

AGENDA

WILLIAM SHORE MEMORIAL POOL DISTRICT BOARD of COMMISSIONERS

Clallam County Courthouse, Room 160

Port Angeles, Washington

October 23, 2018

3:00 p.m.

COMMISSIONERS

CHERIE KIDD, ANNA MANILDI, BILL PEACH, RANDY JOHNSON, MICHAEL MERIDETH

CALL TO ORDER, PLEDGE OF ALLEGIANCE, ROLL CALL

REQUEST FOR MODIFICATIONS/APPROVAL OF AGENDA

PUBLIC COMMENT – Agenda Items Only

ACTION ITEMS

- 1a Minutes of September 25, 2018
- 1b Ratification of the September 30, 2018 bill payments in the amount of \$129,513.89
- 1c Approval of Commerce Contract #19-96619-093 (\$1,500,000 Capital Budget Appropriation)
- 1d Approval of ARC Contract for Additional Services (AIA G801-2017)
- 1e Approval of Use Agreement with Port Angeles School District
- 1f Motion to Introduce Resolution 15-2018. A Resolution to Approve the 2019 Property Tax Levy
- 1g Motion to Introduce Resolution 16-2018. A Resolution to Approve the 2019 Budget

ITEMS FOR DISCUSSION

- 2a Project Accounting (Randy Johnson)
- 2b Executive Director Report
- 2c Financial Report
- 2d Staff Report
- 2e Advisory Committee Report

PUBLIC COMMENT

NEXT MEETING DATE

The next WSMPD meeting will be held on November 27, 2018 at 3:00 p.m. in the Clallam County Commissioners Board Room, Room 160.

ADJOURNMENT

MINUTES

WILLIAM SHORE MEMORIAL POOL DISTRICT BOARD of COMMISSIONERS

Clallam County Courthouse, Room 160

Port Angeles, Washington

September 25, 2018

3:00 p.m.

COMMISSIONERS

CHERIE KIDD, ANNA MANILDI, BILL PEACH, RANDY JOHNSON, MICHAEL MERIDETH

CALL TO ORDER, PLEDGE OF ALLEGIANCE, ROLL CALL

Commissioner Bill Peach called the meeting to order at 3:00 p.m. Also present were Commissioners Manildi, Kidd, Johnson, and Merideth.

REQUEST FOR MODIFICATIONS/APPROVAL OF AGENDA

ACTION TAKEN: CRJm to approve with the addition of ratification 1b2 and 1b3, CCKs, mc

PUBLIC COMMENT – Agenda Items Only

None

ACTION ITEMS

- 1a Minutes of August 28, 2018
ACTION TAKEN: CRJm to approve, CAMs, mc
 - 1b1 Ratification of the August 31, 2018 bill payments in the amount of \$156,659.14
ACTION TAKEN: CCKm to approve, CMMs, mc
 - 1b2 Ratification of the August 31, 2018 bill payments in the amount of \$459,715.51
Steve Burke explained that this ratification includes expenditures that were not ratified by the board between January 25, 2017 and August 31, 2018.
ACTION TAKEN: CAMm to approve, CCKs, mc
 - 1b3 Ratification of the September 25, 2018 bill payments in the amount of \$23,948.41
Steve Burke explained that this ratification includes expenditures that were not ratified by the board between January 25, 2017 and August 31, 2018 and are not included under General Fund payments.
ACTION TAKEN: CCKm to approve, CAMs, mc
 - 1c Resolution 12 – Acceptance of Land and Water Conservation Fund Grant in the amount of \$500,000: *A resolution to accept grant funds from the Washington State Recreation and Conservation Office for the construction of a warm water exercise pool, as part of the renovation and expansion of the William Shore Pool facility.*
ACTION TAKEN: CCKm to approve, CRJs, mc
 - 1d Resolution 13 – Acceptance of Community Development Block Grant in the amount of \$750,000: *A resolution to accept funds from the Washington State Department of Commerce's Community Development Block Grant as a subrecipient for the construction of designated space for the district's after school care program, as part of the renovation and expansion of the William Shore Pool Facility.*
ACTION TAKEN: CRJm to approve, CAMs, mc
-

MINUTES for the Meeting of September 25, 2018
WILLIAM SHORE MEMORIAL POOL DISTRICT BOARD OF COMMISSIONERS
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- 1e Resolution 14 – Approval of Purchase and Sale Agreement in the amount of \$60,000: *A resolution to accept the purchase and sale agreement for surplus property identified as lot 10, Block J of the second addition to Four Seasons Ranch, according to the plat thereof recorded in volume 5 of plats, page 67 records of Clallam County, Washington.*
ACTION TAKEN: CRJm to approve, CCKs, mc

ITEMS FOR DISCUSSION

- 2a Executive Director Report
1. Update on Cost Estimates for Project – Steve Burke and Steve Zenovic explained details shown on the 'Total Project Budget' worksheet regarding the expansion project and answered questions from the board.
 2. Phasing and Construction Timetable – Steve Burke explained details regarding the phasing and construction timeline of project.
 3. Sparks Squad Space – A detailed budget estimate for project costs associated with Sparks Squad was presented to the board.
- 2b Financial Report
Steve Burke explained the budget and finance report in detail and answered questions from the board.
- 2c Staff Report
James Shultz shared the following:
- Luau Party – September 29th
 - Pumpkin Patch at the Pool – October 27th
 - 60 kids involved in S.P.A.R.K. Squad.
 - Unannounced audits determined safety standards are excellent.
- 2d Advisory Committee Report
Greg Shield shared his concerns for excluding a phasing process and the impacts it may have on our community. However, the Advisory Committee agreed that it makes more sense to eliminate phasing based on all the new information presented.

PUBLIC COMMENT

Public announced concerns for Swim Club and High School Swim Teams being affected by the closure of the pool for expansion process, and how this changes plans for their future schedules.

NEXT MEETING DATE

The next WSMPD meeting will be held on October 23, 2018 at 3:00 p.m. in the Clallam County Commissioners Board Room, Room 160.

ADJOURNMENT

Bill Peach adjourned the meeting at 4:40 p.m.

PASSED AND ADOPTED this twenty-third of October, 2018

MINUTES for the Meeting of September 25, 2018
WILLIAM SHORE MEMORIAL POOL DISTRICT BOARD OF COMMISSIONERS
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William Shore Memorial Pool District Commissioners

Bill Peach, President

ATTEST:

Rachelle Sires, Clerk.

William Shore Memorial Pool District
Payment Ratification and Approval
For the month ending September 30, 2018

**WILLIAM SHORE POOL DISTRICT
PAYMENT RATIFICATION AND APPROVAL**

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed. I am authorized to approve/ratify/certify payments of the William Shore Pool District on the attached listed claims and the annual budget shall be adjusted if needed reflect these payments.

DATES: September 1, 2018 to September 30, 2018

GENERAL FUND

General Payments	Begin Check #	End Check #	Total	
Accts Payable Checks (computer):	8021	8044	\$28,188.69	BC
Payroll Checks 9-05	7987	8020	\$15,224.42	A
Payroll Checks 9-20	8045	8078	\$12,009.98	CD
Direct Deposit Payroll	DD	DD	\$22,889.46	GH
Manual Checks:			\$0.00	
Voided/Zero Checks:			\$0.00	
Wire Transfer/ACH's			\$6,742.84	
Payroll Tax ACH Transfers			\$11,391.78	
Total General Fund Payments			\$96,447.17	

CAPITAL FUND

Capital/Debt Service Payments	Begin Check #	End Check #	Total	
Payable Checks (computer):	1022	1025	\$33,066.72	F
Manual Checks:			\$0.00	
Voided/Zero Payable Checks:			\$0.00	
Wire Transfer/ACH's			\$0.00	
Total General Expenses			\$33,066.72	

Date of Approval: September 23, 2018

District Treasurer

Executive Director

Commissioner Peach*

Commissioner Minaldi

Commissioner Johnson*

Commissioner Kidd**

Commissioner Meredith**

*Recused from Clallam County Payments
**Recused from City of Port Angeles Payments



Department of Commerce

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Grant to

William Shore Pool District

through

The 2019 Local and Community Projects Program

For

William Shore Pool Expansion – Phase 1 renovation and expansion of the William Shore Aquatic Center.

Start date:

March 27, 2018

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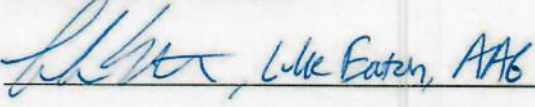
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Attachment A, Scope of Work; Attachment B, Budget; Attachment C, Availability of Funds;
Attachment D Certification of Prevailing Wages; Attachment E, Certification of LEED

FACE SHEET

Grant Number: 19-96619-093

**Washington State Department of Commerce
Local Government Division
Community Capital Facilities Unit**

1. GRANTEE William Shore Pool District 225 E. Fifth Street Port Angeles, Washington 98362		2. GRANTEE Doing Business As (optional) .	
3. Grantee Representative Steve Burke sburke@williamshorepool.org (360) 460-3526		4. COMMERCE Representative Sheryl Reed Project Manager (360) 725-3074 Fax 360-586-5880 sheryl.reed@commerce.wa.gov P.O. Box 42525 1011 Plum Street SE Olympia, WA 98504-2525	
5. Grant Amount \$1,455,000.00	6. Funding Source Federal: <input type="checkbox"/> State: <input checked="" type="checkbox"/> Other: <input type="checkbox"/> N/A: <input type="checkbox"/>	7. Start Date 3/27/2018	8. End Date 6/30/2021
9. Federal Funds (as applicable) N/A	<u>Federal Agency</u> N/A	<u>CFDA Number</u> N/A	
10. Tax ID # 27-0992813	11. SWV # 0007712-00	12. UBI # 603 023 028	13. DUNS # N/A
14. Grant Purpose The outcome of this performance-based contract is the renovation and expansion of the William Shore Aquatic Center as referenced in Attachment A – Scope of Work.			
COMMERCE, defined as the Department of Commerce, and the GRANTEE, as defined above, acknowledge and accept the terms of this Grant and attachments and have executed this Grant on the date below to start as of the date and year referenced above. The rights and obligations of both parties to this Grant are governed by this Grant and the following other documents incorporated by reference: Grant Terms and Conditions including Attachment “A” – Scope of Work, Attachment “B” – Budget, Attachment “C” – Certification of Availability of Funds to Complete the Project, Attachment “D” – Certification of the Payment and Reporting of Prevailing Wages, Attachment “E” – Certification of Intent to Enter LEED process.			
FOR GRANTEE _____ Bill Peach, William Shore Pool Dist. Comm. Pres. _____ Date		FOR COMMERCE _____ Mark K. Barkley, Assistant Director _____ Date APPROVED AS TO FORM  _____ 10.1.18 _____ Date	

**SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
STATE FUNDS**

THIS CONTRACT, entered into by and between the William Shore Pool District (a unit of local government) hereinafter referred to as the GRANTEE), and the Washington State Department of Commerce (hereinafter referred to as COMMERCE), WITNESSES THAT:

WHEREAS, COMMERCE has the statutory authority under RCW 43.330.050 (5) to cooperate with and provide assistance to local governments, businesses, and community-based organizations; and

WHEREAS, COMMERCE is also given the responsibility to administer state funds and programs which are assigned to COMMERCE by the Governor or the Washington State Legislature; and

WHEREAS, the Washington State Legislature has, in Laws of 2018, Chapter 298, Section 1012, made an appropriation to support the 2019 Local and Community Projects Program, and directed COMMERCE to administer those funds; and

WHEREAS, the enabling legislation also stipulates that the GRANTEE is eligible to receive funding for acquisition, construction, or rehabilitation (a venture hereinafter referred to as the "Project").

