

**MEMORANDUM OF AGREEMENT BETWEEN
THE LOWER ELWHA KLALLAM TRIBE AND CLALLAM COUNTY**

**Regarding
Opening of Elwha Valley Road for Public Travel**

This Agreement is made and entered into by and between the Lower Elwha Klallam Tribe, a federally recognized tribe (hereinafter referred to as “the Tribe”), and Clallam County, a political subdivision of the State of Washington (hereinafter referred to as “the County”).

Affected Parcels:

Clallam County tax parcels affected by this agreement include the following
Tax Parcel Numbers: 073002-140050, 073002-230150, 073002-130150, 073002-140150, 073002-140225, and 073001-500250. PTN 073002 219030; PTN 073002 210070; PTN 073002 240000; and PTN 073002-130050
Federal Tracts affected by this agreement include the following:
PRT 156-T1174

DEFINITIONS:

Approved Plan	<u>Phase 3-Kacee Way Plan Set</u> (Parametrix, Inc. April 2011), supplemented by <u>Cross Section Exhibit C</u> (Parametrix, Inc., August 28, 2012).
Final Construction	Elwha Valley Road construction under Approved Plan
County EVR	Elwha Valley Road Project lying within City of Port Angeles property known as the Milwaukee Railroad Grade.

WHEREAS, the Tribe and the County previously signed a Memorandum of Agreement (February 13, 2009- Exhibit A), (herein “MOA-2009”) to serve mutual interest to secure and retain uniform jurisdiction between lands and roads, and to establish the foundation for the Elwha Valley Road (herein “EVR”); and

WHEREAS, pursuant to the MOA-2009 the County Quit Claimed Stratton Road to the Tribe; and

WHEREAS, pursuant to MOA-2009 the Tribe completed design, environmental permitting, and rights of way; quit claimed certain parcels to the County, secured federal rights of way in favor of the County for construction of the EVR; and

WHEREAS, the County approved “*Phase 3-Kacee Way, supplemented by Exhibit C*” (herein, “Approved Plan”) for construction of the EVR; and

WHEREAS, the Tribe has and will incur all EVR construction costs; and

WHEREAS, the Tribe does not have funding at this time to complete all EVR segments according to the Approved Plan; and

WHEREAS, the Tribe intends to complete Final Construction on County EVR as shown on the attached map (Exhibit B) as parcels D and E according to the Approved Plan during the 2012 construction season; and

NOW, THEREFORE, BE IT AGREED AS FOLLOWS:

1. Modification of the 2009 Memorandum of Agreement.

County and Tribe will take the following actions that modify and supersede 2009 agreement:

- A. Tribe will petition the U.S. Department of the Interior, Bureau of Indian Affairs to cancel federal right of way and slope easement granted to the County on Lower Elwha Reservation Tract 156-T1174 BIA Grant of Easement for Right of Way filed with Clallam County Auditor under AFN 2010-1247373 January 11, 2010 (Exhibit B, Parcel B).
- B. County will quit claim back to the Tribe the Clallam County Parcel as shown on Sheet 2 of the Boundary Line Adjustment Survey recorded in Volume 69 of Surveys Page 46 filed with Clallam County under Auditor File Number 2009 1246216 located in the North West Quarter of Section 2, Township 30 North, Range 7 West, WM, Clallam County, Washington (Exhibit B, Parcel C).
- C. Tribe will own operate and maintain Elwha Valley Road located on parcels affected by A and B above as well as EVR located on the Lower Elwha Reservation and trust lands as agreed in MOA-2009.

2. Elwha Valley Road Opening to Public Travel

- A. The Tribe will complete final construction on Parcels D and E (Exhibit B) during 2012 construction season.
- B. Immediately following final construction on County EVR, the Tribe will quit claim to the County all interest in Elwha Valley Road Project facility lying within the Parcels D and E (Exhibit B).
- C. Following final construction on Parcels D and E, County will accept Elwha Valley Road facility as quit claimed by the Tribe as a county road and will open Elwha Valley Road to the public.

3. Complete Expression.

This Agreement, any exhibits attached thereto, and any amendments enacted as prescribed within this document, constitute the complete agreement of the parties and any oral representations or understandings not incorporated herein are excluded.

4. Agreement Recorded.

A copy of this Agreement, cancelation of federal right of way on Parcel B; County Quit Claim to the Tribe on Parcel C; Tribe Quit Claim to Elwha Valley Road in Parcels D and E all as show on Exhibit B.

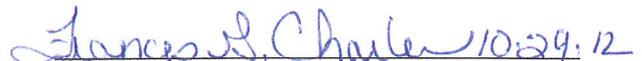
5. Commencement Date.

This Agreement will commence on the date the last signatory, with authority to bind his/her respective legal entity to an agreement, affixes his or her signature to the Agreement.

