

Agenda Item No.: 5.1

Agenda Date: 09/04/24

Reviewed By: JSD

RE: Approving an intergovernmental agreement with Washington State Department of Enterprise Services (DES)

CATEGORY		FINANCIAL			
<i>Executive</i>	<input type="checkbox"/>	<i>Expenditures?</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<i>Administrative</i>	<input type="checkbox"/>	<i>Budgeted?</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<i>Engineering/Operations</i>	<input checked="" type="checkbox"/>	<i>Amount: \$</i>		<i>Not-to Exceed</i> N/A	

ATTACHMENTS:

1. Resolution 24-9-4B
2. Exhibit A – DES Master Contract Usage Agreement K1901
3. Exhibit B – DES Contract Usage Agreement CUA-11

COMMENTS:

Highline Water District established Master Contract Usage Agreement K1901 with DES on June 13, 2013 for purchasing needs. DES has established a new Contract Usage Agreement and requested that Highline execute it to continue as an eligible purchaser. Staff desires to maintain the procurement solutions DES provides.

Staff is seeking Board approval to enter into a new DES Contract.

**HIGHLINE WATER DISTRICT
King County, Washington**

RESOLUTION 24-9-4B

**RESOLUTION OF THE BOARD OF COMMISSIONERS OF HIGHLINE WATER DISTRICT,
KING COUNTY, WASHINGTON, APPROVING AN INTERGOVERNMENTAL
AGREEMENT WITH WASHINGTON STATE DEPARTMENT OF ENTERPRISE SERVICES
(DES)**

WHEREAS, Highline Water District ("District") is a water-sewer special purpose district existing pursuant to Title 57 Revised Code of Washington owning and operating water system within its corporate and service area boundaries in King County, Washington for the benefit of its customers; and,

WHEREAS, pursuant to RCW 57.08.050 (3), the District is authorized to purchase equipment, supplies and materials in accordance with the procedures set forth therein; provided, as an alternative to RCW 57.08.050(3), the District is also authorized by RCW 57.08.050 (4) to purchase equipment, supplies and materials from suppliers designated on current state agency, county, city or town purchasing rosters at the price and terms as described on the applicable roster when the roster has been established in accordance with the competitive bidding law for purchases applicable to the state agency, county, city or town; and,

WHEREAS, RCW 39.34.030 (1) authorizes the joint and cooperative exercise of shared powers, privileges and authority between public agencies of the State of Washington and public agencies of any other state; and, pursuant to RCW 39.34.030 (5)(b), with respect to one or more public agencies purchasing or otherwise contracting through a bid, proposal or contract awarded by another public agency or by a group of public agencies, any statutory obligation to provide notice for bids or proposals that applies to the public agencies involved is satisfied if the public agency(s) that awarded the bid, proposal or contract complied with its own statutory requirements; and,

WHEREAS, Highline Water District established a Master Contract Usage Agreement K1901, attached herto as **Exhibit A**, with DES on June 13, 2013 for purchasing needs; and,

WHEREAS, DES has requested that Highline execute a new Contract Usage Agreement to maintain procurement solutions for goods and services pursuant to RCW 39.26.050, RCW 39.26.060, and RCW 39.26.251.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Highline Water District, King County, Washington as follows:

1. The Board of Commissioners authorize the General Manager to execute Contract Usage Agreement CUA-11, attached hereto as **Exhibit B**, with DES to maintain purchasing needs.

HIGHLINE WATER DISTRICT King County, Washington

RESOLUTION 24-9-4B

ADOPTED by the Board of Commissioners of Highline Water District, King County, Washington, at a regular open public meeting thereof held on the **4th** day of **September, 2024**.

BOARD OF COMMISSIONERS

Signed by:

465CA32C4556F3D...
Kathleen Quong-Vermeire, President

DocuSigned by:

7900589974804FD...
Polly Daigle, Commissioner

Signed by:

8E7D4C47098F4C7...
Daniel Johnson, Commissioner

DocuSigned by:

887D4C88A38F427...
Vince Koester, Secretary

Signed by:

8728D378F2544BD...
Todd Fultz, Commissioner

Agreement Number: K190
DES Use Only

MASTER CONTRACT USAGE AGREEMENT

This Master Contract Usage Agreement (the "Agreement") is made pursuant to Chapter 39.34 of the Revised Code of Washington, and other applicable laws, by and between the state of Washington (the "State"), acting by and through the Department of Enterprise Services ("DES"), an agency of the State, and Highline Water District
Entity Name

a state agency, or local or federal agency or entity, or public benefit nonprofit corporation, or any tribe located in the State ("Buyer").

