name

Date: _____

Title, Full Signature Name

Date: _____

Attest:

Interim City Clerk

Kiley Franz Kiley Franz

Title, Full Signature Name

Date: 3/25/2021

Attorney

[Signature]

Title, Full Signature Name

Date: 3/30/2021

