

## INTERLOCAL AGREEMENT FOR CARLSBORG SEWER FACILITIES PLAN

THIS INTERLOCAL AGREEMENT is made and entered into pursuant to Chapter 39.34 of the Revised Code of Washington, by and between CLALLAM COUNTY, Washington, a municipal corporation of the State of Washington, (the "County") and PUBLIC UTILITY DISTRICT NO. 1 of CLALLAM COUNTY, a Washington municipal corporation, (the "District"); both situated in Clallam County, Washington, (together "Parties") on the date shown below.

### RECITALS

For the mutual benefit of both Parties to this Agreement, as well the taxpayers and ratepayers within the Carlsborg Urban Growth Area (UGA), the Parties enter into this Agreement in order to define their respective responsibilities regarding the drafting of a facilities plan for a sewer and water reuse system for the Carlsborg UGA.

### AGREEMENT

For and in consideration of the mutual covenants contained herein, the Parties hereto agree as follows:

1. Duration: This Agreement shall commence as of the date hereof and shall terminate on completion of a sewer facilities plan, SEPA/NEPA documentation, and public involvement materials for the Carlsborg UGA.
2. Purpose: The purpose of this Agreement is to delegate between the Parties the responsibility for contracting with and managing the consultant that will produce the final facilities plan (which includes conducting biological, hydrogeological and cultural resources assessments), SEPA/NEPA documentation, and public involvement materials; identify the responsibilities between the Parties for aiding the consultant; and determine the financial contribution of the Parties. The purpose of the sewer facilities plan is to provide sufficient information to demonstrate no significant environmental impacts and for preparation of engineering designs, specifications and drawings of the proposed system.
3. District Duties and Obligations: The District shall contract directly with and manage the services of one or more consultants for the production of a facilities plan for a Carlsborg sewer and water reuse system. The District and the County shall both approve the consultant contract scope of work, schedule and budget and any change orders to the

contract. At the request of the consultant hired and managed by the District, the District shall provide to the consultant any and all information, studies, plans, or other documents that are reasonably necessary for the parties and the consultant to draft the facilities plan. The District shall provide technical support and consultation on the project consultant's scope of work and review of the findings, public involvement materials, SEPA/NEPA documentation, and the facilities plan. The District shall use the funds provided by the County to pay the consultant for services rendered while executing the scope of work of the consultant contract and not in an amount that exceeds the budget specified in the consultant contract. As a part of that management, the District shall coordinate communication and the flow of information between and among the County, the District, and the consultant. The District shall direct all work and duties of the consultant, as agreed to by the District, County, and consultant and as specified in the consultant contract. The District shall provide the County with monthly invoices for payment for work performed by the consultant. At the completion of the plan, the District shall provide the County with at least two (2) hard-copies of the plan and any reports, studies, or documents supporting said plan, along with the same documents in an electronic form.

4. County Duties and Obligations: The County shall cooperate in a reasonable manner with the District and the consultant in the production of the facilities plan. The District and the County shall both approve the consultant contract scope of work, schedule and budget and any change orders to the contract. At the request of the District, or the consultant hired and managed by the District, the County shall provide to the District any and all information, studies, plans, or other documents that are reasonably necessary for the parties and the consultant to draft the facilities plan. The County shall contribute up to \$220,000.00 toward the cost of contracting with the consultant. Additional financial contributions could be provided by the County or District for future contract change orders, if additional funding is acquired for the purpose of this Agreement. Within thirty (30) days of receiving an invoice from the District for amounts paid to the consultant, the County shall reimburse the District for those invoiced amounts. The County shall take all reasonable steps to aid the District and the consultant in the production of the plan. The County may, as agreed to by the District, County, and consultant, direct through ~~and with~~ the District Project Manager any portion of the work performed by the consultant that is within an area of technical expertise of County. The County shall be available for meetings with the consultant and the District regarding drafting of a facilities plan for a sewer and water reuse system for the Carlsborg UGA. The County shall provide technical support and consultation to the District on the project consultant's scope of work and review of the findings, public involvement materials, SEPA/NEPA documentation, and the facilities plan.
5. Termination: The County and the District may terminate this Agreement at any time upon one hundred and twenty (120) days' written notice to the other party.
6. Indemnification: Each party shall indemnify, defend and hold the other party harmless from any liability arising from any negligent or wrongful act or failure to act on the part of

itself and its employees. Neither party assumes responsibility to the other party for the consequences of any act or omission of any person, firm or corporation not a party to this agreement.

