



DEPARTMENT OF  
**ECOLOGY**  
State of Washington

**NATIONAL ESTUARY PROGRAM (NEP)  
WATERSHED PROTECTION AND RESTORATION GRANT**

**GRANT FUNDING AGREEMENT BETWEEN  
THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY  
AND**

**THE CITY OF REDMOND**

**GRANT AGREEMENT NUMBER  
G1400617**

**MONTICELLO CREEK WATERSHED RETROFIT SITING**

**TABLE OF CONTENTS**

PART I. GENERAL INFORMATION .....	3
PART II. NEP BACKGROUND.....	4
PART III. PROJECT DESCRIPTION .....	4
PART IV. SCOPE OF WORK .....	5
PART V. PROJECT BUDGET.....	8
PART VII. ALL WRITINGS CONTAINED HEREIN.....	9
ATTACHMENT I: GENERAL PROJECT MANAGEMENT REQUIREMENTS.....	10
CULTURAL AND HISTORIC RESOURCES PROTECTION .....	10
EDUCATION AND OUTREACH.....	10
EFFECTIVE DATE .....	11
EQUIPMENT PURCHASE .....	11
INCREASED OVERSIGHT.....	11
INDIRECT RATE.....	12
LIGHT REFRESHMENTS .....	12
MINORITY AND WOMEN'S BUSINESS PARTICIPATION.....	12
PAYMENT REQUEST SUBMITTALS .....	13
REQUESTS FOR REIMBURSEMENT .....	13
PROCUREMENT.....	14
PROGRESS REPORTS .....	14
REQUIRED DOCUMENT SUBMITTALS.....	15
SPECIAL CONDITION FOR RECIPIENTS IN SNOHOMISH AND KING COUNTY .....	15
VOLUNTEER TIME DOCUMENTATION .....	15
QUALITY ASSURANCE .....	15
CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION .....	16
DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS.....	17

Washington State Department of Ecology  
 Ecology's National Estuary Program Watershed Protection and Restoration Grant  
 Grant Agreement #G1400617 City of Redmond- Monticello Creek Watershed Retrofit Siting

FINAL PAYMENT.....19  
 FUNDING RECOGNITION .....19  
 ATTACHMENT II: GENERAL TERMS AND CONDITIONS ..... 21  
 A. RECIPIENT PERFORMANCE .....21  
 B. SUBGRANTEE/CONTRACTOR COMPLIANCE.....21  
 C. THIRD PARTY BENEFICIARY .....21  
 D. CONTRACTING FOR SERVICES (BIDDING).....21  
 E. ASSIGNMENTS .....21  
 F. COMPLIANCE WITH ALL LAWS.....21  
 G. KICKBACKS.....22  
 H. AUDITS AND INSPECTIONS .....22  
 I. PERFORMANCE REPORTING.....22  
 J. COMPENSATION.....23  
 K. TERMINATION .....24  
 L. WAIVER .....24  
 M. PROPERTY RIGHTS .....24  
 N. SUSTAINABLE PRODUCTS .....25  
 O. RECOVERY OF PAYMENTS TO RECIPIENT .....26  
 P. PROJECT APPROVAL.....26  
 Q. DISPUTES .....26  
 R. CONFLICT OF INTEREST .....27  
 S. INDEMNIFICATION .....27  
 T. GOVERNING LAW .....27  
 U. SEVERABILITY .....27  
 V. PRECEDENCE .....27  
 W. FUNDING AVAILABILITY .....27  
 ATTACHMENT III: FEDERAL PROVISIONS ..... 29  
 ADMINISTRATIVE CONDITIONS .....29  
 PROGRAMMATIC CONDITIONS .....35

**THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY  
AND  
THE CITY OF REDMOND**

THIS is a binding agreement between the state of Washington Department of Ecology (ECOLOGY) and the City of Redmond (RECIPIENT). The purpose of this agreement is to provide funds to the RECIPIENT, who will carry out the requirements described in this agreement.

**PART I. GENERAL INFORMATION**

Project Title:	Monticello Creek Watershed Retrofit Siting
Grant Number:	G1400617
State Fiscal Year:	2014
Total Project Cost:	\$449,815
Total Eligible Cost:	\$250,000
Effective Date:	03/01/2015
Expiration Date:	6/01/2017

**RECIPIENT INFORMATION**

RECIPIENT Name:	The City of Redmond
Mailing Address:	PO Box 97010- MS 2NPW
Phone Number:	(425) 556-2733
Fax Number:	(425) 556-2820
Federal Taxpayer ID Number:	91-6001492
Data Universal Numbering System (DUNS) Number:	022-829-899

<b>PROJECT MANAGER:</b>	Andy Rheume
Email Address:	ajrheume@redmond.gov
Phone Number:	(425) 556-2741
<b>PROJECT FINANCIAL MANAGER:</b>	Gloria Hulskamp
Email Address:	ghulskamp@redmond.gov
Phone Number:	(425) 556-2702

**ECOLOGY CONTACT INFORMATION**

**ECOLOGY PROJECT MANAGER:**

Lauren Driscoll

Email Address:

Lauren.Driscoll@ecy.wa.gov

Phone Number:

(360) 407-7045

Mailing Address:

WA State Department of Ecology  
SEA Program  
P.O. Box 47600  
Olympia, WA 98504-7600

**ECOLOGY FINANCIAL MANAGER:**

Kirsten Weinmeister

Email Address:

Kirsten.Weinmeister@ecy.wa.gov

Phone Number:

(360) 407-6514

Fax Number:

(360) 407-7151

Address:

WA State Department of Ecology  
SEA Program  
P.O. Box 47600  
Olympia, WA 98504-7600

**PART II. NEP BACKGROUND**

This grant is funded by National Estuary Program (NEP) Funds (Catalog Federal Domestic Assistance No. 66.123). In October 2010, the US Environmental Protection Agency (EPA) funded Lead Organizations for different areas of emphasis to address Puget Sound.

