



DEPARTMENT OF
ECOLOGY
 State of Washington

**CENTENNIAL CLEAN WATER PROGRAM (CENTENNIAL)
 GRANT FUNDING AGREEMENT BETWEEN
 THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY
 AND**

PACIFIC COUNTY

**GRANT AGREEMENT NUMBER
 G1300057**

PACIFIC COUNTY OSS REPAIR PROGRAM

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**CENTENNIAL CLEAN WATER PROGRAM (CENTENNIAL)
FUNDING AGREEMENT BETWEEN
THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY
AND
PACIFIC COUNTY**

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

PART I. GENERAL INFORMATION

Project Title:	Pacific County OSS Repair Program
Grant Number:	G1300057
State Fiscal Year:	2013
Total Project Cost:	\$172,675
Total Eligible Cost:	\$172,675
DEPARTMENT Share:	\$172,675
Effective Date:	October 1, 2012
Completion/Expiration Date:	June 30, 2015

RECIPIENT Information

RECIPIENT Name:	Pacific County Dept. of Community Development
Mailing Address:	PO Box 68 South Bend, WA 98586
Fax Number:	(360) 875-9304
Federal Taxpayer ID Number:	91-6001356
PROJECT Manager:	Faith Taylor-Eldred
Email Address:	<u>ftaylor@co.pacific.wa.us</u>
Phone Number:	(360) 875-9356
PROJECT Financial Officer:	Faith Taylor-Eldred
Email Address:	<u>ftaylor@co.pacific.wa.us</u>
Phone Number:	(360) 875-9356

DEPARTMENT Contact Information

Project Manager:

Melanie Tyler

Email Address:

Melanie.Tyler@ecy.wa.gov

Phone Number:

(360) 407-7489

Address:

Northwest

WA State Department of Ecology
Northwest Regional Office
3190 160th Ave SE
Bellevue, WA 98008-5452
Fax (425) 649-7098

Central

WA State Department of Ecology
Central Regional Office
15 West Yakima Ave, Suite 200
Yakima, WA 98902-3452
Fax (509) 575-2809

Southwest

WA State Department of Ecology
Southwest Regional Office
P.O. Box 47775
Olympia, WA 98504-7775
Fax (360) 407-6305

Eastern

WA State Department of Ecology
Eastern Regional Office
N. 4601 Monroe
Spokane, WA 99205-1295
Fax (509) 329-3570

Bellingham

WA State Department of Ecology
Bellingham Field Office
1440 10th Street, Suite 102
Bellingham, WA 98225
Fax (360) 715-5225

Headquarters

WA State Department of Ecology
P.O. Box 47600
Olympia, WA 98504-7600
Fax (360) 407-7151

Financial Manager:

Melanie Tyler

Email Address:

Melanie.Tyler@ecy.wa.gov

Phone Number:

(360) 407-7489

Fax Number:

(360) 407-7151

Address:

**WA State Department of Ecology
Water Quality Program, FMS
P.O. Box 47600
Olympia, WA 98504-7600**

CHECK ALL THAT APPLY:

- Centennial Funds (state funds): Yes Amount: **\$172,675** No
 - Please indicate the appropriate Centennial project category:
 - On-site Septic Loan Program: Corresponding Loan Agreement Number: **L1200031**
 - Stormwater Project
 - Facilities Hardship Project: Corresponding Loan Agreement Number:
 - Other :

- Stormwater Retrofit, Low Impact Development Funds
 Yes Amount: No

- Increased Oversight? Yes No

Project Start Date: **October 2, 2012**

Grant Agreement EFFECTIVE DATE (see ATTACHMENT 1): **October 1, 2012**

Project Completion/Agreement Expiration Date: **June 30, 2015**

Post Project Assessment Date – three years after the expiration date of the agreement (see Post Project Assessment in Attachment I): **June 30, 2018**

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PART II. PROJECT SUMMARY

This project will address water quality for the state of Washington. The RECIPIENT will establish a financial assistance program to repair deficient (sub-optimal) and failed on-site septic systems (OSS). The program will reduce sewage contamination of surface and groundwater, will ensure the Pacific County shellfish industry is not impacted by contaminated waters, will alleviate any public health issues from contaminated waters, and will provide an incentive for landowners by helping to reduce the financial burden of on-site septic system repairs by providing a low interest loan, and some cases, a limited grant program for low income households. Funding for the program will come from this grant and the FY2012 State Revolving Fund Loan, L1200031.

