



## Agreement No. WRSRP-2020-SCUWRS-00044

### WATER RESOURCES STREAMFLOW RESTORATION PROGRAM AGREEMENT

BETWEEN

THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

SPOKANE COUNTY UTILITIES - WATER RESOURCES SECTION

This is a binding Agreement entered into by and between the state of Washington, Department of Ecology, hereinafter referred to as “ECOLOGY,” and Spokane County Utilities - Water Resources Section, hereinafter referred to as the “RECIPIENT,” to carry out with the provided funds activities described herein.

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#### GENERAL INFORMATION

Project Title:	Little Spokane – Eloika Lake Water Storage & Wetland Restoration
Total Cost:	\$600,000.00
Total Eligible Cost:	\$600,000.00
Ecology Share:	\$600,000.00
Recipient Share:	\$0.00
The Effective Date of this Agreement is:	10/06/2020
The Expiration Date of this Agreement is no later than:	12/31/2023
Project Type:	Streamflow Restoration Grants

#### Project Short Description:

The purpose of this project is to conduct the necessary field investigations, technical evaluations, and property owner outreach and coordination to develop final designs and complete permitting for a water level control structure at the outlet of Eloika Lake, and 100 acres of wetland restoration. The outlet control structure will allow for storage and release of approximately 1,400 acre-feet of water to increase flows in the West Branch Little Spokane River during periods of critical low flow.

#### Project Long Description:

Eloika Lake is a small, (~700 acres) shallow lake (~16 feet) located in north Spokane County west of State highway 2. It is mostly surrounded by privately owned land with a county park at the north end and an Ecology maintained public access area at the south end. There are residences along the east shoreline, and farms and timberland along the west. During the period of 2007 to 2017 lake levels reached a maximum elevation of 1,907 feet above mean sea level (msl) in

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spring, and did not fall below 1904.77 feet above msl at any time. Eloika is one of several small lakes located on the West Branch Little Spokane River (WBLS), tributary to the Little Spokane River (LSR).

Water availability in the LSR is low and is anticipated to decline over time. Since the LSR Instream Flow rule (WAC 173-555) was adopted in 1976, the 7-day low flow at the USGS gage at Dartford has been below the minimum flow of 115 cubic feet per second (cfs) for 27 out of 43 years, and since 1947 has been showing a declining trend. The projected impacts of climate change is predicted to worsen the problem. Watershed and hydrogeologic modeling show that shifts in snowpack and reduced precipitation from climate change will have a severely detrimental impact on late summer flows with reductions in the range of 10 to 30 cfs. Additionally, new consumptive water use from domestic permit exempt wells in the LSR watershed (WRIA 55) is estimated to be 2,354 acre-feet per year (AFY) by 2038. The Eloika Lake In-Depth Surface Water Storage and Wetland Restoration Feasibility Study, completed in 2009 by PBS&J, found that constructing a water control structure and restoring wetlands at the outlet of Eloika Lake is a viable option for creating downstream flow benefits. This project will result in final design plans for 100 acres of wetland restoration and a control structure at the outlet of the lake to store water for release during critical low flow periods. The RECIPIENT will conduct the necessary field investigations, preliminary design, property owner outreach and coordination, permitting, and final design. The constructed water level control structure will hold the lake level at an elevation of 1,907 msl (the historic natural maximum level) until mid-summer, and then release the water to increase flow in the WBLS.

Additional benefits of this project include enhanced wildlife and aquatic habitat, and improved water quality.

Overall Goal:

This project will determine if and how the Eloika Lake Storage project can be implemented to increase flows in the West Branch Little Spokane River and the Little Spokane River during periods of critical low flow, and to offset future permit exempt domestic use within the WRIA 55 watershed.

