

**INTERLOCAL AGREEMENT
BETWEEN THE CITY OF VANCOUVER AND
CLARK COLLEGE**

THIS IS AN INTERLOCAL AGREEMENT (this "Interlocal Agreement"), entered into under the authority of the Interlocal Cooperation Act, Chapter 39.34 RCW (the "Interlocal Cooperation Act"), between Clark College, a municipal corporation of the State of Washington (the "College") and the City of Vancouver, a municipal corporation and charter city of the first class of the State of Washington, (the "City").

WHEREAS, pursuant to the Interlocal Cooperation Act, any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform; and

WHEREAS, the College's buildings and parking lots are located at 1933 Fort Vancouver Way, Vancouver, Washington 98663; and

WHEREAS, the College and the City wish to encourage students and College employees to commute by bicycle and support bicycle commuters by providing bike lockers located near the entrances to Gaiser Hall, Joan Stout Hall and on the North side of Beacock Music Hall; and

WHEREAS, supporting transportation by bicycle is an objective of the City's Complete Streets Policy, Comprehensive Plan 2011-2030, Central Park Subarea Plan, and the Commute Trip Reduction Work Plan; and

WHEREAS, the City of Vancouver wishes to purchase three "quad" bicycle lockers that will provide bicycle parking for twelve bikes from eLock Technologies, LLC ("eLock"), under an existing BikeLink Software License Agreement, BikeLink Service and Operations Agreement, BikeLink User Agreement, with eLock (collectively, the "Service Agreement"), to be installed on the College campus; and

WHEREAS, the City and the College have entered into an Addendum to the Service Agreement with eLock; and

WHEREAS, under the Service Agreement, eLock will install the lockers on the campus; and

WHEREAS, the lockers will include BikeLink software (owned by eLock), which will allow bicyclists to use the installed lockers by renting locker space by the hour; and

WHEREAS, under the Service Agreement, eLock has granted to the City a right to use the software and has agreed to provide certain locker maintenance and repair services; and

WHEREAS, the City wishes to authorize the College to utilize the City's rights to locker maintenance and repair under the Service Agreement in the event maintenance or repair is needed; and

NOW, THEREFORE, the College and the City agree as follows:

SECTION 1. Purpose. This Interlocal Agreement is entered into pursuant to the authority of RCW 39.34.080. The purpose is to set forth the Parties' agreement relating to the purchase, installation, and maintenance of certain bicycle lockers on the College's campus.

SECTION 2. The City's Responsibilities.

A. The City will purchase three quad eLocker's from eLock, which each contain four individual bicycle lockers (a total of twelve spaces), including the lockers and necessary components, software license, and service agreement for repair and maintenance (collectively, the "Lockers").

B. The City will pay for the delivery and installation of the Lockers on the college campus, as further specified in Section 3(B) below.

C. The City will take the necessary steps to designate the College as an authorized user under the Service Agreement, such that the College can directly arrange for maintenance and repair of the lockers by eLock as needed. The City will promptly notify the College when it has been so authorized.

SECTION 3. The College's Responsibilities.

A. The College agrees to reasonably maintain the lockers by cleaning them, removing graffiti, and removing abandoned bikes or property being stored in the lockers that is not permitted. Once the City confirms that the College is an authorized user under the Service Agreement, the College will contact eLock directly to arrange for any necessary repairs or maintenance under the Service Agreement.

B. The College will coordinate with the City and eLock to allow installation of the lockers on the College Campus. The bicycle lockers will be installed near the entrances to Gaiser Hall, Joan Stout Hall and on the North side of Beacock Music Hall.

C. The College understands and agrees that the cost to users will be the minimum rental fee charged and collected by eLock under the Service Agreement; neither the City nor College will collect amounts on top of what eLock charges for locker rental time.

D. The College agrees to keep and reasonably maintain the lockers for a minimum of three (3) years from the time of installation, except as otherwise provided in Section 5(A) below.