PART III. PROJECT BUDGET

Pacific County OSS Repair Program			
TASKS/OBJECTS	Total Project Costs	Total GRANT Eligible Project Costs	TOTAL GRANT AMOUNT
1. Project administration/management	\$10,970	\$10,970	\$10,970
2. Development of a Septic Loan Program	\$22,215	\$22,215	\$22,215
3. Hardship Grant OSS Repair Fund	\$43,476	\$43,476	\$43,476
4. Loan Loss Reserve	\$50,000	\$50,000	\$50,000
5. On-site Septic Surveys	\$46,014	\$46,014	\$46,014
Total	\$172,675	\$172,675	\$172,675
*The DEPARTMENT'S Fiscal Office will track to the total GRANT amount. However, the RECIPIENT cannot deviate among elements without DEPARTMENT approval.			
Other Funders: Washington Water Pollution Control State Revolving Fund Loan, L1200031			\$500,000

PART IV. PROJECT GOALS AND OUTCOMES

- A. Financial Assistance Water Quality Project Goals: One or more of the selected following goals apply to this project.
- Severe Public Health Hazard or Public Health Emergency eliminated.
 - Designated beneficial uses will be restored or protected, 303(d)-Listed water bodies restored to water quality standards, healthy waters prevented from being degraded.

- Regulatory compliance with a consent decree, compliance order, TMDL or waste load allocation, etc., achieved.

- B. Water Quality and Environmental Outcomes: The following are the anticipated water quality and environmental improvements from the project. Please include types and amounts of BMPs that will be installed, and the water quality parameters addressed and improvements to these parameters that will occur as a result of the project.
1. Provide loans (or grants) to 15 homeowners during the project, improving local ground and surface water quality.
 2. Identify water quality problem areas in the project area through annual sanitary surveys.

PART V. SCOPE OF WORK

Task 1 - Project Administration/Management

- A. The RECIPIENT will administer the project. Responsibilities will include, but not be limited to: maintenance of project records; submittal of payment vouchers, fiscal forms, and progress reports; compliance with applicable procurement, contracting, and interlocal agreement requirements; application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items.
- B. The RECIPIENT must manage the project. Efforts will include: conducting, coordinating, and scheduling project activities and assuring quality control. Every effort will be made to maintain effective communication with the RECIPIENT's designees; the DEPARTMENT; all affected local, state, or federal jurisdictions; and any interested individuals or groups. The RECIPIENT must carry out this project in accordance with any completion dates outlined in this agreement.

Required Performance:

1. Effective administration and management of this grant project.
2. Timely submittal of all required performance items, progress reports, and financial vouchers.

Task 2: Development of a Septic Loan/Grant Program

- A. The RECIPIENT will develop an on-site sewage system repair and replacement grant and loan program. The RECIPIENT will contact existing loan/grant programs around the State to help develop the model. The RECIPIENT will determine the specifics of the program and lay-out a framework for operating a loan/grant program for on-site septic repairs. As part of this task, the RECIPIENT will evaluate whether the current loan program should be re-organized and administered by the RECIPIENT rather than by Craft3.

- B. Depending on the results of Task 2A, the RECIPIENT will establish criteria for awarding grants and loans to homeowners that need to repair or replace their on-site sewage systems (OSS). The criteria will include environmental conditions of the area in which the owner's system is located and the owner's financial qualifications. The RECIPIENT will create a small committee made up of RECIPIENT staff, the financial institution, and possibly a non-profit organization to determine eligibility of property owners for grants or loans.
- C. The RECIPIENT will establish the administrative processes for the new OSS grant and loan program.
- D. The RECIPIENT will purchase new equipment and software to effectively facilitate the administration of this program, as well as to monitor and track the separate repairs.

