Contract #
334.24.013

JUN 1 1 2024

MULTI-AGENCY INTERLOCAL AGREEMENT FOR HAZARD MITIGATION AND CLIMATE PLANNING TO SATISFY CERTAIN FEMA AND GMA PERIODIC UPDATE REQUIREMENTS

THIS INTERLOCAL AGREEMENT ("ILA") is made and entered into among the City of Forks, the City of Port Angeles, and the City of Sequim (hereinafter referred to as the "Cities") and Clallam County (the Cities and Clallam County are collectively referred to herein as the "Parties"), all of which are governmental entities duly organized and operated under and through the laws of the State of Washington.

WHEREAS, public agencies are authorized by RCW Chapter 39.34 to enter into ILAs to cooperate and jointly exercise their powers in ways that provide the most efficient use of resources, and

WHEREAS, the Parties currently have a multi-jurisdictional hazard mitigation plan which expires January 28, 2025, and the Parties wish to create and administer a regional multi-district hazard mitigation plan update (the "Hazard Plan Update") for the benefit of said jurisdictions and in compliance with all of the planning requirements set forth by FEMA in 44 CFR Parts 201 and 206 and further articulated in FEMA's newly released Local Mitigation Planning Policy Guide (effective April 19, 2023), including assessing how climate changes will alter the jurisdictions' vulnerabilities to future hazard events, and

WHEREAS, the Parties understand they must each formally adopt the Hazard Plan Update in order to meet state and federal requirements and be eligible to apply for certain federal hazard mitigation grant funding, and

WHEREAS, each of the Parties are also required under the HB 1181 (Chapter 228, 2023 Laws) to plan for climate change and resiliency by adopting a resiliency sub-element to each jurisdictions comprehensive planning under RCW 36.70A.040, and

WHEREAS, the Washington State Commerce Department ("Commerce") has indicated in its Climate Element Planning Guidance (December 2023) that "[a] natural hazard mitigation plan that is in substantial conformance with the guidance could be adopted, by reference, to satisfy the resilience sub-element requirements" under HB 1181, and

WHEREAS, Commerce has offered to provide certain grant funding to local governments in Washington State subject to HB 1181 for activities related to implementing climate change planning and the Parties wish to apply for such grant funding (the "Commerce Grant Monies") and pool certain of that grant funding to perform the hazard mitigation planning and the climate resilience sub-element planning required under state and federal laws, regulations and guidance, and to use any remaining pooled Commerce Grant Monies pursuant to the terms of this ILA to perform future scoping implementation activities permitted under HB 1181.

NOW, THEREFORE, in consideration of the terms, conditions, and covenants stated herein and the performance to be rendered hereunder, the Parties agree as follows:

1. PURPOSE: The purpose of this ILA is to provide a framework for mutual cooperation of the Parties so as to accomplish the following objectives in a coordinated and economically efficient manner: (1) creation of a Hazard Plan Update that meets FEMA requirements and can be utilized to satisfy the climate resilience sub-element in substantial conformance with Commerce guidance; (2) applying for Commerce grant funding available to the Parties, agreeing to the pooling of certain of these Commerce Grant Monies and specifying how such pooled funds shall be utilized; and (3) setting forth the Parties responsibilities and the deliverables in connection with this ILA.

2. INTERAGENCY COOPERATION: The Parties to this ILA agree that Clallam County shall act as the lead agency for purposes of administering the planning, implementation, and completion of the Hazard Plan Update for the benefit of all Parties hereto. The Cities authorize Clallam County to manage and facilitate the planning process in accordance with the Work Program, herein attached and incorporated in its entirety as Exhibit A. All Parties agree that time is of the essence with regard to the purposes of this ILA. Each of the Parties to this ILA shall participate and provide prompt response to appropriate information requests made to implement the Work Program, so that the Hazard Plan Update can be developed in a timely manner and the Parties can coordinate on the climate measures and climate policies sought to be adopted by each Parties comprehensive planning under the resilience sub-element.

