WORK SESSION AGENDA

BOARD OF CLALLAM COUNTY COMMISSIONERS

223 East 4th Street Room 160

Port Angeles, Washington

Tuesday, February 22, 2022 – 8:00 a.m.

****ATTENTION****
In response to the current pandemic, to promote social distancing, and in compliance with Governor's Proclamation and the recommendation of the Clallam County Health Officer, the Board of Commissioners meetings will be virtual only. The Board of Commissioners strongly encourages public comments to be submitted in writing.

This meeting can be viewed on a live stream at this link: http://www.clallam.net/features/meetings.html

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

Public comment and questions can be directed to the Clerk of the Board at 360-417-2256 or agores@co.clallam.wa.us.

Modification

Modification to add Item 7

Administration – 9 a.m.

1. Calendar/Correspondence

2. Interlocal Agreement with Jamestown S'Klallam Indian Tribe to provide law enforcement and mutual aid services

   Agreement

3. Agreement with Washington State Parks and Recreation Commission for recreation boating enforcement and education

   Agreement

Budget

4. Agreement with Olympic Peninsula Visitor Bureau to promote year-round tourism

   Agreement

5. Memorandum of Understanding with City of Forks for additional funding for their waste water treatment facility

Memorandum of Understanding

6. Review the "How Did We Do" reports comparing each month's actual performance against the 2022 Annual Budget

   Review

Board of Commissioners

7. Letter of support with City of Sequim and Jamestown S'Klallam Tribe for the US Highway 101 East Corridor Improvement Project (1e)*

   Letter of support

General Discussion/Items for Future Agendas

a. National Park update (March 7 at 10:30 a.m.)

b. Continued Work Session – Topic TBD (March 14 at 1 p.m.)

c. Department of Natural Resources joint meeting (March 21 at 1 p.m.)

d. Continued Work Session – Topic TBD (April 11 at 1 p.m.)

e. Joint Meeting with the Port of Port Angeles (April 25 at 11 a.m. at Port)

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.

MEMORANDUM

LONI GORES
Clerk of the Board

February 17, 2022

TO: Board of Commissioners, Administrator Sill

RE: Agenda Modification(s)

FILE: A14.09.18

- The following item has been added to the February 22, 2022 work session agenda:

BOARD OF COMMISSIONERS

7 Letter of support with City of Sequim and Jamestown S'Klallam Tribe for the US Highway 101 East Corridor Improvement Project (1e)*

- The following item has been added to the February 22, 2022 regular agenda:

CONSENT AGENDA

1e Letter of support with City of Sequim and Jamestown S'Klallam Tribe for the US Highway 101 East Corridor Improvement Project

AGENDA ITEM SUMMARY

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

2
2/22/22

Department: Sheriff

WORK SESSION ☒ **Meeting Date: 02/22/22**

REGULAR AGENDA ☒ **Meeting Date: 03/01/22**

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

Item summary:

☐ Call for Hearing
☒ Contract/Agreement/MOU - Contract # 811-22-01
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☐ Other

Documents exempt from public disclosure attached: ☐

Executive summary:
Revision and issuance of updated Interlocal Agreement between the Jamestown S'Klallam Indian Tribe and Clallam County Sheriff's Office to provide law enforcement services and mutual aid services between the two entities. This update provides a new provision for the Tribe's Public Safety & Natural Resource Officers to investigate state criminal violations of fish and game laws on Jamestown S'Klallam Tribal land within Clallam County.

Budgetary impact:
There is no budgetary impact.

Recommended action:
Recommend approval and signature by the Board.

County Official signature & print name: W.L. Benedict W.L. Benedict, Sheriff

Name of Employee/Stakeholder attending meeting: Sheriff Benedict

Relevant Departments: Sheriff's Office

Date submitted: 02/16/22

INTERLOCAL AGREEMENT

JAMESTOWN S'KLALLAM INDIAN TRIBE
AND
THE CLALLAM COUNTY SHERIFF'S OFFICE

This agreement is entered into under the following statutory authorities:

The Inter-local Cooperation Act (Chapter 39.34 RCW); Washington Mutual Aid Peace OfficersPowers Act (Chapter 10.93 RCW); and the Tribal Public Safety Officers Act (Chapter 10.92.02RCW); by and between the Clallam County Sheriff's Office (hereinafter "CCSO") and the Jamestown S'Klallam Indian Tribe (hereinafter "Tribe"), in order to provide mutual aid as provided herein, as follows:

WHEREAS the Tribe is a federally recognized sovereign tribal government with authority to enter into intergovernmental agreements under its Constitution, Art. VII; and

WHEREAS, the CCSO has the authority to enter into this agreement pursuant to RCW39.34, the Interlocal Cooperation Act; and

WHEREAS the Tribe has land held in trust and reservation status on its behalf by the United States defined as Indian Country by 18 U.S.C. § 1151, and lands held in restricted fee defined as Indian Lands by 25 U.S.C § 81, and as such are subject to Tribal criminal jurisdiction;and

WHEREAS, the State of Washington has not acquired criminal or civil jurisdiction over Jamestown Indian Country pursuant to the federal law commonly known as Public Law 280, codified at 18 U.S.C. § 1162 and 28 U.S.C. § 1360; and

WHEREAS, the Tribe wishes to improve law enforcement activities in areas subject to its jurisdiction by entering into this agreement ("Agreement") with Clallam County ("County") for the enforcement of Tribal Law by the CCSO; and

WHEREAS, the CCSO is the primary general Washington State ("State") law enforcement agency in the area subject to the Tribe's jurisdiction, and the first response entity for some federal agencies acting within the Tribe's jurisdiction; and

WHEREAS, law enforcement agencies have the responsibility to protect lives, protectproperty, and to keep the peace; and

WHEREAS, effective law enforcement depends upon the ability of responding law enforcement officers to take emergency action to protect lives and property and to preserve the peace without regard to jurisdictional limits; and

WHEREAS, it is necessary and desirable that a cooperative agreement, such as this Agreement, is executed for the purpose of effectuating efficient law enforcement within theboundaries of the Tribe's Lands; and

WHEREAS, it is not intended that the traditional law enforcement responsibilities of the signatory

agencies be altered, but rather that they be empowered to act in appropriate situations; and

WHEREAS, it is intended that Jamestown S'Klallam Tribal Public Safety & Natural Resource Officers who are employed by the Tribal authority and are in all other respects qualified to act as a peace officers for the Tribe, shall be eligible to be deputized as general authority Washington peace officers as provided for under the applicable law and this Agreement within the boundaries of the Tribe's lands; and

WHEREAS, the Tribe and the County mutually agree that the CCSO will provide law enforcement to enforce Jamestown Tribal Law in Jamestown's Indian Country and Indian Landsas provided herein; and

WHEREAS, this understanding shall not impair the authority of any officer who has acted pursuant to a special commission separately granted by the Sheriff in his capacity as thehead of the CCSO;

NOW, THEREFORE, the Parties agree to the following:

1. PURPOSE

The purpose of this Agreement is to memorialize the terms under which CCSO will provide 24-hour law enforcement services to the Tribe, and to recognize the general peace officer powers ofthe Jamestown S'Klallam Tribal Public Safety & Natural Resource Officers, for effective and efficient law enforcement by utilizing the existing federal jurisdictional framework, supplemented by Tribal law.

2. SCOPE OF WORK

CCSO shall have the responsibility to maintain peace and order for the Tribe. All CCSO law enforcement services, to include Patrol, Detectives and other Investigative teams, will be available to the Tribe as needed.

CCSO agrees to patrol all of the Tribe's land and properties, to include but not limited to: theSeven Cedars Casino, Long House Market and Deli, Carlsborg Self-Storage, Cedars at Dungeness Golf Course, Northwest Native Expressions, the Jamestown S'Klallam Economic Development Authority, and any future properties acquired by the Tribe.

CCSO will enforce Jamestown Tribal Law in Jamestown's Indian Country and Lands. Prosecution shall occur in Jamestown Tribal Court.

CCSO will enforce the criminal laws of the State of Washington that apply to non-Indians within Jamestown Indian Country and Lands. Prosecution shall occur in the appropriate State court venue.

CCSO is the first response entity for the Federal Bureau of Investigation (FBI). In circumstances involving a crime listed in the Major Crimes Act, 18 U.S.C. § 1153 ("MCA"), the Indian CountryCrimes Act, 18 U.S.C. § 1153 ("ICCA"), CCSO will notify and cooperatively investigate the crime with the involvement of the FBI.

One CCSO Deputy will be designated the Tribal Resource Deputy to provide a greater law enforcement presence at the Jamestown S'Klallam Tribe's Blyn campus, Tribal Enterprises and the surrounding communities in East Clallam County. The Tribal Resource Deputy shall be responsible for fostering

relationships with, and being an immediate resource to, the tribal community, tribal enterprises, tribal court, and the Jamestown S'Klallam Tribal Public Safety &Natural Resource Officers. This includes addressing law enforcement concerns, coordinating and/or conducting crime prevention trainings, and communicating the law enforcement needs ofthe Tribe to CCSO Supervisors and/or Command Staff as needed. The Tribal Resource Deputy will, as necessary:

1. Work Monday through Friday, 8am to 4pm, or 9am to 5pm. (Or as needed based uponthe needs of the Tribal community, as determined mutually by the Tribe and the CCSO).

2. Conduct foot patrols and ATV side-by-side patrols on Jamestown S'Klallam Tribalproperties and agreed upon portions of the Olympic Discovery Trail.

3. Monitor, note, report, and investigate suspicious persons and situations, safety hazards, and unusual or illegal activity within the patrolled areas in accordance with the CCSO Policyand Procedures Manual.

4. Coordinate and/ or conduct crime prevention trainings on a regular basis with various tribal community groups as well as tribal enterprise employees.

5. Serve as the Tribal Court Bailiff. (Typically, the third Thursday of each month.)

6. Transport Tribal Court defendants to and from the Clallam County jail or other authorized detention facilities, as needed.

7. Maintain close liaison between CCSO, the Chief of Jamestown S'Klallam Tribal Public Safety & Natural Resource Department, and Tribal citizens to identify and solve law enforcement, and public safety related issues.

CCSO Deputies not assigned as the tribal resource deputy will patrol the Tribe's propertiesregularly and provide back up for the tribal deputy as necessary.

3. MUTUAL AID

Upon the existence of, or in anticipation of a life-threatening event, the Tribe may provide, upon request of the CCSO, all available enforcement personnel, search and rescue personnel, and/or necessary equipment for cooperation with the CCSO through the duration of the event(s), to include available certified scuba divers, swift water/river rescue personnel, emergency medical technicians, or other specialized personnel in order to address an emergency circumstance, through the duration of the event(s).

Upon the existence of, or in anticipation of a life-threatening event, CCSO may provide, upon request of the Tribe, all available law enforcement personnel, search and rescue personnel, and/ornecessary equipment for cooperation with the Tribe through the duration of the event(s).

The Jamestown S'Klallam Tribal Public Safety & Natural Resource Officers may exercise general authority peace officer powers off reservation, trust and Tribal fee lands at the request ofCCSO Personnel. Situations such as officer back up or other requests for assistance where additional police presence in emergency situations is requested is essential for the safety of all law enforcement

personnel.

In addition to the other provisions of this Agreement, the Clallam County Sheriff hereby authorizes the Jamestown S'Klallam Tribal Public Safety & Natural Resource Officers who have been deputized by the Clallam County Sheriff to investigate, at their discretion, any state criminal violations of fish and game laws that occur in their presence while on duty and in their Usual and Accustomed Areas within Clallam County.

4. FEDERAL LAW UNAFFECTED

Federal jurisdiction under the Major Crimes Act, 18 U.S.C. § 1153 ("MCA"), the Indian Country Crimes Act, 18 U.S.C. § 1153 ("ICCA"), and any other applicable federal law will continue unaffected by this Agreement.

5. STATE CRIMINAL LAW ADOPTED AS TRIBAL LAW

Selected State criminal laws, including juvenile offenses, may apply as designated by separateTribal Council action in the form of amendments to the Tribal Code, which may be amended, from time-to-time, as appropriate, at the sole discretion of the Tribal Council.

6. CITATION INTO TRIBAL COURT

CCSO deputies, acting as tribal officers, will cite Indian offenders into Tribal Court for violations of the Tribe's criminal code, and cite non-Indian offenders into Tribal Court forviolations of the Tribe's civil infraction code, if appropriate.

7. ARRESTS AND BOOKING INTO COUNTY JAIL

CCSO officers shall use the same standards used under Washington State law in cases outside of JamestownIndian Country and Lands contexts for determining when arrest and detention in the County jail is appropriate for offenses against tribal law. Release from detention may be made only upon direction of the tribal prosecutor, or tribal court. The Tribe, as provided in a separate agreement with the County, shall reimburse jail expenses for Jamestown S'Klallam Tribe prisoners.

8. NOTICE TO THE JAMESTOWN S'KLALLAM TRIBE

Notice of all citations issued and arrests made by the CCSO pursuant to tribal law will be provided to the Tribal Prosecutor's Office as soon as practicable, but not later than the business day after the citation is issued, or arrest is made. The determination of whether to prosecute anygiven case shall be in the sole discretion of the Tribal Prosecutor.

9. CCSO ASSISTANCE IN INVESTIGATION AND PROSECUTION

CCSO shall assist the Jamestown S'Klallam Tribal Public Safety & Natural Resource Department and Prosecutor in the investigation of violations of tribal law, as well as the prosecution of offenses. This includes CCSO deputies appearing as witnesses at hearings,providing records related to arrests and

citations, and conducting investigations.

10. CASE REPORTS AND PUBLIC DISCLOSURE REQUESTS

Arrests and case reports will be processed using the CCSO case report forms and processed inthe multi-jurisdictional AEGIS criminal records database under the Tribe's assigned ORI.

Any law enforcement requests for the Tribe's records maintained by the CCSO will be handledby the CCSO.

11. JURISDICTIONAL DISCLAIMER AND SOVEREIGN IMMUNITY

Nothing in this Agreement grants the State, County, or the Tribe any jurisdiction that it did not have before the Agreement was signed. Rather, this Agreement simply authorizes the CCSO to enforce Tribal Law within Jamestown S'Klallam Indian Lands.

This Agreement does not authorize CCSO enforcement of the Tribal Fishing and Hunting Codes, except as already permitted prior to adoption of this Agreement.

The Tribe authorizes a limited waiver of sovereign immunity for the sole and limited purpose of enforcing the mutual indemnities in Section 38 of this Agreement. Venue for any action filed under this waiver of immunity shall be in the United States District Court, Western District of Washington, or if that Court lacks jurisdiction, then in the Jamestown S'Klallam Tribal Court.
Along with Section 38, the terms of Section 9 shall survive the termination or expiration of this Agreement. The limited waiver will be set out in a Tribal Council resolution and attached to this Agreement as Exhibit A.

12. COMPENSATION

Compensation for the services set out in this Agreement shall be provided for under the terms of a separate agreement between the County and the Tribe.

13. ADMINISTRATIVE CONSIDERATIONS

The parties shall comply with Chapter 10.92 RCW - Tribal Police Officers unless otherwise agreed upon.

14. PEACE OFFICER AUTHORITY

A Public Safety & Natural Resources Officer who is authorized hereunder shall be recognized and authorized to act as a general authority Washington peace officer pursuant to Chapter 10.92 RCW within the boundaries of the Tribe's lands, and other county areas as permitted by the CCSO. All of the activity of that officer shall be in accord with the laws of Jamestown S'Klallam Tribe, the State of Washington, and the United States of America.

To the extent that Jamestown S'Klallam Tribal Public Safety & Natural Resource Officers act with the cooperation or assistance of the CCSO, Tribal Public Safety Officers must follow therequirements of

the Washington State Constitution and the laws of the State of Washington.

15. DECERTIFICATION OF PEACE OFFICER AUTHORITY

The parties agree to notify all signatories and the Clallam County and Tribal prosecutor's offices by the next business day, in writing, should any of their officers become decertified.

16. BRADY NOTIFICATION

The parties shall provide, in a timely manner, Brady material, as required.

17. TRIBAL AUTHORITY

This Agreement shall not expand or limit the authority or jurisdiction of any city, county, state, federal or Tribal court or other government authority.

18. GEOGRAPHIC AUTHORITY

The authority granted herein shall be coextensive with the boundaries of the Tribe's trust, reservation and fee lands.

19. NO AGENCY OR EMPLOYEE STATUS

The authority granted herein shall not create an agency or employee status between the Tribe and Clallam County.

20. SOVEREIGNTY RETAINED

Except as articulated in Section 11 and 38 of this Agreement, nothing in this Agreement shall affect the existing status and sovereignty of either party.

21. STATE AND LOCAL ENFORCEMENT

Nothing in this Agreement limits, impairs or otherwise affects the authority of state or local law enforcement officers to enforce state law within the exterior boundaries of Indian lands in freshpursuit, as defined in Chapter 10.93.120 RCW.

22. RATIFICATION, DURATION, AMENDMENTS, RENEWAL OFAGREEMENT, WITHDRAWAL and ARBITRATION

This Agreement is in effect for four years from the date of ratification by the last party to the Agreement to ratify. The Agreement remains in effect regardless of leadership changes within the organizations of signing parties.

This Agreement is not deemed to be in force unless ratified by the appropriate legislative and/or governing bodies of each party.

If either party's legislative/governing body fails to ratify the Agreement within 30 days of initial

consideration, the parties agree to make an effort to work toward ratification for an additional 30 days to complete the Agreement.

It is recognized that special circumstances arise from time-to-time. Therefore, amendments to the Agreement can be accomplished at any time on consent and signature of all parties involved. Approved and signed amendments shall be attached to the original document.

An amendment in the form of a new signature page is required when leadership/signatory changes occur. It is the responsibility of the party who experiences the change to accomplish and distribute a new signature page as described in AGREEMENT DISTRIBUTION, below, within 30 days of the change. The amendment shall be attached to the original document.

The parties agree to meet prior to the expiration of the Agreement in order to reach a new Agreement. In the event that a new Agreement is not reached between the parties, the parties agree that in regard to Tribal Public Safety general authority peace officer status, to use binding last best offer arbitration under Chapter 7.04A RCW as provided in Chapter 10.92.020(10)(a) RCW.

Either party may terminate this Agreement for cause by providing written notice to the other party of the intent to terminate the Agreement. Unless the request to terminate is withdrawn, the Agreement will then terminate at midnight on the 30th day after written notice is given by one party to the other party. The parties agree to meet in an attempt to settle differences. If differences are not resolved after 60 days, the parties agree to submit the dispute to mandatory last best offer arbitration.

23. AGREEMENT DISTRIBUTION

The parties agree that current and signed copies of this Agreement and copies of any signed amendments to this Agreement will be retained by each party. Furthermore, the CCSO will send copies of the most current Agreement and amendments to the Office of Enterprise Services for the State of Washington and to the Washington Criminal Justice Training Commission as soon as possible after the signing of a new Agreement or amendments.

24. FIELD OPERATIONS

The parties may create separate documents providing for field operation protocols, 911 protocols, and fire operation protocols.

25. CERTIFICATION

The Tribe shall notify the CCSO when a Tribal Officer has been certified, or if prior certification has been revoked, pursuant to Chapter 10.92 RCW. The notification shall be in writing and shall be delivered to the CCSO within 10 days of certification.

Each party shall provide the Criminal Justice Training Commission with documentation for the fulfillment of the certification and revocation process.

The parties agree that the Sheriff may commission Jamestown S'Klallam Tribal Public Safety & Natural Resource Officers. In the event that the Sheriff does commission a Tribal Officer, the Tribe agrees to a limited waiver of sovereign immunity and to comply with the requirements for insurance pursuant to Section 38 of this Agreement.

Nothing in this Agreement requires a party to cross-deputize an officer.

A party may suspend or revoke the authority of any officer to exercise commissions granted bythe other party. A party shall notify the other party within 24 hours, in writing, of any suspension or revocation.

Upon the decertification of any officer, the parties shall notify each other and the County andTribal prosecuting attorneys in writing within 24 hours.

26. TRAINING

Any officer who is subject to this Agreement or otherwise cross-commissioned, shall meet the minimum standards for Washington State Peace Officer Certification. Both parties are responsible for on-going training of their respective personnel, as required.

27. RIGHT OF FIRST REFUSAL and RESPONSIBILITY

The parties agree that when life or property is in jeopardy, the closest officer(s) will respond. It will be the initial responding officer's responsibility to first protect life and property, then to establish the agency of jurisdiction. The agency of jurisdiction will be consulted, as safety allows, to determine who will conduct further law enforcement involvement.

Operations requiring a joint operation of agencies will be directed by the agency of jurisdictionunless otherwise agreed upon.

28. INVESTIGATIONS, WARRANTS and ARREST

Any investigation, warrant activity or arrest shall be in accordance with applicable Tribal, Stateor Federal law.

29. REFERRAL TO PROSECUTING AUTHORITY

For any matter which is going to be prosecuted in the Jamestown S'Klallam Tribal Court, theCCSO shall submit relevant paperwork to the Tribe's Prosecuting Attorney's Office for charging.

Whenever any matter is referred to the Tribe's Prosecuting Attorney's Office, the CCSO mustprovide necessary paperwork within the timelines required by the prosecuting attorney and applicable Tribal Court rules.

30. FOLLOW-UP INVESTIGATION

The parties shall conduct whatever follow-up investigation is needed and requested.

31. WARRANT SERVICE

The parties shall assist one another, when requested, in the execution of search warrants and arrest warrants properly issued by the appropriate jurisdiction. Execution of any warrant shall begoverned by applicable Tribal, State and Federal law.

32. SUBPOENA and DISCOVERY

All rules of discovery in a criminal case for the jurisdiction shall apply and personnel will besubject to subpoena or other court process.

33. PRE-TRIAL INTERVIEWS and MOTIONS

Personnel of the CCSO and the Tribe shall be available at reasonable times and upon reasonable notice for any pre-trialinterviews, depositions or motions.

34. JAIL

The CCSO will be responsible for all costs associated with non-Indians booked into the ClallamCounty Jail by Tribal Public Safety officers. Tribal Public Safety Officers will follow all booking procedures of the CCSO.

35. PROSECUTION and COURTS

Cases will be adjudicated through the appropriate court of jurisdiction. Cases prosecuted in Clallam County courts that emanate within the boundaries of the Tribe will be treated in thesame manner as other similar cases.

36. RESOLVING CITIZEN COMPLAINTS

The parties agree to each maintain a process that will accommodate citizen or other agency complaints regarding their personnel.

37. EXTRAORDINARY COSTS

The parties shall enter into a separate Local Agreement on Extraordinary Costs.

38. GOVERNING LAW, VENUE and LIMITED CONSENT TO SUIT

Venue for any action filed under the waiver of immunity shall be in the United States District Court, Western District of Washington, or if that Court lacks jurisdiction, then in the Jamestown S'Klallam Tribal Court, whereas this Agreement shall be governed by the laws of the State of Washington, as to interpretation and performance. Any action hereunder may be brought in the Superior Court of Washington for Clallam County.

Each entity will maintain insurance for coverage of any actions and liability arising out of activities taking place pursuant to this Agreement. The Tribe will provide proof that the County,its appointed and elected officials, agents and employees, are specifically named as additional insureds in a policy with the same company that insures the Tribe or by endorsement to an existing policy or with a separate carrier approved pursuant to RCW Title 48. The GeneralAggregate Limit shall be $6,000,000.00. The County is a self-insured entity.

Parties understand and agree that Clallam County is self-insured and a member of a liability pool which includes coverage for professional liability, among other categories of coverage, in adequate quantity to protect against legal liability arising out of contract activities. Clallam County shall provide evidence of its status as a self-insured entity meeting these requirements within fifteen (15) calendar days of the execution of this Agreement. Upon request by the Tribe, Clallam County must describe its financial condition and the self-insured / liability pool funding mechanism. The Tribe, or any other third party, need not be named as additional insureds under the self-insurance / liability pool coverage policies as said policies prohibit Clallam County from naming third parties as additional insureds. Clallam County shall give the Tribe thirty (30) calendar days' advance notice of any self-insurance or liability pool cancellation or non-renewal.

The Tribe and the County mutually agree to defend, indemnify and hold harmless the other party, its elected officials, officers, employees, and agents from and against any and all costs, claims, demands, judgments or awards of damages arising out of or in any way resulting from the negligent acts or omissions of the other party, its elected officials, officers or employees in performing this Agreement.

The Tribe will defend, indemnify and hold the County harmless in the event that a lawsuit is brought challenging the operation of one or more of the Tribal laws that the CCSO relied upon inproviding services under this Agreement.

The terms of Section 38 "Governing Law, Venue and Limited Consent to Suit" shall survive the termination or expiration of this Agreement.

39. SEVERABILITY

If any provision of this Agreement shall be held invalid, the remainder of this Agreement shallnot be affected thereby if such remainder would then continue to serve the purposes and objectives of both parties.

40. INTEGRATION

This Agreement, and any signed amendments, contains terms and conditions agreed upon by the parties. The parties agree that there are no other understandings, oral or otherwise, regarding the subject matter of this Agreement.

41. ADMINISTRATION and NOTICE

The Tribe and CCSO will each appoint a representative who will be responsible for the administration of this Agreement. Unless otherwise designated in writing, the Tribe contact person will be Chief of Public Safety & Natural Resources. The County contact person will beCCSO's Chief Criminal Deputy.

Any notice required or permitted to be given under this Agreement to a party shall be deemed sufficient if given in writing and sent by certified mail to the address stated below for each party,or to any other address to which the party may inform all other parties in writing with specific reference to this Agreement.

The Chief of Public Safety and Natural Resources for the Tribe shall provide copies of the Agreement and any amendment to the Office of Enterprise Services and the Criminal JusticeTraining Commission within 10 days after the Agreement has been ratified by each party.