Required Performance:

- 1. The RECIPIENT will deliver a draft plan to the DEPARTMENT for review and approval.
- 2. The RECIPIENT will implement the grant and loan program by June 1, 2013.
- 3. The RECIPIENT will maintain thorough records for the grant and loan program.

Task 3. Hardship Grant OSS Repair Fund

- A. The RECIPIENT will establish criteria and make hardship grants available to property owners for the repair or replacement of failing on-site sewage system throughout Pacific County. Based upon financial criteria established by the RECIPIENT, grant funds may be used to subsidize loans made to property owners.

Required Performance:

- 1. Submit hardship grant strategy to the DEPARTMENT for review and approval.
- 2. Assist financially distressed on-site sewage system owners with the repair or replacement of failing on-site sewage systems.
- 3. The RECIPIENT will make grants or loans to five property owners each year.

Task 4: Loan Loss Reserve

- A. In order to offset risk of loan defaults, the RECIPIENT may set aside up to ten percent of each on-site sewage system repair or replacement loan in a separate Loan Loss Reserve Account.

Required Performance:

- 1. Oversight of the loan risk assessment criteria for the Local Loan Fund.

Task 5: On-site Septic Sanitary Surveys

- A. The RECIPIENT will conduct annual on-site sanitary surveys throughout Pacific County. The RECIPIENT will conduct the surveys in either pre-identified areas where the RECIPIENT has received complaints or in randomly selected areas where on-site septic systems are located.

- B. The RECIPIENT will purchase equipment, such as computer tablets to perform on-site sanitary surveys in a more efficient and timely manner. The RECIPIENT will collect and input data on-site to alleviate the need to return to the office and re-enter data that had been handwritten and hand drawn.
- C. During these surveys, the RECIPIENT will educate the public about their on-site sewage system. In addition, if the system needs to be repaired or replaced, the RECIPIENT will provide information about the loan program.

Required Performance:

1. The RECIPIENT will perform at least one (1) on-site septic sanitary survey per year starting in 2013.
2. The RECIPIENT will provide outreach during the on-site septic sanitary survey to the local community regarding options that are available to for on-site loans.
3. The RECIPIENT will provide a report to the DEPARTMENT after each survey.

PART V(a). SPECIAL TERMS AND CONDITIONS

- A. Failure to Commence Work. In the event the RECIPIENT fails to commence work on the project within four months of the signatory date, the DEPARTMENT reserves the right to terminate this agreement.
- B. Small Commercial On-Site Sewage System Repair and Replacement. On-site sewage system repair or replacement funding may be provided to eligible small commercial enterprises. The definition of "small commercial" requires that the average daily flows from any one single business cannot exceed 3,500 gallons per day. These enterprises may include public lodging (including motels, hotels, and bed and breakfast establishments), rentals (apartments, duplexes, or houses), small restaurants, stores, or taverns.
- C. Loan Loss Reserve Account. The RECIPIENT may establish and accumulate a Reserve Account using Centennial Clean Water Grant Funds and local sources to secure the potential loss from individual homeowner on-site septic system repair or replacement local loan default. Up to ten percent (10 %) of the total eligible cost for an individual on-site septic repair and replacement project may be deposited, from the Centennial Clean Water grant, into the Reserve Account. The amount of Centennial Clean Water Funds on deposit in the Reserve Account must be applied by the RECIPIENT to (i) cover, in part or in full, losses realized by the RECIPIENT on homeowner on-site sewage system repair or replacement loan default or, (ii) at the timing discretion of the RECIPIENT, if not so applied, for additional on-site sewage system repair or replacement local loans.
- D. Quarterly Progress Reports. The RECIPIENT will prepare and submit progress reports to the DEPARTMENT's Financial Manager. Progress reports shall be submitted regardless of whether work is performed or not. Progress reports shall cover the periods January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1

through December 31. The DEPARTMENT will not process payment requests until the corresponding progress reports have been received.

