

**WHATCOM COUNTY CONTRACT
INFORMATION SHEET**

Whatcom County Contract No. _____

| | |
|---|--|
| Originating Department: | 35 Sheriff's Office |
| Division/Program: <i>(i.e. Dept. Division and Program)</i> | 3520 Bureau of LE & Investigations / 352060 Boating Program |
| Contract or Grant Administrator: | Steven Harris, Undersheriff |
| Contractor's / Agency Name: | Washington State Parks and Recreation Commission |
| Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes <input type="radio"/> No <input checked="" type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____ | |
| Does contract require Council Approval? Yes <input checked="" type="radio"/> No <input type="radio"/> If No, include WCC: _____ Already approved? Council Approved Date: _____ (Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100) | |
| Is this a grant agreement? Yes <input checked="" type="radio"/> No <input type="radio"/> If yes, grantor agency contract number(s): <u>MLE 325-530</u> CFDA#: <u>97.012</u> | |
| Is this contract grant funded? Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, Whatcom County grant contract number(s): _____ | |
| Is this contract the result of a RFP or Bid process? Contract _____ Yes <input type="radio"/> No <input checked="" type="radio"/> If yes, RFP and Bid number(s): _____ Cost Center: <u>10003531</u> | |
| Is this agreement excluded from E-Verify? No <input type="radio"/> Yes <input checked="" type="radio"/> If no, include Attachment D Contractor Declaration form. | |
| If YES, indicate exclusion(s) below: <input type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Goods and services provided due to an emergency <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000. <input checked="" type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA. | |
| Contract Amount:(sum of original contract amount and any prior amendments): \$ <u>27,028.24</u> This Amendment Amount: \$ _____ Total Amended Amount: \$ <u>27,028.24</u> | Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when: 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies. 4. Equipment is included in Exhibit "B" of the Budget Ordinance. 5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County. |
| Summary of Scope: _____ | |
| The Sheriff's Office received a Recreational Boating Safety (RBS) Grant from Washington State Parks and Recreation Commission. This is an annual grant awarded to the Sheriff's Office to conduct on-the-water patrols to increase education and enforcement activities, encouraging greater compliance with boating safety laws in an effort to reduce boating related loss of life, personal injury, and property damage. | |
| Term of Contract: Last Signature Date | Expiration Date: 12/31/25 |

| | | |
|-------------------|---|----------------------|
| Contract Routing: | 1. Prepared by: <u>Donna Duling</u> | Date: <u>1/30/25</u> |
| | 2. Attorney signoff: <u>Approved via email BW/DD</u> | Date: <u>1/31/25</u> |
| | 3. AS Finance reviewed: <u>Approved via email DK/DD</u> | Date: <u>2/12/25</u> |
| | 4. IT reviewed (if IT related): _____ | Date: _____ |
| | 5. Contractor signed: _____ | Date: _____ |
| | 6. Submitted to Exec.: _____ | Date: _____ |
| | 7. Council approved (if necessary): _____ | Date: _____ |
| | 8. Executive signed: _____ | Date: _____ |
| | 9. Original to Council: _____ | Date: _____ |



Washington State Parks and Recreation Commission
Subrecipient Grant Agreement - Federal Financial Assistance Grant
Marine Law Enforcement Program
Whatcom County Sheriff's Office



Agreement: MLE 325-530

This Agreement is between the State of Washington, Washington State Parks and Recreation Commission ("State Parks"), acting by and through its Marine Law Enforcement Program ("MLE or "Recipient"), and Whatcom County Sheriff's Office ("Subrecipient"), each a "Party" and, together, the "Parties".

SECTION 1: Authority

Per 2 Code of Federal Regulations 200 (2CFR200), State Parks has determined this to be a "Subrecipient" relationship under 2 CFR 200.330. This subrecipient agreement is authorized by 2 CFR 200 and 50 CFR 80. MLE is authorized to provide grants for recreational boating enforcement and education activities and has sufficient grant funds available within its current biennial budget and has authorized expenditure on the Subrecipient's Project as defined below, and the Subrecipient agrees to comply with 2 CFR 200, MLE rules, and other MLE adopted policies and procedures, and to this Subrecipient Grant Agreement.

SECTION 2: Purpose

The purpose of this Agreement is to set forth the obligations of both Parties in the awarding of funds for recreational boating enforcement and education and to set forth the deliverables under the Federal Financial Assistance Grant, hereinafter called the "Project."

2.1 Scope of Work

The Agency will provide recreational boating law enforcement and education services as prescribed by WAC 352-65 and USCG grant #3324FAS240153. Access to all of the program requirements can be found on the MLE Agency Portal Home Page: <https://mle.parks.wa.gov>. The Agency will be required to meet a 25% match requirement, as described in *Section 8 – Project Funding and Required Match*.

SECTION 3: Courtesy Information & Reminder

The following list highlights key sections of this agreement, provided for ease of reference. However, other important information exists throughout this document, and the onus is on the Subrecipient to read the entire document including any Attachments, Exhibits, or other information incorporated by reference.

- **Term:** See *Section 5 – Agreement Term, Effective Date, & Duration*
- **Party's Authorized Representatives:** See *Section 6 – Authorized Representatives*
- **Funding and Match Amounts:** See *Section 8 – Project Funding and Required Match*
- **Reporting Requirements:** See *Section 7.1.2 – Reporting*
- **Reimbursement Requests:** See *Section 10 – Terms of Payment*
- **Accident Report:** See *Section 13.08 – Accident Report*
- **Signatures:** See *Section 36 - Signatures*
- **Information Required for Federal Subawards (2 CFR 200.211(b) (1)):** See *Exhibit A*

SECTION 4: Definitions

- 4.1 Agent:** shall mean the State Agency Director, and/or the delegate authorized in writing to act on the Director's behalf.
- 4.2 MLE:** The federally funded Marine Law Enforcement Program administered by Washington State Parks and Recreation Commission (State Parks). For this agreement, MLE represents the State of Washington. If MLE ceases to exist or is no longer the state program designated to administer this federal program, then references to MLE will be understood to be the State of Washington.