7. Assignment of Duties and Obligations: Other than those duties that will be the responsibility of the consultant that will be contracted with and managed by the District, neither party may assign any of their duties or obligation under this Agreement.
8. Entire Agreement/Amendment: This Agreement is the entire agreement between the Parties, unless other specifically stated herein, and shall not be modified or amended in any manner except by an instrument in writing executed by the Parties. No prior agreement, correspondence, or portions thereof shall be used to interpret, modify, or explain the terms of the Agreement in the event that a dispute arises with respect to the Agreement.
9. Supplemental Agreements: The Parties agree to complete and execute all supplemental documents necessary or appropriate to fully implement the terms of this Agreement.
10. Waiver: No waiver of any breach of any covenant or agreement contained herein shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by either party of any covenant, agreement or undertaking, the nondefaulting party may nevertheless accept from the other any payment or payments or performance hereunder without in any way waiving its right to exercise any of its rights and remedies provided for herein or otherwise with respect to any such default or defaults that were in existence at the time such payment or payments or performance were accepted by it. The exercise of any remedy provided by law or the provisions of this Agreement shall not exclude other consistent remedies.
11. Applicable Law and Venue: This Agreement shall be construed in accordance with the laws of the State of Washington. Venue for any dispute related to the Agreement shall be Clallam County, Washington.
12. Severability: If a court of law determines any provision of the Agreement to be unenforceable or invalid, the parties hereto agree that all other portions of this Agreement shall remain valid and enforceable.
13. No Third Party Beneficiaries: This Agreement is made and entered into for the sole protection and benefit of the Parties and their successors and permitted assigns. No other person or entity shall have any right of action or interest in this Agreement based upon any provision of the Agreement.
14. Notices: All communications, notices and demands of any kind which any party requires or desires to give to any of the other parties shall be in writing and either served on the

following individual(s) or deposited in the U.S. Mail, certified mail, postage prepaid, return receipt requested, and addressed as follows:

Public Utility District No. 1 of Clallam County  
PO Box 1090  
Port Angeles, WA 98362

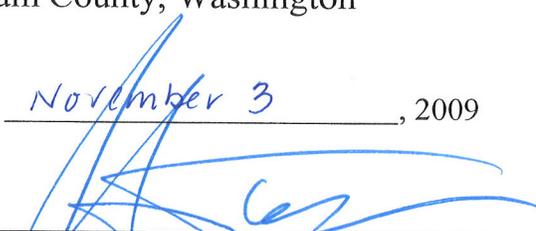
Clallam County  
Department of Community Development  
223 East 4<sup>th</sup> St., Suite 5  
Port Angeles, WA 98362

15. Compliance with Laws: All Parties shall comply with all applicable federal, state and local laws, regulations and rules in performing this Agreement.
16. Interlocal Cooperation Act: The performance of the obligations of this Agreement shall be in compliance with the provisions of RCW 39.34, the Interlocal Cooperation Act. The Parties agree that no separate legal administrative entities are necessary in order to carry out this Agreement. There shall be no "joint board" as that term is used in RCW 39.34.030(4)(a).
17. Administration and Management. For purposes of RCW 39.34.030(4)(a), the Water and Wastewater Systems Assistant Superintendent of the District shall serve as the administrator responsible for administering the joint and cooperative undertaking among the Parties to this Agreement. At this time that particular position is held by Tom Martin. The District reserves the right to later identify a different employee as the administrator, or change the job title of Mr. Martin while maintaining him as the administrator.

