

SNOHOMISH COUNTY COUNCIL
PUBLIC HEARING PACKET

ORDINANCE 22-012 APPROVING AND AUTHORIZING THE SNOHOMISH COUNTY EXECUTIVE TO SIGN FIRST AMENDMENT TO INTERLOCAL AGREEMENT BETWEEN SNOHOMISH COUNTY AND STILLAGUAMISH TRIBE OF INDIANS FOR STILLAGUAMISH AND SNOHOMISH RIVER MODELING

ECAF: 2022-0245

Date/Time: Wednesday, April 20, 2022, at 10:30 a.m.

Staff Person: Nicole Gorle

DPA: Laura Kisielius

EXHIBIT LIST

Click on Exhibit # to view document.

| Exhibit # | Date | Exhibit Description |
|-------------------|-------------|---|
| 1 | 3/14/22 | Council Staff Report |
| 2 | 3/07/22 | ECAF |
| 3 | 3/07/22 | Ordinance Introduction Slip Signed |
| 4 | 3/07/22 | Ordinance 20-047 (Approval of original ILA) |

1 SNOHOMISH COUNTY COUNCIL
2 Snohomish County, Washington

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4 ORDINANCE NO. 22-012

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6 APPROVING AND AUTHORIZING THE SNOHOMISH COUNTY EXECUTIVE
7 TO SIGN FIRST AMENDMENT TO INTERLOCAL AGREEMENT BETWEEN
8 SNOHOMISH COUNTY AND STILLAGUAMISH TRIBE OF INDIANS FOR
9 STILLAGUAMISH AND SNOHOMISH RIVER MODELING
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11
12 WHEREAS, the Stillaguamish Tribe of Indians (the “Tribe”) was awarded
13 funding from the Washington State Department of Ecology (“Ecology”) under
14 Agreement No. SEAFBD-2019-StillTI-00062 (the “Tribal Grant”) to implement the
15 Stillaguamish Watershed Integrated Floodplain Management Project; and
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17 WHEREAS, Snohomish County (the “County”) was awarded grant funds
18 from Ecology under Agreement No. SEAFBD-2019-SnCoPW-00051 (the “County
19 Grant”) to implement the Snohomish Watershed Integrated Floodplain
20 Management Project; and
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22 WHEREAS, the goal of the Tribal Grant and the County Grant is to reduce
23 flood hazards, and protect and restore floodplain function and ecological
24 processes, while supporting values important to the local community such as
25 protecting agricultural productivity, improving water quality, and providing
26 recreational opportunities within the Stillaguamish and Snohomish watersheds in
27 Snohomish County; and
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29 WHEREAS, the County and the Tribe executed an agreement titled
30 “Interlocal Agreement between Snohomish County and Stillaguamish Tribe of
31 Indians for Stillaguamish and Snohomish River Modeling” (the “Agreement”), on
32 August 21, 2020
33

34 WHEREAS, the County and the Tribe have negotiated the terms of a first
35 amendment to the Agreement, attached to this ordinance as Exhibit A; and
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37 WHEREAS, the first amendment to the Agreement is authorized by the
38 Interlocal Cooperation Act, chapter 39.34 RCW; and
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40 WHEREAS, the County Council held a public hearing on _____,
41 2022, to consider approving and authorizing the County Executive to sign the first
42 amendment on the County’s behalf;
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NOW, THEREFORE, BE IT ORDAINED:

Section 1. The County Council hereby adopts the foregoing recitals as findings of fact and conclusions as if set forth in full herein.

Section 2. The County Council approves and authorizes the County Executive to execute the *First Amendment to the Interlocal Agreement Between Snohomish County and Stillaguamish Tribe of Indians for Stillaguamish and Snohomish River Modeling* in the form attached hereto as Exhibit A.


PASSED this ____ day of _____, 2022.

| | |
|----------------------------|--|
| ATTEST: | SNOHOMISH COUNTY COUNCIL Snohomish County, Washington |
| _____ | _____ |
| Asst. Clerk of the Council | Council Chair |

| | |
|--|---|
| <input type="checkbox"/> APPROVED <input type="checkbox"/> EMERGENCY <input type="checkbox"/> VETOED | DATE: _____ _____ Dave Somers County Executive |
|--|---|

ATTEST: _____

Approved as to form only:

 12/21/21

Deputy Prosecuting Attorney

EXHIBIT A

to

ORDINANCE NO. 22-012

FIRST AMENDMENT TO INTERLOCAL AGREEMENT BETWEEN SNOHOMISH
COUNTY AND STILLAGUAMISH TRIBE OF INDIANS FOR STILLAGUAMISH AND
SNOHOMISH RIVER MODELING

[See Attached]

**AMENDMENT NO. 1 TO
INTERLOCAL AGREEMENT BETWEEN SNOHOMISH COUNTY AND STILLAGUAMISH
TRIBE OF INDIANS FOR STILLAGUAMISH AND SNOHOMISH RIVER MODELING**

This Amendment No. 1 to Interlocal Agreement Between Snohomish County and Stillaguamish Tribe of Indians for Stillaguamish and Snohomish River Modeling (the “First Amendment”) is made and entered into by and between Snohomish County, a political subdivision of the State of Washington (the “County”), and Stillaguamish Tribe of Indians, a federally-recognized Indian Tribe (the “Tribe”).

- A.** The County and the Tribe executed an agreement entitled “Interlocal Agreement between Snohomish County and the Stillaguamish Tribe of Indians for Stillaguamish and Snohomish River Modeling” (the “Agreement”), on August 21, 2020;
- B.** The Tribe was awarded grant funds from the Washington State Department of Ecology (“Ecology”) in Ecology Grant Agreement #SEAFBD-2019-StillTI-00062 (“the Tribal Grant”) to implement the Stillaguamish Watershed Integrated Floodplain Management Project;
- C.** The County was awarded grant funds from Ecology in Ecology Grant Agreement #SEAFBD-2019-SnCoPW-00051 (“the County Grant”) to implement the Snohomish Watershed Integrated Floodplain Management Project;
- D.** The goal of the Tribal Grant and the County Grant is to reduce flood hazards, and protect and restore floodplain function and ecological processes, while supporting values important to the local community such as protecting agricultural productivity, improving water quality, and providing recreational opportunities within the Stillaguamish and Snohomish watersheds in Snohomish County;
- E.** The County and the Tribe wish to revise the amount of compensation due to the County for work performed under the Agreement through this First Amendment to reflect the original understanding of the parties; and
- F.** The total budgeted amount for the work to be performed by the County will remain the same, however, the County will be compensated for less than the full amount of the project budget to reflect a 20% match requirement in the Tribal Grant.

NOW, THEREFORE, for and in consideration of the mutual benefits conferred on both parties, the parties agree as follows:

Section 1 Section 7, of the Agreement is amended to read as follows:

The budget for work to be performed under the Agreement is \$375,000.00, as set forth in Appendix B to the Agreement, attached hereto and incorporated herein. The total compensation due to the County under this Agreement shall be 80% of the total cost of the work performed under the Agreement, and in no event shall exceed **\$300,000.00**. The Tribe shall have no obligation to pay any invoice from the County that would cause the total payments made to the County under this agreement to exceed **\$300,000.00**. Although the County will be

compensated no more than **\$300,000.00** for work performed under this Agreement, it shall provide to the Tribe documentation of costs up to \$375,000.00 for work performed under the Agreement, consistent with Appendix B to the Agreement. For example, if the project costs total \$375,000.00, the County shall provide to the Tribe documentation of \$375,000.00 of costs, and the Tribe shall compensate the County \$300,000.00; if the project costs total \$350,000.00, the County shall provide to the Tribe documentation of \$350,000.00 of costs, and the Tribe shall compensate the County \$280,000.00.

The Tribe shall have the right to withhold payment of all or any portion of a County invoice provided under Section 9 below if the Tribe has a reasonable good faith basis to believe that the work performed by the County is not consistent with the Scope of Work. In such an event the Tribe shall provide the County a written statement identifying and describing problems or deficiencies it perceives on or before the date such payment is due. Upon receipt of such notice the County shall have twenty (20) days to either correct the problem or object to the Tribe's determination. In the event the County objects the matter shall be submitted to a consulting engineer for review to determine whether work performed by the County is consistent with the Scope of Work, and if not, what remedial action is required to bring the work into compliance. The consulting engineer will be mutually agreed upon by both parties. The Tribe's right to withhold payment shall last until the work has been brought into compliance or the work is deemed consistent with the approved scope and task.

Section 2 All other terms and conditions of the Agreement shall remain in full force and effect except as expressly modified by this First Amendment.

Section 3 This First Amendment may be executed in counterparts, each of which shall constitute an original and all of which shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto enter into this First Amendment as of the date it is fully executed below.

COUNTY:

Snohomish County, a political subdivision of the State of Washington

By _____
Name: _____
Title: _____
Date: _____

Approved as to Form:

Deputy Prosecuting Attorney

TRIBE:

Stillaguamish Tribe of Indians, a federally-recognized Indian Tribe

By _____
Name: _____
Title: _____
Date: _____

Approved as to Form:

Attorney



Snohomish County Council

SNOHOMISH COUNTY COUNCIL

EXHIBIT # 1

FILE ORD 22-012

Committee: Conservation, Sustainability, and Recreation

ECAF: 2022-0245

Ordinance: 22-012

Analyst: Nicole Gorle

Date: March 14, 2022

Consideration:

Authorize the Executive to execute Amendment #1 to the Interlocal Agreement between Snohomish County and the Stillaguamish Tribe of Indians for Stillaguamish and Snohomish River Modeling.

Background:

The Floodplains by Design (FbD) program is a public-private partnership led by the Washington State Department of Ecology (Ecology), the Nature Conservancy, and Puget Sound Partnership working to coordinate integrated efforts that reduce community flood hazards while restoring the natural functions of state rivers and floodplains. The FbD program challenges entities to modernize the approach to floodplains changing and rethinking floodplain management to enable communities and the environment to thrive together.

Through Ecology's FbD program, the Stillaguamish Tribe of Indians (the Tribe) was awarded a grant (Agreement No. SEAFBD-2019-StillTI-00062) to implement the Stillaguamish Watershed Integrated Floodplain Management Project. The County was awarded a grant (Agreement No. SEAFBD-2019-SnoCoPW-00051) to implement the Snohomish Watershed Integrated Floodplain Management Project. Both grants require the Tribe and County enter into an interlocal agreement (ILA) with one another for Task 10 - complete hydraulic and hydrologic modeling of the Stillaguamish and Snohomish Rivers.

When developing the ILA, the County had a Project Team meeting with the Stillaguamish Tribe to pan out details of the ILA. In those discussion's, it was agreed that the County would cover the 20% match requirement for the grant which was inadvertently left out of the original ILA approved via [Ordinance 20-047](#).

Current Proposal:

Scope: Amend Section 7 of the ILA to state that the County will be reimbursed for 80% of the total project cost, not to exceed \$300,000. If approved, of the total project cost the Tribe will reimburse the County for 80% and the County will cover the remaining 20%, which serves as the grants 20% match.

Budget: This will increase initially anticipated costs by \$75,000. In 2022 the department anticipates the fiscal impact being \$32,790 which will be covered by SWM Fund Balance.

2022 Budget: No – this was not anticipated in the 2022 budget, however there is sufficient expenditure authority to cover the increased cost.

Future Budget Impact: Yes - \$42,210 in 2023.