- 4.3 Equipment.** Equipment means tangible personal property having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000.00.
- 4.4 Exhibit:** A document provided by the MLE Program that is also a part of this agreement and incorporated by reference.
- 4.5 RBS Officer:** Recreational Boating Safety Officer. A fully commissioned law enforcement officer in Washington State who has the authority to enforce the laws of the State of Washington and local ordinances. The RBS Officer must have attended the Washington State Basic Marine Law Enforcement Academy, or an equivalent recognized by MLE.
- 4.6 Boating Safety Inspection:** A full inspection of all safety equipment, vessel registration when required, and mandatory boater education compliance when required. The results of the inspection shall be documented through Washington's Statewide Electronic Collision and Ticket Online Records (SECTOR). This may be done at the time of the inspection or when SECTOR is available to the RBS Officer.
- 4.7 Law Enforcement Vessel:** A vessel used by a law enforcement agency, which shall be equipped with proper markings showing it to be an official law enforcement vessel.
- 4.8 Recreational Vessel:** Defined in federal regulation 50 CFR 85.11 as a vessel owned and operated primarily for pleasure, or a vessel leased, rented, or chartered to another for recreational use.
- 4.9 Subrecipient:** A non-federal entity that receives a subaward from a pass-through entity to carry out part of a federal program but does not include an individual that is a beneficiary of such program. In this agreement, the subrecipient is the successful applicant with whom WA MLE is awarding a Federal Financial Assistance Grant (See 2 CFR 200.93).
- 4.10 Subrecipient Grant Award:** Also known as a subaward. Defined in federal regulation as "an award provided by a pass-through entity to a subrecipient, in order for the subrecipient to carry out part of a federal award received by the pass-through entity." It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract (See 2 CFR 200.92).
- 4.11 Boating Safety Program approval:** means that the county or local jurisdiction has entered into an agreement with State Parks to develop and maintain a boating safety program meeting the minimum requirements established by State Parks.

SECTION 5: Agreement Term, Effective Date, and Duration

This agreement is effective on the date of the last signature. It will terminate on **December 31, 2025**, or the date of final payment issuance, whichever is later, unless terminated earlier in accordance with *Section 19 – Termination*, or extended via formal amendment as described in *Section 20 - Amendments*. Final payment requests must be submitted within 15 days of the termination date.

SECTION 6: Authorized Representatives

State Parks MLE Program Representative:

Bryan Alexander, Marine Law Enforcement Coordinator
Washington State Parks - Boating Program
1111 Israel Road SW
Tumwater, WA 98501-6512
bryan.alexander@parks.wa.gov
(360) 902-8835

State Parks MLE Secondary Contact:

Cheri Peel, MLE Program Specialist 3 & SOAR Reports
Washington State Parks - Boating Program
1111 Israel Road SW
Tumwater, WA 98501-6512
cheri.peel@parks.wa.gov
(360) 902-8836

Subrecipient's Representative:
Sheriff Donnell Tanksley
Whatcom County Sheriff's Office
311 Grand Avenue
Bellingham, WA 98225
sheriff@co.whatcom.wa.us
(360) 676-6650

Note: Either party may designate a new authorized representative by written notice to the other party.

SECTION 7: Responsibilities of Each Party

7.1 Responsibilities of Subrecipient:

The work of this project is the sole responsibility of Subrecipient. MLE undertakes no responsibilities to Subrecipient, or to any third party, other than as expressly set out in this document. The Subrecipient shall be solely responsible for achievement of the deliverables and reporting applicable to this project. The Subrecipient will be solely responsible for any claim or suit of any nature by any third party related in any way to this project.

- 7.1.1 Project Timeline.** The Subrecipient is responsible for maintaining the project timeline for all activities. The full work of this project shall be completed by the end date of this agreement, identified in *Section 5 – Agreement Term, Effective Date, & Duration*.
- 7.1.2 Reporting.** The Subrecipient will input reporting quarterly (at minimum) via the MLE Statement of Activity Reporting system (SOAR) and SECTOR, as described by the approved A-299: Agreement of Approved Program. Access to the SOAR system and the A-299 requirements can be found on the MLE Agency Portal Home Page: <https://mle.parks.wa.gov>
Note: all reporting must be completed to request reimbursement of grant funding.
- 7.1.3 Purchases.** The Subrecipient shall make no purchases in excess of \$2,500.00 without prior written authorization by MLE. All purchases must be for the furtherance of recreational boating safety and must adhere to the guidelines set out in *Section 9 - Eligible and Non-Allowable Expenses*.
- 7.1.4 Accounting Controls.** Accounting controls must be established which are adequate to ensure that expenditures are for allowable purposes and that documentation is readily available to verify that such charges are accurate. The burden of proof lies with the Subrecipient to provide clear information as to the expense and form of payment.
- 7.1.5 Periodic Inspections.** Subrecipient hereby grants to the Recipient, or its authorized representative, a right, equal in time to six years from the date of the last signature on this document, to enter upon Subrecipient's property as deemed necessary for the inspection of documents and any equipment. These periodic inspections are intended to ensure continued compliant use of the awarded funds toward recreational boating safety enforcement and education. These inspections require a 30-day advance notification to the Subrecipient.
- 7.1.6 Commercial and Other Uses.** The Subrecipient must restrict use of the project funds to only recreational boats boating safety enforcement and education. Commercial Use is disallowed. For the purposes of this section, Commercial Use means any activity on or affecting the Project that was not described in the Subrecipient's proposal, or not approved in writing by MLE, where the Subrecipient:
- a. has financial profit as a goal,
 - b. charges any fees or receives any benefit to provide services, supplies or goods, or
 - c. allows third parties to charge fees or receive benefit to provide services, supplies or goods.
- 7.1.7 Funding Acknowledgements.** The following shall be used to acknowledge program funding:
- a. The Subrecipient may post in a conspicuous location on the vessel a sign identifying the Program, State Parks, and the Federal Funding Agency.
 - b. The Subrecipient shall include the following statement if publishing any report, news release or publication regarding this project: *"Partial funding for this project was provided by the Washington State Parks Marine Law Enforcement Program. The program is funded by the USCG through the Sport Fish Restoration and Boating Trust Fund, which is financed by*

your purchase of motorboat fuels and fishing equipment.”

7.1.8 Public Access to Project. During the term of this Agreement the Subrecipient shall allow open and unencumbered public access to all persons without regard to race, color, religious or political beliefs, sex, national origin, or place of primary residence.

7.1.9 Accounts Payables Payments. Subrecipient agrees to:

- a. Make payment promptly as due to all contractors, subcontractors, vendors, or any other persons supplying labor or materials for the project.
- b. All employers, including Subrecipient that employ subject workers shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for exemption. Subrecipient shall require and ensure that each of its subcontractors complies with these requirements (unless inapplicable as a matter of federal law); and
- c. Not permit any lien or claim to be filed or prosecuted against State Parks, due to any construction or maintenance activities at the project.

7.2 Responsibility of Marine Law Enforcement Program (MLE):

7.2.1 MLE shall pay Subrecipient as described in *Section 10 – Terms of Payment*

7.2.2 MLE shall provide timely communication with the subrecipient with regards to questions, approvals, activity reporting, and project close-out.

SECTION 8: Project Funding and Required Match

8.1 Federal Fund Approval. MLE has received a grant from the United States Department of Homeland Security, United States Coast Guard as described in Exhibit A, pursuant to 2 CFR 200.331.

