

INTERLOCAL COOPERATION AGREEMENT

This Agreement is made by and between Northwest Open Access Network ("NOANET"), a Washington corporation and public agency, and Lewis County ("COUNTY"), a political subdivision of the State of Washington, pursuant to the Interlocal Cooperation Act, RCW 39.34, for NOANET to provide technical oversight for the implementation of a broadband access service for the local government network in the Winlock area and to enhance the availability of institutions, private businesses and residents (herein referred to as the "PROJECT").

WHEREAS, the Washington Interlocal Cooperation Act, RCW 39.34, permits public agencies to cooperate with one another on the basis of mutual advantage to make the most efficient use of their powers, thereby providing services and facilities in a manner that accords best with geographic, economic, population, and other factors influencing the needs and development of local communities. Under the Act, public agencies may enter into agreements with one another for joint or cooperative action; and

WHEREAS, the COUNTY is a party to that certain Amended Contingent Telecommunications Agreement originally dated November 29, 2021, with ToledoTel to install, supply, and maintain broadband access service ("PROJECT"); and

WHEREAS, NOANET and the COUNTY (collectively "PARTIES" and individually "PARTY") are public agencies as defined in RCW 39.34.020(1) and they recognize the need to provide for the PROJECT to improve the communications of the PARTIES and to provide for improved access to broadband data transmission and enhance community economic development in Lewis County; and

WHEREAS, the COUNTY is responsible for various local governmental-related functions, including, among others, information technology, telecommunications, public services, utilities and public administration and cooperation with other agencies regarding the same; and

WHEREAS, the COUNTY wishes to obtain services from NOANET for COUNTY operations, including, without limitation, monitoring contractor/subcontractor progress and compliance with technical requirements of the PROJECT and related activities.

Now, therefore, in consideration of the mutual promises and covenants contained herein, the PARTIES hereby agree as follows:

1. **Purpose and Scope.** The purpose and scope of this Agreement is to provide for NOANET's assistance with the PROJECT as described in the Scope of Work attached hereto as Exhibit "A" and incorporated herein by this reference ("Scope of Work") as well as establish the related obligations of the PARTIES.
2. **Services.** NOANET shall provide the COUNTY with the services described in the Scope of Work (the "Services"). The COUNTY shall cooperate with and provide such information as may be necessary to aid NOANET's performance of the Services.
3. **Period of Performance.** Performance of the Services shall commence upon mutual execution of this Agreement by the PARTIES, and shall continue until March 31, 2025,

unless terminated sooner or extended, as provided herein. The COUNTY shall have the option to renew this contract with the mutual agreement of the COUNTY and NOANET.

4. Compensation. The COUNTY shall pay NOANET for the Services on a time and materials basis according to the fee schedule identified in the Scope of Work.
5. Billing and Payment Procedures. NOANET shall submit monthly invoices to the COUNTY during the term of the agreement and upon acceptance by the COUNTY of all the Services. Each invoice will indicate the time and materials that are the basis for the charge(s) on the invoice. The COUNTY shall pay the amount invoiced and due within thirty (30) days after billing.
6. Property Ownership and Disposition. The PARTIES shall retain their respective ownership of all of their respective properties. This Agreement does not contemplate joint ownership of property and, therefore, does not contain provisions regarding disposition of property owned by either Party.
7. Indemnity. To the extent allowed by Washington law, each Party shall, at its sole expense, indemnify, defend, save, and hold harmless the other Party, its officers, agents, members, and employees from all actual or potential claims or losses, including attorneys' fees and costs, and damages or claims for damages to property or persons, suffered by anyone whomsoever to the extent caused by any negligent or willful act of or omission of the indemnifying Party, its officers, agents, employees, or subcontractors, excluding damages caused by the negligence of the indemnified Party, its officers, agents, employees, or subcontractors.

This indemnification includes, without limitation, any liability for injury to the person or property of either Party, its agents, officers, employees, or invitees. Both PARTIES specifically waive any immunity provided by Title 51 RCW, Washington's Industrial Insurance Act. THIS WAIVER HAS BEEN MUTUALLY NEGOTIATED BY THE PARTIES.

8. Relationship of the PARTIES. This Agreement shall not be interpreted nor construed to create an association, joint venture, or partnership between the PARTIES, nor to impose any partnership obligation or liability upon either Party. No agent, employee, or representative of a Party shall be deemed to be an agent, employee, or representative of the other Party. Nothing in this agreement nor in the performance by NOANET shall operate to vest any employment rights whatsoever, be deemed to create an employer-employee relationship, nor be deemed to create a joint venture, between the COUNTY and NOANET.
9. Party Representatives and Notices. The representative for each Party shall be responsible for and shall be the contact person for all communications relating to the performance of this Agreement. All notices, requests, demands and other communications given by one Party to the other Party in connection with this Agreement will be in writing and will be deemed to have been duly given (a) on the date of successful transmission of the entire notice in the case of e-mail transmission; (b) when delivered personally or delivered by a recognized courier service that provides a receipt of delivery; or (c) three (3) days after being deposited as certified or registered mail, postage prepaid, into the United States mail, to the Party representative at the addresses or email addresses identified below

The County's representative under this Agreement shall be:

Becky Butler, Budget Administrator
351 N.W. North St.
Chehalis, WA 98532
Telephone: 360-740-1198
Email: becky.butler@lewiscountywa.gov

NOANET's representative under this Agreement shall be:

Chris Walker, Senior Executive Director, Infrastructure Strategy
422 W Riverside, Ave. Suite 408
Spokane, WA 99201
Telephone: 208-699-1031
Email: cwalker@noanet.net

