



Mason County PUD No. 1
Regular Board Meeting
February 14, 2023
1:00 p.m.

Join Zoom Meeting
<https://us02web.zoom.us/j/85869053743>

Meeting ID: 858 6905 3743
1 (253) 215-8782

1:00 p.m. Regular Board Meeting

- 1) Public Comment-** *Members of the public wishing to comment may request permission to do so during the Public Comment portion of the agenda. Comments shall be limited to no more than 5 minutes per speaker. There will be no action or discussion of public comment items, although the board may defer to PUD management for any necessary response.*

2) Consent Agenda

Minutes:

Regular Board Meeting January 24, 2023

Disbursements:

Accounts Payable Wire	\$ 760,003.01
Check Nos. 122790-122897	\$ 612,700.40

Payroll Wire	\$ 84,807.82
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Grand Total	\$ 1,457,511.23
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3) Business Agenda

- Approve Director of Business Services to sign the FEMA Grant Contract HMGP DR-4539-07 R
- Approve General Manager to sign the Jefferson County ARPA Contract
- Approve General Manager to sign the Mt. View Location and Marking LLC Contract for Electric Locates

4) Staff Reports

- General Manager
- District Treasurer
- Water Resource Manager
- Legal Counsel

5) Correspondence

6) Board Comments

7) Other Business/Public Comment

8) Executive Session may be held as authorized by the Open Public Meetings Act (RCW 42.30.110)

9) Adjournment

2023 Calendar

February 15-17	WPUDA	Olympia
February 16	WPUDA Day on the Hill	Capital Campus, Olympia
February 23	WPAG	Beijing Rm, SeaTac Airport
Feb 27-March 1	WPUDA/APPA Leg Rally	Washington DC
March 15-17	WPUDA	Zoom Meeting
March 30	WPAG	Virtual
March 30	WPUDA	Location TBA
April 12-14	WPUDA	Olympia
April 27	WPAG	Virtual
April-May (TBA)	WPUDA	Location TBA
May 3-5	PNW-AWWA Conference	Kennewick
May 11-12	Manager's Committee	Spokane (Davenport Historic)
May 10-11	Telecom Workshop	Spokane (Davenport Historic)
May 14-17	NWPPA Annual Conf.	Anchorage Alaska
May 25	WPAG	Beijing Rm, SeaTac Airport
June 11-14	AWWA National Conf.	Toronto, Canada
June 16-21	APPA National Conf.	Seattle
June TBA	Strategic Plan Comm.	WPUDA, Olympia
June 29	Water Committee	Olympia
June 29	WPAG	Virtual
July 12-14	WPUDA	Location TBA
July 20	WPAG	Virtual
August 31	WPAG	Beijing Rm, SeaTac Airport
Sept. 13-15	WPUDA	Location TBA
Sept. 27-29	Water Workshop	Leavenworth (Enzian Inn)
Sept. 28	WPAG	Virtual
October TBA	Admin/Finance/HR	Location TBA
October TBA	Energy NW PP Forum	Tri-Cities area
October 26	WPAG	London Rm, SeaTac Airport
November 15-17	WPUDA	Location TBA
November	PPC Annual Mtg.	Portland, OR
Nov/Dec (TBA)	WPAG	Virtual
Nov. 29-Dec 1	WPUDA Annual Conf.	Location TBA



Mason County Public Utility District No. 1
Board of Commissioners Regular Board Meeting
January 24, 2023, Potlatch, Washington

Present:

Mike Sheetz, President
Jack Janda, Vice President
Ron Gold, Board Secretary
Kristin Masteller, General Manager
Katie Arnold, District Treasurer
Brandy Milroy, Water Resource Manager
Julie Gray, Executive Assistant
Rob Johnson, Legal Counsel

Visitors:

None.

CALL TO ORDER: Jack called the Regular Board Meeting to order at 1:00 p.m.

PUBLIC COMMENT: None.

APPROVAL OF CONSENT AGENDA:

Minutes: Regular Board Meeting January 10, 2023

Disbursements:	<u>Accounts Payable Check Register</u>	
	Accounts Payable Wire	\$ 71,025.11
	Check Nos. 122750-122789	\$ 287,463.10
	A/P Sub Total	\$ 358,488.21
	<u>Payroll Expense</u>	
	Payroll Wire	\$ 67,547.39
	Grand Total	\$ 426,035.60

Ron made a motion to approve the consent agenda as presented, Mike seconded the motion. Motion carried.

BUSINESS AGENDA:

Approval Pre-Qualified Electrical Contractors – Jack made a motion to approve the list of Pre-Qualified Electrical Contractors, Mike seconded the motion. Motion carried.

Staff Reports –

General Manager – Kristin reported that the bid proposal for 158 pole replacements went out last week. The bid opening will be February 17, 2023 at 4:30 pm. She also reported that the two million dollar broadband grant for extra poles was submitted as well. She reported that she and Katie had met with a specialist from Meguire Whitney regarding the \$7.5 million dollar appropriations request for Jorstad. She reported that she had met with Katy Crabtree from



Mason County Public Utility District No. 1
Board of Commissioners Regular Board Meeting
January 24, 2023, Potlatch, Washington

Representative Kilmer's office last week. She reported that the two new line trucks had arrived this week.

Director of Business Services – Katie reported that the PUD had received its first Power Distribution Credit from BPA. Customers will see that credit on their January bill, which averaged just over \$11.00 per customer. The amount will change by a little bit each month, as the monthly amount varies. Customers can expect this credit thru their October 2023 billing. She reported that some water customers will see an adjustment on their water bill for usage since the meters weren't able to be read in December due to the storm. She also reported that audit for 2020 and 2021 is complete. The Auditor had three best practice recommendations for the District; to adopt an Electronic Funds Transfer policy, a Fuel Card Usage policy, and to have the District's GASB 75 Actuary complete the odd-year roll forward for the OPEB calculation, rather than calculate amortization in-house. The Exit Conference will be on January 31, 2023.

Water Resource Manager – Brandy reported that the Shadowood Design is at 90%. She and TJ are going over it and will send comments to Grey & Osborne, also to the Shadowood HOA. She reported that the Canyonwood Beach and Harstene generator bids are out. She also reported that she had a NSDC Fire/Water Infrastructure working group follow up meetings this morning.

Legal Counsel – None.

Correspondence – None.

Board Reports –

Mike – Mike reported that he attended the WPUDA meeting.

Jack – None.

Ron – Ron reported that he attended the Hood Canal Coordinating Council meeting.

PUBLIC COMMENT – None.

EXECUTIVE SESSION – At 1:11 p.m. Jack called an executive session for the purpose of threatened or pending litigation (RCW 42.30.110(i)). He stated that it will last 10 minutes. At 1:21 p.m. Jack closed the executive session and reconvened the regular session.

Adjournment: 1:54 p.m.

Jack Janda, President

Ron Gold, Vice President

Mike Sheetz, Secretary

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Accounts Payable Check Register

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01/23/2023 To 02/09/2023

Bank Account: 4 - COLUMBIA BANK - DISTRICT

Check / Tran Date	Pmt Type	Vendor	Vendor Name	Reference	Amount
785 02/01/2023	WIRE	IRS	WEST COAST BANK	FEDERAL TAX LIABILITY	34,817.16
786 02/01/2023	WIRE	WASH 1	WA DEPT OF RETIREMENT SYS	STATE RETIREMENT - PLAN 2	20,505.85
787 02/01/2023	WIRE	WASH 7	WA STATE TREAS-MS: PO-11	DEFERRED COMPENSATION	9,755.25
788 02/01/2023	WIRE	HRA	HRA VEBA TRUST CONTRIBUTI	VEBA MEDICAL SAVINGS	3,605.58
789 01/26/2023	WIRE	ALTEC	ALTEC INDUSTRIES INC	VEHICLE #82-NEW BUCKET TRUCK	323,195.84
790 01/26/2023	WIRE	ALTEC	ALTEC INDUSTRIES INC	VECHILE #81-NEW BUCKET TRUCK	323,195.84
791 01/27/2023	WIRE	WASH 3	WA DEPT OF REVENUE	MONTHLY EXCISE TAX	44,927.49
122790 01/24/2023	CHK	ALTEC	ALTEC INDUSTRIES INC	VEHICLE #81-HOT STICK	703.03
122791 01/24/2023	CHK	CENTURYLINK	CENTURYLINK	LONG DISTANCE & OUTBOARD CHARGES(21)LINE	196.17
122792 01/24/2023	CHK	DON SMALL & S	DON SMALL & SONS OIL DIST	DIESEL	4,707.65
122793 01/24/2023	CHK	MORITZ	CHRISTEL MORITZ	PAYMENT SENT TO WRONG UTILITY S/B-PUD#3	70.00
122794 01/24/2023	CHK	GCR*	POMP'S TIRE SERVICE	VEHICLE#65-TIRE MAINTENANCE & SPIN BALAN	199.18
122795 01/24/2023	CHK	TITUS-WILL	TITUS-WILL	VEHICLE #73-ELECTRICAL WORK	1,574.04
122796 01/24/2023	CHK	VALLEY, LANCE	LANCE VALLEY	CLOTHING ALLOWANCE REIMBURSEMENT	200.00
122797 01/24/2023	CHK	NAPA AUTO PA	WESTBAY NAPA AUTO PARTS	SHOP	15.97
122798 01/24/2023	CHK	2	GERALD BAKER	INACTIVE REFUND	49.69
122799 01/24/2023	CHK	2	BRYAN A CALDON	INACTIVE REFUND	20.08
122800 01/24/2023	CHK	2	SARA EMILY DAVIS	INACTIVE REFUND	71.85
122801 01/24/2023	CHK	2	EMERALD TOWN ALLIANCE(SHRIMPFE	INACTIVE REFUND	49.27
122802 01/24/2023	CHK	2	PAUL A FIEDLER	REFUND CUSTOMER FOR 4/0 WIRE	306.00
122803 01/24/2023	CHK	2	DANIEL HUBERTY	INACTIVE REFUND	65.17
122804 01/24/2023	CHK	2	TOM HYNES	INACTIVE REFUND	60.00
122805 01/24/2023	CHK	2	BRUCE MARKHAM	INACTIVE REFUND	100.00
122806 01/24/2023	CHK	2	GARY MCNEIL	INACTIVE REFUND	52.09
122807 01/24/2023	CHK	2	GEORGE MILLER	INACTIVE REFUND	1,303.12VOID
122808 01/24/2023	CHK	2	OMAR MILLER JR	INACTIVE REFUND	72.86

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Bank Account: 4 - COLUMBIA BANK - DISTRICT

Check / Tran Date	Pmt Type	Vendor	Vendor Name	Reference	Amount
122809 01/24/2023	CHK	2	CHERRY PENTONY	INACTIVE REFUND	165.19
122810 01/24/2023	CHK	2	SAVANNA THOMPSON	INACTIVE REFUND	440.00
122811 01/24/2023	CHK	2	DONALD E WATTS	INACTIVE REFUND	4,213.10VOID
122812 01/24/2023	CHK	2M COMPANY	2M COMPANY INC	WATER NON INVENTORY PARTS	4,077.92
122813 01/24/2023	CHK	ANIXTER	ANIXTER INC	ELECTRIC NON INVENTORY PARTS-SPLICES	961.79
122814 01/24/2023	CHK	ARNOLD,KATIE	KATIE ARNOLD	TRAVEL EXP REIMBURSEMENT-NWPPA TRAINING	273.75
122815 01/24/2023	CHK	BUILDERS	BUILDERS FIRSTSOURCE, INC	LAKEWOOD WATER SYSTEM-PARTS	266.01
122816 01/24/2023	CHK	DAY	DAY WIRELESS SYSTEMS	RECURRING CHARGES-TWO WAY RADIO 26 UNITS	681.48
122817 01/24/2023	CHK	HOOD CANAL	HOOD CANAL MARKET FRESH	to replace lost check #122396	64.05
122818 01/24/2023	CHK	LILLIWAUP FAL	LILLIWAUP FALLS GENERATING COMP	DECEMBER POWER USAGE	16,189.48
122819 01/24/2023	CHK	SCOTT MCLEND	SCOTT MCLENDON'S HARDWARE #2	TIGER LAKES WATER-PARTS	91.66
122820 01/24/2023	CHK	ULINE	ULINE	STACKABLE BINS & BIN DIVIDERS	362.57
122821 01/24/2023	CHK	2	CITY OF MCCLEARY	PURCHASE NON INVENTORY ELECTRIC MATERIAL	391.60
122822 01/25/2023	CHK	ASPECT CONSU	ASPECT CONSULTING LLC	UNION GROUND WATER MODELING WORK PLAN	4,613.00
122823 01/25/2023	CHK	BUILDERS	BUILDERS FIRSTSOURCE, INC	TIGER LAKES WATER-SUPPLIES	1,214.69
122824 01/25/2023	CHK	FCS	FCS GROUP SOLUTIONS-ORIENTED CO	WATER RATE STUDY	860.00
122825 01/25/2023	CHK	FERRIER	JANIECE FERRIER	MONTHLY REIMBURSEMENT-#0911011922	1,502.80
122826 01/25/2023	CHK	HDFOWL	HD FOWLER COMPANY	WATER INVENTORY PARTS-METTER SETTER	3,564.07
122827 01/25/2023	CHK	HOOD CANAL	HOOD CANAL MARKET FRESH	TIGER LAKES WATER-PARTS	131.85
122828 01/25/2023	CHK	L.G.	L. G. ISAACSON CO. INC.	SUPPLIES FOR NEW BUCKET TRUCKS	226.04
122829 01/25/2023	CHK	JATC	NORTHWEST LINE J.A.T.C.	1ST YEAR & 2ND YEAR CAMP RILEA-LJ & RUDY	5,830.00
122830 01/25/2023	CHK	PARSON	PARSONS DIESEL & STEAM	SERVICE VARIOUS VEHICLES	2,682.66
122831 01/25/2023	CHK	ROHLIN	ROHLINGER ENTERPRISES INC	CLEAN, TEST GLOVES, & PURCHASE NEW GLOVE	827.08
122832 01/25/2023	CHK	SCOTT MCLEND	SCOTT MCLENDON'S HARDWARE #2	TIGER LAKES WATER-PARTS	71.02
122833 01/25/2023	CHK	NAPA AUTO PA	WESTBAY NAPA AUTO PARTS	SHOP	63.18
122834 01/25/2023	CHK	MUNCHR	MUNCH, ROY	MONTHLY REIMBURSEMENT	841.60

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Bank Account: 4 - COLUMBIA BANK - DISTRICT

Check / Tran Date	Pmt Type	Vendor	Vendor Name	Reference	Amount
122835 01/25/2023	CHK	HOODCA	HOOD CANAL COMMUNICATIONS	TRITON CERB PROJECT	64,743.14
122836 01/25/2023	CHK	MENARD CONS	MENARD CONSULTING, INC	GASB 75 ACTUARIAL VALUATION	1,800.00
122837 01/25/2023	CHK	2	ANDREW COOPER	REPLACE LOST CHECK#122415 INACTIVE REFUN	45.71
122838 01/25/2023	CHK	2	MLS ENTERPRISE, INC	TRITON 101 FIGER BUILDOUT	180,918.00
122839 01/25/2023	CHK	2	MLS ENTERPRISE, INC	TRITON 101 FIBER BUILDOUT	8,740.00
122840 01/26/2023	CHK	ASPECT CONSU	ASPECT CONSULTING LLC	POLE YARD CLEAN-UP	2,914.50
122841 01/26/2023	CHK	2	SCELZI ENTERPRISES, INC	VEHICLE #80-INSTALL SERVICE BODY	53,277.23
122842 01/27/2023	CHK	KESTER	KESTER, GREGORY C.	MONTHLY REIMBURSEMENT	1,522.26
122843 01/31/2023	CHK	WASH 8	WASHINGTON STATE	JANUARY 2023-HEALTH, DENTAL, & LTD	50,706.30
122844 02/01/2023	CHK	IBEW	IBEW LOCAL UNION #77	UNION DUES	992.55
122845 02/01/2023	CHK	PUDEMP	PUD #1 EMPLOYEE FUND	EMPLOYEE FUND	250.00
122846 02/06/2023	CHK	A WORKSAFE	A WORKSAFE SERVICE, INC	DRUG & ALCOHOL TESTING	217.00
122847 02/06/2023	CHK	AFLAC	AFLAC	SUPPLEMENTAL INSURANCE	145.04
122848 02/06/2023	CHK	ALTEC	ALTEC INDUSTRIES INC	VEHICLE #82-BOLT CUTTERS	976.97
122849 02/06/2023	CHK	ANIXTER	ANIXTER INC	ELECTRIC NON INVENTORY PARTS-CLAMPS	4,284.81
122850 02/06/2023	CHK	ASPECT CONSU	ASPECT CONSULTING LLC	POLE YARD CLEAN-UP	3,588.00
122851 02/06/2023	CHK	BUILDERS	BUILDERS FIRSTSOURCE, INC	LAKEWOOD WATER-PARTS	171.18
122852 02/06/2023	CHK	CAPIT2	CAPITAL INDUSTRIAL, INC.	STEEL	326.19
122853 02/06/2023	CHK	COLONI	COLONIAL LIFE INSURANCE	SUPPLEMENTAL INSURANCE	712.71
122854 02/06/2023	CHK	CRC	COOPERATIVE RESPONSE CENTER, INC	AFTER HOURS ANSWERING SERVICE	1,653.67
122855 02/06/2023	CHK	DON SMALL & S	DON SMALL & SONS OIL DIST	GAS & DIESEL	3,558.34
122856 02/06/2023	CHK	FEDEX	FEDEX	SHIPPING CHARGES-BACKFLOW TESTER	22.22
122857 02/06/2023	CHK	GORDON TRUC	FREIGHTLINER NORTHWEST OLYMPIA	VEHICLE #82-LAMP	438.67
122858 02/06/2023	CHK	GE SOFTWARE	GE SOFTWARE INC DBA EKOS	EKOS FUEL SITE MODULE	80.00
122859 02/06/2023	CHK	GENPAC	GENERAL PACIFIC INC	ELECTRIC INVENTORY PARTS-CROSSARMS	5,384.31
122860 02/06/2023	CHK	GOLDSTREET	GOLDSTREET DESIGN AGENCY, INC.	WEBSITE HOSTING	50.00

