

AQUATIC SPECIES RESTORATION PLAN

2021-2022



PROJECT SPONSORSHIP

RCO #2110

APPLICATION DUE DATE: November 19, 2021 4:00pm PST

If you download this solicitation you are responsible for sending your name, e-mail address to the Solicitation Coordinator, julia.marshburn@rco.wa.gov in order for your organization to receive any amendments or applicant questions RCO answers prior to deadline submission.

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INTRODUCTION

The Chehalis Basin Strategy Aquatic Species Restoration Plan (ASRP) is a science-based plan collaboratively developed by the ASRP Steering Committee and regional partners to restore and protect native aquatic species habitat in the Chehalis River basin. By strategically improving habitat in locations where the greatest potential exists to provide substantial gains for aquatic species throughout WRIA 22 and 23, the ASRP seeks to build a resilient future for the basin's aquatic species and communities. In collaboration with local technical experts, tribal representatives, and other interests, Washington Department of Fish and Wildlife (WDFW) with support from the Recreation and Conservation Office (RCO), are soliciting applications for project sponsors who will implement future project development, restoration, acquisition, and other protection and conservation projects aligned with program priorities to fulfill this vision. The ASRP establishes significant program milestones with a focus on developing and implementing process-based restoration projects.

ASRP Vision Statement

To utilize the best available scientific information to protect and restore habitat in the Chehalis Basin, in order to support healthy and harvestable salmon populations, robust and diverse populations of native aquatic and semi-aquatic species, and productive ecosystems that are resilient to climate change and human-caused stressors, while honoring the social, economic, and cultural values of the region and maintaining working lands.

This grant¹ is open to organizations with experience in all aspects of process-based aquatic habitat restoration, protection and conservation development, design, acquisition, permitting, contracting, , risk, time and cost management, landowner relationships, and/or subcontracting. Throughout development and implementation of this work, successful candidates and their partners will advance implementation of the ASRP by partnering with landowners willing to install habitat restoration treatments on their property to address limiting factors on the landscape and aligning work with process-based restoration goals.

¹ RCO complies with the Americans with Disabilities Act (ADA). Prospective applicants may contact the Coordinator to receive this Solicitation in an alternative format.

DEFINITIONS

Application – A formal offer submitted in response to this solicitation.

Applicant – Individual or entity submitting an application in order to attain a contract with RCO.

Successful Applicant – Individual or entity whose application has been selected for the sponsor roster, but is not yet under agreement.

Sponsor Roster- A short list of successful applicants who will be assigned projects as identified through the Project Pipeline Process.

Project Sponsor – Individual or entity from the sponsor roster who has been assigned a project and bound by a full executed, written project agreement.

Steering Committee – Guiding committee that directs staff and technical work to develop and implement the ASRP, and is responsible for developing priority areas and making recommendations for funding allocations each biennium. The ASRP Steering Committee is chartered to make recommendations to Office of the Chehalis Basin and the Chehalis Basin Board on specific funding dispersals to enact program priorities.

Project Pipeline Process – The ASRP process for bringing projects from initiation to completion. [A diagram of the process can be viewed here.](#)

Project Portfolio—Projects approved for funding through the ASRP.

Regional Implementation Team—Project sponsors, community members and other interested parties that participate on a voluntary basis to coordinate and collaborate on ASRP project implementation

Participating Agencies:

The ASRP employs multiple agencies to identify, implement, administer and fund aquatic habitat restoration and protection projects. These include:

- **The Washington Department of Fish and Wildlife (WDFW)** - policy and technical staff to the Steering Committee. WDFW is responsible for providing technical oversight and guidance to initiate contracts and grants to fulfill ASRP goals.
- **The Recreation and Conservation Office (RCO)** - the fiscal agent. RCO is responsible for managing contractual and fiscal requirements of projects to reimburse project funds and to ensure project sponsors and contractors meet all legal and policy obligations.
- **The Office of the Chehalis Basin (OCB)**- administrators of the Chehalis Basin Strategy. OCB is responsible for seeking approval from the Chehalis Basin Board for project funding recommendations from the Steering Committee.

GRANT PROCESS:

- Applicants must submit information about their organization by the deadline, **November 19, 2021**, based on the application instructions on page 9.
- Successful applicants will be added to a project sponsor roster. Being added to the sponsor roster does not guarantee project development and implementation funds but instead establishes eligibility to receive these funds through the project development and project implementation processes.
- Funds for this work will be awarded through a future collaborative process with the Regional Implementation Teams. This process will identify and prioritize project development opportunities in three regions:
 - Lower Chehalis,
 - Middle Chehalis, and
 - Upper Chehalis.

Project Development Area of Interest lists are developed by each Regional Implementation Team and will identify which organizations will work in any combination of the three regions.

- Subsequent review and approval of the Project Development Area of Interest lists by the ASRP Steering Committee and OCB will occur, resulting in grant awards with RCO for the highest priority development work.
- Project implementation funds will be awarded to organizations on the project sponsor roster once a project is added to the Project Portfolio by the ASRP Steering Committee and the Chehalis Basin Board. Please refer to chapter 4.0 of the [ASRP Implementation Structure Overview 2021-2023](#) and the [ASRP Project Pipe-Line Graphic](#) for additional information.
- Project sponsors will enter into a grant agreement with RCO. A sample RCO project agreement is attached as **Exhibit C**.

KEY DATES

October 5, 2021 = SOLICITATION RELEASED; Q&A PERIOD BEGINS

October 22, 2021 12:30- 2:30 = INFORMATIONAL WEBINAR

November 5, 2021 = END OF Q&A PERIOD

November 19, 2021 4:00PM = APPLICATIONS DUE

December 15, 2021 = SUCCESSFUL APPLICANTS ANNOUNCED

On Or After January 1, 2022 = PROJECTS COMMENCE

ELIGIBLE APPLICANTS

Applicants eligible for this grant:

- Cities
- Counties
- Native American Tribes
- Conservation Districts
- Land Trusts
- Federal agencies (must have local partner)
- Municipal or quasi-municipal corporations
- Non-profit organizations, registered with Washington's Office of the Secretary of State
- Regional Fisheries Enhancement Groups
- Special purpose districts
- State agencies

Successful Applicants meet the following criteria:

- At least three years of continuous successful experience in one or more of the following fields:
 - Implementation of process based, aquatic species focused habitat projects,
 - Salmon recovery
 - Environmental project development and planning, and/or
 - Experience with permitting agencies, tribes, citizen groups and funding agencies
 - Acquisition projects, including but not limited to fee simple and easement acquisitions
- Possess experience in contract management with a public agency, foundation or other third-party funding entities that provide services similar to those expected by WDFW for this grant.
- Accomplish tasks on time and within budget.
- Work with landowners, contractors, local sponsors, and state agencies to implement projects.
- Have experience with government budgeting and the ability to adhere to future audits.
- Be willing to travel.
- Hold a licensed to do business within the State of Washington or be willing to provide a commitment to become licensed in Washington within 30 calendar days of being selected as a successful applicant.

A Successful Applicant will be expected to:

- Conduct targeted outreach and work with willing landowners to implement actions identified in the ASRP which include process based, aquatic species focused habitat restoration or preservation projects in ASRP priority reaches and act as the point of contact,
- Coordinate project development and share lessons learned with local ASRP Implementation Team,
- Develop and plan these projects in conjunction with permitting and funding agencies,
- Submit projects for funding through the Project Pipeline Process to be included in the Project Portfolio and receive funding,
- Seek project development funds when necessary through participation in the Local Implementation Teams,
- Engage with permitting staff throughout their process to ensure timely issuance,
- Propose budgets with appropriate costs for the tasks and deliverables,
- Lead on-the-ground negotiation with landowners and other partners in line with permit requirements and the [ASRP Steering Committee Funding Guidance](#),
- Fulfill reporting requirements as outline in the project agreement,

For any prospective applicant who may lack sufficient experience in one or more of these criteria, provide a plan to acquire skills. Options may include, but are not limited to:

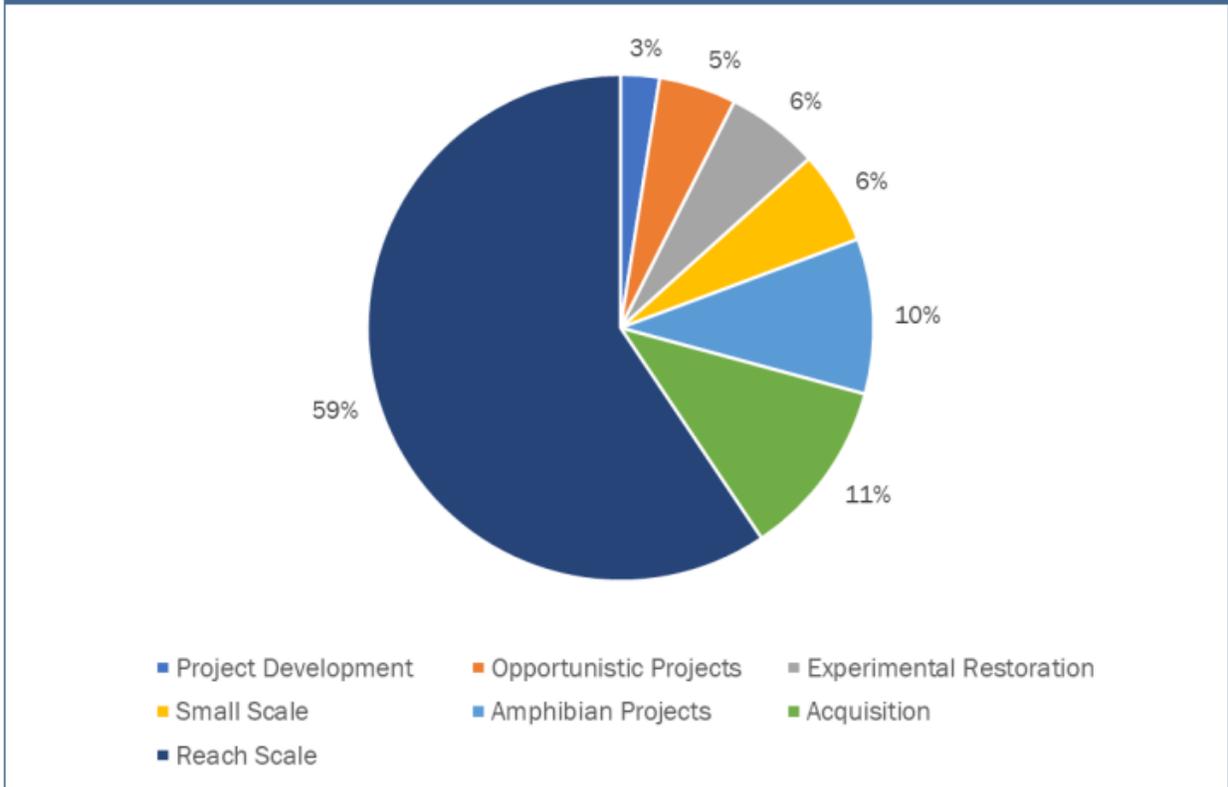
- Subcontracting,
- Education,
- Mentorship, and
- Partnering with another group.

WDFW anticipates seeking an additional round of applications in fall of 2022 to provide the opportunity to cultivate and expand project sponsor roster.