IN WITNESS WHEREOF, the authorized representatives of the parties hereto, along with other concurring and reviewing parties, have hereunder set their hands, as of:

Dated this_____day_____, **2022**

JAMESTOWN S'KLALLAM INDIAN TRIBE

_____
W. Ron Allen
Tribal Chair/CEO

Approved as to form for the Tribe:

_____
Tim Rybka
Jamestown S'Klallam Tribe Prosecutor

CLALLAM COUNTY
BOARD OF COUNTY COMMISSIONERS

_____
Mark Ozias, Chair

_____
Randy Johnson

_____
Bill Peach

CLALLAM COUNTY SHERIFF'S OFFICE

ATTEST:

_____
W.L. Benedict
Sheriff

_____
Clerk of the Board

Approved as to form:

_____
Clallam County Prosecutor's Office

EXHIBIT A
TRIBAL COUNCIL RESOLUTION WITH LIMITED WAIVER OF SOVEREIGN IMMUNITY

JAMESTOWN S'KLALLAM TRIBE

1033 Old Blyn Highway, Sequim, WA 98382 360/683-1109 FAX 360/681-4643

RESOLUTION # 56-19

Interlocal Agreement with Clallam County Sheriff's Office

WHEREAS, the Jamestown S'Klallam Indian Tribe (herein after referred to as "the Tribe") was Federally acknowledged by the Secretary of the Interior of the United States of America on February 10, 1981; and

WHEREAS, the Jamestown S'Klallam Tribal Council ("Council") is the governing body of the Tribe, in accordance with its Constitution adopted on November 19, 1983, pursuant to the provisions of Part 81 of Title 25 of the Code of Federal Regulations, as such Constitution is amended from time-to-time; and

WHEREAS, the health, safety, welfare, education, and regulation of treaty fishing, hunting, and gathering practices of the Indian people of the Tribe is the responsibility of the Council; and

WHEREAS, the Tribe entered into an agreement with Clallam County and the Clallam County Sheriff's Office ("CCSO") in 2010 for the provision of general law enforcement services to the Tribe on its trust and reservation lands; and

WHEREAS, the Tribe and the CCSO now desire to enter into an updated agreement for the provision of those general law enforcement services to the Tribe on its trust and reservation lands; now

THEREFORE, BE IT RESOLVED, the Council hereby approves for signature the "Interlocal Agreement Jamestown S'Klallam Tribe and The Clallam County Sheriff's Office," substantially as set out in Exhibit A to this resolution and hereafter referred to as the "Agreement"; and

BE IT FURTHER RESOLVED, that the Council hereby directs the CEO to execute the Agreement and forward it to Clallam County and the CCSO for their signatures; and

BE IT FURTHER RESOLVED, that the Council, pursuant to the provisions of Title 22 – Limited Waivers of the Tribal Code, does hereby grant a limited waiver for enforcement of the Agreement by Clallam County and the CCSO, substantially as set forth in Exhibit B to this resolution; and

BE IT FINALLY RESOLVED, that the Council directs the Tribe's Public Safety & Natural Resources staff to take the necessary steps to implement the Agreement, on behalf of the Tribe, after it is fully executed by all parties.

W. Ron Allen, Chairman

Certification

I, Lisa M. Barrell, Secretary of the Tribal Council of the Jamestown S'Klallam Tribe, do hereby certify that the resolution was adopted on October 31, 2019, with a quorum approving the resolution by a vote of 4 FOR and 0 AGAINST with 0 ABSTAINING.

Lisa M. Barrell, Tribal Council Secretary

EXHIBIT A

Interlocal Agreement
Jamestown S'Klallam Tribe and
The Clallam County Sheriff's Office

EXHIBIT B

Limited Waiver of Sovereign Immunity

Nothing in the Agreement between the Jamestown S'Klallam Tribe ("Tribe") and Clallam County and the Clallam County Sheriff's Office, that is the subject of the resolution to which this Exhibit B is attached and made a part of, is or shall be deemed to be an implied waiver of the Tribe's sovereign immunity from suit, which immunity is expressly asserted. Notwithstanding the foregoing, the Tribe, regarding the Agreement, hereby expressly waives its sovereign immunity pursuant to the provisions of Title 22 – Limited Waivers of the Tribal Code, on a limited basis, and consents to be sued in the United States District Court for the Western District of Washington, but if said United States District Court finds that it is without or otherwise declines to exercise jurisdiction or the parties agree that said United States District Court is without jurisdiction, then in a Washington State Superior Court for Clallam County.

AGENDA ITEM SUMMARY

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

3
2/22/22

Department: Sheriff

WORK SESSION ☒ **Meeting Date: 02/22/22**

REGULAR AGENDA ☒ **Meeting Date: 03/01/22**

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

Item summary:

☐ Call for Hearing
☒ Contract/Agreement/MOU - Contract # 11003-22-01
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☐ Other

Documents exempt from public disclosure attached: ☐

Executive summary:
Renewal of the Federal Financial Assistance Grant, via the Washington State Parks and Recreation Commission, to help fund activities performed by the Sheriff's Office Marine Unit for recreation boating enforcement and education in Clallam County.

Budgetary impact:
There is a reduction in revenue since the award amount is lower than expected. If no future award is received in FY2022 a budget change will be submitted to the Board to reduce the revenue amount.

Recommended action:
Recommend approval and signature by the Board.

County Official signature & print name: W.L. Benedict W.L. Benedict, Sheriff

Name of Employee/Stakeholder attending meeting: Sheriff Benedict, Chief Deputy King

Relevant Departments: Sheriff's Office

Date submitted: 02/16/22

#11003-22-01

WASHINGTON STATE PARKS AND RECREATION COMMISSION
SUBRECIPIENT GRANT AGREEMENT
FEDERAL FINANCIAL ASSISTANCE GRANT

Agreement No. MLE 123-144

This Agreement is between the State of Washington, Washington State Parks and Recreation Commission (WSPRC) acting by and through its Marine Law Enforcement Program ("MLE or "Recipient") and **Clallam County Sheriff's Office** ("Subrecipient"), each a "Party" and, together, the "Parties".

SECTION 1: AUTHORITY

Per 2 Code of Federal Regulations 200 (2CFR200), WSPRC has determined this to be a "Subrecipient" relationship under 2 CFR 200.330. This subrecipient agreement is authorized by 2 CFR 200 and 50 CFR 80. MLE is authorized to provide grants for recreational boating enforcement and education activities and has sufficient grant funds available within its current biennial budget and has authorized expenditure on the Subrecipient's Project as defined below, and the Subrecipient agrees to comply with 2 CFR 200, MLE rules and other MLE adopted policies and procedures, and this Subrecipient Grant Agreement.

SECTION 2: PURPOSE

The purpose of this Agreement is to set forth the obligations of both Parties in the awarding of funds for recreational boating enforcement and education and to set forth the deliverables under the Federal Financial Assistance Grant, hereinafter called the "Project."

SECTION 3: COURTESY INFORMATION & REMINDER

Very important information is located throughout this document. The onus is on the Subrecipient to read the entire document which may include Attachments, Exhibits, or other information incorporated by reference.

Experience has shown that the following information seems to have the most interest for the Subrecipient. As such, MLE is providing this nonexclusive list but cautions that other important information does not appear in the Courtesy List.

- **Term**: See *Section 5.1 – Term*
- **Project Completion**: See *Section 5.2 – Project Completion*
- **Subrecipient's Authorized Representative**: *See Section 6.2 – Subrecipient's Authorized Representative.*
- **Project completion date**: See *Section 7.1.1 – Project Timeline*
- **Reimbursement Total:** See *Section 8.3.c [not titled].*
- **Grant Funds:** See *Section 9.2 – Grant Funds.*
- **Accident Report:** See *Section 12.7 – Accident Report*
- **Information required for Federal Subawards *(2 CFR §200.331(A) (1))*:** See *Exhibit B*
- **Subrecipient's Completed FFA Grant Application:** See *Attachment A.*
- **Subrecipient's Completed Budget Form:** See *Attachment B.*

SECTION 4: DEFINITIONS

4.1 Attachment: A document provided by the Subrecipient (application, budget plan, etc.) that is also made part of this agreement and incorporated by reference. See also Exhibit.

4.2 MLE: The federally funded Marine Law Enforcement Program administered by Washington State Parks and Recreation Commission (WSPRC). For purposes of this agreement MLE represents the State of Washington. If MLE ceases to exist or is no longer the state program designated to administer this federal program, then references to MLE will be understood to be the State of Washington.

4.3 Equipment. Equipment means tangible personal property having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or $5,000.

4.4 Exhibit: A document provided by the MLE Program that is also a part of this agreement and incorporated by reference. See also Attachment.

4.5 RBS Officer: Recreational Boating Safety Officer is a fully commissioned law enforcement officer in Washington State and has the authority to enforce the laws of the state of Washington and local ordinances. The RBS Officer must have attended the Washington state Basic Marine Law Enforcement Academy or an equivalent recognized by MLE.

4.6 Boating Safety Inspection: A full inspection for all safety equipment, vessel registration when required and mandatory boater education compliance when required. The results of the inspection shall be documented through Washington states Statewide Electronic Collision and Ticket Online Records (SECTOR). This may be done at the time of the inspection or when SECTOR is available to the RBS Officer.

4.7 Law Enforcement Vessel: A vessel used by a law enforcement agency and shall be equipped with proper markings showing it to be an official law enforcement vessel.

4.8 Recreational Vessel: Defined in federal regulation 50 CFR 85.11 as a vessel owned and operated primarily for pleasure; or a vessel leased, rented, or chartered to another for recreational use.

4.9 Subrecipient: 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. In this agreement, the subrecipient is the successful applicant with whom Washington MLE awards a Federal Financial Assistance Grant (See 2 CFR 200.93).

4.10 Subrecipient Grant Agreement: Also known as a subaward. Defined in federal regulation as "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 (See 2 CFR 200.92).

4.11 Small agency: An agency which services a jurisdiction with a population below 30,000 people as determined by the latest U.S. Census.

4.12 Medium agency: An agency which services a jurisdiction with a population of 30,000 or more and below 100,000 people as determined by the latest U.S. Census.

4.13 Large agency: An agency which services a jurisdiction of over 100,000 people as determined by the latest U.S. Census.

4.14 Boating Safety Program approval: means that the county or local jurisdiction has entered into an agreement with state parks to develop and maintain a boating safety program meeting minimum requirements established by state parks.

SECTION 5: EFFECTIVE DATE AND DURATION

5.1 Term. This Agreement is effective on the date of the last signature and terminates on **September 30, 2022**, or the date of final payment issuance, whichever is later, unless terminated earlier in accordance with *Section 22 - Termination*. See also, *Section 12.3 Useful Life.*

5.2 Project Completion. Final billing for the Project shall be submitted to MLE on or before **October 15, 2022**. Unless approved in writing, MLE shall not be obligated to disburse any payments after this date.

5.3 Closeout. (See 2 CFR § 200.343) MLE will closeout this award under this Agreement when it determines that all applicable administrative actions and all required work of this Agreement have been completed by the Subrecipient.

SECTION 6: AUTHORIZED REPRESENTATIVES

6.1 WSPRC MLE Program Authorized Representative is:

Matthew M. Stowers, Marine Law Enforcement Coordinator
Washington State Parks - Boating Program
1111 Israel Road SW
Tumwater, WA 98501-6512
Matt.Stowers@parks.wa.gov

Backup:
Rob Sendak, Boating Program Manager
Washington State Parks - Boating Program
1111 Israel Road SW
Tumwater, WA 98501-6512
Rob.Sendak@PARKS.WA.GOV

6.2 Subrecipient's Authorized Representative is:

Sheriff Bill Benedict
Clallam County Sheriff's Office
223 E 4th Street Ste 12
Port Angeles, WA 98362-3000
bbenedict@co.clallam.wa.us
(360) 460-6897

6.3 A Party may designate a new Authorized Representative by written notice to the other Party.

SECTION 7: RESPONSIBILITIES OF EACH PARTY

7.1 Responsibilities of Subrecipient:

This project itself is the sole responsibility of Subrecipient. MLE undertakes no responsibilities to Subrecipient, or to any third party, other than as expressly set out in this document. Subrecipient shall be solely responsible for the design, development, implementation, achievement of deliverables and reporting of the project, as those phases are applicable to this project, and solely responsible for any claim or suit of any nature by any third party related in any way to the project.

7.1.1 Project Timeline. The Subrecipient is responsible for maintaining the project timeline for all dates and activities outlined as the Subrecipient's responsibility as identified in the Subrecipient's FFA Grant Application Attachment "A".

The Subrecipient shall complete the approved project no later than **September 30, 2022** as a term of the acceptance of this grant award. The project timeline cannot be extended under the scope of this agreement.

MLE staff shall monitor the activities conducted under the scope of this project on a quarterly basis. Work will be considered complete, only when the following conditions are met:

- The activities described in the Scope of Work and this grant document have been achieved.
- All request for reimbursements have been submitted.
- All reporting through the MLE Statement of Activity Reporting system (SOAR) and SECTOR have been completed
- Appropriate proof of completion has been provided to MLE

If the work is not satisfactorily completed, Subrecipient will be in breach and MLE may, at its discretion, rescind the grant and require repayment of any grant funds already disbursed.

7.1.2 Design Preparation. The Subrecipient shall design a project that will have a reasonably likelihood of positively impacting the reduction of boating accidents, boating injuries, and boating fatalities. Such design shall include applicable items on the Checklist for Plans and Specifications as provided in the Subrecipient's MLE Grant Application (Attachment "A").

7.1.3 Purchase. The Subrecipient shall make no purchases in excess of $2,500.00 without prior written authorization by MLE. All purchases must be in the furtherance of recreational boating safety and must adhere to the guidelines set out in the in the Allowable Costs and Expenditures for State Vessel Registration Fees and Federal Assistance Grants manual. (Attachment "C").

7.1.4 Periodic Inspections. Subrecipient hereby grants to the Recipient, or its authorized representative, a right, equal in time to six years from the date of the last signature on this document, to enter upon Subrecipient's property as deemed necessary by the Recipient for inspection documents and any equipment. These periodic inspections are intended to ensure continued compliant use of the awarded funds toward recreational boating safety enforcement and education. materials, products, and workmanship to the original approved plans and specifications. These inspections require a 30-day advance notification to the Subrecipient of such inspection or access.

7.1.5 Commercial and Other Uses.

a. For purposes of this *Section 7 – Responsibilities of Each Party*, Commercial Use means any activity on or affecting the Project that was not described in the Subrecipient's proposal, or not approved in writing by MLE, where the Subrecipient:
   1. has financial profit as a goal,
   2. charges any fees or receives any benefit to provide services, supplies or goods, or
   3. allows third parties to charge any fees or receive any benefit to provide services, supplies or goods.

b. Subrecipient must restrict use of the Project funds to only recreational boats boating safety enforcement and education.

7.1.6 Publications & Advertising. The Subrecipient shall include the following statement if publishing any report, news release or publication regarding this project: *"Partial funding was through the Washington State Parks and Recreation Commission Marine Law Enforcement Program, and in cooperation with U.S. Recreational Boating Safety Act."*

7.1.7 Project Sign. The Subrecipient may post in a conspicuous location on the vessel, a sign identifying WSPRC, may, Federal Agency's and specific federal grant program's participation in the Project.

The Subrecipient shall include the following statement if publishing any report, news release or publication regarding this project: *"Partial funding for this project was provided by the Washington State Parks Marine Law Enforcement Program. This program is funded by the U.S. C.G. through the Sport Fish Restoration and Boating Trust Fund, which*

is financed by your purchase of motorboat fuels and fishing equipment."

7.1.8 Public Access to Project. During the term of this Agreement the Subrecipient shall allow open and unencumbered public access to the Project to all persons without regard to race, color, religious or political beliefs, sex, national origin, or place of primary residence.

7.1.9 Payments. Subrecipient agrees to:

a. Make payment promptly as due to all contractors, subcontractors, vendors or any other persons supplying labor or materials for the Project;
b. All employers, including Subrecipient that employ subject workers shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for exemption. Subrecipient shall require and ensure that each of its subcontractors complies with these requirements (unless inapplicable as a matter of federal law); and
c. Not permit any lien or claim to be filed or prosecuted against WSPRC, due to any construction or maintenance activities at the Project.

7.1.10 Alternative Dispute Resolution. The Parties should attempt in good faith to resolve any dispute arising out of this agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

7.1.11 Indemnification by Subrecipient's Contractors. For purposes of this Section *7.1.11 – Indemnification by Subrecipient's Contractors* the term "contractor" means actors downstream of the Subrecipient whether it be a contractor, a subcontractor, or downstream subrecipient of the Subrecipient. The Subrecipient shall take all reasonable steps to cause its contractor(s) to indemnify, defend, save and hold harmless the State of Washington and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Subrecipient's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the Parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all claims.

7.2 Responsibility of Marine Law Enforcement Program (MLE):

7.2.1 MLE shall pay Subrecipient as described in *Sections 8 – Conditions to Disbursement* and *Section 9 – Reimbursement and Payment Terms.*

SECTION 8: CONDITIONS TO DISBURSEMENT

8.1 Eligible project expenses include only those items from the list below that are in your approved project budget:

8.1.1 Grant funds may be used only for activities under WAC 352-65-040, the ten elements necessary to accomplish the Recreational Boating Safety (RBS) mission.

8.1.2 RBS salaries to include time, salaries, benefits and wages for officers or deputies who possess a Washington State Peace Officers Certification, are fully commissioned to enforce the laws of Washington state and who have completed an RBS courses acceptable to State Parks (BMLE or equal).

8.1.3 Time, salaries, benefits and wages for officers or deputies who possess a Washington State Peace Officers Certification, are fully commissioned to enforce the laws of Washington state, and who have not completed a BMLE course is acceptable **ONLY** when working with an RBS trained officer **AND** when the agency has a written "two-officer policy for officers on marine patrol for the purpose of officer safety.

8.1.4 Providing instructors for the *Adventures in Boating* course that qualifies graduates for the required mandatory boater education card. Cost may include classroom supplies, light refreshments, other goods and services necessary to promote and teach classes, and officer salaries, benefits and wages. Officer salaries will only be reimbursed for those officers who have successfully completed State Parks *Adventures in Boating Instructor* Training Class and are listed on our files.

8.1.5 RBS training as outlined in the Allowable Costs and Expenditures for State Vessel Registration Fees and Federal Assistance Grants (Attachment "C")

8.1.6 RBS Equipment as outlined in the Allowable Costs and Expenditures for State Vessel Registration Fees and Federal Assistance Grants (Attachment "C"). Any equipment expenditures over two thousand two hundred and fifty dollars ($2,250.00) must receive authorization from state parks prior to purchase.

8.1.7 Educational publications which promote RBS education that are already prepared or the creation, design and printing of publications

8.1.8 Promotion of Adventures in Boating classes, including presentation materials, light refreshments and room rental for classes.

8.1.9 Other items as deemed by MLE to be necessary to complete the project

8.1.10 Support of the Basic Marine Law Enforcement Academy by agencies who provided MLE recognized instructors

8.2 Non-Allowable Costs and Expenditures.

8.2.1 Bullet proof vests are beneficial, however, equipment of this nature is not essential for meeting the established criteria in WAC 352-65-040 nor is it related to the performance of the RBS program mission and is considered a local agency responsibility to purchase.

8.2.2 Equipment used in recover operations (dive equipment, etc.) while being used in an RBS search or investigation mode are 100% eligible. Once this equipment is used for recovery operations it must be prorated between RBS missions and recovery missions.

8.2.3 Handheld or portable night vision, FLIR or thermal imaging devices are a 100% allowable expense while in RBS patrol, search or investigation mode. Once this equipment is used for recovery operations it must be prorated. Permanently mounted and electrically wired FLIR and thermal imaging devices are 100% allowable expenses.

8.2.4 Homeland Security missions (weapons, etc.), or any other equipment determined as unrelated by the boating program is not an allowable expense.

8.2.5 Firefighting equipment is not an allowable expense.

8.2.6 Any equipment or vehicles not 100% dedicated to the RBS mission must be prorated, documenting the amount of time the equipment or vehicle was dedicated to the program.

8.2.7 Operating costs for law enforcement vessels boats (staff, fuel, fluids, repairs, maintenance) or operating costs for boats used to service floating restrooms (staff, fuel, fluids)

8.2.8 Documented staff or contract labor associated with routine custodial and non-routine maintenance and repairs, the cost of that person operating or maintaining the system.

8.2.9 Other items as deemed by MLE to be necessary to complete the project

8.3 Conditions Precedent to Any Reimbursement. MLE shall not be obligated to disburse any of the grant funds to reimburse the Subrecipient for Project costs hereunder unless MLE has received from the Subrecipient:

a. Prior to Project plans, specifications, and cost estimate(s), statement of work, request for proposal or other documentation for the Project, documents must be in form and substance satisfactory to MLE;

b. Reimbursement Requests must be submitted on the approved MLE Grant Reimbursement form along with all supporting documentation. Reimbursements shall be prorated between the Parties based on the percentage of their respective cash or in-kind contributions as set forth in *Section 7 – Responsibilities of Each Party* and *Section 9 – Reimbursement and Payment Terms*.

Supporting documents must:

- Be numbered in the upper right corner and correspond to the "Document #" column on your Reimbursement Request Form
- Be dated. The date of the invoice must be within the period of performance of this award
- Have Subrecipient's business name clearly identified
- Clearly identify the cost and the amount paid & show zero-balance due

If a receipt, invoice, or statement includes expenses not related to the MLE project, those costs must be highlighted and noted as "ineligible costs".

c. MLE will reimburse Subrecipient for eligible activities only after MLE has accepted the work as complete–expenditure as an allowable cost and all proper documents have been submitted with the reimbursement request. Reimbursement requests must be submitted on a quarter basis and during the quarter that the expenditure has taken place. Reimbursement from MLE shall not exceed fifty percent (50%) of the total project cost from eligible grant expenses. Total reimbursement under this grant agreement shall not exceed the award amount of **$12,526.80.**

d. MLE will reimburse Subrecipient up to an additional $5,000.00 who supply a recognized BMLE instructor for 80 hours. For instructor services less than 80 hours, a sum of $500.00 per day will be awarded. The additional award is available for use commencing on June 1, 2022.

e. The Subrecipient may not exceed the approved budget which was proposed by the Subrecipient as part of the Subrecipient's Subrecipient Grant Application that was accepted by MLE. The Subrecipient's budget is attached to this agreement (Attachment "B"). If the Subrecipient would like to change the allocations of funds to the original budget, a budget amendment request must be sent in writing via email to MLE in advance of the expense being incurred.

f. If a boat, a vehicle, or equipment is used partially for other purposes, costs must be pro-rated for that portion of their use that is for Recreational Boating Safety Act purposes.

8.4 Conditions Precedent to Partial Progress Payment(s). MLE shall not be obligated to make partial progress reimbursement payment(s) hereunder until the appropriate supporting documentation and reimbursement form has been submitted no less than on a quarterly basis of the percentage of Project completion has have been received, reviewed and approved by MLE. In no event shall MLE disburse more than fifty percent (50%) of the amount indicated in *Section 9.2 – Grant Funds* as progress payments.

8.5 Conditions Precedent to Final Payment. MLE shall not be obligated to make final payment hereunder until the following have been completed or supplied:

a. Supporting documentation in form and content determined by MLE, has been received reviewed and approved by MLE; and

b. Subrecipient provides summary of work achieved pursuant to the SOW as provided with the grant application to MLE with funding the Project; and

c. Inspection and approval of the Project by MLE Program staff.

SECTION 9: REIMBURSEMENT AND PAYMENT TERMS

9.1 Federal Fund Approval. MLE has received a grant from the United States Department of Homeland Security, United States Coast Guard as described pursuant to 2 CFR 200.331 on Exhibit B. In accordance with 2 CFR 200.330, MLE's determination is that the other party to this contract is a subrecipient and is therefore a subrecipient of federal funds.

9.2 Grant Funds. Upon approval by its governing body or bodies, MLE shall provide federal grant funds in the amount of **$12,526.80** to the Subrecipient to fund the Project.

9.3 Match. The Subrecipient shall contribute at least twenty-five (25%)of the total project cost as cost sharing or non-federal match as described in the approved project budget. Such cost sharing or match may be provided as cash costs or in-kind services provided such services are reasonable and necessary for grant purposes. Vessel Registration Fees cannot be used as match. These are non-reimbursable items. Allowability of any cost sharing or match shall be determined in accordance with 50 CFR Part 85; and 2 CFR Part 200 as applicable and as adopted in regulation by 2 CFR 1402.100.

The Subrecipient shall maintain records that adequately document the valuation of non-

federal match/in-kind services in accordance with 50 CFR Part 85; and 2 CFR Part 200 as applicable and as adopted in regulation by 2 CFR 1402.100. The Subrecipient shall submit a summary of the valuation to MLE. Further instruction on adequate valuation of match expenses can be provided by contacting the Marine Law Enforcement Coordinator or the Program Manager.

9.3.1 Matching Cash Funds. The Subrecipient shall contribute the total sum of **$3,131.70** in cash or in-kind match. It is understood that match cannot be from another federal source and are non-reimbursable costs. In addition, **Vessel Registration Fee funds cannot be used as match**; however, in-kind match as reported in the VRF Expenditure Report can.

9.3.2 Matching Non-cash Resources. Non-cash resources, in-kind; match is allowable under the FFA grant. Any expenditure the subrecipient incurs in support of their recreational boating safety program can be used as non-cash match.

9.4 Allowable Costs. All costs charged by the Subrecipient must be eligible, necessary, and reasonable for performing the tasks outlined in the approved project work plan. The costs, including match, must be incurred during the period of performance of the project and submitted for reimbursement during the quarter which the costs are incurred. The costs also must be allowable and well documented, in conformance with specific federal requirements (50 CFR Part 85; and 2 CFR Part 200 as applicable and as adopted in regulation by 2 CFR 1402.100.

9.5 Payments. After the Subrecipient awards the contract for the Project, and activities commence, MLE shall, upon receipt of the Subrecipient's request for reimbursement and appropriate documentation all in form and substance satisfactory to MLE, disburse funds to the Subrecipient in accordance with *Section 8 - Conditions to Disbursement.*

Subrecipient may request reimbursements no less than on a quarterly basis and during the quarter for which the expenditures have been incurred for project expenses. Reimbursement shall take place after Subrecipient submits a properly completed Reimbursement Request Form (provided by MLE), along with required supporting documentation. Requests shall only be allowed when requested on the proper forms provided by MLE, reference this agreement number and accompanied with appropriate supporting documentation.

