



SQUAXIN ISLAND TRIBE

RESOLUTION NO. 20- 10
of the
SQUAXIN ISLAND TRIBAL COUNCIL

WHEREAS, the Squaxin Island Tribal Council is the Governing Body of the Squaxin Island Tribe, its members, its lands, its enterprises and its agencies by the authority of the Constitution and Bylaws of the Squaxin Island Tribe, as approved and adopted by the General Body and the Secretary of the Interior on July 8, 1965;

WHEREAS, under the Constitution, Bylaws and inherent sovereignty of the Tribe, the Squaxin Island Tribal Council is charged with the duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources and rights of the Tribe;

WHEREAS, the Tribe is a federally-recognized Indian Tribe possessing reserved powers, including the powers of self-government;

WHEREAS, the Squaxin Island Tribal Council has been entrusted with the creation of ordinances and resolutions in order to fulfill their duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources of the Tribe;

WHEREAS, the Squaxin Island Tribal Council finds that the regulation of business activities on all lands within the jurisdiction of the Squaxin Island Tribe is essential to the health and welfare of the Squaxin Island Tribe and its members;

WHEREAS, the Squaxin Island Tribe and the Washington Department of Ecology wish to enter into a Water Resources Streamflows Restoration Interim Implementation Grants Agreement to restore streamflows in the Goldsborough Creek watershed;

WHEREAS, the grant agreement contains a limited waiver of sovereign immunity regarding any disputes related to the agreement;

WHEREAS, in order to induce the Department of Ecology to complete and execute the agreement, it is necessary for the Tribal Council to ratify and approve the terms of the agreement; to authorize execution of any and all documents required; to issue a limited waiver of sovereign immunity;

NOW THEREFORE BE IT RESOLVED, that the Squaxin Island Tribal Council hereby agrees to enter into the attached agreement with Washington state Department of Ecology for the Tribe's Natural Resources department to administer and manage the restoration project;

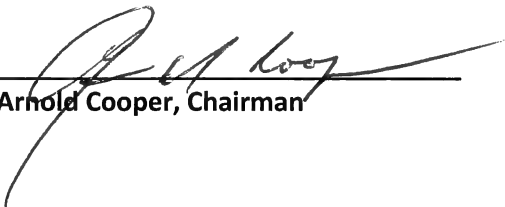
NOW THEREFORE BE IT RESOLVED, the Tribal Council specifically limits its waiver of sovereign immunity for the purposes of this agreement to the limited waiver as stated in the Section titled *Limited Waiver of Sovereign Immunity* on page 13 of this agreement;

Limited Waiver of Sovereign Immunity: The Squaxin Island Tribe, for the purposes of this grant agreement, grants Ecology a limited waiver of sovereign immunity. Such waiver is limited solely to equitable remedies and/or recovery of damages under this agreement up to the Tribe's total grant award during the term of this Agreement. Such waiver is only for administrative and/or Thurston County Superior Court proceedings, is only as to Ecology, and may not be assigned, or otherwise transferred to any third-party.

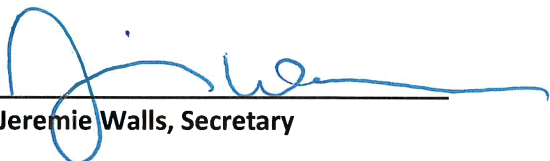
NOW THEREFORE BE IT RESOLVED, that the Tribal Council hereby authorizes the Council Chairman or the Executive Director to do any and all things necessary to effect execution of the Contract.

CERTIFICATION

The Squaxin Island Tribal Council hereby certifies that the foregoing Resolution was adopted at the regular meeting of the Squaxin Island Tribal Council, held on this 12 day of March 2020, at which time a quorum was present and was passed by a vote of 5 for and 0 against, with 0 abstentions.



Arnold Cooper, Chairman

Attested by: 

Jeremie Walls, Secretary

Charlene Krise, Vice Chairman



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

August 16, 2019

Erica Marbet
Squaxin Island Tribe
200 SE Billy Frank Jr. Way
Shelton, WA 98584

RE: Ecology Grant WRSRPPG-2019 SqIs-00029
Streamflow Restoration Project Implementation Grant

Dear Erica;

I have enclosed a fully signed copy of Ecology Grant WRSRPPG-2019 SqIs-00029 between the Department of Ecology and the Squaxin Island Tribe for your files. This grant is for **Streamflow Restoration Interim Implementation Grants 2019**.

If you have any questions please call me at (360) 407-6456 or email me at ajos461@ecy.wa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Alvin Josephy".