Handling: Normal

Approved-as-to-form: Yes

Risk Management: Yes

Executive Recommendation: Approve

Request: Move to GLS on March 30th to set time and date for a Public Hearing on April 20 at 10:30 a.m.



File #: 2022-0245, Version: 1

Executive/Council Action Form (ECAF)

ITEM TITLE:

Ordinance 22-012, approving and authorizing the Snohomish County Executive to sign First Amendment to Interlocal Agreement between Snohomish County and Stillaguamish Tribe of Indians for Stillaguamish and Snohomish River Modeling

DEPARTMENT: Conservation & Natural Resources

ORIGINATOR: Julie Aumick

EXECUTIVE RECOMMENDATION: Approve - Lacey Harper

PURPOSE: Approval of Ordinance by County Council authorizing the County Executive to execute Amendment No. 1 to the Interlocal Agreement between Snohomish County and the Stillaguamish tribe of Indians for the Stillaguamish Watershed Integrated Floodplain Management project.

BACKGROUND: • The Stillaguamish Tribe was awarded grant funds from the Washington State Department of Ecology to implement the Stillaguamish Watershed Integrated Floodplain Management project. • The Grant provides funding for watershed partners to work collectively to provide multi-benefit integrated flood risk reduction, protect and restore habitat and protect valuable local interest, like agricultural productivity and recreational opportunities in the Stillaguamish watershed within Snohomish County. • The COUNTY and the TRIBE executed an agreement entitled “Interlocal Agreement between Snohomish County and the Stillaguamish Tribe of Indians for Stillaguamish and Snohomish River Modeling” (the “Original Agreement”), on August 21, 2020; • The proposed Amendment No.1 will revise the contract budget as illustrated in Section 7 and Appendix B of the original Interlocal Agreement. The Tribe’s grant requires Snohomish County to provide 20% match (\$75,000) which was not included in the original agreement. This Amendment reduces the grant fund amount the County will receive from \$375,000 to \$300,000 from the Tribe to complete the Scope of Work associated Grant Task 10 as detailed in Appendix A of the Interlocal Agreement. • If approved, Amendment No.1 to the Interlocal Agreement will remain in effect through June 30, 2023, at which point the project activities are projected to be completed. • This Agreement is entered into under the regulatory authority of the Interlocal Cooperation Act, Chapter 39.34 RCW. • A “Wet” signature is required as the Tribe was unable to sign electronically

FISCAL IMPLICATIONS:

| EXPEND: FUND, AGY, ORG, ACTY, OBJ, AU | CURRENT YR | 2ND YR | 1ST 6 YRS |
|---------------------------------------|------------|----------|-----------|
| SWM Staff - 415 50951331011 | \$30,790 | \$38,797 | \$69,587 |
| IF - PW - 415 50951339101 | \$2,000 | \$3,413 | \$5,413 |
| | | | |
| TOTAL | \$32,790 | \$42,210 | \$75,000 |

| REVENUE: FUND, AGY, ORG, REV, SOURCE | CURRENT YR | 2ND YR | 1ST 6 YRS |
|--------------------------------------|------------|----------|-----------|
| SWM Fund Balance - 415 3095130800 | \$32,790 | 42,210 | \$75,000 |
| | | | |
| | | | |
| TOTAL | \$32,790 | \$42,210 | \$75,000 |

DEPARTMENT FISCAL IMPACT NOTES: The overall contract amount of the Agreement is \$375,000. To date we have received \$300,000 in payment from the Tribe for work completed. The \$75,000 shown above will now be paid by the County instead of the Tribe to meet the County's twenty (20) percent match requirement. The Expend and Revenue DACs and their amounts above have been updated to reflect the match requirement.

CONTRACT INFORMATION:

| | | | | |
|-----------|----------|-----------|--------|------------------|
| ORIGINAL | <u>X</u> | CONTRACT# | AMOUNT | <u>\$375,000</u> |
| AMENDMENT | <u>X</u> | CONTRACT# | AMOUNT | <u>\$0</u> |

Contract Period

| | | | | |
|-----------|-------|------------------|-----|------------------|
| ORIGINAL | START | <u>8/21/2020</u> | END | <u>6/30/2023</u> |
| AMENDMENT | START | <u>Execution</u> | END | <u>6/30/2023</u> |

OTHER DEPARTMENTAL REVIEW/COMMENTS: Ordinance Approved by Laura Kisielius on 12/21/2021, Amendment No. 1 Approved by Laura Kisielius on 1/18/2022. Reviewed/approved by Risk and Finance.

ECAF NO.:
ECAF RECEIVED:

**ORDINANCE
INTRODUCTION SLIP**

SNOHOMISH COUNTY COUNCIL

EXHIBIT # 3

TO: Clerk of the Council

FILE ORD 22-012

TITLE OF PROPOSED ORDINANCE:

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Councilmember Date

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Clerk's Action: Proposed Ordinance No. _____