- Watershed protection and restoration (Department of Ecology).
- Marine and nearshore protection and restoration (Departments of Fish and Wildlife and Natural Resources).
- Toxics and nutrients prevention, reduction and control (Department of Ecology).
- Pathogen prevention, reduction, and control (Departments of Health).
- Stewardship support and Action Agenda management (Puget Sound Partnership)
- Tribal priorities (Northwest Indian Fisheries Commission subawards to tribes)

The funding for this agreement is for watershed protection and restoration. For more information, see the Puget Sound Partnership website at [http://www.psp.wa.gov/EPA\\_funding\\_FY10.php](http://www.psp.wa.gov/EPA_funding_FY10.php). These funds are coordinated with EPA and the Puget Sound Partnership as part of implementing the Puget Sound Action Agenda.

**PART III. PROJECT DESCRIPTION**

The RECIPIENT will identify the type and quantity of stormwater retrofits needed to restore healthy hydrology and water quality in Monticello Creek. This project will include inspection of existing conveyance and stormwater facilities and analysis of in-stream and buffer areas to document the watershed's needs. Once stormwater retrofit project types and locations are

planned, the RECIPIENT will select at least three of the proposed projects and produce pre-design plan sets, descriptions, and cost estimates suitable for incorporation into the RECIPIENT's 2016 budgeting process. Monticello Creek watershed includes areas of Redmond and unincorporated King County and is within the Bear Creek watershed-scale planning area, creating an opportunity to demonstrate the value of local collaboration across political boundaries in planning for watershed-based restoration and retrofit.

#### **PART IV. SCOPE OF WORK**

##### **Task 1 - Project Administration/Management**

- A. The RECIPIENT will administer the project. Responsibilities will include, but not be limited to: maintenance of project records; submittal of requests for reimbursement and corresponding backup documentation, progress reports and RECIPIENT closeout report (including photos); compliance with applicable procurement, contracting, and interlocal agreement requirements; application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items.
- B. The RECIPIENT must manage the project. Efforts will include: conducting, coordinating, and scheduling project activities and assuring quality control. Every effort will be made to maintain effective communication with the RECIPIENT's designees; ECOLOGY; all affected local, state, tribes 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.

##### **Deliverable(s):**

- 1. Progress reports and financial vouchers: requests for reimbursement and corresponding backup documentation, progress reports.
- 2. Financial and Ecosystem Accounting Tracking System (FEATS) forms.
- 3. Quality Assurance Project Plan (QAPP) Waiver Form and, if necessary, QAPP.

##### **Task 2 - Data Collection**

- A. The RECIPIENT will assemble watershed information necessary for modeling runoff; siting, assessing, and designing facilities and best management practices (BMPs); justifying future funding of retrofit projects. This includes, but is not limited to, watershed topography, land cover, soils, conveyance system mapping and condition assessment, stormwater control facility information, utility mapping, natural water features, property boundaries, property ownerships, zoning, land uses, expected redevelopment by 2030 (including roads), land costs, reported drainage problems, hydrologic data, water quality data, Benthic Index of Biotic Integrity (B-IBI) data, and fish usage data. It also includes field work as needed to check elevations, assess feasibility, test soils, document stream channel and buffer conditions, and confirm

modeling assumptions.

Deliverable(s):

1. Supporting geographic information documentation.
2. Existing conditions summary.
3. Geodatabase and map of all spatial data used.

### **Task 3 - Schematic Design and Model of Watershed-wide Retrofit System**

- A. Using the geographic information assembled in Task 2, the RECIPIENT will identify potential sites for new facilities, Best Management Practices (BMPs) and sites of existing facilities that could be modified to meet the stormwater discharge performance goal at the watershed's monitoring station. The stormwater discharge performance goal is for the hydrologic and water quality conditions in Monticello Creek to fully support "existing uses", and "designated uses", as those terms are defined in WAC 173-201A-020.

The RECIPIENT will delineate catchments for the potential sites and determine approximate size of facilities and BMPs needed to meet the performance goal recommended by the Bear Creek Watershed Strategic Plan modeling. Modeling will include forested conditions, existing conditions, and predicted future conditions, where future conditions include build-out at current comprehensive planning maximum densities and reasonable estimates of stormwater controls addressing flow, LID, and treatment. The RECIPIENT will iteratively adjust the facility and BMP sites, types, and sizes or add new sites as needed based on available space. The RECIPIENT will conduct site visits and perform field surveys as needed to determine if sites can accommodate the sizing.

- B. The RECIPIENT will use Hydrologic Simulation Program-Fortran (HSPF) and System for Urban Stormwater Treatment and Analysis Integration (SUSTAIN) to model the runoff discharging to and from the preliminary system identified in Task 3. This includes modeling all facility sites and Low Impact Development (LID) Best Management Practices (BMPs) sites. The RECIPIENT will use HSPF and SUSTAIN to iteratively adjust the retrofit design at each site to collectively meet the stormwater discharge performance goal. The RECIPIENT will add or eliminate sites as needed based on iterative adjustment of retrofit designs based on feedback from the Bear Creek Watershed Strategic Plan. Where land acquisition is uncertain for stormwater control ponds, include sizing of an option for stormwater control vaults. The RECIPIENT will estimate planning level project costs for each site.

