



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

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March 1, 2016

Mayor John Marchione  
City of Redmond  
15670 NE 85<sup>th</sup> St.  
PO Box 97010  
Redmond, WA 98073-9710

**Re: National Estuary Program Watershed Protection and Restoration Grant  
Grant Agreement No. SEANEP-2014-RedmPW-00039  
Project Title: Bear Creek Watershed Restoration and Protection Plan**

Dear Honorable Mayor Marchione:

I am pleased to inform you that the above-referenced Grant Agreement SEANEP-2014-RedmPW-00039 for the Project-Bear Creek Watershed Restoration and Protection Plan has been signed. An original is enclosed for your reference and project files.

The National Estuary Program Watershed Protection and Restoration Grant will provide \$214,914.00 towards the project. We appreciate this opportunity to assist you with financial and technical assistance. Ecology's Shorelands and Environmental Assistance Program's staff located in Bellevue and Lacey are available to assist you with your project.

If you have any questions or need additional information, please call Carrie Byron, Ecology's Project Manager, at (425) 649-4451, email address: [Carrie.Byron@ecy.wa.gov](mailto:Carrie.Byron@ecy.wa.gov) or Kirsten Weinmeister, Ecology's Financial Manager, at (360) 407-6514 or email address: [Kirsten.Weinmeister@ecy.wa.gov](mailto:Kirsten.Weinmeister@ecy.wa.gov).

Sincerely,

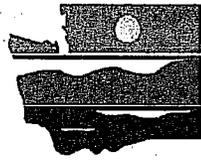
Gordon White  
Program Manager  
Shorelands and Environmental Assistance Program

cc: Carrie Byron, Ecology

Agreement No:  
Project Title:  
Recipient Name:

SEANEP-2014-RedmPW-00039  
Bear Creek Watershed Restoration and Protection Plan  
City of Redmond Public Works

Page 1 of 39



DEPARTMENT OF  
**ECOLOGY**  
State of Washington

## Agreement SEANEP-2014-RedmPW-00039

### SHORELANDS NEP WATERSHED PROTECTION AND RESTORATION GRANT AGREEMENT

BETWEEN THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

City of Redmond Public Works

This is a binding Agreement entered into by and between the State of Washington, Department of Ecology, hereinafter referred to as "ECOLOGY" and City of Redmond Public Works, hereinafter referred to as the "RECIPIENT" to carry out with the provided funds activities described herein.

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#### GENERAL INFORMATION

Project Title:	Bear Creek Watershed Restoration and Protection Plan
Total Cost:	\$1,658,163.00
Total Eligible Cost:	\$214,914.00
Ecology Share:	\$214,914.00
Recipient Share:	\$0.00
The Effective Date of this Agreement is:	04/01/2015
The Expiration Date of this Agreement is no later than	12/29/2017
Project Type:	Improving Land Use Management

#### Project Short Description:

This project is a multijurisdictional effort to evaluate existing conditions in Bear Creek, estimate future conditions with modeling, and select strategies to inform an implementation plan that addresses existing and predicted future ecological conditions so that Bear Creek is restored and protected. Bear Creek is important to the recovery of salmon in WRIA 8 and represents an opportunity where local governments can collaboratively achieve ecological lift in a developed watershed.

#### Project Long Description:

This project will align multiple jurisdictions within the Bear Creek watershed with the focused goal of restoring and protecting Bear Creek into the future. The outcome of this project is critical to the regions understanding of what it will take to protect creeks in urbanized watersheds, and will likely include commitments beyond the standard stormwater and land use regulations that in combination will recover Bear Creek and keep it healthy into the future.

The Bear Creek Watershed Restoration and Protection Project closely follows the "Watershed-based Framework for

Developing and Designing Projects” provided within the 2015 NEP Grant: Solicitation for Proposals to Improve Land Use Management. This project description will discuss the project by each step of the framework.

**Step 1: Identify and define the environmental problem.** Bear Creek has identified environmental problems and possess one of the greatest opportunities we have in WRIA 8 to recovery salmon habitat and protect it into the future. Environmental problems include development pressure, water quality impairments, lowering quantities of returning salmon, erosion of in stream habitat, and BIBI scores that have trended downward.

**Step 2: Identify and gather available watershed-based information.** This project identifies a variety of existing watershed based information and will fund the collection of new data that will help identify additional problems, calibrate the models, and identify solutions. Existing data includes a variety of datasets that depict watershed conditions while new data to be collected will illustrate existing conditions in stream and include hydrologic, water quality, and habitat information.

**Step 3: Integrate and apply watershed based information.** This project will integrate watershed based information using a sophisticated set of calibrated models to predict existing and future conditions as well as predict the ecological response to a set of actions aimed at recovering and protecting Bear Creek.

**Step 4: Develop Solutions and Actions.** This project will use a calibrated models to estimate which combination of solutions will be effective at recovery and protecting Bear Creek. The multi-jurisdictional project team will work together to develop an implementation plan and schedule, to agree on what actions will be taken and when. It's anticipated that a combination of land use planning changes, critical area regulation changes, stormwater retrofits, in stream projects, buffer projects, and custom stormwater design regulations are likely to be included in the suite of tools that will be necessary to recover Bear Creek.

**Step 5: Monitor results, Adaptive Management.** Although not part of this project, an additional project funded by the Stormwater Work Group will perform in stream monitoring to measure our success at protecting and restoring Bear Creek in parallel to this project. The monitoring is anticipated to last for decades and will measure biological, chemical, and hydrologic in stream responses to specific actions as well as overall in stream conditions. The monitoring will use a paired basin study design so that we can fully capture changes associated with our actions.

All deliverables associated with this grant agreement are the same deliverables that will be produced by King County in meeting the NPDES Phase I and Phase II Municipal Stormwater Permit requirements for Woodinville, Redmond, Snohomish County, WSDOT and King County to perform watershed based stormwater management plan for Bear Creek. Any authorized permit compliance changes in scope and schedule in the NPDES Bear Creek work will also occur in this scope of work and schedule.

**Overall Goal:**

This project will demonstrate how effective local jurisdictions are at restoring and protecting a healthy creek within an urbanized watershed. This project will demonstrate if existing stormwater and land use regulations are sufficient for the protection of creeks in urbanized watersheds, and if not, then what additional actions, predicted by a calibrated model, are necessary to recover and protect creeks in urban watersheds. Last, this project will deliver an implementation plan that will create a blue print for the recovery of Bear Creek, including comprehensive land use plan changes, critical area regulation changes, identification of in stream and buffer projects, stormwater retrofits, and stormwater development standards customized to Bear Creek's needs. Bear Creek is critical habitat for the recovery of Chinook salmon in WRIA 8, and an important example for the region to demonstrate our ability to collaboratively work together to restore a creek.

Agreement No: SEANEP-2014-RedmPW-00039  
Project Title: Bear Creek Watershed Restoration and Protection Plan  
Recipient Name: City of Redmond Public Works

**RECIPIENT INFORMATION**

Organization Name: City of Redmond Public Works

Federal Tax ID: 91-6001492

DUNS Number: 022829899

Mailing Address: PO Box 97020  
Redmond, WA, 98073

Physical Address: PO Box 97010  
MS 4NPW

Organization Email: sjhitch@redmond.gov

**Contacts**

<b>Project Manager</b>	Andy Rheume  15670 NE 85th Street, MS 2NPW Redmond, Washington, 98052 Email: ajrheume@redmond.gov Phone: (425) 556-2741
<b>Billing Contact</b>	Gloria Hulskamp Capital and Grant Analyst  15670 NE 85th St. Redmond, Washington, 98052 Email: ghulskamp@redmond.gov Phone: (425) 556-2702
<b>Authorized Signatory</b>	John Marchione Mayor  15670 NE 85th Street Redmond, Washington, 98073 Email: mayor@redmond.gov Phone: (425) 556-2900

**ECOLOGY INFORMATION**

**Mailing Address:** Department of Ecology  
Shorelands  
PO BOX 47600  
Olympia, WA 98504-7600

**Physical Address:** Shorelands  
300 Desmond Drive  
Lacey, WA 98503

**Contacts**

<b>Project Manager</b>	Carrie Byron Project Lead - NEP Watershed Protection and Restoration Grant Program  3190 - 160th Ave. SE Bellevue, Washington, 98008-5452 Email: <a href="mailto:carrie.byron@ecy.wa.gov">carrie.byron@ecy.wa.gov</a> Phone: (425) 649-4451
<b>Financial Manager</b>	Kirsten Weinmeister Financial Manager  P.O. Box 47600 Olympia, Washington, 98504-7600 Email: <a href="mailto:kirw461@ecy.wa.gov">kirw461@ecy.wa.gov</a> Phone: (360) 407-6514
<b>Technical Advisor</b>	Nat Kale Municipal Stormwater Specialist  300 Desmond Drive Lacey, Washington, 98503 Email: <a href="mailto:nkal461@ecy.wa.gov">nkal461@ecy.wa.gov</a> Phone: (360) 407-6000

RECIPIENT agrees to furnish the necessary personnel, equipment, materials, services, and otherwise do all things necessary for or incidental to the performance of work as set forth in the Scope of Work.