Assigned to: _____ Date: _____

~~~~~  
**STANDING COMMITTEE RECOMMENDATION FORM**

On \_\_\_\_\_, the Committee considered the item and by \_\_\_\_ Consensus /  
\_\_\_\_ Yeas and \_\_\_\_ Nays, made the following recommendation:

\_\_\_\_\_ Move to Council to schedule public hearing \_\_\_\_\_

**Public Hearing Date 4/20/2022 at 10:30 a.m.**

\_\_\_\_\_ Move to Council as amended to schedule public hearing


\_\_\_\_\_ Move to Council with no recommendation

**This item \_\_\_\_ should/ \_\_\_\_ should not be placed on the Consent Agenda.**

(Consent agenda may be used for routine items that do not require public hearing and do not need discussion at General Legislative Session)

**This item \_\_\_\_ should/ \_\_\_\_ should not be placed on the Administrative Matters Agenda**

(Administrative Matters agenda may be used for routine action to set time and date for public hearings)



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Committee Chair

Adopted: 8/19/2020

Effective: 9/07/2020

SNOHOMISH COUNTY COUNCIL

SNOHOMISH COUNTY COUNCIL  
SNOHOMISH COUNTY, WASHINGTON

EXHIBIT # 4

ORDINANCE NO. 20-047

FILE ORD 22-012

APPROVING AND AUTHORIZING THE SNOHOMISH COUNTY EXECUTIVE  
TO SIGN THE INTERLOCAL AGREEMENT BETWEEN SNOHOMISH COUNTY  
AND THE STILLAGUAMISH TRIBE OF INDIANS FOR STILLAGUAMISH AND  
SNOHOMISH RIVER MODELING

WHEREAS, the Stillaguamish Tribe of Indians (the “Tribe”) was awarded funding from the Washington State Department of Ecology (“Ecology”) under Agreement No. SEAFBD-2019-StillTI-00062 (the “Tribal Grant”) to implement the Stillaguamish Watershed Integrated Floodplain Management Project; and

WHEREAS, Snohomish County (the “County”) was awarded grant funds from Ecology under Agreement No. SEAFBD-2019-SnCoPW-00051 (the “County Grant”) to implement the Snohomish Watershed Integrated Floodplain Management Project; and

WHEREAS, the goal of the Tribal Grant and the County Grant is to reduce flood hazards, and protect and restore floodplain function and ecological processes, while supporting values important to the local community such as protecting agricultural productivity, improving water quality, and providing recreational opportunities within the Stillaguamish and Snohomish watersheds in Snohomish County; and

WHEREAS, both grants require the Tribe and County enter into an interlocal agreement with one another to complete hydraulic and hydrologic modeling of the Stillaguamish and Snohomish Rivers. Both grants specify that the cost for this modeling work will be split equally between the two grants; and

WHEREAS, the County has available staff and consultant resources to act as the project manager for one sub-project identified in the Tribal Grant as “Task 10 – Stillaguamish and Snohomish River Modeling”; and

WHEREAS, the County and the Tribe have negotiated the terms of an interlocal agreement, attached to this ordinance as Exhibit A; and

WHEREAS, the interlocal agreement attached to this ordinance as Exhibit A is authorized by the Interlocal Cooperation Act, chapter 39.34 RCW; and

WHEREAS, the County Council held a public hearing on August 19, 2020, to consider approving and authorizing the County Executive to sign the agreement attached as Exhibit A to this ordinance on the County’s behalf;

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NOW, THEREFORE, BE IT ORDAINED:

Section 1. The County Council hereby adopts the foregoing recitals as findings of fact and conclusions as if set forth in full herein.

Section 2. The County Council approves and authorizes the County Executive to execute the *Interlocal Agreement Between Snohomish County and the Stillaguamish Tribe of Indians for Stillaguamish and Snohomish River Modeling* in the form attached hereto as Exhibit A in the amount of \$375,000.

PASSED this 19<sup>th</sup> day of August, 2020.

ATTEST:

*Melua Rao*  
Asst. Clerk of the Council

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington

*N. Nelson*  
Council Chair

APPROVED

DATE: 8/28/2020

EMERGENCY

VETOED

*Dave Somers*  
Dave Somers  
County Executive

ATTEST: *Melissa Geraghty*

Approved as to form only:

Laura C. Kisielius Digitally signed by Laura C. Kisielius  
Date: 2020.05.21 14:38:53 -0700'  
Deputy Prosecuting Attorney

**EXHIBIT A**

to

**ORDINANCE NO. 20-047**

INTERLOCAL AGREEMENT BETWEEN SNOHOMISH COUNTY AND THE  
STILLAGUAMISH TRIBE OF INDIANS FOR STILLAGUAMISH AND  
SNOHOMISH RIVER MODELING

*[See Attached]*

**INTERLOCAL AGREEMENT BETWEEN SNOHOMISH COUNTY AND  
THE STILLAGUAMISH TRIBE OF INDIANS  
FOR STILLAGUAMISH AND SNOHOMISH RIVER MODELING**

Execution through June 30, 2023

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This Interlocal Agreement Between Snohomish County and the Stillaguamish Tribe of Indians for Stillaguamish and Snohomish River Modeling (this "Agreement"), is made and by and between Snohomish County, a political subdivision of the State of Washington (the "County"), and the Stillaguamish Tribe of Indians, a federally-recognized Indian Tribe (the "Tribe").

**RECITALS**

- A. The Tribe was awarded grant funds from the Washington State Department of Ecology ("Ecology") in Ecology Grant Agreement #SEAFBD-2019-StillTI-00062 ("the Tribal Grant") to implement the Stillaguamish Watershed Integrated Floodplain Management Project;
- B. The County was awarded grant funds from Ecology in Ecology Grant Agreement #SEAFBD-2019-SnCoPW-00051 ("the County Grant") to implement the Snohomish Watershed Integrated Floodplain Management Project;
- C. The goal of the Tribal Grant and the County Grant is to reduce flood hazards, and protect and restore floodplain function and ecological processes, while supporting values important to the local community such as protecting agricultural productivity, improving water quality, and providing recreational opportunities within the Stillaguamish and Snohomish watersheds in Snohomish County;
- D. The Tribal Grant and the County Grant each require the Tribe and County enter into an interlocal agreement with one another to complete hydraulic and hydrologic modeling of the Stillaguamish and Snohomish Rivers. The Tribal Grant and the County Grant both specify that the cost for this modeling work will be split equally between the two grants;
- E. The County entered into an Intergovernmental Services Agreement Between Snohomish County and the University of Washington – Impacts of Climate Change on Flooding in Snohomish County Rivers in 2019 to conduct the hydraulic and hydrologic modeling of the Stillaguamish and Snohomish Rivers required by the Tribal Grant and the County Grant. The compensation allowed under the County's agreement with the University of Washington is not to exceed \$192,761.00;
- F. The County has available staff and consultant resources to act as the project manager for one sub-project identified in the Tribal Grant as "Task 10 – Stillaguamish and Snohomish River Modeling";
- G. RCW 39.34.080 authorizes public agencies, including the County and the Tribe, to enter into contracts to perform governmental services, activities, or undertakings; and
- H. Both the Tribe and the County are authorized by law to perform river management projects such as the Stillaguamish Watershed Integrated Floodplain Management Project.

## **AGREEMENT**

NOW, THEREFORE, in consideration of the respective agreements set forth below and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the Tribe agree as follows:

### **1. PURPOSES OF AGREEMENT**

The Tribe received funding from Ecology to implement the Stillaguamish Watershed Integrated Floodplain Management Project, which is a cooperative effort between several watershed partners working collectively to achieve multi-benefit integrated flood risk reduction, protect and restore habitat, and protect valuable local interest. A purpose of this Agreement is for the Tribe to contract with the County for services described in Appendix A (the "Scope of Work"), attached hereto and incorporated herein by this reference. Another purpose of this Agreement is to set forth terms for the reimbursement of the County by the Tribe for hydraulic and hydrologic modeling of the Stillaguamish and Snohomish Rivers pursuant to the Tribal Grant and the County Grant. The source of funds for this Agreement is the Tribal Grant.

### **2. DURATION OF AGREEMENT**

- A. The term of this Agreement is execution through June 30, 2023, (the "Term") unless terminated sooner as provided herein. The County's obligations after December 31, 2020, are contingent upon local legislative appropriation of necessary funds in accordance with applicable laws and the Snohomish County Charter. In the event funding becomes unavailable for work to be performed pursuant to this Agreement, all work shall terminate in accordance with provisions of this Agreement upon the last day of funding.
- B. As provided by RCW 39.34.080, this Agreement shall not take effect unless and until it has (i) been duly executed by both parties, and (ii) either filed with the County Auditor or posted on the County's Interlocal Agreements website.

### **3. SCOPE OF WORK**

- A. The County shall furnish the necessary personnel, equipment, material and/or services and otherwise do all things necessary for or incidental to the performance of the work set forth in Appendix A, attached hereto and incorporated herein.
- B. The County will not be required to perform work for the Tribe in excess of work specified in Appendix A to this Agreement except by mutual agreement in a written amendment to this Agreement.
- C. If there are any discrepancies between the Tribal Grant and Appendix A of this Agreement, Appendix A of this Agreement shall control.

### **4. PERFORMANCE**

The County agrees to complete all work described in Appendix A in a timely and professional manner. The County may use subconsultants or subcontractors to complete any portion of the work described in Appendix A. At any time the County cannot fulfill its responsibilities under this Agreement, the County shall notify the Tribe thereof in writing, together with an explanation of why said responsibilities cannot be fulfilled.



**5. ADMINISTRATION OF AGREEMENT**

Each party to this Agreement shall designate an individual who may be designated by title or position to oversee and administer such party's participation in this Agreement. The parties' Administrators shall be the following individuals:

County's Administrator:  
Surface Water Management Director  
Snohomish County Dept. of Public Works  
3000 Rockefeller Ave, M/S 607  
Everett, WA 98201

Tribe's Administrator:  
Environmental Manager  
Stillaguamish Tribe of Indians  
P.O. Box 277  
Arlington, WA 98223

**6. MONITORING & REPORTING**

The Tribe shall be responsible for monitoring the performance of the County's work under this Agreement. The County will provide quarterly reports to the Tribe using Ecology's Quarterly Progress Report form as required under Appendix A.

**7. COMPENSATION**

The total compensation due to the County under this Agreement shall in no event exceed three hundred seventy-five thousand dollars (\$375,000). The Tribe shall have no obligation to pay any invoice from the County that would cause the total payments made to the County under this agreement to exceed \$375,000 as set forth in Appendix B, attached hereto and incorporated herein.

The Tribe shall have the right to withhold payment of all or any portion of a County invoice provided under Section 9 below if the Tribe has a reasonable good faith basis to believe that the work performed by the County is not consistent with the Scope of Work. In such an event the Tribe shall provide the County a written statement identifying and describing problems or deficiencies it perceives on or before the date such payment is due. Upon receipt of such notice the County shall have twenty (20) days to either correct the problem or object to the Tribe's determination. In the event the County objects the matter shall be submitted to a consulting engineer for review to determine whether work performed by the County is consistent with the Scope of Work, and if not, what remedial action is required to bring the work into compliance. The consulting engineer will be mutually agreed upon by both parties. The Tribe's right to withhold payment shall last until the work has been brought into compliance or the work is deemed consistent with the approved scope and task.

**8. INVOICING AND PAYMENT**

The County shall submit a quarterly invoice to the Tribe no later than the 15<sup>th</sup> of the month following the end of the quarter. The invoice shall accurately and completely document all labor costs, materials costs, equipment costs and other reimbursable costs, along with Ecology's forms B2, C2 and A19. The Tribe shall pay each quarterly invoice within thirty (30) days of receipt unless it objects under Section 8 of this Agreement.

**9. AUDIT AND INSPECTION**

The County and the Tribe shall maintain records pursuant to this Agreement in accordance with generally accepted accounting principles and practices consistently applied. The County and

Tribe's records shall be available for inspection and audit by one another, the State Auditor, federal auditors, and any persons duly authorized by the parties. The Tribe and County shall preserve and make such records available to said parties until expiration of six (6) years from the date of final payment under this Agreement.

**10. ENTIRETY OF AGREEMENT**

This Agreement constitutes the entire agreement between the County and the Tribe and supersedes all proposals, oral and written, and all other communication between the parties in relation to the subject matter of this Agreement. No other agreement exists between the County and the Tribe with regards to the instant subject matter except as expressly set forth in this instrument. Except as otherwise provided herein, no modification of this Agreement shall be effective until reduced to writing and executed by both parties.

**11. AGREEMENT ALTERATIONS AND AMENDMENTS**

This Agreement may be altered or amended by mutual agreement of both parties. Such alterations or amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

**12. TERMINATION**

Either party may terminate this Agreement upon thirty (30) days' prior written notice to the other party. 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.

- A. In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to normal completion, the Tribe may terminate this Agreement by providing written notice to the County fifteen (15) days prior to such withdrawing, reduction or limitation of funding. The termination shall be effective on the date specified in the termination notice. The County shall continue to perform its obligations through the date of termination. The obligation of the Tribe to make final payment shall survive the termination of this Agreement.
- B. If for any cause either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party shall give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within fifteen (15) working days. If failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.

