WORK SESSION AGENDA

BOARD OF CLALLAM COUNTY COMMISSIONERS

223 East 4th Street Room 160

Port Angeles, Washington

Monday, February 26, 2024 – 9:00 a.m.

Board of Clallam County Commissioner meetings will also be available virtually at:

If you would like to participate in the meeting via Zoom audio only, call 253-215-8782 and use meeting ID: 875 561 7844 and passcode: 12345

If you would like to participate in the meeting via Zoom video conference, visit https://zoom.us/j/8755617844 and use meeting ID: 875 561 7844 and passcode: 12345

This meeting can be viewed on a live stream at this link: https://www.clallamcountywa.gov/669/Live-Archived-Meetings-Online

Public comment can be directed to the Clerk of the Board at 360-417-2256 or Loni.Gores@clallamcountywa.gov

Administration 9 a.m.

1. Calendar/Correspondence

2. Introductory meeting with Mark McDonnell ? U.S. Coast Guard

   Introduction

3. Resolutions appointing Pamela Bumgardner to the Developmental Disabilities Advisory Committee

   Resolution

4. Resolutions appointing Vanessa Lea to the Behavioral Health Advisory Board

   Resolution

5. Letters of support for Clallam Transit System grant applications

   Letters of support

6. Agreement with Straitside Ranch for Robin Hill Farm grazing lease

   Agreement

7. Agreement with Hunt Engineering Services, Inc. for Juvenile Facility Chiller Replacement Project

   Agreement

Public Works

8. Agreement with Wavedivision Holdings LLC dba Astound Broadband for the Broadband Project

   Agreement

9. Pre-application questionnaire with Peninsula Regional Transportation Organizational PRTPO for the Federal Transportation Alternatives Grant

   Pre-application questionnaire

10. Call for hearing to be held on Tuesday, April 2, 2024 at 10:30 a.m. regarding a proposed vacation of undeveloped right of way ? North Honeycomb

    Call for hearing

11. Pre-application questionnaire, letter of support, designation of applicant?s agent resolution, signature authorization form, W9, and agreement for FEMA Disaster Assistance Grant #4635-DR-WA

    Various documents - FEMA

12. Pre-application questionnaire, letter of support, designation of applicant?s agent resolution, signature authorization form, W9, and agreement for FEMA Disaster Assistance Grant #4682-DR-WA

    Various documents - FEMA

Community Development

13. Agreement with Department of Commerce for Growth Management Services

    Agreement

14. Agreement with Jefferson County for North Pacific Coast Marine Resources Committee implementation

    Agreement

15. Call for proposals / qualifications to be received no later than Tuesday, April 2, 2024 at 10 a.m. for the Lower Elwha River Channel Migration Delineation

    Call for proposals / qualifications

Board of Commissioners

16. Agreement with Sidles Law -Alexander Sidles for Hearing Examiner services

    Agreement

17. Discussion on who will serve as the County representative and alternate on the Revenue Advisory Committee

    Discussion and selection

18. Legislative session update

Update

Budget

19. Agreement with Clallam Conservation District for resource conservation planning and implementation

    Agreement

    Document submitted 2/26/24

General Discussion/Items for Future Agendas

A. Recreational Park Trailer Placement Discussion (March 4)

B. Olympic National Forest Update (March 11)

C. Department of Transportation Highway 101 Project Discussion (March 18 at 9 a.m.)

D. Department of Natural Resources Meeting (March 18 at 1 p.m.)

E. Joint Meeting with Port of Port Angeles (April 22 at 11 a.m. ? hosted at Port)

F. CASA Update (May 13)

G. Department of Transportation Highway 101 Project Discussion (June 10 at 9 a.m.)

H. Department of Natural Resources Meeting (June 17 at 1 p.m.)

I. Department of Natural Resources Meeting (August 19 at 1 p.m.)

J. Department of Transportation Highway 101 Project Discussion (September 9 at 9 a.m.)

K. Joint Meeting with Port of Port Angeles (October 28 at 11 a.m. ? hosted at BOCC)

L. Department of Natural Resources Meeting (November 18 at 1 p.m.)

M. Department of Transportation Highway 101 Project Discussion (December 9 at 9 a.m.)

N. Forest Hydrology Presentation - Oliver Grah (TBD)

O. Fair Rodeo Update (TBD)

EXECUTIVE SESSION
The Board may recess into Executive Session to consider employment or dismissal of personnel, to review the performance of a public employee, to consult with legal counsel, to consider the position to be taken in collective bargaining, to consider acquisition or sale of real estate, or other matters per RCW 42.30.110

- Other items may be added at the discretion of the Board and additional Work Sessions may be scheduled if more time is needed to allow for adequate discussion.

- Written testimony presented by members of the public during the Board meeting is considered a public document and must be submitted to the Clerk of the Board.
- Copies of public documents from Board meetings are available by contacting the Public Records Department.

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FEB 2 6 2024

FEB 26 2024

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: BOCC

WORK SESSION ☒ **Meeting Date: 2-26-24 @ 9 a.m.**

REGULAR AGENDA ☐ **Meeting Date:**

Required originals approved and attached? ☐
Will be provided on:

Item summary:

☐ Call for Hearing
☐ Contract/Agreement/MOU - Contract #
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☒ Other - Introduction

Documents exempt from public disclosure attached: ☐

Executive summary:
BOCC and Captain Mark A. McDonnell U.S. Coast Guard will be holding an introductory meeting to discuss opportunities to strengthen strategic partnerships.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐
None

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
BOCC and Captain Mark A. McDonnell U.S. Coast Guard will be holding an introductory meeting to discuss opportunities to strengthen strategic partnerships.

County Official signature & print name: Loni Gores Loni Gores, Clerk

Name of Employee/Stakeholder attending meeting: Board of Commissioners and Captain Mark A. McDonnell – U.S. Coast Guard

Relevant Departments: Board of Commissioners

Date submitted: 12-18-23

* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

Questions? Call Loni Gores, Clerk of the Board, ext 2256

U.S. Department of Homeland Security
United States Coast Guard

Captain of the Port
United States Coast Guard
Sector Puget Sound

1519 Alaskan Way S
Seattle, WA 98134
Staff Symbol: s
Phone: 206-217-6203

5700
13 November 2023

RECEIVED
CLALLAM CO. COMMISSIONERS
NOV 27 2023
1...2...3...A...

The Honorable Mark Ozias
Commissioner, Clallam County
223 E 4th St.
Port Angeles, WA 98362

Dear Commissioner Ozias,

I wanted to introduce myself as the new Commander of U.S. Coast Guard Sector Puget Sound. In this role, I lead a diverse team of over 600 Coast Guardsman, strategically positioned across the region to safeguard the waters of the Puget Sound, Strait of Juan de Fuca, and Washington's outer coast south to Grays Harbor County. Many families from my unit live, work, and contribute to your community. Operationally, I am entrusted with the full suite of Coast Guard authorities as a federal law enforcement agency, regulatory body, and first responder to oversee a safe and efficient marine transportation system that delivers more than 20 billion dollars of economic impact in the state of Washington.

With a vast area of responsibility and a diverse set of missions, collaboration amongst tribal, federal, state, and local agencies is essential to our collective mission success. As we emerge from two years where a global pandemic impacted our ability to foster partnerships in person, I have made outreach a priority of my command. To this end, I would appreciate any opportunity to engage with you and your staff and look forward to discussing opportunities to strengthen strategic partnerships. My staff will work to get on your calendar, but in the meantime, if there is anything we can do to assist you, please do not hesitate to reach out. You are more than welcome to contact me by calling (206) 217-6203 or by email at Mark.A.McDonnell@uscg.mil. Our 24/7 command center can also be reached at 206-217-6001 if you need immediate assistance.

Sincerely,

M. A. McDonnell
Captain, U.S. Coast Guard
Captain of the Port, Puget Sound

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AGENDA ITEM SUMMARY

FEB 2 6 2024

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: BOCC

WORK SESSION ☒ **Meeting Date: 2-26-24**

REGULAR AGENDA ☒ **Meeting Date: 3-5-24**

Item summary:

☐ Call for Hearing
☐ Contract/Agreement/MOU - Contract #
☒ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☐ Other

Documents exempt from public disclosure attached: ☐

Executive summary:
A vacancy exists on the Developmental Disabilities Advisory Committee due to the expiration of a term.

A press release was issued during the month of November 2023 soliciting applications from interested citizens. One application was received.

The Health and Human Services Deputy Director and the Developmental Disability Advisory Committee membership support the appointment of Pamela Bumgardner to the Developmental Disabilities Advisory Committee.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐
None

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Approve and sign a resolution to appoint.

County Official signature & print name: Loni Gores Loni Gores, Clerk

Name of Employee/Stakeholder attending meeting: Board of Commissioners, Health and Human Services Department

Relevant Departments: Board of Commissioners, Health and Human Services Department

* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

DDAC Bumgardner 3-5-24
Revised: 3-04-2019

Questions? Call Loni Gores, Clerk of the Board, ext 2256

RESOLUTION _____, 2024

APPOINTING A MEMBER TO THE
DEVELOPMENTAL DISABILITIES ADVISORY COMMITTEE

THE BOARD OF CLALLAM COUNTY COMMISSIONERS finds as follows:

1. A vacancy exists on the Developmental Disabilities Advisory Committee due to the expiration of a term.

2. A press release was issued during the month of November 2023 soliciting applications from interested citizens. One application was received.

3. The Health and Human Services Deputy Director and the Developmental Disability Advisory Committee membership support the appointment of Pamela Bumgardner to the Developmental Disabilities Advisory Committee.

NOW, THEREFORE, BE IT RESOLVED by the Clallam County Board of Commissioners, in consideration of the above findings of fact:

1. **Pamela Bumgardner** is appointed to serve on the Developmental Disabilities Advisory Committee for a term ending December 31, 2026.

PASSED AND ADOPTED this 5th day of March 2024

BOARD OF CLALLAM COUNTY COMMISSIONERS

_____
Mike French, Chair

_____
Randy Johnson

_____
Mark Ozias

ATTEST:

_____
Loni Gores, CMC, Clerk of the Board

A22.163
Appointee(s)
HHS

DRAFT

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AGENDA ITEM SUMMARY

FEB 2 6 2024

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: BOCC

WORK SESSION ☒ **Meeting Date: 2-26-24**

REGULAR AGENDA ☒ **Meeting Date: 3-5-24**

Item summary:

☐ Call for Hearing
☐ Contract/Agreement/MOU - Contract #
☒ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☐ Other

Documents exempt from public disclosure attached: ☐

Executive summary:
A vacancy exists on the Behavioral Health Advisory Board due to a resignation.

A press release was issued during the month of January and February 2024 soliciting applications from interested citizens. Three applications were received.

Health and Human Services Deputy Director endorses the appointment of Vanessa Lea to the Behavioral Health Advisory Board.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐
None

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Approve and sign a resolution to appoint.

County Official signature & print name: Loni Gores Loni Gores, Clerk

Name of Employee/Stakeholder attending meeting: Board of Commissioners, Health and Human Services Department

Relevant Departments: Board of Commissioners, Health and Human Services Department

RESOLUTION _____, 2024

APPOINTING A MEMBER TO THE
BEHAVIORAL HEALTH ADVISORY BOARD

THE BOARD OF CLALLAM COUNTY COMMISSIONERS finds as follows:

1. A vacancy exists on the Behavioral Health Advisory Board due to a resignation.

2. A press release was issued during the month of January and February 2024 soliciting applications from interested citizens. Three applications were received.

3. Health and Human Services Deputy Director endorses the appointment of Vanessa Lea to the Behavioral Health Advisory Board.

NOW, THEREFORE, BE IT RESOLVED by the Clallam County Board of Commissioners, in consideration of the above findings of fact:

1. **Vanessa Lea** is appointed as the Department of Children, Youth & Family Services representative for a term ending December 31, 2026.

PASSED AND ADOPTED this 5th day of March 2024

BOARD OF CLALLAM COUNTY COMMISSIONERS

_____
Mike French, Chair

_____
Randy Johnson

_____
Mark Ozias

ATTEST:

_____
Loni Gores, CMC, Clerk of the Board

c: A22.52
Appointee(s)
HHS

DRAFT

FEB 26 2024

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: BOCC

WORK SESSION ☒ **Meeting Date: 2-26-24**

REGULAR AGENDA ☒ **Meeting Date: 3-5-24**

Item summary:

☐ Call for Hearing
☐ Contract/Agreement/MOU - Contract #
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☒ Other - Letters of Support

Executive summary:

Clallam Transit is seeking federal funding under two Federal Transit Administration competitive grant programs. The first project is the replacement of three (3) heavy duty 35-foot diesel buses with three (3) electric buses and related charging infrastructure. We are seeking $3,142,458 in federal funding in the Low and No Emission grant program. The second project seeks the replacement of five (5) 35 foot and 40-foot diesel buses with five (5) clean diesel buses. Additionally, we are seeking the replacement of five paratransit vehicles. All vehicles that are targeted for replacement have outlived their useful life. We are seeking $3,440,000 in federal funds in the Bus and Bus Facilities grant program.

Approval of two letters of support for Clallam Transit System

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐
None

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Approval of two letters of support for Clallam Transit System

County Official signature & print name: Loni Gores Loni Gores, Clerk

Name of Employee/Stakeholder attending meeting: Board of Commissioners and Clallam Transit System – Jim Fetzer

Relevant Departments: Board of Commissioners

Date submitted: 2-20-24

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* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

Questions? Call Loni Gores, Clerk of the Board, ext 2256

Board of Clallam County Commissioners

223 East 4th Street, Suite 4
Port Angeles, WA 98362-3015
360.417.2233 Fax: 360.417.2493
Email: commissioners@clallamcountywa.gov

MARK OZIAS, District 1, Chair
RANDY JOHNSON, District 2
MIKE FRENCH, District 3

TODD MIELKE, County Administrator

DRAFT

March 5, 2024

Nuria Fernandez
Administrator
Federal Transit Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Federal Transit Administration Grants for Bus and Bus Facilities

Dear Administrator Fernandez:

The Clallam County Commissioners are writing in support of Clallam Transit and its Bus and Bus Facilities grant application submitted by the Washington State Department of Transportation's (WSDOT) to the Federal Transit Administration (FTA).

Clallam Transit, a rural provider in Clallam County, Washington, seeks $3,440,000 to replace five (5) diesel powered buses that have outlived their useful life. The replacement buses will consist of three (3) 35-foot and two (2) 40-foot clean diesel heavy duty buses. Additionally, Clallam transit is seeking funding to replace five paratransit buses that have outlived their useful life. This project directly supports the mission, goals, and strategies of the Clallam Transit Development Plan.

It's our understanding that CTS is committed to maintaining an ongoing state of good repair by adhering to its established vehicle replacement schedule. Reliable and efficient vehicles are crucial to creating a dependable public transit system. In addition, replacing older higher polluting equipment with newer technology buses continues to move CTS towards lower overall emissions of its transit fleet.

Sincerely,

BOARD OF CLALLAM COUNTY COMMISSIONERS

Mike French, Chair

Randy Johnson

Mark Ozias

Board of Clallam County Commissioners

223 East 4th Street, Suite 4
Port Angeles, WA 98362-3015
360.417.2233 Fax: 360.417.2493
Email: commissioners@clallamcountywa.gov

MARK OZIAS, District 1, Chair
RANDY JOHNSON, District 2
MIKE FRENCH, District 3

TODD MIELKE, County Administrator

March 5, 2024

Nuria Fernandez
Administrator
Federal Transit Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Federal Transit Administration Grants for Low or No Emission Vehicles – Washington State Department of Transportation

Dear Administrator Fernandez:

The Clallam County Commissioners are in support of Clallam Transit and its Low or No Emission grant application submitted by the Washington State Department of Transportation's (WSDOT) to the Federal Transit Administration (FTA).

Clallam Transit, a rural provider in Clallam County, Washington, seeks $3,142,458 to replace three diesel powered buses with three (3), 35-foot electric buses and to purchase the related charging infrastructure in the Low or No Emission Bus Program. This project directly supports the mission, goals, and strategies of the Clallam Transit Development Plan.

With recent upgrades to Clallam Transit's fleet, Clallam Transit has successfully positioned itself to begin augmenting its fleet with zero-emission electric buses without compromising the dependability and reliability the public expects. This project supports the values and strategic goals of Clallam Transit and would improve air quality within the communities of Clallam County and more specifically within the Port Angeles Opportunity Zone, and the Lower Elwha Klallam Tribal Community.

Washington state is a leader in supporting the transition of the public transportation fleet to zero emissions. In 2019, House Bill 2042 created the Green Transportation Capital Grant Program to support emissions reductions from the statewide public transportation fleet. The program helps to initiate the transition to green transportation. Through additional funding from this federal grant program, Washington can meet the lower emissions goals to keep this state green.

Sincerely,

BOARD OF CLALLAM COUNTY COMMISSIONERS

Mike French, Chair

Randy Johnson

Mark Ozias

DRAFT

#10911.23.004

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FEB 2 6 2024

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: Parks, Fair, & Facilities

WORK SESSION ☒ **Meeting Date:** February 26, 2024

REGULAR AGENDA ☒ **Meeting Date:** March 5, 2024

Required originals approved and attached? ☐
Will be provided on:

Item Summary:

☐ Call for Hearing

☒ Contract/Agreement/MOU - Contract # 10911.23.004

☐ Resolution

☐ Proclamation

☐ Budget Item

☐ Draft Ordinance

☐ Final Ordinance

☐ Other:

Documents exempt from public disclosure are attached: ☐

Executive summary:

Robin Hill Farm County Park Bovine Grazing Lease Between Clallam County Parks, Fair, & Facilities & Straitside Ranch

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐

Annual Revenue Generation of $1,280.00

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)

Sign the Lease

County Official signature & print name: RMCrawford Don Crawford, Director

Name of Employee/Stakeholder attending meeting:

Relevant Departments: Board of Commissioners, Parks, Fair & Facilities Department

Date submitted: 2.7.2024

* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

Questions? Call Loni Gores, Clerk of the Board, ext 2256

MAINTENANCE AND USE AGREEMENT BY AND BETWEEN THE

PARKS, FAIR & FACILITIES DEPARTMENT
AND
STRAITSIDE RANCH 10911.23.004

THIS AGREEMENT made and entered into by and between the Clallam County Parks, Fair, and Facilities Department on behalf of the Clallam County Board of Commissioners, hereafter referred to as "County", and STRAITSIDE RANCH, hereinafter referred to as "LESSEE".

THE PURPOSE and objective of this agreement is to assist the County with park maintenance through natural vegetation management (grazing) and to provide Lessee with pasture land for the purpose of grazing cattle at Robin Hill Farm County Park.

WHEREAS, the following real property, owned by the County, is situated in Clallam County, Washington and located at: 636 Vautier Road, Sequim, WA 98382

Near the Southwest corner of the intersection of Vautier and Pinnell roads and is approximately 5 acres, a portion of Parcel# 04 30 1T 140000.

See Attachment "A", Partial Site Plan for the designated use area

WHEREAS, LESSEE has the need for the property to be used for agricultural purposes for pasturing animals and the County has a need to maintain irrigation system and keep pasture land grass mowed/grazed, thereby minimizing public expense; therefore this agreement is in the best interest of both parties.

THEREFORE, LESSEE agrees to maintain and operate the designated area of land in Robin Hill Farm County Park (as set forth in Attachment A, which is adopted and incorporated into this agreement by reference) under the following conditions:

1. TERM: The term of this agreement is three (3) years, commencing on the day of the final signature of the agreement by the County and LESSEE. Upon expiration of this term, this agreement may be renewed annually at the discretion of the County. LESSEE shall provide the County with a written notice of intent to renew the agreement at least thirty (30) days prior to the expiration of the current term. Any extension of the term shall be subject to the written approval of the County. The terms and conditions of the expiring agreement shall remain active for any extension until a new contract is executed or either party formally terminates the agreement.

2. USE FEE: LESSEE agrees to pay a use fee to the County to offset LESSEE's utility costs while using the park facilities. This use fee is **$160.00 (One Hundred-Sixty Dollars) per month** shall be paid by the 5th of the each month, or a one-time payment for 8 months of **$1,280.00 (One Thousand Two Hundred Eighty Dollars and No Cents)** is due by the 5th of April of each year.

3. MODIFICATIONS / ASSIGNMENTS: This agreement may be modified at any time upon the mutual written approval of both parties.

LESSEE shall not assign, delegate, or sublet its rights and/or duties under this agreement to any person, group, or organization without county's prior written authorization.

4. ALTERATION OR CONSTRUCTION: Any construction or alteration of the property or facilities by LESSEE shall be subject to the County's written approval prior to performing such work. Any construction or alteration shall be at LESSEE's own expense and shall not be reimbursed upon termination of this agreement.

Any fencing, signage, utilities, structures or other additions to be installed by LESSEE shall have prior written approval by the County in regards to the type, material, size, text, and location prior to installation. LESSEE shall be solely responsible for securing any permits that may be needed for such projects.

5. INSURANCE: At LESSEE's sole expense, LESSEE shall be required to have a Certificate of Liability Insurance in effect and shall not be canceled or otherwise terminated during the term of the agreement or any subsequent extension. The Certificate shall list Clallam County as an additional insured for liability claims during the full term of the agreement or any subsequent extension. The minimum coverage shall be $500,000 (Five Hundred Thousand Dollars and No Cents) per occurrence and shall cover all Washington State Department of Labor and Industries insurance, taxes, and operational expenses for participants.

LESSEE shall deliver a new copy of the Certificate to the Clallam County Parks Office at the *beginning of each year*, and as applicable any time LESSEE's insurance company issues a new Certificate to LESSEE, during the term of this agreement and any extension.

6. ACCESS AND INSPECTION: The County reserves the right to enter the property at all reasonable times to ensure a safe, clean, and aesthetically pleasing environment under the agreement. Any deficiencies found shall be promptly remedied by LESSEE upon written notification from County.

7. PESTICIDES / EQUIPMENT: Limit pesticide use on site. Submit plan for approval by County Parks that states type of herbicide proposed; date, time, and location of application.

All LESSEE's equipment/tools used at other off-site locations shall be thoroughly cleaned before being used at the County Site. Organic materials brought in from off-site locations shall be weed-free. This is to minimize the transportation/importation of weeds from off-site locations to county property.

8. MONITOR AND NOTICE: Monitor existing irrigation water system and immediately notify County of any failures.

Notify the County whenever there is a maintenance issue that needs to be addressed. This includes, but is not limited to, vandalism, weather damage, etc. Notification may be done through the resident caretaker or the County's Facilities Maintenance Supervisor. (See Attachment "A" for contact information).

Monitor fences, gates, locks/chains, signage, and electrical fencing/perimeter fencing to ensure all are in good, safe, working order. Gates shall have locks/chains (provided by the County) so that they cannot be accessed by the public.

For purposes of this Agreement, project officers responsible for carrying out the day-to-day operations and the major provisions of this Agreement, including notice requirements are:

County Project Officer shall be:
Don Crawford, Director
Clallam County Parks, Fair & Facilities Dept.
223 East Fourth Street, Suite 7
Port Angeles, Washington 98362-3000
Phone: 360-797.8283
Fax: 360-417-2395
Email: Donald.Crawford@clallamcountywa.gov
Lessee Project Officer shall be:
Betty Johnson, dba Straitside Ranch
394 Olstead Road
Sequim, WA 98382
Phone: 360-683-6527
Email: straitside@q.com

9. COMPLIANCE WITH ALL APPLICABLE LAWS: LESSEE shall comply with applicable local, state, and federal laws. Violations of such local, state, and federal laws or ordinances of Clallam County may be considered as cause for termination of this agreement.

LESSEE shall abide by all park rules while in the park. This will include, but not be limited to, keeping all pets on a leash and secured at all times; cleanup of pet waste; no alcoholic beverages; no marijuana or illegal drugs are allowed.

10. MAINTENANCE: LESSEE shall maintain the premises as a clean and safe environment. The property shall be irrigated, and maintained in a professional manner to provide an aesthetically pleasing appearance to the Public.

All debris, equipment, and supplies shall be picked-up daily to keep the area looking orderly and accessible. All debris must be hauled off site and disposed of in a lawful manner and not stockpiled or kept on-site.

Water may be used from the irrigation system except during the months the system is shut down for winterization. LESSEE shall maintain and repair water pipes damaged due to general use or due to freezing.

Identify and verify locations of all tree plantings, water risers, water boxes, and other possible impediments prior to mowing, driving or digging within the leased area.

At the end of each pasturing season, LESSEE shall secure and prepare the site for winter which will include, but not be limited to: 1) removal of any equipment or other tools associated with this agreement that are not fixed in place, 2) picking up all tools and equipment and storing in appropriate location, 3) picking up all debris and refuse, 4) clean-up of total site so that no "attractive nuisance" exists.

LESSEE or its agents must be present on-site when materials are to be delivered by a third party. LESSEE agrees to coordinate with on-site caretaker or Parks Office (See Attachment "A" for contact information) for any such deliveries.

11. EQUIPMENT: LESSEE shall be responsible for obtaining, maintaining and securing all equipment and supplies necessary to maintain and operate the site in a safe, sanitary, and aesthetically pleasing manner. (Use of County owned equipment is NOT allowed, or, a part of this agreement).

12. EVENTS: The LESSEE will make the parcel in question accessible for public educational activities, including programs for youth and school groups.

All such activities will require acquiring, in advance, a Special Occasion Permit (SOP) for special events, classroom sessions, or seminars that involve members of the public or large groups to attend. An SOP may be obtained from the Parks Office upon request.

13. TRAFFIC AND PARKING: Upon entry and exit, site access gates off Vautier Road **shall be closed and remain closed**. Even for short visits, the gates shall be opened and closed immediately after entry or exit.

Parking of vehicles in front of gates is never allowed. Always maintain slow and safe driving practices and yield to pedestrians. This is a publicly accessed facility.

Keep vehicles on designated driving areas only.

Parking shall be in designated areas only. Parking is not permitted on lawn areas, county roads, county right-of-ways, or neighboring properties. For Site Plan for approved parking areas see Attachment "A".

14. HOLD HARMLESS: For and in consideration of being permitted to use the above-described facilities, to the fullest extent allowed by law, LESSEE agrees to hold harmless, indemnify and defend the County, its officers, officials, employees and agents, from and against any and all claims, actions, suits, liability, loss, expenses, damages and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability or death to persons or damage to property (including loss of use thereof) or business (including economic loss), caused by or arising out of the Contractor's acts, errors or omissions in the performance of the Contract. Provided, however, that the LESSEE's obligation under this provision will not extend to injury, sickness, disability, death or damage caused by or arising out of the sole negligence of the County, its officers, officials, employees or agents.

15. ANTI-DISCRIMINATION: LESSEE shall not discriminate against any person because of race, color, creed, sex, or national origin by refusing to furnish said person any use, service, or privilege offered to or enjoyed by the general public.

16. ENTIRE CONTRACT: This agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind any of the parties hereto.

17. DEFAULT: If LESSEE defaults in any of its obligations hereunder, the County may terminate this agreement. The County shall terminate this agreement by providing written notice to LESSEE identifying the default, and notifying LESSEE that failure to cure the default within thirty (30) days of mailing will result in termination of the agreement.

18. TERMINATION: LESSEE agrees to return the plot of land to its original state or better upon termination of agreement. The County will make the final decision as to what degree of "original state" is required.

RESPONSIBILITIES / ACKNOWLEDGEMENTS:

1. LAND: The County will provide land area for the purpose of pasturing cattle and maintaining the existing irrigation system. LESSEE agrees to limit all uses to those approved in this agreement only. Any additional programs must first be agreed upon in writing.

2. IRRIGATION: The County will provide irrigation water when available. The irrigation district shuts down the water supply September through April. The site water is shut down from approximately September 15 through April 15 of each year for winterization purposes. These dates are subject to change without prior notification by the irrigation district.

THE COUNTY AND LESSEE AGREE TO:

1. WAIVER: A failure by either party to exercise its rights under this agreement shall not preclude that party from subsequent exercise of such rights. Such failure shall not constitute a waiver of any other rights under this agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original agreement.

2. SEVERABILITY: If any provision of this Agreement shall be held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to serve the purposes and objectives of both parties.

3. DISPUTES: The parties agree that in the event of any dispute regarding this agreement, the laws of the State of Washington shall control. The parties further agree that in the event of any dispute arising from or related to the administration or performance of this agreement, the parties agree to first try to resolve the issue themselves. In the event either party reasonably believes the parties cannot resolve the dispute on their own, the parties agree to mediation; the parties agree to divide mediation costs equally between them. Mediation shall occur in Clallam County, Washington. If, after mediation the parties have not resolved the dispute, either party may elect to proceed in any court with jurisdiction located in Clallam County, Washington. Upon decision of the court, the prevailing party is entitled to reasonable attorneys' fees and costs associated with the court action.

4. AGREEMENT TERMINATION: Either party may terminate this agreement with thirty (30) days notice, in writing, to the other party.

IN WITNESS WHEREOF, the Parties have executed this Agreement this ___ day of _____, 2020.

STRAITSIDE RANCH

_____
Betty Johnson, Owner

Date:_____

BOARD OF CLALLAM COUNTY COMMISSIONERS

_____
Mark Ozias, Chair

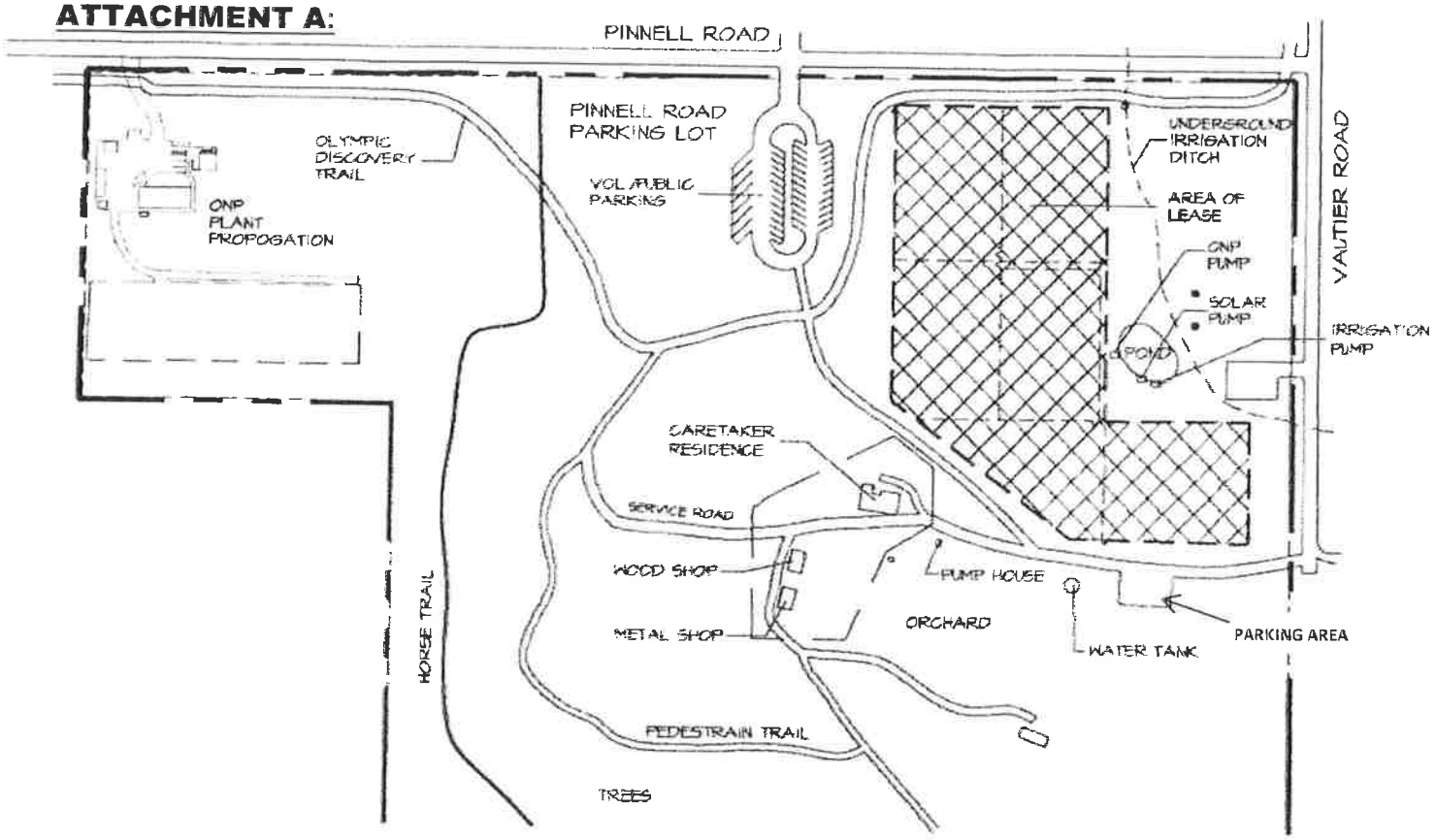
Approved as to Form Only:

_____
Dee Boughton, Chief Civil Deputy Prosecuting Attorney

Attest:

_____
Alana Gores, Clerk of the Board

ATTACHMENT A:



PARTIAL ENLARGED SITE PLAN

SCALE - NTS

APPROX. 5 ACRES

50' 250'
0 100' 500'

Additional County Contact Information:

Don Crawford, Director
PH: 360-417-2429 (office)
PH: 360-797-8283 (cell)
Email:
Donald.Crawford@clallamcountywa.gov

Rick McFarlen, Deputy Director
PH: 360-417-2302 (office)
PH: 360-460-2497 (cell)
Email: rick.mcfarlen@clallamcountywa.gov

David Tate, Robin Hill Farm Caretaker
PH: 360-670-9423 (home/cell)
Email: Dave.tate@clallamcountywa.gov

Parks Office
Melissa Earley, Administrative Operations Coordinator
PH: 360-417-2291 (office)
Email: melissa.earley@clallamcountywa.gov

Related Topics

NASS Contacts
Estimating Programs
Query NASS Data from a Data Base

Geo Spatial Data

CropScape
Cropland Data Layer
VegScape
Land Use Strata for Selected States
Seasonal Summary of Crop Progress and Condition/All Crops and All States
Disaster Analysis

Charts and Maps

Grazing Fees: Animal Unit Fee, 17 States

17 State Grazing Fees
Animal Unit 1/

State Key	2021 2022
17 States	$21.20 $21.50
16 States (Excludes TX)	$24.30 $24.80
11 States AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, WY	$20.70 $21.00
9 States CO, KS, NE, NM, ND, OK, SD, TX, WY	$21.30 $21.60

1/ Includes animal unit plus cow-calf rates.
Cow-calf rate converted to animal unit (AUM)
using 1 aum=cow-calf x 0.833.

United States Department of Agriculture
National Agricultural Statistics Service

Pacific Region Grazing Fee Rates for Cattle

Cooperating with the California Department of Food and Agriculture, and Hawaii and Nevada Departments of Agriculture
Pacific Regional Office · P.O. Box 1258 · Sacramento, CA 95812 · (916) 738-6600 · (855) 270-2722 Fax · www.nass.usda.gov/ca

Released: January 31, 2022

Grazing Fee Rates for Cattle – States, Regions, and United States: 2020 and 2021

State	Survey average rates [1]					
	Animal unit [2]		Cow-calf		Per head	
	2020	2021	2020	2021	2020	2021
	dollars per month	*dollars per month*	*dollars per month*	*dollars per month*	*dollars per month*	*dollars per month*
Arizona	10.00	(S)	(S)	(S)	(S)	(S)
California	23.50	22.00	27.50	27.60	19.50	24.00
Colorado	19.50	19.50	23.00	23.50	20.00	20.00
Idaho	18.50	19.00	22.50	22.50	19.50	19.50
Kansas	20.50	22.50	25.00	27.00	25.00	28.00
Montana	23.50	26.50	26.00	28.00	24.00	26.00
Nebraska	47.00	49.00	55.00	58.00	44.00	44.00
Nevada	(S)	(S)	(S)	(S)	(S)	18.00
New Mexico	16.50	16.50	18.50	(S)	16.50	17.00
North Dakota	21.00	23.00	(S)	25.00	(S)	(S)
Oklahoma	12.50	11.00	13.00	(S)	13.50	11.50
Oregon	18.00	18.50	21.50	21.50	20.50	21.50
South Dakota	27.50	33.00	34.00	38.00	33.00	37.00
Texas	11.50	10.00	15.00	(S)	16.00	14.00
Utah	18.00	18.50	(S)	20.00	19.50	19.50
Washington	14.50	14.50	(S)	(S)	17.00	(S)
Wyoming	22.50	24.50	25.00	25.50	24.00	24.50
17-State [3]	20.60	21.20	24.40	24.70	22.70	22.80
16-State [4]	23.50	24.90	27.40	28.70	24.80	25.70
11-State [5]	19.80	20.70	23.10	23.60	20.50	21.90
9-State [5]	20.80	21.30	24.70	24.90	23.30	23.00

(S) Insufficient number of reports to establish an estimate.

[1] The average rates are estimates based on survey indications of monthly lease rates for private, non-irrigated grazing land from the January CattleSurvey.

[2] Includes animal unit plus cow-calf rates. Cow-calf rate converted to animal unit (AUM) using (1 aum=cow-calf *0.833).

[3] 17 Western States: Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon,South Dakota, Texas, Utah, Washington, and Wyoming.

[4] 16 Western States: Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon,South Dakota, Utah, Washington, and Wyoming.

[5] 11 Western States: Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

[6] 9 Great Plains States: Colorado, Kansas, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

Crawford, Donald

From: shoer joe <joemarce@gmail.com>
Sent: Tuesday, December 19, 2023 4:42 PM
To: Crawford, Donald
Subject: Re: Pasture Rental Rates

Hello don!
It's a complicated question, but it can be answered. Fist of all, what kind of stock has been ran on these 4 acres? Although cattle, sheep etc. bring about 10-20 per acre.
Equine is much different. A land owner can charge per head per month. Anywhere from 300$ to 500$ depending per month.
So what kind of livestock has been ran on the 4 acres?
I hope you and your family are well
Merry Christmas
Joe Marceau.

Sent from my iPhone

On Dec 19, 2023, at 1:56 PM, Crawford, Donald <Donald.Crawford@clallamcountywa.gov> wrote:

The county has approximately 4 acres of fenced & irrigated grass pasture it leases out annually. The current lease, as I understand it, doesn't provide much of any supplemental feed during the 6-7 months the pasture is grazed. Our current lease has expired. I want to understand what solid comparable rates would be.

I would appreciate any feedback you might share.

R.Donald Crawford, CGM
Director
Clallam County
Parks, Fair, & Facilities Department
223 East Fourth Street, Suite 7
Port Angeles, WA 98362-3000
360.797.8283 cell

FEB 2 6 2024

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: Parks, Fair & Facilities

WORK SESSION ☒ **Meeting Date: 02-26-2024**

REGULAR AGENDA ☒ **Meeting Date: 03-05-2024**

Required originals approved and attached? ☐
Will be provided on:

Item summary:

☐ Call for Hearing
☒ Contract/Agreement/MOU - Contract # 301-24-001
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☐ Other

Documents exempt from public disclosure attached: ☐

Executive summary: Review Personal Service Agreement From Hunt Engineering. Provide Design and Engineering For The Juvenile Facility Chiller Replacement Project. Please See Attached Scope Of Work.

Budgetary impact: (Engineering Cost 55,000.00 Dollars And No Cents. Reet I Funds Approved In The 2024 Budget) If a budget action is required, has it been submitted and a copy attached? ☐

Recommended action: Parks, Fair & Facilities Recommendations, Approve Personal Service Agreement between Hunt Engineering And Clallam County.

County Official signature & print name: Rick McFarlen

Name of Employee/Stakeholder attending meeting: Rick McFarlen/Deputy Director

Relevant Departments: BOCC/ Parks, Fair & Facilities

Date submitted: 02-26-2024.

PERSONAL SERVICES AGREEMENT

Juvenile Facility Chiller Replacement Project

THIS AGREEMENT is entered into between CLALLAM COUNTY, a political subdivision of the State of Washington, (hereinafter called "County" or "Clallam County") and

Name: **Hunt Engineering Services, Inc.**
Address: **9560 Moran Rd. NE**
Bainbridge Island, WA 98110
Phone №: **206.842.6947**
Email: **johnhunt@hunteng.com**

(hereinafter called "Contractor").

This Agreement is comprised of:

☒ Attachment A - Scope of Work

☒ Attachment B – Compensation

☒ Attachment C - General Conditions

☒ Attachment D - Special Terms and Conditions

☒ Attachment E (specify) – Area of Work

copies of which are attached hereto and incorporated herein by this reference as if fully set forth.

The term of this Agreement shall commence on the 12th day of March 2024, and shall, unless terminated as provided elsewhere in the Agreement, terminate on the 31st day of December, 2025.

IN WITNESS WHEREOF, the parties have executed this Agreement on this day of 2024.

HUNT ENGINEERING SERVICES
CONTRACTOR

BOARD OF CLALLAM COUNTY COMMISSIONERS

Mike French, Chair

Print name: John Hunt

Title: President

Date: Feb 16, 2024

Originals: BOCC
Vendor
Initiating Department
Copies: 5

THIS CONTRACT HAS BEEN APPROVED AS TO FORM BY THE CLALLAM COUNTY PROSECUTING ATTORNEY

SCOPE OF WORK

HUNT
Engineering Services Inc.

September 13, 2023

Rick McFarlen
Deputy Director
Clallam County Parks, Fair & Facilities
223 E. 4th St., Ste. 7
Port Angeles, WA 98362

Regarding: Scope of Work for Replacement of Chiller at the Juvenile Detention Facility

The project is located in the Juvenile Detention Facility located at 1912 W 18th St., Port Angeles, WA 98363.

Scope:
Provide engineering and construction documents to replace the original heat recovery chiller. In addition to the chiller, the fluid cooler (dry cooler), chilled water pumps and fluid cooler pump will also be replaced. Depending on the condition of the existing chilled water piping, some of this may also be replaced.

Once the design is complete, we will provide an engineering cost estimate.

Design:
- Use record drawings provided by the County.
- Verify existing conditions with field visit.
- Create demolition drawings (no CAD bases available).
- Create plan drawings, details and schedules (no CAD bases available).
- Create an overall phasing plan.
- Provide project specifications.

Permitting:
- Issue drawings for building permit.

Bidding:
- Issue drawings and specification booklet for bid.
- Hunt Engineering will provide bidding support including attending a pre-bid job walk, responding to questions and issuing any addendums.

Construction Administration:
- Review shop drawings.
- Respond to contractor questions.
- (6) site visits during construction with On Site Observation reports.
- (6) video conferences during construction with minutes.
- Record drawings created from contractor furnished redline drawings.

Specific Deliverable Items Included:
- 60 % review drawings.
- Permit/100% submittal for permitting and approval.
- Construction cost opinion (engineering estimate).
- Booklet specification for technical specification.

Hunt Engineering Services Inc. 9560 Moran Rd NE Bainbridge Is, WA 98110 Ph (206) 842-6947 Fax (206) 842-6948

- Bid and construction documents.
- Prebid site meeting and addendum as required
- (6) site visits during construction, includes final on-site punch list and reports.
- (6) video calls and minutes.
- Response to RFIs.
- Record drawings created from contractor furnished redline drawings.

Design Assumptions:
Building and design coordination information provided by the owner is reliable and can be used in our design process. Hunt Engineering will provide a plan-in-hand job walk as part of our design to address existing conditions that we see.

Additional Services:
- Submittal review of substitutions or alternate designed systems.
- All review fees and permitting fees are excluded.
- Site visits beyond our listed number in specific scope, additional site trips will be billed at $1,400 each (includes site trip, up to 6 hours on site, and field report).
- Construction administration beyond the construction schedule issued in the bid documents (if the project is delayed during construction).
- Permit corrections that are outside of the project scope of work.
- Division 0 and 1 bid requirements are by Owner, Hunt Engineering will add into the spec book.
- Redesign based on change in scope or "value engineering"
- If architectural or structural engineering support work is required, this work will be billed as an extra service after advance approval.

Rough Order of Magnitude Cost of Construction:
$300,000 to $400,000

Fees:
Based on the above scope of work:

Construction/Bid Documents:
- Site verification and setting up CAD drawings from old record drawings $6,000
- Mechanical Design $18,000
- Electrical Design $6,000
- Booklet Specifications $5,000
- Permitting $5,000
- Construction Administration $15,000

Total Fixed Fee $55,000

Standard Hourly Rates 2023:
Principal $185/hr.
Senior Designer/PM $150/hr.
Jr. Engineer $125

Standard Hourly Rates 2024:
Principal $215/hr.
Senior Designer/PM $175/hr.
Jr. Engineer $145

Very truly yours,

Hunt Engineering Services Inc.
John Hunt PE
President

COMPENSATION

1. ☒**a. FIXED FEE FOR SERVICE:** For services rendered, the County shall pay to the Contractor a fixed fee of **Fifty-Five Thousand DOLLARS And No Cents** ($55,000.00) for the completed work set forth in Attachment A. Payments for completed tasks shall be made no more frequently than ☒ monthly; ☐ quarterly; ☐semi-annually; ☐annually; ☐ at completion of project; ☐ other (specify) .

Each request for payment shall be supported by an invoice specifying the tasks completed up to the request for payment and the payment amount requested. In no event shall payment be sought in an amount which represents a percentage of the fee greater than the percentage of completed tasks.

OR

☐ **b. HOURLY RATES:** For services rendered, the County shall compensate the Contractor at the following hourly rates:

Name/Position	***Hourly Rate***

Payments for completed tasks shall be made no more frequently than ☐ monthly; ☐quarterly; ☐semi-annually;
☐ annually; ☐at completion of project; ☐ other (specify) .

Each request for payment shall be supported by an invoice specifying: the name/position of the Contractor's employee if two or more are identified above; number of hours worked; completed tasks for which compensation is sought; estimated percentage of task completion; payment amount requested; other (specify) .

In no event shall Contractor be compensated in excess of DOLLARS ($) for the completed work set forth in Attachment "A."

2. AND

☒**a.** The compensation set forth herein includes, without limitation: labor, materials, equipment, travel, telephone, computer, copiers, and the like.

OR

☐ **b.** The County shall reimburse the Contractor for actual expenses incurred for travel, telephone, copiers, and computer. Reimbursement for airfare, mileage, meals and/or accommodations shall be at the same rate as that applicable to county employees traveling on county business.

OR

☐ **c.** Other (specify):

GENERAL CONDITIONS

1. Scope of Contractor's Services. The Contractor agrees to provide to the County services and any materials set forth in the project narrative identified as Attachment A during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

2. Accounting and Payment for Contractor Services. Payment to the Contractor for services rendered under this Agreement shall be as set forth in Attachment B. Unless specifically stated in Attachment B, the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract.

   The County shall compensate the Contractor through the County voucher system for the Contractor's service pursuant to the fee schedule set forth in Attachment B.

3. Delegation and Subcontracting. Contractor's services are deemed personal and no portion of this contract may be delegated or subcontracted to any other individual, firm or entity without the express and prior written approval of the County Project Manager.

4. Independent Contractor. The Contractor's services shall be furnished by the Contractor as an independent contractor and nothing herein contained shall be construed to create a relationship of employer/employee or master/servant.

   The Contractor acknowledges that the entire compensation for this Agreement is specified in Attachment B and the Contractor is not entitled to any county benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental or other insurance benefits, or any other rights or privileges afforded to Clallam County employees. The Contractor represents that it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract with the Internal Revenue Service on a business tax schedule, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

   In the event that either the state or federal government determines that an employer/employee or master/servant relationship exists rather than an independent contractor relationship such that Clallam County is deemed responsible for federal withholding, social security contributions, workers compensation and the like, the Contractor agrees to reimburse Clallam County for any payments made or required to be made by Clallam County. Should any payments be due to the Contractor pursuant to this Agreement, the Contractor agrees that reimbursement may be made by deducting from such future payments a pro rata share of the amount to be reimbursed.

   Notwithstanding any determination by the state or federal government that an employer/employee or master/servant relationship exists, the Contractor, its officers, employees and agents, shall not be entitled to any benefits that Clallam County provides to its employees.

5. No Guarantee of Employment. The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

6. Regulations and Requirements. This Agreement shall be subject to all federal, state, and local laws, rules, and regulations.

7. Right to Review. This contract is subject to review by any federal or state auditor. The County shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the County Project Manager. Such review may occur with or without notice, and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials that the County deems pertinent to the

Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Clallam County, State of Washington, upon request, during reasonable business hours.

8. Modifications. Either party may request changes in the Agreement. Any and all agreed modifications shall be in writing, signed by each of the parties.

9. Termination for Default. If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. Mail, postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor agrees to bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.

   If a notice of termination for default has been issued and it is later determined for any reason that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the Termination for Public Convenience paragraph hereof.

10. Termination for Public Convenience. The County may terminate the contract in whole or in part whenever the County determines, in its sole discretion that such termination is in the interests of the County. Whenever the contract is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this contract by the County at any time during the term, whether for default or convenience, shall not constitute a breach of contract by the County.

11. Termination Due to Insufficient Funds. If sufficient funds for payment under this contract are not appropriated or allocated or are withdrawn, reduced, or otherwise limited, the County may terminate this contract upon five (5) days written notice to the Contractor. No penalty or expense shall accrue to the County in the event this provision applies.

12. Termination Procedure. The following provisions apply in the event that this Agreement is terminated:

    (a) The Contractor shall cease to perform any services required hereunder as of the effective date of termination and shall comply with all reasonable instructions contained in the notice of termination, if any.

    (b) The Contractor shall provide the County with an accounting of authorized services provided through the effective date of termination.

    (c) If the Agreement has been terminated for default, the County may withhold a sum from the final payment to the Contractor that the County determines necessary to protect itself against loss or liability.

13. Defense and Indemnity Agreement.

    (a) The Contractor agrees to hold harmless, indemnify and defend the County, its officers, officials, employees and agents, from and against any and all claims, actions, suits, liability,

loss, expenses, damages and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability or death to persons or damage to property (including loss of use thereof) or business (including economic loss), caused by or arising out of the Contractor's acts, errors or omissions in the performance of the Contract. Provided, however, that the Contractor's obligation under this provision will not extend to injury, sickness, disability, death or damage caused by or arising out of the sole negligence of the County, its officers, officials, employees or agents.

(b) With regard to any claim against the County, its officers, officials, employees and agents by any employee of the Contractor, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section will not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts. It is clearly agreed and understood by the parties to the Contract that the Contractor expressly waives any immunity the Contractor might have had under such laws. By executing the Contract, the Contractor acknowledges that the foregoing waiver has been mutually negotiated by the parties as is required by RCW 4.24.115, and that the provisions of this Section will be incorporated, as relevant, into any contract the Contractor makes with any subcontractor or agent performing work under the Contract.

(c) The Contractor's obligations under these provisions include, but are not limited to, investigating, adjusting, and defending all claims alleging loss from action, error or omission, or breach of any common law, statutory or other delegated duty by the Contractor, the Contractor's employees, agents or subcontractors.

14. Industrial Insurance Waiver. With respect to the performance of this Agreement and as to claims against the County, its appointed and elected officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, as now or hereafter amended, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this Agreement extend to any claim brought by or on behalf of any employee of the Contractor. Along with the other provisions of this Agreement, this waiver is mutually negotiated by the parties to this Agreement.

15. Venue and Choice of Law. In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action shall be in the courts of the State of Washington in and for the County of Clallam. This Agreement shall be governed by the law of the State of Washington.

16. Withholding Payment. In the event the County Project Manager determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the County Project Manager determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than ten (10) days after it determines to withhold amounts otherwise due. A determination of the County Project Manager set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provision of the Disputes clause of this Agreement. The County may act in accordance with any determination of the County Project Manager which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to the Contractor by reason of good faith withholding by the County under this clause.

17. Rights and Remedies. The duties and obligations imposed by this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

18. Contractor Commitments, Warranties and Representations. Any written commitment received from the Contractor concerning this Agreement shall be binding upon the Contractor, unless otherwise specifically provided herein with reference to this paragraph. Failure of the Contractor to fulfill such a commitment shall render the Contractor liable for damages to the County. A commitment includes, but is not limited to any representation made prior to execution of this Agreement, whether or not incorporated elsewhere herein by reference, as to performance of services or equipment, prices or options for future acquisition to remain in effect for a fixed period, or warranties.

19. Patent/Copyright Infringement. Contractor will defend, indemnify and save harmless County, its appointed and elected officers, agents and employees from and against all loss or expense, including but not limited to claims, demands, actions, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of the Contractor's alleged infringement on any patent or copyright. The Contractor will pay those costs and damages attributable to any such claims that are finally awarded against the County, its appointed and elected officers, agents and employees in any action. Such defense and payments are conditioned upon the following:

(a) That Contractor shall be notified promptly in writing by County of any notice of such claim.

(b) Contractor shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.

20. Disputes:

(a) General. Differences between the Contractor and the County, arising under and by virtue of the contract documents shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. The records, orders, rulings, instructions, and decision of the County Project Manager shall be final and conclusive 30 days from the date of mailing unless the Contractor mails or otherwise furnishes to the County Administrator a written notice of appeal. The notice of appeal shall include facts, law, and argument as to why the conclusions of the County Project Manager are in error.

In connection with any appeal under this clause, the Contractor and County shall have the opportunity to submit written materials and argument and to offer documentary evidence in support of the appeal. Oral argument and live testimony will not be permitted. The decision of the County Administrator for the determination of such appeals shall be final and conclusive. Reviews of the appellate determination shall be brought in the Superior Court of Clallam County within 15 days of mailing of the written appellate determination. Pending final decision of the dispute, the Contractor shall proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

(b) Notice of Potential Claims. The Contractor shall not be entitled to additional compensation or to extension of time for (1) any act or failure to act by the County Project Manager or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within 10 days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall

keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

(c) Detailed Claim. The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within 30 days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

21. Ownership of Items Produced. All writings, programs, data, art work, music, maps, charts, tables, illustrations, records or other written, graphic, analog or digital materials prepared by the Contractor and/or its consultants or subcontractors, in connection with the performance of this Agreement shall be the sole and absolute property of the County and constitute "work made for hire" as that phrase is used in federal and/or state intellectual property laws and Contractor and/or its agents shall have no ownership or use rights in the work.

22. Recovery of Payments to Contractor. The right of the Contractor to retain monies paid to it is contingent upon satisfactory performance of this Agreement, including the satisfactory completion of the project described in the Scope of Work (Attachment A). In the event that the Contractor fails, for any reason, to perform obligations required of it by this Agreement, the Contractor may, at the County Project Manager's sole discretion, be required to repay to the County all monies disbursed to the Contractor for those parts of the project that are rendered worthless in the opinion of the County Project Manager by such failure to perform.

Interest shall accrue at the rate of 12 percent (12%) per annum from the time the County Project Manager demands repayment of funds.

23. Project Approval. The extent and character of all work and services to be performed under this Agreement by the Contractor shall be subject to the review and approval of the County Project Manager. For purposes of this Agreement, the County Project Manager is:

Name: **Rick McFarlen**

Title: **Deputy Director**

Address: **223 East 4th Street, Suite 7**

Telephone: **360.417.2023**

E-mail: **rick.mcfarlen@clallamcountywa.gov**

Fax: **360.417.2395**

In the event there is a dispute with regard to the extent and character of the work to be done, the determination of the County Project Manager as to the extent and character of the work to be done shall govern subject to the Contractor's right to appeal that decision as provided herein.

24. Non-Discrimination. The Contractor shall not discriminate against any person on the basis of race, creed, political ideology, color, national origin, sex, marital status, sexual orientation, age, or the presence of any sensory, mental or physical handicap.

25. Subcontractors. In the event that the Contractor employs the use of any subcontractors, the contract between the Contractor and the subcontractor shall provide that the subcontractor is bound by the terms of this Agreement between the County and the Contractor. The Contractor shall insure that in all subcontracts entered into, Clallam County is named as an express third-party beneficiary of such contracts with full rights as such.

26. No Third Party Beneficiaries. This agreement is intended for the benefit of only the County and Contractor. This agreement does not confer any benefits, rights, or privileges upon any third party.

27. Standard of Care. The Contractor shall perform its duties hereunder in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession as the Contractor currently practicing under similar circumstances. The Contractor shall, without additional compensation, correct those services not meeting such a standard.

28. Time is of the Essence. Time is of the essence in the performance of this contract unless a more specific time period is set forth in either the Special Terms and Conditions or Scope of Work.

29. Notice. Except as set forth elsewhere in the Agreement, for all purposes under this Agreement, except service of process, any notices shall be given by the Contractor to the County Project Manager. Notice to the Contractor for all purposes under this Agreement shall be given to the person executing the Agreement on behalf of the Contractor at the address identified on the signature page.

30. Severability. If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

31. Precedence. In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

    (a) Applicable federal, state, and local statutes, ordinances, and regulations;

    (b) Scope of Work (Attachment A) and Compensation (Attachment B);

    (c) Special Terms and Conditions (Attachment D); and

    (d) General Conditions (Attachment C).

32. Waiver. Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified, or deleted except by an instrument, in writing, signed by the parties hereto.

33. Attorney Fees. In the event that litigation must be brought to enforce the terms of this agreement, the prevailing party shall be entitled to be paid reasonable attorney fees.

34. Construction. This agreement has been mutually reviewed and negotiated by the parties and should be given a fair and reasonable interpretation and should not be construed less favorably against either party.

35. Survival. Without being exclusive, Paragraphs 4, 7, 13-19, 21-22 and 31-35 of these General Conditions shall survive any termination, expiration, or determination of invalidity of this Agreement in whole or in part. Any other Paragraphs of this Agreement which, by their sense and context, are intended to survive shall also survive.

36. Entire Agreement. This written contract represents the entire Agreement between the parties and supersedes any prior statements, discussions or understandings between the parties except as provided herein.

SPECIAL TERMS AND CONDITIONS

☒ 1. Reporting. The Contractor shall submit written progress reports to the County Project Manager as set forth below:

- ☐ With each request for payment.
- ☒ Monthly.
- ☐ Quarterly.
- ☐ Semi-annually.
- ☐ Annually.
- ☐ Project completion.
- ☐ Other (specify):

Progress reports shall include, at a minimum, the following:

Reports shall include any problems, delays or adverse conditions which will materially affect the Contractor's ability to meet project objectives or time schedules together with a statement of action taken or proposed to resolve the situation. Reports shall also include recommendations for changes to the Scope of Work, if any. Payments may be withheld if reports are not submitted.

☒ 2. Insurance. The Contractor shall maintain in full force and effect during the term of this Agreement, and until final acceptance of the work, public liability and property damage insurance with companies or through sources approved by the state insurance commissioner pursuant to RCW Title 48, as now or hereafter amended. The County, its appointed and elected officials, agents and employees, shall be specifically named as additional insureds in a policy with the same company which insures the Contractor or by endorsement to an existing policy or with a separate carrier approved pursuant to RCW Title 48, as now or hereafter amended, and the following coverages shall be provided:

☒	COMMERCIAL GENERAL LIABILITY:		
	Bodily injury, including death	$1,000,000	per occurrence
		$2,000,000	aggregate
	Property damage	$1,000,000	per occurrence
		$1,000,000	aggregate
☐	ERRORS AND OMISSIONS or PROFESSIONAL LIABILITY with an Extended Reporting Period Endorsement (two year tail)	$	per occurrence
☐	WORKERS COMPENSATION:	Statutory amount	

☒ AUTOMOBILE: coverage on owned, non-owned, rented and hired vehicles

Bodily injury, liability, including death	$ 100,000	per occurrence.
	$ 300,000	aggregate
Property damage liability	$ 100,000	per occurrence
	$300,000	aggregate

☐ BUSINESS AUTOMOBILE LIABILITY: $ per occurrence

If the Errors and Omissions or Professional Liability insurance obtained is an occurrence policy as opposed to a claims-made policy, the Extended Reporting Period Endorsement is not required.

Any such policy of insurance the Contractor is required to obtain and maintain pursuant to this Agreement shall be primary over any third party liability coverage provided to Clallam County by and through its membership in the Washington Counties Risk Pool or WCRP. The third party liability coverage provided by the WCRP to Clallam County shall be non-contributory with respect to any policy of insurance the Contractor is required to obtain and maintain pursuant to this Agreement. The County shall have no obligation to report occurrences unless a claim or lawsuit is filed with it and the County has no obligation to pay any insurance premiums.

Evidence of primary insurance coverage shall be submitted to the County Project Manager within 20 days of the execution of the Agreement. The Agreement shall be void ab initio if the proof of coverage is not timely supplied.

If the proof of insurance or certificate of coverage indicating the County is an "additional insured" to a policy obtained by the Consultant in order to comply with this agreement refers to an endorsement (by number, abbreviation or name) but does not provide the full text of that endorsement, then it shall be the obligation of the Consultant to obtain the full text of that endorsement and forward that full text to the County within 30 days of the execution of this Agreement.

The coverage limits identified herein shall not limit the potential liability of the Contractor and the Contractor's duty to defend, indemnify, and hold harmless shall apply to any liability beyond the scope of insurance coverage.

☐ 3. Liquidated Damages. For delays in timely completion of the work to be done or missed milestones of the work in progress, the Contractor shall be assessed Dollars ($) per day as liquidated damages and not as a penalty because the County finds it impractical to calculate the actual cost of delays. Liquidated damages will not be assessed for any days for which an extension of time has been granted. No deduction or payment of liquidated damages will, in any degree, release the Contractor from further obligations and liabilities to complete the entire project.

☐ 4. Other (specify):.

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FEB 2 6 2024

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: Public Works

WORK SESSION ☒ **Meeting Date: February 26, 2024**

REGULAR AGENDA ☒ **Meeting Date: March 5, 2024**

Required originals approved and attached? ☒
Will be provided on:

Item summary:

☐ Call for Hearing ☒ Contract/Agreement/MOU - Contract # 30805-24-001

☐ Resolution ☐ Proclamation ☐ Budget Item

☐ Draft Ordinance ☐ Final Ordinance ☐ Other

Documents exempt from public disclosure attached: ☐

Executive summary:

Clallam County has been awarded two grants for rural broadband infrastructure improvements covering parts of the area generally between the Lairds Corner (US 101 & SR 112 intersection) area and extending west of Joyce. The map in Schedule 1 (page 17) of the attached IRU Agreement shows the project area covered by the grants for rural broadband improvements.

In August 2023, the County entered an Interlocal Agreement with the Public Utility District #1 of Clallam County (PUD) for the PUD to provide professional services to manage the two grant awards to completion. The PUD (and partner NoANet) worked with the County and Astound Broadband to assist in the development of the attached *Dark Fiber Construction and Irrevocable Right of Use (IRU) Agreement* between Clallam County and WaveDivision Holdings LLC (includes its Affiliates doing business as Astound Broadband).

Under the IRU Agreement, Astound will engineer, permit, furnish, construct, operate and maintain most of the broadband improvements in the project area as generally depicted on the map of IRU Facilities in Schedule 2 (page 18) of the attached IRU Agreement. The remainder of the broadband improvements located generally along the SR 112 corridor as depicted on the map of Joint Use Facilities in Schedule 3 (page 19) of the attached IRU Agreement will be addressed in a separate IRU Agreement between the County and the PUD.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐

Clallam County has been awarded a $4,525,174 broadband grant from the state Public Works Board (PWB) and a $16,074,985 grant from Washington State Broadband Office (WSBO). The WSBO grant project area also includes a $1,786,109 County match contribution that is funded by part of the

federal ARPA funds allocated to Clallam County. The scope of work under the IRU Agreement will be funded by the two broadband grants.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)

Approve the attached Dark Fiber Construction and IRU Agreement.

County Official signature & print name: Steve Gray

Name of Employee/Stakeholder attending meeting: Steve Gray, Deputy Director

Relevant Departments: Public Works

Date submitted: 02-21-24

DARK FIBER CONSTRUCTION AND IRU AGREEMENT

This DARK FIBER IRU AGREEMENT (this "**Agreement**") is made and entered into as of this ____ day of ___ _____, 2024 (the "**Execution Date**"), by and between WAVEDIVISION HOLDINGS, LLC, a Delaware limited liability company, for and on behalf of itself and its Affiliates doing business as Astound Broadband ("**Astound**"), and Clallam County, a political subdivision of the State of Washington ("**County**"). Each of Astound and the County may be referred to in this Agreement as a "**Party**," and collectively as the "**Parties**." With respect to either Party, the term "**Affiliate**" shall mean any person who directly or indirectly controls, is controlled by, or is under common control with that Party.

BACKGROUND

A. The County was awarded broadband infrastructure grants in the amounts of $16,074,985 from the Washington State Broadband Office ("**WSBO**") and $4,525,174 from the Washington State Public Works Board ("**PWB**") for the project areas mapped in Schedule 1. The WSBO and PWB grants may be referred to as the "Grants," collectively.

B. The broadband technology funded by the Grants must result in minimum service speed that reliably meets or exceeds 100 megabits per second download (Mbps) and between at least 20 Mbps and 100 Mbps and scalable to a minimum of 100 Mbps symmetrical download and upload speeds.

C. The Grants allow the Internet Service Provider partnering with the County to retain exclusive rights to the network constructed for a maximum of three years after funded project construction is completed, afterwords the network must be open access for the remainder of the useful life of the project constructed.

D. The internet service providers using the broadband funded network funded by the WSBO Grant must either: (i) participate in the Federal Communication's Affordable Connectivity Program ("**ACP**"); or (ii) provide access to a broad-based affordability program to consumers with low incomes in the broadband infrastructure proposed service area that provides benefits commensurate with those provided under the ACP.

E. The internet service providers using the broadband funded network funded by the PWB Grant must participate in federal program low-income customers with subsidies on broadband internet access services utilizing the ACP for the duration of the ACP, or until the date the broadband infrastructure project funding by the PWB Grant is no longer in use, whichever comes first.

F. The County will own a fiber optic communications network (the "**County Network**") funded in part by the completed broadband infrastructure project under the WSBO and PWB Grants.

G. Astound owns and operates a communications network in the County, serving residential and commercial customers, including hybrid fiber coax, dark fiber, and other such facilities (the "**Astound Network**").

H. The Parties wish Astound to engineer, permit, furnish, construct, and operate certain portions of the County Network (the "**Project**") to provide telecommunications, data transport, Internet access, video, voice over Internet Protocol (VoIP) phone and other lawfully provided and related services to its customers (the "**Astound Services**").

I. Astound desires to obtain from the County the exclusive, irrevocable right to use certain portions of the County Network for a period of twenty-five (25) years, as described in this Agreement (the "**IRU Facilities**") and with the provision of a Wholesale ISP Program per Section 10.6 of this Agreement.

J. The County is willing to grant to Astound an irrevocable right of use in and to the IRU Facilities, and hereby does so under the terms and conditions set forth in this Agreement.

K. The County is the Subrecipient under the PWB Grant, and Grantee under the WSBO Grant, and the Parties desire for Astound to act as a subrecipient under the Grants, as respectively defined in each.

L. The Parties understand a 3rd party will have an irrevocable right to use certain portions of the County Network, as more fully described in this Agreement (the "**Joint Use Facilities**").

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Astound and the County agree as follows:

ARTICLE 1: THE COUNTY NETWORK, IRU FACILITIES, and JOINT USE FACILITIES

1.1 Description of County Network. The County Network shall be comprised (in part) of the Joint Use Facilities and IRU Facilities, and is to be engineered, furnished, and constructed by Astound, utilizing funding provided by the WSBO Grant and PWB Grant, defined in 5.3 and 5.4 below.

1.2 Description of IRU Facilities. This IRU Facilities shall all be fiber optic facilities and associated apparatus not included in the Joint Use Facilities of the County Network, these are outlined in the map shown in Schedule 2.

1.3 Joint Use Facilities. Fiber optic facilities and associated apparatus depicted in Schedule 3, generally located along the transmission line route of Clallam County Public Utility District No. 01, considered the backbone cabling of the County Network, and does not include those elements of the IRU Facilities which run along (in parallel with), and extend from, the Joint Use Facilities.

1.4 Illustrative Map. A map depicting the approximate the County Network locations and route is attached to this Agreement as Schedule 1. Maps are also included for the IRU Facilities, Schedule 2, and the Joint Use Facilities, Schedule 3. The route depicted in Schedules 1 through 3 are for illustrative purposes only, for the convenience of the Parties. In the event of any conflict between Schedules and the specific terms and conditions of the main body of this Agreement, the specific terms and conditions of the main body of this Agreement shall control.

1.5 Control Over Segment Route. Notwithstanding the route depicted on Schedule 1, Astound and the County shall cooperate in determining the routing configurations of the County Network, including fiber optic cable, or cables (each, a "**Cable**") within the IRU Facilities and the County Network. The routes described in Schedule 1 may be amended from time to time by the Parties as routes are engineered, permitted, and constructed. For avoidance of doubt, the IRU Facilities will not include any portion of the County Network provided as Joint Use Facilities as represented in Schedule 3.

ARTICLE 2: EQUIPMENT

2.1 Equipment. "**Equipment**" means network components including, but not limited to, any gateway or edge electronic device, antenna, node, concentrator, bridge, receiver, transmitter, transceiver, router, switch, hub or communications lines/cables, and associated software.

