

Exhibit B - OCR Grant Agreement



DEPARTMENT OF
ECOLOGY
State of Washington

BOCC Agreement
AUG 13 2019

2019 - 2019

Agreement No. WRYBIP-2019-YaCoPS-00006

Yakima County, WA

WATER RESOURCES YAKIMA BASIN INTEGRATED PLANNING AGREEMENT

BETWEEN

THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

YAKIMA COUNTY

This is a binding Agreement entered into by and between the state of Washington, Department of Ecology, hereinafter referred to as "ECOLOGY," and YAKIMA COUNTY, hereinafter referred to as the "RECIPIENT," to carry out with the provided funds activities described herein.

GENERAL INFORMATION

Project Title:	Naches-Cowiche Flood Risk Reduction and Floodplain Restoration
Total Cost:	\$500,000.00
Total Eligible Cost:	\$500,000.00
Ecology Share:	\$500,000.00
Recipient Share:	\$0.00
The Effective Date of this Agreement is:	07/01/2019
The Expiration Date of this Agreement is no later than:	12/31/2022
Project Type:	Yakima Basin Integrated Planning

Project Short Description:

The RECIPIENT, in collaboration, with the Yakima County Flood Control Zone District (FCZD), the City of Yakima, the Washington State Department of Transportation (WSDOT), ECOLOGY, and multiple other stakeholders will transform the Naches-Cowiche confluence through the coordinated design of a series of interrelated flood hazard reduction and floodplain and habitat restoration actions.

Project Long Description:

The Naches-Cowiche Flood Risk Reduction and Floodplain Restoration Project (Project) is a multi-agency effort towards integrated floodplain management of the entire Naches-Cowiche confluence. The project will be implemented through close collaborative partnerships with the RECIPIENT, the FCZD, City of Yakima, the WSDOT, ECOLOGY, local agricultural landowners, resource agencies, and other regional stakeholders. As part of a comprehensive strategy

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implemented by the FCZD to reduce short-term and long-term flood risk to communities along the Naches and Yakima Rivers, the project is based on an improved understanding of natural floodplain processes and emphasizes the need for ecological restoration of habitat for native threatened and endangered species. This project leverages over a decade of long-term public investment

into the Naches-Cowiche confluence in the form of land acquisitions, preliminary designs, conservation easements, and a variety of environmental, hydraulic, and geomorphic assessments. The project builds on earlier studies and designs, the 2009 Steelhead Recovery Plan, and the 2012 Yakima Bull Trout Action Plan. Within this broader context, this project will address stakeholder outreach, design, permitting, and land acquisition.

The project is located at the confluence of Cowiche Creek and the Naches River near the northwest boundary of the City of Yakima, Washington. The project is complicated by the significant narrowing of the "gap" between the two ridges that define the lateral limits of the geomorphic floodplain for the Naches River and the resulting complex overlapping network of physical infrastructure. This project will reduce flood risk to existing developments in the City of Yakima, while discouraging additional exposure through more development in critical areas of the Naches and Cowiche floodplain.

Anticipated total floodplain project benefits include:

1. Approximately 82 acres of habitat and floodplain restoration along an estimated 8,000 feet of Cowiche Creek and the Naches River.
2. Reduced likelihood of damages (and closures) to Hwy 12, Powerhouse Road, Fruitvale Blvd, 40th Avenue, and a swath of the road network within the City of Yakima.
3. Significant flood risk reduction to over 16,000 residents in the City of Yakima (over an area of 800 to 1500 acres with an estimated value around \$2 billion in total property values).
4. Reduce the risk of a repeat of the 2016 and 2017 flood events.
5. The removal of over 1600 structures from the mapped regulatory floodplain.

The project will be implemented in three phases:

1. Coordinated preliminary design and land acquisition.
2. Final design and permitting.
3. Construction, revegetation, re-mapping (not included in this grant).

