Sole Source CONTRACT Filing Justification Template

Use the following justification template for preparing to file sole source contracts in the <u>Sole Source Contracts Database</u> (SSCD). Once completed, copy and paste the answers into the corresponding SSCD question and answer fields. You will also need to include a copy of this completed form in the documents you post to your agency website and in <u>WEBS</u>.

What is a sole source contract?

"Sole source" means a contractor providing goods or services of such a unique nature or sole availability that the contractor is clearly and justifiably the only practicable source to provide the goods or services. (RCW 39.26.010)

Unique qualifications or services are those which are highly specialized or one-of-a-kind.

Other factors which **may** be considered include past performance, cost-effectiveness (learning curve), and/or follow-up nature of the required goods and/or services. **Past performance alone does not provide adequate justification for a sole source contract**. Time constraints may be considered as a contributing factor in a sole source justification, however will not be on its own a sufficient justification.

Why is a sole source justification required?

The State of Washington, by policy and law, believes competition is the best strategy to obtain the best value for the goods and services it purchases, and to ensure that all interested vendors have a fair and transparent opportunity to sell goods and services to the state.

A sole source contract does not benefit from competition. Thus the state, through RCW 39.26.010, has determined it is important to evaluate whether the conditions, costs and risks related to the proposal of a sole source contract truly outweigh forgoing the benefits of a competitive contract.

Providing compelling answers to the following questions will facilitate DES' evaluation.

Specific Problem or Need

• What is the business need or problem that requires this contract?

The Oregon spotted frog (OSF) was federally listed as threatened under the Endangered Species Act on August 29, 2014. At four OSF sites in Thurston County – West Rocky Prairie (WRP), Allen Creek, Salmon Creek, and Mima Creek – WDFW and other conservation groups have invested decades of work and substantial funds to protect and restore habitat for the frog, which resides solely in water for each of its life stages. Its survival is directly tied to the annual recurring hydrologic pattern. Since 2009, WDFW has been enhancing oviposition sites by controlling invasive vegetative growth. WDFW suggests that these vegetative manipulations may have beneficially affected egg mass productivity (Tyson and Hayes, 2016). Total egg masses increased substantially in the west wetland at West Rocky Prairie during the spring of 2013, 2014, and 2015 (NLW, 2019) compared to prior years. However, from 2016-2018, total egg masses declined substantially. WDFW suggests that these declines may be related to drought conditions during the previous years. Although water levels were relatively constant during the winter-spring (oviposition) season, they declined by 0.5 to 1 foot during summer through fall in 2015, 2016, and 2018 (NLW,

2019). More recent data indicate surface water and shallow groundwater level declines of approximately 1 foot from 2012 through 2022. These conditions likely reduced the amount of surface-water-connected aquatic habitat used by the OSF, potentially contributing to higher adult and subadult frog mortality, and lowering the number of new adult recruits for the next oviposition period. Although the exact mechanism of mortality is unknown, a likely possibility is the loss of the seasonal summer-fall aquatic footprint, which would concentrate individuals in smaller wetted areas and create local predator traps (M. Hayes, personal communication). Unfortunately, the drought conditions observed since 2015 at WRP are expected to persist under future climate scenarios. To hedge against these anticipated conditions and the resulting loss of habitat during spring through fall, WDFW proposes constructing on-site treatments or constructed features that enhance habitat to improve aquatic conditions for the frog's survival. Prior to implementing such measures, however, WDFW biologists propose using the extensive water level and site characterization data to assess the efficacy of treatment/feature alternatives under future climate scenarios. Consequently, the proposed work involves using the substantial site data collected by NLW and regional hydrologic data warehoused by Thurston County, Ecology, WDNR, TCCD, CBP, and other local agencies to develop a regional model for the basin that can simulate the results of engineered site alternatives designed to sustain aguatic habitat used by OSF. The model will be constructed and calibrated using GSFLOW software and will focus on flow and water-level conditions for the period 2015-2025 throughout the Black River Basin. Model inputs will include soil and water data collected at each of four OSF sites, along with climate data. It will allow us to predict how treatment/feature alternatives will maintain aquatic habitat under future climate variability extending forward in time to 2050. The model will serve as an important and valuable planning and decision-making tool well into the future. It will allow WDFW biologists to support their professional expertise with the model results to decide which alternatives should be implemented as early as 2027. WDFW can continue to use the model as new questions arise or as conditions change, warranting further analyses.

Sole Source Criteria

 Describe the unique features, qualifications, abilities or expertise of the contractor proposed for this sole source contract.

