

**2024 INTERLOCAL AGREEMENT
WHATCOM COUNTY & WHATCOM CONSERVATION DISTRICT
LAKE WHATCOM STORMWATER OUTREACH ASSISTANCE**

This Interlocal AGREEMENT (“AGREEMENT”) is between the Whatcom Conservation District (“WCD”) and Whatcom County (“COUNTY”) as public agencies pursuant to the Interlocal Cooperation Act (RCW 39.34) for Lake Whatcom stormwater outreach assistance.

WHEREAS, the Lake Whatcom Stormwater Utility (LWSU) service area was adopted with ordinance 2017-076 to include the entire unincorporated Lake Whatcom Watershed; and,

WHEREAS, the Whatcom County Council adopted Ordinance 2019-053 on July 23, 2019 authorizing the furnishing of services to those who are receiving or will receive benefits from stormwater control facilities or programs and who are contributing to an increase in surface water runoff in the LWSU service area; and,

WHEREAS, the WCD was formed in 1946 pursuant to RCW 89.08 as a public agency to undertake the conservation of renewable resources in all of Whatcom County; and,

WHEREAS, the WCD has been providing education and outreach assistance to the COUNTY through Interlocal Agreements since 2010 and expanded their scope of work to include LWSU outreach in 2021; and,

WHEREAS, the LWSU 2024 outreach work plan calls for continuing to provide stewardship opportunities that result in the implementation of stormwater best management practices; and,

WHEREAS, the COUNTY requests continued assistance from the WCD in 2024 to support the LWSU education and outreach activities.

NOW, THEREFORE, the WCD and COUNTY agree as follows:

- I. *Purpose:* The purpose of this AGREEMENT is to set the terms whereby the COUNTY will make available funds to the WCD to implement tasks to support stormwater outreach programs as described in Exhibit A attached hereto.
- II. *Administration:* No new or separate legal or administrative entity is created to administer the provisions of this AGREEMENT.
- III. *Whatcom Conservation District Responsibilities:* The WCD hereby agrees to provide support for the stormwater outreach programs as described in Exhibit A attached hereto.
- IV. *Whatcom County Responsibilities:* The COUNTY hereby agrees to reimburse the WCD, not to exceed the total budget amount allocated to the WCD as shown in Exhibit B attached hereto, for the costs in providing and performing the services stated.

- V. *Payment:* The WCD shall submit itemized invoices in a format approved by the COUNTY in accordance with the requirements of Exhibit B. The COUNTY 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 from February 1, 2024 through January 31, 2025.
- VII. *Responsible Persons:* The persons responsible for administration of this AGREEMENT shall be the Whatcom County Public Works (WCPW) Department Director and the WCD District Manager or their respective designees.
- 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 their officials, officers, agents, or employees to the fullest extent required by law, and further agree 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 herefrom 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. *Recordation:* Upon execution of this Agreement, Whatcom County shall file a copy of it with the office of its County Auditor pursuant to the requirements of RCW 39.34.040.
- XV. *Performance:* The parties agree to satisfy all aspects of this AGREEMENT in a timely and professional manner. The WCD shall notify the COUNTY as soon as problems, delays or adverse conditions become known which will materially impair its ability to meet the deliverables described in Exhibit A.

- XVI. *Audit and Inspection:* The COUNTY and WCD shall maintain records pursuant to this AGREEMENT in accordance with generally accepted accounting principles and practices consistently applied. Records shall be subject at all reasonable times to inspection and audit and State auditor. The COUNTY and WCD shall preserve and make such records available to said parties until expiration of three (3) years from the date of final payment under this AGREEMENT.

- XVII. *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.

- XVIII. *Rights and Remedies:* In no event shall a making by the COUNTY of any payment to the WCD constitute or be construed as a waiver by the COUNTY 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 COUNTY while any such breach or default shall exist shall in no way impair or prejudice any of the COUNTY'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 COUNTY in respect to breach or default of this AGREEMENT.

