

WHATCOM COUNTY CONTRACT INFORMATION SHEET

Whatcom County Contract No.

Originating Department:	
Division:	
Program:	
Contract or Grant Administrator:	
Contractor's / Agency Name:	

Type of contract:		
Is this a new contract ?	If not, is this an amendment or renewal to an existing contract?	If amendment or renewal , original contract #:
Is this a grant agreement?	If yes, grantor agency contract numbers:	ALN: <small>Complete ALN field if contract involves direct federal grants/cooperative agreements or pass-through federal funds</small>
Is this contract grant-funded ?	If yes, Whatcom County grant contract number(s):	
Is this contract the result of an RFP or Bid Process?	If yes, RFP and Bid number(s):	Federal reimbursement?
Procurement Method:		
Council review requirements & exemptions:		

Fund:		Original Contract Amount (if amendment):	
Cost Center:		This Amendment Amount (if applicable):	
Object Account:		Total Contract Amount:	

<u>Contract term ends:</u>

Contract routing (please initial & date):

Prepared by:		Contractor signed:	
Contractor review:		Executive review:	
Attorney signoff:		Council approval, if necessary:	AB#:
AS Finance review:			
IT review (if related):		Executive signed	



Agreement No. SEAFBD-2527-WhCoPW-00019

SHORELANDS FLOODPLAINS BY DESIGN AGREEMENT

BETWEEN

THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT / WHATCOM COUNTY PUBLIC WORKS

This is a binding Agreement entered into by and between the state of Washington, Department of Ecology, hereinafter referred to as “ECOLOGY,” and Whatcom County Flood Control Zone District / Whatcom County Public Works, hereinafter referred to as the “RECIPIENT,” to carry out with the provided funds activities described herein.

GENERAL INFORMATION

Project Title:	The Nooksack River: Floodplains that Work – Phase 4
Total Cost:	\$10,000,000.00
Total Eligible Cost:	\$10,000,000.00
Ecology Share:	\$10,000,000.00
Recipient Share:	\$0.00
The Effective Date of this Agreement is:	07/01/2025
The Expiration Date of this Agreement is no later than:	06/30/2029
Project Type:	Floodplains by Design

Project Short Description:

Floodplains that Work is a multi-phase initiative uniting diverse partners around a common vision: reducing flood risk, restoring habitat, strengthening community resilience, and sustaining a thriving agricultural economy. Phase 4 will advance capital projects to construction, complete strategic property acquisitions and/or elevate or relocate homes in high-risk areas, and continue advancing the Floodplain Integrated Planning (FLIP) process to ensure coordinated, long-term floodplain management.

Project Long Description:

The Nooksack River is a highly dynamic system with significant flood impacts, including politically sensitive transboundary issues with Canada, high potential for damage to rural communities, and substantial risk to the Nooksack Indian Tribe and Lummi Nation—where flooding can fully isolate the Lummi Reservation.

Historically, the floodplain supported interconnected wetlands, mature riparian forests, multiple river channels,

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beaver dams, and abundant large wood. Colonization brought forest clearing, wetland drainage, levees, bank hardening, channel straightening, and wood removal. These changes reduced salmon habitat diversity and connectivity, altered sediment processes, simplified river channels, and degraded water quality.

Phase 4 continues a collaborative, integrated approach to floodplain management through the Floodplain Integrated Planning (FLIP) process. Initiated in 2017, FLIP updates the Lower Nooksack River Comprehensive Flood Hazard Management Plan to align the plan with broader community interests compared to the 1999 plan.

Phase 4 includes the following activities:

A. Acquisition & Flood Mitigation Program Implementation. Increased public interest and greater understanding of flood risk to communities in the Nooksack Basin and Everson overflow has made fee-simple and easement acquisitions, structure elevations, and home relocations a priority. This program will continue property buyout, easement acquisition, structure relocations and/or elevations to get people out of harm's way and accommodate future flood mitigation projects.

B. Capital Project Advancement. This will include project design, implementation, and/or construction at multiple sites in the Nooksack Basin.

1. Glacier-Gallup Alluvial Fan Restoration will advance to final design (Task 3) and secure acquisitions/easements of key parcels (Task 2). The community of Glacier is located on an active alluvial fan, putting infrastructure and residents at risk from flooding. This project will reduce flood risk and improve habitat for salmonids.

2. South Fork Fish Camp (Ts'eq) Integrated Fish-Flood Project (Fish Camp) will advance to construction of flood mitigation measures (Task 3). This project is a collaborative multi-phase, integrated fish-flood project encompassing 2.4 miles of the South Fork Nooksack River including the community of Acme, an under-resourced and repetitive flood loss area. Degraded habitat will be restored in the longest untreated reach in the Lower South Fork Nooksack River.

3. Ferndale Levee Improvement will advance to Phase 1 construction (Task 3). If construction of Phase 1 does not utilize all of the funding allocated, it may be used to fund Phase 2 construction. This project will construct much needed levee and floodwall improvements to protect the people and infrastructure of Ferndale and unincorporated Whatcom County from devastating flood risk and damage.

Early Action Projects and Monitoring of Innovation (Task 3). These projects continue to be identified through the FLIP planning process, and this task provides funding for their assessment, design and implementation. The community is committed to advancing and monitoring early action projects that demonstrate innovative, integrated solutions addressing water quantity and quality, salmon habitat, agricultural viability, and flood risk reduction.

C. FLIP Support. Provide additional capacity funding for key partners to fully engage in FLIP and support participation of agricultural representatives, tribal, and small city staff on the FLIP steering committee (FLIPSC) and in ongoing FLIP planning efforts (Task 4). This task includes communications, engagement and outreach activities with external audiences.

Overall Goal:

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Recipient Name: Whatcom County Flood Control Zone District / Whatcom County Public Works

The overall goal is to advance capital projects in the Nooksack basin and Everson Overflow reach that reduce flood risk, protect and restore habitat, and support priority floodplain land uses. The collaborative FLIP process provides the institutional framework for developing and implementing a broadly supported set of integrated reach- and watershed-scale strategies and actions.

