



SQUAXIN ISLAND TRIBE

RESOLUTION NO. 14-37

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; and

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; and

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

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; and

WHEREAS, the Tribe desires to receive a \$43,000 grant from the Washington Department of Ecology ("Ecology") towards replacing a full barrier stream crossing in Likes Creek; and

WHEREAS, in order to induce Ecology to execute the agreement and award the grant, it is necessary for the Council to approve the agreement, to authorize execution of any and all documents required, and to issue a limited waiver of sovereign immunity

NOW THEREFORE BE IT RESOLVED, that the Council hereby agrees to enter into the attached agreement and to issue the following limited waiver of sovereign immunity:

X. Limited Sovereign Immunity Waiver

RECIPIENT agrees to a limited waiver of sovereign immunity during the term of this agreement, only as to enforcement of this agreement and, if damages are involved, only up to and not exceeding \$43,300.

BE IT FURTHER RESOLVED, that the Tribal Council hereby authorizes the Chairman and/or the Tribal Administrator to do any and all accounts necessary to effect execution of this Agreement.

CERTIFICATION

The Squaxin Island Tribal Council hereby certifies that the foregoing Resolution was adopted via a telephone poll of the Squaxin Island Tribal Council, held on this 11th day of June, 2014, at which time a quorum was present and was passed by a vote of 5 for and 0 against, with 0 abstentions.



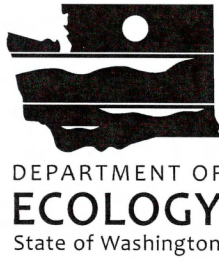
David Lopeman, Chairman

Attested by: 

Pete Kruger, Secretary



Arnold Cooper, Vice Chairman



GRANT NO. G1400633

Between

THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

And

SQUAXIN ISLAND TRIBE

LIKES CREEK RESTORATION

This is a binding agreement entered into by and between, the state of Washington Department of Ecology, (PO Box 47600, Olympia, Washington, 98504-7600) hereinafter referred to as "ECOLOGY", and Squaxin Island Tribe, hereinafter referred to as the "RECIPIENT". The RECIPIENT agrees to carry out the activities described herein.

RECIPIENT Name: Squaxin Island Tribe
Address: 2952 SE Old Olympic Hwy
Shelton, WA 98584

RECIPIENT Project Coordinator: Scott Steltzner
Telephone Number: 360-432-3803
Fax Number: 360-426-3971
E-mail Address: ssteltzner@squaxin.us

RECIPIENT Billing Contact: Scott Steltzner
Telephone Number: 360-432-3803
Billing Address: 2952 SE Old Olympic Hwy
Shelton, WA 98584

RECIPIENT Federal Tax Identification No.: 91-0922254

For the purpose of this agreement:

ECOLOGY Project Officer: Tammy Riddell
Telephone Number: 360-407-6295
E-mail Address: Trid461@ecy.wa.gov

ECOLOGY Financial Project Officer: Cathy Hubbard
Telephone Number: 360-407-6491
Fax Number: 360-407-6902
E-mail Address: Cahu461@ecy.wa.gov

Billing Address: Department of Ecology
Shorelands and Environmental
Assistance Program
P.O. Box 47600
Olympia, WA 98504-7600

Physical Address: 300 Desmond Drive
Lacey, WA 98503

GRANT AMOUNT:	\$ 43,300
MAXIMUM ELIGIBLE PROJECT COST:	\$ 43,300
STATE MAXIMUM COST SHARE RATE:	100%
MAXIMUM STATE SHARE	\$ 43,300

The source of funds provided by ECOLOGY is the Coastal Protection Account.

The EFFECTIVE DATE of this grant is June 15, 2014

Any work performed prior to the effective date of this agreement will be at the sole expense and risk of the RECIPIENT. The project described herein must be completed on or before September 30, 2015.

THE EXPIRATION DATE of this agreement is September 30, 2015.

**DEPARTMENT OF ECOLOGY
LIKES CREEK RESTORATION**

SCOPE OF WORK

Location: Latitude 47.222745, Longitude -123.175136. Approx. 5 miles west of Shelton, WA at the end of Carman Road North.

Project Description:

The project goal is to restore stream functions and fish and wildlife corridors in Likes Creek through the replacement of a full barrier stream crossing on the Simpson Railroad. Due to the blocking culvert being located near the confluence of Likes Creek and Goldsborough Creek, the entire Likes Creek system has no access for fish or aquatic species. The problem is compounded by a separate blocking culvert 200 feet upstream on the Carman Road (owned by Mason County). In addition to impeding fish access, the effects of both the blocked stream crossing sites have led to a reduction in sediment and gravel movement into the larger Goldsborough Creek system as well as a reduction in woody debris recruitment.