Subrecipient shall be reimbursed for the actual project costs incurred, up to the total reimbursement amount defined above as long as grant funds remain available. Accounting procedures must provide for accurate and timely recording of receipt of funds by source, expenditures made from such funds, and of unexpended balances. Controls must be established which are adequate to ensure that expenditures are for allowable purposes and that documentation is readily available to verify that such charges are accurate. The burden of proof lies with the subrecipient to provide clear information as to the expense and form of payment.

9.6 Cost Overruns. Cost overruns are the responsibility of Subrecipient and must be borne by Subrecipient.

9.7 Overpayment. In the event that the aggregate amount of MLE's interim progress payments to the Subrecipient exceeds the allowable reimbursable costs of the Subrecipient for the Project, the Subrecipient agrees to refund to MLE the amount paid in excess of such allowable expenses within thirty (30) days of **September 30, 2022**.

9.8 Offset or Reduction. The Subrecipient agrees that payment(s) made by MLE under this Agreement shall be subject to offset or reduction for any amounts previously paid hereunder that are found by MLE not to constitute allowable costs under this Agreement based on the results of an audit examination. If such disallowed amount exceeds the payment(s), the Subrecipient shall pay MLE the amount of such excess within 30 days after written notice of disallowed costs is provided by MLE.

9.8.1 Entertainment Costs. In accordance with 2 CFR 200, the cost of amusement, diversion, social activities, ceremonials, and costs relating thereto, such as meals, lodging, rentals, transportation, gratuities and alcoholic beverages are not allowable expenses.

9.8.2 Prior Costs. MLE will not reimburse Subrecipient for any costs incurred prior to the effective date of this agreement **October 1, 2021**.

SECTION 10: REPRESENTATIONS AND WARRANTIES

Subrecipient represents and warrants to MLE that:

10.1 Subrecipient is a law enforcement agency, duly organized and validly existing. Subrecipient has the power and authority to enter into and perform this Agreement.

10.2 The making and performance by Subrecipient of this Agreement (a) have been duly authorized by Subrecipient, (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Subrecipient's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Subrecipient is party or by which Subrecipient may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Subrecipient of this Agreement, other than those that have already been obtained.

10.3 This Agreement has been duly executed and delivered by Subrecipient and constitutes a legal, valid and binding obligation of Subrecipient enforceable in accordance with its terms.

10.4 Subrecipient has the skill and knowledge possessed by well-informed members of the industry, trade or profession most closely involved in providing the services under this Agreement, and Subrecipient will apply that skill and knowledge with care and diligence to perform its obligations under this Agreement in a professional manner and in accordance with the highest standards prevalent in the related industry, trade or profession; and

10.5 Subrecipient shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement. The representations and warranties set forth in this *Section 10- Representation and Warranties* are in addition to, and not in lieu of, any other representations or warranties provided by Subrecipient.

SECTION 11: GOVERNING LAW AND CONSENT TO JURISDICTION

This Agreement shall be governed by and construed in accordance with the laws of the State of Washington without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between MLE or any other agency or department of the State of Washington, or both, and Subrecipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Superior Court for Thurston County, State of Washington; provided, however, if a Claim MUST be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the Western District of Washington. In no event shall this *Section 11 – Governing Law and Consent to Jurisdiction* be construed as a waiver by the State of Washington of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or from the jurisdiction of any court. SUBRECIPIENT, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

SECTION 12: EQUIPMENT: OWNERSHIP, MAINTENANCE, USEFUL LIFE & DISPOSAL

12.1 Ownership Of Equipment. Except as otherwise provided herein, Subrecipient shall retain ownership of equipment purchased pursuant to the terms of the grant. Subrecipient may not, during the term of the grant, transfer or convey its ownership interest in the equipment. Subrecipient shall not at any time during the term of the grant convert any facility equipment which was acquired pursuant to the grant to a use other than those for which the assistance was originally approved.

Equipment purchased with Recreational Boating Safety Act funds shall be used only for the purpose for which it was purchased and no other purpose, whether or not the Subrecipient continues to be supported by Recreational Boating Safety Act grant funds.

Observed/reported incidents of unauthorized use of MLE equipment shall be addressed by the following:

1) Any observed/reported incident of unauthorized use of MLE funded vessels will be followed-up by MLE communication with the Subrecipient. MLE may conduct site visits or contact area boaters for supplemental information as necessary.
2) In those instances where the MLE determines that an unauthorized use of a MLE funded vessel has occurred, the MLE will provide written notification to the operator of its determination with a warning that continued misuse or abuse of MLE-funded vessels and equipment may result in:
   a) the removal of misused equipment from the facility; and/or
   b) an assessment against the operator for reimbursement of the federal contribution against the current market value of the vessel.

12.2 Title. Title to equipment purchased under this Agreement shall vest in the Subrecipient. If the Subrecipient determines that it cannot use the equipment for the stated grant purposes at any point prior to the end of the equipment's useful life, but after the end of this award period and any extensions thereof, the Subrecipient shall inform MLE in writing within 30 days of such determination. Such equipment shall be transferred by the Subrecipient to a third party approved by MLE for use for grant purposes in accordance with applicable provisions of state and federal law. Should the equipment not be transferred to another state parks RBS approved

law enforcement agency in accordance with this provision, the equipment shall either be returned to MLE for use for grant purposes, or it shall be disposed in accordance with 50 CFR Part 85; and 2 CFR Part 200.

12.3 Useful Life. Beyond the acquisition grant period of performance and throughout the duration of the equipment's useful life, the equipment must continue to be used in the program or project for which it was acquired, as Recreational Boating Safety Act Program. When no longer needed for the original program or project, equipment may be used in other activities in the following order of priority:

a. Activities supported under a Federal award from the Federal awarding agency which funded the original program or project; then
b. Activities under Federal awards from other Federal awarding agencies; then
c. Any activities consistent with the administration of the Washington State Parks and Recreation Commission.

12.4 Special Survivorship Note: Ownership is not absolute. Regardless of agreement's expiration, anything tangible, intangible, or intellectual property that was purchased or created from federal funds or funded with federal funds maintains federal and state MLE entanglements, requirements, or conditions (conditional ownership) unless/until released by the MLE or federal government in writing. While other conditions may apply, typically a release would occur upon the MLE or federal government being completely satisfied that the item in question has reached the end of its useful life which is usually a dollar value. Determination of value is solely at the discretion of the MLE or federal government. Should professional appraisal services be needed to determine value, these costs shall be borne by the Subrecipient. Selection of an appraisal services firm is subject to the written approval of the MLE or federal government.

12.5 Use and Maintenance. The Subrecipient shall operate and maintain the equipment, purchased, constructed, installed, renovated, operated, repaired, or maintained with MLE grant funds to function as intended for the full period of their useful life and in a manner that provides adequate service, promotes use, and protects public health. Such conditions include:

12.5.1 Subrecipient shall operate and maintain grant funded equipment in accordance with all applicable Federal, State and local laws, orders, regulations and permits.

12.5.2 Operation shall include having trained personnel available to facilitate operation of the equipment and a schedule for maintenance.

12.5.3 Law Enforcement vessels shall be operated by trained personnel with a valid State of Washington Boater Education Card or equivalent and be a graduate of state parks Basic Marine Law Enforcement Academy or equivalent.

12.5.4 Law Enforcement vessels shall be equipped with all federally required safety equipment and provide and ensure appropriate personal flotation devices are worn at all times when on the vessel or dock.

12.5.5 All law enforcement vessels shall have a routine schedule for maintenance.

12.5.6 As a condition of receiving the grant funds, Subrecipient shall actively maintain the vessel for

the **full design life** of the equipment provided from this grant.

12.5.7 Subrecipient shall be responsible for all operation, maintenance, and repair of all vessels and equipment provided from this grant.

12.6 Equipment Replacement.

When original or replacement equipment acquired under this award is no longer needed or the Subrecipient is no longer able to support the RBS mission and the disposition occurs during the grant period, disposition of the equipment shall be made as follows:

- The equipment may be transferred at no cost to another law enforcement agency with a state parks approved marine law enforcement program (e.g., city or county law enforcement agency) if such equipment will remain in use and be dedicated to the MLE program. The conditions for such transfer shall be stipulated by the MLE and shall include the same requirements as those imposed in the original grant. Any cash or in-kind match paid when the equipment was originally purchased will be forfeited in total.
- If the equipment cannot be transferred to another law enforcement agency with a state approved marine law enforcement program, it must be sold at the discretion of the MLE, and the Subrecipient shall pay MLE the proceeds of the sale or the fair market value of the equipment, whichever is the greatest.

12.6.1 Equipment Breakdown

In the event an equipment breakdown occurs during the grant period, Subrecipient shall notify MLE within ten (10) working days of breakdown. The equipment must be repaired and fully operational within thirty (30) working days after the breakdown where the breakdown can be remedied with normal expected repairs for one thousand dollars ($1000) or less. For repairs greater than one thousand dollars ($1000) the equipment must be fully operational within sixty (60) days after the breakdown. A written report for all breakdowns must be submitted via email to MLE within two (2) weeks of the breakdown describing the problem(s), repair(s), and the cost(s).

A failure to notify MLE of an equipment breakdown and plan for repairs may result in the withholding of grant funds.

12.7 Accident Report

Subrecipients or Subrecipient's staff involved in an accident must remain at the scene and assist any other vessel or person involved, if possible, without endangering their safety, their own vessel or the people aboard.

SECTION 13: OWNERSHIP OF WORK PRODUCT

13.1 As used in this Section 13 – Ownership of Work Product and elsewhere in this Agreement, the following terms have the meanings set forth below:

13.1.1 Project Ownership. MLE acknowledges and agrees that the Project is the exclusive property of the Subrecipient. MLE is neither responsible nor liable in any manner for the construction, operation or maintenance of the Project.

13.1.2 Special Survivorship Note: Ownership is not absolute. Regardless of agreement's expiration, anything tangible, intangible, or intellectual property that was purchased or created from federal funds or funded with federal funds maintains federal and state MLE entanglements, requirements, or conditions (conditional ownership), unless/until released by MLE or federal government in writing. While other conditions may apply, typically a release would occur upon the MLE or federal government being completely satisfied that the item in question has reached the end of its useful life which is usually a dollar value. Determination of value is solely at the discretion of the MLE or federal government. Should professional appraisal services be needed to determine value, these costs shall be borne by the Subrecipient. Selection of an appraisal services firm is subject to the written approval of the MLE or federal government.

SECTION 14: NO DUPLICATE PAYMENT

The Subrecipient shall not be compensated for, or receive any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Washington, including, but not limited to the Washington State Parks Recreation Commission, or the United States of America or any other party.

SECTION 15: CONTRIBUTION ON THIRD PARTY CLAIMS

15.1 If any third party makes any claim or brings any action, suit or proceeding alleging against a Party (the "Notified Party") with respect to which the other Party (the "Other Party") may have liability, the Notified Party shall promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party, along with the written notice, a copy of the claim, process and all legal pleadings with respect to the Third Party Claim that have been received by the Notified Party. Each Party is entitled to participate in the defense of a Third-Party Claim, and to defend a Third-Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this *Section 15 – Contribution on Third Party Claims* and a meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third-Party Claim with counsel of its own choosing are conditions precedent to the Other Party's contribution obligation under this *Section 13 – Ownership of Work Product* with respect to the Third-Party Claim.

15.2 With respect to a Third Party Claim for which MLE is jointly liable with Subrecipient (or would be if joined in the Third Party Claim), MLE shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Subrecipient in such proportion as is appropriate to reflect the relative fault of MLE on the one hand and of Subrecipient on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of MLE on the one hand and of Subrecipient on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. MLE's contribution amount in any instance is capped to the same extent it would have been capped under Washington law if the State had sole liability in the proceeding.

15.3 With respect to a Third Party Claim for which Subrecipient is jointly liable with MLE (or would be if joined in the Third Party Claim), Subrecipient shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by MLE in such proportion as is appropriate to reflect the relative fault of Subrecipient on the one hand and of MLE on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Subrecipient on the one hand and of MLE on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Subrecipient's contribution amount in any instance is capped to the same extent it would have been capped under Washington law if it had sole liability in the proceeding.

SECTION 16: SUBRECIPIENT DEFAULT

Subrecipient will be in default under this Agreement upon the occurrence of any of the following events:

16.1 Subrecipient fails to perform, observe or discharge any of its covenants, agreements or obligations under this Agreement;

16.2 Any representation, warranty or statement made by Subrecipient in this Agreement or in any documents or reports relied upon by MLE to measure the delivery of services, the expenditure of funds or the performance by Subrecipient is untrue in any material respect when made;

16.3 Subrecipient (a) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (b) admits in writing its inability, or is generally unable, to pay its debts as they become due, (c) makes a general assignment for the benefit of its creditors, (d) is adjudicated a bankrupt or insolvent, (e) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (f) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (g) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (h) takes any action for the purpose of effecting any of the foregoing; or

16.4 A proceeding or case is commenced, without the application or consent of Subrecipient, in any court of competent jurisdiction, seeking (a) the liquidation, dissolution or winding-up, or the composition or readjustment of debts of Subrecipient, (b) the appointment of a trustee, receiver, custodian, liquidator, or the like of Subrecipient or of all or any substantial part of its assets, or (c) similar relief in respect to Subrecipient under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against Subrecipient is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

SECTION 17: INDEMNIFICATION

Subrecipient shall hold harmless, save harmless, indemnify, and defend at the Subrecipient's expense the State of Washington, Commission, it officers, employees, successors and assigns against any and all damages and/or losses arising out of Subrecipient's use of, or presence or activity in, the facilities, including those arising out of the use or operation of equipment or facilities or as a result of the conduct of Subrecipient's programs, or from the conduct of Subrecipient's employees or agents, or damages or vandalism to facilities by third-parties, contracted or participating in Subrecipient's programs, events or activities.

SECTION 18: LIABILITY INSURANCE

18.1 The Contractor may provide the required coverage under a self-insured/liability pool or self-insured risk management program. The Contractor shall provide to State Parks a summary of coverages and a letter of self-insurance, evidencing continued coverage under Contractor's self-insured/liability pool or self-insured risk management program. Such summary of coverage and letter of self-insurance will additionally be provided on the anniversary of the start date of this Agreement if the agreement is for more than twelve months.

18.2 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 (FASS), and 3) the Washington State Auditor 's annual instructions for financial reporting. Contractors 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.

SECTION 19: REMEDIES

19.1 In the event Subrecipient is in default under *Section 16 – Subrecipient Default* MLE may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to: (a) termination of this Agreement under *Section 22 - Termination*, (b) reducing or withholding payment for work or Work Product that Subrecipient has failed to deliver within any scheduled completion dates or has performed inadequately or defectively, (c) requiring Subrecipient to perform, at Subrecipient's expense, additional work necessary to satisfy its performance obligations or meet performance standards under this Agreement, (d) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, or (e) exercise of its right of recovery of overpayments under *Section 20 – Recovery of Overpayments* (which is in addition to the remedies provided in *Section 9.7 - Overpayment*), of this Agreement or setoff, or both. These remedies are cumulative to the extent the remedies are not inconsistent, and MLE may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

19.2 In the event MLE terminates this Agreement under *Section 22.1 – Termination for Convenience*, *Section 22.2 Termination for Inefficiency*, *Section 22.3 – Termination Because of Non-Appropriation or Project Ineligibility*, or *Section 22.4 – Termination for Default*, Subrecipient's sole monetary remedy will be (a) for work compensable at a stated rate, a claim for unpaid invoices for work completed and accepted by MLE, for work completed and accepted by MLE within any limits set forth in this Agreement but not yet invoiced, for authorized expenses incurred, less any claims MLE has against Subrecipient, and (b) for deliverable-based work, a claim for the sum designated for completing the deliverable multiplied by the percentage of work completed on the deliverable and accepted by MLE, for authorized expenses incurred, less previous amounts paid for the deliverable and any claims that MLE has against Subrecipient. In no event will MLE be liable to Subrecipient for any expenses related to termination of this Agreement or for anticipated profits. If previous amounts paid to Subrecipient exceed the amount due to Subrecipient under this *Section 19.2*, Subrecipient shall promptly pay any excess to MLE.

SECTION 20: RECOVERY OF OVERPAYMENTS

In addition to the remedies provided in *Section 9.7 - Overpayment*, if payments to Subrecipient under this Agreement, or any other agreement between MLE and Subrecipient, exceed the amount to which Subrecipient is entitled, MLE will not reimburse any further claims. In addition, MLE will require repayment of any over payments as reflected in Section 9.7 of this agreement. may, after notifying Subrecipient in writing, withhold from payments due Subrecipient under this Agreement, such amounts, over such periods of times, as are necessary to recover the amount of the overpayment.

SECTION 21: LIABILITY

THE SUBRECIPIENT SHALL BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR OTHER INDIRECT DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER THE LIABILITY CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE. NEITHER PARTY WILL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION, EXPIRATION, OR SUSPENSION OF THIS AGREEMENT IN ACCORDANCE WITH ITS TERMS.

SECTION 22: TERMINATION

22.1 Termination for Convenience. The Subrecipient may terminate this Agreement at any time upon thirty (30) days prior written notice to MLE; provided, however, that the Subrecipient shall, within thirty (30) days of such termination, reimburse MLE for all funds contributed by MLE to the Project; provided further that until the Subrecipient has fully reimbursed MLE for such funds, the Subrecipient shall comply with the terms hereof. Delinquent payments shall bear interest at the rate of 12 percent (12%) per annum, if such rate shall exceed the maximum rate allowed by law, then as such maximum rate, and shall be payable on demand. After ninety (90) days MLE may turn any delinquent debt over for collection.

22.2 Termination Because of Inefficiency. Use of federal funds demands good stewardship. MLE in an ongoing basis will be monitoring the performance of the subrecipient through the subrecipient's reporting into the MLE Statement of Activity Reporting system. If in MLE's opinion, these metrics demonstrate poor stewardship the Agreement will be terminated. If feasible, MLE may work with the Subrecipient and give the Subrecipient an opportunity to improve the metrics to what MLE believes is a healthy metric.

22.3 Termination Because of Non-Appropriation or Project Ineligibility. MLE, as provided in *Section 33 - Force Majeure*, may modify or terminate this Agreement and at any time upon 30 days prior written notice to the Subrecipient, may modify or terminate this Agreement if:

a. MLE fails to receive funding or allotments, appropriations, limitations, or other expenditure authority at levels sufficient to pay for the allowable costs of the Project to be funded hereunder or should any state law, regulation or guideline be modified, changed or interpreted in such a way that the Project, or any portion of the Project, is no longer eligible for facility grant funds.

b. In the event insufficient funds are appropriated for the payments under this Agreement and the Subrecipient has no other lawfully available funds, then the Subrecipient may terminate this Agreement at the end of its current federal fiscal year, with no further liability to MLE. The Subrecipient shall deliver written notice to MLE of such termination no later than 30 days from the determination by the Subrecipient of the event of non-appropriation. MLE shall pay for all authorized Project costs expended up to the date of written notice of termination.

22.4 Termination for Default. MLE, at any time upon 30 days prior written notice of default to the Subrecipient, may modify or terminate this Agreement if:

a. The design and implementation, of the Project is not pursued with due diligence; or

b. The Project is not permissible under federal, state, or local law; or

c. The Subrecipient, does not abide by the nondiscrimination and affirmative action provisions of this Agreement; or

d. The Subrecipient, without the prior written approval of MLE uses the funds provided by MLE hereunder to pursue any project other than the Project described in the final project approved by MLE; or

e. During the term of this Agreement, the Subrecipient fails to perform any obligation or requirement of this Agreement.

f. The Subrecipient defaults under any other agreement between the Parties.

22.5 Rights and Remedies.

a. The Subrecipient shall, within 30 days of its receipt of a notice of default, reimburse MLE for all funds contributed by MLE to the Project. Further, MLE shall have any and all rights and remedies available at law or in equity.

b. In the event that Subrecipient has materially failed to comply with this Agreement and such non-compliance has resulted in the Federal Funding Agency terminating MLE's grant or cause or requires MLE to return funds to the Federal Funding Agency, Subrecipient will return to MLE an amount equal to the funds which MLE is not reimbursed for or is required to return to Federal Funding Agency.

SECTION 23: NONAPPROPRIATION

MLE's obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon MLE receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow MLE, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement.

SECTION 24: AMENDMENTS

The terms of this Agreement may not be altered, modified, supplemented or otherwise amended, except by written agreement of the Parties.

This agreement may be amended only by mutual agreement of the parties in writing. Formal written amendment of the contract is required for changing the terms and conditions specifically stated in the original agreement and any prior amendments, including but not limited to:

- Budget revisions
- Scope of work
- Change in due dates
- Extensions of the period of performance
- Any other revisions determined material by MLE

SECTION 25: NOTICE

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement must be given in writing by email, personal delivery, or postage prepaid mail, to a Party's Authorized Representative at the physical address or to such other addresses as either Party may indicate pursuant to this *Section 24 - Amendments*. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered.

SECTION 26: SURVIVAL

All rights and obligations of the Parties under this Agreement will cease upon termination of this Agreement, other than the rights and obligations arising under *Section 11 – Governing Law and Consent to Jurisdiction*, *Section 13 – Ownership of Work Product*, *Section 20 – Recovery of Overpayments*, *Section 21 – Limitation of Liability*, and *Section 26 - Survival* hereof and those rights and obligations that by their express terms survive termination of this Agreement; provided, however, that termination of this Agreement will not prejudice any rights or obligations accrued to the Parties under this Agreement prior to termination.

SECTION 27: SEVERABILITY

The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

SECTION 28: COUNTERPARTS

This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed constitutes an original.

SECTION 29: COMPLIANCE WITH LAW

29.1 Compliance with Law Generally. Subrecipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to Subrecipient and the Agreement.

29.2 Penalty of Perjury. By its execution of this Agreement, Subrecipient certifies under penalty of perjury under the laws of the state of Washington the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it may make, or causes to be made that pertains to this Agreement.

29.3 Tax Compliance. Subrecipient has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state. Subrecipient shall, throughout the duration of this Agreement and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. For the purposes of this *Section 29.3 – Tax Compliance*, "tax laws" includes: (i) All tax laws of this state; (ii) Any tax provisions imposed by a political subdivision of this state that applied to Subrecipient, to Subrecipient's property, operations, receipts, or income, or to Subrecipient's performance of or compensation for any work performed by Subrecipient; (iii) Any tax provisions imposed by a political subdivision of this state that applied to Subrecipient, or to goods, services, or property, whether tangible or intangible, provided by Subrecipient; and (iv) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

Any failure to comply with the provisions of this *Section 29 – Compliance With Law* constitutes a material breach of this Agreement. Any failure to comply with Subrecipient's certifications shall constitute a material breach of this Agreement. Any failure to comply shall entitle MLE to terminate this Agreement, to pursue and recover any and all damages that arise from the breach and the termination of this Agreement, and to pursue any or all of the remedies available under this Agreement, at law, or in equity, including but not limited to:

29.3.1 Termination of this Agreement, in whole or in part, this is in addition to any remedies available under *Section 22 - Termination*.

29.3.2 Offsetting against any amount owed to Subrecipient, and withholding of amounts otherwise due and owing to Subrecipient, in an amount equal to State's setoff right, without penalty; and

29.3.3 Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. MLE may recover any and all damages suffered as the result of Subrecipient's breach of this Agreement, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement Services and applications.

The state of Washington may take any and all actions permitted by law relative to the collection of taxes due to the state of Washington or a political subdivision, including (i) garnishing the Subrecipient's compensation under this Agreement or (ii) exercising a right of setoff against Subrecipient's compensation under this Agreement for any amounts that may be due and unpaid to the state of Washington.

These remedies are cumulative to the extent the remedies are not inconsistent, and MLE may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

SECTION 30: INDEPENDENT CONTRACTORS

The Parties agree and acknowledge that their relationship is that of independent contracting parties and that Subrecipient is not an officer, employee, or agent of the state of Washington.

SECTION 31: PERSONS NOT TO BENEFIT

No member of or delegate to Congress, resident commissioner, officer, agent or employee of the United States of America, member of the Washington Legislative Assembly, elected official of the state of Washington, or official, agent, or employee of the state of Washington, or elected member, officer, agent, or employee of any political subdivision, municipality or municipal corporation of the state of Washington shall be admitted to any share or part of this Agreement or derive any financial benefit that may arise therefrom.

SECTION 32: INTENDED BENEFICIARIES

MLE and Subrecipient are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement.

SECTION 33: FORCE MAJEURE

Neither Party is responsible for any failure to perform or any delay in performance of any obligations under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that Party's reasonable control. Each Party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. MLE may terminate this Agreement upon written notice to Subrecipient after reasonably determining that the failure or delay will likely prevent successful performance of this Agreement.

SECTION 34: ASSIGNMENT AND SUCCESSORS IN INTEREST

Subrecipient may not assign or transfer its interest in this Agreement and any attempt by Subrecipient to assign or transfer its interest in this Agreement will be void and of no force or effect. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties hereto, and their respective successors. Any sub grant entered into under this Agreement shall contain terms and conditions substantially similar to this Agreement, including Federal provisions contained in Exhibit A and the sub grant shall:

a. If the contract is not to a unit of Washington State government, the contract shall require the Subrecipient to indemnify, defend, save and hold harmless the state of Washington and its officers, employees, and agents ("indemnitee") from and against any and all claims, actions, liabilities, damages, losses or expenses arising from a tort, caused or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Subrecipient's contractor or any of the officers, agents, employees or subcontractors of the contractor ("claims"). It is the specific intentions of the parties that the Indemnitee shall, in all instances, except for claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims.

SECTION 35: SUBCONTRACTS & SUB-AWARDS

Subrecipient shall not, without MLE's prior written consent, enter into any subcontracts or follow-on sub-recipient sub-awards (work carried out by parties other than the Subrecipient) for any of the work required of Subrecipient under this Agreement. Subrecipient's consent to any contract, subcontract, sub-award will not relieve Subrecipient of any of its duties or obligations under this Agreement.

SECTION 36: TIME IS OF THE ESSENCE

Time is of the essence in Subrecipient's performance of its obligations under this Agreement.

SECTION 37: MERGER AND WAIVER

This Agreement and all Exhibits and Attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver or consent under this Agreement binds either Party unless in writing and signed by both Parties. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given.

