



Thurston Conservation District Board of Supervisors Work Session Topic List & Board Meeting Agenda

February 28, 2023, 5:00 pm -7:25 pm

Zoom Meeting Link:

<https://zoom.us/j/91658577844?pwd=cDgvaC9jcWRBU0luUFFHc1lrb3hLQT09>

Passcode: 2918

Meeting ID: 916 5857 7844

Call in: 1-253-215-8782

Work Session Topic List

5:00 pm – 6:00 pm

1. Topic List Review, *All*
2. Staff Presentation: NRCS Funding Explained, Marguerite Abplanalp
3. Minutes Review & Revision, *All*
 - a. January 24, 2022, Board Work Session & Meeting Minutes
4. Conservation and Education Center Development Update, *All*
5. 2023 Annual Plan, *All*
6. Legislative Update, *All*
7. Chehalis Basin Forestry Strategy, *All*
8. Important Updates & Announcements
 - a. Board of Supervisors, *All*
 - b. Executive Director, *Sarah Moorehead (Executive Director)*

Board Meeting

6:30 pm – 7:25 pm

- | | |
|---|----------------------|
| 1. Welcome, Introductions, Audio Recording Announcement | 6:30 PM
5 minutes |
| 2. Agenda Review | 6:35 PM
5 minutes |
| 3. Consent Agenda – <i>Action Item</i> | 6:40 PM
5 minutes |
| <ol style="list-style-type: none">A. January 24, 2023, Board Work Session & Meeting MinutesB. February 2023 Financial ReportC. FY22-24 Oregon Spotted Frog Outreach Funding AgreementD. FY23 Brumfield Construction Vendor Agreement | |

- E. FY23 Coastal Geologic Services Vendor Agreement
- F. FY23 H2 Precast Vendor Agreement
- G. Independence Valley Phase 2 RCO Applicant Authorization
- H. Scatter Creek Phase 2 RCO Applicant Authorization
- I. Elwanger Creek Project RCO Applicant Authorization
- J. City of Olympia Urban Agriculture ILA

- | | |
|--|-------------------|
| 4. Public Comment | 6:45 PM |
| *Three minutes per person | <i>10 minutes</i> |
| | |
| 5. Partner Reports (if present) | 6:55 PM |
| A. Natural Resources Conservation Service (NRCS), <i>TBD</i> | <i>15 minutes</i> |
| B. Washington State Department of Ecology, <i>Alena Reynolds</i> | |
| C. Washington State Conservation Commission (WSCC), <i>Jean Fike</i> | |
| D. Washington Association of Conservation Districts (WACD), <i>Doug Rushton</i> | |
| E. National Association of Conservation Districts (NACD), <i>Doug Rushton</i> | |
| | |
| 6. Governance, All – Action Item | 7:10 PM |
| A. 2023 Annual Plan | <i>5 minutes</i> |
| B. March 28, 2023, Work Session Topic List & Meeting Agenda Development | |
| | |
| 7. Executive Session: To discuss potential litigation. | 7:15 PM |
| <i>RCW 42.30.110 (I) To discuss with legal counsel representing the agency litigation or potential litigation.</i> | <i>20 Minutes</i> |
| | |
| 8. Executive Session Report Out – Action Item | |
| | |
| Adjourn | 7:45 PM |
| | |
| Informational Only Items: | |
| I. <i>Executive Director’s Report</i> | |

Important Dates

March 2023

Annual Native Plant Festival & Sale	March 4
Washington State Conservation Month	March 1 – March 31
TCD Election	March 14
WSCC Business Meeting – Everett and Virtual (Zoom)	March 15-16
Board Work Session & Meeting 5:00 -7:30 pm In-person and Virtual (Zoom)	March 28

April 2023

Board Work Session & Meeting 5:00 -7:30 pm In-person and Virtual (Zoom)	April 25
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May 2023

Board Work Session & Meeting 5:00 -7:30 pm In-person and Virtual (Zoom)

May 23

Item

3



Thurston Conservation District Consent Agenda Decision Sheet February 28, 2023 Board Meeting

- A. January 24, 2023 Board Meeting and Work Session Minutes
- a. Proposed action: accept without amendment and approve.
 - b. Action was taken:
☐ Passed ☐ Moved for discussion during meeting ☐ Tabled to a future meeting
- B. February 2023 Financial Report
- a. Proposed action: accept without amendment and approve.
 - b. Action was taken:
☐ Passed ☐ Moved for discussion during meeting ☐ Tabled to a future meeting
- C. FY22-24 Oregon Spotted Frog Outreach Funding Agreement
- c. Proposed action: accept without amendment and approve.
 - d. Action was taken:
☐ Passed ☐ Moved for discussion during meeting ☐ Tabled to a future meeting
- D. FY23 Brumfield Construction Vendor Agreement
- e. Proposed action: accept without amendment and approve.
 - f. Action was taken:
☐ Passed ☐ Moved for discussion during meeting ☐ Tabled to a future meeting
- E. FY23 Coastal Geologic Services Vendor Agreement
- g. Proposed action: accept without amendment and approve.
 - h. Action was taken:
☐ Passed ☐ Moved for discussion during meeting ☐ Tabled to a future meeting
- F. FY23 H2 Precase Vendor Agreement
- i. Proposed action: accept without amendment and approve.
 - j. Action was taken:
☐ Passed ☐ Moved for discussion during meeting ☐ Tabled to a future meeting
- G. Independence Valley Phase 2 RCO Applicant Authorization
- k. Proposed action: accept without amendment and approve.
 - l. Action was taken:
☐ Passed ☐ Moved for discussion during meeting ☐ Tabled to a future meeting

H. Scatter Creek Phase 2 RCO Applicant Authorization

m. Proposed action: accept without amendment and approve.

n. Action was taken:

☐ Passed ☐ Moved for discussion during meeting ☐ Tabled to a future meeting

I. Elwanger Creek Project RCO Applicant Authorization

o. Proposed action: accept without amendment and approve.

p. Action was taken:

☐ Passed ☐ Moved for discussion during meeting ☐ Tabled to a future meeting

J. City of Olympia Urban Agriculture ILA

q. Proposed action: accept without amendment and approve.

r. Action was taken:

☐ Passed ☐ Moved for discussion during meeting ☐ Tabled to a future meeting

ADOPTED BY THE BOARD OF THE THURSTON CONSERVATION DISTRICT, WASHINGTON ON
February 28, 2023, AND EFFECTIVE IMMEDIATELY

SIGNED:

TJ Johnson, Board Chair

Helen Wheatley, Board Vice-Chair

David Iyall, Board Auditor

Doug Rushton, Board Member

Betsie DeWreede, Board Member

Attest: Sarah Moorehead, Executive Director

Thurston Conservation District Board of Supervisors

Work Session Minutes

January 24, 2023

Hybrid: In-Person and Virtual on Zoom

Originally Scheduled: 5:00 pm – 6:00 pm

Actual Meeting Time: 5:00 pm – 6:00 pm



Present at Work Session:

TJ Johnson, TCD Board Chair

Ben Cushman, TCD Legal Counsel

Doug Rushton, TCD Board Supervisor

Sarah Moorehead, TCD Executive Director

Helen Wheatley, TCD Board Vice Chair

Betsie DeWreede, TCD Board Supervisor

- 1 **1.** Topic List Review, *All*
- 2 **2.** Staff Presentation: TCD Soil Testing Services, *Adam Peterson*
- 3 **3.** Minutes Review & Revision, *All*
- 4 a. December 20, 2022, Board Work Session & Meeting Minutes
- 5 **4.** Conservation and Education Center Development, *All*
- 6 **5.** 2023 TCD Annual Plan, *All*
- 7 **6.** Legislation & Legislative Outreach, *All*
- 8 **7.** Important Updates & Announcements
- 9 a. Board of Supervisors, *All*
- 10 b. Executive Director, *Sarah Moorehead (Executive Director)*

Respectfully,

TJ Johnson, TCD Board Chair

Thurston Conservation District Board of Supervisors

Regular Board Meeting Minutes

January 24, 2023

Hybrid: In-Person and Virtual on Zoom

Originally Scheduled: 6:30 pm – 7:30 pm

Actual Meeting Time: 6:30 pm – 7:03 pm



Present at Meeting:

TJ Johnson, TCD Board Chair

Helen Wheatley, TCD Board Vice Chair

Betsie DeWreede, TCD Board Supervisor

Doug Rushton, TCD Board Supervisor

David Iyall, TCD Board Supervisor

Sarah Moorehead, TCD Executive Director

Ben Cushman, TCD Legal Counsel

Alena Reynolds, Department of Ecology (DOE)

Update

Summary of Action Items

- 1 • None.

Summary of Motions Passed

- 2
3 *Supervisor DeWreede moved to approve the Agenda. Supervisor Iyall seconded. Motion*
4 *passed unanimously, (5-0).*
5 *Supervisor Rushton moved to approve the Consent Agenda. Supervisor Wheatley seconded.*
6 *Motion passed unanimously, (5-0).*
7 *Supervisor DeWreede moved to adopt the 2023 Staff Cost of Living Adjustment. Supervisor*
8 *Iyall seconded. Motion passed unanimously, (5-0).*
9 *Supervisor Rushton moved to sign onto the American Farmland Trust's FPLA Support Letter.*
10 *Supervisor DeWreede seconded. Motion passed unanimously, (5-0).*
11 *Supervisor DeWreede moved to approve the proposed Release and Settlement Agreement to*
12 *resolve the Leah Kellogg union grievance. Supervisor Iyall seconded. Motion passed*
13 *unanimously, (5-0).*
14 *Supervisor Iyall moved to adjourn the January 24, 2023 TCD Board Meeting. Supervisor*
15 *DeWreede seconded. Motion passed unanimously, (5-0).*

Full Version of the Minutes

Welcome & Introductions

At 6:30 pm, TCD Board Chair TJ Johnson called the January 24, 2023 Regular Board Meeting to order via the Zoom online forum. TCD Board and Staff were introduced by the Board Chair. For each vote, TCD Board Chair Johnson called out Supervisors by name. He announced that the meeting was being video recorded. TCD Supervisors Johnson, DeWreede, Iyall, and Wheatley

attended the meeting virtually. Supervisor Rushton and Executive Director Moorehead attended the meeting in person at the TCD office.

Agenda Review

Supervisor DeWreede moved to approve the Agenda. Supervisor Iyall seconded. Motion passed unanimously, (5-0).

Consent Agenda

- A. December 20, 2022 Board Work Session & Meeting Minutes
- B. January 2023 & 2022 Year-End Financial Report
- C. Sustainable Farm and Fields – No-Till Drill Grant Addendum
- D. FY23 Thurston County TCD Office Lease Extension Amendment

Supervisor Rushton moved to approve the Consent Agenda. Supervisor Wheatley seconded. Motion passed unanimously, (5-0).

Public Comment

No public members were present.

Partner Reports

- A. Natural Resources Conservation Service (NRCS) Update, TBD
 - NRCS has not yet hired the new local field office staff member.
- B. Department of Ecology (DOE) Update, Alena Reynolds
 - Ms. Reynolds provided an update.
- C. Washington State Conservation Commission (WSCC) Update, Jean Fike
 - Ms. Fike was not present. No report was provided.
- E. Washington Association of Conservation Districts (WACD) Update, TCD Supervisor and WACD Board Member Rushton
 - The WACD Legislative Day is scheduled for February 8, 2023.
 - A written update was provided in the Board Packet.
- F. National Association of Conservation Districts (NACD) Update, TCD Supervisor and NACD Board Member Rushton
 - The NACD Annual Meeting will be held from February 11 through February 15 in New Orleans, LA.
 - A written update was provided in the Board Packet.

TCD Resolution #2023-01: 2023 Staff Cost of Living Adjustment

Supervisor DeWreede moved to adopt the 2023 Staff Cost of Living Adjustment. Supervisor Iyall seconded. Motion passed unanimously, (5-0).

Governance

- Farmland Protection and Land Access (FPLA) Support Letter

Supervisor Rushton moved to sign onto the American Farmland Trust's FPLA Support Letter.
Supervisor DeWreede seconded. Motion passed unanimously, (5-0).

- February 28, 2023 Work Session Topic List & Meeting Agenda Development

Work Session

- Topic List Review, *All*
- Staff Presentation: NRCS Programs, *Marguerite Abplanalp*
- Minutes Review & Revision, *All*
 - January 24, 2023 Board Work Session & Meeting Minutes
- Conservation and Education Center Development, *All*
- 2023 Annual Plan, *All*
- Real Estate Update, *All*
- Potential Legislation, *All*
- Chehalis Basin Forestry Strategy, *All*
- Important Updates & Announcements
 - Board of Supervisors, *All*
 - Executive Director, *Sarah Moorehead (Executive Director)*

Board Meeting Agenda

- Welcome, Introductions, Audio Recording Announcement
- Agenda Review
- Consent Agenda
 - January 24, 2023 Board Work Session & Meeting Minutes
 - January Financial Report
- Public Comment
- Partner Reports (if present)
 - Natural Resources Conservation Service
 - Washington State Department of Ecology
 - Washington State Conservation Commission
 - Washington Association of Conservation Districts
 - National Association of Conservation Districts
- 2023 TCD Annual Plan, *All*
- Governance, *All*
 - March 28, 2023 Work Session Topic List & Meeting Agenda Development
- Executive Session: To discuss Potential Litigation

Executive Session: To discuss potential litigation with legal counsel.

In attendance: TCD Board Members Johnson, DeWreede, Iyall, Rushton, and Wheatley; TCD Legal Counsel Ben Cushman; and Executive Director Moorehead.

RCW 42.30.110 (I) To discuss with legal counsel representing the agency litigation or potential litigation.

Executive Session opened at 6:47 pm to last no more than 10 minutes and concluded at 6:59 pm.

Executive Session Report Out:

No action was taken.

Supervisor DeWreede moved to approve the proposed Release and Settlement Agreement to resolve the Leah Kellogg union grievance. Supervisor Iyall seconded. Motion passed unanimously, (5-0).

Supervisor Iyall moved to adjourn the January 24, 2023 TCD Board Meeting. Supervisor DeWreede seconded. Motion passed unanimously, (5-0).

Adjourn 7:03 pm

Respectfully,

TJ Johnson, TCD Chair



BOARD MEETING ITEM SUMMARY SHEET

Agenda Item Title:	RCO Funding Agreement: OSF Outreach		
Lead Staff:	Mara Healy	Board Meeting Date:	02/28/23
Goal of Presentation:	Decision <input checked="" type="checkbox"/>	Information <input type="checkbox"/>	Feedback <input type="checkbox"/>
Description/Background:	<i>Please provide a description or background of the project.</i>		
<p>This is the RCO Funding Agreement form for a landowner outreach grant, which is administered through RCO and funded through the ASRP program. The outreach project addresses critical knowledge gaps for the successful restoration and conservation of the Oregon Spotted Frog (OSF) – a federally listed species. Thurston Conservation District (TCD) will be conducting landowner outreach, consisting of in-person landowner workshops, landowner surveys, and creating education/outreach materials. TCD will also subcontract to US Fish and Wildlife Service for landowner engagement collaboration with TCD and GIS habitat analysis for OSF. This project will focus on reaching landowners within the Black River watershed to raise awareness of OSF, and understand community thoughts, perceptions and needs around OSF, and to inform OSF restoration and the potential for future translocation of OSF to aid in species recovery.</p>			
Pros: This funding will allow for important landowner outreach, GIS modeling, and social sciences investigation of Oregon Spotted Frog recovery in our county, and give voice to landowner needs in this ESA process.		Cons: None	
Fiscal Impacts: <i>Please describe the costs associated with this action.</i>			
No costs			
Recommended Action:		<i>What decision do you recommend the board make?</i>	
Approve funding agreement for signature			
Legal Review:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
Supporting Documents: <i>Please list below and attach supporting documents (contracts, maps, agreements, draft resolution or other documents).</i>			
Funding Agreement			



Project Sponsor: Thurston Conservation District
Project Title: OSF Translocation Landowner Outreach

Project Number: 22-2427P
Approval Date: 10/19/2022

PARTIES OF THE AGREEMENT

This Recreation and Conservation Office Grant Agreement (Agreement) is entered into between the State of Washington by and through the Department of Ecology (ECY or Funding Entity) acting through the Recreation and Conservation Office (RCO), P.O. Box 40917, Olympia, Washington 98504-0917 and Thurston Conservation District (Sponsor, and primary Sponsor), 2918 Ferguson St SW Ste 1 A, Tumwater, WA 98512, and shall be binding on the agents and all persons acting by or through the parties.

All Sponsors are equally and independently subject to all the conditions of this Agreement except those conditions that expressly apply only to the primary Sponsor.

Prior to and during the Period of Performance, per the Applicant Resolution/Authorizations submitted by all Sponsors (and on file with the RCO), the identified Authorized Representative(s)/Agent(s) have full authority to legally bind the Sponsor(s) regarding all matters related to the project identified above, including but not limited to, full authority to: (1) sign a grant application for grant assistance, (2) enter into this Agreement on behalf of the Sponsor(s), including indemnification, as provided therein, (3) enter any amendments thereto on behalf of Sponsor(s), and (4) make any decisions and submissions required with respect to the project. Agreements and amendments must be signed by the Authorized Representative/Agent(s) of all Sponsors, unless otherwise allowed in the AMENDMENTS TO AGREEMENT Section.

- A. During the Period of Performance, in order for a Sponsor to change its Authorized Representative/Agent as identified on the original signed Applicant Resolution/Authorization the Sponsor must provide the RCO a new Applicant Resolution/Authorization signed by its governing body or a written delegation of authority to sign in lieu of originally authorized Representative/Agency(s). Unless a new Applicant Resolution/Authorization has been provided, the RCO shall proceed on the basis that the person who is listed as the Authorized Representative in the last Resolution/Authorization that RCO has received is the person with authority to bind the Sponsor to the Agreement (including any amendments thereto) and decisions related to implementation of the Agreement.
- B. Amendments After the Period of Performance. RCO reserves the right to request and Sponsor has the obligation to provide, authorizations and documents that demonstrate any signatory to an amendment has the authority to legally bind the Sponsor as described in the above Sections.

For the purposes of this Agreement, as well as for grant management purposes with RCO, only the primary Sponsor may act as a fiscal agent to obtain reimbursements (See PROJECT REIMBURSEMENTS Section).

PURPOSE OF AGREEMENT

This Agreement sets out the terms and conditions by which a grant is made from the State Building Construction Account of the State of Washington. The grant is administered by the Recreation and Conservation Office (RCO).

DESCRIPTION OF PROJECT

This planning project addresses critical knowledge gaps for the successful restoration and conservation of the Oregon Spotted Frog (OSF) - an ASRP priority species - and in a priority GSU (Beaver Creek). Thurston Conservation District (TCD) will be conducting landowner outreach, consisting of in-person landowner workshops, landowner surveys, and creating education/outreach materials. TCD will also subcontract to US Fish and Wildlife Service for landowner engagement collaboration with TCD and GIS habitat analysis for OSF. This project will focus on reaching landowners within the Black River watershed and the Beaver Creek sub basin. The goal of the project is to raise awareness of OSF, and understand community thoughts, perceptions and needs around OSF, and to inform OSF restoration.

PERIOD OF PERFORMANCE

The period of performance begins on October 20, 2022 (project start date) and ends on June 30, 2024 (project end date). No allowable cost incurred before or after this period is eligible for reimbursement unless specifically provided for by written amendment or addendum to this Agreement, or specifically provided for by applicable RCWs, WACs, and any applicable RCO manuals as of the effective date of this Agreement.

The RCO reserves the right to summarily dismiss any request to amend this Agreement if not made at least 60 days before the project end date.

STANDARD TERMS AND CONDITIONS INCORPORATED

The Standard Terms and Conditions of the Recreation and Conservation Office attached hereto are incorporated by reference as part of this Agreement.

LONG-TERM OBLIGATIONS

For this planning project, the sponsor's on-going obligation shall be the same as the period of performance identified in the Period of Performance section.

PROJECT FUNDING

The total grant award provided for this project shall not exceed \$32,550.00. The RCO shall not pay any amount beyond that approved for grant funding of the project and within the percentage as identified below. The Sponsor shall be responsible for all total project costs that exceed this amount. The minimum matching share provided by the Sponsor shall be as indicated below:

	Percentage	Dollar Amount	Source of Funding
Office - CBS Habitat Rest. Project	100.00%	\$32,550.00	State
Total Project Cost	100.00%	\$32,550.00	

RIGHTS AND OBLIGATIONS INTERPRETED IN LIGHT OF RELATED DOCUMENTS

All rights and obligations of the parties under this Agreement are further specified in and shall be interpreted in light of the Sponsor's application and the project summary and eligible scope activities under which the Agreement has been approved and/or amended as well as documents produced in the course of administering the Agreement, including the eligible scope activities, the milestones report, progress reports, and the final report. Provided, to the extent that information contained in such documents is irreconcilably in conflict with the Agreement, such information shall not be used to vary the terms of the Agreement, unless the terms in the Agreement are shown to be subject to an unintended error or omission. "Agreement" as used here and elsewhere in this document, unless otherwise specifically stated, has the meaning set forth in the definitions of the Standard Terms and Conditions.