This project will restore fish access, wildlife corridors and transport vectors by replacing the blocking culverts under the railroad with a larger sized, stream-simulation design culvert. The project also builds on a partnership with Mason County that will see the replacement of their upstream culvert, thereby restoring access to the upper creek system (Although none of these funds will be used for the County work; they will provide their own funding).

This project builds on the successes of on-going efforts to restore Goldsborough Creek starting with the removal of a full spanning dam in 2001, a multi-agency partnership, strategic planning assessments, and the recent completion of the Midway Creek project which restored Goldsborough Creek derived salmon runs into Midway Creek for the first time in 100 years. This project will be the latest in a series of planned or already completed projects that have been prioritized by watershed partners. Plans and assessments leading up to this project include the EDT analysis of Habitat Potential and Restoration Options (Mobrand 2004), Biological Recovery of the Goldsborough Basin (Konovsky 2009), Salmonid Habitat Project Development in the Goldsborough Creek Basin (Combs 2010), and others. This project is consistent with the Puget Sound Action Agenda directive to restore salmon habitat. And, the project capitalizes on a strong partnership with Simpson Lumber and their commitment to restore the environment, as seen in their role in two previously completed projects nearby and their continued donation of matching services.

Additional funding partners include Simpson Lumber, Squaxin Island Tribe, South Puget Sound Salmon Enhancement Group, the Salmon Recovery Funding Board. Total project cost is estimated at \$ 393,500.

PROJECT TASKS

Task 1 – Project Management

The Project Manager will conduct all administrative tasks including filing, tracking, and budget support, in addition to contractor procurement.

Deliverable(s): Project billing, quarterly reports, and Project Completion Report, landowner agreement

Estimated or known costs: \$3,000

Due Date(s): September 30, 2015

Task 2: Project Implementation

Funds under this task shall be spent on a combination of project engineering and/or contractor costs for implementation (construction). The RECIPIENT will contract to complete project designs, obtain project permits, and oversee construction management.

A construction contractor will be selected through a competitive bid process. The RECIPIENT and project partners will coordinate with the landowners and construction contractor to ensure the work is done effectively, per the designs, and within the active permit and funding deadlines.

Once the on-site work begins, the existing, under-sized pair of culverts under the railroad will be replaced with a stream-simulation design culvert appropriately sized to allow fish access and restored stream functions. As part of the culvert replacement process the stream bed within the project area will be appropriately sloped and in-stream woody habitat will be installed to provide short-term gravel retention and woody cover for juvenile salmonids.

Project photos for before, during and after the project will be captured.

Deliverable(s): Project Designs, Photos

Estimated cost: \$40,300

Due Date(s): September 30, 2015

**DEPARTMENT OF ECOLOGY GRANT G1400633
 LIKES CREEK RESTORATION**

BUDGET

		THA	Other Funds	Total
	Budget by Element			
1	Salaries/Benefits	3,000		3,000
2	Contracted Svcs	40,300		40,300
3	Travel			0
4	Equipment			0
5	Goods/Services			0
6	Overhead			0
	Total by Element	43,300	0	43,300
	Budget by Task			
1	Project Mgmt	3,000		3,000
2	Implementation	40,300		40,300
				0
				0
	Total by Task	43,300	0	43,300

Additional funds contributed by others entities are estimated at \$ 350,200.

WORK PRODUCTS

Copies of documents produced by the RECIPIENT, including, quarterly reports, and any work products developed under this grant shall be sent to the following ECOLOGY address:

Attn: **Cathy Hubbard**
Washington State Department of Ecology
Shorelands and Environmental Assistance Program
P.O. Box 47600
Olympia, WA 98504-7600

Physical Address:
300 Desmond Drive
Lacey, WA 98503

1. Three (3) copies (2 hard and 1 electronic) of quarterly reports shall be submitted as specified in Special Terms and Conditions. Quarterly reports may be submitted only electronically with prior approval from the Ecology Project Officer.
2. Three (3) copies of all work products as specified in the scope of work, unless otherwise specified. Two hard copies and one electronic copy shall be provided.

BUDGET CONDITIONS and PAYMENT TERMS

Budget Conditions

Regardless of the number of tasks or elements, ECOLOGY's Fiscal Office will track the EXPENDITURE BUDGET at the PROJECT COST LEVEL.

A formal amendment is required to increase or decrease the overall project funding or revise the Scope of Work.

For this grant, 100 percent of the total grant amount will be paid on a cost-reimbursement basis. Requests for reimbursement shall be submitted at least quarterly but not more often than once per month by the RECIPIENT on state invoice voucher forms. Payment requests are to include at a minimum Form A19-1A "Invoice Voucher", Form B "Running Budget Summary", Form C "Voucher Support" and Form D "Contractor Participation Report" (if applicable).