3. SPECIFIC RESPONSIBILITIES OF THE COUNTY: The County agrees to:

A. Designate a Project Lead employed by Clallam County who shall be responsible for establishing a Hazard Mitigation Climate Resiliency Committee (the "HMCR") and act as the Chair of the HMCR. The HMCR shall act as the Steering Committee to guide the overall planning process. The HMCR shall be comprised of the Chair, a designated representative from each of the Cities and representatives invited by the Chair from other agencies, Tribes, businesses, non-profits, school districts, and fire districts. The Chair shall be responsible for setting the meeting schedule and will attend each scheduled meeting. There shall be minutes created for each HMCR meeting.

B. Apply for the Commerce Grant Monies on behalf of the County and the City of Forks, which grant application request was made to Commerce on October 31, 2023. Clallam County understands that the City of Sequim and the City of Port Angeles have each made a separate grant application request to Commerce for the Commerce Grant Monies. Clallam County will inform Commerce through its grant application request that the Cities and the County intend to pool certain of the Commerce Grant Monies that each of the Parties expect to be allocated from Commerce to be utilized under this ILA. From the Commerce Grant Monies, the Parties agree to contribute the following: Clallam County ($300,000), City of Forks ($100,000), City of Port Angeles ($60,000), City of Sequim ($ 24,200), hereinafter the "Pooled Commerce Grant Monies."

No Party shall be obligated to provide any additional monies beyond the amount stated in this paragraph 3.B.

C. Hire a qualified Hazard Mitigation/Climate Planning consultant or consultant team (hereinafter, the "Consultant") through an RFP process and a written contract and make payments to the Consultant for services rendered utilizing the Commerce Grant Monies consistent with the budget amounts provided for in Exhibit B.

D. Have the Project Lead and other Clallam County staff as needed manage the Hazard Plan Update planning process, the required Climate planning under the resilience sub-element utilizing Commerce guidance and manage the work to be performed by the Consultant so as to provide the Deliverables described in Section 7 herein.

4. SPECIFIC RESPONSIBILITIES OF THE CITIES: Each of the Cities:

A. Authorizes Clallam County to submit this executed ILA to Commerce as part of the Commerce grant application process.

B. Agree to the pooling of its Commerce Grant Monies in the amount specified in Section 3.B. above for the purpose of being used to disburse payments in the manner set forth in Section 8 of this ILA.

C. Attests that the Pooled Commerce Grant Monies will be used to prepare and adopt amendments to implement the requirements of HB 1181 related to climate planning and further attests that the City understands that the GMA requires it to adopt goals and policies related to climate change and that these goals and policies will be considered and adopted as part of its scheduled periodic review update to its comprehensive plan deadline.

D. Will designate a senior staff representative to serve on the HMCR who will be responsible for attending the HMCR meetings regularly and conveying information to its governing council/Mayor/City Manager and bring back their statements and opinions to the HMCR.

E. To the extent workload and staffing levels permit, will provide sufficient staff to support the planning activities under this ILA, including public outreach efforts, distribution of news releases, public hearing notices, meetings with Clallam County planning staff and the Consultant and providing comments to the draft Hazard Plan Update.

5. PLANNING PROCESS: The planning process in the creation of the Hazard Plan Update shall be conducted in accordance with the planning requirements set forth by FEMA in 44 CFR Parts 201 and 206, the guidance provided under FEMA's Local Mitigation Planning Policy Guide (effective April 19, 2023) and the FEMA Region 10

Crosswalk entitled "FEMA's Hazard Mitigation Plan x Washington Department of Commerce's Climate Element Planning Guidance" and that the work regarding the satisfaction of the climate resilience sub-element under HB 1181 will be conducted in accordance with Commerce's most recent published climate element planning guidance, including Commerce's guidance entitled "Best Practices for Integrating Climate into Hazard Mitigation Plan."