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 Recipient Name: Whatcom County Flood Control Zone District / Whatcom County Public Works

RECIPIENT INFORMATION

Organization Name: Whatcom County Flood Control Zone District / Whatcom County Public Works

Federal Tax ID: 91-6001383

UEI Number: NT6RMN8THTN7

Mailing Address: 322 N. Commercial Street, Suite 220
 Bellingham, Washington 98225

Physical Address: 322 N. Commercial Street, Suite 220
 Bellingham, Washington 98225

Organization Email: jcgreen@co.whatcom.wa.us

Contacts

<p>Project Manager</p>	<p>Julie Anderson River and Flood Manager</p> <p>322 N. Commercial Street, Suite 220 Bellingham, Washington 98225 Email: jmanders@co.whatcom.wa.us Phone: (360) 778-6200</p>
<p>Billing Contact</p>	<p>Julia Bilderback</p> <p>322 N. Commercial Street, 4th Floor Bellingham, Washington 98225 Email: jbilderb@co.whatcom.wa.us Phone: (360) 778-6208</p>
<p>Authorized Signatory</p>	<p>Satpal Singh Sidhu County Executive</p> <p>311 Grand Avenue, Suite 108 Bellingham, Washington 98225 Email: ssidhu@co.whatcom.wa.us Phone: (360) 778-5200</p>

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Project Title: The Nooksack River: Floodplains that Work – Phase 4

Recipient Name: Whatcom County Flood Control Zone District / Whatcom County Public Works

ECOLOGY INFORMATION

Mailing Address: Department of Ecology
 Shorelands
 PO BOX 47600
 Olympia, WA 98504-7600

Physical Address: Shorelands
 300 Desmond Drive SE
 Lacey, WA 98503

Contacts

<p>Project Manager</p>	<p>Julie Morse</p> <p>913 Squalicum Way Suite 101 Bellingham, Washington 98225 Email: jumo461@ecy.wa.gov Phone: (206) 402-1438</p>
<p>Financial Manager</p>	<p>Layne Slone Financial Manager</p> <p>PO Box 47600 Olympia, Washington 98504-7600 Email: lnak461@ecy.wa.gov Phone: (360) 867-8171</p>

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Recipient Name: Whatcom County Flood Control Zone District / Whatcom County Public Works

AUTHORIZING SIGNATURES

RECIPIENT agrees to furnish the necessary personnel, equipment, materials, services, and otherwise do all things necessary for or incidental to the performance of work as set forth in this Agreement.

RECIPIENT acknowledges that they had the opportunity to review the entire Agreement, including all the terms and conditions of this Agreement, Scope of Work, attachments, and incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this Agreement. Furthermore, the RECIPIENT has read, understood, and accepts all requirements contained within this Agreement.

This Agreement contains the entire understanding between the parties, and there are no other understandings or representations other than as set forth, or incorporated by reference, herein.

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

This Agreement shall be subject to the written approval of Ecology’s authorized representative and shall not be binding until so approved.

The signatories to this Agreement represent that they have the authority to execute this Agreement and bind their respective organizations to this Agreement.

IN WITNESS WHEREOF: the parties hereto, having read this Agreement in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

Washington State
Department of Ecology

Whatcom County Flood Control Zone District /
Whatcom County Public Works

By: _____

By: _____

Joenne McGerr
Shorelands
Program Manager
Date

Satpal Singh Sidhu
County Executive
Date

Template Approved to Form by
Attorney General's Office

Agreement No: SEAFBD-2527-WhCoPW-00019

Project Title: The Nooksack River: Floodplains that Work – Phase 4

Recipient Name: Whatcom County Flood Control Zone District / Whatcom County Public Works

Elizabeth Kosa

Public Works Director

Date

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Project Title: The Nooksack River: Floodplains that Work – Phase 4
Recipient Name: Whatcom County Flood Control Zone District / Whatcom County Public Works

SCOPE OF WORK

Task Number: 1 **Task Cost:** \$50,000.00

Task Title: Grant Administration and Project Management

Task Description:

The RECIPIENT will provide grant administration and project management in accordance with the grant program Funding Guidelines, Administrative Requirements for Recipients of Ecology Grants and Loans (Yellow Book), Agreement Terms and Conditions, and laws and regulations.

A. Grant administration. The RECIPIENT’s responsibilities to administer the grant include, but are not limited to: retaining and maintaining grant agreement and grant amendment records; submitting grant deliverables as specified in the scope of work tasks and the dates outlined in the Deliverable Due Dates form; submitting complete and timely quarterly and final Payment Requests/Progress Reports (PRPRs) and corresponding backup documentation; timely submittal of a complete Recipient Close Out Report (RCOR) at grant close out; timely responses to any and all other communications and requests from ECOLOGY for information about the grant.

B. Project management. The RECIPIENT’s responsibilities to manage the project include, but are not limited to conducting, coordinating, and scheduling project activities; and assuring quality control. The RECIPIENT must make every reasonable effort to maintain effective communication with ECOLOGY as well as with all other affected local, state, federal, and tribal jurisdictions; and any interested individuals or groups. In the event that the RECIPIENT elects to use a contractor to complete project elements, the RECIPIENT shall retain responsibility for the oversight and management of this funding agreement.

Task Goal Statement:

Properly managed grant agreement that meets the grant program Funding Guidelines, Administrative Requirements for Recipients of Ecology Grants and Loans (Yellow Book), Agreement Terms and Conditions, and applicable laws and regulations.

Task Expected Outcome:

Properly maintained grant and project documentation. Timely and complete responses to ECOLOGY communications and requests for information about the project.

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Project Title: The Nooksack River: Floodplains that Work – Phase 4

Recipient Name: Whatcom County Flood Control Zone District / Whatcom County Public Works

Recipient Task Coordinator: Julie Anderson**Grant Administration and Project Management****Deliverables**

Number	Description	Due Date
1.1	Payment Requests/ProgressReports (PRPR)	
1.2	Recipient Close Out Report(RCOR)	06/30/2029
1.3	Project Outcome SummaryReport	06/30/2029

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Project Title: The Nooksack River: Floodplains that Work – Phase 4

Recipient Name: Whatcom County Flood Control Zone District / Whatcom County Public Works

SCOPE OF WORK

Task Number: 2 **Task Cost:** \$1,200,000.00

Task Title: 2. Acquisition and Flood Mitigation Program

Task Description:

The Acquisition and Flood Mitigation Program facilitates property buyout, easement acquisition, and structure relocations or elevations for flood risk reduction, habitat improvement, and future flood capital projects. The RECIPIENT will:

A. Submit a full Acquisition Report for each fee-simple acquisition or easement purchased.

† When the estimated property value does not exceed \$25,000, and the acquisition is not complex, the RECIPIENT may be exempt from meeting appraisal and review appraisal standards. Such exemptions must be requested in writing and approved by the ECOLOGY Project Manager before closing the property. The RECIPIENT must follow the appraisal waiver standards in 49 C.F.R. § 24.102.

