

**WHATCOM COUNTY CONTRACT
INFORMATION SHEET**

Whatcom County Contract No.

202108025

Originating Department:	85 Health
Division/Program: (i.e. Dept. Division and Program)	8540 Environmental Health / 854020 Drinking Water
Contract or Grant Administrator:	Darin Klein
Contractor's / Agency Name:	Washington Department of Ecology

Is this a New Contract?	If not, is this an Amendment or Renewal to an Existing Contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:	

Does contract require Council Approval?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	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?	If yes, grantor agency contract number(s):	C2200022	CFDA#:
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>		
Is this contract grant funded?	If yes, Whatcom County grant contract number(s):		
Yes <input type="checkbox"/>	No <input type="checkbox"/>		

Is this contract the result of a RFP or Bid process?	Contract Cost Center:	651310
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	If yes, RFP and Bid number(s):

Is this agreement excluded from E-Verify?	No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/>	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"/> 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):	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:
Varies depending on number of well drilling and decommissioning notifications collected.	<ol style="list-style-type: none"> Exercising an option contained in a contract previously approved by the council. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance. Bid or award is for supplies. Equipment is included in Exhibit "B" of the Budget Ordinance 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: In accordance with WAC 173-160, this Agreement delegates authority to the Health Department to administer and enforce the well sealing, tagging, and decommissioning of water wells.

Term of Contract:	5 Years	Expiration Date:	06/30/2026
-------------------	---------	------------------	------------

Contract Routing:	1. Prepared by:	JT	Date:	07/15/2021
	2. Attorney signoff:	RB	Date:	07/21/2021
	3. AS Finance reviewed:	M Caldwell	Date:	7/19/21
	4. IT reviewed (if IT related):		Date:	
	5. Contractor signed:		Date:	
	6. Submitted to Exec.:	JT	Date:	08/16/2021
	7. Council approved (if necessary):	AB2021-441	Date:	08/10/2021
	8. Executive signed:		Date:	8-16-21
	9. Original to Council:		Date:	9-9-21



MEMORANDUM

TO: Satpal Sidhu, Executive
FROM: Erika Lautenbach, Director
RE: Washington State Department of Ecology (DOE) – Well Delegation Agreement
DATE: August 16, 2021

Attached is an agreement between Whatcom County and Washington State Department of Ecology for your review and signature.

▪ **Background and Purpose**

In accordance with WAC 173-160, this Agreement delegates authority to Whatcom County to administer and enforce well sealing, tagging, and decommissioning of water wells. This Agreement requires the County to inspect a minimum of 40% of newly constructed water wells to verify that licensed Well Drillers are adequately sealing and tagging new wells. Additionally, the County inspects a minimum of 40% of wells that are decommissioned, in order to ensure that proper decommissioning procedures are being followed.

▪ **Funding Amount and Source**

DOE pays the County 50% of water well drilling and decommissioning notifications collected. The County receives approximately \$13,500 per year for this work, which covers the County's cost for providing the inspections and required reporting. These funds will be included in the 2021 budget. Council approval is required per RCW 39.34.030(2) for agreements between public agencies.

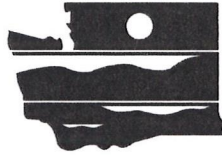
▪ **Differences from Previous Contracts**

Similar agreements have been in place with DOE since 2008. This Agreement includes no significant changes to the scope of work from the agreement that ends on 6/30/2021 (WC Contract #201506016).

Please contact Darin Klein, Environmental Health Supervisor at 360-778-6032 (DKlein@co.whatcom.wa.us) or Kathleen Roy, Assistant Director at 360-778-6007 (KRoy@co.whatcom.wa.us), if you have any questions or concerns regarding this request.