SECTION 4. Effective Date and Term. The Agreement will become effective upon execution by both Parties and filing of the Agreement under Section 17. It shall continue from the effective date until either Party terminates the Agreement pursuant to Section 5 of this Interlocal Agreement.

SECTION 5. Termination.

A. The Parties agree that this Interlocal Agreement will remain in effect for at least three (3) years from the date the Lockers are installed, except in the event the Lockers pose a health or safety risk. If the Lockers pose a health or safety risk, either Party may provide notice to terminate this Interlocal Agreement in writing that includes an explanation of why the Lockers present such a risk. Upon notice to terminate due to a health or safety risk, the Parties will coordinate with eLock to arrange for proper removal of the Lockers as soon as possible.

B. After three (3) years from the date of installation of the Lockers, either Party may choose to terminate this Interlocal Agreement for any reason by notifying the other Party in writing ninety (90) days prior to termination. Upon termination, the Parties will work together to arrange for proper removal of the Lockers. The removal of the Lockers will occur no sooner than ninety (90) days from the date of notice of intent to terminate. The City will coordinate with eLock on the removal of the Lockers and such removal will occur as soon as eLock's schedule will allow.

C. At all times the City will remain the owner of the Lockers and, in the City's sole discretion, it may take possession of the Lockers in the event either Party terminates this Interlocal Agreement. If the City elects to take possession, the City will arrange for the Lockers to be transported from the campus after removal. If the City chooses not to take possession of the Lockers, the Parties will coordinate for their disposal, complying with all laws and City policies concerning disposal of surplus property. Termination will become effective at the time the Lockers are either accepted by the City or properly disposed of. The Parties agree to share equally in the cost of the removal and/or disposal of the Lockers.

SECTION 6. Costs. The City will pay all costs associated with the purchase, delivery and installation of the Lockers, as specified under Section 2.

The College will incur all costs associated with reasonable routine maintenance of the Lockers, as specified under Section 3. Upon termination, the Parties will equally share the cost of removal and/or disposal of the Lockers as specified under Section 5.

SECTION 7. Administration. This Interlocal Agreement does not establish or create a separate legal or administrative entity or a joint board to accomplish the purposes hereof. The Parties shall be jointly responsible for administering the performance herein. The Parties will not acquire any jointly-owned real or personal property in connection with performance of this Interlocal Agreement. The Parties shall each be responsible for their own individual financial costs of performance of this Interlocal Agreement. No joint budget will be prepared to carry out the performance of this Interlocal Agreement.

Ownership and disposal of the Lockers is specified under Section 5. Any other real or personal property used or acquired by either Party in connection with performance of this Interlocal Agreement shall be disposed of by that Party as it shall determine in its discretion.

SECTION 8. Dispute Resolution.

A. In the event of a dispute between the College and the City regarding any matter pertaining to this Interlocal Agreement which cannot be resolved by their respective designated managers, the Clark College President and the Vancouver City Manager or their designated representatives shall review such dispute and options for resolution. The decision of the Clark College President and the City Manager (or their designees) regarding the dispute shall be final as between the Parties.

B. Any dispute concerning the terms of this Interlocal Agreement that cannot be resolved by the negotiation process set forth herein shall be submitted to mediation with the Parties agreeing to a neutral mediator. Both Parties hereby agree to participate in such mediation in good faith, but nothing herein obligates either Party to resolve the dispute in such mediation.

SECTION 9. No Employer/Employee Relationship. Nothing herein shall be construed as creating the relationship of employer and employee, or principal and agent, between the College and the City, or between any of the College's or the City's employees. The employees or agents of each Party who are engaged in the performance of this Interlocal Agreement shall continue to be employees or agents of that Party and shall not be considered for any purpose to be the employees or agents of any other Party.

SECTION 10. Claims and Costs.