NOW, THEREFORE, in consideration of covenants, conditions, performances, and promises hereinafter contained, the parties hereto agree as follows:

1. GRANT MANAGEMENT

The Representative for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Grant.

The Representative for COMMERCE and their contact information are identified on the Face Sheet of this Grant.

The Representative for the GRANTEE and their contact information are identified on the Face Sheet of this Grant.

2. COMPENSATION

COMMERCE shall pay an amount not to exceed \$1,455,000.00 for the capital costs necessary for or incidental to the performance of work as set forth in the Scope of Work.

3. CERTIFICATION OF FUNDS PERFORMANCE MEASURES

A. The release of state funds under this contract is contingent upon the GRANTEE certifying that it has expended or has access to funds from non-state sources as set forth in ATTACHMENT C (CERTIFICATION OF THE AVAILABILITY OF FUNDS TO COMPLETE THE PROJECT), hereof. Such non-state sources may consist of a combination of any of the following:

- i) Eligible Project expenditures prior to the execution of this contract.
- ii) Cash dedicated to the Project.
- iii) Funds available through a letter of credit or other binding loan commitment(s).
- iv) Pledges from foundations or corporations.
- v) Pledges from individual donors.

**SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
STATE FUNDS**

- vi) The value of real property when acquired solely for the purposes of this Project, as established and evidenced by a current market value appraisal performed by a licensed, professional real estate appraiser, or a current property tax statement. COMMERCE will not consider appraisals for prospective values of such property for the purposes of calculating the amount of non-state matching fund credit.
- vii) In-kind contributions, subject to COMMERCE'S approval.

B. The GRANTEE shall maintain records sufficient to evidence that it has access to or has expended funds from such non-state sources, and shall make such records available for COMMERCE'S review upon reasonable request.

4. PREVAILING WAGE LAW

The Project funded under this Grant may be subject to state prevailing wage law (Chapter 39.12 RCW). The GRANTEE is advised to consult the Industrial Statistician at the Washington Department of Labor and Industries to determine whether prevailing wages must be paid. COMMERCE is not responsible for determining whether prevailing wage applies to this Project or for any prevailing wage payments that may be required by law.

5. DOCUMENTATION AND SECURITY

The provisions of this section shall apply to capital projects performed by nonprofit organizations that involve the expenditure of over \$500,000 in state funds. Projects for which the grant award or legislative intent documents specify that the state funding is to be used for design only are exempt from this section.

- A. Deed of Trust. This Grant shall be evidenced by a promissory note and secured by a deed of trust or other appropriate security instrument in favor of COMMERCE (the "Deed of Trust"). The Deed of Trust shall be recorded in the County where the Project is located, and the original returned to COMMERCE after recordation within ninety (90) days of contract execution. The Deed of Trust must be recorded before COMMERCE will reimburse the GRANTEE for any Project costs. The amount secured by the Deed of Trust shall be the amount of the grant as set forth in Section 2, hereof.
- B. Term of Deed of Trust. The Deed of Trust shall remain in full force and effect for a period of ten (10) years following the final payment of state funds to the GRANTEE under this grant. Upon satisfaction of the ten-year term requirement and all other grant terms and conditions, COMMERCE shall, upon written request of the GRANTEE, take appropriate action to reconvey the Deed of Trust.
- C. Title Insurance. The GRANTEE shall purchase an extended coverage lender's policy of title insurance insuring the lien position of the Deed of Trust in an amount not less than the amount of the grant.
- D. Subordination. COMMERCE may agree to subordinate its deed of trust upon request from a private or public lender. Any such request shall be submitted to COMMERCE in writing, and COMMERCE shall respond to the request in writing within thirty (30) days of receiving the request.

**SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
STATE FUNDS**

6. BASIS FOR ESTABLISHING REAL PROPERTY VALUES FOR ACQUISITIONS OF REAL PROPERTY PERFORMANCE MEASURES

When the grant is used to fund the acquisition of real property, the value of the real property eligible for reimbursement under this grant shall be established as follows:

- a. GRANTEE purchases of real property from an independent third-party seller shall be evidenced by a current appraisal prepared by a licensed Washington State commercial real estate appraiser, or a current property tax statement.
- b. GRANTEE purchases of real property from a subsidiary organization, such as an affiliated LLC, shall be evidenced by a current appraisal prepared by a licensed Washington State commercial real estate appraiser or the prior purchase price of the property plus holding costs, whichever is less.

7. EXPENDITURES ELIGIBLE FOR REIMBURSEMENT

The GRANTEE may be reimbursed, at the rate set forth elsewhere in this contract, for Project expenditures in the following cost categories:

- A. Real property, and costs directly associated with such purchase, when purchased or acquired solely for the purposes of the Project;
- B. Design, engineering, architectural, and planning;
- C. Construction management and observation (from external sources only);
- D. Construction costs including, but not limited to, the following:
 - Site preparation and improvements;
 - Permits and fees;
 - Labor and materials;
 - Taxes on Project goods and services;
 - Capitalized equipment;
 - Information technology infrastructure; and
 - Landscaping.

8. BILLING PROCEDURES AND PAYMENT

COMMERCE shall reimburse the GRANTEE for one-hundred percent (100%) of eligible Project expenditures, up to the maximum payable under this contract. When requesting reimbursement for expenditures made, the GRANTEE shall submit to COMMERCE a signed and completed Invoice Voucher (Form A-19), that documents capitalized Project activity performed – by budget line item – for the billing period.

The GRANTEE shall evidence the costs claimed on each voucher by including copies of each invoice received from vendors providing Project goods or services covered by the contract. The GRANTEE shall also provide COMMERCE with a copy of the cancelled check or electronic funds transfer, as applicable, that confirms that they have paid each expenditure being claimed. The cancelled checks or electronic funds transfers may be submitted to COMMERCE at the time the voucher is initially submitted, or within thirty (30) days thereafter.

The voucher must be certified (signed) by an official of the GRANTEE with authority to bind the GRANTEE. The final voucher shall be submitted to COMMERCE within sixty (60) days following the completion of work or other termination of this contract, or within fifteen (15) days following the end of the state biennium unless contract funds are reappropriated by the Legislature in accordance with Section 18, hereof.

**SPECIAL TERMS AND CONDITIONS
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Each request for payment must be accompanied by a Project Status Report, which describes, in narrative form, the progress made on the Project since the last invoice was submitted, as well as a report of Project status to date. COMMERCE will not release payment for any reimbursement request received unless and until the Project Status Report is received. After approving the Invoice Voucher and Project Status Report, COMMERCE shall promptly remit a warrant to the GRANTEE.

COMMERCE will pay GRANTEE upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Representative for COMMERCE not more often than monthly.

Payment shall be considered timely if made by COMMERCE within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the GRANTEE.

COMMERCE may, in its sole discretion, terminate the Grant or withhold payments claimed by the GRANTEE for services rendered if the GRANTEE fails to satisfactorily comply with any term or condition of this Grant.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by COMMERCE.

Duplication of Billed Costs

The GRANTEE shall not bill COMMERCE for services performed under this Agreement, and COMMERCE shall not pay the GRANTEE, if the GRANTEE is entitled to payment or has been or will be paid by any other source, including grants, for that service.

Disallowed Costs

The GRANTEE is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subgrantees.

9. SUBCONTRACTOR DATA COLLECTION

Contractor will submit reports, in a form and format to be provided by Commerce and at intervals as agreed by the parties, regarding work under this Grant performed by subcontractors and the portion of Grant funds expended for work performed by subcontractors, including but not necessarily limited to minority-owned, woman-owned, and veteran-owned business subcontractors. "Subcontractors" shall mean subcontractors of any tier.

10. INSURANCE

The GRANTEE shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the state of Washington should there be any claims, suits, actions, costs, damages or expenses arising from any loss, or negligent or intentional act or omission of the GRANTEE, or Subgrantee, or agents of either, while performing under the terms of this Grant.

The insurance required shall be issued by an insurance company authorized to do business within the state of Washington. The insurance shall name the state of Washington, its agents, officers, and employees as additional insureds under the insurance policy. All policies shall be primary to any other valid and collectable insurance. The GRANTEE shall instruct the insurers to give COMMERCE thirty (30) calendar days advance notice of any insurance cancellation or modification.

The GRANTEE shall submit to COMMERCE within fifteen (15) calendar days of the Grant start date, a certificate of insurance which outlines the coverage and limits defined in this insurance section. During the term of the Grant, the GRANTEE shall submit renewal certificates not less than thirty (30) calendar days prior to expiration of each policy required under this section.

**SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
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The GRANTEE shall provide insurance coverage that shall be maintained in full force and effect during the term of this Grant, as follows:

Commercial General Liability Insurance Policy. Provide a Commercial General Liability Insurance Policy, including contractual liability, written on an occurrence basis, in adequate quantity to protect against legal liability arising out of Grant activity but no less than \$1,000,000 per occurrence. Additionally, the GRANTEE is responsible for ensuring that any Subgrantees provide adequate insurance coverage for the activities arising out of subgrants.

Fidelity Insurance. Every officer, director, employee, or agent who is authorized to act on behalf of the GRANTEE for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks, or other instruments of payment for program costs shall be insured to provide protection against loss:

- A. The amount of fidelity coverage secured pursuant to this Grant shall be \$2,000,000 or the highest of planned reimbursement for the Grant period, whichever is lowest. Fidelity insurance secured pursuant to this paragraph shall name COMMERCE as beneficiary.
- B. Subgrantees that receive \$10,000 or more per year in funding through this Grant shall secure fidelity insurance as noted above. Fidelity insurance secured by Subgrantees pursuant to this paragraph shall name the GRANTEE and the GRANTEE's fiscal agent as beneficiary.
- C. The GRANTEE shall provide, at COMMERCE's request, copies of insurance instruments or certifications from the insurance issuing agency. The copies or certifications shall show the insurance coverage, the designated beneficiary, who is covered, the amounts, the period of coverage, and that COMMERCE will be provided thirty (30) days advance written notice of cancellation.

GRANTEES and Local Governments that Participate in a Self-Insurance Program.

Self-Insured/Liability Pool or Self-Insured Risk Management Program – With prior approval from COMMERCE, the GRANTEE may provide the coverage above under a self-insured/liability pool or self-insured risk management program. In order to obtain permission from COMMERCE, the GRANTEE shall provide: (1) a description of its self-insurance program, and (2) a certificate and/or letter of coverage that outlines coverage limits and deductibles. All self-insured risk management programs or self-insured/liability pool financial reports must comply with Generally Accepted Accounting Principles (GAAP) and adhere to accounting standards promulgated by: 1) Governmental Accounting Standards Board (GASB), 2) Financial Accounting Standards Board (FASB), and 3) the Washington State Auditor's annual instructions for financial reporting. GRANTEE's participating in joint risk pools shall maintain sufficient documentation to support the aggregate claim liability information reported on the balance sheet. The state of Washington, its agents, and employees need not be named as additional insured under a self-insured property/liability pool, if the pool is prohibited from naming third parties as additional insured.

GRANTEE shall provide annually to COMMERCE a summary of coverages and a letter of self insurance, evidencing continued coverage under GRANTEE's self-insured/liability pool or self-insured risk management program. Such annual summary of coverage and letter of self insurance will be provided on the anniversary of the start date of this Agreement.

