

INTERGOVERNMENTAL AGREEMENT

between

OREGON DEPARTMENT OF STATE LANDS and

Columbia County Sheriff's Office

for

Abandoned and Derelict Vessel (ADV) Reimbursement

Agency Agreement No. 25-1049

This Agreement is between the State of Oregon acting by and through its Oregon Department of State Lands ("Agency", or "DSL") and Columbia County, acting by and through the Columbia County Sheriff Office ("Local Government", or "CCSO"), each a "Party" and, together, the "Parties".

SECTION 1: DEFINITIONS

"Acceptance" or "Accepted" means written confirmation by Agency that Local Government has completed a Deliverable according to the Acceptance Criteria and accepted for purposes of interim payment.

"Acceptance Criteria" means the criteria for accepting Deliverables required by this Agreement, including but not limited to all specifications and requirements in the Statement of Work, and the Performance Warranties set forth in Section 8.1.

"Agency Data" means information created or provided by Agency and information regarding Agency and its clients that is created and collected by Local Government during the course of providing the Services.

"Agency Intellectual Property" means any intellectual property that is owned by Agency. Agency Intellectual Property includes any derivative works and compilations of any Agency Intellectual Property.

"Agreement" means this Intergovernmental Agreement, including all terms and conditions herein and all Exhibits attached hereto.

"Authorized Representative" means a person representing a party to this Agreement who is authorized to make commitments and decisions on behalf of the party regarding the performance of this Agreement.

"Business Days" means Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, excluding State of Oregon holidays and business closure days.

"Calendar Days" mean contiguous days.

"Local Government Intellectual Property" means any intellectual property that is owned by Local Government and contained in or necessary for the use of the Deliverables. Local Government Intellectual Property includes Software owned by Local Government, Documentation, and derivative works and compilations of any Local Government Intellectual Property.

"Deliverables" means all items that Local Government is required to provide to Agency under this Agreement, including Work Product.

"Documentation" means all documents, including documents that are Deliverables described in the Statement of Work that are to be delivered by Local Government under this Agreement.

"DOJ" means the State of Oregon acting through its Department of Justice.

"Effective Date" means the date specified in Section 4 or the date on which this Agreement is fully executed and approved according to applicable laws, rules and regulations, whichever is later.

"Local Government Intellectual Property" means any intellectual property owned by Local Government and developed independently from the work under this Agreement.

"Maximum Not-To-Exceed Compensation" is defined in Section 7.

"Milestone" means the completion date for a specific group of Tasks or Deliverables identified as a Milestone in the Statement of Work.

"Services" means all effort to be expended by Local Government under the Agreement.

"State" means the State of Oregon.

"Statement of Work" or "SOW" means the documents that describe the Services to be provided by Local Government, including the Tasks, Deliverables and Milestones, the attributes (including requirements and specifications) of each Deliverable, identification of the Deliverables and Services that are associated with each Task, and a completion date for each Milestone and Deliverable, the Payment Schedule for each Deliverable and Milestone, and any other items as agreed by the parties and attached hereto as Exhibit A, including as amended pursuant to Section 22. The SOW includes Accepted Deliverables, if specifically agreed upon in Exhibit A.

“Task” means a segment of the Services to be provided by Local Government under this Agreement.

“Third Party Intellectual Property” means any intellectual property owned by parties other than Agency or Local Government. Third Party Intellectual Property includes Software owned by Third Parties, and derivative works and compilations of any Third Party Intellectual Property.

“Work Product” means everything that is specifically made, conceived, discovered, or reduced to practice by Local Government or Local Government’s subcontractor or agents (either alone or with others) pursuant to the Agreement, including every invention, modification, discovery, design, development, customization, configuration, improvement, process, software program, work of authorship, documentation, formula, datum, technique, know how, secret, or intellectual property right whatsoever or any interest therein (whether patentable or not patentable or registerable under copyright or similar statutes or subject to analogous protection). Notwithstanding anything in the immediately preceding sentence to the contrary, Work Product is not Agency Intellectual Property, Local Government Intellectual Property, or Third Party Intellectual Property.