Deliverable(s):

1. Map of schematic system design showing location of retrofit sites chosen for pre-design.
2. Spreadsheet summarizing design specifics and planning level project costs for sites chosen for pre-design.
3. Map of modeled system design showing location of all retrofits (infiltration

facilities, flow control, runoff treatment, and LID BMPs) needed to meet watershed performance goal by outfall.

4. Modeling report discussing the modeling assumptions, basic overview of the HSPF and SUSTAIN modeling performed, results of hydraulic modeling, results from the in-channel modeling, and the final quantity of BMPs, by type, estimated to be the most cost effective and feasible option for retrofitting the stormwater conveyance system. The report will also identify projects needed, based on the in-channel modeling, in the channel that will compliment stormwater retrofits and recover in-stream habitat.
5. Model files

#### **Task 4 -Public Involvement**

- A. The RECIPIENT will develop an informed consent public involvement campaign using the latest knowledge and experiences from similar projects in the Puget Sound region. The public involvement campaign will include development of a public involvement plan, outreach materials development, open houses/block parties, door-to-door outreach, and one-on-one meetings with affected property owners.

Deliverable(s):

1. Public Involvement Plan and related outreach materials developed for the project (handouts/presentations), documentation of meetings and public feedback tracking.

#### **Task 5 - Prepare Pre-Design Reports**

The RECIPIENT will complete pre-design on as many retrofit sites as possible (at least three) with remaining grant funding. The RECIPIENT will prepare a pre-design report that includes key information that substantiates the project's cost, benefit, and readiness to proceed, which increases its chances of receiving grant or other capital funding. The reports will include a preliminary design plan, location map, supporting technical information, targeted flow control and treatment performance, land acquisition needs, alternatives considered, permitting required, public outreach needed, estimated project costs, and operations and maintenance costs.

Deliverable(s):

1. Draft Pre-Design Reports
2. Final Pre-Design Reports and cost estimates

#### **Task 6 - Prepare Project Report**

The RECIPIENT will prepare a final project report that includes deliverables from Tasks 1-5. In addition, the project report will incorporate additional information that will entail the full list of

Washington State Department of Ecology  
National Estuary Program Watershed Protection and Restoration Grant  
Grant Agreement #G1400617 City of Redmond- Monticello Creek Watershed Retrofit Siting

programmatic and structural tools to be implemented to recover Monticello Creek.

Deliverable(s):

1. Draft Project report
2. Final Project Report

**Summary Table of Deliverables by Task**

Task Number	Deliverable Description	Due Date
1	QAPP Waiver Form, QAPP if necessary,	July 2015
1	Quarterly progress reports and financial vouchers, Semi-annual FEATS forms,	Ongoing through June 2017
2	Existing conditions summary, geodatabase and map of all spatial data used	February 2016
3	Draft modeling report for Ecology review	August 2016
3	Schematic system design, modeled system design, modeling report and model files	October 2016
4	Public involvement plan	ongoing through June 2017
5	Draft Pre-design Reports for Ecology review	February 2017
5	Final Pre-design Reports (minimum of three)	April 2017
6	Draft Project Report for Ecology review	May 2017
6	Final project report	June 2017

**PART V. PROJECT BUDGET**

TASKS	TOTAL PROJECT COST	TOTAL ELIGIBLE COST
1. Project Administration/Management	\$37,792	\$0
2. Data Collection	\$79,438	\$0
3. Schematic System Design and Modeling	\$188,384	\$188,384
4. Public Involvement	\$32,000	\$0
5. Prepare Pre-design Reports	\$71,273	\$61,616
6. Prepare Final Report	\$40,928	\$0
<b>TOTAL</b>	<b>\$449,815</b>	<b>\$250,000</b>
<b>The DEPARTMENT's Fiscal Office will track to the Total Eligible Cost.</b>		

**PART VI. SPECIAL TERMS AND CONDITIONS**

ECOLOGY will evaluate the status of this project, 18 months from the effective date of the agreement. ECOLOGY's Project Manager and Financial Manager will meet with the RECIPIENT to review spending trends, completion of outcome measures, and overall project administration and performance. Failure to make satisfactory progress toward achieving project outcomes may result in changes in scope of work, reduction of funds, or increased oversight measures as determined by ECOLOGY.

**PART VII. ALL WRITINGS CONTAINED HEREIN**

The following contain the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein:

- This agreement
- Attachment I: General Project Management Requirements
- Attachment II: General Terms and Conditions
- Attachment III: Federal Provisions
- The current edition of ECOLOGY's "Administrative Requirements for Recipients of Ecology Grants and Loans"
- The applicable statutes and regulations and associated funding guidelines that correspond to the project funding agreement.

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

The RECIPIENT acknowledges that they have had the opportunity to thoroughly review the terms of this agreement, the attachments, all incorporated or referenced documents, as well as all applicable statutes, rules, and guidelines mentioned in this agreement.

IN WITNESS WHEREOF, the parties hereby execute this agreement:

State of Washington  
Department of Ecology

City of Redmond

  
\_\_\_\_\_  
Gordon White, Program Manager      Date  
Shorelands and Environmental Assistance

  
\_\_\_\_\_  
Mayor John Marchione      Date

## **ATTACHMENT I: GENERAL PROJECT MANAGEMENT REQUIREMENTS**

### **CULTURAL AND HISTORIC RESOURCES PROTECTION**

The RECIPIENT must comply with all requirements listed in Section 106 of the National Historic Preservation Act or Executive Order 05-05 prior to implementing any project that involves soil disturbing activity.