RECIPIENT agrees to read, understand, and accept all information contained within this entire Agreement. Furthermore, RECIPIENT acknowledges that they have reviewed the terms and conditions of this Agreement, Scope of Work, attachments, all incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this Agreement.

This Agreement contains the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein.

This Agreement shall be subject to the written approval of Ecology's authorized representative and shall not be binding until so approved.

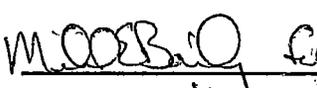
The signatories to this Agreement represent that they have the authority to execute this Agreement.

IN WITNESS WHEREOF, the parties hereby sign this Agreement

Washington State  
Department of Ecology

City of Redmond Public Works

 2/29/16

 2/11/16

Program Manager

Date

John Marchione

Date

Gordon White

Mayor

Shorelands

**SCOPE OF WORK**

Task Number: 1 **Task Cost: \$23,001.00**

Task Title: Project Administration/Management

Task Description:

A. The RECIPIENT will administer the project. Responsibilities will include, but not be limited to: maintenance of project records; submittal of requests for reimbursement and corresponding backup documentation, progress reports and recipient closeout report (including photos); compliance with applicable procurement, contracting, and interlocal agreement requirements; application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items.

B. The RECIPIENT must manage the project. Efforts will include: conducting, coordinating, and scheduling project activities and assuring quality control. Every effort will be made to maintain effective communication with the RECIPIENT's designees; ECOLOGY; all affected local, state, or federal jurisdictions; and any interested individuals or groups. The RECIPIENT must carry out this project in accordance with any completion dates outlined in this agreement.

Task Goal Statement:

Properly managed project that meets agreement and Ecology administrative requirements.

Task Expected Outcome:

- \* Timely and complete submittal of requests for reimbursement, quarterly progress reports and recipient closeout report.
- \* Properly maintained project documentation

Recipient Task Coordinator: Andy Rheaume

**Project Administration/Management**

**Deliverables**

Number	Description	Due Date
1.1	Quality Assurance Project Plan (QAPP) Waiver Form and, if necessary, QAPP	12/30/2015
1.2	Payment Requests/Progress Reports	01/30/2016
1.3	Recipient Closeout Report	12/01/2017
1.4	Semi Annual FEATS FORM	05/15/2016

**SCOPE OF WORK**

Task Number: 2 Task Cost: \$58,600.00

Task Title: Assessment of Existing Conditions

Task Description:

This task will synthesize existing environmental data, including: water quality, in stream flow data, benthic macroinvertebrate data, and aquatic community assessments previously performed within the Bear Creek watershed. In addition, this task includes collecting new data that will fill gaps in existing data, provide a current assessment of existing conditions, and collect new data necessary to inform the modeling (task 3). New water quality data collected will include continuous temperature collected at 13 locations for 12 months. Water quality grab samples will be collected at 14 locations. The grab samples will include collecting 6 base flow samples and 6 storm samples at each of the 14 grab sample locations, although the number of locations and samples may change due to unforeseen circumstances. Samples will be tested in a lab for fecal coliform bacteria, total and dissolved copper, total and dissolved zinc, hardness, and total suspended solids. Continuous flow gaging data will be collected at 12 locations for 12 months. Benthic macroinvertebrate samples will be collected twice at 29 targeted locations, however site conditions may prohibit collection at any or all of these 29 locations.

Although some of the monitoring will have occurred prior to Ecology approval of the QAPP, much of the monitoring will have not occurred. We are fully aware that data collected prior to QAPP submittal is not eligible for grant funding, but we anticipate a large portion of the monitoring will be eligible.

Task Goal Statement:

This task will provide a detailed view of the ecological conditions in Bear Creek. It will do so by synthesizing the extensive existing data collected in Bear Creek over the recent decades and supplement that data with new data. The new hydrology data will allow for calibration of the hydrology model. The collected water quality and benthic macroinvertebrate data will be used to inform the model (see task 4). New data is necessary as critical gaps in existing data exist as well as the necessity to have a holistic and current understanding of in stream conditions throughout the watershed.

Task Expected Outcome:

The outcome of this task will be a Water Quantity and Quality Report that will inform the project of existing conditions. This task will inform and calibrate the model (see task 4) with real world current information about hydrology, water quality, and habitat within Bear Creek. This task will also identify locations of good habitat in Bear Creek and locations that need improvement (in stream and buffer projects) to realize the ecological lift desired as the future outcome of this project. The habitat information will be included in the reporting described in task 2. All reports will be reviewed by expert stakeholders and the schedule has been established to allow for Ecology review.

Recipient Task Coordinator: Andy Rheume

**Assessment of Existing Conditions**

**Deliverables**

Number	Description	Due Date
2.1	Water Quantity and Quality Report	12/29/2017

Agreement No: SEANEP-2014-RedmPW-00039  
Project Title: Bear Creek Watershed Restoration and Protection Plan  
Recipient Name: City of Redmond Public Works

## SCOPE OF WORK

Task Number: 3 Task Cost: \$4,438.00

Task Title: Mapping

### Task Description:

Data will be collected and a series of maps will be prepared documenting watershed conditions. These maps will focus on the types of information necessary for construction of a continuous rainfall/runoff hydrologic and water quality model of the watershed. Maps to be developed will include, at a minimum:

Soil types - will be based on GIS data available from United States Geological Survey (USGS), Natural Resources Conservation Service (NRCS), University of Washington, Snohomish County, and King County.

Land use and Land Cover - two sources of mapping data applicable for this watershed planning effort include University of Washington (2007), and National Land Cover Database (2011) are available for use.

Impervious land cover - mapping data (2009) is available to provide guidance during the determination of fractions of impervious surface for a given land use category.

Slope of landscape - generated from LiDAR based digital ground model elevations.

Stormwater Infrastructure - provided by each of the collaborating agencies.

Catchment delineations - generated from LiDAR data and adjusted by stormwater infrastructure mapping. catchments will be roughly 200 acres in size, with outfall specific catchment delineations for specific portions of the watershed. Catchment sizes may be bigger or smaller depending on storm network mapping and identified significant hydraulic controls (e.g., stormwater detention ponds). Identified stormwater facilities will be individually evaluated for either explicit integration into the watershed models or as part of an aggregate conceptual storage routing in the catchments.

This tasks report will include documentation of data sets created for this project, maps of spatial data, and reporting for the aquatic assessment performed in task 2.

### Task Goal Statement:

This task will collect all data required to inform the project of Bear Creeks watershed conditions, what is currently anticipated for future watershed conditions, and will create watershed wide datasets necessary for modeling the watershed.

### Task Expected Outcome:

This task will result in a portfolio of maps and spatial data depicting the Bear Creek watershed's existing conditions and future conditions. The data will complement the data collected to demonstrate in stream conditions (task 2). This task will also produce the data needed to create the HSPF model that will be used to estimate current conditions and future conditions.

Recipient Task Coordinator: Andy Rheaume

**Mapping**

**Deliverables**

Number	Description	Due Date
3.1	Maps and supporting spatial data documentation	10/30/2016

## SCOPE OF WORK

Task Number: 4 Task Cost: \$16,838.00

Task Title: Watershed Model Development and Calibration

### Task Description:

The relationship between land use and land cover, soil types, slope, stormwater management, weather, and stream flow and water quality in the watershed area will be modeled using Hydrologic Simulation Program – Fortran (HSPF). The model will be calibrated at minimum for stream flow, temperature, dissolved copper, dissolved zinc, and fecal coliform bacteria. Calibration will occur at locations where data collected in Task 2 occurred.