1. Escrow Process (if applicable): If the RECIPIENT requires funds to acquire a property prior to closing, the RECIPIENT can request an exception to ECOLOGY’s reimbursement policy by going through the escrow process. This process allows ECOLOGY to pay a RECIPIENT’s grant funds in advance for the property or easement acquisition through the title / escrow company. Allow sufficient time for ECOLOGY and the Office of the State Treasurer to process documentation a minimum of three weeks prior to closing.

2. Prior to fee-simple acquisition, the RECIPIENT will complete the cultural resources review in accordance with Section 106 and Governor’s Executive Order 21-02 requirements, as applicable. Due to confidentiality, email surveys to the ECOLOGY Project Manager and do not upload in EAGL.

3. Submit an Inadvertent Discovery Plan (IDP) to ECOLOGY, as applicable, for fee-simple acquisitions. The RECIPIENT will ensure that all contractors have a copy of the completed IDP prior to and while working on-site in each project area.

4. For fee-simple acquisitions, the RECIPIENT will relocate residential or business tenants in accordance with the Uniform Relocation Act (URA) as federal and state laws require Ecology to comply with the URA and Real Property Acquisition Policies Act of 1970.

5. Upon completion of fee-simple acquisitions, easements, structure relocations or elevations, the RECIPIENT will submit GIS-compatible project area data in an ECOLOGY-approved format to ECOLOGY and upload it to EAGL.

B. Bid documents and signed contracts for demolitions, home relocations or elevations. The RECIPIENT’s primary contractor or subcontractor services will be secured in accordance with the RECIPIENT or State of Washington procurement procedures and within the scope of work of this agreement.

C. All required local, state, or federal permits.

D. Annotated digital photographs showing conditions before, during, and after.

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 Recipient Name: Whatcom County Flood Control Zone District / Whatcom County Public Works

Task Goal Statement:

This task will support strategic acquisitions of property or easements and structure elevations or relocations, which aim to significantly reduce the risk of loss of life, decrease the number of residences in floodways, lower flood damages, direct resources to underserved communities still recovering, and restore natural floodplain function. Acquisition of land and easements is also a crucial step for future integrated projects.

Task Expected Outcome:

Over 200 landowners have expressed interest in buyout or elevations in Sumas, Everson, Ferndale, and unincorporated Whatcom County. Many of these were substantially damaged during the 2021 flooding and/or again in the 2025 flood. Acquisition of several flood-prone properties are anticipated under this task.

Recipient Task Coordinator: Deborah Johnson

2. Acquisition and Flood Mitigation Program

Deliverables

Number	Description	Due Date
2.1	Complete Acquisition Report for each property and/or easement purchased. Upload to EAGL and notify ECOLOGY Project Manager via email.	
2.2	Cultural Resource Review documents, as applicable, including Inadvertent Discovery Plan and when required, a survey, for each property purchased (as applicable). Due to confidentiality, do not upload to EAGL. Email surveys to ECOLOGY Project Manager via email.	
2.3	In accordance with the URA, relocation services will be provided. Upload signed contracts with relocation agencies and submit reimbursements to ECOLOGY as applicable.	
2.4	Project area GIS shapefiles showing the location of acquisitions, elevations, structure relocations and easements. Save the shapefiles in a .zip file and upload to EAGL. Notify ECOLOGY Project Manager via email.	
2.5	Copy of bid documents and signed contracts for demolitions, elevations or home relocations. Upload to EAGL and notify ECOLOGY Project Manager via email.	
2.6	Copy of all required local, state, or federal permits. Upload documentation to EAGL prior to implementation of work and notify ECOLOGY Project Manager via email.	
2.7	Annotated before and after photos of elevations or structure relocations. Upload in EAGL and notify ECOLOGY Project Manager via email.	

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Project Title: The Nooksack River: Floodplains that Work – Phase 4
Recipient Name: Whatcom County Flood Control Zone District / Whatcom County Public Works

SCOPE OF WORK

Task Number: 3 **Task Cost:** \$8,500,000.00

Task Title: 3. Capital Project Pipeline

Task Description:

This task will advance design, implementation, and/or construction of capital projects at multiple sites in the Nooksack Basin. The RECIPIENT will:

A. Complete final (100%) design of the Glacier-Gallup Creeks Alluvial Fan Restoration project which will reduce flood risk for the community of Glacier and improve salmon habitat. For all Design Projects, the RECIPIENT will also:

1. Provide a copy of signed contracts for design of each project. Contracted services will be secured in accordance with State of Washington procurement procedures and within the scope of work of this agreement.
2. As applicable, provide Design Plans, Specifications, and Cost Estimates (PS&E); Basis of Design Report (BDR); bid documents; and required local, state, and federal permits.

B. Complete construction of flood hazard reduction measures for the community of Acme as part of the South Fork (SF) Fish Camp (Ts’ég) Integrated Fish-Flood Project (Fish Camp). For all construction projects, the RECIPIENT will also:

1. Complete the cultural resources review, as applicable, in accordance with Section 106 and Governor’s Executive Order 21-02 requirements. Due to confidentiality, email surveys to the ECOLOGY Project Manager and do not upload in EAGL.
2. Submit an Inadvertent Discovery Plan (IDP), as applicable, to ECOLOGY. The RECIPIENT will ensure that all contractors have a copy of the completed IDP prior to and while working on-site in each project area.
3. Hire contractors to complete construction and submit a copy of signed contracts. Services will be secured in accordance with the State of Washington procurement procedures.
4. Submit permits, final designs, and as-built plans, as applicable. The final designs and as-built plans must be signed and sealed by Washington State-licensed engineer.
5. Submit GIS shapefile of the project location, annotated before and after construction photos, and species and quantity list for all plantings.