The RECIPIENT agrees to provide the following information in quarterly project reports:

- Latitude and Longitude of each sewage repair or replacement
- Components of the system repaired or replaced
- Components of the upgraded system
- Total dollar amount of individual projects
- Grant and loan award distribution to homeowner

(The remainder of this page has been left blank intentionally)

PART VI. ALL WRITINGS CONTAINED HEREIN

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

- This agreement
- Attachment I: General Project Management Requirements for the Centennial Clean Water Program
- Attachment II: General Terms and Conditions
- The effective edition, at the signing of this agreement, of the DEPARTMENT's "Administrative Requirements for Ecology Grants and Loans"
- The associated funding guidelines that correspond to the fiscal year in which the project is funded
- The applicable statutes and regulations

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

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

IN WITNESS WHEREOF, the parties hereby execute this agreement:

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PACIFIC COUNTY BOARD OF HEALTH

KELLY SUSEWIND P.E., P.G.
WATER QUALITY PROGRAM
MANAGER

DATE

LISA AYERS,
CHAIR

DATE

Updated September 8, 2011

ATTACHMENT I: GENERAL PROJECT MANAGEMENT REQUIREMENTS FOR THE CENTENNIAL CLEAN WATER PROGRAM

CULTURAL AND HISTORIC RESOURCES PROTECTION

The RECIPIENT must comply with all requirements listed in Executive Order 05-05 prior to implementing any project that involves ground disturbing activities.

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

Another agency's cultural resources review must have prior approval from the DEPARTMENT in order to meet Executive Order 05-05 requirements for the project.

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

EDUCATION AND OUTREACH

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

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

The RECIPIENT must provide the DEPARTMENT up to two copies and an electronic copy either on floppy disks or CD-ROM of any tangible educational products developed under this grant, such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements or gadgets, such as a refrigerator magnet with a message. If this is not practical, the RECIPIENT must provide a complete description including photographs or printouts of the product.

The RECIPIENT must also supply the DEPARTMENT with the names and contact information of local project leads.

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

EFFECTIVE DATE:

The Effective Date of this agreement is the date the RECIPIENT began incurring eligible project costs. Any work performed prior to the Effective Date of this agreement will be at the sole expense and risk of the RECIPIENT. Reimbursement for eligible costs incurred will not be released by the DEPARTMENT until the grant agreement is signed.

EQUIPMENT PURCHASE

Equipment must be pre approved by the DEPARTMENT's project manager.

FORCE ACCOUNT

Prior to using its own forces to accomplish eligible PROJECT work, the RECIPIENT must request DEPARTMENT approval. The request must include a dollar amount and general description of the force account work. The request must also include a certification that the RECIPIENT has the legal authority to perform the work and adequate and technically qualified staff to perform the work without compromising other government functions. The RECIPIENT agrees to track and report the force account work submitted to the DEPARTMENT for reimbursement.

FUNDING RECOGNITION

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

INCREASED OVERSIGHT

If this project is selected for increased oversight (as indicated on page 3 of this agreement), the RECIPIENT must submit all backup documentation with each payment request submittal. In addition, the DEPARTMENT's Project Manager must establish a schedule for additional site visits to provide technical assistance to the RECIPIENT and verify progress or payment information.

INDIRECT RATE

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

MINORITY AND WOMEN'S BUSINESS PARTICIPATION

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

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

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

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

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

PAYMENT REQUEST SUBMITTALS

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

Supporting Documentation. The RECIPIENT must submit all payment request vouchers and supportive documentation to the DEPARTMENT's Financial Manager.

Required Forms.

Form A19-1A (original signature) Form C2 (ECY 060-9)
Form B2 (ECY 060-7) Form D (ECY 060-11)

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

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

POST PROJECT ASSESSMENT

Upon request of the DEPARTMENT, the RECIPIENT agrees to submit a survey regarding the key project results or water quality project outcomes and the status of eventual environmental results or goals from the project.

