



WORK SESSION AGENDA

BOARD OF CLALLAM COUNTY COMMISSIONERS

223 East 4th Street Room 160

Port Angeles, Washington

Monday, February 22, 2021 – 8:00 a.m.

****ATTENTION****

In response to the current Governors order Clallam County has moved Phase 2 of the Healthy Washington Roadmap to Recovery Plan. To be in compliance with the Healthy Washington Roadmap to Recovery Plan the following general requirements for COVID safety for meetings held in the Board of Commissioners Board Room are as follows:

1. All attendees are encouraged to provide contact information on a sign in sheet which will be retained for 28 days for contact tracing purposes.
2. Public seating areas and Board member seating must be arranged to ensure physical distancing is maintained.
3. Meeting attendees must wear a proper face covering and maintain six feet of physical distance between other persons.
4. No food or drink should be consumed in the BOCC Board Room.
5. Meeting organizers shall clean or arrange to have cleaned high-touch surfaces before and after each meeting.
6. Hand sanitizing stations will be available in the BOCC Board Room.
7. Keep doors and windows open where possible to improve ventilation.
8. The Chair of the meeting shall ensure masking and social distancing practices are enforced and practices by all event attendees.

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 BlueJeans audio only, call 408-419-1715 and join with Meeting ID: 875 561 784

If you would like to participate in the meeting via BlueJeans video conference, visit www.bluejeans.com and join with Meeting ID: 875 561 784

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

Administration - 9 a.m.

1. Calendar/Correspondence
2. Resolution closing Human Resources Petty Cash Fund

Resolution 

3. Resolution closing the Information Technology Petty Cash Fund

Resolution 

Public Works

4. Sewer easement purchase agreement with Anglers NW LLC for Clallam Bay/Sekiu Sewer Project (2a)*

Sewer easement purchase agreement 

Community Development

5. Agreement amendment with Jefferson County for Shoreline Master Program

Agreement amendment 

6. Agreement amendment with Washington State – Salmon Recovery Funding Board and the Recreation and Conservation Office for Dungeness Floodplain Restoration – Kinkade Phase Project

Agreement amendment 

Board of Commissioners

7. Joint regional letter with Jefferson County for House Bill 1152 and Senate Bill 5149 Public Health (1c)*

Joint regional letter 

Budget

8. Resolution for financial support for the Coast Counties Caucus Assessment

Resolution 

General Discussion/Items for Future Agendas

- A. Commissioners Conversation Meeting – HB1406 discussion (March 1 at 7:30 a.m.)
- B. Continued Work Session – USDA Forest Service discussion (March 8 at 1 p.m.)
- C. Charter Review Commission recommendation (March 15)
- D. Department of Natural Resources quarterly report (March 15 at 1 p.m.)
- E. Noise Ordinance (TBD)

EXECUTIVE SESSION

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

- Other items may be added at the discretion of the Board and additional Work Sessions may be scheduled if more time is needed to allow for adequate discussion.
- Written testimony presented by members of the public during the Board meeting is considered a public document and must be submitted to the Clerk of the Board.
- Copies of public documents from Board meetings are available by contacting the Public Records Department.



AGENDA ITEM SUMMARY

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

2
2/22/21

Department: Human Resources

WORK SESSION ☒ Meeting Date: 2/22/2021

REGULAR AGENDA ☒ Meeting Date: 3/2/2021

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

Item summary:

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

Documents exempt from public disclosure attached: ☐

Executive summary:

Human Resources has a \$100 petty cash fund that is no longer utilized.

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?)

Please authorize the closure of the Human Resources Petty Cash Fund.

County Official signature & print name:  Rich Sill

Name of Employee/Stakeholder attending meeting: Rich Sill

Relevant Departments: Human Resources

Date submitted: 2/11/2021

* 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)



RESOLUTION _____, 2021

CLOSING HUMAN RESOURCES PETTY CASH FUND

THE BOARD OF CLALLAM COUNTY COMMISSIONERS finds as follows:

1. The Human Resources petty cash fund has not been used in approximately 4 years.
2. The Human Resources office has a petty cash fund in the amount of \$100 that is no longer necessary and requests to have this fund terminated.

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

1. Close the Human Resources petty cash fund with the \$100 balance to be returned to the Treasurer.

PASSED AND ADOPTED this second day of March 2021

BOARD OF CLALLAM COUNTY COMMISSIONERS

Mark Ozias, Chair

Randy Johnson

ATTEST:

Loni Gores, CMC, Clerk of the Board

Bill Peach



AGENDA ITEM SUMMARY

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

3
2/22/21

Department: I.T.

WORK SESSION ☒ Meeting Date: **2/22/21**

REGULAR AGENDA ☒ Meeting Date: **3/2/21**

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

Item summary:

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

Documents exempt from public disclosure attached: ☐

Executive summary:

Information Technology no longer requires a Petty Fund and requests to terminate the fund and return \$100 funds to Treasurer.

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?** ☐

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

Adopt attached resolution and close fund.

County Official signature & print name: _____

Mark Doten, I.T. Director

Name of Employee/Stakeholder attending meeting: Tess Teel

Relevant Departments: _____

Date submitted: 2/9/21

* 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)



RESOLUTION _____, 2021

CLOSING THE INFORMATION TECHNOLOGY PETTY CASH FUND

THE BOARD OF CLALLAM COUNTY COMMISSIONERS finds as follows:

1. The Information Technology Department has a petty cash fund in the amount of \$100 that is no longer necessary and requests to have this fund terminated.

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

1. Close the Information Technology petty cash fund with the \$100 balance to be returned to the Treasurer

PASSED AND ADOPTED this _____ day of _____, 2021

BOARD OF CLALLAM COUNTY COMMISSIONERS

Mark Ozias, Chair

Randy Johnson

ATTEST:

Loni Gores, CMC, Clerk of the Board

Bill Peach



AGENDA ITEM SUMMARY

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

4
2/22/21
29

Department: Public Works/Road

WORK SESSION ☒ **Meeting Date:** February 22, 2021

REGULAR AGENDA ☒ **Meeting Date:** February 23, 2021

Required originals approved and attached? ☐

Will be provided on: 2/19/2021

Item summary:

☐ Call for Hearing

☒ Contract/Agreement/MOU - Contract # 101-21-004

☐ Resolution

☐ Proclamation

☐ Budget Item

☐ Draft Ordinance

☐ Final Ordinance

☐ Other

Documents exempt from public disclosure attached: ☐

Executive summary:

The County needs to obtain right of way for the Clallam Bay/Seki sewer. The County is obtaining an easement from Angler's NW, LLC to replace and expand an existing sewer easement.

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?** ☐

\$2508

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

That the Commissioners review, approve and sign this agreement.

County Official signature & print name: R. Tyler, Ross Tyler, P.E.

Name of Employee/Stakeholder attending meeting: Linda Capps

Relevant Departments: Public Works/Road

Date submitted: 02/10/2021

* Work Session Meeting - Submit 1 single sided/not stapled copy 2021 Agenda IS Sewer Easement Agmt CBCQ Sewer Project
** Regular Meeting -- Submit 1 single sided/not stapled copy and originals (1 or 3 copies) Revised: 3-04-2019

101-21-004

COPY

COUNTY ROAD NAME Sekiu Airport Road

CRP

NO.

PROPERTY OWNERS Anglers NW LLC**CLALLAM COUNTY ROAD DEPARTMENT****Sewer Easement Purchase Agreement**

In exchange for a Sewer Easement in the matter of the above said County Sewer Project, Clallam County shall provide the following:

Extinguish existing sewer easement recording number 451744 dated March 8, 1976

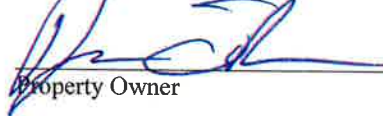
Purchase sewer easement Land value \$2208

Temporary Construction Easement \$ 300

Total \$2508

The undersigned property owners hereby authorize and grant Clallam County the right to provide the above agreement, together with the right to enter upon their remaining lands as may be necessary to perform any of the above. There are no other agreements written or oral other than those stated herein.

Signed at Port Angeles, Washington this 10th day of February, 20 21.


Property Owner

Property Owner

Property Owner

Property Owner

4421 Dry Creek Rd
Address; Street or Box No.

Address; Street or Box No.

Port Angeles WA 98363
City State Zip

City State Zip


R/W Agent or Witness

R/W Agent or Witness

Reviewed By:**Approved By:****BOARD OF CLALLAM COUNTY COMMISSIONERS**

Assistant Engineer Date

Mark Ozias, Chair Date

County Engineer Date

Randy Johnson Date

Deputy Prosecuting Attorney Date

Bill Peach Date



PROPOSED SEWER EASEMENT
(30 FEET); APPROX. 0.138 AC



PROPOSED CONSTRUCTION
EASEMENT; APPROX. 0.038 AC
ADDITIONAL (0.104± AC TOTAL)



EXISTING EASEMENT;
APPROX. 0.034 AC

NOTES:

1. CONSTRUCTION EASEMENT (0.038± AC) TO BE RETURNED UPON COMPLETION OF CONSTRUCTION.
2. EXISTING EASEMENT OUTSIDE OF PROPOSED EASEMENT TO BE RELINQUISHED

ANGLER'S NW LLC
13-38-13-510000

CONSTRUCTION EASEMENT

S1° 04' 57.57"E
150.854

PROPOSED EASEMENT

S7° 28' 12.08"W
147.007

PROPOSED GRAVITY
SEWER AND MANHOLE

PROVIDE 8" PVC STUBOUT FOR
FUTURE GRAVITY LINE, 10LF @ 2% MIN.

PROPOSED EASEMENT

S63° 13' 16.92"E
59.279

PROPOSED TYPE 1 MH - 48"Ø
STA 22+05.97, 0.00 T
RIM=317.61
IE IN(NW)=310.05
IE IN(N)=309.91
IE OUT(S)=309.95

EXISTING MANHOLE TO
BE REMOVED AND
REPLACED "IN-KIND"

PROPOSED EAS

S7° 28' 12.08"
122.828

EXISTING E

N13° 14'
154.971

EXISTING E

N13° 14' 3"
139.014

EXISTING 10'
SEWER EASEMENT

CONCI
MANH
CONCI

REPLACE
MANHOLE

INSTALL 2
SDR 35 F

PROP
STA
RIM=
IE INI
IE INI
IE OL

REPLACE EXISTING MANHOLE IN KIND, CONNECT TO
EXISTING GRAVITY SEWER MAIN DOWN FUNK AND
BALLARD ROAD; REPLACE MINIMUM 20' OF
EXISTING PIPING FLOWING IN FROM WEST

UTILITY CROSSING; CONTRACTOR TO
PROTECT AND PRESERVE EXISTING
PUD WATER UTILITIES STA. 19+40±

REPLA
RIGHT
CONTR
PRESE

WHEN RECORDED RETURN TO
Clallam County Public Works Department

EASEMENT AGREEMENT

This Easement Agreement ("Agreement") is entered into as of 2/10, 2021 by and between Angler's NW, LLC ("Grantor") and CLALLAM COUNTY, a political subdivision, by and through its Public Works Department ("Grantee").

Recitals

A. Grantor is the current owner of that certain real property located in Clallam County, Washington identifiable as Tax Parcel No. 133213510000 (the "**Burdened Property**").

B. Grantee has requested a permanent easement for the purposes of construction and maintenance of a sanitary sewer system, including pipes, pumps, manholes, building service laterals other appurtenant facilities in, over, across and through those certain and limited portions of the Burdened Property more particularly described as follows (the "**Easement Area**");

Bearings and distances used for this easement are based on the Washington State Coordinate System, North Zone, Datum of 1983, 1991 adjustment as shown on Vol. 39 of Surveys, Pg. 24, records of Clallam County, WA.

Commencing at the Southeast Corner of Section 13, Township 32 North, Range 13 West, W.M. said point also being Clallam County Geodetic point # 13322411 as shown on Vol. 39 of Surveys, Pg. 24, records of Clallam County, WA.;

Thence N 52° 30' 04" W a distance of 424.69 feet to a point on the westerly right of way for Sekiu Airport Rd. and beginning of this description;

Thence N 63° 13' 17" W a distance of 59.28 feet;

Thence N 07° 28' 12" E a distance of 147.01 feet to a point on the north parcel line of the Bayview Mobile Home & Recreational Vehicle Park, Vol. 11 of Plats, Pg. 78, records of Clallam County, WA.;

Thence S 77° 00' 21" E along said north parcel line a distance of 30.14 feet;

Thence S 07° 28' 12" W a distance of 122.83 feet;

Thence S 63° 13' 17" E a distance of 37.20 feet to a point on the westerly right of way for Sekiu Airport Rd. and beginning of a curve to the left along said right of way; said curve has a central angle of 07°47'13", a radius of 220.99 feet and a length of 30.03 feet which terminates at the beginning of this description.

Situate in the County of Clallam, State of Washington.

C. Grantor is willing to grant such easement upon the terms and conditions set forth in this Agreement.

D. Grantor or any subsequent owner of the Burdened Property is hereafter referred to as the "**Burdened Owner**"; and Grantee and its successors and assigns are hereafter referred to as the "**Benefitted Owner**."

NOW, THEREFORE, the parties agree as follows:

1. **Grant of Easement.** For and in consideration of the sum of **TWO THOUSAND FIVE HUNDRED EIGHT DOLLARS Dollars (\$2,508.00)** and other valuable consideration, the receipt and sufficiency of which his hereby acknowledged, Grantor hereby grants, sells and conveys to Grantee an exclusive easement in, over, across and through the Easement Area for the

purposes of construction and maintenance of a sanitary sewer system, including pipes, pumps, manholes, building service laterals other appurtenant facilities (the "**Easement Facilities**"). The permitted use of the Easement Area is referred to herein as the "**Easement Uses**." Following completed construction of the Easement Facilities, Grantee's right to access and use the Easement Area shall be solely for maintenance and repair of the Easement Facilities and shall be subject to the notice requirements of Section 2(b) below.

2. **Construction, Maintenance and Repairs.**

a. **Construction of Easement Facilities.** All expenses and costs for the construction of the Easement Facilities shall be borne by the Benefitted Owner. Grantee agrees that after such construction, Grantee shall repair or cause to be repaired any and all damage done to the Burdened Property and Easement Area.

b. **Maintenance and Repairs.** The Benefitted Owner shall periodically inspect, maintain, repair, reconstruct, and replace the Easement Facilities to insure the safe, lawful and reasonable operation of such Easement Facilities. All costs and expenses for such inspection, maintenance, repair, reconstruction, and replacement of the Easement Facilities shall be borne solely by the Benefitted Owner. The Benefitted Owner shall give the Burdened Owner at least five (5) days prior written notice reconstruction, removal, replacement, ~~inspection~~, repair, or maintenance of the Easement Facilities or on the Easement Area except in the event of a bona fide emergency, in which event whatever notice is reasonable under the circumstances shall be given. Any laying down, location, construction, reconstruction, removal, replacement, ~~inspection~~, repair, or maintenance of the Easement Facilities or on the Easement Area by the Benefitted Owner shall be performed in a manner which, to the extent reasonable under the then existing circumstances, minimizes disruption to the Burdened Property and Burdened Owner's operations on the Burdened Property.

3. **Term.** This Agreement shall continue in full force and effect from its recording date in perpetuity, unless this Agreement is amended, modified or terminated by an agreement executed, acknowledged and recorded by the Burdened Owner and Benefitted Owner.

4. **Damage to Easement Area or Burdened Property.** If the Benefitted Owner should damage or destroy any portion of the Easement Area or Burdened Property, the Benefitted Owner shall, at the election of the Burdened Owner, either (a) repair, reconstruct or replace such damaged or destroyed portion of the Easement Area or Burdened Property (at the Benefitted Owner's sole cost and expense) or (b) reimburse such party upon demand for all reasonable costs and expenses actually incurred by such party in repairing, reconstructing or replacing such damaged portion of the Easement Area or Burdened Property, as applicable.

5. **Indemnification.** The Benefitted Owner agrees to indemnify, defend and hold the Burdened Owner and its respective officers, directors, shareholders, partners, members, managers, affiliates, employees, representatives, agents, invitees, mortgagees, successors and assigns harmless from and against any and all claims, actions, causes of action, demands, damages, costs, liabilities, losses, judgments, expenses or costs of any kind or nature whatsoever (including, without limitation, attorney's fees) by reason of property damage, death or injury to persons arising from or relating to the indemnifying party's laying down, location, construction, reconstruction, removal, replacement, inspection, repair, or maintenance of the Easement Facilities or on the Easement Area.

6. **Binding Effect and Governing Law.** This Agreement and all covenants and restrictions contained herein shall, to the fullest extent permitted by law and equity and without regard to technical classifications or designations, be deemed to be covenants running with the land of the Burdened Property, and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement shall be governed and construed in accordance with the laws of the State of Washington.

7. **Entire Agreement.** This Agreement, including the recitals, which are incorporated herein by this reference, constitutes the entire agreement between the parties with respect to the grant of easement hereunder.

8. **Amendments.** This Agreement may be amended, modified, or supplemented only by a written document executed by all of the parties hereto (or their successors and assigns).

9. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

GRANTOR

ANGLER'S NW, LLC
a Washington limited liability company

By: _____

Its: Owner

STATE OF WASHINGTON)

) ss.

COUNTY OF CLALLAM)

I certify that I know or have satisfactory evidence that **RYAN TUCKER** is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the **owner and managing member** of **Angler's NW LLC** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Given under my hand and official seal this 10th day of February, 20 21.

[Signature]

Notary Public in and for the State of Washington,

residing at Port Angeles, WA

My appointment expires: 5/28/2022



334.20.013 -1

AGENDA ITEM SUMMARY

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

5
2/22/21**Department: Community Development****WORK SESSION** ☒ **Meeting Date: February 22, 2021****REGULAR AGENDA** ☒ **Meeting Date: March 2, 2021****Required originals approved and attached?** ☒
Will be provided on:**Item summary:**

- | | | |
|---|--|--------------------------------------|
| ☐ Call for Hearing | ☒ Contract/Agreement/MOU - Contract # 334.20.013-1 | |
| ☐ Resolution | ☐ Proclamation | ☐ Budget Item |
| ☐ Draft Ordinance | ☐ Final Ordinance | ☐ Other |

Documents exempt from public disclosure attached: ☐

Executive summary: Seeking Board approval of the Amended Interlocal Agreement between Clallam and Jefferson County regarding developing tools for implementing and monitoring adopted SMPs shoreline master program effectiveness on the North Olympic Peninsula. This Agreement is related to a grant agreement between Puget Sound Partnership and Clallam County whose goals are to develop the tools necessary to successfully implement and monitor adopted SMPs in both Clallam and Jefferson County. Most of the tasks under this grant have been postponed due to COVID-19 and because Clallam County is still awaiting Ecology's determination of the County's locally adopted SMP.