Overall Goal:

The project goals are to:

1. To restore fish passage, ecological floodplain functions, and habitats for native and endangered species on Lower Cowiche Creek and within the Naches floodplain and confluence.
2. To reduce flood risk to the City of Yakima, U.S. Highway 12, Powerhouse Road, and adjacent working agricultural lands.
3. To reduce the need for costly and disruptive emergency maintenance and response efforts (e.g., road closures, flood-fights to prevent berm overtopping, channel dredging, etc.).

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Project Title: Naches-Cowiche Flood Risk Reduction and Floodplain Restoration

Recipient Name: YAKIMA COUNTY

RECIPIENT INFORMATION

Organization Name: YAKIMA COUNTY

Federal Tax ID: 91-6001387

DUNS Number: 010203644

Mailing Address: 4th Floor Courthouse, 128 N 2nd Street
Yakima, Washington 98901

Physical Address: 4th Floor Courthouse, 128 N 2nd Street
Yakima, Washington 98901

Organization Fax: (509) 574-2301

Contacts

Project Manager	Dale Meck Water Resources Project Engineer 4th Floor Courthouse, 128 N 2nd Street Yakima, Washington 98901 Email: dale.meck@co.yakima.wa.us Phone: (509) 574-2300
Billing Contact	Teresa Ishizaka Accountant 128 N 2nd Street, 4th Floor Yakima, Washington 98901 Email: teresa.ishizaka@co.yakima.wa.us Phone: (509) 574-2291
Authorized Signatory	David Haws Environmental Services Director 128 N. 2nd St. Yakima, Washington 98901 Email: david.haws@co.yakima.wa.us Phone: (509) 574-2277

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Recipient Name: YAKIMA COUNTY

ECOLOGY INFORMATION

Mailing Address: Department of Ecology
Office of the Columbia River
PO BOX 47600
Olympia, WA 98504-7600

Physical Address: Office of the Columbia River
300 Desmond Drive SE
Lacey, WA 98503

Contacts

Project Manager	Michael Callahan 1250 W Alder St. Union Gap, Washington 98903-0009 Email: MCAL461@ecy.wa.gov Phone: (509) 454-4270
Financial Manager	Cathy Hubbard PO Box 47600 Olympia, Washington 98504-7600 Email: cahu461@ecy.wa.gov Phone: (360) 407-6491

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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.

Washington State
Department of Ecology

YAKIMA COUNTY

By:  8.19.19

By: 

G. Thomas Tebb, L.Hg., L.E.G. Date
Office of the Columbia River
Director

David Haws Date
Environmental Services Director

Template Approved to Form by
Attorney General's Office

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Michael D. Leita



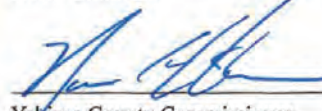
Yakima County Commissioner

Date

AUG 13 2019



Norm Childress



Yakima County Commissioner

Date

Approved as to form:


Deputy Prosecuting Attorney

AUG 13 2019

Ron Anderson



Yakima County Commissioner

Date

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Project Title: Naches-Cowiche Flood Risk Reduction and Floodplain Restoration
Recipient Name: YAKIMA COUNTY

SCOPE OF WORK

Task Number: 1 Task Cost: \$18,000.00

Task Title: Project Administration/Management

Task Description:

A. The RECIPIENT will administer the project. Responsibilities will include, but not be limited to: maintenance of project records; submittal of requests for reimbursement and corresponding backup documentation, progress reports and recipient closeout report (including photos); compliance with applicable procurement, contracting, and interlocal agreement requirements; application for, receipt of, and compliance with all required permits, licenses, easements, or property rights necessary for the project; and submittal of required performance items.

B. The RECIPIENT must manage the project. Efforts will include: conducting, coordinating, and scheduling project activities and assuring quality control. Every effort will be made to maintain effective communication with the RECIPIENT's designees; 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.

Task Goal Statement:

Properly managed project that meets agreement and Ecology administrative requirements.

