

**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA REQUEST

TO: Board of County Commissioners (BoCC)
Mark McCauley, County Administrator

FROM: Brent A. Butler, AICP, DCD Director
Josh D. Peters, AICP, DCD Deputy Director

DATE: March 27, 2023

RE: Grant Agreements with State Department of Ecology
1) Amendment to Agreement for Shoreline User Guide
2) Agreement for Shoreline Master Program Update

STATEMENT OF ISSUE:

The Department of Ecology has offered additional funds to complete Jefferson County's periodic update of the Shoreline Master Program (SMP) and associated Shoreline User Guide (SUG). The purpose of these proposed grant agreements is to:

1. For the SUG, amend the current ECY grant agreement so that the deliverable due by June 30, 2023 (the end of the state's fiscal biennium) is a draft SUG rather than a final product, to enable the use of consultant services, and to add \$3,000 to the project budget, which would make a total grant of \$28,150.
2. For the SMP period update, enter into a new grant agreement for \$50,000, to be expended by June 30, 2023, in order to progress toward adoption of an updated SMP. DCD began the SMP update project several years ago. Some of that work was reimbursed through ECY Grant Agreement SEASMP-1921-JCDCD-00032, which expired on June 30, 2021. Jefferson County has an active contract with BERK Consulting to complete the SMP update. That contract has \$4,688 remaining. This ECY grant agreement would enable up to \$50,000 of consultant services to be reimbursed by the state for work completed before July 1, 2023.

ANALYSIS:

SUG – The project was initially scoped to use in-house resources, which have been subsequently curtailed due to staff turnover and development review caseload. The original ECY grant agreement for the SUG does not provide for consultant services to draft the product. This amendment would enable DCD to supplement the existing BERK SMP update contract to include the associated task of developing a draft SUG in coordination with the content of the working draft SMP update. An addition of \$3,000 to the SUG budget will offset the difference between hourly costs of in-house resources versus consultants. The SUG would be completed following adoption of the updated SMP, which is anticipated in late summer or early autumn.

SMP Periodic Review – In light of constraints on DCD in-house resources to dedicate to this project, consultant services are required to finish the project, including preparing a point-by-point to ECY's Initial Determination Memo from last fall, modifying the working draft last revised over a year ago, moving the proposal through the public process, and related tasks. The budget for this work is estimated to exceed \$50,000. By entering into this new grant agreement with ECY, the county could recover up to \$50,000 for work completed by June 30.

Following execution of these agreements, DCD will prepare supplemental agreements to the existing contact with BERK for the work specified in the ECY grant agreements. DCD anticipates an additional supplemental agreement with BERK for work from July 1, 2023 until adoption of the updated SMP later this year, following by the finishing touches on the SUG to reflect the adopted SMP.

ATTACHMENTS:

- Contract Review Forms
- ECY grant amendment for SUG
- ECY grant agreement for SMP Periodic Review

FISCAL IMPACT:

The SUG grant agreement amendment adds \$3,000 to the original contract. The SMP grant agreement enables the county to be reimbursed for up to \$50,000 of consultant expenses for work performed prior to July 1, 2023.

RECOMMENDATION:

Execute the grant agreements.

DEPARTMENT CONTACT:

Josh Peters, Deputy Director, Department of Community Development

REVIEWED BY:


Mark McCauley, County Administrator

5/23/23
Date

CONTRACT REVIEW FORM

(INSTRUCTIONS ARE ON THE NEXT PAGE)

Clear Form

CONTRACT WITH: Washington State Dept of Ecology

Contract No: WSDE/DCD User Guide

Contract For: Shoreline User Guide

Term: 4/1/23-6/30/23

COUNTY DEPARTMENT: Department of Community Development

Contact Person: Josh Peters

Contact Phone: x488

Contact email: jpeters@co.jefferson.wa.us

AMOUNT: \$3,000 added to initial \$25,150

Revenue: _____

Expenditure: _____

Matching Funds Required: _____

Sources(s) of Matching Funds: _____

Fund # _____

Munis Org/Obj _____

PROCESS:

- ☐ Exempt from Bid Process
- ☐ Cooperative Purchase
- ☐ Competitive Sealed Bid
- ☐ Small Works Roster
- ☐ Vendor List Bid
- ☐ RFP or RFQ
- ☒ Other: _____

APPROVAL STEPS:

STEP 1: DEPARTMENT CERTIFIES COMPLIANCE WITH JCC 3.5.080 AND CHAPTER 42.23 RCW.

