

# 101-22-0025

26  
DEC 27 2022

**FIRST INTERLOCAL AGREEMENT REGARDING CARLSBORG REGIONAL  
WATER SUPPLY**

**BY AND BETWEEN**

**CLALLAM COUNTY AND  
PUBLIC UTILITY DISTRICT No. 1 OF CLALLAM COUNTY**

This Interlocal Agreement ("Agreement") is made by and between Clallam County ("County") and Public Utility District No. 1 of Clallam County ("District"), political subdivisions of the State of Washington, pursuant to the Interlocal Cooperation Act, Ch. 39.34 RCW. The County and the District are each a "Party" and are together the "Parties" to this Agreement.

WHEREAS, the District owns and operates a Group A water system that was founded and developed to serve local utility districts ("LUD") initiated in Carlsborg, and the District holds three water rights that together authorize withdrawal and use of 467.6 acre feet from three wells and that are dedicated to serving the District's existing customers and commitments;

WHEREAS, on December 5, 2000 pursuant to Ordinance No. 700, the County Board of Commissioners established an Urban Growth Area ("UGA") for the Carlsborg area;

WHEREAS, the Carlsborg UGA is within the service area identified in the District's current Water System Plan, but outside the District's current retail service area;

WHEREAS, on March 19, 2013, the District and the County entered the Interlocal Agreement (ILA) for the Carlsborg Wastewater System that provides for the County to purchase or otherwise procure for the District additional water rights in sufficient quantity to supply water for Full Buildout of the Carlsborg UGA that is outside of the District's Carlsborg retail service area as of March 2013 (the "Water Service Expansion Area");

WHEREAS, the County contracted with a consulting firm to provide technical and project assistance to support the District's efforts to obtain Ecology's approval of the District's 2006 water right application, including drilling a new well (the "Carlsborg Very Deep Well") and development of a mitigation plan for new water uses as required under the Dungeness Instream Water Rule;

WHEREAS, the District's primary existing Carlsborg production well (LUD #10 Well) is exhibiting rising nitrate contamination levels that are expected to reach the maximum contaminant level allowed within the next four to six years (2026-2028);

WHEREAS, the County and District seek to work cooperatively to achieve shared goals and objectives related to the growth expected in the Carlsborg Region and efforts to plan for and serve that growing population;

WHEREAS, the County has identified an immediate need within the UGA, outside the District's current retail service area, for water availability to serve new development including affordable housing;

WHEREAS, the District has determined that it has sufficient water rights to reliably provide water service and serve growth within the existing retail service area for a twenty-year period, and make additional water available to a limited number of new connections outside the retail service area;

WHEREAS, on October 18, 2022, the County and District entered into a Memorandum of Understanding Regarding Carlsborg Water Supply ("MOU") that expresses the Parties' intent regarding land use, water system planning and improvement, and supply of drinking water;

WHEREAS, in the MOU, each Party recognizes key interests and missions of the other Party, and the Parties state the intent to negotiate in good faith an interlocal agreement to carry out the MOU;

WHEREAS, in order to address the immediate need in the UGA, the Parties agree to address a portion of the content of the MOU in this Agreement and to negotiate in good faith additional interlocal agreement(s) regarding Carlsborg regional water supply to address the other portions of the MOU not addressed herein;

WHEREAS, it is unnecessary to restate or reference herein all provisions of the MOU, and thus the Parties intend to preserve and pursue all provisions in the MOU going forward, including MOU provisions not referenced or addressed herein; and

WHEREAS, the District and the County wish to facilitate the District's ability to extend its retail service area through the installation of a new well site, transmission lines, storage/blending facilities, pump stations and related infrastructure to connect the Carlsborg Very Deep Well water supply to the existing Carlsborg Water System.

NOW, THEREFORE, the following AGREEMENT is made upon the basis of the foregoing recitals, incorporated herein by reference, and in consideration of the mutual promises and covenants herein, and the mutual benefits to be derived by the Parties therefrom.