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Accounts Payable Check Register

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Bank Account: 4 - COLUMBIA BANK - DISTRICT

Check / Tran Date	Pmt Type	Vendor	Vendor Name	Reference	Amount
122861 02/06/2023	CHK	GONZALES, RU	RUDY GONZALES	CLOTHING ALLOWANCE	200.00
122862 02/06/2023	CHK	HDFOWL	HD FOWLER COMPANY	WATER NON INVENTORY PARTS	34,999.10
122863 02/06/2023	CHK	HODDER & ASS	HODDER & ASSOCIATES	CONSULTING-VARIOUS PROJECTS	8,662.50
122864 02/06/2023	CHK	HOODCA	HOOD CANAL COMMUNICATIONS	INTERNET, IT SERVICES, & ALARM DIALER	5,533.46
122865 02/06/2023	CHK	HOOD CANAL	HOOD CANAL MARKET FRESH	TIGER LAKES WATER-PAINT TRAY	4.98
122866 02/06/2023	CHK	LEMAY MOBILE	LEMAY MOBILE SHREDDING	BALANCE OWING FROM DECEMBER-ONLY PD 1/2	61.05
122867 02/06/2023	CHK	MASON CO GAR	MASON COUNTY GARBAGE	MO. CARDBOARD CHARGES	214.54
122868 02/06/2023	CHK	SHEL 2	MASON COUNTY JOURNAL	LEGAL NOTICE-INSTALL AERIAL FIBER AD	1,240.00
122869 02/06/2023	CHK	MILROY	BRANDY MILROY	TRAVEL PER DIEM-HR WORKSHOP	109.00
122870 02/06/2023	CHK	MTN2COAST	MTN2COAST, LLC	BAY EAST WATER-BOUNDARY SURVEY	3,440.00
122871 02/06/2023	CHK	NWSS	NORTHWEST SAFETY SERVICE LLC	SAFETY SERVICE-JANUARY 12, 2023	1,136.25
122872 02/06/2023	CHK	NWPPA	NWPPA	LABOR & EMPLOYEE RELATIONS MEETING-KATIE	225.00
122873 02/06/2023	CHK	PACIF1	PACIFIC UNDERWRITERS CORP	SUPPLEMENTAL INSURANCE-JULIE	15.92
122874 02/06/2023	CHK	PARSON	PARSONS DIESEL & STEAM	SERVICE VARIOUS TRUCKS	3,149.21
122875 02/06/2023	CHK	PLATT ELECTRI	PLATT	#82 METER TESTER & LEADS FOR #61 TESTER	1,177.84
122876 02/06/2023	CHK	RICOH USA	RICOH USA, INC.	RENT ON TWO MACHINES & ADDITIONAL IMAGES	514.29
122877 02/06/2023	CHK	SCOTT MCLEND	SCOTT MCLENDON'S HARDWARE #2	TIGER LAKES WATER-SUPPLIES	227.67
122878 02/06/2023	CHK	SPECTRA LAB	SPECTRA LABORATORIES-KITSAP, LLC	VARIOUS WATER SAMPLES	1,403.50
122879 02/06/2023	CHK	STANDARD PES	STANDARD PEST CONTROL	QUARTERLY PEST CONTROL-PUD OFFICES & SHO	211.58
122880 02/06/2023	CHK	STELLA-JONES	STELLA-JONES CORPORATION	ELECTRIC INVENTORY PARTS-(36)POLES	46,956.63
122881 02/06/2023	CHK	SHOP	THE SHOPPER'S WEEKLY	BUSINESS CARDS-MATT	331.04
122882 02/06/2023	CHK	TOZIER	TOZIER BROS, INC	SHOP	168.77
122883 02/06/2023	CHK	34	WASHINGTON ALARM, INC	MONTHLY BILLING-SECURITY SYSTEM OFFICE	182.28
122884 02/06/2023	CHK	2	CONSUMERS POWER, INC	N2 USERS GROUP MEETING-KATIE & LISA	500.00
122885 02/06/2023	CHK	2	MARK W ILER	REIMBURSE-WIRE NOT USED	42.50
122886 02/06/2023	CHK	2	DILBAR MURTAZINA	MR Refund	126.26

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Accounts Payable Check Register

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Bank Account: 4 - COLUMBIA BANK - DISTRICT

Check / Tran Date	Pmt Type	Vendor	Vendor Name	Reference	Amount
122887 02/06/2023	CHK	180 ENGINEERIN	180 ENGINEERING, PLLC	DUCKABUSH LINE RELOCATION	2,137.50
122888 02/06/2023	CHK	MASON CO GAR	MASON COUNTY GARBAGE	20YARD ROLL OFF & OFF HAUL	206.04
122889 02/06/2023	CHK	US BANK-CCC	US BANK	ACCT# 4484 7345 5001 2554	9,331.10
122890 02/06/2023	CHK	USA	USA BLUEBOOK	BELAIRE WATER-PARTS FOR CHLORINATOR	358.37
122891 02/06/2023	CHK	UTILI1	UTILITIES UNDERGROUND LOCATION	MONTHLY UNDERGROUND LOCATES	52.36
122892 02/06/2023	CHK	VERIZO	VERIZON WIRELESS	MONTHLY TABLETS & (3)CELLULAR CHARGES	1,092.20
122893 02/06/2023	CHK	WPUDA	WASHINGTON PUD ASSOC.	MONTHLY DUES	1,887.00
122894 02/06/2023	CHK	WASH 22	WASHINGTON STATE DEPT OF REVEN	2022 4th quarter leasehold tax	18,576.21VOID
122895 02/06/2023	CHK	NAPA AUTO PA	WESTBAY NAPA AUTO PARTS	SHOP	257.07
122896 02/06/2023	CHK	MASTELLER	KRISTIN MASTELLER	TRAVEL EXPENSE REIMBURSEMENT	796.95
122897 02/07/2023	CHK	CITI CARDS	CITI CARDS	MO.CITI CARD ACCOUNT NUMBER ENDING 4326	19,230.67
Total Payments for Bank Account - 4 :					(112) 1,348,610.98
Total Voids for Bank Account - 4 :					(3) 24,092.43
Total for Bank Account - 4 :					(115) 1,372,703.41
Grand Total for Payments :					(112) 1,348,610.98
Grand Total for Voids :					(3) 24,092.43
Grand Total :					(115) 1,372,703.41

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PARAMETERS ENTERED:**Check Date:** 01/23/2023 To 02/09/2023**Bank:** All**Vendor:** All**Check:****Journal:** All**Format:** Summary**Extended Reference:** No**Sort By:** Check/Transaction**Voids:** Current**Payment Type:** All**Group By Payment Type:** No**Minimum Amount:** 0.00**Authorization Listing:** No**Credit Card Charges:** No

02/09/2023 10:06:41 AM

GENERAL LEDGER TRANSACTION DETAIL

Page: 1

FEB 2023 To FEB 2023

Date	Journal Description	Actv BU Project	Mod	Jrnl Reference Code	
Account: 0 131.2 CASH-GENERAL FUND (DISTRICT)			Department:	0	Beginning Balance:
02/01/23	72371 Check Print	0	PL	2 PAYROLL	84,807.82

PARAMETERS ENTERED:

Division: All

Accounts: 0 131.2

Department: All

Activity: All

Sort By: Div/Acct

Date Selection: Period

Period: FEB 2023 To FEB 2023

Module: PL

Journal Activity: All

Accounts With No Transactions: Yes

Extended Reference: No

Interface Detail: No

Group by Department: Yes

51217

/pro/rpttemplate/acct/2.55.1/gl/GL_TRANS_DETAIL.xml.rpt

Karnold

Washington State Military Department
HAZARD MITIGATION GRANT AGREEMENT FACE SHEET

1. Subrecipient Name and Address: Mason County PUD No.1 21971 N Hwy 101 Shelton, WA 98584		2. Total Grant Amount: \$971,726.00 F \$874,553.00 SubMC \$48,586.30 S \$48,586.30 L \$48,586.30		3. Grant Number:									
4. Subrecipient Contact, phone/email: Katie Arnold, 360-877-5249 / karnold@mason-pud1.org		5. Grant Start Date: January 27, 2023		6. Grant End Date: April 23, 2024									
7. Department Program Manager, phone/email: Tim Cook, (253) 512-7072 tim.cook@mil.wa.gov		8. Unique Entity ID (UEI): KD7HQJF4JNCP		9. UBI # (state revenue): 232 000 374									
10. Funding Authority: Washington State Military Department (the "DEPARTMENT"), and Federal Emergency Management Agency (FEMA)													
11. Funding Source Agreement #: HMGP DR-4539-07-R		12. Program Index # 704F1, 702S1, SubMC 702L1		13. Assistance Listing # & Title: 97.039 (HMGP) Jan 20 Storms									
14. Total Federal Award Amount: \$874,553.00		15. Federal Award Date: January 27, 2023		16. TIN or SSN: 91-6001048									
17. Service Districts: (BY LEGISLATIVE DISTRICT): 35th (BY CONGRESSIONAL DISTRICT): 6th		18. Service Area by County(ies): Mason County		19. Women/Minority-Owned, State Certified?: <input checked="" type="checkbox"/> N/A <input type="checkbox"/> NO <input type="checkbox"/> YES, OMWBE # _____									
20. Contract Classification: <input type="checkbox"/> Personal Services <input type="checkbox"/> Client Services <input checked="" type="checkbox"/> Public/Local Gov't <input type="checkbox"/> Research/Development <input type="checkbox"/> A/E <input type="checkbox"/> Other _____			21. Contract Type (check all that apply): <input type="checkbox"/> Contract <input checked="" type="checkbox"/> Grant <input checked="" type="checkbox"/> Agreement <input type="checkbox"/> Intergovernmental (RCW 39.34) <input type="checkbox"/> Interagency										
22. Contractor Selection Process: <input checked="" type="checkbox"/> "To all who apply & qualify" <input type="checkbox"/> Competitive Bidding <input type="checkbox"/> Sole Source <input type="checkbox"/> A/E RCW <input type="checkbox"/> N/A <input type="checkbox"/> Filed w/OFM? <input type="checkbox"/> Advertised? <input type="checkbox"/> YES <input type="checkbox"/> NO _____			23. Contractor Type (check all that apply) <input type="checkbox"/> Private Organization/Individual <input type="checkbox"/> For-Profit <input checked="" type="checkbox"/> Public Organization/Jurisdiction <input checked="" type="checkbox"/> Non-Profit <input type="checkbox"/> VENDOR <input checked="" type="checkbox"/> SUBRECIPIENT <input checked="" type="checkbox"/> OTHER										
<p>24. PURPOSE/DESCRIPTION:</p> <p>FEMA's Hazard Mitigation Grant Program provides grants for mitigation planning and cost-effective mitigation actions after a Presidential disaster declaration to reduce the risk of loss of life and property damage in future disasters.</p> <p>Title: Mason County Public Utility District No.1 Electrical Line Undergrounding Project. The purpose of this Agreement is to provide funds to the SUBRECIPIENT for the herein proposed project as noted in Statement of Work and/or Description of the Project (Attachment 3), Project Development Schedule (Attachment 4), Project Budget (Attachment 5), and the FEMA approved project application, each of which are incorporated herein by this reference.</p> <p>The DEPARTMENT is the Recipient and Pass-through Entity of the Presidential Disaster Declaration #FEMA-4539-DR-WA Hazard Mitigation Grant Program Jan 20 Storms and FEMA State Agreement, which are incorporated by reference, and makes a subaward of Federal award funds to the SUBRECIPIENT pursuant to this Agreement. The SUBRECIPIENT is accountable to the DEPARTMENT for use of Federal award funds provided under this Agreement and the associated matching funds.</p> <p>IN WITNESS WHEREOF, the DEPARTMENT and SUBRECIPIENT acknowledge and accept the terms of this Agreement, exhibits, references and attachments hereto and have executed this Agreement as of the date and year written below. This Agreement Face Sheet; Special Terms & Conditions (Attachment 1); General Terms and Conditions (Attachment 2); Statement of Work and/or Description of Project (Attachment 3); Project Development Schedule (Attachment 4); Project Budget (Attachment 5); and all other documents, exhibits and attachments expressly referenced and incorporated herein contain all the terms and conditions agreed upon by the parties and govern the rights and obligations of the parties to this Agreement. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.</p> <p>In the event of an inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:</p> <table style="width: 100%;"> <tr> <td>1. Applicable Federal and State Statutes and Regulations</td> <td>5. Special Terms and Conditions</td> </tr> <tr> <td>2. DHS Standard Terms and Conditions</td> <td>6. General Terms and Conditions, and,</td> </tr> <tr> <td>3. Presidential Declaration, FEMA State Agreement, and other associated documents</td> <td>7. Other provisions of the contract incorporated by reference.</td> </tr> <tr> <td>4. Statement of Work and/or Project Description as outlined in FEMA approved Project Application</td> <td></td> </tr> </table>						1. Applicable Federal and State Statutes and Regulations	5. Special Terms and Conditions	2. DHS Standard Terms and Conditions	6. General Terms and Conditions, and,	3. Presidential Declaration, FEMA State Agreement, and other associated documents	7. Other provisions of the contract incorporated by reference.	4. Statement of Work and/or Project Description as outlined in FEMA approved Project Application	
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4. Statement of Work and/or Project Description as outlined in FEMA approved Project Application													
<p>WHEREAS, the parties hereto have executed this Agreement on the day and year last specified below.</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>FOR THE DEPARTMENT:</p> <p>_____ Signature Date Regan Anne Hesse, Chief Financial Officer Washington State Military Department</p> <p>APPROVED AS TO FORM:</p> <p>_____ Signature on File 4/17/2020</p> </div> <div style="width: 45%;"> <p>FOR THE SUBRECIPIENT:</p> <p>_____ Signature Date print or type name: _____ print or type position: _____</p> <p>APPROVED AS TO FORM:</p> </div> </div>													

Brian E. Buchholz
Assistant Attorney General

Date

Date

**Washington State Military Department
SPECIAL TERMS AND CONDITIONS**

ARTICLE I. KEY PERSONNEL:

The individuals listed below shall be considered key personnel for point of contact under this Agreement. Any substitution of key personnel by either party shall be made by written notification to the current key personnel.

SUBRECIPIENT		MILITARY DEPARTMENT	
Name	Katie Arnold	Name	Tim Cook
Title	Director of Business Services	Title	State Hazard Mitigation Officer
E-Mail	karnold@mason-pud1.org	E-Mail	tim.cook@mil.wa.gov
Phone	(360) 877-5249 ext. 219	Phone	253-512-7072
Name	Kristin Masteller	Name	Jennifer Wamboldt
Title	General Manager	Title	Mitigation Coordinator
E-Mail	kristinm@mason-pud1.org	E-Mail	jennifer.wamboldt@mil.wa.gov
Phone	(360) 877-5249 ext.202	Phone	253-512-7334 / 253-255-8620
Name		Name	Matt Lebens
Title		Title	Mitigation Program Manager
E-Mail		E-Mail	Matthew.Lebens@mil.wa.gov
Phone		Phone	253-512-7042

ARTICLE II ADMINISTRATIVE REQUIREMENTS

The SUBRECIPIENT shall comply with all applicable state and federal laws, rules, regulations, requirements, and program guidance identified or referenced in this Agreement and the informational documents published by FEMA applicable to the Presidential Disaster Declaration including, but not limited to, all criteria, restrictions, and requirements of the "FEMA State Agreement" published by FEMA and the federal regulations commonly applicable to FEMA grants, all of which are incorporated herein by reference. **The FEMA Award Binder and its attachments are incorporated in this Agreement as Attachment 6.**

The SUBRECIPIENT acknowledges that since this Agreement involves federal award funding, the period of performance described herein may begin prior to the availability of appropriated federal funds. The SUBRECIPIENT agrees that it will not hold the DEPARTMENT, the State of Washington, or the United States liable for any damages, claim for reimbursement, or any type of payment whatsoever for services performed under this Agreement prior to distribution of appropriated federal funds, or if federal funds are not appropriated or in a particular amount.

A. STATE AND FEDERAL REQUIREMENTS FOR HAZARD MITIGATION GRANTS:

The following requirements apply to all FEMA Hazard Mitigation Grants administered by the DEPARTMENT.

1. SUBAWARDS & CONTRACTS BY SUBRECIPIENTS

- a. The SUBRECIPIENT must make a case-by-case determination whether each agreement it makes for the disbursement of HMGP funds received under this Agreement casts the party receiving the funds in the role of a subrecipient or contractor in accordance with 2 CFR 200.331.

2. PROJECT FUNDING

The DEPARTMENT will administer the **(Hazard Mitigation Grant Program)** and will pass through the federal match **(and commit the available state match).** The SUBRECIPIENT will commit the required local match.

- a. The total cost of the project (total project cost) for the purposes of this Agreement is **\$ 971,726.00** dollars; PROVIDED that, if the total cost of the project when completed, or when this Agreement is terminated, is actually less than above, the actual cost shall be substituted herein.
- b. The value of the contributions by the SUBRECIPIENT to the project shall be **\$ 48,586.30** dollars, or **5%** percent, at minimum, of the total project cost. The SUBRECIPIENT's contributions may be cash or in-kind, must be from a non-federal source, must be reasonable, allowable and allocable, and must comply with all Federal requirements and regulations.
- c. When the DEPARTMENT enters into an agreement with the Federal Emergency Management Agency (FEMA) to contribute federal funds to this project, that federal contribution will be **\$ 874,553.40** dollars, or **90 percent** of the total project cost, whichever is less.
- d. The value of the contributions by the DEPARTMENT to the project shall be **\$ 48,586.30** dollars, or **5 percent**, at minimum, of the total project cost. The DEPARTMENT's contributions must be from a non-federal source and must comply with all Federal requirements and regulations.
- e. The Federal Emergency Management Agency (FEMA) has contributed federal funds for Subrecipient Management Costs (SubMC). SubMC includes costs for administering the grant and indirect costs. This federal contribution is in addition to the federal award for project costs and is suitable for 100% reimbursement for eligible expenses. The maximum amount available for SubMC is **\$ 48,586.30** dollars, limited to 5% of the eligible project expenditures for administrative, indirect, or overhead costs, whichever is less.
- f. The DEPARTMENT shall not be obligated to pay any amount beyond that set out in **Subsections c, d, and e above**, unless that additional amount has been approved in advance by both the DEPARTMENT and SUBRECIPIENT and is incorporated by written amendment into this Agreement.
- g. A written amendment will be required if the SUBRECIPIENT expects cumulative transfers between project budgets, as identified in the Project budget (Attachment 5) and the Statement of Work and/or description of Project (Attachment 3), to exceed 10% of the Grant Agreement Amount. Any changes to project budgets other than in compliance with this paragraph will not be reimbursed.