Priority during calibration will be given to mainstem stations. Tributary monitoring locations will be used for guidance during the calibration process. Statistics characterizing model accuracy will be applied using each monitoring locations data as appropriate and may include: root-mean-square-error, Pearson correlations, coefficient of determination, relative percent differences, and mean and absolute errors. Metrics used for these statistics may include: annual and seasonal volumes, monthly, daily, and hourly simulated flow rates.

Simulated average hourly water quality concentrations will be compared to instantaneous observed concentrations. Further guidance during water quality calibration will be simulating annual loading rates and comparing those to results (where applicable) from other studies in the region, then secondarily to studies conducted nationally.

Multiple flow metrics derived from the model output will be used to estimate the hydrologic limitations to benthic index of biologic integrity (BIBI). Metrics used will be based on recent studies conducted in the region by King County (2012) and Horner (2013). The anticipated three metrics used to project BIBI scores are: high pulse counts, high pulse range, and PEAK:BASE, as developed in the Horner (2013) study. Two of the three metrics (high pulse counts and high pulse range) had the highest correlations among eight significant relationships defined in DeGasperi et al. (2009). Evaluating the watershed model accuracy simulating BIBI scores, projected BIBI scores will be based on the best fit of the regressions defined by Horner (2013).

HSPF model will be entered into SUSTAIN for hydraulic analysis and treatment train design. SUSTAIN model will also be calibrated with data collected in Task 2.

### Task Goal Statement:

The goal of this task is to build a calibrated model that accurately depicts the watershed's characteristics and in stream environment. The model will simulate hourly water quality concentrations, volumes, flow rates, high pulse count, high pulse range, and PEAK:BASE. This task will also utilize SUSTAIN, a USEPA model that allows for hydraulic analysis and stormwater runoff treatment (flow and water quality) train optimization.

### Task Expected Outcome:

Calibrated HSPF model for the Bear Creek Watershed and a calibrated SUSTAIN model of the Bear Creek Watershed. Technical review of deliverables will be done by expert stakeholders. Ecology review and comment on deliverables has been included in schedule for this task.

Recipient Task Coordinator: Andy Rheume

**Watershed Model Development and Calibration**

**Deliverables**

Number	Description	Due Date
4.1	Calibrated HSPF Model	06/30/2016
4.2	SUSTAIN Model	09/30/2016

**SCOPE OF WORK**

Task Number: 5 Task Cost: \$3,877.00

Task Title: Historic and Future Conditions Modeling

Task Description:

Using the calibrated hydrologic and water quality watershed model, and relationships between flow metrics and BIBI, watershed condition will be assessed under a minimum of two scenarios:

1. idealized fully-forested conditions intended to be representative of undisturbed historic conditions; and,
2. full build-out under existing or proposed comprehensive land use management plan(s) for the watershed. Simulated future projections will include a baseline condition assuming no retrofits will occur to existing stormwater infrastructure projected to remain unchanged in the future.

Hydrologic response units (HRUs) defining types of land cover (e.g., impervious surfaces, grass, forest, etc.) for a given land use (e.g., low/medium/high density residential, commercial/industrial, etc.) will be based on previous studies conducted in the region (e.g., King County 2012, King County 2014 ).

Rainfall runoff, water temperature, and pollutant loading rates resultant from the watershed model calibration process (Task 4) will be used as a basis for historical and future land use modeling scenarios. If during the watershed planning process new pollutant loading estimates become available from other more recent studies, they will be reviewed, but not necessarily included in this planning effort.

Stream flow, dissolved copper, dissolved zinc, temperature, and fecal coliform results will be compared to Washington State water quality standards, where possible.

Task Goal Statement:

The goal of this task is to estimate in stream conditions based on a forested, undeveloped, watershed. ANother goal of this task is to estimate in stream conditions into the future based on a "business as usual" scenario. The business as usual scenario will assume development/redevelopment will occur as designed in the comprehensive plans across all jurisdictions. This scenario also assumes stormwater infrastructure will be designed and installed based on current regulations.

Task Expected Outcome:

One model output representing historical conditions and one model output representing future conditions based on existing stormwater regulations and comprehensive plans. Model assumptions will be reviewed by technical staff in each jurisdiction and Ecology. Time for review and comment on deliverables has been included in the project schedule.

Recipient Task Coordinator: Andy Rheume

**Historic and Future Conditions Modeling**

**Deliverables**

Number	Description	Due Date
5.1	Modeling results and documentation for inclusion in final report	09/30/2016

Agreement No:  
Project Title:  
Recipient Name:

SEANEP-2014-RedmPW-00039  
Bear Creek Watershed Restoration and Protection Plan  
City of Redmond Public Works

## SCOPE OF WORK

Task Number: 6 Task Cost: \$20,207.00

Task Title: Evaluation of Stormwater Management Strategies

### Task Description:

Improved stormwater management strategies will be assessed if water quality standards are modeled to not be met under future conditions in Task 5. The stormwater management strategies will be assessed relative to their modeled ability to allow for future water quality standards to be met, using the same hydrologic metrics, water quality parameters, and BIBI scores as used in Task 5.

Stormwater management strategies will be assessed using a combination of modeling techniques. Strategies will be assessed relative to how well they are projected to restore stream flow and water quality to being supportive of beneficial uses. The calibrated watershed HSPF model and the USEPA's System for Urban Stormwater Treatment and Analysis Integration (SUSTAIN) will both be used to assess effectiveness of stormwater management strategies. Stormwater strategies to be assessed will include:

1. changes to development-related codes, rules, standards, and plans
2. potential future structural stormwater control projects

Examples of sources expected to be used to help define effectiveness for individual types of stormwater facilities include: Stormwater Management Manual for Western Washington (2012), King County Stormwater Management Manual (2009), outcomes from Stormwater Retrofit Analysis and Recommendations for Juanita Creek (2012), outcomes from Stormwater retrofit planning project for Green River Watershed (2013, 2014), Western Washington Continuous Simulation Hydrology Model (2012), and other case studies applying SUSTAIN to watersheds in the Puget Sound Watershed.

Strategies will be developed that address which types of land cover should receive stormwater mitigation, and the types and amounts of stormwater mitigation different land covers should receive. Stormwater management strategies evaluated may also include:

1. Basin-specific stormwater control requirements for new development and redevelopment.
2. Strategies to encourage redevelopment and infill, and an assessment of options for efficient, effective runoff controls for redevelopment projects, such as regional facilities, in lieu of individual site requirements.
3. Retrofits of existing stormwater infrastructure projected to remain unchanged in the future.

### Task Goal Statement:

The goal of this task is to establish a set of strategies in addition to current regulations and comprehensive plans that through modeling is predicted to restore and protect Bear Creek into the future.

### Task Expected Outcome:

This task will produce a model supported set of strategies and spatially specific needs to inform the implementation strategy development (task 7). Task deliverables will be vetted with technical staff from all jurisdictions, from multiple disciplines. Ecology will also be involved in providing technical review and the schedule accommodates review and comment from all stakeholders.

**Recipient Task Coordinator:** Andy Rheaume

**Evaluation of Stormwater Management Strategies**

**Deliverables**

<b>Number</b>	<b>Description</b>	<b>Due Date</b>
6.1	Documentation describing the strategies selected. Documentation for inclusion in the implementation plan (task 7)	02/24/2017

**SCOPE OF WORK**

Task Number: 7 Task Cost: \$12,785.00

Task Title: Implementation Plan and Schedule

Task Description:

Based on the stormwater strategies evaluated in Task 6, an implementation plan and schedule will be developed. The implementation plan and schedule will identify potential future actions to implement the identified stormwater management strategies, responsible parties, estimated costs, and potential funding mechanisms.

Cost estimates will be based on recent studies conducted (e.g., Stormwater retrofit planning project for Green River Watershed ) in the Puget Lowlands. Past stormwater mitigation and retrofit projects implemented by local jurisdictions in or near the study area may also be used to improve accuracy in cost estimates.

The potential for future redevelopment activities to construct and/or fund stormwater mitigation will be assessed (e.g., in-lieu stormwater impact fee). A near-term stormwater project list will be developed for the watershed.

Task Goal Statement:

The goal of this task is to develop a multijurisdictional agreed upon implementation plan and schedule.

Task Expected Outcome:

The implementation Plan to restore and protect Bear Creek. The implementation plan is a permit requirement and as such the schedule has included the review and comment on the implementation plan by Ecology. The stakeholder group will have technical input from each local jurisdiction.

