



## **REVISED AGENDA**

### **DISTRICTING COMMISSION SPECIAL MEETING**

**223 East 4<sup>th</sup> Street, Room 160  
Port Angeles, Washington  
March 10, 2021 – 1 p.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.

Meeting information can be found on the Clallam County website at:

<http://www.clallam.net/bocc/DistrictingCommission.html>

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](http://www.bluejeans.com) and join with Meeting ID: 875 561 784

Citizens are encouraged to make public comment in person, phone, video or in writing. Citizens with comments or questions regarding the Districting Commission may contact the Clerk of the Districting Commission at [agores@co.clallam.wa.us](mailto:agores@co.clallam.wa.us) or 360-417-2256.

### **CALL TO ORDER, PLEDGE OF ALLEGIANCE, ROLL CALL**

### **APPROVAL OF AGENDA**

### **PUBLIC COMMENT – Please limit comments to three minutes**

### **APPROVAL OF MINUTES**

- Minutes February 22, 2021

### **REPORTS AND PRESENTATIONS**

- Chair report

**AGENDA for the Special Meeting of March 10, 2021**  
**DISTRICTING COMMISSION**  
**Page 2**

**BUSINESS ITEMS**

- Request for proposal review and selection– Districting Master
- Agreement discussion – Districting Master
- Discussion on next steps for hiring a Districting Master
  - Attorney Stanley report

**NEXT MEETING DATE**

- Next meeting date – March 15, 2021 at 2:30 p.m. – Regular Meeting

**PUBLIC COMMENT – Please limit comments to three minutes**

**ADJOURNMENT**

**INSTRUCTIONS FOR SPEAKING AT A  
DISTRICTING COMMISSION MEETING:**

- Members of the public wishing to address the Commission on general items may do so during the designated times on the agenda.
- Public comment is limited to 3 minutes for each speaker subject to the Commissions concurrence.
- Individual making comments shall first state their name and address for the official record.
- General comments, applause, booing from members of the audience are inappropriate and may result in removal.
- Written public comment can be emailed to the Clerk at [agores@co.clallam.wa.us](mailto:agores@co.clallam.wa.us).

These guidelines are intended to promote an orderly system for conducting a public hearing so that each person has an opportunity to be heard and to ensure that exercising their right of free speech embarrasses no one.

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



## **AGENDA**

### **DISTRICTING COMMISSION**

### **SPECIAL MEETING**

**223 East 4<sup>th</sup> Street, Room 160**

**Port Angeles, Washington**

**March 10, 2021 – 1 p.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.

Meeting information can be found on the Clallam County website at:

<http://www.clallam.net/bocc/DistrictingCommission.html>

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](http://www.bluejeans.com) and join with Meeting ID: 875 561 784

Citizens are encouraged to make public comment in person, phone, video or in writing. Citizens with comments or questions regarding the Districting Commission may contact the Clerk of the Districting Commission at [agores@co.clallam.wa.us](mailto:agores@co.clallam.wa.us) or 360-417-2256.

### **CALL TO ORDER, PLEDGE OF ALLEGIANCE, ROLL CALL**

### **APPROVAL OF AGENDA**

### **PUBLIC COMMENT – Please limit comments to three minutes**

### **APPROVAL OF MINUTES**

- Minutes February 22, 2021

### **REPORTS AND PRESENTATIONS**

- Chair report

**AGENDA for the Special Meeting of March 10, 2021**  
**DISTRICTING COMMISSION**  
**Page 2**

**BUSINESS ITEMS**

- Request for proposal review and selection– Districting Master
- Agreement discussion – Districting Master

**NEXT MEETING DATE**

- Next meeting date – March 15, 2021 at 2:30 p.m. – Regular Meeting

**PUBLIC COMMENT – Please limit comments to three minutes**

**ADJOURNMENT**

**INSTRUCTIONS FOR SPEAKING AT A  
DISTRICTING COMMISSION MEETING:**

- Members of the public wishing to address the Commission on general items may do so during the designated times on the agenda.
- Public comment is limited to 3 minutes for each speaker subject to the Commissions concurrence.
- Individual making comments shall first state their name and address for the official record.
- General comments, applause, booing from members of the audience are inappropriate and may result in removal.
- Written public comment can be emailed to the Clerk at [agores@co.clallam.wa.us](mailto:agores@co.clallam.wa.us).