AMENDMENTS TO AGREEMENT

Except as provided herein, no amendment (including without limitation, deletions) of this Agreement will be effective unless set forth in writing signed by all parties. Exception: extensions of the Period of Performance and minor scope adjustments need only be signed by RCO's director or designee and consented to in writing (including email) by the Sponsor's Authorized Representative/Agent or Sponsor's designated point of contact for the implementation of the Agreement (who may be a person other than the Authorized Agent/Representative), unless otherwise provided for in an amendment. This exception does not apply to a federal government Sponsor or a Sponsor that requests and enters into a formal amendment for extensions or minor scope adjustments.

It is the responsibility of a Sponsor to ensure that any person who signs an amendment on its behalf is duly authorized to do so.

Unless otherwise expressly stated in an amendment, any amendment to this Agreement shall be deemed to include all current federal, state, and local government laws and rules, and policies applicable and active and published in the applicable RCO manuals or on the RCO website in effect as of the effective date of the amendment, without limitation to the subject matter of the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone. However, any such amendment, unless expressly stated, shall not extend or reduce the long-term obligation term.

COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND POLICIES

This Agreement is governed by, and the sponsor shall comply with, all applicable state and federal laws and regulations, applicable RCO manuals as identified below, Exhibits, and any applicable federal program and accounting rules effective as of the date of this Agreement or as of the effective date of an amendment, unless otherwise provided in the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone unless otherwise expressly stated in the amendment.

For the purpose of this Agreement, the following RCO manuals are deemed applicable and shall apply as terms of this Agreement:

- Reimbursements - Manual 8
- Restoration Projects - Manual 5

Provided, where a manual refers to a funding board's responsibility and/or authority but the funding board is not involved with the grant or successor to an entity that was involved, the RCO director shall have that responsibility and/or authority if such responsibilities and/or authority falls within the RCO's statutory responsibilities and/or authority or within a lawful delegation by the board to the RCO.

SPECIAL CONDITIONS

BILLING

In addition to following RCO's Manual 8 for reimbursements, receipts shall be attached for goods and services if: 1) the expense is \$1,000 or greater for bills totaling \$50,000 or more; or 2) the expense is \$500 or greater for bills totaling less than \$50,000.

REPORT DELIVERABLES

The Sponsor must attach a landowner survey analysis report, a Project Development Summary form provided by WDFW, and a SAPP form for any future phases of this project at the time of project closeout.

PROGRAM GUIDANCE

In addition to the guidance manuals listed in the Grant Agreement, the sponsor agrees to manage the project consistent with requirements outlined in RCO's Request for Qualifications #2114, and all guidance manuals referenced within this Request for Qualifications, unless there is prior approval from WDFW and the ASRP Steering Committee.

TIME EXTENSIONS

Funding for this project is appropriated through June 30, 2024. This agreement may be extended to include work thereafter, as needed and if funding is available.

AGREEMENT CONTACTS

The parties will provide all written communications and notices under this Agreement to either or both the mail address and/or the email address listed below:

Sponsor Project Contact

Mara Healy
2918 Ferguson ST SW Suite A
Tumwater, WA 98512
mhealy@thurstoncd.com

RCO Contact

Sasha Medlen
Outdoor Grants Manager
PO Box 40917
Olympia, WA 98504-0917
sasha.medlen@rco.wa.gov

These addresses and contacts shall be effective until receipt by one party from the other of a written notice of any change. Unless otherwise provided for in this Agreement, decisions relating to the Agreement must be made by the Authorized Representative/Agent, who may or may not be the Project Contact for purposes of notices and communications.

ENTIRE AGREEMENT

This Agreement, with all amendments and attachments, constitutes the entire Agreement of the parties. No other understandings, oral or otherwise, regarding this Agreement shall exist or bind any of the parties.

EFFECTIVE DATE

Unless otherwise provided for in this Agreement, this Agreement, for Project 22-2427, shall become effective and binding on the date signed by both the sponsor and the RCO's authorized representative, whichever is later (Effective Date). Reimbursements for eligible and allowable costs incurred within the period of performance identified in the PERIOD OF PERFORMANCE Section are allowed only when this Agreement is fully executed and an original is received by RCO.

The Sponsor has read, fully understands, and agrees to be bound by all terms and conditions as set forth in this Agreement and the STANDARD TERMS AND CONDITIONS OF THE RCO GRANT AGREEMENT. The signatories listed below represent and warrant their authority to bind the parties to this Agreement.

Thurston Conservation District

By: _____

Date: _____

Name (printed): _____

Title: _____

State of Washington Recreation and Conservation Office

By: _____

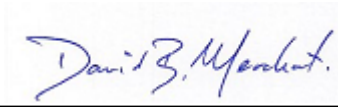
for Megan Duffy
Director
Recreation and Conservation Office

Date: _____

Pre-approved as to form:

By: _____

Assistant Attorney General



Date: 09/15/2022

Project Sponsor: Thurston Conservation District
Project Title: OSF Translocation Landowner Outreach

Project Number: 22-2427P
Approval Date: 10/19/2022

Eligible Scope Activities

ELIGIBLE SCOPE ACTIVITIES

Planning Metrics

Worksite #1, OSF Translocation Planning (2022H-024-PL)

Targeted salmonid ESU/DPS (A.23):	No Salmon ESU or Steelhead DPS
Targeted species (non-ESU species):	Unknown
Area Encompassed (acres) (B.0.b.1):	78185.0
	Black River watershed.
Miles of Stream and/or Shoreline Affected (B.0.b.2):	1.00
	Project is not focused on stream habitat.

Salmonid Habitat Assessment / Inventory

Landowner willingness inventory

Document Name (1224):	Landowner Survey Analysis Report
Number of landowners contacted:	150
	This is an estimate- 25 x 2 workshops, and 100 via the survey.

Project Sponsor: Thurston Conservation District
Project Title: OSF Translocation Landowner Outreach

Project Number: 22-2427P
Approval Date: 10/19/2022

Project Milestones

PROJECT MILESTONE REPORT

Complete	Milestone	Target Date	Comments/Description
	Project Start	10/20/2022	
	Progress Report Due	02/28/2023	
	Progress Report Due	05/31/2023	
	Progress Report Due	08/31/2023	
	Annual Project Billing Due	10/31/2023	
	Progress Report Due	11/30/2023	
	Progress Report Due	02/29/2024	
	Final Plan to RCO	06/30/2024	Landowner Survey Analysis Report
	Special Conditions Met	06/30/2024	See Special Conditions: Attach to PRISM a SAPP for any future phases of the project and a Project Development Summary Form
	Agreement End Date	06/30/2024	
	Final Billing Due	09/15/2024	
	Final Report Due	09/30/2024	

Project Sponsor: Thurston Conservation District
Project Title: OSF Translocation Landowner Outreach

Project Number: 22-2427P
Approval Date: 10/19/2022

Standard Terms and Conditions of the Recreation and Conservation Office

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STANDARD TERMS AND CONDITIONS EFFECTIVE DATE

This document sets forth the Standard Terms and Conditions of the Recreation and Conservation Office as of 10/03/2022.

CITATIONS, HEADINGS AND DEFINITIONS

- A. Any citations referencing specific documents refer to the current version on the effective date of this Agreement or the effective date of any amendment thereto.
- B. Headings used in this Agreement are for reference purposes only and shall not be considered a substantive part of this Agreement.
- C. Definitions. As used throughout this Agreement, the following terms shall have the meaning set forth below:

Agreement, terms of the Agreement, or project agreement – The document entitled “RCO GRANT AGREEMENT” accepted by all parties to the present project and transaction, including without limitation the Standard Terms and Conditions of the RCO Grant Agreement, all exhibits, attachments, addendums, amendments, and applicable manuals, and any intergovernmental agreements, and/or other documents that are incorporated into the Agreement subject to any limitations on their effect under this Agreement.

applicable manual(s), manual – A manual designated in this Agreement to apply as terms of this Agreement, subject (if applicable) to substitution of the “RCO director” for the term “board” in those manuals where the project is not approved by or funded by the referenced board, or a predecessor to the board.

applicable WAC(s) – Designated chapters or provisions of the Washington Administrative Code that apply by their terms to the type of grant in question or are deemed under this Agreement to apply as terms of the Agreement, subject to substitution of the “RCO director” for the term “board” or “agency” in those cases where the RCO has contracted to or been delegated to administer the grant program in question.

applicant – Any party, prior to becoming a Sponsor, who meets the qualifying standards/eligibility requirements for the grant application or request for funds in question.

application – The documents and other materials that an applicant submits to the RCO to support the applicant's request for grant funds; this includes materials required for the “Application” in the RCO's automated project information system, and other documents as noted on the application checklist including but not limited to legal opinions, maps, plans, evaluation presentations and scripts.

Authorized Representative/Agent – A Sponsor's agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor's signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

C.F.R. – Code of Federal Regulations

completed project or project completion – The status of a project when all of the following have occurred:

- The grant funded project has been inspected by the RCO and the RCO has determined that all scopes of work to implement the project have been completed satisfactorily.
- A final project report is submitted to and accepted by RCO.
- Any needed amendments to the Agreement have been entered by the Sponsor and RCO and have been delivered to the RCO.
- A final reimbursement request has been delivered to and paid by RCO.
- Documents affecting property rights (including RCO's as may apply) and any applicable notice of grant, have been recorded (as may apply).

contractor – An entity that receives a contract from a Sponsor related to performance of work or another obligation under this Agreement.

Cultural Resources – Archaeological or historic archaeological sites, historic buildings/structures, and cultural or sacred places.

director – The chief executive officer of the Recreation and Conservation Office or that person's designee.

effective date – The date when the signatures of all parties to this agreement are present in the agreement.

equipment – Tangible personal property (including information technology systems) having a useful service life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level

established by the Sponsor or \$5,000 (2 C.F.R. Part 200 (as updated)).

Funding Entity – the entity that approves the project that is the subject to this Agreement.

grant program – The source of the grant funds received. May be an account in the state treasury, or a grant category within a larger grant program, or a federal source.

indirect cost – Costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved (2 C.F.R. 200 as updated).

long-term obligations – Sponsor's obligations after the project end date, as specified in the Agreement and manuals and other exhibits as may apply.

landowner agreement – An agreement that is required between a Sponsor and landowner for projects located on land not owned, or otherwise controlled, by the Sponsor.

match or matching share – The portion of the total project cost provided by the Sponsor.

milestone – An important event with a defined date to track an activity related to implementation of a funded project and monitor significant stages of project accomplishment.

Office – Means the Recreation and Conservation Office or RCO.

pass-through entity – A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program (2 CFR 200 (as updated)). If this Agreement is a federal subaward, RCO is the pass-through entity.

period of performance – The period beginning on the project start date and ending on the project end date.

planning project - A project that results in one or more of the following: 1) a study, a plan, assessment, project design, inventory, construction plans and specifications, and permits; or 2) a project that provides money to facilitate the work of an organization engaged in planning and coordination, or resource stewardship.

pre-agreement cost – A project cost incurred before the period of performance.

primary Sponsor – The Sponsor who is not a secondary Sponsor and who is specifically identified in the Agreement as the entity to which RCO grants funds to and authorizes and requires to administer the grant. Administration includes but is not limited to acting as the fiscal agent for the grant (e.g. requesting and accepting reimbursements, submitting reports). Primary Sponsor includes its officers, employees, agents and successors.

project – The undertaking that is funded by this Agreement either in whole or in part with funds administered by RCO.

project area – The area consistent with the geographic limits of the scope of work of the project and subject to project agreement requirements. For restoration projects, the project area must include the physical limits of the project's final site plans or final design plans. For acquisition projects, the project area must include the area described by the legal description of the properties acquired for or committed to the project.

project completion or completed project – The status of a project when all of the following have occurred:

- The grant funded project has been inspected by the RCO and the RCO has determined that all scopes of work to implement the project have been completed satisfactorily.
- A final project report is submitted to and accepted by RCO.
- Any needed amendments to the Agreement have been entered by the Sponsor and RCO and have been delivered to the RCO.
- A final reimbursement request has been delivered to and paid by RCO.
- Documents affecting property rights (including RCO's as may apply) and any applicable notice of grant, have been recorded (as may apply).

project cost – The total allowable costs incurred under this Agreement and all required match share and voluntary committed matching share, including third-party contributions (see also 2 C.F.R. Part 200 (as updated)) for federally funded projects).

project end date – The specific date identified in the Agreement on which the period of performance ends, as may be changed by amendment. This date is not the end date for any long-term obligations.

project start date – The specific date identified in the Agreement on which the period of performance starts.

RCO – Recreation and Conservation Office – The state agency that administers the grant that is the subject of this Agreement. RCO includes the director and staff.

RCW – Revised Code of Washington

reimbursement – RCO's payment of funds from eligible and allowable costs that have already been paid by the Sponsor per the terms of the Agreement.

renovation project – A project intended to improve an existing site or structure in order to increase its useful service life beyond current expectations or functions. This does not include maintenance activities to maintain the facility for its originally expected useful service life.

secondary Sponsor – One of two or more Sponsors who is not a primary Sponsor. Only the primary Sponsor may be the fiscal agent for the project.

Sponsor – A Sponsor is an organization that is listed in and has signed this Agreement.

Sponsor Authorized Representative/Agent – A Sponsor's agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

subaward – Funds allocated to the RCO from another organization, for which RCO makes available to or assigns to another organization via this Agreement. Also, a subaward may be an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of any award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal or other program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. Also see 2 C.F.R. Part 200 (as updated). For federal subawards, a subaward is for the purpose of carrying out a portion of a Federal award and creates a federal assistance relationship with the subrecipient (2 C.F.R. Part 200 (as updated)). If this Agreement is a federal subaward, the subaward amount is the grant program amount in the Project Funding Section.

subrecipient – Subrecipient means an entity that receives a subaward. For non-federal entities receiving federal funds, a subrecipient is an entity that receives a subaward from a pass-through entity to carry out part of a federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency (2 C.F.R. Part 200 (as updated)). If this Agreement is a federal subaward, the Sponsor is the subrecipient.

tribal consultation – Outreach, and consultation with one or more federally recognized tribes (or a partnership or coalition or consortium of such tribes, or a private tribal enterprise) whose rights will or may be significantly affected by the proposed project. This includes sharing with potentially-affected tribes the scope of work in the grant and potential impacts to natural areas, natural resources, and the built environment by the project. It also includes responding to any tribal request from such tribes and considering tribal recommendations for project implementation which may include not proceeding with parts of the project, altering the project concept and design, or relocating the project or not implementing the project, all of which RCO shall have the final approval of.

useful service life – Period during which a built asset, equipment, or fixture is expected to be useable for the purpose it was acquired, installed, developed, and/or renovated, or restored per this Agreement.

WAC – Washington Administrative Code.

PERFORMANCE BY THE SPONSOR

The Sponsor shall undertake the project as described in this Agreement, and in accordance with the Sponsor's proposed goals and objectives described in the application or documents submitted with the application, all as finally approved by the RCO (to include any RCO approved changes or amendments thereto). All submitted documents are incorporated by this reference as if fully set forth herein.

Timely completion of the project and submission of required documents, including progress and final reports, is important. Failure to meet critical milestones or complete the project, as set out in this Agreement, is a material breach of the Agreement.

ASSIGNMENT

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the Sponsor without prior written approval of the RCO. Sponsor shall not sell, give, or otherwise assign to another party any property right, or alter a conveyance (see below) for the project area acquired with this grant without prior approval of the RCO.

RESPONSIBILITY FOR PROJECT

Although RCO administers the grant that is the subject of this Agreement, the project itself remains the sole responsibility of the Sponsor. The RCO and Funding Entity (if different from the RCO) undertakes no responsibilities to the Sponsor, or to any third party, other than as is expressly set out in this Agreement.

The responsibility for the implementation of the project is solely that of the Sponsor, as is the responsibility for any claim or suit of any nature by any third party related in any way to the project. When a project has more than one Sponsor, any and all Sponsors are equally responsible for the project and all post-completion stewardship responsibilities and long-term obligations unless otherwise stated in this Agreement.

The RCO, its employees, assigns, consultants and contractors, and members of any funding board or advisory committee or other RCO grant review individual or body, have no responsibility for reviewing, approving, overseeing or supervising design, construction, or safety of the project and leaves such review, approval, oversight and supervision exclusively to the Sponsor and others with expertise or authority. In this respect, the RCO, its employees, assigns, consultants and contractors, and any funding board or advisory committee or other RCO grant review individual or body will act only to confirm at a general, lay person, and nontechnical level, solely for the purpose of project eligibility and payment and not for safety or suitability, that the project apparently is proceeding or has been completed as per the Agreement.

INDEMNIFICATION

The Sponsor shall defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the actual or alleged acts, errors, omissions or negligence in connection with this Agreement (including without limitation all work or activities thereunder), or the breach of any obligation under this Agreement by the Sponsor or the Sponsor's agents, employees, contractors, subcontractors, or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

Provided that nothing herein shall require a Sponsor to defend or indemnify the State against and hold harmless the State from claims, demands or suits based solely upon the negligence of the State, its employees and/or agents for whom the State is vicariously liable.

Provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the Sponsor or the Sponsor's agents or employees, and (b) the State, or its employees or agents the indemnity obligation shall be valid and enforceable only to the extent of the Sponsor's negligence or its agents, or employees.

As part of its obligations provided above, the Sponsor specifically assumes potential liability for actions brought by the Sponsor's own employees or its agents against the State and, solely for the purpose of this indemnification and defense, the Sponsor specifically waives any immunity under the state industrial insurance law, RCW Title 51. Sponsor's waiver of immunity under this provision extends only to claims against Sponsor by Indemnitee RCO, and does not include, or extend to, any claims by Sponsor's employees directly against Sponsor.

Sponsor shall ensure that any agreement relating to this project involving any contractors, subcontractors and/or vendors of any tier shall require that the contracting entity indemnify, defend, waive RCW 51 immunity, and otherwise protect the State as provided herein as if it were the Sponsor. This shall not apply to a contractor or subcontractor is solely donating its services to the project without compensation or other substantial consideration.

The Sponsor shall also defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the Sponsor or the Sponsor's agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable, in performance of the work under this Agreement or arising out of any use in connection with the Agreement of methods, processes, designs, information or other items furnished or communicated to the State, its agents, officers and employees pursuant to the Agreement. Provided, this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from the State's, its agents', officers' and employees' failure to comply with specific written instructions regarding use provided to the State, its agents, officers and employees by the Sponsor, its agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

The funding board and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

INDEPENDENT CAPACITY OF THE SPONSOR

The Sponsor and its employees or agents performing under this Agreement are not officers, employees or agents of the RCO or Funding Entity. The Sponsor will not hold itself out as nor claim to be an officer, employee or agent of the RCO or the Funding Entity, or of the state of Washington, nor will the Sponsor make any claim of right, privilege or benefit which would accrue to an employee under RCW 41.06.

The Sponsor is responsible for withholding and/or paying employment taxes, insurance, or deductions of any kind required by federal, state, and/or local laws.

CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, RCO may, in its sole discretion, by written notice to the Sponsor terminate this Agreement if it is found after due notice and examination by RCO that there is a violation of the Ethics in Public Service Act, RCW 42.52; or any similar statute involving the Sponsor in the procurement of, or performance under, this Agreement.

In the event this Agreement is terminated as provided herein, RCO shall be entitled to pursue the same remedies against the Sponsor as it could pursue in the event of a breach of the Agreement by the Sponsor. The rights and remedies of RCO provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

COMPLIANCE WITH APPLICABLE LAW

In implementing the Agreement, the Sponsor shall comply with all applicable federal, state, and local laws (including without limitation all applicable ordinances, codes, rules, and regulations). Such compliance includes, without any limitation as to other applicable laws, the following laws:

- A. **Nondiscrimination Laws.** The Sponsor shall comply with all applicable federal, state, and local nondiscrimination laws and/or policies, including but not limited to: the Americans with Disabilities Act; Civil Rights Act; and the Age Discrimination Employment Act (if applicable). In the event of the Sponsor's noncompliance or refusal to comply with any nondiscrimination law or policy, the Agreement may be rescinded, cancelled, or terminated in whole or in part, and the Sponsor may be declared ineligible for further grant awards from the RCO or Funding Entity. The Sponsor is responsible for any and all costs or liability arising from the Sponsor's failure to so comply with applicable law. Except where a nondiscrimination clause required by a federal funding agency is used, the Sponsor shall insert the following nondiscrimination clause in each contract for construction of this project: "During the performance of this contract, the contractor agrees to comply with all federal and state nondiscrimination laws, regulations and policies."
- B. **Secular Use of Funds.** No funds awarded under this grant may be used to pay for any religious activities, worship, or instruction, or for lands and facilities for religious activities, worship, or instruction. Religious activities, worship, or instruction may be a minor use of the grant supported recreation and conservation land or facility.
- C. **Wages and Job Safety.** The Sponsor agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington or other jurisdiction which affect wages and job safety. The Sponsor agrees when state prevailing wage laws (RCW 39.12) are applicable, to comply with such laws, to pay the prevailing rate of wage to all workers, laborers, or mechanics employed in the performance of any part of this contract, and to file a statement of intent to pay prevailing wage with the Washington State Department of Labor and Industries as required by RCW 39.12.40. The Sponsor also agrees to comply with the provisions of the rules and regulations of the Washington State Department of Labor and Industries.
 - 1) Pursuant to RCW 39.12.040(1)(a), all contractors and subcontractors shall submit to Sponsor a statement of intent to pay prevailing wages if the need to pay prevailing wages is required by law. If a contractor or subcontractor intends to pay other than prevailing wages, it must provide the Sponsor with an affirmative statement of the contractor's or subcontractor's intent. Unless required by law, the Sponsor is not required to investigate a statement regarding prevailing wage provided by a contractor or subcontractor.
- D. **Restrictions on Grant Use.** No part of any funds provided under this grant shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, or for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the U.S. Congress or any state legislature. No part of any funds provided under this grant shall be used to pay the salary or expenses of any Sponsor, or agent acting for such Sponsor, related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or any state legislature.
- E. **Debarment and Certification.** By signing the Agreement with RCO, the Sponsor certifies that neither it nor its principals nor any other lower tier participant are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by Washington State Labor and Industries. Further, the Sponsor agrees not to enter into any arrangements or contracts related to this Agreement with any party that is on Washington State Department of Labor and Industries' "Debarred Contractor List."