**13. RIGHTS AND REMEDIES**

In no event shall any payment by the Tribe to the County constitute a waiver by the Tribe of any breach of covenant or any default that may exist on the part of the County. The making of any such payment by the Tribe while any such breach or default exists shall in no way impair or prejudice any of the Tribe's rights and remedies, hereby expressly recognized, to recover payments or portions thereof, to which the County was not entitled under this Agreement, where any payments were made by mistake, or to pursue any other remedy available to the Tribe with respect to breach or default of this Agreement.

**14. INSURANCE**

The County maintains a fully-funded self-insurance program as defined in chapter 2.90 of the Snohomish County Code for the protection and handling of the County's liabilities, including injuries to persons and damage to property, automobile liability, professional liability, and workers compensation. The self-funded program will respond if an incident occurs involving negligence of County employees acting in the scope of their employment. The Tribe acknowledges, agrees and understands that the County is self-funded for all its liability exposures.

The County agrees, at its own expense, to maintain, through its self-funded program, coverage for all its liability exposures for this Agreement. The County agrees to provide at least 30 calendar days prior written notice of any material change in its self-funded program and, if requested, will provide a letter of self-insurance as adequate proof of coverage. The Tribe further acknowledges, agrees, and understands that the County does not purchase Commercial General Liability insurance and is a self-insured governmental entity; therefore, the County does not have the ability to add any party as an additional insured.

**15. HOLD HARMLESS**

The Tribe agrees to protect, defend and hold harmless the County, its elected and appointed officials, employees and agents, from and against all claims, demands and causes of action of any kind or character, including any cost of defense and attorney's fees, arising out of any actions, errors or omissions of the Tribe, its officials, employees and agents in performing this Agreement except for those arising out of the sole negligence of the County.

The County shall indemnify, defend and hold harmless the Tribe and its commissioners, officers, employees and agents from and against any and all liabilities, losses, claims, damages, costs, demands, fines, judgments, penalties, obligations and payments, together with any reasonable costs and expenses (including, without limitation, reasonable attorneys' fees and out-of-pocket expenses and reasonable costs and expenses of investigation) (collectively referred to as "Damages") incurred in connection with any of the foregoing, to the extent they result from, relate to or arise out of or in connection with: (i) any failure of the County, and its elected officials, officers, employees, agents, contractors and/or subcontractors to perform or observe any term, provision, covenant, agreement or condition hereunder to be performed or observed by or on behalf of the County; or (ii) any wrongful and/or negligent act and/or omission of the County and its elected officials, officers, employees, agents, contractors and/or subcontractors.

In no event shall the County be responsible for indemnifying the Tribe for damages caused by or resulting from the sole negligence of the Tribe, and its elected officials, officers, employees, agents, contractors and/or subcontractors.

**16. LIMITED WAIVER OF SOVEREIGN IMMUNITY**

The Tribe expressly reserves all of its inherent sovereign rights as a federally recognized Indian tribe, including sovereign immunity from suit in any state, federal or tribal court without the Tribe's consent. By entering into this Agreement, the Tribe hereby grants a limited waiver of sovereign immunity to the County only, subject to, and conditioned on the following:

A. This limited waiver of immunity shall not extend to interpretation of the Treaty of Point Elliot, 12 Stat. 927, or the rights reserved by the Tribe under that Treaty. This waiver of

immunity shall not extend to, or be used for, or to, the benefit of any other person or entity of any kind or description whatsoever, including any successor or assign of the County.

B. To the extent that jurisdiction obtains, this limited waiver of immunity shall be deemed consent to jurisdiction only of the Snohomish County Superior Court.

C. The limited waiver of immunity in favor of the County shall commence and become effective as the effective date of this Agreement and shall remain in effect for three (3) years from the ending date or early termination of this Agreement. Notwithstanding any applicable statute of limitations or other law, upon expiration of the above three (3) year period, this limited waiver of immunity shall be deemed withdrawn without further action by the Tribe or notice to the County.

D. Except as authorized in Section F below, nothing contained in this Agreement shall be deemed consent to levy of any judgment, lien or attachment upon any assets, property or interest of the Tribe.

E. Nothing in this Agreement or any activity of the Tribe shall implicate or in any way involve the trust assets or credit of the Tribe or any of its members.

F. The Tribe hereby expressly waives sovereign immunity to suit only upon a claim of indemnification by the County pursuant to this Agreement. The limit for any claim of indemnification will be \$1,000,000.00. The parties agree that in discharging this indemnification obligation, where the required insurance is procured, the County shall look only to the proceeds of the insurance procured by the Tribe herein and the policy of insurance obtained by the Tribe shall prohibit the insurer from asserting a defense of sovereign immunity to a claim made under the policy. The Tribe agrees to assign over to the County, at its request, any and all of its rights against the insurer to effectuate a payment of its indemnification provision.

## **17. RELATIONSHIP TO EXISTING LAWS**

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

1. Applicable state and federal statutes and regulations;
2. Scope of Work (Appendix A); and
3. Any other provisions of the Agreement, including materials incorporated by reference.

This Agreement shall be governed by the laws of the State of Washington and the parties stipulate that any lawsuit arising out of or relating to the performance, breach, or enforcement of this Agreement shall be commenced in Snohomish County Superior Court. The Tribe waives sovereign immunity as necessary to give effect to this section and the indemnification and hold harmless provisions above. This limited waiver of sovereign immunity is for the benefit of the Tribe and the County and shall not be enforceable by any third party nor by any assignee or delegate of the parties. The parties shall bear their own costs and attorney's fees in any action brought under this section

**18. SEVERABILITY**

If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to serve the purposes and objectives of the Agreement as determined by the County.

**19. PUBLIC RECORDS ACT**

This Agreement and all public records associated with this Agreement shall be available from the County for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW.

**20. THIRD PARTY BENEFICIARY**

The State of Washington is named as an express third-party beneficiary.

**21. MISCELLANEOUS**

- A. No obligation in this Agreement shall limit the Tribe in fulfilling its responsibilities otherwise defined by law.
- B. No obligation in this Agreement shall limit the County in fulfilling its responsibilities otherwise defined by law.

IN WITNESS WHEREOF, the County and the Tribe have executed this Agreement as of the date first above written.

**THE COUNTY:**

**THE TRIBE:**

Snohomish County, a political subdivision of the State of Washington

Stillaguamish Tribe of Indians, a federally-recognized Indian Tribe

By  \_\_\_\_\_  
 County Executive  
**KEN KLEIN**  
 Executive Director

By  \_\_\_\_\_  
 Title: Chairman

Approved as to Form:  
Digitally signed by Laura Kisielius  
**Laura Kisielius**  
Date: 2020.05.22 15:20:25 -0700  
 \_\_\_\_\_  
 Deputy Prosecuting Attorney

## APPENDIX A SCOPE OF WORK

### Stillaguamish and Snohomish River Modeling

**Description:** This scope of work is intended to more specifically describe Task Number 10 of the Tribal Grant. In the event of any discrepancy between this Scope of Work and the Tribal Grant, this Scope of Work governs. The primary purpose of this project is to develop a 2-dimensional hydraulic model for the Stillaguamish River from river mile 0 - 18 (river mouth to the confluence of the North and South Forks of the Stillaguamish River) including Hat Slough, Cook Slough, and the Old Stillaguamish River channel. The model will be used to model river runoff events ranging from the everyday event (<1-year recurrence interval) to the catastrophic event (500-year recurrence interval).

**Project Goals:** The overall goal of the Stillaguamish River modeling project is to update and increase the local knowledge and understanding of flow conveyance characteristics in the Stillaguamish River channel system and floodplain. The desired result of the multi-faceted modeling effort is to inform ongoing conversations amongst the many stakeholders within the floodplain, inform long-term land use plans and regulatory decisions related to floodplain activities, inform restoration project siting and design, and to identify locations where infrastructure may be vulnerable to the effects of increased flow due to climate change.

**Expected Outcomes:** The expected outcome and intent of the modeling efforts is to improve on the outdated flood conveyance and inundation information currently available for the area and better describe realistic flow pathways in the floodplain and the flooding extent across the Stillaguamish River Valley under a wide range of flow conditions.

#### **Task 1: Project Management**

The County will manage the work required under this Scope of Work. Project management consists of: project scheduling, coordination and oversight of the University of Washington for work performed under Task 5 of this Scope of Work, assuring quality control, adherence to the scope of work, project tracking, and correspondence with stakeholders and grant managers. In addition, this task includes submittal of quarterly progress reports and reimbursement requests with supporting documentation, maintenance of project records, and submittal of deliverables.

The County will pursue a waiver for preparing a Quality Assurance Project Plan (QAPP) from the Department of Ecology for the collection and analysis of environmental data. If a waiver is denied, the County will prepare a QAPP. The County will comply with QAPP requirements in Section 12 Environmental Data Standards of the Tribal Grant's General Terms and Conditions.

|                     |                                                                                   |
|---------------------|-----------------------------------------------------------------------------------|
| <b>Deliverable:</b> | Quarterly reporting and Invoices                                                  |
| <b>Due:</b>         | May 15, August 15, November 15, February 5 of each year during the Agreement Term |
| <b>Deliverable:</b> | QAPP (if required)                                                                |
| <b>Due:</b>         | October 1, 2020                                                                   |
| <b>Deliverable:</b> | Copy of fully executed Intergovernmental Agreement with UW                        |
| <b>Due:</b>         | August 1, 2020                                                                    |
| <b>Cost:</b>        | \$40,000                                                                          |

## **Task 2: Field Survey and Topographic Surface Generation**

The County will contract with a consultant to produce a 3-dimensional digital elevation model (DEM) of the study area in a format compatible with the most recent version of Hydrologic Engineering Center, River Analysis System (HEC-RAS). The consultant will be chosen per Snohomish County contracting policies. The County will collect bathymetric mapping data from the Stillaguamish River between the confluence of the North and South Fork Stillaguamish River and the outlets to Puget Sound. The consultant will use existing LiDAR data to develop the 3-dimensional surface of the study area and will collect additional topographical data as needed to reflect on the ground features not shown in the LiDAR data. The Consultant will develop a DEM generation report documenting the production of the DEM, including metadata.

**Deliverable:** Bathymetric survey data, Topographic survey data, Digital elevation model, DEM generation report  
**Due Date:** September 30, 2020  
**Cost:** \$30,000

## **Task 3: Model Setup and Calibration of 2-D Hydraulic Model**

The County and the consultant, selected in Task 2, will use the digital elevation model developed in Task 2 to develop a 2-dimensional hydraulic model of the Stillaguamish River, from the confluence of the North and South to the mouths at Puget Sound. The most recent version of HEC-RAS will be used for this modeling. The model parameters will reflect existing conditions and be calibrated for both low and high flow events using a combination of historical high-water mark data and historical flow records. An analysis memo will be provided by the consultant documenting the model creation and setup.

**Deliverable:** Existing conditions model, Analysis memo  
**Due Date:** December 31, 2020  
**Cost:** \$153,000

## **Task 4: Hydraulic Scenario Analysis, Inundation Mapping & Report**

The County's consultant, selected in Task 2, shall delineate the 10-, 1- and 0.2 percent annual-chance floodplain boundaries for the study area. Specific activities required for this task are the following:

- **Inundation Mapping:** Provide mapping of the 10-, 1- and 0.2 percent annual-chance inundated areas and flood water surface elevations.
- **Metadata Files:** Prepare metadata files describing the work map data.
- **Summary Documentation:** Prepare documentation that describes the floodplain mapping and any specific considerations or assumptions used in the development of the mapping.

**Deliverables:** Digital flood inundation maps for existing and future conditions (2050s and 2080s), Summary report and documentation  
**Due Date:** June 6, 2021  
**Cost:** \$55,000

## **Task 5: Impacts of Climate Change on Snohomish County Rivers**

The County entered into an Intergovernmental Services Agreement with the University of Washington (UW IGA) to develop hydrologic climate change simulations and create predicted peak stream flows for years 2055 and 2085 future conditions of the Snohomish and Stillaguamish Rivers. These predicted stream flows will be used with the two-dimensional hydraulic model developed in Task 3 to explore future flooding scenarios for the Stillaguamish River for river miles 0 to 18 (river mouth to the confluence of the North and South Forks of the Stillaguamish River) including Hat Slough, Cook Slough, and the Old Stillaguamish River channel. Pursuant to the Tribal Grant and the County Grant, the cost of the work performed under the UW IGA will be split equally between the County and the Tribe. The County will invoice the Tribe for one-half of the total charges incurred under the UW IGA and said costs shall be considered reimbursable costs under this Agreement.