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**RECIPIENT INFORMATION**

Organization Name: Spokane County Utilities - Water Resources Section

Federal Tax ID: 91-6001370

DUNS Number: 010205078

Mailing Address: 1004 N Freya St  
Spokane, WA 99202

Physical Address: 1004 N Freya St  
Spokane, Washington 99202

Organization Email: [mhermanson@spokanecounty.org](mailto:mhermanson@spokanecounty.org)

**Contacts**

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<b>Project Manager</b>	Mike Hermanson Water Resources Manager  1004 N. Freya St. Spokane, Washington 99202 Email: mhermanson@spokanecounty.org Phone: (509) 477-7578
<b>Billing Contact</b>	Lauri Clift  1004 N Freya St Spokane, Washington 99202 Email: lclift@spokanecounty.org Phone: (509) 477-7578
<b>Authorized Signatory</b>	Scott Simmons Chief Executive Officer  1116 W. Broadway Avenue Spokane, Washington 99260-2052 Email: ssimmons@spokanecounty.org Phone: (509) 477-2600

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 Recipient Name: Spokane County Utilities - Water Resources Section

**ECOLOGY INFORMATION**

Mailing Address: Department of Ecology  
 Water Resources  
 PO BOX 47600  
 Olympia, WA 98504-7600

Physical Address: Water Resources  
 300 Desmond Drive SE  
 Lacey, WA 98503

**Contacts**

<p><b>Project Manager</b></p>	<p>Brandy Reynecke</p> <p>4601 N Monroe Street                  Spokane, Washington 99205-1295                  Email: <a href="mailto:brey461@ecy.wa.gov">brey461@ecy.wa.gov</a>                  Phone: (509) 329-3421</p>
<p><b>Financial Manager</b></p>	<p>Alvin Josephy</p> <p>PO Box 47600                  Olympia, Washington 98504-7600                  Email: <a href="mailto:ajos461@ecy.wa.gov">ajos461@ecy.wa.gov</a>                  Phone: (360) 407-6456</p>

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**AUTHORIZING SIGNATURES**

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 this Agreement.

RECIPIENT acknowledges that they had the opportunity to review the entire Agreement, including all the terms and conditions of this Agreement, Scope of Work, attachments, and incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this Agreement. Furthermore, the RECIPIENT has read, understood, and accepts all requirements contained within 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.

No subsequent modifications or amendments to this agreement will be of any force or effect unless in writing, signed by authorized representatives of the RECIPIENT and ECOLOGY and made a part of this agreement. ECOLOGY and RECIPIENT may change their respective staff contacts without the concurrence of either party.

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 and bind their respective organizations to this Agreement.

Washington State  
Department of Ecology

Spokane County Utilities - Water Resources Section

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

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

Mary Verner  
Water Resources  
Program Manager  
Date

Scott Simmons  
Chief Executive Officer  
Date

Template Approved to Form by  
Attorney General's Office

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 Recipient Name: Spokane County Utilities - Water Resources Section

**SCOPE OF WORK**

Task Number: 1 **Task Cost:** \$36,750.00

Task Title: Project Administration

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; the DEPARTMENT; 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: Mike Hermanson

**Project Administration**

**Deliverables**

Number	Description	Due Date
1.1	Payment Request/Progress Reports	
1.2	Recipient Closeout Report	12/31/2023

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Recipient Name: Spokane County Utilities - Water Resources Section

## SCOPE OF WORK

Task Number: 2 **Task Cost: \$5,000.00**

Task Title: Cultural Resources Review

### Task Description:

A. The RECIPIENT shall ensure the following items are completed and provide the associated deliverables to ECOLOGY. The RECIPIENT must approve all materials prior to submitting them to ECOLOGY for acceptance.

B. The RECIPIENT will comply with Governor’s Executive Order (GEO) 21-02 concerning archeological and cultural resources. To initiate cultural resources review the RECIPIENT will:

1. Submit to ECOLOGY a completed Ecology Cultural Resources Review form (ECY 070-537; rev. 9/2020). All submitted materials must conform to the Department of Archeology and Historic Preservation’s Washington State Standards for Cultural Resource Reporting.

2. Submit to ECOLOGY a completed Ecology Inadvertent Discovery Plan (IDP) (ECY 070-560). The RECIPIENT will ensure that all contractors and subcontractors have a copy of the completed IDP prior to and while working on-site. The RECIPIENT will ensure the IDP is immediately available onsite, be implemented to address any discovery, and be available by request by any party.

