SUBRECIPIENT AGREEMENT FOR CDBG PUBLIC SERVICES

THIS AGREEMENT is between the local government CDBG recipient PACIFIC COUNTY (herein called the Local Government) and the CHINOOK WATER DISTRICT (herein called the Subrecipient) for public services funded by the state Community Development Block Grant (CDBG) Program.

As the Washington State Department of Commerce (Commerce) is authorized by the federal Department of Housing and Urban Development (HUD) to provide funds to units of local government selected to undertake and carry out certain activities and projects under the Washington State CDBG Program in compliance with all applicable local, state, and federal laws, regulations and policies; and

As the Local Government has applied for and received a CDBG award, contract number 13-65400-040 to fund public services; and

As it benefits the Local Government to engage the Subrecipient to accomplish the Scope of Work and the objectives of the local CDBG project;

The parties agree that:

1. SCOPE OF WORK

   A. Local Government Responsibilities

   The Local Government is responsible for administration of the CDBG contract, and ensuring CDBG funds are used in accordance with all program requirements [(24 CFR 570.501(b)] and its CDBG contract with Commerce referenced above. The Local Government will provide such assistance and guidance to the Subrecipient as may be required to accomplish the objectives and conditions set forth in this Agreement.

   B. Subrecipient Responsibilities

   The Subrecipient shall complete in a satisfactory and proper manner as determined by the Local Government the tasks described in the attached Scope of Work and Budget to accomplish the objectives of the CDBG project.

   The Subrecipient will periodically meet with the Local Government to review the status of these tasks.

2. TIME OF PERFORMANCE

   The time of performance for this Agreement will begin the date the parties sign and complete execution of this agreement for funding available as of the effective date established by the Local Government's CDBG contract, and will be in effect for the time period during which the Subrecipient remains in control of CDBG funds or other CDBG assets.

3. BUDGET

   The Subrecipient shall follow the budget approved by Commerce and the Local Government and attached to this Agreement (Attachment A). The Local Government may require a more detailed budget breakdown, and the Subrecipient shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the Local Government. Any amendments to the budget must first be determined by the Local Government as consistent with its CDBG contract with Commerce and then approved in writing by the Local Government and the Subrecipient.

4. PAYMENT

The Local Government shall reimburse the Subrecipient in accordance with the public services payment procedures provided by the CDBG Program for all allowable expenses agreed upon by the parties to complete the Scope of Work.

Reimbursement under this agreement will be based on billings, supported by appropriate documentation of costs actually incurred. It is expressly understood that claims for reimbursement will not be submitted in excess of actual, immediate cash requirements necessary to carry out the purposes of the Agreement. Funds available under this Agreement will be utilized to supplement rather than supplant funds otherwise available.

The Local Government may pay the Subrecipient for overtime, extra-pay shifts, and multi-shift work only with prior approval. Exceptions are as follows:

1) When necessary to cope with emergencies, such as those resulting from accidents, natural disasters, breakdowns of equipment, or occasional operational bottlenecks of a sporadic nature.
2) When employees are performing indirect functions, such as administration, maintenance, or account.
3) In the performance of tests, laboratory procedures, or other similar operations which are continuous in nature and cannot reasonably be interrupted or otherwise completed.
4) When lower overall cost to the federal Government will result.

It is understood that this Agreement is funded in whole or in part with CDBG funds through the Washington State CDBG Program as administered by Commerce and is subject to those regulations and restrictions normally associated with federally-funded programs and any other requirements that the state may prescribe.

5. PERFORMANCE MONITORING

The Local Government will monitor the performance of the Subrecipient as outlined in the Scope of Work (Attachment A to this Agreement) by tracking project progress, reviewing payment requests for applicable costs, managing the timely pass-through of CDBG funds, overseeing compliance with CDBG requirements, and ensuring recordkeeping and audit requirements are met. Substandard performance as determined by the Local Government will constitute noncompliance with this Agreement.

If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the Local Government, contract suspension or termination procedures will be initiated.

6. SPECIAL CONDITIONS

n/a

7. GENERAL CONDITIONS

A. General Compliance

The Subrecipient agrees to comply with:

a) The requirements of Title 24 of the Code of Federal regulations, Part 570 (HUD regulations concerning CDBG); and
b) All other applicable Federal, state and local laws, regulations, and policies, governing the funds provided under this Agreement.