FUNDING INFORMATION

The ASRP Steering Committee, in accordance with Chehalis Basin Board guidance, has identified a \$20.4 million dollar project implementation budget for the 2021–2023 biennium. Figure 1 highlights project types and the ASRP Steering Committees recommendations for funding allocations. These proportions are only recommendations and the ASRP Steering Committee acknowledges the need to be dynamic and act on opportunities that fit program priorities. For more information on priority project types, locations and funding available for each type, see the [ASRP Steering Committee Funding Guidance](#) and the [ASRP Project Science Guidance](#).

Figure 1
2021–2023 ASRP Project Action Type Expenditure Guidance



Successful applicants may submit project proposals through a Regional Implementation Team and the ASRP Project Pipeline Process. The Steering Committee will make final recommendations for funding to OCB. Organizations from the project sponsor roster may receive project funds contingent upon approval through the ASRP Project Pipeline process through June 2028, with the option to extend beyond that at the discretion of the agency and subject to additional funding.

APPLICATION INSTRUCTIONS

Submit your application as a single PDF by November 19, 2021, 4:00pm PST. PDFs follow the naming convention: “2110 ASRP Organization Name”

Applications must be sent by email to the Solicitation Coordinator. During the application period, all communication between the applicants and RCO shall be with the coordinator:

Solicitation Coordinator

Julia Marshburn	Contracts & Procurement Recreation and Conservation Office
E-mail	Julia.Marshburn@rco.wa.gov

Applications must provide information in the same order as presented in this document with the same headings. This will not only be helpful to the evaluators, but should assist the Applicant in preparing a thorough response.

Items in this section marked “mandatory” must be included as part of the application for the proposal to be considered responsive; however, these items are not scored. Items marked “scored” are those that are awarded points as part of the evaluation conducted by the evaluation team.

1. LETTER OF SUBMITTAL:

The Letter of Submittal and the Certifications and Assurances form (**Exhibit B**), must be submitted, signed, and dated by a person authorized to legally bind the applicant to a contractual relationship, e.g., the President or Executive Director of an organization or other signatory authority.

2. QUALIFICATIONS SECTION:

The Qualifications section of the application must contain information that will demonstrate the applicant’s understanding of the types of services proposed, the applicant’s ability to accomplish them, and the ability to meet tight timeframes to the evaluation panel.

The Qualifications response is to be submitted in the sections as follows:

- 2.1 Business Information
- 2.2 Experience and Staffing
- 2.3 Completed Projects
- 2.4 Staffing

The last section is optional:

- 2.5 Minority or Women-Owned Business Certification

2.1 BUSINESS INFORMATION (MANDATORY)

- A. State the name of the applicant, address, phone number, e-mail address, legal status of entity (ownership) and year entity was established as it now substantially exists. Identify types of projects and the implementation region (Upper, Middle and Lower basin) that the applicant is interested in being

considered for.

- B. If the applicant has not received a grant from RCO before, provide the applicant's Federal Employer Tax Identification number and the Washington Uniform Business Identification (UBI) number issued by the State of Washington Department of Revenue.
- C. Identify any State employees or former State employees employed by the applicant as of the date of the proposal. Include their position and responsibilities with the applicant's organization. If following a review of this information, it is determined by RCO that a conflict of interest exists, the applicant may be disqualified from further consideration for the award of a contract.
- D. If the applicant was an employee of the State of Washington during the past 24 months, or is currently a Washington State employee, identify the individual by name, the agency previously or currently employed by, job title or position held and separation date.
- E. If the applicant has had a contract terminated for default in the last five years, describe such incident. Termination for default is defined as notice to stop performance due to the applicant's non-performance or poor performance and the issue of performance was either; (a) not litigated due to inaction on the part of the Proposer, or (b) litigated and such litigation determined that the Proposer was in default.
- F. Submit full details of the terms for default including the other party's name, address, and phone number. Present the applicant's position on the matter. RCO will evaluate the facts and may, at its sole discretion, reject the proposal on the grounds of the past experience. If no such termination for default has been experienced by the applicant in the past five years, so indicate.

2.2 EXPERIENCE (SCORED)

- A. Describe the professional service qualifications and technical competence of your organization or team and key personnel related to habitat enhancement, protection and conservation project development, design, permitting, acquisitions, contracting and implementation
- B. Describe how your organization or team meets and/or exceeds the successful applicant criteria.
- C. Describe specific experience and knowledge regarding aquatic species habitats and habitat restoration in the Chehalis Basin.
- D. Describe any continuing education or training courses, or conferences attended by your organization or team within the past five years that are applicable.

2.3 COMPLETED PROJECTS (SCORED)

- E. List examples of no more than three successfully completed projects within the last three years incorporating process-based habitat enhancement, protection or conservation projects with development, design, permitting, contracting and

implementation components. In addition to this description include project name, total engineering and construction costs, contact person, and phone number (three pages maximum)

- F. The applicant must grant permission to RCO or WDFW to contact the references and others who may have pertinent information.

2.4 STAFFING (SCORED)

- G. Provide a description of the organization or proposed project team structure and internal controls to be used during the project, including any potential subcontractors.
- H. Provide the name and a resume of the person who will be the lead contact for the project.
- I. Provide names and resumes for other staff, which includes information on the individual's particular skills related to this project, education, experience, significant accomplishments, and any other pertinent information.
- J. List any potential subcontracted services you may want to include to complete your roster of services. Describe what services each would provide. This list is nonexclusive and non-binding but is intended to illustrate how candidates ensure adequate support within their teams.

2.5 OMWBE CERTIFICATION (Optional and Not Scored)

- A. Include proof of certification issued by the Washington State Office of Minority and Women's Business Enterprises if certified minority-owned firm and/or

ADDITIONAL INFORMATION

Applicants may submit questions regarding this solicitation to the Coordinator between **October 5th and November 5th**. Only questions submitted via email will be answered. The answers will be posted through the [RCO website](#). To ensure all applicants receive the same information, answers will be posted on the dates specified below:

Questions Submitted by	Will Be Answered on
November 5, 2021	November 10, 2021

Applicants are not to contact the ASRP Steering Committee or the Chehalis Basin ASRP Project Review Team directly regarding questions about this solicitation. Any contact with these individuals may render the applicant ineligible.

Successful applicants will be assigned an RCO grants manager at the time of project award. The application will be entered into RCO's grant management database, PRISM. The RCO grants manager will be available to answer any questions during this stage.

An addition to emailed questions, an informational webinar will be held on **October 22, from 12:30 to 2:30 pm** to present information and answer applicant questions. Please email the contact below for registration information:

Webinar Registration

Emelie McKain	Habitat Planner Department of Fish and Wildlife
E-mail	Emelie.McKain@dfw.wa.gov

A recording of an information webinar held on September 24, 2021 [can be viewed here.](#)

DECISION INFORMATION

Evaluation Panel:

Applications will be evaluated by an evaluation panel comprised of WDFW ASRP staff. Evaluation Panel members bring expertise in biology, permitting, hydrology, implementation, restoration engineering, non-salmon aquatic species, monitoring and fish passage, contract management, and project management.

The applications will be evaluated on the following criteria

Evaluation Category	Point Value
Experience including local knowledge	40
Completed Projects	35
Staffing	10
TOTAL	85

RCO reserves the right to select applicants whose proposal is deemed to be in the best interest of the agency and the state of Washington.

Decision Process:

All applicants will be notified of acceptance or nonacceptance on the project sponsor roster via email by **December 15, 2021**. Successful applicants are highly encouraged to participate in ongoing regional implementation team meetings to identify and vet potential project opportunities to ASRP Implementation Manager

Post-Award Contact

Jennifer Holderman	ASRP Implementation Manager Department of Fish and Wildlife
E-mail	Jennifer.Holderman@dfw.wa.gov

After the announcement of successful applicants, project proposal and [site assessment forms](#) for technical review and potential inclusion to the Project Portfolio may be submitted. In addition to any sponsor submitted projects, regional implementation teams will submit project development area of interest lists for review and potential funding.

Protest Procedure

Unsuccessful applicants can submit a protest to the WDFW ASRP Implementation Manager, Jennifer Holderman. These disputes must be sent via email to Jennifer.Holderman@dfw.wa.gov no later than the close of business, 3 business days after receipt of email. Disputes that are not resolved in coordination with the ASRP Implementation Manager will be brought to the Steering Committee for examination. Only protests stipulating an issue of fact concerning the following subjects shall be considered.

- A matter of bias, discrimination or conflict of interest on the part of an evaluator
- Errors in computing the score
- Non-compliance with procedures described in the solicitation or agency policy.

Protests not based on procedural matters will not be considered. Protests will be rejected as without merit if they address issues such as: 1) an evaluator's professional judgement on the quality of a proposal or 2) the agency's assessment of its own and/or other agencies needs or requirements.

Contract and General Terms & Conditions

Once a request for project development or implementation funds has been approved, the project sponsor will be expected to enter into a contract, which is substantially the same as the contract and general terms and conditions described in **Exhibit C**. In no event is an applicant to submit its own standard contract terms and conditions in response to this solicitation.

Agreement Development, Management, and Conditions

The role of RCO will be to operationally manage ASRP project grants, as well as disperse funds upon the creation of a project agreement. RCO will manage the grants according to [Manual 8](#) and [Manual 18](#). All reporting, invoicing and amendments will be operationally handled by RCO in conjunction with the project sponsor.

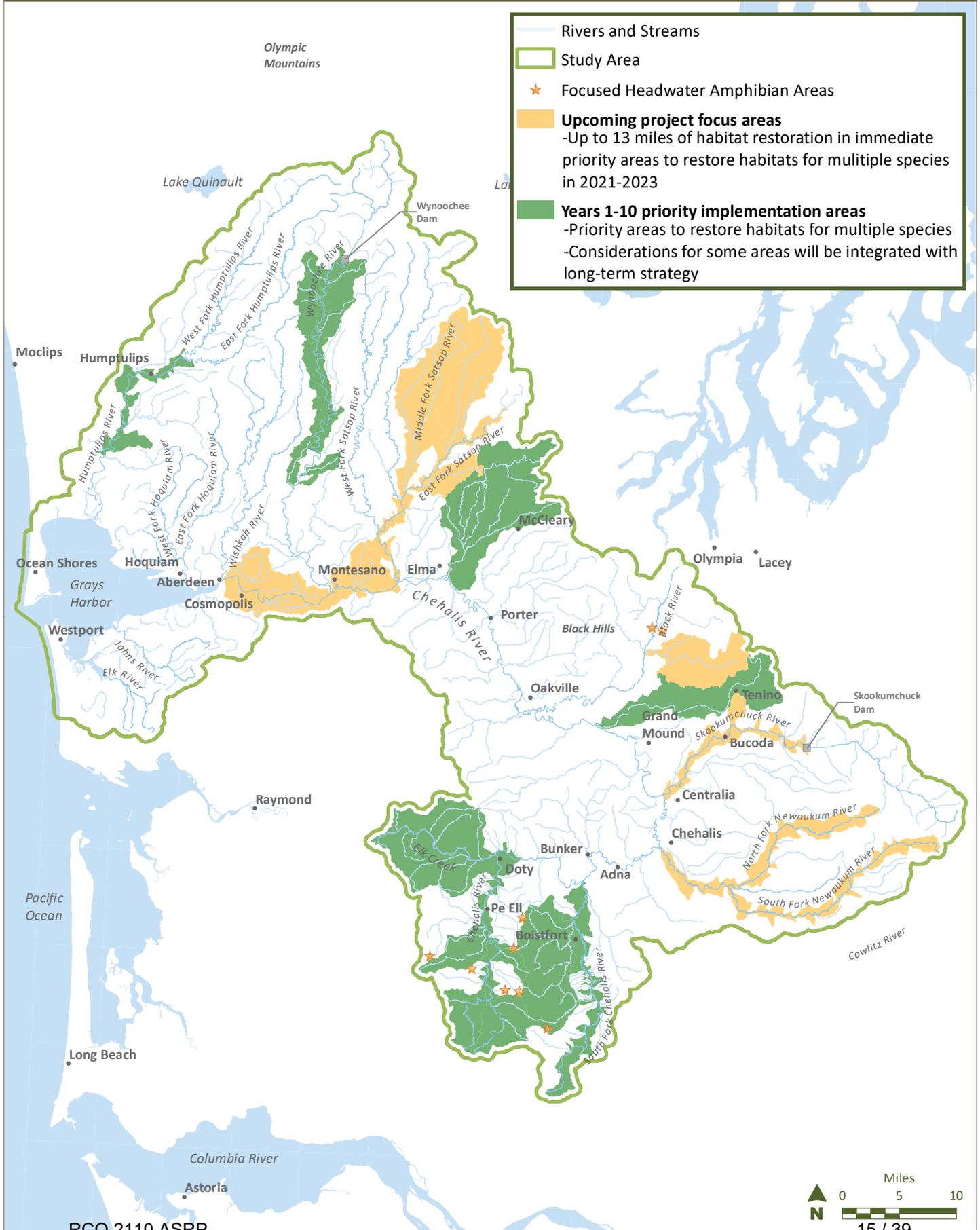
Any scope or budget amendments must be presented to the ASRP Implementation Manager, and if appropriate, the ASRP Steering Committee, who will make a recommendation to the OCB. The OCB will then direct RCO on these types of amendments as necessary with the Steering Committee's recommendation taken into consideration.