Recipient Task Coordinator: Andy Rheume

**Implementation Plan and Schedule**

**Deliverables**

Number	Description	Due Date
7.1	Implementation Plan and schedule for inclusion in the final report	04/28/2017

**SCOPE OF WORK**

Task Number: 8 Task Cost: \$33,363.00

Task Title: Public Involvement

Task Description:

This task will incorporate input from stakeholders during the life of the project. Stakeholders will be informed of project status and input opportunities via a combination of web site updates, email updates, and project workshops. It is anticipated that public outreach will occur on an annual basis, culminating with a solicitation of comments on a draft watershed-scale stormwater plan in 2017.

This task will include presentation of project findings to interested parties, such as the WRIA 8 Chinook Salmon Recovery Implementation and Technical Committees, APWA Stormwater Managers, and the South Central LIO.

Task Goal Statement:

The goal of this task is to allow for public input and involvement in the project so that the outcome is vetted with stakeholders.

Task Expected Outcome:

Annual public meetings, stakeholder workshops, multiple website and email updates.

Recipient Task Coordinator: Andy Rheaume

**Public Involvement**

**Deliverables**

Number	Description	Due Date
8.1	Meeting summaries and copies of sign in sheets	12/29/2017
8.2	Copies of all public communications	12/29/2017

**SCOPE OF WORK**

Task Number: 9 Task Cost: \$41,805.00

Task Title: Final Report

Task Description:

The Final Report will summarize the project and include deliverables from all other tasks. This includes an existing conditions summary and associated maps (task 2), mapping of watershed conditions (task 3), watershed model documentation and outputs (tasks 4 and 5), the model supported selection of watershed restoration and stormwater strategies (task 6), the implementation plan and schedule (task 7), and a summary of public involvement efforts (task 8). Outside of this grant application, the projects success will be measured by the Stormwater Work Groups Paired Basin Effectiveness Study that is designed to allow for adaptive management and measurement of in stream responses to actions identified in this final report. The final plan will likely be revisited in over a decade to asses if the plan is working to restore and protect Bear Creek.

Task Goal Statement:

The goal of this task is to produce a final summary report

Task Expected Outcome:

Final Report. The final report will be reviewed by technical staff from multiple disciplines from each jurisdiction. In addition, the schedule has been established to allow for Ecology to review and comment.

Recipient Task Coordinator: Andy Rheume

**Final Report**

**Deliverables**

Number	Description	Due Date
9.1	Final Report	12/29/2017

Agreement No: SEANEP-2014-RedmPW-00039  
 Project Title: Bear Creek Watershed Restoration and Protection Plan  
 Recipient Name: City of Redmond Public Works

**BUDGET**

**Funding Distribution EG160253**

Funding Title: NEP ROUND 5  
 Funding Type: Grant Funding Expiration Date: 12/29/2017  
 Funding Effective Date: 04/01/2015  
 Funding Source:

Title: EPA - Federal  
 Type: Federal  
 CFDA: 66.123

Assistance Agreement:

Description: Grant award from EPA under National Estuary Program - Watershed Protection & Restoration (Project EE08)

Recipient Match %: 0  
 InKind Interlocal Allowed: No  
 InKind Other Allowed: No  
 Is this Funding Distribution used to match a federal grant? No

NEP ROUND 5	Task Total
Assessment of Existing Conditions	\$ 58,600.00
Mapping	\$ 4,438.00
Watershed Model Development and Calibration	\$ 16,838.00
Historic and Future Conditions Modeling	\$ 3,877.00
Evaluation of Stormwater Management Strategies	\$ 20,207.00
Implementation Plan and Schedule	\$ 12,785.00
Public Involvement	\$ 33,363.00
Final Report	\$ 41,805.00
Project Administration/Management	\$ 23,001.00

**Total: \$ 214,914.00**

**Funding Distribution Summary**

**Recipient / Ecology Share**

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
NEP ROUND 5	0.00 %	\$ 0.00	\$ 214,914.00	\$ 214,914.00
<b>Total</b>		<b>\$ 0.00</b>	<b>\$ 214,914.00</b>	<b>\$ 214,914.00</b>

**AGREEMENT SPECIFIC TERMS AND CONDITIONS**

N/A

**SPECIAL TERMS AND CONDITIONS**

**Federal Administrative Conditions**

**1. Cost Principles, and Audit Requirements for Federal Awards**

RECIPIENT agrees to comply with the cost principles Title 2 CFR Part 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

For 2015 awards: Uniform Grant Guidance applies (Also referred to as the Super Circular)

**Definitions-**

- 200.74 For pass-through entity that provides a subaward to a subrecipient to carry out part of a Federal program.
- 200.93 Subrecipient- a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program.
- 200.23 Contractor means an entity that receives a contract.

If federal program statute or regulation differs from Uniform Guidance, then statute/regulation governs. For additional information, see [www.cfo.gov/cofar](http://www.cfo.gov/cofar) Council on Financial Assistance Reform.

**Audit Resolution (200.331(e))**

2 CFR Chapter I, and Chapter II, Parts 200, 215, 220 (A-21), 225 (A-87), and 230 (A-122)

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

Part III OFM 200.718 Federal Register Vol.78, No 248, December 26, 2013.

**2. Hotel-Motel Fire Safety Act**

Pursuant to 40 CFR 30.18, if applicable, and 15 USC 2225a, RECIPIENT agrees to ensure that all space for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended). Sub-Recipient may search the Hotel-Motel National Master List at: <http://www.usfa.dhs.gov/applications/hotel> to see if a property is in compliance (FEMA ID is currently not required), or to find other information about the Act.

**3. Recycled Paper**

**Institutions of Higher Education Hospitals and Non-Profit Organizations**

In accordance with 40 CFR 30.16, the RECIPIENT agrees to use recycled paper and double-sided printing for all reports which are prepared as a part of this Agreement and delivered to EPA. This requirement does not apply to reports

prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration.

#### State Agencies and Political Subdivisions

In accordance with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962) any State agency or agency of a political subdivision of a State which is using appropriated Federal funds shall comply with the requirements set forth. Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchases of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

#### State and Local Institutions of Higher Education and Non-Profit Organizations

In accordance with 40 CFR 30.16, State and local institutions of higher education, hospitals, and non-profit organizations that receive direct Federal funds shall give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to EPA's guidelines.

#### State Tribal and Local Government Recipients

In accordance with the policies set forth in EPA Order 1000.25 and Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management (January 24, 2007). The RECIPIENT agrees to use recycled paper and double sided printing for all reports which are prepared a part of this Agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration.

#### 4. Lobbying

RECIPIENT agrees to comply with Title 40 CFR Part 34, New Restrictions on Lobbying. RECIPIENT shall include the language of this provision in award documents for all sub-awards exceeding \$100,000, and require that sub-awardees submit certification and disclosure forms accordingly.

In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each expenditure.

#### Part 30 Recipients

All contracts awarded by RECIPIENT shall contain, when applicable, the anti-lobbying provisions as stipulated in the Appendix at Title 40 CFR Part 30.

Pursuant to Section 18 of the Lobbying Disclosure Act, RECIPIENT affirms that it is not a non-profit organization described in Section 501(c) (4) of the Internal Revenue Code of 1986; or that it is a non-profit organization described in Section 501(c) (4) of the Code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.

#### Lobbying and Litigation

The chief executive officer of the RECIPIENT agency shall ensure that no grant funds awarded under this Agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The RECIPIENT shall abide by the Uniform Grant Guidance which prohibits the use of Federal grant funds for litigation against the United States or for lobbying or other political activities.

#### 5. Suspension and Debarment

RECIPIENT shall fully comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Responsibilities of Participants Regarding Transaction (Doing Business with Other Persons)." RECIPIENT is responsible for ensuring that any lower tier covered transaction as described in Subpart B of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Covered Transactions", includes a term or condition requiring compliance with Subpart C. RECIPIENT is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. RECIPIENT acknowledges that failing to disclose the information as required at 2 CFR 180.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies, including suspension and debarment.

The RECIPIENT may access the Excluded Parties List System at: <http://www.sam.gov>. This term and condition supersedes EPA Form 5700-49, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters."

#### 6. Drug-Free Workplace Certification

The Recipient organization of this agreement must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title 2 CFR Part 1536 Subpart B. Additionally, in accordance with these regulations, the recipient organization must identify all known workplaces under its federal awards; and keep this information on file during the performance of the award.