SECTION 2: AUTHORITY

This Agreement is an intergovernmental agreement subject to Chapter 190 of the Oregon Revised Statutes. The Agreement constitutes an authorization by a public body under ORS 190.010 for a Party to perform one or more inherent governmental responsibilities for the other Party.

SECTION 3: PURPOSE

The intent of this IGA is to establish an agreement between the parties that will allow Columbia County Sheriff's to be reimbursed costs associated with Abandoned and Derelict Vessels (ADV 's) for the Department of State Lands.

SECTION 4: EFFECTIVE DATE AND DURATION

This Agreement is effective on the date of the last signature, (“Effective Date”), and remain in effect for two (2) years, unless terminated earlier in accordance with Section 19. This Agreement may be renewed, upon mutual agreement of the parties through written amendment, for up to one (1) additional two (2) year term, or as otherwise allowed by law.

SECTION 5: AUTHORIZED REPRESENTATIVES

5.1 Agency's Authorized Representative is:

Josh Mulhollem
775 Summer St. NE Ste. 100
Salem, OR 97301
971-600-8935
Josh.mulhollem@dsl.oregon.gov

5.2 Local Government's Authorized Representative is:

Deputy Doug Wheeler
901 Port Ave.
St. Helens, OR 97051
503-366-4730
Doug.Wheeler@columbiacountyor.gov

A Party may designate a new Authorized Representative by written notice to the other Party.

SECTION 6: RESPONSIBILITIES OF EACH PARTY

- 6.1** Local Government shall perform the work set forth on Exhibit A, Statement of Work, attached hereto and incorporated herein by this reference.
- 6.2** Agency shall pay Local Government as described in Section 7 and shall meet any responsibilities set forth in Exhibit A, Statement of Work.

SECTION 7: COMPENSATION AND PAYMENT TERMS

Agency will pay Local Government for completing work in this agreement and delivering all Deliverables required of Local Government under this Agreement subject to availability of funds. Payment will be made after completion of all work and delivery of all Deliverables accepted by Agency.

SECTION 8: REPRESENTATIONS AND WARRANTIES

- 8.1** Local Government represents and warrants to Agency that:
 - 8.1.1** Local Government is a county law enforcement unit duly organized and validly existing. Local Government has the power and authority to enter into and perform this Agreement;
 - 8.1.2** The making and performance by Local Government of this Agreement (a) have been duly authorized by all necessary action of Local Government, (b) do not and will not violate

any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Local Government's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Local Government is party or by which Local Government may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Local Government of this Agreement, other than those that have already been obtained;

8.1.3 This Agreement has been duly executed and delivered by Local Government and constitutes a legal, valid and binding obligation of Local Government enforceable in accordance with its terms;

8.1.4 Local Government and/or its agents, as applicable, has the skill and knowledge possessed by well-informed members of the industry, trade or profession most closely involved in providing the services under this Agreement, and Local Government will apply that skill and knowledge with care and diligence to perform its obligations under this Agreement in a professional manner and in accordance with the standards prevalent in the related industry, trade or profession; and

8.1.5 Local Government and/or its agents, as applicable, shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement.

8.2 Agency represents and warrants to Local Government that:

8.2.1 Agency has the power and authority to enter into and perform this Agreement;

8.2.2 The making and performance by Agency of this Agreement (a) have been duly authorized by all necessary action of Agency, (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Agency is party or by which Agency may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Agency of this Agreement, other than those that have already been obtained;

8.2.3 This Agreement has been duly executed and delivered by Agency and constitutes a legal, valid and binding obligation of Agency enforceable in accordance with its terms; and

8.2.4 To the extent that Agency provides services to Local Government, Agency and/or its agents, as applicable, has the skill and knowledge possessed by well-informed members of the industry, trade or profession most closely involved in providing the services under this Agreement, and Agency will apply that skill and knowledge with care and diligence

to perform its obligations under this Agreement in a professional manner and in accordance with the standards prevalent in the related industry, trade or profession.

