

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA REQUEST

TO: Board of Commissioners
Philip Morley, County Administrator

FROM: Cheryl Lowe, WSU Jefferson County Extension

DATE: Feb. ~~28~~²⁴ 2014

RE: Agreement with Northwest Straits Marine Conservation Foundation

STATEMENT OF ISSUE:

The purpose of the agreement is to provide funding to contract NW Straits Marine Conservation Foundation to conduct a feasibility study for the Fort Townsend Shoreline Restoration in collaboration with the Jefferson County Marine Resources Committee.

ANALYSIS:

Jefferson County Extension would like to contract the services of the NW Straits Marine Conservation Foundation to conduct a feasibility study for the Fort Townsend State Park Shoreline Restoration project. The study is focused on the removal and/or redesign of a fill pad armored with riprap at Fort Townsend State Park. The purpose of the project is to improve habitat and habitat forming processes and also improve public access to the beach. Funding for this project is provided through a current grant WSU extension is administering with the Washington State Department of Ecology.

FISCAL IMPACT:

\$15,500 100% grant funded

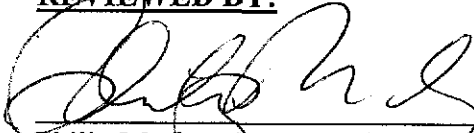
RECOMMENDATION:

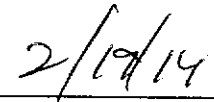
We recommend that the Commissioners approve this modification to the agreement

DEPARTMENT CONTACT:

Cheryl Lowe 379-5610 Ext. 230

REVIEWED BY:


Philip Morley, County Administrator


Date

Agreement between

JEFFERSON COUNTY

and the

NORTHWEST STRAITS MARINE CONSERVATION FOUNDATION

Project Title: Fort Townsend Shoreline Restoration

NWSF Agreement #JeffCo-2014-1

This Agreement is entered into between Jefferson County, a municipal corporation, hereinafter referred to as "County" and the Northwest Straits Marine Conservation Foundation, referred to as "Contractor" or "NWSF," a Washington non-profit corporation, located at 1155 N. State St. Suite 402, Bellingham, WA 98225, EIN # 91-2147136.

Purpose

The purpose of this Agreement is for the County to provide funding for the Fort Townsend Shoreline Restoration in collaboration with Jefferson County Marine Resources Committee ("JCMRC").

Scope of Work

The scope of work and budget by task is contained in Attachment A.

Source of Funds

Funding Source. The source of funding provided by the County is the Environmental Protection Agency funding through the Puget Sound Partnership Technical Investigations and Implementation, CFDA #66.456, as described in Grant Agreement No. G1400326 between the State of Washington Department of Ecology and Jefferson County for Northwest Straits Project: Jefferson Marine Resources Committee Operations and Projects. The NWSF, and all his/her subcontractors, by their receipt of these federal funds are subject to all federal terms, conditions, rules, policies and orders that are imposed upon the County. A copy of these terms, conditions, policies, rules and orders is hereby adopted by reference into this contract and a written copy of Grant Agreement No. G1400326 will be provided to the NWSF as an attachment to this contract.

NWSF Agreement #JeffCo-2014-1

Certification Regarding Suspension, Debarment and other Responsibility Matters. Federal Executive Orders 12549 and 12689 requirements prohibit any contractor listed on the General Services Administration's "Excluded Parties List System" from entering into a federal agreement. This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority. This list, which determines the eligibility statues, is available electronically at <http://www.epls.gov>. By signing this Agreement with the County, the Contractors and any subcontractors state they are in compliance with EO 12549 and 12689 and have never been suspended or debarred from a federal contract.

New Restrictions on Lobbying. This contract is subject to 31 U.S.C § 1352, as implemented at 15 CFR Part 28, "New Restrictions on Lobbying." If applicable, the Contractor shall submit a completed "Disclosure of Lobbying Activities" (Form SF-LLL) regarding the use of non-Federal funds for lobbying. The Form SF-LLL shall be submitted to the County within 15 days following the end of the calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed.

Equal Employment Opportunity. The Contractor will comply with E.O. 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR, 1964-1965 Comp., p. 339), as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

ADA Compliance. The Contractor will comply with all applicable provisions of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12101 *et. seq.*, in performing its duties under this contract.