C. Complete construction of Phase 1 of the Ferndale Levee Improvement project to protect the City of Ferndale and its critical infrastructure. For all construction projects, the RECIPIENT will also:

1. Complete the cultural resources review, as applicable, in accordance with Section 106 and Governor’s Executive Order 21-02 requirements. Due to confidentiality, email surveys to the ECOLOGY Project Manager and do not upload in EAGL.

State of Washington Department of Ecology

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2. Submit an Inadvertent Discovery Plan (IDP), as applicable, to ECOLOGY. The RECIPIENT will ensure that all contractors have a copy of the completed IDP prior to and while working on-site in each project area.

3. Hire contractors to complete construction and submit a copy of signed contracts. Services will be secured in accordance with the State of Washington procurement procedures.

4. Submit permits, final designs, and as-built plans, as applicable. The final designs and as-built plans must be signed and sealed by Washington State-licensed engineer.

5. Submit GIS shapefile of the project location, annotated before and after construction photos, and species and quantity list for all plantings.

D. Identify and pursue Early Action projects as opportunities arise and advance projects through assessment, design and implementation. For design projects the RECIPIENT will complete A1-A2 above, and for construction projects the RECIPIENT will also complete B1-B5 above.

Task Goal Statement:

This task will advance several key capital projects on the Nooksack River, its forks and tributaries to deliver flood risk reduction and habitat improvement benefits for partners including the Glacier Water District, Lummi Nation, Nooksack Indian Tribe, the RECIPIENT, the City of Ferndale, the agriculture community, and lower river and delta citizens, industry, and businesses.

Task Expected Outcome:

Glacier-Gallup Alluvial Fan Restoration will improve public safety for the community of Glacier, restore salmon habitat and alluvial fan processes, and tie-in with a separate project for a full-span bridge replacement on Hwy. 542. Fish Camp will reduce flood risk in the Acme area and improve habitat conditions on the South Fork. Ferndale Levee Improvement project will increase the levee height for approximately 6,300 feet to provide protection from a 100-year flood to over 200 residences, critical facilities, parks, roads, various utilities, approximately 1,900 acres of farmland, and access to the Lummi Reservation. Construction of Phase 1 of the Ferndale Levee project will improve flood protection, relocate public and private utilities, improve stormwater quality, and construct a safer roadway. Early Action projects will help build momentum for ongoing collaboration through the FLIP process.

Recipient Task Coordinator: Christina Schoenfelder

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Recipient Name: Whatcom County Flood Control Zone District / Whatcom County Public Works

3. Capital Project Pipeline**Deliverables**

Number	Description	Due Date
3.1	Cultural Resources Review Documents, as applicable. Due to confidentiality, do not upload to EAGL. Email surveys to ECOLOGY Project Manager.	
3.2	Inadvertent Discovery Plan (IDP), as applicable. Upload copy in EAGL and notify ECOLOGY Project Manager via email.	
3.3	Environmental Compliance. Local, state, and federal environmental permits; landowner agreement(s); and list of the permits obtained, as applicable. Upload in EAGL and notify ECOLOGY Project Manager via email.	
3.4	Bid documents and signed consultant and contractor contract(s), including design, construction, planting, and construction management contracts, as applicable. Upload copy to EAGL and notify ECOLOGY Project Manager via email.	
3.5	Project construction schedule, including project milestones. Update and include with quarterly Progress Report/Payment Requests, as applicable, and notify ECOLOGY Project Manager via email.	
3.6	Final design, signed and sealed by Washington State-licensed engineer. Upload copy in EAGL and notify ECOLOGY Project Manager via email.	
3.7	As-built drawings. Upload copy in EAGL and notify ECOLOGY Project Manager via email.	
3.8	Annotated before and after photos of the construction phase. Upload in EAGL and notify ECOLOGY Project Manager via email.	
3.9	Species and quantity list for all plantings and annotated before and after photos. Upload in EAGL and notify ECOLOGY Project Manager via email.	
3.10	GIS shapefile(s) of completed project location. Send to ECOLOGY Project manager via email.	

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Project Title: The Nooksack River: Floodplains that Work – Phase 4

Recipient Name: Whatcom County Flood Control Zone District / Whatcom County Public Works

SCOPE OF WORKTask Number: 4 **Task Cost:** \$250,000.00

Task Title: 4. FLIP Support

Task Description:

While devastating, the historic 2021 floods created a once-in-a-generation opportunity to advance an integrated floodplain plan that serves the broader community. This task will support participation by agricultural representatives, Tribal staff, and small city staff in the FLIP Steering Committee (FLIPSC) and the broader FLIP process.

Limited staffing capacity at the Tribes and small cities makes consistent engagement challenging, as farmers, Tribal members, and city representatives participate in FLIP planning in addition to their primary responsibilities. Supporting these partners is essential to sustaining meaningful collaboration.

This work includes engagement with the Nooksack Transboundary Flood Initiative; development of climate-resilient fish–farm–flood projects; project prioritization informed by improved river modeling; identification of disaster relief priorities; and outreach and education to strengthen future flood preparedness.

The RECIPIENT will complete the following subtasks:

A. The RECIPIENT will submit a final, signed Cost Reimbursement Agreements (CRAs) or amendments to the existing CRAs with the Ag Water Board that will reimburse 100% of costs of staff time for attending the FLIPSC and FLIP Team meetings and related work.

B. The RECIPIENT will increase the capacity of agricultural interests to participate in the FLIP process by distributing reimbursement stipends to farmers to attend FLIP Team and Reach Team meetings, as applicable. The RECIPIENT will be responsible for engaging with and organizing reimbursable-eligible farmer participation by entering into individual Letters of Agreement (LOAs) with each farmer. Stipends are not to exceed \$599 per farmer. Stipends to cover costs for time and travel expenses of farmers are set at the following rates:

1. Field trip (approx. 3 hrs.) and Workshop #1 (7-8 hrs.) = \$375
2. Follow-up meetings (3-5 hrs.) = \$200

(The RECIPIENT expects a similar stipend for the upcoming Reach Team meetings. Rates may be adjusted if the meeting times differ significantly but will not exceed \$599 per farmer.) Farmers must sign in and out to each FLIP Team and/or Reach Team meeting and stay for the entire meeting to qualify for reimbursement. Should farmers not stay for an entire meeting, the stipend will be prorated on actual hours. The RECIPIENT will submit signed Letter of Agreements (LOAs), sign-in sheets, and reimbursement documents.