The RECIPIENT must conduct and submit a cultural resources survey or complete and submit an EZ-1 Form to ECOLOGY's project manager prior to any soil disturbing activities. ECOLOGY will contact the Department of Archaeology and Historic Preservation (DAHP) and affected tribes regarding the proposed project activities in order to fulfill Section 106 or Executive Order 05-05 requirements. Any prior communication between the RECIPIENT, the DAHP, and the tribes is not sufficient to meet requirements. Any mitigation measures as an outcome of this process will be requirements of this agreement.

Any soil disturbing activities that occur prior to the completion of the Section 106 or Executive Order 05-05 process will not be eligible for reimbursement. Activities associated with cultural resources review are grant eligible and reimbursable.

The Department of Archaeology and Historic Preservation has provided guidance that can be accessed online at: <http://www.dahp.wa.gov/>

### **EDUCATION AND OUTREACH**

The RECIPIENT must do a regional search for existing materials before producing any new educational flyers or pamphlets. The RECIPIENT must request the use of those materials before time and resources are invested to duplicate materials that are already available.

The RECIPIENT must also check the Washington Waters website [http://www.ecy.wa.gov/washington\\_waters/index.html](http://www.ecy.wa.gov/washington_waters/index.html) for useful educational materials. These materials are available for public use and can be downloaded directly from the website.

The RECIPIENT must provide ECOLOGY up to two copies and an electronic copy of any tangible educational products developed under this grant, such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements or gadgets, such as a refrigerator magnet with a message. If this is not practical, the RECIPIENT must provide a complete description including photographs or printouts of the product. The RECIPIENT must also supply ECOLOGY with the names and contact information of local project leads.

If there are a significant number of people in the community that speak languages other than English, the RECIPIENT must produce all pamphlets, fliers, meeting notices, reports, and other educational and public outreach materials in English and in the other prevalent language.

### **EFFECTIVE DATE**

The Effective Date of this grant agreement is the date agreed to by ECOLOGY and the RECIPIENT during the development of this grant agreement and should be no earlier than the date the RECIPIENT began incurring eligible project costs. Any work performed prior to the Effective Date of this agreement will be at the sole expense and risk of the RECIPIENT. Reimbursement for eligible costs incurred will not be released by ECOLOGY until the grant agreement is signed.

### **EQUIPMENT PURCHASE**

The total cost of all equipment purchased under this project will not exceed \$500 without prior approval from ECOLOGY.

### **FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) REPORTING REQUIREMENTS:**

CONTRACTOR/RECIPIENT must complete the attached 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.fsrs.gov](http://www.fsrs.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.fsrs.gov](http://www.fsrs.gov).

### **INCREASED OVERSIGHT**

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

### **INDIRECT RATE**

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

### **LIGHT REFRESHMENTS**

The RECIPIENT may spend up to \$100 per meeting for light refreshments associated with this project. The total amount spent for light refreshments under this agreement cannot exceed \$300.

### **MINORITY AND WOMEN'S BUSINESS 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 must report to ECOLOGY at the time of submitting each invoice, on forms provided by ECOLOGY (*Form D: Contractor Participation Report*), 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.

## **PAYMENT REQUEST SUBMITTALS**

Registering. Payment will be issued through Washington State's Department of Enterprise Services Statewide Payee Desk. To receive payment you must register as a state-wide vendor by submitting a state-wide vendor registration form and an IRS W-9 form at website:  
<http://www.des.wa.gov/services/ContractingPurchasing/Business/VendorPay/Pages/default.aspx>.

If you have questions about the vendor registration process you can contact DES at the Payee Help Desk at (360) 407-8180 or email [payeehelpdesk@des.wa.gov](mailto:payeehelpdesk@des.wa.gov).

Frequency. The RECIPIENT must submit payment requests at least quarterly but no more often than monthly, unless allowed by ECOLOGY's Financial Manager. ECOLOGY's Financial Manager may require the RECIPIENT to submit regular payment requests to ensure efficient and timely use of funds.

Supporting Documentation. The RECIPIENT must submit all payment request vouchers and supportive documentation to ECOLOGY's Financial Manager. Payment request voucher submittals are based on match requirements found in the budget.

### Required Forms.

<u>Any Match Combination</u>	<u>Cash Only Match or No Match</u>	<u>Where Applicable</u>
Form A19-1A (original signature)	Form A19-1A (original signature)	Form E (ECY 060-12)
Form B1 (ECY 060-3)	Form B2 (ECY 060-7)	Form F (ECY 060-13)
Form C1 (ECY 060-8)	Form C2 (ECY 060-9)	Form H (F-21)
Form D (ECY 060-11)	Form D (ECY 060-11)	Form I (ECY 060-15)

Reporting eligible costs. The RECIPIENT must report all eligible costs incurred on the project, regardless of the source of funding for those costs. This includes costs used as match. All eligible and ineligible project costs must be separate and identifiable.

Reimbursements. Payments will be made on a cost-reimbursable basis.

## **REQUESTS FOR REIMBURSEMENT**

Instructions for submitting payment requests are found in "Administrative Requirements for Recipients of Ecology Grants and Loans", PART IV, available on ECOLOGY website or in hard copy upon request.