Public Disclosure

Materials submitted to RCO in response to this solicitation shall become the property of the agency. All proposals shall remain confidential until the project information is entered into PRISM for the purpose of grant-making; thereafter the proposals shall be deemed public records as defined in RCW 42.56.

EXHIBIT A

Years 1–10 Near-Term ASRP Priorities for Implementation



NEAR-TERM ASRP PRIORITY AREAS AND ACTIONS

Ecological Region	Geospatial Unit	Restoration Actions							Geospatial Unit Information				Priority Species or Habitat Focus	Limiting Factors From Highest Priority to Lowest
		Place Large Wood	Remove Fish Barriers	Reconnect/Restore Floodplain	Riparian Restoration	Beaver Ponds/BDAs	Wetland Restoration	Acres of OSF* Habitat Protection/Restoration	Number of Priority Barriers	Length of Primary River (miles)	Percent of Primary River Length Proposed for Restoration	Proposed Protection/Restoration (miles)		
Grays Harbor Tributaries	Middle Humptulips MS GSU	●	●	●	●				0	22.8	50%	11	④ High Priority Core Habitats ⑥ Early Riparian Restoration	Key Habitat, Temperature, Sediment Load, Habitat Diversity, Flow, Channel Length, Channel Stability, Predation
	Lower Satsop MS GSU	●		●	●				0	6.6	50%	3	④ High Priority Core Habitats ⑥ Early Riparian Restoration	Key Habitat, Temperature, Habitat Diversity, Channel Length, Channel Stability, Predation, Flow, Sediment Load
	Lower EF Satsop MS GSU	●		●	●				0	11.4	50%	6	④ High Priority Core Habitats ⑥ Early Riparian Restoration	Temperature, Key Habitat, Habitat Diversity, Predation, Channel Stability, Flow, Sediment Load
	Decker GSU	●	●	●	○	●			0	15.8	50%	8	⑩ Unique At-Risk Habitat (protection)	Key Habitat, Temperature, Habitat Diversity, Obstructions/Barriers, Sediment Load, Predation, Channel Stability, Flow, Channel Length
Olympic Mountains	Bingham GSU	●	●	●	○	●			3	13.8	50%	7	⑩ Unique At-Risk Habitat (protection)	Obstructions/Barriers, Key Habitat, Habitat Diversity, Channel Stability, Sediment Load, Predation, Flow, Temperature, Channel Length
	Dry Run GSU	●	●		○	●			5	6	50%	3	⑩ Unique At-Risk Habitat (protection)	Obstructions/Barriers, Key Habitat, Channel Stability, Habitat Diversity, Sediment Load, Flow, Temperature, Predation, Channel Length
	Upper EF Satsop MS GSU	●	●	●	○				3	8.4	75%	6	⑩ Unique At-Risk Habitat (protection)	Obstructions/Barriers, Key Habitat, Temperature, Predation, Habitat Diversity, Sediment Load, Channel Stability, Flow, Channel Length
	Middle Wynoochee MS GSU	●	●	●	●				2	29.4	50%	15	④ High Priority Core Habitats	Key Habitat, Obstructions/Barriers, Temperature, Habitat Diversity, Predation, Sediment Load, Flow, Channel Stability, Channel Length
	Middle Wynoochee Tribs GSU (Anderson and Helm Creeks)	●	●	●	●	●			8	8	50%	4	④ High Priority Core Habitats	Obstructions/Barriers, Sediment Load, Habitat Diversity, Channel Stability, Temperature, Flow, Key Habitat, Predation, Channel Length
Black Hills	Cloquallum GSU	●	●	●	●	●			34	20.4	50%	10	④ High Priority Core Habitats	Obstructions/Barriers, Temperature, Key Habitat, Predation, Habitat Diversity, Sediment Load, Channel Stability, Flow, Channel Length
Black River	Scatter GSU	●	●	●	●	●	●		0	20.6	33%	7	④ High Priority Core Habitats ⑥ Early Riparian Restoration	Temperature, Key Habitat, Habitat Diversity, Predation, Channel Stability, Sediment Load, Flow, Obstructions/Barriers, Channel Length
	Beaver GSU	●	●	●	●	●	●	19	5	11.4	50%	6	④ High Priority Core Habitats ⑥ Early Riparian Restoration ⑩ Oregon Spotted Frog	Key Habitat, Obstructions/Barriers, Sediment Load, Habitat Diversity, Temperature, Predation, Channel Stability, Flow, Channel Length
Cascade Mountains	Lower Skookumchuck MS GSU	●	●	●	●				0	22.2	75%	17	⑥ Early Riparian Restoration ⑨ Spring Chinook	Channel Length, Temperature, Key Habitat, Habitat Diversity, Predation, Sediment Load, Channel Stability, Flow
	Lower Newaukum MS GSU	●	●	●	●				0	10.5	75%	8	⑥ Early Riparian Restoration ⑨ Spring Chinook	Temperature, Habitat Diversity, Channel Length, Key Habitat, Sediment Load, Predation, Channel Stability, Flow
	SF Newaukum MS GSU	●	●	●	●				0	22	75%	17	⑥ Early Riparian Restoration ⑨ Spring Chinook	Habitat Diversity, Temperature, Key Habitat, Channel Stability, Flow, Sediment Load, Predation
	NF Newaukum MS GSU	●	●	●	●				0	20	75%	15	⑥ Early Riparian Restoration ⑨ Spring Chinook	Temperature, Habitat Diversity, Key Habitat, Channel Stability, Predation, Sediment Load, Flow, Channel Length

● High Priority
 ● Medium Priority
 ● Low Priority
 ○ Restoration is supplemental as-needed (GSU is primarily managed forest with protected riparian)
 *Oregon Spotted Frog

NEAR-TERM ASRP PRIORITY AREAS AND ACTIONS (CONT.)

Ecological Region	Geospatial Unit	Restoration Actions							Geospatial Unit Information				Priority Species or Habitat Focus	Limiting Factors From Highest Priority to Lowest
		Place Large Wood	Remove Fish Barriers	Reconnect/Restore Floodplain	Riparian Restoration	Beaver Ponds/BDAs	Wetland Restoration	Acres of OSF* Habitat Protection/Restoration	Number of Priority Barriers	Length of Primary River (miles)	Percent of Primary River Length Proposed for Restoration	Proposed Protection/Restoration (miles)		
Willapa Hills	Elk Cr GSU	●	●	●	○	●			0	15.8	75%	12	④ High Priority Core Habitats ⑤ Spring Chinook	Key Habitat, Habitat Diversity, Temperature, Sediment Load, Channel Stability, Predation, Flow, Obstructions/Barriers, Channel Length
	Chehalis Abv Crim MS GSU	●			○				0	10.8	75%	8	⑤ Spring Chinook ⑥ Coastal Tailed Frog	Temperature, Habitat Diversity, Key Habitat, Predation, Channel Stability, Sediment Load, Flow
	Chehalis RB Falls to Crim MS GSU	●		●	●				0	12.6	75%	9	③ Early Riparian Restoration ⑤ Spring Chinook	Habitat Diversity, Temperature, Key Habitat, Predation, Channel Stability, Sediment Load, Flow, Obstructions/Barriers, Channel Length
	EF Chehalis MS GSU	●			○				0	18	75%	14	⑤ Spring Chinook ⑥ Coastal Tailed Frog	Habitat Diversity, Key Habitat, Temperature, Channel Stability, Flow, Sediment Load, Predation
	WF Chehalis MS GSU	●			○				0	9.6	75%	7	⑤ Spring Chinook ⑥ Coastal Tailed Frog	Key Habitat, Habitat Diversity, Temperature, Sediment Load, Channel Stability, Flow, Predation
	Crim GSU	●			○				0	8.4	25%	2	④ High Priority Core Habitats ⑥ Coastal Tailed Frog	Key Habitat, Habitat Diversity, Temperature, Sediment Load, Flow, Channel Stability, Predation
	Big (WH) GSU	●			○				0	3	25%	1	④ High Priority Core Habitats ⑥ Coastal Tailed Frog	Key Habitat, Sediment Load, Channel Stability
	Rock GSU	●							5		N/A	2	⑥ Coastal Tailed Frog	Key Habitat, Habitat Diversity, Obstructions/Barriers, Temperature, Channel Stability, Flow, Sediment Load, Predation, Channel Length
	Roger GSU	●							0		N/A	2	⑥ Coastal Tailed Frog	Key Habitat, Sediment Load, Channel Stability, Channel Length
	Alder GSU	●							0		N/A	1	⑥ Coastal Tailed Frog	Key Habitat, Sediment Load, Channel Stability
	Mack GSU	●							0		N/A	2	⑥ Coastal Tailed Frog	Key Habitat, Channel Stability, Sediment Load, Habitat Diversity, Flow
	Stowe GSU	●							2		N/A	2	⑥ Coastal Tailed Frog	Obstructions/Barriers, Key Habitat, Temperature, Habitat Diversity, Predation, Sediment Load, Flow, Channel Stability, Channel Length
	Willapa Hills Tribs GSU	●							0		N/A	2	⑥ Coastal Tailed Frog	Key Habitat, Temperature, Habitat Diversity, Sediment Load, Channel Stability, Predation, Flow
	Stillman GSU	●	●	●	●	●			0	14.9	50%	7	③ Early Riparian Restoration ⑤ Spring Chinook ⑥ Coastal Tailed Frog	Temperature, Key Habitat, Habitat Diversity, Channel Length, Obstructions/Barriers, Sediment Load, Channel Stability, Flow, Predation
	Lower SF Chehalis MS GSU	●		●	●				0	13.8	50%	7	③ Early Riparian Restoration ⑤ Spring Chinook	Temperature, Key Habitat, Habitat Diversity, Predation, Channel Length, Channel Stability, Sediment Load, Flow
Upper SF Chehalis MS GSU	●		●	○		●		0	18	50%	9	⑤ Spring Chinook	Temperature, Key Habitat, Habitat Diversity, Predation, Channel Stability, Flow, Sediment Load	
Estuary	Tidal Zone GSU	●	●	●	●			0	19.8	33%	7	③ Early Riparian Restoration ① Unique At-Risk Habitat (protection)	Habitat Diversity, Flow, Channel Stability, Key Habitat, Predation, Sediment Load, Temperature, Obstructions/Barriers, Channel Length	

