

# TASK ORDER FORM

Project Manager	County Project #	Date Task Issued	Task Order #	Administration Use ONLY		
Dale Meck	FC3639-540-5	2/19/2020	2		Admin Staff	Date
Not-to-Exceed Amount	Task Order Amount	Total Contracted	Total Contract Remaining	Budget Verified	<i>John</i> 8m	
\$ 250,000.00	\$ 40,000.00	\$ 67,250.00	\$ 182,750.00	Contract Terms Verified	<i>John</i> 8m	

**Task Order Name:** Trout Meadows - Revegetation and Site Maintenance

**Scope of Work:**

This task is intended to cover a comprehensive set of adaptive management tasks and efforts to support the broader riparian management and establishment actions of the Trout Meadows Side Channel and Floodplain Restoration Project. All task activities will be located on parcel 181306-12405 owned by the Yakima County Flood Control Zone District or privately owned parcel 181306-14003 through the terms of a conservation easement (see map in Exhibit B).

Work includes: labor costs for Washington Conservation Corps(WCC) crews, North Yakima Conservation District (NYCD) staff time for administration, coordination, and supervision of the WCC crews as needed, and costs for plants, equipment rentals, material costs, etc. needed for the implementation of the following actions or other efforts needed to revegetate disturbed portions of the project and the establishment of beneficial native species across the project site: Additional riparian plantings (with or without fabric mulch protection), upland planting efforts, weed control efforts, native seeding, biotechnical bank stabilization measures, tree protection, trash removal, mowing, watering, etc. Specific tasks and locations will be discussed before implementation.

All work must be completed in accordance with the provisions of the Floodplains by Design grant funding agreement G1600008 (attached as Exhibit A), the Inadvertent Discovery Plan, the Hydraulic Project Approval, and other environmental permits for the project.

**Task Start Date:** 2/1/2020 **Task End Date:** 12/31/2020

**TASK ORDER SUMMARY**

Task #	Task Order Name	Contracted Amount	Actual Amount	Task Completed (Y/N)
1	Trout Meadows - Additional Planting Effort	\$ 27,250.00	\$ -	
2	Trout Meadows - Revegetation and Site Maintenance	\$ 40,000.00	\$ -	
3		\$ -	\$ -	
4		\$ -	\$ -	
5		\$ -	\$ -	
6		\$ -	\$ -	
7		\$ -	\$ -	
8		\$ -	\$ -	
9		\$ -	\$ -	
10		\$ -	\$ -	
<b>Total contracted to date:</b>		\$ 67,250.00	\$ -	

**Yakima County Signatures:**

*Troy Havens*

3/19/20

Water Resources Manager

DATE

*Sale M*

3/9/2020

Project Manager

DATE

*Bill K Schmitt*

3/12/20

**NYCD Signature:**

*Michael J. Smith* 3/17/20

District Manager

DATE

**NOTES:**

1. Task Orders must be compliant with the provisions of the ILA between Yakima County and the NYCD and the provisions of the funding agreement for each task which will be included in each task as appropriate.
2. Where the scope of work of the Task Order cannot be accommodated on the form; use as a cover (noting "See Attached" in the appropriate spaces above) to provide accounting codes, Admin authorization, and signatures. Any substitute format must include all elements of this form for each item of work.



# Exhibit A



## ECOLOGY Grant Agreement No. G1600008

between the

State of Washington Department of Ecology and

Yakima County Public Services

### Project Title: Rambler's Park Phase IV and Trout Meadows Phase II

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 "Yakima County Public Services, Water Resources Division", hereinafter referred to as the "RECIPIENT". The RECIPIENT agrees to carry out the activities described herein.

