

INTERLOCAL AGREEMENT

CITY OF LYNDEN - WHATCOM CONSERVATION DISTRICT

Stormwater and Water Conservation Community Education and Outreach Program

This Agreement is made and entered into by the City of Lynden, a Washington municipal corporation, hereinafter referred to as the “City”, and the Whatcom Conservation District, a Washington governmental subdivision, hereinafter referred to as the “WCD”, collectively referred to as “Parties”, to establish an arrangement pursuant to RCW Chapter 39.34 wherein the City will provide funding to the WCD to provide community education and outreach programs for stormwater pollution prevention to the mutual advantage of each jurisdiction.

WHEREAS, Whatcom County and WCD are currently working together on a Pollution Identification and Correction (PIC) program as high priority focus under the Portage Bay Shellfish Recovery Plan; and

WHEREAS, a PIC program is a data-driven program guiding pollution tracking activities to areas with the greatest water quality problems to improve and protect water quality; and

WHEREAS, the Fishtrap Creek Watershed has been identified as a contributing source of bacteria within the Portage Bay Shellfish Protection District; and

WHEREAS, the City operates a Municipal Separate Storm Sewer System (MS4) under an NPDES Phase II Stormwater Permit issued by the Washington State Department of Ecology, which includes fecal coliform monitoring to address Total Maximum Daily Load (TMDL) limits on the Nooksack River; and

WHEREAS, the City’s MS4 discharges stormwater into Fishtrap Creek, which discharges into the Nooksack River, and fecal coliform counts taken by Whatcom County at various locations on Fishtrap Creek within the City limits exceed Washington Department of Health (DOH) shellfish standards; and

WHEREAS, the sampling methodology and the public information materials that have been developed under the existing Whatcom County and WCD partnership could be easily extended and adapted to serve the needs of the City; and

WHEREAS, the most efficient use of resources is to have the WCD expand its outreach and education programs consistent with the specific needs of the City to help improve and protect water quality in Fishtrap Creek and the Nooksack River; which are part of the Portage Bay Shellfish Protection District; and

WHEREAS, the City has obtained a grant from the Department of Ecology (DOE) to design Low Impact Development (LID) stormwater system improvements for the Northwest Washington Fairgrounds (“Fair”) in Lynden; and

WHEREAS, WCD has agreed to work with the Fair to augment the engineering design work to be done by the City under separate contract as match to the DOE grant; and

WHEREAS, the City is expanding its water conservation program to include facilitating regional conservation meetings of the Whatcom Water Alliance and including educational outreach on conservation within the public schools; and

WHEREAS, the WCD is equipped to provide the additional water conservation facilitation and public outreach services needed by the City; and

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

WHEREAS, the recitals herein are a material part of this agreement;

NOW THEREFORE, the WCD and City agree as follows:

- I. *Purpose:* The purpose of this Agreement is to set the terms whereby the City will make available funds to the WCD to implement a community education and outreach program for stormwater pollution prevention to residents within the City of Lynden.
- II. *Administration:* No new or separate legal or administrative entity is created to administer the provisions of this Agreement.
- III. *Whatcom Conservation District Responsibilities:* The WCD hereby agrees to provide services as described in Exhibit A, Scope of Work, attached hereto.
- IV. *City Responsibilities:* The City hereby agrees to reimburse the WCD, not to exceed the total budget amount allocated to the WCD as shown in Exhibit B attached hereto, for the costs in providing and performing the services stated in the scope of work.
- V. *Payment:* The WCD shall submit itemized invoices in a format approved by the City. Each request for payment shall include invoices which detail work performed and supplies or materials purchased. The City agrees to pay WCD on a monthly basis, commensurate with portions of the work completed, for performing the work outlined in the scope of work (Exhibit A). WCD's compensation shall be paid monthly on account, for the services performed during that month, with payment due within 30 days of the invoice date. The City of Lynden Finance Department must receive invoices from WCD by the 5th of each month (or the following Monday if the 5th falls on a weekend day) for processing in the current month's run. The Finance Department is required to seek City Council approval to pay invoices during the second Council meeting of the month (third Monday) before payment can be rendered. All invoices must include the services rendered, according to the scope of work (Exhibit A) for which payment is to be rendered. WCD is also responsible for providing a cost tracking report for declining budget balances on invoices. Invoices will be reviewed for completeness before payment will be authorized. The City will compensate the WCD for services rendered within thirty (30) days following receipt of an approved invoice, provided all other terms and conditions of the contract have been met and are certified as such by the Contract Administrator.
- VI. *Term:* This Agreement shall be effective from January 1, 2020 through December 31, 2020; however, this agreement may be extended an additional year if both parties agree to the terms.
- VII. *Responsible Persons:* The persons responsible for administration of this Agreement shall be the City of Lynden Public Works Department Director and the WCD Executive Director, or their respective designees.
- VIII. *Treatment of Assets and Property:* No fixed assets or personal or real property will be jointly or cooperatively acquired, held, used, or disposed of pursuant to this Agreement.