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?** ☐ **Grant monies will be received based upon successful completion of task items.**

Recommended action: (Does the Board need to act? If so, what is the department's recommendation?) Seeking Board approval of Amended Interlocal Agreement between Clallam and Jefferson County.

County Official signature & print name: DCD Director Mary Ellen Winborn

Handwritten signature of Mary Ellen Winborn in blue ink.

Name of Employee/Stakeholder attending meeting: Diane Harvey**Relevant Departments:** DCD**Date submitted:** 2/17/21

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

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

AMENDED INTERLOCAL AGREEMENT
Developing tools for implementing and monitoring adopted SMPs
Shoreline Master Program Effectiveness on the North Olympic Peninsula

This Amended Interlocal Agreement revises the terms (including extending the expiration date) of the Interlocal Agreement entered into on February __, 2021 by and between **Clallam County**, a political subdivision of the State of Washington, having offices for the transaction of business at 223 East 4th Street, Port Angeles, Washington 98362, hereinafter referred to as "Clallam County," and **Jefferson County**, a political subdivision of the State of Washington, having offices for the transaction of business at P.O. Box 1220, Port Townsend, Washington 98368, hereinafter referred to as "Jefferson County," and jointly hereinafter referred to as the "Parties."

- A. RCW 90.58.080 requires each county to initiate planning for the Shoreline Master Program (SMP). WAC 173-26-186(8) directs that updated master programs "include policies and regulations designed to achieve no net loss of those ecological functions."
- B. Clallam County has received funding from Puget Sound Partnership ("Partnership") to supplement and augment its Shoreline Master Program (SMP) update to enhance protection of Puget Sound. Clallam County is required to develop policies and regulations that achieve "No Net Loss" (NNL) of ecological functions and seeks to create a framework for assessing and tracking the impacts of development using indicators of ecological function.
- C. Included in the Partnership grant is funding for developing tools to implement and monitor adopted SMPs in Clallam and Jefferson Counties. Clallam County intends to implement this element of the Partnership grant in collaboration with Jefferson County to assist in effectively applying the principles of No Net Loss to Shoreline Master Program implementation.

NOW, THEREFORE, the Parties agree as follows:

- 1. Through this Amended Agreement under RCW 39.34, Jefferson County will collaborate with Clallam County to implement the "Shoreline Master Program Effectiveness Study on the North Olympic Peninsula" Interagency Agreement (the "Interagency Agreement") and Amendment # 1 to the Interagency Agreement dated September 15, 2020, both attached hereto and made a part hereof. The Interagency Agreement includes Exhibit A (General Terms and Conditions), Exhibit B (Statement of Work & Budget), and Exhibit C (Deliverable & Billing Procedures) and Amendment # 1 to the Interagency Agreement amends Exhibit B, the

Period of Performance and information pertaining to Clallam County's Project Manager.

2. Jefferson County agrees to provide the following:
 - A. Participate in project-related calls between Partnership, Clallam County, and Jefferson County.
 - B. Provide quarterly update reports on activities associated with this project.
 - C. Coordinate and collaborate with Clallam County and the Partnership to support completion of the tasks identified in **Exhibit B** (as amended by Amendment #1 to the Interagency Agreement).
 - D. Submit invoices to Clallam County for reimbursement based on amounts payable and billing procedures, as presented in **Exhibit B** (as amended by Amendment #1 to the Interagency Agreement) and **Exhibit C**, respectively, of the Interagency Agreement. The total amount to be invoiced by Jefferson County is \$116,500, as follows:
 - i. Task 1: Maximum amount to be invoiced is 50 percent of the task total, or \$6,500 (subtask 1.a is \$1,000, subtask 1.b is \$2,000, and subtask 1.c is \$3,500).
 - ii. Tasks 2 and 3: No Jefferson County invoicing; these tasks are to be completed entirely by Clallam County.
 - iii. Tasks 4 and 5: These tasks are to be completed entirely by Jefferson County; maximum amount to be invoiced is 100 percent of task totals, or \$102,000 (Task 4 - \$77,000 and Task 5 - \$25,000).
 - iv. Task 6: Maximum amount to be invoiced is 50 percent of the task total, or \$8,000 (subtask 6.a is \$4,000 and subtask 6.b is \$4,000).
3. Clallam County agrees to provide the following:
 - A. Manage the Partnership grant.
 - B. Reimburse, pursuant to properly completed invoices, Parties for expenses they have incurred during the performance of Tasks 1, 4, 5, and 6 as identified in **Exhibit B** (as amended by Amendment # 1 to the Interagency Agreement).
 - C. Obtain written concurrence from Jefferson County prior to amending or removing Tasks 1, 4, 5, and/or 6 as identified in **Exhibit B** (as amended by Amendment #1 to the Interagency Agreement).
4. Designation of Key Staff. The Clallam County Board of County Commissioners and Jefferson County Board of County Commissioners will oversee the progress of the collaborative work and will set the overall direction for further discussion and action, consistent with the terms of

this Interlocal Agreement. The activities performed under the Agreement shall be jointly administered for each of the respective Parties under RCW 39.34.030(4)(a) by the following representatives:

- A. For Clallam County by Clallam County Department of Community Development Acting Manager to Code Enforcement, Diane Harvey, 223 East 4th Street, Suite 5, Port Angeles WA 98362 (360.417.2520); and;
- B. For Jefferson County by Jefferson County Department of Community Development Associate Planner, Donna Frostholt, 621 Sheridan St., Port Townsend, WA 98368 (360.379.4450).

- 5. Scope of Services. Following consultation and approval of the Clallam County Department of Community Development, Jefferson County will adhere to all administrative and programmatic provisions in performing the scope of services as described by **Exhibit B** (as amended by Amendment #1 to the Interagency Agreement. The Parties agree to exercise good faith and best efforts to comply with the assignments and deadlines leading to the completion of the identified tasks.
- 6. Written Amendments. The Parties, by mutual written agreement, may revise this Amended Interlocal Agreement and its attached scope of services.
- 7. Effective Dates. This Amended Interlocal Agreement shall be effective as of the date signed by the last party and expire on August 31, 2022. The Parties agree to extend the foregoing deadlines from time to time as is reasonably necessary and for good cause.
- 8. Dispute Resolution. Any dispute between the Parties that cannot be resolved between the Parties shall first be resolved by a conference between the Parties' representatives listed above in Section 4. If that fails to resolve the dispute, then the dispute shall be submitted to the County Administrators for Jefferson and Clallam County for resolution. If submission to the County Administrators does not resolve a dispute between the Parties, then either Party may submit the dispute to mediation to be decided by a mutually agreed upon person or panel. The costs of the mediation shall be equally split between the Parties.
- 9. Right to Terminate. This Amended Interlocal Agreement may be terminated by any Party at any time upon not less than sixty (60) days written notice.

10. **Effect.** This Amended Interlocal Agreement shall be binding upon the Parties and the Parties shall be held responsible to the agreed upon deadlines.
11. **Personal property.** The Parties to this Amended Interlocal Agreement may after expiration of this grant and in a manner consistent with Section 17 of the US Environmental Protection Agency Cooperative Agreement PO J08801 retain any personal property purchased with these Partnership grant funds.

(SIGNATURES APPEAR ON THE NEXT PAGE)

IN WITNESS WHEREOF, the Parties have caused this Amended Interlocal Agreement to be executed effective the date and year signed by the last party to provide their signature below.

CLALLAM COUNTY BOARD OF
COMMISSIONERS

Mark Ozias, Chair DATE

Randy Johnson, Commissioner

Bill Peach, Commissioner

Attest:

Alana Gores, Clerk of the Board

Approved as to Form:

for 
David Alvarez, Chief Civil Prosecuting
Attorney

JEFFERSON COUNTY BOARD OF
COMMISSIONERS

 1/25/2021
Kate Dean, Chair


Greg Brotherton, Commissioner


Heidi Eisenhour, Commissioner

Attest:


Carolyn Gallaway, Clerk of the Board

Approved as to Form:

 1/22/2021
Philip C. Hunsucker, Chief Civil Deputy
Prosecuting Attorney



Amendment #1

 ac
 9/15/20

 Agreement Number: 2020-26
 Title: Shoreline Master Plan effectiveness study in the North Olympic Peninsula

This agreement is made and entered into by and between the state of Washington, Puget Sound Partnership (PSP), and the below named firm, hereinafter referred to as "CONTRACTOR."

CONTRACTOR INFORMATION
 Clallam County
 Department of Community Development
 223 East 4th St., Suite 5
 Port Angeles, WA. 98362
Project Manager
 Diane Harvey
dh Harvey@co.clallam.wa.us
 (360) 417-2520

 UBI: 0504004559
 EIN: 91-6001298
 DUNS: 075739235
 Type:

 Lori Kennedy
lkennedy@co.clallam.wa.us
 (360) 417-2354
PSP INFORMATION
 PUGET SOUND PARTNERSHIP
 326 EAST D STREET
 TACOMA, WA 98421-1801

Project Manager
 Elene Trujillo
Elene.trujillo@psp.wa.gov
 (360) 819-6018
PURPOSE

The purpose of this Amendment #1 is to:

- Extend the period of performance to August 31, 2022, due to the COVID-19 restrictions, causing delay of site visits and outreach efforts by Jefferson County and due to Clallam County awaiting the final approval by the Department of Ecology concerning its recent locally-adopted Shoreline Master Program.
- Change due dates to the subtask deliverables in order to accommodate the extension of this project work. (See Exhibit B – Statement of Work below)
- Change the Clallam County Project Manager from Cathy Lear to Diane Harvey.

PERIOD OF PERFORMANCE
 The period of performance will change to December 11, 2019 through **August 31, 2022**.
COMPENSATION AND PAYMENT

Total compensation amount will remain unchanged at \$233,000.

EXHIBIT B – STATEMENT OF WORK & BUDGET
 There are no changes to the tasks and subtasks. Changes to due dates are reflected in **RED** below:

Task	Tasks	Deliverables to be submitted to the PSP Project Manager	Due Dates	Total Payable for each subtask upon completion and approval by PSP Project Manager
1.0	Project Management			
a.	Interlocal agreement between Clallam (CC) and Jefferson Counties (JC)	Signed interlocal agreement (CC & JC)	12/31/19	\$2,000
b.	Present study plan to PSEMP for project review	Presentation materials (to be scheduled by PSP, CC & JC)	TBD	\$4,000
c.	Ongoing project management	Project work plan integrating comments from PSEMP, invoices,	Monthly (or more)	\$7,000 (no billing for this subtask)

		progress reports and phone calls (CC & JC)	frequently as needed)	until entire project is completed)
2.0	Evaluate effectiveness of SMP policies and regulations; coordinate outreach to the local community about SMP regulations and changes (CC).			
a.	Kick-off meeting	Meeting agendas and notes	3/25/20	\$2,000
b.	Develop no net loss indicators	List of indicators: Shoreline Development Field Form Database	03/31/21	\$8,000
c.	Develop database to track SMP permits	Database	04/15/21	\$10,000
d.	Analysis of permit applications (through April 2020)	Summary report of permit processes; results for 5-10 permits	07/15/21	\$9,000
e.	Analysis of permit applications (May – June 2020)	Results for 5-10 permits	09/15/21	\$9,000
f.	Analysis of permit applications (July – August 2020)	Results for 5-10 permits	11/15/21	\$9,000
g.	Analysis of permit applications (Sept. – October 2020)	Results for 5-10 permits	01/31/22	\$9,000
h.	Conduct field review (through June 2020)	Completed Development Field Forms for 8 sites.	09/15/21	\$4,000
i.	Conducted field review (July – August 2020)	Completed Development Field Forms for 8 sites.	11/15/21	\$4,000
j.	Conducted field review (Sept. – October 2020)	Completed Development Field Forms for 8 sites.	01/31/22	\$4,000
k.	Community outreach (through March 2020)	Summary of events, meeting materials, number of participants.	06/15/21	\$5,000
l.	Community outreach (April – June 2020)	Summary of events, meeting materials, number of participants.	09/15/21	\$5,000
m.	Community outreach (July – October 2020)	Summary of events, meeting materials, number of participants	01/31/22	\$6,000
3.0	Report results of effectiveness of SMP using NNL Indicators (CC). Outline final report to include description of data management, field data, analysis of effectiveness of permits to implement SMP guidance and effectiveness of permits to guide construction, and recommendations for other jurisdictions. Fact sheet will summarize outcomes and lessons learned.			
a.	Produce outline of final report	Detailed outline (PSP to provide comments within 3 weeks of "Due Date".	03/15/22	\$2,000
b.	Draft report	Draft report (PSP to provide comments within 3 weeks of "Due Date".	05/15/22	\$10,000
c.	Write final report	Final report	07/31/22	\$3,000
d.	Draft fact sheet	Draft fact sheet (PSP to provide comments within 3 weeks of "Due Date".	07/15/22	\$2,000
e.	Write final fact sheet	Final fact sheet	08/31/22	\$1,000
4.0	Evaluate effectiveness of SMP policies and regulations; coordinate outreach to the local community about SMP regulations and changes (JC).			

a.	Kick-off meeting	Meeting agenda and notes	3/25/20	\$2,000
b.	Update no net loss indicators	List of updated indicators	01/10/20	\$7,000
c.	Update database to track SMP permits	Updated Database	01/10/20	\$5,000
d.	Analysis of permit application (through March)	Results for 20 permits	06/01/21	\$9,000
e.	Analysis of permit application (April – June 2020)	Results for 20 permits	09/15/21	\$9,000
f.	Analysis of permit application (July – August 2020)	Results for 20 permits	11/15/21	\$9,000
g.	Analysis of permit application (Sept. – October 2020)	Results for 20 permits	01/31/22	\$9,000
h.	Conduct field review (through March 2020)	Completed Development Field forms for 10 sites	06/01/21	\$7,000
i.	Conduct field review (April – July 2020)	Completed Development Field forms for 10 sites	10/31/21	\$7,000
j.	Conduct field review (August – October 2020)	Completed Development Field forms for 10 sites	01/31/22	\$7,000
k.	Community Outreach (through March 2020)	Summary of event; meeting materials; number of participants	06/15/21	\$2,000
l.	Community Outreach (April – June 2020)	Summary of event; meeting materials; number of participants	09/15/21	\$2,000
m.	Community Outreach (July – October 2020)	Summary of event; meeting materials; number of participants	01/31/22	\$2,000
5.0	Report results of effectiveness of SMP using NNL indicators (JC). Outline and final report to include description of data management, field data, analysis of effectiveness of permits to implement SMP guidance and effectiveness of permits to guide construction, and recommendations for other jurisdictions. Fact sheet will summarize outcomes and lessons learned.			
a.	Produce outline of final report	Detailed outline (PSP to provide comments within 3 weeks of "Due Date".	03/15/22	\$2,000
b.	Draft report	Draft report (PSP to provide comments within 3 weeks of "Due Date".	05/25/22	\$15,000
c.	Write final report	Final report	07/31/22	\$5,000
d.	Draft fact sheet	Draft fact sheet (PSP to provide comments within 3 weeks of "Due Date".	07/15/22	\$2,000
e.	Write final fact sheet	Final fact sheet	08/31/22	\$1,000
6.0	Clallam and Jefferson both share approaches and results			
a.	Presentation to Science Panel	Presentation materials (CC & JC)	No later than August 31, 2022	\$8,000
b.	Presentation to local planners	Presentation materials (CC & JC)	No later than August 31, 2022	\$8,000
TOTAL PAYABLE UPON COMPLETION & APPROVAL				\$233,000

All other Terms & Conditions of the original agreement remain in full force and effect.

APPROVAL

This amendment shall be subject to the written approval of the AGENCY'S authorized representative and shall not be binding until so approved. The amendment and agreement may be altered, amended, or waived only by a written amendment executed by both parties.

This amendment is executed by the persons signing below, who warrant they have the authority to execute the agreement.

Clallam County
Department of Community Development
BOARD OF CLALLAM COUNTY
COMMISSIONERS



Mark Ozias, Chair

09/15/2020

Date

Puget Sound Partnership



Brent Barnes

Chief Operating Officer

09/15/2020

Date

THIS CONTRACT AMENDMENT #1 HAS BEEN
APPROVED AS TO FORM BY THE CLALLAM
COUNTY PROSECUTING ATTORNEY ON
August 26, 2020



Interagency Agreement

Agreement Number: 2020-26

Title: Shoreline Master Plan effectiveness study in the North Olympic Peninsula

This agreement is made and entered into pursuant to the Interlocal Cooperation Act, RCW 39.34, by and between the state of Washington, Puget Sound Partnership (PSP), and the below named agency, hereinafter referred to as "CONTRACTOR."

CONTRACTOR INFORMATION

Clallam County
Department of Community Development
223 East 4th ST., Suite 5
Port Angeles, WA. 98362

Project Manager

Cathy Lear
clear@co.clallam.wa.us
(360) 417-2361

UBI: 0504004559
EIN: 91-6001298
DUNS: 075739235
Type:

Fiscal: Lori Kennedy

lkennedy@co.clallam.wa.us
(360) 417-2354

Project Manager

Leska Fore
Leska.fore@psp.wa.gov
(206) 708-5048

PSP INFORMATION

PUGET SOUND PARTNERSHIP
326 EAST D STREET
TACOMA, WA 98421-1801

PURPOSE

The purpose of this agreement is to advance recovery of the Puget Sound as identified by the Puget Sound Science Panel. The priority action relates to the effectiveness of Chinook salmon recovery and provides funding for projects that "monitor implementation and effectiveness, including cost effectiveness, of Chinook recovery efforts." Located in Clallam and Jefferson Counties, this project will evaluate long-term protection efforts to prevent habitat loss in nearshore areas that Chinook salmon are known to use. The project supports and informs adaptation of strategies and programs to recover Chinook salmon and their habitat, but does not sample or evaluate salmon populations directly.

STATEMENT OF WORK

The CONTRACTOR shall furnish the necessary personnel, equipment, material and/or service(s) and otherwise do all things necessary for or incidental to the performance of the work set forth in Exhibit B attached and incorporated herein.

In the event that the CONTRACTOR is a Sub-Recipient (grantee), Exhibit B shall describe the activities of the Sub-Recipient that are eligible for reimbursement under the award or sub-award.

PERIOD OF PERFORMANCE

The period of performance under this agreement will be from the date of execution December 11, 2019 through June 30, 2021. No work shall commence under this agreement until it has been fully executed by both parties.