RECIPIENT will prepare the billing forms by element of expenditure (salaries/benefits, travel, goods/services, etc). Back-up invoices of expenses should be included with the billings.

For the administration of this agreement the RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans", current edition.

ECOLOGY forms are contained in the "Administrative Guidelines for Recipients of Ecology Grants and Loans" and must be used for payment requests, otherwise requests will be returned to the RECIPIENT for submittal on the correct forms. Electronic copies of these forms and the "Administrative Requirements for Recipients of Ecology Grants and Loans" ("Yellow Book") are available at ECOLOGY's websites:

Forms- <http://www.ecy.wa.gov/biblio/9118a.html>

Yellow Book- <http://www.ecy.wa.gov/biblio/9118.html>

Light Refreshments Light refreshments are an eligible expense in accordance with ECOLOGY's guidebook, "Administrative Requirements for Recipients of Ecology Grants and Loans", current edition.

Payment Terms

ECOLOGY will issue payments of grant funds within 30 days of receipt of properly completed invoice vouchers and progress reports.

Final payment requests are payable contingent on receipt of the final products and deliverables of the grant.

Upon completion of the project, unused grant dollars will be returned to ECOLOGY for use on other eligible projects.

A written report of activities must accompany all payment requests.

SPECIAL TERMS and CONDITIONS

1. DATA STANDARDS AND DATA SHARING

Data sharing and access is an important consideration for grant recipients. Data collected under grants should be available to secondary users and for future comparative analyses. **It is a requirement that grant recipients submit monitoring data to Ecology's Environmental Information Management (EIM) database at <http://www.ecy.wa.gov/eim/> to store and access their data on the Internet.** Data is submitted to EIM using online data submittal tools available at: <http://www.ecy.wa.gov/eim/>. Additionally, grant recipients may choose to develop their own databases, and these tools also provide a good model for data standards.

Having many stand-alone databases can make data sharing difficult, but steps are being taken at the national level to improve data sharing. Since 1998 the U.S. Environmental Protection Agency (EPA) and the States have been working in partnership to improve access to environmental data. This has led to the concept of the "Network Node," a place in cyberspace where environmental data can be uploaded and shared using common data exchange templates. Washington State has, along with Oregon, Idaho, and Alaska, successfully developed a prototype Website where environmental data from all four states can be searched and downloaded. It is known as the Pacific Northwest Water Quality Data Exchange and is available at: <http://deq12.deq.state.or.us/pnwwqx/>

2. QUALITY ASSURANCE PROJECT PLAN (QAPP)

If this project involves the collection of environmental measurement data, the RECIPIENT will prepare a QAPP plan to ensure the consistent application of quality assurance principles to the planning and execution of all activities involved in generating this data. It is highly recommended that projects involving the use of existing environmental data adhere to these requirements. The plan shall be conducted in accordance with ECOLOGY'S Guidelines and Specifications for Preparing Quality Assurance Project Plans for Environmental Studies, current edition, (Ecology Publication No.04-03-030). The plan must describe the monitoring and data quality objectives, procedures, and methodologies which will be used to ensure that all environmental data generated will meet these requirements. The size and complexity of the plan should be cost effective and in proportion to the magnitude of the sampling effort. The QA/QC report shall contain all fourteen elements discussed in the QAPP guidance document. ECOLOGY's Project Officer shall review and approve this plan prior to initiation of work.

The QAPP will cover the following elements:

- Title Page with approvals
- Table of contents and distribution list
- Background
- Project Description
- Organization and Schedule
- Quality Objectives
- Sampling Process Design
- Sampling Procedures
- Measurement Procedures
- Quality Control
- Data Management
- Audits and reports
- Data verification
- Data Usability Assessment

On-line guidance for these topics is available at:

<http://www.ecy.wa.gov/biblio/0403030.html>

A QAPP template available for use by grantees can be found at:

<http://www.ecy.wa.gov/programs/eap/qa/docs/QAPPtool/Mod2%20Template/module2.pdf>

For additional information go to <http://www.ecy.wa.gov/programs/eap/qa>

Water samples requiring bench testing shall be analyzed by an environmental laboratory accredited by ECOLOGY. A list of ECOLOGY accredited laboratories and information on laboratory accreditation is provided on the Environmental Assessment Program website, currently available at:

<http://www.ecy.wa.gov/programs/eap/labs/index.html>

3. COORDINATION WITH ECOLOGY'S GEOGRAPHICAL INFORMATION SYSTEM (GIS)

IF this project involves developing GIS data, the RECIPIENT shall coordinate with ECOLOGY's GIS office in an effort to promote compatibility and to encourage sharing of geospatial data. To facilitate data sharing, ECOLOGY utilizes the following standards:

Ecology's GIS Standards	
ESRI's ARC/INFO	Current version
ESRI's ArcView	Current Version
Horizontal Datum	NAD 83 HARN

Vertical Datum	NGVD 88
Projection System	Lambert Conic Conformal
Coordinate System	WA State Plane Coordinates
Coordinate Zone	South
Coordinate Units	US Survey Feet
Accuracy Standard	+/-40 Feet (1:24,000) minimum accuracy to within a foot of the true North American datum system
Vector Import Format	ArcExport, DLG and/or DXF, shapefiles
Raster Import Format	TIFF, BIL/BIP, RLC, GRID, ERDAS, SID

Whenever possible, the RECIPIENT is encouraged to utilize the standards listed above when compiling data. To discuss the usage of other standards, please contact Jerry Franklin at 360 407-7470; Fax: 360 407-6902; E-Mail: jfra461@ecy.wa.gov or John Tooley at 360-407-6418; E-Mail: jtoo461@ecy.wa.gov for further data sharing and compatibility information.

The RECIPIENT shall submit copies to ECOLOGY's Project Officer with complete documentation as it relates to all digital data, GIS coverages, shape files, related tables and map products.

4. STATE ENVIRONMENTAL POLICY ACT (SEPA)

Grant recipients are expected to consider the necessity of a SEPA process in the early stages of planning or scope development. Please contact your project officer for assistance.

5. IDENTIFICATION OF PROJECT MATERIALS

All reports, maps, and other documents produced by the RECIPIENT, as part of this grant shall be identified as such. All items will be marked on the front cover or title page, or in the case of maps, the block that contains the name of the Government unit or ECOLOGY with 1) the name of the RECIPIENT; 2) ECOLOGY'S grant number; 3) Project Title; and 4) date of the report. Also, an acknowledgment of the source of funding, as appropriate, will be included.

6. PUBLICATIONS AND BROCHURES

Any publications or brochures required as a product of this agreement shall be bound and conform to minimum standards of size, 8½" x 11" white, recycled paper. Photos, illustrations, and graphs must be of reproducible quality. The RECIPIENT shall comply with any additional specifications as may be outlined in the Scope of Work or confirmed in writing between ECOLOGY and the RECIPIENT. The RECIPIENT is encouraged to implement sustainable practices where and when possible.

7. DOCUMENTS

The RECIPIENT shall provide ECOLOGY with a minimum of three (3) copies of all documents produced under the terms of this grant unless otherwise specified. Two hard copies and one electronic copy should be provided.

8. PROJECT COMPLETION REQUIREMENTS

On completion of the project, the RECIPIENT shall submit the following information and materials to ECOLOGY:

8A. Project Completion Report: The purpose of this report is to document that the project and each of its elements has been completed. Four (4) hard copies and one (1) electronic copy of a "Project Completion Report" are required as follows:

(1) Summary Account - The Completion Report must include a brief summary account of the work accomplished under the grant with respect to each of the surveys, studies, plans, and other tasks listed in the grant or any amendments to that grant. It is also to include a notation of the exhibit or portion thereof containing the product of that work task.

(2) Reports, Maps, Plans, Exhibits, Etc. - The Completion Report must include a list of all reports, maps, plans, and other documents prepared under this grant, indicating for each whether it is in published or unpublished form as defined in the grant.

8B. Graphic Record Alternative: With respect to models and published maps and plans, such as aerial maps, maps, and plans which are colored or are too large to fold compactly, photographs or copies may be submitted instead of the actual maps, models or plans. These photographs or copies need to be 8" x 10" or larger and may be either in color or black and white, whichever is necessary to show the content of the map, model or plan. Each such photograph or copy shall be legibly identified as to the title and scale of the original document, the municipality, or area covered, and the report or study to which it relates, and shall contain a notation of the place where the original is located.

8C. Transmittal of Maps, Plans, Etc.: The title, the grants number, the municipality or county, and the report or study to which each map and plan relates shall be indicated on the outside top fold of such map and plan. All maps and plans transmitted shall be folded to the size of the report project.

8D. Data Documentation and Submittal: Upon grant completion, all data and data documentation are to be submitted in accordance with the previously provided formats and standards, or in formats as previously negotiated in a formal agreement between ECOLOGY and the RECIPIENT.

8E. The Project Completion Report must be submitted with the Final Payment Request and follow the format provided by ECOLOGY. Final payment will not be made without the Project Completion Report.