**Deliverables:** Historical hydrographs, future hydrographs, Draft and final reports  
**Date:** October 31, 2020  
**Cost:** \$97,000



**APPENDIX B  
BUDGET**

| <b>Task</b> | <b>Description</b>                                       | <b>Amount</b> |
|-------------|----------------------------------------------------------|---------------|
| 1           | Project Management                                       | \$40,000      |
| 2           | Field Survey and Topographic Surface Generation          | \$30,000      |
| 3           | Model Setup and Calibration of 2-D Hydraulic Model       | \$153,000     |
| 4           | Hydraulic Scenario Analysis, Inundation Mapping & Report | \$55,000      |
| 5           | Impacts of Climate Change in Snohomish County Rivers     | \$97,000      |
|             | Total                                                    | \$375,000     |

**APPENDIX C**  
**Grant Agreement No. SEAFBD-2019-StilTI-00062**



**Agreement No. SEAFBD-2019-StillTI-00062**

**SHORELANDS FLOODPLAINS BY DESIGN AGREEMENT**

**BETWEEN**

**THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY**

**AND**

**STILLAGUAMISH TRIBE OF INDIANS**

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

---

**GENERAL INFORMATION**

|                                                         |                                                                  |
|---------------------------------------------------------|------------------------------------------------------------------|
| Project Title:                                          | Stillaguamish Watershed Integrated Floodplain Management Project |
| Total Cost:                                             | \$15,123,500.00                                                  |
| Total Eligible Cost:                                    | \$9,188,750.00                                                   |
| Ecology Share:                                          | \$7,351,000.00                                                   |
| Recipient Share:                                        | \$1,837,750.00                                                   |
| The Effective Date of this Agreement is:                | 07/01/2019                                                       |
| The Expiration Date of this Agreement is no later than: | 06/30/2023                                                       |
| Project Type:                                           | Floodplains by Design                                            |

**Project Short Description:**

The RECIPIENT and watershed partners will continue working collectively to achieve multi-benefit integrated flood risk reduction, protect and restore habitat, and protect valuable local interests, like agricultural productivity and recreational opportunities, in the Stillaguamish watershed in Snohomish County.

**Project Long Description:**

Flood events in the Stillaguamish watershed are significant and intense. Changing climactic conditions and sea level rise are expected to exacerbate this flooding. The RECIPIENT will reduce flooding risks and benefit the Stillaguamish River watershed by increasing ecological function; reducing the impact to local infrastructure from flooding and sediment transport; protecting and enhancing farmland productivity; improving water quality and recreational opportunities in the community; and working towards cooperative planning for implementing future multi-benefit projects in the watershed.

Floodplains by Design grant no. G1400657 funded the initial phases for some of these tasks.

INTERLOCAL AGREEMENT BETWEEN SNOHOMISH COUNTY AND  
STILLAGUAMISH TRIBE OF INDIANS FOR THE STILLAGUAMISH WATERSHED  
INTEGRATED FLOODPLAIN MANAGEMENT PROJECT

Agreement No: SEAFBD-2019-StillTI-00062  
Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
Recipient Name: Stillaguamish Tribe of Indians

1. Project Administration/Management. The RECIPIENT will manage and submit all grant administrative requirements to ECOLOGY.
2. The Gold Basin Landslide Sediment Reduction task will improve salmonid habitat. The RECIPIENT will complete the construction for landslide mediation and to reduce flooding.
3. The Diking and Drainage Improvement for District 7 task will minimize flood damage to agricultural fields. The RECIPIENT will acquire permits and complete the construction to repair the levee and replace a culvert.
4. The Distillation and Nutrient Separation Processor task will improve water quality. The RECIPIENT will install an innovative Vapor Recompression Distillation (VRD) dairy wastewater processor, which turns dairy manure into clean water and solid byproducts.
5. Irvine Slough Stormwater Separation task reduces the flooding risk to downtown Stanwood and enhances tidal wetlands. The RECIPIENT will complete construction of the stormwater separation of the Irvine Slough.
6. The Leque Island Estuary Restoration task will restore approx. 26 acres of the Leque Island estuary habitat. The RECIPIENT will complete the permitting, design, and construction of tidegates and tide channels; remove levees; and relocate a parking lot from the Leque Island Estuary restoration area.
7. The North Fork Stillaguamish Floodplain Property Acquisition task will protect salmonid habitats. The RECIPIENT will acquire approx. 250 acres and approx. 3.25 river miles of the North Fork Stillaguamish River and one mile of marine shoreline to protect critical salmonid habitat.
8. Under the Acquisition of Development Rights task, the RECIPIENT will acquire approx. 200 acres of property development rights from a minimum of ten farms in the Stillaguamish Basin.
9. The Advancing Integrated Floodplain Management task will establish a Project Integration Team of flood hazard, ecological, and agricultural experts. The Team will create an Agricultural Resiliency Plan, and develop a minimum of two 30 percent designs for projects within the Stillaguamish Basin.
10. The Stillaguamish and Snohomish River Modeling task will update the channel system and floodplain modeling data so stakeholders can make informed, longterm decisions using updated models.

Overall Goal:

The overarching multi-benefit goal is to reduce flood hazards, and protect and restore floodplain function and ecological processes, all while supporting values important to the local community such as protecting agricultural productivity, improving water quality, and providing recreational opportunities within the Stillaguamish watershed.

Agreement No: SEAFBD-2019-StillTI-00062  
Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
Recipient Name: Stillaguamish Tribe of Indians

**RECIPIENT INFORMATION**

Organization Name: Stillaguamish Tribe of Indians

Federal Tax ID: 91-0920666

DUNS Number: 034340406

Mailing Address: PO Box 277  
Arlington, WA 98223

Physical Address: 22712 6th Ave NE  
Arlington, Washington 98223

Organization Email: janderson@stillaguamish.com

**Contacts**

Agreement No: SEAFBD-2019-StillTI-00062  
 Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
 Recipient Name: Stillaguamish Tribe of Indians

|                                    |                                                                                                                                                                                                                                                  |
|------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Project Manager</b></p>      | <p>Pat Stevenson<br/>                 Environmental Manager</p> <p>P.O. Box 277<br/>                 Arlington, Washington 98223<br/>                 Email: pstevenson@stillaguamish.com<br/>                 Phone: (360) 631-0946</p>         |
| <p><b>Billing Contact</b></p>      | <p>Michelle McGlashan<br/>                 Accounting Assistant</p> <p>22712 6th Ave NE<br/>                 Arlington, Washington 98223<br/>                 Email: mmcglashan@stillaguamish.com<br/>                 Phone: (360) 631-7391</p> |
| <p><b>Authorized Signatory</b></p> | <p>Shawn Yanity<br/>                 Chairman</p> <p>22712 6th Ave NE<br/>                 Arlington, Washington 98223<br/>                 Email: syanity@stillaguamish.com<br/>                 Phone: (360) 631-7391</p>                      |

State of Washington Department of Ecology  
Agreement No: SEAFBD-2019-StillIT-00062  
Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
Recipient Name: Stillaguamish Tribe of Indians

**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**

|                          |                                                                                                                                                         |
|--------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Project Manager</b>   | <p>Lisa Nelson</p> <p>3190 - 160th Ave SE<br/>Bellevue, Washington 98008-5452<br/>Email: LNEL461@ecy.wa.gov<br/>Phone: (425) 649-4253</p>               |
| <b>Financial Manager</b> | <p>Layne Slone<br/>Financial Manager</p> <p>PO Box 47600<br/>Olympia, Washington 98504-7600<br/>Email: lnak461@ecy.wa.gov<br/>Phone: (360) 407-7540</p> |

Agreement No: SEAFBD-2019-StillTI-00062  
Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
Recipient Name: Stillaguamish Tribe of Indians

**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

Stillaguamish Tribe of Indians

By: Gordon White 2/20/20

By: Shawn Yanity 2-14-2020

Gordon White Date  
Shorelands  
Program Manager

Shawn Yanity Date  
Chairman

Template Approved to Form by  
Attorney General's Office



Agreement No: SEAFBD-2019-StillT1-00062  
 Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
 Recipient Name: Stillaguamish Tribe of Indians

**SCOPE OF WORK**

Task Number: 1 **Task Cost: \$12,500.00**

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 inter-local agreement requirements; application of, 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 designee; 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. Budget deviations are allowed between budget objects, e.g., the RECIPIENT may spend less money on one task and more on another, but under no circumstances may the RECIPIENT exceed the total project cost. The approval of the ECOLOGY Project Manager is required for this deviation.

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: Pat Stevenson and Charlotte Scofield

**Project Administration/Management**

**Deliverables**

| Number | Description                    | Due Date   |
|--------|--------------------------------|------------|
| 1.1    | Progress Reports               |            |
| 1.2    | Recipient Closeout Report      | 06/30/2023 |
| 1.3    | Project Outcome Summary Report | 06/30/2023 |

Agreement No: SEAFBD-2019-StillTI-00062  
Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
Recipient Name: Stillaguamish Tribe of Indians

## SCOPE OF WORK

Task Number: 2 **Task Cost: \$1,625,000.00**

Task Title: 2. Gold Basin Landslide Sediment Reduction

### Task Description:

The RECIPIENT will work with stakeholders to design and install improvements that will help mediate impacts from past and future Gold Basin landslides. Grant no. G1400657 is funding the National Environmental Policy Act (NEPA) process and permitting, final design, and the start of the construction phase. Under this grant:

- A. The RECIPIENT will submit copies of the environmental permits; cultural resources review documents, including the Inadvertent Discovery Plan (IDP); landowner agreements; the final design, signed and sealed by a Washington State-licensed engineer; and a complete list of the documents obtained for this project.
- B. The RECIPIENT will hire contractors to complete the construction, which includes:
  - 1. Decommissioning a portion of the existing Gold Basin campground. The RECIPIENT will remove lower campground road, remove the underground water system, and demolish and remove two on-site bathrooms.
  - 2. Installing revised design concept through the existing campground.
  - 3. Completing the construction of a crib wall.
  - 4. Constructing sediment detention basins.
  - 5. Installing landslide outwash diversion components.
  - 6. Installing landslide foot grading.
  - 7. Installing diversion fencing.
  - 8. Installing engineered large woody debris structures.
  - 9. Installing native plantings on site and complete habitat restoration.
- C. The RECIPIENT will submit annotated, before and after construction photos to ECOLOGY.
- D. The RECIPIENT will complete and submit a final report to ECOLOGY.

### Task Goal Statement:

Reduce the input of fine sediments into the South Fork of the Stillaguamish River, improving water quality for downstream communities and infrastructure. This also helps mitigate the detrimental impacts caused by changing climate regimes and improve salmonid habitat, including species listed under the Endangered Species Act.

Agreement No: SEAFBD-2019-StillTI-00062  
 Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
 Recipient Name: Stillaguamish Tribe of Indians

Task Expected Outcome:

Reduce campground footprint, mediate landslide impacts, and reduce flooding.

Recipient Task Coordinator: Pat Stevenson

**2. Gold Basin Landslide Sediment Reduction**

**Deliverables**

| Number | Description                                                                                                                                                                             | Due Date |
|--------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| 2.1    | Environmental Compliance. Local, state, and federal environmental permits; landowner agreement(s); and list of the permits obtained. Upload in EAGL and notify ECOLOGY Project Manager. |          |
| 2.2    | Inadvertant Discovery Plan (IDP). Upload copy in EAGL and notify ECOLOGY Project Manager.                                                                                               |          |
| 2.3    | Cultural Resources Review Documents. Due to confidentiality, do not upload to EAGL. Email surveys to ECOLOGY Project Manager.                                                           |          |
| 2.4    | Final design, signed and sealed by a Washington State-licensed engineer. Upload copy in EAGL and notify ECOLOGY Project Manager.                                                        |          |
| 2.5    | Signed consultant contract(s), including design, construction, and construction management contracts. Upload copy to EAGL and notify ECOLOGY Project Manager.                           |          |