11. ORDER OF PRECEDENCE

In the event of an inconsistency in this Grant, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations
- Special Terms and Conditions
- General Terms and Conditions
- Attachment A – Scope of Work

**SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
STATE FUNDS**

- Attachment B – Budget
- Attachment C – Certification of the Availability of Funds to Complete the Project
- Attachment D – Certification of the Payment and Reporting of Prevailing Wages
- Attachment E – Certification of Intent to Enter the Leadership in Energy and Environmental Design (LEED) Certification Process

12. REDUCTION IN FUNDS

In the event state funds appropriated for the work contemplated under this contract are withdrawn, reduced, or limited in any way by the Governor or the Washington State Legislature during the contract period, the parties hereto shall be bound by any such revised funding limitations as implemented at the discretion of COMMERCE, and shall meet and renegotiate the contract accordingly.

13. OWNERSHIP OF PROJECT/CAPITAL FACILITIES

COMMERCE makes no claim to any real property improved or constructed with funds awarded under this contract and does not assert and will not acquire any ownership interest in or title to the capital facilities and/or equipment constructed or purchased with state funds under this contract; provided,, however, that COMMERCE may be granted a security interest in real property, to secure funds awarded under this contract. This provision does not extend to claims that COMMERCE may bring against the GRANTEE in recapturing funds expended in violation of this contract.

14. CHANGE OF OWNERSHIP OR USE FOR GRANTEE-OWNED PROPERTY

- A. The GRANTEE understands and agrees that any and all real property or facilities owned by the GRANTEE that are acquired, constructed, or otherwise improved by the GRANTEE using state funds under this contract, shall be held and used by the GRANTEE for the purpose or purposes stated elsewhere in this contract for a period of at least ten (10) years from the date the final payment is made hereunder.
- B. This provision shall not be construed to prohibit the GRANTEE from selling any property or properties described in this section; Provided, that any such sale shall be subject to prior review and approval by COMMERCE, and that all proceeds from such sale shall be applied to the purchase price of a different facility or facilities of equal or greater value than the original facility and that any such new facility or facilities will be used for the purpose or purposes stated elsewhere in this contract.
- C. In the event the GRANTEE is found to be out of compliance with this section, the GRANTEE shall repay to the state general fund the principal amount of the grant as stated in Section 1, hereof, plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the effective date of the legislation in which the subject facility was authorized. Repayment shall be made pursuant to Section 19 (Recapture provision).

15. CHANGE OF USE FOR LEASED PROPERTY PERFORMANCE MEASURE

- A. The GRANTEE understands and agrees that any facility leased by the GRANTEE that is constructed, renovated, or otherwise improved using state funds under this contract shall be used by the GRANTEE for the purpose or purposes stated elsewhere in this contract for a period of at least ten (10) years from the date the final payment is made hereunder.
- B. In the event the GRANTEE is found to be out of compliance with this section, the GRANTEE shall repay to the state general fund the principal amount of the grant as stated in Section 1, hereof, plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the effective date of the legislation in which the subject facility was authorized. Repayment shall be made pursuant to Section 19 (Recapture Provision).

**SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
STATE FUNDS**

16. MODIFICATION TO THE PROJECT BUDGET

- A. Notwithstanding any other provision of this contract, the GRANTEE may, at its discretion, make modifications to line items in the Project Budget (Attachment B), hereof, that will not increase the line item by more than fifteen percent (15%).
- B. The GRANTEE shall notify COMMERCE in writing (by email or regular mail) when proposing any budget modification or modifications to a line item in the Project Budget (Attachment B,) hereof, that would increase the line item by more than fifteen percent (15%). Conversely, COMMERCE may initiate the budget modification approval process if presented with a request for payment under this contract that would cause one or more budget line items to exceed the 15 percent (15%) threshold increase described above.
- C. Any such budget modification or modifications as described above shall require the written approval of COMMERCE (by email or regular mail), and such written approval shall amend the Project Budget. Each party to this contract will retain and make any and all documents related to such budget modifications a part of their respective contract file.
- D. Nothing in this section shall be construed to permit an increase in the amount of funds available for the Project, as set forth in Section 2 of this contract.

17. SIGNAGE, MARKERS AND PUBLICATIONS

If, during the period covered by this contract, the GRANTEE displays or circulates any communication, publication, or donor recognition identifying the financial participants in the Project, any such communication or publication must identify "The Taxpayers of Washington State" as a participant.

18. HISTORICAL AND CULTURAL RESOURCES

In the event that historical or cultural artifacts are discovered at the Project site during construction, the GRANTEE shall immediately stop work and notify the local historical preservation officer and the state historic preservation officer at the Washington State Department of Archaeology and Historic Preservation (DAHP) at (360) 586-3065, and the Commerce Representative identified on the Face Sheet.

If human remains are discovered, the GRANTEE shall immediately stop work and report the presence and location of the remains to the coroner and local enforcement, then contact DAHP and any concerned tribe's cultural staff or committee.

19. REAPPROPRIATION

- A. The parties hereto understand and agree that any state funds not expended by June 30, 2019 will lapse on that date unless specifically reappropriated by the Washington State Legislature. If funds are so reappropriated, the state's obligation under the terms of this contract shall be contingent upon the terms of such reappropriation.
- B. In the event any funds awarded under this contract are reappropriated for use in a future biennium, COMMERCE reserves the right to assign a reasonable share of any such reappropriation for administrative costs.

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20. RECAPTURE

In the event that the GRANTEE fails to perform this Grant in accordance with state laws, federal laws, and/or the provisions of this Grant, COMMERCE reserves the right to recapture all funds disbursed under the Grant, in addition to any other remedies available at law or in equity. This provision supersedes the Recapture provision in Section 25 of the General Terms and Conditions.

21. TERMINATION FOR FRAUD OR MISREPRESENTATION

In the event the GRANTEE commits fraud or makes any misrepresentation in connection with the Grant application or during the performance of this contract, COMMERCE reserves the right to terminate or amend this contract accordingly, including the right to recapture all funds disbursed to the GRANTEE under the Grant.

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1. DEFINITIONS

As used throughout this Grant, the following terms shall have the meaning set forth below:

- A. "Authorized Representative" shall mean the Director and/or the designee authorized in writing to act on the Director's behalf.
- B. "COMMERCE" shall mean the Department of Commerce.
- C. "GRANTEE" shall mean the entity identified on the face sheet performing service(s) under this Grant, and shall include all employees and agents of the GRANTEE.
- D. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
- E. "State" shall mean the state of Washington.
- F. "Subgrantee/subcontractor" shall mean one not in the employment of the GRANTEE, who is performing all or part of those services under this Grant under a separate Grant with the GRANTEE. The terms "subgrantee/subcontractor" refers to any tier.
- G. "Subrecipient" shall mean a non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program. It also excludes vendors that receive federal funds in exchange for goods and/or services in the course of normal trade or commerce.
- H. "Vendor" is an entity that agrees to provide the amount and kind of services requested by COMMERCE; provides services under the grant only to those beneficiaries individually determined to be eligible by COMMERCE and, provides services on a fee-for-service or per-unit basis with contractual penalties if the entity fails to meet program performance standards.

2. ACCESS TO DATA

In compliance with RCW 39.26.180, the GRANTEE shall provide access to data generated under this Grant to COMMERCE, the Joint Legislative Audit and Review Committee, and the Office of the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the GRANTEE's reports, including computer models and the methodology for those models.

3. ADVANCE PAYMENTS PROHIBITED

No payments in advance of or in anticipation of goods or services to be provided under this Grant shall be made by COMMERCE.

4. ALL WRITINGS CONTAINED HEREIN

This Grant contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Grant shall be deemed to exist or to bind any of the parties hereto.

5. AMENDMENTS

This Grant may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

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6. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35

The GRANTEE must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

7. ASSIGNMENT

Neither this Grant, nor any claim arising under this Grant, shall be transferred or assigned by the GRANTEE without prior written consent of COMMERCE.

8. ATTORNEYS' FEES

Unless expressly permitted under another provision of the Grant, in the event of litigation or other action brought to enforce Grant terms, each party agrees to bear its own attorneys fees and costs.

9. AUDIT

A. General Requirements

COMMERCE reserves the right to require an audit. If required, GRANTEEs are to procure audit services based on the following guidelines.

The GRANTEE shall maintain its records and accounts so as to facilitate audits and shall ensure that subgrantees also maintain auditable records.

The GRANTEE is responsible for any audit exceptions incurred by its own organization or that of its subgrantees.

COMMERCE reserves the right to recover from the GRANTEE all disallowed costs resulting from the audit.

Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report. The GRANTEE must respond to COMMERCE requests for information or corrective action concerning audit issues within thirty (30) days of the date of request.

B. State Funds Requirements

In the event an audit is required, if the GRANTEE is a state or local government entity, the Office of the State Auditor shall conduct the audit. Audits of non-profit organizations are to be conducted by a certified public accountant selected by the GRANTEE.

The GRANTEE shall include the above audit requirements in any subcontracts.

In any case, the GRANTEE's records must be available for review by COMMERCE.

C. Documentation Requirements

The GRANTEE must send a copy of the audit report described above no later than nine (9) months after the end of the GRANTEE's fiscal year(s) by sending a scanned copy to auditreview@commerce.wa.gov or a hard copy to:

Department of Commerce
ATTN: Audit Review and Resolution Office
1011 Plum Street SE
PO Box 42525
Olympia WA 98504-2525

In addition to sending a copy of the audit, when applicable, the GRANTEE must include:

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- Corrective action plan for audit findings within three (3) months of the audit being received by COMMERCE.
- Copy of the Management Letter.

If the GRANTEE is required to obtain a Single Audit consistent with Circular A-133 requirements, a copy must be provided to COMMERCE; no other report is required.

10. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

A. "Confidential Information" as used in this section includes:

1. All material provided to the GRANTEE by COMMERCE that is designated as "confidential" by COMMERCE;
2. All material produced by the GRANTEE that is designated as "confidential" by COMMERCE; and
3. All personal information in the possession of the GRANTEE that may not be disclosed under state or federal law. "Personal information" includes but is not limited to information related to a person's name, health, finances, education, business, use of government services, addresses, telephone numbers, social security number, driver's license number and other identifying numbers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

B. The GRANTEE shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The GRANTEE shall use Confidential Information solely for the purposes of this Grant and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COMMERCE or as may be required by law. The GRANTEE shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the GRANTEE shall provide COMMERCE with its policies and procedures on confidentiality. COMMERCE may require changes to such policies and procedures as they apply to this Grant whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The GRANTEE shall make the changes within the time period specified by COMMERCE. Upon request, the GRANTEE shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the GRANTEE against unauthorized disclosure.

C. Unauthorized Use or Disclosure. The GRANTEE shall notify COMMERCE within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

11. CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, COMMERCE may, in its sole discretion, by written notice to the CONTRACTOR terminate this contract if it is found after due notice and examination by COMMERCE that there is a violation of the Ethics in Public Service Act, Chapters 42.52 RCW and 42.23 RCW; or any similar statute involving the CONTRACTOR in the procurement of, or performance under this contract.