COMPENSATION AND PAYMENT

Compensation for the work provided in accordance with this agreement has been established under the terms of RCW 39.34.130. The parties have estimated that the cost of accomplishing the work herein will not exceed **Two hundred thirty-three thousand dollars (\$233,000)**. Payment for satisfactory performance of the work shall not exceed this amount unless the parties mutually agree to a higher amount prior to the commencement of any work which will cause the maximum payment to be exceeded. CONTRACTOR'S compensation for services rendered shall be in accordance with the Budget & Billing Procedures attached as Exhibit C.

In the event that the CONTRACTOR is a Sub-Recipient, the total amount of the award or sub-award for reimbursable activities shall not exceed the above amount, also in accordance with the Budget & Billing Procedures attached as Exhibit C.

FEDERAL FUNDING INFORMATION

This Contract includes federal funding ☐ Yes ☒ No

CONTRACTOR is a Sub-Recipient for purposes of this agreement ☐ Yes ☒ No

AGREEMENT NO. 2020-26

RECEIVED
DEC 11 2019
BY: PSP

TERMS AND CONDITIONS

All rights and obligations of the parties to this contract shall be subject to and governed by the Terms and Conditions contained in the following exhibits, herein incorporated by reference. The contents of this Agreement include:

1. This contract cover sheet
2. Exhibit A – General Terms and Conditions
3. Exhibit B – Statement of Work & Budget
4. Exhibit C – Deliverables & Billing Procedures

ORDER OF PRECEDENCE

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

1. Applicable Federal and State of Washington Statutes and regulations
2. This Agreement/Contract, including Exhibit A, General Terms and Conditions
3. Exhibit B, Statement of Work and Exhibit C, Budget & Billing Procedures
4. Any other Exhibit or provision, term or material incorporated herein by reference or otherwise incorporated

ENTIRE AGREEMENT

This agreement, including referenced exhibits and any other provision, term or material expressly incorporated by reference, represents all the terms and conditions agreed upon by the parties. No other statements or representations, written or oral, shall be deemed a part hereof.

APPROVAL

This agreement shall be subject to the written approval of the AGENCY'S authorized representative and shall not be binding until so approved. The agreement may be altered, amended, or waived only by a written amendment executed by both parties.

This agreement is executed by the persons signing below, who warrant they have the authority to execute the agreement.

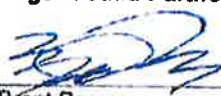
Clallam County, Dept. of Community
Development


mark ozols

12/13/19
Date

Board of Clallam County Commissioners

Puget Sound Partnership


Brent Barnes

12/11/19

Date

Chief Operating Officer

APPROVED AS TO FORM:

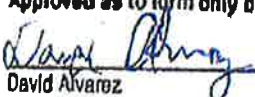
/s/ Jonathan Thompson

Assistant Attorney General

December 5, 2013

Date

Approved as to form only by:


David Alvarez
Chief Civil Deputy Prosecuting Attorney
Clallam County

12/19/19

**EXHIBIT A -
GENERAL TERMS AND CONDITIONS**

Title: Shoreline Master Plan effectiveness study in the North Olympic Peninsula

1. DEFINITIONS

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

- A. "AGENCY" means the Puget Sound Partnership (PSP) of the State of Washington, any division, section, office, unit or other entity of the AGENCY, or any of the officers or other officials lawfully representing that AGENCY.
- B. "AGENT" means the Director, and/or the delegate authorized in writing to act on the Director's behalf.
- C. "CONTRACTOR" means that firm, provider, organization, individual or other entity performing service(s) under this contract, and shall include all employees of the CONTRACTOR.
- D. "DEBARMENT" means an action taken by a Federal agency or official to exclude a person or business entity from participating in transactions involving certain federal funds.
- E. "EPA" means U.S. Environmental Protection Agency.
- F. "SUBCONTRACTOR" means one not in the employment of the CONTRACTOR, who is performing all or part of those services under this contract under a separate contract with the CONTRACTOR. The terms "SUBCONTRACTOR" and "SUBCONTRACTORS" means SUBCONTRACTOR(s) in any tier.
- G. "SUB-RECIPIENT" means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency. Guidance on distinguishing between a subrecipient and a contractor is provided in 2 CFR §200.330. Subrecipient and contractor determinations.

2. AMERICANS WITH DISABILITIES ACT (ADA)

If the contract includes federal funding, the CONTRACTOR must comply with Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities by entities receiving Federal financial assistance. The CONTRACTOR may also be required to comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

3. ADVANCE PAYMENTS PROHIBITED

No payments in advance of or in anticipation of goods or services to be provided under this contract shall be made by the AGENCY.

4. AMENDMENT

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

5. ASSIGNMENT

The work to be provided under this Agreement, and any claim arising under this Agreement, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

6. ASSURANCES

The parties agree that all activity pursuant to this Agreement shall be in accordance with all applicable federal, state and local laws, rules, and regulations as they currently exist or as amended.

7. CONFIDENTIALITY

Confidential information: The CONTRACTOR shall not use or disclose any information that is identified as such, for any purpose not directly connected with the administration of this contract, except with prior written consent of the AGENCY, or as may be required by law. Each party will utilize reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties. However, the parties acknowledge that state and local agencies are subject to chapter 42.56 RCW, the Public Records Act.

Personal Information (one form of confidential information): Personal information including, but not limited to, "Protected Health Information," collected, used, or acquired in connection with this contract shall be protected against unauthorized use, disclosure, modification or loss. CONTRACTOR shall ensure its directors, officers, employees, subcontractors or agents use personal information solely for the purposes of accomplishing the services set forth herein. CONTRACTOR and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the agency or as otherwise required by law. Any breach of this provision may result in termination of the contract and the demand for return of all personal information. The CONTRACTOR agrees to indemnify and hold harmless the AGENCY for any damages related to the CONTRACTOR'S unauthorized use of personal information.

8. CREDIT AND ACKNOWLEDGEMENT

Reports, documents, signage, videos, or other media, developed as part of projects funded by EPA funded Agreements shall display both the EPA and Puget Sound Partnership logos and the following credit line: "This project has been funded wholly or in part by the United States Environmental Protection Agency under Assistance Agreement [NOT APPLICABLE] The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use."

9. DEBARMENT AND SUSPENSION

CONTRACTOR, by signature to this Contract, certifies that CONTRACTOR is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from participating in transactions (Debarred). CONTRACTOR shall comply with applicable federal agency debarment and suspension rules adopted pursuant to Office of Management and Budget guidance at 2 CFR Part 180, such as 2 CFR Part 1532 for the Environmental Protection Agency, which implement Executive Order 12549. CONTRACTOR acknowledges that failing to disclose the information required at 2 CFR 180.335 may result in the delay or negation of this contract, or pursuance of legal remedies, including suspension and debarment.

CONTRACTOR shall not award subcontracts or subawards to persons (individuals or organizations) listed on the Excluded Parties List located at www.sam.gov/. CONTRACTOR agrees to include the above requirements in all subcontracts into which it enters. The CONTRACTOR shall immediately notify AGENCY if, during the term of this Contract, CONTRACTOR becomes debarred. AGENCY may immediately terminate this Contract by providing CONTRACTOR written notice if CONTRACTOR becomes Debarred during the term hereof.

10. DISALLOWED COSTS

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

11. DISPUTES

In the event that CONTRACTOR is a state agency and a dispute arises under this Agreement, either of the parties may request intervention by the Governor, as provided by chapter 43.17.330 RCW, in which event the Governor's process will control.

In the event that a dispute arises under this Agreement, and the CONTRACTOR is not a state agency, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall evaluate the facts, Agreement terms, applicable

Title: Shoreline Master Plan effectiveness in the North Olympic Peninsula
statutes and rules, and make a determination of the dispute. The determination of the Dispute Board shall be final and binding on both parties.

The cost of resolution will be borne as allocated by the Dispute Board or the Governor.

12. DUPLICATION OF BILLED COSTS

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

13. GOVERNING LAW AND VENUE

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington and the venue of any action brought under this Agreement shall be in Superior Court for Thurston County.

14. HOTEL MOTEL FIRE SAFETY ACT

The Hotel and Motel Fire Safety Act of 1990 (Public Law 101-391) establishes a number of fire safety standards which must be met for hotels and motels. Pursuant to 40 CFR 30.18, if applicable, and 15 USC 2225a if any portion of this contract will be paid with federal funds, CONTRACTOR agrees to ensure that all space for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended. CONTRACTOR may search the Hotel-Motel National Master List at: <http://www.usfa.dhs.gov/applications/hotel> to see if a property is in compliance (FEMA ID is currently not required), or to find other information about the Act.

If necessary, the head of the Federal agency may waive this prohibition in the public interest.

15. INDEPENDENT CAPACITY

The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

16. INTELLECTUAL PROPERTY RIGHTS

Unless otherwise provided, all materials produced under this contract shall be considered "works for hire" as defined by the U.S. Copyright Act 17 U.S.C. § 101, et seq., and shall be owned by the AGENCY. Where federal funding is involved, the awarding federal agency may have a proprietary interest in patent rights to any inventions that are developed by the CONTRACTOR as provided in 35 U.S.C. §§ 200-212 and 37 CFR part 401 and retains a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

CONTRACTOR acknowledges that in accordance with 40 CFR 30.38 and 31.34, EPA has the rights to reproduce, publish, use, and authorize others to use copyrighted works or other data developed under this assistance agreement for Federal purposes.

Examples of a Federal purpose include but are not limited to: (1) Use by EPA and other Federal employees for official Government purposes; (2) Use by Federal contractors performing specific tasks for the Government; (3) Publication in EPA documents provided the document does not disclose trade secrets (e.g. software codes) and the work is properly attributed to the recipient through citation or otherwise; (4) Reproduction of documents for inclusion in Federal depositories; (5) Use by State, tribal and local governments that carry out delegated Federal environmental programs as "co-regulators" or act as official partners with EPA to carry out a national environmental program within their jurisdiction and; (6) Limited use by other grantees to carry out Federal grants provided the use is consistent with the terms of EPA's authorization to the other grantee to use the copyrighted works or other data.

Under Item 6, the grantee acknowledges that EPA may authorize another grantee(s) to use the copyrighted works or other data developed under this grant as a result of:

Title: Shoreline Master Plan effectiveness in the North Olympic Peninsula

- the selection of another grantee by EPA to perform a project that will involve the use of the copyrighted works or other data or;
- termination or expiration of this agreement.

In addition, EPA may authorize another grantee to use copyrighted works or other data developed with Agency funds provided under this grant to perform another grant when such use promotes efficient and effective use of Federal grant funds.

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

In the event the materials are not considered "works for hire" under the U.S. Copyright laws CONTRACTOR shall grant AGENCY, and any federal entity which provided federal funds used in this contract, retain a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover or otherwise use the material(s) or property and to authorize others to use the same for federal, state or local government purposes.

Material which CONTRACTOR uses to perform the contract but is not created for or paid for by AGENCY is not "work made for hire"; however, CONTRACTOR grant the AGENCY a nonexclusive, royalty-free, irrevocable license to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display, provided that such license shall be limited to the extent which CONTRACTOR has a right to grant such a license to use this material for AGENCY internal purposes at no charge to AGENCY.

17. INTERNATIONAL TRAVEL (including Canada) – FOR FEDERAL FUNDED AGREEMENTS ONLY

All International Travel must be approved by the Office of International and Tribal Affairs (OITA) BEFORE travel occurs. Even a brief trip to a foreign country, for example to attend a conference, requires OITA approval. Please contact your EPA Project Officer as soon as possible if travel is planned out of the country, including Canada and/or Mexico, so that they can obtain appropriate approvals from EPA Headquarters. If you have questions, please contact your EPA Project Officer listed on the front page of the Award Document

18. LOBBYING PROHIBITED

- a. By signing this contract, CONTRACTOR agrees to comply with Title 40 CFR Part 34, New Restrictions on Lobbying, 31 U.S.C. § 1352, and 40 CFR Part 30 if applicable. CONTRACTOR shall include the language of this provision in subcontracts that exceed \$100,000 of federal funds and require all subcontractors to certify and disclose accordingly.
- b. No Federal appropriated funds shall be paid by or on behalf of the CONTRACTOR to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- c. If this contract includes federal funds exceeding \$100,000, CONTRACTOR shall sign and submit to AGENCY Exhibit D, Attachment 2, PSP Certification Regarding Lobbying (based on EPA Form 6600-06 (Rev. 06/2008)). If CONTRACTOR signed and submitted the PSP Certification Regarding Lobbying form during the procurement process for this contract it is not necessary to resubmit the certification.
- d. If CONTRACTOR expends non-federal funds in any amount to lobby as detailed in a., above, CONTRACTOR shall complete and submit to Standard Form LLL (Rev. 4/2012), Disclosure of

Title: Shoreline Master Plan effectiveness in the North Olympic Peninsula
Lobbying Activity. The form can be found at:
http://www.epa.gov/ogd/AppKit/form/sfllln_sec.pdf.

19. LOBBYING AND LITIGATION

a. All recipients

- i. The chief executive officer of this recipient agency shall ensure that no grant funds awarded under this assistance agreement are used to engage in lobbying of the Federal Government or in litigation against the U.S. unless authorized under existing law. The recipient shall abide by the Cost Principles available at 2 CFR 200 which generally prohibits the use of federal grant funds for litigation against the U.S. or for lobbying or other political activities.
- ii. The recipient agrees to comply with Title 40 CFR Part 34, New Restrictions on Lobbying. The recipient shall include the language of this provision in award documents for all subawards exceeding \$100,000, and require that subrecipients submit certification and disclosure forms accordingly.
- iii. In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.
- iv. Contracts awarded by a recipient shall contain, when applicable, the anti-lobbying provision as stipulated in the Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.
- v. Pursuant to Section 18 of the Lobbying Disclosure Act, the recipient affirms that it is not a nonprofit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or that it is a nonprofit organization described in Section 501(c)(4) of the Code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act. Nonprofit organizations exempt from taxation under section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities are ineligible for EPA subawards.

20. NONDISCRIMINATION and DISADVANTAGED BUSINESS ENTERPRISES

In accordance with 40 CFR 33.106 and its Appendix A, the CONTRACTOR shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.

21. PAYMENT TO CONSULTANTS

EPA will limit its participation in salary rate (excluding overhead) paid to individual consultants retained by recipients or by a recipients' contractors or subcontractors shall be limited to the maximum daily rate for Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with their normal travel reimbursement practices).

Subagreements with firms for services which are awarded using the procurement requirements in 40 CFR Parts 30 or 31, are not affected by this limitation unless the terms of the contract provide the recipient with responsibility for the selection, direction and control of the individual who will be providing services under the contract at an hourly or daily rate of compensation. See 40 CFR 30.27(b) or 40 CFR 31.369(j), as applicable, for additional information.

As of January 1, 2019, the limit is \$638.24 per day \$79.77 per hour.
(Calculations: 2019 Level IV Executive Schedule annual pay = \$166,500 / 2087 = \$79.77 per hour or \$638.24 per day).

22. PROJECT APPROVAL

The quality, extent and character of any and all work, deliverables and/or services to be performed under this agreement by the CONTRACTOR shall be subject to the review and approval of the AGENCY through the Project Manager or other designated official. In the event that the AGENCY determines, that

Title: Shoreline Master Plan effectiveness in the North Olympic Peninsula
any work, deliverable, and/or service performed by the CONTRACTOR is unsatisfactory, the AGENCY may withhold reimbursement for the unsatisfactory work performed by the CONTRACTOR or require that the CONTRACTOR remediate their work product to get it to the satisfaction of the AGENCY. Such approval and satisfaction not be unreasonably withheld. The Parties may agree in the Statement of Work to specific approval, acceptance, and/or remediation terms. If the Statement of Work is silent on this topic, the Disputes provision, above, will govern the resolution process.

23. RECORDS MAINTENANCE

The parties to this Agreement shall each maintain books, records, documents and other evidence that sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the service(s) described herein. CONTRACTOR shall retain such records for a period of six years following the date of final payment.

At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by the AGENCY, personnel duly authorized by the AGENCY, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. If this contract exceeds \$100,000 and any portion of the funding source is federal, the federal funding agency, the Comptroller General of the United States, or any duly authorized representatives shall have access to books documents, papers, and records of CONTRACTOR directly pertinent to this contract for purpose of making audits, examination, excerpts and transcriptions (40 CFR 30.48(d)).

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

24. RECYCLED PAPER

In accordance with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6882) any State agency or agency of a political subdivision of a State which is using appropriated Federal funds shall comply with the requirements set forth. Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchases of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

In accordance with the policies set forth in EPA Order 1000.25 and Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management (January 24, 2007), Sub-Recipient agrees to use recycled paper and double sided printing for all reports which are prepared as part of this Agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration.

25. RESPONSIBILITIES OF THE PARTIES

Each party to this Agreement hereby assumes responsibility for claims and/or damages to persons and/or property resulting from any negligent act or omissions on the part of itself, its employees, its officers, and its agents. Neither party assumes any responsibility to the other party for the consequences of any claim, act, or omission of any person, agency, firm, or corporation not a part to this Agreement.

26. SEVERABILITY

If any term or condition of this Agreement is held invalid, such invalidity shall not affect the validity of the other terms or conditions of this Agreement.

27. SUBCONTRACTING

Neither the CONTRACTOR nor any SUBCONTRACTOR shall enter into subcontracts for any of the work contemplated under this contract without obtaining prior written approval of the AGENCY. In no event shall the existence of the subcontract operate to release or reduce the liability of the contractor to the

Title: Shoreline Master Plan effectiveness in the North Olympic Peninsula
agency for any breach in the performance of the contractor's duties. This clause does not include contracts of employment between the contractor and personnel assigned to work under this contract.

Additionally, the CONTRACTOR is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this agreement are carried forward to any subcontracts

28. TERMINATION DUE TO FUNDING

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to normal completion, the AGENCY may terminate the contract under the "Termination for Convenience" clause, without the ten-day notice requirement, subject to renegotiation at the AGENCY'S discretion under those new funding limitations and conditions. Agency will reimburse CONTRACTOR for all expenses incurred, including non-cancelable expenses, up until the date of termination.

29. TERMINATION FOR CAUSE

If for any cause either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within 15 working days. If the failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.

30. TERMINATION FOR CONVENIENCE

Either party may terminate this Agreement upon 30 calendar days' prior written notification to the other party. If this Agreement is so terminated, the parties shall be liable only for the performance rendered or costs incurred, including NON-CANCELABLE expenses, in accordance with the terms of this Agreement prior to the effective date of termination.