1. Procedure. Payment requests will be submitted by the RECIPIENT to the Financial Manager and the Project Manager of ECOLOGY. All payment requests will include a progress report. No reimbursement will be made without the appropriate back-up documentation and the progress report.
2. Cost Reimbursable Basis: Payments to the RECIPIENT will be made on a "reimbursable basis" no more than once per month unless allowed by ECOLOGY's

Financial Manager. ECOLOGY's Financial Manager may require the RECIPIENT to submit regular payment requests to ensure efficient and timely use of funds.

3. Documentation: Each request for payment will include back-up documentation of the eligible expenses being requested for reimbursement and a progress report.
4. Period of Payment. Payments will only be made for eligible costs of the project pursuant to this agreement and performed after the effective date and prior to the expiration date of this agreement, unless those dates are specifically modified in this agreement.
5. Ineligible Costs. Payments will be made only for eligible project costs incurred and will not exceed the grant amount. If any audit identifies grant funds which were used to support ineligible costs, such funds will be immediately due and payable to ECOLOGY notwithstanding any provision to the contrary herein.
6. Overhead Costs. No payment for overhead costs in excess of 25 percent of salaries and benefits of the RECIPIENT will be allowed without prior approval.
7. Certification. Each payment request will constitute a certification by the RECIPIENT to the effect that all representations and warranties made in this agreement remain true as of the date of the request and that no adverse developments, affecting the financial condition of the RECIPIENT or its ability to complete the PROJECT have occurred since the date of this agreement.

## **PROCUREMENT**

The RECIPIENT certifies by signing this agreement that all applicable requirements have been satisfied in the procurement of any professional services.

## **PROGRESS REPORTS**

The RECIPIENT will submit a progress report to ECOLOGY at least quarterly or such other schedule as set forth herein. The RECIPIENT will submit a copy of each progress report along with the payment request to both the Financial Manager and the Project Manager of ECOLOGY. Quarterly reports will cover the periods:

- January 1 through March 31
- April 1 through June 30
- July 1 through September 30
- October 1 through December 31

Quarterly reports are due 15 days following the end of the quarter being reported. Payment requests will not be processed without a progress report. A progress report must be submitted even if no progress has occurred.

A Progress Report Form is available on ECOLOGY's website. At a minimum, all progress reports must contain the items outlined in ECOLOGY's Progress Report Form. ECOLOGY may request additional information as necessary.

The RECIPIENT will also report in writing to ECOLOGY any problems, delays, or adverse conditions which will materially affect its ability to meet project objectives or time schedules. This disclosure will be accompanied by a statement of the action taken or proposed and any assistance needed from ECOLOGY to resolve the situation.

### **REQUIRED DOCUMENT SUBMITTALS**

The RECIPIENT must submit the following documents to ECOLOGY as requested by ECOLOGY's Project Manager or Financial Manager:

- Draft project completion report
- Final project completion report
- Educational products developed under this agreement
- Interlocal agreements
- Land owner agreements
- Professional services procurement agreements
- Department of Archaeology and Historic Preservation's EZ-1 Form – 1 copy to ECOLOGY's Project Manager, per site, prior to ground disturbing activities.
- Federal Funding Accountability and Transparency Act (FFATA) Data Collection Form 1 signed original submitted to ECOLOGY's Financial Manager with signed agreement
- Financial and Ecosystem Accounting and Tracking System (FEATS) forms.  
Due to Project Manager in April and October of each year of the project.

### **SPECIAL CONDITION FOR RECIPIENTS IN SNOHOMISH AND KING COUNTY**

For RECIPIENTS in either Snohomish or King County: When this agreement crosses the RECIPIENT's fiscal year, the obligation of the RECIPIENT to continue or complete the project described herein will be contingent upon appropriation of funds by the RECIPIENT's governing body; provided that nothing contained herein will preclude ECOLOGY from demanding repayment of funds paid to the RECIPIENT in accordance with Section O of the appended General Terms and Conditions.

### **VOLUNTEER TIME DOCUMENTATION**

The RECIPIENT must report to ECOLOGY the total number of volunteer (unpaid) hours contributed to the restoration or monitoring project, including time not being credited for matching purposes. This information will be conveyed to the Governor of the State of Washington in fulfillment of a request for state agencies to collect information about volunteers working for clean water.

### **QUALITY ASSURANCE**

Quality Assurance Project Plan (QAPP). Prior to initiating project activities, the RECIPIENT must prepare a Quality Assurance Project Plan (QAPP) Waiver Form. If ECOLOGY's Quality Control Manager determines that a QAPP is needed, the RECIPIENT must prepare a QAPP. The QAPP must follow ECOLOGY's *Guidelines for Preparing Quality Assurance Project Plans for*

*Environmental Studies (Guidelines)*, July 2004 (ECOLOGY Publication No. 04-03-030). The applicant may also reference the *Technical Guidance for Assessing the Quality of Aquatic Environments*, revised February 1994 (ECOLOGY Publication No. 91-78) or more current revision, in developing the QAPP.

The RECIPIENT must submit the QAPP to ECOLOGY's Project Manager for review and comment. The RECIPIENT must receive written approval of the QAPP by ECOLOGY before starting the activities covered by the QAPP. To find the QAPP Waiver Form and for more information on QAPP requirements, visit:

<http://www.ecy.wa.gov/programs/eap/qa/docs/NEPQAPP/index.html>.