1. **Purpose:** The purpose of the Agreement is to establish the terms and conditions for when Buyer purchases or acquires goods and services for its direct use under contracts entered into by DES that permit such use ("Master Contracts").
2. **Duration:** This Agreement will become effective on date of execution, and will continue in full force and effect until thirty (30) days following receipt of written notice from either party cancelling this Agreement.
3. **Agreement Contact Information:** Contact person to whom contract documents and related communications are to be mailed or faxed.

Organization Name:	Highline Water District		
Tax Identification Number:	91-6001902		
Unified Business Identifier <i>Required for Non-Profit:</i>	578-006-522		
Contact Name:	Debbie Prior		
Title:	Administrative Manager		
Address:	23828 30th Ave S		
City:	Kent	State:	WA Zip: 98032
Phone Number:	206-592-8906		
Email Address:	dprior@highlinewater.org		

4. **Cancellation of Agreement:** This agreement can be terminated by either party upon 30 days written notice provided to DES at:
 Email to: mcua@des.wa.gov OR Mail to: WA Dept of Enterprise Services
 MCUA, Attn: Kris Gorgas
 P.O. Box 41409
 Olympia, WA 98504-1409
5. **Financial Responsibility:** Buyer will deal directly with the Master Contract contractor, supplier, or service supplier ("Contractor") for any purchases Buyer makes pursuant to this Agreement and under a Master Contract. DES does not accept any responsibility, financial or otherwise, for any purchase Buyer makes under a Master Contract.

Agreement Number: K1901

DES Use Only

- 6. **Compliance with Other Laws:** Each of the parties will comply with all applicable federal, state, and local laws and regulations governing its own purchases.
- 7. **Master Contract Audits:** Buyer agrees to cooperate with DES, the Office of the State Auditor, federal officials, or any third party authorized by law, rule, regulation or contract, in any audit conducted by such party related to any Master Contract(s) that Buyer has made purchases from pursuant to this Agreement, including providing records related to any purchase from a Master Contract. In addition, Buyer agrees to provide, upon request from DES, documentation to confirm its eligibility to use Master Contracts.
- 8. **Dispute Resolution:** If there are any disputes between Buyer and a Contractor, Buyer agrees to (a) provide DES written notice of the nature of the dispute; and (b) unless otherwise provided in the Master Contract or as set forth below, work in good faith with the Contractor to resolve the dispute without the involvement of DES. DES may, upon request, review and assist in the resolution of a dispute, and if DES chooses to do so, the Buyer will cooperate with DES in that resolution process.

In its sole discretion, DES may, but is not obligated to, upon written notice to Buyer, resolve disputes with a Contractor on behalf of Buyer and all other state, local, and federal agencies, local governments, and public benefit nonprofit corporations with similar or related disputes with such Contractor.
- 9. **No Separate Entity:** No separate legal or administrative entity is intended to be created by, or for the administration of, this Agreement.
- 10. **Hold Harmless:** Each party agrees to defend, indemnify, and hold the other party harmless from any claim arising from such party's sole negligent, reckless, or willful misconduct.
- 11. **Entire Agreement:** This Agreement sets forth the entire agreement between the parties, and supersedes any other prior written agreements between the parties, with respect to the subject matter hereof.

IN WITNESS WHEREOF the parties having read this Agreement, agree to it in each and every particular, and have executed it below.

APPROVED

APPROVED

WASHINGTON STATE
DEPARTMENT OF ENTERPRISE SERVICES

Entity Name
Roselyn Marcus

Signature
Roselyn Marcus, Assistant Director

Name/Title
07/12/2013

Date

Highline Water District

Entity Name
Matt Everett

Signature
Matt Everett, General Manager

Name/Title
June 13, 2013

Date



**Washington State
DEPARTMENT OF
ENTERPRISE SERVICES**

State of Washington DEPARTMENT OF ENTERPRISE SERVICES Attn: Contracts & Procurement P.O. Box 41411 Olympia, WA 98504-1411	CONTRACT USAGE AGREEMENT	
	CUA no. and effective dates will be completed by DES CUA No.: Effective Date:	
INSERT ELIGIBLE PURCHASER NAME Business Contact: Tel: Email: Tax Identification No.:	<i>Type of Eligible Purchaser</i>	
	<input checked="" type="radio"/>	Washington state agency
	<input type="radio"/>	Washington local governmental agency or entity (e.g., counties, cities, school districts, public utility districts, etc.)
	<input type="radio"/>	Higher Education
	<input type="radio"/>	Federal governmental agency or entity
	<input type="radio"/>	Tribe located in the State of Washington

**CONTRACT USAGE AGREEMENT
FOR
DESIGNATED ENTERPRISE PROCUREMENT SOLUTIONS FOR GOODS/SERVICES ("CONTRACTS")**

This Contract Usage Agreement ("Agreement") is made and entered into by and between the State of Washington acting by and through the Department of Enterprise Services, a Washington State governmental agency ("Enterprise Services") and the _____, State agency governmental agency/entity ("Eligible Purchaser") and is dated and effective as _____.

