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PUD No. 1

101-17-012

**INTERLOCAL AGREEMENT BETWEEN CLALLAM COUNTY  
AND THE P.U.D. No. 1 OF CLALLAM COUNTY  
REGARDING TWO SEWER SYSTEMS,  
CARLSBORG AND CLALLAM BAY/SEKIU**

This Interlocal Agreement (the "Agreement") is made and entered into pursuant to Chapter 39.34 of the Revised Code of Washington (the "RCW") by and between CLALLAM COUNTY, WASHINGTON, a subdivision of the State of Washington (hereafter the "County"), and PUBLIC UTILITY DISTRICT NO. 1 OF CLALLAM COUNTY, a Washington municipal corporation (hereafter the "District") (the County and the District are hereafter sometimes referred to individually as "Party" and collectively as the "Parties").

**WHEREAS**, in both locations the Parties provide or will provide their services to overlapping and primarily related or parallel customer bases; and

**WHEREAS**, the District provides water and the County does or will soon provide sanitary sewer services to customers in Carlsborg and Clallam Bay/Seki; and

**WHEREAS**, both Parties do or will soon bill their customers on a monthly basis in order to maintain a cash flow allowing them to operate their business and to prevent the accumulation by a particular customer of unpaid amounts; and

**WHEREAS**, both Parties are authorized to enter into this Interlocal Agreement by state law and both Parties benefit in efficiency and revenue collection by entering into this Agreement; and

**WHEREAS**, the County relies upon customer water consumption data for District water customers in Clallam Bay/Seki in order to determine what amounts should be billed to those same customers for sanitary sewer services and will soon rely upon similar customer water consumption data for customers in Carlsborg in order to determine what amounts should be billed to those Carlsborg customers for sanitary sewer services; and

**WHEREAS**, the utility billing records are public records pursuant to Ch. 42.56 RCW.

**AGREEMENT**

In consideration of the Recitals listed above, which are incorporated herein, the Parties agree as follows:

1. **RESPONSIBILITIES OF THE PARTIES and PURPOSE**

- The Purpose of this Agreement shall be to allow the County to promptly and accurately bill its customers in two locations (Carlsborg and Clallam Bay/Sekiou) for sanitary sewer services provided by the County to those customers.
- The District shall, not later than the close of business on the fifth (5<sup>th</sup>) business day after the end of its monthly billing cycle, transmit to the County in electronic format the following billing data (the "Data") relating to the consumption of water for each District water customer in the County's sewer service areas in Carlsborg and Clallam Bay/Sekiou: billing month and year, number of cubic feet billed, service address, meter number, meter size and District premise number. The Data shall be transmitted through the use of software and hardware mutually agreed upon by the Parties and the obligation to transmit the Data shall not create any additional burdens, financial or staff resource, on the District other than those burdens the District's governing body imposes on the District through the normal budgeting process.
- The County shall take all reasonable steps necessary to accept transmittal of the Data, including but not limited to, coordinating with the District as to the most efficient way to transmit the Data and generating and maintaining the functionality of the process or procedure to be used for the transmittal of the Data. This obligation to receive the Data shall not impose on the County any additional financial or staff resource burden other than those the County's governing body imposes on the County through the normal budgeting process.

2. **TERM OF PERFORMANCE**

This Agreement shall be effective from April 1, 2017 through December 31, 2021 (the "Term") and shall automatically renew for additional terms of five (5) years [the "Extension(s)"] UNLESS one of the Parties provides written notice of their intent not to renew to the other Party not less than 90 days before the Term or any Extension would expire.

3. **TERMINATION**

Either party to this Agreement may, with or without cause, terminate this Agreement upon not less than one year's notice to the other Party.

4. **AMENDMENTS**

This Agreement may be amended by mutual agreement of the Parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the Parties.

5. **DEFAULT**

In the event of default of any provision of this Agreement, the Party allegedly in default shall have not less than ten (10) business days to cure or remedy the default, unless the non-defaulting party extends in writing the period for curing or remedying the Default. Upon the expiration of the cure/remedy period if the Default has not been cured, the default must be submitted to a Dispute Resolution Panel, see Section 6 below.

6. **DISPUTE RESOLUTION**

Except as otherwise provided in this Agreement, when a dispute arises between the Parties and it cannot be resolved by direct negotiation, any Party may request a Dispute Resolution Panel or DRP. A request for a DRP must be in writing, state the disputed issue(s), state the relative positions of the Parties and be sent to all the Parties. Parties must provide a response within fourteen (14) days unless the Parties mutually agree to an extension of time. Each Party shall designate a representative and those two representatives shall mutually select a third member. The DRP shall evaluate the facts, Agreement terms, and applicable statutes and rules and make a determination by majority vote. The decision is binding on the Parties. Nothing in this Agreement shall be construed to limit the Parties' choice of a mutually acceptable dispute resolution method in addition to the dispute resolution procedure outlined above.