CERTIFIED: ☒ N/A: ☐

Signature

Date

STEP 2: DEPARTMENT CERTIFIES THE PERSON PROPOSED FOR CONTRACTING WITH THE COUNTY (CONTRACTOR) HAS NOT BEEN DEBARRED BY ANY FEDERAL, STATE, OR LOCAL AGENCY.

CERTIFIED: ☒ N/A: ☐

Signature

Date

STEP 3: RISK MANAGEMENT REVIEW (will be added electronically through Laserfiche):

Electronically approved by Risk Management on 3/23/2023.

STEP 4: PROSECUTING ATTORNEY REVIEW (will be added electronically through Laserfiche):

Electronically approved as to form by PAO on 3/22/2023.
State language - cannot change.

STEP 5: DEPARTMENT MAKES REVISIONS & RESUBMITS TO RISK MANAGEMENT AND PROSECUTING ATTORNEY(IF REQUIRED).

STEP 6: CONTRACTOR SIGNS

STEP 7: SUBMIT TO BOCC FOR APPROVAL



AMENDMENT NO. 1
TO AGREEMENT NO. SEASMP-2123-JCDCD-00010
BETWEEN
THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY
AND
Jefferson County Community Development

PURPOSE: To amend the above-referenced agreement (AGREEMENT) between the state of Washington Department of Ecology (ECOLOGY) and Jefferson County Community Development (RECIPIENT) for the Shoreline Master Program User Guide (PROJECT).

Due to staff turnover and limited staff capacity, Amendment no. 1 is needed to increase grant funding by \$3,000.00 in Task 3-SMP User Guide so the RECIPIENT may use grant funds to hire a consultant. The final SMP User Guide deliverable will also be deleted from the scope of work and deliverables.

- 1) The Task 3-SMP User Guide budget will increase by \$3,000.00, from \$13,753.00, to \$16,753.00.
- 2) A new subtask 3A and new deliverable 3.1 will be added for requirements to hire a consultant.
- 3) The final SMP User Guide will be deleted from the Task 3 scope of work and deliverables. Task 3 will be revised so the deliverables include an initial and updated drafts of the SMP User Guide.
- 4) The grant Total Eligible Cost will also increase by \$3,000.00, from \$25,150.00, to \$28,150.00. All other task budgets, deliverables, and the June 30, 2023 expiration date will remain the same.

This project is related to a new Shoreline Master Program – Periodic Review (SMP-PR) grant no. SEASMP-2123-JCDCD-00190. This SMP User Guide project is a non-mandated companion to the SMP-PR, intended to aid implementation by interpreting key regulatory provisions including those being revised by the periodic review process. This SMP User Guide will help clarify and interpret requirements for the Shoreline Master Program.

IT IS MUTUALLY AGREED that the AGREEMENT is amended as follows:

Total Cost:

Original: 25,150.00 Amended: 28,150.00

Total Eligible Cost:

Original: 25,150.00 Amended: 28,150.00

Project Short Description:

Original:

Jefferson County Department of Community Development (RECIPIENT) will prepare a Shoreline Master Program (SMP) User Guide. The User Guide will provide the public with a better understanding of shoreline development regulations, minimize confusion over SMP implementation, clarify permit processes, and lead to complete application submittals and compliance with

SMP requirements. The User Guide will benefit both development and shoreline and environmental protection interests in Jefferson County.