Wage Rate Requirements. The Contractor will comply with all applicable provisions of the Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provision Applicable to Contracts Governing Federally Financed and Assisted Construction").

Records/Audit. A Contractor that expends \$500,000 or more in federal awards during a fiscal year shall arrange for an audit by an independent accountant in order to ascertain the effectiveness of the Contractor's financial management systems and internal procedures established to meet the terms of this

contract. The audit shall cover all projects and contracts involving federal awards and comply with standards specified in OMB Circular A-133. A copy of said audit will be provided to the County upon request.

Trafficking in Persons. A Contractor and all sub-contractors under this Agreement may not engage in severe forms of trafficking in persons during the period of time that the Agreement is in effect; procure a commercial sex act during the period of time that the Agreement is in effect; or use forced labor in the performance of this Agreement.

Contract Terms

Duration. The project period for this contract will begin on February 15, 2014. All work under this contract is to be completed by August 15, 2014, unless agreed to in writing by both parties to this Agreement.

Status. The Contractor status under this Agreement shall be that of an independent contractor, and not that of an agent, employee, partner, or joint venture. Contractor warrants and represents that it has complied with all federal, state, and local laws regarding business permits and licenses that may be required for him to perform the work as set forth in this Agreement.

Terms of Payment. The County shall pay the Contractor not more than Fifteen Thousand Five Hundred dollars (\$15,500.00) for all of the work performed hereunder. No payments in advance or in anticipation of services or supplies to be provided under this contract shall be made by the County. In no event shall payments to the Contractor exceed Ten Thousand Dollars (\$10,000) until such time as a Draft Feasibility Report is submitted to the County. A detailed Project Budget for which costs will be paid and expenses reimbursed is contained in Attachment A.

Payment shall be made as follows:

Contractor will provide either electronic or hard copy invoices to the County no more than once a month. Invoices should be sent to Kate Driehaus, WSU Jefferson Extension Financial Manager, and Cheryl Lowe, JCMRC Coordinator. Invoices will be paid by the County within 30 days of receipt, unless there is a question or need for additional documentation, in which case resolution will be sought expeditiously. Receipts for

reasonable reimbursable expenses shall be provided to the County upon request. Private vehicle reimbursement rate will be at state-approved rates at the time of travel (<http://www.ofm.wa.gov/resources/travel.asp>). Per diem reimbursement may not exceed state-approved rates. All detailed records of reimbursable expenses shall be maintained by the Contractor for 36 months in case of audit. The final invoice for payment under this contract must be submitted to the County no later than fifteen days from submission of the final Feasibility Report to the County Project Coordinator and shall be paid within 30 days of receipt of the final invoice, subject to the County's approval of the final Feasibility Report.

No payments in advance or in anticipation of services or supplies to be provided under this contract shall be made by the County.

Reimbursement of Expenses. County shall not be liable to the Contractor for any expenses paid or incurred unless otherwise agreed to in writing by the County.

Equipment, Tools, Materials or Supplies. Contractor shall supply, at his sole expense, all equipment, tools, materials and/or supplies to accomplish the work to be performed except as otherwise agreed to in writing by the County. If Contractor intends to purchase with funds from the County any personal property costing in excess of one-hundred dollars (\$100.00), then written approval from the County shall be required.

Federal, State, and Local Taxes. Neither federal, state, nor local income tax nor any other payroll tax of any kind shall be withheld or paid by the County on behalf of the Contractor or his employees. In accordance with the terms of this Agreement and the understanding of the parties herein, the Contractor shall not be treated as an employee, partner, or joint venture with respect to the services performed hereunder for federal, state, or local tax purposes.

Fringe Benefits. Because the Contractor is engaged as its own independent contract business, Contractor is not eligible for, nor entitled to, and shall not participate in, any of the County's pension, health, or other fringe benefit plans, if any such plans exist. Such participation in these fringe benefit plans is limited solely to County employees.

Notice to Independent Contractor Regarding its Tax Duties and Liabilities. The Contractor understands that Contractor is responsible to pay its own income tax in accordance with federal, state, and

local law. The Contractor further understands that Contractor may be liable for Social Security ("FICA") tax to be paid in accordance with all applicable laws.