C. The RECIPIENT will submit final, signed Cost Reimbursement Agreements (CRAs) or amendments to the existing CRAs with the Lummi Nation and Nooksack Indian Tribe that will reimburse 100% of costs of staff time for attending the FLIPSC, FLIP Team, and TFI meetings and related work.

D. The RECIPIENT will submit final, signed Cost Reimbursement Agreements (CRAs) or amendments to the existing CRAs with the City of Everson and City of Ferndale that will reimburse 100% of costs of staff administration

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and/or a consultant representative for attending the FLIPSC and FLIP Team meetings and related work. A consultant will represent the cities of Everson, Nooksack, and Sumas and is covered under the CRA with the City of Everson. The City of Ferndale will have a staff representative attending meetings and conducting related work.

Task Goal Statement:

Support for the FLIPSC is critical for advancing collaboration and local partnerships in developing and prioritizing a suite of actions to mitigate flood risk, implement salmon recovery, and increase community resilience throughout the Nooksack and Sumas basins, with a special focus on managing the Everson Overflow. Involving interested parties and keeping the community informed is essential for sustaining the FLIP collaborative process.

Task Expected Outcome:

This task will provide funding for key partners to consistently participate in the FLIPSC, the larger FLIP process (FLIP Team), and contribute to collaboration within the Nooksack Transboundary Flood Initiative. This will ensure diverse participation in critically important floodplain planning discussions and potentially accelerate the work by providing meaningful opportunity for participation by key partners early in these efforts.

Recipient Task Coordinator: Deborah Johnson

4. FLIP Support

Deliverables

Number	Description	Due Date
4.1	Final, signed Cost Reimbursement Agreement (CRA) or amendment to existing CRA with the Ag Water Board. Upload to EAGL and notify ECOLOGY Project Manager via email.	
4.2	Signed Letters of Agreements (LOAs) with farmers for FLIP meeting participation; sign-in sheets; and reimbursement documents. Upload to EAGL and notify ECOLOGY Project Manager via email.	
4.3	Final, signed CRAs or amendment to existing CRAs with the Lummi Nation and the Nooksack Indian Tribe. Upload to EAGL and notify ECOLOGY Project Manager via email.	
4.4	Final, signed CRAs or amendments to existing CRAs with the City of Everson and City of Ferndale. Upload to EAGL and notify ECOLOGY Project Manager via email.	

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 Project Title: The Nooksack River: Floodplains that Work – Phase 4
 Recipient Name: Whatcom County Flood Control Zone District / Whatcom County Public Works

BUDGET

Funding Distribution EG260588

NOTE: *The above funding distribution number is used to identify this specific agreement and budget on payment remittances and may be referenced on other communications from ECOLOGY. Your agreement may have multiple funding distribution numbers to identify each budget.*

Funding Title: Floodplains by Design 2025-27
 Funding Type: Grant
 Funding Effective Date: 07/01/2025 Funding Expiration Date: 06/30/2029
 Funding Source:

Title: Natural Climate Solutions Account (NCSA)
 Fund: FD
 Type: State
 Funding Source %: 100%
 Description: Natural Climate Solutions Account

Approved Indirect Costs Rate: Approved State Indirect Rate: 0%
 Recipient Match %: 0%
 InKind Interlocal Allowed: No
 InKind Other Allowed: No
 Is this Funding Distribution used to match a federal grant? Yes

Floodplains by Design 2025-27	Task Total
1. Grant Administration and Project Management	\$ 50,000.00
2. Acquisition and Flood Mitigation Program	\$ 1,200,000.00
3. Capital Project Pipeline	\$ 8,500,000.00
4. FLIP Support	\$ 250,000.00

Total: \$ 10,000,000.00

Agreement No: SEAFBD-2527-WhCoPW-00019

Project Title: The Nooksack River: Floodplains that Work – Phase 4

Recipient Name: Whatcom County Flood Control Zone District / Whatcom County Public Works

Funding Distribution Summary**Recipient / Ecology Share**

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
Floodplains by Design 2025-27	0.00 %	\$ 0.00	\$ 10,000,000.00	\$ 10,000,000.00
Total		\$ 0.00	\$ 10,000,000.00	\$ 10,000,000.00

AGREEMENT SPECIFIC TERMS AND CONDITIONS

This agreement is supported with funding from Washington’s Climate Commitment Act (CCA). The CCA supports Washington’s climate action efforts by putting cap-and-invest dollars to work reducing climate pollution, creating jobs, and improving public health. Information about the CCA is available at <https://climate.wa.gov>.

Department of Ecology received funding from Washington’s Climate Commitment Act (CCA) for the work under this agreement. To strengthen public awareness of how CCA funding is used, the Office of the Governor is directing state agencies that administer funding or manage a CCA-supported program to ensure consistent logo branding and funding acknowledgments are used in all communications and included in grant agreements.

The “Climate Commitment Act” logo and funding acknowledgment make it easy for consumers and the public to see how the state is using CCA funds to reduce climate pollution, create jobs, and improve public health and the environment, particularly for low-income and overburdened populations.

The logo branding and funding acknowledgments requirements apply to all contractors, subcontractors, service providers, and others who assist the Recipient in implementing this agreement. The Recipient is to contact ECOLOGY if unsure about how to apply CCA requirements to the work under this agreement.

SPECIAL TERMS AND CONDITIONS
Floodplains by Design, Flood Proviso, and Flood Control Assistance Account Program - Special Terms and Conditions

1. The RECIPIENT will negotiate the task deliverable due dates with the ECOLOGY Project Manager, and the ECOLOGY Project Manager will enter the information in the Deliverables Due Date EAGL form. The RECIPIENT will keep track of these dates and will note any date changes on the quarterly progress reports. The Deliverables Due Date form can be found on the Application Menu - Forms page in EAGL. (Note: This form does not automatically print out with the Agreement.)