Alvin Josephy
Contracts

cc: Angela Johnson (ECY)
Contract Files





DEPARTMENT OF
ECOLOGY
State of Washington

Agreement No. WRSRP-2019-SqIsTr-00029

**WATER RESOURCES STREAMFLOW RESTORATION INTERIM IMPLEMENTATION GRANTS
AGREEMENT**

BETWEEN

THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

SQUAXIN ISLAND TRIBE

This is a binding Agreement entered into by and between the state of Washington, Department of Ecology, hereinafter referred to as "ECOLOGY," and Squaxin Island Tribe, hereinafter referred to as the "RECIPIENT," to carry out with the provided funds activities described herein.

GENERAL INFORMATION

Project Title:	Goldsborough Streamflow Restoration Project
Total Cost:	\$520,000.00
Total Eligible Cost:	\$520,000.00
Ecology Share:	\$520,000.00
Recipient Share:	\$0.00
The Effective Date of this Agreement is:	01/01/2019
The Expiration Date of this Agreement is no later than:	12/31/2020
Project Type:	Streamflow Restoration Grants

Project Short Description:

This project aims to restore streamflows in the Goldsborough Creek watershed. This creek is within Water Resource Inventory Area (WRIA) 14, a priority basin under RCW 90.94. Goldsborough Creek is also designated habitat for Endangered Species Act (ESA)-listed winter steelhead.

This project will design and construct infrastructure projects that will decrease well pumping and redirect reclaimed water into the ground to benefit groundwater and ultimately surface water of the creek.

Project Long Description:

The current state of water use in the Goldsborough watershed is visualized in Figure 1 and Table 1 (in uploads). Potable water wells in the watershed are used by the City of Shelton, other Group A and B wells (including that of the Washington Corrections Center (WCC)), and hundreds of rural permit-exempt wells, domestic and other. Wastewater from the Shelton area is mainly processed by the City's Fairmont wastewater treatment plant and discharged directly to

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Project Title Goldsborough Streamflow Restoration Project
Recipient Name Squaxin Island Tribe

Oakland Bay (1.3 million gallons per day). Another 213,000 gallons per day mainly from WCC are processed at the City's satellite wastewater treatment plant near Hwy 101 and the airport (Sanderson Field). The satellite plant treats wastewater to reclaimed status and then transports and applies it to timber stands north of Dayton Airport Road. This is beneficial to North Fork Goldsborough Creek, but it does not offset the pumping deficit to North Fork Goldsborough that is created by WCC well pumping (deficit is 129,000 gallons per day). The project tasks will restore water back into Goldsborough Creek.

The project consists of five tasks:

1. Grant Administration.
2. Design a 750,000+ gallon in-ground storage tank for reclaimed water from the City of Shelton reclaimed water satellite wastewater treatment plant, located at 10891 State Route 101, Shelton, WA 98584.

The City of Shelton must have abundant reclaimed water storage in order to provide reclaimed water service to customers. The storage serves as a buffer to variability in use, backup for firefighting, and it allows strategic timing of application of reclaimed water to the ground to benefit aquifers and streams and wetlands.

3. Design redirection of raw sewage produced in the north Shelton neighborhood (Mountain View area) from the City's main Fairmont wastewater treatment plant (on Oakland Bay) to the City's satellite reclaimed water plant near the airport.

An average of 500,000 gallons per day of the City's wastewater in North Shelton is currently treated and routed directly to Oakland Bay. Redirecting that water to the satellite reclaimed water plant would make it available high up in the Goldsborough watershed as a benefit to aquifers and streams and wetlands.

4. Design and construction to extend a reclaimed water line from 2321 W. Dayton Airport Road approximately 1000 feet to the entrance to the Washington Corrections Center (WCC).

The City's reclaimed water pipes extend to just across the street from the WCC. Connecting WCC to reclaimed water would allow WCC to decrease pumping of its wells, thereby leaving the water in the aquifer to feed North Fork Goldsborough Creek (and ultimately mainstem Goldsborough Creek).

5. Groundwater model scenario testing of above tasks through a MODFLOW (USGS modular finite-difference flow model) to simulate the flow of groundwater through aquifers. From this numerical groundwater model we will be able to calculate benefits, reach by reach, in streamflow to Goldsborough Creek. It is likely that North Fork Goldsborough Creek will see the greatest increase in cubic feet per second of streamflow, since it receives water from the same aquifer source as the WCC wells. This is also the same aquifer that would receive increased application of reclaimed water from the North Shelton neighborhood. However

Overall Goal:

The overall goal is to build infrastructure that restores water to the Goldsborough watershed by offsetting groundwater pumped by all wells. This groundwater will move through shallow aquifers and ultimately reach North Fork and Mainstem Goldsborough Creek.