Failure by MLE to insist upon the strict performance of any provision of this agreement shall not affect MLE's right to require strict performance of the same provision in the future or any other provision. Failure by MLE to exercise any right based upon a breach, or acceptance by MLE of performance during such breach, shall not constitute a waiver of any of its rights or remedies with respect to such breach.

EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

SECTION 38: RECORDS MAINTENANCE AND ACCESS

Subrecipient shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Subrecipient shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Subrecipient, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document Subrecipient's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Subrecipient, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." Subrecipient acknowledges and agrees that Washington State Parks and Recreation Commission and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. Subrecipient shall retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later.

SECTION 39: HEADINGS

The headings and captions to sections or subsections of this Agreement have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Agreement.

SECTION 40: INCORPORATION BY REFERENCES AND ORDER OF PRECEDENCE

The table below reflects the documents that are incorporated by reference (whether attached or not) and the order of precedence should there be a conflict between the parts of document or other documents incorporated by reference. The lower the number, the higher the precedence. Where two or more documents address a point or concept but are not in conflict, they should be read as supplemental, additive, and/or cumulative.

Precedence	Document
1 (highest)	United State of America Laws or Rules AND Washington State Laws and Rules
2	Amendments to any of the documents listed below shall control over the earlier version of that same document or earlier amendment to that same document.
3	EXHIBIT A - FEDERAL COMPLIANCE TERMS
4	EXHIBIT B - INFORMATION REQUIRED BY 2 CFR §200.331(A) (1)

5	EXHIBIT C – 2 CFR 200, Appendix II - TERMS
6	ATTACHMENT A - SUBRECIPIENT'S MLE GRANT APPLICATION & BUDGET FORM
7	ATTACHMENT B - SUBRECIPIENT'S COMPLETED BUDGET FORM
8	ATTACHMENT C – ALLOWABLE COSTS & EXPENDITURES FOR STATE VESSEL REGISTRATION FEES AND FEDERAL ASSISTANCE GRANTS
9	ATTACHMENT D – VESSEL REGISTRATION FEE PROGRAM GUIDANCE FOR MARINE LAW ENFORCEMENT PROGRAMS

SECTION 41: SIGNATURES

This Agreement, which includes incorporated documents, is executed by the persons signing below who warrant under penalty of perjury under the laws of the State of Washington that they have read and understood the document and find it to be legal, valid, and a binding obligation, enforceable according to its terms, and have the authority to execute the contract.

Clallam County Sheriff's Office 223 E 4th Street Ste 12 Port Angeles, WA 98362-3000	**Washington State** **Parks and Recreation Commission** PO Box 42650 Olympia, WA 98504-2650
Print: Mark Ozias	**Print:**
Sign:	**Sign:**
Title: Chair of the Board	**Title:** Contracts, Grants, Procurement Manager
Email:	**Email:** ContractsAndProcurement@parks.wa.gov
Date:	**Date:**
Place:	**Place:** Tumwater, WA

Approved as to form:

Bert D. Boughton
Deputy Prosecuting Attorney

EXHIBIT A: FEDERAL COMPLIANCE TERMS

I. Grant Subrecipient Compliance Requirements:

A. Subrecipient is responsible to ensure compliance with the federal implementing regulations for (Clean Vessel Act 50 CFR Part 85 or Boating Infrastructure Grant Program 50 CFR Part 86).

B. Subrecipient to comply with Assurances – Construction Programs (Standard Form 424D)

C. Pursuant to 2 CFR Part 170, MLE will enter grant information into the Federal Funding Accountability and Transparency Act (FFATA).

II. Federal Terms and Conditions:

Subrecipient is responsible to comply with the following Federal Terms and Conditions, as applicable:

A. Uniform Administrative Requirements, 2 CFR Part 200, Subparts A through D or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B. including but not limited to the following:

1. Property Standards. 2 CFR 200.313, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, which generally describes the required maintenance, documentation, and allowed disposition of equipment purchased with federal funds.

2. Contract Provisions. The contract provisions listed in 2 CFR Part 200, Appendix II, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, that are hereby incorporated into this Exhibit. These are, to the extent applicable, obligations of Subrecipient, and Subrecipient shall also include these contract provisions in its contracts with non-Federal entities.

3. Audits. Subrecipient shall comply, and require all subcontractors to comply, with applicable audit requirements and responsibilities set forth in this Agreement and applicable state or federal law. If Subrecipient expends $750,000 or more in federal funds (from all sources) in a fiscal year beginning on or after December 26, 2014, Subrecipient shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR Subtitle B with guidance at 2 CFR Part 200. Copies of all audits must be submitted to MLE within 30 days of completion.

B. Cost Principles 2 CFR Part 200, Subpart E

C. Central Service Cost Allocation Plans Appendix V to Part 200

D. Indirect Cost Proposals Appendix VII to Part 200

E. Audit Requirements 2 CFR Part 200, Subpart F

F. Federal Non-discrimination Statutes. Subrecipient is responsible to comply with all federal statutes relating to non-discrimination, including but not limited to: Title VI of the Civil Rights Act of 1964 (PL 88-352) which prohibits discrimination on the basis of race, color or national origin; Title IX of the Education Amendments of 1972 (20 USC §§ 1681-1683; 1685-1686) which prohibits discrimination on the basis of gender; Section 504 of the Rehabilitation Act of 1973 (29 USC § 794) which prohibits discrimination on the basis of handicaps; Age Discrimination Act of 1975 (42 USC §§ 6101-6107) which prohibits discrimination on the basis of age; Drug Abuse Office and Treatment Act of 1972 (PL 92-255) which prohibits discrimination on the basis of drug abuse; the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616) regarding non-discrimination on basis of alcohol abuse or alcoholism; Sections 523 and 527 of the Public Health Services Act of 1912 as amended (42 USC §§ 290 dd-3 and 290 ee-3) regarding confidentiality of alcohol and drug abuse patient records; Title VIII of the Civil Rights Act of 1968 (42 USC §§ 3601 et seq.) regarding nondiscrimination in the sale, rental or financing of housing; any other nondiscrimination provisions of the specific statutes under which this agreement is being made; and the requirements of any other nondiscrimination statute(s) which apply to the federal financial assistance award received by MLE.

G. Eligible Workers. Subrecipient shall ensure that all employees complete the I-9 Form to certify that they are eligible for lawful employment under the Immigration and Nationality Act (8 USC 1324a). Subrecipient shall comply with regulations regarding certification and retention of the completed forms.

H. To the extent applicable to this award, Subrecipient is responsible to comply with

1. National Environmental Policy Act; E.O. 11514 (which requires the Subrecipient to comply with environmental standards which may be prescribed pursuant to institution of environmental quality control measures under the National Environmental Policy Act of 1969 (42 USC Chapter 55, [Pub. L. 91-190]) and Executive Order 11514.

2. E.O. 11990: Protection of Wetlands (which requires the Subrecipient to comply with environmental standards for the protection of wetlands)

3. E.O. 11988: Floodplain Management; E.O. 11988 (which requires the Subrecipient to comply with environmental standards for the evaluation of flood hazards in floodplains)

4. Coastal Zone Management Act (which requires Subrecipient to ensure that the work performed will not violate State management programs developed under the Coastal Zone Management Act of 1972) (16 USC Chapter 33, Sections 1451 et seq.).'

5. Wild and Scenic Rivers Act (which requires the Subrecipient to protect components or potential components of the national wild and scenic rivers

system). (16 USC Chapter 28, Sections 1271 et seq.)

6. Historic Preservation Act, E.O. 11593 (which requires Subrecipient to assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 USC 470), E.O. 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 USC Sec. 469a-1 et seq.).

7. Endangered Species Act (which requires the Subrecipient to comply with environmental standards for the protection of endangered species) 16 USC Chapter 35, Sections 1531ff [Pub. L. 93-205]).

8. Marine Mammal Protection Act (which Requires permits and reports for research projects that will involve the taking or importation of protected marine mammals or marine mammal products) (16 U.S.C. Chapter 31, Subchapter I, Sections 1361ff).

I. Other Requirements (USFWS specific)

1. Universal Identifier and Central Contractor Registration 2 CFR Part 25

2. Reporting Sub-awards and Executive Compensation 2 CFR Part 170

3. Award Term for Trafficking in Persons (applicable to private entity subrecipients) 2 CFR Part 175

4. Government-wide Debarment and Suspension (Non-procurement) 2 CFR Part 1400

5. Requirements for Drug-Free Workplace (Financial Assistance) 2 CFR Part 1401

6. 43 CFR 18 New Restrictions on Lobbying: Submission of an application also represents the applicant's certification of the statements in 43 CFR Part 18, Appendix A, Certification Regarding Lobbying.

7. 41 U.S.C. 4712 Enhancement of Recipient and Subrecipient Employee Whistleblower Protection:

a. This award, related sub-awards, and related contracts over the simplified acquisition threshold and all employees working on this award, related sub-awards and related contracts over the simplified acquisition threshold are subject to the whistleblower rights and remedies established at 41 USC 4712b. Subrecipient, Subrecipient's contractor, or Subrecipient's sub-recipient(s) (however many levels), and their contractors award contracts over the simplified acquisition threshold related to this award, shall inform their employees in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 U.S.C. 4712.

c. The Subrecipient shall insert this clause, including this paragraph (c), in all sub awards and in contracts over the simplified acquisition threshold

related to this award.

8. Prohibition on Members of Congress Making Contracts with Federal Government: No member of or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this award, or to any benefit that may arise therefrom; this provision shall not be construed to extend to an award made to a corporation for the public's general benefit 41 USC § 6306.

9. Federal Leadership on Reducing Text Messaging while Driving: Subrecipients are encouraged to adopt and enforce policies that ban text messaging while driving, including conducting initiatives of the type described in Section 3(a) of the Order Executive Order 13513.

EXHIBIT B: INFORMATION REQUIRED BY 2 CFR §200.331(A) (1)

Federal Award Identification:

(i) Subrecipient name (which must match registered name in DUNS): **Clallam County Sheriff's Office**

(ii) Subrecipient's DUNS number: 075739235

(iii) Federal Award Identification Number (FAIN): 3321FAS21053

(iv) Federal Award Date: 10/1/2021

(v) Sub-award Period of Performance Start and End Date: From 10/1/2021 to 9/30/2022

(vi) Total Amount of Federal Funds Obligated by this Agreement: **$12,526.80**

(vii) Total Amount of Federal Award committed to the Subrecipient by the pass-through entity: **$12,526.80**

(viii) Federal award project description: Marine Law Enforcement Federal Financial Assistance Grant

(ix) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity:

(a) Name of Federal awarding agency: United States Coast Guard
(b) Name of pass-through entity: Washington State Parks and Recreation Commission
(c) Contact information for awarding official of the pass-through entity: boatingprogram@parks.wa.gov

(x) CFDA Number and Name: Federal Boat Safety Act 92-75

(xi) Is Award R&D? No

(xii) Indirect cost rate for the Federal award: NA %

**For the purposes of this Attachment, the term "pass-through entity" refers to Washington MLE Grant Program.*

EXHIBIT C: 2 CFR 200, APPENDIX II - TERMS

Provisions for Non-Federal Entity Contracts Under Federal Awards (current as of 20200717)

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at $150,000, 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.

(B) 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.

(C) 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."

(D) 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.

(E) 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.

(F) 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.

(G) 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).

(H) 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.

(I) 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.

(J) See § 200.322 Procurement of recovered materials.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014

ATTACHMENT "A": SUBRECIPIENT'S FFA GRANT APPLICATION

ATTACHMENT "B": SUBRECIPIENT'S COMPLETED BUDGET FORM NA

Washington State Parks & Recreation Commission - Recreational Boating Program

Federal Financial Assistance Grant Program Application

Application Year: 2,022

Agency Name: Clallam County Sheriff's Office

PREVENTION PLAN PART 1 - ASSESSMENT, IDENTIFICATION, GOALS

High Priority Boating Risks and Hazards

High Priority Boating Risks & Hazards	Data / Professional Judgement	Comments
2. Weather - With the shorter fishing seasons fishermen are going out in weather conditions that they normally wouldn't have done in the past.	The Strait of Juan de Fuca and the Pacific Ocean can be a rapid changing environment that can overcome inexperienced or experienced operators and/or their boats.	The one fatality and the four reportable accidents (2016) involved individuals that did not reside in Clallam County. Of the twelve non-reportable accidents, three of them involved individuals that reside in Clallam County. The boating fatality in 2018 involved a resident of Clallam County who had some passengers from out of the area. In 2019, there were two boating fatalities in Clallam County. Poor weather and high seas were a contributing factor to one of the boating fatalities. Alcohol, poor lighting, and inattention were contributing factors in the second boating fatality. In 2020, the CCSO Boating Unit investigated five boating accidents by July; one accident resulting in a fatality and another accident involving

		critical, life-threatening injuries.
There are four identified risks and hazards that are contributing factors to reported boating accidents. 1. Operator inexperience - individuals that have minimal experience operating boats or kayaks in Clallam County	Professional Judgment: Individuals that reside outside of Clallam County and or boat and fish in Clallam County are our highest risk group of boaters.	In 2017, the Clallam County Sheriff's Office responded to five boating accidents. Three of those accidents did not require a report. In 2016, The Clallam County Sheriff's Office Marine Unit responded to 16 reported boating accidents. There was one fatality, four reportable accidents, and twelve non-reportable accidents. In 2018, there was one boating fatality in the Straits of Juan De Fuca. The boating accident was investigated by a Patrol Deputy after the incident had occurred. In 2019, our Marine Unit investigated two boating fatalities in our jurisdiction and three overall boating accident reports. In 2020, the CCSO Marine Unit investigated seven boating accidents; one accident involving a fatality and another with critical, life-threatening injuries. In 2021, the CCSO Marine Unit only investigated two boating collisions with one being a presumed fatality being they are still missing at sea.
4. Equipment Failures - These accidents were the result of failures of through hull fittings, bilge pumps or loss of power	see above	Since 2015, the majority of reported accidents involved individuals that resided outside of Clallam County.
3. Navigation Errors - The majority of these are groundings by individuals that are not familiar with the area or boats that were maneuvering in	Recreational boaters that are operating small crafts in open and unprotected waters, at times are going to encounter mishaps.	In 2015, the Clallam County Marine Unit responded to fourteen reported boating accidents which included three fatalities, four reportable

confined areas.		accidents, and ten non-reportable accidents. In 2020 and 2021, the CCSO Marine Unit investigated nine boating accidents with two of those accidents resulting in fatalities.

High Priority Audiences

Description of Audience	Why is this Audience a Priority?	Comments
The boating community that is most at risk are individuals that do not reside in Clallam County and transit through the area for fishing and/or kayaking in the Strait of Juan de Fuca and the Pacific Ocean. These individuals are operating their vessels in unfamiliar, open, unprotected waters that are very susceptible to rapidly changing weather conditions, which can tax their vessels, equipment and knowledge.	Clallam County is known as a salt water fishing destination. There are also a number of boats that transit the Strait of Juan de Fuca enroute to the Pacific Ocean, Puget Sound, and the San Juan Islands or Alaska. Approximately 70% to 90% of all boater that the marine unit contacts reside outside of Clallam County. All the fatalities that reported in 2016 and 2015 involved individuals that did not reside in Clallam County.	The most effective way to contact and influence this segment of recreational boaters is with the on-water patrols, safety inspections and educational outreach events. In 2022, the CCSO Marine Unit intends to increase patrols on Lake Sutherland where there is a request for more law enforcement presence due to a wake boat dispute. The CCSO Marine Unit conducts patrols mainly in July and August on Lake Sutherland and we typically encounter kayakers and recreational boaters with various experience levels. In 2021, CCSO Marine Deputies found that several kayakers were without a sound device and were educated accordingly. The CCSO Boating Unit intends to post signs, provide educational pamphlets, and increase presence to ensure everyone is boating safely.

PREVENTION PLAN PART 1 - TASKS, TACTICS, MEDIA

Patrol Plans / Emphasis Patrols / Enforcement Policies

Activity	Time Frame	Patrol Hour Goal	Inspection Goal	Comments	Type
Schedule patrols	June through	120.00	Patrol Plan/Emphasis	This is dependent on	Patrol Plan/Empha

on weekends and weekdays during fishing seasons	September		Patrol/Enforcement Policy	the length of the fishing seasons as set forth by the WA State DFW	sis Patrol/Enforcement Policy
Patrol our lakes for BUI emphasis, safe boating activity with life jackets, RBS inspections	June through August	20.00	Patrol Plan/Emphasis Patrol/Enforcement Policy		Patrol Plan/Emphasis Patrol/Enforcement Policy
Schedule patrols during all opening days of halibut season	May	60.00	Patrol Plan/Emphasis Patrol/Enforcement Policy	This is dependent on the length of the fishing seasons as set forth by the WA State DFW	Patrol Plan/Emphasis Patrol/Enforcement Policy
Random evening weekend BUI patrols during fishing seasons	June through September	40.00	Patrol Plan/Emphasis Patrol/Enforcement Policy		Patrol Plan/Emphasis Patrol/Enforcement Policy
Emphasis patrols during fishing derbies	Olympic Salmon Derby in February and the Sekiu Salmon Derby in September	60.00	Patrol Plan/Emphasis Patrol/Enforcement Policy	This is dependent on the length of the fishing seasons as set forth by the WA State DFW	Patrol Plan/Emphasis Patrol/Enforcement Policy
Boat patrol	February through September		Safety Inspection	Depending on COVID 19 impacts	Safety Inspection

State Approved Boater Education Classes & Community Events

Activity	Date	Hours Planned	Attendance	Comments	Type
Lavender Festival	7/16/2022	25.00		This is a three day event that attracts tens of thousands of people from out of the area. We provide boater safety information to kids and their parents and talk about boating safety during this event. It is unknown whether this event will be held due to COVID 19 concerns.	Community Events
KID'S FESTIVAL	3/5/2022	20.00		KID'S FEST is a Port Angeles community event where parent's bring their children to meet with 1st Responders. We typically staff this event with to RBS certified Deputies to talk to children about boating safety. It is unknown whether this event will be held due to COVID 19 concerns.	Community Events
COASTAL	7/16/2022	12.00		Partner with COASTAL store for kid lifejacket	Community Events

				giveaway, education, and outreach.	
YACHT CLUB EVENT	8/6/2022	20.00		We have attended this event that is either held in Sequim or Port Angeles. We talk to many sailors about boating safety and we have staffed this with two RBS certified Deputies. It is unknown whether this event will be held due to COVID 19 concerns.	Community Events
Waterfront Days Port Angeles	10/1/2022	20.00		Our Marine Unit participates in this event along with the USCG to meet with the public and talk about boater safety education/laws. It is unknown whether this event will be held due to COVID 19 concerns.	Community Events

Vessel Dealer/Rental Site Visits

Dealers Targeted	Hours Spent Visiting	Comments	Type

Professional Prevention Partners

Name of Partnering Orgs	Hours Planned Coordinating	Comments

Media Plan

Campaign	Owned Media Posts	Earned Media Posts	Events	Comments
Operation Dry Water	4.00	4.00		When the pre-made materials are provided they will be posted to our Clallam County Sheriff's Office FACEBOOK page. Some of the messages will be released to the local media to be cast on local radio stations.
National Safe Boating Week	4.00	4.00		When the pre-made materials are provided they will be posted to our Clallam County Sheriff's Office FACEBOOK page. Some of the messages will be released to the local media to be cast on local radio stations.
Paddle Safety Week	4.00	4.00		When the pre-made materials are provided they will be posted to our Clallam County Sheriff's Office FACEBOOK page. Some of the messages will be released to the local media to be cast on local radio stations.

Other (please describe)				
Spring Aboard	4.00	4.00		When the pre-made materials are provided they will be posted to our Clallam County Sheriff's Office FACEBOOK page. Some of the messages will be released to the local media to be cast on local radio stations.

INSTRUCTOR INFORMATION

SAW ID	First Name	Last Name	Phone	Email	Development Complete?
	William	Cortani	360-460-4317	bcortani@co.clallam.wa.us	Yes

PREVENTION GOALS SUMMARY

Total Patrol Hour Goal: 300.00

Total Inspections Goal: 300.00

Count of State Approved Boater Education Classes Planned: 0.00

Sum of Hours for State Approved Boater Education Classes: 0.00

Sum of State Approved Boater Education Classes Planned Attendance: 0.00

Count of Community Events: 5.00

Sum of Community Events Hours: 97.00

Count of Presentations to Schools: 0.00

Sum of Presentation to Schools Hours: 0.00

Count of Presentations to Groups: 0.00

Sum of Presentations to Groups Hours: 0.00

Count of Dealer Visits Planned: 0.00

Sum of Dealer Visits Hours: 0.00

Count of Rental Sites Planned: 0.00

Sum of Rental Site Visits Hours: 0.00

Owned Media Posts: 16.00

Earned Media Posts: 16.00

Count of Partnering Organizations: 0.00

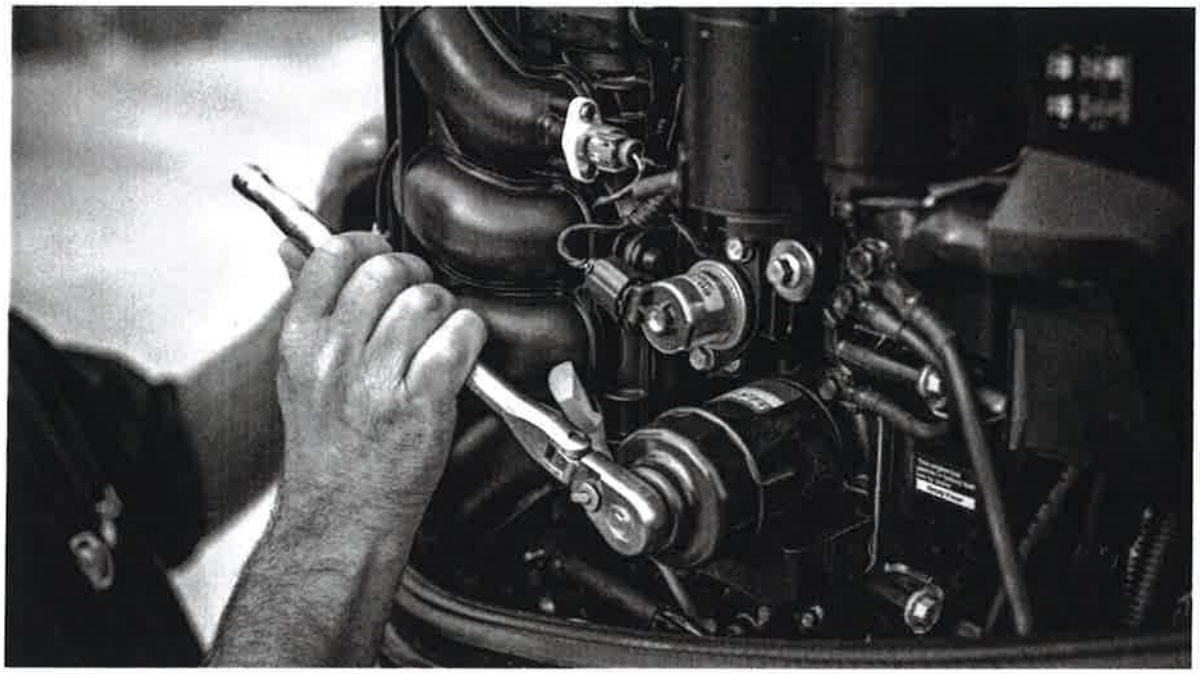
Sum of Partnering Organization Hours: 0.00

Printed On: February 16, 2022

ATTACHMENT C – ALLOWABLE COSTS & EXPENDITURES FOR STATE VESSEL REGISTRATION FEES & FEDERAL ASSISTANCE GRANTS

Allowable Costs & Expenditures For State Vessel Registration Fees & Federal Assistance Grants

Updated June 2021



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VESSEL REGISTRATION FEES & GRANT FUNDING

Any item not listed below must be reviewed and found acceptable by the Washington State Parks Boating Program (Boating Program) before it is considered a valid Recreational Boating Safety (RBS) expenditure.

UNIT COST APPROVAL

Items with a unit cost of $5,000 or more under the VRF funds and $2500 or more under the FFA grant must have the prior written approval of Washington State Parks and Recreation Commission Marine Law Enforcement (MLE) Coordinator.

COST PRORATION

If a cost benefits both your RBS program and other work of your agency, the cost should be allocated to the RBS Program based on the proportional benefit to the program. The costs may be allocated using any reasonable documented method.

ADMINISTRATIVE COSTS

Agencies that receive Vessel Registration Fees (VRF) are not allowed to charge flat administrative costs for the administration of the VRF funds as is often done with federal grants. However, agencies may charge the salaries and benefits costs of actual hours worked by staff associated with the administration of their dedicated VRF account.

Agencies that receive federal assistance grants from the Boating Program are allowed to charge indirect (administrative) costs for those funds. If the agency has a federally negotiated indirect cost rate, they are permitted to charge that against the total salaries + benefits charged to the federal assistance grants. They must first provide a copy of their current rate agreement to Parks. If not, then they may charge a *de minimums* flat rate of 10% or elect not to charge indirect at all (2 CFR 200.414(f)).

ALLOWABLE EXPENDITURES

Grant funds may be used only for activities under WAC 352-65-040, the ten elements necessary to accomplish the Recreational Boating Safety (RBS) mission. If it is unclear if an expense meets these criteria, contact State Parks at (360) 902-8845 or cheri.peel@parks.wa.gov to discuss the item before proceeding.

Allowable expenses include but are not limited to:

- **RBS SALARIES**
    - Time, salaries, benefits and wages for officers or deputies who possess a Washington State Peace Officers Certification, are fully commissioned to enforce the laws of Washington State and who have completed an RBS course acceptable to State Parks (BMLE or equal).

- Time, salaries, benefits and wages for officers or deputies who possess a Washington State Peace Officers Certification, are fully commissioned to enforce the laws of Washington State, and who have not completed a BMLE course is acceptable ONLY when working with an RBS trained officer AND when the agency has a written 'two-officer' policy for officers on marine patrol for the purpose of officer safety.