WHATCOM COUNTY
CONTRACT NO.
202108025



DEPARTMENT OF
ECOLOGY
State of Washington

IAA No. C2200022

INTERAGENCY AGREEMENT (IAA)

BETWEEN

THE STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY

AND

WHATCOM COUNTY HEALTH DEPARTMENT

THIS INTERAGENCY AGREEMENT (“Agreement” or “IAA”) is made and entered into by and between the state of Washington, Department of Ecology, hereinafter referred to as “ECOLOGY,” and the WHATCOM COUNTY HEALTH DEPARTMENT hereinafter referred to as the “WCHD” or “CONTRACTOR,” pursuant to the authority granted by Chapter 39.34 RCW.

THE PURPOSE OF THIS AGREEMENT is to provide delegation and funds to WCHD to administer and enforce the well sealing, tagging, and decommissioning portions of the water well construction regulations.

WHEREAS, ECOLOGY has legal authority WAC Chapter 173-160 entitled Minimum Standards for Construction and Maintenance of Wells and WCHD has legal authority RCW18.104 entitled the Washington Well Construction Act, that allows each party to undertake the actions in this agreement.

WHEREAS, WCHD shall implement the provisions of the well tagging, sealing, and decommissioning components of Chapter 173-160 WAC. Authority for this action of delegation and funding is provided through the provisions of RCW 18.104.043 and 18.104.150. Delegation of authority to inspect wells applies only to water supply wells.

THEREFORE, IT IS MUTUALLY AGREED THAT:

1) SCOPE OF WORK

WCHD shall furnish the necessary personnel, equipment, material and/or service(s) and otherwise do all things necessary for or incidental to the performance of the work set forth in Appendix A, *Statement of Work*, attached hereto and incorporated herein.

2) PERIOD OF PERFORMANCE

The period of performance of this IAA will commence on **July 1, 2021**, and be completed by **June 30, 2026**, unless the Agreement is terminated sooner as provided herein. Amendments extending the period of performance, if any, shall be at the sole discretion of ECOLOGY.

3) PAYMENT

Funding provided to WCHD by ECOLOGY is authorized under the provisions of RCW 18.104.150. ECOLOGY shall pay WCHD for services described as follows:

Amount: Fifty percent (50%) of the notification fees collected for water wells constructed and decommissioned within Whatcom County during the time period covered by this Agreement.

ECOLOGY may, at its sole discretion, terminate or suspend this Contract, or withhold payments claimed by the CONTRACTOR for services rendered, if the CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.

4) BILLING PROCEDURE

ECOLOGY will pay WCHD fifty percent (50%) of the well construction and decommissioning fees collected by ECOLOGY for water wells constructed and decommissioned in Whatcom County during the Agreement's period of performance, all payments shall be made to WCHD after quarterly reports are received by ECOLOGY.

Payment will be issued through Washington State's Office of Financial Management's Statewide Payee Desk. To receive payment, CONTRACTOR must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>. For questions about the vendor registration process, contact Statewide Payee Help Desk at (360) 407-8180 or email PayeeRegistration@ofm.wa.gov.

5) ALTERATIONS AND AMENDMENTS

This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

6) ASSIGNMENT

The work to be provided under this Agreement, and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

7) ASSURANCES

Parties to this Agreement agree that all activity pursuant to this Agreement will be in accordance with all the applicable current federal, state, and local laws, rules, and regulations.

8) CONFORMANCE

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

9) DISPUTES

Parties to this Agreement shall employ every effort to resolve a dispute themselves without resorting to litigation. In the event that a dispute arises under this Agreement that cannot be resolved among the parties, it shall be determined by a Dispute Board in the following manner. Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, agreement terms, and applicable statutes and rules, and then make a determination of the dispute. The determination of the Dispute Board shall be final and binding on the parties hereto, unless restricted by law. The cost of resolution will be

borne by each party paying its own cost. As an alternative to this process, if state agencies, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control. The parties may mutually agree to a different dispute resolution process.