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Specific restrictions apply to contracting with current or former state employees pursuant to chapter 42.52 of the Revised Code of Washington. The CONTRACTOR and their subcontractor(s) must identify any person employed in any capacity by the state of Washington that worked on this Grant, or any matter related to the project funded under this Grant or any other state funded project, including but not limited to formulating or drafting legislation, participating in grant procurement, planning and execution, awarding grants, or monitoring grants, during the 24 month period preceding the start date of this Grant. Identify the individual by name, the agency previously or currently employed by, job title or position held, and separation date. If it is determined by COMMERCE that a conflict of interest exists, the CONTRACTOR may be disqualified from further consideration for the award of a Grant.

In the event this contract is terminated as provided above, COMMERCE shall be entitled to pursue the same remedies against the CONTRACTOR as it could pursue in the event of a breach of the contract by the CONTRACTOR. The rights and remedies of COMMERCE provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which COMMERCE makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this contract.

12. COPYRIGHT PROVISIONS

Unless otherwise provided, all Materials produced under this Grant shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by COMMERCE. COMMERCE shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the GRANTEE hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to COMMERCE effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Grant, but that incorporate pre-existing materials not produced under the Grant, the GRANTEE hereby grants to COMMERCE a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The GRANTEE warrants and represents that the GRANTEE has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to COMMERCE.

The GRANTEE shall exert all reasonable effort to advise COMMERCE, at the time of delivery of Materials furnished under this Grant, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Grant. The GRANTEE shall provide COMMERCE with prompt written notice of each notice or claim of infringement received by the GRANTEE with respect to any Materials delivered under this Grant. COMMERCE shall have the right to modify or remove any restrictive markings placed upon the Materials by the GRANTEE.

13. DISPUTES

Except as otherwise provided in this Grant, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the Director of COMMERCE, who may designate a neutral person to decide the dispute.

The request for a dispute hearing must:

- be in writing;
- state the disputed issues;
- state the relative positions of the parties;
- state the GRANTEE's name, address, and Contract number; and

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- be mailed to the Director and the other party's (respondent's) Grant Representative within three (3) working days after the parties agree that they cannot resolve the dispute.

The respondent shall send a written answer to the requestor's statement to both the Director or the Director's designee and the requestor within five (5) working days.

The Director or designee shall review the written statements and reply in writing to both parties within ten (10) working days. The Director or designee may extend this period if necessary by notifying the parties.

The decision shall not be admissible in any succeeding judicial or quasi-judicial proceeding.

The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this Grant shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution (ADR) method in addition to the dispute hearing procedure outlined above.

14. DUPLICATE PAYMENT

COMMERCE shall not pay the GRANTEE, if the GRANTEE has charged or will charge the State of Washington or any other party under any other Grant, subgrant/subcontract, or agreement, for the same services or expenses.

15. GOVERNING LAW AND VENUE

This Grant shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

16. INDEMNIFICATION

To the fullest extent permitted by law, the GRANTEE shall indemnify, defend, and hold harmless the state of Washington, COMMERCE, agencies of the state and all officials, agents and employees of the state, from and against all claims for injuries or death arising out of or resulting from the performance of the contract. "Claim" as used in this contract, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorneys fees, attributable for bodily injury, sickness, disease, or death, or injury to or the destruction of tangible property including loss of use resulting therefrom.

The GRANTEE's obligation to indemnify, defend, and hold harmless includes any claim by GRANTEE's agents, employees, representatives, or any subgrantee/subcontractor or its employees.

GRANTEE expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to GRANTEE'S or any subgrantee's/subcontractor's performance or failure to perform the Grant. GRANTEE'S obligation to indemnify, defend, and hold harmless the State shall not be eliminated or reduced by any actual or alleged concurrent negligence of State or its agents, agencies, employees and officials.

The GRANTEE waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the state and its agencies, officers, agents or employees.

17. INDEPENDENT CAPACITY OF THE GRANTEE

The parties intend that an independent contractor relationship will be created by this Grant. The GRANTEE and its employees or agents performing under this Contract are not employees or agents of the state of Washington or COMMERCE. The GRANTEE will not hold itself out as or claim to be an officer or employee of COMMERCE or of the state of Washington by reason hereof, nor will the GRANTEE make any claim of right, privilege or benefit which would accrue to such officer or employee under law. Conduct and control of the work will be solely with the GRANTEE.

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18. INDUSTRIAL INSURANCE COVERAGE

The GRANTEE shall comply with all applicable provisions of Title 51 RCW, Industrial Insurance. If the GRANTEE fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, COMMERCE may collect from the GRANTEE the full amount payable to the Industrial Insurance Accident Fund. COMMERCE may deduct the amount owed by the GRANTEE to the accident fund from the amount payable to the GRANTEE by COMMERCE under this Contract, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the GRANTEE.

19. LAWS

The GRANTEE shall comply with all applicable laws, ordinances, codes, regulations and policies of local and state and federal governments, as now or hereafter amended.

20. LICENSING, ACCREDITATION AND REGISTRATION

The GRANTEE shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Contract.

21. LIMITATION OF AUTHORITY

Only the Authorized Representative or Authorized Representative's delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this contract is not effective or binding unless made in writing and signed by the Authorized Representative.

22. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS

During the performance of this Grant, the GRANTEE shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the GRANTEE's non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this Grant may be rescinded, canceled or terminated in whole or in part, and the GRANTEE may be declared ineligible for further Grants with COMMERCE. The GRANTEE shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

23. PAY EQUITY

The GRANTEE agrees to ensure that "similarly employed" individuals in its workforce are compensated as equals, consistent with the following:

- a. Employees are "similarly employed" if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed;
- b. GRANTEE may allow differentials in compensation for its workers if the differentials are based in good faith and on any of the following:
 - (i) A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.
 - (ii) A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: Consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.

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(iii) A bona fide regional difference in compensation level must be: Consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.

This Contract may be terminated by COMMERCE, if COMMERCE or the Department of Enterprise services determines that the GRANTEE is not in compliance with this provision.

24. POLITICAL ACTIVITIES

Political activity of GRANTEE employees and officers are limited by the State Campaign Finances and Lobbying provisions of Chapter 42.17a RCW and the Federal Hatch Act, 5 USC 1501 - 1508.

No funds may be used for working for or against ballot measures or for or against the candidacy of any person for public office.

25. PUBLICITY

The GRANTEE agrees not to publish or use any advertising or publicity materials in which the state of Washington or COMMERCE's name is mentioned, or language used from which the connection with the state of Washington's or COMMERCE's name may reasonably be inferred or implied, without the prior written consent of COMMERCE.

26. RECAPTURE

In the event that the GRANTEE fails to perform this Grant in accordance with state laws, federal laws, and/or the provisions of this Grant, COMMERCE reserves the right to recapture funds in an amount to compensate COMMERCE for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the GRANTEE of funds under this recapture provision shall occur within the time period specified by COMMERCE. In the alternative, COMMERCE may recapture such funds from payments due under this Grant.

27. RECORDS MAINTENANCE

The GRANTEE shall maintain books, records, documents, data and other evidence relating to this Grant and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Grant.

GRANTEE shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the Grant, shall be subject at all reasonable times to inspection, review or audit by COMMERCE, personnel duly authorized by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

28. REGISTRATION WITH DEPARTMENT OF REVENUE

If required by law, the GRANTEE shall complete registration with the Washington State Department of Revenue.

29. RIGHT OF INSPECTION

The GRANTEE shall provide right of access to its facilities to COMMERCE, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Grant.

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30. SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Grant and prior to normal completion, COMMERCE may terminate the Grant under the "Termination for Convenience" clause, without the ten calendar day notice requirement. In lieu of termination, the Grant may be amended to reflect the new funding limitations and conditions.

31. SEVERABILITY

The provisions of this Grant are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Grant.

32. SITE SECURITY

While on COMMERCE premises, GRANTEE, its agents, employees, or subcontractors shall conform in all respects with physical, fire or other security policies or regulations.

33. SUBGRANTING/SUBCONTRACTING

Neither the GRANTEE nor any subgrantee/subcontractor shall enter into subgrants/subcontracts for any of the work contemplated under this contract without obtaining prior written approval of COMMERCE. In no event shall the existence of the subgrant/subcontract operate to release or reduce the liability of the GRANTEE to COMMERCE for any breach in the performance of the GRANTEE's duties. This clause does not include Grants of employment between the GRANTEE and personnel assigned to work under this Grant.

Additionally, the GRANTEE is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this agreement are carried forward to any subgrants/subcontracts. GRANTEE and its subgrantees/subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of COMMERCE or as provided by law.

34. SURVIVAL

The terms, conditions, and warranties contained in this Grant that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Grant shall so survive.

35. TAXES

All payments accrued on account of payroll taxes, unemployment contributions, the GRANTEE's income or gross receipts, any other taxes, insurance or expenses for the GRANTEE or its staff shall be the sole responsibility of the GRANTEE.

36. TERMINATION FOR CAUSE

In the event COMMERCE determines the GRANTEE has failed to comply with the conditions of this Grant in a timely manner, COMMERCE has the right to suspend or terminate this Grant. Before suspending or terminating the Grant, COMMERCE shall notify the GRANTEE in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the Grant may be terminated or suspended.

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In the event of termination or suspension, the GRANTEE shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original Grant and the replacement or cover Grant and all administrative costs directly related to the replacement Grant, e.g., cost of the competitive bidding, mailing, advertising and staff time.

COMMERCE reserves the right to suspend all or part of the Grant, withhold further payments, or prohibit the GRANTEE from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the GRANTEE or a decision by COMMERCE to terminate the Grant. A termination shall be deemed a "Termination for Convenience" if it is determined that the GRANTEE: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of COMMERCE provided in this Grant are not exclusive and are, in addition to any other rights and remedies, provided by law.

37. TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Grant, COMMERCE may, by ten (10) business days written notice, beginning on the second day after the mailing, terminate this Grant, in whole or in part. If this Grant is so terminated, COMMERCE shall be liable only for payment required under the terms of this Grant for services rendered or goods delivered prior to the effective date of termination.

38. TERMINATION PROCEDURES

Upon termination of this Grant, COMMERCE, in addition to any other rights provided in this Grant, may require the GRANTEE to deliver to COMMERCE any property specifically produced or acquired for the performance of such part of this Grant as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

COMMERCE shall pay to the GRANTEE the agreed upon price, if separately stated, for completed work and services accepted by COMMERCE, and the amount agreed upon by the GRANTEE and COMMERCE for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by COMMERCE, and (iv) the protection and preservation of property, unless the termination is for default, in which case the AGENT shall determine the extent of the liability of COMMERCE. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this Grant. COMMERCE may withhold from any amounts due the GRANTEE such sum as the AUTHORIZED REPRESENTATIVE determines to be necessary to protect COMMERCE against potential loss or liability.

The rights and remedies of COMMERCE provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a notice of termination, and except as otherwise directed by the AUTHORIZED REPRESENTATIVE, the GRANTEE shall:

1. Stop work under the Grant on the date, and to the extent specified, in the notice;
2. Place no further orders or subgrants/subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Grant that is not terminated;
3. Assign to COMMERCE, in the manner, at the times, and to the extent directed by the AUTHORIZED REPRESENTATIVE, all of the rights, title, and interest of the GRANTEE under the orders and subgrants/subcontracts so terminated, in which case COMMERCE has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subgrants/subcontracts;
4. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the AUTHORIZED REPRESENTATIVE to the

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extent AUTHORIZED REPRESENTATIVE may require, which approval or ratification shall be final for all the purposes of this clause;

5. Transfer title to COMMERCE and deliver in the manner, at the times, and to the extent directed by the AUTHORIZED REPRESENTATIVE any property which, if the Grant had been completed, would have been required to be furnished to COMMERCE;
6. Complete performance of such part of the work as shall not have been terminated by the AUTHORIZED REPRESENTATIVE; and
7. Take such action as may be necessary, or as the AUTHORIZED REPRESENTATIVE may direct, for the protection and preservation of the property related to this Grant, which is in the possession of the GRANTEE and in which COMMERCE has or may acquire an interest.