31. TREATMENT OF ASSETS

- a. Title to all property furnished by the AGENCY shall remain in the AGENCY. Title to all property furnished by the CONTRACTOR, for the cost of which the CONTRACTOR is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the AGENCY upon delivery of such property by the CONTRACTOR. Title to other property, the cost of which is reimbursable to the CONTRACTOR under this contract, shall pass to and vest in the AGENCY upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the AGENCY in whole or in part, whichever first occurs.
- b. Any property of the AGENCY furnished to the CONTRACTOR shall, unless otherwise provided herein or approved by the AGENCY, be used only for the performance of this contract.
- c. The CONTRACTOR shall be responsible for any loss or damage to property of the AGENCY that results from the negligence of the CONTRACTOR or which results from the failure on the part of the CONTRACTOR to maintain and administer that property in accordance with sound management practices.
- d. If any AGENCY property is lost, destroyed or damaged, the CONTRACTOR shall immediately notify the AGENCY and shall take all reasonable steps to protect the property from further damage.
- e. The CONTRACTOR shall surrender to the AGENCY all property of the AGENCY prior to settlement upon completion, termination or cancellation of this contract.
- f. All reference to the CONTRACTOR under this clause shall also include CONTRACTOR'S employees, agents or SUBCONTRACTORS.

32. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Agreement unless stated to be such in writing and signed by personnel authorized to bind each of the parties.

**EXHIBIT B -
STATEMENT OF WORK & BUDGET**

Title: Shoreline Master Plan effectiveness study in the North Olympic Peninsula

Specific Period of Performance: This statement of work covers tasks expected over a period of two years. Tasks and deliverables may have the opportunity to be extended.

Purpose Statement:

This contract addresses a Science Work Action identified by the Puget Sound Science Panel to advance recovery of Puget Sound. The priority action relates to the effectiveness of Chinook salmon recovery and provides funding for projects that "monitor implementation and effectiveness, including cost effectiveness, of Chinook recovery efforts." Located in Clallam and Jefferson Counties, this project will evaluate long-term protection efforts to prevent habitat loss in nearshore areas that Chinook salmon are known to use. The project supports and informs adaptation of strategies and programs to recover Chinook salmon and their habitat, but does not sample or evaluate salmon populations directly.

Local shoreline planning programs incorporate the policies and regulations based on the Shoreline Management Act through a Shoreline Master Program (SMP). Three basic policy areas of the Act aim to protect shoreline use, environmental resources, and public access. Local jurisdictions (i.e., cities and counties) are responsible for implementing an SMP, based on state laws and rules but are tailored to the unique geographic, economic, and environmental needs of each community. SMPs also aim to protect the natural resources and ecology of the shoreline by using a "no net loss" (NNL) standard. The NNL framework is designed to halt or mitigate the impacts to shoreline ecological functions resulting from new development.

Various components of nearshore regulation at the state and local level help execute the intent of the law and influence the impact of development on nearshore habitats. However, nearshore regulation effectiveness is not easily measured directly. To study the effectiveness of shoreline regulations in local jurisdictions, previous work was conducted in Clallam and Jefferson counties to identify measurable NNL indicators that supported the development of SMP policies and regulations designed to achieve NNL. The NNL indicators are used to monitor sites for permitting and implementation compliance. This contract evaluates the effectiveness of recent adjustments in permit outreach and compliance previously identified (Jefferson County) and early compliance and effectiveness (Clallam County) to evaluate the effectiveness of recently implemented SMP updates in Clallam and Jefferson counties. Both counties will share results with interested jurisdictions and use the results to improve their SMPs during the next update. Results from this project will be shared with other jurisdictions to demonstrate how to evaluate the effectiveness of shoreline regulation.

Tasks are described below and referenced in the table with deliverables, dates, and costs

Task 1- Clallam and Jefferson Counties

Project Management

Clallam County will develop an interlocal agreement with Jefferson County. Jefferson County staff will invoice and provide deliverables to Clallam County who will invoice under this contract for both counties. A project work plan for both counties will be developed and presented for review by PSEMP during a meeting to be scheduled by PSP. Results of PSEMP review will be incorporated into the work plan. Ongoing project management will include regular (at least monthly) check in calls with PSP project manager.

Task 2 - Clallam County (CC)

Evaluate Effectiveness of the SMP

Clallam County will evaluate the effectiveness of the implementation of SMP policies and regulations to protect shoreline habitat. A kick-off meeting with PSP staff will discuss the project work plan, grant management, and timeline with PSP staff. No net loss (NNL) indicators will be adapted from Jefferson County program to define the shoreline development field form. A database will be developed to manage and track shoreline permits. Indicators will be matched with the assessment questions used to evaluate performance. Approximately 30 permit applications (office task) and approximately 24 construction sites (field review) will be evaluated for compliance. Outreach to the local community will provide information about SMP regulations and relevant changes.

Task 3 – Clallam County

Report results

Clallam County will summarize results on NNL indicators to evaluate success based on application review and permit requirements. The final report will describe data management, analyze indicators measured in the field, evaluate effectiveness of permits to implement SMP guidance, evaluate effectiveness of permits to guide construction, and provide recommendations for other jurisdictions related to adaptive management of monitoring, permitting, and enforcement. A detailed outline, draft report and draft 2-page fact sheet will be provided for review by PSP in advance of final written materials.

Task 4 – Jefferson County

Evaluate Effectiveness of the SMP

Jefferson County will build on Phase I of their NNL monitoring to evaluate the effectiveness of the permit process and compliance of permitted nearshore projects. A kick-off meeting with PSP staff will discuss the project work plan, grant management, and timeline with PSP staff. The County will update NNL indicators as needed to evaluate project status and ecological function; match NNL indicators to assessment questions; evaluate permit compliance with the permitting office; use indicators to track changes on permitted project sites for compliance; and track change in NNL indicators over time. Approximately 80 permit applications (office task) and 30 construction sites (Field review) will be evaluated for compliance. Outreach to the local community will provide information about SMP regulations and relevant changes.

Task 5 – Jefferson County

Report results

Jefferson County will summarize results on NNL indicators to evaluate success based on application review, permit requirements, and permit implementation. The final report will describe data management, analyze indicators measured in the field, evaluate effectiveness of permits to implement SMP guidance, evaluate effectiveness of permits to guide construction, and provide recommendations for other jurisdictions related to adaptive management of monitoring, permitting, and enforcement. A detailed outline, draft report and draft 2-page fact sheet will be provided for review by PSP. A detailed outline, draft report and draft 2-page fact sheet will be provided for review by PSP in advance of final written materials.

Task 6 – Clallam and Jefferson Counties

Present results

Presentations to the Partnership's Science Panel and local planner groups will share results of the project including the effectiveness of SMP regulations to protect nearshore habitat and any recommendations that would be relevant for other jurisdictions.

The CONTRACTOR shall report in writing any problems, delays or adverse conditions that will materially affect their ability to meet project objectives or time schedules. This disclosure shall be accompanied by a statement of the action taken or proposed and any assistance needed by PSP to resolve the situation.

Task	Tasks	Deliverables to be submitted to the PSP Project Manager	Due Dates	Total Payable for each subtask upon completion and approval by PSP Project Manager
1.0	Project Management			
a.	Interlocal agreement between Clallam (CC) and Jefferson Counties (JC)	Signed interlocal agreement (CC & JC)	12/31/19	\$2,000
b.	Present study plan to PSEMP for project review	Presentation materials (to be scheduled by PSP, CC & JC)	TBD	\$4,000
c.	Ongoing project management	Project work plan integrating comments from PSEMP, invoices, progress reports and phone calls (CC & JC)	Monthly (or more frequently as needed)	\$7,000 (no billing for this subtask until entire project is completed)
2.0	Evaluate effectiveness of SMP policies and regulations; coordinate outreach to the local community about SMP regulations and changes (CC).			
a.	Kick-off meeting	Meeting agendas and notes	TBD	\$2,000
b.	Develop no net loss indicators	List of indicators: Shoreline Development Field Form Database	01/31/20	\$8,000
c.	Develop database to track SMP permits	Database	02/15/20	\$10,000
d.	Analysis of permit applications (through April 2020)	Summary report of permit processes; results for 5-10 permits	05/22/20	\$9,000
e.	Analysis of permit applications (May - June 2020)	Results for 5-10 permits	07/17/20	\$9,000
f.	Analysis of permit applications (July - August 2020)	Results for 5-10 permits	09/18/20	\$9,000
g.	Analysis of permit applications (Sept. - October 2020)	Results for 5-10 permits	11/20/20	\$9,000
h.	Conduct field review (through June 2020)	Completed Development Field Forms for 8 sites.	07/17/20	\$4,000
i.	Conducted field review (July - August 2020)	Completed Development Field Forms for 8 sites.	09/18/2020	\$4,000
j.	Conducted field review (Sept. - October 2020)	Completed Development Field Forms for 8 sites.	11/20/20	\$4,000
k.	Community outreach (through March 2020)	Summary of events, meeting materials, number of participants.	04/10/20	\$5,000

l.	Community outreach (April – June 2020)	Summary of events, meeting materials, number of participants.	07/10/20	\$5,000
m.	Community outreach (July – October 2020)	Summary of events, meeting materials, number of participants	11/12/20	\$6,000
3.0	Report results of effectiveness of SMP using NNL indicators (CC). Outline final report to include description of data management, field data, analysis of effectiveness of permits to implement SMP guidance and effectiveness of permits to guide construction, and recommendations for other jurisdictions. Fact sheet will summarize outcomes and lessons learned.			
a.	Produce outline of final report	Detailed outline (PSP to provide comments within 3 weeks of "Due Date".	01/15/21	\$2,000
b.	Draft report	Draft report (PSP to provide comments within 3 weeks of "Due Date".	03/07/21	\$10,000
c.	Write final report	Final report	05/28/21	\$3,000
d.	Draft fact sheet	Draft fact sheet (PSP to provide comments within 3 weeks of "Due Date".	05/07/21	\$2,000
e.	Write final fact sheet	Final fact sheet	6/18/21	\$1,000
4.0	Evaluate effectiveness of SMP policies and regulations; coordinate outreach to the local community about SMP regulations and changes (JC).			
a.	Kick-off meeting	Meeting agenda and notes	TBD	\$2,000
b.	Update no net loss indicators	List of updated indicators	01/10/20	\$7,000
c.	Update database to track SMP permits	Updated Database	01/10/20	\$5,000
d.	Analysis of permit application (through March)	Results for 20 permits	04/17/20	\$9,000
e.	Analysis of permit application (April – June 2020)	Results for 20 permits	07/17/20	\$9,000
f.	Analysis of permit application (July – August 2020)	Results for 20 permits	9/18/20	\$9,000
g.	Analysis of permit application (Sept. – October 2020)	Results for 20 permits	11/20/20	\$9,000
h.	Conduct field review (through March 2020)	Completed Development Field forms for 10 sites	04/17/20	\$7,000
i.	Conduct field review (April – July 2020)	Completed Development Field forms for 10 sites	08/20/20	\$7,000
j.	Conduct field review (August – October 2020)	Completed Development Field forms for 10 sites	11/20/20	\$7,000
k.	Community Outreach (through March 2020)	Summary of event; meeting materials; number of participants	04/10/20	\$2,000
l.	Community Outreach (April – June 2020)	Summary of event; meeting materials; number of participants	07/10/20	\$2,000
m.	Community Outreach (July – October 2020)	Summary of event; meeting materials; number of participants	11/12/20	\$2,000
5.0	Report results of effectiveness of SMP using NNL indicators (JC). Outline and final report to include description of data management, field data, analysis of effectiveness of permits to implement SMP guidance and			

	effectiveness of permits to guide construction, and recommendations for other jurisdictions. Fact sheet will summarize outcomes and lessons learned.			
a.	Produce outline of final report	Detailed outline (PSP to provide comments within 3 weeks of "Due Date".	01/15/21	\$2,000
b.	Draft report	Draft report (PSP to provide comments within 3 weeks of "Due Date".	03/07/21	\$15,000
c.	Write final report	Final report	05/28/21	\$5,000
d.	Draft fact sheet	Draft fact sheet (PSP to provide comments within 3 weeks of "Due Date".	05/07/21	\$2,000
e.	Write final fact sheet	Final fact sheet	06/18/21	\$1,000
6.0	Clallam and Jefferson both share approaches and results			
a.	Presentation to Science Panel	Presentation materials (CC & JC)	No later than June 30, 2021	\$8,000
b.	Presentation to local planners	Presentation materials (CC & JC)	No later than June 30, 2021	\$8,000
TOTAL PAYABLE UPON COMPLETION & APPROVAL				\$233,000

PROGRAM SPECIFIC REQUIREMENTS/NARRATIVE

Staffing Requirements: The PSP Executive Director or designee must approve project personnel changes.

**EXHIBIT C -
Deliverable & Billing Procedures**

Title: Shoreline Master Plan effectiveness study in the North Olympic Peninsula

DELIVERABLE PROCEDURES

Deliverable requirements, including due dates, are specified in Exhibit B, Statement of Work and Budget. CONTRACTOR shall submit deliverables to the PSP Project Manager listed on page 1 of this Agreement. Do not attach deliverables to invoice vouchers.

PSP Project Manager must provide written Acceptance of deliverables to CONTRACTOR and to PSP Fiscal before PSP Fiscal can pay an invoice for those deliverables.

BILLING & INVOICE VOUCHER REQUIREMENTS

To request payment, the CONTRACTOR shall submit a form A-19 invoice voucher at least monthly to the AGENCY *unless* there are no deliverables due for the month of billing. CONTRACTOR shall only bill for completed tasks and deliverables agreed to in Exhibit B, Statement of Work & Budget.

Each invoice voucher submitted to the AGENCY by the CONTRACTOR must, at a minimum, include the following:

1. The PSP contract/agreement number.
2. The time-period during which the services were performed
3. A description of the tasks or subtasks performed and deliverables submitted that have met the pay-point criteria listed in Exhibit B, Statement of Work and Budget, column "Payment Information and/or Amount."
4. Total invoice amount.
5. Date deliverable was accepted by PSP Project Manager. See DELIVERABLE PROCEDURES, above.
6. Attach any other information mutually agreed upon by both parties during the course of the contract.

Submit payment requests to:

*Puget Sound Partnership
Fiscal Unit
326 East D Street
Tacoma, WA 98421-1801*

Requests may be submitted electronically to pspfiscal@psp.wa.gov

GENERAL BILLING TERMS

The AGENCY shall reimburse the CONTRACTOR upon review and approval of work performed under the scope of this agreement and receipt of properly completed payment requests.

Payment may be withheld if required work, services, progress reports and/or deliverables are not submitted to the satisfaction of the AGENCY.

The AGENCY may terminate the agreement or withhold payments claimed by the CONTRACTOR for services rendered if the CONTRACTOR fails to comply with any term or condition of this contract.

The CONTRACTOR shall submit a monthly invoice voucher or equivalent document to the AGENCY *unless* the agreement has been identified as a "deliverable-based" contract with specific due date or

special condition that has been approved by the Partnership. Contractors must submit invoices within 30 days after the month of completion of deliverables to the PSP Project Manager. Payment for approved goods and/or services will be made by check, warrant or electronic fund transfer (EFT) within 30 days of receipt of the invoice. The CONTRACTOR must submit invoices for all work done within a fiscal year 30 days after the end of the fiscal year. Invoices shall be paid within 30 days after the final invoice has been submitted.

BILLING CONDITIONS:

All Contractors must submit any budget changes to any deliverable(s) to PSP for sufficient processing time of any amendment execution between PSP and the Contractor. If information provided does not allow for sufficient processing time, PSP will not adjust or pay for any invoices or billing over the 10% of the total amount listed for each deliverable even if the added total amounts for all the deliverables does not exceed the total budget.

The CONTRACTOR shall receive reimbursement for travel and other expenses as identified or as authorized in advance by the AGENCY as reimbursable. Such expenses may include airfare (economy or coach class only), other transportation expenses, lodging and subsistence necessary during periods of required travel at the current state reimbursement rates (<http://www.ofm.wa.gov/resources/travel.asp>).

Payment shall be considered timely if made by the AGENCY within thirty (30) calendar days after receipt of properly completed reimbursement request.



AGENDA ITEM SUMMARY

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

6
2/22/21

Department: DCD

WORK SESSION ☒ Meeting Date: 2.22.2021

REGULAR AGENDA ☒ Meeting Date: 3.2.2021

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 Cosignatory to grant agreement |

Documents exempt from public disclosure attached: ☐

Executive summary:

To improve both Clallam County's Dungeness floodplain restoration project, future operation and maintenance of the levee, and the Jamestown S'Klallam Tribe's River's Edge project, we will reconfigure some of the property lines and write easements. Doing so also clarifies Clallam County's operation and maintenance responsibilities for the levee. Adding Clallam County to the grant as a co-sponsor (Contract Page 3, "Special Provision 2, Clallam County as secondary sponsor") helps to streamline the process for the granting agency (in this case, the Recreation and Conservation Office), Jamestown S'Klallam Tribe, and Clallam County.

Budgetary impact: (Is there a monetary impact? If so, are funds for this already allocated or is a budget change necessary? If this is a contract and a budget change is necessary, the budget change form must be submitted with the item at work session and for the regular agenda) **If a budget action is required, has it been submitted and a copy attached?** ☐
No budget action required.

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

County Official signature & print name: _____

Mary Beth Clark

Name of Employee/Stakeholder attending meeting: Cathy Lear

Relevant Departments: DCD, Roads

Date submitted:

- * 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)

Agenda item summary (3)
Revised: 3-04-2019





Project Sponsor: Jamestown S'Klallam Tribe

Project Number: 16-1367C

Amendment: 8

Project Title: Dungeness Floodplain Restoration- Kinkade Phase

Approval Date: 01/31/2018

PARTIES OF THE AGREEMENT

This Recreation and Conservation Office Agreement (Agreement) is entered into between the State of Washington by and through the Salmon Recovery Funding Board (SRFB or funding board) and the Recreation and Conservation Office (RCO), P.O. Box 40917, Olympia, Washington 98504-0917 and Jamestown S'Klallam Tribe (Sponsor, and primary Sponsor), 1033 Old Blyn Hwy, Sequim, WA 98382, Clallam County (Sponsor, and secondary Sponsor), 223 E 4th St Ste 5, Port Angeles, WA 98362-3015, and shall be binding on the agents and all persons acting by or through the parties.

All Sponsors are equally and independently subject to all the conditions of this Agreement except those conditions that expressly apply only to the primary Sponsor.