RECIPIENT Name: Terry Keenhan  
Address: 128 North 2<sup>nd</sup> Street  
Yakima, WA 98902  
Phone: (509) 574-2311  
Tax ID: 91-6001387  
Email Address: [Terry.keenhan@co.yakima.wa.us](mailto:Terry.keenhan@co.yakima.wa.us)

RECIPIENT Project Coordinator: Hoda Sondossi  
Telephone Number: (509) 574-2468  
E-mail Address: [Hoda.sondossi@co.yakima.wa.us](mailto:Hoda.sondossi@co.yakima.wa.us)

RECIPIENT Billing Contact: Teresa Ishizaka  
Telephone Number: (509) 574-2291  
Billing Address: [teresa.ishizaka@co.yakima.wa.us](mailto:teresa.ishizaka@co.yakima.wa.us)

ECOLOGY Project Manager: Michelle Gilbert  
Telephone Number: (509) 457-7139  
E-mail Address: [Michelle.Gilbert@ecy.wa.gov](mailto:Michelle.Gilbert@ecy.wa.gov)  
Address: SEA Program Central Regional Office  
1250 West Alder Street  
Union Gap, WA 98903

GRANT AMOUNT: \$ 2,123,000  
MAXIMUM ELIGIBLE PROJECT COST: \$ 2,653,700  
STATE MAXIMUM COST SHARE RATE: 80%  
MAXIMUM STATE SHARE \$ 2,123,000

The source of funds provided by ECOLOGY are authorized by the 2013 Washington State Legislature, §3064 account of the Capital Budget.

The start date of this agreement is July 10, 2015; the end date is June 30, 2017.

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### SCOPE OF WORK

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<b>Location:</b>	<b>Latitude</b> 46.634280, 46.651023	<b>Longitude</b> -120.588743, -120.621975
<b>Legislative District:</b>	14th	<b>Percent:</b> 100
<b>Congressional District:</b>	4th	<b>Percent:</b> 100
<b>WRIA:</b>	38	<b>Percent:</b> 100
<b>River:</b>	Naches River	<b>River Mile:</b> 3

**Project Description:** The Rambler's Park and Trout Meadows projects are part of a broadly supported vision and strategy to develop and implement a package of floodplain management projects geared at improved ecosystem function, salmon and ESA species recovery and increased flood protection for the Naches River. The projects are part of the reestablishment of normal river processes along this twelve mile critical habitat and fish passage reach of the Lower Naches River at four County levees identified as priorities within the 2006 Lower Naches Comprehensive Flood Hazard Plan.

The work at Rambler's Park is the final phase of a project aimed at reducing flood risk and restoring fish passage and habitat around Nelson Dam and the most downstream County levee. It will include a new fish-friendly boulder bed overflow channel around Nelson Dam, coordinated with the new dam design while ensuring two bridges and a state highway are protected.

The Trout Meadows project is also the second phase of work to reconnect and restore floodplain habitat while reducing risk to the McCormick Levee which has been breached at low level flows. The objectives in this reach which extends three miles downstream to Nelson Dam are to reduce backwater and improve sediment transport to either stop or reverse the channel aggradation in the McCormick-Trout Meadows area. Through levee setback and excavation, and reconstruction of former floodplain channels, in a later third phase this project will reduce pressure on McCormick levee, reduce flood heights in the immediate vicinity, and reconnect approximately 85 acres of quality floodplain habitat.



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## PROJECT TASKS

### Task 1: Project Administration.

The RECIPIENT will coordinate throughout the grant period with ECOLOGY's Floodplain Program Manager and other state agencies and Indian tribes as applicable to ensure the objectives of this funding opportunity are met.

Administrative duties can include:

- records maintenance
- planning and committee meeting attendance
- writing and submitting progress reports
- completing match tracking spreadsheet
- billing and invoicing
- writing the final progress and match closing reports
- maintaining files on all project tasks for at least 3 years after grant closure

Administrative duties in this task do NOT include (and must be done in another task):

- Construction Consulting, estimates and project coordination
- Engineering plans and specs
- Drafting implementation plan
- Permitting
- As-built drawings
- Photographic documentation
- Purchase acquisition tasks

**Deliverable(s): Updates in Quarterly Progress Reports as in the following sample:**

Progress Report	Reporting Period	Date Due
First Quarter	January 1 – March 30	April 30
Second Quarter	Apr 1 – June 30	July 31
Third Quarter	July 1 – Sept. 30	October 31
Fourth Quarter	Oct 1 – Dec 30	January 31

**See Special Terms and Conditions for details on progress reporting.**

Due Date(s): 30 days after the end of each quarter.

