

**SNOHOMISH COUNTY AGREEMENT FOR STORAGE SPACE AT THE BLUE BARN**

THIS AGREEMENT is made by and between SNOHOMISH COUNTY, a political subdivision of the State of Washington (the "County"), by and through the Division of Surface Water Management, Department of Conservation and Natural Resources, and WASHINGTON STATE DEPARTMENT OF NATURAL RESOURCES (also "DNR").

NOW THEREFORE, for and in consideration of the mutual promises set out below, the parties agree as follows:

1. Grant of License. In consideration of DNR's salmon recovery work in the Snohomish Valley watershed which aligns with the County's own salmon recovery work, the County hereby grants to DNR a license (the "License") to use a portion of the covered storage space located at 3718 Fobes Road, Snohomish, Washington (commonly known as the "Blue Barn" and located on real property with Snohomish County Tax Account No. 29053500101100). The property consists of approximately one hundred (100) square feet, within the Blue Barn (the "Premises"), along with parking spaces, for the purposes set forth below. Electrical for lighting is included in the License. No other utilities are included or will be provided. The County will provide DNR with access to the Premises, provided, however, that the County its officers and employees shall have and maintain access at all times to the Premises and may control any criminal activity, nuisance, or real or potential harm to persons or property.

2. Term. The term of this Agreement shall begin on the date of execution when both parties have signed and end on March 1, 2028, unless earlier terminated as providing in Section 22 below. This agreement may be extended for (2) additional years with the written approval of the County and agreed upon by both parties in an executed amendment.

3. Use. DNR may use and occupy the Premises for the following purposes: storage of materials and equipment. DNR agrees not to use any machinery or equipment on the Premises that might be injurious to the Premises or that might cause noise or vibration that would be reasonably objectionable to neighboring communities. DNR agrees to keep the Premises clean and free of debris and will not allow accumulation of any garbage or inoperable equipment. Any equipment or supplies no longer needed or required for the use of the Premises as authorized under this Agreement will be disposed of immediately or removed from the Premises.

DNR has inspected the Premises, including any structure, grounds, and access thereto, and accepts the Premises in its present condition as of the commencement date of this Agreement. It is agreed that the County shall not be bound by any warranty, representation, or condition regarding the Premises except as stated in this Agreement.

4. Care and Condition

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4.1 DNR shall be responsible for the care and maintenance of the Premises during the period of use. DNR shall return the Premises to the County in as clean and as good a condition as when received, less normal wear and tear.

4.2 DNR shall be responsible for removing from the Premises, on or before expiration of this Agreement, all personal property, except personal property of the County, brought to the Premises in connection with the uses permitted herein. If such personal property is not removed on or before the expiration of this Agreement, DNR will pay the County fair market value for storage of the remaining personal property until removed from the premises to the extent permitted by law and DNR policies. DNR assumes all risk of loss or damage to such personal property, by theft or otherwise, incurred during or as a result of any removal, storage, sale, or other disposition by the County. DNR expressly agrees that sale or other disposition of such personal property, private or public, may occur at any time not less than thirty (30) days after the expiration of this agreement.

4.3 DNR shall take all reasonable precautions to prevent or suppress fires. DNR shall not perform, nor permit others to perform, any disorderly conduct, waste, or vandalism or commit any nuisance on the Premises or to use the Premises in such a way as to interfere with the use of adjoining County property by any other person. DNR shall be liable to the County for any loss or damage to the Premises caused by DNR, its officers, agents, employees, and volunteers.

5. Personal Equipment Use. DNR agrees that the County is not liable for any injuries, damage, or third-party damage, including property and injuries, resulting from use of personal equipment by DNR, its officers, agents, employees, and volunteers.

6. Liens. In the event DNR pays for any services out of its own funds, DNR shall keep the Premises free from any liens arising out of work performed for, materials furnished to, or obligations incurred by, or on behalf of, DNR in the performance of this Agreement. Any construction liens filed against the Premises for work claimed to have been furnished to DNR will be discharged by DNR, by bond or otherwise, within ten (10) days after the filing of the claim or lien, at DNR's sole cost and expense. Should DNR fail to discharge any such construction lien, the County may, at its election, pay that claim or post a bond or otherwise provide security to eliminate the lien as a claim against title and the cost to the County shall be immediately due and payable by DNR. DNR shall indemnify and hold the County harmless from and against any liability arising from any such lien.