8.2 Grant Funds. Upon approval by its governing body or bodies, MLE shall provide federal grant funds to the subrecipient, in the amount of:

- Subject to Match: Seventeen thousand, twenty-eight dollars and eighty-four cents (\$17,028.84).
- RBS Bonus – Not subject to Match: ten thousand dollars and zero cents (\$10,000.00).
- **Total Project Funding for 2025: \$27,028.24**

In most cases, the Subrecipient will not receive more than this approved amount. MLE may consider unanticipated events that request additional funds. Such events must be submitted to and approved by MLE in advance of the expense being incurred. If the request is approved, the additional funds will be added to this agreement via amendment.

8.3 Match. The Subrecipient shall contribute at least twenty-five percent (25%) of the project cost subject to match, as cost sharing or non-federal match as described in the approved project budget.

- **Total Required Match for 2025: \$ 4,257.21**

8.4 Such cost sharing or match may be provided as cash costs or in-kind services, provided such services are reasonable and necessary for grant purposes. Match cannot be from another federal source. Vessel registration fees cannot be used as a match, however, in-kind match as reported in the VRF Expenditure Report can. Allowability of any cost sharing or match shall be determined in accordance with 50 CFR Part 85; and 2 CFR Part 200 as applicable and as adopted in regulation by 2 CFR 1402.100. Further instruction on valuation of match expenses can be provided by contacting the MLE Program Manager.

SECTION 9: Eligible and Non-Allowable Expenses. The full list of eligible and non-allowable expenses is contained in the document titled "Allowable Costs & Expenditures for State Vessel Registration Fees & Federal Assistance Grants" which can be found on the MLE Agency Portal Home Page:

<https://mle.parks.wa.gov>.

9.1 Eligible Project Expenses. All costs incurred must be eligible, necessary, and reasonable for performing the tasks outlined in the approved project work plan. The costs also must be in conformance with specific federal requirements (50 CFR Part 85; and 2 CFR Part 200 as applicable and as adopted in regulation by 2 CFR 1402.100). Eligible project expenses include only those items from the list below that are in your approved project budget:

9.1.1 Grant funds may be used only for activities as defined by WAC 352-65-040, including the ten elements necessary to accomplish the Recreational Boating Safety (RBS) mission. These activities can be found on the MLE Agency Portal Home Page: <https://mle.parks.wa.gov>

- 9.1.2 RBS wages are to include wages and benefits for officers or deputies who possess a Washington State Peace Officers Certification, are fully commissioned to enforce the laws of Washington state, and who have completed an RBS course acceptable to State Parks (BMLE or equal).
Wages and benefits for officers or deputies who possess a Washington State Peace Officers Certification, are fully commissioned to enforce the laws of Washington state, and who have not completed a BMLE course are acceptable **only** when working with an RBS trained officer **and** when the agency has a written two-officer policy for officers on marine patrol for the purpose of safety.
- 9.1.3 Provision of instructors for the 'Adventures in Boating' course that qualifies graduates for the required mandatory boater education card. Costs may include classroom supplies, light refreshments, other goods, and services necessary to promote and teach classes, and officer salaries, benefits, and wages. Officer salaries will only be reimbursed for those officers who have successfully completed State Parks 'Adventures in Boating Instructor' Training Class and are listed in our files.
- 9.1.4 Any equipment expenditures over \$2,500.00 must receive authorization from State Parks prior to purchase.
- 9.1.5 Educational publications which promote RBS education that are already prepared, or the creation, design, and printing of new publications.
- 9.1.6 Other items as deemed by MLE to be necessary to complete the project.
- 9.1.7 Support of the Basic MLE Academy by agencies who provided MLE recognized instructors.

9.2 Non-Allowable Costs and Expenditures. The following items are ineligible for reimbursement:

- 9.2.1 Bullet proof vests are beneficial; however, equipment of this nature is not essential for meeting the established program criteria, nor is it related to the performance of the RBS program mission, therefore these are considered a local agency responsibility to purchase.
- 9.2.2 Equipment used in recovery operations (dive equipment, etc.) while being used in an RBS search or investigation mode is 100% eligible. Once this equipment is used for recovery operations it must be prorated between RBS missions and recovery missions.
- 9.2.3 Handheld or portable night vision, FLIR or thermal imaging devices are a 100% allowable expense while in RBS patrol, search, or investigation mode. Once this equipment is used for recovery operations it must be prorated. Permanently mounted and electrically wired FLIR and thermal imaging devices are 100% allowable expenses.
- 9.2.4 Homeland Security missions (weapons, etc.), or any other equipment determined as unrelated by the boating program is not an allowable expense.
- 9.2.5 Firefighting equipment is not an allowable expense.
- 9.2.6 Any equipment or vehicles not 100% dedicated to the RBS mission must be prorated, documenting the amount of time the equipment or vehicle was dedicated to the program.
- 9.2.7 Operating costs for law enforcement vessels boats (staff, fuel, fluids, repairs, maintenance) or operating costs for boats used to service floating restrooms (staff, fuel, fluids).
- 9.2.8 Documented staff or contract labor associated with routine custodial and non-routine maintenance and repairs, the cost of that person operating or maintaining the system.
- 9.2.9 Other items as deemed by MLE to be unnecessary to complete the project.
- 9.2.10 **Entertainment Costs.** In accordance with 2 CFR 200, the cost of amusement, diversion, social activities, ceremonials, and costs relating thereto, such as meals, lodging, rentals, transportation, gratuities, and alcoholic beverages are not allowable expenses.
- 9.2.11 **Prior Costs.** MLE will not reimburse Subrecipient for any costs incurred prior to the effective date of this agreement as identified in *Section 5 – Agreement Term, Effective Date, & Duration*.

SECTION 10: Terms of Payment

10.1 Reimbursement Requests. MLE shall disburse grant funds to the Subrecipient according to the following:

- a. Prior to project plans, specifications, and cost estimate(s), statement of work, request for proposal or other documentation for the project, documents must be in form and substance

satisfactory to MLE.

- b. Reimbursement requests must be submitted quarterly on the approved MLE Grant Reimbursement form along with all supporting documentation. Reimbursement requests shall be prorated between the parties based on the percentage of their respective cash or in-kind contributions as set forth in *Section 8 – Project Funding and Required Match*.

Supporting documents must:

- Be numbered in the upper right corner and correspond to the “Document #” column on your Reimbursement Request Form
 - Be dated. The date of the invoice must be within the period of performance of this award.
 - Have Subrecipient’s business name clearly identified.
 - Clearly identify the cost and the amount paid & show zero-balance due.
 - If a receipt, invoice, or statement includes expenses not related to the MLE project, those costs must be highlighted and noted as ‘ineligible costs’.
- c. MLE will reimburse Subrecipient for eligible activities only after MLE has accepted the work as complete—expenditure as an allowable cost and all proper documents have been submitted with the reimbursement request.
- d. If a boat, vehicle, or equipment is used partially for other purposes, costs must be prorated for that portion of their use that is for Recreational Boating Safety Act purposes.