2.2 Astound Equipment. Any Equipment provided by the Astound in connection with the IRU Facilities shall be referred to as the "**Astound Equipment**." Except as expressly provided to the contrary elsewhere in this Agreement,

throughout the IRU Term (as that term is defined in Article 7 below), the Astound Equipment shall remain the property of Astound and Astound shall be responsible for all maintenance and repair of the Astound Equipment. Neither County nor any third party acting under County's authority will relocate, modify, tamper with, attempt to repair, or otherwise interfere with the Astound Equipment.

2.3 County Equipment. Any Equipment provided by County in connection with the IRU Facilities shall be referred to as the "**County Equipment**." Except as expressly provided to the contrary elsewhere in this Agreement, throughout the IRU Term (as that term is defined in Article 7 below), the County Equipment shall remain the property of the County. Except to the extent necessary to maintain, repair, and operate the IRU Facilities, neither Astound nor any third party acting under Astound's authority will relocate, modify, tamper with, attempt to repair, or otherwise interfere with the County Equipment.

ARTICLE 3: INSTALLATION, TESTING AND ACCEPTANCE OF IRU FACILITIES

3.1 Construction. The Parties anticipate that construction of the County Network will be completed on or about September 30, 2026. Astound will be responsible for the engineering, permitting, furnishing and construction of the County Network, further detailed in Article 5, the schedule for which is outlined in Schedule 4, and as otherwise set forth herein.

3.2 Connecting the IRU Facilities. Upon substantial completion of construction of the **IRU Facilities**, Astound shall provide appropriate connecting Equipment and facilities, including all cross-connect facilities, at each appropriate location, and Astound shall interconnect the Astound Network with the IRU Facilities at the applicable locations. All interconnections of the IRU Facilities shall be performed by Astound and in accordance with industry standard specifications and operating procedures. Astound shall be responsible for obtaining necessary governmental and other approvals and consents necessary with respect to Astound Equipment at the End Points.

3.3 Joint Testing. When Astound has completed the installation and configuration of the IRU Facilities, the Parties shall jointly test (the "**Joint Testing**") the applicable dark fibers in the Segment to verify that they are performing properly and meet the fiber specifications contained on Schedule 5 (the "**Fiber Testing Specifications**").

3.4 IRU Commencement Date. When the Joint Testing demonstrates that the applicable dark fibers in the IRU Facilities are properly constructed, installed and operating consistent with the Fiber Testing Specifications, Astound's rights and obligations with regard to the IRU Facilities will substantially commence, including the right to utilize the IRU Facilities for purposes of serving customers. The "**IRU Commencement Date**" for the IRU Facilities granted under the PWB Grant shall be the first calendar day following the day on which the Joint Testing was successfully completed, the IRU Commencement Date for the IRU Facilities granted under the WSBO Grant shall be the date on which the final payment associated therewith is received by Astound. The Parties agree that such IRU Commencement Date shall be no later than September 30, 2026.

ARTICLE 4: GRANT OF IRU

4.1 Grant of IRU. The County hereby grants, transfers, and conveys to Astound, and Astound receives and accepts from the County, an exclusive, unrestricted, irrevocable and indefeasible right of use in the IRU Facilities, together with the right to access the IRU Facilities at the End Points of the Segment. Astound's rights in the IRU Facilities granted pursuant to this Section 4.1 shall be referred to as the "**IRU**." The IRU is granted to Astound subject to the terms and conditions set forth in this Agreement. The IRU shall take effect upon the IRU Effective Date (as that term is defined in Article 6 below). For avoidance of doubt, the IRU Facilities will not include any portion of the County Network subject to third party rights, which such facilities are shown in Schedule 3. Further, the **IRU Facilities** will not include any portion of the Astound Network that could be considered a service drop constructed by **Astound** from the **IRU Facilities.**

4.2 Effect of IRU. To the fullest extent permitted by law, the Parties intend that the IRU shall grant, transfer and convey to Astound all beneficial right, title and interest in the IRU Facilities and that Astound shall have exclusive possession, use and control over and shall be for all purposes the equitable owner of the IRU Facilities during the Term; provided, however, the IRU does not convey legal title or legal ownership of the IRU Facilities. For the sake of clarity, the IRU is intended by the Parties to be a beneficial property interest (as distinguished from a mere contractual interest) and the grant, transfer and conveyance of the IRU effected by this Agreement is intended by the Parties to be fully completed and effective, with all conditions precedent deemed to have been satisfied in all respects immediately on the IRU Effective Date (as that term is defined in Article 6 below). For the further sake of clarity, this Agreement is not intended by the Parties to be a revocable license, a lease or executory contract, but rather to effect the sale and purchase of the IRU by the County to Astound for the IRU Term (as that term is defined in Article 6 below).

4.3 No Revocation. Notwithstanding the occurrence of a breach or violation by the Astound of any legal duty or obligation imposed by any contract, including this Agreement, by the law of torts (including simple or gross negligence, strict liability or willful misconduct), or by any federal, state or local laws, rules, regulations, orders, standards, judicial decrees or ordinances, during the IRU Term (as that term is defined in Article 6 below), the County shall have no right to revoke or restrict the IRU in any manner or to any degree whatsoever, through injunctive relief or otherwise. The Parties mutually understand and agree that any breach by Astound shall be compensable, if at all, by a remedy at law for monetary damages and not at equity. In recognition that the IRU cannot be readily obtained in the open market and that Astound will be irreparably injured if this Agreement cannot be specifically enforced, Astound shall be entitled, in addition to bringing suit at law or equity for monetary or other damages, to obtain specific performance to order implementation of the IRU contemplated by this Agreement. In any action to enforce the provisions of this Agreement, the County hereby irrevocably and forever waives the defense that there is an adequate remedy at law and hereby irrevocably agrees that Astound shall have the right to obtain specific performance of the IRU contemplated by this Agreement.

4.4 Limitations. The IRU shall not include: (i) any County Equipment, or any other portion of the County's network facilities not expressly included in Schedule 1; (ii) except for the right to access the Segments of the IRU Facilities at their respective End Points, the right to physically access the Cables or any other portion of the County's network facilities; (iii) the right to encumber the Cables or any other portion of the County's network facilities in any manner; (iv) the right to use the Cables or any other portion of the County's network facilities except as expressly set forth herein; or (v) the right to use any future cables or any other portion of the County Network not expressly set forth herein. Astound expressly acknowledges and agrees that Astound shall receive no rights to use any of the County Equipment in connection with the IRU. Except as otherwise agreed by the Parties, the County is not supplying nor is the County obligated to supply to the Astound any optronics or electronics or optical or electrical equipment or other facilities, all of which are solely the responsibility of Astound, nor is the County responsible for performing any work in connection with the IRU Facilities other than as specified in this Agreement. Each of the County and Astound agree to keep the Cables, the IRU Facilities, the Astound Equipment and the County Equipment, and all other portions of the County's network facilities and Astound's network facilities, free from any liens, rights or claims of any third party attributable to the other.

4.5 Network Configuration. Each Party shall have full and complete control and responsibility for determining its own network and service configurations or designs, regrooming, rearrangement or consolidation of channels or circuits and all related functions with regard to the use of that Party's fiber contained in each of the Cables; provided that such control and responsibility by the County shall not adversely affect the use by Astound or any other authorized user (each, an "**Authorized User**") of the Cables, of Astound's network facilities and/or of any Equipment used by Astound or an Authorized User in connection therewith.

ARTICLE 5: CONSIDERATION FOR IRU

5.1 Astound Responsibilities. In consideration of the grant of IRU set forth herein, Astound shall provide the following: (i) certain network equipment to support in the IRU Facilities; (ii) maintenance of the IRU Facilities outside the Joint Use Facilities throughout the IRU term; (iii) offer its suite of residential services, under its standard terms and conditions, to resident occupants of dwelling units serviceable via the IRU Facilities; (iv) provide the County a report at least once per quarter detailing the number of Internet access service subscribers that received services from Astound utilizing the IRU Facilities during the preceding quarter (the "**Quarterly Report**"); (v) supply and install underground and aerial service drops (each an "**Additional Drop**") to consenting occupied dwelling units within one thousand five hundred feet (1,500') of the IRU Facilities depicted in Schedule 2, which such Additional Drop shall become an element of the Astound Facilities, and provided that Astound shall have no obligation to extend the IRU Facilities or the Astound Facilities beyond any such Additional Drop; (vi) engineer, permit, furnish, maintain, and construct the County Network in accordance with this Agreement; (vii) ensure invoices for eligible expenditures associated with construction and maintenance of the County Network are tracked and invoiced separately for the WSBO and PWB project areas; and (viii) comply with the requirements of the WSBO and PWB grant capital agreements found in attached Exhibits A and B including minimum speeds and access affordability.

5.2 County Responsibilities. In consideration of the grant of the IRU hereunder by County to Astound, County agrees to pay to Astound, funds to reimburse eligible expenditures by the County under the WSBO and PWB Grant(s) and, with respect to the construction, funds to reimburse expenditures made by Astound under this Agreement to construct the County Network, including the Joint Use Facilities and IRU Facilities. The Parties estimate that the costs to be incurred to complete the Scope of Work of the WSBO and PWB Grant will be the amounts and at the times set forth in the Budget included in Schedule 4 (the "**Sub-Recipient Schedule**"). The funds associated with the work to be performed under the Sub-Recipient Schedule for the Segments as listed in Schedule 4 shall be due and payable for eligible expenditures incurred solely from and to the extent of funds received by, and local match funds required under the WSBO Grant only, the County as required under the Grants. Astound shall be responsible for all costs (including cost overruns) in excess of the amounts agreed upon in Schedule 4. Under no circumstances shall County be responsible for payment of any amounts exceeding the funds eligible under the WSBO and PWB Grant(s) and funded under the WSBO and PWB Grant(s).

5.3 WSBO Subrecipient. Astound acknowledges and accepts the IRU is a subcontract of the Washington State Broadband Office Grant as attached as Exhibit A commencing start date July 1, 2021 Contract No 22-96810-002 (the "**WSBO Grant**") and as such Astound will comply with applicable rights and obligations to this award.

5.4 PWB Subrecipient. Astound acknowledges and accepts the IRU is a subcontract of the Washington State Public Works Board Grant as attached as Exhibit B commencing start date December 12, 2022 Contract No PBC22-96104-009 (the "**PWB Grant**") and as such Astound will perform the rights and obligations to this award.

5.4 Subrecipient. Subrecipient shall mean any non-Federal entity that receives a subaward from a pass through entity to carry out part of the program; but does not include an individual that is a beneficiary of such program.

5.5 Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction. Astound, as a party to this Agreement, as a WSBO and PWB Subrecipient and lower tier grantee, (i) certifies by signing this Agreement that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Agreement by any Federal department or agency, (ii) where Astound as a lower tier grantee is unable to certify to any of the statements in the WSBO or PWB grant, Astound shall attach an explanation to the Agreement.

ARTICLE 6: TERM OF IRU

6.1 IRU Effective Date. The IRU shall become effective on the IRU Commencement Date as shown in Section 3.4 (the "**IRU Effective Date**").

6.2 IRU Term. Unless earlier terminated pursuant to this Agreement, the term of the IRU shall be for twenty-five (25) years (the "**IRU Term**"), commencing on the IRU Effective Date that falls latest, but not later than September 30, 2026, and expiring on the date that is one day prior to the twenty-fifth (25th) anniversary of the IRU Effective Date (the "**Expiration Date**").

6.3 Expiration. Upon the expiration of the IRU Term, Astound shall have the option to purchase the IRU Facilities from the County for One and no/100 Dollar ($1.00), such amount being the estimated fully depreciated value of the IRU Facilities. If Astound does not exercise its option to purchase the IRU Facilities, all rights to the use of the IRU Facilities shall revert to the County, and Astound shall have no further right hereunder to use the IRU Facilities. Should Astound exercise the option to purchase the IRU Facilities, the County agrees to execute any and all documents reasonably necessary to effect such purchase and sale, including assignment of all rights and title to the IRU Facilities and licenses, permits, and authorities to own and operates same to Astound and to provide Astound with all documentation and information associated with the IRU Facilities, including but not limited to accounting records, and engineering, technical, and permitting information.

ARTICLE 7: AVAILABILITY, MAINTENANCE AND REPAIR

7.1 Availability. During the Term, the County shall ensure that the IRU Facilities are available to Astound twenty-four (24) hours per day, seven (7) days per week. Temporary interruptions in the availability of the IRU Facilities due to emergency or scheduled maintenance, provided notice thereof is given as applicable, interruptions or outages caused by Astound, or by Force Majeure Events, will not constitute failures by the County to perform its obligations under this Agreement.

7.2 Maintenance and Repair of IRU Facilities. At all times during the IRU Term, except to the extent caused by the County's negligence or willful act or omission, Astound at its sole cost and expense, shall care for and maintain the IRU Facilities, and shall perform all required services relating to the IRU Facilities, including, but not limited to (i) locating; (ii) repairing; (iii) splicing connections for its customers, and/or any wholesale consumer whom wishes to utilize any portion of the IRU Facilities; (iv) maintaining the IRU Facilities in a safe and serviceable condition; and (v) taking other commercially reasonable measures so that the IRU Facilities will meet or exceed common industry standards for performance of like facilities of like age under like circumstances. Astound shall schedule and perform periodic inspections (at a minimum, annually), maintenance, and repair to identify and correct any failure, interruption, or impairment in the operation of the IRU Facilities. Astound shall not cause the IRU Facilities to be materially damaged or depreciated in value by any intentional or grossly negligent act or omission of Astound, its agents, or employees. Astound shall respond promptly to any reasonable complaints from the County or any wholesale customer utilizing any portion of the IRU Facilities.

7.3 Maintenance and Repair of Joint Use and Non-IRU Facilities. At all times during the IRU Term, except to the extent caused by Astound's negligence or willful act or omission, the County, at its sole cost and expense, shall care for and maintain the non-IRU Facility elements of the County Network, including the Joint Use Facilities, and shall perform all required services relating to such facilities, including, but not limited to (i) locating; (ii) repairing; (iii) splicing connections for its customers; (iv) maintenance in a safe and serviceable condition; and (v) taking other commercially reasonable measures so that the facilities meet or exceed common industry standards for performance of like facilities of like age under like circumstances. The County shall schedule and perform periodic inspections (at a minimum, annually), maintenance, and repair to identify and correct any failure, interruption, or impairment in the operation of such non-IRU facilities. The County shall not cause the County Network to be

materially damaged or depreciated in value by any intentional or grossly negligent act or omission of the County, its agents, or employees. The County shall respond promptly to any reasonable complaints from the Astound or any customer utilizing any non-IRU Facility portion of the County Network.

ARTICLE 8: TAXES, FEES AND OTHER IMPOSITIONS

8.1 Definition of Impositions. As used in this Agreement, the term "**Impositions**" shall mean all taxes, fees, assessment levies, imposts, duties, charges or withholdings of any nature (including, without limitation, ad valorem, real property, gross receipts, franchise, license and permit fees), together with any penalties, fines or interest thereon arising out of the transactions contemplated by this Agreement and/or imposed upon the Cable, or any part thereof, by any federal, state or local government or other public taxing authority, including "Access Fees." The term "**Access Fees**" shall mean all fees charged or assessed by any governmental authority in respect of those portions of the Cable located on or crossing or passing through lands owned or administered by such governmental authority including, without limitation, such as are calculated or otherwise based on the number of crossings, the aggregate distance of crossings, land value or the revenue, projected revenue, receipts, income, profits or other amounts calculated in a similar manner.

8.2 Minimization and Equitable Distribution of Impositions. The Parties acknowledge and agree that it is their mutual objective and intent to (i) minimize the aggregate Impositions payable with respect to the Cable, and (ii) share such Impositions according to their respective interests in the Cables at issue. The Parties agree to cooperate with one another and coordinate their efforts to achieve such objectives in accordance with the provisions of this Article.

8.3 Payment of Impositions Prior to IRU Effective Date. Prior to the IRU Effective Date, the County shall be responsible for and shall timely pay any and all Impositions with respect to the operation or physical location of the Cables.

8.4 Payment of Impositions During the IRU Term. Beginning on the IRU Effective Date and continuing through the IRU Expiration Date, Astound shall be responsible for and shall pay: (i) all Impositions imposed on, based on, or otherwise measured by the gross receipts, gross income, net receipts or net income received by or accrued to Astound with respect to its use of the IRU Facilities; (ii) all Impositions which have been separately assessed, allocated to, or imposed on the IRU Facilities; and (iii) all applicable impositions for which Astound is responsible under the County and Astound Cable Franchise Agreement in effect where cable services as defined in the cable franchise agreement are delivered to Astound customers through the IRU Facilities. If the IRU Facilities constitute the only fibers located in a Cable from the point where the Cable leaves the County Network right-of-way to an Astound POP, Astound shall be solely responsible for any and all Impositions imposed on or with respect to such portion of the Cable. To the extent such Impositions are not separately assessed, allocated to or imposed on the IRU Facilities, Astound shall reimburse the County for (or pay directly) Astound's share of all such Impositions, which shall be determined as follows:

(a) to the extent that such Impositions are calculated based on the revenue, projected revenue, receipts, income or profits of Astound or its Affiliates, Astound will be responsible for the portion of the amount of such Impositions as is calculated based on the revenue, projected revenue, receipts, income or profits of Astound or its Affiliates;

(b) otherwise, Astound will be responsible for its Proportionate Share of the Impositions and any other Authorized Users of the Cable, will be responsible for their respective Proportionate Shares of the Impositions.

8.5 Right to Contest. Either Party shall have the right to contest in good faith any Imposition (including by nonpayment of such Imposition). The out-of-pocket costs and expenses (including reasonable attorneys' fees) incurred in any such contest shall be shared by the County and Astound in the same proportion as to which the Parties would have shared in such Impositions as they were assessed. Any refunds or credits resulting from a contest brought pursuant to this Section 8.5 shall be divided between the County and Astound in the same proportion as originally assessed.

8.6 Preparation of Returns and Reports. Astound and the County agree to cooperate fully with one another in the preparation of any returns or reports relating to the Impositions.

ARTICLE 9: PERMITS; UNDERLYING RIGHTS; RELOCATION

9.1 Underlying Rights. Subject to the terms and provisions of this Agreement, Astound shall be responsible for obtaining and maintaining throughout the IRU Term, all rights-of-way use and other use or access permits or agreements which are necessary for the installation, location, maintenance and use of the Joint Use Facilities and IRU Facilities (the "**Underlying Rights**"). The IRU is subject to the terms of the Underlying Rights, and subject to the terms under which the applicable rights-of-way are owned or held by the grantor of the Underlying Rights.

9.2 Relocation. After the IRU Effective Date and during the IRU Term, relocation of IRU Facilities in County road right-of-way shall be done in conformance with Clallam County Code Chapter 9.48 (Accommodation of Utilities on County Road Right-of-Way), except that the County agrees to be responsible for costs when relocation is related to road improvements or other work controlled and funded by the County within its road rights-of-way. Astound shall be solely responsible for costs and expenses for IRU Facilities relocations under the following circumstances: (i) relocations requested by Astound; or (ii) relocations required by a third party with legal authority to so require (including, without limitation, the grantor of an Underlying Right). All relocations shall incorporate fibers meeting or exceeding the specifications of the IRU Facilities and shall minimize interference with the operation of the IRU Facilities, and service interruptions. Following the expiration of the IRU Term, if Astound owns the IRU Facilities all costs for relocation shall be borne by Astound, except to the extent otherwise provided for by applicable law, e.g. the Clallam County Code.

ARTICLE 10: OPERATION AND USE OF THE IRU FACILITIES

10.1 Compliance with Underlying Rights Requirements. The requirements, restrictions, and/or limitations on the right to install, use and maintain the IRU Facilities contained in this Agreement, all applicable government codes, ordinances, laws, rules and regulations, and safety, operational and other rules and regulations imposed in connection with the Underlying Rights are referred to collectively as the "**Underlying Rights Requirements.**" Astound and the County represent, warrant and covenant, each to the other, that each will design, construct, operate, maintain, and use the IRU Facilities (as respectively set forth herein) in compliance with and subject to the Underlying Rights Requirements.

10.2 Permits and Approvals. Each of the County and Astound shall secure, prior to the IRU Effective Date, any franchises, licenses or similar approvals from governmental authorities (other than the Underlying Rights) which are necessary for the design, construction, operation, maintenance and use of the IRU Facilities.

10.3 Use Limitations. Astound may use the IRU Facilities for any lawful purpose. Except as otherwise explicitly agreed, the County agrees and acknowledges that it has no right to use any of the fibers that are part of the IRU Facilities.

10.4 Cooperation. Each of the County and Astound agree to promptly notify the other Party of any matters pertaining to, or the occurrence (or impending occurrence) of, any event which would be reasonably likely to give

rise to any damage or impending damage to or loss of any one or more of the Cables, or traffic thereon, that becomes known to such Party. The County and Astound each agrees to cooperate with and support the other in complying with any requirements applicable to their respective rights and obligations under this Agreement.

10.5 Non-Interference. The County shall not use its systems in a way that physically interferes in any way with or otherwise adversely affects the use of the other fibers in the Cables by Astound or any other Authorized User of the Cables and/or other portions of Astound's network. The County acknowledges that the Cables and the locations at which the Cables are installed include other participants, including Astound, other Authorized Users, and other owners and users of telecommunication systems.

10.6 Wholesale ISP Program. Commencing on the three (3) year anniversary of the later of the two IRU Commencement Dates, and continuing throughout the IRU Term, Astound shall establish and maintain a Wholesale Internet Service Provider Program (the "**Wholesale ISP Program**"). Under the Wholesale ISP Program, third party Internet service providers ("**ISPs**") may purchase Internet access and transport services from Astound in order to serve ISP end user customers using the IRU Facilities. Astound will establish reasonable and nondiscriminatory pricing (as between similarly situated ISPs) for Wholesale ISP Program purchases and other terms and conditions of the Wholesale ISP Program that are reasonable and nondiscriminatory (as between similarly situated ISPs) and may amend such terms and conditions from time to time consistent with these requirements. Any use of the County Network will be subject to such pricing, terms and conditions, together with any other policies of Astound, such as Astound's Acceptable Use Policy, and any applicable tariffs or other laws or regulations. Nothing in this Agreement or the Wholesale ISP Program will (a) require Astound to expand, modify or alter the County Network or IRU Facilities in any way; (b) require Astound to install any service drops to serve any customer of an ISP; (c) require Astound to permit an ISP or any other third party to install any service drop or other network extension from the County Network; (d) require Astound to provide collocation to any ISP or any other third party within Astound Facilities; or (e) require Astound to provide any equipment or other hardware to an ISP or any other third party, all unless otherwise agreed between Grantor and an ISP or other third party on reasonable commercial terms. The Wholesale ISP Program shall provide service that is designed to be capable to reliably meet or exceed the requirements of the PWB Grant and WSBO Grant. Nothing in this Agreement shall restrict or prohibit Astound from charging ISPs for collocation services or for service drops to end users' premises.

10.7 ACP Program. Astound represents that it currently participates in the Federal Communications Commission's Affordable Connectivity Program ("**ACP**") and currently intends to participate in the ACP, or other federal affordable connectivity program that replaces ACP, through the current term of the program. If it does not participate in the ACP, Astound will provide access to its end user subscribers which utilize the IRU Facilities to a broad-based affordability program to low-income consumers in the County Network area covered by this IRU Agreement that provides benefits to low-income households commensurate with those provided under the ACP or other federal affordable connectivity program that replaces ACP, including affordability (and speed requirements). Should the ACP program end and the ACP program is not replaced or extended by another type of federal affordable connectivity program, the obligation of this section ends.

ARTICLE 11: THIRD – PARTY INDEMNIFICATION

11.1 Third-Party Indemnification by the County. The County hereby agrees to indemnify, defend and hold harmless Astound, its employees, officers and directors (the "**Astound Indemnified Persons**"), from and against any and all third-party suits, actions, damages or claims of any character suffered by the Astound Indemnified Persons due to or arising out of: (i) any injuries or damage to persons or property to the extent the same are caused by the negligent acts or omissions of the County in the performance of its obligations under this Agreement; or (ii) any Default by the County under this Agreement.

11.2 Third-Party Indemnification by Astound. Astound hereby agrees to indemnify, defend and hold harmless the County, its employees, agents, officers and directors (the "**County Indemnified Persons**"), from and against any and all third-party suits, actions, damages or claims of any character suffered by the County Indemnified Persons due to or arising out of: (i) any injuries or damage to persons or property to the extent the same are caused by the negligent acts or omissions of Astound in the performance of its obligations under this Agreement; (ii) Astound's use of the IRU Facilities; or (iii) any Default by Astound under this Agreement.

11.3 Procedure. Each of the County and Astound agree to promptly provide the other with notice of any claim which may result in an indemnification obligation hereunder. The indemnifying party may defend such claim with counsel of its own choosing provided that no settlement or compromise of any such claim shall occur without the consent of the indemnified party, which consent shall not be unreasonably withheld, conditioned or delayed.

11.4 Survival. The indemnification obligations contained in this Article shall survive the expiration or termination of this Agreement for a period of two (2) years.

ARTICLE 12: LIMITATION OF LIABILITY

12.1 No Special Damages. EXCEPT FOR THE OBLIGATIONS OF THE PARTIES CONTAINED IN ARTICLE 11 (INDEMNIFICATION) AND ARTICLE 15 (CONFIDENTIALITY), NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL COSTS, LIABILITIES OR DAMAGES, INCLUDING LOST PROFITS OR REVENUES, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH, SUCH PARTY'S PERFORMANCE OR NONPERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT, INCLUDING, CLAIMS OF LESSEES OR CUSTOMERS, CLAIMS FOR WHICH DAMAGES ARE HEREBY SPECIFICALLY WAIVED; AND PROVIDED FURTHER THAT THIS LIMITATION SHALL NOT RESTRICT EITHER PARTY'S RIGHT TO PROCEED FOR INJUNCTIVE RELIEF. NOTHING CONTAINED HEREIN SHALL OPERATE AS A LIMITATION ON THE RIGHT OF EITHER PARTY TO BRING AN ACTION FOR DAMAGES AGAINST ANY THIRD PARTY, INCLUDING CLAIMS FOR INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, BASED ON ANY ACTS OR OMISSIONS OF SUCH THIRD PARTY.

ARTICLE 13: INSURANCE

13.1 Required Insurance. Beginning on the IRU Effective Date, and continuing through the expiration of the IRU Term, each Party shall procure and maintain in force, at its own expense, insurance coverage in amounts that a reasonably prudent business person would maintain considering the obligations of the Parties hereunder, but in no event less than coverage of the following types and limits:

(a) Workers' compensation as required by applicable law(s);

(b) Employer's liability with minimum limits of $1,000,000 each accident;

(c) Commercial General Liability including coverage for (i) premises/operations, (ii) independent contractors, (iii) products/completed operations, (iv) personal injury, (v) contractual liability, and (vi) explosion, collapse and underground hazards, with combined single limit of not less than $1,000,000 each occurrence or its equivalent;

(d) Automobile liability with minimum limits of $1,000,000 each accident; and

(e) Excess or Umbrella Liability, applicable to items (b), (c) and (d), with minimum limits of $5,000,000, per occurrence.

13.2 Insurance Providers. Each Party shall maintain the required insurance coverage with insurers licensed to conduct business in the applicable jurisdiction(s) and having an AM Best Rating of A – /VII, or equivalent from another recognized rating agency, and each Party shall, upon request, provide the other Party with an insurance certificate confirming compliance with the requirements of this Article.

13.3 Failure to Carry. In the event either Party fails to maintain the required insurance coverage and, a claim is made or suffered, such Party shall defend, indemnify and hold harmless the other Party from any and all claims for which the required insurance would have provided coverage.

13.4 The County may provide coverage under a self-insured/liability pool or self-insured risk management program. The County shall provide: (1) a description of its self-insurance program, and (2) a certificate and/or letter of coverage that outlines coverage limits and deductibles. All self-insured risk management programs or self-insured/liability pool financial reports must comply with Generally Accepted Accounting Principles (GAAP) and adhere to accounting standards promulgated by: 1) Governmental Accounting Standards Board (GASB), 2) Financial Accounting Standards Board (FASB), and 3) the Washington state Auditor's annual instructions for financial reporting. The County shall maintain sufficient documentation to support the aggregate claim liability information reported on the balance sheet. Astound, its agents, and employees need not be named as additional insured, as this is prohibited by the risk pool.

ARTICLE 14: NOTICES

Notices under this Agreement shall be in writing and delivered by overnight courier (e.g., Federal Express, UPS) or certified mail, return receipt requested, to the persons whose names and business addresses appear below and such notice shall be effective on the date of receipt or refusal by the receiving Party:

If to Astound:
WaveDivision Holdings, LLC
650 College Road East, Suite 3100
Princeton, NJ 08540
ATTN: General Counsel
Email: Legal@astound.com

If to County:
Clallam County Public Works Dept.
223 E 4th Street, Suite 6
Port Angeles, WA 98362
ATTN: Public Works Director
Email: _____

With a Copy to:
WaveDivision Holdings, LLC
650 College Road East, Suite 3100
Princeton, NJ 08540
ATTN: Jared Sonne, GM/SVP

With a Copy to:
Board of County Commissioners
223 E 4th Street, Suite 4
Port Angeles, WA 98362
ATTN: Clerk of the Board
Email: _____

A Party may change its address and point of contact by notifying the other Party in writing in accordance with this Article.

ARTICLE 15: CONFIDENTIALITY

15.1 Definition of Confidential Information. "**Confidential Information**" shall mean all information regarding the telecommunications systems and business operations of the Parties which is disclosed by one Party ("**Disclosing Party**") to the other Party ("**Receiving Party**"), to the extent that such information is marked or identified as confidential or proprietary or would be reasonably deemed confidential or proprietary given the circumstances

surrounding its disclosure. Notwithstanding the foregoing, all written or oral pricing and contract proposals exchanged between the Parties shall be deemed Confidential Information, whether or not so designated. Information shall not be deemed Confidential Information if (i) it is independently developed by or for the Receiving Party, (ii) it is lawfully received by the Receiving Party free of any obligation to keep it confidential, (iii) it becomes generally available to the public other than by breach of this Agreement, or (iv) it was known to the Receiving Party prior to the Disclosing Party's disclosure of same.

15.2 Protection of Confidential Information. Confidential Information is the property of the Disclosing Party and shall be returned to the Disclosing Party upon request. Receiving Party, including its officers, directors, employees, partners, affiliates, agents and representatives, shall hold all Confidential Information in confidence. The Receiving Party: (i) shall use such Confidential Information only for the purposes of performing its obligations and/or enforcing its rights under this Agreement; (ii) shall reproduce such Confidential Information only to the extent necessary for such purposes; (iii) shall restrict disclosure of such Confidential Information to employees or contractors that have a need to know for such purposes (with disclosure to contractors being limited to contractors that have signed a non-disclosure agreement to protect the Confidential Information of third parties); (iv) shall not disclose Confidential Information to any third party without prior written approval of the Disclosing Party except as expressly provided in this Agreement or as required by law, by court order, by administrative order of an agency having jurisdiction, or in the enforcement of its rights under this Agreement; and (v) shall use at least the same degree of care (in no event less than reasonable care) as it uses with regard to its own proprietary or confidential information to prevent the disclosure, unauthorized use or publication of Confidential Information. Neither Party shall take any action, including intentional memorization of the other Party's Confidential Information, with the intent or purpose of evading obligations contained in this Article 15.

15.3 Mandated Disclosure. In the event that the Receiving Party is required to disclose Confidential Information of the Disclosing Party pursuant to law, court order or administrative order of an agency having jurisdiction, the Receiving Party will: (i) if such notice is permitted by law, notify the Disclosing Party of the required disclosure with sufficient time for the Disclosing Party to seek judicial relief from the required disclosure; (ii) cooperate with the Disclosing Party in any efforts the Disclosing Party may take to obtain protective measures in respect to the required disclosure; and (iii) if and to the extent requested by the Disclosing Party, make any required disclosure in a fashion that maximizes protection of the Confidential Information, provided that Disclosing Party shall reimburse Receiving Party for any additional or extraordinary costs incurred by Receiving Party in complying with Disclosing Party's request.

15.4 Residuals. The Parties acknowledge and agree that exposure to Confidential Information of the Disclosing Party will inevitably enhance Receiving Party's knowledge and understanding of Disclosing Party's industry and business activities, including without limitation discoveries, ideas, concepts, practices, know-how and techniques related to or used by Disclosing Party (collectively, "**General Knowledge**") in a way that cannot be separated from Receiving Party's other industry and business related knowledge. Each Party agrees that, without limiting the non-disclosure obligations under this Article 15, this Article 15 shall not restrict a Party's use of such General Knowledge for its own internal purposes so long as such use does not incorporate Confidential Information that is specific to the Disclosing Party.

15.5 Injunctive Relief. The Parties acknowledge and agree that breach of this Article 15 may cause irreparable injury for which monetary damages may not be an adequate remedy. Accordingly, each Party may seek injunctive relief and any other available equitable remedies to enforce the provisions of this Article 15.

15.6 Public Records Act. The parties understand and agree that Clallam County is a political subdivision of the State of Washington and is subject to the provisions of the Washington State Public Records Act (the "**Act**"). Subject to notice and process requirements contemplated in 15.3 above, and otherwise required under the Act, the parties

agree that the County's compliance with the Public Records Act shall not be construed to be a breach of this agreement.

ARTICLE 16: DEFAULT

16.1 Definition. A "**Default**" shall be deemed to have occurred under this Agreement under the following circumstances:

(a) in the case of a failure to pay any amount when due under this Agreement, a Party fails to pay such amount within fifteen (15) days after written notice from the other Party specifying such breach; or

(b) in the case of any other material breach of this Agreement, a Party fails to cure such breach within thirty (30) days after written notice from the other Party specifying such breach, provided that if the breach is of a nature that cannot reasonably be cured within said thirty (30) day time period, a Default shall not have occurred so long as the breaching Party has commenced cure within said thirty (30) day time period and thereafter reasonably and diligently pursues cure to completion.

16.2 Remedies. In the event of any Default hereunder, the non-Defaulting Party may do any one or more of the following: (i) take such actions as it deems reasonably necessary to correct the Default; (ii) pursue any other remedies available to it under this Agreement; and/or (iii) initiate the dispute resolution process contained in Article 18. The Parties intend for a Party's good faith participation in the dispute resolution process described in Article 18 to constitute a necessary pre-requisite to the commencement by such Party of any legal action regarding this Agreement.

16.3 No Waiver. A waiver by either Party at any time of any of its rights regarding a particular breach or Default of the other Party under this Agreement shall not be deemed a permanent waiver of such rights, nor shall any such waiver be deemed a waiver of any subsequent breach or Default.

ARTICLE 17: FORCE MAJEURE

Neither Party will have any claim or right against the other for any failure of or delay in performance by the other Party if the failure or delay is caused by or the result of any act of God, fire, flood, hurricane or other natural catastrophe, terrorist actions, vandalism, cable cut or other similar catastrophe, any law, order, regulation, direction or action of any governmental, civil or military authority, national emergency, insurrection, riot or war; inability to obtain equipment, material or other supplies, strike, lockout or other similar occurrence beyond the control and without the fault or negligence of the affected party (each, a "**Force Majeure Event**"). Notwithstanding the foregoing, if the force majeure delay exceeds thirty (30) days, either Party may terminate this Agreement on written notice without incurring any liability hereunder.

ARTICLE 18: DISPUTE RESOLUTION

18.1 General Provisions. Except for actions seeking a temporary restraining order or injunction, or suits to compel compliance with this dispute resolution process, the Parties agree to use the dispute resolution procedures set forth in this Article 18 with respect to any controversy or claim (each, a "**Dispute**") arising out of or relating to this Agreement. All discussions occurring and documents exchanged pursuant to Sections 18.2 and 18.3 below are confidential and inadmissible for any purpose in any legal proceeding involving the Parties; provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the negotiation or mediation process.

18.2 Negotiations. Should any Dispute arise, either Party may give the other Party written notice of the Dispute (each, a "**Dispute Notice**"). The Parties shall use good faith efforts to resolve the Dispute through negotiation within thirty (30) days of the date on which the Dispute Notice is delivered. With respect to fee disputes arising under Article 5, compliance with the negotiation procedures described in Article 5 shall be in lieu of the provisions of this Section 18.2. If the Parties do not resolve the Dispute within such thirty (30) day period, either of the Parties may submit the matter to non-binding mediation through a professional mediation service.

18.3 Mediation. If a Dispute is submitted to mediation, the Parties will cooperate in selecting a qualified mediator from a panel of neutral mediators having experience in the telecommunications and broadband internet industry. The Parties shall share equally in the costs of mediation. Any Dispute that cannot be resolved through mediation within sixty (60) days of submitting the Dispute to mediation shall be resolved by binding arbitration as provided in Section 18.4 below.

18.4 Binding Arbitration. Any arbitration hearing shall be before a single neutral arbitrator and shall be held in the Seattle, Washington offices of Judicial Arbitration & Mediation Services, Inc., or a similar professional dispute resolution organization. The arbitration shall be administered pursuant to the rules and procedures of the American Arbitration Association. The parties shall equally share the fees of the arbitrator. The Federal Arbitration Act, 9 U.S.C. §§ 1-15, not state law, shall govern the arbitrability of all disputes.

18.4 Governing Law. This Agreement and all matters arising out of this Agreement shall be governed by the laws of the State of Washington. ***Each party waives, to the fullest extent permitted by law, trial by jury of any disputes, claims or issues arising under the Agreement.***

ARTICLE 19: ASSIGNMENT

Neither Party shall assign its rights under this Agreement without the prior written consent of the other Party, which will not be unreasonably withheld, delayed or conditioned; provided, however, that no assignment shall be to any entity that cannot meet Section 5.5 and the other obligations of this Agreement. No such consent will be required, however, for a transfer in trust, by mortgage, by other hypothecation, by assignment of any right or interest of Astound in the IRU Facilities in order to secure indebtedness, and no such consent will be required for a change in control or transfer of an ownership interest or other interest in Astound to the parent of Astound, or transfer of an interest in the IRU Facilities to the parent of Astound, or any action which is the result of a merger of the parent of Astound, or any action which is the result of a merger of another Affiliate of Astound. Astound will provide written notice to County of any transaction as described in this paragraph within sixty (60) days of such transaction.

ARTICLE 20: MISCELLANEOUS

20.1 Warranty of Authority. Each of the signatories hereto warrants and represents that he or she has been duly authorized to execute this Agreement on behalf of the Party for whom he or she purports to sign this Agreement, and that this Agreement is binding on such Party in accordance with its terms.

20.2 Entire Agreement. This Agreement constitutes the entire agreement between the Parties regarding the subject matter hereof, and supersedes any and all prior oral or written agreements between the Parties regarding the subject matter contained herein. This Agreement may not be modified or amended in any manner except by a written document signed by the Party against whom such modification is sought to be enforced.

20.3 Interpretation. This Agreement shall be governed and interpreted in accordance with the laws of the State of Washington. This Agreement and each of the terms and provisions of it are deemed to have been explicitly negotiated by the Parties, and the language in all parts of this Agreement shall, in all cases, be construed according

to its fair meaning and not strictly for or against either of the Parties hereto. The captions and headings in this Agreement are used only for convenience and are not intended to affect the interpretation of the provisions of this Agreement. This Agreement shall be construed so that wherever applicable the use of the singular number shall include the plural number, and vice versa, and the use of any gender shall be applicable to all genders.

20.4 Survival. Those provisions of this Agreement that by their nature and import must survive the expiration or earlier termination of this Agreement in order to be given their full force and effect shall so survive.

20.5 Severability. If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be found invalid or unenforceable, the remainder of this Agreement and the application of that provision to other persons or circumstances shall not be affected thereby, but shall instead continue in full force and effect, to the extent permitted by law.

20.6 Attorneys' Fees. If any proceeding is brought by a Party to enforce or interpret any term or provision of the Agreement, the substantially prevailing Party in such proceeding will be entitled to recover, in addition to all other relief as set forth in the Agreement, that Party's reasonable attorneys' and experts' fees and expenses.

20.7 No Joint Venture. The relationship between the County and Astound shall not be that of partners, agents, or joint venturers for one another, and nothing contained in this Agreement shall be deemed to constitute a partnership or agency agreement between them for any purposes, including, but not limited to federal income tax purposes.

20.8 No Third Party Beneficiaries. This Agreement is made and entered into for the sole benefit of the County and Astound. No third party shall be deemed to have any rights under this Agreement; there are no third party beneficiaries to this Agreement.

20.9 Standard of Performance. All actions, activities, consents, approvals and other undertakings of the Parties in this Agreement shall be performed in a reasonable and timely manner, it being expressly acknowledged and understood that time is of the essence in the performance of obligations required to be performed by a date expressly specified herein. Except as specifically set forth herein, for the purpose of this Agreement the standards and practices of performance within the telecommunications industry in the relevant market shall be the measure of a Party's performance.

20.10 Compliance with Law. Each Party shall exercise its rights and perform its obligations under this Agreement in full compliance with all applicable laws, rules and regulations of any governmental authority having proper jurisdiction.

20.11 Exhibits. The following Schedules and Exhibits are attached to this Agreement and incorporated herein by this reference:

SCHEDULE 1	-	Map Depicting County Network
SCHEDULE 2	-	Map Depicting IRU Facilities
SCHEDULE 3	-	Map Depicting Joint Use Facilities
SCHEDULE 4	-	Sub-Recipient Schedule
SCHEDULE 5	-	Fiber Testing Specifications
EXHIBIT A	-	WSBO Contract
EXHIBIT B	-	PWB Contract

20.12 Execution in Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument. Any executed documents sent to the other Party in portable document format (pdf) images via email will be considered the same as an original document.

IN WITNESS WHEREOF, Astound and the County, intending to be legally bound hereby, have duly executed this Agreement as of the date first above written.

ASTOUND BROADBAND:

WaveDivision Holdings, LLC, a Delaware limited liability company

By _____

Name: _____

Title: _____

CLALLAM COUNTY:

Clallam County, a political subdivision of the State of Washington

By _____

Name: _____

Title: _____

Approved as to form:

By _____

Name: _____

Title: Deputy Prosecuting Attorney

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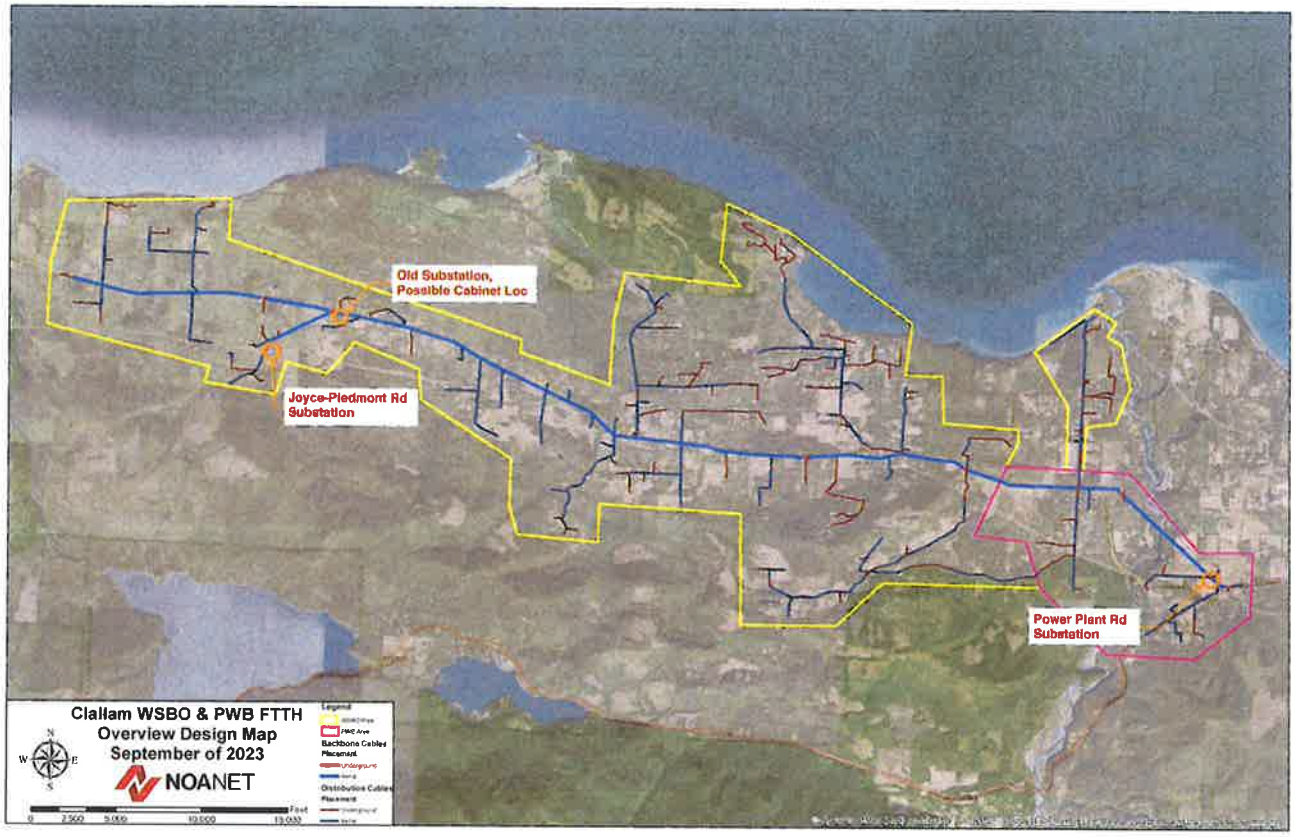
SCHEDULE 1
to
Dark Fiber IRU Agreement

Map Depicting County Network



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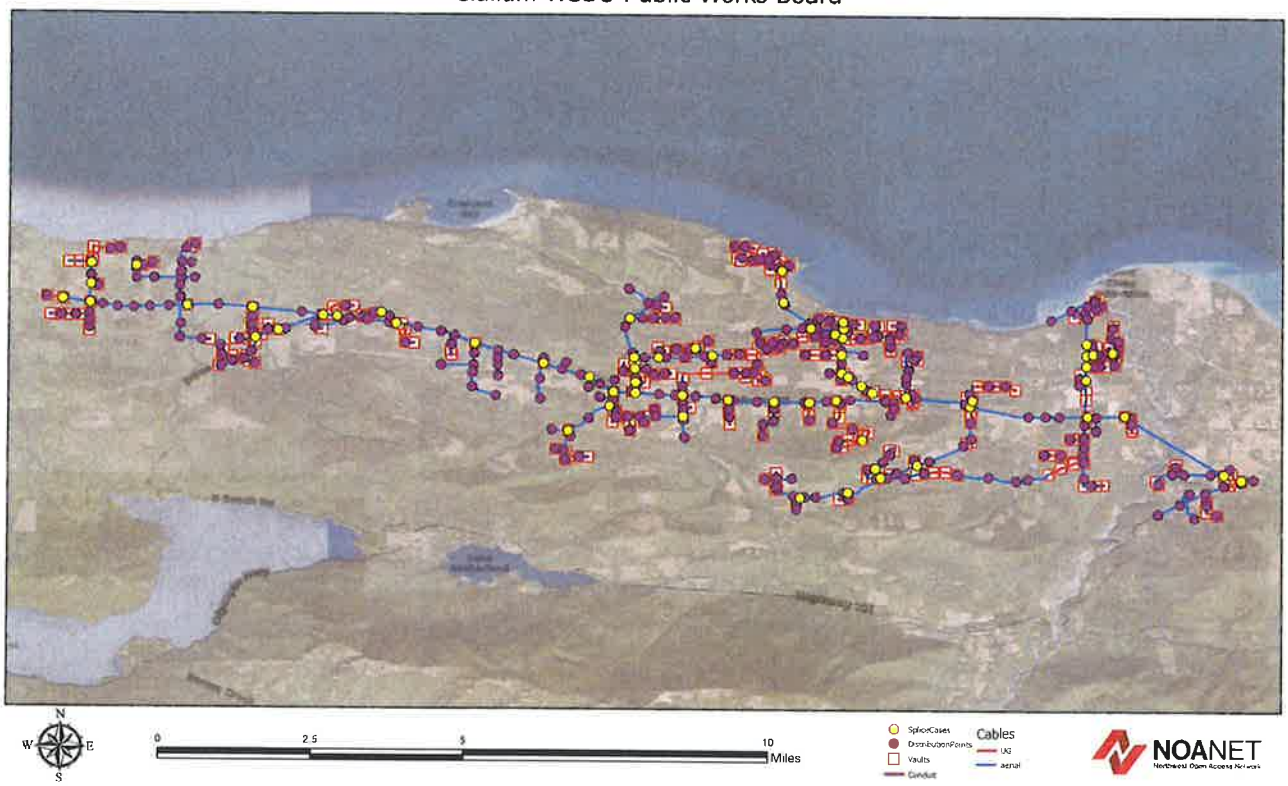
SCHEDULE 2
to
Dark Fiber IRU Agreement

Map Depicting IRU Facilities

Clallam WSBO Public Works Board



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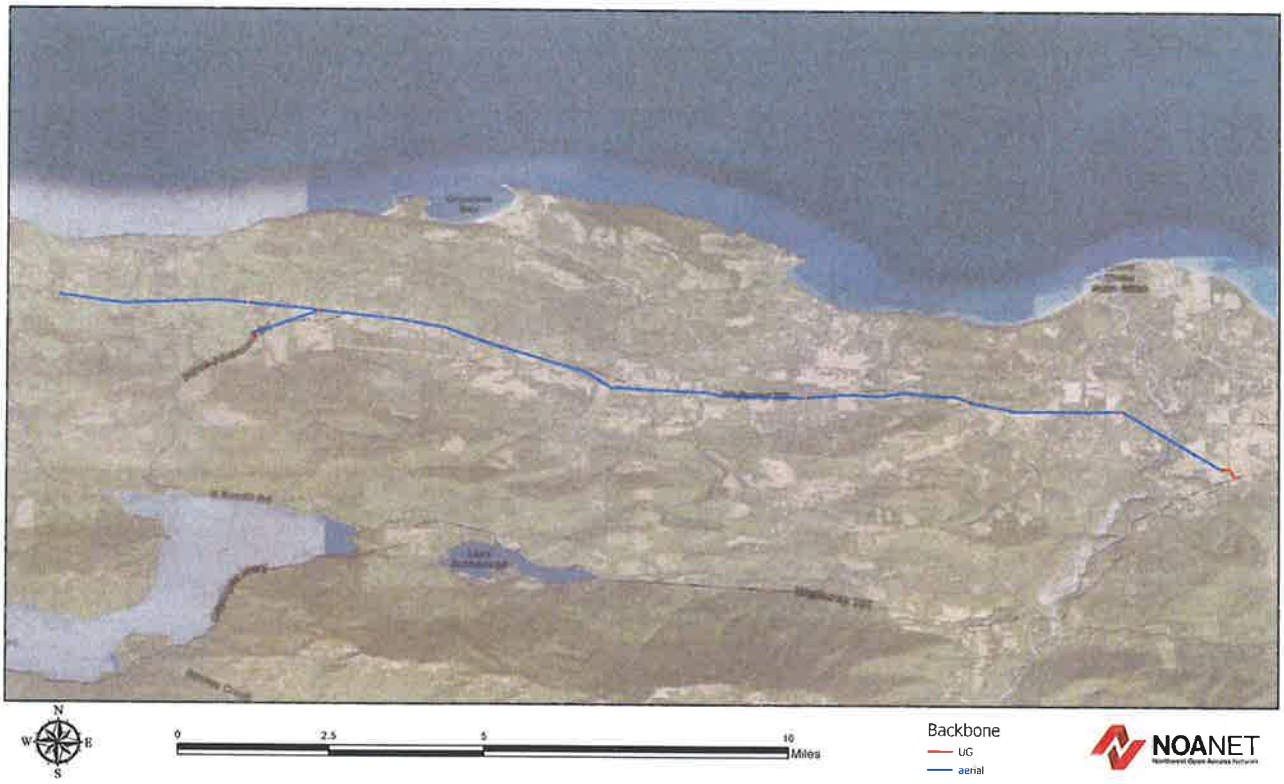
SCHEDULE 3
to
Dark Fiber IRU Agreement

Map Depicting Joint Use Facilities

Clallam WSBO Public Works Board



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SCHEDULE 4
to
Dark Fiber IRU Agreement

Subrecipient Schedule

1. Project Description. Astound shall engineer, furnish, and construct the County Network capable of delivering speeds that result in minimum service speed that reliably meets or exceeds 100 megabits per second download (Mbps) and between at least 20 Mbps and 100 Mbps and scalable to a minimum of 100 Mbps symmetrical download and upload speeds. The labor and services to be performed by Astound in association with the design and construction of the Project are defined as "**Work**" and are set forth generally in the Scope of Work set forth below.

2. Project Timeline. The period of Astound's performance shall begin within thirty (30) days of the Execution Date. Astound shall use all commercially reasonably efforts to complete the Project by September 30, 2026.

3. Project Contribution; Payment Terms. As set forth in Exhibit A and B, Astound may request reimbursement to cover eligible costs incurred during the period that begins at the execution of this agreement, and ends September 30, 2026. Clallam County shall pay an amount not to exceed the total contract amount listed in the Scope of Work section of this Schedule (Figure 1, below). Request for reimbursement by Astound and payment of the Contribution shall be made to Astound in monthly installments in a form reasonably acceptable to County. County shall issue payment to Astound for all properly submitted reimbursement request no later than thirty (30) day after the receipt of complete and accurate reimbursement information from Astound.

4. Project Plan. Astound shall supply all of the labor and materials required to construct the network infrastructure for the County Network, as set forth in the Scope of Work below.

5. Permitting. Astound shall obtain, at its sole cost, all necessary permits and governmental approvals necessary for the construction, use and repair and maintenance of the Project. The County will work in good faith to provide to Astound all rights-of-way and easements reasonably necessary or desirable for use and access to properties owned by County for purposes of allowing Astound to perform the Work.

6. Astound Representations and Warranties. Astound represents and warrants to the County as follows:

i. Astound has sufficient qualified, experienced personnel to administer and conduct the Work in a prompt, skillful and competent manner.
ii. Astound is able to obtain and furnish the labor, materials, and equipment required to complete the Work.
iii. Astound's execution of this Agreement and the performance thereof is within the corporate powers of Astound and has been duly authorized by all requisite corporate action.
iv. Astound is duly registered to do business in the State of Washington.

7. The Work. Astound agrees to furnish all items necessary to perform all of its Work within the Scope of the Work, all in good workmanlike manner and in strict accordance with this Agreement.

8. Safety. Astound shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to comply with all applicable laws, including health and safety.

9. Final Completion. Astound shall notify as to final completion of the Work and the County shall accept the final completion of the Work for the respective phase only when all Work has been completed in accordance with the Agreement and requirements of Schedule 5.

10. Astound Warranty; Correction of Work. Astound warrants and represents that each of its employees, independent contractors or agents assigned to perform services hereunder shall have training, background and skills reasonably commensurate with the level of performance reasonably expected for the tasks to which he or she is assigned. Astound hereby warrants its Work against all defects of materials and/or workmanship and agrees to correct, repair, or replace promptly any Work that is defective or does not conform to the requirements of this Agreement.

11. IRU Facilities Operation, Maintenance, and Repair. Astound shall operate, maintain, and repair IRU Facilities for the IRU Term consistent with this Agreement.

12. Scope of Work. The following Scope of Work outlines the requirements of Astound for the delivery of a fiber optic and associated apparatus infrastructure build out for the purposes of this Agreement (as previously defined, the Projects). The Scope of Work has been developed in five categories: 1) Construction, 2) Materials, 3) Engineering, 4) Splicing, and 5) Contingencies. The contingency section outlines those items that may be necessary should there be deviations in design plans and other circumstances. The entire Scope of Work encompasses both the WSBO and PWB grants in the respective Project areas as shown in the included Schedules.

(a) Construction Overview:
The purpose of the Project is to construct a fiber optic network to support high-speed data transmission in Clallam County and facilitate network connections to various key points and facilitate residential broadband services to the community.

Scope of Work:

1. Project Initiation:
    - Conduct a thorough site survey to assess existing infrastructure, potential challenges, and optimal routes for fiber optic installation.
    - Obtain all necessary permits and approvals from local authorities.
2. Design and Planning:
    - Engage a qualified engineer to develop a detailed design for the fiber optic network, including route maps, cable specifications, and connection points.
    - Ensure necessary environmental and regulatory clearances for the proposed design are obtained.
3. Materials and Equipment:
    - Procure high-quality fiber optic cables, connectors, splicing equipment, and any other materials required for the installation.
    - Ensure compliance with industry standards and specifications.
4. Construction and Installation:
    - Excavate trenches or install conduit systems for the underground installation of fiber optic cables.
    - Install aerial fiber optic cables using appropriate supports and poles and approved construction standards of the joint use owner.
    - Install distribution boxes, cabinets, and other necessary infrastructure.
    - Implement proper cable management and labeling throughout the network.
5. Testing and Quality Assurance:
    - Conduct comprehensive testing of the fiber optic network to ensure proper connectivity, signal strength, and data transmission.
    - Address any defects or issues identified during testing.
    - Provide documentation of testing results and as-built drawings.
6. Documentation and Reporting:

- Develop and submit comprehensive documentation, including as-built drawings, cable schedules, and test results.
- Provide regular progress reports to stakeholders.

7. Project Completion:
   - Obtain final approvals and sign-offs from relevant authorities.
   - Supply and deliver overall project documentation, permits, as-builts and other pertinent information to the project stakeholders.
   - Provide ongoing support and maintenance services during construction.

Schedule:
The design, engineering, materials acquisition, and construction of the Project set forth in this Scope of Work is expected to commence on the IRU Execution Date and conclude on or about September, 2026. The schedule may be subject to adjustments based on unforeseen circumstances or project-specific considerations.

Budget:
The budget for the fiber optic network construction project is estimated as shown in Figure 1.

(b) Materials Overview:
The purpose of this procurement section of the Scope of Work is to outline the process and responsibilities associated with the procurement of materials for the Project. The Project aim is to utilize materials that meet or exceed industry standards and comply with the requirements of the WSBO and PWB grant awarded projects.

Scope of Work:

1. Material Requirements Assessment:
   - Collaborate with the engineering team to identify and quantify the materials required for the fiber optic network construction.
   - Ensure that all materials meet industry standards and project specifications.
2. Vendor Selection:
   - Conduct a comprehensive market analysis to identify potential vendors for fiber optic cables, connectors, splicing equipment, and other required materials.
   - Evaluate vendors based on factors such as product quality, pricing, delivery timelines, and past performance.
   - Prepare a shortlist of approved vendors for each category of materials.
3. Request for Quotations (RFQ):
   - Prepare detailed RFQ documents specifying the required materials, quantities, quality standards, and delivery schedules.
   - Distribute the RFQ to approved vendors and allow sufficient time for them to submit their quotations.
4. Quotation Evaluation and Selection:
   - Evaluate received quotations based on predefined criteria.
   - Collaborate with the engineering and project management teams to assess the technical compliance of materials proposed by vendors.
   - Select vendors based on a combination of technical compliance, cost-effectiveness, and reliability.
5. Contract Negotiation:
   - Initiate contract negotiations with selected vendors.
   - Ensure that contracts clearly define material specifications, delivery schedules, pricing, payment terms, and any other relevant terms and conditions.
   - Obtain legal review and approvals for contracts as necessary.
6. Purchase Order Issuance:

- Generate and issue purchase orders to selected vendors based on the finalized contracts.
- Clearly communicate delivery schedules and any other specific project requirements to vendors.

7. Quality Assurance:
   - Work with vendors to establish quality assurance and control processes for materials.
   - Conduct inspections upon receipt of materials to ensure compliance with specifications.
   - Address any non-compliance issues promptly and work with vendors to resolve them.
8. Documentation and Reporting:
   - Maintain comprehensive records of all procurement activities, including RFQs, vendor evaluations, contracts, and purchase orders.
   - Provide regular reports to project stakeholders on procurement progress.

Schedule:
The materials procurement process is expected to commence on the IRU Execution Date. The schedule may be subject to adjustments based on unforeseen circumstances or project-specific considerations.

Budget:
The budget for materials procurement is estimated as shown in Figure 1.

(c) Engineering Overview:
The objective of this section of the Scope of Work is to outline the engineering and permitting activities required for the successful planning and implementation of the Project. The Scope of Work is meant to outline the expected requirements of this project. It is the expectation of both Parties that that all necessary activities contained in this Scope of Work will be performed that prepare the network for construction ensuring all necessary jurisdictional approvals have been identified and met.

Scope of Work:

1. Site Survey and Assessment:
   - Conduct a detailed site survey to assess existing infrastructure, topography, and potential challenges.
   - Identify optimal routes for the fiber optic network, taking into account environmental considerations and regulations.
   - Engage with relevant stakeholders, including local authorities and landowners, to gather input and address concerns.
2. Engineering Design:
   - Develop a comprehensive engineering design for the fiber optic network, including route maps, cable specifications, splice points, and any necessary supporting infrastructure.
   - Ensure compliance with grant requirements, both WSBO and PWB, local, state, and federal regulations, as well as industry standards.
3. Permitting Process:
   - Identify and compile all required permits for the fiber optic network construction, including but not limited to:
     - Right-of-Way (ROW) permits
     - Building permits
     - Utility permits
     - Traffic control permits
   - Prepare and submit permit applications to the relevant regulatory authorities.
4. Public Engagement:
   - Cooperate with development of a public engagement plan to inform and involve the community in the project.

- Participate in public meetings and address concerns raised by the community.
- Collaborate with local authorities to address public input and concerns.

5. Coordination with Utilities:
   - Coordinate with utility providers to identify existing infrastructure and ensure compatibility with the fiber optic network.
   - Obtain necessary approvals and permits for crossing utility easements.
6. Legal and Regulatory Compliance:
   - Ensure compliance with all applicable laws, regulations, and industry standards.
   - Work closely with legal experts to address any legal considerations related to the project.
7. Documentation and Reporting:
   - Maintain comprehensive records of all engineering and permitting activities.
   - Provide regular progress reports to project stakeholders and regulatory authorities. Supply copies of all approved permits, easements, and other jurisdictional approvals for project stakeholders.

Schedule:
The engineering and permitting phase are expected to commence on the IRU Execution Date and conclude on or about December, 2024. The schedule may be subject to adjustments based on regulatory processes and project-specific considerations.

Budget:
The budget for the engineering and permitting phase is estimated as shown in Figure 1.

(d) Splicing Overview:
The purpose of this Scope of Work is to outline the activities and responsibilities associated with optical splicing for the construction of the Project. The optical splicing process is crucial for establishing reliable connections and ensuring the seamless transmission of high-speed data in the network.

Scope of Work:

1. Preparation and Planning:
   - Review engineering design documents to understand the optical fiber routes, splice points, and specifications.
   - Conduct a pre-splicing site assessment to ensure that the work environment is conducive to splicing activities.
2. Material and Equipment Readiness:
   - Ensure that all necessary splicing equipment, including fusion splicers, cleavers, and splice trays, is in good working condition.
   - Verify the availability of quality optical fiber cables and connectors conforming to project specifications.
3. Cable Preparation:
   - Receive and inspect optical fiber cables for any damages during transportation.
   - Prepare cables for splicing by cleaning and stripping the protective layers as per manufacturer guidelines.
   - Verify cable labeling to ensure accurate identification during the splicing process.
4. Fusion Splicing:
   - Perform fusion splicing at designated splice points following industry best practices and project specifications.
   - Conduct loss measurements to ensure optimal splice performance as per the performance standards of this agreement.
   - Document splice parameters, including splice loss, fiber offset, and cleave angles.

5. Verification and Testing:
    - Conduct end-to-end optical continuity tests to verify the integrity of the spliced fibers.
    - Utilize OTDR (Optical Time Domain Reflectometer) to identify and locate any potential issues such as breaks, bends, or excessive losses.
    - Address and rectify any identified issues to meet project performance standards.
    - Work with project stakeholders for the successful completion and QA/QC of all connections and fibers.
6. Cable Management:
    - Implement proper cable management practices, including organizing and securing spliced fibers in splice trays and enclosures.
    - Label all spliced fibers for easy identification and maintenance.
7. Documentation:
    - Maintain detailed documentation of all splicing activities, including splice logs, test results, and as-built drawings.
    - Provide comprehensive records to the project stakeholders for future reference and maintenance.
    - Create, Develop, and Supply GIS level shape files and OTDR testing results to project stakeholders.
8. Safety Compliance:
    - Adhere to safety protocols and guidelines throughout the splicing process to ensure the well-being of the personnel and the integrity of the network.

Schedule:
The optical splicing activities are expected to commence upon completion of construction activity for each relevant Segment. The schedule may be subject to adjustments based on unforeseen circumstances or project-specific considerations.

Budget:
The budget for optical splicing is estimated as shown in Figure 1.

(e) Contingency Overview:
Contingency payments for the Project are funds allocated within the Project budget to address unforeseen circumstances or changes in scope that may arise during the course of the Project. The contingency budget is intended to cover additional costs that were not initially anticipated but are deemed necessary for the successful completion of the Project.

Contingency Allowance:
The Scope of Work includes a contingency allowance as shown in Figure 1. for unforeseen conditions and changes in the Scope of Work. The contingency allowance is intended to cover additional costs that may arise during the course of the Project. The contingency allowance may be used at the request of Astound, with the written approval of the County, to address unforeseen conditions or changes that are deemed necessary for the successful completion of the Project. Astound shall provide detailed documentation and justification for the use of the contingency allowance, including but not limited to receipts, invoices, and change orders.

Approval Process:
Any proposed use of the contingency allowance must be submitted to the County in writing, detailing the nature of the unforeseen condition or change, the associated costs, and the impact on the Project schedule. The County shall review the submission within a reasonable time and provide written approval or denial, which such approval shall not be unreasonably conditioned, delayed, or withheld.

Exhaustion of Contingency:

In the event that the contingency allowance is fully exhausted and additional unforeseen conditions or changes arise, any further costs incurred shall be the responsibility of the Astound.

WSBO		Each	Sub Total	Total
	Construction	$10,574,030.76		
	Materials	$2,275,694.09		
	Engineering	$1,921,153.79		
	Splicing	$759,000.00		
	Contingency	$1,057,403.08		
			$16,587,281.72	
PWB		Each	Sub Total	Total
	Construction	$1,661,387.36		
	Materials	$477,304.04		
	Engineering	$376,923.52		
	Splicing	$136,950.00		
	Contingency	$166,138.74		
			$2,818,703.65	
				$19,405,985.37

Figure 1

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SCHEDULE 5
to
Dark Fiber Construction and IRU Agreement

Fiber Testing Specifications

Circuit Testing Acceptance Standards

OTDR traces will be taken in both directions at 1310 nm and 1550 nm for all circuits less than 50 Km. For circuits over 50 Km we take OTDR traces at 1550 nm. All circuits will be shot with a launch cable with a minimum length of .5 Km or the length agreed to by the Parties otherwise. These traces will be reviewed before the circuit is handed off. For a circuit to be handed off it must comply with the specifications for splice, reflectance and span attenuation.

Splice Loss Specifications

Pig Tail - < .5 per connector or 1.0 per jumper

For values greater than this, the splice will be broken and re-spliced until an acceptable loss value is achieved. If, after three attempts is not able to produce a loss value less than 0.50 dB, the splice will be marked as Out-of-Spec ("OOS") on the OTDR report.

Splice Point - Bi-directional average loss of 0.15 dB or less.
The objective for each splice is a loss of 0.15 dB or less. If, after three attempts, we are not able to produce a loss value of less than 0.15 dB, then 0.25 dB will be acceptable. If, after two additional attempts, a value of less than 0.25 dB is not achievable, then the splice will be marked as OOS

Splice Point - Uni-directional OTDR testing, the objective for each splice is a loss of 0.15 dB or less. If, after three attempts, we are not able to produce a loss value of less than 0.15 dB, then 0.25 dB will be acceptable.

Connector Reflectance

Reflectance at jumper – Will be less than -40dB, we will work to achieve less than -40dB by cleaning & polishing fiber tips and/or fiber jumpers or provide alternative fiber strands that achieve results less than -40dB. If we are unable to do so after 3 attempts, the port will be marked as OOS.

Total loss for a circuit

Attenuation due to distance

At 1310nm: (0.40 dB/km x km of cable)
At 1550nm: (0.30 dB/km x km of cable)

Average Splice Loss per circuit

The standard for each fiber within a span shall be an average bi-directional loss of 0.10 dB or less for each splice. For example, if a given span has 10 splices, each flow shall have total bi-directional loss (due to the 10 splices) of 1.0 dB or less. Each individual splice may have a bi-directional loss of 0.15 dB or less, but the average bi-directional splice loss across the span must be 0.10 dB or less.

Acceptable Total loss per circuit will be calculated with the following formula:

At 1310nm: (0.40 dB/km x km of cable) + (number of connectors x 0.5 dB) + (0.10 dB x number of splices).

At 1550nm: (0.30 dB/km x km of cable) + (number of connectors x 0.5 dB) + (0.10 dB x number of splices).