6. Signatories.



Howard V. Doherty, Jr. 10/30/12
Board of Clallam County Commissioners Date



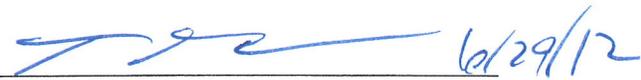
Frances G. Charles 10/29/12
Chairwoman Date
Lower Elwha Klallam Tribe

Approved as to form: **ONLY**

Approved as to form:



BRIAN WENDT 10/30/2012
County Attorney Date



Trent Crable 10/29/12
Tribe Attorney Date

101-09-004

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02/10/09

Memorandum of Agreement Between
Clallam County, and
The Lower Elwha Klallam Tribe

This Memorandum of Agreement is by and between Clallam County, ("County"), and the Lower Elwha Klallam Tribe, ("Tribe").

WHEREAS Stratton Road, County Route #31690 and Indian Reservation Roads Route # 125-5309-820/125-052, runs from Lower Elwha Road south for a distance of 4000 feet, more or less, and serves tribal trust land and the Lower Elwha Indian Reservation; and

WHEREAS a proposed route, the Elwha Valley Access, BIA Route # 125-0116/19, will run from Lower Elwha Road at MP 0.788 west and north to the existing boundary of Tribal Trust Land for a distance of 4000 feet, more or less, then continue across Tribal trust and Reservation land, to the north and west, to Stratton Road, then north along Stratton Rd to intersect Lower Elwha Road, and

WHEREAS the County currently operates and maintains Stratton Road, which serves the interior of the Lower Elwha Reservation and is intended to become a part of the Elwha Valley Access improvement project, and

WHEREAS the Tribe has received Public Lands and Highway Administration funding to construct the Elwha Valley Access, and

WHEREAS, it is within the best interests of the County and the Tribe to secure and retain uniform jurisdiction between lands and roads, now

THEREFORE, the parties agree that:

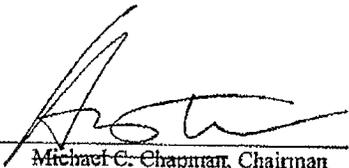
- A. The County shall petition for vacation of all County interest in Stratton Road.
- B. The County shall quit claim any and all fee simple and/or otherwise acquired rights-of-way parallel with Stratton Road to the Tribe.
- C. The Tribe shall apply to the United States for federal trust acquisition of all parcels conveyed from the County to the Tribe under 25 CFR §151. The County agrees to support the Tribe's application for trust acquisition.
- D. The Tribe shall accept responsibility for the right-of-way, operation and maintenance of Stratton Road as a public road as defined in 25 CFR §170.5.
- E. The Tribe shall convey by quit claim, and the County shall accept, rights-of-way that the Tribe acquires, whether by fee simple or by easement, for the proposed Elwha Valley Access where the project crosses fee land outside the Lower Elwha Indian Reservation and tribal trust lands. Conveyances to the County shall occur as rights-of-way or easements are acquired.
- F. In addition, the County shall accept, and the Tribe shall grant and support U.S Department of Interior or Bureau of Indian Affairs (BIA), approval for an easement across the tribal trust parcel east of the City of Port Angeles ("City") right-of-way for the City's industrial water pipeline (Exhibit A), pursuant to 25 CFR Part 169 or other appropriate authority.
- G. Following construction of the Elwha Valley Access, the County shall operate and maintain, within the Clallam County Road Inventory, that portion of the Elwha Valley Access located upon the rights-of-way and easement or easements to be transferred to the County under paragraph E above
- H. The Tribe shall design and construct the road to meet or exceed all requirements set forth within the most current Washington State Standard Specifications for Road, Bridge, and Municipal Construction.

EXHIBIT A

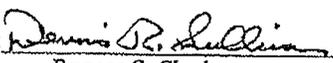
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- I. In the event that the Lower Elwha Valley Access Project is not implemented, for any reason, or upon written request of the Tribe, all ownership of any such land transferred by the Tribe to the County under paragraph E of this MOA shall be returned to the Tribe, by the County, through the quit claim process.
- J. This memorandum is binding upon the signatories hereto not as individuals, but solely in their capacities as officials of their respective governments, and the parties acknowledge that proper action has been taken by the County, the Tribe, and the BIA to enter into the same.
- K. This agreement shall become effective as of the last date written below.

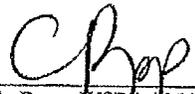
Clallam County

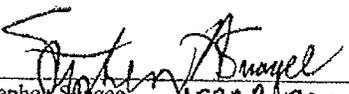
By:  Date: February 10, 2009
 Michael C. Chapman, Chairman
 Board of Clallam County Commissioners
 Howard V. Doherty, Jr.

