



WASHINGTON STATE DEPARTMENT OF  
**Natural Resources**  
PETER GOLDMARK - Commissioner of Public Lands

## INTERAGENCY AGREEMENT WITH CLALLAM COUNTY

### Agreement No. IAA 11-31

This Agreement is between Clallam County referred to as County and the Washington State Department of Natural Resources, Olympic Region, referred to as the DNR.

The DNR is under authority of RCW Chapter 43.30 of Washington State, Department of Natural Resources. DNR and Clallam County enter into this agreement under Chapter 39.34, Interlocal Cooperation Act.

The purpose of this Agreement is to provide boundary determination and posting along the common property line of the Westerly boundary of Lot 3 and the North and West boundary of the East half of the SW Quarter of the SW Quarter all in Section 22, T31N, R8W, W.M.

### IT IS MUTUALLY AGREED THAT:

**1.01 Statement of Work.** The DNR shall furnish the necessary personnel, equipment, material and/or services and otherwise do all things necessary for or incidental to performing work set forth in the Attachment A.

**2.01 Period of Performance.** The period of performance of this Agreement shall begin on July 27, 2010 and end on September 1, 2010, unless terminated sooner as provided herein.

**3.01 Payment.** Pay for the work provided is established under RCW 39.34.130. The parties estimate that the cost of accomplishing the work will not exceed **seven thousand six hundred thirty five dollars and 50/100 cents (\$7,635.50)**. Payment for satisfactory performance of work shall not exceed this amount unless the parties mutually agree to a higher amount before beginning any work that could cause the maximum payment to be exceeded. Pay for services shall be based on the rates and terms described in Attachment A.

**4.01 Billing Procedures** DNR shall submit invoices monthly. Payment to the DNR for approved and completed work will be made by warrant or account transfer within 30 days of receiving the invoice. When the contract expires, any claim for payment not already made shall be submitted within 30 days after the expiration date or the end of the fiscal year, whichever is earlier.

**5.01 Records Maintenance.** DNR shall maintain books, records, documents and other evidence, to sufficiently document all direct and indirect costs incurred by DNR in providing the services. These records shall be available for inspection, review, or audit by personnel of the County, other personnel authorized by the County, the Office of the State Auditor as authorized by law. DNR shall keep all books, records, documents, and other material relevant to this Agreement for six years after agreement expiration. The Office of the State Auditor and any persons authorized by the parties shall have full access to and the right to examine any of these materials during this period.

Records and other documents in any medium furnished by one party to this agreement to the other party will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose this material to any third parties without first notifying the furnishing party and giving it a reasonable opportunity to respond. Each party will use reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties.

**6.01 Rights to Data.** Unless otherwise agreed, data originating from this Agreement shall be 'works for hire' as defined by the U.S. Copyright Act of 1976 and shall be owned by the DNR and County equally. Data shall include, but not be limited to, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to use, copyright, patent, register and the ability to transfer these rights.

**7.01 Independent Capacity.** The employees or agents of each party who are engaged in performing 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.

**8.01 Amendments.** This Agreement may be amended by mutual agreement of the parties. Amendments shall be in writing and signed by personnel authorized to bind each of the parties.

**9.01 Termination.** Either party may terminate this Agreement by giving the other party 30 days prior written notice. If this Agreement is terminated, the terminating party shall be liable to pay only for those services provided or costs incurred prior to the termination date according to the terms of this Agreement.

**10.01 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 the terms and conditions, the aggrieved party will give the other party written notice of the failure or violation. The aggrieved party will give the other party 15 working days to correct the violation or failure. If the failure or violation is not corrected within 15 days, the aggrieved party may immediately terminate this Agreement by notifying the other party in writing.

**11.01 Disputes.** If a dispute arises, a dispute board shall resolve the dispute like this: Each party to this agreement shall appoint a member to the dispute board. These board members shall jointly appoint an additional member to the dispute board. The dispute board shall evaluate the facts, contract terms, applicable statutes and rules, then determine a resolution. The dispute board's determination shall be final and binding on the parties. As an alternative to the dispute

board, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330. In this case, the Governor's process will control the dispute resolution.

**12.01 Governance.** This contract is entered into the authority granted by the laws of the State of Washington and any applicable federal laws. The provisions of this agreement shall be construed to conform to those laws.

If there is an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- (1) Applicable State and federal statutes and rules;
- (2) Statement of Work; and
- (3) Any other provisions of the agreement, including materials incorporated by reference.