Mass Fusion Splicing

Ribbon Fiber Bi-directional Splice Loss Standards

Fiber Type	Splicing Method	Splice Loss (dB)
Standard Single Mode	Mass fusion splicing	0.20 dB
Non-zero Dispersion-shifted	Mass fusion splicing	0.25 dB

In the event that the splice loss values listed cannot be achieved by at least 66% (8 out of the 12) of the fibers in the ribbon, the ribbon containing the OOS fiber(s) will be broken and re-spliced. The re-splice procedure and acceptable values are listed in the table below. Ribbons containing any splices above a 1.0 dB loss will be broken and re-spliced.

Mass Fusion Re-splice Acceptance

Ribbon Fiber	Standard Single Mode	Non-zero Dispersion Shifted
Acceptance Criteria	0.20 dB	0.25 dB
After 3 attempts	0.30 dB	0.35 dB
After 2 additional attempts	0.40 dB	0.50 dB

Note:
Five (5) attempts are to be performed and all non-successful splices will be recorded and marked as OSS.

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Washington State Department of Commerce

Capital Agreement with

Clallam County

through

Washington State Broadband Office – Infrastructure Acceleration Grant
America Rescue Plan Act, State and Local Fiscal Recovery Funds

For

Clallam County Broadband

Start date: July 1, 2021

DocuSign Envelope ID: DA82471E-19E7-4774-AA85-7FCDF407A55F

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Contract Number: 22-96810-002

Washington State Department of Commerce
Local Government Division
State Broadband Office
ARPA State and Local Fiscal Recovery Funds Grant

1. Grantee	2. Grantee Doing Business As (optional)
Clallam County 223 E 1st St. STE 3 Port Angeles, WA 98362	N/A

3. Grantee Representative	4. COMMERCE Representative
Steve Gray Transportation Program Manager (360) 417-2290 steve.gray@clallamcountywa.gov	Chelsea Bagwell Broadband Infrastructure Specialist (360) 485-3890 Chelsea.bagwell@commerce.wa.gov PO Box 42525 1011 Plum Street SE Olympia, WA 98504-2525

5. Grant Amount	6. Funding Source	7. Start Date	8. End Date
$ 16,074,985.00	**Federal:** ☒ **State:** ☐ **Other:** ☐ **N/A:** ☐	July 1, 2021	June 30, 2025, Contingent on reappropriation; June 30, 2023 if funds are not reappropriated.

9. Federal Funds (as applicable)	Federal Agency	ALN (CFDA #):	Indirect Rate:
$ 16,074,985.00	US Dept. Treasury	21.027	N/A

10. SWV #	11. UBI #	13. UNIQUE ENTITY ID #
0000200-19	054-004-559	JV6JJNELRBS5

14. Grant Purpose

The outcome of this performance-based Grant Agreement is to undertake a legislatively approved project that furthers the goals and objectives of Infrastructure Projects Program as referenced in Attachment A – Scope of Work.

COMMERCE, defined as the Department of Commerce and Grantee acknowledge and accept the terms of this Grant and attachments and have executed this Grant on the date below to start as of the date and year referenced above. The rights and obligations of both parties to this Grant are governed by this Grant and the following other documents incorporated by reference: Attachment "A" – Scope of Work, Attachment "B" – Certification of Availability of Funds to Complete the Project, Attachment "C" – Certification of the Payment and Reporting of Prevailing Wages, the following documents incorporated herein by reference: Grantee's Application for Funding and the Washington State Broadband Office Infrastructure Acceleration Grants Handbook 21-23 prepared by Commerce.

FOR GRANTEE

DocuSigned by:
Mark Ozias
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Mark Ozias, Clallam Co Commissioner
12/27/2022 | 12:03 PM PST
Date

APPROVED AS TO FORM ONLY
DocuSigned by:
Bert Dee Boughton
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Dee Boughton, Deputy Prosecuting Attorney
12/5/2022 | 9:57 AM PST
Date

FOR COMMERCE

DocuSigned by:
Mark Barkley
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Mark K. Barkley, Assistant Director, Local Government Division
1/3/2023 | 6:22 AM PST
Date

APPROVED AS TO FORM ONLY
Sandra Adix
Assistant Attorney General
August 08, 2022
Date

DECLARATIONS

CLIENT INFORMATION

Grantee Name:	**Clallam County**
Grant Number:	**22-96810-002**

PROJECT INFORMATION

Project Name:	**Clallam County Broadband**
Project City:	**Port Angeles**
Project State:	**Washington**
Project Zip Code:	**98343, 98363**

GRANT INFORMATION

Grant Amount:	**$ 16,074,985.00**
Local Match:	**$ 1,786,109.41**
Appropriation Number:	**ESSB 1080, Section 1086**
Re-appropriation Number (if applicable):	
Grant End Date:	**June 30, 2023; may be extended up to June 30, 2025, contingent on State and Federal reappropriation**
Biennium:	2021-2023
Biennium Close Date:	June 30, 2023
Earliest Date for Reimbursement:	March 3, 2021
Time of Performance:	**In accordance with Special Terms and Conditions Number 4**

FUNDING INFORMATION

Federal Funding:	Sec. 602 Coronavirus State Fiscal Recovery Funds of Title VI of Social Security Act as added by American Rescue Plan Act of 2021 (ARPA or "Act"), Title IX, Subtitle M, Sec. 9901, Public Law 117–2, codified at 42 U.S.C. 802 et seq.
Federal Award Agency:	US Department of Treasury
Amount of Federal Funds Obligated by this Action:	**$ 16,074,985.00**

ADDITIONAL SPECIAL TERMS AND CONDITIONS GOVERNING THIS AGREEMENT

Extension of Grant Upon Reappropriation.

Notwithstanding General Term and Condition No. 4, the End Date of this Grant **may be extended upon written notice to Grantee from Commerce** for a period of time consistent with the effective date of any re-appropriation of funds, and/or with terms reflecting new Federal requirements for ARPA funds, if any. In Commerce's sole discretion, after review of any funding re-appropriation terms and applicable Federal law or guidance, a contract amendment in accordance with General Term and Condition No. 4 may be required to extend the End Date.

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SPECIAL TERMS AND CONDITIONS
CAPITAL
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1. AUTHORITY

Funding for this Grant has been provided in the 2021-2023 biennial state Capital Budget, SSB 1080, pursuant to Federal grants to Washington State under the American Rescue Plan Act of 2021 (ARPA or "Act"), sec. 9901, Public Law 117–2, codified at 42 U.S.C. 802 et seq. The parties anticipate that funding under this Grant that is unexpended in the 2021-23 state biennium may be re-appropriated in future biennia, subject to Federal requirements.

2. ACKNOWLEDGEMENT OF FEDERAL FUNDING

Federal Award Identification Number (FAIN): SLRFP0002
Total amount of the federal award: **$ 16,074,985.00**

Federal Awarding Agency: US Department of Treasury
Research & Development (R&D): award will not be used for R&D

The Grantee agrees that any publications (written, visual, or sound) but excluding press releases, newsletters, and issue analyses, issued by the Grantee describing programs or projects funded in whole or in part with federal funds under this Grant, shall contain the following statements:

"This project was supported by grant awarded by the US Department of the Treasury. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the US Department of the Treasury. Grant funds are administered by the America Rescue Plan Act, State and Local Fiscal Recovery Funds, Washington State Department of Commerce."

3. GRANT MANAGEMENT

The Representative for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Grant.

The Representative for COMMERCE and their contact information are identified on the Face Sheet of this Grant.

The Representative for the Grantee and their contact information are identified on the Face Sheet of this Grant.

4. PERIOD OF PERFORMANCE, COSTS INCURRED, REIMBURSEMENT

a) Period of Performance. The initial period of performance for this award begins on the date hereof and ends on June 30, 2023. If unexpended funds under this Grant are re-appropriated, the period of performance (Contract End Date) will be extended to not later than October 30, 2026.

b) Costs Incurred Period. As set forth in Treasury's implementing regulations, Grantee may use funds awarded under ARPA to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024. Pursuant to Federal rules, a cost shall be considered to have been incurred if the Grantee has incurred an obligation with respect to such cost by December 31, 2024.

c) Reimbursement Period. All requests for reimbursement of eligible costs incurred between March 3, 2021 and December 31, 2024 payable from ARPA funds must be submitted to COMMERCE by the **earlier of** October 30, 2026 or 30 days prior to the Contract End Date.

d) In the event the grantee can't complete the full scope of work, due to material/supply chain delays, the parties may agree to amend the scope of work.

5. COMPENSATION

COMMERCE shall pay an amount not to exceed the total contract amount listed on the contract Face Sheet for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Work.

SPECIAL TERMS AND CONDITIONS
CAPITAL
FEDERAL FUNDS

6. BASIS FOR ESTABLISHING REAL PROPERTY VALUES FOR ACQUISITIONS OF REAL PROPERTY PERFORMANCE MEASURES

When the grant is used to fund the acquisition of real property, the value of the real property eligible for reimbursement under this grant shall be established as follows:

A. Grantee purchases of real property from an independent third-party seller shall be evidenced by a current appraisal prepared by a licensed Washington State commercial real estate appraiser, or a current property tax statement.

B. Grantee purchases of real property from a subsidiary organization, such as an affiliated LLC, shall be evidenced by a current appraisal prepared by a licensed Washington State commercial real estate appraiser or the prior purchase price of the property plus holding costs, whichever is less.

7. EXPENSES

Grantee shall receive reimbursement for travel and other expenses as identified below or as authorized in advance by COMMERCE as reimbursable. The maximum amount to be paid to the Grantee for authorized expenses shall not exceed the total contract amount listed on the contract Face Sheet.

Such expenses may include airfare (economy or coach class only), other transportation expenses, and lodging and subsistence necessary during periods of required travel. Grantee shall receive compensation for travel expenses at current state travel reimbursement rates.

8. INDIRECT COSTS

Grantee shall provide their indirect cost rate that has been negotiated between their entity and the federal government as set forth on the Face Sheet, Sec. 9. If no such rate exists a de Minimis indirect cost rate of 10% of modified total direct costs (MTDC) can be used (requested in the application or the project data sheet).

9. BILLING PROCEDURES AND PAYMENT

COMMERCE shall reimburse the Grantee for eligible Project expenditures, up to the maximum payable under this Grant Agreement. When requesting reimbursement for expenditures made, the Grantee shall submit to COMMERCE a signed and completed Invoice Voucher (Form A-19), that documents capitalized Project activity performed for the billing period. The Grantee can submit all Invoice Vouchers and any required documentation electronically through COMMERCE's Grants Management System (CMS), which is available through the Secure Access Washington (SAW) portal.

Grant funds are disbursed on reimbursement basis-only for eligible costs within the approved project's scope of work. Grant funds will be reimbursed and Grantee's matching funds must be expended by Grantee in the amounts and as identified on the Declarations Page.

The invoices shall describe and document, to COMMERCE's satisfaction, a description of the work performed, the progress of the project, and fees. The invoice shall include the Grant Number listed on the contract Face Sheet. If expenses are invoiced, provide a detailed breakdown of each type. A receipt must accompany any single expenses in the amount of $50.00 or more in order to receive reimbursement.

The voucher must be certified (signed) by an official of the Grantee with authority to bind the Grantee. The final voucher shall be submitted to COMMERCE within sixty (60) days following the completion of work or other termination of this Grant Agreement, or if work is not completed or Grant terminated, within fifteen (15) days following the end of the state biennium unless Grant Agreement funds are reappropriated by the Legislature in accordance with Additional Special Terms and Conditions set forth in the Declarations page above.

Each request for payment must be accompanied by a Project Status Report, which describes, in narrative form, the progress made on the Project since the last invoice was submitted, as well as a report of Project status to date. COMMERCE will not release payment for any reimbursement request received unless and until the Project Status Report is received. After approving the Invoice Voucher and Project Status Report, COMMERCE shall promptly remit a warrant to the Grantee.

SPECIAL TERMS AND CONDITIONS
CAPITAL
FEDERAL FUNDS

COMMERCE will pay Grantee upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Representative for COMMERCE **not more often than monthly**.

Payment shall be considered timely if made by COMMERCE within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Grantee.

COMMERCE may, in its sole discretion, terminate the Grant or withhold payments claimed by the Grantee for services rendered if the Grantee fails to satisfactorily comply with any term or condition of this Grant.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by COMMERCE.

Invoices and End of Fiscal Year

Invoices are due on the 20th of the month following the provision of services.

Final invoices for a state fiscal year may be due sooner than the 20th and Commerce will provide notification of the end of fiscal year due date.

The grantee must invoice for all expenses from the beginning of the contract through June 30, regardless of the contract start and end date.

Duplication of Billed Costs

The Grantee shall not bill COMMERCE for services performed under this Agreement, and COMMERCE shall not pay the Grantee, to extent that the Grantee is entitled to payment or has been or will be paid by any other source, including grants, for that service.

Disallowed Costs

The Grantee is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

Withholding

At its sole discretion, COMMERCE may withhold ten percent (10%) from each payment until acceptance by COMMERCE of the final report (or completion of the project, etc.).

10. SUBCONTRACTOR DATA COLLECTION

Grantee will submit reports, in a form and format to be provided by Commerce and at intervals as agreed by the parties, regarding work under this Grant performed by subcontractors and the portion of Grant funds expended for work performed by subcontractors, including but not necessarily limited to minority-owned, woman-owned, and veteran-owned business subcontractors. "Subcontractors" shall mean subcontractors of any tier.

11. HISTORICAL OR CULTURAL RESOURCES, HUMAN REMAINS

Certain capital construction projects may be subject to the requirements of Washington State Executive Order 21-02 "Archaeological and Cultural Resources". Grantee will cooperate with Commerce as may be required, to fulfill the requirements of EO-21-02. In the event that historical or cultural artifacts are discovered at the Project site during construction or rehabilitation, the Grantee or subcontractor shall immediately stop work and notify the local historical preservation officer and the state historic preservation officer at the Department of Archaeology and Historic Preservation at (360) 586-3065. If human remains are discovered, the Grantee shall immediately stop work and report the presence and location of the remains to the coroner and local enforcement, then contact DAHP and any concerned tribe's cultural staff or committee.

12. AUDIT

If the Grantee is a subrecipient and expends $750,000 or more in federal awards from any and/or all sources in any fiscal year, the Grantee shall procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the Grantee shall:

SPECIAL TERMS AND CONDITIONS
CAPITAL
FEDERAL FUNDS

A. Submit to COMMERCE the reporting package specified in OMB Super Circular 2 CFR 200.501, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor.
B. Submit to COMMERCE follow-up and developed corrective action plans for all audit findings.

If the Grantee is a subrecipient and expends less than $750,000 in federal awards from any and/or all sources in any fiscal year, the Grantee shall notify COMMERCE they did not meet the single audit requirement.

The Grantee shall send all single audit documentation to auditreview@commerce.wa.gov.

13. DEBARMENT

A. Grantee, defined as the primary participant and it principals, certifies by signing these General Terms and Conditions that to the best of its knowledge and belief that they:

i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.

ii. Have not within a three-year period preceding this Grant, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;

iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of federal Executive Order 12549; and

iv. Have not within a three-year period preceding the signing of this Grant had one or more public transactions (Federal, State, or local) terminated for cause of default.

B. Where the Grantee is unable to certify to any of the statements in this Grant, the Grantee shall attach an explanation to this Grant.

C. The Grantee agrees by signing this Grant that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by COMMERCE.

D. The Grantee further agrees by signing this Grant that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," as follows, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

LOWER TIER COVERED TRANSACTIONS

i. The lower tier Grantee certifies, by signing this Grant that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
ii. Where the lower tier Grantee is unable to certify to any of the statements in this Grant, such contractor shall attach an explanation to this Grant.

The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded**, as used in this section, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549,currently available online at eCFR :: 22 CFR Part 513 Subpart A -- General

14. INSURANCE

The Grantee shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the State should there be any claims, suits, actions, costs, damages or expenses arising from any loss, or negligent or intentional act or omission of the Grantee or Subcontractor, or

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agents of either, while performing under the terms of this contract. Failure to maintain the required insurance coverage may result in termination of this Grant.

The insurance required shall be issued by an insurance company authorized to do business within the state of Washington. Except for Professional Liability or Errors and Omissions Insurance, the insurance shall name the state of Washington, its agents, officers, and employees as additional insureds under the insurance policy. All policies shall be primary to any other valid and collectable insurance. The Grantee shall instruct the insurers to give COMMERCE thirty (30) calendar days advance notice of any insurance cancellation, non-renewal or modification.

The Grantee shall submit to COMMERCE within fifteen (15) calendar days of a written request by COMMERCE, a certificate of insurance which outlines the coverage and limits defined in this insurance section. During the term of the Grant, if required or requested, the Grantee shall submit renewal certificates not less than thirty (30) calendar days prior to expiration of each policy required under this section.

The Grantee shall provide, at COMMERCE's request, copies of insurance instruments or certifications from the insurance issuing agency. The copies or certifications shall show the insurance coverage, the designated beneficiary who is covered, the amounts, the period of coverage, and that COMMERCE will be provided thirty (30) days advance written notice of cancellation.

The Grantee shall provide insurance coverage that shall be maintained in full force and effect during the term of this Grant, as follows:

Commercial General Liability Insurance Policy. Provide a Commercial General Liability Insurance Policy, including contractual liability, written on an occurrence basis, in adequate quantity to protect against legal liability arising out of contract activity but no less than $1,000,000 per occurrence. Additionally, the Grantee is responsible for ensuring that any Subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

Automobile Liability. In the event that performance pursuant to this Grant involves the use of vehicles, owned or operated by the Grantee or its Subcontractor, automobile liability insurance shall be required. The minimum limit for automobile liability is $1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.

Professional Liability, Errors and Omissions Insurance. The Grantee shall maintain Professional Liability or Errors and Omissions Insurance. The Grantee shall maintain minimum limits of no less than $1,000,000 per occurrence to cover all activities by the Grantee and licensed staff employed or under contract to the Grantee. The state of Washington, its agents, officers, and employees need *not* be named as additional insureds under this policy.

Fidelity Insurance. Every officer, director, employee, or agent who is authorized to act on behalf of the Grantee for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks, or other instruments of payment for program costs shall be insured to provide protection against loss:

A. The amount of fidelity coverage secured pursuant to this Grant shall be $100,000 or the highest of planned reimbursement for the Grant period, whichever is lowest. Fidelity insurance secured pursuant to this paragraph shall name COMMERCE as beneficiary.

B. Subcontractors that receive $10,000 or more per year in funding through this Grant shall secure fidelity insurance as noted above. Fidelity insurance secured by Subcontractors pursuant to this paragraph shall name the Grantee as beneficiary.

Grantees and Local Governments that Participate in a Self-Insurance Program.

Self-Insured/Liability Pool or Self-Insured Risk Management Program – Grantee may provide the coverage above under a self-insured/liability pool or self-insured risk management program. In order to obtain permission from COMMERCE, the Grantee shall provide: (1) a description of its self-insurance program, and (2) a certificate and/or letter of coverage that outlines coverage limits and deductibles. All self-insured risk management programs or self-insured/liability pool financial reports must comply with Generally Accepted Accounting Principles (GAAP) and adhere to accounting standards

promulgated by: 1) Governmental Accounting Standards Board (GASB), 2) Financial Accounting Standards Board (FASB), and 3) the Washington State Auditor's annual instructions for financial reporting. Grantee's participating in joint risk pools shall maintain sufficient documentation to support the aggregate claim liability information reported on the balance sheet. The state of Washington, its agents, and employees need not be named as additional insured under a self-insured property/liability pool, if the pool is prohibited from naming third parties as additional insured.

Annually Grantee shall provide upon written request by COMMERCE a summary of coverages and a letter of self-insurance, evidencing continued coverage under Grantee's self-insured/liability pool or self-insured risk management program. Such annual summary of coverage and letter of self-insurance will be provided on the anniversary of the start date of this Agreement.

15. COMPLIANCE WITH APPLICABLE LAW AND REGULATIONS

A. Grantee agrees to comply with the requirements of 42 U.S. Code § 802 - Coronavirus State fiscal recovery fund, regulations adopted by Treasury pursuant to subsection (f) of that section, and guidance issued by Treasury regarding the foregoing. Grantee also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Grantee shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.

B. Federal regulations applicable to this award include, but are not necessarily limited to the following:

   i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.

   ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.

   iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.

   iv. OMB Guidelines to Agencies on Government wide Debarment and Suspension (Non-procurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.

   v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.

   vi. Government wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.

   vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.

   viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

   ix. Generally applicable federal environmental laws and regulations.

   x. Prohibition on certain telecommunications and video surveillance services or equipment 2 CFR § 200.216.

C. Statutes and regulations prohibiting discrimination applicable to this award include, but are not necessarily limited to the following:

   i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the

basis of race, color, or national origin under programs or activities receiving federal financial assistance;

ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;

iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;

iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and

v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

16. FEDERAL EXCLUSION

These terms add to the terms in Section 12 Certification Regarding Debarment, Suspension or Ineligibility and Voluntary Exclusion — Primary and Lower Tier Covered Transactions in General Terms and Conditions. The Grantee also agrees to access the Federal Exclusion List at www.sam.gov and provide Federal Exclusion documentation to Commerce and to keep a copy on file with the Grantee's project records.

17. REGISTRATION WITH THE SYSTEM FOR AWARD MANAGEMENT (SAM)

By signing this Grant, the Grantee accepts the requirements stated in 48 CFR 52.204-7 to register with the System for Award Management at the SAM website (https://www.sam.gov). To register in SAM, a valid Unique Entity Identifier (UEI) is required. The Grantee is responsible for the accuracy and completeness of the data within the SAM database and for any liability resulting from the Government's reliance on inaccurate or incomplete data. The Grantee must remain registered in the SAM database after the initial registration. The Grantee is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in SAM to ensure it is current, accurate and complete. The Grantee shall provide evidence documenting registration and renewal of SAM registration to Commerce.

In the event of the Grantee's noncompliance or refusal to comply with the requirement stated above, Commerce reserves the right to suspend payment until the Grantee cures this noncompliance.

18. REDUCTION IN FUNDS

In the event state funds appropriated for the work contemplated under this Grant Agreement are withdrawn, reduced, or limited in any way by the Governor or the Washington State Legislature during the Period of Performance, the parties hereto shall be bound by any such revised funding limitations as implemented at the discretion of COMMERCE, and shall meet and renegotiate the Grant Agreement accordingly.

19. OWNERSHIP OF PROJECT/CAPITAL FACILITIES

COMMERCE makes no claim to any real property improved or constructed with funds awarded under this Grant Agreement and does not assert and will not acquire any ownership interest in or title to the capital facilities and/or equipment constructed or purchased with state funds under this Grant Agreement; provided, however, that COMMERCE may be granted a security interest in real property, to secure performance and funds awarded under this Grant Agreement. For the avoidance of doubt, the foregoing replaces in its entirety the introductory paragraph of Section 46 of the General Terms and Conditions. This provision does not extend to claims that COMMERCE may bring against the Grantee in recapturing funds expended in violation of this Grant Agreement.

SPECIAL TERMS AND CONDITIONS
CAPITAL
FEDERAL FUNDS

20. CHANGE OF OWNERSHIP OR USE FOR GRANTEE-OWNED PROPERTY

A. The Grantee understands and agrees that any and all real property or facilities owned by the Grantee that are acquired, constructed, or otherwise improved by the Grantee using state funds under this Grant Agreement, shall be held and used by the Grantee for the purpose or purposes stated elsewhere in this Grant Agreement for a period of at least twenty five (25) years from the date the final payment is made hereunder.

B. This provision shall not be construed to prohibit the Grantee from selling any property or properties described in this section; Provided, that any such sale shall be subject to prior review and approval by COMMERCE, and that all proceeds from such sale shall be applied to the purchase price it of a different facility or facilities of equal or greater value than the original facility and that any such new facility or facilities will be used for the purpose or purposes stated elsewhere in this Grant Agreement.

C. In the event the Grantee is found to be out of compliance with this section, the Grantee shall repay to the state general fund the principal amount of the grant as stated on the Face Sheet, hereof, plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the effective date of the legislation in which the subject facility was authorized. Repayment shall be made pursuant to Section 34 (Recapture provision of the General Terms and Conditions).

21. CHANGE OF USE FOR LEASED PROPERTY PERFORMANCE MEASURE

A. The Grantee understands and agrees that any facility leased by the Grantee that is constructed, renovated, or otherwise improved using state funds under this Grant Agreement shall be used by the Grantee for the purpose or purposes stated elsewhere in this Grant Agreement for a period of at least twenty five (25) years from the date the final payment is made hereunder.

B. In the event the Grantee is found to be out of compliance with this section, the Grantee shall repay to the state general fund the principal amount of the grant as stated on the Face Sheet, hereof, plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the effective date of the legislation in which the subject facility was authorized. Repayment shall be made pursuant to Section 34 (Recapture Provision).

22. TERMINATION FOR FRAUD OR MISREPRESENTATION

In the event the Grantee commits fraud or makes any misrepresentation in connection with the Grant application or during the performance of this Grant Agreement, COMMERCE reserves the right to terminate or amend this Grant Agreement accordingly, including the right to recapture all funds disbursed to the Grantee under the Grant.

23. FRAUD AND OTHER LOSS REPORTING

Grantee shall report in writing all known or suspected fraud or other loss of any funds or other property furnished under this Grant Agreement immediately or as soon as practicable to the COMMERCE Representative identified on the Face Sheet.

24. SUBCONTRACTORS

No prior approval of subcontracting to a Subcontractor of any tier shall be required and the first three paragraphs of Section 40 of the General Terms and Conditions shall be deemed to refer to "subrecipient" rather than Subcontractor or subcontracting. The parties acknowledge and agree that Grantee may perform work under this agreement using subrecipients and that Grantee is wholly responsible for selection of subrecipients and to ensure their compliance with applicable law.

25. COPYRIGHT PROVISIONS

Per the Scope of Work, Section 16 is not intended to apply to any architectural and engineering work funded by this Grant.

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SPECIAL TERMS AND CONDITIONS
CAPITAL
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26. ORDER OF PRECEDENCE

In the event of an inconsistency in this Grant, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations
- Special Terms and Conditions
- General Terms and Conditions
- Attachment A – Scope of Work
- Attachment B – Certification of the Availability of Funds to Complete the Project
- Attachment C – Certification of the Payment and Reporting of Prevailing Wages

GENERAL TERMS AND CONDITIONS
CAPITAL
FEDERAL FUNDS

1. DEFINITIONS

As used throughout this Grant, the following terms shall have the meaning set forth below:

A. "Authorized Representative" shall mean the Director of Commerce and/or the designee authorized in writing to act on the Director's behalf.

B. "COMMERCE" shall mean the Department of Commerce.

C. "Grant" or "Agreement" means the entire written agreement between COMMERCE and the Grantee, including any Exhibits, documents, or materials incorporated by reference. E-mail or Facsimile transmission of a signed copy of this contract shall be the same as delivery of an original.

D. "Grantee" shall mean the entity identified on the face sheet performing service(s) under this Grant, and shall include all employees and agents of the Grantee.

E. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.

F. "State" shall mean the state of Washington.

G. "Subcontractor" shall mean one not in the employment of the Grantee, who is performing all or part of those services under this Grant under a separate contract with the Grantee. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.

2. ADMINISTRATIVE COST ALLOCATION

Administrative costs that may be allowed are set forth in the Special Terms and Conditions. Administrative services shared by other programs shall be assigned to this Grant based on an allocation plan that reflects allowable administrative costs that support services provided under each Grant administered by the Grantee. An approved current federal indirect cost rate may be applied up to the maximum administrative budget allowed.

3. ALLOWABLE COSTS

Costs allowable under this Grant are actual expenditures according to an approved budget up to the maximum amount stated on the Grant Award or Amendment Face Sheet.

4. ALL WRITINGS CONTAINED HEREIN

This Grant contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Grant shall be deemed to exist or to bind any of the parties hereto.

5. AMENDMENTS

This Grant may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

6. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35

The Grantee must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

7. APPROVAL

This contract shall be subject to the written approval of COMMERCE's Authorized Representative and shall not be binding until so approved. The contract may be altered, amended, or waived only by a written amendment executed by both parties.

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8. ASSIGNMENT

Neither this Grant, nor any claim arising under this Grant, shall be transferred or assigned by the Grantee without prior written consent of COMMERCE.

9. ATTORNEYS' FEES

Unless expressly permitted under another provision of the Grant, in the event of litigation or other action brought to enforce Grant terms, each party agrees to bear its own attorney's fees and costs.

10. AUDIT

If the Grantee is a subrecipient and expends $750,000 or more in federal awards from any and/or all sources in any fiscal year, the Grantee shall procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the Grantee shall:

A. Submit to COMMERCE the reporting package specified in OMB Super Circular 2 CFR 200.501, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor.
B. Submit to COMMERCE follow-up and developed corrective action plans for all audit findings.

If the Grantee is a subrecipient and expends less than $750,000 in federal awards from any and/or all sources in any fiscal year, the Grantee shall notify COMMERCE they did not meet the single audit requirement.

The Grantee shall send all single audit documentation to auditreview@commerce.wa.gov.

11. CERTIFICATION REGARDING DEBARMENT, SUSPENSION OR INELIGIBILITY AND VOLUNTARY EXCLUSION—PRIMARY AND LOWER TIER COVERED TRANSACTIONS

A. Grantee, defined as the primary participant and it principals, certifies by signing these General Terms and Conditions that to the best of its knowledge and belief that they:

   i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.

   ii. Have not within a three-year period preceding this contract, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;

   iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of federal Executive Order 12549; and

   iv. Have not within a three-year period preceding the signing of this contract had one or more public transactions (federal, state, or local) terminated for cause of default.

B. Where the Grantee is unable to certify to any of the statements in this contract, the Grantee shall attach an explanation to this contract.

C. The Grantee agrees by signing this contract that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by COMMERCE.

D. The Grantee further agrees by signing this contract that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," as follows, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

LOWER TIER COVERED TRANSACTIONS

i. The lower tier contractor certifies, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

ii. Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor shall attach an explanation to this contract.

E. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded**, as used in this section, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact COMMERCE for assistance in obtaining a copy of these regulations.

12. CODE REQUIREMENTS

All construction and rehabilitation projects must satisfy the requirements of applicable local, state, and federal building, mechanical, plumbing, fire, energy and barrier-free codes. Compliance with the Americans with Disabilities Act of 1990 28 C.F.R. Part 35 will be required, as specified by the local building Department.

13. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

A. "Confidential Information" as used in this section includes:

1. All material provided to the Grantee by COMMERCE that is designated as "confidential" by COMMERCE;

2. All material produced by the Grantee that is designated as "confidential" by COMMERCE; and

3. All personal information in the possession of the Grantee that may not be disclosed under state or federal law. "Personal information" includes but is not limited to information related to a person's name, health, finances, education, business, use of government services, addresses, telephone numbers, social security number, driver's license number and other identifying numbers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

B. The Grantee shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Grantee shall use Confidential Information solely for the purposes of this Grant and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COMMERCE or as may be required by law. The Grantor shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Grantee shall provide COMMERCE with its policies and procedures on confidentiality. COMMERCE may require changes to such policies and procedures as they apply to this Grant whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The Grantee shall make the changes within the time period specified by COMMERCE. Upon request, the Grantee shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the Grantee against unauthorized disclosure.

C. Unauthorized Use or Disclosure. The Grantee shall notify COMMERCE within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

14. CONFORMANCE

If any provision of this contract violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

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15. CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the COMMERCE may, in its sole discretion, by written notice to the Grantee terminate this contract if it is found after due notice and examination by COMMERCE that there is a violation of the Ethics in Public Service Act, Chapters 42.52 RCW and 42.23 RCW; or any similar statute involving the Grantee in the procurement of, or performance under this contract.

Specific restrictions apply to contracting with current or former state employees pursuant to chapter 42.52 of the Revised Code of Washington. The Grantee and their subcontractor(s) must identify any person employed in any capacity by the state of Washington that worked on the Commerce program administering this contract, including but not limited to formulating or drafting the legislation, participating in grant procurement planning and execution, awarding grants, and monitoring grants, during the 24 month period preceding the start date of this Grant. Identify the individual by name, the agency previously or currently employed by, job title or position held, and separation date. If it is determined by COMMERCE that a conflict of interest exists, the Grantee may be disqualified from further consideration for the award of a Grant.

In the event this contract is terminated as provided above, COMMERCE shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Grantee. The rights and remedies of COMMERCE provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which COMMERCE makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this contract.

16. COPYRIGHT PROVISIONS

Unless otherwise provided, all Materials produced under this Grant shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by COMMERCE. COMMERCE shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the Grantee hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to COMMERCE effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Grant, but that incorporate pre-existing materials not produced under the Grant, the Grantee hereby grants to COMMERCE a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Grantee warrants and represents that the Grantee has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to COMMERCE.

The Grantee shall exert all reasonable effort to advise COMMERCE, at the time of delivery of Materials furnished under this Grant, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Grant. The Grantee shall provide COMMERCE with prompt written notice of each notice or claim of infringement received by the Grantee with respect to any Materials delivered under this Grant. COMMERCE shall have the right to modify or remove any restrictive markings placed upon the Materials by the Grantee.

17. DISALLOWED COSTS

The Grantee is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

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18. DISPUTES

Except as otherwise provided in this Grant, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the Director of COMMERCE, who may designate a neutral person to decide the dispute.

The request for a dispute hearing must:

- be in writing;
- state the disputed issues;
- state the relative positions of the parties;
- state the Contractor's name, address, and Grant number; and
- be mailed to the Director and the other party's (respondent's) Contract Representative within three (3) working days after the parties agree that they cannot resolve the dispute.

The respondent shall send a written answer to the requestor's statement to both the Director or the Director's designee and the requestor within five (5) working days.

The Director or designee shall review the written statements and reply in writing to both parties within ten (10) working days. The Director or designee may extend this period if necessary by notifying the parties.

The decision shall not be admissible in any succeeding judicial or quasi-judicial proceeding.

The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this Grant shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution (ADR) method in addition to the dispute hearing procedure outlined above.

19. DUPLICATE PAYMENT

The Grantee certifies that work to be performed under this contract does not duplicate any work to be charged against any other contract, subcontract, or other source.

20. GOVERNING LAW AND VENUE

This Grant shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

21. INDEMNIFICATION

To the fullest extent permitted by law, the Grantee shall indemnify, defend, and hold harmless the state of Washington, COMMERCE, agencies of the state and all officials, agents and employees of the state, for, from and against all claims for injuries or death arising out of, or resulting from, the performance of the contract. "Claim" as used in this contract, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable for bodily injury, sickness, disease, or death, or injury to or the destruction of tangible property including loss of use resulting therefrom.

The Grantee's obligation to indemnify, defend, and hold harmless includes any claim by Grantee's agents, employees, representatives, or any subcontractor or its employees.

Grantee expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to Grantee's or any subcontractor's performance or failure to perform the contract. Grantee's obligation to indemnify, defend, and hold harmless the State shall not be eliminated or reduced by any actual or alleged concurrent negligence of State or its agents, agencies, employees and officials.

The Grantee waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the state and its agencies, officers, agents or employees.

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22. INDEPENDENT CAPACITY OF THE GRANTEE

The parties intend that an independent contractor relationship will be created by this Grant. The Grantee and its employees or agents performing under this Grant are not employees or agents of the state of Washington or COMMERCE. The Grantee will not hold itself out as or claim to be an officer or employee of COMMERCE or of the state of Washington by reason hereof, nor will the Grantee make any claim of right, privilege or benefit which would accrue to such officer or employee under law. Conduct and control of the work will be solely with the Grantee.

23. INDUSTRIAL INSURANCE COVERAGE

The Grantee shall comply with all applicable provisions of Title 51 RCW, Industrial Insurance. If the Grantee fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, COMMERCE may collect from the Grantee the full amount payable to the Industrial Insurance Accident Fund. COMMERCE may deduct the amount owed by the Grantee to the accident fund from the amount payable to the Grantee by COMMERCE under this Grant, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Grantee.

24. LAWS

The Grantee shall comply with all applicable laws, ordinances, codes, regulations, and policies of local, state, and federal governments, as now or hereafter amended.

25. LICENSING, ACCREDITATION AND REGISTRATION

The Grantee shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Grant.

26. LIMITATION OF AUTHORITY

Only the Authorized Representative or Authorized Representative's designee by writing (designation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Grant.

27. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS

During the performance of this Grant, the Grantee shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the Grantee's non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this contract may be rescinded, canceled or terminated in whole or in part, and the Grantee may be declared ineligible for further contracts with COMMERCE. The Grantee shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

The funds provided under this contract may not be used to fund religious worship, exercise, or instruction. No person shall be required to participate in any religious worship, exercise, or instruction in order to have access to the facilities funded by this grant.

28. PAY EQUITY

The Grantee agrees to ensure that "similarly employed" individuals in its workforce are compensated as equals, consistent with the following:

A. Employees are "similarly employed" if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed;
B. Grantee may allow differentials in compensation for its workers if the differentials are based in good faith and on any of the following:
    (i) A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.

(ii) A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: Consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.

(iii) A bona fide regional difference in compensation level must be: Consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.

This Grant may be terminated by the Department, if the Department or the Department of Enterprise services determines that the Grantee is not in compliance with this provision.

29. POLITICAL ACTIVITIES

Political activity of Grantee employees and officers are limited by the State Campaign Finances and Lobbying provisions of Chapter 42.17A RCW and the Federal Hatch Act, 5 USC 1501 - 1508.

No funds may be used for lobbying or for working for or against ballot measures or for or against the candidacy of any person for public office.

30. PREVAILING WAGE LAW

The Grantee certifies that all contractors and subcontractors performing work on the Project shall comply with state Prevailing Wages on Public Works, Chapter 39.12 RCW, as applicable to the Project funded by this contract, including but not limited to the filing of the "Statement of Intent to Pay Prevailing Wages" and "Affidavit of Wages Paid" as required by RCW 39.12.040. The Grantee shall maintain records sufficient to evidence compliance with Chapter 39.12 RCW, and shall make such records available for COMMERCE's review upon request.

31. PROCUREMENT STANDARDS FOR FEDERALLY FUNDED PROGRAMS

A Grantee which is a local government or Indian Tribal government must establish procurement policies and procedures in accordance with 2 CFR 200 for all purchases funded by this contract.

All recipients of funds under this Contract, including Contractor and subrecipients or subcontractors of any tier, must follow the procurement standards in 2 CFR §§ 200.318 through 200.327, including ensuring that the procurement method used for the contracts are appropriate based on the dollar amount and conditions specified in 2 CFR § 200.320.

The Grantee's procurement system should include but not necessarily be limited to, the following:

A. General procurement standards 2 CFR § 200.318. A code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in the awarding of contracts using federal funds.

B. Competition 2 CFR § 200.319. Procedures that ensure all procurement transactions shall be conducted in a manner providing full and open competition consistent with the standards of this section and § 200.320.

C. Methods of procurement to be followed 2 CFR § 200.320.

D. Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms 2 CFR § 200.321.

E. Domestic preferences for procurements 2 CFR § 200.322.

32. PROHIBITION AGAINST PAYMENT OF BONUS OR COMMISSION

The funds provided under this Grant shall not be used in payment of any bonus or commission for the purpose of obtaining approval of the application for such funds or any other approval or concurrence under this Grant provided, however, that reasonable fees or bona fide technical consultant, managerial,

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or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as project costs.

33. PUBLICITY

The Grantee agrees not to publish or use any advertising or publicity materials in which the state of Washington or COMMERCE's name is mentioned, or language used from which the connection with the state of Washington's or COMMERCE's name may reasonably be inferred or implied, without the prior written consent of COMMERCE.

34. RECAPTURE

In the event that the Grantee fails to perform this contract in accordance with state laws, federal laws, and/or the provisions of this contract, COMMERCE reserves the right to recapture funds in an amount to compensate COMMERCE for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the Grantee of funds under this recapture provision shall occur within the time period specified by COMMERCE. In the alternative, COMMERCE may recapture such funds from payments due under this contract.

35. RECORDS MAINTENANCE

The Grantee shall maintain books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract.

The Grantee shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by COMMERCE, personnel duly authorized by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

36. REGISTRATION WITH DEPARTMENT OF REVENUE

If required by law, the Grantee shall complete registration with the Washington State Department of Revenue.

37. RIGHT OF INSPECTION

At no additional cost all records relating to the Grantee's performance under this Grant shall be subject at all reasonable times to inspection, review, and audit by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, in order to monitor and evaluate performance, compliance, and quality assurance under this Grant. The Grantee shall provide access to its facilities for this purpose.

38. SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Grant and prior to normal completion, COMMERCE may terminate the Grant under the "Termination for Convenience" clause, without the ten business day notice requirement. In lieu of termination, the Grant may be amended to reflect the new funding limitations and conditions.

39. SEVERABILITY

The provisions of this contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the contract.

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40. SUBCONTRACTING

The Grantee may only subcontract work contemplated under this Grant if it obtains the prior written approval of COMMERCE.

If COMMERCE approves subcontracting, the Grantee shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, COMMERCE in writing may: (a) require the Grantee to amend its subcontracting procedures as they relate to this Grant; (b) prohibit the Grantee from subcontracting with a particular person or entity; or (c) require the Grantee to rescind or amend a subcontract.

Every subcontract shall bind the Subcontractor to follow all applicable terms of this Grant. The Grantee is responsible to COMMERCE if the Subcontractor fails to comply with any applicable term or condition of this Grant. The Grantee shall appropriately monitor the activities of the Subcontractor to assure fiscal conditions of this Grant. In no event shall the existence of a subcontract operate to release or reduce the liability of the Grantee to COMMERCE for any breach in the performance of the Grantee's duties.

Every subcontract shall include a term that COMMERCE and the State of Washington are not liable for claims or damages arising from a Subcontractor's performance of the subcontract.

41. SURVIVAL

The terms, conditions, and warranties contained in this Grant that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Grant shall so survive.

42. TAXES

All payments accrued on account of payroll taxes, unemployment contributions, the Grantee's income or gross receipts, any other taxes, insurance or expenses for the Grantee or its staff shall be the sole responsibility of the Grantee.

43. TERMINATION FOR CAUSE

In the event COMMERCE determines the Grantee has failed to comply with the conditions of this contract in a timely manner, COMMERCE has the right to suspend or terminate this contract. Before suspending or terminating the contract, COMMERCE shall notify the Grantee in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the contract may be terminated or suspended.

In the event of termination or suspension, the Grantee shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

COMMERCE reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the Grantee from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Grantee or a decision by COMMERCE to terminate the contract. A termination shall be deemed a "Termination for Convenience" if it is determined that the Grantee: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of COMMERCE provided in this contract are not exclusive and are, in addition to any other rights and remedies, provided by law.

44. TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Grant COMMERCE may, by ten (10) business days written notice, beginning on the second day after the mailing, terminate this Grant, in whole or in part. If this Grant is so terminated, COMMERCE shall be liable only for payment required under the terms of this Grant for services rendered or goods delivered prior to the effective date of termination.

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45. TERMINATION PROCEDURES

Upon termination of this contract, COMMERCE, in addition to any other rights provided in this contract, may require the Grantee to deliver to COMMERCE any property specifically produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

COMMERCE shall pay to the Grantee the agreed upon price, if separately stated, for completed work and services accepted by COMMERCE, and the amount agreed upon by the Grantee and COMMERCE for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by COMMERCE, and (iv) the protection and preservation of property, unless the termination is for default, in which case the authorized Representative shall determine the extent of the liability of COMMERCE. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. COMMERCE may withhold from any amounts due the Grantee such sum as the Authorized Representative determines to be necessary to protect COMMERCE against potential loss or liability.

The rights and remedies of COMMERCE provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a notice of termination, and except as otherwise directed by the Authorized Representative, the Grantee shall:

A. Stop work under the contract on the date, and to the extent specified, in the notice;

B. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;

C. Assign to COMMERCE, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Grantee, under the orders and subcontracts so terminated, in which case COMMERCE has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

D. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;

E. Transfer title to COMMERCE and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the contract had been completed, would have been required to be furnished to COMMERCE;

F. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and

G. Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this contract, which is in the possession of the Grantee and in which COMMERCE has or may acquire an interest.

46. TREATMENT OF ASSETS

Title to all property furnished by COMMERCE shall remain in COMMERCE. Title to all property furnished by the Grantee, for the cost of which the Grantee is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in COMMERCE upon delivery of such property by the Grantee. Title to other property, the cost of which is reimbursable to the Grantee under this contract, shall pass to and vest in COMMERCE upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by COMMERCE in whole or in part, whichever first occurs.

A. Any property of COMMERCE furnished to the Grantee shall, unless otherwise provided herein or approved by COMMERCE, be used only for the performance of this contract.

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B. The Grantee shall be responsible for any loss or damage to property of COMMERCE that results from the negligence of the Grantee or which results from the failure on the part of the Grantee to maintain and administer that property in accordance with sound management practices.

C. If any COMMERCE property is lost, destroyed or damaged, the Grantee shall immediately notify COMMERCE and shall take all reasonable steps to protect the property from further damage.

D. The Grantee shall surrender to COMMERCE all property of COMMERCE prior to settlement upon completion, termination or cancellation of this contract

All reference to the Grantee under this clause shall also include Grantee's employees, agents or Subcontractors.

47. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Grant unless stated to be such in writing and signed by Authorized Representative of COMMERCE.

48. WORK HOURS AND SAFETY STANDARDS

The Grant Work Hours and Safety Standards Act (40 U.S.C. 327-333)-Where applicable, all contracts awarded by recipients in excess of $100,000 for construction and other purposes that involve the employment of mechanics or laborers must include a provision for compliance with Section 102 and 107 of the Grant Work Hours Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each subcontractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic is required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

SCOPE OF WORK

Funds awarded under this grant will be used for capital expenditures for the **Clallam County Broadband Project** to design and construct the build which will serve the premises going through the areas along Hwy 112 including Coville, Ramapo, and the unincorporated town of Joyce in Clallam County. The last mile construction will serve approximately 923 premises. This project will tie into a current project that brings backhaul to Hwy 112. The fiber to the premise design of this project will have internet service providers offering speeds of 1Gbps to the businesses and residences in the project area.

The broadband technology funded by this grant will result in minimum service speed to each of the above premises that reliably meets or exceeds 100 megabits per second download (Mbps) and between at least 20 Mbps and 100 Mbps and be scalable to a minimum of 100 Mbps symmetrical download and upload speeds.

Grantee must require that all retail internet service providers using the broadband funded through this grant to either:

- Participate in the Federal Communications Commission's Affordable Connectivity Program (ACP), or
- Provide access to a broad-based affordability program to consumers with low incomes in the broadband infrastructure proposed service area that provides benefits commensurate with those provided under the ACP.

Submit executed Partnership Agreement(s) and/or Indefeasible Rights of Use (IRU), no later than thirty (30) days prior to the anticipated construction completion date or contract end date.

The Internet Service Provider partnering with the Grantee may retain exclusive rights to the network constructed with grant funds upon contract execution for a maximum of three years after funded project construction is completed. After three years the network must be open access for the remainder of the useful life of the project constructed. Open access means access to broadband services and infrastructure on transparent terms that are offered at fair market price and do not discriminate among users of the network.

Project activities will include and not be limited to:

- **Environmental Review**.
- **Engineering -** Includes detailed design engineering, permitting and rights of way, creation of construction documents
- **Procurement -** Identification, ordering, receiving, and inventory of all necessary materials and equipment.
- **Construction -** Advertisement of bids for contractor. Contractor Selection. Construction Management. Advertisement of bids for drops contractor, selection. Management
- **Customer Connection/Completion -** Installation of network equipment in customer homes. Network connections and provision of internet service.

The project needs to meet all applicable Local, State, and/or Federal standards.

The "Copyright Provisions", Section 16 of the General Terms and Conditions, are not intended to apply to any architectural and engineering design work funded by this grant.

CERTIFICATION PERFORMANCE MEASURE – SCOPE OF WORK

The Grantee, by its signature, certifies that the declaration set forth above has been reviewed and approved by the Grantee's governing body as of the date and year written below.

DocuSigned by:
Mark Ozias
EB47B729BB04474...
Mark Ozias, Clallam Co Commissioner

12/27/2022 | 12:03 PM PST
DATE

DocuSign Envelope ID: DA82471E-19E7-4774-AA85-7FCDF407A55F

Attachment B

CERTIFICATION OF THE AVAILABILITY OF FUNDS TO COMPLETE THE PROJECT

Type of Funding	Source Description	Amount
Grant	Washington State Department of Commerce	**$ 16,074,985.00**
Other Grants		
Grant #1	N/A	$ 0.00
Total Other Grants		**$ 0.00**
Other Loans		
Loan #1	N/A	$ 0.00
Total Loans		**$ 0.00**
Other Local Revenue		
Source #1	Clallam County Match	**$ 1,786,109.41**
Total Local Revenue		**$ 1,786,109.41**
Other Funds		
Source #1	N/A	$ 0.00
Total Other Funds		**$ 0.00**
Total Project Funding		**$ 17,861,094.41**

CERTIFICATION PERFORMANCE MEASURE - AVAILABILITY OF FUNDS

The Grantee, by its signature, certifies that project funding from sources other than those provided by this Grant Agreement and identified above has been reviewed and approved by the Grantee's governing body or board of directors, as applicable, and has either been expended for eligible Project expenses, or is committed in writing and available and will remain committed and available solely and specifically for carrying out the purposes of this Project as described in elsewhere in this Grant Agreement, as of the date and year written below. The Grantee shall maintain records sufficient to evidence that it has expended or has access to the funds needed to complete the Project, and shall make such records available for COMMERCE's review upon reasonable request.

DocuSigned by:
Mark Ozias
EB47B720BB04474...
Mark Ozias, Clallam Co Commissioner

12/27/2022 | 12:03 PM PST
DATE

Attachment C

CERTIFICATION OF THE PAYMENT AND REPORTING OF PREVAILING WAGES

The GRANTEE, by its signature, certifies that all contractors and subcontractors performing work on the Project shall comply with prevailing wage laws set forth in Chapter 39.12 RCW, as applicable to the Project funded by this Grant Agreement, including but not limited to the filing of the "Statement of Intent to Pay Prevailing Wages" and "Affidavit of Wages Paid" as required by RCW 39.12.040. The GRANTEE shall maintain records sufficient to evidence compliance with Chapter 39.12 RCW, and shall make such records available for COMMERCE's review upon request.

GRANTEE certifies that "all laborers and mechanics employed by contractors and subcontractors in the performance of the project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate state entity pursuant to a corollary state prevailing-wage-in construction law (commonly known as "baby Davis-Bacon Acts").

GRANTEE certifies that "the indicated project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)).

For any funds are used by the GRANTEE for the purpose of construction, applicable State Prevailing Wages must be paid.

CERTIFICATION PERFORMANCE MEASURE – PREVAILING WAGES

The GRANTEE, by its signature, certifies that the declaration set forth above has been reviewed and approved by the GRANTEE's governing body as of the date and year written below.

DocuSigned by:
Mark Ozias
EB47B729BB04474...
Mark Ozias, Clallam Co Commissioner

12/27/2022 | 12:03 PM PST
DATE

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Washington State Department of Commerce

DocuSign Routing Form

Washington State Broadband Office

22-96810-002
Clallam County
Clallam County Broadband

Review by (Title):	Name:	Date:	Initials:
Contract Manager	Chelsea Bagwell	12/27/2022 | 12:41 PM PST	DS CB
SBO Infrastructure Programs Manager	Connie Rivera	12/27/2022 | 2:24 PM PST	DS CR
LGD Deputy Assistant Director (before AD signature)	Tony Hanson	1/3/2023 | 6:00 AM PST	DS TH

DocuSign

Certificate Of Completion

Envelope Id: DA82471E19E74774AA857FCDF407A55F
Status: Completed
Subject: Please DocuSign: 22-96810-011 Clallam Co Contract, 22-96810-002 Clallam Co Routing Form
Division:
Local Government
Program: WSBO
ContractNumber: 22-96810-011
DocumentType: Contract
Source Envelope:
Document Pages: 30
Signatures: 6
Certificate Pages: 6
Initials: 3
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Envelope Originator:
Chelsea Bagwell
1011 Plum Street SE
MS 42525
Olympia, WA 98504-2525
chelsea.bagwell@commerce.wa.gov
IP Address: 147.55.149.185

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11/16/2022 7:54:22 AM
Security Appliance Status: Connected
Storage Appliance Status: Connected

Holder: Chelsea Bagwell
chelsea.bagwell@commerce.wa.gov
Pool: StateLocal
Pool: Washington State Department of Commerce

Location: DocuSign
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Signer Events	Signature	Timestamp
Bert Dee Boughton dee.boughton@clallamcountywa.gov Security Level: Email, Account Authentication (None)	DocuSigned by: Bert Dee Boughton 088B3E66E69B4E9... Signature Adoption: Pre-selected Style Using IP Address: 65.243.148.162	Sent: 11/18/2022 8:29:09 AM Resent: 11/22/2022 1:35:42 PM Viewed: 12/5/2022 9:53:51 AM Signed: 12/5/2022 9:57:57 AM
Electronic Record and Signature Disclosure: Accepted: 12/5/2022 9:53:51 AM ID: d79afb9a-078b-4017-94f9-c36948607f53		
Mark Ozias Mark.ozias@clallamcountywa.gov Chair, Board of County Commissioners Security Level: Email, Account Authentication (None)	DocuSigned by: Mark Ozias EB47B729BB04474... Signature Adoption: Pre-selected Style Using IP Address: 65.243.148.162	Sent: 11/18/2022 8:29:09 AM Resent: 11/22/2022 1:35:42 PM Viewed: 12/27/2022 12:03:30 PM Signed: 12/27/2022 12:03:52 PM
Electronic Record and Signature Disclosure: Accepted: 12/27/2022 12:03:30 PM ID: 5815aba2-5fee-45e0-b22c-43dc1d7ce89c		
Chelsea Bagwell chelsea.bagwell@commerce.wa.gov Washington State Department of Commerce Security Level: Email, Account Authentication (None)	DS CdB Signature Adoption: Pre-selected Style Using IP Address: 198.239.106.130	Sent: 12/27/2022 12:03:56 PM Viewed: 12/27/2022 12:41:11 PM Signed: 12/27/2022 12:41:17 PM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		

Signer Events	Signature	Timestamp
Connie Rivera connie.rivera@commerce.wa.gov Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 198.239.10.169	Sent: 12/27/2022 12:41:22 PM Viewed: 12/27/2022 2:23:49 PM Signed: 12/27/2022 2:24:00 PM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Tony Hanson tony.hanson@commerce.wa.gov Washington State Department of Commerce Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 76.135.39.46 Signed using mobile	Sent: 12/27/2022 2:24:04 PM Viewed: 1/3/2023 5:59:49 AM Signed: 1/3/2023 6:00:03 AM
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Mark Barkley mark.barkley@commerce.wa.gov Assistant Director Washington State Department of Commerce Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 198.239.106.228	Sent: 1/3/2023 6:00:07 AM Viewed: 1/3/2023 6:22:49 AM Signed: 1/3/2023 6:22:55 AM
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Certified Delivery Events	**Status**	**Timestamp**
Steve Gray steve.gray@clallamcountywa.gov Security Level: Email, Account Authentication (None)	VIEWED Using IP Address: 65.243.148.162	Sent: 11/16/2022 7:59:30 AM Viewed: 11/18/2022 8:29:08 AM
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Witness Events	**Signature**	**Timestamp**
Notary Events	**Signature**	**Timestamp**
Envelope Summary Events	**Status**	**Timestamps**
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Certified Delivered	Security Checked	1/3/2023 6:22:49 AM
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If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

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If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

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To advise Washington State Department of Commerce of your new email address

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ii. send us an email to docusign@commerce.wa.gov and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

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FACE SHEET

Contract Number: PBC22-96104-009
☒Subrecipient ☐Contractor

PUBLIC WORKS BOARD BROADBAND PROGRAM
ARPA Coronavirus Capital Projects Fund Grant

1. Subrecipient Clallam, County of 223 E 4th St Port Angeles, WA 98362		**2. Subrecipient Doing Business As (optional)** N/A	
3. Subrecipient Representative Steve Gray 360-417-2290 steve.gray@clallamcountywa.gov		**4. Public Works Board Project Manager** Sheila Richardson 564-999-1927 sheila.richardson@commerce.wa.gov	
5. Contract Amount $4,525,174	**6. Funding Source** **Federal:** ☑ **State:** ☐ **Other:** ☐ **N/A:** ☐	**7. Contract Start Date** Contract Execution Date	**8. Contract End Date** Four years from Contract Execution Date
9. Federal Funds (as applicable) $4,525,174	**Federal Agency** US Department of Treasury	**ALN (CFDA) #** 21.029	**Indirect Rate**: N/A
10. Tax ID # N/A	**11. SWV #** SWV0000200-16	**12. UBI #** 054-004-559	**13. UEI #** JV6JJNELRBS5

14. Contract Purpose

The Washington State Public Works Board (BOARD) and the subrecipient (Subrecipient) (the Parties) have entered into this performance-based Contract (Subaward) to undertake a broadband construction project (Project) that furthers the goals and objectives of the ARPA Coronavirus Capital Projects Fund as referenced in Attachment A. The Project will be undertaken by the Subrecipient and will include the activities described in the SCOPE OF WORK shown on the Declarations page. The Project must be undertaken in accordance with the terms and conditions, and all applicable federal, state and local laws and ordinances, which are incorporated by reference are into this Subaward.

The BOARD, and Subrecipient acknowledge and accept the terms of this Subaward and attachments and have executed this Subaward on the last signature date below as the start date referenced above.

The rights and obligations of both Parties to this Subaward are governed by this Subaward and the following other documents are incorporated by reference: Contract Terms and Conditions including Declarations Page; and "A" – Scope of Work, Attachment "B" – Certification of Availability of Funds to Complete the Project, Attachment "C" – Certification of the Payment and Reporting of Prevailing Wages, Attachment "D": Certification of Review and Intent to Comply with Treasury's Coronavirus Capital Projects Fund Environmental Checklist, Attachment "E" – Debarment Certification, and Attachment "F" – Attorney's Certification

FOR THE Subrecipient	FOR PUBLIC WORKS BOARD
DocuSigned by: Mark Ozias EB47B729BB04474... Signature	DocuSigned by: 7245D4828B7D42E... Kathryn A. Gardow, Public Works Board Chair
Mark Ozias Print Name	12/28/2022 | 2:47 PM PST Date
Clallam County Commissioner Title	**APPROVED AS TO FORM ONLY**
12/27/2022 | 12:00 PM PST Date	*August 31, 2022* Dawn Cortez Assistant Attorney General

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DECLARATIONS

CLIENT INFORMATION

Legal Name:	Clallam, County of
Contract Number:	PBC22-96104-009

PROJECT INFORMATION

Project Title:	Clallam County Broadband Project
Project City:	Port Angeles
Project State:	**Washington**
Project Zip Code:	98362

FUNDING INFORMATION

Contract Amount:	**$4,525,174**
Appropriation Number:	**SHB 1080 S-3081.3, Section 1067**
Reappropriation Number (if applicable):	
Contract End Date	June 30, 2023, if funds are not reappropriated. Contract End Date may be extended **contingent on reappropriation**
Biennium	**2021-2023**
Biennium Close Date:	**June 30, 2023**
Total Estimate Cost:	**$4,525,174**
Earliest Date for Reimbursement (award date):	**December 3, 2021**
Time of Performance:	In accordance with Special Terms and Conditions Section 1.9
Federal Funding:	**Section 604 of the Social Security Act as added by Section 9901 of the American Rescue Plan Act of 2021 (ARPA or "Act"), Pub.L.No. 117-2 (March 11, 2021) 4525174**
Federal Award Agency	**US Department of Treasury**

ADDITIONAL SPECIAL CONDITIONS GOVERNING THIS SUBAWARD AGREEMENT

Extension of Subaward Upon Reappropriation.

Notwithstanding Special Terms and Condition Section 1.9, the End Date of this Subaward **may be extended upon written notice to Contractor from the BOARD** for a period of time consistent with the effective date of any reappropriation of funds, and/or with terms reflecting new Federal requirements for ARPA funds, if any. In the BOARD's sole discretion, after review of any funding reappropriation terms and applicable Federal law or guidance, a contract amendment in accordance with Special Terms and Condition Section 1.9 may be required to extend the End Date.

SCOPE OF WORK

Attachment A: Project Scope of Work

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Capital Agreement with

Clallam, County of

through

America Rescue Plan Act, Coronavirus Capital Funds,

Public Works Board

For

Clallam County Broadband Project

Construct mid-mile and last mile fiber broadband infrastructure to approximately 643 premises along HWY 112 in Clallam County.

Start date: Date of Last Signature

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SUBAWARD TERMS AND CONDITIONS

Part 1: SPECIAL TERMS AND CONDITIONS

1.1 AUTHORITY

Funding for this Grant has been provided in the 2021-2023 biennial state Capital Budget, SSB 1080, Section 1067, pursuant to Federal grants to Washington State under the American Rescue Plan Act of 2021 (ARPA or "Act"), sec. 9901, Public Law 117–2, codified at 42 U.S.C. 802 et seq., The parties anticipate that funding under this Grant that is unexpended in the 2021-23 state biennium may be reappropriated in future biennia, subject to Federal requirements. Acting under the authority of RCW 43.155.160, the BOARD awards Subrecipient broadband construction funding for the approved broadband construction Project as described in the ATTACHMENT A: SCOPE OF WORK.

1.2 DEFINITIONS

As used throughout this Construction Funding Subaward the following terms shall have the meaning set forth below:

A. "Subrecipient" - shall mean a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

B. "Subaward" shall mean an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

C. "Contractor" or "Subcontractor": Firm selected through a competitive procurement process and is paid ARPA CPF funds by the Recipient (PWB) in compensation for specific services and not in the employment of the Subrecipient, who is performing all or part of those services under this Subaward under a separate contract with the Contractor.

D. Modified Total Direct Costs" (MTDC) shall mean all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first $25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of $25,000.

E. "The BOARD" - the State of Washington Public Works Board established in Revised Code of Washington (RCW) 43.155.030, and who is a Party to the Subaward.

F. "Declarations" and "Declared" - the Project information, terms and conditions as stated on the Declarations Page of this Subaward, displayed within the Subaward in THIS STYLE for easier identification.

G. "PUBLIC USE" - that the portion of the broadband network funded in whole or in part by the BOARD that shall remain available to connect unserved areas for a period of not less than fifteen (15) years from the date of completed construction.

H. "Unserved Areas" - as defined in RCW 43.330.530(10).

1.3 ACCESS TO WORK AND RECORDS

All property, facilities, and records developed pursuant to this Subaward shall be available for inspection upon request during regular business hours by the BOARD or its authorized representative. All records supporting every request for payment shall be maintained in a manner which will provide an audit trail to the expenditures. Copies of records shall be furnished to the BOARD immediately upon request. This paragraph shall be included in any and all subcontracts let by the Subrecipient under this agreement.

1.4 ACKNOWLEDGEMENT OF FEDERAL FUNDING

Federal Award Identification Number (FAIN): CPFFN0145

Total amount of the federal award: $4,525,174

Federal Awarding Agency: US Department of Treasury

Research & Development (R&D): award will not be used for R&D

Federal Award Project Description: Construct mid-mile and last mile fiber broadband infrastructure to approximately 643 premises along HWY 112 in Clallam County.

The Subrecipient agrees that any publications (written, visual, or sound), excluding press releases, newsletters, and issue analyses, issued by the Subrecipient describing programs or projects funded in whole or in part with federal funds under this Grant, shall contain the following statements:

"This Project is [is being] [was] supported, in whole or in part, by federal award number CPFFN0145 awarded to State of Washington by the U.S. Department of the Treasury. This Project was awarded by the US Department of the Treasury. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the US Department of the Treasury. Grant funds are administered by the America Rescue Plan Act, Coronavirus Capital Projects Funds, Washington State Public Works Board."

1.5 AUDIT

If the Subrecipient expends $750,000 or more in federal awards from any and/or all sources in any fiscal year, the Subrecipient shall procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the Subrecipient shall:

A. Submit to the BOARD the reporting package specified in OMB Super Circular 2 CFR 200.501, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor.

B. Submit to the BOARD follow-up and developed corrective action plans for all audit findings.

If the CONTRATOR is a subrecipient and expends less than $750,000 in federal awards from any and/or all sources in any fiscal year, the Subrecipient shall notify the BOARD they did not meet the single audit requirement.

The Subrecipient shall send all single audit documentation to auditreview@commerce.wa.gov.

1.6 CHANGE OF OWNERSHIP OR USE FOR SUBRECIPIENT-OWNED PROPERTY

The Subrecipient understands and agrees that any or all assets acquired, constructed, or otherwise improved by the Subrecipient using the funds under this Subaward shall be held and used by the Subrecipient for the purposes stated in the Scope of Work shown on the Declarations page for a period of at least fifteen (15) years from the date the final payment is made.

In the event that the Subrecipient decides to change or transfer ownership of any or all assets acquired or constructed in whole or in part, or otherwise improved by the Subrecipient using state funds under this Subaward, the Subrecipient agrees that any such decision or action must be submitted in writing and approved by BOARD in writing at least thirty (30) days prior to the execution of such decision or action.

In the event the Subrecipient is found to be out of compliance with this section, the Subrecipient shall repay the principal amount of the Subaward as stated in the Declarations plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the effective date of the legislation in which the subject asset was authorized. Repayment shall be made pursuant to Section 2.35 Recapture Provision.

1.7 COMPLIANCE WITH APPLICABLE LAW AND REGULATIONS

A. Subrecipient agrees to comply with the requirements of section 604 of the American Rescue Plan Act (Act,) regulations adopted by Treasury pursuant to section 604 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (March 11, 2021) and guidance issued by Treasury. This includes, but is not limited to all Federal reporting requirements that apply to funds supporting this Subaward, set out here: https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-States-Territories-and-Freely-Associated-States.pdf .

B. Federal regulations applicable to this award include, but are not limited to the following:

   i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.

   ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.

   iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.

   iv. OMB Guidelines to Agencies on Government wide Debarment and Suspension (Non-procurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.

v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.

vi. Government wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.

vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.

viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

ix. Generally applicable federal environmental laws and regulations.

x. Prohibition on certain telecommunications and video surveillance services or equipment 2 CFR § 200.216.

C. Statutes and regulations prohibiting discrimination applicable to this award include, but are not necessarily limited to the following:

i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;

ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;

iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;

iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and

v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

1.8 SUBAWARD MANAGEMENT

The Representative for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Subaward.

The Representative for the BOARD and their contact information are identified on the Face Sheet of this Subaward.

The Representative for the Subrecipient and their contact information are identified on the Face Sheet of this Subaward.

1.9 SUBAWARD PERIOD OF PERFORMANCE, COSTS INCURRED, REIMBURSEMENT

a) Period of Performance, The Project shall be completed within four (4) years from the date of Subaward execution, unless otherwise specified. The initial period of performance for this award begins on the date of last signature and ends on June 30, 2023. If unexpended funds under this Grant are reappropriated, the period of performance (Contract End Date) will be extended to not later than October 30, 2026. Construction Projects must reach substantial completion before October 30, 2026. Substantial completion is defined as the date for which the Project can fulfill

the primary operations that it was designed to perform, delivering services to end-users. At substantial completion, service operations and management systems infrastructure must be operational. For Federal Coronavirus Broadband Construction contracts no extensions are possible. If the Project is not completed by the 2026 date, any unallocated funds are returned to the federal Department of Treasury.

b) Costs Incurred Period. Subrecipient may use funds awarded under ARPA to cover eligible costs incurred during the period that begins on December 3, 2021, and ends on December 31, 2024. Pursuant to Federal rules, a cost shall be considered to have been incurred if the Subrecipient has incurred an obligation with respect to such cost by December 31, 2024. All change orders for which reimbursement is requested must be executed on or before December 31, 2024,

c) Reimbursement Period. All requests for reimbursement of eligible costs incurred between December 3, 2021 and December 31, 2024 payable from ARPA funds must be submitted to the BOARD by the **earlier of** October 30, 2026 or 30 days prior to the Contract End Date.

d) Any changes are to be incorporated into this document as additions or amendments to Special Conditions.

1.10 COPYRIGHT PROVISIONS

Notwithstanding the provisions of General Terms and Conditions 2.15, copyright provisions, of this Subaward, the contractor has ownership rights in all data and blueprints that the contractor produces under this Subaward, subject to the board right to royalty free use of these materials.

1.11 SUBAWARD SUSPENSION

In the event that the Washington State Legislature fails to pass and the Governor does not authorize a Capital Budget by June 30 of each biennium, the Washington State Constitution Article 8 and RCW 43.88.130 and RCW 43.88.290 prohibit expenditures or commitments of state funds in the absence of appropriation.

In such event, all work under this Subaward will be suspended effective July 1. The Subrecipient shall immediately suspend work under this Subaward and take all reasonable steps necessary to minimize the cost of performance directly attributable to such suspension until the suspension is cancelled.

The BOARD shall notify the Subrecipient immediately upon lifting of the Subaward suspension.