10.1.1 MLE Training Instructor Reimbursement. MLE will reimburse the Subrecipient for supplying recognized MLE instruction. The criteria for recognized instruction and the reimbursement funding matrix can be found on the MLE Agency Portal Home Page: <https://mle.parks.wa.gov>. Reimbursement for MLE training instruction will be added to this contract via formal amendment.

10.2 Conditions Precedent to Final Payment. Upon project completion, MLE will make the final disbursement of grant funds according to the following:

- a. Final payment requests must be received within 15 days of the end date of this agreement, as defined in *Section 5 – Agreement Term, Effective Date, & Duration*. Unless approved in writing, MLE shall not be obligated to disburse any payments for requests received after this date.
- b. Supporting documentation has been received and approved in form and content by MLE.
- c. All required updates and progress reports have been completed in SOAR.
- d. Review and approval of the project by MLE Program staff.

10.3 Cost Overruns. Cost overruns are the responsibility of Subrecipient and must be borne by Subrecipient.

10.4 Recovery of Overpayment. In the event that the aggregate amount of MLE’s interim progress payments to the Subrecipient exceeds the allowable reimbursable costs of the Project, the Subrecipient agrees to refund the overage amount paid within thirty (30) days of the agreement end date. MLE may, at its discretion, withhold future payments in order to recover the overpayment amount.

10.5 No Duplicate Payment. The Subrecipient shall not be compensated for, or receive any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Washington, including, but not limited to the Washington State Parks Recreation Commission, the United States of America, or any other party.

10.6 Offset or Reduction. The Subrecipient agrees that payment(s) made by MLE under this Agreement shall be subject to offset or reduction for any amounts previously paid hereunder that are found by MLE not to constitute allowable costs under this Agreement based on the results of an audit examination. If such disallowed amount exceeds the payment(s), the Subrecipient shall pay MLE the amount of such excess within 30 days after written notice of disallowed costs is provided by MLE.

SECTION 11: Representations and Warranties. Subrecipient represents and warrants to MLE that:

11.1 Subrecipient is a law enforcement agency, duly organized and validly existing, and with the power and authority to enter into and perform this Agreement.

11.2 The making and performance by Subrecipient of this Agreement (a) has been duly authorized by Subrecipient, (b) does 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 Subrecipient’s charter or other organizational document and (c) does 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 Subrecipient is party or by which Subrecipient 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 Subrecipient of this Agreement, other than those that have already been obtained.

- 11.3 This Agreement has been duly executed and delivered by Subrecipient and constitutes a legal, valid, and binding obligation of Subrecipient enforceable in accordance with its terms.
- 11.4 Subrecipient 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 Subrecipient 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 highest standards prevalent in the related industry, trade, or profession.
- 11.5 Subrecipient shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement. The representations and warranties set forth in this *Section 11 - Representations and Warranties* are in addition to, and not in lieu of, any other representations or warranties provided by Subrecipient.

SECTION 12: Governing Law and Consent to Jurisdiction

This contract 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.

SECTION 13: Equipment: Ownership, Maintenance, Useful Life & Disposal

- 13.1 **Ownership Of Equipment.** Except as otherwise provided herein, Subrecipient shall retain ownership of equipment purchased pursuant to the terms of the grant. Subrecipient may not, during the term of the grant, transfer or convey its ownership interest in the equipment. Subrecipient shall not at any time during the term of the grant convert any facility equipment which was acquired pursuant to the grant to a use other than those for which the assistance was originally approved.

Equipment purchased with Recreational Boating Safety Act funds shall be used only for the purpose for which it was purchased and no other purpose, whether or not the Subrecipient continues to be supported by Recreational Boating Safety Act grant funds.

Observed/reported incidents of unauthorized use of MLE equipment shall be addressed by the following:

- 1) Any observed/reported incident of unauthorized use of MLE funded vessels will be followed-up by MLE communication with the Subrecipient. MLE may conduct site visits or contact area boaters for supplemental information as necessary.
 - 2) In those instances where MLE determines that an unauthorized use of a MLE funded vessel has occurred, MLE will provide written notification to the operator of its determination with a warning that continued misuse or abuse of MLE-funded vessels and equipment may result in:
 - a) the removal of misused equipment from the facility; and/or
 - b) an assessment against the operator for reimbursement of the federal contribution against the current market value of the vessel.
- 13.2 **Title.** Title to equipment purchased under this Agreement shall vest in the Subrecipient. If the Subrecipient determines that it cannot use the equipment for the stated grant purposes at any point prior to the end of the equipment's useful life, but after the end of this award period, the Subrecipient shall inform MLE in writing within 30 days of such determination. Such equipment shall be transferred by the Subrecipient to a third party approved by MLE, in accordance with applicable provisions of state and federal law. Should the equipment not be transferred to another MLE approved law enforcement agency in accordance with this provision, the equipment shall either be returned to MLE, or it shall be disposed in accordance with 50 CFR Part 85; and 2 CFR Part 200.
 - 13.3 **Useful Life.** Beyond the acquisition grant period of performance and throughout the duration of the equipment's useful life, the equipment must continue to be used in the program or project for which it was acquired. When no longer needed for the original program or project, equipment may be used in other activities in the following order of priority:
 - a. Activities supported under a Federal award from the Federal awarding agency which funded the original program or project, then:

- b. Activities under Federal awards from other Federal awarding agencies, then:
- c. Any activities consistent with the administration of Washington State Parks.

13.4 Special Survivorship Note: Ownership is not absolute. Regardless of agreement's expiration, anything tangible, intangible, or intellectual property that was purchased or created from federal funds or funded with federal funds maintains federal and state MLE entanglements, requirements, or conditions (conditional ownership) unless/until released by the MLE or federal government in writing. While other conditions may apply, typically a release would occur upon the MLE or federal government being completely satisfied that the item in question has reached the end of its useful life which is usually a dollar value. Determination of value is solely at the discretion of the MLE or the federal government. Should professional appraisal services be needed to determine value, these costs shall be borne by the Subrecipient. Selection of an appraisal services firm is subject to the written approval of the MLE or federal government.

13.5 Use and Maintenance. The Subrecipient shall operate and maintain the equipment, purchased, constructed, installed, renovated, operated, repaired, or maintained with MLE grant funds to function as intended for the full period of their useful life and in a manner that provides adequate service, promotes use, and protects public health. Such conditions include:

- a. Subrecipient shall operate and maintain grant funded equipment in accordance with all applicable Federal, State, and local laws, orders, regulations and permits.
- b. Law Enforcement vessels shall be operated by trained personnel with a valid State of Washington Boater Education Card or equivalent and be a graduate of State Parks Basic Marine Law Enforcement Academy or equivalent.
- c. Law Enforcement vessels shall be equipped with all federally required safety equipment and provide and ensure appropriate personal flotation devices are worn at all times when on the vessel or dock.
- d. All law enforcement vessels shall have a routine schedule for maintenance.
- e. As a condition of receiving the grant funds, Subrecipient shall actively maintain the vessel for the full design life of the equipment provided from this grant.
- f. Subrecipient shall be responsible for all operation, maintenance, and repair of all vessels and equipment provided from this grant.