C. The RECIPIENT and all contractors and subcontractors performing work onsite shall review the following Ecology video prior to proceeding with work onsite: “Inadvertent Discovery of Cultural Resources of Human Remains” (<https://www.youtube.com/watch?v=cV3BppQTx9Q>; 12:44 minutes).

D. The RECIPIENT must receive written notice from ECOLOGY prior to proceeding with any work with potential impacts to cultural resources. Work done prior to written notice to proceed shall not be eligible for reimbursement. This includes geotechnical work.

### Task Goal Statement:

The RECIPIENT will adhere to all Governor’s Executive Order 21-02 requirements as described in the task description.

### Task Expected Outcome:

The project will be implemented in compliance with Washington State Governor’s Executive Order 21-02 concerning archeological and cultural resources.



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Recipient Task Coordinator: Mike Hermanson

### Cultural Resources Review

#### Deliverables

Number	Description	Due Date
2.1	Submit a completed ECY 070-537 form and any supplemental cultural resources documentation to the ECOLOGY Project Manager.	10/31/2021
2.2	Upload the Final Cultural Resources Review Determination Letter to EAGL.	08/31/2022
2.3	Upload to EAGL a completed ECY 070-560 (IDP) form and notify the ECOLOGY	10/31/2021
2.4	Submit an email to the ECOLOGY Project Manager confirming the RECIPIENT and all contractors and subcontractors performing work onsite have viewed the video.	10/31/2021

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## SCOPE OF WORK

Task Number: 3 **Task Cost:** \$21,848.00

Task Title: Stakeholder and Property Owner Outreach

### Task Description:

A. The RECIPIENT will hold public meetings, individual meetings, and direct correspondence with Stakeholders/Property owners before beginning, and after completing the Site Investigations (Task 4) and Technical Studies (Task 5). The outreach information will include:

1. A description of the technical studies the RECIPIENT will conduct and how they will use the data.
2. The results of the studies will be presented to property owners at both individual and public meetings.
3. Solicit stakeholder and property owner input to be incorporated into the development of project designs and operational plans.
4. Discussions about land or easement acquisition opportunities for and negotiations as needed.

The RECIPIENT will invite ECOLOGY to attend the meetings.

B. The RECIPIENT will consult with impacted property owners as the project progresses from initial evaluation through design.

C. The RECIPIENT will acquire access to property for the purpose of site assessment and technical studies. The RECIPIENT will acquire all necessary land owner agreement forms

The RECIPIENT will upload meeting agendas, sign in sheets, meeting summaries, and meeting presentations in the quarterly report following each meeting.

### Task Goal Statement:

Communicate and work collaboratively with stakeholders to receive endorsement of the project.

### Task Expected Outcome:

Stakeholder acceptance of the project and design to meet the needs of the property owners and the streamflow restoration goals of the project.

Recipient Task Coordinator: Mike Hermanson

## **Stakeholder and Property Owner Outreach**

### **Deliverables**

Number	Description	Due Date
3.1	Public Meeting Agendas, Sign in sheets, and meeting summaries	
3.2	Public meeting presentations.	

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## SCOPE OF WORK

Task Number: 4 **Task Cost:** \$155,236.00

Task Title: Site Investigations

### Task Description:

The RECIPIENT will conduct field investigations to assess the lake's hydrology and hydraulics, and to inform project design.

A. The RECIPIENT will prepare and submit to ECOLOGY for approval a Water Resources Quality Assurance Project Plan (QAPP) using the Water Resources Program and Office of Columbia River Grant Special Terms and Conditions Quality Assurance Project Plan (QAPP) Template for Projects Without Water Quality Sampling (PUB 18-11-018). The QAPP must follow the Water Resources Program and Office of Columbia River Grant Special -Terms and Conditions Quality Assurance Project Plan (QAPP) Guidance (PUB 17-11-013). The RECIPIENT must have an approved QAPP signed by both the RECIPIENT and ECOLOGY before any monitoring activity. Any monitoring/data collection conducted before the QAPP receives final approval is not eligible for reimbursement.

