

**PACIFIC COUNTY
PO BOX 187
SOUTH BEND, WA 98586**

MITIGATION PLAN UPDATE PROFESSIONAL SERVICES AGREEMENT

This Agreement ("Agreement") dated this ___ day of January 2015 is between Pacific County (County), 300 Memorial Drive, South Bend, WA 98586 and BOLDplanning (Consultant), 4515 Harding Pike Suite 325, Nashville, TN 37205.

TYPE OF AGREEMENT: Professional Services Agreement – Mitigation Plan Update

Whereas, Consultant is in the business of providing certain consulting services and is willing to provide such services to Pacific County; and

Whereas, Pacific County desires to utilize Consultant's services as provided for herein.

Now, therefore, in consideration of the mutual covenants and promises contained herein, the parties hereto agree as follows:

1. General Terms and Conditions

The general terms and conditions of this Agreement are set forth in Appendix A, attached hereto and incorporated herein by reference.

2. Scope of Work

Consultant shall provide the services set forth in Appendix B, attached hereto and incorporated herein by reference ("Services"). Consultant shall furnish all reports and deliverables as set forth in Appendix B in accordance with the terms set forth therein (hereafter "Deliverables").

3. Period of Performance

The period of this Agreement shall be one year from the signing of this Agreement and shall automatically be renewed for successive 1-year periods subject to adjustments of costs and fees to be agreed upon in writing.

4. Fees and Payment

In consideration of Services performed hereunder, Pacific County shall pay Consultant in accordance with Appendix C.

Payment terms for the Agreement shall be in accordance with paragraph 8 of Appendix A.

5. Notice

Any notice given by either party shall be in writing and shall be given by registered or certified mail, return receipt requested, postage prepaid, UPS or Federal Express, shipped prepaid, addressed to the parties at the addresses herein designated for each party or at such other addresses as they may hereafter designate in writing.

Stephanie Fritts, Director Pacific County Emergency Management Agency	Fulton Wold BOLDplanning
PO Box 27	4515 Harding Pike Suite 325
South Bend, WA 98586	Nashville, TN 37205
Phone: 360.875.9340	Phone (615) 469-5558
Fax: 360.875.9393	
Email: sfritts@co.pacific.wa.us	Email: fulton@boldplanning.com

6. Entire Agreement

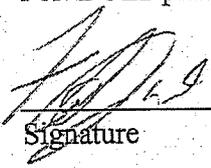
Both parties acknowledge that they have read this Agreement, understand it, and agree to be bound by its terms and further agree that it is the entire agreement between the parties hereto which supersedes all prior agreements, written or oral, relating to the subject matter hereof. No modification or waiver of any provision shall be binding unless in writing signed by the party against whom such modification or waiver is sought to be enforced.

In Witness Whereof, Pacific County and Consultant have caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

For: Pacific County

For: BOLDplanning, Inc.

Chair, Board of County Commissioners



Signature

Steve Rogers
Name (Typed or Printed)

Fulton Wold
Fulton Wold, President

Date

1/6/2015
Date

ATTEST:

Marie Guernsey
Clerk of the Board

APPROVED AS TO FORM:

David J. Burke, Prosecuting Attorney

APPENDIX A

GENERAL TERMS & CONDITIONS

1. CONSULTANT'S RESPONSIBILITIES. Consultant/Contractor ("Consultant") shall perform the Services utilizing the standard of care normally exercised by professional consulting firms in performing comparable services under similar conditions. CONSULTANT MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT.

2. PACIFIC COUNTY RESPONSIBILITIES. PACIFIC COUNTY shall provide site access to the site or facility at which the Services are to be performed at such times as may reasonably be required by Consultant, and shall make timely payments in accordance with the terms and conditions of this Agreement. Time is of the essence.

To the extent PACIFIC COUNTY has access to information relating to the Services to be performed, PACIFIC COUNTY shall provide such information as is reasonably available and appropriate for the efficient performance of the Services ("Information"). Such information includes, but is not limited to, available site history and the identification, location, quantity, concentration and character of known or suspected hazardous conditions, wastes, substances or materials that are likely to pose a significant risk to human life, health, safety or to the environment. Consultant shall be entitled to rely upon the Information provided by the PACIFIC COUNTY or PACIFIC COUNTY's agents without independent verification except to the extent set forth herein and shall bear no liability arising from such reasonable reliance.