13.6 Equipment Replacement. When original or replacement equipment acquired under this award is no longer needed or the Subrecipient is no longer able to support the RBS mission and the disposition occurs during the grant period, disposition of the equipment shall be made as follows:

- a. The equipment may be transferred at no cost to another law enforcement agency with a State Parks approved marine law enforcement program (e.g., city or county law enforcement agency) if such equipment will remain dedicated to the MLE program. The conditions for such transfer shall be stipulated by MLE and shall include the same requirements as those imposed in the original grant. Any cash or in-kind match paid when the equipment was purchased will be forfeited.
- b. If the equipment cannot be transferred to another law enforcement agency with an MLE program, it must be sold at the discretion of MLE, and the Subrecipient shall pay MLE the proceeds of the sale or the fair market value of the equipment, whichever is the greatest.

13.7 Equipment Breakdown. In the event an equipment breakdown occurs during the grant period, Subrecipient shall notify MLE within ten (10) working days of breakdown. If repair is anticipated to cost up to \$1,000.00, the repair must be complete within 30 days. If the repair is anticipated to cost more than \$1,000.00, the repair must be completed within 60 days. A written repair plan must be submitted via email to MLE within two (2) weeks of the breakdown describing the problem(s), repair(s), and the anticipated cost(s).

Failure to notify MLE of equipment breakdown and repair plans may result in withholding of grant funds.

13.8 Accident Report

Any boater, including the Subrecipients or the Subrecipient's staff, who are involved in an accident must stop their vessel and assist injured people or anyone in danger, unless doing so would endanger their own vessel or passengers.

In some circumstances, the vessel operator must submit a written accident report. Accident report forms are available from Washington State Parks and local law enforcement marine units. Washington State law

requires the recreational vessel operator involved in an accident to file a Washington Boat Accident Report when: loss of life occurs, injury occurs requiring medical treatment beyond first aid, someone disappears and they may be injured or deceased, or property damage occurs valued at more than \$2,000.

If there is an injury, disappearance, or death, the report must be submitted within 48 hours. Reports on other accidents must be submitted within 10 days. If the operator cannot submit the report, the owner of the vessel is responsible.

Reports must be submitted to the law enforcement agency that has jurisdiction where the accident occurred. If you are not sure what agency has the authority, contact the Washington State Boating program by email (boatlaw@parks.wa.gov) or call (360) 902-8555.

SECTION 14: Contribution on Third Party Claims

- 14.1** If any third party makes any claim or brings any action, suit or proceeding alleging 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 of notice of the claim and the opportunity to participate are both precedent to the Other Party's obligation in regards to the Third-Party Claim.
- 14.2** With respect to a Third Party Claim for which MLE is jointly liable with Subrecipient (or would be if joined in the Third Party Claim), MLE 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 Subrecipient in such proportion as is appropriate to reflect the relative fault of each party in connection with the events under claim, as well as any other relevant equitable considerations. The relative fault of each party shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstance. MLE's contribution amount in any instance is capped to the same extent it would have been capped under Washington law if the State had sole liability in the proceeding.

SECTION 15: Subrecipient Default

- 15.1** Subrecipient will be in default under this Agreement upon the occurrence of any of the following events:
- 15.1.1** Subrecipient fails to perform, observe, or discharge any of the covenants, agreements, or obligations under this Agreement
 - 15.1.2** Any representation, warranty or statement made by Subrecipient in this Agreement or in any documents or reports relied upon by MLE to measure the delivery of services, the expenditure of funds or the performance by Subrecipient is untrue in any material respect when made
 - 15.1.3** Subrecipient (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
 - 15.1.4** A proceeding or case is commenced, without the application or consent of Subrecipient, in any court of competent jurisdiction, seeking (a) the liquidation, dissolution or winding-up, or the composition or readjustment of debts of Subrecipient, (b) the appointment of a trustee, receiver, custodian, liquidator, or the like of Subrecipient or of all or any substantial part of its assets, or (c) similar relief in respect to Subrecipient 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 Subrecipient is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

SECTION 16: Indemnification

To the fullest extent permitted by law, Subrecipient shall indemnify, defend, and hold harmless State, agencies of State and all officials, agents and employees of 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 attorney's fees, attributable for bodily injury, sickness, disease, or death, or injury to or destruction of tangible property including loss of use resulting therefrom.

Subrecipient's obligation to indemnify, defend, and hold harmless the State shall not be eliminated by any actual or alleged concurrent negligence of State or its agents, agencies, employees and officials. However, Subrecipient is not obligated to indemnify, defend, and hold harmless state for claims or injuries to the extent attributable to the negligence of state or its agents, agencies, employees, or officials.

Subrecipient expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to Subrecipient's or any subcontractor's performance or failure to perform the contract.

Subrecipient waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend, and hold harmless State and its agencies, officials, agents or employees.

SECTION 17: Insurance Requirements

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

The Subrecipient shall provide insurance coverage, which shall be maintained in full force and effect during the term of this contract, as follows:

1. Commercial General Liability Insurance Policy. Provide a Commercial General Liability Insurance Policy, including contractual liability, in adequate quantity to protect against legal liability arising out of contract activity but no less than \$1,000,000 per occurrence. Additionally, the Subrecipient is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.
2. Automobile Liability. In the event that services delivered pursuant to this contract involve the use of vehicles, either owned or unowned by the Subrecipient, automobile liability insurance shall be required. The minimum limit for automobile liability is \$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.

The insurance required shall be issued by an insurance company/ies authorized to do business within the state of Washington, and shall name the state of Washington, its agents and employees as additional insureds under the insurance policy/ies. All policies shall be primary to any other valid and collectable insurance.

Subrecipient shall instruct the insurers to give State Parks thirty (30) calendar days advance notice of any insurance cancellation.

- 17.1 Industrial Insurance Coverage.** The Subrecipient shall comply with the provisions of Title 51 RCW, Industrial Insurance. If the Subrecipient fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees, as may be required by law, State Parks may collect from the Subrecipient the full amount payable to the Industrial Insurance accident fund. State Parks may deduct the amount owed by the Subrecipient to the accident fund from the amount payable to the Subrecipient by State Parks 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 Subrecipient.