B. The RECIPIENT will complete the following, in accordance with the approved QAPP:

- a. Geotechnical investigation of the proposed outlet control structure area, including:
    - i. Completion of at least two borings, drilled to a depth of at least 20 feet.
    - ii. Collection of at least three soil samples in each boring and laboratory analysis to determine key engineering properties.
    - iii. Desktop analysis of available geology maps and other pertinent information.
    - iv. Completion of a geotechnical engineering report to summarize recommendations for construction of an outlet control structure at Eloika Lake.
  - b. Bathymetric survey of the lake to a depth needed to better understand lake storage volumes and inform design of the proposed outlet control structure.
  - c. Topographic survey of the lake's shoreline and areas near the lake's outlet that will be impacted by the proposed control structure and wetland restoration.
  - d. Wetland delineation, including:
    - i. Review of previous wetland reports and mapping;
    - ii. Preparation of a summary of wetland area and functions potentially impacted by project.
    - iii. Review of previous wetland mitigation reports and assessment of whether proposed mitigation is adequate and suitable for the proposed project.
    - iv. Wetland delineation, verified by the Army Corps of Engineers and Ecology, to identify and map wetland extents on the properties at the outlet of Eloika Lake that will be impacted by the project.
      1. Maps must include contours at one foot intervals.
  - e. Spokane County staff will maintain the existing gage at the outlet of Eloika Lake on the West Branch Little Spokane River and will establish and maintain a lake gage.
- C. The RECIPIENT will coordinate with ECOLOGY's Environmental Information Management (EIM) system coordinator to submit all data collected to ECOLOGY's EIM database.

### Task Goal Statement:

The RECIPIENT will collect all necessary data to support technical studies, project design, and permitting.

### Task Expected Outcome:

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This task will provide data and analyses to support completion of technical studies, project design, and project permitting.

Recipient Task Coordinator: Mike Hermanson

### Site Investigations

#### Deliverables

Number	Description	Due Date
4.1	Site Investigations QAPP.	10/31/2021
4.2	Topographic/Bathymetric Survey	04/30/2022
4.3	Geotechnical Engineering Report	08/31/2022
4.4	Wetland Delineation Memorandum	08/31/2022

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## SCOPE OF WORK

Task Number: 5 **Task Cost:** \$118,100.00

Task Title: Technical Studies

### Task Description:

The RECIPIENT will conduct technical studies to support project design and permitting. The technical studies will include:

A. Preliminary Hydrology and Hydraulics Analysis and Report:

- a. Delineation of the lake watershed boundary.
- b. Hydrologic calculations to estimate lake inflows and compare against recorded inflow data.
- c. Completion of hydraulic analysis to estimate flow rates, velocities, and water surface elevations at the lake outlet under both existing and proposed conditions (with the proposed outlet structure).
- d. Completion of hydraulic analysis to evaluate potential impact to downstream water surface elevations. Analysis will evaluate hydraulic conditions from lake outlet to 200 feet downstream of the proposed outlet structure.
- e. Preparation of a report summarizing lake hydrology and hydraulics in a format that will satisfy Ecology Dam Safety Office (DSO) requirements.

B. Preliminary Operations Plan Analysis:

- a. Development of a water balance spreadsheet model to estimate flows to and from the lake on a monthly time step based on estimated inflows and control with the proposed outlet structure.
- b. Preparation of preliminary recommendations for operation of outlet gates and controls.
- c. Preparation of a memorandum summarizing the water balance and operating recommendations.

C. Water Quality Evaluation

- a. Assess the impact of the lake outlet structure on the temperature, dissolved oxygen, and pH of water released from the lake using CE-QUAL-W2 or another approved water quality model. Develop the model using available data from TMDL work and coordinate with Ecology, Spokane County, the Washington Department of Fish and Wildlife, and the Spokane Tribe of Indians in the preparation of the model.
- b. Summarize the results of the water quality (temperature, dissolved oxygen, and pH) modeling in a memorandum.

