

**CONTRACT BETWEEN WASHINGTON CONSERVATION DISTRICT AND CITY OF
SCANDIA FOR TECHNICAL ASSISTANCE**

2012-2013 General Technical Services Program

A. PARTIES

This Agreement is made and entered into by Washington Conservation District, (WCD), and City of Scandia (City).

B. PURPOSE

WHEREAS, the City has requested assistance from the WCD to implement the policies specified in MINN. STAT. § 103A.206; and

WHEREAS, the WCD is authorized to enter agreements to provide such assistance pursuant to MINN. STAT. § 103C.331, SUBD. 3 and 7.

NOW, THEREFORE, the parties agree as follows:

C. TERM OF CONTRACT

The term of this agreement shall be from **October 22, 2012 to December 31, 2013** unless terminated earlier as provided herein.

D. SCOPE OF SERVICES

The WCD will perform all services and furnish and deliver work products generally described in Exhibits A and B, attached and made part of this agreement, when directed by a City representative.

E. COST

In full consideration for services under this agreement, the WCD shall charge the City a fee for its staff services and actual costs for project expenses in accordance with Exhibit A and Exhibit B.

Costs for services for activities detailed in the attached Exhibits include:

Exhibit A: WCA LGU Support - \$2,835

Exhibit B: Zavoral Mine Monitoring, Inspection, and Review Services - \$42,639

Total Agreement: \$45,474

Any additional costs for special studies or capital projects must be set forth in a written amendment to this Agreement.

F. BILLING PAYMENTS

WCD will bill the City for staff services and actual direct project expenses. For fiscal **years 2012-13**, the services provided by the WCD hereunder shall be billed at a maximum rate of \$74 per hour. Invoices will be sent monthly and are payable by the City net 60 days.

G. EQUAL EMPLOYMENT OPPORTUNITY- CIVIL RIGHTS

During the performance of this Agreement, the WCD agrees to the following:

No person shall, on the grounds of race, color, religion, age, sex, disability, marital status, public assistance, criminal record, creed or national origin, be excluded from full employment rights in, be denied the benefits of, or be otherwise subjected to discrimination under any program, service, or activity under the provisions of all applicable federal and state laws against discrimination including the Civil Rights Act of 1964.

If during the term of this Agreement, it is discovered the WCD is not in compliance with the applicable regulations as aforesaid, or if the WCD engages in any discriminatory practices, then the City through the office, may cancel said Agreement as provided by the cancellation clause of this Agreement.

H. STANDARDS

The WCD shall comply with all applicable Federal and State statutes and regulations as well as local ordinances now in effect or hereafter adopted.

Failure to meet the requirements of the above may be cause for cancellation of this contract effective the date of receipt of the Notice of Cancellation.

I. DATA PRIVACY

All data collected, created, received, maintained, or disseminated, or used for any purpose in the course of the WCD's performance of the Agreement is governed by the Minnesota Government Data Practices Act, Minnesota 1984, Section 13.01, et seq., or any other applicable state statutes and state rules adopted to implement the Act, as well as state statutes and federal regulations on data privacy. The WCD agrees to abide by these statutes, rules and regulations and as they may be amended.

J. AUDITS, REPORTS, AND MONITORING PROCEDURES

The WCD will:

1. Maintain records that reflect all revenues, cost incurred and services provided in the performance of the Agreement.
2. Agree that the City, County, the State Auditor, or legislative authority, or any of their duly authorized representatives at any time during normal business hours, and as often as they may deem reasonably necessary, shall have access to the rights to examine audit, excerpt, and transcribe any books, documents, papers, records, etc., and accounting procedures and practices of the WCD which are relevant to the contract.

K. INDEMNITY

The WCD and the City mutually agree, to the fullest extent permitted by law, to indemnify and hold each other harmless for any and all damages, liability or cost (including reasonable attorneys' fees and costs of defense) arising from their own negligent acts, errors or omissions in the performance of their services under this agreement, to the extent each party is responsible for such damages and losses on a comparative basis of fault. Parties agree to provide proof of contractual liability insurance upon request.

L. INDEPENDENT CONTRACTOR

It is agreed that nothing herein contained is intended or should be construed in any manner as creating or establishing the relationship of co-partners between the parties hereto or as

constituting the WCD as the agent, representative, or employee of the City for any purpose or in any manner whatsoever. The WCD is to be and shall remain an independent contractor with respect to all services performed under this Agreement.