ARCHAEOLOGICAL AND CULTURAL RESOURCES

- A. **Project Review.** RCO facilitates the review of projects for potential impacts to archaeology and cultural resources, except as those listed below. The Sponsor shall follow RCO guidance and directives to assist it with such review as

may apply.

- 1) **Projects occurring on State/Federal Lands:** Archaeological and cultural resources compliance for projects occurring on State or Federal Agency owned or managed lands, will be the responsibility of the respective agency, regardless of sponsoring entity type. Prior to ground disturbing work or alteration of a potentially historic or culturally significant structure, or release of final payments on an acquisition, the Sponsor must provide RCO all documentation acknowledging and demonstrating that the applicable archaeological and cultural resources responsibilities of such state or federal landowner or manager has been conducted.
- B. Termination. RCO retains the right to terminate a project due to anticipated or actual impacts to archaeology and cultural resources.
- C. Notice To Proceed. No work shall commence in the project area until RCO has provided a notice of cultural resources completion. RCO may require on-site monitoring for impacts to archaeology and cultural resources during any demolition, construction, land clearing, restoration, or repair work, and may direct that work stop to minimize, mitigate, or avoid impacts to archaeology and cultural resource impacts or concerns. All cultural resources requirements for non ground disturbing projects (such as acquisition or planning projects) must be met prior to final reimbursement.
- D. Compliance and Indemnification. At all times, the Sponsor shall take reasonable action to avoid, minimize, or mitigate adverse effects to archaeological and historic resources in the project area, and comply with any RCO direction for such minimization and mitigation. All federal or state cultural resources requirements under Governor's Executive Order 21-02 and the National Historic Preservation Act, and the State Environmental Policy Act and the National Environmental Policy Act, and any local laws that may apply, must be completed prior to the start of any work on the project site. The Sponsor must agree to indemnify and hold harmless the State of Washington in relation to any claim related to historical or cultural artifacts discovered, disturbed, or damaged due to the project funded under this Agreement. Sponsor shall comply with RCW 27.53, RCW 27.44.055, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting cultural resources and human remains.
- E. Costs associated with project review and evaluation of archeology and cultural resources are eligible for reimbursement under this agreement. Costs that exceed the budget grant amount shall be the responsibility of the Sponsor Inadvertent Discovery Plan. The Sponsor shall request, review, and be bound by the RCO Inadvertent Discovery Plan, and:
- 1) Keep the IDP at the project site.
 - 2) Make the IDP readily available to anyone working at the project site.
 - 3) Discuss the IDP with staff and contractors working at the project site.
 - 4) Implement the IDP when cultural resources or human remains are found at the project site.
- F. Discovery
- 1) If any archaeological or historic resources are found while conducting work under this Agreement, the Sponsor shall immediately stop work and notify RCO, the Department of Archaeology and Historic Preservation at (360) 586-3064, and any affected Tribe, and stop any activity that may cause further disturbance to the archeological or historic resources.
 - 2) If any human remains are found while conducting work under this Agreement, Sponsor shall immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, and then RCO, all in the most expeditious manner, and stop any activity that may cause disturbance to the remains. Sponsor shall secure the area of the find will and protect the remains from further disturbance until the State provides a new notice to proceed.
 - a) Any human remains discovered shall not be touched, moved, or further disturbed unless directed by RCO or the Department of Archaeology and Historic Preservation (DAHP).
 - b) The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.

RECORDS

- A. **Digital Records.** If requested by RCO, the Sponsor must provide a digital file(s) of the project property and funded project site in a format specified by the RCO.
- B. **Maintenance and Retention.** The Sponsor shall maintain books, records, documents, data and other records relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. Sponsor shall retain such records for a period of nine years from the date RCO deems the project complete, as defined in the PROJECT REIMBURSEMENTS Section. If any litigation, claim or audit is started before the expiration of the nine (9) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.
- C. **Access to Records and Data.** At no additional cost, the records relating to the Agreement, including materials generated under the Agreement, shall be subject at all reasonable times to inspection, review or audit by RCO, personnel duly authorized by RCO, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. This includes access to all information that supports the costs submitted for payment under the grant and all findings, conclusions, and recommendations of the Sponsor's reports, including computer models and methodology for those models.
- D. **Public Records.** Sponsor acknowledges that the RCO is subject to RCW 42.56 and that this Agreement and any records Sponsor submits or has submitted to the State shall be a public record as defined in RCW 42.56. RCO administers public records requests per WAC 286-06 and 420-04 (which ever applies). Additionally, the Sponsor agrees to disclose any information in regards to the expenditure of that funding as if the project sponsor were subject to the requirements of chapter 42.56 RCW. By submitting any record to the State, Sponsor understands that the State may be requested to disclose or copy that record under the state public records law, currently codified at RCW 42.56. The Sponsor warrants that it possesses such legal rights as are necessary to permit the State to disclose and copy such record to respond to a request under state public records laws. The Sponsor hereby agrees to release the State from any claims arising out of allowing such review or copying pursuant to a public records act request, and to indemnify against any claims arising from allowing such review or copying and pay the reasonable cost of state's defense of such claims.

PROJECT FUNDING

- A. **Authority.** This Agreement and funding is made available to Sponsor through the RCO.
- B. **Additional Amounts.** The RCO or Funding Entity shall not be obligated to pay any amount beyond the dollar amount as identified in this Agreement, unless an additional amount has been approved in advance by the RCO director and incorporated by written amendment into this Agreement.
- C. **Before the Agreement.** No expenditure made, or obligation incurred, by the Sponsor before the project start date shall be eligible for grant funds, in whole or in part, unless specifically provided for by the RCO director, such as a waiver of retroactivity or program specific eligible pre-Agreement costs. For reimbursements of such costs, this Agreement must be fully executed and an original received by RCO. The dollar amounts identified in this Agreement may be reduced as necessary to exclude any such expenditure from reimbursement.
- D. **After the Period of Performance.** No expenditure made, or obligation incurred, following the period of performance shall be eligible, in whole or in part, for grant funds hereunder. In addition to any remedy the RCO or Funding Entity may have under this Agreement, the grant amounts identified in this Agreement shall be reduced to exclude any such expenditure from participation.

PROJECT REIMBURSEMENTS

- A. **Reimbursement Basis.** This Agreement is administered on a reimbursement basis per WAC 286-13 and/or 420-12, whichever has been designated to apply. Only the primary Sponsor may request reimbursement for eligible and allowable costs incurred during the period of performance. The primary Sponsor may request reimbursement only after (1) this Agreement has been fully executed and (2) the Sponsor has remitted payment to its vendors. RCO will authorize disbursement of project funds only on a reimbursable basis at the percentage as defined in the PROJECT FUNDING Section. Reimbursement shall not be approved for any expenditure not incurred by the Sponsor, or for a donation used as part of its matching share. RCO does not reimburse for donations. All reimbursement requests must include proper documentation of expenditures as required by RCO.
- B. **Reimbursement Request Frequency.** The primary Sponsor is required to submit a reimbursement request to RCO, at a minimum for each project at least once a year for reimbursable activities occurring between July 1 and June 30 or as identified in the milestones. Sponsors must refer to the most recent applicable RCO manuals and this Agreement regarding reimbursement requirements.
- C. **Compliance and Payment.** The obligation of RCO to pay any amount(s) under this Agreement is expressly conditioned on strict compliance with the terms of this Agreement and other agreements between RCO and the

Sponsor.

- D. **Conditions for Payment of Retainage.** RCO reserves the right to withhold disbursement of the total amount of the grant to the Sponsor until the following has occurred:
- 1) RCO has accepted the project as a completed project, which acceptance shall not be unreasonably withheld.
 - 2) On-site signs are in place (if applicable); Any other required documents and media are complete and submitted to RCO; Grant related fiscal transactions are complete, and

RECOVERY OF PAYMENTS

- A. **Recovery for Noncompliance.** In the event that the Sponsor fails to expend funds under this Agreement in accordance with state and federal laws, and/or the provisions of the Agreement, fails to meet its percentage of the project total, and/or fails to comply with any of the terms and conditions of the Agreement, RCO reserves the right to recover grant award funds in the amount equivalent to the extent of noncompliance in addition to any other remedies available at law or in equity.
- B. **Return of Overpayments.** The Sponsor shall reimburse RCO for any overpayment or erroneous payments made under the Agreement. Repayment by the Sponsor of such funds under this recovery provision shall occur within 30 days of demand by RCO. Interest shall accrue at the rate of twelve percent (12%) per annum from the time the Sponsor received such overpayment. Unless the overpayment is due to an error of RCO, the payment shall be due and owing on the date that the Sponsor receives the overpayment from the RCO. If the payment is due to an error of RCO, it shall be due and owing 30 days after demand by RCO for refund.

COVENANT AGAINST CONTINGENT FEES

The Sponsor warrants that no person or selling agent has been employed or retained to solicit or secure this Agreement on an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Sponsor for the purpose of securing business. RCO shall have the right, in the event of breach of this clause by the Sponsor, to terminate this Agreement and to be reimbursed by Sponsor for any grant funds paid to Sponsor (even if such funds have been subsequently paid to an agent), without liability to RCO or, in RCO's discretion, to deduct from the Agreement grant amount or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

INCOME (AND FEES) AND USE OF INCOME

- A. **Compatible source.** The source of any income generated in a funded project or project area must be compatible with the funding source and the Agreement and any applicable manuals, RCWs, and WACs.
- B. **Use of Income.** Subject to any limitations contained in applicable state or federal law, any needed approvals of RCO, and applicable rules and policies, income or fees generated at a project work site (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, rent, franchise fees, ecosystem services, carbon offsets sequestration, etc.) during or after the reimbursement period cited in the Agreement, must be used to offset:
- 1) The Sponsor's matching resources;
 - 2) The project's total cost;
 - 3) The expense of operation, maintenance, stewardship, monitoring, and/or repair of the facility or program assisted by the grant funding;
 - 4) The expense of operation, maintenance, stewardship, monitoring, and/or repair of other similar units in the Sponsor's system;
 - 5) Capital expenses for similar acquisition and/or development and renovation; and/or
 - 6) Other purposes explicitly approved by RCO or otherwise provided for in this agreement.

PROCUREMENT REQUIREMENTS

- A. **Procurement Requirements.** If the Sponsor has, or is required to have, a procurement process that follows applicable state and/or federal law or procurement rules and principles, it must be followed, documented, and retained. If no such process exists, the Sponsor must follow these minimum procedures:
- 1) Publish a notice to the public requesting bids/proposals for the project;

- 2) Specify in the notice the date for submittal of bids/proposals;
- 3) Specify in the notice the general procedure and criteria for selection; and
- 4) Sponsor must contract or hire from within its bid pool. If bids are unacceptable the process needs to be repeated until a suitable bid is selected.
- 5) Comply with the same legal standards regarding unlawful discrimination based upon race, gender, ethnicity, sex, or sex-orientation that are applicable to state agencies in selecting a bidder or proposer.

Alternatively, Sponsor may choose a bid from a bidding cooperative if authorized to do so.

This procedure creates no rights for the benefit of third parties, including any proposers, and may not be enforced or subject to review of any kind or manner by any entity other than the RCO. Sponsors may be required to certify to the RCO that they have followed any applicable state and/or federal procedures or the above minimum procedure where state or federal procedures do not apply.

TREATMENT OF EQUIPMENT AND ASSETS

Equipment shall be used and managed only for the purpose of this Agreement, unless otherwise provided herein or in the applicable manuals, or approved by RCO in writing.

- A. **Discontinued Use.** Equipment obtained under this Agreement shall remain in the possession of the Sponsor for the duration of the project, or RULES of applicable grant assisted program. When the Sponsor discontinues use of the equipment for the purpose for which it was funded, RCO may require the Sponsor to deliver the equipment to RCO, or to dispose of the equipment according to RCO published policies.
- B. **Loss or Damage.** The Sponsor shall be responsible for any loss or damage to equipment.

RIGHT OF INSPECTION

The Sponsor shall provide right of access to the project to RCO, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, long-term obligations, compliance, and/or quality assurance under this Agreement. If a landowner agreement or other form of control and tenure limits access to the project area, it must include (or be amended to include) the RCO's right to inspect and access lands acquired or developed with this funding assistance.

STEWARDSHIP AND MONITORING

Sponsor agrees to perform monitoring and stewardship functions as stated in the applicable WACs and manuals, this Agreement, or as otherwise directed by RCO consistent with the existing laws and applicable manuals. Sponsor further agrees to utilize, where applicable and financially feasible, any monitoring protocols recommended by the RCO; provided that RCO does not represent that any monitoring it may recommend will be adequate to reasonably assure project performance or safety. It is the sole responsibility of the Sponsor to perform such additional monitoring as may be adequate for such purposes.

ORDER OF PRECEDENCE

This Agreement is entered into, pursuant to, and under the authority granted by applicable federal and state laws. The provisions of the Agreement shall be construed to conform to those laws. In the event of a direct and irreconcilable conflict between the terms of this Agreement and any applicable statute, rule, or policy or procedure, the conflict shall be resolved by giving precedence in the following order:

- A. Federal law and binding executive orders;
- B. Code of federal regulations;
- C. Terms and conditions of a grant award to the state from the federal government;
- D. Federal grant program policies and procedures adopted by a federal agency that are required to be applied by federal law;
- E. State Constitution, RCW, and WAC;
- F. Agreement Terms and Conditions and Applicable Manuals;
- G. Applicable deed restrictions, and/or governing documents.

LIMITATION OF AUTHORITY

Only RCO's Director or RCO's delegate authorized in writing (delegation to be made prior to action) shall have the authority to alter, amend, modify, or waive any clause or condition of this Agreement; provided that any such alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made as a written amendment to this Agreement and signed by the RCO Director or delegate.

WAIVER OF DEFAULT

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such in writing, signed by the director, or the director's designee, and attached as an amendment to the original Agreement.

APPLICATION REPRESENTATIONS – MISREPRESENTATIONS OR INACCURACY OR BREACH

The Funding Entity (if different from RCO) and RCO rely on the Sponsor's application in making its determinations as to eligibility for, selection for, and scope of, funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement.

SPECIFIC PERFORMANCE

RCO may, at its discretion, enforce this Agreement by the remedy of specific performance, which means Sponsors' completion of the project and/or its completion of long-term obligations as described in this Agreement. However, the remedy of specific performance shall not be the sole or exclusive remedy available to RCO. No remedy available to the RCO shall be deemed exclusive. The RCO may elect to exercise any, a combination of, or all of the remedies available to it under this Agreement, or under any provision of law, common law, or equity, including but not limited to seeking full or partial repayment of the grant amount paid and damages.

TERMINATION AND SUSPENSION

The RCO requires strict compliance by the Sponsor with all the terms of this Agreement including, but not limited to, the requirements of the applicable statutes, rules, and RCO policies, and with the representations of the Sponsor in its application for a grant as finally approved by RCO. For federal awards, notification of termination will comply with 2 C.F.R. § 200 (as updated).

A. For Cause.

- 1) The RCO director may suspend or terminate the obligation to provide funding to the Sponsor under this Agreement:
 - a) If the Sponsor breaches any of the Sponsor's obligations under this Agreement;
 - b) If the Sponsor fails to make progress satisfactory to the RCO director toward completion of the project by the completion date set out in this Agreement. Included in progress is adherence to milestones and other defined deadlines; or
 - c) If the primary and secondary Sponsor(s) cannot mutually agree on the process and actions needed to implement the project;
- 2) Prior to termination, the RCO shall notify the Sponsor in writing of the opportunity to cure. If corrective action is not taken within 30 days or such other time period that the director approves in writing, the Agreement may be terminated. In the event of termination, the Sponsor shall be liable for damages or other relief as authorized by law and/or this Agreement.
- 3) RCO reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Sponsor from incurring additional obligations of funds during the investigation of any alleged breach and pending corrective action by the Sponsor, or a decision by the RCO to terminate the Contract.

- B. For Convenience.** Except as otherwise provided in this Agreement, RCO may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part when it is in the best interest of the state. If this Agreement is so terminated, RCO shall be liable only for payment required under the terms of this Agreement prior to the effective date of termination. A claimed termination for cause shall be deemed to be a "Termination for Convenience" if it is determined that:

- 1) The Sponsor was not in default; or

- 2) Failure to perform was outside Sponsor's control, fault or negligence.

C. Rights and Remedies of the RCO.

- 1) The rights and remedies of RCO provided in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law.
- 2) In the event this Agreement is terminated by the director, after any portion of the grant amount has been paid to the Sponsor under this Agreement due to Sponsor's breach of the Agreement or other violation of law, the director may require that any amount paid be repaid to RCO for redeposit into the account from which the funds were derived. However, any repayment shall be limited to the extent repayment would be inequitable and represent a manifest injustice in circumstances where the project will fulfill its fundamental purpose for substantially the entire period of performance and of long-term obligation.

D. Non Availability of Funds. The obligation of the RCO to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. If amounts sufficient to fund the grant made under this Agreement are not appropriated to RCO for expenditure for this Agreement in any biennial fiscal period, RCO shall not be obligated to pay any remaining unpaid portion of this grant unless and until the necessary action by the Legislature or the Office of Financial Management occurs. If RCO participation is suspended under this section for a continuous period of one year, RCO's obligation to provide any future funding under this Agreement shall terminate. Termination of the Agreement under this section is not subject to appeal by the Sponsor.

- 1) **Suspension:** The obligation of the RCO to manage contract terms and make payments is contingent upon the state appropriating state and federal funding each biennium. In the event the state is unable to appropriate such funds by the first day of each new biennium RCO reserves the right to suspend the Agreement, with ten (10) days written notice, until such time funds are appropriated. Suspension will mean all work related to the contract must cease until such time funds are obligated to RCO and the RCO provides notice to continue work.
- 2) **No Waiver.** The failure or neglect of RCO to require strict compliance with any term of this Agreement or to pursue a remedy provided by this Agreement or by law shall not act as or be construed as a waiver of any right to fully enforce all rights and obligations set forth in this Agreement and in applicable state or federal law and regulations.

DISPUTE HEARING

Except as may otherwise be provided in this Agreement, when a dispute arises between the Sponsor and the RCO, which cannot be resolved, either party may request a dispute hearing according to the process set out in this section. Either party's request for a dispute hearing must be in writing and clearly state:

- A. The disputed issues;
- B. The relative positions of the parties;
- C. The Sponsor's name, address, project title, and the assigned project number.

In order for this section to apply to the resolution of any specific dispute or disputes, the other party must agree in writing that the procedure under this section shall be used to resolve those specific issues. The dispute shall be heard by a panel of three persons consisting of one person chosen by the Sponsor, one person chosen by the director, and a third person chosen by the two persons initially appointed. If a third person cannot be agreed on, the persons chosen by the Sponsor and director shall be dismissed and an alternate person chosen by the Sponsor, and one by the director shall be appointed and they shall agree on a third person. This process shall be repeated until a three person panel is established.

Any hearing under this section shall be informal, with the specific processes to be determined by the disputes panel according to the nature and complexity of the issues involved. The process may be solely based on written material if the parties so agree. The disputes panel shall be governed by the provisions of this Agreement in deciding the disputes.

The parties shall be bound by the majority decision of the dispute panelists, unless the remedy directed by that panel is beyond the authority of either or both parties to perform, as necessary, or is otherwise unlawful.

Request for a disputes hearing under this section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received notice of the action or position of the other party which it wishes to dispute. The written agreement to use the process under this section for resolution of those issues shall be delivered or mailed by the receiving party to the requesting party within thirty (30) days of receipt by the receiving party of the request.

All costs associated with the implementation of this process shall be shared equally by the parties.

ATTORNEYS' FEES

In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own costs and attorneys' fees.

GOVERNING LAW/VENUE

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. In the event of a lawsuit involving this Agreement, venue shall be in Thurston County Superior Court if legally proper; otherwise venue shall be in the Superior Court of a county where the project is situated, if venue there is legally proper, and if not, in a county where venue is legally proper. The Sponsor, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington and agrees to venue as set forth above.