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Recipient Name Squaxin Island Tribe

RECIPIENT INFORMATION

Organization Name: Squaxin Island Tribe

Federal Tax ID: 91-0922254

DUNS Number: 606460475

Mailing Address: 200 S.E. Billy Frank Jr Way
 Shelton, WA 98584

Physical Address: 200 S.E. Billy Frank Jr Way
 Shelton, Washington 98584

Organization Email: ssteltzner@squaxin.us

Organization Fax: (360) 426-3971

Contacts

Agreement No WRSRP-2019-SqIsTr-00029
Project Title Goldsborough Streamflow Restoration Project
Recipient Name Squaxin Island Tribe

Project Manager	Erica Marbet Water Resources Biologist 200 SE Billy Frank Jr. Way Shelton, Washington 98584 Email: emarbet@squaxin.us Phone: (360) 432-3804
Billing Contact	Joanne Decicio 10 SE Squaxin Lane Shelton, Washington 98584 Email: jdecicio@squaxin.us Phone: (360) 432-3825
Authorized Signatory	Ray Peters 10 SE Squaxin Lane Shelton, Washington 98584 Email: rpeters@squaxin.us Phone: (360) 432-3909

Agreement No WRSRP-2019-SqIsTr-00029
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Recipient Name Squaxin Island Tribe

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

Project Manager	Angela Johnson PO Box 47775 Olympia, Washington 98504-7775 Email: ANJO461@ecy.wa.gov Phone: (360) 407-6668
Financial Manager	Alvin Josephy PO Box 47600 Olympia, Washington 98504-7600 Email: ajos461@ecy.wa.gov Phone: (360) 407-6456

State of Washington Department of Ecology
Agreement No WRSRP-2019-SqIsTri-00029
Project Title: Goldsborough Streamflow Restoration Project
Recipient Name Squaxin Island Tribe

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

Squaxin Island Tribe

By: Mary Verner 8/14/19

By: [Signature] 8/13/19

Mary Verner Date
Water Resources
Program Manager

~~Ray Peters~~ MARVIN CAMPBELL Date
Tribal Administrator

Template Approved to Form by
Attorney General's Office

SCOPE OF WORK

Task Number: 1 Task Cost: \$15,000.00

Task Title: Grant 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; 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: Erica Marbet

Grant Administration/Management

Deliverables

Number	Description	Due Date
1.1	Progress Reports	12/31/2020
1.2	Recipient Closeout Report	12/31/2020

SCOPE OF WORK

Task Number: 2 **Task Cost: \$96,000.00**

Task Title: Reclaimed Water Storage

Task Description:

100% design a 750,000+ gallon in-ground storage tank for reclaimed water from the City of Shelton reclaimed water satellite wastewater treatment plant, located at 10891 State Route 101, Shelton, WA 98584

This design will be contracted to the City of Shelton. Tribe's contract manager and financial department will interact regularly with the City to ensure progress on financial reporting and deliverables.

Design will include:

The City will put out a request for qualifications from contractors/consultants and make a selection based on City of Shelton approved criteria.

The consultant will design options for location and construction of 750,000+ gallons of reclaimed water storage. This will include appropriate booster pump size and placement to convey reclaimed water into the City's water system.

Construction cost estimates will be included, however no construction will be performed.

Task Goal Statement:

The design of this task will allow for future construction of the reclaimed water storage tank, that will result in more reclaimed water production and application in the Goldsborough watershed, along with less well water being pumped by the City. The City could serve more customers if it could store more reclaimed water, as much as 750,000 gallons per day. The storage serves as a buffer to variability in use, backup for firefighting, and it allows strategic timing of application of reclaimed water to the ground so that it reaches aquifers. The benefit of this additional reclaimed water storage is that it gives the City the capacity to fully treat, store, pipe, and apply more reclaimed water with a purpose of getting more water back into the Goldsborough watershed at a timing that is most beneficial to the surface streams. Also additional stored water decreases the City's need to use potable well water to serve customers.

Task Expected Outcome:

Obtain 100% design of 750+ gallon in-ground storage tank for reclaimed water by task due date, meeting task goals.