3. COMMENCEMENT AND COMPLETION OF THE SERVICES. The Services shall commence and shall be completed on the respective dates specified in this Agreement or, in the absence of such specification, as soon as good practice and due diligence reasonably permit.

4. PROPRIETARY INFORMATION. This agreement is subject to the Public Records Act governed by RCW 42.56.

Proprietary confidential information ("Proprietary Information") developed or disclosed by either party under this Agreement shall be clearly labeled and identified as Proprietary Information by the disclosing party at the time of disclosure. When concurrent written identification of Proprietary Information is not feasible at the time of such disclosure, the disclosing party shall provide such identification in writing promptly thereafter.

Proprietary Information shall not be disclosed to any other person except to those individuals who need access to such Proprietary Information as needed to ensure proper performance of the Services.

Neither party shall be liable for disclosure or use of Proprietary Information which: (1) is generally available to the public without breach of this Agreement; (2) is disclosed with

the prior written approval of the disclosing party; or (3) is required to be released by applicable law or court order.

Each party shall return all Proprietary Information relating to this Agreement to the disclosing party upon request of the disclosing party or upon termination of this Agreement, whichever occurs first. Each party shall have the right to retain a copy of the Proprietary Information for its internal records and subject to ongoing compliance with the restrictions set forth in this Section. This Section shall survive termination of this Agreement.

5. DELIVERABLES. Upon payment in full for the Services, and unless otherwise agreed ("Deliverables") shall be the property of PACIFIC COUNTY. The Consultant shall not disclose the Deliverables relating to the Services to a third party without the prior written authorization of PACIFIC COUNTY. PACIFIC COUNTY shall be solely responsible for any disclosure of the Deliverables, which may be required by law and agrees to indemnify and hold Consultant harmless for any loss, liability, or claim resulting from PACIFIC COUNTY's failure to make such disclosure and fully indemnify Consultant. Where applicable law requires immediate disclosure by the Consultant, Consultant shall make its best efforts to give prior notice to PACIFIC COUNTY. At PACIFIC COUNTY's request and expense, Consultant will assist PACIFIC COUNTY in making such disclosures as may be required by law.

Notwithstanding the foregoing provisions of this Clause, PACIFIC COUNTY acknowledges that in the course of its performance under the Contract the Consultant may use products, materials and methodologies proprietary to the Consultant, and PACIFIC COUNTY agrees that it shall have or obtain no rights in such proprietary products, materials and methodologies except pursuant to a separate written agreement (if any) executed by the parties.

6. INDEMNIFICATION. Each Party (the "Indemnifying Party") shall defend, indemnify and save the other Party (the "Indemnified Party"), its officers, directors, agents, and employees harmless from and against any and all claims, liabilities, demands, judgments, losses, costs, expenses (including reasonable attorney's fees), suits, or damages arising by reason of bodily injury, death or damage to a third party's tangible property sustained by any person or entity (whether or not a party to this Agreement) caused by or attributable to an action of gross negligence or willful misconduct of the Indemnifying Party or an officer, director, agent or employee of Indemnifying Party.

7. ACCEPTANCE. PACIFIC COUNTY shall have fourteen (14) days from the date each deliverable is made to PACIFIC COUNTY to reject all or part of each Deliverable. Each Deliverable, to the extent not rejected in writing by PACIFIC COUNTY, shall be deemed accepted.

8. PAYMENT TERMS. Detailed invoices (travel, supplies, labor) will be submitted at the completion of each Deliverable and are due upon receipt. The total of invoices shall

not exceed \$52,400.00. Timely payment is a material part of the consideration for the performance of the Services. Time is of the essence.

In the event that invoicing or payment has not occurred in accordance with the terms of this Agreement, in addition to any other remedy, which County or Consultant may have under law or equity, County or Consultant may stop work immediately, without further duty, obligation, and/or liability.