- **RBS EDUCATION AND INSTRUCTION**

  Providing instructors for the *Adventures in Boating* course that qualifies graduates for the required mandatory boater education card. Costs may include classroom supplies, light refreshments, other goods and services necessary to promote and teach classes, and officer salaries, benefits and wages. Officer salaries will only be reimbursed for those officers who have successfully completed a State Parks *Adventures in Boating* Instructor Training class and are listed on our files.

  Life jackets (USCG approved only) for the state *Adventures in Boating* course and other RBS presentations, such as: throw rings or cushions for loaners and the cost to print only the agency's name or RBS safety messages.

- **RBS TRAINING**

  Grant or VRF funds can be used to pay for full-time and reserve officers who are fully commissioned to enforce the laws of the State of Washington to attend training provided by the Boating Program or courses approved by the Boating Program. **Note: Approval from State Parks is mandatory if an officer or deputy is applying for a non-Washington RBS course.** Examples of approved courses include:

  - MLE Instructor Meeting
  - Basic Marine Law Enforcement/Boat Crew Member or equivalent (BMLE)
  - Boat Operator Search and Rescue (BOSAR)
  - Boating Under the Influence – Basic (BUI-Basic)
  - Boating Under the Influence-Advanced (BUI-Adv)
  - Personal Watercraft for Law Enforcement (PWCLE)
  - Enhanced Vessel Operator Course (EVOC)
  - Fall Marine Law Enforcement Conference
  - Boating Accident Investigation-Level 1
  - Officer Water Survival
  - Boater Education Instructor Training (BEIT)
  - Designated Education Officer Training (DEOT)

- Adventures in Boating Instructor Training
- RBS Related Local In-Service Training
- Other USCG training courses with prior approval
- Other NASBLA training courses with prior approval

Per Diem travel expenses at **state per diem rate** in effect for the destination RBS training, conferences, and meetings. Cost is prorated for percentage of travel /per diem for RBS purposes /missions only.

RBS EQUIPMENT

Allowable expenses may include the purchase, maintenance and operation of patrol boats and patrol boat equipment to perform the RBS mission as defined in WAC 352-65-040 only. **Any purchase exceeding $5,000 under the VRF funds must receive prior approval from the Boating Program. Any purchases exceeding $2,500 under the FFA grant must receive prior approval from the Boating Program.** All decisions by the Boating Program for equipment purchases are final.

PATROL VESSELS

- Motors and hardware
- Props
- Trailers and maintenance of trailers (repair, tires, winch, cables, power take-off)
- Patrol vessel and engine drive system repairs
- Repair and replacement of equipment on boat (includes de-watering pumps which can also be used as fire-fighting equipment)
- Tow vehicles (dedicated for 100% RBS use, or prorated for the percentage of time used for RBS activities)
- Hitch assemblies and installation cost for tow vehicles that are dedicated for 100% RBS use, or prorated for the percentage of time used for RBS activities
- Anti-freeze fluid
- Batteries and fluid; maintenance and replacement
- Costs related to the maintenance and repair of the vessel
- Costs related to marking and identifying patrol vessels as government owned, which includes painting, decals and cost of removal and application
- Vessel electrical system repairs and replacement
    - Electronic devices: parts and labor for maintenance, repairs to maintain, or replacement when devices fail, or are no longer serviceable, or when upgrades are required to meet customary and current standards for law enforcement work

  - Devices dedicated to the program such as agency & VHF radios
  - Radar units
  - Sirens
  - Blue lighting equipment
  - Hailers
  - Global positioning system (GPS) units
  - Personal breath testers (PBT)
  - Cell phones used 100% RBS only, or prorated for a percentage of time used on boat
  - Battery chargers and computers dedicated to program use
  - Includes brackets and fittings for installation and use
- Fluids for hydraulic system
- Fuel, fuel additives and filters; associated disposal fees
- Gear oil for lower units
- Glass replacement and costs to install, associated disposal fees
- Grease and lubricants
- Oil and oil filters; associated disposal fees
- Parts and labor for regular scheduled maintenance and scheduled replacement
- Parts for replacement on the vessel when failure occurs or when damaged and labor, which includes engine, lower unit and cooling system repairs and replacement
- Vessel canvas tops and side covers; includes repairs and replacement of canvas/vinyl/plastic material and framing structures
- Vessel hull and structural repairs/replacement of railings, pilot house, decks, cleats, ladders, swim platforms, Sampson posts, fittings, towing equipment, davits, anchors, chain, and associated hardware and fittings

ASSOCIATED EQUIPMENT FOR PATROL VESSELS

- Cost of emergency response and rescue equipment repair, replacement and maintenance, including: stretchers, first aid/first responder kits and materials, fire suppression equipment and supplies.
- Cost of fees related to cell phone charges, annual registration charges, renewal fees, and insurance are prorated for percentage of time used performing RBS missions.
- Cost of haul-outs and associated costs with cleaning and maintenance of hull, fixtures and drive systems, and associated disposal fees.
- Costs related to moorage, including cost of water/electricity associated with maintenance and moorage.

- Cost of required safety equipment on the vessel when replacement, repair, or regular maintenance is needed to meet state/federal regulations and maintain USCG standards. For example:
    - Life jackets, replacement parts (clips, hooks, CO2 cartridges and re-arm kits) and stenciling/screening of agency name or law enforcement
    - Exposures suits
    - Fire extinguishers/extinguishing systems
    - Visual distress signals
    - Navigation lights
    - Sounding devices
    - Ventilation systems
    - Backfire flame arrestor
- Cost of replacement, repair, or regular maintenance of equipment used during operation and moorage. For example:
    - Fenders
    - Lines for towing and mooring
    - Chafing gear
    - Boat hooks
    - Towing equipment
    - Bilge pumps
    - Batteries
    - Navigation charts
    - Piloting equipment
    - Helm fixtures and seats
    - Logbooks
    - Depth sounders & radar, does not include FLIR systems
    - Portable fuel tanks and hoses

PATROL VESSEL TRAILERS

- Costs related to maintenance and repair of patrol vessel trailer(s)
- Cost of tires and wheels, including: installation, repair, and balancing; associated disposal fees
- Electrical system maintenance, repair and replacement
- Hitch and ball repair or replacement
- Hydraulic or electric brake system maintenance, repair and replacement
- Oil, grease and lubricants, and associated disposal fees

- Winch maintenance, repair and replacement

BOAT EQUIPMENT

- Anchors
- Line for towing and mooring
- Chain or shackles and attachment hardware
- Carabineers
- Boat hooks
- Fire extinguishers (only USCG approved)
- Fenders
- Depth finders
- Radar units, does not include FLIR systems
- Radios and computers, dedicated for 100% RBS use or prorated for the percentage of time used for RBS activities
- Lines for tie up
- Light bars – blue lights only (no red, white or yellow lights)
- Search lights dedicated for 100% RBS use or prorated for the percentage of time used for RBS activities
- FLIR System (mounted on and wired to the vessel)
- Sirens
- Cost of installation and servicing of electronic components
- Canvas and siding for weather protection
- Haul out for cleaning/painting/servicing patrol vessels
- First-aid kits dedicated for 100% RBS use or prorated for the percentage of time used for RBS activities
- Rescue throw bags for use on boats only

NAVIGATION AIDS & BUOYS

- Navigation signs & markers (to meet RCW 79A.60.500 and WAC 352)
- Decals for buoys
- Chain
- Cable and connectors
- Weights
- Equipment to maintain buoys and signs to remain effective

EDUCATION

- Publications to promote RBS education that are already prepared or the creation, design and printing of publications
- Education equipment related to required boating safety equipment for recreational boats
- Promotion of *Adventures in Boating* classes (including presentation materials, light refreshments and room rental for classes)

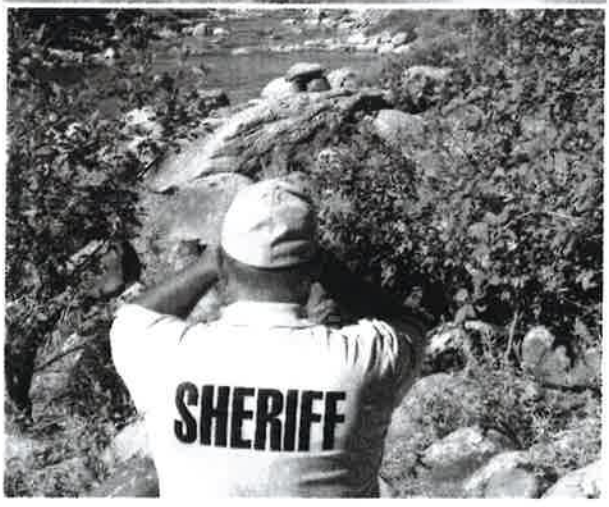
NON-ALLOWABLE COSTS AND EXPENDITURES

- Bullet proof vests are beneficial, however equipment of this nature is not essential for meeting the established criteria in WAC 352-65-040 nor is it related to the performance of an RBS program mission and is considered a local agency responsibility to purchase.
- Equipment used in recovery operations (dive equipment, etc.) while being used in an RBS search or investigation mode are 100% eligible. Once this equipment is used for recovery operations it must be prorated between RBS missions and recovery missions.
- Handheld or portable night vision, FLIR or thermal imaging devices are a 100% allowable expense while in RBS patrol, search or investigation mode. Once this equipment is used for recovery operations it must be prorated. Permanently mounted and electrically wired FLIR and thermal Imaging devices are 100% allowable expenses.
- Homeland security missions (weapons, etc.), or any other equipment determined as unrelated by the Boating Program is not an allowable expense.
- Firefighting equipment is not an allowable expense.

EXHIBIT D – VESSEL REGISTRATION FEE PROGRAM GUIDANCE FOR MARINE LAW ENFORCEMENT PROGRAMS

Vessel Registration Fee Program Guidance for Marine Law Enforcement Programs

Updated January 2021



Introduction

The purpose of the Vessel Registration Fee (VRF) program is to focus local jurisdiction marine programs on injury prevention activities around recreational boating safety. These activities include enforcing RCW 79A.60: Regulation of Recreational Vessels and providing emergency response to boating accidents. Each marine patrol unit should strive to serve and protect the lives and property of Washington's recreational boaters. All VRF Funds are awarded based on the potential success and ability of the local agency to provide such service to the boating community. Recreational Boating Safety (RBS) programs are evaluated using the criteria published in this document, as well as its ability to meet the requirements and assurances of WAC 352-65: Boating Safety Program Approval.

This guidance document is intended to help local marine law enforcement programs understand the minimum qualifications and requirements to receive vessel registration fees. The document has been laid out to explain this as simply as possible. The beginning section provides a brief list of the qualifications and requirements, and the remainder of the document explains each component in more depth.

The Washington State Parks Boating Program (State Parks) has established different operational goals for agencies dependent on the population within their jurisdiction (based on 2019 census data).

- **Small Agencies –** Under 30,000 population
- **Medium Agencies –** Population between 30,000 and 100,00
- **Large Agencies –** Populations exceed 100,000.

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Overview of Agency Eligibility Requirements and Qualifications

Only counties or local public agencies having jurisdiction over waters used for recreational boating and possessing the authority to enforce the Revised Code of Washington and the Washington Administrative Code are eligible to apply to receive vessel registration fees. Participating agencies must:

Administrative & Financial Requirements

1. Sign an annual agreement with State Parks.
2. Designate a "Marine Lead": A single point of contact that oversees the day-to-day program operations, commits to attend the annual marine law enforcement conference, and responds to surveys sent by State Parks.
3. Designate a "Marine Supervisor": A single point of contact that has administrative authority over the marine program for the agency.
4. Report recreational boating safety activities and certain financial data to State Parks.
5. Place all vessel registration fees into a dedicated account, agree to spend them only on eligible expenses and agree to accountability requirements.
6. Provide digital links to all local ordinances regulating recreational boating.

Operational Requirements

7. Employ Officers / Deputies commissioned to enforce Washington state law.
8. Send all marine Officers / Deputies through the Washington State Parks Basic Marine Law Enforcement Academy.
9. Maintain annual training qualification currency for each participating Officer / Deputy.
10. Provide the appropriate vessels and equipment to carry out the operational requirements.
11. Report all boating accidents that occur within the jurisdiction (that meet minimum criteria) pursuant to RCW 79A.60.200, RCW 79A.60.220 and WAC 352-70.
12. Respond and provide assistance to boaters for on-water emergencies, complaints, and accidents.
13. Commit to a minimum number of hours patrolling the waters used by recreational boaters during peak boating season.
14. Actively enforce Washington's boating safety laws and regulations.
15. Conduct vessel safety inspections for recreational boaters.
16. Provide a boating safety education and outreach program and designate at least one Officer / Deputy to receive the Adventures in Boating Instructor training and to manage the program.
17. Place and maintain aids to navigation as legislated buy local ordinances.

Summary of Required Documents and Due Dates

Document Name	Form Number	Date Due
Request for Boating Program Approval	A-299 / Web form	15 Oct each year
Federal Financial Assistance Grant Application (If applying)	A-300/Web form	15 Oct each year
B.O.A.T Currency Report	Web form	15 Oct each year
Summary of Activity Report (SOAR)	Web form	Quarterly *
Boating Accident Report (BAR)	A-440	10 days following accident
Boating Accident Investigation Report (BAIR)	A-425 (Rev 08/2009)	10 days following accident / fatality meeting report criteria
Washington State Vessel Inspection	P&R A-274	Quarterly*
VRF Expenditure Report	Web form	1 Nov each year
Financial System Report	Agency generated	1 Nov each year
VRF Fund Balance Report	Agency generated	1 Nov each year
Boating Safety Surveys	N/A	Varies

***** *Document is due quarterly and must be submitted by the 15th of the month following the last month of the quarter (1st Qtr-04/15, 2nd Qtr-07/15, 3rd Qtr-10/15, 4th Qtr. 01/16).*

Administrative & Financial Requirements

Annual Agreement – The A-299 Application Form

Each agency is required sign an agreement with State Parks by submitting a complete A-299 application form. The A-299 contains several informational fields that must be filled out completely to be considered and aids in the continued approval of the agency's program. These forms are due each year by October 15. Agencies must provide information on their current staff, training, an inventory of vessels, and the anticipated patrol schedule. The form also defines the specific requirements your agency is committing to in exchange for vessel registration fees. This form, and instructions on how to fill it out, is located at http://mle.parks.wa.gov/.

Designated Marine Lead / Conference Attendance / Surveys

Each agency has a unique and different operational environment that offer a variety of solutions to ensure Marine Law Enforcement (MLE) unit operations, enforcement, fiscal and administrative functions are conducted according to best practices. Some agencies may have a Lieutenant serving the MLE Unit Supervisor and crew member conducting vessel operations and patrols. Other agencies may have a Sergeant as a supervisor and different crew member conducting vessel operations.

Recognizing this, State Parks requires each agency to designate a "Marine Lead", which is the person responsible for the day-to-day operations of its marine program and acts as the point-of-contact with State Parks on all issues and matters related to that agency's MLE unit. While the Sheriff or Chief of Police is ultimately responsible for ensuring their agency is meeting all the program requirements, the Marine Lead is the person implementing their guidance and communicating that to other Marine Unit members, State Parks, and the public.

The Marine Lead is responsible to:

- Ensure all required reports are completed and submitted to State Parks within due date guidelines.
- Submit personnel names to attend training courses and conferences.
- Attend the annual fall conference.
- Ensure that B.O.A.T. Currency training is conducted and reported to State Parks.
- Utilize Marine SECTOR within their agency.
- Communicate with State Parks on all matters and issues which may arise around recreational boating safety and marine law enforcement.
- Respond to surveys from State Parks.

State Parks also requires the agency to designate a "Marine Supervisor", which is the person with administrative supervision of the agency's MLE program.

Reporting Recreational Boating Activities and Financial Data

SOAR – Summary of Activity Reports

A Summary of Activities Report (SOAR) form must be submitted at least quarterly to State Parks. However, agencies are invited to report activities daily, weekly, or monthly. This form, and instructions on how to fill it out, is located at http://mle.parks.wa.gov/.

Vessel Registration Fee Expenditure Report

This annual report form must be submitted by October 15 each year to State Parks. The form fulfills the requirements of **WAC 352-65-040(9)** which requires each participating agency to submit an annual account of program expenditures showing the amount of vessel registration fees received, spent, and remaining in their dedicated account. They must also show the amount of "local spending" on recreational boating safety activities. "Local spending" is the amount agencies spend on the RBS mission and cannot come from other grant sources. Local spending is required because RCW 88.02.650 specifies that "[VRF] Funds may not supplant local funds used for boating safety programs". This form, and instructions on how to fill it out, is located at http://mle.parks.wa.gov/.

Supporting Financial Documents

Every Vessel Registration Fee (VRF) Expenditure Report must be accompanied with the following reports:

- Financial System Report: A report from the agency financial system (not Excel) showing a dedicated account for the deposit of state VRF funds received from the Office of State Treasurer (Enclosure 4).
- VRF Fund Balance Report: A report showing the fund balance of the dedicated account (Enclosure 5). The VRF fund balance on this system-generated report should match the bottom line on the VRF report ("Total Remaining Balance of State VRF funds for Fiscal Year").

Dedicated Account / Limitations on the Use of Funds / Accountability

Participating agencies must deposit VRF funds allocated by the state treasurer, under RCW 88.02.650, into an account dedicated solely for boating safety purposes, which include all activities or expenditures identified in this section. See the document "Allowable Costs & Expenditures for State Vessel Registration Fees & Federal Assistance Grants" for a thorough explanation of eligible expenses located at http://mle.parks.wa.gov/.

Vessel Registration Fees are intended to increase the education and enforcement efforts of local agencies and stimulate greater local participation in boating safety. They cannot be used to fund any activities except those that are part of the recreational boating safety mission.

Agencies may charge actual, direct administrative costs to the VRF account - such as staff hours it takes to fill out forms, or to maintain the dedicated account - but may not charge administrative fees based on an estimated percentage.

Participating agencies must maintain accurate annual records of activities and expenditures of their boating safety programs. Those records must be provided to State Parks consistent with their agreement, or upon request. The agency must also permit State Parks to audit the use of funds in accordance with generally accepted audit practices and standards.

Links to local ordinances

When the local jurisdiction adopts ordinances governing recreational boating, the ordinances must be at least as restrictive, but may be more restrictive than Washington state boating laws and regulations. Participating agencies must submit a web link to all such ordinances to State Parks using the designated field in the A-299 Form.

Operational Requirements

Officer / Deputy Qualifications / Training / Training Currency

Participating agencies must provide Officers / Deputies with law enforcement certificates from the Criminal Justice Training Commission which authorizes them to enforce all boating laws and regulations. All Officers / Deputies must maintain a current Washington State Peace Officers Certification.

Participating agencies are responsible for acquiring the required training for all RBS Officers / Deputies. Washington State Parks provides two or more Basic Marine Law Enforcement Academies each year to help agencies fulfill this requirement. These courses are provided at no charge. They are taught in the spring - usually one in Western Washington and one in Eastern Washington. Officers / Deputies may attend other basic boating safety training, if approved by State Parks. Those approved courses are the Federal Law Enforcement Training Center's (FLETC), Marine Law Enforcement Training Program (MLETP), or National Association of Boating Law Administrator's (NASBLA) Boat Crewman course (BCM).

Such training must be acquired within one year of initiating a new boating safety program and within one year for each newly assigned boating safety Officer / Deputy.

Washington State Parks' Marine Law Enforcement Training Academy is accredited through the NASBLA's Boat Operation and Training (BOAT) Program. As a term of accreditation, State Parks must ensure that all active marine Officers / Deputies maintain proficiency in basic RBS skills. This is important because these skills are perishable but critical to operate in a marine environment. All agencies must submit a BOAT Currency Requirements Report Form for all active personnel listed in the A-299. These reports are

submitted at least annually with the A-299 but may be updated throughout the year. This form, and instructions on how to fill it out, is located at http://mle.parks.wa.gov/.

Agencies which have not completed all currency training tasks required may submit a statement of explanation and attach it to the A-299 form. State Parks recognizes that many different circumstances could prevent training from being completed (wildfires, maintenance issues, staffing shortfalls, etc.). Each circumstance will be evaluated on its own merits.

Agencies are required to list any additional training courses their personnel have completed on the A-299 web form. This helps State Parks in maintaining an up-to-date database of marine law enforcement capabilities across the state and helps identify training subjects and courses that are needed, but not offered within the state.

Vessels and Equipment

Agencies must supply the necessary boating safety patrol equipment, including vessels capable of serving the minimum requirements outlined in this guidance. Patrol vessels must be properly marked and properly equipped as provided in chapter 88.02 RCW and chapter 352-60 WAC. Agencies are also required to provide State Parks with an inventory of all vessels along with details for how they are equipped each year by filling out the A-299 form. Information required on that form includes:

- **Vessels**: State Parks requires the following data on each vessel:
    - Vessel name
    - Manufacturer
    - Radio equipped (Y/N): Radio equipped means the vessel has an agency **radio installed or "hardwired".** Non-radio equipped boats are vessels that do not have radios installed. Portable radios may be carried on these boats, but they would be considered non-radio equipped. Examples include personal watercraft, drift boats, Jon boats, kayaks, and inflatable rafts (motorized or non-motorized).
    - SECTOR equipped (Y/N): SECTOR equipped boats are the patrol vessels in your agency that are SECTOR equipped with a computer or tablet plus printer and scanner (**installed or "hardwired" to include portable cased units**). Non-SECTOR equipped boats are vessels that do not have a computer, tablet, printer installed or if these are not carried aboard as a cased kit.
    - Model
    - Length
    - Propulsion type
    - Horsepower
    - Year
    - Funds used to purchase the vessel (local, state, or federal)
    - Percent of time employed for the RBS mission.

NOTE: Vessels purchased with state or federal dollars must be sold at the end of their useful life, consistent with the local agency's policies and procedures. Once a vessel is sold it should be removed from the Patrol Vessel list as quickly as possible. **If the agency is selling a vessel that was purchased with federal grant dollars provided by State Parks, you must notify State Parks 60 days in advance of the sale date**.

- **Vehicles** (trucks, cars, SUVs, ATVs): The number of other patrol vehicles assigned to the marine services unit **and the percentage they are used for RBS activities**.
    - Vehicle type
    - Manufacturer
    - SECTOR/Radio equipped
    - Model
    - Year
    - Funds used for purchase.
    - Percent of time employed for the RBS mission.

- **Aircraft:** The number of aircraft in your agency **and the percentage they are used for RBS activities.**
    - Aircraft type
    - Manufacturer
    - SECTOR/Radio equipped
    - Model
    - Year
    - Funds used for purchase.
    - Percent of time employed for the RBS mission.

- **Equipment valued at $5000.00** (i.e., engines, electronics, etc.): Agencies are required to update their inventory of durable items defined as having a cost or value of $5000.00 or more. Only items listed under "allowable expenses" are permitted (see "Allowable Expense Guidance" document for full details).
    - Type of equipment
    - Manufacturer
    - Model
    - Year
    - Funds used for purchase (local, state, federal)

Boating Accident Reporting

Participating agencies are required to submit accident reports to State Parks in compliance with RCW 79A.60.200, RCW 79A.60.220 and WAC 352-70.

For any boating accident resulting in a death or injury requiring hospitalization, each participating agency must:

- Notify State Parks **within 48 hours** of becoming aware it.
- Fill out and submit a complete Boating Accident Investigation Report (BAIR – form number A-425) within ten days of the occurrence.
- Include the results of any other investigation conducted by the agency.
- Submit any coroner's reports concerning the death of any person resulting from the boating accident, within one week of completion.

Participating agencies must also submit a Boating Accident Report (BAR – form number A-440) within **10 days** of the occurrence to State Parks for any boating accident:

- Resulting in a death, OR
- An injury requiring hospitalization, OR
- Damage to any vessel or property of two thousand dollars or more, OR
- A vessel is a complete loss, OR
- A person disappears from the vessel under circumstances that indicate death.

Boater Assistance

The local municipality will have the ability to respond or coordinate response to boating emergencies which occur within their jurisdiction. Furthermore, agencies must document each occurrence and report it to State Parks through the Summary of Activity Report (SOAR) at least quarterly using the following definitions:

- **Search and Rescue/Recovery** – Search and rescue (SAR) is defined as a water-borne response (including aircraft) involving a person or vessel **in peril**. Agencies should only report SAR cases on the Summary of Activity Report (SOAR) that were assigned a case number by their agency or a USCG MISLE Case ID Number and an Urgent Marine Information Broadcast (UMIB) initiated by the USCG. Agencies should not report assists (defined below) as SAR cases.

- **Assist** – An "Assist" is defined as aid where there is no immediate danger to the vessel or its occupants. This includes vessels involved in boating accidents, disabled, aground, out of fuel, or otherwise unable to reach a safe mooring under their own power. Assistance may include providing a tow, jump start, re-floating, re-righting, fuel, repair, repair parts, assisting persons in the water, etc. This does NOT include the salvage of a vessel once abandoned or commercial vessels. Report the number of vessels assisted and the number of persons assisted on the SOAR report.

Boat Patrol (Boat Log Hours)

Boat patrol (Boat Log Hours) are those hours that the patrol vessel was actually on the water patrolling. Participating agencies must submit a patrol schedule (with the A-299) that demonstrates they are patrolling waters within their jurisdiction during peak recreational hours. They must also patrol a

minimum number of hours per year. See the note below.

Minimum Patrol Hour Goals Based on Agency Size

- Small agencies - 133 hours
- Medium agencies - 255 hours
- Large agencies - 436 hours

NOTE: State Parks recognizes that Washington State experiences a diverse boating season. Various areas of the state have increased boating activities due to recreation fishing, hunting and pleasure crafting. Because of its diverse landscapes and seasons, State Parks acknowledges that the traditional peak boating season remains during the time between Memorial Day and Labor Day but is not exclusive to that time frame. State Parks has collected data for patrol hours performed by all participating over a period of years and has established the average boat log hours for agencies based on jurisdiction population size according to the U.S. Census. Patrol hours can be a combination of Boat Log and Ramp-side hours.

Patrol hours is considered a critical metric. It is used by State Parks to determine if an agency is complying with the minimum requirements. Failing to achieve the minimum number of hours of patrol (based on size) could be a factor in determining ineligibility for vessel registration fees.