D. Assess Benefits and Impacts

- a. Evaluate the potential water availability benefits for offsetting permit-exempt domestic consumptive use.
- b. Evaluate benefits and impacts on adjacent landowners, including extent and timing of inundation.
- c. Evaluate and characterize the potential benefits and impacts of the proposed project on instream flows, fish habitat, and fish passage. The evaluation will be based on prior work done to characterize instream flows and fish habitat and passage conditions.
- d. Identify and evaluate wetland benefits and impacts and potential wetland mitigation.
- e. Prepare memorandum summarize potential benefits and impacts of the project in a memorandum.

### Task Goal Statement:

The goal of this task is to complete the technical studies necessary to support preliminary project design, stakeholder and property owner collaboration, final design and permitting.

### Task Expected Outcome:

Completion of technical studies necessary to support preliminary project design, stakeholder and property owner collaboration, final design and permitting.

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Recipient Task Coordinator: Mike Hermanson

**Technical Studies**

**Deliverables**

<b>Number</b>	<b>Description</b>	<b>Due Date</b>
5.1	Preliminary Hydraulics and Hydrology Report	05/31/2022
5.2	Preliminary Operations Plan	06/30/2022
5.3	Water Quality Summary Memorandum	08/31/2022
5.4	Preliminary Benefits and Impacts Memorandum	08/31/2022

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## SCOPE OF WORK

Task Number: 6 **Task Cost:** \$185,306.00

Task Title: Design Plans and Specs

### Task Description:

The RECIPIENT shall ensure the following items are completed and provide the associated deliverables to ECOLOGY. The RECIPIENT must approve all materials prior to submitting them to ECOLOGY for acceptance.

- A. The RECIPIENT will develop a Preliminary Design Report with Preliminary Design Drawings that includes:
- Alternatives analysis.
  - A summary of key findings from the technical studies prepared as part of Task 5.
  - Existing conditions plans (outlet and wetland area).
  - Construction access plan.
  - Site plans (outlet and wetland mitigation area).
  - Outlet control structure plan, outlet control structure sections.
  - Wetland mitigation plans, and wetland mitigation sections.
  - Permitting requirements.
  - Environmental impact analysis.
- B. 60 Percent Design Package. At a minimum, this package must include:
- 60 percent plans, an outline of the technical specifications, engineer's opinion of cost which includes a schedule of eligible costs, and project construction schedule.
  - Responses to comments.
- C. 90 Percent Design Package.
- At a minimum, this package must include 90 percent plans, specifications, engineer's opinion of cost which includes a schedule of eligible costs, and project construction schedule.
  - Responses to comments.
- D. Final Design Package.
- At a minimum, this package must include final plans, specifications, engineer's opinion of cost which includes a schedule of eligible costs, and project construction schedule.
  - Responses to comments.
  - Updated technical study report(s) to reflect the final design of the project, including:
    - Preliminary Hydraulics and Hydrology Report,
    - Preliminary Operations and Maintenance Plan,
    - Water Quality (Temperature) Summary Memorandum,
    - Preliminary Benefits and Impacts Memorandum, and
    - Environmental Permitting Summary Memorandum.

The RECIPIENT will initiate consultation with ECOLOGY's Dam Safety Office during the preliminary design phase of the project in preparation for application for a Dam Construction Permit as part of Task 7, which will be required to construct the project. The RECIPIENT will submit design drawings and other pertinent information to ECOLOGY's Dam Safety Office for review at key design stages to ensure that the design will meet Dam Safety requirements.

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 Recipient Name: Spokane County Utilities - Water Resources Section

**Task Goal Statement:**

The goal of this task is to finalize technical studies, and prepare design reports, design drawings and specifications.

**Task Expected Outcome:**

The expected outcome of this task is a final design package that is ready for bidding and construction.