10) FUNDING AVAILABILITY

ECOLOGYS ability to make payments is contingent on availability of funding. In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to completion or expiration date of this Agreement, ECOLOGY, at its sole discretion, may elect to terminate the Agreement, in whole or part, for convenience or to renegotiate the Agreement subject to new funding limitations and conditions. ECOLOGY may also elect to suspend performance of the Agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification restrictions, although ECOLOGY will make a reasonable attempt to provide notice.

In the event of termination or suspension, ECOLOGY will reimburse eligible costs incurred by the CONTRACTOR through the effective date of termination or suspension. Reimbursed costs must be agreed to by ECOLOGY and the CONTRACTOR. In no event shall ECOLOGYS reimbursement exceed ECOLOGYS total responsibility under the agreement and any amendments.

11) GOVERNING LAW AND VENUE

This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws. This Agreement 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 the Superior Court for Thurston County.

12) INDEPENDENT CAPACITY

The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

13) ORDER OF PRECEDENCE

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- a. Applicable federal and state of Washington statutes, regulations, and rules.
- b. Mutually agreed upon written amendments to this Agreement.
- c. This Agreement, number C2200022.
- d. Appendix A, *Statement of Work*.
- e. Appendix B, *Special Terms and Conditions*.
- f. Any other provisions or term of this Agreement, including materials incorporated by reference or otherwise incorporated.

14) RECORDS MAINTENANCE

The parties to this Agreement shall each maintain books, records, documents, and other evidence that sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the service(s) described herein. These materials shall be subject to inspection, review, or audit by personnel of both parties, other personnel duly authorized by either party, the Office of the State Auditor, and federal

officials so authorized by law. All books, records, documents, and other materials relevant to this Agreement must be retained for six years after expiration of this Agreement. The Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period. Each party will utilize reasonable security procedures and protections for all materials related to this Agreement. All materials are subject to state public disclosure laws.

15) RESPONSIBILITIES OF THE PARTIES

Each party of this Agreement hereby assumes responsibility for claims and/or damages to persons and/or property resulting from any act or omissions on the part of itself, its employees, its officers, and its agents. Neither party will be considered the agent of the other party to this Agreement.

16) RIGHTS IN DATA

Unless otherwise provided, data which originates from this Agreement shall be "work made for hire" as defined by the United States Copyright Act, Title 17 U.S.C. section 101 and shall be owned by state of Washington, ECOLOGY. Data shall include, but not be limited to, reports, documents, pamphlets, advertisements, books magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, and register these items, and the ability to transfer these rights.

17) SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

18) SUBCONTRACTORS

CONTRACTOR agrees to take complete responsibility for all actions of any Subcontractor used under this Agreement for the performance. When federal funding is involved there will be additional contractor and subcontractor requirements and reporting.

Prior to performance, all subcontractors who will be performing services under this Agreement must be identified, including their name, the nature of services to be performed, address, telephone, WA State Department of Revenue Registration Tax number (UBI), federal tax identification number (TIN), and anticipated dollar value of each subcontract. Provide such information to ECOLOGY's Agreement manager.

19) SUSPENSION FOR CONVENIENCE

ECOLOGY may suspend this Agreement or any portion thereof for a temporary period by providing written notice to the CONTRACTOR a minimum of seven (7) calendar days before the suspension date. CONTRACTOR shall resume performance on the first business day following the suspension period unless another day is specified in writing by ECOLOGY prior to the expiration of the suspension period.

20) TERMINATION FOR CAUSE

If for any cause, either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within fifteen (15) business days. If failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.

21) TERMINATION FOR CONVENIENCE

Either party may terminate this Agreement without cause upon thirty (30) calendar day prior written notification to the other party. 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.

22) WAIVER

A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a written amendment to this Agreement signed by an authorized representative of the parties.

23) AGREEMENT MANAGEMENT

The representative for each of the parties shall be responsible for and shall be the contact person for all communications, notifications, and billings questions regarding the performance of this Agreement. The parties agree that if there is a change in representatives, they will promptly notify the other party in writing of such change, such changes do not need an amendment.