SEVERABILITY

The provisions of this Agreement are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

END OF STANDARD TERMS AND CONDITIONS

This is the end of the Standard Terms and Conditions of the Agreement.



BOARD MEETING ITEM SUMMARY SHEET

Agenda Item Title:	Zangle Cove Shoreline Restoration Contract		
Lead Staff:	Katrinka Hibler	Board Meeting Date:	02/28/23
Goal of Presentation:	Decision <input checked="" type="checkbox"/>	Information <input type="checkbox"/>	Feedback <input type="checkbox"/>
Description/Background:	<i>Please provide a description or background of the project.</i>		
<p>This contract is for construction of a shoreline restoration project which is slated for late summer 2023. The firm selected was the lowest responsive bidder in a competitive bid process.</p>			
Pros:		Cons:	
<p>This company has successfully completed numerous restoration projects in the past. They were the contractor for a recent tidal restoration project in Grays Harbor. Here is a short video about the project.</p> <p>https://www.youtube.com/watch?v=-6PXDeASxw8</p>			
Fiscal Impacts: <i>Please describe the costs associated with this action.</i>			
<p>The cost of this contract is covered with grant funds from 3 different sources, including WA State Conservation Commission, RCO Salmon Recovery Funding Board, and USFWS.</p>			
Recommended Action:	<i>What decision do you recommend the board make?</i>		
Approval of contract 2022-1			
Legal Review:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
Supporting Documents: <i>Please list below and attach supporting documents (contracts, maps, agreements, draft resolution or other documents).</i>			
Contract, Performance Bond, Insurance documents (not yet delivered)			



CONSTRUCTION CONTRACT

THIS CONTRACT, made and entered into this 13 day of February 2023, shall be the agreed basis of performing the following work by and between Thurston Conservation District, hereinafter referred to as the Owner, and

Brumfield Construction, Inc hereinafter referred to as the Contractor.

WITNESSETH: Whereas the parties hereto have covenanted and by these presents do covenant and agree with each other as follows:

FIRST: The Contractor agrees to furnish all material, labor, tools, equipment, apparatus, facilities, etc., necessary to perform and complete in a workmanship like manner the work called for in the contract documents entitled:

Project Name: Zangle Cove Shoreline Restoration Project

SECOND: Time of Completion: The work to be performed under this contract shall commence as soon as the Contractor has been officially notified to proceed and shall be substantially complete by the date in the Proposed Schedule.

The Contractor further agrees that, from the compensation otherwise to be paid, the Owner may charge actual costs to the Contract for any time over the agreed to completion date where work remains uncompleted, which sum is agreed upon as the liquidated damages which the Owner will sustain in case of the failure of the Contractor to complete the work in the time stipulated and this sum is not to be construed as in any sense a penalty.

THIRD: In consideration of the Performance of the Work, herein contained on the part of the Contractor, the Owner hereby agrees to pay the Contractor for said work completed according to the Contract Documents, the sum of \$ 91,690.00 plus 8.1% State Sales Tax consisting of the following:

BASE BID and TOTAL CONTRACT AMOUNT \$ 99,116.89

FOURTH: The unit prices are hereby accepted as per the SCHEDULE OF QUANTITIES

FIFTH: The Contractor agrees to hold harmless the landowner and TCD from any liability associated from injuries or damages occurring to workers implementing the project to the extent allowed by law. Contractor shall waive the immunity provided to them under Washington Industrial Insurance Act for injured workers to the extent that damages or claims are asserted by the contractor's workers against TCD, its agents and employees, or the landowner. Contractor will defend, indemnify and hold harmless the TCD, its agents and employees, or the landowner to the extent that contractor's workers assert damages or claims against TCD, its agents and employees, or the

landowner. By executing this agreement, the Contractor has duly considered and accepted this condition.

SIXTH: The contractor shall procure and shall maintain until final acceptance of the work, such insurance as will protect the landowner, Thurston Conservation District, and its supervisors, director, agents, and employees, for claims arising out of or resulting from Contractor's work under this Contract Agreement, whether performed by the Contractor, or by anyone directly or indirectly employed by Contractor, or by anyone for whose acts Contractor may be liable. The Contractor's insurance shall include contractual liability coverage and additional insured coverage for the benefit of the Contractor, TCE, Landowner and anyone else either is required to name (as set forth in the schedule below), and shall specifically include coverage for completed operations. The insurance required to be carried by the Contractor and any subcontractors shall be PRIMARY AND NON-CONTRIBUTORY. With respect to each type of insurance specified hereunder, the Conservation District's insurances shall be excess to Subcontractor's insurance.

The coverage provided under the Contractor's commercial general liability policy shall be written on an "occurrence" basis and no policy provisions shall restrict, reduce, limit or otherwise impair contractual liability coverage or the Conservation District's status as additional insured.

Not less than five (5) days prior to commencement of the work and until final acceptance of the work, Contractor shall provide Conservation District with certificate(s) of insurance evidencing the required insurance coverage with the limits stated below or elsewhere in the Contract documents. Further, the Contractor shall provide Conservation District thirty (30) days written notice of a change or cancellation in coverage.

The Contractor shall maintain no less than the limits specified in the Washington Department of Transportation's Standard Specifications for Road, Bridge, and Municipal construction M 41-10 Section 1-07.18 each of the following insurance coverages:

1-07.18(5) Required Insurance Policies

1. Owners and Contractors Protective (OCP) Insurance providing bodily injury and property damage liability coverage, with limits of \$3,000,000 per occurrence and per project in the aggregate for each policy period, which shall be written solely on a standard surety provided form. No other forms or exclusions shall be accepted, added or amended to this policy. This policy shall be kept in force from the execution date of the Contract until the Physical Completion Date. OCP Insurance shall not be subject to a deductible or contain provisions for a deductible, nor shall it provide for any language rendering it excess over any other coverage available to a named insured for the claims alleged.

2. Commercial General Liability (CGL) Insurance written under ISO Form CG0001, with minimum limits of \$3,000,000 per occurrence and in the aggregate for each 1-year policy period. This coverage must be on a primary and non-contributory basis only. Products and completed operations coverage shall be provided for a period of 3 years following Substantial Completion of the Work. At the discretion of the Contractor, the CGL may contain provisions for a deductible. If a deductible applies to any claim under this policy, then payment of that deductible will be the responsibility of the Contractor, notwithstanding any claim of liability against the Contracting Agency. However, in no event shall any provision for a deductible provide for a deductible in excess of \$50,000.00.

3. Commercial Automobile Liability Insurance providing bodily injury and property damage liability coverage for all owned and non-owned vehicles assigned to or used in the performance of the Work, with a combined single limit of not less than \$1,000,000 per occurrence. This coverage may be any combination of primary, umbrella, or excess liability coverage affording total liability limits of not less than \$1,000,000 per occurrence, with Thurston Conservation District, and the landowners named as an additional insured or designated insured in connection with the Contractor's performance of the Contract. If pollutants are to be transported, MCS 90 and CA 99 48 endorsements are required on the Commercial Automobile Liability insurance policy unless in-transit pollution risk is covered under a Pollution Liability insurance policy. At the discretion of the Contractor the Commercial Automobile Liability policy may contain provisions for a deductible. If a deductible applies to any claim under this policy, then payment of that deductible will be the responsibility of the Contractor, notwithstanding any claim of liability against the Contracting Agency. However, in no event shall any provision for a deductible provide for a deductible in excess of \$50,000.00.

Additional insurance required if a watercraft or vessel is used:

1-07.18(1).10 Marine Liability

The Contractor shall provide, or caused to be maintained, marine protection and indemnity (P&I) insurance for all liabilities arising out of the operation of a watercraft or vessel used on the Project that is owned, leased or chartered by the Contractor or any Related Entity. The policy shall include, among other things, coverage for bodily injury, illness and/or loss of life to any person or crew member (including any and all claims arising pursuant to the Jones Act and LHWCA and claims for maintenance and cure), damage to cargo while loading, carrying or unloading cargo, damage to piers and docks, pollution liability, charterer's liability, and removal of wreckage as required by law. Such coverage shall have primary limits of not less than \$1,000,000 per occurrence, and excess limits of not less than \$2,000,000 shall be required in all cases where any watercraft or vessel is used on the Project that is owned, leased, or chartered by any Related Entity. Should the Contractor maintain, at any time during the period of the Project, coverage limits in excess of those required herein, then those additional coverage limits shall also apply to Thurston

Conservation District, the landowners and the Indemnified Parties. This includes, at a minimum, any coverage limits provided under any risk financing program of any description, and whether such limits are primary, excess, contingent or otherwise. If any watercraft or vessels are leased or chartered with crew, evidence of non-owned watercraft liability insurance complying with the requirements of this Section will be acceptable but must be provided to Thurston Conservation District prior to use of the watercraft or vessel. The Indemnified Parties shall be additional insureds with respect to liability arising out of the Project or any acts, errors or omissions of any Related Entity, whether occurring on or off the Site.

SEVENTH: The venue for any legal action related or indirectly related to the project will be Thurston County Superior Court.

EIGHTH: Boundaries -- Conservation District will supply the Contractor with a legal description of the property and/or stake or mark the work area. Contractor will confine operations to the work area and any other area identified for parking and staging use.

NINTH: Labor and Material -- The Contractor shall pay all valid charges for labor and material incurred by Contractor and used in the construction of the project and shall keep the property free from liens and claims. However, no waiver or release of mechanic's lien given by Contractor or a Subcontractor shall be binding until all payments due to the Contractor under this Contract when the release was executed have been made. Contractor further acknowledges that the Indemnification Clause above applies to Subcontractor claims for payment, including liens, whether or not those claims have been asserted in formal litigation

TENTH: Concealed Conditions -- If Contractor should encounter concealed conditions that were not reasonably anticipated by Contractor, such as rock, unexpected subsurface or soil conditions, unexpected water, hazardous materials, or other condition that differs materially from that which would be reasonably expected by a competent contractor in the trade, Contractor will call such conditions to the attention of Conservation District immediately, and the contract price and time for completion will be accordingly adjusted for any delay or extra work required to address the concealed condition. Unusually inclement weather is not a concealed condition under this clause.

ELEVENTH: Right to Stop Work -- Conservation District shall have the right to stop work for any reason and may keep the job idle for no more than one month without an adjustment in Contract price. If the delay exceeds one month, Contractor shall have the right to renegotiate the price, and Conservation District shall have the right to terminate Contractor without additional payment if the negotiation does not result in a mutually agreeable price. Contractor shall be entitled to additional contract time equal to the length of any delay under this clause.

TWELFTH: Binding on Successors -- All of the provisions of this Contract will be binding on the assignees, successors, parent companies, and subsidiary companies of both parties. If either party is acquired by a corporation through purchase, merger, or consolidation, the provisions of this Contract will be binding on the successor or surviving corporation.

THIRTEENTH: Invalidity -- The invalidity of or unenforceability of any provision of this Contract shall not affect the other provisions hereof, and the Contract shall be construed in all respects as if such invalid or unenforceable provisions were omitted. Further, both parties have negotiated, or have had the opportunity to negotiate, all the terms of the Contract.

FOURTEENTH: Amendments and Waivers -- All amendments and other modifications of this Contract shall be in writing and signed by each of the parties. The delay or failure of any party to insist, in any one instance or more, upon strict performance of any of the terms or conditions of this Contract or to exercise any right hereunder shall not be construed as a waiver of any such terms, conditions or rights.

The contract documents include the special conditions which define the order of interpretation if conflicts are found. This provision can be found in Section 1-04.2.

The unit prices shall be utilized for any additive and deductive work within 20% of the TOTAL BID INCLUDING SALES TAX. The unit price shall provide the contractor with full compensation for the cost of labor, materials, equipment, overhead, profit and any additional costs associated with the unit bid.

IN WITNESS WHEREOF: Thurston Conservation District has caused this Contract to be subscribed in its behalf and the said Contractor has signed this Contract the day and year first above written.

Contractor:

Brumfield Construction, Inc

Project Sponsor/Owner:

Thurston Conservation District (TCD)

By _____


By _____

Title Director

Title _____

Date 2/15/25

Date _____

Washington State Contractor's

License No. BRUMF-CI-114-K4

Federal Tax Id. No. 91-1062986

UBI. NO. 600-321-076

AIA[®] Document A312[™] - 2010

Performance Bond

CONTRACTOR:

(Name, legal status and address)

Brumfield Construction, Inc.
2007 Westport Road
Aberdeen, WA 98520

SURETY:

(Name, legal status and principal place
of business)

Merchants Bonding Company (Mutual)
P.O. Box 14498
Des Moines, IA 50306

OWNER:

(Name, legal status and address)

Thurston Conservation District
2918 Ferguson St. SW #1
Tumwater, WA 98512

CONSTRUCTION CONTRACT

Date: February 13, 2023

Amount: \$99,116.89

Description:

(Name and location)

Zangle Cove Shoreline Restoration Project

BOND

Date: February 14, 2023

(Not earlier than Construction Contract Date)

Amount: \$99,116.89


Modifications to this Bond: ☐ None ☐ See Section 16

CONTRACTOR AS PRINCIPAL

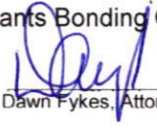
Company: (Corporate Seal)
Brumfield Construction, Inc.

SURETY

Company: (Corporate Seal)
Merchants Bonding Company (Mutual)

Signature: 
Name: Michelle Petty
and Title: Sec/Treas

(Any additional signatures appear on the last page of this Performance Bond.)

Signature: 
Name: Dawn Fykes, Attorney-in-Fact
and Title:

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

The Mahoney Group
20333 N. 19th Ave. #200
Phoenix, AZ 85027

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

AIA Document A312-2010 combines two separate bonds, a Performance Bond and a Payment Bond, into one form. This is not a single combined Performance and Payment Bond.

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

§ 2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

- .1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
- .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
- .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

§ 4 Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

§ 5 When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

§ 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

§ 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

§ 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

§ 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
- .2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

§ 6 If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
- .3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 14 Definitions

§ 14.1 **Balance of the Contract Price.** The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

§ 14.2 **Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

§ 14.3 **Contractor Default.** Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 **Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 **Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 16 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

SURETY

Company:

(Corporate Seal)

Company:

(Corporate Seal)

Signature: _____

Name and Title: _____

Address _____

Signature: _____

Name and Title: _____

Address _____

CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.

AIA Document A312™ – 2010

Payment Bond

CONTRACTOR:

(Name, legal status and address)
Brumfield Construction, Inc.
2007 Westport Road
Aberdeen, WA 98520

SURETY:

(Name, legal status and principal place of business)
Merchants Bonding Company (Mutual)
P.O. Box 14498
Des Moines, IA 50321

OWNER:

(Name, legal status and address)
Thurston Conservation District
2918 Ferguson St. SW #1
Tumwater, WA 98512

CONSTRUCTION CONTRACT

Date: February 13, 2023

Amount: \$99,116.89

Description:

(Name and location)

Zangle Cove Shoreline Restoration Project

BOND

Date: February 14, 2023

(Not earlier than Construction Contract Date)

Amount: \$99,116.89

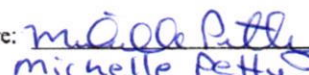
Modifications to this Bond: ☐ None ☐ See Section 18

CONTRACTOR AS PRINCIPAL

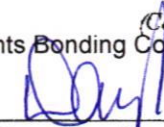
Company: (Corporate Seal)
Brumfield Construction, Inc.

SURETY

Company: (Corporate Seal)
Merchants Bonding Company (Mutual)

Signature: 
Name: Michelle Petty
and Title: Sec/Treas

(Any additional signatures appear on the last page of this Payment Bond.)

Signature: 
Name: Dawn Fykes, Attorney-in-Fact
and Title:

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

The Mahoney Group
20333 N. 19th Ave. #200
Phoenix, AZ 85027

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

AIA Document A312-2010 combines two separate bonds, a Performance Bond and a Payment Bond, into one form. This is not a single combined Performance and Payment Bond.

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

- .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- .2 have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

§ 10 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

§ 11 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 12 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 13 Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

§ 14 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

§ 16 Definitions

§ 16.1 Claim. A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- .4 a brief description of the labor, materials or equipment furnished;
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

§ 16.2 Claimant. An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

§ 16.3 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

§ 16.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 16.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.

§ 17 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 18 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

Company:

(Corporate Seal)

SURETY

Company:

(Corporate Seal)

Signature: _____

Name and Title: _____

Address _____

Signature: _____

Name and Title: _____

Address _____

CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.

MERCHANTS
BONDING COMPANY
POWER OF ATTORNEY

Know All Persons By These Presents, that MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., both being corporations of the State of Iowa (herein collectively called the "Companies") do hereby make, constitute and appoint, individually,

David J Hickman; Dawn Fykes; Dora Weyermiller; Drew A Newton; Stephanie M Young

their true and lawful Attorney(s)-in-Fact, to sign its name as surety(ies) and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

This Power-of-Attorney is granted and is signed and sealed by facsimile under and by authority of the following By-Laws adopted by the Board of Directors of Merchants Bonding Company (Mutual) on April 23, 2011 and amended August 14, 2015 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 16, 2015.

"The President, Secretary, Treasurer, or any Assistant Treasurer or any Assistant Secretary or any Vice President shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof."

"The signature of any authorized officer and the seal of the Company may be affixed by facsimile or electronic transmission to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed."

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner-Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 11th day of February, 2020.

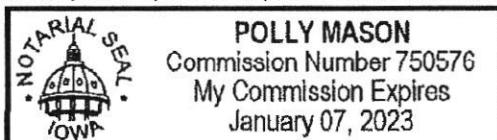


MERCHANTS BONDING COMPANY (MUTUAL)
MERCHANTS NATIONAL BONDING, INC.

By *Larry Taylor*
President

STATE OF IOWA
COUNTY OF DALLAS ss.

On this 11th day of February, 2020, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument are the Corporate Seals of the Companies; and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.



(Expiration of notary's commission
does not invalidate this instrument)

Polly Mason
Notary Public

I, William Warner, Jr., Secretary of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Companies on this 14th day of February 2023.



William Warner Jr.
Secretary



BOARD MEETING ITEM SUMMARY SHEET

Agenda Item Title:		Eld Inlet Bulkhead Removal Design Contract	
Lead Staff:		Katrinka Hibler	Board Meeting Date: 02/28/23
Goal of Presentation:	Decision <input checked="" type="checkbox"/>	Information <input type="checkbox"/>	Feedback <input type="checkbox"/>
Description/Background:		<i>Please provide a description or background of the project.</i>	
<p>This contract covers professional engineering services for a bulkhead removal/coastal restoration project located on lower Eld Inlet. This project was developed as part of the Shore Friendly Program. Funding for engineering design is included in the ESRP Shore Friendly Grant.</p>			
Pros:		Cons:	
<p>A design needs to be completed by June 2023 while funding remains available. The contractor selected for this project meets all qualifications and has a positive track record in coastal restoration design.</p>			
Fiscal Impacts: <i>Please describe the costs associated with this action.</i>			
\$50,593.00			
Recommended Action:		<i>What decision do you recommend the board make?</i>	
We request approval/signature on contract 2022-12.			
Legal Review:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
Supporting Documents: <i>Please list below and attach supporting documents (contracts, maps, agreements, draft resolution or other documents).</i>			

Thurston Conservation District

2918 Ferguson St. Southwest, Suite A
Tumwater, WA 98512
(360) 754-3588



CONSULTANT SERVICES CONTRACT

Eld Inlet Bulkhead Removal Design

Professional Services Contract 2022-12

THIS AGREEMENT is between the THURSTON CONSERVATION DISTRICT, a conservation district created under Chapter 89.08 of the Laws of the State of Washington (the "District"), and **Coastal Geologic Services**, (the "Consultant").

Wei Chen, PE
Lead Coastal Engineer and Project Manager
Coastal Geologic Services
1711 Ellis St. Suite 103
Bellingham, Washington 98225
360.647.1845

The parties agree as follows:

1. Term of Agreement. This Agreement shall be effective from and after **February 28, 2023**, through **September 29, 2023**, unless terminated earlier pursuant to the provisions of this Agreement.
2. Scope of Work to be Performed. The Consultant shall perform the work and services described in Exhibit A. If specified in Exhibit A, the work and services shall be performed pursuant to task orders issued by the District. In the event of a conflict between Exhibit A and this Agreement, the provisions of this Agreement shall prevail.
3. Compensation and Payment.
 - A. Compensation. The District shall pay the Consultant for all completed work and services as provided in Exhibit A. The amount paid under this Agreement shall not exceed the base amount of **\$44,328 forty-four thousand three hundred and twenty-eight dollars**, unless mutually agreed upon in writing by the parties. The additive item, completed at the District's discretion, is not to exceed **\$6,265, six thousand two hundred and sixty-five dollars**.

Expenses incurred due to travel for the project may not exceed Washington State Per Diem Rates, or limits otherwise defined by the grant agency supporting the work.

 - B. Payment. The Consultant shall submit to the District at the end of each month an itemized billing statement that identifies in detail, to the reasonable satisfaction of the District, the days and hours worked and which describes the work or services performed. The District will pay the Consultant for work or services performed within 30 days after receipt of an itemized billing statement, in accordance with established practices. The Consultant will provide the District with a Taxpayer Identification Number before or along with the first billing statement submitted to the District.