Amended:

Jefferson County Community Development (RECIPIENT) will prepare a draft Shoreline Master Program (SMP) User Guide, and complete a final version after the grant expiration date. The User Guide will provide the public with a better understanding of shoreline development regulations, minimize confusion over SMP implementation, clarify permit processes, and complete application submittals and better project compliance with SMP requirements.

Project Long Description:

Amended:

This SMP User Guide will focus on explaining/interpreting regulatory requirements. The SMP User Guide will also address any SMP provisions that encourage property owners to voluntarily protect, restore, or exceed minimum standards. As a result, this will increase SMP compliance and implementation, and increased compliance will help prevent uncoordinated and piecemeal development of the state's shorelines and help to assure no net loss of shoreline ecological functions.

The RECIPIENT will prepare a draft SMP User Guide that explains some of the commonly used and complex SMP provisions in a way that is easier for the general public to understand. After this grant expires and paid with their own funds, the RECIPIENT will complete a final SMP User Guide to share with the public. The document will include illustrations, diagrams, and flowcharts that can be used by shoreline property owners, potential purchasers of shoreline properties, real estate agents, and professionals working on development applications within shoreline jurisdiction (e.g., contractors, septic designers, architects, consultants). Early public outreach and consultation will result in a user-friendly document that (1) increases understanding of shoreline development regulations and (2) minimizes confusion over SMP implementation and permit processes.

The new SMP User Guide will:

- Provide a brief overview of the Shoreline Management Act and the purpose of the county SMP.
- Identify types of shorelines regulated under the SMP and the extent of shoreline jurisdiction.
- Address shoreline permitting processes and exemptions.
- Address how shoreline environmental designations are used for regulatory review purposes.
- Review no net loss and mitigation sequencing requirements.
- Describe link between the SMP and the critical areas ordinance.
- Clarify shoreline buffer and building setback requirements.
- Clarify when and how nonconforming provisions may be used.
- Describe activities that may be allowed in shoreline buffers (e.g., unpaved trails, tree limbing).
- Present activities that are prohibited in the SMP.
- Provide overview of natural shoreline functions and processes.
- Present options for maintaining or enhancing natural shoreline functions and processes.
- Identify how SMP protection standards are intended to maintain environmental conditions.
- Other relevant topics may be determined during preparation of the document.

Overall Goal:

The goal is to create a draft SMP User Guide that clarifies and interprets SMP requirements for common types of shoreline use and development projects, streamlines implementation of the SMP by improving application submittals, and describes why effective shoreline management matters in a way that is relatable and understandable to the general public.

CHANGES TO THE BUDGET

Funding Distribution EG220553

Funding Title: Model Toxics Control Operating Account (MTCOA)
Funding Type: Grant
Funding Effective Date: 01/01/2022 Funding Expiration Date: 06/30/2023
Funding Source:

Title: Model Toxics Control Operating Account (MTCOA)
Fund: FD
Type: State
Funding Source %: 100%
Description: Model Toxics Control Operating Account (MTCOA)

Approved Indirect Costs Rate: Approved State Indirect: 23.34%
Recipient Match %: 0%
InKind Interlocal Allowed: No
InKind Other Allowed: No
Is this Funding Distribution used to match a federal grant? No

Model Toxics Control Operating Account (MTCOA)	Task Total
1. Project Administration / Management	\$ 2,601.00
2. Stakeholder Outreach	\$ 8,796.00
3. SMP User Guide	\$ 16,753.00

Total: \$ 28,150.00

CHANGES TO SCOPE OF WORK

Task Number: 3

Task Cost: \$16,753.00

Task Title: 3. SMP User Guide

Task Description:

The RECIPIENT will search previously prepared User Guides for concepts that would be appropriate for inclusion, then organize content and revise the text, and finally create a draft version of the SMP User Guide. The User Guide will include graphics to illustrate requirements, options, and scenarios. After the June 30, 2023 grant expiration date, the RECIPIENT will prepare a final version of the User Guide in coordination with the RECIPIENT's associated SMP Periodic Review that will be finalized, and approved by ECOLOGY.

The RECIPIENT will create the annotated outline, draft text, pamphlet template and initial draft version of the SMP User Guide.