● High Priority
 ● Medium Priority
 ● Low Priority
 ○ Restoration is supplemental as-needed (GSU is primarily managed forest with protected riparian)
 *Oregon Spotted Frog

EXHIBIT B

CERTIFICATIONS AND ASSURANCES

I/we make the following certifications and assurances as a required element of the proposal to which it is attached, understanding that the truthfulness of the facts affirmed here and the continuing compliance with these requirements are conditions precedent to the award or continuation of the related contract:

1. I/we declare that all answers and statements made in the proposal are true and correct.
2. The prices and/or cost data have been determined independently, without consultation, communication, or agreement with others for the purpose of restricting competition. However, I/we may freely join with other persons or organizations for the purpose of presenting a single proposal.
3. The attached proposal is a firm offer for a period of 60 days following receipt, and it may be accepted by the AGENCY without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 60-day period.
4. In preparing this proposal, I/we have not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to this proposal or prospective contract, and who was assisting in other than his or her official, public capacity. If there are exceptions to these assurances, I/we have described them in full detail on a separate page attached to this document.
5. I/we understand that the AGENCY will not reimburse me/us for any costs incurred in the preparation of this proposal. All proposals become the property of the AGENCY, and I/we claim no proprietary right to the ideas, writings, items, or samples, unless so stated in this proposal.
6. Unless otherwise required by law, the prices and/or cost data which have been submitted have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by him/her prior to opening, directly or indirectly, to any other Proposer or to any competitor.
7. I/we agree that submission of the attached proposal constitutes acceptance of the solicitation contents and the attached sample contract and general terms and conditions. If there are any exceptions to these terms, I/we have described those exceptions in detail on a page attached to this document.
8. No attempt has been made or will be made by the Applicant to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.
9. I/we grant the AGENCY the right to contact references and other, who may have pertinent information regarding the ability of the Applicant and the lead staff person to perform the services contemplated by this Solicitation.
10. If any staff member(s) who will perform work on this contract has retired from the State of Washington under the provisions of the 2008 Early Retirement Factors legislation, his/her name(s) is noted on a separately attached page.

We (circle one) **are** / **are not** submitting proposed Contract exceptions. (See Section *Contract and General Terms & Conditions*.) If exceptions are being submitted, I/we have attached them to this form.

On behalf of the Applicant submitting this proposal, my name below attests to the accuracy of the above statement.

Signature

Title

Date

EXHIBIT C

Project Sponsor:

Project Number:

Project Title:

Approval Date:

PARTIES OF THE AGREEMENT

This Recreation and Conservation Office Grant Agreement (Agreement) is entered into between the State of Washington by and through the Salmon Recovery Funding Board (SRFB or funding board) and the Recreation and Conservation Office (RCO), P.O. Box 40917, Olympia, Washington 98504-0917 and by and through the (Sponsor, and primary Sponsor), and shall be binding on the agents and all persons acting by or through the parties.

All Sponsors are equally and independently subject to all the conditions of this Agreement except those conditions that expressly apply only to the primary Sponsor.

Prior to and during the Period of Performance, per the Applicant Resolution/Authorizations submitted by all Sponsors (and on file with the RCO), the identified Authorized Representative(s)/Agent(s) have full authority to legally bind the Sponsor(s) regarding all matters related to the project identified above, including but not limited to, full authority to: (1) sign a grant application for grant assistance, (2) enter into this Agreement on behalf of the Sponsor(s), including indemnification, as provided therein, (3) enter any amendments thereto on behalf of Sponsor(s), and (4) make any decisions and submissions required with respect to the project. Agreements and amendments must be signed by the Authorized Representative/Agent(s) of all Sponsors, unless otherwise allowed in the AMENDMENTS TO AGREEMENT Section.

- A. During the Period of Performance, in order for a Sponsor to change its Authorized Representative/Agent as identified on the original signed Applicant Resolution/Authorization the Sponsor must provide the RCO a new Applicant Resolution/Authorization signed by its governing body or a written delegation of authority to sign in lieu of originally authorized Representative/Agency(s). Unless a new Applicant Resolution/Authorization has been provided, the RCO shall proceed on the basis that the person who is listed as the Authorized Representative in the last Resolution/Authorization that RCO has received is the person with authority to bind the Sponsor to the Agreement (including any amendments thereto) and decisions related to implementation of the Agreement.
- B. Amendments After the Period of Performance. RCO reserves the right to request and Sponsor has the obligation to provide, authorizations and documents that demonstrate any signatory to an amendment has the authority to legally bind the Sponsor as described in the above Sections.

For the purposes of this Agreement, as well as for grant management purposes with RCO, only the primary Sponsor may act as a fiscal agent to obtain reimbursements (See PROJECT REIMBURSEMENTS Section).

PURPOSE OF AGREEMENT

This Agreement sets out the terms and conditions by which a grant is made from the State Building Construction Account of the State of Washington. The grant is administered by the Recreation and Conservation Office (RCO).

DESCRIPTION OF PROJECT**PERIOD OF PERFORMANCE**

The period of performance begins on (project start date) and ends on (project end date). No allowable cost incurred before or after this period is eligible for reimbursement unless specifically provided for by written amendment or addendum to this Agreement, or specifically provided for by applicable RCWs, WACs, and any applicable RCO manuals as of the effective date of this Agreement.

The RCO reserves the right to summarily dismiss any request to amend this Agreement if not made at least 60 days before the project end date.

STANDARD TERMS AND CONDITIONS INCORPORATED

The Standard Terms and Conditions of the Recreation and Conservation Office attached hereto are incorporated by reference as part of this Agreement.

LONG-TERM OBLIGATIONS

PROJECT FUNDING

The total grant award provided for this project shall not exceed \$0.00. The RCO shall not pay any amount beyond that approved for grant funding of the project and within the percentage as identified below. The Sponsor shall be responsible for all total project costs that exceed this amount. The minimum matching share provided by the Sponsor shall be as indicated below:

	<u>Percentage</u>	<u>Dollar Amount</u>	<u>Source of Funding</u>
SRFB - Salmon State Projects	10000.00%	\$0.00	State
Total Project Cost	10000.00%	\$0.00	

RIGHTS AND OBLIGATIONS INTERPRETED IN LIGHT OF RELATED DOCUMENTS

All rights and obligations of the parties under this Agreement are further specified in and shall be interpreted in light of the Sponsor's application and the project summary and eligible scope activities under which the Agreement has been approved and/or amended as well as documents produced in the course of administering the Agreement, including the eligible scope activities, the milestones report, progress reports, and the final report. Provided, to the extent that information contained in such documents is irreconcilably in conflict with the Agreement, such information shall not be used to vary the terms of the Agreement, unless the terms in the Agreement are shown to be subject to an unintended error or omission. "Agreement" as used here and elsewhere in this document, unless otherwise specifically stated, has the meaning set forth in the definitions of the Standard Terms and Conditions.

AMENDMENTS TO AGREEMENT

Except as provided herein, no amendment (including without limitation, deletions) of this Agreement will be effective unless set forth in writing signed by all parties. Exception: extensions of the Period of Performance and minor scope adjustments need only be signed by RCO's director or designee and consented to in writing (including email) by the Sponsor's Authorized Representative/Agent or Sponsor's designated point of contact for the implementation of the Agreement (who may be a person other than the Authorized Agent/Representative), unless otherwise provided for in an amendment. This exception does not apply to a federal government Sponsor or a Sponsor that requests and enters into a formal amendment for extensions or minor scope adjustments.

It is the responsibility of a Sponsor to ensure that any person who signs an amendment on its behalf is duly authorized to do so.

Unless otherwise expressly stated in an amendment, any amendment to this Agreement shall be deemed to include all current federal, state, and local government laws and rules, and policies applicable and active and published in the applicable RCO manuals or on the RCO website in effect as of the effective date of the amendment, without limitation to the subject matter of the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone. However, any such amendment, unless expressly stated, shall not extend or reduce the long-term obligation term.

COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND POLICIES

This Agreement is governed by, and the sponsor shall comply with, all applicable state and federal laws and regulations, applicable RCO manuals as identified below, Exhibits, and any applicable federal program and accounting rules effective as of the date of this Agreement or as of the effective date of an amendment, unless otherwise provided in the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone unless otherwise expressly stated in the amendment.

For the purpose of this Agreement, WAC Title 420, SRFB policies shall apply as terms of this Agreement.

For the purpose of this Agreement, the following RCO manuals are deemed applicable and shall apply as terms of this Agreement:

- Long Term Obligations - Manual 7
- Reimbursements - Manual 8
- Restoration Projects - Manual 5
- Salmon Recovery Grants - Manual 18

SPECIAL CONDITIONS

AGREEMENT CONTACTS

The parties will provide all written communications and notices under this Agreement to either or both the mail address and/or the email address listed below:

These addresses and contacts shall be effective until receipt by one party from the other of a written notice of any change. Unless otherwise provided for in this Agreement, decisions relating to the Agreement must be made by the Authorized Representative/Agent, who may or may not be the Project Contact for purposes of notices and communications.

ENTIRE AGREEMENT

This Agreement, with all amendments and attachments, constitutes the entire Agreement of the parties. No other understandings, oral or otherwise, regarding this Agreement shall exist or bind any of the parties.

EFFECTIVE DATE

Unless otherwise provided for in this Agreement, this Agreement, for Project 20-1071, shall become effective and binding on the date signed by both the sponsor and the RCO's authorized representative, whichever is later (Effective Date). Reimbursements for eligible and allowable costs incurred within the period of performance identified in the PERIOD OF PERFORMANCE Section are allowed only when this Agreement is fully executed and an original is received by RCO.

The Sponsor has read, fully understands, and agrees to be bound by all terms and conditions as set forth in this Agreement and the STANDARD TERMS AND CONDITIONS OF THE RCO GRANT AGREEMENT. The signators listed below represent and warrant their authority to bind the parties to this Agreement.

SAMPLE

By: _____ Date: _____
 Name (printed): _____
 Title: _____

**State of Washington Recreation and Conservation Office
On behalf of the Salmon Recovery Funding Board (SRFB or funding board)**

By: _____
Megan Duffy
Director
Recreation and Conservation Office

Date: _____

Pre-approved as to form:

By: _____
Assistant Attorney General

Date: 06/01/2021

Project Sponsor:

Project Number:

Project Title:

Approval Date:

Eligible Scope Activities

ELIGIBLE SCOPE ACTIVITIES

No Proposed Scope Metrics for this Project

SAMPLE

Project Sponsor:

Project Number:

Project Title:

Approval Date:

Project Milestones

PROJECT MILESTONE REPORT

SAMPLE

Project Sponsor:

Project Number:

Project Title:

Approval Date:

Standard Terms and Conditions of the Recreation and Conservation Office

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STANDARD TERMS AND CONDITIONS EFFECTIVE DATE

This document sets forth the Standard Terms and Conditions of the Recreation and Conservation Office as of 09/16/2021.