9. ACCESS TO RECORDS AND RIGHT TO AUDIT

9A. The RECIPIENT agrees that the Auditor for the State of Washington shall, until the expiration of three (3) years after expenditure of funds under this grant, have access to and the right to examine any directly pertinent books, documents, papers, and records of the RECIPIENT involving transactions related to this grant. The RECIPIENT agrees to include the substance of this paragraph into all grants and subcontracts payable from contract funds in whole or in part.

9B. The RECIPIENT agrees that payment(s) made under this grant shall be subject to reduction for amounts charged thereto which are found after audit examination not to constitute allowable costs under this grant. The RECIPIENT shall refund by check payable to ECOLOGY the amount of such reduction of payments under completed or terminated grants.

10. MAINTENANCE OF RECORDS

All required records shall be maintained until a state audit is completed and all questions arising there from are resolved, or three (3) years after completion of a project, whichever is sooner.

11. MINORITY AND WOMEN'S BUSINESS (MWBE) PARTICIPATION

The RECIPIENT agrees to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated after the effective date of this agreement.

Contract awards or rejections cannot be made based on MBE or WBE participation. M/WBE participation is encouraged, however, and the RECIPIENT and all prospective bidders or persons submitting qualifications should take the following steps, when possible, in any procurement initiated after the effective date of this agreement:

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

The RECIPIENT shall report to ECOLOGY at the time of submitting each invoice, on forms provided by ECOLOGY, payments made to qualified firms. Please include the following information:

- a. Name and state OMWBE certification number (if available) of any qualified firm receiving funds under the invoice, including any sub-and/or sub-subcontractors.
- b. The total dollar amount paid to qualified firms under this invoice.

12. SELECTION OF CONTRACTORS

It will be the responsibility of the RECIPIENT to insure that any and all subs comply with the terms and conditions of this agreement and that the State of Washington is named as an express third-party beneficiary of such subcon-tracts with full rights as such.

13. FINANCIAL GUIDELINES

The RECIPIENT shall comply with ECOLOGY'S current edition of the "Administrative Requirements for Recipients of Ecology Grants and Loans." The RECIPIENT shall be responsible for maintaining appropriate financial records throughout the life of the project and in accordance with these guidelines.

14. PAYMENT REQUESTS

Payment will be made to the RECIPIENT for the grant amount upon execution of the grant agreement and receipt of a signed Invoice Voucher (A19-1A).

Complete backup documents (to include but not limited to all invoiced costs, time sheets [signed and dated by both employee and supervisor], etc.) MUST be maintained by the RECIPIENT. These expenses will be kept in grant files according to budget task for a period of three years after project completion and made available at any time for inspection by ECOLOGY.

15. QUARTERLY REPORTING

The RECIPIENT must send quarterly progress and financial reports, including current expenditures to ECOLOGY.

Quarterly reports shall cover the periods and be due with 30 days following the end of the quarter, according to the following schedule, regardless of the grant effective date:

Quarterly Reporting Period	Date Quarterly Report is Due
January 1-March 31	April 30
April 1-June 30	July 30*schedule may vary with fiscal year closing
July 1-September 30	October 30
October 1-December 31	January 30

Quarterly reports shall convey essential information in a simple, concise manner through the use of bulleted summary statements, lists, and tables and include the following:

1. A description of work performed during the quarter.
2. Status of project schedule.

3. Financial and funds disbursement status.
4. Personnel changes.
5. Any difficulties encountered during the quarter.
6. Cash Flow Estimate.

ECOLOGY reserves the right to terminate this agreement, as specified in paragraph K.1. of the General Terms and Conditions, for:

1. Failure to comply with quarterly reporting requirements, and
2. Failure to demonstrate satisfactory progress on elements and/or tasks as described in the Scope of Work.

16. AMENDMENTS

A "letter" amendment is a written request by the RECIPIENT to 1) redistribute funds among budget elements or fund shares; or 2) extend the project completion and expiration dates.

A formal amendment is required for any change to the scope of work or an increase to the total eligible project cost and is signed by both parties.

Amendments are not required for administrative adjustments such as changes in telephone numbers, addresses, project officers, supervisors, or contact persons for ECOLOGY or the RECIPIENT. The RECIPIENT must still notify ECOLOGY of these changes.

17. FAILURE TO COMMENCE WORK

In the event the RECIPIENT fails to commence work on the project funded herein within four months after the effective date of the grant agreement, or by any date mutually agreed upon in writing for commencement of work, ECOLOGY reserves the right to terminate this agreement.