Recipient Task Coordinator: Erica Marbet

Reclaimed Water Storage

Deliverables

Number	Description	Due Date
2.1	100% design of reclaimed water storage at satellite reclaimed water plant	12/31/2020

SCOPE OF WORK

Task Number: 3 **Task Cost: \$296,000.00**

Task Title: North Shelton Sewage Redirect

Task Description:

100% design for ~900 linear feet of piping to redirect raw sewage produced in the north Shelton area (Mountain View area) from the City of Shelton’s main wastewater treatment plant (on Oakland Bay) to the City’s satellite reclaimed water plant . This design will be contracted to the City of Shelton. Tribe’s contract manager and financial department will interact regularly with the City to ensure progress on financial reporting and deliverables.

The City will put out a request for qualifications from contractors/consultants and make a selection based on City of Shelton approved criteria.

The consultant will design options for placement of a sewage lift station.

The consultant will design options for the best available route for ~900 linear feet of an 18-inch sewer main that would run from West Birch Street to reclaimed water satellite plant.

Construction costs estimates will be included, however no construction will be performed.

Task Goal Statement:

This design will allow for future construction of the ~900 ft. sewage line. Future construction will lead to production of an additional 500,000 gallons per day (560 acre-feet/year (afy)) or 0.8 cubic feet/second (cfs) of reclaimed water that may be used and applied in the area of North Fork Goldsborough Creek.

Using MODFLOW numerical groundwater modeling, we know that the current impact to Goldsborough Creek is about 520,000 gallons/day (580 afy, 0.8 cfs). The City’s treated wastewater is currently discharged straight out to Oakland Bay. The redirection of North Shelton wastewater (500,000 gallons per day (560 afy) or 0.8 cfs) to the reclaimed water plant means that groundwater would be treated to almost drinkable and then returned high in the watershed to benefit both groundwater and surface water of Goldsborough Creek. Furthermore, 500,000 gallons per day of treated wastewater would cease to flow into Oakland Bay. This would reduce nitrate output into Oakland Bay and potentially decrease the shellfish closure radius around the Fairmont treatment plant.

Task Expected Outcome:

Obtain 100% design for ~900 linear feet of piping and a lift station to redirect raw sewage from City of Shelton’s main wastewater treatment plant to the City’s satellite reclaimed water plant by task due date, meeting task goals.

Recipient Task Coordinator: Erica Marbet

North Shelton Sewage Redirect

Deliverables

Number	Description	Due Date
3 1	100% design documents with cost estimates for redirecting North Shelton sewage to the reclaimed water treatment plant	12/31/2020

SCOPE OF WORK

Task Number: 4 Task Cost: \$96,000.00

Task Title: Washington Corrections Center Reclaimed Water Pipe

Task Description:

100% design and construction to extend ~1000 feet of reclaimed water pipe from 2321 W. Dayton Airport Road to the entrance to the Washington Corrections Center (WCC).

This design will be contracted to the Washington State Department of Corrections (DOC). Tribe's contract manager and financial department will interact regularly with DOC to ensure progress on financial reporting and deliverables.

Design will include:

DOC will put out a request for qualifications from contractors/consultants for design and t make a selection based on DOC approved criteria. The consultant will design options and estimate costs for the best available route of a reclaimed water pipe (purple pipe).

The contractor will install a water meter near the rear entrance to the facility. This will allow the facilities maintenance department to connect the new reclaimed water line to the irrigation lines throughout the facility.

Task Goal Statement:

Our goal is to give WCC access to reclaimed water, so that WCC may use it for outdoor irrigation, and eventually laundry and prison plumbing.

WCC wells currently pump about 238,000 gallons per day (267 acre-feet/year (afy), 0.4 cubic feet/second (cfs)), and the pumping causes a 129,000 gallon per day (145 afy, 0.2 cfs) loss to North Fork Goldsborough Creek (calculated with a MODFLOW numerical groundwater model). About 213,000 gallons per day (239 afy, 0.3 cfs) of wastewater are piped to the City of Shelton's satellite reclaimed water treatment plant, indicating that the difference is about 25,000 gallons, which must be for WCC irrigation or losses through pipes. As a regional partner, the DOC is entitled to 120,000 gallons/day of the Class A reclaimed water from the satellite plant (134 afy, 0.2 cfs).

Our expected outcome of this purple pipe connection is that WCC will ultimately hook up its outdoor irrigation, laundry, and prison plumbing to reclaimed water. This will allow WCC to access 120,000 gallons/day of reclaimed water and to decrease pumping from the North Fork Goldsborough aquifer by the same amount.

Task Expected Outcome:

Obtain 100% design and construction for ~1000 feet of reclaimed water pipe from 2321 W. Dayton Airport Road to the entrance to the Washington Corrections Center by task due date, meeting task goals.