A. Each Party to this Interlocal Agreement hereby assumes responsibility for claims and/or damages to persons and/or property resulting from any act or omission on the part of itself, its officials, agents, or employees.

B. Attorney's Fees and Costs. The Parties shall bear their own costs enforcing the rights and responsibilities under this Interlocal Agreement.

SECTION 11. Assignment. Neither Party shall transfer or assign, in whole or in part, any or all of its respective rights or obligations under this Interlocal Agreement without the prior written consent of the other Party.

SECTION 12. No Third Party Beneficiary. The College does not intend by this Interlocal Agreement to assume any contractual obligations to anyone other than the City. The City does not intend by this Interlocal Agreement to assume any contractual obligations to anyone other than the College. The College and City do not intend there be any third-party beneficiary to this Interlocal Agreement.

SECTION 13. Notices. Any notices to be given under this Interlocal Agreement shall be delivered either in person or by certified mail, return receipt requested:

To the City:

CITY OF VANCOUVER
P.O. Box 1995
Vancouver, Washington 98668-1995
Attention: Brian Carlson, Director of Public Works

To Clark Community College:

CLARK COLLEGE
1800 E. McLoughlin BLVD.
Vancouver, Washington 98663-3598
Attention: Timothy Petta, Director of Facilities Services

Notices shall be deemed given on the date of personal delivery to the other Party, or in the case of mailing, two (2) business days after the notice has been mailed by certified mail, return receipt requested. The name and address to which notices shall be directed may be changed by either the College or the City giving the other notice of such change as provided in this section.

SECTION 14. Interlocal Cooperation Act Compliance. This is an Agreement entered into pursuant to Chapter 39.34 RCW. Its purpose is as set

forth in Section 1. Its duration is as specified in Section 4. Its method of termination is set forth in Section 5. Its manner of financing and of establishing and maintaining a budget therefore is described in Section 6. Administration and property disposal is set forth under Section 7.

SECTION 15. Entire Agreement. This Interlocal Agreement contains all of the agreements of the Parties with respect to the subject matter covered or mentioned therein, and no prior Agreements shall be effective to contrary.

SECTION 16. Amendment. The provisions of this Interlocal Agreement may be amended with the mutual consent of the Parties. No additions to, or alterations of, the terms of this Interlocal Agreement shall be valid unless made in writing and formally approved and executed by the duly authorized agents of both Parties, provided that pursuant to this Interlocal Agreement.

SECTION 17. Document Filing. The College and the City agree that there shall be two (2) signed originals of this Interlocal Agreement procured and distributed for signature by the necessary officials of the College and the City. Upon execution, executed originals of this Interlocal Agreement shall be retained by the Vancouver City Clerk and by the College. The Vancouver City Clerk shall cause a copy of this Interlocal Agreement to be posted on the City website pursuant to the Interlocal Cooperation Act (specifically, RCW 39.34.040). Upon execution of the originals and posting of a copy on the City's website, each such duplicate original shall constitute an agreement binding upon the Parties.

SECTION 18. Ratification. Acts taken in conformity with this Interlocal Agreement prior to its execution are hereby ratified and affirmed.

SECTION 19. Severability. If any section or part of this Interlocal Agreement is held by a court to be invalid, such action shall not affect the validity of any other part of this Interlocal Agreement.

SECTION 20. Waiver. A failure by any Party to exercise its rights under this Interlocal Agreement shall not preclude that Party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Interlocal Agreement. Any waiver shall not be construed to be a modification of terms of this Interlocal Agreement unless stated to be such in writing and signed by personnel authorized to bind each of the Parties.


SECTION 21. Site Security. While on the College campus, the City, its officials, agents, and employees shall comply with College security policies and regulations.

SECTION 22. Counterpart Signatures. This Interlocal Agreement may be signed in counterparts with the same effect as if the signatures to each counterpart were upon a single instrument, and all such counterparts together shall

be deemed an original of this Interlocal Agreement. For purposes of this Interlocal Agreement, a facsimile or electronic copy of a Party's signature shall be sufficient to bind such Party.