9. CONTRACT CEILING PRICE. For time and material or unit price contracts with a contract ceiling, if at any time Consultant has reason to believe that an increase in such limitation will be necessary, it will give prior notice to that effect providing a written estimate to complete the Services and proposing a new limitation figure and giving appropriate supporting data so that PACIFIC COUNTY may, at its sole discretion, increase such limitation by written modification to this Agreement.

Consultant shall not be required to perform the Services to the extent that such performance exceeds the ceiling price of this Agreement. In the event of a dispute relating to the contract-ceiling price, such dispute shall be resolved in accordance with the Disputes clause of this Agreement.

10. CURRENCY OF PAYMENT. Unless otherwise set forth in this Agreement, all payments shall be made in United States Dollars (\$US). Where exchange rates are involved, the rate of exchange between \$US and the other currency involved in the transaction shall be the rate of exchange as of the date of invoice. The date of each invoice shall be clearly marked on each invoice.

11. LIMITATIONS OF LIABILITY. IN NO EVENT SHALL CONSULTANT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING BUT NOT LIMITED TO LOST PROFITS OR INTERRUPTION OF BUSINESS) ARISING OUT OF OR RELATED TO THE SERVICES PROVIDED UNDER THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12. HEALTH & SAFETY. PACIFIC COUNTY shall notify Consultant of any known or suspected hazards existing at any site where the Services are to be provided, including but not limited to, hazardous waste, substances or materials and underground utilities.

13. CONFLICT OF INTEREST. PACIFIC COUNTY acknowledges that the Consultant provides similar services for a broad range of other organizations and jurisdictions and agrees that Consultant shall be free to work for other organizations and jurisdictions in matters that do not involve the use of any Proprietary Information that has been disclosed by PACIFIC COUNTY under the terms of this Agreement or do not directly relate to the specific Services provided by the Consultant to PACIFIC COUNTY under this Agreement.

14. FORCE MAJEURE. Neither party shall be responsible for any delay or failure in performance, other than the obligation to make payments for work previously performed, to the extent that such delay or failure was caused by a force majeure event including Act of God, war, civil disturbance, governmental action, labor dispute unrelated to and without fault or negligence of the party claiming the force majeure event, computer virus, or denial of access to the site or any other event beyond the reasonable control of the claiming party. For the duration of this Agreement, Consultant will keep a back-up copy of all important documents related to the Project.

Performance under this Agreement shall resume promptly once the cause of delay or failure ceases and an equitable adjustment shall be made to the price and/or schedule of the Services including any mobilization or demobilization costs of Consultant.

15. CHANGED CONDITIONS. The discovery of any hazardous waste, substance or material; underground obstruction; underground utilities; or other latent obstruction to the performance of the Services to the extent that such conditions are not the subject of the Services, and to the extent that such conditions were not brought to the attention of the Consultant prior to execution of this Agreement, or any change in law that materially affects the obligations or rights of either party under this Agreement, shall constitute a materially different site condition entitling the Consultant to an equitable adjustment in the contract price, time of performance, or both, as appropriate. If the change materially changes the nature of the Services, the Consultant may terminate this Agreement as a result of such changed conditions.

16. CHANGES TO THE SERVICES. PACIFIC COUNTY may direct changes within the general Scope of Work. Upon notification of such direction, the Consultant shall prepare an estimate of the additional costs and time required, if any, to perform the change. Upon mutual written agreement, Consultant shall perform the change and an equitable adjustment shall be made to the price and/or time schedule as appropriate.

17. DISPUTES. Differences between the Consultant and PACIFIC COUNTY, arising under and by virtue of this Contract, shall be brought to the attention of PACIFIC COUNTY at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance and/or payment shall be decided by PACIFIC COUNTY's Contract representative or designee. All rulings, orders, instructions and decisions of PACIFIC COUNTY's contract representative shall be final and conclusive.

Any action at law, suit in equity, or judicial proceeding arising out of the Contract shall be instituted and maintained only in any of the courts of competent jurisdiction in Pacific County, Washington.