Accredited Laboratory Testing. The RECIPIENT must use an environmental laboratory accredited by ECOLOGY to analyze water samples for all parameters that require bench testing for analysis. Information on currently accredited laboratories and the accreditation process is provided on ECOLOGY's Environmental Assessment Program website at:

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

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

Monitoring Data Submittal/Environmental Information Management System. RECIPIENTS that collect environmental monitoring data must submit all data to ECOLOGY using the Environmental Information Management System (EIM). Data must be loaded into EIM following instructions on the EIM website at <http://www.ecy.wa.gov/eim>. Final payment requests will be withheld until data has been submitted in EIM, available at:

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

The data submittal portion of the EIM website provides information and help on formats and requirements for submitting tabular data. Specific questions about data submittal may be directed to the EIM Data Coordinator.

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

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

Washington State Department of Ecology  
National Estuary Program Watershed Protection and Restoration Grant  
Grant Agreement #G1400617 City of Redmond- Monticello Creek Watershed Retrofit Siting

1. The RECIPIENT, 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 is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT 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 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 further agrees by signing this agreement, that it will include this clause titled "CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. Pursuant to 2CFR180.330, the RECIPIENT is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. RECIPIENT 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 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 reimbursement will be approved for payment. RECIPIENT must run a search in [www.sam.gov](http://www.sam.gov) and print a copy of completed searches to document proof of compliance.

**DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS**

**GENERAL COMPLIANCE, 40 CFR, Part 33**

The RECIPIENT agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises (MBE/WBE) in procurement under assistance agreements, contained in 40 CFR, Part 33.

**FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D**

A RECIPIENT must negotiate with the appropriate EPA award official or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

**Current Fair Share Objective/Goal**

If the dollar amount of this assistance agreement is over \$250,000; or the total dollar amount of all of the RECIPIENT's non-TAG assistance agreements from EPA in the current fiscal year is over \$250,000.

ECOLOGY has negotiated the following, applicable MBE/WBE fair share objectives/goals with EPA as follows:

MBE: SUPPLIES 8.00%; SERVICES 10.00%; EQUIPMENT 8.00%; CONSTRUCTION 10.00%

WBE: SUPPLIES 4.00%; SERVICES 4.00%; EQUIPMENT 4.00%; CONSTRUCTION 6.00%

**Negotiating Fair Share Objectives/Goals, 40 CFR, Section 33.404**

If the RECIPIENT has not yet negotiated its MBE/WBE fair share objectives/goals, the recipient agrees to submit proposed MBE/WBE objectives/goals based on an availability analysis, or disparity study, of qualified MBEs and WBEs in their relevant geographic buying market for construction, services, supplies and equipment.

The RECIPIENT agrees to submit proposed fair share objectives/goals, together with the supporting availability analysis or disparity study, to the Regional MBE/WBE Coordinator within 120 days of its acceptance of the financial assistance award. EPA will respond to the proposed fair share objective/goals within 30 days of receiving the submission. If proposed fair share objective/goals are not received within the 120 day time frame, the recipient may not expend its EPA funds for procurements until the proposed fair share objective/goals are submitted.

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

Pursuant to 40 CFR, Section 33.301, the RECIPIENT agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to ensure that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

(a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government

Washington State Department of Ecology  
National Estuary Program Watershed Protection and Restoration Grant  
Grant Agreement #G1400617 City of Redmond- Monticello Creek Watershed Retrofit Siting

recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.

(b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.

(c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

(d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

(e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

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

### **FINAL PAYMENT**

All payment requests must be submitted to ECOLOGY no later than 90 days after the expiration date of this agreement. Any payment requests received after this date will not be eligible for reimbursement.

Final payment requests will not be reimbursed until all work is complete and all required paperwork has been submitted and approved by ECOLOGY.

### **FUNDING RECOGNITION**

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

“This project has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement **PC-J27601** to ECOLOGY. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does the mention of trade names or commercial products constitute endorsement or recommendation for use.”

Washington State Department of Ecology  
National Estuary Program Watershed Protection and Restoration Grant  
Grant Agreement #G1400617 City of Redmond- Monticello Creek Watershed Retrofit Siting

The RECIPIENT must inform the public about ECOLOGY and EPA funding participation in this project through the use of project signs, acknowledgement in published materials, reports, the news media, websites, or other public announcements. Projects addressing site-specific locations must utilize appropriately sized and weather-resistant signs. Sign logos are available from ECOLOGY upon request.

## **ATTACHMENT II: GENERAL TERMS AND CONDITIONS**

### **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 ECOLOGY.

### **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 ECOLOGY that all approvals and permits have been secured, and make copies available to the ECOLOGY upon request.

2. Discrimination. The ECOLOGY 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 ECOLOGY 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, ECOLOGY 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 ECOLOGY 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 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 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 ECOLOGY within ninety (90) days of the date of the audit report.

#### **I. PERFORMANCE REPORTING**

The RECIPIENT shall submit progress reports to ECOLOGY with each payment request or such other schedule as set forth in the Special Conditions. The RECIPIENT shall also report in writing to ECOLOGY 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 ECOLOGY 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 ECOLOGY 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 Manager.

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 ECOLOGY. A copy of this document shall be furnished to the RECIPIENT. When payment requests are approved by the ECOLOGY, payments will be made to the mutually agreed upon designee. Payment requests shall be submitted to the ECOLOGY and directed to the Project Manager 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. ECOLOGY may withhold an amount not to exceed ten percent (10%) of each reimbursement payment as security for the RECIPIENT's performance. Monies withheld by ECOLOGY may be paid to the RECIPIENT when the project(s) described herein, or a portion thereof, have been completed if, in ECOLOGY'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 ECOLOGY and any unauthorized expenditure(s) charged to this grant/loan shall be refunded to the ECOLOGY 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 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 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 ECOLOGY, shall become ECOLOGY's 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 ECOLOGY for damages sustained by ECOLOGY and/or the State of Washington because of any breach of 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.