Example patrol schedule

Boat Patrol Schedule							
	Mon	Tue	Wed	Thur	Fri	Sat	Sun
Patrol Hours							
# of Officers / Deputies							
# of Vessels							
Patrol Season Beginning Date				Patrol Season Ending Date			

Enforcement

Participating agencies must enforce safety equipment, vessel operation, noise level, navigation, harbor improvements (as authorized and placed through local ordinances), and registration laws as specified in Title 88 RCW, and as specified in local codes or ordinances. Agencies must also document and report the numbers of warnings and citations they issue for each type of boating violation in the Summary of Activity Report – **except those issued through SECTOR**.

State Parks recommends zero tolerance policy in the enforcement of mandatory boater education card carriage, life jacket wear/carriage, boating under the influence and rules of the road violations. Officers / Deputies should strongly consider issuing citations for violations of these laws in all circumstances.

The SECTOR system should be used to issue boating citations and warnings. State Parks will no longer accept mailed-in paper inspection forms, although State Parks will continue to provide paper inspection forms to agencies for internal use.

Boating Safety Inspections

Participating agencies must complete written boating safety inspections during enforcement and informational contacts when considered safe and appropriate to document boater compliance with state boating laws. State Parks will provide boating safety inspection forms. Copies of the completed inspections must be submitted to State Parks for statistical purposes. Inspections conducted in SECTOR do not have to be reported to State Parks.

NOTE: We will not accept paper inspection forms after January 1, 2019. All inspections must be submitted using SECTOR.

State Parks has calculated suggested minimum goals for the number of boating safety inspections an agency performs in a boating season based on size.

Suggested Written Inspections – Minimum Goals

- Small, 92
- Medium, 283
- Large, 372

Boating Safety Education / Designated Education Officer / Deputy

Participating agencies must have a boating safety education and information program. At a minimum, they must designate an Officer / Deputy, trained by State Parks, to coordinate the activities of boating safety education instructors, act as liaison to boating education organizations and to coordinate:

- Boating safety presentations, which may include presentations to primary and secondary school children, boating organizations, or youth groups.
- Boating safety instruction meaning a public course of instruction using the Adventures in Boating materials from State Parks, or other state or nationally recognized curriculum approved by State Parks.
- Distribution of boating safety information, including materials provided by State Parks, to boating and outdoor recreation organizations, the boating public, public agencies, and local media.

NOTES

- Any Officers / Deputies designated as Certified Boating Education Instructors must be listed as Instructors qualified for the Adventures in Boating course by the State Parks Education and Outreach coordinator.
- State Parks considers education and outreach activities a key component of preventing boating injuries and fatalities. Classroom instruction, school presentations and participation in community events, Dealer and Rental site visits, and effective use of media are crucial to preventing boating accidents and fatalities. Agencies are not required to engage in all education and outreach activities described below but should pursue a mix of tactics appropriate for their area of operation.

Education and Outreach Tactics and Suggested Goals

- **Education Classes:** Classroom instruction of the Adventures in Boating course sanctioned by Washington State Parks that qualifies passing students to obtain a Mandatory Boater Education Card.
  - Small = 15 students, 1 Class
  - Medium = 20 students, 1 Class
  - Large = 50 students, 1 Class

- **Boating Safety Presentations to Groups:** Presentations to various groups such as yacht clubs, kayak clubs, anglers, and any groups that use boats on the water.
  - Small = 10 hours
  - Medium = 15 hours
  - Large = 25 hours

- **Boating Safety Presentations to Schools:** Presentations to local public and or private schools K-12, and colleges / universities.
  - Small = 10 hours
  - Medium = 15 hours
  - Large = 25 hours

- **Vessel Rental Site Visits:** Visits to local vessel rental sites intended to ensure employees and renters are following guidance on the Motor Vessel Rental Safety Checklist. These can also be site visits to businesses that rent out kayaks, canoes, stand-up paddleboards, or other small non-motorized craft. The intent of visits in this case is to emphasize basic safety behaviors such as encouraging renters to always wear a life jacket and encouraging boating in low hazard areas.
  - Small = 2
  - Medium = 4

- Large = 6

- **Participation in Community Events:** Events like county fairs, parades, and night outs that reach large numbers of community members. A qualified event requires face-to-face interaction with community members. Participation in regattas, races, or opening days where there is little or no face-to-face interaction between Officers / Deputies and community members does not count as a "Community Event". Also, maintaining a screen line or security area at an on-water event does not count for reporting event hours on the SOAR.
  - Small = 40 hours
  - Medium = 150 hours
  - Large = 275 hours

- **Vessel Dealer Site Visits:** Visits to vessel dealerships and brokers to ensure they are following dealer registration laws, educate them on any safety issues with type of vessels they sell, and checks that required safety equipment is on board during test rides and sea trials. Dealers should also be encouraged to remind their customers of the mandatory boater education requirement.
  - Small = 5
  - Medium = 10
  - Large = 15

- **Professional Prevention Partners (Safe Kids, Power Squadron, USCG Auxiliary, etc.)**: Engaging partners can multiply the effectiveness of a marine law enforcement program's by increasing their area of influence and leveraging the resources of partners. Partnering activities include meetings, conference calls, event participation, and actual on-water time. Agencies should report the hours that Prevention Partners spend conducting RBS activities.
  - Small = 1
  - Medium = 3
  - Large = 5

Media Contacts: (This section only applies to Federal Financial Assistant Grant recipients). The intent is for agencies to distribute recreational boating safety content through their own social media channels, the social media channels of their partners, or the news media.

- **Owned Media:** This is the number of hours spent on this activity and the number of posts or articles distributed through communication channels that are owned and managed by the agency like the agency website, social media channels (Facebook, Twitter), newsletters, etc.
  - Small = 4
  - Medium = 8
  - Large = 16

- **Earned Media:** This is the number of hours spent on this activity and the number of articles broadcast through media channels that are not managed by the agency. Examples include

stories in the newspaper, radio, and television. Agencies should also count the number of recreational boating safety posts on the social media channels of partner organizations when the agency can show that the posts are the result of interaction with that partner.

- Small = 4
- Medium = 8
- Large = 16

Campaigns: See SOAR for reporting requirements. Goals for all agencies, regardless of size, is participation in these campaigns. The State Parks Recreational Boating Safety communications staff will distribute content to all agencies for each of the campaigns making participation quick and simple. These campaigns can have a powerful impact if all agencies participate.

- Operation Dry Water campaign is a national campaign focused on the deterrence of boating under the influence. Participation in this campaign is mandatory for all agencies that receive a federal assistance grant. It is a combination of emphasis patrols and media the weekend before the Fourth of July.
- Spring Aboard Campaign was a national campaign but is now a state campaign designed to encourage all boaters to take a recreational boating safety class. It occurs in late March.
- National Safe Boating Week is a nationally observed week focused on encouraging all boaters to wear their lifejackets and other best practices for optimal safety. In addition to media posts, agencies are encouraged to participate in "Wear IT" events. This campaign is sponsored by the National Safe Boating Council.
- Safe Paddling Week is a campaign sponsored by the Washington State Parks Recreational Boating Safety Program. The purpose of the week is to elevate awareness around basic paddling safety behaviors such as always wearing a PFD, obtaining training, etc.

Waterway Marking

Participating agencies should report the total number of Aids to Navigation (ATONs) that they are responsible for within their jurisdiction on the SOAR. Do not count ATON's emplaced / maintained by the USCG, Corps of Engineers or other Federal agencies. The county or local jurisdiction will use only those waterway markers which conform to the uniform state waterway marking system as identified, found in chapter 352-66 WAC.

Accountability

Audits

All agencies will be audited on a periodic rotating basis. When your agency is slated for an audit, the State Parks Marine Law Enforcement Coordinator will contact your agency to schedule a time. You will

be sent a list of documents and questions that you will need to prepare before the audit. Audits are a review of the performance and accomplishments to measure and evaluate compliance with the terms of the agreement with State Parks.

Compliance

If it is determined that a participating agency is not in compliance with the minimum requirements of the agreement, the State Parks Marine Law Enforcement Coordinator will notify the agency through a Non-Compliance Warning Letter and cite the wording of the agreement. The letter will request the agency responds with a plan to remedy the deficiency per **WAC 352-64-060 (3)**: Revocation of approval ***"Those counties or local jurisdictions unable to demonstrate compliance with minimum approval requirements will have forty-five days to submit a plan satisfactory to state parks to remedy the deficiencies. If, after forty-five days, a county or local jurisdiction is unable to demonstrate its ability to meet minimum requirements, state parks may revoke the program approval after the county or local jurisdiction has had an opportunity for a hearing under chapter 34.05 RCW, the Administrative Procedure Act."***

AGENDA ITEM SUMMARY

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

4
2/22/22

Department: BOCC/Finance

WORK SESSION ☒ **Meeting Date: 2/22/2022**

REGULAR AGENDA ☒ **Meeting Date: 3/01/2022**

Required Originals Approved and Attached? ☒
Will Be Provided On:

Item Summary:*

☐ Call for Hearing
☐ Resolution
☐ Draft Ordinance
☒ Contract/Agreement/MOU**
☐ Proclamation
☐ Final Ordinance
Contract # 19925.22.006
☐ Budget Item
☐ Other

Documents exempt from public disclosure attached: ☐

Executive Summary:

Personal Services Agreement with the Olympic Peninsula Visitor Bureau in the amount of $650,000 in order to promote year-round tourism.

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?** ☒

These funds are already allocated in the Hotel/Motel Tax Fund 2022 Budget. A budget revision has been processed in February to move the funds from Unanticipated Projects to Olympic Peninsula Visitor Bureau BARS line.

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

Please review and sign.

County Official signature & print name: Debi Cook

Name of Employee/Stakeholder attending meeting: Mark Lane, Marsha Massey – OPVB

Relevant Departments: BOCC, Finance

Date Submitted: 2/11/2021

* Submit original and 5 copies
** Submit **3** originals and 5 copies

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

PERSONAL SERVICES AGREEMENT

Contract Number: 19925.22.006

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

Name: Olympic Peninsula Visitor Bureau
Address: P.O. Box 670
Port Angeles, Washington 98362
Phone Nº: 360.452.8552

(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 first day of January 2022 and shall, unless terminated as provided elsewhere in the Agreement, terminate on the thirty-first day of December 2022.

IN WITNESS WHEREOF, the parties have executed this Agreement on this day of 2022.

OLYMPIC PENINSULA VISITOR BUREAU

Marsha Massey

Marsha Massey, Executive Director

Date: February 11, 2022

BOARD OF CLALLAM COUNTY COMMISSIONERS

Mark Ozias, Chair

ATTEST:

Loni Gores, Clerk of the Board

Originals: BOCC
Vendor
Initiating Department
Copies: 5

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

SCOPE OF WORK

Clallam County is responsible for the hotel/motel tax collected in the unincorporated areas of Clallam County and these funds are limited by statute. Clallam County is dedicated to using hotel/motel tax funds to enhance tourism in the unincorporated areas of the County by working together with other governmental agencies, groups, and organizations.

The Contractor, a non-profit corporation, was formed to promote and develop a multi-faceted, year-round tourism industry in Clallam County and is willing and able to assume the responsibilities as set forth in this document.

Purpose of Agreement: To establish a comprehensive, viable tourism industry in Clallam County and a professionally managed tourism promotion and enhancement program by:

a) Working to increase and enhance the use of countywide hotel/motel facilities by developing and executing a tourism, publicity, and marketing plan targeted outside Clallam County.
b) Enhancing and extending the tourism season through increased shoulder season marketing including, but not limited to, better access and availability of information on facilities, activities, and events within Clallam County.
c) Through partnerships, developing and promoting programs that direct tourists from one area of the Olympic Peninsula to another to enhance the number of days spent in Clallam County.
d) Developing, supporting and/or promoting a broad spectrum of experiences, activities, and events within the County that encourage tourists to extend and repeat visits to the area.
e) Developing and administering a tourism marketing grant program for Clallam County, under the lodging tax guidelines.
f) Coordinating various communications and publications including, but not limited to, monthly e-newsletters, lure brochures, and special seasonal publications as directed by the Board of Directors.
g) Developing and maintaining an active program of communication to related tourism information providers.
h) Building community awareness of the economic value of tourism through media relations and community involvement.
i) Providing leadership and guidance to partners in the development of tourism marketing strategies.
j) Developing and implementing countywide tourism marketing program in concert with the Board of Directors.
k) Participating in and providing leadership to the joint marketing partnership as the organization's contribution to the overall effort of promoting the Olympic Peninsula on a destination-centric, cooperative basis.
l) Maintaining and enhancing the OlympicPeninsula.org website.
m) Working with the Parks, Fair and Facilities Department to promote use of County Parks for day use and overnight stays by out-of-area visitors, through communications, public relations, advertising, representation on OlympicPeninsula.org website, and appropriate printed materials. As needed, provide assistance to the County to improve Park web pages.
n) Include the County Fair in the events portion of the website and relevant printed collateral.

The Contractor shall:

a) Take all steps necessary to accomplish the goals and objectives set forth in "Purpose of Agreement" above.
b) Notify Clallam County at the time the budget is negotiated each year of any and all bylaw amendments adopted by the Contractor's Board.
c) Develop an annual operating and capital budget including program goals and objectives, and submit it for approval by LTAC before going to the Clallam County Board of Commissioners for consideration by November 1.
d) Maintain all accounting and expenditure records of the budget. These records and accounts shall accurately reflect all direct and indirect costs incurred and services performed pursuant to this contract. These records shall be kept for five (5) years by the Contractor and shall be subject to

inspection or audit by the County at all reasonable times during the performance of this contract and five years after termination thereof.

e) Meet with the Clallam County Board of Commissioners or their designee two times each year to review goals and objectives for tourism enhancement and expenditure of funds, and once a year to discuss the proposed budget for the coming year, set the amount of financial support, and review the achievements of the past year.

f) Select members to the Contractor's Board according to its bylaws, assuring that the Contractor's board responsibly performs its duties as enumerated in this agreement, and establishing rules as to the operation of the Contractor.

g) Require review and approval by the Clallam County Board of Commissioners of any budget revisions which change the scope of work of this agreement.

h) Ensure the tourism promotion program funded under this agreement is consistent with the intent of RCW 67.28.

COMPENSATION

1. ☒a. FIXED FEE FOR SERVICE: For services rendered, the County shall pay to the Contractor a fixed fee of SIX HUNDRED FIFTY THOUSAND DOLLARS ($650,000) 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 which 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 which 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. 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 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 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 thirty (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 fifteen (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 ten (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 thirty (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: Not applicable

Title:

Address:

Telephone:

E-mail:

Fax:

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.

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:

☒ COMPREHENSIVE GENERAL LIABILITY:		
Bodily injury, including death.	$1,000,000	per occurrence
Property damage	$1,000,000	per occurrence
☐ 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	$	per occurrence
Property damage 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. 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):.

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda) 5 2/22/22

Department: BOCC/Finance

WORK SESSION ☒ **Meeting Date: 2/22/2022**

REGULAR AGENDA ☒ **Meeting Date: 3/01/2022**

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

Item summary:

☐ Call for Hearing
☒ Contract/Agreement/MOU - Contract # 19941.22.002
☐ Resolution
☐ Proclamation
☐ Budget Item
☐ Draft Ordinance
☐ Final Ordinance
☐ Other

Documents exempt from public disclosure attached: ☐

Executive summary:

This is our Memorandum of Understanding with the City of Forks in which the County shall provide the City a grant from the Opportunity fund in the amount of $2,375,610 for retrofits to the City of Forks Waste Water Treatment Facility.

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?** ☐

A Debatable Emergency has been processed and is on the agenda to be approved February 22, 2022.

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?)
Please review and approve the contract.

County Official signature & print name: _____ Debi Cook

Name of Employee/Stakeholder attending meeting: Mark Lane

Relevant Departments: BOCC, Finance

Date submitted: 2/16/2022

CLALLAM COUNTY OPPORTUNITY FUND PROGRAM MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (MOU) is made and entered by and between Clallam County, a political subdivision of the State of Washington (hereinafter "County"), and the City of Forks, a municipal corporation (hereinafter "City"). Together, the County and the City are referred to herein as the "Parties." The Parties have the lawful authority to execute this MOU pursuant to their corporate powers RCW 36.01.010 and RCW 35A.11.010.

WHEREAS, the County administers the "Opportunity Fund Program" in accordance with RCW 82.14.370(3) and Chapter 5.40 of the Clallam County Code to finance public facilities/infrastructure that may promote economic development in the region;

WHEREAS, the City has applied for grant funding through the "Opportunity Fund Program" in order to help finance the Waste Water Treatment Facility;

WHEREAS, the County has carefully reviewed the City's grant application and the corresponding project;

WHEREAS, the County believes the project is eligible to receive opportunity funds and that the moneys will be used to finance facilities/infrastructure that may promote economic development within the region;

WHEREAS, the County has held public meetings/hearings and received extensive public comment regarding the City's application; and

WHEREAS, the County has determined that the City is a worthy recipient of opportunity funds and the award is in the interest of the common good as evidenced by adoption of Resolution 16, 2022 by the County Board of Commissioners.

NOW THEREFORE, in consideration of the mutual terms, provisions, and obligations contained herein, it is agreed by and between the County and the City as follows:

1. **PURPOSE:** The purpose of this MOU is to memorialize the award of grant moneys, drawn from the County's "Opportunity Fund Program," and to be awarded to the City of Forks to fund retrofits to its Waste Water Treatment Facility.

   In consideration of the award offered by the County, the City agrees to use the opportunity funds consistent with the attached grant application submitted to the County. Upon completion of the Waste Water Treatment Facility, the City will return to the County and give a presentation showing the progress/success of the Waste Water Treatment Facility project.

2. **DURATION:** This MOU does not have a defined term.

3. **FINANCING:** The County will issue a one-time warrant to the City in the amount of $2,375,610 following execution of this MOU.

4. **PROPERTY:** Any property acquired through the award of the opportunity funds will belong to the City. The County does not acquire any interest in property, real or otherwise, that may be obtained with the grant award.

5. **ORGANIZATION:** By awarding opportunity funds, the County does not become a formal partner in the City's Waste Water Treatment Facility and does not share in the organizational burdens associated with the project.

6. **LIABILITY:** It is the intent of the parties that the County shall not be held liable for any injury/harm that may occur during, or result from, the Waste Water Treatment Facility. The City agrees to defend, indemnify and save harmless the County, its appointed and elected officers, agents and employees, from any and all liability, claims, actions, suits, losses, expenses, damages, and judgments of any nature whatsoever, including costs and attorney's fees in defense thereof, that may result from/through the Waste Water Treatment Facility Project. This provision shall survive termination of this MOU.

7. **RETURN OF FUNDS:** If, for whatever reason, the City does not expend the entire grant award in connection with the Waste Water Treatment Facility, then the City agrees to return the remaining funds to the County.

8. **DISPUTES:** The Parties agree to work together to resolve any disputes that may result in performance of this MOU.

9. **MODIFICATION:** This MOU may be modified by mutual consent of the parties provided that any modification is memorialized in writing and signed by the Parties.

10. **TERMINATION:** This MOU will terminate when the City uses the full amount of the award or returns any remaining balance to the County, whichever may come first.

11. **GOVERNANCE:** This MOU has been and shall be governed by the laws of the State of Washington, both as to its interpretation and performance. Any action at law, suit in equity, or judicial proceeding arising out of this MOU shall be instituted and maintained only in any courts of competent jurisdiction located in the State of Washington.

12. **SEVERABILITY:** If a court of competent jurisdiction finds any part, term or provision of this MOU to be illegal or invalid in whole or in part, such invalidity shall not affect the other provisions of this MOU which can be given effect without the invalid provision, if such remainder conforms to the

requirements of applicable law and the fundamental purpose of this MOU, and to this end the provisions of this MOU are declared to be severable.

13. **WAIVER:** A failure by either party to exercise its rights under this MOU shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this MOU.

14. **ENTIRE MOU:** The parties agree that this MOU is the complete expression of its terms and conditions. Any oral or written representations or understandings not incorporated in this MOU are specifically excluded. This MOU is for the benefit of the parties, and no third party beneficiary relationship is intended.

IN WITNESS WHEREOF, the parties have executed this MOU.

CLALLAM COUNTY
BOARD OF COMMISSIONERS

Date:

Mark Ozias, Chair

ATTEST:

Loni Gores, Clerk of the Board

CITY OF FORKS

Date:

Tim Fletcher, Mayor

ATTEST:

Audrey Grafstrom, City Clerk

Approved as to form only by

Bert Dee Boughton
Civil Deputy Prosecuting Attorney
Clallam County

Clallam County Board of Commissioners
223 East Fourth Street, Suite 4
Port Angeles, WA 98362
360.417.2233

OPPORTUNITY FUND APPLICATION

Date: November 24, 2021

Project Title: Forks Wastewater Treatment Facility Improvements

Applicant: City of Forks

Contact: Audrey Grafstrom, Clerk/Treasurer and Paul Hampton, Public Works Director

Address: 500 E Division Street

City, State, Zip: Forks, WA 98331

Phone Number: 360 374-5412

E-Mail Address: audreyg@forkswashington.org paulh@forkswashington.org

Authorized Signer/Position: Tim Fletcher, Mayor

OPPORTUNITY FUND PROGRAM

Application for Funding

ATTACH COPY OF PROJECT PROPOSAL

Amount of **Loan** Requested: $_____

Amount of **Grant** Requested: $2,375,610

Local **Match:** $1,023,500 94.5% of City ARPA Funds

Other Funding Sources: $_____

Total Project Cost: $3,399,110

Amount Raised To-date: $1,023,500

Loan terms requested:

Requested Rate of Interest:

Total number of years for repayment: _____

Deferral period (# of years): _____

Type of payment schedule:

Straight Line Amortization _____
Decreasing Payments _____
Increasing Payments _____
Other (please specify) _____

I. SITE/PROJECT INFORMATION

A) Include a site map of the area. Identify the location of the site, *and* public infrastructure (existing and/or proposed).

A site map of the Wastewater Treatment Facility is included.

B) Project cost breakdown:

See Project Proposal.

C) Specifically, for what element(s) of the project are Opportunity Fund Program (OFP) dollars being requested?

See Project Proposal.

D) Estimated schedule for project completion:

	Estimated Completion Date	Example:
Grant award		*1/3/2022*
Issue RFQ for engineering firm	*30 days after grant award*	*2/2/2022*
Contract with engineering firm	*60 days after grant award*	*3/1/2022*
Preparation of design plans and bid specifications	*120 days after grant award*	*4/30/2022*
Bid opening	*150 days after grant award*	*5/30/2022*
Sign construction contract	*180 days after grant award*	*6/29/2022*
Complete construction	*420 days after grant award (8 month construction contract)*	*2/24/2023*

E) What other jurisdictions are involved in the planning, design, financing, construction, operation *or use* of this project? (cities, counties, state/federal agencies, tribes, etc.):

None

F) Will the applicant maintain the project. If not, who will be responsible for its maintenance?

Yes, the City of Forks is responsible for operation and maintenance.

II. PRIVATE SECTOR COMMITMENT/INVOLVEMENT

A) *If applicable,* identify private sector firm(s) and contact person(s) involved in the project:

- Firm: _____
- Contact: _____
- Telephone: _____
- Will it relocate to the project site: _____

B) Explain the private sectors involvement in the project. Why does the private sector require the proposed public infrastructure improvements?

The Forks Sewer District includes 126 commercial users, 160 low income apartment units, 127 trailers in six trailer courts predominately low to moderate income, and 257 single family residential units of mixed income levels.

Failure to address the necessary improvements to the Wastewater Treatment Facility could result in a catastrophic failure of the sewer system jeopardizing operation of the downtown core of businesses, the Forks Community Hospital, and the Quillayute Valley School District.

C) Type of jobs to be created/retained:

Using data from the Paycheck Protection Program, businesses within the Sewer District employ approximately 934 individuals. This is a conservative estimate of the number of jobs at businesses serviced by the WWTF, since not all businesses applied for PPP funds.

D) Projected annual gross payroll?

The estimated annual payroll of businesses within the Sewer District is conservatively $47,195,449. This includes the Forks Community Hospital and the Quillayute Valley School District.

III. FINANCIAL INFORMATION ON APPLICANT

This section examines the general financial status of the applicant.

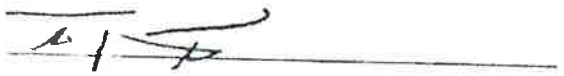
A) Provide the most current annual financial report reviewed by the State Auditor. If the most current year is not representative of the past five years, please provide additional information or reports.

The City of Forks is normally on a two-year audit schedule, but since we exceeded the threshold for expenditures of federal funds in 2020 the SAO conducted a one-year Financial Statement and Federal Single Audit. The 2020 audit report is attached in addition to the 2018 – 2019 Financial Statement, Accountability, and Federal Single Audits.

B) Identify funds (General Fund, Utility Fund, etc.) that will be eligible to repay an OFP loan. If any funds cannot be used to service OFP debt, please explain. If a particular fund or revenue source has been identified for repayment of the loan, please describe.

IV. DECLARATION

I HEREBY CERTIFY THAT THE INFORMATION GIVEN IN THIS APPLICATION TO THE OPPORTUNITY FUND BOARD IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Signature of responsible official: 

Print or Type Name and title: Tim Fletcher, Mayor

PROJECT PROPOSAL
CITY OF FORKS
WASTEWATER TREATMENT FACILITY IMPROVEMENTS

The Wastewater Treatment Facility (WWTF) for the City of Forks requires significant improvements and retrofits to prevent catastrophic failure. The improvements are required to ensure redundancy with key components, to increase capacity necessary to respond to development, and to prepare for expansion of the sewer district to businesses and neighborhoods with a high probability of failed septic systems.

The City of Forks constructed its original wastewater treatment facility and sewer collection system in 1986. Prior to construction of the WWTF, all homes and businesses in the area were served by individual septic systems. The facility was constructed with an aerated lagoon, secondary clarifier, return/waste activated sludge pumping station, effluent pumping station, and infiltration basin. A mechanical fine screen was installed in the headworks structure in 1997. In 2002, the City received an administrative order to cease land application of biosolids. The City quickly moved forward to install the FKC screw press, the first of its kind in the Nation. In doing so, the City expended $600,000 for the project, which was nearly all of the sewer system capital reserve.