7. **CONTRACT ADMINISTRATORS**

The Parties agree there shall be no separate administrative body for the management and implementation of the terms and obligations of this Agreement. Instead, the Parties respectively appoint the following persons to administer, oversee and implement this Agreement and will notify the other Party in writing if a different person is appointed as their Administrator.

**For Clallam County:**

**Ross Tyler**  
County Engineer  
Clallam County  
223 E 4<sup>th</sup> Street, Suite 6  
Port Angeles, WA 98362  
360-477-3585  
rtyler@co.clallam.wa.us

**For P.U.D. No. 1 of Clallam County:**

Doug Nass  
General Manager 104 Hooker Road  
Sequim, WA 98382  
(360) 452-9771  
doug@clallampud.net

The Parties agree that communication to the other Party via email is acceptable with the exception of a 1) Notice of Termination, 2) proposed Amendment to the Agreement, 3) allegation of a Default or 4) request for a Dispute Resolution Panel or DRP and 5) any submission to a DRP. The more formal communication format required for the five items listed here may be transmitted as an attachment to an email.

8. **PUBLIC RECORDS and RECORDS RETENTION**

Each Party to this Agreement bears sole responsibility for responding to Public Records Act requests and for compliance with the Public Records Act with respect to any records, data or documents that may be transmitted from the District to the County pursuant to this Agreement. Each Party to this Agreement is solely responsible for its compliance with the rules and regulations surrounding the retention of records including, but not limited to, any state law codified at Chapter 40.14 RCW.

9. **THIRD PARTY LIABILITY COVERAGE**

Each Party represents to the other through this Section that is an active member in good standing of a joint self-insurance entity as is authorized by Chapter 48.62 RCW and through that membership is an insured party with sufficient third party liability coverage to satisfy any judgment, lien or defense costs incurred as a result of the negligent act or omission of any employee, official, representative or agent of each of the Parties.

10. **INDEMNIFICATION**

Each Party to this agreement (hereinafter “the Indemnitor”) shall indemnify, defend and hold harmless the other Party to this Agreement, including the officers, agents, representatives and employees of the other Party, collectively “the Indemnitee,” from and against any and all claims, lawsuits, demands for money damages, losses or liability, or any portion thereof, including attorney’s fees and costs, arising from any injury to person or persons (including the death or injury of the Indemnitee or the indemnitee’s officers, agents, representatives and employees) if said injury or damage was caused by the negligent acts or omissions of the Indemnitor or its officers, agents, employees or representatives. This is a mutual indemnification intended to survive the termination of this Agreement.

11. **CORPORATE AUTHORITY; BINDING SIGNATURES**

Each of the individuals executing this Agreement on behalf of the Parties warrant that they are an authorized signatory of the entity for which they are signing, and have sufficient authority to execute this Agreement.

12. **ENTIRE AGREEMENT**

This Agreement contains the entire Agreement between the Parties with respect to the subject matter hereof and supersedes all prior Agreements or understandings between the Parties with respect thereto.

13. **APPLICABLE LAW AND VENUE**

This Agreement will be interpreted in accordance with the laws of the state of Washington. The venue of any action hereunder shall be in Clallam County, Washington.

14. **SEVERABILITY**

It is intended that each paragraph of this Agreement is to be viewed as separate and divisible and if any Section is held to be invalid, the remaining paragraphs shall continue in full force and effect.

15. **BINDING AGREEMENT**

This Agreement contains all the terms and conditions agreed upon by the Parties. 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.

16. **NO ACQUISITION OF REAL OR PERSONAL PROPERTY**

The parties shall not jointly purchase or lease any real or personal property in furtherance of the purpose of this Agreement, other than such hardware or software as may be required to successfully and efficiently transmit the Data. Nor do they contemplate the joint purchase of any real or personal property.

**IN WITNESS WHEREOF**, the PARTIES hereto have caused this Agreement to be executed as of the date set forth herein by their duly authorized representatives.

CLALLAM COUNTY

P.U.D. NO. 1 OF CLALLAM COUNTY

Dated: 5/17/17

Dated: May 2, 2017

By: [Signature], P.E.

By: [Signature]

Doug Nass, General Manager

TM

CLALLAM COUNTY

**END OF DOCUMENT**