

INTERLOCAL COOPERATIVE AGREEMENT

BETWEEN

Skagit County PUD #1
AND
SKAGIT COUNTY

THIS AGREEMENT (herein "Agreement") is made and entered into by and between Skagit County PUD #1, (herein "Skagit County PUD #1") and SKAGIT COUNTY, a political subdivision of the State of Washington (herein "County") pursuant to the authority granted by Chapter 39.34 RCW, INTERLOCAL COOPERATION ACT. Skagit County PUD #1 and the County may be individually referred to herein as a "party", and may be collectively referred to herein as the "parties." In consideration of the following, the parties mutually agree as follows:

1. **PURPOSE:** The purpose of this Agreement is to allow each party to provide mutual assistance on minor projects and work and services for the other party (herein the "Project[s]"), pursuant to and subject to the terms of this Agreement. Such Project work and/or services shall be limited and infrequent in nature and may include, but is not necessarily limited to: the use of equipment owned by the parties; small chip-sealing, striping, and road maintenance and repair matters; culvert clearing; mowing, spraying and vegetation management; and plowing, salting, sanding, etc. The parties recognize and agree that this Agreement is not intended for use (and shall not be used) for larger, more significant projects, and/or complex projects, and/or projects involving unique or noteworthy factual, technical, and/or legal circumstances (which shall otherwise require [an]other separate project-specific agreement[s] between the parties). Neither party is obligated to pay, provide, or expend any funds, and/or provide and/or perform any other services or other duties, unless otherwise specified herein.

2. **RESPONSIBILITIES:** In accordance with and subject to the Purpose of this Agreement (as provided above per Section 1), either party may, but shall not be required to perform Project work and/or services, provide Project materials, and allow for the use of each party's equipment for Project work as may be requested by the other party, to be reimbursed to the party providing said Project work, materials, equipment, etc., as further provided and described per Section 4. of this Agreement, below. In the event that either party uses any equipment owned by the other party pursuant to this Agreement, the parties agree that any user and/or operator of such equipment shall be an operator properly trained and/or certified in accordance with applicable law and industry standards, as further provided and described per Section 4. of this Agreement, below.

2.2 In any particular instance or in all instances, either party may choose not to perform requested Project work and/or services for the other party, in the event that such party determines that it would be undesirable, unsafe, impracticable, or otherwise not feasible for any reason.

3. TERM OF AGREEMENT: The term of this Agreement shall be from date at which both parties have completed execution through December 31, 2024, unless sooner terminated pursuant to the terms herein.

4. MANNER OF FINANCING: The parties agree that reimbursement for Project work as may be performed by either party shall be made as follows:

4.1 County may perform work, provide materials, and/or provide the use of County's equipment (to be operated by a County operator), for work on Skagit County PUD #1's facilities upon their request and acceptance by County, to be reimbursed by Skagit County PUD #1 to County at the actual cost incurred by County for said work, materials, use of County's equipment, and wages for County's operator[s] provided by County to operate the equipment; and, in addition thereto, nine percent (9%) of the total cost shall be added for overhead costs for accounting, billing, and administrative services, provided that County shall submit to Skagit County PUD #1 a certified statement of the costs, and within thirty (30) days thereafter, Skagit County PUD #1 shall pay to County the amount of said statement. Upon the request of Skagit County PUD #1, County shall provide adequate supporting documentation for any and all amounts billed to Skagit County PUD #1 by County pursuant to the terms of this Agreement.

4.2 Skagit County PUD #1 may perform work, provide materials, and/or provide the use of Skagit County PUD #1's equipment (to be operated by the Skagit County PUD #1's operator), for work on County's facilities upon County's request and acceptance by Skagit County PUD #1, to be reimbursed by County to the Skagit County PUD #1 at the actual cost incurred by Skagit County PUD #1 for said work, materials, use of Skagit County PUD #1's equipment, and wages for Skagit County PUD #1s operator[s] provided by Skagit County PUD #1 to operate the equipment; and, in addition thereto, nine percent (9%) of the total cost shall be added for overhead costs for accounting, billing, and administrative services, provided that Skagit County PUD #1 shall submit to County a certified statement of the costs, and within thirty (30) days thereafter, County shall pay to Skagit County PUD #1 the amount of said statement. Upon the request of County, Skagit County PUD #1 shall provide adequate supporting documentation for any and all amounts billed to County by Skagit County PUD #1 pursuant to the terms of this Agreement.

5. ADMINISTRATION: The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party.

5.1 County's representative shall be the Operations Division Manager, or their designee.

5.2 Skagit County PUD #1 representative shall be the Director of Public Works, or their designee.

6. **TREATMENT OF ASSETS AND PROPERTY:** No fixed assets or personal or real property will be jointly or cooperatively acquired, held, used, or disposed of pursuant to this Agreement.

7. **NO PARTNERSHIP OR JOINT VENTURE:** No partnership and/or joint venture exists between the parties, and no partnership and/or joint venture is created by and between the parties by virtue of this Agreement. No agent, employee, contractor, subcontractor, consultant, volunteer, and/or other representative of the parties shall be deemed an agent, employee, contractor, subcontractor, consultant, volunteer, or other representative of the other party.

8. **NO THIRD PARTY BENEFICIARIES:** This Agreement is not intended to nor does it create any third party beneficiary or other rights in any third person or party, including, but not limited to, the general public, property owners and residents at or in the vicinity of the Project(s), or any other organization or entity, or any agent, contractor, subcontractor, consultant, employee, volunteer, or other representative of any party.