3. GRANT AGREEMENT PERIOD

Activities payable under this Agreement and to be performed by the SUBRECIPIENT under this Agreement shall only be those after the obligation of federal funds on **January 30, 2023** and shall terminate on **April 23, 2024**. This period shall be referred to herein as the Grant Agreement Period and/or Period of Performance, unless expressly stated otherwise. Costs incurred during the Grant Agreement Period shall include pre-award costs authorized in writing by FEMA as well as eligible costs incurred after the effective date of the Grant Agreement Period and before termination.

- a. The SUBRECIPIENT shall complete the project as described in the FEMA approved project application **(DR-4539-07-R)**, incorporated in and made a part of this Agreement by reference, and as described in Attachments 3, 4, and 5. In the event of extenuating circumstances, the SUBRECIPIENT may request, in writing, that the DEPARTMENT extend the deadline for Grant Agreement completion.
- b. The Grant Agreement Period shall only be extended by (1) written notification of FEMA approval of the Grant Agreement Period followed by execution of a mutually agreed written amendment, or (2) written notification from the DEPARTMENT to the SUBRECIPIENT addressing extensions of the Department's underlying federal grant performance period or to provide additional time for completion of the SUBRECIPIENT's project(s).
- c. No expenditure made, or obligation incurred, before or after the Grant Agreement Period shall be eligible, in whole or in part, for grant funds with the exception of pre-award costs

authorized in writing by FEMA. In addition to any remedy the DEPARTMENT may have under this Agreement, the amounts set out in Article II, section A.2 **Project Funding**, above, may be reduced to exclude any such expenditure from participation.

- d. Failure to complete the project in a timely manner, as outlined in Attachment 4, is a material breach of this Agreement for which the DEPARTMENT is entitled to termination or suspension under Attachment 2, section A.36.

4. REIMBURSEMENT AND BUDGET REQUIREMENTS

The DEPARTMENT, using disaster funds from PL 93-288, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, and the State of Washington, for the Hazard Mitigation Grant Program, shall issue payments to the SUBRECIPIENT as follows:

- a. All payment requests shall be made to the SUBRECIPIENT upon submission and approval of eligible, reimbursable work completed and billed on an A-19, form, State of Washington Invoice Voucher Distribution. Approval is subject to receipt of acceptable documentation by the DEPARTMENT, to include, but not limited to, copies of receipts for all goods and services purchased, copies of invoices from contractors and subcontractors for work completed, and copies of timesheets for staff involved with the project, sign-in/sign-out sheets for donated personnel and/or volunteer time spent on the project, and documentation to support other in-kind contributions.
- b. The DEPARTMENT reserves the right to withhold disbursement of up to 10 percent of the total project cost, as specified in Article II, Section A.2.f Project Funding, to the SUBRECIPIENT until the project has been completed and given final approval by the DEPARTMENT.
- c. Final Payment: Final payment of any remaining, or withheld, funds will be made within 60 days after submission by the SUBRECIPIENT of the final report, final A-19, Voucher Distribution, and completion of all final inspections by the DEPARTMENT.
Final payment by the DEPARTMENT also may be conditioned upon a financial review, if determined necessary by the DEPARTMENT. Adjustments to the final payment may be made following any audits conducted by the DEPARTMENT, Washington State Auditor's Office, the United States Inspector General, or their authorized representatives.
- d. Within the total Grant Amount of this Agreement, budget categories will be reimbursed on an actual cost basis unless otherwise provided in this Agreement.
- e. The maximum amount of all reimbursement requests permitted to be submitted under this Agreement, including the final reimbursement request, is limited to and shall not exceed the total Grant Amount of this Agreement.
- f. For travel costs, SUBRECIPIENTS shall comply with 2 CFR 200.475 and should consult their internal policies, state rates set pursuant to RCW 43.03.050 and RCW 43.03.060 as now existing or amended, and federal maximum rates set forth at <http://www.gsa.gov>, and follow the most restrictive. If travel costs exceed set state or federal limits, travel costs shall not be reimbursed without written approval by DEPARTMENT's Key Personnel.
- g. Receipts and/or backup documentation for any approved items that are authorized under this Agreement must be maintained by the SUBRECIPIENT consistent with record retention requirements of this Agreement, and be made available upon request by the DEPARTMENT, and local, state, or federal auditors.
- h. The SUBRECIPIENT will submit reimbursement requests to the DEPARTMENT by submitting a properly completed State A-19 Invoice Form, Interagency Electronic Funds Transfer, or Agency/Business invoice with support documentation detailing the expenditures for which reimbursement is sought. Reimbursement requests must be submitted by email to both the DEPARTMENT's Hazard Mitigation Program Coordinator and the Program Manager no later than the due dates listed within the Grant Timeline (Attachment 4), but not more frequently than monthly.

- i. All work under this Agreement must end on or before the Grant Agreement End Date, and the final reimbursement request must be submitted to the DEPARTMENT within 45 days after the Grant Agreement End Date, except as otherwise authorized by written amendment of this Agreement and issued by the DEPARTMENT.
- j. If applicable, no costs for purchases of equipment/supplies will be reimbursed until the related equipment/supplies have been received by the SUBRECIPIENT, its contractor, or any non-federal entity to which the SUBRECIPIENT makes a subaward, and is invoiced by the vendor.
- k. Failure to timely submit complete reports and reimbursement requests as required by this Agreement (including but not limited to those reports in the Project Development Schedule Attachment 4) will prohibit the SUBRECIPIENT from being reimbursed until such complete reports and reimbursement requests are submitted and the DEPARTMENT has had reasonable time to conduct its review. Final reimbursement requests will not be approved for payment until the SUBRECIPIENT is current with all reporting requirements contained in this Agreement.
- l. SUBRECIPIENTS shall only use federal award funds under this Agreement to supplement existing funds, and will not use them to replace (supplant) non-federal funds that have been budgeted for the same purpose.

The SUBRECIPIENT may be required to demonstrate and document that the reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds.

5. REPORTING REQUIREMENTS

In addition to the reports as may be required elsewhere in this Agreement, the SUBRECIPIENT shall promptly prepare and submit the following reports to the DEPARTMENT's Key Personnel:

- a. Quarterly progress reports, no later than the 15th day following the end of the fiscal quarter, indicating the status of the project, to include a brief narrative on progress during the quarter. The report shall identify the costs incurred to date, the percentage of work completed, the anticipated completion date of the project, and whether cost under runs or over runs are expected. In addition, the SUBRECIPIENT should note any challenges or issues associated with the project. Failure to submit a complete quarterly report within 15 days following the end of the quarter will result in suspension of all payments to the SUBRECIPIENT until a complete quarterly report is received by the DEPARTMENT.
- b. A final report when the project is completed, prematurely terminated, or project assistance is terminated. The report shall include a final accounting of all expenditures and a description of work accomplished. If the project is not completed, the report shall contain an estimate of the percentage of completion, and shall indicate the degree of usefulness of the completed project. The report shall account for all expenditures not previously reported and shall include a summary for the entire project.
- c. The SUBRECIPIENT shall submit a quarterly progress report describing current activities as outlined in the Timeline.
- d. The SUBRECIPIENT shall submit a Final Report with final reimbursement no later than 45 days after Agreement End Date.
- e. The SUBRECIPIENT shall also comply with the Federal Funding Accountability and Transparency Act (FFATA) and related OMB Guidance consistent with Public Law 109-282 as amended by section 6202(a) of Public Law 110-252 (see 31 U.S.C. 6101 note), and complete and return to the DEPARTMENT the FFATA Form located at <http://mil.wa.gov/emergency-management-divison/grants/requiredgrantforms>; which is incorporated by reference and made a part of this Agreement.

6. PROCUREMENT

The SUBRECIPIENT shall comply with all procurement requirements of 2 CFR Part 200.318 through 200.326 and as specified in the General Terms and Conditions, **Attachment 2**, A.11.

7. TIME EXTENSIONS

A time extension request for Agreement completion must be submitted by the SUBRECIPIENT to the DEPARTMENT no later than 60 days before the end of the Period of Performance. A time extension request must be in writing and identify the project, the reason the project will not be completed within the approved Period of Performance, a current status of the completion of the work, a detailed timeline for completion of the remaining elements, and an anticipated completion date for the completion of the remaining work. Failure to timely submit a complete time extension request may result in denial of the time extension and loss of funding for the project.

8. SUBRECIPIENT MONITORING

- a. The DEPARTMENT will monitor the activities of the SUBRECIPIENT from award to closeout. The goal of the DEPARTMENT'S monitoring activities will be to ensure that agencies receiving federal pass-through funds are in compliance with this Agreement, federal and state audit requirements, federal grant guidance, and applicable federal and state financial regulations, as well as 2 CFR Part 200 Subpart F.
- b. To document compliance with 2 CFR Part 200 Subpart F requirements, the SUBRECIPIENT shall complete and return to the DEPARTMENT 2 CFR Part 200 Subpart F Audit Certification Form" located at <http://mil.wa.gov/emergency-management-division/grants/requiredgrantforms> with the signed Agreement and each fiscal year thereafter until the Agreement is closed, which is incorporated by reference and made a part of this Agreement.
- c. Monitoring activities may include, but are not limited to:
 - i. review of financial and performance reports;
 - ii. monitoring and documenting the completion of Agreement deliverables;
 - iii. documentation of phone calls, meetings, e-mails, and correspondence;
 - iv. review of reimbursement requests and supporting documentation to ensure allowability and consistency with Agreement work plan, budget, and federal requirements;
 - v. observation and documentation of Agreement related activities, such as exercises, training, funded events, and equipment demonstrations;
 - vi. on-site visits to review equipment records and inventories, to verify source documentation for reimbursement requests and performance reports, and to verify completion of deliverables.
- d. The SUBRECIPIENT is required to meet or exceed the monitoring activities, as outlined above and in 2 CFR Part 200, for any non-federal entity to which the SUBRECIPIENT makes a subaward as a pass-through entity under this Agreement.
- e. Compliance will be monitored throughout the performance period to assess risk. Concerns will be addressed through a Corrective Action Plan.

9. CLOSE-OUT

To initiate close-out, the SUBRECIPIENT is required to certify in writing the date completed and total amount expended on the project on FINAL PROJECT REPORT form to the DEPARTMENT. After receipt of the FINAL PROJECT REPORT form, the DEPARTMENT will conduct a site inspection and review supporting documentation for compliance with the requirements of the Agreement.

Prior to project close-out, the SUBRECIPIENT shall provide the DEPARTMENT with acceptable documentation supporting compliance with the Agreement. General documentation supporting compliance with the Agreement typically includes, but is not limited to, the following:

- Photographs of the structures or properties involved in the project **prior** to project implementation **and after** project implementation.
- Digital geospatial coordinates (latitude and longitude) for each structure with an accuracy of ± 20 meters (64) feet.

- Certificate of occupancy or equivalent documentation from the appropriate regulatory authority for each structure to certify it is code-compliant.
- Certification that the SUBRECIPIENT has met the environmental and historic preservation conditions of the grant award as described in this Agreement.
- Copies of all compliance and consultation documentation required by the grant award as described in the Agreement (e.g., coastal zone management consistency determination from Department of Ecology).
- Copies of all documentation related to inspection for and removal and disposal of asbestos and other hazardous materials from each property.

Specific additional documentation requirements for projects to acquire properties for open space include, but are not limited to, the following:

- Signed Statement of Voluntary Participation from owner of each acquired property.
- Documentation of dates of acquisition and structure demolition or removal from property for each property.
- Copy of recorded open space deed restrictions for each acquired property.
- Copy of AW-501 form filed with National Flood Insurance Program for each acquired repetitive loss property.
- Documentation of consultation with Army Corps of Engineers and State Department of Transportation regarding future use of each property.

Specific additional documentation requirements for projects to elevate structures above the base flood elevation include, but are not limited to, the following:

- Photographs of the structures prior to elevation, and front, rear and side photos post-elevation.
- Copies of the pre-project elevation certificate for each structure, or documentation of methodology used to calculate the first-floor elevations.
- Copies of the post-project elevation certificate for each structure.
- Copies of certificate of occupancy for each elevated structure to certify that it is code compliant.
- Certification by an engineer, floodplain manager or other senior official of the SUBRECIPIENT that each completed structural elevation is in compliance with local ordinances and National Flood Insurance Program regulations and technical bulletins.
- Copy of AW-501 form filed with National Flood Insurance Program for each elevated repetitive loss property.
- Copies of proof of flood insurance for each elevated structure.
- Copies of the recorded deed restriction related to maintenance of flood insurance for each property within the Special Flood Hazard Area.

The DEPARTMENT will consult with the SUBRECIPIENT regarding other documentation requirements of the Agreement throughout the Period of Performance.

The SUBRECIPIENT is required to retain all documentation which adequately identifies the source and application of all mitigation grant funds for six years following the closure of this grant. For all funds received, source documentation includes adequate accounting of actual costs and recoveries incurred.

10. LIMITED ENGLISH PROFICIENCY (CIVIL RIGHTS ACT OF 1964 TITLE VI)

All SUBRECIPIENTS must comply with the Title VI of the Civil Rights Act of 1964 (Title VI) prohibition against discrimination on the basis of national origin, which requires that SUBRECIPIENTS of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. Providing meaningful access for persons with LEP may entail providing language assistance services, including oral interpretation and written translation. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (August 11, 2000), requires federal

agencies to issue guidance to recipients, assisting such organizations and entities in understanding their language access obligations. DHS published the required recipient guidance in April 2011, DHS Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 76 Fed. Reg. 21755-21768, (April 18, 2011). The Guidance provides helpful information such as how a recipient can determine the extent of its obligation to provide language services; selecting language services; and elements of an effective plan on language assistance for LEP persons. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance at <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

11. ADDITIONAL SPECIAL CONDITIONS

- a. Construction Documents, Contracts, Change Orders
 - i. Construction Document Approval: The SUBRECIPIENT agrees to submit one copy of all construction plans and specifications to the DEPARTMENT for review and approval prior to solicitation of bids for construction.
 - ii. The SUBRECIPIENT shall use a competitive procurement process in the procurement and award of any contracts with contractors or sub-contractors that are entered into under the original contract award. The procurement process followed shall be in accordance with 2 CFR Part 200.318 General procurement standards through 200.326 Contract Provisions. Copies of all bids and contracts awarded shall be submitted to the DEPARTMENT upon request. Where all bids are substantially in excess of project estimates, the DEPARTMENT may, by notice in writing, suspend the project for determination of appropriate action, which may include termination of the Agreement.
 - iii. Construction Change Order: All change orders must be in writing and shall be submitted to the DEPARTMENT. The SUBRECIPIENT shall pay any increase in the cost of the project as the result of a change order, unless the DEPARTMENT has agreed to the change with a written amendment to this Agreement.

12. EQUIPMENT AND SUPPLY MANAGEMENT

- a. If applicable, SUBRECIPIENTS and any non-federal entity to which the SUBRECIPIENT makes a subaward shall comply with 2 CFR 200.318 – 200.326, to include but not limited to:
 - i. Upon successful completion of the terms of this Agreement, all equipment and supplies purchased through this Agreement will be owned by the SUBRECIPIENT, or a recognized non-federal entity to which the SUBRECIPIENT has made a subaward, for which a contract or other means of legal transfer of ownership is in place.
 - ii. All equipment, and supplies as applicable, purchased under this Agreement will be recorded and maintained in the SUBRECIPIENT's inventory system.
 - iii. Equipment records shall include: a description of the property; the manufacturer's serial number, model number, or other identification number; the source of the equipment, including the Federal Award Identification Number (FAIN); Assistance Listing number; who holds the title; the acquisition date; the cost of the equipment and the percentage of Federal participation in the cost; the location, use and condition of the equipment at the date the information was reported; and disposition data including the date of disposal and sale price of the property.
 - iv. The SUBRECIPIENT shall take a physical inventory of the equipment and reconcile the results with the property records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the records shall be investigated by the SUBRECIPIENT to determine the cause of the difference. The SUBRECIPIENT shall, in connection with the

inventory, verify the existence, current utilization, and continued need for the equipment.

- v. The SUBRECIPIENT shall be responsible for any and all operational and maintenance expenses and for the safe operation of their equipment and supplies including all questions of liability. The SUBRECIPIENT shall develop appropriate maintenance schedules and procedures to ensure the equipment and supplies are well maintained and kept in good operating condition.
 - vi. The SUBRECIPIENT must obtain and maintain all necessary certifications and licenses for the equipment.
 - vii. The SUBRECIPIENT shall develop a control system to ensure adequate safeguards to prevent loss, damage, and theft of the property. Any loss, damage, or theft shall be investigated and a report generated and sent to the Department.
 - viii. If the SUBRECIPIENT is authorized or required to sell the property, proper sales procedures must be established and followed to ensure the highest possible return.
 - ix. If, upon termination or at the Grant Agreement End Date, there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value which will not be needed for any other Federal award, or when original or replacement equipment is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency, the SUBRECIPIENT must comply with following procedures:
 - a) The SUBRECIPIENT may retain the supplies for use on other non-Federal related activities or sell them, but must compensate the Federal sponsoring agency for its share.
 - b) The SUBRECIPIENT must dispose of equipment as follows:
 - i). Items of equipment with a current per-unit fair market value of less than \$5,000 may be retained, sold or otherwise disposed of by the SUBRECIPIENT with no further obligation to the awarding agency.
 - ii). Items of equipment with a current per-unit fair market value of more than \$5,000 may be retained or sold and the SUBRECIPIENT shall compensate the Federal-sponsoring agency for its share.
 - x. Records for equipment shall be retained by the SUBRECIPIENT for a period of six years from the date of the disposition, replacement, or transfer. If any litigation, claim, or audit is started before the expiration of the six year period, the records shall be retained by the SUBRECIPIENT until all litigation, claims, or audit findings involving the records have been resolved.
- b. Unless expressly provided otherwise, all equipment must meet all mandatory regulatory and/or DHS/FEMA adopted standards to be eligible for purchase using Federal award funds.
 - c. Equipment purchased with DHS federal award funds is to be marked with "Purchased with funds provided by the U.S. Department of Homeland Security" when practicable.
 - d. As a SUBRECIPIENT of federal funds, the SUBRECIPIENT must pass on equipment and supply management requirements that meet or exceed the requirements outlined above to any non-federal entity to which the SUBRECIPIENT makes a subaward of federal award funds under this Agreement.