10. Termination. Except as otherwise provided in this Agreement, either Party may terminate this Agreement upon thirty (30) days written notice. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.
11. Confidentiality. If the receiving Party receives a request from a third party for materials provided by the other Party that are marked Confidential and which, in the receiving party's judgment, it is required or deems it is advisable upon advice of counsel to disclose under the Washington State Public Disclosure Act (RCW 42.17.250, et seq.), the Washington Open Public Meetings Act (RCW 42.30, et seq.), or any other applicable public disclosure requirement, the receiving Party shall promptly notify the disclosing Party in writing of such request, and if the receiving Party in good faith believes it is obligated to disclose the requested Confidential Information, the disclosing Party shall be given prompt opportunity to seek judicial protection of such Confidential Information.. If, in the absence of receiving notice of a protective order or waiver within ten (10) days of the date of sending the notice of the request, the receiving Party is compelled, in the opinion of the receiving Party's counsel, to disclose any Confidential Information after applying all relevant exemptions from disclosure allowed under law, the receiving Party may make such disclosure.
12. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Washington. Each Party hereto, in its performance of this Agreement, agrees to comply with all applicable local, state, and federal laws and ordinances. The Lewis County Superior Court shall be the sole proper venue for any and all suits brought to enforce or interpret the provisions of this Agreement.
13. Assignment and No Third Party Rights. Neither Party may assign its rights or delegate its duties under this Agreement. This Agreement shall not be construed to create rights in or grant remedies to any third party as a beneficiary of this Agreement.

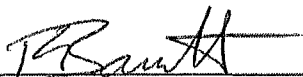
14. Entire Agreement; Amendments. This Agreement constitutes the entire Agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements or understandings among the Parties with respect thereto. This Agreement may be amended only by an agreement in writing signed by the Parties.
15. Mutual Negotiation and Construction. This Agreement and each of the terms and provisions hereof are deemed to have been explicitly negotiated between, and mutually drafted by, the Parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly construed for or against either Party.
16. Headings. The captions and section headings hereof are inserted for convenience purposes only and shall not be deemed to limit or expand the meaning of any section.
17. Severability. Should any part, term, or provision of this Agreement be determined to be invalid, the remainder of this Agreement shall not be affected, and the same shall continue in full force and effect.
18. Survivability. All provisions of this Agreement regarding indemnification, representations, warranties, confidentiality, and any other provisions that by their nature are intended to survive termination of this Agreement shall survive after its termination or expiration.
19. Authorization. Each Party hereby represents and warrants to the other that it is duly authorized to enter into and carry out the terms of this Agreement. And, each natural person executing this Agreement on behalf of a party herein which is an artificial person represents, warrants, and covenants that (a) such natural person is duly authorized to execute and deliver this Agreement on behalf of such artificial person in accordance with authority granted under the organizational documents of such artificial person, and (b) such artificial person is bound under the terms of this Agreement.
20. Counterparts. This Agreement may be executed in counterparts, which together shall constitute a single agreement.
21. Any recitals above, if any, shall not be interpreted as mere recitals; rather, they shall be incorporated into this Agreement as operative parts thereof.
22. Public Records Act. Each PARTY shall assist the other PARTY to fulfill all of the their obligations under the Washington Public Records Act (chapter 42.56 of the Revised Code of Washington).
 - a. Each PARTY recognizes that under that Act, the PARTIES have a duty to provide third parties with access to all documents (defined broadly) "containing information relating to the conduct of government" and that this obligation extends to documents in the sole possession of a PARTY used by it and/or the other PARTY for purposes relating to this Agreement.
 - b. In the event that the either PARTY notifies the other PARTY that it has received a demand for one or more documents which the PARTY has not been able to locate in its files, and that the PARTY is obliged to release those documents pursuant to the Public

Records Act, then, if those documents (or any of them) are in the other PARTY's possession, the other PARTY shall provide copies of those documents to the requesting PARTY within five business days; or, within five business days, the other PARTY shall notify the requesting PARTY of when, acting with all reasonable haste, the other PARTY will be able to provide the requesting PARTY with copies of those documents. The other PARTY then shall actually provide copies of those documents to the requesting PARTY by such date.

- c. In the event that the other PARTY fails to fulfill its obligations pursuant to this section, and due in whole or in part to such failure a court of competent jurisdiction imposes a penalty upon the requesting PARTY for violation of the Public Records Act, the other PARTY shall indemnify the requesting PARTY for that penalty, as well as for all costs and attorney fees incurred by the requesting PARTY in the litigation giving rise to such penalty.
 - d. The obligations created by this section shall survive the termination of this Agreement.
23. This Agreement does not violate any known federal or state statute, rule, regulation, or common law. However, any provision that is found to be invalid or in violation of any statute, rule, regulation, or common law shall be considered null and void, with the remaining provisions remaining viable and in effect. Similarly, should this Agreement not be determined to be a valid interlocal agreement pursuant to RCW 39.34, it shall remain in full force and effect as an agreement between the parties with sufficient consideration.
24. Should any legal proceeding be commenced between or by the Parties concerning or related to this Agreement or the rights and duties of either in relation to this Agreement, the Party prevailing in such proceeding shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for such Party's reasonable attorneys' fees, expenses, and costs actually incurred and paid.
25. Time is of the essence. Time is of the essence for all terms, conditions, obligations, and duties set forth or referred to in this agreement.

IN WITNESS WHEREOF, the PARTIES hereto have caused this Agreement to be executed as of the date first written above.

LEWIS COUNTY



Ryan Barrett, County Manager

NOANET



Craig Nelsen, Chief Executive Officer

APPROVED AS TO FORM

Deputy Prosecuting Attorney