

POULSBO AGREEMENT DISTRIBUTION SCHEDULE

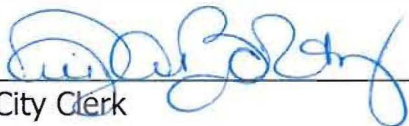
SUBJECT: **State of Washington Department of Transportation – Noll Road Improvements, Phase I (Region Level Reimbursable H & LP Project Pre-construction Agreement) – for Purchase of Right-of-Way**

CONFORM AS TO DATES & SIGNATURES

- (X) Approved by the City Council: 04/07/2010
- (X) Effective: 04/13/2010
- (X) Completion: Upon Termination
- (X) Recorded: N/A

DISTRIBUTE CONFORMED COPIES AS FOLLOWS:

- City Attorney
- Clerk's Department: Original
- Posted to Library Drive
- Posted to Web Site
- Finance:
- Fire District #18
- Mayor
- Municipal Court
- MRSC
- Parks/Recreation
- Planning/Building
- Police:
- Public Works/Engineering:
- Kitsap Fire Prevention District No. 18

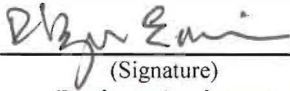


City Clerk

April 20, 2010

Date

Region Level Reimbursable H&LP Project Pre-construction Agreement

Noll Road Improvements, Phase 1	JC- 4011
(Project Title)	(JC Account Number)
City of Poulsbo	Ryan Farncomb
(Local Agency Name)	(Authorized Representative, Please Print or Type)
\$10,000	MAYOR BECKY ERICKSON
(Estimated Cost)	
91-6001488	
(Federal ID Number)	(Signature)
P.O. Box 98	Project Assistant MAYOR
(Billing Address)	(Title)
(Suite or Office Number)	(Date)
Poulsbo, WA 98370	Ryan Farncomb
(City, State, Zip Code)	(Project Contact)
OH-00137	(360) 697-7814
(Reciprocal Overhead Agreement No. If any)	(Phone)
	rfarncomb@cityofpoulsbo.com
	(Email)

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

WHEREAS, the LOCAL AGENCY has a project, named above, hereinafter the "Project", that may use funds administered by WSDOT Highways and Local Programs in the future, and

WHEREAS, the Project is not currently using funds administered by WSDOT Highways and Local Programs, and

WHEREAS, the LOCAL AGENCY will submit environmental, right of way and/or other Project documents to WSDOT for review and/or approval, and

WHEREAS, the LOCAL AGENCY is responsible for the costs associated with the review and/or approval of Project documents,

NOW THEREFORE, pursuant to chapter 47.50 RCW, it is mutually agreed between the parties hereto as follows:



1. GENERAL

1.1 WSDOT agrees to perform Project document review and/or approval in support of the LOCAL AGENCY's project, using WSDOT labor, equipment and materials, as requested by the LOCAL AGENCY.

1.2 All WSDOT reviews and approvals provided for herein are solely for the benefit of WSDOT and not for the LOCAL AGENCY or any other third party.

2. PAYMENT

2.1 The LOCAL AGENCY agrees to reimburse WSDOT for the actual direct salary and direct non-salary costs associated with the review and/or approval of environmental, right of way or other Project documents submitted by the LOCAL AGENCY, provided that the Parties have a reciprocal overhead agreement in place effective as of the date of this Agreement.

2.2 If the Parties do not have a reciprocal overhead agreement in place effective as of the date of this Agreement, the LOCAL AGENCY agrees to reimburse WSDOT for the actual direct and related indirect costs, which includes WSDOT's overhead rate, associated with the review and/or approval of environmental, right of way or other Project documents submitted by the LOCAL AGENCY for the Project.

2.3 The LOCAL AGENCY agrees to make payment within thirty (30) days from receipt of an invoice from WSDOT.

2.4 The LOCAL AGENCY agrees that if it fails to make payment within thirty (30) days of an invoice, the LOCAL AGENCY will pay interest in accordance with RCW 43.17.240.

3. INCREASE IN COST

3.1 The parties agree that the estimated cost of the work may be exceeded by up to 25%. In the event costs exceed the estimated cost by more than 25% 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 LOCAL AGENCY shall protect, defend, indemnify, and hold harmless WSDOT, its officers, officials, employees, and agents, while acting within the scope of their employment as such, from any and all costs, claims or judgments resulting from WSDOT's review and/or approval of the LOCAL AGENCY Project documents pursuant to the provisions of this Agreement. The LOCAL AGENCY will not be required to indemnify, defend, or save harmless WSDOT if the claim, suit, or action for injuries, death, or damages (both to persons and/or property) is caused by the sole negligence of WSDOT. Where such claims, suits, or actions result from concurrent negligence of the Parties, the indemnity provisions provided herein shall be valid and enforceable only to the extent of a Party's own negligence. This indemnification will survive the termination or expiration of this Agreement.

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 by giving written notice to the other of such termination and specifying the effective date thereof at least thirty (30) days before the effective date of such termination. The LOCAL AGENCY 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. To this end, following the dispute resolution process in Subsections 8.1.1 through 8.1.4 shall be a prerequisite to the filing of any litigation concerning any dispute between the Parties:

8.1.1 The WSDOT Region Local Programs Engineer and Project Contact shall use their best efforts to resolve disputes and issues arising out of, or related to this Agreement.

8.1.2 The WSDOT Region Local Programs Engineer or Project Contact shall notify the other Party in writing of any dispute or issue that the Representative believes may require formal resolution according to

Subsection 8.1.4. The Representatives shall meet within five (5) business days of receiving the written notice and attempt to resolve the dispute.

8.1.3 In the event the WSDOT Region Local Programs Engineer and Project Contact cannot resolve the dispute or issue, the Chief Executive of the LOCAL AGENCY, and the WSDOT Region Administrator or their respective designees shall meet and engage in good faith negotiations to resolve the dispute.

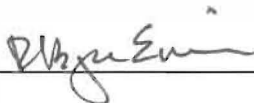
8.1.4 In the event the Chief Executive of the LOCAL AGENCY and the WSDOT Region Administrator or their respective designees cannot resolve the dispute or issue, the LOCAL AGENCY and WSDOT shall each appoint a member to a disputes board. Each Party shall be responsible for its own costs and fees. These two members shall then select a third member not affiliated with either Party. The three member board shall conduct a dispute resolution hearing that shall be informal and unrecorded. All expenses for the third member of the Dispute Resolution board shall be shared equally by both Parties. The Parties shall be responsible for their costs, including attorney fees.

8.2 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.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day, month and year last written below.

LOCAL AGENCY

STATE OF WASHINGTON
DEPARTMENT OF TRANSPORTATION

By: 

By: 

Title: Mayor

Title: Local Programs Eng.

Date: 4/8/2010

Date: 4/13/10