The representations and warranties set forth in this section are in addition to, and not in lieu of, any other representations or warranties provided.

SECTION 9: DISPUTE RESOLUTION

The Parties should attempt in good faith to resolve any dispute arising out of this Agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the agreement. In addition to other processes to resolve disputes arising under the Agreement, either Party may notify the other that it wishes to engage in a more guided dispute resolution process. Upon such notification, the Parties shall engage in non-binding arbitration to resolve the dispute. If the Parties do not reach agreement as a result of the non-binding discussion, the Parties may agree to consider further appropriate dispute resolution processes, including binding arbitration. The rights and remedies set forth in this Agreement are not intended to be exhaustive and the exercise by either Party of any right or remedy does not preclude the exercise of any other rights or remedies at law or in equity.

SECTION 10: GOVERNING LAW, CONSENT TO JURISDICTION

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between the parties that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within a circuit court for the State of Oregon of proper jurisdiction. THE PARTIES, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Except as provided in this section, neither party waives any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. The parties acknowledge that this is a binding and enforceable agreement and, to the extent permitted by law, expressly waive any defense alleging that either party does not have the right to seek judicial enforcement of this Agreement.

SECTION 11: CONTRIBUTION

- 11.1** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (a "Third Party Claim") against a Party (the "Notified Party") with respect to which the other Party (the "Other Party") may have liability, the Notified Party shall promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party, along with the written notice, a copy of the claim, process and all legal pleadings with respect to the Third Party Claim that have been received by the Notified Party. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of

the notice and copies required in this Section and a meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's contribution obligation under this Section 13 with respect to the Third Party Claim.

- 11.2** With respect to a Third Party Claim for which Agency is jointly liable with Local Government (or would be if joined in the Third Party Claim), Agency shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Local Government in such proportion as is appropriate to reflect the relative fault of Agency on the one hand and of Local Government on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Agency on the one hand and of Local Government on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Agency's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.
- 11.3** With respect to a Third Party Claim for which Local Government is jointly liable with Agency (or would be if joined in the Third Party Claim), Local Government shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Agency in such proportion as is appropriate to reflect the relative fault of Local Government on the one hand and of Agency on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Local Government on the one hand and of Agency on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Local Government's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

SECTION 12: LOCAL GOVERNMENT DEFAULT

Local Government will be in default under this Agreement upon the occurrence of any of the following events: Local Government fails to perform, observe or discharge any of its covenants, agreements or material obligations under this Agreement;

- 12.1** Any representation, warranty or statement made by Local Government in this Agreement or in any documents or reports relied upon by Agency to measure the delivery of services, the expenditure of funds or the performance by Local Government is untrue in any material respect when made;
- 12.2** Local Government (a) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (b) admits in

writing its inability, or is generally unable, to pay its debts as they become due, (c) makes a general assignment for the benefit of its creditors, (d) is adjudicated a bankrupt or insolvent, (e) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (f) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (g) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (h) takes any action for the purpose of effecting any of the foregoing; or

- 12.3** A proceeding or case is commenced, without the application or consent of Local Government, in any court of competent jurisdiction, seeking (a) the liquidation, dissolution or winding-up, or the composition or readjustment of debts of Local Government, (b) the appointment of a trustee, receiver, custodian, liquidator, or the like of Local Government or of all or any substantial part of its assets, or (c) similar relief in respect to Local Government under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against Local Government is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