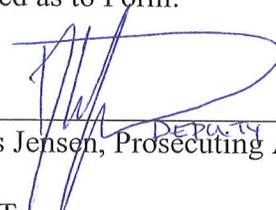
18. Counterparts: This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.
19. Recording: This Agreement will be filed with the County Auditor pursuant to R.C.W. 39.34.040 within five (5) days of the date of execution of this Agreement. All fees relating to such recording shall be paid by the County. District agrees to execute a release or other appropriate instruments as shall be necessary to certify compliance with the terms of this Agreement upon full and complete satisfaction of the terms of this Agreement.

Clallam County, Washington

Dated November 3, 2009

By:   
Howard V. Doherty, Jr., Chair  
223 E. 4<sup>th</sup> Street, Suite 4  
Port Angeles, WA 98362-3015

Approved as to Form:

  
\_\_\_\_\_  
Douglas Jensen, <sup>DEPUTY</sup> Prosecuting Attorney

ATTEST:

Trish Holden  
\_\_\_\_\_  
Trish Holden, Clerk of the Board

Public Utility District No. 1 of Clallam  
County

Dated Oct 27, 2009

By:   
\_\_\_\_\_  
Doug Nass, General Manager  
P.O. Box 1090  
Port Angeles, WA 98362-1090

Approved as to Form:

\_\_\_\_\_  
Attorney for the District

**Public Utility District No 1 of Clallam County  
Carlsborg Reclaimed Water Reuse System  
Phase 3  
AMENDED AGREEMENT  
October 2009**

BHC will complete the Facilities Plan/General Sewer Plan for the Reclaimed Water Reuse System to serve the Carlsborg Urban Growth Area (UGA). The Final Facilities Plan will be suitable for submittal to the regulatory agencies; however, the responses of the agencies involved and the final approval process can not be predicted at this time.

**AMENDED SCOPE OF WORK**

**Task 1 – Completion of Draft Facilities Plan**

The previously prepared pre-draft Facilities Plan will be brought to completion as a draft Facilities Plan by BHC through the following work steps:

1. Pre-draft Facilities Plan will be edited to create an Engineering Report compliant with WAC 173-240-060 based on information available in November 2009.
2. Section C of Chapter 6 and all of Chapter 7 of the pre-draft Facilities Plan that were not included through the original Phase 2 Scope of Work will be completed.
3. Available land use planning for the Carlsborg UGA as prepared by Clallam County Planning in 2009 will be incorporated by revising the affected Facilities Plan sections.
4. Design of the disposal system for surplus reclaimed water facilities will be use percolation basin on Clallam County property as shown in the pre-draft Plan with two alternative potential disposal options mentioned to minimize potential agency concerns regarding possible impacts to surface waters and threatened/listed species:
  - Large perforated pipe partially buried along the eastern County property
  - Infiltration system on private property with minimal surface water influence
5. Revisions will be incorporated into the treatment facilities preliminary design to allow future addition of ozone, activated carbon treatment, or another process if reduction of these pharmaceuticals pollutants is found necessary.
6. An initial sewer service area will be described based on guidance received from the PUD following public comments and responses to public questionnaires.
7. Suggestions received from one telephone conference with Department of Ecology officials will be incorporated into the pre-draft Facilities Plan including specifically the following points:

- Add specific design criteria for each process and state how it is met
  - Revise plan for SBR to show three basins
  - Refine the treatment site plan to include solids facilities and laboratory
  - Address receiving water criteria for temperature and copper
  - Expand financial tables to show 25, 50 and 75 percent grant funding
  - Describe the relationship of manufactured housing on sewer connections
  - Develop an approach for hardship financing excluding manufactured housing
8. Conclusions from the Biological Assessment, the Archeological Study, and the Hydrogeological Evaluation will be incorporated into the Facilities Plan as found to be appropriate.
9. The completed draft Facilities Plan will be submitted electronically to the PUD for adoption, and through the PUD, to the Sewer Review Committee for Clallam County adoption by the Clallam County Board of Commissioners.

