


Jefferson County
Board of Commissioners
Agenda Request

To: Board of Commissioners
Philip Morley, County Administrator

From: Monte Reinders 
Public Works Director / County Engineer

Agenda Date: November 25, 2013

Subject: WSDOT JC Agreement for South Discovery Bay,
Olympic Discovery Trail Project

Statement of Issue:

Authorization of the 'JC' Agreement with the Washington State Department of Transportation (WSDOT) enables the creation of a reimbursement account within WSDOT to which they bill their South Discovery Bay, Olympic Discovery Trail (ODT) related review time/fees.

Analysis/Strategic Goals/Pro's & Con's:

This portion of the ODT is restricted to a narrow corridor between the S. Discovery Bay shoreline and Hwy. 101. The design & construction of this portion is being considered now in order to take advantage of the potentially significant environmental and financial benefit gained from occurring concurrently with the estuary restoration, including the RR trestle removal and waterline replacement, currently in process through the North Olympic Salmon Coalition (NOSC) and partners. Also, to preserve the viability of the ODT active transportation corridor that is envisioned to stretch from Port Townsend to the Pacific Ocean.

Fiscal Impact/Cost Benefit Analysis:

Public Works was awarded a grant from the Recreation & Conservation Office (RCO) Non-highway & Off-Road Vehicle Activities (NOVA) program for this planning and pre-design project. The total grant amount is \$111,250 which consists of \$100,000 in RCO funds and \$11,250 in matching local funds.

Recommendation:

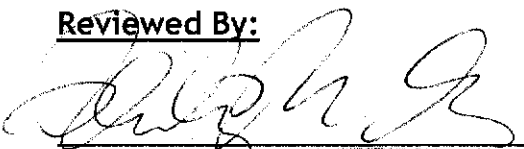
Authorize the Chair to sign three (3) originals of the Local Agency Agreement and return the three (3) signed originals to Public Works for further processing.

Department Contact:

Eric Kuzma, Project Manager

(360) 385-9167

Reviewed By:


Philip Morley, County Administrator

11/20/13

Date



Project Review Reimbursable Agreement	Applicant or Local Agency Jefferson County	
	Billing Address	623 Sheridan Street Port Townsend, WA 98368
Region Olympic	Contact Email ekuzma@co.jefferson.wa.us	
Agreement Number J C1332	Contact Name Eric Kuzma	Contact Phone 360-385-9167
Estimated Costs This estimate is based on the best available information to date and includes WSDOT's Indirect Cost Rate		Surety Amount \$ <input checked="" type="checkbox"/> Not Applicable
SR US 101	MP 281.5 - 282.6	Project Name ODT Trail Project
Detailed Description of Work by WSDOT		
Project Review <input checked="" type="checkbox"/>	Review of PS&E and Trail Lease documents and establishment and execution of construction agreement and Trail Lease agreement for work associated with "Segment A" of the proposed Olympic Discovery Trail in South Discovery Bay, Port Townsend, WA from trail station 429+00 to 467+50, including access to US 101 at trail station 457+50.	
Inspection <input checked="" type="checkbox"/>		
Other (see description of work) <input type="checkbox"/>		

This AGREEMENT is made and entered into by and between the Washington State Department of Transportation, hereinafter the "WSDOT," and the above named "APPLICANT OR LOCAL AGENCY", hereinafter "ENTITY,"

WHEREAS, the ENTITY has requested WSDOT to perform the above described work, and WSDOT is authorized and willing to perform the work, and

WHEREAS, the ENTITY is responsible for the costs associated with the work,

NOW THEREFORE, pursuant to the terms, conditions and performances contained herein and/or attached hereto, and by this reference made a part of this Agreement, it is mutually agreed between the Parties hereto as follows:

1. GENERAL

1.1 The WSDOT agrees to perform the above described work requested by the ENTITY, using state labor, equipment and materials.

1.2 To secure payment of the potential costs incurred in the review process, WSDOT requests that a Surety Amount in the form of Bond, Assignment of Escrow, Irrevocable Letter of Credit, Check or Money Order in the amount listed above accompany the endorsed original copy of this Agreement.

1.3 All WSDOT reviews, and/or inspections provided by WSDOT are solely for the benefit of WSDOT and not for the ENTITY or any other third party.

2. PAYMENT

2.1 The ENTITY, in consideration of the faithful performance of the work by WSDOT, agrees to reimburse WSDOT for the actual direct and related indirect costs associated with the work, including WSDOT's current administrative indirect cost rate.