6. PLAN CONTENT: The Hazard Plan Update to be developed shall include, at a minimum, the following:

- Documentation of the planning process used to develop the plan, including how it was prepared, who was involved in the process, and how the public was involved.
- A vulnerability risk assessment that provides a factual basis for activities proposed in the strategy to reduce losses from identified hazards.
- A mitigation strategy that provides the Parties' blueprint for reducing the potential losses identified in the risk assessment, based on existing authorities, polices, programs, and resources, and its ability to expand on and improve the existing tools.
- A plan maintenance process consistent with FEMA's planning requirements.
- Documentation that the plan has been formally adopted by the governing bodies of the Parties to this ILA.

7. DELIVERABLES: The following deliverables will be created in connection with this ILA: (1) each of the Cities and Clallam County will receive a draft Hazard Plan Update prepared by the Consultant and created to meet FEMA's planning requirements The Hazard Plan update delivered will follow Commerce's most recent published climate element planning guidance entitled "Best Practices for Integrating Climate into Hazard Mitigation Plan" and the FEMA Region 10 Crosswalk entitled "FEMA's Hazard Mitigation Plan x Washington Department of Commerce's Climate Element Planning Guidance" created at Commerce's request and focused upon the "overlap between elements in FEMA's Update Planning Policy Guidance (released in April 2022) and Commerce's climate element planning guidance to develop and implement plans and policies that foster climate resilience and equity" as required under HB 1181; (2) the Consultant in collaboration with the Parties will have conducted a public outreach sufficient to elicit public comment on the Hazard Plan Update during the drafting stage and prior to plan approval; (3) each of the Cities and Clallam County will have had the ability to work with the Consultant and collaboratively among the Parties to develop comprehensive planning goals and policies to create a climate action plan with respect to each agency to the extent required to satisfy the resilience sub-element under HB 1181 and consistent with Commerce's most recent published climate element planning guidance; and (4) Clallam County will submit the Hazard Plan Update of all the Parties for approval to the State Hazard Mitigation Officer for initial review and to the appropriate FEMA regional office for review and approval. The County and Cities will each be responsible for the incorporation of these deliverables into each of their overall

comprehensive plan by June 30, 2025 and adhere to all notice requirements set forth by RCW 36.70A.106 concerning notice of intent to adopt a comprehensive plan and development regulation amendments.

8. PAYMENTS FROM POOLED COMMERCE GRANT MONIES: Clallam County will act to disburse payments from the Pooled Commerce Grant Monies to the Consultant and to the County for work performed and costs accrued consistent with the terms of this ILA and within the limitations provided under the budget amounts in Exhibit B. The Pooled Commerce Grant Monies shall be the sole source for making payments under this ILA. Consultant invoices shall provide a detailed description of the work performed along with the date, the amount of time and the charges including any expenses. Consultant invoices shall be due by the 15th of the month. Payments from the Pooled Commerce Grant Monies shall be made by Clallam County within 30 days of receipt of the invoice.

8. LIABILITY: It is the intent of each of the Parties to this ILA to be responsible for the acts, errors, and/or omissions of their respective officers, officials, employees, agents and volunteers concerning any acts or activities under this ILA. To the extent permitted by law, each Party to this ILA shall defend, indemnify, and hold harmless, the other Parties from and against all claims, suits, causes of actions, judgments, or costs/damages of any nature (including cost of defense and attorney fees) that arise from any intentional or negligent act or omission of the indemnifying party's officers, employees, agents, while performing any acts or activities authorized by this ILA.

The provisions of this section survive expiration or termination of this ILA.

Nothing herein is to be interpreted to limit the ability of an individual or agency to exercise any right, defense, or remedy that any Party may have with respect to third parties or the individual(s) whose action or inaction gave rise to loss, claim, or liability, including but not limited to an assertion that the individual was acting beyond the scope of their employment.

Nothing herein is to be interpreted to cover or require indemnification or payment of any judgment against any individual or agency for intentionally wrongful conduct outside the scope of employment of any individual or for any judgment for damages against any individual or agency outside the scope of employment. Payment of damage awards, fines, or sanctions will be the sole responsibility of the individual against whom said judgment is rendered and/or their municipal employer, should that employer elect to make said payment voluntarily.