Estimated Cost to ECOLOGY: \$ 122,000

Estimated Cost to RECIPIENT: \$ 0

Total Cost: \$122,000

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### **Task 2A: Rambler's Park Completion of Design with partners/cooperators including an agreed on "Design Memorandum"**

**2A.1:**RECIPIENT and the City, the City's consultant and basin partners will develop a "Design Memorandum" using hydraulic and physical modeling provided by the RECIPIENT'S selected consultant that provides an agreed upon reconfigured Nelson Dam and adjoining fish friendly by-pass channel. The "Memorandum" will establish design responsibilities and overall costs that allow procedure to final design of the two adjoining facilities.

**2A.2:**RECIPIENT will complete Preliminary (30%) design of the fish friendly boulder bed overflow channel for fish passage around Nelson Dam, that will permit agreement and Final design of Nelson Dam.

**Deliverable(s):**

- 1. Signed Design Memorandum**
- 2. Preliminary Design of boulder bed overflow channel.**

Due Date(s): October 30, 2016

Estimated Cost to ECOLOGY: \$ 330,000

Estimated Cost to RECIPIENT: \$ 0

Total Cost: \$330,000

### **Task 2B: Trout Meadows Backwater and sediment transport modeling**

**2B.1:**RECIPIENT will complete backwater and sediment transport modelling to inform design phase, and

**2B.2:**Modification(s) of PHASE 1 project design as a result of sediment and backwater modelling. The Phase 2 and 3 complete project design.

**Deliverable(s):**

- 1. Documentation of the completed modelling for use in design phase.**
- 2. Final Design for the Phase 2 setback levee and Phase 3 floodplain channels and McCormick levee setback.**

Due Date(s): September 1, 2016

Estimated Cost to ECOLOGY: \$ 40,000

Estimated Cost to RECIPIENT: \$ 0

Total Cost: \$ 40,000

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### **Task 3A: Yakima County obtains all necessary permits for Rambler's Park**

**3A.1:** Prior to commencement of any construction, the RECIPIENT will obtain all necessary permits as needed for design and construction.

**Deliverable(s):** All applicable permits including Shoreline, 401, 404, HPA, grading, building, floodplain, Cultural Resource Management (CRM) survey, boundary line adjustment, no rise, Conditional Letter Of Map Revision, (CLOMR), stormwater, WSDOT, site assessment and cleanup, and demolition if needed.

Due Date(s): June 30, 2017 \*  
Estimated Cost to ECOLOGY: \$ 50,000  
Estimated Cost to RECIPIENT: \$ 0  
Total Cost: \$ 50,000

### **Task 3B: Yakima County obtains all necessary permits for Trout Meadows.**

**3B.1:** Prior to commencement of any construction, the RECIPIENT will complete SEPA, and provide copy of all other necessary permits obtained in earlier phase of project.

**Deliverable(s):** All applicable permits including Shoreline, 401, 404, HPA, grading, building, floodplain, Cultural Resource Management (CRM) survey, boundary line adjustment, no rise, Conditional Letter Of Map Revision, (CLOMR), stormwater, WSDOT, site assessment and cleanup, and demolition if needed.