The WCD represents that it has, or will secure at its own expense, all personnel required in performing services under this Agreement. Any and all personnel of the WCD or other person, while engaged in the performance of any work or services required by the WCD under this Agreement, shall have no contractual relationship with the City and shall not be considered employees of the City.

M. MODIFICATIONS

Any material alteration or variation shall be reduced to writing as an amendment and signed by the parties. Any alterations, modification, or variations deemed not to be material by agreement of the WCD and the City shall not require written approval.

N. MERGER

It is understood and agreed that the entire agreement of the parties is contained here and that this contract supersedes oral agreements and negotiations between the parties relating to this subject matter. All items referred to in this contract are incorporated or attached and deemed to be part of the contract.

O. TERMINATION

Either the WCD or the City may terminate this Agreement with or without cause by giving the other party thirty (30) days written notice prior to the effective date of such termination. If the City terminates this Agreement without cause, it shall pay to the WCD for services performed up to the date of termination.

IN TESTIMONY WHEREOF the parties have duly executed this agreement by their duly authorized officers.

APPROVED:

CITY

WCD

BY: _____
Mayor Date

BY: _____
Board Chair Date

BY: _____
Clerk Date

BY: _____
WCD Manager Date

EXHIBIT A
2013 SCOPE OF SERVICES FOR THE CITY OF SCANDIA
TECHNICAL SERVICES AGREEMENT
BETWEEN THE WASHINGTON CONSERVATION DISTRICT (WCD) AND
CITY OF SCANDIA (City)

At the request of the City the WCD shall furnish the following services under the terms of the AGREEMENT.

Local Government Unit (LGU) administration of Wetland Conservation Act (WCA)

TASK 1. Technical assistance

The WCD will review wetland related applications as per Mn Rule 8420 (e.g. no loss, exemption, boundary/type, replacement plan, sequencing, banking) and review monitoring reports for authorized wetland impacts and mitigation areas.

- Estimate: 8 hrs/application x 2 applications = 16 hours

TASK 2. Administrative assistance

The WCD will process wetland related applications, following the LGU procedures described in the WCA. This includes mailing of application notices, consolidation of public comments, preparation of TEP reports, preparation of Findings of Facts, and mailing of decision notices. The WCD will make the decision on applications on behalf of the City, consult the City, or defer the final decision to the City Council, as per City of Scandia Resolution No. 04-20-10-05. Appeal of decisions made by the WCD on the City's behalf will be directed to the City Council.

- Estimate: 12 hrs/application x 2 applications = 24 hours

TASK 3. Miscellaneous Services

The WCD will provide other services, related to wetland permitting or monitoring, at the request of the City. Examples include supplemental construction monitoring, education programs, or pre-application review of City-sponsored projects.

- Estimate: 5 hrs/year

LGU – WCA administration Summary

Estimated 2013 Total: 45 hours @ \$63/hour = \$2,835

This estimate is based on reviewing two wetland applications in 2013. The costs associated with the review of additional applications are not included in this scope and would be billed on an hourly basis at the rate provided above.

EXHIBIT B
2012 (partial) -2013 SCOPE OF SERVICES FOR THE CITY OF SCANDIA
TECHNICAL SERVICES AGREEMENT
BETWEEN THE WASHINGTON CONSERVATION DISTRICT (WCD) AND
CITY OF SCANDIA (City)

At the request of the City the WCD shall furnish the following services under the terms of the AGREEMENT. All tasks related to the proposed Zavoral Mine Conditional Use Permit (CUP) assume the project will operate under its “Preferred Alternative” as described in the project Final Environmental Impact Statement (FEIS). Any significant deviation from the proposed project schedules or work plans may require modifications to this Scope of Services and an amended written agreement between the City of Scandia and the WCD. Additional meetings or tasks that are not specifically included in the tasks below requested by the City, including agents acting on behalf of the City (e.g. engineer or planning consultant), will be billed on an hourly basis at the billing rates per the attached rate table.

Site visits for performing monitoring/data collection tasks have been combined, when feasible, for Technical Services 1-4 to provide a cost savings to the City. A cost for each performing each service independently can be provided in the event that not all services are selected under contract.

Technical Service 1: Surface Water Monitoring

TASK 1. Stream Monitoring Equipment Installation and Data Collection

The water monitoring methods described in this task are procedures that are necessary to determine potential changes to Zavoral’s Creek caused by mining activities in the watershed. Monitoring at an upstream and downstream location in relation to the mine allows us to determine changes in the following: discharge, velocity, stage, turbidity, suspended solids, dissolved oxygen, temperature, conductivity, and pH. Originally, a more simple methodology was planned to include one monitoring location on Middle Creek (stage and discharge only) and only one on Zavoral’s Creek (discharge, stage, and automated sampling). That plan was replaced in favor of having a more intensive monitoring plan where there are two locations on Zavoral’s Creek and no monitoring on Middle Creek. The revised monitoring is detailed below.