7. National Pollutant Discharge Elimination System (NPDES) Requirements. DNR will follow all NPDES (National Pollutant Discharge Elimination System) requirements. These requirements are contained in Attachment A, which is attached hereto and incorporated herein by this reference.

8. Hazardous Substances

8.1 Definitions. As used in this Agreement, the term "Hazardous Substance" shall mean (i) any substance subject to regulation under the Hazardous Waste Management Act,

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chapter 70.105 RCW, as amended from time to time, and regulations promulgated thereunder; (ii) any “hazardous substance” under the Model Toxics Control Act, chapter 70.105D RCW, as amended from time to time, and regulations promulgated thereunder; (iii) any “hazardous substance” or “hazardous waste” as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC § 9602 et seq., as amended from time to time, and regulations promulgated thereunder; (iv) any asbestos; (v) polychlorinated biphenyls; (vi) underground storage tanks, whether empty, filled or partially filled with any substance; (vii) any solid waste or solid waste decomposition products; (viii) any substance the presence of which is prohibited by any federal, state, county, municipal or other local governmental statutes, regulations, ordinances or resolutions; and (ix) other substances deemed hazardous, toxic, a pollutant, or contaminant, which by any federal, state, county, municipal or other local governmental statutes, regulations, ordinances or resolutions require special handling or notification in its collection, storage, treatment or disposal.

8.2 Permitted Amounts of Hazardous Substances. Other than minor amounts of materials necessary for the uses permitted under this Agreement, no Hazardous Substance shall be handled at any time upon the Premise. DNR agrees that to the extent it is handling minor amounts of materials as permitted by this Section 3, it will not cause or permit in any manner, including accidental or non-negligent acts or omissions, the release of any Hazardous Substance into, upon or from the Premise.

8.3 Liability and Indemnification. In the event of a release, leakage, spillage or other discharge of a Hazardous Substance (a “Release”) by DNR or any contractor or agent for DNR, DNR shall, at its own expense, promptly notify the County and any other involved agency in writing of such Release. DNR shall be solely liable for any and all consequences of and expenses associate with such Release, including all liability under any federal, state, or common law. DNR shall further indemnify, hold harmless, and defend (with counsel reasonably satisfactory to the County) the County, its successors and assigns, and their respective directors, officers, employees, and agents, against any and all liability, cost, and expenses (including, without limitation, any fines, penalties, judgments, litigation costs, and consulting, engineering, and construction costs) incurred by the County as a result of DNR’s breach of this Section or as a result of any Release, regardless of whether such liability, cost, or expense arises during or after the term of the Agreement.

9. Amendments. No changes or additions shall be made in this contract except as agreed to by both parties and reduced to writing and executed with the same formalities as are required for the execution of this agreement.

10. Hold Harmless and Indemnification.

Each party to this agreement hereby assumes responsibility for claims and/or damages to person and/or property resulting from any act or omissions on the part of itself, its employees, its officers, and its agents. Neither party assumes any responsibility to the other party for the consequences of any claim, act or omission of any person, agency, firm, or corporation not a party to this agreement.

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11. Insurance Requirements. Maintenance of insurance as required herein shall not be construed to limit the liability of DNR to the coverage provided by insurance or to limit the County's recourse.

12. Compliance with Laws. DNR will comply with all applicable federal, state, and local laws, rules, and regulations in performing under this Agreement, including, when applicable, payment of prevailing wages under chapter 39.12 RCW. DNR will be solely responsible for securing and maintaining all permits and licenses and paying, when due, all costs, fees, taxes, annual inspection fees, and other charges/benefits incidental to the trail work and trainings contemplated in this Agreement. By executing this document, the County does not warrant that any other permits or licenses are necessary or not necessary.

