

**MODIFICATION OF A CDBG AGREEMENT
BETWEEN CLARK COUNTY
And**

**CONSOLIDATED DIKING IMPROVEMENT DISTRICT #2
OF COWLITZ COUNTY
1600 13th Avenue South
Kelso, WA 98626**

For

FEMA LEVEE CERTIFICATION

THE CDBG Agreement between Clark County, by and through its Department of Community Services, hereinafter referred to as the County, and the Consolidated Diking Improvement District #2 of Cowlitz County, hereinafter referred to as the Contractor, is hereby MODIFIED as follows:

WITNESSETH:

WHEREAS, the parties entered into a Contract for the period beginning June 15, 2011 through January 31, 2013 for FEMA Levee Certification; and

WHEREAS, the County has budgetarily provided for these services through Fund 1939, and

NOW, THEREFORE, in consideration of payments, covenants, and agreements, hereinafter mentioned, to be made and performed by the parties hereto, the parties covenant and agree as follows:

I. MODIFICATIONS:

- A. The Contract end date is extended from January 31, 2013 to January 31, 2014. The Period of Performance end date is extended from December 31, 2012 to December 31, 2013.
- B. These modifications do not alter nor nullify any of the remaining provisions of the original Contract.

II. REASONS FOR MODIFICATIONS

U.S. Army Corps of Engineers Portland office has taken longer than anticipated to approve the project.

III. ENTIRE CONTRACT

This modification incorporates the original Contract by reference. The parties agree that the original Contract and this modification are the complete expressions of the terms hereto and any oral representations or understanding not incorporated herein are excluded. Further, any modification of this modified Contract shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute material breach of contract and cause for termination. Both parties recognize that time is of the essence in the performance of the provisions of this modified Contract.

It is also agreed by the parties that the forgiveness of the non-compliance of any provision of this modification does not constitute a waiver of the provisions of this modification.

IN WITNESS WHEREOF, the parties hereto have caused this modification of the Contract to be executed by the dates and signatures hereunder affixed.

FOR CLARK COUNTY:



Bill Barron, County Administrator

1/2/13

Date

APPROVAL AS TO FORM ONLY:



Deputy Prosecuting Attorney

FOR THE CONTRACTOR:

Signature

Title

Date


BOARD OF SUPERVISORS OF CDID NO. 2
OF COWLITZ COUNTY, WASHINGTON



Jim Donald, Chairman

Date: 12/20/2012

APPROVED AS TO FORM:



Barry Dahl (WSBA #3309) Dated 12/20/12
Attorney for District

**CDBG BUDGET SUMMARY
PROJECT: FEMA LEVEE CERTIFICATION**

<u>Source:</u>	<u>Fund Amount</u>
A. Clark County CDBG Planning PY 11	\$20,000
B. Diking Improvement Dist. #2	\$500,000*

Itemized Cost	A CDBG	B
Application Fee and Certification Costs	\$20,000	\$500,000*

*Maximum of \$400,000 to be paid to US Army Corps of Engineers with a maximum
payback to Clark County CDBG of \$100,000 for a total of \$500,000.