1. The District will certify water availability to support growth within the Carlsborg UGA, outside the District's current retail service area not to exceed a total of 93.1 acre feet of annual production utilizing its existing water rights. The foregoing certification is dependent on and subject to securing regulatory approval, as applicable or required, of the necessary water system planning and service area actions. The County agrees not to make any formal or informal decisions, agreements, or commitments related to development, building permits or land divisions in the UGA advance of the District's certification of water availability.
2. The County will provide funding towards capital projects planned by the District directly related to improving water supply and water quality in the Carlsborg Water System in the amount of \$775,000. The County reserves the right to provide this funding under the Coronavirus Local Fiscal Recovery Funds (CFDA No 21.027) of the American Rescue Plan Act ("ARPA"). If ARPA grant funding is used, it is subject to execution of a separate ARPA Direct Grant Assistance Agreement by both parties. To be eligible for such ARPA grant funding, capital projects must be eligible under the EPA's Drinking Water State Revolving Fund Handbook ("DWSRF") and those outlined under the ARPA Final Rule. Costs for such capital projects must be obligated no earlier than March 3, 2021 and no later than December 31, 2024, with final costs to be disbursed no later than December 31, 2026. The County will provide the funding within 60 calendar days of the District's certification of water availability to any portion of the Carlsborg UGA outside of the District's retail water service area as described in paragraph 1 above, the execution of this agreement, or the execution of an ARPA Direct Grant Assistance Agreement, whichever comes later. If applicable, as to be outlined in the ARPA Direct Grant Assistance Agreement, the District will be required to provide periodic reporting and supporting documentation for how such ARPA funding is utilized until such funds are fully expended.

3. Nothing in this Agreement is intended to preclude the County from providing additional funding towards needed capital projects related to Carlsborg water supply or water quality in the future.
4. Nothing in this Agreement is intended to preclude the District from making available additional water utilizing its existing water right.
5. The County will continue to comply with its obligations under the 2013 Interlocal Agreement.
6. The District will continue to act in good faith to assist the County's effort to obtain additional water rights for the District.
7. Agreement Clauses Required by Chapter 39.34 RCW.
  - a) Purpose. See the last three Recital paragraphs on page 2.
  - b) Effective Date and Duration. This Agreement will take effect immediately after both Parties have duly approved and executed the Agreement. The initial term of this Agreement shall be seven (7) years. After three (3) years both Parties shall commit to reevaluating water supply, water quality, growth and development within the Carlsborg Water System with the intent to reach mutual written agreement specific to renewal of or revision to the Agreement as needed.
  - c) Organization of Separate Entity and Its Powers. No new or separate legal or administrative entity is created to administer the provisions of this Agreement.

Responsibilities of the Parties. See Paragraphs 1, 2, 5 and 6 above.

- d) Agreement to be Filed or Posted. Within five (5) business days after full execution of this Agreement, each Party will list by subject this Agreement on its website.
- e) Financing. Each Party will be responsible for funding and financing its obligations under this Agreement.
- f) Termination. This Agreement may be terminated or modified only upon mutual written consent of both Parties. At any time, either Party may give to the other written notice of intent to terminate or modify this Agreement, in which case both parties shall commit to meeting within thirty (30) days. If the parties do not mutually agree regarding amendment or termination after meeting, then this agreement shall continue for the remainder of the seven-year term described in paragraph b) above. If mutual written agreement is not reached related to renewal of the Agreement prior to end of the initial seven-year term, the Agreement shall terminate at the end of the initial seven-year term.

PASSED AND ADOPTED this 27 day of Dec. 2022



ATTEST:

L. Gores  
Loni Gores, CMC, Clerk of the Board

BOARD OF CLALLAM COUNTY COMMISSIONERS

Mark Ozias  
Mark Ozias, Chair

Randy Johnson  
Randy Johnson

Bill Peach  
Bill Peach

PUD NO. 1 OF CLALLAM COUNTY

DATED this 12th day of December, 2022

By: Sean Worthington  
Sean Worthington, General Manager

Approved as to form only by

Bert Dee Boughton  
Bert Dee Boughton  
Civil Deputy Prosecuting Attorney  
Clallam County