CITATIONS, HEADINGS AND DEFINITIONS

- A. Any citations referencing specific documents refer to the current version on the effective date of this Agreement or the effective date of any amendment thereto.
- B. Headings used in this Agreement are for reference purposes only and shall not be considered a substantive part of this Agreement.
- C. Definitions. As used throughout this Agreement, the following terms shall have the meaning set forth below:

Agreement, terms of the Agreement, or project agreement – The document entitled “RCO GRANT AGREEMENT” accepted by all parties to the present project and transaction, including without limitation the Standard Terms and Conditions of the RCO Grant Agreement, all exhibits, attachments, addendums, amendments, and applicable manuals, and any intergovernmental agreements, and/or other documents that are incorporated into the Agreement subject to any limitations on their effect under this Agreement.

applicable manual(s), manual – A manual designated in this Agreement to apply as terms of this Agreement, subject (if applicable) to substitution of the “RCO director” for the term “board” in those manuals where the project is not approved by or funded by the referenced board, or a predecessor to the board.

applicable WAC(s) – Designated chapters or provisions of the Washington Administrative Code that apply by their terms to the type of grant in question or are deemed under this Agreement to apply as terms of the Agreement, subject to substitution of the “RCO director” for the term “board” or “agency” in those cases where the RCO has contracted to or been delegated to administer the grant program in question.

applicant – Any party, prior to becoming a Sponsor, who meets the qualifying standards/eligibility requirements for the grant application or request for funds in question.

application – The documents and other materials that an applicant submits to the RCO to support the applicant's request for grant funds; this includes materials required for the “Application” in the RCO's automated project information system, and other documents as noted on the application checklist including but not limited to legal opinions, maps, plans, evaluation presentations and scripts.

Authorized Representative/Agent – A Sponsor's agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor's signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

C.F.R. – Code of Federal Regulations

completed project or project completion – The status of a project when all of the following have occurred:

- The grant funded project has been inspected by the RCO and the RCO has determined that all scopes of work to implement the project have been completed satisfactorily.
- A final project report is submitted to and accepted by RCO.
- Any needed amendments to the Agreement have been entered by the Sponsor and RCO and have been delivered to the RCO.
- A final reimbursement request has been delivered to and paid by RCO.
- Documents affecting property rights (including RCO's as may apply) and any applicable notice of grant, have been recorded (as may apply).

contractor – An entity that receives a contract from a Sponsor related to performance of work or another obligation under this Agreement.

conversion – A conversion occurs 1) when facilities acquired, developed, renovated or restored within the project area are changed to a use other than that for which funds were approved, without obtaining prior written formal RCO or board approval, 2) when property interests are conveyed to a third party not otherwise eligible to receive grants in the program from which funding was approved without obtaining prior written formal RCO or board approval, or 3) when obligations to operate and maintain the funded property are not complied with after reasonable opportunity to cure.

Cultural Resources – Archaeological or historic archaeological sites, historic buildings/structures, and cultural or sacred places.

director – The chief executive officer of the Recreation and Conservation Office or that person's designee.

effective date – The date when the signatures of all parties to this agreement are present in the agreement.

equipment – Tangible personal property (including information technology systems) having a useful service life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the Sponsor or \$5,000 (2 C.F.R. Part 200 (as updated)).

funding board or board – The Washington State Recreation and Conservation Funding Board, or the Washington State Salmon Recovery Funding Board. Or both as may apply.

Funding Entity – the entity that approves the project that is the subject to this Agreement.

grant program – The source of the grant funds received. May be an account in the state treasury, or a grant category within a larger grant program, or a federal source.

indirect cost – Costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved (2 C.F.R. 200 as updated).

long-term compliance period – The term of years, beginning on the end date of the agreement, when long-term obligations exist for the Sponsor. The start date and end date of the compliance period may also be prescribed by RCO per the Agreement.

long-term obligations – Sponsor's obligations after the project end date, as specified in the Agreement and manuals and other exhibits as may apply.

landowner agreement – An agreement that is required between a Sponsor and landowner for projects located on land not owned, or otherwise controlled, by the Sponsor.

match or matching share – The portion of the total project cost provided by the Sponsor.

milestone – An important event with a defined date to track an activity related to implementation of a funded project and monitor significant stages of project accomplishment.

Office – Means the Recreation and Conservation Office or RCO.

pass-through entity – A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program (2 CFR 200 (as updated)). If this Agreement is a federal subaward, RCO is the pass-through entity.

period of performance – The period beginning on the project start date and ending on the project end date.

pre-agreement cost – A project cost incurred before the period of performance.

primary Sponsor – The Sponsor who is not a secondary Sponsor and who is specifically identified in the Agreement as the entity to which RCO grants funds to and authorizes and requires to administer the grant. Administration includes but is not limited to acting as the fiscal agent for the grant (e.g. requesting and accepting reimbursements, submitting reports). Primary Sponsor includes its officers, employees, agents and successors.

project – The undertaking that is funded by this Agreement either in whole or in part with funds administered by RCO.

project area – The area consistent with the geographic limits of the scope of work of the project and subject to project agreement requirements. For restoration projects, the project area must include the physical limits of the project's final site plans or final design plans. For acquisition projects, the project area must include the area described by the legal description of the properties acquired for or committed to the project.

project completion or completed project – The status of a project when all of the following have occurred:

- The grant funded project has been inspected by the RCO and the RCO has determined that all scopes of work to implement the project have been completed satisfactorily.
- A final project report is submitted to and accepted by RCO.
- Any needed amendments to the Agreement have been entered by the Sponsor and RCO and have been delivered to the RCO.
- A final reimbursement request has been delivered to and paid by RCO.

- Documents affecting property rights (including RCO's as may apply) and any applicable notice of grant, have been recorded (as may apply).

project cost – The total allowable costs incurred under this Agreement and all required match share and voluntary committed matching share, including third-party contributions (see also 2 C.F.R. Part 200 (as updated)) for federally funded projects).

project end date – The specific date identified in the Agreement on which the period of performance ends, as may be changed by amendment. This date is not the end date for any long-term obligations.

project start date – The specific date identified in the Agreement on which the period of performance starts.

RCO – Recreation and Conservation Office – The state agency that administers the grant that is the subject of this Agreement. RCO includes the director and staff.

RCW – Revised Code of Washington

reimbursement – RCO's payment of funds from eligible and allowable costs that have already been paid by the Sponsor per the terms of the Agreement.

renovation project – A project intended to improve an existing site or structure in order to increase its useful service life beyond current expectations or functions. This does not include maintenance activities to maintain the facility for its originally expected useful service life.

restoration project – A project intended to bring a site back to its historic function as part of a natural ecosystem, or one intended to improve the ecological or habitat functionality or capacity of (or part of) a site, landscape, marine environment, or watershed.

restoration and/or enhancement project – A project that brings a site back to its historic function as part of a natural ecosystem or that improves the ecological functionality of a site or a larger ecosystem which improvement may include benefiting fish stocks.

secondary Sponsor – One of two or more Sponsors who is not a primary Sponsor. Only the primary Sponsor may be the fiscal agent for the project.

Sponsor – A Sponsor is an organization that is listed in and has signed this Agreement.

Sponsor Authorized Representative/Agent – A Sponsor's agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

SRFB – Salmon Recovery Funding Board

subaward – Funds allocated to the RCO from another organization, for which RCO makes available to or assigns to another organization via this Agreement. Also, a subaward may be an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of any award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal or other program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. Also see 2 C.F.R. Part 200 (as updated). For federal subawards, a subaward is for the purpose of carrying out a portion of a Federal award and creates a federal assistance relationship with the subrecipient (2 C.F.R. Part 200 (as updated)). If this Agreement is a federal subaward, the subaward amount is the grant program amount in the Project Funding Section.

subrecipient – Subrecipient means an entity that receives a subaward. For non-federal entities receiving federal funds, a subrecipient is an entity that receives a subaward from a pass-through entity to carry out part of a federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency (2 C.F.R. Part 200 (as updated)). If this Agreement is a federal subaward, the Sponsor is the subrecipient.

tribal consultation – Outreach, and consultation with one or more federally recognized tribes (or a partnership or coalition or consortium of such tribes, or a private tribal enterprise) whose rights will or may be significantly affected by the proposed project. This includes sharing with potentially-affected tribes the scope of work in the grant and potential impacts to natural areas, natural resources, and the built environment by the project. It also includes responding to any tribal request from such tribes and considering tribal recommendations for project implementation which may include not proceeding with parts of the project, altering the project concept and design, or relocating the project or not implementing the project, all of which RCO shall have the final approval of.

useful service life – Period during which a built asset, equipment, or fixture is expected to be useable for the purpose it was acquired, installed, developed, and/or renovated, or restored per this Agreement.

WAC – Washington Administrative Code.

PERFORMANCE BY THE SPONSOR

The Sponsor shall undertake the project as described in this Agreement, and in accordance with the Sponsor's proposed goals and objectives described in the application or documents submitted with the application, all as finally approved by the RCO (to include any RCO approved changes or amendments thereto). All submitted documents are incorporated by this reference as if fully set forth herein.

Timely completion of the project and submission of required documents, including progress and final reports, is important. Failure to meet critical milestones or complete the project, as set out in this Agreement, is a material breach of the Agreement.

ASSIGNMENT

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the Sponsor without prior written approval of the RCO.

RESPONSIBILITY FOR PROJECT

While RCO administers the grant that is the subject of this Agreement, the project itself remains the sole responsibility of the Sponsor. The RCO and Funding Entity (if different from the RCO) undertakes no responsibilities to the Sponsor, or to any third party, other than as is expressly set out in this Agreement.

The responsibility for the implementation of the project is solely that of the Sponsor, as is the responsibility for any claim or suit of any nature by any third party related in any way to the project. When a project has more than one Sponsor, any and all Sponsors are equally responsible for the project and all post-completion stewardship responsibilities and long-term obligations unless otherwise stated in this Agreement.

The RCO, its employees, assigns, consultants and contractors, and members of any funding board or advisory committee or other RCO grant review individual or body, have no responsibility for reviewing, approving, overseeing or supervising design, construction, or safety of the project and leaves such review, approval, oversight and supervision exclusively to the Sponsor and others with expertise or authority. In this respect, the RCO, its employees, assigns, consultants and contractors, and any funding board or advisory committee or other RCO grant review individual or body will act only to confirm at a general, lay person, and nontechnical level, solely for the purpose of project eligibility and payment and not for safety or suitability, that the project apparently is proceeding or has been completed as per the Agreement.

INDEMNIFICATION

The Sponsor shall defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the actual or alleged acts, errors, omissions or negligence in connection with this Agreement (including without limitation all work or activities thereunder), or the breach of any obligation under this Agreement by the Sponsor or the Sponsor's agents, employees, contractors, subcontractors, or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

Provided that nothing herein shall require a Sponsor to defend or indemnify the State against and hold harmless the State from claims, demands or suits based solely upon the negligence of the State, its employees and/or agents for whom the State is vicariously liable.

Provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the Sponsor or the Sponsor's agents or employees, and (b) the State, or its employees or agents the indemnity obligation shall be valid and enforceable only to the extent of the Sponsor's negligence or its agents, or employees.