While the WWTF consistently receives Outstanding Performance Awards from the Department of Ecology (11 of the last 12 years), there is no redundancy for major components. Recent development in the sewer district (including new lodging establishments and high density low-income housing) has pushed the WWTF to capacity and potential in-fill of lots threaten to overwhelm its operation.

To address additional capacity, modifications are needed to the existing **FKC screw press**. The system modifications would include replacement of ancillary components including: sludge holding tanks, sludge feed pump, polymer system, flocculation tank, and boiler skid. The screw press would be relocated in the current building and the truck loading bay would be moved outside the building. Biosolids would be transported to the truck by conveyor. Forks City Council committed $1,023,500 (94.5%) of the City's American Rescue Plan Act funds to completing the FKC screw press modifications.

The facility does not have redundant clarifier capacity, a requirement of Ecology's reliability standards. A new 35-foot-diameter clarifier (**Secondary Clarifier No. 2**) could be located to the south of the existing clarifier (Secondary Clarifier No. 1). Mixed liquor from the aerated lagoon could be split hydraulically in the existing splitter box, modified with weirs to provide an even distribution of flow to each clarifier when both are in service.

The **aerated lagoon** installed in 1986 is nearing the end of its anticipated life span and needs to be replaced. The lagoon is currently single lined. New Ecology standards require all wastewater impoundments (ponds/lagoons) to be double lined with leak detection or single lined with

groundwater monitoring. Both the aerator and mixer are original equipment and beyond the 20 to 25 year life span. In addition, there is no redundancy in case of failure.

A permanent on-site **generator** should be installed to provide power to all electrical systems in the plant during outages. A preliminary load study of the plant with recommended improvements results in the need for a 250-kW generator. The generator would be housed outside in a sound attenuating enclosure and include an automatic transfer switch.

Miscellaneous improvements needed at the WWTF include:

- Air-gap to provide physical separation of the City's potable water system and non-potable water system which is required by the Department of Health. The air-gap system would consist of a surge tank, inlet valve, centrifugal water pumps, and pneumatic pressure tank.
- Renovations to the laboratory and maintenance building (flooring and HVAC)
- Redundant return-activated sludge pump station
- Replacement pumps, retrieval system, and control panel for the Mill Creek pump station
- Submersible centrifugal pumps for in-plant pump station

Project Cost Breakdown:

Modifications to FKC screw press	$ 919,500
Construction of secondary clarifier No. 2	$ 914,500
Improvements to aerated lagoon	$ 519,600
Installation of emergency generator	$ 310,600
Miscellaneous improvements including: air-gap, RAS pump station, Mill Creek pump station	$ 425,900
Engineer's estimate	$3,090,100
Inflation from original estimates	$ 309,100
Total project cost	$3,399,110

The City has committed $1,023,500 of its ARPA funds to the project, leaving a request of $2,375,610 from the Opportunity Fund. This project is grouped into components. Each component may be completed individually or combined as one project.

Various funding sources have been explored such as Public Works Trust Fund, CERB, USDA Rural Development, etc. Most, if not all of these sources require a loan component that could not be serviced by user fees, even with a 5.5% increase set for January 1, 2022. (Rates automatically increase each year by CPI-U.) The City is not eligible for emergency funding since the WWTF has not failed and continues to receive DOE Outstanding Performance Awards.

The City of Forks Comprehensive Plan incorporates and references the Capital Improvement Plan as the guide in implementing the City's capital projects. The CIP lists these improvements to the WWTF as capital projects for the sewer system.

EDC

CLALLAM COUNTY
OPPORTUNITY FUND
PROJECTED SOURCES AND COMMITTED USES--2021-2049 (WITH ESTIMATED ADDITIONAL MAXIMUM ANNUAL DEBT SERVICE/GRANT CAPACITY)

NOTE: The projection below assumes the Opportunity Fund tax revenue sunsets in July 2032 and projection extends to 2048 to coincide with the maturity of the County's $10 million Carlsborg Loan which matures in June 2048. Other assumptions include tax revenue annual increase of ~20% in 2021 reflecting the strong retail sales recovery seen following the COVID recession, returning to growth of 4.5% after 2022 (historically has averaged 4-5%), interest rate on funds earned of .75% in 2021 and 2022 due to COVID impact on interest rates, returning to 1.8% thereafter and expenses grow at 3%. Current funding commitments to various EDC agencies assumed flat to 2021 original budget, but 2021 has been adjusted for EDC to reflect $320k of additional funding in support of $20k of 2020 costs that were not billed until 2021 and $300k of admin costs related to the ARPA Lifeboat 3 Grant Program. Reflects the resulting estimated remaining funds in the Opportunity Fund to service all current and future commitments. The model below also estimates the maximum additional annual commitments (whether debt service or other grant commitments) that the Opportunity Fund has the estimated capacity to fund and still have sufficient cash to fully fund all current and projected commitments.

	PROJECTED SOURCES OF FUNDING					PROJECTED USES OF FUNDING										
						DEBT SERVICE FUNDING COMMITMENTS				ONGOING SUPPORT/OTHER EXPENDITURES						
Normal	4.5%	1.8%														
2021: Higher Growth due to COVID Recovery	17.0%	0.8%														
Year	Beginning Fund Balance	Tax Revenue (currently set to expire in July 2032)	Interest Income	Other Income (East UGA Sewer System Development Fees, LID 3rd Street Sewer Line Transfer)	TOTAL SOURCES	Carlsborg Sewer Loan (matures June 2048)	Dept of Commerce--Skills Center Loan (matures Jan 2025)	Department of Ecology -Clallam Bay Sekiu Sewer Projected Loan (20 Yr Loan--Estim Maturity Date-- 2041)	Clallam EDC	SBDC	NODC	Clallam Conservation District (removed as deemed not OF-Eligible)	Transfer to Carlsborg Sewer for Expansion	Indirects Charges from Clallam GF	Potential Funding of Other Future Debt Service/Grants	TOTAL USES	Net Sources/ (Uses)	Ending Fund Balance
2021	4,171,352	1,508,074	70,000	18,000	**1,696,074**	368,966	48,194		330,000	30,000	3,500	0	90,000	4,599	442,000	1,317,258	378,816	4,550,168
2022	4,550,168	1,505,437	35,674	18,000	**1,559,111**	368,103	48,194	114,074	100,000	30,000	3,500	0		4,806	442,000	1,110,677	448,434	4,998,602
2023	4,998,602	1,573,162	94,305	18,000	**1,685,467**	367,241	48,194	114,074	100,000	30,000	3,500	0		5,022	442,000	1,110,031	575,436	5,574,038
2024	5,574,058	1,643,975	105,306	18,000	**1,767,281**	366,379	48,194	114,074	100,000	30,000	3,500	0		5,248	442,000	1,109,395	657,886	6,231,944
2025	6,231,944	1,717,954	117,820	18,000	**1,853,773**	365,517	46,194	114,074	100,000	30,000	3,500	0		5,484	442,000	1,108,769	745,004	6,976,948
2026	6,976,948	1,795,262	132,355	18,000	**1,945,626**	364,655		114,074	100,000	30,000	3,500	0		5,731	442,000	1,059,960	885,666	7,862,614
2027	7,862,614	1,876,048	149,039	18,000	**2,043,088**	363,793		114,074	100,000	30,000	3,500	0		5,988	442,000	1,059,356	983,732	8,846,346
2028	8,846,346	1,960,471	167,512	18,000	**2,145,982**	362,931		114,074	100,000	30,000	3,500	0		6,259	442,000	1,058,764	1,087,219	9,933,564
2029	9,933,564	2,048,692	187,881	18,000	**2,254,573**	362,069		114,074	100,000	30,000	3,500	0		6,540	442,000	1,058,183	1,196,389	11,129,954
2030	11,129,954	2,140,883	210,251	18,000	**2,369,134**	361,207		114,074	100,000	30,000	3,500	0		6,835	442,000	1,057,615	1,311,518	12,441,472
2031	12,441,472	2,237,223	234,730	18,000	**2,489,953**	360,345		114,074	100,000	30,000	3,500	0		7,142	442,000	1,057,061	1,432,892	13,874,363
2032	13,874,363	1,221,785	251,388	16,000	**1,491,173**	359,483		114,074	100,000	30,000	3,500	0		7,464	442,000	1,056,520	434,653	14,309,016
2033	14,309,016		248,220	16,000	**266,220**	358,621		114,074	100,000	30,000	3,500	0		7,799	442,000	1,055,994	-789,774	13,519,243
2034	13,519,243		234,009	18,000	**252,009**	357,759		114,074	100,000	30,000	3,500	0		8,150	442,000	1,055,483	-803,474	12,715,769
2035	12,715,769		219,551	18,000	**237,551**	356,897		114,074	100,000	30,000	3,500	0		8,517	442,000	1,054,988	-817,437	11,898,332
2036	11,898,332		204,841	18,000	**222,841**	356,035		114,074	100,000	30,000	3,500	0		8,900	442,000	1,054,509	-831,667	11,066,665
2037	11,066,665		188,876	18,000	**207,876**	355,172		114,074	100,000	30,000	3,500	0		9,301	442,000	1,054,047	-846,172	10,220,493
2038	10,220,493		174,648	18,000	**192,648**	354,310		114,074	100,000	30,000	3,500	0		9,719	442,000	1,053,604	-860,955	9,359,538
2039	9,359,538		159,155	18,000	**177,155**	353,448		114,074	100,000	30,000	3,500	0		10,157	442,000	1,053,179	-876,024	8,483,514
2040	8,483,514		143,390	18,000	**161,390**	352,586		114,074	100,000	30,000	3,500	0		10,614	442,000	1,052,774	-891,384	7,592,130
2041	7,592,130		127,349	16,000	**145,349**	351,724		114,074	100,000	30,000	3,500	0		11,091	442,000	1,052,390	-907,041	6,685,089
2042	6,685,089		112,052	18,000	**130,052**	350,862			100,000	30,000	3,500	0		11,591	442,000	937,953	-807,901	5,877,188
2043	5,877,188		97,513	18,000	**115,513**	350,000			100,000	30,000	3,500	0		12,110	442,000	937,612	-822,099	5,055,089
2044	5,055,089		82,718	18,000	**100,718**	349,138			100,000	30,000	3,500	0		12,657	442,000	937,295	-836,577	4,218,512
2045	4,218,512		67,662	18,000	**85,662**	348,276			100,000	30,000	3,500	0		13,227	442,000	937,003	-851,340	3,367,171
2046	3,367,171		52,340	18,000	**70,340**	347,414			100,000	30,000	3,500	0		13,822	442,000	936,736	-866,395	2,500,776
2047	2,500,776		36,748	18,000	**54,748**	346,552			100,000	30,000	3,500	0		14,444	442,000	936,496	-881,748	1,618,028
2048	1,618,028		20,878	18,000	**38,878**	345,690			100,000	30,000	3,500	0		15,094	442,000	936,284	-897,406	721,622
2049	721,622		7,830	18,000	**25,830**				100,000	30,000	3,500	0		15,773	442,000	691,273	-665,443	156,179

CLALLAM COUNTY
OPPORTUNITY FUND
PROJECTED SOURCES AND COMMITTED USES--2021-2049 (WITH ESTIMATED ADDITIONAL MAXIMUM ANNUAL DEBT SERVICE/GRANT CAPACITY) w/o Forks application

"NOTE: The projection below assumes the Opportunity Fund tax revenue sunsets in July 2032 and projection extends to 2048 to coincide with the maturity of the County's $10 million Carlsborg Loan which matures in June 2048. Other assumptions include tax revenue annual increase of 120% in 2021 reflecting the strong retail sales recovery seen following the COVID recession returning to growth of 4.5% after 2022 (historically has averaged 4-5%), interest rate on funds earned of .75% in 2021 and 2022 due to COVID impact on interest rates returning to 1.8% thereafter and indirects grow at 3%. Current funding commitments to various EDC agencies assumed flat to 2021 original budget, but 2021 has been adjusted for EDC to reflect $320k of additional funding in support of $20k of 2020 costs that were not billed until 2021 and $300k of admin costs related to the ARPA Lifeboat $ Grant Program. Reflects the resulting estimated remaining funds in the Opportunity Fund to provide for current and future commitments. The model below also estimates the maximum additional annual commitments (whether debt service or other grant commitments) that the Opportunity Fund has the estimated capacity to fund and still have sufficient cash to fully fund all current and projected commitments."

	PROJECTED SOURCES OF FUNDING					PROJECTED USES OF FUNDING										
						DEBT SERVICE FUNDING COMMITMENTS			ONGOING SUPPORT/OTHER EXPENDITURES							
	Normal	4.5%	1.8%													
	2021 Higher Growth due to COVID Recovery	17.0%	0.8%													
Year	Beginning Fund Balance	Tax Revenue (currently set to expire in July 2032)	Interest Income	Other Income (East UGA Sewer System Development Fees, LID 3rd Street Sewer Line Transfer)	TOTAL SOURCES	Carlsborg Sewer Loan (matures June 2048)	Dept of Commerce--Skills Canter Loan (matures Jan 2025)	Department of Ecology --Clallam Bay Sekiu Sewer Projected Loan (20 Yr Loan--Estim Maturity Date-- 2041)	Clallam EDC	SBDC	NODC	Clallam Conservation District (removed as deemed not OF-Eligible)	Transfer to Carlsborg Sewer for Expansion	Indirects Charges from Clallam GF	Potential Funding of Other Future Debt Service/Grants	TOTAL USES	Net Sources/ (Uses)	Ending Fund Balance
2021	4,171,352	1,608,074	70,000	18,000	**1,696,074**	368,966	48,194		350,000	30,000	3,500	0		29,600	**454,000**	1,284,259	411,815	4,583,167
2022	4,583,167	1,749,000	36,147	18,000	**1,803,147**	368,103	48,194		120,000	30,000	3,500	0	240,000	30,411	454,000	1,294,208	508,939	5,092,105
2023	5,092,105	1,827,705	98,222	18,000	**1,943,927**	367,241	48,194	58,624	122,400	30,600	3,570	0		31,779	454,000	1,116,408	827,518	5,919,624
2024	5,919,624	1,909,952	113,296	18,000	**2,041,248**	366,379	48,194	117,247	124,848	31,212	3,641	0		33,210	454,000	1,178,731	862,517	6,782,141
2025	6,782,141	1,995,800	129,561	18,000	**2,143,460**	365,517	48,194	117,247	127,345	31,836	3,714	0		34,704	454,000	1,182,557	960,903	7,743,044
2026	7,743,044	2,085,715	148,063	18,000	**2,251,778**	364,655		117,247	129,892	32,473	3,789	0		36,266	454,000	1,138,321	1,113,457	8,856,501
2027	8,856,501	2,176,572	169,913	18,000	**2,365,486**	363,793		117,247	132,490	33,122	3,864	0		37,898	454,000	1,142,414	1,224,071	10,080,572
2028	10,080,572	2,277,653	191,791	18,000	**2,487,444**	362,931		117,247	135,139	33,785	3,942	0		39,603	454,000	1,148,847	1,340,797	11,421,370
2029	11,421,370	2,380,147	216,809	18,000	**2,614,956**	362,069		117,247	137,842	34,461	4,020	0		41,385	454,000	1,151,024	1,463,932	12,885,301
2030	12,885,301	2,487,254	244,083	18,000	**2,749,337**	361,207		117,247	140,599	35,150	4,101	0		43,248	454,000	1,155,551	1,593,786	14,479,087
2031	14,479,087	2,599,160	273,736	18,000	**2,890,896**	360,345		117,247	143,411	35,853	4,183	0		45,194	454,000	1,160,232	1,730,664	16,209,771
2032	16,209,771	1,416,457	294,227	18,000	**1,731,684**	359,483		117,247	146,279	36,570	4,266	0		47,227	454,000	1,165,073	566,611	16,776,382
2033	16,776,382		291,606	18,000	**309,606**	358,621		117,247	149,205	37,301	4,352	0		49,353	454,000	1,170,078	-860,472	15,915,910
2034	15,915,910		276,071	18,000	**294,071**	357,759		117,247	152,189	38,047	4,439	0		51,573	454,000	1,175,254	-881,183	15,034,727
2035	15,034,727		260,162	18,000	**278,162**	356,897		117,247	155,233	38,808	4,528	0		53,894	454,000	1,180,606	-902,445	14,132,282
2036	14,132,282		243,868	18,000	**261,868**	356,035		117,247	158,337	39,584	4,618	0		56,319	454,000	1,186,141	-924,273	13,208,009
2037	13,208,009		227,179	18,000	**245,179**	355,172		117,247	161,504	40,376	4,711	0		58,854	454,000	1,191,864	-946,685	12,261,325
2038	12,261,325		210,086	18,000	**228,086**	354,310		117,247	164,734	41,184	4,805	0		61,502	454,000	1,197,782	-969,696	11,291,628
2039	11,291,628		192,576	18,000	**210,576**	353,448		117,247	168,029	42,007	4,901	0		64,270	454,000	1,203,902	-993,326	10,298,302
2040	10,298,302		174,639	18,000	**192,639**	352,586		117,247	171,390	42,847	4,999	0		67,162	454,000	1,210,231	-1,017,592	9,280,710
2041	9,280,710		156,264	18,000	**174,264**	351,724		117,247	174,817	43,704	5,099	0		70,184	454,000	1,216,776	-1,042,512	8,238,198
2042	8,238,198		137,438	18,000	**155,438**	350,862		117,247	178,314	44,578	5,201	0		73,343	454,000	1,223,545	-1,068,107	7,170,091
2043	7,170,091		118,149	18,000	**136,149**	350,000		117,247	181,880	45,470	5,305	0		76,643	454,000	1,230,545	-1,094,396	6,075,695
2044	6,075,695		99,440	18,000	**117,440**	349,138			185,518	46,379	5,411	0		80,092	454,000	1,120,538	-1,003,098	5,072,597
2045	5,072,597		81,317	18,000	**99,317**	348,276			189,228	47,307	5,519	0		83,696	454,000	1,128,025	-1,028,709	4,043,888
2046	4,043,888		62,730	18,000	**80,730**	347,414			193,012	48,253	5,630	0		87,462	454,000	1,135,771	-1,055,041	2,988,846
2047	2,988,846		43,667	18,000	**61,667**	346,552			196,873	49,218	5,742	0		91,398	454,000	1,143,783	-1,082,115	1,906,730
2048	1,906,730		24,115	18,000	**42,115**	345,690			200,810	50,203	5,857	0		95,511	454,000	1,152,071	-1,109,956	796,774
2049	796,774		7,162	18,000	**25,162**				204,826	51,207	5,974	0		99,809	454,000	815,816	-790,655	6,120

CLALLAM COUNTY
OPPORTUNITY FUND
PROJECTED SOURCES AND COMMITTED USES–2021-2049 (INCLUDING PROFORMA EFFECT OF $2.376M FORKS SEWER CONTRIBUTION, WITH ESTIMATED REMAINING MAXIMUM ANNUAL DEBT SERVICE/GRANT CAPACITY)

"NOTE: The projection below assumes the Opportunity Fund tax revenue sunsets in July 2032 and projection extends to 2048 to coincide with the maturity of the County's $10 million Carlsborg Loan which matures in June 2048. Other assumptions include tax revenue annual increase of +20% in 2021 (reflecting the strong retail sales recovery seen following the COVID recession, returning to growth of 4.5% after 2022 (historically has averaged 4-6%); interest rate on funds earned of .75% in 2021 and 2022 due to COVID impact on interest rates, returning to 1.8% thereafter and indirects grow at 3%. Current funding commitments to various EDC agencies assumed flat to 2021 original budget, but 2021 has been adjusted for EDC to reflect $250k of additional funding in support of $20k of 2020 costs that were not billed until 2021 and $230k of admin costs related to the ARPA Lifeboat 3 Grant Program. Reflects the resulting estimated remaining funds in the Opportunity Fund to service all current and future commitments. The model below also estimates the maximum additional annual commitments (whether debt service or other grant commitments) that the Opportunity Fund has the estimated capacity to fund and still have sufficient cash to fully fund all current and projected commitments."

		PROJECTED SOURCES OF FUNDING				PROJECTED USES OF FUNDING												
						DEBT SERVICE FUNDING COMMITMENTS			ONGOING SUPPORT/OTHER EXPENDITURES									
Normal		4.5%	1.8%															
2021 Higher Growth due to COVID Recovery		17.0%	0.6%															
Year	Beginning Fund Balance	Tax Revenue (currently set to expire in July 2032)	Interest Income	Other Income (East UGA Sewer System Development Fees, LID 3rd Street Sewer Line Transfer)	TOTAL SOURCES	Carlsborg Sewer Loan (matures June 2048)	Dept of Commerce–Skills Center Loan (matures Jan 2025)	Department of Ecology–Clallam Bay Sekiu Sewer Projected Loan (20 Yr Loan–Estim Maturity Date–2041)	Clallam EDC	SBDC	NODC	Clallam Conservation District (removed as deemed not OF-Eligible)	Transfer to Carlsborg Sewer for Expansion	Forks Sewer	Indirects Charges from Clallam GF	Potential Funding of Other Future Debt Service/Grants	TOTAL USES	Net Sources/ (Uses)	Ending Fund Balance
2021	4,171,352	1,608,074	70,000	18,000	**1,696,074**	368,986	46,194		350,000	30,000	3,500	0			29,600	0	830,259	865,815	5,037,167
2022	5,037,167	1,749,000	43,021	18,000	**1,810,021**	368,103	46,194		120,000	30,000	3,500	0	240,000	2,375,810	30,431	360,000	3,584,818	-1,774,797	3,262,370
2023	3,262,370	1,827,705	66,051	18,000	**1,911,756**	367,241	46,194		120,000	30,000	3,500	0			31,779	369,000	1,031,406	880,348	4,142,718
2024	4,142,716	1,809,952	82,077	18,000	**2,010,029**	366,379	46,194	58,624	122,400	30,600	3,570	0			32,730	369,000	1,029,497	980,532	5,123,248
2025	5,059,016	1,995,900	99,309	18,000	**2,113,209**	365,517	46,194	117,247	124,848	31,212	3,641	0			33,710	369,000	1,093,731	916,298	5,059,016
2026	5,974,667	2,085,715	116,796	18,000	**2,222,513**	364,655		117,247	127,345	31,836	3,714	0			34,704	369,000	1,097,557	1,015,652	6,074,667
2027	7,243,859	2,176,572	140,651	18,000	**2,338,223**	363,795		117,247	129,892	32,473	3,789	0			35,266	369,000	1,053,321	1,169,191	7,243,859
2028	8,524,859	2,277,653	184,550	18,000	**2,460,203**	362,933		117,247	132,490	33,122	3,864	0			37,956	369,000	1,057,414	1,280,809	8,524,668
2029	9,923,224	2,380,147	190,807	18,000	**2,588,754**	362,069		117,247	135,139	33,785	3,942	0			39,503	369,000	1,061,847	1,398,656	9,923,224
2030	11,445,954	2,487,254	218,939	18,000	**2,724,193**	361,207		117,247	137,842	34,461	4,020	0			41,385	369,000	1,066,024	1,522,730	11,445,954
2031	13,099,596	2,599,180	249,670	18,000	**2,866,851**	360,345		117,247	140,599	35,150	4,101	0			43,246	369,000	1,070,551	1,653,642	13,099,596
2032	14,891,215	1,419,457	271,258	18,000	**1,708,715**	359,483		117,247	143,411	35,853	4,183	0			45,194	369,000	1,075,232	1,791,619	14,891,215
2033	16,519,857		268,754	18,000	**287,754**	358,621		117,247	146,279	36,570	4,265	0			47,227	369,000	1,080,072	628,642	16,519,857
2034	14,722,532		255,355	18,000	**273,355**	357,759		117,247	149,205	37,301	4,350	0			49,353	369,000	1,085,078	787,324	14,722,532
2035	13,905,633		240,603	18,000	**258,603**	356,897		117,247	152,189	38,047	4,437	0			51,573	369,000	1,090,254	-816,899	13,905,633
2036	13,068,630		225,487	18,000	**243,487**	356,036		117,247	155,233	38,808	4,526	0			53,894	369,000	1,095,605	-837,003	13,068,630
2037	12,210,976		209,998	18,000	**227,998**	355,172		117,247	158,337	35,584	4,616	0			56,319	369,000	1,101,141	-857,654	12,210,976
2038	11,332,110		194,125	18,000	**212,125**	354,310		117,247	161,504	40,376	4,708	0			58,854	369,000	1,106,864	-878,866	11,332,110
2039	10,431,452		177,858	18,000	**195,858**	353,448		117,247	164,734	41,184	4,802	0			61,502	369,000	1,112,782	900,657	10,431,452
2040	9,508,408		161,186	18,000	**179,186**	352,586		117,247	168,029	42,007	4,898	0			64,270	369,000	1,118,902	-923,044	9,508,408
2041	8,562,363		144,099	18,000	**162,099**	351,724		117,247	171,390	42,847	4,996	0			67,167	369,000	1,125,231	-946,045	8,562,363
2042	7,592,686		126,583	18,000	**144,583**	350,862		117,247	174,817	43,704	5,096	0			70,194	369,000	1,131,776	-969,677	7,592,686
2043	6,598,725		108,629	18,000	**126,629**	350,000		117,247	178,314	44,578	5,200	0			73,345	369,000	1,138,545	-993,961	6,598,725
2044	5,579,809		91,279	18,000	**109,279**	349,138			181,880	45,470	5,304	0			76,643	369,000	1,145,545	-1,016,916	5,579,809
2045	4,653,550		74,539	18,000	**92,539**	348,276			185,518	46,379	5,411	0			80,092	369,000	1,035,538	-926,259	4,653,550
2046	3,703,053		57,360	18,000	**75,360**	347,414			189,228	47,307	5,519	0			83,695	369,000	1,043,026	-950,487	3,703,053
2047	2,727,652		35,731	18,000	**57,731**	346,552			193,012	48,253	5,630	0			87,462	369,000	1,050,771	-975,411	2,727,652
2048	1,726,599		21,637	18,000	**39,637**	345,690			196,873	49,218	5,742	0			91,396	369,000	1,058,783	-1,001,052	1,726,599
2049	699,166		6,170	18,000	**24,170**				200,810	50,203	5,857	0			95,511	369,000	1,067,071	-1,027,433	699,166
									204,826	51,207	5,974	0			99,809	369,000	730,816	-706,647	7,481

AGENDA ITEM SUMMARY

(Must be submitted NLT 3PM Wednesday for next week agenda) 6 2/22/22

Department: Finance

WORK SESSION ☒ **Meeting Date:** **02/22/2022**

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 Monthly Review

Documents exempt from public disclosure attached: ☐

JANUARY 2022 REVIEW OF FINANCIAL RESULTS AND REVISED PROJECTION FOR 2022—EXECUTIVE SUMMARY:

January 2022 YTD General Fund Results

The January YTD General Fund Financial Review compared to the same period in 2021 is attached along with comparison to the original budget for 2022 and a revised annual projection for 2022.