1.12 CULTURALLY RELEVANT SERVICES

In performing work pursuant to any Subaward, the Subrecipient may develop and operate programs and deliver goods, services, and/or benefits in a manner that is culturally relevant and particularly suited to and/or particularly located for access by members of the Subrecipient's Nation or other tribes, in accordance with tribal laws and policies.

1.13 DEFAULT IN REPAYMENT

Loan repayments shall be made on the loan in accordance with Section 1.19 of this Subaward. A payment not received within thirty (30) days of the due date shall be declared delinquent. Delinquent payments shall be assessed a monthly penalty beginning on the first (1st) day past the due date. The penalty will be assessed on the entire payment amount. The penalty will be one percent (1%) per month or twelve percent (12%) per annum. The same penalty terms shall apply at Project completion if the repayment of loan funds in excess of eligible costs are not

repaid at the time of the Project Completion Amendment is submitted, as provided for in Section 1.13.

The Subrecipient acknowledges and agrees to the BOARD's right, upon delinquency in the payment of any annual installment, to notify any other entity, creditors, or potential creditors of the Subrecipient of such delinquency.

The Subrecipient shall be responsible for all legal fees incurred by the BOARD in any action undertaken to enforce its rights under this section.

1.14 DOCUMENTATION AND SECURITY

The provisions of this section shall apply to private entity broadband projects. To ensure a grant or loan to a private entity under this section primarily serves the public interest and benefits the public, any such grant or loan must be conditioned on a guarantee that the asset or infrastructure to be developed will be maintained for public use (definition: Section 1.2(G)) for a period of at least fifteen (15) years (RCW 43.155.160 (8)).

A. This Subaward shall be evidenced and secured by a security instrument in favor of BOARD guaranteeing public use for at least fifteen (15) years. Form of security will be as negotiated by the Parties to this Subaward, and include an Indefeasible Right of Use (IRU).

B. Term of the IRU. The IRU shall remain in full force and effect for a period of at least fifteen (15) years following the completion of the Project funded in whole or in part under this Subaward. Upon satisfaction of the fifteen-year public benefit requirement and all other grant or loan terms and conditions, the BOARD shall, upon written request of the Subrecipient, take appropriate action to recover or release the security instrument.

C. The IRU will be provided no later than the date of final payment under this Subaward, and shall remain in effect for a period at least 15 years after the date the Project is complete and in service.

1.15 ELIGIBLE PROJECT COSTS

A. Subrecipient are responsible for ensuring that eligible costs are consistent with the cost principal standards set forth in the Uniform Guidance at 2 CFR 200.400 through 2 CFR 200.476
B. The BOARD will only reimburse construction-related expenses that are directly related to the scope of work of the Project being financed by the BOARD.
C. Eligible project activities and costs include the following, as defined in the Definition Section:
    - design, architectural, and engineering work;
    - building permits/fees;
    - archeological/historical review;
    - construction labor (from external sources only)* and materials;
    - demolition/site preparation;
    - capitalized equipment;
    - construction management and observation (from external sources only);**
    - landscaping;
    - salaries and benefits***
    - indirect costs: federal approved indirect rate**** or 10 percent MTDC and
    - real property when purchased specifically for the Project, and associated costs.*****

*Construction labor does not include work typically performed by employees of the applicant, unless the employee is hired solely and specifically to perform construction labor for the awarded project.

** Construction management and observation is on-site management and/or supervision of the work site and workers thereon. This is an eligible project cost. Construction management does not include work typically performed by off-site consultants or consultant organizations, grant writers, project managers, or employees of the applicant, unless the employee is hired solely and specifically to perform on-site construction management as defined above.

*** Salaries and benefits can only include the portion of payroll and benefits of employees corresponding to time spent managing the Broadband Infrastructure Project.

****Federal approved indirect rate must be declared on contract face page to be applicable.

***** Costs directly associated with property acquisition include appraisal fees, title opinions, surveying fees, real estate fees, title transfer taxes, easements of record, and legal expenses.

Ineligible costs: internal administrative activities, fundraising activities, feasibility studies, computers or office equipment, rolling stock (such as vehicles), lease payments for rental of equipment or facilities, maintenance and operating, mortgages or property leases (including long-term), the moving of equipment, furniture, etc., between facilities, and salary & benefits for the employees of the applicant, and the cost of the technology used to extend broadband service to the end user.

These Special Terms supersede the General terms in Section 2.3 Allowable Costs.

1.16 HISTORICAL AND CULTURAL RESOURCES

Prior to commencing construction, Subrecipient shall cooperate with the BOARD to complete the requirements of Governor's Executive Order 21-02 or, as an alternative to completion of Governor's Executive Order 21-02, Subrecipient shall complete Section 106 of the National Historic Preservation Act, as applicable. Subrecipient agrees that the Subrecipient is legally and financially responsible for compliance with all laws, regulations, and agreements related to the preservation of historical or cultural resources and agrees to indemnify, defend and hold harmless the BOARD and the State of Washington in relation to any claim related to such historical or cultural resources discovered, disturbed, or damaged as a result of the Project funded by this Subaward.

In addition to the requirements set forth in this Subaward, Subrecipient shall, in accordance with Governor's Executive Order 21-02, coordinate with the Washington State Department of Archaeology and Historic Preservation (DAHP), including any recommended consultation with any affected tribe(s), during project design and prior to construction to determine the existence of any tribal cultural resources affected by the proposed Project funded by this Subaward. Subrecipient agrees to avoid, minimize, or mitigate impacts to cultural resource as a continuing pre-requisite to receipt of funds under this Subaward.

The Subrecipient agrees that, unless the Subrecipient is proceeding under an approved historical and cultural monitoring plan or other memorandum of agreement, if historical or cultural resources are discovered during construction, the Subrecipient shall immediately stop work and notify the local historical preservation officer and the state's historic preservation officer at DAHP. If human remains are uncovered, the Subrecipient shall immediately stop work and report the presence and location of the remains to the coroner and local law enforcement immediately, then contact DAHP and the concerned tribe's cultural staff or committee.

The Subrecipient shall require this provision to be contained in all sub-contracts for work or services related to the declared SCOPE OF WORK.

In addition to the requirements set forth in this Subaward, Subrecipient agrees to comply with RCW 27.44.040 regarding Indian Graves and Records; RCW 27.53 regarding Archaeological Sites and Resources; RCW 68.60 regarding Abandoned and Historic Cemeteries and Historic Graves; and, WAC 25-48 regarding Archaeological Excavation and Removal Permits.

Completion of the process set forth in Section 106 of the National Historic Preservation Act shall substitute for completion of Governor's Executive Order 21-02.

In the event that the Subrecipient finds it necessary to amend the SCOPE OF WORK, the Subrecipient may be required to re-comply with Governor's Executive Order 21-02 or Section 106 of the National Historic Preservation Act.

1.17 INDIRECT COSTS

Subrecipient shall provide their indirect cost rate that has been negotiated between their entity and the federal government as set forth on the Face Sheet, Sec. 9. If no such rate exists a de Minimis indirect cost rate of 10% of modified total direct costs (MTDC) will be used.

1.18 ORDER OF PRECEDENCE

In the event of an inconsistency in this Subaward, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations
- Special Terms and Conditions
- General Terms and Conditions
- Attachment A – Project Scope of Work
- Attachment B – Certification of Availability of Funds to Complete the Project
- Attachment C – Certification of Payment and Reporting of Prevailing Wages
- Attachment D – Certification of Review and Intent to Comply with Treasury's Coronavirus Capital Projects Fund Environmental Checklist
- Attachment E – Debarment Certification
- Attachment F – Attorney Certification

1.19 OWNERSHIP OF PROJECT/CAPITAL FACILITIES

If the Subrecipient is a state or local entity, the BOARD makes no claim to any real property improved or constructed with funds awarded under this Subaward and does not assert, and will not acquire any ownership interest in or title to the capital facilities and/or equipment constructed or purchased with state funds under this Subaward. This provision does not extend to claims that

BOARD may bring against the Subrecipient in recapturing funds expended in violation of this Subaward.

If Subrecipient is a private entity it shall provide an IRU to the BOARD as set forth in Section 1.8.

1.20 PROJECT COMPLETION AMENDMENT AND CERTIFIED PROJECT COMPLETION REPORT

The Subrecipient shall complete a Certified Project Completion Report when all activities identified in the SCOPE OF WORK are complete. The BOARD will supply the Subrecipient with the Certified Project Completion Report form, which shall include:

A. A certified statement that the Project, as described in the declared scope of work, is complete and, if applicable, meets required standards.
B. A certified statement of the actual dollar amounts spent, from all funding sources, in completing the Project as described in the scope of work.
C. Certification that all costs associated with the Project have been incurred and have been accounted for. Costs are incurred when goods and services are received and/or Subaward work is performed.
D. A final voucher for the remaining eligible funds.
E. Pictures of completed Project, as appropriate.

The Subrecipient will submit the Certified Project Completion Report together with the last Invoice Voucher for a sum not to exceed the balance of the loan or grant amount. The final Invoice Voucher payment shall not occur prior to the completion of all project activities identified in the SCOPE OF WORK and the BOARD's receipt and acceptance of the Certified Project Completion Report.

The Project Completion Amendment shall serve as an amendment to this Subaward determining the final loan and/ or grant amount, local share, term, and interest rate.

1.21 PROJECT PERFORMANCE

The Subrecipient shall commence Project construction within six months after execution of the Final Subaward, unless otherwise specified. Any changes are to be incorporated into this document as additions or amendments to Special Conditions.

If at any time during the term of this agreement the BOARD determines that Project construction performance is unsatisfactory, including, but not limited to: (a) defective work not remedied, or (b) a reasonable doubt that the Subaward can be completed for the balance then unpaid, the BOARD reserves the right to withhold payments until the problem is remedied or to exercise its rights of termination under General Terms and Conditions 2.44, 2.45 and -2.46.

1.22 PUBLIC USE – PRIVATE APPLICANTS ONLY

"PUBLIC USE" any grant or loan to a private entity is conditioned upon a guarantee that the asset or infrastructure to be developed will be maintained for public use for a period of at least fifteen (15) years. PUBLIC USE is defined as that the portion of the broadband network funded in whole or in part by the BOARD shall remain available to connect unserved areas for a period of not less than fifteen (15) years from the date of completed construction. The Public Use condition will be satisfied by Subrecipient's provision of an IRU to the BOARD as set forth in Section 1.6.

1.23 REAPPROPRIATION

The parties hereto understand and agree that any state funds not expended by the end of the declared BIENNIUM, including the five percent (5%) retainage as described in SPECIAL TERMS AND CONDITIONS, Section 1.27: REIMBURSEMENT PROCEDURES AND PAYMENT, will lapse on that date unless specifically reappropriated in an enacted Capital Budget. The BOARD will make all necessary efforts to seek reappropriation of funds into the declared BIENNIUM. If funds are so reappropriated, the BOARD'S obligation under the terms of this Subaward shall be contingent upon the terms of such reappropriation.

1.24 RECAPTURE PAYMENT AND COSTS

In addition to the provisions in General Term 2.28, if the Subrecipient fails to expend state funds in accordance with state law and/or the provisions of this Subaward, the BOARD reserves the right to recapture state funds in an amount equivalent to the extent of noncompliance. Repayment by the Subrecipient of state funds under this recapture provision shall occur within thirty (30) days of demand. If proposed the BOARD is required to institute proceedings to enforce this recapture provision, the BOARD shall be entitled to its cost thereof, including reasonable attorney's fees.

1.25 REDUCTION IN FUNDS

In the event state funds appropriated for the work contemplated under this Subaward Agreement are withdrawn, reduced, or limited in any way by the Governor or the Washington State Legislature during the Contract Agreement period, the parties hereto shall be bound by any such revised funding limitations as implemented at the discretion of the BOARD, and shall meet and renegotiate the Contract Agreement accordingly.

1.26 REIMBURSEMENT PROCEDURES AND PAYMENT

If funding or appropriation is not available at the time the invoice is submitted, or when this Subaward is executed, the issuance of warrants will be delayed or suspended until such time as funds or appropriation become available. Thereafter, subject to the availability of funds, warrants shall be issued to the Subrecipient for reimbursement of allowable expenses incurred by the Subrecipient while undertaking and administering approved project activities in accordance with the declared SCOPE OF WORK.

The BOARD shall reimburse the Subrecipient for eligible project expenditures up to the maximum funding amount under this Subaward, as identified in Section 1.9. When requesting reimbursement for costs incurred, the Subrecipient shall complete a digital Invoice Voucher (Form A-19) referencing the SCOPE OF WORK project activity performed, and any appropriate documentation such as bills, invoices, and receipts. The Invoice Voucher must be certified by an official of the Subrecipient with authority to bind the Subrecipient.

Requests for reimbursements for costs related to construction activities will not be accepted until the Subrecipient provides:

- Proof of compliance with Governor's Executive Order 21-02 or Section 106 of the National Historic Preservation Act, as described in Section 1.10, and
- Signed BOARD Notice of Subaward Award and Notice to Proceed, which follows the formal award of a construction Subaward.

The Subrecipient shall submit all Invoice Vouchers and all required documentation per guidance in the BOARD Broadband Construction Handbook, monthly and at least quarterly.

When requesting reimbursement for expenditures made, Subrecipient shall submit all Invoice Vouchers and any required documentation electronically through COMMERCE's Contracts Management System (CMS), which is available through the Secure Access Washington (SAW) portal. If the Subrecipient has constraints preventing access to COMMERCE's online A-19 portal, a hard copy A-19 form may be provided by the BOARD Project Manager upon request.

The BOARD will pay the Subrecipient upon acceptance of the work performed and receipt of properly completed invoices. Invoices shall be submitted to the BOARD.

If the Subrecipient receives funding in the form of both a grant and a loan, the Subrecipient shall bill to the loan and grant equally until and if one of the funds are exhausted at which time the remaining funds will be expensed.

Payment shall be considered timely if made by the BOARD within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be disbursed electronically to the Subrecipient.

The BOARD may, at its sole discretion, terminate the Subaward or withhold payments claimed by the Subrecipient for services rendered if the Subrecipient fails to satisfactorily comply with any term or condition of this Subaward.

No payments in advance or in anticipation of services or supplies to be provided under this Subaward shall be made by the BOARD.

BOARD funds are disbursed on reimbursement only basis for eligible costs within the approved Project's scope of work. BOARD funds will be reimbursed and Subrecipient's matching funds must be expended by Subrecipient in the amounts and as identified on the Declarations Page.

BOARD shall not release the final five (5) percent of the total funding amount until acceptance by BOARD of Project completion report.

BOARD will not pay for Project costs overruns.

The Subrecipient shall not bill COMMERCE for services performed under this Agreement, and COMMERCE shall not pay the Subrecipient, if the Subrecipient is entitled to payment or has been or will be paid by any other source, including grants, for that service.

The Subrecipient is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

1.27 REPAYMENT (NOT APPLICABLE)

Repayment of the loan under this Subaward shall include the declared **INTEREST RATE** per annum based on a three hundred and sixty (360) day year of twelve (12) thirty (30) day months. Interest will begin to accrue from the date each warrant is issued to the Subrecipient. The final payment shall be on or before the **Subaward END DATE** shown on the Declarations page, of an amount sufficient to bring the loan balance to zero (0).

Loan repayment installments are due on the day and month identified under the term "**PAYMENT MONTH"** on the Declarations Page. Payments are due each year during the term of the loan beginning one year from the date of Subaward execution. The first payment shall consist of accrued interest only and will be charged once a warrant has been issued prior to the PAYMENT MONTH. All subsequent payments shall consist of principal and accrued interest due on the specified **PAYMENT MONTH** date of each year during the remaining term of the loan.

In the event that the BOARD approves the Subrecipient's request for a new system deferral as outlined in Section 1.27, then the first loan repayment is due twenty-four (24) months after Subaward execution. Interest still accrues on any warrants issued during the deferral period. The first payment shall consist of accrued interest only and will be charged once a warrant has been issued prior to the PAYMENT MONTH. Interest and principal payments are due on the declared **PAYMENT MONTH** date of each year during the remaining term of the loan. The Subrecipient has the right to repay the unpaid balance of the loan in full at any time or make accelerated payments without penalty.

The Subrecipient will repay the loan in accordance with the preceding conditions through the use of a check, money order, or equivalent means made payable to the Washington State Department of Commerce or its successor.

1.28 REPORTS

The Subrecipient shall furnish the BOARD with:

A. Monthly Project Progress Reports;
B. Estimated Quarterly Expenditures Report;
C. Certified Project Completion Report at Project completion (as described in Section 1.13);
D. Pictures and short videos of various stages of the Project;
E. Other reports as the BOARD may require, to include but not limited to: Project description; Project location(s); Project start and end date; Project status; Project expenditures; number of households, businesses, and anchor institutions to be served; location of communities to be served; and description of how equity and community engagement activities informed Project selection and design.
F. All recipients are required to submit Project and expenditure reports and annual performance reports as specified in U.S. Department of the Treasury guidance.

1.29 SPECIAL CONDITIONS

If additional special conditions are listed on the Subaward Declarations Page then those conditions are herein incorporated as part of the terms and requirements of this Subaward.

Direct Recipients of CPF Grants are responsible for ensuring that sub recipients comply with the statutory and regulatory requirements and the terms and conditions established by Treasury's CPF guidance, found here: https://home.treasury.gov/system/files/136/Capital-Projects-Fund-Guidance-States-Territories-and-Freely-Associated-States.pdf.

If the Subrecipient is not the retail service provider for the Project, then the Subrecipient must have a contractual commitment with at least one internet service provider.

Subrecipient shall report in writing all known or suspected fraud or other loss of any funds or other property furnished under this Subaward immediately or as soon as practicable to the Commerce Representative identified on the Face Sheet

1.30 SUB-CONTRACTOR DATA COLLECTION

Subrecipient will submit monthly progress reports, in a form and format consistent with the template to be provided by the Board and regarding work under this Subaward performed by sub-contractors and the portion of the Subaward funds expended for work performed by sub-contractors, including but not necessarily limited to minority-owned, women-owned, and veteran-owned business sub-contractors. "Sub-Contractors" shall mean sub-contractors of any tier.

1.31 TERMINATION FOR CONVENIENCE (IF APPLICABLE)

The BOARD may terminate this Subaward in the event that state or federal funds are no longer available to the BOARD, or are not appropriated for the purpose of meeting the BOARD's obligations under this Subaward. Termination will be effective when the BOARD sends written notice of termination to the Subrecipient. Nothing in this section shall affect the Subrecipient's obligation to repay the unpaid balance of the loan.

In lieu of termination for convenience, this Subaward may be amended to reflect limitations and conditions of funding in appropriations of state funds available for this Subaward.

These terms supersede the terms in Section 2.45 Termination for Convenience.

1.32 TRIBAL HIRING PREFERENCE AND EMPLOYMENT PRACTICES

The Subrecipient may give preference in its hiring and employment practices to members of the Subrecipient, or other tribes, who have met all requirements for that position, including, state requirements, and as may be provided by tribal laws and policies.

1.33 REGISTRATION WITH THE SYSTEM FOR AWARD MANAGEMENT (SAM)

By signing this Subaward, the Subrecipient accepts the requirements stated in 48 CFR 52.204-7 to register with the System for Award Management at the SAM website (https://www.sam.gov). To register in SAM, a valid UEI Number is required. The Subrecipient is responsible for the accuracy and completeness of the data within the SAM database and for any liability resulting from the Government's reliance on inaccurate or incomplete data. The Subrecipient must remain registered in the SAM database after the initial registration. The Subrecipient is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in SAM to ensure it is current, accurate and complete. The Subrecipient shall provide evidence documenting registration and renewal of SAM registration to the BOARD.

In the event of the Subrecipient's noncompliance or refusal to comply with the requirement stated above, the BOARD reserves the right to suspend payment until the Subrecipient cures this noncompliance.

Part 2: GENERAL TERMS AND CONDITIONS

2.1 DEFINITIONS

As used throughout this Subaward, the following terms shall have the meaning set forth below:

A. "Authorized Representative" shall mean the BOARD Chair and/or the designee authorized in writing to act on the Chair's behalf.

B. "BOARD" shall mean the Washington State Public Works BOARD created in Revised Code of Washington (RCW) 43.155.030, and which is a Party to the Subaward

C. "Contractor" or "Subcontractor": Firm selected through a competitive procurement process and is paid ARPA CPF funds by the Recipient (PWB) in compensation for specific services and not in the employment of the Subrecipient, who is performing all or part of those services under this Subaward under a separate contract with the Contractor.

D. "Commerce" shall mean the Department of Commerce.

E. "Subrecipient" shall mean a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

F. Subaward" shall mean an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

G. "Construction labor" does not include work typically performed by employees of the Subrecipient, unless the employee is hired solely and specifically to perform construction labor for the awarded Project.

H. "Construction management and observation" is on-site management and/or supervision of the work site and workers thereon. This is an eligible Project cost. Construction management does not include work typically performed by off-site consultants or consultant organizations, grant writers, project managers, or employees of the Subrecipient, unless the employee is hired solely and specifically to perform on-site construction management as defined above.

I. "Costs":

a. "Costs associated with salaries and benefits" may not be used for operating expenses, which includes expenses once the capital project is completed.

b. "Costs directly associated with property acquisition" include appraisal fees, title opinions, surveying fees, real estate fees, title transfer taxes, easements of record, and legal expenses.

A. "PERSONAL INFORMATION" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.

B. "STATE" shall mean the state of Washington.

C. "TRIBAL LAW" means the resolutions, law, codes, and/or ordinances enacted by the Subrecipient executing this Subaward, and any of the Subrecipient's tribal court decisions interpreting the same. All references in this Subaward to tribal law shall include any

successor, amended, or replacement law, as of the effective date of such successor, amended, or replacement law.

2.2 ADMINISTRATIVE COST ALLOCATION

Administrative costs that may be allowed are set forth in the Special Terms and Conditions. Administrative services shared by other programs shall be assigned to this Subaward based on an allocation plan that reflects allowable administrative costs that support services provided under each Subaward administered by the Subrecipient. An approved current federal indirect cost rate may be applied up to the maximum administrative budget allowed.

2.3 ALLOWABLE COSTS

Costs allowable under this Subaward are actual expenditures according to an approved budget up to the maximum amount stated on the Subaward Award or Amendment Face Sheet and Declarations.

2.4 ALL WRITINGS CONTAINED HEREIN

This Subaward contains all the terms and conditions agreed upon by the Parties. No other understandings, oral or otherwise, regarding the subject matter of this Subaward shall be deemed to exist or to bind any of the Parties hereto.

2.5 AMENDMENTS

This Subaward may be amended by mutual agreement of the Parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the Parties.

2.6 AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, ALSO REFERRED TO AS THE "ADA" 28 CFR PART 35 (not applicable to Tribes)

The Subrecipient must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

2.7 APPROVAL

This Subaward shall be subject to the written approval of the BOARD and shall not be binding until so approved. The Subaward may be altered, amended, or waived only by a written amendment executed by both Parties.

2.8 ASSIGNMENT

Neither this Subaward, nor any claim arising under this Subaward, shall be transferred or assigned by the Subrecipient without prior written consent of the BOARD.

2.9 ATTORNEYS' FEES

Unless expressly permitted under another provision of the Subaward, in the event of litigation or other action brought to enforce Subaward terms, each Party agrees to bear its own attorney's fees and costs.

2.10 BASIS FOR ESTABLISHING REAL PROPERTY VALUES FOR ACQUISITIONS OF REAL PROPERTY PERFORMANCE MEASURES

When the grant or loan is used to fund the acquisition of real property, the value of the real property eligible for reimbursement under this Subaward shall be established as follows:

A. Subrecipient purchases of real property from an independent third-party seller shall be evidenced by a current appraisal prepared by a licensed Washington State commercial real estate appraiser, or a current property tax statement.

B. Subrecipient purchases of real property from a subsidiary organization, such as an affiliated LLC, shall be evidenced by a current appraisal prepared by a licensed Washington State commercial real estate appraiser or the prior purchase price of the property plus holding costs, whichever is less.

2.11 CODE REQUIREMENTS

All construction and rehabilitation projects must satisfy the requirements of applicable local, state, and federal building, mechanical, plumbing, fire, energy and barrier-free codes. Compliance with the Americans with Disabilities Act of 1990 28 C.F.R. Part 35 will be required, as specified by the local building Department.

2.12 CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

A. "Confidential Information" as used in this section includes:

1. All material provided to the Subrecipient by the BOARD that is designated as "confidential" by the BOARD;
2. All material produced by the Subrecipient that is designated as "confidential" by the BOARD; and
3. All personal information in the possession of the Subrecipient that may not be disclosed under state or federal law. "Personal information" includes but is not limited to information related to a person's name, health, finances, education, business, use of government services, addresses, telephone numbers, social security number, driver's license number and other identifying numbers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

B. The Subrecipient shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Subrecipient shall use Confidential Information solely for the purposes of this Subaward and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of the BOARD or as may be required by law. The Subrecipient shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Subrecipient shall provide the BOARD with its policies and procedures on confidentiality. The BOARD may require changes to such policies and procedures as they apply to this Subaward whenever the BOARD

reasonably determines that changes are necessary to prevent unauthorized disclosures. The Subrecipient shall make the changes within the time period specified by the BOARD. Upon request, the Subrecipient shall immediately return to the BOARD any Confidential Information that the BOARD reasonably determines has not been adequately protected by the Subrecipient against unauthorized disclosure.

C. Unauthorized Use or Disclosure. The Subrecipient shall notify the BOARD within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

2.13 CONFORMANCE

If any provision of this Subaward violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

2.14 CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the BOARD may, in its sole discretion, by written notice to the Subrecipient terminate this Subaward if it is found after due notice and examination by the BOARD that there is a violation of the Ethics in Public Service Act, Chapters 42.52 RCW and 42.23 RCW; or any similar statute involving the Subrecipient or any private action that would constitute such violation if undertaken by a state officer or employee, in the procurement of, or performance under this Subaward.

Specific restrictions apply to contracting with current or former state employees pursuant to Chapter 42.52 RCW. The Subrecipient and their Subcontractor(s) must identify any person employed in any capacity by the state of Washington that worked on the BOARD's Broadband Program including but not limited to formulating or drafting the legislation, participating in grant or loan procurement planning and execution, awarding grant or loans, and monitoring loans, during the twenty-four (24) month period preceding the start date of this Grant or Loan. Identify the individual by name, the agency previously or currently employed by, job title or position held, and separation date. If it is determined by the BOARD that a conflict of interest exists, the Subrecipient may be disqualified from further consideration for the award of a Grant or Loan.

In the event this Subaward is terminated as provided above, the BOARD shall be entitled to pursue the same remedies against the Subrecipient as it could pursue in the event of a breach of the Subaward by the Subrecipient. The rights and remedies of the BOARD provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the BOARD makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this Subaward.

2.15 COPYRIGHT

Unless otherwise provided, all Materials produced under this Subaward shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by the BOARD. The BOARD shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the Subrecipient hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to the BOARD effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer

programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Subaward, but that incorporate pre-existing materials not produced under the Subaward, the Subrecipient hereby grants to the BOARD a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Subrecipient warrants and represents that the Subrecipient has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to the BOARD.

The Subrecipient shall exert all reasonable effort to advise the BOARD, at the time of delivery of Materials furnished under this Subaward, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Subaward. The Subrecipient shall provide the BOARD with prompt written notice of each notice or claim of infringement received by the Subrecipient with respect to any Materials delivered under this Subaward. The BOARD shall have the right to modify or remove any restrictive markings placed upon the Materials by the Subrecipient.

2.16 DISALLOWED COSTS

The Subrecipient is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

In no event shall the total BOARD loan and/or grant exceed one hundred percent (100%) of the eligible actual Project costs. At the time of Project completion, the Subrecipient shall submit to the BOARD a Project Completion Amendment certifying the total actual Project costs and local share. The final BOARD disbursement shall bring the total loan/grant to the lesser of one hundred percent (100%) of the eligible Project costs or the total declared funding under this Subaward. The Project Completion Amendment shall serve as an amendment to this Subaward determining the final loan amount, local share, and interest rate.

In the event that the final costs identified in the Project Completion Amendment indicate that the Subrecipient has received BOARD monies in excess of one hundred percent (100%) of eligible costs, all funds in excess of one hundred percent (100%) shall be repaid to the BOARD by payment to the BOARD, or its successor, together with the submission of the Project Completion Amendment.

2.17 DISPUTES

Except as otherwise provided in this Subaward, when a dispute arises between the Parties and it cannot be resolved by direct negotiation, either Party may request a dispute hearing with the Chair of the BOARD, who may designate a neutral person to decide the dispute.

The request for a dispute hearing must:

- be in writing;
- state the disputed issues;
- state the relative positions of the Parties;
- state the Subrecipient's name, address, and Subaward number; and

- mailed to the BOARD Chair and the other party's (respondent's) Representative within three (3) working days after the Parties agree that they cannot resolve the dispute.

The respondent shall send a written answer to the requestor's statement to both the BOARD Chair or the BOARD Chair's designee and the requestor within five (5) working days.

The BOARD Chair or designee shall review the written statements and reply in writing to both Parties within ten (10) working days. The BOARD Chair or designee may extend this period if necessary by notifying the Parties.

The decision shall not be admissible in any succeeding judicial or quasi-judicial proceeding.

The Parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this Subaward shall be construed to limit the Parties' choice of a mutually acceptable alternate dispute resolution (ADR) method in addition to the dispute hearing procedure outlined above.

2.18 DUPLICATE PAYMENT

The Subrecipient certifies that work to be performed under this Subaward does not duplicate any work to be charged against any other Subaward, SUBCONTRACT, or other source.

2.19 GOVERNING LAW AND VENUE

This Subaward shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

2.20 INDEMNIFICATION

To the fullest extent permitted by law, the Subrecipient shall indemnify, defend, and hold harmless the state of Washington, BOARD, agencies of the State and all officials, agents and employees of the State, for, from and against all claims for injuries or death arising out of or resulting from the performance of the Subaward. "Claim" as used in this Subaward, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable for bodily injury, sickness, disease, or death, or injury to or the destruction of tangible property including loss of use resulting therefrom. The Subrecipient's obligation to indemnify, defend, and hold harmless shall not be eliminated by any actual or alleged concurrent negligence of the State or its agents, agencies, employees and officers.

The Subrecipient expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to the Subrecipient's or any Subcontractor's performance or failure to perform the Subaward. Subrecipient's obligation to indemnify, defend, and hold harmless the State shall not be eliminated or reduced by any actual or alleged concurrent negligence of State or its agents, agencies, employees and officials.

The Subrecipient waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the state and its agencies, officers, agents or employees.

2.21 INDEPENDENT CAPACITY OF THE SUBRECIPIENT

The Parties intend that an independent Subrecipient relationship will be created by this Subaward. The Subrecipient and its employees or agents performing under this Subaward are not employees or agents of the state of Washington or the BOARD. The Subrecipient will not hold itself out as or claim to be an officer or employee of the BOARD or of the state of Washington by reason hereof, nor will the Subrecipient make any claim of right, privilege or benefit which would accrue to such officer or employee under law. Conduct and control of the work will be solely with the Subrecipient.

2.22 INDUSTRIAL INSURANCE COVERAGE

The Subrecipient shall comply with all applicable provisions of Title 51 RCW, Industrial Insurance. If the Subrecipient fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, the BOARD may collect from the Subrecipient the full amount payable to the Industrial Insurance Accident Fund. The BOARD may deduct the amount owed by the Subrecipient to the accident fund from the amount payable to the Subrecipient by the BOARD under this Subaward, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Subrecipient.

2.23 INSURANCE

The Subrecipient shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the State should there be any claims, suits, actions, costs, damages or expenses arising from any loss, or negligent or intentional act or omission of the Subrecipient or Subcontractor, or agents of either, while performing under the terms of this Subaward. Failure to maintain the required insurance coverage may result in termination of this Subaward.

The insurance required shall be issued by an insurance company authorized to do business within the state of Washington. Except for Professional Liability or Errors and Omissions Insurance, the insurance shall name the state of Washington, its agents, officers, and employees as additional insureds under the insurance policy. All policies shall be primary to any other valid and collectable insurance. The Subrecipient shall instruct the insurers to give BOARD thirty (30) calendar days advance notice of any insurance cancellation, non-renewal or modification.

The Subrecipient shall submit to the BOARD within fifteen (15) calendar days of a written request by BOARD, a certificate of insurance which outlines the coverage and limits defined in this insurance section. During the term of the Subaward, if required or requested, the Subrecipient shall submit renewal certificates not less than thirty (30) calendar days prior to expiration of each policy required under this section.

The Subrecipient shall provide insurance coverage that shall be maintained in full force and effect during the term of this Subaward, as follows:

Commercial General Liability Insurance Policy. Provide a Commercial General Liability Insurance Policy, including contractual liability, written on an occurrence basis, in adequate quantity to protect against legal liability arising out of Subaward activity but no less than $1,000,000 per occurrence. Additionally, the Subrecipient is responsible for ensuring that any SUBCONTRACTORS provide adequate insurance coverage for the activities arising out of SUBCONTRACTS.

Fidelity Insurance. Every officer, director, employee, or agent who is authorized to act on behalf of the Subrecipient for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks, or other instruments of payment for program costs shall be insured to provide protection against loss:

A. The amount of fidelity coverage secured pursuant to this Subaward shall be $2,000,000 or the highest of planned reimbursement for the Subaward period, whichever is lowest. Fidelity insurance secured pursuant to this paragraph shall name the BOARD as beneficiary.

A. SUBCONTRACTORS that receive $10,000 or more per year in funding through this Subaward shall secure fidelity insurance as noted above. Fidelity insurance secured by SUBCONTRACTORS pursuant to this paragraph shall name the Subrecipient and the Subrecipient's fiscal agent as beneficiary.

B. The Subrecipient shall provide, at BOARD's request, copies of insurance instruments or certifications from the insurance issuing agency. The copies or certifications shall show the insurance coverage, the designated beneficiary, who is covered, the amounts, the period of coverage, and that BOARD will be provided thirty (30) days advance written notice of cancellation.

2.24 Subrecipients and Local Governments that Participate in a Self-Insurance Program.

Self-Insured/Liability Pool or Self-Insured Risk Management Program – With prior approval from BOARD, the Subrecipient may provide the coverage above under a self-insured/liability pool or self-insured risk management program. In order to obtain permission from BOARD, the Subrecipient shall provide: (1) a description of its self-insurance program, and (2) a certificate and/or letter of coverage that outlines coverage limits and deductibles. All self-insured risk management programs or self-insured/liability pool financial reports must comply with Generally Accepted Accounting Principles (GAAP) and adhere to accounting standards promulgated by: 1) Governmental Accounting Standards Board (GASB), 2) Financial Accounting Standards Board (FASB), and 3) the Washington State Auditor's annual instructions for financial reporting. Subrecipient's participating in joint risk pools shall maintain sufficient documentation to support the aggregate claim liability information reported on the balance sheet. The state of Washington, its agents, and employees need not be named as additional insured under a self-insured property/liability pool, if the pool is prohibited from naming third Parties as additional insured.

Subrecipient shall provide annually to BOARD a summary of coverages and a letter of self-insurance, evidencing continued coverage under Subrecipient's self-insured/liability pool or self-insured risk management program. Such annual summary of coverage and letter of self-insurance will be provided on the anniversary of the start date of this Subaward.

2.25 LAWS

The Subrecipient shall comply with all applicable laws, ordinances, codes, regulations and policies of local and state and federal governments, as now or hereafter amended including, but not limited to:

Washington State Laws and Regulations

A. Affirmative action, RCW 41.06.020 (1).

B. Boards of directors or officers of non-profit corporations – Liability - Limitations, RCW 4.24.264.

C. Disclosure-campaign finances-lobbying, Chapter 42.17A RCW.

D. Discrimination-human rights commission, Chapter 49.60 RCW.

E. Ethics in public service, Chapter 42.52 RCW.

F. Office of minority and women's business enterprises, Chapter 39.19 RCW and Chapter 326-02 WAC.

G. Open public meetings act, Chapter 42.30 RCW.

H. Prevailing wages on public works, Chapter 39.12 RCW.

I. Public records act, Chapter 42.56 RCW.

J. State Executive Order 05-05 Archaeological and Cultural Resources.

2.26 LICENSING, ACCREDITATION AND REGISTRATION

The Subrecipient shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Subaward.

2.27 LIMITATION OF AUTHORITY

Only the Authorized Representative or Authorized Representative's designee by writing (designation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Subaward.

2.28 LOCAL PUBLIC TRANSPORTATION COORDINATION

Where applicable, Subrecipient shall participate in local public transportation forums and implement strategies designed to ensure access to services.

2.29 NONCOMPLIANCE WITH NONDISCRIMINATION LAWS

During the performance of this Subaward, the Subrecipient shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the Subrecipient's non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this Subaward may be rescinded, canceled or terminated in whole or in part, and the Subrecipient may be declared ineligible for further CONTRACTs with the BOARD. The Subrecipient shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

2.30 PAY EQUITY

The Subrecipient agrees to ensure that "similarly employed" individuals in its workforce are compensated as equals, consistent with the following:

A. Employees are "similarly employed" if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed;

B. Subrecipient may allow differentials in compensation for its workers if the differentials are based in good faith and on any of the following:

1. A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.
2. A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: Consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.
3. A bona fide regional difference in compensation level must be: Consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.

This Subaward may be terminated by the BOARD, if the BOARD or the Department of Enterprise Services determines that the Subrecipient is not in compliance with this provision.

2.31 POLITICAL ACTIVITIES

Political activity of Subrecipient employees and officers are limited by the State Campaign Finances and Lobbying provisions of Chapter 42.17 RCW and the Federal Hatch Act, 5 USC 1501 - 1508.

No funds provided under this Subaward may be used for working for or against ballot measures or for or against the candidacy of any person for public office.

2.32 PROCUREMENT STANDARDS FOR FEDERALLY FUNDED PROGRAMS

A Subrecipient which is a local government or Indian Tribal government must establish procurement policies and procedures in accordance with 2 CFR 200 for all purchases funded by this contract.

All recipients of funds under this Subaward, including Contractor and subrecipients or subcontractors of any tier, must follow the procurement standards in 2 CFR §§ 200.318 through 200.327, including ensuring that the procurement method used for the contracts are appropriate based on the dollar amount and conditions specified in 2 CFR § 200.320.

The Subrecipient's procurement system should include but not necessarily be limited to, the following:

A. General procurement standards 2 CFR § 200.318. A code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in the awarding of contracts using federal funds.

B. Competition 2 CFR § 200.319. Procedures that ensure all procurement transactions shall be conducted in a manner providing full and open competition consistent with the standards of this section and § 200.320.

C. Methods of procurement to be followed 2 CFR § 200.320.

D. Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms 2 CFR § 200.321.

2.33 PROHIBITION AGAINST PAYMENT OF BONUS OR COMMISSION

The funds provided under this Subaward shall not be used in payment of any bonus or commission for the purpose of obtaining approval of the application for such funds or any other approval or concurrence under this Subaward provided, however, that reasonable fees or bona fide technical consultant, managerial, or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as Project costs.

2.34 PUBLICITY

The Subrecipient agrees not to publish or use any advertising or publicity materials in which the state of Washington or the BOARD's name is mentioned, or language used from which the connection with the state of Washington's or the BOARD's name may reasonably be inferred or implied, without the prior written consent of the BOARD.

2.35 RECAPTURE

In the event that the Subrecipient fails to perform this Subaward in accordance with state laws, federal laws, and/or the provisions of this Subaward, the BOARD reserves the right to recapture funds in an amount to compensate the BOARD for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the Subrecipient of funds under this recapture provision shall occur within the time period specified by the BOARD. In the alternative, the BOARD may recapture such funds from payments due under this Subaward.

2.36 RECORDS MAINTENANCE

The Subrecipient shall maintain all books, records, documents, data and other evidence relating to this Subaward and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Subaward.

Subrecipient shall retain such records for a period of six (6) years following the date of the period of the use agreement. At no additional cost, these records, including materials generated under the Subaward, shall be subject at all reasonable times to inspection, review or audit by BOARD, personnel duly authorized by BOARD, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been finally resolved.

2.37 REGISTRATION WITH DEPARTMENT OF REVENUE

If required by law, the Subrecipient shall complete registration with the Washington State Department of Revenue.

2.38 RIGHT OF INSPECTION

At no additional cost all records relating to the Subrecipient's performance under this Subaward shall be subject at all reasonable times to inspection, review, and audit by the BOARD, the Office of the State Auditor, and federal and state officials so authorized by law, in order to monitor and evaluate performance, compliance, and quality assurance under this Subaward. The Subrecipient shall provide access to its facilities for this purpose.

2.39 SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Subaward and prior to normal completion, the BOARD may terminate the Subaward under the "Termination for Convenience" clause, without the ten business day notice requirement. In lieu of termination, the Subaward may be amended to reflect the new funding limitations and conditions.

2.40 SEVERABILITY

If any provision of this Subaward or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Subaward that can be given effect without the invalid provision, if such remainder conforms to the requirements of law and the fundamental purpose of this Subaward and to this end the provisions of this Subaward are declared to be severable.

2.41 SUBCONTRACTING

The Parties acknowledge and agree that Subrecipient may undertake all or part of the work under this Subaward through SUBCONTRACTORS. Subrecipient shall be solely responsible for the selection and management of SUBCONTRACTORS.

If Subrecipient engages in subcontracting, the Subrecipient shall maintain written procedures related to subcontracting, as well as copies of all SUBCONTRACTS and records related to SUBCONTRACTS. For cause, the BOARD in writing may: (a) require the Subrecipient to amend its subcontracting procedures as they relate to this Subaward; (b) prohibit the Subrecipient from subcontracting with a particular person or entity; or (c) require the Subrecipient to rescind or amend a SUBCONTRACT.

Every SUBCONTRACT shall bind the Subcontractor to follow all applicable terms of this Subaward. The Subrecipient is responsible to the BOARD if the Subcontractor fails to comply with any applicable term or condition of this Subaward. The Subrecipient shall appropriately monitor the activities of the Subcontractor to assure fiscal conditions of this Subaward. In no event shall the existence of a SUBCONTRACT operate to release or reduce the liability of the Subrecipient to the BOARD for any breach in the performance of the Subrecipient's duties.

Every SUBCONTRACT shall include a term that the BOARD and the State of Washington are not liable for claims or damages arising from a Subcontractor's performance of the SUBCONTRACT.

2.42 SURVIVAL

The terms, conditions, and warranties contained in this Subaward that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Subaward shall so survive.

2.43 TAXES

All payments accrued on account of payroll taxes, unemployment contributions, the Subrecipient's income or gross receipts, any other taxes, insurance or expenses for the Subrecipient or its staff shall be the sole responsibility of the Subrecipient.

2.44 TERMINATION FOR CAUSE

In the event BOARD determines the Subrecipient has failed to comply with the conditions of this Subaward in a timely manner, BOARD has the right to suspend or terminate this Subaward. Before suspending or terminating the Subaward, BOARD shall notify the Subrecipient in writing of the need to take corrective action. If corrective action is not taken within thirty (30) calendar days, the Subaward may be terminated or suspended.

In the event of termination or suspension, the Subrecipient shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

BOARD reserves the right to suspend all or part of the Subaward, withhold further payments, or prohibit the Subrecipient from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Subrecipient or a decision by BOARD to terminate the Subaward. A termination shall be deemed a "Termination for Convenience" if it is determined that the Subrecipient: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of BOARD provided in this Subaward are not exclusive and are, in addition to any other rights and remedies, provided by law.

2.45 TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Subaward the BOARD may, by ten (10) business days written notice, beginning on the second day after the mailing, terminate this Subaward, in whole or in part. If this Subaward is so terminated, the BOARD shall be liable only for payment required under the terms of this Subaward for services rendered or goods delivered prior to the effective date of termination.

2.46 TERMINATION PROCEDURES

Upon termination of this Subaward, BOARD, in addition to any other rights provided in this Subaward.

The rights and remedies of BOARD provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Subaward.

After receipt of a notice of termination, and except as otherwise directed by the Authorized Representative, the Subrecipient shall:

A. Stop work under the Subaward on the date, and to the extent specified, in the notice;

B. Place no further orders or SUBCONTRACTS for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Subaward that is not terminated;

C. Assign to the BOARD, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Subrecipient under the orders and SUBCONTRACTS so terminated, in which case the BOARD has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

D. Settle all outstanding liabilities and all claims arising out of such termination of orders and SUBCONTRACTS, with the approval or ratification of the Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;

E. Transfer title to the BOARD and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the Subaward had been completed, would have been required to be furnished to the BOARD;

F. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and

G. Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this Subaward, which is in the possession of the Subrecipient and in which the BOARD has or may acquire an interest.

2.47 TREATMENT OF ASSETS

Title to all property furnished by BOARD shall remain in BOARD. Title to all property furnished by the Subrecipient, for the cost of which the Subrecipient is entitled to be reimbursed as a direct item of cost under this Subaward, shall pass to and vest in BOARD upon delivery of such property by the Subrecipient

A. Any property of the BOARD furnished to the Subrecipient shall, unless otherwise provided herein or approved by the BOARD, be used only for the performance of this Subaward.

B. The Subrecipient shall be responsible for any loss or damage to property of the BOARD that results from the negligence of the Subrecipient or which results from the failure on the part of the Subrecipient to maintain and administer that property in accordance with sound management practices.

C. If any BOARD property is lost, destroyed or damaged, the Subrecipient shall immediately notify the BOARD and shall take all reasonable steps to protect the property from further damage.

D. The Subrecipient shall surrender to the BOARD all property of the BOARD prior to settlement upon completion, termination or cancellation of this Subaward.

All reference to the Subrecipient under this clause shall also include Subrecipient's employees, agents or SUBCONTRACTORS.

2.48 WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Subaward unless stated to be such in writing and signed by Authorized Representative of the BOARD.

2.49 WORK HOURS AND SAFETY STANDARDS

The Grant Work Hours and Safety Standards Act (40 U.S.C. 327-333)-Where applicable, all contracts awarded by recipients in excess of $100,000 for construction and other purposes that involve the employment of mechanics or laborers must include a provision for compliance with Section 102 and 107 of the Grant Work Hours Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each subcontractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic is required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

ATTACHMENT A: PROJECT SCOPE OF WORK

Funds awarded under this contract will be used for capital expenditures for the Clallam County Broadband Project.

Design and construct mid-mile infrastructure along a small portion of Hwy 101 and Hwy 112 that will bring access to approximately 1,600 premises overall; for this specific project phase, approximately 36 miles of fiber will be constructed to provide approximately 640 homes with access to broadband service.

The location of the Project is: This project will be located west of Port Angeles and north of Elwha in Clallam County. The project is expected to be along the Strait of Juan de Fuca Highway.

Milestones:

Milestone Deliverable	Estimated Completion Quarter
Broadband Manager	Q4 2024
RFP – Project Design	Q2 2023
RFP – Construction	Q3 2023
Permitting	Q4 2023
Material Procurement	Q1 2024
Construction	Q4 2024
Testing	Q4 2024

The project activities may include but are not limited to: engineering, cultural and historical resources, environmental documentation, review, permits, construction or project management, bid documents, and construction.

This Project will deliver, upon completion, service that reliably meets or exceeds symmetrical download and upload speed of 100 Mbps. If it will be impracticable to do so for reason articulated in the application submitted to PWB, such as geography, topography, and/or excessive cost, the Project will be designed so that it reliably meets or exceeds 100 Mbps download speeds and between 20 Mbps and 100 Mbps upload speeds and is scalable to a minimum of 100 Mbps symmetrical for download and upload speeds.

Subrecipient will require that any service provider for a completed Broadband Infrastructure Project participate in federal program that provides low-income customers with subsidies on broadband internet access services. Subrecipient will require completed service offerings funded by the award to allow subscribers in the service area to utilize the Federal Communications Commission's Affordable Connectivity Program (ACP) and further agrees that it will require that any service provider for a completed Broadband Infrastructure Project will participate in ACP for the duration of the ACP or until the date the broadband Infrastructure Project funded by this award is no longer in use.

This Project is expected to be complete by December 31, 2024.

The Project must meet all applicable Local, State, and/or Federal standards.

CERTIFICATION PERFORMANCE MEASURE – SCOPE OF WORK

The Subrecipient, by its signature, certifies that the declaration set forth above has been reviewed and approved by the Subrecipient's governing body as of the date and year written below.

DocuSigned by:
Mark Ozias Clallam County Commissioner
EB4787238B04474...
Subrecipient SIGNATURE, TITLE

12/27/2022 | 12:00 PM PST
DATE

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ATTACHMENT B: CERTIFICATION OF THE AVAILABILITY OF FUNDS TO COMPLETE THE PROJECT

Type of Funding	Source Description	Amount
Grant	Public Works Board	$4,525,174
Other Grants		
Grant #1		$
Grant #2		$
Total Other Grants		**$0.00**
Other Loans		
Loan #1		$
Loan #2		$
Total Loans		**$0.00**
Other Local Revenue		
Source #1		$
Total Local Revenue		**$0.00**
Other Funds		
Source #1		$
Source #2		$
Total Other Funds		**$0.00**
Total Project Funding		**$4,525,174**

CERTIFICATION PERFORMANCE MEASURE - AVAILABILITY OF FUNDS

The Subrecipient, by its signature, certifies that Project funding from sources other than those provided by this Subaward Agreement and identified above has been reviewed and approved by the Subrecipient's governing body or board of directors, as applicable, and has either been expended for eligible Project expenses, or is committed in writing and available and will remain committed and available solely and specifically for carrying out the purposes of this Project as described in elsewhere in this Subaward Agreement, as of the date and year written below. The Subrecipient shall maintain records sufficient to evidence that it has expended or has access to the funds needed to complete the Project, and shall make such records available for the BOARD review upon reasonable request.

DocuSigned by:
Mark Ozias Clallam County Commissioner
EB47B729BB04474...
Subrecipient SIGNATURE, TITLE

12/27/2022 | 12:00 PM PST
DATE

DocuSign Envelope ID: 5418B238-EC84-45F9-963B-2F1934B28BFA

ATTACHMENT C: CERTIFICATION OF THE PAYMENT AND REPORTING OF PREVAILING WAGES

Subrecipient: Clallam, County of

Contract Number: PBC22-96104-009

Project Title: Clallam County Broadband Project

The Subrecipient, by its signature below, certifies that all Subrecipient and SUBCONTRACTORS performing work on the Project as described in Attachment A: SCOPE OF WORK shall comply with prevailing wage laws set forth in Chapter 39.12 RCW, as applicable to the Project funded by this Subaward, including but not limited to the filing of the "Statement of Intent to Pay Prevailing Wages" and "Affidavit of Wages Paid" as required by RCW 39.12.040. The Subrecipient shall maintain records sufficient to evidence compliance with Chapter 39.12 RCW, and shall make such records available for the Board's review upon request.

If any state funds are used by the Subrecipient for the purpose of construction, applicable State Prevailing Wages must be paid.

The Subrecipient, by its signature below, certifies that the declaration set forth above has been reviewed and approved by the Subrecipient's governing body as of the date and year written below.

DocuSigned by:
Mark Ozias
EB4707298B04474...
Signature

Mark Ozias
Name

Clallam County Commissioner
Title

12/27/2022 | 12:00 PM PST
Date

ATTACHMENT D: CERTIFICATION OF INTENT TO REVIEW AND COMPLY WITH TREASURY'S CORONAVIRUS CAPITAL PROJECTS FUND ENVIRONMENTAL CHECKLIST

The Subrecipient, by its signature, certifies that the Treasury's Coronavirus Capital Projects Fund Environmental Checklist has been reviewed and Subrecipient identifies applicable environmental laws and performs proper due diligence to ensure their Project complies with all applicable laws.

Subrecipient must retain records, permits, and documentation necessary to evidence compliance with all environmental requirements.

The Subrecipient, by its signature, certifies that the declaration set forth above has been reviewed and approved by the Subrecipient's governing body or board of directors, as applicable, as of the date and year written below.

DocuSigned by:
Mark Ozias Clallam County Commissioner
SUBRECIPIENT SIGNATURE, TITLE

12/27/2022 | 12:00 PM PST
DATE

ATTACHMENT E: DEBARMENT CERTIFICATION

DEBARMENT

A. Subrecipient, defined as the primary participant and it principals, certifies by signing these General Terms and Conditions that to the best of its knowledge and belief that they:

i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.

ii. Have not within a three-year period preceding this Subaward, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;

iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of federal Executive Order 12549; and

iv. Have not within a three-year period preceding the signing of this Subaward had one or more public transactions (Federal, State, or local) terminated for cause of default.

B. Where the Subrecipient is unable to certify to any of the statements in this Subaward, the Subrecipient shall attach an explanation to this Subaward.

C. The Subrecipient agrees by signing this Subaward that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the BOARD.

D. The Subrecipient further agrees by signing this Subaward that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," as follows, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

LOWER TIER COVERED TRANSACTIONS

i. The lower tier Subrecipient certifies, by signing this Subaward that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

ii. Where the lower tier Subrecipient is unable to certify to any of the statements in this Subaward, such Subrecipient shall attach an explanation to this Subaward.

The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded**, as used in this section, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the BOARD for assistance in obtaining a copy of these regulations.

CERTIFICATION – DISBARMENT

The Subrecipient, by its signature, certifies that the declaration set forth above has been reviewed and approved by the Subrecipient's governing body as of the date and year written below.

DocuSigned by:
Mark Ozias Clallam County Commissioner
E847B729BB04474...
Subrecipient SIGNATURE, TITLE

12/27/2022 | 12:00 PM PST
DATE

ATTACHMENT F: ATTORNEY CERTIFICATION

PUBLIC WORKS BOARD
FEDERAL BROADBAND CONSTRUCTION PROGRAM

Subrecipient: Clallam, County of

Subaward Number: PBC22-96104-009

I, Bert Dee Boughton, hereby certify:

I am an attorney at law admitted to practice in the State of Washington and the duly appointed attorney of the Clallam, County of (the Subrecipient); and

I have also examined any and all documents and records which are pertinent to the Subaward, including the application requesting this financial assistance.

Based on the foregoing, it is my opinion that:

1. The Subrecipient is properly constituted and operating under the laws of the State of Washington, empowered to receive and expend federal, state and local funds, to Subaward with the State of Washington, and to receive and expend the funds involved to accomplish the objectives set forth in their application.

2. The Subrecipient is empowered to accept the BOARD financial assistance.

3. There is currently no litigation in existence seeking to enjoin the commencement or completion of the above-described public facilities Project.

DocuSigned by:
Bert Dee Boughton
00BB3E66E03B4E9...
Signature of Attorney

12/5/2022 | 10:02 AM PST
Date

Bert Dee Boughton
Name

Address
Address

DocuSign

Certificate Of Completion

Envelope Id: 5418B238EC8445F9963B2F1934B28BFA
Status: Completed
Subject: Complete with DocuSign: PBC22-96104-009_Clallam_County.pdf
Division:
Local Government
Program: PWB Federal Broadband
ContractNumber: PBC22-96104-009
DocumentType: Contract
Source Envelope:
Document Pages: 44
Signatures: 8
Certificate Pages: 5
Initials: 0
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Envelope Originator:
Sheila Richardson
1011 Plum Street SE
MS 42525
Olympia, WA 98504-2525
sheila.richardson@commerce.wa.gov
IP Address: 147.55.149.136

Record Tracking

Status: Original
11/30/2022 9:35:34 AM
Security Appliance Status: Connected
Storage Appliance Status: Connected

Holder: Sheila Richardson
sheila.richardson@commerce.wa.gov
Pool: StateLocal
Pool: Washington State Department of Commerce

Location: DocuSign
Location: DocuSign

Signer Events	Signature	Timestamp
Bert Dee Boughton dee.boughton@clallamcountywa.gov Security Level: Email, Account Authentication (None)	DocuSigned by: Bert Dee Boughton 08BB3E66E09B4E9... Signature Adoption: Pre-selected Style Using IP Address: 65.243.148.162	Sent: 11/30/2022 9:46:10 AM Viewed: 12/5/2022 9:59:34 AM Signed: 12/5/2022 10:02:49 AM
Electronic Record and Signature Disclosure: Accepted: 12/5/2022 9:59:34 AM ID: 90276934-18fe-4d3a-ae7d-55e9bef416ad		
Mark Ozias mark.ozias@clallamcountywa.gov Chair, Board of County Commissioners Security Level: Email, Account Authentication (None)	DocuSigned by: Mark Ozias EB47B729BB04474... Signature Adoption: Pre-selected Style Using IP Address: 65.243.148.162	Sent: 11/30/2022 9:46:09 AM Viewed: 12/27/2022 11:59:47 AM Signed: 12/27/2022 12:00:30 PM
Electronic Record and Signature Disclosure: Accepted: 12/27/2022 11:59:47 AM ID: c564dab0-4f2e-4489-bc82-1f365e606ed2		
Kathryn A. Gardow pwbgardowk@gmail.com Security Level: Email, Account Authentication (None)	DocuSigned by: 7245D4026B7D42E... Signature Adoption: Uploaded Signature Image Using IP Address: 97.113.41.161	Sent: 12/27/2022 12:00:33 PM Viewed: 12/28/2022 2:46:33 PM Signed: 12/28/2022 2:47:22 PM
Electronic Record and Signature Disclosure: Accepted: 12/28/2022 2:46:33 PM ID: 6ed9f0ac-f9a4-4eb9-8d80-59a0171fda04		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp
Agent Delivery Events	**Status**	**Timestamp**
Intermediary Delivery Events	**Status**	**Timestamp**
Certified Delivery Events	**Status**	**Timestamp**
Carbon Copy Events	**Status**	**Timestamp**
Chelsea Millar chelsea.millar@clallamcountywa.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 11/30/2022 9:46:10 AM Viewed: 11/30/2022 9:49:26 AM
Steve Gray steve.gray@clallamcountywa.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 11/18/2022 8:29:08 AM ID: 03df6d44-dfd5-46e5-b3c1-4b84778f3a1c	COPIED	Sent: 11/30/2022 9:46:10 AM
Witness Events	**Signature**	**Timestamp**
Notary Events	**Signature**	**Timestamp**

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	11/30/2022 9:46:10 AM
Certified Delivered	Security Checked	12/28/2022 2:46:33 PM
Signing Complete	Security Checked	12/28/2022 2:47:22 PM
Completed	Security Checked	12/28/2022 2:47:22 PM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Washington State Department of Commerce (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a $0.15 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Washington State Department of Commerce:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: docusign@commerce.wa.gov

To advise Washington State Department of Commerce of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at docusign@commerce.wa.gov and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from Washington State Department of Commerce

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to docusign@commerce.wa.gov and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Washington State Department of Commerce

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;

ii. send us an email to docusign@commerce.wa.gov and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: https://support.docusign.com/guides/signer-guide-signing-system-requirements.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify Washington State Department of Commerce as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by Washington State Department of Commerce during the course of your relationship with Washington State Department of Commerce.

FEB 2 6 2024

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: Public Works

WORK SESSION ☒ **Meeting Date: February 26, 2024**

REGULAR AGENDA ☐ **Meeting Date:**

Required originals approved and attached? ☒
Will be provided on:

Item summary:

☐ Call for Hearing
☐ Contract/Agreement/MOU - Contract #
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☒ Other Pre-Grant Authorization

Documents exempt from public disclosure attached: ☐

Executive summary:

The Transportation Alternatives grant is a federal funding program. Projects selected for regional allocation of Transportation Alternatives grant are by the Peninsula Regional Transportation Organization (PRTPO). Eligible activities include the planning, design, and construction of on-road and off-road trail facilities for pedestrians, bicyclists, and other nonmotorized forms of transportation, including sidewalks, bicycle infrastructure, pedestrian and bicycle signals, traffic calming techniques, lighting and other safety-related infrastructure, and transportation projects to achieve compliance with the Americans Disabilities Act.

The proposed project is a joint effort between Clallam County and the Jamestown S' Klallam Tribe (JSKT) for improvements to the Olympic Discovery Trail (ODT) from Carlsborg Road to Banana Way in the Carlsborg Urban Growth Area (UGA). Proposed improvements include (1) improving trail alignment at the Carsborg Rd crossing; (2) installing a crosswalk and trail user activated lighted crossing sign for the ODT-Carlsborg Road crossing; (3) widening, resurfacing, and some partial realignment of the trail between Carlsborg Road and Banana Way; and (4) other trail corridor improvements (e.g., landscaping, fencing, signage). The attached figures provide the conceptual improvements proposed between Carlsborg Road and Banana Way and the ODT-Carlsborg Road crossing.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐

The lead applicant will be JSKT. Co-applicant will be Clallam County. No change in staffing required to support grant implementation if awarded.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)

Authorize and approve County partnership with the JSKT on applying for the federal Transportation Alternatives grant funding.

County Official signature & print name: Steve Gray

Name of Employee/Stakeholder attending meeting: Steve Gray, Deputy Director

Relevant Departments: Public Works

Date submitted: 02-21-24

Clallam County
Grant Application Information

DEPARTMENT: Public Works

DATE SUBMITTED TO W/S: 02/21/2024

GRANT NAME: Federal Transportation Alternatives

APPLICATION DEADLINE: 03/04/2024

ISSUING AGENCY: Peninsula RTPO

IS THIS A RENEWAL? No

LENGTH OF GRANT: 2024-2024

RENEWAL POSSIBLE?

TOTAL AWARD: ~ 1 million

ANNUAL AMOUNT : N/A

MATCH REQUIRED? No

MATCH AMOUNT: N/A

DESCRIPTION OF GRANT AND PURPOSE:
The Transportation Alternatives grant is a federal funding program. Projects selected for regional allocation of Transportation Alternatives grant are by the Peninsula Regional Transportation Organization (PRTPO). Eligible activities include the planning, design, and construction of on-road and off-road trail facilities for pedestrians, bicyclists, and other nonmotorized forms of transportation, including sidewalks, bicycle infrastructure, pedestrian and bicycle signals, traffic calming techniques, lighting and other safety-related infrastructure, and transportation projects to achieve compliance with the Americans Disabilities Act.

The proposed project is a joint effort between Clallam County and the Jamestown S' Klallam Tribe (JSKT) for improvements to the Olympic Discovery Trail (ODT) from Carlsborg Road to Banana Way in the Carlsborg Urban Growth Area (UGA). Proposed improvements include (1) improving trail alignment at the Carsborg Rd crossing; (2) installing a crosswalk and trail user activated lighted crossing sign for the ODT-Carlsborg Road crossing; (3) widening, resurfacing, and some partial realignment of the trail between Carlsborg Road and Banana Way; and (4) other trail corridor improvements (e.g., landscaping, fencing, signage). The attached figures provide the conceptual improvements proposed between Carlsborg Road and Banana Way and the ODT-Carlsborg Road crossing.

EXPLAIN HOW THIS GRANT WILL BE USED FOR THE GOOD OF CLALLAM COUNTY CITIZENS:
The project will improve trail user safety and experience. It will increase the trail surface width from 8 feet to 10-feet consistent with current minimum width standards for shared use trails. Proposed trail Carlsborg Rd. crossing improvements will improve safety at this crossing for trail users.

DOES THE GRANT ACTIVITY FURTHER THE DEPARTMENT'S MISSION OR CORE FUNCTIONS? HAS IT BEEN A PART OF LONG TERM DEPARTMENT OR COUNTY GOALS?
Yes, a core work area of the Department is the operation and maintenance of County-managed segments of the ODT.

DOES THE GRANT ACTIVITY INCREASE AN EXISTING SERVICE OR ADD A NEW SERVICE? TO WHAT DEGREE? IF THE GRANT WERE NOT AVAILABLE, WOULD THE SERVICE HAVE BEEN NECESSARY?
No. The ODT corridor and crossing already exists.

WHAT MEASUREMENTS (PERFORMANCE MEASURES) WILL BE USED TO EVALUATE THE SUCCESS OF THE ACTIVITIES PROVIDED BY THE GRANT? WILL PERFORMANCE MEASURES BE DEVELOPED?
Construction of the proposed improvements. Improve trail user experience and safety in the improved corridor, particularly at the Carlsborg Road crossing.

DOES THE GRANT ACTIVITY CREATE A NEW SERVICE OR LEVEL OF SERVICE WHICH IS EXPECTED TO BE CONTINUED FROM LOCAL FUNDING AT THE END OF THE GRANT PERIOD?
No increase in level of surface. The ODT corridor and crossing already exists.

IF MATCHING FUNDS ARE REQUIRED, WHERE WILL THEY COME FROM? DOES THE DEPARTMENT HAVE EXISTING RESOURCES TO COVER MATCH REQUIREMENTS? FROM WHERE?
Not required.

WILL THE ACTIVITY IN THIS GRANT HAVE IMPACTS ON OTHER DEPARTMENTS? HAS THIS BEEN DISCUSSED? DO OTHER DEPARTMENTS HAVE SUFFICIENT RESOURCES TO DEAL WITH ADDITIONAL IMPACTS?
No impacts to other Departments.

WILL NEW POSITIONS BE ADDED? IF SO, HOW MANY AND WHAT TYPE ARE EXPECTED? ARE ALL WAGES AND BENEFITS PAID IN THE GRANT? WHAT WILL HAPPEN TO THE POSITIONS WHEN THE GRANT PERIOD ENDS?
No new positions will be added.

DOES YOUR DEPARTMENT HAVE SUFFICIENT RESOURCES TO ADMINISTER THE GRANT? PROVIDE FOR TIMELY REIMBURSEMENT AND ACTIVITY REPORTS?
Yes

ARE THERE IMPACTS TO THE COUNTY IF THE GRANT IS NOT RECEIVED? WHAT ARE THEY?
Yes, County will need to allocate funding for trail surfacing improvements likely within five years of sooner.

ARE INDIRECT COSTS ALLOWABLE ON THIS GRANT? IF SO, ARE THERE LIMITATIONS? WILL THEY BE CHARGED AND ALLOCATED AS INDIRECT?
Unknown.

ARE THERE OTHER ACTIVITIES (GRANT OR OTHERWISE) THAT ARE BUDGETED FOR THIS YEAR THAT WILL NOT BE COMPLETED IF THIS GRANT IS APPROVED?
No

WHAT BUDGET CHANGES ARE NECESSARY? INCLUDE REVENUES AND EXPENDITURES.
None. The lead applicant will be JSKT. Co-applicant will be Clallam County.

OTHER COMMENTS
The JSKT in coordination with the Department did apply for a separate federal Tribal Safety Grant for the proposed Carlsborg Road Crossing Improvements (see attached conceptual design). The ODT Carlsborg Road crossing improvements will also be included in the proposed Transportation Alternatives grant application in case they are not funded under

the Tribal Safety Grant Program and to show relationship to overall safety and trail corridor improvements proposed for this ODT segment.

The Clallam County Trails Advisory Committee reviewed and supported the proposed trail and crossing improvements.

ELECTED OFFICIAL/DEPARTMENT HEAD SIGNATURE

APPROVAL

Todd Mielke, ADMINISTRATOR

Submit in **duplicate** to the Board of Commissioners for Work Session discussion and approval by the Administrator prior to application for any grant. The approved form must be included with the grant contract when it is submitted to the Board for approval. Refer to Administrative Policies 120 and 562.