The WCD will install stream monitoring equipment at two locations on Zavoral’s Creek: one near the mouth and one at Crystal Springs. Monitoring will occur March-October. The station near the mouth is an existing monitoring station and will track continuous 15-minute stage, discharge, velocity, turbidity, dissolved oxygen (DO), temperature, and conductivity data. An automated sampler will be used to collect stormwater composite samples and grab samples will be collected during baseflow conditions, with a goal of collecting 15 total samples. Samples will be analyzed for total and volatile suspended solids in order to form a correlation between turbidity and suspended solids, so suspended solids results from previous years can be compared to 2013 data. A new monitoring station will be installed at Crystal Springs, and continuous 15-minute stage, discharge, velocity, turbidity, DO, temperature, and conductivity data will be collected. Grab samples will be collected at the same time as when grab samples are collected at the mouth site, and will be analyzed for total and volatile suspended solids. In-stream discharge measurements will be taken at both sites to develop stage-discharge rating curves. Transparency, DO, temperature, conductivity, and pH will be collected in the field at both sites. The Crystal Springs site will be monitored only if access to the location is granted by the private land owner and is physically feasible; otherwise an alternative optimal location further downstream from Crystal Springs will need to be determined based on accessibility.

This task includes the acquisition of the required equipment, including two YSI 6000 series sondes (continuous turbidity, DO, temperature, and conductivity) and one area-velocity meter.

- Data collection & set up: 90 hrs @ 63/hr = \$5,670
 - New equipment cost estimate = \$23,600
 - Water quality sample analysis = \$500
- Total \$29,770**

TASK 2. Water Quality/Quantity Data Analysis & Management

The WCD will perform any necessary procedures to ensure proper data management, including data editing, quality control, storage, and backup. Data will be analyzed and compared to activities within the proposed Zavoral Mine to document any adverse hydrologic effects to the streams.

- Estimate: 85 hrs @ \$63/hr = **\$5,355**

TASK 3. Stream Monitoring Summary Report

The WCD will prepare and submit to the City of Scandia a summary report of the findings of the stream water quality and quantity monitoring. The report will also include summaries and recommendations, if any adverse effects are found that could potentially be caused by mining activities at the proposed Zavoral Mine.

- Estimate: 30 hrs @ \$63/hr = **\$1,890**

Technical Service 1: Surface Water Monitoring Summary
Estimated Total: \$37,015

Technical Service 2: Wetland Boundary Monitoring

TASK 1. On-site review of wetland boundaries

The WCD will coordinate with the Technical Evaluation Panel (TEP), Applicant, and City to conduct an annual field review of the wetland boundaries delineated within the Zavoral Mine project boundary (Wetlands A, B, C as shown in the CCES wetland delineation report dated January 14, 2011). The WCD will prepare and disseminate TEP Findings of Fact summarizing the results and observations of the field review.

The WCD will also review hydrologic monitoring data collected by other City partners and review for changes to the wetland boundaries. A summary technical memorandum will be prepared and submitted to the City with WCD's findings and conclusions.

- Estimate: 12hrs @ \$63/hr = **\$756**

Technical Service 2: Wetland Boundary Monitoring

Estimated Total: \$756

Technical Service 3: Erosion and Sediment Control Inspections

TASK 1. Site Inspection

The WCD will provide site inspections of the proposed Zavoral Mine during times of operation to ensure that erosion/sediment control, stormwater management, and other related requirements are met, as per the project Stormwater Pollution and Prevention Plan (SWPPP) and conditions, if any, of the Conditional Use Permit. Two inspections shall occur on each haul event. The first inspection will be conducted within the first month of initiating mining activities and the final inspection within two weeks of the completion of the activities. Additional inspections shall be at the request of the City and will be billed on an hourly basis. The inspections will verify that stormwater management facilities and erosion/sediment control practices are functioning, are in compliance, and are installed as per the project SWPPP. Any and all violations will be reported to the City for enforcement action, in writing or via email, within 24 hours of observing the site being out of compliance. A summary memo will be submitted to the City on a weekly basis after each inspection

- Estimated 2 site inspections: 2.5 hrs per inspection @ \$74/hr = \$370
 - Prepare and submit 2 summary emails: 2 total hours @ \$74/hr = \$148
- Total \$518**

TASK 2. Annual Inspection Summary Report

The WCD will prepare and submit to the City of Scandia a summary report of the results of the erosion and sediment control inspections. The report will also document any deviations the project may have from its SWPPP or CUP in regards to Erosion and Sediment Control. The report will be prepared upon termination of mining activities in 2013.