## **Task 2 – Public Involvement**

Triangle Associates will assist Clallam County and the PUD in developing public support for the formation of a LUD within part of the Carlsborg UGA through the following activities:

- Establish project website by leading development of content and working with County IT staff to design. Work with County IT staff to periodically update the project website.
- Assist with strategy for call-to-action materials and with development of call-to-action materials (e.g. letters of support for grant applications).
- Assist with media involvement as needed.
- Assist with SEPA/NEPA public notification as needed.
- Communications with Clallam County and the PUD by telephone and email at regular intervals to advise and assist with the public process.

Triangle will not be required to facilitate or participate in any public meetings additional to the three meetings included in the Phase 2 Agreement.

## **Task 3 – Biological Assessment**

The Biological Assessment will be prepared by Herrera Environmental Consultants under a subconsultant agreement with BHC Consultants to address the Endangered Species Act and the 'essential fish habitat' under the Magnuson-Stevens Act through the following key actions:

1. Determine the 'Action Area' for project related effects on listed species and critical habitats and develop the comprehensive project description.
2. Determine species and critical habitat presence, timing and status within Action Area to define baseline conditions and downstream affected area
3. Conduct one site visit to examine existing environmental conditions within Action Area.
4. Assess project related effects on listed species and designated critical habitat.

5. Coordinate with Jamestown S’Klallam Tribe, Aspect Consulting, and other selected environmental entities.
6. Prepare biological assessment report in the 8 chapters defined by federal guidelines.
7. Submit to the District electronic copy and four hardcopies of the report.

Particular attention will address listed and threatened species believed present in Matriotti Creek and/or the Dungeness River; available literature identifying specific pharmaceuticals of concern with the threshold harmful concentrations; and the affects of a few selected pharmaceuticals, copper, temperature and selected other emerging pollutants of concern may have on these species.

#### **Task 4 – Hydrogeological Evaluation**

The Hydrogeological Evaluation will be prepared by Aspect Consulting under a subconsultant agreement with BHC Consultants to address following key actions:

1. Compile and review available site-specific data including well logs, records for Matriotti Creek, soils and geologic maps.
2. Conduct field investigations on the Clallam County site beside Matriotti Creek to assess subsurface conditions, infiltration rates, and augmentation potential for Matriotti Creek through the following:
  - a. Evaluate up to 12 test pits excavated by the PUD backhoe
  - b. Install one monitoring well and collect water samples at four dates
  - c. Perform 24 hour infiltration testing at two test pits prepared by the PUD
  - d. Evaluate gaining/losing characteristics for Matriotti Creek by 2 piezometers
  - e. Estimate the hydraulic conductivity for the County disposal site
  - f. Analyze four water samples for 5 parameters
3. Develop geotechnical recommendations for construction of the disposal system for surplus reclaimed water.
4. Prepare hydrogeological evaluation report assessing stream flow augmentation.
5. Submit to the District electronic copy and four hardcopies of the report.
6. Attend one meeting with Clallam County and the PUD to review draft report.

The draft Facilities Plan will identify and analyze a recommended disposal system for the surplus reclaimed water to minimize the potential adverse affects on listed and threatened species. The Plan will identify and rank two disposal alternatives as available should the regulatory approval process find fault with the Recommended Alternative. This approach is intended to allow a conditioned ‘Letter of Concurrence’ if necessary and to avoid a formal consultation period which could delay approval by a year.

#### **Task 5 – Archeological Study**

The Archeological Study will be performed by Wesson & Associates include the following components:

1. Background research of the Carlsborg vicinity

2. Coordination with at least the Jamestown S’Klallam Tribe
3. Field reconnaissance and sampling of areas identified as may be affected by construction
4. Documentation of the work performed, the results found, and guidance for construction
5. Submit to the District electronic copy and four hardcopies of Archeological Study document.