As part of its obligations provided above, the Sponsor specifically assumes potential liability for actions brought by the Sponsor's own employees or its agents against the State and, solely for the purpose of this indemnification and defense, the Sponsor specifically waives any immunity under the state industrial insurance law, RCW Title 51. Sponsor's waiver of immunity under this provision extends only to claims against Sponsor by Indemnitee RCO, and does not include, or extend to, any claims by Sponsor's employees directly against Sponsor.

Sponsor shall ensure that any agreement relating to this project involving any contractors, subcontractors and/or vendors of any tier shall require that the contracting entity indemnify, defend, waive RCW 51 immunity, and otherwise protect the State as provided herein as if it were the Sponsor. This shall not apply to a contractor or subcontractor is solely donating its services to the project without compensation or other substantial consideration.

The Sponsor shall also defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the Sponsor or the Sponsor's agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable, in performance of the work under this Agreement or arising out of any use in connection with the Agreement of methods, processes, designs, information or other items furnished or communicated to the State, its agents, officers and employees pursuant to the Agreement. Provided, this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from the State's, its agents', officers' and employees' failure to comply with specific written instructions regarding use provided to the State, its agents, officers and employees by the Sponsor, its agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

The funding board and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

INDEPENDENT CAPACITY OF THE SPONSOR

The Sponsor and its employees or agents performing under this Agreement are not officers, employees or agents of the RCO or Funding Entity. The Sponsor will not hold itself out as nor claim to be an officer, employee or agent of the RCO or the Funding Entity, or of the state of Washington, nor will the Sponsor make any claim of right, privilege or benefit which would accrue to an employee under RCW 41.06.

The Sponsor is responsible for withholding and/or paying employment taxes, insurance, or deductions of any kind required by federal, state, and/or local laws.

CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, RCO may, in its sole discretion, by written notice to the Sponsor terminate this Agreement if it is found after due notice and examination by RCO that there is a violation of the Ethics in Public Service Act, RCW 42.52; or any similar statute involving the Sponsor in the procurement of, or performance under, this Agreement.

In the event this Agreement is terminated as provided herein, RCO shall be entitled to pursue the same remedies against the Sponsor as it could pursue in the event of a breach of the Agreement by the Sponsor. The rights and remedies of RCO provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

COMPLIANCE WITH APPLICABLE LAW

In implementing the Agreement, the Sponsor shall comply with all applicable federal, state, and local laws (including without limitation all applicable ordinances, codes, rules, and regulations). Such compliance includes, without any limitation as to other applicable laws, the following laws:

- A. **Nondiscrimination Laws.** The Sponsor shall comply with all applicable federal, state, and local nondiscrimination laws and/or policies, including but not limited to: the Americans with Disabilities Act; Civil Rights Act; and the Age Discrimination Employment Act (if applicable). In the event of the Sponsor's noncompliance or refusal to comply with any nondiscrimination law or policy, the Agreement may be rescinded, cancelled, or terminated in whole or in part, and the Sponsor may be declared ineligible for further grant awards from the RCO or Funding Entity. The Sponsor is responsible for any and all costs or liability arising from the Sponsor's failure to so comply with applicable law. Except where a nondiscrimination clause required by a federal funding agency is used, the Sponsor shall insert the following nondiscrimination clause in each contract for construction of this project: "During the performance of this contract, the contractor agrees to comply with all federal and state nondiscrimination laws, regulations and policies."
- B. **Secular Use of Funds.** No funds awarded under this grant may be used to pay for any religious activities, worship, or instruction, or for lands and facilities for religious activities, worship, or instruction. Religious activities, worship, or instruction may be a minor use of the grant supported recreation and conservation land or facility.
- C. **Wages and Job Safety.** The Sponsor agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington or other jurisdiction which affect wages and job safety. The Sponsor agrees when state prevailing wage laws (RCW 39.12) are applicable, to comply with such laws, to pay the prevailing rate of wage to all workers, laborers, or mechanics employed in the performance of any part of this contract, and to file a statement of intent to pay prevailing wage with the Washington State Department of Labor and Industries as required by RCW 39.12.40. The Sponsor also agrees to comply with the provisions of the rules and regulations of the Washington State Department of Labor and Industries.

1) Pursuant to RCW 39.12.040(1)(a), all contractors and subcontractors shall submit to Sponsor a statement of intent to pay prevailing wages if the need to pay prevailing wages is required by law. If a contractor or

subcontractor intends to pay other than prevailing wages, it must provide the Sponsor with an affirmative statement of the contractor's or subcontractor's intent. Unless required by law, the Sponsor is not required to investigate a statement regarding prevailing wage provided by a contractor or subcontractor.

- 2) Exception, Service Organizations of Trail and Environmental Projects (RCW 79A.35.130). If allowed by state and federal law and rules, participants in conservation corps programs offered by a nonprofit organization affiliated with a national service organization established under the authority of the national and community service trust act of 1993, P.L. 103-82, are exempt from provisions related to rates of compensation while performing environmental and trail maintenance work provided: (1) The nonprofit organization must be registered as a nonprofit corporation pursuant to RCW 24.03; (2) The nonprofit organization's management and administrative headquarters must be located in Washington; (3) Participants in the program must spend at least fifteen percent of their time in the program on education and training activities; and (4) Participants in the program must receive a stipend or living allowance as authorized by federal or state law. Participants are exempt from provisions related to rates of compensation only for environmental and trail maintenance work conducted pursuant to the conservation corps program.
- D. **Restrictions on Grant Use.** No part of any funds provided under this grant shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, or for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the U.S. Congress or any state legislature. No part of any funds provided under this grant shall be used to pay the salary or expenses of any Sponsor, or agent acting for such Sponsor, related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or any state legislature.
- E. **Debarment and Certification.** By signing the Agreement with RCO, the Sponsor certifies that neither it nor its principals nor any other lower tier participant are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by Washington State Labor and Industries. Further, the Sponsor agrees not to enter into any arrangements or contracts related to this Agreement with any party that is on Washington State Department of Labor and Industries' "Debarred Contractor List."

ARCHAEOLOGICAL AND CULTURAL RESOURCES

- A. Project Review. RCO facilitates the review of projects for potential impacts to archaeology and cultural resources, except as those listed below. The Sponsor shall follow RCO guidance and directives to assist it with such review as may apply.
- 1) **Projects occurring on State/Federal Lands:** Archaeological and cultural resources compliance for projects occurring on State or Federal Agency owned or managed lands, will be the responsibility of the respective agency, regardless of sponsoring entity type. Prior to ground disturbing work or alteration of a potentially historic or culturally significant structure, or release of final payments on an acquisition, the Sponsor must provide RCO all documentation acknowledging and demonstrating that the applicable archaeological and cultural resources responsibilities of such state or federal landowner or manager has been conducted.
- B. Termination. RCO retains the right to terminate a project due to anticipated or actual impacts to archaeology and cultural resources.
- C. Notice To Proceed. No work shall commence in the project area until RCO has provided a notice of cultural resources completion. RCO may require on-site monitoring for impacts to archaeology and cultural resources during any demolition, construction, land clearing, restoration, or repair work, and may direct that work stop to minimize, mitigate, or avoid impacts to archaeology and cultural resource impacts or concerns. All cultural resources requirements for non ground disturbing projects (such as acquisition or planning projects) must be met prior to final reimbursement.
- D. Compliance and Indemnification. At all times, the Sponsor shall take reasonable action to avoid, minimize, or mitigate adverse effects to archaeological and historic resources in the project area, and comply with any RCO direction for such minimization and mitigation. All federal or state cultural resources requirements under Governor's Executive Order 21-02 and the National Historic Preservation Act, and the State Environmental Policy Act and the National Environmental Policy Act, and any local laws that may apply, must be completed prior to the start of any work on the project site. The Sponsor must agree to indemnify and hold harmless the State of Washington in relation to any claim related to historical or cultural artifacts discovered, disturbed, or damaged due to the project funded under this Agreement. Sponsor shall comply with RCW 27.53, RCW 27.44.055, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting cultural resources and human remains.
- E. Costs associated with project review and evaluation of archeology and cultural resources are eligible for reimbursement under this agreement. Costs that exceed the budget grant amount shall be the responsibility of the Sponsor Inadvertent Discovery Plan. The Sponsor shall request, review, and be bound by the RCO Inadvertent Discovery Plan, and:
- 1) Keep the IDP at the project site.

- 2) Make the IDP readily available to anyone working at the project site.
- 3) Discuss the IDP with staff and contractors working at the project site.
- 4) Implement the IDP when cultural resources or human remains are found at the project site.

F. Discovery

- 1) If any archaeological or historic resources are found while conducting work under this Agreement, the Sponsor shall immediately stop work and notify RCO, the Department of Archaeology and Historic Preservation at (360) 586-3064, and any affected Tribe, and stop any activity that may cause further disturbance to the archeological or historic resources.
- 2) If any human remains are found while conducting work under this Agreement, Sponsor shall immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, and then RCO, all in the most expeditious manner, and stop any activity that may cause disturbance to the remains. Sponsor shall secure the area of the find will and protect the remains from further disturbance until the State provides a new notice to proceed.
 - a) Any human remains discovered shall not be touched, moved, or further disturbed unless directed by RCO or the Department of Archaeology and Historic Preservation (DAHP).
 - b) The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.

RECORDS

- A. **Digital Records.** If requested by RCO, the Sponsor must provide a digital file(s) of the project property and funded project site in a format specified by the RCO.
- B. **Maintenance and Retention.** The Sponsor shall maintain books, records, documents, data and other records relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. Sponsor shall retain such records for a period of nine years from the date RCO deems the project complete, as defined in the PROJECT REIMBURSEMENTS Section. If any litigation, claim or audit is started before the expiration of the nine (9) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.
- C. **Access to Records and Data.** At no additional cost, the records relating to the Agreement, including materials generated under the Agreement, shall be subject at all reasonable times to inspection, review or audit by RCO, personnel duly authorized by RCO, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. This includes access to all information that supports the costs submitted for payment under the grant and all findings, conclusions, and recommendations of the Sponsor's reports, including computer models and methodology for those models.
- D. **Public Records.** Sponsor acknowledges that the RCO is subject to RCW 42.56 and that this Agreement and any records Sponsor submits or has submitted to the State shall be a public record as defined in RCW 42.56. RCO administers public records requests per WAC 286-06 and 420-04 (which ever applies). Additionally, the Sponsor agrees to disclose any information in regards to the expenditure of that funding as if the project sponsor were subject to the requirements of chapter 42.56 RCW. By submitting any record to the State, Sponsor understands that the State may be requested to disclose or copy that record under the state public records law, currently codified at RCW 42.56. The Sponsor warrants that it possesses such legal rights as are necessary to permit the State to disclose and copy such document to respond to a request under state public records laws. The Sponsor hereby agrees to release the State from any claims arising out of allowing such review or copying pursuant to a public records act request, and to indemnify against any claims arising from allowing such review or copying and pay the reasonable cost of state's defense of such claims.

PROJECT FUNDING

- A. **Authority.** This Agreement and funding is made available to Sponsor through the RCO.