The contractor, NLW, has been working directly with WDFW on developing in-depth knowledge of the hydrologic, hydrogeologic, and soil conditions at WRP since 2013 and has been requested to comment on other development concerns by non-profits related to hydrology in the larger Black River Basin. NLW designed and installed groundwater and surface water monitoring stations at the WRP site as part of a collaborative effort with WDFW biologists and currently operates a network of 13 such stations. Furthermore, NLW has reported on site hydrologic conditions, integrating WDFW's OSF monitoring data into these reports. This hydrologic knowledge will be integral to the model's successful design, construction, and calibration. NLW is familiar with the work of WDFW, including the data they have collected, at three other OSF sites in Thurston County: Allen, Salmon, and Mima Creeks. In addition, NLW's modeling subcontractor, Earthfx, (EFX) is the only technical group that has decades of success working with large datasets, integrating this data into a

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GSFLOW model to examine changing hydrologic conditions, and using GSFLOW models to assess which alternatives will best create and sustain aquatic habitat. NLW has worked on habitat, land, and water projects for a variety of public entities throughout Thurston County for the past 22 years. Prior to starting NLW, principal hydrogeologist, Jim Mathieu, also worked in northern Thurston County for nearly a decade. Jim is intimately familiar with the County-wide hydrologic and hydrogeologic conditions and has been asked to comment on multiple hydrologic concerns in the Black River basin area.

• What kind of market research did the agency conduct to conclude that alternative sources were inappropriate or unavailable? Provide a narrative description of the agency's due diligence in determining the basis for the sole source contract, including methods used by the agency to conduct a review of available sources. Use DES' Market Research Template if assistance is needed.

NLW has been working on Oregon Spotted frog research in this specific geographic location since 2012 and has an expansive knowledge of the species and its needs and over 2 decades working on the hydrology of Thurston County and the Black River . Communications with Thurston County Hydrologists have indicated NLW is the best organization fitted for this specific work and the GSFLOW model will most successfully inform our actions for this frog. Since NLW has both the geographic expertise and species familiarity he is the best contractor for this work. NLW also has the working relationship with EFX (model subcontractor) and understands this specific model and how to calibrate and use the exported model results for the species of interest. NLW has worked with the outputs of this GSFLOW model and EFX on other work similar to this. EFX has the experience working with pre- and post-GSFLOW processors in a commercial environment under fixed time and budget constraints and has been doing this successfully for decades. EFX has developed efficient, cost-effective processors for managing the large datasets and running the modeling scenarios that are required to assess key aspects of the hydrologic cycle for specific projects. Furthermore, EFX completed a modeling project to assess management options for wetland water conditions in an area where seasonally recurring, sub-meter water levels are critical to the survival of an endangered salamander and that project experience is highly similar to this project. Based on the above information and communication with County Hydrologists we feel no other hydrologic team / experts are available to perform this type of detailed analysis and modeling work needed for this project.

• As part of the market research requirements, include a list of statewide contracts reviewed and/or businesses contacted, date of contact, method of contact (telephone, mail, e-mail, other), and documentation demonstrating an explanation of why those businesses could not or would not, under any circumstances, perform the contract; or an

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explanation of why the agency has determined that no businesses other than the prospective contractor can perform the contract.

Based on the above information and communication with County Hydrologists we feel no other hydrologic team / experts are available to perform this type of detailed analysis and modeling work needed for this specific project.

• Per the Supplier Diversity Policy, DES-090-06: was this purchase included in the agency's forecasted needs report?

No

• Describe what targeted industry outreach was completed to locate small and/or veteranowned businesses to meet the agency's need?

Besides confirming with the County Hydrologist this contractors' merits for this type of work, no other targeted outreach was done. WDFW has partnered with NLW on the previous iterations of this project leading up to this model, including in the field data collection with equipment owned and installed by NLW. NLW is a small business whose principal hydrogeologist and sole, full-time employee has worked efficiently with small business partners and multiple public-sector agencies in Thurston County for the past 30-plus years.

• What considerations were given to unbundling the goods and/or services in this contract, which would provide opportunities for Washington small, diverse, and/or veteran-owned businesses. Provide a summary of your agency's unbundling analysis for this contract.

NLW is a small business whose principal hydrogeologist and sole, full-time employee has worked efficiently with small business partners and multiple public-sector agencies in Thurston County for the past 30-plus years. The company's goods and services are focused in scope and skill, and thus do not lend themselves to unbundling.

• Provide a detailed and compelling description that includes quantification of the costs and risks mitigated by contracting with this contractor (i.e. learning curve, follow-up nature).