The DEPARTMENT may conduct site interviews and inspections, and may otherwise evaluate the Project.

PROCUREMENT

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

PROGRESS REPORTS

The RECIPIENT must submit quarterly progress reports to the DEPARTMENT's Financial Manager and Project Manager. Payment requests will not be processed without a current progress report.

Reporting Periods.

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

Reporting Due Date. Quarterly progress reports are due 15 days following the end of the quarter. A progress report must be submitted even if no progress has occurred.

A Progress Report Form is available on the DEPARTMENT's website at <http://www.ecy.wa.gov/programs/wq/funding/GrantLoanMgmtDocs/GrantLoanMgmtTools.html>. At a minimum, all progress reports must contain the items outlined in the DEPARTMENT's Progress Report Form. The DEPARTMENT may request additional information as necessary.

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

ATTACHMENT II: GENERAL TERMS AND CONDITIONS PERTAINING TO GRANT AND LOAN AGREEMENTS OF THE DEPARTMENT OF ECOLOGY

A. RECIPIENT PERFORMANCE

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

B. SUBGRANTEE/CONTRACTOR COMPLIANCE

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

C. THIRD PARTY BENEFICIARY

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

D. CONTRACTING FOR SERVICES (BIDDING)

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

E. ASSIGNMENTS

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

F. COMPLIANCE WITH ALL LAWS

1. The RECIPIENT shall comply fully with all applicable Federal, State and local laws, orders, regulations and permits. Prior to commencement of any construction, the RECIPIENT shall secure the necessary approvals and permits required by authorities having jurisdiction over the project, provide assurance to the DEPARTMENT that all approvals and permits have been secured, and make copies available to the DEPARTMENT upon request.
2. Discrimination. The DEPARTMENT and the RECIPIENT agree to be bound by all Federal and State laws, regulations, and policies against discrimination. The RECIPIENT further agrees to affirmatively support the program of the Office of Minority and Women's Business Enterprises to the maximum extent possible. If the agreement is federally-funded, the RECIPIENT shall report to the DEPARTMENT the percent of grant/loan funds available to women or minority owned businesses.
3. Wages And Job Safety. The RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.

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

G. KICKBACKS

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

H. AUDITS AND INSPECTIONS

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

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

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

I. PERFORMANCE REPORTING

The RECIPIENT shall submit progress reports to the DEPARTMENT with each payment request or such other schedule as set forth in the Special Conditions. The RECIPIENT shall also report in writing to the DEPARTMENT any problems, delays or adverse conditions which will materially affect their ability to meet project objectives or time schedules. This disclosure shall be accompanied by a statement of the action taken or proposed and any assistance needed from the DEPARTMENT to resolve the situation. Payments may be withheld if required progress reports are not submitted. Quarterly reports shall cover the periods January 1 through March 31,

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

J. COMPENSATION

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

Instructions for submitting the payment requests are found in "Administrative Requirements for Ecology Grants and Loans", part IV, published by the DEPARTMENT. A copy of this document shall be furnished to the RECIPIENT. When payment requests are approved by the DEPARTMENT, payments will be made to the mutually agreed upon designee. Payment requests shall be submitted to the DEPARTMENT and directed to the Project Officer assigned to administer this agreement.

2. Period of Compensation. Payments shall only be made for actions of the RECIPIENT pursuant to the grant/loan agreement and performed after the effective date and prior to the expiration date of this agreement, unless those dates are specifically modified in writing as provided herein.
3. Final Request(s) for Payment. The RECIPIENT should submit final requests for compensation within forty-five (45) days after the expiration date of this agreement and within fifteen (15) days after the end of a fiscal biennium. Failure to comply may result in delayed reimbursement.
4. Performance Guarantee. The DEPARTMENT may withhold an amount not to exceed ten percent (10%) of each reimbursement payment as security for the RECIPIENT's performance. Monies withheld by the DEPARTMENT may be paid to the RECIPIENT when the project(s) described herein, or a portion thereof, have been completed if, in the DEPARTMENT's sole discretion, such payment is reasonable and approved according to this agreement and, as appropriate, upon completion of an audit as specified under section J.6. herein.
5. Unauthorized Expenditures. All payments to the RECIPIENT may be subject to final audit by the DEPARTMENT and any unauthorized expenditure(s) charged to this grant/loan shall be refunded to the DEPARTMENT by the RECIPIENT.
6. Mileage and Per Diem. If mileage and per diem are paid to the employees of the RECIPIENT or other public entities, it shall not exceed the amount allowed under state law for state employees.
7. Overhead Costs. No reimbursement for overhead costs shall be allowed unless provided for in the Scope of Work hereunder.