**13.01 Assignment.** The work to be provided under this Agreement and any claim arising from this agreement can not be assigned or delegated in whole or in part by either party, without the express prior written consent of the other party. Neither party shall unreasonably withhold consent.

**14.01. Waiver.** A party that fails to exercise its rights under this agreement is not precluded from subsequently exercising its rights. A party's rights may only be waived through a written amendment to his agreement.

**15.01 Severability.** The provisions of this agreement are severable. If any provision of this Agreement or any provision of any document incorporated by reference should be held invalid, the other provisions of this Agreement without the invalid provision remain valid.

#### **16.01 Insurances.**

- (1) General Insurance Requirements

At all times during the term of this agreement, the County shall, at its cost and expense, buy and maintain insurance of the types and amounts listed below. Failure to buy and maintain the required insurance may result in the termination of the agreement at DNR's option.

All insurance shall be issued by companies admitted to do business in the State of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports unless otherwise approved by DNR. Any exception must be reviewed and approved by the DNR Risk Manager or in the absence of, the Contracts Specialist at FMD, before the contract is accepted. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with Chapter 48.15 RCW and 284-15 WAC

County shall furnish DNR, with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements specified in the bid/proposal, if applicable, and Agreement. Said certificate(s) shall contain the Contract number IAA 11-31, name of DNR Project Manager, a description, and include the State of

Washington, DNR, its elected and appointed officials, agents, and employees as additional insured on all general liability, excess, umbrella and property insurance policies.

All insurance provided in compliance with this contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by DNR. County waives all rights against the DNR for recovery of damages to the extent these damages are covered by general liability or umbrella insurance maintained pursuant to this Agreement.

DNR shall be provided written notice before cancellation or non-renewal of any insurance referred to therein, in accord with the following specifications.

- (1). Insurers subject to Chapter 48.18 RCW (Admitted and Regulated by the Insurance Commissioner): The insurer shall give the DNR 45 days advance notice of cancellation or non-renewal. If cancellation is due to nonpayment of premium, the DNR shall be given 10 days advance notice of cancellation.
- (2). Insurers subject to Chapter 48.15 RCW (Surplus lines): The DNR shall be given 20 days advance notice of cancellation. If cancellation is due to nonpayment of premium, the DNR shall be given 10 days advance notice of cancellation.

In lieu of the coverages required under this section, DNR at its sole discretion may accept evidence of self-insurance by the County, provided County provides the following:

County shall provide a statement by a CPA or actuary, satisfactory to the DNR, that demonstrates County's financial condition is satisfactory to self-insure any of the required insurance coverages.

DNR may require County to provide the above from time to time to ensure County's continuing ability to self-insure. If at any time the County does not satisfy the self insurance requirement, County shall immediately purchase insurance as set forth under this section.

By requiring insurance herein, DNR does not represent that coverage and limits will be adequate to protect County and such coverage and limits shall not limit County's liability under the indemnities and reimbursements granted to DNR in this contract.

The limits of insurance, which may be increased by DNR, as deemed necessary, shall not be less than as follows:

- (1) Commercial General Liability (CGL) Insurance: County shall maintain general liability (CGL) insurance, and, if deemed necessary as determined by the DNR, commercial umbrella insurance with a limit of not less than \$1,000,000 per each occurrence and \$2,000,000 for a general aggregate limit. The products-completed operations aggregate limit shall be \$2,000,000.

CGL insurance shall be written on ISO occurrence form CG 00 01 (or substitute form providing equivalent coverage). All insurance shall cover liability arising

out of premises, operations, independent Countys, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract), and contain separation of insureds (cross liability) conditions.

- (2) Employers Liability (Stop Gap) Insurance: If County shall use employees to perform this contract, County shall buy employers liability insurance, and, if deemed necessary as determined by the DNR, commercial umbrella liability insurance with limits not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.
- (3) Business Auto Policy (BAP) Insurance: County shall maintain business auto liability and, if deemed necessary as determined by the DNR, commercial umbrella liability insurance with a limit not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of any Auto. Business auto coverage shall be written on ISO form CA 00 01, or substitute liability form providing equivalent coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage and cover a covered pollution cost or expense@ as provided in the 1990 or later editions of CA 00 01.

County waives all rights against DNR for the recovery of damages to the extent they are covered by business auto liability or commercial umbrella liability insurance.