The ECOLOGY Representative is:	The WCHD Representative is:
Name: Scott Malone Address: PO Box 47600 Olympia, WA 98504-7600 Phone: (360) 407-6648 Fax: (360) 407-6574 Email: scott.malone@ecy.wa.gov	Name: Darin Klein Address: 509 Girard St Bellingham, WA 98225 Phone: (360) 778-6032 Email: dklein@co.whatcom.wa.us

24) ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the parties. 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.

The signatories to this Agreement represent that they have the authority to bind their respective organizations to this Agreement.

IN WITNESS WHEREOF, the parties below, having read this Agreement in its entirety, including all attachments, do agree in each and every particular as indicated by their signatures below.

**State of Washington
 Department of Ecology**

Verner,
Mary (ECY)
 By: _____
 Mary Verner Date
 Water Resources Program Manager

Digitally signed by
 Verner, Mary (ECY)
 Date: 2021.08.30
 12:12:26 -07'00'

Whatcom County Health Department

By: Erika Lautenbach 7/15/2021
 Erika Lautenbach Date
 Health Director

PROGRAM APPROVAL

Approved by email DK/JT
Darin Klein, Environmental Health Supervisor

07/15/2021
Date

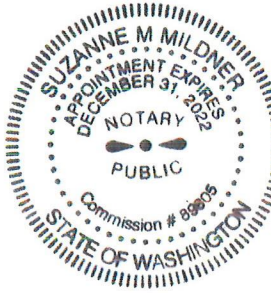
WHATCOM COUNTY

Satpal Sidhu

SATPAL SIDHU
County Executive

STATE OF WASHINGTON)
)
COUNTY OF WHATCOM)

On this 16th day of August, 2021, before me personally appeared Satpal Sidhu, to me known to be the Executive of Whatcom County and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.



Suzanne M. Mildner
NOTARY PUBLIC in and for the State of Washington,
residing at Bellingham.

My Commission expires: 12-31-22

APPROVED AS TO FORM:

Approved by email RB/JT
Royce Buckingham, Prosecuting Attorney

07/21/2021
Date

APPENDIX A STATEMENT OF WORK

WCHD shall implement the provisions of the well tagging, sealing and decommissioning components of Chapter 173-160 WAC. Authority for this action of delegation and funding is provided through the provisions of RCW 18.104.043 and 18.104.150. Delegation of authority to inspect wells applies only to water supply wells.

A. WCHD shall inspect:

- A minimum of forty percent (40%) of water wells being drilled annually in Whatcom County for proper sealing and tagging; and
- A minimum of forty percent (40%) of wells being decommissioned annually in Whatcom County.

B. WCHD, shall at a minimum, conduct twenty-five percent (25%) of all their inspections while the driller is on-site. This percentage may be adjusted by Ecology's contract manager for driller "no shows".

C. WCHD shall administer and enforce the provisions of Chapter 173-160 WAC, Sections: 173-160-101, 173-160-181, 173-160-221, 173-160-231, 173-160-241, 173-160-251, 173-160-261, 173-160-271, 173-160-311, 173-160-381 and any subsequent revisions.

D. This Agreement does not preclude Ecology from enforcing these aforementioned regulations in Whatcom County.

E. This Agreement does not preclude WCHD from adopting their own well construction rules or charging additional fees for well inspections.

Deliverables: WCHD shall submit a quarterly report to ECOLOGY which summarizes the well drilling activities for that reporting period. See Appendix B Special Terms and Conditions for additional deliverables.

The quarterly report shall be submitted on the form provided by ECOLOGY and shall include the number of well construction and decommissioning notices received by WCHD as well as the number of inspections made. The report shall indicate if the driller was present during the inspection and if the driller was a "no show" at the scheduled time of inspection.