Task Expected Outcome:

- * Timely and complete submittal of requests for reimbursement, quarterly progress reports and recipient closeout report.
- * Properly maintained project documentation

Recipient Task Coordinator: Dale Meck

Project Administration/Management

Deliverables

Number	Description	Due Date
1.1	Progress Reports	
1.2	Recipient Closeout Report	

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SCOPE OF WORK

Task Number: 2 Task Cost: \$25,000.00

Task Title: Stakeholder Coordination

Task Description:

This task will:

1. Focus on outreach and coordination with affected public agencies and private landowners to ensure that their needs and interests are understood and incorporated.
2. Create the opportunity for other key stakeholders and resource agencies to be more directly involved in the refinement of conceptual designs.
3. Help the project team clearly and consistently communicate project objectives and benefits to the broader public.

Task Goal Statement:

This task has two goals:

1. The RECIPIENT will ensure that all stakeholders have a detailed understanding of the physical constraints and technical limitations associated with the project, and are able to be directly involved in the design development and refinement. This will help keep the design in line with the objectives and interests of the broader stakeholder group.
2. The RECIPIENT will tell the story of flood risk reduction, floodplain restoration, and salmon recovery through collective cooperative community action. This task aims to make sure that the story is widely distributed.

Task Expected Outcome:

1. Coordinated and well-informed designs that strive to balance the needs of all stakeholders. This will include a variety of field visits and design coordination meetings led by the RECIPIENT.
2. Consistent messaging by project partners. This will include press releases and/or an occasional email newsletter by the RECIPIENT to a stakeholder list as appropriate.

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Recipient Name: YAKIMA COUNTY

Recipient Task Coordinator: Dale Meck

Stakeholder Coordination

Deliverables

Number	Description	Due Date
2.1	Signed Final Interlocal Agreement (ILA) between project proponents (WSDOT, City of Yakima, and Yakima County) outlining roles and responsibilities for each grant task. This will include mutually agreed upon expectations for coordination, project permitting, preliminary and final design efforts, and future ownership/maintenance of acquired lands and constructed works.	03/31/2020
2.2	Copies of up to two press releases (all three project partners) that highlight project objectives, funding sources, flood risk reduction benefits, habitat benefits, recent progress and the collaborative approach.	12/31/2022
2.3	Printed or digital outreach materials appropriate for the public. At a minimum a one to two page narrative.	12/31/2022

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SCOPE OF WORK

Task Number: 3 Task Cost: \$135,000.00

Task Title: Preliminary and Final Design

Task Description:

1. The RECIPIENT will prepare preliminary designs for a series of coordinated flood hazard reduction and floodplain habitat restoration actions at four sites (Site A, Site B, Site C, and Site D) across the Naches-Cowiche confluence. Preliminary designs will build on a large body of existing environmental assessments, geomorphic studies, habitat restoration designs, and the preliminary hydraulic and flood risk analyses conducted by the FCZD as part of the Naches River risk management studies and the 2018 Cowiche Addendum to the Upper Yakima River Comprehensive Flood Hazard Management Plan (CFHMP). Design work will include:

- A. Determining the hydraulic sizing needs for a new Powerhouse Road bridge,
- B. A levee setback and floodplain restoration effort between Powerhouse Road and Highway 12 (Site A),
- C. Coordination and assistance to WSDOT regarding the scoping of the work for replacing the Highway 12 bridge,
- D. Plans for the lowering of the City of Yakima's potable water supply pipeline (Site B1),
- E. Several channel and floodplain restoration actions across the Naches-Cowiche confluence that are enabled by the replacement of Nelson Dam and the consolidation of the irrigation diversions (Site B2, Site C, and Site D).

These preliminary designs will be developed and refined by the RECIPIENT through regular stakeholder coordination and engagement (Task 2) to ensure project objectives are met. The RECIPIENT will prepare the preliminary designs to support environmental permitting (Task 4) and to finalize land acquisition needs (Task 5 and Task 6).

2. The RECIPIENT will proceed to prepare final designs and specifications for the levee setback and Cowiche floodplain restoration effort from Powerhouse Road to Highway 12 and the lowering of the City of Yakima potable water supply pipeline where it crosses Cowiche Creek.