SECTION 18: Disputes

Except as otherwise provided in this contract, when a dispute arises between the parties and it cannot be

resolved by direct negotiation, either party may request a dispute hearing with an Agent as follows:

1. The request for a dispute hearing must:
 - Be in writing;
 - State the disputed issue(s);
 - State the relative positions of the parties;
 - State the Subrecipient's name, address, and contract number; and
 - Be mailed to the Agent and the other party's (respondent's) contract manager within 3 working calendar days after the parties agree that they cannot resolve the dispute.
2. The respondent shall send a written answer to the requester's statement to both the agent and the requester within 5 working calendar days.
3. The Agent shall review the written statements and reply in writing to both parties within 10 working days. The Agent may extend this period if necessary by notifying the parties.
4. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

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

SECTION 19: Termination

- 19.1 Termination for Convenience.** Either party may terminate this Agreement at any time upon thirty (30) days prior written notice to the other party. If this contract is so terminated, State Parks shall be liable only for the payment required under the terms of this contract for services rendered or goods delivered prior to the effective date of termination.
- 19.2 Termination Because of Inefficiency.** Use of federal funds demands good stewardship. MLE will monitor the ongoing performance of the subrecipient through its reporting into the MLE Statement of Activity Reporting (SOAR) system. If in MLE's opinion, these metrics demonstrate poor stewardship, the agreement may be terminated. If feasible, MLE may work with the Subrecipient and give the Subrecipient an opportunity to improve the metrics.
- 19.3 Termination Because of Non-Appropriation or Project Ineligibility.** MLE may modify or terminate this Agreement at any time upon 30 days prior written notice to the Subrecipient, if:
 - a. MLE fails to receive funding or allotments, appropriations, limitations, or other expenditure authority at levels sufficient to pay for the Project to be funded hereunder or should any state law, regulation, or guideline be modified, changed, or interpreted in such a way that the Project, or any portion of the Project, is no longer eligible for these grant funds.
 - b. In the event insufficient funds are appropriated for the payments under this Agreement and the Subrecipient has no other lawfully available funds, then the Subrecipient may terminate this Agreement at the end of the current federal fiscal year, with no further liability to MLE. The Subrecipient shall deliver written notice to MLE of such termination no later than 30 days from the determination of the event of non-appropriation. MLE shall pay for all authorized Project costs expended up to the date of written notice of termination.
- 19.4 Termination for Default.** MLE, at any time upon 30 days prior written notice of default to the Subrecipient, may modify or terminate this Agreement if:
 - a. The design and implementation of the Project is not pursued with due diligence; or
 - b. The Project is not permissible under federal, state, or local law; or
 - c. The Subrecipient, does not abide by the nondiscrimination and affirmative action provisions of this Agreement; or
 - d. The Subrecipient, without the prior written approval, uses the funds provided to pursue any project other than that described by this agreement; or
 - e. During the term of this Agreement, the Subrecipient fails to perform any obligation or requirement of this Agreement.
 - f. The Subrecipient defaults under any other agreement between the Parties.
- 19.5 Rights and Remedies.**
 - a. The Subrecipient shall, within 30 days of its receipt of a notice of default, reimburse MLE for all funds contributed by MLE to the Project. Further, MLE shall have any and all rights and

remedies available at law or in equity.

- b. In the event that Subrecipient has materially failed to comply with this Agreement and such non-compliance has resulted in the Federal Funding Agency terminating MLE's grant or cause or requires MLE to return funds to the Federal Funding Agency, Subrecipient will return to MLE an amount equal to the funds which MLE is not reimbursed for or is required to return to Federal Funding Agency.

SECTION 20: Amendments

The terms of this Agreement may not be altered, modified, supplemented, or otherwise amended, except by written agreement of the Parties.

This agreement may be amended only by mutual agreement of the parties in writing. Formal written amendment of the contract is required for changing the terms and conditions specifically stated in the original agreement and any prior amendments, including but not limited to:

- Budget revisions
- Scope of work
- Change in due dates
- Extensions of the period of performance
- Any other revisions determined material by MLE

SECTION 21: Notice

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement must be given in writing by email, personal delivery, or postage prepaid mail, to the Authorized Representative identified in *Section 6 – Authorized Representatives*. Any notice so mailed becomes effective five (5) days after mailing. Any notice given by email or personal delivery becomes effective when delivered.

SECTION 22: Survival

All rights and obligations of the Parties under this Agreement will cease upon termination of this Agreement, other than the rights and obligations that by their express terms survive termination; if termination of this Agreement will not prejudice any rights or obligations accrued to the Parties prior to termination.

SECTION 23: 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 24: 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 25: Compliance With Law

- 25.1 Compliance with Law Generally.** Subrecipient shall comply with all federal, state, and local laws, regulations, executive orders, and ordinances applicable to Subrecipient and the Agreement.
- 25.2 Penalty of Perjury.** By its execution of this Agreement, Subrecipient certifies under penalty of perjury under the laws of the state of Washington the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it may make, or causes to be made that pertains to this Agreement.
- 25.3 Tax Compliance.** Subrecipient must comply with the tax laws of this state and the applicable tax laws of any political subdivision of this state. For the purposes of this section, "tax laws" includes: (i) All tax laws of this state; (ii) Any tax provisions imposed by a political subdivision of this state that applied to Subrecipient, to Subrecipient's property, operations, receipts, or income, or to Subrecipient's performance of or compensation for any work performed by Subrecipient; (iii) Any tax provisions imposed by a political subdivision of this state that applied to Subrecipient, or to goods, services, or property, whether tangible or intangible, provided by Subrecipient; and (iv) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

Any failure to comply with the provisions of this section constitutes a material breach of this Agreement. Any failure to comply with Subrecipient's certifications shall constitute a material breach of this Agreement. Any failure to comply shall entitle MLE to terminate this Agreement, to pursue and recover any and all damages that arise from the breach and the termination of this Agreement, and to pursue any or all of the remedies available under this Agreement, at law, or in equity, including but not limited to:

SECTION 26: Persons Not to Benefit

No member of or delegate to Congress, resident commissioner, officer, agent or employee of the United States of America, member of the Washington Legislative Assembly, elected official of the state of Washington, or official, agent, or employee of the state of Washington, or elected member, officer, agent, or employee of any political subdivision, municipality or municipal corporation of the state of Washington shall be admitted to any share or part of this Agreement or derive any financial benefit that may arise therefrom.

SECTION 27: Nondiscrimination

- a. Nondiscrimination Requirement. During the term of this Contract, Contractor, including any subcontractor, shall not discriminate on the bases enumerated at RCW 49.60.530(3). In addition, Contractor, including any subcontractor, shall give written notice of this nondiscrimination requirement to any labor organizations with which Contractor, or subcontractor, has a collective bargaining or other agreement.
- b. Obligation to Cooperate. Contractor, including any subcontractor, shall cooperate and comply with any Washington state agency investigation regarding any allegation that Contractor, including any subcontractor, has engaged in discrimination prohibited by this Contract pursuant to RCW 49.60.530(3).
- c. Default. Notwithstanding any provision to the contrary, Agency may suspend Contractor, including any subcontractor, upon notice of a failure to participate and cooperate with any state agency investigation into alleged discrimination prohibited by this Contract, pursuant to RCW 49.60.530(3). Any such suspension will remain in place until Agency receives notification that Contractor, including any subcontractor, is cooperating with the investigating state agency. In the event Contractor, or subcontractor, is determined to have engaged in discrimination identified at RCW 49.60.530(3), Agency may terminate this Contract in whole or in part, and Contractor, subcontractor, or both, may be referred for debarment as provided in RCW 39.26.200. Contractor or subcontractor may be given a reasonable time in which to cure this noncompliance, including implementing conditions consistent with any court-ordered injunctive relief or settlement agreement.
- d. Remedies for Breach. Notwithstanding any provision to the contrary, in the event of Contract termination or suspension for engaging in discrimination, Contractor, subcontractor, or both, shall be liable for contract damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, which damages are distinct from any penalties imposed under Chapter 49.60, RCW. Agency shall have the right to deduct from any monies due to Contractor or subcontractor, or that thereafter become due, an amount for damages Contractor or subcontractor will owe Agency for default under this provision.