Upon request, an additional detailed report shall itemize (at a minimum) the dates of inspection, notice of intent number, well tag number, well owner, drilling company, and driller. The report will also identify any enforcement activities and any variances issued.

Due Date: Quarterly reports are due on January 20th, April 20th, July 20th and October 20th for inspections done in the prior three-month period.

**APPENDIX B
SPECIAL TERMS AND CONDITIONS**

EDUCATIONAL REQUIREMENT FOR WCHD INSPECTORS

WCHD will ensure that inspectors will have the following minimum qualifications.

1. A Bachelor's degree from an accredited college or university involving major study in environmental health, sanitary science, bacteriology or public health, or other closely related science field. On the job experience with a health jurisdiction involving environmental health related work may be substituted year for year for the college education, including substituting for the requirement of a Bachelor's degree. Experience obtained through military service may be substituted year-for-year for up to two (2) years of college education.
2. Demonstrated written and oral communication skills.
3. Ability to establish and maintain professional and cooperative relationships with the public, state and federal agency personnel, and county personnel.
4. Physical capability to work outdoors under inclement weather conditions and climbing over rough terrain.
5. Valid Washington State driver's license and a vehicle adequate for daily use on the job.

DESIRED QUALIFICATIONS FOR WCHD INSPECTORS

1. Registration as a Sanitarian with the Washington State Board of Registered Sanitarians or National Environmental Health Association, or eligibility for registration in either.
2. Registration as a Professional Engineer, Geologist, Hydrogeologist, or Engineering Geologist.
3. Experience in operation and maintenance of groundwater monitoring equipment.

TRAINING FOR WCHD INSPECTORS

ECOLOGY shall provide training for WCHD inspectors in well sealing, tagging and decommissioning techniques. Training will focus on enforcement, data collection techniques, field investigations, well construction, and an overview of all applicable laws and regulations pertaining to this Agreement. New inspectors will be trained by ECOLOGY and WCHD. Each new

inspector shall be required to complete a minimum of eight hours of classroom instruction provided by ECOLOGY. Twenty-eight hours of field instruction shall be provided by the combined resources of ECOLOGY and WCHD. WCHD shall provide adequate time and funding for inspectors to attend this training.

All WCHD inspectors will be required to obtain two (2) one-hour Continuing Education Units (CEUs) per year in Washington State well construction rules and regulations. These CEUs will be available in public meetings or at the request of the WCHD via web conference or in-person meetings. If WCHD inspectors cannot travel outside local areas, ECOLOGY staff may travel to the WCHD or to a nearby location where several counties can be trained at one time. CEUS will be tracked by the ECOLOGY project manager.

TECHNICAL AND ENFORCEMENT SUPPORT

ECOLOGY shall provide technical and enforcement support throughout the term of this Agreement. The primary point of contact for technical and enforcement assistance will be the Well Construction and Licensing Program Coordinator (360) 407-6648.

VIOLATIONS PROCEDURES

WCHD shall supply ECOLOGY with a copy of their enforcement procedures relating to the delegated items of this Agreement within ninety (90) days from signing.

Violations identified by WCHD which are not covered by this Agreement shall be reported to ECOLOGY's Northwest Regional Office (425) 649-7044 . Verbal notification of these types of violations shall be given within 24 hours. To facilitate ECOLOGY's role in future enforcement actions, written documentation of suspected violations may be required and will be evaluated by ECOLOGY on a case by case basis. Specific enforcement procedures will be included in the basic training instructions.

ANNUAL REVIEW

WCHD and ECOLOGY shall review and evaluate the terms of this Agreement annually upon a mutually agreed month. At a minimum, the evaluation must include an audit of construction inspections, decommissioning inspections, enforcement activities, variances, and other driller interactions that occurred during the year. The evaluation will also address the need to update or otherwise change portions of this Agreement, changes will be handled via amendment. ECOLOGY shall prepare a report of the findings. The report shall be made available via the internet or upon request.

