

100241.24.003
JC

MEMORANDUM OF UNDERSTANDING
BETWEEN CLALLAM COUNTY AND
FLAURA'S ACRES HOMEOWNERS' ASSOCIATION

OCT 29 2024

This Memorandum of Understanding ("MOU") is entered into as of October 29, 2024, by and between Clallam County ("County") and Flaura's Acres Homeowners Association ("HOA").

RECITALS

- A. The County and the HOA ("Parties") have a common interest to the successful completion of the project set forth in this MOU.
- B. The HOA provides services to 54 residential properties in the development known as Flaura's Acres located in unincorporated Clallam County and is surrounded on all sides by the City of Sequim ("City") but has not been annexed into the City.
- C. The HOA owns community water and sewer system that services its members. The sewer system and drain field are aging and the conveyance system is failing. The system is in danger of being de-certified by the Department of Health should further degradation take place. The conveyance system is potentially leaking and affecting nearby Bell Creek.
- D. The HOA would like to decommission their community sewer system and connect their residence to the City's sewer system.
- E. The HOA has been working with Small Community Initiative Program Manager at Department of Commerce ("SCI") to find funding for this project. SCI has found a funding opportunity through the Department of Ecology ("DOE"). The HOA is not an eligible entity to apply for this funding and requires a local government or municipality to apply on their behalf.
- F. The City is unwilling to apply for this funding because the development is not within the city limits. To annex this area into the city limits, the HOA would need to make multiple expensive improvements to the development to satisfy the City requirements.
- G. The County would be an eligible entity to apply for the funding. The County does not have funding available to meet any local matching requirements that may be necessary under the DOE funding opportunity.

AGREEMENT

1. The County agrees to the following:

- a. The County will apply for the DOE Water Quality Combined Financial Assistance for Clallam County, application number WQC-2026-ClaCo-00272, with the assistance of SCI. Application due October 15, 2024.
 - b. If the County is awarded funding by the DOE, they will work with the HOA to set up a Utility Local Improvement District (ULID) to finance any local match obligations or additional funding required beyond the awarded amount to finish the project. All expenditures incurred by the County to set up the ULID will be reimbursed by the ULID.
 - c. The ULID must be in place prior to County accepting funding contract from DOE or any other funding agency identified for this project.
 - d. If the County is unable to reach a feasible financing agreement with the HOA through the ULID, the County can terminate this agreement and refuse to accept the DOE award.
2. The HOA agrees to the following.
- a. Supplying the engineering design and documents for review. HOA understands that the City will determine the final approval of the project design.
 - b. The HOA agrees that all costs of the project beyond the potential award amount offered by DOE will be the responsibility of the HOA.
 - c. The HOA agrees to work the County to set up the ULID to finance the expenditures beyond the award amount. This includes gauging the support of their membership for this project, actively recruiting a majority of owner buy-in, supplying the County with contact information for their members.
 - d. The ULID to be in place on July 31, 2025, or prior to the County's acceptance of DOE funding contract or any other funding source enlisted for this project.
 - e. If the HOA is unable to secure majority buy-in from its membership to form the ULID, the County will terminate this agreement.
3. Purpose and Effect of the Memorandum of Understanding. The purpose of this MOU is to document certain understanding reached by the County and the HOA. The County and the HOA acknowledge that additional binding documents (plans, funding, resolutions, etc.) may be necessary to implement some terms of this MOU, and that such additional documents will be subject to substantive review and approval by the County Board of Commissioners, the County Treasurer, County Administrator and the HOA. Nevertheless, both parties intend that this MOU create obligations that each party agree to undertake.

4. Term. This Memorandum of Understanding shall continue until either party terminates this agreement as provided below, or funding is unable to be secured for the purpose of the project.
5. Termination. Either party may terminate this agreement for cause or for convenience by providing 30 days written notice to the other party of their intent to terminate. Termination shall be effective 30 days after written notice is received by the other party. Clallam County may terminate this agreement immediately in the event that the contemplated urban services are deemed by the county to be, or are found to be, prohibited by zoning or land use regulations found in Municipal, County or State law.
6. Not Entire Agreement. The Parties hereto have endeavored in this MOU to set forth their understanding and intent with respect to the matters addressed herein. This MOU is not, however, intended to set forth in full detail the terms and conditions under which the parties are to proceed in regard to the adoption and administration of the ULID or the construction of the sewer extension connecting the City system.
7. Notices. Any notices to be delivered on matters pertaining to this MOU shall be addressed as follows:

 To the County: Clallam County
 Board of County Commissioners
 223 E 4th Street, Suite 4
 Port Angeles, WA 98362

 To the HOA: Flaura's Acres Homeowners' Association
 President of HOA
 PO Box 1641
 Sequim, WA 98382
8. Amendment to the MOU. This MOU may be amended only by a written instrument signed by both parties. The party proposing the amendment shall bear all costs, if any, of amendments to this MOU.
9. Waiver. The waiver by either party of a breach by the other of any provision of this MOU shall not constitute a continuing waiver of any subsequent break of either the same or different provision of this MOU.
10. Attorney Fees. In the event any legal action is brought to enforce or interpret this MOU, the prevailing party shall be entitled to an award of reasonable fees, in addition to any other relief to which it may be entitled. Venue for any such action will be in Clallam County.
11. Severability. The provisions of this MOU are severable. If any portion of this MOU is held invalid by a court of competent jurisdiction, the remainder of the MOU shall remain

in full force and effect unless amended or modified by mutual written consent of the parties.

12. Dispute Resolution. In the event any dispute, disagreement, claim or controversy arises between the Parties concerning this Agreement or any of the provisions hereof (each, a "Disputed Matter"), Representatives from each party will meet and attempt to resolve the Disputed Matter through negotiations. If the representatives are unable to reach agreement, the Disputed Matter shall be referred, upon written notice by either party, to mediation.

Either party may commence mediation by providing the other party a written request for mediation, setting forth the subject of the Disputed Matter and the relief requested. The parties will cooperate with one another in selecting a mediator and in scheduling the mediation proceedings. The parties each covenant that they will participate in the mediation in good faith, and that they will share equally in the costs of such mediation. Neither party may commence a civil action with respect to any Disputed Matter submitted to mediation until after the completion of the initial mediation session or 45 days after the date of filing the written request for mediation, whichever occurs first. Mediation may continue after the commencement of a civil action, if the parties so desire.

IN WITNESS WHEREOF, the parties have executed this Agreement on this 29 day of Oct 2024.

FLAURA ACRES HOMEOWNER ASSOCIATION

CLALLAM COUNTY BOARD OF COMMISSIONERS

Thomas Noonan

Mike French
Mike French, Chair of the Board

Print name: THOMAS NOONAN

Title: Vice-President

Date: 2024
October 20, 2024

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

Burt Boughton