B. CDBG National Objective

The Subrecipient certifies the activities carried out under this Agreement will meet a CDBG Program National Objective as defined in 24 CFR 570.208.

C. "Independent Contractor"

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Subrecipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The Local Government shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance, as the Subrecipient is an independent contractor.

D. Hold Harmless

In accepting this Agreement, the Subrecipient, including its successors and assigns, does hereby covenant and agree to indemnify and protect and save harmless the Local Government and its officers and employees from all claims, actions, or damages of every kind and description which may accrue to or be suffered by any person, partnership, corporation, or other entity of any kind that arise in whole or in part from intentional tort(s), or negligent act(s) or omission(s), or strict liability of the Subrecipient or its employees, agents, successors, or assigns. If the above sentence applies and any suit or action is brought against the Local Government, its officers, its employees, or any combination thereof, the Subrecipient, including its successors or assigns, shall defend the suit or action at his or her or their sole cost and expense and shall fully satisfy any judgment that is rendered against the Local Government, its officers, its employees, or any combination thereof.

E. Workers' Compensation

The Subrecipient shall provide Workers' Compensation Insurance Coverage for all of its employees involved in the performance of this Agreement.

F. Insurance & Bonding

The Subrecipient shall maintain and provide proof of occurrence based general business professional liability insurance in the amount of $1,000,000 or greater per occurrence and $2,000,000 aggregate for the term of this Subrecipient Agreement. The Subrecipient must name the Local Government as an additional insured. The Subrecipient shall provide the Local Government a copy of the additional insured endorsements prior to the start of this contract. The Subrecipient agrees that its liability insurance shall be primary and non-contributory to the Local Government's and that Subrecipient's liability insurance policy shall so state. The Subrecipient shall be responsible at its own expense to provide any and all employment insurance coverage, including but not limited to, unemployment insurance, worker's compensation insurance, etc. for any and all of its employees as might apply.

G. Funding Source Recognition

The Subrecipient shall insure recognition of the roles of Commerce, the WA State CDBG program, and the Local Government in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

H. Amendments

The Local Government or Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of each organization, and approved by the Local Government's governing body. Such amendments shall not invalidate this Agreement, nor relieve or release the Local Government or Subrecipient from its obligations under this Agreement.

I. Suspension or Termination

In accordance with 24 CFR 85.43, the Local Government may suspend or terminate this Agreement if the Subrecipient materially fails to comply with any terms of this Agreement, which include (but are not limited to) the following:

a) Failure to comply with any of the rules, regulations or provisions referred to herein, or such statues, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time;
b) Failure, for any reason, of the Subrecipient to fulfill in a timely and proper manner its obligations under this Agreement.
c) Ineffective of improper use of funds provided under this Agreement; or
d) Submission by the Subrecipient to the Local Government reports that are incorrect or incomplete in any material respect.

In accordance with 24 CFR 85.44, this Agreement may also be terminated for convenience by either the Local Government or the Subrecipient, in whole or in part, by setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the Local Government determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the Local Government may terminate the award in its entirety.

8. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

The Subrecipient agrees to comply with 24 CFR 84.21-28 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

The Subrecipient shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," or A-21, "Cost Principles for Educational Institutions," as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

3. Duplication of Costs

The Subrecipient certifies that work to be performed under this Agreement does not duplicate any work to be charged against any other contract, subcontract or other source.

B. Documentation and Record Keeping

1. Records to be Maintained

The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

a) Records providing a full description of each activity undertaken;
b) Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
c) Records required to determine the eligibility of activities;
d) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
e) Records documenting compliance with the civil rights components of the CDBG program;
f) Financial records as required by 24 CFR 570.502, and 24 CFR 84.21-28;
g) Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

2. Access to Records and Retention

All such records and all other records pertinent to this agreement and work undertaken under this agreement shall be retained by the Subrecipient for a period of six years after final audit of the Local Government's CDBG contract, unless a longer period is required to resolve audit findings or litigation. In such cases, the Local Government shall request a longer period of record retention.

3. Audits and Inspections

All Subrecipient records with respect to any matters covered by this Agreement shall be made available to the Local Government, Commerce, and duly authorized officials of the state and federal government, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data.

Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within 30 days after receipt by the Subrecipient. Failure of the Subrecipient to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments.

The Subrecipient hereby agrees to have an annual agency audit conducted in accordance with current Local Government policy concerning subrecipient audits and OMB Circular A-133. The Catalog of Federal Domestic Assistance (CFDA) number is 14.228.

C. Reporting and Payment Procedures

1. Program Income

The Subrecipient shall report annually all program income (as defined at 24 CFR 570.500(a)) generated by activities carried out with CDBG funds made available under this Agreement. The use of program income by the Subrecipient shall comply with the requirements set forth at 24 CFR 570.504.

2. Periodic Reports

The Subrecipient, at such times and in such forms as the Local Government may require, shall furnish the Local Government such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement.

D. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR Part 84 and 24 CFR 570.502, 570.503, 570.504, as applicable, which include but are not limited to the following:

1. The Subrecipient shall transfer to the Local Government any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

2. Real property under the Subrecipient's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of $25,000 shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until ten (10) years after the contract between Commerce and the Local Government is closed. If the Subrecipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for this 10-year period of time, the Subrecipient shall pay the Local Government an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property after the CDBG program's approval. Such payment shall constitute program income to the Local Government. The Subrecipient may retain real property acquired or improved under this Agreement after the expiration of the ten-year period.

3. In cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income. Equipment not needed by the Subrecipient for activities under this Agreement shall be (a) transferred to the Local Government for CDBG-eligible activities as approved by the CDBG program or (b) retained after compensating the Local Government.

9. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

Title VI of the Civil Rights Act of 1964:
Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, creed, religion, sex or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Section 109 of the Housing and Community Development Act of 1974:
No person in the United States shall on the grounds of race, color, creed, religion, sex or national origin be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

Age Discrimination Act of 1975, as Amended
No person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of age under any program or activity receiving federal funding assistance. (42 U.S.C. 610 et. seq.)

Section 504 of the Rehabilitation Act of 1973, as Amended
No otherwise qualified individual shall, solely by reason or his or her disability, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving Federal funds. (29 U.S.C. 794)

Public Law 101-336, Americans with Disabilities Act of 1990

Subject to the provisions of this title, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

B. Section 3 of the Housing and Community Development Act of 1968

Compliance in the Provision of Training, Employment, and Business Opportunities:

1. The work to be performed under this agreement is on a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower-income residents of the project area; and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part, by persons residing in the area of the project.

2. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of HUD set forth in 24 CFR 135, and all applicable rules and orders of HUD and Commerce issued there under prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability that would prevent them from complying with these provisions.

3. The Subrecipient will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

4. The Subrecipient will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant, or recipient of federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of HUD, 24 CFR Part 135. The Subrecipient will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract, unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

5. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of HUD and Commerce issued hereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant, or recipient, its consultants and subcontractors, its successors and assigned to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

C. Conduct

1. Assignability

The Subrecipient shall not assign or transfer any interest in this Agreement without the prior written consent of the Local Government thereto; provided, however, that claims for money due or to become due to the Subrecipient from the Local Government under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Local Government and Commerce.

2. Conflict of Interest

No member of the Local Government's governing body and no other public official of such locality, who exercises any functions or responsibilities in connection with the planning or carrying out of the project, shall have any personal financial interest, direct or indirect, in this agreement; and the Subrecipient shall take appropriate steps to assure compliance.

The Subrecipient agrees to abide by the provisions of 24 CFR 84.42 and 570.611, which includes maintaining a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.

The Subrecipient covenants that its employees has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of services hereunder. The Subrecipient further covenants that in the performance of this Agreement, no person having such interest shall be employed.

3. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

   a) The lower tier contractor certifies, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
   b) Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor shall attach an explanation to this contract.
   c) The contractor further agrees by signing this contract that it will not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.

D. Copyright

If this Agreement results in any copyrightable material or inventions, the Local Government and/or Commerce reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes.

E. Religious Activities

The Subrecipient agrees that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

10. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

11. PERFORMANCE WAIVER

The Local Government's failure to act with respect to a breach by the Subrecipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the Local Government to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

12. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the Local Government and the Subrecipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the Local Government and the Subrecipient with respect to this Agreement. The attachment to this Agreement is identified as follows:

Attachment A, Scope of Work and Budget, consisting of 2 pages.