9. EXECUTION: This ILA may be executed in any number of counterparts, each of which is deemed to be an original as against any Party whose signature appears thereon, and all of which together constitute one and the same instrument. This ILA becomes binding when one or more counterparts, individually or taken together, bears the signature of all of the Parties reflected as signatories.

10. FILING: As provided by RCW 39.34.040, prior to its entry in force this ILA must be filed on each of the Parties' websites.

11. AMENDMENTS AND ADDED PARTIES: This ILA may only be amended by written agreement of all the undersigned agencies. Additional municipal agencies may be considered for inclusion upon written request, provided that all Parties agree and the agency receives authorization from its legislative body.

12. SEVERABILITY: If any section of this ILA is adjudicated to be invalid, such action does not affect the validity of any section not so adjudged.

13. TERM AND TERMINATION; WITHDRAWAL OF A PARTY; SURVIVABILITY OF PROVISIONS: The term of this ILA shall be from the Effective Date until June 30, 2025. If the amounts of the Commerce Grant Monies received by the Parties are less than the amounts shown in Section 3.B, this ILA will terminate immediately.

If Pooled Commerce Grant Monies are remaining after the Deliverables specified under Section 7 herein have occurred, the County will inform Commerce and the other Parties and seek to use the remaining Pooled Commerce Grant Monies to perform hazard mitigation scoping projects under a renegotiated ILA with all of the Parties.

A Party may withdraw from the ILA at any time by providing the other Parties with 60 calendar days' prior written notice. Termination or withdrawal pursuant to this section relieves a Party of all further obligations under this ILA except that any liability resulting from any act or omission which occurred during the term will survive the expiration or other termination. Termination or withdrawal of a Party will not entitle the Party to the return of any of the Pooled Commerce Grant Monies.

14. NOTICE: All notices required under this ILA must be given by regular United States mail and are complete three days after the date mailed when addressed to the Parties at the Service Addresses shown on their respective signature blocks below, or such other addresses as may be provided in writing in the future.

This provision is not intended to apply to informal communications, which are commonly conducted by email.

15. LEAD POINTS OF CONTACT: The lead points of contact for each of the Parties is: for Clallam County: DCD Chief Deputy Director Holden Fleming; for the City of Forks: Rod Fleck, Attorney/Planner; for the City of Port Angeles: William Habel, Natural Resources/Grant Administrator for the City of Sequim: Charisse Deschenes, Deputy City Manager/Director of Community & Economic Development

16. MISCELLANEOUS PROVISIONS:

A. Construction: In the event of a dispute among the Parties as to the meaning of terms, phrases, or specific provisions of this ILA, the ILA's authorship will not be cause for the term, phrase, or provision to be construed for or against any Party.

B. Administration: This ILA will be collectively administered by all Parties and does not create any separate legal or administrative entity. However, nothing in this ILA is intended to prevent or otherwise interfere with discussions or decisions that may be made by the Parties during a review of this ILA. Further, the Parties understand and agree that there will be communication between the Parties to effectuate the terms of this ILA.

C. Insurance: Each Party must obtain and keep in force during the full term of this ILA sufficient types and amounts of insurance coverage as recommended by their respective municipal risk pools or other insurance providers. Each Party must provide evidence of coverage to the other Parties upon request.

D. Applicable Law and Venue: This ILA will be governed by and construed in accordance with the laws of the State of Washington. The venue for any court action will be in Clallam County in any court with jurisdiction. In the event disputes over the terms of this ILA reasonably necessitate the procurement of legal services, each party is responsible for its own attorney fees and costs. The Parties do not waive the right to a jury trial. The Parties agree to negotiate in good faith before resorting to litigation.