2.2 The ENTITY agrees to make payment for the work by WSDOT within thirty (30) calendar days from receipt of billing from WSDOT.

2.3 The ENTITY agrees that if it fails to make payment within thirty (30) calendar days of the invoice, the WSDOT may charge interest in accordance with RCW 43.17.240 and may elect to send the outstanding invoice(s) to a WSDOT contracted collection agency resulting in the assessment of additional fees and/or penalties.

2.4 Upon payment of all WSDOT invoices by ENTITY, WSDOT will release rights of remaining Surety Amount.

3. INCREASE IN COST

3.1 The Parties agree that the estimated cost of the work may be exceeded by up to twenty-five (25) percent. In the event costs exceed the estimated costs by more than twenty-five (25) percent the Parties agree to modify the estimated cost of work by written amendment, signed by both Parties.

4. ASSIGNMENT

4.1 This Agreement, and any claim arising under this Agreement, shall not be assignable or delegable by either Party, either in whole or in part.

5. INDEMNIFICATION

5.1 The ENTITY shall defend, protect and hold harmless WSDOT, its officers, officials, employees, and/or agents from and against all claims, suits or actions arising from the negligent acts or omissions of ENTITY, its officers, officials, employees, assigns, contractors, sub-contractors, tenants, sub-tenants, licensees, invitees and/or agents while performing under the terms of this Agreement. This defense and indemnity obligation shall not include such claims, actions, costs, damages, or expenses which may be caused by the sole negligence of WSDOT, its officers, officials, employees, contractors, sub-contractors and/or agents; provided, however, that if the claims, suits or actions are caused by or result from the concurrent negligence of (a) WSDOT, its officers, officials, agents, contractors, sub-contractors or employees and (b) the ENTITY, its officers, officials, employees, assigns, contractors, sub-contractors, tenants, sub-tenants, licensees, invitees and/or agents, or involves those actions covered by RCW 4.24.115, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the ENTITY or its officers, officials, employees, assigns, contractors, sub-contractors, tenants, sub-tenants, licensees, invitees and/or agents. ENTITY specifically assumes potential liability for the actions brought by ENTITY'S employees and solely for the purposes of this indemnification and defense, ENTITY specifically waives any immunity it may be afforded in connection with such claims under the State industrial insurance law, Title 51 RCW. ENTITY recognizes that this waiver was the subject of mutual negotiations.

6. AMENDMENT

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

7. TERMINATION

7.1 Either Party may terminate this Agreement, with or without cause, by providing written notice to the other of such termination and specifying the effective date thereof at least thirty (30) calendar days before the effective date of such termination. The ENTITY will reimburse WSDOT for all charges up to the date of termination.

8. DISPUTES

8.1 The Parties shall work collaboratively to resolve disputes and issues arising out of, or related to this Agreement. Disagreements shall be resolved promptly and at the lowest level of hierarchy.

8.2 In the event that a dispute arises under this Agreement which cannot be resolved as outlined in Section 8.1 between the Parties, the dispute will be settled in the following manner: Each Party will appoint a member to a dispute board. The members so appointed will jointly appoint a third member to the dispute board who is not employed by or affiliated in any way with either Party. The dispute board will evaluate the facts, contract terms, and applicable statutes and rules and make a determination of the dispute. The determination of the dispute board will be final and binding on the Parties. Any costs associated with appointing the third member will be equally shared between the Parties. Each Party shall be responsible for its own costs, including attorneys fees.

8.3 The Parties agree that any legal action to enforce any right or obligation under this Agreement may only be brought in Thurston County Superior Court.

9. TERM OF AGREEMENT

9.1 The term of the Agreement shall begin upon the date of execution and shall remain in effect until WSDOT has completed the above described work and the ENTITY has made full payment, whichever comes last, unless modified according to Section 6, "AMENDMENT," above.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date last signed by the PARTIES below.

ENTITY

**WASHINGTON STATE
DEPARTMENT OF TRANSPORTATION**

Signature: _____

Signature: _____

Printed: _____

Printed: _____

Title: _____

Title: _____

Date: _____

Date: _____

TIN: _____

OR

Social Security Number: _____

Approved as to form only
David Alvarez 11/15/13
Jefferson Co. Prosecutor's Office
David Alvarez, Chief Civil DPA