- IX. *Relationship of the Parties:* The Parties are separate entities organized under the laws of the State of Washington and this Agreement is not intended to create any new legal or corporate entity. No agent, employee, servant, or representative of any party shall be deemed to be an employee, agent, servant, or representative or any other party for any purpose. Each party will be solely responsible for its acts and for the acts of its agents, employees, and servants during the term of this Agreement.
- X. *Indemnification:* Each party agrees to be responsible and assume liability for its own wrongful and/or negligent acts or omissions or those of their officials, officers, agents, or employees to the fullest extent required by law, and further agrees to save, indemnify, defend, and hold the other party harmless from any such liability. It is further provided that no liability shall attach to the Parties by reason of entering into this Agreement except as expressly provided herein.
- XI. *Non-discrimination in Employment and Client Services:* Neither Party shall discriminate against any person on the grounds of race, creed, color, national origin, sex, marital status, age, religion, or on the presence of any sensory, mental or physical handicap. No Party shall discriminate against any employee or applicant for employment because of handicap; provided that, this provision shall not apply if the particular disability prevents proper performance of the work involved.
- XII. *Termination:* This Agreement may be terminated by either party effective upon sixty (60) days written notice, mailed postage pre-paid by certified mail, return receipt requested, to the other party's last known address for the purposes of giving notice under this section. If this Agreement is so terminated, the Parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.
- XIII. *Modifications:* This Agreement may be changed, modified, amended or waived only by written agreement executed by the Parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.
- XIV. *Applicable Law:* In the performance of this Agreement, it is mutually understood and agreed upon by the Parties hereto that this Agreement shall be governed by the laws and regulations of the State of Washington and the federal government, both as to interpretation and performance. The venue of any action arising here from shall be in the Superior Court of the State of Washington in and for Whatcom County.
- XV. *Severability:* In the event any term or condition of this Agreement or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement that can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.
- XVI. *Entire Agreement:* This Agreement contains all the terms and conditions agreed upon by the Parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto.
- XVII. *Counterparts:* This Agreement may be executed in multiple counterparts and each shall be deemed an original, but all of which together constitute a single instrument.

XVIII. *Effective Date:* This Agreement shall be in full force and effect upon filing with the Whatcom County Auditor or upon listing by subject on the City's web site, whichever method of filing is chosen.

IN WITNESS WHEREOF, the Parties have signed this Agreement this ____ day of _____, 2019.

WHATCOM CONSERVATION DISTRICT

CITY OF LYNDEN

By: _____
Heather Christianson, WCD Chair

By: _____
Scott Korthuis, Mayor

Approved as to form:

Approved as to form:

Office of the WCD Attorney

Bob Carmichael, City Attorney

Steve Banham Director of Public Works

DRAFT

STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM).

I certify that I know or have satisfactory evidence that Scott Korthuis is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of the City of Lynden to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

NOTARY PUBLIC in and for the State
of Washington, residing at_____.
My commission expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM).

I certify that I know or have satisfactory evidence that Larry Helm is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Chair for the Whatcom Conservation District to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

NOTARY PUBLIC in and for the State
of Washington, residing at_____.
My commission expires: _____

EXHIBIT A - SCOPE OF WORK

Task 1: Program Administration

The WCD will track and report education and outreach activities and landowner assistance provided as part of the Community Education and Outreach Program.