39. TREATMENT OF ASSETS

Title to all property furnished by COMMERCE shall remain in COMMERCE. Title to all property furnished by the GRANTEE, for the cost of which the GRANTEE is entitled to be reimbursed as a direct item of cost under this Grant, shall pass to and vest in COMMERCE upon delivery of such property by the GRANTEE. Title to other property, the cost of which is reimbursable to the GRANTEE under this Grant, shall pass to and vest in COMMERCE upon (i) issuance for use of such property in the performance of this Grant, or (ii) commencement of use of such property in the performance of this Grant, or (iii) reimbursement of the cost thereof by COMMERCE in whole or in part, whichever first occurs.

- A. Any property of COMMERCE furnished to the GRANTEE shall, unless otherwise provided herein or approved by COMMERCE, be used only for the performance of this Grant.
- B. The GRANTEE shall be responsible for any loss or damage to property of COMMERCE that results from the negligence of the GRANTEE or which results from the failure on the part of the GRANTEE to maintain and administer that property in accordance with sound management practices.
- C. If any COMMERCE property is lost, destroyed or damaged, the GRANTEE shall immediately notify COMMERCE and shall take all reasonable steps to protect the property from further damage.
- D. The GRANTEE shall surrender to COMMERCE all property of COMMERCE prior to settlement upon completion, termination or cancellation of this Grant

All reference to the GRANTEE under this clause shall also include GRANTEE'S employees, agents or subgrantees/subcontractors.

40. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Grant unless stated to be such in writing and signed by Authorized Representative of COMMERCE.

Scope of Work

These funds will be used for the renovation and expansion of the William Shore Aquatic Center located at 225 E. 5th St. in Port Angeles. This includes but is not limited to for Phase 1, a new entrance and new locker rooms on the Westside of the existing building, parking lot and renovation of the existing pool.

The Aquatic Center is a primary indoor recreational facility for the community.

The projects estimated date of completion is June 2020.

All project work completed with prior legislative approval. The "Copyright Provisions", Section 12 of the General Terms and Conditions, are not intended to apply to any architectural and engineering design work funded by this grant.

CERTIFICATION PERFORMANCE MEASURE

The GRANTEE, by its signature, certifies that the declaration set forth above has been reviewed and approved by the GRANTEE's governing body as of the date and year written below.

GRANTEE

TITLE

DATE

Budget

Line Item	Amount
Architecture & Engineering	\$1,200,000.00
Site Acquisition	\$0.00
Construction	\$6,500,000.00
Capitalized Equipment	\$0.00
Construction Management	\$140,000.00
Other	\$0.00
Total Contracted Amount:	\$7,840,000.00

CERTIFICATION PERFORMANCE MEASURE

The GRANTEE, by its signature, certifies that the Project Budget set forth above has been reviewed and approved by the GRANTEE's governing body or board of directors, as applicable, as of the date and year written below.

GRANTEE

TITLE

DATE

Certification of the Availability of Funds to Complete the Project

Non-State Funds	Amount	Total
UTGO and LTGO Bonds	\$6,235,000.00	
Clallam Co. Opportunity Fund Grant	\$50,000.00	
Cash Reserves	\$100,000.00	
Total Non-State Funds	\$6,385,000.00	\$6,385,000.00
State Funds		
State Capital Budget	\$1,455,000.00	\$1,455,000.00
Total Non-State and State Sources		\$7,840,000.00

CERTIFICATION PERFORMANCE MEASURE

The GRANTEE, by its signature, certifies that project funding from sources other than those provided by this contract and identified above has been reviewed and approved by the GRANTEE's governing body or board of directors, as applicable, and has either been expended for eligible Project expenses, or is committed in writing and available and will remain committed and available solely and specifically for carrying out the purposes of this Project as described in elsewhere in this contract, as of the date and year written below. The GRANTEE shall maintain records sufficient to evidence that it has expended or has access to the funds needed to complete the Project, and shall make such records available for COMMERCE'S review upon reasonable request.

GRANTEE

TITLE

DATE

Certification of the Payment and Reporting of Prevailing Wages

CERTIFICATION PERFORMANCE MEASURE

The GRANTEE, by its signature, certifies that all contractors and subcontractors performing work on the Project shall comply with prevailing wage laws set forth in Chapter 39.12 RCW, as of March 27, 2018 including but not limited to the filing of the "Statement of Intent to Pay Prevailing Wages" and "Affidavit of Wages Paid" as required by RCW 39.12.040. The GRANTEE shall maintain records sufficient to evidence compliance with Chapter 39.12 RCW, and shall make such records available for COMMERCE'S review upon request.

If any state funds are used by the GRANTEE for the purpose of construction, applicable State Prevailing Wages must be paid.

The GRANTEE, by its signature, certifies that the declaration set forth above has been reviewed and approved by the GRANTEE's governing body as of the date and year written below.

GRANTEE

TITLE

DATE

**Certification of Intent to Enter the
Leadership in Energy and Environmental Design (LEED) Certification Process**

CERTIFICATION PERFORMANCE MEASURE

The GRANTEE, by its signature, certifies that it will enter into the Leadership in Energy and Environmental Design certification process, as stipulated in RCW 39.35D, as applicable to the Project funded by this contract. The GRANTEE shall, upon receipt of LEED certification by the United States Green Building Council, provide documentation of such certification to COMMERCE.

The GRANTEE, by its signature, certifies that the declaration set forth above has been reviewed and approved by the GRANTEE's governing body or board of directors, as applicable, as of the date and year written below.

GRANTEE

TITLE

DATE

NOT APPLICABLE

1d

AIA® Document G801™ – 2017

Notice of Additional Services

PROJECT: *(name and address)*
William Shore Memorial Pool

225 East Fifth Street - Port Angeles, WA -
98362

AGREEMENT INFORMATION:
Date: March 22, 2018 (Date of Original Agreement)

NOTICE INFORMATION:
Notice Number: 001

Date: September 25, 2018

OWNER: *(name and address)*
« William Shore Memorial Pool District»
«225 East 5th Street»
«Port Angeles, WA»
«98362»

ARCHITECT: *(name and address)*
«ARC Architects» «UBI #600534003»
«119 South Main Street, Suite 200»
«Seattle, WA»
«98104»

Select as appropriate:

- ADDITIONAL SERVICES THAT REQUIRE THE OWNER'S WRITTEN AUTHORIZATION TO PROCEED**
(Refer to the Owner-Architect Agreement for a list of Additional Services that require the Owner's written authorization to proceed.)

The Architect hereby notifies the Owner of the need, and requests the Owner's authorization, to perform the following Additional Services:

(Describe the proposed Additional Services and explain the facts and circumstances giving rise to their need.)

The design team has been asked to provide design, documentation and construction related services for additional building program elements immediately east of the building described in the original agreement dated March 22, 2018. The estimated MACC of this additional scope is \$1,053,500.

Compensation Adjustment:
\$100,083 - see attached fee proposal.

Schedule Adjustment:
Not applicable.

- ADDITIONAL SERVICES TO AVOID DELAY IN CONSTRUCTION**
(Refer to the Owner-Architect Agreement for a list of Additional Services that the Architect may provide to avoid delay in Construction.)

The Architect hereby notifies the Owner of the need to perform the following Additional Services:
(Describe the Additional Services and explain the facts and circumstances giving rise to their need.)

Compensation Adjustment:

Schedule Adjustment:

Note: The Architect may have already begun to provide these services to avoid delay in the Construction Phase of the Project. If the Owner determines that all or parts of these services are not required and elects to discontinue these services, the Owner must promptly notify the Architect and compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

ISSUED BY THE ARCHITECT:

ARC Architects

ARCHITECT (Firm name)

Paul Curtis

SIGNATURE

Paul Curtis, Principal

PRINTED NAME AND TITLE

September 25, 2018

DATE

OWNER'S AUTHORIZATION, IF REQUIRED:

William Shore Memorial Pool District

OWNER (Firm name)

SIGNATURE

Steve Burke, Executive Director

PRINTED NAME AND TITLE

September 25, 2018

DATE

**WILLIAM SHORE MEMORIAL POOL
FEE PROPOSAL - AFTER SCHOOL PROGRAM ADD SERVICE
FEE BASIS - WASHINGTON STATE FEE SCHEDULE
9/24/2018**

FEE SUMMARY	fee	overhead	macc	amount	remarks
WSFS Basic Services	9.50%	1	\$1,053,500	\$100,083	Schedule A
architect					inclusive - arc
structural					inclusive - pcs
mechanical					inclusive - enginuity
electrical					inclusive - cross
civil					inclusive - zenovic
envelope					inclusive - wetherholt
Specialty Consultants					
civil	\$1,000	1.1		\$1,100	zenovic - add services
landscape	\$0	1.1		\$0	by owner
acoustics	\$0	1.1		\$0	excluded
aquatics	\$0	1.1		\$0	adg
hardware	\$0	1.1		\$0	
estimator	\$0	1.1		\$0	dcw
audio	\$0				by owner
traffic engineer	\$0				by owner
survey	\$0				by owner
geotech	\$0				by owner
advanced commissioning	\$0				by owner
GCCM liason	\$0				by owner
security	\$0				not required by owner
Additional Services	\$790	1		\$790	
Estimated Expenses	\$0	1		\$0	
Credit for 50% Arch SD	\$0	1		\$0	
Credit reduced CA Site Visits	\$0	1		\$0	
TOTAL FULL SERVICE FEES				\$101,973	

ESTIMATED EXPENSES	fee	overhead	amount	remarks
printing	\$0	1.1	\$0	
permit	\$0	1	\$0	by owner
courier	\$0	1.1	\$0	
ferry	\$0	1.1	\$0	
mileage	\$0	1.1	\$0	
TOTAL ESTIMATED EXPENSES			\$0	

**ARC ARCHITECTS
TASK ANALYSIS**

(2018) BILLING RATES

partner	\$180
project manager	\$150
project architect	\$125
design staff	\$90

ADDITIONAL SERVICES	partner	proj mgr	proj arch	design staff	remarks
additional site visits					Additional visits at Owner request and cost.
survey & geotech coordination					
master use permit					
av coordination					
GCCM coordination					
DOH permit submittal, responses					
commissioning coordination					
renderings					
record drawings			2	6	
Hours	0	0	2	6	
Hourly Rate	\$180	\$150	\$125	\$90	
Subtotal Fee	\$0	\$0	\$250	\$540	
ADDITIONAL SERVICE FEE				\$790	

Paul Curtis

From: James Collins <JCollins@pcs-structural.com>
Sent: Wednesday, September 26, 2018 3:38 PM
To: Paul Curtis
Subject: RE: WSMP: After School Program Fee

Yes, this sounds reasonable. I plan to add the fee proportionally between SD to CA phases. This months bill will reflect that.
Thanks
Jim

James Collins | Senior Principal
PCS Structural Solutions
206.292.5076 - Seattle
253.383.2797 - Tacoma
503.232.3746 - Portland -----Original Message-----
From: Paul Curtis <curtis@arcarchitects.com>
Sent: Tuesday, September 25, 2018 12:11 PM
To: James Collins <JCollins@pcs-structural.com>
Subject: RE: WSMP: After School Program Fee

APPROVED
9/26/18
Paul Curtis

Hi Jim,

The owner received both of the grants that they applied for so they have a few more dollars available for the after school program and the MACC is able to rise from \$750,000 (estimated below) to \$1,053,500. That bumps you up from \$8,325 to \$10,406. Does that work for you?