B. DHS FFY23 STANDARD TERMS AND CONDITIONS

As a SUBRECIPIENT of HMGP funding, the SUBRECIPIENT shall comply with all applicable FEMA/DHS terms and conditions of the FEMA Award Letter and its associated documents for DHS, which are incorporated in and made a part of this Agreement as Attachment 6.

**Washington State Military Department
GENERAL TERMS AND CONDITIONS
Mitigation Grants**

A.1 DEFINITIONS

As used throughout this Agreement, the following terms will have the meaning as defined in 2 CFR 200 Subpart A (which is incorporated herein by reference), except as otherwise set forth below:

- a. **"DEPARTMENT"** means the Washington State Military Department, as a state agency, any division, section, office, unit or other entity of the DEPARTMENT, or any of the officers or other officials lawfully representing that Department. DEPARTMENT is a recipient of a federal award directly from a federal awarding agency and is pass-through entity making a subaward to a subrecipient under this Agreement.
- b. **"SUBRECIPIENT"** when capitalized is primarily used throughout this Agreement in reference to the non-federal entity identified on the Face Sheet of this Agreement that has received a subaward from the DEPARTMENT. However, the definition of "subrecipient" is the same as in 2 CFR 200.93 for all other purposes. "
- c. **"Monitoring Activities"** means all administrative, financial, or other review activities that are conducted to ensure compliance with all state and federal laws, rules, regulations, authorities, and policies.
- d. **"Project"** shall mean those activities as described in the FEMA approved project application (insert application number), which are incorporated in and made a part of this Agreement by reference, and as described in Attachments 3, 4, and 5.
- e. **"Investment Justification"** means grant application investment justification submitted by the SUBRECIPIENT describing the project for which federal funding is sought and provided under this Agreement. Such grant application investment justification is hereby incorporated in and made a part of this Agreement by reference.

A.2 ADVANCE PAYMENTS

The DEPARTMENT shall make no payments in advance or in anticipation of goods or services to be provided under this Agreement. The SUBRECIPIENT shall not invoice the DEPARTMENT in advance of delivery and invoicing of such goods or services.

A.3 AMENDMENTS AND MODIFICATIONS

The SUBRECIPIENT or the DEPARTMENT may request, in writing, an amendment or modification of this Agreement. Modifications may be requested for Grant Agreement end date, budget or scope change. However, such amendment or modification shall not be binding, take effect or be incorporated herein until made in writing and signed by the authorized representatives of the DEPARTMENT and the SUBRECIPIENT. No other understandings or agreements, written or oral, shall be binding on the parties.

A.4 AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, 42 U.S.C. 12101 ET SEQ. AND ITS IMPLEMENTING REGULATIONS ALSO REFERRED TO AS THE "ADA" 28 CFR Part 35.

The SUBRECIPIENT must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunication.

A.5 APPLICATION REPRESENTATION-MISREPRESENTATION, INACCURACY AND BREACH

The DEPARTMENT relies upon the SUBRECIPIENT's application in making its determinations as to eligibility for, selection for, and scope of funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement.

A.6 ASSURANCES

DEPARTMENT and SUBRECIPIENT agree that all activity pursuant to this Agreement will be in accordance with all the applicable current federal, state and local laws, rules and regulations.

A.7 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, OR INELIGIBILITY

As federal funds are a basis for this Agreement, the SUBRECIPIENT certifies that the SUBRECIPIENT is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Agreement by any federal department or agency.

The SUBRECIPIENT shall complete, sign, and return a Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion form located at <http://mil.wa.gov/emergency-management-division/grants/requiredgrantforms>. Any such form completed by the SUBRECIPIENT for this Agreement shall be incorporated into this Agreement by reference.

Further, the SUBRECIPIENT agrees to comply with all applicable federal regulations concerning the federal debarment and suspension system, including 2 CFR Part 180. The SUBRECIPIENT certifies that it will ensure that potential sub-contractors or sub-recipients or any of their principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in "covered transactions" by any federal department or agency. "Covered transactions" include procurement contracts for goods or services awarded under a non-procurement transaction (e.g. grant or cooperative agreement) that are expected to equal or exceed \$25,000, and sub-awards to sub-recipients for any amount. With respect to covered transactions, the SUBRECIPIENT may comply with this provision by obtaining a certification statement from the potential sub-contractor or sub-recipient or by checking the System for Award Management (<http://www.sam.gov>) maintained by the federal government. The SUBRECIPIENT also agrees not to enter into any arrangements or contracts with any party on the Washington State Department of Labor and Industries' "Debarred Contractor List" (<http://www.lni.wa.gov/TradesLicensing/PrevWage/AwardingAgencies/DebarredContractors/>). The SUBRECIPIENT also agrees not to enter into any agreements or contracts for the purchase of goods and services with any party on the Department of Enterprise Services' Debarred Vendor List (<http://www.des.wa.gov/services/ContractingPurchasing/Business/Pages/Vendor-Debarment.aspx>).

A.8 CERTIFICATION REGARDING RESTRICTIONS ON LOBBYING

As required by 44 CFR Part 18, the SUBRECIPIENT hereby certifies that to the best of their knowledge and belief: (1) no federally appropriated funds have been paid or will be paid by or on behalf of the SUBRECIPIENT to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement; (2) that if any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Agreement, grant, loan, or cooperative agreement, the SUBRECIPIENT will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; (3) and that, as applicable, the SUBRECIPIENT will require that the language of this certification be included in the award documents for all subawards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into, and is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code.

A.9 COMPLIANCE WITH APPLICABLE STATUTES, RULES AND DEPARTMENT POLICIES

The SUBRECIPIENT and all its contractors shall comply with, and the DEPARTMENT is not responsible for determining compliance with, any and all applicable federal, state, and local laws, regulations, executive orders, OMB Circulars, and/or policies. This obligation includes, but is not limited to: nondiscrimination laws and/or policies, Equal Employment Opportunity, as amended by Executive Order 11375 of October 13, 1967, as supplemented by Department of Labor regulations (41 CFR chapter 60); Copeland Anti-Kickback Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3); Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5); Clean Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, Environmental Protection Agency regulations (40 CFR part 15); Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5); Energy Policy and Conservation Act (PL 94-163, 89 Stat. 871, as amended), the Americans with Disabilities Act (ADA), Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, Civil rights Act of 1968, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, (PL 93-288, as amended), Title 44 of the Federal Regulations, 2 CFR Part 3002, Ethics in Public Service (RCW 42.52), Covenant Against Contingent Fees (48 CFR Section 52.203-5), Public Records Act (RCW 42.56), Prevailing Wages on Public Works (RCW 39.12),

State Environmental Policy Act (RCW 43.21C), Shoreline Management Act of 1971 (RCW 90.58), State Building Code (RCW 19.27), Energy Related Building Standards (RCW 19.27A), Provisions in Buildings for Aged and Handicapped Persons (RCW 70.92), and safety and health regulations.

DEPARTMENT and SUBRECIPIENT agree that all activity pursuant to this Agreement will be in accordance with all the applicable current federal, state and local laws, rules and regulations.

In the event of the SUBRECIPIENT's or its contractor's noncompliance or refusal to comply with any applicable law, regulation, executive order, OMB Circular or policy, the DEPARTMENT may rescind, cancel, or terminate the Agreement in whole or in part in its sole discretion.

The SUBRECIPIENT is responsible for all costs or liability arising from its failure to comply with applicable laws, regulations, executive orders, OMB Circulars or policies.

A10. CONFLICT OF INTEREST

No officer or employee of the DEPARTMENT; no member, officer, or employee of the SUBRECIPIENT or its designees or agents; no member of the governing body of the jurisdiction in which the project is undertaken or located; and no other official of such the SUBRECIPIENT who exercises any functions or responsibilities with respect to the project during his or her tenure, shall have any personal or pecuniary gain or interest, direct or indirect, in any contract, subcontract, or the proceeds thereof, for work to be performed in connection with the project assisted under this Agreement. The SUBRECIPIENT shall incorporate, or cause to incorporate, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to this provision.

A.11 CONTRACTING & PROCUREMENT

a. The SUBRECIPIENT shall use a competitive procurement process in the procurement and award of any contracts with contractors or sub-contractors that are entered into under the original contract award. The procurement process followed shall be in accordance with 2CFR Part 200.318 General procurement standards through 200.326 Contract Provisions.

As required by Appendix II to 2 CFR Part 200, all contracts entered into by the SUBRECIPIENT under this Agreement must include the following provisions, as applicable:

1) Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

2) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

3) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

4) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage

determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

The procurement process followed shall be in accordance with 2 CFR Parts 200 and 3002, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations, as applicable to the SUB-GRANTEE. All subcontracting agreements entered into pursuant to this Agreement shall incorporate this Agreement by reference.

5) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

6) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

7) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

8) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

9) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in

connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

10) Procurement of recovered materials -- As required by 2 CFR 200.322, a non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

11) Notice of Federal awarding agency requirements and regulations pertaining to reporting.

12) Federal awarding agency requirements and regulations pertaining to copyrights and rights in data.

13) Access by the DEPARTMENT, the SUBRECIPIENT, the Federal awarding agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

14) Retention of all required records for six years after the SUBRECIPIENT has made final payments and all other pending matters are closed.

15) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

- b. The DEPARTMENT reserves the right to review the SUBRECIPIENT procurement plans and documents, and require the SUBRECIPIENT to make changes to bring its plans and documents into compliance with the requirements of 2 CFR Part 200.318 through 200.326/. The SUBRECIPIENT must ensure that its procurement process requires contractors and subcontractors to provide adequate documentation with sufficient detail to support the costs of the project and to allow both the SUBRECIPIENT and DEPARTMENT to make a determination on eligibility of project costs.
- c. All sub-contracting agreements entered into pursuant to this Agreement shall incorporate this Agreement by reference.

A.12 DISCLOSURE

The use or disclosure by any party of any information concerning the DEPARTMENT for any purpose not directly connected with the administration of the DEPARTMENT's or the SUBRECIPIENT's responsibilities with respect to services provided under this Agreement is prohibited except by prior written consent of the DEPARTMENT or as required to comply with the state Public Records Act, other law or court order.

A.13 DISPUTES

Except as otherwise provided in this Agreement, when a bona fide dispute arises between the parties and it cannot be resolved through discussion and negotiation, either party may request a dispute resolution panel to resolve the dispute. A request for a dispute resolution board shall be in writing, state the disputed issues, state the relative positions of the parties, and be sent to all parties. The panel shall consist of a representative appointed by the DEPARTMENT, a representative appointed by the Contractor and a third party mutually agreed upon by both parties. The panel shall, by majority vote, resolve the dispute. Each party shall bear the cost for its panel member and its attorney fees and costs, and share equally the cost of the third panel member.

A.14 DUPLICATION OF BENEFITS

The SUBRECIPIENT agrees that the funds for which federal or state assistance is requested does not, or will not, duplicate benefits or funds received for the same loss from any other source. The SUBRECIPIENT will pursue, and require sub-recipients to pursue, full payment of eligible insurance benefits for properties or any other losses covered in a project under this Agreement. The SUBRECIPIENT will repay the DEPARTMENT any funds provided under this grant agreement that are duplicated by other benefits, funds, or insurance proceeds. The SUBRECIPIENT will also seek recovery against any party or parties whose negligence or other intentional or tortious conduct may have caused or contributed to the expenditures for which these grants funds are provided. The SUBRECIPIENT will repay the DEPARTMENT any funds recovered by settlement, judgment or other court order in an action to recover funds provided by this grant. The SUBRECIPIENT shall notify the DEPARTMENT as early as possible and work cooperatively in conjunction with the DEPARTMENT and FEMA to ensure appropriate apportionment of any duplicated or recovered payment.

A.15 HAZARDOUS SUBSTANCES

The SUBRECIPIENT shall inspect and investigate the proposed development/construction site for the presence of hazardous substances. The SUBRECIPIENT shall fully disclose to the DEPARTMENT the results of its inspection and investigation and all other knowledge the SUBRECIPIENT has as to the presence of any hazardous substances at the proposed development/construction project site. The SUBRECIPIENT will be responsible for any associated clean-up costs. "Hazardous Substance" is defined in RCW 70.105D.020 (10).

A.16 LEGAL RELATIONS

It is understood and agreed that this Agreement is solely for the benefit of the parties to the Agreement and gives no right to any other party. No joint venture or partnership is formed as a result of this Agreement.

To the extent allowed by law, the SUBRECIPIENT, its successors or assigns, will protect, save and hold harmless the DEPARTMENT, the State of Washington, and the United States Government and their authorized agents and employees, from all claims, actions, costs, damages or expenses of any nature whatsoever by reason of the acts or omissions of the SUBRECIPIENT, its sub-contractors, assigns, agents, contractors, consultants, licensees, invitees, employees or any person whomsoever arising out of or in connection with any acts or activities authorized by this Agreement.

To the extent allowed by law, the SUBRECIPIENT further agrees to defend the DEPARTMENT and the State of Washington and their authorized agents and employees in any litigation; including payment of any costs or attorneys' fees for any claims or action commenced thereon arising out of or in connection with acts or activities authorized by this Agreement.

This obligation shall not include such claims, costs, damages or expenses which may be caused by the sole negligence of the DEPARTMENT; provided, that if the claims or damages are caused by or result from the concurrent negligence of (1) the DEPARTMENT, and (2) the SUBRECIPIENT, its agents, or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the SUBRECIPIENT, or SUBRECIPIENT's agents or employees.

Insofar as the funding source, the Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA), is an agency of the Federal government, the following shall apply:

44 CFR 206.9 Non-liability. The Federal government shall not be liable for any claim based upon the exercise or performance of, or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the federal government in carrying out the provisions of the Stafford Act.

A.17 LIMITATION OF AUTHORITY – Authorized Signature

The signatories to this Agreement represent that they have the authority to bind their respective organizations to this Agreement. Only the DEPARTMENT's Authorized Signature representative and the Authorized Signature representative of the SUBRECIPIENT or Alternate for the SUBRECIPIENT, formally designated in writing, shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Agreement. Any alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made in writing and signed by both parties Authorized Signature representatives. Further, only the Authorized Signature

representative or Alternate for the SUBRECIPIENT shall have signature authority to sign reimbursement requests, time extension requests, amendment and modification requests, requests for changes to projects or work plans, and other requests, certifications and documents authorized by or required under this Agreement.

A.18 LOSS OR REDUCTION OF FUNDING

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to normal completion or end date, the DEPARTMENT may unilaterally reduce the scope of work and budget or unilaterally terminate all or part of the Agreement as a "Termination for Cause" without providing the SUBRECIPIENT an opportunity to cure. Alternatively, the parties may renegotiate the terms of this Agreement under "Amendments and Modifications" to comply with new funding limitations and conditions, although the DEPARTMENT has no obligation to do so.

A.19 NONASSIGNABILITY

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the SUBRECIPIENT.

A.20 NONDISCRIMINATION

The SUBRECIPIENT shall comply with all applicable federal and state non-discrimination laws, regulations, and policies. No person shall, on the grounds of age, race, creed, color, sex, sexual orientation, religion, national origin, marital status, honorably discharged veteran or military status, or disability (physical, mental, or sensory) be denied the benefits of, or otherwise be subjected to discrimination under any project, program, or activity, funded, in whole or in part, under this Agreement.

A.21 NOTICES

The SUBRECIPIENT shall comply with all public notices or notices to individuals required by applicable local, state and federal laws and shall maintain a record of this compliance.

A.22 OCCUPATIONAL SAFETY/HEALTH ACT and WASHINGTON INDUSTRIAL SAFETY/ HEALTH ACT (OSHA/WISHA)

The SUBRECIPIENT represents and warrants that its work place does now or will meet all applicable federal and state safety and health regulations that are in effect during the SUBRECIPIENT's performance under this Agreement. To the extent allowed by law, the SUBRECIPIENT further agrees to indemnify and hold harmless the DEPARTMENT and its employees and agents from all liability, damages and costs of any nature, including but not limited to, costs of suits and attorneys' fees assessed against the DEPARTMENT, as a result of the failure of the SUBRECIPIENT to so comply.

A.23 OWNERSHIP OF PROJECT/CAPITAL FACILITIES

The DEPARTMENT makes no claim to any capital facilities or real property improved or constructed with funds under this Agreement, and by this grant of funds does not and will not acquire any ownership interest or title to such property of the SUBRECIPIENT. The SUBRECIPIENT shall assume all liabilities arising from the ownership and operation of the project and agrees to hold the DEPARTMENT, the state of Washington, and the United States government harmless from any and all causes of action arising from the ownership and operation of the project.

A.24 POLITICAL ACTIVITY

No portion of the funds provided herein shall be used for any partisan political activity or to further the election or defeat of any candidate for public office or influence the approval or defeat of any ballot issue.

A.25 PRIVACY

Personal information collected, used or acquired in connection with this agreement shall be used solely for the purposes of this agreement. SUBRECIPIENT and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the DEPARTMENT or as provided by law or court order. SUBRECIPIENT agrees to implement physical, electronic and managerial safeguards to prevent unauthorized access to personal information.