This AGREEMENT shall not relieve the COUNTY 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 COUNTY or the WCD by law.

- XIX. *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 the County with a certificate of insurance and endorsements required by the Agreement.

 2. For the commercial general liability and business automobile insurance, Whatcom County 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.

XX. *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 COUNTY in fulfilling its responsibilities otherwise defined by law.

XXI. *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 _____, 2024.

WHATCOM CONSERVATION DISTRICT

Brandy Reed, WCD District Manager Date

Whatcom Conservation District
6975 Hannegan Road
Lynden, WA 98264

**WHATCOM COUNTY:
Recommended for Approval:**

Elizabeth Kosa, Public Works Director Date

Approved as to form:

Christopher Quinn, Senior Civil Deputy Prosecuting Attorney Date

Approved:
Accepted for Whatcom County:

By: _____
Satpal Singh Sidhu, Whatcom County Executive Date

EXHIBIT A - SCOPE OF WORK
Lake Whatcom Stormwater Outreach Assistance

Program Description

The Whatcom Conservation District (WCD) will provide education, outreach, and technical assistance to Whatcom County for Lake Whatcom stormwater-related programs.

Task 1. Program Administration

The WCD will provide program administration and coordinate with county staff. This will include invoicing, tracking/reporting on all activities, ensuring deadlines and deliverables are met, communicating proposed changes to county staff with notice, and scheduling and facilitating meetings.

Deliverables:

Activity	Deliverable	Draft Due	Deadline/Final Due	Collaborative
Develop contract schedule	Calendar detailing deliverables and planning milestones	2 weeks after contract execution	Adjustable with prior approval from county staff	
Invoicing	Monthly invoice including: 1. A progress report detailing work performed during the invoice period is required 2. A summary table showing amount expended per invoice, amount remaining and percent complete for each deliverable.	n/a	15th of each month	
Facilitate meetings	Schedule monthly meetings. Additional meetings as required.	n/a	Pre-schedule check-in meetings at start of contract	
	Meeting agenda	3 days prior to meetings	Day of meeting	
	Updated planning documents and notes	n/a	Follow-up within 3 days of meetings	
Annual reporting	Written annual contract summary report	January 3, 2025	January 8, 2025	

Task 2. General Education and Outreach

The WCD will provide outreach and engagement support for stormwater events in the Lake Whatcom watershed on an as-need basis.

Deliverables:

Activity	Deliverable	Draft Due	Deadline/Final Due	Collaborative
Outreach event staffing	Provide staffing for stormwater program county-planned events (stormwater pop-up booths, pet waste outreach booths, etc.)	n/a	As requested	X

Task 3. Neighborhood Native Landscaping Program (NNLP) Assistance

The WCD will implement neighborhood native landscaping projects, including site identification, outreach and landowner recruitment, feasibility analysis, project design, labor, supplies and materials procurement, project management, promotion and documentation. The goal for 2024 is to secure 8-10 participating properties within walking distance of each other (about 0.5 miles) with individual project sizes ranging from 1,000-3,000 ft², for a total of up to 20,000 ft² of native plant landscaping installed.

Deliverables:

Activity	Deliverable*	Draft Due	Deadline/Final Due	Collaborative
Outreach & cluster selection	Manage NNLP interest list – remove old inquiries and past participants, compile and organize new respondents, map addresses of 2024 candidates and create layers for past project locations	n/a	Throughout Feb	
	Schedule meeting with county staff to identify target neighborhoods and backups	n/a	February 15	X
	Conduct outreach to target neighborhoods	n/a	Throughout Feb/Mar	
	Initial site visits – review HAF with HOs and identify proposed planting area	n/a	Throughout April	
	Finalize participating properties that meet criteria, treating a total of ~20,000 ft ²	n/a	May 1	
Landowner coordination and site planning	Assemble NNLP packets with essential paperwork and deliver/review with HOs	n/a	April 15	
	All HAFs signed and submitted to county	n/a	May 1	
	Follow up site visits as needed	n/a	Throughout May	
	All MAs signed and submitted to county	n/a	June 1	
	NOAs submitted to PDS	n/a	June 1	
	Preliminary planting plan for each participating property – estimated number of species for space, light, soil conditions and design specs	June 17	July 1	
Materials procurement and project implementation	Coordinate with WCC crew leader, submit plan for crew assistance based on number of days requested	n/a	Coordinate April-June. Plan submitted June 1	
	Preliminary order/hold placed on native plants and delivery date identified	n/a	July 1	
	Final plant order placed after development of detailed planting plan and homeowner input	n/a	August 1	
	Approved mulch and cardboard ordered	n/a	August 1	
	Blow-in mulch installed	n/a	August 31	

	Plan and implement planting parties	n/a	Between Oct 1 - Nov 15	X
Wrap up	Clean up and organize documents on Google Drive, save photos and quotes	n/a	December 13	
	Survey for participant feedback	December 1	December 13	
	Lessons learned document	n/a	December 31	X
<p>*Definitions: HAF = Homeowner Agreement Form, HO = Homeowner, MA = Maintenance Agreement, NOA = Notice of Activity, PDS = Planning & Development Services, WCC = Washington Conservation Corps</p>				

Requirements:

- Whatcom County staff will review all deliverables before distribution.
- All materials and events will include the Whatcom County logo unless otherwise agreed upon by staff in advance of distribution.
- All events paid for by the county will include county staff presence and recognition of county contribution.
- All content developed for programs paid for by the county will be hosted on Whatcom County websites and social media pages and shared by the WCD. WCD staff will work with county staff to have developed and approved content posted to county websites.
- The WCD will coordinate with county staff on what the focus outreach messaging should be prior to each event.

EXHIBIT B - BUDGET
Lake Whatcom Stormwater Outreach Assistance

As consideration for services provided in Exhibit A, Scope of Work, the County agrees to compensate the contractor according to the 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 below. Revised Composite Rate forms will be provided to the County for any rate changes upon adjustment. **The total budget is not to exceed \$72,666.31.** Other reasonable expenses incurred in the course of performing the duties herein shall be reimbursed including mileage at the current IRS rate. For mileage reimbursement submit: copies of mileage records, including the name of staff member, date of travel, and number of miles traveled. Lodging and per diem for training shall not exceed the GSA rate for the location where training is provided. Other expenditures such as supplies, postage, and rentals shall be reimbursed at actual cost. Expense reimbursement requests must be accompanied by copies of paid invoices. Contractor certifies that all personnel charging to this contract are program personnel and are not also included in the Contractor's overhead rate. Any work performed prior to the effective date or continuing after the completion date of the contract, unless otherwise agreed upon in writing, will be at the contractor's expense.