Thanks,

Paul Ross Curtis | Principal, LEED AP BD+C

-----Original Message-----

From: James Collins <JCollins@pcs-structural.com>
Sent: Thursday, May 31, 2018 9:17 AM
To: Paul Curtis <curtis@arcarchitects.com>
Subject: RE: WSMP: After School Program Fee

The fee sounds reasonable. Are we including the design in our SD set? Not sure you told me which two roof forms you were down to.

If the floor plan is fixed it would be great to have a pdf that we can mark up.

Thanks

Jim

James Collins | Senior Principal

[cid:db901e731f7d44ceae68994fe9af7b2d]

Seattle 206.292.5076

Tacoma 253.383.2797

Portland 503.232.3746

www.pcs-structural.com<<http://www.pcs-structural.com/>>

Paul Curtis

From: Jesse Barksdale <jesse@enginuitysys.com>
Sent: Tuesday, September 25, 2018 2:49 PM
To: Paul Curtis
Subject: RE: WSMP: After School Program Fee

That works. Thanks!

Jesse Barksdale President, LEED-AP



Mechanical Engineering | Sustainable Design | Energy Analysis

731 Commerce, Suite 2
Tacoma, Washington 98402-3702
P 253.292.0357 x112 F 253.292.0358
www.enginuitysys.com

From: Paul Curtis [mailto:curtis@arcarchitects.com]
Sent: Tuesday, September 25, 2018 12:17 PM
To: Jesse Barksdale <jesse@enginuitysys.com>
Subject: RE: WSMP: After School Program Fee

*APPROVED.
9/25/18
Paul Curtis*

Hi Jesse,

The owner received both of the grants that they applied for, so they have a few more dollars available for the after school program and the MACC is able to rise from \$750,000 (estimated below) to \$1,053,500. That bumps you up from \$6,825 to \$8,531. The plan will stay basically the same. Does that work for you?

Thanks,

Paul Ross Curtis | Principal, LEED AP BD+C

From: Jesse Barksdale <jesse@enginuitysys.com>
Sent: Friday, June 08, 2018 9:48 AM
To: Paul Curtis <curtis@arcarchitects.com>
Subject: RE: WSMP: After School Program Fee

Works for me. I'll get something proposal-ish written up for the \$6825 amount.

For invoicing/tracking purposes, would you guys prefer to see that amount split up into separate phases like the base contract or just tracked as a single lump sum/mod that we bill a percentage of?

Jesse Barksdale President, LEED-AP



Mechanical Engineering | Sustainable Design | Energy Analysis

731 Commerce, Suite 2
Tacoma, Washington 98402-3702
P 253.292.0357 x112 F 253.292.0358
www.enginuitysys.com

Paul Curtis

From: Gene Wentworth <genew@crossengineers.com>
Sent: Tuesday, September 25, 2018 2:50 PM
To: Paul Curtis
Cc: Sabra Gjerstad; Brice Anderson
Subject: RE: WSMP: After School Program

Works for me.

Gene Wentworth
Principal



Cross Engineers, Inc.
923 Martin Luther King Jr. Way
Tacoma, WA 98405
(253) 759-0118

APPROVED
9/25/18
Paul Curtis

From: Paul Curtis <curtis@arcarchitects.com>
Sent: Tuesday, September 25, 2018 1:21 PM
To: Gene Wentworth <genew@crossengineers.com>
Subject: RE: WSMP: After School Program

Hi Gene,

We have not revisited this area since we first laid it out -- so we haven't changed the room name yet. Ultimately, they will be called 'Multi-Purpose Room 1' to the south and 'Multi-Purpose Room 2' to the north.

Okay, we'll proceed with the \$5,625 and keep our eye on the L&I issue (shouldn't come into play once we remove the offending title). Sound okay?

Thanks,

Paul Ross Curtis | Principal, LEED AP BD+C

From: Gene Wentworth <genew@crossengineers.com>
Sent: Tuesday, September 25, 2018 12:32 PM
To: Paul Curtis <curtis@arcarchitects.com>
Subject: RE: WSMP: After School Program

Did the owner ever resolve if the rooms needed to be called classroom which will trigger sending the entire electrical design to L&I for electrical plans review.

The additional cost of the L&I plans review could be close to the \$1,125 increase.

We are early enough in the design the \$1,125 increase for design is acceptable but if it triggers going to L&I it is only about 1/3 the total needed for additional design and plans review costs.

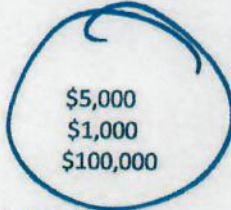
Paul Curtis

From: Steve Zenovic <steve@zenovic.net>
Sent: Tuesday, September 25, 2018 9:14 AM
To: Paul Curtis
Subject: RE: WSMP: After School Program

Paul-

Here are our numbers:

Additional Basic Fees	\$5,000
Specialty Fees	\$1,000
MACC for east parking	\$100,000



APPROVED.
9/25/18
Paul Curtis

Let me know if you have any questions.

Steve Zenovic
Consulting Principal Engineer
Zenovic & Associates, Inc.
301 East 6th Street, Suite 1
Port Angeles, WA 98362
360-417-0501

From: Paul Curtis [mailto:curtis@arcarchitects.com]
Sent: Monday, September 24, 2018 4:31 PM
To: Steve Zenovic
Subject: WSMP: After School Program

Hi Steve,

I'm putting together the contract amendment to add the after school program to our scope of work. Would you send me the following:

1. Your additional basic services fees for the after school program civil work.
2. Any specialty fees for the after school program civil work.
3. An estimate of the MACC for the civil work (just the portion on the east side of the building).

Thanks,

Paul Ross Curtis | Principal, LEED AP BD+C

ARC Architects | Architecture Resource Collaborative
119 S Main St, Suite 200, Seattle, WA 98104-2579
O: (206) 322-3322
D: (206) 900-0329
www.arcarchitects.com

1e

**WILLIAM SHORE MEMORIAL POOL DISTRICT
AND
PORT ANGELES SCHOOL DISTRICT #121
USE AGREEMENT**

THIS AGREEMENT is entered into on the date shown on the signature page. By and between the WILLIAM SHORE MEMORIAL POOL DISTRICT ("District") and the PORT ANGELES SCHOOL DISTRICT # 121("PASD") (individually a "Party" and collectively the "Parties").

IN CONSIDERATION OF the mutual promises and obligations contained herein, it is hereby agreed as follows:

1. **FACILITY USE.** The WILLIAM SHORE MEMORIAL POOL DISTRICT hereby agrees to allow use of a designated portion of William Shore Memorial Pool ("Facility") by Port Angeles School District under the terms and conditions contained herein. The PASD hereby agrees to use the Facility in accordance with the rules and regulations established by the District.

2. **TERM.**

- a. This Agreement shall be active effective August 1, 2018 and shall continue as a year-to-year contract until terminated; provided, that this Agreement shall be subject to re-negotiation after its first one-year term, if either Party gives thirty days written notice to the other Party of a desire to re-negotiate. If such notice is given, the Parties shall commence negotiations on revisions to this contract not later than 30 days after notice of intent to re-negotiate is given. If the Parties are not able to agree upon revisions to this Agreement within 60 days of the commencement of negotiations, either Party may then give to the other a notice that the Agreement is terminated, and the Agreement shall be so terminated.
- b. Either Party may terminate this Agreement by giving written notice to the other. This Agreement shall terminate 180 days after such notice is given. In addition, either Party may declare the Agreement to be terminated if the other Party is in breach of any term or condition of this Agreement or violation of any rule regarding use or operation of the Facility and fails to correct or cure such breach or violation within 10 days after written notice of such breach or violation is given to the Party.

3. **FEES**

Fees shall be paid by the PASD as provided in Exhibit "A" (School District Fee Schedule), attached hereto and incorporated herein by this reference.

- b. Once a year the District shall have the right to modify fees to be paid by the PASD. No later than July 31st of each year the District shall give written notice to the PASD

of any fee modification. Any increased fee shall not become effective until 60 days after such notice is given.

4. **SCHEDULE FOR USAGE OF FACILITY.**

The PASD shall have access to portions of the Facility, locker rooms, kickboards and other areas/spaces as designated in the schedule set forth in Exhibit "B" (School District Training and Meet Schedule), attached hereto and incorporated herein by this reference.

The schedule set forth in Exhibit "B" shall be reviewed by both Parties by July 31st of each year and may be modified by the District as required to meet Facility use demands.

5. **CANCELLATION OF FACILITY TIME.**

Provided the PASD gives written notice to District staff at least 7 calendar days prior to any proposed cancellation, the PASD shall not be required to pay fees for such canceled time.

The PASD shall not be charged for any fees if the District cancels pool time. Except in case of an emergency or unplanned closure of the Facility the District agrees to notify the PASD within a minimum of 30 calendar days, written notification if the Facility will be closed.

6. **DAMAGE.** After usage of the Facility and/or equipment by the PASD, the Facility and or equipment used shall be returned to the same or better condition than existed prior to such usage. In the event that damage to the Facility and /or equipment is caused by the PASD's use of the Facility and/or equipment, the PASD shall reimburse the District for the costs to repair the damage.

7. **COACHING CERTIFICATION.** The PASD shall provide an adequate number of coaches and adult supervisors during periods of use. All coaches for the PASD shall possess current certification in First Aid/CPR and Coaches Water Safety Training. Copies of certification cards for each coach shall be supplied to the District. PASD must perform, and coaches and PASD staff must pass, criminal background checks in compliance with the Child and Adult Abuse Information Act for all coaches and PASD staff using the Facility.

8. **INDEMNIFICATION.** Each of the Parties shall defend, indemnify, and hold the other Party, their officers, officials, employees and agents harmless from any and all costs, claims, judgment, and/or awards of damages, arising out of, or in any way resulting from that other party's negligent acts or omissions in performing under this Agreement or Contract. No Party will be required to defend, indemnify, or hold the other Party harmless if the claim, suit or action for injuries, death, or damages is caused by the sole negligence of that party. Where such claims, suits, or actions result from the concurrent negligence of the Parties, the indemnity provisions provided herein shall be valid and enforceable

only to the extent of each party's own negligence. Each Party agrees that its obligations under this provision include, but are not limited to, any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this reason, each of the Parties, by mutual negotiation, hereby waives, with respect to the other Party only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW.

9. **DAMAGES.** The PASD will be responsible for any damages arising out of or related to its use of the Facility for events and practices, including, without limitation, damage occasioned by the PASD or any of its employees, volunteers, invitees, guests or anyone else who may be present at the Facility for any such events or practices. The PASD may be invoiced by the District for all damage.