OLYMPIC DISCOVERY TRAIL

CARLSBORG ROAD

DRAFT Conceptual Plan

December, 2023

10 ft. Asphalt Trail with 18" Gravel Shoulders

Safety Bollard

Decorative Custom Fence

Black Chain Link Fence

Shade Structure w/ Seating and Integrated Artwork

Signage for Wayfinding and Trail Etiquette

Improved Crossing with Rectangular Rapid Flashing Beacons

OLYMPIC Discovery TRAIL

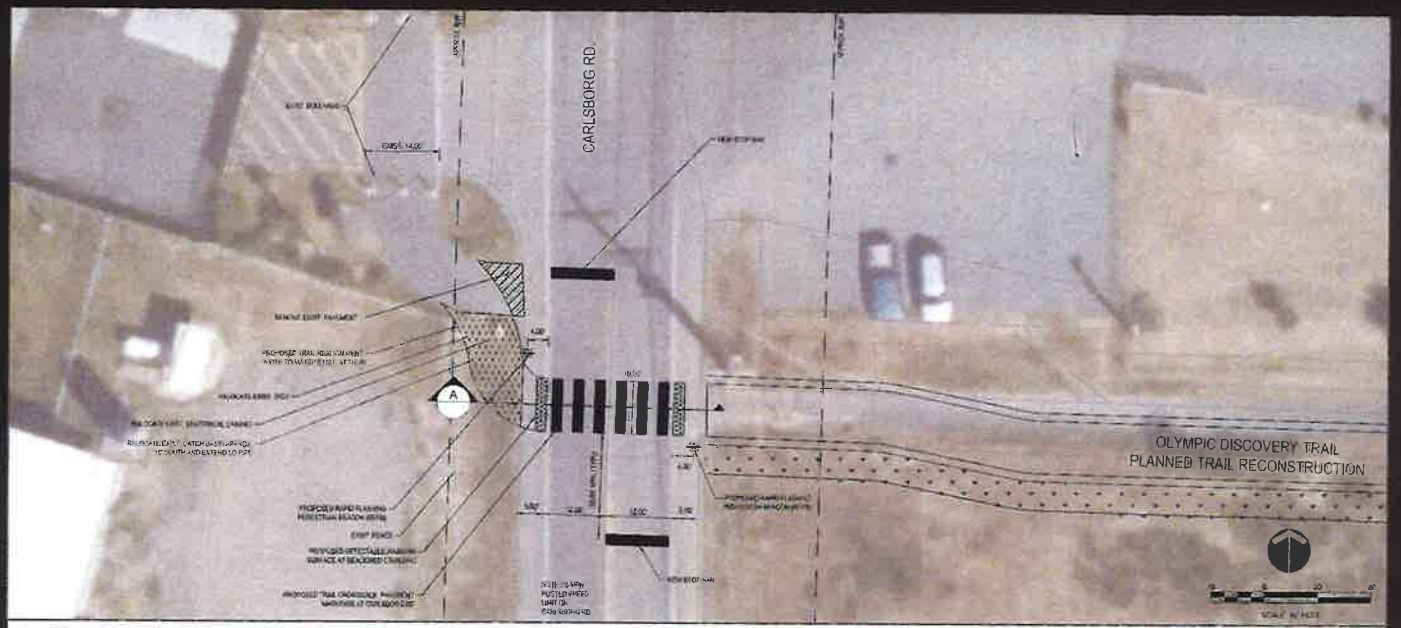
Otak

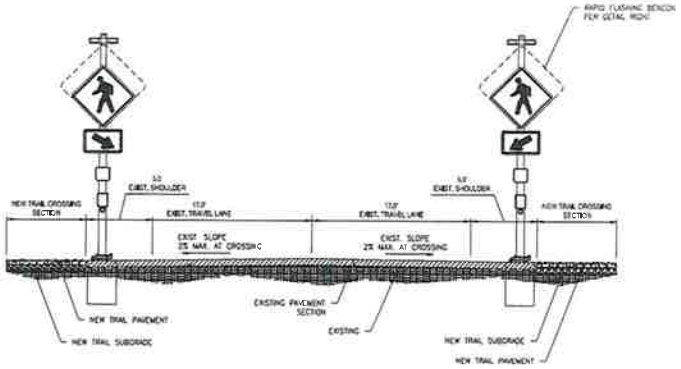
OLYMPIC DISCOVERY TRAIL

CARLSBORG ROAD

DRAFT Roadway Crossing Exhibit

December, 2023





SECTION A – OLYMPIC DISCOVERY TRAIL, CARLSBORG RD CROSSING , TYP. SECTION

RAPID-FLASHING BEACON

10

FEB 2 6 2024

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: Public Works/Roads

WORK SESSION ☒ **Meeting Date: 02/26/2024**

REGULAR AGENDA ☒ **Meeting Date: 03/05/2024**

Required originals approved and attached? ☒
Will be provided on:

Item summary:

☒ Call for Hearing
☐ Contract/Agreement/MOU - Contract #
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☐ Other

Documents exempt from public disclosure attached: ☐

Executive summary:
Hunter Gilliam has petitioned Clallam County to vacate a portion of unopened county right of way through his parcel of land. A Public Hearing is required for road vacations.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐

None

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)

Approve the Call for Hearing

County Official signature & print name: Joe Donisi, P.E.

Name of Employee/Stakeholder attending meeting: Joe Donisi, Linda Capps

Relevant Departments: Roads

Date submitted: 02/21/2024

CR RESOLUTION __, 2024

CALL FOR HEARING ON THE PROPOSED VACATION OF UNDEVELOPED RIGHT OF WAY

THE BOARD OF CLALLAM COUNTY COMMISSIONERS finds as follows:

1. A petition has been received seeking to vacate a portion of county right of way, alleging that the right-of-way is useless as a part of the general road system and that the public will be benefited by its vacation.

   Said right of way petitioned to be abandoned is described as follows:

   That portion of unopened right of way granted under Auditors File Number 196274 as shown in Survey Volume 70 Page 61 in Tax Parcel Number 033034220435.

   Together with and subject to easements, right-of-way, conditions, encumbrances, and restriction of records, if any.

2. RCW 36.87 sets the requirements for the Board to consider vacation and abandonment of public rights of way and these requirements have been met.

NOW, THEREFORE, BE IT RESOLVED by the Clallam County Board of Commissioners, in consideration of the above findings of fact:

1. Hereby declares its intent to vacate and abandon right of way described above.
2. Instructs the County Engineer to examine the above described right of way and to report his opinion as to whether the right of way should be vacated and abandoned, whether the right of way is in use or has been in use, the condition of the right of way, whether it will be advisable to preserve it for the county road system in the future, whether the public will be benefited by the vacation and abandonment, and all other facts, matters, and things which will be of importance to the board, prior to the public hearing date set below.
3. Instructs publication, posting, and notification procedures be followed as per RCW 36.87.
4. Sets a public hearing to consider the vacation request, to be held in the Commissioners' Meeting Room, Room 160, Clallam County Courthouse, 223 E. 4th Street, Port Angeles, Washington, on Tuesday, April 2nd at 10:30 a.m.

PASSED AND ADOPTED this _____ day of _____ 2024

BOARD OF CLALLAM COUNTY COMMISSIONERS

_____
Mike French, Chair

_____
Randy Johnson

ATTEST:

_____
Mark Ozias

_____
Loni Gores, CMC, Clerk of the Board

PLEASE PUBLISH: 03/08/2024 & 3/15/2024

PLEASE BILL: Clallam County Public Works Dept.

PETITION FOR VACATION AND/OR ABANDONMENT OF A COUNTY RIGHT OF WAY

In the Matter of the Petition of Hunter Gilliam and others for the Vacation And/ or Abandonment of a County Right of Way in Clallam County, Washington	))))))))	PETITION

To the Board of County Commissioners of Clallam County, Washington:

We, the undersigned freeholders of Clallam County, State of Washington, do petition that the following described County right of way easement be vacated and abandoned viz:

That portion of road easement granted under AFN 196274 in Tax Parcel Number 033034220435

TOGETHER WITH AND SUBJECT TO EASEMENTS, RIGHT-OF-WAYS, CONDITIONS, ENCUMBRANCES AND RESTRICTION OF RECORDS, IF ANY.

Your petitioners respectfully represent and allege that the right of way is useless as a part of the general road system and the public will be benefited by its vacation and abandonment, and that all of your petitioners are freeholders residing in said County in the vicinity of said right of way, wherefore your petitioners pray for the vacation and abandonment of said right of way, as provided by law pursuant to Chapter 36.87 RCW.

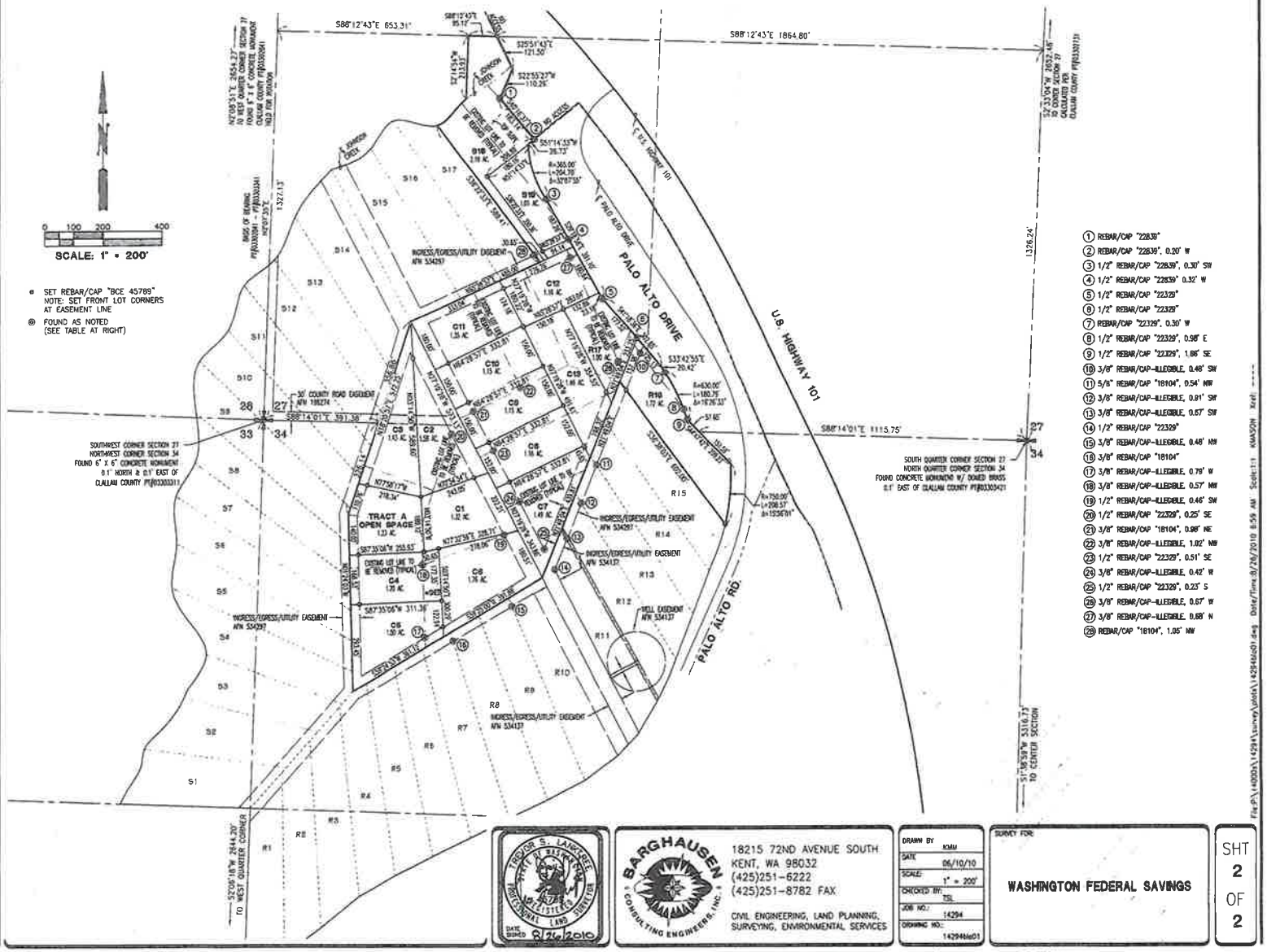
PETITIONERS	TAX PARCEL NUMBER	ADDRESS
Matt Miller Principal Petitioner	033034220435	200 N Honeycomb Sequim, WA 98382

Petition must be signed by the freeholders abutting a majority of the frontage that portion of said right of way being vacated. The petition must show the land owned by each petitioner.

2010-1255979 09/02/2010 10:54:31 AM 2 of 2 Clallam County WASURVY
BARGHAUSEN CONSULTING ENGINEERS

RECORD OF SURVEY FOR BOUNDARY LINE ADJUSTMENT NO. BLA2008-00003

SW1/4 SECTION 27 & NW1/4 SECTION 34, TOWNSHIP 30 NORTH, RANGE 3 WEST, W.M.
CLALLAM COUNTY, WASHINGTON



1. REBAR/CAP "22839"
2. REBAR/CAP "22839", 0.20' W
3. 1/2" REBAR/CAP "22839", 0.30' SW
4. 1/2" REBAR/CAP "22839" 0.32' W
5. 1/2" REBAR/CAP "22329"
6. 1/2" REBAR/CAP "22329"
7. REBAR/CAP "22329", 0.30' W
8. 1/2" REBAR/CAP "22329", 0.98' E
9. 1/2" REBAR/CAP "22329", 1.86' SE
10. 3/8" REBAR/CAP-ILLEGIBLE, 0.46' SW
11. 5/8" REBAR/CAP "18104", 0.54' NW
12. 3/8" REBAR/CAP-ILLEGIBLE, 0.81' SW
13. 3/8" REBAR/CAP-ILLEGIBLE, 0.67' SW
14. 1/2" REBAR/CAP "22329"
15. 3/8" REBAR/CAP-ILLEGIBLE, 0.48' NW
16. 3/8" REBAR/CAP "18104"
17. 3/8" REBAR/CAP-ILLEGIBLE, 0.79' W
18. 3/8" REBAR/CAP-ILLEGIBLE, 0.57' NW
19. 1/2" REBAR/CAP-ILLEGIBLE, 0.46' SW
20. 1/2" REBAR/CAP "22329", 0.25' SE
21. 3/8" REBAR/CAP "18104", 0.98' NE
22. 3/8" REBAR/CAP-ILLEGIBLE, 1.02' NW
23. 1/2" REBAR/CAP "22329", 0.51' SE
24. 3/8" REBAR/CAP-ILLEGIBLE, 0.42' W
25. 1/2" REBAR/CAP "22329", 0.23' S
26. 3/8" REBAR/CAP-ILLEGIBLE, 0.67' W
27. 3/8" REBAR/CAP-ILLEGIBLE, 0.68' N
28. REBAR/CAP "18104", 1.05' NW

TREVOR S. LANGHEIM — STATE OF WASHINGTON — 22839 — REGISTERED PROFESSIONAL LAND SURVEYOR — DATE SIGNED 8/26/2010

BARGHAUSEN CONSULTING ENGINEERS, INC.
18215 72ND AVENUE SOUTH
KENT, WA 98032
(425)251-6222
(425)251-8782 FAX
CIVIL ENGINEERING, LAND PLANNING, SURVEYING, ENVIRONMENTAL SERVICES

DRAWN BY:	KMM
DATE:	06/10/10
SCALE:	1" = 200'
CHECKED BY:	TSL
JOB NO.:	14294
DRAWING NO.:	142946le01

SURVEY FOR: WASHINGTON FEDERAL SAVINGS

SHT 2 OF 2

File:P:\14000s\14294\survey\plats\142946le01.dwg Date/Time:8/26/2010 8:59 AM Scale:1:1 KMASON Xref: ----

RECORD OF SURVEY FOR BOUNDARY LINE ADJUSTMENT NO. BLA2008-00003

SW1/4 SECTION 27 & NW1/4 SECTION 34, TOWNSHIP 30 NORTH, RANGE 3 WEST, W.M.
CLALLAM COUNTY, WASHINGTON

DECLARATION

KNOW ALL MEN BY THESE PRESENTS, THAT WE THE UNDERSIGNED OWNER(S) OF THE LAND HEREIN DESCRIBED DO HEREBY MAKE A BOUNDARY LINE ADJUSTMENT THEREOF PURSUANT TO RCW 58.17.040 AND DECLARE THIS ADJUSTMENT TO BE THE GRAPHIC REPRESENTATION OF THE SAME, AND THAT SAID ADJUSTMENT IS MADE WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE OWNER(S).

IN WITNESS WHEREOF WE HAVE SET OUR HANDS AND SEALS.

WASHINGTON FEDERAL SAVINGS

Ronald McKenzie
BY: Ronald McKenzie
ITS: Senior Vice President

ACKNOWLEDGMENT

STATE OF WASHINGTON } SS.
COUNTY OF KING }

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT Ronald McKenzie IS THE PERSON WHO APPEARED BEFORE ME, AND SAID PERSON ACKNOWLEDGED THAT (S)HE SIGNED THIS INSTRUMENT, ON OATH STATED (S)HE WAS AUTHORIZED TO EXECUTE THE INSTRUMENT AND ACKNOWLEDGED IT AS THE Senior Vice President OF WASHINGTON FEDERAL SAVINGS TO BE THE FREE AND VOLUNTARY ACT OF SUCH PARTY FOR THE USES AND PURPOSES MENTIONED IN THE INSTRUMENT.

DATED THIS 30th DAY OF August, 2010.

Sandra L Bailey
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON
MY APPOINTMENT EXPIRES 4/9/2014

NOTARY PUBLIC STATE OF WASHINGTON COMMISSION EXPIRES APRIL 9 2014

APPROVALS

EXAMINED AND APPROVED THIS 1st DAY OF September 2010.

Gretchen K Clark
ADMINISTRATOR, DEPARTMENT OF COMMUNITY DEVELOPMENT

ALL TAXES AND ANY DELINQUENT ASSESSMENTS FOR WHICH THE LAND WITHIN THE BOUNDARY LINE ADJUSTMENT MAY BE LIABLE HAVE BEEN DULY PAID AS REQUIRED BY RCW 84.56.345.

Judith Scott by Kwahtsteo dep
TREASURER, CLALLAM COUNTY

SURVEYOR'S NOTES

PROCEDURE / NARRATIVE
A FIELD TRAVERSE USING A "TRIMBLE 5600" ROBOTIC TOTAL STATION, TRIMBLE 5800 RTK GPS AND "TDS RANGER" DATA COLLECTOR SUPPLEMENTED WITH FIELD NOTES WAS PERFORMED, ESTABLISHING THE ANGULAR, DISTANCE, AND VERTICAL RELATIONSHIPS BETWEEN THE MONUMENTS, PROPERTY LINES, AND TOPOGRAPHIC FEATURES AS SHOWN HEREON. A TOPCON GR-3 RTK GPS WAS USED TO CHECK AND ESTABLISH THE ELEVATION OF BENCHMARKS AND CONTROL POINTS. THE RESULTING DATA MEETS OR EXCEEDS THE STANDARDS FOR LAND BOUNDARY SURVEYS AS SET FORTH IN WAC 332-130-090.

HORIZONTAL DATUM - BASIS OF BEARING
THE BEARING OF THE LINE BETWEEN THE FOUND MONUMENTS CLALLAM COUNTY 3303341 (3" BRASS) TO CLALLAM 3302841 6"X6" CONCRETE MONUMENT), BEARING TAKEN AS NORTH 02° 07' 35" EAST.

VERTICAL DATUM - BASIS OF ELEVATION
NATIONAL VERTICAL DATUM OF NAVD88

PROJECT BENCHMARK
CLALLAM COUNTY BM #3303341 WHICH IS A 3" BRASS
NAVD88 ELEV = 434.40'

DATE OF SURVEY
SITE CONDITIONS SHOWN ARE AS OF SITE VISIT ON JUNE 3, 2010 AND ALL MONUMENTATION SHOWN AS FOUND WAS VISITED AT THIS TIME.

LEGAL DESCRIPTION

PARCELS E-3, C-1 THROUGH C-13, R-15, R-17, S-18, S-19 AND S-20 OF SURVEY RECORDED IN VOLUME 8 OF SURVEYS, PAGE 3 UNDER AUDITOR'S FILE NO. 534297, BEING A SURVEY OF PORTIONS OF THE SOUTHWEST QUARTER OF SECTION 27, AND OF THE NORTHWEST QUARTER OF SECTION 34, ALL IN TOWNSHIP 30 NORTH, RANGE 3 WEST, W.M., CLALLAM COUNTY, WASHINGTON.

EXCEPT THOSE PORTIONS OF PARCELS E-3, C-13, R-16, R-17, S-18, S-19 AND S-20 ACQUIRED BY DECREE OF APPROPRIATION FILED DECEMBER 14, 2000 IN CLALLAM COUNTY SUPERIOR COURT CASE NO. 98-2-00269-0;

TOGETHER WITH AND SUBJECT TO EASEMENTS FOR INGRESS, EGRESS AND UTILITIES OVER, UNDER AND ACROSS THOSE PORTIONS DELINEATED ON SAID SURVEY.

SITUATE IN THE COUNTY OF CLALLAM, STATE OF WASHINGTON.

SPECIAL EXCEPTIONS:

CLALLAM TITLE COMPANY, ORDER NO. 109171 DATED JUNE 3, 2010

1. TAX ACCOUNT NUMBERS.

2. ANY QUESTION THAT MAY ARISE DUE TO THE SHIFTING AND/OR CHANGING IN THE COURSE OF JOHNSON CREEK.

3. EASEMENT, INCLUDING TERMS AND PROVISIONS CONTAINED THEREIN
IN FAVOR OF: OLYMPIC POWER COMPANY
FOR: TRANSMISSION LINES
RECORDED: AUGUST 21, 1911
RECORDING NO. 88/218
AFFECTS: BLANKET EASEMENT OVER PORTION SECTION 27

4. EASEMENT, INCLUDING TERMS AND PROVISIONS CONTAINED THEREIN
IN FAVOR OF: OLYMPIC POWER COMPANY
FOR: ELECTRIC TRANSMISSION LINE
RECORDED: AUGUST 29, 1911
RECORDING NO. 88/258
AFFECTS: BLANKET EASEMENT OVER PORTION SECTION 34

5. EASEMENT, INCLUDING TERMS AND PROVISIONS CONTAINED THEREIN
FOR: INGRESS AND EGRESS, BY WAY OF THE OLD COUNTY ROAD, NOW ABANDONED
RECORDED: FEBRUARY 14, 1938
RECORDING NO. 177902
AFFECTS: AS CONSTRUCTED

6. EASEMENT, INCLUDING TERMS AND PROVISIONS CONTAINED THEREIN
IN FAVOR OF: TREASURER OF CLALLAM COUNTY
FOR: A 30' EASEMENT FOR COUNTY ROAD PURPOSES
RECORDED: JULY 29, 1941
RECORDING NO. 195247
AFFECTS: AS SHOWN

7. EASEMENTS AS DELINEATED ON SURVEY
RECORDED: SEPTEMBER 3, 1982
RECORDING NO. 534297
AFFECTS: AS SHOWN

8. WATER SERVICE AGREEMENT
RECORDED: DECEMBER 28, 1993
RECORDING NO. 698566
AFFECTS: NOT PLOTTABLE

9. CONDEMNATION BY STATE OF WASHINGTON OF RIGHT OF ACCESS TO STATE HIGHWAY AND OF LIGHT, VIEW AND AIR, BY DECREE
ENTERED: DECEMBER 14, 2000
CASE NO. 98-2-00269-0
AFFECTS: BLANKET FOR ENTRY TO ALL PROPERTY

10. COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS AND ASSESSMENTS
RECORDED: APRIL 18, 2005
RECORDING NO. 2005 1154705
AFFECTS: ALL PARCELS

11. COVENANTS, RESTRICTIONS, EASEMENTS AND ASSESSMENTS
FOR: COMMUNITY WATER SYSTEM
RECORDING NO. 2005 1154705

12. THE RIGHT OF BELL WOODS MAINTENANCE COMMISSION TO LEVY ASSESSMENTS
RECORDING NO. 2005 1154705

13. A RECORD OF SURVEY AND MATTERS RELATING THERETO
RECORDED: APRIL 10, 2000
RECORDING NO. 2000 1045062

14. A RECORD OF SURVEY AND MATTERS RELATING THERETO
RECORDED: APRIL 10, 2000
RECORDING NO. 2000 1045423

ASSESSOR PARCEL NOS.:

PARCEL NO. 03-30-34-220410 (C1)
PARCEL NO. 03-30-27-330205 (C2)
PARCEL NO. 03-30-34-220430 (C3)
PARCEL NO. 03-30-34-220440 (C4)
PARCEL NO. 03-30-34-220450 (C5)
PARCEL NO. 03-30-34-220460 (C6)
PARCEL NO. 03-30-34-220470 (C7)
PARCEL NO. 03-30-34-220480 (C8)
PARCEL NO. 03-30-27-330208 (C9)
PARCEL NO. 03-30-27-330210 (C10)
PARCEL NO. 03-30-27-330220 (C11)
PARCEL NO. 03-30-27-330230 (C12)
PARCEL NO. 03-30-27-330240 (C13)
PARCEL NO. 03-30-27-330180 (R16)
PARCEL NO. 03-30-27-330260 (R17)
PARCEL NO. 03-30-27-330180 (S18)
PARCEL NO. 03-30-27-330190 (S19)
PARCEL NO. 03-30-27-330195 (S20)
PARCEL NO. 03-30-27-330330 (E3)

LOT AREAS PRIOR TO ADJUSTMENT

LOT #	AREA
C1	2.07 AC
C2	2.34 AC
C3	0.91 AC
C4	0.91 AC
C5	2.00 AC
C6	2.09 AC
C7	0.88 AC
C8	1.77 AC
C9	1.73 AC
C10	2.00 AC
C11	1.97 AC
C12	1.54 AC
C13	1.77 AC
R16	1.81 AC
R17	1.80 AC
S18	1.80 AC
S19	1.80 AC
S20	4.10 AC
E3	0.45 AC

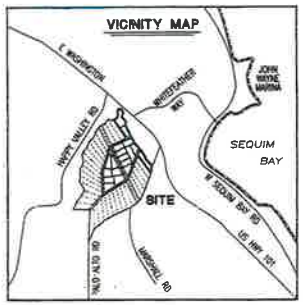
LOT AREAS AFTER ADJUSTMENT

LOT #	AREA
C1	1.37 AC
C2	1.58 AC
C3	1.43 AC
C4	1.39 AC
C5	1.50 AC
C6	1.71 AC
C7	1.49 AC
C8	1.16 AC
C9	1.15 AC
C10	1.15 AC
C11	1.16 AC
C12	1.16 AC
C13	1.45 AC
R16	1.72 AC
R17	1.00 AC
S18	2.10 AC
S19	1.01 AC
TRACT A1	1.23 AC

NOTES:

1. THIS SURVEY IS FOR THE PURPOSE OF ACCOMPLISHING A BOUNDARY LINE ADJUSTMENT PURSUANT TO RCW 58.17.040(6) AND C.C.C. TITLE 29. IT DOES NOT CREATE ANY ADDITIONAL LOTS, TRACTS, PARCELS, OR DIVISION.

2. NO DETERMINATION OF SOILS FOR THE PLACEMENT OF ON-SITE SEWAGE DISPOSAL SYSTEMS NOR DETERMINATION OF POTABLE WATER HAS BEEN MADE.



AUDITOR'S CERTIFICATE:

FILED FOR RECORD THIS 2 DAY OF Sept. 2010
AT 10:54 AM. IN VOLUME 70 AT PAGES 61 UNDER AUDITOR'S FILE NUMBER 2010-1255979 AT THE REQUEST OF BARGHAUSEN CONSULTING ENGINEERS, INC.

Kathy Miller, deputy
COUNTY AUDITOR

LAND SURVEYOR'S CERTIFICATE:

THIS BOUNDARY LINE ADJUSTMENT CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH STATE AND COUNTY STATUTES IN JUNE, 2010.

TREVOR S. LANKFORD
CERTIFICATE NO. 45789
8/26/2010
DATE

TREVOR S. LANKFORD — STATE OF WASHINGTON — 45789 — REGISTERED PROFESSIONAL LAND SURVEYOR
DATE SIGNED 8/26/2010

BARGHAUSEN CONSULTING ENGINEERS, INC.
10215 72ND AVENUE SOUTH
KENT, WA 98032
(425)251-6222
(425)251-8782 FAX
CIVIL ENGINEERING, LAND PLANNING, SURVEYING, ENVIRONMENTAL SERVICES

DRAWN BY	KMM
DATE	06/10/10
SCALE	N/A
CHECKED BY	TSL
JOB NO.	14294
DRAWING NO.	14294blo01

SURVEY FOR:
WASHINGTON FEDERAL SAVINGS

SHT 1 OF 2

2010-1255979
Clallam County, Washington
Auditor
09/02/2010 10:54:31 AM
Page 1 of 1

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11

AGENDA ITEM SUMMARY

FEB 26 2024

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: Public Works/Roads

WORK SESSION ☒ **Meeting Date: 02/26/2024**

REGULAR AGENDA ☒ **Meeting Date: 03/05/2024**

Required originals approved and attached? ☒
Will be provided on:

Item summary:

☐ Call for Hearing
☒ Contract/Agreement/MOU - Contract # D23-219
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☐ Other

Documents exempt from public disclosure attached: ☐

Executive summary:
This item is a Contract with FEMA for funding relating to a November 2021 storm event (FEMA-4635-DR-WA) that caused damage to a number of county road facilities. Most of the work has been completed, and reimbursement of $158,706.88 is ready to be dispensed.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐

This has been accounted for in the 2024 budget. No additional budget action is required.
Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)

Approve and sign
1 Grant Application Information
2 Letter of support
3 Form titled "Designation of Applicant's Agent Resolution"
4 Signature Authorization Form
5 W-9
6 Public Assistance Grant Agreement Face Sheet

County Official signature & print name: Joe Donisi, P.E. Joe Donisi

Name of Employee/Stakeholder attending meeting: Joe Donisi, Linda Capps

Relevant Departments: Roads

Date submitted: 02/21/2024

* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

Questions? Call Loni Gores, Clerk of the Board, ext 2256

Clallam County
Grant Application Information

DEPARTMENT: **Public Works**

DATE SUBMITTED TO W/S: **2/26/24**

GRANT NAME: **PUBLIC ASSISTANCE**

APPLICATION DEADLINE: **N/A**

ISSUING AGENCY: **FEMA**

IS THIS A RENEWAL? **No**

LENGTH OF GRANT: **5 years**

RENEWAL POSSIBLE? **No**

TOTAL AWARD: **80,939.92**

ANNUAL AMOUNT : **Unknown**

MATCH REQUIRED? **12.5%**

MATCH AMOUNT: **10,117.49**

1

DESCRIPTION OF GRANT AND PURPOSE:
The grant is the FEMA Disaster Assistance Grant. It is used to help pay for unanticipated damages caused by natural disasters.

EXPLAIN HOW THIS GRANT WILL BE USED FOR THE GOOD OF CLALLAM COUNTY CITIZENS:
The grant will pay for damages caused by a 2022 Disaster Event. It will reimburse the County for costs associated with the removal of debris from County Roads as well as damages that occurred at Robyn Hill Park

DOES THE GRANT ACTIVITY FURTHER THE DEPARTMENT'S MISSION OR CORE FUNCTIONS? HAS IT BEEN A PART OF LONG TERM DEPARTMENT OR COUNTY GOALS?
One of the core functions of the Public Works Department is to maintain the Clallam County Road Network. Any additional funds that can be acquired further this function and allow the County to continue prompt maintenance of this road network.

DOES THE GRANT ACTIVITY INCREASE AN EXISTING SERVICE OR ADD A NEW SERVICE? TO WHAT DEGREE? IF THE GRANT WERE NOT AVAILABLE, WOULD THE SERVICE HAVE BEEN NECESSARY?
No

WHAT MEASUREMENTS (PERFORMANCE MEASURES) WILL BE USED TO EVALUATE THE SUCCESS OF THE ACTIVITIES PROVIDED BY THE GRANT? WILL PERFORMANCE MEASURES BE DEVELOPED?
This is a reimbursement grant. We have applied for reimbursement in all damaged areas that met the criteria set forth by FEMA.

DOES THE GRANT ACTIVITY CREATE A NEW SERVICE OR LEVEL OF SERVICE WHICH IS EXPECTED TO BE CONTINUED FROM LOCAL FUNDING AT THE END OF THE GRANT PERIOD?
No

IF MATCHING FUNDS ARE REQUIRED, WHERE WILL THEY COME FROM? DOES THE DEPARTMENT HAVE EXISTING RESOURCES TO COVER MATCH REQUIREMENTS? FROM WHERE? Matching funds will come from the Road Fund.

WILL THE ACTIVITY IN THIS GRANT HAVE IMPACTS ON OTHER DEPARTMENTS? HAS THIS BEEN DISCUSSED? DO OTHER DEPARTMENTS HAVE SUFFICIENT RESOURCES TO DEAL WITH ADDITIONAL IMPACTS?
Yes, some of the damages will be dispensed to the Parks Department.

WILL NEW POSITIONS BE ADDED? IF SO, HOW MANY AND WHAT TYPE ARE EXPECTED? ARE ALL WAGES AND BENEFITS PAID IN THE GRANT? WHAT WILL HAPPEN TO THE POSITIONS WHEN THE GRANT PERIOD ENDS?
No

DOES YOUR DEPARTMENT HAVE SUFFICIENT RESOURCES TO ADMINISTER THE GRANT? PROVIDE FOR TIMELY REIMBURSEMENT AND ACTIVITY REPORTS?
Yes

ARE THERE IMPACTS TO THE COUNTY IF THE GRANT IS NOT RECEIVED? WHAT ARE THEY?
Yes, if the grant is not received routine maintenance work will have to be postponed.

ARE INDIRECT COSTS ALLOWABLE ON THIS GRANT? IF SO, ARE THERE LIMITATIONS? WILL THEY BE CHARGED AND ALLOCATED AS INDIRECT?
No

ARE THERE OTHER ACTIVITIES (GRANT OR OTHERWISE) THAT ARE BUDGETED FOR THIS YEAR THAT WILL NOT BE COMPLETED IF THIS GRANT IS APPROVED?
No

WHAT BUDGET CHANGES ARE NECESSARY? INCLUDE REVENUES AND EXPENDITURES.
There are no budget changes necessary.

OTHER COMMENTS
All work associated with the grant has been completed.

Joe Donisi

ELECTED OFFICIAL/DEPARTMENT HEAD SIGNATURE

APPROVAL

Todd Mielke, ADMINISTRATOR

Submit in **duplicate** to the Board of Commissioners for Work Session discussion and approval by the Administrator prior to application for any grant. The approved form must be included with the grant contract when it is submitted to the Board for approval. Refer to Administrative Policies 120 and 562.

HOW TO COMPLETE THE SUPPLEMENTAL CONTRACTING DOCUMENTS

Event Information:

Disaster Number:	4635-DR-WA
Event Name:	Severe Storms, Straight-line Winds, Flooding, Landslides, and Mudslides
Declaration Date:	January 5, 2022
Contract #:	D22-154
FIPS #:	009-99009-00

Step 1: Complete the following information to populate the forms.

1. Enter the date the forms will be submitted to EMD.

Date forms will be submitted:	

2. Enter jurisdiction/organization/subgrantee name and address.

Applicant Name:	Clallam County				
Doing Business As:					
County:	Clallam				
Street Address:	223 E 4th Street				
Mailing Address:					
City:	Port Angeles	State:	WA	Zip:	98362

3. Enter tax identification number (TIN or EIN), state revenue # (UBI) and DUNS #. The TIN and DUNS are required.

Tax Identification Number:	91-6001298
State Business # (UBI):	054 004 574
DUNS #:	75739235
UEI:	JV6JJNELRBS5

If you do not know your organization's DUNS #, please contact your comptroller, accountant, or finance department. They should be able to give it to you. Smaller jurisdictions (such as irrigation districts) may not already have one, but you can call Dun & Bradstreet at **1-866-705- 5711** and indicate that you are a Federal grant applicant. You can also call this number to see if you have a DUNS number. The number is assigned immediately. The following information is requested:

- Legal Name
- Headquarters name and address
- Doing business as (DBA) or other name by which organization is commonly known or recognized
- Physical Address, City, State and Zip Code
- Mailing Address(if separate from Headquarters and/or physical address)
- Telephone Number
- Contact Name and Title
- Number of Employees at physical location

Please note: The DUNS number has to match the name on the Federal grant application (Request for Public Assistance)

4. Do you have an account already established with the State of Washington?

Do you have an account already established with the State and have you received funds from the state within the past 2 years?

- [X] Yes and the account information is current – we will need your Statewide Vendor Number, please list it here: SWV-0000200-04
- [ ] Yes, but I need to make changes to the account information – please continue to https://ofm.wa.gov/it- systems/accounting-systems/statewide-vendorpayee-services , the Vendor/Payee registration website. Select Vendor/Payee Change form and complete per their instructions.
- [ ] No - please continue to https://ofm.wa.gov/it-systems/accounting-systems/statewide-vendorpayee-services , the Vendor/Payee registration website. Select Vendor/Payee

5. Complete the section above if you do not have an open account with the State of Washington or any changes need to be made. You may also need to complete this section if you have not received funds from the State for 2 years. This information will be filled in on page 13. If all information is current, skip this section.
Section Below is the Authorized Financial Representative that will sign the Audit/ FFATA form.

Contact Person:	Mark Lane
Phone:	360-417-2383
Fax:	360-417-2513
Email:	mlane@co.clallam.wa.us

6. Type of Applicant.

Enter the letter corresponding to the type of applicant:	B

A - State
B – County
C - City
D – School District
E – Special Purpose District (includes Diking Districts, Fire Districts, Water Districts, etc.)
F – Higher Educational Institution
G – Indian Tribe
H – Private NonProfit
I – Other (Specify)

If I: Other, specify type of organization (this is rare)	

7. Enter congressional district numbers and legislative district numbers located within in your jurisdiction. If you don't know them, check out ***http://app.leg.wa.gov/districtfinder/***

Congressional District Number(s):	6
Legislative District Number(s):	24

8. Enter information regarding the primary contact. This is the person who will be our main day-to-day contact and will be signing most documents, such as time extensions, A-19 invoices, SOD/FIR, etc. This person must be named in the designation letter **or** resolution as the applicant agent. It is recommended that this person not be the authorizing authoritysuch as the mayor or superintendent.

Name:	Jesse Goodman
Title:	Engineer 1
Phone:	360-417-2530
Fax:	360-417-2513
Email:	jesse.goodman@clallamcountywa.gov

9. Enter information regarding the alternate agent. This person can also sign documents, such as

time extensions, A-19 invoices, SOD/FIR, etc. and must benamed in the designation letter or resolution as the alternate.

Name:	Joe Donisi
Title:	County Engineer
Phone:	360-417-2404
Fax:	360-417-2513
Email:	joe.donisi@clallamcountywa.gov

10. If the highest elected official or head authorizing authority is to be the applicant agent or alternate, then a resolution format must be used to designate the applicant agent and alternate. This section can be skipped if the highest elected official or head authorizing authority is not to be the applicant agent or alternate. This section can also be skipped if the jurisdiction has its own resolution format. Examples of governing body are the County Board of Commissioners, City Council, and School Board.

Date of resolution:	Day:		Month:	Year:	2024
Governing Body:	County Board of Commissioners				
Individual certifying that the resolution is true and correct copy (usually clerk)					
Name:	Loni Gores			Title:	Clerk of the Board
Date certifying resolution:					

11. Enter the name, title, and term of office for the highest elected official or highest authorizing authority. This needs to be the person signing the designation letter or the person(s) signing the resolution. At least one is required. This person cannot be the applicant agent or alternate in sections 8 and 9.

Name:	Mike French	Title:	Commissioner Chair
Name:		Title:	
Name:		Title:	
Name:		Title:	
Name:		Title:	
Name:		Title:	

12. Enter the name and title of anyone authorized to sign contracts.

Name:	Mike French	Title:	Board Chairman
Name:		Title:	
Name:		Title:	

13. Enter the name and title of anyone authorized to sign SOD/FIR, A-19 vouchers, time extensions, or other documentation pertaining to the grant or reimbursement thereof.

Name:	Jesse Goodman	Title:	Engineer 1
Name:	Joe Donisi	Title:	County Engineer

14. Enter name, email, and phone of *Chief Financial Officer*.

Name:	Mark Lane
Email:	mlane@co.clallam.wa.us
Phone:	360-417-2383

15. The authorized Chief Financial Officer completes and signs page 16: FFATA / Audit Certification F

STEP 2: The forms are now populated with the information entered in Step 1. Review the forms for accuracy. Continue to complete pages 5 – 13 with the following steps:

STEP 3: On page 5, the **Designation Letter** will be completed if the applicant or alternate agent is **not** the highest authorizing authority. The highest authorizing authority will sign the letter (ex: CEO, Board President, etc.). See the next step if applicant or alternate agent will be the highest authorizing authority.

STEP 4: A **Resolution**, page 6, will be completed if the applicant agent or alternate **is** the highest authorizing authority. The governing body passes and signs a **Resolution.** A Resolution format is provided on page 6 or you can use your own resolution format. If your resolution format is used, the clerk of the governing body will sign a copy of the Resolution.

STEP 5: Page 7, **Disaster Assistance Application**: the applicant and alternate agents will sign in their respective places.

STEP 6: Page 8, **Signature Authorization Form**, the highest official and/or governing body signs in block. The applicant and alternate agents sign in block 2. The individual who is signing the letter or resolution must sign in block 1. ANYONE who the entity wishes to sign any documentation regarding the grant needs to sign in block 2 or block 3, this includes the applicant agent or alternate and anyone who is signing A-19 vouchers, SOD/FIR's, and any additional grant paperwork.

STEP 7: Page 9, **Debarment form**, the applicant or alternate agent will sign.

STEP 8: Page 10, **W-9**, the applicant or alternate agent will sign.

STEP 9: Page 11 and 12, **Audit Certification/FFATA**, the authorized *Chief Financial Officer* will complete page11 and sign page 12.

STEP 10: Page 13: If an account has not been established with the State, or if changes need to be made, please complete the Vendor/Payee Registration form, or change form located at https://ofm.wa.gov/it-systems/accounting-systems/statewide- vendor payee-services

STEP 11: If an account has already been established with the State and no changes need to be made, please provide us with your SWV# by completing page 13: Statewide Payee page.

STEP 12: Please remember, **TWO ORIGINAL COPIES OF THE GRANT AGREEMENT** (sent as a separate attachment) will need to be signed and submitted along with this Supplemental Contracts package. The applicant agent, alternate agent, or highest authorizing authority can sign the Grant Agreement.

After ***all signatures are obtained on all forms***, mail the following to:

Mr. Gerard Urbas
Washington Military Department
Emergency Management Division
Public Assistance Program MS:
TA-20, Building 20-B Camp
Murray, WA 98430-5122

2 originals of contract/grant agreement
1 original of designation letter or 1 certified copy of resolution1 original signature authorization form
1 original disaster assistance application1 original debarment form
1 W-9
1 Audit Certification/FFATA form
1 Statewide Vendor Number sheet

Keep pages 1 - 3 (they do not need to be mailed to us) and copies of all forms for your records.

STEP 13: After the contract/grant agreement is executed by WA Military Department, one original contract agreement will be mailed to the applicant agent. These should be kept for your records.

If you have questions, please contact your Program Delivery Manager or Program Assistant.

Clallam County Public Works Department

223 E. Fourth St., Ste. 6
Port Angeles, WA 98362-3015

Mr. Gerard Urbas
Washington Military Department
Public Assistance Program
MS: TA-20 Building 20-B
Camp Murray, WA 98430-5122

Re: Designated Applicant Agent

Dear Mr. Urbas:

The purpose of this letter is to designate the Applicant Agent and Alternate authorized representatives for

Disaster: 4635-DR-WA Severe Storms, Straight-line Winds, Flooding, Landslides, and Mudslides
Applicant: Clallam County
Applicant Agent: Jesse Goodman
Alternate Applicant Agent: Joe Donisi

The purpose of this designation as the authorized representatives is to obtain federal and/or State Emergency or Major Disaster Assistance funds.

These representatives are authorized to execute all contracts, certify completion of projects, request payments, and prepare all required documentation for funding requirements.

Sincerely,

Mike French

Commissioner Chair

Designation of Applicant's Agent
Resolution

Be it resolved by County Board of Commissioners (Governing Body) of Clallam County (Public Agency)

Jesse Goodman (Name of New Agent), Engineer 1 (Title) is hereby designated the authorized representative and Joe Donisi (Name of Alternate), County Engineer (Title) is designated the alternate for and in behalf of Clallam County (Public Agency Name), a public agency established under the laws of the state of Washington.

The purpose of this designation as the authorized representative is to obtain federal and/or state emergency or disaster assistance funds. These representatives are authorized on behalf of the County Board of Commissioners to execute all contracts, certify completion of projects, request payments, and prepare all required documentation for funding requirements.

Passed and approved this _____ day of _____, 20 2024.

_____, Commissioner Chair _____, _____
(Signature) (Title) (Signature) (Title)

_____, _____ _____, _____
(Signature) (Title) (Signature) (Title)

_____, _____ _____, _____
(Signature) (Title) (Signature) (Title)

Certification

I, Loni Gores (Name), duly appointed and _____ (Title) of Clallam County (Public Agency), do hereby certify that the above is a true and correct copy of a resolution passed and approved by the County Board of Com (Governing Body) of Clallam County (Public Agency) on the _____ day of _____, 20 2024.

Date: _____

_____ _____
(Official Position) (Signature)

12/10/09

DISASTER ASSISTANCE APPLICATION **DEM - 131**

Application Identifier: State Number: D22-154

Federal Disaster Number: 4635-DR-WA

Federal Catalog Number: 97.036 **Title: Disaster Assistance Grants**

Declaration Date: January 5, 2022

Applicant's FEMA Project Application Number: 009-99009-00

Legal Applicant Recipient:

Applicant's Name: Clallam County

Street Address: 223 E 4th Street

Mailing Address: County: Clallam

City: Port Angeles State: WA Zip Code: 98362

Applicant Agent:

Name: Jesse Goodman

Title: Engineer 1

Signature: Jesse Goodman

Contact Information:

Phone: 360-417-2530

Fax: 360-417-2513

E-mail: jesse.goodman@clallamco

Date: 2/8/2024

Alternate Applicant Agent:

Name: Joe Donisi

Title: County Engineer

Signature: Joe Donisi

Phone: 360-417-2404

Fax: 360-417-2513

E-mail: joe.donisi@clallamcountyw

Date:

Type of Applicant:

A - State
B - County
C - City
D - School District
E - Special Purpose District
F - Higher Educational Institution
G - Indian Tribe
H - Private NonProfit
I - Other (Specify) Do not fill this in

Enter Appropriate Letter B

Congressional District Number: 6

State Legislative District Number: 24

Governor's Authorized Representative:

Signature Date:

NOTE: Shaded blocks for WA EMD use.

SIGNATURE AUTHORIZATION FORM

WASHINGTON STATE MILITARY DEPARTMENT
Camp Murray, Washington 98430-5122

Please read instructions on reverse side before completing this form.

NAME OF ORGANIZATION	DATE SUBMITTED
Clallam County	
PROJECT DESCRIPTION	**CONTRACT NUMBER**
4635-DR-WA	D22-154

1. AUTHORIZING AUTHORITY

SIGNATURE	PRINT OR TYPE NAME	TITLE/TERM OF OFFICE
	Mike French	Commissioner Chair

2. AUTHORIZED TO SIGN CONTRACTS/CONTRACT AMENDMENTS

SIGNATURE	PRINT OR TYPE NAME	TITLE
	Mike French	Board Chairman

3. AUTHORIZED TO SIGN REQUESTS FOR REIMBURSEMENT

SIGNATURE	PRINT OR TYPE NAME	TITLE
	Jesse Goodman	Engineer 1
	Joe Donisi	County Engineer

INSTRUCTIONS FOR SIGNATURE AUTHORIZATION FORM

This form identifies the persons who have the authority to sign contracts, amendments, and requests for reimbursement. It is required for the management of your contract with the Military Department (MD). Please complete all sections. One copy with original signatures is to be sent to MD with the signed contract, and the other should be kept with your copy of the contract.

When a request for reimbursement is received, the signature is checked to verify that it matches the signature on file. **The payment can be delayed if the request is presented without the proper signature.** It is important that the signatures in MD's files are current. Changes in staffing or responsibilities will require a new signature authorization form.

1. **Authorizing Authority.** Generally, the person(s) signing in this box heads the governing body of the organization, such as the board chair or mayor. In some cases, the chief executive officer may have been delegated this authority.

2. **Authorized to Sign Contracts/Contract Amendments.** The person(s) with this authority should sign in this space. Usually, it is the county commissioner, mayor, executive director, city clerk, etc.

3. **Authorized to Sign Requests for Reimbursement.** Often the executive director, city clerk, treasurer, or administrative assistant have this authority. It is advisable to have more than one person authorized to sign reimbursement requests. **This will help prevent delays in processing a request if one person is temporarily unavailable.**

If you have any questions regarding this form or to request new forms, please call your MD Program Manager.

Form **W-9**
(Rev. November 2005)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give form to the requester. Do not send to the IRS.

Print or type
See Specific Instructions on page 2.

Name (as shown on your income tax return)
Clallam County

Business name, if different from above

Check appropriate box: ☐ Individual/ Sole proprietor ☐ Corporation ☐ Partnership ☑ Other ► **Political Sub S** ☐ Exempt from backup withholding

Address (number, street, and apt. or suite no.)
223 East 4th Street

Requester's name and address (optional)

City, state, and ZIP code
Port Angeles, WA 98362

List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number
			–					

or

Employer identification number
9	1	–	6	0	0	1	2	9	8

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. person (including a U.S. resident alien).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 4.)

Sign Here Signature of U.S. person ► Date ►

Purpose of Form

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

U.S. person. Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee.

In 3 above, if applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

For federal tax purposes, you are considered a person if you are:

- An individual who is a citizen or resident of the United States,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, or
- Any estate (other than a foreign estate) or trust. See Regulations sections 301.7701-6(a) and 7(a) for additional information.

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

Washington Military Department Contract Number: D22-154

Debarment, Suspension, Ineligibility or Voluntary Exclusion Certification Form

NAME Clallam County		Doing business as (DBA)	
ADDRESS 223 E 4th Street	**Applicable Procurement or Solicitation #, if any:**	WA Uniform Business Identifier (UBI) 054 004 574	Federal Employer Tax Identification #:
This certification is submitted as part of a request to contract.			

Instructions For Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions

READ CAREFULLY BEFORE SIGNING THE CERTIFICATION. Federal regulations require contractors and bidders to sign and abide by the terms of this certification, without modification, in order to participate in certain transactions directly or indirectly involving federal funds.

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the department, institution or office to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable CFR, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled ``Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,'' without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under applicable CFR, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business activity.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under applicable CFR, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions

The prospective lower tier participant certifies, by submission of this proposal or contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this form.

Bidder or Contractor Signature: _____ Date: _____

Print Name and Title: _____

WASHINGTON MILITARY DEPARTMENT

Audit Certification and FFATA Reporting Form

CONTACT INFORMATION		
Subrecipient Name (Agency, Local Government, or Organization): Clallam County		
Subrecipient (DUNS) / (UEI) Number: **75739235 / JV6JJNRLRBS5**	75739235	JV6JJNRL
Authorized Financial Representative (Name and Title): Mark Lane		
Address: 223 E 4th Street	**WA**	
Email: mark.lane@clallamcountywa.gov	Phone Number: 360-417-2383	

Directions: As required by 2 CFR Part 200 Subpart F, non-federal entities that expend $750,000 in federal awards in a fiscal year shall have a single or program-specific audit conducted for that year. If your entity ***is not*** subject to these requirements, you must complete Section A of this Form. If your entity ***is*** subject to these requirements, you must complete Section B of this form. All subrecipients must complete the Federal Funding Accountability and Transparency Act (FFATA) related questions in Section C of this Form. Failure to return this completed Form to contracts.office@mil.wa.gov may result in delay of grant agreement processing, withholding of federal awards or disallowance of costs, and suspension or termination of federal awards.

SECTION A: Entities NOT subject to the audit requirements of 2 CFR Part 200 Subpart F (check all that apply)
☐ We did not expend $750,000 or more of total federal awards during the preceding fiscal year.
☐ We are a for-profit organization.
☐ We are exempt for other reasons (describe):
However, by signing below, I agree that we are still subject to the audit requirements, laws, and regulations governing the program(s) in which we participate; that we are required to maintain records of federal funding and to provide access to such records by federal and state agencies and their designees; and that WMD may request and be provided access to additional information and/or documentation to ensure proper stewardship of federal funds.

SECTION B: Entities that ARE subject to the audit requirements of 2 CFR Part 200 Subpart F (Complete the information below and check the appropriate box)
☑ We completed our last 2 CFR Part 200 Subpart F Audit on [9/25/2023] for fiscal year [12/31/2022]. There were no findings related to federal awards or internal controls.
☐ We completed our last 2 CFR Part 200 Subpart F Audit on [enter date] for fiscal year [enter date] and there were findings related to federal awards and/or internal controls.
☐ Our completed 2 CFR Part 200 Subpart F Audit will be available on [enter date] for fiscal year [enter date].
Provide a complete copy of the audit report electronically to contracts.office@mil.wa.gov or provide the state audit number [1033321].

SECTION C: Federal Funding Accountability and Transparency Act (check the corresponding answer)
In your preceding fiscal year, did your organization receive 80% or more of its gross revenues from federal funding? ☐ Yes ☑ No
In your preceding fiscal year, did your organization receive $25,000,000 or more in federal funding? ☐ Yes ☑ No
If you answered *yes* to the previous questions, WMD Contracts staff will request additional information to comply with FFATA reporting.

I hereby certify that I am an individual authorized by the above identified entity (subrecipient) to complete this form. Further, I certify that the above information is true and correct, and all material findings contained in the audit report/statement have been disclosed. Additionally, I understand this form is to be submitted every fiscal year for which this entity is a subrecipient of federal award funds from the Department until the grant agreement is closed.

[signature], CFO

Signature of Authorized Financial Representative:

2/9/24

Date:

Statewide Vendor Number:
Please list your statewide vendor number below. If you do not have one or need to make changes, please refer back to page 2 and 4 for further instructions on how to complete this task.

SWV-0000200-04

Washington State Military Department
PUBLIC ASSISTANCE GRANT AGREEMENT FACE SHEET

1. SUBRECIPIENT Name and Address: **Clallam County** **223 E 4th Street Suite 4** **Port Angeles, WA 98362**	2. Grant Agreement Amount: **To be determined, based upon approved project worksheets**	3. Grant Number: **D22-154**
4. SUBRECIPIENT, phone/email: **(360) 417-2530** **jesse.goodman@clallamcountywa.gov**	5. Grant Agreement Start Date: **November 5, 2021**	6. Grant Agreement End Date: **January 5, 2026**
7. DEPARTMENT Program Manager, phone/email: **Gerard Urbas, (253) 512-7402** **Gary.urbas@mil.wa.gov**	8. Data Universal Numbering System (DUNS): 75739235	9. UBI # (state revenue): 054-004-5559

10. Funding Authority:
Washington State Military Department (the "DEPARTMENT"), and **Federal Emergency Management Agency** (FEMA)

11. Funding Source Agreement #: **FEMA-4635-DR-WA**	12. Program Index # **724YC (Federal) / 722YE (State) / 724YD (Admin)**	13. Catalog of Federal Domestic Asst. (CFDA) # & Title: **97.036, Public Assistance**	14. Federal EIN #: 91-6001298

15. Total Federal Award Amount: N/A	16. Federal Award Date: N/A	
17. Service Districts: (BY LEGISLATIVE DISTRICT): **24 th** (BY CONGRESSIONAL DISTRICT): **6 th**	18. Service Area by County(ies): **Clallam County**	19. Women/Minority-Owned, State Certified?: **X** N/A ☐ NO ☐ YES, OMWBE #_____

20. Contract Classification: ☐ Personal Services ☐ Client Services **X** Public/Local Gov't ☐ Research/Development ☐ A/E ☐ Other_____	21. Contract Type (check all that apply): ☐ Contract **X** Grant **X** Agreement ☐ Intergovernmental (RCW 39.34) ☐ Interagency
22. Contractor Selection Process: **X** "To all who apply & qualify" ☐ Competitive Bidding ☐ Sole Source ☐ A/E RCW ☐ N/A	23. Contractor Type (check all that apply) ☐ Private Organization/Individual ☐ For-Profit **X** Public Organization/Jurisdiction **X** Non-Profit ☐ VENDOR **X** SUBRECIPIENT ☐ OTHER

24. BRIEF DESCRIPTION:
Presidential Disaster Declaration # FEMA-4635-DR-WA Severe Storms, Straight-line Winds, Flooding, Landslides, and Mudslides. To provide funds to the SUBRECIPIENT for the emergency work and the repair or replacement of disaster-damaged facilities. as approved by FEMA in project worksheets describing eligible scopes of work and associated funding. The DEPARTMENT is the Recipient and Pass-through Entity of the Presidential Disaster Declaration # FEMA-4635-DR-WA Severe Storms, Straight-line Winds, Flooding, Landslides, and Mudslides, and FEMA State Agreement, which are incorporated by reference, and makes a subaward of Federal award funds to the SUBRECIPIENT pursuant to this Agreement. The SUBRECIPIENT is accountable to the DEPARTMENT for use of Federal award funds provided under this Agreement and the associated matching funds.

IN WITNESS WHEREOF, the DEPARTMENT and SUBRECIPIENT acknowledge and accept the terms of this Agreement, references and attachments hereto and have executed this Agreement as of the date and year written below. This Agreement Face Sheet, Special Terms and Conditions (Attachment 1), General Terms and Conditions (Attachment 2), Project Worksheet Sample (Attachment 3), Washington State Public Assistance Applicant Manual dated January 5, 2022 (Attachment 4), and all other documents, exhibits and attachments expressly referenced and incorporated herein contain all the terms and conditions agreed upon by the parties and govern the rights and obligations of the parties to this Agreement. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties.

In the event of an inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

1. **Applicable Federal and State Statutes and Regulations**
2. **DHS Standard Terms and Conditions**
3. **Presidential Declaration, FEMA State Agreement, and other Documents**
4. **Statement of Work and/or Project Description as outlined in FEMA approved Project Worksheet(s)**
5. **Special Terms and Conditions**
6. **General Terms and Conditions, and,**
7. **Other provisions of the contract incorporated by reference.**

WHEREAS, the parties hereto have executed this Agreement on the day and year last specified below.

FOR THE DEPARTMENT:

_____
Signature Date
Stacey McClain, Governor's Authorized Representative
Washington State Military Department

FOR THE SUBRECIPIENT:

Type text here
_____
Signature
print or type name: Mike French , Chair Date
Board of Clallam County Comissioners
APPROVED AS TO FORM:
_____ 2/8/24
SUBRECIPIENT's Attorney Date

Washington State Military Department
SPECIAL TERMS AND CONDITIONS

ARTICLE I – KEY PERSONNEL

The individuals listed below shall be considered key personnel and point of contact. Any substitution by either party must be submitted in writing.

SUBRECIPIENT		MILITARY DEPARTMENT	
Name	Mike French	Name	**Gerard Urbas**
Title	Clallam County Comissioner	Title	**Deputy State Coordinating Officer Public Assistance**
E-Mail	mike.french@clallamcountywa.gov	E-Mail	gary.urbas@mil.wa.gov
Phone	360-417-2233	Phone	**(253) 512-7402**

ARTICLE II - ADMINISTRATIVE REQUIREMENTS

The SUBRECIPIENT shall comply with all applicable state and federal laws, rules, regulations, requirements and program guidance identified or referenced in this Agreement and the informational documents published by FEMA applicable to the Presidential Declaration including, but not limited to, all criteria, restrictions, and requirements of the "FEMA State Agreement" published by FEMA and the federal regulations commonly applicable to FEMA grants, all of which are incorporated herein by reference. The Presidential Declaration and the FEMA State Agreement are incorporated in this Agreement by reference.

The SUBRECIPIENT shall comply with the Washington State Public Assistance Applicant Manual dated January 5, 2022 incorporated in this Agreement as **Attachment 4**. The DHS Standard Terms and Conditions are incorporated by reference in this Agreement in Appendix F of the Washington State Public Assistance Applicant Manual dated January 5, 2022.

The SUBRECIPIENT acknowledges that since this Agreement involves federal award funding, the period of performance described herein may begin prior to the availability of appropriated federal funds. The SUBRECIPIENT agrees that it will not hold the DEPARTMENT, the State of Washington, or the United States liable for any damages, claim for reimbursement, or any type of payment whatsoever for services performed under this Agreement prior to distribution of appropriated federal funds, or if federal funds are not appropriated or in a particular amount.

Federal funding is provided by FEMA and is administered by the DEPARTMENT. Under the authority of Presidential Disaster Declaration number FEMA-4635-DR-WA, the DEPARTMENT is reimbursing the SUBRECIPIENT for those approved eligible costs and activities necessary under the Public Assistance Grant Program during the incident period beginning November 5, 2021 to December 2, 2021. Eligible costs and activities will be identified in Project Worksheets approved by FEMA and a Project Worksheet Sample is incorporated as **Attachment 3**. The DEPARTMENT is also providing Advance Payments to the SUBRECIPIENT where provided by FEMA and required and allowed by law. Any interest earned on advance payments (except for interest earned on advances of funds exempt under the Intergovernmental Cooperation Act (31 U.S.C. 6501 et seq.) and the Indian Self-Determination Act (23 U.S.C. 450)) shall be promptly, but at least quarterly, remitted to the DEPARTMENT to be paid to FEMA. The SUBRECIPIENT may keep interest amounts up to $100 per year for administrative expenses.

A. STATE AND FEDERAL REQUIREMENTS FOR PUBLIC ASSISTANCE GRANTS:

The following requirements apply to all DHS/FEMA Presidential Disasters administered by the DEPARTMENT.

1. FUNDING

The DEPARTMENT will administer the Public Assistance (PA) Grant Program, provide Advance payments, and reimburse approved eligible Public Assistance costs to the SUBRECIPIENT that are identified under the auspices of Presidential Disaster Declaration Number FEMA-4635-DR-WA and authorized by and consistent with the Stafford Act (P.L. 93-288, as amended) and applicable regulations.

It is understood that no final dollar figure is committed to at the time that this Agreement is executed, but that financial commitments will be made by amendments to the project application as Project Worksheets are completed in the field and projects are authorized by state and federal officials.

Pursuant to the FEMA-STATE AGREEMENT, FEMA will contribute not less than **75** percent of the eligible costs for any eligible project and 100 percent of the federal PA Management Costs, up to 5 percent of the total award amount for each Subrecipient, as provided for in subsection 3.E. of Article II of this Public Assistance Agreement. The SUBRECIPIENT commits to providing the remaining **25** percent non-federal match to any eligible project that has been identified under the Presidential Disaster Declaration number FEMA-4635-DR-WA, subject to the following exceptions:

DEPARTMENT Match: The Washington State Legislature may authorize the DEPARTMENT to provide a match to the SUBRECIPIENT's non-federal share of eligible projects. Provision of a match by the DEPARTMENT, if authorized by the Washington State Legislature, shall not require amendment of this Agreement. If DEPARTMENT match funds are committed to the non-federal share by the DEPARTMENT pursuant to legislative authorization, the DEPARTMENT will formally notify the SUBRECIPIENT of the match in writing which will include information identifying any related reduction in the SUBRECIPIENT's percentage commitment.

Donated Resources: FEMA will credit the SUBRECIPIENT for the value of donated resources (non-cash contributions of property or services) related to eligible Emergency Work to offset the non-Federal cost share of its eligible Emergency Work project worksheets – categories A and B, and for the value of donated resources related to eligible work on a Permanent Work project to offset the non-Federal cost share of that specific Permanent Work project worksheet for which the resources were donated – categories C through G. The Donated Resources are recognized by FEMA in a Project Worksheet. Donated Resources offset the non-federal share of the eligible emergency work approved in Project Worksheets or specific permanent work approved in Project Worksheets. For non-state agency SUBRECIPIENTS, the donated resource value will first be applied to the SUBRECIPIENT's non-federal share, and, if a DEPARTMENT match is authorized, any remaining donated resource value will be applied to the DEPARTMENT's share. The value of the Donated Resources is calculated as described in FP 104-009-2 Public Assistance Program and Policy Guide (PAPPG), and is capped at the non-Federal share of approved eligible emergency work costs or capped at the non-Federal share of the specific approved eligible permanent work costs, as applicable. The Federal share of the Donated Resources will not exceed the non-federal share of eligible emergency work costs or of specific permanent work costs approved in Project Worksheets. Any excess credit for eligible emergency work costs can be credited only to other eligible emergency work costs, for the same SUBRECIPIENT in the same disaster. The value of excess donated resources cannot be credited toward or transferred to another eligible SUBRECIPIENT, or toward other State obligations. The DEPARTMENT does not match a FEMA donated resource credit.

The Project Worksheet, sample provided in Attachment 3, is required to be completed by FEMA or State Project Specialists.

2. GRANT AGREEMENT PERIOD

a. Activities payable under this Agreement and to be performed by the SUBRECIPIENT under this Agreement shall be those activities which occurred during or subsequent to the incident period defined in the FEMA State Agreement, and shall terminate upon completion of the project(s) approved by federal and state officials, including completion of close-out and audit. This period shall be referred to as the "Grant Agreement Period."

b. The Grant Agreement Period shall only be extended by (1) written notification of FEMA approval of the Grant Agreement Period followed up with a mutually agreed written amendment, or (2) written notification from the DEPARTMENT to the SUBRECIPIENT issued by the DEPARTMENT to address extensions of its underlying federal grant performance period or to provide additional time for completion of the SUBRECIPIENT's project(s).

3. PAYMENTS

The DEPARTMENT, using funds granted for the purposes of the Presidential Disaster Declaration from FEMA, shall issue payments to the SUBRECIPIENT in compliance with the Washington State Public Assistance Applicant Manual dated January 5, 2022 (**Attachment 4**) procedures as follows:

a. Small Project Payments: Payments are made for all small projects to the SUBRECIPIENT upon submission and approval of an A19-1A State of Washington Invoice Voucher to the DEPARTMENT, after FEMA has approved funding through approval of Project Worksheets.

b. Progress Payments: Progress payment of funds for costs already incurred on large projects minus 10 percent retainage may be made to the SUBRECIPIENT upon submission by the SUBRECIPIENT of an A19-1A State of Washington Invoice Voucher, a letter of request, and a spreadsheet identifying the claimed costs supporting the payment request and approval by the DEPARTMENT.

c. Improved Projects: Payments on improved projects (capped project) will be pro-rated based upon the percentage of the project that is funded under this disaster grant to the overall project cost. This percentage will be identified when the first payment on the improved project is made. Progress payments will be made as outlined above in Section B.

d. Final Payment: Final Payment on a large project will be made following submission by the SUBRECIPIENT of a certification of completion on the STATEMENT OF DOCUMENTATION / FINAL INSPECTION REPORT form upon completion of project(s), completion of all final inspections by the DEPARTMENT, and final approval by FEMA. Final payment on a large project will include any retainage withheld during progress payments. Final payments may also be conditional upon financial review, if determined necessary by the DEPARTMENT or FEMA. Adjustments to the final payment may be made following any audits conducted by the Washington State Auditor's Office, the United States Inspector General or other federal or state agency.

e. The SUBRECIPIENT is eligible to receive federal PA Management Costs up to 5 percent of the total award amount for each Subrecipient at the time of its request. PA Management Costs includes any of the following when associated with the PA portion of a major disaster or emergency: Indirect costs, direct administrative costs, and other administrative expenses associated with a specific project. Documentation is required to substantiate the eligibility of management activities and associated costs in accordance with PA Management Costs Interim Policy – Standard Operating Procedures.

f. All payment requests shall be made on an A19-1A form, State of Washington, Invoice Voucher. Payments will be made by electronic fund transfer to the SUBRECIPIENT's account.

g. Federal funding shall not exceed the total federal contribution eligible for Public Assistance costs under Presidential Disaster Declaration number FEMA-4635-DR-WA.

h. For state agencies, the DEPARTMENT will, through interagency reimbursement procedures, transfer payment to the SUBRECIPIENT. Payment will be transferred by journal voucher to Agency No. _____, Accounting Fund No. _____.

i. Within the total Grant Agreement Amount, travel, sub-contracts, salaries, benefits, printing, equipment, and other goods and services will be reimbursed on an actual cost basis unless otherwise provided in this Agreement.

j. For travel costs, SUBRECIPIENTs shall comply with 2 CFR 200.474 and should consult their internal policies, state rates set pursuant to RCW 43.03.050 and RCW 43.03.060 as now existing or amended, and federal maximum rates set forth at http://www.gsa.gov, and follow the most restrictive.

k. If travel costs exceed set state or federal limits, travel costs shall not be reimbursed without written approval by DEPARTMENT Key Personnel.

l. Receipts and/or backup documentation for any approved items that are authorized under this Agreement must be maintained by the SUBRECIPIENT consistent with record retention requirements of this Agreement, and be made available upon request by the DEPARTMENT, and local, state, or federal auditors.

m. All work under this Agreement must end on or before the Grant Agreement End Date, and the final reimbursement request must be submitted to the DEPARTMENT within 45 days after the Grant

Agreement End Date, except as otherwise authorized by written amendment of this Agreement and issued by the DEPARTMENT.

n. No costs for purchases of equipment/supplies will be reimbursed until the related equipment/supplies have been received by the SUBRECIPIENT, its subrecipient or contractor, or any non-federal entity to which the SUBRECIPIENT makes a subaward, and is invoiced by the vendor.

o. SUBRECIPIENTs shall only use federal award funds under this Agreement to supplement existing funds, and will not use them to replace (supplant) non-federal funds that have been budgeted for the same purpose. The SUBRECIPIENT may be required to demonstrate and document that the reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds.

The DEPARTMENT shall provide Advance Payments as provided by FEMA and as required and authorized by law.

4. CLOSEOUT

To initiate close-out, the SUBRECIPIENT is required to certify in writing, by Project Worksheet Number, date completed and total amount expended on the project, completion of the small projects. To initiate close-out of the large projects, the SUBRECIPIENT shall submit certification of completion on a STATEMENT OF DOCUMENTATION/FINAL INSPECTION REPORT form to the DEPARTMENT.

The DEPARTMENT will then complete a site inspection and a financial review of documentation to support the claimed costs. Certifications on small and large projects are due within sixty days following the completion of the project or receipt of the approved Project Worksheet, whichever date is later.

If SUBRECIPIENT is claiming federal PA Management Costs: Indirect costs, direct administrative costs, and other administrative expenses associated with a specific project must be supported by documentation to substantiate the eligibility of management activities and associated costs that has been prepared and assembled in accordance with PA Management Costs Interim Policy – Standard Operating Procedures prior to close-out.