**Recipient Task Coordinator:** Mike Hermanson

**Design Plans and Specs****Deliverables**

<b>Number</b>	<b>Description</b>	<b>Due Date</b>
6.1	Preliminary Design Report	10/31/2022
6.2	Preliminary Environmental Permitting Summary	10/31/2022
6.3	Response to Preliminary Design Comments	03/31/2023
6.4	60% Design Drawings, Specifications Outline, Opinion of Probable Costs	03/31/2023
6.5	Response to 60% Design Comments	09/30/2023
6.6	90% Design Drawings, Draft Specifications, Opinion of Probable Costs	09/30/2023
6.7	Response to 90% Design Comments	12/31/2023
6.8	Final Design Report, Drawings, Specifications, Opinion of Probable Costs	12/31/2023



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**SCOPE OF WORK**

Task Number: 7 **Task Cost: \$77,760.00**

Task Title: Project Permitting

Task Description:

The RECIPIENT shall ensure the following items are completed and provide the associated deliverables to ECOLOGY. The RECIPIENT must approve all materials prior to submitting them to ECOLOGY for acceptance.

- A. The RECIPIENT will prepare and submit to ECOLOGY State Environmental Policy Act (SEPA) documentation.
- B. The RECIPIENT will apply for, receive, and comply with all required local, state, tribal and federal permits, licenses, easements, or property rights necessary for the project.
- C. Water Right Permit
  - a. Complete water right applications for beneficially using the water supply made available for offset,
  - b. Complete water right applications for reservoir storage water right.
  - c. Prepare draft Reports of Examinations for the project to support Ecology’s processing of the water rights.
- D. Dam Construction Permit
  - a. Initiate consultation with Ecology’s Dam Safety Office during the Preliminary Design Phase.
  - b. Prepare the Dam Construction Permit Application and supporting documentation
  - c. Consult with Ecology’s Dam Safety Office for review of design documents and the Dam Construction Permit Application to secure a Dam Construction Permit for the project.

Task Goal Statement:

The goal of this task is to assess project permitting needs, develop a strategy for project permitting, consult with appropriate permitting entities and prepare permit applications.

Task Expected Outcome:

The expected outcome of this task is a permitting approach that will enable successful project implementation and meet all appropriate regulatory requirements and completed permit applications and associated documentation.

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Recipient Name: Spokane County Utilities - Water Resources Section

Recipient Task Coordinator: Mike Hermanson

## Project Permitting

### Deliverables

Number	Description	Due Date
7.1	Permitting Approach and Strategy Memorandum	08/31/2022
7.2	Completed Permit Applications and Drawings	12/31/2022
7.3	Dam Construction Permit Application	09/30/2023
7.4	Supporting Reports for Dam Construction Permit	09/30/2023
7.5	Water Right Applications	12/31/2022
7.6	Water Rights Reports of Examination	03/31/2023

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**BUDGET**

**Funding Distribution EG220104**

***NOTE:** The above funding distribution number is used to identify this specific agreement and budget on payment remittances and may be referenced on other communications from ECOLOGY. Your agreement may have multiple funding distribution numbers to identify each budget.*

Funding Title: Little Spokane – Eloika Lake Water Storage & Funding Type: Grant  
Funding Effective Date: 10/06/2020 Funding Expiration Date: 12/31/2023

Funding Source:

Title: Watershed Restoration and Enhancement Bond Account

Fund: 366

Type: State

Funding Source %: 100%

Description: To fund projects using tax exempt bonds. Projects include acquiring senior water rights, water conservation, water reuse, stream gaging, groundwater monitoring, and developing natural and constructed infrastructure designed to provide access to new water supplies, with priority given to projects in watersheds developing specified plans and watersheds participating in the defined pilot project.