9. **INDEMNIFICATION:** Each party agrees to be responsible and assume liability for its own wrongful and/or negligent acts or omissions and those of its officials, officers, agents, employees, volunteers, assigns, contractors, subcontractors, and/or consultants to the fullest extent required by law, and further agrees to save, indemnify, defend, and hold the other party harmless from any such liability, loss, and/or expense, including but not limited to, judgments, settlements, attorney's fees and costs by reason of any and all claims and demands upon the other party, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property including loss of use thereof, except to the extent such injury to persons or damage to property is due to the negligence of the other party, its subcontractors, its elected officers, employees, volunteers, and/or their agents. It is further provided that no liability shall attach to either party by reason of entering into this contract except as expressly provided herein.

10. **TERMINATION:** Any party hereto may terminate this Agreement upon thirty (30) days' notice in writing either personally delivered or mailed postage-prepaid by certified mail, return receipt requested, to the party's last known address for the purposes of giving notice under this paragraph. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination, except that the duty to indemnify pursuant to paragraph 9 shall survive such termination.

11. **CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS:** The Agreement may be changed, modified, amended or waived only by written agreement executed by the parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

12. **SEVERABILITY:** In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not

affect other terms, conditions or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.

13. ENTIRE AGREEMENT: This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. 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.

14. STATUS OF AGREEMENT: This Agreement is in addition to, and is not intended to replace, substitute, modify, or otherwise amend any other agreements by and between the parties. Any other agreements by and between the parties shall continue in full force and effect, unless specified to the contrary herein (see Section 13, above).

15. USE OF DOCUMENTS AND MATERIALS PRODUCED: Both parties shall have the right to use and distribute any and all documents, writings, programs, data, public records or other materials prepared by any party (and/or any party's contractors, consultants, and/or subcontractors), in connection with performance of this Agreement. The parties recognize and agree that any documents and/or materials arising from and/or related to this Agreement may be subject to public disclosure pursuant to applicable law.

16. COMPLIANCE WITH LAWS AND TERMS OF GRANTS: The parties to this Agreement shall comply with all applicable federal, state, and local laws, rules, and regulations in carrying out the terms and conditions of this Agreement. If applicable, compliance with laws shall specifically include, but not be limited to, compliance with laws pertaining to the payment of prevailing wage on public works, including, but not necessarily limited to RCW 39.12. If applicable, compliance with laws shall also specifically include, but not be limited to, compliance with laws for the procurement of contracts for architectural and engineering services, including, but not necessarily limited to RCW 39.80. If necessary, the parties shall obtain and comply with all necessary permits and approvals from all applicable jurisdictions prior to commencing any work related to this Agreement. Each party individually recognizes and agrees that it shall be solely and separately responsible and liable for compliance with all terms and conditions of any applicable grant(s) obtained or procured in such party's name.

17. ASSIGNMENT AND SUBCONTRACTING: No portion of this Agreement may be assigned, contracted, and/or subcontracted to any other individual, firm, company, and/or other entity by either party.

18. DEFAULT: Failure of the parties to comply with the terms of this Agreement shall constitute default. The parties shall have all remedies for the enforcement of this Agreement as provided by law.

19. VENUE AND CHOICE OF LAW: In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the Superior Court of the State of Washington

in and for the County of Skagit. This Agreement shall be governed by the laws of the State of Washington.

20. CAPTIONS & COUNTERPARTS: The captions in this Agreement are for convenience and reference only and do not define, limit, or describe the scope or intent of this Agreement. This Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

21. NEUTRAL AUTHORSHIP: Each of the terms and provisions of this Agreement have been reviewed and negotiated, and represents the combined work product of the parties hereto. No presumption or other rules of construction which would interpret the provisions of this Agreement in favor of or against the party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Agreement. The parties represent that they have had a full and fair opportunity to seek legal advice with respect to the terms of this Agreement and have either done so, or have voluntarily chosen not to do so. The parties represent and warrant that they have fully read this Agreement, that they understand its meaning and effect, and that they enter into this Agreement with full knowledge of its terms. The parties have entered into this Agreement without duress or undue influence.

Skagit County PUD #1:



Title of Signatory

Date NOVEMBER 19, 2019

GEORGE SIDHU, P.E., GENERAL MANAGER
Print Name of Signatory

Mailing Address:
(Street address required
in addition to P.O. Box)

1415 FREEWAY DRIVE

P.O. BOX 1436

MT. VERNON, WA 98273

DATED this 9 day of December, 2019.

**BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**



Lisa Janicki, Chair



Ron Wesen, Commissioner



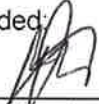

Kenneth A. Dahlstedt, Commissioner

Attest:



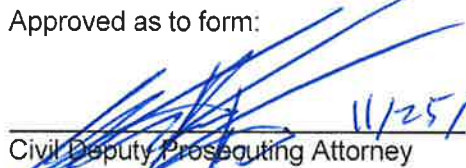
Clerk of the Board

For contracts under \$5,000:
Authorization per Resolution R20030146


Recommended:  

Department Head

County Administrator

Approved as to form:


Civil Deputy Prosecuting Attorney 11/25/19

Approved as to indemnification:


Risk Manager

Approved as to budget:


Budget & Finance Director