4. Record Keeping and Reporting. The Consultant shall maintain accounts and records, including personnel, property, financial and programmatic records, which sufficiently and properly reflect all direct and indirect costs of any nature expended and work or services performed under this Agreement, and any other records or reports as may be deemed necessary by the District to ensure the performance of this Agreement. These records shall be maintained for a period of six (6) years after termination of this Agreement, unless permission to destroy such records is granted by the Washington State Archives in accordance with RCW 40.14.070 and the District.
5. Audit. The Consultant shall permit the District, from time to time as the District deems necessary (including after the expiration or termination of this Agreement), to inspect and audit at all reasonable times in Thurston County, Washington, or at such other reasonable location as the District selects, all pertinent books and records of the Consultant to verify the accuracy of accounting records. The Consultant shall supply the District with, or shall permit the District to make, a copy of any books and records upon the District's request. The Consultant shall ensure that the inspection, audit, and copying right of the District is a condition of any subcontract, agreement or other arrangement under which any other person or entity is permitted to perform work and services under this Agreement.
6. Compliance with Law.
 - A. General Requirement. The Consultant, at the Consultant's sole cost and expense, shall perform and comply with all applicable Federal, State, County, and City laws and ordinances. To the extent such laws apply to the performance of Contractor's professional services, Contractor shall comply to the extent required by the standard of care.
 - B. Discrimination. Consultant agrees not to discriminate against any employee or applicant for employment or any other person in the performance of this Agreement because of race, creed, color, national origin, marital status, sex, age, disability, or other circumstance prohibited by federal, state or local law or ordinance, except for a bona fide occupational qualification.
 - C. Licenses and Similar Authorizations. The Consultant, at no expense to the District, shall secure and maintain in full force and effect during the term of this Agreement all required licenses, permits, and similar legal authorizations.
 - D. Taxes. The Consultant shall pay, before delinquency, all taxes, levies, and assessments arising from the Consultant's activities and undertakings under this Agreement; taxes levied on the Consultant's property, equipment, and improvements; and taxes on the Consultant's interest in this Agreement and any leasehold interest deemed to have been created by this Agreement under RCW Chapter 82.29A.
7. Contractual Relationship.

- A. Independent Contractor. The Consultant and District agree that the Consultant is an independent contractor with respect to work or services provided under this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the Consultant and the District. It is understood and agreed that the Consultant or any employee of the Consultant will not be entitled to receive any other benefits accorded District employees. The District will not be responsible for withholding or otherwise deducting federal income tax, social security, or contributing to the State Industrial Insurance Program, or in any other way assuming the duties of an employer with respect to the Consultant or any employee of the Consultant.
 - B. Lack of Authority. This Agreement does not constitute the Consultant as the agent or legal representative of the District for any purpose. The Consultant is not granted any express or implied right or authority to assume or create any obligation or responsibility on behalf of or in the name of the District or to bind the District in any manner.
8. No Subcontracting or Assignment. The Consultant shall not subcontract or assign any portion of the work or services covered by this Agreement without the prior written approval of the District. In the event of approval, the Consultant is responsible for any subcontractor's or sub consultant's compliance with all the terms of this contract.
9. Indemnification and Limitation of Remedies.
- A. By Consultant. The Consultant shall indemnify and hold the District, its officers, officials, employees, and volunteers harmless from claims, injuries, damages, losses, or suits including reasonable attorney fees, to the extent caused by Consultant's negligence. In the event of liability caused by or resulting from the concurrent negligence of the Consultant and the District, its officers, officials, employees, and volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's sole negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.
 - B. By District. The District shall indemnify and hold the Consultant, its officers, officials, employees, and volunteers harmless from claims, injuries, damages, losses, or suits including reasonable attorney fees, to the extent caused by District's negligence. In the event of liability caused by or resulting from the concurrent negligence of the Consultant and the District, its officers, officials, employees, and volunteers, the District's liability hereunder shall be only to the extent of the District's sole negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the District's waiver of immunity under Industrial Insurance, Title 51 RCW,

solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

C. Limitation of Remedies. Contractor's aggregate liability responsibility to the District, including that of Contractor's officers, directors, employees, and agents is limited to \$1,000,000 or the amount of Contractor's fee under this Agreement, whichever is greater. This limitation of remedy applies to all lawsuits, claims, or actions, whether identified as arising in tort, contract, or other legal theory, (including without limitation, Contractor's indemnity obligations in the previous paragraph) related to Contractor's services under this Agreement.

10. Insurance.

The Consultant shall maintain for the duration of the Agreement and with a two-year tail, such insurance for claims for injuries to persons or damage to property which may arise from or in connection with insurable loss related to or arising from the work hereunder by the Consultant, its agents, representatives, or employees, including any injury or loss as a result of negligence. This clause is not meant to require any warranty of work or builder's risk insurance.

No Limitation. Consultant's maintenance of insurance as required by the agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the District's recourse to any remedy available at law or in equity. The Consultant's insurance shall include contractual liability coverage and additional insured coverage for the benefit of the District and anyone else the District is required to name, and shall specifically include coverage for ongoing and completed operations.

A. Minimum Scope of Insurance

Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired, and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, and personal injury and advertising injury. The Consultant's insurance shall include additional insured coverage for the benefit of the District and anyone else the District is required to name, with respect to the work performed for the District.

3. Workers' Compensation coverage as required by the Industrial Insurance laws of the state of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance

Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.
4. The consultant is required to provide a certificate of coverage additionally insuring Thurston Conservation District for all work conducted by or resulting from the work of the consultant.

C. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability, and Commercial General Liability insurance:

1. The insurance required to be carried by the Consultant shall be PRIMARY AND NON-CONTRIBUTORY. With respect to each type of insurance specified hereunder, the District's insurances shall be excess to Consultant's insurance.
2. The Consultant's insurance coverage shall be PRIMARY AND NON-CONTRIBUTORY insurance with respect to the District and any other entity the District is required to indemnify and hold harmless. Any insurance, self-insurance, or insurance pool coverage maintained by the District shall be excess of the Consultant's insurance and shall not contribute with it.
3. The Consultant's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District.

D. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than

A:VII.

E. Verification of Coverage

Consultant shall furnish the District with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.

Before commencing work and services under this Agreement, the Consultant shall provide to the person identified in Section 12 a Certificate of Insurance evidencing the insurance described above. The District reserves the right to request and receive a certified copy of all required insurance policies.

F. Subcontractors' Insurance

Contractor shall ensure that each subcontractor of every tier obtains at a minimum the same insurance coverage and limits as stated herein for the Contractor. Upon request from the District, the Contractor shall provide evidence of such insurance

11. Ownership of Documents. Reports, studies, plans, drawings, maps, models, specifications, computer files and other work products produced by the Consultant, except for working notes and internal documents, shall be the property of the District, which are subject to public disclosure under Chapter 42.56 RCW. The Consultant shall furnish these documents to the District upon request. The Consultant shall refer all third party requests for inspection and copying of these documents to the District which shall determine whether the documents shall be made available for inspection in accordance with Chapter 42.56 RCW. Modification or re-use of any of these documents by the District following completion of the work and services under this Agreement, without the written permission of the Consultant, shall be at the District's sole risk.

- A. Pursuant to performing the Specified Services, Consultant will create certain instruments of service, which may take the form of printed, hard copy documents and electronic, computer-ready materials including but not limited to computer programs, software, and data. These instruments may also take the form of methodology, processes, and logic.
- B. Materials, methodologies, processes, and logic will be delivered to District as part of the Specific Services rendered by Consultant, and District will acknowledge said materials as instruments of service. All instruments shall become the property of District upon completion of the respective Specific Service and payment in full of monies due Consultant for that service.
- C. Consultant makes no warranties, expressed or implied, of the merchantability or fitness of said instruments for any particular purpose other than the pertinent scope of the Specified Services.

D. Consultant may retain reproducible copies of its instruments of service (aka "documents" per TCD).

12. Addresses for Notices and Deliverable Materials. All notices and other material to be delivered under this Agreement shall be in writing and shall be delivered or mailed to the following addresses, unless otherwise requested by the Thurston Conservation District:

**Thurston Conservation District
2918 Ferguson St. Southwest, Suite A
Tumwater, WA 98512
(360) 754-3588**

or such other addresses as either party may, from time to time, designate in writing.

13. Amendments. No modification or amendment of this Agreement shall be effective unless in writing and signed by authorized representatives of the parties. The parties expressly reserve the right to modify this Agreement, from time to time, by mutual agreement.
14. Binding Effect. The provisions, covenants and conditions in this Agreement shall bind the parties, their legal heirs, representatives, successors and assigns.
15. Applicable Law; Venue. This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. The venue of any action brought under this Agreement shall be in the Superior Court for Thurston County.
16. Remedies Cumulative. Rights under this Agreement are cumulative, and the failure to exercise a right on any occasion shall not operate to forfeit the right on another occasion. The use of one remedy shall not exclude or waive the right to use another.
17. No Waiver. No waiver of full performance by either party shall be construed, or operate, as a waiver of any subsequent default or breach of any of the terms, covenants or conditions of this Agreement. The payment of compensation to the Consultant shall not be deemed a waiver of any right or the acceptance of defective performance.
18. Termination.
- A. At Convenience of District. The District may terminate this Agreement at any time upon 10 days written notice to the Consultant.
- B. For Cause. Either party may terminate this Agreement where the other party fails to perform its obligations and the failure has not been corrected in a timely manner after notice of breach.

- C. For Reasons Beyond Control of Parties. Either party may terminate this Agreement without recourse by the other party where performance is rendered impossible or impracticable for reasons beyond the party's reasonable control such as, but not limited to, acts of nature; war or warlike operations; civil commotion; riot; labor disputes including strike, walkout, or lockout; sabotage; or superior governmental regulation or control.
- D. Compensation in the Event of Termination. In the event of termination of the Contract pursuant to this Section, District shall pay Contractor the lower of the actual price or the price shown on any schedule of values for all Work completed up to the date of such termination for which Contractor has not been paid incurred by it in the performance of the Work, plus all the pro-rated portion of any fee included in Contractor's price based on the portion of the non-fee price to be paid under this paragraph.
- E. Notice. Notice of termination pursuant to Subsections B and C above shall be given by the party terminating this Agreement to the other not less than 30 days prior to the effective date of termination.
19. Previous Agreements Superseded. The terms and conditions of this Agreement supersede the terms, obligations and conditions of any existing or prior agreement between the parties regarding the subject matter of this Agreement.
21. Headings. Headings of paragraphs and section herein are for reference purposes only and are not intended to create or imply any contract terms or understandings different from or supplemental to those created by the substantive terms as written.
20. Entire Agreement. This Agreement is all of the covenants, promises, agreements and conditions, either oral or written, between the parties.

Eld Inlet Bulkhead Removal Design

Professional Services Contract #2022-12

CONSULTANT

THURSTON CONSERVATION DISTRICT

By _____
Owner/Principal, Coastal Geologic Services

By _____
Board of Supervisors, Chair

Date: _____

Date: _____

Eld Inlet Bulkhead Removal Design

Professional Services Contract 2022-12

Exhibit A
Scope of Work

Eld Inlet Bulkhead Removal Design
Professional Services Contract 2022-12

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Eld Inlet Bulkhead Removal Design

February 28, 2023 through September 29, 2023

Purpose

This Scope of Work describes the cooperative working arrangement between the Thurston Conservation District (TCD) and Coastal Geologic Services, under the Shore Friendly South Sound program contract agreement with Thurston Conservation District, 2022-12. This project is funded by the Estuary and Salmon Recovery Program with federal funding originating from US Environmental Protection Agency. All aspects of design should follow the guidelines outlined in Salmon Recovery Funding Board Manual 18.

SCOPE OF WORK AND BUDGET:

The consultant will:

Complete a bulkhead removal and restoration design that meets the project goals:

- a. Remove shoreline armor to restore coastal process including bank sediment erosion and sediment deposition.
- b. Design a restoration project that maintains easy landowner access to the beach.
- c. Develop a project that will act as a good demonstration site and inspiration to others.
- d. Develop engineered final design, specifications, and design report.
- e. Optimize habitat enhancement opportunities along the marine shoreline.
- f. Develop a design that appropriately manages transitions between the subject property and adjacent armored properties.

Provide the key deliverables:

1. Preliminary Design Report and Preliminary Drawings for TCD and landowner review and project permitting. Must meet criteria outlined in Washington State Recreation and Conservation Office (RCO) Salmon Recovery Grants Manual 18.
 - a. The preliminary design report will include a physical suitability analysis, ecological suitability and cost evaluation. The report will include at least 3 design alternatives, including relevant advantages and disadvantages of each design and a recommended design.
 - b. Design documents will be provided to TCD for preliminary/permit level design by the funding entity. The Permit level design will meet the drawing requirements of the various permitting agencies.

2. Final Design deliverables will include final stamped Construction Plan set, technical specifications, engineer's opinion of construction cost (EOC), and a basis of design report meeting the requirements of the ESRP Small Grants program. Project permits will be prepared with Thurston Conservation District staff as part of these deliverables. Final Design must meet criteria outlined in RCO Salmon Recovery Grants Manual 18.

Coastal Geologic Services' prepared Scope of Work and Budget to follow:

Attachment C: Excerpt from Manual 18: Salmon Recovery Grants, January 2021

(Appendix D-3: Final Design Deliverables, pp. 89-92. Available at: <https://rco.wa.gov/wp-content/uploads/2019/05/SAL-Manual18.pdf>)

Appendix D-3: Final Design Deliverables

Project Deliverables	Project Phase			
	Conceptual Design	Preliminary Design	Final Design	Construction Project ¹
Conceptual Design Report and Drawings	✓	Application	Application	Application
Preliminary Design Report and Drawings		✓	✓	✓
Landownership Certification Form	✓	✓	✓	✓
Permit Applications		Optional	Optional	✓
Design Review Comments		Optional	✓	✓
Final Design Report and Drawings			✓	✓
Technical Specifications			✓	✓
Construction Quantities and Costs	3		✓	✓
Bidding Documents			✓	✓
Permits		Optional	Optional	✓
Cultural Resources Compliance	2	2	2	✓
Control and Tenure Documents				✓
As-Built				✓

¹Design-build construction projects have an abbreviated set of design requirements before construction. See Appendix D-4.

²Cultural resources compliance may be required if sponsor is conducting ground-disturbing activities during the design phases.

³Rough cost estimate of the preferred alternative.

Thurston Conservation District will:

- Coordinate closely with **Coastal Geologic Services** to make the most effective use of time and resources, and will process invoices in a timely fashion.
- Communicate with the landowner to coordinate site visits and meetings.
- Prepare the planting plan in consultation with **Coastal Geologic Services**.

1. Budget: Not to exceed \$44,328 with an additive budget of \$6,265

2. Deliverables: Design deliverables billed under Shore Friendly R035.5 Project Design will include:

A. **Coastal Geologic Services** will provide the deliverables outlined in this document.

B. **Coastal Geologic Services** will incorporate recognition of EPA funding where appropriate (as required for all media developed in collaboration with the Shore Friendly Thurston Program Manager as part of the project and must contain the following statement):

“This project has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement PC-01J223-01 Contract #16-05251 through the Washington Department of Fish and Wildlife. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency or the Washington Department of Fish and Wildlife, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.”

C. **Coastal Geologic Services** will submit vouchers/invoices for completed services on a monthly TBD basis. Invoices for completed tasks (please list hours per task) must be received by TCD prior to the last day of the month in order to assure payment in a timely fashion.

D. In addition to evidence of insurance coverage required as described in Section 10, the consultant is required to provide a certificate of coverage additionally ensuring Thurston Conservation District for all work conducted by or resulting from the work of the consultant.



BOARD MEETING ITEM SUMMARY SHEET

Agenda Item Title:		Riverbend Ranch Concrete Split Box Culverts, Contract #2022-04	
Lead Staff:		Mara Healy	Board Meeting Date: 02/28/23
Goal of Presentation:	Decision <input checked="" type="checkbox"/>	Information <input type="checkbox"/>	Feedback <input type="checkbox"/>
Description/Background:		<i>Please provide a description or background of the project.</i>	
<p>Part of the Riverbend Ranch ASRP restoration project includes the replacement of several fish-blocking and failing culverts. Replacing these culverts will allow safe passage of fish and floodwaters, as well as access for construction machinery necessary in future stages of the project. This purchase contract is for the procurement of the concrete split box culverts which were designed for this project, and will replace the current failing culverts.</p>			
Pros:		Cons:	
<ul style="list-style-type: none"> -Allows construction timeline to move forward as planned. -Next vendor in line can't take the job. -Vendor was lowest responsive bidder by wide margin -Vendor provided robust materials that were approved by the project engineer -Vendor complied with lengthy contracting and legal review process and accepted all changes to terms and conditions 		<ul style="list-style-type: none"> -Vendor initially proposed unfavorable terms 	
Fiscal Impacts: <i>Please describe the costs associated with this action.</i>			
TOTAL CONTRACT AMOUNT not to exceed \$ \$280,340.00			
Recommended Action:		<i>What decision do you recommend the board make?</i>	
Approve.			
Legal Review:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
Supporting Documents: <i>Please list below and attach supporting documents (contracts, maps, agreements, draft resolution or other documents).</i>			
<ul style="list-style-type: none"> - Contract -Addendum to contract 			





CONTRACT

THIS CONTRACT, made and entered into this 13th day of December, 2022, shall be the agreed basis of performing the following work by and between Thurston Conservation District, hereinafter referred to as the Conservation District, and H2 Precast Inc. hereinafter referred to as the Contractor.

WITNESSETH: Whereas the parties hereto have agreed with each other as follows:

FIRST: Contractor will furnish all labor, equipment, materials, scaffolding, building permits, hoisting, trenching, transportation, supervision, coordination, communication, shop drawings and storage to complete in a workmanlike manner the work called for in the contract documents entitled:

Project Name: **Riverbend Ranch Concrete Split Box Culverts, #2022-04**

The Scope of Work Includes:

Fabrication and delivery of four (4) total Prefabricated Concrete Split Box Culverts with Wingwalls. All four culverts will be 20' L by 12.0' W by 6.0' H (interior dimensions) with 6' H x 4' L wingwalls at each corner.

General Specifications

- **Total Number of Culverts:** 4
- **Length:** 20' total length (end to end).
- **Width:** 12.0' interior dimension.
- **Height:** 6.0' interior dimension.
- **Wingwalls:** 1 at each corner, 6.0' tall x 4.0' long.
- **Load Rating:** HL-93
- **Design Standard:** AASHTO LRFD Bridge Design Specifications, latest edition.
- **Concrete:** 4000 PSI compressive strength minimum.
- **Fabrication Inspection:** Standard WSDOT fabrication and material inspections **are not** required.
- The structures shall contain **lifting elements** such as temporary pins, eyes, or other mechanisms specifically designed to facilitate unloading and placement.
- Upon award of bid, manufacturer shall submit shop drawings and specifications for the concrete structure and wingwalls, stamped by a professional engineer in the State or Province of manufacture. Such plans shall provide detailed erection and placement procedures or guidelines.

Delivery

- The delivery location is 3639 SE Skookumchuck Road, Tenino, WA 98589. Culverts will be offloaded by a TCD contractor.
- The bid shall include transportation cost and approximately 4 hours for off-loading.
- The culverts must be ready for delivery no later than August 1st, 2023. The manufacturer shall include the earliest possible delivery date in the proposal.



- Delivery dates are estimates only; the actual delivery date will be determined at the discretion of the Thurston Conservation District and the installation contractor. All scheduling/off-loading arrangements will be made between the installation contractor and the manufacturer.

SECOND: Time of Completion: The work to be performed under this contract shall commence as soon as the Contractor has been officially notified to proceed and shall be substantially complete by the date in the Proposed Schedule.

Proposed Schedule:

Shop drawings & specifications	Upon bid award
Status update	March 1st, 2023
Status update	June 1st, 2023
Delivery to site	No later than August 1st, 2023

The Contractor further agrees that, from the compensation otherwise to be paid, the Conservation District may charge actual costs to the Contractor for delay for any time over the agreed to completion date where work remains uncompleted.

THIRD: In consideration of the Performance of the Work, herein contained on the part of the Contractor, the Conservation District hereby agrees to pay the Contractor for said work completed according to the Contract Documents, a sum consisting of the following:

TOTAL CONTRACT AMOUNT not to exceed \$ \$280,340.00

FOURTH: The lump sum quote is hereby accepted as per the quote submitted by the contractor.

FIFTH: Indemnification: Contractor agrees to defend, indemnify and hold harmless Conservation District from any and all claims, demands, losses, and liabilities to or by Conservation District, by any regulatory agency, or by any other third parties arising from, resulting from, or connected with work performed or to be performed under this Contract by Contractor, its agents, employees and sub-tier subcontractors and suppliers of any tier, even though such claim may prove to be false, groundless or fraudulent, to the fullest extent permitted by law and subject to the limitations provided below.



The indemnification obligation under this Contract shall not be limited in any way by type of damages, compensation or benefits payable to or for any third party under workers compensation acts, disability acts or other employee benefits acts (including RCW Title 51), provided Contractor's waiver of immunity by the provisions of this paragraph extends only to claims against Conservation District or subcontractor employee claims against Contractor and does not include or extend to any claims by Contractor's employees directly against Contractor.