	Administrative Specialist		Outreach & Education Manager		Outreach & Education Specialist		Green Infrastructure Programs Specialist		Direct Cost			Labor			Total
	Max 2024 Wage Rate/hour	Est. 2024 Comp Rate/hour	Hours	Cost	Hours	Cost	Hours	Cost	Supplies, Refreshments & Printing	Travel	Total Direct	Hours	Cost	Indirect 30%	
Contract Activities															
Task 1: Program Administration															
Contract calendar			4	\$ 286.56		\$ -		\$ -			\$ -	4	\$ 286.56	\$ 85.97	\$ 372.53
Invoicing	24	\$ 1,374.72	24	\$ 1,719.36		\$ -	24	\$ 1,106.88			\$ -	72	\$ 4,200.96	\$ 1,260.29	\$ 5,461.25
Facilitate meetings		\$ -	12	\$ 859.68	12	\$ 708.12		\$ -			\$ -	24	\$ 1,567.80	\$ 470.34	\$ 2,038.14
Annual reporting		\$ -	10	\$ 716.40		\$ -		\$ -			\$ -	10	\$ 716.40	\$ 214.92	\$ 931.32
Task 2: General Education and Outreach															
Other outreach events		\$ -	12	\$ 859.68	30	\$ 1,770.30		\$ -		\$ 50.00	\$ 50.00	42	\$ 2,629.98	\$ 788.99	\$ 3,468.97
Task 3: Neighborhood Native Landscaping Program Assistance															
Outreach		\$ -	15	\$ 1,074.60	15	\$ 885.15	40	\$ 1,844.80	\$ 200.00		\$ 200.00	70	\$ 3,804.55	\$ 1,141.37	\$ 5,145.92
Landowner Coordination		\$ -		\$ -		\$ -	120	\$ 5,534.40		\$ 100.00	\$ 100.00	120	\$ 5,534.40	\$ 1,660.32	\$ 7,294.72
Materials and Project Implimentation		\$ -	30	\$ 2,149.20		\$ -	120	\$ 5,534.40	\$ 36,000.00	\$ 250.00	\$ 36,250.00	150	\$ 7,683.60	\$ 2,305.08	\$ 46,238.68
Wrap up			5	\$ 358.20			20	\$ 922.40		\$ 50.00	\$ 50.00	25	\$ 1,280.60	\$ 384.18	\$ 1,714.78
Totals	24	\$ 1,374.72	112	\$ 8,023.68	57	\$ 3,363.57	324	\$ 14,942.88	\$ 36,200.00	\$ 450.00	\$ 36,650.00	517	\$ 27,704.85	\$ 8,311.46	\$ 72,666.31

* references to explanation in budget narrative in contract

Composite rates are based on actual taxes and benefits, which may vary by month. Estimated hourly composite rates are provided below.

Revised Composite Rate forms will be provided to the County for any rate changes upon adjustment.

Title	Max	Estimated
	Hourly Rate	Comp Rate
Farm Planner Resource Specialist	\$ 30.34	\$ 46.92
Administrative Specialist	\$ 36.55	\$ 57.28
CREP Resource Specialist	\$ 35.12	\$ 64.26
Conservation Planning Manager	\$ 24.84	\$ 24.14
Fish & Wildlife Habitat Improvement Manager	\$ 41.88	\$ 77.84
Farm Planner Resource Specialist	\$ 27.52	\$ 49.20
Outreach & Education Specialist	\$ 39.15	\$ 59.01
Riparian & Stormwater Specialist	\$ 36.88	\$ 66.25
Green Infrastructure Programs Specialist	\$ 29.44	\$ 46.00
Wildfire Resilience Specialist	\$ 28.88	\$ 46.12
Water Quality Data Coordinator	\$ 36.55	\$ 57.28
Cartographer & IT Specialist	\$ 42.60	\$ 67.44
District Manager	\$ 52.46	\$ 76.60
Habitat Restoration Specialist	\$ 24.99	\$ 40.37
Outreach & Education Manager	\$ 40.53	\$ 71.64
Conservation Research Specialist	\$ 30.34	\$ 46.92
Wildfire Resilience Technician	\$ 24.99	\$ 40.37
Outreach & Education Technician	\$ 24.99	\$ 40.37

EXHIBIT C - INSURANCE
Lake Whatcom Stormwater Outreach Assistance

EVIDENCE OF COVERAGE

INSURED/PARTICIPANT:

Whatcom Conservation District
6975 Hannegan Road
Lynden, WA 98264

MEMORANDUM#: 2024-00-271

EFFECTIVE: September 1, 2023 through August 31, 2024

This is to certify that the Memorandum of Coverage has been issued to the Insured/Participant for the period indicated.