### **Task 6 –SEPA/NEPA Compliance**

BHC will prepare documentation demonstrating compliance with the State Environmental Policy Act (SEPA) and National Environmental Policy Act (NEPA) based primarily on the following documents prepared under this Agreement:

- Sewer Facilities Plan for Carlsborg UGA
- Carlsborg UGA Sewer Facilities Biological Assessment
- Carlsborg Class A Water Hydrogeological Evaluation
- Archeological Study of Proposed Carlsborg Sewer Facilities

Preparation of any mitigation plan will be limited to preliminary concepts for landscaping at the treatment facility site and the surplus disposal site plus the possible reconstruction of the culvert conveying Matriotti Creek beneath Runnion Road to facilitate fish passage.

The resulting SEPA/NEPA document will be distributed for public comment. Submit to the District electronic copy and four hardcopies of the document. Comments received will be addressed and the completed documentation will be delivered to the regulatory agencies as part of the adopted Facilities Plan.

### **Task 7 – Meetings and Coordination**

1. BHC will maintain regular communication by telephone and email with the PUD and with Clallam County; and incorporate guidance received into the draft Facilities Plan.
2. BHC will attend one joint meeting with Clallam County and the PUD to present the draft Facilities Plan in relation to the Biological Assessment and the Hydrogeological Evaluation; to discuss the implications of the program; and to describe possible concerns that may arise with the reviewing agencies during the approval process which can not be addressed within this Phase 3 scope and budget.
3. BHC will attend one joint workshop with Clallam County and the PUD to develop policy defining the details of the LUD and sewer system implementation:
  - Which properties must connect to the Carlsborg sewer system under what conditions and with what waivers for functional onsite septic systems, hardship exclusions, potential change in use, and similar considerations

- Develop policy for startup operations during the initial three years of the Carlsborg sewer system to better identify annual O&M costs that can be translated into estimated monthly service charges including O&M staffing, inspection of new sewer connections, cost accounting and billings, engineering oversight, legal and audit expenses, PUD management and Board of Commissioner costs.
4. BHC will attend one meeting with the Carlsborg Community Advisory Council to discuss the initial sewer service area and the LUD formation process.
  5. BHC will attend one public hearing by the PUD to receive comment on the adoption of the draft Facilities Plan.
  6. BHC will attend one meeting with Sewer Review Committee for Clallam County or with the Clallam County Board of Commissioners.
  7. BHC will attend one meeting with the Public Work Technical Assistance team, including the Jamestown Tribe, to review progress with the Facilities Plan and better define funding opportunities.

#### **Task 8 – Adoption and Approval of the Facilities Plan**

1. Revisions to the draft Facilities Plan required through the adoption process by the PUD Commissioners, the Sewer Review Committee, and the Clallam County Board of Commissioners will be incorporated into the final Facilities Plan.
2. The Final Facilities Plan will be submitted to the Washington State Departments of Ecology and Health for approval. Submit to the District electronic copy and four hardcopies of the plan.
3. BHC will provide up to 30 hours of assistance in writing applications for grant funding to state and federal agencies.

It is intended that the final Facilities Plan will result in a determination that implementation of the sewer facilities described therein will be found ‘not likely to adversely affect listed or threatened species’. A Letter of Concurrence to this affect will be required before the DOE can approve the Facilities Plan and the project becomes eligible for funding through any federal program.

The agencies and individuals involved in the Facilities Plan review process to achieve this concurrence can not be predicted at this time, or the time required for Plan approval. It is possible that one or more agencies may question some aspect of the Facilities Plan and want clarification, or even revisions. Since these possibilities can not be predicted, no work allowance has been included in this scope or budget.

## **Task 9 – Project Management**

BHC will provide the following project management activities:

- Negotiate and administer subconsultant agreements with Herrera Environmental, Aspect Consulting and Wesson & Associates.
- Process invoices for payment
- Communicate with Clallam County and the PUD by telephone and email at regular intervals

BHC will coordinate the work product of Aspect, Herrera and Wesson through two team meetings:

- Initial meeting will review the Facilities Plan and the anticipated Recommended Alternative in relation to the work program for the three subconsultants, together with the expected relationship between their work programs.
- Concluding meeting will review the draft reports from each subconsultant with the interrelationships and develop how identified discrepancies will be addressed.

