

E911 GIS PROFESSIONAL SERVICES AGREEMENT

This agreement is made by and between **Pacific County (Pacific County Communications)**, hereinafter "**Client**", with its principal place of operation located at 300 Memorial Drive (P.O. Box 27) South Bend, WA. 98586 and **Melissa Liebert, dba Liebert's Guide Service**, 87722 Lewis & Clark Rd, Astoria, OR 97103 hereinafter; **Pacific County E911 GIS Consultant**, or "**Consultant**".

1. Services to be Performed

Consultant agrees to perform the services described in Appendix A, which is attached hereto and by this reference made part of this agreement.

2. Payment

In consideration for the services to be performed by the **Consultant** as described in Appendix A, **Client** agrees to pay the **Consultant** as negotiated, contract rate of \$18,000 per year for two years, including project maintenance, also including sales tax.

3. Terms of Payment

Amount negotiated will be within 30 days of contract initiation.

4. Division of Labor

The **Consultant** will act as the primary point of contact for the **Client**. With prior written approval by the **Client**, the **Consultant** may sub-contract assistance on any specific task as needed. Any sub-contract will be at the **Consultant's** expense. The **Client** will not be liable for any costs or expenses incurred due to the sub-contract.

5. Expenses/Travel

The **Consultant** shall be responsible for any necessary travel expenses incurred while performing services under this Agreement. These expenses will not include travel expenses for attendance at any WA State E911 Advisory or Subcommittee meeting that are currently paid for by the State of Washington. Any travel for which reimbursement is expected shall have prior written approval by the **Client**.

6. Materials

The **Consultant** will furnish all supplies used to provide the services required by this Agreement at no cost to **Client**.

7. Equipment and Software

Client shall provide **Consultant** data necessary to perform services. A detailed inventory form of any equipment assigned will be on record with the **Client** and amended as necessary. All equipment and/or software provided to the **Consultant** by the **Client** will be returned to the **Client** within 30 days of termination of the Agreement.

8. Public Disclosure

This Agreement and all public records associated with this Agreement shall be available from the **Consultant** for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the **Consultant** are needed for the **Client**

to respond to a request under the Act, as determined by the **Client**, the **Consultant** agrees to make them promptly available to the **Client**. If the **Consultant** considers any portion of any record provided to the **Client** under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the **Consultant** shall clearly identify any specific information that it claims to be confidential or proprietary. If the **Client** receives a request under the Act to inspect or copy the information so identified by the **Consultant** and the **Client** determines that release of the information is required by the Act or otherwise appropriate, the **Client's** sole obligations shall be to notify the **Consultant** (a) of the request and (b) of the date that such information will be released to the requester unless the **Consultant** obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the **Consultant** fails to timely obtain a court order enjoining disclosure, the **Client** will release the requested information on the date specified. The **Client** has, and by this section assumes, no obligation on behalf of the **Consultant** to claim any exemption from disclosure under the Act. The **Client** shall not be liable to the **Consultant** for releasing records not clearly identified by the **Consultant** as confidential or proprietary. The **Client** shall not be liable to the **Consultant** for any records that the **Client** releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

A member of the public could request public records from the **Consultant** directly. The **Consultant** agrees to notify **Client** within one (1) business day of any request for public records that include those supplied by **Client**, including the name of the requestor and the documents sought, to allow the **Client** to facilitate the prompt review and supply of the documents.

All Public Records prepared, owned, used or retained in conjunction with this Contract shall be subject to retention in accordance with the Local Government Common Records Retention Schedule (CORE) as published by the WA State Office of the Secretary of State/WA State Archives.

The **Consultant** agrees to indemnify and hold harmless the **Client** from any third-party claims concerning public document requests and fulfillment that arise from **Consultant's** reckless or negligent release or non-release of records.

9. Term of Agreement

This Agreement will become effective when signed by both parties and will terminate when a party to the Agreement terminates this Agreement as provided below, or on December 31, 2023.

10. Termination for Cause/Suspension

In the event that the **Client** determines that the **Consultant** failed to comply with any term or condition of this Agreement, the **Client** may terminate the Agreement in whole or in part upon written notice to the **Client**. Such termination shall be deemed "for cause." Termination shall take effect on the date specified in the notice.

In the alternative, the **Client** upon written notice may allow the **Consultant** a specific period of time in which to correct the non-compliance. During the corrective-action time period, the **Client** may suspend further payment to the **Consultant** in whole or in part, or may restrict the **Consultant's** right to perform duties under this Agreement. Failure by the **Consultant** to take timely corrective action shall allow

the **Client** to terminate the Agreement upon written notice to the **Consultant**.

“Termination for Cause” shall be deemed a “Termination for Convenience” when the **Client** determines that the **Consultant** did not fail to comply with the terms of the Agreement when the **Client** determines the failure was not caused by the **Consultant’s** actions or negligence.

If the Agreement is terminated for cause, the **Consultant** shall be liable for damages as authorized by law, including, but not limited to, any cost difference between the original Agreement and the replacement Agreement, as well as all costs associated with entering into the replacement Agreement (i.e., competitive bidding, mailing, advertising, and staff time).