- 4) To the fullest extent permitted by law, County shall indemnify, defend and hold harmless DNR, its officials, agents and employees, from and against all claims arising out of or resulting from the performance of the Agreement. "Claim" as used in this agreement means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorneys' fees, attributable for bodily injury, sickness, disease or death, or injury to or destruction of tangible property including loss of use resulting therefrom. County's obligation to indemnify, defend, and hold harmless includes any claim by County's agents, employees, representatives. County expressly agrees to indemnify, defend, and hold harmless DNR for any claim arising out or incident to County's performances or failure to perform the Agreement. County's obligation to indemnify, defend, and hold harmless DNR shall not be eliminated or reduced by any actual or alleged concurrent negligence of DNR or its agents, agencies, employees and officials. County waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless DNR and its agencies, officials, agents or employees.

**17.01 Complete Agreement in Writing.** This Agreement contains all the terms and conditions agreed upon by the parties. No other understanding, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties.

**18.01 Contract Management.** The Project Coordinator for each of the parties shall be the contact person for this agreement. All communications and billings will be sent to the project coordinator.

**19.01 Project Coordinators.**

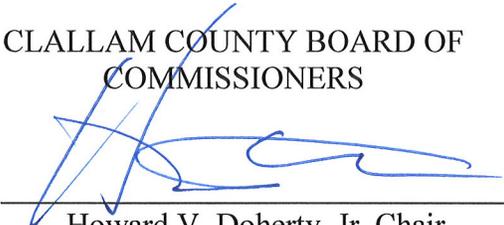
- (1) The Project Coordinator for the Agency is Joel G. Winborn, Telephone Number 360-417-2429.
- (2) The Project Manager for the DNR is Sue Trettevik. Telephone Number 360-374-2806.

**IN WITNESS WHEREOF, the parties have executed this Agreement.**

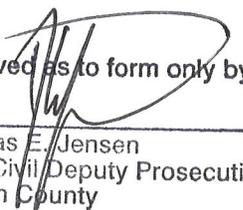
CLALLAM COUNTY BOARD OF  
COMMISSIONERS

Dated: August 24, 20 10

By:

  
Howard V. Doherty, Jr. Chair

Approved as to form only by:

  
Douglas E. Jensen  
Chief Civil Deputy Prosecuting Attorney  
Clallam County

Address: 223 East 4<sup>th</sup> Street, Suite 7  
Port Angeles, WA 98362

Phone: 360.417.2429

STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES

Dated: Sept. 2, 20 10

By: Sue Trettevik



Title: Olympic Region Manager

Address: 411 Tillicum Lane Forks, WA 98331

Interagency Agreement  
Approved as to Form 9/29/97  
By the Assistant Attorney General  
State of Washington

**Invoice Identification and Information**

Each invoice voucher submitted to Clallam County by the DNR will clearly reference  
"Contract Number IAA 11-31"

## Attachment A

### STATEMENT OF WORK and BUDGET Salt Creek Cost Share Estimate

Westerly Boundary of Lot 3 and the North and West Boundary of the  
East Half of the SW Quarter of the SW Quarter all in Section 22, T31N,  
R8W, WM

Labor Costs		Rate	Estimated Hours				Total	Total w/Overhead	
		Hourly	w/ Benefits	Field	Office	Total	Total w/Overhead		
Land Surveyor W/L	Justin Holt	\$36.87	\$47.19		10	\$472	\$599		
Land Surveyor 2	John Linzee	\$28.79	\$37.14	80	40	\$4,457	\$5,660		
Engineering Aide 3	Rich Angelo	\$26.10	\$33.67	80		\$2,694	\$3,421		
						Salaries	\$9,680		
Per Diem		Gas	Meals	Hotel	Rate/ Mile	Miles	Total	Total Per Diem	
Land Surveyor 2	John Linzee	120	\$1,464	\$2,556	0.55	820	\$571	\$4,591	
Engineering Aide 3	Rich Angelo							\$0	
						Per Diem	\$4,591		
Supplies and Consumables									
Including Survey Monuments, Posting, Wood									\$800
Record of Survey Printing and Recording Fees									\$200
							\$15,271		

This estimate includes survey research, calculations, on site field work, setting of corner monuments, location and posting of boundary, mapping contamination area, drafting and internal review of Record of Survey and recording at County.

#### Invoice Identification and Information

Each invoice voucher submitted to Clallam County by the DNR will clearly reference  
"Contract Number IAA 11-31"