YTD January 2022 revenue totaled $2,532k as compared to $2,661k in 2021, representing a decrease of $129k. Excluding YTD COVID related reimbursements of $0k in 2022 and $112k in 2021, YTD non-COVID revenues decreased of $17k or -0.7% from prior year. YTD expenditures in January were $2,963k (which includes $7k of COVID-related costs) as compared to $2,946k in 2021 (which includes $16k of COVID-related costs) for an overall increase of $17k, and a non-COVID increase of $26k. Excluding COVID-related revenues/expenditures, the General Fund generated an operating deficit of ($424k), as compared to a deficit of ($381k) in January 2021, an increase of $43k. Including COVID-related activity, the General Fund generated an operating deficit for YTD January 2022 of ($431k). The General Fund finished January with an ending Fund Balance reserve of $15,097k, or $859k higher than prior year.

Please refer to the attached schedule that provides further detail of the major factors that make up these changes and performance to budget.

REVENUES

Revenues overall (excluding COVID reimbursements) were at 5.4% of the 2022 budget for January YTD, slightly trailing last year's 6.3%. Growth relative to budget as compared to last year was seen

in the areas of Taxes, License & Permits, and Timber Revenues, while decreases were seen in Intergovernmental, Charges for Goods & Services, Fines & Penalties, Misc Revenue and Non Revenue. Taxes YTD were pacing well ahead of budget at 4.8% as compared to last year's 4.1%, driven mainly by stronger than expected sales taxes which were up 47% YTD compared to this time last year, of which 33.3% of this growth was driven by the audit-related collection of 2021 sales taxes of over $200k in the month of January, with the remaining 13.7% in growth being driven by the continued strong retail sales activity generated in the County. Licensing & Permits also were up for January YTD (at 7.3% of budget vs 6.7% in prior year), mainly as a result of continued growth in building permit revenue which were up 9.1% to prior year. YTD Intergovernmental Revenue stood at 6.6% of budget (trailing last year's 10.9%) mainly due to timing differences of grant reimbursements in Indigent Defense and other areas that should correct as the year progresses.

Charges for Goods & Services stood at 5.9% of budget (as compared to 8.1%) mainly due to timing of receipt of Treasurer storm water fees and WSU Environmental Services fees which should self-correct as the year transpires, and a 53.8% decline in building plan revenues was observed in January. Fines & Penalties also were pacing behind budget compared to prior year (6.2% vs 8.2%) due to a 41% decline in District Court 1 infraction revenue to last year. Misc Revenue is pacing slightly behind last year relative to budget vs last year (14.7% vs 15.4%) due mainly to the continued drop in investment interest income since in the latter half of 2021 as the remainder of the County's investment portfolio matured and were reinvested at lower interest rates, as offset by a 12.7% increase in camping fee reservations YTD relative to last year. Non Revenues (consisting of sales, use, and lodging tax collected by Parks, Fair & Facilities for the state) are also down considerably to last year as a result in a change in the accounting that occurred at the end of 2021 but which was not reflected in the 2022 budget whereby these funds are no longer accounted for in the General Fund. No COVID/FEMA reimbursement revenue has yet been received thus far in 2022, as compared to $112k rec'd at this time last year.

EXPENDITURES

Expenditures (excluding COVID-related) were pacing at 5.7% of budget through the end of January, which is below last year's 6.6%. Most expenditure categories were at or below last year as a % of the annual budget, with the exception of Capital (due principally to timing). The year-over-year $26k increase in non-COVID expenditures was mainly due to increases in (1) Payroll (up $59k or 3.3%) driven by the step/COLA increases, additional pay resulting from last year's renewal of collective bargaining agreements, and staffing changes, (2) Services (up $62k or 21.5%) principally driven by higher professional services costs for Prosecuting Attorney coroner services and Superior Court adult felony costs due to the Bauer trial, and (3) Capital (up $19k due to timing), while offset by a $110k in lower Transfers Out relating to higher funding provided to the Bullman Beach fund and Lower Dungeness Floodplain project this time last year.

2022 PROJECTION—GENERAL FUND

Given the early stage of the year we are in, significant changes made to the forecast from the 2022 budget are limited at this time to those known trends/issues identified during the budget process, and based on preliminary results seen thus far in 2022.

PROJECTED REVENUES--Overall revenues are now projected to total $47,050k, an increase of $238k over the 2022 budget. This is reflective of several factors.

First, Tax revenue is now projected to outperform budget by $317k. This is mainly due to the strong YTD sales tax growth realized in January of 47%, which as noted earlier was mainly driven by an over $200k of 2021 sales tax remitted to the County following the audit of a County-based business, as well as a 13.7% year-over-year adjusted growth rate in January, eclipsing the 5% growth rate assumed in the 2022 budget. Sales tax forecast assumptions for the balance of 2022 were held at the 5% budgeted growth rate, and will continue to be revisited as more data points and trends become available. All other non-sales tax revenues are forecasted consistent with the 2022 budget at this time.

The only other significant change to the 2022 revenue forecast for the General Fund is a $75k decrease in Non Revenues to reflect a change in the accounting of sales, use and lodging tax funds collected by the Parks, Fair and Facilities department from the operation of the County's campgrounds, which the collection and remittance of to the State are required to be accounted in a fiduciary fund outside of the General Fund (note that this revenue reduction is offset by a similar decrease in forecasted Services expenditures, making this a cash flow neutral change to the General Fund).

All other revenue categories remain currently forecasted at or near their 2022 budgeted amounts at this early stage of the year.

PROJECTED EXPENDITURES-- General fund expenditures (including COVID/FEMA-related costs) are projected to total $49,909k, or $1,795k lower than budget.

Of this projected underspend to budget, approximately $1,678k is related to projected underspend in the area of non-COVID payroll and benefits based on the multi-year trend where due to turnover, retirements, delays in filling open positions, and other dark-time, we have historically underspent our budgeted payroll costs by 4-5% annually. This amount of projected savings in payroll and benefits is relatively in-line with the $1,732k placeholder estimated savings discussed during the presentation of our 2022 budget.

Based on trends, non-COVID Supplies are projected to come in $24k below budget, while Services are projected to come in $100k below budget. The underspend in Services is partly due to the $75k decrease in sales, use and lodging tax costs due to the change in accounting for such costs discussed earlier where such payments to the State are no longer paid from the General Fund.

All other cost categories are forecasted at or near their 2022 budget amounts at this time.

NET DEFICIT OF REVENUES TO EXPENDITURES--Based on these revenue and expenditure assumptions, I am projecting a General Fund operating deficit (excluding COVID related revenues/costs) of ($3,152k) for 2022, which is $2,040k better than our 2022 budgeted deficit of ($5,192k). When including a COVID-related surplus of $293k, our overall General Fund deficit for 2021 is expected to total $2,859k, as compared to a budgeted deficit of ($4,892k).

PROJECTED ENDING FUND BALANCE--$12,670k, or 25.4% of forecasted non-COVID expenditures, as compared to $10,636k budgeted based on final 2021 results.

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 is an informational presentation that by itself has no specific budgetary impact.

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

County Official signature & print name: _____Mark Lane_____

Name of Employee/Stakeholder attending meeting: _____Mark Lane_____

Relevant Departments: _____Finance_____

Date submitted:

February 9, 2022

Clallam County General Fund Results
January 2022

REVENUE--January 2022 YTD Revenue totaled $2,532k as compared to $2,661k in 2021, representing a decrease of $129k (of which $112k was due to lower FEMA COVID reimbusements). January 2022 YTD Revenues came in at 5.4% of our annual revenue budget, trailing slightly behind 6.5% in 2021. If one excludes CARES/FEMA reimbursements, revenue was at 5.4% of budget (vs 6.3% in 2021), and decreased $17k or 0.7% from prior year. Growth was seen in Taxes, License & Permits, and Timber Revenues, while decreases were seen in Intergovernmental, Charges for Goods & Services, Fines & Penalties, Misc Revenue and Non Revenue. Taxes YTD thru January were pacing well ahead of budget at 4.8% as compared to last year's 4.1%, driven mainly by strong sales taxes which were up 47% YTD compared to last year, of which 33.3% of this growth was driven by the audit-related collection of 2021 sales taxes of over $200k in the month of January, with the remaining 13.7% growth in sales taxes driven by the continued strong retail sales activity generated in the County. Licensing & Permits also were up for January YTD (at 7.3% of budget vs 6.7% in prior year), mainly as a result of continued growth in building permit revenue which are up 9.1% to prior year. YTD Intergovernmental Revenue stood at 6.6% of budget (vs. 10.9% in 2021) mainly due to timing differences of grant reimbursements in Indigent Defense and other areas that should correct as the year progresses. Charges for Goods & Services stood at 5.9% of budget (as compared to 8.1%) mainly due to timing of receipt of Treasurer stormwater fees and WSU Environmental Services fees, and a 53.8% decline in building plan revenues observed in January. Fines & Penalties also were pacing behind budget compared to prior year (6.2% vs 8.2%) due to 41% decline in District Court 1 infraction revenue to last year. Misc Revenue is pacing slightly behind last year relative to budget vs last year (14.7% vs 15.4%) due mainly to the continued drop in investment interest income since in the latter half of 2021, as offset by a 12.7% increase in camping fee reservations YTD relative last year. Non Revenues, consisting of sales, use, and lodging tax collected by Parks, Fair & Facilities for the state, is also down considerably to last year as a result in a change in the accounting for these funds outside of the General Fund that occurred at the end of 2021 but which was not reflected in the 2022 budget. No COVID/FEMA reimbursement revenue has been received thus far in 2022, as compared to $112k rec'd at this time last year), the receipt of which is expected to occur later in 2022.

EXPENDITURES--for YTD January 2022 totaled $2,963k (including $7k of COVID related costs) as compared to $2,946k (including $16k of COVID costs) in 2021 for an increase of $17k (increase of $26k or 0.9% excluding COVID costs). Expenditures (excluding COVID) for January 2022 YTD came in at 5.7% of our annual budget, pacing below last year's of 6.6%. All expenditure categories are pacing or below their pacings to budget in comparison with prior year, with the exception of Capital Outlays due to timing of capital purchases. The year-over-year $26k increase in non-COVID expenditures was mainly due to increases in (1) Payroll (up $59k or 3.3%) driven by the step/COLA increases, additional pay resulting from last year's renewal of County collective bargaining agreements, and staffing changes, (2) Services (up $62k or 21.5%) principally driven by higher professional services costs for Prosecuting Attorney coroner services and Superior Court adult felony costs due to the Bauer trial, and (3) Capital (up $19k due to timing), while offset by a $110k in lower Transfers Out relating to higher funding provided to the Bullman Beach and Lower Dungeness Floodplain projects last year.

OPERATING SURPLUS/(DEFICIT) AND ENDING RESERVICES--For January 2022 YTD, the General Fund generated an operating deficit between revenue and expenditures (excluding COVID/CAREs) of ($424k), a $43k increase from last year's operating deficit. After including COVID-related net revenue to expenditure deficit of YTD of ($7k), the General Fund generated an operating deficit of ($431k) for January 2022 YTD. The General Fund finished January 2022 with an ending fund balance reserve of $15,097k.

2022 FORECAST--Turning to the forecast, given the early stage of the year we are in, significant changes to the forecast are limited at this time outside of known trends identified during the 2022 budget process. That being said, General Fund total revenues are projected to total $47,050k, an increase of $238k over the 2022 budget. The main contributors include higher projected Tax revenue of $317k due mainly to the much stronger than budgeted sales tax revenues observed in January due largely to audit-related collection of 2021 sales tax from a large retailer, and higher than expected overall sales tax growth of 13.7% YTD as compared to 5% growth budgeted. Sales tax growth assumptions for the remainder of the 2022 forecast reflect the 5% growth assumed in the 2022 budget, and will be re-visited once more data points and trends become available as the year unfolds. The only other significant change to the 2022 forecast is a $75k decrease in Non Revenues to reflect a change in the accounting of sales, use and lodging tax funds collected by the Parks, Fair and Facilities department from the operation of the County's campgrounds, which the collection and remittance of to the State are required to be accounted in a fiduciary fund outside of the General Fund (note that this revenue reduction is offset by a similar decrease in forecasted Services expenditures, making this a cash flow neutral change to the General Fund). 2022 Expenditures are projected to total $49,909k, underspending to budget by $1,795k driven by savings forecasted primarily in Payroll, Benefits, Supplies, and Services. Payroll and Benefits costs are expected to come in approx $1,678k below budget, mainly due to historic underspend to our personnel budgets due to unbudgeted darktime in our staffing levels as discussed previously. Supplies and Services are projected to come in $24k and $100k below budget, respectively, based on early trend savings and the previously mentioned change in accounting of sales, use and lodging tax payments made to the State where such payments are no longer paid from the General Fund. The General Fund is now projected to end 2022 with a net operating deficit of ($2,859k) as compared to ($4,892k) budgeted, leaving an expected ending reserve balance for the General Fund of $12,670k, which is $2,033 higher than originally budgeted.

January 2022 YTD--vs Annual Budget (rounded to thousands)

	2022 YTD Actual	2022 Original Budget	Budget Remaining	2022 % of Annual Budget Achieved YTD	2021 % of Annual Budget Achieved YTD
REVENUES:					
Taxes	1,161	24,093	22,932	4.8%	4.1%
Licenses & Permits	77	1,055	978	7.3%	6.7%
Intergovernmental Revenues	476	7,214	6,737	6.6%	10.9%
Charges for Goods & Services	486	8,276	7,791	5.9%	8.1%
Fines & Penalties	52	833	782	6.2%	8.2%
Misc Revenue (Interest Inc, Camping Fees, etc)	262	1,782	1,520	14.7%	15.4%
Nonrevenues (Sale/Use Tax, Lodging Tax--Parks & Facil)	0	78	78	0.4%	28.5%
Other Financing Sources (Timber Sales, other)	18	740	722	2.4%	0.6%
Transfers In	0	2,440	2,440	0.0%	0.0%
Total Revenue--Excluding CARES/FEMA	**2,532**	**46,512**	**43,980**	**5.4%**	**6.3%**
Total Revenue--CARES/FEMA	**0**	**300**	**300**	0.0%	**21.1%**
Total Revenue	**2,532**	**46,812**	**44,280**	**5.4%**	**6.5%**

Clallam County General Fund Results
January 2022

	2022 YTD Actual	2022 Original Budget	Budget Remaining	2022 % of Annual Budget Achieved YTD	2021 % of Annual Budget Achieved YTD
EXPENDITURES:					
Payroll	1,807	24,620	22,813	7.3%	7.8%
Payroll--COVID	0	0	0	--	--
Benefits	742	10,018	9,276	7.4%	7.8%
Benefits--COVID	0	0	0	--	--
Supplies	38	1,518	1,480	2.5%	3.3%
Supplies--COVID	0	0	0	--	--
Services	350	7,606	7,256	4.6%	4.4%
Services--COVID	7	0	-7	--	--
Capital	19	363	344	5.2%	0.0%
Capital--COVID	0	0	0	--	0.0%
Transfer Out --COVID	0	0	0	--	0.0%
Transfers Out	0	6,213	6,213	0.0%	4.0%
Payment to Risk Pool	0	1,366	1,366	0.0%	0.0%
Total Expenditures--excluding COVID	**2,956**	**51,704**	**48,748**	**5.7%**	**6.7%**
Total Expenditures--COVID	**7**	**0**	**-7**	**--**	**2.4%**
Total Expenditures	**2,963**	**51,704**	**48,741**	**5.7%**	**6.6%**
Net Operating Surplus (Deficit)--Excluding COVID	**-424**	**-5,192**			
Net Operating Surplus (Deficit)--COVID	**-7**	**300**			
Net Operating Surplus (Deficit)	**-431**	**-4,892**			
Fund Balance	**15,097**	**10,636**	**4,461**		

January 2022 YTD--vs Prior Year YTD (rounded to thousands)

	2022 YTD Actual	2021 YTD Actual	Variance--$
REVENUES:			
Taxes	1,161	850	311
Licenses & Permits	77	71	7
Intergovernmental Revenues	476	582	-106
Charges for Goods & Services	486	633	-147
Fines & Penalties	52	74	-23
Misc Revenue (Interest Inc, Camping Fees, etc)	262	315	-53
Nonrevenues (Sale/Use Tax, Lodging Tax--Parks & Facil)	0	21	-20
Other Financing Sources (Timber Sales, other)	18	4	14
Transfers In	0	0	0
Total Revenue--Excluding CARES/FEMA	**2,532**	**2,549**	**-17**
Total Revenue--CARES/FEMA	**0**	**112**	**-112**
Total Revenue	**2,532**	**2,661**	**-129**

Clallam County General Fund Results
January 2022

EXPENDITURES:			
Payroll	1,807	1,748	59
Payroll--COVID	0	1	-1
Benefits	742	743	-1
Benefits--COVID	0	0	0
Supplies	38	41	-3
Supplies--COVID	0	0	0
Services	350	288	62
Services--COVID	7	15	-8
Capital	19	0	19
Capital--COVID	0	0	0
Transfer Out --COVID	0	0	0
Transfers Out	0	110	-110
Payment to Risk Pool	0	0	0
Total Expenditures--excluding COVID	**2,956**	**2,930**	**26**
Total Expenditures--COVID	**7**	**16**	**-9**
Total Expenditures	**2,963**	**2,946**	**17**
Net Operating Surplus (Deficit)--Excluding COVID	**-424**	**-381**	**-43**
Net Operating Surplus (Deficit)--COVID	**-7**	**95**	**-102**
Net Operating Surplus (Deficit)	**-431**	**-286**	**-146**
Fund Balance	**15,097**	**14,239**	**859**

Major Revenue Differences between YTD 2022 and 2021 (rounded to thousands)

Juvenile Justice sales tax	16	
Property tax	-12	
Sales taxes (other than Juvenile Justice)	305	
Intergovernmental--PILT, Criminal Justice, Other Excise Taxes	-3	
Intergovernmental--Grants	-103	
Intergovernmental--COVID/FEMA Reimbursements	-112	
Miscellaneous--Investment & Delinquent tax interest	-47	
Miscellaneous--Parks' Camping Revenues	25	
Non-Revenue--Transfer of PFF Sales & Use Tax Revenue out of General Fund to State Fiduciary Fund	-20	
Timber revenue	14	
Goods & Services--Interagency Services--Court Consolidation pymt timing, Roads & Other Policing Agreements timing/reduction, State Dpt Corrections	5	
Goods & Services--Building Plan Check Revenues	-31	
Goods & Services Election Services Revenue	-13	
Goods & Services--WSU Environmental Services (timing)	-88	
Goods & Services--Treasurer Stormwater Fees (timing)	-25	
Fines and Penalties	-23	
Licensing & Permits--Building Permits	6	
Everything else (rounded to thousands)	-23	**
Total Revenue Increase/(Decrease) over Prior Year	**-129**	

Major Expense Differences between YTD 2021 and YTD 2020 (rounded to thousands)

Payroll/Benefits--prior year estimated impact of retirements and newly elected officials that led to conversion of payouts of accrued leave balances or partial conversion of leave balances to VEBA payments.	-29	
Payroll--increase due to changes in personnel, step/COLA increases, effect of new collective bargaining agreements enacted in July 2021, and other non-retirement factors	86	

Clallam County General Fund Results
January 2022

Benefits--due to changes in benefit costs following collective bargaining increases in Jan 2022 and July 2021, as offset by personnel changes	1
Services (increase mainly in professional services ($51k increase) due to higher Prosecuting Attorney Coroner Services and Superior Court Adult Felony costs.)	62
Risk Management Assessment for Insurance Pool	0
Transfers (decrease mainly due to $75k Bullman Beach transfer and higher Lower Dungeness Floodplain transfers in 2021)	-110
Decrease in COVID Related Costs Incurred by the General Fund (relating to lower FEMA funded costs incurred by the General Fund in 2022)	-9
Net Other Expenditure Changes (mainly due to $19k in higher capital outlays in 2022 due to timing)	16
Total Expenditure Increase/(Decrease) over Prior Year	**17**

January 2022 Full Year Projection vs Annual Budget (rounded to thousands)

	2022 Projected	2022 Original Budget	Over/(Under) Budget
REVENUES:			
Taxes	24,410	24,093	317
Licenses & Permits	1,064	1,055	9
Intergovernmental Revenues	7,214	7,214	0
Charges for Goods & Services	8,276	8,276	0
Fines & Penalties	822	833	-11
Misc Revenue (Interest Inc, Camping Fees, etc)	1,781	1,782	-1
Nonrevenues (Sale/Use Tax, Lodging Tax--Parks & Facil)	3	78	-75
Other Financing Sources (Timber Sales, other)	740	740	0
Transfers In	2,440	2,440	0
Intergovernmental--CARES/FEMA Reimbursements	300	300	0
Total Revenue--Excluding CARES/FEMA	**46,750**	**46,512**	**238**
Total Revenue--CARES/FEMA	**300**	**300**	**0**
Total Revenue	**47,050**	**46,812**	**238**
EXPENDITURES:			
Payroll	23,514	24,620	-1,106
Payroll--COVID	0	0	0
Benefits	9,446	10,018	-572
Benefits--COVID	0	0	0
Supplies	1,494	1,518	-24
Supplies--COVID	0	0	0
Services	7,506	7,606	-100
Services--COVID	7	0	7
Capital	363	363	0
Capital--COVID	0	0	0
Transfer Out --COVID	0	0	0
Transfers Out	6,213	6,213	0
Payment to Risk Pool	1,366	1,366	0
Total Expenditures--excluding COVID	**49,902**	**51,704**	**-1,802**
Total Expenditures--COVID	**7**	**0**	**7**
Total Expenditures	**49,909**	**51,704**	**-1,795**
Net Operating Surplus (Deficit)--Excluding COVID	**-3,152**	**-5,192**	**2,040**
Net Operating Surplus (Deficit)--COVID	**293**	**300**	**-7**
Net Operating Surplus (Deficit)	**-2,859**	**-4,892**	**2,033**
Fund Balance	**12,670**	**10,636**	**2,033**

Document was submitted after the agenda and packet were posted on 2-17-22

AGENDA ITEM SUMMARY

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

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2/22/22
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Department: BOCC

WORK SESSION ☒ **Meeting Date: 2-22-22**

REGULAR AGENDA ☒ **Meeting Date: 2-22-22**

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 – Letter of support - Joint

Documents exempt from public disclosure attached: ☐

Executive summary:
Joint letter of support for the US Highway 101 East Corridor Improvement Project with on / off ramps and the frontage road from Sequim City Council, Board of Commissioners and Jamestown S'Klallam Tribe.

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?)
Review and approve of joint letter with City of Sequim and Jamestown S'Klallam Tribe regarding US Highway 101.

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: 2-22-22

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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)

US HIghway 101 road projects 2-22-22
Revised: 3-04-2019

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

CITY OF SEQUIM

Jamestown S'Klallam Tribe

February 17, 2022

Representative Mike Chapman
132B Legislative Building
P.O. Box 40600
Olympia, WA 98504-0600

Representative Steve Tharinger
JLOB 314
P.O. Box 40600
Olympia, WA
98504-0600

Senator Kevin Van De Wege
212 John A. Cherberg Building
P.O. Box 40424
Olympia, WA 98504-0424

RE: Joint Letter of Support for the US Highway 101 East Corridor Improvement Project with On / Off Ramps and the Frontage Road from Sequim City Council, Board of Clallam County Commissioners and Jamestown S'Klallam Tribe

Representative Chapman, Representative Tharinger & Senator Van De Wege:

On behalf of the City of Sequim, the Board of County Commissioners (BOCC) and the Jamestown S'Klallam Tribe we would like to show our strong support for the US Highway 101 East Corridor Improvement Project with on / off ramps and the frontage road serving Palo Alto Road and Happy Valley Road. We believe that a frontage road would eliminate the unsafe intersections, maintain a smooth flow of traffic on Highway 101, and maximize entry and exit at a proper, safe, completed interchange.

The State awarded the preliminary engineering for the Simdars Road interchange to US Highway 101. It also included constructing a frontage road connecting Palo Alto and Happy Valley roads to the Simdars interchange and eliminating their direct connection to Highway 101. One of Washington State Department of Transportation's (WSDOT) Proposals calls for traffic circles at the

intersections of Palo Alto Road and another at Happy Valley Road. The City, BOCC and the Jamestown S'Klallam Tribe are concerned about traffic volume, access to commerce on the Olympic Peninsula, creating secondary access, and the potential impact during peak tourism times like Lavender Festival weekend. Highway 101 is the only highway that serves the greater Olympic Peninsula area and direct flow of traffic is of utmost importance. It is critical that WSDOT properly analyze the impacts traffic circles would have on these items.

Sequim City Council, the BOCC and the Jamestown S'Klallam Tribe appreciate WSDOT's outreach to the local community as safety improvements are being considered. Please accept this letter of support for the US Highway 101 East Corridor Improvement Project with on / off ramps and the frontage road. It is our sincere hope that the completion of this project is given the highest, and first priority.

Respectfully,

_____

Tom Ferrell
Mayor, on behalf of the Sequim City Council

_____

Mark Ozias
Board of Clallam County Commissioners, Clallam County District 1

_____

Randy Johnson
Board of Clallam County Commissioners, Clallam County District 2

_____

Bill Peach
Board of Clallam County Commissioners, Clallam County District 3

_____

W. Ron Allen
Tribal Chairman / CEO, Jamestown S'Klallam Tribe