


**WHATCOM COUNTY CONTRACT
INFORMATION SHEET**

Whatcom County Contract No.
202211025

Originating Department:	Public Works
Division/Program: <i>(i.e. Dept. Division and Program)</i>	River & Flood 9075/Flood Control 907545
Contract or Grant Administrator:	Paula Harris
Contractor's / Agency Name:	Whatcom Conservation District (WCD)
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 type="radio"/> No <input checked="" type="radio"/> If yes, grantor agency contract number(s): _____ CFDA#: _____	
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: 169112	
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): \$ 40,000 This Amendment Amount: \$ _____ Total Amended Amount: \$ _____ Summary of Scope:	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.
This agreement provides a budget of \$40,000 over two years for the planning, oversight, maintenance and monitoring of existing and new FCZD and Special District mitigation and/or revegetation projects and other small-scale projects that utilize the Alternative Corrections Crew. WCD will also provide technical assistance to the FCZD and Special Districts in preparing project documents such as planting plans, mitigation plans, assessments and permits.	
Term of Contract: January 1, 2023	Expiration Date: December 31, 2024

Contract Routing:	1. Prepared by: <u>TBouma & PHarris</u>	Date: <u>11/16/2022</u>
	2. Attorney signoff: <u>Christopher Quinn</u>	Date: <u>11/16/2022</u>
	3. AS Finance reviewed: <u>M Caldwell</u>	Date: <u>11/17/22</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: <u>12/8/2022</u>
	9. Original to Council: _____	Date: _____

**WHATCOM COUNTY
PUBLIC WORKS DEPARTMENT**

**ELIZABETH KOSA
INTERIM DIRECTOR**



RIVER AND FLOOD
322 N. Commercial Street, Suite 120
Bellingham, WA 98225-4042
Phone: (360) 778-6230
Fax: (360) 778-6231
www.whatcomcounty.us

MEMORANDUM

TO: The Honorable Satpal Singh Sidhu Whatcom County Executive, and The Honorable Members of the Whatcom County Council, collectively serving in their capacity as the Whatcom County Flood Control Zone District Board of Supervisors

THROUGH: Elizabeth Kosa, Interim Public Works Director

FROM: Paula J. Harris, P.E., River and Flood Manager *PJH*
Gary Stoyka, Natural Resources Manager *GStoyka*

RE: Interlocal Agreement between the Whatcom County Flood Control Zone District (FCZD) and the Whatcom Conservation District (WCD)

DATE: November 16, 2022

Requested Action

Public Works respectfully requests that the County Executive and the County Council, acting as the Flood Control Zone District Board of Supervisors, enter into an interlocal agreement with the WCD to continue providing services as described herein.

Background and Purpose

The WCD has provided revegetation planning, oversight, monitoring and maintenance of FCZD and Special District mitigation and revegetation projects since 2004. The WCD staff member assigned to this program has a solid history of coordinating the Alternative Corrections Crew work programs and has successfully provided technical assistance, including permitting and project planning, to the FCZD. The needs for these services continue for several ongoing FCZD and Special District projects and future projects planned for construction in the upcoming years.

Funding Amount and Source

The proposed agreement is for \$40,000 for services over a two-year period starting on January 1, 2023. The FCZD has adequate budget authority for this expenditure.

Please contact Paula Harris at extension 6285, if you have any questions or concerns regarding the terms of this agreement.

Encl.
Interlocal Agreement

INTERLOCAL AGREEMENT

BETWEEN WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT AND WHATCOM CONSERVATION DISTRICT FOR PLANNING, OVERSIGHT, MAINTENANCE AND MONITORING OF FLOOD PROJECT MITIGATION SITES INCLUDING COORDINATION OF THE ALTERNATIVE CORRECTION CREW PROGRAM AND TO PROVIDE TECHNICAL ASSISTANCE FOR FLOOD PROJECT IMPLEMENTATION

This Agreement is hereby entered into by the Whatcom County Flood Control Zone District, a quasi-municipal corporation of the State of Washington (hereinafter referred to as the FCZD) and the Whatcom Conservation District, a governmental subdivision of the State of Washington (hereinafter referred to as WCD).

WHEREAS, the WCD has provided technical assistance to the FCZD including revegetation planning, crew coordination and oversight, and permitting and assessment assistance for FCZD and Special District projects since 2004; and,

WHEREAS, the existing Contract for Services with the WCD is set to expire on December 31, 2022; and,

WHEREAS, the WCD staff assigned to this program has a solid history of providing excellent oversight and coordination for the FCZD's Alternative Corrections Crew work programs and other technical assistance; and,

WHEREAS, the WCD has worked with the FCZD for many years and has a good relationship with members of the farming community on whose land the majority of the projects will occur; and,

WHEREAS, the WCD is most knowledgeable on the locations and maintenance needs of past projects; and,

WHEREAS, it is in the best interest of each party to enter into this Agreement.