The DEPARTMENT reserves the right to monitor, audit, or investigate the use of personal information collected, used or acquired by the SUBRECIPIENT through this contract. The monitoring, auditing or investigating may include but is not limited to "salting" by the DEPARTMENT. Salting is the act of placing

a record containing unique but false information in a database that can be used later to identify inappropriate disclosure of data contained in the database.

Any breach of this provision may result in termination of the contract and the demand for return of all personal information. The SUBRECIPIENT agrees to indemnify and hold harmless the DEPARTMENT for any damages related to the SUBRECIPIENT's unauthorized use, loss or disclosure of personal information.

For purposes of this provision, personal information includes, but is not limited to, information identifiable to an individual that relates to a natural person's health, finances, education, business, use or receipt of governmental services, or other activities, names, addresses, telephone numbers, social security numbers, driver license numbers, financial profiles, credit card numbers, financial identifiers and other identifying numbers.

A.26 PROHIBITION AGAINST PAYMENT OF BONUS OR COMMISSION

The assistance provided under this Agreement shall not be used in payment of any bonus or commission for the purpose of obtaining approval of the application for such assistance or any other approval or concurrence under this Agreement provided, however, that reasonable fees or bona fide technical consultant, managerial, or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as project costs.

A.27 PUBLICITY

The SUBRECIPIENT agrees to submit to the DEPARTMENT prior to issuance all advertising and publicity matters relating to this Agreement wherein the DEPARTMENT's name is mentioned or language used from which the connection of the DEPARTMENT's name may, in the DEPARTMENT's judgment, be inferred or implied. The SUBRECIPIENT agrees not to publish or use such advertising and publicity matters without the prior written consent of the DEPARTMENT.

The SUBRECIPIENT may copyright original work it develops in the course of or under this Agreement; however, pursuant to 2 CDR Part 200.315, FEMA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use the work for government purposes.

The SUBRECIPIENT shall include language which acknowledges the funding contribution of the DEPARTMENT and FEMA to this project in any release or other publication developed or modified for, or referring to, the project.

Publication resulting from work performed under this Agreement shall include an acknowledgement of FEMA's financial support, by Assistance Listing number, and a statement that the publication does not constitute an endorsement by FEMA or reflect FEMA's views.

A.28 RECAPTURE PROVISION

In the event the SUBRECIPIENT fails to expend funds under this Agreement in accordance with applicable federal, state, and local laws and/or the provisions of the Agreement, the DEPARTMENT reserves the right to recapture funds in an amount equivalent to the extent of noncompliance. Such right of recapture shall exist for the life of the project following Agreement termination. Repayment by the SUBRECIPIENT of funds under this recapture provision shall occur within 30 days of demand.

In the event the DEPARTMENT is required to institute legal proceedings to enforce the recapture provision, the DEPARTMENT shall be entitled to its costs and expenses thereof, including attorney fees from the SUBRECIPIENT.

A.29 RECORDS

- a. The SUBRECIPIENT agrees to maintain all books, records, documents, receipts, invoices and all other electronic or written records necessary to sufficiently and properly reflect the SUBRECIPIENT's contracts, subawards, grant administration, and payments, including all direct and indirect charges, and expenditures in the performance of this Agreement (the "records").
- b. The SUBRECIPIENT's records related to this Agreement and the projects funded may be inspected and audited by the DEPARTMENT or its designee, by the Office of the State Auditor, DHS, FEMA or their designees, by the Comptroller General of the United States or its designees, or by other state or federal officials authorized by law, for the purposes of determining compliance by the SUBRECIPIENT with the terms of this Agreement and to determine the appropriate level of funding to be paid under the Agreement.

- c. The records shall be made available by the SUBRECIPIENT for such inspection and audit, together with suitable space for such purpose, at any and all times during the SUBRECIPIENT's normal working day.
- d. The SUBRECIPIENT shall retain and allow access to all records related to this Agreement and the funded project(s) for a period of at least six (6) years following final payment and closure of the grant under this Agreement. Despite the minimum federal retention requirement of three (3) years, the more stringent State requirement of six (6) years must be followed.

A.30 RECOVERY OF FUNDS

Any person who intentionally causes a condition for which funds are provided under this Agreement shall be liable for the costs incurred by the state and federal governments in responding to such disaster. In addition to its own duty to recover duplicated funds or funds expended due to the intentional or negligent actions of others. SUBRECIPIENT will cooperate in a reasonable manner with the DEPARTMENT and the United States in efforts to recover expenditures under this Grant Agreement.

A.31 RESPONSIBILITY FOR PROJECT/STATEMENT OF WORK/WORK PLAN

While the DEPARTMENT undertakes to assist the SUBRECIPIENT with the project/statement of work/work plan (project) by providing Federal award funds pursuant to this Agreement, the project itself remains the sole responsibility of the SUBRECIPIENT. The DEPARTMENT undertakes no responsibility to the SUBRECIPIENT, or to any third party, other than as is expressly set out in this Agreement.

The responsibility for the design, development, construction, implementation, operation and maintenance of the project, as these phrases are applicable to this project, is solely that of the SUBRECIPIENT, as is responsibility for any claim or suit of any nature by any third party related in any way to the project.

Prior to the start of any construction activity, the SUBRECIPIENT shall ensure that all applicable Federal, State, and local permits and clearances are obtained, including but not limited to FEMA compliance with the National Environmental Policy Act, the National Historic Preservation Act, the Endangered Species Act, and all other environmental laws, regulations, and executive orders.

The SUBRECIPIENT shall defend, at its own cost, any and all claims or suits at law or in equity, which may be brought against the SUBRECIPIENT in connection with the project.

The SUBRECIPIENT shall not look to the DEPARTMENT, or to any state or federal agency, or to any of their employees or agents, for any performance, assistance, or any payment or indemnity, including but not limited to cost of defense and/or attorneys' fees, in connection with any claim or lawsuit brought by any third party related to any design, development, construction, implementation, operation and/or maintenance of a project.

A.32 SEVERABILITY

If any court of rightful jurisdiction holds any provision or condition under this Agreement or its application to any person or circumstances invalid, this invalidity does not affect other provisions, terms or conditions of the Agreement, which can be given effect without the invalid provision. To this end, the terms and conditions of this Agreement are declared severable.

A.33 SINGLE AUDIT ACT REQUIREMENTS (including all AMENDMENTS)

Non-federal entities, as SUBRECIPIENTS of a federal award, that expend \$750,000 or more in one fiscal year of federal funds from all sources, direct and indirect, are required to have a single or a program-specific audit conducted in accordance with 2 CFR Part 200 Subpart F. Non-federal entities that spend less than \$750,000 a year in federal awards are exempt from federal audit requirements for that year, except as noted in 2 CFR Part 200 Subpart F. As defined in 2 CFR Part 200, the term "non-federal entity" means a State, local government, Indian tribe, institution of higher education, or non-profit organization that carries out a federal award as a recipient or SUBRECIPIENT.

SUBRECIPIENTS that are required to have an audit must ensure the audit is performed in accordance with Generally Accepted Government Auditing Standards (GAGAS) as found in the Government Auditing Standards (the Revised Yellow Book) developed by the United States Comptroller General and the OMB Compliance Supplement. The SUBRECIPIENT has the responsibility of notifying its auditor and requesting an audit in compliance with 2 CFR Part 200 Subpart F, to include the Washington State Auditor's Office, a federal auditor, or a public accountant performing work using GAGAS, as appropriate. Costs of the audit may be an allowable grant expenditure as authorized by 2 CFR Part 200 Subpart F.

The SUBRECIPIENT shall maintain auditable records and accounts so as to facilitate the audit requirement and shall ensure that any sub-contractors also maintain auditable records.

The SUBRECIPIENT is responsible for any audit exceptions incurred by its own organization or that of its sub-contractors. Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report. The SUBRECIPIENT must respond to DEPARTMENT requests for information or corrective action concerning audit issues or findings within 30 days of the date of request. The DEPARTMENT reserves the right to recover from the SUBRECIPIENT all disallowed costs resulting from the audit.

Once the single audit has been completed and it includes any audit findings, the SUBRECIPIENT must send a full copy of the audit to the DEPARTMENT and its corrective action plan no later than nine (9) months after the end of the SUBRECIPIENT's fiscal year(s) to:

**Contracts Office
Washington Military Department
Finance Division, Building #1 TA-20
Camp Murray, WA 98430-5032**

If SUBRECIPIENT claims it is exempt from the audit requirements of 2 CFR Part 200 Subpart F, SUBRECIPIENT must send a letter identifying this Agreement and explaining the criteria for exemption no later than nine (9) months after the end of the SUBRECIPIENT fiscal year(s) to the address listed above.

The DEPARTMENT retains the sole discretion to determine whether a valid claim for an exemption from the audit requirements of this provision has been established.

The SUBRECIPIENT shall include the above audit requirements in any subawards.

Conducting a single or program-specific audit in compliance with 2 CFR Part 200 Subpart F is a material requirement of this Agreement. In the absence of a valid claim of exemption from the audit requirements of 2 CFR Part 200 Subpart F, the SUBRECIPIENT's failure to comply with said audit requirements may result in one or more of the following actions in the DEPARTMENT's sole discretion: a percentage of federal awards being withheld until the audit is completed in accordance with 2 CFR Part 200 Subpart F; the withholding or disallowing of overhead costs; the suspension of federal awards until the audit is conducted and submitted; or termination of the federal award.

A.34 SUBRECIPIENT NOT EMPLOYEE

The parties intend that an independent contractor relationship will be created by this Agreement. The SUBRECIPIENT, and/or employees or agents performing under this Agreement are not employees or agents of the DEPARTMENT in any manner whatsoever. The SUBRECIPIENT will not be presented as nor claim to be an officer or employee of the DEPARTMENT by reason of this Agreement, nor will the SUBRECIPIENT make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the DEPARTMENT or of the State of Washington by reason of this Agreement, including, but not limited to, Workmen's Compensation coverage, unemployment insurance benefits, social security benefits, retirement membership or credit, or privilege or benefit which would accrue to a civil service employee under Chapter 41.06 RCW.

It is understood that if the SUBRECIPIENT is another state department, state agency, state university, state college, state community college, state board, or state commission, that the officers and employees are employed by the state of Washington in their own right and not by reason of this Agreement.

A.35 TAXES, FEES AND LICENSES

Unless otherwise provided in this Agreement, the SUBRECIPIENT shall be responsible for, pay and maintain in current status all taxes, unemployment contributions, fees, licenses, assessments, permit charges and expenses of any other kind for the SUBRECIPIENT or its staff required by statute or regulation that are applicable to Agreement performance.

A.36 TERMINATION FOR CONVENIENCE

Notwithstanding any provisions of this Agreement, the SUBRECIPIENT may terminate this Agreement by providing written notice of such termination to the DEPARTMENT's Key Personnel identified in the Agreement, specifying the effective date thereof, at least thirty (30) days prior to such date.

Except as otherwise provided in this Agreement, the DEPARTMENT, in its sole discretion and in the best interests of the State of Washington, may terminate this Agreement in whole or in part by providing ten (10) calendar days written notice, beginning on the second day after mailing to the SUBRECIPIENT. Upon notice of termination for convenience, the DEPARTMENT reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the SUBRECIPIENT from incurring additional obligations of funds. In the event of termination, the SUBRECIPIENT shall be liable for all damages as authorized by law. The rights and remedies of the DEPARTMENT provided for in this section shall not be exclusive and are in addition to any other rights and remedies provided by law.

A.37 TERMINATION OR SUSPENSION FOR CAUSE

In the event the DEPARTMENT, in its sole discretion, determines the SUBRECIPIENT has failed to fulfill in a timely and proper manner its obligations under this Agreement, is in an unsound financial condition so as to endanger performance hereunder, is in violation of any laws or regulations that render the SUBRECIPIENT unable to perform any aspect of the Agreement, or has violated any of the covenants, agreements or stipulations of this Agreement, the DEPARTMENT has the right to immediately suspend or terminate this Agreement in whole or in part.

The DEPARTMENT may notify the SUBRECIPIENT in writing of the need to take corrective action and provide a period of time in which to cure. The DEPARTMENT is not required to allow the SUBRECIPIENT an opportunity to cure if it is not feasible as determined solely within the DEPARTMENT's discretion. Any time allowed for cure shall not diminish or eliminate the SUBRECIPIENT liability for damages or otherwise affect any other remedies available to the DEPARTMENT. If the DEPARTMENT allows the SUBRECIPIENT an opportunity to cure, the DEPARTMENT shall notify the SUBRECIPIENT in writing of the need to take corrective action. If the corrective action is not taken within ten (10) calendar days or as otherwise specified by the DEPARTMENT, or if such corrective action is deemed by the DEPARTMENT to be insufficient, the Agreement may be terminated in whole or in part.

The DEPARTMENT reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the SUBRECIPIENT from incurring additional obligations of funds during investigation of the alleged compliance breach, pending corrective action by the SUBRECIPIENT, if allowed, or pending a decision by the DEPARTMENT to terminate the Agreement in whole or in part.

In the event of termination, the SUBRECIPIENT shall be liable for all damages as authorized by law, including but not limited to, any cost difference between the original Agreement and the replacement or cover Agreement and all administrative costs directly related to the replacement Agreement, e.g., cost of administering the competitive solicitation process, mailing, advertising and other associated staff time. The rights and remedies of the DEPARTMENT provided for in this section shall not be exclusive and are in addition to any other rights and remedies provided by law.

If it is determined that the SUBRECIPIENT: (1) was not in default or material breach, or (2) failure to perform was outside of the SUBRECIPIENT's control, fault or negligence, the termination shall be deemed to be a "Termination for Convenience".

A.38 TERMINATION PROCEDURES

In addition to the procedures set forth below, if the DEPARTMENT terminates this Agreement, the SUBRECIPIENT shall follow any procedures specified in the termination notice. Upon termination of this Agreement and in addition to any other rights provided in this Agreement, the DEPARTMENT may require the SUBRECIPIENT to deliver to the DEPARTMENT any property specifically produced or acquired for the performance of such part of this Agreement as has been terminated.

If the termination is for convenience, the DEPARTMENT shall pay to the SUBRECIPIENT agreed upon price, if separately stated, for properly authorized and completed work and services rendered or goods delivered to and accepted by the DEPARTMENT prior to the effective date of Agreement termination, and the amount agreed upon by the SUBRECIPIENT and the DEPARTMENT for (i) completed work and services and/or equipment or supplies provided for which no separate price is stated, (ii) partially completed work and services and/or equipment or supplies provided which are accepted by the DEPARTMENT, (iii) other work, services and/or equipment or supplies which are accepted by the DEPARTMENT, and (iv) the protection and preservation of property.

Failure to agree with such amounts shall be a dispute within the meaning of the "Disputes" clause of this Agreement. If the termination is for cause, the DEPARTMENT shall determine the extent of the liability of the DEPARTMENT. The DEPARTMENT shall have no other obligation to the SUBRECIPIENT for

termination. The DEPARTMENT may withhold from any amounts due the SUBRECIPIENT such sum as the DEPARTMENT determines to be necessary to protect the DEPARTMENT against potential loss or liability.

The rights and remedies of the DEPARTMENT provided in this Agreement shall not be exclusive and are in addition to any other rights and remedies provided by law.

After receipt of a notice of termination, and except as otherwise directed by the DEPARTMENT in writing, the SUBRECIPIENT shall:

- a. Stop work under the Agreement on the date, and to the extent specified, in the notice;
- b. Place no further orders or sub-contracts for materials, services, supplies, equipment and/or facilities in relation to this Agreement except as may be necessary for completion of such portion of the work under the Agreement as is not terminated;
- c. Assign to the DEPARTMENT, in the manner, at the times, and to the extent directed by the DEPARTMENT, all of the rights, title, and interest of the SUBRECIPIENT under the orders and sub-contracts so terminated, in which case the DEPARTMENT has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and contracts;
- d. Settle all outstanding liabilities and all claims arising out of such termination of orders and contracts, with the approval or ratification of the DEPARTMENT to the extent the DEPARTMENT may require, which approval or ratification shall be final for all the purposes of this clause;
- e. Transfer title to the DEPARTMENT and deliver in the manner, at the times, and to the extent directed by the DEPARTMENT any property which, if the Agreement had been completed, would have been required to be furnished to the DEPARTMENT;
- f. Complete performance of such part of the work as shall not have been terminated by the DEPARTMENT in compliance with all contractual requirements; and
- g. Take such action as may be necessary, or as the DEPARTMENT may require, for the protection and preservation of the property related to this Agreement which is in the possession of the SUBRECIPIENT and in which the DEPARTMENT has or may acquire an interest.

A.39 UTILIZATION OF MINORITY AND WOMEN BUSINESS ENTERPRISES (MWBE)

The SUBRECIPIENT shall comply with 2 CFR §200.321 and will take all necessary affirmative steps allowed by law to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible and will take all necessary affirmative steps allowed by law to utilize business firms that are certified as minority-owned and/or women-owned in carrying out the purposes of this Agreement. The following steps are required by the subrecipient if any contracts with contractors or sub-contractors are entered into under the original contract award:

- a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
- e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

The SUBRECIPIENT may also set utilization standards, based upon local conditions or may utilize the State of Washington MWBE goals, as identified in. WAC 326-30-041.

A.40 VENUE

This Agreement shall be construed and enforced in accordance with, and the validity and performance shall be governed by, the laws of the state of Washington. Venue of any suit between the parties arising out of this Agreement shall be the Superior Court of Thurston County, Washington. The SUBRECIPIENT, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington.

A.41 WAIVERS

No conditions or provisions of this Agreement can be waived unless approved in advance by the DEPARTMENT in writing. The DEPARTMENT's failure to insist upon strict performance of any provision

of the Agreement or to exercise any right based upon a breach thereof, or the acceptance of any performance during such breach, shall not constitute a waiver of any right under this Agreement.

STATEMENT OF WORK AND/OR DESCRIPTION OF PROJECT

SUBRECIPIENT: Mason County Public Utility District No.1
 PROJECT TITLE: Electrical Line Undergrounding Project

The purpose of this project is for Mason County PUD No.1 to convert a section of 3-phase 12.4kV overhead powerlines, which are currently located on a difficult-to-access, steep, slide hazard area, to a stable, underground location. By relocating to stable ground and undergrounding the powerlines, the county hopes to reduce the frequency and duration of power outages impacting about 1,200 customers.