13. Public Records Act. This Agreement and all public records associated with this Agreement shall be available from the County for inspection and copying by the public where required by the Public Records Act, chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of DNR are needed for the County to respond to a request under the Act, as determined by the County, DNR agrees to make them promptly available to the County. If DNR considers any portion of any record provided to the County under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, DNR shall clearly identify any specific information that it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information so identified by DNR and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligations shall be to notify DNR (a) of the request and (b) of the date that such information will be released to the requester unless DNR obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If DNR fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified.

The County has, and by this section assumes, no obligation on behalf of DNR to claim any exemption from disclosure under the Act. The County shall not be liable to DNR for releasing records not clearly identified by DNR as confidential or proprietary. The County shall not be liable to DNR for any records that the County releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

14. Notice. Any notice related to the terms of this Agreement, or required by law, shall be given by registered or certified mail. Such communication or notice shall be deemed to have been given when deposited in the United States mail, properly addressed, with postage prepaid. Such notice shall be given as follows:

**If to the County:** Adam Jackson, Surface Water Management, 3000 Rockefeller Avenue, M/S 303, Everett, WA 98201 Telephone: 425-262-2623.

**If to DNR:** Rachel Benbrook, 919 N. Township Street, Sedro Woolley, WA 982894 Telephone: 360-918-1028

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15. Non-exclusivity. The County may enter into additional agreements with other similarly situated entities or individuals desiring to use the Premises.

16. Termination. This Agreement shall terminate, and DNR shall vacate the Premises at the end of the term of this Agreement as set forth in paragraph 2, unless earlier terminated as follows:

- (a) Upon 30 days' notice by either party to the other; or
- (b) Immediately upon written notice by either party in the event of breach of any term of this Agreement.

Termination shall not affect the rights of either party under any other provision of this Agreement.

17. Conflicts Between Attachments and Text. Should any conflicts exist between any attached exhibit or schedule and the text of this contract, the text shall prevail.

18. Governing Law and Venue. This contract shall be governed by the laws of the State of Washington. The parties stipulate that any lawsuit regarding this contract must be brought in Thurston County, Washington.

19. Severability. Should any clause, phrase, sentence, or paragraph of this contract be declared invalid or void, the remaining provisions of this contract shall remain in full force and effect.

## **20. NONDISCRIMINATION**

During the performance of this contract, COUNTY shall comply with all federal and state nondiscrimination laws, regulations, and policies.

1. Nondiscrimination Requirement. During the term of this contract, COUNTY, including any subcontractor, shall not discriminate on the bases enumerated at RCW [49.60.530\(3\)](#). In addition, COUNTY, including any subcontractor, shall give written notice of this nondiscrimination requirement to any labor organizations with which COUNTY, or subcontractor, has a collective bargaining or other agreement.
  2. Obligation to Cooperate. COUNTY, including any subcontractor, shall cooperate and comply with any Washington state agency investigation regarding any allegation that COUNTY, including any subcontractor, has engaged in discrimination prohibited by this contract pursuant to [RCW 49.60.530\(3\)](#).
  3. Default. Notwithstanding any provision to the contrary, DNR may suspend COUNTY, including any subcontractor, upon notice of a failure to participate and cooperate with any state agency investigation into alleged discrimination prohibited by this contract, pursuant to [RCW 49.60.530\(3\)](#). Any such suspension will remain in place until DNR receives notification that COUNTY, including any subcontractor, is cooperating with the investigating state agency. In the event COUNTY, or subcontractor, is determined to have engaged in discrimination identified at [RCW 49.60.530\(3\)](#), DNR may terminate this contract in whole or in part, and COUNTY, subcontractor, or both, may be referred for debarment as provided in [RCW 39.26.200](#). COUNTY or subcontractor may be given a
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4. Remedies for Breach. Notwithstanding any provision to the contrary, in the event of contract termination or suspension for engaging in discrimination, COUNTY, subcontractor, or both, shall be liable for contract damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, which damages are distinct from any penalties imposed under [Chapter 49.60, RCW](#). DNR shall have the right to deduct from any monies due to COUNTY or subcontractor, or that thereafter become due, an amount for damages COUNTY or subcontractor will owe DNR for default under this provision.