2. Local Decision: This grant is made in response to a request for financial assistance from the RECIPIENT to undertake flood damage prevention projects. The choice of floodplain management activities addressed by this grant is a local decision made solely by the RECIPIENT. The RECIPIENT is not acting as an agent of the state of Washington.

3. Lawsuits: ECOLOGY shall not be responsible for any non-contractual damage or inverse condemnation claims resulting from the structures or works constructed, repaired, restored, maintained, or improved pursuant to this grant.

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Project Title: The Nooksack River: Floodplains that Work – Phase 4

Recipient Name: Whatcom County Flood Control Zone District / Whatcom County Public Works

4. Indemnification, Hold Harmless and Duty to Defend

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

b. This paragraph applies to negligence based claims only. All other claims are governed by paragraph 4 of this section (item 3.d). To the extent the constitution and laws of the state of Washington permit, RECIPIENT shall indemnify, defend and hold harmless the state, its agencies, officers and employees, from all claims, suits or actions brought for any or all injuries to persons or property arising from, or as a consequence of, negligent acts or omissions related to the construction, restoration, repair, maintenance, improvement or operation of the structures or works for which this grant is provided. If the structures or works for which this grant is received are a portion of an integrated flood protection system, RECIPIENT agrees to indemnify, defend and hold harmless the state of Washington, its agencies, employees, and officers against any and all liability arising out of the operation, maintenance, or repair of that integrated flood protection system; provided, however, that this provision is not intended to and shall not be construed as a waiver by RECIPIENT of any immunities conferred upon the RECIPIENT by RCW 86.12.037 nor is it intended to, and it shall not be construed to, confer any rights upon third parties.

c. The RECIPIENT will not be required to indemnify, defend, or save harmless the state, its agencies, officers or employees as provided in the preceding paragraph of this section if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence of the state. Where such claims, suits, or actions result from the concurrent negligence of (a) the state, or the state's agents or employees and (b) the RECIPIENT or the RECIPIENT's agents or employees, the indemnity provisions provided in the preceding paragraphs of this section shall be valid and enforceable only to the extent of the RECIPIENT's negligence or the negligence of its agents and employees.

d. To the extent that the constitution and laws of the state of Washington permit, RECIPIENT shall indemnify and hold harmless the state of Washington, its agencies, employees, and officers against any and all liability arising out of the continued operation, maintenance, or repair of the structures or works constructed, restored, repaired, maintained or improved as a result of this grant. If the structures or works for which this grant is received are portions of an integrated flood protection system, RECIPIENT agrees to indemnify, defend and hold harmless the state of Washington, its agencies, employees, and officers against any and all liability arising out of the operation, maintenance, or repair of that integrated flood protection system; provided, however, that the indemnity provisions of this paragraph are not intended to and shall not be construed as a waiver by Recipient of any immunities conferred upon the Recipient by RCW 86.12.037 nor are they intended to, and they shall not be construed to, confer any rights upon third parties. This agreement applies to all non-negligent, non-contractually based claims including, but not limited to, inverse condemnation, contribution, indemnification, trespass and/or nuisance.

5. Any development activity funded by this grant which occurs in the Federal Emergency Management Agency (FEMA)-mapped regulatory floodplain, also known as the Special Flood Hazard Area (SFHA), may trigger the need for a floodplain development permit from the local agency with floodplain management jurisdiction. "Development" is defined at 44 CFR 59.1 as " ... any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials." Further, any activity funded by this grant may change the base flood elevations from physical changes affecting the floodplain. Communities are required by 44 CFR 65.3 to submit new data to FEMA in the event their actions affect the base flood elevation and the regulatory map (the SFHA).

6. ECOLOGY waives property acquisition report appraisal requirements for properties valued at \$25,000 or less. When the estimated property value does not exceed \$25,000, and the acquisition is not complex, the RECIPIENT may be exempt from meeting appraisal and review appraisal standards. Such exemptions must be requested in writing and approved by the ECOLOGY Project Manager before the closing on the property. The RECIPIENT must follow the appraisal waiver standards in 44 C.F.R. § 24.102.

7. Some RECIPIENTS are required to provide grant match. Match is made up of three different types of contributions: cash expenditures, in kind other, and in kind interlocal. Cash match expenditures are eligible costs paid by the RECIPIENT and are not reimbursed by ECOLOGY. In kind contributions are property or services that benefit

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a project and are contributed to the RECIPIENT by a third party without direct monetary compensation. In kind other is a type of contribution where the third party making the contribution is not a government entity. In kind interlocal is a type of contribution where both the grant RECIPIENT and the third party making the contribution are both government entities and have a signed Inter-local agreement between them.

8. RECIPIENTS are required to submit a copy of the original invoice in the Payment Request backup documentation if an invoice number is referenced on a primary or subcontractor invoice.

9. To be eligible for reimbursement, RECIPIENTS must provide documentation of how an expenditure is directly related to the project. ECOLOGY will not reimburse any expenditure that is already included in the indirect rate. At ECOLOGY's sole discretion, ECOLOGY may approve reimbursement for the percentage of an expenditure that is directly related to the project.

FLOODPLAINS BY DESIGN, FLOOD PROVISIO, AND FLOOD CONTROL ASSISTANCE ACCOUNT
 PROGRAM GRANT PROGRAMS SPECIAL TERMS AND CONDITIONS LAST UPDATED DECEMBER 2023.

GENERAL FEDERAL CONDITIONS

If a portion or all of the funds for this agreement are provided through federal funding sources or this agreement is used to match a federal grant award, the following terms and conditions apply to you.

A. CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact ECOLOGY for assistance in obtaining a copy of those regulations.
4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled "CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. Pursuant to 2CFR180.330, the RECIPIENT/CONTRACTOR is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. RECIPIENT/CONTRACTOR acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.
8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

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B. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) REPORTING

REQUIREMENTS:

CONTRACTOR/RECIPIENT must complete the FFATA Data Collection Form (ECY 070-395) and return it with the signed agreement to ECOLOGY.

Any CONTRACTOR/RECIPIENT that meets each of the criteria below must report compensation for its five top executives using the FFATA Data Collection Form.

- Receives more than \$30,000 in federal funds under this award.
- Receives more than 80 percent of its annual gross revenues from federal funds.
- Receives more than \$25,000,000 in annual federal funds.

