

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
CLALLAM COUNTY, WASHINGTON
FOR WORK PROVIDED OR PERFORMED
PRIOR TO EXECUTION OF
A
PROJECT PARTNERSHIP AGREEMENT
FOR
THE LOWER DUNGENESS RIVER ECOSYSTEM RESTORATION PROJECT

THIS MEMORANDUM OF UNDERSTANDING (hereinafter the "MOU") is entered into this 16 day of OCT, 2015, by and between the Department of the Army (hereinafter the "Government"), represented by the U.S. Army Engineer Seattle District (hereinafter the "District Engineer") and Clallam County (hereinafter the "County"), represented by the Chair of the Board of Clallam County Commissioners.

WITNESSETH, THAT:

WHEREAS, Section 221(a) of the Flood Control Act of 1970, as amended by Section 2003 of the Water Resources Development Act of 2007, provides that a cost sharing partnership agreement may provide credit for the value of materials or services provided before the execution of such cost sharing partnership agreement if the Secretary and the non-Federal interest enter into an agreement under which the non-Federal interest shall carry out such work and only work carried out following the execution of such agreement shall be eligible for credit;

WHEREAS, the County understands and acknowledges that any credit for eligible in-kind contributions will be afforded only toward the required non-Federal contribution of funds (i.e. cash contribution) under the Project Partnership Agreement for the project; and

WHEREAS, by letter dated June 30, 2015, the County stated its intent to perform certain work (hereinafter the "Proposed Work", as defined in Paragraph 1 of this MOU) prior to the execution of the Project Partnership Agreement for the Lower Dungeness Ecosystem Restoration Project at the community of Dungeness in Clallam County, WA.

NOW, THEREFORE, the Government and the County agree as follows:

1. The County shall provide or perform the Proposed Work in accordance with the terms and conditions of this MOU. The Proposed Work shall consist of design of the ecosystem restoration project, as generally described in the letter from the County.

with all applicable Federal and State laws and regulations, including, but not limited to Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d), and Department of Defense Directive 5500.11 issued pursuant thereto, as well as Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army"; and

h. Crediting for the costs of the Proposed Work may be withheld, in whole or in part, as a result of the County's failure to comply with the terms of this MOU.

6. If the parties agree to enter into a Project Partnership Agreement for the Lower Dungeness Ecosystem Restoration Project at the community of Dungeness in Clallam County, WA, then the Project Partnership Agreement will contain provisions regarding affording credit for costs of the Proposed Work, if the Secretary determines that the Proposed Work is integral to the design of the project.

7. Execution of this MOU shall not be interpreted as a Federal assurance regarding later approval of any project; shall not commit the United States to any type of reimbursement or credit for the Proposed Work; does not alter any process to be followed by the Government in making a determination to execute a future Project Partnership Agreement; nor does it provide any assurance that any future agreement will ever be executed for the project, the Proposed Work, or any portion of the project. Further, this MOU shall not be interpreted to signify any Federal participation in or commitment to the project or the Proposed Work. Finally, this MOU shall not be construed as committing the Government to assume any responsibility placed upon the County or any other non-Federal entity or as preventing the Government from modifying the project that could result in the Proposed Work performed by the County no longer being an integral part of the design of the project.

IN WITNESS WHEREOF, the parties hereto have executed this MOU, which shall become effective upon the date it is signed by the District Engineer.

DEPARTMENT OF THE ARMY

Clallam County

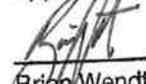
BY: 
John G. Buck
Colonel, U.S. Army
District Commander

BY: 
Jim McEntire, Chair
Board of Clallam County Commissioners

DATE: 16 OCT 15

DATE: 8 September 2015

Approved as to form only by:


Brian Wendt
Deputy Prosecuting Attorney
Clallam County