18. THIRD PARTY LITIGATION. In the event that any litigation, proceeding, or claim (including any investigation which may be preliminary thereto) involving the Services performed by Consultant is commenced by a third party, Consultant shall furnish, if compelled by law or upon the reasonable request of PACIFIC COUNTY, such

person or persons from Consultant's organization as are familiar with the matters embraced within the knowledge of Consultant's personnel to testify as witnesses and to provide Consultant's records and such other information and assistance in connection with such litigation, proceeding or claim (or investigation preliminary thereto). To the extent Consultant may be required, either by law or at the request of PACIFIC COUNTY, to provide such testimony, records, information, or assistance, PACIFIC COUNTY shall reimburse Consultant for the reasonable value of its services at its then prevailing rate for comparable work, based on the time expended, and for Consultant's out-of-pocket expenses incurred in connection therewith in accordance with the provisions of this Agreement.

19. INDEPENDENT CONTRACTOR. The Consultant is an independent contractor and shall not be deemed to be an employee or agent of PACIFIC COUNTY. Consultant shall indemnify and hold PACIFIC COUNTY harmless against all liability and loss resulting from Consultant's failure to pay all taxes and fees imposed by the government under employment insurance, social security and income tax laws with regard to Consultant's employees engaged in the performance of this Agreement.

20. NON-SOLICITATION OF EMPLOYEES. Neither party shall solicit for employment or hire the employees of the other party involved in the management or performance of the Services during the term of this Agreement and for one year thereafter.

21. NONWAIVER. No waiver of any breach of this Agreement shall operate as a waiver of any similar subsequent breach or any breach of any other provision of this Agreement.

22. SEVERABILITY. If any provision of this Agreement is held invalid by a court of competent jurisdiction, such provision shall be severed from this Agreement and to the extent possible, this Agreement shall continue without affect to the remaining provisions.

23. ASSIGNMENT/SUBCONTRACTS. Neither party may assign this Agreement without the written consent of the other party, which shall not unreasonably be withheld; provided, however, that Consultant may assign this Agreement in connection with a sale of all or substantially all of its assets without PACIFIC COUNTY's consent.

24. DRAFTING PARTY. Each party has reviewed this Agreement and any question of interpretation shall not be resolved by any rule of interpretation providing for interpretation against the drafting party. This Agreement shall be construed as though drafted by both parties.

25. GOVERNING LAW. This Contract has been and shall be construed as having been made and delivered within the State of Washington and it is agreed by each party hereto that this Contract shall be governed by the laws of the State of Washington, both as to its interpretation and performance.

The Consultant must comply with all applicable provisions federal law 44 CFR Part 13.36(i).

26. CAPTIONS. The captions and headings of this agreement are intended for convenience and reference only, do not affect the construction or meaning of this agreement and further do not inform a party of the covenants, terms or conditions of this Agreement or give full notice thereof.

27. ADDITIONAL INSTRUMENTS. The parties agree to provide the other with any and all documents required to carry out any and all obligations in connection with the agreement as set forth herein.

28. NO AGENCY. Except as specifically set forth otherwise, it is agreed and understood that neither party hereto is, by this Agreement or anything herein contained, constituted or appointed agent or representative of the other for any purpose whatsoever, nor shall anything in this Agreement be deemed or construed as granting either party any right or authority to assume or to create any obligation, warranty or responsibility, express or implied, for or in behalf of the other.

29. ORDER OF PRECEDENCE. In the event of a conflict in the terms and conditions of this Agreement, the following order of precedence shall apply:

- A. This Agreement
- B. The Rate Schedule (Appendix C)
- C. The Timeline/Tasks/Scope of Work (Appendix B)
- D. The General Terms and Conditions
(Appendix A)
- E. Task Orders (if applicable)
- F. Other Contract Documents

30. ENTIRE AGREEMENT. The parties acknowledge that they have read this Agreement, understand it and agree to be bound by its terms. This Agreement supersedes all prior agreements, whether written or oral, relating to the subject matter hereof. No modification or change to this Agreement shall be binding unless such modification or change is in writing and signed by an authorized representative of each party.