RECITALS

- A. The Washington State Legislature has authorized Enterprise Services to enter into agreements with certain governmental agencies/entities (each an eligible purchaser) to enable such entities to utilize certain contracts developed and/or administered by Enterprise Services that function as enterprise procurement solutions to enable Washington state agencies and other eligible purchasers to purchase goods and/or services cost-effectively and efficiently from specified contractors at contracted prices, terms, and conditions ("Contracts"). See RCW 39.26.050(1); RCW 43.19.005(2); and RCW 39.34.055.
- B. To enter into a *Contract Usage Agreement* with Enterprise Services as an Eligible Purchaser, the agency/entity must be one of the following:
 - Washington state agencies;
 - Washington local governmental agencies or entities;
 - Higher Education;
 - Federal governmental agencies or entities; or
 - Tribes located in Washington state.

- C. Eligible Purchasers who execute a *Contract Usage Agreement* with Enterprise Services may utilize the following categories of enterprise procurement solutions for goods/services, each a category of available Contracts:
- **Statewide Contracts.** Contracts for goods/services developed and implemented by Enterprise Services on behalf of the State of Washington pursuant to the State's Procurement Code for Goods/Services (RCW 39.26). See RCW 39.26.050.
 - **Cooperative Purchasing Agreements.** Specified Cooperative purchasing agreements for goods/services developed or joined by Enterprise Services on behalf of the State of Washington. See RCW 39.26.060.
 - **Legislatively Directed Contracts.** Certain 'mandatory use' or other contracts for goods/services in which the Washington State Legislature has specified for use by Washington state agencies and/or other eligible purchasers – e.g., Correctional Industries contracts. See RCW 39.26.251.
- Enterprise Services maintains a list of all such Contracts at its [Contracts Webpage](#).
- D. Eligible Purchaser desires to contract with Enterprise Services to access and use the Contracts, subject to their terms and conditions.
- E. The purpose of the Agreement is to establish the terms and conditions to authorize Eligible Purchaser to use the Contracts.

A G R E E M E N T

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the parties agree as follows:

1. **DURATION.** This Agreement is effective as of the effective date stated herein and shall continue in force unless terminated by either party upon thirty (30) calendar days prior written notice.
2. **ELIGIBLE PURCHASER'S REPRESENTATIONS AND WARRANTIES.** Eligible Purchaser makes each of the following representations and warranties as of the effective date of this Agreement and at the time any order is placed pursuant to any Contract by Eligible Purchaser. If, at the time of any such order, Eligible Purchaser cannot make such representations and warranties, Eligible Purchaser shall not place any such order and shall, within three (3) business days notify Enterprise Services, in writing, and terminate this Agreement.
 - a. **ELIGIBLE PURCHASER STATUS.** Eligible Purchaser represents and warrants that, as set forth in RCW 39.26.050(1), RCW 43.19.005(2), and/or the Interlocal Cooperation Act (RCW 39.34), it is an entity that is eligible to utilize Enterprise Services' Contracts. Eligible Purchaser further represents and warrants that, upon request from Enterprise Services, Eligible Purchaser shall provide documentation to confirm its eligibility to use the Contracts.
 - b. **CONTRACT AUDITS.** Eligible Purchaser represents and warrants that it shall cooperate with Enterprise Services, the Office of the State Auditor, federal officials, and/or any third party authorized by law or contract, in any audit conducted by such party pertaining to any Contracts that Eligible Purchaser has made purchases from pursuant to this Agreement, including providing records related to any purchases from such Contracts.

- 3. **AUTHORIZED USE; FINANCIAL RESPONSIBILITY.** Eligible Purchaser understands and agrees that it shall: (a) deal directly with the Contract's awarded contractor (i.e., the vendor, supplier, service supplier, etc.) for any purchases it makes under the Contract, as authorized by this Agreement; and (b) assume full and complete responsibility, financial and otherwise, for any purchases made pursuant to any Contract.
- 4. **SEPARATE RESPONSIBILITY.** Each party to this Agreement shall be responsible for the acts, errors, and omissions of itself and its own officers, employees, and agents acting within the scope of the performance of this Agreement and within the scope of their authority.
- 5. **RESOLVING CONTRACT PURCHASE DISPUTES.** The parties agree that, if there are any disputes between Eligible Purchaser and a Contract contractor, Eligible Purchaser shall: (a) provide Enterprise Services written notice of the nature of the dispute including the efforts undertaken to resolve the dispute; and (b) unless otherwise provided in the Contract, work in good faith with the contractor to resolve the dispute without the involvement of Enterprise Services. Enterprise Services may, upon request, review and assist in the resolution of a dispute, and, if Enterprise Services chooses to do so, Eligible Purchaser will cooperate with Enterprise Services in that resolution process. Enterprise Services, in its sole discretion, may elect to resolve disputes with a contractor on behalf of Eligible Purchaser and all other users of the applicable Contract. In such event, Enterprise Services' resolution shall be binding.