The identified Authorized Representative(s)/Agent(s) have full authority to legally bind the Sponsor(s) regarding all matters related to the project, including but not limited to, full authority to: (1) enter into this project agreement on behalf of the Sponsor(s), (2) enter any amendments thereto on behalf of the Sponsors. Agreements and amendments must be signed by the Authorized Representative/Agent(s) of all sponsors, unless otherwise allowed in Amendments to Agreement Section.

For the purposes of this Agreement, as well as for grant management purposes with RCO, only the primary Sponsor may act as a fiscal agent to obtain reimbursements (See PROJECT REIMBURSEMENTS section).

PURPOSE OF AGREEMENT

This Agreement sets out the terms and conditions by which a grant is made from the State Building Construction Account of the State of Washington. The grant is administered by the Recreation and Conservation Office (RCO).

DESCRIPTION OF PROJECT

This project is an acquisition/planning project. The overall goal is to purchase (fee-simple), restore, and forever conserve over 16 acres of floodplain habitat within the lower 11 miles of the Dungeness River near Sequim, WA. The project will also begin restoration design to set back a levee to allow for greater floodplain connection. Habitats including active channel, side channels, connected and disconnected floodplain and floodplain forest will be restored by removal of hard-armoring and levee structures. The combined ecosystem restoration and conservation actions will benefit ESA -listed Chinook, bull trout, summer chum, and steelhead, along with coho, pinks, and fall chum.

Recovery of sustainable, harvestable runs of salmon on the Dungeness is a cultural and economic priority of the Tribe and this project is an important step towards that goal. As a multi-benefit floodplain restoration project that will restore habitat, reconnect floodplain, reduce flood-risk, reduce maintenance costs for publicly owned facilities, create a healthier floodplain ecosystem and increase recreational opportunities just minutes from Sequim, the project benefits the entire community and region. Removal of infrastructure and hard armoring from the channel and floodplain will allow for natural habitat forming processes to resume in this degraded reach. Juvenile salmon need access to floodplains, natural bank vegetation, and diverse river habitats for refuge and feeding.

PERIOD OF PERFORMANCE

The period of performance begins on January 19, 2018 (project start date) and ends on June 30, 2021 (project end date). No allowable cost incurred before or after this period is eligible for reimbursement unless specifically provided for by written amendment or addendum to this Agreement, or specifically provided for by applicable RCWs, WACs, and any applicable RCO manuals as of the effective date of this Agreement.

The Sponsor must request extensions of the period of performance at least 60 days before the project end date.

STANDARD TERMS AND CONDITIONS INCORPORATED

The Standard Terms and Conditions of the Recreation and Conservation Office are hereby incorporated by reference as part of this Agreement.

LONG-TERM OBLIGATIONS

For the acquisition portion of this project, the Sponsor's long-term obligations for the project area shall be in perpetuity, beginning at project completion, unless otherwise identified in the Agreement or as approved by the funding board or RCO.

Where conflicts may exist between this section and other sections of the agreement, the latter shall apply.

PROJECT FUNDING

The total grant award provided for this project shall not exceed \$1,136,826.00. The RCO shall not pay any amount beyond that approved for grant funding of the project and within the percentage as identified below. The Sponsor shall be responsible for all total project costs that exceed this amount. The minimum matching share provided by the Sponsor shall be as indicated below:

	Percentage	Dollar Amount	Source of Funding
SRFB - Puget Sound Acq. & Restoration	74.95%	\$1,002,452.00	State
SRFB - Salmon State Projects	10.05%	\$134,374.00	State
Project Sponsor	15.00%	\$200,617.00	
Total Project Cost	100.00%	\$1,337,443.00	

RIGHTS AND OBLIGATIONS INTERPRETED IN LIGHT OF RELATED DOCUMENTS

All rights and obligations of the parties under this Agreement are further specified in and shall be interpreted in light of the Sponsor's application and the project summary and eligible scope activities under which the Agreement has been approved as well as documents produced in the course of administering the Agreement, including the eligible scope activities, the milestones report, progress reports, and the final report. Provided, to the extent that information contained in such documents is irreconcilably in conflict with this Agreement, it shall not be used to vary the terms of the Agreement, unless those terms are shown to be subject to an unintended error or omission. This "Agreement" as used here and elsewhere in this document, unless otherwise specifically stated, has the meaning set forth in the definitions of the Standard Terms and Conditions of the Recreation and Conservation Office.

AMENDMENTS TO AGREEMENT

Except as provided herein, no amendment (including without limitation, deletions) of any of the terms or conditions of this Agreement will be effective unless provided in writing signed by all parties. Extensions of the period of performance and minor scope adjustments consented to in writing (including email) by the Sponsor need only be signed by RCO's director or designee, unless otherwise provided for in another agreement a Sponsor has with the RCO. This exception does not apply to a federal government Sponsor or a Sponsor that requests and enters into a formal amendment for extensions or minor scope adjustments.

It is the responsibility of a Sponsor to ensure that any person who signs an amendment on its behalf is duly authorized to do so, and such signature shall be binding on the Sponsor.

Any amendment to this Agreement, unless otherwise expressly stated, shall be deemed to include all applicable federal, state, and local government laws and rules, and policies applicable and active and published in the applicable RCO manuals or on the RCO website in effect as of the effective date of the amendment, without limitation to the subject matter of the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone.

COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND POLICIES

This Agreement is governed by, and the sponsor shall comply with, all applicable state and federal laws and regulations, applicable RCO manuals as identified below, and any applicable federal program and accounting rules effective as of the date of this Agreement, and with respect to any amendments to this Agreement, as of the effective date of that amendment.

Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone.

For the purpose of this Agreement all applicable RCO WACs and funding board policies shall apply as terms of this Agreement.

For the purpose of this Agreement, the following RCO manuals are deemed applicable and shall apply as terms of this Agreement:

- Acquisition Projects - Manual 3
- Long Term Obligations - Manual 7
- Reimbursements - Manual 8
- Restoration Projects - Manual 5
- Salmon Recovery Grants - Manual 18

Any applicable tribal preference laws may otherwise apply for a Sponsor that is a federally recognized Indian Tribe provided such preference laws are consistent with federal law.

SPECIAL CONDITIONS

Special Condition #1: Cultural Resources-Survey Required

Section 8 of this agreement requires compliance with Executive Order 05-05 and/or Section 106 of the National Historic Preservation Act. RCO has completed the initial consultation for this project and a cultural resources survey is required. The Sponsor must submit to RCO the survey and receive from RCO a Notice to Proceed before any ground disturbing activities can begin. Construction started without a Notice to Proceed will be considered a breach of contract. In the event that archaeological or historic materials are discovered while conducting ground disturbing activities, work in the immediate vicinity must stop and the Sponsor must ensure compliance with the provisions found in Section 8 of this agreement.

Special Condition #2: Clallam County as Secondary Sponsor

Jamestown S'Klallam Tribe has amended the agreement to add Clallam County as a secondary sponsor to the project for the purposes of conveying a property interest to Clallam County in order to facilitate the levee setback project on the Dungeness Valley Creamery property.

AGREEMENT CONTACTS

The parties will provide all written communications and notices under this Agreement to the mail address or the email address listed below if not both:

Sponsor Project Contact

LaTrisha Suggs
Restoration Planner
1033 Old Blynn Hwy
Sequim, WA 98382
lsuggs@jamestowntribe.org

RCO Contact

Kat Moore
Natural Resources Building
PO Box 40917
Olympia, WA 98504-0917
kathryn.moore@rco.wa.gov

These addresses and contacts shall be effective until receipt by one party from the other of a written notice of any change.

ENTIRE AGREEMENT

This Agreement, with all amendments and attachments, constitutes the entire Agreement of the parties. No other understandings, oral or otherwise, regarding this Agreement shall exist or bind any of the parties.

EFFECTIVE DATE

This Agreement, for project 16-1367, shall be subject to the written approval of the RCO's authorized representative and shall not be effective and binding until the date signed by both the sponsor and the RCO, whichever is later (Effective Date).

Reimbursements for eligible and allowable costs incurred within the period of performance identified in the PERIOD OF PERFORMANCE section are allowed only when this Agreement is fully executed and an original is received by RCO.

The Sponsor has read, fully understands, and agrees to be bound by all terms and conditions as set forth in this Agreement and the STANDARD TERMS AND CONDITIONS OF THE RECREATION AND CONSERVATION OFFICE. The signatories listed below represent and warrant their authority to bind the parties to this Agreement.

Jamestown S'Klallam Tribe

By: _____

Date: _____

Name (printed): _____

Title: _____

Clallam County

By: _____

Date: _____

Name (printed): _____

Title: _____

**State of Washington Recreation and Conservation Office
On behalf of the Salmon Recovery Funding Board (SRFB or funding board)**

By: _____

Date: _____

Kaleen Cottingham
Director
Recreation and Conservation Office

Pre-approved as to form:

By:  _____
Assistant Attorney General

Date: 07/01/2020

Project Sponsor: Jamestown S'Klallam Tribe

Project Number: 16-1367C

Amendment: 8

Project Title: Dungeness Floodplain Restoration- Kinkade Phase

Approval Date: 01/31/2018

Eligible Scope Activities

ELIGIBLE SCOPE ACTIVITIES

Acquisition Metrics

Property: Allen (Worksite #1, Kincade Floodplain)

Property: Billes (Worksite #1, Kincade Floodplain)

Property: Caldero (Worksite #1, Kincade Floodplain)

Property: Dickinson Parcel (Worksite #1, Kincade Floodplain)

Property: Krebsbach (Worksite #1, Kincade Floodplain)

Property: Murphy (Worksite #1, Kincade Floodplain)

Real Property Acquisition

Land

Acres by Acreage Type (fee simple):

Lake	0.00
Riparian	0.75
Riparian	16.52
Riparian	4.40
Riparian	5.70
Riparian	7.85
Tidelands	0.00
Uplands	0.00
Uplands	5.25
Wetlands	0.00
Existing structures on site:	No structures on site
Existing structures on site:	Structures to be demolished

Incidentals

Appraisal

Appraisal Review

Closing, Recording, Taxes, Title

Cultural resources (Acq)

Demolition

Buildings / structures to be demolished:

A SFR, garage, and shed will be moved, salvaged, or demolished. Reuse and recycling will be emphasized.

Buildings / structures to be demolished:

It is unknown if a permanent structure(s) will be on the property at closing. All structures will be removed along with all utilities.

Buildings / structures to be demolished:

One 100 square ft home, built 1969.

Buildings / structures to be demolished:

Remnants of a small shed (age unknown), Associated hard armoring and infrastructure/utilities

Environmental Audits**Fencing (Acq)**

Number of linear feet of fencing to be built: 100

Noxious weed control

Acres treated for noxious weeds by method:
Mechanical 0.25

Relocation**Signs (Acq)**

Number of permanent signs that identify site and funding partners: 3000

Stewardship plan**Survey (Acq)****Administrative Costs (Acq)****Administrative costs (Acq)**

Property: Dungeness Valley Creamery (Worksite #2, River Miles 0-11)

Property: McLane Wallacker Trust (Worksite #2, River Miles 0-11)

Real Property Acquisition**Land**

Acres by Acreage Type (fee simple):

Riparian 24.20

Riparian 67.00

Existing structures on site: No structures on site

Incidentals**Appraisal****Appraisal Review****Boundary line adjustment****Closing, Recording, Taxes, Title****Demolition**

Buildings / structures to be demolished: TBD

Environmental Audits**Relocation****Survey (Acq)****Planning Metrics****Worksite #1, Kincade Floodplain**

Targeted salmonid ESU/DPS (A.23):

Chinook Salmon-Puget Sound ESU, Coho Salmon-unidentified ESU, Pink Salmon-Odd year ESU, Steelhead-Puget Sound DPS

Targeted species (non-ESU species):

Bull Trout, Cutthroat, Rainbow, Searun Cutthroat

Area Encompassed (acres) (B.0.b.1):

0.0

Miles of Stream and/or Shoreline Affected (B.0.b.2):

0.00

Miles of Stream and/or Shoreline Treated or Protected (C.0.b):

1.00

Project Identified In a Plan or Watershed Assessment (C.0.c):

National Marine Fisheries Service, 2006, Recovery Plan for the Puget Sound Chinook Salmon (*Oncorhynchus tshawytscha*), National Marine Fisheries Service, Northwest Region. Seattle, WA. Dungeness River Management Team, 2005, Dungeness Watershed Salmon Recovery Planning Notebook, Cooperative Management of Our Watershed's Resources, Coordinated by Jamestown S'Klallam Tribe and

	Clallam County, 1033 Old Blyn Hwy. Sequim, WA 98382 Hansi Hals and Dungeness River Restoration Work Group, 2003, Recommended Land Protection Strategies for the Dungeness Riparian Area (Dungeness Green Book), Prepared for Dungeness River Management Team. Jamestown S'Klallam Tribe, 1033 Old Blyn Hwy. Sequim, WA 98382 West Consultants, 2000, Kinkade Island levee removal, Dungeness River [Washington]: Technical Report No. 00-01, Report prepared for the Clallam County Department of Community Development, Port Angeles, WA 98362, US Bureau of Reclamation, 2003, Kinkade Island Geomorphic Assessment, Dungeness River, Washington, US Bureau of Reclamation- Prepared for Clallam County, Port Angeles WA 98362.
Type Of Monitoring (C.0.d.1):	None
Worksite #2, River Miles 0-11	
Targeted salmonid ESU/DPS (A.23):	Chinook Salmon-Puget Sound ESU
Targeted species (non-ESU species):	Bull Trout, Cutthroat
Area Encompassed (acres) (B.0.b.1):	40.0
Miles of Stream and/or Shoreline Affected (B.0.b.2):	0.90
Miles of Stream and/or Shoreline Treated or Protected (C.0.b):	11.00
Project Identified In a Plan or Watershed Assessment (C.0.c):	National Marine Fisheries Service, 2006, Recovery Plan for the Puget Sound Chinook Salmon (<i>Oncorhynchus tshawytscha</i>), National Marine Fisheries Service, Northwest Region. Seattle, WA. Dungeness River Management Team, 2005, Dungeness Watershed Salmon Recovery Planning Notebook, Cooperative Management of Our Watershed's Resources, Coordinated by Jamestown S'Klallam Tribe and Clallam County, 1033 Old Blyn Hwy. Sequim, WA 98382 Hansi Hals and Dungeness River Restoration Work Group, 2003, Recommen
Type Of Monitoring (C.0.d.1):	None
Design for Salmon restoration	
Conceptual Design	
Project Identified in a Plan or Watershed Assessment. (2457) (B.1.b.11.a):	National Marine Fisheries Service, 2006, Recovery Plan for the Puget Sound Chinook Salmon (<i>Oncorhynchus tshawytscha</i>), National Marine Fisheries Service, Northwest Region. Seattle, WA. Dungeness River Management Team, 2005, Dungeness Watershed Salmon Recovery Planning Notebook, Cooperative Management of Our Watershed's Resources, Coordinated by Jamestown S'Klallam Tribe and Clallam County, 1033 Old Blyn Hwy. Sequim, WA 98382 Hansi Hals and Dungeness River Restoration Work Group, 2003, Recommen
Priority in Recovery Plan (2458) (B.1.b.11.b):	high

Project Sponsor: Jamestown S'Klallam Tribe

Project Number: 16-1367C

Amendment: 8

Project Title: Dungeness Floodplain Restoration- Kinkade Phase

Approval Date: 01/31/2018

Project Milestones

PROJECT MILESTONE REPORT

Complete	Milestone	Target Date	Comments/Description
X	Order Appraisal Review(s)	06/01/2017	Allen property, completed
X	Order Appraisal(s)	06/01/2017	Allen property, completed
X	Environmental Assess Complete	06/19/2017	Allen property, completed
X	Recorded Land Survey to RCO	08/25/2017	Allen property, completed
X	Purchase Agreement Signed	01/01/2018	Allen property, completed
X	Project Start	01/19/2018	
X	Acquisition Closing	02/28/2018	Allen property, completed
X	Order Appraisal(s)	04/19/2018	Biles property
X	Order Appraisal Review(s)	05/16/2018	Biles property
X	Purchase Agreement Signed	06/18/2018	Biles property
X	Progress Report Due	06/30/2018	
X	Environmental Assess Complete	06/30/2018	Biles property
X	Acquisition Closing	07/31/2018	Biles property
X	Recorded Acq Documents to RCO	08/31/2018	Biles property
X	Progress Report Due	01/22/2019	
X	Annual Project Billing Due	01/22/2019	
X	Annual Project Billing Due	06/30/2019	
X	Progress Report Due	06/30/2019	
X	Progress Report Due	12/30/2019	
X	Demolition Complete	06/30/2020	Biles property
X	Progress Report Due	07/30/2020	
X	Demolition Complete	08/01/2020	Allen property
	Progress Report Due	12/30/2020	
X	Funding Acknowl Sign Posted	05/01/2021	
	Final Billing Due	06/30/2021	
	Final Report Due	06/30/2021	
	Draft Design to RCO	06/30/2021	Conceptual design for levee setback
	Agreement End Date	06/30/2021	
	Annual Project Billing Due	06/30/2021	
	Applied for Permits	06/30/2021	
	Cultural Resources Complete	06/30/2021	Caldero Property (Survey Complete-2017-06-04239 RCO) Allen Property (Survey Pending 2018-12-09643 RCO)
	RCO Final Inspection	06/30/2021	
	Permits Complete	06/30/2021	
	Stewardship Plan to RCO	06/30/2021	

Project Sponsor: Jamestown S'Klallam Tribe

Project Number: 16-1367C

Amendment: 8

Project Title: Dungeness Floodplain Restoration- Kinkade Phase

Approval Date: 01/31/2018

Standard Terms and Conditions of the Recreation and Conservation Office

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STANDARD TERMS AND CONDITIONS EFFECTIVE DATE

This agreement reflects Standard Terms and Conditions of the Recreation and Conservation Office as of 10/15/2020.

CITATIONS, HEADINGS AND DEFINITIONS

- A. Any citations referencing specific documents refer to the current version on the effective date of this Agreement or the effective date of any amendment thereto.
- B. Headings used in this Agreement are for reference purposes only and shall not be considered a substantive part of this Agreement.
- C. Definitions. As used throughout this Agreement, the following terms shall have the meaning set forth below:

acquisition project – A project that purchases or receives a donation of fee or less than fee interests in real property. These interests include, but are not limited to, conservation easements, access/trail easements, covenants, water rights, leases, and mineral rights.

agreement or project agreement – The document entitled "RCO Tribal Project Agreement" accepted by all parties to the present project and transaction, including without limitation the Standard Terms and Conditions of the Recreation and Conservation Office, all attachments, addendums, and amendments, and any intergovernmental agreements or other documents that are incorporated into the Agreement subject to any limitations on their effect.

applicable manual(s) – A manual designated in this Agreement to apply as terms of this Agreement, subject to substitution of the "RCO director" for instances where the term "board" occurs.

applicable WAC(s) – Designated chapters or provisions of the Washington Administrative Code that are deemed under this Agreement to apply as terms of the Agreement, subject to substitution of the "RCO director" for instances where the term "board" occurs.

applicant – Any party that meets the qualifying standards, including deadlines, for submission of an application soliciting a grant of funds administered by RCO.

application – The documents and other materials that an applicant submits to the RCO to support the applicant's request for grant funds; this includes materials required for the "Application" in the RCO's automated project information system, and other documents as noted on the application checklist including but not limited to legal opinions, maps, plans, evaluation presentations and scripts.