| 2.6    | As-built drawings. Upload copy in EAGL and notify ECOLOGY Project Manager.                                                                                                              |          |
| 2.7    | Project schedule, including project milestones. Update and include with each quarterly Progress Report/Payment Request for ECOLOGY Project Manager review.                              |          |
| 2.8    | Annotated before and after photos of the construction phase. Upload in EAGL and notify ECOLOGY Project Manager.                                                                         |          |
| 2.9    | Final Report submitted to ECOLOGY Project Manager for review and approval.                                                                                                              |          |

Agreement No: SEAFBD-2019-StillTI-00062  
Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
Recipient Name: Stillaguamish Tribe of Indians

**SCOPE OF WORK**

Task Number: 3 **Task Cost: \$2,500,000.00**

Task Title: 3. Diking and Drainage Improvement for District 7

Task Description:

The Diking and Drainage Improvement District No. 7 (DD7) levee separates agricultural land and the City of Stanwood from Puget Sound and the Stillaguamish River, west of the city. Grant no. G1400657 funded the survey and design work. The RECIPIENT will complete the following work under this grant:

- A. Complete the design and permits to enhance approximately six acres of nearby tidal wetlands.
  - 1. Submit both a comprehensive list, and copies of actual local, state, and federal permits acquired for the tidal enhancement.
  - 2. Complete the cultural resources review process. Submit copies of cultural resources review documents, including the Inadvertent Discovery Plan (IDP), to the ECOLOGY Project Manager.
  - 3. Update the design to be consistent with the requirements of the U.S. Army Corps of Engineers Public Law 84-99 program (USACE PL-8499) for Rehabilitation Assistance for Non-Federal Flood Control Projects; and the Federal Emergency Management Agency (FEMA) requirements. The design will also include tide gate improvements. The RECIPIENT will submit a copy of the final design, signed and sealed by a Washington State-licensed engineer, to ECOLOGY.
  - 4. Submit copies of signed landowner agreements.
- B. Hire a contractor to complete the construction. Submit copies of signed contracts to ECOLOGY. The construction will include:
  - 1. Repairing the existing levee, which will consist of clearing and grubbing, followed by fill placement to achieve the design elevation.
  - 2. Replacing the failed culvert with a side hinged fish friendly tidegate.
- C. Submit annotated, before and after photos of the construction.
- D. Submit a final report to the ECOLOGY Project Manager for review and approval.

Task Goal Statement:

Repair the levee on the Stillaguamish River to minimize the frequent flood damage to agricultural fields and farm production. This will protect the city of Stanwood from future flooding and sea level rise. Approximately 180 acres of farmland north of the city of Stanwood will have flood reduction. This task will also design and construct enhancements for six acres of tidal wetlands which will improve ecological functions.

Agreement No: SEAFBD-2019-StillTI-00062  
 Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
 Recipient Name: Stillaguamish Tribe of Indians

Complete the final design and obtain environmental permits; clear vegetation near the levee; flatten levee side slopes with new fill; and raise and widen the levee crest.

Recipient Task Coordinator: Pat Stevenson

**3. Diking and Drainage Improvement for District 7**

**Deliverables**

| Number | Description                                                                                                                                                | Due Date |
|--------|------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| 3.1    | Environmental Compliance: Submit a list and copies of required local, state, and federal permits.                                                          |          |
| 3.2    | Copies of signed landowner agreement(s). Upload in EAGL and notify ECOLOGY Project Manager.                                                                |          |
| 3.3    | Cultural Resources Review Documents. Due to confidentiality, do not upload to EAGL. Email surveys to ECOLOGY Project Manager.                              |          |
| 3.4    | Inadvertent Discovery Plan (IDP). Upload copy to EAGL and notify ECOLOGY Project Manager.                                                                  |          |
| 3.5    | Final design, signed and sealed by a Washington State-licensed engineer. Upload a copy in EAGL and notify the ECOLOGY Project Manager.                     |          |
| 3.6    | Signed contracts, including design, construction, and construction management contracts. Upload in EAGL and notify ECOLOGY Project Manager.                |          |
| 3.7    | As-built drawings. Upload copies in EAGL and notify ECOLOGY Project Manager.                                                                               |          |
| 3.8    | Annotated, before and after photos of construction. Upload in EAGL and notify ECOLOGY Project Manager.                                                     |          |
| 3.9    | Project schedule, including project milestones. Update and include with each quarterly Progress Report/Payment Request for ECOLOGY Project Manager review. |          |
| 3.10   | Final Report submitted to ECOLOGY Project Manager for review and approval.                                                                                 |          |

## SCOPE OF WORK

Task Number: 4 **Task Cost: \$1,426,250.00**

Task Title: 4. Distillation and Nutrient Separation Processor

### Task Description:

The RECIPIENT will address non-point source water pollution concerns (fecal coliform, nutrients) that negatively impact floodplain ecosystems. Grant no. G1400657 funded the feasibility study. Under this grant:

- A. The RECIPIENT will find a willing property owner and enter into an agreement with the property owner for site placement of the Vapor Recompression Distillation (VRD) processor. The RECIPIENT will upload a copy of the signed agreement with the property owner in EAGL.
- B. The RECIPIENT will submit copies of the environmental permits; cultural resources review documents, including the Inadvertent Discovery Plan (IDP); landowner agreements; and a complete list of the documents obtained for this project.
- C. The RECIPIENT will purchase the VRD processor. If the RECIPIENT purchases equipment that has a useful life of more than one year, and is valued at more than \$5,000, the RECIPIENT will submit an Equipment Purchase Report form in EAGL.
- D. The RECIPIENT will install the VRD processor on site, and perform initial tests. The RECIPIENT will work with the manufacturer to install and test an innovative Vapor Recompression Distillation (VRD) processor at a full-scale dairy farm in the lower Stillaguamish River valley. The processor will convert dairy wastewater into clean, distilled reclaimed water, plus liquid ammonia and a sterile, nutrient-rich solid material. The end products will be pathogen-free, and more concentrated for use on-site, or exported for use.
- E. The RECIPIENT will contract with the Washington State University Extension to create a technological and economic evaluation report of the new VRD processor.

The RECIPIENT will submit the WSU Ext. technological and economic evaluation report, which includes literature reviews, analysis of outputs, extension support, and distribution of results, to the ECOLOGY Project Manager.

- F. The WSU Extension will also conduct education and outreach activities to promote the VRD processor and the evaluation results.

For any educational materials developed under this agreement, the RECIPIENT will submit a draft to the ECOLOGY Project Manager for review and approval prior to production and distribution. Materials must include ECOLOGY and recognition and follow the Agreement General Term and Conditions No. 19. Presentation and Promotional Materials. The RECIPIENT will upload all final education and outreach materials to EAGL.

### Task Goal Statement:

Develop a highly innovative treatment system to process liquid dairy manure into clean, distilled, reclaimed water and nutrient-rich solid byproducts.

Agreement No: SEAFBD-2019-StillTI-00062  
 Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
 Recipient Name: Stillaguamish Tribe of Indians

**Task Expected Outcome:**

Complete construction, initial testing, a final technological and economic evaluation report, and education and outreach activities of a VRD processor at a local dairy farm.

**Recipient Task Coordinator:** Pat Stevenson

**4. Distillation and Nutrient Separation Processor**

**Deliverables**

| Number | Description                                                                                                                                                                 | Due Date |
|--------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| 4.1    | Signed landowner agreement. Upload copy in EAGL and notify ECOLOGY Project Manager.                                                                                         |          |
| 4.2    | List and copies of acquired local, state, and federal permits. Upload in EAGL and notify ECOLOGY Project Manager.                                                           |          |
| 4.3    | Equipment Purchase Report EAGL Form for equipment \$5,000 or more. Submit in EAGL.                                                                                          |          |
| 4.4    | Photo of installed VRD processor.                                                                                                                                           |          |
| 4.5    | WSU Extension technological and economic evaluation report. Upload a copy in EAGL and notify the ECOLOGY Project Manager.                                                   |          |
| 4.6    | Public education and outreach materials. Submit draft to ECOLOGY Project Manager for review and approval. Upload final version to EAGL, and notify ECOLOGY Project Manager. |          |
| 4.7    | Project schedule, including project milestones. Update and include with each quarterly Progress Report/Payment Request for ECOLOGY Project Manager review.                  |          |
| 4.8    | Final Report submitted to ECOLOGY Project Manager for review and approval.                                                                                                  |          |

## SCOPE OF WORK

Task Number: 5 **Task Cost: \$1,250,000.00**

Task Title: 5. Irvine Slough Stormwater Separation

### Task Description:

The RECIPIENT will work with the City of Stanwood to complete the Phase I construction of the stormwater separation of the Irvine Slough to reduce the flooding risks to downtown Stanwood. Grant no. G1400657 funded the feasibility study, and through other grant funding, the City of Stanwood is completing the design and permitting phases. Under this grant, the RECIPIENT will:

- A. Submit copies of the environmental permits, cultural resources review documents, including the Inadvertent Discovery Plan (IDP), and an complete list of the documents obtained for this project to ECOLOGY.
- B. Submit a copy of the final design, signed and sealed by a Washington State-licensed engineer, to ECOLOGY.
- C. Hire a consultant to complete Phase I construction of the Irvine Slough stormwater separation. Construction will:
  1. Rebuild the existing pump station to separate the fourth bay, and adding an additional pump, outfall, and controls.
  2. Reconstruct the Irvine Slough at the pump station to separate the existing slough from the City of Stanwood's drainage, install approximately 320 feet of 48-inch pipe, and install a minimum of one 72-inch Type 2 stormwater catch basins.
- D. Submit the signed construction contract to ECOLOGY.
- E. Submit as-built drawings to ECOLOGY.
- F. Submit annotated before and after photos of the Phase I construction.
- G. Submit a final report to the ECOLOGY Project Manager for review and approval.

### Task Goal Statement:

Reduce the hazard of flooding to approx. 300 acres of the City of Stanwood's historic west downtown, including critical facilities, buildings, and streets, and design and construct enhancements for approx. six acres of tidal wetlands which will improve ecological functions.

### Task Expected Outcome:

Rebuild the existing pump station to separate the fourth bay and add an additional pump, outfall and controls; reconstruct Irvine Slough at the pump station to separate existing slough from the City of Stanwood drainage; install approximately 320 feet of 48-inch pipe; and install a minimum of one 72-inch type 2 catch basins. This task will also complete floodplain design, permitting, and enhancement of six acres of tidal flats.



Agreement No: SEAFBD-2019-StillTI-00062  
 Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
 Recipient Name: Stillaguamish Tribe of Indians

Recipient Task Coordinator: Pat Stevenson

**5. Irvine Slough Stormwater Separation**

**Deliverables**

| Number | Description                                                                                                                                                | Due Date |
|--------|------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| 5.1    | Local, state, federal permits, and other environmental review documents. Upload to EAGL and notify ECOLOGY Project Manager.                                |          |
| 5.2    | Cultural Resources Review Documents. Due to confidentiality, do not upload to EAGL. Email surveys to ECOLOGY Project Manager.                              |          |
| 5.3    | Inadvertent Discovery Plan (IDP). Upload to EAGL and notify ECOLOGY Project Manager.                                                                       |          |
| 5.4    | Signed consultant contracts. Upload copy to EAGL and notify ECOLOGY Project Manager.                                                                       |          |
| 5.5    | Final design. Upload copy to EAGL and notify ECOLOGY Project Manager.                                                                                      |          |
| 5.6    | As-built drawings. Upload copy to EAGL and notify ECOLOGY Project Manager.                                                                                 |          |
| 5.7    | Project schedule, including project milestones. Update and include with each quarterly Progress Report/Payment Request for ECOLOGY Project Manager review. |          |
| 5.8    | Annotated before and after photos of the Phase 1 construction.                                                                                             |          |
| 5.9    | Final Report submitted to ECOLOGY Project Manager for review and approval.                                                                                 |          |

## SCOPE OF WORK

Task Number: 6 **Task Cost: \$250,000.00**