Defense cost recovery shall include all fees (attorneys and experts) and costs and expenses relating to or arising from the indemnified claim. In addition, Conservation District shall be entitled to recover compensation for all of its in-house expenses (including materials, administrative costs, and labor) consumed in its defense.

The undersigned certify that this indemnification provision was mutually negotiated. Contractor specifically agrees and acknowledges that this agreement of indemnification and defense, together with Contractor's waiver of immunity under RCW Title 51, was the subject of discussion and negotiation between Contractor and Conservation District and that Contractor's promises and waiver herein are a part of the consideration for Conservation District entering into this Contract and the Conservation District and Contractor's obligations and waiver herein were considered by Contractor when arriving at a price for which Contractor agreed to do the work contemplated by this Contract.

SIXTH: The contractor shall procure and shall maintain until final acceptance of the work, such insurance as will protect the Conservation District, and its supervisors, director, agents, and employees, for claims arising out of or resulting from Contractor's work under this Contract Agreement, whether performed by the Contractor, or by anyone directly or indirectly employed by Contractor, or by anyone for whose acts Contractor may be liable. The Contractor's insurance shall include contractual liability coverage and additional insured coverage for the benefit of the Contractor, Owner and anyone else the Owner is required to name (as set forth in the schedule below), and shall specifically include coverage for completed operations. The insurance required to be carried by the Contractor and any subcontractors shall be PRIMARY AND NON-CONTRIBUTORY. With respect to each type of insurance specified hereunder, the Conservation District's insurances shall be excess to Subcontractor's insurance.

The coverage provided under the Contractor's commercial general liability policy shall be written on an "occurrence" basis and no policy provisions shall restrict, reduce, limit or otherwise impair contractual liability coverage or the Conservation District's status as additional insured.

Not less than five (5) days prior to commencement of the work and until final acceptance of the work, Contractor shall provide Conservation District with certificate(s) of insurance evidencing the required insurance coverage with the limits stated below or elsewhere in the Contract documents. Further, the Contractor shall provide Conservation District thirty (30) days written notice of a change or cancellation in coverage.

The Contractor shall maintain no less than the limits specified for each of the following insurance coverages:

- (a) Commercial General Liability using an industry standard unmodified coverage form including contractual liability & products/completed operations with minimum limits of \$1,000,000 each occurrence, \$2,000,000 aggregate with either per project or per location endorsement for property damage and bodily injury;
- (b) Comprehensive Automobile Liability insurance with minimum limits of \$1,000,000 combined single limit each accident, including bodily injury and property damage liability;
- (c) Workers' Compensation and disability benefit insurance including Occupational Disease in the minimum amounts as required by the jurisdiction where the work is performed.

SEVENTH: The venue for any legal action related or indirectly related to the project will be Thurston County Superior Court.

EIGHTH: Labor and Material -- The Contractor shall pay all valid charges for labor and material incurred by Contractor and used in the construction of the project and shall keep the property free from liens and claims. However, no waiver or release of mechanic's lien given by Contractor or a Subcontractor shall be binding until all payments due to the Contractor under this Contract when the release was executed have been made. Contractor further acknowledges that the Indemnification Clause above applies to Subcontractor claims for payment, including liens, whether or not those claims have been asserted in formal litigation

TENTH: Concealed Conditions -- If Contractor should encounter concealed conditions that were not reasonably anticipated by Contractor, such as rock, unexpected subsurface or soil conditions, unexpected water, hazardous materials, or other condition that differs materially from that which would be reasonably expected by a competent contractor in the trade, Contractor will call such conditions to the attention of Conservation District immediately, and the contract price and time for completion will be accordingly adjusted for any delay or extra work required to address the concealed condition. Unusually inclement weather is not a concealed condition under this clause.

ELEVENTH: Right to Stop Work -- Conservation District shall have the right to stop work for any reason and may keep the job idle for no more than one month without an adjustment in Contract price. If the delay exceeds one month, Contractor shall have the right to renegotiate the price, and Conservation District shall have the right to terminate Contractor without additional payment if the negotiation does not result in a mutually agreeable price. Contractor shall be entitled to additional contract time equal to the length of any delay under this clause.

TWELFTH: Binding on Successors -- All of the provisions of this Contract will be binding on the assignees, successors, parent companies, and subsidiary companies of both parties. If either party is acquired by a



corporation through purchase, merger, or consolidation, the provisions of this Contract will be binding on the successor or surviving corporation.

THIRTEENTH: Invalidity -- The invalidity of or unenforceability of any provision of this Contract shall not affect the other provisions hereof, and the Contract shall be construed in all respects as if such invalid or unenforceable provisions were omitted. Further, both parties have negotiated, or have had the opportunity to negotiate, all the terms of the Contract.

FOURTEENTH: Amendments and Waivers -- All amendments and other modifications of this Contract shall be in writing and signed by each of the parties. The delay or failure of any party to insist, in any one instance or more, upon strict performance of any of the terms or conditions of this Contract or to exercise any right hereunder shall not be construed as a waiver of any such terms, conditions or rights.

IN WITNESS WHEREOF: Thurston Conservation District has caused this Contract to be subscribed in its behalf and the said Contractor has signed this Contract the day and year first above written.

Contractor: Supplier

Project Sponsor/Conservation District:

H2 PULASKI

Thurston Conservation District (TCD)

By James C. Prewitt

By _____

Title General Manager

Title _____

Date 1/19/23

Date _____

Washington State Contractor's License No. _____

Federal Tax Id. No. _____

UBI. NO. _____

INVOICES:

Thurston Conservation District, C/o Yan Dong

2918 Ferguson St. SW, STE A

Tumwater, WA 98512





ADDENDUM TO CONTRACT BETWEEN H2 PRE-CAST, INC., AND THURSTON CONSERVATION DISTRICT

Riverbend Ranch Concrete Split Box Culverts, #2022-04

TERMS AND CONDITIONS OF SALE



You (the "Buyer") and H2 Pre-Cast, Inc. agree that the following terms and conditions shall govern the sale of the goods described on the reverse side of this page or on your invoice.

1. EXPRESS OR IMPLIED WARRANTIES Buyer acknowledges that H2 Pre-Cast, Inc. has not made any promises, affirmations of fact, or guarantees relating to the goods except as expressly set out herein or implied from the design or specification documents. Buyer understands and acknowledges that variation in size, color, and texture are inherent in brick, stone, block, mortar and related materials. Seller warrants that the goods conform to the design documents, without patent or latent defects, and that they will not fail in the purpose for which they were provided. The indemnification clause in the Fifth Term of the Contract expressly includes any third-party-claims related to product defects, product failure, or a breach of this warranty. Further, the implied warranties of merchantability and fitness for particular purpose are subsumed and incorporated into this express warranty, which the parties acknowledge to be broader in time and scope than those implied warranties, and shall not provide for the basis for an alternative theory of liability.

2. CLAIMS AND DISPUTES Any controversy arising out of this Contract or the performance thereof shall be decided by litigation in Thurston County Superior Court. Each party will permit all other parties to examine and copy its records that are relevant to the dispute, and the arbitrator is empowered to enforce this agreement for inspection and copying of records. To the extent possible, any goods claimed to be defective must be held for inspection by H2 Pre-Cast, Inc. and/or its agents.

3. DEPOSITS AND SALE OF GOODS ON ORDER Purchases of goods on order are final, and deposits for such goods are non-refundable. If buyer fails to take delivery of the goods within sixty (60) days from notification of arrival, H2 Pre-Cast, Inc may sell all or part of the goods.

4. RETURN POLICY Unless otherwise stated in writing on the reverse side of this page, goods are not returnable. Buyer shall pay H2 Pre-Cast, Inc. a restocking charge equal to 15% of the total purchase price of the goods for any goods which H2 Pre-Cast Inc. may, at its discretion, accept for return.

No returns will be considered after thirty (30) days from date of invoice. All returns must be accompanied by an invoice showing the original purchase. Buyer shall pay all transportation costs and delivery charges for any goods which may be accepted for return.

Special Orders, glazing, artwork, natural stone, slump stone, block, out-of-state brick, and all sacked, bottled or canned materials, coring, will not be considered for return.

5. DELIVERIES H2 Pre-Cast, Inc. is not responsible for non-performance or delays caused by the manufacturer or other persons or factors outside H2 Pre-Cast, Inc.'s control unless otherwise stated in writing on the reverse side of this page. Buyer shall take delivery of the goods at H2 Pre-cast, Inc. facility where this order was placed. H2 Pre-Cast, Inc. shall not be responsible for damage to property located inside the curb, property line or nearest improved street for deliveries which it may make.

Unless stated otherwise at the time of delivery, all goods are accepted at the time of delivery, all goods are accepted in good condition and of the proper quantity and quality. Buyer accepts all risk to goods delivered to a location without an authorized person on site to inspect and sign for goods.

6. PAYMENT TERMS Unless otherwise stated on the reverse side of this page or on your invoice, buyer's payment for the goods is due when the order for the goods is placed. All sales are cash, unless arrangements for credit have been previously made and approved. Credit terms are NET 30 (all purchases made within a given month are due on the 30th day of the following month.) All payments are due at H2 Pre-Cast, Inc. facility, listed on the reverse side hereof or on your invoice. Should payment not be made in accordance with the above terms, H2 Pre-Cast, Inc. may cancel all pending orders placed by Buyer, terminate Buyer's credit privileges, discontinue shipping any jobs in progress and demand payment in full of any past-due amount prior to any future sales. Customer will be responsible for all attorney fees if collection efforts become necessary.

7. TAXES All state, federal and local taxes are the responsibility of Buyer. If material is for resale, a current resale card of exemption certificate must be on file at the time of sale. No credit for tax will be issued after the sale.

8. PALLET CHARGES If a pallet deposit is charged, it is the responsibility of Buyer to pay for pallets. Credit will be issued upon return of undamaged pallets. Receipt is required to receive credit for pallets.

9. SPECIAL ORDERS Orders placed for goods that are not a standard inventory item, or of a quantity in excess of normal inventory require buyer to sign and agree in writing as to price and quantity, prior to being ordered from the manufacturer. Special Order goods cannot be cancelled, and are non-refundable and not returnable.



BOARD MEETING ITEM SUMMARY SHEET

Agenda Item Title:	Approval: RCO Applicant Authorization Form for Phase 2 Independence Valley		
Lead Staff:	Karin Strelhoff	Board Meeting Date:	02/28/23
Goal of Presentation:	Decision <input checked="" type="checkbox"/>	Information <input type="checkbox"/>	Feedback <input type="checkbox"/>
Description/Background:	<i>Please provide a description or background of the project.</i>		
Phase 2 ASRP Independence Valley Restoration - this resolution is required as part of a pending application for additional funding through the ASRP program to continue restoration, design, and technical assistance work in the Independence Valley with multiple landowners.			
Pros: Phases work to support multiple interested community members for both ag and habitat actions.	Cons: uncertainty of funding approval, like all grants		
Fiscal Impacts: <i>Please describe the costs associated with this action.</i>			
budget is still in development			
Recommended Action:	<i>What decision do you recommend the board make?</i>		
approve the authorization so TCD can submit a funding application			
Legal Review:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
Supporting Documents: <i>Please list below and attach supporting documents (contracts, maps, agreements, draft resolution or other documents).</i>			
RCO Resolution/Authorization form for Phase 2 ASRP Independence Valley			





Applicant Resolution/Authorization

Organization Name (sponsor) Thurston Conservation District

Resolution No. or Document Name _____

Project(s) Number(s), and Name(s) Phase 2 ASRP Independence Valley Project

This resolution/authorization authorizes the person(s) identified below (in Section 2) to act as the authorized representative/agent on behalf of our organization and to legally bind our organization with respect to the above Project(s) for which we seek grant funding assistance managed through the Recreation and Conservation Office (Office).

WHEREAS, grant assistance is requested by our organization to aid in financing the cost of the Project(s) referenced above;

NOW, THEREFORE, BE IT RESOLVED that:

1. Our organization has applied for or intends to apply for funding assistance managed by the Office for the above "Project(s)."
2. Our organization authorizes the following persons or persons holding specified titles/positions (and subsequent holders of those titles/positions) to execute the following documents binding our organization on the above projects:

Grant Document	Name of Signatory or Title of Person Authorized to Sign
Grant application (submission thereof)	Karin Strelloff
Project contact (day-to-day administering of the grant and communicating with the RCO)	Karin Strelloff Sarah Moorehead
RCO Grant Agreement (Agreement)	Sarah Moorehead
Agreement amendments	Sarah Moorehead
Authorizing property and real estate documents (Notice of Grant, Deed of Right or Assignment of Rights if applicable). These are items that are typical recorded on the property with the county.	n/a

The above persons are considered an "authorized representative(s)/agent(s)" for purposes of the documents indicated. Our organization shall comply with a request from the RCO to provide documentation of persons who may be authorized to execute documents related to the grant.

3. Our organization has reviewed the sample RCO Grant Agreement on the Recreation and Conservation Office's WEB SITE at: <https://rco.wa.gov/wp-content/uploads/2019/06/SampleProjAgreement.pdf>. We understand and acknowledge that if offered an agreement to sign in the future, it will contain an indemnification and legal venue stipulation and other terms and conditions substantially in the form contained in the sample Agreement and that such terms and conditions of any signed Agreement shall be legally binding on the sponsor if our representative/agent enters into an Agreement on our behalf. The Office reserves the right to revise the Agreement prior to execution.
4. Our organization acknowledges and warrants, after conferring with its legal counsel, that its authorized representative(s)/agent(s) have full legal authority to act and sign on behalf of the organization for their assigned role/document.
5. Grant assistance is contingent on a signed Agreement. Entering into any Agreement with the Office is purely voluntary on our part.
6. Our organization understands that grant policies and requirements vary depending on the grant program applied to, the grant program and source of funding in the Agreement, the characteristics of the project, and the characteristics of our organization.
7. Our organization further understands that prior to our authorized representative(s)/agent(s) executing any of the documents listed above, the RCO may make revisions to its sample Agreement and that such revisions could include the indemnification and the legal venue stipulation. Our organization accepts the legal obligation that we shall, prior to execution of the Agreement(s), confer with our authorized representative(s)/agent(s) as to any revisions to the project Agreement from that of the sample Agreement. We also acknowledge and accept that if our authorized representative(s)/agent(s) executes the Agreement(s) with any such revisions, all terms and conditions of the executed Agreement shall be conclusively deemed to be executed with our authorization.
8. Any grant assistance received will be used for only direct eligible and allowable costs that are reasonable and necessary to implement the project(s) referenced above.
9. [for Recreation and Conservation Funding Board Grant Programs Only] If match is required for the grant, we understand our organization must certify the availability of match at least one month before funding approval. In addition, our organization understands it is responsible for supporting all non-cash matching share commitments to this project should they not materialize.
10. Our organization acknowledges that if it receives grant funds managed by the Office, the Office will pay us on only a reimbursement basis. We understand reimbursement basis means that we will only request payment from the Office after we incur grant eligible and allowable costs and pay them. The Office may also determine an amount of retainage and hold that amount until all project deliverables, grant reports, or other responsibilities are complete.
11. [for Acquisition Projects Only] Our organization acknowledges that any property acquired with grant assistance must be dedicated for the purposes of the grant in perpetuity unless otherwise agreed to in writing by our organization and the Office. We agree to dedicate the property in a signed "Deed of Right" for fee acquisitions, or an "Assignment of Rights" for other than fee acquisitions (which documents will be based upon the Office's standard versions of those documents), to be recorded on the title of the property with the county auditor. Our organization acknowledges that any property

acquired in fee title must be immediately made available to the public unless otherwise provided for in policy, the Agreement, or authorized in writing by the Office Director.

12. [for Development, Renovation, Enhancement, and Restoration Projects Only–If our organization owns the project property] Our organization acknowledges that any property owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant in perpetuity unless otherwise allowed by grant program policy, or Office in writing and per the Agreement or an amendment thereto.
13. [for Development, Renovation, Enhancement, and Restoration Projects Only–If your organization DOES NOT own the property] Our organization acknowledges that any property not owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant as required by grant program policies unless otherwise provided for per the Agreement or an amendment thereto.
14. [Only for Projects located in Water Resources Inventory Areas 1-19 that are applying for funds from the Critical Habitat, Natural Areas, State Lands Restoration and Enhancement, Riparian Protection, or Urban Wildlife Habitat grant categories; Aquatic Lands Enhancement Account; or the Puget Sound Acquisition and Restoration program, or a Salmon Recovery Funding Board approved grant] Our organization certifies the following: the Project does not conflict with the Puget Sound Action Agenda developed by the Puget Sound Partnership under RCW 90.71.310.
15. This resolution/authorization is deemed to be part of the formal grant application to the Office.
16. Our organization warrants and certifies that this resolution/authorization was properly and lawfully adopted following the requirements of our organization and applicable laws and policies and that our organization has full legal authority to commit our organization to the warranties, certifications, promises and obligations set forth herein.

This resolution/authorization is signed and approved on behalf of the resolving body of our organization by the following authorized member(s):

Signed _____

Title Executive Director Date _____

On File at: Thurston Conservation District

This Applicant Resolution/Authorization was adopted by our organization during the meeting held:
(Local Governments and Nonprofit Organizations Only):

Location: TCD Board of Supervisors Meeting Date: _____

Washington State Attorney General's Office

Approved as to form Brian Tallen 2/13/2020
Assistant Attorney General Date

You may reproduce the above language in your own format; however, text may not change.



BOARD MEETING ITEM SUMMARY SHEET

Agenda Item Title:		Approval: RCO Applicant Authorization Form for Phase 2 Scatter Creek South	
Lead Staff:		Karin Strelloff	Board Meeting Date: 02/28/23
Goal of Presentation:	Decision <input checked="" type="checkbox"/>	Information <input type="checkbox"/>	Feedback <input type="checkbox"/>
Description/Background:		<i>Please provide a description or background of the project.</i>	
<p>This resolution is required as part of a pending SRFB application for phase 2 funding to implement restoration actions developed under our Phase 1 Grant. This project is also known as "Cozy Valley" restoration, and has been the focus of riparian restoration planting and engineering design development over the past 1.5 years.</p>			
Pros:		Cons:	
<p>Will continue restoration of an important habitat area that benefits Scatter Creek and Coho salmon, particularly. Has potential to benefit downstream flows later in the summer. Important collaborative project with neighbors and the Creekside Conservancy.</p>		<p>No guarantee of funding, as with all grant applications.</p>	
Fiscal Impacts: <i>Please describe the costs associated with this action.</i>			
budget is still in development			
Recommended Action:		<i>What decision do you recommend the board make?</i>	
approve the authorization so TCD can submit a funding application			
Legal Review:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
Supporting Documents: <i>Please list below and attach supporting documents (contracts, maps, agreements, draft resolution or other documents).</i>			
RCO Resolution/Authorization form for Phase 2 Scatter Creek S. Tributaries Restoration (Cozy Valley)			





Applicant Resolution/Authorization

Organization Name (sponsor) Thurston Conservation District

Resolution No. or Document Name _____

Project(s) Number(s), and Name(s) Phase 2 Scatter Creek S Tributaries Restoration (Cozy Valley)

This resolution/authorization authorizes the person(s) identified below (in Section 2) to act as the authorized representative/agent on behalf of our organization and to legally bind our organization with respect to the above Project(s) for which we seek grant funding assistance managed through the Recreation and Conservation Office (Office).

WHEREAS, grant assistance is requested by our organization to aid in financing the cost of the Project(s) referenced above;

NOW, THEREFORE, BE IT RESOLVED that:

1. Our organization has applied for or intends to apply for funding assistance managed by the Office for the above "Project(s)."
2. Our organization authorizes the following persons or persons holding specified titles/positions (and subsequent holders of those titles/positions) to execute the following documents binding our organization on the above projects:

Grant Document	Name of Signatory or Title of Person Authorized to Sign
Grant application (submission thereof)	Karin Strelloff
Project contact (day-to-day administering of the grant and communicating with the RCO)	Karin Strelloff Sarah Moorehead
RCO Grant Agreement (Agreement)	Sarah Moorehead
Agreement amendments	Sarah Moorehead
Authorizing property and real estate documents (Notice of Grant, Deed of Right or Assignment of Rights if applicable). These are items that are typical recorded on the property with the county.	n/a

The above persons are considered an "authorized representative(s)/agent(s)" for purposes of the documents indicated. Our organization shall comply with a request from the RCO to provide documentation of persons who may be authorized to execute documents related to the grant.