Approved Indirect Costs Rate: Approved State Indirect Rate: 30%

Recipient Match %: 0%

InKind Interlocal Allowed: No

InKind Other Allowed: No

Is this Funding Distribution used to match a federal grant? No

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<b>Little Spokane – Eloika Lake Water Storage &amp; Wetla</b>	<b>Task Total</b>
Project Administration	\$ 36,750.00
Cultural Resources Review	\$ 5,000.00
Stakeholder and Property Owner Outreach	\$ 21,848.00
Site Investigations	\$ 155,236.00
Technical Studies	\$ 118,100.00
Design Plans and Specs	\$ 185,306.00
Project Permitting	\$ 77,760.00

**Total: \$ 600,000.00**

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### **Funding Distribution Summary**

#### **Recipient / Ecology Share**

<b>Funding Distribution Name</b>	<b>Recipient Match %</b>	<b>Recipient Share</b>	<b>Ecology Share</b>	<b>Total</b>
Little Spokane – Eloika Lake Water Storage & Wetla	0.00 %	\$ 0.00	\$ 600,000.00	\$ 600,000.00
<b>Total</b>		<b>\$ 0.00</b>	<b>\$ 600,000.00</b>	<b>\$ 600,000.00</b>

#### **AGREEMENT SPECIFIC TERMS AND CONDITIONS**

N/A

#### **SPECIAL TERMS AND CONDITIONS**

#### **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.**

#### **A. 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 ECOLOGY 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.

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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.

## B. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) REPORTING

### REQUIREMENTS:

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

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

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

Ecology will not pay any invoices 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.frs.gov](http://www.frs.gov) <http://www.frs.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.frs.gov](http://www.frs.gov) <http://www.frs.gov>.

## C. FEDERAL FUNDING PROHIBITION ON CERTAIN TELECOMMUNICATIONS OR VIDEO SURVEILLANCE SERVICES OR EQUIPMENT:

As required by 2 CFR 200.216, federal grant or loan recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

1. Procure or obtain;
2. Extend or renew a contract to procure or obtain; or
3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment, video surveillance services or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](https://www.govinfo.gov/content/pkg/PLAW-115publ232/pdf/PLAW-115publ232.pdf) <https://www.govinfo.gov/content/pkg/PLAW-115publ232/pdf/PLAW-115publ232.pdf>, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

Recipients, subrecipients, and borrowers also may not use federal funds to purchase certain prohibited equipment, systems, or services, including equipment, systems, or services produced or provided by entities identified in section 889, are recorded in the [System for Award Management \(SAM\)](https://sam.gov/SAM) <https://sam.gov/SAM> exclusion list.

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## GENERAL TERMS AND CONDITIONS

### Pertaining to Grant and Loan Agreements With the state of Washington, Department of Ecology

#### GENERAL TERMS AND CONDITIONS

For DEPARTMENT OF ECOLOGY GRANTS and LOANS

06/24/2021 Version

#### 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/1701004.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. ACCESSIBILITY REQUIREMENTS FOR COVERED TECHNOLOGY

The RECIPIENT must comply with the Washington State Office of the Chief Information Officer, OCIO Policy no. 188, Accessibility (<https://ocio.wa.gov/policy/accessibility>) as it relates to "covered technology." This requirement applies to all products supplied under the Agreement, providing equal access to information technology by individuals with disabilities, including and not limited to web sites/pages, web-based applications, software systems, video and audio content, and electronic documents intended for publishing on Ecology's public web site.

#### 4. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take all reasonable action to avoid, minimize, or mitigate adverse effects to archaeological and historic archaeological sites, historic buildings/structures, traditional cultural places, sacred sites, or other cultural resources, hereby referred to as Cultural Resources.

The RECIPIENT must agree to hold harmless ECOLOGY in relation to any claim related to Cultural Resources discovered, disturbed, or damaged due to the RECIPIENT's project funded under this Agreement.

RECIPIENT shall:

- a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:
    - Cultural Resource Consultation and Review should be initiated early in the project planning process and must be completed prior to expenditure of Agreement funds as required by applicable State and Federal requirements.
- \* For state funded construction, demolition, or land acquisitions, comply with Governor Executive Order 21-02, Archaeological and Cultural Resources.



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- For projects with any federal involvement, comply with the National Historic Preservation Act of 1966 (Section 106).
- b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves field activities. ECOLOGY will provide the IDP form.