E. Nondiscrimination and Compliance with Laws: The Parties agree not to discriminate against any employee or applicant for employment or any other person in the performance of this ILA because of race, creed, color, national origin, marital status, sex, sexual orientation, age, disability, or other circumstance prohibited by federal, state, or local law or ordinance, except for a bona fide occupational qualification.

The Parties will comply with all federal, state, and local laws and ordinances applicable to the work to be done under this ILA.

Violation of this section is a material breach of the ILA and grounds for cancellation of a request or response thereto, suspension of a Party, or termination of the entire ILA.

F. Waiver: Failure to insist upon strict compliance with any terms, covenants, or conditions of this ILA is not a waiver of such. A waiver by a Party of any term or condition will not be deemed or construed to be a waiver of any other term or condition, nor is the waiver of any breach or default by a Party to be deemed or construed to constitute a waiver of any subsequent breach or default, whether of the same or any other term or condition of this ILA. Any waiver of a breach or default must be done in writing and signed by the authorized representatives of the Parties.

G. Public Records Requests: Each Party is responsible for timely and adequately responding to requests for records addressed to it under the Public Records Act or other demand for disclosure.

H. Records Retention and Audit: Clallam County agrees to maintain records of all costs incurred under this ILA in accordance with a work order accounting system as

prescribed and approved by the State Auditor's Office. These records will be kept available for inspection and audit for five years after payment of the requested service.

I. Challenges: Entry into this ILA will not be construed to be a waiver or abandonment of any defense or claim that any of the Parties may have against the other.

J. Survival of Certain Provisions. Any term of this ILA that by reasonable implication contemplates continued performance, rights, or compliance beyond its expiration or termination, survives and continues to be enforceable. Without limiting the generality of this provision, the Parties' obligation to indemnify each other survives for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

K. Independent Capacity. The employees or agents of each Party who are engaged in the performance of this ILA shall continue to be employees or agents of that Party and shall not be considered for any purpose to be employees or agents of any of the other Parties.

The EFFECTIVE DATE of this Interlocal Agreement is the date of last signature below, or the 22 day of May, 2024 (whichever occurs first).

PARTY SIGNATURES AND SERVICE ADDRESSES FOLLOW

CLALLAM COUNTY

Executed this 11 day of June, 2024 by the Board of County Commissioners for Clallam County, Washington.

COMMISSIONER

COMMISSIONER

COMMISSIONER

Attest:

Clerk of the Board

CLERK OF THE BOARD CLALLAM COUNTY COMMISSIONERS PORT ANGELES, WA

Approved as to Form:

Clallam County Prosecuting Attorney

SERVICE ADDRESS:

Clallam County Board of County Commissioners
Attn: Clerk of the Board
223 E. 4th Street, Suite 4
Port Angeles WA 98362

DocuSign Envelope ID: DB806C0F-DEFD-4A35-8DF8-67680C25A323

CITY OF PORT ANGELES

Executed this 16 day of May, 2024 as authorized by the Port Angeles City Council.

DocuSigned by:
9F66045115SE409...
MAYOR

Attest:
DocuSigned by:
Kari Martinez-Bailey
5C32803CA9974C4...
City Clerk

Approved as to Form:
DocuSigned by:
William Bloor
E5FC3FBD4113427...
City Attorney

SERVICE ADDRESS:

City of Port Angeles
Attn: City Clerk
321 East 5th Street
Port Angeles WA 98362

DocuSign Envelope ID: DB806C0F-DEFD-4A35-8DF8-67680C25A323

CITY OF SEQUIM

Executed this 8th day of April, 2024 as authorized by the Sequim City Council.

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney

SERVICE ADDRESS:

City of Sequim
Attn: City Clerk
152 West Cedar Street
Sequim WA 98382

DocuSign Envelope ID: DB806C0F-DEFD-4A35-8DF8-67680C25A323

CITY OF FORKS

Executed this 22 day of May, 2024 as authorized by the Forks City Council.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney

SERVICE ADDRESS:

City of Forks
Attn: City Clerk
500 East Division Street
Forks WA 98331