18. ARCHEOLOGICAL AND CULTURAL RESOURCES

The RECIPIENT must comply with all requirements listed in Executive Order 05-05 prior to implementing any project that involves disturbing soil. Compliance includes coordinating with the Department of Historic and Archeological Preservation and affected tribes. Executive Order 05-05 is found at:

<http://www.dahp.wa.gov/sites/default/files/DAHP%20Executive%20Order%2005-05.pdf>

The Department of Historic and Archeological Preservation has provided guidance to initiate the 05-05 process that can be accessed online at:

<http://www.dahp.wa.gov/governors-executive-order-05-05>

**General Terms And Conditions
Pertaining To Grant And Loan Agreements Of The Department Of Ecology**

A. RECIPIENT PERFORMANCE

All activities for which grant/loan funds are to be used shall be accomplished by the RECIPIENT and RECIPIENT's employees. The RECIPIENT shall only use contractor/consultant assistance if that has been included in the agreement's final scope of work and budget.

B. SUBGRANTEE/CONTRACTOR COMPLIANCE

The RECIPIENT must ensure that all subgrantees and contractors comply with the terms and conditions of this agreement.

C. THIRD PARTY BENEFICIARY

The 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.

D. CONTRACTING FOR SERVICES (BIDDING)

Contracts for construction, purchase of equipment and professional architectural and engineering services shall be awarded through a competitive process, if required by State law. RECIPIENT shall retain copies of all bids received and contracts awarded, for inspection and use by the DEPARTMENT.

E. ASSIGNMENTS

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

F. COMPLIANCE WITH ALL LAWS

1. The RECIPIENT shall comply fully with all applicable Federal, State and local laws, orders, regulations and permits.

Prior to commencement of any construction, the RECIPIENT shall secure the necessary approvals and permits required by authorities having jurisdiction over the project, provide assurance to the DEPARTMENT that all approvals and permits have been secured, and make copies available to the DEPARTMENT upon request.

2. Discrimination. The DEPARTMENT and the RECIPIENT agree to be bound by all Federal and State laws, regulations, and policies against discrimination. The RECIPIENT further agrees to affirmatively support the program of the Office of Minority and Women's Business Enterprises to the maximum extent possible. If the agreement is federally-funded, the RECIPIENT shall report to the DEPARTMENT the percent of grant/loan funds available to women or minority owned businesses.
3. Wages and Job Safety. The 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.

4. Industrial Insurance. The RECIPIENT certifies full compliance with all applicable state industrial insurance requirements. If the RECIPIENT fails to comply with such laws, the DEPARTMENT shall have the right to immediately terminate this agreement for cause as provided in Section K.1, herein.

G. KICKBACKS

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

H. AUDITS AND INSPECTIONS

1. The RECIPIENT shall maintain complete program and financial records relating to this agreement. Such records shall clearly indicate total receipts and expenditures by fund source and task or object. All grant/loan records shall be kept in a manner which provides an audit trail for all expenditures. All records shall be kept in a common file to facilitate audits and inspections.

Engineering documentation and field inspection reports of all construction work accomplished under this agreement shall be maintained by the RECIPIENT.

2. All grant/loan records shall be open for audit or inspection by the DEPARTMENT or by any duly authorized audit representative of the State of Washington for a period of at least three years after the final grant payment/loan repayment or any dispute resolution hereunder. If any such audits identify discrepancies in the financial records, the RECIPIENT shall provide clarification and/or make adjustments accordingly.
3. All work performed under this agreement and any equipment purchased, shall be made available to the DEPARTMENT 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 years following grant/loan termination or dispute resolution hereunder.
4. RECIPIENT shall meet the provisions in OMB Circular A-133 (Audits of States, Local Governments & Non Profit Organizations), including the compliance Supplement to OMB Circular A-133, if the RECIPIENT expends \$500,000 or more in a year in Federal funds. The \$500,000 threshold for each year is a cumulative total of all federal funding from all sources. The RECIPIENT must forward a copy of the audit along with the RECIPIENT'S response and the final corrective action plan to the DEPARTMENT within ninety (90) days of the date of the audit report.

I. PERFORMANCE REPORTING

The RECIPIENT shall submit progress reports to the DEPARTMENT with each payment request or such other schedule as set forth in the Special Conditions. The RECIPIENT shall also report in writing to the DEPARTMENT any problems, delays or adverse conditions which will materially affect their ability to meet project objectives or time schedules. This disclosure shall be accompanied by a statement of the action taken or proposed and any assistance needed from the DEPARTMENT to resolve the situation. Payments may be withheld if required progress reports are not submitted.

Quarterly reports shall cover the periods January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be due within thirty (30) days following the end of the quarter being reported.

J. COMPENSATION

1. Method of compensation. Payment shall normally be made on a reimbursable basis as specified in the grant agreement and no more often than once per month. Each request for payment will be submitted by the RECIPIENT on State voucher request forms provided by the DEPARTMENT along with documentation of the expenses. Payments shall be made for each task/phase of the project, or portion thereof, as set out in the Scope of Work when completed by the RECIPIENT and approved as satisfactory by the Project Officer.