Ecology will not pay any invoices until it has received a completed and signed FFATA Data Collection Form. Ecology is required to report the FFATA information for federally funded agreements, including the required Unique Entity Identifier in www.sam.gov <<http://www.sam.gov>> within 30 days of agreement signature. The FFATA information will be available to the public at www.usaspending.gov <<http://www.usaspending.gov>>

For more details on FFATA requirements, see www.frs.gov <<http://www.frs.gov>>

C. FEDERAL FUNDING PROHIBITION ON CERTAIN TELECOMMUNICATIONS OR VIDEO SURVEILLANCE SERVICES OR EQUIPMENT:

As required by 2 CFR 200.216, federal grant or loan recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

1. Procure or obtain;
2. Extend or renew a contract to procure or obtain; or
3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment, video surveillance services or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](https://www.govinfo.gov/content/pkg/PLAW-115publ232/pdf/PLAW-115publ232.pdf) <<https://www.govinfo.gov/content/pkg/PLAW-115publ232/pdf/PLAW-115publ232.pdf>>, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

Recipients, subrecipients, and borrowers also may not use federal funds to purchase certain prohibited equipment, systems, or services, including equipment, systems, or services produced or provided by entities identified in section 889, are recorded in the [System for Award Management \(SAM\)](https://sam.gov/SAM/) <<https://sam.gov/SAM/>> exclusion list.

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GENERAL TERMS AND CONDITIONS

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

GENERAL TERMS AND CONDITIONS

For DEPARTMENT OF ECOLOGY GRANTS and LOANS

03/11/2026 Version

1. ADMINISTRATIVE REQUIREMENTS

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition." <https://apps.ecology.wa.gov/publications/UIPages/SummaryPages/2601001.html>
- b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.
- c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.
- d) RECIPIENT’s activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

2. AMENDMENTS AND MODIFICATIONS

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

3. ACCESSIBILITY REQUIREMENTS FOR COVERED TECHNOLOGY

The RECIPIENT must comply with the Washington State Office of the Chief Information Officer, OCIO Policy no. 188, Accessibility (<https://ocio.wa.gov/policy/accessibility>) as it relates to “covered technology.” This requirement applies to all products supplied under the Agreement, providing equal access to information technology by individuals with disabilities, including and not limited to web sites/pages, web-based applications, software systems, video and audio content, and electronic documents intended for publishing on Ecology’s public web site.

4. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take all reasonable action to avoid, minimize, or mitigate adverse effects to archaeological and historic archaeological sites, historic buildings/structures, traditional cultural places, sacred sites, or other cultural resources, hereby referred to as Cultural Resources.

The RECIPIENT must agree to hold harmless ECOLOGY in relation to any claim related to Cultural Resources discovered, disturbed, or damaged due to the RECIPIENT’s project funded under this Agreement.

RECIPIENT shall:

- a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:
 - Cultural Resource Consultation and Review should be initiated early in the project planning process and must be completed prior to expenditure of Agreement funds as required by applicable State and Federal requirements.
 - * For state funded construction, demolition, or land acquisitions, comply with Governor Executive Order 21-02, Archaeological and Cultural Resources.
 - For projects with any federal involvement, comply with the National Historic Preservation Act of 1966 (Section 106).

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b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves field activities. ECOLOGY will provide the IDP form.

RECIPIENT shall:

- Keep the IDP at the project site.
- Make the IDP readily available to anyone working at the project site.
- Discuss the IDP with staff, volunteers, and contractors working at the project site.
- Implement the IDP when Cultural Resources or human remains are found at the project site.

c) If any Cultural Resources are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.

• Immediately stop work and notify the ECOLOGY Program, who will notify the Department of Archaeology and Historic Preservation at (360) 586-3065, any affected Tribe, and the local government.

d) If any human remains are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.

• Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, the Department of Archaeology and Historic Preservation at (360) 790-1633, and then the ECOLOGY Program.

e) Comply with RCW 27.53, RCW 27.44, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting Cultural Resources and human remains.

5. ASSIGNMENT

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

6. COMMUNICATION

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

7. COMPENSATION

a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.

b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.

c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible require approval by ECOLOGY prior to expenditure.

d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.

e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.

f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.

g) RECIPIENT will receive payment through Washington State's Office of Financial Management's Statewide Payee Desk. To receive payment you must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, <https://ofm.wa.gov/tech-support/statewide-vendor-payee-services/>. If you have questions about the vendor registration process, you can contact Statewide Payee Help Desk at (360) 407-8180 or email SupplierRegistration@ofm.wa.gov.

h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.

i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.

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j) RECIPIENT must submit within thirty (30) days after the expiration date of this Agreement, all financial, performance, and other reports required by this Agreement. Failure to comply may result in delayed reimbursement.

8. COMPLIANCE WITH ALL LAWS

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

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

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

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

9. CONFLICT OF INTEREST

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

10. CONTRACTING FOR GOODS AND SERVICES

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

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

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

11. DISPUTES

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

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

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review.

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

The parties agree that this dispute process will precede any action in a judicial or quasi-judicial tribunal.

Appeals of the Director's decision will be brought in the Superior Court of Thurston County. Review of the Director's decision will not be taken to Environmental and Land Use Hearings Office.

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

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

12. ENVIRONMENTAL DATA STANDARDS

a) RECIPIENT shall prepare a Quality Assurance Project Plan (QAPP) for a project that collects or uses environmental measurement data. RECIPIENTS unsure about whether a QAPP is required for their project shall contact the ECOLOGY Program issuing the grant or loan. If a QAPP is required, the RECIPIENT shall:

- Use ECOLOGY's QAPP Template/Checklist provided by the ECOLOGY, unless ECOLOGY Quality Assurance (QA) officer or the Program QA coordinator instructs otherwise.
- Follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030).
- Submit the QAPP to ECOLOGY for review and approval before the start of the work.

b) RECIPIENT shall submit environmental data that was collected on a project to ECOLOGY using the Environmental Information Management system (EIM), unless the ECOLOGY Program instructs otherwise. The RECIPIENT must confirm with ECOLOGY that complete and correct data was successfully loaded into EIM, find instructions at: <http://www.ecy.wa.gov/eim>.

c) RECIPIENT shall follow ECOLOGY's data standards when Geographic Information System (GIS) data is collected and processed. Guidelines for Creating and Accessing GIS Data are available at: <https://ecology.wa.gov/Research-Data/Data-resources/Geographic-Information-Systems-GIS/Standards>. RECIPIENT, when requested by ECOLOGY, shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

13. GOVERNING LAW

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

14. INDEMNIFICATION

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

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

15. INDEPENDENT STATUS

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

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16. KICKBACKS

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

17. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

RECIPIENT is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated under this Agreement.