These guidelines are intended to promote an orderly system for conducting a public hearing so that each person has an opportunity to be heard and to ensure that exercising their right of free speech embarrasses no one.

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

Start Page

# **DISTRICTING COMMISSION**

## **Draft Minutes**

**February 22, 2021**



## CLALLAM COUNTY DISTRICTING COMMISSION MEETING MINUTES of February 22, 2021

### MEETING OF THE DISTRICTING COMMISSION (DC)

Vice Chair Livingston called the meeting to order at 1 p.m., February 22, 2021. Also present were Commissioners Teichert, Hetrick-Oosterveld, McEntire and Collins (joined late). All Commissioners appeared by either video, audio or in person.

### CALL TO ORDER, PLEDGE OF ALLEGIANCE, ROLL CALL

### REQUEST FOR MODIFICATIONS/APPROVAL OF AGENDA

**ACTION TAKEN:** McEntire moved to adopt the agenda as presented, Hetrick-Oosterveld second, motion carried (Collins was not present for the vote)

### APPROVAL OF MINUTES

- Minutes February 9, 2021

**ACTION TAKEN:** Livingston moved to approve, Hetrick-Oosterveld second, motion carried (Collins was not present for the vote)

### REPORTS AND PRESENTATIONS

- Chair report

Livingston reported there are a number of business items to discuss today regarding the Districting Master.

### BUSINESS ITEMS

- Development of selection criteria of the application and review agreement for the Districting Master (DM)
  - Selection criteria

Livingston briefed the DC on an email received from Administrator Sill regarding a simple matrix and criteria. DC Commissioners discussed criteria ranking choices. The DC Commissioners decided to use a number system for criteria ranking when reviewing proposals. DC Commissioners discussed qualifications, costs, selection criteria, Clallam County Code Chapter 3.12.070 when determining the Districting Master.

**ACTION TAKEN:** Teichert moved to use the selection criteria used in Clallam County Code Chapter 3.12.070 for the selection of the Districting Master with the removal of letters c and g criteria, McEntire second, motion carried (4 vote in favor and 1 opposed)

**ACTION TAKEN:** Teichert moved to use scoring 1-3 on the criteria for the Districting Master, Collins second, motion carried

- Review personal services agreement and Clallam County Code Section 3.12
- Review/approval/acceptance of the work products of the Districting Master – partial payment under contract

Livingston briefed the DC Commissioners on agreement used for the 2011 DM. Debi Cook; Budget Director noted that \$10,000 has been budgeted for the 2021 Districting Commission year. DC discussed the budget, bidding process, payment and Census data for the DM. Livingston noted no further action is needed at this time.

- Next meeting date – March 10, 2021 – Special Meeting  
Wednesday, March 10, 2021 at 1 p.m. was confirmed as the next special meeting date.

**CLALLAM COUNTY DISTRICTING COMMISSION  
MINUTES of February 22, 2021  
Page 2**

**ADJOURNMENT**

Meeting concluded at 2:03 p.m.

**ACTION TAKEN: McEntire moved to adjourn, Collins second, motion carried**

Respectfully submitted,

Loni Gores, CMC  
Clerk to the Districting Commission

Approved: March xx, 2021

DRAFT

End Page

# **DISTRICTING COMMISSION**

## **Draft Minutes**

**February 22, 2021**

# **DISTRICTING COMMISSION**

## **Draft Agreement**



**DRAFT**

Agreement # 291.21.xxx

**PERSONAL SERVICES AGREEMENT**

THIS AGREEMENT is entered into between CLALLAM COUNTY (hereinafter called "County"), acting under the authority of the Clallam County Home Rule Charter and at the request of the Districting Commission (hereinafter called "Commission" or "Districting Commission") and

Name  
Address  
xx, WA 98xxx  
Phone xxx.xxx.xxx

(hereinafter called "Districting Master")

This Agreement is comprised of:

- Attachment A – Scope of Work
- Attachment B – Compensation
- Attachment C – General Conditions
- Attachment D – Special Terms and Conditions

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

The term of this Agreement shall commence on the 15 day of March 2021 and shall, unless terminated as provided elsewhere in the Agreement, terminate on the xx day of xx 2022.

IN WITNESS WHEREOF, the parties have executed this Agreement on 15 March 2021.