2. Insufficient Funds. The obligation of ECOLOGY 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 ECOLOGY 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 ECOLOGY 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, ECOLOGY 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 ECOLOGY.

#### **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

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. 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 ECOLOGYS'; presents papers, lectures, or seminars involving information supplied by ECOLOGY; use logos, reports, maps or other data, in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.
3. Tangible Property Rights. ECOLOGY'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 ECOLOGY 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 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, ECOLOGY 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 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.

#### **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 ECOLOGY's sole discretion, be required to repay to ECOLOGY all grant/loan funds disbursed to the RECIPIENT for those parts of the project that are rendered worthless in the opinion of ECOLOGY by such failure to perform.

Interest shall accrue at the rate of twelve percent (12%) per year from the time ECOLOGY demands repayment of funds. If payments have been discontinued by ECOLOGY 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 ECOLOGY, may become ECOLOGY'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 ECOLOGY through the Project Manager 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 Manager 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 Manager or other designated official who shall provide a written statement of decision to the RECIPIENT. The decision of the Project Manager 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 ECOLOGY 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. ECOLOGY 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**

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 completion or expiration date of this agreement, ECOLOGY, 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. 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 restrictions.



### **ATTACHMENT III: FEDERAL PROVISIONS**

The Sub-Recipients shall comply with all applicable federal, State, and local laws, rules, and regulations in carrying out the terms and conditions of this Agreement.

#### **ADMINISTRATIVE CONDITIONS**

##### **1. Cost Principles**

RECIPIENTS of federal funds must comply with Title 2 CFR 200, Uniform Administration Requirements, Cost Principles, and Audit Requirements for Federal Awards, which replaced the following Office of Management and Budget (OMB) circulars:

- OMB Circular A-21, Cost Principles for Educational Institutions.
- OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments.
- OMB Circular A-122, Cost Principles for Non-Profit Organizations.
- OMB Circular A-102, Uniform Administrative Requirements for States and Local Governments.
- OMB Circular A-110, Uniform Administrative Requirements for Institutions of Higher Education and Non-Profit Organizations.
- OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organization.
- OMB Circular A-133, Compliance Supplement.

OMB Circulars are found at: <http://www.whitehouse.gov/omb/circulars/>, and the Code of Federal Regulations are at:

<http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>.

The applicability of the Cost Principles depends on the type of organization incurring the costs.

##### **2. Audit Requirements**

The Sub-Recipient shall fully comply with requirements of OMB Circular A-133, 'Audits of States, Local Governments, and Non-Profit Organizations, if applicable.

##### **3. Hotel-Motel Fire Safety Act**

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

##### **4. Recycled Paper**

*[Institutions of Higher Education Hospitals and Non-Profit Organizations](#)*

---

In accordance with 40 CFR 30.16, Sub-Recipient agrees to use recycled paper and double-sided printing for all reports which are prepared as a part of this Agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration.

*State Agencies and Political Subdivisions*

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

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

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

*State Tribal and Local Government Recipients*

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

**5. Lobbying**

Sub-Recipient agrees to comply with Title 40 CFR Part 34, *New Restrictions on Lobbying*. Sub-Recipient shall include the language of this provision in award documents for all sub-awards exceeding \$100,000, and require that sub-awardees submit certification and disclosure forms accordingly. In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure.

*Part 30 Recipients*

All contracts awarded by Sub-Recipient shall contain, when applicable, the anti-lobbying provisions as stipulated in the Appendix at Title 40 CFR Part 30. Pursuant to Section 18 of the Lobbying Disclosure Act, Sub-Recipient affirms that it is not a non-profit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or that it is a non-profit

organization described in Section 501(c)(4) of the Code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.

#### ***Lobbying and Litigation***

Sub-Recipient's chief executive officer shall ensure that no grant funds awarded under this Agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. Sub-Recipient shall abide by its respective OMB Circular (A-21, A-87, or A-122), which prohibits the use of Federal grant funds for litigation against the United States or for lobbying or other political activities.

#### **6. Suspension and Debarment**

Sub-Recipient shall fully comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled 'Responsibilities of Participants Regarding Transaction (Doing Business with Other Persons)'. Sub-Recipient is responsible for ensuring that any lower tier covered transaction as described in Subpart B of 2 CFR Part 180 and 2 CFR Part 1532, entitled 'Covered Transactions', includes a term or condition requiring compliance with Subpart C. Sub-Recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Sub-Recipient acknowledges that failing to disclose the information as required at 2 CFR 180.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies, including suspension and debarment. Sub-Recipient may access the Excluded Parties List System at: <http://www.epls.gov>. This term and condition supersedes EPA Form 5700-49, 'Certification Regarding Debarment, Suspension, and Other Responsibility Matters'.

#### **7. Drug-Free Workplace Certification**

The recipient organization must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title 40 CFR 36.200-36.230. Additionally, in accordance with these regulations, recipient organization must identify all known workplaces under its federal award; Those recipients who are individuals must comply with the drug-free provisions set forth in Title 2 CFR Part 1536 Subpart C.

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

#### **8. Management Fees**

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

#### **9. Reimbursement Limitation**

If Sub-Recipient expends more than the amount of federal funding in its approved budget in anticipation of receiving additional funds, it does so at its own risk. The Federal Government

is not legally obligated to reimburse Sub-Recipient for costs incurred in excess of the approved budget.