Those RECIPIENTS who are individuals must comply with the drug-free provisions set forth in Title 2 CFR Part 1536 Subpart C.

The consequences for violating this condition are detailed under Title 2 CFR Part 1536 Subpart E. Recipients can access the Code of Federal Regulations (CFR) Title 2 Part 1536 at <http://ecfr.gpoaccess.gov>.

#### 7. Management Fees

Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs which are not allowable under this assistance agreement. Management fees or similar charges may not be used to improve or expand the project funded under this Agreement, except to the extent authorized as a direct cost of carrying out the scope of work.

#### 8. Trafficking Victim Protection Act of 2000 (TVPA) as Amended.

To implement requirements of Section 106 of the Trafficking Victims Protection Act of 2000, as amended, the following provisions apply to this award:

a. The Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity: (1) is determined to have violated an applicable prohibition in the Prohibition Statement below; or (2) has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in the Prohibition Statement below through conduct that is either: (a) associated with performance under this award; or (b) imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement)," as implemented by our agency at 2 CFR part 1532. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in the Prohibition Statement below.

b. Our right to terminate unilaterally that is described in paragraph a of this award term: (1) implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and (2) is in addition to all other remedies for noncompliance that are available to us under this award.

c. You must include the requirements of the Prohibition Statement below in any subaward you make to a private entity.

Prohibition Statement – “You as the RECIPIENT, your employees, subrecipients under this award, and subrecipients’ employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or subawards under the award.”

9. DUNS and CCR Requirements (Updated 8/1/12)

A. Requirement for Central Contractor Registration (CCR)/System for Award Management (SAM). Unless you are exempted from this requirement under 2 CFR 25.110, you as the RECIPIENT must maintain the currency of your information in the SAM until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

B. Requirement for Data Universal Numbering System (DUNS) numbers. If you are authorized to make subawards under this award, you:

1. Must notify potential subrecipients that no entity (see definition in the below paragraph C of this award term) may receive a subaward from you unless the entity has provided its DUNS number to you.
2. May not make a subaward to an entity unless the entity has provided its DUNS number to you.

C. Definitions. For purposes of this award term:

1. Central Contractor Registration (CCR)/System for Award Management (SAM) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the System for Award Management (SAM) Internet site <http://www.sam.gov>.

2. Data Universal Numbering System (DUNS) number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).

3. Entity, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:

- a. A Governmental organization, which is a State, local government, or Indian tribe;
- b. A foreign public entity;
- c. A domestic or foreign nonprofit organization;
- d. A domestic or foreign for-profit organization; and
- e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

4. Subaward:

- a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the RECIPIENT award to an eligible subrecipient.
- b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Audits Resolution (200.331(e)).
- c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.

5. Subrecipient means an entity that:

- a. Receives a subaward from you under this award; and
- b. Is accountable to you for the use of the Federal funds provided by the subaward.

## 10. Disadvantaged Business enterprise Requirements

### General Compliance, 40 CFR, Part 33

The RECIPIENT agrees to comply with the requirements of EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements, contained in 40 CFR, Part 33.

### SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR, Section 33.301, the RECIPIENT agrees to make good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. ([http://www.epa.gov/osbp/dbe\\_efforts.htm](http://www.epa.gov/osbp/dbe_efforts.htm)). Records documenting compliance with the six good faith efforts shall be retained.

- (a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- (d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
- (e) Use the services and assistance of the SBA (Small Business Administration) and the Minority Business Development Agency of the Department of Commerce.
- (f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

## 11. CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

The RECIPIENT agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

### Sub-Awards

If RECIPIENT makes sub-awards under this Agreement, the RECIPIENT is responsible for selecting its sub-awardees and, if applicable, for conducting sub-award competitions. RECIPIENT agrees to:

- (a) Establish all sub-award agreements in writing;
- (b) Maintain primary responsibility for ensuring successful completion of the approved project (Sub-Recipient cannot delegate or transfer this responsibility to a sub-awardee).
- (c) Ensure that any sub-awards comply with the standards in Section 210(a)-(d) of OMB Circular A-133, and are not used to acquire commercial goods or services for the sub-awardee.
- (d) Ensure that any sub-awards to 501(c)(4) organizations do not involve lobbying activities;
- (e) Monitor the performance of sub-awardees, and ensure sub-awardees comply with all applicable regulations, statutes, and terms and conditions which flow down in the sub-award;
- (f) Obtain ECOLOGY's consent before making a sub-award to a foreign or international organization, or a sub-award to be performed in a foreign country; and
- (g) Obtain approval from ECOLOGY for any new sub-award work that is not outlined in the approved work plan in accordance with 40 CFR Parts 30.25 and 31.30, as applicable.

## 12. Semi-Annual Performance Reports

Consistent with 40 CFR 35.115 and EPA Order 5700.7, the RECIPIENT will submit performance reports using the

Financial and Ecosystem Accounting Tracking System (FEATS) form every six (6) months during the life of the project. The FEATS form will be provided to the sub-recipient by ECOLOGY's Project Manager. The reporting periods shall end March 31st and September 30th of each calendar year. Reports shall be submitted on or before April 15th and October 15th of each calendar year to ECOLOGY's Project Manager. It is preferred that reports be submitted by electronic mail. In accordance with 40 CFR Part 30.51(d) and 40 CFR Part 31.40, as appropriate, the RECIPIENT agrees to submit performance reports that include brief information on each of the following areas:

- (a) A comparison of actual accomplishments to the outputs/outcomes established in the assistance agreement work plan and sub-awards for the period.
- (b) The reasons for slippages if established outputs/outcomes were not met.
- (c) Additional pertinent information, including when appropriate, analysis and information of cost overruns or high unit costs.

In addition to the semi-annual performance reports, the RECIPIENT shall immediately notify ECOLOGY's Project Manager of developments that have a significant impact on the award-supported activities. In accordance with 40 CFR Part 30.51(f) and 40 CFR Part 31.40(d), as appropriate, the RECIPIENT agrees to inform the ECOLOGY's Project Manager as soon as problems, delays or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the assistance agreement work plan. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

### 13. Funding Recognition

The RECIPIENT must use the following paragraph in all reports, video, documents, and signage developed under this agreement:

"This project has been funded wholly or in part by the United States Environmental Protection Agency under Assistance Agreement PC-J89401 to ECOLOGY. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use."

### 14. Copyrighted Material

In accordance with 40 CFR 31.34 for State, local and Indian Tribal governments or 40 CFR 30.36 for other recipients, EPA has the right to reproduce, publish, use, and authorize others to use copyrighted works or other data developed under this assistance agreement for Federal purposes.

### 15. Peer Review

The results of this project may affect management decisions relating to Puget Sound. Prior to finalizing any significant technical products the Principal Investigator (PI) of this project must solicit advice, review and feedback from a technical review or advisory group consisting of relevant subject matter specialists. A record of comments and a brief description of how respective comments are addressed by the PI will be provided to ECOLOGY's Project Manager prior to releasing any final reports or products resulting from the funded study.

### 16. Riparian Buffers

Riparian buffer restoration projects in agricultural areas shall be consistent with the interim riparian buffer recommendations provided to EPA and the Natural Resource Conservation Service by National Marine Fisheries Service letters dated February 4, 2013 and April 9, 2013, or the October 28, 2013 guidance previously agreed to by Lead Organizations (LOs). The RECIPIENT shall confirm in writing the projects' consistency with the recommendations referenced below. The RECIPIENT will provide information on the extent to which the project includes appropriate riparian buffers or otherwise addresses pollution sources on other water courses on the properties in the project area to support water quality and salmon recovery.

Deviations can only be obtained through an exception approved by EPA. In order for EPA to evaluate a request for an exception, the RECIPIENT must submit to ECOLOGY the scientific rationale demonstrating adequacy of buffers for supporting water quality and salmon recovery. The request must summarize tribal input on the scientific rationale or other relevant issues. The scientific rationale could be developed from sources such as site-specific assessment data, salmon recovery plans, Total Maximum Daily Loads (TMDLs) and the state nonpoint plan. EPA will confer with the National Oceanic and Atmospheric Administration (NOAA) and ECOLOGY and provide the opportunity for affected tribes to consult with EPA before making a final decision on a deviation request.

