RESOLUTION NO. 20-082

A RESOLUTION AUTHORIZING AN INTERLOCAL COOPERATIVE AGREEMENT WITH CHELAN PUD FOR CHINOOK BROODSTOCK COLLECTION AT WELLS HATCHERY

RECITALS:

1) Public Utility District No. 1 of Chelan County (Chelan PUD) has requested an Interlocal Cooperative Agreement (ILA) with the District to address their need to collect summer Chinook broodstock at the Wells Hatchery for use in their HCP mandated Chelan Falls Chinook hatchery program. Currently, Chelan does not have its own reliable source of broodstock for this program.

2) Under the terms of the proposed ILA, the District will provide Chelan PUD, at a fixed cost, up to 390 hatchery-origin adult summer Chinook in 2020 and Chelan PUD will pay the District up to $10,000.

3) The proposed Chelan-Douglas Chelan Falls Brookstock ILA provides cost savings to both utilities by allowing the District to defray some of its operating costs at the Wells Hatchery while also providing Chelan PUD with a reliable source of broodstock for their program.

4) It is in the best interest of the District to enter into this Interlocal Agreement with Chelan PUD with an expiration of October 2020.

NOW, THEREFORE, BE IT RESOLVED by the Commission of Public Utility District No. 1 of Douglas County, Washington, that the District’s General Manager is hereby authorized and directed to enter into an Interlocal Cooperative Agreement with Public Utility District No. 1 of Chelan County.

ADOPTED this 11th day of May, 2020.

Molly Simpson, President

Ronald E. Skagen, Vice President

ATTEST:

Aaron J. Viebrock, Secretary
MEMORANDUM

TO: Gary Ivory

FROM: Shane Bickford

CC: Greg Mackey

DATE: May 4, 2020

SUBJECT: Chelan-Douglas Interlocal Cooperative Agreement — Chelan Falls Broodstock Collection

EXHIBIT A: Interagency Agreement No. 20-10838

Public Utility District No. 1 of Chelan County (Chelan PUD) has requested that the District provide access to hatchery-origin summer Chinook broodstock from Wells Hatchery for use in their Chelan Falls summer Chinook hatchery program. Currently, Chelan PUD does not have a reliable way to collect their own broodstock, although they continue to work on a method in the Chelan River. Chelan PUD plans to be able to collect their own broodstock starting in 2021. This will be the third year that the District has supported Chelan PUD’s broodstock collection efforts for this program.

The District collects more hatchery-origin summer Chinook adults at Wells Hatchery than are needed for the District’s Habitat Conservation Plan (HCP) programs and the new State-funded program to support the recovery of Southern Resident Orcas. Summer Chinook adults, in excess of the District’s needs, may be made available to Chelan PUD at a fixed cost for up to 390 adult summer Chinook in 2020. Chelan PUD will come to Wells Hatchery to pick up the fish and transport them to their Eastbank Hatchery.

The proposed Chelan-Douglas Chelan Falls Broodstock ILA provides cost savings to both utilities by allowing the District to defray some of its operating costs at the Wells Hatchery while also providing Chelan PUD with a reliable source of broodstock for their program. I believe that it is in the best interest of the District to approve the proposed Chelan-Douglas Chelan Falls Broodstock ILA. Chelan will pay the District up to $10,000 for the collection of summer Chinook broodstock in 2020. This ILA expires in October 2020.
INTERAGENCY AGREEMENT
between
PUBLIC UTILITY DISTRICT No. 1 of CHELAN COUNTY
and
PUBLIC UTILITY DISTRICT No. 1 of DOUGLAS COUNTY

AGREEMENT NO. 20-10838

1. PARTIES
Public Utility District No. 1 of Chelan County, Washington (hereinafter "Chelan") has retained Douglas County Public Utility District, (hereinafter "Douglas") (collectively referred to as “Parties”), to perform services for Chelan pursuant to the terms of this Interagency Agreement (“Agreement”) authorized by the Interlocal Cooperation Act, RCW 39.34.

2. DEFINITIONS
Acceptance: Notice from Chelan to Douglas that a Deliverable or Service has been completed in accordance with this Agreement.
Deliverables: Douglas's products which result from the Services and which are prepared for Chelan (either independently or in concert with Chelan or third parties) during the course of Douglas's performance under this Agreement.

3. SCOPE OF SERVICES AND DELIVERABLES
The Services to be performed and the Deliverables to be provided by Douglas are described in the Scope of Services Exhibit, attached hereto, and by this reference herein incorporated.