**10. Trafficking Victim Protection Act of 2000 (TVPA) as Amended.**

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

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

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

c. The following prohibition statement applies to Sub-Recipient, and all sub-awardees of Sub-Recipient. Sub-Recipient must include this statement in all sub-awards made to any private entity under this Agreement.

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

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

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

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

Washington State Department of Ecology  
National Estuary Program Watershed Protection and Restoration Grant  
Grant Agreement #G1400617 City of Redmond- Monticello Creek Watershed Retrofit Siting

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

C. Definitions. For purposes of this award term:

1. Central Contractor Registration (CCR)/System for Award Management (SAM) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the System for Award Management (SAM) Internet site <http://www.sam.gov>.
2. Data Universal Numbering System (DUNS) number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).
3. Entity, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:
  - a. A Governmental organization, which is a State, local government, or Indian tribe;
  - b. A foreign public entity;
  - c. A domestic or foreign nonprofit organization;
  - d. A domestic or foreign for-profit organization; and
  - e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
4. Subaward:
  - a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
  - b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. --.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
  - c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.
5. Subrecipient means an entity that:
  - a. Receives a subaward from you under this award; and
  - b. Is accountable to you for the use of the Federal funds provided by the subaward.

**12. FY2011 ACORN Funding Restriction**

No funds provided under this Agreement may be used for sub-awards/sub-grants or contracts to the Association of Community Organizations for Reform NOW (ACORN) or any of its subsidiaries.

**13. Disadvantaged Business enterprise Requirements, General Compliance**

Sub-Recipient agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises in procurement under assistance agreements, contained in 40 CFR, Part 33.

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

**14. Sub-Awards**

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

1. Establish all sub-award agreements in writing;
2. Maintain primary responsibility for ensuring successful completion of the approved project (SUB-RECIPIENT CANNOT DELEGATE OR TRANSFER THIS RESPONSIBILITY TO A SUB-AWARDEE).
3. Ensure that any sub-awards comply with the standards in Section 210(a)-(d) of OMB Circular A-133, and are not used to acquire commercial goods or services for the sub-awardee.
4. Ensure that any sub-awards to 501(c)(4) organizations do not involve lobbying activities;
5. Monitor the performance of sub-awardees, and ensure sub-awardees comply with all applicable regulations, statutes, and terms and conditions which flow down in the sub-award;
6. Obtain ECOLOGY's consent before making a sub-award to a foreign or international organization, or a sub-award to be performed in a foreign country; and
7. Obtain approval from Ecology for any new sub-award work that is not outlined in the approved work plan in accordance with 40 CFR Parts 30.25 and 31.30, as applicable.

**15. FY12 APPR ACT: Unpaid Federal Tax Liabilities and Federal Felony Convictions**

This award is subject to the provisions contained in the Department of Interior, Environment, and Related Agencies Appropriations Act, 2012, HR 2055, Division E, Sections 433 and 434 (sections 433 and 434) regarding unpaid federal tax liabilities and federal felony convictions. Accordingly, by accepting this award the recipient acknowledges that it: (1) is not subject to any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, and (2) has not been convicted (or had an officer or agent acting on its behalf convicted) of a felony criminal conviction under any Federal law within 24 months preceding the award, unless EPA has considered suspension or debarment of the corporation, or such officer or agent, based on these tax liabilities or convictions and determined that such action is not necessary to protect the Government's interests. If the recipient fails to comply with

these provisions, EPA will annul this agreement and may recover any funds the recipient has expended in violation of sections 433 and 434.”

### **PROGRAMMATIC CONDITIONS**

#### **1. Semi-Annual Performance Reports**

Consistent with 40 CFR §35.115 and EPA Order 5700.7, the sub-recipient will submit performance reports using the Financial and Ecosystem Accounting Tracking System (FEATS) form every six (6) months during the life of the project. The FEATS form will be provided to the sub-recipient by the ECOLOGY Project Manager. The reporting periods shall end March 31st and September 30th of each calendar year. Reports shall be submitted on or before April 15th and October 15th of each calendar year to ECOLOGY’s Project Manager. It is preferred that reports be submitted by electronic mail. In accordance with 40 CFR Part 30.51(d) and 40 CFR Part 31.40, as appropriate, the sub-recipient agrees to submit performance reports that include brief information on each of the following areas:

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

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

#### **2. Recognition of EPA Funding**

Reports, documents, signage, videos, or other media, developed as part of projects funded by this Agreement shall contain the following statement:

“THIS PROJECT HAS BEEN FUNDED WHOLLY OR IN PART BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER PUGET SOUND ECOSYSTEM RESTORATION AND PROTECTION COOPERATIVE AGREEMENT GRANT PC-J27601 WITH WASHINGTON DEPARTMENT OF ECOLOGY. THE CONTENTS OF THIS DOCUMENT DO NOT NECESSARILY REFLECT THE VIEWS AND POLICIES OF THE ENVIRONMENTAL PROTECTION AGENCY, NOR DOES MENTION OF TRADE NAMES OR COMMERCIAL PRODUCTS CONSTITUTE ENDORSEMENT OR RECOMMENDATION FOR USE.”

#### **3. Copyrighted Material**

EPA has the right to reproduce, publish, use, and authorize others to use copyrighted works or other data developed under this assistance agreement for Federal purposes. Ecology acknowledges that EPA may authorize another grantee to use copyrighted works or other data developed under this Agreement as a result of: a) the selection of another grantee by

EPA to perform a project that will involve the use of the copyrighted works or other data or;  
b) termination or expiration of this agreement.

**4. Peer Review**

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