3. The RECIPIENT will develop additional hydraulic model scenarios to support the preliminary and final designs. The FCZD has already prepared the foundational 1D and 2D models using the Hydrologic Engineering Center's River Analysis System (HEC RAS) and the Bureau of Reclamation's 2D Sedimentation and River Hydraulics (SRH-2D) simulation tools.

Task Goal Statement:

Develop a series of coordinated preliminary and final designs for flood risk reduction and habitat restoration that meets project objectives and balances stakeholder interests.

Task Expected Outcome:

Expected outcomes include the preparation of preliminary designs by the RECIPIENT sufficient for permitting and acquisitions and construction-ready final designs and specifications for selected project elements. This will include opinions of probable cost ("Engineer's Estimates") for the construction of each component to allow for budgeting and successful implementation.

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Recipient Task Coordinator: Dale Meck

Preliminary and Final Design

Deliverables

Number	Description	Due Date
3.1	Hydraulic Design Memorandum for Powerhouse Road Cowiche Creek Bridge providing hydraulic sizing recommendations to inform future bridge design.	12/31/2020
3.2	Preliminary Design Plans (60%) of all project components including habitat and floodplain restoration actions at Sites A-D suitable for environmental permitting and acquisition efforts. Plans will be provided as digital PDF(s).	12/31/2020
3.3	Basis of Design Report describing the overall design methodology used to support and refine concept development as well as the habitat and flood-risk reduction benefits anticipated. The report will complement the Preliminary Design Plans and will be used to support environmental permitting and final design development.	12/31/2020
3.4	Final Design Plans, Engineer's Estimate, & Construction Specifications for actions at Site A and Site B1. It is anticipated Site A will proceed to construction towards the end of the project period through separate Floodplains by Design grant funding.	06/30/2022

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SCOPE OF WORK

Task Number: 4 Task Cost: \$105,000.00

Task Title: Permitting

Task Description:

This task will initially focus on the preparation of an overall permitting plan for the various elements of the project. The effort will begin with coordination meetings with permitting agencies to identify likely permitting pathways, potential hurdles, and opportunities. Then the project team will lay out specific permit milestones and the sequencing and duration of various efforts in order to streamline subsequent permit application efforts.

This task will include the site assessments and professional reports needed to support the specific environmental permit applications. This will include additional environmental assessments to supplement existing studies (as necessary), preparation of jurisdictional wetland determinations, delineations, and ratings consistent with current federal and state agency requirements; archaeological and historical studies sufficient for compliance with Section 106 of the National Historic Preservation Act; and the various permit and review applications related to State Environmental Protection Act (SEPA) / National Environmental Protection Act (NEPA), Clean Water Act (CWA) Sections 404/401, the Endangered Species Act, etc. Budget for this task specifically assumes the project will be eligible for Categorical Exemption (CE) from NEPA, authorized by the United States Army Corps of Engineers (Corps) Nationwide Permits (NWP 27, NWP 33, and NWP 53) and that no compensatory mitigation or individual Section 401 certification will be required.

This project consists of a series of interdependent, coordinated actions by multiple agencies (longer bridges, setback levees, side channels, floodplain restoration actions, etc.). The intent is to permit these entire efforts at the environmental level concurrently where possible given potential sequencing of construction activities and permit timelines. This is envisioned as a separate permitting effort from the companion efforts associated with Nelson Dam, but coordination with those efforts may yield additional cost savings. Construction permits will be obtained in future construction phases. Close coordination with permitting agencies and other stakeholders (Task 2) during the design process (Task 3) is anticipated to help avoid unnecessary permitting delays.

It is anticipated that this task will also include preparation of the appropriate hydraulic analysis and permit applications as appropriate to ensure compliance with all Yakima County flood ordinances and the National Flood Insurance Program.

Task Goal Statement:

Work with permitting agencies and environmental staff to develop a permitting plan consistent with design and project objectives of flood risk reduction and environmental enhancement.

Task Expected Outcome:

The RECIPIENT will develop a permitting plan, which entails preparing wetland delineations, archaeological and cultural resource assessments, and to acquire environmental permits for the project elements.