Due Date(s): June 30, 2017  
Estimated Cost to ECOLOGY: \$ 20,000  
Estimated Cost to RECIPIENT: \$ 0  
Total Cost: \$ 20,000

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*\* The funding needed to complete the remaining Task 3A, beyond 30 June 2017, is subject to legislative appropriation for the 2017-2019 Biennium and will be addressed by formal amendment to this agreement.*

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### **Task 4A: Rambler's Park: Complete construction of fish-friendly overflow channel**

**4A.1:** The final design and drawings will be completed by the consultant, the RECIPIENT will select a contractor, under the supervision of the RECIPIENT, to construct the fish friendly boulder bed overflow channel for fish passage around Nelson Dam and related work per the final construction design plan set. Costs for prior land purchase of the necessary parcel provides in-kind match for this project.

**Deliverable(s):**

- 1. Letter from DAHP received prior to any soil disturbing activities.**
- 2. As-built plan set sealed/stamped by project engineer, and noting any changes from the construction plan set.**
- 2. Digital photographs of the project before, during, and after construction, with dates and key features labeled.**

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.

Due Date(s): December 1, 2018 \*

Estimated Cost to ECOLOGY: \$ 1,408,000

Estimated Cost to RECIPIENT: \$ 530,700 (as prior land purchase, demolition, levee setback)

Total Cost: \$ 1,938,700



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### **Task 4B: Trout Meadows: Complete construction of Phase 2 levee/groin setback across from McCormick levee.**

**4B.1:** RECIPIENT will complete levee removal and groin construction that allows Naches River to begin reoccupation of Trout Meadows area, prior to future Phase 3 constructed floodplain channels, and provide revegetation on disturbed portions of the project, using appropriate methods, materials, and native species for the needs of this project area.

**Deliverable(s):**

- 1. Letter from DAHP received prior to any soil disturbing activities.**
- 2. As-built plan set sealed/stamped by project engineer, and noting any changes from the construction plan set.**
- 3. Digital photographs of the project before, during, and after construction, with dates and key features labeled.**

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.

**Due Date(s):** December 30, 2017 \*

**Estimated Cost to ECOLOGY:** \$ 153,000

**Estimated Cost to RECIPIENT:** \$ 0

**Total Cost:** \$ 153,000

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*\* The funding needed to complete the remaining Task 4A and 4B, beyond 30 June 2017, is subject to legislative appropriation for the 2017-2019 Biennium and will be addressed by formal amendment to this agreement.*



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## BUDGET MATRIX

TASK	Work Item	Unit	Qty	Unit Cost	Extended Cost		State	Match
1A	Ramblers: Project							
		LS	1	\$100,000	\$100,000			
	Subtotal					\$100,000	\$100,000	\$0
1B	Trout: Project Admin							
		LS	1	\$22,000	\$22,000			
	Subtotal					\$22,000	\$22,000	\$0
2A	Ramblers: Design							
		LS	1	\$330,000	\$330,000			
	Subtotal					\$330,000	\$330,000	\$0
2B	Trout: Modelling/Design							
		LS	1	\$40,000	\$40,000			
	Subtotal					\$40,000	\$40,000	\$0
3A	Ramblers: Permits							
		LS	1	\$50,000	\$50,000			
	Subtotal					\$50,000	\$50,000	\$0
3B	Trout: Permits							
		LS	1	\$20,000	\$20,000			
	Subtotal					\$20,000	\$20,000	\$0
4A	Ramblers: Construction							
		LS	1	\$1,938,700	\$1,938,700			
	Subtotal					\$1,938,700	\$1,408,000	\$530,700
4B	Trout: Construction							
		LS	1	\$153,000	\$153,000			
	Subtotal					\$153,000	\$153,000	\$0
Project Subtotals						\$2,653,700	\$2,123,000	\$530,700
Total Project							\$2,653,700	

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### BUDGET CONDITIONS and PAYMENT TERMS

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#### 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 revise the Scope of Work, increase or decrease the overall project funding or tasks costs by more than 10%.

For this grant, 100% 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", and Form B "Running Budget Summary", Form C "Voucher Support" and Form D "Contractor Participation Report" (if applicable).

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

For the administration of this agreement the RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans", (The Yellow Book) 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 the Department of Ecology for use on other eligible projects.