After all of the projects have been certified as complete and approved for closure by FEMA, the DEPARTMENT will forward a final A19-1A State of Washington Invoice Voucher to the SUBRECIPIENT for release of the remaining funds due to the subrecipient for eligible costs, including any retainage previously withheld, and the allowance for federal indirect costs.

5. DOCUMENTATION / REPORTING REQUIREMENTS

For all Advance Payment, the SUBRECIPIENT shall provide documentation and receipts for all costs related to the Advance Payment and provide such to the DEPARTMENT quarterly.

The SUBRECIPIENT is required to retain all documentation which adequately identifies the source and application of Public Assistance funds, including the federal indirect cost reimbursement, for six years following the closure of this disaster grant. For all funds received, source documentation includes adequate accounting of actual costs and recoveries incurred.

The SUBRECIPIENT shall also comply with the Federal Funding Accountability and Transparency Act (FFATA) and related OMB Guidance consistent with Public Law 109-282 as amended by section 6202(a) of Public Law 110-252 (see 31 U.S.C. 6101 note) and complete the FFATA Form located at http://mil.wa.gov/emergency-management-division/grants/requiredgrantforms and return to the DEPARTMENT; which is incorporated by reference and made a part of this Agreement.

Quarterly Reports: The SUBRECIPIENT is required to submit to the DEPARTMENT a quarterly report indicating the status of all their large projects. The status shall identify the costs incurred to date, the percentage of work completed, the anticipated completion date of the project and whether cost under runs or over runs are expected. In addition, the SUBRECIPIENT should note in the comment field any challenges or issues associated with the project. Failure to submit a complete quarterly report within 15 days following the end of the quarter will result in suspension of all payments to the SUBRECIPIENT

until a complete quarterly report is received by the DEPARTMENT. The quarterly report will serve as the basis for any FEMA Office of Chief Financial Officer (OCFO) funds reduction.

6. TIME EXTENSIONS

A time extension request is required to be forwarded to the DEPARTMENT by the SUBRECIPIENT for a project prior to the expiration of the approved completion date. If the project is approved and funded after the statutory approval time period for completion, then a time extension request must be submitted to the DEPARTMENT within fifteen days of receipt of the funding package.

In accordance with 44CFR206.204, the DEPARTMENT reserves the right, in its sole discretion, to consider and approve a time extension request after expiration of the approved completion date and within the DEPARTMENT's statutory extension authority. Requests for time extensions beyond the DEPARTMENT's authority will be considered and approved by FEMA, at their sole discretion.

All determinations made regarding time extension requests will be based on a case by case evaluation of specific factual circumstances.

A time extension request must be in writing and identify the Project Worksheet number, the reason the project has not been completed within the prior approved completion period, the reason the time extension request was not submitted prior to the statutory approval time period (if applicable), a current status of the completion of the work, a detailed timeline for completion of the remaining elements, and an anticipated completion date for the completion of the remaining work. Failure to submit a time extension request in a timely manner may result in denial of the time extension request, and loss of funding for the related project.

7. PROCUREMENT

The SUBRECIPIENT shall comply with all procurement requirements of 2 CFR Part 200.318 through 200.326 and as specified in the General Terms and Conditions, Exhibit A.11.

8. SUBRECIPIENT MONITORING:

a. The DEPARTMENT will monitor the activities of the SUBRECIPIENT from award to closeout. The goal of the DEPARTMENT's monitoring activities will be to ensure that agencies receiving federal pass-through funds are in compliance with this Agreement, federal and state audit requirements, federal grant guidance, and applicable federal and state financial regulations, as well as 2 CFR Part 200 Subpart F.

b. To document compliance with 2 CFR Part 200 Subpart F requirements, the SUBRECIPIENT shall complete and return to the DEPARTMENT 2 CFR Part 200 Subpart F Audit Certification Form" located at http://mil.wa.gov/emergency-management-division/grants/requiredgrantforms with the signed Agreement and each fiscal year thereafter until the Agreement is closed, which is incorporated by reference and made a part of this Agreement.

c. Monitoring activities may include, but are not limited to:
   i. review of financial and performance reports;
   ii. monitoring and documenting the completion of Agreement deliverables;
   iii. documentation of phone calls, meetings, e-mails, and correspondence;
   iv. review of reimbursement requests and supporting documentation to ensure eligibility and consistency with Agreement work plan, budget, and federal requirements;
   v. observation and documentation of Agreement related activities;
   vi. on-site visits to review equipment records and inventories, to verify source documentation for reimbursement requests and performance reports, and to verify completion of deliverables.

d. The SUBRECIPIENT is required to meet or exceed the monitoring activities, as outlined above and in 2 CFR Part 200 Subpart F, for any non-federal entity to which the SUBRECIPIENT makes a subaward as a pass-through entity under this Agreement.

e. Compliance will be monitored throughout the performance period to assess risk. Concerns will be addressed through a Corrective Action Plan. If the SUBRECIPIENT fails to comply with federal or state statutes or regulations, or the terms and conditions of this Agreement, the DEPARTMENT may impose any additional subaward conditions as described in 2 CFR 200.207. If the DEPARTMENT determines that noncompliance cannot be remedied by imposing additional conditions, it may take one or more of the following actions:

i. Temporarily withhold cash payments pending correction of the deficiency by the SUBRECIPIENT.
ii. Wholly or partially suspend or terminate the subaward to the SUBRECIPIENT.
iii. Initiate suspension or debarment proceedings under 2 CFR 180 or recommend such a proceeding be initiated by the federal awarding agency.
iv. Withhold further federal awards for the project or program.
v. Take any other remedies that may be legally available.

f. The DEPARTMENT agrees to:

i. Provide technical assistance during all monitoring or evaluation activities. The DEPARTMENT will coordinate and schedule the meetings necessary to conduct and complete all monitoring and evaluation activities.
ii. Develop the SUBRECIPIENT's project worksheet(s) (PW) and supporting attachments with FEMA and the SUBRECIPIENT's assistance based upon the costs determined to be eligible.
iii. Submit the SUBRECIPIENT's funding package to FEMA.
iv. Notify the SUBRECIPIENT when funding approval is received, issue payment per the process described above see Article II, A.4 – Payments, and provide the SUBRECIPIENT with a copy of the approved project worksheet.
v. Work with the SUBRECIPIENT to resolve any issues identified during the monitoring process.
vi. Review and respond appropriately to the SUBRECIPIENT's requests for time extensions and changes.

9. LIMITED ENGLISH PROFICIENCY (CIVIL RIGHTS ACT OF 1964 TITLE VI)

All subrecipients must comply with the Title VI of the Civil Rights Act of 1964 (Title VI) prohibition against discrimination on the basis of national origin, which requires that subrecipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. Providing meaningful access for persons with LEP may entail providing language assistance services, including oral interpretation and written translation. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (August 11, 2000), requires federal agencies to issue guidance to recipients, assisting such organizations and entities in understanding their language access obligations. DHS published the required recipient guidance in April 2011, DHS Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 76 Fed. Reg. 21755-21768, (April 18, 2011). The Guidance provides helpful information such as how a recipient can determine the extent of its obligation to provide language services; selecting language services; and elements of an effective plan on language assistance for LEP persons. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance at https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited and additional resources on http://www.lep.gov.

B. FEMA STATE AGREEMENT TERMS AND CONDITIONS

As a subrecipient of FEMA funding, the SUBRECIPIENT shall comply with all applicable DHS/FEMA terms and conditions of the Presidential Declaration and the FEMA State Agreement, which are incorporated in and made a part of this Agreement in Appendix F of the Washington State Public Assistance Applicant Manual dated January 5, 2022 (**Attachment 4)**

Washington State Military Department
GENERAL TERMS AND CONDITIONS
Department of Homeland Security (DHS)/
Federal Emergency Management Agency (FEMA)
Grants

A.1 DEFINITIONS

As used throughout this Agreement, the following terms will have the same meaning as defined in 2 CFR 200 Subpart A (which is incorporated herein by reference), except as otherwise set forth below:

a. "**DEPARTMENT**" means the Washington State Military Department, as a state agency, any division, section, office, unit or other entity of the DEPARTMENT, or any of the officers or other officials lawfully representing that DEPARTMENT. The DEPARTMENT is a recipient of a federal award directly from a federal awarding agency and is pass-through entity making a subaward to a subrecipient under this Agreement.

b. "**SUBRECIPIENT**" when capitalized is primarily used throughout this Agreement in reference to the non-federal entity identified on the Face Sheet of this Agreement that has received a subaward from the DEPARTMENT. However, the definition of "subrecipient" is the same as in 2 CFR 200.93 for all other purposes. "**Monitoring Activities**" means all administrative, construction, financial, or other review activities that are conducted to ensure compliance with all state and federal laws, rules, regulations, authorities and policies.

c. "**Project**" means those actions funded through the Public Assistance Program and described in approved Project Worksheets. Projects may include one or more of the following: reimbursement of costs for emergency response, debris removal and/or repair or restoration of damaged public facilities. A project may be a small, large, improved, or alternate project.

d. "**Investment Justification**" means grant application investment justification submitted by the SUBRECIPIENT describing the project for which federal funding is sought and provided under this Agreement. Such grant application investment justification is hereby incorporated into this Agreement by reference.

A.2 ADVANCE PAYMENTS

The DEPARTMENT shall make no payments in advance or in anticipation of goods or services to be provided under this Agreement, except as required under 2 CFR 200.305 for federal grants. SUBRECIPIENT shall not invoice the DEPARTMENT in advance of delivery and invoicing of such goods or services, except as authorized under 2 CFR 200.305.

Pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C §5121-5207), Advance Payment process, FEMA will process a SUBRECIPIENT project worksheet which is provided to the state of Washington for direct disbursement to SUBRECIPIENT.
Pursuant to these provisions and RCW 43.88.160(5), these grant funds are not subject to the advance payments prohibition and will be disbursed immediately to SUBRECIPIENT as grants authorized by law with subsequent authentication and certification of expenditures.

A.3 AMENDMENTS AND MODIFICATIONS

The SUBRECIPIENT or the DEPARTMENT may request, in writing, an amendment or modification of this Agreement. Modifications may be requested for Grant Agreement end date, budget or scope change. However, such amendment or modification shall not be binding, take effect or be incorporated herein until made in writing and signed by the authorized representatives of the DEPARTMENT and the SUBRECIPIENT. No other understandings or agreements, written or oral, shall be binding on the parties.

A.4 AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, 42 U.S.C. 12101 ET SEQ. AND ITS IMPLEMENTING REGULATIONS ALSO REFERRED TO AS THE "ADA" 28 CFR Part 35.

The SUBRECIPIENT must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunication.

A.5 APPLICATION REPRESENTATION-MISREPRESENTATION, INACCURACY AND BREACH

The DEPARTMENT relies upon the SUBRECIPIENT's application in making its determinations as to eligibility for, selection for, and scope of funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement.

A.6 ASSURANCES

DEPARTMENT and SUBRECIPIENT agree that all activity pursuant to this Agreement will be in accordance with all the applicable current federal, state and local laws, rules and regulations. In addition, as a SUBRECIPIENT of FEMA funding, the SUBRECIPEINT shall comply with all applicable DHS terms and conditions as specified in Appendix F of the Washington State Public Assistance Applicant Manual dated January 5, 2022 incorporated in this Agreement as **Attachment 4**.

A.7 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, OR INELIGIBILITY

As federal funds are a basis for this Agreement, the SUBRECIPIENT certifies that the SUBRECIPIENT is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Agreement by any federal department or agency.

The SUBRECIPIENT shall complete, sign, and return a Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion form located at http://mil.wa.gov/emergency-management-division/grants/requiredgrantforms. Any such form completed by the SUBRECIPIENT for this Agreement shall be incorporated into this Agreement by reference.

Further, the SUBRECIPIENT agrees to comply with all applicable federal regulations concerning the federal debarment and suspension system, including 2 CFR Part 180. The SUBRECIPIENT certifies that it will ensure that potential sub-contractors or sub-recipients or any of their principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in "covered transactions" by any federal department or agency. "Covered transactions" include procurement contracts for goods or services awarded under a non-procurement transaction (e.g. grant or cooperative agreement) that are expected to equal or exceed $25,000, and sub-awards to sub-recipients for any amount. With respect to covered transactions, the SUBRECIPIENT may comply with this provision by obtaining a certification statement from the potential sub-contractor or sub-recipient or by checking the System for Award Management (http://www.sam.gov) maintained by the federal government. The SUBRECIPIENT also agrees not to enter into any arrangements or contracts with any party on the Washington State Department of Labor and Industries' "Debarred Contractor List" (https://secure.lni.wa.gov/debarandstrike/ContractorDebarList.aspx).

A.8 CERTIFICATION REGARDING RESTRICTIONS ON LOBBYING

As required by 44 CFR Part 18, the SUBRECIPIENT hereby certifies that to the best of their knowledge and belief: (1) no federally appropriated funds have been paid or will be paid by or on behalf of the SUBRECIPIENT to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement; (2) that if any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Agreement, grant, loan, or cooperative agreement, the SUBRECIPIENT will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; (3) and that, as applicable, the SUBRECIPIENT will require that the language of this certification be included in the award documents for all subawards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into, and is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code.

A.9 COMPLIANCE WITH APPLICABLE STATUTES, RULES AND DEPARTMENT POLICIES

The SUBRECIPIENT and all its contractors shall comply with, and the DEPARTMENT is not responsible for determining compliance with, any and all applicable federal, state, and local laws, regulations, executive orders, OMB Circulars, and/or policies. This obligation includes, but is not limited to: nondiscrimination laws and/or policies, Equal Employment Opportunity, as amended by Executive Order 11375 of October 13, 1967, as supplemented by Department of Labor regulations (41 CFR chapter 60); Copeland Anti-Kickback Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3); Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5); Clean Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, Environmental Protection Agency regulations (40 CFR part 15); Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5); Energy Policy and Conservation Act (PL 94-163, 89 Stat. 871, as amended), the Americans with Disabilities Act (ADA), Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, Civil rights Act of 1968, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, (PL 93-288, as amended), Title 44 of the Federal Regulations, 2 CFR Part 3002, Ethics in Public Service (RCW 42.52), Covenant Against Contingent Fees (48 CFR Section 52.203-5), Public Records Act (RCW 42.56), Prevailing Wages on Public Works (RCW 39.12), State Environmental Policy Act (RCW 43.21C), Shoreline Management Act of 1971 (RCW 90.58), State Building Code (RCW 19.27), Energy Related Building Standards (RCW 19.27A), Provisions in Buildings for Aged and Handicapped Persons (RCW 70.92), and safety and health regulations.

DEPARTMENT and SUBRECIPIENT agree that all activity pursuant to this Agreement will be in accordance with all the applicable current federal, state and local laws, rules and regulations.

In the event of the SUBRECIPIENT's or its contractor's noncompliance or refusal to comply with any applicable law, regulation, executive order, OMB Circular or policy, the DEPARTMENT may rescind, cancel, or terminate the Agreement in whole or in part in its sole discretion.

The SUBRECIPIENT is responsible for all costs or liability arising from its failure to comply with applicable laws, regulations, executive orders, OMB Circulars or policies.

A.10 CONFLICT OF INTEREST

No officer or employee of the DEPARTMENT; no member, officer, or employee of the SUBRECIPIENT or its designees or agents; no member of the governing body of the jurisdiction in which the project is undertaken or located; and no other official of such the SUBRECIPIENT who exercises any functions or responsibilities with respect to the project during his or her tenure, shall have any personal or pecuniary gain or interest, direct or indirect, in any contract, subcontract, or the proceeds thereof, for work to be performed in connection with the project assisted under this Agreement.

The SUBRECIPIENT shall incorporate, or cause to incorporate, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to this provision.

A.11 CONTRACTING & PROCUREMENT

a. The SUBRECIPIENT shall use a competitive procurement process in the procurement and award of any contracts with contractors or sub-contractors that are entered into under the original contract award. The procurement process followed shall be in accordance with 2 CFR Part 200.318 General procurement standards through 200.326 Contract Provisions.

As required by Appendix II to 2 CFR Part 200, all contracts entered into by the SUBRECIPIENT under this Agreement must include the following provisions, as applicable:

1) Contracts for more than the simplified acquisition threshold currently set at $250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

2) All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

3) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

4) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

The procurement process followed shall be in accordance with 2 CFR Parts 200 and 3002, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations, as applicable to the SUB-GRANTEE. All subcontracting agreements entered into pursuant to this Agreement shall incorporate this Agreement by reference.

5) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

6) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

7) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

8) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

9) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

10) Procurement of recovered materials -- As required by 2 CFR 200.322, a non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

11) Notice of Federal awarding agency requirements and regulations pertaining to reporting.

12) Federal awarding agency requirements and regulations pertaining to copyrights and rights in data.

13) Access by the DEPARTMENT, the SUBRECIPIENT, the Federal awarding agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

14) Retention of all required records for six years after the SUBRECIPIENT has made final payments and all other pending matters are closed.

15) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 871).

16) Pursuant to Executive Order 13858 "Strengthening Buy-American Preferences for Infrastructure Projects," the DEPARTMENT encourages SUBRECIPIENTS to use, to the greatest extent practicable and consistent with the law, iron and aluminum as well as steel, cement and other manufactured products produced in the United States, in Public Assistance and Hazard Mitigation Grant Program eligible public infrastructure repair and construction projects affecting surface transportation, ports, water resources including sewer and drinking water and power. Such preference must be consistent with the law, including cost and contracting requirements of 2 CFR Part 200.

b. The DEPARTMENT reserves the right to review the SUBRECIPIENT procurement plans and documents and require the SUBRECIPIENT to make changes to bring its plans and documents into compliance with the requirements of 2 CFR Part 200.318 through 2 CFR 200.326. The SUBRECIPIENT must ensure that its procurement process requires contractors and subcontractors to provide adequate documentation with sufficient detail to support the costs of the project and to allow both the SUBRECIPIENT and DEPARTMENT to make a determination on eligibility of project costs.

c. All sub-contracting agreements entered into pursuant to this Agreement shall incorporate this Agreement by reference.

A.12 DISCLOSURE

The use or disclosure by any party of any information concerning the DEPARTMENT for any purpose not directly connected with the administration of the DEPARTMENT's or the SUBRECIPIENT's responsibilities with respect to services provided under this Agreement is prohibited except by prior written consent of the DEPARTMENT or as required to comply with the state Public Records Act, other law or court order.

A.13 DISPUTES

Except as otherwise provided in this contract, when a bona fide dispute arises between the parties and it cannot be resolved through discussion and negotiation, either party may request a dispute resolution panel to resolve the dispute. A request for a dispute resolution board shall be in writing, state the disputed issues, state the relative positions of the parties, and be sent to all parties. The panel shall consist of a representative appointed by the DEPARTMENT, a representative appointed by the SUBRECIPIENT and a third party mutually agreed upon by both parties. The panel shall, by majority vote, resolve the dispute. Each party shall bear the cost for its panel member and its attorney fees and costs and share equally the cost of the third panel member.

A.14 DUPLICATION OF BENEFITS

The SUBRECIPIENT agrees that the funds for which federal or state assistance is requested does not, or will not, duplicate benefits or funds received for the same loss from any other source. The SUBRECIPIENT will pursue, and require sub-recipients to pursue, full payment of eligible insurance benefits for properties or any other losses covered in a project under this Agreement. The SUBRECIPIENT will repay the DEPARTMENT any funds provided under this grant agreement that are duplicated by other benefits, funds, or insurance proceeds. The SUBRECIPIENT will also seek recovery against any party or parties whose negligence or other intentional or tortious conduct may have caused or contributed to the expenditures for which these grants funds are provided. The SUBRECIPIENT will repay the DEPARTMENT any funds recovered by settlement, judgment or other court order in an action to recover funds provided by this grant. The SUBRECIPIENT shall notify the DEPARTMENT as early as possible and work in conjunction with the DEPARTMENT and FEMA to ensure appropriate apportionment of any duplicated or recovered payment.

A.15 HAZARDOUS SUBSTANCES

The SUBRECIPIENT shall inspect and investigate the proposed development/construction site for the presence of hazardous substances. The SUBRECIPIENT shall fully disclose to the DEPARTMENT the results of its inspection and investigation and all other knowledge the SUBRECIPIENT has as to the presence of any hazardous substances at the proposed development/construction project site. The SUBRECIPIENT will be responsible for any associated clean-up costs. "Hazardous Substance" is defined in RCW 70.105D.020 (10).

A.16 LEGAL RELATIONS

It is understood and agreed that this Agreement is solely for the benefit of the parties to the Agreement and gives no right to any other party. No joint venture or partnership is formed as a result of this Agreement.

To the extent allowed by law, the SUBRECIPIENT, its successors or assigns, will protect, save and hold harmless the DEPARTMENT, the State of Washington, and the United States Government and their authorized agents and employees, from all claims, actions, costs, damages or expenses of any nature whatsoever by reason of the acts or omissions of the SUBRECIPIENT, its sub-contractors,

assigns, agents, contractors, consultants, licensees, invitees, employees or any person whomsoever arising out of or in connection with any acts or activities authorized by this Agreement.

To the extent allowed by law, the SUBRECIPIENT further agrees to defend the DEPARTMENT and the State of Washington and their authorized agents and employees in any litigation; including payment of any costs or attorneys' fees for any claims or action commenced thereon arising out of or in connection with acts or activities authorized by this Agreement.

This obligation shall not include such claims, costs, damages or expenses which may be caused by the sole negligence of the DEPARTMENT; provided, that if the claims or damages are caused by or result from the concurrent negligence of (1) the DEPARTMENT, and (2) the SUBRECIPIENT, its agents, or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the SUBRECIPIENT, or SUBRECIPIENT's agents or employees.

Insofar as the funding source, the DEPARTMENT of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA), is an agency of the federal government, the following shall apply:

44 CFR 206.9 Non-liability. The federal government shall not be liable for any claim based upon the exercise or performance of, or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the Federal government in carrying out the provisions of the Stafford Act.

A.17 LIMITATION OF AUTHORITY – AUTHORIZED SIGNATURE

The signatories to this Agreement represent that they have the authority to bind their respective organizations to this Agreement. Only the DEPARTMENT's Authorized Signature and the Authorized Signature of the assigned SUBRECIPIENT Agent or Alternate for the SUBRECIPIENT Agent, formally designated in writing, shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Agreement. Any alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made in writing and signed by both parties Authorized Signature representatives. Further, only the Authorized Signature representative or Alternate for the SUBRECIPIENT shall have authority to sign reimbursement requests, certification of project completion, time extension requests, amendment and modification requests, requests for changes to project status, and other requests, certifications and documents authorized by or required under this Agreement.

A.18 LOSS OR REDUCTION OF FUNDING

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to normal completion or end date, the DEPARTMENT may unilaterally reduce the scope of work and budget or unilaterally terminate or suspend all or part of the Agreement as a "Termination for Cause" without providing the SUBRECIPIENT an opportunity to cure. Alternatively, the parties may renegotiate the terms of this Agreement under "Amendments and Modifications" to comply with new funding limitations and conditions, although the DEPARTMENT has no obligation to do so.

A.19 NONASSIGNABILITY

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the SUBRECIPIENT.

A.20 NONDISCRIMINATION

The SUBRECIPIENT shall comply with all applicable federal and state non-discrimination laws, regulations, and policies. No person shall, on the grounds of age, race, creed, color, sex, sexual orientation, religion, national origin, marital status, honorably discharged veteran or military status, or disability (physical, mental, or sensory) be denied the benefits of, or otherwise be subjected to discrimination under any project, program, or activity, funded, in whole or in part, under this Agreement.

A.21 NOTICES

The SUBRECIPIENT shall comply with all public notices or notices to individuals required by applicable local, state and federal laws and shall maintain a record of this compliance.

A.22 OCCUPATIONAL SAFETY/HEALTH ACT and WASHINGTON INDUSTRIAL SAFETY/ HEALTH ACT (OSHA/WISHA)

The SUBRECIPIENT represents and warrants that its workplace does now or will meet all applicable federal and state safety and health regulations that are in effect during the SUBRECIPIENT's performance under this Agreement. To the extent allowed by law, the SUBRECIPIENT further agrees to indemnify and hold harmless the DEPARTMENT and its employees and agents from all liability, damages and costs of any nature, including but not limited to, costs of suits and attorneys' fees assessed against the DEPARTMENT, as a result of the failure of the SUBRECIPIENT to so comply.

A.23 OWNERSHIP OF PROJECT/CAPITAL FACILITIES

The DEPARTMENT makes no claim to any capital facilities or real property improved or constructed with funds under this Agreement, and by this grant of funds does not and will not acquire any ownership interest or title to such property of the SUBRECIPIENT.

The SUBRECIPIENT shall assume all liabilities arising from the ownership and operation of the project and agrees to hold the DEPARTMENT and the State of Washington and the United States government harmless from any and all causes of action arising from the ownership and operation of the project.

A.24 POLITICAL ACTIVITY

No portion of the funds provided herein shall be used for any partisan political activity or to further the election or defeat of any candidate for public office or influence the approval or defeat of any ballot issue.

A.25 PRIVACY

Personal information collected, used or acquired in connection with this agreement shall be used solely for the purposes of this agreement. SUBRECIPIENT and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the DEPARTMENT or as provided by law or court order. SUBRECIPIENT agrees to implement physical, electronic and managerial safeguards to prevent unauthorized access to personal information.

The DEPARTMENT reserves the right to monitor, audit, or investigate the use of personal information collected, used or acquired by the SUBRECIPIENT through this contract. The monitoring, auditing or investigating may include but is not limited to "salting" by the DEPARTMENT. Salting is the act of placing a record containing unique but false information in a database that can be used later to identify inappropriate disclosure of data contained in the database.

Any breach of this provision may result in termination of the contract and the demand for return of all personal information. The SUBRECIPIENT agrees to indemnify and hold harmless the DEPARTMENT for any damages related to the SUBRECIPIENT's unauthorized use, loss or disclosure of personal information.

For purposes of this provision, personal information includes, but is not limited to, information identifiable to an individual that relates to a natural person's health, finances, education, business, use or receipt of governmental services, or other activities, names, addresses, telephone numbers, social security numbers, driver license numbers, financial profiles, credit card numbers, financial identifiers and other identifying numbers.

A.26 PROHIBITION AGAINST PAYMENT OF BONUS OR COMMISSION

The assistance provided under this Agreement shall not be used in payment of any bonus or commission for the purpose of obtaining approval of the application for such assistance or any other approval or concurrence under this Agreement provided; however, that reasonable fees or bona fide technical consultant, managerial, or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as project costs.

A.27 PUBLICITY

The SUBRECIPIENT agrees to submit to the DEPARTMENT prior to issuance all advertising and publicity matters relating to this Agreement wherein the DEPARTMENT's name is mentioned or language used from which the connection of the DEPARTMENT's name may, in the DEPARTMENT's judgment, be inferred or implied. The SUBRECIPIENT agrees not to publish or use such advertising and publicity matters without the prior written consent of the DEPARTMENT. The SUBRECIPIENT may copyright original work it develops in the course of or under this Agreement; however, pursuant to 2

CFR Part 200.315, FEMA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use the work for government purposes.

The SUBRECIPIENT shall include language which acknowledges the funding contribution of the DEPARTMENT and FEMA to this project in any release or other publication developed or modified for, or referring to, the project.

Publication resulting from work performed under this Agreement shall include an acknowledgement of the DEPARTMENT and FEMA's financial support, by CFDA number, and a statement that the publication does not constitute an endorsement by FEMA or reflect FEMA's views.

A.28 RECAPTURE PROVISION

In the event the SUBRECIPIENT fails to expend funds under this Agreement in accordance with applicable federal, state, and local laws, regulations, and/or the provisions of the Agreement, the DEPARTMENT reserves the right to recapture funds in an amount equivalent to the extent of noncompliance. Such right of recapture shall exist for the life of the project following Agreement termination. Repayment by the SUBRECIPIENT of funds under this recapture provision shall occur within 30 days of demand. In the event the DEPARTMENT is required to institute legal proceedings to enforce the recapture provision, the DEPARTMENT shall be entitled to its costs and expenses thereof, including attorney fees.

A.29 RECORDS AND REPORTS

a. The SUBRECIPIENT agrees to maintain all books, records, documents, receipts, invoices and all other electronic or written records necessary to sufficiently and properly reflect the SUBRECIPIENT's contracts, subawards, grant administration, and payments, including all direct and indirect charges, and expenditures in the performance of this Agreement (the "records").

b. The SUBRECIPIENT's records related to this Agreement and the projects funded may be inspected and audited by the DEPARTMENT or its designee, by the Office of the State Auditor, DHS, FEMA or their designees, by the Comptroller General of the United States or its designees, or by other state or federal officials authorized by law, for the purposes of determining compliance by the SUBRECIPIENT with the terms of this Agreement and to determine the appropriate level of funding to be paid under the Agreement.

c. The records shall be made available by the SUBRECIPIENT for such inspection and audit, together with suitable space for such purpose, at any and all times during the SUBRECIPIENT's normal working day.

d. The SUBRECIPIENT shall retain and allow access to all records related to this Agreement and the funded project(s) for a period of at least six (6) years following final payment and closure of the grant under this Agreement. Despite the minimum federal retention requirement of three (3) years, the more stringent State requirement of six (6) year must be followed.

A.30 RECOVERY OF FUNDS

Any person who intentionally causes a condition for which funds are provided under this Agreement shall be liable for the costs incurred by the state and federal governments in responding to such disaster. In addition to its own duty to recover duplicated funds or funds expended due to the intentional or negligent actions of others. SUBRECIPIENT will cooperate in a reasonable manner with the DEPARTMENT and the United States in efforts to recover expenditures under this Grant Agreement.

A.31 RESPONSIBILITY FOR PROJECT/STATEMENT OF WORK/WORK PLAN

While the DEPARTMENT undertakes to assist the SUBRECIPIENT with the project/statement of work/work plan (project) by providing grant funds pursuant to this Agreement, the project itself remains the sole responsibility of the SUBRECIPIENT. The DEPARTMENT undertakes no responsibility to the SUBRECIPIENT, or to any third party, other than as is expressly set out in this Agreement.

The responsibility for the design, development, construction, implementation, operation and maintenance of the project, as these phrases are applicable to this project, is solely that of the SUBRECIPIENT, as is responsibility for any claim or suit of any nature by any third party related in any way to the project.

Prior to the start of any construction activity, the SUBRECIPIENT shall ensure that all applicable Federal, State, and local permits and clearances are obtained, including but not limited to FEMA compliance with the National Environmental Policy Act, the National Historic Preservation Act, the Endangered Species Act, and all other environmental laws and executive orders.

The SUBRECIPIENT shall defend, at its own cost, any and all claims or suits at law or in equity, which may be brought against the SUBRECIPIENT in connection with the project. The SUBRECIPIENT shall not look to the DEPARTMENT, or to any state or federal agency, or to any of their employees or agents, for any performance, assistance, or any payment or indemnity, including but not limited to cost of defense and/or attorneys' fees, in connection with any claim or lawsuit brought by any third party related to any design, development, construction, implementation, operation and/or maintenance of a project.

A.32 SEVERABILITY

If any court of rightful jurisdiction holds any provision or condition under this Agreement or its application to any person or circumstances invalid, this invalidity does not affect other provisions, terms or conditions of the Agreement, which can be given effect without the invalid provision. To this end, the terms and conditions of this Agreement are declared severable.

A.33 SINGLE AUDIT ACT REQUIREMENTS (including all AMENDMENTS)

Non-federal entities as subrecipients that expend **$750,000** or more in one fiscal year of federal funds from all sources, direct and indirect, are required to have a single or a program-specific audit conducted in accordance with 2 CFR Part 200 Subpart F. Non-federal entities that spend less than **$750,000** a year in federal awards are exempt from federal audit requirements for that year, except as noted in 2 CFR Part 200 Subpart F. As defined in 2 CFR Part 200, the term "non-federal entity" means a State, local government, Indian Tribe, institution of higher education, or non-profit organization that carries out a federal award as a recipient or subrecipient.

SUBRECIPIENTs that are required to have an audit must ensure the audit is performed in accordance with Generally Accepted Government Auditing Standards (GAGAS) as found in the Government Auditing Standards (the Revised Yellow Book) developed by the United States Comptroller General and the OMB Compliance Supplement. The SUBRECIPIENT has the responsibility of notifying its auditor and requesting an audit in compliance with 2 CFR Part 200 Subpart F, to include the Washington State Auditor's Office, a federal auditor, or a public accountant performing work using GAGAS, as appropriate. Costs of the audit may be an allowable grant expenditure as authorized by 2 CFR Part 200 Subpart F.

The SUBRECIPIENT shall maintain auditable records and accounts so as to facilitate the audit requirement and shall ensure that any subrecipients or contractors also maintain auditable records.

The SUBRECIPIENT is responsible for any audit exceptions incurred by its own organization or that of its subcontractors. Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report.

The SUBRECIPIENT must respond to DEPARTMENT requests for information or corrective action concerning audit issues or findings within 30 days of the date of request. The DEPARTMENT reserves the right to recover from the SUBRECIPIENT all disallowed costs resulting from the audit.

Once the single audit has been completed and includes any audit findings, the SUBRECIPIENT must send a full copy of the audit to the DEPARTMENT and its corrective action plan no later than nine (9) months after the end of the SUBRECIPIENT's fiscal year(s) to:

Contracts Office
Washington Military Department
Finance Division, Building #1 TA-20
Camp Murray, WA 98430-5032

If Contractor claims it is exempt from the audit requirements of 2 CFR Part 200 Subpart F, the SUBRECIPIENT must send a letter identifying this Agreement and explaining the criteria for exemption

no later than nine (9) months after the end of the SUBRECIPIENT's fiscal year(s) to the address listed above.

The DEPARTMENT retains the sole discretion to determine whether a valid claim for an exemption from the audit requirements of this provision has been established.

The SUBRECIPIENT shall include the above audit requirements in any subawards.

Conducting a single or program-specific audit in compliance with 2 CFR Part 200 Subpart F is a material requirement of this Agreement. In the absence of a valid claim of exemption from the audit requirements of 2 CFR Part 200 Subpart F, the SUBRECIPIENT's failure to comply with said audit requirements may result in one or more of the following actions in the DEPARTMENT's sole discretion: a percentage of federal awards being withheld until the audit is completed in accordance with 2 CFR Part 200 Subpart F; the withholding or disallowing of overhead costs; the suspension of federal awards until the audit is conducted and submitted; or termination of the federal award.

A.34 SUBRECIPIENT NOT EMPLOYEE

The parties intend that an independent contractor relationship will be created by this Agreement. The SUBRECIPIENT, and/or employees or agents performing under this Agreement are not employees or agents of the DEPARTMENT in any manner whatsoever. The SUBRECIPIENT will not be presented as nor claim to be an officer or employee of the DEPARTMENT or of the State of Washington by reason of this Agreement, nor will the SUBRECIPIENT make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the DEPARTMENT or of the State of Washington by reason of this Agreement, including, but not limited to, Workmen's Compensation coverage, unemployment insurance benefits, social security benefits, retirement membership or credit, or privilege or benefit which would accrue to a civil service employee under Chapter 41.06 RCW.

It is understood that if the SUBRECIPIENT is another state department, state agency, state university, state college, state community college, state board, or state commission, that the officers and employees are employed by the State of Washington in their own right and not by reason of this Agreement.

A.35 TAXES, FEES AND LICENSES

Unless otherwise provided in this Agreement, the SUBRECIPIENT shall be responsible for, pay and maintain in current status all taxes, unemployment contributions, fees, licenses, assessments, permit charges and expenses of any other kind for the SUBRECIPIENT or its staff required by statute or regulation that are applicable to Agreement performance.

A.36 TERMINATION FOR CONVENIENCE

Notwithstanding any provisions of this Agreement, the SUBRECIPIENT may terminate this Agreement by providing written notice of such termination to the DEPARTMENTs Key Personnel identified in the Agreement, specifying the effective date thereof, at least thirty (30) days prior to such date.

Except as otherwise provided in this Agreement, the DEPARTMENT, in its sole discretion and in the best interests of the State of Washington, may terminate this Agreement in whole or in part by providing ten (10) calendar days written notice, beginning on the second day after mailing to the SUBRECIPIENT. Upon notice of termination for convenience, the DEPARTMENT reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the SUBRECIPIENT from incurring additional obligations of funds. In the event of termination, the SUBRECIPIENT shall be liable for all damages as authorized by law. The rights and remedies of the DEPARTMENT provided for in this section shall not be exclusive and are in addition to any other rights and remedies provided by law.

A.37 TERMINATION OR SUSPENSION FOR CAUSE

In the event the DEPARMENT, in its sole discretion, determines the SUBRECIPIENT has failed to fulfill in a timely and proper manner its obligations under this Agreement, is in an unsound financial condition so as to endanger performance hereunder, is in violation of any laws or regulations that render the SUBRECIPIENT unable to perform any aspect of the Agreement, or has violated any of the covenants, agreements or stipulations of this Agreement, the DEPARTMENT has the right to immediately suspend or terminate this Agreement in whole or in part.

The DEPARTMENT may notify the SUBRECIPIENT in writing of the need to take corrective action and provide a period of time in which to cure. The DEPARTMENT is not required to allow the SUBGRANTEE an opportunity to cure if it is not feasible as determined solely within the DEPARTMENT's discretion. Any time allowed for cure shall not diminish or eliminate the SUBRECIPIENT's liability for damages or otherwise affect any other remedies available to the DEPARTMENT. If the DEPARTMENT allows the SUBRECIPIENT an opportunity to cure, the DEPARTMENT shall notify the SUBRECIPIENT in writing of the need to take corrective action. If the corrective action is not taken within ten (10) calendar days or as otherwise specified by the DEPARTMENT, or if such corrective action is deemed by the DEPARTMENT to be insufficient, the Agreement may be terminated in whole or in part.

The DEPARTMENT reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the SUBRECIPIENT from incurring additional obligations of funds during investigation of the alleged compliance breach, pending corrective action by the SUBRECIPIENT, if allowed, or pending a decision by the DEPARTMENT to terminate the Agreement in whole or in part.

In the event of termination, the SUBRECIPIENT shall be liable for all damages as authorized by law, including but not limited to, any cost difference between the original Agreement and the replacement or cover Agreement and all administrative costs directly related to the replacement Agreement, e.g., cost of administering the competitive solicitation process, mailing, advertising and other associated staff time. The rights and remedies of the DEPARTMENT provided for in this section shall not be exclusive and are in addition to any other rights and remedies provided by law.

If it is determined that the SUBRECIPIENT: (1) was not in default or material breach, or (2) failure to perform was outside of the SUBRECIPIENT's control, fault or negligence, the termination shall be deemed to be a "Termination for Convenience".

A.38 TERMINATION PROCEDURES

In addition to the procedures set forth below, if the DEPARTMENT terminates this Agreement, the SUBRECIPIENT shall follow any procedures specified in the termination notice. Upon termination of this Agreement and in addition to any other rights provided in this Agreement, the DEPARTMENT may require the SUBRECIPIENT to deliver to the DEPARTMENT any property specifically produced or acquired for the performance of such part of this Agreement as has been terminated.

If the termination is for convenience, the DEPARTMENT shall pay to the SUBRECIPIENT the agreed upon price, if separately stated, for properly authorized and completed work and services rendered or goods delivered to and accepted by the DEPARTMENT prior to the effective date of Agreement termination, and the amount agreed upon by the SUBRECIPIENT and the DEPARTMENT for (i) completed work and services and/or equipment or supplies provided for which no separate price is stated, (ii) partially completed work and services and/or equipment or supplies provided which are accepted by the DEPARTMENT, (iii) other work, services and/or equipment or supplies which are accepted by the DEPARTMENT, and (iv) the protection and preservation of property.

Failure to agree with such amounts shall be a dispute within the meaning of the "Disputes" clause of this Agreement. If the termination is for cause, the DEPARTMENT shall determine the extent of the liability of the DEPARTMENT. The DEPARTMENT shall have no other obligation to the SUBRECIPIENT for termination. The DEPARTMENT may withhold from any amounts due the SUBRECIPIENT such sum as the DEPARTMENT determines to be necessary to protect the DEPARTMENT against potential loss or liability.

The rights and remedies of the DEPARTMENT provided in this Agreement shall not be exclusive and are in addition to any other rights and remedies provided by law.

After receipt of a notice of termination, and except as otherwise directed by the DEPARTMENT in writing, the SUBRECIPIENT shall:

a. Stop work under the Agreement on the date, and to the extent specified, in the notice;
b. Place no further orders or sub-contracts for materials, services, supplies, equipment and/or facilities in relation to this Agreement except as may be necessary for completion of such portion of the work under the Agreement as is not terminated;

c. Assign to the DEPARTMENT, in the manner, at the times, and to the extent directed by the DEPARTMENT, all of the rights, title, and interest of the SUBRECIPIENT under the orders and sub-contracts so terminated, in which case the DEPARTMENT has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and contracts;
d. Settle all outstanding liabilities and all claims arising out of such termination of orders and sub-contracts, with the approval or ratification of the DEPARTMENT to the extent the DEPARTMENT may require, which approval or ratification shall be final for all the purposes of this clause;
e. Transfer title to the DEPARTMENT and deliver in the manner, at the times, and to the extent directed by the DEPATMENT any property which, if the Agreement had been completed, would have been required to be furnished to the DEPARTMENT;
f. Complete performance of such part of the work as shall not have been terminated by the DEPARTMENT in compliance with all contractual requirements; and
g. Take such action as may be necessary, or as the DEPARTMENT may require, for the protection and preservation of the property related to this Agreement which is in the possession of the SUBRECIPIENT and in which the DEPARTMENT has or may acquire an interest.

A.39 UTILIZATION OF MINORITY AND WOMEN BUSINESS ENTERPRISES (MWBE)

The SUBRECIPIENT shall comply with 2 CFR §200.321 and will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible and will take all necessary affirmative steps to utilize business firms that are certified as minority-owned and/or women-owned in carrying out the purposes of this Agreement. The following steps are required by the subrecipient if any contracts with contractors or sub-contractors are entered into under the original contract award:

a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

The SUBRECIPIENT may also set utilization standards, based upon local conditions or may utilize the State of Washington MWBE goals, as identified in. WAC 326-30-041.

A.40 VENUE

This Agreement shall be construed and enforced in accordance with, and the validity and performance shall be governed by the laws of the State of Washington. Venue of any suit between the parties arising out of this Agreement shall be the Superior Court of Thurston County, Washington. The SUBRECIPIENT, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington.

A.41 WAIVERS

No conditions or provisions of this Agreement can be waived unless approved in advance by the DEPARTMENT in writing. The DEPARTMENT's failure to insist upon strict performance of any provision of the Agreement or to exercise any right based upon a breach thereof, or the acceptance of any performance during such breach, shall not constitute a waiver of any right under this Agreement.

PROJECT WORKSHEET SAMPLE

U.S. DEPARTMENT OF HOMELAND SECURITY FEDERAL EMERGENCY MANAGEMENT AGENCY **PROJECT WORKSHEET**	O.M.B. No. 1660-0017

PAPERWORK BURDEN DISCLOSURE NOTICE

Public reporting burden for this form is estimated to average 90 minutes per response. Burden means the time, effort and financial resources expended by persons to generate, maintain, disclose, or to provide information to us. You may send comments regarding the accuracy of the burden estimate and or any aspect of the collection, including suggestions for reducing the burden to: Information Collections Management, U. S. Department of Homeland Security, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, Paperwork Reduction Project (OMB Control Number 1660-0017). You are not required to respond to this collection of information unless a valid OMB number appears in the upper right corner of this form. **NOTE: Do not send your completed form to this address.**

DISASTER	PROJECT NO.	PA ID NO.	DATE	CATEGORY
F ____ - R ____				

DAMAGED FACILITY	WORK COMPLETE AS OF: _____ : _____ %
SUBRECIPIENT	COUNTY
LOCATION	LATITUDE / LONGITUDE
DAMAGE DESCRIPTION AND DIMENSIONS	
SCOPE OF WORK	

Does the Scope of Work change the pre-disaster conditions at the site? ☐ Yes ☐ No

Special Considerations issues included? ☐ Yes ☐ No Hazard Mitigation proposal included? ☐ Yes ☐ No

Is there insurance coverage on this facility? ☐ Yes ☐ No

PROJECT COST

I T	CODE	NARRATIVE	QUANTITY/UNIT	UNIT PRICE	COST
			/		
			/		
			/		
			/		
			/		
			/		
			/		
			/		
			/		
			/		
				TOTAL COST	

PREPARED BY	TITLE	SIGNATURE
SUBRECIPIENT REP.	TITLE	SIGNATURE

FEMA Form 90-91, FEB 06 **REPLACES ALL PREVIOUS EDITIONS.**

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FEB 2 6 2024

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: Public Works/Roads

WORK SESSION ☒ **Meeting Date: 02/26/2024**

REGULAR AGENDA ☒ **Meeting Date: 03/05/2024**

Required originals approved and attached? ☒
Will be provided on:

Item summary:

☐ Call for Hearing
☒ Contract/Agreement/MOU - Contract # D23-219
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☐ Other

Documents exempt from public disclosure attached: ☐

Executive summary:
This item is a Contract with FEMA for funding relating to a November 2021 storm event (FEMA-4682-DR-WA) that caused damage to a number of county road facilities. Most of the work has been completed, and reimbursement of $80,939.92 is ready to be dispensed.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐

This has been accounted for in the 2024 budget. No additional budget action is required.
Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)

Approve and sign
1 Grant Application Information
2 Letter of support
3 Form titled "Designation of Applicant's Agent Resolution"
4 Signature Authorization Form
5 W-9
6 Public Assistance Grant Agreement Face Sheet

County Official signature & print name: Joe Donisi, P.E. Joe Donisi

Name of Employee/Stakeholder attending meeting: Joe Donisi, Linda Capps

Relevant Departments: Roads

Date submitted: 02/21/2024

* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

COMMISSIONER ITEM SUMMARY
Revised: 3-04-2019

Questions? Call Loni Gores, Clerk of the Board, ext 2256

Clallam County
Grant Application Information

DEPARTMENT: **Public Works**

DATE SUBMITTED TO W/S: **2/26/24**

GRANT NAME: **PUBLIC ASSISTANCE**

APPLICATION DEADLINE: **N/A**

ISSUING AGENCY: **FEMA**

IS THIS A RENEWAL? **No**

LENGTH OF GRANT: **5 years**

RENEWAL POSSIBLE? **No**

TOTAL AWARD: **Unknown**

ANNUAL AMOUNT : **Unknown**

MATCH REQUIRED? **5%**

MATCH AMOUNT: **Unknown**

DESCRIPTION OF GRANT AND PURPOSE:
The grant is the FEMA Disaster Assistance Grant. It is used to help pay for unanticipated damages caused by natural disasters.

EXPLAIN HOW THIS GRANT WILL BE USED FOR THE GOOD OF CLALLAM COUNTY CITIZENS:
The grant will pay for damages caused by a 2021 Disaster Event. It will reimburse the County for costs associated with the removal of debris from County Roads and the repair of a washed out culvert on Crescent Beach Rd.

DOES THE GRANT ACTIVITY FURTHER THE DEPARTMENT'S MISSION OR CORE FUNCTIONS? HAS IT BEEN A PART OF LONG TERM DEPARTMENT OR COUNTY GOALS?
One of the core functions of the Public Works Department is to maintain the Clallam County Road Network. Any additional funds that can be acquired further this function and allow the County to continue prompt maintenance of this road network.

DOES THE GRANT ACTIVITY INCREASE AN EXISTING SERVICE OR ADD A NEW SERVICE? TO WHAT DEGREE? IF THE GRANT WERE NOT AVAILABLE, WOULD THE SERVICE HAVE BEEN NECESSARY?
No

WHAT MEASUREMENTS (PERFORMANCE MEASURES) WILL BE USED TO EVALUATE THE SUCCESS OF THE ACTIVITIES PROVIDED BY THE GRANT? WILL PERFORMANCE MEASURES BE DEVELOPED?
This is a reimbursement grant. We have applied for reimbursement in all damaged areas that met the criteria set forth by FEMA.

DOES THE GRANT ACTIVITY CREATE A NEW SERVICE OR LEVEL OF SERVICE WHICH IS EXPECTED TO BE CONTINUED FROM LOCAL FUNDING AT THE END OF THE GRANT PERIOD?
No

IF MATCHING FUNDS ARE REQUIRED, WHERE WILL THEY COME FROM? DOES THE DEPARTMENT HAVE EXISTING RESOURCES TO COVER MATCH REQUIREMENTS? FROM WHERE? Matching funds will come from the Road Fund.

WILL THE ACTIVITY IN THIS GRANT HAVE IMPACTS ON OTHER DEPARTMENTS? HAS THIS BEEN DISCUSSED? DO OTHER DEPARTMENTS HAVE SUFFICIENT RESOURCES TO DEAL WITH ADDITIONAL IMPACTS?
No.

WILL NEW POSITIONS BE ADDED? IF SO, HOW MANY AND WHAT TYPE ARE EXPECTED? ARE ALL WAGES AND BENEFITS PAID IN THE GRANT? WHAT WILL HAPPEN TO THE POSITIONS WHEN THE GRANT PERIOD ENDS?
No.

DOES YOUR DEPARTMENT HAVE SUFFICIENT RESOURCES TO ADMINISTER THE GRANT? PROVIDE FOR TIMELY REIMBURSEMENT AND ACTIVITY REPORTS?
Yes

ARE THERE IMPACTS TO THE COUNTY IF THE GRANT IS NOT RECEIVED? WHAT ARE THEY?
Yes, if the grant is not received routine maintenance work will have to be postponed.

ARE INDIRECT COSTS ALLOWABLE ON THIS GRANT? IF SO, ARE THERE LIMITATIONS? WILL THEY BE CHARGED AND ALLOCATED AS INDIRECT?
No

ARE THERE OTHER ACTIVITIES (GRANT OR OTHERWISE) THAT ARE BUDGETED FOR THIS YEAR THAT WILL NOT BE COMPLETED IF THIS GRANT IS APPROVED?
No

WHAT BUDGET CHANGES ARE NECESSARY? INCLUDE REVENUES AND EXPENDITURES.
There are no budget changes necessary.

OTHER COMMENTS
Much of the work was completed directly after the disaster event. There is one outstanding project – Crescent Beach Rd Culvert Repair Project. This will be completed during the coming fish window this summer.

ELECTED OFFICIAL/DEPARTMENT HEAD SIGNATURE

APPROVAL

Todd Mielke, ADMINISTRATOR

Submit in **duplicate** to the Board of Commissioners for Work Session discussion and approval by the Administrator prior to application for any grant. The approved form must be included with the grant contract when it is submitted to the Board for approval. Refer to Administrative Policies 120 and 562.

HOW TO COMPLETE THE SUPPLEMENTAL CONTRACTING DOCUMENTS

Event Information:

Disaster Number:	4682-DR-WA
Event Name:	Severe Winter Storm, Straight-line Winds, Flooding, Landslides, and Mudslides
Declaration Date:	January 12, 2023
Contract #:	D23-219
FIPS #:	009-99009-00

Step 1: Complete the following information to populate the forms.

1. Enter the date the forms will be submitted to EMD.

Date forms will be submitted:	

2. Enter jurisdiction/organization/subgrantee name and address.

Applicant Name:	Clallam County				
Doing Business As:					
County:	Clallam				
Street Address:	223 E 4th Street				
Mailing Address:					
City:	Port Angeles	State:	WA	Zip:	98362

3. Enter tax identification number (TIN/EIN), state revenue # (UBI) and UEI #. The TIN # and UEI # are required.

Tax Identification Number:	91-6001298
State Business # (UBI):	054-004-559
Unique Entity ID (UEI):	JV6JJNELRBS5

If you do not know your organization's UEI #, please contact your comptroller, accountant, or finance department. They should be able to give it to you. Smaller jurisdictions (such as irrigation districts) may not already have one, but you can register your organization on SAM.gov. An entity registration allows your organization the opportunity to receive Federal grant assistance. When registering your organization, please be included in the public search. The following information is requested:

- Legal Business Name
- Physical Address (A post office box may not be used as your physical address)
- Date of Incorporation
- State of Incorporation

Please note: The UEI number has to match the name on the Federal grant application (Request for Public Assistance)

4. Do you have an account already established with the State of Washington?

Do you have an account already established with the State and have you received funds from the state within the past 2 years?
☑ Yes and the account information is current – we will need your Statewide Vendor Number, please list it here: SWV-0000200-04
☐ Yes, but I need to make changes to the account information – please continue to https://ofm.wa.gov/it- systems/accounting-systems/statewide-vendorpayee-services , the Vendor/Payee registration website. Select Vendor/Payee Change form and complete per their instructions.
☐ No - please continue to https://ofm.wa.gov/it-systems/accounting-systems/statewide-vendorpayee-services , the Vendor/Payee registration website. Select Vendor/Payee

5. Complete the section above if you do not have an open account with the State of Washington or any changes need to be made. You may also need to complete this section if you have not received funds from the State for 2 years. This information will be filled in on page 13. If all information is current, skip this section.
Section Below is the Authorized Financial Representative that will sign the Audit/ FFATA form.

Contact Person:	Mark Lane
Phone:	360-417-2383
Fax:	360-417-2513
Email:	mark.lane@clallamcountywa.gov

6. Type of Applicant.

Enter the letter corresponding to the type of applicant:	B
A - State B – County C - City D – School District E – Special Purpose District (includes Diking Districts, Fire Districts, Water Districts, etc.)	F – Higher Educational Institution G – Indian Tribe H – Private NonProfit I – Other (Specify)
If I: Other, specify type of organization (this is rare)	

7. Enter congressional district numbers and legislative district numbers located within in your jurisdiction. If you don't know them, check out ***http://app.leg.wa.gov/districtfinder/***

Congressional District Number(s):	6th
Legislative District Number(s):	24th

8. Enter information regarding the primary contact. This is the person who will be our main day-to-day contact and will be signing most documents, such as time extensions, A-19 invoices, SOD/FIR, etc. This person must be named in the designation letter **or** resolution as the applicant agent. It is recommended that this person not be the authorizing authoritysuch as the mayor or superintendent.

Name:	Jesse Goodman
Title:	Engineer 1
Phone:	360-417-2530
Fax:	360-417-2513
Email:	jesse.goodman@clallamcountywa.gov

9. Enter information regarding the alternate agent. This person can also sign documents, such as

time extensions, A-19 invoices, SOD/FIR, etc. and must benamed in the designation letter or resolution as the alternate.

Name:	Don Crawford
Title:	Director of Parks
Phone:	360-797-8283
Fax:	
Email:	donald.crawford@clallamcountwa.gov

10. If the highest elected official or head authorizing authority is to be the applicant agent or alternate, then a resolution format must be used to designate the applicant agent and alternate. This section can be skipped if the highest elected official or head authorizing authority is not to be the applicant agent or alternate. This section can also be skipped if the jurisdiction has its own resolution format. Examples of governing body are the County Board of Commissioners, City Council, and School Board.

Date of resolution:	Day:		Month:		Year:	2024	
Governing Body:	Clallam County Board of Commissioners						
Individual certifying that the resolution is true and correct copy (usually clerk)							
Name:	Loni Gores				Title:	Clerk of the Board	
Date certifying resolution:							

11. Enter the name, title, and term of office for the highest elected official or highest authorizing authority. This needs to be the person signing the designation letter or the person(s) signing the resolution. At least one is required. This person cannot be the applicant agent or alternate in sections 8 and 9.

Name:	Mike French	Title:	Commissioner Chair
Name:		Title:	
Name:		Title:	
Name:		Title:	
Name:		Title:	
Name:		Title:	

12. Enter the name and title of anyone authorized to sign contracts.

Name:	Mike French	Title:	Commissioner Chair
Name:		Title:	
Name:		Title:	

13. Enter the name and title of anyone authorized to sign SOD/FIR, A-19 vouchers, time extensions, or other documentation pertaining to the grant or reimbursement thereof.

Name:	Jesse Goodman	Title:	Engineer 1
Name:	Don Crawford	Title:	Director of Parks

14. Enter name, email, and phone of *Chief Financial Officer*.

Name:	Mark Lane
Email:	mark.lane@clallamcountywa.gov
Phone:	360-417-2383

15. The authorized Chief Financial Officer completes and signs page 16: FFATA / Audit Certification F

STEP 2: The forms are now populated with the information entered in Step 1. Review the forms for accuracy. Continue to complete pages 5 – 13 with the following steps:

STEP 3: On page 5, the **Designation Letter** will be completed if the applicant or alternate agent is **not** the highest authorizing authority. The highest authorizing authority will sign the letter (ex: CEO, Board President, etc.). See the next step if applicant or alternate agent will be the highest authorizing authority.

STEP 4: A **Resolution**, page 6, will be completed if the applicant agent or alternate **is** the highest authorizing authority. The governing body passes and signs a **Resolution.** A Resolution format is provided on page 6 or you can use your own resolution format. If your resolution format is used, the clerk of the governing body will sign a copy of the Resolution.

STEP 5: Page 7, **Disaster Assistance Application**: the applicant and alternate agents will sign in their respective places.

STEP 6: Page 8, **Signature Authorization Form**, the highest official and/or governing body signs in block. The applicant and alternate agents sign in block 2. The individual who is signing the letter or resolution must sign in block 1. ANYONE who the entity wishes to sign any documentation regarding the grant needs to sign in block 2 or block 3, this includes the applicant agent or alternate and anyone who is signing A-19 vouchers, SOD/FIR's, and any additional grant paperwork.

STEP 7: Page 9, **Debarment form**, the applicant or alternate agent will sign.

STEP 8: Page 10, **W-9**, the applicant or alternate agent will sign.

STEP 9: Page 11 and 12, **Audit Certification/FFATA**, the authorized *Chief Financial Officer* will complete page11 and sign page 12.

STEP 10: Page 13: If an account has not been established with the State, or if changes need to be made, please complete the Vendor/Payee Registration form, or change form located at https://ofm.wa.gov/it-systems/accounting-systems/statewide- vendor payee-services

STEP 11: If an account has already been established with the State and no changes need to be made, please provide us with your SWV# by completing page 13: Statewide Payee page.

STEP 12: Please remember, **TWO ORIGINAL COPIES OF THE GRANT AGREEMENT** (sent as a separate attachment) will need to be signed and submitted along with this Supplemental Contracts package. The applicant agent, alternate agent, or highest authorizing authority can sign the Grant Agreement.

After ***all signatures are obtained on all forms***, mail the following to:

Mr. Gerard Urbas
Washington Military Department
Emergency Management Division
Public Assistance Program MS:
TA-20, Building 20-B Camp
Murray, WA 98430-5122

2 originals of contract/grant agreement
1 original of designation letter or 1 certified copy of resolution1 original signature authorization form
1 original disaster assistance application1 original debarment form
1 W-9
1 Audit Certification/FFATA form
1 Statewide Vendor Number sheet

Keep pages 1 - 3 (they do not need to be mailed to us) and copies of all forms for your records.

STEP 13: After the contract/grant agreement is executed by WA Military Department, one original contract agreement will be mailed to the applicant agent. These should be kept for your records.

If you have questions, please contact your Program Delivery Manager or Program Assistant.

Clallam County Public Works Department

223 E. Fourth St., Ste. 6
Port Angeles, WA 98362-3015

Mr. Gerard Urbas
Washington Military Department
Public Assistance Program
MS: TA-20 Building 20-B
Camp Murray, WA 98430-5122

Re: Designated Applicant Agent

Dear Mr. Urbas:

The purpose of this letter is to designate the Applicant Agent and Alternate authorized representatives for

Disaster: 4682-DR-WA Severe Storms, Straight-line Winds, Flooding, Landslides, and Mudslides
Applicant: Clallam County
Applicant Agent: Jesse Goodman
Alternate Applicant Agent: Don Crawford

The purpose of this designation as the authorized representatives is to obtain federal and/or State Emergency or Major Disaster Assistance funds.

These representatives are authorized to execute all contracts, certify completion of projects, request payments, and prepare all required documentation for funding requirements.

Sincerely,

Mike French

Commissioner Chair

Designation of Applicant's Agent
Resolution

Be it resolved by Clallam County Board of Commission of Clallam County
(Governing Body) (Public Agency)

Jesse Goodman, Engineer 1 is hereby designated the authorized
(Name of New Agent) (Title)

representative and Don Crawford, Director of Parks is designated
(Name of Alternate) (Title)

the alternate for and in behalf of Clallam County, a public
(Public Agency Name)

agency established under the laws of the state of Washington.

The purpose of this designation as the authorized representative is to obtain federal and/or state emergency or disaster assistance funds. These representatives are authorized on behalf of the Clallam County Board of Commi to execute all contracts, certify completion of projects, request payments, and prepare all required documentation for funding requirements.

Passed and approved this _____ day of _____, 20 2024.

_____, Commissioner Chair _____, _____
(Signature) (Title) (Signature) (Title)

_____, _____ _____, _____
(Signature) (Title) (Signature) (Title)

_____, _____ _____, _____
(Signature) (Title) (Signature) (Title)

Certification

I, Loni Gores, duly appointed and _____ of Clallam County,
(Name) (Title) (Public Agency)

do hereby certify that the above is a true and correct copy of a resolution passed and approved by the Clallam County Board of Clallam County on the _____ day of _____, 20 2024.
(Governing Body) (Public Agency)

Date: _____

_____ _____
(Official Position) (Signature)

DISASTER ASSISTANCE APPLICATION **DEM - 131**

Application Identifier: State Number: D23-219

Federal Disaster Number: 4682-DR-WA

Federal Catalog Number: 97.036 **Title: Disaster Assistance Grants**

Declaration Date: January 12, 2023

Applicant's FEMA Project Application Number: 009-99009-00

Legal Applicant Recipient:

Applicant's Name: Clallam County

Street Address: 223 E 4th Street

Mailing Address: County: Clallam

City: Port Angeles State: WA Zip Code: 98362

Applicant Agent:

Name: Jesse Goodman

Title: Engineer 1

Signature:

Contact Information:

Phone: 360-417-2530

Fax: 360-417-2513

E-mail: jesse.goodman@clallamco

Date:

Alternate Applicant Agent:

Name: Don Crawford

Title: Director of Parks

Signature:

Phone: 360-797-8283

Fax:

E-mail: donald.crawford@clallamco

Date:

Type of Applicant:

A - State
B - County
C - City
D - School District
E - Special Purpose District
F - Higher Educational Institution
G - Indian Tribe
H - Private NonProfit
I - Other (Specify) Do not fill this in

Enter Appropriate Letter B

Congressional District Number: 6th

State Legislative District Number: 24th

Governor's Authorized Representative:

Signature **Date:**

NOTE: Shaded blocks for WA EMD use.

SIGNATURE AUTHORIZATION FORM

WASHINGTON STATE MILITARY DEPARTMENT
Camp Murray, Washington 98430-5122

Please read instructions on reverse side before completing this form.

NAME OF ORGANIZATION	DATE SUBMITTED
Clallam County	
PROJECT DESCRIPTION	**CONTRACT NUMBER**
4682-DR-WA	D23-219

1. AUTHORIZING AUTHORITY

SIGNATURE	PRINT OR TYPE NAME	TITLE/TERM OF OFFICE
	Mike French	Commissioner Chair

2. AUTHORIZED TO SIGN CONTRACTS/CONTRACT AMENDMENTS

SIGNATURE	PRINT OR TYPE NAME	TITLE
	Mike French	Commissioner Chair

3. AUTHORIZED TO SIGN REQUESTS FOR REIMBURSEMENT

SIGNATURE	PRINT OR TYPE NAME	TITLE
	Jesse Goodman	Engineer 1
	Don Crawford	Director of Parks

INSTRUCTIONS FOR SIGNATURE AUTHORIZATION FORM

This form identifies the persons who have the authority to sign contracts, amendments, and requests for reimbursement. It is required for the management of your contract with the Military Department (MD). Please complete all sections. One copy with original signatures is to be sent to MD with the signed contract, and the other should be kept with your copy of the contract.

When a request for reimbursement is received, the signature is checked to verify that it matches the signature on file. **The payment can be delayed if the request is presented without the proper signature.** It is important that the signatures in MD's files are current. Changes in staffing or responsibilities will require a new signature authorization form.

1. **Authorizing Authority.** Generally, the person(s) signing in this box heads the governing body of the organization, such as the board chair or mayor. In some cases, the chief executive officer may have been delegated this authority.

2. **Authorized to Sign Contracts/Contract Amendments.** The person(s) with this authority should sign in this space. Usually, it is the county commissioner, mayor, executive director, city clerk, etc.

3. **Authorized to Sign Requests for Reimbursement.** Often the executive director, city clerk, treasurer, or administrative assistant have this authority. It is advisable to have more than one person authorized to sign reimbursement requests. **This will help prevent delays in processing a request if one person is temporarily unavailable.**

If you have any questions regarding this form or to request new forms, please call your MD Program Manager.

Form **W-9**
(Rev. November 2005)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give form to the requester. Do not send to the IRS.

Print or type See Specific Instructions on page 2.

Name (as shown on your income tax return)
Clallam County

Business name, if different from above

Check appropriate box: ☐ Individual/ Sole proprietor ☐ Corporation ☐ Partnership ☑ Other ▶ **Political Sub S** ☑ Exempt from backup withholding

Address (number, street, and apt. or suite no.)
223 East 4th Street

Requester's name and address (optional)

City, state, and ZIP code
Port Angeles, WA 98362

List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number
			–					

or

Employer identification number
9	1	–	6	0	0	1	2	9	8

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. person (including a U.S. resident alien).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 4.)

Sign Here Signature of U.S. person ▶ Date ▶

Purpose of Form

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

U.S. person. Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee.

In 3 above, if applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

For federal tax purposes, you are considered a person if you are:

- An individual who is a citizen or resident of the United States,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, or
- Any estate (other than a foreign estate) or trust. See Regulations sections 301.7701-6(a) and 7(a) for additional information.

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

Washington Military Department Contract Number: D23-219

Debarment, Suspension, Ineligibility or Voluntary Exclusion Certification Form

NAME Clallam County		Doing business as (DBA)	
ADDRESS 223 E 4th Street	**Applicable Procurement or Solicitation #, if any:**	WA Uniform Business Identifier (UBI) 054-004-559	Federal Employer Tax Identification #:
This certification is submitted as part of a request to contract.			

Instructions For Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions

READ CAREFULLY BEFORE SIGNING THE CERTIFICATION. Federal regulations require contractors and bidders to sign and abide by the terms of this certification, without modification, in order to participate in certain transactions directly or indirectly involving federal funds.

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the department, institution or office to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable CFR, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled ``Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,'' without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under applicable CFR, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business activity.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under applicable CFR, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions

The prospective lower tier participant certifies, by submission of this proposal or contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this form.

Bidder or Contractor Signature: _____ Date: _____

Print Name and Title: _____

WASHINGTON MILITARY DEPARTMENT

Audit Certification and FFATA Reporting Form

CONTACT INFORMATION	
Subrecipient Name (Agency, Local Government, or Organization): Clallam County	
Subrecipient Unique Entity Identifier (UEI) Number: JV6JJNELRBS5	
Authorized Financial Representative (Name and Title): Mark Lane	
Address: 223 E 4th Street	WA
Email: mark.lane@clallamcountywa.gov	Phone Number: 360-417-2383

Directions: As required by 2 CFR Part 200 Subpart F, non-federal entities that expend $750,000 in federal awards in a fiscal year shall have a single or program-specific audit conducted for that year. If your entity ***is not*** subject to these requirements, you must complete Section A of this Form. If your entity ***is*** subject to these requirements, you must complete Section B of this form. All subrecipients must complete the Federal Funding Accountability and Transparency Act (FFATA) related questions in Section C of this Form. Failure to return this completed Form to contracts.office@mil.wa.gov may result in delay of grant agreement processing, withholding of federal awards or disallowance of costs, and suspension or termination of federal awards.

SECTION A: Entities NOT subject to the audit requirements of 2 CFR Part 200 Subpart F (check all that apply)
☐ We did not expend $750,000 or more of total federal awards during the preceding fiscal year.
☐ We are a for-profit organization.
☐ We are exempt for other reasons (describe):
However, by signing below, I agree that we are still subject to the audit requirements, laws, and regulations governing the program(s) in which we participate; that we are required to maintain records of federal funding and to provide access to such records by federal and state agencies and their designees; and that WMD may request and be provided access to additional information and/or documentation to ensure proper stewardship of federal funds.

SECTION B: Entities that ARE subject to the audit requirements of 2 CFR Part 200 Subpart F (Complete the information below and check the appropriate box)
☑ We completed our last 2 CFR Part 200 Subpart F Audit on [9/25/2023] for fiscal year [12/31/2022]. There were no findings related to federal awards or internal controls.
☐ We completed our last 2 CFR Part 200 Subpart F Audit on [enter date] for fiscal year [enter date] and there were findings related to federal awards and/or internal controls.
☐ Our completed 2 CFR Part 200 Subpart F Audit will be available on [enter date] for fiscal year [enter date].
Provide a complete copy of the audit report electronically to contracts.office@mil.wa.gov or provide the state audit number [1033321].