SECTION 13: REMEDIES

- 13.1** In the event Local Government is in default under Section 14, Agency may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to: (a) termination of this Agreement under Section 19, (b) reducing or withholding payment for work or Work Product that Local Government has failed to deliver within any scheduled completion dates or has performed inadequately or defectively, (c) requiring Local Government to perform, at Local Government's expense, additional work necessary to satisfy its performance obligations or meet performance standards under this Agreement, (d) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, including for interest within the limits set of ORS 293.462, or (e) exercise of its right of recovery of overpayments under Section 17 of this Agreement or setoff, or both. These remedies are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.
- 13.2** In the event Agency is in default under Section 15 and whether or not Local Government elects to exercise its right to terminate this Agreement under Section 19.3.3, or in the event Agency terminates this Agreement under Sections 19.2.1, 19.2.2, 19.2.3, or 19.2.5, Local Government's sole monetary remedy will be (a) for work compensable at a stated rate, a claim for unpaid invoices for work completed according to the requirements, acceptance criteria, representations and warranties of the this Agreement and for authorized expenses incurred and interest within the limits of ORS 293.462, less any claims Agency has against Local Government, and (b) for Deliverable-based work, a claim for the sum designated for

completing the Deliverable multiplied by the percentage of work completed on the Deliverable and accepted by Agency, for authorized expenses incurred, and interest within the limits of ORS 293.462, less previous amounts paid for the Deliverable and any claims that Agency has against Local Government. In no event will Agency be liable to Local Government for any expenses related to termination of this Agreement under Sections 19.1 or 19.2. If previous amounts paid to Local Government exceed the amount due to Local Government under this Section 16.2, Local Government shall promptly pay any excess to Agency.

SECTION 14: RECOVERY OF OVERPAYMENTS

If payments to Local Government under this Agreement, or any other agreement between Agency and Local Government (unless prohibited by law), exceed the amount to which Local Government is entitled, Agency may, after notifying Local Government in writing, withhold from payments due Local Government under this Agreement, such amounts, over such periods of times, as are necessary to recover the amount of the overpayment. Prior to withholding, if Local Government objects to the withholding or the amount proposed to be withheld, Local Government shall notify Agency that it wishes to engage in dispute resolution in accordance with Section 9.

SECTION 15: LIMITATION OF LIABILITY

EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO SECTION 12 NEITHER PARTY WILL BE LIABLE FOR LOST PROFITS, INCIDENTAL, CONSEQUENTIAL, OR OTHER INDIRECT DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER THE LIABILITY CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE. NEITHER PARTY WILL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT IN ACCORDANCE WITH ITS TERMS.

SECTION 16: TERMINATION

16.1 This Agreement may be terminated at any time by mutual written consent of the Parties.

16.2 Agency may terminate this Agreement as follows:

16.2.1 Immediately upon written notice to Local Government, if Agency fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in Agency's reasonable administrative discretion, to perform its obligations under this Agreement;

16.2.2 Immediately upon written notice to Local Government, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that Agency's performance under this Agreement is prohibited or Agency is prohibited from paying for

such performance from the planned funding source;

16.2.3 Immediately upon written notice to Local Government, if Local Government is in default under this Agreement and such default remains uncured 15 days after written notice thereof to Local Government; or

16.2.4 As otherwise expressly provided in this Agreement.

16.3 Local Government may terminate this Agreement as follows:

16.3.1 Immediately upon written notice to Agency, if Local Government fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in Local Government's reasonable administrative discretion, to perform its obligations under this Agreement;

16.3.2 Immediately upon written notice to Agency, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that Local Government's performance under this Agreement is prohibited or Local Government is prohibited from paying for such performance from the planned funding source;

16.3.3 Immediately upon written notice to Agency, if Agency is in default under this Agreement and such default remains uncured 15 days after written notice thereof to Agency; or

16.3.4 As otherwise expressly provided in this Agreement.

16.4 Upon receiving a notice of termination of this Agreement, Local Government will immediately cease all activities under this Agreement, unless Agency expressly directs otherwise in such notice. Upon termination, Local Government will deliver to Agency all documents, information, works-in-progress, Work Product and other property that are or would be Deliverables under the Agreement. If Local Government is in default of this Agreement, upon Agency's reasonable request, Local Government will surrender all documents, research or objects or other tangible things reasonably needed to complete the work that was to have been performed by Local Government under this Agreement, such documents, research, objects, or other tangible things not to include any third party software licenses.