K. TERMINATION

1. For Cause. The obligation of the DEPARTMENT to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of the DEPARTMENT, to perform any obligation required of it by this agreement, the DEPARTMENT may refuse to pay any further funds there under and/or terminate this agreement by giving written notice of termination.

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

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

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

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

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

L. WAIVER

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

M. PROPERTY RIGHTS

1. Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property, the RECIPIENT may copyright or patent the same but the

DEPARTMENT retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover or otherwise use the material(s) or property and to authorize others to use the same for federal, state or local government purposes. Where federal funding is involved, the federal government may have a proprietary interest in patent rights to any inventions that are developed by the RECIPIENT as provided in 35 U.S.C. 200-212.

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

N. SUSTAINABLE PRODUCTS

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is encouraged to implement sustainable practices where and when possible. These practices include

use of clean energy, and purchase and use of sustainably produced products (e.g., recycled paper). For more information, see <http://www.ecy.wa.gov/sustainability/>.

O. RECOVERY OF PAYMENTS TO RECIPIENT

The right of the RECIPIENT to retain monies paid to it as reimbursement payments is contingent upon satisfactory performance of this agreement including the satisfactory completion of the project described in the Scope of Work. In the event the RECIPIENT fails, for any reason, to perform obligations required of it by this agreement, the RECIPIENT may, at the DEPARTMENT's sole discretion, be required to repay to the DEPARTMENT all grant/loan funds disbursed to the RECIPIENT for those parts of the project that are rendered worthless in the opinion of the DEPARTMENT by such failure to perform. Interest shall accrue at the rate of twelve percent (12%) per year from the time the DEPARTMENT demands repayment of funds. If payments have been discontinued by the DEPARTMENT due to insufficient funds as in Section K.2 above, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination. Any property acquired under this agreement, at the option of the DEPARTMENT, may become the DEPARTMENT'S property and the RECIPIENT'S liability to repay monies shall be reduced by an amount reflecting the fair value of such property.

P. PROJECT APPROVAL

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

Q. DISPUTES

Except as otherwise provided in this agreement, any dispute concerning a question of fact arising under this agreement which is not disposed of in writing shall be decided by the Project Officer or other designated official who shall provide a written statement of decision to the RECIPIENT. The decision of the Project Officer or other designated official shall be final and conclusive unless, within thirty days from the date of receipt of such statement, the RECIPIENT mails or otherwise furnishes to the Director of the DEPARTMENT a written appeal. In connection with appeal of any proceeding under this clause, the RECIPIENT shall have the opportunity to be heard and to offer evidence in support of this appeal. The decision of the Director or duly authorized representative for the determination of such appeals shall be final and conclusive. Appeals from the Director's determination shall be brought in the Superior Court of Thurston County. Review of the decision of the Director will not be sought before either the Pollution Control Hearings Board or the Shoreline Hearings Board. Pending final decision of dispute hereunder, the RECIPIENT shall proceed diligently with the performance of this agreement and in accordance with the decision rendered.

R. CONFLICT OF INTEREST

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

S. INDEMNIFICATION

1. The DEPARTMENT shall in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.
2. To the extent that the Constitution and laws of the State of Washington permit, each party shall indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this agreement.

T. GOVERNING LAW

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

U. SEVERABILITY

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

V. PRECEDENCE

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

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