10. **INSURANCE REQUIREMENTS.** PASD shall procure and maintain for the duration of this Agreement, insurance against claims for bodily injury, personal injury and/or damage to property, and sexual molestation that may arise from or in connection with the use of the Facility.
 - a. PASD shall provide a certificate of insurance evidencing:
General Liability insurance at least as broad as Insurance Services Office (ISO) occurrence form CG 00 01 covering premises, products-completed operations and contractual liability. The General Liability insurance shall be written with limits no less than \$5,000,000 each occurrence, \$5,000,000 general aggregate. General Liability insurance shall include coverage for participant liability with limits of not less than \$1,000,000 per occurrence. Abuse and Molestation coverage shall be written with minimum limit of \$1,000,000.
 - b. The insurance policy shall contain, or be endorsed to contain that PASD's insurance coverage shall be primary insurance as respect to the District. Any insurance, self-insurance, or self-insured risk pool coverage maintained by the District shall be excess of PASD's insurance and shall not contribute with it.
 - c. No Limitations: PASD's maintenance of insurance as required by the agreement shall not be construed to limit the liability of PASD to the coverage provided by such insurance, or otherwise limit the District's recourse to any remedy available at law or in equity.
 - d. If PASD maintains higher insurance limits than the minimums shown above, the District shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by PASD, irrespective of whether such limits maintained by PASD are greater than those required by this contract or whether any certificate of insurance furnished to the District evidences limits of liability lower than those maintained by PASD.
 - e. PASD shall provide a certificate of insurance evidencing the required insurance and an endorsement naming the District as additional insured, before using the Facility and

each year thereafter. PASD will provide copies of entire insurance policies to the District upon request.

- f. The District accepts PASD's coverage through Washington Schools Risk Management Pool.

10. **CONDITIONS OF USE.**

- a. The PASD shall comply with all Facility rules as defined in Exhibit "C" attached hereto and incorporated herein by this reference.
- b. The PASD also agrees and acknowledges that the use of the facility, pursuant to this Agreement, is at the PASD's own risk.
- c. The District shall provide lifeguarding requirements as outlined in Washington Administrative Code (WAC) 246-260-131 (6)(b)(i) for the time periods which the PASD is using the Facility for swim team practice and meets.
- d. The PASD shall provide for locker room supervision.
- e. The PASD coaches shall enforce all safety rules during the time the PASD is using the Facility for swim team practices or meets. The on-duty supervisor will determine if the safety rules are being enforced and will notify the coach of any safety violations. If any safety violations continue, the District Manager will provide a District lifeguard to enforce the safety regulations and the cost of lifeguard services will be charged to the PASD.
- f. PASD will comply with the intent of the RCW 28A.600.190-195, Youth Sports Concussion and Head Injury and Sudden Cardiac Arrest Guidelines.
- g. PASD will report all incident and accidents relating to injuries or property damage at the Facility to a Pool supervisor or manager and work with District staff on gathering and providing additional information.
- h. The PASD specifically acknowledges that diving is prohibited except in the diving tank area or when using the starting blocks in accordance with appropriate and progressive training and accepts all risks and responsibility for diving activity.

- 11. **ENTIRE AGREEMENT.** The Parties hereto agree that this Agreement contains the entire agreement entered into between the parties and that no other understanding, verbal agreements, or other terms exist other than as provided herein.

- 12. **AMENDMENTS.** The Parties hereto agree that any amendments to this Agreement will be in writing and mutually agreed upon by both Parties.

13. **ASSIGNMENT.** The PASD shall not assign this Agreement without the express written consent of the District.

IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement as of the date first above written.

WILLIAM SHORE MEMORIAL POOL DISTRICT

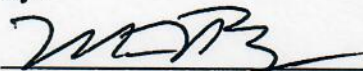
By:

Bill Peach, President, WSMPD

Date: _____

PORT ANGELES SCHOOL DISTRICT #121

By:



Martin Brewer, Superintendent, Port Angeles School District

Date: 8/10/2018

Approved As To Form

Craig Miller, Attorney for William Shore Memorial Pool District

EXHIBIT "A"
PORT ANGELES SCHOOL DISTRICT
FEE SCHEDULE

Fee Schedule:

Pool Use:(Designated time and space described in "Exhibit B")

Facility Use Fee:

1. 2018/2019 Season: 80.00 per practice or meet (\$5:00 per lane per hour)(*Agreed to in the current contract*)
2. 2019/2020 Season: \$96.00 per practice or meet (\$6.00 per lane per hour)
- 3 .2020/2021 Season \$112.00 per practice or meet (\$7.00 per lane per hour)
4. Each subsequent year will increase by CPI for Western Washington or addendum.

Fees apply to all PASD functions including but not limited to the following:

Swim Team Practices and Swim Meets
Special Education Classes
Choice & Connections Classes

In the event that PASD provides an easement to the District for mechanical equipment or other purposes, the District may consider an adjustment of facility use fees as consideration/compensation.

Billing and Purchase Orders:

PASD shall be billed for services used on a monthly basis. The District will issue a separate invoice for the Swim Team use and Physical Education use. The PASD will provide the District a purchase order for billing purposes prior to incurring any expenses relating to Facility use. The District will list the purchase order on all bills issued to the PASD.

EXHIBIT "B"

**COMPETITIVE TEAM/PHYSICAL EDUCATION
AND MEET SCHEDULE**

HIGH SCHOOL SWIM / DIVE TEAM POOL PRACTICE/TRAINING SCHEDULE

During the School Year: September - February

It is understood the Port Angeles School District (Swim and Dive Team) will have full use of the lanes (# 1-6), and the diving tank from 3-5p.m. Monday thru Friday and Saturday mornings 9:00-11:00 a.m.

During the last two weeks of August the Port Angeles School District (Swim and Dive Team) will have full use of the pool, lanes (#1-6), and the diving tank, Monday thru Friday, 3:00-5:00 p.m.

SWIM MEET SCHEDULE AND SPACE

The North Olympic League Schedule establishes High School girls and boys swim meet dates, which start with the beginning of the current school year, typically girls in September and boys in November. Meet dates are subject to change. High School meets have priority over all other swim programs and shall be coordinated with District staff in order to accommodate their needs, (swim meet schedule attached). When rescheduling meets, all efforts shall be made to avoid disruption of the swim lesson program.

PORT ANGELES SCHOOL DISTRICT PHYSICAL EDUCATION CLASSES

School Year: (September-June)

It is understood that Port Angeles School District (Physical Education) classes will have use of lanes (#5 & 6), shared use with the Pool programs of the shallow end and the diving tank during the time of 12:45 to 1:30 p.m., Monday thru Friday. The PASD will give the District a written schedule 30 days prior to use for physical education classes so the District can make appropriate staff changes if needed.

EXHIBIT "C"

POOL RULES

Locker room use: PASD students will enter locker rooms no earlier than twenty (20) minutes before their designated swim time and they will exit the locker rooms within fifteen minutes of the end of designated swim time. PASD students will use only the last two benches for their swim equipment and one shower tree for showers (womens/South-mens/North), during designated Facility use time. Proper behavior is also required during use of Facility.

Supervision: The PASD shall provide locker room supervision for students during the times set forth for designated locker room use.

Showers: All participants will take showers immediately preceding entering the pool.

Equipment:

Kick Boards: Proper use of boards is required. There will be no throwing, submerging, standing on or hitting the boards on things such as the wall or the water.

Tubes: Tubes will only be used provided tube rental fee has been paid.

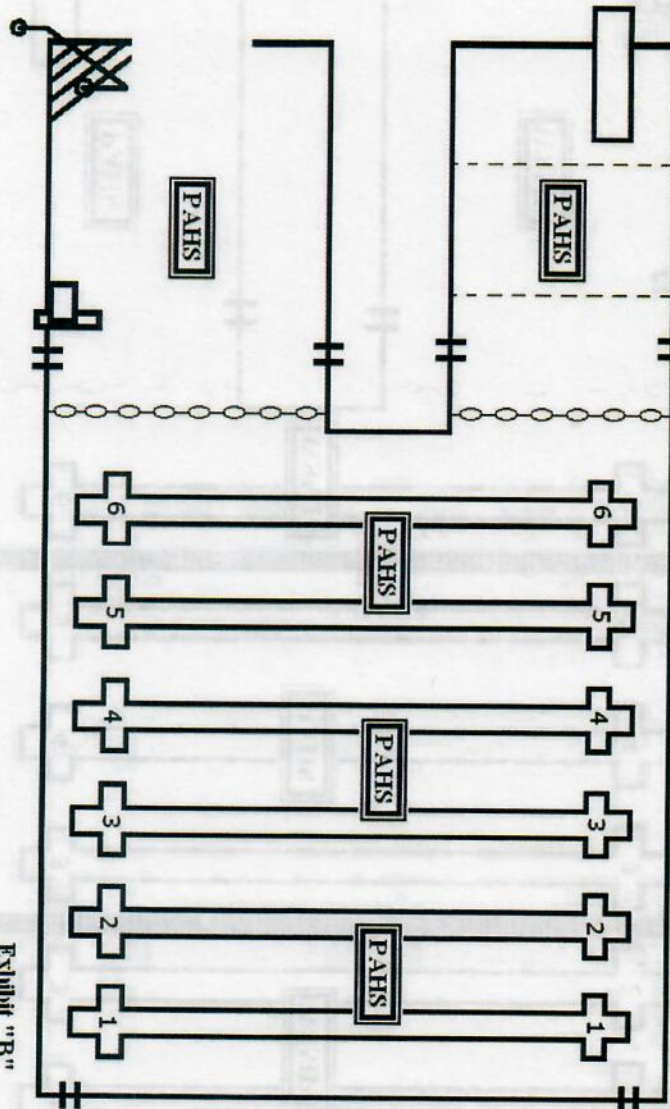
Diving: There will be no diving except in the diving tank and off the starting blocks provided proper progressive training recommended by Washington State Department of Health and supervision is provided.

Pool Rules:

PASD students must obey all District Facility rules. Included in these are:

- No Running**
- No Pushing**
- No Spitting**
- No Sauna use**
- No Diving in shallow water**