31. OTHER. Neither Party shall disseminate or make use of any materials making reference to the other Party, without the other Party's written consent. Neither Party shall make any statements or promises relating to the other Party or its Services or any use of the other Party's name, which is not authorized in writing by the other Party.

32. TERMINATION. This agreement may be terminated at any time by either party provided the requesting party provides the other with 30 days written notice. In this event, PACIFIC COUNTY shall pay for services rendered through the date of termination. Either party may also immediately terminate this Agreement upon a material breach of this Agreement, with no further payment or service obligation.

APPENDIX B

Timeline/Tasks/Scope of Work

Consultant will perform Mitigation Plan Update Services as outlined in the response to the Request for Proposal published October 17, 2014, written by BOLDplanning and submitted to Pacific County Emergency Management Agency to include the following:

Project Timeline			
Deliverable	Tasks	Days	Dates
1	Organize Resources Recruitment of Planning Partners Refinement of Scope of Work Facilitate Kick-Off Meetings Collect New Data and Community Information Review Existing Plans	45	2/1/15 To 3/17/15
2	Assess Risks Verify Critical Facilities Update Jurisdictional Profiles Identify Hazards & Hazard History Calculate Future Probability Conduct Vulnerability Assessment Analyze Land Use & Development Trends Model Loss Estimates	90	3/18/2015 To 6/15/2015
3	Develop the Mitigation Plan Review Current Strategy Gaps Identify New Goals & Objectives Review NFIP & SFHAs Identify Mitigation Activities & Priorities Conduct STAPLE+E Analysis Update and Verify Plan Maintenance Program	60	6/16/2015 To 8/14/2015
	Implement the Plan & Monitor Progress Complete Public Forum Meetings Review Draft Plan to Pacific County Completion of Plan Comment Period Complete Public Draft Plan Presentation Submit to WAEMD & FEMA Revise if Necessary	30	8/15/2015 To 9/13/2015
4	FEMA Approval & Adoption	90	9/14/2015 To 12/12/2015
Total Project Time:		315 Days	

APPENDIX C

Compensation. Compensation for services will not exceed \$52,400.00 and shall be based as follows:

Cost Estimate	
Service Breakdown	Cost
Labor	\$45,900.00
Travel	\$4,000.00
Supplies	\$2,500.00
Total Project Cost	\$52,400.00
Deliverable Breakdown	Cost
Deliverable 1	\$13,100.00
Deliverable 2	\$13,100.00
Deliverable 3	\$13,100.00
Deliverable 4	\$13,100.00
Total Payment to Contractor	\$52,400.00

Compensation to the Consultant will be made based on invoices as outlined in Appendix A, Section 8 with PACIFIC COUNTY withholding payment on the final invoice pending final approval of the plan by Washington State and FEMA, subject to available grant funding.