See the attached draft scope of work tasks and estimated costs (Table 1) that will be refined in discussions with WDFW. Since 2013, NLW has collaborated with WDFW biologists to install data collecting equipment, document and analyze the hydrologic

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conditions that directly impact habitat for the OSF's life cycle. Because of its in-depth understanding of these hydrologic conditions and frog natural history, NLW is the only contractor that can cost-efficiently guide the construction, calibration, and implementation of the model, with input from WDFW biologists. Any other contractor would lack the historical knowledge, familiarity with site data, and deep understanding of the local hydrologic and hydrogeologic conditions to develop the tool that WDFW needs to inform future treatment and site feature alternatives. NLW has intimate knowledge of all 4 sites proposed under this contract and the hydrological problems associated with each location. They are also the only local contractor familiar with the model proposed by EFX and have the working relationship and data familiarity to complete this work in the most efficient, complete and accurate way useful for hydrological restoration efforts. Scope of Work Funded and Amounts for each task: Tasks 1: Characterize existing conditions -\$50,000 Tasks 2: Select and survey monitoring stations as model targets - \$40,000 Tasks 3: Design model grid and develop model input - \$140,000 Tasks 4: Calibrate and run model - \$210,000 Tasks 5: Prepare summary report - \$20,000 Tasks 6: Project management \$50,000

• Is the agency proposing this sole source contract because of special circumstances such as confidential investigations, copyright restrictions, etc.? If so, please describe.

N/A

• Is the agency proposing this sole source contract because of unavoidable, critical time delays or issues that prevented the agency from completing this acquisition using a competitive process? If so, please describe. For example, if time constraints are applicable, identify when the agency was on notice of the need for the goods and/or service, the entity that imposed the constraints, explain the authority of that entity to impose them, and provide the timelines within which work must be accomplished.

Yes. WDFW has seen years of declines in OSF oviposition numbers that are likely related to loss of summer-through-fall aquatic habitat. We believe that analyzing treatment/feature alternatives is indeed time critical and that we must initiate the modeling work as soon as possible – ideally, 2025- 2027, so we can use the modeling results to start planning for on-site hydrologic restoration treatments in summer-fall of 2027 and 2028 for this federally listed species.

• What are the consequences of not having this sole source filing approved? Describe in detail the impact to the agency and to services it provides if this sole source filing is not approved.

No other hydrologic team / experts are available to perform this type of analysis and modeling work. Not having this sole source filing approved would mean WDFW and its partners at the four OSF sites would be left without the best available tool to evaluate



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site treatments and alternatives under climate change scenarios for this federally listed species.

Sole Source Posting

- Sole Source Posting on Agency Website Provide the date in which the sole source posting, the draft contract, and a copy of the Sole Source Contract Justification Template were published on your agency's website.
 - If failed to post, please explain why.
- Provide the date in which the sole source posting, the draft contract, and a copy of the Sole Source Contract Justification Template were published in WEBS.
 - If failed to post, please explain why.
- Were responses received to the sole source posting in WEBS?
 - If one or more responses are received, list name of entities responding and explain how the agency concluded the contract is appropriate for sole source award.

Reasonableness of Cost

• Since competition was not used as the means for procurement, how did the agency conclude that the costs, fees, or rates negotiated are fair and reasonable? Please make a comparison with comparable contracts, use the results of a market survey, or employ some other appropriate means calculated to make such a determination.

Table 2 below shows hourly billing rates for professional services for NLW compared to three other consulting firms that provide services in related areas. NLW: Hydrology, Hydrogeology, Water Resources, Planning Principal or Senior Associate (~30 years of experience): \$195 Senior or Field Professional (~20 years of experience): \$175 Firm 1: Water Resources, Environmental, Geotechnical Principal or Senior Associate (~30 years of experience): \$260 Senior or Field Professional (~20 years of experience): \$175 Firm 2: Water Resources, Quantitative Hydrology Principal or Senior Associate (~30 years of experience): \$343 Senior or Field Professional (~20 years of experience): \$215 Firm 3: Water Resources, Environmental Engineering, Planning Principal or Senior Associate (~30 years of experience): \$296 Senior or Field Professional (~20 years of experience): \$186 We conclude that NLW's rates are both fair and reasonable. These



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rates, combined with NLW's in-depth site knowledge, means project outcomes of higher value per dollar spent, compared to other firms. NLW also uses standard GSA rates for auto mileage, per diem, and a markup of 15% on direct expenses and subcontractors.