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Recipient Task Coordinator: Dale Meck

Permitting

Deliverables

Number	Description	Due Date
4.1	Permitting Plan – A narrative report or memorandum providing a detailed description of the anticipated sequence of steps needed to permit the various elements of the project. The report will include anticipated permitting pathways, potential timelines, and documentation needs for each step/permit.	12/31/2020
4.2	Site Assessments – Wetland Delineation Report, Archaeological and Cultural Resource Report. Section 106 will apply (Federal nexus via wetlands and JARPA permit-Corps plus ESA with National Oceanic and Atmospheric Administration-NOAA/United States Fish and Wildlife Service-USFWS). Deliverables will include: 1) the consultant reports; 2) letters from DAHP/Federal lead showing compliance with Section 106; and 3) and Inadvertent Discovery Plan.	12/31/2020
4.3	Copies of all environmental permits obtained for the project. Depending on the details of the project permitting plan, this could include the following permits: WDFW's Hydraulic Project Approval (HPA), CWA Section 404/401 Permits, NEPA/SEPA determinations, cultural resources, Shoreline permits, Endangered Species Act compliance, DNR's Aquatic Use Authorization, etc.	06/30/2022

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SCOPE OF WORK

Task Number: 5 Task Cost: \$95,000.00

Task Title: Planning, Appraisal, Negotiation, Due Diligence

Task Description:

Task 5 includes all the planning, appraisal, negotiation, and due diligence work needed to support the acquisition of sufficient legal property interests for the safe implementation of the project. The acquisition work is anticipated to include different types of legal property interests (fee simple ownership, conservation easements, right-of-way, etc.) to be determined. Two parcels are described in more detail but other minor land acquisition tasks may be necessary for the completion of the larger restoration work outside of this agreement.

The first parcel is 181309-42010. This parcel was historically farmed as a pear orchard. It has been damaged over the years by flooding (1974, 1996, 2016, 2017) and is no longer in active agricultural production. The land is used for agricultural operations such as storage and canal access by the owner. It is anticipated that a conservation easement for a portion of this property will be necessary to allow for the proposed floodplain restoration and levee setback efforts on Cowiche Creek.

The second parcel, 181310-32003 is subject to a 1956 agreement between the City of Yakima and a private company. That agreement states the City of Yakima will sell the property back to the company for \$1.00 when the City abandons the well site. This task includes coordination work with the City and the company to convert and dedicate this land to serve the floodplain restoration objectives of the project.

All property acquisition work will be in accordance with applicable state (e.g. RCW 8.26 - Relocation Assistance – Real Property Acquisition Policy and WAC Chapter 468-100) and federal laws (e.g. CFR 49 PART 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs). Activities eligible for reimbursement through this grant will adhere to the Floodplains by Design Funding Guidelines (Current Edition).

The RECIPIENT will:

- A. Obtain appraisals performed by a State-Certified General Real Estate Appraiser. Appraisals and review appraisals will comply with the Uniform Standards of Professional Appraisal Practice and the Uniform Appraisal Standards for Federal Land Acquisitions.
- B. Submit documentation of land value and title that shows the type of ownership interest for the property that will be acquired.
- C. Conduct title review, hazardous substances review, environmental assessment, baseline inventory, and any other due diligence and obtain ECOLOGY approval for any draft legal documents.
- D. Shall inspect, investigate, and conduct an environmental audit of the proposed acquisition site for the presence of hazardous substances, as defined in RCW 70.105D.020(10), and certify:
 - a. No hazardous substances were found on the site, or
 - b. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal

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laws, and the site deemed "clean."

Nothing in this provision alters the RECIPIENT's duties and liabilities regarding hazardous substances as set forth in Chapter 70.105D RCW.

Budget for this task assumes that a Phase I Environmental Assessment will not be needed for project acquisitions.

ECOLOGY will be provided with an opportunity to review and approve all land acquisition documents (including but not limited to purchase and sale agreements, conservation easements, and any deed restrictions) prior to execution and recording.

Task Goal Statement:

The RECIPIENT will complete all environmental review, permitting, and due diligence and respond to ECOLOGY comments in a timely manner during the negotiations of the terms of sale.