The interim riparian buffer recommendations are shown in the following table:

**Interim Riparian Buffer Recommendations for Streams in Puget Sound Agricultural Landscapes (Originally proposed as federal Option 3 for the Agriculture Fish and Water (AFW) Process, March 2002)**

**Riparian Buffer Guidance**

October 28, 2013

NMFS Channel Type (1)	Refer to numbers below	Buffer Width (2)
Class I- a. Constructed ditches; fishless streams		35 feet
b. Perennial waters historically unaccessed by anadromous or ESA listed fish species		50 feet
Habitat function/Composition: Water quality protection; shade; sediment filtration		
Class II- fish bearing stable modified natural channel, entrenched or spring fed watercourses that do not move-Supporting site assessment to increase buffer width		100 feet
Habitat function/Composition: Water quality, large woody debris (LWD) for cover, complexity and shade		
Class III- Fish Bearing- unconfined perennial, intermittent, ephemeral historically accessed by anadromous or ESA listed fish- Supporting site assessment to increase buffer width		100 feet
Habitat function/Composition: Water quality, large woody debris (LWD) for cover, complexity and shade		
Class IV- Diked, permanently fixed (3)		N/A
Class V (4)- Fish bearing, intertidal/estuary; perennial, intermittent ephemeral historically by anadromous or ESA listed fish species in intertidal and estuarine streams and channels.		35-75 feet

Supporting site assessment of adjacent land use recommended to increase buffer protections needed to meet all applicable water quality standards.

Habitat function/Composition: Site potential vegetation (salt water) sedges, shrubs, etc.

(1) Fish presence based on Washington's Integrated Fish Distribution database. Fish presence includes all classes of presence of anadromous or ESA listed fish. Where no fish distribution data is available, fish presence must be determined by contacting local Washington Dept. of Fish and Wildlife or Tribal biologist.

(2) Buffer widths are required minimums; however, if a landowner believes that the buffers called for by the table significantly interfere with his/her ability to reasonably use their property, there is a process to identify alternative

buffers that are smaller.

(3) Generally, buffer vegetation is required between the watercourse and dike, based upon the criteria of the corresponding channel type. However, levee vegetation requirements are subject to U.S. Army Corps of Engineers (Corps) guidance which can be found in Engineering Technical Letter No. 1110-2-571, "Engineering and Design: Guidelines for Landscape Planting and Vegetation Management at Levees, Floodwalls, Embankment Dams, and Appurtenant Structures", as well as in the U.S. Army Corps of Engineers "Levee Owner's Manual for Non-Federal Flood Control Works".

(4) Estuarine channels are defined as stream channels having direct, daily tidal influence such that the vegetation is adapted to saltwater or intertidal conditions.

### Ecology Specific Requirements

#### 1. Effective date

The Effective Date of this grant agreement is the date agreed to by ECOLOGY and the RECIPIENT. Any work performed prior to the Effective Date of this agreement will be at the expense and risk of the RECIPIENT. Reimbursement for eligible costs incurred will not be released by ECOLOGY until the grant agreement is signed.

#### 2. Increased Oversight

The RECIPIENT agrees to submit all backup documentation with each payment request submittal. ECOLOGY's Project Manager will establish a schedule for additional site visits to provide technical assistance to the RECIPIENT and verify progress or payment information.

#### 3. Limit on Indirect Rate

To acknowledge overhead costs, the RECIPIENT may charge an indirect rate of up to 25 percent based on employees' direct salary and benefit costs incurred while conducting project-related work. ECOLOGY's Financial Manager may require a list of items included in the indirect rate at any time.

#### 4. Light Refreshments

The RECIPIENT may spend up to \$100 per meeting for light refreshments associated with this project. The total amount spent for light refreshments under this agreement cannot exceed \$400.

#### 5. Equipment Purchase

The total cost of all equipment purchased under this project will not exceed \$1000 without prior approval from ECOLOGY.

#### 6. Requests for reimbursement

The RECIPIENT must submit payment requests and supportive documentation to ECOLOGY's EAGL online system. Payments will be made on a cost reimbursable basis, and are open for six months per billing period.

#### 7. Final Billing and Project Summary Report

The RECIPIENT shall submit final billing and Project Summary Report within thirty (30) days after the expiration date of the project. RECIPIENT shall use the ECOLOGY Project Summary Report format.

#### 8. Quality Assurance and Data Management

Quality Assurance Project Plan (QAPP). Prior to initiating project activities, the RECIPIENT must prepare a Quality

Assurance Project Plan (QAPP) Waiver Form. If ECOLOGY's Quality Control Manager determines that a QAPP is needed, the RECIPIENT must prepare a QAPP. The QAPP must follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies (Guidelines), July 2004 (ECOLOGY Publication No. 04-03-030). The applicant may also reference the Technical Guidance for Assessing the Quality of Aquatic Environments, revised February 1994 (ECOLOGY Publication No. 91-78) or more current revision, in developing the QAPP.

The RECIPIENT must submit the QAPP to ECOLOGY's Project Manager for review and comment. The RECIPIENT must receive written approval of the QAPP by ECOLOGY before starting the activities covered by the QAPP. To find the QAPP Waiver Form and for more information on QAPP requirements, visit:  
<http://www.ecy.wa.gov/programs/eap/qa/docs/NEPQAPP/index.html>.

Accredited Laboratory Testing. The RECIPIENT must use an environmental laboratory accredited by ECOLOGY to analyze water samples for all parameters that require bench testing for analysis. Information on currently accredited laboratories and the accreditation process is provided on ECOLOGY's Environmental Assessment Program website at:  
<http://www.ecy.wa.gov/programs/eap/labs/index.html>.

Data Management Duration. The RECIPIENT should manage all monitoring data collected or acquired under this agreement in order to be available to secondary users and meet the "ten-year rule." The ten-year rule means that data documentation is sufficient to allow an individual not directly familiar with the specific monitoring effort to understand the purpose of the data set, methods used, results obtained, and quality assurance measures taken ten years after data are collected.

Monitoring Data Submittal and Information Management- RECIPIENTS that collect environmental monitoring data must submit all data to EPA using the Storage and Retrieval data system (STORET). Data must be loaded into STORET following instructions on the website at <http://www.epa.gov/STORET>. Final payment requests will be withheld until data has been submitted to STORET.

If Geographic Information System (GIS) data is collected, RECIPIENTS are required to follow ECOLOGY data standards when GIS data are collected and processed as documented at <http://www.ecy.wa.gov/services/gis/data/standards/standards.htm>. RECIPIENTS must submit copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

## 9. Archaeological And Historic Resources Requirements

The RECIPIENT agrees that in no case shall construction activities, ground disturbance, or excavation of any kind, begin until archaeological resource and historic property review is completed.

The RECIPIENT will coordinate with ECOLOGY to make a REASONABLE and GOOD FAITH EFFORT to identify archaeological resources and historic properties within the Area of Potential Effect (APE). ECOLOGY, in consultation with the Washington State Department of Preservation (DAHP), Tribal Historic Preservation Officers (THPOs), and affected parties, will determine if the project might affect historic properties.

The RECIPIENT activities associated with the archaeological resource and historic property review process are an eligible reimbursable cost subject to approval by ECOLOGY. Any soil disturbing activities that occur prior to the completion of this process will not be eligible for reimbursement.

DAHP has provided further guidance that can be accessed online at: <http://www.dahp.wa.gov/>

In the event of an unanticipated discovery during project implementation RECIPIENT SHALL:

**STOP WORK.** If any RECIPIENT employee, contractor or subcontractor believes that he or she has uncovered an artifact, funerary objects, human skeletal material, or historic resource at any point in the project, all work adjacent to the discovery must stop. The discovery location should be secured at all times.

The RECIPIENT is responsible for developing an approved Inadvertent Discovery Plan (IDP). The IDP must be immediately available by request by any party. An IDP must be immediately available and be implemented to address any discovery.

Construction may continue at the discovery location only after the process outlined in the IDP is followed and, DAHP, any affected tribes, ECOLOGY (and federal agencies, if any) determine that compliance with state and federal laws is complete.

RECIPIENT is legally and financially responsible for ensuring compliance with all federal laws, regulations, and agreements related to the protection of historic properties. The RECIPIENT agrees to hold harmless the State of Washington in relation to any claim related to such historical or cultural artifacts discovered, disturbed, or damaged due to the RECIPIENT'S project funded under this agreement.