CERTIFICATE HOLDER:

Whatcom County
322 N. Commercial St., Suite 400
Bellingham, WA 98225-4042

The Evidence of Coverage does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

COVERAGE:	PER OCCURRENCE LIMIT	AGGREGATE LIMIT
COMPREHENSIVE GENERAL LIABILITY	\$1,000,000	\$2,000,000
<i>Professional Liability</i>	\$1,000,000	\$2,000,000
<i>Personal Liability</i>	\$1,000,000	\$2,000,000
<i>Products – Complete Operation</i>	\$1,000,000	\$2,000,000
AUTO LIABILITY	\$1,000,000	\$2,000,000
<i>Combined Single Limit; Hired and Non-Owned; Temporary Substitute</i>	\$1,000,000	\$2,000,000
CRIME BLANKET COVERAGE WITH FAITHFUL PERFORMANCE OF DUTY	N/A	N/A
<i>Per Occurrence Aggregate</i>	N/A	N/A
PROPERTY/MOBILE EQUIPMENT/BOILER AND MACHINERY		
<i>Property</i>	N/A	N/A
<i>Mobile Equipment</i>		
AUTOMOBILE PHYSICAL DAMAGE	N/A	N/A
OTHER COVERAGE: N/A	N/A	N/A

CANCELLATION:

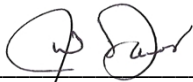
Should any of the above described coverage be cancelled before the expiration date of thereof. Notice will be delivered in accordance with the provisions of the MOC.

MEMO:

Evidence of Member Coverage to contracted party

Reference: 2024 Interlocal Agreement

Lake Whatcom Stormwater Outreach Assistance



Authorized Representative
December 21, 2023

Contracted Party Notice

Enduris Washington is a joint self-insurance program for public entities authorized by RCW 48.62.

Under RCW 48.62.061, the state risk manager shall adopt rules governing the management and operation of both individual and joint local government self-insurance programs covering property or liability risks. The rules are contained in the Washington Administrative Code (WAC) 200-100 and summarized as follows:

- Only members who sign the interlocal agreement binding them to contributions and assessments may participate in a local government risk pool (WAC 200-100-020).
- Only members may participate in the self-insured retention layer, and only members may participate in the joint purchase of insurance or reinsurance (WAC 200-100-02005).
- Nonmembers shall not participate in any coverages of the joint self-insurance program including the self-insured retention layer and the excess insurance or reinsurance layer (WAC 200-100-02007).

The state risk manager and the Washington Administrative Code prohibit Enduris of Washington from granting additional insured status to nonmembers.

However, Enduris can cover the contractual liability undertaken by its members in most cases. As long as the contract between an Enduris member and a third party qualifies as a “member contract” and the claims against the indemnitee third party are otherwise covered by the terms of the Memorandum of Coverage, the member district’s indemnity obligation should also be covered.

Enduris Washington’s memorandum of coverage (MOC) contains the definition of a “member contract” as follows:

SECTION IV – DEFINITIONS

[...]

O. Member Contract means a written contract that satisfies all of the following:

1. The agreement pertains to the Named Member's routine governmental operations, including professional services and mutual aid agreements, and by the contract terms the Named Member assumes the Tort liability of another to pay damages because of Bodily Injury or Property Damage to a third person or organization, or with respect to Professional Services to pay damages because of Public Officials Errors and Omissions to a third person or organization, and;
2. The agreement was entered into prior to the damage for which a claim is made.

Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

A Member Contract does not include any part of any contract or agreement that indemnifies any person or organization for any claim and/or suit that is excluded by the terms of this Memorandum, or that indemnifies an architect, engineer, or surveyor arising out of preparing, approving, or failing to approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications, or giving or failing to give directions or instructions, unless the architect, engineer or surveyor is an employee of the Named Member and the services are part of the Named Member's routine governmental operations. A Member Contract also does not include the indemnification of any person or organization for damages by fire, explosion, or water damages to premises rented or loaned to the Named Member.

Reliability in a Risky World