Task Expected Outcome:

The final outcome of this task will be the negotiation of mutually acceptable terms for the sale of property or conservation easements in order to protect the floodplain and implement the project.

Recipient Task Coordinator: Dale Meck

Planning, Appraisal, Negotiation, Due Diligence

Deliverables

Number	Description	Due Date
5.1	Draft documents (preliminary title reports, appraisal reports, Notice of Fair Market Value to landowner, commitment checklist, conservation easements, deed restrictions, etc.) for ECOLOGY review prior to executing land acquisitions.	12/31/2021

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SCOPE OF WORK

Task Number: 6 Task Cost: \$122,000.00

Task Title: Property or Conservation Easement Purchase

Task Description:

Building on the work completed in Task 5, Task 6 includes the actual purchase costs for the legal property interests needed to complete the project and the preparation of a Final Acquisition Report.

RECIPIENT will prepare a Final Acquisition Report in accordance with ECOLOGY's Floodplains by Design (FbD) Funding Guidelines (May 2018) documenting all land acquisition efforts and compliance with state and federal laws.

Final Acquisition Report will include (at a minimum), all acquisition face sheets, appraisals, review appraisals, offer letters, vicinity and site specific maps, legal descriptions, title reports, property assessment checklists and hazardous substances certifications, settlement statements, photographs (where appropriate) and copies of recorded documents (conservation easements, deed restrictions, etc.).

A. The RECIPIENT will acquire the property and ensure that property records and conveyance documents dedicate future use of the parcel for the purposes outlined in this agreement. The RECIPIENT understands that the payment for eligible property acquisition costs shall be on a reimbursable basis for approved and completed work. Costs shall not be reimbursed by ECOLOGY prior to receipt of a reimbursement request accompanied by the appropriate backup documentation showing completion of the acquisition (a Final Acquisition Report for the property). Purchase price reimbursement shall be limited to the appraised value (as determined through the appraisal and appraisal review process of Task 5) unless approved by ECOLOGY in advance.

B. Conveyance of Rights to the State of Washington. Upon purchase of real property rights (both fee simple and lesser interests), the RECIPIENT will execute the document necessary to convey certain rights and responsibilities to ECOLOGY, on behalf of the State of Washington. The documents required will depend on the project type, the real property rights being acquired and whether or not those rights are being acquired in perpetuity (see options below). The RECIPIENT agrees to use language mutually agreed upon with ECOLOGY, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to ECOLOGY.

1. Deed of Right. The Deed of Right conveys to the people of the state of Washington the right to preserve, protect, and/or use the property for public purposes consistent with the fund source. The RECIPIENT shall use this document when acquiring real property rights that include the underlying land. This document may also be applicable for those easements where the RECIPIENT has acquired a perpetual easement for public purposes.

2. Assignment of Rights. The Assignment of Rights document transfers certain rights such as access and enforcement to ECOLOGY. The RECIPIENT shall use this document when an easement or lease is being acquired for water quality and habitat conservation. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.

3. Easements and Leases. The RECIPIENT may incorporate required language from the Deed of Right or Assignment of Rights directly into the easement or lease document, thereby eliminating the requirement for a separate document. Language will

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depend on the situation; therefore, the RECIPIENT must obtain ECOLOGY approval on the draft language prior to executing the easement or lease.

Task Goal Statement:

The RECIPIENT will oversee and manage purchase of property or a conservation easement for the identified parcels. The RECIPIENT will communicate with ECOLOGY in a timely fashion and provide ECOLOGY with all requested project documentation.

Secure necessary property interests to enable construction of the project components.

Task Expected Outcome:

Completed purchases will help to ensure long-term public stewardship of the Naches-Cowiche confluence for flood risk reduction, habitat enhancement and conservation, and continuation of existing compatible agricultural uses.