SECTION C: Federal Funding Accountability and Transparency Act (check the corresponding answer)
In your preceding fiscal year, did your organization receive 80% or more of its gross revenues from federal funding? ☐ Yes ☑ No
In your preceding fiscal year, did your organization receive $25,000,000 or more in federal funding? ☐ Yes ☑ No
If you answered *yes* to the previous questions, WMD Contracts staff will request additional information to comply with FFATA reporting.

I hereby certify that I am an individual authorized by the above identified entity (subrecipient) to complete this form. Further, I certify that the above information is true and correct, and all material findings contained in the audit report/statement have been disclosed. Additionally, I understand this form is to be submitted every fiscal year for which this entity is a subrecipient of federal award funds from the Department until the grant agreement is closed.

Signature of Authorized Financial Representative:

Date: 2/9/24

Statewide Vendor Number:
Please list your statewide vendor number below. If you do not have one or need to make changes, please refer back to page 2 and 4 for further instructions on how to complete this task.

SWV-0000200-04

Washington State Military Department
PUBLIC ASSISTANCE GRANT AGREEMENT FACE SHEET

1. SUBRECIPIENT Name and Address: **Clallam County** **223 E 4th Street** **Port Angeles, D23-219 98362**	2. Grant Agreement Amount: **To be determined, based upon approved project worksheets**	3. Grant Number: **D23-219**
4. SUBRECIPIENT, phone/email: **(360) 417- 2530** **jesse.goodman@clallamcountywa.gov**	5. Grant Agreement Start Date: **November 3, 2022**	6. Grant Agreement End Date: **January 12, 2027**
7. DEPARTMENT Program Manager, phone/email: **Gerard Urbas, (253) 512-7402** **Gary.urbas@mil.wa.gov**	8. Unique Entity Identifier (UEI) : JV6JJNELRBS5	9. UBI # (state revenue): 054-004-559

10. Funding Authority:
Washington State Military Department (the "DEPARTMENT"), and **Federal Emergency Management Agency** (FEMA)

11. Funding Source Agreement #: **FEMA-4682-DR-WA**	12. Program Index # **734AC (Federal) / 732AE (State) / 734AD (Admin)**	13. Catalog of Federal Domestic Asst. (CFDA) # & Title: **97.036, Public Assistance**	14. Federal EIN #: 91-6001298

15. Total Federal Award Amount: N/A	16. Federal Award Date: N/A	
17. Service Districts: (BY LEGISLATIVE DISTRICT): 24th (BY CONGRESSIONAL DISTRICT): 6th	18. Service Area by County(ies): **Clallam**	19. Women/Minority-Owned, State Certified?: X N/A ☐ NO ☐ YES, OMWBE #_____

20. Contract Classification: ☐ Personal Services ☐ Client Services X Public/Local Gov't ☐ Research/Development ☐ A/E ☐ Other_____	21. Contract Type (check all that apply): ☐ Contract X Grant X Agreement ☐ Intergovernmental (RCW 39.34) ☐ Interagency
22. Contractor Selection Process: X "To all who apply & qualify" ☐ Competitive Bidding ☐ Sole Source ☐ A/E RCW ☐ N/A ☐ Filed w/OFM? ☐ Advertised? ☐ YES ☐NO _____	23. Contractor Type (check all that apply) ☐ Private Organization/Individual ☐ For-Profit X Public Organization/Jurisdiction X Non-Profit ☐ VENDOR X SUBRECIPIENT ☐ OTHER

24. BRIEF DESCRIPTION:
Presidential Disaster Declaration # FEMA-4682-DR-WA Severe Winter Storms, Straight-line Winds, Flooding, Landslides, and Mudslides. To provide funds to the SUBRECIPIENT for emergency work and the repair or replacement of disaster-damaged facilities. as approved by FEMA in project worksheets describing eligible scopes of work and associated funding. The DEPARTMENT is the Recipient and Pass-through Entity of the Presidential Disaster Declaration # FEMA-4682-DR-WA Severe Winter Storms, Straight-line Winds, Flooding, Landslides, and Mudslides, and FEMA State Agreement, which are incorporated by reference, and makes a subaward of Federal award funds to the SUBRECIPIENT pursuant to this Agreement. The SUBRECIPIENT is accountable to the DEPARTMENT for use of Federal award funds provided under this Agreement and the associated matching funds.

IN WITNESS WHEREOF, the DEPARTMENT and SUBRECIPIENT acknowledge and accept the terms of this Agreement, references and attachments hereto and have executed this Agreement as of the date and year written below. This Agreement Face Sheet, Special Terms and Conditions (Attachment 1), General Terms and Conditions (Attachment 2), Project Worksheet Sample (Attachment 3), Washington State Public Assistance Applicant Manual dated January 12, 2023 (Attachment 4), and all other documents, exhibits and attachments expressly referenced and incorporated herein contain all the terms and conditions agreed upon by the parties and govern the rights and obligations of the parties to this Agreement. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties.

In the event of an inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

1. **Applicable Federal and State Statutes and Regulations**
2. **DHS Standard Terms and Conditions**
3. **Presidential Declaration, FEMA State Agreement, and other Documents**
4. **Statement of Work and/or Project Description as outlined in FEMA approved Project Worksheet(s)**
5. **Special Terms and Conditions**
6. **General Terms and Conditions, and,**
7. **Other provisions of the contract incorporated by reference.**

WHEREAS, the parties hereto have executed this Agreement on the day and year last specified below.

FOR THE DEPARTMENT:

Signature Date
Stacey McClain, Governor's Authorized Representative
Washington State Military Department

APPROVED AS TO FORM:
Dierk Meierbachtol (signature on file) 6/9/2022
Assistant Attorney General

FOR THE SUBRECIPIENT:

Signature
print or type name: Mike French , Chair Date
Board of Clallam County Comissioners

APPROVED AS TO FORM:
2/7/24
SUBRECIPIENT's Attorney Date

Washington State Military Department
SPECIAL TERMS AND CONDITIONS

ARTICLE I – KEY PERSONNEL

The individuals listed below shall be considered key personnel and point of contact. Any substitution by either party must be submitted in writing.

SUBRECIPIENT		MILITARY DEPARTMENT	
Name	Mike French	Name	**Gerard Urbas**
Title	Clallam County Comissioner	Title	**Deputy State Coordinating Officer Public Assistance**
E-Mail	mike.french@clallamcountywa.gov	E-Mail	**gary.urbas@mil.wa.gov**
Phone	360-417-2233	Phone	**(253) 512-7402**

ARTICLE II - ADMINISTRATIVE REQUIREMENTS

The SUBRECIPIENT shall comply with all applicable state and federal laws, rules, regulations, requirements and program guidance identified or referenced in this Agreement and the informational documents published by FEMA applicable to the Presidential Declaration including, but not limited to, all criteria, restrictions, and requirements of the "FEMA State Agreement" published by FEMA and the federal regulations commonly applicable to FEMA grants, all of which are incorporated herein by reference. The Presidential Declaration and the FEMA State Agreement are incorporated in this Agreement by reference.

The SUBRECIPIENT shall comply with the Washington State Public Assistance Applicant Manual dated January 12, 2023 incorporated in this Agreement as **Attachment 4**. The DHS Standard Terms and Conditions are incorporated by reference in this Agreement in Appendix F of the Washington State Public Assistance Applicant Manual dated January 12, 2023.

The SUBRECIPIENT acknowledges that since this Agreement involves federal award funding, the period of performance described herein may begin prior to the availability of appropriated federal funds. The SUBRECIPIENT agrees that it will not hold the DEPARTMENT, the State of Washington, or the United States liable for any damages, claim for reimbursement, or any type of payment whatsoever for services performed under this Agreement prior to distribution of appropriated federal funds, or if federal funds are not appropriated or in a particular amount.

Federal funding is provided by FEMA and is administered by the DEPARTMENT. Under the authority of Presidential Disaster Declaration number FEMA-4682-DR-WA, the DEPARTMENT is reimbursing the SUBRECIPIENT for those approved eligible costs and activities necessary under the Public Assistance Grant Program during the incident period beginning November 3 to November 8, 2022. Eligible costs and activities will be identified in Project Worksheets approved by FEMA and a Project Worksheet Sample is incorporated as **Attachment 3**. The DEPARTMENT is also providing Advance Payments to the SUBRECIPIENT where provided by FEMA and required and allowed by law. Any interest earned on advance payments (except for interest earned on advances of funds exempt under the Intergovernmental Cooperation Act (31 U.S.C. 6501 et seq.) and the Indian Self-Determination Act (23 U.S.C. 450)) shall be promptly, but at least quarterly, remitted to the DEPARTMENT to be paid to FEMA. The subrecipient may keep interest amounts up to $100 per year for administrative expenses.

STATE AND FEDERAL REQUIREMENTS FOR PUBLIC ASSISTANCE GRANTS:

The following requirements apply to all DHS/FEMA Presidential Disasters administered by the DEPARTMENT:

1. **FUNDING**
   The DEPARTMENT will administer the Public Assistance (PA) Grant Program, provide Advance payments, and reimburse approved eligible Public Assistance costs to the SUBRECIPIENT that are identified under the auspices of Presidential Disaster Declaration Number FEMA-4682-DR-WA and authorized by and consistent with the Stafford Act (P.L. 93-288, as amended) and applicable regulations.

It is understood that no final dollar figure is committed to at the time that this Agreement is executed, but that financial commitments will be made by amendments to the project application as Project Worksheets are completed in the field and projects are authorized by state and federal officials.

Pursuant to the FEMA-STATE AGREEMENT, FEMA will contribute not less than **75** percent of the eligible costs for any eligible project and 100 percent of the federal PA Management Costs, up to 5 percent of the total award amount for each Subrecipient, as provided for in subsection 3.E. of Article II of this Public Assistance Agreement. The SUBRECIPIENT commits to providing the remaining **25** percent non-federal match to any eligible project that has been identified under the Presidential Disaster Declaration number FEMA-4682-DR-WA, subject to the following exceptions:

DEPARTMENT Match: The Washington State Legislature may authorize the DEPARTMENT to provide a match to the SUBRECIPIENT's non-federal share of eligible projects. Provision of a match by the DEPARTMENT, if authorized by the Washington State Legislature, shall not require amendment of this Agreement. If DEPARTMENT match funds are committed to the non-federal share by the DEPARTMENT pursuant to legislative authorization, the DEPARTMENT will formally notify the SUBRECIPIENT of the match in writing which will include information identifying any related reduction in the SUBRECIPIENT's percentage commitment.

Donated Resources: FEMA will credit the SUBRECIPIENT for the value of donated resources (non-cash contributions of property or services) related to eligible Emergency Work to offset the non-Federal cost share of its eligible Emergency Work project worksheets – categories A and B, and for the value of donated resources related to eligible work on a Permanent Work project to offset the non-Federal cost share of that specific Permanent Work project worksheet for which the resources were donated – categories C through G. The Donated Resources are recognized by FEMA in a Project Worksheet. Donated Resources offset the non-federal share of the eligible emergency work approved in Project Worksheets or specific permanent work approved in Project Worksheets. For non-state agency SUBRECIPIENTS, the donated resource value will first be applied to the SUBRECIPIENT's non-federal share, and, if a DEPARTMENT match is authorized, any remaining donated resource value will be applied to the DEPARTMENT's share. The value of the Donated Resources is calculated as described in Public Assistance Program and Policy Guide V.4 (PAPPG), and is capped at the non-Federal share of approved eligible emergency work costs or capped at the non-Federal share of the specific approved eligible permanent work costs, as applicable. The Federal share of the Donated Resources will not exceed the non-federal share of eligible emergency work costs or of specific permanent work costs approved in Project Worksheets. Any excess credit for eligible emergency work costs can be credited only to other eligible emergency work costs, for the same SUBRECIPIENT in the same disaster. The value of excess donated resources cannot be credited toward or transferred to another eligible SUBRECIPIENT, or toward other State obligations. The DEPARTMENT does not match a FEMA donated resource credit.

The Project Worksheet, sample provided in Attachment 3, is required to be completed by FEMA or State Project Specialists.

2. GRANT AGREEMENT PERIOD

a. Activities payable under this Agreement and to be performed by the SUBRECIPIENT under this Agreement shall be those activities which occurred during or subsequent to the incident period defined in the FEMA State Agreement and shall terminate upon completion of the project(s) approved by federal and state officials, including completion of close-out and audit. This period shall be referred to as the "Grant Agreement Period."

b. The Grant Agreement Period shall only be extended by (1) written notification of FEMA approval of the Grant Agreement Period followed up with a mutually agreed written amendment, or (2) written notification from the DEPARTMENT to the SUBRECIPIENT issued by the DEPARTMENT to address extensions of its underlying federal grant performance period or to provide additional time for completion of the SUBRECIPIENT's project(s).

3. PAYMENTS

The DEPARTMENT, using funds granted for the purposes of the Presidential Disaster Declaration from FEMA, shall issue payments to the SUBRECIPIENT in compliance with the Washington State Public Assistance Applicant Manual dated January 12, 2023 (**Attachment 4**) procedures as follows:

a. Small Project Payments: Payments are made for all small projects to the SUBRECIPIENT upon submission and approval of an A19-1A State of Washington Invoice Voucher to the DEPARTMENT, after FEMA has approved funding through approval of Project Worksheets.

b. Progress Payments: Progress payment of funds for costs already incurred on large projects minus 10 percent retainage may be made to the SUBRECIPIENT upon submission by the SUBRECIPIENT of an A19-1A State of Washington Invoice Voucher, a letter of request, and a spreadsheet identifying the claimed costs supporting the payment request and approval by the DEPARTMENT.

c. Improved Projects: Payments on improved projects (capped project) will be pro-rated based upon the percentage of the project that is funded under this disaster grant to the overall project cost. This percentage will be identified when the first payment on the improved project is made. Progress payments will be made as outlined above in Section B.

d. Final Payment: Final Payment on a large project will be made following submission by the SUBRECIPIENT of a certification of completion on the STATEMENT OF DOCUMENTATION / FINAL INSPECTION REPORT form upon completion of project(s), completion of all final inspections by the DEPARTMENT, and final approval by FEMA. Final payment on a large project will include any retainage withheld during progress payments. Final payments may also be conditional upon financial review, if determined necessary by the DEPARTMENT or FEMA. Adjustments to the final payment may be made following any audits conducted by the Washington State Auditor's Office, the United States Inspector General or other federal or state agency.

e. The SUBRECIPIENT is eligible to receive federal PA Management Costs up to 5 percent of the total award amount obligated for each Subrecipient at the time of its request. PA Management Costs includes any of the following when associated with the PA portion of a major disaster or emergency: Indirect costs, direct administrative costs, and other administrative expenses associated with a specific project. Documentation is required to substantiate the eligibility of management activities and associated costs in accordance with PA Management Costs Interim Policy – Standard Operating Procedures.

f. All payment requests shall be made on an A19-1A form, State of Washington, Invoice Voucher. Payments will be made by electronic fund transfer to the SUBRECIPIENT's account.

g. Federal funding shall not exceed the total federal contribution eligible for Public Assistance costs under Presidential Disaster Declaration number FEMA-4682-DR-WA.

h. For state agencies, the DEPARTMENT will, through interagency reimbursement procedures, transfer payment to the SUBRECIPIENT. Payment will be transferred by journal voucher to Agency No. _____, Accounting Fund No. _____.

i. Within the total Grant Agreement Amount, travel, sub-contracts, salaries, benefits, printing, equipment, and other goods and services will be reimbursed on an actual cost basis unless otherwise provided in this Agreement.

j. For travel costs, SUBRECIPIENTs shall comply with 2 CFR 200.474 and should consult their internal policies, state rates set pursuant to RCW 43.03.050 and RCW 43.03.060 as now existing or amended, and federal maximum rates set forth at http://www.gsa.gov, and follow the most restrictive.

k. If travel costs exceed set state or federal limits, travel costs shall not be reimbursed without written approval by DEPARTMENT Key Personnel.

l. Receipts and/or backup documentation for any approved items that are authorized under this Agreement must be maintained by the SUBRECIPIENT consistent with record retention requirements of this Agreement, and be made available upon request by the DEPARTMENT, and local, state, or federal auditors.

m. All work under this Agreement must end on or before the Grant Agreement End Date, and the final reimbursement request must be submitted to the DEPARTMENT within 45 days after the Grant Agreement End Date, except as otherwise authorized by written amendment of this Agreement and issued by the DEPARTMENT.

n. No costs for purchases of equipment/supplies will be reimbursed until the related equipment/supplies have been received by the SUBRECIPIENT, its subrecipient or contractor, or any non-federal entity to which the SUBRECIPIENT makes a subaward, and is invoiced by the vendor.

o. SUBRECIPIENTs shall only use federal award funds under this Agreement to supplement existing funds, and will not use them to replace (supplant) non-federal funds that have been budgeted for the same purpose. The SUBRECIPIENT may be required to demonstrate and document that the reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds.

The DEPARTMENT shall provide Advance Payments as provided by FEMA and as required and authorized by law.

4. CLOSEOUT

To initiate close-out, the SUBRECIPIENT is required to certify in writing, by Project Worksheet Number, date completed and total amount expended on the project, completion of the small projects. To initiate close-out of the large projects, the SUBRECIPIENT shall submit certification of completion on a STATEMENT OF DOCUMENTATION/FINAL INSPECTION REPORT form to the DEPARTMENT.

The DEPARTMENT will then complete a site inspection and a financial review of documentation to support the claimed costs. Certifications on small and large projects are due within sixty days following the completion of the project or receipt of the approved Project Worksheet, whichever date is later.

If SUBRECIPIENT is claiming federal PA Management Costs: Indirect costs, direct administrative costs, and other administrative expenses associated with a specific project must be supported by documentation to substantiate the eligibility of management activities and associated costs that has been prepared and assembled in accordance with PA Management Costs Interim Policy – Standard Operating Procedures prior to close-out.

After all of the projects have been certified as complete and approved for closure by FEMA, the DEPARTMENT will forward a final A19-1A State of Washington Invoice Voucher to the SUBRECIPIENT for release of the remaining funds due to the subrecipient for eligible costs, including any retainage previously withheld, and the allowance for federal indirect costs.

5. DOCUMENTATION / REPORTING REQUIREMENTS

For all Advance Payment, the SUBRECIPIENT shall provide documentation and receipts for all costs related to the Advance Payment and provide such to the DEPARTMENT quarterly.

The SUBRECIPIENT is required to retain all documentation which adequately identifies the source and application of Public Assistance funds, including the federal indirect cost reimbursement, for six years following the closure of this disaster grant. For all funds received, source documentation includes adequate accounting of actual costs and recoveries incurred.

The SUBRECIPIENT shall also comply with the Federal Funding Accountability and Transparency Act (FFATA) and related OMB Guidance consistent with Public Law 109-282 as amended by section 6202(a) of Public Law 110-252 (see 31 U.S.C. 6101 note) and complete the FFATA Form located at http://mil.wa.gov/emergency-management-division/grants/requiredgrantforms and return to the DEPARTMENT; which is incorporated by reference and made a part of this Agreement.

Quarterly Reports: The SUBRECIPIENT is required to submit to the DEPARTMENT a quarterly report indicating the status of all their large projects. The status shall identify the costs incurred to date, the percentage of work completed, the anticipated completion date of the project and whether cost under runs or over runs are expected. In addition, the SUBRECIPIENT should note in the comment field any challenges or issues associated with the project. Failure to submit a complete quarterly report within 15 days following the end of the quarter will result in suspension of all payments to the SUBRECIPIENT until a complete quarterly report is received by the DEPARTMENT. The quarterly report will serve as the basis for any FEMA Office of Chief Financial Officer (OCFO) funds reduction.

6. TIME EXTENSIONS

A time extension request is required to be forwarded to the DEPARTMENT by the SUBRECIPIENT for a project prior to the expiration of the approved completion date. If the project is approved and funded after

the statutory approval time period for completion, then a time extension request must be submitted to the DEPARTMENT within fifteen days of receipt of the funding package.

In accordance with 44 CFR 206.204, the DEPARTMENT reserves the right, in its sole discretion, to consider and approve a time extension request after expiration of the approved completion date and within the DEPARTMENT's statutory extension authority. Requests for time extensions beyond the DEPARTMENT's authority will be considered and approved by FEMA, at their sole discretion.

All determinations made regarding time extension requests will be based on a case by case evaluation of specific factual circumstances.

A time extension request must be in writing and identify the Project Worksheet number, the reason the project has not been completed within the prior approved completion period, the reason the time extension request was not submitted prior to the statutory approval time period (if applicable), a current status of the completion of the work, a detailed timeline for completion of the remaining elements, and an anticipated completion date for the completion of the remaining work. Failure to submit a time extension request in a timely manner may result in denial of the time extension request, and loss of funding for the related project.

7. PROCUREMENT

The SUBRECIPIENT shall comply with all procurement requirements of 2 CFR Part 200.318 through 200.326 and as specified in the General Terms and Conditions, Exhibit A.11.

8. SUBRECIPIENT MONITORING:

a. The DEPARTMENT will monitor the activities of the SUBRECIPIENT from award to closeout. The goal of the DEPARTMENT's monitoring activities will be to ensure that agencies receiving federal pass-through funds are in compliance with this Agreement, federal and state audit requirements, federal grant guidance, and applicable federal and state financial regulations, as well as 2 CFR Part 200 Subpart F.

b. To document compliance with 2 CFR Part 200 Subpart F requirements, the SUBRECIPIENT shall complete and return to the DEPARTMENT 2 CFR Part 200 Subpart F Audit Certification Form located at http://mil.wa.gov/emergency-management-division/grants/requiredgrantforms with the signed Agreement and each fiscal year thereafter until the Agreement is closed, which is incorporated by reference and made a part of this Agreement.

c. Monitoring activities may include, but are not limited to:
   i. review of financial and performance reports;
   ii. monitoring and documenting the completion of Agreement deliverables;
   iii. documentation of phone calls, meetings, e-mails, and correspondence;
   iv. review of reimbursement requests and supporting documentation to ensure eligibility and consistency with Agreement work plan, budget, and federal requirements;
   v. observation and documentation of Agreement related activities;
   vi. on-site visits to review equipment records and inventories, to verify source documentation for reimbursement requests and performance reports, and to verify completion of deliverables.

d. The SUBRECIPIENT is required to meet or exceed the monitoring activities, as outlined above and in 2 CFR Part 200 Subpart F, for any non-federal entity to which the SUBRECIPIENT makes a subaward as a pass-through entity under this Agreement.

e. Compliance will be monitored throughout the performance period to assess risk. Concerns will be addressed through a Corrective Action Plan. If the SUBRECIPIENT fails to comply with federal or state statutes or regulations, or the terms and conditions of this Agreement, the DEPARTMENT may impose any additional subaward conditions as described in 2 CFR 200.208. If the DEPARTMENT determines that noncompliance cannot be remedied by imposing additional conditions, it may take one or more of the following actions:
   i. Temporarily withhold cash payments pending correction of the deficiency by the SUBRECIPIENT.
   ii. Wholly or partially suspend or terminate the subaward to the SUBRECIPIENT.

iii. Initiate suspension or debarment proceedings under 2 CFR 180 or recommend such a proceeding be initiated by the federal awarding agency.
iv. Withhold further federal awards for the project or program.
v. Take any other remedies that may be legally available.

f. The DEPARTMENT agrees to:
i. Provide technical assistance during all monitoring or evaluation activities. The DEPARTMENT will coordinate and schedule the meetings necessary to conduct and complete all monitoring and evaluation activities.
ii. Develop the SUBRECIPIENT's project worksheet(s) (PW) and supporting attachments with FEMA and the SUBRECIPIENT's assistance based upon the costs determined to be eligible.
iii. Submit the SUBRECIPIENT's funding package to FEMA.
iv. Notify the SUBRECIPIENT when funding approval is received, issue payment per the process described above see Article II, A.4 – Payments, and provide the SUBRECIPIENT with a copy of the approved project worksheet.
v. Work with the SUBRECIPIENT to resolve any issues identified during the monitoring process.
vi. Review and respond appropriately to the SUBRECIPIENT's requests for time extensions and changes.

i. LIMITED ENGLISH PROFICIENCY (CIVIL RIGHTS ACT OF 1964 TITLE VI)

All subrecipients must comply with the Title VI of the Civil Rights Act of 1964 (Title VI) prohibition against discrimination on the basis of national origin, which requires that subrecipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. Providing meaningful access for persons with LEP may entail providing language assistance services, including oral interpretation and written translation. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (August 11, 2000), requires federal agencies to issue guidance to recipients, assisting such organizations and entities in understanding their language access obligations. DHS published the required recipient guidance in April 2011, DHS Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 76 Fed. Reg. 21755-21768, (April 18, 2011). The Guidance provides helpful information such as how a recipient can determine the extent of its obligation to provide language services; selecting language services; and elements of an effective plan on language assistance for LEP persons. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance at https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited and additional resources on http://www.lep.gov.

A. FEMA STATE AGREEMENT TERMS AND CONDITIONS

As a subrecipient of FEMA funding, the SUBRECIPIENT shall comply with all applicable DHS/FEMA terms and conditions of the Presidential Declaration and the FEMA State Agreement, which are incorporated in and made a part of this Agreement in Appendix F of the Washington State Public Assistance Applicant Manual dated January 12, 2023 (**Attachment 4)**.

Washington State Military Department
GENERAL TERMS AND CONDITIONS
Department of Homeland Security (DHS)/
Federal Emergency Management Agency (FEMA)
Grants

A.1 DEFINITIONS

As used throughout this Agreement, the following terms will have the same meaning as defined in 2 CFR 200 Subpart A (which is incorporated herein by reference), except as otherwise set forth below:

a. "**DEPARTMENT**" means the Washington State Military Department, as a state agency, any division, section, office, unit or other entity of the DEPARTMENT, or any of the officers or other officials lawfully representing that DEPARTMENT. The DEPARTMENT is a recipient of a federal award directly from a federal awarding agency and is pass-through entity making a subaward to a subrecipient under this Agreement.

b. "**SUBRECIPIENT**" when capitalized is primarily used throughout this Agreement in reference to the non-federal entity identified on the Face Sheet of this Agreement that has received a subaward from the DEPARTMENT. However, the definition of "subrecipient" is the same as in 2 CFR 200.93 for all other purposes. "**Monitoring Activities**" means all administrative, construction, financial, or other review activities that are conducted to ensure compliance with all state and federal laws, rules, regulations, authorities and policies.

c. "**Project**" means those actions funded through the Public Assistance Program and described in approved Project Worksheets. Projects may include one or more of the following: reimbursement of costs for emergency response, debris removal and/or repair or restoration of damaged public facilities. A project may be a small, large, improved, or alternate project.

d. "**Investment Justification**" means grant application investment justification submitted by the SUBRECIPIENT describing the project for which federal funding is sought and provided under this Agreement. Such grant application investment justification is hereby incorporated into this Agreement by reference.

A.2 ADVANCE PAYMENTS

The DEPARTMENT shall make no payments in advance or in anticipation of goods or services to be provided under this Agreement, except as required under 2 CFR 200.305 for federal grants. SUBRECIPIENT shall not invoice the DEPARTMENT in advance of delivery and invoicing of such goods or services, except as authorized under 2 CFR 200.305.

Pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C §5121-5207), Advance Payment process, FEMA may process a SUBRECIPIENT project worksheet which is provided to the state of Washington for direct disbursement to SUBRECIPIENT.
Pursuant to these provisions and RCW 43.88.160(5), these grant funds are not subject to the advance payments prohibition and will be disbursed immediately to SUBRECIPIENT as grants authorized by law with subsequent authentication and certification of expenditures.

A.3 AMENDMENTS AND MODIFICATIONS

The SUBRECIPIENT or the DEPARTMENT may request, in writing, an amendment or modification of this Agreement. Modifications may be requested for Grant Agreement end date, budget or scope change. However, such amendment or modification shall not be binding, take effect or be incorporated herein until made in writing and signed by the authorized representatives of the DEPARTMENT and the SUBRECIPIENT. No other understandings or agreements, written or oral, shall be binding on the parties.

A.4 AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, 42 U.S.C. 12101 ET SEQ. AND ITS IMPLEMENTING REGULATIONS ALSO REFERRED TO AS THE "ADA" 28 CFR Part 35.

The SUBRECIPIENT must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunication.

A.5 APPLICATION REPRESENTATION-MISREPRESENTATION, INACCURACY AND BREACH

The DEPARTMENT relies upon the SUBRECIPIENT's application in making its determinations as to eligibility for, selection for, and scope of funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement.

A.6 ASSURANCES

DEPARTMENT and SUBRECIPIENT agree that all activity pursuant to this Agreement will be in accordance with all the applicable current federal, state and local laws, rules and regulations. In addition, as a SUBRECIPIENT of FEMA funding, the SUBRECIPEINT shall comply with all applicable DHS terms and conditions as specified in Appendix F of the Washington State Public Assistance Applicant Manual dated January 12, 2023 incorporated in this Agreement as **Attachment 4**.

A.7 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, OR INELIGIBILITY

As federal funds are a basis for this Agreement, the SUBRECIPIENT certifies that the SUBRECIPIENT is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Agreement by any federal department or agency.

The SUBRECIPIENT shall complete, sign, and return a Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion form located at http://mil.wa.gov/emergency-management-division/grants/requiredgrantforms. Any such form completed by the SUBRECIPIENT for this Agreement shall be incorporated into this Agreement by reference.

Further, the SUBRECIPIENT agrees to comply with all applicable federal regulations concerning the federal debarment and suspension system, including 2 CFR Part 180. The SUBRECIPIENT certifies that it will ensure that potential sub-contractors or sub-recipients or any of their principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in "covered transactions" by any federal department or agency. "Covered transactions" include procurement contracts for goods or services awarded under a non-procurement transaction (e.g. grant or cooperative agreement) that are expected to equal or exceed $25,000, and sub-awards to sub-recipients for any amount. With respect to covered transactions, the SUBRECIPIENT may comply with this provision by obtaining a certification statement from the potential sub-contractor or sub-recipient or by checking the System for Award Management (http://www.sam.gov) maintained by the federal government. The SUBRECIPIENT also agrees not to enter into any arrangements or contracts with any party on the Washington State Department of Labor and Industries' "Debarred Contractor List" (https://secure.lni.wa.gov/debarandstrike/ContractorDebarList.aspx).

A.8 CERTIFICATION REGARDING RESTRICTIONS ON LOBBYING

As required by 44 CFR Part 18, the SUBRECIPIENT hereby certifies that to the best of their knowledge and belief: (1) no federally appropriated funds have been paid or will be paid by or on behalf of the SUBRECIPIENT to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement; (2) that if any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Agreement, grant, loan, or cooperative agreement, the SUBRECIPIENT will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; (3) and that, as applicable, the SUBRECIPIENT will require that the language of this certification be included in the award documents for all subawards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into, and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352.

A.9 COMPLIANCE WITH APPLICABLE STATUTES, RULES AND DEPARTMENT POLICIES

The SUBRECIPIENT and all its contractors shall comply with, and the DEPARTMENT is not responsible for determining compliance with, any and all applicable federal, state, and local laws, regulations, executive orders, OMB Circulars, and/or policies. This obligation includes, but is not limited to:

nondiscrimination laws and/or policies, Equal Employment Opportunity, as amended by Executive Order 11375 of October 13, 1967, as supplemented by Department of Labor regulations (41 CFR chapter 60); Copeland Anti-Kickback Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3); Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5); Clean Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, Environmental Protection Agency regulations (40 CFR part 15); Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5); Energy Policy and Conservation Act (PL 94-163, 89 Stat. 871, as amended), the Americans with Disabilities Act (ADA), Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, Civil rights Act of 1968, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, (PL 93-288, as amended), Title 44 of the Federal Regulations, 2 CFR Part 3002, Ethics in Public Service (RCW 42.52), Covenant Against Contingent Fees (48 CFR Section 52.203-5), Public Records Act (RCW 42.56), Prevailing Wages on Public Works (RCW 39.12), State Environmental Policy Act (RCW 43.21C), Shoreline Management Act of 1971 (RCW 90.58), State Building Code (RCW 19.27), Energy Related Building Standards (RCW 19.27A), Provisions in Buildings for Aged and Handicapped Persons (RCW 70.92), and safety and health regulations.

DEPARTMENT and SUBRECIPIENT agree that all activity pursuant to this Agreement will be in accordance with all the applicable current federal, state and local laws, rules and regulations.

In the event of the SUBRECIPIENT's or its contractor's noncompliance or refusal to comply with any applicable law, regulation, executive order, OMB Circular or policy, the DEPARTMENT may rescind, cancel, or terminate the Agreement in whole or in part in its sole discretion.

The SUBRECIPIENT is responsible for all costs or liability arising from its failure to comply with applicable laws, regulations, executive orders, OMB Circulars or policies.

A.10 CONFLICT OF INTEREST

No officer or employee of the DEPARTMENT; no member, officer, or employee of the SUBRECIPIENT or its designees or agents; no member of the governing body of the jurisdiction in which the project is undertaken or located; and no other official of such the SUBRECIPIENT who exercises any functions or responsibilities with respect to the project during his or her tenure, shall have any personal or pecuniary gain or interest, direct or indirect, in any contract, subcontract, or the proceeds thereof, for work to be performed in connection with the project assisted under this Agreement.

The SUBRECIPIENT shall incorporate, or cause to incorporate, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to this provision.

A.11 CONTRACTING & PROCUREMENT

a. The SUBRECIPIENT shall use a competitive procurement process in the procurement and award of any contracts with contractors or sub-contractors that are entered into under the original contract award. The procurement process followed shall be in accordance with 2 CFR Part 200.318 General procurement standards through 200.326 Contract Provisions.

As required by Appendix II to 2 CFR Part 200, all contracts entered into by the SUBRECIPIENT under this Agreement must include the following provisions, as applicable:

1. Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
2. All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
3. Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part

60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

4. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
5. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
6. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
7. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
8. Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

9. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
10. Procurement of recovered materials -- As required by 2 CFR 200.322, a non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
11. Notice of Federal awarding agency requirements and regulations pertaining to reporting.
12. Federal awarding agency requirements and regulations pertaining to copyrights and rights in data.
13. Access by the DEPARTMENT, the SUBRECIPIENT, the Federal awarding agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
14. Retention of all required records for six years after the SUBRECIPIENT has made final payments and all other pending matters are closed.
15. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 871).
16. Pursuant to Executive Order 13858 "Strengthening Buy-American Preferences for Infrastructure Projects," the DEPARTMENT encourages SUBRECIPIENTS to use, to the greatest extent practicable and consistent with the law, iron and aluminum as well as steel, cement and other manufactured products produced in the United States, in Public Assistance and Hazard Mitigation Grant Program eligible public infrastructure repair and construction projects affecting surface transportation, ports, water resources including sewer and drinking water and power. Such preference must be consistent with the law, including cost and contracting requirements of 2 CFR Part 200.
17. The DEPARTMENT reserves the right to review the SUBRECIPIENT procurement plans and documents, and require the SUBRECIPIENT to make changes to bring its plans and documents into compliance with the requirements of 2 CFR Part 200.318 through 2 CFR 200.326. The SUBRECIPIENT must ensure that its procurement process requires contractors and subcontractors to provide adequate documentation with sufficient detail to support the costs of the project and to allow both the SUBRECIPIENT and DEPARTMENT to make a determination on eligibility of project costs.
18. All sub-contracting agreements entered into pursuant to this Agreement shall incorporate this Agreement by reference.

A.12 DISCLOSURE

The use or disclosure by any party of any information concerning the DEPARTMENT for any purpose not directly connected with the administration of the DEPARTMENT's or the SUBRECIPIENT's responsibilities with respect to services provided under this Agreement is prohibited except by prior

written consent of the DEPARTMENT or as required to comply with the state Public Records Act, other law, or court order.

A.13 DISPUTES

Except as otherwise provided in this contract, when a bona fide dispute arises between the parties and it cannot be resolved through discussion and negotiation, either party may request a dispute resolution panel to resolve the dispute. A request for a dispute resolution board shall be in writing, state the disputed issues, state the relative positions of the parties, and be sent to all parties. The panel shall consist of a representative appointed by the DEPARTMENT, a representative appointed by the SUBRECIPIENT and a third party mutually agreed upon by both parties. The panel shall, by majority vote, resolve the dispute. Each party shall bear the cost for its panel member and its attorney fees and costs, and share equally the cost of the third panel member.

A.14 DUPLICATION OF BENEFITS

The SUBRECIPIENT agrees that the funds for which federal or state assistance is requested does not, or will not, duplicate benefits or funds received for the same loss from any other source. The SUBRECIPIENT will pursue, and require sub-recipients to pursue, full payment of eligible insurance benefits for properties or any other losses covered in a project under this Agreement. The SUBRECIPIENT will repay the DEPARTMENT any funds provided under this grant agreement that are duplicated by other benefits, funds, or insurance proceeds. The SUBRECIPIENT will also seek recovery against any party or parties whose negligence or other intentional or tortious conduct may have caused or contributed to the expenditures for which these grants funds are provided. The SUBRECIPIENT will repay the DEPARTMENT any funds recovered by settlement, judgment or other court order in an action to recover funds provided by this grant. The SUBRECIPIENT shall notify the DEPARTMENT as early as possible and work in conjunction with the DEPARTMENT and FEMA to ensure appropriate apportionment of any duplicated or recovered payment.

A.15 HAZARDOUS SUBSTANCES

The SUBRECIPIENT shall inspect and investigate the proposed development/construction site for the presence of hazardous substances. The SUBRECIPIENT shall fully disclose to the DEPARTMENT the results of its inspection and investigation and all other knowledge the SUBRECIPIENT has as to the presence of any hazardous substances at the proposed development/construction project site. The SUBRECIPIENT will be responsible for any associated clean-up costs. "Hazardous Substance" is defined in RCW 70A.305.020.

A.16 LEGAL RELATIONS

It is understood and agreed that this Agreement is solely for the benefit of the parties to the Agreement and gives no right to any other party. No joint venture or partnership is formed as a result of this Agreement.

To the extent allowed by law, the SUBRECIPIENT, its successors or assigns, will protect, save and hold harmless the DEPARTMENT, the State of Washington, and the United States Government and their authorized agents and employees, from all claims, actions, costs, damages or expenses of any nature whatsoever by reason of the acts or omissions of the SUBRECIPIENT, its sub-contractors, assigns, agents, contractors, consultants, licensees, invitees, employees or any person whomsoever arising out of or in connection with any acts or activities authorized by this Agreement.

To the extent allowed by law, the SUBRECIPIENT further agrees to defend the DEPARTMENT and the State of Washington and their authorized agents and employees in any litigation; including payment of any costs or attorneys' fees for any claims or action commenced thereon arising out of or in connection with acts or activities authorized by this Agreement.

This obligation shall not include such claims, costs, damages or expenses which may be caused by the sole negligence of the DEPARTMENT; provided, that if the claims or damages are caused by or result from the concurrent negligence of (1) the DEPARTMENT, and (2) the SUBRECIPIENT, its agents, or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the SUBRECIPIENT, or SUBRECIPIENT's agents or employees.

Insofar as the funding source, the DEPARTMENT of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA), is an agency of the federal government, the following shall apply:

44 CFR 206.9 Non-liability. The federal government shall not be liable for any claim based upon the exercise or performance of, or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the Federal government in carrying out the provisions of the Stafford Act.

A.17 LIMITATION OF AUTHORITY – AUTHORIZED SIGNATURE

The signatories to this Agreement represent that they have the authority to bind their respective organizations to this Agreement. Only the DEPARTMENT's Authorized Signature and the Authorized Signature of the assigned SUBRECIPIENT Agent or Alternate for the SUBRECIPIENT Agent, formally designated in writing, shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Agreement. Any alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made in writing and signed by both parties Authorized Signature representatives. Further, only the Authorized Signature representative or Alternate for the SUBRECIPIENT shall have authority to sign reimbursement requests, certification of project completion, time extension requests, amendment and modification requests, requests for changes to project status, and other requests, certifications and documents authorized by or required under this Agreement.

A.18 LOSS OR REDUCTION OF FUNDING

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to normal completion or end date, the DEPARTMENT may unilaterally reduce the scope of work and budget or unilaterally terminate or suspend all or part of the Agreement as a "Termination for Cause" without providing the SUBRECIPIENT an opportunity to cure. Alternatively, the parties may renegotiate the terms of this Agreement under "Amendments and Modifications" to comply with new funding limitations and conditions, although the DEPARTMENT has no obligation to do so.

A.19 NONASSIGNABILITY

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the SUBRECIPIENT.

A.20 NONDISCRIMINATION

The SUBRECIPIENT shall comply with all applicable federal and state non-discrimination laws, regulations, and policies. No person shall, on the grounds of age, race, creed, color, sex, sexual orientation, religion, national origin, marital status, honorably discharged veteran or military status, or disability (physical, mental, or sensory) be denied the benefits of, or otherwise be subjected to discrimination under any project, program, or activity, funded, in whole or in part, under this Agreement.

A.21 NOTICES

The SUBRECIPIENT shall comply with all public notices or notices to individuals required by applicable local, state and federal laws and shall maintain a record of this compliance.

A.22 OCCUPATIONAL SAFETY/HEALTH ACT and WASHINGTON INDUSTRIAL SAFETY/ HEALTH ACT (OSHA/WISHA)

The SUBRECIPIENT represents and warrants that its workplace does now or will meet all applicable federal and state safety and health regulations that are in effect during the SUBRECIPIENT's performance under this Agreement. To the extent allowed by law, the SUBRECIPIENT further agrees to indemnify and hold harmless the DEPARTMENT and its employees and agents from all liability, damages and costs of any nature, including but not limited to, costs of suits and attorneys' fees assessed against the DEPARTMENT, as a result of the failure of the SUBRECIPIENT to so comply.

A.23 OWNERSHIP OF PROJECT/CAPITAL FACILITIES

The DEPARTMENT makes no claim to any capital facilities or real property improved or constructed with funds under this Agreement, and by this grant of funds does not and will not acquire any ownership interest or title to such property of the SUBRECIPIENT. The SUBRECIPIENT shall assume all liabilities arising from the ownership and operation of the project and agrees to hold the DEPARTMENT and the State of Washington and the United States government harmless from any and all causes of action arising from the ownership and operation of the project.

A.24 POLITICAL ACTIVITY

No portion of the funds provided herein shall be used for any partisan political activity or to further the election or defeat of any candidate for public office or influence the approval or defeat of any ballot issue.

A.25 PRIVACY

Personal information collected, used or acquired in connection with this agreement shall be used solely for the purposes of this agreement. SUBRECIPIENT and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the DEPARTMENT or as provided by law or court order. SUBRECIPIENT agrees to implement physical, electronic and managerial safeguards to prevent unauthorized access to personal information.

The DEPARTMENT reserves the right to monitor, audit, or investigate the use of personal information collected, used or acquired by the SUBRECIPIENT through this contract. The monitoring, auditing or investigating may include but is not limited to "salting" by the DEPARTMENT. Salting is the act of placing a record containing unique but false information in a database that can be used later to identify inappropriate disclosure of data contained in the database.

Any breach of this provision may result in termination of the contract and the demand for return of all personal information. The SUBRECIPIENT agrees to indemnify and hold harmless the DEPARTMENT for any damages related to the SUBRECIPIENT's unauthorized use, loss or disclosure of personal information.

For purposes of this provision, personal information includes, but is not limited to, information identifiable to an individual that relates to a natural person's health, finances, education, business, use or receipt of governmental services, or other activities, names, addresses, telephone numbers, social security numbers, driver license numbers, financial profiles, credit card numbers, financial identifiers and other identifying numbers.

A.26 PROHIBITION AGAINST PAYMENT OF BONUS OR COMMISSION

The assistance provided under this Agreement shall not be used in payment of any bonus or commission for the purpose of obtaining approval of the application for such assistance or any other approval or concurrence under this Agreement provided; however, that reasonable fees or bona fide technical consultant, managerial, or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as project costs.

A.27 PUBLICITY

The SUBRECIPIENT agrees to submit to the DEPARTMENT prior to issuance all advertising and publicity matters relating to this Agreement wherein the DEPARTMENT's name is mentioned or language used from which the connection of the DEPARTMENT's name may, in the DEPARTMENT's judgment, be inferred or implied. The SUBRECIPIENT agrees not to publish or use such advertising and publicity matters without the prior written consent of the DEPARTMENT. The SUBRECIPIENT may copyright original work it develops in the course of or under this Agreement; however, pursuant to 2 CFR Part 200.315, FEMA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use the work for government purposes.

The SUBRECIPIENT shall include language which acknowledges the funding contribution of the DEPARTMENT and FEMA to this project in any release or other publication developed or modified for, or referring to, the project.

Publication resulting from work performed under this Agreement shall include an acknowledgement of the DEPARTMENT and FEMA's financial support, by CFDA number, and a statement that the publication does not constitute an endorsement by FEMA or reflect FEMA's views.

A.28 RECAPTURE PROVISION

In the event the SUBRECIPIENT fails to expend funds under this Agreement in accordance with applicable federal, state, and local laws, regulations, and/or the provisions of the Agreement, the DEPARTMENT reserves the right to recapture funds in an amount equivalent to the extent of noncompliance. Such right of recapture shall exist for the life of the project following Agreement termination. Repayment by the SUBRECIPIENT of funds under this recapture provision shall occur within 30 days of demand. In the event the DEPARTMENT is required to institute legal proceedings to enforce the recapture provision, the DEPARTMENT shall be entitled to its costs and expenses thereof, including attorney fees.

A.29 RECORDS AND REPORTS

a. The SUBRECIPIENT agrees to maintain all books, records, documents, receipts, invoices and all other electronic or written records necessary to sufficiently and properly reflect the SUBRECIPIENT's contracts, subawards, grant administration, and payments, including all direct and indirect charges, and expenditures in the performance of this Agreement (the "records").

b. The SUBRECIPIENT's records related to this Agreement and the projects funded may be inspected and audited by the DEPARTMENT or its designee, by the Office of the State Auditor, DHS, FEMA or their designees, by the Comptroller General of the United States or its designees, or by other state or federal officials authorized by law, for the purposes of determining compliance by the SUBRECIPIENT with the terms of this Agreement and to determine the appropriate level of funding to be paid under the Agreement.

c. The records shall be made available by the SUBRECIPIENT for such inspection and audit, together with suitable space for such purpose, at any and all times during the SUBRECIPIENT's normal working day.

d. The SUBRECIPIENT shall retain and allow access to all records related to this Agreement and the funded project(s) for a period of at least six (6) years following final payment and closure of the grant under this Agreement. Despite the minimum federal retention requirement of three (3) years, the more stringent State requirement of six (6) year must be followed.

A.30 RECOVERY OF FUNDS

Any person who intentionally causes a condition for which funds are provided under this Agreement shall be liable for the costs incurred by the state and federal governments in responding to such disaster. In addition to its own duty to recover duplicated funds or funds expended due to the intentional or negligent actions of others. SUBRECIPIENT will cooperate in a reasonable manner with the DEPARTMENT and the United States in efforts to recover expenditures under this Grant Agreement.

A.31 RESPONSIBILITY FOR PROJECT/STATEMENT OF WORK/WORK PLAN

While the DEPARTMENT undertakes to assist the SUBRECIPIENT with the project/statement of work/work plan (project) by providing grant funds pursuant to this Agreement, the project itself remains the sole responsibility of the SUBRECIPIENT. The DEPARTMENT undertakes no responsibility to the SUBRECIPIENT, or to any third party, other than as is expressly set out in this Agreement.

The responsibility for the design, development, construction, implementation, operation and maintenance of the project, as these phrases are applicable to this project, is solely that of the SUBRECIPIENT, as is responsibility for any claim or suit of any nature by any third party related in any way to the project.

Prior to the start of any construction activity, the SUBRECIPIENT shall ensure that all applicable Federal, State, and local permits and clearances are obtained, including but not limited to FEMA compliance with the National Environmental Policy Act, the National Historic Preservation Act, the Endangered Species Act, and all other environmental laws and executive orders.

The SUBRECIPIENT shall defend, at its own cost, any and all claims or suits at law or in equity, which may be brought against the SUBRECIPIENT in connection with the project. The SUBRECIPIENT shall not look to the DEPARTMENT, or to any state or federal agency, or to any of their employees or agents, for any performance, assistance, or any payment or indemnity, including but not limited to cost of defense and/or attorneys' fees, in connection with any claim or lawsuit brought by any third party related to any design, development, construction, implementation, operation and/or maintenance of a project.

A.32 SEVERABILITY

If any court of rightful jurisdiction holds any provision or condition under this Agreement or its application to any person or circumstances invalid, this invalidity does not affect other provisions, terms or conditions of the Agreement, which can be given effect without the invalid provision. To this end, the terms and conditions of this Agreement are declared severable.

A.33 SINGLE AUDIT ACT REQUIREMENTS (including all AMENDMENTS)

Non-federal entities as subrecipients that expend **$750,000** or more in one fiscal year of federal funds from all sources, direct and indirect, are required to have a single or a program-specific audit conducted in accordance with 2 CFR Part 200 Subpart F. Non-federal entities that spend less than **$750,000** a year in federal awards are exempt from federal audit requirements for that year, except as noted in 2 CFR Part 200 Subpart F. As defined in 2 CFR Part 200, the term "non-federal entity" means a State, local

government, Indian Tribe, institution of higher education, or non-profit organization that carries out a federal award as a recipient or subrecipient.

SUBRECIPIENTs that are required to have an audit must ensure the audit is performed in accordance with Generally Accepted Government Auditing Standards (GAGAS) as found in the Government Auditing Standards (the Revised Yellow Book) developed by the United States Comptroller General and the OMB Compliance Supplement. The SUBRECIPIENT has the responsibility of notifying its auditor and requesting an audit in compliance with 2 CFR Part 200 Subpart F, to include the Washington State Auditor's Office, a federal auditor, or a public accountant performing work using GAGAS, as appropriate. Costs of the audit may be an allowable grant expenditure as authorized by 2 CFR Part 200 Subpart F.

The SUBRECIPIENT shall maintain auditable records and accounts so as to facilitate the audit requirement and shall ensure that any subrecipients or contractors also maintain auditable records.

The SUBRECIPIENT is responsible for any audit exceptions incurred by its own organization or that of its subcontractors. Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report.

The SUBRECIPIENT must respond to DEPARTMENT requests for information or corrective action concerning audit issues or findings within 30 days of the date of request. The DEPARTMENT reserves the right to recover from the SUBRECIPIENT all disallowed costs resulting from the audit.

Once the single audit has been completed and includes and audit findings, the SUBRECIPIENT must send a full copy of the audit to the DEPARTMENT and its corrective action plan no later than nine (9) months after the end of the SUBRECIPIENT's fiscal year(s) to:

Contracts.Office@mil.wa.gov
Subject: Subrecipient Name, Single Audit and Corrective Action Plan

OR

Contracts Office
Washington Military Department
Finance Division, Building #1 TA-20
Camp Murray, WA 98430-5032

If Contractor claims it is exempt from the audit requirements of 2 CFR Part 200 Subpart F, the SUBRECIPIENT must send a letter identifying this Agreement and explaining the criteria for exemption no later than nine (9) months after the end of the SUBRECIPIENT's fiscal year(s) to the address listed above.

The DEPARTMENT retains the sole discretion to determine whether a valid claim for an exemption from the audit requirements of this provision has been established.

The SUBRECIPIENT shall include the above audit requirements in any subawards.

Conducting a single or program-specific audit in compliance with 2 CFR Part 200 Subpart F is a material requirement of this Agreement. In the absence of a valid claim of exemption from the audit requirements of 2 CFR Part 200 Subpart F, the SUBRECIPIENT's failure to comply with said audit requirements may result in one or more of the following actions in the DEPARTMENT's sole discretion: a percentage of federal awards being withheld until the audit is completed in accordance with 2 CFR Part 200 Subpart F; the withholding or disallowing of overhead costs; the suspension of federal awards until the audit is conducted and submitted; or termination of the federal award.

A.34 SUBRECIPIENT NOT EMPLOYEE

The parties intend that an independent contractor relationship will be created by this Agreement. The SUBRECIPIENT, and/or employees or agents performing under this Agreement are not employees or agents of the DEPARTMENT in any manner whatsoever. The SUBRECIPIENT will not be presented as nor claim to be an officer or employee of the DEPARTMENT or of the State of Washington by reason of this Agreement, nor will the SUBRECIPIENT make any claim, demand, or application to or for any right

or privilege applicable to an officer or employee of the DEPARTMENT or of the State of Washington by reason of this Agreement, including, but not limited to, Workmen's Compensation coverage, unemployment insurance benefits, social security benefits, retirement membership or credit, or privilege or benefit which would accrue to a civil service employee under Chapter 41.06 RCW.

It is understood that if the SUBRECIPIENT is another state department, state agency, state university, state college, state community college, state board, or state commission, that the officers and employees are employed by the State of Washington in their own right and not by reason of this Agreement.

A.35 TAXES, FEES AND LICENSES

Unless otherwise provided in this Agreement, the SUBRECIPIENT shall be responsible for, pay and maintain in current status all taxes, unemployment contributions, fees, licenses, assessments, permit charges and expenses of any other kind for the SUBRECIPIENT or its staff required by statute or regulation that are applicable to Agreement performance.

A.36 TERMINATION FOR CONVENIENCE

Notwithstanding any provisions of this Agreement, the SUBRECIPIENT may terminate this Agreement by providing written notice of such termination to the DEPARTMENTs Key Personnel identified in the Agreement, specifying the effective date thereof, at least thirty (30) days prior to such date.

Except as otherwise provided in this Agreement, the DEPARTMENT, in its sole discretion and in the best interests of the State of Washington, may terminate this Agreement in whole or in part by providing ten (10) calendar days written notice, beginning on the second day after mailing to the SUBRECIPIENT. Upon notice of termination for convenience, the DEPARTMENT reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the SUBRECIPIENT from incurring additional obligations of funds. In the event of termination, the SUBRECIPIENT shall be liable for all damages as authorized by law. The rights and remedies of the DEPARTMENT provided for in this section shall not be exclusive and are in addition to any other rights and remedies provided by law.

A.37 TERMINATION OR SUSPENSION FOR CAUSE

In the event the DEPARMENT, in its sole discretion, determines the SUBRECIPIENT has failed to fulfill in a timely and proper manner its obligations under this Agreement, is in an unsound financial condition so as to endanger performance hereunder, is in violation of any laws or regulations that render the SUBRECIPIENT unable to perform any aspect of the Agreement, or has violated any of the covenants, agreements or stipulations of this Agreement, the DEPARTMENT has the right to immediately suspend or terminate this Agreement in whole or in part.

The DEPARTMENT may notify the SUBRECIPIENT in writing of the need to take corrective action and provide a period of time in which to cure. The DEPARTMENT is not required to allow the SUBRECIPIENT an opportunity to cure if it is not feasible as determined solely within the DEPARTMENT's discretion. Any time allowed for cure shall not diminish or eliminate the SUBRECIPIENT's liability for damages or otherwise affect any other remedies available to the DEPARTMENT. If the DEPARTMENT allows the SUBRECIPIENT an opportunity to cure, the DEPARTMENT shall notify the SUBRECIPIENT in writing of the need to take corrective action. If the corrective action is not taken within ten (10) calendar days or as otherwise specified by the DEPARTMENT, or if such corrective action is deemed by the DEPARTMENT to be insufficient, the Agreement may be terminated in whole or in part.

The DEPARTMENT reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the SUBRECIPIENT from incurring additional obligations of funds during investigation of the alleged compliance breach, pending corrective action by the SUBRECIPIENT, if allowed, or pending a decision by the DEPARTMENT to terminate the Agreement in whole or in part.

In the event of termination, the SUBRECIPIENT shall be liable for all damages as authorized by law, including but not limited to, any cost difference between the original Agreement and the replacement or cover Agreement and all administrative costs directly related to the replacement Agreement, e.g., cost of administering the competitive solicitation process, mailing, advertising and other associated staff time. The rights and remedies of the DEPARTMENT provided for in this section shall not be exclusive and are in addition to any other rights and remedies provided by law.

If it is determined that the SUBRECIPIENT: (1) was not in default or material breach, or (2) failure to perform was outside of the SUBRECIPIENT's control, fault or negligence, the termination shall be deemed to be a "Termination for Convenience".

A.38 TERMINATION PROCEDURES

In addition to the procedures set forth below, if the DEPARTMENT terminates this Agreement, the SUBRECIPIENT shall follow any procedures specified in the termination notice. Upon termination of this Agreement and in addition to any other rights provided in this Agreement, the DEPARTMENT may require the SUBRECIPIENT to deliver to the DEPARTMENT any property specifically produced or acquired for the performance of such part of this Agreement as has been terminated.

If the termination is for convenience, the DEPARTMENT shall pay to the SUBRECIPIENT the agreed upon price, if separately stated, for properly authorized and completed work and services rendered or goods delivered to and accepted by the DEPARTMENT prior to the effective date of Agreement termination, and the amount agreed upon by the SUBRECIPIENT and the DEPARTMENT for (i) completed work and services and/or equipment or supplies provided for which no separate price is stated, (ii) partially completed work and services and/or equipment or supplies provided which are accepted by the DEPARTMENT, (iii) other work, services and/or equipment or supplies which are accepted by the DEPARTMENT, and (iv) the protection and preservation of property.

Failure to agree with such amounts shall be a dispute within the meaning of the "Disputes" clause of this Agreement. If the termination is for cause, the DEPARTMENT shall determine the extent of the liability of the DEPARTMENT. The DEPARTMENT shall have no other obligation to the SUBRECIPIENT for termination. The DEPARTMENT may withhold from any amounts due the SUBRECIPIENT such sum as the DEPARTMENT determines to be necessary to protect the DEPARTMENT against potential loss or liability.

The rights and remedies of the DEPARTMENT provided in this Agreement shall not be exclusive and are in addition to any other rights and remedies provided by law.

After receipt of a notice of termination, and except as otherwise directed by the DEPARTMENT in writing, the SUBRECIPIENT shall:

a. Stop work under the Agreement on the date, and to the extent specified, in the notice;
b. Place no further orders or sub-contracts for materials, services, supplies, equipment and/or facilities in relation to this Agreement except as may be necessary for completion of such portion of the work under the Agreement as is not terminated;
c. Assign to the DEPARTMENT, in the manner, at the times, and to the extent directed by the DEPARTMENT, all of the rights, title, and interest of the SUBRECIPIENT under the orders and sub-contracts so terminated, in which case the DEPARTMENT has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and contracts;
d. Settle all outstanding liabilities and all claims arising out of such termination of orders and sub-contracts, with the approval or ratification of the DEPARTMENT to the extent the DEPARTMENT may require, which approval or ratification shall be final for all the purposes of this clause;
e. Transfer title to the DEPARTMENT and deliver in the manner, at the times, and to the extent directed by the DEPATMENT any property which, if the Agreement had been completed, would have been required to be furnished to the DEPARTMENT;
f. Complete performance of such part of the work as shall not have been terminated by the DEPARTMENT in compliance with all contractual requirements; and
g. Take such action as may be necessary, or as the DEPARTMENT may require, for the protection and preservation of the property related to this Agreement which is in the possession of the SUBRECIPIENT and in which the DEPARTMENT has or may acquire an interest.

A.39 UTILIZATION OF MINORITY AND WOMEN BUSINESS ENTERPRISES (MWBE)

The SUBRECIPIENT shall comply with 2 CFR §200.321 and will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible and will take all necessary affirmative steps to utilize business firms that are certified as minority-owned and/or women-owned in carrying out the purposes of this Agreement. The following steps are required by the subrecipient if any contracts with contractors or sub-contractors are entered into under the original contract award:

a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

The SUBRECIPIENT may also set utilization standards, based upon local conditions or may utilize the State of Washington MWBE goals, as identified in. WAC 326-30-041.

A.40 VENUE

This Agreement shall be construed and enforced in accordance with, and the validity and performance shall be governed by the laws of the State of Washington. Venue of any suit between the parties arising out of this Agreement shall be the Superior Court of Thurston County, Washington. The SUBRECIPIENT, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington.

A.41 WAIVERS

No conditions or provisions of this Agreement can be waived unless approved in advance by the DEPARTMENT in writing. The DEPARTMENT's failure to insist upon strict performance of any provision of the Agreement or to exercise any right based upon a breach thereof, or the acceptance of any performance during such breach, shall not constitute a waiver of any right under this Agreement.

PROJECT WORKSHEET SAMPLE

U.S. DEPARTMENT OF HOMELAND SECURITY
FEDERAL EMERGENCY MANAGEMENT AGENCY

PROJECT WORKSHEET

O.M.B. No. 1660-0017

PAPERWORK BURDEN DISCLOSURE NOTICE

Public reporting burden for this form is estimated to average 90 minutes per response. Burden means the time, effort and financial resources expended by persons to generate, maintain, disclose, or to provide information to us. You may send comments regarding the accuracy of the burden estimate and or any aspect of the collection, including suggestions for reducing the burden to: Information Collections Management, U. S. Department of Homeland Security, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, Paperwork Reduction Project (OMB Control Number 1660-0017). You are not required to respond to this collection of information unless a valid OMB number appears in the upper right corner of this form. **NOTE: Do not send your completed form to this address.**

DISASTER	PROJECT NO.	PA ID NO.	DATE	CATEGORY
F ____ - R ____				

DAMAGED FACILITY	WORK COMPLETE AS OF:
	_____ : _____ %

SUBRECIPIENT	COUNTY

LOCATION	LATITUDE	LONGITUDE

DAMAGE DESCRIPTION AND DIMENSIONS

SCOPE OF WORK

Does the Scope of Work change the pre-disaster conditions at the site? ☐ Yes ☐ No

Special Considerations issues included? ☐ Yes ☐ No Hazard Mitigation proposal included? ☐ Yes ☐ No

Is there insurance coverage on this facility? ☐ Yes ☐ No

PROJECT COST

I T	CODE	NARRATIVE	QUANTITY/UNIT	UNIT PRICE	COST
			/		
			/		
			/		
			/		
			/		
			/		
			/		
			/		
			/		
		TOTAL COST			

PREPARED BY	TITLE	SIGNATURE
SUBRECIPIENT REP.	TITLE	SIGNATURE

FEMA Form 90-91, FEB 06 **REPLACES ALL PREVIOUS EDITIONS.**

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AGENDA ITEM SUMMARY

FEB 2 6 2024

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: DCD

WORK SESSION ☒ **Meeting Date: February 26, 2024**

REGULAR AGENDA ☒ **Meeting Date: March 5, 2024**

Required originals approved and attached? ☒
Will be provided on:

Item summary:

☐ Call for Hearing

☒ Contract/Agreement/MOU - Contract # 334-24-005

☐ Resolution

☐ Proclamation

☐ Budget Item

☐ Draft Ordinance

☐ Final Ordinance

☐ Other Motion to Authorize Application

Documents exempt from public disclosure attached: ☐

Executive summary: In September of 2023, Clallam County applied for a Washington State Department of Commerce Periodic Update Grant to assist the county in updating its comprehensive plan. Commerce has prepared an interagency agreement contract for the County's approval. This agreement has been reviewed as to form and is ready for signature.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐ No budgetary impact anticipated.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?) Review, sign, and return the agreement to the Washington State Department of Commerce

County Official signature & print name: Bruce Emery Bruce W. Emery

Name of Employee/Stakeholder attending meeting: Holden A. Fleming

Relevant Departments: Department of Community Development

Date submitted: February 21, 2024

334-24-005

Washington State Department of Commerce

Interagency Agreement with

Clallam County

through

Growth Management Services

Contract Number:
24-63335-001

For

GMA Periodic Update Grant
2025 Jurisdiction (SFY24-SFY25)

Dated: Date of Execution

Washington State Department of Commerce

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ATTACHMENT A: SCOPE OF WORK AND BUDGET **12**

Washington State Department of Commerce

Face Sheet

Contract Number: 24-63335-001

Local Government Division
Growth Management Services

1. Contractor Clallam County Department of Community Development 223 E 4th St. Suite 5 Port Angeles, WA 98362		**2. Contractor Doing Business As (as applicable)** N/A	
3. Contractor Representative Holden Fleming Chief Deputy Director (360) 565-2616 holden.fleming@clallamcountywa.gov		**4. COMMERCE Representative** Matt Ojennus Senior Planner (360) 292-3435 matthew.ojennus@commerce.wa.gov	PO Box 42525 1011 Plum St. SE Olympia, WA 98504
5. Contract Amount $350,000	**6. Funding Source** **Federal:** ☐ **State:** ☒ **Other:** ☐ **N/A:** ☐	**7. Start Date** Date of Execution	**8. End Date** June 30, 2025
9. Federal Funds (as applicable) N/A	**Federal Agency:** N/A	**ALN** N/A	
10. Tax ID # N/A	**11. SWV #** SWV0000200-03	**12. UBI #** 054-004-559	**13. UEI #** N/A

14. Contract Purpose
Grant funding to assist Clallam County with planning work for the completion the Growth Management Act (GMA) requirement to review and revise the comprehensive plan and development regulations under RCW 36.70A.130(5).

COMMERCE, defined as the Department of Commerce, and the Contractor, as defined above, acknowledge and accept the terms of this Contract and Attachments and have executed this Contract on the date below and warrant they are authorized to bind their respective agencies. The rights and obligations of both parties to this Contract are governed by this Contract and the following documents incorporated by reference: Contractor Terms and Conditions including Attachment "A" – Scope of Work and Budget

FOR CONTRACTOR	**FOR COMMERCE**
Mike French, Chair Clallam County	Mark K. Barkley, Assistant Director Local Government Division
Date	Date
Approved as to form Deputy Prosecuting Attorney	**APPROVED AS TO FORM ONLY** **BY ASSISTANT ATTORNEY GENERAL** **APPROVAL ON FILE**

Washington State Department of Commerce

Special Terms and Conditions

1. AUTHORITY

COMMERCE and Contractor enter into this Contract pursuant to the authority granted by Chapter 39.34 RCW.

2. CONTRACT MANAGEMENT

The Representative for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Contract.

The Representative for COMMERCE and their contact information are identified on the Face Sheet of this Contract.

The Representative for the Contractor and their contact information are identified on the Face Sheet of this Contract.

3. COMPENSATION

COMMERCE shall pay an amount not to exceed **three hundred fifty thousand dollars ($350,000)**, for the performance of all things necessary for or incidental to the performance of work under this Contract as set forth in Attachment A - Scope of Work and Budget.

4. BILLING PROCEDURES AND PAYMENT

COMMERCE will pay Contractor upon acceptance of services and deliverables provided and receipt of properly completed invoices, which shall be submitted to the Representative for COMMERCE not more often than monthly nor less than quarterly.

The invoices shall describe and document, to COMMERCE's satisfaction, a description of the work performed, the progress of the project, and fees. The invoice shall include the Contract Number 24-63335-001. A receipt must accompany any single expenses in the amount of $50.00 or more in order to receive reimbursement.

Payment shall be considered timely if made by COMMERCE within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Contractor.

COMMERCE may, in its sole discretion, terminate the Contract or withhold payments claimed by the Contractor for services rendered if the Contractor fails to satisfactorily comply with any term or condition of this Contract.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by COMMERCE.

State Fiscal Year Compensation

COMMERCE will reimburse Contractor a maximum of $175,000 for State Fiscal Year 2024 (July 1, 2023 - June 30, 2024) and a maximum of $175,000 for State Fiscal Year 2025 (July 1, 2024 - June 30, 2025).

Grant Start Date

COMMERCE will pay the Contractor for costs incurred beginning July 1, 2023, for services and deliverables described under this Agreement.

Duplication of Billed Costs

The Contractor shall not bill COMMERCE for services performed under this Agreement, and COMMERCE shall not pay the Contractor, if the Contractor is entitled to payment or has been or will

be paid by any other source, including grants, for that service.

Disallowed Costs

The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

Modification of the Project Budget

A. Notwithstanding any other provision of this contract, the Contractor may, at its discretion, make modifications to line items in the Budget, hereof, that will not increase the line item by more than fifteen percent (15%).

B. The Contractor shall notify COMMERCE in writing (by email or regular mail) when proposing any budget modification or modifications to a line item in the Budget (Attachment A,) hereof, that would increase the line item by more than fifteen percent (15%). Conversely, COMMERCE may initiate the budget modification approval process if presented with a request for payment under this contract that would cause one or more budget line items to exceed the 15 percent (15%) threshold increase described above.

C. Any such budget modification or modifications as described above shall require the written approval of COMMERCE (by email or regular mail), and such written approval shall amend the Project Budget. Each party to this contract will retain and make any and all documents related to such budget modifications a part of their respective contract file.

D. Nothing in this section shall be construed to permit an increase in the amount of funds available for the Project, as set forth in Section 3 of this contract, nor does this section allow any proposed changes to the Scope of Work, including Tasks/Work Items and Deliverables under Attachment A, without specific written approval from COMMERCE by amendment to this contract.

5. SUBCONTRACTOR DATA COLLECTION

Contractor will submit reports, in a form and format to be provided by Commerce and at intervals as agreed by the parties, regarding work under this Contract performed by subcontractors and the portion of Contract funds expended for work performed by subcontractors, including but not necessarily limited to minority-owned, woman-owned, and veteran-owned business subcontractors. "Subcontractors" shall mean subcontractors of any tier.

6. INSURANCE

Each party certifies that it is self-insured under the State's or local government self-insurance liability program, and shall be responsible for losses for which it is found liable.