SECTION 28: Intended Beneficiaries

MLE and Subrecipient 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 29: 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. MLE may terminate this Agreement upon written notice to Subrecipient after reasonably determining that the failure or delay will likely prevent successful performance of this Agreement.

SECTION 30: Assignment and Successors in Interest

Subrecipient may not assign or transfer its interest in this Agreement and any attempt to do so will be void and of no force or effect. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties hereto, and their respective successors, including Federal provisions contained in Exhibit B.

SECTION 31: Subcontracts & Sub-Grants

Subrecipient shall not, without MLE's prior written consent, enter into any subcontracts for any of the work required of Subrecipient under this Agreement. Subrecipient's consent to any contract, subcontract, sub-award will not relieve Subrecipient of any of its duties or obligations under this Agreement.

Any sub grant entered into under this Agreement shall contain terms and conditions substantially similar to this Agreement, including Federal provisions contained in Exhibit A. Any sub grant shall insure:

- a. If the subgrant is not to a unit of Washington State government, the agreement shall require the subgrantee to indemnify, defend, save and hold harmless the State of Washington and its officers, employees, and agents ("indemnitee") from and against any and all claims, actions, liabilities, damages, losses or expenses arising from a tort, caused or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the subgrantee or any of the officers, agents, employees or subcontractors of the subgrantee ("claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the Subrecipient from and against any Claims.

SECTION 32: Time is of the Essence

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

SECTION 33: Merger and 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 binds either Party unless in writing and signed by both Parties. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given.

Failure by MLE to insist upon the strict performance of any provision of this agreement shall not affect MLE's right to require strict performance of the same provision in the future or any other provision. Failure by MLE to exercise any right based upon a breach, or acceptance by MLE of performance during such breach, shall not constitute a waiver of any of its rights or remedies with respect to such breach.

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 34: Records Maintenance and Access

Subrecipient shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Subrecipient shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Subrecipient, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document Subrecipient's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Subrecipient, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." Subrecipient acknowledges and agrees that State Parks, the federal government, and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. Subrecipient 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.

SECTION 35: Incorporation by References and Order of Precedence

The table below reflects the documents that are incorporated by reference (whether attached or not) and the order of precedence should there be a conflict between the parts of a document, or other documents

incorporated by reference. The lower the number, the higher the precedence. Where two or more documents address a point or concept but are not in conflict, they should be read as supplemental, additive, and/or cumulative.

| Precedence | Document |
|-------------|---|
| 1 (highest) | United States Laws and Rules -and- Washington State Laws and Rules |
| 2 | This contract, and any subsequent amendments. |
| 3 | Federal and program compliance manuals, found on the MLE Agency Portal Home Page: https://mle.parks.wa.gov . |
| 4 | EXHIBIT B- FEDERAL COMPLIANCE TERMS |
| 5 | EXHIBIT C- 2 CFR 200, APPENDIX II - TERMS |

SECTION 36: Signatures

This Agreement, which includes incorporated documents, is executed by the persons signing below who warrant under penalty of perjury under the laws of the State of Washington that they have read and understood the document and find it to be legal, valid, and a binding obligation, enforceable according to its terms, and who have the authority to execute the contract.

| | |
|---|--|
| <p>Whatcom County Sheriff's Office signature, printed name, date</p> | <p>Washington State Parks and Recreation Commission signature, printed name, date</p> |
| <p><i>See attached</i></p> | |

**WHATCOM COUNTY:
Recommended for Approval:**

Seb A. FIR

Donnell Tanksley, Sheriff

1/31/25

Date

Approved as to form:

Prosecuting Attorney

Date

Approved:

Accepted for Whatcom County:

By: _____
Satpal Sidhu, Whatcom County Executive

Date

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

On this _____ day of _____, 20 ____, before me personally appeared Satpal Sidhu, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of
Washington, residing at Bellingham.
My commission expires _____.

**EXHIBIT A: Grant Award and Subrecipient Award
Information Required By 2 CFR 200.211(b)(1) - Federal Award Identification**

- (i) Subrecipient name (must match registered name in DUNS): **Whatcom County Sheriff's Office**
- (ii) Subrecipient's UEI number: **NT6RMN8THTN7**
- (iii) Federal Award Identification Number (FAIN): **3324FAS240153**
- (iv) Federal Award Date: **10/1/2025**
- (v) Sub-award period of performance start and end date: **01/01/2025 – 12/31/2025**
- (vi) Total federal award committed to subrecipient by the pass-through entity: **\$27,028.84**
 - Subject to Match: \$17,028.84
 - RBS Bonus – Not subject to Match: \$10,000.00
- (vii) 25% required match contribution by Subrecipient: **\$4,257.21**
- (viii) Federal award project description: **Marine Law Enforcement Federal Financial Assistance Grant**
- (ix) Federal awarding agency and pass-through entity:
 - (a) Name of federal awarding agency: **United States Coast Guard**
 - (b) Name of pass-through entity: **Washington State Parks and Recreation Commission**
 - (c) Contact information for the pass-through entity: **boatingprogram@parks.wa.gov**
- (x) Assistance Listing Number and Name: **Federal Boat Safety Act 92-75**
- (xi) Is Award R&D? **No**
- (xii) Indirect cost rate for the Federal award: **N/A**

Note: For the purposes of this Exhibit, the term 'pass-through entity' refers to the State Parks MLE Grant Program.

EXHIBIT B FEDERAL COMPLIANCE TERMS

I. Grant Subrecipient Compliance Requirements:

- A. Subrecipient is responsible to ensure compliance with the federal implementing regulations for (Clean Vessel Act 50 CFR Part 85 or Boating Infrastructure Grant Program 50 CFR Part 86).
- B. Subrecipient to comply with Assurances – Construction Programs (Standard Form 424D)
- C. Pursuant to 2 CFR Part 170, MLE will enter grant information into the Federal Funding Accountability and Transparency Act (FFATA).