NOW THEREFORE, the WCD and FCZD agree as follows:

- I. *Purpose:* The purpose of this Agreement is to set the terms whereby the FCZD will provide funding for the WCD to continue to provide technical assistance services as described in Exhibit A (Scope of Work) attached hereto.
- II. *Administration:* No new or separate legal or administrative entity is created to administer the provisions of this contract.
- III. *Whatcom Conservation District Responsibilities:* The WCD hereby agrees to provide the services as described in Exhibit A (Scope of Work) attached hereto.
- IV. *Whatcom County Flood Control Zone District Responsibilities:* The FCZD hereby agrees to reimburse the WCD, an amount not to exceed the total budget amount of \$40,000, allocated to the WCD as shown in Exhibit B attached hereto, for the costs in providing and performing the services stated.
- V. *Payment:* WCD shall submit monthly invoices and work activity reports in a format approved by the FCZD. Invoices will include hours worked by employee by task, during the billing period. The FCZD will compensate the WCD for services rendered within thirty (30) days following

receipt of an approved invoice, provided all other terms and conditions of the contract have been met and are certified as such by the Contract Administrator.

- VI. *Term:* This Agreement shall be effective for services provided from January 1, 2023 through December 31, 2024.
- VII. *Responsible Persons:* The persons responsible for administration of this Agreement shall be the Whatcom County Public Works (WCPW) Department Director or her/his respective designee(s) and the WCD District Manager or her/his respective designee(s).
- VIII. *Treatment of Assets and Property:* No fixed assets or personal or real property will be jointly or cooperatively acquired, held, used, or disposed of pursuant to this Agreement.
- IX. *Indemnification:* Each party agrees to be responsible and assume liability for its own wrongful and/or negligent acts or omissions or those of its officials, officers, agents, or employees to the fullest extent required by law, and further agrees to save, indemnify, defend, and hold the other party harmless from any such liability. It is further provided that no liability shall attach to the Parties by reason of entering into this Agreement except as expressly provided herein.
- X. *Modifications:* This Agreement may be changed, modified, amended or waived only by written agreement executed by the Parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.
- XI. *Applicable Law:* In the performance of this Agreement, it is mutually understood and agreed upon by the Parties hereto that this Agreement shall be governed by the laws and regulations of the State of Washington and the federal government, both as to interpretation and performance. The venue of any action arising here from shall be in the Superior Court of the State of Washington in and for Whatcom County.
- XII. *Severability:* In the event any term or condition of this Agreement or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement that can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.
- XIII. *Entire Agreement:* This Agreement contains all the terms and conditions agreed upon by the Parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto.
- XIV. *Performance:* The parties agree to satisfy all aspects of this Agreement in a timely and professional manner. The WCD shall notify the FCZD as soon as problems, delays, or adverse conditions become known that will materially impair its ability to meet the deliverables described in Exhibit A.
- XV. *Dispute Resolution:* The parties to this Agreement shall first attempt to resolve disputes informally at the staff level. In the event that the dispute cannot be resolved at the staff level, a dispute resolution procedure shall be followed under the guidance of the Whatcom Dispute Resolution Center.
- XVI. *Rights and Remedies:* In no event shall a making by the FCZD of any payment to the WCD constitute or be construed as a waiver by the FCZD of any breach of covenant or any default

that may then exist on the part of the WCD. The making of any such payment by the FCZD while any such breach or default shall exist shall in no way impair or prejudice any of the FCZD's rights, which are hereby expressly recognized, to recover payments or portions thereof, to which the WCD has not entitled under this Agreement, or where any payments were made by mistake, or to pursue any other remedy available to the FCZD in respect to breach or default of this Agreement.

This Agreement shall not relieve the FCZD or the WCD of any obligation or responsibility imposed by law except that performance pursuant to this Agreement may, where appropriate, be offered in satisfaction of an obligation or responsibility conveyed to the FCZD or the WCD by law.

XVII. Insurance Requirements: WCD shall carry for the duration of this Agreement insurance with the coverage and limits as follows:

A. Commercial General Liability (CGL) Insurance

Property damage	\$500,000.00 per occurrence
General Liability & Bodily Injury	\$1,000,000.00 per occurrence
Annual Aggregate	\$2,000,000.00

B. Business Automobile Liability

\$500,000.00 Minimum, per occurrence
\$1,000,000.00 Minimum, Annual Aggregate

WCD shall provide auto liability coverage for owned, non-owned and hired autos using ISO Business Auto Coverage form CA 00 01 or the exact equivalent with a limit of no less than \$500,000 per accident. If Contractor owns no vehicles this requirement may be met through a non-owned auto Endorsement to the CGL policy.