Recipient Task Coordinator: Erica Marbet

Washington Corrections Center Reclaimed Water Pipe

Deliverables

Number	Description	Due Date
4.1	100% Design Report	03/31/2020
4.2	Installation of ~1000 ft of reclaimed water line	12/31/2020

SCOPE OF WORK

Task Number: 5 **Task Cost: \$17,000.00**

Task Title: Groundwater Modeling

Task Description:

Run Task 2,3, and 4 actions through Johns/Goldsborough MODFLOW numerical groundwater model testing on the cumulative changes associated with infrastructure changes. The Johns/Goldsborough model was created collaboratively by consultants for the Squaxin Island Tribe and Washington State Department of Ecology. The Tribe’s consultant, Keta Waters, continues to maintain and improve the model, and Keta Waters will carry out the modeling exercise of Task 5.

Task Goal Statement:

Our goal is to generate numerical groundwater results, reach by reach in Goldsborough Creek, of the benefits of decreasing pumping and adding additional reclaimed water to the watershed. It is likely a that North Fork Goldsborough Creek will see the greatest increase in cubic feet per second of streamflow, since it receives water from the same aquifer source as the WCC wells. This is also the same aquifer that would receive increased application of reclaimed water from the North Shelton neighborhood. However, positive benefits should propagate downstream to lower reaches of Goldsborough Creek.

Task Expected Outcome:

Numerical groundwater results, reach by reach in Goldsborough Creek, of the benefits of decreasing pumping and adding additional reclaimed water to the watershed.

Recipient Task Coordinator: Erica Marbet

Groundwater Modeling

Deliverables

Number	Description	Due Date
5.1	Technical Report	12/31/2020

BUDGET

Funding Distribution EG190490

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: Goldsborough Streamflow Restoration Project Funding Type: Grant
 Funding Effective Date: 01/01/2019 Funding Expiration Date: 12/31/2020

Funding Source:

Title: Watershed Restoration and Enhancement Bond Account

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

Goldsborough Streamflow Restoration Project	Task Total
Grant Administration/Management	\$ 15,000.00
Reclaimed Water Storage	\$ 96,000.00
North Shelton Sewage Redirect	\$ 296,000.00
Washington Corrections Center Reclaimed Water Pipe	\$ 96,000.00
Groundwater Modeling	\$ 17,000.00

Total: \$ 520,000.00

Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
Goldsborough Streamflow Restoration Project	0.00 %	\$ 0.00	\$ 520,000.00	\$ 520,000.00
Total		\$ 0.00	\$ 520,000.00	\$ 520,000.00

AGREEMENT SPECIFIC TERMS AND CONDITIONS

LIMITED WAIVER OF SOVEREIGN IMMUNITY: The Squaxin Island Tribe, for the purposes of this grant agreement, grants Ecology a limited waiver of sovereign immunity. Such waiver is limited solely to equitable remedies and/or recovery of damages under this agreement up to the Tribe’s total grant award during the term of this Agreement. Such waiver is only for administrative and/or Thurston County Superior Court proceedings, is only as to Ecology, and may not be assigned, or otherwise transferred to any third-party.

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

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Project Title: Goldsborough Streamflow Restoration Project
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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.

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.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>.

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

Agreement No. WRSRP-2019-SqIsTr-00029
Project Title: Goldsborough Streamflow Restoration Project
Recipient Name: Squaxin Island Tribe

GENERAL TERMS AND CONDITIONS

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

GENERAL TERMS AND CONDITIONS AS OF LAST UPDATED 7-1-2019 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 reasonable action to avoid, minimize, or mitigate adverse effects to archeological and historic resources. The RECIPIENT must agree to hold harmless the State of Washington in relation to any claim related to historical or cultural artifacts 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:
 - For capital construction projects or land acquisitions for capital construction projects, if required, comply with Governor Executive Order 05-05, Archaeology and Cultural Resources.
 - For projects with any federal involvement, if required, comply with the National Historic Preservation Act.
 - Any cultural resources federal or state requirements must be completed prior to the start of any work on the project site.
- b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves ground disturbing activities. ECOLOGY will provide the IDP form.

RECIPIENT shall:

- Keep the IDP at the project site.

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- Make the IDP readily available to anyone working at the project site.
- Discuss the IDP with staff 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 archeological or historic resources are found while conducting work under this Agreement:
 - Immediately stop work and notify the ECOLOGY Program, the Department of Archaeology and Historic Preservation at (360) 586-3064, any affected Tribe, and the local government.
- d) If any human remains are found while conducting work under this Agreement:
 - Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, and then the ECOLOGY Program.
- e) Comply with RCW 27.53, RCW 27.44.055, 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.
- 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 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. 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.

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

- 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.

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.

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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.

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 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

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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.