A written progress report of activities and a match tracking spreadsheet must accompany all payment requests.



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### Signature Page

1. **Grant Closeout:** The end date for this project is **June 30, 2017**. A grace period of **45 days** for all deliverables and invoice vouchers is allowed as stipulated in the scope of work or by the State Office of Financial Management (OFM) through ECOLOGY's Fiscal Office.
2. **All Writings Contained Herein:** This agreement, the appended "General Terms and Conditions", and ECOLOGY's current edition of "Administrative Requirements for RECIPIENTS of ECOLOGY Grants and Loans" contain the entire understanding between the parties, and there are no other understandings or representations except those set forth or incorporated by reference herein. No subsequent modification(s) or amendments to this agreement shall be of any force or effect unless in writing, signed by authorized representatives of the RECIPIENT and ECOLOGY and made a part of this agreement.

IN WITNESS WHEREOF, the parties hereby sign this Grant Agreement:

State of Washington  
Department of ECOLOGY  
by

*Bridget Mason for Gordon White* 12/29/15  
Signature Date

*Bridget Mason for Gordon White*  
Gordon White  
Program Manager Shorelands and Environmental  
Assistance Program

BOARD OF YAKIMA COUNTY COMMISSIONERS  
by

*J. Rand Elliott*  
J. Rand Elliott, Chairman

*Michael D. Leita*  
Michael D. Leita, Commissioner

Approved as to form only by the Assistant  
Attorney General

*Kevin J. Bouchey*  
Kevin J. Bouchey, Commissioner  
Constituting the Board of County Commissioners  
for Yakima County, Washington

Approved as to form:

*T. J. Emmett*  
Deputy Prosecuting Attorney

*Tiera L. Girard*  
Attest: Tiera L. Girard  
Clerk of the Board





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## GENERAL TERMS AND CONDITIONS

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

### 1. ADMINISTRATIVE REQUIREMENTS

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

### 2. AMENDMENTS AND MODIFICATIONS

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

### 3. ARCHAEOLOGICAL AND CULTURAL RESOURCES

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

#### RECIPIENT shall:

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

### 4. ASSIGNMENT

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

### 5. COMMUNICATION



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

## 6. COMPENSATION

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

## 7. COMPLIANCE WITH ALL LAW

RECIPIENT agrees to comply fully with all applicable Federal, State and local laws, orders, regulations, and permits related to this Agreement, including but not limited to:

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



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

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

## 8. CONFLICT OF INTEREST

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

## 9. CONTRACTING FOR GOODS AND SERVICES

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

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

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

## 10. DISPUTES

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

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

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

The parties agree that this dispute process will precede any action in a judicial or quasi-judicial tribunal. Appeals of the Director's decision will be brought in the Superior Court of Thurston County. Review of the Director's decision will not be taken to Environmental and Land Use Hearings Office.

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

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

## 11. ENVIRONMENTAL STANDARDS



# Exhibit A

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Washington State Department of ECOLOGY and Yakima County Public Services  
Project Title: Rambler's Park Phase IV and Trout Meadows Phase II

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

## 12. GOVERNING LAW

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

## 13. INDEMNIFICATION

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

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

## 14. INDEPENDENT STATUS

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

## 15. KICKBACKS

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

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

RECIPIENT is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated under this Agreement. Contract awards or rejections cannot be made based on MWBE participation; however, the RECIPIENT is encouraged to take the following actions, when possible, in any procurement under this Agreement:

- a) Include qualified minority and women's businesses on solicitation lists whenever they are potential sources of goods or services.



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

## 17. ORDER OF PRECEDENCE

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

## 18. PRESENTATION AND PROMOTIONAL MATERIALS

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

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

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

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

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

## 19. PROGRESS REPORTING

- a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not document timely use of funds.
- b) RECIPIENT must submit a progress report with each payment request. Payment requests will not be processed without a progress report. ECOLOGY will define the elements and frequency of progress reports.
- c) RECIPIENT shall use ECOLOGY's provided progress report format.
- d) Quarterly progress reports will cover the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.