See diagram of lines to be decommissioned and the route for undergrounding replacement service lines on Figure 2 in the FEMA consultation letter to The Skokomish Indian Tribe.

A specific and more detailed scope of work is found in the FEMA approved Project Application Revised 3/24/21 which is incorporated herein by reference.

Mason County PUD No.1 Agrees To:

1. Comply with the terms of this Agreement and all Attachments, including but not limited to, accomplish tasks and conditions outlined in the Statement of Work And/Or Description of Project-Attachment 3, comply with the Project Development Schedule-Attachment 4, and comply with the Project Budget-Attachment 5.
2. Submit quarterly reports that cover the previous three months no later than the 15th of the following month (or the next work day) in January, April, July and October until all requirements are fulfilled. Quarterly reports are required regardless of the level of work completed during the reporting period. Quarterly reports must include sufficient narrative to determine the degree to which the project has been implemented, the estimated time for completion, and significant developments such as delays or adverse conditions that might raise costs or delay completion, as well as favorable conditions allowing lower costs or earlier completion. Failure of the SUBRECIPIENT to submit a complete quarterly report within 15 days following the end of the quarter will result in suspension of all payments until a complete quarterly report is received by the DEPARTMENT.
3. Submit pen-and-ink or digitally signed, approved invoice vouchers (state form A-19) for eligible, reimbursable work completed, no more frequently than monthly and no less frequently than quarterly. Each billing must identify the task(s) completed and any other funding identification pertinent to the task(s), including match. Supporting documentation is required for all costs, to include tracking of staff time spent on the project through timesheets or other documentation approved by the DEPARTMENT; dated invoices from all contractors and subcontractors for work completed; dated invoices for goods and services purchased; and documentation tracking in-kind contributions of personnel, equipment and supplies, if used on the project. Project costs must be tracked and reported by approved budget cost categories as found in Project Budget, Attachment 5. Documentation of expenditures by approved budget cost categories should be made on a separate spreadsheet or table and included with each A-19, along with documentation to substantiate all project costs.
4. Return by DEPARTMENT staff of invoices to the SUBRECIPIENT if the SUBRECIPIENT is unable to provide sufficient documentation to staff within 15 calendar days of the staff's written request for additional documentation to support the reimbursement request.
5. Submit a signed final project report before final reimbursement is made by the DEPARTMENT.
6. **PROGRAMMATIC, ENVIRONMENTAL AND HISTORIC PRESERVATION CONDITIONS**

In completing this project, the SUBRECIPIENT must adhere to the following programmatic, environmental and historic preservation conditions:

- a. Scope of Work Change: Requests for changes to the Scope of Work after grant award are permissible as long as they do not change the nature or total project cost of the activity, properties identified in the application, the feasibility and effectiveness of the project, or reduce the Benefit Cost Ratio below 1.0. Requests must be supported by adequate justification, including a description of the proposed change; a written explanation of the reason or reasons for the change; an outline of remaining funds available to support the change; and a full description of the work necessary to complete the activity.

A proposed change to the approved Scope of Work (as presented in the FEMA approved project application) must be submitted to the DEPARTMENT and FEMA in advance of implementation for re-evaluation for compliance with National Environmental Policy Act (NEPA) and other Laws and Executive Orders. Prior approval for a change to the approved Scope of Work must be obtained from the

DEPARTMENT and FEMA before the change is implemented. Failure to obtain prior approval for a revised Scope of Work could result in ineligibility of resulting costs.

- b. Comply with all applicable federal, state and local laws and regulations. Failure to obtain all appropriate federal, state and local environmental permits and clearances may jeopardize federal funding provided by this Agreement.
- c. Ensure that all completed work is in compliance with applicable state and local buildings codes.
- d. Monitor site work during ground-disturbing activities for evidence of potential archaeological resources that are uncovered. SUBRECIPIENT must halt the project in the event historically or archaeologically significant materials or sites (or evidence thereof) are discovered. By way of example, such evidence may include, but is not limited to, artifacts such as arrowheads, bone fragments, pottery shards, and features such as fire pits or structural elements. All reasonable measures must be taken to avoid or minimize harm to such resources until such time as the SUBRECIPIENT notifies the DEPARTMENT, and FEMA, in consultation with the State Historic Preservation Officer (SHPO) and appropriate Native American tribes, determines appropriate measures have been taken to ensure that the project is in compliance with the National Historic Preservation Act. In addition, upon discovery of human skeletal remains, the SUBRECIPIENT is required by state law to notify the county coroner and local law enforcement in the most expeditious manner possible and to immediately stop any activity which may cause further ground disturbance.
- e. Determine the presence of hazardous materials and/or toxic waste, and identifying, handling, managing, abating and disposing of such materials in accordance with the requirements and to the satisfaction of the governing local, state and federal agencies, including but not limited to the Washington Department of Ecology. Such materials may include, but are not limited to, asbestos, lead-based paint, propane cylinders, sand blasting residue, discarded paints and solvents, cleaning chemicals, containers of pesticides, lead-acid batteries, items containing chlorofluorocarbons (CFCs), motor oil and used oil filters, and unlabeled tanks or containers.
- f. Dispose of all debris at an approved and permitted location. No debris shall be temporarily staged or disposed of in a floodplain and/or a wetland.
- g. If wetlands can not be avoided or directional drilling completed, sub-recipient should use construction mats to distribute heavy equipment weight during installation or site work and minimize impacts. See page 5 of Award Binder.
- h. Confirm with the State Department of Ecology whether this project will require a consistency determination under the Coastal Zone Management Act. If required, the SUBRECIPIENT shall obtain and comply with all requirements of the determination prior to starting the project.
- i. Select, implement, monitor, and maintain Best Management Practices (BMPs) to control soil erosion and sedimentation, reduce spills and pollution, and provide habitat protection. The acquisition site shall be stabilized from erosion and silt laden runoff by implementing these BMPs and securing the site from transient vehicle access. Any excavation and/or grading shall be done within and/or adjacent to the existing building footprint area and not beyond undisturbed portions of the site.
- j. Resubmit the project to the DEPARTMENT and FEMA for re-evaluation for compliance with national environmental policies if the "Project Limits" (including clearing, excavation, temporary staging, construction, and access areas) extend into: 1) an area not previously identified for environmental and historic preservation review, or 2) previously undisturbed ground. Additionally, all work on the project in these areas must stop until this re-evaluation is completed.
- k. To avoid Project actions resulting in "take" of migratory birds, the sub-applicant shall implement one or more of the following measures. See page 5 of Award Binder.
 - a. Clear vegetation outside of the nesting season for those species utilizing existing habitat within the project area.
 - b. Inspect vegetation for active nests prior to clearing and avoid disturbing those that are found.
 - c. Obtain incidental "take" permit, if items a & b are not possible.
 - d. Do not damage or remove vegetation unless necessary to implement project.
 - e. If an Eagle nest is found, contact MTBA office.
- l. Cost overruns in excess of the approved budget are fully the responsibility of the SUBRECIPIENT, including those costs resulting from a change in the Scope of Work. The project must remain cost effective (i.e., Benefit Cost Ratio of 1.0 or greater) in the event of cost overrun.

For Hazard Mitigation Grant Program (HMGP) only: A request for additional funds to cover a cost overrun may be granted by the DEPARTMENT and FEMA only if funds are available within the HMGP ceiling for this disaster, FEMA-DR-4539-WA. A request for additional funds must be fully documented and justified.

The Military Department Agrees To:

1. Provide staff coordination and input regarding grant administration for funding and technical assistance for project and reviews for mitigation construction projects, as necessary.
2. Except as otherwise provided in Article II, A.4, of this Agreement, reimburse Mason County PUD No.1 within 30 days of receipt and approval of signed, dated invoice voucher(s) (state form A-19) with sufficient documentation of costs to include completion of tasks to date and dated invoices for goods and services purchased. Costs must be categorized according to the budget item and cost classification shown in the Project Budget, Attachment 5. The DEPARTMENT will return invoices to the SUBRECIPIENT if the SUBRECIPIENT is unable to provide sufficient documentation within 15 calendar days of the DEPARTMENT's written request for additional documentation to support the reimbursement request.
3. Coordinate with the staff of Mason County PUD No. 1 to schedule any sub-recipient monitoring, site visits or final inspections by DEPARTMENT staff.

PROJECT DEVELOPMENT SCHEDULE

SUBRECIPIENT: Mason County PUD No.1
 PROJECT TITLE: Electrical Line Undergrounding Project

<i>DESCRIPTION OF ACTIVITY/TASK</i>	<i>SCHEDULED COMPLETION DATE</i>
Engineering and Construction Doc	3 mos
Permitting through Mason County Planning	10
Acquire Easements	2
Bidding and Contracting	2
Construction	6
Inspection and Final Closeout	1
Total Time Required to Complete This Project: <u>24</u> months	
Quarterly Reports Due on Project Progress, Final Project Report and all documentation, site visits and inspections.	April 15, <u>2023</u> ; July 15, <u>2023</u> ; October 15, <u>2023</u> ; January 15, <u>2024</u> ; April 15, <u>2024</u> ; July 15, <u>2024</u> ; October 15, <u>2024</u> ; January 15, <u>2025</u> ; April 15, <u>2025</u> ;

PROJECT BUDGET

SUBRECIPIENT: Mason County PUD No.1
 PROJECT TITLE: Electrical Line Undergrounding Project

<i>APPROVED BUDGET CATEGORY</i>	<i>ESTIMATED COST</i>
Pre-Award Costs (Admin/Legal)	\$8,740.00
Project Management/Legal	\$77,266.00
Land/Structures - Easements, Surveys, and Permits	\$67,000.00
Architectural and Engineering	\$81,000.00
Project Inspection Fees	\$27,000.00
Site Work	\$107,000.00
Demolition and Removal	\$22,000.00
Construction	\$581,720.00
	<i>Subtotal</i>
	\$971,726.00
SubMC – This category is restricted to eligible grant administration costs, including indirect costs, and is limited to 5% of eligible <i>project</i> expenditures. The amount shown here reflects the maximum amount available, based on the approved project budget.	\$48,586.30
<i>Total Award plus SubMC</i>	\$1,020,312.30
TOTAL	
\$1,020,312.30	
<p>Tracking and Reporting Project Costs: Project expenses for which reimbursement is sought must be tracked and reported by approved budget cost categories, above. Documentation of expenditures by approved budget cost categories should be made on a separate spreadsheet or table and included with each A-19. Supporting documentation of all costs shall include, but not be limited to: tracking of staff time spent on the project through timesheets or other similar documentation; dated invoices from contractors and subcontractors for work completed; dated invoices for goods and services purchased; and documentation of in-kind contributions of personnel, equipment and supplies.</p> <p>Final Payment: Final payment of any remaining, or withheld, funds will be made upon submission by the SUBRECIPIENT within 60 days of completion of the project of the final report and an A-19, Voucher Distribution, and completion of all final inspections by the DEPARTMENT. Final payment also may be conditioned upon a financial review, if determined necessary by the DEPARTMENT. Adjustments to the final payment may be made following any audits conducted by the DEPARTMENT, Washington State Auditor's Office, the United States Inspector General, or their authorized representatives.</p>	

For Hazard Mitigation Grant Program only: A request for additional funds to cover a cost overrun may be granted by the DEPARTMENT and FEMA only if funds are available within the HMGP ceiling for this disaster, FEMA-DR-4539-WA. A request for additional funds must be fully documented and justified.

Award binder letter will be Inserted

GRANTEE AGREEMENT WITH MASON COUNTY PUBLIC UTILITY DISTRICT NO. 1

This Grantee Agreement (“Agreement”) is by and between Jefferson County, a Washington political subdivision (“County”) and Mason County Public Utility District No. 1, (“Grantee”).

WHEREAS, on March 11, 2021, President Biden signed the American Rescue Plan Act (ARPA) into law; and

WHEREAS, the ARPA has allocated funds to counties, of which Jefferson County is one; and

WHEREAS, ARPA funds may be used for any various purposes; and

WHEREAS, Grantee is embarking on an effort to bring broadband access to certain parts of South Jefferson County; and

WHEREAS, The Grantee is seeking ARPA funds to help advance the project: and

WHEREAS, Jefferson County agrees that making broadband accessible to south County residents is a high priority for this community: and

WHEREAS, the Jefferson County Board of Commissioners committed to provide \$100,000 in ARPA funds to this project and directed the County Administrator to bring forth a grant agreement to make said funds available to the Grantee:

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, and the terms and conditions set forth below, the parties agree as follows:

Grant Amount and Grantee’s Use of Grant Funds. The Grant amount is \$100,000. The Grant is to be used for the purposes outlined in Exhibit A.

Reporting Requirements. Grantee will submit a report to the County following the completion of the project. The report will include information regarding the usage of the \$100,000 grant amount and the completed project.

Effective Date and Term. This Agreement shall commence on the date when last executed by the parties and remain in effect until the Grant is exhausted but prior to December 31, 2026.

Termination. The County may terminate this Agreement, for convenience or otherwise and for no consideration or damages, upon prior notice to the Grantee.

Independent Grantee. Each party under this Agreement shall be for all purposes an independent Grantee. Nothing contained herein will be deemed to create an association, a partnership, a joint venture, or a relationship of principal and agent, or employer and employee between the parties. The Grantee shall not be, or be deemed to be, or act or purport to act, as an employee, agent, or representative of the County for any purpose.

Indemnification. The Grantee agrees to defend, indemnify and hold the County, its officers, officials, employees, agents and volunteers harmless from and against any and all claims, injuries, damages, losses or expenses including without limitation personal injury, bodily injury, sickness, disease, or death, or damage to or destruction of property, which are alleged or proven to be caused in whole or in part by an act or omission of the Grantee, its officers, directors, employees, and/or agents relating to the Grantees' performance or failure to perform under this Agreement. The section shall survive the expiration or termination of this Agreement.

Required Liability Coverages. Prior to commencing work, the Grantee shall obtain at its own cost and expense the following coverage specified below either by a policy of insurance or by an agreement with a "Risk Pool" created pursuant to Ch. 48.62 RCW such as the Washington Cities Insurance Authority and shall keep such coverage in force during the terms of the Agreement.

Commercial Automobile Liability coverage providing bodily injury and property damage liability coverage for all owned and non-owned vehicles assigned to or used in the performance of the work for a combined single limit of not less than \$500,000 each occurrence in connection with the Consultant's performance of his Agreement. This coverage shall indicate on the certificate the following coverage: (a) Owned automobiles; (b) Hired automobiles; and, (3) Non-owned automobiles.

Commercial General Liability. Coverage in an amount not less than a single limit of \$1,000,000 per occurrence and an aggregate of not less than two (2) times the occurrence amount (\$2,000,000.00 minimum) for bodily injury, including death and property damage, unless a greater amount is specified in the contract specifications.

The commercial general liability coverage shall contain no limitations on the scope of the protection provided and include the following minimum coverage:

- a. Broad Form Property Damage, with no employee exclusion;
- b. Personal Injury Liability, including extended bodily injury;
- c. Broad Form Contractual/Commercial Liability – including coverage for products and completed operations;
- d. Premises – Operations Liability (M&C);
- e. Blanket Contractual Liability.

Such coverage shall be evidenced by one of the following methods: (a) Certificate of Coverage; or, (b) Self-insurance through an irrevocable Letter of Credit from a qualified financial institution.

The Grantee shall furnish the County with properly executed certificates of coverage that, at a minimum, shall include: (a) The limits of coverage; (b) The project name to which it applies; (c) The certificate holder as Jefferson County, Washington and its elected officials, officers, and employees with the address of Jefferson County Risk Management, P.O. Box 1220, Port Townsend, WA 98368, and, (d) A statement that the coverage shall not be canceled or allowed to expire except on thirty (30) days prior written notice to the County. Certificates of coverage as required by this section shall be delivered to the County within fifteen (15) days of execution of this Agreement.

Failure of the Grantee to take out or maintain any required coverage shall not relieve the Grantee from any liability under this Agreement, nor shall the coverage requirements be construed to conflict with or otherwise limit the obligations concerning indemnification of the County.

The Grantee's insurers shall have no right of recovery or subrogation against the County (including its employees and other agents and agencies), it being the intention of the parties that the coverage, with the exception of Professional Liability coverage, so affected shall protect all the parties and shall be primary coverage for all losses covered by the above described insurance.

Insurance companies or risk pools issuing the Grantee's coverages shall have no recourse against the County (including its employees and other agents and agencies) for payment of any premiums or for assessments under any form of agreement providing coverage.

All deductibles in the Grantee's coverages shall be assumed by and be at the sole risk of the Grantee.

Any deductibles or self-insured retention shall be declared to and approved by the County prior to the approval of this Agreement by the County. At the option of the County, the insurer or risk pool shall reduce or eliminate deductibles or self-insured retention, or the Grantee shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Any judgments for which the County may be liable, in excess of insured amounts required by this Agreement, or any portion thereof, may be withheld from payment due, or to become due, to the Grantee until the Grantee shall furnish additional security covering such judgment as may be determined by the County.

Any coverage for third party liability claims provided to the County by a "Risk Pool" created pursuant to Ch. 48.62 RCW shall be non-contributory with respect to any coverage the Grantee shall provide to comply with this Agreement.

The County may, upon the Grantee's failure to comply with all provisions of this Agreement relating to coverage, withhold payment or compensation that would otherwise be due to the Grantee.

The Grantee shall provide a copy of all agreements providing any coverage specified in this Agreement.

Written notice of cancellation or change in the Grantee's coverage required by this Agreement shall reference the project name and agreement number and shall be mailed to the County at the following address: Jefferson County Risk Management, P.O. Box 1220, Port Townsend, WA 98368.

The Grantee's liability coverage shall be primary and noncontributory with respect to any insurance or self-insurance programs covering the County, its elected and appointed officers, officials, employees, and agents.

Any failure to comply with reporting provisions of any agreement providing coverage shall not affect coverage provided to the County, its officers, officials, employees, or agents.

The Grantee's coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of liability.