Authorized Representative/Agent – A Sponsor's agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

C.F.R. – Code of Federal Regulations

contractor – An entity that receives a contract from a Sponsor related to performance of work or another obligation under this Agreement.

conversion – A conversion occurs 1) when facilities acquired, developed, renovated or restored within the project area are changed to a use other than that for which funds were approved, without obtaining prior written formal RCO or board approval, 2) when property interests are conveyed to a third party not otherwise eligible to receive grants in the program from which funding was approved without obtaining prior written formal RCO or board approval, or 3) when obligations to operate and maintain the funded property are not complied with after reasonable opportunity to cure.

director – The chief executive officer of the Recreation and Conservation Office or that person's designee.

effective date – The date when the signatures of all parties to this agreement are present in the agreement.

equipment – Tangible personal property (including information technology systems) having a useful service 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 Sponsor or \$5,000 (2 C.F.R. § 200.33 (2013)).

funding board or board – The Washington State Recreation and Conservation Funding Board, or the Washington State Salmon Recovery Funding Board, or both as may apply.

Funding Entity – the entity that approves the project that is the subject to this Agreement.

grant program – The source of the grant funds received. May be an account in the state treasury, or a grant category within a larger grant program, or a federal source.

indirect cost – Costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved (2 C.F.R. § 200.56 (2013)).

long-term compliance period – The period of time after the project end date or end of the period of performance (depending on the project types and grant program). During this period, the Sponsor has continuing obligations under the Agreement. This period may have a nonspecific end date (in perpetuity) or an expressly specified number of years.

long-term obligations – Sponsor's obligations after the project end date, as specified in the Agreement and applicable regulations and policies.

match or matching share – The portion of the total project cost provided by the Sponsor.

milestone – An important event with a defined date to track an activity related to implementation of a funded project and monitor significant stages of project accomplishment.

Office – Means the Recreation and Conservation Office or RCO.

pass-through entity – A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program (2 C. F. R. § 200.74 (2013)). If this Agreement is a federal subaward, RCO is the pass-through entity.

period of performance – The period beginning on the project start date and ending on the project end date.

pre-agreement cost – A project cost incurred before the period of performance.

primary Sponsor – The Sponsor who is not a secondary Sponsor and who is specifically identified in the Agreement as the entity to which RCO grants funds to and authorizes and requires to administer the grant. This administration includes but is not limited to acting as the fiscal agent for the grant (e.g. requesting and accepting reimbursements, submitting reports). Primary Sponsor includes its officers, employees, agents and successors.

project – An undertaking that is, or may be, funded in whole or in part with funds administered by RCO.

project area – A geographic area that delineates a grant assisted site which is subject to project agreement requirements.

project cost – The total allowable costs incurred under this Agreement and all required match share and voluntary committed matching share, including third-party contributions (see also 2 C.F.R. § 200.83 (2013) for federally funded projects).

project end date – The specific date identified in the Agreement on which the period of performance ends, as may be changed by amendment. This date is not the end date for any long-term obligations.

project start date – The specific date identified in the Agreement on which the period of performance starts.

RCFB – Recreation and Conservation Funding Board

RCO – Recreation and Conservation Office – The state agency that administers the grant that is the subject of this Agreement. RCO includes the director and staff.

RCW – Revised Code of Washington

reimbursement – RCO's payment of funds from eligible and allowable costs that have already been paid by the Sponsor per the terms of the Agreement.

renovation project – A project intended to improve an existing site or structure in order to increase its useful service life beyond current expectations or functions. This does not include maintenance activities to maintain the facility for its originally expected useful service life.

secondary sponsor – One of two or more Sponsors who is not a primary Sponsor. Only the primary Sponsor may be the fiscal agent for the project.

Sponsor – A Sponsor is an organization that is listed in and has signed this Agreement.

Sponsor Authorized Representative/Agent – A Sponsor's agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor signature. This

person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

SRFB – Salmon Recovery Funding Board

subaward – Funds allocated to the RCO from another organization, for which RCO makes available to or assigns to another organization via this Agreement. Also, a subaward may be an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of any 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 or other program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. Also see 2 C.F.R. § 200.92 (2013). For federal subawards, a subaward is for the purpose of carrying out a portion of a Federal award and creates a federal assistance relationship with the subrecipient (2 C.F.R. § 200.330 (2013)). If this Agreement is a federal subaward, the subaward amount is the grant program amount in the Project Funding Section.

subrecipient – Subrecipient means an entity that receives a subaward. For non-federal entities receiving federal funds, a subrecipient is an entity that receives a subaward from a pass-through entity to carry out part of a federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency (2 C.F.R. § 200.93 (2013)). If this Agreement is a federal subaward, the Sponsor is the subrecipient.

useful service life – Period during which an asset or property is expected to be useable for the purpose it was acquired, developed, renovated, and/or restored per this Agreement.

WAC – Washington Administrative Code.

PERFORMANCE BY THE SPONSOR

The Sponsor shall undertake the project as described in this Agreement, and in accordance with the Sponsor's proposed goals and objectives described in the application or documents submitted with the application, all as finally approved by the RCO. All submitted documents are incorporated by this reference as if fully set forth herein.

Timely completion of the project and submission of required documents, including progress and final reports, is important. Failure to meet critical milestones or complete the project, as set out in this Agreement, is a material breach of the Agreement.

ASSIGNMENT

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the Sponsor without prior written consent of the RCO.

RESPONSIBILITY FOR PROJECT

While RCO administers the grant that is the subject of this Agreement, the project itself remains the sole responsibility of the Sponsor. The RCO and Funding Entity (if different from the RCO) undertakes no responsibilities to the Sponsor, or to any third party, other than as is expressly set out in this Agreement. The responsibility for the implementation of the project is solely that of the Sponsor. When a project is Sponsored by more than one entity, any and all Sponsors are equally responsible for the project and all post-completion stewardship responsibilities and long-term obligations unless otherwise stated in this Agreement.

The RCO has no responsibility for reviewing, approving, overseeing or supervising design or construction of the project and leaves such review, approval, oversight and supervision exclusively to the Sponsor and others with expertise or authority. In this respect, the RCO will act only to confirm at a general, lay, and nontechnical level, solely for the purpose of compliance and payment and not for safety or suitability, that the project has apparently been completed as per the Agreement.

INDEMNIFICATION

Subject to the limitations provided in this Agreement, the Sponsor shall defend, indemnify, and hold the Recreation and Conservation Office (RCO), the Recreation and Conservation Funding Board, the Salmon Recovery Funding Board, collectively referred to herein as "the RCO"; and its officers and employees harmless from all damage, loss, claims, demands, or suits at law or equity arising in whole or in part from the actual or alleged acts, errors, omissions or negligence in connection with this Agreement (including without limitation all work or activities thereunder), or the breach of any obligation under this Agreement, by the Sponsor or the Sponsor's agents, employees, contractors, and subcontractors of any tier, or any persons for whom the Sponsor may be vicariously liable. If the RCO is immune from suit pursuant to a specific statutory exemption and or limitation as to the particular claim, demand(s), or suit(s) at law or equity, the Sponsor shall have no obligation to defend, indemnify or hold the RCO harmless. Should this section conflict with any other section of this Agreement, the terms of this section shall take precedence.

Provided that nothing herein shall require a Sponsor to defend or indemnify the RCO against and hold harmless the RCO from claims, demands or suits at law or equity based solely upon the negligence of the RCO, its employees and/or agents for whom the RCO is vicariously liable.

Provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the Sponsor or the Sponsor's agents or employees, contractors, and subcontractors of any tier, or any persons for whom the Sponsor is vicariously liable, and (b) the RCO its employees and agents, contractors, and subcontractors of any tier or any for whom it is vicariously liable, the indemnity obligation shall be valid and enforceable only to the extent of the Sponsor's negligence or the negligence of the Sponsor's agents, employees, contractors, and subcontractors of any tier, or any persons for whom the Sponsor may be vicariously liable.

In the event a tribal employee files suit against the RCO for damages sustained in an occupational injury occurring while the tribal employee is performing services pursuant to this agreement, and RCO seeks indemnification by the tribe under this agreement for such a damages claim, the tribe shall waive and not assert immunity under the tribe's or the State's workers' compensation laws. The tribe's agreement not to assert its immunity under workers' compensation laws applies only to a claim by RCO for indemnification under this agreement, and does not preclude the tribe from asserting immunity or any other viable defenses to a claim by either a tribal employee or a third party.

INDEPENDENT CAPACITY OF THE SPONSOR

The Sponsor and its employees or agents performing under this Agreement are not officers, employees or agents of the RCO or Funding Entity. The Sponsor will not hold itself out as nor claim to be an officer, employee or agent of the RCO or the Funding Entity, or of the state of Washington, nor will the Sponsor make any claim of right, privilege or benefit which would accrue to an employee under RCW 41.06.

The Sponsor is responsible for withholding and/or paying employment taxes, insurance, or deductions of any kind required by applicable federal, state, and/or local laws.

CONFLICT OF INTEREST

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

In the event this Agreement is terminated as provided herein, RCO shall be entitled to pursue the same remedies against the Sponsor as it could pursue in the event of a breach of the Agreement by the Sponsor. The rights and remedies of RCO provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

COMPLIANCE WITH APPLICABLE LAW

In implementing the Agreement, the Sponsor shall comply with all applicable federal, state, and local laws (including without limitation all applicable ordinances, codes, rules, and regulations).

- A. **Nondiscrimination Laws.** The Sponsor shall comply with all applicable federal, state, and local nondiscrimination laws and/or policies, including but not limited to: the Americans with Disabilities Act; Civil Rights Act; and the Age Discrimination Act; provided, however, if consistent with federal law, the applicable tribal preference laws may otherwise apply if the Sponsor is a federally recognized Indian Tribe. In the event of the Sponsor's noncompliance or refusal to comply with any nondiscrimination law or policy, the Agreement may be rescinded, cancelled, or terminated in whole or in part, and the Sponsor may be declared ineligible for further grant awards from the RCO or Funding Entity. The Sponsor is responsible for any and all costs or liability arising from the Sponsor's failure to so comply with applicable law. Except where a nondiscrimination clause required by a federal funding agency is used, the Sponsor shall insert the following nondiscrimination clause in each contract for construction of this project:

"During the performance of this contract, the contractor agrees to comply with all applicable federal and state nondiscrimination laws, regulations and policies."

- B. **Secular Use of Funds.** No funds awarded under this grant may be used to pay for any religious activities, worship, or instruction, or for lands and facilities for religious activities, worship, or instruction. Religious activities, worship, or instruction may be a minor use of the grant supported recreation and conservation land or facility.
- C. **Wages and Job Safety.** The Sponsor agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington or other jurisdiction which affect wages and job safety. The Sponsor agrees when state prevailing wage laws (RCW 39.12) are applicable, to comply with such laws, to pay the prevailing rate of wage to all workers, laborers, or mechanics employed in the performance of any part of this contract, and to file a statement of intent to pay prevailing wage with the Washington State Department of Labor and Industries as required by RCW 39.12.40. The Sponsor also agrees to comply with applicable provisions of the rules and regulations

of the Washington State Department of Labor and Industries. However, applicable tribal wage and safety rules and preferences may otherwise apply if the Sponsor is a federally recognized Indian Tribe.

If Sponsor is a federally recognized Indian Tribe, the following shall apply: The Tribe shall provide workers compensation coverage for all of its employees in accordance with applicable tribal worker's compensation laws. To the extent grant funded employees are not subject to tribal workers compensation program coverage, they shall be covered by applicable state or federal workers compensation laws, and the Tribe shall not assert immunity under such workers compensation laws for actions brought under such laws by its employees or agents; and if such employees are not subject to state or federal workers compensation laws, the Tribe shall require employees to be insured under Employer's Contingent Liability (Stop Gap) with a minimum coverage limit of \$1,000,000 on accident and aggregate.

- D. **Archaeological and Cultural Resources.** RCO facilitates the review of applicable projects for potential impacts to archaeological sites and state cultural resources. The Sponsor must assist RCO in compliance with Governor's Executive Order 05-05 or the National Historic Preservation Act before and after initiating ground-disturbing activity or construction, repair, installation, rehabilitation, renovation, or maintenance work on lands, natural resources, or structures. The funding board requires documented compliance with Executive Order 05-05 or Section 106 of the National Historic Preservation Act, whichever is applicable to the project. If a federal agency declines to consult, the Sponsor shall comply with the requirements of Executive Order 05-05. In the event that archaeological or historic materials are discovered during project activities, work in the location of discovery and immediate vicinity must stop instantly, the area must be secured, and notification must be provided to the following: concerned Tribes' cultural staff and cultural committees, RCO, and the State Department of Archaeology and Historic Preservation. If human remains are discovered during project activity, work in the location of discovery and immediate vicinity must stop instantly, the area must be secured, and notification provided to the concerned Tribe's cultural staff and cultural committee, RCO, State Department of Archaeology, the coroner and local law enforcement in the most expeditious manner possible according to RCW 68.50.
- E. **Restrictions on Grant Use.** No part of any funds provided under this grant shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, or for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the U.S. Congress or any state legislature.
- No part of any funds provided under this grant shall be used to pay the salary or expenses of any Sponsor, or agent acting for such Sponsor, related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or any state legislature.
- F. **Debarment and Certification.** By signing the Agreement with RCO, the Sponsor certifies that neither it nor its principals nor any other lower tier participant are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by Washington State Labor and Industries. Further, the Sponsor agrees not to enter into any arrangements or contracts related to this Agreement with any party that is on Washington State Department of Labor and Industries' "Debarred Contractor List."

RECORDS

- A. **Digital Records.** If requested by RCO, the Sponsor must provide a digital file(s) of the project property and funded project site in a format specified by the RCO.
- B. **Maintenance.** The Sponsor shall maintain books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. Sponsor shall retain such records for a period of six years from the date RCO deems the project complete, as defined in the PROJECT REIMBURSEMENTS Section. If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.
- C. **Access to Records and Data.** At no additional cost, the records relating to the Agreement, including materials generated under the Agreement, shall be subject at all reasonable times to inspection, review or audit by RCO, personnel duly authorized by RCO, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. This includes access to all information that supports the costs submitted for payment under the grant and all findings, conclusions, and recommendations of the Sponsor's reports, including computer models and methodology for those models.
- D. **Public Records.** Sponsor acknowledges that the RCO is subject to RCW 42.56 and that this Agreement and any records Sponsor submits or has submitted to the State shall be a public record as defined in RCW 42.56. RCO administers public records requests per WAC 286-06 and 420-04 (which ever applies). Additionally, the Sponsor agrees to disclose any information in regards to the expenditure of that funding as if the project sponsor were subject to the requirements of chapter 42.56 RCW. By submitting any record to RCO, Sponsor understands that RCO may be requested to disclose or copy that record under the state public records law, currently codified at RCW 42.56. The Sponsor warrants that it possesses such legal rights as are necessary to permit RCO to disclose and copy such

document to respond to a request under state public records laws. The Sponsor hereby agrees to release RCO from any claims arising out of allowing such review or copying pursuant to a public records act request, and to indemnify against any claims arising from allowing such review or copying, provided that RCO follows RCW 42.56 and applicable regulations and guidance.

PROJECT FUNDING

- A. **Authority.** This Agreement and funding is made available to Sponsor through the RCO.
- B. **Additional Amounts.** The RCO or Funding Entity shall not be obligated to pay any amount beyond the dollar amount as identified in this Agreement, unless an additional amount has been approved in advance by the RCO director and incorporated by written amendment into this Agreement.
- C. **Before the Agreement.** No expenditure made, or obligation incurred, by the Sponsor before the project start date shall be eligible for grant funds, in whole or in part, unless specifically provided for by the RCO director, such as a waiver of retroactivity or program specific eligible pre-Agreement costs. For reimbursements of such costs, this Agreement must be fully executed and an original received by RCO. The dollar amounts identified in this Agreement may be reduced as necessary to exclude any such expenditure from reimbursement.
- D. **After the Period of Performance.** No expenditure made, or obligation incurred, following the period of performance shall be eligible, in whole or in part, for grant funds hereunder. In addition to any remedy the RCO or Funding Entity may have under this Agreement, the grant amounts identified in this Agreement shall be reduced to exclude any such expenditure from participation.

PROJECT REIMBURSEMENTS

- A. **Reimbursement Basis.** This Agreement is administered on a reimbursement basis per WAC 286-13 and/or 420-12, whichever has been designated to apply. Only the primary Sponsor may request reimbursement for eligible and allowable costs incurred during the period of performance. The primary Sponsor may only request reimbursement after (1) this Agreement has been fully executed and (2) the Sponsor has remitted payment to its vendors. RCO will authorize disbursement of project funds only on a reimbursable basis at the percentage as defined in the PROJECT FUNDING Section. Reimbursement shall not be approved for any expenditure not incurred by the Sponsor or for a donation used as part of its matching share. RCO does not reimburse for donations. All reimbursement requests must include proper documentation of expenditures as required by RCO.
- B. **Reimbursement Request Frequency.** The primary Sponsor is required to submit a reimbursement request to RCO, at a minimum for each project at least once a year for reimbursable activities occurring between July 1 and June 30 or as identified in the milestones. Sponsors must refer to the most recent applicable RCO manuals and this Agreement regarding reimbursement requirements.
- C. **Compliance and Payment.** The obligation of RCO to pay any amount(s) under this Agreement is expressly conditioned on strict compliance with the terms of this Agreement and other agreements between RCO and the Sponsor.
- D. **Retainage Held Until Project Complete.** RCO reserves the right to withhold disbursement of the total amount of the grant to the Sponsor until the project has been completed. A project is considered "complete" when:
 - 1) All approved or required activities outlined in the Agreement are done;
 - 2) On-site signs are in place (if applicable);
 - 3) A final project report is submitted to and accepted by RCO;
 - 4) Any other required documents and media are complete and submitted to RCO;
 - 5) A final reimbursement request is submitted to RCO;
 - 6) The completed project has been accepted by RCO;
 - 7) Final amendments have been processed;
 - 8) Fiscal transactions are complete, and
 - 9) RCO has accepted a final boundary map of the project area for which the Agreement terms will apply in the future.