The RECIPIENT shall require the above provisions to be contained in all contracts for work or services related to the declared SCOPE OF WORK. In no case shall construction activities begin until the RECIPIENT has complied with all provisions of ECOLOGY'S archaeological resource and historic property review process.

#### **GENERAL FEDERAL CONDITIONS**

**If a portion or all of the funds for this agreement are provided through federal funding sources or this agreement is used to match a federal grant award, the following terms and conditions apply to you.**

#### **CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION:**

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department for assistance in obtaining a copy of those regulations..
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled "CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. Pursuant to 2CFR180.330, the RECIPIENT/CONTRACTOR is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.

7. RECIPIENT/CONTRACTOR acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.
8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

**Federal Funding Accountability And Transparency Act (FFATA) Reporting Requirements:**

RECIPIENT must complete the FFATA Data Collection Form (ECY 070-395) and return it with the signed agreement to ECOLOGY.

Any RECIPIENT that meets each of the criteria below must also report compensation for its five top executives, using FFATA Data Collection Form.

- Receives more than \$25,000 in federal funds under this award; and
- Receives more than 80 percent of its annual gross revenues from federal funds; and
- Receives more than \$25,000,000 in annual federal funds

ECOLOGY will not pay any invoice until it has received a completed and signed FFATA Data Collection Form. ECOLOGY is required to report the FFATA information for federally funded agreements, including the required DUNS number, at [www.fsr.gov](http://www.fsr.gov) <http://www.fsr.gov> within 30 days of agreement signature. The FFATA information will be available to the public at [www.usaspending.gov](http://www.usaspending.gov) <http://www.usaspending.gov>.

For more details on FFATA requirements, see [www.fsr.gov](http://www.fsr.gov) <http://www.fsr.gov>.

**GENERAL TERMS AND CONDITIONS**

**1. ADMINISTRATIVE REQUIREMENTS**

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition". <https://fortress.wa.gov/ecy/publications/SummaryPages/1401002.html>
- b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

**2. AMENDMENTS AND MODIFICATIONS**

This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.

### 3. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take reasonable action to avoid, minimize, or mitigate adverse effects to archeological or cultural resources. Activities associated with archaeological and cultural resources are an eligible reimbursable cost subject to approval by ECOLOGY.

RECIPIENT shall:

- a) Immediately cease work and notify ECOLOGY if any archeological or cultural resources are found while conducting work under this Agreement.
- b) Immediately notify the Department of Archaeology and Historic Preservation at (360) 586-3064, in the event historical or cultural artifacts are discovered at a work site.
- c) Comply with Governor Executive Order 05-05, Archaeology and Cultural Resources, for any capital construction projects prior to the start of any work.
- d) Comply with RCW 27.53, Archaeological Sites and Resources, for any work performed under this Agreement, as applicable. National Historic Preservation Act (NHPA) may require the RECIPIENT to obtain a permit pursuant to Chapter 27.53 RCW prior to conducting on-site activity with the potential to impact cultural or historic properties.

### 4. ASSIGNMENT

No right or claim of the RECIPIENT arising under this Agreement shall be transferred or assigned by the RECIPIENT.

### 5. COMMUNICATION

RECIPIENT shall make every effort to maintain effective communications with the RECIPIENT's designees, ECOLOGY, all affected local, state, or federal jurisdictions, and any interested individuals or groups.

### 6. COMPENSATION

- a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.
- b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.
- c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible may require approval by ECOLOGY prior to purchase.
- d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.
- e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.
- f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.
- g) RECIPIENT will receive payment through Washington State Department of Enterprise Services' Statewide Payee Desk. RECIPIENT must register as a payee by submitting a Statewide Payee Registration form and an IRS W-9 form at the website, <http://www.des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>. For any questions about the vendor registration process contact the Statewide Payee Help Desk at (360) 407-8180 or email [payeehelpdesk@des.wa.gov](mailto:payeehelpdesk@des.wa.gov).
- h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.
- i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.
- j) RECIPIENT should submit final requests for compensation within thirty (30) days after the expiration date of this Agreement. Failure to comply may result in delayed reimbursement.

### 7. COMPLIANCE WITH ALL LAWS

RECIPIENT agrees to comply fully with all applicable Federal, State and local laws, orders, regulations, and permits

related to this Agreement, including but not limited to:

- a) RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.
- b) RECIPIENT agrees to be bound by all federal and state laws, regulations, and policies against discrimination.
- c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.
- d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

ECOLOGY shall have the right to immediately terminate for cause this Agreement as provided herein if the RECIPIENT fails to comply with above requirements.

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

#### 8. CONFLICT OF INTEREST

RECIPIENT and ECOLOGY agree that any officer, member, agent, or employee, who exercises any function or responsibility in the review, approval, or carrying out of this Agreement, shall not have any personal or financial interest, direct or indirect, nor affect the interest of any corporation, partnership, or association in which he/she is a part, in this Agreement or the proceeds thereof.

#### 9. CONTRACTING FOR GOODS AND SERVICES

RECIPIENT may contract to buy goods or services related to its performance under this Agreement. RECIPIENT shall award all contracts for construction, purchase of goods, equipment, services, and professional architectural and engineering services through a competitive process, if required by State law. RECIPIENT is required to follow procurement procedures that ensure legal, fair, and open competition.

RECIPIENT must have a standard procurement process or follow current state procurement procedures. RECIPIENT may be required to provide written certification that they have followed their standard procurement procedures and applicable state law in awarding contracts under this Agreement.

ECOLOGY reserves the right to inspect and request copies of all procurement documentation, and review procurement practices related to this Agreement. Any costs incurred as a result of procurement practices not in compliance with state procurement law or the RECIPIENT's normal procedures may be disallowed at ECOLOGY's sole discretion.

#### 10. DISPUTES

When there is a dispute with regard to the extent and character of the work, or any other matter related to this Agreement the determination of ECOLOGY will govern, although the RECIPIENT shall have the right to appeal decisions as provided for below:

- a) RECIPIENT notifies the funding program of an appeal request.
- b) Appeal request must be in writing and state the disputed issue(s).
- c) RECIPIENT has the opportunity to be heard and offer evidence in support of its appeal.
- d) ECOLOGY reviews the RECIPIENT's appeal.
- e) ECOLOGY sends a written answer within ten (10) business days, unless more time is needed, after concluding the review.

The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.

The parties agree that this dispute process will precede any action in a judicial or quasi-judicial tribunal.

Appeals of the Director's decision will be brought in the Superior Court of Thurston County. Review of the Director's decision will not be taken to Environmental and Land Use Hearings Office.

Pending final decision of a dispute, the RECIPIENT agrees to proceed diligently with the performance of this Agreement and in accordance with the decision rendered.

Nothing in this contract will be construed to limit the parties' choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

#### 11. ENVIRONMENTAL STANDARDS

- a) RECIPIENTS who collect environmental-monitoring data must provide these data to ECOLOGY using the Environmental Information Management System (EIM). To satisfy this requirement these data must be successfully loaded into EIM, see instructions on the EIM website at: <http://www.ecy.wa.gov/eim>.
- b) RECIPIENTS are required to follow ECOLOGY's data standards when Geographic Information System (GIS) data are collected and processed. More information and requirements are available at: <http://www.ecy.wa.gov/services/gis/data/standards/standards.htm>. RECIPIENTS shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.
- c) RECIPIENTS must prepare a Quality Assurance Project Plan (QAPP) when a project involves the collection of environmental measurement data. QAPP is to ensure the consistent application of quality assurance principles to the planning and execution of all activities involved in generating data. RECIPIENTS must follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030). ECOLOGY shall review and approve the QAPP prior to start of work. The size, cost, and complexity of the QAPP should be in proportion to the magnitude of the sampling effort.

#### 12. GOVERNING LAW

This Agreement will be governed by the laws of the State of Washington, and the venue of any action brought hereunder will be in the Superior Court of Thurston County.

#### 13. INDEMNIFICATION

ECOLOGY will in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.

To the extent that the Constitution and laws of the State of Washington permit, each party will indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this Agreement.

#### 14. INDEPENDENT STATUS

The employees, volunteers, or agents of each party who are engaged in the performance of this Agreement will continue to be employees, volunteers, or agents of that party and will not for any purpose be employees, volunteers, or agents of the other party.

#### 15. KICKBACKS

RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this Agreement to give up any part of the compensation to which he/she is otherwise entitled to or receive any fee, commission, or gift in return for award of a subcontract hereunder.