3. Our organization has reviewed the sample RCO Grant Agreement on the Recreation and Conservation Office's WEB SITE at: <https://rco.wa.gov/wp-content/uploads/2019/06/SampleProjAgreement.pdf>. We understand and acknowledge that if offered an agreement to sign in the future, it will contain an indemnification and legal venue stipulation and other terms and conditions substantially in the form contained in the sample Agreement and that such terms and conditions of any signed Agreement shall be legally binding on the sponsor if our representative/agent enters into an Agreement on our behalf. The Office reserves the right to revise the Agreement prior to execution.
4. Our organization acknowledges and warrants, after conferring with its legal counsel, that its authorized representative(s)/agent(s) have full legal authority to act and sign on behalf of the organization for their assigned role/document.
5. Grant assistance is contingent on a signed Agreement. Entering into any Agreement with the Office is purely voluntary on our part.
6. Our organization understands that grant policies and requirements vary depending on the grant program applied to, the grant program and source of funding in the Agreement, the characteristics of the project, and the characteristics of our organization.
7. Our organization further understands that prior to our authorized representative(s)/agent(s) executing any of the documents listed above, the RCO may make revisions to its sample Agreement and that such revisions could include the indemnification and the legal venue stipulation. Our organization accepts the legal obligation that we shall, prior to execution of the Agreement(s), confer with our authorized representative(s)/agent(s) as to any revisions to the project Agreement from that of the sample Agreement. We also acknowledge and accept that if our authorized representative(s)/agent(s) executes the Agreement(s) with any such revisions, all terms and conditions of the executed Agreement shall be conclusively deemed to be executed with our authorization.
8. Any grant assistance received will be used for only direct eligible and allowable costs that are reasonable and necessary to implement the project(s) referenced above.
9. [for Recreation and Conservation Funding Board Grant Programs Only] If match is required for the grant, we understand our organization must certify the availability of match at least one month before funding approval. In addition, our organization understands it is responsible for supporting all non-cash matching share commitments to this project should they not materialize.
10. Our organization acknowledges that if it receives grant funds managed by the Office, the Office will pay us on only a reimbursement basis. We understand reimbursement basis means that we will only request payment from the Office after we incur grant eligible and allowable costs and pay them. The Office may also determine an amount of retainage and hold that amount until all project deliverables, grant reports, or other responsibilities are complete.
11. [for Acquisition Projects Only] Our organization acknowledges that any property acquired with grant assistance must be dedicated for the purposes of the grant in perpetuity unless otherwise agreed to in writing by our organization and the Office. We agree to dedicate the property in a signed "Deed of Right" for fee acquisitions, or an "Assignment of Rights" for other than fee acquisitions (which documents will be based upon the Office's standard versions of those documents), to be recorded on the title of the property with the county auditor. Our organization acknowledges that any property

acquired in fee title must be immediately made available to the public unless otherwise provided for in policy, the Agreement, or authorized in writing by the Office Director.

12. [for Development, Renovation, Enhancement, and Restoration Projects Only–If our organization owns the project property] Our organization acknowledges that any property owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant in perpetuity unless otherwise allowed by grant program policy, or Office in writing and per the Agreement or an amendment thereto.
13. [for Development, Renovation, Enhancement, and Restoration Projects Only–If your organization DOES NOT own the property] Our organization acknowledges that any property not owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant as required by grant program policies unless otherwise provided for per the Agreement or an amendment thereto.
14. [Only for Projects located in Water Resources Inventory Areas 1-19 that are applying for funds from the Critical Habitat, Natural Areas, State Lands Restoration and Enhancement, Riparian Protection, or Urban Wildlife Habitat grant categories; Aquatic Lands Enhancement Account; or the Puget Sound Acquisition and Restoration program, or a Salmon Recovery Funding Board approved grant] Our organization certifies the following: the Project does not conflict with the Puget Sound Action Agenda developed by the Puget Sound Partnership under RCW 90.71.310.
15. This resolution/authorization is deemed to be part of the formal grant application to the Office.
16. Our organization warrants and certifies that this resolution/authorization was properly and lawfully adopted following the requirements of our organization and applicable laws and policies and that our organization has full legal authority to commit our organization to the warranties, certifications, promises and obligations set forth herein.

This resolution/authorization is signed and approved on behalf of the resolving body of our organization by the following authorized member(s):

Signed _____

Title Executive Director Date _____

On File at: Thurston Conservation District

This Applicant Resolution/Authorization was adopted by our organization during the meeting held:
(Local Governments and Nonprofit Organizations Only):

Location: TCD Board of Supervisors Meeting Date: _____

Washington State Attorney General's Office

Approved as to form Brian Toller 2/13/2020
Assistant Attorney General Date

You may reproduce the above language in your own format; however, text may not change.



BOARD MEETING ITEM SUMMARY SHEET

Agenda Item Title:		Approval: RCO Applicant Authorization Form for Elwanger Creek Project Development	
Lead Staff:		Karin Strelloff	Board Meeting Date: 02/28/23
Goal of Presentation:	Decision <input checked="" type="checkbox"/>	Information <input type="checkbox"/>	Feedback <input type="checkbox"/>
Description/Background:		<i>Please provide a description or background of the project.</i>	
<p>***This resolution replaces one I previously submitted with the title, "Lower Deschutes Project Development" (We renamed the project). This resolution is required as part of a pending SRFB application for project development funding. The SRFP application will propose a collaborative approach to select priority restoration actions and begin design, and it will involve preliminary riparian/invasive control planning. The project site involves tens of acres of newly protected land along the lower Deschutes river recently acquired by the Olympia Coalition for Ecosystem Preservation. This project has been identified as a high priority in the WRIA 13 Salmon Habitat Protection and Restoration Plan and by the WRIA 13 Lead Entity and committee members.</p>			
Pros:		Cons:	
Exciting opportunity to work with partners on a critical piece of habitat land in the lower Deschutes watershed, and to maintain momentum on design/restoration work.		Complex project will move forward slowly. No guarantee of funding, as with all grant applications.	
Fiscal Impacts: <i>Please describe the costs associated with this action.</i>			
budget is still in development			
Recommended Action:		<i>What decision do you recommend the board make?</i>	
approve the authorization so TCD can submit a funding application			
Legal Review:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
Supporting Documents: <i>Please list below and attach supporting documents (contracts, maps, agreements, draft resolution or other documents).</i>			
RCO Resolution/Authorization form for Elwanger Creek Project Development			





Applicant Resolution/Authorization

Organization Name (sponsor) Thurston Conservation District

Resolution No. or Document Name _____

Project(s) Number(s), and Name(s) Project: 23-1094 PLAN, Elwanger Creek Project Development

This resolution/authorization authorizes the person(s) identified below (in Section 2) to act as the authorized representative/agent on behalf of our organization and to legally bind our organization with respect to the above Project(s) for which we seek grant funding assistance managed through the Recreation and Conservation Office (Office).

WHEREAS, grant assistance is requested by our organization to aid in financing the cost of the Project(s) referenced above;

NOW, THEREFORE, BE IT RESOLVED that:

1. Our organization has applied for or intends to apply for funding assistance managed by the Office for the above "Project(s)."
2. Our organization authorizes the following persons or persons holding specified titles/positions (and subsequent holders of those titles/positions) to execute the following documents binding our organization on the above projects:

Grant Document	Name of Signatory or Title of Person Authorized to Sign
Grant application (submission thereof)	Karin Strelloff
Project contact (day-to-day administering of the grant and communicating with the RCO)	Karin Strelloff Sarah Moorehead
RCO Grant Agreement (Agreement)	Sarah Moorehead
Agreement amendments	Sarah Moorehead
Authorizing property and real estate documents (Notice of Grant, Deed of Right or Assignment of Rights if applicable). These are items that are typical recorded on the property with the county.	n/a

The above persons are considered an "authorized representative(s)/agent(s)" for purposes of the documents indicated. Our organization shall comply with a request from the RCO to provide documentation of persons who may be authorized to execute documents related to the grant.

3. Our organization has reviewed the sample RCO Grant Agreement on the Recreation and Conservation Office's WEB SITE at: <https://rco.wa.gov/wp-content/uploads/2019/06/SampleProjAgreement.pdf>. We understand and acknowledge that if offered an agreement to sign in the future, it will contain an indemnification and legal venue stipulation and other terms and conditions substantially in the form contained in the sample Agreement and that such terms and conditions of any signed Agreement shall be legally binding on the sponsor if our representative/agent enters into an Agreement on our behalf. The Office reserves the right to revise the Agreement prior to execution.
4. Our organization acknowledges and warrants, after conferring with its legal counsel, that its authorized representative(s)/agent(s) have full legal authority to act and sign on behalf of the organization for their assigned role/document.
5. Grant assistance is contingent on a signed Agreement. Entering into any Agreement with the Office is purely voluntary on our part.
6. Our organization understands that grant policies and requirements vary depending on the grant program applied to, the grant program and source of funding in the Agreement, the characteristics of the project, and the characteristics of our organization.
7. Our organization further understands that prior to our authorized representative(s)/agent(s) executing any of the documents listed above, the RCO may make revisions to its sample Agreement and that such revisions could include the indemnification and the legal venue stipulation. Our organization accepts the legal obligation that we shall, prior to execution of the Agreement(s), confer with our authorized representative(s)/agent(s) as to any revisions to the project Agreement from that of the sample Agreement. We also acknowledge and accept that if our authorized representative(s)/agent(s) executes the Agreement(s) with any such revisions, all terms and conditions of the executed Agreement shall be conclusively deemed to be executed with our authorization.
8. Any grant assistance received will be used for only direct eligible and allowable costs that are reasonable and necessary to implement the project(s) referenced above.
9. [for Recreation and Conservation Funding Board Grant Programs Only] If match is required for the grant, we understand our organization must certify the availability of match at least one month before funding approval. In addition, our organization understands it is responsible for supporting all non-cash matching share commitments to this project should they not materialize.
10. Our organization acknowledges that if it receives grant funds managed by the Office, the Office will pay us on only a reimbursement basis. We understand reimbursement basis means that we will only request payment from the Office after we incur grant eligible and allowable costs and pay them. The Office may also determine an amount of retainage and hold that amount until all project deliverables, grant reports, or other responsibilities are complete.
11. [for Acquisition Projects Only] Our organization acknowledges that any property acquired with grant assistance must be dedicated for the purposes of the grant in perpetuity unless otherwise agreed to in writing by our organization and the Office. We agree to dedicate the property in a signed "Deed of Right" for fee acquisitions, or an "Assignment of Rights" for other than fee acquisitions (which documents will be based upon the Office's standard versions of those documents), to be recorded on the title of the property with the county auditor. Our organization acknowledges that any property

acquired in fee title must be immediately made available to the public unless otherwise provided for in policy, the Agreement, or authorized in writing by the Office Director.

12. [for Development, Renovation, Enhancement, and Restoration Projects Only–If our organization owns the project property] Our organization acknowledges that any property owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant in perpetuity unless otherwise allowed by grant program policy, or Office in writing and per the Agreement or an amendment thereto.
13. [for Development, Renovation, Enhancement, and Restoration Projects Only–If your organization DOES NOT own the property] Our organization acknowledges that any property not owned by our organization that is developed, renovated, enhanced, or restored with grant assistance must be dedicated for the purpose of the grant as required by grant program policies unless otherwise provided for per the Agreement or an amendment thereto.
14. [Only for Projects located in Water Resources Inventory Areas 1-19 that are applying for funds from the Critical Habitat, Natural Areas, State Lands Restoration and Enhancement, Riparian Protection, or Urban Wildlife Habitat grant categories; Aquatic Lands Enhancement Account; or the Puget Sound Acquisition and Restoration program, or a Salmon Recovery Funding Board approved grant] Our organization certifies the following: the Project does not conflict with the Puget Sound Action Agenda developed by the Puget Sound Partnership under RCW 90.71.310.
15. This resolution/authorization is deemed to be part of the formal grant application to the Office.
16. Our organization warrants and certifies that this resolution/authorization was properly and lawfully adopted following the requirements of our organization and applicable laws and policies and that our organization has full legal authority to commit our organization to the warranties, certifications, promises and obligations set forth herein.

This resolution/authorization is signed and approved on behalf of the resolving body of our organization by the following authorized member(s):

Signed _____

Title _____ Date _____

On File at: _____

This Applicant Resolution/Authorization was adopted by our organization during the meeting held:
(Local Governments and Nonprofit Organizations Only):

Location: _____ Date: _____

Washington State Attorney General's Office

Approved as to form Brian Toller 2/13/2020
Assistant Attorney General Date

You may reproduce the above language in your own format; however, text may not change.



BOARD MEETING ITEM SUMMARY SHEET

Agenda Item Title:		City of Olympia Urban Agriculture ILA	
Lead Staff:		Nora Carman-White	Board Meeting Date: 02/28/23
Goal of Presentation:	Decision <input checked="" type="checkbox"/>	Information <input type="checkbox"/>	Feedback <input type="checkbox"/>
Description/Background:		<i>Please provide a description or background of the project.</i>	
<p>The City of Olympia is contracting TCD to complete three tasks that support increased urban agriculture. In 2023, the first task is to support the planning for three potential new community gardens through community stakeholder engagement, task two includes both increased technical assistance for urban residents as well as TCD staff review of the current City code related to urban agriculture, and task 3 is to support the enrollment of vacant lots in a South Sound FarmLink off-shoot (Farm My Yard).</p>			
Pros:		Cons:	
<p>This ILA supports a scope of work agreed upon by the workgroup, including City and TCD staff. The City of Olympia has already included this in its 2023 budget and could look to do so in future annual budgets if this year goes well. There is a high demand from our Olympia urban community members for these services. It is built into our staffing plan for 2023 already.</p>		<p>The City of Olympia's legal team has not had a chance to review this current ILA yet and may have amendments after signing.</p>	
Fiscal Impacts: <i>Please describe the costs associated with this action.</i>			
\$129,500 awarded to TCD			
Recommended Action:		<i>What decision do you recommend the board make?</i>	
Approve			
Legal Review:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
Supporting Documents: <i>Please list below and attach supporting documents (contracts, maps, agreements, draft resolution or other documents).</i>			
ILA Scope of Work and Budget			



INTERGOVERNMENTAL SERVICES CONTRACT

FOR URBAN AGRICULTURAL SERVICES

BETWEEN

THE CITY OF OLYMPIA AND THE THURSTON CONSERVATION DISTRICT

THIS CONTRACT, pursuant to chapter 39.34 RCW, is made and entered into between the City of Olympia hereinafter "CITY" and THURSTON CONSERVATION DISTRICT, hereinafter "DISTRICT". In consideration of the mutual benefits and covenants contained herein, the parties agree as follows:

I. PURPOSE OF CONTRACT

The CITY has at-risk urban and suburban farmland, as well as residents who practice urban agriculture. The CITY has determined that providing additional services, education, and planning support through local partnerships offers a cost-effective method to deliver these to their constituents and to be in compliance with their stated goals and policies. The CITY enters into this contract with the DISTRICT because it has a proven record of administering technical and educational services for community members seeking tools and information when growing food in urban settings.

II. AGREEMENT SCOPE

The CITY and the DISTRICT agree to the Scope of Work in Attachment A, and the responsibilities of each party as described therein.

Each party shall do all things necessary for and incidental to the performance of the duties as set forth below.

III. SERVICES PROVIDED BY THE DISTRICT

A. District

- i. Represents that it is qualified and possesses the necessary expertise, knowledge, training, and skills, and has the necessary licenses and/or certification to perform the duties set forth in this Agreement.
- ii. Through this program, shall perform the services set as described and agreed upon in Attachment A, which are designed to enable and promote urban agriculture and food production in the City of Olympia.
- iii. Shall perform according to standard industry practice of the work specified by this Agreement.
- iv. Shall provide labor and materials. Except as specifically provided for in the Scope of Work, no material, labor, or facilities will be furnished by the CITY.
- v. Shall complete its work in a timely manner and in accordance with the schedule agreed to by the parties.
- vi. Will submit billing invoices along with companion narrative progress reports to CITY on a quarterly basis within two weeks of the end of each calendar quarter. Quarterly narrative progress reports shall be provided in a format that is determined by and acceptable to the CITY. In addition to the narrative, the 4th quarter report shall include the cumulative year-end numbers of participants.

IV. CITY RESPONSIBILITIES

- B. In order to assist DISTRICT in fulfilling its duties under this Agreement, CITY shall provide the following:
 - i. Relevant information as exists to assist DISTRICT with the performance of DISTRICTS's services.
 - ii. Services, documents, or other information identified in Attachment A.

V. BASE ANNUAL FUNDING

- A. In consideration for the services described, the CITY shall provide funding to the DISTRICT, as shown in Attachment A, not to exceed \$129,500.
- B. Payment to the DISTRICT shall be on a quarterly basis following receipt, of the DISTRICT'S invoice and progress report summarizing services rendered to date under this Contract.

VI. NON-APPROPRIATION OF FUNDS

Should the CITY fail to secure the base funding amount specified in Attachment A, due to non-appropriation of funds, the CITY shall provide written notice to the DISTRICT within thirty (30) calendar days. The CITY and the DISTRICT agree to meet within fourteen (14) calendar days thereafter to discuss the impacts of such a budget non-appropriate or reduction. The CITY may elect to redistribute costs or eliminate DISTRICT services at their discretion.

VII. EFFECTIVE DATE; DURATION OF CONTRACT

The term of this Contract shall commence upon signature by the authorized representative of each party. This Contract will continue in effect until December 31, 2023, unless extended by mutual agreement of the Parties pursuant to Section X of this Agreement.

By this Contract, the parties ratify the performance described in this Contract that was performed between January 1, 2023 and execution of this Contract by all parties

VIII. HOLD HARMLESS AND INDEMNIFICATION

The CITY and the DISTRICT agree to indemnify, defend, and hold harmless the other party, its elected officials, employees, and agents from and against any and all liabilities, losses, damages, expenses, actions, and claims, including reasonable attorneys' fees, arising out of or in connection with the other party's performance of this Contract except for any damages arising out of bodily injury to persons or damage to property arising from the sole negligence of the CITY or DISTRICT, its agents or employees.

It is further specifically and expressly understood that the indemnification provided herein constitutes the waiver of both parties of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

IX. CONTRACT REPRESENTATIVE; NOTICE

Each party to this Contract shall have a representative. Each representative shall serve as the contract administrator for his or her jurisdiction, for purposes of this Contract. Notice required under this Contract shall be sent to the address designated for the parties, below. Contract representatives may be

changed upon notice to the other parties. Notice will be deemed to be received three business days following deposit in the U.S. Mail, postage prepaid.

THURSTON CONSERVATION DISTRICT

Nora Carman-White, Communications & Education Manager

Thurston Conservation District

2918 Ferguson St. SW, Suite A

Tumwater, WA 98512

Phone: (360) 754-3588

CITY OF OLYMPIA

Leonard Bauer, Director

Community Planning and Development

PO Box 1967

Olympia, WA 98507-1967

Phone: (360) 753-8206

X. TERMINATION AND MODIFICATION

Any party may terminate participation in this Contract by giving 30 days' written notice of intent to terminate to the other parties, provided that CITY shall be obligated to pay the quarterly invoice for the quarter in which the CITY terminates. This Contract may only be modified by agreement of all the parties hereto, executed in writing, in the same manner as this Agreement. However, modification may be executed solely through written agreement between each and every named agency representative, as identified under Section IX of this Agreement, for the following:

- A. Any modification to the Scope of Work, as identified in Attachment A.
- B. Any modification of the annual budget as identified in Attachment A.

XI. JURISDICTION AND VENUE

This Contract has been and shall be construed as having been made and delivered within the State of Washington, and it is agreed by each party hereto that this Contract shall be governed by the laws of the State of Washington, both as to interpretation and performance. Any action of law, suit in equity, or judicial proceeding for the enforcement of this Contract or any provisions thereof, shall be instituted only in any of the courts of competent jurisdiction in Thurston County, Washington.

XII. SEVERABILITY

- A. If, for any reason, any part, term or provision of this Contract is held by a court of competent jurisdiction to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.
- B. If it should appear that any provision hereof is in conflict with any statutory provision of the State of Washington, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith.

XIII. ENTIRE AGREEMENT

The parties agree that this Contract is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Contract shall be in writing and signed by all parties. Failure to comply with any of the provisions stated herein shall constitute material breach of contract and cause for termination. It is also agreed by the parties that the forgiveness of the nonperformance of any provision of this Contract does not constitute a waiver of the provisions of this Agreement.

XIV. RECORDATION

Per RCW 39.34.040, this agreement shall be posted and electronically available to the public on the DISTRICT's website.

XV. PROPERTY

No real or personal property is to be jointly acquired, held, or disposed under this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Contract in quintuple originals to take effect on the date as prescribed in Section VII.

THURSTON CONSERVATION DISTRICT

T.J. Johnson, Thurston Conservation District Board Chair

Date:

CITY OF OLYMPIA

Steven J. Burney, City Manager

Date:

APPROVED AS TO FORM:

Deputy City Attorney

ATTEST:

City Clerk



2023 Olympia Urban Farmland Scope of Work

The following tasks implement and are a part of an interlocal agreement between the City of Olympia (City) and Thurston Conservation District (TCD). This scope of work carries out recommendations of the Olympia Farmland Workgroup for preserving and enhancing the production and access of local food within the City and its urban growth area. The scope of work defines roles and responsibilities, 2023 metrics of success, and cost estimates for each task. Costs may be adjusted between tasks through mutual agreement of both parties, but total reimbursement from the City to TCD shall not exceed \$129,500 for all three tasks under the terms of this agreement.