11. Termination for Convenience

Either Party may terminate this Agreement for Convenience upon thirty (30) business days’ written notice to the other party, the calculation of such period beginning on the second day after mailing. If this Agreement is terminated for convenience, the **Client** shall be liable only for payment required under the terms of this Agreement for services rendered or goods delivered prior to the effective date of termination.

12. Independent GIS **Consultant**

The **Consultant** agrees that it is acting as an independent contractor, and not as an employee of the **Client**. As such, the **Client** will not provide any compensation or benefits beyond the compensation described immediately hereinabove. The **Consultant** hereby agrees not to make any representations to any third party, nor to allow such third party to remain under the misimpression that the **Consultant** is an employee of the **Client**.

The **Consultant** also agrees to pay any local, state, or federal taxes applicable to compensation for income received by the **Client** pursuant to this Agreement.

- The **Consultant** has the sole authority to control and direct the means, manner and method by which the services required by the Agreement will be performed.
- **Client** agrees that the **Consultant** shall perform the services required by this Agreement, except that with prior written approval by the **Client** the **Consultant** may sub-contract at her own expense.
- At **Client’s** discretion, **Client’s** employees may assist the **Consultant** with matters requiring data collection or other local coordination or assistance.
- The **Consultant** is ineligible to participate in any employee pension, health, vacation pay, sick pay or any other fringe benefit plan offered by **Client** to **Client’s** employees.

13. Confidentiality

All records will be confidential and will not be viewed by, or released to anyone other than the **Consultant** without the expressed permission of the **Client**.

14. Local, State and Federal Taxes

The **Consultant** and any sub-contractor shall pay all use tax, sales tax, income taxes and FICA (Social Security and Medicare taxes) incurred while performing services under this Agreement. **Client** will not:

- Withhold FICA from **Consultant’s** payments or make FICA payments on

Consultant's behalf.

- Withhold state or federal income tax from **Consultant's** payments.
- Make any unemployment compensation contributions on **Consultant's** behalf.

15. Notices

All notices and communications in connection with this Agreement shall be in writing and shall be considered given as follows:

- **Pacific County E911 GIS Consultant:**
Melissa Liebert
87722 Lewis & Clark Rd
Astoria, OR, 97103
melissa.liebert@gmail.com
- **Client:**
Pacific County Communications
300 Memorial Avenue/P O Box 27
South Bend, WA 98586
Attn: TDB
Work: 360-875-9340
Email: cheffernan@co.pacific.wa.us

Three days after being deposited in the United States mail, with postage prepaid to the recipient's address as stated above, or when sent by fax to the last fax number of the recipient known to the party giving notice. Notice is effective upon receipt provided that a duplicate copy of the notice is promptly given by first class mail, or the recipient delivers a written confirmation of receipt.

16. Indemnification/Hold Harmless

To the fullest extent permitted by law, the **Consultant** agrees to indemnify, defend and hold the **Client** and its departments, elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which 1) are caused in whole or in part by any action or omission, negligent or otherwise, of the **Consultant**, its employees, agents or volunteers or **Consultant's** sub-contractors and their employees, agents or volunteers; or 2) are directly or indirectly arising out of, resulting from, or in connection with performance of this Agreement; or 3) are based upon the **Consultant's** or its sub-contractors use of, presence upon or proximity to the property of the **Client**. This indemnification obligation of the **Consultant** shall not apply in the limited circumstance where the claim, damage, loss or expense is caused by the sole negligence of the **Client**. This indemnification obligation of the **Consultant** shall not be limited in any way by the Washington State Industrial Insurance Action RCW Title 51, or by application of any other workmen's compensation act, disability benefit act or other employee benefit act, and the **Consultant** hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the **Consultant** are a material inducement to **Client** to enter into the Agreement, are reflected in the **Consultant's** compensation, and have been mutually negotiated by the parties.

Survival of **Consultant's** Indemnity Obligations. The **Consultant** agrees all **Consultant's** indemnity obligations shall survive the completion, expiration or termination of this Agreement.

17. Attorney's Fees

If either party files suit to enforce this Agreement, parties agree that the prevailing party in any such action shall be entitled to collection costs, reasonable attorney's fees, and costs of suit.

18. Disputes

Differences between the **Consultant** and the **Client**, arising under and by virtue of this Agreement, shall be brought to the attention of the **Client** at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance and/or compensation due **Consultant** shall be decided by the **Client's** representative or designee. All rulings, orders, instructions and decisions of the **Client's** representative shall be final and conclusive, subject to their right to seek judicial relief pursuant to Choice of Law, Jurisdiction and Venue.

19. Choice of Law, Jurisdiction and Venue

This Agreement has been and shall be construed as having been made and delivered within the State of Washington and it is agreed by each party hereto that this Agreement shall be governed by the laws of the State of Washington, both as to its interpretation and performance. Any action at law, suit in equity, or judicial proceeding arising out of this Agreement shall be instituted and maintained only in any of the courts of competent jurisdiction in Pacific County, Washington.