#### 16. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

RECIPIENT is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated under this Agreement.

Contract awards or rejections cannot be made based on MWBE participation; however, the RECIPIENT is encouraged to take the following actions, when possible, in any procurement under this Agreement:

- a) Include qualified minority and women's businesses on solicitation lists whenever they are potential sources of goods or services.
- b) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
- c) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
- d) Use the services and assistance of the Washington State Office of Minority and Women's Business Enterprises (OMWBE) (866-208-1064) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

#### 17. ORDER OF PRECEDENCE

In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable federal and state statutes and regulations; (b) The Agreement; (c) Scope of Work; (d) Special Terms and Conditions; (e) Any provisions or terms incorporated herein by reference, including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; and (f) the General Terms and Conditions.

#### 18. PRESENTATION AND PROMOTIONAL MATERIALS

ECOLOGY reserves the right to approve RECIPIENT's communication documents and materials related to the fulfillment of this Agreement:

- a) If requested, RECIPIENT shall provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution.
- b) RECIPIENT shall include time for ECOLOGY's review and approval process in their project timeline.
- c) If requested, RECIPIENT shall provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets with a message, such as a refrigerator magnet, and any online communications, such as web pages, blogs, and twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT shall provide a description (photographs, drawings, printouts, etc.) that best represents the item.

Any communications intended for public distribution that uses ECOLOGY's logo shall comply with ECOLOGY's graphic requirements and any additional requirements specified in this Agreement. Before the use of ECOLOGY's logo contact ECOLOGY for guidelines.

RECIPIENT shall acknowledge in the communications that funding was provided by ECOLOGY.

#### 19. PROGRESS REPORTING

- a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not document timely use of funds.
- b) RECIPIENT must submit a progress report with each payment request. Payment requests will not be processed

without a progress report. ECOLOGY will define the elements and frequency of progress reports.

- c) RECIPIENT shall use ECOLOGY's provided progress report format.
- d) Quarterly progress reports will cover the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.
- e) RECIPIENT shall submit the Closeout Report within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY. RECIPIENT shall use the ECOLOGY provided closeout report format.

## 20. PROPERTY RIGHTS

- a) Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property under this agreement, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to authorize others to use the same for federal, state, or local government purposes.
- b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.
- c) Presentation and Promotional Materials. ECOLOGY shall have the right to use or reproduce any printed or graphic materials produced in fulfillment of this Agreement, in any manner ECOLOGY deems appropriate. ECOLOGY shall acknowledge the RECIPIENT as the sole copyright owner in every use or reproduction of the materials.
- d) Tangible Property Rights. ECOLOGY's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans," shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by ECOLOGY in the absence of state and federal statutes, regulations, or policies to the contrary, or upon specific instructions with respect thereto in this Agreement.
- e) Personal Property Furnished by ECOLOGY. When ECOLOGY provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to ECOLOGY prior to final payment by ECOLOGY. If said property is lost, stolen, or damaged while in the RECIPIENT's possession, then ECOLOGY shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
- f) Acquisition Projects. The following provisions shall apply if the project covered by this Agreement includes funds for the acquisition of land or facilities:
  - a. RECIPIENT shall establish that the cost is fair value and reasonable prior to disbursement of funds provided for in this Agreement.
  - b. RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this Agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses intended by this Agreement.
  - g) Conversions. Regardless of the agreement expiration date, the RECIPIENT shall not at any time convert any equipment, property, or facility acquired or developed under this Agreement to uses other than those for which assistance was originally approved without prior written approval of ECOLOGY. Such approval may be conditioned upon payment to ECOLOGY of that portion of the proceeds of the sale, lease, or other conversion or encumbrance which monies granted pursuant to this Agreement bear to the total acquisition, purchase, or construction costs of such property.

## 21. RECORDS, AUDITS, AND INSPECTIONS

RECIPIENT shall maintain complete program and financial records relating to this Agreement, including any engineering documentation and field inspection reports of all construction work accomplished.

All records shall:

- a) Be kept in a manner which provides an audit trail for all expenditures.
- b) Be kept in a common file to facilitate audits and inspections.
- c) Clearly indicate total receipts and expenditures related to this Agreement.

d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.

RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination.

All work performed under this Agreement and any property and equipment purchased shall be made available to ECOLOGY and to any authorized state, federal or local representative for inspection at any time during the course of this Agreement and for at least three (3) years following grant or loan termination or dispute resolution hereunder.

RECIPIENT shall provide right of access to ECOLOGY, or any other authorized representative, at all reasonable times, in order to monitor and evaluate performance, compliance, and any other conditions under this Agreement.

## 22. RECOVERY OF FUNDS

The right of the RECIPIENT to retain monies received as reimbursement payments is contingent upon satisfactory performance of this Agreement and completion of the work described in the Scope of Work.

All payments to the RECIPIENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this agreement shall be refunded to ECOLOGY by the RECIPIENT.

RECIPIENT shall refund to ECOLOGY the full amount of any erroneous payment or overpayment under this Agreement.

RECIPIENT shall refund by check payable to ECOLOGY the amount of any such reduction of payments or repayments within thirty (30) days of a written notice. Interest will accrue at the rate of twelve percent (12%) per year from the time ECOLOGY demands repayment of funds.

Any property acquired under this Agreement, at the option of ECOLOGY, may become ECOLOGY's property and the RECIPIENT's liability to repay monies will be reduced by an amount reflecting the fair value of such property.

## 23. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared to be severable.

## 24. STATE ENVIRONMENTAL POLICY ACT (SEPA)

RECIPIENT must demonstrate to ECOLOGY's satisfaction that compliance with the requirements of the State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC) have been or will be met. Any reimbursements are subject to this provision.

## 25. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by

## ECOLOGY.

### 26. SUSTAINABLE PRACTICES

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is fully encouraged to implement sustainable practices and to purchase environmentally preferable products under this Agreement.

- a) Sustainable practices may include such activities as: use of clean energy, use of double-sided printing, hosting low impact meetings, and setting up recycling and composting programs.
- b) Purchasing may include such items as: sustainably produced products and services, EPEAT registered computers and imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced packaging, office products that are refillable, rechargeable, and recyclable, and 100% post-consumer recycled paper.

For more suggestions visit ECOLOGY's web page: Green Purchasing, <http://www.ecy.wa.gov/programs/swfa/epp>.

### 27. TERMINATION

#### a) For Cause

ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

**Failure to Commence Work.** ECOLOGY reserves the right to terminate this Agreement if RECIPIENT fails to commence work on the project funded within four (4) months after the effective date of this Agreement, or by any date mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

**Non-Performance.** The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this Agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of ECOLOGY, to perform any obligation required of it by this Agreement, ECOLOGY may refuse to pay any further funds, terminate in whole or in part this Agreement, and exercise any other rights under this Agreement.

Despite the above, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and the State of Washington because of any breach of this Agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

#### b) For Convenience

ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar days prior written notification to the RECIPIENT. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

**Non-Allocation of Funds.** ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to the completion or expiration date of this agreement, ECOLOGY, at its sole discretion, may elect to terminate the agreement, in whole or part, or renegotiate the agreement, subject to new funding limitations or conditions. ECOLOGY may also elect to suspend performance of the agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification or restrictions.

If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to

repay monies which had been paid to the RECIPIENT prior to such termination.

RECIPIENT's obligation to continue or complete the work described in this Agreement shall be contingent upon availability of funds by the RECIPIENT's governing body.

c) By Mutual Agreement

ECOLOGY and the RECIPIENT may terminate this Agreement, in whole or in part, at any time, by mutual written agreement.

d) In Event of Termination

All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the RECIPIENT under this Agreement, at the option of ECOLOGY, will become property of ECOLOGY and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Nothing contained herein shall preclude ECOLOGY from demanding repayment of all funds paid to the RECIPIENT in accordance with Recovery of Funds, identified herein.

28. THIRD PARTY BENEFICIARY

RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this Agreement, the state of Washington is named as an express third party beneficiary of such subcontracts with full rights as such.

29. WAIVER

Waiver of a default or breach of any provision of this Agreement is not a waiver of any subsequent default or breach, and will not be construed as a modification of the terms of this Agreement unless stated as such in writing by the authorized representative of ECOLOGY.

GENERAL TERMS AND CONDITIONS LAST UPDATED 12/25/2015