7. FRAUD AND OTHER LOSS REPORTING

Contractor shall report in writing all known or suspected fraud or other loss of any funds or other property furnished under this Contract immediately or as soon as practicable to the Commerce Representative identified on the Face Sheet.

8. ORDER OF PRECEDENCE

In the event of an inconsistency in this Contract, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations
- Special Terms and Conditions
- General Terms and Conditions
- Attachment A – Scope of Work and Budget

General Terms and Conditions

1. DEFINITIONS

As used throughout this Contract, the following terms shall have the meaning set forth below:

A. "Authorized Representative" shall mean the Director and/or the designee authorized in writing to act on the Director's behalf.

B. "COMMERCE" shall mean the Washington Department of Commerce.

C. "Contract" or "Agreement" or "Grant" means the entire written agreement between COMMERCE and the Contractor, including any Attachments, documents, or materials incorporated by reference. E-mail or Facsimile transmission of a signed copy of this contract shall be the same as delivery of an original.

D. "Contractor" or "Contractor" shall mean the entity identified on the face sheet performing service(s) under this Contract, and shall include all employees and agents of the Contractor.

E. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

F. "State" shall mean the state of Washington.

G. "Subcontractor" shall mean one not in the employment of the Contractor, who is performing all or part of those services under this Contract under a separate contract with the Contractor. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.

2. ALL WRITINGS CONTAINED HEREIN

This Contract contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto.

3. AMENDMENTS

This Contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

4. ASSIGNMENT

Neither this Contract, work thereunder, nor any claim arising under this Contract, shall be transferred or assigned by the Contractor without prior written consent of COMMERCE.

5. CONFIDENTIALITY AND SAFEGUARDING OF INFORMATION

A. "Confidential Information" as used in this section includes:

i. All material provided to the Contractor by COMMERCE that is designated as "confidential" by COMMERCE;

ii. All material produced by the Contractor that is designated as "confidential" by COMMERCE; and

iii. All Personal Information in the possession of the Contractor that may not be disclosed under state or federal law.

B. The Contractor shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Contractor shall use Confidential Information solely for the purposes of this Contract and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COMMERCE or as may be required by law. The Contractor shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Contractor shall provide COMMERCE with its policies and procedures on confidentiality. COMMERCE may require changes to such policies and procedures as they apply to this Contract whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The Contractor shall make the changes within the time period specified by COMMERCE. Upon request, the Contractor shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the Contractor against unauthorized disclosure.

C. Unauthorized Use or Disclosure. The Contractor shall notify COMMERCE within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

6. COPYRIGHT

Unless otherwise provided, all Materials produced under this Contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by COMMERCE. COMMERCE shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the Contractor hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to COMMERCE effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Contract, but that incorporate pre-existing materials not produced under the Contract, the Contractor hereby grants to COMMERCE a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Contractor warrants and represents that the Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to COMMERCE.

The Contractor shall exert all reasonable effort to advise COMMERCE, at the time of delivery of Materials furnished under this Contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Contract. The Contractor shall provide COMMERCE with prompt written notice of each notice or claim of infringement received by the Contractor with respect to any Materials delivered under this Contract. COMMERCE shall have the right to modify or remove any restrictive markings placed upon the Materials by the Contractor.

7. DISPUTES

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, Agreement terms and applicable statutes and rules and make a determination of the dispute. The Dispute Board shall thereafter decide the dispute with the majority

prevailing. The determination of the Dispute Board shall be final and binding on the parties hereto. As an alternative to this process, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control.

8. GOVERNING LAW AND VENUE

This Contract shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

9. INDEMNIFICATION

Each party shall be solely responsible for the acts of its employees, officers, and agents.

10. LICENSING, ACCREDITATION AND REGISTRATION

The Contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Contract.

11. RECAPTURE

In the event that the Contractor fails to perform this Contract in accordance with state laws, federal laws, and/or the provisions of this Contract, COMMERCE reserves the right to recapture funds in an amount to compensate COMMERCE for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the Contractor of funds under this recapture provision shall occur within the time period specified by COMMERCE. In the alternative, COMMERCE may recapture such funds from payments due under this Contract.

12. RECORDS MAINTENANCE

The Contractor shall maintain books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract.

The Contractor shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by COMMERCE, personnel duly authorized by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

13. SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Contract and prior to normal completion, COMMERCE may suspend or terminate the Contract under the "Termination for Convenience" clause, without the ten calendar day notice requirement. In lieu of termination, the Contract may be amended to reflect the new funding limitations and conditions.

14. SEVERABILITY

The provisions of this contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the contract.

15. SUBCONTRACTING

The Contractor may only subcontract work contemplated under this Contract if it obtains the prior written approval of COMMERCE.

If COMMERCE approves subcontracting, the Contractor shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, COMMERCE in writing may: (a) require the Contractor to amend its subcontracting procedures as they relate to this Contract; (b) prohibit the Contractor from subcontracting with a particular person or entity; or (c) require the Contractor to rescind or amend a subcontract.

Every subcontract shall bind the Subcontractor to follow all applicable terms of this Contract. The Contractor is responsible to COMMERCE if the Subcontractor fails to comply with any applicable term or condition of this Contract. The Contractor shall appropriately monitor the activities of the Subcontractor to assure fiscal conditions of this Contract. In no event shall the existence of a subcontract operate to release or reduce the liability of the Contractor to COMMERCE for any breach in the performance of the Contractor's duties.

Every subcontract shall include a term that COMMERCE and the State of Washington are not liable for claims or damages arising from a Subcontractor's performance of the subcontract.

16. SURVIVAL

The terms, conditions, and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive.

17. TERMINATION FOR CAUSE

In the event COMMERCE determines the Contractor has failed to comply with the conditions of this contract in a timely manner, COMMERCE has the right to suspend or terminate this contract. Before suspending or terminating the contract, COMMERCE shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the contract may be terminated or suspended.

In the event of termination or suspension, the Contractor shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

COMMERCE reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Contractor or a decision by COMMERCE to terminate the contract. A termination shall be deemed a "Termination for Convenience" if it is determined that the Contractor: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of COMMERCE provided in this contract are not exclusive and are, in addition to any other rights and remedies, provided by law.

18. TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Contract, COMMERCE may, by ten (10) business days' written notice, beginning on the second day after the mailing, terminate this Contract, in whole or in part. If this Contract is so terminated, COMMERCE shall be liable only for payment required under the terms of this Contract for services rendered or goods delivered prior to the effective date of termination.

19. TERMINATION PROCEDURES

Upon termination of this contract, COMMERCE, in addition to any other rights provided in this contract, may require the Contractor to deliver to COMMERCE any property specifically produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

COMMERCE shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by COMMERCE, and the amount agreed upon by the Contractor and COMMERCE for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by COMMERCE, and (iv) the protection and preservation of property, unless the termination is for default, in which case the Authorized Representative shall determine the extent of the liability of COMMERCE. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. COMMERCE may withhold from any amounts due the Contractor such sum as the Authorized Representative determines to be necessary to protect COMMERCE against potential loss or liability.

The rights and remedies of COMMERCE provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a notice of termination, and except as otherwise directed by the Authorized Representative, the Contractor shall:

A. Stop work under the contract on the date, and to the extent specified, in the notice;

B. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;

C. Assign to COMMERCE, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case COMMERCE has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

D. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;

E. Transfer title to COMMERCE and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the contract had been completed, would have been required to be furnished to COMMERCE;

F. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and

G. Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this contract, which is in the possession of the Contractor and in which COMMERCE has or may acquire an interest.

20. TREATMENT OF ASSETS

Title to all property furnished by COMMERCE shall remain in COMMERCE. Title to all property furnished by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in COMMERCE upon delivery of such property by the Contractor. Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass to and vest in COMMERCE upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by COMMERCE in whole or in part, whichever first occurs.

A. Any property of COMMERCE furnished to the Contractor shall, unless otherwise provided herein or approved by COMMERCE, be used only for the performance of this contract.

B. The Contractor shall be responsible for any loss or damage to property of COMMERCE that results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management

practices.

C. If any COMMERCE property is lost, destroyed or damaged, the Contractor shall immediately notify COMMERCE and shall take all reasonable steps to protect the property from further damage.

D. The Contractor shall surrender to COMMERCE all property of COMMERCE prior to settlement upon completion, termination or cancellation of this contract.

E. All reference to the Contractor under this clause shall also include Contractor's employees, agents or Subcontractors.

21. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Contract unless stated to be such in writing and signed by Authorized Representative of COMMERCE.

Washington State Department of Commerce

Attachment A: Scope of Work and Budget

Task/Work Item	SFY 2024 Funds	SFY 2025 Funds	Deliverable
Periodic Update work plan Anticipated completion date: October 15, 2023	$3,000 *$300*	$0	Periodic update work plan
Public participation plan including but not limited to: schedule, stake holder groups, best practice guidelines and anticipated outcomes. Anticipated completion date: November 30, 2023	$5,500 *$550*	$0	Public participation plan
Public Participation Events Facilitation Expenses and Supplies	$6,000 *$600*	$4,500 *$450*	Public Participation Outreach Summary Report
Comprehensive plan analysis including but not limited to: Comp Plan Checklist, capacity analysis, needs assessment, and priority list. Anticipated completion date: December 15, 2023	$27,000 *$2,700*	$0	Comprehensive Plan Checklist
Critical areas analysis including but not limited to: Critical Areas Checklist Anticipated completion date: January 7, 2023	$5,000	$0	Critical Areas Checklist
Draft Critical Areas Ordinance amendment including but not limited to: Anticipated completion date: March 15, 2024	$40,500	$0	Draft Critical Areas Ordinance Notification email from Commerce that draft ordinance was submitted for 60-day review

Adopted Critical Areas Ordinance amendment including but not limited to: Anticipated completion date: May 15, 2024	$8,000	$0	Adopted Critical Areas Ordinance Notification email from Commerce that adopted ordinance was received
Draft Comprehensive Plan amendment including but not limited to: Updates to all currently deficient Comprehensive Plan Sections Anticipated completion date: July 30, 2024	$80,000 **$8,000*	$20,500 **$2,050*	Draft Comprehensive Plan Notification email from Commerce that draft ordinance was submitted for 60-day review
Adopted Comprehensive Plan amendment including but not limited to: All work necessary to adopt Draft Comp. Plan Amendment. Anticipated Completion Date: October 1, 2024	$0	$25,000 **$2,500*	Adopted Comprehensive Plan Notification email from Commerce that adopted ordinance was received
Development Regulations analysis including but not limited to: Development Regulations Checklist & implementation gap analysis Anticipated completion date: October 15, 2024	$0	$17,000 **$1,700*	Development Regulations Checklist
Draft Development Regulations Ordinance amendment including but not limited to all activities necessary to draft development regulations necessary to implement adopted changes to the Comp. Plan: Anticipated completion date: December 31, 2024	$0	$85,000 **$5,000*	Draft Development Regulations Ordinance Notification email from Commerce that draft ordinance was submitted for 60-day review
Adopted Development Regulations Ordinance amendment including but not limited to: all activities	$0	$22,000	Adopted Development Regulations Ordinance

necessary to adopt amended development regulation ordinance Anticipated completion date: March 7, 2025			Notification email from Commerce that adopted ordinance was received
Finding that the periodic update required by RCW 36.70A.130(b) is complete. Anticipated completion date: April 15, 2025	$0	$1,000	Resolution Finding the periodic update required by RCW 36.70A.130(b) is complete Notification email from Commerce that adopted ordinance was received
Total Budget	**$175,000**	**$175,000**	
** Portion of Budget Specific to Housing Element*	*$12,150*	*$11,700*	
Control Number (Total Grant Available)	$175,000	$175,000	

14

AGENDA ITEM SUMMARY

FEB 2 6 2024

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: DCD

WORK SESSION ☒ **Meeting Date: 02/26/2024**

REGULAR AGENDA ☒ **Meeting Date: 03/05/2024**

Required originals approved and attached? ☒
Will be provided on:

Item summary:

☐ Call for Hearing
☒ Contract/Agreement/MOU – Contract 334.24.006
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☐ Other

Documents exempt from public disclosure attached: ☐

Executive summary: Jefferson County contracts with Clallam County to participate with Jefferson County in meetings and educational outreach activities to support the North Pacific Coast Marine Resources Committee, as outlined in the attached scope of work (Exhibit A), consistent with the grant between Jefferson County and the Department of Fish and Wildlife #23-23412 and Jefferson County will compensate Clallam County up to the sum of $10,000.00 in the fiscal years 2023-2025 for the activities and products detailed in Exhibit A.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐ **NA**
No budgetary impact

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
The DCD requests signature by Mark Ozias on the RCO Grant Agreement.
Please sign. This contract was reviewed and approved by Dee Boughton.

County Official signature & print name: Bruce Emery, Bruce W. Emery

Name of Employee/Stakeholder attending meeting: Rebecca Mahan

Relevant Departments: DCD

Date submitted: 02/21/2024

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* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

Questions? Call Loni Gores, Clerk of the Board, ext 2256

334.24.006

Interlocal Agreement
Regarding Clallam County and Jefferson County
North Pacific Coast MRC Implementation

WHEREAS, Chapter 36.125 RCW provided authority for the Washington Department of Fish and Wildlife (WDFW) to create a new program to provide support for the development, administration, and coordination of coastal Marine Resources Committees (MRCs) and MRC-sponsored projects that benefit coastal and marine resources; and

WHEREAS, Clallam County and Jefferson County approved a joint resolution on September 15, 2009 to form the North Pacific Coast Marine Resources Committee (NPC MRC) under Chapter 36.125 RCW; and

WHEREAS, the Washington Department of Fish and Wildlife (WDFW) has contracted with Jefferson County (WDFW #23-23412) to implement the North Pacific Coast Marine Resources Committee; and

WHEREAS, the Interlocal Cooperation Act (Chapter 39.34 RCW) provides authority for governmental entities to exercise their respective powers jointly through intergovernmental agreements;

NOW, THEREFORE, it is mutually agreed that:

Jefferson County contracts with Clallam County to participate with Jefferson County in meetings and educational outreach activities to support the North Pacific Coast Marine Resources Committee, as outlined in the attached scope of work (Exhibit A), consistent with the grant contract between Jefferson County and the Department of Fish and Wildlife # 23-23412 and Jefferson County will compensate Clallam County up to the sum of $10,000.00 in fiscal years 2023-2025 for the activities and products detailed in Exhibit A.

Each of the Counties will name an administrator for this Agreement who will also represent that County on the Committee. Their names and job titles are listed here:

Rebecca Mahan, Clallam County Habitat Biologist/MRC Coordinator
Tami Pokorny, Jefferson County Natural Resources Program Coordinator

Any personal property purchased or leased by a County and used in furtherance of this Agreement shall remain the property of the purchasing or leasing County or with the State of Washington consistent with WDFW #23-23412.

Jefferson County will be responsible for maintaining the NPC MRC roster with the exception of the Clallam County administrator named above and the three local residents from Clallam County which will be appointed by Clallam County. Jefferson County and Clallam County will

coordinate to ensure that the voting membership, to include a total of six local residents, three from each county, represent all four of the following categories:

Conservation/Environmental Groups
Recreational Groups
Economic Groups
Scientific Community

This agreement will terminate no later than June 30, 2025. Both parties may terminate this agreement upon 30 days' notice to the director of Clallam County Community Development or the director of Jefferson County Public Health for any reason.

To the extent of its comparative liability, each County agrees to indemnify, defend and hold the other County, 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 any 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.

A County shall not be required to indemnify, defend, or hold the other County harmless if the claim, damage, loss or expense for personal injury, for any bodily injury, sickness, disease or death or for any damage to or destruction of any property (including the loss of use resulting therefrom) is caused by the sole act or omission of the other County.

In the event of any concurrent act or omission of the Counties, negligent or otherwise, these indemnity provisions shall be valid and enforceable only to the extent of each County's comparative liability.

The Counties 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 Counties cannot agree upon apportionment of damages and defense costs, they shall submit apportionment to binding arbitration.

If mutual indemnification language is used and includes a "waiver" of immunity under the Washington State Industrial Insurance Act, RCW Title 51 or other workmen's compensation, disability or benefit acts, the following language should be used to maintain basic workmen's compensation protection for the County:

> The indemnification obligations of the Counties shall not be limited in any way by the Washington State Industrial Insurance Act, RCW Title 51, or by application of any other workmen's compensation act, disability benefit act or other employee benefit act. Each County hereby expressly waives any immunity afforded by such acts to the extent required by a County's obligations to

indemnify, defend and hold harmless the other County. A County's waiver of immunity does not extend to claims made by its employees directly against the County as employer. The foregoing indemnification obligations of the Counties are a material inducement to enter into this Agreement and have been mutually negotiated.

This agreement may be amended by the mutual written agreement of both parties. The basis for amending or terminating this agreement may be an increase or decrease in project funding, addition of required tasks not addressed in this agreement, or other items affecting the planning process required under Chapter 36.125 RCW.

The effective date of this agreement shall be July 1, 2023. This document may be executed in counterparts, each of which will have the same force and effect of the original.

SIGNED this 13 day of November, 2023.

JEFFERSON COUNTY	CLALLAM COUNTY
DATE: 11/13/23	DATE:
BY: Greg Brotherton, Chair,	BY:
POSITION: Bd. of County Commissioners	POSITION:
BY: Kate Dean, Commissioner	BY:
POSITION:	POSITION:
BY: Heidi Eisenhour, Commissioner	BY:
POSITION:	POSITION:
APPROVED AS TO FORM:	APPROVED AS TO FORM:
By: November 2, 2023 Philip C. Hunsucker, Date Chief Civil Deputy Prosecuting Attorney	Deputy Prosecuting Attorney

Exhibit A Scope of Work
North Pacific Coast Marine Resources Committee (MRC)

The following are tasks in contract WDFW Contract #23-23412 that require joint actions of both Jefferson and Clallam counties, and for which Clallam County will be compensated in the total amount of $10,000.00 during 2023-2025.

Jefferson County Estimated Allocation (WDFW Contract #23-23412)	**Amount**
Payroll and Travel	$ 10,000.00
Supplies	$ 00.00
TOTAL:	$ **10,000.00**

Task 1: Two-County Partnership

Deliverable 1(a): Participate in the development of an inter-local agreement (ILA) to formalize the two-county partnership for the NPC MRC.

Deliverable 1(b): When scheduling allows, attend monthly MRC meetings in Forks, or by video or phone conference, the annual Coastal MRC Summit, and any other coastal MRC related meetings or events that may be scheduled.

Deliverable 1(c): Participate in the development and implementation of annual MRC outreach events.

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FEB 2 6 2024

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: DCD

WORK SESSION ☒ **Meeting Date: 02/26/2024**

REGULAR AGENDA ☐ **Meeting Date: 03/05/2024**

Required originals approved and attached? ☒
Will be provided on:

Item summary:

☐ Call for Hearing
☐ Contract/Agreement/MOU - Contract # 334.24.001
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☒ Other Invitation to bid

Documents exempt from public disclosure attached: ☐

Executive summary:
Clallam County was awarded a grant from the Department of Ecology through the Shorelands Shoreline Planning Competitive grant opportunity. Attached is the invitation to bid.

The successful bidder will provide detailed Channel Migration Zone (CMZ) delineation analyses and mapping along the Lower Elwha River, downstream of Olympic National Park and including two major tributaries (Little River and Indian Creek), to inform shoreline management and land use planning for life-safety hazards, critical freshwater and riparian habitat, public infrastructure, and private property in Clallam County. Invitation to bid has complete details and requirements.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐
Included in budget. RFP approved to form by Dee Boughton.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Please issue an invitation to bid.

County Official signature & print name: __Bruce Emery Bruce W. Emery

Names of Relevant Departments/Employees/Stakeholders attending meeting:

__Rebecca Mahan & Bruce Emery

Date submitted: 02/20/2024

* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

Questions? Call Loni Gores, Clerk of the Board, ext 2256

REQUEST FOR PROPOSALS/QUALIFICATIONS

The Board of Commissioners is seeking proposals from interested parties to provide professional services related to prepare a detailed Channel Migration Zone (dCMZ) delineation for the Elwha River and its two largest tributaries (Indian Creek and Little River, to provide landowners, Clallam County, tribal co-managers, and conservation partners a better understanding of hazards and future trends. Applicants should have a minimum of 5 years proven experience in fluvial geomorphology and evaluating channel response, writing Quality Assurance Project plans, and stakeholder outreach.

Sealed proposals must be received in the Board of County Commissioners prior to 10 a.m., April 2, 2024.

The sealed proposals must be clearly marked on the outside of the envelope, "Proposal – Lower Elwha River Channel Migration (CMZ) Delineation" Address proposal to: Clallam County Board of County Commissioners, 223 East 4th Street, Suite 4, Port Angeles, Washington 98362 or hand-deliver to the above referenced address. Documents delivered to other offices and received late by the Board of County Commissioners will not be considered nor will ones received by facsimile or e-mail. Submittals made in an incorrect format will not be considered.

An informational packet on preparing a proposal may be obtained Monday through Friday, from 8 a.m. to 4:30 p.m., from the Department of Community Development, 223 East 4th Street, Suite 5, Port Angeles, Washington 98362, by calling 360.417.2420, or from the www.clallamcountywa.gov home page under the Current Issues tab. Questions regarding this project may be directed to Rebecca Mahan at (360) 417-2322 or Rebecca.Mahan@clallamcountywa.gov.

Clallam County hereby notifies all that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined in Title VI of the Civil Rights Act of 1964 at 49 CFR Part 23 will be afforded full opportunity to submit proposals in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award. Clallam County is an Equal opportunity and Affirmative Action Employer. Minority and women-owned firms are strongly encouraged to submit proposals.

PASSED this _____ day of _____ 2024

ATTEST:

_____
Loni Gores, Clerk of the Board

BOARD OF CLALLAM COUNTY COMMISSIONERS

_____
Mike French, Chair

Publish: March ___8___ & _15_____
Bill: Department of Community Development

CLALLAM COUNTY, WA

223 East 4th Street, Suite 4
Port Angeles, WA 98362-3015

Request for Proposals:
Lower Elwha River Channel Migration Zone (CMZ) Delineation

Clallam County, a municipal corporation of the State of Washington, is currently seeking proposals from qualified consultants to prepare a detailed CMZ (dCMZ) delineation for the Elwha River and its two largest tributaries (Indian Creek and Little River), to provide landowners, Clallam County, tribal co-managers, and conservation partners a better understanding of hazards and future trends. Post-dam removal dCMZs will inform and guide shoreline, critical area, and land use management along these waterways, aiding both applicants and practitioners. The Elwha River CMZ delineation will extend from the Olympic National Park (ONP) boundary at River Mile X.X downstream to the river's outlet into the Strait of Juan de Fuca. The delineation will also include the lower 4 river miles of Little River from the National Park boundary to its confluence with the Elwha at River Mile 7.5. The delineation will also include the lower 5 river miles of Indian Creek from Lake Sutherland to its confluence with the Elwha River (Elwha River Mile 7.5). The geomorphic influence of areas further upstream may be considered as part of analysis. As time and budget allow, additional delineation of the Elwha River CMZ will extend from the ONP boundary at River Mile 10.4 upstream to Altair Campground in ONP at River Mile 12.5.

Overall Goal

Better understand the current and future patterns of erosion and flooding along the Elwha River system to incorporate risk-informed decisions into various planning processes to benefit public safety, infrastructure, and aquatic and riparian ecology.

Scope of Work

Proposals shall include a detailed scope of work for the following:

1. QAPP: Prepare a Quality Assurance Project Plan (QAPP), based on ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030). Based on ECOLOGY's QAPP evaluation of this project, the QAPP needs to address the following:
    - Collection, review, and initial processing of available data for CMZ delineation of the study area.
    - Managing and documenting the inventory of data used in the delineation.
    - Strategic field site reconnaissance to support technical analyses.
    - Coarse (reach-scale) 2D hydraulic modeling

- Following protocol by Abbe and Rapp. Includes Elwha River, Indian Creek, and Little River. Includes geomorphic sub-reach characterization, surficial geologic mapping, historic channel mapping, and terrain analysis.
- Delineation methods will consider channel response from dam removal where appropriate.

2. DESKTOP ANALYSES: Collect, review, and process available background data for the CMZ delineation study, including the 2018 LiDAR, as follows:
   a. Manage and document the inventory of data used in the delineation.
   b. Identify known significant data gaps or uncertainties.
   c. Foster close collaboration with the Lower Elwha Klallam Tribe.
   d. Build on previous studies of the Elwha River that evaluate river response to dam removal.

3. HYDRAULIC ANALYSIS: Conduct a hydraulic analysis, as follows:
   a. Prepare coarse, reach-scale 2D hydraulic modeling (results map and digital data) to assess flood dynamics for existing conditions.
   b. Include flood frequency analysis of USGS stream gage data, as available.
   c. Hydraulic model calibration will not be included. Analyses will be limited to inundation and sediment transport.
   d. Compare modeling outputs to FEMA effective flood zones to inform of the location of CMZs outside the mapped floodplain.

4. DELINEATION AND MAPPING: Following the Rapp and Abbe methodology, A Framework for Delineating Channel Migration Zones (ECOLOGY Publication #03-06-027), conduct an analysis and prepare digital mapping for the Lower Elwha River, Indian Creek, and Little River, as follows:
   a. Identify distinct geomorphic reaches of the study area based on geomorphic characteristics.
   b. Consider channel response from dam removal and any other significant changes in hydrology where appropriate.
   c. Conduct limited but targeted field investigation to verify findings from both the hydraulic and desktop analyses where site-specific conditions are not adequately explained by desktop methods.
   d. Prepare deliverables including CMZ maps, GIS data, and a technical report. The GIS data should include all relevant GIS data used to determine the location of the CMZ. Digital data can be provided as either GIS shapefiles or as a layer package and should include metadata and appropriate attribute data.

5. STAKEHOLDER OUTREACH AND ENGAGEMENT: The goal of public and stakeholder outreach is to educate and inform the community of what a CMZ is and how erosion and flooding affect people, property, infrastructure, and riparian systems. Conduct robust outreach and employ diverse strategies to reach interested parties, those who influence and who are affected by CMZ-related planning decisions.
   a. Prepare a community questionnaire to gather stakeholder information, local knowledge and personal experience about past erosion and flood events in the study area as part of the above noted data collection process, and to invite broad public input and foster meaningful exchange.

b. Participate in at least two (2) in person public meetings, including a project kick-off at beginning, and a final meeting to present completed results.
c. Co-deliver (with Project Manager) one or more in person presentations to key stakeholder groups such as Lower Elwha Klallam Tribe, Olympic National Park etc.
d. Prepare educational poster displays about flooding and CMZs, brochures or flyers that advertise the questionnaire and meetings.
e. Prepare maps showing hydraulic modeling and dCMZs.

Background

The Elwha River is a shoreline of statewide significance under the Shoreline Management Act (SMA). Shoreline use and development activities are regulated locally by the Clallam County Shoreline Master Program (SMP), which establishes limitations and requirements specific to CMZs. As an early part of the recent SMP update, the inventory of shoreline conditions occurred during the active phase of removing both Elwha River dams (2011 to 2014) and did not include CMZ mapping for the Elwha system. Dam removal has dramatically affected the river environment downstream and at the delta. A growing collection of newer data and technical information documents the river's response to the release of impounded sediment and wood, the draining of two reservoirs, and the return of natural sediment and wood transport processes.
Critical areas such as geologically hazardous areas and frequently flooded areas that are located in shoreline jurisdiction are regulated by the SMP, while critical areas located outside shoreline jurisdiction are regulated by the Clallam County Critical Areas Ordinance (CAO). Accurate CMZ mapping will help better implement both the SMA and CAO locally on a project-specific basis.

As the largest river in Clallam County and a high-priority watershed for salmon recovery, the Elwha River has a steep gradient, large sediment supply, and an actively migrating channel within alluvial valley reaches. Climate change impacts in the region are anticipated to include more extreme weather patterns, increased channel movement, avulsion, planform evolution (shape/contours), and floodplain inundation along the Elwha River; such physical processes are essential to critical salmonid habitat that also present erosion and flood risks for people and property.

Eligible Proposer

Proposals will be accepted from individuals, organizations (profit or non-profit), or other collaborative arrangements that:

a. Are qualified to conduct business in the State of Washington and Clallam County.
b. If a corporation or limited liability company, it must be in good standing with the Washington Secretary of State.
c. The consultant should be a licensed geologist or professional engineer (e.g. geomorphologist, engineering geologist, hydraulic engineer, or hydrogeologist) with at least 5 years of proven experience in fluvial geomorphology and evaluating channel response.

Required
Licensed engineering geologist (WA LEG)
Professional river engineer (WA PE)
Experience in CMZ delineations per WA State Department of Ecology guidelines (Rapp and Abbe 2003)

Preferred
Business presence in Clallam County
Experience working in Elwha Watershed
Experience on the North Olympic Peninsula
Experience working with Lower Elwha Klallam Tribe and City of Port Angeles

Source of Funds and Budget

Funding for developing the work program and schedule identified in the Scope of Work will be provided through the Washington Department of Ecology Shorelands Shoreline Planning Competitive Grant; of which the County has earmarked $161,766 for professional services related to this project.

E. Preliminary Schedule

Event	Date
Release of Request for Proposals	March 12, 2024
Questions about Proposals Due	March 19, 2024
Written Responses Posted	March 21, 2024
Proposals Due	April 2, 2024 Prior to 10 AM
Bids Opened	April 2, 2024, at 10 AM BOCC Regular Meeting
Finalist Interviews	April 3, 2024
Finalist Selection	April 3, 2024

Deadline for Submission of Proposals

The original proposal must be provided in a sealed envelope containing a proposal no greater than fifty (50) pages in length via either mail or physical drop off and must be received by 10:00 A.M., on April 2, 2024 at the office of the Board of County Commissioners located at:

223 E. 4th Street, Suite 4,
Port Angeles , WA 98362

Timely submission of proposals is the sole responsibility of the proposer. The County reserves the right to determine the timeliness of all submissions. Late proposals will not be reviewed. All proposals received after the deadline will be returned unopened.

Proposal Requirements, Evaluation Factors, and Selection Process

Any questions regarding the RFP must be submitted to the Clallam County Department of Community Development via email. Questions will be posted with responses and shared with all parties expressing interest in the proposal. Address email questions to: Rebecca.Mahan@clallamcountywa.gov.
The following outlines the proposal requirements, evaluation criteria, and the selection process. Submission of a proposal pursuant to this RFP shall constitute acknowledgement and acceptance of the terms and conditions set forth herein. Portions of the RFP and the contents of the proposal submitted by the successful proposer may become contractual obligations if an agreement is awarded. Failure of the successful proposer to accept these obligations may result in cancellation of the award. The County reserves the right to withdraw this RFP at any time without prior notice. All proposals submitted in response to the RFP become the property of the County and will be a public record after the selection process is completed.
Each proposal shall be submitted to the County must contain the following in this order:
1. Cover Letter for the Proposal
A cover letter must be submitted with the proposal. The cover letter should be limited to one page and must include name, address, and the name, telephone number, number, and e-mail address of the person(s) authorized to represent the entity on all matters relating to the RFP and any contract awarded pursuant to this RFP. A person authorized to bind the proposer to all commitments made in the proposal must sign the letter.
2. Proposer Experience
Each proposer shall furnish a narrative supported by relevant data regarding experience with similar projects for the firm, and for the individuals who will be assigned to work on this account. Each proposer shall also furnish a list of up to five references/clients including names, addresses, phone numbers, and principal contacts in which the proposer has provided similar Growth Management services.
3. Providing Services to Meet Goals & Objectives
Each proposer shall furnish a narrative of how the Individual/firm will provide services to meet the County's Scope of Work.
4. Projected Costs and Proposed Services
Each proposer shall provide a detailed matrix of estimated costs to provide the expected services, including number of billable hours and hourly rate of all named team members. Such costs should be presented in a budget format that itemizes actual expenses for addressing the tasks described in the Scope of Work.

Proposal Evaluation and Selection Process

All proposals will be judged by demonstrated success, quality of work, experience with communities similar in characteristic, inclusion of local qualified professional in the scope of work, and budget. Any incomplete proposals will be disqualified. Proposers from any previous RFP process are encouraged to partner with one another to demonstrate a more competitive proposal.

Proposer qualifications, experience, and demonstrated ability.	40 points

Proposed budget, schedule, appropriateness, and necessity as compared to all other proposals to provide the services proposed.	20 points
Communication Plan	10 points
Quality and responsiveness of proposal to the Scope of Services detailed in this RFP.	30 points

The County will conduct a preliminary evaluation of all proposals by the deadline to determine compliance with proposal requirements and mandatory document submissions. The County reserves the right to request additional information to clarify the content of a proposal.
All proposals shall be reviewed to determine that the minimum eligibility requirements have been met. Ineligible proposers will be informed in writing.
Proposals shall be evaluated per the above categories, scored, and ranked, and may include consideration of any or all the listed factors at the County's discretion.
The County at its sole discretion reserves the right to accept or reject any or all proposals.

Contract Award Process

County Staff will review the applications and based on the evaluation criteria listed above, select one or more proposers to recommend to the Board of County Commissioners. The Board of County Commissioners will approve the recommendation unless it determines staff has not properly applied the above evaluation criteria. In that case, the Board of County Commissioners shall return the recommendation to staff with instructions to re-evaluate the proposals.
The proposer(s) selected to perform the services outlined in this RFP will enter into an agreement, approved as to form by the County Attorney, directly with Clallam County.
The County reserves the right to verify the information received in the proposal. If the proposer knowingly and willfully submits false information or data, the County reserves the right to reject that proposal. If it is determined that an agreement was awarded as a result of false statements, or other data submitted in response to this RFP, the County reserves the right to terminate the agreement.

Non-Discrimination and Equal Opportunity

Clallam County complies with state and federal laws prohibiting discrimination on the basis of any protected status. In accordance with Section 504 of the Rehabilitation Act and the Americans with Disabilities Act, the County commits to nondiscrimination on the basis of disability in all of its programs and activities. In accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §2000d to 2000d-4) and the Regulations, the County will affirmatively ensure that in this RFP process and in any contract entered into pursuant to this RFP, disadvantaged business enterprises will be afforded full and fair opportunity and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award. Women- and minority-owned business enterprises and veteran-owned firms are encouraged to respond to this opportunity.

Contractual Terms and Conditions

The successful Proposer will be expected to execute a contract with the Clallam County on a form that is approved by the County Attorney. A sample of the County's "Personal Services Contract" is attached and may be modified at the County's discretion or as negotiated between the County and selected Proposer. Proposer's standard contract may be used with preapproval by the County's Attorney. If Proposer's proposal is incorporated by reference into the executed contract, the terms and conditions of the contract will have priority over any potentially contradictory language in the proposal. The County anticipates a contract through February 2025 with no automatic renewal. However, options for extensions may be negotiated. The County reserves the right to negotiate all elements with the apparent successful Proposer to ensure that the best possible consideration is afforded to all concerned. County representatives and the selected finalist will review in detail all aspects of the requirements and the proposal. During the review the Proposer may offer, and the County may accept, revisions to the proposal.

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FEB 2 6 2024

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: BOCC

WORK SESSION ☒ **Meeting Date: 2-26-24**

REGULAR AGENDA ☒ **Meeting Date: 3-5-24**

Item summary:

☐ Call for Hearing

☒ Contract/Agreement/MOU - Contract # 361.24.001

☐ Resolution

☐ Proclamation

☐ Budget Item

☐ Draft Ordinance

☐ Final Ordinance

☐ Other

Executive summary:

The Hearing Examiner conducts administrative and quasi-judicial hearings on appeals of departmental decision and a variety of land use permits requested within unincorporated areas of Clallam County and renders a decision. The Hearing Examiner is an independent contractor relationship. The Hearing Examiner functions in accordance with the policies and procedures set forth in Chapter 26.04, Clallam County Code, and Clallam County Administrative Policies 921, 922 and 923.

The Hearing Examiner shall be appointed and compensated by the Board of Clallam County Commissioners and shall serve at the pleasure of the Board.

On November 7, 2023 the Board of Commissioners called for request for proposals/qualifications for Hearing Examiner services to be submitted no later than Tuesday, December 5, 2023. One request for proposal/qualifications packet was received from Alexander Sidles with Sidles Law.

The Board of Commissioner discussed the Hearing Examiner vacancy and reviewed the request for proposal/qualifications submitted by Mr. Sidles in work session on January 22 and recommended moving forward with a contract to appoint Mr. Sidles as the Hearing Examiner

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐
Included in the 2024 Budget.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Approval of a contract with Mr. Sidles as the Hearing Examiner.

County Official signature & print name: Loni Gores Loni Gores, Clerk

Name of Employee/Stakeholder attending meeting: Board of Commissioners

Relevant Departments: Board of Commissioners

Date submitted: 2-20-24

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* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

Questions? Call Loni Gores, Clerk of the Board, ext 2256

PERSONAL SERVICES AGREEMENT

Contract Number: 361.24.001

THIS AGREEMENT is entered into between CLALLAM COUNTY, a political subdivision of the State of Washington, (hereinafter called "County" or "Clallam County") and

Name: Sidles Law – Alexander A. Sidles
Address: 2400 NW 80th Street, No. 146
Seattle, WA 98117
Telephone: (206) 518-8611

(hereinafter called "Contractor").

This Agreement is comprised of:

☒ Attachment A – Scope of Work

☒ Attachment B – Compensation

☒ Attachment C – General Conditions

☒ Attachment D – Special Terms and Conditions

☐ Attachment E – (specify)

copies of which are attached hereto and incorporated herein by this reference as if fully set forth.

The term of this Agreement shall commence on the 1st day of January 2024 and shall, unless terminated as provided elsewhere in the Agreement, terminate on the 31st day of December 2024.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 5th day of March 2024

Sidles Law

_____

Print name: Alexander A. Sidles

Title: Managing Attorney

Date: _____, 2024

ATTEST:

_____

Loni Gores, MMC, Clerk of the Board

Originals: BOCC
Vendor
Copies: 5

BOARD OF CLALLAM COUNTY COMMISSIONERS

_____

Mike French, Chair

THIS CONTRACT HAS BEEN APPROVED AS TO FORM BY THE CLALLAM COUNTY PROSECUTING ATTORNEY

DRAFT

SCOPE OF WORK

The Contract Hearing Examiner conducts administrative and quasi-judicial hearings on appeals of departmental decisions and a variety of land use permits requested within unincorporated areas of Clallam County and renders a decision. Alexander Sidles shall serve as the County's primary Hearing Examiner. Public hearings and appeal hearings are scheduled on an as-needed basis, with two hearing days each month and no more than two hearings per day. Hearings are normally held in the Commissioners' Board Room at the Clallam County Courthouse in Port Angeles, Washington. The Contract Hearing Examiner determines whether a site visit is needed for each application, following a review of all the information submitted. Specific responsibilities include, but are not limited to:

1. Holding public hearings and issuing decisions in accordance with applicable land use laws and regulations, County Ordinances, and Administrative Policies on all land use applications and appeals within the jurisdiction of the hearing examiner. A decision shall include any written determination including a decision on reconsideration.

2. As assigned by the Clallam County Administrator, Board of Health, or Health Officer, holding public hearings and issuing decisions on appeals of interpretations of the International Building, Mechanical, Plumbing and Fire codes; appeals of the Environmental Health Administrator's decisions regarding on-site sewage disposal permits; and appeals of code enforcement decisions, and other administrative decisions.

3. Clallam County requires the Contract Hearing Examiner to issue a written decision within 10 working days of the close of the record for each hearing. The Hearing Examiner is also required to respond to all requests for reconsideration. Hearings are considered "complete" for purposes of payment as set forth in Attachment B (1) when a final determination has been issued.

4. Prior to beginning work, the Contract Hearing Examiner is required to procure and maintain, at their expense, comprehensive automobile liability insurance at statutorily required limits, and workers compensation coverage, if applicable, as required by the State of Washington for the duration of the contract.

5. Identifying all Conflict-of-Interest issues will be the sole responsibility of the Hearing Examiner, who shall immediately notify the Department of Community Development and the County Administrator in writing when a conflict determination has been made so that another Contract Hearing Examiner can be appointed in a timely manner.

6. Providing updates on developments and changes in land use, environmental, public disclosure, and administrative law, as requested by the Board of County Commissioners, Planning Commission, or Department of Community Development. Fees for these seminars shall not exceed $1,500 quarterly.

7. Reviewing and updating the County's Hearing Examiner Rules of Procedure not to exceed $1,500.

8. Preparation of an annual report for the Board of County Commissioners, detailing opinion types, costs, and methods to improve the Hearing Examiner system not to exceed $1,500.

DRAFT

COMPENSATION

1. ☒ a. FIXED FEE FOR SERVICE: For services rendered, the County shall pay to the Contractor a fixed fee for the completed work on all land use applications as set forth in Attachment "A." Payments for completed tasks shall be made no more frequently than ☐ monthly; ☐ quarterly; ☐semi-annually; ☐ annually; ☐ at completion of project; ☒ other (specify) .

Permit application hearings shall be billed at the following fixed rates:

$1,400:
- Single-family residential variances
- Cluster developments
- Residential special use permits (SUPs)
- Residential conditional use permits (CUPs)

$2,800
- Commercial/multi-family/industrial variances
- Commercial special use permits (SUPs)
- Commercial conditional use permits (CUPs)

$3,500
- Multi-permit applications
- Plats
- Shoreline permits
- Binding site plans
- Master planned resorts
- Planned unit developments

$195 per hour
- Appeals of administrative decisions, interpretations, enforcement orders, licensing decisions, and SEPA threshold determinations, as well as such other regulatory, enforcement, or quasi-judicial matters as may be assigned by the County Commissioners

Each request for payment shall be supported by an invoice specifying the tasks completed up to the request for payment and the payment amount requested. In no event shall payment be sought in an amount which represents a percentage of the fee greater than the percentage of completed tasks.

AND

☒ **b. HOURLY RATES:** For services rendered on all administrative appeal hearings and decisions or non-quasi-judicial tasks as set forth in Attachment "A" the County shall compensate the Contractor at the following hourly rates:

Hourly Rates:
- Appeals of Administrative Decisions shall be billed at a rate of $195 per hour.
- Code Enforcement Hearings shall be billed at a rate of $195 per hour.
- Permit Applications & other hearing not specifically provided for shall be billed at a rate of $195 per hour.

Payments for completed tasks shall be made no more frequently than ☒ monthly; ☐quarterly; ☐semi-annually; ☐ annually; ☐at completion of project; ☐ other (specify) .

DRAFT

Each request for payment shall be supported by an invoice specifying: the name/position of the Contractor's employee if two or more are identified above; number of hours worked; completed tasks for which compensation is sought; estimated percentage of task completion; payment amount requested.

2. AND

☒ **a.** The compensation set forth herein includes, without limitation: labor, materials, equipment, travel, telephone, computer, copiers, and the like.

OR

☐ **b.** The County shall reimburse the Contractor for actual expenses incurred for travel, telephone, copiers and computer. Reimbursement for airfare, mileage, meals, and/or accommodations shall be at the same rate as that applicable to county employees traveling on county business.

OR

☐ **c.** Other (specify):

3. The County shall remit payment to the Contractor within 30 days of receiving the Contractor's monthly invoice.

DRAFT

GENERAL CONDITIONS

1. Scope of Contractor's Services. The Contractor agrees to provide to the County services and any materials set forth in the project narrative identified as Attachment A during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

2. Accounting and Payment for Contractor Services. Payment to the Contractor for services rendered under this Agreement shall be as set forth in Attachment B. Unless specifically stated in Attachment B, the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract.

   The County shall compensate the Contractor through the County voucher system for the Contractor's service pursuant to the fee schedule set forth in Attachment B.

3. Delegation and Subcontracting. Contractor's services are deemed personal and no portion of this contract may be delegated or subcontracted to any other individual, firm, or entity without the express and prior written approval of the County Project Manager.

4. Independent Contractor. The Contractor's services shall be furnished by the Contractor as an independent contractor and nothing herein contained shall be construed to create a relationship of employer/employee or master/servant.

   The Contractor acknowledges that the entire compensation for this Agreement is specified in Attachment B and the Contractor is not entitled to any county benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental or other insurance benefits, or any other rights or privileges afforded to Clallam County employees. The Contractor represents that it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract with the Internal Revenue Service on a business tax schedule, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

   In the event that either the state or federal government determines that an employer/employee or master/servant relationship exists rather than an independent contractor relationship such that Clallam County is deemed responsible for federal withholding, social security contributions, workers compensation and the like, the Contractor agrees to reimburse Clallam County for any payments made or required to be made by Clallam County. Should any payments be due to the Contractor pursuant to this Agreement, the Contractor agrees that reimbursement may be made by deducting from such future payments a pro rata share of the amount to be reimbursed.

   Notwithstanding any determination by the state or federal government that an employer/employee or master/servant relationship exists, the Contractor, its officers, employees and agents, shall not be entitled to any benefits that Clallam County provides to its employees.

5. No Guarantee of Employment. The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

6. Regulations and Requirements. This Agreement shall be subject to all federal, state, and local laws, rules, and regulations.

7. Right to Review. This contract is subject to review by any federal or state auditor. The County shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the County Project Manager. Such review may occur with or without notice, and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials that the County deems pertinent to the

Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Clallam County, State of Washington, upon request, during reasonable business hours.

8. Modifications. Either party may request changes in the Agreement. Any and all agreed modifications shall be in writing, signed by each of the parties.

9. Termination for Default. If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. Mail, postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor agrees to bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.

   If a notice of termination for default has been issued and it is later determined for any reason that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the Termination for Public Convenience paragraph hereof.

10. Termination for Reasonable Cause. The County may terminate the contract in whole or in part for reasonable cause whenever the County determines, in its sole discretion that such termination is in the interests of the County. Whenever the contract is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this contract by the County at any time during the term, whether for default or reasonable cause, shall not constitute a breach of contract by the County.

11. Termination Due to Insufficient Funds. If sufficient funds for payment under this contract are not appropriated or allocated or are withdrawn, reduced, or otherwise limited, the County may terminate this contract upon five (5) days written notice to the Contractor. No penalty or expense shall accrue to the County in the event this provision applies.

12. Termination Procedure. The following provisions apply in the event that this Agreement is terminated:

    (a) The Contractor shall cease to perform any services required hereunder as of the effective date of termination and shall comply with all reasonable instructions contained in the notice of termination, if any.

    (b) The Contractor shall provide the County with an accounting of authorized services provided through the effective date of termination.

    (c) If the Agreement has been terminated for default, the County may withhold a sum from the final payment to the Contractor that the County determines necessary to protect itself against loss or liability.

13. Defense and Indemnity Agreement. The Contractor agrees to defend, indemnify and save harmless the County, its appointed and elected officers, agents and employees, from and against all loss or expense, including but not limited to claims, demands, actions, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or

appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Contractor, his/her subcontractors, its successor or assigns, or its or their agent, servants, or employees, the County, its appointed or elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County, its appointed or elected officials or employees. It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein.

14. Industrial Insurance Waiver. With respect to the performance of this Agreement and as to claims against the County, its appointed and elected officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, as now or hereafter amended, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this Agreement extend to any claim brought by or on behalf of any employee of the Contractor. Along with the other provisions of this Agreement, this waiver is mutually negotiated by the parties to this Agreement.

15. Venue and Choice of Law. In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action shall be in the courts of the State of Washington in and for the County of Clallam. This Agreement shall be governed by the law of the State of Washington.

16. Withholding Payment. In the event the County Project Manager determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the County Project Manager determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than10 days after it determines to withhold amounts otherwise due. A determination of the County Project Manager set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provision of the Disputes clause of this Agreement. The County may act in accordance with any determination of the County Project Manager which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to the Contractor by reason of good faith withholding by the County under this clause.

17. Rights and Remedies. The duties and obligations imposed by this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available bylaw.

18. Contractor Commitments, Warranties and Representations. Any written commitment received from the Contractor concerning this Agreement shall be binding upon the Contractor, unless otherwise specifically provided herein with reference to this paragraph. Failure of the Contractor to fulfill such a commitment shall render the Contractor liable for damages to the County. A commitment includes, but is not limited to any representation made prior to execution of this Agreement, whether or not incorporated elsewhere herein by reference, as to performance of services or equipment, prices or options for future acquisition to remain in effect for a fixed period, or warranties.

19. Patent/Copyright Infringement. Contractor will defend, indemnify and save harmless County, its appointed and elected officers, agents and employees from and against all loss or expense, including

but not limited to claims, demands, actions, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of the Contractor's alleged infringement on any patent or copyright. The Contractor will pay those costs and damages attributable to any such claims that are finally awarded against the County, its appointed and elected officers, agents and employees in any action. Such defense and payments are conditioned upon the following:

(a) That Contractor shall be notified promptly in writing by County of any notice of such claim.

(b) Contractor shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.

20. Disputes:

(a) General. Differences between the Contractor and the County, arising under and by virtue of the contract documents shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. The records, orders, rulings, instructions, and decision of the County Project Manager shall be final and conclusive 30 days from the date of mailing unless the Contractor mails or otherwise furnishes to the County Administrator a written notice of appeal. The notice of appeal shall include facts, law, and argument as to why the conclusions of the County Project Manager are in error.

In connection with any appeal under this clause, the Contractor and County shall have the opportunity to submit written materials and argument and to offer documentary evidence in support of the appeal. Oral argument and live testimony will not be permitted. The decision of the County Administrator for the determination of such appeals shall be final and conclusive. Reviews of the appellate determination shall be brought in the Superior Court of Clallam County within 15 days of mailing of the written appellate determination. Pending final decision of the dispute, the Contractor shall proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

(b) Notice of Potential Claims. The Contractor shall not be entitled to additional compensation or to extension of time for (1) any act or failure to act by the County Project Manager or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within 10 days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

(c) Detailed Claim. The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within 30 days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

21. Ownership of Items Produced. All writings, programs, data, art work, music, maps, charts, tables, illustrations, records or other written, graphic, analog or digital materials prepared by the Contractor and/or its consultants or subcontractors, in connection with the performance of this Agreement shall be the sole and absolute property of the County and constitute "work made for hire" as that phrase is used in federal and/or state intellectual property laws and Contractor and/or its agents shall have no ownership or use rights in the work.

22. Recovery of Payments to Contractor. The right of the Contractor to retain monies paid to it is contingent upon satisfactory performance of this Agreement, including the satisfactory completion of the project described in the Scope of Work (Attachment A). In the event that the Contractor fails, for any reason, to perform obligations required of it by this Agreement, the Contractor may, at the County Project Manager's sole discretion, be required to repay to the County all monies disbursed to the Contractor for those parts of the project that are rendered worthless in the opinion of the County Project Manager by such failure to perform.

Interest shall accrue at the rate of 12 percent (12%) per annum from the time the County Project Manager demands repayment of funds.

23. Project Approval. The extent and character of all work and services to be performed under this Agreement by the Contractor shall be subject to the review and approval of the County Project Manager. For purposes of this Agreement, the County Project Manager is:

Name: Todd Mielke
Title: County Administrator
Address: 223 East 4th Street, Suite 4, Port Angeles, WA 98362
Telephone: 360.565-2670
E-mail: todd.mielke@clallamcountywa.gov

In the event there is a dispute with regard to the extent and character of the work to be done, the determination of the County Project Manager as to the extent and character of the work to be done shall govern subject to the Contractor's right to appeal that decision as provided herein.

24. Non-Discrimination. The Contractor shall not discriminate against any person on the basis of race, creed, political ideology, color, national origin, sex, marital status, sexual orientation, age, or the presence of any sensory, mental or physical handicap.

25. Subcontractors. In the event that the Contractor employs the use of any subcontractors, the contract between the Contractor and the subcontractor shall provide that the subcontractor is bound by the terms of this Agreement between the County and the Contractor. The Contractor shall insure that in all subcontracts entered into, Clallam County is named as an express third-party beneficiary of such contracts with full rights as such.

26. Third Party Beneficiaries. This agreement is intended for the benefit of the County and Contractor and not for the benefit of any third parties.

27. Standard of Care. The Contractor shall perform its duties hereunder in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession as Contractor currently practicing under similar circumstances. The Contractor shall, without additional compensation, correct those services not meeting such a standard.

28. Time is of the Essence. Time is of the essence in the performance of this contract unless a more specific time period is set forth in either the Special Terms and Conditions or Scope of Work.

29. Notice. Except as set forth elsewhere in the Agreement, for all purposes under this Agreement, except service of process, any notices shall be given by the Contractor to the County Project Manager. Notice to the Contractor for all purposes under this Agreement shall be given to the person executing the Agreement on behalf of the Contractor at the address identified on the signature page.

30. Severability. If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

31. Precedence. In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

(a) Applicable federal, state and local statutes, ordinances and regulations;

(b) Scope of Work (Attachment A) and Compensation (Attachment B);

(c) Special Terms and Conditions (Attachment D); and

(d) General Conditions (Attachment C).

32. Waiver. Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified, or deleted except by an instrument, in writing, signed by the parties hereto.

33. Attorney Fees. In the event that litigation must be brought to enforce the terms of this agreement, the prevailing party shall be entitled to be paid reasonable attorney fees.

34. Construction. This agreement has been mutually reviewed and negotiated by the parties and should be given a fair and reasonable interpretation and should not be construed less favorably against either party.

35. Survival. Without being exclusive, Paragraphs 4, 7, 13-19, 21-22 and 31-35 of these General Conditions shall survive any termination, expiration or determination of invalidity of this Agreement in whole or in part. Any other Paragraphs of this Agreement which, by their sense and context, are intended to survive shall also survive.

36. Entire Agreement. This written contract represents the entire Agreement between the parties and supersedes any prior statements, discussions or understandings between the parties except as provided herein.

DRAFT

SPECIAL TERMS AND CONDITIONS

☒ 1. Reporting. The Contractor shall submit written progress reports to the County Project Manager as set forth below:

☐ With each request for payment.

☐ Monthly.

☐ Quarterly.

☐ Semi-annually.

☒ Annually.

☐ Project completion.

☐ Other (specify):

Progress reports shall include, at a minimum, the following:

Reports shall include any problems, delays, or adverse conditions that will materially affect the Contractor's ability to meet project objectives or time schedules together with a statement of action taken or proposed to resolve the situation. Reports shall also include recommendations for changes to the Scope of Work, if any. Payments may be withheld if reports are not submitted.

☒ 2. Insurance. The Contractor shall maintain in full force and effect during the term of this Agreement, and until final acceptance of the work, public liability and property damage insurance with companies or through sources approved by the state insurance commissioner pursuant to RCW Title 48, as now or hereafter amended. The County, its appointed and elected officials, agents and employees, shall be specifically named as additional insureds in a policy with the same company which insures the Contractor or by endorsement to an existing policy or with a separate carrier approved pursuant to RCW Title 48, as now or hereafter amended, and the following coverages shall be provided:

☒	COMMERCIAL GENERAL LIABILITY:		
	Bodily injury, including death.	$1,000,000	per occurrence
		$1,000,000	aggregate
	Property damage	$100,000	per occurrence
		$300,000	aggregate
☒	ERRORS AND OMISSIONS or PROFESSIONAL LIABILITY with an Extended Reporting Period Endorsement (two year tail).	$1,000,000	per occurrence
☒	WORKERS COMPENSATION:	Statutory amount	

DRAFT

☒	AUTOMOBILE: coverage on owned, non-owned, rented and hired vehicles		
	Bodily injury, liability, including death	$250,000	per occurrence
		$500,000	aggregate
	Property damage liability	$100,000	per occurrence
		$300,000	aggregate
☐	BUSINESS AUTOMOBILE LIABILITY:	$	per occurrence

If the Errors and Omissions or Professional Liability insurance obtained is an occurrence policy as opposed to a claims-made policy, the Extended Reporting Period Endorsement is not required.

Any such insurance carried by the Contractor shall be primary over any insurance carried by Clallam County and the Contractor shall ensure that such insurances is primary. The County shall have no obligation to report occurrences unless a claim or lawsuit is filed with it and the County has no obligation to pay any insurance premiums.

Evidence of primary insurance coverage shall be submitted to the County Project Manager within twenty (20) days of the execution of the Agreement. The Agreement shall be void ab initio if the proof of coverage is not timely supplied.

The coverage limits identified herein shall not limit the potential liability of the Contractor and the Contractor's duty to defend, indemnify and hold harmless shall apply to any liability beyond the scope of insurance coverage.

☒ 3. Liquidated Damages. Not applicable.

☐ 4. Other (specify):.

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FEB 2 6 2024

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: BOCC

WORK SESSION ☒ **Meeting Date:2-26-24**

REGULAR AGENDA ☐ **Meeting Date:**

Required originals approved and attached? ☐
Will be provided on:

Item summary:

☐ Call for Hearing
☐ Contract/Agreement/MOU - Contract #
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☒ Other - Discussion

Executive summary:
On February 20, 2024 the Board of Commissioners established a Revenue Advisory Committee (RAC) under BOCC Resolutions 15, 2024.

The RAC will confer with the County on issues related to state timber management, fiduciary responsibilities, trends, public engagement with State and Federal Forest management agencies, issues impacting timber management and revenues which benefit the community, and such other related matters as the Board of County Commissioners directs.

RAC shall consist of one representative from the County and each to the taxing districts, and the DNR. Each participating entity shall select a representative and alternate for continuity of committee discussion, participation and progress.

Discussion on who will serve as the County representative and alternate.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐
None.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Discussion on who will serve as the County representative and alternate.

County Official signature & print name: Loni Gores Loni Gores, Clerk

Name of Employee/Stakeholder attending meeting: Board of Commissioners, Clallam County Departments

Date submitted: 2-21-24

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* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

Questions? Call Loni Gores, Clerk of the Board, ext 2256

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FEB 2 6 2024

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: BOCC

WORK SESSION ☒ **Meeting Date: 2/26/24**

REGULAR AGENDA ☐ **Meeting Date:**

Required originals approved and attached? ☐
Will be provided on:

Item summary:

☐ Call for Hearing
☐ Contract/Agreement/MOU - Contract #
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☒ Other – Update only

Documents exempt from public disclosure attached: ☐

Executive summary:
Legislative Session Update:
The purpose of this discussion will be to regularly review Clallam County's priorities, projects and programs that require support from the Washington State Legislature and to plan and coordinate our individual and collective outreach efforts. We envision this to be a standing weekly agenda item throughout the term of this current Legislative session.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐
None.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Update only.

County Official signature & print name: Loni Gores Loni Gores, Clerk

Name of Employee/Stakeholder attending meeting: Board of Commissioners

Relevant Departments: Board of Commissioners

Date submitted: 1/18/24

* Work Session Meeting - Submit 1 single sided/not stapled copy
** Regular Meeting – Submit 1 single sided/not stapled copy and originals (1 or 3 copies)

Legislative update 2-26-24
Revised: 3-04-2019

Questions? Call Loni Gores, Clerk of the Board, ext 2256

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AGENDA ITEM SUMMARY

FEB 2 6 2024

(Must be submitted NLT 3PM Wednesday for next week agenda)

Department: BOCC

WORK SESSION ☒ **Meeting Date: 2/26/2024**

REGULAR AGENDA ☒ **Meeting Date: 3/05/2024**

Required originals approved and attached? ☒
Will be provided on:

Item summary:

☐ Call for Hearing

☒ Contract/Agreement/MOU - Contract # 291.24.003

☐ Resolution

☐ Proclamation

☐ Budget Item

☐ Draft Ordinance

☐ Final Ordinance

☐ Other

Documents exempt from public disclosure attached: ☐

Executive summary:

2024 Memorandum of Agreement between Clallam County and the Clallam Conservation District. This contract provides for renewable resource conservation planning and implementation in the amount of $125,000.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐

Funding for this contract is included in the 2024 Budget.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)

Please review and sign the contract.

County Official signature & print name: Debi Cook

Name of Employee/Stakeholder attending meeting: Mark Ozias, Randy Johnson

Relevant Departments: BOCC

Date submitted: 2/21/2024

MEMORANDUM OF AGREEMENT
Between
CLALLAM COUNTY
and
CLALLAM CONSERVATION DISTRICT

This Memorandum of Agreement is between Clallam County (herein referred to as "the County"), and the Clallam Conservation District (herein referred to as "District"), for the purpose of providing operational funds to the District to implement ongoing renewable resource conservation activities in Clallam County in order to support and enhance the environmental and economic sustainability of the county and its citizens. It is mutually agreed that:

The County's Responsibilities:
The County shall provide to the District $125,000 for the calendar year 2024. This funding is for the purpose of implementing the District's program for renewable resource conservation as outlined in the Clallam Conservation District's 2024 plan and budget. It is contemplated that an equal amount of funding will be provided yearly for the years 2022 through 2024 providing the Conservation District's next five year plan meets similar goals and objectives.

The District's Responsibilities:
The District shall use the County funds to supplement grant funding in order to implement its renewable resource conservation programs, including:

- Preparing, assisting with, and supporting grant proposals and outreach efforts for priority projects including, but not limited to:
  1. The Dungeness Off-Channel Reservoir.
  2. Aquifer recharge.
  3. Support the conservation of farmland through easements, purchase of development rights and other alternative means.
  4. Provide financial assistance to homeowners with failing septic systems.
  5. Maintain successful programs such as sustainable landscaping, native plant sales and irrigation efficiency grants.
- District administrative functions and expenses, including basic overhead expenses, such as office rent, utilities, insurance, audits, and state association dues.
- Board member and staff training and participation in state and regional conservation district programs.
- Preparing grant proposals, and when necessary, contributing required matching funds.

The District shall submit an annual progress report and give an annual presentation to the Board of Commissioners in August of each year. The report and presentation shall provide an accounting of the use of County funds and accomplishments during the previous year.

This agreement will cover the period from January 1, 2024 through December 31, 2024.

AGREED this ____ day of _____, 2024

CLALLAM CONSERVATION DISTRICT	CLALLAM COUNTY BOARD OF COMMISSIONERS
Christy Cox, Chair	Mike French, Chair
ATTEST:	Approved as to form:
Loni Gores Clerk of the Board	Elizabeth Stanley Prosecuting Attorney

ocument was submitted after the agenda and packet were posted on 2-22-24 Item 19

Clallam Conservation District

Making a difference in water conservation in Clallam County

GUIDING PRINCIPALS

Mission: The Clallam Conservation District promotes protection, sustainability and enhancement of natural resources by providing information, technical expertise and financial assistance when possible for all natural resource challenges to all people in Clallam County.

Sustainable Clean Water ● Protect and Restore Fish and Wildlife Habitat ● Healthy Soil and Sustainable lands ● Education and Outreach ● Efficient Operations

PROJECT DETAILS

SPTIA, with assistance from CCD and the Washington Department of Fish and Wildlife (WDFW), will improve instream flows in the Dungeness River near Sequim by piping two open irrigation ditches, and constructing improvements to the Sequim Prairie-Dungeness District irrigation diversion at the Dungeness River. The irrigation diversion is located at the headgate at the end of Headgate Lane (end of Turnstone Lane)

Planned piping projects (~11,500 feet total):

1. Eureka-Independent Phase 2 ditch, approximately 1,300 feet piping connecting previously piped ditch on the MAT facility property to existing pipeline behind Domino's Pizza. Piping for livestock water will also be installed. Cattle have unrestricted access to this irrigation ditch.

2. The Sequim Prairie main ditch from the existing pipeline at split with Dungeness District to 5th Avenue, which totals approximately 10,200 feet.

Total project costs $2,353,839.57 Match from WDFW $50,000.00 and SPTIA $8,000

Estimated water savings (about 1.75 cfs or 533 acre-feet total):

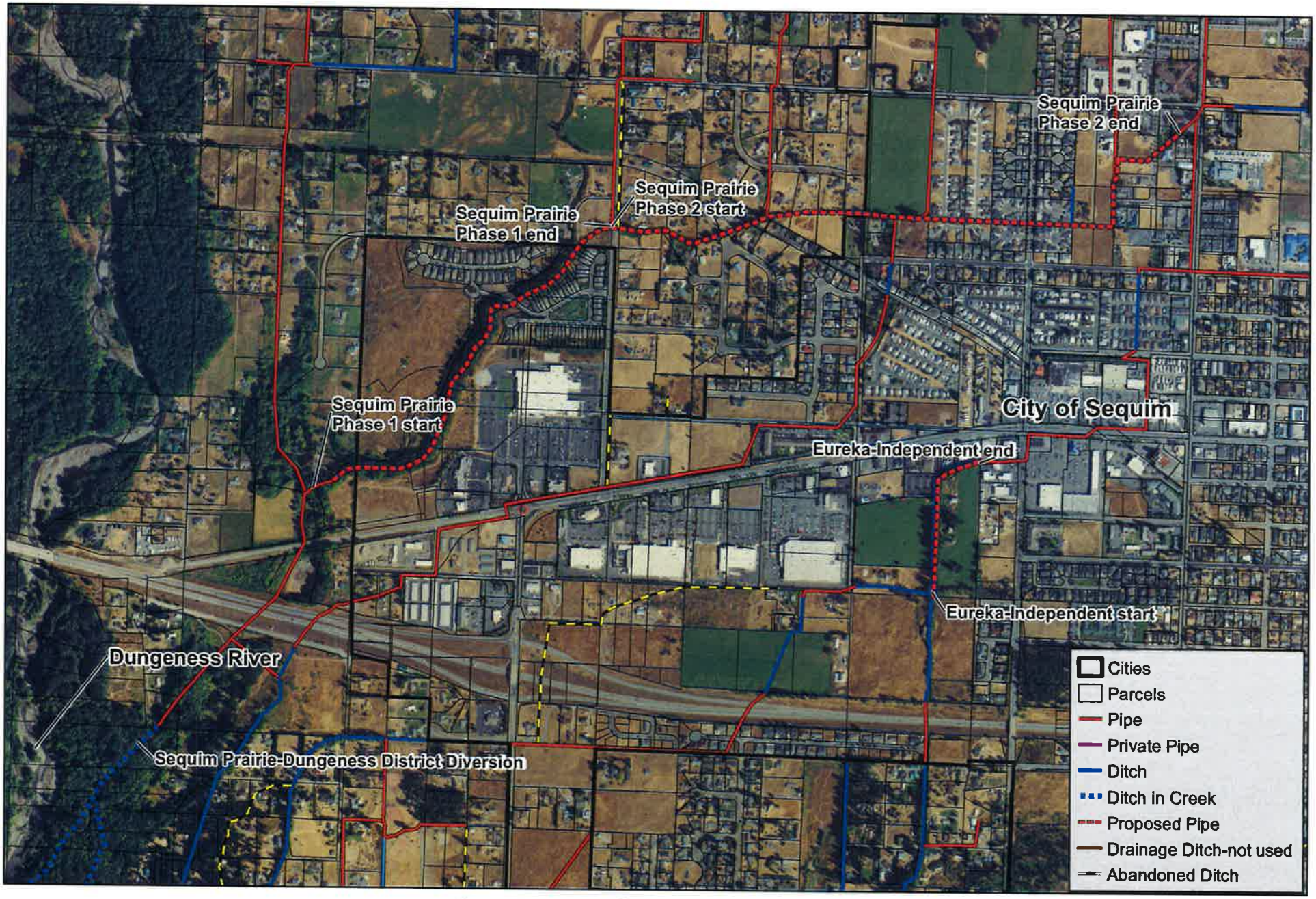
- **Eureka-Independent – 0.5 cfs (includes 0.25 cfs from Phase 1 piping)**
- **Sequim Prairie main – 1.25 cfs**

IRRIGATION FACTS

- Currently approximately 60% of irrigation ditches are piped in Clallam County
- 66 miles of piping have been put in since 1999.
- CCD has leveraged over 14 million since piping has started, saving over 30 cfs for the Dungeness River.
- There are no definitive connections of wells running dry due to irrigation piping in Clallam County that the CCD knows of. It can happen if wells are shallow and fed by surface water. There have been a few claims that it has happened in Clallam County but no definitive connections to piping projects . It has happened in other counties.
- Irrigation ditches have easements. Some are express easements recorded with the county and others are prescriptive easements. Prescriptive easements are easements that the Irrigation District claims based on historical use of the property.
- Most ditches loose water by leakage, through groundwater losses, and a little through evaporation. Some ditches have a loss of 50% water by the time it reaches the farm or place of intended use.
- Irrigation conveyance systems were put in place to assist farmers and replace flood irrigation. Now Irrigation water is also available to all shareholders who sometimes use it for lawns and landscaping.

ESSENTIAL WATER CONSERVATION

1. All time low flows in the Dungeness River Sept 2023 at 67 cfs at the same time the pink population were trying to spawn and most irrigation diversions were stopped early due to this emergency when the farmers needed water the most.
2. The Drought Declaration from July 2023 has been extended and we are still considered in drought phase.
3. The CCD promotes many water conservation activities such not watering of lawns, heavy mulching to save water and planting native plants which require less water. Native plants have the added benefit of providing native pollinator habitat and nesting materials.



SPTIA Irrigation Improvement Project

0 1,300 2,600 5,200 Feet

1:12,000

Clallam Conservation District

Document Path: G:\GIS_Projects\Irrigation\Sqm_Prairie_Tri\SPTIA 2021 projects(2).mxd

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12/3/2021

Cartographer: J. Holtrop