Task Title: 6. Leque Island Estuary Restoration

### Task Description:

The RECIPIENT, the Washington State Department of Fish and Wildlife (WDFW), Ducks Unlimited, and other partners will remove perimeter levees to restore approximately 26-acres of estuary habitat on WDFW-owned land on Leque Island, within the Stillaguamish River delta in Skagit Bay. Ducks Unlimited Inc. will be sub-contracted to obtain permits.

- A. The RECIPIENT will obtain the required local, state, and federal environmental permits and related documentation. The RECIPIENT will submit a list and copies of the required permits ECOLOGY.
- B. The RECIPIENT will comply with the Cultural Resources Review requirements of the Governor's Executive Order 05-05. The RECIPIENT will submit a copy of the Inadvertant Discovery Plan (IDP) to the ECOLOGY Project Manager, and will notify all contractors on site about IDP protocol. The RECIPIENT will notify the ECOLOGY Project Manager if there is an archaeological finding on site during project implementation.
- C. The RECIPIENT will submit signed consultant contracts to ECOLOGY.
- D. The RECIPIENT will submit the final design, signed and sealed by a Washington State-licensed engineer, to ECOLOGY.
- E. The RECIPIENT will hire a contractor to complete the construction. The construction will include:
  - 1. Removing sections of levee on North Leque Island to improve tidal process connection to 26 acres. The levee is on the North side of Highway 532 between Stanwood and Camano Island.
  - 2. Removing levees near Leque island.
  - 3. Connecting channels located on the interior of the levee to channels on the exterior of the levee to improve fish access to the site.
- F. The RECIPIENT will submit a copy of the as-built plans to ECOLOGY.
- G. The RECIPIENT will upload before and after photos of the restoration work to ECOLOGY.
- H. The RECIPIENT will submit a final report to the ECOLOGY Project Manager for review and approval.

### Task Goal Statement:

Remove levees to restore tidal processes to the Leque Island, including formation of tidal channels and improved accessibility to aquatic species that will provide valuable refuge and forage habitat for juvenile salmon, as well as estuarine habitat for shorebirds, waterfowl, and invertebrates.

Agreement No: SEAFBD-2019-Still11-00062  
 Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
 Recipient Name: Stillaguamish Tribe of Indians

**Task Expected Outcome:**

Restore the Leque Island estuary habitat and the surrounding Stillaguamish River and Port Susan and Skagit Bays to allow fish, sediment, detritus, and hydraulic processes to return to historical ecological functions. This work will also provide recreational opportunities.

**Recipient Task Coordinator:** Pat Stevenson

**6. Leque Island Estuary Restoration**

**Deliverables**

| Number | Description                                                                                                                                                | Due Date |
|--------|------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| 6.1    | Environmental permitting and related documentation. Upload copies of obtained permits in EAGL and notify the ECOLOGY Project Manager.                      |          |
| 6.2    | Cultural Resources Review Documents. Due to confidentiality, do not upload to EAGL. Email surveys to ECOLOGY Project Manager.                              |          |
| 6.3    | Inadvertant Discovery Plan (IDP). Upload Inadvertant Discovery Plan in EAGL and notify the ECOLOGY Project Manager.                                        |          |
| 6.4    | Signed consultant contract(s). Upload copy to EAGL and notify the ECOLOGY Project Manager.                                                                 |          |
| 6.5    | Final design, signed and sealed by a Washington State-licensed engineer. Upload a copy to EAGL and notify the ECOLOGY Project Manager.                     |          |
| 6.6    | As-built plans. Upload a copy to EAGL and notify the ECOLOGY Project Manager.                                                                              |          |
| 6.7    | Before and after photos of the restoration work, and the parking lot relocation. Upload a copy to EAGL and notify the ECOLOGY Project Manager.             |          |
| 6.8    | Project schedule, including project milestones. Update and include with each quarterly Progress Report/Payment Request for ECOLOGY Project Manager review. |          |
| 6.9    | Final Report submitted to ECOLOGY Project Manager for review and approval.                                                                                 |          |

## SCOPE OF WORK

Task Number: 7 **Task Cost: \$625,000.00**

Task Title: 7. North Fork Stillaguamish Floodplain Acquisition

### Task Description:

The RECIPIENT will negotiate with willing sellers and acquire approximately 250 acres of current farmland for potential tidelands restoration and complete the purchase of 158 floodplain acres on the North Fork Stillaguamish near the community of Trafton through fee simple ownership. These properties will represent approx. 3.25 miles of river and one mile of marine shoreline.

For each property purchase, the RECIPIENT will complete an Acquisition Report. The RECIPIENT will submit a complete Acquisition Report to ECOLOGY prior to the request for reimbursement of each acquisition. Each Acquisition Report will include, but is not limited to, the following documents:

1. Acquisition Face Sheet \*
  2. Appraisal including:
    - a. Name/Address of seller
    - b. General Vicinity Map
    - c. Site Specific Map
    - d. Legal Description
    - e. Title Report
  3. Appraisal Review by a qualified third party.
  4. Offer letter of just compensation.
  5. Settlement Statement or equivalent.
  6. Hazardous Substances Certification\*, and Property Assessment Checklist\*, both signed by the County.
  7. Annotated photographic documentation of each property acquired in sufficient quantity and quality to document the state of the properties prior to and after acquisition.
  8. Statutory Warranty Deed Official Copy.
  9. Conservation Covenant Official Copy\*: All properties acquired shall be protected as open space in perpetuity for floodplain functions (including dikes, levees and related structures), floodplain restoration, a natural riverine environment, and as applicable: agricultural uses, passive, non-motorized recreational uses, trails, wildlife observation areas, picnic areas, other public facilities consistent with the purposes of this covenant. (The Acquisition Report will include the pre-recorded Conservation Covenant. The recorded Conservation Covenant shall be submitted to Ecology after recording with Snohomish County. pg. 30
- STILLAGUAMISH TRIBE OF INDIANS FOR THE STILLAGUAMISH WATERSHED  
INTEGRATED FLOODPLAIN MANAGEMENT PROJECT

Agreement No: SEAFBD-2019-StillTI-00062  
 Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
 Recipient Name: Stillaguamish Tribe of Indians

County.)

10. 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 acquisition through the title / escrow company.

The RECIPIENT, working through an established title company, will provide ECOLOGY with supporting documents including:

- a. (Hard copy) (red) Face Sheet for acquisitions;
- b. (Electronic) EAGL Payment Request/Progress Report;
- c. (Hard copy) title company’s “Wire Transfer Request” with routing number, and wiring instructions for specific property referenced;
- d. (Hard copy) Settlement Statement;
- e. Closing date of property.

ECOLOGY will wire funds to the title company for acquisition at the time of closing.

Note: Allow sufficient time for ECOLOGY and the Office of the State Treasurer to process documentation (a minimum of three (3) weeks prior to closing).

\* The RECIPIENT will upload electronic acquisition forms in EAGL (in Application Menu; then View, Edit and Complete Forms; then Uploads.)

Task Goal Statement:

Land acquisition and conservation will eliminate the potential for future development in the special flood hazard area to preserve floodplain function and habitat.

Task Expected Outcome:

Acquire and place open space protections on up to 186 acres of land in the North Fork Stillaguamish floodplain.

Recipient Task Coordinator: Pat Stevenson

**7. North Fork Stillaguamish Floodplain Acquisition**

**Deliverables**

| Number | Description                                                                                                                        | Due Date |
|--------|------------------------------------------------------------------------------------------------------------------------------------|----------|
| 7.1    | Complete Acquisition Report for each property. Submit to ECOLOGY Project Manager, and upload electronic acquisition forms in EAGL. |          |
| 7.2    | Final Report summarizing all properties purchased. Submit to ECOLOGY Project Manager for review and approval.                      |          |

Agreement No: SEAFBD-2019-StillTI-00062  
Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
Recipient Name: Stillaguamish Tribe of Indians

**SCOPE OF WORK**

Task Number: 8 **Task Cost: \$875,000.00**

Task Title: 8. Acquisition of Development Rights

Task Description:

The RECIPIENT will work with the Stillaguamish Valley Protection Initiative (Initiative) and project partners to acquire approximately 200 acres of property development rights toward the 5,500 acre ten year goal for the Stillaguamish Valley.

For each property purchase, the RECIPIENT will complete an Acquisition Report. The RECIPIENT will submit a complete Acquisition Report to ECOLOGY prior to the request for reimbursement of each acquisition. Each Acquisition Report will include, but is not limited to, the following documents:

1. Acquisition Face Sheet \*
2. Appraisal including:
  - a. Name/Address of seller
  - b. General Vicinity Map
  - c. Site Specific Map
  - d. Legal Description
  - e. Title Report
3. Appraisal Review by a qualified third party.
4. Offer letter of just compensation.
5. Settlement Statement or equivalent.
6. Hazardous Substances Certification\*, and Property Assessment Checklist\*, both signed by the County.
7. Annotated photographic documentation of each property acquired in sufficient quantity and quality to document the state of the properties prior to and after acquisition.
8. Statutory Warranty Deed Official Copy.
9. Conservation Covenant Official Copy\*: All properties acquired shall be protected as open space in perpetuity for floodplain functions (including dikes, levees and related structures), floodplain restoration, a natural riverine environment, and as applicable: agricultural uses, passive, non-motorized recreational uses, trails, wildlife observation areas, picnic areas, other public facilities consistent with the purposes of this covenant. (The Acquisition Report will include the pre-recorded Conservation Covenant. The recorded Conservation Covenant will be submitted to Ecology after recording with Snohomish County.)

Agreement No: SEAFBD-2019-StillTI-00062  
 Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
 Recipient Name: Stillaguamish Tribe of Indians

10. 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 acquisition through the title / escrow company.

The RECIPIENT, working through an established title company, will provide ECOLOGY with supporting documents including:

- a. (Hard copy) (red) Face Sheet for acquisitions;
- b. (Electronic) EAGL Payment Request/Progress Report;
- c. (Hard copy) title company’s “Wire Transfer Request” with routing number, and wiring instructions for specific property referenced;
- d. (Hard copy) Settlement Statement;
- e. Closing date of property.

ECOLOGY will wire funds to the title company for acquisition at the time of closing.

Note: Allow sufficient time for ECOLOGY and the Office of the State Treasurer to process documentation (a minimum of three (3) weeks prior to closing).

\* The RECIPIENT will upload electronic acquisition forms in EAGL (in Application Menu; then View, Edit and Complete Forms; then Uploads.)

Task Goal Statement:

Purchase the development rights of approximately 200 acres of working toward a 10 year, 5,500 acre goal, an initiative aimed at ensuring farmland is not lost to development, and continuing to provide valuable farmland, flood storage, and habitat into the future.

Task Expected Outcome:

Remove approximately 200 acres of development rights within the Stillaguamish Valley.

Recipient Task Coordinator: Pat Stevenson

**8. Acquisition of Development Rights**

**Deliverables**

| Number | Description                                                                                                                        | Due Date |
|--------|------------------------------------------------------------------------------------------------------------------------------------|----------|
| 8.1    | Complete Acquisition Report for each property. Submit to ECOLOGY Project Manager, and upload electronic acquisition forms in EAGL. |          |
| 8.2    | Final Report summarizing all properties purchased. Submit to ECOLOGY Project Manager for review and approval.                      |          |

## SCOPE OF WORK

Task Number: 9 **Task Cost: \$250,000.00**

Task Title: 9. Advancing Integrated Floodplain Management

### Task Description:

A. The RECIPIENT and the Snohomish Conservation District will establish a Project Integration Team of project managers and planners representing the flood hazard reduction, ecological benefits, and the agricultural areas.

The RECIPIENT will upload a copy of the Project Integration Team charter to EAGL and notify the ECOLOGY Project Manager.

B. The Project Integration Team will meet a minimum of five times.

The RECIPIENT will submit meeting agendas, list of attendees, and any documents that result to the ECOLOGY Project Manager, and upload a copy to EAGL.

If the RECIPIENT would like reimbursement for light refreshments for these meetings, prior to the five meetings, the RECIPIENT will submit a request for light refreshments reimbursement to the ECOLOGY Project Manager. The RECIPIENT will submit the signed approval with the EAGL Payment Request/Progress Report.

C. The RECIPIENT and the Snohomish Conservation District will lead the development of an Agriculture Resilience Plan which will assess the impact of changes in flooding, groundwater levels, sea level rise, and weather patterns.

D. The RECIPIENT will submit the final Agriculture Resilience Plan to the ECOLOGY Project Manager for review and approval, and upload it to EAGL.

E. The RECIPIENT and project partners will develop a minimum of one 30 percent design for agricultural resilience, which will specifically benefit farms; and a minimum of one 30 percent design, which integrates a different multi-benefit, such as flood reduction, recreation, or habitat improvement, in coordination with the Sustainable Land Strategy Integration Team collaborative process.

The RECIPIENT will submit a minimum of two 30 percent designs to the ECOLOGY Project Manager for review and approval, and upload the 30 percent designs to EAGL.