Contract awards or rejections cannot be made based on MWBE participation; however, the RECIPIENT is encouraged to take the following actions, when possible, in any procurement under this Agreement:

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

18. ORDER OF PRECEDENCE

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

19. PRESENTATION AND PROMOTIONAL MATERIALS

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

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

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

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

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

20. PROGRESS REPORTING

- a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress

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reports to ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not document timely use of funds.

- b) RECIPIENT must submit a progress report with each payment request. Payment requests will not be processed without a progress report. ECOLOGY will define the elements and frequency of progress reports.
- c) RECIPIENT shall use ECOLOGY's provided progress report format.
- d) Quarterly progress reports will cover the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.
- e) RECIPIENT must submit within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY, all financial, performance, and other reports required by the Agreement and funding program guidelines. RECIPIENT shall use the ECOLOGY provided closeout report format.

21. PROPERTY RIGHTS

- a) Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property under this Agreement, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to authorize others to use the same for federal, state, or local government purposes.
- b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.
- c) Presentation and Promotional Materials. ECOLOGY shall have the right to use or reproduce any printed or graphic materials produced in fulfillment of this Agreement, in any manner ECOLOGY deems appropriate. ECOLOGY shall acknowledge the RECIPIENT as the sole copyright owner in every use or reproduction of the materials.
- d) Tangible Property Rights. ECOLOGY's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans," shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by ECOLOGY in the absence of state and federal statutes, regulations, or policies to the contrary, or upon specific instructions with respect thereto in this Agreement.
- e) Personal Property Furnished by ECOLOGY. When ECOLOGY provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to ECOLOGY prior to final payment by ECOLOGY. If said property is lost, stolen, or damaged while in the RECIPIENT's possession, then ECOLOGY shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
- f) Acquisition Projects. The following provisions shall apply if the project covered by this Agreement includes funds for the acquisition of land or facilities:
 - 1. RECIPIENT shall establish that the cost is fair value and reasonable prior to disbursement of funds provided for in this Agreement.
 - 2. RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this Agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses intended by this Agreement.
- g) Conversions. Regardless of the Agreement expiration date, the RECIPIENT shall not at any time convert any equipment, property, or facility acquired or developed under this Agreement to uses other than those for which assistance was originally approved without prior written approval of ECOLOGY. Such approval may be conditioned upon payment to ECOLOGY of that portion of the proceeds of the sale, lease, or other conversion or encumbrance which monies granted pursuant to this Agreement bear to the total acquisition, purchase, or construction costs of such property.

22. RECORDS, AUDITS, AND INSPECTIONS

Agreement No: SEAFBD-2527-WhCoPW-00019
Project Title: The Nooksack River: Floodplains that Work – Phase 4
Recipient Name: Whatcom County Flood Control Zone District / Whatcom County Public Works

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

All records shall:

- a) Be kept in a manner which provides an audit trail for all expenditures.
- b) Be kept in a common file to facilitate audits and inspections.
- c) Clearly indicate total receipts and expenditures related to this Agreement.
- d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.

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

ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination. All work performed under this Agreement and any property and equipment purchased shall be made available to ECOLOGY and to any authorized state, federal or local representative for inspection at any time during the course of this Agreement and for at least three (3) years following grant or loan termination or dispute resolution hereunder. RECIPIENT shall provide right of access to ECOLOGY, or any other authorized representative, at all reasonable times, in order to monitor and evaluate performance, compliance, and any other conditions under this Agreement.

23. RECOVERY OF FUNDS

The right of the RECIPIENT to retain monies received as reimbursement payments is contingent upon satisfactory performance of this Agreement and completion of the work described in the Scope of Work.

All payments to the RECIPIENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this Agreement shall be refunded to ECOLOGY by the RECIPIENT. RECIPIENT shall refund to ECOLOGY the full amount of any erroneous payment or overpayment under this Agreement.

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

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

24. 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.

25. STATE ENVIRONMENTAL POLICY ACT (SEPA)

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

26. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

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27. SUSTAINABLE PRACTICES

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

a) Sustainable practices may include such activities as: use of clean energy, use of double-sided printing, hosting low impact meetings, and setting up recycling and composting programs.

b) Purchasing may include such items as: sustainably produced products and services, EPEAT registered computers and imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced packaging, office products that are refillable, rechargeable, and recyclable, 100% post-consumer recycled paper, and toxic free products.

For more suggestions visit the Washington State Procurement Manual web page, Green Purchasing, <https://des.wa.gov/purchase/washington-state-procurement-manual/green-purchasing>.

28. TERMINATION

a) For Cause

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

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

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

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

b) For Convenience

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

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

ECOLOGY may also elect to suspend performance of the Agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification or restrictions, although ECOLOGY will make a reasonable attempt to provide notice.

In the event of termination or suspension, ECOLOGY will reimburse eligible costs incurred by the RECIPIENT through the effective date of termination or suspension. Reimbursed costs must be agreed to by ECOLOGY and the RECIPIENT. In no event shall ECOLOGY's reimbursement exceed ECOLOGY's total responsibility under the Agreement and any amendments.

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If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination.

RECIPIENT's obligation to continue or complete the work described in this Agreement shall be contingent upon availability of funds by the RECIPIENT's governing body.

c) By Mutual Agreement

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

d) In Event of Termination

All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the RECIPIENT under this Agreement, at the option of ECOLOGY, will become property of ECOLOGY and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Nothing contained herein shall preclude ECOLOGY from demanding repayment of all funds paid to the RECIPIENT in accordance with Recovery of Funds, identified herein.

29. THIRD PARTY BENEFICIARY

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

30. WAIVER

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

End of General Terms and Conditions