C. Additional Insurance Requirements and Provisions

1. WCD shall provide FCZD with a certificate of insurance and endorsements required by the Agreement.
2. For the commercial general liability and business automobile insurance, Whatcom County Flood Control Zone District shall be named as an additional insured.
3. WCD's insurance shall be primary and non-contributory, and shall waive all rights of subrogation against Whatcom County and its coverage. Whatcom County's insurance shall not serve as a source of contribution.

In the alternative, either party to this agreement may fulfill the insurance obligations contained herein by maintaining membership in a joint self-insurance program authorized by RCW 48.62. In this regard, the parties understand that the party to this agreement who is a member of such a program is not able to name the other party as an "additional insured" under the liability coverage provided by the joint self-insurance program.

XVIII. Miscellaneous: No obligation in this Agreement shall limit the WCD in fulfilling its responsibilities otherwise defined by law. No obligation in this Agreement shall limit the FCZD in fulfilling its responsibilities otherwise defined by law.

XIX. Signatures: The undersigned representatives accept the provisions of this Agreement. This Agreement shall be in effect when signed by both parties.

IN WITNESS WHEREOF, the parties have signed this Agreement this _____ day of _____, 2022.

WHATCOM CONSERVATION DISTRICT

DocuSigned by:
Brandy Reed 12/8/2022
4BF068B2CC7A4ED
Brandy Reed, District Manager Date

Whatcom Conservation District
6975 Hannegan Road
Lynden, WA 98264

FLOOD CONTROL ZONE DISTRICT

Recommended for Approval:

Elizabeth Kosa 12/8/2022
870E242DD76C408
Elizabeth Kosa, Interim Director Date

Approved as to form:

/s/Christopher Quinn (authorized via email) 11/16/22
Christopher Quinn, Senior Civil Deputy Prosecuting Attorney Date

Approved:

Accepted for Flood Control Zone District:

DocuSigned by:
Satpal Sidhu 12/8/2022
By: 1192C7C18B664E3...
Satpal Singh Sidhu, Whatcom County Executive Date

EXHIBIT A SCOPE OF WORK

Task 1:

As directed by the FCZD the WCD shall provide planning, oversight, maintenance and monitoring of existing and new FCZD and Special District mitigation and/or revegetation projects and other small-scale projects that require manual labor. As directed by the FCZD the WCD shall provide coordination of the Alternative Corrections Crew to perform the work needed to prepare for, implement and maintain these projects.

Task 2:

As direct by the FCZD the WCD shall provide technical assistance for planning, permitting, and implementation of FCZD and Special District projects. Technical assistance may include but is not limited to preparing habitat assessments, mitigation plans, planting plans, and permit applications.

**EXHIBIT B
COMPENSATION**

BUDGET ITEM	DESCRIPTION	Estimated RATE / hr.	Est. HOURS/Mileage	TOTAL
Task 1	Planning, oversight, monitoring and maintenance of mitigation sites and Alternative Corrections Crew coordination.	\$71.93	315	\$ 22,658
Task 2	Technical assistance for planning, permitting, and implementation of projects.	\$71.93	100	\$ 7,193
Overhead		30% of Salaries/Benefits		\$ 8,955
	Mileage	.625	1910	\$ 1,194
			PROJECT TOTAL	\$40,000

As consideration for the services provided pursuant to Exhibit A, Scope of Work, the County agrees to compensate WCD according to actual composite hourly rates of personnel working on this project. Composite rates are based on actual taxes and benefits, which may vary by month. Estimated hourly composite rates are provided above. Composite rate forms for each staff member working on the project will be provided to the County upon execution of the contract and for any rate changes. Other reasonable expenses incurred in the course of performing the duties herein shall be reimbursed as described here:

- Mileage will be reimbursed at the current IRS rate. Other expenditures such as outside printing, postage and in-house reproduction shall be reimbursed at actual cost
- In-house computer usage and domestic and long distance telephone charges shall be at no cost

WCD will invoice monthly. Invoices will include hours worked by employee by task, during the billing period. For mileage reimbursement submit: copies of mileage records, including name of staff member, date of travel, and number of miles traveled. Requests for reimbursement of expenses must be accompanied by copies of paid invoices itemizing costs incurred. Costs of alcoholic beverages are not eligible for reimbursement. Compensation shall not exceed the contract amount. Any work performed prior to the effective date of this contract or continuing after the completion date of the same unless otherwise agreed upon in writing, will be at the WCD's expense.