RECIPIENT shall:

- Keep the IDP at the project site.
  - Make the IDP readily available to anyone working at the project site.
  - Discuss the IDP with staff, volunteers, and contractors working at the project site.
  - Implement the IDP when Cultural Resources or human remains are found at the project site.
- c) If any Cultural Resources are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.
- Immediately stop work and notify the ECOLOGY Program, who will notify the Department of Archaeology and Historic Preservation at (360) 586-3065, any affected Tribe, and the local government.
- d) If any human remains are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.
- Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, the Department of Archaeology and Historic Preservation at (360) 790-1633, and then the ECOLOGY Program.
- e) Comply with RCW 27.53, RCW 27.44, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting Cultural Resources and human remains.

## 5. ASSIGNMENT

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

## 6. 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.

## 7. 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 require approval by ECOLOGY prior to expenditure.
- 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's Office of Financial Management's Statewide Payee Desk. To receive payment you must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services>. If you have questions about the vendor registration process, you can contact Statewide Payee Help Desk at (360) 407-8180 or email [PayeeRegistration@ofm.wa.gov](mailto:PayeeRegistration@ofm.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.

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j) RECIPIENT must submit within thirty (30) days after the expiration date of this Agreement, all financial, performance, and other reports required by this Agreement. Failure to comply may result in delayed reimbursement.

#### 8. 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 applicable 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.

#### 9. 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.

#### 10. 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.

#### 11. 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.

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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 Agreement will be construed to limit the parties' choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

## 12. ENVIRONMENTAL DATA STANDARDS

a) RECIPIENT shall prepare a Quality Assurance Project Plan (QAPP) for a project that collects or uses environmental measurement data. RECIPIENTS unsure about whether a QAPP is required for their project shall contact the ECOLOGY Program issuing the grant or loan. If a QAPP is required, the RECIPIENT shall:

- Use ECOLOGY's QAPP Template/Checklist provided by the ECOLOGY, unless ECOLOGY Quality Assurance (QA) officer or the Program QA coordinator instructs otherwise.
- Follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030).
- Submit the QAPP to ECOLOGY for review and approval before the start of the work.

b) RECIPIENT shall submit environmental data that was collected on a project to ECOLOGY using the Environmental Information Management system (EIM), unless the ECOLOGY Program instructs otherwise. The RECIPIENT must confirm with ECOLOGY that complete and correct data was successfully loaded into EIM, find instructions at:

<http://www.ecy.wa.gov/eim>.

c) RECIPIENT shall follow ECOLOGY's data standards when Geographic Information System (GIS) data is collected and processed. Guidelines for Creating and Accessing GIS Data are available at:

<https://ecology.wa.gov/Research-Data/Data-resources/Geographic-Information-Systems-GIS/Standards>. RECIPIENT, when requested by ECOLOGY, 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.

## 13. 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.

## 14. 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.

## 15. 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.

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#### 16. 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.

#### 17. 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.

#### 18. 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"; (f) Ecology Funding Program Guidelines; and (g) General Terms and Conditions.

#### 19. 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.

#### 20. PROGRESS REPORTING

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- 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 must submit within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY, all financial, performance, and other reports required by the Agreement and funding program guidelines. RECIPIENT shall use the ECOLOGY provided closeout report format.

## 21. 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:
  1. RECIPIENT shall establish that the cost is fair value and reasonable prior to disbursement of funds provided for in this Agreement.
  2. 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.

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## 22. 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.

## 23. 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.

## 24. 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.

## 25. 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.

## 26. 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.

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## 27. 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, 100% post-consumer recycled paper, and toxic free products.

For more suggestions visit ECOLOGY's web page, Green Purchasing,  
<https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Sustainable-purchasing>.

## 28. 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, except as noted below. 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, although ECOLOGY will make a reasonable attempt to provide notice.

In the event of termination or suspension, ECOLOGY will reimburse eligible costs incurred by the RECIPIENT through the effective date of termination or suspension. Reimbursed costs must be agreed to by ECOLOGY and the RECIPIENT. In no

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event shall ECOLOGY's reimbursement exceed ECOLOGY's total responsibility under the Agreement and any amendments. 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.

29. 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.

30. 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.

End of General Terms and Conditions