- B. **Additional Amounts.** The RCO or Funding Entity shall not be obligated to pay any amount beyond the dollar amount as identified in this Agreement, unless an additional amount has been approved in advance by the RCO director and incorporated by written amendment into this Agreement.
- C. **Before the Agreement.** No expenditure made, or obligation incurred, by the Sponsor before the project start date shall be eligible for grant funds, in whole or in part, unless specifically provided for by the RCO director, such as a waiver of retroactivity or program specific eligible pre-Agreement costs. For reimbursements of such costs, this Agreement must be fully executed and an original received by RCO. The dollar amounts identified in this Agreement may be reduced as necessary to exclude any such expenditure from reimbursement.
- D. **After the Period of Performance.** No expenditure made, or obligation incurred, following the period of performance shall be eligible, in whole or in part, for grant funds hereunder. In addition to any remedy the RCO or Funding Entity may have under this Agreement, the grant amounts identified in this Agreement shall be reduced to exclude any such expenditure from participation.

PROJECT REIMBURSEMENTS

- A. **Reimbursement Basis.** This Agreement is administered on a reimbursement basis per WAC 286-13 and/or 420-12, whichever has been designated to apply. Only the primary Sponsor may request reimbursement for eligible and allowable costs incurred during the period of performance. The primary Sponsor may request reimbursement only after (1) this Agreement has been fully executed and (2) the Sponsor has remitted payment to its vendors. RCO will authorize disbursement of project funds only on a reimbursable basis at the percentage as defined in the PROJECT FUNDING Section. Reimbursement shall not be approved for any expenditure not incurred by the Sponsor, or for a donation used as part of its matching share. RCO does not reimburse for donations. All reimbursement requests must include proper documentation of expenditures as required by RCO.
- B. **Reimbursement Request Frequency.** The primary Sponsor is required to submit a reimbursement request to RCO, at a minimum for each project at least once a year for reimbursable activities occurring between July 1 and June 30 or as identified in the milestones. Sponsors must refer to the most recent applicable RCO manuals and this Agreement regarding reimbursement requirements.
- C. **Compliance and Payment.** The obligation of RCO to pay any amount(s) under this Agreement is expressly conditioned on strict compliance with the terms of this Agreement and other agreements between RCO and the Sponsor.
- D. **Conditions for Payment of Retainage.** RCO reserves the right to withhold disbursement of the total amount of the grant to the Sponsor until the following has occurred:
 - 1) RCO has accepted the project as a completed project, which acceptance shall not be unreasonably withheld.
 - 2) On-site signs are in place (if applicable); Any other required documents and media are complete and submitted to RCO; Grant related fiscal transactions are complete, and
 - 3) RCO has accepted a final boundary map of the project area for which the Agreement terms will apply in the future.

ADVANCE PAYMENTS

Advance payments of or in anticipation of goods or services are not allowed unless approved by the RCO director and are consistent with legal requirements and Manual 8: Reimbursements.

RECOVERY OF PAYMENTS

- A. **Recovery for Noncompliance.** In the event that the Sponsor fails to expend funds under this Agreement in accordance with state and federal laws, and/or the provisions of the Agreement, fails to meet its percentage of the project total, and/or fails to comply with any of the terms and conditions of the Agreement, RCO reserves the right to recover grant award funds in the amount equivalent to the extent of noncompliance in addition to any other remedies available at law or in equity.
- B. **Return of Overpayments.** The Sponsor shall reimburse RCO for any overpayment or erroneous payments made under the Agreement. Repayment by the Sponsor of such funds under this recovery provision shall occur within 30 days of demand by RCO. Interest shall accrue at the rate of twelve percent (12%) per annum from the time the Sponsor received such overpayment. Unless the overpayment is due to an error of RCO, the payment shall be due and owing on the date that the Sponsor receives the overpayment from the RCO. If the payment is due to an error of RCO, it shall be due and owing 30 days after demand by RCO for refund.

COVENANT AGAINST CONTINGENT FEES

The Sponsor warrants that no person or selling agent has been employed or retained to solicit or secure this Agreement on an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Sponsor for the purpose of securing business. RCO shall have the right, in the event of breach of this clause by the Sponsor, to terminate this Agreement and to be reimbursed by Sponsor for any grant funds paid to Sponsor (even if such funds have been subsequently paid to an agent), without liability to RCO or, in RCO's discretion, to deduct from the Agreement grant amount or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

INCOME (AND FEES) AND USE OF INCOME

- A. **Compatible source.** The source of any income generated in a funded project or project area must be compatible with the funding source and the Agreement and any applicable manuals, RCWs, and WACs.
- B. **Use of Income.** Subject to any limitations contained in applicable state or federal law and applicable rules and policies, income or fees generated at a project work site (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, rent, franchise fees, ecosystem services, carbon sequestration, etc.) during or after the reimbursement period cited in the Agreement, must be used to offset:
- 1) The Sponsor's matching resources;
 - 2) The project's total cost;
 - 3) The expense of operation, maintenance, stewardship, monitoring, and/or repair of the facility or program assisted by the grant funding;
 - 4) The expense of operation, maintenance, stewardship, monitoring, and/or repair of other similar units in the Sponsor's system;
 - 5) Capital expenses for similar acquisition and/or development and renovation; and/or
 - 6) Other purposes explicitly approved by RCO or otherwise provided for in this agreement.
- C. **Fees.** User and/or other fees may be charged in connection with land acquired or facilities developed, maintained, renovated, or restored and shall be consistent with the:
- 1) Grant program laws, rules, and applicable manuals;
 - 2) Value of any service(s) furnished;
 - 3) Value of any opportunities furnished; and
 - 4) Prevailing range of public fees in the state for the activity involved.

PROCUREMENT REQUIREMENTS

- A. **Procurement Requirements.** If the Sponsor has, or is required to have, a procurement process that follows applicable state and/or federal law or procurement rules and principles, it must be followed, documented, and retained. If no such process exists, the Sponsor must follow these minimum procedures:
- 1) Publish a notice to the public requesting bids/proposals for the project;
 - 2) Specify in the notice the date for submittal of bids/proposals;
 - 3) Specify in the notice the general procedure and criteria for selection; and
 - 4) Sponsor must contract or hire from within its bid pool. If bids are unacceptable the process needs to be repeated until a suitable bid is selected.
 - 5) Comply with the same legal standards regarding unlawful discrimination based upon race, gender, ethnicity, sex, or sex-orientation that are applicable to state agencies in selecting a bidder or proposer.

Alternatively, Sponsor may choose a bid from a bidding cooperative if authorized to do so.

This procedure creates no rights for the benefit of third parties, including any proposers, and may not be enforced or subject to review of any kind or manner by any entity other than the RCO. Sponsors may be required to certify to the RCO that they have followed any applicable state and/or federal procedures or the

above minimum procedure where state or federal procedures do not apply.

TREATMENT OF EQUIPMENT AND ASSETS

Equipment shall be used and managed only for the purpose of this Agreement, unless otherwise provided herein or in the applicable manuals, or approved by RCO in writing.

- A. **Discontinued Use.** Equipment obtained under this Agreement shall remain in the possession of the Sponsor for the duration of the project, or RULES of applicable grant assisted program. When the Sponsor discontinues use of the equipment for the purpose for which it was funded, RCO may require the Sponsor to deliver the equipment to RCO, or to dispose of the equipment according to RCO published policies.
- B. **Loss or Damage.** The Sponsor shall be responsible for any loss or damage to equipment.

RIGHT OF INSPECTION

The Sponsor shall provide right of access to the project to RCO, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, long-term obligations, compliance, and/or quality assurance under this Agreement. If a landowner agreement or other form of control and tenure limits access to the project area, it must include (or be amended to include) the RCO's right to inspect and access lands acquired or developed with this funding assistance.

STEWARDSHIP AND MONITORING

Sponsor agrees to perform monitoring and stewardship functions as stated in the applicable WACs and manuals, this Agreement, or as otherwise directed by RCO consistent with the existing laws and applicable manuals. Sponsor further agrees to utilize, where applicable and financially feasible, any monitoring protocols recommended by the RCO; provided that RCO does not represent that any monitoring it may recommend will be adequate to reasonably assure project performance or safety. It is the sole responsibility of the Sponsor to perform such additional monitoring as may be adequate for such purposes.

ACKNOWLEDGMENT AND SIGNS

- A. **Publications.** The Sponsor shall include language which acknowledges the funding contribution of the applicable grant program to this project in any release or other publication developed or modified for, or referring to, the project during the project period and in the future.
- B. **Signs.**
 - 1) During the period of performance through the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations on the project area that acknowledge the applicable grant program's funding contribution, unless waived by the director; and
 - 2) During the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations to notify the public of the availability of the site for reasonable public access.
- C. **Ceremonies.** The Sponsor shall notify RCO no later than two weeks before a dedication ceremony for this project. The Sponsor shall verbally acknowledge the applicable grant program's funding contribution at all dedication ceremonies and in all advertisements and mailings thereof, and any and all of its related digital media publications.

PROVISIONS APPLYING TO DEVELOPMENT, MAINTENANCE, RENOVATION, AND RESTORATION PROJECTS

The following provisions shall be in force:

- A. **Operations and Maintenance.** Properties, structures, and facilities developed, maintained, or operated with the assistance of money granted per this Agreement and within the project area shall be built, operated, and maintained according to applicable regulations, laws, building codes, and health and public safety standards to assure a reasonably safe condition and to prevent premature deterioration. It is the Sponsor's sole responsibility to ensure the same are operated and maintained in a safe and operable condition. The RCO does not conduct safety inspections or employ or train staff for that purpose.
- B. **Document Review and Approval.** Prior to commencing construction or finalizing the design, the Sponsor agrees to submit one copy of all construction and restoration plans and specifications to RCO for review solely for compliance with the scope of work to be identified in the Agreement. RCO does not review for, and disclaims any responsibility to review for safety, suitability, engineering, compliance with code, or any matters other than the scope so identified. Although RCO staff may provide tentative guidance to a Sponsor on matters related to site accessibility by persons with a disability, it is the Sponsor's responsibility to confirm that all legal requirements for accessibility are met even if

the RCO guidance would not meet such requirements.

- 1) Change orders that impact the amount of funding or changes to the scope of the project as described to and approved by the RCO must receive prior written approval of the RCO.
- C. **Control and Tenure.** The Sponsor must provide documentation that shows appropriate tenure and term (such as long-term lease, perpetual or long-term easement, or perpetual or long-term fee simple ownership, or landowner agreement or interagency agreement for the land proposed for construction, renovation, or restoration. The documentation must meet current RCO requirements identified in this Agreement as of the effective date of this Agreement unless otherwise provided in any applicable manual, RCW, WAC, or as approved by the RCO.
- D. **Use of Best Management Practices.** Sponsors are encouraged to use best management practices including those developed as part of the Washington State Aquatic Habitat Guidelines (AHG) Program. AHG documents include "Integrated Streambank Protection Guidelines", 2002; "Land Use Planning for Salmon, Steelhead and Trout: A land use planner's guide to salmonid habitat protection and recovery", 2009", "Protecting Nearshore Habitat and Functions in Puget Sound", 2010; "Stream Habitat Restoration Guidelines", 2012; "Water Crossing Design Guidelines", 2013; and "Marine Shoreline Design Guidelines", 2014. These documents, along with new and updated guidance documents, and other information are available on the AHG Web site. Sponsors are also encouraged to use best management practices developed by the Washington Invasive Species Council (WISC) described in "Reducing Accidental Introductions of Invasive Species" which is available on the WISC Web site.
- E. At no time shall the Sponsor design, construct, or operate this grant funded project in a way that unreasonably puts the public, itself, or others at risk of injury or property damage. The Sponsor agrees and acknowledges that the Sponsor is solely responsible for safety and risk associated with the project, that RCO does not have expertise, capacity, or a mission to review, monitor, or inspect for safety and risk, that no expectation exists that RCO will do so, and that RCO is in no way responsible for any risks associated with the project.