The Grantee shall include all Sub-Grantees as persons covered under its coverages or shall furnish separate certificates and endorsements for each Sub-Grantee. All coverage for Sub-Grantees shall be subject to all the requirements stated in this Agreement.

The coverage limits mandated for any coverage required by this Agreement are not intended to be an indication of exposure nor are they limitations on indemnification.

The Grantee shall maintain all required coverages in force from the time services commence until services are completed. Certificates, coverages, and endorsements expiring before completion of services shall be promptly replaced. All the coverages required by this Agreement shall provide that thirty (30) days prior to cancellation, suspension, reduction or material change in the policy, notice of same shall be given to the County Risk Manager by registered mail, return receipt requested.

The Grantee shall place coverages with a "Risk Pool" created pursuant to Ch. 48.62 RCW or with insurers licensed to do business in the State of Washington and having A.M. Best Company ratings of no less than A-, with the exception that excess and umbrella coverage used to meet the requirements for limits of liability or gaps in coverage need not be placed with insurers or re-insurers licensed in the State of Washington.

The County reserves the right to request additional coverage on an individual basis for extra hazardous contracts and specific service agreements.

Worker's Compensation (Industrial Insurance).

If and only if the Grantee employs any person(s) in the status of employee or employees separate from or in addition to any equity owners, sole proprietor, partners, owners or shareholders of the Grantee, the Grantee shall maintain workers' compensation insurance at its own expense, as required by Title 51 RCW, for the term of this Agreement and shall provide evidence of coverage to Jefferson County Risk Management, upon request.

Worker's compensation insurance covering all employees with limits meeting all applicable state and federal laws. This coverage shall include Employer's Liability with limits meeting all applicable state and federal laws.

This coverage shall extend to any Sub-Grantee that does not have their own worker's compensation and employer's liability coverage.

The Grantee expressly waives by mutual negotiation all immunity and limitations on liability, with respect to the County, under any industrial insurance act, disability benefit act, or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of such claim.

If the County incurs any costs to enforce the provisions of this subsection, all cost and fees shall be recoverable from the Grantee.

Compliance with Laws. Guidelines. The Grantee shall comply with all federal, state, and local laws and all requirements (including certifications and audits), to the extent applicable, when seeking Reimbursement.

Maintenance and Audit of Records. The Grantee shall maintain records, books, documents, and other materials relevant to its performance under this Agreement. These records shall be subject to inspection, review and audit by the County or its designee, the Washington State Auditor's Office. If it is determined during the course of the audit that the Grantee was reimbursed for unallowable costs under this Agreement or any, the Grantee agrees to promptly reimburse the County for such payments upon request.

Notices. Any notice desired or required to be given hereunder shall be in writing, and shall be deemed received five (5) days after deposit with the U.S. Postal Service, postage fully prepaid, certified mail, return receipt requested, and addressed to the party to which it is intended at its last known address, or to such other person or address as either party shall designate to the other from time to time in writing forwarded in like manner:

Grantee

Kristin Masteller
General Manager
Mason County PUD No. 1
21971 N. Hwy. 101
Shelton, WA 98584

Jefferson County

Mark McCauley
County Administrator
Jefferson County Courthouse
1820 Jefferson Street
Port Townsend, WA 98368

Improper Influence. Each party warrants that it did not and will not employ, retain, or contract with any person or entity on a contingent compensation basis for the purpose of seeking, obtaining, maintaining, or extending this Agreement. Each party agrees, warrants, and represents that no gratuity whatsoever has been or will offered or conferred with a view towards obtaining, maintaining, or extending this Agreement.

Conflict of Interest. The elected and appointed officials and employees of the parties shall not have any personal interest, direct or indirect, which gives rise to a conflict of interest.

Time. Time is of the essence in this Agreement.

Survival. The provisions of this Agreement that by their sense and purpose should survive expiration or termination of this Agreement shall so survive. Those provisions include without limitation Indemnification and Maintenance and Audit of Records.

Amendment. No amendment or modification to this Agreement will be effective without the prior written consent of the authorized representatives of the parties.

Governing Law; Venue. This Agreement will be governed in all respects by the laws of Washington state, both as to interpretation and performance, without regard to conflicts of law or choice of law provisions. Any action arising out of or in connection with this Agreement may be instituted and maintained only in a court of competent jurisdiction in Jefferson County, Washington or as provided by RCW 36.01.050.

Non-Waiver. No failure on the part of the County to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise by the County of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedy available to the County at law or in equity.

Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors.

Assignment. Neither party shall assign or transfer any of its interests in or obligations under this Agreement without the prior written consent of the other party.

Entire Agreement. This Agreement constitutes the entire agreement between the County and the Grantee for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the parties with respect to this Agreement.

No Third Party Beneficiaries. Nothing herein shall or be deemed to create or confer any right, action, or benefit in, to, or on the part of any person or entity that is not a party to this Agreement. This provision shall not limit any obligation which either party has to the Washington State Department of Commerce of these grant funds, including the obligation to provide access to records and cooperate with audits as provided in this Agreement.

Severability. In the event that one or more provisions of this Agreement shall be determined to be invalid by any court of competent jurisdiction or agency having jurisdiction thereof, the remainder of this Agreement shall remain in full force and effect and the invalid provisions shall be deemed deleted.

Counterparts. This Agreement may be executed in counterparts, any of which shall be deemed an original but all of which together shall constitute one and the same instrument.

Authorization. Each party warrants to the other party, that the person executing this Agreement on its behalf has the full power and authority to do so.

Public Records Act. Notwithstanding any provisions of this Agreement to the contrary, to the extent any record, including any electronic, audio, paper or other media, is required to be kept or indexed as a public record in accordance with the Washington Public Records Act, Chapter 42.56 RCW (as may be amended), the Grantee agrees to maintain all records constituting public records and to produce or assist the County in producing such records, within the time frames and parameters set forth in state law. The Grantee also agrees that upon receipt of any written public record request, Grantee shall, within two business days, notify the County by providing a copy of the request per the notice provisions of this Agreement.

(SIGNATURES APPEAR ON THE NEXT PAGE)

IN WITNESS WHEREOF, this Agreement is executed and shall become effective as of the last date signed below.

**JEFFERSON COUNTY BOARD OF
COMMISSIONERS**

By: _____
Greg Brotherton, Chair DATE

**MASON COUNTY PUBLIC UTILITY
DISTRICT NO. 1**

By: Kristin Masteller _____
Kristin Masteller 02/03/2023
General Manager DATE

SEAL:

ATTEST:

Carolyn Gallaway DATE
Clerk of the Board

Approved as to form only:

Philip C. Hunsucker DATE
Chief Civil Deputy Prosecuting Attorney

EXHIBIT A



INVITATION TO BID

January 20, 2022

ENGINEERS ESTIMATE: \$1,480,0000

Notice is hereby given for the submittal of sealed bids for construction of Hood Canal-101 Phase Two Broadband Project for Mason County PUD No. 1 (Owner) and Hood Canal Communications. The Hood Canal-101 Broadband Project is a joint project between Hood Canal Communications and Mason County PUD 1 to install Fiber along US Highway 101. Due to the age and size of the PUD's poles, there are 158 poles that have been identified for replacement. This project includes the replacement of 158 utility poles along Highway 101 including the transfer of live power, and existing communications attachments.

The project spans approximately 5.8 miles from North of Forest Dr., Brinnon WA (MP 314.33) to Mt. Walker Rd., Brinnon WA (MP 301.51).

This pole replacement is noncontiguous along US HWY 101. Alternating single lane traffic control will be necessary for all Highway work.

Forty-one poles will be replaced along Dosewallips Rd. A single pole is to be replaced along Duckabush Rd. Both Dosewallips and Duckabush are county owned roadways that will require single lane alternating traffic control.

The District will provide all poles required for project completion.

All materials, including consumables, will be purchased by the Contractor outside of the materials provided. The Contractor will provide all labor, equipment, testing, and consumable parts to complete the project. The Contractor also will provide conductor, insulators, conduit to complete the project, this is not an exhaustive list.

Bids must be physically received by Mason County PUD 1, at 21971 N. Highway 101, Shelton WA 98584 no later than 4:00 p.m. PST on February 17, 2023, (post marks will not be recognized) at which time all complying bids shall be publicly opened and read aloud at the PUD 1 office at 4:30 p.m. via Zoom. Bid documents may be obtained from the Mason County PUD 1 website by visiting: <https://mason-pud1.org/bids/>

It is required that prospective bidders visit the project area and visually confirm understanding of work and construction. Please check in at the Mason County PUD 1 office when onsite to verify visit.

ANTICIPATED PROJECT SCHEDULE:

Notice is hereby	Bid Documents Available Online/Advertisement
given for the	Virtual Job Show at 9:00 a.m. PST via Zoom
submittal of	Bid Opening at 4:30 p.m. PST via Zoom
sealed bids for	Notice of Intent to Award
construction of	Pre-Construction Conference & Notice to Proceed
Hood Canal-101	Construction Complete

Phase Two
Link to Virtual Job Walk-through: (<https://us02web.zoom.us/j/85485131825>)

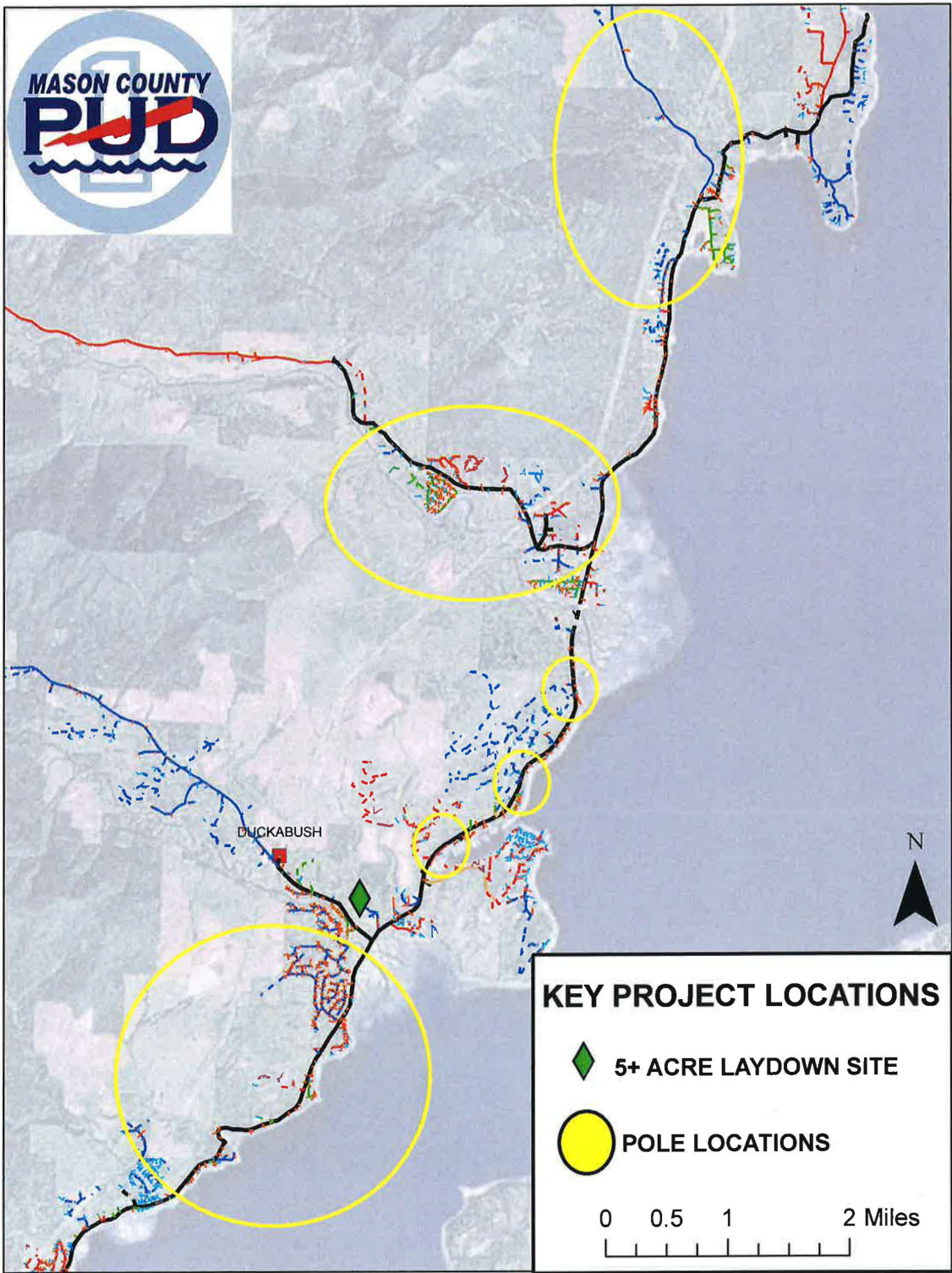
Broadband
Link to Bid Opening: (<https://us02web.zoom.us/j/83290884089>)

Project for

Mason County concerning bid documents, submittal requirements, or technical project information
PUD No. 1 contact Engineering Manager James Reyes at (360) 877-5249 or jamesr@mason-pud1.org.

(Owner) and

Hood Canal



CERTIFICATE OF INSURANCE

2/3/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

THIS IS TO CERTIFY THAT:

PUD #1 of Mason County
N. 21971 Hwy 101
Shelton, WA 98584



FEDERATED RURAL ELECTRIC
INSURANCE EXCHANGE

NAIC: 11118
 P.O. Box 15147, Lenexa, KS 66285-5147
 (913) 541-0150 fax (913) 541-9004
 www.federatedrural.com

IS, AT THE ISSUE DATE OF THIS CERTIFICATE, INSURED BY THE COMPANY UNDER THE POLICY(IES) LISTED BELOW. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

TYPE OF INSURANCE	POLICY NUMBER	POLICY DATES	LIMITS (\$)	
GENERAL LIABILITY COMMERCIAL GENERAL LIABILITY OCCURRENCE-BASIS COMPREHENSIVE FORM PREMISES / OPERATIONS UND / EXPLOSION & COLLAPSE PRODUCTS / COMP OPS CONTRACTUAL BROAD-FORM PROPERTY DAMAGE NO GENERAL AGGREGATE	46 ARB 026-23	1/1/2023 to 1/1/2025	EACH OCCURRENCE	\$2,000,000
			DAMAGE TO RENTED PREMISES	\$2,000,000
			MED EXP (PER PERSON)	\$1,000
			PERSONAL & ADV INJURY	\$2,000,000
AUTOMOBILE ANY AUTO HIRED & NON-OWNED AUTO GARAGE LIABILITY (ANY AUTO)	46 ARB 026-23	1/1/2023 to 1/1/2025	COMBINED SINGLE LIMIT (EACH ACCIDENT)	\$2,000,000
			COMP DEDUCTIBLE	\$100
			COLLISION DEDUCTIBLE	\$500
WORKERS COMPENSATION AND EMPLOYERS LIABILITY	46 WC 026-23	1/1/2023 to 1/1/2024	WC LIMITS	STATUTORY
			E.L. EACH ACCIDENT	\$100,000
			E.L. DISEASE EACH EMPLOYEE	\$100,000
			E.L. DISEASE - POLICY LIMIT	\$100,000
ALL-RISK BLANKET PROPERTY	46 ARB 026-23	1/1/2023 to 1/1/2025	PROPERTY LIMIT	\$20,942,633
			PROPERTY DEDUCTIBLE	\$500

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EQUIPMENT / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

It is agreed that where required by mortgage, lease, or other legal agreement, the interests of mortgagees, lessees, and loss payees are insured as their interests may appear as additional insured's and/or loss payees. Blanket Additional Insured and Waiver of Subrogation are included under General Liability and Automobile Liability insurance if required by written contract or agreement.

CERTIFICATE HOLDER:

JEFFERSON COUNTY
PO BOX 1220
PORT TOWNSEND, WA 98368

CANCELLATION:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE:

Jennifer L. Hays Willey

Blanket Additional Insured & Waiver of Subrogation Endorsement

46 ARB 026-23

PUD #1 of Mason County

Section II, General Liability and Automobile Liability Insurance, Item F. Persons Insured, is amended to include any person or organization for whom the policyholder is performing operations when the policyholder and the person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured or insureds to this policy. Such person or organization is an additional insured only with respect to liability caused, in whole or in part, by the policyholder's acts or omissions, or by the acts or omissions of others acting on the policyholder's behalf, provided:

1. The insurance afforded to such additional insured or insureds only applies to the extent permitted by law; and
2. If such coverage is required by written contract or agreement, the insurance afforded will not be broader than that required by the contract or agreement to be provided to the additional insured or insureds; and
3. If such coverage is required by written contract or agreement, the insurance afforded shall not exceed the limit of insurance required by the contract or agreement, or the applicable Limit of Liability stated in the Declarations, whichever is less.
4. If required by written contract or agreement, the Company waives any rights of recovery against the additional insureds shown above because of payments made under Section II, General Liability. Such waiver applies only to the extent that the policyholder has waived its rights of recovery against such person(s) or organization(s) prior to loss.
5. The following amends General Condition H. Other Insurance, and supersedes any provision to the contrary:
This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under this policy provided that:
 - (1) The additional insured is a Named Insured under such other insurance; and
 - (2) It is required by written contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

With respect to the insurance afforded to these additional insureds, no coverage shall apply to Personal Injury or Property Damage arising out of or caused directly or indirectly by providing or failing to provide any professional service. This exclusion shall not apply to the rendering of emergency first aid or incidental medical service.
A professional service can mean, but is not limited to Personal Injury or Property Damage arising out of the rendering of, or the failure to render, any architectural, engineering or surveying services, including:

- a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- b. Supervisory, inspection, architectural or engineering activities.

This endorsement shall not, in any event, increase the Limit of Liability stated in the Declarations.

All other policy provisions apply.