“County”

“DNR”

By:\_\_\_\_\_

By: \_\_\_\_\_

Date \_\_\_\_\_

Deputy Prosecuting Attorney      Date

Deputy Prosecuting Attorney      Date

## ATTACHMENT “A”

**Title:** NPDES Procedure – All Parties

### Document Information

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<b>1. Procedure Type:</b> Department	<b>Governing Department:</b> Parks
<b>2. Procedure Owner:</b>	<b>Todd McNeal, NPDES Lead</b>
<b>3. Status:</b> FINAL	<b>Next Review:</b> 09/01/2027
<b>4. Regulatory Source(s):</b> OTHER	<b>Other:</b> Phase I Municipal Stormwater Permit
<b>5. Retention Schedule:</b> 3 Year	<b>Designation:</b> Essential

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**PURPOSE:** This Procedure outlines responsibilities of all parties under any contractual agreement with Snohomish County Parks & Recreation Division in regards to the [National Pollutant Discharge Elimination System \(NPDES\) municipal stormwater permit](#) held by Snohomish County

**THIS PROCEDURE APPLIES TO:** This Procedure applies to all parties (PART(Y/IES)) under contractual agreement with Snohomish County Division of Parks & Recreation (PARKS). Contractual agreements covered by this procedure include, but are not limited to, construction contracts, lease agreements, facility license agreements, right-of entry permits, special use permits and interlocal and interdepartmental agreements.

### **PROCEDURE:**

**AUTHORITY:** A Phase I Municipal Stormwater Permit, was issued to Snohomish County by Washington State Department of Ecology on July 1, 2024 as authorized by the State of Washington Water Pollution Control Law, Chapter 90.48 Revised Code of Washington (RCW), and the Federal Water Pollution Control Act. The permit requires the County to establish procedures that will eliminate, reduce or minimize pollutant discharges to surface waters.

**COMPLIANCE WITH OTHER LAWS:** Compliance with this procedure does not constitute waivers of the requirements of any other law or regulation; nor does it indicate compliance with any other law or regulation. Compliance with all applicable federal, state, and local laws and regulations is required.

**COUNTY ACCESS:** County personnel shall have reasonable access to all Park property to conduct annual inspection and maintenance activities, perform audits of user activities, and respond as necessary to all spills or other emergencies.

**SOURCE CONTROL:** SCC Chapter 7.53 requires any person storing or using materials that may contain contaminants in a manner that could result in prohibited discharges to streams, lakes, groundwater or the County’s storm sewer to implement source control BMPs. Source control BMPs include, but are not limited to those described in Volume IV of the county

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Stormwater Management Manual. The PARTY shall be responsible for utilizing all known, available, and reasonable methods of prevention, control and treatment (AKART) to prevent pollution from entering waters of the state, and for providing the proper training to all individuals engaged in such activities. The PARTY shall conduct all activities in a safe, responsible manner and in accordance with all governing regulations or laws. Activities that have the potential for being pollution generating and are subject to this requirement include, but are not limited to the following:

- Application of fertilizers and pesticides
- Building exterior cleaning and maintenance
- Chemical handling
- Cleaning of animal handling areas
- Dust control
- Fueling of equipment and vehicles
- Land disturbance activities (soil erosion)
- Landscape maintenance and vegetation disposal
- Maintenance of equipment and vehicles
- Paving operations
- Trash and pet waste management
- Vehicle washing
- Snow and ice control
- Maintaining roadside areas, including street sweeping

**SPILL RESPONSE, CONTAINMENT AND REPORTING REQUIREMENTS:** PARTIES that engage in activities that pose a risk of polluting waters of the state must have a spill response plan that addresses prevention, spill control, containment, cleanup, and response. A copy must be made available to PARKS at their request. Spill containment and cleanup kits must be readily accessible. All spills shall immediately be reported to PARKS by contacting the Parks NPDES Lead at (425) 309-6624 and to all appropriate agencies identified in the PARTIES Spill Response Plan.

**REVISIONS TO PROCEDURE** – This procedure shall be revised and updated as needed to adhere to Snohomish County Phase I Municipal Stormwater Permit revisions, or procedure modifications required by PARKS. All revisions shall be numbered and dated and provided to PARTIES.

**RECORDS:**

Records associated with this procedure include the authorizing contractual agreement to which this procedure will be attached, documents associated with any spill reporting and any reports that staff generate associated with.