ADVANCE PAYMENTS

Advance payments of or in anticipation of goods or services are not allowed unless approved by the RCO director and are consistent with legal requirements and Manual 8: Reimbursements.

RECOVERY OF PAYMENTS

- A. **Recovery for Noncompliance.** In the event that the Sponsor fails to expend funds under this Agreement in accordance with applicable state and federal laws, and/or the provisions of the Agreement, or meet its percentage of the project total, RCO reserves the right to recover grant award funds in the amount equivalent to the extent of noncompliance in addition to any other remedies available at law or in equity.
- B. **Overpayment Payments.** The Sponsor shall reimburse RCO for any overpayment or erroneous payments made under the Agreement. Repayment by the Sponsor of such funds under this recovery provision shall occur within 30 days of demand by RCO. Interest shall accrue at the rate of twelve percent (12%) per annum from the time that payment becomes due and owing.

COVENANT AGAINST CONTINGENT FEES

The Sponsor warrants that no person or selling agent has been employed or retained to solicit or secure this Agreement on an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Sponsor for the purpose of securing business. RCO shall have the right, in the event of breach of this clause by the Sponsor, to terminate this Agreement without liability or, in its discretion, to deduct from the Agreement grant amount or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

INCOME (AND FEES) AND USE OF INCOME

- A. **Compatible source.** The source of any income generated in a funded project or project area must be compatible with the funding source and the Agreement and any applicable manuals, RCWs, and WACs.
- B. **Use of Income.** Subject to any limitations contained in applicable state or federal law and applicable rules and policies, income or fees generated at a project work site (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, etc.) during or after the reimbursement period cited in the Agreement, must be used to offset:
 - 1) The Sponsor's matching resources;
 - 2) The project's total cost;
 - 3) The expense of operation, maintenance, stewardship, monitoring, and/or repair of the facility or program assisted by the grant funding;
 - 4) The expense of operation, maintenance, stewardship, monitoring, and/or repair of other similar units in the Sponsor's system;
 - 5) Capital expenses for similar acquisition and/or development and renovation; and/or
 - 6) Other purposes explicitly approved by RCO.
- C. **Fees.** User and/or other fees may be charged in connection with land acquired or facilities developed, maintained, renovated, or restored and shall be consistent with the:
 - 1) Grant program laws, rules, and applicable manuals;
 - 2) Value of any service(s) furnished;
 - 3) Value of any opportunities furnished; and
 - 4) Prevailing range of public fees in the state for the activity involved.

PROCUREMENT REQUIREMENTS

Procurement Requirements. If the Sponsor has, or is required to have, a procurement process that follows applicable state and/or federal law or procurement rules and principles, it must be followed, documented, and retained. If no such process exists, the Sponsor must follow these minimum procedures:

- 1) Publish a notice to the public requesting bids/proposals for the project;
- 2) Specify in the notice the date for submittal of bids/proposals;
- 3) Specify in the notice the general procedure and criteria for selection;
- 4) Sponsor must contract or hire from within its bid pool. If bids are unacceptable the process needs to be repeated until a suitable bid is selected; and
- 5) Comply with the same legal standards regarding unlawful discrimination based upon race, gender, ethnicity, sex, or sex-orientation that are applicable to state agencies in selecting a bidder or proposer; provided, however, if consistent with federal law, the applicable tribal preference laws may otherwise apply if the Sponsor is a federally recognized Indian Tribe.

Alternatively, Sponsor may choose a bid from a bidding cooperative if authorized to do so.

This procedure creates no rights for the benefit of third parties, including any proposers, and may not be enforced or subject to review of any kind or manner by any entity other than the RCO. Sponsors may be required to certify to the RCO that they have followed any applicable state and/or federal procedures or the above minimum procedure where state or federal procedures do not apply.

TREATMENT OF EQUIPMENT AND ASSETS

Equipment shall be used and managed only for the purpose of this Agreement, unless otherwise provided herein or in the applicable manuals, or approved by RCO in writing.

- A. **Discontinued Use.** Equipment obtained under this Agreement shall remain in the possession of the Sponsor for the duration of the project, or RULES of applicable grant assisted program. When the Sponsor discontinues use of the equipment for the purpose for which it was funded, RCO may require the Sponsor to deliver the equipment to RCO, or to dispose of the equipment according to RCO published policies.
- B. **Loss or Damage.** The Sponsor shall be responsible for any loss or damage to equipment.

RIGHT OF INSPECTION

The Sponsor shall provide right of access to the project to RCO, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, long-term obligations, compliance, and/or quality assurance under this Agreement. If a landowner agreement or other form of control and tenure has been executed, it will further stipulate and define the RCO's right to inspect and access lands acquired or developed with this funding assistance.

STEWARDSHIP AND MONITORING

Sponsor agrees to perform monitoring and stewardship functions as stated in the applicable WACs and manuals, this Agreement, or as otherwise directed by RCO consistent with the existing laws and applicable manuals. Sponsor further agrees to utilize, where applicable and financially feasible, any monitoring protocols recommended by the RCO; provided that RCO does not represent that any monitoring it may recommend will be adequate to reasonably assure project performance or safety. It is the sole responsibility of the Sponsor to perform such additional monitoring as may be adequate for such purposes.

ACKNOWLEDGMENT AND SIGNS

- A. **Publications.** The Sponsor shall include language which acknowledges the funding contribution of the applicable grant program to this project in any release or other publication developed or modified for, or referring to, the project during the project period and in the future.
- B. **Signs.**
 - 1) During the period of performance through the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations on the project area that acknowledge the applicable grant program's funding contribution, unless waived by the director; and
 - 2) During the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations to notify the public of the availability of the site for reasonable public access.
- C. **Ceremonies.** The Sponsor shall notify RCO no later than two weeks before a dedication ceremony for this project. The Sponsor shall verbally acknowledge the applicable grant program's funding contribution at all dedication

ceremonies.

PROVISIONS APPLYING TO ACQUISITION PROJECTS

The following provisions shall be in force:

- A. **Evidence of Land Value.** Before disbursement of funds by RCO as provided under this Agreement, the Sponsor agrees to supply documentation acceptable to RCO that the cost of the property rights acquired has been established according to all applicable manuals and RCWs or WACs.
- B. **Evidence of Title.** The Sponsor agrees to provide documentation that shows the type of ownership interest for the property that has been acquired. This shall be done before any payment of financial assistance.
- C. **Legal Description of Real Property Rights Acquired.** The legal description of the real property rights purchased with funding assistance provided through this Agreement (and protected by a recorded conveyance of rights to the State of Washington) shall be delivered to RCO before final payment.
- D. **Conveyance of Rights to the State of Washington.** When real property rights (both fee simple and lesser interests) are acquired, the Sponsor agrees to execute an appropriate document (provided or approved by RCO) conveying certain rights and responsibilities to RCO or the Funding Entity on behalf of the State of Washington or another agency of the state, or federal agency, or other organization. These documents include a Deed of Right, Assignment of Rights, Easements and/or Leases as described below. The Sponsor agrees to use document language provided by RCO, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to RCO. The document required will vary depending on the project type, the real property rights being acquired and whether or not those rights are being acquired in perpetuity.
 - 1) **Deed of Right.** The Deed of Right as described in RCO Manual #3 conveys to the people of the state of Washington the right to preserve, protect, access, and/or use the property for public purposes consistent with the funding source and project agreement. Sponsors shall use this document when acquiring real property rights that include the underlying land. This document may also be applicable for those easements where the Sponsor has acquired a perpetual easement for public purposes.
 - 2) **Assignment of Rights.** The Assignment of Rights as described in RCO Manual #3 document transfers certain rights to RCO and the state such as public access, access for compliance, and enforcement. Sponsors shall use this document when an easement or lease is being acquired under this Agreement. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.
 - 3) **Easements and Leases.** The Sponsor may incorporate required language from the Deed of Right or Assignment of Rights directly into the easement or lease document, thereby eliminating the requirement for a separate document. Language will depend on the situation; Sponsor must obtain RCO approval on the draft language prior to executing the easement or lease.
- E. **Real Property Acquisition and Relocation Assistance.** In the event that housing and relocation costs and procedures are required by local, state, tribal, or federal law, or rule; the Sponsor agrees to provide such housing and relocation assistance as a condition of the Agreement and receiving grant funds.
- F. **Buildings and Structures.** In general, grant funds are to be used for outdoor recreation, conservation, or salmon recovery. Sponsors agree to remove or demolish ineligible structures. Sponsor must consult with RCO regarding treatment of such structures and compliance with COMPLIANCE WITH APPLICABLE LAW SECTION, Archeological and Cultural Resources paragraph.
- G. **Hazardous Substances.**
 - 1) **Certification.** The Sponsor shall inspect, investigate, and conduct an environmental audit of the proposed acquisition site for the presence of hazardous substances, as defined in RCW 70.105D.020(13), and certify:
 - a) No hazardous substances were found on the site, or
 - b) Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site deemed "clean."
 - 2) **Responsibility.** Nothing in this provision alters the Sponsor's duties and liabilities regarding hazardous substances as set forth in RCW 70.105D.
 - 3) **Hold Harmless.** Subject to the limitations provided in this Agreement, the Sponsor will defend, protect and hold harmless RCO and any and all of its employees and/or agents, from and against liability, cost (including but not limited to all costs of defense and attorneys' fees) and loss of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the

property the Sponsor is acquiring, except to the extent, if any, that the State, its officers and agents, including RCO, caused or contributed to the release or should have inquired into or disclosed relevant information to the Sponsor.

LONG-TERM OBLIGATIONS OF THE PROJECTS AND SPONSORS

- A. **Long-Term Obligations.** Sponsor shall comply with the terms of this Agreement.
- B. **Perpetuity.** For acquisition projects, unless otherwise allowed by applicable manual, policy, program rules, or this Agreement, or approved in writing by RCO, RCO requires that the project area continue to function as intended after the period of performance in perpetuity. The ability for RCO to enforce this long-term obligation for an acquisition project shall be as prescribed in this Agreement.
- C. **Conversion.** The Sponsor shall not at any time convert any real property (including any interest therein) or facility acquired pursuant to this Agreement, unless provided for in applicable statutes, rules, and policies. Conversion includes, but is not limited to, putting such property to uses other than those purposes for which funds were approved or transferring such property to another entity without prior approval via a written amendment to the Agreement. All real property or facilities acquired with funding assistance shall remain in the same ownership and in public use/access status in perpetuity unless otherwise expressly provided in the Agreement or applicable policy or unless a transfer or change in use is approved by the RCO through an amendment. Failure to comply with these obligations is a conversion. Further, if the project is subject to operation and or maintenance obligations, the failure to comply with such obligations, without cure after a reasonable period as determined by the RCO, is a conversion. Determination of whether a conversion has occurred shall be based upon the terms of this Agreement, including without limitation all WACs and manuals deemed applicable and all applicable laws.

For acquisition projects that are expressly term limited in the Agreement, such as one involving a lease or a term-limited restoration, renovation or development project or easement, the restriction on conversion shall apply only for the length of the term, unless otherwise provided by this Agreement, any applicable manual or WAC, or any applicable state or federal law.

When a conversion has been determined to have occurred, the Sponsor is required to remedy the conversion per this Agreement and the applicable manuals, WACs and laws, and the RCO may pursue such remedies as the above allows.

CONSTRUCTION, OPERATION, USE, AND MAINTENANCE OF ASSISTED PROJECTS

The following provisions shall be in force for this agreement:

- A. **Property and facility operation and maintenance.** Sponsor must ensure that properties or facilities assisted with the grant funds, including undeveloped sites, are built, operated, used, and maintained:
- 1) According to applicable federal, state, and local laws and regulations, including public health standards and building codes;
 - 2) In a reasonably safe condition for the project's intended use;
 - 3) Throughout its estimated useful service life so as to prevent undue deterioration;
 - 4) In compliance with all applicable federal and state nondiscrimination laws, regulations and policies.
- B. **Open to the public.** Unless otherwise specifically provided for in the Agreement, and in compliance with applicable statutes, rules, and applicable WACs and manuals, facilities must be open and accessible to the general public, and must:
- 1) Be constructed, maintained, and operated to meet or exceed the minimum requirements of the most current applicable guidelines or rules, local or state codes, Uniform Federal Accessibility Standards, guidelines, or rules, including but not limited to: the International Building Code, the Americans with Disabilities Act, and the Architectural Barriers Act, as amended and updated.
 - 2) Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods.
 - 3) Be available for appropriate use by the general public at reasonable hours and times of the year, according to the type of area or facility, unless otherwise stated in RCO manuals, by a decision of the RCO director in writing. Sponsor shall notify the public of the availability for use by posting and updating that information on its website and by maintaining at entrances and/or other locations openly visible signs with such information.

ORDER OF PRECEDENCE

This Agreement is entered into, pursuant to, and under the authority granted by applicable federal and state laws. The provisions of the Agreement shall be construed to conform to those laws. In the event of a direct and irreconcilable conflict between the terms of this Agreement and any applicable statute, rule, or policy or procedure, the conflict shall be resolved by giving precedence in the following order:

- A. Federal law and binding executive orders;
- B. Code of federal regulations;
- C. Terms and conditions of a grant award to the state from the federal government;
- D. Federal grant program policies and procedures adopted by a federal agency that are required to be applied by federal law;
- E. Applicable State law (constitution, statute);
- F. Applicable Washington Administrative Code;
- G. Applicable RCO manuals.

LIMITATION OF AUTHORITY

Only RCO's Director or RCO's delegate by writing (delegation to be made prior to action) shall have the authority to alter, amend, modify, or waive any clause or condition of this Agreement; provided that any such alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made as a written amendment to this Agreement and signed by the RCO Director or delegate.

WAIVER OF DEFAULT

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such in writing, signed by the director, or the director's designee, and attached as an amendment to the original Agreement.

APPLICATION REPRESENTATIONS – MISREPRESENTATIONS OR INACCURACY OR BREACH

The Funding Entity (if different from RCO) and RCO relies on the Sponsor's application in making its determinations as to eligibility for, selection for, and scope of, funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement.

SPECIFIC PERFORMANCE

RCO may enforce this Agreement by the remedy of specific performance, which usually will mean completion of the project as described in this Agreement and /or enforcement of long-term or other obligations. However, the remedy of specific performance shall not be the sole or exclusive remedy available to RCO. No remedy available to the RCO shall be deemed exclusive. The RCO may elect to exercise any, a combination of, or all of the remedies available to it under this Agreement, or under any provision of law, common law, or equity, including but not limited to seeking full or partial repayment of the grant amount paid and damages.

TERMINATION AND SUSPENSION

The RCO will require strict compliance by the Sponsor with all the terms of this Agreement including, but not limited to, the requirements of the applicable statutes, rules, and RCO policies, and with the representations of the Sponsor in its application for a grant as finally approved by RCO. For federal awards, notification of termination will comply with 2 C.F.R. § 200.340.

A. For Cause.

- 1) The RCO director may suspend or terminate the obligation to provide funding to the Sponsor under this Agreement:
 - a) If the Sponsor breaches any of the Sponsor's obligations under this Agreement;
 - b) If the Sponsor fails to make progress satisfactory to the RCO director toward completion of the project by the completion date set out in this Agreement. Included in progress is adherence to

milestones and other defined deadlines; or

- c) If the primary and secondary Sponsor(s) cannot mutually agree on the process and actions needed to implement the project.
 - 2) Prior to termination, the RCO shall notify the Sponsor in writing of the opportunity to cure. If corrective action is not taken within 30 days or such other time period that the director approves in writing, the Agreement may be terminated. In the event of termination, the Sponsor shall be liable for damages or other relief as authorized by law and/or this Agreement.
 - 3) RCO reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Sponsor from incurring additional obligations of funds during the investigation of any alleged breach and pending corrective action by the Sponsor, or a decision by the RCO to terminate the Contract.
- B. For Convenience.** Except as otherwise provided in this Agreement, RCO may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part when it is in the best interest of the state. If this Agreement is so terminated, RCO shall be liable only for payment required under the terms of this Agreement prior to the effective date of termination. A claimed termination for cause shall be deemed to be a "Termination for Convenience" if it is determined that:
- 1) The Sponsor was not in default; or
 - 2) Failure to perform was outside Sponsor's control, fault or negligence.
- C. Rights or Remedies of the RCO.**
- 1) The rights and remedies of RCO provided in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law.
 - 2) In the event this Agreement is terminated by the director, after any portion of the grant amount has been paid to the Sponsor under this Agreement, the director may require that any amount paid be repaid to RCO for redeposit into the account from which the funds were derived. However, any repayment shall be limited to the extent it would be inequitable and represent a manifest injustice in circumstances where the project will fulfill its fundamental purpose for substantially the entire period of performance and of long-term obligation.
- D. Non Availability of Funds.** The obligation of the RCO to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. If amounts sufficient to fund the grant made under this Agreement are not appropriated to RCO for expenditure for this Agreement in any biennial fiscal period, RCO shall not be obligated to pay any remaining unpaid portion of this grant unless and until the necessary action by the Legislature or the Office of Financial Management occurs. If RCO participation is suspended under this section for a continuous period of one year, RCO's obligation to provide any future funding under this Agreement shall terminate. Termination of the Agreement under this section is not subject to appeal by the Sponsor.
- 1) **Suspension:** The obligation of the RCO to manage contract terms and make payments is contingent upon the state appropriating state and federal funding each biennium. In the event the state is unable to appropriate such funds by the first day of each new biennium RCO reserves the right to suspend the Agreement, with ten (10) days written notice, until such time funds are appropriated. Suspension will mean all work related to the contract must cease until such time funds are obligated to RCO and the RCO provides notice to continue work.

DISPUTE RESOLUTION

General. This Dispute Resolution section applies only to disputes between the Sponsor and RCO regarding the Parties rights and responsibilities under this Agreement, including disputes concerning any claims of the Parties for any indemnification pursuant to this Agreement for third party claims.

The parties shall, if possible, first attempt to resolve any disputes through Informal Negotiations as described below. If that is not possible or is unsuccessful, the parties shall elect to resolve the dispute through (1) a Dispute Hearing process if agreeable to both parties, or (2) binding arbitration; provided the Sponsor shall have the option to elect to resolve the dispute in state or federal court if such courts possess jurisdiction over the dispute in question.