Approved as to form and content:

DISTRICTING MASTER

CLALLAM COUNTY DISTRICTING COMMISSION

\_\_\_\_\_  
xxx

\_\_\_\_\_  
John Teichert, Chair

Date: \_\_\_\_\_ 2021

\_\_\_\_\_  
CLALLAM COUNTY

ATTEST:

\_\_\_\_\_  
Loni Gores, CMC, Clerk of the Board

\_\_\_\_\_  
Rich Sill, County Administrator

**SCOPE OF WORK**

The Districting Master shall prepare a County Commissioner districting proposal for consideration by the Commission.

The proposal shall provide for three (3) districts that are geographically compact and contiguous, with boundaries running generally north and south. The district shall be approximately equal in population so that the population according to the latest federal decennial census of the largest district shall not exceed that of the smallest by more than 5 percent.

To the greatest extent possible, each district shall be composed of whole voting precincts.

Each district shall be assigned a number 1 to 3, inclusive and shall match the existing numbering of the County Commissioner districts.

The Districting Master shall submit a draft districting proposal, containing at least three options, to the Commission by no later than three months after receipt of the requisite U.S. Census Bureau data, or as mutually agreed by the Districting Master and the Districting Commission. Time is of the essence. The draft proposal shall be premised upon the Districting Master's independent research and analysis as well as input provided by the Commission during the Commission's public hearing process.

The Districting Master shall meet with the Commission to consider recommendations for changes proposed by the Commission members.

The Districting Master shall submit a final draft of the districting proposal to the Commission no later than five months after receipt of the requisite U.S. Census Bureau data, or as mutually agreed by the Districting Master and the Districting Commission. Time is of the essence.

The Districting Master shall provide a presentation of the final draft proposal at public hearings in each of the three districts as established by the Commission.

The Districting Master shall attend any other public hearings required by the Commission.

**COMPENSATION**

The Commission shall secure from County payment to the Districting Master the sum of xxxx (xxxx) for the duties set forth in the scope of work. This amount includes three (3) public hearings to be held in Sequim, Port Angeles, and Forks for presentation of the Districting Master's draft districting proposal.

For work other than that associated with additional public hearings, the Districting Master shall receive an additional \$xx for each hour of work done at the request of the Commission after submission of the final districting proposal. Requests for additional compensation shall be supported by a billing invoice specifying the time spent and a general description of the nature of the work. In no event shall compensation under this clause exceed \$xx.

The Commission shall secure from County reimbursement to the Districting Master for direct costs incurred, limited to the following: mileage at the rate in effect for all officers and employees of Clallam County; acquiring census data; and costs associated with preparing and presenting the proposals at public hearings. A request for reimbursement shall be supported by a billing invoice specifying the amount and general nature expense incurred. In no event shall reimbursement exceed \$xx.

The County agrees to compensate the Districting Master within ten (10) days of approval of the districting plan by the Commission.

**GENERAL CONDITIONS**

1. Scope of Contractor's Services. The Contractor agrees to provide to the County services and any materials set forth in the project narrative identified as Attachment "A" during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.
2. Accounting and Payment for Contractor Services. Payment to the Contractor for services rendered under this Agreement shall be as set forth in Attachment B. Unless specifically stated in Attachment B, the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract.

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

3. Delegation and Subcontracting. Contractor's services are deemed personal and no portion of this contract may be delegated or subcontracted to any other individual, firm, or entity without the express and prior written approval of the Project Manager.
4. Independent Contractor. The Contractor's services shall be furnished by the Contractor as an independent contractor and nothing herein contained shall be construed to create a relationship of employer/employee or master/servant.

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

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

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

5. No Guarantee of Employment. The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.
6. Regulations and Requirements. This Agreement shall be subject to all federal, state, and local laws, rules, and regulations.

7. Right to Review. This contract is subject to review by any federal or state auditor. The County shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the County Project Manager. Such review may occur with or without notice, and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Clallam County, State of Washington, upon request, during reasonable business hours.
8. Modifications. Either party may request changes in the Agreement. Any and all agreed modifications shall be in writing, signed by each of the parties.
9. Termination for Default. If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. Mail, postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any extra expenses incurred by the County in completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.