Task #1 – Expand Community Gardens

Workgroup Recommendation: *Explore a partnership with TCD to determine needs and interests for new community gardens in underserved areas, identify potential sites on public and private land, and solicit community partners. Connect with the Coalition of Neighborhood Associations to seek opportunities for neighborhood-driven community gardens.*

Thurston Conservation District – Roles & Responsibilities

Thurston Conservation District will serve in the lead role in determining the needs and interests for new community gardens in underserved areas. TCD will analyze the capacity, challenges and benefits of self-governed community gardens within the City of Olympia. TCD will work with partner organizations involved in existing community garden work to site, design and construct community gardens.

Actions to be completed in 2023:

- Convene local organizations, professionals, and individuals (community partners) currently supporting community gardens to create an asset map of current community garden resources that identifies areas that are underserved and under resourced.
- Once the mapping is completed, TCD will engage the public in those areas to gather input and recommendations. Engagement should be offered in a variety of formats to meet best practices and address participation barriers, with a goal that the demographics of those participating reflect the service area.
- Create an asset map report to be used in developing outreach materials and guides for creating new community gardens or linking individuals with their local community garden.
- Using the information from community partner meetings, Coalition of Neighborhood Associations consultation, and Olympia Farmland Analysis report, develop recommendations for **three** new potential community gardens.
- Seek community interest and potential leadership for the development and implementation of these gardens in 2024.

- Plan and coordinate with partners an annual local urban agriculture resource fair. This could include conference-style presentations on topics such as soil health, preservation techniques, and conflict resolution. Content would support community gardeners, home gardeners, and urban commercial farms.

City of Olympia – Roles & Responsibilities

The City of Olympia will provide primarily advisory, outreach, and financial assistance support for this program.

Actions include:

- Outreach through existing communications channels consistent with City policies.
- Meeting space for community garden planning meetings and annual urban agriculture resource fair
- Advisory, to the extent possible, for collaborative community garden planning efforts.
- Financial support as outlined in the budget below to support TCD staff to facilitate program development and support activities.

Budget Line Items

Salaries & Benefits: \$103,900

To develop, manage and implement the program.

Supplies & Equipment: \$4,900

Educational event supplies, printing, event materials, and refreshments. Could be applied to garden tools or materials if necessary.

Resource Fair Expenses: \$2,500

Speaker fees, educational materials, refreshments, etc.

Facility Rentals: \$2,000

The estimated cost of rental fees for networking and planning events and resource fair space rental.

Travel: \$100

For mileage to events and meetings.

Task #1 Budget: \$113,400

City of Olympia Funding: \$113,400

Task #2 – Incentivize Urban Agriculture and Remove Barriers in City Code

Workgroup Recommendations: *Include community gardens and urban agriculture as an option for meeting low-impact development requirements. Evaluate options for an ordinance, such as allowing community gardens as a Soil and Vegetation Protection Area or in the upper areas of stormwater ponds. Work with TCD to review barriers to urban agriculture in the existing city code.*

Thurston Conservation District – Roles & Responsibilities

As a cornerstone of the organization's function, TCD will provide technical assistance to urban farms, community gardens, and home gardeners. Additionally, in 2023, TCD will support the City of Olympia as an advisor on code updates and other policy development to mitigate barriers to urban agriculture and food production.

Actions include:

- TCD will advise City staff as they review City codes for potential barriers to urban agriculture and food production.

- Offer technical assistance to urban farms, community gardens, and home gardeners. This may include, but is not limited to, developing plans for urban farms including individual stewardship plans, nutrient management plans, irrigation plans, and comprehensive farm plans, connecting growers and farmers with cost-share available cost-share programs, primarily support through future grant applications, and soil analysis and recommendations for urban farmers.

City of Olympia – Roles & Responsibilities

The City of Olympia will lead code review to identify and reduce barriers to urban farmers, consulting with TCD, Thurston County, and other partners.

Actions include:

- Review City codes for potential barriers to urban agriculture and food production.
- Draft ordinance if needed to address identified barriers and present to City Council for adoption.
- Provide letters of support on funding applications developed by TCD to further technical assistance for City of UGA residents.

Budget Line Items

Salaries & Benefits: \$13,500

This covers time for project management and code advisory support to the City of Olympia, along with technical assistance such as site visits, soil analysis, and plan development.

Task #2 Budget: \$13,500

City of Olympia Funding: \$5,000

TCD Contribution: \$8,500

Task #3 – Connect Private Vacant Land with Potential Farmers

Workgroup Recommendation: *Connect the upcoming vacant property registration with the TCD South Sound FarmLink program to make connections between landowners and potential farmers. Understand what information would be needed to easily link these two programs, such as the availability of water.*

Thurston Conservation District – Roles & Responsibilities

TCD will lead land enrollment, matching efforts, and new farmer/gardener support within the City of Olympia through the South Sound FarmLink program. To focus on the unique needs of urban agriculturalists, TCD will expand the South Sound FarmLink program to create an urban-focused ‘sub-program’ to meet the needs of urban residents and landscapes. TCD will support the connection to community partner organizations that provide resources and support for business development, beginning farmers, and integration into the local food system.

Actions include:

- Enroll suitable vacant property from the City of Olympia and UGA into South Sound FarmLink.
- Expand South Sound FarmLink to include a specific urban-focused element, focused on small-acreage enrollment and other elements designed to specifically serve urban communities.
- Develop land listing outreach materials for listed properties.
- Conduct a “Farm My Yard” campaign to enroll undeveloped parcels, vacant parcels, and unused lawn and yard space as listings in FarmLink.
- Enroll interested urban farmers in FarmLink as land seekers.

- Support enrollees with education, connection to partner organizations, and community resources to demonstrate or reach readiness to take on a lease including but not limited to a business plan, marketing and distribution plan, technical gardening, and farming knowledge.
- Offer support to 'links' (farmer/property owner connection) including lease templates and negotiation support, and ongoing technical assistance for the management of the linked property.

City of Olympia – Roles & Responsibilities

The City of Olympia will support the South Sound FarmLink program's land enrollment efforts by supporting the enrollment of eligible vacant land within the city.

Actions include:

- Provide a list of potential properties based on vacant status to TCD regularly to help maintain an up-to-date database.
- Continue its reduced rates for agricultural water usage for successfully matched and farmed properties. (Reference other recommendations by the City of Olympia Farmland Workgroup).

Budget Line Items

Salaries & Benefits: \$21,900

Project management and reporting, VCC intern oversight, branding, and design

Veteran's Conservation Corps: \$15,000

Veteran intern placement to support South Sound FarmLink and farmland preservation efforts.

Supplies: \$1,000

Educational materials and printing.

Travel: \$100

Mileage for site visits to enrolling properties and match support meetings.

Task #3 Budget: \$45,500

City of Olympia Funding: \$11,100

TCD Contribution: \$34,400

Total Budget

	Task #1	Task #2	Task #3	Total
City of Olympia Funding	\$113,400	\$5,000	\$11,100	\$129,500
TCD Contribution	\$0	\$8,500	\$34,400	\$42,900
<i>Total</i>	<i>\$113,400</i>	<i>\$13,500</i>	<i>\$45,500</i>	<i>\$172,400</i>

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Selected Notes
NACD Annual Meeting, February 11-15, 2023
New Orleans, LA

NOTE: These comments only include information from general sessions, NACD board and Pacific region meetings. Subscribe to [eResource](#) for more detailed information. Also, see Tom Salzer's Five Things to Know for February 17, 2023 for more information.

OVERVIEW

1,000 attendees from 55 territories and states (out of 58 possible). We had 33 Washington state attendees: NRCS, Conservation Commission and from district: Benton/Franklin, Foster Creek, North Yakima, Okanogan, Pierce, Snohomish, Spokane, Underwood, Iowa, and Thurston; and Columbia Basin virtually.

NACD LEADERSHIP

Michael Crowder Benton CD, is now the NACD past president.

Kim Lafleur (MA) is president (note: she is the first female president of NACD).

Gary Blair (MS) - first VP, Bill Simshauser (KS) - second VP, Mark Masters (GA) - secretary-treasurer.

Pacific Region - Mike Aguon (Guam) is the Pacific region executive board member; Terri Preeg Riggsby (OR) is the regional chair and vice chair is Kathrina Reyes (Guam).

2023 FARM BILL (FB)

Pelham Straughn, NACD lobbyist, gave an overview noting a bill may not pass in 2023. He noted Republicans want cuts and felt shut out of the Inflation Reduction Act (IRA). He felt Title 1 is targeted but urged NACD to be prepared for the process whether or not we get a FB. He urged flexibility in our [FB Principles](#) as the FB evolves.

NACD adopted (with a few changes) its NACD 2023 Farm Bill Requests. The FINAL version to be out shortly.

Chris Young, NACD government affairs lead, noted the new chair of the house agriculture committee is GT Thompson (PA) who is friendly to CDs. Young also noted there are many new members to be educated. NACD will soon have a list with contact information.

He anticipates no cuts in the FB but any cuts would likely be in the IRA because it was passed by the D's and the R's now have control.

FLY-IN

The NACD fly-in is scheduled for March 22nd, with the 23rd being an "overflow day". There will be a breakfast briefing on the 22nd and a reception that evening. There will virtual training sessions on March 7 and 9. Again, watch for more information in eResource.

In addition to the FB Principles, five fiscal year 2023 [Issue papers](#) are prepared for the fly-in (so far):

Appropriations; Forestry and Wildfire; Wildlife Management; Climate Change; and National Watershed Coalition Appropriations.

Emphasis will be educational as most members were not around for the last FB.

RESOLUTIONS

Resolutions adopted by NACD are assigned to standing committee. Those not adopted can be submitted next year. The NACD resolutions committee finalizes resolutions which is why they are different from our submittals.

Two of our Washington resolutions passed with NACD wording, originating from Skagit CD: 1)NACD supports streamlining eligibility determination processes for FSA and NRCS programs, and 2)NACD supports increasing federal ACEP-ALE cost-share assistance from 50% to 75%, including costs of necessary applicant expenses.

Two resolutions failed – exceptions to ACEP land eligibility requirements for easements was deemed too vague and contract fairness for NIPF was deemed to be already covered in NACD policy. (Both were from Skagit)

Review of FSA/NRCS program standards was withdrawn due to being already covered in NACD policy (Foster Creek) and “good faith contracts” was withdrawn due to work done since the WACD annual meeting (some work will continue with Whitman on some unresolved instances). These withdrawals were done in consultation with the initiating districts.

NACD POLICIES and BY-LAWS

NACD has been updating and streamlining its policies and by-laws. Some of the results, among others, are:

1. There are now three standing committees (formerly called foundation committees): natural resources, legislative, and partners.
2. The former “resource policy groups – RPGs” are now call subcommittees. Non-supervisors can be on subcommittees.

The committees and subcommittees will be populated overtime at the discretion of NACD president LaFleur. She intends to establish the standing committees first.

RECOGNITION

Larry Davis (Whatcom) was recognized with NACD President’s Award for accomplishments with upgrading the By-laws and policies, as well as chairing the Tribal resource policy group.

Wade Troutman (Foster Creek) received the Olin Sims Conservation Leadership award for private lands conservation – many innovative local and federal programs over many years as well as serving on many NACD groups, and mentoring many (that’s a capital “M” on mentoring).

GENERAL

- NRCS **Chief Cosby** highlighted locally led, voluntary, science-based, and partnerships. Others want to be at the table- how do we bring the in?
- NACD recognized as an affiliate the new Association of Conservation Executive Directors (ACED).
- NACD’s strategic plan for 2023-2025 was approved.
- NACD is in good shape financially. Overall revenue over the past five years has gone from \$19.5 million to \$29.9 million (includes pass-through).
- NACD membership has declined by about one hundred nationally over the past five years.
- **North Yakima CD and WACD** were recognized as NACD PLATINUM members.
- Ducks Unlimited film – *Wings over Water* – about Northern Plains potholes, habitat, and opportunities caught in amazing movie action.
- Our WA auction item of WA Products (Thank you Larry Davis for coordinating) brought in \$550.

UPCOMING EVENTS

March 22-23, 2023	NACD Fly-in	Washington, DC
July 15-18, 2023	Summer Conservation Forum and Tour	Bismarck, ND
August 22-24, 2023	Pacific/SW Regions Joint Meeting (information not yet posted)	Tahoe
February 10-14, 2024	NACD 2024 Annual Meeting	San Diego, CA

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Thurston Conservation District Board of Supervisors Work Session Topic List & Board Meeting Agenda

March 28, 2023, 5:00 pm -7:30 pm

Zoom Meeting Link:

<https://zoom.us/j/91658577844?pwd=cDgvaC9jcWRBU0luUFFHc1lrb3hLQT09>

Passcode: 2918

Meeting ID: 916 5857 7844

Call in: 1-253-215-8782

Work Session Topic List

5:00 pm – 6:00 pm

1. Topic List Review, *All*
2. Staff Presentation: TBD
3. Minutes Review & Revision, *All*
 - a. February 28, 2022, Board Work Session & Meeting Minutes
4. Conservation and Education Center Development, *All*
5. Legislative Update, *All*
6. Important Updates & Announcements
 - a. Board of Supervisors, *All*
 - b. Executive Director, *Sarah Moorehead (Executive Director)*

Board Meeting

6:30 pm – 7:30 pm

- | | |
|--|----------------------|
| 1. Welcome, Introductions, Audio Recording Announcement | 6:30 PM
5 minutes |
| 2. Agenda Review | 6:35 PM
5 minutes |
| 3. Consent Agenda – <i>Action Item</i> | 6:40 PM |
| A. February 28, 2023, Board Work Session & Meeting Minutes | 5 minutes |
| B. February 2023 Financial Report | |
| 4. Public Comment | 6:45 PM |
| *Three minutes per person | 10 minutes |
| 5. Partner Reports (<i>if present</i>) | 6:55 PM |

- A. Natural Resources Conservation Service (NRCS), *TBD* *15 minutes*
- B. Washington State Department of Ecology, *Alena Reynolds*
- C. Washington State Conservation Commission (WSCC), *Jean Fike*
- D. Washington Association of Conservation Districts (WACD), *Doug Rushton*
- E. National Association of Conservation Districts (NACD), *Doug Rushton*

6. Governance, All **7:10 PM**

- A. April 25, 2023, Work Session Topic List & Meeting Agenda Development *5 minutes*

Adjourn **7:25 PM**

Informational Only Items:

- I. Executive Director's Report*

Important Dates

March 2023

Washington State Conservation Month	March 1 – March 31
TCD Annual Native Plant Sale & Festival (TC Fairgrounds)	March 4
TCD Election	March 14
WSCC Business Meeting – Everett and Virtual (Zoom)	March 15-16
Board Work Session & Meeting 5:00 -7:30 pm In-person and Virtual (Zoom)	March 28

April 2023

Board Work Session & Meeting 5:00 -7:30 pm In-person and Virtual (Zoom)	April 25
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May 2023

Board Work Session & Meeting 5:00 -7:30 pm In-person and Virtual (Zoom)	May 23
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Informational Items

Executive Director's Report

Sarah Moorehead – Executive Director

February 28, 2023

Priority Initiative Updates

WACD Legislative Day & Session Updates

On February 8th, representatives from TCD met with local legislators to discuss impacts of proposed legislation, and budget proposals for conservation programs. Subsequent updates, communications and requested information have been shared to support our local electeds as we continue through session.

So far this session, TCD has met with the following offices:

2 nd District	20 th District	22 nd District	35 th District
Rep. Wilcox	Sen. Braun Rep. Abbarno	Sen. Hunt Rep. Doglio Rep. Bateman	Sen. MacEwen Rep. Griffey

Overall, there was a definite trend in remarks from legislators:

- We know who TCD is
- You do great work
- How can we support you



This is the first session that we have seen this widespread awareness and support from legislators throughout our District. In particular, we were asked to schedule a follow-up meeting with Sen. MacEwen's office to discuss opportunities to support the restoration of the Puget Sound Shoreline. TCD was also successful in meeting with long-time legislators that we have not been successful in connecting with in recent years.

Important issues, such as CD elections, urban agriculture, farmland preservation, and riparian restoration (and all of the surrounding proposed legislation this session) were highlighted and discussed.

To stay up to date on the legislative session, visit the WACD Hub.

National Association of Conservation District's 2023 Annual Meeting

The NACD 2023 Annual Meeting occurred February 10th – 15th, and was packed with conservation showcases, CD networking sessions, national leaders, inspirational speakers so much more.



I presented at a nationwide symposium on Urban Agriculture, where recipients of NACD's Urban and Community Agriculture Grant shared their projects, community impacts, and how their CD used its resource to fill gaps and expand partnerships. I also had the opportunity to meet and discuss future opportunities to collaborate and share success stories from our local JBLM Sentinel Landscape Partnership, with Kristin Thomasgard, the national Program Director of the Readiness and Environmental Protection Integration (REPI) Program at the U.S. Department of Defense. I have been invited to present at the 2024 NACD meeting on CDs involvement in the Sentinel Landscape Partnership to continue learning and sharing with other CDs throughout the nation. This is a highly rewarding and informative meeting to attend, I recommend that as many supervisors and staff that are able attend.

Native Plant Festival and Sale – March 4th!

Don't forget to join us on from 10:00 am – 3:00 pm on Saturday, March 4th at the Thurston County Fairgrounds!

Still interested in volunteering? Contact: Kiana Sinner ksinner@thurstoncd.com

Teens in Thurston Expands and Celebrates Year 2!

The Teens in Thurston (TnT) high school volunteer group is now in its second year draws students from throughout Thurston County, including Olympia, Tumwater, Rochester, and Tenino School Districts. This year TnT has picked apples at the Nisqually Community Garden, led children's activities for the Kennedy Creek Salmon Celebration, assisted with maintenance at Wolf Haven International, and removed invasive blackberry from GRuB, and more!



Interested high school students can sign up on the TCD website:

<https://www.thurstoncd.com/education/youth/teens-in-thurston/>

For ideas for potential TnT projects or learning opportunities, please contact: Sam Nadell
snadell@thurstoncd.com

District Operations

January 24, 2022 Board Meeting Action Items

- No Action Items to report on.

2023 Board of Supervisors Election Update

Ballots and requests are rolling in! With over 100 requests and over 30 ballots received already, our election is well underway.

Please see and share the attached 'How to Vote' flyer with detailed instructions on how to participate in TCD's 2023 Election!

Board Support From TCD Staff

As requested, below is a contact sheet of staff members, and the appropriate topics they can support you with. Please **do** feel free to contact the folks below directly for the topics listed by their names, and **do** copy me if you send email questions to keep me informed and provide you with the best support. Not all staff are listed, as all team leads are included and may direct your questions to others on their team.

Name	Contact Info	Topic Areas
Sarah Moorehead Executive Director	General: smoorehead@thurstoncd.com Sensitive Issues: 360.999.0078	Budget priorities Complaints and concerns Legal support/risk management Legislative outreach New ideas Partnership development Personnel & union matters Requests of extensive staff time Strategic planning CD/WACD/WSCC relations

		(Anything not covered below)
Susan Shelton Admin & Finance Manager	accounting@thurstoncd.com 360.742.2313	Budget details CEC development Contracts and agreements Elections Financial reports IT support Policies and procedures (Back up contact for Sarah)
Yan Dong Accountant	ydong@thurstoncd.com	Check Register Board Portal
Karin Strelloff Conservation Programs Manager	karin@thurstoncd.com	Conservation Projects Technical Questions
Adam Peterson Natural Resources Specialist	apeterson@thurstoncd.com	Soil Health Program
Nora White Communications and Education Manager	nwhite@thurstoncd.com	Events and workshops TCD media outlets
Stephanie Bishop South Sound GREEN Program Manager	sbishop@thurstoncd.com	South Sound GREEN Program

Monthly Staff Reports

Reminder – Monthly staff reports can be viewed electronically! The link to view monthly staff reports can be found on your Board Portal.



Board of Supervisors Election



Are you a registered voter in Thurston County?

**Do you want to have a say in how Thurston County residents like you manage
and protect natural resources?**

HOW TO VOTE

1) REQUEST YOUR BALLOT

- ♦ Get a ballot mailed to you by requesting your ballot by March 7 at 4:30 pm from elections staff at ballotrequest@thurstoncd.com or (564) 669-4929. *When requesting, please be sure to include your full legal name, mailing address, residential address (if different), and the best way to contact you.*

OR

- ♦ Get your ballot in person March 7-10 & March 13-14 between 8am and 4:30pm from elections staff at the Thurston Conservation District Office (2918 Ferguson St. SW, Suite A, Tumwater, WA 98512)

2) RETURN YOUR BALLOT

- ♦ Learn about our candidates. Check out their statements and photos on our website.
- ♦ Complete your ballot
- ♦ Place your ballot in the security envelope
- ♦ Sign your voter declaration
- ♦ Mail or drop off your ballot by March 14th (must be postmarked by this date) Postage is provided and there's a ballot drop box outside the TCD Offices M-F between 8am and 4:30pm through March 14th.

3) STAY CONNECTED WITH TCD

- ♦ Preliminary election results will be shared March 24th and certified at the May WA State Conservation Commission's meeting.
- ♦ Keep in touch with TCD via our monthly newsletter, regular events, and community opportunities to see your civic engagement in action.

Please note, you cannot request, pick up, or return a ballot with the Thurston County Auditor's Offices.

Find out more on our website at
www.thurstoncd.com/about-us/board-member-elections/