Recipient Task Coordinator: Dale Meck

Property or Conservation Easement Purchase

Deliverables

Number	Description	Due Date
6.1	Final Acquisition Report will include (at a minimum), all acquisition face sheets, appraisals, review appraisals, offer letters, vicinity and site specific maps, legal descriptions, title reports, property assessment checklists and hazardous substances certifications, settlement statements, photographs (where appropriate) and copies of recorded documents (conservation easements, deed restrictions, etc.).	06/30/2022

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 Recipient Name: YAKIMA COUNTY

BUDGET

Funding Distribution EG190337

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: Yakima River Basin Water Supply Account Funding Type: Grant
 Funding Effective Date: 07/01/2019 Funding Expiration Date: 12/31/2022

Funding Source:

Title: State Building Construction Account

Type: State

Funding Source %: 100%

Description: Grants for the purpose to assess, plan, and develop projects under the Yakima River Basin Integrated Water Resource Management Plan or for any other actions designed to provide access to new water supplies within the Yakima River basin or any other actions to support the seven elements of the Yakima Basin Integrated Plan.

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? No

Yakima River Basin Water Supply Account	Task Total
Project Administration/Management	\$ 18,000.00
Stakeholder Coordination	\$ 25,000.00
Preliminary and Final Design	\$ 135,000.00
Permitting	\$ 105,000.00
Planning, Appraisal, Negotiation, Due Diligence	\$ 95,000.00
Property or Conservation Easement Purchase	\$ 122,000.00

Total: \$ 500,000.00

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Agreement No: WRYBIP-2019-YaCoPS-00006
Project Title: Naches-Cowiche Flood Risk Reduction and Floodplain Restoration
Recipient Name: YAKIMA COUNTY

Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
Yakima River Basin Water Supply Account	0.00 %	\$ 0.00	\$ 500,000.00	\$ 500,000.00
Total		\$ 0.00	\$ 500,000.00	\$ 500,000.00

AGREEMENT SPECIFIC TERMS AND CONDITIONS

N/A

SPECIAL TERMS AND CONDITIONS

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.

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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.sain.gov> and print a copy of completed searches to document proof of compliance.

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

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

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

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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 AS OF LAST UPDATED 7-1-2019 VERSION

1. ADMINISTRATIVE REQUIREMENTS

- a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition." (<https://fortress.wa.gov/ecy/publications/SummaryPages/1701004.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 reasonable action to avoid, minimize, or mitigate adverse effects to archeological and historic resources. The RECIPIENT must agree to hold harmless the State of Washington in relation to any claim related to historical or cultural artifacts 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:
 - For capital construction projects or land acquisitions for capital construction projects, if required, comply with Governor Executive Order 05-05, Archaeology and Cultural Resources.
 - For projects with any federal involvement, if required, comply with the National Historic Preservation Act.
 - Any cultural resources federal or state requirements must be completed prior to the start of any work on the project site.
- b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves ground disturbing activities. ECOLOGY will provide the IDP form.

RECIPIENT shall:

- Keep the IDP at the project site.

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- Make the IDP readily available to anyone working at the project site.
- Discuss the IDP with staff 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 archeological or historic resources are found while conducting work under this Agreement:
 - Immediately stop work and notify the ECOLOGY Program, the Department of Archaeology and Historic Preservation at (360) 586-3064, any affected Tribe, and the local government.
- d) If any human remains are found while conducting work under this Agreement:
 - Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, and then the ECOLOGY Program.
- e) Comply with RCW 27.53, RCW 27.44.055, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting cultural resources and human remains.

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/it-systems/statewide-vendorpayee-services>. If you have questions about the vendor registration process, you can contact Statewide Payee Help Desk at (360) 407-8180 or email PayeeRegistration@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.
- 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

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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 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

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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/Rosearch-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.

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)

Template Version 10/30/2015

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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 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

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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

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.

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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.

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

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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 ECOLOGY's web page, Green Purchasing,
<https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Sustainable-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. 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

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Exhibit B - OCR Grant Agreement

State of Washington Department of Ecology

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Agreement No: WRYBIP-2019-YaCoPS-00006
Project Title: Naches-Cowiche Flood Risk Reduction and Floodplain Restoration
Recipient Name: YAKIMA COUNTY

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.