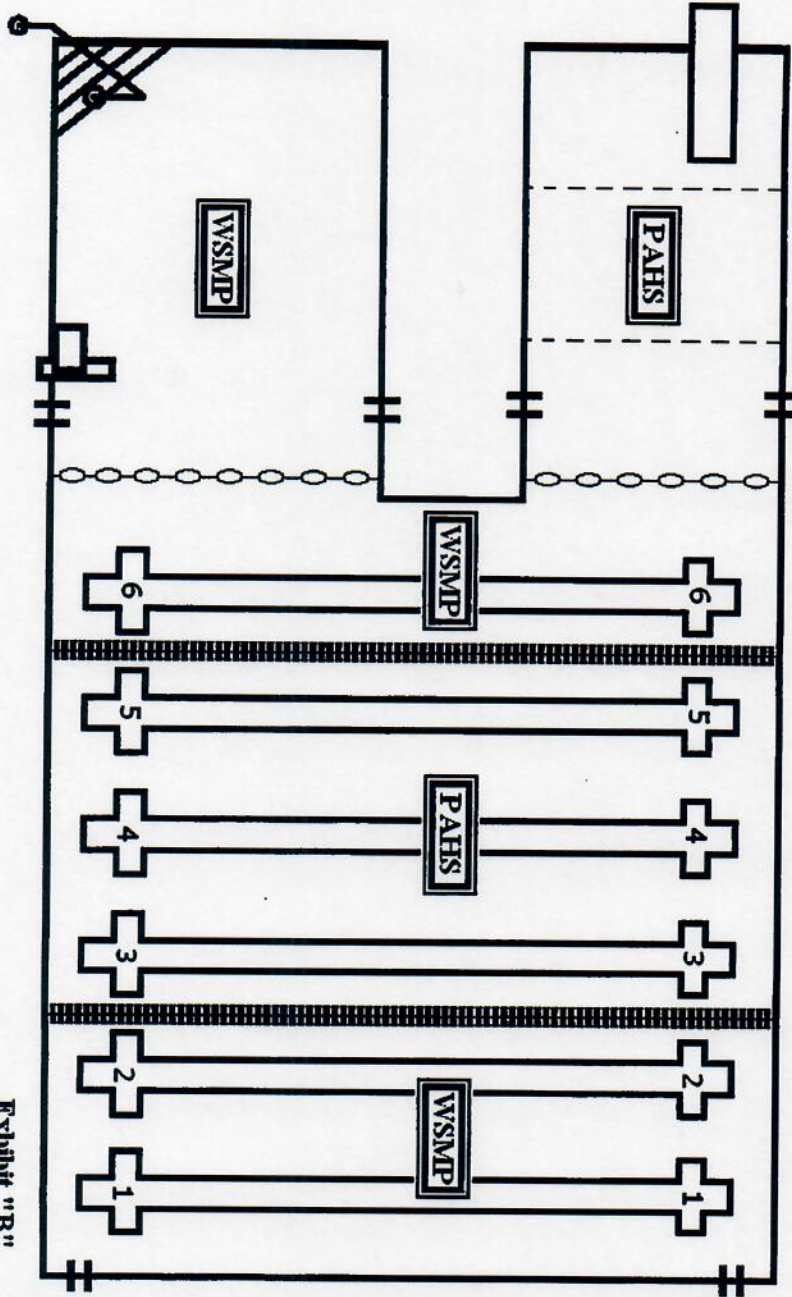
HIGH SCHOOL SWIM / DIVE TEAM POOL PRACTICE / TRAINING SCHEDULE



Mon - Fri: 3:00 PM - 4:00 PM
Saturday: 9:00 AM - 11:00 AM

Exhibit "B"

HIGH SCHOOL SWIM / DIVE TEAM POOL PRACTICE / TRAINING SCHEDULE



Mon - Fri: 4:00 PM - 5:00 PM
Exhibit "B"

HIGH SCHOOL SWIM / DIVE TEAM POOL PRACTICE / TRAINING SCHEDULE

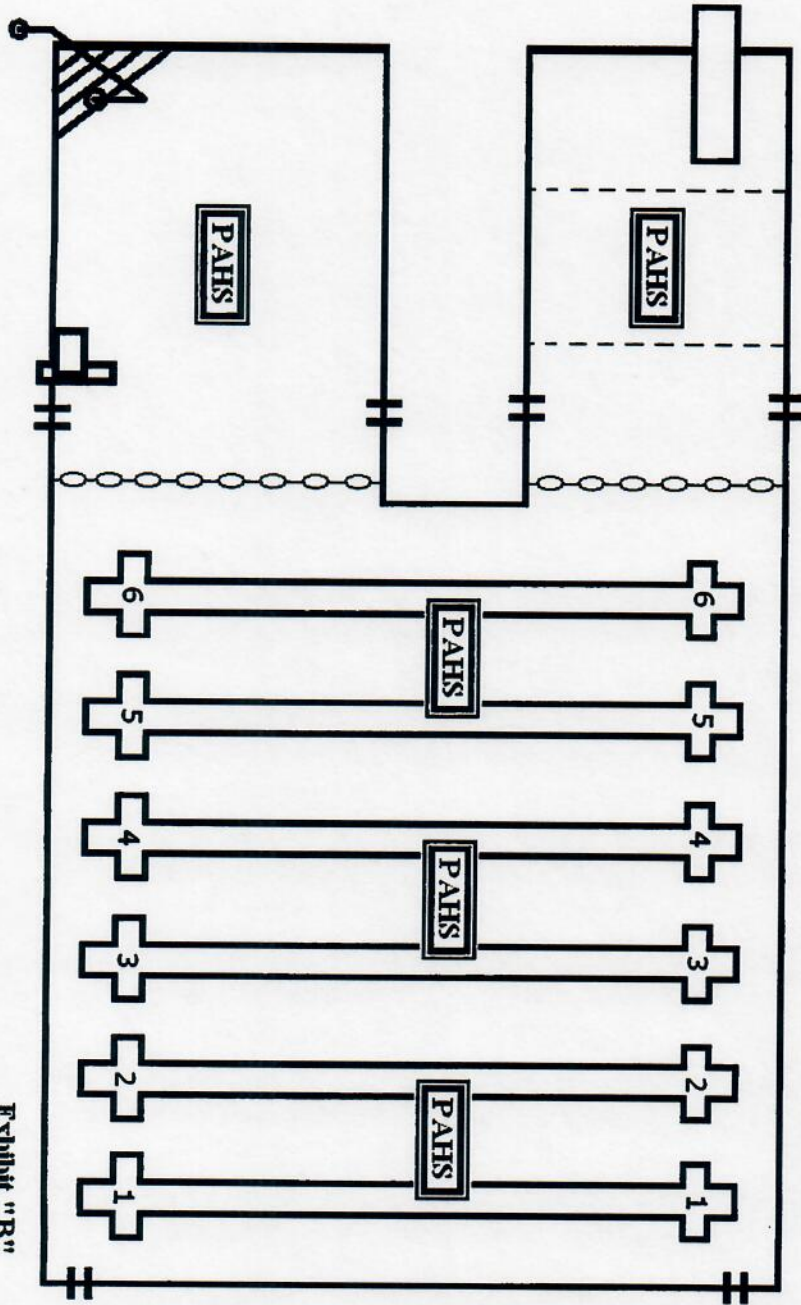
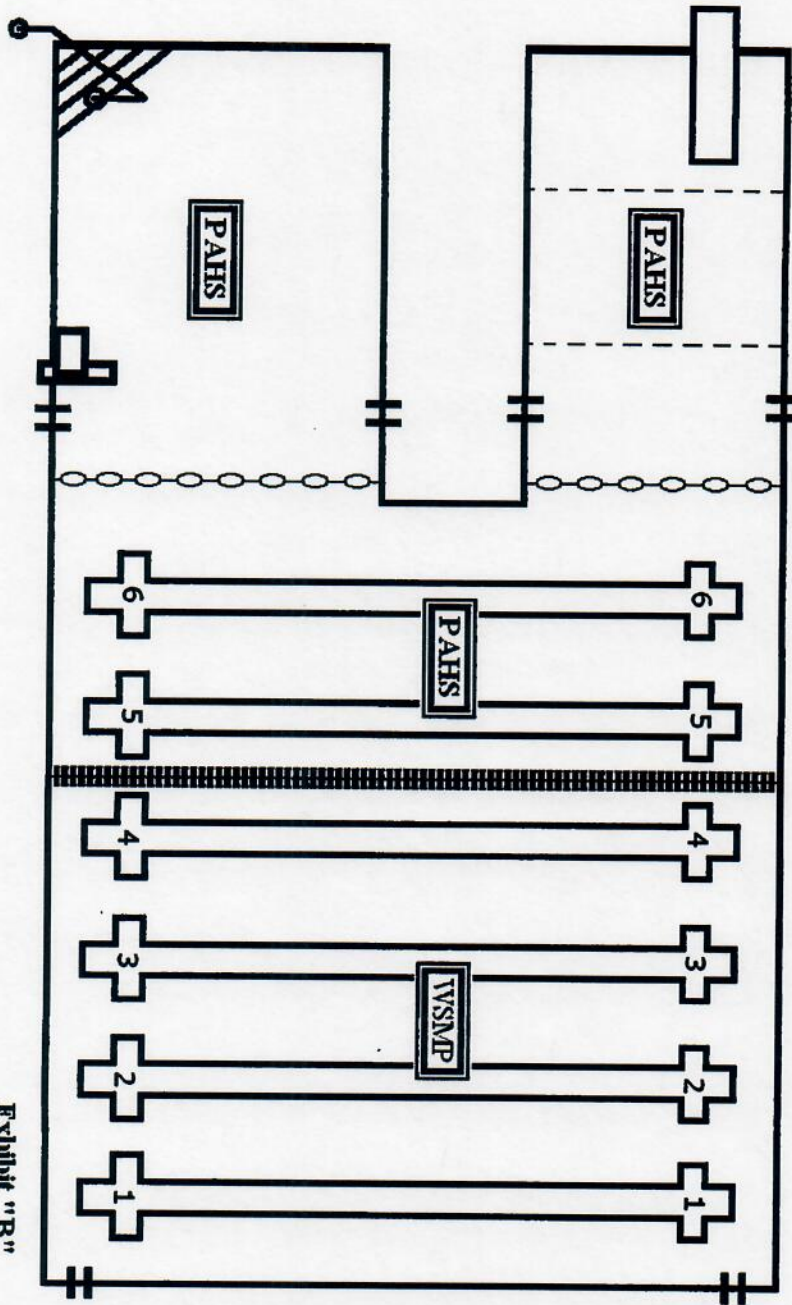


Exhibit "B"

Mon - Fri: 3:00 PM - 5:00 PM
During the month of August (_____ to _____)

PORT ANGELES SCHOOL DISTRICT SPECIAL EDUCATION CLASSES



Mon - Fri: 12:45 PM - 1:30 PM

Exhibit "B"



Ordinance / Resolution No. 15-2018
RCW 84.55.120

14

WHEREAS, the Commissioners of William Shore Memorial Pool District has met and considered
(Governing body of the taxing district) (Name of the taxing district)
its budget for the calendar year 2019; and,

WHEREAS, the districts actual levy amount from the previous year was \$ \$750,000.00; and,
(Previous year's levy amount)

WHEREAS, the population of this district is more than or less than 10,000; and now, therefore,
(Check one)

BE IT RESOLVED by the governing body of the taxing district that an increase in the regular property tax levy
is hereby authorized for the levy to be collected in the 2019 tax year.
(Year of collection)

The dollar amount of the increase over the actual levy amount from the previous year shall be \$ \$500,000.00
which is a percentage increase of 66.66 % from the previous year. This increase is exclusive of
(Percentage increase)
additional revenue resulting from new construction, improvements to property, newly constructed wind turbines,
any increase in the value of state assessed property, any annexations that have occurred and refunds made.

Adopted this 13th day of November, 2018.

If additional signatures are necessary, please attach additional page.

This form or its equivalent must be submitted to your county assessor prior to their calculation of the property tax levies. A certified budget/levy request, separate from this form is to be filed with the County Legislative Authority no later than November 30th. As required by RCW 84.52.020, that filing certifies the total amount to be levied by the regular property tax levy. The Department of Revenue provides the "Levy Certification" form (REV 64 0100) for this purpose. The form can be found at: <http://dor.wa.gov/docs/forms/PropTx/Forms/LevyCertf.doc>.

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Levy Certification

Submit this document to the county legislative authority on or before November 30 of the year preceding the year in which the levy amounts are to be collected and forward a copy to the assessor.

In accordance with RCW 84.52.020, I, Steven D. Burke,
(Name)

Executive Director, for William Shore Memorial Pool District, do hereby certify to
(Title) (District Name)

the Clallam County County legislative authority that the Commissioners
(Name of County) (Commissioners, Council, Board, etc.)

of said district requests that the following levy amounts be collected in 2019 as provided in the district's
(Year of Collection)

budget, which was adopted following a public hearing held on Oct. 23, 2018 ;
(Date of Public Hearing)

Regular Levy: \$1,250,000.00
(State the total dollar amount to be levied)

Excess Levy: \$0
(State the total dollar amount to be levied)

Refund Levy: \$0
(State the total dollar amount to be levied)

Signature: _____

Date: 11-13-2018

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