- Estimate: 6hrs @ \$74/hr = **\$444**

Technical Service 3: Erosion and Sediment Control Inspections Summary
Estimated Total: \$962

Technical Service 4: Threatened and Endangered Species (T&E)

TASK 1. Review Blanding’s Turtle Documentation and Conduct Site Reviews

The WCD will review Tiller Corporation’s Standard Operating Procedures (SOP) for operations near Blanding’s Turtles. The WCD will provide comments and recommendations, if appropriate, to the City to ensure the SOP meets the requirements of the Blanding’s turtle documentation, as found in Appendix C of the Zavoral Mine FEIS. Site reviews will be conducted, in conjunction with other Technical Services, to verify compliance with the Blanding’s turtle mitigation measures as listed in Appendix C of the Zavoral Mine FEIS.

- Estimated 2 site inspections: 1 hr per inspection @ \$63/hr = \$126
 - Review of Tiller Corp’s Blanding’s Turtle SOP: 4 hrs @\$63/hr = \$252
- Total \$378**

TASK 2. Annual Inspection of Site and Monitor T&E Listing Status of Butternut Tree

The WCD will perform one annual inspection of the Zavoral Mine site. The site inspection will verify the presence of the one disease-free butternut tree within the property. WCD will monitor the potential listing of the butternut on the State’s Threatened and Endangered species list and will notify the City if the tree becomes protected thereby requiring Tiller to implement additional mitigation measures and obtaining a taking permit from the DNR. A summary memo will be submitted to the City summarizing WCD’s findings.

- Estimate: 6 hrs @ \$63/hr = **\$378**

Technical Service 4: Threatened and Endangered Species Summary
Estimated Total: \$756

Technical Service 5: Reclamation Plan Review and Inspection

TASK 1. Review Zavoral Reclamation Plan

The WCD will review the Zavoral Property Reclamation Plan to ensure it meets the requirements of the conditions of an approved conditional use permit and is consistent with the potential mitigation measures as provided in the Zavoral Mine FEIS.

- Estimate: 8 hours @ \$63/hr = **\$504**

TASK 2. Conduct Site Inspections to Verify Implementation of the Restoration Plan

The WCD will perform inspection of the Zavoral Mine site on an as needed basis during implementation of the restoration plan. Since this task will depend on the phasing of the project, timing of the reclamation activities, and schedules of the various mining activities, the cost estimate may be subject to significant changes. This task includes coordinating with the City and Tiller to obtain restoration activity timelines.

- Estimated 4 site inspections: 2 hrs per inspection @ \$63/hr = **\$504**

Technical Service 5: Reclamation Plan Review and Inspection Summary

Estimated Total: \$1,008.00

Technical Service 6: Permit Conditions and Monitoring Protocols

TASK 1. Provide Condition Recommendations

The WCD will review the Zavoral Mine FEIS and provide recommendations for conditions to be included in the CUP based on the potential mitigation measures listed in the FEIS. These recommendations will be provided in a memorandum to the City of Scandia. These recommendations will be submitted on or before November 15, 2012.

- Estimate: 10 hours @ \$63/hr = **\$630**

TASK 2. Develop and Provide Monitoring Protocols

The WCD will develop and provide monitoring protocols for Technical Services 1 and 2, which involve environmental monitoring. These protocols will be provided in technical memorandum format to the City of Scandia. These protocols will be submitted on or before November 15, 2012.

- Estimate: 8 hours @ \$63/hr = **\$504**

Technical Service 6: Permit Conditions and Monitoring Protocols Summary

Estimated Total: \$1,134

Technical Service 7: Conditional Use Permit Review

TASK 1. Review Conditional Use Permit and Provide Technical Assistance

The WCD will review the Zavoral Mine Conditional Use Permit (CUP) and provide technical assistance during the City's review process as it relates to the CUP and the Technical Services as listed in this proposal (1-7). This task includes attending the December 4th Planning Commission Meeting and one City Council meeting with the CUP application on the agenda. This task also includes attending one meeting with City Staff.

- Estimate: 16 hours @ \$63/hr = **\$1,008**

Technical Service 7: Conditional Use Permit Review Summary
Estimated Total: \$1,008