The payment request form and supportive documents must itemize all allowable costs by major elements as described in the Scope of Work. Instructions for submitting the payment requests are found in "Administrative Requirements for Recipients of Ecology Grants and Loans", Part IV, published by the DEPARTMENT. A copy of this document shall be furnished to the RECIPIENT. When payment requests are approved by the DEPARTMENT, payments will be made to the mutually agreed upon designee. Payment requests shall be submitted to the DEPARTMENT and directed to the Project Officer assigned to administer this agreement.

2. Period of Compensation. Payments shall only be made for actions of the RECIPIENT pursuant to the grant/loan agreement and performed after the effective date and prior to the expiration date of this agreement, unless those dates are specifically modified in writing as provided herein.

3. Final Request(s) for Payment. The RECIPIENT should submit final requests for compensation within forty-five (45) days after the expiration date of this agreement and within fifteen (15) days after the end of a fiscal biennium. Failure to comply may result in delayed reimbursement.

4. Performance Guarantee. The DEPARTMENT may withhold an amount not to exceed ten percent (10%) of each reimbursement payment as security for the RECIPIENT's performance. Monies withheld by the DEPARTMENT may be paid to the RECIPIENT when the project(s) described herein, or a portion thereof, have been completed if, in the DEPARTMENT's sole discretion, such payment is reasonable and approved according to this agreement and, as appropriate, upon completion of an audit as specified under section J.5. herein.

5. Unauthorized Expenditures. All payments to the RECIPIENT may be subject to final audit by the DEPARTMENT and any unauthorized expenditure(s) charged to this grant/loan shall be refunded to the DEPARTMENT by the RECIPIENT.

6. Mileage and Per Diem. If mileage and per diem are paid to the employees of the RECIPIENT or other public entities, it shall not exceed the amount allowed under state law for state employees.

7. Overhead Costs. No reimbursement for overhead costs shall be allowed unless provided for in the Scope of Work hereunder.

K. TERMINATION

1. For Cause. The obligation of the DEPARTMENT 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 the DEPARTMENT, to perform any obligation required of it by this agreement, the DEPARTMENT may refuse to pay any further funds there under and/or terminate this agreement by giving written notice of termination.

A written notice of termination shall be given at least five working days prior to the effective date of termination. In that event, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT under this agreement, at the option of the DEPARTMENT, shall become DEPARTMENT property and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

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

2. Insufficient Funds. The obligation of the DEPARTMENT to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. When this agreement crosses over state fiscal years the obligation of the DEPARTMENT is contingent upon the appropriation of funds during the next fiscal year. The failure to appropriate or allot such funds shall be good cause to terminate this agreement as provided in paragraph K.1 above.

When this agreement crosses the RECIPIENT's fiscal year, the obligation of the RECIPIENT to continue or complete the project described herein shall be contingent upon appropriation of funds by the RECIPIENT's governing body; provided, however, that nothing contained herein shall preclude the DEPARTMENT from demanding repayment of ALL funds paid to the RECIPIENT in accordance with Section O herein.

3. Failure to Commence Work. In the event the RECIPIENT fails to commence work on the project funded herein within four months after the effective date of this agreement, or by any date agreed upon in writing for commencement of work, the DEPARTMENT reserves the right to terminate this agreement.

L. WAIVER

Waiver of any RECIPIENT default is not a waiver of any subsequent default. Waiver of a breach of any provision of this agreement is not a waiver of any subsequent 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 the DEPARTMENT.

M. PROPERTY RIGHTS

1. Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property, the RECIPIENT may copyright or patent the same but the DEPARTMENT 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. Where federal funding is involved, the federal government may have a proprietary interest in patent rights to any inventions that are developed by the RECIPIENT as provided in 35 U.S.C. 200-212.

2. Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish information of the DEPARTMENT; present papers, lectures, or seminars involving information supplied by the DEPARTMENT; use logos, reports, maps or other data, in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to the DEPARTMENT.
3. Tangible Property Rights. The DEPARTMENT's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans", Part V, shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by the DEPARTMENT in the absence of state, federal statute(s), regulation(s), or policy(s) to the contrary or upon specific instructions with respect thereto in the Scope of Work.
4. Personal Property Furnished by the DEPARTMENT. When the DEPARTMENT provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to the DEPARTMENT prior to final payment by the DEPARTMENT. If said property is lost, stolen or damaged while in the RECIPIENT's possession, the DEPARTMENT shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
5. Acquisition Projects. The following provisions shall apply if the project covered by this agreement includes funds for the acquisition of land or facilities:
 - a. Prior to disbursement of funds provided for in this agreement, the RECIPIENT shall establish that the cost of land/or facilities is fair and reasonable.
 - b. The 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 contemplated by this agreement.
6. Conversions. Regardless of the contract termination date shown on the cover sheet, the RECIPIENT shall not at any time convert any equipment, property or facility acquired or developed pursuant to this agreement to uses other than those for which assistance was originally approved without prior written approval of the DEPARTMENT. Such approval may be conditioned upon payment to the DEPARTMENT 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.