County Not Responsible for Worker's Compensation. Because the Contractor is engaged in its own independent contracting business and is not an employee of the County, the County will not obtain Worker's Compensation Insurance for the Contractor or its employees. The Contractor agrees to obtain Worker's Compensation coverage for its employees as set forth in the *Liability/Insurance* section and to furnish a copy of its certificate of Worker's Compensation to the County.

County Contact. The Contractor will report to the County Project Coordinator who shall also be responsible for oversight of the Contractor's work.

The Project Coordinator for the County is:

Name	Cheryl Lowe, JCMRC Coordinator
Address	380 Jefferson St, Port Townsend, WA 98368
Telephone:	360-379-5610 x 230
Email:	Cheryl.lowe@wsu.edu

The Project Coordinator for the Contractor is:

Name	Joan Drinkwin, NW Straits Foundation Programs Director
Address	1155 N. State St, Suite 402, Bellingham, WA 98225
Telephone:	360-733-1725
Email:	drinkwin@nwstraits.org

Business of Contractor. The Contractor may engage in any lawful business, which it determines will not prevent it from completing the tasks assigned by this contract. It is not required to devote all its energies exclusively for the benefit of the County.

Supervision. The Contractor shall not be subject to the provisions of any personnel handbook or the rules or regulations applicable to employees of the County since the Contractor shall fulfill its responsibilities independent of, and without supervisory control by, the County.

Performance Reporting. The Contractor shall provide written reports to the County documenting performance related to the Scope of Work (see Attachment A) with all invoices.

Amendments. Any amendment or extension of this contract must be by written instrument executed by both the County and the Contractor.

Cancellation. The parties of this contract expect the Contractor to provide services through the conclusion of the project. However, this contract may be terminated by either party at any time, with or without cause, upon thirty (30) day's written notice to the other party. Upon cancellation of this Contract, the Contractor shall be entitled to payment only for that percentage of the total Contract that it has successfully completed prior to termination.

Ownership and Use of Documents. All documents and other materials produced by the Contractor in connection with the services rendered under this contract are the property of the County. The Contractor shall be permitted to retain copies of such materials, as long as any use of such materials outside of work for the County is subject to written permission from the County.

Liability/Insurance. The Contractor shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the County, its officers, directors, and staff, should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the Contractor or subcontractor, or agents of either, while performing under the terms of this contract.

The Contractor shall provide insurance coverage which shall be maintained in full force and effect during the term of this Contract, as follows:

Automobile Liability. In the event that services delivered pursuant to this contract involve the use of vehicles, either owned or un-owned by the Contractor, automobile liability insurance shall be required.

The minimum limit for automobile liability is:

\$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.

The insurance required shall be issued by an insurance company/ies authorized to do business within the State of Washington, and shall name the County, its agents, directors, officers and employees as additional insured under the insurance policy/ies. All policies shall be primary to any other valid and

collectable insurance. Contractor shall instruct the insurers to give the County 30 days advance notice of any insurance cancellation.

Contractor shall submit to the County within 15 days of the contract effective date, a certificate of insurance which outlines the coverage and limits defined in the *Insurance* section. Contractor shall submit renewal certificates as appropriate during the term of the contract.

Indemnification. The Contractor agrees to indemnify and hold harmless the County, its staff, directors, officers, successors and assigns, from and against any and loss, damage, cost, or expense, including attorney's fees, by reason of the Contractor's performance of its services under the terms of this Agreement.

Assignment. This contract constitutes a services contract that may not be assigned by the Contractor.

Governing Law. This contract and all issues relating to the validity, interpretation, and performance shall be governed by and interpreted under the laws of the State of Washington.

Severability. If any provision in this contract is held to be illegal, invalid, or unenforceable, such provision shall be fully severable and the remainder of this contract shall remain in full force and effect.

Headings. The headings in this Agreement have been inserted for convenience only and are not to be considered when interpreting the provisions of this Agreement.

Notice. All notices shall be given in writing and sent by Registered or Certified Mail, Return Receipt Requested and shall be addressed to:

In case of the County:

Kate Driehaus, Financial Manager
WSU Jefferson County Extension
380 Jefferson St
Port Townsend, WA 98368

In case of the Contractor:

Joan Drinkwin, Programs Director
Northwest Straits Foundation
1155 N. State St., Suite 402
Bellingham, WA 98225

Entire Agreement. This contract embodies the entire agreement and understanding between two parties hereto with respect to its subject matter and supersedes all prior agreements and understanding, whether written or oral, relating to its subject matter. No amendment, modification, or termination of this contract shall be valid unless made in writing and signed by each of the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement.