## **ASSISTANCE FROM CLALLAM COUNTY AND/OR PUD**

Completion of the Hydrogeological Evaluation within the budget stated below requires assistance from the PUD to provide the following:

1. Land use planning guidance for build-out conditions to define wastewater flows
2. Updated water system plan showing water service to initial sewer service area
3. Summer water temperature in Matriotti Creek and where perennial flow occurs
4. Location by GPS survey of off-site wells within any specified setback distance identified in the regulatory analysis in Task 1.
5. Survey by GPS for elevations of monitoring wells, staff gage, and piezometers
6. Application for Hydraulic Project Authorization (HPA) and approval to install mini-piezometers and a staff gage in Matriotti Creek.
7. Water source (access to a hydrant) for the infiltration testing.
8. Arrange for and conduct meetings with such community focus groups as appear useful
9. Arrange for one meeting with state agencies including Ecology, Health and Fisheries and with federal agencies including EPA, USFWS, NOAA, and the Corps of Engineers
10. Arrange for, publicize and host the public hearings associated with the Facilities Plan

## AMENDED SCHEDULE

The Scope of Work as described will start upon authorization and proceed concurrently with the existing Agreement. The work elements in this Amended Scope are expected to be completed by approximately the following dates, assuming authorization to proceed by October 20, 2009:

Completion of Engineering Report	Nov 2009
Completion of BA, Hydrogeologic & Archeological	Jan 2010
Completion of SEPA/NEPA & draft Facilities Plan	Feb 2010
Review of draft Plan & related reports	Mar 2010
Revision of draft Plan & documents for public review	Apr 2010
Circulation of draft Plan for public comment	May 2010
Adoption of final Plan & submittal for approval	Jun 2010
 Approval of final Facilities Plan by Agencies	 Sep 2010 or later

Some activities are constrained by the available budget, others are dependent upon the completion of activities by others not managed under this Amended Agreement, and there may be weather concerns with the Hydrogeological Evaluation, Archeological Study and other field work which could affect the degree of completion achieved by the scheduled completion date.

Approval of the adopted Facilities Plan is dependent upon agency review and issuance of a Letter of Concurrence that the project is ‘not likely to affect a threatened or listed species’. BHC will endeavor to provide documentation supporting that conclusion; however concurrence can not be assured. Further work additional to this scope may be required to achieve that concurrence or to develop an acceptable mitigation program.

## AMENDED BUDGET

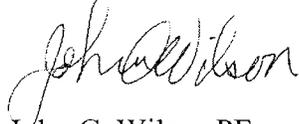
We estimated the Amended Scope can be accomplished for the following additional costs:

Task 1 – Facilities Plan Completion	196 hours	\$36,200
Task 2 – Public Involvement	Triangle	\$11,000
Task 3 – Biological Assessment	Herrera	\$55,900
Task 4 – Hydrogeological Evaluation	Aspect	\$59,000
Task 5 – Archeological Study	Wesson	\$11,300
Task 6 – SEPA/NEPA Compliance	120 hours	\$15,000
Task 7 – Meetings and Coordination	100 hours	\$15,800
Task 8 – Adoption of the Facilities Plan	24 hours	\$ 4,000
Task 9 – Project Management	52 hours	\$ 7,300
 Reimbursable Expenses		 \$ 2,800
Communications Fee		<u>\$ 1,600</u>
 Total Authorized Cost		 \$219,900

All work will be accomplished under the terms and conditions included in our existing Agreement with the addition of the attached Exhibit reflecting the current Schedule of Rates and Charges for BHC Consultants, which is subject to adjustment at the beginning of each calendar year. The PUD will not pay for work not previously authorized.

Sincerely,

BHC Consultants LLC

A handwritten signature in cursive script that reads "John C. Wilson".

John C. Wilson PE  
Project Manager