**Washington State Military Department
HAZARD MITIGATION GRANT AGREEMENT FACE SHEET**

1. Sub-Grantee Name and Address: Pacific County Emergency Management Agency P.O. Box 101 South Bend, WA 98586-0101		2. Total Grant Amount: \$60,000.00 \$45,000.00 F; \$15,000.00 L		3. Grant Number: E15-065	
4. Sub-Grantee Contact, phone/email: Stephanie Fritts, 360-875-9340 sfritts@co.pacific.wa.us		5. Grant Start Date: July 13, 2013		6. Grant End Date: January 9, 2016	
7. Department Program Manager, phone/email: Timothy Cook (253) 512-7467 tim.cook@mil.wa.gov		8. Data Universal Numbering System (DUNS): 084604016		9. UBI # (state revenue): 254-000-662	
10. Funding Authority: Washington State Military Department (the "Department"), and Federal Emergency Management Agency (FEMA)					
11. Funding Source Agreement #: EMS-2014-PC-0007		12. Program Index # 733CJ	13. Catalog of Federal Domestic Asst. (CFDA) # & Title: 97.047 (PDM)		14. TIN or SSN: 91-6001356
15. Service Districts: (BY LEGISLATIVE DISTRICT): 19th (BY CONGRESSIONAL DISTRICT): 3rd		16. Service Area by County(ies): Pacific County		17. Women/Minority-Owned, State Certified?: <input checked="" type="checkbox"/> N/A <input type="checkbox"/> NO <input type="checkbox"/> YES, OMWBE # _____	
18. Contract Classification: <input type="checkbox"/> Personal Services <input type="checkbox"/> Client Services <input checked="" type="checkbox"/> Public/Local Gov't <input type="checkbox"/> Collaborative Research <input type="checkbox"/> A/E <input type="checkbox"/> Other _____			19. Contract Type (check all that apply): <input type="checkbox"/> Contract <input checked="" type="checkbox"/> Grant <input checked="" type="checkbox"/> Agreement <input type="checkbox"/> Intergovernmental (RCW 39.34) <input type="checkbox"/> Interagency		
20. Contractor Selection Process: <input checked="" type="checkbox"/> "To all who apply & qualify" <input type="checkbox"/> Competitive Bidding <input type="checkbox"/> Sole Source <input type="checkbox"/> A/E RCW <input type="checkbox"/> N/A <input type="checkbox"/> Filed w/OFM? <input type="checkbox"/> Advertised? <input type="checkbox"/> YES <input type="checkbox"/> NO _____			21. Contractor Type (check all that apply): <input type="checkbox"/> Private Organization/Individual <input type="checkbox"/> For-Profit <input checked="" type="checkbox"/> Public Organization/Jurisdiction <input checked="" type="checkbox"/> Non-Profit <input type="checkbox"/> VENDOR <input checked="" type="checkbox"/> SUBRECIPIENT <input checked="" type="checkbox"/> OTHER		
22. BRIEF DESCRIPTION: FEMA's Pre-Disaster Mitigation (PDM) program provides grants to states and communities to implement a sustained pre-disaster natural hazard mitigation program to reduce overall risk to the population and structures from future hazard events, while also reducing reliance on Federal funding in future disasters. Title: Pacific County Hazard Mitigation Plan Update . To provide funds to the Sub-Grantee for the herein proposed project as noted in Attachment 3 - Certification and Assurances, Attachment 4 - Statement of Work and/or Description of the Project, Attachment 5 - Project Development Schedule, Attachment 6 - Project Budget, and the FEMA approved project application, each of which are incorporated herein by this reference.					
IN WITNESS WHEREOF, the Department and Sub-Grantee acknowledge and accept the terms of this Grant Agreement, exhibits, references and attachments hereto and have executed this Grant Agreement as of the date and year written below. This Grant Agreement Face Sheet; Special Terms & Conditions (Attachment 1); General Terms and Conditions (Attachment 2); Certification and Assurances (Attachment 3); Statement of Work and/or Description of Project (Attachment 4); Project Development Schedule (Attachment 5); Project Budget (Attachment 6); and all other documents, exhibits and attachments expressly referenced and incorporated herein contain all the terms and conditions agreed upon by the parties and govern the rights and obligations of the parties to this Grant Agreement. No other understandings, oral or otherwise, regarding the subject matter of this Grant Agreement shall be deemed to exist or to bind any of the parties hereto.					
In the event of an inconsistency in this Grant Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: 1. Applicable Federal and State Statutes and Regulations 2. Statement of Work and/or Project Description as outlined in FEMA approved Project Application 3. Special Terms and Conditions 4. General Terms and Conditions, and, 5. Other provisions of the contract incorporated by reference.					
WHEREAS, the parties hereto have executed this Grant Agreement on the day and year last specified below.					
FOR THE DEPARTMENT: Signature _____ Date 10/28/14 Richard A. Woodruff, Contracts Administrator Washington State Military Department			FOR THE SUBGRANTEE: Signature _____ Date 9/22/14 Steve Rogers, Chair Approved @ 9/19/14 Pacific County Board of Commissioners meeting		
BOILERPLATE APPROVED AS TO FORM: Brian E. Buchholz (signature on file) 1/28/2014 Assistant Attorney General			APPROVED AS TO FORM: Signature _____ Date 9/22/14 David J. Bunker		

Form 1/16/2014 ml