Deliverables:

1. Invoices will be submitted by the 5th of every month or quarterly if no work was performed in a given month.
2. A short progress report summarizing work performed during the invoice period will be included.
3. Annual written reports to include a summary of outreach & education efforts
4. Attend City of Lynden Stormwater meetings quarterly

Task 2: Stormwater Education and Outreach

WCD will collaborate with the City to implement a community education and outreach program for stormwater pollution prevention to residents within the City of Lynden.

Tasks include, but are not limited to the following:

- Develop and distribute education materials on Stormwater
- Implement, monitor and support of pet waste educational campaign
- Coordinate and evaluate school-based Stormwater
- Coordinate volunteer water quality-monitoring program
- Coordinate water quality sampling efforts to identify areas of concern
- Partner with other organizations to amplify efforts

Deliverables:

1. Educational materials generated
2. Report on number of students, teachers and classrooms visited
3. Recruit and train new volunteers from City of Lynden as needed
4. Water Quality data will be compiled and reported to City
5. Document response procedure for water quality reporting
6. Reports on other jurisdictions efforts in Stormwater
7. Other projects for specific audiences as needed

Task 3: Water Conservation Education and Outreach

WCD will collaborate with the City to implement a community education and outreach program for water conservation to residents within the City of Lynden.

Tasks include, but are not limited to the following:

- Develop and distribute education materials on Water Conservation
- Coordinate and evaluate school-based Water Conservation education program
- Partner with other organizations to amplify efforts
- Whatcom Water Alliance Meeting Facilitation (quarterly)

Deliverables:

1. Educational materials generated
2. Report on number of students, teachers and classrooms visited
3. Reports on other jurisdictions efforts in Water Conservation education
4. Other projects for specific audiences as needed

Task 4: Northwest Washington Fair Stormwater Improvements

WCD will collaborate with the City and the Northwest Washington Fairgrounds (Fair) to help protect and restore water quality in Fishtrap Creek by reducing stormwater impacts from existing infrastructure and development at the Fair. WCD will provide in-kind labor to support the City in their agreement with Dept of Ecology (WQC-2017-LyndPW-00098).

Tasks include, but are not limited to the following:

- Assist with project management
- Assist with livestock waste management design
- Assist in Education and Outreach material development
- Assist in Coordination and reporting with the Fair

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EXHIBIT B - BUDGET

Item	Documentation needed with invoice	Personnel Composite Rate/hour	Estimated Hours	Proposed Budget
Task 1: Administration	Timesheet:			
	Education Coordinator	\$56.44	50	\$2,822.00
	Administrative Assistant	\$46.09	24	\$1,106.16
Task 2: Outreach and Education				
	Timesheet:			
	Education Coordinator	\$56.44	250	\$14,110.00
	Volunteer Coordinator	\$18.15	150	\$2,722.50
	Outreach Technician	\$27.97	100	\$2,797.00
Task 2: Outreach and Education				
	Timesheet:			
	Education Coordinator	\$56.44	200	\$11,288.00
	Outreach Technician	\$27.97	50	\$1,398.50
Task 3: NW WA Fair Stormwater*	Education Coordinator	\$56.44	40	\$2,257.60
	Outreach Technician	\$27.99	50	\$1,399.50
	Habitat Coordinator	\$63.40	50	\$3,170.00
	Engineer	\$74.79	200	\$14,958.00
	Livestock Planner	\$41.35	50	\$2,067.50
	Overhead (25% of salaries/benefits)			\$5,963.15
	Total for TASK 3 (inkind)*			\$29,815.75
Total Salary/Benefits				\$36,244.16
Overhead (25% of salaries/benefits)	Timesheet			\$9,061.04
Materials/Supplies/Printing	Receipts or invoices			\$1,500.00
Lab Fee	Invoices			\$3,000.00
Mileage	Mileage log or travel voucher			\$400.00
Contract Total				\$50,205.20
*Hours here are in-kind match provided to City of Lynden to fulfill grant requirements for Dept of Ecology (WQC-2017-LyndPW-00098).				