4. PAYMENT
Chelan will pay Douglas an undisputed amount based on Services performed in accordance with the terms of this Agreement and as itemized on a written invoice to Chelan, as verified by Chelan’s Project Leader. All correspondence and invoices should be plainly marked with the Agreement number referenced above. Invoices may be emailed to APDept@chelanpud.org, delivered or mailed to Public Utility District No. 1 of Chelan County, 327 N. Wenatchee Ave., P. O. Box 1231, Wenatchee, WA 98807. Douglas shall bill Chelan upon completion of the project with net payment due thirty (30) days from the date that the correct invoice is received by Chelan. However, in no event shall the total amount of compensation to be paid by Chelan for said services, including...
all fees and costs incurred by Douglas in the performance of this Agreement, exceed $10,000.00.

If Douglas fails to deliver Deliverables or to provide Services, which satisfy Douglas's obligations hereunder, Chelan shall have the right to withhold any and all payments due hereunder. Chelan may withhold any and all such payments due hereunder to Douglas, without work stoppage, until such failure to perform is cured.

5. CHANGES TO SCOPE OF SERVICES, COSTS ESTIMATE OR SCHEDULE
The Scope of Services, costs or schedule shall not be changed except in writing agreed to by both parties. The quoted fees and Scope of Services constitute the fixed cost required to perform the Services as defined. This Agreement, upon execution by both parties hereto, can be amended only in writing and signed by both parties.

6. RELATIONSHIP OF PARTIES
The Parties intend that this Agreement is in the mutual interest and benefit of both organizations. The conduct and control of the Services and safety measures required by the Services lie jointly with both Parties. Douglas is not to be considered an agent or employee of Chelan for any purpose and Douglas is not entitled to any of the benefits that Chelan provides to Chelan's employees. It is understood that Douglas is free to contract for similar services to be performed for other parties while it is under contract with Chelan, provided that any work for others does not prevent Douglas from fulfilling all the Douglas's obligations pursuant to this Agreement.

Douglas, as an independent contractor, understands and acknowledges that it is not entitled and does not desire to be covered by any payroll taxes or other fringe benefits. Douglas agrees to pay its own social security taxes, income taxes and other health.

7. INDEMNITY
To the full extent permitted by applicable law, The Parties agree to hold each other harmless and indemnify one another for any acts of negligence committed or caused by one Party or its agents, consultants, employees or subcontractors that harms the other or a third party including, but not limited to, property damage, loss of fish and personal injury or death. The Parties stipulate that this indemnity provision was mutually negotiated to the fullest extent allowed by the laws of Washington.

Limitation of Liability: Notwithstanding the foregoing paragraph, in no event shall any Party be liable to another Party for any lost or prospective profits or any other special, punitive, exemplary, consequential, incidental, or indirect losses or damages (in tort, contract or otherwise) under or in respect of this Agreement or for any
failure of performance related hereto howsoever caused, whether or not arising from such Party’s sole, joint, or concurrent negligence.

8. DURATION AND TERMINATION
The Agreement shall be in effect upon the Effective Date, and shall terminated by any of the following events: (a) death or dissolution of Douglas, (b) failure to comply with any applicable law, (c) mutual agreement of the Parties, (d) Either Party giving not less than fifteen (15) days advance written notice of termination, or (e) failure of Douglas to cure any material breach within (7) seven days of receipt of written notice from Chelan. Chelan may at any time stop performance of Services without terminating the Agreement. Otherwise, this Agreement shall remain in force until October 31, 2020, or earlier if the Services contemplated hereunder are completed to the satisfaction of Chelan.

9. STANDARD OF PERFORMANCE
Douglas will perform its Services with the level of skill, care and diligence normally provided by and expected of persons performing Services similar to and like those to be performed pursuant to this Agreement. Douglas understands and acknowledges that Chelan will be relying upon its accuracy, competence and credibility and the completeness of the Services to be provided hereunder. All personnel shall be fully qualified and authorized to perform the Services.

10. QUALIFIED PERSONNEL
All services required hereunder will be performed by Douglas or under Douglas’s supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state or local law to perform such services. Douglas’s personnel assigned to perform services hereunder, as identified in Scope of Services Exhibit, shall not be replaced without written approval in advance by Chelan’s Project Leader.

11. COMPLIANCE WITH LAWS, RULES, AND REGULATIONS
Douglas shall comply with all applicable federal, state and local laws and regulations, all of which are deemed to be incorporated into this Contract as if fully set forth.