For all of the dispute resolution methods, (1) each party shall bear its own attorney's fees and costs; and (2) during utilization of any and/or all of the mediation, arbitration and/or Dispute Hearing steps and processes, any statutes of limitation shall be tolled, and in no circumstances shall any time utilizing such steps and processes be considered when determining whether any statutes of limitation have expired.

Informal Negotiations. The parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between executives who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this Agreement. Any party may give the other

party written notice of any dispute not resolved in the normal course of business. Within 15 days after delivery of the notice, the receiving party shall submit to the other a written response. The notice and response shall include with reasonable particularity (a) a statement of each party's position and a summary of arguments supporting that position, and (b) the name and title of the executive who will represent that party and of any other person who will accompany the executive. Within 30 days after delivery of the notice, the executives of both parties shall meet at a mutually acceptable time and place.

Unless otherwise agreed in writing by the negotiating parties, the above-described negotiation shall end at the close of the first meeting of executives described above. Such closure shall not preclude continuing or later negotiations, if desired.

All offers, promises, conduct and statements, whether oral or written, made in the course of the negotiation by any of the parties, their agents, employees, experts and attorneys are confidential, privileged and inadmissible for any purpose, including impeachment, in arbitration or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the negotiation.

Dispute Hearing. In order for this section to apply to the resolution of any specific dispute or disputes, the other party must agree in writing that the procedure under this section shall be used to resolve those specific issues.

A party's request for a dispute hearing must be in writing and clearly state:

- A. The disputed issues;
- B. The relative positions of the parties;
- C. The Sponsor's name, address, project title, and the assigned project number.

The dispute shall be heard by a panel of three persons consisting of one person chosen by the Sponsor, one person chosen by the RCO director, and a third person chosen by the two persons initially appointed. If a third person cannot be agreed on, the third person shall be chosen by the funding board's chair.

Any hearing under this section shall be informal, with the specific processes to be determined by the dispute panel according to the nature and complexity of the issues involved. The process may be solely based on written material, if the parties so agree. The disputes panel shall be governed by the provisions of this Agreement in deciding the disputes.

The parties shall be bound by the majority decision of the dispute panelists, unless the remedy directed by that panel is beyond the legal authority of either or both parties to perform, as necessary, or is otherwise unlawful.

Request for a dispute hearing under this section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received notice of the action or position of the other party which it wishes to dispute, or completion of any Informal Negotiations conducted by the parties concerning the disputed action or position, whichever is later.

All fees and costs associated with the implementation of this process (excluding each party's own attorney's fees and costs) shall be shared equally by the parties.

Arbitration. In the event the Parties do not agree to resolve the dispute through a Dispute Hearing Process as set forth above, the parties shall resolve any controversy, claim or dispute concerning the making, formation, validity, obligations under, or breach of, this Agreement (Disputed Matter) through binding arbitration conducted under Judicial Arbitration and Mediation Services (JAMS) rules. Prior to invoking arbitration, the parties may agree to mediation, in which event the parties will use their best efforts to select a mediator as soon as possible. The mediator's costs and attendant costs of mediation shall be borne equally by the parties.

Either party may make a written demand for binding arbitration before a qualified arbitrator in Seattle, Washington, or at another place as the parties may agree in writing. Request for binding arbitration under this section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received notice of the action or position of the other party which it wishes to dispute, or completion of any Informal Negotiations conducted by the parties concerning the disputed action or position, whichever is later. A qualified arbitrator will mean a person generally familiar with the subject matter of the Disputed Matter with at least five years of arbitration experience, and knowledge of federal Indian law, if federal Indian law is part of the dispute. If the parties cannot agree on a single arbitrator, a three-person arbitration panel shall be selected as follows: each party shall select an arbitration panel member and the two selected panelists shall select a third. If the panelists cannot agree on a third arbitrator, the third arbitrator shall be selected by JAMS. The arbitration shall be administered by JAMS pursuant to its Expedited Procedures as now written or hereafter amended. Each party will pay for its own attorneys' fees and costs. The substantially prevailing party is entitled to reimbursement from the other party of all moneys it paid to the third arbitrator or JAMS related to the arbitration proceeding. The arbitrator's award shall be binding upon the parties and no appeal shall be permitted, except for a request to vacate under RCW 7.04A.230 or 9 U.S.C. § 10.

GOVERNING LAW/VENUE

This Agreement shall be construed and interpreted in accordance with the authorities set forth in the Order of Preference section. In the event of a lawsuit involving this Agreement, venue shall be in the jurisdiction where the project is situated, if venue there is legally proper, and if not, in another jurisdiction where venue is legally proper.

PROVISIONS FOR FEDERALLY RECOGNIZED INDIAN TRIBES

- A. Limited Waiver of Sovereign Immunity. The Tribe expressly retains all rights and benefits of sovereign immunity. Nothing in this Agreement shall be deemed as a waiver of sovereign immunity or as increasing the Tribe's liability beyond any statutory or other limitation of liability, except as expressly stated herein.

The Tribe hereby grants and provides a limited waiver of sovereign immunity for the following purposes as may be needed by Sponsor or RCO:

- 1) to enforce the terms of this Agreement, including the indemnification provisions, and any documents recorded pursuant to this Agreement, such as those related to real property interests in the form of deeds, easements, or covenants,
 - 2) to enforce the Dispute Resolution provisions of this Agreement,
 - 3) to compel arbitration of a Disputed Matter,
 - 4) to enforce any mediation agreement, Disputes Panel Decision, or Arbitration award or judgment, and/or vacate an Arbitration award or judgment under RCW 7.04A.230 or 9 U.S.C. § 10,
 - 5) to enforce the long-term obligations of this agreement.
- B. This limited waiver of sovereign immunity shall apply to all matters in the above subsection A in federal district court, and if the federal district court lacks jurisdiction, then in a State court of competent jurisdiction. Such court may render judgment and issue such orders as may be necessary to enforce such awards or judgments. This waiver does not extend to and is not for the benefit of any third party and shall not be enforceable by any third party or by any assignee of the parties; nor does it extend to any other type of action or to any other forum or regarding any other matter. No award for punitive damages of any kind may be made or enforced against the Tribe.

Duration of Limited Waiver of Sovereign Immunity described in subsection A above. The limited waiver of sovereign immunity shall apply during the period of performance of this Agreement and then be limited as follows:

- 1) For land acquisition projects: Limited to the 10 years following the end date of this agreement, however, the waiver shall be in perpetuity for fee simple property acquisitions or perpetual easements. However, the limited waiver of sovereign immunity in perpetuity is limited to the sole purpose of enforcing only subsections B and C of the Long-Term Obligations of the Projects and Sponsors section of this Agreement. Long-term obligations include any property or value owed to RCO for any conversion of the project real property to other purposes. For land acquisitions that are term limited, any limited waiver of sovereign immunity shall be limited to the longer of the 10 years following the end date of this agreement or the time required to enforce long-term obligations but only then for any relief owed to RCO for any conversion of real property to other purposes.
 - 2) For restoration projects: Limited to the 10 years following the end date of this agreement.
 - 3) For non-capital projects: Limited to the period of performance. Non-capital projects include Planning, Research, Monitoring, Education, Enforcement, Maintenance, Preliminary Design, Assessments, Acquisition of Water Rights, and Studies.
 - 4) For capital projects: Limited to the 25 years after the end date of this agreement. Capital projects include Development and Renovation (construction and/or renovation), and completed final designs.
- C. Liability Limits. Any payment of a monetary judgment arising from a resolution or judgment under the Dispute Resolution section, or any other defense and/or indemnity obligation under this Agreement, Sponsor's long-term obligations, or a default of an explicit duty owed by the Tribe to the RCO under the terms of this Agreement, shall be limited by and to the following:
- 1) For Noncapital Projects (Planning, Research, Monitoring, Education, Enforcement, Maintenance, Preliminary Design, Assessments, Acquisition of Water Rights, and Studies.): The RCO grant amount.
 - 2) For Restoration, Development (construction/renovation), Renovation, Acquisition, and completed final design projects: a per occurrence limit of \$1 million (with a maximum aggregate limit of \$3 million), or the grant amount, whichever greater, or in the case of a long-term obligation the cost of conversion or replacement property based on the current fair market value of a replacement property or an equivalent amount if the

Sponsor has not obtained or is unable to obtain replacement property.

- D. In disputes between the parties, each party shall bear its own attorneys' fees and costs. Attorneys' fees and costs in connection with third party claims subject to the Sponsor's indemnification of RCO shall not reduce or otherwise affect the Sponsor's liability limits in subsection C above.

SEVERABILITY

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

END OF AGREEMENT

This is the end of the agreement.



AGENDA ITEM SUMMARY

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

7
2/22/21

1c

Department: BOCC

WORK SESSION ☒ **Meeting Date: 2-22-21**

REGULAR AGENDA ☒ **Meeting Date: 2-23-21**

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 |

Documents exempt from public disclosure attached: ☐

Executive summary:

Joint letter with Jefferson County regarding House Bill 1152 and Senate Bill 5149.
Requesting approval of the letter.

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 letter.

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: February 17, 2021

* 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)

Esteemed Legislators,

The signatories of this letter, representing multiple tribes, local governments, Boards of Health and hospital districts of the North Olympic Peninsula (24th Legislative District), are united in our desire and efforts to see our Public Health systems made more robust, responsive, equitable and accessible to all. This commitment has been evident throughout the Covid-19 pandemic, during which our region in general, and the signatories here, have exemplified regional collaboration, coordination, efficiency and care for our most vulnerable.

We commend the State of Washington for managing this unprecedented pandemic better than a majority of states, and we recognize the vast complexity of challenges that the Legislature, like many of us, is attempting to steer our shared constituency through safely. Lastly, we appreciate the willingness of legislators, to date, to consider proposed amendments to legislation affecting public health. We hope you will continue to consider the input of those of us implementing services on the ground, in our communities.

Specifically, we write to you with the following recommendations and concerns regarding House Bill 1152 and Senate Bill 5149 . (Without express reference, these recommendations include associated, amended, and substitute legislation).

1. Adequate funding for Foundational Public Health Services is critical to communities.

The Covid-19 pandemic has exposed the fragility and inequities of our public health system. For many years, Counties and Public Health officials have been seeking a dedicated source of funding to ensure that all Washington residents have access to core services. We are thrilled to see Senate Bill 5149 address the chronic need for funding and urge your support. It will provide a stable and increase of resources over the long-term to bolster public health for all.

2. 2021 is a terrible time to be restructuring Public Health.

The past year has been, arguably, one of the most challenging for public health in a century. The challenges have many causes, but the causes notably include economic uncertainty, loss of loved ones, the effects of isolation and stress to families, businesses and communities. But the sector hit hardest by the demands of the unexpected and unprecedented pandemic is healthcare, including public health. Whether because of fatigue from conducting testing and contact tracing, or the exhaustion from continuously pivoting to provide services in new and unexpected ways, or the discouraging effects of political debate from response to the pandemic, we know that public health professionals are retiring, quitting and burning out in record numbers..

And yet now, while desperately trying to vaccinate our entire population, we are asking these same public health folks to strategize on inventing and building a new public health system. And this reinvention is supposed to occur before we have even begun the process of evaluating the short-and long-term effects of the most wide-spread pandemic in modern history. There are plainly lots of lessons to be learned from responses, good and bad, to the pandemic, but learning lessons needs sufficient time to occur.

This year, 2021, is the year get Washingtonians vaccinated and back to work; it is NOT the year to be restructuring public health. We therefore urge you to support House Bill 1340 to create a robust after-action plan to assess strengths and weaknesses of our current structures. At the very least, the Work Group created in HB 1152 should spend 2021 doing analysis to inform regionalization bills in 2022.

3. We fully support expansion of Board of Health membership.

Both Clallam and Jefferson County Boards of Health were early adopters of an expanded membership to ensure more expertise, less politicization, better collaboration and increased representation for stakeholders and residents alike. Our Boards of Health have worked in good faith and in lock-step with our highly-regarded Health Officers, Dr. Berry and Dr. Locke respectively, throughout the pandemic. We urge your

support of adopting the language from HB 1110, independently or by adding it to HB 1152, to require Boards of Health to expand membership while allowing for flexibility in identification of membership based on the unique circumstances of each jurisdiction.

4. Keep policy-and priority-setting local in order to best serve our communities.

While some services are best delivered at a federal or state level, public health relies heavily on local partnerships, an intimate understanding of the communities being served, and connections and relationships that foster trust, communication and understanding. This has been evident throughout the pandemic, where communities who share a “We’re in this together” attitude have markedly lower rates of infection, better adherence to masking/ distancing, and were able to “flatten the curve” more quickly.

The regionalization of public health is problematic if it strips away local relationships and authority and replaces them with a regional framework, which may not reflect the communities therein. As an example, Clallam County has one of the highest rates of overdose deaths from opiates. In response, they expanded their naloxone program, used their local authority to make overdose events a notifiable condition, and intensified efforts to expand treatment access.. Similarly, Jefferson County had a high teen pregnancy and suicide ideation rate in the past. Their Public Health Department sought funding to secure family planning and mental health clinics in high schools leading to the launch of three school-based clinics. These are just two examples of our region responding to local needs and building on local expertise to solve priority issues. In a regional health district, our smaller counties would have less say in policy and funding decisions, therefore less ability to act swiftly to respond to local crises.

5. We support, and operate, regional public health collaborations.

As a rural region, we well understand the concept of interdependence and sharing resources, Clallam and Jefferson Counties have a history and practice of identifying common needs. We shared a Health Officer for many years, we synched our early Covid re-opening efforts in summer 2020, and now the Jamestown S’Klallam Tribe is instrumental in vaccinating not only tribal members, but thousands of Olympic Peninsula residents. These collaborations enhance our local capacity; we resist regionalization efforts that hamstringing our efforts to respond nimbly to local needs.

Similarly, we take part in myriad, successful regional efforts such as behavioral health administration, workforce development and educational service districts. We recognize the added value of regional planning and shared resources, but in all of these cases we maintain local authority. Our entities are willing participants in discussions of sharing diverse assets such as epidemiologists, laboratory services and emergency supplies. Additionally, we understand the need to connect state funding to performance- and evidence-based public health programming- so long as local Boards of Health and local health jurisdictions are kept whole and autonomous.

6. Keep our Health Officers local.

Dr. Berry and Dr. Locke have been sources of credible information, sound science, comfort and stability during Covid-19. This is no small thing; attracting, recruiting and retaining public health professionals in our rural communities is extremely difficult. Having our health officers live in, be invested in and accountable to our residents and jurisdictions has great value. The success of much of their efforts to control SARS-CoV-2 spread depends on ongoing engagement with local public hospitals and medical community. The longevity of many Health Officers speaks to the long-standing relationships, trust and commitment fostered by having a local health officer. We oppose the concept, introduced in HB 1152, of reassigning them as employees of the state.

We have shared in the dismay of seeing the firing of health officers in 2020. We strongly believe this political problem is best solved by diversifying Boards of Health, NOT by making health officers employees of the State. We support efforts to allow local public health jurisdictions and diversified Boards of Health to maintain authority and flexibility with their health officer. To the extent health officers have been subject to politically motivated attacks and wrongful dismissal, we support changes in statute that assure due process rights are respected and allow for appeal of contested job actions to an oversight body such as the State Board of Health. We see this as the best path forward to forging strong, collaborative ties to our communities and our public health infrastructure.

Please consider these recommendations of our diverse region's tribes, hospital districts, local governments and Boards of Health as a desire to reach solutions to improve the public health outcomes of Washington-whether rural or urban, east or west, Democrat or Republican. Divesting in local public health at this time will only serve to further undermine trust in government and public health interventions. Maintaining an accessible, known, credible and effective local public health department is the best way to invite rural communities into important conversations about population health, social determinants of health and health equity and access.

We share in your interest, and appreciate your efforts, to strike the right balance of local authority, consistency and fairness for all. This balance plays out every day at the local level in our very jurisdictions and we hope you will continue to engage with diverse entities to inform future legislative action.

Thank you for your ongoing commitment and efforts.

Sincerely,

(Diverse signatories of the North Olympic Peninsula)



AGENDA ITEM SUMMARY

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

8
2/22/21

Department: BOCC/Finance

WORK SESSION ☒ **Meeting Date:** 2/22/2021

REGULAR AGENDA ☒ **Meeting Date:** 3/02/2021

Required Originals Approved and Attached? ☒

Will Be Provided On:

Item Summary:*

- | | | |
|--|---|--------------------------------------|
| ☐ Call for Hearing | ☐ Contract/Agreement/MOU** | Contract # |
| ☒ Resolution | ☐ Proclamation | ☐ Budget Item |
| ☐ Draft Ordinance | ☐ Final Ordinance | ☐ Other |
- Documents exempt from public disclosure attached: ☐

Executive Summary:

This resolution approves financial support for the Coastal Counties Caucus in the amount of \$2,500 in order to fund coordination, program and advocacy efforts associated with coastal, marine and Puget Sound recovery activities for the year 2021.

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 included in the 2021 Adopted Budget.

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

Please review and approve.

County Official signature & print name: Debi Cook

A green ink signature of Debi Cook.

Name of Employee attending meeting: Debi Cook

Relevant Departments: BOCC, Finance

Date Submitted: 2/11/2021

* 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)



RESOLUTION _____, 2021

FINANCIAL SUPPORT FOR THE COASTAL COUNTIES ASSESSMENT
IN THE AMOUNT OF \$2,500 FOR THE YEAR OF 2021

THE BOARD OF CLALLAM COUNTY COMMISSIONERS finds as follows:

1. The Washington State Association of Counties (WSAC) created the Coastal Counties Caucus, comprised of 14 counties bordering Puget Sound, Strait of Juan de Fuca, and the Pacific Ocean shortly before the creation of the Puget Sound Partnership. The Caucus created a forum for Counties to interact, engage and recommend WSAC positions on issues relating to the waters of Puget Sound, Hood Canal and the Pacific Ocean.
2. Starting in late 2016 the 14 Coastal Counties decided to self-assess a voluntarily contribution of \$2,500 per county.
3. The Washington State Association of Coastal Counties Caucus is proposing a special dues assessment for 14 Coastal Counties to fund coordination, program and advocacy efforts associated with coastal, marine, and Puget Sound recovery activities. The proposed annual dues assessment is \$2,500 per county for the year 2021.

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

1. Financially supports the Coastal Counties Caucus Assessment of \$2,500 to fund coordination, program and advocacy efforts associated with coastal, marine, and Puget Sound recovery activities for the year 2021.

PASSED AND ADOPTED this 2nd day of March, 2021.

BOARD OF CLALLAM COUNTY COMMISSIONERS

Mark Ozias, Chair

ATTEST:

Randy Johnson

Loni Gores, Clerk of the Board

Bill Peach