SECTION 17: INSURANCE

RESERVED

SECTION 18: NONAPPROPRIATION

Agency's obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon Agency receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be

construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of Agency.

SECTION 19: AMENDMENTS

The terms of this Agreement may not be altered, modified, supplemented or otherwise amended, except by written agreement signed by both of the Parties. To avoid ambiguity, the Parties may change their Authorized Representative(s) without amending the Agreement by providing the other Party with written notice of such change.

SECTION 20: NOTICE

Except as otherwise expressly provided in this Agreement, including any notices pursuant to Sections 12 and 19, all notices to be given relating to this Agreement must be given in writing by facsimile, personal delivery, or postage prepaid mail, to a Party's Authorized Representative at the physical address, fax number or email address set forth in this Agreement, or to such other addresses as either Party may indicate pursuant to this Section 23 Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by facsimile becomes effective upon electronic confirmation of successful transmission to the designated fax number. Except as set forth above in this Section 23, the Parties may agree to provide operational notices such as delivery, acceptance or rejection of Services or Deliverables by email as may be mutually agreed in Exhibit A, Statement of Work.

SECTION 21: SURVIVAL

All rights and obligations of the Parties under this Agreement will cease upon termination of this Agreement, other than the rights and obligations arising under Sections 8, 9, 10, 14, 15 and 21 hereof and those rights and obligations that by their express terms survive termination of this Agreement; provided, however, that termination of this Agreement will not prejudice any rights or obligations accrued to the Parties under this Agreement prior to termination.

SECTION 22: SEVERABILITY

The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

SECTION 23: COUNTERPARTS

This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed constitutes an original.

SECTION 24: COMPLIANCE WITH LAW

In connection with their activities under this Agreement, the Parties shall comply with all applicable federal, state and local law.

SECTION 25: INDEPENDENT CONTRACTORS

The Parties agree and acknowledge that their relationship is that of independent contracting parties and that Local Government is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.

SECTION 26: INTENDED BENEFICIARIES

Agency and Local Government are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement.

SECTION 27: FORCE MAJEURE

Neither Party is responsible for any failure to perform or any delay in performance of any obligations under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that Party's reasonable control. Each Party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. Each Party may terminate this Agreement upon written notice to the other party after reasonably determining that the failure or delay will likely prevent successful performance of this Agreement.

SECTION 28: ASSIGNMENT AND SUCCESSORS IN INTEREST

Local Government may not assign or transfer its interest in this Agreement without the prior written consent of Agency and any attempt by Local Government to assign or transfer its interest in this Agreement without such consent will be void and of no force or effect. Agency's consent to Local Government's assignment or transfer of its interest in this Agreement will not relieve Local Government of any of its duties or obligations under this Agreement. The

provisions of this Agreement will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns.

SECTION 29: SUBCONTRACTS

RESERVED

SECTION 30: TIME IS OF THE ESSENCE

Time is of the essence in each party's performance of its obligations under this Agreement.

SECTION 31: MERGER, WAIVER

This Agreement and all exhibits and attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver or consent under this Agreement will bind a Party unless signed by an authorized person representing the consenting or waiving Party. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given. EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

SECTION 32: RECORDS MAINTENANCE AND ACCESS

Local Government shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Local Government shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Local Government, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document Local Government's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Local Government, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." Local Government acknowledges and agrees that Agency and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. Local Government shall retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. Subject to foregoing minimum records retention requirement, Local Government shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

SECTION 33: HEADINGS

The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Agreement.

SECTION 34: AGREEMENT DOCUMENTS

This Agreement consists of the following documents, which are listed in descending order of precedence: this Agreement less all exhibits, and attached Exhibit A (the Statement of Work).

SECTION 35: ORDER OF PRECEDENCE

No term stated on any schedule, exhibit, attachment, or other document incorporated into the Agreement will take precedence over a conflicting term in the Agreement unless the term references the conflicting term in the Agreement and clearly recites the parties' intent that it take precedence.