PUBLIC UTILITY DISTRICT NO. 1
OF MASON COUNTY
N. 21971 Hwy. 101
Shelton, Washington 98584

BOARD OF COMMISSIONERS

MIKE SHEETZ, Commissioner
JACK JANDA, Commissioner
RON GOLD, Commissioner

Contract No. L-121722

Date: February 14, 2023

STATE OF WASHINGTON

Water Quality Services Contract

PUBLIC WORKS CONTRACT

For Utility Locations and Marking
Services

WITNESSETH: The parties, in consideration of the terms and conditions herein, do hereby covenant and agree as follows:

1. **Scope of Work.** The Contractor shall perform all work and service(s) and furnish all tools, materials, labor and equipment (collectively referred to as "Services") according to the procedure outlined in the Scope of Work for Locating Services for the period of February 14, 2023 through September 30, 2023 and the bid documents, which are all attached and incorporated herein, and any applicable construction standard(s), which are by this reference incorporated herein and made a part hereof, and shall perform any alterations in or additions to the work provided under this Contract and every part thereof. The Contractor shall provide and bear the expense of all equipment; work and labor of any sort whatsoever that may be required for the transfer of materials and completing the work provided for in this Contract and every part thereof, except such as are mentioned in the specifications to be furnished by the PUD 1.
2. **Compensation.** PUD 1 agrees to pay the Contractor according to monthly invoices detailing the work performed pursuant to the specifications and payment schedule of itemized prices as listed in the Contractor's Quote submittal at the time and in the manner and upon the conditions provided for the Contract. PUD 1 will pay the Contractor within thirty (30) days of receipt of an approved Invoice in accordance with this Contract. Retainage will be released in accordance with statutory requirements.
3. **Change Orders.** Any proposed change in this Contract shall be submitted to the other party, as listed herein, for its prior written approval. If approved, change will be made by a contract modification that will become effective upon execution by the parties hereto. Any oral statement or representation changing any of these terms or conditions is specifically unauthorized and is not valid. Contractor may be required to provide a detailed cost estimate for the proposed change.



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4. **Agency Relationship between PUD 1 and Contractor.** Contractor shall, at all times, be an independent Contractor and not an agent or representative of PUD 1 with regard to performance of the Services. Contractor shall not represent that it is, or hold itself out as, an agent or representative of PUD 1. In no event shall Contractor be authorized to enter into any agreement or undertaking for, or on, behalf of PUD 1.

5. **Successors and Assigns.** Neither the PUD 1, nor the Contractor, shall assign, transfer, or encumber any rights, duties, or interests accruing from this Contract without the prior written consent of the other. b. The Contractor for himself, and for his heirs, executors, administrators, successors, and assigns, does hereby agree to the full performance of all the covenants herein contained upon the part of the Contractor.

6. **Property Rights.** All records or papers of any sort relating to the PUD 1 and to the project will at all times be the property of the PUD 1 and shall be surrendered to the PUD 1 upon demand. All information concerning the PUD 1 and said project which is not otherwise a matter of public record or required by law to be made public, is confidential, and the Contractor will not, in whole or part, now or at any time disclose that information without the express written consent of the PUD 1.

7. **Inspection and Production of Records.**

- a. The records relating to the Services shall, at all times, be subject to inspection by and with the approval of the PUD 1, but the making of (or failure or delay in making) such inspection or approval shall not relieve Contractor of responsibility for performance of the Services in accordance with this Contract, notwithstanding the PUD 1's knowledge of defective or non-complying performance, its substantiality or the ease of its discovery. Contractor shall provide the PUD 1 sufficient, safe, and proper facilities, and/or send copies of the requested documents to the PUD 1. Contractor's records relating to the Services will be provided to the PUD 1 upon the PUD 1's request.
- b. Contractor shall promptly furnish the PUD 1 with such information and records which are related to the Services of this Contract as may be requested by the PUD 1. Until the expiration of six (6) years after final payment of the compensation payable under this Contract, or for a longer period if required by law or by the Washington Secretary of State's record retention schedule, Contractor shall retain and provide the PUD 1 access to (and the PUD 1 shall have the right to examine, audit and copy) all of Contractor's books,
- c. All records relating to Contractor's services under this Contract must be made available to the PUD 1, and the records relating to the Services are PUD 1 records. They must be produced to third parties, if required pursuant to the Washington State Public Records Act, Chapter 42.56 RCW, or by law. All records relating to Contractor's services under this Contract must be retained by Contractor for the minimum period of time required pursuant to the Washington Secretary of State's records retention schedule.



**PUBLIC UTILITY DISTRICT NO. 1
OF MASON COUNTY**

N. 21971 Hwy. 101
Shelton, Washington 98584

BOARD OF COMMISSIONERS

MIKE SHEETZ, Commissioner
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RON GOLD, Commissioner

d. The terms of this section shall survive any expiration or termination of this Contract.

8. **Employment Security.** Contractor must provide proof of a valid Washington Employment Security Department number as required by Title 50 RCW.

9. **Prevailing Wages.**

- a. The Contractor will comply with all provisions of Chapter 39.12 RCW - Prevailing Wages on Public Work. a. RCW 39.12.010 - the Prevailing Rate of Wage. It is solely the responsibility of the Contractor to determine the appropriate prevailing wage rate for the services being provided.
- b. Prevailing Wage Price Adjustments: The Contractor may request an adjustment to the contract for labor rates bid by PUD 1 to reflect changes in prevailing wage rates. Upon such request, PUD 1 shall adjust the labor rates bid (hourly wage rates and fringe benefits) to reflect revised prevailing wages adopted by the Department of Labor and Industries in March and September each year. In order to calculate the change in labor rates due to the Contractor, the Contractor shall provide to PUD 1 a breakdown of the fully loaded labor rates for each classification of labor including hourly wage rates, fringe benefits, overhead and profit. PUD 1 shall not pay for any price escalation for overhead, profit, equipment, material, or any other costs except for changes in the labor rates to reflect changes in the prevailing wage (hourly wage rates and fringe benefits). The revised prevailing wages shall be effective for any Work Order issued after the effective date of the revised prevailing wages. The basis of modified prevailing wage rates applicable for the Contract shall be calculated and issued in writing by the Owner. To the extent that the Contract Sum changes, a Change Order will be issued as appropriate.
- c. RCW 39.12.040 - Statement of Intent to Pay Prevailing Wages and an Affidavit of Wages Paid. Before an awarding agency may pay any sum due on account, it must receive a statement of Intent to Pay Prevailing Wages approved by the Department of Labor and Industries. Following final acceptance of a public work project, and before any final money is disbursed, each contractor and subcontractor must submit to the awarding agency an Affidavit of Wages Paid, certified by the Department of Labor and Industries. c. RCW 39.12.070 - Fees Authorized for Approval Certification and Arbitrations. Any fees charged by the Department of Labor and Industries for approvals or fees to cover costs of arbitration

conducted shall be the responsibility of the Contractor. The State of Washington prevailing wage rates applicable for this public works project, which is located in Mason County, may be found at the following website address of the Department of Labor and Industries: <https://fortress.wa.gov/lni/wagelookup/prvWagelookup.aspx>. Based on the quote submittal for this project, the applicable effective (start) date of this project for the purposes of determining prevailing wages is the quote date, January 1, 2019 and each succeeding



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January 1st. A copy of the applicable prevailing wage rates are also available for viewing at the PUD 1 Purchasing office, located at 21971 US-101, Shelton, WA 98584. Upon request, the PUD 1 will mail a hardcopy of the applicable prevailing wages for this project.

10. **Certified Payroll for Non-Federally Funded Projects.** Upon request by the PUD 1 or by an Interested Party, copies of certified payroll shall be provided to PUD 1, with employee information such as last name, SSN and address, redacted in accordance with RCW 42.56.230, in order to provide for public records requests. The PUD 1 reserves the right to require Contractor to deliver to PUD 1 a copy of the non-redacted Certified Payroll if PUD 1 determines, in its sole discretion, that, such non-redacted copy is necessary or appropriate in order to enable PUD 1 to comply with any applicable law. RCW 42.56.230 (7)(a) Personal Information Exemption: Any record used to prove identity, age, residential address, social security number, or other personal information required to apply for a driver's license or identicard. RCW 39.12.010 (4): An "Interested Party" for the purposes of this chapter shall include a contractor, subcontractor, an employee of a contractor or subcontractor, an organization whose members' wages, benefits, and conditions of employment are affected by this chapter, and the director of labor and industries or the director's designee. WAC 296-127-320 Payroll: (1) Each contractor shall keep accurate payroll records for three years from the date of acceptance of the public works project by the contract awarding agency, showing the name, address, Social Security number, trade or occupation, straight time rate, hourly rate of usual benefits as defined by WAC 296-127-014(1), and overtime hours worked each day and week, including any employee authorizations executed pursuant to WAC 296-127-022, and the actual rate of wages paid, for each laborer, worker, and mechanic employed by the contractor for work performed on a public works project. (2) A contractor shall, within ten days after it receives a written request, from the department or from any interested party as defined by RCW 39.12.010(4), file a certified copy of the payroll records with the agency that awarded the public works contract and with the department. (3) A contractor's noncompliance with this section shall constitute a violation of RCW 39.12.050.

11. **Nondiscrimination.** During the performance of this Contract, the Contractor agrees as follows: The Contractor shall not discriminate against any person on the grounds of race, creed, color, religion, national origin, sex, age, marital status, sexual orientation, pregnancy, veteran's status, political affiliation or belief, or the presence of any sensory, mental or physical handicap in violation of the Washington State Law Against Discrimination (RCW chapter 49.60) or the Americans with Disabilities Act (42 USC 12101 et seq.). This provision shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, selection for training, and the provision of Services under this Agreement. In the event of the Contractor's noncompliance with the non-discrimination clause of this contract or with any such rules, regulations, or orders, this Contract

may be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for any future PUD 1 contracts.



PUBLIC UTILITY DISTRICT NO. 1
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N. 21971 Hwy. 101
Shelton, Washington 98584

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JACK JANDA, Commissioner
RON GOLD, Commissioner

12. Indemnification and Hold Harmless.

- a. Contractor shall take all necessary precautions in performing the Services to prevent injury to persons or property. Contractor agrees to defend, indemnify and hold harmless the PUD 1, its elected and appointed officials, officers, employees, attorneys, agents, and volunteers from any and all claims, demands, losses, liens, liabilities, penalties, fines, lawsuits, and other proceedings and all judgments, awards, costs and expenses (including reasonable costs and attorney fees) which result or arise out of the negligent acts or omissions of Contractor, its officials, officers, employees or agents.
- b. If any suit, judgment, action, claim or demand arises out of, or occurs in conjunction with, the negligent acts and/or omissions of both the Contractor and the PUD 1, or their elected or appointed officials, officers, employees, agents, attorneys or volunteers, pursuant to this Contract, each party shall be liable for its proportionate share of negligence for any resulting suit, judgment, action, claim, demand, damages or costs and expenses, including reasonable attorneys' fees.

13. Contractor's Waiver of Employer's Immunity under Title 51 RCW. To the extent necessary to fully satisfy the Contractor's indemnification, defense, and hold harmless obligations set forth above in section a, Contractor specifically waives any immunity granted under Title 51 RCW, and specifically assumes all potential liability for actions brought by employees of the Contractor against the PUD 1 and its elected and appointed officials, officers, employees, attorneys, agents, and volunteers. The parties have mutually negotiated this waiver. Contractor shall similarly require that its subcontractors, and anyone directly or indirectly employed or hired by Contractor, and anyone for whose acts Contractor may be liable in connection with its performance of this Agreement, shall comply with the terms of this paragraph, waive any immunity granted under Title 51 RCW, and assume all potential liability for actions brought by their respective employees. The provisions of this section shall survive the expiration or termination of this Agreement. Nothing contained in this Section or this Contract shall be construed to create a liability or a right of indemnification in any third party. e. The terms of this section shall survive any expiration or termination of this Contract.

14. Contractor's Liability Insurance. At all times during performance of the Services and this Contract, Contractor shall secure and maintain in effect insurance to protect the PUD 1 and Contractor from and against any and all claims, damages, losses, and expenses arising out of or resulting from the performance of this Contract. Contractor shall provide and maintain in force insurance in limits no less than that stated below, as applicable. The PUD 1 reserves the right to require higher limits should it deem it necessary in the best interest of the public. Contractor will provide a Certificate of Insurance to the PUD 1 as evidence of coverage for each of the policies and outlined herein. A copy of the additional insured endorsement attached to the policy will be included with the certificate. This Certificate of insurance shall be provided to the PUD 1, prior to commencement of work. The following insurance is required:



PUBLIC UTILITY DISTRICT NO. 1
OF MASON COUNTY
N. 21971 Hwy. 101
Shelton, Washington 98584

BOARD OF COMMISSIONERS

MIKE SHEETZ, Commissioner
JACK JANDA, Commissioner
RON GOLD, Commissioner

- a. **Commercial Liability Insurance.** Before this Contract is fully executed by the parties, Contractor shall provide the PUD 1 with a certificate of insurance as proof of commercial liability insurance with a minimum liability limit of One Million Dollars (\$1,000,000.00) per occurrence, combined single limit bodily injury and property damage, and Two Million Dollars (\$2,000,000.00) general aggregate. If Contractor carries higher coverage limits, such limits shall be shown on the Certificate of Insurance and Endorsements and the PUD 1, its elected and appointed officials, employees, agents, attorneys and volunteers shall be named as additional insureds for such higher limits. The certificate shall clearly state who the provider is, the coverage amount, the policy number, and when the policy and provisions provided are in effect. Said policy shall be in effect for the duration of this Contract. The policy shall name the PUD 1, its elected and appointed officials, employees, agents, attorneys and volunteers as additional insureds, and shall contain a clause that the insurer will not cancel or change the insurance without first giving the PUD 1 prior written notice. The insurance shall be with an insurance company or companies rated A-VII or higher in Best's Guide and admitted in the State of Washington. The requirements contained herein, as well as PUD 1's review or acceptance of insurance maintained by Contractor is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Contractor under this contract.
- b. **Automobile Liability Insurance.** Before this Contract is fully executed by the parties, Contractor shall provide the PUD 1 with a certificate of insurance as proof of automobile liability insurance with a minimum liability limit of One Million Dollars (\$1,000,000.00) per occurrence. If Contractor carries higher coverage limits, such limits shall be shown on the Certificate of Insurance and Endorsements and the PUD 1, its elected and appointed officials, employees, agents, attorneys and volunteers shall be named as additional insureds for such higher limits. The certificate shall clearly state who the provider is, the coverage amount, the policy number, and when the policy and provisions provided are in effect. Said policy shall be in effect for the duration of this Contract. The policy shall name the PUD 1, its elected and appointed officials, employees, agents, attorneys and volunteers as additional insureds, and shall contain a clause that the insurer will not cancel or change the insurance without first giving the PUD 1 prior written notice. The insurance shall be with an insurance company or companies rated A-VII or higher in Best's Guide and admitted in the State of Washington. The requirements contained herein, as well as PUD 1's review or acceptance of insurance maintained by Contractor is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Contractor under this contract. The business auto liability shall include Hired and Non-Owned coverage if necessary.
- c. **Employer's Liability (Stop Gap):** Contractor and all subcontractor(s) shall at all times comply with all applicable workers' compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable, and shall maintain Employer's Liability insurance with a limit of no less than \$1,000,000.00. The



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PUD 1 shall not be held responsible in any way for claims filed by Contractor or its employees for services performed under the terms of this Contract. Contractor agrees to assume full liability for all claims arising from this Contract including claims resulting from negligent acts of all subcontractor(s). Contractor is responsible to ensure subcontractor(s) have insurance as needed. Failure of subcontractors(s) to comply with insurance requirements does not limit Contractor's liability or responsibility. Contractor's insurance coverage shall be primary insurance with respect to those who are Additional Insureds under this Contract. Any insurance, or self-insurance maintained by the PUD 1 shall be in excess of the Contractor's insurance and shall not contribute to it. If at any time during the life of the Contract, or any extension, Contractor fails to maintain the required insurance in full force and effect, all work under the contract shall be discontinued immediately. Any failure to maintain the required insurance may be sufficient cause for the PUD 1 to terminate the Contract. Should a court of competent jurisdiction determine that this Contract is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of Contractor and the PUD 1, its officers, elected and appointed officials, employees, agents, attorneys and volunteers, Contractor's liability hereunder shall be limited to the extent of the Contractor's negligence.

15. **Assignment.** The Contractor shall not let, assign or transfer this Contract, or any interest in it or part of it, without the written consent of PUD 1 which consent may be denied in the sole discretion of PUD 1.

16. **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.

17. **Hierarchy of Documents.** This Agreement and the conditions, addenda, and modifications and Contractor's proposal (to the extent consistent with a PUD 1 documents) constitute the Contract Documents and are complementary. Specific Federal and State laws and the terms of this Contract, in that order respectively, supersede other inconsistent provisions. These Contract Documents are on file in the Office of the Purchasing Manager, 21971 US-101, Shelton, WA 98584, and are hereby incorporated by reference into this Contract.

18. **Termination – Convenience.** This Contract may be terminated by either party by giving thirty (30) days written notice of such intent and will become effective thirty (30) days from the date such written notice is delivered to the applicable party to the Contract.

19. **Termination – Cause.** PUD 1 reserves the right to terminate this Contract at any time, upon written notice, in the event that the Services of Contractor are deemed by the PUD 1 to be unsatisfactory, or upon failure to perform any of the terms and conditions contained in this Contract. The effective date for such



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termination shall be upon receipt of the notice, or three days after the notice is mailed first class mail, certified with return receipt requested.

20. **Force Majeure.** Contractor will not be responsible for delays in delivery due to acts of God, fire, strikes, epidemics, war, riot, delay in transportation or railcar transport shortages, provided Contractor notifies the PUD 1 immediately in writing of such pending or actual delay. Normally, in the event or any such delays (acts of God, etc.) the date of delivery will be extended for a period equal to the time lost due to the reason for delay.

21. **Governing Law.** This Contract shall be governed by and construed in accordance with the laws of the State of Washington.

22. **Venue.** The venue for any action to enforce or interpret this Contract shall lie in Mason County, Washington.

IN WITNESS WHEREOF: The Owner, has caused this Contract to be subscribed in its behalf, and the said Contractor has signed this Contract the day and year first above written.

Contractor:

Owner:

Mt. View Locating Services, LLC

Public Utility District No. 1 of Mason County

By _____

By _____

Title President

Title General Manager

Date _____

Date _____

Washington State Contractor's
License No. _____