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- e) RECIPIENT shall submit the Closeout Report within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY. RECIPIENT shall use the ECOLOGY provided closeout report format.

## 20. PROPERTY RIGHTS

- a) Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to authorize others to use the same for federal, state, or local government purposes.
- b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.
- c) Presentation and Promotional Materials. ECOLOGY shall have the right to use or reproduce any printed or graphic materials produced in fulfillment of this Agreement, in any manner ECOLOGY deems appropriate. ECOLOGY shall acknowledge the RECIPIENT as the sole copyright owner in every use or reproduction of the materials.
- d) Tangible Property Rights. ECOLOGY's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans," shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by ECOLOGY in the absence of state and federal statutes, regulations, or policies to the contrary, or upon specific instructions with respect thereto in this Agreement.
- e) Personal Property Furnished by ECOLOGY. When ECOLOGY provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to ECOLOGY prior to final payment by ECOLOGY. If said property is lost, stolen, or damaged while in the RECIPIENT's possession, then ECOLOGY shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
- f) Acquisition Projects. The following provisions shall apply if the project covered by this Agreement includes funds for the acquisition of land or facilities:

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

RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this Agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses intended by this Agreement.

Conversions. Regardless of the agreement expiration date, the RECIPIENT shall not at any time convert any equipment, property, or facility acquired or developed under this Agreement to uses other than those for which assistance was originally approved without prior written approval of ECOLOGY. Such approval may be conditioned upon payment to ECOLOGY of that portion of the proceeds of the sale, lease, or other conversion or encumbrance which monies granted pursuant to this Agreement bear to the total acquisition, purchase, or construction costs of such property.

## 21. RECORDS, AUDITS, AND INSPECTIONS

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

- a) Be kept in a manner which provides an audit trail for all expenditures.
- b) Be kept in a common file to facilitate audits and inspections.



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- c) Clearly indicate total receipts and expenditures related to this Agreement.
- d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.

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

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

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

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

## 22. RECOVERY OF FUNDS

The right of the RECIPIENT to retain monies received as reimbursement payments is contingent upon satisfactory performance of this Agreement and completion of the work described in the Scope of Work. All payments to the RECIPIENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this agreement shall be refunded to ECOLOGY by the RECIPIENT.

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

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

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

## 23. SEVERABILITY

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

## 24. STATE ENVIRONMENTAL POLICY ACT (SEPA)

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

## 25. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or any portion thereof for a temporary period by written notice from ECOLOGY to the



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RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

## 26. SUSTAINABLE PRACTICES

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

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

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

## 27. TERMINATION

- a) For Cause

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

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

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

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

- b) For Convenience

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

Non-Allocation of Funds. ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to the completion or expiration date of this agreement, ECOLOGY, at its sole discretion, may elect to terminate the agreement, in whole or part, or renegotiate the agreement,



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subject to new funding limitations or conditions. ECOLOGY may also elect to suspend performance of the agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification or restrictions.

If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination. RECIPIENT's obligation to continue or complete the work described in this Agreement shall be contingent upon availability of funds by the RECIPIENT's governing body.

c) By Mutual Agreement

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

d) In Event of Termination

All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the RECIPIENT under this Agreement, at the option of ECOLOGY, will become property of ECOLOGY and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials. Nothing contained herein shall preclude ECOLOGY from demanding repayment of all funds paid to the RECIPIENT in accordance with Recovery of Funds, identified herein.

### 28. THIRD PARTY BENEFICIARY

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

### 29. WAIVER

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

*EAGL Terms and Conditions, version 12/25/15*



Exhibit B - Site Map, Conservation Easement Area, & Schematic Project elements  
of the Trout Meadows Side Channel and Floodplain Restoration Project