20. Severability

If a court of competent jurisdiction holds any part, term or provision of this Agreement to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid. If any provision of this Agreement is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision. Should the **Client** determine that the severed portions substantially alter this Agreement so that the original intent and purpose of the Agreement no longer exists, the **Client** may, in its sole discretion, terminate this Agreement.

21. Insurance

Without limiting the **Consultant's** indemnification of **Client**, and prior to commencement of this Agreement, **Consultant** shall obtain, provide and maintain during the term of this Agreement, policies or insurance of the type and amounts described below and in a form satisfactory to the **Client**.

A) General Liability Insurance. **Consultant** shall maintain commercial general liability insurance with at least as broad as Insurance Services Office form CG 00 0, in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, for bodily injury, personal injury, and property damage, including

without limitation, blanket Agreement Dual liability.

- B) Workers' Compensation Insurance. **Consultant** shall, at its own expense, maintain Workers' Compensation Insurance (statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000).
- C) Waiver of Subrogation. All insurance coverage maintained or procured pursuant to this Agreement shall be endorsed to waive subrogation against **Client**, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow **Consultant** or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. **Consultant** hereby waives its own right of recovery against **Client**, and shall require similar written express waivers and insurance clauses from each of its sub-contractors. The **Consultant** must name the **Client** as an additional insured. The **Consultant** agrees that its liability insurance shall be primary and non-contributory to the **Client's** and that **Consultant's** liability insurance policy shall so state.
- D) Professional Liability (Errors & Omissions) Insurance. **Consultant** shall maintain professional liability insurance that covers the services to be performed in connection with this Contract, in the minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this Contract and **CONTRACTOR** agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this Contract.

22. Assignment and Delegation

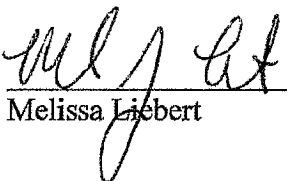
Neither the **Consultant** nor **Client** may assign its rights nor delegate its duties under this Agreement without written permission from the other party.

23. Exclusive Agreement

This document, including Appendix A, is the entire Agreement between the individual **Consultant** and **Client**. **There shall be no modification unless it is in writing and approved by both parties.**

Pacific County E911 GIS Consultant

BOARD OF COUNTY COMMISSIONERS


Melissa Liebert
Date 12-5-21

Lisa Olsen, Chair

Frank Wolfe, Commissioner

Mike Runyon, Commissioner

PROFESSIONAL SERVICES AGREEMENT

APPENDIX A

Title: Pacific County E911 GIS **Consultant** (**Consultant**)
Reports To: E-911 Director Edward J Heffernan

Primary Responsibilities:

1. Maintains excellent communication with Pacific County Communications Director and other involved parties such as Pacific County Department of Public Works. The **Consultant** must keep users aware of events affecting the system and policies concerning its use. To accomplish this, the **Consultant** must demonstrate effective verbal and written communications skills in order to issue written memos, send electronic memos, hold meetings with users, provide training and make presentations to various groups as necessary. Additionally, the **Consultant** must be willing to be accessible to Pacific County E911 Director at all times in order to fix problems of an emergent nature that may occur at any hour of the day or night.

The **Consultant** will provide professional services to Pacific County Communications to: 1) Maintain a Washington State NG911 compliant data set 2) create a comprehensive site address point layer 3) maintain all necessary GIS data into a format compatible with the Spillman CAD mapping through the Spillman Geo-Validation process 4) identify possible training needs for the creation and maintenance of GIS layers and 5) identify possible assistance the county may need in the creation and maintenance of this data. The **Consultant** will provide final data in standard GIS (ESRI) format and assist with conversion to a format compatible with Spillman CAD mapping through the Spillman Geo-Validation process.

2. Data Maintenance
The **Consultant** will act as a liaison with Pacific County MSAG Coordinator and GIS Department to keep the addressing system current.
3. Define Data Entry Standards
The **Consultant** will ensure that data follows the Washington State NG911 Data Model Standard. In order to use the full power of mapping and the Spillman Software, all users must enter data consistently. The **Consultant** will review WA State required data layers in order to identify problematic areas, and take appropriate steps to ensure development of Pacific County data to the Washington State NG911 Data Model Standard
4. Contact
The **Consultant** will act as the main contact point, not only with Pacific County Communications, but also with all outside groups, vendors, agencies, etc. for handling GIS-related inquiries, assistance requests, etc.
5. Policies and Procedures
Although the GIS software is very powerful and flexible, there will always be additional features that some users would like to see added. Some requested changes are neither feasible nor advantageous to the majority of GIS users. In these situations, the **Client** many need to change their procedures. The **Consultant** will act as a liaison between user agencies when special requests have been made.

6. The **Consultant** will maintain familiarity with the Standard Operating Procedures and appropriate manuals that provide knowledge of Pacific County Communications Center operations and procedures as such applies to GIS data.
7. Authority
The **Consultant**, with approval of the Pacific County E-911 Director, will set policy and procedures for management of GIS data and applications.