6. AGREEMENT ADMINISTRATION & NOTICES.

- a. **AGREEMENT CONTACTS.** The parties hereby designate the following agreement administrators as the respective single points of contact for purposes of this Agreement. The parties may change agreement administrators by written notice as set forth below.

Enterprise Services
Attn: Contracts & Procurement
Washington Dept. of Enterprise
Services PO Box 41411 Olympia,
WA 98504-1411
Email: CUA@des.wa.gov

Eligible Purchaser
Attn: _____
Address: _____

Email: _____

- b. **ADDITIONAL AGREEMENT CONTACTS FOR ELIGIBLE PURCHASER.** If necessary or desired, Eligible Purchaser may specify alternative or additional contacts for purposes of this Agreement (e.g., Eligible Purchaser may specify alternative or additional contacts for usage of certain Contracts such as vehicle ordering); *Provided*, however, that such alternative or additional contacts must utilize email notification to facilitate computer-generated cost-effective and efficient communication between the parties. Eligible Purchaser may designate such additional contacts at any time as set forth below.
- c. **NOTICES.** Any notices required or desired shall be in writing and sent by U.S. mail (postage prepaid) or email, and shall be sent to the respective addressee at the respective address or email address set forth above or to such other address or email address as the parties may specify in writing. Notices shall be deemed effective upon the earlier of receipt, if mailed, or, if emailed, upon transmission to the designated email address of said addressee.

7. GENERAL PROVISIONS.

- a. **AGREEMENT AVAILABILITY.** Prior to its entry into force, this Agreement shall be posted on the Enterprise Services' website or other electronically retrievable public source as required by RCW 39.34.040.
- b. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter and supersedes all prior negotiations, representations, and understandings between them. There are no representations or understandings of any kind not set forth herein.
- c. **AMENDMENT OR MODIFICATION.** Except as set forth herein, this Agreement may not be amended or modified except in writing and signed by a duly authorized representative of each party hereto.
- d. **AUTHORITY.** Each party to this Agreement, and each individual signing on behalf of each party, hereby represents and warrants to the other that it has full power and authority to enter into this Agreement and that its execution, delivery, and performance of this Agreement has been fully authorized and approved, and that no further approvals or consents are required to bind such party.
- e. **NO AGENCY.** The parties agree that no agency, partnership, or joint venture of any kind shall be or is intended to be created by or under this Agreement. Neither party is an agent of the other party nor authorized to obligate it.
- f. **ASSIGNMENT.** Eligible Purchaser may not assign its rights under this Agreement.
- g. **GOVERNING LAW.** The validity, construction, performance, and enforcement of this Agreement shall be governed by and construed in accordance with the laws of the State of Washington, without regard to its choice of law principles that would provide for the application of the laws of another jurisdiction.
- h. **JURISDICTION & VENUE.** In the event that any action is brought to enforce any provision of this Agreement, the parties agree to exclusive jurisdiction in Thurston County Superior Court for the State of Washington and agree that in any such action venue shall lie exclusively at Olympia, Washington.
- i. **CAPTIONS & HEADINGS.** The captions and headings in this Agreement are for convenience only and are not intended to, and shall not be construed to, limit, enlarge, or affect the scope or intent of this Agreement nor the meaning of any provisions hereof.
- j. **ELECTRONIC SIGNATURES.** An electronic signature or electronic record of this Agreement or any other ancillary agreement shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement or such other ancillary agreement for all purposes.

k. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Agreement at different times and places by the parties shall not affect the validity thereof so long as all the parties hereto execute a counterpart of this Agreement.

EXECUTED AND EFFECTIVE as of the day and date first above written.

A State agency **GOVERNMENT AGENCY**

STATE OF WASHINGTON
DEPARTMENT OF ENTERPRISE SERVICES
A GOVERNMENT AGENCY

By: _____

Name: _____

Title: _____

By: _____

Name: Rebecca Linville

Title: Washington State Chief Procurement Officer
Assistant Director, Contracts & Procurement

NOTE: Please sign in Adobe and submit this form electronically. It will delay processing if you physically print and sign the form.