N. SUSTAINABLE PRODUCTS

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is encouraged to implement sustainable practices where and when possible. These practices include use of clean energy, and purchase and use of sustainably produced products (e.g., recycled paper). For more information, see <http://www.ecy.wa.gov/sustainability/>.

O. RECOVERY OF PAYMENTS TO RECIPIENT

The right of the RECIPIENT to retain monies paid to it as reimbursement payments is contingent upon satisfactory performance of this agreement including the satisfactory completion of the project described in the Scope of Work. In the event the RECIPIENT fails, for any reason, to perform obligations required of it by this agreement, the RECIPIENT may, at the DEPARTMENT's sole discretion, be required to repay to the DEPARTMENT all grant/loan funds disbursed to the RECIPIENT for those parts of the project that are rendered worthless in the opinion of the DEPARTMENT by such failure to perform.

Interest shall accrue at the rate of twelve percent (12%) per year from the time the DEPARTMENT demands repayment of funds. If payments have been discontinued by the DEPARTMENT due to insufficient funds as in Section K.2 above, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination. Any property acquired under this agreement, at the option of the DEPARTMENT, may become the DEPARTMENT'S property and the RECIPIENT'S liability to repay monies shall be reduced by an amount reflecting the fair value of such property.

P. PROJECT APPROVAL

The extent and character of all work and services to be performed under this agreement by the RECIPIENT shall be subject to the review and approval of the DEPARTMENT through the Project Officer or other designated official to whom the RECIPIENT shall report and be responsible. In the event there is a dispute with regard to the extent and character of the work to be done, the determination of the Project Officer or other designated official as to the extent and character of the work to be done shall govern. The RECIPIENT shall have the right to appeal decisions as provided for below.

Q. DISPUTES

Except as otherwise provided in this agreement, any dispute concerning a question of fact arising under this agreement which is not disposed of in writing shall be decided by the Project Officer or other designated official who shall provide a written statement of decision to the RECIPIENT. The decision of the Project Officer or other designated official shall be final and conclusive unless, within thirty days from the date of receipt of such statement, the RECIPIENT mails or otherwise furnishes to the Director of the DEPARTMENT a written appeal.

In connection with appeal of any proceeding under this clause, the RECIPIENT shall have the opportunity to be heard and to offer evidence in support of this appeal. The decision of the Director or duly authorized representative for the determination of such appeals shall be final and conclusive. Appeals from the Director's determination shall be brought in the Superior Court of Thurston County. Review of the decision of the Director will not be sought before either the Pollution Control Hearings Board or the Shoreline Hearings Board. Pending final decision of dispute hereunder, the RECIPIENT shall proceed diligently with the performance of this agreement and in accordance with the decision rendered.

R. CONFLICT OF INTEREST

No officer, member, agent, or employee of either party to this agreement who exercises any function or responsibility in the review, approval, or carrying out of this agreement, shall participate in any decision which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is, directly or indirectly interested; nor shall he/she have any personal or pecuniary interest, direct or indirect, in this agreement or the

proceeds thereof.

S. INDEMNIFICATION

1. The DEPARTMENT shall 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.
2. To the extent that the Constitution and laws of the State of Washington permit, each party shall 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.

T. GOVERNING LAW

This agreement shall be governed by the laws of the State of Washington.

U. 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.

V. 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) Scope of Work; (c) Special Terms and Conditions; (d) Any terms incorporated herein by reference including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; and (e) the General Terms and Conditions.

W. FUNDING AVAILABILITY

The DEPARTMENT'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 completion or expiration date of this agreement, the DEPARTMENT, at its sole discretion, may elect to terminate the agreement, in whole or part, or to renegotiate the agreement subject to new funding limitations and conditions. The DEPARTMENT may also elect to suspend performance of the agreement until the DEPARTMENT determines the funding insufficiency is resolved. The DEPARTMENT may exercise any of these options with no notification restrictions.

X. Limited Sovereign Immunity Waiver

RECIPIENT agrees to a limited waiver of sovereign immunity during the term of this agreement, only as to enforcement of this agreement and, if damages are involved, only up to and not exceeding \$43,300.

Coastal Protection Grant No. G1400633
Between Ecology and Squaxin Island Tribe

Modified 12/13