A. The RECIPIENT will hire a consultant to complete a draft SMP User Guide. Services will be secured in accordance with the RECIPIENT or State of Washington procurement procedures. The RECIPIENT will upload a copy of the signed contract in EAGL, and notify the ECOLOGY Project Manager.

B. The RECIPIENT will be responsible for producing an initial draft of the SMP User Guide, including an annotated outline, draft text, and pamphlet template. The process for creating the User Guide will include:

1. A search of previously prepared User Guides for concepts that would be appropriate for inclusion.
2. Solicited feedback and comments from RECIPIENT staff and managers, and ECOLOGY.
3. Graphics that enhance and complement the text and increase user accessibility.
4. An annotated outline, draft text, and pamphlet template and a draft version of the User Guide submitted to ECOLOGY by uploading a copy in EAGL.

C. The RECIPIENT will submit an updated draft of the SMP User Guide, incorporating ECOLOGY's comments and any collected feedback.

D. For any publications and education or outreach materials the RECIPIENT will follow ECOLOGY'S requirements in the following sections of the Agreement General Terms and Conditions: 3. ACCESSIBILITY REQUIREMENTS FOR COVERED TECHNOLOGY; and 19. PRESENTATION AND PROMOTIONAL MATERIALS. For more information, see in the Agreement General Terms and Conditions.

For communications and materials, the RECIPIENT will acknowledge that funding was provided by ECOLOGY. The ECOLOGY Project Manager can provide a copy of ECOLOGY'S logo.

The RECIPIENT will provide a copy of the annotated outline and draft text to the Ecology Project Manager for review and comment prior to the June 30th grant deadline. The RECIPIENT will submit a draft User Guide by the grant deadline.

Task Goal Statement:

Create a draft SMP User Guide that focuses on explaining/interpreting regulatory requirements, with input from stakeholders and RECIPIENT staff. The draft SMP User Guide will also address any SMP provisions that encourage property owners to

voluntarily protect, restore, or exceed minimum standards. As a result, this will increase SMP compliance and implementation, and increased compliance will help prevent uncoordinated and piecemeal development of the state's shorelines and help to assure no net loss of shoreline ecological functions.

Task Expected Outcome:

Increase public understanding and encourage shoreline property owners to voluntarily take steps to better protect and enhance shoreline buffers on their property. The future, final version of the SMP User Guide will enable local professionals to provide better guidance to potential shoreline applicants and minimize confusion over SMP implementation and permitting processes.

Recipient Task Coordinator: Donna Frostholt

Deliverables

Number	Description	Due Date
3.1	Copy of signed consultant contract. Upload to EAGL and notify ECOLOGY Project Manager.	
3.2	Initial draft SMP User Guide. Upload to EAGL and notify ECOLOGY Project Manager.	
3.3	Updated draft SMP User Guide, including ECOLOGY's comments. Upload to EAGL and notify ECOLOGY Project Manager.	

Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
Model Toxics Control Operating Account (MTCOA)	0 %	\$ 0.00	\$ 28,150.00	\$ 28,150.00
Total		\$ 0.00	\$ 28,150.00	\$ 28,150.00

AUTHORIZING SIGNATURES

All other terms and conditions of the original Agreement including any Amendments remain in full force and effect, except as expressly provided by this Amendment.

The signatories to this Amendment represent that they have the authority to execute this Amendment and bind their respective organizations to this Amendment.

This amendment will be effective 03/14/2023.

IN WITNESS WHEREOF: the parties hereto, having read this Amendment in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

Washington State
Department of Ecology

Jefferson County

By: _____

Joenne McGerr
Shorelands
Program Manager

Date

By: _____

Heidi Eisenhour
County Commissioner

Date

Greg Brotherton

Commissioner

Date

Kate Dean

Commissioner

Date

Approved as to form only:



March 22, 2023

Philip C. Hunsucker, Chief Civil Deputy
Prosecuting Attorney

Date

Template Approved to Form by
Attorney General's Office