JEFFERSON COUNTY

NORTHWEST STRAITS FOUNDATION

Chair Date
Board of County Commissioners
Jefferson County, Washington

Robyn du Pré Date
Executive Director

ATTEST:

Approved as to form only
David Alvarez 2/7/14

Jefferson Co. Prosecutor's Office
David Alvarez, Chief Civil DPA

Clerk Date
Board of County Commissioners
Jefferson County, Washington

Jefferson County Marine Resources Committee

By: _____
Al Bergstein Date
MRC Chairperson

ATTACHMENT A

SCOPE OF WORK

For Agreement between

JEFFERSON COUNTY

and the

NORTHWEST STRAITS MARINE CONSERVATION FOUNDATION

Project Title: Fort Townsend Shoreline Restoration

NWSF Agreement #: JeffCo-2013-7

Task: Coordinate the completion of a Feasibility Report for the Fort Townsend State Park Shoreline Restoration Project.

Deliverables and Due Dates:

- I. Draft report with at least three design alternatives submitted by April 15, 2014.
- II. Draft feasibility report with preferred alternative submitted by May 9, 2014.
- III. Final feasibility report submitted by June 10, 2014 and subject to County approval.

Budget: \$15,500 from County used as match for \$17,212 from Northwest Straits Foundation for completion of Feasibility Report.

Scope of Work:

The Northwest Straits Foundation ("NWSF") will retain Herrera Environmental Consultants to conduct a feasibility study for the removal and/or redesign of a fill pad armored with riprap at Fort Townsend State Park. The purpose of the project is to improve habitat and habitat forming processes and also improve public access to the beach.

Funds provided through this Agreement will contribute to the cost of developing this Feasibility Report and associated design documents. Funds will be matched with Estuary Salmon Restoration Program (ESRP) grant funds received by NWSF to complete these tasks.

Herrera will develop design alternatives based on data collected on site, review of existing information related to the nearshore physical and ecological processes, and public access needs.

The feasibility study and design process will include up to three stakeholder meetings involving the project advisory committee which is made up of two representatives from each of the following: Northwest Straits Foundation, Jefferson County MRC, and Washington State Parks. One meeting will include the public at an open house meeting.

The final Feasibility Report submitted by Herrera will include the basis of design as determined by on-site investigations as well as information gathered from the advisory committee and the public. The Report will describe site conditions, including physical and ecological information. The Report will include a discussion of the alternatives; why the preferred alternative was selected; and a cost estimate for the selected alternative. Drawings suitable for submission to the regulatory agencies for the permitting process will be included as well.

The advisory committee will assist with review of all deliverables provided by Herrera. Deliverables will be disseminated to the advisory committee by the NWSF Nearshore Program Manager. All comments from the advisory committee will be compiled by the NWSF Nearshore Program Manager and provided to Herrera for revisions as needed. The MRC representatives on the advisory committee will inform the Jefferson County MRC of the project progress at the monthly MRC meetings. The MRC representatives on the advisory committee will be responsible for providing approval of the report on behalf of the MRC and County.

ATTACHMENT B

BUDGET

For Agreement between

JEFFERSON COUNTY

and the

NORTHWEST STRAITS MARINE CONSERVATION FOUNDATION

Project Title: Fort Townsend Shoreline Restoration

NWSF Agreement #: JeffCo-2014-1

Costs to be reimbursed through this Agreement will be lump sum based on completion of designated tasks and deliverables. County funds will be matched with ESRP funds granted to NWSF for each deliverable. The following provides an estimate of the County's share of the costs for each of the deliverables. These are provided only as an estimate. Total County expenditures will not exceed fifteen thousand dollars (\$15,500.00).

Task	Total Cost	Jefferson County (MRC funds)	NWSF (ESRP Grant Funds)
Total	\$32,712	\$15,500	\$17,212
Draft report with design alternatives	\$15,000	\$7,000	\$8,000
Draft feasibility report with preferred alternative	\$6,000	\$3,000	\$3,000
Final Feasibility Report with permit-level designs	\$11,712	\$5,500	\$6,212