If a notice of termination for default has been issued and it is later determined for any reason that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the Termination for Public Convenience paragraph hereof.
10. Termination for Public Convenience. The County may terminate the contract in whole or in part whenever the County determines, in its sole discretion, that such termination is in the interests of the County. Whenever the contract is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this contract by the County at any time during the term, whether for default or convenience, shall not constitute a breach of contract by the County.
11. Termination Due to Insufficient Funds. If sufficient funds for payment under this contract are not appropriated or allocated or are withdrawn, reduced, or otherwise limited, the County may terminate this contract upon five (5) days written notice to the Contractor. No penalty or expense shall accrue to the County in the event this provision applies.
12. Termination Procedure. The following provisions apply in the event that this Agreement is terminated:
  - (a) The Contractor shall cease to perform any services required hereunder as of the effective date of termination and shall comply with all reasonable instructions contained in the notice of termination, if any.

- (b) The Contractor shall provide the County with an accounting of authorized services provided through the effective date of termination.
  - (c) If the Agreement has been terminated for default, the County may withhold a sum from the final payment to the Contractor that the County determines necessary to protect itself against loss or liability.
13. Defense and Indemnity Agreement. The Contractor agrees to defend, indemnify and save harmless the County, its appointed and elected officers, agents, and employees, from and against all loss or expense, including but not limited to claims, demands, actions, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Contractor, his/her subcontractors, its successor or assigns, or its or their agent, servants, or employees, the County, its appointed or elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County, its appointed or elected officials or employees. It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein.
14. Industrial Insurance Waiver. With respect to the performance of this Agreement and as to claims against the County, its appointed and elected officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, as now or hereafter amended, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this Agreement extend to any claim brought by or on behalf of any employee of the Contractor. Along with the other provisions of this Agreement, this waiver is mutually negotiated by the parties to this Agreement.
15. Venue and Choice of Law. In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action shall be in the courts of the State of Washington in and for the County of Clallam. This Agreement shall be governed by the law of the State of Washington.
16. Withholding Payment. In the event the Project Manager determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Project Manager determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amounts otherwise due. A determination of the Project Manager set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provision of the Disputes clause of this Agreement. The County may act in accordance with any determination of the County Project Manager, which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount of paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause,

no penalty or damages shall accrue to the Contractor by reason of good faith withholding by the County under this clause.

17. Rights and Remedies. The duties and obligations imposed by this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.
18. Contractor Commitments, Warranties, and Representations. Any written commitment received from the Contractor concerning this Agreement shall be binding upon the Contractor, unless otherwise specifically provided herein with reference to this paragraph. Failure of the Contractor to fulfill such a commitment shall render the Contractor liable for damages to the County. A commitment includes, but is not limited to any representation made prior to execution of this Agreement, whether or not incorporated elsewhere herein by reference, as to performance of services or equipment, prices or options for future acquisition to remain in effect for a fixed period, or warranties.
19. Patent/Copyright Infringement. Contractor will defend, indemnify and save harmless County, its appointed and elected officers, agents, and employees from and against all loss or expense, including but not limited to claims, demands, actions, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of the Contractor's alleged infringement on any patent or copyright. The Contractor will pay those costs and damages attributable to any such claims that are finally awarded against the County, its appointed and elected officers, agents, and employees in any action. Such defense and payments are conditioned upon the following:
  - (a) That Contractor shall be notified promptly in writing by County of any notice of such claim.
  - (b) Contractor shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.
20. Disputes:
  - (a) General. Differences between the Contractor and the County, arising under and by virtue of the contract documents shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. The records, orders, rulings, instructions, and decision of the Project Manager shall be final and conclusive 30 days from the date of mailing unless the Contractor mails or otherwise furnishes to the County Administrator a written notice of appeal. The notice of appeal shall include facts, law, and argument as to why the conclusions of the Project Manager are in error.

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

- (b) Notice of Potential Claims. The Contractor shall not be entitled to additional compensation or to extension of time for (1) any act or failure to act by the Project Manager or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within 10 days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.
- (c) Detailed Claim. The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within 30 days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.
21. Ownership of Items Produced. All writings, programs, data, art work, music, maps, charts, tables, illustrations, records or other written, graphic analog or digital materials prepared by the Contractor and/or its consultants or subcontractors, in connection with the performance of this Agreement shall be the sole and absolute property of the County and constitute "work made for hire" as that phrase is used in federal and/or state intellectual property laws and Contractor and/or its agents shall have no ownership or use rights in the work.
22. Recovery of Payments to Contractor. The right of the Contractor to retain monies paid to it is contingent upon satisfactory performance of this Agreement, including the satisfactory completion of the project described in the Scope of Work (Attachment A). In the event that the Contractor fails, for any reason, to perform obligations required of it by this Agreement, the Contractor may, at the Project Manager's sole discretion, be required to repay to the County all monies disbursed to the Contractor for those parts of the project that are rendered worthless in the opinion of the Project Manager by such failure to perform.