LONG-TERM OBLIGATIONS OF THE PROJECTS AND SPONSORS

- A. **Long-Term Obligations.** This section applies to completed projects only.
- B. **Perpetuity.** For acquisition and development projects, or a combination thereof, unless otherwise allowed by applicable manual, policy, program rules, or this Agreement, or approved in writing by RCO. The RCO requires that the project area continue to function for the purposes for which these grant funds were approved, in perpetuity.
- C. **Conversion.** The Sponsor shall not at any time convert any real property (including any interest therein) or facility acquired, developed, and/or renovated pursuant to this Agreement, unless provided for in applicable statutes, rules, and policies. Conversion includes, but is not limited to, putting such property (or a portion of it) to uses other than those purposes for which funds were approved or transferring such property to another entity without prior approval via a written amendment to the Agreement. All real property or facilities acquired, developed, and/or renovated with funding assistance shall remain in the same ownership and in public use/access status in perpetuity unless otherwise expressly provided in the Agreement or applicable policies or unless a transfer or change in use is approved by the RCO through an amendment. Failure to comply with these obligations is a conversion. Further, if the project is subject to operation and or maintenance obligations, the failure to comply with such obligations, without cure after a reasonable period as determined by the RCO, is a conversion. Determination of whether a conversion has occurred shall be based upon all terms of the Agreement, and all applicable state or federal laws or regulation.
- 1) When a conversion has been determined to have occurred, the Sponsor shall remedy the conversion as set forth in this Agreement (with incorporated documents) and as required by all applicable policies, manuals, WACs and laws that exist at the time the remedy is implemented or the right to the remedy is established by a court or other decision-making body, and the RCO may pursue all remedies as allowed by the Agreement or law.

CONSTRUCTION, OPERATION, USE, AND MAINTENANCE OF ASSISTED PROJECTS

The following provisions shall be in force for this agreement:

- A. **Property and facility operation and maintenance.** Sponsor must ensure that properties or facilities assisted with the grant funds, including undeveloped sites, are built, operated, used, and maintained:
- 1) According to applicable federal, state, and local laws and regulations, including public health standards and building codes;
 - 2) In a reasonably safe condition for the project's intended use;
 - 3) Throughout its estimated useful service life so as to prevent undue deterioration;

4) In compliance with all federal and state nondiscrimination laws, regulations and policies.

B. **Open to the public.** Unless otherwise specifically provided for in the Agreement, and in compliance with applicable statutes, rules, and applicable WACs and manuals, facilities must be open and accessible to the general public, and must:

- 1) Be constructed, maintained, and operated to meet or exceed the minimum requirements of the most current guidelines or rules, local or state codes, Uniform Federal Accessibility Standards, guidelines, or rules, including but not limited to: the International Building Code, the Americans with Disabilities Act, and the Architectural Barriers Act, as amended and updated.
- 2) Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods.
- 3) Be available for appropriate use by the general public at reasonable hours and times of the year, according to the type of area or facility, unless otherwise stated in RCO manuals or, by a decision of the RCO director in writing. Sponsor shall notify the public of the availability for use by posting and updating that information on its website and by maintaining at entrances and/or other locations openly visible signs with such information.

PROVISIONS FOR SALMON RECOVERY FUNDING BOARD PROJECTS

For habitat restoration projects funded in part or whole with federal funds administered by the SRFB the Sponsor shall not commence with clearing of riparian trees or in-water work unless either the Sponsor has complied with 50 C.F.R. § 223.203 (b)(8) (2000), limit 8 or until an Endangered Species Act consultation is finalized in writing by the National Oceanic and Atmospheric Administration. Violation of this requirement may be grounds for terminating this Agreement. This section shall not be the basis for any enforcement responsibility by RCO.

ORDER OF PRECEDENCE

This Agreement is entered into, pursuant to, and under the authority granted by applicable federal and state laws. The provisions of the Agreement shall be construed to conform to those laws. In the event of a direct and irreconcilable conflict between the terms of this Agreement and any applicable statute, rule, or policy or procedure, the conflict shall be resolved by giving precedence in the following order:

- A. Federal law and binding executive orders;
- B. Code of federal regulations;
- C. Terms and conditions of a grant award to the state from the federal government;
- D. Federal grant program policies and procedures adopted by a federal agency that are required to be applied by federal law;
- E. State Constitution, RCW, and WAC;
- F. Agreement Terms and Conditions and Applicable Manuals;
- G. Applicable deed restrictions, and/or governing documents.

LIMITATION OF AUTHORITY

Only RCO's Director or RCO's delegate authorized in writing (delegation to be made prior to action) shall have the authority to alter, amend, modify, or waive any clause or condition of this Agreement; provided that any such alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made as a written amendment to this Agreement and signed by the RCO Director or delegate.

WAIVER OF DEFAULT

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such in writing, signed by the director, or the director's designee, and attached as an amendment to the original Agreement.

APPLICATION REPRESENTATIONS – MISREPRESENTATIONS OR INACCURACY OR BREACH

The Funding Entity (if different from RCO) and RCO rely on the Sponsor's application in making its determinations as to eligibility for, selection for, and scope of, funding grants. Any misrepresentation, error or inaccuracy in any part of the

application may be deemed a breach of this Agreement.

SPECIFIC PERFORMANCE

RCO may, at its discretion, enforce this Agreement by the remedy of specific performance, which means Sponsors' completion of the project and/or its completion of long-term obligations as described in this Agreement. However, the remedy of specific performance shall not be the sole or exclusive remedy available to RCO. No remedy available to the RCO shall be deemed exclusive. The RCO may elect to exercise any, a combination of, or all of the remedies available to it under this Agreement, or under any provision of law, common law, or equity, including but not limited to seeking full or partial repayment of the grant amount paid and damages.

TERMINATION AND SUSPENSION

The RCO requires strict compliance by the Sponsor with all the terms of this Agreement including, but not limited to, the requirements of the applicable statutes, rules, and RCO policies, and with the representations of the Sponsor in its application for a grant as finally approved by RCO. For federal awards, notification of termination will comply with 2 C.F.R. § 200 (as updated).

A. For Cause.

- 1) The RCO director may suspend or terminate the obligation to provide funding to the Sponsor under this Agreement:
 - a) If the Sponsor breaches any of the Sponsor's obligations under this Agreement;
 - b) If the Sponsor fails to make progress satisfactory to the RCO director toward completion of the project by the completion date set out in this Agreement. Included in progress is adherence to milestones and other defined deadlines; or
 - c) If the primary and secondary Sponsor(s) cannot mutually agree on the process and actions needed to implement the project;
- 2) Prior to termination, the RCO shall notify the Sponsor in writing of the opportunity to cure. If corrective action is not taken within 30 days or such other time period that the director approves in writing, the Agreement may be terminated. In the event of termination, the Sponsor shall be liable for damages or other relief as authorized by law and/or this Agreement.
- 3) RCO reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Sponsor from incurring additional obligations of funds during the investigation of any alleged breach and pending corrective action by the Sponsor, or a decision by the RCO to terminate the Contract.

B. For Convenience. Except as otherwise provided in this Agreement, RCO may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part when it is in the best interest of the state. If this Agreement is so terminated, RCO shall be liable only for payment required under the terms of this Agreement prior to the effective date of termination. A claimed termination for cause shall be deemed to be a "Termination for Convenience" if it is determined that:

- 1) The Sponsor was not in default; or
- 2) Failure to perform was outside Sponsor's control, fault or negligence.

C. Rights and Remedies of the RCO.

- 1) The rights and remedies of RCO provided in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law.
- 2) In the event this Agreement is terminated by the director, after any portion of the grant amount has been paid to the Sponsor under this Agreement due to Sponsor's breach of the Agreement or other violation of law, the director may require that any amount paid be repaid to RCO for redeposit into the account from which the funds were derived. However, any repayment shall be limited to the extent repayment would be inequitable and represent a manifest injustice in circumstances where the project will fulfill its fundamental purpose for substantially the entire period of performance and of long-term obligation.

D. Non Availability of Funds. The obligation of the RCO to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. If amounts sufficient to fund the grant made under this Agreement are not appropriated to RCO for expenditure for this Agreement in any biennial fiscal period, RCO shall not be obligated to pay any remaining unpaid portion of this grant unless and until the necessary action by the Legislature or the Office of Financial Management occurs. If RCO participation is suspended under this section for a

continuous period of one year, RCO's obligation to provide any future funding under this Agreement shall terminate. Termination of the Agreement under this section is not subject to appeal by the Sponsor.

- 1) **Suspension:** The obligation of the RCO to manage contract terms and make payments is contingent upon the state appropriating state and federal funding each biennium. In the event the state is unable to appropriate such funds by the first day of each new biennium RCO reserves the right to suspend the Agreement, with ten (10) days written notice, until such time funds are appropriated. Suspension will mean all work related to the contract must cease until such time funds are obligated to RCO and the RCO provides notice to continue work.
- 2) **No Waiver.** The failure or neglect of RCO to require strict compliance with any term of this Agreement or to pursue a remedy provided by this Agreement or by law shall not act as or be construed as a waiver of any right to fully enforce all rights and obligations set forth in this Agreement and in applicable state or federal law and regulations.

DISPUTE HEARING

Except as may otherwise be provided in this Agreement, when a dispute arises between the Sponsor and the RCO, which cannot be resolved, either party may request a dispute hearing according to the process set out in this section. Either party's request for a dispute hearing must be in writing and clearly state:

- A. The disputed issues;
- B. The relative positions of the parties;
- C. The Sponsor's name, address, project title, and the assigned project number.

In order for this section to apply to the resolution of any specific dispute or disputes, the other party must agree in writing that the procedure under this section shall be used to resolve those specific issues. The dispute shall be heard by a panel of three persons consisting of one person chosen by the Sponsor, one person chosen by the director, and a third person chosen by the two persons initially appointed. If a third person cannot be agreed on, the persons chosen by the Sponsor and director shall be dismissed and an alternate person chosen by the Sponsor, and one by the director shall be appointed and they shall agree on a third person. This process shall be repeated until a three person panel is established.

Any hearing under this section shall be informal, with the specific processes to be determined by the disputes panel according to the nature and complexity of the issues involved. The process may be solely based on written material if the parties so agree. The disputes panel shall be governed by the provisions of this Agreement in deciding the disputes.

The parties shall be bound by the majority decision of the dispute panelists, unless the remedy directed by that panel is beyond the authority of either or both parties to perform, as necessary, or is otherwise unlawful.

Request for a disputes hearing under this section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received notice of the action or position of the other party which it wishes to dispute. The written agreement to use the process under this section for resolution of those issues shall be delivered or mailed by the receiving party to the requesting party within thirty (30) days of receipt by the receiving party of the request.

All costs associated with the implementation of this process shall be shared equally by the parties.

ATTORNEYS' FEES

In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own costs and attorneys' fees.

GOVERNING LAW/VENUE

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. In the event of a lawsuit involving this Agreement, venue shall be in Thurston County Superior Court if legally proper; otherwise venue shall be in the Superior Court of a county where the project is situated, if venue there is legally proper, and if not, in a county where venue is legally proper. The Sponsor, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington and agrees to venue as set forth above.

SEVERABILITY

The provisions of this Agreement are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

END OF STANDARD TERMS AND CONDITIONS

This is the end of the Standard Terms and Conditions of the Agreement.

SAMPLE