12. DRUG FREE WORKPLACE
Douglas agrees to abide by the Drug Free Workplace Act of 1988. Douglas shall immediately remove any employee from further work when it is determined that they are not fit for duty. Douglas further agrees that failure to comply with the aforementioned shall be cause for Chelan to immediately terminate this Agreement without advance notice.
13. SAFETY
The Parties and their subcontractors, if any, shall take all safety precautions and shall comply with all laws and regulations with regard to safety and the work to be performed.

14. NOTICES
Any notices shall be effective as personally served upon the other party or if mailed by registered or certified mail, return receipt requested, to the following addresses:

Public Utility District No. 1 of Chelan County
Attn.: Catherine Willard
P. O. Box 1231
327 N. Wenatchee Avenue
Wenatchee, WA 98807
Phone: (509) 663-8121
Email: Catherine.willard@chelanpud.org

Public Utility District No. 1 of Douglas County
Attn: Greg Mackey, Fisheries Biologist
Amber Nealy, Admin Assistant
1151 Valley Mall Parkway
East Wenatchee, Washington 98802
Phone: 509-393-3945 (Greg)
Email: gregm@dcpud.org
amber.nealy@dcpud.org

15. WAIVER OF BREACH
The waiver by either Party of the breach of any provision of this Agreement by the other Party must be in writing and shall not operate or be construed as a waiver of any subsequent breach by such other Party.

16. ATTORNEY’S FEES
In the event it is necessary for either party to utilize the services of an attorney to enforce any of the terms of this Agreement, such enforcing party shall be entitled to compensation for its reasonable attorney's fees and costs. In the event of litigation regarding any of the terms of this Agreement, the substantially prevailing Party shall be entitled, in addition to other relief, to such reasonable attorney's fees and costs as determined by the court.

17. GOVERNING LAW AND VENUE
This Agreement shall be governed by the laws of the State of Washington. Contractor submits to the exclusive jurisdiction of the courts in the State of Washington, USA. Venue for any action to enforce or interpret this Agreement shall be in Superior Court for Chelan County, Washington.
The parties hereby incorporate the requirements of 41 C.F.R. §§ 60-1.4(a), 29 C.F.R. Part 471, Appendix A to Subpart A, 41 C.F.R. § 60-300.5(a)ii and 41 C.F.R. § 60-741.5(a), if applicable.

This contractor and subcontractor shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

18. AMENDMENTS
The scope of work, costs, schedule and other terms of this Agreement shall not be changed except in writing. Any such writing shall be agreed to and properly executed by both parties prior to the change being effective.

19. TIME IS OF THE ESSENCE
Time is of the essence in performance of the Services. Douglas agrees to complete the Services to the reasonable satisfaction of Chelan within the contract agreed upon by the parties.

20. PRECEDENCE
In the event there is any conflict between a provision of this Agreement and any statement, term or provision in any exhibit or attachment hereto, this Agreement shall be controlling unless the conflicting provision in the exhibit or attachment expressly states that it supersedes or replaces a specific provision or provisions of the Agreement.

21. ENTIRE AGREEMENT
This instrument and any exhibits hereto contain the entire and final Agreement of the Parties.
22. AUTHORIZED SIGNATURES

Each individual executing this Agreement warrants they are fully authorized to bind their principal to the terms and conditions of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the ______ day of ________, 2020 (Effective Date).

PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY

By: 
Name: 
Title: 

PUBLIC UTILITY DISTRICT NO. 1 OF DOUGLAS COUNTY

By: 
Name: 
Title: 
EXHIBIT A  SCOPE OF SERVICES
INTERLOCAL AGREEMENT NO. 20-10838
DOUGLAS COUNTY PUBLIC UTILITY DISTRICT

Pursuant to the Agreement 20-10838, Douglas agrees to perform the Services described below:

1. PROJECT DESCRIPTION AND DELIVERABLES
Collect up to 390 hatchery-origin adult, summer Chinook salmon broodstock at Douglas’s Wells Volunteer Trap for Chelan’s brood year 2020 Chelan Falls summer Chinook hatchery program. Chelan’s Eastbank Hatchery staff will transport fish collected at the Wells Volunteer Trap and held at the Wells Hatchery to Chelan’s Eastbank Hatchery. Wells Hatchery staff will coordinate with Eastbank Hatchery staff on when to transport fish from the Wells Hatchery to the Eastbank Hatchery.

2. PROJECT LEADERS
Chelan’s Project Leader is Catherine Willard, who may be reached by phone at 509-699-8189, and by email at catherine.willard@chelanpud.org.

Douglas’s Project Leader is Greg Mackey, who may be reached by phone at 509-393-3945, and by email at gregm@dcpud.org.