IN WITNESS WHEREOF, the College and the City have caused this Interlocal Agreement to be executed in their respective names by their duly authorized officers as of the 22 day of Apr, 2019.

CLARK COLLEGE
A Community College organized
under Chapter 28B RCW



Bob Williamson, Vice President

Attest:

For Clark College

Approved as to form:



Tsering Cornell, AAG


Date: May 6, 2019

CITY OF VANCOUVER
A Washington Municipal Corporation



Eric Holmes, City Manager

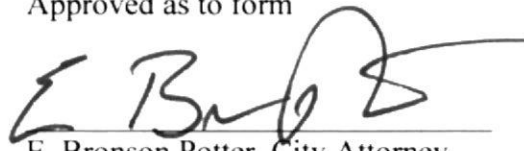
Attest:



Natasha Ramras, City Clerk
~~By: Carrie Lewellen, Deputy City Clerk~~

Date: _____

Approved as to form



E. Bronson Potter, City Attorney

Date: 5/14/19

ADDENDUM

to

BikeLink Service Agreements¹

by and among

eLock Technologies LLC ("eLock"),

the City of Vancouver (the "City"), and

Clark College (the "College," together with eLock and the City, the "Parties").

RECITALS

WHEREAS, eLock and the City have entered into the BikeLink Service Agreements for the purchase of three quad bicycle lockers that will provide bicycle parking for twelve bikes along with all necessary components and software license, and repair and maintenance services from eLock (the "Lockers").

WHEREAS, the Lockers are to be located on the College campus as set forth in the Service Agreements.

WHEREAS, the City and the College have entered into an Interlocal Agreement setting forth the terms for the purchase, installation, and maintenance of the Lockers.

WHEREAS, the Parties desire to enter into this Addendum to set forth the terms of insurance and indemnification.

AGREEMENT

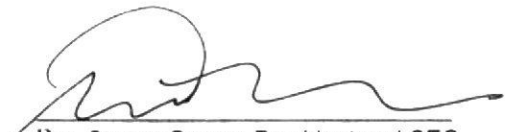
NOW, THEREFORE, eLock, the City, and the College agree as follows:

- 1. Insurance.** eLock shall maintain commercial general liability with limits not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate that includes coverage for bodily injury liability and property damage liability.
- 2. Indemnification.** To the fullest extent permitted by law, eLock shall indemnify, defend and hold harmless the City and the College and all of their respective officials, agents and employees, from and against all claims arising out of, incident to, or resulting from eLock's or any subcontractor's performance or failure to perform the Service Agreements, including but not limited to claims for injuries or death, except to the extent determined to be the sole negligence of the City or the College, or their respective officers, agents, and employees.. eLock's obligation to indemnify, defend, and hold harmless includes any claim by eLock's agents, employees,

¹ BikeLink Software License Agreement, BikeLink Service and Operations Agreement, and BikeLink User Agreement by and between eLock Technologies LLC, with principal place of business at 800 Heinz Avenue #11 Berkeley California 94719 and the City of Vancouver, a municipal corporation and charter city of the first class of the State of Washington (collectively, the "BikeLink Service Agreements").


representatives, or any subcontractor or its employees. eLock waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the City or the College and each of their respective agencies, officials, agents or employees. eLock expressly agrees to waive and hold harmless the College for any claims relating to damage to the Lockers and any components caused by anyone other than the College's officials, agents, or employees. Except as to claims, actions and others matters active at that time, these indemnification obligations will terminate twelve (12) months following the expiration of this agreement.

eLOCK TECHNOLOGIES, LLC



By: Steven Grover, President and CEO

CITY OF VANCOUVER
A Washington Municipal Corporation



By: Eric Holmes, City Manager

CLARK COLLEGE
A Community College organized
under Chapter 28B RCW



By: Bob Williamson, Vice President