F. The RECIPIENT will submit copies of outreach materials to the ECOLOGY Project Manager for review and approval prior to distribution.

The RECIPIENT will ensure the outreach materials comply with ECOLOGY's Agreement General Terms and Conditions No. 3 for Accessibility Requirements for Covered Technology, and No. 19 for Presentation and Promotional Materials.

For any educational materials developed under this agreement, the RECIPIENT will also submit a draft to the ECOLOGY Project Manager for review and approval. Outreach materials must include ECOLOGY and pg. 34



Agreement No: SEAFBD-2019-StillT1-00062  
 Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
 Recipient Name: Stillaguamish Tribe of Indians

recognition. The RECIPIENT will upload all final outreach materials to EAGL.

**Task Goal Statement:**

Assist farmers in planning for future risk, and assist in developing a landscape-scale resilience specific project that will ensure the future viability of agriculture. Develop a second project that prioritizes a different benefit within the Stillaguamish Basin.

**Task Expected Outcome:**

Host project integration team meetings, and develop two 30 percent design projects for the Stillaguamish Basin.

**Recipient Task Coordinator:** Pat Stevenson

**9. Advancing Integrated Floodplain Management**

**Deliverables**

| <b>Number</b> | <b>Description</b>                                                                                                                                                                                                                                                                 | <b>Due Date</b> |
|---------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| 9.1           | Project Integration Team Charter. Upload copy in EAGL and notify the ECOLOGY Project Manager.                                                                                                                                                                                      |                 |
| 9.2           | Hold five Project Integration Team meetings. Consolidate and upload the meeting agendas, list of attendees, pre-approved request for light refreshments form, and related documents in EAGL, and notify the ECOLOGY Project Manager.                                               |                 |
| 9.3           | A minimum of two 30 percent designs: one with agricultural resiliency outcomes as the primary benefit, and one integrating a different multi-benefit (such as flood reduction, habitat improvement, recreation, etc.). Upload copy in EAGL and notify the ECOLOGY Project Manager. |                 |
| 9.4           | Agriculture Resilience Plan outreach materials. Upload copy in EAGL and notify the ECOLOGY Project Manager.                                                                                                                                                                        |                 |
| 9.5           | Project schedule, including project milestones. Update and include with each quarterly Progress Report/Payment Request for ECOLOGY Project Manager review.                                                                                                                         |                 |
| 9.6           | Final Report submitted to ECOLOGY Project Manager for review and approval.                                                                                                                                                                                                         |                 |

Agreement No: SEAFBD-2019-StillTI-00062  
Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
Recipient Name: Stillaguamish Tribe of Indians

**SCOPE OF WORK**

Task Number: 10 **Task Cost: \$375,000.00**

Task Title: 10. Stillaguamish and Snohomish River Modeling

Task Description:

- A. The RECIPIENT will enter into an Interlocal Agreement (ILA) with Snohomish County to complete hydraulic and hydrologic modeling of the Stillaguamish and Snohomish Rivers. Snohomish County is completing modeling of different areas along the Snohomish River under grant no. SEAFBD-2019-SnCoPW-00051. The cost for the modeling work will be split equally between this grant and the Snohomish County grant.
- B. The RECIPIENT will hire the University of Washington Climate Impacts Group. The RECIPIENT will submit a copy of the signed contract to ECOLOGY.
- C. The UW.Climate Impacts Group will develop climate change simulations and predicted peak streamflows for years 2055 and 2085 future conditions of the Snohomish and Stillaguamish Rivers. These predicted streamflows will be used to develop a two dimensional hydraulic model for the Stillaguamish River, from river mile 0 to 18 (river mouth to the confluence of the North and South Forks of the Stillaguamish River), including Hat Slough, Cook Slough, and the Old Stillaguamish River channel.
- D. The RECIPIENT will also create an analysis report of the model and submit it to the ECOLOGY Project Manager for review and approval. The RECIPIENT will upload the final report to EAGL.
- E. If required, the RECIPIENT will prepare a Quality Assurance Project Plan (QAPP) or QAPP Waiver for the collection and analysis of environmental data. The RECIPIENT will comply with QAPP requirements in Section 12. Environmental Data Standards of the Agreement General Terms and Conditions.

Task Goal Statement:

Update and increase the local knowledge and understanding of flow conveyance characteristics in the Stillaguamish River and Snohomish River channel system and floodplain.

Task Expected Outcome:

The updated hydraulic model will inform stakeholders, provide information for long-term land use plans and regulatory decisions, and will help identify locations where infrastructure may be vulnerable to flooding from climate change.

Agreement No: SEAFBD-2019-StillTT-00062  
 Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
 Recipient Name: Stillaguamish Tribe of Indians

Recipient Task Coordinator: Pat Stevenson

**10. Stillaguamish and Snohomish River Modeling**

**Deliverables**

| Number | Description                                                                                                                                                               | Due Date |
|--------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| 10.1   | Interlocal Agreement with Snohomish County. Upload copy to EAGL and notify ECOLOGY Project Manager.                                                                       |          |
| 10.2   | Signed consultant contract. Upload copy in EAGL and notify ECOLOGY Project Manager.                                                                                       |          |
| 10.3   | 2-D Hydraulic and Hydrologic Model of Stillaguamish River and Inundation Maps. Upload final version in EAGL and notify ECOLOGY Project Manager.                           |          |
| 10.4   | Field Survey and Topographic Surface Generation Report. Upload in EAGL and notify ECOLOGY Project Manager.                                                                |          |
| 10.5   | Analysis Report of the 2-D hydraulic model. Submit draft to ECOLOGY Project Manager review and approval. Upload final version in EAGL and notify ECOLOGY Project Manager. |          |
| 10.6   | QAPP or QAPP waiver. Submit to ECOLOGY per Section 11. Environmental Data Standards of the Agreement General Terms and Conditions.                                        |          |
| 10.7   | Project schedule, including project milestones. Update and include with each quarterly Progress Report/Payment Request for ECOLOGY Project Manager review.                |          |
| 10.8   | Final Report submitted to ECOLOGY Project Manager for review and approval.                                                                                                |          |

Agreement No: SEAFBD-2019-StillT1-00062  
 Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
 Recipient Name: Stillaguamish Tribe of Indians

**BUDGET**

**Funding Distribution EG200445**

*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: State Building Construction Account      Funding Type: Grant  
 Funding Effective Date: 07/01/2019      Funding Expiration Date: 06/30/2023

Funding Source:

Title: State Building Construction Account  
 Type: State  
 Funding Source %: 100%  
 Description: Floodplains By Design

Approved Indirect Costs Rate:      Approved State Indirect Rate: 30%  
 Recipient Match %: 20%  
 InKind Interlocal Allowed: Yes  
 InKind Other Allowed: Yes  
 Is this Funding Distribution used to match a federal grant? No

Agreement No: SEAFBD-2019-StillTI-00062  
 Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
 Recipient Name: Stillaguamish Tribe of Indians

| <b>State Building Construction Account</b>         | <b>Task Total</b> |
|----------------------------------------------------|-------------------|
| Project Administration/Management                  | \$ 12,500.00      |
| 2. Gold Basin Landslide Sediment Reduction         | \$ 1,625,000.00   |
| 3. Diking and Drainage Improvement for District 7  | \$ 2,500,000.00   |
| 4. Distillation and Nutrient Separation Processor  | \$ 1,426,250.00   |
| 5. Irvine Slough Stormwater Separation             | \$ 1,250,000.00   |
| 6. Leque Island Estuary Restoration                | \$ 250,000.00     |
| 7. North Fork Stillaguamish Floodplain Acquisition | \$ 625,000.00     |
| 8. Acquisition of Development Rights               | \$ 875,000.00     |
| 9. Advancing Integrated Floodplain Management      | \$ 250,000.00     |
| 10. Stillaguamish and Snohomish River Modeling     | \$ 375,000.00     |

**Total: \$ 9,188,750.00**

**Funding Distribution Summary**

**Recipient / Ecology Share**

| Funding Distribution Name           | Recipient Match % | Recipient Share        | Ecology Share          | Total                  |
|-------------------------------------|-------------------|------------------------|------------------------|------------------------|
| State Building Construction Account | 20.00 %           | \$ 1,837,750.00        | \$ 7,351,000.00        | \$ 9,188,750.00        |
| <b>Total</b>                        |                   | <b>\$ 1,837,750.00</b> | <b>\$ 7,351,000.00</b> | <b>\$ 9,188,750.00</b> |

**AGREEMENT SPECIFIC TERMS AND CONDITIONS**

N/A

**SPECIAL TERMS AND CONDITIONS**

Floodplains by Design – Special Terms and Conditions

1. 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.
2. 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.
3. 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. 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

Agreement No: SEAFBD-2019-StillIT-00062  
Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
Recipient Name: Stillaguamish Tribe of Indians

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.

4. Deliverable Due Dates: Task deliverable due dates will be managed by and through the Deliverable Due Date Form (Form) provided by ECOLOGY prior to finalized agreement upload into EAGL. If needed, RECIPIENT will negotiate any revisions to deliverable due dates with ECOLOGY’s Project Manager. If changes are approved, RECIPIENT will resubmit the Form with the revised due dates to ECOLOGY’s Project Manager who will upload the revised Form into EAGL.

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).

FLOODPLAINS BY DESIGN FUNDING PROGRAM AND FCAAP EMERGENCY GRANTS TERMS AND CONDITIONS LAST UPDATED 09/12/2019

**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. ~~INTERLOCAL AGREEMENT BETWEEN SPOKANE COUNTY AND STILLAGUAMISH TRIBE OF INDIANS FOR THE STILLAGUAMISH WATERSHED INTEGRATED FLOODPLAIN MANAGEMENT PROJECT~~ INTERLOCAL AGREEMENT BETWEEN SPOKANE COUNTY AND STILLAGUAMISH TRIBE OF INDIANS FOR THE STILLAGUAMISH WATERSHED INTEGRATED FLOODPLAIN MANAGEMENT PROJECT

Agreement No: SEAFBD-2019-StillTI-00062  
Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
Recipient Name: Stillaguamish Tribe of Indians

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 2CFR 180.330, 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.

#### 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.fsr.gov](http://www.fsr.gov) <http://www.fsr.gov> within 30 days of agreement signature. The FFATA information will be available to the public at [www.usaspending.gov](http://www.usaspending.gov) <http://www.usaspending.gov>.

For more details on FFATA requirements, see [www.fsr.gov](http://www.fsr.gov) <http://www.fsr.gov>.



Agreement No: SEAFBD-2019-StillTI-00062  
Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
Recipient Name: Stillaguamish Tribe of Indians

**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.
- INTERLOCAL AGREEMENT BETWEEN SNOHOMISH COUNTY AND STILLAGUAMISH TRIBE OF INDIANS FOR THE STILLAGUAMISH WATERSHED INTEGRATED FLOODPLAIN MANAGEMENT PROJECT**

Agreement No: SEAFBD-2019-StillITI-00062  
Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
Recipient Name: Stillaguamish Tribe of Indians

- 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](mailto: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 shall comply with all applicable laws, orders, regulations, and policies of the United States and the State of Washington.

Agreement No: SEAFBD-2019-StillTI-00062  
Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
Recipient Name: Stillaguamish Tribe of Indians

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.

Agreement No: SEAFBD-2019-Still11-00062  
 Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
 Recipient Name: Stillaguamish Tribe of Indians

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.

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. INTERLOCAL AGREEMENT BETWEEN SNOHOMISH COUNTY AND  
 MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)  
 STILLAGUAMISH TRIBE OF INDIANS FOR THE STILLAGUAMISH WATERSHED  
 INTEGRATED FLOODPLAIN MANAGEMENT PROJECT

Agreement No: SEAFBD-2019-StillT-00062  
Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
Recipient Name: Stillaguamish Tribe of Indians

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 September 30, and October 1 through December 31.

Agreement No: SEAFBD-2019-StillTI-00062  
Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
Recipient Name: Stillaguamish Tribe of Indians

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.

State of Washington Department of Ecology

Agreement No: SEAFBD-2019-StillIT-00062

Project Title: Stillaguamish Watershed Integrated Floodplain Management Project

Recipient Name: Stillaguamish Tribe of Indians

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

Agreement No: SEAFBD-2019-StillTI-00062  
 Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
 Recipient Name: Stillaguamish Tribe of Indians

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.



Agreement No: SEAFBD-2019-StillTTI-00062  
Project Title: Stillaguamish Watershed Integrated Floodplain Management Project  
Recipient Name: Stillaguamish Tribe of Indians

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.