

**INTERLOCAL AGREEMENT BETWEEN
THE WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT AND
PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM COUNTY
Regional Water (WRIA 1) Water Supply and Management Plan
Financial Support**

THIS INTERLOCAL AGREEMENT (the "Agreement") is made and entered into by the Whatcom County Flood Control Zone District, referred to herein as "FCZD", 322 N. Commercial Street, Bellingham, WA 98225, and the Public Utility District No. 1 of Whatcom County (Whatcom PUD), 1705 Trigg Road, Ferndale, WA 98248,

Recitals

WHEREAS, development of a Regional (WRIA 1) Water Supply and Management Plan (RWSP) is a crucial component of an overall plan to meet the water needs of Whatcom County and is integral in developing comprehensive solutions to many of our water and environmental challenges; and

WHEREAS, the Whatcom PUD was awarded a grant by the Puget Sound Partnership (PSP) (See Washington Department of Fish and Wildlife Grant # 19-14467 referred to herein as the "RWSP Grant") through the National Estuary Program to develop the RWSP; and

WHEREAS, Whatcom PUD is managing the RWSP Grant on behalf of the WRIA 1 Watershed Management Board (WMB) which is represented by Whatcom County, all cities of Whatcom County, Lummi Nation; Nooksack Indian Tribe, Washington Department of Fish and Wildlife, and the Whatcom PUD; and

WHEREAS, the technical work included in Phase 1 of the RWSP Grant was completed in 2021 and the work under Phase 2 of the grant is underway with a completion date specified in the RWSP Grant as December 15, 2022; and

WHEREAS, additional activities are needed to complete Phase 2 of the RWSP that are not covered by current RWSP Grant funds that are set forth as the amended Phase 2 in Tasks 4 and 6 of the RWSP Grant (those additional activities are referred to herein as "Amended Phase 2"); and

WHEREAS, it is estimated that an additional \$16,000 in funding is needed to complete Amended Phase 2 of the RWSP; and

WHEREAS, Whatcom PUD and FCZD believe that completion of the full RWSP scope of work is crucial to developing a plan to provide adequate water for Whatcom County's municipal, domestic, industrial and commercial needs, and additionally, to ensure adequate stream flows for fish and other wildlife, and is therefore in the interest of the residents of Whatcom County.

NOW, THEREFORE, the Whatcom County Flood Control Zone District and the Public Utility District No. 1 of Whatcom County (Whatcom PUD) agree as follows:

TERMS AND CONDITIONS

Whatcom PUD Responsibilities: The Whatcom PUD will manage the RWSP Grant in accordance to the RWSP Grant Statement of Work through the completion of the Amended Phase 2. FCZD will contribute the amount of Sixteen Thousand Dollars (\$16,000.00) ("Payment") towards the Project cost. Payment will be a lump sum, payable to Whatcom PUD upon receipt of an invoice after the Project is complete as determined by Whatcom PUD. The FCZD shall have no obligation or authority related to the implementation of the Project or the Work, as those terms are defined in this Agreement.

FCZD Responsibilities: Upon completion, the FCZD agrees to provide up to \$16,000 to support the Amended Phase 2 of the RWSP ("Work" or "Project", as referred to herein, is the completion of Amended Phase 2 of the RWSP Grant as defined in the Recitals above). The Whatcom PUD is solely obligated to manage the Work. The Whatcom PUD shall expeditiously complete the Project, pursuant to applicable laws, regulations and policies, on or before December 15, 2022. ("Project Completion Date").

Term:

This agreement shall be effective _____, 2022 and shall continue until Project completion and final payment. If the Whatcom PUD does not complete the work by the RWSP Grant completion date, which may be extended or amended, this Agreement shall automatically terminate, and the FCZD shall not be obligated to make the Payment.

Responsible Persons: The persons responsible for administration of this Agreement shall be the Whatcom County Natural Resources Program Manager and the General Manager of Public Utility District No. 1 of Whatcom County or their respective designees.

Gary Stoyka
Natural Resources Department
Whatcom County Public Works
322 N. Commercial Street, Ste. 120
Bellingham, WA 98225
Phone: (360) 778-6200
FAX: (360) 778-2201

Chris Heimgartner
General Manager
Public Utility District No. 1 of Whatcom County
1705 Trigg Road
Ferndale, WA 98248
Phone: (360) 384-4286
FAX: (360) 384-4849

LEGAL RELATIONS

In performing the services outlined in this Agreement, neither party is acting as the agent or employee of the other; rather, each party is acting as an independent contractor. Each party agrees to defend, indemnify, and hold harmless as to all claims for damages arising out of activities it undertakes arising out of this Agreement.

LIABILITY

The Whatcom PUD agrees to hold harmless, defend and indemnify the FCZD from any claims, damages or liabilities arising out of the acts or omissions of the Whatcom PUD, its staff members and its contractors in the performance of this Agreement. Likewise, the FCZD agrees to hold harmless defend and indemnify the Whatcom PUD from any claims, damages or liabilities arising out of the acts or omissions of the FCZD and its staff members and its contractors in the performance of this Agreement.

MODIFICATIONS

The terms of 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.

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 of the State of Washington, both as to interpretation and performance, and the venue of any action arising herefrom shall be in the Superior Court of the State of Washington in and for Whatcom County.

SEVERABILITY

In the event any term or condition of this Agreement or application thereof to any person or circumstances 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.

ENTIRE AGREEMENT

This Agreement is a complete expression of the terms hereto and any oral representation or understandings not incorporated herein are excluded.

EXECUTED this 9 day of August, 2022 for **PUBLIC UTILITY DISTRICT No. 1 of WHATCOM COUNTY**




Chris Heimgartner Date
General Manager 8/9/22

APPROVED AS TO FORM:



Jon Sitkin Date
Legal Counsel for Whatcom PUD 8/9/22

**WHATCOM COUNTY
FLOOD CONTROL ZONE DISTRICT**




Tyler Schroeder Date
Satpal Singh Sidhu 9/19/22
Whatcom County Executive Deputy

APPROVED AS TO FORM:

C. Quinn per email 9-19-22/SM

Christopher J. Quinn Date
Senior Assistant Deputy Prosecuting Attorney for Whatcom County

DEPARTMENTAL APPROVAL:



Jon Hutchings Date
Public Works Director 9/15/22