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

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

Clallam County Districting Commission  
 John Teichert, Chair  
 360.417.2256  
[johnteichert@gmail.com](mailto:johnteichert@gmail.com)

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

24. Non-Discrimination. The Contractor shall not discriminate against any person on the basis of race, creed, political ideology, color, national origin, sex, marital status, sexual orientation, age, or the presence of any sensory, mental or physical handicap.
25. Subcontractors. In the event that the Contractor employs the use of any subcontractors, the contract between the Contractor and the subcontractor shall provide that the subcontractor is bound by the terms of this Agreement between the County and the Contractor. The Contractor shall insure that in all subcontracts entered into, Clallam County is named as an express third-party beneficiary of such contracts with full rights as such.
26. Third Party Beneficiaries. This agreement is intended for the benefit of the County and Contractor and not for the benefit of any third parties.
- 27. Standard of Care. *The Contractor shall perform its duties hereunder in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession as Contractor currently practicing under similar circumstances. The Contractor shall, without additional compensation, correct those services not meeting such a standard.***
28. Time is of the Essence. Time is of the essence in the performance of this contract unless a more specific time period is set forth in either the Special Terms and Conditions or Scope of Work.
29. Notice. Except as set forth elsewhere in the Agreement, for all purposes under this Agreement, except service of process, any notices shall be given by the Contractor to the Project Manager. Notice to the Contractor for all purposes under this Agreement shall be given to the person executing the Agreement on behalf of the Contractor at the address identified on the signature page.
30. Severability. If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application. To this end, the terms and conditions of this contract are declared severable.
31. Precedence. In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:
- (a) Applicable federal, state, and local statutes, ordinances, and regulations;
  - (b) Scope of Work (Attachment A) and Compensation (Attachment B);
  - (c) Special Terms and Conditions (Attachment D); and
  - (d) General Conditions (Attachment C).
32. Waiver. Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior to subsequent breach. No term or condition of this contract shall be held to be waived, modified, or deleted except by an instrument, in writing, signed by the parties hereto.
33. Attorney Fees. In the event that litigation must be brought to enforce the terms of this agreement, the prevailing party shall be entitled to be paid reasonable attorney fees.

34. Construction. This agreement has been mutually reviewed and negotiated by the parties and should be given a fair and reasonable interpretation and should not be construed less favorably against either party.
35. Survival. Without being exclusive, Paragraphs 4, 7, 13-19, 21-22, and 31-35 of these General Conditions shall survive any termination, expiration, or determination of invalidity of this Agreement in whole or in part. Any other Paragraphs of this Agreement which, by their sense and context, are intended to survive shall also survive.
36. Entire Agreement. This written contract represents the entire Agreement between the parties and supersedes any prior statements, discussions or understandings between the parties except as provided herein.

**SPECIAL TERMS AND CONDITIONS**

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

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

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

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

COMPREHENSIVE GENERAL LIABILITY:

|                                 |    |                |
|---------------------------------|----|----------------|
| Bodily injury, including death. | \$ | per occurrence |
|                                 | \$ | aggregate      |
| Property damage                 | \$ | per occurrence |

ERRORS AND OMISSIONS or PROFESSIONAL LIABILITY with an Extended Reporting Period

Endorsement (two year tail): \$500,000 per occurrence

WORKERS COMPENSATION: Statutory amount

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

|  |           |                |
|--|-----------|----------------|
| Bodily injury, liability, including death, | \$100,000 | per occurrence |
|  | \$        | aggregate      |
| Property damage liability                  | \$        | per occurrence |
|  | \$        | aggregate      |
- BUSINESS AUTOMOBILE LIABILITY:
 

|  |    |                |
|--|----|----------------|
|  | \$ | per occurrence |
|--|----|----------------|

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

Any such insurance carried by the Contractor shall be primary over any insurance carried by Clallam County and the Contractor shall ensure that such insurances is primary. The County shall have no obligation to report occurrences unless a claim or lawsuit is filed with it and the County has no obligation to pay any insurance premiums.

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

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

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