II. Federal Terms and Conditions:

Subrecipient is responsible to comply with the following Federal Terms and Conditions, as applicable:

- A. Uniform Administrative Requirements, 2 CFR Part 200, Subparts A through D or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B. including but not limited to the following:
 - 1. Property Standards. 2 CFR 200.313, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, which generally describes the required maintenance, documentation, and allowed disposition of equipment purchased with federal funds.
 - 2. Contract Provisions. The contract provisions listed in 2 CFR Part 200, Appendix II, or the equivalent applicable provision adopted by the awarding federal agency in 2 CFR Subtitle B, are hereby incorporated into this Exhibit. These are, to the extent applicable, obligations of Subrecipient, and Subrecipient shall also include these contract provisions in its contracts with non-Federal entities.
 - 3. Audits. Subrecipient shall comply, and require all subcontractors to comply, with applicable audit requirements and responsibilities set forth in this Agreement and applicable state or federal law. If Subrecipient expends **\$750,000** or more in federal funds (from all sources) in a fiscal year beginning on or after **December 26, 2014**, Subrecipient shall have a single organization-wide audit conducted in accordance with the provisions of 2 CFR Subtitle B with guidance at 2 CFR Part 200. Copies of all audits must be submitted to MLE within 30 days of completion.
- B. Cost Principles 2 CFR Part 200, Subpart E
- C. Central Service Cost Allocation Plans Appendix V to Part 200
- D. Indirect Cost Proposals Appendix VII to Part 200
- E. Audit Requirements 2 CFR Part 200, Subpart F
- F. Federal Non-discrimination Statutes. Subrecipient is responsible to comply with all federal statutes relating to non-discrimination, including but not limited to: Title VI of the Civil Rights Act of 1964 (PL 88-352) which prohibits discrimination on the basis of race, color or national origin; Title IX of the Education Amendments of 1972 (20 USC §§ 1681-1683; 1685-1686) which prohibits discrimination on the basis of gender; Section 504 of the Rehabilitation Act of 1973 (29 USC §794) which prohibits discrimination on the basis of handicaps; Age Discrimination Act of 1975 (42USC §§ 6101-6107) which prohibits discrimination on the basis of age; Drug Abuse Office and Treatment Act of 1972 (PL 92-255) which prohibits discrimination on the basis of drug abuse; the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616) regarding non-discrimination on basis of alcohol abuse or alcoholism; Sections 523 and 527 of the Public Health Services Act of 1912 as amended (42 USC §§ 290 dd-3 and 290ee-3) regarding confidentiality of alcohol and drug abuse patient records; Title VIII of the Civil Rights Act of 1968 (42 USC §§ 3601 et seq.) regarding nondiscrimination in the sale, rental or financing of housing; any other nondiscrimination provisions of the specific statutes under which this agreement is being made; and the requirements of any other nondiscrimination

statute(s) which apply to the federal financial assistance award received by MLE.

G. Eligible Workers. Subrecipient shall ensure that all employees complete the I-9 Form to certify that they are eligible for lawful employment under the Immigration and Nationality Act (8 USC 1324a). Subrecipient shall comply with regulations regarding certification and retention of the completed forms.

H. To the extent applicable to this award, Subrecipient is responsible to comply with

1. National Environmental Policy Act: E.O. 11514 (which requires the Subrecipient to comply with environmental standards which may be prescribed pursuant to institution of environmental quality control measures under the National Environmental Policy Act of 1969 (42 USC Chapter 55, [Pub.L. 91-190]) and Executive Order 11514.

2. E.O. 11990: Protection of Wetlands (which requires the Subrecipient to comply with environmental standards for the protection of wetlands)

3. E.O. 11988: Floodplain Management; E.O. 11988 (which requires the Subrecipient to comply with environmental standards for the evaluation of flood hazards in flood plains)

4. Coastal Zone Management Act (which requires Subrecipient to ensure that the work performed will not violate State management programs developed under the Coastal Zone Management Act of 1972) (16 USC Chapter 33, Sections 1451 et seq.).'

5. Wild and Scenic Rivers Act (which requires the Subrecipient to protect components or potential components of the national wild and scenic rivers system). (16 USC Chapter 28, Sections 1271 et seq.)

6. Historic Preservation Act, E.O. 11593 (which requires Subrecipient to assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 USC 470), E.O. 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 USC Sec. 469a-1 et seq.).

7. Endangered Species Act (which requires the Subrecipient to comply with environmental standards for the protection of endangered species) 16 USC Chapter 35, Sections 1531ff [Pub. L. 93-205]).

8. Marine Mammal Protection Act (which Requires permits and reports for research projects that will involve the taking or importation of protected marine mammals or marine mammal products) (16 U.S.C. Chapter 31, Subchapter I, Sections 1361ff).

I. Other Requirements (USFWS specific)

1. Universal Identifier and Central Contractor Registration 2 CFR Part 25

2. Reporting Sub-awards and Executive Compensation 2 CFR Part 170

3. Award Term for Trafficking in Persons (applicable to private entity subrecipients) 2 CFR Part 175

4. Government-wide Debarment and Suspension (Non-procurement) 2 CFR Part 1400

5. Requirements for Drug-Free Workplace (Financial Assistance) 2 CFR Part 1401

6.43 CFR 18 New Restrictions on Lobbying: Submission of an application also represents the applicant's certification of the statements in 43 CFR Part 18, Appendix A, Certification Regarding

Lobbying.

7.41 U.S.C. 4712 Enhancement of Recipient and Subrecipient Employee Whistleblower Protection:

a. This award, related sub-awards, and related contracts over the simplified acquisition threshold and all employees working on this award, related sub-awards and related contracts over the simplified acquisition threshold are subject to the whistleblower rights and remedies established at 41 USC 4712b. Subrecipient, Subrecipient's contractor, or Subrecipient's sub-recipient(s)(however many levels), and their contractors award contracts over the simplified acquisition threshold related to this award, shall inform their employees in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 U.S.C. 4712.

c. The Subrecipient shall insert this clause, including this paragraph (c), in all subawards and in contracts over the simplified acquisition threshold related to this award.

8. Prohibition on Members of Congress Making Contracts with Federal Government: No member of or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this award, or to any benefit that may arise therefrom; this provision shall not be construed to extend to an award made to a corporation for the public's general benefit 41 USC § 6306.

9. Federal Leadership on Reducing Text Messaging while Driving: Subrecipients are encouraged to adopt and enforce policies that ban text messaging while driving, including conducting initiatives of the type described in Section 3(a) of the Order Executive Order 13513

EXHIBIT C: 2 CFR 200, APPENDIX II – TERMS

Provisions for Non-Federal Entity Contracts Under Federal Awards (current as of 20200717) In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by then on-Federal entity including the manner by which it will be affected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p.339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the

standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C.1251-1387), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR180.220) must not be made to parties listed on the governmentwide exclusions in the System forward Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See § 200.322 Procurement of recovered materials.

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