**DEFINITIONS:**

Definitions applicable to this Procedure:

- "Contaminant" means a solid, liquid, or gaseous substance that, if discharged
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to a drainage facility, natural drainage system, receiving waters or groundwater, will alter the physical, chemical, or biological properties thereof to the extent that the discharge will render the facility, system, or water harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life. Contaminants may include, but are not limited to the following: trash or debris; construction materials; petroleum products including but not limited to oil, gasoline, grease, fuel oil or heating oil; antifreeze and other automotive products; metals in either particulate or dissolved form; flammable or explosive materials; radioactive material; batteries; acids, alkalis, or bases; paints, stains, resins, lacquers, or varnishes; degreasers and solvents; drain cleaners; pesticides, herbicides, or fertilizers; steam cleaning wastes; soaps, detergents, or ammonia; chlorine, bromine, or other disinfectants; heated water; animal wastes; sewage; animal carcasses; food wastes; bark, soils, sediment, rock and other fibrous materials; collected lawn clippings, leaves, or branches; dyes, except as allowed in SCC 7.53.090(11); and wastewater generated by commercial or industrial activities.

- "Discharge" means to throw, drain, release, dump, spill, empty, emit, or pour any matter into receiving waters, groundwater, a natural drainage system, or a drainage facility, or to cause or allow matter to be thrown, drained, released, dumped, spilled, emptied, emitted or poured into receiving waters, groundwater, a natural drainage system, or a drainage facility, or to cause or allow matter to flow, run, or seep from land into receiving waters, groundwater, a natural drainage system, or a drainage facility.
  - "Drainage facility" means any part of a man-made physical system designed or constructed to collect, treat convey, store, or control the flow of stormwater. Drainage facilities include, but are not limited to, storm water conveyance and containment facilities, including pipelines, constructed channels and ditches, infiltration facilities, retention and detention facilities, stormwater treatment facilities, erosion and sedimentation control facilities, and all other drainage structures and appurtenances.
  - "Prohibited Discharges" means the following discharges to any drainage facility, natural drainage system, receiving water, or groundwater within Snohomish County except as allowed in SCC 7.53.090 or conditionally allowed in SCC 7.53.095: (1) Any discharge not completely composed of stormwater; (2) Any discharge that causes or contributes to a violation of State Water Quality Standards or State Sediment Management Standards; (3) Any discharge that causes or contributes to a violation of any NPDES permit or State Waste Discharge permit issued to the county; (4) Any discharge that causes the county to be in violation of the State Underground Injection Control Program (Chapter 173-218 WAC); and (5) Any discharge that contains contaminants.
  - "Source control best management practices" or "source control BMPs" means
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structures, equipment, supplies, or operations that are intended to prevent pollutants from coming into contact with stormwater through physical separation of areas or careful management of activities that are sources of pollutants.

- “Waters of the state” includes those waters as defined as “waters of the United States” in 40 CFR Subpart 122.2 within the geographic boundaries of Washington State and “waters of the state” as defined in Chapter 90.48 RCW which includes lakes, rivers, ponds, streams, inland waters, underground waters, salt waters and all other surface waters and watercourses including storm drainage systems and ditches within the jurisdiction of the state of Washington.

#### ACRONYMS:

BMP	Best Management Practice
CESCL	Certified Erosion and Sediment Control Lead
Ecology or DOE	Washington State Department of Ecology
IVM	Integrated Vegetation Management
NPDES	National Pollutant Discharge Elimination System
SCC	Snohomish County Code
SWM	Surface Water Management
SWPPP	Stormwater Pollution Prevention Plan

#### REVISION TABLE

Date	Description of changes
April 2024	Transferred to County template. Previously identified as 011b NPDES Procedure – All Parties.
Sept. 2024	Updated to reflect new permit, issued July 1, 2024

#### APPROVAL TABLE (highlighted area must always approve)

Role/Title	Approve	Notification of Change
Parks Division Director	X	
Parks Division Manager – Short Range	X	
Parks NPDES Lead	X	
DCNR Contract Specialist		X
Real Property Administrator		X
Operations Supervisor		X
Property Officer		X