IN WITNESS WHEREOF, the Local Government and the Subrecipient have executed this agreement as of the date and year last written below.

PACIFIC COUNTY	CHINOOK WATER DISTRICT
By _____	By Kenny Osborne
Title _____	Title Commissioner
Date _____	Date MAY 20, 2014

Approved As To Legal Form:

Attorney

ATTACHMENT A — SCOPE OF WORK AND BUDGET

Contractor: Pacific County

Contract No. 13-65400-040

Section A: Project Description / Deliverable

Pacific County is awarded a $24,000 CDBG Planning-Only Grant to complete a Water System Plan with the Chinook Water District. The project will result in compliance with WAC 246-290-100 including an evaluation of the adequacy of the District's existing water supply, storage and distribution system, providing a long-term planning strategy for improvements over the six and twenty-year planning periods.

Total project costs are estimated at $26,400 with funding from Pacific County ($2,400).

The project will provide an area benefit to the Chinook Water District service area in Pacific County consisting of approximately 621 persons with 59 percent having low-and moderate-incomes based on a July 2009 income survey.

Section B: Project Activities, Milestones and Budget

CDBG Budget Code	Budget Amount	Project Activities *Must complete each bulleted project activity to meet the corresponding milestone.	Performance Milestones
21A General Admin.	$0	▪ Execute grant contract with Commerce. ▪ Verify that Chinook Water District does not have an active exclusion record in the federal award system (SAM.gov), document in the CDBG file, and submit a copy to Commerce. ▪ Establish a subrecipient agreement that includes quarterly subrecipient reporting and submit a signed copy to Commerce. ▪ Establish administrative, financial, reporting, and record keeping systems.	Before first payment request
		Payment requests: ▪ Review subrecipient reimbursement requests and project costs and invoices against project budget and contract start date. ▪ Once costs are approved, prepare and submit payment request to Commerce.	*No more than monthly*
		▪ Complete applicable civil rights requirements. ▪ Conduct an on-site monitoring of the subrecipient to verify the grant is used according to CDBG requirements and all costs reimbursed are allowable.	No later than 6 months after contract start date
		▪ Planning activities are complete. ▪ Resolve all monitoring issues with Commerce's Contracts Administration Unit (CAU). ▪ Conduct a final public hearing to review project performance. ▪ Submit Water System plan to Commerce. ▪ Submit a Grantee Closeout Performance Report. ▪ List CDBG expenditures in your annual Schedule of Expenditures of Federal Awards for audit purposes and schedule an OMB Circular A-133 audit.	Before requesting final 5% of CDBG award

Section B: Project Activities, Milestones and Budget (continued)

CDBG Budget Code	Budget Amount	Project Activities *Must complete each bulleted project activity to meet the corresponding milestone.	Performance Milestones
20 Planning	$24,000	▪ Provide Commerce with documentation of compliance with CDBG regulations related to procurement of engineering services; including the RSQ publication information and documented outreach to the state Office of Minority and Women Business Enterprises (OMWBE) and encourage Section 3 local businesses. ▪ Verify the selected engineer is not on the federal Excluded Parties List (EPLS) at www.sam.gov and provide documentation to Commerce. Notify engineer to check EPLS eligibility of any subcontractors. ▪ Provide Commerce with a copy of the signed contract for professional services. Include required federal provisions.	Before first payment request for professional services
		▪ Complete the environmental review for planning activities and submit the environmental review record to Commerce.	Before release of funds
		▪ Monitor program progress and compliance with applicable federal and state regulations. ▪ Collect and analyze data relevant to the plans. ▪ Hold community meetings to encourage citizen participation in the planning process ▪ Prepare draft plans and present to the Chinook Water District board of commissioners. ▪ Submit plan to regulatory agency for approval. ▪ Incorporate plan into local Growth Management Comprehensive Plan, if appropriate.	Before contract end date for planning activities to be considered complete
		▪ Meet the CDBG national objective of principally benefiting low- and moderate-income (LMI) persons. ▪ Accomplish HUD's outcome of increasing the community's availability and access to sustainable infrastructure systems to achieve HUD's objective of creating suitable living environments.	Approx. 366 LMI persons will benefit End date: February 29, 2016
TOTAL:	**$24,000**		