Lower Elwha Klallam Tribe

15/ By:  Date: Feb 13, 2009
 Frances G. Charles
 Lower Elwha Klallam Tribal Chair

Approved as to form only:

 Date: Jan 27, 2009
 Courtney A. Popp, WSBA #35470
 Clallam County Prosecuting Attorney

 Date: Jan 27, 2009
 Stephen Spigee WSBA #26776
 Lower Elwha General Counsel

Clallam County and Lower Elwha Klallam Tribe
 Memorandum of Agreement (FROM 2009 MOA)
 Attachment A



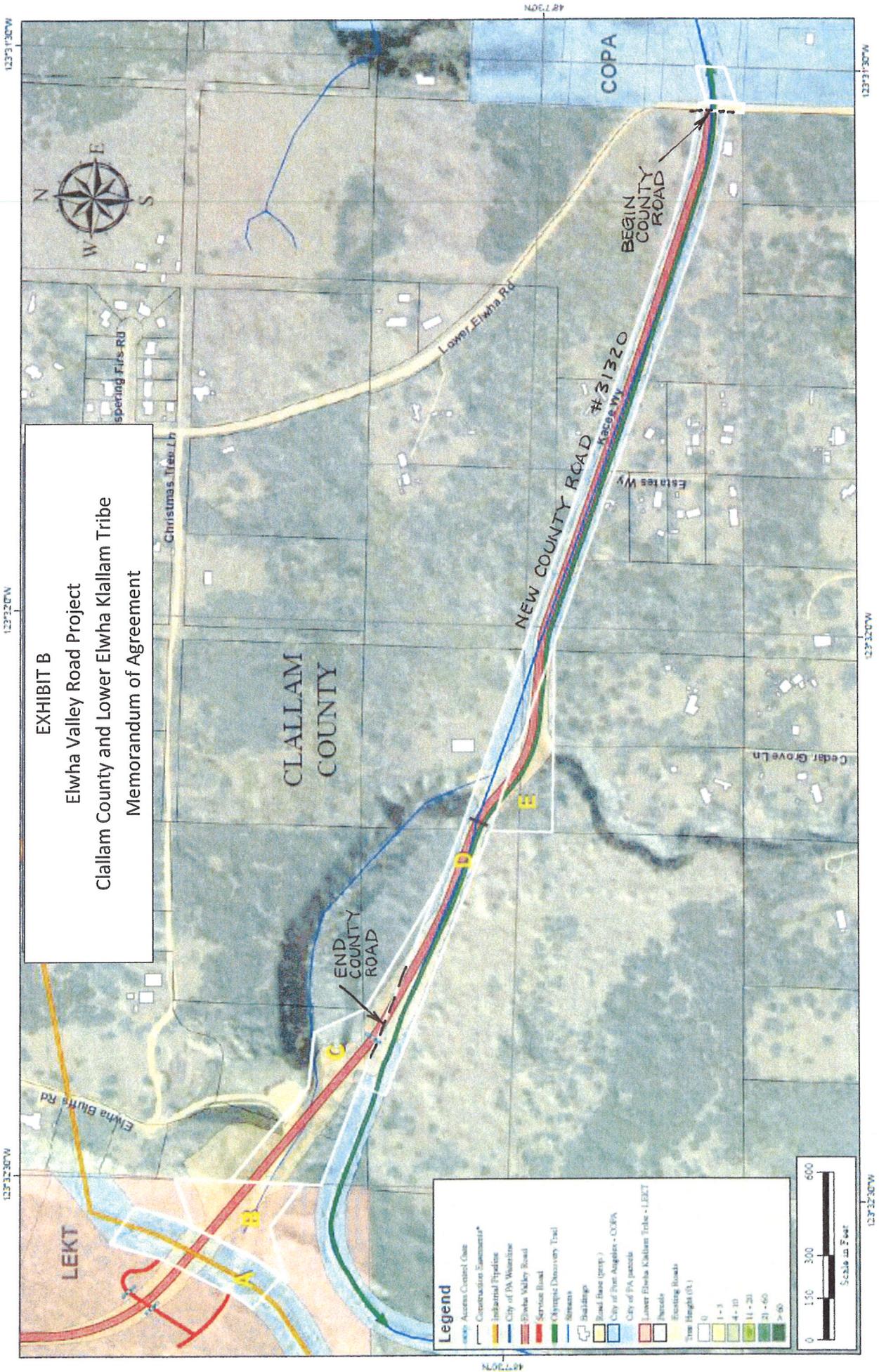
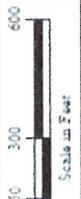


EXHIBIT B
Elwha Valley Road Project
Clallam County and Lower Elwha Klallam Tribe
Memorandum of Agreement

- Legend**
- Access Control Gate
 - Construction Easements*
 - Industrial Pipeline
 - City of DA Waterline
 - Elwha Valley Road
 - Service Road
 - Olympic Discovery Trail
 - Streams
 - Buildings
 - Road Base (strip)
 - City of Port Angeles - COPA
 - City of PA parcels
 - Lower Elwha Klallam Tribe - LEKT
 - Parcels
 - Tree Heights (ft.)
 - Existing Roads
- | | |
|-------|-------|
| 0 | 1-3 |
| 4-10 | 11-20 |
| 21-50 | > 60 |



SEC 2, T30N, R7W, W.M.