STATEMENT OF WORK FEMA LEVEE CERTIFICATION

PROJECT BACKGROUND AND DESCRIPTION

1. This project consists of the Consolidated Diking Improvement District #2 of Cowlitz County (the Contractor) obtaining FEMA certification that its levee structure meets current design, construction, maintenance, and operation standards to provide protection from the one-percent-annual-chance flood. If it can be shown that a levee provides the appropriate level of protection, then FEMA will "accredit" or recognize the levee as providing protection on flood hazard maps, and the area behind the levee will be shown as a moderate risk zone (shaded X zone on flood hazard maps). District #2 is in the Woodland area, and includes part of the City of Woodland. The certification will enable the property owners with federally backed or regulated loans to not be required to purchase flood insurance and any new construction will not need to meet FEMA's elevation requirements of a minimum of one foot above the 100 year flood level. This would result in a requirement to elevate new structures up to 20 feet above ground level which would slow development in the district.
2. In 2003, Congress passed legislation that required the District's levees to be certified that that a 100 year protection is provided to the areas protected by the levees. The District obtained bids for the certification of \$200,000-\$300,000 from the US Army Corps of Engineers (USACE), and \$1,985,000 from a private consultant. Federal law requires that federal funds pay a portion of the costs of any work done by USACE for a non-federal public agency, and USACE has set a policy requiring a minimum of 5% of its total costs be federal funds. The District (the Contractor) will use the CDBG funds to meet that 5% requirement. In return, the Contractor will repay the County up to \$100,000 from the savings it achieves from using USACE instead of a private consultant. All CDBG funds provided by the County will be utilized by the USACE and no CDBG funds will be utilized by the Contractor.
3. The County will make two payments to the Contractor. The first will be for \$500, which is USACE's application fee that the Contractor must submit with its application. USACE will give the Contractor the exact cost for the certification, and begin the certification process. The Contractor will then submit a second invoice, up to the total contract budget authority, to be used toward the costs of the certification. Upon receipt of the certification the Contractor will provide a copy to the County.
4. The Contractor will pay the County five times the amount the County provides to the Contractor, up to \$100,000, in one payment, to be made within sixty days of the day the County provides the final funds to the Contractor. However, payment shall not be made within the period of May 15 – June 30, 2012.
5. In consideration of the benefits to be derived from this Contract, the County agrees to provide CDBG funds to the Contractor for the project described herein and according to the project budget and terms in this Contract. In the event the Contractor fails to follow the terms in this Contract, the County may treat such as a breach of this Contract which shall be handled according to the Corrective Action section in the Basic Interagency Agreement.

PERIOD OF PERFORMANCE, CONTRACT PERIOD AND EXPENDITURE SCHEDULE

1. The Contract period is June 15, 2011 through January 31, 2014. The Period of Performance is June 15, 2011 through December 31, 2013. All services must be provided, all CDBG funds shall be expended, and all billable costs incurred within the Period of Performance. The Contractor shall have until the final day of the Contract period to submit reports and complete non-billable end of contract activities.
2. Any funds unspent at the end of the Contract period will be retained by the County for allocation to another CDBG project. Any reduction in the total budget authority will be done after consultation with the Contractor and will require a modification of this Contract.

PROJECT BUDGET

The County will provide the Contractor with funds in an amount not to exceed the amount shown on the Agreement face sheet and on the Budget Summary for purposes of completing the project described above. The use of these funds shall be expressly limited to the activities described in this Agreement.

PAYMENT PROVISIONS

1. The County will pay the Contractor on a block grant basis. The Contractor shall submit an invoice and other required documentation. The invoice shall include the following:
 - a. A summary of expenses incurred by statement of work number. Please note, the Statement of Work contains details of the specific billable items for this Contract and some of the requirements below may not apply.
 - i. For direct costs, detail will include:
 - Salaries and benefits: name or employee ID number, salary/benefits paid, and dates;
 - Other direct costs: vendor names, dates of service and amount.
 - ii. For allocated costs, the Contractor shall provide a copy of an allocation method or plan to the County for review and approval by the Department of Community Services Finance Staff prior to the first invoice being reimbursed. Approval will be in writing and copied to both the Contractor and the contract file. The Contractor will submit one of the following documents to meet this requirement:
 - Cost Allocation Plan that defines how direct, shared, and administrative costs are allocated; or
 - A Cost Allocation methodology that defines how direct, shared, and administrative costs are allocated.
 - iii. For administrative costs, the Contractor shall comply with federal, state, and local regulations. The basis for administrative changes shall be OMB Circulars A-122 (Cost Principles for Non-Profits) and A-87 (Cost Principles for Local Governments). No administrative costs are covered under this Contract, only planning costs.
2. Time of Payment. The County will make payment to the Contractor as soon as practicable but not more than 15 days after said invoice is received and approved by the Department of

Community Services unless other acceptable payment arrangements are agreed to by the County and Contractor.

3. The Contractor shall designate one or more representatives who will be legally authorized to sign the Voucher Request Form provided and any other forms that may be required. The names of the liaison and representatives will be specified on the Authorization Signature Form.
4. Contract Closeout: The Contractor shall complete the Contract closeout within thirty days of the end of the Contract period, including return of the Financial Reconciliation Statement provided by the County.