SECTION 36: SIGNATURES

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

STATE OF OREGON acting by and through its Oregon Department of State Lands

Josh Mulhollem, Waterways Stewardship Manager

Date

Columbia County Sheriff's Office

Brian Pixley, Sheriff

Date

EXHIBIT A

STATEMENT OF WORK

DSL and the Columbia County Sheriff's Office have a mutual interest in seeing that ADVs on waterways in Columbia County are addressed efficiently.

Upon Agency approval and funding availability DSL will reimburse Columbia County Sheriff's Office when they procure services related to securing, salvaging, towing, storing, seizing, dismantling, and disposing of abandoned vessels, derelict vessels, and deteriorated vessels now meeting the definition of marine debris. By entering into this agreement, Local Government warrants that it complied with all provisions of ORS 830.911 and that all dismantling and other solid waste disposal activities will take place at a facility authorized by the Department of Environmental Quality for such activities.

DSL will refer to ORS 830.908. to 830.948 for definitions:

- (1) "Abandoned vessel" means a vessel that is on public or private land, the waters of this state or any other water without authorization.
- (2) "Authorized agency" means a law enforcement agency, a federal agency, the State Marine Board or any other public body, as defined in ORS 174.109.
- (3) "Business day" means any day other than a Saturday, a Sunday or a legal holiday as described in ORS 187.010.
- (4) "Derelict vessel" means a vessel that is on the waters of this state or is in such close proximity to the waters of this state that the vessel is likely to enter the water and that is:
 - (a) Sunk or in imminent danger of sinking;
 - (b) Obstructing a waterway;
 - (c) Endangering life or property;
 - (d) In such dilapidated condition that it is in danger of becoming an environmental hazard, which may be evidenced by instances of leaking fuel, sewage or other pollutants; or
 - (e) Likely to meet one of the conditions listed in this subsection if the vessel enters the water.
- (5) "Marine debris" has the meaning given that term in ORS 274.376.
- (6) "Owner" means a person who is listed as the owner of a vessel in the records of the State Marine Board or another state agency.
- (7)(a) "Vessel" means a boat, a boathouse as defined in ORS 830.700, a floating home as defined in ORS 830.700, or any other floating structure that is normally secured to a pier or pilings.
 - (b) "Vessel" does not include: (A) A dock as defined in ORS 307.120;

(B) A boat that is no longer capable of being used as a means of transportation on the water due its dilapidated condition; or

(C) Any structure or component of a structure that, in its current state, does not meet the definition of boathouse or floating home in ORS 830.700.

Only those expenses paid by the CCSO to a third party will be considered for reimbursement. Administrative overhead, staff time, fuel, equipment use, or similar expenses incurred by CCSO will not be reimbursed.

Reimbursable expenses may include:

Securing: taking action to prevent an ADV situation from getting worse (anchoring, mooring, pumping, patching, beaching, etc.)

Salvaging: taking action to recover the ADV from its location

Towing: using an operational vessel to transport the ADV over the water

Haul-out: removing the ADV from the water for overland transport

Transport: overland transport of the ADV

Storing: maintaining possession of the ADV as necessary to allow for administrative processes

Environmental testing and abatement: any necessary sampling, analytics, and abatement of regulated wastes

Dismantling: Reducing the ADV into smaller pieces to prepare for disposal

Disposal: Depositing the ADV and its contents at approved facilities

Payments will be made upon request by CCSO. "To the extent possible, Local Government shall seek approval from the Agency that reimbursement funds are available before incurring costs, but reimbursement for unforeseen/unavoidable costs may be approved by Agency at Agency's Discretion".

To receive payment, CCSO must provide an invoice in the format requested by DSL, along with the following:

- Receipts from vendors for each task for which payment is requested
- At least one photo of the ADV
- Physical description of the ADV including any identifying numbers, length, hull material, and type.
- For ADV cases resulting in dismantling and disposal: Documentation of disposal, including total weight or volume of material disposed
- All invoices must be sent by email to DSL.accounts.payable@dsl.oregon.gov